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ELECTRONICALLY
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Superior Court of California, County of San Francisco
10/22/2024
Clerk of the Court
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

CGC-24-619192

FERNANDO ABREGO PEREZ, Plaintiff, vs. ALL NATURAL STONE BERKELEY, INC.; ARCHITECTURAL SURFACES GROUP, LLC; ARIZONA TILE, L.L.C.; C & C NORTH AMERICA, INC.; CAESARSTONE LTD (FKA CAESARSTONE SDOT-YAM LTD.); CAESARSTONE USA, INC.; CAMBRIA COMPANY LLC; COSENTINO GLOBAL SOCIEDAD LIMITADA; COSENTINO INDUSTRIAL SA; COSENTINO SA; COSTCO WHOLESALE CORPORATION; DAL-TILE DISTRIBUTION, LLC; DAL-TILE INTERNATIONAL INC.; DAL-TILE, LLC; DAL-TILE TENNESSEE, LLC; EIDP, INC. (FKA E. I. DU PONT DE NEMOURS AND COMPANY); ELITE QUARTZ MFG LLC; HIRSCH GLASS CORP; HOME DEPOT U.S.A., INC.; HYUNDAI L&C USA, INC.; HYUNDAI L&C USA LLC; IKEA US RETAIL LLC;	No. **COMPLAINT FOR TOXIC INJURIES ASSERTING CAUSES OF ACTION FOR:** **(1) NEGLIGENCE;** **(2) PRODUCTS LIABILITY - FAILURE TO WARN;** **(3) PRODUCTS LIABILITY - DESIGN DEFECT** **(4) FRAUDULENT CONCEALMENT;** **(5) BREACH OF IMPLIED WARRANTIES** **DEMAND FOR JURY TRIAL [MADE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE §§ 600 ET SEQ. AND PURSUANT TO RULE 38 OF THE FEDERAL RULES OF CIVIL PROCEDURE SHOULD THIS CASE EVER BE REMOVED TO FEDERAL COURT]**

INTEGRATED RESOURCES GROUP, INC.;)
LOWE'S HOME CENTERS, LLC;)
LX HAUSYS AMERICA, INC.;)
M S INTERNATIONAL, INC.;)
MOHAWK INDUSTRIES, INC.;)
PARAGON INDUSTRIES, INC. (DBA)
BEDROSIANS TILE & STONE))
SURFACE WAREHOUSE, L.P.;)
TELTOS TRADE, INC.;)
and Doe Defendants 1 - 100, inclusive, as required)
by California law on joint and several liability)
pursuant to California Civil Code § 1431.2)
enacted by the People of the State of California,)
)
Defendants.)

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Plaintiff, FERNANDO ABREGO PEREZ, hereby allege:

THE PARTIES

Plaintiff

1. At all material times hereto, Plaintiff, FERNANDO ABREGO PEREZ, has resided in Northern California, and worked in the stone industry, including on projects in and within the City and County of San Francisco, California.

Defendants

2. Plaintiff is informed and believes and thereon alleges that Defendant, ALL NATURAL STONE BERKELEY, INC., is a California corporation, which at all material times hereto has had its principal place of business at 611 Hearst Avenue, Berkeley, CA 94710, and which at all material times hereto was doing business in the County of San Francisco, State of California.

3. Plaintiff is informed and believes and alleges that Defendant, ARCHITECTURAL SURFACES GROUP, LLC, is a Delaware limited liability company, which, at all material times hereto, has had its principal place of business at19012 State Highway 71 West, Spicewood, TX 78669 and has the following alternate entities: PENTAL GRANITE AND MARBLE, LCC; PENTAL SURFACES, ARCHITECTURAL GRANITE AND MARBLE, LCC, CERAMIC MATRIX, MODUL MARBLE, and DA VINCI MARBLE, LLC, which at all material times hereto, was doing business in the County of San Francisco, California.

4. Plaintiff is informed and believes and thereon alleges that Defendant, ARIZONA TILE, L.L.C., is an Arizona limited liability company, which at all material times hereto, was doing business in Orange County, CA at 1620 S. Lewis Street, Anaheim, CA 92805, and which at all material times hereto was doing business in the County of San Francisco, State of California.

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5. Plaintiff is informed and believes and thereon alleges that Defendant, C & C NORTH AMERICA, INC., is a Delaware corporation, which its principal place of business located at 355 Alhambra Cir., Ste 1000, Coral Gables, Fl 33134-5006, which at all material times hereto, was doing business in the County of Orange, California, at times as SMDS WEST COAST included but not limited to located at 611 E Cerritos Ave., Anaheim, CA 92805, and which at all material times hereto was doing business in the County of San Francisco, State of California.

6. Plaintiff is informed and believes and thereon alleges that Defendant, CAESARSTONE LTD (FKA CAESARSTONE SDOT-YAM LTD.), is an Israeli company, with its principal place of business located at Kibbutz Sdot-Yam, MP Menashe, Israel 3780400, which at all material times hereto, and which at all material times hereto was doing business in the County of San Francisco, State of California.

7. Plaintiff is informed and believes and thereon alleges that Defendant, CAESARSTONE USA, INC., is a California corporation, which at all material times hereto, has had its principal executive office at 1401 West Morehead Street, Suite 100, Charlotte, NC 28208 and has was doing business in the County of San Francisco, CA at 11312 Penrose St., Sun Valley, CA 91352, and which at all material times hereto was doing business in the County of San Francisco, State of California.

8. Plaintiff is informed and believes and thereon alleges that Defendant, CAMBRIA COMPANY LLC, is a Minnesota limited liability company, which at all material times hereto, was doing business in the County of San Francisco, State of California.

9. Plaintiff is informed and believes and thereon alleges that Defendant, COSENTINO GLOBAL SOCIEDAD LIMITADA, is a Spanish company which at all material times hereto, was doing business in the County of San Francisco, State of California.

10. Plaintiff is informed and believes and thereon alleges that Defendant, COSENTINO INDUSTRIAL SA, is a Spanish company which at all material times hereto, was doing business in the County of San Francisco, State of California.

11. Plaintiff is informed and believes and thereon alleges that Defendant, COSENTINO SA (formerly known as COSENTINO GROUP, SA) ("COSENTINO GROUP"), is a Spanish

corporation, whose headquarters for the Americas is located in Coral Gables, Florida, and which was doing business at 12822 Rangoon Street, Arleta, California, 91331-4321, and which at all material times hereto was doing business in the County of San Francisco, State of California.

12. Plaintiff is informed and believes and thereon alleges that Defendant, COSTCO WHOLESALE CORPORATION, successor by merger to COSTCO COMPANIES, INC., is a Washington corporation, which at all material times hereto, was doing business in the County of Orange, California. It has registered 4649 Morena Boulevard, San Diego, CA 92117 as a principal place of business in California, and which at all material times hereto was doing business in the County of San Francisco, State of California.

13. Plaintiff is informed and believes and thereon alleges that Defendant, DAL-TILE DISTRIBUTION, LLC, is a Delaware limited liability company, which at all material times hereto, was doing business in the County of San Francisco, State of California.

14. Plaintiff is informed and believes and thereon alleges that Defendant, DAL-TILE INTERNATIONAL INC., is a Delaware corporation, which at all material times hereto, was doing business in the County of San Francisco, State of California.

15. Plaintiff is informed and believes and thereon alleges that Defendant, DAL-TILE, LLC, is a Delaware limited liability company, which at all material times hereto, was doing business in the County of San Francisco, State of California.

16. Plaintiff is informed and believes and thereon alleges that Defendant, DAL-TILE TENNESSEE, LLC, is a Delaware limited liability company, which at all material times hereto, was doing business in the County of San Francisco, State of California.

17. Plaintiff is informed and believes and thereon alleges that Defendant, EIDP, INC. (FKA E. I. DU PONT DE NEMOURS AND COMPANY), is a Delaware corporation, which at all material times hereto, was doing business in the County of San Francisco, State of California.

18. Plaintiff is informed and believes and thereon alleges that Defendant, ELITE QUARTZ MFG LLC, is a Delaware limited liability company, which at all material times hereto, has been doing business in South Carolina and California as a joint venture between Spectrum

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Quartz (Hirsch Glass Corporation) and M S International (MSI), and which at all material times hereto was doing business in the County of San Francisco, State of California.

19. Plaintiff is informed and believes and thereon alleges that Defendant, HIRSCH GLASS CORP, is a New Jersey corporation, which at all material times hereto, has had its principal place of business at 115 Melrich Road, Cranbury, New Jersey 08512 and has been doing business as Spectrum Quartz in the County of San Francisco, State of California, and which at all material times hereto was doing business in the County of San Francisco, State of California.

20. Plaintiff is informed and believes and thereon alleges that Defendant, HOME DEPOT U.S.A., INC., is a Delaware corporation, which at all material times hereto, was doing business in the County of San Francisco, California.

21. Plaintiff is informed and believes and thereon alleges that Defendant, HYUNDAI L&C USA, INC., is a Delaware limited liability company, which at all material times hereto, has had its principal place of business in the State of California at 16031 Carmenita Rd., Cerritos, CA 90703, and which at all material times hereto was doing business in the County of San Francisco, State of California.

22. Plaintiff is informed and believes and thereon alleges that Defendant, HYUNDAI L&C USA LLC, is a Delaware limited liability company, which at all material times hereto, has had its principal place of business in the State of California at 16031 Carmenita Rd., Cerritos, CA 90703, and which at all material times hereto was doing business in the County of San Francisco, State of California.

23. Plaintiff is informed and believes and thereon alleges that Defendant, IKEA US RETAIL LLC, is a Virginia limited liability company, which at all material times hereto, was doing business in the County of San Francisco, State of California..

24. Plaintiff is informed and believes and thereon alleges that Defendant, INTEGRATED RESOURCES GROUP, INC., is a California corporation, which at all material times hereto, had its principal place of business in the State of California at 2314 Webster Street, San Francisco, CA 94115, and was doing business in the County of San Francisco, State of California.

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25. Plaintiff is informed and believes and thereon alleges that Defendant, LOWE'S HOME CENTERS, LLC, is a North Carolina limited liability company, which at all material times hereto, was doing business in the County of San Francisco, California. It has not registered a principal place of business in California with the California Secretary of State and therefore San Francisco is a proper county for venue.

26. Plaintiff is informed and believes and thereon alleges that Defendant, LX HAUSYS AMERICA, INC., is a New Jersey corporation, and had its principal place of business at 900 Circle 75 Pkwy, Suite 150, Atlanta, GA 30339, and which at all material times hereto was doing business in the County of San Francisco, State of California.

27. Plaintiff is informed and believes and thereon alleges that Defendant, M S INTERNATIONAL, INC., is a Delaware corporation, which at all material times hereto, has had its principal place of business in California at 2095 N. Batavia St., Orange, CA 92865 and was doing business in the County of San Francisco, State of California.

28. Plaintiff is informed and believes and thereon alleges that Defendant, MOHAWK INDUSTRIES, INC., is a Delaware corporation, which at all material times hereto, was doing business in the County of San Francisco, State of California.

29. Plaintiff is informed and believes and thereon alleges that Defendant, PARAGON INDUSTRIES, INC. (DBA BEDROSIANS TILE & STONE), is a California corporation, which at all material times hereto, has had its principal place of business in the State of California, where is has been doing business as Bedrosians Tile & Stone, and was doing business in the County of San Francisco, State of California.

30. Plaintiff is informed and believes and thereon alleges that Defendant, SURFACE WAREHOUSE, L.P., is a Texas limited partnership, which has done business since 2006 as U.S. SURFACE WAREHOUSE, and since 2017 as LIVINGSTONE, US SURFACES, SURFACE ENTERPRISES, L.L.C., and VADARA, and has done business as VADARA in California at 8969 Bradley Avenue, Sun Valley, CA 91352, and which was doing business in the County of San Francisco, State of California.

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31. Plaintiff is informed and believes and thereon alleges that Defendant, TELTOS TRADE, INC., is a Delaware corporation whose principal place of business is 20905 66th Ave S., Kent, WA 98032, and was doing business in the County of San Francisco, State of California.

Doe Defendants

32. The true names and capacities of Defendants Does 1 through 100 are unknown to plaintiff, who therefore sues said defendants by such fictitious names. Plaintiff will amend this complaint to state the true names and capacities of said fictitious defendants when they have been ascertained. Plaintiff is informed and believes and thereon alleges that Defendants Does 1 through 100 are in some manner responsible, negligently or in some other actionable manner, for the occurrences herein alleged, and that plaintiff's injury and damages as herein alleged were proximately caused by their conduct.

Agency

33. Plaintiff is informed and believes and based thereon alleges that, at all times material hereto, each of the Defendants, including the fictitiously named Defendants, was acting in an individual, corporate, partnership, associate, conspiratorial or other capacity or as the agent, employee, co-conspirator, and/or alter ego of its co-defendants, and in doing the acts herein alleged, was acting within the course and scope of its authority as such partner, associate, agent, employee, co-conspirator, or alter ego, and with the permission, consent, knowledge, authorization, ratification and direction of its co-defendants, including all fictitiously named defendants.

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STONE SLAB AND COUNTERTOP CHAIN OF DISTRIBUTION

34. A useful description of the stone countertop supply chain appeared in an October 10, 2022 article titled "Who Sells Countertops? A Quick Guide to the Countertop Supply Chain" which can be downloaded from the CountertopSmart.com website at https://www.countertopsmart.com/blog/who_sells_countertops-_a_quick_guide_to_the_countertop_supply_chain.

35. This article identifies the following types of businesses in the stone slab/countertop supply chain: manufacturers, distributors, and retailers, including big box stores and kitchen and bath showrooms, countertop fabricators, and "agents," mostly interior designers, general contractors, and remodelers:

36. "*Manufacturers.* At the top of the supply chain, manufacturers produce the surfacing materials that are used in the creation of countertops— namely natural stone and man-made stone slabs. Manufacturers of natural stones like granite, marble, and quartzite quarry giant blocks of stone from the earth and refine them down into giant stone slabs. Manufacturers of man-made stones like quartz, sintered stone, and porcelain create solid stone slabs from scratch using stone aggregates and resin. Both types of manufacturers sell their respective slab goods in bulk to distributors." *Id.*

37. *"Distributors.* Distributors in the countertop industry warehouse stone slabs and sell them to retailers (who then turn them into your countertops). . . . Unlike in other industries, distributors in the countertop industry also play a customer-facing role. Distributors act as showrooms where customers can view stone slabs and select them for use in their countertop projects. . . . Stone slabs are very large, heavy, and fragile, and most retailers don't have the floor space or the specialty equipment to handle and showcase the thousands of stone slab options available on the market. Instead, retailers can send their customers directly to a distributor to view stone slabs and make selections. . . . [T]hough you the customer can view stone slabs directly at a distributor's warehouse, they will not sell you the stone slabs directly, nor will they provide you pricing. After all, distributors sell slabs to retailers. The retailers sell you, the customer, the installed countertops." *Id.*

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38. *"Retailers:* "Countertop retailers sell countertops. But this is a broad category. Countertop retailers include big-box stores (like Home Depot, Lowe's Floor & Decor, Ikea, etc.), Kitchen & Bath Showrooms (usually independently owned stores that sell flooring, cabinets, tile, and other interior finishes), and Countertop Fabrication Shops (the folks that actually cut and install countertops." *Id.*

39. *"Big Box Stores and Kitchen & Bath Showrooms.* You can buy countertops from your neighborhood big box store, or you can buy countertops from the independent "kitchen and bath" retailer down the street. You can even buy countertops from certain furniture stores! . . . Home Depot and Lowe's combine to sell up to 1/3rd of all the countertops purchased in the United States. . . . The truth is that most countertop retailers simply fulfill customer orders. In reality, these companies buy countertops from the same places that you can (and should) buy from." *Id.*

40. *"Agents:* Agents encompass a broad swath of construction professionals who purchase countertops on behalf of homeowners. Agents mostly include Interior Designers, General Contractors, and Remodelers." *Id.*

41. In addition to interior designers, general contractors, and kitchen and bath remodelers, architects may also be in the chain of distribution of stone slabs and countertops.

42. According to Charles Carstensen, Branch Manager of Walker Zanger's Orange County store: "We are selling primarily to either designers, homeowners . . . commercial contractors, residential contractors. We sell to fabricators...; there's quite a few people that we do sell to directly."

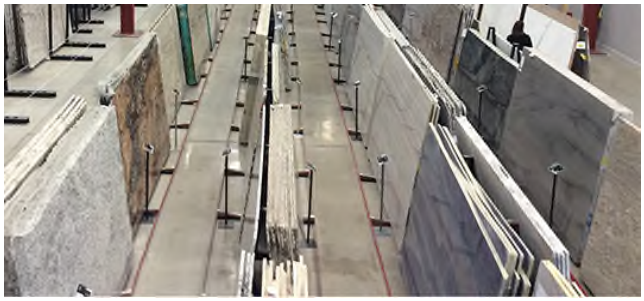
43. According to the Natural Stone Institute, more than 90% of countertop materials are imported into the United States from foreign countries. Natural Stone Institute and International Surface Fabricators Association, "Preventing Silicosis: Fabricator & Industry Perspective," May 16, 2024 [Powerpoint of presentation given at the University of California at Los Angeles]

44. According to the Natural Stone Institute, approximately 3,000 fabricators in California and a total of approximately 12,000 to 20,000 fabricators in the United States fabricate stone slabs to become countertops. Natural Stone Institute and International Surface Fabricators Association, "Preventing Silicosis: Fabricator & Industry Perspective," May 16, 2024 [Powerpoint from presentation given at the University of California at Los Angeles]

STONE SLAB PRODUCTS AND THEIR TOXIC CONSTITUENTS

45. The defendants named herein were and/or are the manufacturers, suppliers, distributors, importers, brokers, and/or contractors of industrial stone products, which are hereinafter called "stone products," "stone slabs," "stone blocks," "artificial stone," "natural stone," "silica-containing stone," and "treated natural stone." The defendants named herein are ***not*** manufacturers of stone countertops which are the finished consumer products that are produced by the fabrication of industrial stone products. In accord with *Bockrath v. Aldrich Chemical Co.* (1999) 21 Cal.4th 71, the industrial stone products, including all definitions and synonyms thereof as set forth above, are all products that caused the pulmonary and other injuries of the exposed worker and injured Plaintiff.

46. Stone slabs are mineral products that are made from natural stone or artificial stone. In general, these stone products appear as shown in the following photographs:



47. Stone products (in slabs or block) are made from natural stone include basalt, dolomite, granite, limestone, marble, onyx, porcelain, quartzite, sandstone, serpentine and travertine.

48. Stone products (in slabs or block) are also made from artificial stone, which is also called agglomerate, agglomerated stone, conglomerate, engineered stone, manufactured stone, quartz, reconstituted stone, and synthetic stone.

49. All stone products contain crystalline silica in varying concentrations from the lowest concentration of about 3-5% in marble to about 93-95% in traditional artificial stone.

50. Stone slabs or blocks are commercial products that require fabrication prior to installation for a consumer.

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51. Cutting, grinding, drilling, chipping, edging, and/or polishing (collectively "fabricating") stone products produces large amounts of respirable crystalline silica dust which stone fabrication workers inhale, typically causing chronic silicosis as well as lung cancer and various other silica-related diseases.

52. Fabrication workers who cut, grind, drill, chip, edge, and/or polish artificial stone products are not only exposed to high concentrations of respirable crystalline silica, but are also exposed to other toxic substances in artificial stone, including metals used as pigments and polymeric resins as binders.

53. In addition to crystalline silica, pulmonary fibrosis (scarring of the lung tissue) is caused by many metals that are constituents of artificial stone, including aluminum, antimony, arsenic, chromium, cobalt, copper, iron, manganese, nickel, titanium, tungsten, and vanadium. Some of these metals also cause an immunologic lung disease called hypersensitivity pneumonitis characterized by granulomas in lung tissue that also causes pulmonary fibrosis.

54. Fabricating artificial stone products also produces volatile organic compounds (VOCs), the predominant species being styrene, but also including phthalic anhydride, benzene, ethylbenzene, and toluene. Styrene and phthalic anhydride are respiratory irritants that cause various

pulmonary effects including asthma, bronchiolitis obliterans, decreased lung function as well as sclerosis and fibrosis.

55. Workers fabricating artificial stone products often develop progressive massive fibrosis due to high concentrations of crystalline silica and other toxic constituents of artificial stone.

CURRENT AND FUTURE IDENTIFICATION OF DEFENDANTS' PRODUCTS

56. The defendants named herein were and/or are the manufacturers, distributors, suppliers, sellers, importers, brokers, and/or contractors of industrial stone products. As stated above, these industrial stone products include "stone products," "stone slabs," "stone block," "artificial stone," "natural stone," "silica-containing stone," "treated natural stone," which, after being fabricated and installed in consumers' homes and businesses would become "kitchen countertops," "bathroom countertops," and/or "stone countertops," at which time and only then would they become consumer products. Pursuant to *Bockrath v. Aldrich Chemical Co.* (1999) 21 Cal.4th 71, these stone products, including all the definitions and variants thereof, as alleged above, are the products that caused Plaintiff's injuries and occupational disease.

57. Pursuant to *Bockrath v. Aldrich Chemical Company* (1999) 21 Cal.4th 71, "[i]n conformity with the rule that a complaint in a personal injury case is a statement of the facts constituting the cause of action in ordinary and concise language, plaintiffs may, and should, allege the . . . facts succinctly, and may do so in a conclusory fashion if their knowledge of the precise cause of injury is limited." *Id.* at 80.

58. The *Bockrath* court held that "[i]f the plaintiff does not believe the requisite evidence exists, but does actually believe that it is likely to be discovered later, 'after a reasonable opportunity for further investigation or discovery' (Code Civ. Proc., § 128.7, subd. (b)(3)), the complaint must so state." *Id.* at 82. Plaintiff therefore identifies those stone slab products of which he is presently aware that he fabricated that caused his medical conditions and injuries, and provides notice that Plaintiff will identify additional stone slab products that caused his medical conditions and injuries in the course of discovery.

59. The products identified below do not include many of the products containing crystalline silica, metals and other fibrogenic substances that caused and/or contributed to Plaintiff's medical conditions and injuries, the identities of which products are presently unknown to Plaintiff. A countertop fabricator typically fabricates about 40 stone slabs per week -- about 2,000 stone slabs per year -- every year that Plaintiff worked as a stone countertop fabricator. Usually working indoors in countertop fabrication shops, stone slabs typically arrived inside the fabrication shops with packaging, including shipping documentation as well as logos and any labels that may have been on the slabs having already been removed by the cutter or driver. Additionally, fabricators and the shops at which they fabricate countertops often never receive invoices for the slabs they fabricate, because stone slabs are typically sold to architects, designers, commercial contractors, kitchen and bathroom remodeling contractors, and others who subcontract fabrication work to fabrication shops.

60. For these reasons, Plaintiff was not always personally aware of the manufacturers or suppliers, the brands, and/or the names of the stone slab products that he fabricated daily in the course of his work and remains personally unaware of the identities of some of the stone slab products that he fabricated over the years. However, that information can and likely will be obtained in the course of discovery by serving subpenas on Plaintiff's hirers, designers, architects, commercial and remodeling contractors, by serving discovery on those Defendants who manufactured and supplied stone slabs to the fabrication shops, by deposing the drivers employed by the fabrication shops who picked up stone slabs from local suppliers and delivered them to the fabrication shops, by deposing the drivers of local suppliers who delivered their products to the fabrication shops, and by deposing the cutters at the fabrication shops who, along with drivers, usually removed the packaging, including shipping documentation as well as logos and any labels on the stone slabs before cutting them to the desired size after which they were brought into the fabrication shop.

61. While not required by *Bockrath*, in addition to the above terms for the defendants' stone products, the following is a list further specifying the named Defendants' stone products at issue in this case, named as they are named and/or marketed in the industry including by the defendants themselves, which Plaintiff cut, drilled, polished, fabricated and/or installed and to which he was injuriously exposed in his work as a cutter, fabricator, and installer:

ALL NATURAL STONE BERKELEY, INC.

Basalt, Calcite, Dolomite, Granite, Limestone, Marble, Onyx, Porcelain, Quartz, Quartzite, Sandstone, Soapstone, Travertine

ARCHITECTURAL SURFACES GROUP, LLC

Basalt, Granite, Marble, Metro Quartz, Modul Marble, Pental Quartz, Phylite, Quartz, Quartzite, Soapstone, Vicostone, Volakano

ARIZONA TILE, L.L.C.

Basalt. Della Terra Quartz, Dolomite, Granite, Limestone, Marble, Onyx, Porcelain, Quartzite, Soapstone, Terrazzo, Travertine

C & C NORTH AMERICA, INC.

Cosentino, Dekton, Engineered Stone, Quartz, Sensa, Silestone

CAESARSTONE LTD (fka CAESARSTONE SDOT-YAM LTD.), CAESARSTONE USA, INC.

Caesarstone Classico, Caesarstone Concetto, Caesarstone Metropolitan, Caesarstone Motivo, Caesarstone Supernatural, Engineered Stone, Quartz

CAMBRIA COMPANY LLC

Cambria Quartz Surfaces, Engineered Stone, Quartz

COSENTINO GLOBAL SOCIEDAD LIMITADA, COSENTINO INDUSTRIAL SA, and COSENTINO SA (formerly known as COSENTINO GROUP, SA)

Cosentino, Dekton, Engineered Stone, Quartz, Sensa, Silestone

COSTCO WHOLESALE CORPORATION

Cambria, Cosentino, Dekton, Quartz, Sensa, Silestone

DAL-TILE DISTRIBUTION, LLC; DAL-TILE INTERNATIONAL INC.; DAL-TILE TENNESSEE, LLC; DAL-TILE, LLC; MOHAWK INDUSTRIES, INC.

Granite, Limestone, Marble, Natural Stone, One Quartz, One Quartz Surfaces, Onyx, Porcelain, Ceramic, Quartz, Quartzite, Soapstone, Travertine; Slabs, countertops, and/or tiles of the foregoing listed materials

EIDP (FKA E. I. DU PONT DE NEMOURS AND COMPANY)

Corian, Corian Quartz Surfaces, Corian Solid Surface, Corian Solid Surface Acrylic Modified Polyester Shapes, Corian Solid Surface Material, Zodiaq Quartz Surfaces

ELITE QUARTZ MFG LLC

Elite Quartz, Granite, MSI Quartz, Quartz, Q Premium Natural Quartz, Spectrum Quartz

HIRSCH GLASS CORP

Elite Quartz, Engineered Stone, Granite, Limestone, Marble, Onyx, Porcelain, Quartz, Quartzite, Sandstone, Serpentine, Soapstone, Spectrum Quartz

HOME DEPOT U.S.A., INC.

Caesarstone, Cambria, Cosentino, MSI, Quartz, Silestone, Stonemark

HYUNDAI L&C USA LLC and HYUNDAI L&C USA, INC.

Hanex Solid Surfaces, HanStone Quartz

IKEA US RETAIL LLC

Engineered Stone, Kasker Quartz, Quartz

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INTEGRATED RESOURCES GROUP, INC.

Dolomite, Geoluxe, Limestone, Marble, Onyx, Pental Quartz, Porcelain, Quartz, Quartzite, Soapstone

LOWE'S HOME CENTERS, LLC

allen + roth, Cosentino, Sage Surfaces, Silestone

LX HAUSYS AMERICA, INC.

HIMACS, Quartz, Viatera

M S INTERNATIONAL, INC.

Basalt, Dolomite, Granite, Marble, Onyx, Porcelain, Quartz, Quartzite, Q Quartz (Premium Natural Quartz), Sandstone, Soapstone, Travertine

PARAGON INDUSTRIES, INC. (DBA BEDROSIANS TILE & STONE)

Granite, Limestone, Marble, Onyx, Porcelain, Quartz, Quartzite, Sequel Quartz, Serpentine, Soapstone, Terrazzo, Travertine

SURFACE WAREHOUSE, L.P.

Engineered Stone, Living Stone, Quartz, Vadara

TELTOS TRADE, INC.

Quartz

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GENERAL ALLEGATIONS

62. From approximately 1992 to 2012, Plaintiff, FERNANDO ABREGO PEREZ, worked as a cutter, fabricator and/or installer of Defendants' stone products for Pacific Stone Granite & Marble, located at 1375 Franquette Avenue, Concord, California 94520. Plaintiff performed this work on residential homes and commercial building projects in Northern California in and around the San Francisco Bay Area, including within the City and County of San Francisco.

63. From approximately 2013 to 2021, Plaintiff, FERNANDO ABREGO PEREZ, worked as a cutter, fabricator and/or installer of Defendants' stone products for Golden State Granite, located at 1001 Shary Cir. #9, Concord, California 94518.

64. From about 1992 to 2021, Plaintiff, FERNANDO ABREGO PEREZ, cut, ground, drilled, edged, polished, fabricated and/or installed Defendants' artificial stone and natural stone products to become countertops in kitchens and bathrooms. Plaintiff is informed and believes and thereon alleges that the injuries from which he suffers that are the subject of this action, were sustained in the course of his work in Northern California, in and around the San Francisco Bay Area, including within the City and County of San Francisco, cutting, fabricating, and/or installing stone products.

65. Throughout the course of his work, Plaintiff, FERNANDO ABREGO PEREZ, worked with inherently hazardous stone products manufactured, imported, supplied, distributed, contracted, and/or brokered, by the named Defendants and Does 1-100. Plaintiff, FERNANDO ABREGO PEREZ, was thereby exposed to and inhaled stone dust containing silica and other toxins and carcinogens, as well as artificial stone dust containing respirable crystalline silica (including quartz and cristobalite), metals (including aluminum, antimony, arsenic, chromium, cobalt, copper, iron, manganese, nickel, titanium, tungsten, and vanadium) and volatile organic compounds from polymeric resins and other binders (including phthalic anhydride, benzene, ethylbenzene, and toluene) emitted from these products.

66. As a direct and proximate result of his exposure to silica, metals and other toxins within said stone products manufactured, distributed, supplied, contracted, and/or brokered by

Defendants, Plaintiff, FERNANDO ABREGO PEREZ, developed lung disease characterized by pulmonary nodules, silicosis, pulmonary fibrosis, progressive massive fibrosis, and other forms of lung damage, and therefore has a significantly increased risk of developing other silica-related diseases such as lung cancer, chronic kidney disease, and autoimmune disorders such as rheumatoid arthritis, systemic lupus erythematosus, and systemic sclerosis (scleroderma).

67. As a direct and proximate result of his exposure to silica, metals and other toxins within said stone products manufactured, distributed, supplied, contracted, and/or brokered by Defendants, Plaintiff, FERNANDO ABREGO PEREZ, has had to receive substantial medical treatment, including hospitalizations and surgeries, including a lung biopsy.

68. Each of the stone products manufactured, imported, distributed, contracted, brokered and/or supplied by the named defendants and Does 1-100 were used by Plaintiff, FERNANDO ABREGO PEREZ, as intended by Defendants in the course of his work as a cutter, fabricator and/or installer of stone countertops. The foregoing intended use of said products by Plaintiff, FERNANDO ABREGO PEREZ, and his co-workers, resulted in the generation and release of toxic airborne dusts and particulates to which Plaintiff, FERNANDO ABREGO PEREZ, was exposed in the course of his work.

69. As a result of his use of, and exposure to, the stone products of Defendants and Does 1-100 throughout his work in Southern California, Plaintiff, FERNANDO ABREGO PEREZ, inhaled silica, metal dust, and other toxins from said products that were generated and released during the intended use of said toxic mineral products manufactured, distributed, contracted, brokered and/or supplied by Defendants.

TOLLING OF STATUTE OF LIMITATIONS

Appreciable Injury and Diagnosis Postdating Exposure

70. Plaintiff, FERNANDO ABREGO PEREZ, was first diagnosed with silicosis in or about May 2023. Prior to that time, Plaintiff, FERNANDO ABREGO PEREZ, did not discover, and

could not reasonably have discovered, that he had been injured and was suffering from silicosis, the toxic nature of his injuries and disease, their cause by Defendants, or Defendants' wrongdoing. The pathological effect of Plaintiff's disease occurred without perceptible trauma and Plaintiff was blamelessly ignorant of its cause. It was not until May 2023, that Plaintiff, FERNANDO ABREGO PEREZ, was aware he had sustained any appreciable injury.

Ignorance of Cause of Disease

71. Prior to the time that Plaintiff, FERNANDO ABREGO PEREZ, was diagnosed with silicosis in or about May 2023, no physician had told Plaintiff that Defendants had caused his lung disease, what the cause of his lung disease was, or that his lung disease even had a cause.

Suspicion of Cause of Disease

72. The first time that Plaintiff, FERNANDO ABREGO PEREZ, suspected that his silicosis was occupationally related was in or about May 2023.

Suspicion of Wrongdoing

73. The first time that Plaintiff, FERNANDO ABREGO PEREZ, suspected that his silicosis was the result of wrongdoing was after May 2023.

Ignorance of Identity of Injury-Causing Hazardous Substances

74. At no time did Plaintiff, FERNANDO ABREGO PEREZ, personally ascertain any ingredients or contaminants of the stone products to which he was exposed in the course of his work that caused his lung disease; Plaintiff personally remains ignorant of the identity of those hazardous substances to which he was exposed at work that caused his lung disease.

Fraudulent Concealment of Toxic Hazards by Defendants

75. At all material times hereto, Defendants fraudulently concealed from Plaintiff, FERNANDO ABREGO PEREZ, material facts concerning the nature of the stone products to which Plaintiff, FERNANDO ABREGO PEREZ, was exposed.

76. At all material times hereto, Defendants fraudulently concealed the toxic hazards of their stone products from Plaintiff, FERNANDO ABREGO PEREZ, the hazards of the conditions under which Plaintiff, FERNANDO ABREGO PEREZ, was exposed to their products; that Plaintiff, FERNANDO ABREGO PEREZ, was inhaling toxic invisible particles from Defendants' products during the course of his work; and the cause of the lung disease from which Plaintiff, FERNANDO ABREGO PEREZ, suffers.

77. At all material times hereto, Defendants fraudulently concealed from Plaintiff, FERNANDO ABREGO PEREZ, that their stone products were toxic and that they contained silica, metals and other toxins that cause fibrotic lung disease upon inhalation.

78. At all material times hereto, Defendants failed to disclose to Plaintiff, FERNANDO ABREGO PEREZ, toxic hazards of their stone products, which Defendants were required to disclose to Plaintiff, FERNANDO ABREGO PEREZ, pursuant to California common law.

79. Defendants' concealment was sufficiently complete that Plaintiff, FERNANDO ABREGO PEREZ, did not know, nor could he have known, earlier than May 2023, of Defendants' culpability, that he had sustained toxic injuries, that the stone products to which he exposed had caused his silicosis, or that he had causes of action arising from his injuries.

A BRIEF HISTORY OF SILICOSIS

80. Silicon is the second most abundant element on Earth, after oxygen.

81. The health risks associated with exposure to crystalline silica dust have been known to the stone industry for centuries, indeed for millenia.

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82. Evidence of occupational silicosis dates all the way back to ancient Egypt and Greece. Stonecutters, builders, and masons all exhibited signs of silicosis, as they were the workers who built these ancient cities.

83. In 1556, Agricola wrote a treatise on mining in which he described a lung disease afflicting stonecutters and miners.

84. In 1700, Dr. Bernardino Ramazzini, who is considered the "father of occupational medicine," identified evidence of silicosis in stone cutters. He did this by performing autopsies of the stone workers, noticing a "sand-like" substance in their lungs.

85. In the early 1900s, Dr. Alice Hamilton, a physician whose work resulted in significant safety and health reforms, documented silica related illnesses among granite workers in Vermont.

86. In 1917 the United States Public Health Service called attention to the prevalence of silicosis in foundry workers. Watkins, J., U.S. Bureau of Mines, Bulletin No. 1, Air Hygiene Foundation of America (1917).

87. In 1918, the U.S. government published a study reporting that the industry with the greatest hazard of silica dust inhalation and disease was the abrasive industry. Winslow, C.E. et al, "The Dust Hazard in the Abrasive Industry," U.S. Public Health Reports, 34:1171-1187 (1918).

88. By the early 1930s, industrial journals and periodicals were replete with articles discussing hazards of silica especially as it related to sandblasting. See e.g., Sayers & Lanza, "Pneumoconiosis," American Public Health Association Yearbook (1932); Bloomfield, J.J. et al., "Sand and Metallic Abrasive Blasting as an Industrial Health Hazard," *J. Industr. Hyg.* 184 (1933) [air pressured abrasive blasting caused extremely lethal exposure to airborne silica]; Merewether, E.R. 7, Tubercle 385 (1936) [silicosis identified as a disease with a higher mortality rate in sand and shot blasters than other jobs in foundries].

89. By the mid-1930s it was well known to industry that silicosis (earlier variously called miner's asthma, potter's rot, or phthisis) is an occupational disease caused by the inhalation of tiny particles of quartz dust in the lungs. "Village of the Living Dead," 121 Literary Digest 6 (1936).

90. In 1937, the United States Department of Labor, hosted a National Silicosis Conference, at which a number of occupations were identified as being at high risk of exposure to

silica and resulting lung disease. National Silicosis Conference, Report on Medical Control, U.S. Department of Labor, Bulletin 21, Part 2B (1938). At the conference, a powerful observation was made about the necessary protections needed for sandblasters:

> Protection of workmen by means of respirators is also indicated whenever the room air cannot be kept moderately free from dust, and, of course doubly indicated in operations that are unusually dusty. In all kinds of sandblasting, workmen should be individually protected, without fail. When possible, the form of respirator which provides for the workman and ample supply of pure, fresh air under direct pressure is certainly the best, provided every precaution is taken to see that the air is free of oily vapor and dust.
>
> For those companies selling products to sandblasting operations, they need to look no further than the front page of the newspaper or government conferences to learn of the danger of sand. Yet these companies chose to sell their products to businesses, representing that such products could be used for sandblasting--contrary to widely publicized reports about necessary safety measures. Likewise, sand companies sold sand to business without ever revealing the dangers of silica-abrasives. While these companies successfully profited in the 40s, 50s and 60s, the price would be devastating for thousands of American Workers.

91. The Hawk's Nest disaster is an excellent example of just how deadly respiratory exposure to silica dust can be. During the great depression, in the early 1930s, a three-mile-long diversion tunnel was being dug through Gauley Mountain to reach the New River, to construct a hydroelectric power dam. The only dust control used was a two-hour period to let the dust settle after blasting through the rock. Of the 1200 men who worked underground for only two months, 760

men died within five years, with 2000 men eventually dying as a result of lung disease from silica. This disaster prompted a Congressional call to action.

92. The federal government responded and in 1938 the Secretary of Labor, Francis Perkins, held a National Silicosis Conference and initiated a campaign to "Stop Silicosis," stating: "Our job is one of applying techniques and principles to every known silica dust hazard in American industry. We know the methods of control – let us put them in practice."

93. Despite these efforts, silica exposure continued to be a serious health hazard for workers in the construction industry. As new products, tools, and work practices have been introduced, new means of exposure were created. An article in a leading construction trade magazine summed up the situation: "With the advent and increased use of dry cutting, drilling and grinding of concrete and masonry material in construction, we often see workers operating in a cloud of dust with no respiratory protection or safety measures to prevent airborne dust. Exposure levels in settings like construction sites are highly variable for airborne silica dust, which poses a significant risk to workers."

94. By the 1950s, the hazard of inhaling dust in various industries was well known to American industry. See, e.g., Forbes, J., Davenport, S., Review of Literature on Dusts, U.S. Department of Interior, Bureau of Mines, Bulletin 478 (1950).

95. During the period 1968 to 2002, silicosis was recorded as the underlying or contributing cause of death on approximately 74 million U.S. death certificates. Of these deaths, 98% were males. From 1968 to 2002, the mortality rate has dropped by 93%. Bang KM, Mazurek JM, "Silicosis mortality, prevention, and control—United States, 1968–2002," *MMWR: Morbidity and Mortality Weekly Report* 54(16):401-405 (2005).

96. In 1996, the Secretary of Labor began a new campaign to raise awareness and encourage safer work practices called "It's Not Just Dust," and initiated a Special Emphasis Program (SEP) on Silicosis to provide guidance to "reduce and eliminate the workplace incidence of silicosis from exposure to crystalline silica." In addition, OSHA, NIOSH, and the American Lung Association held a conference "The Campaign to End Silicosis."

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97. In 2007, OSHA estimated that more than two million employees are exposed to silica in general industry, construction, and maritime industry. NIOSH acknowledges that an unknown number of the 3.7 million workers in 2002 engaged in agriculture had exposure to silica from dust-generating activities. According to the U.S. Bureau of Mines, silica is present in nearly all of mining operations. Glenn DD, "Current issues surrounding silica," *Prof. Safety* 5392):37-46 (2008).

98. It was not until 2011 that OSHA's proposed guidelines made it to the Office of Management and Budget (OMB), under Executive Order 12866.

99. It was not until 2013, after a group of congressmen sent a letter urging the OMB to "take prompt action" regarding their rulemaking process on respirable crystalline silica, that it was listed on OSHA's regulatory agenda.

100. On March 24, 2016, after even more public hearings, debates, and reviews, OSHA announced its final rule to protect workers from respiratory exposure to crystalline silica dust.

101. On September 23, 2017, OSHA's new silica regulations finally became effective, but only for the construction industry.

102. On June 23, 2018, OSHA extended its silica regulations to maritime industries.

103. Three years later, on June 23, 2021, OSHA's regulations regarding occupational exposure to silica dust will become effective as to the oil and gas industry to address the hazard of silica exposure from hydraulic fracturing.

104. Since the fibrogenic hazards of stone products have been known to the stone industry for centuries, indeed millenia, and since those hazards have been well known to the American stone industry since at least the early years of the 20th century, Defendants all were aware of toxic and fibrogenic hazards of their stone products and were legally obligated to warn workers of those hazards and especially to provide them use instructions adequate to prevent fibrotic lung disease.

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ARTIFICIAL STONE

105. Artificial stone is a composite material made of crushed stone that is bound together by an adhesive to create a solid surface. Artificial stone is also called Agglomerate, Agglomerated Stone, Conglomerate, Engineered Stone, Manufactured Stone, quartz, and/or Synthetic Stone.

106. Artificial stone was invented in the 1970s by Marcello Toncelli, who founded Breton SpA, an Italian company, at Castello di Godego in the province of Treviso, Italy. Breton obtained patents for vibro-compression under vacuum and a mixture of fragmented stone or silica dust with a polyester resin binder made of styrene monomer and anhydrides.

107. The basic raw material and major constituent of most artificial stone products is quartz, i.e., crystalline silica.

108. Artificial stone is usually sold as slabs, but is sometimes sold as blocks.

109. Artificial stone is primarily used to fabricate kitchen and bathroom countertops.

110. Artificial stone is manufactured in large factories, most of which have been located outside the United States, until quite recently.

111. In 1987 Caesarstone began manufacturing artificial stone at Kibbutz Sdot Yam near Haifa in Israel on the shore of the Mediterranean Sea.

112. In 1990 Cosentino began manufacturing artificial stone in Almeria, Spain, in Andalusia in southeastern Iberia on the Mediterranean Sea.

113. Today artificial stone today is manufactured about 30 companies throughout the world: Aro Granite Industries (India), Baba Quartz (India), Breton (Italy), Caesarstone (Israel), Cambria (US), Cimstone (Turkey), Compac (Spain), Cosentino (Spain), Diresco (Belgium), Dupont (Canada), Guidoni Group (Brazil), Hanwha (South Korea), Hirsch Glass Corp (US), LX Hausys (South Korea), Lotte Chemical (South Korea), Mohawk Industries (US), MS International (India), Pokarna (India), Quarella (Spain), Quartzform (Germany), RMC (Portugal), Santa Margherita (Spain), Stone Italiana (Italy), Strasser Steine (Austria), Technistone (Czech Republic), Totem Quartz (Iran), USA Quartz (US), Vicostone (Vietnam), Wilsonart (S. Korea).

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114. There are a few steps involved in the manufacture of artificial stone. First, raw quartz is mined at a quartz mine. Next, raw quartz is crushed and sorted in a factory. Then acids, alcohols, styrene, and peroxide are mixed in a chemical plant to initiate a series of chemical reactions that produce polyester resin. Pigments are also produced in a chemical plant.

115. Crushed quartz, polyester resin, and pigments are transported to an artificial stone manufacturing plant where they are combined, placed into molds, compacted, heated, and cured.

116. Artificial stone is shipped from those countries that manufacture it throughout the world. The artificial stone or slab product is a commercial product that requires fabrication before it can be installed for a consumer. Local workers, mostly immigrants, typically working in small shops, fabricate the artificial stone slabs into countertops that are then installed in customers' kitchens and bathrooms.

117. The workers who do this work have a few different job titles: cutter, fabricator, polisher, and/or installer. Using a large, powered circular saw, the "cutter" cuts artificial stone slab to the overall size needed for the job. Using a smaller powered saw, the "fabricator" cuts holes for the sink, faucet, water return, and detergent dispenser. Using a powered tool, the fabricator also grinds the edge of the countertop. Using a powered device, the "polisher" then polishes the surface of the countertop. In small shops the fabricator also does this task. Lastly, using powered saws, grinding tools, drills, polishing machines, and chemicals, the "installer" installs the countertop in the customer's kitchen or bathroom and does finishing work, including assembling and gluing artificial stone pieces together, cutting holes for electrical outlets, edging, polishing, and sealing countertops.

THE NEW ARTIFICIAL STONE SILICOSIS EPIDEMIC

118. The first case of artificial stone-induced silicosis was seen in 1997 by physicians at the National Lung Transplantation Center in Israel. This worker was exposed to Caesarstone, developed silicosis, and underwent lung transplantation. Kramer MR, et al., "Artificial Stone Silicosis: Disease Resurgence Among Artificial Stone Workers," *Chest* 2012; 142(2):419-424.

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119. Over the next 14 years, researchers at the National Lung Transplant Center in Israel diagnosed silicosis in 25 patients exposed to artificial stone; all of the cases were diagnosed based on detailed occupational history. Histologic confirmation was obtained in all but 2 of the cases. Of these, 15 (60%) were determined to be lung transplant candidates. All of these patients worked with the same commercial brand of synthetic stone material, cutting it for kitchen and other countertops. The material was CaesarStone; it contained at least 85% crystalline silica. All 25 patients reported that more than 90% of their typical work duties involved handling Caesarstone. Less than 10% included exposure to other potential sources of silica, primarily natural granite. Kramer MR, et al., "Artificial Stone Silicosis: Disease Resurgence Among Artificial Stone Workers," *Chest* 2012; 142(2):419-424.

120. The first cases of silicosis in Spanish artificial stone workers were published in 2010 by researchers at the National Institute of Silicosis at the University Hospital in Asturias, Spain. They reported 3 cases in workers who had been employed for 17 years by a small ornamental stone company that fabricated and installed in homes and buildings. The workers were all young: 32, 34, and 37 years old. Chest x-rays of all 3 workers showed nodular opacities with diffuse bilateral distribution and more profuse localization in the upper lobes, with a slight increase in mediastinal and/or hilar nodes. In case 1, a cluster of nodules was observed with progressive massive fibrosis; this worker was diagnosed with complicated silicosis. Martínez C, et al., "Silicosis, a Disease With an Active Present," *Arch. Bronconeumol.* 2010; 46(2):97-100 [in Spanish with English abstract].

121. In 2011, researchers at Galdakao Hospital in Bizkaia, Spain published a study of 11 workers who were exposed to different types of quartz surfaces since 1995. Four of the subjects worked in the cutting workshop; the rest of the workers worked in assembly (i.e. fabrication), without any specific respiratory protection apparatus. They diagnosed 6 of the 11 workers with silicosis, which equated to a disease prevalence in this work environment of 54.5%. Of the 6 workers affected, 5 (83.3%) were assembles (fabricators). The investigators attributed silicosis in these workers to quartz conglomerates (artificial stone). Pascual S, et al., "Prevalence of silicosis in a marble factory after exposure to quartz conglomerates," *Arch. Bronconeumol.* 2011; 47(1):50-51 [in Spanish with English abstract].

122. The next series of cases were reported in 2012 by Italian researchers who identified 7 silicosis cases in a group of 29 fabrication workers. Bartoli D, et al., "Silicosis in employees in the processing of kitchen, bar and shop countertops made from quartz resin composite. Provisional results of the environmental and health survey conducted within the territory of USL 11 of Empoli in Tuscany among employees in the processing of quartz resin composite materials and review of the literature," *Ital. J. Occup. Environ. Hyg.* 2012; 3(3):138-143.

123. "In May 2014, the Texas Department of State Health Services was notified of a case of silicosis with progressive massive fibrosis in a Hispanic male aged 37 years who worked for an engineered stone countertop company as a polisher, laminator, and fabricator. He was exposed to dust for 10 years from working with conglomerate or quartz surfacing materials containing 70% - 90% crystalline silica. This is the first reported case of silicosis associated with exposure to quartz surfacing materials in North America." Friedman GK, et al., "Silicosis in a Countertop Fabricator – Texas, 2014," *Morbidity and Mortality Weekly Report*, Feb. 13, 2015; 64(5):129-130.

124. "In January 2019, the California Department of Public Health identified, through review of hospital discharge data for silicosis diagnoses (*International Classification of Diseases, Tenth Revision* [ICD-10] code J62.8), a Hispanic man aged 37 years who was hospitalized in 2017 (CA-1) (Table). He worked at a stone countertop fabrication company during 2004–2013, mainly with engineered stone. His work tasks included polishing slabs and dry-cutting and grinding stone edges. Workplace measurements during a California Division of Occupational Safety and Health inspection in 2009 showed respirable crystalline silica levels up to 22 times higher than the permissible exposure limit (PEL) of 0.1 mg/m3 in effect in California at that time. After developing respiratory symptoms in 2012, he had a chest CT scan, which revealed findings of silicosis. Pulmonary function testing showed restrictive defects with reduced diffusion capacity; surgical lung biopsy showed mixed dust pneumoconiosis with polarizable particles consistent with silica. He concurrently received a diagnosis of scleroderma, with positive anti-Scl-70 and antinuclear antibodies. He died from silicosis in 2018 at age 38 years. Further investigation of patient CA-1's place of employment, in collaboration with the California Division of Occupational Safety and Health, identified two additional silicosis cases among stone fabricators." Rose C, et al., "Severe

Silicosis in Engineered Stone Fabrication Workers – California, Colorado, Texas, and Washington, 2017-2019," *Morbidity and Mortality Weekly Report*, Sept. 27, 2019; 68(38):813-818.

125. "This report describes 18 cases of silicosis, including the first two fatalities reported in the United States, among workers in the stone fabrication industry in California, Colorado, Texas, and Washington. Several patients had severe progressive disease, and some had associated autoimmune diseases and latent tuberculosis infection. Cases were identified through independent investigations in each state and confirmed based on computed tomography (CT) scan of the chest or lung biopsy findings. Silica dust exposure reduction and effective regulatory enforcement, along with enhanced workplace medical and public health surveillance, are urgently needed to address the emerging public health threat of silicosis in the stone fabrication industry." Rose C, et al., "Severe Silicosis in Engineered Stone Fabrication Workers – California, Colorado, Texas, and Washington, 2017-2019," *Morbidity and Mortality Weekly Report*, Sept. 27, 2019; 68(38):813-818.

126. By 2020 the epidemic was international in scope, with more than 300 cases (including 22 lung transplant cases) in Israel, more than 300 cases in Spain, more than 100 cases in China, 98 cases in Australia, 34 cases in Italy, and 18 cases in the United States.

127. In 2022 researchers from Australia published an article in which they identified 579 cases of silicosis among workers in the stone benchtop industry in Australia - 238 cases in Queensland, 175 cases in Victoria, 121 cases in New South Wales, 24 cases in Western Australia, 18 cases in South Australia and 3 cases in Tasmania. Hoy RF, et al., "Correspondence on 'Demographic, exposure and clinical characteristics in a multinational registry of engineered stone workers with silicosis,' by Hua et al.," *Occup. Environ. Med.* 2022; 79(9):647-648.

128. By the end of 2022 the Social Security agency in Spain had registered 4,906 reports of silicosis due to an occupational disease. Inma Muro, "Silicosis: After the 1st prison sentence, Cosentino sits on the bench again," *Crónica Libre*, July 5, 2023.

129. In 2022 researchers from Curtin University in Australia published a study in which they modeled the future course of the artificial stone silicosis epidemic. One of the investigators of this study, Dr. Renee Carey, concluded: "Our modelling predicts more than 10,000 Australians will develop lung cancer and up to 103,000 workers will be diagnosed with silicosis as the result of their

current exposure to silica dust at work." Curtin University Press Release: "10,000 Aussie workers set to develop lung cancer from silica dust: study," *News at Curtin*, July 12, 2022.

130. In 2023, researchers from California published a study in which they described clinical, socioeconomic, and occupational characteristics of patients diagnosed with silicosis associated with engineered stone in California. This case series included reported cases of silicosis associated with fabrication of engineered stone countertops, as identified by statewide surveillance by the California Department of Public Health (2019-2022). Data analysis was performed from October 2022 to March 2023. Patient interviews and medical record abstractions were used to assess occupational exposure to respirable crystalline silica, including duration of work tenure and preventive measures undertaken. Demographics, clinical characteristics, health care utilization, and clinical outcomes were obtained, including vital status, hypoxia, and lung transplant. This case series identified 52 male patients meeting inclusion criteria; median (IQR) age was 45 (40-49) years, and 51 were Latino immigrants. Ten (19%) were uninsured, and 20 (39%) had restricted-scope Medi-Cal; 25 (48%) presented initially to an emergency department. A delay in diagnosis occurred in 30 (58%) patients, most commonly due to alternative initial diagnoses of bacterial pneumonia (9 [30%]) or tuberculosis (8 [27%]). At diagnosis, 20 (38%) patients had advanced disease (progressive massive fibrosis) with severely or very severely reduced forced expiratory volume in 1 second in 8 (18%) and 5 (11%), respectively. Of the cases, 10 (19%) were fatal; median age at death was 46 years, and 6 patients (12%) were alive with chronic resting hypoxia. Eleven were referred for lung transplant: 3 underwent transplant with 1 fatality; 7 were declined transplant with 6 fatalities; and 1 died prior to listing. Median work tenure was 15 years; 23 (45%) reported use of water suppression for dust mitigation, and 25 (48%) continued to fabricate stone after being diagnosed with silicosis. The researchers concluded silicosis associated with occupational exposure to dust from engineered stone primarily occurred among young Latino immigrant men; many patients presented with severe disease, and some cases were fatal. Fazio JC, et al., "Silicosis Among Immigrant Engineered Stone (Quartz) Countertop Fabrication Workers in California," *JAMA Intern. Med.* 2023; 183(9):991-998.

131. In a news report published May 29, 2024 in the *Los Angeles Times*, Emily Alpert Reyes wrote that Cal/OSHA recently estimated that out of nearly 5,000 such workers statewide, as

many as 200 could die of the disease [silicosis]." Emily Alpert Reyes, "California could require licenses for stonecutting shops amid deaths of young workers," *Los Angeles Times* (May 29, 2024).

132. In a news report by Lolita Lopez published July 9, 2024, according to the California Department of Public Health, there have been 154 confirmed cases of silicosis related to engineered stone, including at least 13 deaths, as of June 10, 2024, with Los Angeles County reporting 92 cases. Lolita Lopez, "Emerging health concern." Potentially deadly lung disease linked to engineered countertops," NBC4 I-Team and Telemundo 52 Investiga (July 9, 2024).

133. As of the beginning of October 2024, the California Department of Public Health has advised that it has confirmed 178 cases of silicosis related to engineered in the State of California.

134. Recent studies estimating the prevalence of artificial stone-induced silicosis in various countries have yielded estimates of hundreds of thousands of new cases throughout the world.

AUSTRALIA BANS THE SALE AND USE OF ARTIFICIAL STONE

135. Since at least as early as 2019, Australian silicosis victims, their families, workers, unions, physicians, regulators, and public health officials and others have called for a ban on the importation, sale, and use of artificial stone due to its extreme dangers to worker health and safety.

136. In 2019 Laura Kewley of ABC (Australian Broadcasting Corporation) News reported that “a man who developed silicosis after working with engineered stone products has called for the products to be banned to prevent more people developing the disease.” She reported: “Renee and Braden Barnes’ life has changed dramatically since Braden was diagnosed with silicosis.” He said: “There’s no way you can produce a kitchen purely, without having some sort of dust come off the manufacturing process. Even when it is used wet (and) turns to sludge, the sludge dries, gets on your boots and turns back to powder.” She reported that “new figures . . . show a surge in new cases.” At the time she reported that “[t]here are now 260 cases across Australia.”

137. "When Cal/OSHA took a closer look at the industry in 2019 and 2020, it found that 72% of shops where it conducted air sampling were in violation of silica rules. It recently estimated that out of nearly 5,000 such workers statewide, as many as 200 could die of the disease [silicosis]."

138. In 2020, Alison Reid, Associate Professor in Epidemiology and Biostatistics at the School of Public Health of Curtin University in Perth, Australia, called for a ban of artificial stone. She prepared a powerpoint presentation titled "Engineered Stone: Why a Ban Is The Only Answer." https://research.curtin.edu.au/businesslaw/wp-content/uploads/sites/5/2020/09/Curtin-Corner-Engineered-Stone-A-Reid-11-Sep-2020-.pdf

139. In her powerpoint presentation, Dr. Reid noted that artificial stone has a much higher silica content than natural stone (95% v 10-45% in granite, and that fabrication processes with power tools product high levels of silica dust -- more than 300 times the occupational standard. She noted that a study from the UK showed that 61% of respirable crystalline silica exposures where water suppression was present exceeded the respirable crystalline silica workplace exposure limit and that high levels of exposure were reported even when wet cutting. Alison Reid, "Engineered Stone: Why a Ban Is The Only Answer," citing PEJ Baldein et al, "Exposure to RCS in the BG brick manufacturing and stone working industries," *Ann. Work Exp Health* 2019; 63)2):184-196; Office of Industrial Relations Workplace Health and Safety Queensland. Findings report: phase one audits of engineered stone benchtop fabricators in South East Queensland. (2019).

140. Dr. Reid compared the situation to the asbestos disease epidemic of the last century, when Australian regulators aimed to control exposure rather than eliminate it, resulting in high rates of unnecessary morbidity and mortality from asbestosis, lung cancer and mesothelioma. Dr. Reid noted that efforts to control asbestos exposure rather than ban it resulted in an estaimted 18,000 cases of mesothelioma, 108,000 cases of lung cancer, and a substantial, but unknown number of cases of asbestosis, and that Australia had one of the highest rates of asbestos-related diseases globally.

141. Dr. Reid argued that engineered stone should be banned because it is a known cause of a preventable disease, silicosis is an incurable disease with limited treatment options, artificial stone dust is difficult to control, and there are safer product alternatives. Pointedly, Dr. Reid wrote: "LET'S LEARN FROM OUR ASBESTOS EXPERIENCE RATHER THAN REPEAT IT!"

142. In 2022, Professor Lin Fritschi, a co-author of the 2021 Curtin University Study, said that banning engineered stone would prevent almost hundreds of lung cancers and thousands of silicosis cases. Brett Lackey and Peter Vincent, *Daily Mail Australia* (November 22, 2022).

143. The same day Mary Lloyd of ABC News quoted Zach Smith, incoming national secretary of the union saying: "This product is killing workers and the reality is Australian workers will keep dying unless we ban engineered stone." Mary Lloyd further reported that Kate Cole, president of the Australian Institute of Occupational Hygienists, likened the risk of exposure to silica to that of asbestos and said that high-silica stone products should be banned as soon as possible."

144. The next day, November 23, 2022, Claire Siracuse and Najma Sambul of The Sydney Morning Herald reported that the Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU) sought to "stop this killer stone" by banning artificial stone, and that the union "has announced it will ban the use of engineered stone if the federal government fails to do so by 2024."

145. By February of 2023, medical and health organizations Lung Foundation Australia, the Thoracic Society of Australia, the Australian and New Zealand Society of Occupational Medicine, the Australian Institute of Health & Safety, Public Health Association Australia, and the Australian Institute of Occupational Hygienists had all called for a ban of engineered stone. https://www.aumanufacturing.com.au/medical-bodies-call-for-ban-on-engineered-stone.

146. On February 22, 2023, Adele Ferguson and Angus Thompson of WAtoday, reported that even Cosentino, "one of the world's largest stone benchtop companies . . . called for a ban on products blamed for a deadly silicosis epidemic." They reported: "Manufacturer Cosentino produces more than one in every five domestic kitchen benchtops sold in Australia and is facing international scrutiny over its safety record. It is not pushing for a national coordinated approach to reduce risks associated with products containing high levels of silica, ahead of a meeting of workplace safety ministers next week." They quoted a Cosentino spokesperson as saying: "We have an immediate solution without disrupting the construction and building market, and prices won't increase. The immediate solution is everyone buys products that are less than 40 per cent silica."

147. On February 28, 2023, Paul Karp of *The Guardian* reported that federal workplace relations minister, tony Burke, revealed that the work, health and safety ministers of all Australian states and territories had unanimously agreed to ask Safe Work Australia to prepare a plan to ban artificial stone products. https://www.theguardian.com/australia-news/2023/feb/28/australia-moves-to-ban-silica-engineered-stone-benchtops-silicosis-fatal-lung-disease.

148. In August 2023, Safe Work Australia presented its report to federal, state and territory Work Health and Safety ministers with recommendations on options to ban engineered stone.

149. On September 24, 2023, Emily Alpert Reyes and Cindy Carcamo of the *Los Angeles Times* reported that the Los Angeles County Department of Public Health was preparing a report that had been requested by Los Angeles County Board Supervisors on options for a potential ban of the importation and use of artificial stone in Los Angeles County.

150. On October 27, 2023 Safe Work Australia released its report recommending a ban on the importation and use of all artificial stone in Australia, which concluded: "A complete prohibition on the use of engineered stone is recommended." It reached this conclusion upon finding that "[t]he risks posed by working with engineered stone are serious and the possible consequences of being exposed to RCS [respirable crystalline silica] generated by engineered stone are severe and sometimes fatal. To date, we – PCBUs [persons conducting a business or undertaking], workers, regulators and policy agencies – have failed to ensure the health and safety of all workers working with engineered stone." Safe Work Australia, *Decision Regulation Impact Statement: Prohibition on the use of engineered stone*, https://www.safeworkaustralia.gov.au/sites/default/files/2023-10/decision_ris_-_prohibition_on_the_use_of_engineered_stone_-_27_october_2023.pdf.

151. Safe Work Australia rejected proposals to allow the use of engineered stone containing lower crystalline silica concentrations because upon finding that "[a] lower silica content engineered stone is not expected to result in improvements in compliance," because "[t]he features of the sector that have contributed to the current levels of non-compliance remain" and "permitting work with lower silica engineered stone may encourage even greater non-compliance with WHS [worker health and safety] laws as there may be an incorrect perception that these products are 'safer'."

152. Safe Work Australia found "[t]here is also no evidence that lower silica engineered stone poses less risk to worker health and safety. Manufacturers have not yet established (through independent scientific evidence) that these products are without risks to the health and safety of workers and others in the workplace. There is no toxicological evidence of a 'safe' threshold of crystalline silica content, or that the other components of lower silica engineered stone products (e.g. amorphous silica including recycled glass, feldspar) do not pose additional risks to worker health."

The agency concluded: "The only way to ensure that another generation of Australian workers do not contract silicosis from such work is to prohibit its use, regardless of its silica content. The cost to industry, while real and relevant, cannot outweigh the significant costs to Australian workers, their families and the broader community that result from exposure to RCS from engineered stone."

153. On December 13, 2023, ABC News reported Australian ministers met that day and voted unanimously to ban the importation and use of engineered stone in all states and territories throughout Australia - the first nationwide ban of artificial stone in the world. The report stated that the ban would start on July 1, 2024 in most Australian states and territories, with people being advised not to order any artificial stone after January 1, 2024. Michael Atkin, "Australia makes world-first decision to ban engineered stone following surge in silicosis cases," *ABC News* (Dec. 13, 2023). https://www.msn.com/en-au/health/other/australia-makes-world-first-decision-to-ban-engineered-stone-following-surge-in-silicosis-cases/ar-AA1lqbWZ.

CAL-OSHA ISSUES EMERGENCY TEMPORARY STANDARD

154. On December 14, 2023, the California Occupational Safety and Health Standards Board issued a report, *Finding of Emergency, Government Code Section 11346.1, Occupational Safety and Health Standards Board, Proposed Emergency Regulation, Title 8, California Code of Regulations, General Industry Safety Orders, Chapter 4, Subchapter 7, Revised Section 5204:* ***Occupational Exposures to Respirable Crystalline Silica.*** This report identified 15 "Key Points":

- The Board is proposing an Emergency Temporary Standard (ETS) to protect workers in the stone fabrication industry from exposure to respirable crystalline silica (RCS).
- When inhaled, RCS can result in silicosis, an incurable, progressive lung disease that causes pulmonary fibrosis, respiratory failure, and in many cases, death.
- RCS exposure from working with artificial stone produces an aggressive form of silicosis, with rapid disease progression, accelerated decline in lung function, and high mortality, typically at a young age.

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- There is a growing number of silicosis cases in the artificial stone fabrication industry that began in 2019 and has since been described by the California Department of Health (CDPH) Occupational Health Branch (OHB) as an epidemic.
- In July 2023, OHB investigators reported a total of 52 workers with silicosis who were exposed to RCS while fabricating countertops from artificial stone.
- The median age of these workers was 45 years at diagnosis; 51 (98%) were Latino men. Ten of these patients (19%) died by the time investigators reported their findings. The median age at death was 46 years, with a median work tenure of 15 years. Three individuals underwent lung transplantation, which has a five-year survival rate of 59%.
- In November 2023, OHB reported that the total number of silicosis cases in the artificial stone industry had increased 79%, from the 52 workers reported in July of 2023, to a total of 93. One worker with severe silicosis is 27 years of age, is on continual oxygen, and worked for a period of 10 years in the industry.
- About 4,040 workers are employed in California's stone fabrication shops. Based on a silicosis prevalence rate of 12% to 21% and a fatality rate of 19%, Cal/OSHA estimates that between 500 and 850 cases of silicosis will occur among these workers, and between 90 and 160 will likely die of silicosis.
- Cal/OSHA's existing silica standard, California Code of Regulations (CCR) title 8, section 5204, was promulgated based on the experience of silicosis in traditional industries such as mining, quarrying and sandblasting; it is not well calibrated to the small businesses and working conditions of the stone fabrication industry. In 2019, Cal/OSHA found that 72% of shops in this industry were out of compliance with section 5204.
- Section 5204 also contains three key loopholes that allow employers to easily exempt themselves from the requirements of the regulation and put workers in grave danger.
- In light of these factors, an ETS is needed that will require far safer conditions for workers who handle both artificial stone (containing >0.1% silica) and natural stone

(containing >10% silica). An ETS is needed that will be clearer for employers to implement and more efficient for Cal/OSHA to enforce.

- The proposed ETS meets these objectives with new requirements pertaining to engineering controls, safe work practices, respiratory protection, signage, housekeeping, training and reporting.
- The proposed ETS also provides a means for Cal/OSHA to quickly identify RCS hazards and efficiently stop certain operations in a shop, or shut-down the shop itself, pending abatement of those hazards.
- With these immediate improvements, the proposed ETS is expected to substantially reduce the number of silicosis cases and deaths in California.
- Over 10 years, the expected costs of the proposed ETS to businesses are $66 million; benefits over the same period are estimated at $603 million, not including indirect costs associated with lost wages and benefits, lost lifetime productivity, and pain and suffering.

155. The report explained the objective of the proposed emergency regulation as follows:

> The objective of the proposed emergency regulation is to reduce occupational RCS exposure and silicosis occupational disease cases by responding as efficiently as possible to an epidemic of silicosis that has emerged among workers in the artificial stone fabrication industry. To date, all of the affected workers have been exposed occupationally to RCS while fabricating countertops from artificial stone. Many of these workers have since died of their disease. Relative to the typical experience with silicosis, these workers' cases of silicosis have been particularly aggressive, characterized by rapid disease progression, accelerated decline in lung function, and high mortality, typically at a young age.

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> The proposed emergency regulation will require employers in the artificial stone fabrication industry to implement safeguards that will prevent RCS exposures among their employees. The proposal will also apply to other industries where workers cut, grind or polish natural stone materials with a silica content of 10% or greater.

156. The report concluded that issuance of the proposed standard was necessary to address an occupational health emergency:

> The Occupational Safety and Health Standards Board (Board) finds that the adoption of this proposed emergency standard is necessary to address an emergency pursuant to GC section 11346.1(b)(1). The Board finds that immediate action must be taken to avoid serious harm to the public peace, health, safety or general welfare, for the reasons stated below.

157. The Board identified 15 facts as the basis for its finding of emergency:

1) Exposure to RCS can result in silicosis.
2) Silicosis is an incurable disease.
3) Silicosis primarily affects workers.
4) Artificial stone contains more than 93% crystalline silica.
5) Artificial stone now dominates the U.S. market for stone countertops.
6) There is an epidemic of silicosis occurring in California's artificial stone fabrication industry.
7) The silicosis cases occurring in this industry are particularly aggressive and deadly.
8) Similar cases of silicosis in this industry are occurring worldwide.
9) Workers in this industry are uniquely vulnerable.

10) The dust from artificial stone is uniquely hazardous, compared to natural stone.

11) There is evidence of widespread non-compliance with title 8 standards in the artificial stone fabrication industry.

12) Individual workers in this industry report high levels of employer non-compliance with title 8 requirements.

13) The existing silica standard is not well suited to the artificial stone fabrication industry.

14) On the current trajectory, many workers in this industry will develop silicosis and die.

15) An emergency regulation is necessary to protect workers in this industry.

Finding of Emergency, Government Code Section 11346.1, Occupational Safety and Health Standards Board, Proposed Emergency Regulation, Title 8, California Code of Regulations, General Industry Safety Orders, Chapter 4, Subchapter 7, Revised Section 5204: Occupational Exposures to Respirable Crystalline Silica. Available on the Cal. Department of Industrial Relations website: https://www.dir.ca.gov/OSHSB/documents/Respirable-Crystalline-Silica-Emergency-FOE.pdf.

158. The Emergency Temporary Standard requires employers to use the following engineering controls and work practices to reduce occupational exposure to artificial stone dust:

Engineering controls: "effective wet methods"

Housekeeping and Hygiene:

1. Prompt and proper cleanup of wastes, dusts, residues, debris, etc.
2. Wet methods or vacuum cleaners equipped with HEPA filters to collect all wastes, dusts, residues, debris, etc. from high-exposure tasks.
3. Respiratory protection for workers engaged in housekeeping tasks.
4. Washing Facilities.

159. The Emergency Temporary Standard prohibits the following practices for high-exposure tasks:

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1. Any use of compressed air wherever silica dust may be present.
2. Any dry sweeping, shoveling, disturbing, or other dry clean-up of wastes ....
3. Use of employee rotation as a means of reducing employee exposure to RCS.
4. Walking or moving equipment on or through dry dust, debris, residue, etc.

160. The Emergency Temporary Standard also requires employers to establish and implement a written exposure control plan that includes description of tasks, engineering controls, and housekeeping measures and to review and evaluate the effectiveness of the plan at least annually.

161. In workplaces where high-exposure trigger tasks occur, the Emergency Temporary Standard also requires employers to include the following in their written exposure control plan:

1. Air monitoring records that demonstrate engineering controls are effective and continuously maintain exposure levels below the action level.
2. Procedures for the proper donning and doffing of personal protective equipment, including work clothing and respiratory protection to effectively prevent exposures to respirable crystalline silica and prevent take-home exposures;
3. Documentation of proper reporting to the Division; and
4. Procedures ensuring employees are properly trained to prevent RCS exposure

162. The Emergency Temporary Standard requires employers to ensure that employees properly use the following respiratory protection when employees perform high-exposure trigger tasks or work within a regulated area where high-risk exposure tasks occur:

1. A full face tight-fitting powered-air purifying respirator (PAPR) or a respirator providing equal or greater protection equipped with a HEPA, N100, R100, or P100 filter and organic vapor cartridge shall be used.
2. A full face, tight-fitting supplied-air respirator in pressure-demand or other positive pressure mode for any employees known to the employer to be diagnosed with confirmed silicosis, or who meet the definition of suspected silicosis, or whenever the PLHCP or specialist recommends use of a supplied-air respirator. The air source for the supplied-air respirator shall be

located outside the regulated area and in an area that is free of respirable crystalline silica and other airborne contaminants.

163. The Emergency Temporary Standard also mandates that "the employer shall make medical surveillance available at no cost to the employee, and at a reasonable time and place, for each employee who will be occupationally exposed to respirable crystalline silica at or above the action level for 30 or more days per year."

164. The medical surveillance includes an initial examination consisting of

1. a medical and work history, with emphasis on he respiratory system;
2. a physical examination with special emphasis on the respiratory system;
3. a chest x-ray interpreted and classified according to the International Labour Office (ILO) International Classification of radiographs of Pneumoconioses by a NIOSH-certified B Reader;
4. A pulmonary function test to invlude forced vital capacity (FVC) and forced expiratory volume in one second (FEV_1) and FEV_1 / FVC ratio,
5. Testing for latent tuberculosis infection; and

165. The initial examination is to be followed with periodic examinations at least every three years, or more frequently if recommended by the PLHCP.

ARTIFICIAL STONE DEFENDANTS

166. The following companies that are defendants in this case all imported, manufactured, distributed, supplied and/or sold artificial stone products containing approximately 95% crystalline silica that caused or contributed to Plaintiff's silicosis, pulmonary fibrosis, progressive massive fibrosis, and other injuries.

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ANKUR INTERNATIONAL, INC.

167. Ankur International, Inc. was incorporated in the State of New Jersey on June 26, 1992 and has its principal place of business at 1206 Cranbury-South River Rd., Cranbury, NJ 08512.

168. According to its website, "Ankur International, established in 1989, is an importer of natural stones like marble, granite, quartzite, as well as engineered quartz slabs. . . . We import slabs from countries all over the world, including Brazil, Spain, Italy, India, China and Turkey." https://www.ankurinc.com/about-us/.

169. According to its website, "Stellar Quartz is distributed by Ankur International Inc. which "is a wholesale company and cannot sell directly to the public. All products are sold through the fabricator/kitchen and bath dealer of your choice." https://www.ankurinc.com/contact-us/.

170. Googling Stellar Quartz reveals a website of this name "by Ankur International." https://www.stellarquartz.com/. A tab "Why Stellar Quartz" offers five reasons why customers should select Stellar Quartz:

> **UNIQUE COLORS** Stellar Quartz comes in a wide variety of colors and styles so you are sure to find the perfect slab for your project, a slab that reflects you and your lifestyle.
>
> **COMPETITIVE PRICES** Stellar quartz is priced very competitively, both as compared to natural stone as well as to other quartz brands so you will always get good value for your money.
>
> **DURABILITY** Stellar quartz is primarily comprised of quartz, one of the hardest minerals on earth. Quartz is combined with resins and synthetic polymers making quartz slabs very hard and durable. While some natural stones are soft and brittle, quartz is hard and strong, making it a superior choice for your projects.
>
> **EASY MAINTENANCE** Stellar Quartz is low maintenance. In our busy lives who wants another thing that demands time or energy. Unlike natural stones, Stellar quartz is highly resistant

to stains and chemicals, and does not have to be sealed or waxed. To clean, simply wipe with a soft cotton cloth and warm water or mild soap. Do not use bleach, abrasive powders or scrubs.

SANITARY Stellar quartz is not porous so it is free of bacteria and mold. Unlike natural stones, quartz does not have to be sealed or waxed so no external chemicals are required for maintenance. https://www.stellarquartz.com/why-stellar-quartz/

171. Although the Hazard Communication Standard is a series of regulations that requires all companies that manufacture, import or distribute hazardous substances to which workers are exposed to prepare and provide to their customers with a Safety Data Sheet that complies with the requirements of the Standard, Ankur International, Inc., has at all times violated these regulations, has to this very date failed to prepare any Safety Data Sheet for Stellar Quartz, and thereby concealed the lethal hazards of its artificial stone product from stone countertop fabricators, endangering their health and safety and causing them to develop and suffer from silicosis as a result of their occupational exposure to respirable crystalline silica dust from Ankur's Stellar Quartz product.

172. The officers, directors and/or managing agents of Ankur International, Inc. who authorized and ratified the company's violation of the Hazard Communication Standard and its total concealment of the lethal hazards of silicosis hazard of its Stellar Quartz product include Tejesh Bhaga, Chief Executive Officer; Binod Toshniwal, President; Anita Toshniwal, Chief Financial Officer; Hasmukh Bhaga, Owner; Devdas Alva, Owner; Nirav Gada, Head of Marketing; Somendu Chakraborty, Distributor of Stellar Quartz, and Sahil Agwan, Manager.

ANTOLINI LUIGI & C. S.P.A.

173. Antolini Luigi & C. S.p.a. is an Italian company whose principal place of business is Via Napoleone, 6, 37015 Sant'Ambrogio di Valpolicella, Verona, Italy.

174. According to the company's website, "Antolini®, based in Verona, Italy, is the world leader in the natural stone production and at the absolute forefront of the industry. The company,

founded by Luigi Antolini in 1956 and active today on a global scale, offers a wide selection of materials known for their exotic colors, finishes and patterns. Nowadays, Alberto, Alessandra and Francesco, are carrying on their father's tradition of producing and marketing the finest natural stones, by highlighting and enhancing their unique beauty thanks to the skillful combination of craftsmanship and technological innovation. The Antolini® Exclusive Collection is the result of their quest to offer the most extraordinary materials from the finest quarries all over the world."

175. In addition to natural stone, Antolini markets an "Exclusive Collection" of quartz products: "Antolini Quartz is the new approach to man made technology, totally renovated , with refreshing patterns that are similar to marble look. Processed and manufactured in Italy."

176. According to the company, "Antolini Italy manufactures manmade quartz stones, offers many color options, and great quality stones which provides marble like look and elegance. Antolini quartz stones are exceptionally durable and strong which make them extremely popular for kitchen countertops, bathroom vanity tops and bar tops." The company also claims that it "has been at the forefront of developments in engineered stone processing and new technologies, constantly evolving along the way and never overlooking the importance of quality." According to the company, "Antolini quartz stones are anti-bacterial and stain resistant which makes them a popular option comparing to natural stones. Quartz stones are scratch and etch resistant like granite and quartzite, but quartz stones are not heatproof . . . ."

177. Antolini's website directs customers to Walker & Zanger, its dealer in California with locations in Los Angeles, North Hills, Tustin, and West Hollywood. The website of California-based Pacific Shore Stones also advertises that it is "now partnering with Antolini Italy" and offers Antolini quartz products for sale in Southern California.

178. For many years, Antolini did not prepare Safety Data Sheets for any of its stone products; it was not until June 2023 that Antolini issued its first Safety Data Sheet for its natural stone products. This Safety Data Sheet has an introductory page that beckons: "ATTENTION" followed by a triangle that contains an exclamation point. The introductory page then states: "This safety data sheet is intended for personnel who work with natural stone, using manual or mechanical

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tools (e.g. stonemasons, fitters, finishers, etc.). Before carrying out any mechanical processing of natural stone, please read the information in this safety data sheet carefully. It then says:

NATURAL STONE MAY CONTAIN CRYSTALLINE SILICA.
RESPIRABLE PARTICLES CONTAINING CRYSTALLINE SILICA MAY BE DISPERSED DURING THE MECHANICAL PROCESSING OF NATURAL STONE.
APPROPRIATE MEASURES SHOULD BE DEFINED,
BASED ON THE SPECIFIC WORKPLACE, TO REDUCE
THE RISK OF INHALATION OF PARTICULATE MATTER.
FAILURE TO TAKE SUCH RISK-REDUCING MEASURES
CAN LEAD TO SERIOUS ILLNESS.
EMPLOYERS OF PERSONNEL WHO PROCESS NATURAL STONE SHALL BE RESPONSIBLE FOR ENSURING THAT WORKPLACES, EQUIPMENT AND TECHNICAL PROTECTIVE DEVICES COMPLY WITH THE REGULATIONS, AND FOR INFORMING THEIR EMPLOYEES ABOUT THE RISKS ASSOCIATED WITH SUCH PROCESSING AS WELL AS FOR TAKING APPLICABLE RISK REDUCTION MEASURES.

179. This warning is followed by a 19-page Safety Data Sheet for Antolini's natural stone products. Although Antolini finally issued this Safety Data Sheet in mid-2023 – decades after stone countertop fabricators developed silicosis from fabricating Antolini stone products, to the present date Antolini has not prepared a Safety Data Sheet for its artificial stone products, in violation of the requirements of the Hazard Communication Standard and has thereby concealed the silicosis hazard that its artificial stone products presents to stone countertop fabrication workers, causing their silicosis. Antolini's concealment of the lethal hazards of its product was approved and ratified by officers, directors and managing agents of the company at its corporate headquarters in Italy.

ARCHITECTURAL SURFACES GROUP, LLC

180. ARCHITECTURAL SURFACES GROUP, LLC, is a Delaware limited liability company, which, at all material times hereto, has had its principal place of business at19012 State

Highway 71 West, Spicewood, TX 78669 and has the following alternate entities: PENTAL GRANITE AND MARBLE, LCC; PENTAL SURFACES, ARCHITECTURAL GRANITE AND MARBLE, LCC, CERAMIC MATRIX, AND MODUL MARBLE.

181. On November 10, 2015 Architectural Granite & Marble, LLC, a Delaware limited liability company, filed an Application to Register a Foreign Limited Liability Company to conduct business in the State of California with the California Secretary of State.

182. On July 12, 2017, an article published in *Stone Update* titled "Architectural Surfaces Group New Parent Company of Three Brands" announced: "The consolidated company comprised of Architectural Granite & Marble (AG&M), Pental Surfaces and Modul Marble now have a new joint parent name: Architectural Surfaces Group (ASG). . . . Each business will continue to operate under its respective brands that are recognized as marketplace leaders."

183. On February 16, 2018, a press release appeared in businesswire, announcing the acquisition by Architectural Surfaces Group's Select Interior Concepts of Bedrock International, a natural stone distributor in the Midwest. [https://www.businesswire.com/news/home/20180215005728/en/Architectural-Surfaces-Group-Announces-Acquisition-of-Bedrock-International]

184. On October 21, 2021, Sun Capital Partners, Inc., a private equity fund, issued a press release announcing the acquisition by an affiliate of the company (presumably Architectural Surfaces) of Select Interior Concepts, a premier distributor of interior building products. [https://arcsurfaces.com/select-interior-concepts-acquired-by-affiliate-of-sun-capital-partners/]

185. On November 5, 2021, Architectural Surfaces issued a press release on PR Newswire, announcing the acquisition of Ceramic Matrix, a Florida-based distributor of stone slabs. The press release stated: "The partnership will allow Ceramic Matrix to offer customers the same great products and service along with additional resources including access to more natural stone, and an established quartz product line with the ability to expand across existing facilities."

186. On March 10, 2022, Architectural Surfaces issued a press release on EIN Presswire, announcing acquisition of two companies in the Dallas, Texas market: Stone Boutique and Allure. [https://www.einpresswire.com/article/565202793/architectural-surfaces-acquires-stone-boutique-and-allure].

187. On April 1, 2022 the company issued a press release on EIN Presswire, announcing the acquisition of ARC Natural Surfaces in Virginia Beach and Ashland, Virginia. [https://arcsurfaces.com/architectural-surfaces-acquires-arc-natural-surfaces/]

188. On May 17, 2022, the company filed an amendment with the California Secretary of State whereby it changed its name from Architectural Granite & Marble, LLC to Architectural Surfaces Group, LLC.

189. On May 3, 2022, Architectural Surfaces announced the acquisition of Pacifica Wholesale Tile and Stone in Anaheim, California. The announcement stated: "Pacifica is a premier source for distinctive stone slab and tile products for the Southern California market. From their expansive showroom and warehouse located in central Anaheim, they focus on exceptional customer service and superior product quality. Ranging from masterfully crafted porcelain to stunning natural stone quarried from around the world, Pacifica offers an extensive selection to fit all unique specifications." The announcement quoted Architectural Surfaces' CEO Patrick Dussinger as saying: "We're excited to combine our buying power, product offering, and operational synergies with Pacifica's deep local industry expertise."

190. On January 17, 2023, a Certificate of Merger was filed with the California Secretary of State, whereby Da Vinci Marble, LLC a California limited liability company, merged into Architectural Surfaces Group, LLC.

191. The Architectural Surfaces website states: "Quartz countertops are a great choice for any application in the home due to their low-maintenance, long-lasting appeal and many design possibilities. Both PentalQuartz® and MetroQuartz® are leading quartz brands, providingg quality choice and variety to customers nationwide." The website has a map of the United States, showing that it offers PentalQuartz for sale in the western states, Alaska, and the Northeastern states, west and northeast, and offers MetroQuartz for sale in the rest of the country.

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Knowledge of the Silicosis Hazard

192. Jesse Bogan is currently the Chief Operating Officer of Architectural Surfaces Group, LLC. He began working for the company in Texas in May of 2006, at which time the company was called Architectural Granite and Marble. At a deposition that Mr. Bogan gave on May 2, 2024 in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs,* Los Angeles Superior Court Case No. 22STCV31907, he testified that Architectural Surfaces Group, LLC is a distributor of natural and artificial stone slabs that are primarily used in kitchens and bathrooms, and that the company also distributes tile.

193. Mr. Bogan also testified that the company was the exclusive distributor of Vicostone artificial stone slabs in California from 2012 to 2022. He further testified that Architectural Surfaces Group, LLC has also distributed artificial stone manufactured by various companies under the MetroQuartz brand -- Polarstone, Herostone, Technistone, Quantra, Mahi, Prism Johnson, Camrrola, Global Surfaces, pacific Quartz, Tab India, Arider, Santa Margherita, Top Quartz, Compaq, LE Surfaces, Guidoni, Vickers, Belanco, Kwontae, and Costla.

194. At his deposition of May 2, 2024 given in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs,* Los Angeles Superior Court Case No. 22STCV31907, Mr. Bogan testified since 2006, when he began working in the stone slab distribution business, he has known that stone products distributed by the company contain levels of crystalline silica and that exposure to crystalline silica can cause silicosis and pulmonary fibrosis, but this was not disclosed in Safety Data Sheets. He also testified that the first time that labels about silicosis were put on the slabs was in 2018, at which time they were put on the back of the slabs.

195. Although Architectural Surfaces Group and the companies it acquired have long known of the hazard to workers who fabricate stone countertops, it was not until 2023 that a warning of the hazard of silicosis to fabricators was posted on Architectural Surfaces' website. [https://arcsurfaces.com/wp-content/uploads/Arc-Silica-Warning-English-Spanish-PDF.pdf]

196. Although Architectural Surfaces Group has long known of the hazard to workers who fabricate stone countertops from slabs of artificial stone, as of the Fall of 2023, only one Material

Safety Data Sheet for an artificial stone product was provided on the company's website – an outdated Material Safety Data Sheet (MSDS) for Metro Quartz™ that provided false and misleading information. The Hazards Identification section of this MSDS dated December 10, 2013 states regarding the "Potential Health Effects" of Metro Quartz™: "Quartz surface products are not hazardous as shipped." This language is misleading because it intentionally and wrongfully suggests (1) that the health hazards associated with crystalline silica are merely "potential" rather than well known and actual, and (2) that the product presents no health hazards, which is false. The falsity of this information is compounded by the information in this section of the MSDS regarding the hazards of "Acute Inhalation," which states: "Dusts from product may cause irritation to respiratory tract, nose, throat and lungs." This language is misleading, because it trivializes the hazard of acute inhalation by indicating that the only hazard of acute inhalation is "irritation to the respiratory tract" - a transitory effect that is common to most inhaled substances (e.g., the respiratory irritation that one experiences when cutting an onion) – even though acute inhalation of dust of the product causes an acute lung disease called "acute silicosis" that is characterized by pulmonary alveolar proteinosis and a lung disease called "accelerated silicosis" that is characterized by progressive massive fibrosis. This MSDS also fails to provide information that is necessary to protect workers from developing silicosis from fabricating the product. Thus, MSDS states that one should "avoid breathing dust," but states that "in case of insufficient ventilation, wear appropriate respiratory equipment," an instruction that is harmful, because regardless of the sufficiency of ventilation, to prevent silicosis respiratory protection is always necessary and the only type of respiratory protection that can prevent silicosis from exposure to the product is an air-supplied respirator, which is not disclosed on the MSDS. Additionally, the MSDS states that "[g]eneral room ventilation is satisfactory under anticipated use conditions," which is a false statement and a prescription for causing disease and death, because general room ventilation is never adequate to protect against crystalline silica dust. Information in the Toxicological Information section of the MSDS is also false and misleading, because it states that "[p]rolonged and/or massive inhalation of crystalline silica can cause pulmonary fibrosis and pneumoconiosis and silicosis," although "prolonged" and "massive" inhalation of crystalline silica are not necessary to cause these effects, which can and do occur from

exposure to extremely small amounts of crystalline silica particles that so tiny they are invisible to the human eye and the effects can occur after brief periods of exposure of a few years or less, rather than decades. The information in this outdated MSDS of a product that is not even sold in the western states and is the only MSDS available on the Architectural Surfaces website is not merely inadequate; the information in this document is a prescription for causing silicosis.

197. Plaintiff is informed and believes and thereon alleges that the false and misleading statements on the Architectural Surfaces website were approved and ratified by officers, directors and managing agents of Architectural Surfaces Group and the companies that it acquired over the years, including, but not limited to the following officers of the company: Dave Bushland, Chief Executive Officer; Scott Jarvis, Chief Administrative Officer; Lance D. Brown, Chief Financial Officer; Everett Plante, Chief Information and Digital Officer; Cindi Grace, Vice President of Sales Operations; Jesse Bogan, Regional Vice President, Western Region; Gary Arney, Regional Vice President, Central Region; and Joyce Beshada, Regional Vice President, Eastern Region.

198. PENTAL GRANITE AND MARBLE, LCC and PENTAL SURFACES, products consist of tile and slabs made of natural stone, ceramic, glass, metal, porcelain, terrazzo, and quartz. (Affidavit of Parminder Singh Pental dated March 13, 2012, Docket No. 8 in *Cambria Company, LLC v. Pental Granite & Marble, Inc.* et al., United States District Court, D. Minn., Civil No. 12-228, March 27, 2013, 2013 WL1249216).

199. Some of the products sold by Pental were manufactured by Vicostone, a Vietnamese corporation. (Second Declaration of Parminder Singh Pental dated May 8, 2012, Docket no. 29 in *Cambria Company, LLC v. Pental Granite & Marble, Inc.* et al., United States District Court, D. Minn., Civil No. 12-228, March 27, 2013, 2013 WL1249216).

Pental Quartz's 2015 Safety Data Sheet

200. At some point in time, Architectural Surfaces Group posted a Safety Data Sheet for Vicostone Quartz Surfaces (also known as PentalQuartz in North America) that was dated May 5, 2015. Section 3 of the Safety Data Sheet (Composition/information on ingredients) identifies three

ingredients in the product: Crystalline Silica (quartz) (~90%), Polymeric resin (7-12%), and Pigment and Trace Minerals (~2%).

201. Section 2 of the Safety Data Sheet (Hazard(s) identification) states: "VICOSTONE® Quartz Surfaces are safe for delivery, storage and use as certified by GREENGUARD for indoor air quality, children and schools and by NSF for food safety (ANSI 051). However, operations such as sawing, drilling, grinding, sanding and routing can generate silica dust. The fine dust of quartz (silicon dioxide) containing crystalline silica can cause potential health effects." These statements are misleading, because the product supplied is not a finished product that is sold to schools or consumers. Rather, the product is a slab of artificial stone, an industrial product that is sold to countertop fabrication companies that fabricate the slab into a countertop that is sold to consumers. It is the finished countertops that are safe for children and for schools - not the industrial product. The statement that "operations such as sawing, drilling, grinding, sanding and routing can generate silica dust" is also misleading, because the statement suggests that these operations do not necessarily generated silica dust, although they invariably generate high concentrations of respirable crystalline silica dust. Further, the fine crystalline silica dust generated by fabrication processes is not such as merely "can cause potential health effects;" those operations ***do*** cause ***real*** health effects, including silicosis, chronic obstructive pulmonary disease, lung cancer, chronic kidney disease, and several autoimmune diseases. Thus, the statement in the Safety Data Sheet minimizes these hazards.

202. Section 2 of the Safety Data Sheet provides the following statements regarding Chronic Exposure: "Prolonged exposure to respirable crystalline silica can cause silicosis and has been linked to other diseases, such as lung cancer, tuberculosis, fibrosis of the lungs, chronic obstructive pulmonary disease and kidney disease." The statement that "prolonged exposure to respirable crystalline silica can cause silicosis" is misleading, because it does not state how many days, weeks, months, years, or decades of exposure to crystalline constitutes the "prolonged exposure" that can cause silicosis. The statement is also misleading, because exposure to artificial stone dust typically causes accelerated silicosis within 5-10 years of exposure or acute silicosis within 1-5 years of exposure, which are relatively short durations of occupational exposure.

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203. Section 8 of the Safety Data Sheet, titled "Exposure controls/personal protection," provides the following information regarding Respiratory Protection: "Respirators may protect workers from inhaling crystalline silica dust when carefully and properly selected, worn and used. Use only respiratory protection authorized in the U.S. Federal OSHA Standard (29 CFR 1910.134), applicable U.S. State regulations, or the Canadian CSA Standard Z94.4-93 and applicable standards of Canadian Provinces." This statement is inadequate, because it does not inform workers that the only type of respirator that will protect them from inhaling crystalline dust when fabricating artificial stone products is a NIOSH-approved air supply respirator. By failing to provide this critical safety information, the Safety Data Sheet misleads workers to believe that a NIOSH-approved air purifying respirator will adequately protect them. However, studies have shown that air-purifying respirators are inadequate to prevent silicosis from the fabrication of artificial stone because of its extremely high crystalline silica content. The statement is therefore inadequate, misleading and thus harmful.

204. Section 11 of the Safety Data Sheet, regarding Toxicological information, provides three statements regarding chronic effects of exposure: The first statement is: "Prolonged and/or massive inhalation of crystalline silica can cause pulmonary fibrosis and pneumoconiosis and silicosis, as well as a worsening of other pulmonary diseases (bronchitis, emphysema, etc)." This statement is misleading, because it is not only "prolonged" or "massive" inhalation of crystalline silica that causes silicosis and other lung diseases. Studies have shown that exposure to artificial stone dust either causes accelerated silicosis within 5-10 years of exposure or acute silicosis within just 1-5 years of exposure. Studies have also shown that tiny amounts of crystalline silica where exposures are below the permissible exposure limit also cause silicosis. Thus, the statement that "prolonged and/or massive inhalation of crystalline silica can cause pulmonary fibrosis and pneumoconiosis and silicosis" is misleading because workers can also get silicosis from relatively short and low-level exposure to crystalline silica from fabricating artificial stone.

205. The second statement regarding chronic effects of exposure is: "The main symptom of silicosis is the loss of pulmonary capacity." The second statement is also misleading and incorrect, because loss of pulmonary capacity is not a symptom of silicosis, but is rather an adverse effect of the disease. The main symptoms of silicosis are shortness of breath after exercise, chest

pain, a harsh dry cough and fatigue - not loss of pulmonary capacity. Indeed, it is not until workers have lost about half of their lung function that they begin to have symptoms, at which point the worker has advanced disease that is irreversible and progresses even after silica exposure ceases.

206. The third statement regarding chronic effects of exposure is: "People with silicosis have a greater risk of getting lung cancer." Although true, this statement is misleading, because it suggests that silicosis causes cancer. However, silicosis does not cause cancer; it is exposure to respirable crystalline silica that causes cancer. Persons who have been diagnosed with silicosis typically have had a greater cumulative exposure to crystalline silica than do persons who have not been diagnosed with silicosis, so persons who have silicosis have an increased risk of developing lung cancer because of their greater exposure to crystalline silica.

207. Thus, all three statements regarding the effects of chronic exposure to the product are incorrect and misleading, and are therefore potentially harmful to workers exposed to the product.

Knowledge of the Silicosis Hazard by Defendant's Managers and Members

208. Throughout the time that Pental Granite & Marble LLC sold its artificial stone products, exposing stone countertop fabricators and installers to respirable crystalline silica from the company's products, Pental's managers were aware that the company's artificial stone products were defective because they contained extremely high concentrations of crystalline silica, were aware that the use instructions that Pental provided were inadequate to prevent silicosis and would actually cause silicosis in exposed workers, and were aware that fabrication companies could not protect fabricators and installers from the lethal silicosis hazard presented by Pental's defective artificial stone products. Among Pental's managers and members who had this knowledge but who nevertheless consciously disregarded the health and safety of fabricators and installers is Parminder "Peter" Pental, the Founder and Chief Executive Officer of Pental Granite & Marble, LLC.

209. Throughout the time that Architectural Granite & Marble LLC sold its artificial stone products, exposing stone countertop fabricators and installers to respirable crystalline silica from the company's products, its managers and members were aware that its artificial stone products were

defective because they contained extremely high concentrations of crystalline silica, were aware that the use instructions that it provided were inadequate to prevent silicosis and would actually cause silicosis in exposed workers, and were aware that fabrication companies could not protect fabricators and installers from the lethal silicosis hazard presented by its defective artificial stone products. Among Architectural Granite & Marble LLC's managers and members who had this knowledge but who nevertheless consciously disregarded the health and safety of fabricators and installers were

Dave Bushland, Chief Executive Officer;

Scott Jarvis, Chief Administrative Officer;

Lance D. Brown, Chief Financial Officer;

Everett Plante, Chief Information and Digital Officer;

Cindi Grace, Vice President of Sales Operations;

Jesse Bogan, Regional Vice President, Western Region;

Gary Arney, Regional Vice President, Central Region; and

Joyce Beshada, Regional Vice President, Eastern Region.

More recently, the Architectural Surfaces LLC managers and members who had this knowledge but who nevertheless consciously disregarded the health and safety of fabricators and installers were

Jesse Bogan

Bill Varner

Nadeem Moiz

Shawn K. Baldwin.

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ARIZONA TILE, L.L.C.

210. According to its website, Defendant, "Arizona Tile has become one of the leading tile and slab distributors in the U.S.," with its products being "distributed to residential and commercial customers throughout the Western United States." According to the company's website, "John Huarte, CEO and Owner of Arizona Tile, founded the company in 1977. Beginning with a small

store in San Diego, California, the company has since grown to have locations in 10 western states." Arizona Tile sells natural stone and artificial stone at its facilities in the following California cities: Anaheim, Livermore, Miramar, Murrieta, Ontario, Palm Desert, Roseville, and Sun Valley.

211. On its Linked-In webpage, Arizona Tile states: "Since we have been in the stone and tile business for over 45 years, our relationships with quarries and factories allow us to be at the forefront of new product developments. This has led to our importing of more than 300 varieties of granite, marble, quartzite, limestone and travertine slabs and stone tile. In addition, we stock over 60 series of porcelain, ceramic and glass tile and over 65 colors of Della Terra® Quartz, making us one of the largest independently-owned importers of stone, quartz and tile in the United States."

212. On June 19, 2006, Arizona Tile opened a new location in Roseville, California. This facility comprises more than 60,000 square feet and included a stone slab warehouse, a tile warehouse, and a showroom. Among the company's products on display at the showroom were granite, travertine, slate, marble, porcelain and ceramic. Additionally, more than 130 varieties of granite, marble, limestone, travertine and onyx were to be found in the slab warehouse. See, "Arizona Tile Opens New facility in California," *Stone World* (October 12, 2006).

213. On October 4, 2011, a news report from La Mirada, California, titled "Arizona Tile Adds Radianz™," appeared in Stone Update, the 24/7 Hard-Surface News Portal. This report announced: "Arizona Tile is the newest authorized distributor for Samsung's Radianz™ quartz surfaces. Arizona Tile's distribution channel includes Arizona, California, Nevada and Texas. The agreement comes a month after Samsung's decorative surfacing products division announced its partnership with Triton Stone Group to cover the Southeast region. 'Partnering with Arizona Tile demonstrates our commitment to bring Radianz Quartz products to market through first-quality distributors,' said Dale Mandell, Samsung's surfacing division's North American sales director."

214. On January 29, 2018, an article was published in *Stone World* titled "Arizona Tile Introduces Della Terra Quartz." This article stated: "Made from one of the hardest minerals on earth, quartz is one of the most durable countertop surfaces. Because it's comprised of a mixture of quartz and resin, Della Terra Quartz boasts the ease of maintenance of a man-made product, while still having the natural look and edging options of natural stone slabs." Thus, in 2018 Arizona Tile

expanded its business to sell slabs of this artificial stone product, as well as Radianz Quartz and other artificial stone products that Arizona was importing.

Arizona Tile's 2018 Safety Data Sheet

215. In March 2018 Arizona Tile issued a Safety Data Sheet for its "Engineered Stone - Quartz" product whose "Common Name" Arizona Tile stated was "Quartz" and that the "for purposes of this SDS, the term "Quartz" encompasses all types of engineered quartz stone products sourced/ imported by Arizona Tile, LLC."

216. In the "Hazards Identification" section of its March 2018 Safety Data Sheet, Arizona Tile stated that its products "are mixtures of ... naturally occurring minerals" that "pose no immediate hazard to health," and that its "quartz products are not hazardous as shipped and used by the end user." This statement was false and misleading, because all the artificial stone products that Arizona Tile imported contained extremely high concentrations of crystalline silica, and the slabs of artificial stone products that Arizona Tile sold were not finished products ready for use by consumers, but were instead unfinished industrial products typically sold to industrial companies, i.e., artificial stone slabs that required substantial processing to become finished countertops and, when used as intended and expected, presented extreme health hazards to the workers who performed such work on behalf of the industrial companies to whom they were sold.

217. In the Hazards Identification section of its March 2018 Safety Data Sheet, Arizona Tile stated: "Fabrication and processing of engineered stone (i.e. cutting, saying, grinding, breaking, crushing, drilling, sanding or scultping) will generate dust that can expose you to crystalline silica (quartz)" and that "[u]nprotected and uncontrolled exposure to such dust is dangerous to health and can cause severe illness such a [sic] silicosis, lung cancer, fibrosis of the lungs, tuberculosis, kidney disease, abrasions of the cornea and irritation of the skin and eyes. Quartz products are not hazardous as shipped and used by the end user." This statement was false, misleading and confusing for several reasons: First, workers who fabricate artificial stone ***are*** always exposed to crystalline silica dust, so it is misleading to merely state that dust "can expose" them to crystalline silica. More

importantly, the statement is false because even "protected and controlled exposure to such dust" causes silicosis in artificial stone fabricators, because multiple published and peer-reviewed studies have shown that even artificial stone fabricators who use wet processing methods and wear air purifying respirators are nevertheless exposed to dangerous levels of respirable crystalline silica and develop and die from silicosis. Lastly, the concluding statement that "quartz products are not hazardous as shipped and used by the end user," is misleading and confusing, because these slabs of stone are not finished products and are "used" by fabrication companies and fabricators and installers to produce finished countertops, so the workers are the end users of the product, rather than consumers in whose homes finished countertops are installed.

218. In the Hazards Identification section of its March 2018 Safety Data Sheet, Arizona Tile provided five "Precautionary Statements" - none of which were to wear any respirators: (1) "Do not handle until all safety precautions have been read and understood," (as though Plaintiff, who neither speaks nor reads English could possibly read and understand the "safety precautions"), (2) "Do not breathe dust/spray" (as though Plaintiff should hold his breath throughout the work day), (3) "Wash skin thoroughly after handling" (although the products do not present appreciable health hazards by skin absorption) (4) "Do not eat, drink or smoke when using this product" (although the products do not present any significant health hazards by ingestion); and (5) "Wear protective gloves, protective clothing, eye protection, face protection," (rather than the critical information that it is essential to wear an air supplied respirator when fabricating and/or installing Defendant's products).

219. In Section 7 of its March 2018 Safety Data Sheet, regarding Handling and Storage, Arizona Tile directed workers to "use respiratory protection in the absence of effective engineering controls," without specifying the type of respiratory protection necessary to prevent silicosis and without specifying what engineering controls are effective. This was a dangerous instruction that would cause silicosis, because workers could not know whether engineering controls were effective and they would assume that wearing an air-purifying respirator would protect them from silicosis. By merely prescribing workers to "use respiratory protection," Arizona Tile concealed from workers the particular type of respiratory protection (an air supplied respirator) necessary to prevent silicosis.

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220. In Section 8.2 of its March 2018 Safety Data Sheet, regarding Exposure Controls/ Personal Protection, Arizona Tile provided the following ventilation instruction: "Use adequate ventilation to keep dust below recommended exposure levels." This is an inadequate use instruction, because Arizona Tile did not specify what ventilation devices and systems were needed to do this, without specifying the exposure levels that cause silicosis, and without specifying how dust could be kept below such unspecified exposure levels, especially when installing countertops in the kitchens and bathrooms of customers where no special ventilation systems could be installed.

221. In Section 8.2 of its March 2018 Safety Data Sheet, regarding Exposure Controls/ Personal Protection, Arizona Tile provided the following ventilation instruction: "Avoid inhalation of dust." However, Arizona Tile did not explain how fabricators and installers could avoid inhaling dust from the artificial stone products that it sold, i.e., whether workers should try to hold their breath to avoid inhaling dust, which workers could not do and it would dangerous for them to attempt to do for a work shift. Most critically, Arizona Tile did not inform workers that the only way that they could avoid inhaling dust of the product was to wear independent air supply respirators, which Arizona Tile did not advise was necessary to protect workers from harm.

222. In Section 8.2 of its March 2018 Safety Data Sheet, regarding Exposure Controls/ Personal Protection, Arizona Tile provided the following information regarding Respiratory Protection: "Use of a properly fitted NIOSH/MSHA approved particulate respirator is recommended when cutting engineered stone products for installation." This was an inadequate and dangerous instruction that was inadequate to prevent silicosis, because there are innumerable NIOSH/MSHA approved particulate respirators, i.e., air-purifying respirators, but wearing an air-purifying respirator is inadequate to prevent silicosis from artificial stone products, the only type of NIOSH-approved respirator that is adequate to prevent silicosis from artificial stone products being a NIOSH-approved air-supplied respirator. By recommending the use of a NIOSH-approved respirator without specifying that the respirator had to be a NIOSH-approved air-supplied respirator, Arizona Tile endangered workers who wore NIOSH-approved air-purifying particulate respirators, believing that such respirators would protect them from silicosis and other harms caused by crystalline silica.

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223. In Section 11 of its March 2018 Safety Data Sheet, regarding Toxicological Information, Arizona Tile provided the following statement regarding Chronic Effects of exposure: "No chronic effects are known for exposure to intact engineered stone products" (emphasis in original) even though the major health effects of exposure to Defendants' products are chronic health effects such as silicosis and lung cancer. This statement was therefore misleading and confusing. The next sentence in the Safety Data Sheet said: "Long-term, continual exposure to respirable crystalline silica at or above established permissible occupational exposure limits may lead to the development of silicosis, a nodular pulmonary fibrosis (NPF)." This statement was also false and misleading for a number of reasons. First, workers could not know whether in doing their work they were being exposed to crystalline silica at or above established permissible occupational exposure limits. Second, the statement that only "long-term, continual exposure to respirable crystalline silica" is vague and confusing, because "long-term exposure" and "continual exposure" are not quantified, so workers could believe that they could not get silicosis unless they were exposed to dust from the product for decades or their use of the product was continuous and uninterrupted throughout their careers. Third, the statement implied that workers could only get silicosis if they had "long-term, continual exposure to respirable crystalline silica," although exposure to respirable crystalline silica among artificial stone fabricators has been associated with the development of acute silicosis and has been most strongly associated with the development of accelerated silicosis, which diseases manifest within as little as 1 to just over 5 years of exposure. Lastly, the statement falsely indicates that silicosis only occurs when workers are exposed to respirable crystalline silica above permissible occupational exposure limits, although the disease also occurs from exposures below such levels.

Knowledge of the Silicosis Hazard By Arizona Tile Officers and Directors

224. At his deposition of May 10, 2024 given in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs,* Los Angeles Superior Court Case No. 22STCV31907, Rick Collins, Arizona Tile's Vice-President of Operations, testified that crystalline silica has always been a known hazard to the company, that it was known to the company when he first began working

at Arizona Tile in 1986. However, he testified that Arizona Tile only provides Safety Data Sheets for its stone slab products to its customers upon request.

225. At his deposition of May 1, 2024 given in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs,* Los Angeles Superior Court Case No. 22STCV31907, Roy Kunihiro, Arizona Tile's Vice-President of Quartz and Stone, testified that the company had artificial stone slabs that it purchased from foreign vendors tested by a laboratory to determine the percentage of quartz content, because the higher the quartz content of the slab, the better the product from a marketing point. He also testified that Cristobalite was a highly processed quartz material that had a translucent appearance that made artificial stone slabs look like marble.

226. At his deposition of May 1, 2024 given in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs,* Los Angeles Superior Court Case No. 22STCV31907, Mr. Kunihiro testified that when the company received artificial stone slabs from the manufacturers, the manufacturers never provided any warnings with the slabs. He also testified that Arizona Tile did not provide Safety Data Sheets for the slabs that it distributed to its customers, but that it made them available through the company's website.

227. Throughout the time that Arizona Tile sold artificial stone products, the following officers of the company were aware of the defective nature of those products, that the instructions it provided were inadequate to prevent silicosis, and consciously disregarded the health and safety of exposed workers:

John Huarte, Chief Executive Officer;

Joe Kennedy, President;

Mark Huarte, Vice-President of Operations; and later Rick Collins.

BELENCO QUARTZ

228. Belenco is a quartz slab manufacturer in Turkey. According to the company's website, "[e]ver since our establishment in 2011, our production lines are equipped by the most advanced technologies of the Italian Breton S.p.A, the leading natural and composite stone technology

company in the world. With our second production facility commissioned in 2020; we have reached an annual production capacity of 2.000.000 sqm, and we continue our production operations on 3 fully-automatic casting and 4 polishing lines. With its 152 x 310 cm ekstra and 165 x 330 cm Jumbo slab dimensions, Belenco reduces need for seams on the countertop, thus eliminating the risk of shade texture dif[fe]rence between parts. Through its bussiness model which integrates R&D and innovation into all the processes, Belenco is the first in Turkey to produce long vein natural stone-looking quartz slabs using robotic arm technology." www.belenco.com/en/why-belenco.aspx

229. On September 1, 2011, Michael Reis published an article about Belenco Quartz Surfaces in *Stone World:* "Located only 30 miles from its supply of natural quartz resources, Belenco Quartz Surfaces has established a brand new 160,000-square-foot, state-of-the-art factory for quartz surfacing using the latest Bretonstone technology from Breton of Italy. Belenco Quartz Surfaces strives to provide the largest slab format possible using biological products. Belenco is striving to cater to a discerning market. It is working to produce the largest slab format possible, and the factory has an annual capacity of nearly 6.46 million square feet of material in all sizes and designs. "Our promise is to deliver the naturally strong energy of quartz to all our stakeholders," explained Berk Kuter, CEO of Belenco. "We are in business with a mission to create strong alliances with all handlers. All of this is realized in accordance with Belenco's principal values, which include steady growth via continued investment in human capital, an everlasting pursuit of perfection in product development, true fulfillment of social responsibilities and a strong commitment to environmental awareness. All of this makes Belenco a premier choice for distributors, designers, fabricators and users of quartz surfaces throughout the world." With its sophisticated laboratories, R&D facilities and strong product development focus, Belenco's main goal is to cater to the needs of the discerning customer. Belenco combines natural fine quartz with high technology and innovative designs. Products are composed of 93% natural quartz aggregates and advanced polymers, making it extraordinarily hard and resilient as well as resistant to staining, chipping and cracking, Belenco reports. Belenco quartz surfaces also have a non-porous surface that increases overall hygiene and is easy to clean. "For the moment, we want quality in production and quality in service," Kuter explained. "We have a good team in place. It is a new company, but the people have

strong experience. I have been in the business for 16 years. We established our Research and Development Department in late 2010 in conjunction with a local university in Turkey. Our goal was to create a green product at an acceptable cost. Service is also very important. We are looking for good distributors, and to be 'local' in all markets. We want our distributors to be our partners."

230. On April 1, 2014, Belenco Quartz USA Inc. filed Articles of Incorporation with the California Secretary of State. On September 28, 2022 the company filed a Statement of Information with the California Secretary of State listing 2650 E. Alessandro Blvd., Riverside, CA 92508 as the principal office of the corporation, identifying Abdel-Khalek el-Assadi as the company's Chief Executive Officer, Secretary, Chief Financial Officer, Director and Agent for Service of Process. The Statement of Information described the type of business of the corporation as "Rental Agency."

231. The Hazard Communication Standard requires all companies that manufacture, import or distribute hazardous substances to which workers are exposed to evaluate their products to determine if they are hazardous [8 C.C.R. § 5194(d)(1)]; to identify and consider the available scientific evidence concerning such hazards [8 C.C.R. § 5194(d)(2) et seq.]; ensure that each container of hazardous chemicals leaving their facilities is labeled, tagged or marked with the (i) identity of the hazardous chemical(s); (ii) appropriate hazard warnings; and (iii) the name and address of the chemical manufacturer or other responsible party [8 C.C.R. § 5194(f)(1)]; obtain or develop a material safety data sheet for each hazardous substance they produced [8 C.C.R. § 5194(g)(1)]; include on the material safety data sheet the chemical and common names of each hazardous substance [8 C.C.R. §5194(g)(2)(A)]; the health hazards of the hazardous substance, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the substance [8 C.C.R. § 5194(g)(2)(D)]; the primary routes of entry [8 C.C.R. § 5194(g)(2)(E)]; the OSHA permissible exposure limit, ACGIH Threshold Limit Value, and any other exposure limit used or recommended by defendants [8 C.C.R. § 5194(g)(2)(F)]; whether the hazardous chemical is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions), or by OSHA [8 C.C.R. § 5194(g)(2)(G)]; include on the material safety data sheet generally applicable precautions

for safe handling and use known to defendants, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks [8 C.C.R. § 5194(g)(2)(H)]; generally applicable control measures known to defendants, such as appropriate engineering controls, work practices, or personal protective equipment [8 C.C.R. § 5194(g)(2)(I)]; a description in lay terms, if not otherwise provided, of the specific potential health risks posed by the hazardous substance intended to alert the person reading the information [8 C.C.R. § 5194(g)(2)(M)]; ensure that the information contained on material safety data sheets accurately reflects the scientific evidence used in making the hazard determination [8 C.C.R. § 5194(g)(5)]; and ensure that material safety data sheets complying with the Hazard Communication Standard are provided to employers . . . .[8 C.C.R. §5194(g)(6) & (7).

232. Although the quartz slabs that Belenco Quartz imported, distributed and sold to its customers are hazardous materials within the meaning of the Hazard Communication Standard and exposure to dust from the company's products causes silicosis, lung cancer, and other diseases, at no time did Belenco Quartz prepare a safety data sheet for its quartz stone slabs, at no time did it obtain safety data sheets for the products, or provide them to fabrication shops that were its customers whereby plaintiff was exposed to dust from its products that caused his silicosis and other injuries. By failing to provide Safety Data Sheets to the fabrication shops, Belenco Quartz concealed the hazards and use instructions it was obligated to provide to protect stone countertop fabrication workers from being injuriously exposed to crystalline silica dust from its quartz stone products.

233. Among the officers, directors and managing agents of Belenco Quartz who authorized and ratified its violation of the Hazard Communication Standard and concealment of the hazards of the silicosis hazard and the use instructions necessary to prevent exposed workers from getting silicosis is Abdel-Khalek el-Assadi, the domestic subsidiary's Chief Executive Officer.

BELLA STONES

234. On October 20, 2004, Bella Stones filed its Articles of Incorporation with the California Secretary of State. On March 3, 2021, the company filed a Statement of Information with

the Secretary of State, listing the address of its principal office in California as 1201 E. Ball Rd., Unit T, Anaheim, California 92805, and describing the business as countertop fabrication and installation.

235. The company's website describes the business as "Countertop Store, Fabricator & Installer." The Home Page of the website has a heading"**Visit our Showroom with Full Slabs,"** and states: "Welcome to Bella Stones. We carry full slabs at our showroom so customers can see more than just a sample for their project. We specialize in the fabrication and installation of stone materials such as Quartz, Granite, Marble, Dekton, Neolith, Quartzite, Limestone, Soapstone, Travertine, Onyx, and some Porcelain. Bella Stones' Showroom is located in Anaheim, CA, our fabrication shop is located in Santa Ana, CA." The home page has a section titled "Stone Products" which offers multiple brands of artificial stone slabs, including Aurea Stone, Caesarstone, ColorQuartz, DalTile One Quartz, Dekton, Della Terra Quartz, HanStone, Harmony Quartz, MSI Q Quartz, Neolith, Pental, Sequel Quartz, Silestone, Spectrum Quartz, Vadara, and Viatera Quartz.

236. The Hazard Communication Standard requires all companies that manufacture, import or distribute hazardous substances to which workers are exposed to evaluate their products to determine if they are hazardous [8 C.C.R. § 5194(d)(1)]; to identify and consider the available scientific evidence concerning such hazards [8 C.C.R. § 5194(d)(2) et seq.]; ensure that each container of hazardous chemicals leaving their facilities is labeled, tagged or marked with the (i) identity of the hazardous chemical(s); (ii) appropriate hazard warnings; and (iii) the name and address of the chemical manufacturer or other responsible party [8 C.C.R. § 5194(f)(1)]; obtain or develop a material safety data sheet for each hazardous substance they produced [8 C.C.R. § 5194(g)(1)]; include on the material safety data sheet the chemical and common names of each hazardous substance [8 C.C.R. §5194(g)(2)(A)]; the health hazards of the hazardous substance, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the substance [8 C.C.R. § 5194(g)(2)(D)]; the primary routes of entry [8 C.C.R. § 5194(g)(2)(E)]; the OSHA permissible exposure limit, ACGIH Threshold Limit Value, and any other exposure limit used or recommended by defendants [8 C.C.R. § 5194(g)(2)(F)]; whether the hazardous chemical is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the

International Agency for Research on Cancer (IARC) Monographs (latest editions), or by OSHA [8 C.C.R. § 5194(g)(2)(G)]; include on the material safety data sheet generally applicable precautions for safe handling and use known to defendants, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks [8 C.C.R. § 5194(g)(2)(H)]; generally applicable control measures known to defendants, such as appropriate engineering controls, work practices, or personal protective equipment [8 C.C.R. § 5194(g)(2)(I)]; a description in lay terms, if not otherwise provided, of the specific potential health risks posed by the hazardous substance intended to alert the person reading the information [8 C.C.R. § 5194(g)(2)(M)]; ensure that the information contained on material safety data sheets accurately reflects the scientific evidence used in making the hazard determination [8 C.C.R. § 5194(g)(5)]; and ensure that material safety data sheets complying with the Hazard Communication Standard are provided to employers . . . .[8 C.C.R. §5194(g)(6) & (7).

237. Although the quartz slabs that Bella Stones imported, distributed and sold to customers are hazardous materials within the meaning of the Hazard Communication Standard and exposure to dust from these products causes silicosis, lung cancer, and other diseases, at no time did Bella Stones prepare a safety data sheet for its quartz stone slabs and at no time did it obtain safety data sheets for the products, or provide them to fabrication shops whose workers were exposed to silics dust from the products. By failing to provide Safety Data Sheets to fabrication shops, Bella Stones concealed the hazards and use instructions it was obligated to provide to protect fabrication workers from being injuriously exposed to crystalline silica dust from its quartz stone products.

238. Among the officers, directors and managing agents of Bella Stones who authorized and ratified its violation of the Hazard Communication Standard and concealment of the hazards of the silicosis hazard and the use instructions necessary to prevent exposed fabrication workers from getting silicosis are Juan Camilo Fernandez, CEO and Sarah Marina Molina, Secretary and CFO.

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BEST CHEER STONE, INC.

Corporate History

239. Plaintiff is informed and believes and thereon alleges that Best Cheer Stone, Inc. was incorporated in the State of California on July 18, 2005 under the name Rocky Mountain Stone Inc., although the website of the California Secretary of State erroneously links to a November 8, 2013 Statement of Information in lieu of the company's Articles of Incorporation.

240. On September 9, 2005 a Certificate of Amendment of Articles of Incorporation was filed with the California Secretary of State whereby the company changed its name to Alpine Stone Inc.

241. On February 16, 2007 a Certificate of Amendment of Articles of Incorporation was filed with the California Secretary of State whereby the company again changed its name, to BC Stone Inc.

242. On June 1, 2007, a Certificate of Amendment of Articles of Incorporation was filed with the California Secretary of State whereby the company once again changed its name to Best Cheer Stone Inc.

243. On November 8, 2013, the company filed a Statement of Information with the California Secretary of State stating that the address of its principal executive office is 3190 E. Miraloma Avenue, Anaheim, CA 92806, and listing the following corporate officers of the company: Chung Lun Ko, Chief Executive Officer; Ambrose C. Wong, Secretary; Yanlin Xu (aka Kathy Xu) as Chief Financial Officer; and Saulin Li, Vice-President. The Statement of Information described the company's type of business as "Wholesale, Retail, Distribution & Production of Stone Related Products, Kitchen & Bathroom Products."

244. On June 3, 2022 and April 24, 2023, the company filed updated Statements of Information with the California Secretary of State, providing the same business address of the company, listing the same officers of the company, and identifying the company's type of business as "Wholesale Retail Distribution & Product."

Best Cheer Stone Website

245. The website of Best Cheer Stone Inc. (BCS) has an "About Us" webpage with a heading "NATIONWIDE DISTRIBUTION," that says: "Wherever you are, we have you covered. Best Cheer Stone USA has 7 distribution centers spanning both coasts of the United States and boasts the ability to provide material to anywhere in North America - no matter the size of your project. Along with the incredible support of our factories in China and Namibia, Best Cheer Stone USA can also send containers of material direct to your stores or project sites. Our priority is to make the process as quick and hassle-free as possible for all our clients. For exceptional luxury stone products that are easily accessible throughout the North American region, contact us today!"

246. The website of Best Cheer Stone Inc. (BCS) also has a "My Career" webpage that states: "Best Cheer Stone Group is a leading provider of high-quality stone materials. With a history spanning about three decades, we offer affordable excellence in the stone market. We have a strong global presence, with 15 global factories and 50 quarries worldwide. Best Cheer Stone Group provides a wide selection of marble, granite, quartz, and more, with facilities on both coasts of the United States offering various products like slabs, countertops, tiles, and mosaics. As the primary distributor of African marble and granite in North America, Best Cheer Stone Group is well-equipped to handle residential and commercial projects of all sizes. With a dedicated team of 5,000 global employees, we maintain a competitive pricing and deliver the highest level of service."

247. The website of Best Cheer Stone Inc. (BCS) also has a "Contact Us" webpage that states "We Stand Behind Our Products" and that the company has showrooms and warehouses in Ahaheim, California; San Diego, California; North Hollywood, California; Dallas, Texas; Atlanta, Georgia; Elberton, Georgia; and Orlando, Florida.

248. The website of Best Cheer Stone Inc. (BCS) lists the following stone products that it sells: Quartz, Granite, Quartzite, Marble, Dolomite, Soft Quartzite. The website states that the company's products are available in slab and prefab.

249. The website of Best Cheer Stone Inc. (BCS) does not contain any Safety Data Sheets for any of its stone products, nor does it provide any health and safety information about its products.

The Company's Business

250. A LinkedIn web page for Best Cheer Stone, Inc. states that "Best Cheer was founded in China in 1994" and that "over 22 years later, Best Cheer has grown into the world's largest vertically integrated stone company with 4,500 employees worldwide." This web page then states that "Best Cheer started its expansion into the US market in 2003, with the purchase of the famous Solar White quarry in North Carolina." This web page then states that "Best Cheer Stone, Inc. (BCS), a wholly-owned subsidiary of Best Cheer, was established in 2004 to be the factory-direct distributors at both West coast and East Coast in the United States."

251. At the deposition of the company in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs, et al.*, LASC Case No. 22STCV31907, Yanlin Xu, the President of the company, testified that "Best Cheer Stone, Inc. is a separately incorporated organization in California and imports and wholesale distributes material in . . . three locations in California," and that the company "buy[s] from the Best Cheer factories in China" and "buy[s] and import[s] material from all over the world, from Brazil, from India, from Italy, from other Asia[n] countries."

252. At the deposition of the company in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs, et al.*, LASC Case No. 22STCV31907, Ms. Xu testified that Best Cheer Stone, Inc. has about 10 artificial stone suppliers and 20 natural stone suppliers.

253. At the deposition of the company in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs, et al.*, LASC Case No. 22STCV31907, Ms. Xu testified that Best Cheer Stone Inc. has purchased and sold artificial stone slabs from Pacific Quartz in India, Grand Home in Thailand, Fun Stone in Thailand, and Quarella in Italy. Ms. Xu also testified that in the past the company supplied Color Quartz and that BCS Quartz and explained that Koville is "replacing the BCS Quartz.".

254. At the deposition of the company in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs, et al.*, LASC Case No. 22STCV31907, Ms. Xu also testified that Best Cheer Stone started selling artificial stone slabs as early as 2013 and that the company continues to sell artificial stone slabs to the present date.

2017 Material Safety Data Sheet

255. In the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs, et al.*, LASC Case No. 22STCV31907, Best Cheer Stone, Inc. produced a Material Safety Data Sheet for Quartz dated March 10, 2017 that is on the OSHA non-mandatory form.

256. Section I of this MSDS identifies the manufacturer of the product as Best Cheer (Xiamen) Stone Works, located in the TongAn District in Xiamen, China.

257. Section II (Hazardous Ingredients/Identity Information) lists the following hazardous chemicals in the product: Diacetone Alcohol, R-Methacryloxy Propyl Trimethoxyl Silane, and Styrene. It then provides the following"Chemical Identity" information: "SiO^2 - 93% bound in polymer, C8H8, CH2=C(CH3)COOCH2CH2CH@Si(OCH3)3,C6H1202." It then states: "NOTE: Quartz is an inert material in its undisturbed or finished state. Only when Quartz is worked is there the potential for release of dust."

258. Section III (Physical/Chemical Characteristics) states "Color varies" and "NO ODOR."

259. Section VI (Health Hazard Data) states: "Long-term excessively contact original compositions may cause acute/chronic health hazard. Acute: Medium skin irritation, excessively exposure may cause respiratory system irritation. Chronic: cause skin lesion." It then states: "California Prop 65 List: Crystalline Silica (Quartz is classified as a substance known to the State of California to be a carcinogen." It then states: "Signs and Symptoms of Exposure: Silicosis - Shortness if breath following exertion, severe cough, fatigue, loss of appetite, chest pain and fever. Methyl alcohol produced by the product may cause blindness and nerve damage. The ingredients of quartz products only contain little original harmful chemical components, which confirms with the related American regulations and rules for product safety." It then provides the following Emergency and First Aid Procedures: "Leave area until dust settles, clean up."

260. Section VII (Control Measures) contains a subsection titled "Respiratory Protection (*Specify Type)* which states "Yes," but does not specify any type of respirator. Regarding Work/Hygienic Practices, the MSDS states: "See work practices (ATTACHED)"

261. The third page of the Material Safety Data Sheet contains the following attachment:

> Work Practices
>
> Recognize where silica dust may be generated and plan ahead to eliminate or control the dust at the source. The best industrial ventilation system or any other type of well-engineered system designed to improve the working environment and reduce the amount of dust generated can easily be defeated by bad work practices of the employees. Each person's work practice is different by nature, experience, attitude, etc. The results of personal dust sample analysis carried out on two employees working side by side can be very different. It is very important when a dust control program is initiated in a fabricating plant or at a job site that the work practices of each employee be examined. The key to making employees "dust conscious" is information and training. Use a respirator approved for protection against crystalline silica-containing dust. Do not alter the respirator in any way. Note the beards or mustaches can interfere with the respirator's seal to the face. A respiratory protection program should be in place and work areas should be regulated with warning signs to avoid accidental contamination.
>
> Housekeeping is the most important of all dust-control methods. Simply cleaning up all possible emission sources as quickly as possible is the most effective dust-suppression technique. Practices such as vacuuming with HEPA filter and wet floor cleaning prevent high dust levels and improve already clean environments. These two methods will reduce dust by 50% to 75%. Because these cleaning methods are labor-intensive rather than capital-intensive, they can easily be used at both the stone shop and the construction site.
>
> Eating Facilities: Do not eat, drink or use tobacco in areas where there is dust containing crystalline silica. Wash hands thoroughly prior to eating.
>
> Clothing Change Area: Consider changing into disposable or washable work clothes at the job site. Shower (where available) and change into clean clothing before leaving the job site to prevent contamination of cars, homes and other areas.

262. This Material Safety Data Sheet was produced by Best Cheer Stone, Inc. in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs, et al.,* LASC Case No. 22STCV31907, but the company's president, Yanlin Xu, testified at the company's deposition in that case that this Material Safety Data Sheet was prepared by Best Cheer Stone Works, which she described as the "factory in China." She also testified that it "is not a normal practice of our business to keep the MSDS sheets" and that the company has never had a customer ask for it.

Concealment of Silicosis and Other Health Hazards

263. Although the company's website states "[w]e have a strong global presence, with 15 global factories and 50 quarries worldwide," and in years past the company's website stated that "Best Cheer Stone owns 11 large factories in China and our stone processing facility in Namibia," the company has actually never owned any factories or quarries at all, does not manufacture or produce any stone products, but instead imports and distributes stone products manufactured abroad.

264. Although the Hazard Communication Standard has long required importers and distributors of hazardous products to provide a Safety Data Sheet with the product to its customer, Ms. Xu testified at the company's deposition in the *Reyes-Gonzalez* case that it has never provided the Material Safety Data Sheet that it had or any other Safety Data Sheet to any of its customers.

265. Although the Hazard Communication Standard also requires importers and distributors of hazardous products to include hazard statements on labels affixed to their products, Ms. Xu testified at the company's deposition in the *Reyes-Gonzalez* case that up until 2023 the company never put any labels on the stone slabs that it sold, that it first prepared the Proposition 65 label and put it on slabs in 2023 after the company was sued for causing silicosis in countertop fabricators, but even then only placed the label on the back of the slab.

266. At the company's deposition in the *Reyes-Gonzalez* case, Ms. Xu also testified that prior to 2023 if there was a label on the slabs that the company sold, the only label that appeared anywhere on the slabs was a manufacturer's label that identified the brand of the slab, which label would be on the edge of the slab that was just 2 centimeters wide.

267. When asked at the company's deposition in the *Reyes-Gonzalez* case if the company ever tested or evaluated the hazards of the product, Ms. Xu responded: "There is no hazards of the products[;] they are using on a daily basis."

268. At the company's deposition in the *Reyes-Gonzalez* case, Ms. Xu was shown the company's Proposition 65 label which stated: "WARNING: This product can expose you to chemicals including crystalline silica (airborne particles of respirable size) in dust created during fabrication/installation only if the product is dry cut/ground or pulverized, which are known to the

state of California to cause cancer. For more information, go to 222.65Warnings.ca.gov." Ms. Xu was then asked whether she, as the most qualified person for Best Cheer Stone, knew why this language was placed on a warning label of Best Cheer Stone. Ms. Xu answered: "Well, after the case was served and we had to acquire some knowledge about the case, about the products, about the hazard. That is why we have this warning label."

269. At the company's deposition in the *Reyes-Gonzalez* case, Ms. Xu was asked: "Did the artificial stone products sold or distributed by BCS ever contained a warning regarding silica, silicosis, [or] safety measures taken when the stone is fabricated?" Ms. Zu answered: "No." She also admitted that BCS does not inform fabricators of the hazardous content of the products it sells.

270. At the company's deposition in the *Reyes-Gonzalez* case, Ms. Xu was also asked: "Have you informed ... your customers about the dangers of the silica content in your product?" Ms. Xu answered: "I have not. It is the customers' employers' responsibility, not our responsibility."

271. Although Best Cheer Stone, Inc. prepared a Proposition 65 warning for its stone slabs after it was sued by stone countertop fabricators who had developed silicosis from fabricating the company's slabs, Ms. Xu testified at the company's deposition in the *Reyes-Gonzalez* case that the company put the Proposition 65 warning on the company's website, but then removed it, so that neither the Proposition 65 warning nor any Safety Data Sheet was on the company's website at the time she testified at deposition on behalf of the company on May 24, 2024.

272. Although the company's website says "We Stand Behind Our Products," when asked at the company's deposition in the *Reyes-Gonzalez* case whether it was correct that the company does not stand for the safety of the products it sells, Ms. Xu responded: "I have no comments."

273. At the company's deposition in the *Reyes-Gonzalez* case Ms. Xu testified that one of the company's values was transparent communication with its customers and the public. Ms. Xu further explained: "We are not in the manufacturer and fabrication business. And this is not a normal practice to communicate such information." When asked the question again, Ms. Xu responded: "The product that we sell has no hazard if the fabricators provides proper safety equipment for the employees. So I do not feel that it is our responsibility to communicate those hazards period."

CAB620, INC. (fka Parsoda U.S.A., Inc., dba Pacifica Wholesale Tile & Stone)

274. On November 13, 1991, Parsoda U.S.A., Inc. was incorporated in the State of Utah.

275. On July 24, 2003 Articles of Incorporation were filed with the California Secretary of State for Parsoda, Inc., a close corporation.

276. On October 29, 2003 Parsoda U.S.A., Inc., a Utah corporation merged with Parsoda, Inc., a California corporation, pursuant to an Agreement to Merge, with Parsoda, Inc. being the surviving corporation. The Agreement to Merge was signed on behalf of both corporations by Ghafour Mohsenipour, aka Cyrus Mohseni, President and Secretary of both corporations.

277. In 2003 Parsoda first started selling stone products as a distributor. (Declaration of Allen Siadatian, formerly Executive Vice President of Parsoda U.S.A., Inc., December 30, 2022).

278. The website for Pacifica, An Architectural Surfaces Company, states: "Since beginning its operations in 2003, PACIFICA has become the premier source of quality stoneware in the West Coast for designers, architects, builders, contractors, and more. With showrooms in Anaheim, CA, and Las Vegas, NV, PACIFICA offers stone products carefully selected with the closest attention to detail. Our expansive facility provides an extensive range of masterfully crafted porcelain to naturally beautiful stones extracted from quarries and mountains in every corner of the globe, available in a variety of colors, textures, and sizes to fit your unique specifications." [https://www.pacificastone.com/about-us/].

279. The website for Pacifica, An Architectural Surfaces Company, identifies the following types of natural stone slabs sold by the company: basalt, dolomite, granite, limestone, marble, onyx, precioustone, quartzite, soapstone, and travertine. The website also offers porcelain and Pental quartz slabs for sale.

280. On August 22, 2012, Parsoda U.S.A., Inc. filed a Statement of Information with the California Secretary of State, stating its principal executive office and business office in California is 620 E. Ball Road, Anaheim, CA 92602, and that its business is "wholesale of tile and stone."

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281. On May 15, 2014 the Orange County clerk recorder issued a business license to Parsoda doing business as Pacifica Wholesale Tile & Stone. This business license was renewed on May 9, 2018.

282. On May 3, 2022 Architectural Surfaces, a leading importer and distributor of natural stone, engineered stone and tile for residential and commercial applications, announced the acquisition of Pacifica Wholesale Tile and Stone in Anaheim, California. The announcement stated: "Pacifica is a premier source for distinctive stone slab and tile products for the Southern California market. From their expansive showroom and warehouse located in central Anaheim, they focus on exceptional customer service and superior product quality. Ranging from masterfully crafted porcelain to stunning natural stone quarried from around the world, Pacifica offers an extensive selection to fit all unique specifications." The announcement quoted Bardia Mohseni, President of Pacifica, saying "This acquisition will allow Pacifica to continue offering exceptional products and service along with additional resources including further access to superb materials, an established quartz product line, and the ability to expand deeper into the SoCal market."

283. On May 20, 2022, Parsoda U.S.A., Inc. filed a Certificate of Amendment of Articles of Incorporation with the California Secretary of State whereby it changed its name to CAB620, Inc. and advised that its new principal office in California is 10 Ivanhoe, Irvine, CA 92602.

284. On December 30, 2022, Allen Saidatian, formerly the Executive Vice President of Parsoda U.S.A. Inc., dba Pacifica Wholesale Tile and Stone, executed a Declaration stating that Parsoda first started selling stone products in 2003 as a distributor and that Parsoda has maintained all records evidencing sales of stone products and customers between 2003 and 2022.

285. Plaintiff is informed and believes and thereon alleges that throughout the time that Parsoda U.S.A., Inc. was a corporation so named, it was an importer and seller of artificial and natural stone slabs and tile, and conducted its business under the fictitious business name "Pacifica Wholesale Tile & Stone."

286. Plaintiff is informed and believes and thereon alleges that although all of the natural and artificial stone products that Parsoda U.S.A., Inc. imported and sold contained crystalline silica and other toxic constituents, Parsoda U.S.A., Inc. neither prepared nor provided any Safety Data

Sheets to its customers for any of the stone slabs that it sold to warn its customers that exposure to dust from its stone products can cause silicosis and other human disease, and Parsoda U.S.A., Inc. never provided any instructions to its customers how to safely use Parsoda's products to enable them to protect their employees from developing silicosis and other disease from Parsoda's stone products.

287. Plaintiff is informed and believes and thereon alleges that at all times that Parsoda U.S.A., Inc. distributed and sold its artificial and natural stone products, including slabs and tiles, corporate officers and managers of Parsoda U.S.A., Inc. were aware that its stone products contained crystalline silica and other toxic components that cause silicosis and other human diseases, but failed to disclose the toxic hazards of its products to its customers and their employees in violation of the regulatory requirements of the Hazard Communication Standard and thereby fraudulently concealed the toxic hazards of its stone products from its customers and their employees.

288. Among the corporate officers, managers and directors who fraudulently concealed the toxic hazards of Parsoda's stone products from its customers and their employees in violation of law and who approved and ratified such conduct by Parsoda employees are:

Cyrus G. Mohseni, Chief Executive Officer, Secretary, Chief Financial Officer and a Director of Parsoda U.S.A. Inc. from its inception in 2003 throughout 2022 and thereafter;

Allen Siadatian, who according to his December 30, 2022 declaration, was the Executive Vice President of Parsoda U.S.A. Inc. in charge of Parsoda's sales from 2002 to 2022, and who dealt with Parsoda's customers on a daily basis;

Bardia Mohseni, Vice President of Business Development and Director of Parsoda U.S.A., Inc. for a period of at least 10 years from at 2012 to 2022;

Shahab Hamidi, Manager of Logistics of Parsoda U.S.A., Inc.

William Bannantine, Manager of Logistics of Parsoda U.S.A., Inc.

Hamid Salimi, Assistant Manager of Procurement and Logistics of Parsoda, Inc. from 2018 to 2022.

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CAESARSTONE LTD (fka Caesarstone Sdot-Yam Ltd.)

AND CAESARSTONE USA, INC.

289. Defendant, Caesarstone USA, Inc., is the American subsidiary of the Israeli company Caesarstone, Ltd., known as "Caesarstone." The name of the company derives from its location near the ancient town Caesarea on Israel's Mediterranean coast. Caesarstone, Ltd. is a publicly traded company that produces artificial stone slabs used to make kitchen and bathroom countertops.

290. Caesarstone Ltd. was founded in 1987 and is traded on the NASDAQ in New York (CSTE). Its headquarters are located in Kibbutz Sdot Yam in Israel; its production facilities are in Israel and the US. Caesarstone products are sold in approximately 50 countries around the world through a network of 6 subsidiaries, including Caesarstone U.S.A., Inc., and numerous distributors.

291. Today Caesarstone Ltd. manufactures Caesarstone in three different factories, two in Israel – Kibbutz Sdot Yam and the Bar Lev Industrial Zone near Karmiel, and, since May 27, 2015, at its plant in Richmond Hill, Georgia, in the United States. Caesarstone also has established warehouses and refinery plants in Shanghai, Beijing, Shenzhen, and Hong Kong.

292. The initial Caesarstone factory commenced its operations in 1987, at Kibbutz Sdot Yam, in Israel, replacing its terrazzo tile factory. After changing the focus from sale of floor tiles to quartz surfaces and establishing itself in the domestic market, the company started to export its products to different countries around the world.

293. At the time that Caesarstone first began producing and exporting its artificial stone product in 1987, the officers, directors, and managing agents of the company knew that Caesarstone was an extremely toxic and dangerous product because it contained extremely high concentrations of crystalline silica and the product had to be fabricated and installed by workmen, which involved cutting, grinding, drilling, edging, and polishing the product with electric-powered saws and tools that generates huge amounts of respirable crystalline silica dust.

294. In 2023 Caesarstone submitted a formal "Opening Statement" to Australian regulators in response to questions that they posed to Caesarstone in determining whether importation of Caesarstone and other artificial stone products into Australia should be banned due to the dangers

of the products. One of the questions that the Australian regulators asked Caesarstone was: "What level of silica was in the engineered stone in 1987? 95 per cent?" In its "Opening Statement," Caesarstone answered the question as follows: "At that time, the silica content was in the vicinity of 90%." Available online at https://prod.static9.net.au/fs/d4f39ceb-c239-489c-ba03-6b1edc830af5. The next question that the Australian regulators posed to Caesarstone was: "When Caesarstone started selling artificial stone slabs in 1987 did it know that it contained high levels of silica, a level that is vastly higher than natural stone such as granite and marble and considered carcinogenic to humans if the crystalline silica dust is inhaled?" In its "Opening Statement," Caesarstone responded to this question as follows: "Engineered stone has traditionally contained 60-97% silica." Available at https://prod.static9.net.au/fs/d4f39ceb-c239-489c-ba03-6b1edc830af5.

295. At the time Caesarstone first began producing its artificial stone product in 1987, the company's officers and directors were aware that the product presented extraordinary risks of silicosis because, unlike marble (which contained about 5% crystalline silica) and granite (which contained about 35% crystalline silica), Caesarstone contained as much as 95% crystalline silica.

296. Caesarstone essentially made one product - an artificial stone product that it claimed was comprised of approximately 93% crystalline silica, 7% polymeric resin and lesser amounts of pigments and additives. At all times the product was known simply as "Caesarstone" and was marketed as "Caesarstone®", a registered tradename. While the slabs were sold in different sizes and colors, for all practical intents and purposes they were a single product, all called "Caesarstone."

297. Caesarstone marketed its Caesarstone® product in a few collections, with such names as "Classico," "Concetto," "Motivo," "Supernatural," and more recently "Metropolitan." Although marketed in these "collections," all Caesarstone was essentially the same artificial stone product made of the same essential ingredients (crystalline silica, polymeric resin, pigments and additives), and all of these "collections" had the same essential toxic properties and hazards.

298. Caesarstone was the first company in the world to export to the United States artificial stone slabs that were designed and intended to be fabricated and thereupon installed as kitchen and bathroom countertops in American homes and businesses. Prior to 2010 the only artificial stone product that was generally available in the United States for such use was Caesarstone®.

299. Caesarstone® is not and never has been a consumer product. Indeed, an article published in *Business of Home* on January 28, 2020, in response to a series of reports by National Public Radio regarding the artificial stone silicosis epidemic in the United States, explained that consumers - even designers - can't go to a stone supplier or a Caesarstone showroom and order the company's product. In that article, Elizabeth Margles, Caesarstone's vice president of marketing was quoted, admitting "We sell to the fabricator." Thus, at all times the product Caesarstone® was never a finished end-use product offered for sale to consumers, but was instead an industrial product that Caesarstone intended and expected would have to be fabricated by being cut, ground, and polished before the material could be installed as finished countertops in consumers' kitchens and bathrooms.

300. In 2005, an additional production facility was opened at the Bar-Lev Industrial Park.

301. In 2006, TENE Investment Fund invested 25 million dollars in exchange for 21.7% control in the company, which led to the adding of another production line at the Bar-Lev facility.

302. Caesarstone began establishing subsidiaries in Australia (in 2008), Canada (in 2010), USA and Singapore (in 2011) and the UK (in 2017), and had distributors in about 50 countries.

1998 Material Safety Data Sheet

303. On June 20, 1998 Caesarstone prepared its First Material Safety Data Sheet.

304. In Section 1 (Identification) of this Material Safety Data Sheet, Caesarstone identified its product as "Composite - Stone Slabs, and Fabricated Items and identifying the manufacturer as CaesarStone Sdot-Yam LTD, located at Kibbutz Sdot-Yam M.P. Menashe 38805 Israel.

305. Section 2 (Hazardous Ingredients) contained a table with four columns: Hazardous Ingredients, % by Weight, % by Volume, U.N. #, and Other Limits. The table contained three rows for data, but only the first row contained information identifying Unsaturated polyester as a hazardous ingredient at 9% < % by weight, 12% < % by volume, with U.N. # 1866. The other two rows were empty. Critically, this Material Safety Data Sheet did not identify as a hazardous ingredient in the prdouct either crystalline silica or any of the metals in the product.

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306. Section 7 (Toxicological Properties) contained the following table:

Entry through skin contact?	No
Entry through eye contact?	No
Entry through skin absorption?	No
Entry through inhalation?	See sections 7&8
Entry acute exposure effects?	No
Product acute exposure effects?	See sections 7&8
Exposure Limit	See sections 7&8
Product irritancy	See sections 7&8
Product sensitization	No
Product carcinogenicity	No
Product teratogenicity	No
Product mutagenicity	No
Product reproductive toxicity	No
Synergistic by-products	None

307. Thus, Section 7 (Toxicological Properties) of Material Safety Data Sheet disclosed no toxicological properties of the product but merely referred readers to subsequent sections of the Material Safety Data Sheet.

308. Critically Section 7 of the Material Safety Data Sheet falsely stated that the product was not carcinogenic even though it contained more than 90% crystalline silica, which the International Agency for Research on Cancer had concluded the year before that "there is *sufficient evidence* in humans for the carcinogenicity of inhaled crystalline silica in the form of quartz or cristobalite from occupational sources." International Agency for Research on Cancer, IARC Monographs on the Evaluation of Carcinogenic Risks to Humans: Volume 68: Silica, Some Silicates, Coal Dust and Para-Aramid Fibrils," (IARC 1997).

309. Section 7 (Preventative Measures) of the Material Safety Data Sheet provided the following information regarding Personal Protective Equipment:

Gloves	Observed local safe handling procedures

Respirator	Use respirator or particular mask when cutting or abrading material
Eye Protection	Use eye protection with side shields when cutting or abrading material
Footwear	Use steel toed foorwear when handling slabs or tiles.
Clothing	Observe local safe handling procedures.
Other	Additional information is available in ASTM E-1132-86.

310. The instruction to "Observe local safe handling producers" for gloves and clothing was totally inadequate to apprise fabricators of the type of gloves and clothing they needed to wear to handle the product safely. The instruction to "Use respirator or particular mask when cutting or abrading material" was totally inadequate because it failed to specify that fabricators needed to wear air-supplied respirators or at least powered air purifying respirators to protect themselves from getting silicosis, and there is no such thing as a "particular mask." The statement that "Additional information is available in ASTM E-1132-86" was grossly inadequate and concealed critical health information, because none of the important information in this standard published by the American Society of Testing Materials titled "Standard Practice for Health Requirements Relating to Occupational Exposure to Quartz Dust" was disclosed and the ASTM Standards are proprietary, were not easily accessed, and could not be downloaded from the Internet without payment of money.

311. The second part of Section 7 of the Material Safety Data Sheet was titled "Procedures and Controls." The only instructions provided regarding "Handling Equipment & Procedures" were to "Observe local safe handling procedures" and "Handle with care," both of which are meaningless and provide no information whasoever how to handle the product safely. Critically, no information was provided that wet processing methods should be used to reduce airborn crystalline silica levels.

312. Section 8 (First Aid Procedures) of the Material Safety Data Sheet provided the following information regarding inhalation: "The prolonged inhalation of airborne silica can cause the respiratory disease silicosis, a progressive, incapacitating and sometimes fatal disease of the lungs. The risk of lung disease increases if smoking is combined with silica inhalation. Always use a respirator or particular mask when curtting or abrading this material. If symptoms develop, seek medical assistance immediately."

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313. This information was grossly inadequate for several reasons. First, this is the first and only place in the MSDS that silicosis -- the major health hazard of the product - was mentioned. Pursuant to the Hazard Communication Standard, the silicosis hazard had to be mentioned in Section 3 of the Material Safety Data Sheet under a heading titled "Health Hazards." Caesarstone did not disclose the silicosis hazard in Section 3 of the Material Safety Data Sheet which it instead titled "Hazardous Ingredients" and did not identify crystalline silica as an ingredient of the product (even though it comprised more than 90% of the product) and did not mention silicosis as a health hazard. Caesarstone intentionally put this critical health hazard information in the penultimate section of the Material Safety Data Sheet where it would unlikely be seen or read. Worse yet, Caesarstone put this information in a section of the MSDS titled "First Aid Procedures" which are inapplicable to silicosis, which is a chronic disease for which there are no first aid procedures. Lastly, the instruction concluded by stating "If symptoms develop, seek medical assistance immediately," without identifying those symptoms (coughing, shortness of breath on exertion, fatigue, weight loss, etc.) that would alert a worker that he may have silicosis and needs to see a pulmonologist.

U.S. Quartz Products, Inc.

314. On June 22, 1999 Articles of Incorporation of Caesar Stone U.S.A., Inc. were filed with the California Secretary of State. The Articles of Incorporation were dated June 14, 1999 and signed by Steven D. Kramar as Incorporator.

315. According to a Certificate of Status of Domestic Corporation issued by Debra Bowen, Secretary of State of the State of California, U.S. Quartz Products, Inc. became incorporated under the law of the State of California by filing its Articles of Incorporation with the Secretary of State on June 22, 1999 – the same date that Articles of Incorporation were filed for Caesar Stone U.S.A., Inc. Oddly, no company by the name of U.S. Quartz Products, Inc. is listed on the website of the California Secretary of State. However, on June 20, 2011 a Certificate of Amendment of Amended and Restated Articles of Incorporation of U.S. Quartz Products, Inc. was filed with the California Secretary of State. The Certificate of Amendment was signed by Arik Tendler, Presdient and Chief

Executive Officer and Alex Vorissis, Secretary of the corporation. Pursuant to this Certificate of Amendment, the name of the corporation was changed to Caesarstone USA, Inc.

Caesarstone USA Launches Website

316. In 2000 Caesarstone launched a website whose url was www.caesarstoneus.com. Each page of this website bore a heading that said "Welcome to the World of Caesar Stone US."

317. The website contained a web page titled "About CaesarStone" which said:

> CaesarStone is the world's leading manufacturer of engineered quartz slabs.
>
> Founded in Founded in Israel in 1987, CaesarStone has offices and licensed product specialists around the world. The US distributorship, which currently serves California, is one of the largest and fastest growing licensed distributors of CaesarStone products in the world.
>
> The main plant employs over 100 workers and operates three shifts a day to meet both the high demand for our products – producing over 2.7 million square feet of product each year – and the high quality standards we set for them.
>
> CaesarStone uses the Bretonstone technology to manufacture quartz slabs that are more colorful than granite, with greater durability and many more uses. This product has gained worldwide recognition as the leading residential and commercial quartz product.
>
> We've recently added a new computer-controlled production line that turns out slabs large enough to make kitchen and vanity countertops without excess cutting and seams, and yet it is thinner and lighter than other stone products.

And the innovation hasn't stopped there – CaesarStone's advanced research and development labs work constantly on quality improvement and product development.

Caesarstone Admits That At Least As Early As 2010 It Knew That People Working With Its Product Were Getting Sick As A Result

318. Among the questions that Australian regulators posed to Caesarstone in 2023 was the following question: "When did Caesarstone first learn that people working with the product were getting sick as a result?" In its "Opening Statement," Caesarstone answered the question: "2010." Available online at https://prod.static9.net.au/fs/d4f39ceb-c239-489c-ba03-6b1edc830af5

319. The Australian regulators also asked Caesarstone the following question: "In response to a series of questions from Safework NSW as to the alleged first findings of silicosis among artificial stone workers following tests of patients, Caesarstone said it became aware in 2010 as part of the first lawsuit filed against it. How does this correspond with your 2021 annual report which says the first court case was filed in Israel in 2008?" In its "Opening Statement," Caesarstone responded to this question as follows: "A single action filed in 2008 does not give rise to a more serious issue in the industry. Caesarstone was not aware of a number of cases of silicosis until 2010." Available online at https://prod.static9.net.au/fs/d4f39ceb-c239-489c-ba03-6b1edc830af5 While Caesarstone discounted the significance of the 2008 silicosis lawsuit that it acknowledges was filed against the company in 2008, that lawsuit nevertheless put Caesarstone on notice of the harmful nature of its product.

320. The next question that the Australian regulators posed to Caesarstone was the following: "Is Caesarstone suggesting that it never heard about an outbreak of workers being diagnosed with silicosis before the 2008 legal action in Israel?" Caesarstone responded to this question as follows: "A single action filed in 2008 does not give rise to a more serious issue in the industry. Caesarstone was not aware of a number of cases of silicosis until 2010." Available online at https://prod.static9.net.au/fs/d4f39ceb-c239-489c-ba03-6b1edc830af5. Notably, in responding

to this question posed by the Australian regulators, Caesarstone did not deny that before 2008 it had heard about the outbreak of silicosis in workers who used Caesarstone's product in Israel. Available online at https://prod.static9.net.au/fs/d4f39ceb-c239-489c-ba03-6b1edc830af5

Caesarstone Failed to Put Hazard Warnings On Its Product Prior To 2010

321. Among the questions that the Australian regulators posed to Caesarstone in 2023 was the following question: "In 2010 Caesarstone started putting so-called warning stickers on the slabs it was selling. Why did it wait until 2010?" In its "Opening Statement" Caesarstone responded to this question as follows: "Caesarstone placed warning labels on slabs of stone when it became aware that workers were contracting silicosis in 2010." Caesarstone's "Opening Statement," available online at https://prod.static9.net.au/fs/d4f39ceb-c239-489c-ba03-6b1edc830af5. Caesarstone's response did not answer the question why it waited until 2010 to start putting "warning stickers" on the slabs it was selling. Nevertheless, Caesarstone's response constitutes an admission that from 1987 when Caesarstone began making the product to 2010 (a period of 23 years), Caesarstone did not put any warnings on slabs of its product, so that workers handling them could see the warnings.

322. The next series of questions that the Australian regulators posed to Caesarstone was: "How big was the warning sticker in Feb 2010 on the slab? - can you provide the measurement? How big is the slab? What part of the slab was the sticker put - on top, the bottom or was there no specific place?" In its "Opening Statement" Caesarstone responded to these questions as follows: "The warning label is affixed to the back of each slab .... The labels started in 2010 at approximately 14cm x 14cm." Although Caesarstone did not answer the question how big the slab was, in response to the regulators' first question, which asked Caesarstone about the size of each slab, Caesarstone responded: "The 'standard' current size is 3050mm v 1440mm . . . . There are other sizes available, such as 3340 mm x 1640 mm ...." Caesarstone's "Opening Statement," available online at https://prod.static9.net.au/fs/d4f39ceb-c239-489c-ba03-6b1edc830af5. Converting the odd metric system measurements provided by Caesarstone in its response to American measurements, the 14 cm x 14 cm sticker measured about 5½ square inches, and the 3050 mm x 1440 mm slab measured about 10

feet by $4^3/_4$ feet. The sticker in 2010 contained warnings in English, Italian, French, Spanish and Arabic – all in a 5½ inch square. Thus, the sticker that Caesarstone first began affixing to the slabs of its product in 2010 was tiny, the printing on the sticker was necessarily in a very small font, and the entire "warning" sticker covered less than ½ of one percent of the surface area of the slab!

Why Caesarstone First Began Putting Stickers On Slabs In 2010

323. Another question that the Australian regulators posed to Caesarstone in 2023 was the following question: "In early 2010 a documentary in Israel aired which exposed workers dying of silicosis due to engineered stone. The documentary had ben in the works months before it aired. Is that what triggered the decision by Caesarstone to start attempting to put warning labels on the products?" Caesarstone answered this question: "Yes." Thus, Caesarstone admitted that it only began putting warning labels on its product *after* deaths of Israeli workers from silicosis were aired on Israeli television. Caesarstone's "Opening Statement" to the Australian regulators, available online at https://prod.static9.net.au/fs/d4f39ceb-c239-489c-ba03-6b1edc830af5.

324. When Caesarstone began putting so-called "warning" stickers on the slabs of its product in 2010, it did not include any hazard warning symbols, i.e., pictograms. Indeed, it appears that Caesarstone did not include pictograms on its labels until 2020. In 2023 the Australian regulators therefore posed the following question to Caesarstone about the absence of pictograms: "When did Caesarstone start putting hazard warning symbols on the labels to Australia? Why did it take so long? Why didn't it do it from 2010?" In its "Opening Statement," Caesarstone responded to this question as follows: "While the first labels did not include the warning symbols, they clearly included the word: WARNING." However, Caesarstone did not explain why it did not put hazard warning *symbols*, i.e., pictograms, on the labels in 2010, or why it took the company another 10 years to do this. See, Caesarstone's "Opening Statement" to the Australian regulators, available online at https://prod.static9.net.au/fs/d4f39ceb-c239-489c-ba03-6b1edc830af5.

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Caesar Stone Sdot-Yam Ltd. Purchases All The Shares Of U.S. Quartz Products

325. On May 18, 2011 Caesar Stone Sdot-Yam Ltd., an Israeli company, entered into a Share Purchase Agreement with U.S. Quartz Products, Inc. and its shareholders whereby Caesar Stone Sdot-Yam Ltd. purchased all of the shares of stock of U.S. Quartz Products. This transaction resulted in Caesarstone Sdot-Yam Ltd. (currently known as Caesarstone Ltd.) obtaining total control over U.S. Quartz Products, Inc. (currently known as Caesarstone U.S.A., Inc.). A copy of the Share Purchase Agreement was filed as Exhibit 2.1 of Caesarstone's Form F-1 Registration Statement that it filed with the U.S. Securities and Exchange Commission on February 16, 2012. See https://www.sec.gov/Archives/edgar/data/1504379/000119312512065539/d258108dex21.htm.

326. According to an Application by a Foreign Profit Corporation to File Amendment to Application for Authorization to Transact Business in Florida that was filed with the Florida Secretary of State in February 2012, U.S. Quartz Products, Inc. changed its name to Caesarstone USA, Inc.

Caesarstone Registers with the U.S. Securities and Exchange Commission

327. On February 16, 2012 Caesarstone Sdot-Yam Ltd., an Israeli company, filed its Form F-1 Registration Statement under the Securities and Exchange Commission, identifying Caesarstone USA, Inc., 6840 Hayvenhurst Ave. Suite 100, Van Nuys, California 91406; (818) 779-0999 its as its agent for service.

328. In this document Caesarstone acknowledged that "Silicosis and related claims could have a material adverse effect on our business, operating results and financial condition." In its Form F-1 Registration Statement, Caesarstone described the hazards of its product and the risks of silicosis from exposure to its product as follows:

> Silicosis and related claims could have a material adverse effect on our business, operating results and financial condition. Since 2008, fourteen lawsuits have been filed against us or named us as third party defendants in Israel and we have received a number of additional letters threatening lawsuits on behalf of certain fabricators of our products in Israel or their employees in Israel alleging that they contracted illnesses, including silicosis, through exposure to fine silica particles when

cutting, polishing, sawing, grinding, breaking, crushing, drilling, sanding or sculpting our products. Each of the lawsuits which has been filed names defendants in addition to us, including, in certain cases, fabricators that employed the plaintiff, the Israeli Ministry of Industry, Trade and Employment, distributors of our products and insurance companies. Silicosis is an occupational lung disease that is progressive and sometimes fatal, and is characterized by scarring of the lungs and damage to the breathing function. Inhalation of dust containing fine silica particles as a result of not well protected and not well controlled, or unprotected and uncontrolled, exposure while processing quartz, granite, marble and other materials can cause silicosis. Various types of claims are raised in these lawsuits and in the letters submitted to us, including product liability claims such as claims related to failure to provide warnings regarding the risks associated with silica dust. We believe that we have valid defenses to the lawsuits pending against us and to potential claims and intend to contest them vigorously. Damages totaling $6.1 million are specified in the lawsuits currently filed; however, the amount of general damages, which includes items such as pain and suffering and loss of future earnings, has not yet been specified in most of the lawsuits. As a result, there is uncertainty regarding the total amount of damages that may ultimately be sought. At present, we do not believe that it is reasonably possible that the lawsuits filed against us to date will have a material adverse effect on our financial position, results of operations, or cash flows, in part due to the current availability of insurance coverage. Nevertheless, all but one of the lawsuits are at a preliminary stage and no material determinations, including those relating to attribution of fault or amount of damages, have been made. There can also be no assurance that our insurance coverage will be adequate or that we will prevail in these cases. We are party to a settlement agreement that is pending court approval with respect to one of the lawsuits filed. In that instance, the total settlement is for NIS 275,000 ($71,970) of which we have agreed to pay NIS 10,000 ($2,617) without admitting liability. Substantially all of the balance is payable by the fabricator that employed the individual in question and insurance companies. We can provide no assurance that other lawsuits will be settled in this manner or at all.

Our current liability insurance provider renewed our product liability insurance policy in October 2011 through November 2012. However, there is no assurance that we will be able to obtain product liability insurance in the future on the same terms, including with the premium under our current policy, or at all. If our current insurance provider does not renew our product liability insurance policy in the future, it is uncertain at this time whether we will be able to obtain insurance coverage from other insurance providers in the future. We are not currently subject to any claims from our employees related to silicosis; however, we may be subject to such claims in the future. Our employer liability insurance policy excludes silicosis claims by our employees and, to the extent we become subject to any such claims, we may be liable for claims in excess of the portion covered by the National Insurance Institute of Israel. If our insurance providers refuse to renew our insurance, we are unable to obtain coverage from other providers, our policy is terminated early or we become subject to silicosis claims excluded by our employer liability insurance policy, we may incur significant legal expenses and become liable for damages, in each case, that are not covered by insurance, and our management could expend significant time addressing such claims. These events could have a material adverse effect on our business and results of operations.

Consistent with the experience of other companies involved in silica-related litigation, there may be an increase in the number of asserted claims against us. Such claims could be asserted by claimants in jurisdictions other than Israel, including the United States where we recently acquired our former U.S. third-party distributor, Canada where we recently established a joint venture for the distribution of products there and Australia and could result in significant legal expenses and damages.

> Existing or future claimants against us, in Israel or elsewhere, may seek to have their claims certified as class actions on behalf of a defined group. We believe that claimants in future silica-related claims involving us, if any, should be limited to persons involved in the fabrication of our products, including, but not limited to, cutting, polishing, sawing, grinding, breaking, crushing, drilling, sanding or sculpting, and those in the immediate vicinity of fabrication activities, but may potentially include our employees. Any pending or future litigation, including any future litigation in the United States, where in May 2011 we acquired our former third-party distributor, Caesarstone USA, formerly known as U.S. Quartz Products, Inc., is subject to significant uncertainty. We cannot determine the amount of potential damages, if any, in the event of an adverse development in a pending or future case, in part because the defendants in these types of lawsuits are often numerous, the claims generally do not specify the amount of damages sought, our product's involvement may be speculative, and the degree to which our product may have caused the alleged illness may be unclear. In addition, punitive damages may be awarded in certain jurisdictions.
>
> Furthermore, we may face future engineering and compliance costs to enhance our compliance with existing standards relating to silica, or to meet new standards if such standards are heightened. Such costs may adversely impact our profitability.

329. Caesarstone's Form F-1 filed with the Securities and Exchange Commission on February 16, 2016 identified the following executive officers, directors and director nominees, all of whom were aware of the filing of the Form F-1 Registration Statement with the Securities and Exchange Commission, and the toxic hazards of Caesarstone artificial stone products and the risks of silicosis to fabricators and installers of Caesarstone's products, as set forth therein:

Executive Officers

Yosef Shiran	Chief Executive Officer
Yair Averbuch	Chief Financial Officer
David Cullen	Chief Executive Officer Caesarstone Australia
Sagi Cohen	Chief Executive Officer Caesarstone USA
Giora Wegman	Deputy Chief Executive Officer
Michal Baumwald Oron	General Counsel
Eli Feiglin	Vice President Marketing
Erez Schweppe	Vice President Sales
Harel Boker	Vice President of Operations
Tzvika Rimon	Israel Country Manager

Dr. Ramon Albalak	Vice President Research and Development
Lilach Gilboa	Vice President Human Resources

Directors and Director Nominees

Maxim Ohana	Chairman
Dori Brown	Director
Yonathan Melamed	Director
Moshe Ronen	Director
Oded Goldstein	Director
Ariel Halperin	Director
Eitan Shachar	Director
Boaz Shani	Director
Shachar Degani	Director
Gal Cohen	Director
Irit Ben-Dov	Director Nominee
Ofer Borovsky	Director Nominee

330. Caesarstone's Form F-1 Registration Statement that was filed with the Securities and Exchange Commission on February 16, 2012 is available on the SEC website at: https://www.sec.gov/Archives/edgar/data/1504379/000119312512065539/d258108df1.htm.

As of 2012 Caesarstone Was Well Aware that Workers Were Getting Silicosis and Needed Lung Transplants

331. Due to the extremely high crystalline silica content of Caesarstone, it was not surprising that workers (i.e., fabricators and installers) exposed to Caesarstone in Israel soon began developing silicosis and needing lung transplants.

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332. As previously mentioned, the first case of artificial stone-induced silicosis was seen in 1997 by researchers at the National Lung Transplantation Center in Israel. This worker was occupationally exposed to Caesarstone, developed silicosis, and underwent lung transplantation. Kramer MR, et al., "Artificial Stone Silicosis: Disease Resurgence Among Artificial Stone Workers," *Chest* 2012; 142(2):419-424. Plaintiff is informed and believes and thereon alleges, that the researchers at the National Lung Transplant Center in Israel shared their conclusion that the cause of the silicosis in the worker whom they diagnosed with silicosis in 1997 who thereafter underwent lung transplantation, was his occupational exposure to Caesarstone's artificial stone product.

333. In 2005, an additional production facility was opened at the Bar-Lev Industrial Park.

334. In 2006, TENE Investment Fund invested 25 million dollars in exchange for 21.7% control in the company, which led to the adding of another production line at the Bar-Lev facility.

335. In 2008, Caesarstone began establishing subsidiaries in its main markets: Australia (2008), Canada (2010), USA and Singapore (2011) and UK (2017), along with activity conducted through distributors in approximately 50 countries.

336. During the 14 years following the first case of Caesarstone®-induced silicosis diagnosed at the National Lung Transplant Center in Israel in 1997, Israeli physicians diagnosed silicosis in 25 patients occupationally exposed to Caesarstone®. All of these cases were diagnosed based on detailed occupational history, with histologic confirmation of silicosis in all but two of the cases. Of these 15 (60%) were determined to be lung transplant candidates. According to the authors of this study, all of these patients worked with the same commercial brand of synthetic stone material, i.e. Caesarstone, which the investigators analyzed and determined that it contained at least 85% crystalline silica. All 25 patients reported that more than 90% of their typical work duties involved handling Caesarstone®. Less than 10% included exposure to other potential sources of silica, primarily natural granite. Kramer MR, et al., "Artificial Stone Silicosis: Disease Resurgence Among Artificial Stone Workers," *Chest* 2012; 142(2):419-424. The data and the results of this study were published in the journal *Chest*, which is one of the most widely read medical journals in the world, with an impact factor of 11.393 (an impact factor of 3 is considered good and an impact factor of 10 or higher is considered remarkable).

337. The results of the study by the Israeli researchers that were published in the journal *Chest* concerning 25 workers with silicosis who were occupationally exposed to Caesarstone®, 60% of whom needed lung transplants, were known to the officers, directors and managing agents of Caesarstone at the time. Originally, the article used the term "Caesarstone silicosis" in its title, in reference to the company's major position in the Israeli market for engineered stone. But soon after the study appeared, Caesarstone threatened to bring a lawsuit against the American College of Chest Physicians, the organization that publishes the journal, unless the term was removed. "Utilization of Caesarstone's trademark and trade name as a name of a disease causes the company significant damage and irreparably harms its good will," the company wrote in a 2012 letter to the American College of Chest Physicians. Dr. Richard S. Irwin, the publication's editor in chief, said he decided to remove the term "Caesarstone silicosis" from the published article because the types of silicosis described in it were not unique to Caesarstone but applied to engineered stone products in general. "Chest did not make the change because of threatened legal action," Dr. Irwin said in the statement. Dr. Irwin added that the report's authors agreed with his decision. Dr. Kramer, the Israeli physician who led the study, estimated that Caesarstone accounted for 99 percent of the market there, adding that the company had faced dozens of lawsuits from injured workers." Barry Meier, "Popular Quartz Countertops Pose a Risk to Workers," *New York Times* (April 1, 2016).

338. In 2023 Australian regulators posed the following questions to Caesarstone about its threat of litigation against the journal in which the 2012 study first appeared under the title "Caesarstone® Silicosis": "In 2012 a study was released with the title Caesarstone and silicosis. Why did Caesarstone send legal letters to the publisher threatening legal action if it wasn't changed? At the time more than 90 per cent of the products sold in Israel were Caesarstone. It is claimed by one of the authors it was an attempt to cover up the role of Caesarstone products in the surge in silicosis cases in Israel?" In its "Opening Statement" Caesarstone responded to this question by the Australian regulators as follows: "The objection to the article was on the basis that it targeted Caesarstone. The article was entitled "Caesarstone® Silicosis: Disease Resurgence among Artificial Stone". The invented name "Caesarstone® Silicosis" did not (and still does not) exist in the World Health Organization's international Classification of Diseases (ICD)." Available online at

https://prod.static9.net.au/fs/d4f39ceb-c239-489c-ba03-6b1edc830af5. Thus, Caesarstone did not deny that it sent "legal letters" to the publisher of the medical journal threatening to sue the publisher if the title of the article, "Caesarstone® Silicosis" were not changed to its liking.

339. The next question that the Australian regulators posed to Caesarstone was: "Did Caesarstone ever offer one of the authors of the report a donation to the lab?" In its "Opening Statement" to the Australian regulators Caesarstone responded to this question as follows: "In the short time provided to respond, we have been unable to find any evidence of this." Available online at https://prod.static9.net.au/fs/d4f39ceb-c239-489c-ba03-6b1edc830af5. Notably, in its response to the implicit accusation of one of the authors that Caesarstone attempted to bribe them to change the name of the study, Caesarstone did not deny that it offered one of the authors of the report a donation to the laboratory.

340. In 2023 the Australian regulators also posed the following question to Caesarstone: "When the Israeli study in Israel was finally published in 2012 it was based on a study of workers from 1997 to 2010 who had been diagnosed with silicosis and they all used the Caesarstone product. What did caesarstone do in Australia to warn customers about the study?" In its "Opening Statement" Caesarstone responding to this question as follows: "Caesarstone first became aware of this issue in 2010. In terms of customer warnings, see responses to Q5, Q6, Q8, and Q10." Available online at https://prod.static9.net.au/fs/d4f39ceb-c239-489c-ba03-6b1edc830af5. Thus, Caesarstone did not answer the question as to what it did in Australia to warn customers about the study. Indeed, Caesarstone's responses to the referenced questions and the referenced "customer warnings" did not mention the 2012 Israeli study at all.

Caesarstone's March 26, 2012 Safety Data Sheet

341. On March 26, 2012 Caesarstone issued a Safety Data Sheet for its product identified as "Caesarstone® / Concetto®." This document listed four constituents of the product: (1) "Crystalline Silica and other natural stone" at a concentration of >85%, (2) Cristobalite at a concentration of <50%, (3) "Polymeric resin" at a concentration of 7-15%, and (4) "Additives" at

a concentration of 0-8%. Since Cristobalite is a form of crystalline silica, according to this document, the crystalline silica concentration of the product was extremely high and at least in excess of 90% of the product, presenting an extreme hazard to the health of workers throughout the world whose job was to fabricate countertops for installation in kitchens and bathrooms.

342. Notwithstanding the extreme respiratory hazard of its product, on the first page of Safety Data Sheet issued March 26, 2012, Caesarstone concealed the true nature and severity of the hazards of its Caesarstone® product by stating that "this preparation is not classified as hazardous according to the latest adaption of European Union Directives 67/548/EEC and 1995/45/EC." This was a false statement, because EU Directive 67/548/EEC classifies as "dangerous" "substances and preparations" those that are "very toxic," "which if they are inhaled . . . may involve extremely serious . . . chronic health risks and even death."

343. Caesarstone also concealed the true nature and severity of the hazards of its Caesarstone® product by stating in its March 26, 2012 Safety Data Sheet that "Quartz surfaces products are not hazardous as shipped," although Caesarstone® is not a finished consumer product, but is rather than industrial product that must be sawed, ground, routed, drilled, sanded, and polished in fabricating and installing the product, thereby generating respirable crystalline silica dust that causes silicosis.

344. In its March 26, 2012 Safety Data Sheet, Caesarstone also concealed the true nature and severity of the health hazards of Caesarstone® by making misleading statements about the product, e.g., that "[i]nhalation of . . . dusts, smoke and vapors may cause upper respiratory tract irritation," where the primary respiratory hazard of the product is not upper respiratory tract irritation (as one experiences when cutting an onion), but is rather chronic and progressive severe lung disease, i.e., silicosis and resultant death.

345. In its March 26, 2012 Safety Data Sheet, Caesarstone also concealed the true nature and severity of the health hazards of Caesarstone® by making other misleading statements such as "Overexposure to airborne crystalline silica can cause silicosis, a chronic and progressively debilitating disease, characterized by the formation of silica-containing scar tissue in the lungs." This statement falsely suggested to Caesarstone's customers and to their workers who fabricated

Caesarstone® that workers would have to be "overexposed" to airborne crystalline silica to develop silicosis, whereas the truth, which was known to Caesarstone at the time, was that silicosis is caused by inhalation of extremely small amounts of respirable crystalline silica, i.e., 0.05 milligrams of respirable crystalline silica per cubic meter of air, which is 0.00000175 of an ounce of respirable crystalline silica equally dispersed in one cubic meter of air, which is slightly larger than 1 cubic yard (27 cubic feet). That tiny amount of respirable crystalline silica would appear as a speck of white dust on of the eye of President Lincoln on a penny, but when dispersed in air is so small that it is invisible to the human eye and cannot be discerned by smell, taste or any other human sense. Indeed, in 1996 – the year before the first Israeli worker was diagnosed with silicosis caused by exposure to Caesarstone® - researchers from the University of Michigan and the University of Cincinnati published a study regarding silicosis among foundry workers in which they observed that "[a]t the NIOSH recommended exposure limit of 0.05 mg/m^3, there was a 0.3-0.8 percent prevalence of radiographs consistent with silicosis" and concluded that "our data show that the current OSHA standard is not sufficiently low to protect workers against the development of radiologic evidence of silicosis." Rosenman KD, et al., "Silicosis among foundry Workers: Implication for the Need to Revise the OSHA Standard," *Am. J. Epidemiol.* 1996; 144:890-900. At the time that Caesarstone issued its March 26, 2012 Safety Data Sheet for Caesarstone®, indicating that workers would have to be "overexposed" to respirable crystalline silica to develop silicosis, Caesarstone's officers, directors and managing agents were aware that 25 Israeli workers who reported that more than 90% of their typical work duties involved handling Caesarstone® had been diagnosed with silicosis at the National Lung Transplant Center in Israel and that 15 of them needed lung transplants at the time. Kramer MR, et al., "Artificial Stone Silicosis: Disease Resurgence Among Artificial Stone Workers," *Chest* 2012; 142(2):419-424. Although Caesarstone's statement in its March 26, 2012 Safety Data Sheet for Caesarstone® indicated that only "overexposure to airborne crystalline silica" causes silicosis, nowhere in this document did Caesarstone specify the amount of airborne crystalline silica to which one must be exposed to get silicosis so as to enable Caesarstone's customers to determine whether their workers were being dangerously "overexposed" to respirable crystalline silica from Caesarstone®.

346. In its March 26, 2012 Safety Data Sheet, Caesarstone also falsely stated that "epidemiology studies show limited evidence of an excess of lung cancer in occupations involving exposures to crystalline silica, such as stone cutters and granite industry workers," which statement is contrary to the determination and classification of the International Agency for Research on Cancer (IARC) in its monograph on silica published 15 years earlier, which had concluded: "there is *sufficient evidence* in humans for the carcinogenicity of inhaled crystalline silica in the form of quartz or cristobalite from occupational sources." International Agency for Research on Cancer, IARC Monographs on the Evaluation of Carcinogenic Risks to Humans: Volume 68: Silica, Some Silicates, Coal Dust and Para-Aramid Fibrils," (IARC 1997).

347. In its March 26, 2012 Safety Data Sheet, Caesarstone also provided misleading information regarding the engineering controls necessary to prevent countertop fabricators and installers from getting silicosis, by stating: "General room ventilation is satisfactory under anticipated use conditions." This statement is not merely false; it is extremely and inexcusably harmful, because general room ventilation is never adequate to control occupational exposure to respirable crystalline silica and published studies regarding crystalline silica exposure of artificial stone fabricators all show that general room ventilation is inadequate to prevent harmful respirable crystalline silica exposure in countertop fabricators. See, NIOSH, *Evaluation of Crystalline Silica Exposure during Fabrication of Natural and Engineered Stone Countertops.* (HHE Report No. 2014-0215-3250).

348. In its March 26, 2012 Safety Data Sheet, Caesarstone also provided misleading information regarding the respiratory protection necessary to prevent silicosis, by stating: "Respiratory equipment approved by NIOSH/MSHA for protection against organic vapors and dusts is necessary to avoid inhalation of excessive air contaminants. The appropriate respirator selection depends on the type and magnitude of exposure (refer to 29 CFR 1910.134 for appropriate NIOSH approved respirators and to the NIOSH Pocket Guide to Chemical Hazards, DHHS (NIOSH) Publication NO. 2001-145 for equipment selection)." This information was misleading, because NIOSH-approved air-purifying respirators that provide protection against organic vapors and some dusts are inadequate to prevent silicosis among fabricators and installers who are exposed to

respirable crystalline silica dust, especially from artificial stone products, due to their extremely high crystalline silica content. Indeed, studies have shown that the use of air-purifying respirators is inadequate to prevent silicosis among fabricators and installers, and that only NIOSH-approved *air-supplied* respirators (respirators attached to a tank of fresh air which workers wear in a backpack) are adequate to prevent silicosis and death to artificial stone countertop fabricators and installers.

349. In its Safety Data Sheet, Caesarstone also provided the following use instruction: "Do not breathe dust generated in the cutting, grinding and polishing processes." This instruction was inadequate and harmful, because dust is *always* generated when artificial stone is fabricated and workers must breathe to work and to live. The instruction did not inform workers how they could do their work and "not breathe dust generated in the cutting, grinding and polishing processes."

Caesarstone's 2015 Annual Report Filed with the Securities and Exchange Commission

350. In 2015 Caesarstone Sdot-Yam Ltd. filed its Annual report for the fiscal year ended December 31, 2014 with the Securities and Exchange Commission. In this report Caesarstone wrote:

> ***Silicosis and related claims might have a material adverse effect on our business, operating results and financial condition.***
>
> We are party to 60 pending bodily injury lawsuits that have been filed against us directly since 2008 in Israel or that have named us as third-party defendants by fabricators or their employees in Israel, by the injured successors, by the State of Israel or by others. Such lawsuits include, among others, one lawsuit filed by three fabricators, one lawsuit filed by the National Insurance Institute ("NII"), an appeal which was filed in connection with a judgment granted in one of the lawsuits and a lawsuit filed against us where the claimants applied for its certification by the court as a class action. As of today, we have also received ten letters threatening to file claims against us on behalf of certain fabricators and their employees in Israel. The plaintiffs claim that they contracted illnesses, including silicosis, through exposure to silica particles during cutting, polishing, sawing, grinding, breaking, crushing, drilling, sanding or sculpting our products. Silicosis is an occupational lung disease that is progressive and sometimes fatal, and is characterized by scarring of the lungs and damage to the breathing function. Inhalation of dust containing fine silica particles as a result of poorly protected and controlled, or unprotected and uncontrolled, exposure, while working in different occupations, including among other things, processing quartz, granite, marble and other materials and working with quartz, can cause silicosis and other diseases. Silica comprises approximately 90% of engineered stones such as our products, and smaller concentrations of

silica are present in natural stones. Therefore, fabrication of engineered stones may create higher exposure to silica dust and, accordingly, may cause a higher risk of silicosis. Recently the Occupational Safety and Health Administration "OSHA" and the National Institute for Occupational Safety and Health "NIOSH" have published a hazard alert, according to which they identified exposure to silica as a health hazard to workers involved in manufacturing, finishing and installing natural and manufactured (engineered) stone countertop products, both in fabrication shops and during in-home finishing/installation.

Most of the claims do not specify a total amount of damages sought and the plaintiffs' future damages, if any, will be determined at trial. Although we intend to vigorously contest the claims, we cannot provide any assurance that we will be successful. We currently estimate that our total potential exposure with respect to the 47 pending lawsuits is approximately $12.1 million, although the actual result of such lawsuits may vary significantly from such estimate. We cannot make an estimate with respect to the other pending lawsuits. As of today, only one claim was resolved in court proceedings with an Israeli district court, finding that the self-employed plaintiff was 40% at fault and dividing the remaining 60% of liability between the State of Israel and us, with 55% imposed on us and 45% imposed on the State of Israel. This judgment is currently on appeal in Israel to the Supreme Court.

In April 2014, a lawsuit by a single plaintiff and a motion for the recognition of this lawsuit as a class action were filed against us in the Central District Court in Israel. The plaintiff alleges that, if the lawsuit is recognized as a class action, the claim against us is estimated to be for NIS 216 million (approximately $56 million). In addition, the claim includes an unstated sum in compensation for special and general damages. We intend to vigorously contest recognition of the lawsuit as a class action and to defend the lawsuit on its merits, although, considering the preliminary stage of this lawsuit, there can be no assurance as to the probability of success or the range of potential exposure, if any. We may be subject to putative class action lawsuits in the future in Israel and abroad and we cannot be certain whether such claims will succeed in being certified.

We are exposed in Israel to potential future subrogation claims by the NII, providing for reimbursement of its payments related to damages paid or that will be paid to plaintiffs, if we are found liable for the plaintiffs' damages. As of today, one of the 60 pending claims against us was brought by the NII, for payments the NII had made or will make in the future with respect to three fabricators who allegedly contracted silicosis. The amount of damages to which we may be liable to the NII in such a subrogation claim may not exceed the actual amount of an injured person's damages for which we are liable after deducting any compensation which we would pay to such injured pursuant to his/her direct or indirect claim against us.

Any pending or future litigation is subject to significant uncertainty. We cannot determine the amount of potential damages, if any, in the event of an adverse development in a pending or future case, in part because the defendants in these types of claims are often numerous,

the contraction of the alleged illness or its degree of severity is unclear, the claims generally do not specify the amount of damages sought, our product's involvement may be speculative and the degree to which our product may have caused the alleged illness may be unclear. In addition, punitive damages may be awarded in certain jurisdictions, even though they are rare in Israel. Furthermore, we may face future engineering and compliance costs to enhance our compliance with existing standards relating to silica or to meet new standards if such standards are heightened. Our fabricator customers may also face engineering and compliance costs related to the fabrication of our products and similar products, which could cause them to resort to fabricating alternative products that do not carry the same risks associated with silica dust generated from the fabrication of our products. OSHA is currently considering lowering the permissible exposure limit to silica dust. Any damages to which we are subject in litigation, the cost of defending any claims, compliance costs, and the loss of business from fabricators who no longer find it practical to fabricate our products may have a materially adverse impact on our profitability. Moreover, because Israeli law and the laws of several other jurisdictions recognize joint and several liability among co-defendants in civil suits, even if we are found only partially liable to a plaintiff's damages, the plaintiff may seek to collect all his damages from us, requiring us to collect separately from our co-defendants their allocated portion of the damages and there can be no assurance that we will succeed in such collection.

We currently have product liability insurance in Israel, which applies to claims that may be submitted against us worldwide during the insurance policy term and our Australian and U.S. subsidiaries have product liability insurance in Australia and the United States, respectively, that covers silicosis. We believe that our current insurance in Israel covers the pending individual product liability claims; however with respect to the claim brought in April 2014 where the plaintiff applied for class certification, our insurer has notified us that our product liability insurance covers such claim only partially. While we believe such class action is fully covered by our product liability insurance policy, there is no certainty that our insurance would also cover the class action. In addition, as discussed in "ITEM 8.A: Financial Information—Legal Proceedings," the amount claimed in the currently pending class action exceeds our insurance coverage by a material amount.

In the scenario that we are unable to renew our insurance at all or in part, from our current insurers or from others, we are unable to obtain coverage from other insurance providers, we cannot obtain insurance on as favorable terms as previously, our insurance is terminated early, our insurance coverage is decreased, our insurance coverage inadequately covers damages for which we are found liable, or we become subject to silicosis claims excluded by our employer liability insurance policy, we may incur significant legal expenses and become liable for damages, in each case, that are not covered by insurance, and our management could expend significant time addressing such claims. Such events might have a material adverse effect on our business and results of operations.

///

> Consistent with the experience of other companies involved in silica-related litigation, there may be an increase in the number of asserted claims against us. Such claims could be asserted by claimants in different jurisdictions, including Israel, the United States, Canada, Australia and other markets where our products are distributed and sold and could result in significant legal expenses and damages. Although we believe that claimants in any future silica-related claims involving us should be limited to persons involved in the fabrication of our products and those in the immediate vicinity of fabrication activities, claimants may potentially include our employees or end consumers, seeking compensation for bodily or emotional/non-physical damages. Four employees currently employed in our plants have been diagnosed with suspected cases of silicosis. For more information, see "ITEM 8.A: Financial Information— Legal Proceedings—Claims related to alleged silicosis injuries."

351. The 2015 annual report contains a section "ITEM 8.A." regarding legal proceedings concerning "Claims related to alleged silicosis injuries" that provides the following information:

> ***Overview***
>
> We are subject to a number of claims in Israel by fabricators or their employees alleging that they contracted illnesses, including silicosis, through exposure to silica particles during cutting, polishing, sawing, grinding, breaking, crushing, drilling, sanding or sculpting our products. Silicosis is an occupational lung disease that is progressive and sometimes fatal, and is characterized by scarring of the lungs and damage to the breathing function. Inhalation of dust containing fine silica particles as a result of poorly protected and controlled, or unprotected and uncontrolled, exposure while working in different occupations, including among other things, processing quartz, granite, marble and other materials and working with quartz can cause silicosis. Silica comprises approximately 90% of engineered stones, including our products, and smaller concentrations of silica are present in natural stones and, therefore, fabrication of engineered stones may create higher exposure to silica dust and, accordingly, may cause a higher risk of silicosis.
>
> ***Individual Claims***
>
> As of today, we are party to 60 pending claims of bodily injury that have been filed against us directly since 2008 in Israel or that have named us as third-party defendants by fabricators or their employees in Israel, by the injured successors, by the State of Israel, or by others. Such lawsuits include one lawsuit filed by the Israeli NII which was filed with respect to three individuals who filed personal claims against us and one lawsuit where the claimants applied for its class certification. Of 63 claims that had been filed against us, including the 60 pending claims, 62 were filed in Israel and one in the United States, two claims were settled and one claim which was filed in the United States was dismissed, as further detailed below. Out of the 63 claims mentioned above, one claim was filed in 2008, two in 2009, four in 2010, seven in 2011, eight in 2012, eight in 2013, 28 in 2014 and five in 2015 through the filing of this annual report. As of today, we have also received ten letters threatening to file claims against us

on behalf of certain fabricators in Israel or their employees in Israel alleging that they contracted illnesses as a result of fabricating our products. Each of the claims named other defendants, such as fabricators that employed the plaintiffs, the Israeli Ministry of Industry, Trade and Employment, distributors of our products and insurance companies. The pending claims include one lawsuit filed with a petition to be certified as class action, one lawsuit filed by three stone fabricators together and one appeal which was filed in connection with a judgment granted in one of the lawsuits (as further detailed below). In addition, one claim was filed by the NII for subrogation of compensation paid by the NII to certain fabricators who allegedly contracted silicosis. Various arguments are raised in the claims, including, among others, product liability arguments and failure to provide warnings regarding the risks associated with silica dust generated by the fabrication of our products.

Most of the claims do not specify a total amount of damages sought, as the plaintiff's future damages will be determined at trial; however, damages totaling approximately $22.3 million are specified in 55 of the claims currently pending against us in Israel (excluding the claim that is seeking class action recognition). A claim filed with the magistrates court in Israel is limited to a maximum of NIS 2.5 million (approximately $642 thousands) plus any fees, and among the 60 pending claims filed against us in Israel, 35 claims were filed in the magistrates court. A claim filed in the district court is not subject to such limitation. As a result, there is uncertainty regarding the total amount of damages that may ultimately be claimed.

We intend to vigorously contest pending claims against us, although there can be no assurance that we will succeed in these claims and there is a reasonable possibility that we will be liable for damages in such lawsuits. We currently estimate our total reasonably possible exposure with respect to 47 pending lawsuits (other than the lawsuits filed with a motion to be recognized as a class action) to be approximately $12.1 million, although the actual result of such lawsuits may significantly vary from such estimate. As of today, only one claim was resolved by an Israeli District court, imposing liability of 40% on the self-employed plaintiff and dividing the remaining 60% liability between the State of Israel and us, with 55% imposed on us and 45% on the State of Israel. That judgment was appealed to the Supreme Court by the plaintiff, the State of Israel and us.

Israeli law, as well as the law of other jurisdictions, recognizes joint and several liability among co-defendants in civil suits. In cases where co-defendants are found liable, the plaintiff is entitled to collect all damages from only one of the liable defendants. Thus, even if we are found only partially liable to a plaintiff's damages, the plaintiff may seek to collect all his damages from us, requiring us to collect separately from our co-defendants their allocated portion of the damages. If defendants are insolvent or we are unsuccessful in collecting their portion of the damages for any other reason, we may incur damages beyond the damages we are liable for.

We currently estimate that contingent losses related to the pending claims mentioned above are no more than reasonably possible. In addition, we believe that an adverse outcome to the claims filed

against us to date (other than the class action) would not have a material adverse effect on our financial position, results of operations, or cash flows, in part, due to the current availability of insurance coverage; however, there can be no assurance that our insurance coverage will be adequate or that we will prevail in these cases.

Class Action Claim

A lawsuit by a single plaintiff and a motion for its class certification were filed against us in April 2014 in the Central District Court in Israel. The plaintiff claims to be the owner of a fabrication plant and to have contracted silicosis as a result of fabricating our products. In connection therewith, the plaintiff claims that we did not provide adequate warnings with respect to the risks and protection measures required with respect to fabrication of our products, and that we intentionally hid and did not warn about the high risk and irreversible damages that may occur to the persons processing our products and misled the fabricators in Israel by comparing the hazards related to the fabrication of our products to those associated with the fabrication of natural stones. In acting so, the plaintiff claims that we did not act as a reasonable manufacturer; we violated the law and Israeli standards, committed an assault, acted negligently and are liable under the Israeli Law for Liability for Defective Products, 1980. The plaintiff also claims that our products are a "dangerous item" under the Israeli Tort Ordinance, 5728-1968 and, therefore, the plaintiff claims that the burden of proof falls on us to prove that there was no carelessness for which we are liable in connection with our products. The plaintiff claims that by our wrongful conduct we violated the plaintiff's freedom to choose whether to be exposed to the risks associated with the fabrication of our products.

The plaintiff alleges that, if the lawsuit is recognized as a class action, the claim against us is estimated to be NIS 216 million (approximately $56 million), calculated by claiming damages of NIS 18,000 ($4,628) for each individual who worked in fabrication workshops in Israel in fabrication or administrative roles and who have been exposed to dust generated by the fabrication of our products. The plaintiff claims that there are 12,000 such individuals who worked at 400 fabrication workshops in Israel, each of which employed 10 fabricators and five administrative persons, with one rotation during the relevant period. In addition, such claim includes an unstated sum in compensation for special and general damages, such as medical disability, functional disability, pain and suffering, medical expenses, medical and nursing assistance, which will require proof and quantification for each injured person in the purported class action. The plaintiff seeks, among other things, to compel us to notify the alleged group (and potential members of the group) and each individual about the risks, recommending that they undertake a medical examination and assert their rights.

We intend to vigorously contest recognition of the lawsuit as a class action and to defend the lawsuit on its merits, although, considering the preliminary stage of this lawsuit, there can be no assurance as to the probability of success or the range of potential exposure, if any.

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December 2013 Judgment

The plaintiff alleges that, if the lawsuit is recognized as a class action, the claim against us is estimated to be NIS 216 million (approximately $56 million), calculated by claiming damages of NIS 18,000 ($4,628) for each individual who worked in fabrication workshops in Israel in fabrication or administrative roles and who have been exposed to dust generated by the fabrication of our products. The plaintiff claims that there are 12,000 such individuals who worked at 400 fabrication workshops in Israel, each of which employed 10 fabricators and five administrative persons, with one rotation during the relevant period. In addition, such claim includes an unstated sum in compensation for special and general damages, such as medical disability, functional disability, pain and suffering, medical expenses, medical and nursing assistance, which will require proof and quantification for each injured person in the purported class action. The plaintiff seeks, among other things, to compel us to notify the alleged group (and potential members of the group) and each individual about the risks, recommending that they undertake a medical examination and assert their rights.

We intend to vigorously contest recognition of the lawsuit as a class action and to defend the lawsuit on its merits, although, considering the preliminary stage of this lawsuit, there can be no assurance as to the probability of success or the range of potential exposure, if any.

December 2013 Judgment

In December 2013, a judgment was entered by the Central District Court of Israel in one of the lawsuits, according to which we were found to be comparatively liable for 33% of the plaintiff's total damages. The remaining liability was imposed on the plaintiff at 40%, as contributory negligence, and on the Israeli Ministry of Industry at 27%. The total damages of the plaintiff were found by the court to be NIS 5.3 million ($1.4 million). Since the plaintiff received payments from the NII, such payments were subtracted from the total damages after reduction of the damages contributed to the plaintiff's contributory negligence. However, under Israeli law, under certain condition a plaintiff may be awarded as compensation from third party injurers, other than his employer, at least 25% of the damages claimed even if the payments that the plaintiff received from the NII equal or exceed the actual damages of the plaintiff after deducting his contributory liability. Accordingly, in the above claim, the court awarded the plaintiff additional compensation of approximately NIS 800,000 ($0.2 million) plus legal fees and expenses, which reflected 25% of the plaintiff actual damages, after deducting the plaintiff's contributory negligence and the amount of NIS 3.3 million ($0.8 million) to which the claimant is entitled from the NII. After giving effect to the Israeli Ministry of Industry’s comparative responsibility, the total liability imposed on us in this case was NIS 436,669 ($0.1 million) plus the claimant’s legal expenses. Such amount was fully paid by our insurer in January 2014 (apart from our deductible). We, as well as the Israeli Ministry of Industry and the plaintiff, appealed on the judgment to the Israeli Supreme Court. There is no assurance whether we or any of the other appellant shall succeed in the appeals.

Claim by Former Employee

One of the fabricators who filed a claim against us was employed by us in the past and claimed that his illness was, in part, the result of his employment with us. Although there can be no assurance that we will succeed in such claim, we believe that his illness is not related to his employment by us. We are not currently subject to any other claim from our employees related to silicosis; however we may be subject to such claims in the future. Our employers' liability insurance policy excludes silicosis claims by our employees, and to the extent we become subject to any such claims, we may face claims in excess of the portion covered by the NII.

Settled Claims

We were also a party to two settlement agreements that had been approved by a court with respect to two of the claims filed. In one case, the total settlement was for NIS 275,000 (approximately $71,000) of which we had agreed to pay NIS 10,000 (approximately $3,000) without admitting liability. Substantially all of the balance was payable by the fabricator that employed the individual in question and insurance companies. In the other case, the total settlement was for NIS 130,000 (approximately $33,000) of which we agreed to pay NIS 80,000 (approximately $21,000). The balance was payable by the fabricator that employed the deceased plaintiff.

We can provide no assurance that other lawsuits will be settled in this manner or at all.

Dismissed U.S. Claim

In 2012, Caesarstone USA was added as a 26th defendant approximately one year after commencement of a lawsuit bodily injury claim in the United States by a fabricator in the United States. The other 25 defendants were manufacturers of equipment utilized in stone fabricating or finishing operations or manufacturers and marketers of stone and engineered stone products. Total damages of approximately $56 million, including approximately $20 million of punitive damages, were sought in the U.S. claim. The case was ultimately dismissed and we were removed as a defendant.

Insurance

We currently have product liability insurance in Israel, which applies to claims that may be submitted against us worldwide during the insurance policy term and our Australian, and U.S. subsidiaries have product liability insurance in Australia, and the United States, respectively, covering their activities. Our product liability insurance, currently covers claims that are submitted worldwide during the insurance policy term up to an amount of $20 million per claim and per insurance policy term, plus legal fees and litigation costs in three layers. Commencing in 2008, we had five consecutive insurance policies in Israel, effective for periods of 12 to 18 months.

We believe that our current insurance covers the pending individual product liability claims; however, with respect to the claim which was

required to be recognized as a class action, our insurer has notified us that our product liability insurance covers such claim only partially. Although, it is our position that such class action is fully covered by our product liability insurance, but subject to the coverage amount limit and to the insurer position, there is no certainty whether our insurance would also cover the class action. In addition, the amount claimed in the currently pending class action exceeds our insurance coverage by a material amount.

Our product liability insurance includes coverage of up to $20 million, plus legal fees and litigation costs. The coverage includes (i) coverage of $5 million provided by an Israeli insurer, which initially insured us for $10 million beginning in March 2014 and then reduced the coverage to $5 million in July 2014 (the “first layer”), (ii) additional coverage of $5 million (the "second layer") in excess of the first layer, and (iii) an additional excess layer of $10 million in excess of the first layer and second layer, starting from July 2014 (the "third layer"). Our product liability insurance policy is effective until March 31 2015. Our current product liability insurance policy includes a double-rate premium compared to our prior year insurance and a deductible of $125,000 per claim that was applied within the renewed policy term, instead of a $5,000 deductible applied previously. The second and third layers apply only for illnesses discovered after February 2010. Our first layer insurer has informed us that the first layer of coverage will not be renewed as of March 31, 2015. Although we will seek to renew our product liability insurance to cover silicosis related claims, there is no assurance that we will be successful.

We believe that our current insurance in Israel covers the pending individual product liability claims; however with respect to the claim brought in April 2014 where the plaintiff applied for class certification, our insurer has notified us that our product liability insurance covers such claim only partially. While we believe that such class action is fully covered by our product liability insurance policy, subject to the coverage amount limit, there is no certainty whether our insurance would also cover the class action. In addition, as discussed below, the amount claimed in the currently pending class action exceeds our insurance coverage by a material amount.

In the event that we are unable to renew our insurance at all or in part, we are unable to obtain coverage from other insurance providers, we cannot obtain insurance on as favorable terms as previously, our insurance is terminated early, our insurance coverage is decreased, our insurance coverage inadequately covers damages for which we are found liable, or we become subject to silicosis claims excluded by our employer liability insurance policy, we may incur significant legal expenses and become liable for damages, in each case, that are not covered by insurance, and our management could expend significant time addressing such claims. Such events might have a material adverse effect on our business and results of operations.

Our employer liability insurance excludes silicosis damages and, therefore, in case that we are found liable for any of our employees’ illness with silicosis, we will have to bear compensation for such damages, which might have adverse effect on our business and results of operations.

352. The information provided in Caesarstone's year-end 2014 annual report was known to the officers and directors of the company that are identified in the report as follows:

Officers

Yosef Shiran	Chief Executive Officer
Yair Averbuch	Chief Financial Officer
David Cullen	Chief Executive Officer Caesarstone Australia
Sagi Cohen	Chief Executive Officer Caesarstone USA
Giora Wegman	Deputy Chief Executive Officer
Michal Baumwald Oron 41	Vice President Business Development and General Counsel
Eli Feiglin	Vice President Marketing
Erez Schweppe	Vice President Sales
Harel Boker	Vice President of Operations
Tzvika Rimon	Israel Country Manager
Erez Margalit	Vice President Research and Development
Lilach Gilboa	Vice President Human Resources

Directors

Maxim Ohana	Chairman
Yonatan Melamed	Director
Moshe Ronen	Director
Shachar Degani	Director
Irit Ben-Dov	Director
Ofer Borovsky	Director
Belinkov	Director
Avner Naveh	Director
Ofer Tsimchi	Director

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Or Gilboa	Director
Amihai Beer	Director

Caesarstone's Knowledge of the Silicosis Epidemic From 2015 to 2020

353. In 2015 Spruce Point Capital Management issued an Investment Research Report regarding Caesarstone (CSTE), with a *"Strong Sell"* recommendation, the Executive summary of which stated:

> **Unquantifiable Product Liability for Silicosis-Related Deaths:** CSTE is a party to a growing number of lawsuits related to death and injury as it relates to injuries suffered by workers and fabricators of its products in Israel (from 14 in 2012, to 60 today). A single plaintiff and motion for class action certification alleges a $56m damage. CSTE's insurer said it would only be partially covered, thus exposing CSTE to a material risk. CSTE is also in the process of opening its new facility in the U.S. and OSHA has recently warned about the dangers of silicosis, specifically highlighting issues in Israel. Increasing regulatory scrutiny could drive up its cost of doing business.

354. In 2015, Caesarstone opened a new facility in the United States with an investment of about 100 million dollars. The plant was built in Richmond Hill, Georgia, and provides Caesarstone® mainly to markets in North America, and other countries as well.

355. By 2015, another 15 Israeli workers occupationally exposed to Caesarstone had developed silicosis, bringing the total number of silicosis cases attributed to Caesarstone to 40 cases. Of the 40 cases, 16 were lung transplant recipients (an additional 6 transplants above the 10 that the Israeli researchers had report three years earlier). Of the 40 workers who had silicosis from occupational exposure to Caesarstone, 9 also had specific diagnoses of autoimmune diseases, which are also known to be caused by occupational exposure to crystalline silica. The Israeli physicians observed that "[a]ll 40 patients included in the study were male and had substantial occupational histories of silica exposure while working with a high-silica-content synthetic stone material. They all did similar work that included drycutting and polishing the stone for end use, predominantly for kitchens and other countertop applications." The researchers "identified nine patients with a specific diagnosis of autoimmune disease among the 40 persons with silicosis evaluated at our lung

transplantation centre, representing 23% of the cohort." Straichman O, et al., "Outbreak of autoimmune disease in silicosis linked to artificial stone," *Occup. Med.* 2015; 65:444-450. The results of this study were known to Caesarstone's officers and directors at the time of publication.

356. By November 2016, the Israeli physicians had identified 82 workers who had been exposed to artificial stone dust (Caesarstone) and had been diagnosed with silicosis, of whom 13 patients underwent lung transplantation. This was more than double the number of workers exposed to Caesarstone that they had identified in 2015 as having silicosis. The Israeli researchers reported progressive massive fibrosis, indicating advanced and complicated silicosis in 85% of the lung transplant patients. Additionally two patients had silicoproteinosis diagnosed within the resected lung, indicating an acute or accelerated form of silicosis. The researchers concluded that "[t]his silicosis current outbreak is important because of the worldwide use of this and similar high-silica-content artificial stone products, which can cause progressive severe forms of silicosis." Grubstein A, et a., "Radiological Evaluation of Artificial Stone Silicosis Outbreak: Emphasizing Findings in Lung Transplant Recipients," *J. Comput. Assist. Tomogr*. 2016; 40(6):923-927. The findings and conclusions of this study were known to Caesarstone's officers and directors at time of publication.

357. In 2016, an abstract by Israeli researchers was presented at the 2016 annual meeting of the International Society for Environmental Epidemiology and published the following year in the journal *Environmental Health Perspectives*. The Israeli researchers reported that "Israel's stone industry is witnessing a drastic rise in silicosis" and that "a total of 203 new cases were identified since 2009 alongside with an increase in use of artificial quartz surfaces at ~ 500 enterprises [in Israel]." The abstract further stated that "[t]hese high-end and durable countertops Israeli-made surfaces, introduced in 1987, consist of up to 93% of crystalline silica (SiO2)" and that "[a]nalyses of registered cases (2012-2014) indicate a short latency period (65% ≤20 years; 37%≤10 years), as compared to former registry." Raanan N, et al., "An Outbreak of Artificial Stone Silicosis in Israel – A Call for Worldwide Awareness," Abstract No. P3-208, presented at the 2016 Annual Meeting of the International Society for Environmental Epidemiology in 2016, published in *Environmental Health Perspectives* in 2017 at https://ehp.niehs.nih.gov/doi/abs/10.1289/isee.2016.4338.

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358. In 2017, the Israeli researchers published a study in which they reviewed data for all patients who underwent lung transplantation for silicosis and a matched group undergoing lung transplantation for idiopathic pulmonary fibrosis (IPF) at the National Transplant Center from March 2006 and the end of December 2013. Survival was followed through 2015. They noted that a total of 17 lung transplantations had been performed for silicosis among 342 lung transplantations (4.9%) during the study period. They also observed a survival advantage that was not statistically significant (hazard ratio 0.6; 95% CI 0.24–1.55) for those undergoing lung transplantation for silicosis relative to idiopathic pulmonary fibrosis patients undergoing lung transplantation during the same period. Rosengarten D, et al., "Survival Following Lung Transplantation for Artificial Stone Silicosis Relative to Idiopathic Pulmonary Fibrosis," *Am. J. Ind. Med.* 2017; 60:248-254. This study This study showed that workers who receive lung transplants for silicosis resulting from occupational exposure to artificial stone (Caesarstone) generally fare well as lung transplant recipients. The study was known to the officers and directors of Caesarstone at or about the time of publication.

Caesarstone's January 2020 Safety Data Sheet

359. In January 2020, Caesarstone issued a new Safety Data Sheet for its Caesarstone® product. In Section 1 of this Safety Data Sheet, headed "Product and Company Identification," Caesarstone identified the "product name" as "Caesarstone® surfaces" and stated: "This Safety Data Sheet relates to Caesarstone Classico, Supernatural and Metropolitan collections." This section of the Safety Data Sheet listed five Caesarstone entities (Caesarstone Ltd., Caesarstone USA Inc., Caesarstone Canada Inc., Caesarstone Australia Pty Ltd., Caesarstone South East Asia Pte Ltd., and Caesarstone (UK) Ltd), and provided their addresses and telephone numbers. The next page of the Safety Data Sheet contains a statement that "In this SDS "Caesarstone® slabs are referred to also as 'products.'" Thus, this Safety Data Sheet clearly applied to Caesarstone® that was marketed and sold in the United States in slabs which required fabrication before installation in consumers' homes.

360. Section 2 of Caesarstone's January 2020 Safety Data Sheet, titled "Hazards Identification," began with the following statement: "The finished Caesarstone® is an inert, stable

product that does not release hazardous materials in its fully intact form." This statement is misleading in two respects. First, Caesarstone® is not a "finished product," i.e., a product that can be used by consumers, but is instead an industrial product that requires extensive processing before it becomes a finished product that can be installed as countertops in consumers' homes. As explained in an article published in *Business of Home* that very month, "consumers - even designers - can't go to a stone supplier or a Caesarstone showroom and order the company's product" and Elizabeth Margles, Caesarstone's vice president of marketing was quoted in that article admitting "We sell to the fabricator." Second, and more importantly, the statement that the product "does not release hazardous materials in its fully intact form" does not identify hazards of the product, but instead misleads readers to believe that the product has no hazards because the of the language that the "product does not release hazardous materials."

361. Section 2 of Caesarstone's January 2020 Safety Data Sheet contains three "Hazard Statements":

- (H350) May cause CANCER (inhalation)
- (H372) Causes damage to lungs through prolonged or repeated exposure (inhalation)
- (H335) May cause respiratory tract irritation

Although silicosis is the major health hazard of Caesarstone®, the Safety Data Sheet does not mention silicosis at all in the Hazards Identification section of the Safety Data Sheet.

362. The three hazards identified in the Hazards Identification section of the Safety Data Sheet are all inadequate and misleading for several reasons. The statement that the product "may cause cancer" is misleading because it suggests that the product is not known to cause cancer, although it is comprised of more than 90% crystalline silica which for more than 20 years had been classified by the International Agency for Research on Cancer as a known human carcinogen. The statement that the product "causes damage to lungs through prolonged or repeated exposure" is inadequate and misleading for three reasons. First, it suggests that "lung damage" can only occur as a result of "prolonged" exposure which could mean exposure over a few decades. Second, it suggests that "lung damage" can occur as a result of "repeated exposure" which could mean hundreds or thousands of exposures. These statements wrongfully suggest to employers and workers

that fabricators can use Caesarstone® safely as long as their use is not unduly "prolonged" or "repeated," although Caesarstone fails to quantify these terms, leaving workers to guess how "prolonged" or "repeated" their exposure to Caesarstone® must be to cause lung damage. Third, the language that Caesarstone® "causes damage to lungs through prolonged or repeated exposure" does not indicate that the lung damage caused by Caesarstone® is always permanent, irreversible, progressive (continuing after exposure to Caesarstone® ceases), and is often fatal. The statement wholly fails to convey the severity of the hazard to fabricators' respiratory health. This failure is compounded by the third hazard statement that Caesarstone® "may cause respiratory tract irritation," because respiratory tract irritation occurs frequently from such harmless activities as chopping an onion, thereby suggesting that the respiratory hazards of inhaling Caesarstone® may not be serious.

363. Caesarstone's Safety Data Sheet states, on page 3: "**PREVENTION:** Do not breathe dust generated during the Fabrication, installation and/or removing/demolishing processes." This is an inadequate and harmful instruction, because dust is always generated during the fabrication of stone products and were a worker to follow the instruction and hold his breath for a full 8 hour work shift, the worker could suffer asphyxia and other harm. The SDS also states: "Wear respiratory protection for particles (P3/N95 or higher)." This is also an inadequate use instruction, because the extremely high silica content of the product (>90% crystalline silica) renders it so dangerous that the instruction to wear a P3 or N95 mask assures harmful respiratory exposure rather than preventing harmful respiratory exposure, which require an air supplied respirator and other protection.

364. Section 8 of the Safety Data Sheet, which is titled "Exposure Controls/Personal Protection," has subheadings for Exposure Guidelines, Engineering Controls, Cleaning and Maintenance, Preventive Maintenance Programmes, and Personal Protective Equipment.

365. The section of the Safety Data Sheet regarding Exposure Guidelines has a subheading: "Permissible Exposure Limit (PEL)." This is misleading because it implies that exposure to crystalline silica dust is "permissible" although the instruction on page 3 of the SDS states: "Do not breathe dust generated during the Fabrication, installation and/or removing/ demolishing processes." The Safety Data Sheet then states: "There is no provision for any risk associated with the finished Caesarstone® product in the CLP (EC) regulation no. 1272/2008." This

is misleading because it implies an absence of risk associated with the "finished" product simply because the EC [the European Commission] has not decreed the existence of risk associated with the "finished" product. The Safety Data Sheet then states: "[I]n Fabrication Processes of the product, dust containing crystalline silica (SiO_2), other minerals, and titanium dioxide may be generated. USA OSHA determined a total dust PEL of 15 mg/m^3, a respirable fraction PEL of 5 mg/m^3, and a titanium dioxide (total dust) PEL of 15 mg/m^3." This information is misleading because, total dust exposure limits refer to dust that is not toxic (commonly called "nuisance dust") - not to crystalline silica dust. Employers that kept exposures to dust from Caesarstone below 15 mg/m^3 would be exposing their workers to respirable silica dust approximately 200 times greater than the regulatory limit.

366. The Safety Data Sheet then states: "Threshold Limit Value (TLV) for crystalline silica α-quartz and cristobalite (ACGIH 2019): 0.025 mg/m^3." However, it does not explain what a TLV is or how it differs from the PEL. The SDS then states: "Check the PELs applicable under the regulations of each country where you handle the product. PELs for respirable crystalline silica and cristobalite, measured in mg/m^3, 8 hours, TWA are as follows: (These limits may be changed from time to time; you are required to follow local safety announcements.)" The SDS then provides a long list of countries, and for USA OSHA, PEL for respirable crystalline silica states: "0.05 - general industry/maritime" and "$10 \div (\%SiO_2 + 2)$ - construction*." A footnote explains the asterisk: "Fabricators who work at construction sites (for example, installers) should apply the PEL for construction; others should apply the PEL for general industry." This is unintelligible, leaving workers and employers to speculate what exposure level is "permissible" when all exposure to respirable crystalline silica is prohibited by the instruction on page 3: "Do not breathe dust generated during . . . fabrication, installation."

367. The Personal Protective Equipment section of the Safety Data Sheet has a subsection titled "**RESPIRATORY PROTECTION"** that states: "Properly fitted respiratory protection equipment approved by the National Institute for Occupational Safety and Health (NIOSH; USA) for protection against organic vapours and dusts is necessary to avoid inhalation of crystalline silica during the Fabrication Process of the product, and other processes that generate dust. The

appropriate respirator selection depends on the type and magnitude of exposure. Use a positive pressure air supplied respirator if there is a potential for an uncontrolled release, exposure levels are not known, or under any other circumstance where air purifying respirators may not provide adequate protection." This information is inadequate and confusing for several reasons. First, the Safety Data Sheet does not specify the types of respiratory protection equipment that are approved by NIOSH for protection against organic vapors and dusts that are "necessary to avoid inhalation of crystalline silica during the Fabrication Process." Second, the Safety Data Sheet does not explain how the employer or worker can determine whether the unspecified respiratory protection equipment is "properly fitted." Third, it is grossly inadequate to state that "the appropriate respirator selection depends on the type and magnitude of exposure," because the product contains more than 90% crystalline silica, which results in excessive airborne exposures to respirable crystalline silica dust from virtually all fabrication processes, which are defined in Section 2 of the SDS as "cutting, grinding, chipping, sanding, drilling, polishing, etc. manufacturing processes, including during installation or removal of the product." Given the extremely high concentration of crystalline silica in the product (which is many times greater than the silica concentration of natural stone) and the consequent extremely high concentrations of respirable silica dust generated by fabrication processes, the highest level of respiratory protection is necessary to use the product safely, i.e., an independent air supply respirator with full body protection like that typically used by sandblasters, which prevents toxic dust from contacting the body while the worker breathes fresh air from a tank rather than from contaminated workroom air. The language in the Safety Data Sheet that one should "use a positive pressure air supplied respirator if there is a potential for an uncontrolled release, exposure levels are not known, or under any other circumstance where air purifying respirators may not provide adequate protection" is inadequate, because (1) an "uncontrolled release" indicates an extraordinary release of dust as in an industrial accident, whereas all fabrication processes result in the "uncontrolled" release of respirable crystalline silica; (2) exposure levels are never known unless real-time air monitoring is done throughout the workday (which is grossly impractical); and (3) the extremely high concentrations of silica dust generated by fabrication processes of the product

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containing more than 90% crystalline silica are such that air purifying respirators never provide adequate protection against silicosis.

368. Section 11 of the Safety Data Sheet regarding Toxicological Information also provides misleading and inaccurate information. This section of the Safety Data Sheet begins with the statement in boldface type: "**No acute or chronic effects are known from exposure to the intact product.**" This information is misleading because there is no respiratory exposure, ocular exposure, or exposure by ingestion to Caesarstone as a slab of synthetic stone, and the stone slab is so solid and hard that dermal exposure to the slab would not result in any detectable transfer of silica to human skin. Thus, for all practical purposes, there is no exposure "to the intact product." Including this language is therefore unnecessary at best and misleading at worst.

369. The Safety Data Sheet then provides the following information regarding **PRIMARY ROUTES OF EXPOSURE:** "None for intact product. Inhalation and potential exposure to eyes, hands, lungs or other body parts if contact is made with dust emitted from the Fabrication Process." This information is misleading, because fabrication processes invariably result in the inhalation of crystalline silica dust and contact exposure to eyes, hands, lungs and other exposed body parts.

370. Regarding **RESPIRATORY EFFECTS** of Crystalline Silica (SiO_2), the SDS states: "Safety measures including wet processing and the use of effective respiratory protection will reduce the burden of inhaled dust and prevent the disease." This is a false statement, because (1) wet silica dries and becomes airborne by the movement of people, forklifts, other equipment and air currents in fabrication areas, and (2) wet processing does not prevent silicosis. Indeed, silicosis cases have been reported in artificial stone fabricators who regularly used wet processing methods and wore masks full shift. While these precautions reduce exposure to crystalline silica, they do not prevent silicosis. The Safety Data Sheet therefore lulls workers who do their work using wet processing methods and who face masks into a false sense of safety.

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Caesarstone Mounts Public Relations Campaign

371. In the Fall of 2019 National Public Radio reported that almost 20 fabrication workers had fallen ill with silicosis after working with engineered stone. As a result of adverse press, Caesarstone commenced a public relations campaign by announcing an educational initiative, whose real purpose was to inform workers of the hazards of silicosis so Caesarstone could claim that they assumed the risk of silicosis when they were later diagnosed with the dreadful disease.

Judgment Against Caesarstone

372. In 2021, Caesarstone was found liable in Yigal Rozman's lawsuit against the company for causing his silicosis and was ordered to compensate Mr. Rozman for his injuries.

Caesarstone's Health & Safety Webpage

373. As part of this public relations campaign, in 2022 Caesarstone created a webpage titled "Caesarstone® Health & Safety" that stated: "As part of our ESG commitment, we are committed to developing environmentally friendly and low-silica products. We launched our low-silica based product into the market in 2022." Caesarstone® Health & Safety webpage, https://www.caesarstone.com.au/caesarstone-health-safety/.

Caesarstone's Silicosis Statement

374. On February 20, 2023, Caesarstone issued a Silicosis Statement in the form of a letter addressed to "Dear Valued Customer," responding to the company's negative press coverage regarding engineered stone. Caesarstone posted the statement on its website: https://e925c66phkg.exactdn.com/wp-content/uploads/2023/02/Caesarstone-Silicosis-Statement_Feb-2023.pdf.

375. After paying lip service to victims of the silicosis epidemic it caused, Caesarstone wrote: "Silicosis is an avoidable occupational disease and we are absolutely committed to playing

our role in its eradication." Both of these statements are false. First, silicosis is not avoidable from the fabrication of artificial stone, because rigorous use of wet processing methods and wearing air purifying respirators are incapable of preventing silicosis in artificial stone workers. Second, Caesarstone has never shown commitment to eradicating silicosis, but has always blamed the victims of this horrific disease and their employers who have been unable to protect their workers from silicosis due to misinformation and inadequate, harmful use instructions provided by Caesarstone.

376. Caesarstone wrote that "we take issue with a number of claims made in the recent news coverage regarding the safety of engineered stone," asserting: "Engineered stone is entirely safe to consumers in its installed form and silica only presents a risk to workers if stone is handled incorrectly." In the first statement Caesarstone once again seeks to deflect the lethal hazard of silicosis to workers by claiming that "engineered stone is entirely safe to consumers" although Caesarstone is not a consumer product, but is an industrial product and is only sold to consumers as finished countertops after being fabricated. Caesarstone's statement that "silica only presents a risk to workers if stone is handled incorrectly" is false, because studies have shown that artificial stone fabricators who use wet processing methods and wear air purifying respirators still get silicosis.

377. Caesarstone then asserts: "Efforts to improve safety standards have been hampered historically by some non-compliance with product handling requirements, a lack of regulatory enforcement and the absence of a national standard. This is the role of employers and work safety bodies." These statements are also false. The major impediment to improving safety standards for silicosis has not been a lack of regulatory enforcement, but has always been opposition by affected industries to lowering occupational exposure standards for respirable crystalline silica, resulting in the absence of adequate national standards and the perpetuation of standards that do not prevent silicosis. Equally false is Caesarstone's assertion that the silicosis epidemic is due to employers and governmental bodies that try to protect workers from the lethal hazards caused by Caesarstone. Thus, Caesarstone once again blames everyone for the epidemic it caused except itself.

378. Caesarstone then asserts that its "response to the issue has been to provide clear warnings and guides for safe handling of stone, to actively work with government and regulators on improved safety regimes and to invest heavily in fabricator education to improve safety standards."

Of course, all of these statements are false, because Caesarstone has always failed to provide use instructions that could actually prevent silicosis, as demonstrated by the innumerable false, misleading, and harmful statements in its Safety Data Sheets over the years. Caesarstone did not work with government regulators to improve safety regimes and did not invest in fabricator education until its product had caused thousands of illnesses and deaths and Caesarstone decided to adopt a fabricator education program so that it could claim in defense of lawsuits that artificial stone fabricators knew of the hazards of silicosis, having been belatedly apprised of them by Caesarstone.

379. Caesarstone then advocates a licensing program with rigorous auditing and enforcement, so that when fabricators get silicosis, Caesarstone could blame governmental officials who license the fabricators and could blame the fabricators themselves for causing their own deaths.

380. Lastly, Caesarstone argues that natural stone can also cause silicosis although the epidemic is largely driven by artificial stone, rather than lower silica-containing safer products.

Caesarstone's "Opening Statement"

381. In early 2023 Caesarstone responded to a series of questions by Australian regulators in an "Opening Statement" for a public hearing that the company published on its website.

382. One of the questions posed to Caesarstone was: "What level of silica was in the engineered stone in 1987? 95 per cent?" Caesarstone responded to this question: "At that time, the silica content was in the vicinity of 90%." Whether the silica content of Caesarstone was 90% or 95%, this is an extremely high and very dangerous silica content.

383. Another question posed to Caesarstone was: "When Caesarstone started selling artificial stone slabs in 1987 did it know that it contained high levels of silica, a level that is vastly higher than natural stone such as granite and marble and considered carcinogenic to humans if the crystalline silica dust is inhaled?" Caesarstone responded to this question: "Engineered stone has traditionally contained 60-97% silica." Thus, Caesarstone did not answer the simple question whether it knew its product contained silica levels that are much higher than those of natural stone.

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384. Another question posed to Caesarstone was: "Workers in Israel and men who owned businesses and bought the product claim Caesarstone representatives told them the product was natural and did not mention they had to take precautions. Any comment?" Caesarstone responded: "Caesarstone cannot provide a response in the absence of being told any particulars of these discussions." This was an evasive response because Caesarstone must have some knowledge of how its employees marketed the company's product. Even if Caesarstone somehow did not know how its employees marketed its product, Caesarstone could have asked them whether the company's sales representatives told customers that the product was natural and did not mention they had to take precautions, so as to be able to answer the regulators' question.

385. Another question posed to Caesarstone was: "When did Caesarstone first learn that people working with the product were getting sick as a result?" Caesarstone answered this question: "2010." Thus, Caesarstone admitted that at least as early as 2010 it knew that people were getting sick as a result of working with the company's product.

386. Caesarstone was also asked: "In response to a series of questions from Safework NSW as to the alleged first findings of silicosis among artificial stone workers following tests of patients, Caesarstone said it became aware in 2010 as part of the first lawsuit filed against it. How does this correspond with your 2021 annual report which says the first court case was filed in Israel in 2008?" Caesarstone responded to this question as follows: "A single action filed in 2008 does not give rise to a more serious issue in the industry. Caesarstone was not aware of a number of cases of silicosis until 2010." Although the 2008 lawsuit alleging that exposure to Caesarstone's product caused a worker's silicosis was just one case, it put Caesarstone on notice of the harmful nature of its product.

387. The next question posed to Caesarstone was: "Is Caesarstone suggesting that it never heard about an outbreak of workers being diagnosed wtih silicosis before the 2008 legal action in Israel?" Caesarstone responded to this question as follows: "A single action filed in 2008 does not give rise to a mroe serious issue in the industry. Caesarstone was not aware of a number of cases of silicosis until 2010." Notably, Caesarstone did not deny that before 2008 it heard about the outbreak of silicosis in workers who used Caesarstone in Israel.

388. Another question posed to Caesarstone was: "In 2010 Caesarstone started putting so-called warning stickers on the slabs it was selling. Why did it wait until 2010?" Caesarstone responded to this question as follows: "Caesarstone placed warning labels on slabs of stone when it became aware that workers were contracting silicosis in 2010." Caesarstone's response constitutes an admission that from 1987 when Caesarstone began making the product until 2010 (a period of 23 years), Caesarstone did not put any warnings on slabs of the product.

389. Another question posed to Caesarstone was: "How big was the warning sticker in Feb 2010 on the slab? – can you provide the measurement? How big is the slab? What part of the slab was the sticker put - on top, the bottom or was there no specific place?" Caesarstone responded: "The warning label is affixed to the back of each slab. The labels started in 2010 at approximately 14cm x 14cm. The 'standard' current [slab] size is 3050mm v 1440 mm." Converting from the metric system to American measurements, the sticker was about 5½ square inches and the slab was about 10 feet by $4^3/_4$ feet. Thus, the sticker covered less than a half of 1 percent of the surface area of the slab.

390. Another question posed to Caesarstone was: "In early 2010 a documentary in Israel aired which exposed workers dying of silicosis due to engineered stone. The documentary had been in the works months before it aired. Is that what triggered the decision by Caesarstone to start attempting to put warning labels on the products?" Caesarstone answered this question, "Yes," thereby admitting that it only began putting warning labels on the product *after* deaths of Israeli workers were publicly aired on Israeli television.

391. Another question posed to Caesarstone was: "When did Caesarstone start putting hazard warning symbols on the labels to Australia? Why did it take so long? Why didn't it do it from 2010?" Caesarstone responded: "While the first labels did not include the warning symbols, they clearly included the word: "WARNING." Notably, Caesarstone avoided answering the question and did not explain why the company did not put hazard warning *symbols* on labels for the product in 2010 – why it took the company another 10 years to do this.

392. Another question posed to Caesarstone was: "In 2010 a study was released with the titled Caesarstone and silicosis. Why did Caesarstone send legal letters to the publisher threatening

legal action if it wasn't changed? At the time more than 90 per cent of the products sold in Israel were Caesarstone. It is claimed by one of the authors it was an attempt to cover up the role of Caesarstone products in the sugre in silicosis cases in Israel?" Caesarstone responded to this question as follows: "The objection to the article was on the basis that it targeted Caesarstone. The article was entitled "Caesarstone® Silicosis: Disease resurgenc among Artificial Stone". The invented name "Caesarstone® Silicosis" did not (and still does not) exist in the World Health Organization's International Classification of Diseases (ICD)." Notably, Caesarstone did not deny that it sent letters to the publisher of the medical journal threatening legal action of the titled of the article "Caesarstone® Silicosis" were not changed.

393. The next question posed to Caesarstone was: "Did Caesarstone ever offer one of the authors of the report a donation to the lab?" Caesarstone responded: "In the short time provided to respond, we have been unable to find any evidence of this." Notably, Caesarstone did not deny that it offered on the authors of the report a bribe.

394. Another question posed to Caesarstone was: "When the Israeli study . . . was finally published in 2012 it was based on a study of workers from 1997 to 2010 who had been diagnosed with silicosis and they all used the Caesarstone product. What did caesarstone do in Australia to warn customers about the study?" Caesarstone responded: "Caesarstone first became aware of this issue in 2010. In terms of customer warnings, see responses to Q5, Q6, Q8 and Q10." Caesarstone did not answer the question; the referenced "customer warnings" don't mention the 2012 Israelis study at all.

395. Another question posed to Caesarstone was: "Caesarstone told Safework reps it visited Stoneworx from 2007 to discuss dust and silicosis. Did Caesarstone ever report any factories to the regulator relating to concerns over dust and safety given workers at these sites have been diagnosed with silicosis. In the case of Stoneworx almost half the workforce was diagnosed with silicosis. If you could provide details." Caesarstone responded: "Caesarstone Ltd did not have representatives in Australia in 2007. Caesarstone Australia started trading on 1 April 2008. Caesarstone is involved in litigation with Stoneworx in the Dust Diseases Tribunal, and it is not appropriate to comment in the context of ongoing litigation." Caesarstone did not deny that it did

not report to the regulator those factories where almost half the workers were diagnosed with silicosis.

396. Another question posed to Caesarstone was: "Does Caesarstone admit it is selling a product that is killing people?" Caesarstone answered this question: "No." However, this response seems inconsistent with Caesarstone's prior statement admitting that it first learned in 2010 that people working with the product were getting sick as a result. In denying that it is selling a product that is killing people, is Caesarstone claiming that none of the many workers who got silicosis from Caesarstone died of silicosis, or is Caesarstone denying that it sells the product?

397. Another question posed to Caesarstone was: "Does Caesarstone agree the product should be banned? If not, what is the company's rationale for not banning it?" Caesarstone responded to this question as follows: "Caesarstone does not support a ban on engineered stone. A ban on engineered stone would not solve the issue of silicosis. There is no logic in banning one product that must be handled in exactly the same manner as all similar products, with almost half of silicosis cases reported in the year to 30 June 2021 occurring in industries outside engineered stone." Thus, Caesarstone argued that engineered stone should not be banned, because engineered stone is *only* responsible for about half of the industrial cases of silicosis.

398. Another question posed to Caesarstone was: "Workers in Israel and Australia, medical specialists and lawyers claim that Caesarstone covered up or underplayed the dangers of the stone for more than a decade after its release, how do you respond?" Caesarstone responded: "Caesarstone notes that the sources of thes eserious allegations are not cited. Caesarstone utterly rejects the notion of covering up or diminishing the seriousness of silicosis." Notably, Caesarstone did not answer the question whether it covered up or underplayed the *dangers* of its product for mre than a decade. Instead, Caesarstone denied that it has covered up or diminished the seriousness of the *disease.*

399. Another question posed to Caesarstone was: "Given so many workers have been diagnosed with silicosis from engineered stone products, including Caesarstone which is the market leader in Australia, do you think there should be a public campagn about the dangers? Should the dangers be mentioned on TV shows that use the product?" Caesarstone answered this question as

follows: "No. In terms of engineered stone, there are no cases of silicosis outside manufacturers and fabricators of the stone. Engineered stone is safe in situ, so there is no risk to consumers. It is an occupational disease that exclusively affects workers who cut, drill, grind or shape the stone without proper precautions." Thus, Caesarstone responded that the dangers of its product should not be made public because it is only manufacturing workers and fabricators who get silicosis - not consumers. Apparently, Caesarstone only values the lives of consumers, not workers.

400. Another question posed to Caesarstone was: "How many court cases in Australia is Caesarstone involved with either directly or as a third party? How many since the first legal case in Australia?" Caesarstone responded: "This is a matter of public record." The question arises why Caesarstone would not even say how many cases it is involved with in Australia. Doesn't Caesarstone know how many cases there are? Doesn't it care? Are there so many cases that it cannot accurately count them all?

401. Yet another question posed to Caesarstone was: "On average, what is the cost difference to produce and also the price sold for a product with less silica?" Caesarstone's response to this question was: "No comment." Thus, Caesarstone refused to state the cost difference to produce low-silica product and its price. Caesarstone's refusal to answer this question precluded regulators from determining whether low-silica product is an economically feasible alternative.

Caesarstone's Submission to Safe Work Australia Regarding the Public Consultation on the Prohibition on the Use of Engineered Stone

402. In April 2023, Caesarstone submitted its position statement to Safe Work Australia regarding that governmental agency's proposed prohibition on the use of engineered stone. In this document Caesarstone responded to the question "do you support a prohibition of engineered stone that contains more than certain percentage of crystalline silica?" as follows: "Yes. Caesarstone supports . . . prohibition on the use of engineered stone containing 40% or more crystalline silica ...."

403. In responding that "Caesarstone supports . . . prohibition on the use of engineered stone containing 40% of more crystalline silica," Caesarstone abandoned the position that it

expressed in its "Opening Statement" earlier that year in which Caesarstone stated: "Caesarstone does not support a ban on engineered stone. A ban on engineered stone would not solve the issue of silicosis."

404. Apparently, Caesarstone concluded it could no longer defend its position that there should be no artificial stone ban, because Cosentino had conceded that the high-silica products are too dangerous and that artificial stone products of more than 40% crystalline silica should be banned.

405. Whatever the reason that Caesarstone abandoned its position that high-silica content artificial stone products should not be banned, its new position that the company "supports . . . prohibition of engineered stone . . . containing 40% or more crystalline silica" establishes that its >90% crystalline silica product is a defectively designed product that should be taken off the market.

406. In its statement to Safe Work Australia regarding that agency's proposed prohibition on the use of engineered stone, Caesarstone also commented: "When orders are placed, Caesarstone distributes the slabs to ... fabricators, who cut, shape and polish the slabs to the required specification. In most cases, the slabs are installed in homes and other buildings by the fabricators or sub-contractors connected to them." These comments are noteworthy, because Caesarstone acknowledged (1) that its artificial stone slabs are industrial products that are distributed to fabricators - not to consumers, and (2) that Caesarstone knew its slabs were being fabricated by "contractors" who were not employees of fabrication companies who would not receive training that employers are required to provide their employees and would not be covered by workers' compensation insurance.

Caesarstone's Disgraceful October 2023 Advertisements

407. Caesarstone has feared that regulators would ban artificial stone in Australia because of the severe health risks it presents to fabricators and the large number of fabricators in Australia who suffer from silicosis. To deter Australian regulators from banning artificial stone, Caesarstone mounted a desperate advertising campaign in October 2023, taking out newspaper ads in Australian

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newspapers that sought to scare people into believing that banning artificial stone would harm Australian "tradies," i.e., fabricators and scare consumers. The advertisement said:

> **Banning benchtops won't solve silicosis.**
> **This incomplete solution puts workers at risk.**
>
> **The Issue**
> The government is currently reviewing a piecemeal ban targeting engineered stone benchtops and ignoring thousands of other products that contain silica. The engineered stone industry employs an estimated 8,000-10,000 Australians, however, they only represent an estimated 0.7% of workers exposed to silica and silicosis. It's clear that this issue isn't motivated solely by the safety of workers and will instead throw the construction industry into chaos.
>
> **The Facts**
> **Engineered stone is safe in our homes**
> As with other common materials that contain silica like bricks, concrete, tiles and sandstone that are not covered by this potential ban, it's the cutting process that requires safety measures to protect workers from silicosis. Like these other materials, engineered stone can be cut and handled safely when safety standards are followed. It's only when these standards aren't followed that there is a risk, as with all stone products containing silica.
>
> **Banning engineered stone will not solve silicosis**
> Substitute products including granite, quartzite and porcelain all contain high levels of silica. Alternate products such as laminate and artificial stone made of bauxite and acrylic binder also contain potentially harmful materials and chemicals. Banning one product does nothing to ensure the safety of the 99.3% of workers who are potentially exposed to other products containing silica that are being ignored by this potential ban.
>
> **A ban would cause chaos for homebuilding and renovations**
> With an estimated 1 million new bathrooms and kitchens built or renovated every year, households and builders will be scrambling to find substitute products that, even then, are likely to contain some level of silica. The construction industry, already under pressure, has warned this will create significant disruption.
>
> **Education, uniform standards and regulations can successfully protect workers**
> There is generally a long latency period for silicosis, which means many current cases are from the past, prior to better education, practices and reduced silica content, which are all improving worker safety.
>
> **The Solution**
> There is a better, less disruptive path forward that will deliver a safer workplace for all stone workers. This includes a ban on engineered stone above 40% silica levels from next year and a transition to even lower levels of silica in the future.

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> This must be coupled with continued worker education, uniform standards, monitoring, a licensing regime and robust enforcement by regulators for work on engineered stone and all products containing silica.

408. This advertisement prompted New South Wales Treasurer Daniel Mookhey to accuse Caesarstone of spinning deception and spreading misinformation. Mookhey compared the current advertising push to the tactics used by concrete manufacturer James Hardie before the nationwide prohibition of asbestos 20 years ago. Angus Thompson, "Ads over deadly engineered stone labelled disgrace and misinformation by state treasurer," *The Sydney Morning Herald* (October 25, 2023).

409. "Can I say in my own personal capacity that having seen that ad yesterday, I thought it was a disgrace, and an attempt at misinformation and misdirection worthy of James Hardie and the worst of their tactics as they fought to stop the regulation of asbestos," Mookhey said. James Hardie was the manufacturer associated with asbestos after using the substance in many of its building products. In 2005, the company signed an agreement with the NSW government to pay $4.5 billion for asbestos victims. Angus Thompson, "Ads over deadly engineered stone labelled disgrace and misinformation by state treasurer," *The Sydney Morning Herald* (October 25, 2023).

410. Construction, Forestry, Maritime, Mining and Energy Union national secretary Zach Smith described the ads as "the most blatantly evil corporate campaign I have ever seen." "No one needs Caesarstone. It is a product that kills people. And it kills them young," he said, adding he would be pushing federal Workplace Relations Minister Tony Burke to ignore the company's "bullshit letters" after it wrote to the minister. Angus Thompson, "Ads over deadly engineered stone labeled disgrace and misinformation by state treasurer," *Sydney Morning Herald* (Oct. 25, 2023).

411. Caesarstone Australia chief executive David Cullen denied there was anything misleading about the advertising campaign, which was run on behalf of several manufacturers under the banner of the Australian Engineered Stone Advisory Group. "Despite the rhetoric from the unions, the reality is that a ban on only one product containing silica will not solve silicosis," Cullen

said. "There is a genuine concern that focusing on only one product containing silica may increase risks to workers by creating the impression that other forms of stone are 'safe' and do not require the same level of caution." Angus Thompson, "Ads over deadly engineered stone labelled disgrace and misinformation by state treasurer," *The Sydney Morning Herald* (October 25, 2023).

412. Dubbed the new asbestos, engineered stone contain up to 95 per cent crystalline silica and is responsible for a surge in irreversible lung disease in stonemasons. Asbestos was banned nationwide in 2003. Angus Thompson, "Ads over deadly engineered stone labelled disgrace and misinformation by state treasurer," *The Sydney Morning Herald* (October 25, 2023).

413. Calls for a blanket ban were taken up by the Australian Council of Trade Unions, which vowed to ban the material from the nation's building sites by next July if state governments had not acted by then. Angus Thompson, "Ads over deadly engineered stone labelled disgrace and misinformation by state treasurer," *The Sydney Morning Herald* (October 25, 2023).

Caesarstone's Response to Australia's Ban of Artificial Stone

414. In response to Australia's ban of artificial stone, which went into effect July 1, 2024, Caesarstone prepared a new page for its website titled "Is Engineered Stone Banned in Australia?" https://www.caesarstone.com.au/is-engineered-stone-banned-in-australia/#:~:text=Come%201st%20July%202024%2C%20engineered,any%20of%20the%20Caesarstone%20collection). It says:

> **Understanding the engineered stone ban in Australia**
>
> *With recent changes in regulations, many of our customers are asking if Caesarstone is banned in Australia, as well as if engineered stone has been banned in Europe and other regions.*
>
> It is important to understand that Caesarstone is the brand name and engineered stone is the product. Caesarstone the company is not banned it is those products defined as 'engineered stone' which has been banned irrespective of the supplier's brand name.
>
> Caesarstone has a number of beautifully designed substitute products for selection that are the ideal solution for applications such as kitchen benchtops, bathrooms, laundries and more.
>
> At Caesarstone, we have been proactively working on making stone production and processes safer and have anticipated and advocated for restrictions around the engineered stone industry, so we have been preparing for this change.

Come 1st July 2024, engineered stone will no longer be sold in Australia.

(Subject to final government decisions we believe contracts entered into prior to December 13th, 2023, will be able to be supplied any of the Caesarstone collection).

Leading up to this date, the sale and installation of engineered stone will continue and post July 1, Caesarstone will offer Caesarstone Mineral™ Crystalline Silica Free surfaces for applications such as kitchen benchtops. Along with the Caesarstone Porcelain collection of surfaces ideal for a variety of applications within your home including kitchen benchtops, bathrooms, laundries and outdoor dining areas.

Our response to the engineered stone ban.

The engineered stone industry is evolving, and so are we.

Since 1987, Caesarstone has been Australia's leading supplier of engineered stone for over 30 years. Over this time, we have heavily invested in the research and development of safer products and processes, we are proud to be leaders in innovation and change in our industry and excited about the evolution of our products.

As part of our commitment to continuous innovation, we have replicated 34 of our most loved market-leading colours and designs to a new crystalline silica-free material blend which will retain the same ease of fabrication and functional performance characteristics as current materials. Same designs, new material blend, Caesarstone Mineral™ Crystalline Silica Free surfaces are the ideal surface solution for kitchen benchtops, splashbacks and applications in bathrooms, laundries, furniture and commercial interiors.

In addition, Caesarstone® have introduced new designs into our Porcelain collection.

Our Porcelain brings additional functional performance to kitchen benchtops as well as being UV resistant and suitable for both indoor and outdoor applications.

Every Caesarstone® surface has a lifetime warranty, which is not impacted by these changes.

The Caesarstone Mineral™ design collection will only be available in the new crystalline silica free material blend from July 1st 2024.

Caesarstone is well advanced in transitioning from our previous low silica formula to the new crystalline silica free material blend, with many of our most loved colours and designs already available; with the full collection concluding latter in 2024.

These products offer the same high-quality aesthetic and durability that Caesarstone is known for, while aligning with the new safety standards. They are developed with cutting-edge technologies and are produced with a unique blend of natural minerals, advanced innovative materials, and recycled materials, such as recycled glass.

Because our commitment to innovation and safety drives us to develop materials that meet the highest standards of environmental sustainability, our transition to crystalline silica free products is a natural progression towards more sustainable products that ensure safer working conditions for our industry.

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> **The future of engineered stone in Australia and beyond**
>
> The trend is clear: there is a move towards safer, more sustainable materials used in industries; and we are at the forefront of this shift to ensure that our products meet not only Australian standards but also global expectations.
>
> **We are leading the way in safe and stylish surfaces**
>
> We understand that our customers want surfaces that are sustainably beautiful and pose no risk of harm to workers during the manufacturing and fabrication of their benchtops. Our crystalline silica free mineral surface is designed with this in mind.
>
> Whether you're renovating your kitchen, designing a new bathroom, or working on a commercial project, you can trust Caesarstone to provide surfaces that are as safe as they are beautiful.

First Verdict Against Caesarstone in the United States

415. The first stone fabricator silicosis case in the United States to be heard by a jury is the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs, et al.,* Los Angeles Superior Court Case No. 22STCV31907, which was filed on September 29, 2022. On August 7, 2024, the jury in that case found Caesarstone USA, Inc. liable for causing the Mr. Reyes-Gonzalez's silicosis under all three theories of liability presented to the jury: negligence, strict liability for failure to warn, and strict liability for defective product design. The jury's verdict, which was rendered against Caesarstone and two other defendants, totaled $52,437,366 for Mr. Reyes-Gonzalez's compensatory economic and non-economic damages. The question whether Caesarstone's conduct warranted the imposition of punitive damages was not addressed by the jury.

416. The day after the jury rendered its verdict, Caesarstone Ltd. filed a Form 6-K Report of Foreign Private Issuer with the Securities and Exchange Commission, stating:

> As previously disclosed, Caesarstone USA, Inc. is one of a number of defendants in a series of lawsuits alleging that fabricators contracted illnesses, including silicosis, through exposure to silica particles while fabricating the defendants' products.
>
> On August 7, 2024, the jury rendered a verdict in one such case brought in the Los Angeles County Court, *Gustavo Reyes-Gonzalez vs. Aaroha Radiant Marble & Granite Slabs, et al*. The jury found all defendants liable and awarded the plaintiffs $52.4 million in damages. Caesarstone USA was apportioned 15% of this amount, or $7.9 million, if assessed without modification.

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> The Company strongly disagrees with the jury's verdict. It believes the verdict is not supported by the facts of the case, such as its failure to acknowledge the proactive measures the Company has taken over the years to warn and educate about safe fabrication practices. The Company intends to pursue its various post-trial remedies, including but not limited to overturning the verdict on appeal.
>
> The Company does not expect the outcome of this claim to have a materially adverse effect on its consolidated financial statements due to the amount involved and the fact that the Company has insurance coverage. The Company is subject to over 45 other product liability claims in the U.S. alleging silica exposure causing silicosis that are in an early stage. While we plan to vigorously defend all these claims, we are unable to provide an estimate of their potential exposure, if any, at this time.

417. Based on Caesarstone's representation to investors that the company does not expect the outcome of the *Reyes-Gonzalez* case "to have a materially adverse effect on its consolidated financial statements due to the amount involved," Caesarstone can withstand punitive damages.

Caesarstone's New "Silica-Free" Sustainable Mineral Surfaces

418. Sometime in 2024 Caesarstone posted a new webpage on its website titled "Sustainable Mineral Surfaces: Pioneering the *Crystalline Silica-Free* Revolution." Available online at https://www.caesarstone.com.au/crystaline-silica-free/#care-faqs. This webpage states:

> Since 1987 Caesarstone has combined design creativity and expertise in crafting beautiful, high-quality, durable and unique surfaces that empower you to create spaces that reflect your style and individuality.
>
> Caesarstone Mineral surfaces are the ideal surface solution for kitchen benchtops, splash backs and applications in bathrooms, laundries, furniture and commercial interiors.
>
> Pioneering, advanced technology.
> Same designs, new material blend.
>
> Caesarstone Mineral™ crystalline silica-free sustainable surfaces are developed by our pioneering expertise and advanced technology, and crafted from a unique blend of distinctive minerals, recycled materials, and other innovative materials.
>
> Utilising cutting-edge technology, they adhere to Caesarstone's highest quality and fabrication standards, surpassing the most rigorous industry and safety testings and complying with strict regulatory requirements, including XRD tests and the Hazard and Human Health Risk Assessment (HHRA) conducted by certified Australian laboratories.

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These surfaces deliver exceptional longevity with minimal maintenance, confirming Caesarstone's renowned quality and outperforming other surface materials, backed by our famous Lifetime Warranty.

Caesarstone is well advanced in transitioning our Mineral designs from the previous low silica formula to the new crystalline silica-free material blend with many of our most popular Mineral designs already available in the new crystalline silica-free blend, with the full collection transition concluding latter in 2024.

419. The webpage included a series of FAQs, as follows:

Q Does the regular Warranty still apply to Caesarstone Mineral™ surfaces?

A Each of our surfaces is carefully inspected to ensure that it meets the highest level of international quality standards and is backed by professional customer service and support. For added peace of mind, Caesarstone products come with a lifetime Warranty. Visit caesarstone.com.au/warranty for more information.

Q What is the difference between Caesarstone Mineral™ crystalline silica-free and the recently banned engineered stone?

A Both of these products are manufactured in the same way, the major difference being in the raw material, engineered stone is classified as an artificial product that: a) is created by combining and heat curing natural stone materials that contain crystalline silica (such as quartz or stone aggregate) with chemical constituents (such as water, resins or pigments). Our Caesarstone Mineral™ material blend is made from recycled glass, polymer resins and pigment.

Q What is the Caesarstone Mineral™ Crystalline Silica-Free Collection?

A The collection is a curated range of our most loved designs, which will be transitioning to a crystalline silica-free material blend in line with the new government regulations. View the designs transitioning throughout 2024.

Q Is there any change to the size of the new crystalline silica-free slabs?

A Moving forward our complete range of Caesarstone Mineral™ surfaces will be available in Grande size slabs 3,240 x 1,640mm x 20mm.

Q Will the new product formulation retain the same look and finishes?

A Same designs and finishes, new material blend. Developed by our pioneering expertise and advanced technology, creating a crystalline silica-free material that delivers high resistance, durability, aesthetics, and exceptional design versatility.

Q What does this new product composition include?

A The new composition combines unique minerals and recycled materials such as glass developed especially for this use. This unique composition uses the materials to create a synergetic effect, bringing forward the best characteristics of each material, resulting in a world-class product that is safer for stonemasons to work with when taking the necessary safety measures.

Q How was this product created?

A Our dedicated efforts are geared towards seamlessly transitioning our most beloved designs to crystalline silica-free alternatives by the end of the year. These endeavours involve continuous investments in research and development, resulting in cutting-edge technologies that leverage specific minerals and advanced materials. This not only upholds our product's durability, strength, versatility, and aesthetics but also ensures that our offerings are free of crystalline silica, reinforcing our commitment to the safety and well-being of our workforce.

Q Do the new crystalline silica-free surfaces have any differences in durability?

A No. Developed by our pioneering expertise and advanced technology, creating a crystalline silica-free material that delivers high resistance, durability, aesthetics, and exceptional design versatility. Retaining the same properties of heat, stain and scratch resistance.

Q Will the range remain the same?

A We have edited our current range of 48 designs back to a curated collection of 33 designs which is reflective of current and importantly future design directions. With many exciting new innovative designs planned for future introduction.

Q When will the crystalline silica-free range be available?

A We are currently working through the transition on our range, with some colours having arrived, and continuing to do so in the months leading up to the end of the year. (availability in crystalline silica-free will vary by state, due to shipping times and stock levels). You can be confident in your choice, backed by our lifetime warranty. We're always here for you, let us know how we can help.

420. Regrettably, Caesarstone's advertising of its "Sustainable Mineral Surfaces" as "[p]ioneering the *Crystalline Silica-Free* Revolution" is yet another fraud by the company, because this new product is not "crystalline silica-free" as Caesarstone is advertising the product. Contrary to the statements on the company's websites and in its promotional material, Caesarstone's Safety Data Sheet dated May 2024 for the "Caesarstone Mineral™ Crystalline Silica-Free Surfaces" states that "[t]he product may contain <1% crystalline silica, of which some or all may be respirable when dust from Fabrication of the product is created." In addition to containing some crystalline silica, the product contains 80-90% recycled glass by weight, consisting primarily of amorphous silica which, although not as toxic as crystalline silica, is still toxic to the human lungs. Like its high-silica content product that has been banned in Australia, this new product also contains a polyester resin at a concentration of 10-15% by weight, which, when cut or ground with electric-powered tools, releases toxic volatile organic compounds (VOCs), including styrene, phthalic anhydride, benzene, ethylbenzene, and toluene. These chemicals are all respiratory irritants and cause various toxic

effects to the human lungs, the most serious of which are asthma, bronchiolitis obliterans, decreased lung function, sclerosis and fibrosis when styrene and phthalic anhydride (which are respiratory sensitizers) are generated when polyester resin is cut or fractured under heat and pressure. Caesarstone's Safety Data Sheet for its"Caesarstone Mineral™ Crystalline Silica-Free Surfaces" does not disclose these toxic hazards and effects of its new supposedly "crystalline silica-free" product. The Safety Data Sheet for the new product also states that the product contains various pigments at a concentration of <0.5%, without identifying any of the chemical constituents of the pigments, although they are metals likely include aluminum, antimony, arsenic, chromium, cobalt, copper, iron, manganese, nickel, titanium, tungsten, and vanadium, some of which cause an immunologic lung disease called hypersensitivity pneumonitis characterized by granulomas in lung tissue.

Knowledge of the Silicosis Hazard by Caesarstone Officers and Directors

421. Throughout the time that Caesarstone manufactured and sold its artificial stone products, exposing fabricators and installers to crystalline silica from its products, Caesarstone's officers and directors were aware that its artificial stone products were defective because they contained extremely high concentrations of crystalline silica, were aware that the use instructions that it provided were inadequate to prevent silicosis and would actually cause silicosis in exposed workers, and were aware that fabrication companies could not protect fabricators and installers from the lethal silicosis hazard presented by its defective artificial stone products. Among Caesarstone's officers and directors who had this knowledge but who nevertheless consciously disregarded the health and safety of fabricators were the following officers and directors of the company:

Officers

Yosef Shiran	Chief Executive Officer
Yair Averbuch	Chief Financial Officer
David Cullen	Chief Executive Officer, Caesarstone Australia
Sagi Cohen	Chief Executive Officer, Caesarstone USA
Arik Tendler	President and Chief Executive Officer, Caesarstone USA

Giora Wegman	Deputy Chief Executive Officer
Michal Baumwald Oron	Vice President Business Development and General Counsel
Eli Feiglin	Vice President Marketing
Erez Schweppe	Vice President Sales
Harel Boker	Vice President of Operations
Tzvika Rimon	Israel Country Manager
Erez Margalit	Vice President Research and Development
Lilach Gilboa	Vice President Human Resources
Maxim Ohana	Chairman of the Board of Directors

Directors

Yonatan Melamed	Director
Moshe Ronen	Director
Shachar Degani	Director
Irit Ben-Dov	Director
Ofer Borovsky	Director
Avner Naveh	Director
Ofer Tsimchi	Director
Or Gilboa	Director
Amihai Beer	Director

CALIFORNIA QUARTZ AND RAPHAEL STONE

422. "California Quartz" is the name of a corporation that has had several incarnations.

423. The oldest corporation of this name appears to be a corporation named California Quartz, Inc. that was incorporated in the State of California on December 17, 1979.

424. The next company that used the name "California Quartz" is California Quartz, Inc., a corporation that was incorporated in the State of Delaware on May 1, 1990.

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425. On October 17, 1990 a Certificate of Merger was filed with the Delaware Secretary of State, whereby California Quartz, Inc., a California corporation, merged into California Quartz, Inc., a Delaware corporate, with the name of the surviving corporation being California Quartz, Inc., a Delaware corporation.

426. On December 24, 1992, California Quartz, Inc. Which Will Transact Business in California as California Quartz, Inc., a Delaware Corporation, filed a Statement and Designation by Foreign corporation with the California Secretary of State, listing the address of its principal executive office in California as 1915 S. Susan Street, Santa Ana, California 92704.

427. On December 31, 1992, an Amended Statement by Foreign Corporation was filed with the California Secretary of State by California Quartz, Inc., a Delaware corporation, whereby the company California Quartz, Inc. Which Will Transact Business in California As California Quartz, Inc., A Delaware Corporation, relinquished that name in favor of California Quartz, Inc.

428. On February 24, 2016, a corporation by the name of "California-Quartz" filed Articles of Incorporation with the California Secretary State. On November 23, 2021 this company filed a Statement of Information with the California Secretary of State, listing the company's principal business address in the State of California as 1372 Wilson Street, Los Angeles, CA 90021, identifying Ehud Ben-Hamo as its CEO, Secretary, Director, and Agent for Service of Process, and identifying the company's type of business as "Sale of Quartz."

429. The CEO, Secretary, and Director of California-Quartz, a California corporation, is Ehud Ben Hamo, the same person as the CEO, Secretary, and Director of Raphael Stone CA, which corporations also share the same business address of 1372 Wilson Street, Los Angeles, CA 90021.

430. California Quartz, Inc. is an importer of artificial stone, having imported artificial stone slabs from Brazil, China, India, Indonesia, Malaysia, Taiwan, Thailand, Turkey, and Vietnam.

431. Raphael Stone CA, Inc. is a California corporation whose principal place of business in California is 1372 Wilson Street, Los Angeles, California 90021.

432. According to its website, Raphael Stone "is the best source for wholesale quartz countertops" [with] ten warehouses and distribution centers throughout the country. We are an established, quartz countertop wholesale company. We wholesale to stores, dealers, distributors, and

fabricators. Our quartz slabs are much larger than industry standards at 126"x63" and 127"x 64." We offer the most durable and hardest countertops on [the] market with 93%...quartz and 7% resin."

433. The Hazard Communication Standard requires all companies that manufacture, import or distribute hazardous substances to which workers are exposed to evaluate their products to determine if they are hazardous [8 C.C.R. § 5194(d)(1)]; to identify and consider the available scientific evidence concerning such hazards [8 C.C.R. § 5194(d)(2) et seq.]; ensure that each container of hazardous chemicals leaving their facilities is labeled, tagged or marked with the (i) identity of the hazardous chemical(s); (ii) appropriate hazard warnings; and (iii) the name and address of the chemical manufacturer or other responsible party [8 C.C.R. § 5194(f)(1)]; obtain or develop a material safety data sheet for each hazardous substance they produced [8 C.C.R. § 5194(g)(1)]; include on the material safety data sheet the chemical and common names of each hazardous substance [8 C.C.R. §5194(g)(2)(A)]; the health hazards of the hazardous substance, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the substance [8 C.C.R. § 5194(g)(2)(D)]; the primary routes of entry [8 C.C.R. § 5194(g)(2)(E)]; the OSHA permissible exposure limit, ACGIH Threshold Limit Value, and any other exposure limit used or recommended by defendants [8 C.C.R. § 5194(g)(2)(F)]; whether the hazardous chemical is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions), or by OSHA [8 C.C.R. § 5194(g)(2)(G)]; include on the material safety data sheet generally applicable precautions for safe handling and use known to defendants, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks [8 C.C.R. § 5194(g)(2)(H)]; generally applicable control measures known to defendants, such as appropriate engineering controls, work practices, or personal protective equipment [8 C.C.R. § 5194(g)(2)(I)]; a description in lay terms, if not otherwise provided, of the specific potential health risks posed by the hazardous substance intended to alert the person reading the information [8 C.C.R. § 5194(g)(2)(M)]; ensure that the information contained on material safety data sheets accurately reflects the scientific evidence used in making the hazard determination [8

C.C.R. § 5194(g)(5)]; and ensure that material safety data sheets complying with the Hazard Communication Standard are provided to employers . . . .[8 C.C.R. §5194(g)(6) & (7).

434. Although the quartz stone slabs and other products that California Quartz imported, distributed and sold to its customers are hazardous materials within the meaning of the Hazard Communication Standard and exposure to dust from the company's artificial stone products causes silicosis, lung cancer, and other diseases, at no time did California Quartz prepare a safety data sheet for its quartz stone products, at no time did it obtain safety data sheets for the products from their manufacturers or experts, or provide them to customers, including the employers of the fabrication shops where fabrication workers, including plaintiff, were exposed to dust from Defendants' products that caused plaintiff's silicosis and other injuries. By failing to provide Safety Data Sheets to the fabrication shops, California Quartz concealed the hazards and use instructions that it was legally obligated to provide to protect stone countertop fabrication workers from being injuriously exposed to crystalline silica dust from Defendants' artificial stone products and thereby caused Plaintiff's silicosis and other injuries.

435. Among the officers, directors and managing agents of California Quartz, who authorized and ratified the company's violation of the Hazard Communication Standard, its concealment of the hazards of the silicosis hazard, and the use instructions necessary to prevent exposed workers from getting silicosis is Ehud Ben Hamo, who is the Chief Executive Officer, Secretary and Director of California-Quartz, a California corporation, as well as the Chief Executive Officer, Secretary and Director of Raphael Stone CA, a California corporation, which corporations share the same business address of 1372 Wilson Street, Los Angeles, CA 90021.

CAMBRIA COMPANY LLC

436. Cambria was founded in 2000 in Le Sueur, Minnesota; it is a privately held company owned by members of the Davis family. According to information on Cambria's website, "Cambria President and CEO Marty Davis realized the magic of quartz on one day" and "[i]t all began when Marty Davis' friend put him onto this new investment opportunity." The website states: "The

Davises studied the opportunity and ultimately Mark Davis, Marty's father, made a personal investment in a northern Minnesota business start-up in the late '90s. They loved the company's technology and quartz product, but didn't know much more than that about the operation. But taking risks was something the Davis family was familiar with." That Cambria takes risks is undoubtedly true; every time it sells its lethal product Cambria risks the health and lives of countertop fabricators.

437. A Cambria YouTube video boasts that "now Cambria is one of the largest state-of-art quartz processing facilities in North America."

Cambria's January 5, 2001 Material Safety Data Sheet

438. On January 5, 2001, Cambria issued a Material Safety Data Sheet for a product that it identified as "Quartz Surfaces." In Section II of this document Cambria provided false and misleading information by identifying the product as a "Non Hazardous- Quartz Surfacing Product" and by stating that "exposure limits may be applicable . . . when cutting or grinding of the product is performed" because of its crystalline silica (quartz) content. The latter statement is false and misleading, because exposure limits for crystalline silica ***always apply*** when it is cut or ground.

439. Section VI of Cambria's January 5, 2001 Material Safety Data Sheet, regarding Health Hazards, began with the misleading statements that "this product is not hazardous as shipped," and that "grinding and cutting may generate dust containing crystalline silica." The former statement is misleading because the product is extremely hazardous when used as intended; the latter statement is false and misleading, because dust containing crystalline silica is ***always generated*** when the material is ground or cut. This section states that "continued overexposure to respirable crystalline silica can cause silicosis, a chronic and progressively debilitating disease, created by the silica-containing scar tissue which forms in the lungs." This statement is also false and misleading, because it indicates that only "continued overexposure" to respirable crystalline silica can cause silicosis, even though exposure to crystalline silica within occupational exposure limits (which is not an "overexposure") likewise causes silicosis. In this section of the Material Safety Data Sheet, Cambria also misrepresented the carcinogenicity of the product by stating that "this product is not

considered to be a carcinogen as shipped, only when dust containing crystalline silica is produced." This statement is false, because the product is almost 100% crystalline silica and is therefore, by definition, carcinogenic to humans, the risk of harm depending on the nature and extent of exposure.

440. Section VII of the January 5, 2001 Material Safety Data Sheet, titled "Precautions for Safe Handling," is the most important section of the Material Safety Data Sheet, because it is this section that must provide clear, specific, and detailed instructions how to use the product safely, i.e., so that it will not cause silicosis. However, this section of the Material Safety Data Sheet only contains two sentences. The first sentence was "Recover material for reuse and reclamation when possible," which does not inform workers how to handle the product safely. The second sentence stated: "For silica dust, use a vacuum or wet down to prevent causing airborne particles." This use instruction is not merely incomplete and inaccurate; it is dangerous because use of a vacuum and "wet down", does not prevent the generation of airborne particles and does not prevent silicosis. Critically, this section for precautions for safe handling does not inform workers that to prevent silicosis they must always wear an air-supplied respiratory when fabricating the material.

441. In section VIII of the January 5, 2001 Material Safety Data Sheet for the product, regarding Control Measures, Cambria provided the following information on the form in the space for "Respiratory Protection *(Specify Type)*: "NIOSH approved respirator during cutting or grinding. Respirators should be used in accordance with OSHA Respiratory Protection Standard CFR 1910.134." This is an inadequate control measure because it does not specify the ***type*** of respirator that is necessary to prevent silicosis. There are numerous "NIOSH approved respirators." However, only one type of NIOSH-approved respirator is adequate to prevent silicosis when cutting or grinding the product - a NIOSH-approved ***air-supplied*** respirator. Following the instruction and wearing a NIOSH-approved respirator (i.e., a NIOSH-approved air purifying respirator) will not prevent silicosis, but actually contributes to silicosis. Thus, Cambria concealed this critical information.

442. The last paragraph of the January 5, 2001 Material Safety Data Sheet contains a disclaimer that improperly attempts to shift responsibility for Cambria's false and misleading statements in the document to others (another company and the users of the product themselves): "The opinions expressed herein are those of qualified experts within Davisco Foods Int'l, Inc. We

believe that the information contained herein is current as the state of MSDS sheet. Since the use of this information and these conditions of use of this product are not wihin the control of Davisco Foods, Int'l, Inc., it is the users obligation to determine the conditions of safe use of this product."

Cambria Starts Doing Business in California

443. On January 12, 2011, Defendant, Cambria Company LLC filed an application to Register a Foreign Limited Liability Company to do business in California

Cambria's Response to the Artificial Stone Silicosis Epidemic in 2019

444. On December 2, 2019, Nell Greenfield-Boyce of National Public Radio interviewed Marty Davis regarding Cambria at its artificial stone factory in LeSuere, Minnesota. She observed: "It turns out about 30 thousand slabs of quartz countertop material every month. That means every day 20 to 30 trucks unload large white sacks full of quartz. Some of it's a powder, almost like flour, while some is like little pebbles." Marty Davis acknowledged: ""It's about 30 million pounds of quartz a month - so about 1 million pounds a day." He said this place has millions of dollars worth of air handling systems to control dust. Pointedly, he acknowledged: "There's no good dust. Zero." Ms. Greenfield-Boyce explained the production process: "We put on white disposable respirators and go past a sign warning of silica, into a huge room with mechanical mixers. Here, quartz gets combined with pigments plus a binder to make it stick together. The mixture gets spread out onto a giant baking sheet. It goes through a machine that vibrates and kind-of thumps it. The result is a compressed slab that, at first, is soft. The slab hardens when it gets heated, then cooled and polished." She asked Marty Davis "what responsibility does he have for making sure that people he sells it to will cut all this material safely?" He answered: "You know, how do you police your customers?" He said that the dangers of silica have been known for decades. He claimed that "there's clear regulation and clear guidance and governance on how to process materials safely to control dust and respiratory inhalation of dust." He said he can't follow his products to thousands

of countertop shops -- that cutting is safe when companies obey worker protection laws." Thus, Mr. Davis, the Chief Executive Officer of Cambria, disclaimed any responsibility of Cambria to monitor the use of its lethal product by its customers, any responsibility of Cambria to protect the health of customers' employees and other workers injuriously exposed to its lethal product, and any responsibility to cease selling Cambria's lethal product to customers who fail to use Cambria safely.

Cambria's Letter to the Los Angeles County Board of Supervisors

445. On July 28, 2023 Marty Davis, CEO of Cambria, signed a letter to the Los Angeles County Board of Supervisors, urging the Board of Supervisors not to ban the importation and use of artificial stone in Los Angeles County. This letter stated: "Stone products are safely handled and worked on every day, including in Los Angeles County . . . ." This statement is false, because artificial stone products are not "safely handled and worked on every day, including in Los Angeles County," as is shown by the epidemic of accelerated silicosis among stone countertop fabricators which has its epicenter in Los Angeles County.

446. The letter by CEOs of artificial stone manufacturers seeks to foist blame on the owners of the small fabrication shops that fabricate artificial stone, rather than accepting personal responsibility for the deadly effects of their defectively designed artificial stone products. Thus, the letter states that "fabrication employers must provide necessary training, air monitoring and adherence to air quality requirements, engineering air handling controls, personal protective equipment (PPE), and medical surveillance in compliance with OSHA regulations." While multi-billion dollar manufacturers and importers like Cambria, MS International, Dal-Tile, and of course, Caesarstone and Cosentino, have the financial resources to spend millions of dollars to make their manufacturing facilities safe for their workers, fabrication shops (most of which are small mom-and-pop businesses that have 2 to 10 workers and generate annual revenues of a few hundred thousand dollars) lack the financial resources to implement the necessary protective measures, which cost a few million dollars in capital costs per shop, with annual maintenance costs of a few hundred thousand dollars. Thus, it is facetious for the multibillion dollar manufacturers and importers to

attempt to blame the fabrication shop owners for their inability to protect workers from the deadly hazards of their artificial stone products.

447. The letter also states: "Stone products, including engineered stone, have been manufactured and fabricated safely for decades . . . ." This statement is false. Artificial stone is a relatively new product in commerce that first began being manufactured by Caesarstone in 1987 and was first imported into the United States in the 1990s. The first case of artificial stone-induced silicosis was seen in 1997 by physicians at the National Lung Transplantation Center in Israel. This worker was exposed to Caesarstone, developed silicosis, and underwent lung transplantation. Over the next 14 years, researchers at the National Lung Transplant Center in Israel diagnosed silicosis in 25 patients exposed to Caesarstone, of whom 15 (60%) were determined to be lung transplant candidates. Kramer MR, et al., "Artificial Stone Silicosis: Disease Resurgence Among Artificial Stone Workers," *Chest* 2012; 142(2):419-424. Thus, the statement in the letter that "engineered stone ha[s] been manufactured and fabricated safely for decades is clearly and indisputably false.

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equipment (PPE), and medical surveillance in compliance with OSHA regulations." While multi-billion dollar manufacturers and importers like Cambria, MS International, Dal-Tile, and of course, Caesarstone and Cosentino, have the financial resources to spend millions of dollars to make their manufacturing facilities safe for their workers, fabrication shops (most of which are small mom-and-pop businesses that have 2 to 10 workers and generate annual revenues of a few hundred thousand dollars) lack the financial resources to implement the necessary protective measures, which cost a few million dollars in capital costs per shop, with annual maintenance costs of a few hundred thousand dollars. Thus, it is facetious for the multibillion dollar manufacturers and importers to attempt to blame the fabrication shop owners for their inability to protect workers from the deadly hazards of their artificial stone products.

450. The letter also states: "Stone products, including engineered stone, have been manufactured and fabricated safely for decades . . . ." This statement is false. Artificial stone is a relatively new product in commerce that first began being manufactured by Caesarstone in 1987 and was first imported into the United States in the 1990s. The first case of artificial stone-induced silicosis was seen in 1997 by physicians at the National Lung Transplantation Center in Israel. This worker was exposed to Caesarstone, developed silicosis, and underwent lung transplantation. Over the next 14 years, researchers at the National Lung Transplant Center in Israel diagnosed silicosis in 25 patients exposed to Caesarstone, of whom 15 (60%) were determined to be lung transplant candidates. Kramer MR, et al., "Artificial Stone Silicosis: Disease Resurgence Among Artificial Stone Workers," *Chest* 2012; 142(2):419-424. Thus, the statement in the letter that "engineered stone ha[s] been manufactured and fabricated safely for decades is clearly and indisputably false.

Cambria's Endorsement of Misrepresentations by The Stone Coalition

451. In October 2023, a Paid Advertisement titled "Illegal Cutting Processes, Not Stone Products, can Cause Silicosis," was published in the Los Angeles Times. The advertisement states that it was "Paid For By The Stone Coalition," info@stonecoalition.org, which is described as "a collaborative effort between the quartz surface and natural stone industries."

452. The Stone Coalition is an industry trade association that was apparently formed in 2023 to defend the Stone Countertop Fabricator Silicosis Cases by mounting a public relations campaign to deflect liability from stone slab manufacturers, distributors and suppliers, by attempting to foist blame for the new stone fabricator silicosis epidemic on the victims, their employers, and regulatory and enforcement agencies – all to avoid accepting personal responsibility for the massive (ultimately fatal) harm that they have inflicted on thousands of young immigrant workers.

453. The home page of the new website of The Stone Coalition bears the name and logo of the Natural Stone Institute, implicating that industry trade association with the new trade association. The home page states: "The Stone Coalition is dedicated to promoting safe, wet processing technology in stone-cutting facilities while prioritizing compliance with OSHA air monitoring standards and other silica rules. Safety is our unwavering commitment." That is quite a statement by stone companies that for years opposed OSHA's adoption of the Silica Standard.

454. A webpage titled "About" describes "Our Organization" as follows: "The Silica Safety Coalition is a collective of dedicated stone fabricators, manufacturers, stone distributors, and industry professionals united by a shared commitment to promoting workplace safety within the stone cutting and fabrication sector. Our mission is to promote and maintain the highest standards of safety, supporting the well-being of workers throughout every stage of stone processing." These statements are at best mere industry propaganda and at worst blatant falsehoods. The Coalition is actually a collective of multibillion dollar stone manufacturers and distributors that have been sued for causing the new stone fabricator silicosis epidemic – companies that for years failed to prepare any Safety Data Sheets or labels for their stone products or prepared Safety Data Sheets and/or labels that were so deficient that they caused, rather than prevented, the new fabricator silicosis epidemic.

455. The website of The Stone Coalition does not identify its members, but the "About" webpage contains a section titled "Workplace Safety" that informs readers to "Click the button to read our letter to the Los Angeles County Board of Supervisors." Clicking on the button reveals a letter dated July 28, 2023 to the Los Angeles County Board of Supervisors in which the authors of the letter attempt to persuade the Los Angeles County Board of Supervisors not to ban the importation and use of artificial stone products in Los Angeles County. The letter is signed by

executive officers of four artificial stone companies: Marty Davis, CEO of Cambria; Rupesh Shah, Co-CEO of M S International, Inc.; Matthew Kahny, President of Dal-Tile; and Nate Kolenski, President of Block Tops, Inc.; and James A. Hieb, CEO of the Natural Stone Institute. The first three of these companies are among the most culpable defendants in the Stone Fabricator Silicosis Cases.

456. The title of the Paid Advertisement is itself misleading and false, for two reasons. First, it states that stone products do not cause silicosis, although most silicosis cases over the millenia and at the present time have been and continue to be caused by crystalline silica dust from stone products. Second, it states that only "illegal cutting processes . . . can cause silicosis," although cutting stone slabs can cause silicosis whether the cutting process is performed "legally," i.e., in compliance with OSHA requirements, or "illegally," i.e. in violation of OSHA requirements.

457. The Paid Advertisement begins with the following statement: "Silicosis, a rare lung disease resulting from the inhalation of crystalline silica dust from dry-cutting or grinding concrete, brick or stone, has been found in illegal and unregulated stone fabrication across California, with a significant concentration in the San Fernando Valley." This statement is at best misleading and at worst false, for a few reasons. First, silicosis is not a rare lung disease. It is the oldest lung disease known to humankind and has killed more workers over the millenia than any other lung disease, including all lung diseases caused by exposure to asbestos. Additionally, recent epidemiological studies have reported a prevalence of silicosis among stone fabricators in the range of 30% to 40%, making it an especially common occupational lung disease that is of great public health concern. Second, the statement falsely suggests that silicosis is only caused by dry-cutting or grinding, although many workers who regularly used water-dispensing powered tools to reduce the amount of dust in fabricating stone countertops now suffer from silicosis and the National Institute for Occupational Safety and Health (NIOSH) has done studies which show that wet processing methods are inadequate to prevent silicosis among workers who fabricate artificial stone countertops. Third, silicosis among countertop fabricators and other workers exposed to crystalline silica has been shown to occur even at exposure levels below limits adopted by the Occupational Safety and Health Administration (OSHA), i.e., "legal" stone fabrication.

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458. The Paid Advertisement then states: "Yet, this disease is preventable through wet processing techniques and strict adherence to existing OSHA regulations." This statement is also false, because studies by NIOSH show that even fabrication workers who regularly use water-dispensing tools and wear particulate filter respirators at all times they are in the fabrication shop still develop silicosis from exposure to artificial stone dust.

459. The Paid Advertisement then states: Despite Federal and State regulations to prevent the use of 'drycutting,' or cutting of stone or tile without water, and requiring personal protective equipment (PPE), many noncompliant facilities continue to put their employees at risk by failing to implement these basic safety precautions." This statement is also misleading and false, because most stone countertop fabrication shops have followed the recommendations of artificial stone manufacturers to use powered tools that dispense water to suppress dust generated by the fabrication of artificial stone, as well as the manufacturers' recommendations to have their employees wear particulate filter masks. However, both of these precautionary measures recommended by stone slab manufacturers are inadequate to prevent silicosis among stone countertop fabricators, which recommendations misled both employers and fabrication workers to believe that following the manufacturers' recommendations would prevent fabrication workers from developing silicosis. The use of water-dispensing tools is inadequate to prevent silicosis in artificial stone fabricators because at most it merely reduces the amount of lethal crystalline dust to which fabrication workers are exposed, and particulate filter masks do not prevent the extremely small particles of crystalline silica from cutting artificial stone from being inhaled and causing silicosis. In fact, the recommendation of the artificial stone manufacturers to wear a "NIOSH-approved" mask has caused many workers to develop silicosis, because NIOSH-approved particulate filter masks do not prevent harmful silica exposure, the only type of respirator that is effective in doing so is an air-supplied respirator, which the manufacturers of artificial stone have not recommended as necessary protection for workers.

460. The Paid Advertisement then states that Jim Hieb, CEO of the Natural Stone Institute, knows this doesn't have to happen and quotes him saying: "Silicosis is preventable. Any contractor that follows Cal/OSHA's guidelines ensures that any cutting of any stone product is done safely." This statement is also misleading and false for a few reasons. First, while silicosis from exposure

to natural stone dust may be preventable, silicosis from exposure to artificial stone is not preventable, because unlike natural stone, the fabrication of artificial stone generates massive amounts of ultrafine and nanosized crystalline silica particles that penetrate through particular cartridge respirators and are inhaled by fabricators and cause progressive massive fibrosis, because they are extremely toxic to the lungs - much more so than larger silica particles from natural stone. Second, while it may theoretically be possible to prevent silicosis in artificial stone fabricators, in the real world it is not possible to prevent silicosis in artificial stone fabricators, because the cost of installing state-of-art ventilation systems, respiratory protection programs, exposure monitoring programs, administrative industrial hygiene programs, and medical monitoring programs necessary to prevent silicosis, the capital cost of implementing these programs is a few million dollars per shop with annual costs of several hundred thousand dollars, which small fabrication shops that generate annual revenues of a few hundred thousand dollars cannot afford. Third, OSHA's guidelines were developed to protect against respirable crystalline silica particles in the micron size range - not ultrafine and nanosized crystalline silica particles that are uniquely generated from the fabrication of artificial stone and present extraordinary fibrotic hazards to the human lung and while compliance with OSHA's exposure limits for respirable crystalline silica may reduce fibrotic lung disease or delay its occurrence among stone fabricators, multiple studies have shown that compliance with OSHA's exposure limits is inadequate to prevent all silicosis. It is therefore extremely irresponsible for the CEO of the Natural Stone Institute to state that compliance with OSHA guidelines "ensures that any cutting of any stone product is done safely." This is especially so, because exposure to respirable crystalline silica not only causes silicosis which may be dose-dependent, but also causes lung cancer and there is no level of exposure to crystalline silica that does not increase stone fabrication workers' risk of developing lung cancer later in life.

461. The Paid Advertisement also states: "Almost all experts agree that what is being cut matters less than how the stone is cut and fabricated for placement within homes and offices." While this statement may generally be true for natural stone products, it is not true for artificial stone products which present unique respiratory hazards to stone countertop fabricators because artificial stone is manufactured by crushing and pulverizing quartz (crystalline silica) and then adding a

polymeric resin, pigments and other additives and curing the mixture, so that when the finished slab is cut, the ultrafine and nanosized particles that are in the plastic matrix are released and are inhaled by fabricators even though they wear particulate filter respirators. Indeed, the extreme hazard of artificial stone is due not only to the extremely high crystalline silica content of the product (much higher than marble and granite), but is also due to the extremely small size of the crystalline silica particles that are released into the air when fabricators use powered tools to cut artificial stone.

462. The Paid Advertisement also states: "Despite studies and regulations that show that the type of product matters significantly less than the method of cutting, plaintiffs' attorneys have been trying to blame engineered stone for recent cases of Silicosis among stone workers." It is true that attorneys who represent the ever-increasing number of young male Hispanic immigrants who have developed silicosis with progressive massive fibrosis and are terminally ill unless they receive lung transplants, primarily blame artificial stone for causing the workers' fatal lung disease, so too do knowledgeable pulmonologists, occupational medicine specialists, epidemiologists, and public health experts. Indeed, the new occupational disease epidemic of accelerated silicosis among artificial stone fabricators is largely attributable to artificial stone, because it is an inherently dangerous and defective product whose purported benefits which are merely aesthetic in nature, are outweighed by the severe lung and other diseases that this product causes at with such a high disease prevalence.

463. The Paid Advertisement then states: "Engineered stone products including Quartz, have been manufactured and fabricated safely for decades." This statement is a blatant lie. Artificial stone is a relatively new product in commerce that first began being manufactured by Caesarstone in 1987 and was first imported into the United States in the 1990s. The first case of artificial stone-induced silicosis was seen in 1997 by physicians at the National Lung Transplantation Center in Israel. This worker was exposed to Caesarstone, developed silicosis, and underwent lung transplantation. Over the next 14 years, researchers at the National Lung Transplant Center in Israel diagnosed silicosis in 25 patients exposed to Caesarstone, of whom 15 (60%) were determined to be lung transplant candidates. Kramer MR, et al., "Artificial Stone Silicosis: Disease Resurgence Among Artificial Stone Workers," *Chest* 2012; 142(2):419-424. Thus, the statement in the Paid

Advertisement that "[e]ngineered stone products, including Quartz, have been manufactured and fabricated safely for decades" is absolutely false.

464. The Paid Advertisement quotes Mr. Hieb as stating: "The biggest problem our industry faces is enforcement. Without efforts to stop those who are unaware of or unwilling to comply with current regulations, cases of Silicosis are going to keep increasing." This statement is also false and misleading. The biggest problem the stone industry faces is that artificial stone is the cause of a worldwide epidemic of accelerated silicosis among stone countertop fabricators. Stating that the biggest problem the industry faces is enforcement is merely an attempt by manufacturers of deadly artificial stone products to foist blame on OSHA due to its inability to prevent the disease and death that are primarily due to artificial stone products. OSHA is extremely underfunded and lacks the resources to initiate enforcement actions against the thousands of small fabrication shops nationwide and enforcement actions do nothing to prevent silicosis among the tens of thousands of countertop fabrication workers who have already been exposed to crystalline silica from stone products and who already have silicosis even though many of them have not yet exhibited symptoms of this disease. Moreover, many fabrication shops are unaware of the silicosis hazard because the manufacturers of artificial stone for many years did not prepare or provide their customers with Safety Data Sheets or product labels informing them of the silicosis hazard and none of the manufacturers ever provided their customers with use instructions that were adequate to prevent silicosis among fabricators.

465. The Paid Advertisement also states: "Industry leaders provide resources to support smaller businesses in the industry." This statement is at best misleading and at worse false. For years the manufacturers of artificial stone concealed the nature and severity of the toxic hazards of their products from their customers and only provided them training on how to improve profitability. Only after the new silicosis epidemic was well under way did the manufacturers of artificial stone initiate any programs to "support smaller businesses in the industry," and those programs were public relations programs to deflect responsibility from the manufacturers of deadly artificial stone products to blame the epidemic on the victims, the owners of small fabrication shops that employed them, on regulators and governmental enforcement agencies – anyone except themselves for causing the harm.

Knowledge of the Silicosis Hazard by Cambria Officers and Directors

466. Throughout the time that Cambria manufactured and sold its artificial stone products, exposing stone countertop fabricators and installers to respirable crystalline silica from the company's products, Cambria's officers and directors were aware that Cambria's artificial stone products were defective because they contained extremely high concentrations of crystalline silica, were aware that the use instructions that Cambria provided were inadequate to prevent silicosis and would actually cause silicosis in exposed workers, and were aware that fabrication companies could not protect fabricators and installers from the lethal silicosis hazard presented by Cambria's defective artificial stone products. Among Cambria's officers and directors who had this knowledge and who nevertheless consciously disregarded the health and safety of fabricators and installers were the following:

Marty Davis, President and Chief Executive Officer;

Mark Davis, Chairman of the Board;

Jim Ward, Chief Operating Officer;

Brian Scoggin, Executive Vice President of Operations;

Summer Kath, Executive Vice President of Product Development;

Tripp Parker, Executive Vice President of Sales;

Arik Tendler, Chief Sales Officer;

Ben Davis, Executive Vice President and Chief Information Officer;

Sarah Ministrelli, Vice President of Operations;

Adam Sura, Director of Corporate Safety.

COLOR MARBLE INC. AND CMI PROJECT GROUP, INC.

467. Color Marble Inc. was incorporated in the State of California on August 10, 1992, by Jenny You.

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468. Color Marble Inc. first filed a Statement of Information with the California Secretary of State 25 years later on July 14, 2017. In this Statement of Information Color Marble Inc. listed its business address as 20530 Earlgate Street, Diamond Bar, CA 91789 and identified Susana Hanyuan Jeng as its Chief Executive Officer, Secretary, Chief Financial Officer, Director, and Agent for Service of Process. The Statement of Information described the company's type of business as "Reseller of Granite and Marble." Subsequent filings with the California Secretary of State as recently as June 29, 2023, included this same information for Color Marble Inc.

469. According to its website, Color Marble Inc. has two locations in California: Color Marble Diamond Bar, located at 20530 Earlgate St., Diamond Bar, CA 91789, and Color Marble Alhambra, located at 1600 Orange St., Alhambra, CA 91803.

470. According to its website, "Color Marble Inc. is a premier importer and distributor of quality natural stones from around the world."

471. According to its website, "CMI brings you the finest slabs" -- "luxury products" of "sleek beauty." The company's website identifies the slabs that it sells as granite, limestone, marble, mosaic, porcelain, quartz, and travertine. Although the website refers to these products as "natural stones," Color Marble's "quartz" slabs are not natural stone products, but are artificial stone products.

472. The Color Marble Inc. website contains a copyright notice stating "All Rights Reserved CMI PROJECT GROUP INC."

473. CMI Project Group Inc. was incorporated in the State of California on April 28, 2020. Its Articles of Incorporation state that its business address is 20530 Earlgate St., Diamond Bar, CA 91789 -- the same address as Color Marble, Inc.

474. CMI Project Group Inc. filed a Statement of Information with the California Secretary of State on May 1, 2023. In this Statement of Information CMI Project Group Inc. identified Andrew You as its Chief Executive Officer, Secretary, Chief Financial Officer, Director, and Agent for Service of Process. The Statement of Information described the company's type of business as "General Retail Wholesale Project Enterprise." A subsequent filings with the California Secretary of State of May 3, 2024, included this same information for CMI Project Group Inc.

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475. On April 26 2024, Rocio Lopez, the General Manager of Color Marble Inc., appearing as a corporate representative of Color Marble Inc. in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs, et al.*, LASC Case No. 22STCV31907, testified that in 2023 that Susana Hanyuan Jeng gave the company to her son, Andrew You and asked him to change the name of the company. Ms. Lopez also testified that it was her understanding that Color Marble Inc. dissolved in December 2023, that it changed its name and then began doing business as CMI Project Group. Ms. Lopez also testified that, when CMI Project Group took over the business of Color Marble Inc., Color Marble Project Group sold the remaining artificial stone that Color Marble Inc. had and that CMI Project Group continues to sell artificial stone. Ms. Lopez also testified that When Color Marble Project Group still refers to itself as Color Marble Inc.

476. Although Ms. Lopez testified that Color Marble Inc. dissolved and no longer exists, in fact, Color Marble Inc. continues to exist as a California corporation and no Certificate of Cancellation or Dissolution has been filed with the California Secretary of State, nor could Color Marble Inc. lawfully wind up its affairs and dissolve without paying or otherwise resolve its liabilities to stone countertop fabricators who have sued the company for causing their silicosis and other silica-related diseases.

477. Based on the testimony of Color Marble Inc.'s Chief Executive Officer, Susana Hanyuan Jeng, and its General Manager, Rocio Lopez, Plaintiff is informed and believes and thereon alleges that CMI Project Group, Inc. is the agent, alter ego, and co-conspirator of Color Marble Inc.

478. Based on the testimony of Color Marble Inc.'s Chief Executive Officer, Susana Hanyuan Jeng, and its General Manager, Rocio Lopez, Plaintiff is informed and believes and thereon alleges that the purported transfer of Color Marble Inc.'s business to Ms. Jeng's son constitutes a fraudulent transfer of assets to evade its liability to Plaintiff and other stone countertop fabricators that Color Marble Inc. has injured and to secrete the company's assets and thereby prevent execution of judgments to be obtained by Plaintiff and other stone fabricators against Color Marble Inc.

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Concealment of Hazards

479. On May 9, 2024, Susana Hanyuan Jeng, appearing as a corporate representative of Color Marble Inc. in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs, et al.,* LASC Case No. 22STCV31907, testified as follows regarding Color Marble:

- that Color Marble never placed any sticker (i.e., label) on any of the artificial stone slabs that it sold to warn about the health hazards of exposure to silica dust from those products;
- that Color Marble never prepared a Safety Data Sheet for any of the artificial stone products that it sold;
- that Color Marble never tested any of the artificial stone products that it sold to determine whether they were hazardous to human health;
- that Color Marble never evaluated the available scientific evidence concerning the hazards of the products that it sold;
- that Color Marble did nothing to prevent people being exposed to silica from the artificial stone products it sold;
- that Color Marble undertook no safety measures to protect stone countertop fabricators from exposure to silica from the stone products that it sold;
- that Color Marble sold the Colorquartz brand of artificial stone from 2007 to 2022;
- that Color Marble also sold the MSI brand of artificial stone from 2007 to 2022;
- that Color Marble also sold the Silestone brand of artificial stone from 2007 to 2022;
- that Color Marble also sold the Cambria brand of artificial stone from 2007 to 2022;
- that the only product Color Marble purchased from Colorquartz was artificial stone;
- that the stone slabs of Colorquartz, Cambria, Cosentino (the manufacturer of Silestone) that Color Marble sold were all artificial stone products;

480. Thus, at all material times hereto, Color Marble Inc. concealed the toxic hazards of crystalline silica that comprised the bulk (upwards of 90%) of the artificial stone slabs that it sold from Plaintiff and other fabricators, including the hazard of silicosis and the hazard of lung cancer, which Color Marble was legally obligated to disclose pursuant to California's Proposition 65 law.

COLORQUARTZ USA INC.

481. Colorquartz USA Inc. was incorporated in the State of California on November 30, 2012.

482. According to the company's website, "Colorquartz® is the world's leading producer of quartz surfaces designed for high-quality applications worldwide. For over two decades, Colorquartz surfaces have been designed in California, making quartz surfacing available to design-inspired spaces around the world." https://www.colorquartz.com/about-us.

483. The company website describes its production facility as follows: "The Colorquartz production plant covers 37,500 of the 50,000 company premise. It includes the administration offices, three production departments, R&D laboratory, and three sheltered warehouses for slab inventory. Using in-depth knowledge and experience, the CQ Procurement Team ensures that a raw material, such as quartz and resin, is under constant examination and inspection. The CQ Logistics Department serves the customer from beginning to end, starting from the integration of materials handling, inventory, packaging and transportation." https://www.colorquartz.com/about-us.

484. The company website touts its automated production lines: "With two, state of the art, and six automated production lines, Colorquartz has an annual capacity of over 1 million m^2."

485. The company website touts is research and development: "Colorquartz is uniquely position to innovate at the meeting point of science and markets. Colorquartz employs over 20 engineers and staff, and invested over $10 million in quartz technology research and development. Colorquartz's core technologies, from silicon-resin infusion techniques to veining-pattern mixing, provide a base for quartz surfaces engineering. Colorquartz's major research and development facilities are located in Diamond Bar, CA headquarters." https://www.colorquartz.com/about-us.

486. The company website touts the foreign quartz quarries from which it sources material: "Colorquartz maintains a vast network of steady suppliers from India to Turkey, to ensure quality and consistency of materials is always achieved. Colorquartz has exclusivity agreements with quarry owners for the procurement of premium level quartz. Furthermore, the CQ Procurement team does a rigorous inspection before raw materials are shipped to the factory for production.."

January 2021 Material Safety Data Sheet

487. Although the company's website claims that Colorquartz surfaces have been designed in California "for over two decades," https://www.colorquartz.com/about-us., the company first appears to have prepared a Material Safety Data Sheet for its deadly product in January 2021. This Material Safety Data Sheet describes the company's products as "quartz slabs, pre-fabricated countertops, and cut-to-size countertops."

488. According to the Material Satey Data Sheet, the product contains 88% or more crushed silica quartz, glass, mirror, granite, and other natural stone, the balance being polyester resin and pigments.

489. The Material Safety Data Sheet does not have a section regarding health hazards, but instead has a section titled "Potential Side Effects." The Section begins by stating: "Colorquartz Surfaces in finished form does not present any health hazard to users." This is a misleading statement, because the quartz slabs are not "finished" consumer products, but are rather industrial products that require substantial industrial processing to become countertops. The Material Safety Data Sheet then says: "Dust and powder generated from fabrication and installation may cause irritation to skin, eyes, nose, and airways." This language is misleading because it suggests that the dust from fabricating the product merely "may cause irritation," although inhaling respirable crystalline silica dust from the product is known to cause both silicosis and lung cancer. The Material Safety Data Sheet then says: "Massive inhalation of crystalline silica may cause pulmonary diseases such as bronchitis, emphysema, and other pulmonary diseases." While this is true, the statement is misleading for two reasons. First, tiny amounts of invisible crystalline silica dust can cause these pulmonary effects. Second, the most serious health effects of exposure to respirable crystalline silica dust are silicosis and lung cancer, which the Material Safety Data Sheet does not mention, but instead conceals as "Potential Side Effects" of exposure.

490. Section 8 of the Material Safety Data Sheet regarding "Preventive Measures/ Personal Protection," says that one should "use safety goggles, face and neck protection, and dusk [sic] masks" for "cutting, sanding, and polishing." This is a totally inadequate use instruction,

because it suggests that a mere "dust mask" provides adequate protection, thereby providing a false sense of safety to workers who wear "dust masks," which are totally inadequate to prevent silicosis. Critically, the Material Safety Data Sheet does not mention the necessity of using wet processing methods and appears to encourage dry cutting, which results in respiratory exposure to crystalline silica dust well in excess of the permissible exposure limit. The Material Safety Data Sheet also fails to specify the permissible exposure limit for respirable crystalline silica from exposure to the product - a gross violation of the Hazard Communication Standard.

491. The Material Safety Data Sheet only mentions the silicosis hazard in Section 12 regarding Toxicological Information. This section begins by stating that "[t]he power generated in the manufacturing process contains silica (SiO_2)." It then says: "Prolonged and massive inhalation of crystalline silica may cause pulmonary fibrosis, and pneumoconiosis and silicosis, as well as a worsening of other pulmonary diseases (bronchitis, emphysema, etc.)." This statement is also misleading, because it does not quantify how "prolonged" or how "massive" inhalation of crystalline silica must be to cause silicosis, even exposures during less than 3 years of tiny amounts of invisible crystalline silica dust can cause acute or accelerated silicosis, especially in workers who fabricate countertops from artificial stone products like Colorquartz.

Knowledge and Concealment of the Silica Hazard by Colorquartz Officers

492. The January 2021 Material Safety Data Sheet prepared by Colorquartz shows that the company has long been aware of the hazard of silicosis that dust generated from processing its artificial stone product presents to stone countertop fabricators like plaintiff, but that the company failed to prepare any Material Safety Data Sheets for its lethal product for many years, in violation of the Hazard Communication Standard, and when it finally prepared a Material Safety Data Sheet for its deadly product in 2021 it downplayed and concealed the silicosis and lung cancer hazard, failed to inform workers of the permissible exposure limit for respirable crystalline silica, failed to prescribe respiratory protection and wet processing methods to prevent the disease, and misled workers to believe that wearing mere dust masks would provide them adequate protection. These

acts and omissions were approved and ratified by Kelvin You, the Chief Executive Officer, Secretary, and Chief Financial Officer of the company.

COMPAC CORPORATE SOCIEDAD LIMITADA / COMPAC USA INC

493. Compac Corporate Sociedad Limitada is a Spanish company that manufactures and markets compacted, technological marble and quartz surfaces through the employment of engineered stone technology. It was founded in 1975 in Valencia, Spain. According to a marble catalogue of the company, it has undergone constant growth to become the leading international company it is today, with production centers in Spain and Portugal and with presence across the 5 continents through its own warehouses and a network of over 250 distributors.

494. COMPAC USA INC, is a Florida corporation which, prior to September 15, 2022, was known as Compacstone USA, Inc. [Articles of Amendment of Articles of Incorporation of Compacstone USA, Inc., filed with the Florida Secretary of State on September 15, 2022].

495. On October 2, 2002, Articles of Incorporation of Compac were filed with the Florida Secretary of State, the initial name of the corporation being "Compacstone USA, Inc."

496. On September 10, 2008, Articles of Merger were filed with the Florida Secretary of State whereby Compacstone USA, Inc., a Florida corporation, merged with Compac (USA), Inc., a California corporation, with the former being the surviving corporate entity.

497. On November 30, 2009, a memorandum from Olga Hurtado to Erin L. Murphy regarding a change of address was filed with the Florida Secretary of State, identifying the new address of Compacstone USA Inc. as 1666 NW 82 Ave., Doral, FL 33126. This memorandum indicates that Ms. Hurtado was the Office Manager of the Miami Office of Compac USA and provides the following address for their trademark Compac The Surfaces Company: Travessera d'Albaida 1- 46727 Real de Gandía (Valencia/España).

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Compac Quartz, Inc.

498. Plaintiff is informed and believes and based thereon alleges that from mid-2008 to mid-2013 a California corporation by the name of Compac Quartz, Inc. distributed Compac artificial stone products in California.

499. On July 25, 2008, Compac Quartz, Inc. filed its Articles of Incorporation with the California Secretary of State.

500. On July 19, 2011, Compac Quartz, Inc. filed a Statement of Information with the California Secretary of State listing its business address as 700 E. Katella Ave., Anaheim, CA 92805.

501. On June 25, 2013, Compac Quartz, Inc. filed a Certificate of Election to Wind Up and Dissolve with the California Secretary of State.

Compac's September 9, 2012 Quartz Safety Sheet

502. A Quartz Safety Sheet dated September 9, 2012 identifies the product as "Compac Quartz" and the manufacturer as Silicalia Portugal S.A. with a web address www.compac.es. Section 2 of this Safety Sheet begins with the following statement: "No hazards associated with finished quartz products from Compac in CLP (EC) standard No. 1272/2008." This statement is misleading for three reasons. First, the product is not a "finished quartz product" that is sold to consumers, but is rather an industrial product that must be fabricated into countertops which, when installed in consumer's homes or businesses, are then finished products. Second, the statement suggests that there are no hazards with the product, although its ordinary and expected use inevitably results in the generation of large amounts of dust that contain crystalline silica and other toxic substances that cause silicosis, pulmonary fibrosis, progressive massive fibrosis, and other human diseases. Contrary to the assertion that no hazards are associated with the product pursuant to EC (European Commission) standard No. 1272/2008, Section 2 of Article 5 of Chapter 1 of Title II of Regulation (EC) No. 1272/2008 of the European Parliament and of the Council requires manufacturers, importers and downstream users of products to examine the relevant published literature for the purpose of determining whether the substance entails a health hazard, with respect

to "the forms or physical states in which the substance is placed on the market ***and in which it can reasonably be expected to be used"*** and EU Directive 67/548/EEC classifies as "dangerous" "substances and preparations" that are "very toxic," "which if they are inhaled . . . may involve extremely serious . . . chronic health risks and even death." Although the major hazard of inhaling crystalline silica is silicosis, the Hazard Identification section of the Safety Sheet does not mention the hazard of silicosis at all.

Compacstone USA, Inc.

503. On January 26, 2017, Compacstone USA Inc., a Florida corporation, filed a Statement and Designation by Foreign Corporation with the California Secretary of State. The Statement and Designation was signed by Francisco A. Sanchis Brines, President of Compacstone USA Inc.

504. On November 5, 2021 Compacstone USA Inc. filed a Statement of Information with the California Secretary of State, stating that its type of business is "wholesale stones and slabs."

505. On January 27, 2022, Compacstone USA Inc. filed a Statement of Information with the California Secretary of State, stating that is an "engineered marble and quartz wholesaler."

Compac Atlanta, LLC

506. On May 9, 2018 Compac Atlanta, LLC, filed Articles of Organization with the Georgia Secretary of State.

507. According to LinkedIn, Compac Atlanta, LLC is a supplier of premium European engineered quartz and marble located in Atlanta, Georgia. Clicking on a link to the Compac Altanta website on LinkedIn brings one to the website of Westside Stone Galley, which is described as "a premiere stone distributer [sic] in Georgia, which bears the Compac name and logo.

508. Compac Atlanta LLC, located at 1426 Chattahooche Avenue, Atlanta, GA 30318, appears on vendor lists of fabrication shops located in Los Angeles County, confirming that this limited liability company supplied stone slabs to countertop fabrication shops in Southern California.

Knowledge of the Silicosis Hazard by Compac Officers and Directors

509. Plaintiff is informed and believes and thereon alleges that the respiratory hazards of crystalline silica and the fibrogenic hazards of Compac's products were, at all material times hereto, known by officers and directors of Compac who approved and ratified the company's acts and non-disclosures of hazards, including, but not limited to the following: Francisco A. Sanchis-Brines, President; Maria C. Sanchis-Brines, Vice-President, Secretary, Treasurer; Paco Sanchis, Chief Executive Officer; Alicia Sans, Registered Agent; Lonnie Simon, Manager, Compac Atlanta LLC.

COSENTINO COMPANIES AND C & C NORTH AMERICA, INC.

510. "The Cosentino Group is a family-owned business which was founded in Cantoria, Almeria (Spain) in 1979 that produces surfaces marketed as Silestone®, Dekton® and Sensa®, as well as natural stone marketed as Scalea®. The Group currently employs over 4,500 individuals worldwide in locations throughout, among others, Spain, Portugal, France, the United Kingdom, the United States, Canada, Mexico, Brazil, Argentina, Scandinavia, Turkey, South Africa, Malaysia, Australia and New Zealand. . . . The Cosentino Group is the largest supplier of engineered stone product throughout the world." Letter dated November 29, 2019 to the Hon. Niall Blair, Committee Chair of the Legislative Council Standing Committee on Law and Justice in Sydney, Australia.

511. In 1990 Cosentino began manufacturing artificial stone under the brand name Silestone in Almeria, Spain, in Andalusia in southeastern Iberia on the Mediterranean Sea.

512. "In 1997, Cosentino brought Silestone to a new market by forming a subsidiary called Cosentino North America. And its appeal caught on quickly. Silestone's durability and resistance to stains was huge for kitchen designers, and it was featured in *Time* and *Good Housekeeping*. After that, business grew rapidly, and the company partook in promotional videos through groups like Home Depot and even Super Bowl advertisements." See "US Countertop Workers Falling Sick from Silica Dust," *Occupational Health & Safety* (Dec. 5, 2019).

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Cosentino Enters the United States Market

513. In an interview with Surface Magazine in 2017, Eduardo Cosentino was asked "How did Cosentino enter into the U.S. market?" He answered: "We started our operation here in 1998 with four or five people. Then we signed a deal with Home Depot and started a fabrication business. Kitchen countertops and things like that. Now we have fifty distribution centers in the U.S." Charles Curkin, "The Spanish marble scion has led his namesake company to conquer the U.S. market," *Surface* (June 26, 2017).

514. Cosentino also operated its own network of shops called Stone Systems, and it came to have dozens of locations around the U.S." See "US Countertop Workers Falling Sick from Silica Dust," *Occupational Health & Safety* (Dec. 5, 2019).

Current Cosentino Entities in Spain

515. According to Registradores de Espana, there are three current Cosentino entities in Almeria, Spain: Cosentino SA, Cosentino Industrial SA, and Cosentino Global Sociedad Limitada. These three entities and their predecessors collectively acted in concert to design, manufacture, market, export, distribute and sell their deadly products, causing the new countertop fabricator silicosis epidemic which has claimed the health and lives of so many workers.

Cosentino History

516. A webpage on the Cosentino website is titled "Cosentino, 40 Years of International Growth and Expansion: COSENTINO 1980-2020." [See webpage available online at https://www.cosentino.com/usa/news/cosentino-40-years-of-international-growth-and-expansion/

517. This webpage states: "Last April 14th was the 40th year since the creation of the commercial company "Mármoles Cosentino S.A.", genesis of what ended up being Cosentino S.A. and finally Cosentino Group."

518. This webpage provides the following chronology of the company:

1980	Mármoles Cosentino is born
1985	For the first time, products are exported
1990	Launching Silestone
1997	First warehouse in the USA
2000	Cosentino Latina (Vitória, Brazil) is born
2005	The new antibacterial Silestone The first Spanish firm to advertise in the Super Bowl
2006	Expansion throughout Europe
2009	Launching Sensa by Cosentino®
2009/10	Acquisition of 100% subsidiaries in the USA
2013	Launching Dekton
2014	Cosentino reaches five continents. First Cosentino City: Sydney
2016/19	Cosentino has more than a dozen Cosentino City in the world (London, Madrid, Miami, Los Angeles . . .)
2020	Cosentino celebrates 40 years with 5,000 employees worldwide.

Cosentino Industrial SA

519. According to Registradores de Espana, Cosentino Industrial SA commenced doing business December 15, 1989 and has its registered office at C/ Francis Martinez 2 Macael 04-Almery, Spain and is business entity No. A04117297.

520. According to Registradores de Espana, the business of Cosentino Industrial SA includes "the extraction, manufacturing, processing and marketing of natural stones, and development and innovation for the production and marketing of artificial stone . . . ; research and development of mining deposits, drilling work, cutting, projects and blasting work," "exploitation and extraction for al; mining resources (rocks and industrial minerals), . . . "Artistic representation" management and transfer of intellectual property rights, image rights, works and pre-existing rights."

521. According to Registradores de Espana, Cosentino Industrial SA's business is in sectors 2399, 2399, 0811, and 0990 - Manufacture of other non-metallic mineral products nec;

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manufacture of other non-metallic mineral products nec, extraction of ornamental and construction stone, limestone, gypsum, chalk and slate; support activities for other extractive industries."

522. According to Registradores de Espana, Cosentino Industrial SA's internet domain is www.cosentino.es.

523. According to Registradores de Espana, Cosentino Industrial SA is a "sole proprietorship, its sole owner being Cosentino SA.

524. According to Registradores de Espana, among Cosentino Industrial SA's Directors and Legal Representatives is Eduardo Martinez-Cosentino Ramos, who was appointed on September 27, 2012.

525. According to Bloomberg Markets, Cosentino Industrial SA produces quartz surfaces and "the company provides design, production, and distribution of surfaces such as kitchens and bathrooms worktops, cladding, and other products, as well as offers marble and granite products.

526. According to Bloomberg Markets, Cosentino Industrial SA operates throughout Spain. //

Cosentino Global Sociedad Limitada

527. According to Registradores de Espana, Cosentino Global Sociedad Limitada (Cosentino Global Limited Company) commenced doing business September 24, 2020 and has its registered office at CTRA A-334 Baza-Huercal Overa, Salida 60, Poligono Industrial (Edificio Oficinas) Km Cantoria 04850-Almeria, Spain and is business entity No. B01966597.

528. According to Registradores de Espana, the business of Cosentino Global Sociedad Limitada is "the production, distribution and marketing, both in national and foreign territory, of feature films and short films of cinematographic and audiovisual works in general, series and television programs and the exploitation of said works . . . , and the artistic representation, management and transfer of intellectual property rights, image rights, works and pre-existing rights, of service to the industrial sector such as industrial design, engineering and design of machinery, materials, industrial processes, industrial plants and others related to technical advice."

529. According to Registradores de Espana, Cosentino Global Sociedad Limitada's business is sector 4673 "Wholesale trade in wood, construction materials, and sanitary appliances."

530. According to Registradores de Espana, Cosentino Global Sociedad Limitada is a "sole proprietorship, its sole owner being Cosentino SA."

531. According to Registradores de Espana, included among Cosentino Global Sociedad Limitada's Directors and Legal Representatives are Eduardo Martinez-Cosentino Ramos, who was appointed Joint Administrator on January 20, 2022 and Francisco Martinez Cosentino Justo.

532. The United States Trademark for SILESTONE was filed by Cosentino SA with the U.S. Patent and Trademark Office and was subsequently transferred by Cosentino SA to Cosentino Global Sociedad Limitada, which is currently the owner of the SILESTONE trademark, such that Cosentino Golbal Sociedad Limitada is in the chain of distribution of SILESTONE and is hence subject to strict products liability for the defective design and defective warnings of SILESTONE.

533. Cosentino Global Sociedad Limitada has imported stone products manufactured by Cosentino Industrial SA to California, including to the Port of Oakland (4th largest port of unlading), Los Angeles (5th largest port of unlading), and Long Beach (10th largest port of unlading).

Cosentino SA Subsidiaries

534. According to Cosentino SA's website, Cosentino SA (formerly known as Cosentino Group SA) has the following subsidiaries:

Blanco Almenas S.L.
C&C North America Inc.
Carrara Stone Systems of Chicago, LLC dba Stone Systems of Chicago
Cosentino Canada Inc.
Cosentino Research & Development
Cosentino Ireland Ltd.
Cosentino Malaysia Sdn. Bhd.

Cosentino South Africa Pty Ltd
Cosentino Poland Sp. Z O. O.
Cosentino New Zealand Ltd
Cosentino Denmark Aps
Cosentino Finland Oy
Cosentino South East Asia Pty Ltd
Cosentino Center Israel Ltd
Cosentino Austria Gmbh
Cosentino Japan K.K.
Cosentino Norway A.S.
Cosentino UK Ltd.
Cosentino Latina Ltda.
Cosentino the Netherlands B.V.
Cosentino Deutschland Gmbh
Cosentino Scandinavia A.B.
Cosentino Portugal Unipessoal Lda.
Cosentino Italia S.R.L.
Cosentino Australia Pty Ltd.
Cosentino Swiss A.G.
Cosentino Belgium Bvba
Cosentino Milano S.r.l.
Cosentino Turkey Yapi İthalat İhracat Ve Ticaret Limited Şirketi İmza Sirküleri
Entorno Del Faro S.L.
Grupo Cosentino S.L.
Jardines La Tejera S.L.
Stone Suppliers Mexico S. De R.l. De C.v.
Stone Services of France Sarl
Stone, Systems & Services, Inc. dba Stone Systems of Minnesota

Stone Systems of South Florida, LLC
Stone Systems of Raleigh, LLC
Stone Systems of New Mexico, LLC
Stone Systems of New Jersey, LLC
Stone Systems of New England, LLC
Stone Systems of Houston, LLC
Stone Systems of Central Texas, LLC
Stone Systems of Atlanta, LLC
Stone Systems of Arizona, LLC
Stone Systems of North Texas
Stone Made Products, Inc. Dba Superficies De Piedra Innovadoras S. De R.l. De C.v.
Surister Del Arroyo S.L.
Vigia Del Valle S.L.

C&C North America's Liability for the Acts of Cosentino

535. At all material times hereto, Defendant, C & C North America, Inc., has been a subsidiary of Cosentino Group, a Spanish corporation; Defendant, C & C North America, Inc. has been wholly owned and controlled by Cosentino Group; and Defendant, C & C North America, Inc. has acted in the capacity of an agent, co-conspirator, and alter ego of Cosentino Group, and within the course and scope of its authority as Cosentino Group's agent, co-conspirator, and alter ego, and with the permission, consent, knowledge, authorization, ratification and direction of Cosentino Group. The liability of Defendant, C & C North America, Inc. as an agent, co-conspirator, and alter ego of Cosentino Group, for the acts of Cosentino Group is evidenced and established by the following facts:

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Cosentino Group Executive Officers

536. Francisco Martinez-Cosentino Justo is the Chairman, Chief Executive Officer, and President of Cosentino Group.

537. Eduardo Martinez-Cosentino Alfonso is the Executive Vice President for Global Sales of Cosentino Group.

538. Francisco Martinez-Cosentino Justo and Eduardo Martinez-Cosentino Alfonso are also members of the Executive Committee of Cosentino Group.

Eduardo Martinez-Cosentino Alfonso

539. Eduardo Martinez-Cosentino Alfonso is commonly known as Eduardo Cosentino.

540. Since 2005 Eduardo Cosentino has held the position of Executive Vice-President of Global Corporate Sales for Cosentino Group. ["Eduardo Cosentino on Cosentino" published in 2020 in the journal *Slippery Rock Gazette, the Beacon of the Stone Industry,* at https://www.slipperyrockgazette.net/index.cfm/pageId/3892/Eduardo%20Cosentino%20on%20Cosentino/].

541. In addition to his global sales responsibility, in 2010 Eduardo Cosentino was named CEO of C & C North America, Inc., where he has overseen the company's growth in the U.S. market. ["Eduardo Cosentino on Cosentino" published in 2020 in the journal *Slippery Rock Gazette, the Beacon of the Stone Industry,* available online at https://www.slipperyrockgazette.net/index.cfm/pageId/3892/Eduardo%20Cosentino%20on%20Cosentino/].

542. In addition to these duties, Eduardo Cosentino has also been a member of Cosentino Group's Steering Committee, its Executive Committee, and a member of Cosentino Group's Board of Directors. ["Eduardo Cosentino on Cosentino" published in 2020 in the journal *Slippery Rock Gazette, the Beacon of the Stone Industry,* available online at https://www.slipperyrockgazette.net/index.cfm/pageId/3892/Eduardo%20Cosentino%20on%20Cosentino/].

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Cosentino Centers in the US and California

543. Cosentino Group has about 110 Centers around the world, 50 of which are located in 16 countries in Europe, 42 in North America, 4 in Canada, 7 in Brazil, 5 in Australia, 1 in New Zealand, and 1 in Mexico. [https://www.cosentino.com/usa/cosentino-center/]

544. A Cosentino website lists the following Cosentino "Centers" in California, the name of each being preceded by a distinctive white blockish C in a grey circle:

Anaheim Center 611 East Cerritos Avenue - Anaheim

Los Angeles Center 12822 Rangoon Street - Los Angeles

Sacramento Center 10015 Foothills Boulevard Suite 150 - Roseville

San Diego Center 9020 Activity Road Suite C - San Diego.

[Cosentino webpage at https://www.cosentino.com/usa/cosentino-center/].

545. Each of these Cosentino Centers has links for "Call," "How to get there," "View store detail" and "Virtual Visit." [Cosentino webpage]

546. Clicking on the Los Angeles Center link brings one to a webpage with a heading "Cosentino » Where to buy » Los Angeles Center" and provides the following contact details: 12822 Rangoon Street 91331, Los Angeles, **Email** orders.la@cosentino.com, **PHONE** +1 (818) 381-8220.

547. There are more Cosentino Centers in the United States than any other country.

First Cosentino Center in North America

548. The first Cosentino Center in North America opened in 2010 in Anaheim, California.

549. An article titled "First North American Cosentino Center opens in Anaheim" was published in *Stone World* on September 8, 2010. [https://www.stoneworld.com/articles/86034-first-north-american-cosentino-center-opens-in-anaheim].

550. The article stated: "Cosentino, a global leader in natural stone, quartz and recycled surfacing, recently opened its first Cosentino Center in North America in Anaheim, CA. More than a showroom, the Cosentino Center is designed to support, promote and educate trade professionals

by integrating distribution facilities, exhibition areas, workspaces for designers to bring clients, classrooms for continuing education, and fully functioning kitchens and event space for demonstrations." https://www.stoneworld.com/articles/86034-first-north-american-cosentino-center- opens-in-anaheim.

551. The article further stated: "Officially opening with a reception for industry leaders on Wednesday, September 15th, the new Anaheim center aims to enhance both the trade and consumer experience, and marks the launch of a greater plan to significantly expand Cosentino's presence in the U.S. market over the next year." [https://www.stoneworld.com/articles/86034-first-north-american-cosentino-center-opens-in-anaheim].

552. The article stated: "'We are thrilled to be introducing the Cosentino Center to the U.S. market by unveiling the first in Anaheim, CA,' said Lorenzo Marquez, Vice President of Marketing for Cosentino. 'This is the next evolution of the Cosentino brand -- offering a new take on the showroom experience, design innovation and demonstration.' The first Cosentino Center is located in central Anaheim, CA, a region known for its rich history in the natural stone industry, and only a 20-minute drive from downtown Los Angeles. The facility includes over 50,000 square feet of warehouse space and distribution center as well as a state-of-the-art showroom." [https://www.stoneworld.com/articles/86034-first-north-american-cosentino-center-opens-in-anaheim.].

Cosentino City Los Angeles

553. A Cosentino webpage says that a Cosentino City is "a space for design and architectural professionals to get inspired, connect, and create." This webpage shows pictures of buildings with Cosentino signage in Atlanta, Chicago, Los Angeles, New York, Miami, San Francisco, Montreal, Toronto and Washington. [https://www.cosentino.com/usa/professional/cosentino-city/].

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554. A building which bears the name "COSENTINO®" is presently located at 8764 Beverly Blvd., West Hollywood, CA 90048. [Picture of the Cosentino Los Angeles building on the Cosentino website at https://www.cosentino.com/usa/professional/cosentino-city/los-angeles/].

555. The building located at 8764 Beverly Blvd., West Hollywood, CA 90045 is called "Cosentino City Los Angeles."

556. The website LinkedIn has a webpage for Cosentino City Los Angeles which has a picture of a storefront with signage stating "COSENTINO" with the distinctive white blockish C in a tan square. [Exhibit "O": LinkedIn webpage for Cosentino City Los Angeles.]

557. The webpage states: "Located in the design district of West Hollywood, Cosentino City Los Angeles is the perfect environment for architects and designers to interact with the latest innovations in hard surface installation. Spread across 2,200 square feet, Cosentino City Los Angeles has an Atelier Lab, a central space featuring a library of materials where you can find inspiration and develop all kinds of projects. It also has several social areas, digital design tools and a patio that showcases the limitless possibilities Dekton provides for outdoor spaces. Schedule your appointment: Phone: +1 (310) 620-6084. We are waiting for you!" The page then states: Website: https://www.cosentino.com/usa/professional/cosentino-city/los-angeles/; Phone +1 (310) 620-6084; Industry: Architecture and Planning; Company size: 1,001-5,000 employees; Founded 1979; Specialties: #Dekton, #Silestone, #Sensa, #Architecture, #Design, and #Interiorism. [LinkedIn webpage for Cosentino City Los Angeles.]

558. Clicking on the website link takes one to a Cosentino webpage that states: "Welcome to Cosentino City Los Angeles: A Space for design and architecture professionals to get inspired, connect, and create." This webpage then has a picture of a building with signage that says: "COSENTINO®" with smaller signage stating "Silestone," "Dekton," and "Sensa." [Cosentino webpage https://www.cosentino.com/usa/professional/cosentino-city/]

559. The opening of Cosentino City Los Angeles was attended by Eduardo Cosentino, Executive Vice President for Global Sales of Cosentino Group.

560. An April 15, 2019 article in *KBB* [Kitchen & Bath Business] was titled "Cosentino Group Announces $1.1 Billion in Sales in 2018 and Celebrates LA City Center Grand Opening."

[https://www.kbbonline.com/news/business/cosentino-group-announces-1-1-billion-in-sales-in-2018-and-celebrates-la-city-center-grand-opening/].

561. This article contains a photograph of five people, one of whom is Eduardo Cosentino (Executive Vice-President of Global Sales of The Cosentino Group), who is depicted holding a ribbon bearing the name "COSENTINO." Standing next to him in the photograph is Cindy Crawford. Another photograph in the article includes Santiago Alfonso (Marketing Director of the Cosentino Group). The photographs show these individuals in front of a backdrop that bears the blockish C and wordmark COSENTINO followed by "CITY" and also bears the tradenames and trademarks for Cosentino' Silestone® amd Dekton®. [https://www.kbbonline.com/news/business/cosentino-group-announces-1-1-billion-in-sales-in-2018-and-celebrates-la-city-center-grand-opening/].

562. The opening of Cosentino City Los Angeles is not the first Cosentino event that Eduardo Cosentino attended in Los Angeles County with Cindy Crawford.

563. On May 16, 2017, photographs of Eduardo Cosentino and Cindy Crawford were taken in front of signage showing the blockish C and "COSENTINO" and were published with an announcement tiled "Cindy Crawford and Eduardo Cosentino NA Launch Silestone's 'Eternal Beauty and Eternal Style' Collection." The announcement also stated: "LOS ANGELES, CA - May 16: Cindy Crawford attends Cindy Crawford and Eduardo Cosentino's New Design Alliance and launch of Silestone's latest collection 'Eternal Beauty and Eternal Style' at Milk Studios on May 16, 2017 in Los Angeles California. (Photo by Emma McIntyre/Getty images)." [https://www.gettyimages.com/detail/news-photo/cindy-crawford-attends-cindy-crawford-and-eduardo-news-photo/683986976?adppopup=true]."

Cosentino Trade Name and Word Mark

564. **C COSENTINO** is a word mark for "non-metallic building materials, namely stone slabs and blocks for building and construction, slabs and blocks not of metal, for building and construction, rock materials used in countertops, worktops, cladding and tiles, rigid pipes, not of

metal, for building, asphalt, pitch and bitumen; transportable buildings, not of metal; monuments, not of metal; marble, silica, namely, quartz, building glass, xylolith, gypsum, stone, slate, granite, sandstone, concrete, brick, ballast, namely, sand, limestone, lime building materials, rock crystal, quartz, asbestos cement, clay sold in powdered from for use in the manufacture of wallboard and plastics, ceramic tiles, alabaster." [Cosentino Trademark IC 019. US 001 012 033 050, filed February 25, 2016 with the U.S. Patent and Trademark Office].

565. The registrant of the **C COSENTINO** trademark is Cosentino S.A.U. Sociedad anónima unipersonal SPAIN Ctra. A-334, Km. 59 E-04850 Cantoria (Almeria) Spain." [Cosentino Trademark IC 019. US 001 012 033 050, filed February 25, 2016 with the U.S. Patent and Trademark Office].

566. The last listed owner of the **C COSENTINO** trademark is Cosentino Global, S.L.U Sociedad Limitada Unipersonal Carretera A-334, Baza-Huércal-Overa, Salida 60, Polígono Industrial (Edificio Oficinas), E-04850 Cantoria (Almeria) Spain. [Cosentino Trademark IC 019. US 001 012 033 050, filed February 25, 2016 with the U.S. Patent and Trademark Office].

Cosentino Product Tradenames and Trademarks

567. SILESTONE BY **COSENTINO** S is a word mark for "non-metallic building materials, namely, agglomeration stones." [Cosentino Trademark IC 019. US 001 012 033 050, G & S, filed June 26, 2008 with the U.S. Patent and Trademark Office].

568. DEKTON BY **COSENTINO** is a word mark for "non-luminous, non-metallic, and non-mechanical coverings for facades; non-metallic tile coverings for walls and floors; non-metallic floor, wall, facade and ceiling building materials, namely, bathroom tiles and kitchen tiles; and non-metallic kitchen countertops and bathroom countertops for further installation; [clay slabs,] ceramic slabs, and slabs composed of ceramic surfaces; [asphalt, pitch and bitumen; transportable buildings, not of metal;] monuments, not of metal; non-metallic building materials, namely, marble, quartz, [glass; xylolith, gypsum,] stone, slate, granite, concrete, [brick,] limestone [asbestos, clay, and

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alabaster]." [Cosentino Trademark IC 019. US 001 012 033 050, G & S, filed April 25, 2013 with the U.S. Patent and Trademark Office].

C & C North America, Inc.

569. On March 21, 2003 C & C North America, Inc. was incorporated in the State of Delaware.

570. On July 9, 2008 C & C North America, Inc. filed a Statement and Designation by Foreign Corporation with the California Secretary of State, which stated that it will do business in California as SMDS East Coast, that its principal executive office was 13124 Trinity Drive, Stafford, TX 77477, that the address of its principal office in the State of California is 2980 Red Hill Avenue, Costa Mesa, CA 92626, and that its agent for service of process is CT Corporation System. [Statement and Designation by Foreign Corporation with the California Secretary of State]

571. The building at 2980 Red Hill Avenue in Costa Mesa had signage that consisted of the blockish C and the word COSENTINO in white on a dark square, followed by the following italicized text: *Silestone & Marble Distribution Services.* [photograph of building]

572. The blockish C and the word COSENTINO in white on a dark square is the same word mark that was filed with the U.S. Patent and Trademark Office on February 25, 2016 identifying COSENTINO. S.A.U. Sociedad anónima unipersonal SPAIN Ctra. A-334, Km. 59 E-04850 Cantoria (Almeria) Spain as the Registrant and Cosentino Global, S.L.U Sociedad Limitada Unipersonal Carretera A-334, Baza-Huércal-Overa, Salida 60, Polígono Industrial (Edificio Oficinas), E-04850 Cantoria (Almeria) Spain as the last listed owner. [Cosentino Trademark IC 019. US 001 012 033 050, filed February 25, 2016 with the U.S. Patent and Trademark Office].

Cosentino's 1999 Material Safety Data Sheet for Silestone

573. On February 22, 1999 Cosentino issued a Material Safety Data Sheet for its Silestone® product which it identified as "Agglomerated stone slabs, tiles and fabricated items."

Section 2 of this document, regarding "Hazardous Ingredients" has a table with five columns for Hazardous Ingredients, % by wt., % by vol., CAS #, and Other Limits. However, the table is blank; i.e, it does not identify any hazardous ingredients, even though the product contained as much as 95% crystalline silica, which causes silicosis, lung cancer and other occupational diseases. By failing to disclose crystalline silica as a hazardous ingredient of the product, Cosentino concealed this hazard from customers, their employees, and workers exposed to its lethal product.

574. Section 7 of the Material Safety Data Sheet concerns "Preventative Measures." The first part of this section concerns "Personal Protective Equipment." In this action Cosentino stated: "RESPIRATOR: Use respirator or particulate mask when cutting or abrading material." This instruction was inadequate and harmful, because the use of an air-purifying respirator or particulate mask is inadequate to prevent silicosis from cutting or abrading the product and misled workers to believe that they would be safe if they wore an air-purifying respirator or mask when cutting or abrading the product. The instruction failed to inform workers that because of the very high crystalline silica content of the product and the high exposures to respirable crystalline silica dust that result from cutting or abrading the product, the only type of respirator that could prevent workers from getting silicosis from cutting or abrading the product was an air-supplied respirator.

575. Section 7 of the Material Safety Data Sheet next contains information regarding "Procedures and Controls. Regarding "Engineering Controls." It states: "ASTME-1132-86 'Standard Practice for Health Requirements Relating to Occupational Exposure to Dust.'" This information was grossly inadequate, because the document to which it refers was not readily accessible, could only be purchased through the American Society for Testing Materials, and the document related to industrial dust, i.e., a nuisance dust, rather than respirable crystalline silica.

576. The next section regarding Procedures and Controls" was "Handling Equipment & Procedures" and stated: "Observe local safe handling procedures. Handle with care." This was a totally inadequate and meaningless instruction to workers how to handle Silestone safely. The instruction fails to tell workers to always use wet processing methods, to wear an air-supplied respirator, to wear full body protection to prevent all exposure to respirable crystalline silica dust, and fails to prescribe any engineering, ventilation, or administrative controls to prevent silicosis.

577. Section 8 of the Material Safety Data Sheet, regarding First Aid Procedures, states that the International Agency for Research on Cancer (IARC) [has] determined that crystalline silica is a probable carcinogen. This is a false statement, because two years earlier, in 1997, IARC determined that crystalline silica is a Group 1 (known human) carcinogen.

Early Cases of Artificial Stone Silicosis from Silestone

578. Occupational disease cases among Cosentino employees who worked in stone extraction at the Cosentino, S.A. facility in Almeria have been documented as early as 2001 and 2002.

579. A document by the Ministry of Labor and Occupational Safety of Almeria dated August 7, 2002 refers to occupational disease claims of three Cosentino workers. The document concerns the Work Violation Act and states that an inspector from the Ministry made an inspection visit to Cosentino, S.A. in Cantoria regarding the occupational diseases of two workers: D. Miquel Centas Antolin and Francisco Azor Vargas. The document notes that a third worker, D. Manuel Gea Martinez, had earlier been diagnosed with occupational disease on May 3, 2001. The document refers to stone extraction work at the Cosentino facility in Almeria and states that the inspection visit was attended by Francisco Martinez Cosentino, Manager of Cosentino S.A., and Antonio Rubio Ruiz, head of the company's Occupational Risk Prevention Service. The occupational disease claims of the three workers at Cosentino's Almeria facility may be the earliest cases of silicosis attributable to occupational exposure to Cosentino's Silestone artificial stone product.

580. A document dated December 3, 2002 on letterhead of the Ministry of Employment and Technological Development, Occupational Hazard Prevent Center, Almeria, provides details regarding the occupational disease of a fourth Cosentino employee, Jose Araque Martinez. Following is a translation of this document:

BOARD OF ANDALUCIA **Ministry of Employment and Technological Development**
Occupational Hazard Prevent Center, Almeria

3 DEC. 2002 2811

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TECHNICAL REPORT REGARDING

INVESTIGATION OF OCCUPATIONAL DISEASE

1. DATE EXTRACTED FROM THE REPORT

1.1 About the Worker

- Name and Surname: Jose Araque Martinez
- D.N.I: 36-508-347
- Social Security Number: 07/47446686
- Date of Birth: 01-5-57
- Residence: C/ Obispo Rodenas, 50
- Location: Otula del Rio
- Province: Almeria
- Job: Operator Exp
- Category: Official 1
- Date of first employment: 02-5-79
- Duration of employment: 23 years
- Job when the disease was diagnosed: Freight forwarding
- Job previously done: Rework and finish parts

1.2 About the Employer

- Business Name: Costentino, S.A.
- Registered Office: C/ Fto. Martinez, 2- MACAEL
- Workplace: Ctra. Buza - Huercal-Overa, Km 59 - CANTORIA
- Activity: Industrial Natural Stone
- N.I.S.S.: 04/45683/07
- Location: CANTORIA
- Province: Almeria
- Telephone: 950-44-41-75
- Template: 373

1.3 About the Disease

- Date of diagnosis: 24-09-02
- Date of Receipt of Report: 14-10-02
- Type of Occupational Disease: Pneumoconiosis
- Diagnosis: Silicosis
- Symptoms of the disease: Cough, expectorate and dyspnea
- Degree of disease: Serious
- Nature of diagnosis: Of certainty
- Work that is considered to have caused the disease: Working with “Silestone”
- Time in months of exposure to the hazard: 8 years
- Date of previous medical examination: ------
- Date of last medical examination: 23-04-00

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Cosentino's 2006 Material Safety Data Sheet for Silestone

581. In August 2006 Cosentino issued a Material Safety Data Sheet for its Silestone® product which it described as a "Solid quartz surface." Section 2 of this document contains a table (Table 1) that identified the components of the product as Orthophthalic polyester resin (5-25%), Pigments (<5%), Micronized silica (<0.1 mm) (5-50%) Grounded silica (0.1-10 mm) (10-90%), Grounded quartz (0.1-10 mm) (5-50%), Grounded Glass/Mirror (0.1-10 mm) (5-50%), and Grounded granite (1-10 mm) (5-50%). The Material Safety Data Sheet also contains a table (Table 2) that identified three additives by CAS and EINECS numbers rather than chemical names, so workers could not know what the additives were without reference books to look up code numbers. The additives so mysteriously identified are (1) Cobalt, C5-23-branched carboxylate naphthenate octanoate complexes, (2) tert-Butyl peroxybenzoate, and (3) 3-(Trimethoxysilyl)propyl methacrylate.

582. After identifying the product's components, the Material Safety Data Sheet states: "This product does not contain free substances that involve a risk for the health in accordance to the Regulation of Dangerous Substances R.D. 255/2003 and according to the European Norms 67/548/EEC, 199/45/EE and its corrections 93/112/EEC, 2001/58/EEC y 2001/60/EEC." This statement, which suggested that Cosentino's Silestone did not entail a risk for health was false, because the expected and intended use of the product generates extremely hazardous respirable crystalline silica that causes silicosis and death. Cosentino made this statement even though EU Directive 67/548/EEC classifies as "dangerous" "substances and preparations" that are "very toxic," "which if they are inhaled ... may involve extremely serious ... chronic health risks and even death."

583. The next sentence of the Material Safety Data Sheet states: "The finished product does not contain any of the substances described in Table 2 since, once completed the production process, these are part of the three-dimensional structure of the polyester, included and immobilized in it. Therefore, this product is not classified as dangerous substance or product that involves a risk for the health according to the Regulation of Dangerous Substances R.D. 255/2003, and according to the European Norms 67/548/EEC, 199/45/EE and its corrections 93/112/EEC, 2001/58/EEC y 2001/60/EEC by means of which the present Security Data Sheet (MSDS) has been written up."

This statement is also false because the additives in the product are toxic via inhalation and are known to cause lung disease, including fibrotic lung disease, and when Silestone is cut or ground these components of the product do not remain "immobilized" in the product, but become airborne and are inhaled by workers exposed to dust from Silestone, thereby causing respiratory tract damage.

584. Section 3 of the Material Safety Data Sheet is titled "Risks Identification and General Safety Measures." This section begins with the following statement: "This product presents no type of risks for the human health or environment in accordance to the Regulation of Dangerous Substances R.D. 255/2003, and according to the European Norms 67/548/EEC, 199/45/EE and its corrections 93/112/EEC, 2001/58/EEC and 2001/60/EEC." This is a false statement, because the product contains extremely high concentrations of crystalline silica as well as the other and components and additives that are toxic to the respiratory tract and can cause silicosis and other fibrotic lung disease and death, and because EU Directive 67/548/EEC classifies as "dangerous" "substances and preparations" that are "very toxic," "which if they are inhaled . . . may involve extremely serious . . . chronic health risks and even death."

585. Section 3 of the Material Safety Data Sheet also states: "A prolonged exposure to the dust derived from the dry cutting and polishing treatments can cause serious health problems as pneumoniosis, silicosis, as well as a worsening of the people affected by pulmonary diseases as bronchitis, emphysema, etc." This statement is false because silicosis occurs from wet cutting Silesone and polishing treatments, and is misleading because the statement does not quantify the duration of "prolonged exposure" that can cause silicosis, leading workers to believe it would take decades of exposure to cause silicosis, although exposure to Silestone and other artificial stone products causes acute silicosis in less than 5 years and accelerated silicosis in less than 10 years.

586. Section 3 of the Material Safety Data Sheet then states: "In order to reduce a casual [sic] exposure it is always recommended to use water as dust reducer. It is advisable the use of tools cooled by water and to perform the operations of dry cutting, milling and polishing of this product in a suitably ventilated place. Otherwise, it is essential to use respiratory personal protection for dust and particles type FFP1 according to norm UNE-EN 143:2001 and its revisions UNE-EN 143/AC 2002, UNE-EN 143/AC 2005." This instruction is inadequate because it merely recommends the

use of wet processing methods to reduce dust, rather than stating that wet processing methods must always be used with all saws, and cutting, grinding and polishing tools to prevent silicosis. It is also inadequate because it doesn't specify the types of ventilation that provide a suitably ventilated space. The last sentence is also inadequate, because it refers to a European Standard that is not available online and is only available for purchase, the referenced standard appears not to be applicable for extremely high exposures to respirable crystalline silica, and the instruction suggests that particle air-purifying respirators are adequate to prevent silicosis, although air-purifying respirators do not prevent silicosis in workers exposed exposed to respirable crystalline silica from fabricating artificial stone. The instruction is harmful because it does not inform workers that the only type of respirator that can prevent silicosis from exposure to high levels of respirable crystalline silica is an air-supplied respirator and it instead suggests that air-purifying respirators provide adequate protection.

587. Section 4 of the Material Safety Data Sheet, titled "First Aids" begins with the following statement: "This product is not hazardous in normal use, but not using the right equipment during fabrication operations as cutting, drilling, etc can cause a situation of emergency." This sentence is false and harmful, because Silestone is indeed hazardous in normal use, because the normal use of the product causes silicosis and death. To the extent that the statement constitutes a use instruction, it is also inadequate, because it indicates that "the right equipment" must be used for fabrication operations, but does not specify what that equipment is.

588. Section 6 of the Material Safety Data Sheet, titled "Manipulation and Storage" Aids" begins with the following statement regarding "Manipulation": "It is not necessary special measures for the manipulation of this product, but it is recommended to follow the next precautions." This statement is false and harmful, because manipulating the product as designed, intended, and expected results in the generation of respirable crystalline silica that causes silicosis and other occupational diseases, such that special measures for "manipulation of this product" are always required.

589. Section 7 of the Material Safety Data Sheet, titled "Control of Exposure/Personal Protection," begins with a subsection titled "Limit Values of Exposure," which states: "In accordance to the previously exposed and relying to the norm 2000/39/CE, as well as to the R.D. 274/2001 which it sends us to the values published by the National Institute of Health and Hygiene

at Work (INSHT), the limit of the daily exposition to the dust resulting of the elaboration of Silestone® is 2 mg/m3. It appears in Table 1 for the y ear 2006 published by the mentioned INST in the line "Silica, vapor. Breathable fraction"." This statement is unintelligible and is therefore inadequate. Assuming that the statement means that the exposure limit for Silestone dust is 2 mg/m3, the statement is incorrect, because as of 2006, the permissible exposure limit and all recommended exposure limits for respirable crystalline silica in the United States were many times lower than 2 mg/m3. Indeed, by 1991 OSHA had adopted a Permissible Exposure Limit for respirable crystalline silica which was 10 / (% quartz + 2) mg/m^3. Since the percentage of quartz in Silestone was approximately 90%, the OSHA permissible exposure limit for the product was approximately 0.1 mg/m^3 - 20 times less than that stated in the Silestone Material Safety Data Sheet. The statement was therefore not merely false; it was extremely dangerous because it overstated the permissible exposure limit to the product by a factor of 20 – a level of exposure that causes silicosis.

590. Section 7 of the Material Safety Data Sheet then has a subsection for "Exposure Controls" that provides the following information regarding "Respiratory protection": "Respiratory personal protection for dust and particles type FFP1 according to norm UNE-EN 143:2001 and its revisions UNE-EN 143/AC 2002, UNE-EN 143/AC 2005, even working with water as dust reducing agent during the elaboration of this product." This instruction is not only inadequate, but is extremely dangerous and harmful, because the type of respirator prescribed is the least filtering mask of the FFP series of masks that only filters 80% of airborne particles and allows inward leakage up to 22%, which is wholly inadequate to protect workers from respirable crystalline silica exposure and actually causes silicosis rather than preventing silicosis.

591. Section 10 of the Material Safety Data Sheet, titled "Toxicological Information" states: "As another product of natural stone that contains quartz or quartz dust as quartz, marble or granite, the operations of dry cutting, milling or any other treatments of this product can generate dust susceptible to produce irritation in eyes, nose and respiratory tract. A prolonged exposure can cause serious health problems, including pneumoconiosis." This statement is false and misleading, because Silestone is an artificial stone (engineered stone product), is not a natural stone product and has toxicological properties that are much different than natural stone. These include the extremely

high crystalline silica content of Silestone (which is much higher than the crystalline silica content of natural stone), the extremely small size of the particles of crystalline silica that are generated from cutting and grinding Silestone (most of the particles generated being in the ultrafine to nano-sized range unlike crystalline silica particles from natural stone), and the toxicological properties of the resin, metallic pigments and other additives of the product that are produced during fabrication processes as particles and probably metal fumes, thereby increasing the respiratory toxicity of the product. None of these toxicological properties of Silestone are mentioned and the information that is provided, which suggests that Silestone is no more toxic than natural stone, is false and misleading. The statement that "a prolonged exposure can cause serious health problems, including pneumoconiosis," is misleading because the duration of exposure that constitutes "a prolonged exposure" is not specified, so workers are left to speculate whether the "prolonged exposure" that can cause harmful effects is days, weeks, months, years, or decades. The word "pneumoconiosis" is also vague and confusing, because it is not a commonly used word and readers would unlikely know that it refers to a plethora of occupational dust diseases of the lungs, the most relevant of which is silicosis, which is not mentioned by name in this section even though it is the lung disease most strongly associated with occupational exposure to respirable crystalline silica dust.

592. The last paragraph of Section 10 of the Material Safety Data Sheet states: "In accordance to RD 363/1995, regulation about notification of new substances and classification, packed and labeled of dangerous substances, the sample put under test is not considered classifiable within any group of risk on the basis of its acute toxicity by ingestion." This statement is false and misleading, because the referenced regulation requires notification and warnings for new hazardous substances in commerce that companies market and sell, including substances specified in subdivision 2 of Article 2 of the regulation, which includes dangerous substances, including those that are "very toxic," which is defined in subsection (f) of Article 2, subdivision 2 of the regulation as "substances and preparations that, by inhalation, ingestion or skin penetration in small quantities, can cause acute or chronic effects and even death."

593. Section 15 of the Material Safety Data Sheet, regarding Regulatory Information," states: "Silestone is not classified as dangerous substance or product that involves a risk for the

health in accordance to the Regulation of Dangerous Substances R.D. 255/2003 and according to European Norms 67/548/EEC, 199/45/EE and their corrections 93/112/EEC, 2001/58/EEC and 2001/60/EEC." Once again, this is a false statement, because the product contains extremely high concentrations of crystalline silica as well as the other and components and additives that are toxic to the respiratory tract and can cause silicosis and other fibrotic lung disease and death, and because EU Directive 67/548/EEC classifies as "dangerous" "substances and preparations" that are "very toxic," "which if they are inhaled . . . may involve extremely serious . . . chronic health risks and even death."

594. Section 16 of the Material Safety Data Sheet, regarding "Other Information," contains three paragraphs, the first of which states: "The information contained in this document is, in accordance to all our actual acknowledges, true and exact. However any recommendation or suggest formulated here are out of our guarantee, because the conditions of use of our product are out of our control. Besides, nothing of contains here can be interpreted like a recommendation to use any product breaking the laws and trials of security or patents come into effect about any subject or its use." This paragraph appears to constitute a representation that the information in the Material Safety Data Sheet is true and correct, although most of the information provided is either, false, misleading or unintelligible, and could not have been genuinely believed by Cosentino to be "true and exact."

595. The second paragraph of Section 16 of the Material Safety Data Sheet states: "The receiver of our product will have to observed, under its responsibility, the corresponding regulations and norms. In any case the data contained in this Security Data Sheet constitute a guarantee of specific properties or generate any contractual relation." Although this paragraph appears to constitute an an attempt by Cosentino to disclaim all responsibility for its dangerous and lethal product and to shift all such responsibility to those who receive the product, the language actually states that "the data contained in this Security Data Sheet constitute a guarantee of specific properties" of the product and therefore actually constitutes a guarantee by Cosentino of safety.

596. The last paragraph of the Material Safety Data Sheet repeats the previous false statements that the MSDS is in accordance with the aforementioned European laws.

Silicosis Cases in Spanish Workers Exposed to Cosentino's Silestone

597. The first cases of silicosis in Spanish artificial stone workers were published in 2010 by researchers at the National Institute of Silicosis at the University Hospital in Asturias, Spain. They reported 3 cases in workers who had been employed for 17 years by a small ornamental stone company that fabricated and installed in homes and buildings. The workers were all young: 32, 34, and 37 years old. Chest x-rays of all 3 workers showed nodular opacities with diffuse bilateral distribution and more profuse localization in the upper lobes, with a slight increase in mediastinal and/or hilar nodes. In case 1, a cluster of nodules was observed with progressive massive fibrosis; this worker was diagnosed with complicated silicosis. Martínez C, et al., "Silicosis, a Disease With an Active Present," *Arch. Bronconeumol.* 2010; 46(2):97-100 [in Spanish with English abstract]. These cases were apparently of workers who were exposed to Cosentino's Silestone product.

598. In 2011, researchers at Galdakao Hospital in Bizkaia, Spain published a study of 11 workers who were exposed to different types of quartz surfaces since 1995. Four of the subjects worked in the cutting workshop; the rest of the workers worked in assembly (i.e. fabrication), without any specific respiratory protection apparatus. They diagnosed 6 of the 11 workers with silicosis, which equated to a disease prevalence in this work environment of 54.5%. Of the 6 workers affected, 5 (83.3%) were assembles (fabricators). The investigators attributed silicosis in these workers to quartz conglomerates (artificial stone). Pascual S, et al., "Prevalence of silicosis in a marble factory after exposure to quartz conglomerates," *Arch. Bronconeumol.* 2011; 47(1):50-51 [in Spanish with English abstract]. These workers were exposed to Cosentino's Silestone.

599. On May 29, 2011 an article appeared in Diario de Cadiz titled "Silicosis has affected almost twenty Pelagatos workers." The article noted that this irreversible fibrotic-pulmonary disease is contracted through Silestone, a material used to manufacture countertops. A conference on occupational health organized by Comisiones Obreras (CCOO) in San Fernando brought to light information that affects workers in the Pelagatos industrial estate. From the Occupational Health Secretariat of that union, Manuel García Túnez, confirmed that a total of 19 workers from that industrial zone who are engaged in the manufacture of Silestone have suffered from silicosis. The

union official pointed out that this disease is contracted through prolonged contact with a material used in countertops, Silestone (a quartz agglomerate), but that this condition is due to the fact that few measures are taken to prevent occupational hazards. Thus, he said that among the twenty people affected by silicosis there are already people with absolute disability and others who are able to work. In the same way, he criticized the functions of the mutuals that, in his opinion, "are more interested in their business than in the worker." He also pointed out that the health authority, in terms of occupational health, "is a real disaster in the entire Andalusian community, but much more in the province of Cádiz."

Cosentino's 2013 Material Safety Data Sheet for Dekton®

600. In April 2013, Cosentino issued a Material Safety Data Sheet for its product DEKTON®, which described the product as an "Ultra-compact surface designed for use indoors and outdoors, particularly kitchen and bathroom worktop, flooring, cladding and facades."

601. Section 2 of this Material Safety Data Sheet, regarding "Hazards Identification" states: "There is no provision for any risk associated with the finished DEKTON® material in the CLP (EC) regulation n^0. 1272/2008. However respirable crystalline silica dust can be generated in manufacturing operations. Respirable crystalline silica causes harm to the lungs, such as silicosis, through prolonged or repeated exposure (Hazard H372). A series of preventative measures should be adopted to prevent or minimise exposure." This statement is false and misleading for the following reasons: First, the purpose of the referenced regulation "is to ensure a high level of protection of human health" and to provide "an obligation . . . for suppliers to label and package substances and mixtures placed on the market," suppliers being defined as including "any manufacturer, importer, downstream user or distributor placing on the market a substance, on its own or in a mixture, or a mixture." Second, crystalline silica is specifically identified in Annex 1 of the regulation as a hazardous substance. Third, the regulation requires suppliers (including manufacturers) of a hazardous substance or mixture to "ensure that the substance or mixture is labelled and packaged in accordance with [the regulations] before placing it on the market." Because

DEKTON® is a chemical mixture that is not a finished, end-use product sold to consumers, but is rather an industrial product sold to companies that fabricate countertops for installation in kitchens and bathrooms, the ordinary, intended and expected use of the product is for it to be cut, ground, and polished, thereby releasing respirable crystalline silica dust. Accordingly, contrary to Cosentino's assertion, there is risk associated with DEKTON® and the referenced regulation does require health hazard and other disclosures for the product.

602. The Material Safety Data Sheet then states: "Contens [sic] crystalline silica < 11%" and provides the following warning: "HAZARD: H372 Causes damage to lungs through prolonged or repeated exposure (inhalation)." This is information is vague and misleading, because it does not specify how many days, weeks, months, years or decades constitutes "prolonged" exposure or the number of exposures that constitute "repeated exposure" that causes such damage.

603. The Material Safety Data Sheet then provides four instructions under a heading "Prevention": P260 Do not breathe dust generated in the cutting, grinding, and polishing processes; P264 Wash face and hands thoroughly after handling; P270 Do not eat, drink or smoke when using this material; P284 Wear respiratory protection for particles (P3)." The first instruction is meaningless and impossible of performance, because dust is always generated in cutting, grinding and polishing DEKTON®, and workers cannot hold their breath an entire workshift so as not to breathe dust dust generated in the cutting, grinding, and polishing processes. The second instruction, although a useful general hygiene instruction, not a means of prevention, i.e., washing one's face and hands after handling DEKTON® cannot prevent silicosis. The third instruction is also not a means of preventing silicosis and is a rather useless instruction, because DEKTON® is too hard to eat (one cannot eat stone), DEKTON® dust does not present an appreciable ingestion hazard, so that there is no appreciable risk to one's health of eating or drinking when using DEKTON®, and there is no risk of fire or explosion from smoking when using DEKTON®, because it is not flammable. The fourth instruction, to "wear respiratory protection for particles" (which is accompanied by a pictograph of a worker wearing a particulate filter respirator) is inadequate, because air-purifying respirators are inadequate to prevent silicosis from inhaling DEKTON®, and the only type of respirator that is adequate to prevent silicosis from inhaling DEKTON® is a NIOSH-approved air-

supplied respirator. Thus, this preventive instruction is actually harmful, because it prescribes the wrong type of respirator to prevent silicosis from inhaling respirable crystalline silica dust from DEKTON®, and would thereby mislead workers to believe that wearing a particulate air-purifying respirator would prevent silicosis and thereby preserve their health and safety.

604. Section 8 of the Material Safety Data Sheet is titled "Exposure Controls/Personal Protection" and contains a section regarding "Exposure Controls (Manufacturing and installation)" that states: "The manufacturer recommends methods that involve the use of water in the manufacturing of this material. Dust derived from the manufacturing processes could contain respirable crystalline silica (SiO_2)." The first sentence is an inadequate use instruction, because wet processing methods ***must*** be used whenever DEKTON® is cut, ground or polished, to prevent silicosis, although wet processing methods alone are insufficient to prevent silicosis. The second sentence is misleading because it suggests that dust from manufacturing processes may not contain respirable crystalline silica, although respirable crystalline silica is generated whenever DEKTON® is cut, ground, drilled, millers, polished, or otherwise fabricated.

605. The section of the Material Safety Data Sheet regarding "Exposure Controls" then says: "Long term exposure to dust derived from the cutting and manufacturing processes without the use of suitable protection may cause serious deseases [sic] including pneumoconiosis such as silicosis, as well the deterioration of other lungs diseases such as bronchitis, emphysema, etc." This statement does not constitute an "exposure control," i.e., a means of controlling exposure. It is also a vague and inadequate description of health hazards, because it indicates that only "long term exposure" to dust from the product can cause silicosis, which could well be understood to be decades of exposure that results in chronic silicosis, although fabricating artificial stone countertops has most strongly been associated with acute silicosis (typically following exposure of less than 3 years) and accelerated silicosis (following exposure between 5 and 10 years). The sentence is also vague and misleading, because it does not define "suitable protection," which workers would typically understand to be the use of a particulate filter (air-purifying) respirator, which is inadequate to prevent silicosis in artificial stone fabricators, because the only type of respirator that can prevent silicosis in such workers is an air supplied respirator.

606. Section 8 of the Material Safety Data Sheet states: "Always use respiratory protection for P3 type particulates according to EN 143:2001 and its revisions EN 143/AC 2002, EN 143/AC 2005 . . . during the preparation of Dekton®." While this type of air-purifying respirator will reduce exposure to crystalline silica, it will not eliminate such exposure and will not prevent silicosis, as will a NIOSH-approved air supplied respirator. The instruction to use this respirator is thus harmful.

607. Section 11 of the Material Safety Data Sheet is titled "Toxicological Information." This section provides little toxicological information regarding the product. Although Section 3 of the Material Safety Data Sheet identifies silicoaluminates, amorphous silica, crystalline silica, zircon and inorganic pigments as the ingredients of DEKTON®, no toxicological information is provided regarding any ingredients of the product other than crystalline silica, and the information provided regarding crystalline silica throughout the Material Safety Data Sheet is inadequate, incomplete, misleading and false. Especially because Cosentino did not disclose the cancer hazard that exposure to DEKTON® presents in the Hazards Identification section of the Material Safety Data Sheet, that information should be disclosed in Section 11 of the Material Safety Data Sheet. In particular, this section of the Material Safety Data Sheet should state that crystalline silica is a known human carcinogen, because the International Agency for Research on Cancer classified crystalline silica as a Group I (known human) carcinogen in 1997. The only statement regarding cancer in the entire document is the last sentence of Section 11 which states: "Persons affected by silicosis have a higher risk of suffering from lung cancer." Although true, this statement is misleading, because it suggests that silicosis causes cancer. However, silicosis does not cause cancer; it is crystalline silica that causes cancer. Persons who have been diagnosed with silicosis typically have a greater cumulative exposure to crystalline silica than do persons who have not been diagnosed with silicosis, so persons who have silicosis have an increased risk of developing lung cancer because of their greater exposure to crystalline silica. Cosentino's failure to disclose the carcinogenic hazard of DEKTON® due to its crystalline silica content not only violates the Hazard Communication Standard, but also violates California's Safe Drinking Water and Toxic Enforcement Act ("Proposition 65"), which requires manufacturers of carcinogenic products to warn individuals (including workers) exposed to such products that they contain a chemical (crystalline silica) known to the State to cause cancer.

Cosentino Denies Responsibility for Silicosis Cases of Workers in Andalusia

608. In July, 2015, Younes Nachett authored an article regarding silicosis among Spanish workers in Andalusia who had been occupationally exposed to crystalline silica from Cosentino's Silestone. On July 28, 2015 Santiago Alfonso Rodriguez, Cosentino's Director of Communications sent a letter to the newspaper, denying Cosentino's responsibility for the silicosis cases in Andalusia:

> We are contacting you regarding the publication in the newspapers that you direct of the articles titled "The deadly dust" of kitchen countertops with a Quartz base," VivaSevilla, July 28, 2015, and Viva Caldiz, July 28 2015, authored by journalist Younes Nachett and published in the digital edition of the media.
>
> In the aforementioned publications, false and misleading statements are made regarding Cosentino and products such as Silestone, that are attributed to causing illnesses and even deaths. Extensive documentation and statements from the company were provided to the journalist, Younes Nachett, at his request, which we shared for his knowledge as an attached document.
>
> The materials that we produce are harmless to health and, as the author who signed the report explained in detail, improper handling is the cause of these diseases, but your newspaper insists that our material is especially harmful to health.
>
> We ask you to attend to this communication by proceeding to rectify the information in everything related to Cosentino and Silestone, both in the aforementioned article and in any other of your publication in which it may be replicated.
>
> In the legitimate defense of the good name of our company and our interests, we reserve the right to take any legal action that may be appropriate.
>
> Sincerely, Santiago Alfonso Rodriguez
>
> Director of Communications, Cosentino

609. Cosentino stated that according to the National Institute of Silicosis, the measures to control dust in the cutting and polishing process are based on irrigation with water so that the particles settle, and that adequate controls are used that do not return them to the atmosphere and remove them from the environment with aspiration and ventilation. To the extent that these procedures fail, personal protection measures must be used. Devices can be used to filter and prevent the inhalation of these materials when carrying out work such as mining. It is important to avoid

tobacco, in any case, but especially in workers who handle the stone and take the appropriate measures to prevent tuberculosis." Cosentino claimed that "Silestone® is a safe product, that exposure to the material is not harmful in any case . . . , what happens is that these marble factories lacked safety measures of any kind, both for granite and for quartz countertops," which "cannot be attributed" to Cosentino. Cosentino insisted that "neither was the risk unknown to the marble workers, nor to the mutual companies, nor were the safety measures and health surveillance protocols that had to be adopted different from those of other materials with silica content." Cosentino also claimed that "since the start of marketing Silestone® products, the company printed commercial catalogs in which it was indicated that their composition contains more than 90% quartz, the composition of Silestone® could not be unknown to the marble workers and in fact it was not, which is why they could have applied safety measures from the beginning that were none other than those that they should already be applying for the handling of granite. Cosentino also claimed that "already in 2005, coinciding with the entry into force of the European directive that regulates the labeling of products, Cosentino began to include an eye-catching label that warned of the health risks of handling these products without protection and in 2009, this information was expanded with much more explicit labeling. Cosentino argued that responsibility for the silicosis epidemic among Spanish workers exposed to its product was with the workers' employers rather than Cosentino: "Knowing that the focus of the problem is clear, it is essential that those responsible for companies that cut, polish and install stone materials assure compliance with safety measures because they are the ones who must supervise compliance with requirements are also responsible for incorrect actions."

The First Silicosis Lawsuit Against Cosentino in the United States

610. Ublester Rodriguez was a Mexican immigrant who came to the United States at age 14. He spoke no English, did not receive a formal education, and worked in restaurant kitchens until changing jobs and working with countertop cutting. Since 2000, Rodriguez has worked on cutting and polishing slabs of an artificial stone to make kitchen and bathroom countertops." "Just 10 years after beginning work with Cosentino, Rodriguez noticed serious health problems that affected his

day-to-day. He had to stop playing soccer for fun because he got tired very easily. He developed a persistent cough, and after getting some X-rays done, the doctor told him he had severe silicosis at 33 years old. Rodriguez had never heard the terms before." "His lungs are so damaged that he is on oxygen about six hours a day. Unfortunately, he will likely need a lung transplant." "The shop Rodriguez worked for is run by Cosentino . . . ." "His employer [Stone Systems] did not explain anything about Silestone's makeup, the fact that it's made from mostly quartz, and it contains a lot of silica. Silestone can be as much as 90 percent crystalline silica – twice as much as natural granite. The only thing his employer warned him about was injuries related to cutting, for example. He explained that no mention of potential lung disease was ever communicated." "Around the time of Rodriguez's diagnosis, the company had just begun to issue warnings around the shop of risk of silicosis, and it had not tested the workplace air until just the year previous. The 2009 inspection fo the air showed that silica exposure levels were well above the legal limit in three of seven workers who wore monitoring devices to assess the air quality around them. Still, a 2011 round of air tests had the same results: three of seven monitored workers above the permissible exposure limit, and employees still at risk. This was the case even though all the processes including cutting and grinding were using water to keep down the dust. The company says it believed it was taking the necessary measures to protect employees, especially since the early 2000s. Travis Dupre, the current vice president of sales for Stone Systems, testified and said the following: "We felt like we were doing what was reasonable. We had switched everything to wet grinding. We had moved into a facility with better ventilation. We'd enforced no dry cutting. We felt like we were taking the reasonable steps." Mr. Rodriguez filed a lawsuit against his employer Stone Systems and against Cosentino, which settled in 2016. The lawsuit "was settled confidentially, with no admission of liability. Neither Cosentino nor Stone Systems made public statements regarding the legal proceeding or the documents associated." "US Countertop Workers falling Sick from Silica Dust: More and more cases of countertop workers getting sick indicates the hazards are cutting Silestone, a material made of quartz that releases dangerous silica," *Occup. Health & Safety* (Dec. 5, 2019).

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Martin Mendiola Sues Cosentino in Los Angeles for Causing His Lung Disease

611. On August 1, 2017 Martin Mendiola, who was a lifelong never-smoker, filed a lawsuit in Los Angeles Superior Court (Case No. BC 670691), alleging that his exposure to silica in the course of his employment with Sistone, Inc. and Realstone, Inc. from 1981 to August 2016 caused him to suffer disabling lung disease, at which time he was determined to be disabled and could no longer work. He alleged that he was diagnosed with chronic obstructive pulmonary disease (COPD) on August 1, 2015 and that "his latest breathing test returned with a 64% spirometry reading."

612. Mr. Mendiola alleged that "Defendants intentionally, deliberately, callously, and/or with willful and wanton disregard exposed workers [to] highly toxic pulmonary dust and material know[n] to cause silicosis," that Defendants "concocted a fraudulent scheme to deceive workers as to the nature of such hazards, and they fraudulent concealed from workers data on actual workplace conditions that would have caused the workers to cease working . . . ." Mr. Mendiola further alleged that "[t]his fraudulent concealment continued for years until exposed and in the discovery of medical testing it conf[i]rmed that indeed PLAINTIFF had and has silicosis."

613. Mr. Mendiola alleged that "for years DEFENDANTS did next to nothing to protect the health and safety of the [ ] PLAINTIFF" and that "DEFENDANTS kn[ew] that the workers were using and working with material that was . . . known by DEFENDANTS to cause diseases such as silicosis, lung cancer . . . , chronic obstructive pulmonary disease (COPD), renal disease, and tuberculosis." Mr. Mendiola alleged that "DEFENDANTS fraudulently concealed this information from workers deliberately so as to avoid the added costs . . . and inconvenience of providing adequate respiratory protection [to] PLAINTIFF, knowing that the actual, [p]articulate levels were certain to cause harm." He further alleged that "[t]he workers so impacted would have refused to work with said products and or materials[] without at least adequate [r]espiratory protection and protective clothing had DEFENDANTS disclosed the facts to them."

614. On or about September 4, 2018, Mr. Mendiola named Cosentino S.A. as a doe defendant in the case.

615. On October 26, 2018 Cosentino S.A. filed a motion to quash service of the summons and complaint, arguing that "the Court lacks personal jurisdiction over [Cosentino S.A.] because the Summons and Complaint served are substantially defective and the Court lacks personal jurisdiction of . . . Defendant due to improper service." Cosentino S.A. also claimed that the Los Angeles Superior Court "lacks personal jurisdiction over . . . Defendant because the allegations noted in Plaintiff's Complaint did not arise out of any contacts that . . . Defendant COSENTINO, S.A., might have had with the State of California; and . . . did not purposefully avail itself of any benefits of doing business in the State of California."

616. In support of this motion, Cosentino S.A. submitted a Declaration of Jorge Cuervo Vela, Legal Director of Defendant COSENTINO, S.A., acknowledging that on or about September 19, 2018, he was sent a copy of the doe amendment naming COSENTINO S.A. as a defendant in the case and that the "Amendment to Complaint, Summons, and Complaint . . . were left at the reception desk of Cosentino Center Los Angeles." Although the signage on that building at the time bore word marks, tradenames, and trademarks of Cosentino and some of its products, Mr. Vela nevertheless declared that "COSENTINO, S.A. does not operate Cosentino Center Los Angeles."

617. On November 14, 2018, Plaintiff's counsel filed his declaration in support of Plaintiff's opposition to the motion, attaching as an exhibit a press release dated November 12, 2015 on Cosentino's website titled "Cosentino Unveils Innovative 'Cosentino Center' in Los Angeles." This press release showed a photograph of Cosentino Center Los Angeles which bore a blockish "C" and the word "COSENTINO," which constitutes a word mark (a type of trademark) owned by the Cosentino Group S.A. The press release stated: "The new state-of-the-art Cosentino Center in Los Angeles is an interactive showroom and warehouse that will enhance the kitchen and bath design experience for architects, designers, fabricators, distributors and consumers in the region. The center officially opened today. As a family owned business headquartered in Spain, Cosentino has long been the trusted surfacing brand in Europe. The Los Angeles opeining is part of the company's larger strategic plan to underscore its position as the surfacing leader in the U.S. market with increased availability and distribution of its products. The Center will create jobs in the area and allow architects and designers to regionally source their favorite surfacing materials. The new Los

Angeles location boasts a 29,000 square-foot warehouse and distribution space that displays the full portfolio of Cosentino brands: **Dekton®**, . . . **Silestone® Natural Quartz** . . . . 'The Southern California design community is an integral market for Cosentino,' said Lorenzo Marquez, VP of Marketing for Cosentino North America. 'The opportunity to greatly strengthen our presence in the region is a testament to Cosentino's growth in North America, and the value of the area to the A&D world. We are excited to partner with architects, designers and consumers in Southern California through our showroom experience, design knowledge and resources. . . . The Los Angeles Cosentino Center is located in the heart of Los Angeles County's stone and tile distribution district at 12822 Rangoon St., Los Angeles, CA 91331. Phone: 818-381-8220. © Cosentino S.A. All rights reserved."

618. The judge in the case granted Cosentino's motion to quash, apparently due to technical defects in the proof of service of the complaint on Cosentino. Nevertheless, as acknowledged by the Declaration of Jorge Cuervo Vela, Cosentino, S.A.'s Legal Director, the complaint in the *Mendiola* case clearly was received by Cosentino S.A. and put Cosentino on notice that its artificial stone products were causing lung disease, including silicosis and chronic obstructive lung disease among workers in Los Angeles County who were occupationally exposed to respirable crystalline silica from Cosentino's deadly products.

More Spanish Workers Get Silicosis from Silestone and Sue Cosentino

619. On February 19, 2019 the Spanish newspaper Eldiario published an article by Nestor Ash. It was titled "Andalusian silicosis reaches the courts: a court investigates a complaint against the manufacturer of Silestone." This article noted that silicosis is the main occupational disease in Andalusia, according to a report from the Ministry of Health, which attributes it to quartz agglomerate (artificial stone). The article noted that the highest incidence had been registered in Cádiz, although all the production of quartz agglomerate comes from Almería. The article reported that several workers afflicted with the disease had filed a complaint. It related the story of one worker: José Araque spent the last two years of his life on a sofa, lying on his side to avoid the hemorrhages that every so often flooded his right lung, the only one that barely worked. His lungs

had been filled with small silica stones twenty years before, while he was handling the quartz conglomerate that is manufactured in the complex that the Cosentino Group has in Cantoria (Almería) and whose star product is Silestone countertops. Araque died in 2015, a victim of silicosis, which today is the main occupational disease in Andalusia. Several afflicted with silicosis filed a complaint against those responsible for the company. They believe that the lack of adequate safety measures caused the death of Araque and injuries to other workers. "He knew he had little chance of life, but the last few years were spent waiting for death. He was very afraid, he was exhausted, and at the moment he began to bleed . . . he said that he was worthless," recalls his widow, Paqui Silva. He started suffering from respiratory problems in 1998. "He had a fever. We would go to the emergency room, antibiotics and work again. He was always very tired." In 2002, a biopsy confirmed that he suffered from silicosis and two years later they removed a large part of his left lung, eaten away by the disease. For years he suffered more and more frequent hemorrhages, which forced him to travel urgently from Huércal-Overa to Granada, intubated to avoid drowning in his own blood. The last years of his life, Araque spent suing his company. In 2004, he started a legal battle to determine the degree of disability that he suffered. A medical court deemed him disabled from work, but did not grant him absolute disability. In his mid-thirties, he was left without a job and with a salary of 800 euros. In 2015, thirteen years after he was diagnosed with silicosis, the labor inspectorate reviewed his case and acknowledged that Araque was completely unable to work. "Now that they know I'm dying, they give me this," lamented the man, as his widow recalled. He died a few months later. Araque's case is one of the few cases brought against Cosentino, the great marketer of quartz agglomerates in Andalusia and Spain. Cosentino employs around 1,500 workers at its factory in Cantoria (Almería). It is the great company of the marble region. It ended 2017 with revenues of 901 million euros and 57 million euros in profit. Last year some affected workers and relatives filed a complaint against the managers of the company, charging them with alleged crimes of reckless homicide and injuries. The article noted that silicosis accounts for 18.55% of occupational diseases in Andalusia and is the most common occupational disease in Andalusia, having displaced pathologies from exposure to asbestos as the most common occupational disease according to the monograph "Communications of suspected occupational diseases 2009-2016,"

prepared by the surveillance and occupational health service of the Ministry of Health. The report, published in May 2018, links the rise in disease to quartz agglomerates, which became popular in the real estate boom years. The reported cases of silicosis, 279 in total, were concentrated in the provinces of Cádiz, Córdoba and Almería, with a maximum peak in 2011. From that year on, the cases in Almería decreased. The total number of cases reported in the period 2009-2016 was 122 in Cádiz, 37 in Almería and 37 in Córdoba, the most affected provinces. "If there is one, there must be more", thought Dr. Rabadán and his team, who began an active search that led them to 24 small workshops where compacted quartz countertops were cut. "Word spread and among those we searched for and those who turned up, we began to do tests and biopsies. The CT images [chest tomography] were shocking, you could see the white lungs," explains the doctor. The silicosis produced by the quartz agglomerate is especially virulent and evolves much more rapidly than the silicosis of the miners. The reason for the aggressiveness of this variant is the material that produces it. Silestone is a composite material that contains around 80% silica and cristobalite, which is crystalline silica derived from high temperatures. When dumped into a silo, the silica produces dust; when a hopper is cleaned, it produces dust; when a countertop is cut, dust is produced. "The silica particles are so small they are respirable, and masks are not effective in preventing inhalation of the small particles, explained the doctor. In total, 122 cases were reported in the province of Cádiz in the period 2009-2016 and those affected ended up formed the Association of Affected and Sick with Silicosis (ANAES), founded by Agustín Cebada shortly before undergoing a lung transplant that was not successful. Today the president of the association is Ismael Aragón, who suffers from silicosis like two of his brothers, his father and ten other relatives. They all worked in the marble shop. "We did the fine work, the adaptation to the home," he recalls. According to his account, they worked with Cosentino countertops. "A lot of cutting, a lot of sanding." In those *boom times*, no one in the marble shops took any safety measures. "They had not told us everything it contained: lead, arsenic, cadmium. . . . Some labor inspector has come to tell us that this must be worked with Ebola suits," laments Aragón, who noted that a case of the disease has already been detected in an office worker: "We pray that our wives, who worked in the offices, are not sick." The Cosentino company denied any responsibility in these cases, and emphatically claimed that the cutting, manufacturing and

installation of the quartz agglomerate slabs could be done in a "totally safe" manner, following the measures indicated on the labels of each slab, the Safety Data Sheet and the Good Practices Guide. "Unfortunately, the implementation and continuity of existing safety measures in each marble shop is the exclusive responsibility of the owner of the same," said the company. According to his widow, Antonio signed a confidentiality agreement with Cosentino. Paqui, the widow of José Araque, also mentioned these clauses, supposedly signed by some workers in exchange for compensation or a new job away from silica dust. José Antonio López, president of the association of affected people from Almería, confirmed that it is a common practice in the company: “They wanted to deal with me, but they played with my life: I was about to die. I don't even want to go through the door. I can tell you about 15 or 20 people who are working in factories with silicosis.” The company admitted the existence of confidentiality clauses. The existence of these contracts could explain the sharp drop in reports of silicosis in Almería, after the peak of 2011. Those affected would guarantee themselves a position in the company away, in theory, from the supposed source of contamination, and avoid a retirement with a pension that barely reached half of the worker’s salary. "Some workers don't want us to do the examination, because they would be unemployed and they don't know how to do anything else," admitted Dr. Andrés Rabadán. For him, this refusal poses an "ethical" problem. Cosentino, however, claimed that the number of "relocated" workers did not exceed ten, out of the "less than 25 cases" of silicosis registered in his factory. Another possible explanation for the sharp drop in reports of silicosis in Almería is that, following the first cases detected, Cosentino adopted strict safety measures that it claimed was able to effectively protect its employees from silica dust. Cosentino claimed that it adopted comprehensive protective measures according to the work area (water nebulizers, localized exhaust ventilation, forced environmental ventilation) with the use of respirator masks, "thus guaranteeing that the worker does not have any exposure to dust from silica." Just over a year ago, Interviú magazine published some images that refuted this statement. In them you can see areas of the Cosentino factory in Cantoria wrapped in a cloud of dust that barely allows you to see what is a few meters away. Eldiario.es Andalucía has had access to two videos, supposedly made in 2017, and provided by one of the sources consulted for this report. In one of them a massive dust leak is observed in some facilities; in the other, dust is generated by various

polishers. However, the place of the recording could not be verified, according to Cosentino. "The images published in the Interviú article did not represent the reality of the factory at all, nor has it been proven in any way that they had been taken in our production centers," the company claimed, attributes its publication to the interest in creating "an unjustified alarm." The company asserted that measurements of exposure to silica dust would "objectively" prove that workers can carry out their work safely. The last possible explanation is that doctors are not detecting the disease. This is what the report of the Junta de Andalucía suggests. For Doctor Rabadán, it would not be strange: "It is not an easy disease to detect. We have experience that no one else in the world has. We have seen more than a hundred cases." Those affected from Almería refer to several workers who were not diagnosed in Almería, and were in Cádiz. Dr. Rabadán believes an active search is necessary for cases of silicosis to surface: "If you wait, not many will appear, and if you do an active search they will."

Judgment By Spanish Court that Cosentino's Disclosures Were Deficient

620. On February 20, 2019 Eldiario published the second in the series of articles by Nestor Ash, titled "A ruling established the responsibility of Silestone manufacturers for failing to warn of the risk of silicosis." This article stated that "The Provincial Court of Bilbao ruled in 2017 that Cosentino disclosures of the risks of handling quartz agglomerate was "late, insufficient and confusing." This article noted that the manufacturers and especially Cosentino denied all responsibility for how the material was handled in the marble factories to which it supplied the product. The Almeria-based company claimed that it currently conducts training courses for marble shops and issues information bulletins in which it explains the protective measures that must be adopted to cut, process and install its countertops. These measures are also outlined in the safety labels incorporated in each table, the Safety Data Sheet and the Good Practices Guide. "Unfortunately, the implementation and continuity of existing safety measures in each marble shop is the exclusive responsibility of the owner of the same," said the company. However, a sentence of the Criminal Court 1 of Bilbao, which was confirmed by the Provincial Court of Vizcaya in May 2017, questioned the thesis of the exclusive responsibility of the company fabricating the

countertops. These rulings determined that Cosentino, as a manufacturer of quartz agglomerates, had joint responsibility for the illness of various workers at a Vizcaya marble factory, because Cosentino disclosed the hazards of the material they supplied "late, insufficiently and confusingly." Nevertheless, the heads of Cosentino and Levantina de Granitos (a company that imported a similar product from Israel) were acquitted due to the statute of limitations for the reckless injuries, the crime with which they were charged. Marmolerías Cid, where several patients with silicosis worked, was a family business that had been dedicated since 1984 to the fabrication and installation of granite countertops. Around 1999, Marmolerías Cid began to acquire and work on Silestone countertops, which at that time were expanding rapidly throughout Spain. From 1999 to 2008, Marmolerías Cid acquired Silestone countertops manufactured by Cosentino for a value of 1.8 million euros, in addition to a similar product, Caesarstone, worth around 250,000 euros. The judgments declared that it had been proven that up until 2004 neither Cosentino nor Levantina de Granitos disclosed the hazards of handling this product, despite the general duty established by the 1995 Occupational Risk Prevention Law. In 2004, Cosentino added a label to the slabs with a warning that equated the risks of dry cutting or grinding Silestone to the risks of fabricating "natural stone products such as marble or granite: Prolonged exposure . . . can cause serious health problems, including pneumoconiosis." However, the safety sheets did not begin to be produced until 2005-2006, and there was no record that they were delivered to the marble factory until 2009, according to the judgment, which added that "they gave rise to confusion" because they compared Silestone slabs to those of natural stone, and insisted that they are safe for the end user, obviating the risk for the intermediate handler. The court concluded that Silestone is a product that workers must handle with extreme safety measures. The court's ruling noted that the International Agency for Cancer Research has concluded since 1997 that silica is a carcinogenic substance, and that the slabs contain free crystalline silica in a percentage between 70% and 90%, "whose inhalation by minimal and continuous exposure for five years can cause silicosis." Neither the labor inspection, nor the risk prevention mutuals, nor the manufacturers warned of the composition of Silestone or the risks it entails, so the workers "performed the machining tasks without adequate protection, leaving them exposed . . . to respirable dust with a high silica content," the judgment concluded. The judgment considers that the heads of the marble factory

could not be aware of the danger of this material, but that the manufacturers could be held responsible for the generation of silicosis in the workers, for failing to satisfy their "duty of disclosure" regarding the product that they were supplying. The judge reasoned that this omission resulted in no preventive measures being adopted, but ended up reducing the responsibility of the manufacturers because the legislation was imprecise, the product was new, and the manufacturers provided information, even if it was late, vague or deficient. In this way, the judge acquitted Francisco Martínez-Cosentino, president and general director of the company, for the offense. The sentence was appealed before the Provincial Court, which confirmed that "it is clear that there was a violation of the duty of disclosure by the manufacturing company" and affirmed the judgment.

Cosentino Falsely Claims its Products are Not Inherently Dangerous and that Silicosis from Exposure to its Products is Entirely Preventable

621. In a letter dated November 29, 2019 to the Hon. Niall Blair, Committee Chair of the Legislative Council Standing Committee on Law and Justice in Sydney, Australia, Cosentino claimed that "Cosentino has been making continuous efforts to raise awareness amongst the companies and persons working with the engineered stone products, by way of holding on-site Occupational Health & Safety educational sessions to the industry during many years, worldwide." This statement is false, because Cosentino only initiated its educational program as a public relations effort to salvage Cosentino's reputation and to avoid liability for causing silicosis worldwide after news media reported the artificial stone fabricator silicosis epidemic in 2019, especially because Spanish courts had issued judgments finding that Cosentino had failed to adequately disclose the toxic hazards of its product and that the disclosures that it made were inadequate, confusing, and late. Whereas Cosentino had previously disclaimed all responsibility for the silicosis cases among Spanish workers who fabricated Silestone and blaming the epidemic on its customers for failing to provide a safe workplace, in its letter to the Chair of the Australian Legislative Council Standing Committee on Law and Justice, Cosentino "acknowledg[ed] its corporate social responsibilities" "for the benefit of employees and suppliers alike" to provide adequate warnings and use instructions for its products.

In this letter Cosentino acknowledged that "Silicosis dust disease related illnesses is one of the main challenges to be addressed by the engineered stone industry." In the letter Cosentino claimed that in the last fiscal year, "the Cosentino Group has provided approximately 1,200 hours of training to suppliers [and] more than 30,000 hours of training directly to employees." Thus, Cosentino finally acknowledged its duty to make adequate health hazard disclosures and to train its customers' employees regarding the extreme silicosis hazard of its products and how to use Cosentino's products safely so that they would not develop and suffer from silicosis. This was a complete reversal of Cosentino's prior stated position that it had no responsibility to its customers' employees, that their health and safety was solely the responsibility of their employers, and that Cosentino could not protect the health of its customers' employees because it lacked control over their workplaces. The new position that Cosentino presented in its November 29, 2019 letter to the Chair of the Australian Legislative Council Standing Committee on Law and Justice, was expressed as follows:

> At the outset, it is important for Cosentino to emphasise that it shares the concerns expressed on behalf of the AESAG [Australian Engineered Stone Advisory Group] concerning the welfare of persons engaged in the use of engineered stone products. A safe working environment for everyone involved in the lifecycle of those products is of utmost importance to Cosentino and for many years has been accepted as integral component to the sustainability of not only the manufacturers and suppliers of those products, but the many downstream industries and employers which rely on manufactured stone product for their livelihood.

In its letter Cosentino then defended its products, asserting that "Cosentino quartz products (Silestone®) are produced according to very strict quality criteria and comply with all technical requirements of existing regulations." However, this statement was merely an effort by the company to deflect attention from the silicosis epidemic and deaths by urging legislators to instead focus on the product's manufacture being in compliance with regulatory requirements. After defending its compliance with regulatory requirements regarding the manufacture of its lethal products, Cosentino expressed its positions regarding those of the Australian Engineered Stone Advisory Group. The first position that Cosentino expressed was: "Engineered quartz products are not inherently dangerous. Silicosis associated with the use of those products is 100% preventable when manufacture, fabrication and installation occur in accordance with published OH&S guidelines." This assertion was false, because multiple scientific studies published in the peer-reviewed literature

have shown that even when all precautions and protections that had been suggested by Cosentino (i.e., use of wet processing methods and air-purifying respirators) were implemented and rigorously followed, workers nevertheless developed silicosis, because the extremely high crystalline silica content of Silestone and other artificial stone products does render them inherently dangerous. In addition, Cosentino's assertion that "engineered quartz products are not inherently dangerous" because of their extremely high crystalline silica content is refuted by the company's own decision to begin manufacturing products that contained much less crystalline silica, e.g., its Dekton® and Dekton Xgloss® family of products which it reformulated to have a total crystalline silica content of just 5-11% according to Cosentino's October 2018 Safety Data Sheet for the product, its Dekton® LITE product which it formulated to contain just 3-9% crystalline silica according to Cosentino's May 2020 Safety Data Sheet for the product, its SILQ® product which Cosentino formulated to have a crystalline silica content of 51-92% according to Cosentino's May 2022 Safety Data Sheet for the product, and its Sensa® and Scalea® family of natural stone products which contain less crystalline silica than Costentino's traditional artificial stone products according to its September 2022 Safety Data Sheet for the product, although the range or typical crystalline silica content of this product is not stated in the September 2022 Safety Data Sheet for the product. In its November 29, 2019 letter to the Committee Chair of the Legislative Council Standing Committee on Law and Justice, Cosentino strongly opposed banning all artificial stone products, recommended by the Australian Engineered Stone Advisory Group, arguing that such a ban "would create enormous disadvantage to the countless businesses and households which rely on the trades that are closely aligned with the use of all those products, including the retail, marketing and distribution networks that have developed in parallel with the core trades." However, Cosentino's argument that "businesses and households which rely on the trades" would suffer "enormous disadvantage" is untrue, because the needs of consumers and business for stone countertops could readily be satisfied by natural stone countertops which contain much less crystalline silica than artificial stone countertops, as well as Cosentino's new artificial stone products, some of which it formulated to have lower concentrations of crystalline silica, such as its Dekton® and Dekton Xgloss® family of products which it formulated to have a total crystalline silica content of just 5-11% according to Cosentino's October 2018 Safety

Data Sheet for the product, and its Dekton® LITE product which it formulated to contain just 3-9% crystalline silica according to Cosentino's May 2020 Safety Data Sheet for the product.

Cosentino Admits Negligence

622. On February 7, 2023, Reuters reported that Francisco Martinez, who owns Cosentino, "admitted in court that he covered up the dangers of his company's star product, which allegedly led to nearly 1,900 workers contracting the occupational lung disease silicosis, court documents showed on Tuesday." He "accepted a six-month suspended prison sentence for five counts of serious injury due to gross negligence in a plea bargain with the court in the northwestern region of Galicia." Reuters wrote: "Cosentino said in a statement the plea deal only admitted liability for insufficient technical information affecting five workers at a specific workshop and therefore could 'not be extrapolated to other past or future proceedings.'" Reuters noted that "Prosecutors had initially sought a prison term of two years and nine months." The Reuters report stated: "Cosentino, based in the southern province of Almeria, is planning an IPO that could be worth more than 3 billion euros. The company employs over 5,000 people worldwide and posted record sales of 1.4 billion euros in 2021. In the ruling, the judge said Martinez had failed to adequately label the 95% silica content of Cosentino's bestselling quartz agglomerate, branded as "Silestone", despite being aware of the safety and health risks its manipulation entailed." Reuters also reported that "the 71-year-old businessman also agreed to pay 1.1 million euros ($1.2 million) in compensation to the five stonemasons - one of whom has since died - who had sued him for failing to warn of the risk of silicosis linked to cutting and polishing Silestone countertops." Reuters further reported that "Cosentino said managers at stone-cutting workshops 'are responsible for ensuring that their workers have the necessary means of protection and that they implement them appropriately.' 'It is entirely incorrect that Cosentino has admitted to having concealed the fact that the handling of Silestone has caused the majority of cases of silicosis that have affected 1,856 workers,' it added." The Reuters report concluded, stating that "Martinez is set to return to the dock in July for a separate trial in the northern city of Bilbao. Prosecutors are asking for two and a half years' imprisonment on six counts

of reckless injury." David Latona, "Owner of Spain's Cosentino admits negligence over silicosis in workers - documents," *Reuters* (February 7, 2023).

Cosentino Calls for a Ban of High-Silica-Content Artificial Stone

623. On February 22, 2023, WA today, a news agency from Western Australia reported: "One of the world's largest stone benchtop companies and a coalition of health experts have separately called for a ban on products blamed for a deadly silicosis epidemic. The push from manufacturer Cosentino and key health organisations, including the Lung Foundation Australia and Public Health Association Australia, came as a leading government voice on workplace relations also called for immediate action from state and federal governments to 'right a terrible wrong'. . . . Manufacturer Cosentino produces more than one in every five domestic kitchen benchtops sold in Australia and is facing international scrutiny over its safety record. It is now pushing for a nationally co-ordinated approach to reduce risks associated with products containing high levels of silica, ahead of a meeting of workplace safety ministers next week. 'We have an immediate solution without disrupting the construction and building market', a Cosentino spokesperson said. 'And prices won't increase.' Two weeks ago Cosentino was found guilty in a Spanish Court of negligence. Reuters reported that the company's owner accepted a six-month suspended prison sentence after admitting to covering up the dangers of the product. It is also facing legal action in Australia. A coalition of peak health groups, including the one writing a government action plan on silicosis, also backed a ban on high-silica-content products, and urged leaders to boost the policing of workplaces and overhaul compensation schemes for sick workers. The Cosentino spokesperson said restrictions should start tomorrow, not next year or in 18 months. 'The immediate solution is everyone buys products that are less than 40 per cent silica,' he said. . . . The spokesperson said Cosentino had developed a product containing between 10 per cent and 40 per cent silica which could be distributed at scale if products with higher levels of silica were stopped from entering the market." Adele Ferguson and Angus Thompson, "Benchtop giant, health groups demand dangerous-stone ban," Watoday (February 22, 2023).

Second Criminal Trial Against Cosentino

624. On July 8, 2023 elDiario published an article by Nestor Ash titled "Cosentino faces a year and a half in prison in his second trial for silicosis," with a subtitle "The judge considers it proven that Cosentino acted "grossly negligent" with the Silestone handlers suffering from silicosis." The article reported:

> The second criminal trial against Francisco Martínez-Cosentino, founder and owner of the Almeria multinational stone surfaces, has been seen for sentencing this Friday. The Prosecutor's Office accuses Cosentino and two former managers of Levantina, the other large Spanish manufacturer, of crimes against the health of eight workers at a Vizcaya marble factory, who contracted silicosis while handling quartz agglomerate countertops from both companies without their warning of its dangerousness. The prosecutor believes that serious injuries were caused recklessly.
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> In addition, the doctor from the prevention service and the three owners of Novogranit, the marble factory where those affected worked, are accused. The trial was held before Criminal Court 5 of Bilbao. The Prosecutor's Office requests that Martínez-Cosentino and the owners of Levantina be sentenced to a year and a half in prison, the payment of 3,600 euros and that they be disqualified from managing companies for two years. It also asked that among all the defendants they assume the payment of compensation of between 25,000 and 102,000 euros to the workers, although Cosentino satisfied that responsibility in 2019 through private agreements.
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> "We did provide information, regardless of the fact that the risks of working with stone are known to marble factories. We are confident that the courts will recognize that the company has acted correctly", says a company spokesperson, who explains that the case is similar to another that occurred in Bermeo, in which Cosentino was acquitted.
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> **Prosecutor: the company did not prevent and the manufacturer did not warn**
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> The facts contained in the indictment of the Prosecutor's Office, which this newspaper has been able to consult, include a common practice in hundreds of marble shops in Spain during the real estate boom, and that is what places Cosentino in the pillory, although authorized sources of the company clarify that there are no more open cases, nor do they expect them.
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> As detailed in the Prosecutor's brief, workers from a small marble factory cut and polished Silestone (Cosentino) and Ceasarstone (Levantina) countertops for years, with a high content of crystalline silica, which when cut generates a respirable dust that

causes a form of especially aggressive silicosis. Until 2012, Novagranit did not apply basic safety measures to prevent inhalation. And this, despite the fact that the Labor Inspectorate had demanded in 2009 about twenty measures in 2009, among which were working in the wet, installing nebulizers, providing FFP3 masks, preventive training, risk assessment...

Cosentino supplied around 85% of the countertops, and Levantina the rest, but neither was diligent in disclosing the risks of quartz agglomerates, according to the prosecutor. Until 2009, the Almería-based company did not provide any safety data sheet, and only from March of that year did it begin to report the risk of prolonged exposure to crystalline silica causing pulmonary fibrosis and pneumoconiosis such as silicosis. Before, Silestone was compared to natural stones such as quartz, marble or granite, which contain a maximum of 20% silica. Quartz agglomerates are around 90%. That is to say, nothing to do with the effects of risk.

In her brief, the prosecutor notes that Cosentino had already had an infringement report in 2002, in which the Labor Inspectorate verified that there had been patients with silicosis in its factory in Cantoria (Almería) since at least 2000. She deduces hence, Francisco Martínez-Cosentino knew about the risk at least since 2002, but he did not inform the marble works until 2009.

Neither did Levantina say anything about the dangers of handling Ceasarstone until 2009, and until December 2009 it did not prepare a safety data sheet or deliver a label, despite the fact that those responsible (Cipriano Gómez and Antonio José Pinos) "knew or had the obligation to know" the risks of the product.

The responsibility of the preventive physician

Finally, the Prosecutor's Office also points to the Novogranit doctor, whom it points out for failing to comply with the prevention protocol, which requires annual examinations in cases in which it is suspected that silicosis can be contracted, such as in marble shops.

In fact, the workers had to go to the National Silicosis Institute or other public centers to be diagnosed with the disease, since the prevention service did not perform a CT scan with which to observe the characteristic cystic nodules of silicosis. Despite the fact that they were already developing the disease, the first chest X-rays did not detect it and they were declared "fit" until 2012. This caused them to remain in the crystalline silica exposure posts after contracting the disease, " thus increasing the risk of aggravation of his ailment," says the prosecutor.

For the Public Ministry, the owners of the company, the manufacturers and the prevention service failed in their obligation to protect the health of the workers. As a result, eight of the ten workers at the marble mill contracted silicosis. Several have recognized absolute permanent disability or for their profession, almost all suffer

respiratory distress, coughing and expectoration, and many report sleep problems, depression or anxiety.

The sentence in February

This Friday, the Prosecutor's Office has reduced its request to sentence Martínez-Cosentino from two and a half years in prison to one and a half years, taking into account the delay in the procedure (it was opened in 2013) and that Cosentino has already paid compensation. “The company decided a long time ago not to leave the workers stranded, without waiting for the last minute and for criminal cases,” explains a Cosentino spokesperson. The private prosecution withdrew in 2019, when the compensation was paid, but the case went ahead promoted by the Prosecutor's Office.

Unlike what happened last February, when Martínez-Cosentino was sentenced by a Vigo court to six months in prison after reaching an agreement with the Prosecutor's Office, in this case the trial has been fully completed in five sessions, in which the owners of the manufacturers, those of the marble works, witnesses and various experts have testified.

Quartz agglomerate silicosis is an epidemic of unknown magnitude . It has been the main occupational disease in Andalusia for some time. From 2007 to 2019, 1,856 reports of this disease were communicated to Social Security, but experts warn that the methodological limitations of this communication system mean that the real figure is probably around triple. During this time, the Junta de Andalucía allowed its plan against silicosis to expire without coming close to meeting its objectives.

The Vigo ruling caused a notable media, business and political uproar because, for the first time, the owner and architect of Cosentino, a key company in Andalusia, present in dozens of countries, with a turnover of 1,401 million euros, was criminally convicted amid prospects of going public. The ruling concluded that, "grossly negligent," he did not warn of the risks of manipulating his product despite knowing about them "at least since the year 2000".

Cosentino was satisfied with that sentence, but this time he has decided to fight to the end.

https://www.eldiario.es/andalucia/cosentino-afronta-ano-medio-prision-segundo-juicio-silicosis_1_10359970.html

Knowledge of the Silicosis Hazard by Cosentino Officers and Directors

625. Throughout the time that Cosentino manufactured and sold its artificial stone products, exposing stone countertop fabricators and installers to respirable crystalline silica from the

company's products, Cosentino's officers and directors were aware that Cosentino's artificial stone products were defective because they contained extremely high concentrations of crystalline silica, were aware that the use instructions that Cosentino provided were inadequate to prevent silicosis and would actually cause silicosis in exposed workers, and were aware that fabrication companies could not protect fabricators and installers from the lethal silicosis hazard presented by Cosentino's defective artificial stone products. Among Cosentino's officers and directors who had this knowledge but who nevertheless consciously disregarded the health and safety of fabricators and installers were the following officers and directors of the company:

Officers

Francisco Martinez-Cosentino	Justo, Chairman/CEO, President of Cosentino Group
Jose Martinez-Cosentino Justo	Vice President and General Treasurer
Pilar Martinez-Cosentino Alfonso	Executive Vice President. Deputy Chairman, Director
Eduardo Martinez-Cosentino Alfonso	Executive Vice President of Global Sales and Chief Executive Officer of Cosentino North America
Valentin Tijeras Garcia	Vice President Global Product and Research & Development
Angel Madariaga Alvarez	Vice President of Engineering & Projects
Alberto Quevedo Gonzalez	Vice President of Global Production
Santiago Alfonso Rodriguez	Vice President of Global Marketing & Communication
Brandon Calvo	Chief Operations Officer of Cosentino North America

Directors

Isabel Martínez-Cosentino Ramos	Director
Eduardo Martínez-Cosentino Ramos	Director
María del Mar Martínez-Cosentino Ramos	Director
Eduardo Martínez-Cosentino Rosado	Director
Isabel Martínez-Cosentino Rosado	Director

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COSTCO WHOLESALE CORPORATION

626. Costco Wholesale Corporation (commonly known as Costco) is a Washington corporation that operates a chain of membership-only big-box retail stores. [Anonymous, "Costco Wholesale Corporation Company Profile," *Hoower's* (April 17, 2019)]

627. Costco is the third largest retailer in the world. [Anonymous, "Leading retailers worldwide in 2021, by retail revenue". *Statista* (October 10, 2023)].

628. Costco is ranked #11 on the Fortune 500 rankings of the largest United States corporations by total revenue. [Anonymous, "Costco Wholesale," *Fortune* (January 7, 2023)].

629. As of September 2023, Costco has 861 warehouses worldwide, with 591 in the United States. [Anonymous, "Costco Wholesale," *Fortune* (January 7, 2023)].

630. For the fiscal year 2023, Costco reported earnings of $6.292 billion, with an annual revenue of $242.29 billion. [Anonymous, "Costco Wholesale," *Fortune* (January 7, 2023)].

631. On June 6, 1987 a Statement and Designation by Foreign Corporation was filed with the California Secretary of State by CWC Corporation to do business in California as Washington Wholesalers Inc.

632. On January 22, 1988, the company filed an Amended Statement and Designation by Foreign Corporation with the California Secretary of State, changing the name of the corporation to Costco Wholesale Corporation.

633. Costco has offered custom artificial stone kitchen countertops on its website. [https://www.costco.com/cosentino-custom-countertops.html] This webpage currently displays the Cosentino wordmark and trademark and features Cosentino's Silestone® and Sensa.®

634. Among the brands of artificial stone that Costco has offered for sale on its website are Cambria, Cosentino, Sensa, and Silestone.

635. Plaintiff is informed and believes and thereon alleges that Defendant, Costco Wholesale Corporation, received Safety Data Sheets and other product literature from Cambria and Cosentino warning of the health hazards of silicosis and other silica-related diseases from their artificial stone products, but that Costco did not inform others, including Plaintiff of those hazards.

636. Plaintiff is informed and believes and thereon alleges that Defendant, Costco Wholesale Corporation, has, for many years sold various stone and other silica-containing products that contained warnings of the hazard of silicosis from crystalline silica and that Costco Wholesale Corporation was therefore well aware of the toxic hazards of crystalline silica to the human respiratory system, including its ability to cause silicosis, lung cancer, and other lung diseases.

637. Plaintiff is informed and believes and thereon alleges that among the silica-containing products that Defendant has long sold at its stores are basalt, bricks, cement, ceramic, clay, cobble stone, concrete, dolomite, drywall, epic stone, field stone, flag stone, glass, granite, gravel, ledge stone, limestone, marble, mortar, mosaic, natural stone, pavers, paving stone, paving stone joint sand, pebble stone, onyx, porcelain, quartzite, rock, sand, sandstone, serpentine, silica sand, slate, soapstone, tile, and travertine.

638. Plaintiff is informed and believes and thereon alleges that although Defendant, Costco Wholesale Corporation, was well aware that the stone and other construction products that it sold contained crystalline silica, that the artificial stone products that it brokered for sale contained extremely high levels of crystalline silica, and that exposure to respirable crystalline silica causes silicosis as well as other lung diseases, kidney disease, and multiple autoimmune diseases.

639. Plaintiff is informed and believes and thereon alleges that notwithstanding its knowledge of the silicosis and other health hazards to fabricators of stone countertops whose sale Defendant, Costco Wholesale Corporation, brokered, Defendant, Costco Wholesale Corporation, concealed the silicosis and other health hazards from Plaintiff and from other stone countertop fabrication workers to whom countertop fabrication was subcontracted by Costco Wholesale Corporation or contractors who purchased the artificial stone slabs from Costco Wholesale Corporation or to whom Costco Wholesale Corproation subcontracted stone countertop fabrication work.

640. Plaintiff is informed and believes and thereon alleges that officers of Costco, including Walter C. Jelinek (Chief Executive Officer), John Sullivan (Secretary) and Richard A. Galanti (Chief Financial Officer) were aware of the silicosis hazard of artificial stone and ratified the company's concealment of those hazards to stone countertop fabricators.

DAL-TILE DISTRIBUTION LLC, DAL-TILE LLC, DAL-TILE TENNESSEE LLC, DAL-TILE INTERNATIONAL INC. AND MOHAWK INDUSTRIES, INC.

641. According to the website of Mohawk Industries, Inc., the company is "the largest manufacturer, distributor and marketer of ceramic tile and natural stone in the world," whose products include "ceramic tile, stone floors, porcelain roof tiles and stone, quartz and porcelain slab countertops" which it markets as the following brands: Daltile®, American Olean®, Complete Countertops®, Panoramic Porcelain Surfaces™, One Quartz Surfaces®, Perennial Porcelain Roofing™, Marazzi®, Ragno®, Kai®, Emilgroup®, Grande: The Large Size, Vitromex®, Eliane®, Elizabeth® and Kerama Marazzi®.

642. According to its website, Mohawk Industries, Inc. had worldwide sales of $11.1 billion in 2023.

643. According to Exhibit 21 (Subsidiaries of the Registrant) of the 10-K Annual Report for the year ending December 31, 2023 that was filed by Mohawk Industries, Inc. on February 23, 2024 with the Securities and Exchange Commission, following are the Dal-Tile subsidiaries of Mohawk Industries, Inc. and the jurisdictions where they were formed: Dal Italia LLC (Delaware), Dal-Elit, LLC (Texas), Dal-Tile Administracion, S. de R.L. de C.V. (Mexico), Dal-Tile Chile Comerical Limitada (Chile), Dal-Tile Colombia S.A.S. (Colombia), Dal-Tile, LLC (Pennsylvania); Dal-Tile Distribution, LLC (Delaware), Dal-Tile Group Inc. (Delaware), Dal-Tile I, LLC (Delaware), Dal-Tile International Inc. (Delaware), Dal-Tile Mexico Comercial S. de R.L. de C.V. (Mexico), Dal-Tile Mexico, S. de R.L. de C.V. (Mexico), Dal-Tile of Canada ULC (British Columbia, Canada), Dal-Tile Peru SRL (Peru), Dal-Tile Puerto Rico, Inc. (Puerto Rico), Dal-Tile Services, Inc. (Delaware), Dal-Tile Shared Services, Inc. (Delaware), Dal-Tile Tennessee, LLC (Delaware).

644. According to a Form 10-K that Dal-Tile International Inc. filed with the Securities and Exchange Commission for the fiscal year ending 2000 (before Dal-Tile was acquired by Mohawk Industries), “Dal-Tile International Inc., a Delaware corporation formed in 1987 . . . , believes that it is the largest manufacturer, distributor and marketer of ceramic tile in the United States and one of the largest in the world. . . . Dal-Tile International Inc. is a holding company and

conducts all its operations through its subsidiaries." Among those subsidiaries is Dal-Tile Corporation and Dal-Tile Distribution, Inc. According to the Form 10-K that Dal-Tile International Inc. filed with the Securities and Exchange Commission for the fiscal year ending 2000, "Dal-Tile has three regional distribution centers strategically located in California, Maryland and Texas to improve customer service in each distribution channel . . . ."

645. According to Dal-Tile's website, the company is 75 years old, dating back to 1947 when "Robert M. Brittingham founded the Dallas Ceramic Company while operating out of a simple Quonset hut in Dallas, TX."

646. According to the company's website, in 1980 the "Dallas Ceramic Company change[d] its name to Dal-Tile Corporation."

647. According to the Dal-Tile website, in 1999 "Dal-Tile unveil[ed] its eagerly anticipated Natural Stone Collection," opening "its first Tile & Stone Gallery in Dallas, TX."

648. In a Form 10-K that Dal-Tile International Inc. filed with the Securities and Exchange Commission for the fiscal year ending 2000, Dal-Tile acknowledged that many of the company's "manufacturing processes . . . currently result in the accumulation of dust that contains silica, thereby requiring expenditures for capital equipment in order to comply with Occupational Safety and Health Administration ("OSHA") regulations with respect to potential employee exposure to such dust." Thus, Dal-Tile has been aware of the silica dust exposure hazard of its products since at least 2000.

649. On November 20, 2001, Dal-Tile announced that it had entered into an agreement for Dal-Tile to be acquired by Mohawk Industries, Inc. The acquisition was completed in March 2002.

650. According to the Dal-Tile website, in 2009 "Dal-Tile launche[d] its Manufactured Stone Collection and innovative partnerships with Microban and Dupont."

651. According to the Dal-Tile website, in 2014 "Daltile open[ed] its newest Design Studio in San Francisco."

652. Plaintiff is informed and believes and alleges that prior to 2017 Dal-Tile imported quartz surfaces and distributed them throughout the United States, but in 2017 Dal-Tile announced plants to open a plant in Tennessee to manufacture quartz surfaces domestically and thereafter began manufacturing artificial stone at its Tennessee plant and selling it throughout the United States.

Dal-Tile Entities in the Chain of Distribution of Dal-Tile Branded Stone Products

653. Plaintiff is informed and believes that in addition to Mohawk Industries, Inc., multiple Dal-Tile entities are in the chain of distribution of Dal-Tile branded stone products (slabs, blocks, and tiles), each of which is liable to Plaintiff for its own role in producing, manufacturing, importing, distributing, marketing, branding, trademarking, licensing, and otherwise undertaking affirmative acts and omissions that caused Plaintiff's silicosis and related and consequential injuries.

654. Mohawk Industries, Inc. is itself in the chain of distribution of Dal-Tile branded stone products, because the Mohawk Industries website contains a webpage titled "Products" which, under a heading "Countertops," states: "Mohawk's countertops and extra-large slabs for floors and walls help to create perfect residential and commercial designs. In addition to a well-established U.S. natural stone slab business, the Company is offering durable and elegant engineered quartz countertops as well as innovative porcelain slabs that replicate granite or marble visuals and can be used for flooring, walls or countertops." https://mohawkind.com/products.php#countertops. This webpage then lists the following brands with logos: COMPLETE COUNTERTOPS®, ONE QUARTZ SURFACES®, PANORAMIC porcelain surfaces®, GRANDE, and THE TOP. Thus, Mohawk Industries, Inc. markets stone "countertops" and "slabs" as of Mohawk Industries itself.

655. Plaintiff is informed and believes and thereon alleges that all of the Safety Data Sheets of Dal-Tile stone slab products from 2015 to 2020 identify the manufacturer of those stone products as Dal-Tile Corporation, and that all of the Safety Data Sheets of Dal-Tile stone slab products from 2023 and thereafter identify the manufacturer of those products as Dal-Tile, LLC.

656. According to the OSHA's Directive Number CPL 02-02-079:

> "The manufacturer or importer must provide the information required by the standard on any hazardous chemicals which they manufacture or import."
>
> "*Responsible party* means someone who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary. This could be the manufacturer or importer or a company contracted to provide more information. The name and address of the responsible party MUST be the same on the SDS and the label."
>
> "The information supplied on the SDS must be accurate."

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657. On March 29, 2022 Dal-Tile Corporation filed a Statement of Conversion with the Pennsylvania Secretary of State whereby it converted its entity type from that of a corporation to a limited liability company under the name Dal-Tile, LLC.

658. Plaintiff is therefore informed and believes and thereon alleges that Dal-Tile Corporation was the manufacturer of Dal-Tile branded stone slabs and other stone products, including its artificial stone slabs, up to March 29, 2022 and that Dal-Tile, LLC became the manufacturer of those stone products and bears responsibility as the manufacturer of those products.

659. Despite the foregoing evidence that Dal-Tile, LLC is the manufacturer of Dal-Tile branded stone slabs and other stone products including its artificial stone slabs branded"One Quartz," in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite, et al.,* Los Angeles Superior Court Case No. 22STCV31907, Roy Viana, Dal-Tile's Director of Product, who had given a deposition as the person most qualified to testify on Dal-Tile LLC's behalf, provided "errata" to his deposition testimony stating that the manufacturer of Dal-Tile artificial stone slabs was Dal-Tile of Tennessee, LLC rather than Dal-Tile, LLC. While it appears that the change in Mr. Viana's may have been to persuade the court in the *Reyes-Gonzalez* case that the plaintiff in that case had sued the wrong party and that Dal-Tile, LLC should therefore be dismissed from that case, based on Mr. Viana's errata to his deposition testimony, Plaintiff alleges that Dal-Tile of Tennessee, LLC is also a manufacturer of Dal-Tile natural and artificial stone slabs and other stone products to which Plaintiff was occupationally exposed and that caused Plaintiff's silicosis and other injuries.

660. On April 5, 2024, In the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite, et al.,* Los Angeles Superior Court Case No. 22STCV31907, Cathleen Smith, a Sustainability and Compliance Engineer of Dal-Tile LLC, who was designated to testify on Dal-Tile LLC's behalf, testified that Dal-Tile Distribution, LLC is the Dal-Tile entity that distributes Dal-Tile branded stone products, including tile, natural stone and artificial stone products. Ms. Smith also testified that Dal-Tile International, Inc. is the parent company of all the Dal-Tile subsidiaries.

661. Plaintiff is informed and believes and thereon alleges that prior to the formation of Dal-Tile Distribution, LLC, Dal-Tile Distribution, Inc. was the distributor of Dal-Tile branded stone products, including tile, natural stone and artificial stone products.

Dal-Tile's Knowledge of the Silica Dust Hazard as of 2000 and 2001

662. In its Form 10-K Annual Report for the fiscal year ended December 29, 2000 filed with the Securities and Exchange Commission, Dal-Tile International Inc. acknowledged:

> Numerous aspects of the manufacture of ceramic tile currently require expenditures for environmental compliance. For example, the mixing of raw materials, preparation of glazes, and pressing, drying and firing of tile all are sources of air emissions that require expenditures for compliance with laws and regulations governing air emissions, including the purchase, operation and maintenance of control equipment to prevent or limit air emissions. Many of these manufacturing processes also currently result in the accumulation of dust that contains silica, thereby requiring expenditures for capital equipment in order to comply with Occupational Safety and Health Administration ("OSHA") regulations with respect to potential employee exposure to such dust.

https://www.sec.gov/Archives/edgar/data/906611/000091205701007653/a2041503z10-k.txt.

663. In its Prospectus filed on May 17, 2001 with the Securities and Exchange Commission, Dal-Tile International acknowledged:

> Many of our manufacturing operations result in the processing of raw materials that contain silica. These manufacturing processes require expenditures for capital equipment in order to comply with Occupational Safety and Health Administration regulations with respect to potential employee exposure to dust which may contain silica generated by such processes.

664. On November 20, 2001, Dal-Tile announced that it had entered into an agreement for Dal-Tile to be acquired by Mohawk Industries, Inc. The acquisition was completed in March 2002.

Dal-Tile Begins Manufacturing Artificial Stone

665. According to the company's website, in 2009 "Dal-Tile launche[d] its Manufactured Stone Collection and innovative partnerships with Microban and Dupont."

666. According to the company's website, in 2014 "Daltile open[ed] its newest Design Studio in San Francisco."

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667. Plaintiff is informed and believes and alleges that prior to 2017 Dal-Tile imported quartz surfaces and distributed them throughout the United States, but in 2017 Dal-Tile announced plants to open a plant in Tennessee to manufacture quartz surfaces domestically and thereafter began manufacturing artificial stone at its Tennessee plant and selling it throughout the United States.

Dal-Tile's 2019 Safety Data Sheet for its One Quartz™ Collection

668. In 2019 Dal-Tile issued a Safety Data Sheet for its One Quartz™ Collection. In Section 1 of this Safety Data Sheet ("Product Identification") Dal-Tile described its slabs as "environmentally preferable building materials" and "one of the most environmentally friendly building materials you can buy today." However, in Section 3 of the Safety Data Sheet, Dal-Tile states that the product contains 46-52% crystalline silica by weight. Since exposure to crystalline silica causes silicosis, lung cancer, and other diseases, Dal-Tile's assertion that its product is "one of the most environmentally friendly building materials you can buy today" is false and misleading.

669. Section 2 of the Safety Data Sheet, regarding Hazards Identification, provides three hazard statements: "(H35) May cause CANCER," "(H335) may cause respiratory irritation;" and "Causes damage to organs (lung/respiratory) through prolonged or repeated exposure (inhalation)." The first statement is misleading because it suggests the product is not known to cause cancer, although it contains at approximately 50% crystalline silica, which is a known human carcinogen and was recognized as such by the International Agency for Research on Cancer in 1997. The second statement is misleading, because, the statement that the product "may cause respiratory irritation," suggests that respiratory exposure to the product is not very harmful, i.e., that one "may" experience irritant effects like one might experience cutting an onion. The third statement is also misleading, because it does not specify the duration of the "prolonged" exposure or the number of exposures that constitute "repeated" exposure that causes damage to organs. Workers therefore cannot know whether they must be exposed to the product for weeks, months, years or decades, or must be exposed hundreds, thousands, or tens of thousands of times to suffer organ damage. The statement is also misleading, because prolonged exposure suggests exposure of many years resulting

in chronic disease, although artificial stone workers typically develop acute silicosis in less than 5 years or accelerated silicosis after 5 to 10 years of exposure. The hazard statements are also deficient because they do not mention silicosis as a health hazard of the product, although it is the major health hazard of the product. Indeed, the word "silicosis" does not appear in the entire Safety Data Sheet, even though the product contains approximately 50% crystalline silica. This constitutes a failure to warn of the health hazards of the product that violates the Hazard Communication Standard.

670. After providing the three inadequate hazard statements in the "Hazards Identification" section of the Safety Data Sheet, Dal-Tile provides 5 "Precautionary Statements": (1) "Do not handle until all safety precautions have been read and understood," (although most artificial stone fabricators are immigrants who cannot read English), (2) "Do not breathe dust/spray" (as though workers should hold their breath throughout the work day), (3) "Wash hands thoroughly after handling/installing" (although the products do not present appreciable health hazards by skin absorption); (4) "Do not eat, drink or smoke when handling/installing this product" (although the product does not present any appreciable health hazard by ingestion and is not a fire hazard); and (5) "Wear protective gloves, protective clothing, eye protection, face protection when handling/installing this product" (rather than the critical information that it is essential to wear an air supplied respirator when fabricating or installing the product). Most noteworthy is the absence of any precautionary statement that respiratory protection is necessary, in particular that workers fabricating the product must wear a NIOSH-approved air supplied respirator to prevent silicosis.

671. After the precautionary statements, the Safety Data Sheet states the following regarding "Potential Health Effects": "Inhalation: Do not breathe dust." This is an inadequate and harmful instruction for four reasons. First, the health effects of inhaling crystalline silica dust are known and very serious; they are not merely "potential." Second, no adverse health effects of inhaling crystalline silica are identified; silicosis and lung cancer are not mentioned as known health effects. Third, the instruction not to breathe dust is impossible to follow, because dust is always generated during the fabrication of artificial stone products and workers must breathe to work and to live. Lastly, the instruction doesn't inform workers how to do their work without inhaling dust from the product.

672. Section 3 of the Safety Data Sheet (Composition/Information on Ingredients) begins with the following statements: "Slab products are made of silica, other naturally-occurring minerals, and resin that have been mixed and cured at low temperatures. Slabs are manufactured in various shapes, sizes, and colors. These products do not contain asbestos. Under normal conditions these products do not release hazardous materials after installation and are not considered hazardous waste should disposal be necessary." These statements are misleading, because they indicate that the product is made from "naturally-occurring minerals," which suggests that the product confers health benefits like mineral water and that the product is safe because it does not contain asbestos. The statement that "under normal conditions these products do not release hazardous materials after installation" is misleading because the product does release respirable crystalline silica when used as intended to fabricate countertops, and silica causes silicosis, lung cancer, and other diseases.

673. In Section 8 ("Exposure Controls/Personal Protection")," the Safety Data Sheet provides recommended exposure limits for the "respirable fraction" of crystalline silica and for "total dust" without explaining these terms. The Safety Data Sheet then directs workers to "use adequate ventilation during installation and/or removal to keep exposure to dust below recommended exposure levels," without explaining how workers can know whether they are exposed above or below the recommended exposure levels. Regarding "Respiratory Protection," the Safety Data Sheet states: "Use of a properly fitted NIOSH/MSHA approved particulate respirator is recommended when cutting tiles for installation or during the removal of installed tile." This instruction is confusing, inadequate, and harmful. The instruction is confusing and inadequate, because it directs workers to use a respirator when cutting tile, which suggests that a respirator need not be used when cutting the product, but need only be used when cutting tile. The instruction is harmful, because it instructs workers to use a NIOSH-approved particulate respirator - a type of air-purifying respirator that is inadequate to prevent silicosis – rather than using a NIOSH-approved air-supply respirator – the only type of respirator that is adequate to prevent silicosis from fabricating artificial stone.

674. Section 11 ("Toxicological Information") of the Safety Data Sheet provides the following "Potential Health Effects" information regarding "Primary Routes of Exposure": "None for intact tile. Inhalation and potential exposure to eyes, hands, or other body parts if contact is made

with broken tile, and/or during procedures involving the cutting of products, and/or for operations involving the removal of installed products." This statement is confusing, because it concerns health effects of tile rather than the product. The statement is also inadequate, because it does not state that the primary route of exposure for the product is inhalation. The statement is harmful, because it falsely indicates that there is no primary route of exposure for the product, although respirable crystalline silica from the product causes multiple adverse health effects by inhalation.

675. The Safety Data Sheet then states: "No acute effects from exposure to intact tile are known." This statement is confusing and misleading, because the product is not tile. The statement is also incorrect, because acute silicosis is a known health effect of acute exposure to the product, and is usually fatal, and is primarily caused by inhalation of artificial stone dust rather than by tile.

Dal-Tile's Letter to the Los Angeles County Board of Supervisors

676. On July 28, 2023 Matthew Kahny, President of Dal-Tile, signed a letter to the Los Angeles County Board of Supervisors, urging the Board of Supervisors not to ban the importation and use of artificial stone in Los Angeles County. This letter stated: "Stone products are safely handled and worked on every day, including in Los Angeles County . . . ." This statement is false, because artificial stone products are not "safely handled and worked on every day, including in Los Angeles County," as is shown by the epidemic of accelerated silicosis among stone countertop fabricators which has its epicenter in Los Angeles County.

677. The letter by CEOs of artificial stone manufacturers seeks to foist blame on the owners of the small fabrication shops that fabricate artificial stone, rather than accepting personal responsibility for the deadly effects of their defectively designed artificial stone products. Thus, the letter states that "fabrication employers must provide necessary training, air monitoring and adherence to air quality requirements, engineering air handling controls, personal protective equipment (PPE), and medical surveillance in compliance with OSHA regulations." While multi-billion dollar manufacturers and importers like Cambria, MS International, Dal-Tile, and of course, Caesarstone and Cosentino, have the financial resources to spend millions of dollars to make their

manufacturing facilities safe for their workers, fabrication shops (most of which are small mom-and-pop businesses that have 2 to 10 workers and generate annual revenues of a few hundred thousand dollars) lack the financial resources to implement the necessary protective measures, which cost a few million dollars in capital costs per shop, with annual maintenance costs of a few hundred thousand dollars. Thus, it is facetious for the multibillion dollar manufacturers and importers to attempt to blame the fabrication shop owners for their inability to protect workers from the deadly hazards of their artificial stone products.

678. The letter also states: "Stone products, including engineered stone, have been manufactured and fabricated safely for decades . . . ." This statement is false. Artificial stone is a relatively new product in commerce that first began being manufactured by Caesarstone in 1987 and was first imported into the United States in the 1990s. The first case of artificial stone-induced silicosis was seen in 1997 by physicians at the National Lung Transplantation Center in Israel. This worker was exposed to Caesarstone, developed silicosis, and underwent lung transplantation. Over the next 14 years, researchers at the National Lung Transplant Center in Israel diagnosed silicosis in 25 patients exposed to Caesarstone, of whom 15 (60%) were determined to be lung transplant candidates. Kramer MR, et al., "Artificial Stone Silicosis: Disease Resurgence Among Artificial Stone Workers," *Chest* 2012; 142(2):419-424. Thus, the statement in the letter that "engineered stone ha[s] been manufactured and fabricated safely for decades is clearly and indisputably false.

Dal-Tile's Endorsement of Misrepresentations by The Stone Coalition

679. In October 2023, a Paid Advertisement titled "Illegal Cutting Processes, Not Stone Products, can Cause Silicosis," was published in the Los Angeles Times. The advertisement states that it was "Paid For By The Stone Coalition," info@stonecoalition.org, which is described as "a collaborative effort between the quarts surface and natural stone industries."

680. The Stone Coalition is an industry trade association that was apparently formed in 2023 to defend the Stone Countertop Fabricator Silicosis Cases by mounting a public relations campaign to deflect liability from stone slab manufacturers, distributors and suppliers, by attempting

to foist blame for the new stone fabricator silicosis epidemic on the victims, their employers, and regulatory and enforcement agencies – all to avoid accepting personal responsibility for the massive (ultimately fatal) harm that they have inflicted on thousands of young immigrant workers.

681. The home page of the new website of The Stone Coalition bears the name and logo of the Natural Stone Institute, implicating that industry trade association with the new trade association. The home page states: "The Stone Coalition is dedicated to promoting safe, wet processing technology in stone-cutting facilities while prioritizing compliance with OSHA air monitoring standards and other silica rules. Safety is our unwavering commitment." That is quite a statement by stone companies that for years opposed OSHA's adoption of the Silica Standard.

682. A webpage titled "About" describes "Our Organization" as follows: "The Silica Safety Coalition is a collective of dedicated stone fabricators, manufacturers, stone distributors, and industry professionals united by a shared commitment to promoting workplace safety within the stone cutting and fabrication sector. Our mission is to promote and maintain the highest standards of safety, supporting the well-being of workers throughout every stage of stone processing." These statements are at best mere industry propaganda and at worst blatant falsehoods. The Coalition is actually a collective of multibillion dollar stone manufacturers and distributors that have been sued for causing the new stone fabricator silicosis epidemic – companies that for years failed to prepare any Safety Data Sheets or labels for their stone products or prepared Safety Data Sheets and/or labels that were so deficient that they caused, rather than prevented, the new fabricator silicosis epidemic.

683. The website of The Stone Coalition does not identify its members, but the "About" webpage contains a section titled "Workplace Safety" that informs readers to "Click the button to read our letter to the Los Angeles County Board of Supervisors." Clicking on the button reveals a letter dated July 28, 2023 to the Los Angeles County Board of Supervisors in which the authors of the letter attempt to persuade the Los Angeles County Board of Supervisors not to ban the importation and use of artificial stone products in Los Angeles County. The letter is signed by executive officers of four artificial stone companies: Marty Davis, CEO of Cambria; Rupesh Shah, Co-CEO of M S International, Inc.; Matthew Kahny, President of Dal-Tile; and Nate Kolenski,

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President of Block Tops, Inc.; and James A. Hieb, CEO of the Natural Stone Institute. The first three of these companies are among the most culpable defendants in the Stone Fabricator Silicosis Cases.

684. The title of the Paid Advertisement is itself misleading and false, for two reasons. First, it states that stone products do not cause silicosis, although most silicosis cases over the millenia and at the present time have been and continue to be caused by crystalline silica dust from stone products. Second, it states that only "illegal cutting processes . . . can cause silicosis," although cutting stone slabs can cause silicosis whether the cutting process is performed "legally," i.e., in compliance with OSHA requirements, or "illegally," i.e. in violation of OSHA requirements.

685. The Paid Advertisement begins with the following statement: "Silicosis, a rare lung disease resulting from the inhalation of crystalline silica dust from dry-cutting or grinding concrete, brick or stone, has been found in illegal and unregulated stone fabrication across California, with a significant concentration in the San Fernando Valley." This statement is at best misleading and at worst false, for a few reasons. First, silicosis is not a rare lung disease. It is the oldest lung disease known to humankind and has killed more workers over the millenia than any other lung disease, including all lung diseases caused by exposure to asbestos. Additionally, recent epidemiological studies have reported a prevalence of silicosis among stone fabricators in the range of 30% to 40%, making it an especially common occupational lung disease that is of great public health concern. Second, the statement falsely suggests that silicosis is only caused by dry-cutting or grinding, although many workers who regularly used water-dispensing powered tools to reduce the amount of dust in fabricating stone countertops now suffer from silicosis and the National Institute for Occupational Safety and Health (NIOSH) has done studies which show that wet processing methods are inadequate to prevent silicosis among workers who fabricate artificial stone countertops. Third, silicosis among countertop fabricators and other workers exposed to crystalline silica has been shown to occur even at exposure levels below limits adopted by the Occupational Safety and Health Administration (OSHA), i.e., "legal" stone fabrication.

686. The Paid Advertisement then states: "Yet, this disease is preventable through wet processing techniques and strict adherence to existing OSHA regulations." This statement is also false, because studies by NIOSH show that even fabrication workers who regularly use water-

dispensing tools and wear particulate filter respirators at all times they are in the fabrication shop still develop silicosis from exposure to artificial stone dust.

687. The Paid Advertisement then states: Despite Federal and State regulations to prevent the use of 'drycutting,' or cutting of stone or tile without water, and requiring personal protective equipment (PPE), many noncompliant facilities continue to put their employees at risk by failing to implement these basic safety precautions." This statement is also misleading and false, because most stone countertop fabrication shops have followed the recommendations of artificial stone manufacturers to use powered tools that dispense water to suppress dust generated by the fabrication of artificial stone, as well as the manufacturers' recommendations to have their employees wear particulate filter masks. However, both of these precautionary measures recommended by stone slab manufacturers are inadequate to prevent silicosis among stone countertop fabricators, which recommendations misled both employers and fabrication workers to believe that following the manufacturers' recommendations would prevent fabrication workers from developing silicosis. The use of water-dispensing tools is inadequate to prevent silicosis in artificial stone fabricators because at most it merely reduces the amount of lethal crystalline dust to which fabrication workers are exposed, and particulate filter masks do not prevent the extremely small particles of crystalline silica from cutting artificial stone from being inhaled and causing silicosis. In fact, the recommendation of the artificial stone manufacturers to wear a "NIOSH-approved" mask has caused many workers to develop silicosis, because NIOSH-approved particulate filter masks do not prevent harmful silica exposure, the only type of respirator that is effective in doing so is an air-supplied respirator, which the manufacturers of artificial stone have not recommended as necessary protection for workers.

688. The Paid Advertisement then states that Jim Hieb, CEO of the Natural Stone Institute, knows this doesn't have to happen and quotes him saying: "Silicosis is preventable. Any contractor that follows Cal/OSHA's guidelines ensures that any cutting of any stone product is done safely." This statement is also misleading and false for a few reasons. First, while silicosis from exposure to natural stone dust may be preventable, silicosis from exposure to artificial stone is not preventable, because unlike natural stone, the fabrication of artificial stone generates massive amounts of ultrafine and nanosized crystalline silica particles that penetrate through particular cartridge respirators and

are inhaled by fabricators and cause progressive massive fibrosis, because they are extremely toxic to the lungs - much more so than larger silica particles from natural stone. Second, while it may theoretically be possible to prevent silicosis in artificial stone fabricators, in the real world it is not possible to prevent silicosis in artificial stone fabricators, because the cost of installing state-of-art ventilation systems, respiratory protection programs, exposure monitoring programs, administrative industrial hygiene programs, and medical monitoring programs necessary to prevent silicosis, the capital cost of implementing these programs is a few million dollars per shop with annual costs of several hundred thousand dollars, which small fabrication shops that generate annual revenues of a few hundred thousand dollars cannot afford. Third, OSHA's guidelines were developed to protect against respirable crystalline silica particles in the micron size range - not ultrafine and nanosized crystalline silica particles that are uniquely generated from the fabrication of artificial stone and present extraordinary fibrotic hazards to the human lung and while compliance with OSHA's exposure limits for respirable crystalline silica may reduce fibrotic lung disease or delay its occurrence among stone fabricators, multiple studies have shown that compliance with OSHA's exposure limits is inadequate to prevent all silicosis. It is therefore extremely irresponsible for the CEO of the Natural Stone Institute to state that compliance with OSHA guidelines "ensures that any cutting of any stone product is done safely." This is especially so, because exposure to respirable crystalline silica not only causes silicosis which may be dose-dependent, but also causes lung cancer and there is no level of exposure to crystalline silica that does not increase stone fabrication workers' risk of developing lung cancer later in life.

689. The Paid Advertisement also states: "Almost all experts agree that what is being cut matters less than how the stone is cut and fabricated for placement within homes and offices." While this statement may generally be true for natural stone products, it is not true for artificial stone products which present unique respiratory hazards to stone countertop fabricators because artificial stone is manufactured by crushing and pulverizing quartz (crystalline silica) and then adding a polymeric resin, pigments and other additives and curing the mixture, so that when the finished slab is cut, the ultrafine and nanosized particles that are in the plastic matrix are released and are inhaled by fabricators even though they wear particulate filter respirators. Indeed, the extreme hazard of

artificial stone is due not only to the extremely high crystalline silica content of the product (much higher than marble and granite), but is also due to the extremely small size of the crystalline silica particles that are released into the air when fabricators use powered tools to cut artificial stone.

690. The Paid Advertisement also states: "Despite studies and regulations that show that the type of product matters significantly less than the method of cutting, plaintiffs' attorneys have been trying to blame engineered stone for recent cases of Silicosis among stone workers." It is true that attorneys who represent the ever-increasing number of young male Hispanic immigrants who have developed silicosis with progressive massive fibrosis and are terminally ill unless they receive lung transplants, primarily blame artificial stone for causing the workers' fatal lung disease, so too do knowledgeable pulmonologists, occupational medicine specialists, epidemiologists, and public health experts. Indeed, the new occupational disease epidemic of accelerated silicosis among artificial stone fabricators is largely attributable to artificial stone, because it is an inherently dangerous and defective product whose purported benefits which are merely aesthetic in nature, are outweighed by the severe lung and other diseases that this product causes at with such a high disease prevalence.

691. The Paid Advertisement then states: "Engineered stone products including Quartz, have been manufactured and fabricated safely for decades." This statement is a blatant lie. Artificial stone is a relatively new product in commerce that first began being manufactured by Caesarstone in 1987 and was first imported into the United States in the 1990s. The first case of artificial stone-induced silicosis was seen in 1997 by physicians at the National Lung Transplantation Center in Israel. This worker was exposed to Caesarstone, developed silicosis, and underwent lung transplantation. Over the next 14 years, researchers at the National Lung Transplant Center in Israel diagnosed silicosis in 25 patients exposed to Caesarstone, of whom 15 (60%) were determined to be lung transplant candidates. Kramer MR, et al., "Artificial Stone Silicosis: Disease Resurgence Among Artificial Stone Workers," *Chest* 2012; 142(2):419-424. Thus, the statement in the Paid Advertisement that "[e]ngineered stone products, including Quartz, have been manufactured and fabricated safely for decades" is absolutely false.

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692. The Paid Advertisement quotes Mr. Hieb as stating: "The biggest problem our industry faces is enforcement. Without efforts to stop those who are unaware of or unwilling to comply with current regulations, cases of Silicosis are going to keep increasing." This statement is also false and misleading. The biggest problem the stone industry faces is that artificial stone is the cause of a worldwide epidemic of accelerated silicosis among stone countertop fabricators. Stating that the biggest problem the industry faces is enforcement is merely an attempt by manufacturers of deadly artificial stone products to foist blame on OSHA due to its inability to prevent the disease and death that are primarily due to artificial stone products. OSHA is extremely underfunded and lacks the resources to initiate enforcement actions against the thousands of small fabrication shops nationwide and enforcement actions do nothing to prevent silicosis among the tens of thousands of countertop fabrication workers who have already been exposed to crystalline silica from stone products and who already have silicosis even though many of them have not yet exhibited symptoms of this disease. Moreover, many fabrication shops are unaware of the silicosis hazard because the manufacturers of artificial stone for many years did not prepare or provide their customers with Safety Data Sheets or product labels informing them of the silicosis hazard and none of the manufacturers ever provided their customers with use instructions that were adequate to prevent silicosis among fabricators.

693. The Paid Advertisement also states: "Industry leaders provide resources to support smaller businesses in the industry." This statement is at best misleading and at worse false. For years the manufacturers of artificial stone concealed the nature and severity of the toxic hazards of their products from their customers and only provided them training on how to improve profitability. Only after the new silicosis epidemic was well under way did the manufacturers of artificial stone initiate any programs to "support smaller businesses in the industry," and those programs were public relations programs to deflect responsibility from the manufacturers of deadly artificial stone products to blame the epidemic on the victims, the owners of small fabrication shops that employed them, on regulators and governmental enforcement agencies – anyone except themselves for causing the harm.

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Knowledge of the Silicosis Hazard by Dal-Tile Officers and Directors

694. Throughout the time that Dal-Tile manufactured and sold its artificial stone products, exposing stone countertop fabricators and installers to respirable crystalline silica from the company's products, Dal-Tile's officers and directors were aware that Dal-Tile's artificial stone products were defective because they contained extremely high concentrations of crystalline silica, were aware that the use instructions that Dal-Tile provided were inadequate to prevent silicosis and would actually cause silicosis in exposed workers, and were aware that fabrication companies could not protect fabricators and installers from the lethal silicosis hazard presented by Dal-Tile's defective artificial stone products. Among Dal-Tile's officers and directors who had this knowledge but who nevertheless consciously disregarded the health and safety of fabricators and installers were the following officers and directors of the company:

Officers

Jacques R. Sardas, President, Chief Executive Officer and Chairman of the Board;

W. Christopher Wellborn, Exec. Vice President, Chief Financial Officer, Assistant Secretary;

Scot B. Bernstein, Vice President, Supply Chain Planning;

D. Curtis Cook, Vice President, American Olean Distribution;

Dan L. Cooke, Vice President, Information Technology;

Silvano Cornia, Vice President, Research and Development;

David F. Finnigan, Vice President, Home Center Sales and Business Development;

William R. Hanks, Vice President, Manufacturing;

Matthew J. Kahny, who was Vice President of Marketing and is now President;

H. Clay Orme, Vice President, Operations;

Javier Eugenio Martinez Serna, Vice President, Mexico Operations;

Mark A. Solls, Vice President, General Counsel and Secretary;

Directors

Douglas D. Danforth, Director;

John F. Fiedler, Director;

Vincent A. Mai, Director;

Martin C. Murrer, Director;

Charles J. Pilliod, Jr., Director;

Norman E. Wells, Jr., Director.

DIRESCO NV AND DIRESCO USA, LLC

695. Diresco is a Belgian manufacturer of artificial stone.

696. According to its website, "QUARTZ COMPOSITE IS IN OUR BLOOD." https://www.diresco.be/en/company-profile/.

697. According to its website, "Diresco is a genuine Belgian family concern with its feet firmly planted in the province Limburg. Founded in 2003 by Chris Schelfhout and his son Dirk, constant investment and a focus on innovation has helped Diresco evolve into a key player in the international quartz composite market." https://www.diresco.be/en/company-profile/.

698. According to its website, "Diresco has a reliable distributor network that assures our global client base optimum technical support. After all, 50% of our quartz composite is exported to the international market. Diresco has earned a reputation far beyond the Benelux for its comprehensive expertise and specialised service in all matters relating to quartz composite."

699. The Diresco website has a "Dealers" tab which lists about 20 dealers for Diresco quartz in the United States, including Evolv Surfaces at 825 Potter Street, Berkeley, CA 94710,

700. The Diresco website states: "Diresco D-Quartz BIO-UV surfaces are comprised of ~90% natural Quartz granulates and ~10% plant-based resins and colour pigments. In order to provide architects and designers greater creative freedom, our slab dimensions are 3.18m x 1.55m (125" x 61"). Our surfaces are available in thicknesses of 12mm, 20mm or 30mm. They can be supplied in either a poli, velvet or anticato finish."

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Diresco Begins Doing Business in the US

701. On November 28, 2012, Direscto USA LLC filed Articles of Organization as a limited liability company with the Delaware Secretary of State.

702. On July 29, 2014 Diresco USA LLC filed an Application to Register a Foreign Limited Liability Company with the California Secretary of State, listing its business address in the State of California as 103 E. Alton Ave., Santa Ana, CA 92707. The application was signed by Scott MacLeod, Founder and CEO of the company.

703. As of 2018 the company had forfeited its right to do business in California.

Diresco's January 2018 Safety Data Sheet

704. In January 2018 Diresco issued a Material Safety Data Sheet for Diresco® Quartz Surfaces, which it described as being "designed for indoor and outdoor use, particularly in kitchen and bathroom worktops, flooring, cladding and other similar uses." This Material Safety Data Sheet identified the company as "Diresco NV, Industrieweg-Noord, 11334, 3660 Opglabbeek Belgium.

705. Section 2 of the Material Safety Data Sheet (Hazards Identification) began by stating: "There is no risk corresponding to the finished Diresco® product." This is a misleading statement, because it falsely suggests that there is no risk to worker heath from the product although Section 3 of the Material Safety Data Sheet states that "the materail [sic] is made up of approxiametly [sic] 97% Quartz/Silica Sand" which causes silicosis, lung cancer and other diseases.

706. Section 2 of the Material Safety Data Sheet then provides the following hazard information: Category 3 (Respiratory Tract Irritation), Category 1A (Carcinogenicity), H327 Causes damage to lungs through prolonged or repeated exposure (inhalation), H335 May cause respiratory tract irritation, H350 May cause CANCER (inhalation)." Under a heading "Prevention" the Material Safety Data Sheet then states: "P260 Do not breathe dust generated during the Fabrication Process, installation and removing/demolishing processes; . . . P284 Wear respiratory protection for particles (P3)." The Material Safety Data Sheet then says: "Inhalation: Do not breathe dust under any

circumstance. . . ." This instruction is a meaningless and harmful instruction, because respirable crystalline silica dust is always generated when the artificial stone is fabricated and it becomes airborne whereby fabrication workers necessarily inhale the toxic dust. The instruction "do not breathe dust under any circumstance" is impossible to do and workers cannot hold their breath an entire workshift so as not to inhale the toxic dust from the product."

707. Section 2 of the Material Safety Data Sheet then states: "Workers who inhale very small crystalline silica particles are at increased risk of developing serious silica-related diseases. These tiny particles (known as "respirable" particles) can penetrate deep into workers' lungs and cause silicosis, an incurable and sometimes fatal lung disease. Crystalline silica exposure also puts workers at risk for developing lung cancer, other potentially debilitating respiratory diseases such as chronic obstructive pulmonary disease (COPD), and kidney disease." While this section of the Material Safety Data Sheet provides health hazard information regarding the silicosis hazard, there is no evidence that Diresco ever provided this Material Safety Data Sheet to Plaintiffs or to their employers as required by the Hazard Communication Standard and there is every reason to believe that such never occurred. There is also no evidence that Diresco ever translated the Material Safety Data Sheet into Spanish so that Plaintiff or his employers could read and learn of the silicosis hazard.

708. In Section 8 (Exposure Controls / Personal Protection) the Material Safety Data Sheet says: "There is no provision for any risk associated with the finished Diresco product in the CLP (EC) regulation no. 1272/2008. However, dust originating from the fabrication process consists of respirable crystalline silica (SiO_2)." Regarding Personal Protective Equipment, the Material Safety Data Sheet says: "Respitory [sic] Protection: In case of insufficient ventilation, wear suitable respirtory [sic] equipment." This is a grossly inadequate instruction and harmful instruction, because it suggests that respiratory protection is only necessary "in cases of insufficient ventilation" whereas artificial stone dust is so toxic that special respiratory protection must always be used to prevent workers from getting silicosis. The instruction is also inadequate because it fails to specify the type of respirator that workers must wear to prevent getting silicosis and the Material Safety Data Sheet includes a pictogram of an air particulate filter respirator as the recommended respiratory protection - a type of respirator that is inadequate to protect workers from inhaling artificial stone

dust that is so tiny that it penetrates through particulate filters - and the Material Safety Data Sheet fails to inform workers that the only type of respirator that can protect them from getting silicosis is a NIOSH-approved air supplied respirator.

709. Section 11 (Toxicological Information) states: "No acute or chronic effects are known from exposure to the intact product." This information is false and misleading, because the expected and intended use of the Diresco's artificial stone slabs is that they be fabricated to become countertops, which necessarily produces large amounts of respirable crystalline silica dust, exposure to which causes silicosis and several other chronic human diseases.

710. The last sentence of Section 11 states: "Titanium Dioxide (TiO2) May cause lung fibrosis ...." This is the first indication that the product contains titanium dioxide, a toxic and fibrogenic metal whose presence in the product is concealed in Section 3 (Product Composition).

2019 Article in Stone Update Magazine

711. On October 9, 2019 an article by Emerson Schwartzkopf published an article in *Stone Update Magazine* about Diresco, which said:

"Oudsbergen, Belgium – From the outside, the headquarters for Diresco brings a simple-but elegant touch to its industrial-park surroundings, with a clean contemporary design and a nice touch of limestone cladding for the front-office section. Except that the cladding isn't stone. It's Diresco's quartz surfacing made in the factory behind the building. Despite not being made for outdoor use, it still looks good after years facing the Northern European climate. In many ways, that cladding offers plenty of insights into the company's character – well-made, precision goods offering optimal performance, along with a strong confidence to stand behind its products. It's also an interesting lead-in to the company's future, with its development and introduction of certified outdoor-durable quartz surfaces for its full product line. That future also includes more eco-friendly elements and processes for manufacturing while maintaining – and improving – the product overall.

A SOLID BACKGROUND. Diresco's latest development of BIO-UV brings two new factors to the market: a quartz surface fully manufactured for exterior uses, and the use of green

components in its construction. It's a combination that pulled plenty of attention at this year's Kitchen and Bath Industry Show (KBIS) and the event's 2019 award for Innovative Surfaces. There's no doubt that plenty of people at KBIS this year saw Diresco as a new upstart in the industry, but the reality is the opposite. It's a company with a long, long pedigree in quartz surfaces … and some fabricators have already (and unknowingly) worked with Diresco slabs over the years. Diresco's headquarters/factory, located 55 miles east of Brussels, started as a concrete panel factory. When owners Chris and son Dirk Schelfhout sold that business to a large European conglomerate, they took up the then-relatively new Breton S.p.a. process for manufacturing quartz surfaces in 2003. "I think people are surprised when we tell them we're the fourth- or fifth-oldest quartz company in the world," says Scott MacLeod, CEO of Diresco USA. "We've been here for 16 years."

Fabricators in the go-go years of the early and mid-2000s may also be more familiar with Diresco products than they might realize. While other quartz-surface companies made a name for themselves worldwide with their brands, Diresco made some of their products as a contract manufacturer. The brand name may have been different, but some slabs were made at Diresco's two Breton production lines in Belgium. The Great Recession, however, shrank quartz-surfaces demand and the need to call on Diresco for outsourcing. The company renewed its focus on its own lines and its regional European market, including the introduction of Belgium Blue, inspired by the look of Belgium's namesake indigo-blue/grey limestone. It's still the company's biggest seller.

"In Northwest Europe we are number one in the production of quartz stone," says Bruno De Brandt, Diresco's commercial director. "We have a location of 30,000 m² (322,000 ft²) with a storage capacity of 25,000 slabs and an installed capacity for 150.000 slabs/year." In comparison with other quartz-slab producers with sprawling industrial campuses, Diresco looks, well, modest in size. That's something that doesn't bother CEO Jos Bongers one bit. "The fact is that we are a small company," says Bongers, who took over daily corporate management from Chris Schelfhout in 2017. "We see this more as an advantage than a disadvantage because we can really make fast decisions. We are only working to deliver high quality." Bongers likes to emphasize that "product development is the heart of the company," and it's more than a platitude for Diresco.

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Co-founder Dirk Schelfhout continues working on technological advances – "he is very creative in always finding a solution," Bongers says -- including the customizing of its Breton production lines. Other innovative touches include the unusual way it keeps its inventory (see sidebar). Diresco also continues improving quality control, with one important step taking place before the slab-making starts with extra refinement of the main component.

Quartz arrives at all slab factories worldwide in large plastic bags, with the rock ground to a fine sand. The sand is quality-graded, depending on how the material is sorted for contaminants, and priced accordingly – although Diresco found that high-grade quartz sand still created problems. "What we found, quite consistently, was contamination, whether it's iron ore or different contaminants within the raw material we were receiving," MacLeod said. "We decided we would be the first quartz manufacturer to take sorting technology and bring it internally.' Diresco still puts the raw sand through the usual gravity-feed sieve, but there's an added process – depending on the source of the sand – of microscopic optical inspection to separate finer contaminants. The result is a significant reduction of visual flaws in slabs.

GREENER, CLEANER, STRONGER.

That attention to detail and quality received a strong test in the mid-2010s when a firm contacted Diresco on behalf of a large worldwide retailer. The requirements included the ability to stand up to UV light in exterior applications, plus sensitivity to the retailer's pro-environment corporate culture. The request began a two-year process of experimentation and evolution to meet the strength needed to take on exterior applications, along with the judgment of a notoriously picky end user. (And a secretive one as well, which is why it's not named here.)

Taking Diresco outdoors wasn't new – the company's office building is clad with older slabs that weren't UV-resistant but remain sound. Guaranteeing exterior performance, however, required a totally new process. The breakthrough came with suppliers formulating a materials-binding resin that isn't based on standard epoxies or polyester structures. The resulting process – Diresco's BIO-UV – offers a sustainable take on quartz surfaces and inhibits UV degradation outdoors.

The process doesn't stop all fading of darker colors – "you have to tell the things as they are," De Brandt said – but weatherometer-based testing of the BIO-UV slabs showed blacks going to a

deep grey in four years, with mid-tone hues getting a slightly lighter look and white-based colors showing close to no change in the same testing.

Diresco also chose to have testing done by worldwide quality-assurance firm Intertek using a high-standard process taking approximately eight months to simulate the years of aging. "It's important that we have independent certification, and not something done internally by a company that has no worth," De Brandt says. De Brandt adds that the testing of BIO-UV resins also provided an unexpected bonus: The new process added overall performance over standard polyester binders. "By using the new formulations, all properties on the slabs went up," he says. "It impacted everything – even the firefighting test. Everything is backed with testing evidence."

Knowledge of Silicosis Hazard by Diresco Managers

712. The 2018 Material Safety Data Sheet establishes that Diresco was well aware of the nature and severity of the silicosis hazard of its product but that the company nevertheless concealed the means of preventing silicosis among exposed fabrication workers, which concealment was approved and ratified by officers and managers of the company, including Scott MacLeod, CEO.

EIDP, INC. (E.I. DUPONT DE NEMOURS & COMPANY)

713. E. I. du Pont de Nemours and Company (DuPont) is an American chemical company formed in 1802 by French-American chemist and industrialist Éleuthère Irénée du Pont de Nemours. DuPont is famous for developing such polymers as neoprene, nylon, Teflon, Mylar, Kevlar, Nomex, Tyvek, Lycra and "solid surface composite" products branded Zodiaq® and Corian.®

714. At least one formulation of DuPont's Zodiaq® product contained 93% quartz. See, DuPont, Material Safety Data Sheet for Zodiaq® *Quartz Surfaces* (Version 2.0) Revision Date 04/03/2014, available online at https://ovsco.com/wp-content/uploads/2015/12/MSDS-Zodiaq.pdf.

715. "Corian® is "a solid, non-porous surfacing material homogeneously composed of ± 1/3 acrylic resin (also known as PolyMethyl MethAcrylate or PMMA), and ± 2/3 natural minerals,"

with the "main ingredient" being "Aluminum TriHydrate (ATH) derived from bauxite, an ore from which aluminum is extracted." E.I. du Pont de Nemours and Company, Spec-Data Sheet for Corian® Solid Surface (April 2003), https://cms.esi.info/Media/documents/Coria_specdata_ML.pdf. This Spec-Data Sheet for Corian® states that "for more information on the composition of the material, please consult the Corian® Material Safety Data Sheets (MSDS) available via the secured www.corianenterprise.com site or via your local supplier." However, this webpage is not active.

716. Corian® is the original material of this type, created by DuPont scientists in 1967. For some period of time Dupont claimed that Corian® did not contain crystalline silica and therefore would not not cause silicosis. However, workers who fabricate Corian® slabs have nevertheless been reported to develop fibrotic lung disease due to aluminum trihydrate in the product.

717. DuPont has long known of the industrial hazards of silicosis. As early as the 1930s and 1940s DuPont was sued by employees who developed silicosis from industrial exposure to crystalline silica when the company declined to pay them partial disability benefits for their disease. *Del Busto v. E. I. DuPont de Nemours & Co., Inc.* (Supreme Court, New York, 1938) 167 Misc. 920. See also, *Ligiecki v. E. I. DuPont de Nemours & Co., Inc.* (W.D.N.Y. 1942) 46 F.Supp. 266.

718. In 1960 a book was published that was edited by DuPont's Medical Director, Assistant Medical Director, and the Director of DuPont's Haskell Laboratory for Toxicology and Industrial Medicine. The book included a chapter titled "Occupational Chest Diseases" by Dr. G.W.H. Schepers of the Haskell Laboratory. In this chapter the first disease that Dr. Schepers discusses was silicosis. He began his discussion of silicosis as follows: "Because of the predominance of silica in the earth's crust, it is natural that silicosis should constitute an important occupational chest disease. Of the more than 3,000 known minerals, more than 500 are compounds of silica. . . . In recent years, numerous synthetic siliceous substances have been introduced." The chapter mentioned Corian as one such substance. Schepers, G.W.H., "Occupational Chest Diseases," in Fleming, et al., eds., *Modern Occupational Medicine* (Lea & Febiger 1990).

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First Case Report of Corian-Induced Pulmonary Fibrosis Published in 2010

719. In 2010, the first case report of Corian-induced fibrotic lung disease was published. The patient was a 40-year-old married man with a high school education who was in charge of Corian fabrication in a wooden furniture factory. He worked in the carpentry area of the factory, polishing and finishing solid surfaces Corian using a "router" machine. He did this work for 11 years, working from 8:00 a.m. to 5:30 p.m., using protective equipment consisting of a face mask, work uniform, and safety shoes. In April 2009, he presented with dyspnea on moderate exertion, fits of non-productive cough, fatigue, peri-oral cyanosis and weight loss of 9 kg in 2 months. On auscultation, he had decreased breath sounds in both lungs, with rales (crackles) during inhalation and exhalation. Chest x-ray revealed bilateral diffuse interstitial infiltrate of basal predominance, occupying approximately 80% of the lung parenchyma. Lung function was substantially reduced: FVC 50%, FEV1 55%, REL 115, FEF 25-75 L/S 67%, without reversibility with bronchodilation. Computerized Axial Tomography of the chest showed mild diffuse interstitial fibrosis in both lungs with areas of bronchiectasis. Corian was described as a solid surface material of consistent color and design that was a mixture of 2/3 aluminum hydroxide and 1/3 acrylic polymer, made of methyl methacrylate with trihydrated aluminum derived from Bauxite, a sedimentary rock composed mostly of alumina (Al2O3) with some iron oxide and silica. Arriaga JMP, et al., "Pneumoconiosis: Silicosis: A Case Report," *Revista Especializada en Ciencias de la Salud* 2010; 13(1-2):30-35.

DuPont's 2011 Material Safety Data Sheet for Corian®

720. On April 26, 2011, DuPont issued a Material Safety Data Sheet for Corian® Solid Surface Material. Section 3 of the Material Safety Data Sheet, titled "Composition/Information on Ingredients" lists only one "component" of the product, "Solid Surface Material," at a concentration of 100%. No ingredients are identified by chemical name, so it is unclear whether aluminum dihydrate or silica are present in the product. After listing "Solid Surface Material" as 100% of the product, the Material Safety Data Sheet states: "Exposure limits may be applicable for the following:

Dust (inhalable and respirable fraction), Methyl methacrylate, Butyl acrylate." However, no concentration is provided, either for the unspecified dust, or the acrylates.

721. In section 2 of this Material Safety Data Sheet DuPont provided an "Emergency Overview" which began with the following statement: "The product as such is not hazardous." This statement is misleading, because persons reading the MSDS might read no further upon reading this statement. After beginning by stating that the product "as such is not hazardous," DuPont then stated: "The hazards of this product associated mainly with its processing. Operations such as sawing, routing, drilling and sanding can generate dust. . . . High concentrations of dust can irritate eyes, nose and respiratory system and cause coughing and sneezing. . . . At higher temperatures, small amounts of methyl methacrylate and butyl acrylate can be released. The amounts are dependent upon temperature, time and other variables." These statements are misleading. The first statement suggests that dust formed during processing the product is not hazardous, although the chemical composition of the dust is not disclosed, and both crystalline silica and aluminum hydrate are toxic to the lungs and cause pulmonary fibrosis, although it is unclear whether they remain in the product.

722. Section 2 of the Material Safety Data Sheet, regarding "Hazards Identification" also provides information regarding "Potential Health Effects," stating: "Additives in this product do not present a respiration hazard unless the product is ground to a powder of respirable size and the dust is inhaled. All dusts are potentially injurious to the respiratory tract if respirable particles are generated and inhaled.' The first sentence is highly misleading, because the fabrication process typically entails grinding the product with electric power tools, which generates respirable particles, but persons reading this would often not know this. The second sentence is also misleading and trivializes the respiratory hazard of the product by stating that "all dusts are potentially injurious to the respiratory tract if respirable particles are generated and inhaled." While that may be true, there is a difference between "nuisance dusts" that do not cause fibrotic lung disease when inhaled and merely cause transitory respiratory irritation, and toxic dusts such as crystalline silica and aluminum hydrate, which cause fibrosis, and acrylates, which cause asthma. Indeed, no information is provided regarding the respiratory hazards of methyl methacrylate and butyl acrylate, which are released "at

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higher temperatures" (apparently temperatures above room temperature) that are generated by power tools such as saws, grinders, drills and routers that are used to process countertop surface materials.

723. The Material Safety Data Sheet then has a heading "Carcinogenicity" and identifies by acronym three governmental organizations that classify chemicals as to their carcinogenicity, and then identifies two chemicals - titanium dioxide and carbon black as "2B" carcinogens. The Material Safety Data Sheet does not explain that this numerical classification means that the International Agency for Research on Cancer has classified these two chemicals as possible human carcinogens.

724. Section 7 of the Material Safety Data Sheet, titled "Handling and Storage" states: "Do not breathe dust. Do not breathe vapours or fumes that may be evolved during processing." These are absurd instructions, because workers who process Corian® necessarily inhale Corian® dust and cannot hold their breath for a full work shift. The instruction is totally inadequate to protect the health of workers processing the material, because it does not inform the workers ***how*** to process the product without breathing dust or vapors. The defective nature of this instruction is compounded by the instruction in Section 8 of the Material Safety Data Sheet regarding respiratory protective equipment that states: "No personal respiratory protective equipment normally required." However, immediately after that statement, the Material Safety Data Sheet states: "Dust safety masks are recommended when the dust concentration is more than 10 mg/m3." This recommendation is also inadequate, because workers cannot know when dust concentrations they inhale exceed 10 mg/m3.

725. Section 11 of the Material Safety Data Sheet, regarding "Toxicological Information" states: "This product has no known adverse effect on human health." However, this information appears to be contradicted by information in Section 15 of the Material Safety Data Sheet.

2014 Case Report of Corian-Induced Pulmonary Fibrosis

726. In 2014, American physicians published a case report in the *New England Journal of Medicine* of a 64-year-old man who had ground, machined, drilled and sanded Corian for about 16 years and developed pulmonary fibrosis. They conducted tissue analyses using state-of-art techniques including scanning electron microscopy with energy dispersive x-ray spectroscopy and

Raman spectroscopy that showed aluminum trihydroxide (i.e., aluminum trihydrate) in the fibrotic lung, providing support for a causal relationship between the Corian dust and pulmonary fibrosis. Although the patient avoided further exposure to Corian dust, his respiratory status slowly deteriorated over the next 7 years and he died from respiratory failure secondary to pulmonary fibrosis. High-resolution computed tomographic images of the chest showed an overall pattern that was consistent with endstage usual interstitial pneumonia. At autopsy, the lungs were small; aluminum trihydroxide was detected in the fibrotic lungs. Raghu G, et al., "Pulmonary Fibrosis Associated with Aluminum Trihydrate (Corian) Dust," *New Engl. J. Med.* 2014; 370(22):2154-2156. Dupont was aware of this publication, because the *New England Journal of Medicine* afforded the company an opportunity to respond to the case report and a physician and toxicologist from DuPont sent a response to the journal that was published with the case report. The authors of Dupont's response were Dr. Paul Gannon, who, until his retirement in February 2023, was the Chief Medical Officer of E. I. DuPont de Nemours and Company, and Dr. Robert W. Rickard, a toxicologist who, at the time, was Dupont's Director of the Health and Environmental Sciences at the DuPont's corporate headquarters in Wilmington, Delaware. In their reply to the case report, these managerial employees of DuPont defended Corian®, claiming that the case report merely "suggests a circumstantial association between the patient's pulmonary fibrosis and aluminum trihydrate (a material typically found in solid surfaces)" even though aluminum trihydrate was detected in the patient's fibrotic lungs. They also argued that "[w]hen handled in accordance with recommended safety guidelines, solid-surface products have been fabricated (i.e., cut, drilled, and sanded) safely for nearly 50 years." They also questioned "whether the patient . . . may have been exposed to other materials that contributed to or caused pulmonary fibrosis." Lastly, they suggested that the aluminum in the patient's lungs may not have come Corian®, because "there are many potential sources of exposure to aluminum compounds, especially in industrial settings." Gannon P, et al., "Dupont, the Manufacturer of Corian, Replies," *New Engl. J. Med.* 2014; 370(22):2156-2157. The authors of the case report replied to the response of the DuPont representatives, noting that "the patient confirmed his exposures to dust from Corian and sandpaper that he used at his workplace and had no history of other exposures; the settled dust samples contained distinct particles comprised of

aluminum trihydrate and methyl methacrylate (matching reference Corian) and aluminum oxide and cellulose (matching reference sandpaper)," that "[b]oth aluminum trihydrate and aluminum oxide were detected in his lungs," and explaining that methyl methacrylate was not found in the patient's lung tissue because it "dissolves during routine processing for histological examination." They also noted that "[a]luminum exposure is among the metal exposures reported as significantly associated with pulmonary fibrosis," that "[t]he patient did not have any of the medical problems suggestive of systemic aluminum toxicity," and that, "[i]n addition, [they] found no substantial silica, aluminum silicates, or metals other than aluminum in his lungs." Raghu, G., et al., "More on Pulmonary Fibrosis Associated with Aluminum Trihydrate (Corian) Dust," *New Engl J Med.* 2014; 371(10):973.

DuPont's 2014 Material Safety Data Sheet for Zodiaq

727. On April 3, 2014, Dupont issued a Material Safety Data Sheet for Zodiaq® Quartz Surfaces, available online at https://ovsco.com/wp-content/uploads/2015/12/MSDS-Zodiaq.pdf. In section 2 of this document DuPont provided an "Emergency Overview" which began with the following statement: "The product as such is not hazardous." This statement is misleading, because persons reading the MSDS might read no further upon reading this statement. After beginning by stating that the product "as such is not hazardous," DuPont then stated: "The hazards of this product are associated mainly with its processing. Operations such as sawing, routing, drilling, and sanding can generate dust. Dust generated during handling of Quartz Surfacing Products can contain particles of crystalline silica (quartz). Overexposure to airborne quartz can cause silicosis." These statements are misleading. The first statement wrongly suggests that dust formed during the handling of the product may not contain crystalline silica, although dust formed from sawing, routing, drilling and sanding the product invariably produces crystalline silica dust, especially because crystalline silica comprises 93% of the product. The latter statement is misleading and false because it suggests that only "overexposure" to airborne quartz can cause silicosis, although silicosis also occurs in workers who are exposed to crystalline silica below the permissible exposure limit.

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728. Section 2 of the Material Safety Data Sheet, regarding "Hazards Identification" also provides information regarding "Potential Health Effects" from inhalation of quartz: "Gross overexposure may cause: Breathing difficulties, Fever, Cough, Lung damage, May be fatal if inhaled in large quantities." This statement is misleading and confusing because it does not quantify what exposure constitutes "gross overexposure" that can cause these effects, and because extremely minuscule amounts of respirable crystalline silica that are too small to be visible and have no odor also cause these effects, including silicosis, which is not mentioned here as potential health effect. Following the above statement, the words "Repeated exposure" appear as a potential health effect, but no information is provided regarding the potential health effects of "repeated exposure."

729. Section 8 of the Material Safety Data Sheet, regarding Exposure Controls/Personal Protection," provides the following information for Engineering controls: "Provide appropriate exhaust ventilation at places where dust is formed." This statement is unhelpful because it does not specify what type of exhaust ventilation is "appropriate" and does not provide any quantification of exhaust ventilation velocity or other parameters for exhaust ventilation to prevent silicosis.

730. Section 8 of the Material Safety Data Sheet, regarding Exposure Controls/Personal Protection," provides the following information regarding Personal protective equipment for respiratory protection: "In cases of insufficient ventilation, wear suitable respiratory equipment." This information is also inadequate to protect workers from silicosis, because it does not specify what constitutes "insufficient ventilation" so workers cannot know whether they need to wear respiratory equipment. The instruction is also inadequate and harmful because the instruction to "wear suitable respiratory equipment" does not specify the type of respirator that workers must wear to prevent silicosis (i.e., a NIOSH-approved air supplied respirator), thereby misleading workers to believe that an air-purifying respirator will protect them, although air-purifying respirators are inadequate to protect workers fabricating artificial stone countertops from silicosis due to the extremely high respirable crystalline silica dust concentrations generated by fabrication activities.

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2016 NIOSH Study Regarding Corian Dust

731. In 2016, researchers from the National Institute for Occupational Safety and Health published a study in which they characterized dust from cutting Corian® with a circular saw. Air samples were collected using filters and direct-reading instruments in an automatic laboratory testing system. The average mass concentrations of the total and respirable dusts from the filter samples were 4.78 ± 0.01 and 1.52 ± 0.01mg cm^{-3}, respectively, suggesting about 31.8% mass of the airborne dust from cutting Corian® is respirable. Analysis of the metal elements on the filter samples revealed that aluminum hydroxide is likely the dominant component of the airborne dust from cutting Corian®, with the total airborne and respirable dusts containing 86.0 ± 6.6 and 82.2 ± 4.1% aluminum hydroxide, respectively. The results from the direct-reading instruments confirmed that the airborne dust generated from cutting Corian® were mainly from the cutting process with very few particles released from the running circular saw alone. The number-based size distribution of the dusts from cutting Corian® had a peak for fine particles at 1.05 µm with an average total concentration of 871.9 particles cm^{-3}, and another peak for ultrafine particles at 11.8 nm with an average total concentration of 1.19×10^6 particles cm^{-3}. The authors concluded that the small size and high concentration of the ultrafine particles suggested additional investigation is needed to study their chemical composition and possible contribution to pulmonary effect. Qi C, et al., "Characterizing Dust from Cutting Corian®, a Solid-Surface Composite Material, in a Laboratory Testing System," *Ann. Occup. Hyg.* 2016; 60(5):638-642.

Dupont's 2018 Safety Data Sheet for Corian

732. In December 2018, Dupont issued a Safety Data Sheet for "Corian® Quartz Surfaces previously known as Zodiaq® Quartz Surfaces sheets/slabs." This Safety Data Sheet is available online at https://www.hllmark.com/QuickTech/CorianQuartzSDS.pdf.

733. Section 3 of this Material Safety Data Sheet identified two ingredients of the product: Quartz at a concentration of 40-95% and Cristobalite at a concentration of 40-50%.

734. Section 2 of this Safety Data Sheet, regarding "Hazards identification," provided four "Hazardous warnings": (1) "May form combustible dust concentrations in air," (2) "May cause an allergic skin reaction," (3) "May cause cancer," and (4) "Causes damage to organs through prolonged or repeated exposure. (Lungs)." The last warning is misleading, because it does not state how many days, weeks, months, years or decades constitutes "prolonged" exposure that "causes damage to organs" and it does not quantify the number of exposures that constitute "repeated exposure" that causes such damage.

735. Section 2 of the Safety Data Sheet then provided 13 "Hazardous prevention measures": (1) "Obtain special instructions before use" (without stating what "special instructions" were to be obtained and from whom such special instructions could be obtained); (2) "Do not handle until all safety precautions have been read and understood," (as though workers who neither read nor speak English could possibly read and understand the "safety precautions" in English); (3) "Do not breathe dust/fumes/gas/mist/vapors/spray" (as though workers should hold their breath throughout the work day); (4) "Wash skin thoroughly after handling" (although Corian® does not present any appreciable health hazard by skin absorption); (5) "Do not eat, drink or smoke when using this product" (although the product does not present any significant health hazards by ingestion); (6) "Contaminated work clothing should not be allowed out of the workplace," (7) "Wear protective gloves/ protective clothing/ eye protection/ face protection," (rather than the critical information that it is essential to wear an air supplied respirator when fabricating Corian®); (8) "IF ON SKIN: Wash with plenty of soap and water; (9) "IF exposed or concerned: Get medical advice/attention," (although fabricators are constantly exposed to Corian® when they cut, saw, grind, drill, polish Corian®); (10) "If skin irritation or rash occurs: Get medical advice/attentionp;" (11) Wash contaminated clothing before reuse;" (12) "Store in a secure area" (a meaningless instruction, because slabs of Corian® are heavy and can only be stolen with great difficulty; and (13) "Dispose of contents/ container to an approved waste disposal plant." These "hazardous prevention measures" are generally inadequate, misleading, and ineffective, especially because the most critical hazard prevention measures (to use wet-processing methods and to wear an air-supplied respirator whenever using power tools to process Corian®) are absent.

736. Section 2 provides 6 statements regarding "Other hazards": (1) "the product as such is not hazardous" (which wrongly suggests that Corian® is not hazardous despite its high crystalline silica content); (2) "The hazards of this product are associated mainly with its processing;" (3) "Operations such as sawing, routing, drilling and sanding can generate dust," (4) "Dust generated during handling of Quartz Surfacing Products can contain particles of crystalline silica (quartz)," which suggests that this is a mere possibility rather than a certainty; (5) "Overexposure to airborne quartz can cause silicosis" (which is misleading because it does not state what constitutes an "over-exposure" to because exposures to silica below the permissible exposure limit also cause silicosis; and (6) "The following percentage of the mixture consists of ingredients(s) with unknown acute toxicity: 100 %" (which is incorrect because the acute toxic hazards of crystalline silica are known).

737. Section 7 of the Safety Data Sheet, regarding "Handling and Storage" provides four Handling instructions: (1) "Provide for appropriate exhaust ventilation and dust collection at machinery," (which is inadequate because it does not specify what type of exhaust ventilation and dust collection is "appropriate"); (2) "Avoid dust formation," (which is inadequate because it does not explain how dust formation can be avoided; (3) "Handling and processing operations should be conducted in accordance with best practices (e.g. NFPA-654)," (which is inadequate because the best practices are not specified; and (4) "wash hands before breaks and at the end of workday" (which is a good hygiene practice but does nothing to prevent silicosis-the major hazard of crystalline silica).

738. Section 8 of the Material Safety Data Sheet, regarding Exposure Controls/Personal Protection," provides the following information regarding Personal protective equipment for respiratory protection: "In case of insufficient ventilation, wear suitable respiratory equipment." This information is also inadequate to protect workers from silicosis, because it does not specify what constitutes "insufficient ventilation" so workers cannot know whether they need to wear respiratory equipment. The instruction is also inadequate and harmful because the instruction to "wear suitable respiratory equipment" does not specify the type of respirator that workers must wear to prevent silicosis (i.e., a NIOSH-approved air supplied respirator), thereby misleading workers to believe that an air-purifying respirator will protect them, although air-purifying respirators are inadequate to protect workers fabricating Corian® from silicosis due its extremely high crystalline silica content.

Recent Studies by NIOSH and Others

739. In 2019, the researchers from NIOSH further characterized the composition of emissions from sawing Corian® by collecting size-classified airborne dust samples for analyses of their aluminum contents, and conducting analyses of VOCs in the emissions and semivolatile organic compounds (SVOCs) in the dust. The normalized respirable dust generation rate found using a Micro-Orifice Uniform Deposit Impactor was 5.9 milligrams per gram (mg g^{-1}), suggesting that 0.59% of the mass removed from sawing Corian® becomes respirable dust. The alumina trihydrate content of the dust was consistently above 85% in most parts of the respirable size range, verifying their earlier finding that it is the dominant composition of the airborne particles of all sizes, including ultrafine particles. Both the dust generation rate and aluminum content among the ultrafine particles increased with the decrease in particle size. VOC analyses revealed that methyl methacrylate (MMA) was the most abundant compound, with a generation rate of 6.9 mg g^{-1} (0.69% of the mass removed from sawing Corian® became MMA vapor). The SVOC analysis only found a small amount of MMA (0.55%) in the bulk dust. The researchers concluded that since the permissible exposure limit (PEL) for respirable dust was much lower than that for methyl methacrylate, the aluminum trihydrate-containing respirable dust could reach its PEL much faster than the VOCs could reach their exposure limits. Kang S, et al., "The Composition of Emissions from Sawing Corian®, a Solid Surface Composite Material," *Ann Work Exp Health* 2019; 63(4):480-483.

740. In 2019, researchers from NIOSH published a study in which they examined the pulmonary toxicity of Corian® in mice. Male mice were exposed to either phosphate buffer saline (PBS, control), 62.5, 125, 250, 500, or 1000 μg of SSC dust, or 1000 μg silica (positive control) via oropharyngeal aspiration. Body weights were measured for the duration of the study. Bronchoalveolar lavage fluid (BALF) and tissues were collected for analysis at 1 and 14 days post-exposure. Enhanced-darkfield and histopathologic analysis was performed to assess particle distribution and inflammatory responses. BALF cells and inflammatory cytokines were measured. The geometric mean diameter of Corian® sawing dust following suspension in PBS was 1.25 μm. BALF analysis indicated that lactate dehydrogenase (LDH) activity, inflammatory cells, and pro-

inflammatory cytokines were significantly elevated in the 500 and 1000 μg Corian® exposure groups at days 1 and 14, suggesting that exposure to these concentrations of Corian® induced inflammatory responses, in some cases to a greater degree than the silica positive control. Histopathology indicated the presence of acute alveolitis at all doses at day 1, which was largely resolved by day 14. Alveolar particle deposition and granulomatous mass formation were observed in all exposure groups at day 14. The Corian® particles were poorly cleared, with 81% remaining at the end of the observation period. The researchers concluded that the findings of their study demonstrated that Corian® sawing dust exposure induces pulmonary inflammation and damage that warrants further investigation. Mandler WK, et al., "Mouse pulmonary response to dust from sawing Corian®, a solid-surface composite material," *J. Toxicol. Environ. Health A* 2019; 82(11):645-663.

741. In 2020, the researchers from the National Institute for Occupational Safety and Health published a study that sought to determine the toxicity of respirable particles of Corian® dust in a model of human alveolar macrophages (THP-1). The relative toxicities of subfractions (0.07, 0.66, 1.58, 5.0, and 13.42 μm diameter) of the airborne particles were also determined. THP-1 macrophages were exposed for 24 h to respirable particles from sawing Corian® (0, 12.5, 25, 50, or 100 μg/ml) or size-specific fractions (100 μg/ml). Exposure to respirable Corian® particles induced THP-1 macrophage toxicity in a dose-dependent manner. Viability was decreased by 15% and 19% after exposure to 50 and 100 μg/ml Corian®, respectively, which correlated with increased cell culture supernatant LDH activity by 40% and 70% when compared to control. Reactive oxygen species (ROS) production and inflammatory cytokines were increased in a dose-dependent manner. A size-dependent cytotoxic effect was observed in the cells exposed to subfractions of Corian® particles. Corian® particles of 0.07, 0.66, and 1.58 μm diameter killed 36%, 17%, and 22% of cells, respectively. The researchers concluded that these results indicated a potential for cytotoxicity of respirable Corian® particles and a relationship between particle size and toxicity, with the smallest fractions appearing to exhibit the greatest toxicity. Mandler WK, et al., "In vitro toxicity assessment of respirable solid surface composite sawing particles," *Toxicol. Ind. Health* 2020; 36(4):250-262. In 2021, the researchers from NIOSH published a study in which they conducted laboratory tests to characterize the composition of emissions from sanding Corian®. Three sandpaper materials

(ceramic, silicon carbide, and aluminum oxide) were tested to distinguish the contribution of aluminum-containing dust in the emission from Corian® and sandpaper itself, in order to help identify the main cause of the pulmonary fibrosis from exposure to aluminum-containing dust while sanding Corian®. Airborne dust samples were measured using direct-reading instruments and collected using a Micro-Orifice Uniform Deposit Impactor (MOUDI) for estimating the normalized dust generation rate. The size-classified dust samples from MOUDI were analyzed for elemental aluminum content. Additionally, air samples were analyzed for characterizing methyl methacrylate (MMA). The results from the direct-reading instruments revealed that the size distribution of particulate from sanding Corian® differs from that of sawing Corian®, showing that the size distribution of dust is affected by the fabrication process. The normalized respirable dust generation rate indicated that more respirable dust was generated during sanding Corian® board. However, the use of aluminum oxide sandpaper did not result in a higher aluminum content in the respirable dust from sanding Corian®, suggesting that the aluminum content of the respirable dust is primarily originated from Corian® itself. The generation rates of methyl methacrylate from sanding did not vary much among all types of sandpapers, and they were much lower than that of sawing, likely due to the higher temperature in the sawing process. The researchers concluded that the results of their study verified that aluminum trihydrate from Corian® is the dominant composition of the respirable dust. Kang S, et al., "The Composition of Emissions from Sanding Corian® with Different Sandpapers," *Aerosol. Air Qual. Res.* 2021; 21(2):200377.

742. In 2021, researchers from Kazakhstan and the United States published a study in which they sought to characterize personal exposure of workers to respirable particulate matter generated in cutting and other fabrication activities when fabricating Corian® synthetic countertops. They collected 29 personal full-day samples of respirable particulate matter from three workers in a small private workshop. They tested differences between- and within-worker variances of mass concentrations using the Kruskall-Wallis test. They used segmented regression to test the means and medians 15-min interval concentrations changes over time and to identify a breakpoint. Respirable particulate matter concentrations ranged nearly 100-fold, from 0.280 to 25.4 mg/m^3 with a median of 2.0 mg/m^3 (1-min concentrations from 13,920 data points). There were no statistical difference

in daily median or geometric mean concentrations among workers, whereas the concentrations were significantly higher on days with three versus two workers present. The 15-min median concentrations (n = 974 measures) increased until 2.35 h (beta 0.177; $p < 0.05$), representing a 0.70 mg increase in exposure per hour. This was followed by a plateau in concentrations. The researchers concluded that the high levels of respirable particulate matter that they observed among workers fabricating aluminium trihydroxide-containing synthetic countertops highlighted an unmet early prevention need. Vinnikov D, et al., "Exposure to respirable dust among workers fabricating aluminium trihydroxide-containing synthetic countertops," *Sci. Rep.* 2021; 11:21219.

743. In 2022, the researchers from NIOSH reviewed the published medical literature regarding hazardous dusts from the fabrication of solid surface composites (SSC) and engineered stone (ES) artificial countertop materials. They considered that both types of materials may pose significant pulmonary health risks for workers who manipulate them. They observed that these materials have rapidly become popular in the multibillion-dollar countertop industry, rivaling that of natural materials such as granite and marble due to their variety of desirable esthetic qualities and reduced costs. They noted that both SSC and ES consist of a mineral substrate bound together in a polymer matrix – that for SSC the mineral is about 70% aluminum trihydrate (ATH) while ES contains up to 95% crystalline silica by weight. They considered that both materials emit airborne dusts when being manipulated with power tools during the fabrication process. They commented that several deaths and dozens of cases of silicosis have been identified worldwide in workers who fabricate ES, while a single case of fatal pulmonary fibrosis had been associated with SCC dust exposure. They reviewed the current state of knowledge for both SSC and ES regarding composition, particle emission characteristics, workplace exposure data, particle constituent toxicity, and methods for reducing worker exposure. Mandler WK, et al., "Hazardous dusts from the fabrication of countertop: a review," *Arch. Environ. Occup. Health* 2023; 78(2):118-126.

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2024 Case Report

744. In 2024, researchers from the State University of New York and the Occupational Safety and Health Administration published a case report of a 48 year old man who presented with pulmonary fibrosis after working in cabinet and countertop production for 26 years. During the first 24 years of his career, he worked in a shop that manufactured cabinets as well as wood and stone countertops. Subsequently, he began working for a new employer who added aluminum trihydrate containing composite countertop material to the production lines. Within 6 months of beginning work, the worker developed Raynaud's syndrome. Over the course of the next year, he developed progressive dyspnea, and was diagnosed with diffuse pulmonary fibrosis, which was initially attributed to systemic sclerosis. Scanning electron microscopy with energy dispersive X ray spectroscopy (SEM/EDS) showed macrophages containing a mixture of particles retained in the lung tissue, with aluminum (i.e., aluminum metal or oxides) as the predominant type, followed by silica and aluminum silicates. Some titanium was also present. Although he had occupational exposure to silica, methyl methacrylate , and toluene, based on the high aluminum content in his lungs revealed by SEM/EDS, the researchers attributed his fibrotic lung disease to aluminum hydrate from Corian. Corwin C, et al., "Interstitial pulmonary disease and aluminum trihydrate exposure: A single case report and detailed workplace analysis," *Am. J. Ind. Med.* 2024; 1-13.

Knowledge of the Silicosis and Fibrotic Lung Disase Hazard by Dupont Officers

745. Throughout the time that E.I. Dupont de Nemours manufactured and sold its artificial stone products, exposing stone countertop fabricators and installers to respirable crystalline silica from the company's products, Dupont's officers and directors were aware that the company's artificial stone products were defective because they contained extremely high concentrations of crystalline silica, were aware that the use instructions that Dupont provided were inadequate to prevent silicosis and would actually cause silicosis in exposed workers, and were aware that fabrication companies could not protect fabricators and installers from the lethal silicosis hazard

presented by Dupont's defective artificial stone products. Among Dupont's officers and directors who had this knowledge but who nevertheless consciously disregarded the health and safety of fabricators and installers were the following officers, directors and managing agents of the company:

Dr. Paul Gannon	Chief Medical Officer of E. I. DuPont de Nemours and Company
Dr. Robert W. Rickard	Director of the Health and Environmental Sciences
Edward D. Breen	Chief Executive Officer of E. I. DuPont de Nemours and Company
Charles O. Holliday Jr.	formerly Chief Executive Officer and Chairman of E. I. DuPont de Nemours and Company, who also served as the company's chief Safety, Health and Environmental Officer.

ELITE QUARTZ MFG, SPECTRUM QUARTZ AND HIRSCH GLASS CORP

746. On December 11, 2019, Spectrum Quartz LLC (an affiliate or dba of Hirsch Glass Corp), and M S International, Inc. announced a new joint venture to commence manufacturing of artificial stone at a 360,000 square foot plant in Latta, South Carolina. That joint venture was named Elite Quartz Mfg and has since become a major manufacturer of artificial stone in the United States. Thus, the operations of Hirsch Glass Corp. Spectrum Quartz, MSI, and Elite Quartz Mfg are linked.

Hirsch Glass Corp

747. On October 25, 2005, Hirsch Glass Corp. filed Articles of Incorporation with the New Jersey Secretary of State.

748. On August 1, 2016, Hirsch Glass Corp. filed a Statement and Designation by Foreign Corporation with the California Secretary of State, listing 106 Melrich Road, Cranbury NJ 08512 as the company's principal executive office, and 1440 S. State College Blvd., Suite 4E, Anaheim, CA 92806 as the company's principal office in California, where Jonathan Xie its Agent for Service was located.

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749. On August 19, 2016, Hirsch Glass Corp. registered as a foreign corporation with the Georgia Secretary of State, listing Helen Zhao as its registered agent for service of process, with a physical address of 6356 Corley Road, Suite B, Norcross, GA 30071.

750. On November 4, 2016, Hirsch Glass Corp. filed Articles of Incorporation with the Secretary of the Commonwealth of Massachusetts, for a specific limited purpose: "Distribute Quartz and Glass Tiles."

751. On July 21, 2017, Hirsch Glass Corp. filed Articles of Incorporation with the Florida Secretary of State.

752. On June 15, 2020, Hirsch Glass Corp. filed a Statement of Information with the California Secretary of State, identifying Alex Xie as Chief Executive Officer and Helen Zhao as Secretary, Chief Financial Officer, and Agent for Service of Process, the latter being located at 1222 East Howell Ave., Ste. B, Anaheim, CA 92805. The Statement of Information also identified the company's type of business as "Stone Distributor."

Spectrum Quartz

753. In 2014 Hirsch Glass Corp. launched the Spectrum Quartz product line. https://www.elitequartz.com/.

754. Hirsch Glass Corp. and Spectrum Quartz have the same logo:

Spectrum Quartz LLC

755. Spectrum Quartz LLC is a limited liability company that filed its articles of organization in the State of New Jersey on April 10, 2019.

756. According to its website, "Spectrum Quartz is a leading engineered stone manufacturer and distributor. Based in New Jersey, Spectrum Quartz is manufactured both domestically in South Carolina and overseas using the finest materials and state of the art equipment." https://spectrumquartz.com/about/

757. On December 11, 2019, an announcement from Latta, S.C. was published in *Stone Update* titled "MSI, Spectrum Quartz Will Operate U.S. Slab Plant." It stated: "MSI and Spectrum Quartz announced a joint venture today for the quartz-slab manufacturing plant now being constructed there. The joint venture is a further development of Spectrum's plans, announced in May, to build a U.S. quartz-slab-fabrication facility. The move will combine MSI's financial backing and sales/distribution network and Spectrum's manufacturing expertise. Work continues on transforming an existing 360,000 ft^2 building into a state-of-the-art quartz manufacturing facility. The first two quartz lines will begin test production later this month, with commercial production expected in the first quarter of 2020. Two additional lines will be operational shortly thereafter with ample space for further expansion. 'The future for quartz manufacturing in the United States is very bright,' said Rup Shah, MSI president. 'The demand for quartz continues to grow at double-digit rates as quartz takes substantial market share away from other countertop surfaces. Even with this investment in manufacturing, demand will continue to exceed supply for the foreseeable future.

758. On December 15, 2019, an announcement from Cranbury, N.J. was published in *Stone Update* titled "Spectrum Will Debut U.S.-made Quartz at KBIS." It stated: "Spectrum Quartz will present some of the first output from its new U.S.-based slab plant at the Kitchen and Bath Industry Show (KBIS) next month. Spectrum will begin production at the Lotta, S.C., factory this month and introduce innovative new designs from the facility at the construction trade event in Las Vegas on Jan. 21-23. Spectrum and Orange, Calif.-based MSI announced a joint venture earlier this month for the 360,000 ft^2 facility, combining Spectrum's manufacturing background with the financial backing and distribution capabilities of MSI. Spectrum and its parent company, Hirsch Glass Corp., will continue to remain independent. 'Establishing an American slab manufacturing operation has been one of our key goals,' said Alex Xie, Hirsch Glass president. 'Partnering with MSI on the South Carolina facility allows us to achieve this goal, while at the same time ensuring adequate supply of quartz for both Spectrum Quartz and MSI's distribution channels.' . . . . Established in 2005, Hirsch Glass designs and manufactures glass tile and mosaics. In 2014, the Spectrum Quartz brand was established and has since become a leading quartz-surface brand." . . . . Spectrum Quartz

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currently owns another slab-production facility in China and has been producing quartz surfaces since 2014."

759. A 2021-2022 "New Collection" brochure described the company: "Spectrum Quartz is a leading engineered stone surface manufacturer and distributor. Based in New Jersey, Spectrum Quartz is manufactured both domestically in South Carolina and overseas using the finest materials and state of the art equipment." This brochure listed officers for the company in Cranbury, New Jersey; Orlando, Florida; Norcross, Georgia; Norwood, Massachusetts; Charlotte, North Carolina, Southern California; Chantilly, Virginia; and Tukwila, Washington. The address listed for the company in Southern California as 1222 East Howell Avenue, Suite B, Anaheim, CA 92805.

Elite Quartz Mfg LLC

760. On August 8, 2019, Elite Quartz Mfg LLC, filed articles of organization as a limited liability company with the Division of Corporations of the Delaware Department of State.

761. According to its website, "Elite Quartz Manufacturing is a new 360,000 square foot manufacturing plant based in Latta, South Carolina that seeks to become the largest producer of quartz countertops in North America. The company is a joint venture between Spectrum Quartz and MSI, both leading distributors of quartz countertops in the United States and Canada. . . . Commercial production started in the first quarter of 2020, and the company is aggressively ramping up production." https://www.elitequartz.com/

762. A YouTube video tilted "Elite Quartz" dated June 7, 2022 states:

> Quartz, beautifully versatile, aesthetically diverse, virtually indestructible. Elite Quartz is a manufacturer for MSI - the brand behind the most true to life quartz looks. MSI's world-class facility answers the call for exceptional, attainable and domestically produced quartz. The innovative facility includes a patent-protected bating process designed to create the most natural patterns utilizing a unique heating and cooling system. MSI's premium natural quartz is made

with Lumilux Ultra, an exclusive process proving to enhance light refraction, creating the brightest white quartz in the industry. MSI brings together the best that engineering, technology and nature have to offer, to create a state of the art quartz right here in America. Located in Latta, South Carolina, MSI's facility is outfitted with a stunning customer showroom, interactive innovation lab, and four cutting-edge manufacturing lines. At capacity MSI's facility can produce over one thousand slabs per day. . . . MSI's passion for materials is underscored by ongoing investments in product development, delivery, affordability and attentive service. MSI and Elite Quartz - making the world's most beautiful quartz more attainable!" [https://www.google.com/search?q=elite+quarts+manufacturing&rlz=1C1GCEA_enUS893US893&oq=elite+quarts+manufacturing+&gs_lcrp=EgZjaHJvbWUyBggAEEUYOTIGCAEQRRhAMg8IAhAuGA0YrwEYxwEYgAQyDggDEC4YFhgeGMcBGNEDMggIBBAAGBYYHjIKCAUQABiGAxiKBTIKCAYQABiGAxiKBTIKCAcQABiGAxiKBdIBCjEyMjMwajBqMTWoAgCwAgA&sourceid=chrome&ie=UTF-8#fpstate=ive&vld=cid:378272eb,vid:6ngcmTyIAA4,st:0]

EUROPEAN SURFACES LLC (DBA EUROSTONE)

763. On June 25, 2002, European Surfaces "LLC" was formed as a limited liability company in the State of Nevada. On July 18, 2002, European Surfaces "LLC" filed an application with the California Secretary of State to register and transact business in California. On May 10, 2016, the company filed a Statement of Information with the California Secretary of State listing its business address as 800 S. Robertson Blvd., Los Angeles, CA 90035 and describing its business as

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"Distribution." On March 5, 2020, European Surfaces "LLC," the Nevada limited liability company, filed a Certificate of Cancellation, ending its registration to conduct business in California.

764. Four days later, on March 9, 2020, European Surfaces LLC filed Articles of Organization with the California Secretary of State, designating its business address in California as 800 S. Robertson Blvd., Ste. 2, Los Angeles, CA 90035. On November 16, 2020, European Surfaces LLC, the California limited liability company, filed a Statement of Information with the California Secretary of State, stating that its business was that of a "Stone distributor." On January 25, 2022, the company filed another Statement of Information with the California Secretary of State, listing 215 S. La Cienega Blvd., Suite 300, Beverly Hills, CA 90211 as its business address and describing its business as that of a "Quartz Wholesaler."

2010 Material Safety Data Sheet

765. In 2010 European Surfaces LLC issued a Material Safety Data Sheet for its product "Eurostone," a "quartz surfacing product," which it described as a "multi-colored engineered stone with no odor."

766. This Material Safety Data Sheet contains a section titled "Hazards identification" with a subsection titled "Potential Health Effects" which describes acute effects of exposure as follows:

> **Acute Eye:** Product in finished form does not present a health hazard via this route of entry. Dusts and flying particles generated during cutting, grinding and forming may cause irritation and injury."
>
> **Acute Skin:** Dusts generated from this product may cause skin irritation.
>
> **Acute inhalation:** Dusts from product may cause irritation to respiratory tract, nose, throat and lungs.

These statements do nothing to inform workers of the severe health hazards of exposure to respirable crystalline silica dust from the product – silicosis, lung cancer, kidney disease, autoimmune disease.

767. In a section titled "Exposure Controls / Personal Protection," the Material Safety Data Sheet states that "[i]f respiratory protection is needed, use only protection authorized in the U.S. Federal OSHA Standard or applicable U.S. State regulations." This is a harmful use instruction,

because it suggests that at times respiratory protection "is not needed" when fabricating the product, although respiratory protection is always critical when fabricating artificial stone products to prevent silicosis. The instruction is also meaningless, because it fails to inform the worker what type of respiratory protection is needed to prevent harm and particulate air filter respirators are inadequate to prevent the inhalation of the tiny particles of artificial stone dust and therefore cause lung disease.

768. The major defect in the Material Safety Data Sheet is its failure to provide use instructions that, if followed, would prevent the development of silicosis. Instead, the Material Safety Data Sheet downplays the lethal hazard of the product by focusing on transient relatively minor effects of "irritation" and fails to provide use instructions which, if followed, would prevent stone countertop fabrication workers from getting silicosis from inhaling dust of the product.

769. The Material Safety Data Sheet shows that European Surfaces LLC was well aware of the lethal hazard of silicosis that dust from its product presented to stone countertop fabricators, that the company downplayed the hazard by stating that the "[p]roduct in finished form does not present a health hazard," and that the company failed to provide fabricators with use instructions adequate to prevent silicosis but instead concealed the protective measures necessary to protect workers from the lethal hazards of its product.

770. The company's concealment of the degree of the silicosis hazard, as well as the protective measures necessary to protect fabrication workers from getting silicosis was approved and ratified by George Moussa, the Manager of European Surfaces LLC, initially the Nevada limited liability company and subsequently, the California limited liability company.

FRANCINI, INC.

771. According to its website, Francini Inc. was founded in 1994, has its headquarters in Sun Valley in Southern California, and is one of the largest importers and distributors of natural and engineered stone products in the United States, with locations in Indio, California; Salt Lake City, Utah; Boisde, Idaho; Raleigh, North Carolina; Wilmington, North Carolina; Kernersville, North Carolina; and Denver, Colorado. Francini claims to "work very closely with our factory in Carrara,

Italy, the epicenter for buying high quality natural sone materials," and "[w]e also import stone from our purchasing offices throughout Italy, Brazil, and India."

772. On September 30, 1996 Francini, Inc. filed Articles of Incorporation with the California Secretary of State.

773. Francini's website provides the following time-line of the company's history:

Opening Date	**Address**	**City, State, Zip Code**
9/1/1996	11976 Sheldon St.	Sun Valley, CA 91352
6/1/2004	45475 Commerce St.	Indio, CA 92201
7/28/2008	550 N. Wright Brothers Dr.	Salt Lake City, UT 84115
5/9/2011	3615 E. Pine Ave.	Meridian, ID 83642
3/1/2014	325 Spectrum Dr., Ste. 120	Raleigh, NC 27545
10/2016	406 Landmark Dr.	Wilmington, NC 28412
10/1/2017	1070 Hwy. 66 South, Ste. A	Kernersville, NC 27284
1/2020	11035 E. 40th Ave., Ste. 200	Denver, CO 80238

774. According to a Statement of Information filed with the California Secretary of State on November 20, 2018, the company's business address is 11796 Sheldon Street, Sun Valley, CA 91352; Andrea Pier Paolo Francini is the company's Chief Executive Officer, Secretary, Chief Financial Officer, Director and Agent for Service of Process; and the company is engaged in tne engineered and natural stone business.

Francini's Undated Safety Data Sheet for Lucastone™

775. An undated Safety Data Sheet for Lucastone™ quartz by Francini, which was in existence at least as early as 2021, identifies the ingredients of the product as >91% Crystalline Silica and other natural stone and 0-7% Polymeric resin & additives.

776. Section 2 (Hazards Identification) of the Safety Data Sheet begins by stating: "There is no provision for any risk associated with the finished Lucastone™ product in the CLP (EC)

regulation No. 1272/2008." This statement suggests that the product is not hazardous, although the ordinary and expected use of the product results in substantial exposure to respirable crystalline silica that causes silicosis and death. Francini made this statement even though Section 2 of Article 5 of Chapter 1 of Title II of Regulation (EC) No. 1272/2008 of the European Parliament and of the Council requires manufacturers, importers and downstream users of products to examine the relevant published literature for the purpose of determining whether the substance entails a health hazard, with respect to "the forms or physical states in which the substance is placed on the market ***and in which it can reasonably be expected to be used."*** (Emphasis added)

777. Section 2 of the Safety Data Sheet provides the following hazard statement: "H372: Causes damage respiratory system through prolonged or repeated exposure by inhalation." This statement is inadequate to prevent silicosis, because it does not state how many days, weeks, months, years or decades constitutes "prolonged" exposure that damages the respiratory system and does not quantify number of exposures that constitute "repeated exposure" that causes such damage.

778. The Safety Data Sheet then provides four use instructions regarding prevention of hazards. The first use instruction is "Do not breathe dust," which is an inadequate and harmful instruction, because dust is always generated during the fabrication of artificial stone products, workers must breathe to work and to live, and the instruction does not inform workers how they can do their work without breathing dust from the product.

779. The next use instruction is "Wash hands and face thoroughly after handling." This instruction encourages good hygiene, but does little to protect workers from silicosis, because crystalline silica does not present an appreciable health hazard by skin absorption.

780. The next instruction is "Do not eat, drink or smoke when using this product." This instruction is useless, because the product does not present any appreciable hazard by ingestion, and crystalline silica is not flammable, so there is no risk of fire from smoking while using the product.

781. The last instruction is "Wear respiratory protection." This is an important instruction, because adequate respiratory protection is essential to prevent silicosis from fabricating the product, but the instruction is grossly inadequate, because it fails to specify the type of respirator that workers must wear to prevent silicosis. The instruction is actually harmful, because it suggests that

particulate and/or air-purifying respirators will protect workers fabricating the product from silicosis, which is not true, because the only type of respirator that has been shown to be capable of preventing silicosis among workers exposed to dust from products containing high levels of crystal-line silica (as artificial stone fabricators are exposed) is a NIOSH-approved air supplied respirator.

782. Section 8 of the Safety Data Sheet, regarding "Exposure Controls/Personal Protection," repeats the false statement that "[t]here is no provision for any risk associated with the finished Lucastone™ product in the CLP (EC) regulation No. 1272/2008." The Safety Data Sheet then states: "Due to hazard associated with inhalation exposure during cutting and polishing, work in a well-ventilated area and proper respiratory protection shall be worn." These statements are misleading because they suggest that working in an area that employers or workers subjectively perceive to be well-ventilated and that wearing ordinary respirators are adequate to prevent silicosis from the product, which is not the case. The statements are also misleading because they fail to specify the type and extent of ventilation systems that are necessary to prevent silicosis and fail to inform employers and workers that the only type of respirator that is adequate to prevent silicosis among fabricators is a NIOSH-approved supplied air respirator.

783. Section 8 of the Safety Data Sheet provides the following instruction regarding Respiratory Protection: "Respiratory equipment approved by NIOSH/MSHA for protection and dusts is necessary to avoid inhalation of excessive air contaminants. The appropriate respirator selection depends on the type and magnitude of exposure (refer to 29 CFR 1910.134 for appropriate NIOSH approved respirators)." This instruction is inadequate because it does not specify that the only type of respirator that is adequate to prevent silicosis in workers who cut and grind artificial stone with a high crystalline silica content is a NIOSH-approved air supplied respirator, and that air-purifying respirators are inadequate to protect such workers from silicosis.

784. Section 11 of the Safety Data Sheet, regarding Toxicology Information states: "This preparation is not classified as hazardous according to the latest adaptation of European Union Directves 67/548/EEC and 1995/45/EC. This statement is false, because the ordinary and expected use of the product generates extremely hazardous respirable crystalline silica that causes silicosis and death. Francini made this statement even though EU Directive 67/548/EEC classifies as "dangerous"

"substances and preparations" that are "very toxic," "which if they are inhaled . . . may involve extremely serious . . . chronic health risks and even death."

785. Section 11 of the Safety Data Sheet also has a paragraph headed "Preventing" which states that "wear[ing] N95 NIOSH certified respirator" can "prevent[] exposure to crystalline silica." However, this is incorrect, because the only respirator that can prevent exposure to crystalline silica when cutting or grinding artificial stone is a NIOSH-approved air supplied respirator. A N95 respirator is an air-purifying respirator that is inadequate to prevent exposure to respirable crystalline silica, so the recommendation to wear such a respirator is harmful because, if followed by artificial stone fabricators, would likely cause silicosis rather than prevent silicosis in such workers.

786. Section 16 of the Safety Data Sheet states: "We believe that the information contained herein is current as the date of the of the MSDS sheet." This statement is false, because the Safety Data Sheet doesn't state the date of preparation, in violation of the Hazard Communication Standard. The Safety Data Sheet then states: "Since the use of this information and these conditions of use of the product are not within the control of Francini, Inc., it is the user's obligation to determine the conditions of safe use of the product." This is a gross attempt by Francini to disclaim responsibility for selling a product that is inherently dangerous due to its high crystalline silica content, without providing warnings and instructions that are adequate to prevent silicosis. Contrary to the disclaimer, it is Francini's responsibility to determine and to instruct how its product can be safely used.

787. Plaintiff is informed and believes and thereon alleges that all of the acts, omissions, and concealment of hazards undertaken by employees and agents of Francini, Inc. were approved and ratified by Andrea Pier Paolo Francini, who is the CEO, CFO, and Secretary of Francini, Inc.

GRAMAR STONE CENTER, INC. AND STONE STUDIO, INC.

Corporate History

788. On October 25, 2001, Gramar Stone Center, Inc. filed its Articles of Incorporation with the California Secretary of State.

789. On July 16, 2014, the company filed a Statement of Information with the California Secretary of State, providing 1423 S. State College Blvd., Anaheim, CA 92806 as its principal place of business and listing the following officers of the company: Emre Varol, Chief Executive Officer; Nazim Birkent, Secretary; and Mehmet Varol, Chief Financial Officer. The Statement of Information described the company's business as "natural stone wholesaler."

790. On March 22, 2023, the company filed a Statement of Information with the California Secretary of State, providing the same information that it had provided almost a decade earlier.

791. Later the same year, on October 25, 2023, the company filed a Statement of Information with the California Secretary of State, providing the same information.

792. On October 20, 2006, Stone Studio, Inc. filed its Articles of Incorporation with the California Secretary of State.

793. On October 16, 2017, the company filed a Statement of Information with the California Secretary of State, providing 1423 S. State College Blvd., Anaheim, CA 92806 as its principal place of business, and listing the following officers of the company: Emre Varol, Chief Executive Officer; Nazim Birkent, Secretary; and Mehmet Varol, Chief Financial Officer. The Statement of Information also described the company's business as "Natural Stone Retailer."

794. At a deposition of these companies on May 3, 2024, in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs, et al.*, LASC Case No. 22STCV 31907, Emre Varol, Chief Executive Officer of Gramar Stone Center, Inc. and Stone Studio, Inc. explained the relationship between the two companies as follows: "We used to have two locations, and with the 2008, business went down. We put the companies together in the same location. They are like sister company but in time, Stone Studio faded out. I mean, it's still open legally but it's not doing any business." Mr. Varol explained that Stone Studio, Inc. stopped selling stone products in 2021.

The Companies' Business

795. Gramar Stone Center's website touts its "INDOOR SLABYARD" offering more than 300 color options of natural stone, quartz, and porcelain that are "Hand Selected & Imported From

All Around The World." The home page of the website displays the logos of artificial stone manufacturers Cambria, Crossville, Dekton, Level, Silestone, and Viatera. At the bottom of the home page of the website there is an "About Us" section that says: "Gramar has been proudly serving Southern California's leading designers, architects, contractors and builders since 2001."

796. Gramar Stone Center's website currently has a "Health and Safety" page which Mr. Varol explained provides "the Cal-OSHA as emergency health and safety for silica. We have the [Proposition 65] warning. We also have the safety data sheets for the brands we sell which directs to the manufacturer's website." Mr. Varol testified that the Health and Safety web page was first posted on the Gramar Stone website in 2023. The Health and Safety Page contains links to webpages of artificial stone manufacturers' Safety Data Sheets for the lists the following artificial stone brands: Silestone, Dekton, Viatera, Caesarstone, Vadara, Pental, Lapitec, Level, Crossville and Cambria. Mr. Varol confirmed that Gramar Stone has sold all these brands of artificial stone and that the company still sells these brands of artificial stone as of the date he was deposed. .

797. At the companies' deposition in the *Reyes-Gonzalez* case, Mr. Varol testified that Gramar Stone also had a website called Buy Quartz Online that offered Viatera, Silestone, Caesarstone, Dekton, Level and PentalQuartz artificial stone slabs for sale. Mr. Varol explained that Gramar Stone used the buy Quartz Online website to find prospective customers for Gramar Stone.

798. At the companies' deposition in the *Reyes-Gonzalez* case, Mr. Varol testified that prior to 2021, Gramar Stone, Inc. and Stone Studio, Inc. sold mostly the same stone products, i.e., tile and both natural and artificial stone slabs. He testified that as of today, Gramar Stone sells quartz, porcelain and mainly natural stone, including granite, marble, quartzite and sometimes onyx.

799. At the companies' deposition in the *Reyes-Gonzalez* case, Mr. Varol testified that from 2001 to the end of 2012 Gramar Stone was located at 700 East Katella Blvd. in Anaheim, where it had an indoor showroom of about 45,000 square feet and a slab yard of about 2 acres.

800. At the company's deposition in the *Reyes-Gonzalez* case, Mr. Varol testified that Gramar Stone began selling artificial stone slabs to fabricators in 2011, but that beginning in about 2008 or 2009, Gramar Stone purchased containers of artificial stone slabs from a Compac factory warehouse in Miami--slabs that were manufactured in Spain and Portugal and shipped from Europe.

He explained that Gramar Stone purchased containers of the Compac slabs in bulk to get it cheaper, and that each container contained about 70 to 90 slabs. He testified that Gramar Stone also purchased Silestone slabs in containers.

801. At the company's deposition in the *Reyes-Gonzalez* case, Mr. Varol was asked whether Gramar Sone provides fabricators with any information about the material composition of the slabs that it supplies other than warnings from manufacturers. Mr. Varol responded: "We only provide what manufacturer provided to us."

2021 Material Safety Data Sheet

802. Although it is not available on the company's website, Gramar Stone Center, Inc. prepared a Material Safety Data Sheet dated March 8, 2021 for "Quartz," which the company said "encompasses al types of Quartz products manufactured/sourced by Gramar Stone Center, Inc.")

803. Section 2 (Hazards Information) of this Material Safety Data Sheet begins by stating that "Quartz products are mixtures of naturally occurring minerals that are mined" and that "[t]he finished products are odorless, stable, non-flammable, and pose no immediate hazard to health." This information is false and misleading for three reasons. First, the statement indicates that the stone slabs sold by the company are "naturally occurring" although these products are artificial stone produced by mixing quartz with resins that are not "naturally occurring," as well as toxic pigments and various other additives. Second, Gramar Stone Center does not sell "finished products," i.e., countertops, but rather sells "unfinished" industrial products that require fabrication and other processing before they become countertops which, once installed in consumers' homes and businesses become "finished" consumer products. Third, contrary to the statement that the products "pose no immediate hazard to health," the artificial stone slabs cause silicosis, pulmonary fibrosis, lung cancer, and other diseases when used by stone countertop fabricators as intended and expected.

804. Section 7 (Handling and Storage) of the Material Safety Data Sheet states: "Use respiratory protection in the absence of effective engineering controls." This statement is misleading because it suggests that respiratory protection is not required where there are "effective engineering

controls," although the dust from artificial stone is so toxic to the respiratory system that respiratory protection is essential whenever these products are being fabricated regardless of the efficacy of engineering controls.

805. Section 8.2 (Exposure Controls / Personal Protection) of the Material Safety Data Sheet provides the following recommendation for Respiratory Protection: "Use of a properly fitted NIOSH/MSHA approved particulate respirator is recommended when cutting natural stone products for installation or during the removal of installed product." This "recommendation" is false, misleading, and harmful. It is misleading because the "quartz" products Gramar Stone Center sells are not "natural stone products" but are artificial stone products that present hazards to the lungs of stone fabrication workers that are much greater than those presented by natural stone products. The recommendation is also false, because respiratory protection from these products is critical not only when they are cut for installation or removed after installation, but at all times that stone countertop fabricators are present in any stone fabrication facility where any of these products are cut, sawed, drilled, grinded, chipped, polished or otherwise fabricated throughout the entire time that the workers are present where such fabrication took place even when not occurring at the moment. Lastly, the recommendation is harmful because it states that NIOSH/MSHA approved particulate respirators are recommended to protect workers from dust of these products, although the dusts generated from the fabrication of artificial stone products is so fine that it easily penetrates through particulate respirators and thereby damages the lungs of artificial stone fabrication workers. To protect stone fabrication workers from developing silicosis, NIOSH-approved air-supplied respirators are necessary. By recommending the use of particulate respirators that are inadequate to prevent exposure to the ultrafine and nanosized crystalline silica particles that are generated from the fabrication of artificial stone products and thereby cause silicosis and other diseases, rather than informing stone fabrication workers and their employers that they must wear air-supplied respirators to prevent silicosis, Gramar Stone Center provided a harmful instruction that causes lung disease.

806. Section 11 (Toxicological Information) of the Material Safety Data Sheet begins with the misleading statement that there are no potential health effects "for intact natural stone products." Regarding "Acute Effects" the Material Safety Data Sheet says: "No acute effects from exposure to

intact natural stone products are known" and then says: "in very rare cases, symptoms of acute silicosis, a form of silicosis (a nodular pulmonary fibrosis) associated with exposure to respirable crystalling silica, may develop following acute exporue to extremely dusty environments caused by generation of tile dust." This statement is false and misleading, because the slabs sold by Gramar Stone Center are not "tile" but are extremely toxic artificial stone which causes acute or accelerated silicosis with nodular pulmonary fibrosis in as much as 30% or 40% of exposed fabrication workers.

807. Section 15 (Regulatory Information) states: "This natural stone tile contains <1 percent by weight each of the following elements, which are SARA 313 Recordable: Antimony, Arsenic, Barium, Beryllium, Cadmium, Cobalt, Chromium, Copper, Manganese, Mercury, Nickel, Lead Silver, Thallium, Tin, Titanium, Vanadium, and Zinc." This statement is false and misleading, because the quartz products are not "natural stone" and are not "tile." The statement is also misleading, because none of these toxic metals are listed as constituents of the products in Section 3 (Composition/Information on Ingredients) of the Material Safety Data Sheet, although they are all extremely toxic to the human lungs and are known to cause pulmonary fibrosis and other lung diseases, especially beryllium, which has long been known to cause a deadly fibrotic lung disease from trivial, transitory exposures of a mere few days or weeks. If the products actually do contain beryllium, the use instructions provided are grossly inadequate to protect against chronic beryllium disease, because the sole domestic manufacturer of beryllium prohibits all exposure of its employees to beryllium and has implemented robotics and remote activation devices so that its production workers are usually not in the same environment as the beryllium and when they must be in the same environment as this toxic metal, they are instructed to only manipulate beryllium in a glove box while wearing a powered air purified respirator full shift just in case there is a leak in the glove box. No such necessary precautions against fibrotic lung disease are provided in the Safety Data Sheet.

808. Plaintiff is informed and believes and thereon alleges that the false and misleading statements in the 2021 Safety Data Sheet were approved and ratified by Gramar's Emre Varol, Chief Executive Officer; Nazim Birkent, Secretary; and Mehmet Enver Varol, Chief Financial Officer.

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HANWHA L&C USA LLC AND HYUNDAI L&C USA LLC

809. The Hanwha Group is a large business conglomerate in Souther Korea. Founded in 1952 as Korea Explosives company, the Hanwha Group has grown into a large multi-profile business conglomerate, with diversified holdings ranging from explosives to energy, materials, aerospace, mechatronics, finance, retail, and lifestyle services. In 1992 the company adopted its abbreviation as its new name: "Hanwha."

Hanwha 2005 Material Safety Data Sheet for HanStone Quartz

810. Hanwha has been manufacturing HanStone Quartz since at least 2005, in which year the Hanwha Living and Creative Corporation issued a Material Safety Data Sheet for HanStone Quartz by HanWha Surfaces dated June 30, 2005. This Material Safety Data Sheet identified the chemical composition of the product as containing more than 40% to approximately 90% Quartz (crystalline silica) by weight, with less than 10% of the product being Synthetic Resin, with a Colorant and Additives, each of which is less than 1% by weight and claimed to be a "trade secret."

811. Section 3 (Hazards Identification) of the Material Safety Data Sheet, regarding "Potential Health Effects" begins by stating: "This product is not classified as dangerous." That is a false and misleading statement for this product that contains about 90% crystalline silica and causes silicosis. The Material Safety Data Sheet then states that "sawing, routing, drilling, and/or sanding can generate dust" and that "[d]ust generated during handling of this product can irritate eyes, nose and respiratory passages and cause sneezing and coughing." This statement downplays the respiratory hazard of the product which is much more severe than mere "irritation." The Material Safety Data Sheet then says: "Dust generated during handling of quartz surfaces products can contain particles of crystalline silica." This is also a misleading statement, because dust generated during handling of quartz surfaces products invariably does contain particles of crystalline silica. Only then does the Material Safety Data Sheet acknowledge that "overexposure to airborne crystalline silica

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can cause silicosis," although the Material Safety Data Sheet does not in any way quantify by amount or duration of exposure what constitutes "overexposure to airborne crystalline silica."

812. Section 7 (Storage and Handline) of the Material Safety Data Sheet states: "Avoid breathing dust [and fumes] generated during sawing, sanding, routing or drilling." However, this instruction is meaningless because stone countertop fabrication workers have to breathe and they cannot hold their breath throughout an 8-hour workshift to "avoid breathing dust" and "fumes."

813. Section 8 (Exposure Controls and Personal Protection) of the Material Safety Data Sheet provides information regarding Engineering Controls (Ventilation) and Personal Protection. Regarding the latter, the Material Safety Data Sheet says: Protective equipment: EYE/FACE/HAND PROTECTION Wear safety protector during operations such as sawing, sanding, drilling or routing." This is a grossly inadequate use instruction, because the Material Safety Data Sheet does not state what protective gear should be used to protect the eyes, face, or hands. Critically, the Material Safety Data Sheet does not inform workers that they need to wear respiratory protection whenever they fabricate the product or are present in the same room when other workers fabricate the product, and does not inform workers that the only type of respiratory protection that can prevent silicosis from inhaling dust of the product is an air-supplied respirator. By concealing from workers that they must always use respiratory protection, specifically an air-supplied respirator when fabricating the product, Hanwha concealed this critical safety information that is essential to prevent silicosis.

814. Section 11 (Toxicological Information) of the Material Safety Data Sheet states that "epidemiology studies show limited evidence of lung cancer in occupations involving exposure to crystalline silica (quartz), such as stone cutters and granite industry workers." This statement is false and misleading because as early as 1997 - 8 years before issuance of the Material Safety Data Sheet - the International Agency for Research on Cancer issued its 1997 monograph regarding crystalline silica, concluding: "there is *sufficient evidence* in humans for the carcinogenicity of inhaled crystalline silica in the form of quartz or cristobalite from occupational sources." International Agency for Research on Cancer, IARC Monographs on the Evaluation of Carcinogenic Risks to Humans: Vol. 68: Silica, Some Silicates, Coal Dust and Para-Aramid Fibrils," (IARC 1997).

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815. The most significant aspects of the June 30, 2005 Material Safety Data Sheet are that Hanwha was aware as early as 2005 that exposure to its product can cause silicosis and the company concealed from workers that they needed to wear respiratory protection so as not to get silicosis.

Hanwha L&C USA LLC and Hyundai L&C USA LLC

816. On September 4, 2007, Maxforma LLC, a Delaware limited liability company, filed an Application for Registration with the California Secretary of State to conduct business in the State of California, designating its principal executive office in the State of California as 11165 Knott Ave, Suite C, Cypress, California.

817. On May 8, 2008, Maxforma LLC filed a Certificate of Amendment with the California Secretary of State whereby it changed its name to Hanwha L&C USA LLC.

818. On July 1, 2009 Hanwha L&C USA published an advertisement in *Stone World* describing the company as "a leading surface manufacturer" of HanStone, Hanex and Miraton products.

819. On October 1, 2009, Hanwha L&C USA published an advertisement in *Stone World* describing the company as "a leading manufacturer of innovative surfacing products," and announcing the grand opening of its 200,000 square foot Canadian manufacturing facility. The advertisement stated: "The facility's first phase of production will be the manufacturing of HanStone™ Fine Quartz surfaces for kitchen countertops, vanities and other surfaces for U.S. residential and commercial markets. The manufacturing facility will also be equipped with the most advanced Breton™ Technology, resulting in the production of the most sophisticated looks or designs of natural quartz, in an array of colors." The Advertisement reported an "initial investment of $70 plus million for the construction of the facility," stating that "[t]he new manufacturing plant will enable Hanwha to meet the growing demand for its premium product lins with greater production capabilities coupled with a premier distribution network." The Advertisement quoted Daniel Yu, President and CEO of Hanwha L&C USA stating: "Our new facility being built in London, Ontario, will be the most advanced, nature-friendly manufacturing plant in the Fine Quartz

Surface business, and will produce top-quality HanStone products for our customers." The Advertisement also quoted him as saying: "We are confident that our HanStone™ Fine Quartz Surface and Hanwha L&C USA sustainable business will continue to grow and be successful in North America with continual strong support from the architectural and design industry segments." The Advertisement concluded: "In order to continuously supply the U.S. market with superior, green surface solutions, Hanwha L&C USA has begun preparing for future expansions, with plans to increase the Canadian facility by 180,000 square fee, investing an additional $40 million."

820. On July 4, 2011, Hanwha L&C published an Advertisement in *Stone World* titled "Hanwha Surfaces Convenes Distributors to Address Market Needs." The Advertisement stated: "Hanwha L&C Surfaces, a leading global manufacturer of quartz and solid surfaces, met with select distributors this past week for its bi-annual meeting to review current marketplace initiatives, share ideas and discuss opportunities for continuing to build brand awareness for Hanwha Surfaces and its products: HanStone Quartz and Hanex Solid Surfaces."

821. On December 3, 2014, Hanwha L&C published an Advertisement in *Stone World* announcing that the company had appointed Dan Boyd as its new Director of Driect Sales for both of its product lines, Hanstone quartz and Hanex solid surface, claiming that "Boyd's 30+ years within the hard surface industry will help the company establish a more aggressive identity as a supplier of quality surfaces for the residential and commercial markets."

822. On March 15, 2018, Hanwha L&C published an Advertisement in *Stone World* stating: "Hanwha Surfaces, the American subsidiary of the international conglomerate Hanwha L&C, announded today the release of five new colors as part of the Boutique Collection," "the first to be created on HanStone Quartz's second production line featuring the world's most advanced Breton Technology," which "[u]sing robotic arms . . . Is able to create soft, deep veining and movement that closely mimics the appearance of natural stone."

823. On January 24, 2019, Hanwha L&C USA LLC, filed a Name Change Amendment with the California Secretary of State whereby it changed its name to Hyundai L&C USA LLC.

824. On March 29, 2019, the company published an Advertisement in *Stone World* stating: "Hyundai Department Store Group, a major South Korean conglomerate that operates a range of

retail and service-based businesses, announced recently that it has completed the acquisition of Hanwha L&C, a leading manufacturer of premium building materials. As part of the acquisition, the company has also changed its name to Hyundai L&C to further position itself as a global leader in the interior products industry. Under this new ownership, Hyundai L&C remains firmly committed to maintaining and growing its premium surfacing, including HanStone Quartz and Hanex Solid Surfaces." The Advertisement also announced that the company had expanded its operations, "including a second HanStone Quartz production line in London, Ontario, the building of a new Hanex Solid Surfaces production facility in Temple, Texas (to be operational in the coming months), and the establishment of several service centers, warehouses and showrooms across the country." The Advertisement also claimed: "This new ownership by Hyundai Department Store Group, a $7 billion company, offers unparalleled financial stability and the ability to expand like never before to meet customers' growing requirements for premium surfacing."

825. On June 27, 2019 Hyundai L&C USA LLC filed a Statement of Information with the California Secretary of State, listing its business address in California as 16031 Carmenita Rd., Cerritos, CA 90703 and describing its business as "Countertop Wholesale."

826. As recently as August 28, 2023, Hyundai L&C USA LLC filed a Statement of Information with the California Secretary of State, confirming that its business address in California is 16031 Carmenita Rd., Cerritos, CA 90703 and that its business is "Countertop Wholesale."

March 23, 2023 Safety Data Sheet

827. As noted above, the company's 2005 Material Safety Data Sheet concealed from workers that they need to wear respiratory protection to prevent getting silicosis from the product. It was not mere happenstance that the company concealed this critical information from stone countertop fabricators, because the company's most recent Safety Data Sheet for the product, dated March 23, 2023 also conceals from workers that they always must wear respiratory protection when fabricating the product so as not to get silicosis. That recent Safety Data Sheet merely prescribes: "If if it not possible to reduce the exposure limits to below the permissible limits . . . , use NIOSH

approved respiratory equipment for protection against crystalline silica/quartz dust." This most recent instruction still does not inform workers that they must always use an air-supplied respirator whenever they fabricate the product in order not to inhale crystalline silica dust and get silicosis.

Knowledge of Silicosis Hazard and Concealment by Hyundai L&C Managers

828. The company's concealment of the true nature and severity of the silicosis hazard and the means of preventing silicosis was approved and ratified by the company's managers, Hyung Suk Kim, Sung Kim, and Jae Kak Lee.

HOME DEPOT, INC.

829. The Home Depot, Inc. is a Delaware corporation that was incorporated in 1978. Its corporate office is located at 2455 Paces Ferry Road, Atlanta, Georgia 30339.

830. "The Home Depot, Inc., is the world's largest home improvement retailer based on net sales for fiscal 2021." "The Home Depot, Inc.," Form 10-K for the fiscal year ended January 30, 2022 filed with the Securities and Exchange Commission.

831. "Home Depot performed well during the pandemic, with sales growing to $151 billion in 2021 from $110 billion in fiscal 2019. . . . Total fiscal 2022 sales grew 4% to around $157 billion . . . ." Fitch Ratings, *Rating Report: The Home Depot, Inc.* (June 2, 2023).

832. As part of its home improvement business, Home Depot has marketed artificial stone countertops to customers nationwide and contracted with fabrication businesses to fabricate and install artificial stone countertops in kitchens and bathrooms of Home Depot customers. On its "Countertop Installation" webpage, Home Depot states that upon payment by a customer for a countertop installation, "our local, authorized installer will schedule a time to come to your home to measure your space and create a template, or "footprint," of your new countertop so that it will fit properly. Once your new countertops have been fabricated, the installer will remove your existing

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countertops if needed and install the new countertops, ensuring a proper fit." https://www.homedepot.com/services/c/countertop-installation/6228e49a9.

833. On its website, Home Depot advertises "Quartz Countertop Installation," stating: "A combination of natural stone and man-made materials, quartz is durable, low maintenance, and easy to care for. . . . You can choose from a wide range of quartz countertop options from many of the top industry brands, including Silestone, Caesarstone, and more."

834. Among the brands of artificial stone that Home Depot has offered for sale on its website are Caesarstone, Cambria, Dekton, MSI, Silestone, Stonemark, and Viatera.

835. Plaintiff is informed and believes and thereon alleges that Defendant, Home Depot, Inc., has, for many years sold various stone and other silica-containing products that contained warnings of the hazard of silicosis from crystalline silica and that Home Depot was therefore well aware of the toxic hazards of crystalline silica to the human respiratory system, including its ability to cause silicosis, lung cancer, and other lung diseases.

836. Plaintiff is informed and believes and thereon alleges that among the silica-containing products that Defendant, Home Depot, Inc., has long sold at its stores are basalt, bricks, cement, ceramic, clay, cobble stone, concrete, dolomite, drywall, epic stone, field stone, flag stone, glass, granite, gravel, ledge stone, limestone, marble, mortar, mosaic, natural stone, pavers, paving stone, paving stone joint sand, pebble stone, onyx, porcelain, quartzite, rock, sand, sandstone, serpentine, silica sand, slate, soapstone, tile, and travertine.

837. Plaintiff is informed and believes and thereon alleges that although Defendant, Home Depot, Inc., was well aware that the stone and other construction products that it sold contained crystalline silica, that the artificial stone products that it brokered for sale contained extremely high levels of crystalline silica, and that exposure to respirable crystalline silica causes silicosis as well as other lung diseases, kidney disease, and multiple autoimmune diseases.

838. Plaintiff is informed and believes and alleges that notwithstanding its knowledge of the silicosis and other health hazards to fabricators of stone countertops whose sale Defendant, Home Depot, Inc., brokered, Defendant, Home Depot, Inc., concealed the silicosis and other health hazards from Plaintiff and from other stone countertop fabrication workers to whom countertop fabrication

was subcontracted by Home Depot or contractors who purchased the artificial stone slabs from Home Depot or to whom Home Depot subcontracted stone countertop fabrication work.

839. Plaintiff is informed and believes and thereon alleges that officers of Defendant, Home Depot, Inc., including Edward P. Decker (Chief Executive Officer), Teresa Wynn Roseborough (Secretary) and Richard V. McPhail (Chief Financial Officer), were aware of the silicosis hazard of the artificial stone products that Home Depot was brokering and supplying, and that said officers ratified the company's concealment of hazards to stone countertop fabricators.

840. Plaintiff is informed and believes and thereon alleges that the acts, omissions, and concealment of hazards undertaken by employees of Defendant, Home Depot, Inc., were approved and ratified by Edward P. Decker (Chief Executive Officer), Teresa Wynn Roseborough (Secretary) and Richard V. McPhail (Chief Financial Officer) of Defendant, Home Depot, Inc.

IKEA

The IKEA Companies

841. IKEA is a privately-held, international home products retailer that sells flat pack furniture, accessories, and bathroom and kitchen items in its retail stores around the world. The company, which pioneered flat-pack design furniture at affordable prices, is now the world's largest furniture manufacturer. Reuters, "IKEA mulls joint venture with Bosnia furniture maker." January 8, 2008.

842. IKEA was founded in 1943 by Ingvar Kamprad in Sweden and it is owned by a Dutch-registered foundation controlled by the Kamprad family. IKEA is an acronym comprising the initials of the founder's name (Ingvar Kamprad), the farm where he grew up (Elmtaryd), and his home county (Agunnaryd, in Småland, South Sweden). "Ingvar Kamprad and IKEA," Harvard Business School Publishing, Boston, MA, 02163, 1996.

843. INGKA Holding B.V. is the parent company for all IKEA Group companies, including the industrial group Swedwood, which manufactures IKEA furniture, the sales companies

that run IKEA stores, as well as purchasing and supply functions, and IKEA of Sweden, which is responsible for the design and development of products in the IKEA range.

844. Inter IKEA Systems B.V., doing business as IKEA, is a Swedish multinational conglomerate that designs and sells ready-to-assemble furniture, kitchen appliances, decoration, home accessories, and various other goods and home services.

845. Inter IKEA Systems B.V. owns the IKEA concept and trademark, and has a franchise agreement with every IKEA store in the world. The IKEA Group is the biggest franchisee of Inter IKEA Systems B.V. Inter IKEA Systems B.V. is not owned by INGKA Holding B.V., but by Inter IKEA Holding S.A. registered in Luxemburg, which in turn is part of Inter IKEA Holding registered in the Netherlands Antilles. *Economist*, May 11, 2006.

846. As of March 2021, there were 422 IKEA stores operating in 50 countries and in fiscal year 2018, IKEA goods worth 38.8 billion euros ($44.6 billion) were sold.

IKEA Entities Doing Business in California

847. On August 15, 2017, IKEA North America Services, LLC was formed in the State of Virginia.

848. On August 15, 2017 IKEA US Retail LLC was formed in the State of Virginia.

849. On August 23, 2017, IKEA North America Services, LLC filed an Application to Register a Foreign Limited Liability Company with the California Secretary of State.

850. On August 30, 2017 IKEA US Retail LLC filed an Application to Register a Foreign Limited Liability Company with the California Secretary of State.

851. On May 27, 2022, IKEA Home Services LLC registered with the California Secretary of State to do business in the State of California.

852. On May 24, 2022 IKEA Home Services LLC was formed in the State of Delaware.

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IKEA Brokers Quartz Countertop Sales

853. At least as early as 2016 IKEA has marketed quartz countertops for sale at its stores. Farmhouse on boone, "A Review of Our IKEA Quartz Countertops," October 1, 2016 at https://www.farmhouseonboone.com/a-review-of-our-ikea-quartz-countertops

854. For several years IKEA has marketed KASKER quartz countertops on its website at https://www.ikea.com/ca/en/rooms/kitchen/quartz-custom-kitchen-countertops-pubecc4a46c.

855. The information on IKEA's website about quartz countertops states: "We construct our quartz countertops with natural quartz crystals (one of the hardest materials in nature) and high-quality polymer resins which make the surface smooth, non-porous and easy to keep clean." https://www.ikea.com/ca/en/rooms/kitchen/quartz-custom-kitchen-countertops-pubecc4a46c. This statement is misleading, because it suggests that IKEA's quartz slabs are "natural" products although they are artificial stone products. IKEA's website also acknowledges that its "KASKER Quartz consists of up to 93% quartz," which it describes as "one of nature's strongest minerals." https://www.ikea.com/ca/en/rooms/kitchen/quartz-custom-kitchen-countertops-pubecc4a46c. IKEA's website offered its quartz countertops in a "wide range of colours and edge choices" and in 2 cm or 3 cm thickness.

856. IKEA has advertised its quartz countertops as being better-priced than other major home improvement retail stores such as Costco, Home Depot, and Lowe's. A recent price comparison article stated: "Home Depot kitchens run about $30,000 to $35,000, while IKEA kitchens range from $10,000 to $15,000." Evelyn Battaglia, "IKEA vs. Home Depot: Which should you choose foa NYC kitchen renovation?" *Brick Underground* (August 24, 2023), available online at https://www.brickunderground.com/blog/2012/06/renovation_qs_ikea_versus_home_depot.

857. Plaintiff is informed that the artificial stone slabs that IKEA has marketed, brokered and sold were manufactured by Caesarstone as well as other artificial stone slab manufacturers.

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IKEA Stops Selling Quartz Slabs in Australia

858. On October 27, 2023 Safe Work Australia finally released its long-anticipated report recommending a ban on the importation and use of all artificial stone in Australia. Safe Work Australia, *Decision Regulation Impact Statement: Prohibition on the use of engineered stone*, https://www.safeworkaustralia.gov.au/sites/default/files/2023-10/decision_ris_-_prohibition_on_the_use_of_engineered_stone_-_27_october_2023.pdf. This report concluded: "A complete prohibition on the use of engineered stone is recommended." Safe Work Australia reached this conclusion upon finding that "[t]he risks posed by working with engineered stone are serious and the possible consequences of being exposed to RCS [respirable crystalline silica] generated by engineered stone are severe and sometimes fatal. To date, we – PCBUs [persons conducting a business or undertaking], workers, regulators and policy agencies – have failed to ensure the health and safety of all workers working with engineered stone."

859. Safe Work Australia rejected proposals to allow the use of engineered stone containing lower crystalline silica concentrations because upon finding that "[a] lower silica content engineered stone is not expected to result in improvements in compliance," because "[t]he features of the sector that have contributed to the current levels of non-compliance remain" and "permitting work with lower silica engineered stone may encourage even greater non-compliance with WHS [worker health and safety] laws as there may be an incorrect perception that these products are 'safer'."

860. Of greatest import, Safe Work Australia found "[t]here is also no evidence that lower silica engineered stone poses less risk to worker health and safety. Manufacturers have not yet established (through independent scientific evidence) that these products are without risks to the health and safety of workers and others in the workplace. There is no toxicological evidence of a 'safe' threshold of crystalline silica content, or that the other components of lower silica engineered stone products (e.g. amorphous silica including recycled glass, feldspar) do not pose additional risks to worker health." The agency concluded: "The only way to ensure that another generation of Australian workers do not contract silicosis from such work is to prohibit its use, regardless of its silica content. The cost to industry, while real and relevant, cannot outweigh the significant costs

to Australian workers, their families and the broader community that result from exposure to RCS from engineered stone."

861. In response to Safe Work Australia's report, on November 14, 2023 IKEA issued a "Statement on Engineered Stone" which it posed on the company's website:

> IKEA Australia works with suppliers to supply and install engineered stone benchtops. We work closely with these suppliers to ensure the highest safety standards for environmental and working conditions are followed.
>
> We have been monitoring the issue, including the recent analysis and recommendation from Safe Work Australia on the risks associated with engineered stone products.
>
> IKEA Australia will begin the process of phasing out engineered stone products from our local range, ahead of government action. Engineered stone benchtops form just part of the IKEA range and many alternative materials are available. . . .

https://www.ikea.com/au/en/newsroom/corporate-news/ikea-australia-engineered-stone-pubbfbddf10

862. Although IKEA began the process of phasing out engineered stone products from its stores in Australia before the Australian government adopted Safe Work Australia's recommendation to ban the use of artificial stone, IKEA continues to broker and sell artificial stone in the United States in conscious disregard of the health and safety of American countertop fabrication workers.

LAPITEC S.P.A. AND LAPITEC USA, INC.

863. Lapitec S.p.a. is an Italian company, part of the Breton Group, based near Treviso in the north of Italy." It produces sintered stone - "an industrial product made of a wet mixture of natural minerals, without use of resin or cement, cold-formed by means of vibro-compression under vacuum and consolidated, after drying, by sintering." https://www.lapitec.com/ContentsFiles/Lapitec%20-%20Sustainability%20Summary(4).pdf

864. According to the company, "Lapitec was founded in Italy back in 1989 and was the result of a technical and entrepreneurial idea of Cavalier Marcello Toncelli; after a decade of scientific research, testing and innovation, the company successfully produced its first slab in 1999."

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865. On May 2, 2016, Lapitec published an advertisement in *Stone World* titled "Lapitec acquires new distributor in the U.S." which stated: "The Italian company, Lapitec, strengthens its presence in North America with its newest distribution partner CaraGreen, a company based in Raleigh, NC . . . . We are very pleased to begin this partnership with CaraGreen because the company is well established throughout the territory and thus will promote our full body sintered stone to the market,' said Michele Ballarin, Director of Sales and Marketing at Lapitec®.

866. On August 28, 2019, Lapitec published an ad in *Stone World* titled "Lapitec Presents the World's First Sintered Stone Slabs with Through-Body Veining," stating "the Veneto firm is set to present a ground-breaking proposal exemplifying a quality unique to Lapitec: a full body sintered stone in which the colour and physical and chemical features are retained both on the surface and throughout the interior body of the material. . . . 'Being full body is a key factor in the originality and innovation of Lapitec,' explains Marcello Toncelli, vice president of marketing. 'The possibility of having slabs of large dimensions with through-body veining allows designers and architects to be daring with projects and processes never seen before in this material. Lapitec is an authentic material – consistent and true: what you see on the surface is what you find inside. Add to these specific qualities that are becoming particularly relevant: it is extremely versatile, 100% natural, and has no resin or digital printing.... These are the first slabs in the world of sintered stone with through-body veining, a sensational technological accomplishment and the result of years of intense research."

Lapitec 2020 Safety Data Sheet

867. In 2020, Lapitec issued a document denominated Safety Data Sheet for its namesake product Lapitec®, which begins by stating: "This document is not a Safety data Sheet, as it is not required for the product, in accordance with art.31 of EC Regulation No. 1907/2006 (REACH)."

868. Section 2 states: "The product is not classified as hazardous pursuant to the provisions set forth in EC Regulation 1272/2008 (CLP) (and subsequent amendments and supplements) due the product is considered an article so it is out of the of the application field. in this regard, drawing up a label in accordance with the provisions of Title III of CLP regulation is not necessary." Not so!

869. An "article" means a manufactured item: (1) which is formed to a specific shape or design during manufacture; (ii) which has end use functions dependent in whole or in part upon its shape or design during end use; and (iii) ***which does not release, or otherwise result in exposure to, a hazardous chemical, under normal conditions of use."*** 29 C.F.R. §1910.1200(c). "The purpose of exemption is to ensure that items which may contain hazardous chemicals, but in such a manner that employees won't be exposed to them, not be included in the hazard communication programs. Examples of such items would be nuts and bolts or tools." Preamble to"Definitions" of the Hazard Communication Standard, 48 F.R. 53280, 53293 (1983). "The article exemption applies to the end use of the product only - if the intermediate use results in exposures, these exposures are covered by the HCS." (June 20, 1997 memo by Steve Mallinger, Acting Director, Office of Health Compliance Assistance). Since the mid-1980s, OSHA decreed that castings which require further processing before use by consumers are not articles. "In many situations, a casting would be considered an 'article' under the HCS and would be exempt from the provisions of the standard. However, if the casting is going to another manufacturing facility where it will be used in such a way as to release a hazardous chemical, information will have to be provided . . . in accordance with the standard." (March 4, 1986 memo by John B. Miles, Jr., Director, Directorate of Field Operations). "Welding, burning, cutting, gouging, sanding and other operations will release metal dusts or fumes which are considered hazardous chemicals. Castings undergoing these types of processes must have a Material Safety Data Sheet to inform the user of the hazards associated with exposure to metal dusts and fumes." (March 20, 1986 memo by Patrick R. Tyson, Acting Assistant Secretary)

870. After saying that Lapitec is an "article" that is exempt, the Safety Data Sheet says: "Other hazards. If the product is to be cut or milled, since the material mainly consists of siliceous aggregates, the dust possibly generated contains silica (SiO2). Adopt suitable risk management measures in case there is the creation of dust." Because the manufacturer anticipates the product being cut or milled, it is plainly not an article and is not exempt from the labeling and warning requirements of the Hazard Communication Standard.

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871. Section 3 states: "The product described in this document is a slab of sintered stone. Lapitec® is made of Silico-Aluminates, Amorphous Silica, Crystalline Silica, Zirconium Silicate and Inorganic Pigments. The amount of Crystalline Silica is minor than 11% by weight."

872. Section 6 (Handling and Storage - Precautions for safe handling) states: "It is important to remember that exposure and preventive protection against crystalline silica dust are necessary only during machining of Lapitec® stone." This is a false statement, because dusts generated during the machining of Lapitec remain airborne for hours after the product has been machined, so that exposures continue to occur to fabrication workers. The statement endangers worker health and causes silicosis, because it misleads workers to believe that they need not use respiratory protection except when they are machining Lapitec even though they are exposed to silica dust hours after machining the product. Towards the end of Section 6, the Safety Data Sheet states: "Silicosis and the other diseases caused by respirable crystalline silica dust develop only after continuous and prolonged exposure. These dusts are released only during machining processes and not during normal use of the Lapitec® top." These are false statements because acute silicosis has been reported in artificial stone fabricators after just a few years of exposure to dust from the fabrication of artificial stone countertops and dusts that contain crystalline silica are released during the normal use of the product, i.e., fabricating the Lapitec slab to become a countertop.

873. Section 7 (Exposure controls/personal protection) states that "Respiratory protection against silicon must be P3." This is a totally inadequate instruction to protect workers from getting silicosis, because it is unclear what it means and it refers to a particulate filter respirator, which is inadequate to prevent silicosis, because the tiny crystalline silica particles penetrate through the filter.

Interview with Lapitec

874. On March 1, 2022, an Interview with Michela Callegari, Country manager at Lapitec S.p.a. was published in Easy Engineering. During this interview Ms. Callegari stated: "Since 2022, Lapitec is officially and proudly silica-free." She also stated that "some overseas markets like the United States . . . have seen great growth." https://easyengineering.eu/interview-with-lapitec/.

Lapitec Incorporates in Florida

875. On January 22, 2021 Lapitec USA, Inc. filed Articles of Incorporation with the Florida Secretary of State, listing its principal place of business as 1753 Northgate Boulevard, Sarasota, Florida 34234, identifying Joseph A. Brannon as the company's registered agent, and identifying Gianrico Filippetto as the incorporator of the corporation.

876. On March 16, 2022 Lapitec USA, Inc. filed its 2022 Annual Report with the Florida Secretary of State, listing its principal place of business as 1753 Northgate Boulevard, Sarasota, Florida 34234, identifying Joseph A. Brannon as the company's registered agent, and identifying Gianrico Filippetto as President of the corporation.

Lapitec Enters the U.S. Market

877. On April 1, 2022, an advertisement published in *Stone Update* titled "Lapitec Launching U.S. Presence" stated: "Surface manufacturer Lapitec S.p.a. will announce the creation of a distinct U.S. presence next week. The maker of sintered stone will take a dedicated look at the North American market, as it now operates a proprietary warehouse in the United States and a Sarasota, Fla., office. Lapitec will officially [launch] Lapitec USA during Coverings 2022 in Las Vegas, starting on April 5. 'Over the years, the North American market has grown and now accounts for about a quarter of our turnover,' says Francesco Giannini, Lapitec USA board member. 'There are various features of our material that have made it possible for us to engage with our American counterparts, first and foremost its great resistance combined with a completely natural composition that is free of inks, resins, glues or other toxic materials.' 'Lapitec is a catalyst for creativity and design. It can be processed along its entire thickness, comes in large sizes and is versatile, meaning that it can be used indiscriminately in kitchens and swimming pools, outdoor BBQs, facades and spas.' Lapitec will also emphasize its new silica-free manufacturing process. 'At Coverings we can announce another important development,' Giannini aTA. 'After years of research, from this year Lapitec has completely eliminated the use of crystalline silica, which is naturally present in all

materials of mineral origin including ceramic and quartz. The new silica-free nature of the sintered stone makes it an even more sustainable, ethical and safer choice.'"

Lapitec Marketed for Sale In California

878. The Lapitec website directs viewers to search for distributors continent and country and identifies Willis as its California distributor, with locations in northern and southern California: Willis (Northern California) 1905 N. MacArthur Dr., Suite #300, Tracy US 95376; (888) 994-5547; Willis (Southern California) 3351 Grapevine St., Suite #A, Mira Loma, US 91752; (888) 994-5547.

879. The Willis website states: "we are proud to represent premium design material manufacturers which include Corian® Solid Surface, Corian® Quartz, Corian® Endura, Lapitec® sintered stone, Arpa®, FENIX®, KOHLER® and Sterling® by KOHLER."

880. On February 8, 2024, Lapitec USA, Inc. filed a Statement and Designation of an Out-of-State Stock Corporation with the California Secretary of State, listing its principal office as 885 Tallevast Rd., Unit D, Sarasota, FL 34243, and the address of its California office as 14554 Keswick St., Van Nuys, CA 94105.

Lapitec Seeks to Take Advantage of Australia's Ban of Artificial Stone

881. In December 2023, when Australia banned the importation and use of artificial stone nationwide, Lapitec sought to take advantage of the artificial stone ban by falsely claiming that its product contains no crystalline silica. On December 18, 2023 an article was published in *Building Connection*, titled "Silica-Free Stone to Fill the Gap After Government Ban." This article stated:

> Lapitec is the world's first silica-free stone which is manufactured in Italy and is now available in Australia. The alternative is much more appealing ahead of the Australian government ban on stone cutting in July 2024.
>
> "Fine crystalline-silica powders are dangerous to human health, particularly if inhaled when engineered stone, porcelain, ceramic or other stone products containing silica are cut without the recommended safety procedures being followed in full," Lapitec managing director, Australia Samuele Tosi says.

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> "Unfortunately, many tradespeople have been exposed to the risk of silicosis by companies who have not adhered to the strict safety rules. But this risk can now be removed with our new stone which provides a totally safe alternative to existing stone and building products."
>
> Lapitec is a revolutionary product known as 'sintered stone' which is produced through a patented process of intense heat and high pressure. It features a mix of natural minerals that are completely free of silica, resins, inks and petroleum derivatives.
>
> Importantly, Lapitec has been fully tested and certified by both TestSafe Australia as well as the European Commission. The stone can be used for indoor and outdoor kitchens, benches and tabletops, bathrooms, ventilated facades, roofing, cladding, flooring, paving, spas, swimming pools, underwater installations, indoor and outdoor surfaces and custom furnishings.

This article, which was planted by Lapitec, is intentionally false and misleading, indeed fraudulent.

First, contrary to the assertion that "Lapitec is the world's first silica-free stone," the Safety Data Sheet for the product clearly states the contrary - that the crystalline silica content of the product is "minor than 11% by weight." Further, because Lapitec is an engineered stone product, its importation and use has been banned in Australia despite its lower crystalline silica content than some other artificial stone slabs that are in commerce.

Second, the statement that the risk of silicosis "can now be removed with our new stone which provides a totally safe alternative to existing stone and building products." This is another false statement, because the company's own Safety Data Sheet admits that exposure to crystalline silica dust from the product can cause silicosis, at least "after continuous and prolonged exposure."

Knowledge of the Silicosis Hazard by Lapitec Officers and Directors

882. The false and misleading statements about Lapitec, as well as concealment of the true nature and severity of the health hazards of Lapitec's product, were approved and ratified by officers of both the Italian company and its American subsidiary, including, the following:

Gianrico Filippetto, President of Lapitec USA, Inc.; Marcello Toncelli, Vice President of Marketing of Lapitec S.p.a.; Michela Callegari, Country manager at Lapitec S.p.a.

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LEVANTINA

883. Levantina Y Asociados De Minerales, S.A., is a Spanish company whose principal place of business is Carrer Barcelona, O, 25740 Ponts, Lleida, Spain.

884. According to its website, "Levantina is a Spanish international company and a world leader in the Natural Stone sector. Since its foundation in 1959, the company has grown and strongly expanded, becoming a global model in the Natural Stone industry, providing innovation and technology leadership. Among its greatest assets is its considerable responsiveness – it owns numerous quarries –, competitiveness and innovation. All this is the result of the 7 factories that Levantina has strategically located and where it develops the most advanced technology; the accessibility afforded by 20 private distribution warehouses; and, lastly, its international presence thanks to exporting to more than 100 countries." www.levantina.com/en/company/about-levantina/

885. According to its website, "Levantina has approximately 1,330 employees with wide experience in the industry and 20 private distribution warehouses." "The company produces more than 16 million m^2 per year of more than 200 different materials." "They export to more than 100 countries and have branches in United Kingdom, United States and Brazil."

886. In its 2021 non-financial information statement Levantina wrote: "Our main activities include exploiting, acquiring and leasing quarries; extracting, cutting, working and polishing ornamental stone; and, lastly, marketing and selling these products. The main products that we extract, produce and market are: Marble, granite, limestone, sandstone, travertine marble and sintered stone (Techlam®) in the form of blocks, slabs, tiles, cladding and custom cuts for construction projects."

Levantina USA, Inc.

887. Levantina USA, Inc. is a Texas corporation that registered to do business with the Texas Secretary of State on January 20, 1993. Levantina USA Inc. annual revenue in 2023 was $571 million. The Chief Executive Officer of Levantina USA Inc. is Tim Friedel. Levantina USA, Inc.

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has had the following corporate officers: Juan Dionis, Chief Executive Officer; Ken Dobbins, Chief Financial Officer; Joseph Dobbins, Chief Operating Officer.

Levantina Marketing of its Products in *Stone World*

888. On July 1, 2003 Levantina published an advertisement in *Stone World* announcing that it was issuing a new brochure featuring glossy colored photos of its marble collection. One of the features of the new publication was the company's Vetusa Line, which varies greatly in stone type and color -- from soft shades of Crema Marfil to darker materials such as Morron Emperador. Since the company's headquarters is in Spain, the brochure's text was written in both English and Spanish.

889. On July 1, 2007, Levantina published an advertisement in *Stone World* titled "Techno Classic® system from Levantina." The advertisement stated: "The TECHNOCLASSIC® system from Levantina is the result of ongoing research aimed at providing unparalleled quality and specifications, according to the company. A new and revolutionary concept in natural stone, offering lightness, beauty and ease of handling while ensuring greater durability and hygiene than ever before in floor and wall covering products, reports Levantina. The system combines the aesthetic features of natural stone with state-of-the-art porcelain manufacturing technology. The tiles are only 1 cm thick, with 7 mm of natural stone and 3 mm of porcelain reinforcement. These components are fused together using tough, unalterable resin and a fiberglass mesh that maximizes physical and mechanical properties. Floors & Walls currently offers the TECHNOCLASSIC® system in its marble selection. The system has a total quality guarantee, since at Levantina, the entire production cycle is subject to the company's rigorous controls. Once the marble has been fused with the porcelain laminate, TECHNOCLASSIC® products undergo an intensive anti-stain treatment until zero absorption is achieved for both water- and oil-based liquids. The result is a premium, technologically advance laminated marble product, according to the company."

890. On April 26, 2011, Levantina published an advertisement in *Stone World* titled "Levantina Enhances its Global Scope." The advertisement stated: "As part of its expansion strategy and world reaffirmation as a benchmark in the natural stone sector, Levantina has started

the year off by participating in two leading stone industry events. According to Levantina, attendance was excellent at the Vitória Stone Fair, which was held from February 15 to 18 in Vitória, Espírito Santo, Brazil. Visitors expressed interest in products presented by the Spanish stone producer, such as four new materials from its exotic granite collection: Stormy Night, Toscana Gold, Santa Elena and a new Branco Romano. In addition, the new Quartzia® series was presented, which includes the colors Starry Night and Red Sapphire. A blue and a red join the already-existing array, thus providing greater opportunities for combination and design for kitchens and baths, reports Levantina, who also participated in Surfaces in Las Vegas and the London Fair, which is a reference in solutions for solid surfaces."

891. On October 1, 2011, Levantina published an advertisement in *Stone World* titled "Levantina opens a professional space dedicated to granite." The advertisement stated: "This summer, Levantina celebrated the Grand Opening of its new exhibition space in Novelda, Spain, dedicated exclusively to granite. Under the name "Granite Center," Levantina presents a great selection of exotic and traditional granites coming from different parts of the world, as well as national quarries in a comfortable and exclusive atmosphere. The Granite Center presents a wide granite collection classified by colors and exhibited under ideal light and visibility conditions that enable the client to admire the great beauty and characteristics of this unique and exclusive material, reports Levantina, adding that granite is a natural material of great durability and resistance that is also totally recyclable, ecological and easy to maintain. Levantina boasts an extensive variety of exotic and exclusive materials in different colors, tones and movements, as well as the most well-known and uniform granites with a medium grain. All of this is available in a multitude of finishes that provide the personality that each customer wants for their design: polished, rubbed, blasted and aged."

892. On May 1, 2012 Levantina published an advertisement in *Stone World* titled "Developments at Levantina Chicago." The advertisement stated: "Levantina announced the appointment of Sole Llorca to the position of General Manager of Levantina Chicago. Along with the new appointment, Levantina has also renewed its commitment to the Chicago branch by investing in a new layout and inventory. Llorca brings a wealth of knowledge to the General

Manager position. She has been with Levantina for over 15 years as part of Levantina's Export Department. Llorca started her role in Spain and has been working in the U.S. for the past 12 years. Her varying roles within the department have included business development, strategic sales and quality control. 'Levantina USA is extremely happy to welcome Sole into her new position,' stated David Garcia, Levantina USA Managing Director. "We know that with her strong background and expertise, she will be a tremendous asset — not only to Chicago, but to Levantina USA sales as a whole. Sole's ability to build strong client relationships and her commitment to quality customer service, makes her the perfect choice to run the Chicago branch." In her new role, Llorca will be responsible for the daily operations of the Chicago showroom and warehouse along with managing the sales and warehouse staff. Levantina Chicago will hold an event at their showroom in June to introduce Llorca and to showcase their new materials and updated warehouse layout. Levantina USA's Managing Director David Garcia and executives from Levantina Spain will be in attendance. 'We have made a strong commitment to the Chicago branch with a new General Manager, new warehouse layout and new inventory, and we regard it as a core market for the company,' stated Garcia. 'We are confident that the very visible investment commitments we are making will afford Levantina Chicago a more significant share of the natural stone market in this area.'"

893. On September 5, 2012 Levantina published an advertisement in *Stone World* titled "Levantina strengthens its commitment to Brazilian granite." The advertisement stated: "Founded in 1959, Levantina has become a world leader market in quarrying, processing and distributing natural stone. The company owns the Coto Quarry in Spain, which is the largest quarry for Crema Marfil in the world, and on the other side of the Atlantic Ocean, it has made significant investments in its granite plant in Brazil. Currently, Levantina works more than 40 of its own quarries, and it has eight factories and 35 of its own distribution warehouses. With a product portfolio of more than 180 different materials, Levantina is not only a leading supplier of marble, but also of granite. It exports to more than 110 countries in the European Union, South America, the Middle East and Asia — along with the U.S. Levantina runs two granite processing plants — one in Porriño, Spain, and another in Vitoria, Brazil. Both plants have a combined capacity of around 40 gangsaws and work

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together to bring more than 100 granite types from different places around the globe — Africa, India, Brazil and Europe — to markets across the world. . . .

Levantina Brazil. In 2003, Levantina opened an industrial plant in Vitoria, Brazil. The strategic location of the factory was to ensure efficient and fast distribution to the U.S. market. This, together with the use of the state-of-the-art technology equipment, has made the plant a key element in Levantina's international development. Levantina Brazil has a workforce of over 100 professionals in the quarries and factories. In addition, the company has a local distribution network of three stone distribution centers in Rio de Janeiro, Vitoria and Sao Paulo. Regarding the extraction process, the company mines material from its own quarries, such as Marisma and Lennon, which is a semi-exotic granite consisting of semi-transparent and gray quartz and large blue crystals. With its neutral tone, it is a very versatile product that is easily combined with a variety of interiors. In addition, Levantina has preferential cooperation agreements with different quarry owners. After careful block selection in the quarry, the material goes through a production process at the factory that meets the strictest quality controls. Levantina's factory uses the most advanced technology in stone transformation, including advanced finishing treatments such as an electronic resin mixer. 'This system allows working with different sequential materials; it personalizes the mixture process taking into consideration the tone and composition of the product,' explained Albert Mesa, Levantina's Global Operations Manager. The company's 'Continuous Investment Policy' allows Levantina Brazil to incorporate the latest technology in the production process. Currently, production capacity is well over 100 containers per month. Levantina's Brazilian granite portfolio is at more than 40 materials. The collection consists of a solid series of traditional materials as well as a dynamic selection of semi-exotic granites. As a result of continuous innovation, the company has recently added a wide variety of granite, which is available in an extensive assortment of

colors, such as yellow and gold (Baricatto and Splendour Gold) green (Delirium), white (Super White), burgundy (Kalahari), brown (Kamarica and Orion) and black (Taurus, Titanium and Galaxus). In terms of customer service, Levantina has also taken great measures for optimization. The production plant in Brazil allows the company to accelerate the container export logistical process to the U.S. market. It has also developed an interactive design tool, Inspiration, to facilitate the selling process. This tool allows the customer to recreate home environments combining the materials from its extensive natural stone collection with different home interiors and decoration styles. Moreover, Levantina's well-trained and motivated commercial team specializes in Brazilian granite.

A bright future. The immediate future plans for Levantina Brazil, reported by its new CEO, Francisco Rocha, are as follows: An increase in production capacity in the areas of cutting and polishing by 30% next year. A renewal of the product portfolio by 20%. Facilities and specialized technical equipment improvements, such as a multi-wire machine and an optical scanner device to ease the factory's daily operation process. The introduction of an online photo system which allows the company to increase quality control, offering the customer high-definition images of the purchase. With these ventures in place, Levantina's goal is to be a world leader not only in marble, but also in granite — particularly for the U.S. market."

894. On September 3, 2013, an article by Michael Reis titled "Developments continue for worldwide supplier Levantina" was published in *Stone World*. The article stated: "With new granite and marble collections, along with a portfolio of completed architectural works around the world, Levantina has solidified its position as a leader in the international sone business. With over 1,600 employees, Levantinais a vertically integrated company with an international presence. Headquartered in Spain, the company has a broad range of quarry sites, manufacturing plants in multiple nations and 28 Stone Centers across the globe. In terms of mining, the company has the largest Crema Marfil quarry in the world, and its quarry sites are distributed throughout different

countries, such as Spain, Portugal and Brazil, and in addition to the famous Monte Coto quarry in Alicante, from which Crema Marfil is extracted, sites include Spanish Gold, Dark Emperador, Mistral, Niwala Yellow, Niwala White and many more. On the manufacturing side, Levantina has reached a capacity of 118 million square (11 million square meters) of material per year. Its nine manufacturing plants are strategically located throughout the world, including seven factories in Spain, one factory in Brazil and one in Morocco. Levantina's products are sold to 110 countries, and its product line includes an in-depth range of marble, limestone, sandstone, granite and Techlam®, a groundbreaking ceramic product with a thickness of only 3 mm."

895. On September 1, 2015, an article titled "Levantina's large-scale operation provides an easy and safe process for its employees" was published in *Stone World* by Jason Kamery. The article said: "Extracting more than 2.2 million cubic meters of material annually from over a dozen quarries, Levantina of Alicante, Novelda, Spain, is an immense stone producer with locations worldwide. While the company has numerous moving parts, the secret to its success is to maintain a basic structure and to be open with its employees. Among the many quarries owned by Levantina is the Crema Marfil Coto site, which is one of the largest in the world. The base of the quarry rises 300 meters above sea level, while the very top is 800 meters above sea level. In total, roughly 200,000 cubic meters of material is extracted per year and it employs over 220 workers. "One of the most important things for us is safety," said Francisco Javier De Garnica, business operation manager for the Crema Marfil quarry. 'We have an internal department that drives around making sure everyone is safe. We also get audited by external authorities. They come around all year. Because of this, we have never had a serious injury.' Approximately 200 to 250 blocks are extracted per day at the Crema Marfil quarry. To keep up with the demand, five double diamond wire cutting stations are set up to square off the blocks. Each of the five stations holds eight to 10 blocks, and takes three to four hours to cut through them. Besides its look, one of the biggest selling points of the stone is the size of the quarry. 'We can offer a guaranteed volume of blocks for each client,' said Garnica. "That's very important to them. Our competition is smaller, and they don't have the level of extraction we do.' Once the blocks are squared off, they are sent to the Crema Marfil factory, which is fully automated and equipped with 19 Simec gangsaws to cut the blocks into slabs with 2

cm and 3 cm thicknesses. From the moment slabs enter the plant until they are loaded on the truck for shipment, the entire process is automatic. The facility runs two resin lines simultaneously, averaging 52 slabs an hour. When a slab has a chip or slight amage, it is inspected and then it is decided if the slab can be repaired. In addition to Crema Marfil, Levantina also operates five Marrón Emperador marble quarries. One of the largest currently spans 27,000 square meters with 90,000 square meters of exploration area for blocks. 'There are a lot of browns out there in the market, but none of them have veins like the Marrón Emperador,' said Javier Gomez-Ceballos, quarry engineer for the company's Marrón Emperador quarry. 'This stone is extremely appreciated by clients. No other quarry has a stone quite like this one.' While the quarry still has over 60,000 square meters of exploration area left, they are currently still looking for a similar type of stone in the area. 'Trying to find the same quality and quantity for a new quarry is hard,' said Gomez-Ceballos. 'Each of the five quarries offers a slightly different veining of the stone, but they are all pretty close to each other.' Levantina features dozens of marble coming in white, cream, pink, red, green, yellow, brown and black. In each of those colors come a wide range of marble offers, such as in the white marble category, Levantina features the Blanco Ibiza, Blanco Carrara and the Blanco Venato. The extensive collection of Levantina's marble collection can be viewed online.

"**New discoveries.** While Crema Marfil may be one of Levantina's most well-known stones, it is not the company's only impressive one. In Porriño, Spain, Levantina quarries some extremely unique varieties of granite. One of the newest materials that will hit the U.S. market soon is 'Wild Honey.' 'It's a hard quarry,' said Javier González, block purchasing manager for Levantina. 'With the experience and enough patience, we know it will do well. Now that we are getting a good stock pile of it, we are ready for a larger market. The market is so demanding that things must be perfect. Any and every flaw in the stone is going to be pointed out so we have to produce specifically for every expected market to ensure high standard supply." Levantina also gets its supply of Rosa Porriño stone from nearby quarries, producing on average per month 2,500 to 3,000 cubic meters. 'The way they cut these stones is

in huge sections,' said González. 'That makes these great for huge projects because of the size of the stone. There is also very little variation in grain and color.' When it comes to granite and quartzite fabrication, Levantina has three different factories, one focused in domestic materials, imported materials from worldwide locations including classic and exotic stone, a cut-to-size factory and also a granite center that highlights its main granites. Levantina believes it is important to have a strong level of communication between its factory workers and management staff. As a result, throughout the factories, each group of workers, or team, is assigned a Lean Panel board. This board easily allows and quickly shares open communication between managers and workers. It features the skills of each worker, equipment that can be used by each worker, comments and concerns among other things. In the cut-to-size facility, Levantina can apply several different finishes to its stone, including flaming, polish and leather. 'Every slab has its own label, block number and slab number — everything that tells us when and where it was selected, we know the whole timetable for it,' said Manuel Perez, sales area manager for Levantina. 'We sent about seven to 10 trucks and containers a day, and through the individual label system we can completely trace every single slab.' In the exotic and semi-exotic collections, blocks are gathered from all around the world at quarry sites by Levinatina's own inspectors and are squared off and reviewed to ensure that it is good material for the line. Levantina has in the exotic and semiexotic production facilities eight jumbo gangsaws and a 65-wire saw, as well as three single wire saws in place to complete the process. The granite center features a showroom of the highest quality of granites from around the world, all of the material ready to be sold. 'We do a lot of research on the materials,' said Perez. 'The materials keep evolving based off different patterns and markets. Stones will have certain patterns, and we can make them as per the veining or color shade lighter or darker, to different markets.' Between all three facilities, Levantina produces more than 1 million square feet of material every month. Levantina's top granite is the Lennon quarry, a quarry exclusively owned and

quarried by Levantina out of Brazil. The site produces around 4,000 cubic meters of material per year. The granite itself is white and gray with characteristic bluish quartzes."

"**Techlam.** Going beyond marble and granite, Levantina is also the producer of Techlam. Created in 2006, Techlam is one of the original Porcelain Ultra Compact Surfaces to come onto the market. The product comes in a maximum size of 1 x 3 meters and in a thickness of 3 and 5 mm. The product also comes in 150 x 100 and 100 x 100 cm. The entire process of making a Techlam piece, which takes 50 minutes, is done on one fully automatic line. There are dozens of different types and colors of Techlam panels. "The panels are all very light, easy to move and easy to clad," said Francisco Herrera, product manager for Techlam. 'Because it is so thin and light, a container can hold a lot of these panels, helping a customer to save money.' The process starts off at an entirely different location. The chemicals that Techlam is made of are mixed in another facility and then shipped to Levantina's factory in Alicante, Spain. In the manufacturing plant there are 24 silos that store the chemicals — all feeding down to a measuring system that puts the exact amount of the chemical needed on a conveyor belt. From the belt, it is dumped out by a machine that levels the chemical powder into the slab shape. The material is then pressed to harden the product and then is painted before finally being put in an oven for 45 minutes. Over 3,000 sheets are produced a day. 'What also makes this product unique is that it can be used on an old surface,' said Herrera. 'The product is so thin that you can just glue it right on an old countertop — no need to rip the old one off.' The product also has a Green Building certificate, and Levantina looks to expand the product to hospitals and schools."

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Levantina's Knowledge of the Silicosis Hazard

896. On May 2015, Levantina posted the following information about the silicosis hazard on its website:

BASIC INFORMATION ABOUT CRYSTALLINE SILICA

Currently, there is growing alarm in different Autonomous Regions on the materials that contain crystalline silica and the dust-laden environment that is generated during its production. The appearance of accelerated cases of silicosis in certain establishments has alerted the authorities who have initiated various inspection campaigns in mechanized workshops of materials that contain crystalline silica. With the objective of informing and clarifying certain concepts with our clients, we have drafted this brief document for your consultation. This information may be expanded on by a technician of the Office for the Prevention of Labor Risks of Levantina y Asociados de Minerales, S.A.U. an expert on the legal and technical current state related with the exposition of crystalline silica.

1. CRYSTALLINE SILICA

Silica is a basic component of soil, sand, granite, marble and many other minerals. Silica exists in different forms, crystalline and amorphous. Quartz is the most common form of crystalline silica. We can also find it in the form of crystallite and tridymite, which are two of the most harmful. However, amorphous silica is considered to have a low toxicity.

When materials are produced, the internal composition of which, contains crystalline silica, dust is produced in the labor environment that can be inhaled by workers. This inhalable fraction can penetrate deep in the lungs and after prolonged exposure to high levels of this agent, irreversible effects on the health may arise, including pneumoconiosis such as silicosis, as well as a worsening of other pulmonary illnesses.

2. FREQUENTLY PRODUCED MATERIALS

Below we list the different materials used in the workshops that produce stone and their percentages (approximately) of the crystalline silica content.

- Granite:	15-35%
- Marble:	0-5%
- Quartzite:	Greater than 95%
- Slate:	Up to 40%
- Compacts of quartz:	85-100%; with the presence of crystallite in numerous cases.
- TECHLAM®:	10-15%

3. SAFETY SHEET ON NATURAL STONE

Royal decree 255/2003 for which the Regulation on the classification, packaging and labeling of dangerous preparations has been approved, establishes the requisites and

contents of a **SAFETY DATA SHEET.**
Article 1 of said rule cites its exclusive application to "preparations", thereby being understood as meaning such **mixtures and solutions composed of two or more substances.**

Natural Stone is not a preparation nor a mixture, it deals with the only construction material that is used just as it is found in nature and therefore it is not subject to the production of safety files.

4. GOOD PRACTICES

It is recommended that suppliers, who sell materials that contain crystalline silica in its composition, inform their clients of the risks to workers who are exposed to crystalline silica.

One way of warning and informing about these risks and measures to adopt is to provide a **manual or guide on Good Practices.** Suppliers shall be able to choose to produce their own guides with a desired format or provide the European NEPSI guide available at **www.nepsi.eu,** recommended by the **Work Inspectorate.**

5. EVALUATION AND CONTROL

Establishments, in which due to their productive process and raw materials, produce silica dust should fulfill that established in **RD 374/2001 of April 6 on the protection of the health and safety of workers against the risks arising from the exposure to chemical substances**. In accordance with the values obtained, periodical measurements shall be taken in conformity with rule UNE EN 689 (Exhibits D and F).

Prevention Companies shall advise and coordinate the **performance of evaluations and hygienic measurements of the dust** with the prevention delegates or the person who carries out their duties.

6. ENVIRONMENTAL VALUE LIMITS

The environmental value limits to daily Exposure (EVL-DE) that are used currently and published by the INSHT are:

- Breathable Fraction 3 mg/m3
- Breathable quartz fraction: 0.1 mg/m3
- Breathable crystobalite fraction : 0.05 mg/m3

7. TECHNIQUES FOR THE MINIMIZATION OF DUST

Some preventive techniques for the minimization of dust are:

- Adaptation of manual tools to a damp mode
- Nebullization Systems
- Localized Extraction Systems
- Isolation of Work Environments

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8. INDIVIDUAL PROTECTION EQUIPMENT

- FPP3 Masks
- Semi-autonomous respiration equipment

2016 Article in Faro de Vigo

897. On January 24, 2016 an article titled "Granite tests a system that halves exposure to silica dust" was published in *Faro de Vigo,* a Spanish daily newspaper for the town of Vigo. The article stated: "The project, designed by the Porriño Technological Center, reduces the level of exposure in cutting looms by 47% - The Levantina group implements the first prototype." It went on to say: "The Porriño granite industry is successfully testing a new system to prevent one of the occupational diseases associated with this activity: silicosis. This is a project developed by the Granite Technological Center (CTG) in collaboration with the Granite Cluster and the Levantina y Asociados de Minerales group that consists of confining the cutting looms with polycarbonate sheets and a stainless steel structure to thus reduce exposure to dust in processing plants. The first results, according to the CTG, invite hope: exposure to crystalline silica has been reduced by 47% in the loom machinist's position and the concentration of the respirable fraction of dust has been reduced by 30%. The first prototype is already operational at the Levantina facilities in Porriño, with 'very satisfactory' results that have been verified through a monitoring plan . . . . According to the CTG, the confinement of looms with polycarbonate sheets and a stainless steel structure has managed to reduce exposure to crystalline silica in the machinist's position by 47% and the concentration of the respirable fraction of dust by 30%, 'considerably improving the occupational health and safety environment in the block sawing area of the granite factories.' Cluster sources acknowledged to FARO that other stone transformation companies have already taken an interest in the project, whose development had financial support from the Department of Economy, Emprego [Employment] and Industry. The cluster considers the Xunta's participation necessary through financial aid 'facilitating the search for continuous improvement in the health and safety conditions of workers in the sector.' Silicosis is a lung disease caused by the inhalation of silica dust, which causes progressive and irreversible nodular fibrosis caused by the sedimentation of crystalline silica particles in the lungs.

The latency period of this disease is between 15 and 20 years, according to the National Silicosis Institute (INS), so the measures taken by companies in the sector today will see their results in the medium and long term."

2019 Quartz Material Safety Data Sheet

898. In August 2019 Levantina issued a Material Safety Data Sheet for Levantina Quartz (Quartz surfaces). In a section titled "Recommended Use" the Material Safety Data Sheet recommends "identified uses" and "Contraindicated uses" as follows:

> **Identified uses:** LEVANTINA QUARTZ is a building material typically used as a surface covering or decorative elements."
>
> **Contraindicated uses:** When LEVANTINA QUARTZ slabs are being cut, ground, polished or removed, it is advisable to use measures to reduce exposure to the dust produced, this dust might contain free silica particles (SiO_2).

The statement the cutting, grinding, and polishing the product are "contraindicated uses" is false or misleading, because Levantina quartz slabs are intended to be cut, ground, and polished. Indeed, they cannot be fabricated for their intended purpose of becoming countertops without such. The statement that the dust produced by cutting, grinding and polishing the product "might" contain free silica particles, is false, because the dust produced by cutting, grinding and polishing the product always contains free silica particles. The Material Safety Data Sheet then states:

> Do not fabricate the product by using dry processes which generate dust. In case of this use, please read carefully this safety data sheet (SDS); this document has been prepared in accordance with the Regulation (EC) 1907/2006 (REACH) OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals,

updated according to Regulation (EU) 2015/830 of 28 May 2015, which modifies Regulation EC) nº 1906/2006 and Regulation (EC) No 1272/2008 (CLP) OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 December 2008 on classification, labelling and packaging of substances and mixtures.

This statement is confusing because it instructs one not to fabricate the product by using dry processes which generate dust, but then instructs one to read the safety data sheet "in case of this use," suggesting that it is permissible to fabricate the product using dry processes that generate dust.

899. Section 2 of the Safety Data Sheet (Hazards Identification) begins by stating: "LEVANTINA QUARTZ is a compact format, the product is not classified as hazardous or dangerous to human health or the environment." This is a false statement, because the product contains more than 88% crystalline silica, which causes silicosis, lung cancer, and other incurable and fatal human diseases. The Hazards Identification section of the Safety Data Sheet is inadequate, because it fails to inform the reader of the most serious hazard of the product - silicosis from inhalation of dust of the product.

900. Section 3 of the Safety Data Sheet (Information on Ingredients) states that "LEVANTINA QUARTZ is a mixture of quartz (>88% crystalline silica), additives, pigments and polyester resin (0-12% no Nº CAS registered)."

901. Section 4 of the Safety Data Sheet (First Aid Measures) states: "It is only when LEVANTINA QUARTZ is being cut, polished, ground or removed, the following recommendations must be followed:

General advice: Contact with silica dust does not require urgent medical support.

Eyes: Immediately flush eyes with large amounts of water for at least 15 minutes if dust gets in eyes. Get medical attention if irritation persists.

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Skin: Wash thoroughly after working with GRANITE. Remove all clothing exposed to the dust, making sure that the clothing does not come into contact with eyes. If adverse effects are observed, seek medical support.

Inhaled: Take the person affected to a well ventilated area where there is fresh air. Apply assisted breathing techniques if the injured person has a serious reaction. If adverse effects are observed, seek medical support.

Ingestion: If the dust is ingested, seek medical support.

These statements do not recommend good first aid measures. Indeed, the statements are contradictory and potentially harmful. The statement that "contact with silica dust does not require urgent medical support is unclear, because whether contact with silica dust requires urgent medical support depends on whether the contact is to skin, eyes, or by inhalation, and to the amount of dust. The statement to "wash thoroughly after working with GRANITE" is confusing, because the product is not granite and is not used in conjunction with granite. The statement that when inhaled one should "take the person affected to a well ventilated area where there is fresh air" is nonsensical, because workers who fabricate the product inhale dust of the product with every breath, so if this instruction were followed, they would always be taken away from the workplace and could not work. The instruction to "apply assisted breathing techniques if the injured person has a serious reaction" is confusing and harmful, because inhalation of crystalline silica has not been reported to produce a "serious reaction" at the time of inhalation (it causes debilitating lung disease rather than an adverse "reaction") and assisted breathing techniques should not be applied unless a person is unable to breathe. Lastly, the statement that "if the dust is ingested, seek medical support" is incorrect, because ingesting silica is generally harmless because it is indigestible and is excreted from the body.

902. Section 8 (Exposure Controls/Personal Protection) of the Safety Data Sheet contains a table that identifies "permissible exposure limits to dust generated when LEVANTINA QUARTZ slabs are being cut, polished, ground or removed." The table provides permissible exposure limits

in the UK, Spain, Portugal and France for respirable quartz, respirable cristobalite, and respirable inert dust. The latter information is confusing and misleading, because the dust generated from fabricating the product is not "inert" but may lead workers who are exposed to dust from the product above the permissible exposure limit for crystalline silica to believe that they are not harmfully exposed, because the permissible exposure limit for respirable "inert dust" is not exceeded. The table is also inadequate because it fails to inform American workers what the permissible exposure limit for exposure to respirable crystalline silica is in the United States.

903. Regarding respiratory protection, the Safety Data Sheet states: "Use of a properly fitted UNE approved particulate respirator is recommended in the fabrication or installation process." This instruction is not merely inadequate, it is unintelligible and if followed can actually cause silicosis. The phrase "UNE approved particulate respirator" is not defined and is unascertainable. Indeed, the only "hit" for a Google search for "UNE" and "respirator" concerned the respiratory protection program at the University of New England. Since there appears to be no such thing as a "UNE approved particulate respirator," a worker cannot know what this is. Further, a particulate respirator is inadequate to protect workers against silicosis from the product, because the product contains at least 88% crystalline silica and the particles emitted from the product during fabrication are ultrafine and nanosized – so small that they penetrate through particulate filter respirators and enter the lungs. By recommending use of a particulate filter respirator rather than an air-supplied respirator, the recommendation is one that contributed to the development of silicosis, rather than preventing it.

2019 Findings by Spanish Court that Levantina Concealed Toxic Hazards

904. On February 20, 2019 Eldiario published the second in the series of articles by Nestor Ash, titled "A ruling established the responsibility of Silestone manufacturers for failing to warn of the risk of silicosis." This article stated that "The Provincial Court of Bilbao ruled in 2017 that Cosentino disclosures of the risks of handling quartz agglomerate was "late, insufficient and confusing." The judgment also declared that it had been proven that up until 2004 neither Cosentino

nor Levantina de Granitos disclosed the hazards of handling this product, despite the general duty established by the 1995 Occupational Risk Prevention Law.

2023 Criminal Trial of Former Managers of Levantina

905. On July 8, 2023 elDiario published an article by Nestor Ash titled "Cosentino faces a year and a half in prison in his second trial for silicosis," with a subtitle "The judge considers it proven that Cosentino acted "grossly negligent" with the Silestone handlers suffering from silicosis." The article reported that two former managers of Levantina were also charged with crimes against the health of stone fabricators:

> The second criminal trial against Francisco Martínez-Cosentino, founder and owner of the Almeria multinational stone surfaces, has been seen for sentencing this Friday. The Prosecutor's Office accuses Cosentino and two former managers of Levantina, the other large Spanish manufacturer, of crimes against the health of eight workers at a Vizcaya marble factory, who contracted silicosis while handling quartz agglomerate countertops from both companies without their warning of its dangerousness. The prosecutor believes that serious injuries were caused recklessly.
>
> In addition, the doctor from the prevention service and the three owners of Novogranit, the marble factory where those affected worked, are accused. The trial was held before Criminal Court 5 of Bilbao. The Prosecutor's Office requests that Martínez-Cosentino and the owners of Levantina be sentenced to a year and a half in prison, the payment of 3,600 euros and that they be disqualified from managing companies for two years. It also asked that among all the defendants they assume the payment of compensation of between 25,000 and 102,000 euros to the workers, although Cosentino satisfied that responsibility in 2019 through private agreements.
>
> **Prosecutor: the company did not prevent and the manufacturer did not warn**
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> The facts contained in the indictment of the Prosecutor's Office, which this newspaper has been able to consult, include a common practice in hundreds of marble shops in Spain during the real estate boom, and that is what places Cosentino in the pillory, although authorized sources of the company clarify that there are no more open cases, nor do they expect them.
>
> As detailed in the Prosecutor's brief, workers from a small marble factory cut and polished Silestone (Cosentino) and Ceasarstone (Levantina) countertops for years, with a high content of crystalline silica, which when cut generates a respirable dust that causes a form of especially aggressive silicosis. Until 2012, Novagranit did not apply basic safety measures to prevent inhalation. And this, despite the fact that the Labor Inspectorate had demanded in 2009 about twenty measures in 2009, among which were working in the wet, installing nebulizers, providing FFP3 masks, preventive training, risk assessment...

> Cosentino supplied around 85% of the countertops, and Levantina the rest, but neither was diligent in disclosing the risks of quartz agglomerates, according to the prosecutor. Until 2009, the Almería-based company did not provide any safety data sheet, and only from March of that year did it begin to report the risk of prolonged exposure to crystalline silica causing pulmonary fibrosis and pneumoconiosis such as silicosis. . . .
>
> In her brief, the prosecutor notes that Cosentino had already had an infringement report in 2002, in which the Labor Inspectorate verified that there had been patients with silicosis in its factory in Cantoria (Almería) since at least 2000. She deduces hence, Francisco Martínez-Cosentino knew about the risk at least since 2002, but he did not inform the marble works until 2009.
>
> Neither did Levantina say anything about the dangers of handling Ceasarstone until 2009, and until December 2009 it did not prepare a safety data sheet or deliver a label, despite the fact that those responsible (Cipriano Gómez and Antonio José Pinos) "knew or had the obligation to know" the risks of the product.

https://www.eldiario.es/andalucia/cosentino-afronta-ano-medio-prision-segundo-juicio-silicosis_1_10359970.html

LOTTE CHEMICAL CALIFORNIA, INC.

906. On June 1, 2001 this company filed Articles of Incorporation with the California Secretary of State stating that the name of the corporation is "Samsung Chemical (USA), Inc."

907. On May 2, 2016, the company filed a Certificate of Amendment with the California Secretary of State whereby it changed its name to "Lotte Advanced Materials USA, Inc."

908. On January 29, 2020, the company filed a Certificate of Amendment with the California Secretary of State whereby it changed its name to "LOTTE Chemical California, Inc."

909. A chronology for the company appears on its website as follows:

2006	Established the R&D Center (Head office) Polycarbonate plant completed.
2008	Compounding plant in Mexico completed.
2009	Launched the Radianz Quartz Noble collection.
	Established engineered stone factory in Yeosu work place.
2010	Compounding plant in Tianjin, China completed.
2011	Selected as one of the 100 most innovative companies by Thomson Reuters.
	Completed compounding plant in Hungary.

2014 Completed compounding plant in Dongguan, China.

2015 Launched Staron's Supreme range of amorphous-patterned surfaces.

2016 Founded Lotte advanced material Co. Ltd. as part of Lotte Group.

2017 Introduced Supreme new 17 colors.

2018 Installed a state-of-the-art Breton equipped facility.

2019 Took over Belenco, a Quartz manufacturer in Turkey

Launched "Locelain", the superior engineered porcelain surface.

2020 Became "Lotte Chemical Co. Ltd." after merging with "Lotte Advanced Meterial." [sic]

Released "Gold Liner", a differentiated pattern in Radianz.

2021 Built a 2nd plant in Belenco, Turkey.

Radianz 2021 Material Safety Data Sheet

910. A Material Safety Data Sheet (MSDS) identifies the product as "Radianz" and identifies the name of the manufacturer and supplier of the product as "LOTTE CHEMICAL CORP." located in the Republic of Korea.

911. Section 2 of the MSDS is titled "Hazard Identification" and has a subsection titled "Classification of the substance or mixture," stating that the product is "Not Classified," that "the hazards of this product are associated with its fabrication" "such as sawing, routing and sanding can generate dust," and that "exposure to high concentration of dust or inhalation may cause respiratory irritation and sneeze," "this information is according to exposure limits of SM (Styren Monomer)."

912. Regarding "Label elements" the MSDS states:

Pictogram - none
Signal word - none
Hazard statement - none
Precautionary statement - "Not Applicable."
NFPA rating: Health - Not applicable.

913. Section 3 of the MSDS, titled "Composition/Information on Ingredients" provides the following table:

Chemical	Usual Name	CAS No.	Concentration range (%)
Quartz	Silica	14808-60-7	85~93
Unsaturated Polyester Resin	UPE	216123-45-5	7~15
Pigment	Pigment	Trade secret	<1

914. Section 8 of the MSDS is titled "Exposure Controls/Personal Protection" and contains a subsection titled "Control parameters." This subsection states:

> Occupational Exposure Limits: Not available
> TWA: 0.1 mg/m^3 - Quartz
> STEL: Not available
> ACGIH: Not available
> Biological exposure limit: Not available

915. The next subsection titled "Appropriate engineering controls" says "Not available."

916. The next subsection titled "Individual protection measures, such as personal protective equipment" states:

> Respiratory protection - Wear dust mask
> Eye Protection - Wear safely [sic] glasses
> Hand Protection - Wear protective gloves
> Skin Protection - protectieve [sic] clothing

917. Section 11 of the Material Safety Data Sheet is titled "Toxicological Information." Reagrding "Information on toxicological effects," the MSDS states: "Respratory [sic] system - High concentration may cause difficulty with breathing." Regarding "Acute toxicity" by Inhalation, the MSDS states: "Acute exposure: High concentration may cause difficulty with physical breathing" and "Chronic overexposure: Not available." Regarding "Toxicalogical [sic] Effects," the MSDS states: "Not applicable."

918. Section 15 of the Material Safety Data Sheet, titled "Regulatory Information" states:

> Occupation safety and health acts - Not available
> Chemical Safety Assessment - Not available
> Safety control of dangerous substances Act - Not available
> Wastes control Act - Not available
> Foreign legal - U.S. regulations - OSHA Hazard Communication Standard (29 CFR 1910.119) - Not applicable.

919. The Material Safety Data Sheet is grossly inadequate and provides false information. The MSDS does not mention that exposure to dust from the product can cause silicosis, lung cancer

or any of the diseases known to be caused by occupational exposure to crystalline silica. Nor does the MSDS provide any instructions how to use the product to prevent fatal lung disease. The Material Safety Data Sheet for the product is not merely inadequate; it provides much false information and conceals hazards, indicating that there are no hazards. The MSDS also does not inform workers that they need to use special ventilation, water suppression techniques, air-supplied respirators and other measures to prevent developing silicosis and other fatal disease caused by silica.

LOWE'S HOME CENTERS

920. According to information on its website, "Lowe's has grown from a small-town hardware store in North Carolina to one of the largest home improvement retailers in the world." [https://corporate.lowes.com/who-we-are/our-history]

921. Headquartered in Mooresville, North Carolina, Lowe's operates a chain of retail stores in the United States. As of October 28, 2022, Lowe's and its related businesses operated 2,181 home improvement and hardware stores in North America. [Lowe's 2020 Annual Report, available at https://corporate.lowes.com/sites/lowes-corp/files/annual-report/lowes-2020ar.pdf].

922. On November 12, 2013, Lowe's Home Centers, LLC filed an application to register a foreign limited liability company with the California Secretary of State, providing 1605 Curtis Bridge Road, Wilkesboro, NC 28697 as Lowe's principal executive office and providing 1000 Lowe's Blvd., Mooresville, NC 28117 as the mailing address of the company's principal executive office.

923. Lowe's has known about the toxic hazards that silica presents to worker health since at least mid-2014.

924. On August 16, 2014, the U.S. Department of Labor's Occupational Safety and Health Administration and the Georgia Hispanic Construction Association conducted a construction safety and health fair for construction workers and their families on at Lowe's Home Center, 4950 Peachtree Industrial Blvd., Chamblee 30341. Loew's sponsored this event, along with Univision Atlanta, El Nuevo Georgia Precision 2000, Fulcro Insurance, DeWalt, Holder Construction, and

Georgia 811. The fair featured construction-related workshops and classes covering silica and other workplace hazards, fall protection, trenching, heat illnesses, and personal protective equipment. Loew's was also aware that Spanish-speaking Hispanic immigrants were especially vulnerable to the health hazards of occupational exposure to respirable crystalline silica and that health hazard and safe use information had to be translated into Spanish, because the Occupational Safety and Health Administration distributed Spanish-language publications about occupational safety and health issues at the fair.

925. Lowe's offers Silestone and Caesarstone Quartz Countertops on its website. [https://www.lowes.com/pl/Kitchen-countertops-Kitchen-countertops-accessories-Kitchen/4294696736?cm_mmc=src-_-c-_-prd-_-kit-_-ggl-_-B_KIT_233_Countertops-_-counter%20tops%20at%20lowes-_-0-_-0-_-0&gclid=CjwKCAjwp8OpBhAFEiwAG7NaEsISKOQ-67OG3PlZSxEQIz4E7C7_inmfQYEpbD_JewTuNmR9HN327hoC91wQAvD_BwE&gclsrc=aw.ds].

926. Among the brands of artificial stone that Lowe's has offered for sale on its website are Allen + Roth, Caesarstone, Dekton, SenSa, and Silestone.

927. Plaintiff is informed and believes and thereon alleges that Defendant, Lowe's Home Centers LLC, has, for many years sold various stone and other silica-containing products that contained warnings of the hazard of silicosis from crystalline silica and that Lowe's Home Centers, LLC, was therefore well aware of the toxic hazards of crystalline silica to the human respiratory system, including its ability to cause silicosis, lung cancer, and other lung diseases.

928. Plaintiff is informed and believes and thereon alleges that among the silica-containing products that Defendant, Lowe's Home Centers, LLC, has long sold at its stores are basalt, bricks, cement, ceramic, clay, cobble stone, concrete, dolomite, drywall, epic stone, field stone, flag stone, glass, granite, gravel, ledge stone, limestone, marble, mortar, mosaic, natural stone, pavers, paving stone, paving stone joint sand, pebble stone, onyx, porcelain, quartzite, rock, sand, sandstone, serpentine, silica sand, slate, soapstone, tile, and travertine.

929. Plaintiff is informed and believes and thereon alleges that although Defendant, Lowe's Home Centers, LLC, was well aware that the stone and other construction products that it sold contained crystalline silica, that the artificial stone products that it brokered for sale contained

extremely high levels of crystalline silica, and that exposure to respirable crystalline silica causes silicosis as well as other lung diseases, kidney disease, and multiple autoimmune diseases.

930. Plaintiff is informed and believes and alleges that notwithstanding its knowledge of the silicosis and other health hazards to fabricators of stone countertops whose sale Defendant, Lowe's Home Centers LLC, brokered, Defendant, Lowe's Home Centers LLC, concealed the silicosis and other health hazards from Plaintiff and from other stone countertop fabrication workers to whom countertop fabrication was subcontracted by Lowe's Home Centers LLC, or contractors who purchased the artificial stone slabs from Lowe's Home Centers LLC, or to whom Lowe's Home Centers LLC subcontracted stone countertop fabrication work.

931. Plaintiff is informed and believes and thereon alleges that officers of Defendant, Lowe's Home Centers, LLC, including Michael Albrecht, David R. Green, Richard Goodman, Dan Griggs, Brandon Kink, Beth MacDonald, Cesar Martinez, and Gary White, were aware of the silicosis hazard of the artificial stone products that Lowe's Home Centers, LLC, was brokering and supplying, and that said officers ratified the company's concealment of hazards to stone countertop fabricators, including Plaintiff.

932. Plaintiff is informed and believes and thereon alleges that the acts, omissions, and concealment of hazards undertaken by employees of Defendant, Lowe's Home Centers, LLC, were approved and ratified by Michael Albrecht, David R. Green, Richard Goodman, Dan Griggs, Brandon Kink, Beth MacDonald, Cesar Martinez, and Gary White, all of whom were officers, directors, and/or managing agents of Defendant, Lowe's Home Centers, LLC.

LX HAUSYS AMERICA, INC.

933. LX Hausys America, Inc. is a subsidiary of LX Hausys Ltd., a company headquartered in Seoul, Korea that operates 7 overseas sales corporations, 4 overseas manufacturing corporations, and 5 overseas representative offices, mainly in the United States. In 1995 the company began producing acrylic solid surface products under the tradename "HIMACS." In 2005 it completed construction of a HIMACS plant in Adairsville, Georgia. Expanding its manufacturing operations

in the United States, in 2011 the company completed construction of an engineered stone plant in Adairsville, Georgia and in 2021 it completed expansion of its third production line for engineered stone at the plant. LX Hausys America's artificial stone product is sold under the tradename Viatera.

934. LX Hausys America, Inc. is headquartered in Atlanta, Georgia, and registered to do business in California in 1988 as Lucky America, Inc., a New Jersey corporation, and had its principal office in California at 13013 East 166th Street, Cerritos, California 90701. The company changed its name several times, to LG Chemical America, Inc. in 1995; to LG Chem America, Inc. in 2003, to LG Hausys America, Inc. in 2009, and to LX Hausys America, Inc. in 2021.

2015 Safety Data Sheet for Viatera

935. On June 20, 2015 LG Hausys America, Inc. issued a Safety Data Sheet for Viatera® (Engineered Stone), which it described as an agglomerate of natural quartz and polyester resin. In Section 3 of this Safety Data Sheet the company identified two hazardous ingredients: Quartz (≥90%) and Pigmented cured polyester (<10%).

936. Section 2 of the Safety Data Sheet, regarding Hazards identification, provided two hazard statements: "May cause cancer" and "Causes damage to organs through prolonged or repeated exposure." The first statement is misleading because it suggests the product is not known to cause cancer, although it contains at least 90% crystalline silica, which is a known human carcinogen and was recognized as such by the International Agency for Research on Cancer in 1997. The second statement is also misleading, because it does not specify the duration of the "prolonged" exposure or the number of exposures that constitute "repeated" exposure that causes damage to organs. Workers therefore cannot know whether they must be exposed to the product for weeks, months, years or decades, or must be exposed hundreds, thousands, or tens of thousands of times to suffer organ damage. The statement is also misleading, because prolonged exposure suggests exposure of many years resulting in chronic disease, although artificial stone workers typically develop acute silicosis in less than 5 years or accelerated silicosis after 5 to 10 years of exposure. The hazard statements are also deficient because they do not mention silicosis as a health hazard of the product,

although it is the major health hazard of the product. Indeed, the word "silicosis" does not appear in the entire Safety Data Sheet, even though the product contains more than 90% crystalline silica. This constitutes a gross failure to warn of the health hazards of the product that violates the Hazard Communication Standard.

937. After providing the two inadequate hazard statements in the "Hazards identification" section of its 2015 Safety Data Sheet, LX Hausys America, Inc., provided 10 "Precautionary Statements": (1) "Obtain special instructions before use" (without stating what "special instructions" were to be obtained and from whom such special instructions could be obtained); (2) "Do not handle until all safety precautions have been read and understood," (although most artificial stone fabricators are immigrants who cannot read English), (3) "Do not breathe dust/fumes/gas/mist/vapors/spray" (as though workers should hold their breath throughout the work day), (4) "Wash hands thoroughly after handling" (although the products do not present appreciable health hazards by skin absorption); (5) "Do not eat, drink or smoke when using this product" (although the product does not present any appreciable health hazard by ingestion and is not a fire hazard); (6) "Wear protective gloves/protective clothing/eye protection/face protection," (rather than the critical information that it is essential to wear an air supplied respirator when fabricating the product); (7) "If exposed or concerned: Get medical advice/attention," (although fabricators are constantly exposed to the product when they cut, saw, grind, drill, edge, and polish the product); (8) "Get medical advice/attention if you feel unwell," (a useful instruction although it is generally not related to use of the product), (9) "Store locked up," (a pointless instruction, because slabs of the product are too large to lock up and are so heavy they can only be stolen with great difficulty), and (10) "Dispose of contents/container to hazardous or special waste collection point, in accordance with local, regional, national and/or international regulation." Most noteworthy is the absence of any precautionary statement that respiratory protection is necessary, in particular that workers fabricating the product must wear a NIOSH-approved air supplied respirator to prevent silicosis.

938. In Section 3 of the Safety Data Sheet, LX Hausys America, Inc., also concealed the identities of the ingredients of the product other than quartz, by stating that the product contains

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"pigmented cured polyester," without identifying the ingredients of this component of the product, and without identifying any inorganic and/or metallic constituents of the product other than quartz.

939. In Section 7 of the Safety Data Sheet, LX Hausys America, Inc., provided the following "precautions for safe handling": "Avoid breathing dust. Avoid cotact [sic] with slin [sic] and eyes. Provide good ventilation in process area to prevent formation of vapour. Obtain special instructions before use. Do not handle until all safety precautions have been read and understood. Avoid spilling the product, as this might cause danger of slippage and falls." The instruction to "avoid breathing dust," is meaningless without explaining how fabricators and installers could avoid breathing dust from the product without wearing air supply respirators (which LX Hausys does not advise is necessary to protect workers from silicosis). The misspelled instruction to avoid contact with skin and eyes is only minimally useful because crystalline silica is not dermally absorbed and no specific dermal or ocular protection is specified. The instruction to "provide good ventilation in process area to prevent formation of vapour," fails to specify the type or degree of ventilation that is necessary to prevent silicosis and fails to explain why vapor would be forming from the fabrication of artificial stone and if vapor formation is a hazard of the product, why it is is a hazard, what vapors form, and how workers should protect themselves from such unspecified vapors. The instruction to "obtain special instructions before use" is meaningless without specifying what "special instructions" are to be obtained and from whom such special instructions can be obtained. The instruction "do not handle until all safety precautions have been read and understood" is pointless, because most artificial stone fabricators are Hispanic immigrants who can neither speak nor read English, and could not understand safety precautions in English, even if LX Hausys provided intelligible safe use instructions. The instruction to "[a]void spilling the product" makes no sense, because the product is extremely hard stone, rather than a liquid. Thus, LX Hausy's use instructions are meaningless and are not protective of worker health and safety.

940. In Section 8 of the Safety Data Sheet, regarding"Exposure controls," LX Hausys America, Inc. recommended the following "respiratory protection": "Avoid inhalation of powder generated. Wear a respirator." The first of these instructions is nonsensical, because fabricators cannot avoid inhaling respirable crystalline silica dust when fabricating artificial stone; the second

instruction concealed critical information necessary to prevent silicosis, i.e., the specific type of respirator that is necessary to prevent silicosis (an air-supplied respirator), and instead provided misleading information – that any respirator would protect workers from harm, although air-purifying respirators do not protect artificial stone fabricators from silicosis and actually contribute to the development of silicosis, because they do not adequately filter out respirable crystalline silica.

941. In Section 11 of the Safety Data Sheet, regarding "Toxicological information," LX Hausys section of the Safety Data Sheet, Defendant provided misleading information regarding carcinogenicity by stating that the product "may cause cancer," although respirable crystalline silica is a known human carcinogen, i.e., it does cause cancer and has been classified as a known human carcinogen by the International Agency for Research on Cancer since 1997.

2020 Safety Data Sheet for Viatera

942. On January 17, 2020 LX Hausys America, Inc. issued a new Safety Data Sheet for Viatera (Engineered Stone). In Section 3 of this Safety Data Sheet, LX Hausys identified three ingredients of the product: Crystalline Silica (Quartz) (≤ 93%), Pigmented cured polyester (< 10%), and Polymethylmethacrylate (Polyester Resin Solution) (< 10%). Like its 2015 Safety Data Sheet, this revised Safety Data Sheet does not mention the hazard of silicosis, but conceals this hazard in violation of the Hazard Communication Standard. While the 2020 Safety Data Sheet corrects the spelling of some misspelled words in the 2015 Safety Data Sheet and provides a Proposition 65 cancer hazard warning, it does not correct the inadequate health hazard warnings regarding silicosis and the inadequate and harmful use instructions of the 2015 Material Safety Data Sheet.

M S INTERNATIONAL, INC.

943. M S International, Inc. is commonly known as "MSI" and is often called "International" by stone fabricators.

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944. MSI's corporate headquarters is located at 2095 N. Batavia Street, in Orange, California; the company has distribution centers in Southern California at 9111 Sunland Blvd., Sun Valley, California, and in Northern California at 22300-B Hathaway Avenue in Hayward, California.

945. MSI claims to have been founded in 1975, but was incorporated in Indiana in 1983 and registered with the California Secretary of State on September 7, 1984.

946. MSI's website states that MSI was founded by Manu and Rika Shah and that in 1984 "Manu and Rika decided to move the company to Southern California, driven by their vision that, to ultimately succeed in distribution, a company must be located in focal distribution points."

947. MSI's website states that "[i]n 1987, the Shahs realized that natural stone for residential and commercial usage had even higher market potential [than monuments and tombstones], and directed their efforts towards developing this sector of the industry.

948. MSI's website states that "[i]n 1997, MSI embarked on its vision of becoming the first nationwide distributor of natural stone in the U.S. by opening a second location in Edison, New Jersey."

949. MSI's website states that "[i]n 2003, with the company approaching nearly $50 million in annual revenues, Manu and Rika's sons, Raj and Rup, left their careers in investment banking to join the family business for the next stage of growth. Over the next five years, MSI focused on opening 1-3 new distribution centers each year, as well as dramatically broadening their product offering beyond just natural stone from India."

950. On August 4, 2004, an article by Michael Reis was published in Stone World regarding M S International. This article reported: "As one of the first suppliers of Indian granite to the U.S., MS International (MSI) has been a contributor to the growth of the industry. Although MSI began as an importer and distributor of Indian granite, today it is one of the largest distributors of natural stone in the country. MSI currently has one of the largest stocks of natural stone with over 20 million square feet of granite, marble, slate, travertine and limestone from over 25 countries. The inventory of tiles, slabs, landscaping products and monuments is stocked in five distribution centers located strategically across the country." The article also reported that the founder of M S International, Manu Shah, "moved his base of operations to Southern California in 1984, and MSI opened its own

6,000-squarefoot warehouse in 1987. That same year, the company introduced Black Galaxy granite -- which was quarried and processed in India by Enterprising Enterprises -- to the U.S. marketplace. The stone eventually became trademarked, and it became one of the most popular granites in the U.S." The article further reported: "The company's selection of materials steadily increased, as MSI began bringing in Italian stone as well as multi-colored Indian slate in 1987. The company started importing Norwegian granite in 1989, and it also expanded into crosscut travertine from Mexico in the early '90s. Another introduction was classifying products under the general term, "natural stone," according to Shah. That was a significant change, and by 1995 and 1996 this name was in vogue. Marble and granite became known as 'natural stone.'" The article further stated: "Shah reports that MSI will sell close to 6,000 containers of stone in 2004. This follows 11 straight years of growth, over which the company's volume increased by a factor of 10. Today, the majority of MSI's product comes from countries including India, Turkey, Brazil, China, Mexico and Spain."

951. MSI's website states that "[b]y 2008, MSI was among the top importers o natural stone in the world, calling upon virtually every major source country across the globe, including India, Brazil, China, Turkey, Italy, Spain, and Mexico."

952. On October 27, 2010 *Stone World* published a news report titled "MS International, Inc. announces the Grand Opening of its new Stone and tile Design Center in Orange, CA." This article announced the opening of MSI's new 15,000 square foot design gallery at its corporate headquarters in Orange, California. This article reported: "The new stone and tile design gallery incorporates the full line of MSI's product line of granite, marble, slate, travertine, limestone, quartz, porcelain, ceramic, sinks and glass mosaics -- serving the flooring, countertop and landscaping industries. In addition to a refreshed look for MSI's existing products, the new design center includes MSI's newest product offerings, including approximately 20 lines of porcelain, 25 new colors of natural stone slabs, 200 new varieties of wall tile and mosaics, Q Premium Natural Quartz and MSI's new line of prefabricated countertops and stainless steel sinks. With products imported from 36 different countries, MSI's corporate headquarters maintains over 1,500 containers of inventory, offering customers a selection of natural stone and related products among the largest in the country."

953. MSI's website states that "[i]n 2012, with MSI approaching $500 million in annual revenues, Raj and Rup Shah were appointed Co-Presidents of MSI, to lead the next phase of growth. Since 2012, not only has the Company maintained its leadership in natural stone, but it also has become the leader in the distribution of many manufactured hard-surfacing products, including porcelain and ceramic tile, quartz countertops, and decorative mosaics. Additionally, since that time, the Company has doubled the number [of] distribution centers across the country to over 25 . . . ."

954. On May 1, 2015, an article by Jason Kamery was published in *Stone World* titled "MIA/Stone Wolrd Dallas Stone Summit talks about metrics and the new silica regulations." This article reported: "Inviting fabricators from all over the area, MS International, Inc. (MSI) hosted the Stone Industry Education presented by the Marble Institute of America (MAI) and *Stone World* magazine. The event included a main presentation in the morning, networking opportunities, a warehouse tour and a Fabricator Forum, which provided an opportunity for attendees to discuss a number of industry topics. The event included 45 fabricators from 27 companies and 83 total participants." The article reported that "GK Naquin of Stone Interiors North America started off the day with a presentation about analyzing shop performances from sales to production and measuring metrics" and that "[a]s the event continued it covered topics such as evaluating the cost of installing countertops, the cost of overhead, how the market has changed in 20 years, servicing the customer base and understanding what they want, sales techniques and, finally, setting expectations for your sales representatives." The article stated: "In between discussing the major topics of the program, Naquin discussed the changes in the new silica regulations coming out. "It's very straining to our industry," said Naquin. "They are cutting it in half from 100 measures to 50. Some wet shop operations may not meet the silica requirements in the new proposed legislation. This is designed – and it says it right here, and it's from OSHA – 'Workers exposure to silica during countertop manu-facturing, finishing and installation.' Now would you consider that to be a targeted publication? Is everyone seeing the big red dot on their back? How many people think OSHA isn't going to visit their shop in the next few years? If you raised your hand, guess what, get your $10,000 ready right now." This news report shows that at least as early as 2015 MSI was aware of the hazard that silica presented to stone countertop fabricators and installers. The news report also shows that

although MSI hosted this event about "metrics and the new silica regulations," the new silica regulations were not one of the "Major topics of the program," but was only briefly discussed "[i]n between discussing the major topics of the program" and did not address the health hazards of fabrication workers, but merely lamented that countertop fabrication companies would have a "big red dot on their back" and would incur $10,000 in expense regarding OSHA inspections of stone countertop fabrication shops. The article also shows that even though MSI had claimed for years that it was an importer and distributor of stone slabs rather than a retail seller, that MSI could identify local stone countertop fabrication shops and invite them to an educational seminar where MSI could inform them of the toxic hazards that silica presented to their employees and how to protect their employees from those hazards, although MSI did not communicate such information to the stone countertop fabrication companies that it invited to its educational seminar in Dallas, Texas.

955. On October 8, 2015, MSI hosted an education seminar at its facility in Southern California on how to better market your business. This seminar featured Marty Gould, a a marketing consultant to the stone industry, and was directed to stone countertop fabrication businesses in Southern California. This seminar was part of MSI's plan to market its products to stone coutertop fabrication businesses in Southern California. Although many owners of stone countertop fabrication businesses in Southern California attended this seminar at MSI's facility in Southern California at which MSI informed them how to better market their business, MSI did not inform any of the stone countertop fabrication companies that attended the MSI seminar of the toxic hazards that crystalline silica in its products presented to their employees and did not provide them any information how to protect their employees from the toxic respiratory hazards of its products at this seminar.

956. MSI's website states that "[i]n 2017, MSI crossed $1 billion in annual revenues and over 1,750 employees worldwide."

957. On September 29, 2017, *Stone World* published a news report titled "MS International Updates Video Library" which stated: "Consumers often turn to video as an educational tool as they go through the tile and flooring materials buying process. MS International (MSI) recently added 10

new videos to the company's video library for retailers and designers to embed on their company websites, post on social media, or use for internal training." Although these videos extolled the benefits of the stone slabs marketed by MSI, none of them mentioned the silicosis hazard to the workers who fabricated and installed MSI's stone products as countertops in consumers' kitchens and bathrooms, although this hazard was well known to MSI and its officers and directors at the time.

958. MSI's website states that"MSI announced the establishment of a 360,000 square foot Domestic Quartz Manufacturing facility, based in Latta, South Carolina in 2019. MSI's domestic manufacturing plant provides the most advanced state-of-the-art machinery combined with patent production processes to produce the most natural-looking quartz countertops in the market."

959. MSI's website states that "[i]n 2021, MSI crossed $2 billion in annual revenues and over 2,500 employees worldwide.

960. On June 2, 2022, *Stone World* reported that the Association for Corporate Growth awarded MS International Top Company for Sustainable Growth at the organization's 27th annual awards event in Orange, California.

961. MSI's website states that today, "[w]ith over $2.8 billion in annual revenue, 3,000+ U.S. employees, and helping create over 400,000 jobs around the world across their supplier base, MSI has very ambitious expansion plans for the future. This includes opening additional branches across the U.S. and Canada, as well as continuing to intorduce new and innovative products across all major product lines."

962. According to its website, "MSI imports materials from 36 countries while maintaining purchasing offices in India, Turkey, Brazil, China, and Italy. Headquartered in Orange, California, MSI's nationwide system of 18 state-of-the-art distribution centers and 2 additional sales office is focused on efficiency, making sure the over 30,000 containers we import arrive as expected."

963. On its website, M S International, Inc. provides Installation Guidelines for its Premium Natural Quartz. However, these guidelines do not mention any protective measures that workers need to follow to prevent exposure to respirable crystalline silica and silicosis.

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MS International's 2021 Safety Data Sheet

964. On March 11, 2021, MSI issued a Safety Data Sheet for "Quartz" which stated that "encompasses all types of Quartz products manufactured/sourced by M S International, Inc." The Safety Data Sheet states that the "Recommended Use" of the product is a "Building Material."

965. Section 2 ("Hazards Identification") of the Safety Data Sheet states: "Quartz products are mixtures [of] natural occurring minerals that have been mined. The finished products are odorless, stable, non-flammable, and pose no immediate hazard to health. Respiratory, hand, and eye protection may be needed to prevent excess exposure to airborne particulates if dust is produced by cutting product during installation or by any other operations, including demolition/removal projects." The statement that the "finished products . . . pose no immediate hazard to health" is false and misleading for two reasons. First, the product is not a "finished product" sold to consumers, but is a "building material," i.e., a slab of artificial stone, that must be fabricated as a countertop and installed in a consumer's kitchen or bathroom before it becomes a "finished product." Second, the ordinary, intended and expected use of the product is for workers to cut, grind, polish and otherwise fabricate the product, which generates dangerous levels of respirable crystalline silica dust that causes silicosis and other occupational diseases, including acute silicosis, such that the product does "pose an immediate hazard to health." The statement that "respiratory, hand, and eye protection may be needed to prevent excess exposure to airborne particulates if dust is produced by cutting [the] product . . . or by any other operations" is also false and misleading for two reasons. First, dust is *always* produced by cutting the product and by other fabrication processes such as grinding, drilling, routing, edging, and polishing the product. Second, an air supplied respirator must always be worn when the product is being fabricated, because fabricating artificial stone slabs generate high levels of crystalline that a NIOSH-approved air supplied respirator must always be worn to prevent all exposure to respirable crystalline silica dust and the consequent development of silicosis. The statements in the Hazards Identification section of the Safety Data Sheet are also noteworthy for what they do not state: They do not mention the greatest health hazard of the product: silicosis. Indeed, the only two hazards to the lungs are mentioned. The first is "respiratory tract irritation,"

a transitory, common effect of exposure that results from many activities, such as cutting an onion. The second respiratory hazard mentioned is "damage to organs (lungs/respiratory) through prolonged or repeated exposure (inhalation)." This statement is misleading, because it does not specify the duration of the "prolonged" exposure or the number of exposures that constitute "repeated" exposure that causes damage to the lungs or the respiratory tract. Workers therefore cannot know whether they must be exposed to the product for weeks, months, years or decades, or must be exposed hundreds, thousands, or tens of thousands of times to suffer lung damage. The statement is also misleading, because prolonged exposure suggests exposure of many years resulting in chronic disease, although artificial stone workers typically develop acute silicosis in less than 5 years or accelerated silicosis after 5 to 10 years of exposure. The misleading statements therefore endanger the health of workers.

MS International's Letter to the Los Angeles County Board of Supervisors

966. On July 28, 2023 Rupesh Shah, Co-CEO of M S International, Inc., signed a letter to the Los Angeles County Board of Supervisors, urging the Board of Supervisors not to ban the importation and use of artificial stone in Los Angeles County. This letter stated: "Stone products are safely handled and worked on every day, including in Los Angeles County . . . ." This statement is false, because artificial stone products are not "safely handled and worked on every day, including in Los Angeles County," as is shown by the epidemic of accelerated silicosis among stone countertop fabricators which has its epicenter in Los Angeles County.

967. The letter by CEOs of artificial stone manufacturers seeks to foist blame on the owners of the small fabrication shops that fabricate artificial stone, rather than accepting personal responsibility for the deadly effects of their defectively designed artificial stone products. Thus, the letter states that "fabrication employers must provide necessary training, air monitoring and adherence to air quality requirements, engineering air handling controls, personal protective equipment (PPE), and medical surveillance in compliance with OSHA regulations." While multi-billion dollar manufacturers and importers like Cambria, MS International, Dal-Tile, and of course, Caesarstone and Cosentino, have the financial resources to spend millions of dollars to make their

manufacturing facilities safe for their workers, fabrication shops (most of which are small mom-and-pop businesses that have 2 to 10 workers and generate annual revenues of a few hundred thousand dollars) lack the financial resources to implement the necessary protective measures, which cost a few million dollars in capital costs per shop, with annual maintenance costs of a few hundred thousand dollars. Thus, it is facetious for the multibillion dollar manufacturers and importers to seek to blame fabrication shop owners for their inability to protect workers from the deadly hazards of their artificial stone products.

968. The letter also states: "Stone products, including engineered stone, have been manufactured and fabricated safely for decades . . . ." This statement is false. Artificial stone is a relatively new product in commerce that first began being manufactured by Caesarstone in 1987 and was first imported into the United States in the 1990s. The first case of artificial stone-induced silicosis was seen in 1997 by physicians at the National Lung Transplantation Center in Israel. This worker was exposed to Caesarstone, developed silicosis, and underwent lung transplantation. Over the next 14 years, researchers at the National Lung Transplant Center in Israel diagnosed silicosis in 25 patients exposed to Caesarstone, of whom 15 (60%) were determined to be lung transplant candidates. Kramer MR, et al., "Artificial Stone Silicosis: Disease Resurgence Among Artificial Stone Workers," *Chest* 2012; 142(2):419-424. Thus, the statement in the letter that "engineered stone ha[s] been manufactured and fabricated safely for decades is clearly and indisputably false.

MS International's Endorsement of Misrepresentations by The Stone Coalition

969. In October 2023, a Paid Advertisement titled "Illegal Cutting Processes, Not Stone Products, can Cause Silicosis," was published in the Los Angeles Times. The advertisement states that it was "Paid For By The Stone Coalition," info@stonecoalition.org, which is described as "a collaborative effort between the quarts surface and natural stone industries."

970. The Stone Coalition is an industry trade association that was apparently formed in 2023 to defend the Stone Countertop Fabricator Silicosis Cases by mounting a public relations campaign to deflect liability from stone slab manufacturers, distributors and suppliers, by attempting

to foist blame for the new stone fabricator silicosis epidemic on the victims, their employers, and regulatory and enforcement agencies – all to avoid accepting personal responsibility for the massive (ultimately fatal) harm that they have inflicted on thousands of young immigrant workers.

971. The home page of the new website of The Stone Coalition bears the name and logo of the Natural Stone Institute, implicating that industry trade association with the new trade association. The home page states: "The Stone Coalition is dedicated to promoting safe, wet processing technology in stone-cutting facilities while prioritizing compliance with OSHA air monitoring standards and other silica rules. Safety is our unwavering commitment." That is quite a statement by stone companies that for years opposed OSHA's adoption of the Silica Standard.

972. A webpage titled "About" describes "Our Organization" as follows: "The Silica Safety Coalition is a collective of dedicated stone fabricators, manufacturers, stone distributors, and industry professionals united by a shared commitment to promoting workplace safety within the stone cutting and fabrication sector. Our mission is to promote and maintain the highest standards of safety, supporting the well-being of workers throughout every stage of stone processing." These statements are at best mere industry propaganda and at worst blatant falsehoods. The Coalition is actually a collective of multibillion dollar stone manufacturers and distributors that have been sued for causing the new stone fabricator silicosis epidemic – companies that for years failed to prepare any Safety Data Sheets or labels for their stone products or prepared Safety Data Sheets and/or labels that were so deficient that they caused, rather than prevented, the new fabricator silicosis epidemic.

973. The website of The Stone Coalition does not identify its members, but the "About" webpage contains a section titled "Workplace Safety" that informs readers to "Click the button to read our letter to the Los Angeles County Board of Supervisors." Clicking on the button reveals a letter dated July 28, 2023 to the Los Angeles County Board of Supervisors in which the authors of the letter attempt to persuade the Los Angeles County Board of Supervisors not to ban the importation and use of artificial stone products in Los Angeles County. The letter is signed by executive officers of four artificial stone companies: Marty Davis, CEO of Cambria; Rupesh Shah, Co-CEO of M S International, Inc.; Matthew Kahny, President of Dal-Tile; and Nate Kolenski,

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President of Block Tops, Inc.; and James A. Hieb, CEO of the Natural Stone Institute. The first three of these companies are among the most culpable defendants in the Stone Fabricator Silicosis Cases.

974. The title of the Paid Advertisement is itself misleading and false, for two reasons. First, it states that stone products do not cause silicosis, although most silicosis cases over the millenia and at the present time have been and continue to be caused by crystalline silica dust from stone products. Second, it states that only "illegal cutting processes . . . can cause silicosis," although cutting stone slabs can cause silicosis whether the cutting process is performed "legally," i.e., in compliance with OSHA requirements, or "illegally," i.e. in violation of OSHA requirements.

975. The Paid Advertisement begins with the following statement: "Silicosis, a rare lung disease resulting from the inhalation of crystalline silica dust from dry-cutting or grinding concrete, brick or stone, has been found in illegal and unregulated stone fabrication across California, with a significant concentration in the San Fernando Valley." This statement is at best misleading and at worst false, for a few reasons. First, silicosis is not a rare lung disease. It is the oldest lung disease known to humankind and has killed more workers over the millenia than any other lung disease, including all lung diseases caused by exposure to asbestos. Additionally, recent epidemiological studies have reported a prevalence of silicosis among stone fabricators in the range of 30% to 40%, making it an especially common occupational lung disease that is of great public health concern. Second, the statement falsely suggests that silicosis is only caused by dry-cutting or grinding, although many workers who regularly used water-dispensing powered tools to reduce the amount of dust in fabricating stone countertops now suffer from silicosis and the National Institute for Occupational Safety and Health (NIOSH) has done studies which show that wet processing methods are inadequate to prevent silicosis among workers who fabricate artificial stone countertops. Third, silicosis among countertop fabricators and other workers exposed to crystalline silica has been shown to occur even at exposure levels below limits adopted by the Occupational Safety and Health Administration (OSHA), i.e., "legal" stone fabrication.

976. The Paid Advertisement then states: "Yet, this disease is preventable through wet processing techniques and strict adherence to existing OSHA regulations." This statement is also false, because studies by NIOSH show that even fabrication workers who regularly use water-

dispensing tools and wear particulate filter respirators at all times they are in the fabrication shop still develop silicosis from exposure to artificial stone dust.

977. The Paid Advertisement then states: Despite Federal and State regulations to prevent the use of 'drycutting,' or cutting of stone or tile without water, and requiring personal protective equipment (PPE), many noncompliant facilities continue to put their employees at risk by failing to implement these basic safety precautions." This statement is also misleading and false, because most stone countertop fabrication shops have followed the recommendations of artificial stone manufacturers to use powered tools that dispense water to suppress dust generated by the fabrication of artificial stone, as well as the manufacturers' recommendations to have their employees wear particulate filter masks. However, both of these precautionary measures recommended by stone slab manufacturers are inadequate to prevent silicosis among stone countertop fabricators, which recommendations misled both employers and fabrication workers to believe that following the manufacturers' recommendations would prevent fabrication workers from developing silicosis. The use of water-dispensing tools is inadequate to prevent silicosis in artificial stone fabricators because at most it merely reduces the amount of lethal crystalline dust to which fabrication workers are exposed, and particulate filter masks do not prevent the extremely small particles of crystalline silica from cutting artificial stone from being inhaled and causing silicosis. In fact, the recommendation of the artificial stone manufacturers to wear a "NIOSH-approved" mask has caused many workers to develop silicosis, because NIOSH-approved particulate filter masks do not prevent harmful silica exposure, the only type of respirator that is effective in doing so is an air-supplied respirator, which the manufacturers of artificial stone have not recommended as necessary protection for workers.

978. The Paid Advertisement then states that Jim Hieb, CEO of the Natural Stone Institute, knows this doesn't have to happen and quotes him saying: "Silicosis is preventable. Any contractor that follows Cal/OSHA's guidelines ensures that any cutting of any stone product is done safely." This statement is also misleading and false for a few reasons. First, while silicosis from exposure to natural stone dust may be preventable, silicosis from exposure to artificial stone is not preventable, because unlike natural stone, the fabrication of artificial stone generates massive amounts of ultrafine and nanosized crystalline silica particles that penetrate through particular cartridge respirators and

are inhaled by fabricators and cause progressive massive fibrosis, because they are extremely toxic to the lungs - much more so than larger silica particles from natural stone. Second, while it may theoretically be possible to prevent silicosis in artificial stone fabricators, in the real world it is not possible to prevent silicosis in artificial stone fabricators, because the cost of installing state-of-art ventilation systems, respiratory protection programs, exposure monitoring programs, administrative industrial hygiene programs, and medical monitoring programs necessary to prevent silicosis, the capital cost of implementing these programs is a few million dollars per shop with annual costs of several hundred thousand dollars, which small fabrication shops that generate annual revenues of a few hundred thousand dollars cannot afford. Third, OSHA's guidelines were developed to protect against respirable crystalline silica particles in the micron size range - not ultrafine and nanosized crystalline silica particles that are uniquely generated from the fabrication of artificial stone and present extraordinary fibrotic hazards to the human lung and while compliance with OSHA's exposure limits for respirable crystalline silica may reduce fibrotic lung disease or delay its occurrence among stone fabricators, multiple studies have shown that compliance with OSHA's exposure limits is inadequate to prevent all silicosis. It is therefore extremely irresponsible for the CEO of the Natural Stone Institute to state that compliance with OSHA guidelines "ensures that any cutting of any stone product is done safely." This is especially so, because exposure to crystalline silica not only causes silicosis which may be dose-dependent, but also causes lung cancer and there is no level of exposure to crystalline silica that does not increase fabrication workers' risk of getting lung cancer later in life.

979. The Paid Advertisement also states: "Almost all experts agree that what is being cut matters less than how the stone is cut and fabricated for placement within homes and offices." While this statement may generally be true for natural stone products, it is not true for artificial stone products which present unique respiratory hazards to stone countertop fabricators because artificial stone is manufactured by crushing and pulverizing quartz (crystalline silica) and then adding a polymeric resin, pigments and other additives and curing the mixture, so that when the finished slab is cut, the ultrafine and nanosized particles that are in the plastic matrix are released and are inhaled by fabricators even though they wear particulate filter respirators. Indeed, the extreme hazard of

artificial stone is due not only to the extremely high crystalline silica content of the product (much higher than marble and granite), but is also due to the extremely small size of the crystalline silica particles that are released into the air when fabricators use powered tools to cut artificial stone.

980. The Paid Advertisement also states: "Despite studies and regulations that show that the type of product matters significantly less than the method of cutting, plaintiffs' attorneys have been trying to blame engineered stone for recent cases of Silicosis among stone workers." It is true that attorneys who represent the ever-increasing number of young male Hispanic immigrants who have developed silicosis with progressive massive fibrosis and are terminally ill unless they receive lung transplants, primarily blame artificial stone for causing the workers' fatal lung disease, so too do knowledgeable pulmonologists, occupational medicine specialists, epidemiologists, and public health experts. Indeed, the new occupational disease epidemic of accelerated silicosis among artificial stone fabricators is largely attributable to artificial stone, because it is an inherently dangerous and defective product whose purported benefits which are merely aesthetic in nature, are outweighed by the severe lung and other diseases that this product causes at with such a high disease prevalence.

981. The Paid Advertisement then states: "Engineered stone products including Quartz, have been manufactured and fabricated safely for decades." This statement is a blatant lie. Artificial stone is a relatively new product in commerce that first began being manufactured by Caesarstone in 1987 and was first imported into the United States in the 1990s. The first case of artificial stone-induced silicosis was seen in 1997 by physicians at the National Lung Transplantation Center in Israel. This worker was exposed to Caesarstone, developed silicosis, and underwent lung transplantation. Over the next 14 years, researchers at the National Lung Transplant Center in Israel diagnosed silicosis in 25 patients exposed to Caesarstone, of whom 15 (60%) were determined to be lung transplant candidates. Kramer MR, et al., "Artificial Stone Silicosis: Disease Resurgence Among Artificial Stone Workers," *Chest* 2012; 142(2):419-424. Thus, the statement in the Paid Advertisement that "[e]ngineered stone products, including Quartz, have been manufactured and fabricated safely for decades" is absolutely false.

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982. The Paid Advertisement quotes Mr. Hieb as stating: "The biggest problem our industry faces is enforcement. Without efforts to stop those who are unaware of or unwilling to comply with current regulations, cases of Silicosis are going to keep increasing." This statement is also false and misleading. The biggest problem the stone industry faces is that artificial stone is the cause of a worldwide epidemic of accelerated silicosis among stone countertop fabricators. Stating that the biggest problem the industry faces is enforcement is merely an attempt by manufacturers of deadly artificial stone products to foist blame on OSHA due to its inability to prevent the disease and death that are primarily due to artificial stone products. OSHA is extremely underfunded and lacks the resources to initiate enforcement actions against the thousands of small fabrication shops nationwide and enforcement actions do nothing to prevent silicosis among the tens of thousands of countertop fabrication workers who have already been exposed to crystalline silica from stone products and who already have silicosis even though many of them have not yet exhibited symptoms of this disease. Moreover, many fabrication shops are unaware of the silicosis hazard because the manufacturers of artificial stone for many years did not prepare or provide their customers with Safety Data Sheets or product labels informing them of the silicosis hazard and none of the manufacturers provided their customers with instructions that were adequate to prevent silicosis among fabricators.

983. The Paid Advertisement also states: "Industry leaders provide resources to support smaller businesses in the industry." This statement is at best misleading and at worse false. For years the manufacturers of artificial stone concealed the nature and severity of the toxic hazards of their products from their customers and only provided them training on how to improve profitability. Only after the new silicosis epidemic was well under way did the manufacturers of artificial stone initiate any programs to "support smaller businesses in the industry," and those programs were public relations programs to deflect responsibility from the manufacturers of deadly artificial stone products to blame the epidemic on the victims, the owners of small fabrication shops that employed them, on regulators and governmental enforcement agencies – anyone except themselves for causing the harm.

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Knowledge of the Silicosis Hazard by MS International's Officers

984. Throughout the time that MS International sold its artificial stone products, exposing stone countertop fabricators and installers to respirable crystalline silica from the company's products, MS International's officers and directors were aware that the company's artificial stone products were defective because they contained extremely high concentrations of crystalline silica, were aware that the use instructions that MS International provided were inadequate to prevent silicosis and would actually cause silicosis in exposed workers, and were aware that fabrication companies could not protect fabricators and installers from the lethal silicosis hazard presented by MS International's defective artificial stone products. Among MS International's officers and directors who had this knowledge but who nevertheless consciously disregarded the health and safety of fabricators and installers are: Manu Shah, Chief Executive Officer; Rajesh Shah, Co-President; Rupesh Shah, Co-President, Phillip Caudillo, Vice President of Operations; Judy Hatti Botchlet, Vice President; Steve Dickeson, Chief Financial Officer.

MARBOLIS INC.

985. On December 22, 1998 Marbolis Inc. filed its Articles of Incorporation with the California Secretary of State.

986. On April 9, 2008, Marbolis Inc. filed a Statement of Information with the California Secretary of State, stating that its principal executive office and business office in California is 240 E. Palais Rd., Anaheim, CA 92805, and that its corporate officers were Attila Akkas, Chief Executive Officer and President, and Volkan Sirvanci, Secretary and Chief Financial Officer. The Statement of Information described the company's business as "wholesale natural stone products." On October 1, 2021 and February 13, 2023, Marbolis filed Statements of Information with the Secretary of State providing the same information. Plaintiff is informed that Attila Akkas died August 28, 2023 and that since then Tamer Akkas has been the company's Chief Executive Officer.

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987. On April 24, 2024, Volkan Sirvanci, who identified himself as Vice-President of Marbolis, gave a deposition on behalf of the company in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs, et al.*, LASC Case No. 22STCV31907. Mr. Sirvanci testified that Marbolis is a supplier of Antolini Quartz surfaces, which he referred to as artificial stone. He testified that Marbolis has never sold any brands of artificial stone slabs other than Antolini Quartz manufactured surfaces.

988. Although the Hazard Communication Standard requires importers and distributors of hazardous chemical products to provide Safety Data Sheets to their customers, and Marbolis received Safety Data Sheets and manuals from Antolini for its artificial stone products, Mr. Sirvanci testified that Marbolis did not provide its customers with Safety Data Sheets for Antolini's artificial stone products unless a customer made a request to the company for such documents. Additionally, no Safety Data Sheets for Antolini artificial stone slabs or any other silica-containing products have been or are currently available on Marbolis' website.

989. In conscious disregard of worker health, Mr. Sirvanci testified that fabricators are not Marbolis' customers and that Marbolis did nothing to protect those stone countertop fabricators who fabricated its products and were thereby exposed to dangerous levels of respirable crystalline silica.

MARMOL EXPORT CORPORATION

990. On December 19, 2001, Marmol Export Corporation filed Articles of Incorporation with the California Secretary of State.

991. On March 11, 2004, Marmol Export Corporation filed a Statement of Information with the California Secretary of State, stating that its principal executive office and business office in California is 1550 S. State College Blvd., Anaheim, CA 92806, and that Rafael Garcia is the Chief Executive Officer, Secretary, and Chief Financial Officer of the corporation. The Statement of Information described the company's business as "merchantile - sell of natural stone."

992. On January 25, 2022, Marmol Expert Corporation filed a Statement of Information with the California Secretary of State providing the same address and identifying Rafael Sergio

Garcia as the Chief Executive Officer, Secretary, and Chief Financial Officer of the corporation. This Statement of Information described the business as "sales of natural stone and porcelain."

993. Marmol Export Corporation has a website that can be accessed at marmolusa.com. It has an "About Us" web page that states: "Helping you to create amazing spaces by selecting the best natural stones and luxury tile." The "About Us" web page then tells "Our Story" by stating: "At Marmol Export we have been working with natural stone for nearly half a century. Our company's origins began in Novelda, Spain where Marmol Export was one of the first companies to export natural stone to the United States and the rest of the world. To improve accessibility of the Spanish marbles in the United States Marmol Export established warehouses in several states. Crema Marfil and Crema Europa limestones were then the primary products imported. However, the nature of the market encouraged us to use our established relationships with other companies around the world to increase our product offering. We now select and import natural stones from the finest quarries and established solid relationships with leading porcelain companies around the world."

994. The "About Us" webpage then states "Our Mission" as follows: "Our MISSION is to create value for our customers by selling high quality natural stone and porcelain products with reliability and flexibility. We want our customers to experience being surrounded with the best quality products our industry can produce. We achieve our aims through implementing the following values: Focus on Quality: We emphasize on the quality of our products which requires diligence and dedication. Value for Money: We pride ourselves on offering a wide range of quality products at fair prices. Satisfy Customer's Needs: We pay attention to our customers in meeting their preferences and specifications offering great customer service. Build relationships: We strive to grow relationships with our customers."

995. The "About Us" webpage then identifies the company's "Services" as follows: "Today we offer our products and services from our two locations is Southern California, Anaheim and San Diego fulfilling the needs of the very demanding High end residential market. We provide exotic tiles and slabs, custom mosaics, architectural elements. You can select natural stones and porcelain from Marmol Export knowing that you are purchasing products of the highest quality chosen with care by experts and finished to perfection in the finest factories from around the world."

996. On March 8, 2024, Rafael Garcia, Marmol Export Corporation's Chief Executive Officer, signed a declaration under oath in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs, et al.*, LASC Case No. 22STCV31907, in which he declared that "Marmol deals only in natural stone and porcelain, and does not deal in engineered or artificial stone." This statement was untrue, because at the company's deposition on May 1, 2024, Mr. Garcia testified that during the time period 2007-2022, Marmol Export Corporation sold about 15 to 25, or possibly even more, artificial quartz slabs, the last time that he purchased quartz being about 5 years ago.

997. At the company's deposition, Mr. Garcia testified that the company knew that its stones would be cut and would create dust, but that the company did not provide fabricators with any warnings regarding silica or the fabrication of its products. Although the Hazard Communication Standard has long required importers and distributors of hazardous chemical products to provide customers with Safety Data Sheets and to affix labels that include hazard statements to their hazardous chemical products, in conscious disregard of the health and safety of countertop fabricators, Mr. Garcia testified that Marmol Export Corporation never provided fabricators with Safety Data Sheets for the natural or artificial stone slabs that it sold -- even though fabricators came to Marmol Export Corporation's place of business to pick up the stone slabs. Shockingly, Mr. Garcia testified that once the product is taken by the fabricator, “I’m not responsible anymore.”

PACIFIC SHORE STONES, LLC

998. Pacific Shore Stones, LLC was organized in California in January 2005. Its principal office is located at 13148 Raymer Street in North Hollywood, California. The company claims to be “America’s stone distributor of the highest quality,” offering “hand selected stone through multiple company-owned distribution centers across the U.S. from coast to coast,” “each center ha[ving] a large inventory with a selection of various colors and finishes, plus dedicated staff . . . supporting fabricators, consumers, architects, builders and interior designers in selecting slabs for their projects.” The company claims to “have developed joint ventures with quarries across the world, built on strong relationships, giving us access to the finest blocks.”

999. Pacific Shore Stones "offer[s] granite, marble, quartz, travertine, onyx, limestone, soapstone, quartzite and sintered surface slabs." Pacific Shore Stones describes its Los Angeles distribution center as a "45,000 square foot facility . . . located in North Hollywood . . . that houses "one of the largest selections of exotic natural stone in the Los Angeles area."

Pacific Shore Stones' 2015 Safety Data Sheet for Pacshore Quartz

1000. In August 2015 Pacific Shore Stones issued a Safety Data Sheet for "Pacshore Quartz," "for surface applications such as countertops and vanities." In Section 3 of the Safety Data Sheet, the company states that the product is comprised of "93% natural quartz stone (SiO2) and 7% resin binder and colorant." It thus appears to be a typical artificial stone product.

1001. Section 2 of the Safety Data Sheet (Hazards Identification) states: "Multi colored engineered stone slabs. Not considered hazardous in slab form, but dust created when cutting or grinding the quartz slab produces crystalline silica which is harmful to health." However, the Hazards Identification section of the Safety Data Sheet does not mention silicosis or even damage to the lungs and therefore violates the Hazard Communication Standard and is grossly inadequate. Section 2 of the Safety Data Sheet then provides three hazard statements.

1002. The first statement is "R48/20: Harmful: Danger of serious damage to health by prolonged exposure through inhalation." This statement is is inadequate, because it does not identify the health damage caused by the product (i.e., silicosis, lung cancer, chronic kidney disease, autoimmune disease, etc.) and does not indicate how long the "prolonged exposure through inhalation" must be to cause health damage, so workers are left to speculate whether the "prolonged exposure through inhalation" that can harm them is an exposure of weeks, months, years, or decades.

1003. The second statement is "S22: Do not breathe dust." This statement is an inadequate and harmful instruction, because dust is always generated when artificial stone is fabricated, workers must breathe to work and live, workers can't hold their breath an entire workshift, and the instruction does not inform workers how they can do their work without breathing dust from the product.

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1004. The third statement is "S38: In case of insufficient ventilation, wear suitable respiratory equipment." This statement is also inadequate to protect workers from silicosis, because it does not specify what constitutes "insufficient ventilation" so workers cannot know whether they need to wear respiratory equipment. The instruction is also inadequate and harmful because the instruction to "wear suitable respiratory equipment" does not specify the type of respirator that workers must wear to prevent silicosis (i.e., a NIOSH-approved air supplied respirator), thereby misleading workers to believe that air-purifying respirators will protect them, although air-purifying respirators are inadequate to protect workers fabricating artificial stone from silicosis due to the extremely high crystalline silica content of the product and the dust generated by power tools.

1005. Section 8 of the Safety Data Sheet is titled "Exposure Controls/Personal Protection." It provides the following instruction regarding Engineering Controls: "Ventilation must be adequate to maintain the ambient workplace atmosphere below the exposure limit(s) outlined in the MSDS." This is an inadequate and harmful instruction, because the Safety Data Sheet fails to specify what the exposure limits are for respirable crystalline silica or any other constituent of the product and it is impossible to know whether in those limits are exceeded absent constant exposure monitoring which is infeasible.

1006. Section 8 of the Safety Data Sheet provides the following instruction regarding Respiratory Protection: ""If respiratory protection is needed, use only protection authorized in the U.S. Federal OSHA Standard (29 CFR 1910.134), applicable U.S. State regulations, or the Canadian CSA Standard Z94.4-93 and applicable standards of Canadian Provinces." This instruction is misleading and harmful, for two reasons. First, it suggests that respiratory protection may not always be needed, although exposures to respirable crystalline silica from fabricating artificial stone are such that workers must always wear respiratory protection. Second, the instruction does not inform workers of the specific type of respirator that they need to wear to prevent silicosis. The referenced section of the Code of Federal Regulations describes two different types of respirators: air-purifying respirators and atmosphere-supplying respirators. The former is inadequate to prevent silicosis among artificial stone fabricators and using air-purifying respirators actually contributes to silicosis among artificial stone fabricators. Only atmosphere-supplying respirators (air-supplied respirators)

are adequate to prevent silicosis among artificial stone fabricators and these must be worn at all times that fabricators are doing their work or are present where such work is being done.

1007. Silicosis is only mentioned as an adverse health effect in Section 11 of the Safety Data Sheet regarding Toxicological Information, which states: "**Silicosis:** causes by the inhalation and retention of respirable crystalline silica dust." This statement is inadequate because it does not appear in the Health Hazards section on the first page of the Safety Data Sheet, it is inconspicuously located on the second page of the Safety Data Sheet between sections concerning Stability and Reactivity (Section 10) , and Ecological Information (Section 12). The statement is also inadequate, because it does not explain that silicosis is a progressive and irreversible disease in which the lung tissue becomes fibrotic (scarred), that the disease continues to progress even after exposure ceases, and that the disease is ultimately fatal.

1008. The last paragraph the Safety Data Sheet states: "We believe that the information contined herein is current as the date of the SDS sheet. Since the use of thsi information and these conditions of use of the product are not wiithin the control of Pacshore Quartz, it is the user's obligation to determine the conditions of safe use of the product." Although the Hazard Communication Standard imposes duties on manufacturers and importers of hazardous chemical products to evaluate their hazards and to provide safe use instructions, Defendant Pacific Shore Stones disclaims those duties, fails to take responsibility for its defective product and defective warnings and use instructions, and wrongfully attempts to shift its responsibility to users.

Knowledge of the Silicosis Hazard by Pacific Shore Stones' Members

1009. Throughout the time that Pacific Shore Stones LLC sold its artificial stone products, exposing stone countertop fabricators and installers to respirable crystalline silica from the company's products, Pacific Shore Stones' members were aware that the company's artificial stone products were defective because they contained extremely high concentrations of crystalline silica, were aware that the use instructions that Pacific Shore Stones provided were inadequate to prevent silicosis and would actually cause silicosis in exposed workers, and were aware that fabrication

companies could not protect fabricators and installers from the lethal silicosis hazard presented by Pacific Shore Stones' defective artificial stone products. Among Pacific Shore Stones' members who had this knowledge but who nevertheless consciously disregarded the health and safety of fabricators and installers are: Marco A. Pereira, Founder and Owner; Vinny Tavares, Co-Founder; and Donald Ciceri, Member.

PARAGON INDUSTRIES, INC. (DBA BEDROSIANS TILE & STONE)

Corporate History

1010. Paragon Industries was incorporated in the State of California on September 18, 1974. The company has long done business under the fictitious business name Bedrosians Tile and Stone.

1011. On July 18, 2019 Paragon industries filed a Statement of Information with the California Secretary of State stating that its principal executive office is 4285 N. Golden State Blvd., Fresno, CA 93722 and identifying its corporate officers as Larry E. Bedrosian, Chief Executive Officer and Janice A. Bedrosian, Secretary and Chief Financial Officer. The Statement of Information described by company's type of business as "Wholesale/Retail Sales."

1012. The most recent Statement of Information that was filed with the Secretary of State on September 18, 2023, provides the same business address, lists the same corporate officers, and also lists Gary A. Bedrosian, Larry E. Bedrosian, Janice A. Bedrosian, and Linda R. Hovannisian as Directors of the company. This most recent Statement of Information describes the company's type of business as "Wholesale and retail sale of building supplies."

Company Website

1013. Paragon Industries, Inc. has a website"Bedrosians" that is accessed at bedrosians.com.

1014. The website has an "About Us" web page that states the company's Vision as follows: "Our vision is to be the most customer-centric tile company in the United States."

1015. The "About Us" web page states the company's Mission as follows: "Our mission is to offer clients a place to buy the most trend-setting tile and stone products available in the market through a seamless purchasing experience."

1016. The "About Us" web page also states: "We value and practice social responsibility; encourage employee development; care about employee and customer relationship; and love to acknowledge good work."

1017. Under a heading "Our Story," the "About Us" web page tells the company's story:

> In 1948, Bedrosians began providing tile and setting materials to contractors and builders in Central California. Today, 70 years later, we have over 40 branches located throughout California, Arizona, Colorado, Georgia, Idaho, Nevada, Oregon, Texas, Utah, Washington, North Carolina, and Florida with a national and international customer base.
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> Our growth has made Bedrosians one of the largest independent porcelain tile and stone importers and distributors in the United States. However, our philosophy is the same today as it was in 1948 when our founder, Ed Bedrosian, opened the doors. We believe in and strive to provide the highest possible level of service, the best technical and design assistance available, excellent product quality, and competitive pricing.
>
> The quantity, variance, and quality of our lines allows us to meet the needs and performance requirements of any project whether commercial, institutional, industrial, or residential in nature, in the United States or around the world. This strong buying power enables us to provide products falling well within a project's budgetary constraints.
>
> If you are located near one of our showrooms or service centers, we invite you to come in and explore the wide product selection. Our purchasing department is committed to buying and stocking the newest design trends in porcelain tile and stone products. Come meet with our trained customer service and showroom personnel, as well as our architectural representatives, who are ready to assist you with your next project.

Stone Slabs Purchased and Sold

1018. On April 18, 2024, a deposition on behalf of Paragon Industries, Inc. was given by Jeramy Janz, Southern California Regional Manager of the company, in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs, et al.*, LASC Case No. 22STCV31907. He

testified that Bedrosians is a supplier of a number of surfaces, including tile, stone, engineered wood, SBC, flooring and countertop surface material. He testified that Bedrosians sells natural stone, including granite, marble, limestone, travertine, and quartzite, and that the company also sells quartz (engineered stone), ceramic and porcelain.

1019. On April 30, 2024, a deposition on behalf of Paragon Industries, Inc. was given by Max Aschoff, National Director of Slab Sales of the company, in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs, et al.*, LASC Case No. 22STCV31907. He testified that the factories that manufactured artificial stone slabs purchased by Bedrosians included Diresco, US Surfaces, Pure Surfaces, got Badan, Grant Quartz, Opalus, MXM Surfaces, Sonte Konnection, Aruelia, and Empire.

2021 Safety Data Sheet for SequelEncore

1020. On March 12, 2021, Paragon Industries issued a Safety Data Sheet for its product Sequel Encore™, identifying the manufacturer/supplier of the product as Bedrosians. Section 3 of this Safety Data Sheet identified one "Dangerous Component" in the product: Quartz (SiO2) at a concentration > 90%. This section of the Safety Data Sheet also identified as "Non-hazardous components" "Resins and trace minerals including: Fe_2O_3, Fe_3O_4, TiO_2, Al_2O_3, CaO, MgO, Na_2O, K_2O . . ."

1021. Section 2 of the Safety Data Sheet, regarding "Hazard(s) Identification" identified two health hazards: "H350 May cause cancer" and "STOT RE 1 H372 Causes damage to the lung through prolonged or repeated exposure. Route of exposure: Inhalation." The first statement, that exposure to the product "may cause cancer," is misleading, because it suggests that crystalline silica is not a known cause of cancer although crystalline silica is, in fact, a known human carcinogen, i.e., it does cause cancer and has been classified as a known human carcinogen by the International Agency for Research on Cancer since 1997. The second statement is also misleading, because it does not specify the duration of the "prolonged" exposure or the number of exposures that constitute "repeated" exposure that "causes damage to the lung." Workers therefore cannot know whether they

must be exposed to the product for weeks, months, years or decades, or must be exposed hundreds, thousands, or tens of thousands of times to suffer lung damage. The statement is also misleading, because prolonged exposure suggests exposure of many years resulting in chronic disease, although artificial stone workers typically develop acute silicosis in less than 3 to 5 years or accelerated silicosis after 5 to 10 years of exposure. The hazard statements are also deficient because they do not mention silicosis as a health hazard of the product, although it is the major health hazard of the product. Lastly, the statement conceals from workers the true nature and severity of "damage to the lung," i.e., that exposure to the product causes silicosis, a progressive, irreversible and fatal lung disease.

1022. After providing inadequate hazard statements in the "Hazards identification" section of the Safety Data Sheet Bedrossian's provided 15 "Precautionary Statements": (1) "Obtain special instructions before use" (without stating what "special instructions" were to be obtained and from whom such special instructions could be obtained); (2) "Do not handle until all safety precautions have been read and understood," (although most artificial stone fabricators are immigrants who cannot read English), (3) "Do not breathe dust/fumes/gas/mist/ vapors/spray" (as though workers should hold their breath throughout the work day), (4) "Avoid breathing dust/fume/gas/mist/vapors/ spray" (same); (5) "Wash hands thoroughly after handling" (although the products do not present appreciable health hazards by skin absorption); (6) "Do not eat, drink or smoke when using this product" (although the product does not present any appreciable health hazard by ingestion and is not a fire hazard); (7) Use only outdoors or in a well-ventilated area (without defining quantitatively or by ventilation type what constitutes a "well ventilated area"), (8) "Wear protective gloves/protective clothing/eye protection/face protection," (rather than the critical information that it is essential to wear an air supplied respirator when fabricating the product); (9) "IF INHALED: Remove person to fresh air and keep comfortable for breathing" (although fabricators always inhale respirable crystalline silica dust from the product in doing their work); (10) IF exposed or concerned: Get medical advice/attention" (although fabricators are constantly exposed to the product when they cut, saw, grind, drill, edge, and polish the product); (11) "Call a poison center/doctor if you feel unwell" (although poison control centers do not treat silicosis, a chronic disease); (12) "Get medical

advice/attention if you feel unwell," (a useful instruction although it is generally not related to use of the product), (13) "Store in a well-ventilated place. Keep container tightly closed" (an inapplicable instruction because artificial stone slabs need not be stored in a well-ventilated place and need not be stored in containers whether tightly closed or not); (14) "Store locked up," (a pointless instruction, because slabs of the product are too large to lock up and are so heavy they can only be stolen with great difficulty), and (15) "Dispose of contents/container to hazardous or special waste collection point, in accordance with local, regional, national and/or international regulation." Absent is any precautionary statement that respiratory protection is necessary, i.e., that workers fabricating the product must wear a NIOSH-approved air supplied respirator to prevent silicosis.

1023. In Section 7 of the Safety Data Sheet, Bedrossian's provided the following "precautions for safe handling": "When cutting, grinding or removing, use equipment with integral dust collection and/or use local exhaust ventilation. Use wet cutting methods to reduce generation of dust. Use respiratory protection in the absence of effective engineering controls." These statements are inadequate because individually and collectively, they are insufficient to prevent silicosis, and therefore mislead workers to believe that following these instructions will keep them safe. In particular, the instruction to "use respiratory protection in the absence of effective engineering controls" is misleading and inadequate, because the instruction does not inform workers that the only type of respirator that can prevent silicosis is a NIOSH-approved air supplied respirator and that air-purifying respirators are inadequate to prevent silicosis, and because engineering controls alone are never effective in preventing silicosis when performing artificial stone fabrication tasks.

1024. In Section 8 of the Safety Data Sheet, Bedrossian's recommended the following "Exposure controls": "Ventilation must be adequate to maintain the ambient workplace atmosphere below the exposure limit(s) outlined in the SDS. Where acceptable concentrations cannot be maintained by general mechanical ventilation, local exhaust ventilation is recommended." This is an inadequate and harmful instruction, because general mechanical ventilation is never adequate to prevent workplace exposure to respirable crystalline silica dust among artificial stone fabricators below exposure limits due to the extremely high crystalline silica content of the product, and is

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therefore inadequate to prevent silicosis, and it is impossible for a worker to know whether exposure limits are being exceeded, absent constant exposure monitoring which is industrially infeasible.

1025. In Section 8 of the Safety Data Sheet, Bedrossian's states the following regarding "Breathing equipment": "Use of a properly fitted NIOSH-MSHA approved particulate respirator is recommended when cutting natural stone products for installation or during the removal of installed product." This instruction conceals critical information necessary to prevent silicosis, i.e., the specific type of respirator that is necessary to prevent silicosis (an air-supplied respirator), and instead provides misleading information – that a particulate respirator would protect workers from harm, although air-purifying respirators do not protect artificial stone fabricators from silicosis and contribute to the development of silicosis, because they do not filter out respirable crystalline silica. The instruction is also inadequate because wearing a particulate filter respirator provides no protection for toxic vapors generated from other fabricating artificial stone products.

1026. In Section 11 of the Safety Data Sheet, regarding the carcinogenicity of crystalline silica Bedrossian's states: "According to the current state of the art, worker protection against silicosis can be consistently assured by respecting the existing regulatory occupational exposure limits." This is a false statement, because silicosis has been reported among workers in various industries despite compliance with regulatory occupational exposure limits and published studies have long concluded that regulatory exposure limits have been set at levels that cause silicosis, such that compliance with regulatory exposure limits causes silicosis rather than preventing silicosis.

1027. Section 15 of the Safety Data Sheet, regarding "Regulatory Information" provides a warning regarding California Proposition 65 that states: "WARNING: This product can expose you to chemicals including crystalline silica (airborne particles of respirable size) in dust created during fabrication/installation only if the product is dry cut/ground or pulverized, which are known to the State of California to cause cancer." This is a false statement, because artificial stone fabricators are always exposed to respirable crystalline silica when they cut, grind, drill, polish, or otherwise fabricate artificial stone when using power tools, even when they use wet processing methods. The warning statement fails to comply with California's Safety Drinking Water and Toxic Enforcement Act (Proposition 65) and is false and misleading, because it falsely suggests to workers

that they cannot be and are not exposed to respirable crystalline silica unless they dry-cut the product, which multiple published studies have shown is not true.

1028. Lastly, Section 16 of the Safety Data Sheet states: "It is the responsibility of the user to determine applicability of this information and the suitability of the material or product for any particular purpose." Although the Hazard Communication Standard imposes duties on manufacturers and importers of hazardous chemical products to evaluate their hazards and to provide safe use instructions, by this statement Bedrossian's appears to disclaim those duties, fails to take responsibility for its defective product and defective warnings and use instructions, and wrongfully attempts to shift its responsibility for causing silicosis among fabricators to "the user," i.e., to the fabricators themselves who are the victims of the artificial stone silicosis epidemic.

1029. Apparently, Paragon Industries, Inc. never prepared a Safety Data Sheet for any of the products the company imported, distributed or sold at any time prior to March of 2021.

Knowledge of the Silicosis Hazard by Paragon Industries' Officers

1030. Throughout the time that Paragon Industries sold artificial stone products, exposing stone countertop fabricators and installers to crystalline silica from the products, Paragon Industries' officers and directors were aware that its artificial stone products were defective because they contained extremely high concentrations of crystalline silica, were aware that the use instructions that the company provided were inadequate to prevent silicosis and would actually cause silicosis in exposed workers, and were aware that fabrication companies could not protect fabricators from the lethal silicosis hazard presented by Paragon Industries' defective artificial stone products. Among Paragon Industries' officers and directors who had this knowledge but who nevertheless consciously disregarded the health and safety of fabricators are: Larry E. Bedrosian, CEO; Gardnar O'Brien, CFO; Janice A. Bedrosian, Secretary; Nirbhay Gupta, CTO; Matteo Polvara, VP Italia Operations; Bob Papazian, Director Medical & Science Operations; and Eddie Bedrosian, Marketing Director.

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PIEDRA FINA MARBLE, INC.

1031. On January 4, 2012, Pedrafina Marble, Inc. filed Articles of Incorporation of a Close Corporation with the California Secretary of State. On March 22, 2012, the company filed a Certificate of Amendment of Articles of Incorporation, whereby it changed its name from Pedrafina Marble, inc. to Piedrafina Marble, Inc. On September 18, 2023 the company filed a Statement of Information with the California Secretary of State listing its principal address as 1747 Dr. Martin Luther King Jr. Blvd., Stockton, CA 95205 and stating its type of business was "Marble Distributor."

BellaQuartz 2018 Safety Data Sheet

1032. In June 2018 the company issued a Safety Data Sheet for BellaQuartz by Piedrafina describing the product as "Quartz Surfaces with no odor."

1033. Section 3 of the Safety Data Sheet (Hazardous Chemical Composition) states that the product contains 93% Crystalline silica (quartz) and other natural stone, and 7% Resins and trace minerals including Al2O3, Fe2O3, TiO2, CaO, MgO, Na2O, K2O, ..."

1034. Section 2 of the Safety Data Sheet (Hazards Identification) provides the following statement for Potential Health Effects: "Quartz surfaces products are not hazardous as shipped." This statement is misleading, because the product contains 93% crystalline silica, and the product is not a finished consumer product, but is rather an industrial product that is intended to be fabricated as a stone countertop, which necessarily results in the production of respirable crystalline silica dust that causes silicosis, lung cancer and other chronic human diseases.

1035. Section 2 of the Safety Data Sheet (Hazards Identification) provides the following information regarding acute and chronic health effects:

> **Acute Eye:** Product in finished form does not present a health hazard via this route of entry. Dusts and flying particles generated during cutting, grinding and forming may cause irritation and injury.
>
> **Acute Skin:** Dusts generated from this product may cause skin irritation.
>
> **Acute Inhalation:** Dusts from product may cause irritation to respiratory tract, nose, throat and lungs.

> **Acute Ingestion:** Not considered a potential health hazard via this route of entry. This product may cause gastrointestinal irritation if dusts are swallowed.
>
> **Chronic Exposure:** The adverse health effects from crystalline silica exposure - silicosis, cancer, scleroderma, tuberculosis, and nephrotoxicity - are chronic effects.

1036. The acute effects of exposure described above are misleading because, unlike silicosis and lung cancer, irritation, which is typically a transitory effect that occurs during exposure, is not a significant adverse health effect of exposure to the product and ocular injury can be prevented simply by wearing eye goggles. Only then does the Safety Data Sheet mention the effects of chronic exposure, which it characterizes as "chronic effects." However, these terms are misleading, because the Safety Data Sheet defines neither chronic exposure nor chronic effects. Contrary to the statement in the Safety Data Sheet, exposure to artificial stone dust typically does not cause chronic silicosis, but is associated most strongly with more acute forms of the disease - accelerated silicosis following 5 to 10 years of exposure, and acute silicosis following less than 5 years of exposure. Additionally, the statement that silicosis is one of the "adverse health effects from crystalline silica exposure" is an inadequate warning of the severity of the silicosis hazard, because the Safety Data Sheet conceals that silicosis is a progressive, incurable and fatal lung disease in which workers slowly suffocate to death.

1037. That the Safety Data Sheet mentions silicosis as a "potential health effect" establishes that Piedrafina was aware of the hazard that exposure to its product causes silicosis and other diseases at least as early as June 2018. Being aware that exposure to its product can cause these multiple diseases in exposed workers, it was incumbent on Piedrafina to provide clear use instructions in its Safety Data Sheet which, if followed, would prevent workers from suffering from silicosis, lung cancer and other diseases. However, not only did Piedrafina conceal from workers that exposure to its product causes a progressive and incurable disease that is usually fatal, the company concealed from workers the precautions they must take to prevent getting and suffering from silicosis.

1038. Section 8 (Exposure Controls / Personal Protection) of the Safety Data Sheet provides the following information regarding Engineering Controls: "Ventilation must be adequate

to maintain the ambient workplace atmosphere below the exposure limit(s) outlined in the MSDS. General room ventilation is satisfactory under anticipated use conditions." These are totally inadequate use instructions for several reasons. First, although the Safety Data Sheet mandates that "the ambient workplace atmosphere" must be maintained "below the exposure limit(s) outlined in the MSDS," the Safety Data Sheet does not state what any such exposure limits are. Although the major health hazard of the product is inhalation of respirable crystalline silica, the Safety Data Sheet does not state what the exposure limits are for occupational exposure to respirable crystalline silica. Nor does the Safety Data Sheet provide exposure limits for the resins or any of the several toxic metals in the product that are identified in Section 3 of the Safety Data Sheet. Second, even if the Safety Data Sheet provided this information, absent real-time monitoring there is no means by which a fabrication worker or his employer could know whether ventilation in the fabrication shop is maintaining exposures to below such unidentified exposure limits. Lastly, the statement that "general room ventilation is satisfactory under anticipated use conditions" is not merely incorrect; it is a dangerous and harmful instruction, because general room ventilation is never adequate or "satisfactory" in workplaces like countertop fabrication shops where respirable crystalline silica dust is routinely generated and effective mechanical ventilation is essential to protect workers from getting silicosis. Critically, since "anticipated use conditions" are cutting, grinding, polishing and otherwise fabricating the stone slabs to become countertops, and since these anticipated use conditions necessarily generate huge amounts of respirable crystalline silica dust, general room ventilation is never adequate and stating that it is "satisfactory" is a prescription for causing silicosis.

1039. Section 8 (Exposure Controls / Personal Protection) of the Safety Data Sheet then provides the following information regarding Personal Protective Equipment: "Respiratory Protection: In case of insufficient ventilation, wear appropriate respiratory equipment in compliance with local regulations." This is also an inadequate and harmful use instruction, because the prior sentence falsely states that "general room ventilation is satisfactory under anticipated use conditions" and the Safety Data Sheet fails to specify what constitutes "appropriate respiratory equipment," i.e., what type of respirator must be worn to prevent silicosis. Since the Safety Data Sheet falsely states that "general room ventilation is satisfactory under anticipated use conditions," such would generally

lead a worker to believe that he need only wear a dust mask to protect himself from suffering disease. Most critically, the Safety Data Sheet conceals from workers and their employers that the only respiratory protection that is adequate to prevent silicosis among artificial stone countertop fabricators is a NIOSH-approved air supplied respirator – that air particulate respirators are inadequate to prevent silicosis from this extremely dangerous product due to its high crystalline silica content and the nanosized particles of artificial stone dust that are generated by the use of eletric-powered tools for cutting, grinding and polishing artificial stone, which particles are so small that they penetrate through particulate air filters causing silicosis.

1040. Section 11 (Toxicological Information) of the Safety Data Sheet states: "The powder generated in the manufacturing processes contains silica (SiO2). Prolonged and/or massive inhalation of crystalline silica can cause pulmonary fibrosis and pneumoconiosis and silicosis, as well as a worsening of other pulmonary diseases (bronchitis, emphysema, etc.). The main symptom of silicosis is the loss of pulmonary capacity. People with silicosis have a greater risk of getting lung cancer." These statements are noteworthy for what they say and what they don't say. First, the statement that "The powder generated in the manufacturing processes contains silica" shows that Piedrafina knew that dust generated from fabrication processes was a "powder," i.e., that the particles are extremely fine as a result of crushing quartz during the manufacture of artificial stone, which extremely fine particles are then released and become airborne during fabrication processes. The statement that "prolonged and/or massive inhalation of crystalline silica can cause pulmonary fibrosis and pneumoconiosis and silicosis," conceals from the worker the duration and amount of exposure that causes silicosis, because it does not quantify whether the "prolonged" exposure that can cause silicosis is measured in minutes, hours, days, weeks, months, years, or decades. Likewise the statement that "massive inhalation of crystalline silica" conceals from the worker the "mass," i.e., the amount of silica that causes silicosis and falsely suggests to workers and their employers that only exposure to large quantities of crystalline silica can cause silicosis, whereas the crystalline silica particles that cause silicosis are extremely tiny, have very low mass, are invisible to the human eye, and have no odor or other warning properties to alert workers of extreme danger to their health. The statement that "the main symptom of silicosis is the loss of pulmonary capacity" is also incorrect,

because loss of pulmonary capacity is not a "symptom," but is rather a delayed effect of silicosis that first becomes apparent to workers after they have lost almost half of their lung function and are by then very ill. Rather, the main symptoms of silicosis are shortness of breath, difficulty breathing, weakness and fatigue. By failing to disclose the true symptoms of silicosis and misleading workers to believe that loss of pulmonary capacity is a symptom of silicosis even though workers have no sense by which they can determine loss of pulmonary capacity, Piedrafina conceals from workers the true symptoms of silicosis which they need to know in order to seek appropriate medical care when they experience those symptoms. The statement that "people with silicosis have a greater risk of getting lung cancer" is also misleading, because it falsely suggests that workers only get lung cancer from exposure to crystalline silica if they have silicosis, which is not true, and therefore provides workers a false sense of safety that they are not at risk for getting lung cancer unless they have been diagnosed with silicosis. (a) Section 16 (Other Information) of the Safety Data Sheet includes "Key Legend Information" for the following terms: IDLH Immediately Dangerous to Life and Health, PEL - Permissible Exposure Limit, TWA - Time Weighted Average, and ACGIH - American Conference of Governmental Industrial Hygienists." These are important terms and acronyms regarding exposure to respirable crystalline silica and other toxic constituents of the product. However, none of these terms appears in the Material Safety Data Sheet, because the Material Safety Data Sheet fails to specify the regulatory limits for exposure to respirable crystalline silica dust and all of the other toxic constituents of the product, in violation of the Hazard Communication Standard.

Knowledge of the Silicosis Hazard by Piedrafina Officers

1041. Piedrafina's knowledge and concealment of the nature and severity of the silicosis hazard from its product and the means of preventing exposed workers from getting silicosis from exposure to the product was approved and ratified by officers and managing agents of the company, including the following:

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Ricardo Paiz, Chief Executive Officer;

Andres Chavez, Chief Financial Officer; and

Ramiro Chavez, Secretary.

QUARTZ MASTER

1042. On July 14, 2008 Quartz Master LLC filed Articles of Organization with the New Jersey Secretary of State. On April 22, 2009 American Stone Collection LLC filed Articles of Organization with the New Jersey Secretary of State.

1043. On April 1, 2010 an advertisement titled "American Stone Collection Introduces Quartz Master" was published in *Stone World*. It said: "American Stone Collection introduces Quartz Master, offering one of the highest quality and lowest priced quartz surfaces in the U.S. and Canada, according to the manufacturer. Quartz Master is distributed by American Stone Collection and displayed at the company's 200,000-square foot facility in Bayonne, NJ. The Quartz Master showroom houses an exquisite line of over 40 colors and patterns in quartz slabs that are both practical and stylish and meet the needs of discerning commercial and residential architectural and design professionals. The Quartz Master showroom houses over 40 colors and patterns in quartz slabs. "We are excited to be launching the first Quartz Master showroom," said Eddie Haddad, Founder of Quartz Master. "With the growing popularity of quartz stone surfaces, our goal at Quartz Master is to provide industry professionals with the greatest variety of quartz slabs at the best prices." Quartz Master's use of a mixture of 93% quartz and 7% polyester resin pressed into slabs or larger blocks, using Breton's "vibrocompression vacuum process," results in a high-quality product. Quartz Master offers quartz in a variety of sizes for kitchen/laundry/bath countertops, vanity tops and backsplashes, wet bars, tub decks, tub/shower surrounds, furniture, wall cladding and flooring projects."

1044. On January 29, 2017 PRWeb published a news report titled "Quartz Master to Expand Throughout California: *Quartz Master distributes through many select locations in US and Montreal, Quebec, Canada. And is now expanding in California.* This new report said: "Quartz

Master is a quartz surfaces manufacturer, headquartered in Bayonne, New Jersey. The company produces the highest quality and largest quartz slabs in the industry. It distributes through many select locations in US and Montreal, Quebec, Canada. And is now expanding in California. The demand for Quartz Master's Marble Collection prompted the company to open its first distribution center in California. In June 2016, Quartz Master opened its new 6500 square foot warehouse in Los Angeles to serve Los Angeles County. But within a couple of months, the distribution center was making deliveries to fabricators from as far south as San Diego to as far north as San Francisco. When it opened, the warehouse was stocked with a modest number of slabs, but within weeks it had to be restocked to meet demands. It now has millions in inventory. On January 2nd, they opened an office in San Diego, and on February 1st, an additional warehouse will open in San Francisco on Mariposa Avenue in Mountain View. Quartz Master is recognized for its Marble Collection. In 2011, after 12 months of laborious engineering, Quartz Master introduced the world's first marble design to Quartz. And in 2014, they perfected the art of book matching. Today, most all of their marble designs are book matched. Homeowners and interior designers appreciate the low maintenance, durability and unmatched stain resistance of quartz. And they love that they can design a kitchen that has the beauty of natural stone without the expense and hassle. To meet demand and high-quality customer service, Quartz Master will have representatives throughout the state, who will supply showrooms, interior designers, and fabricators with samples and customer service. About Quartz Master. Quartz Master is a world's experts of quartz surfaces. Quartz Master's slabs are made of 93% natural quartz and 7% resin, making it the hardest, most durable and non-precious stone in the market. Quartz Master produces the largest quartz slabs, 120" x 64". Quartz Master is determined to continue to push boundaries in color, design, and manufacturing.

1045. A houzz webpage for Quartz Master states: "Hi, My name is Roy and I'm a sales director for QuartzMaster California. Quartzmaster is a leading force in the quartz & porcelain market, our distribution branches are nationwide, you can find is in Los Angeles, San Francisco, Las Vegas, Texas, Georgia, Florida, Virginia, New Jersey, Toronto and more. We supply material to more then 10,000 vendors and work in the residential and commercial market. Our materials are top quality and our designs are Trendy and dynamic based on market movements. We guarantee lifetime

warranty on our products, both for commercial and residential projects. We stock Over 100 different designs of engineered stone (quartz) and Over 40 different designs of porcelain large formats tiles/slabs ." This webpage provides the following address for the company in California: 1519 Essex St. Los Angeles, CA 90021.

1046. Although Quartz Master LLC has thus been doing business in the State of California, it has never registered with the California Secretary of State to do business in this State.

1047. A Linkedin webpage for Quartz Master LLC describes the company: "Quartz Master is a quartz surfacing manufacturer and division of American Stone Collection Head Quartered in Bayonne NJ. We are one of the largest suppliers of engineered stone in North America. A mixture of 93% pure quartz and 7% resin Quartz Master's high-quality slabs are the largest in the industry 120x64 and are available in over 50 colors and patterns. Engineered stone is often preferred over natural stone because it requires less maintenance and has better resistance to stains and bacterial contamination. Backed by a lifetime residential warranty and 10 years on commercial projects."

1048. The Hazard Communication Standard requires all companies that manufacture, import or distribute hazardous substances to which workers are exposed to evaluate their products to determine if they are hazardous [8 C.C.R. § 5194(d)(1)]; to identify and consider the available scientific evidence concerning such hazards [8 C.C.R. § 5194(d)(2) et seq.]; ensure that each container of hazardous chemicals leaving their facilities is labeled, tagged or marked with the (i) identity of the hazardous chemical(s); (ii) appropriate hazard warnings; and (iii) the name and address of the chemical manufacturer or other responsible party [8 C.C.R. § 5194(f)(1)]; obtain or develop a material safety data sheet for each hazardous substance they produced [8 C.C.R. § 5194(g)(1)]; include on the material safety data sheet the chemical and common names of each hazardous substance [8 C.C.R. §5194(g)(2)(A)]; the health hazards of the hazardous substance, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the substance [8 C.C.R. § 5194(g)(2)(D)]; the primary routes of entry [8 C.C.R. § 5194(g)(2)(E)]; the OSHA permissible exposure limit, ACGIH Threshold Limit Value, and any other exposure limit used or recommended by defendants [8 C.C.R. § 5194(g)(2)(F)]; whether the hazardous chemical is listed in the National Toxicology Program (NTP)

Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions), or by OSHA [8 C.C.R. § 5194(g)(2)(G)]; include on the material safety data sheet generally applicable precautions for safe handling and use known to defendants, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks [8 C.C.R. § 5194(g)(2)(H)]; generally applicable control measures known to defendants, such as appropriate engineering controls, work practices, or personal protective equipment [8 C.C.R. § 5194(g)(2)(I)]; a description in lay terms, if not otherwise provided, of the specific potential health risks posed by the hazardous substance intended to alert the person reading the information [8 C.C.R. § 5194(g)(2)(M)]; ensure that the information contained on material safety data sheets accurately reflects the scientific evidence used in making the hazard determination [8 C.C.R. § 5194(g)(5)]; and ensure that material safety data sheets complying with the Hazard Communication Standard are provided to employers . . . .[8 C.C.R. §5194(g)(6) & (7).

1049. Although the quartz slabs that Quartz Master LLC imported, distributed and sold to its customers are hazardous materials within the meaning of the Hazard Communication Standard and exposure to dust from the company's products causes silicosis, lung cancer, and other diseases, at no time did Quartz Master LLC prepare a safety data sheet for its quartz stone slabs, at no time did it obtain safety data sheets for the products, or provide them to fabrication shops that were its customers whereby plaintiff was exposed to dust from its products that caused his silicosis and other injuries. By failing to provide Safety Data Sheets to the fabrication shops, Quartz Master LLA concealed the hazards and use instructions it was obligated to provide to protect stone countertop fabrication workers from being injuriously exposed to crystalline silica dust from its quartz stone products.

1050. Among the officers, directors and managing agents of Quartz Master LLC who authorized and ratified its violation of the Hazard Communication Standard and concealment of the hazards of the silicosis hazard and the use instructions necessary to prevent exposed workers from getting silicosis are the following:

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Eddie Haddad, Founder;

Acher Cohen, President;

Patel Vipul, General Manager.

RIO STONES, INC.

1051. On October 27, 2005, Rio Stones, Inc. filed Articles of Incorporation with the California Secretary of State. On April 5, 2007, the company filed a Statement of Information with the Secretary of State, listing its principal executive and business office as 21130 S. Main Street, Carson, CA 90746, identifying Alexandre Araujo Da Silva as the company's Chief Executive Officer, Secretary, Chief Financial Officer, and Director, and describing the business of the company as the "sale of granite and marble stone for residential and commercial use."

1052. The homepage of the company's website says: "RIOSTONES is a family owned company that started operating in the US back in 2003. We are direct importers for natural and engineered stones from all over the world. This is why we have the most competitive prices in our market." "With over 5,000 slabs in 200 different colors, we are specialized in a broad spectrum of exotic colors in granite, marble, and quartzite natural stones. We also carry a full line of quartz and porcelain slabs, of brands such as Cambria, Silestone, LG Viatera, Copa Quartz, and more."

1053. The Hazard Communication Standard requires all companies that manufacture, import or distribute hazardous substances to which workers are exposed to evaluate their products to determine if they are hazardous [8 C.C.R. § 5194(d)(1)]; to identify and consider the available scientific evidence concerning such hazards [8 C.C.R. § 5194(d)(2) et seq.]; ensure that each container of hazardous chemicals leaving their facilities is labeled, tagged or marked with the (i) identity of the hazardous chemical(s); (ii) appropriate hazard warnings; and (iii) the name and address of the chemical manufacturer or other responsible party [8 C.C.R. § 5194(f)(1)]; obtain or develop a material safety data sheet for each hazardous substance they produced [8 C.C.R. § 5194(g)(1)]; include on the material safety data sheet the chemical and common names of each hazardous substance [8 C.C.R. §5194(g)(2)(A)]; the health hazards of the hazardous substance,

including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the substance [8 C.C.R. § 5194(g)(2)(D)]; the primary routes of entry [8 C.C.R. § 5194(g)(2)(E)]; the OSHA permissible exposure limit, ACGIH Threshold Limit Value, and any other exposure limit used or recommended by defendants [8 C.C.R. § 5194(g)(2)(F)]; whether the hazardous chemical is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions), or by OSHA [8 C.C.R. § 5194(g)(2)(G)]; include on the material safety data sheet generally applicable precautions for safe handling and use known to defendants, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks [8 C.C.R. § 5194(g)(2)(H)]; generally applicable control measures known to defendants, such as appropriate engineering controls, work practices, or personal protective equipment [8 C.C.R. § 5194(g)(2)(I)]; a description in lay terms, if not otherwise provided, of the specific potential health risks posed by the hazardous substance intended to alert the person reading the information [8 C.C.R. § 5194(g)(2)(M)]; ensure that the information contained on material safety data sheets accurately reflects the scientific evidence used in making the hazard determination [8 C.C.R. § 5194(g)(5)]; and ensure that material safety data sheets complying with the Hazard Communication Standard are provided to employers . . . .[8 C.C.R. §5194(g)(6) & (7).

1054. Although the quartz slabs that Rio Stones imported, distributed and sold to its customers are hazardous materials within the meaning of the Hazard Communication Standard and exposure to dust from those products causes silicosis, lung cancer, and other diseases, at no time did Rio Stones prepare safety data sheets for these quartz stone slabs, at no time did it obtain safety data sheets for the products, or provide them to fabrication shops that were its customers whereby plaintiff was exposed to dust from its products that caused his silicosis and other injuries. By failing to provide Safety Data Sheets to the fabrication shops, Rio Stones concealed the hazards and use instructions it was obligated to provide to protect stone countertop fabrication workers from being injuriously exposed to crystalline silica dust from its quartz stone products.

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1055. Among the officers, directors and managing agents of Rio Stones who authorized and ratified its violation of the Hazard Communication Standard and concealment of the silicosis and other health hazards of the products and the use instructions necessary to prevent exposed workers from getting silicosis is Alexandre Araujo Da Silva as the company's Chief Executive Officer, Secretary, Chief Financial Officer, and Director.

SAN FERNANDO MARBLE & GRANITE INC.

1056. On January 3, 1994, San Fernando Marble & Granite, Inc. filed Articles of Incorporation with the California Secretary of State. On February 1, 2022, San Fernando Marble & Granite, Inc. filed a Statement of Information with the California Secretary of State, listing its principal business office in California as 9803 San Fernando Road, Pacoima, CA 91331, listing Harold Istrin as the Chief Executive Officer, Secretary, Chief Financial Officer and Director of the corporation, and describing the company's type of business as "Sale of Marble & Granite."

1057. The company has a Facebook page which states: "We sell imported Granite, Marble, Travertine, Quartz & Limestone Slabs and tile for your counter tops."

1058. The Hazard Communication Standard requires all companies that manufacture, import or distribute hazardous substances to which workers are exposed to evaluate their products to determine if they are hazardous [8 C.C.R. § 5194(d)(1)]; to identify and consider the available scientific evidence concerning such hazards [8 C.C.R. § 5194(d)(2) et seq.]; ensure that each container of hazardous chemicals leaving their facilities is labeled, tagged or marked with the (i) identity of the hazardous chemical(s); (ii) appropriate hazard warnings; and (iii) the name and address of the chemical manufacturer or other responsible party [8 C.C.R. § 5194(f)(1)]; obtain or develop a material safety data sheet for each hazardous substance they produced [8 C.C.R. § 5194(g)(1)]; include on the material safety data sheet the chemical and common names of each hazardous substance [8 C.C.R. §5194(g)(2)(A)]; the health hazards of the hazardous substance, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the substance [8 C.C.R. § 5194(g)(2)(D)]; the primary

routes of entry [8 C.C.R. § 5194(g)(2)(E)]; the OSHA permissible exposure limit, ACGIH Threshold Limit Value, and any other exposure limit used or recommended by defendants [8 C.C.R. § 5194(g)(2)(F)]; whether the hazardous chemical is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions), or by OSHA [8 C.C.R. § 5194(g)(2)(G)]; include on the material safety data sheet generally applicable precautions for safe handling and use known to defendants, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks [8 C.C.R. § 5194(g)(2)(H)]; generally applicable control measures known to defendants, such as appropriate engineering controls, work practices, or personal protective equipment [8 C.C.R. § 5194(g)(2)(I)]; a description in lay terms, if not otherwise provided, of the specific potential health risks posed by the hazardous substance intended to alert the person reading the information [8 C.C.R. § 5194(g)(2)(M)]; ensure that the information contained on material safety data sheets accurately reflects the scientific evidence used in making the hazard determination [8 C.C.R. § 5194(g)(5)]; and ensure that material safety data sheets complying with the Hazard Communication Standard are provided to employers . . . .[8 C.C.R. §5194(g)(6) & (7).

1059. Although the quartz stone slabs and other products that San Fernando Marble & Granite imported, distributed and sold are hazardous materials within the meaning of the Hazard Communication Standard and exposure to dust from those artificial stone products causes silicosis, lung cancer, and other diseases, at no time did San Fernando Marble & Granite prepare safety data sheets for the products, or provide them to customers, including the employers of the fabrication shops where fabrication workers, including plaintiff, were exposed to dust from the products that caused plaintiff's silicosis and other injuries. By failing to provide Safety Data Sheets to the fabrication shops, San Fernando Marble & Granite therefore concealed the hazards and use instructions that it was legally obligated to provide to protect stone countertop fabrication workers from being injuriously exposed to crystalline silica dust from Defendants' artificial stone products and thereby caused Plaintiff's silicosis and other injuries.

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1060. Among the officers, directors and managing agents of San Fernando Marble & Granite who authorized and ratified the companies' violation of the Hazard Communication Standard and the company's concealment of the silicosis hazard and the use instructions necessary to prevent exposed workers from getting silicosis is Harold Istrin, the Chief Executive Officer, Secretary, Chief Financial Office and Director of San Fernando Marble & Granite Inc.

SANTAMARGHERITA

1061. Santamargherita S.P.A. is an Italian company that manufactures artificial stone sold that it sells as SM Quartz and SM Marble. The company's corporate headquarters are located at Via del Marmo, 1098, 37020 - Volargne (VF), Italy.

1062. The company's website includes a webpage titled **"Why should I choose Sntamargherita Marble & Quartz Surfaces?"** that says: "For more than 50 years Santamargherita has been transforming ordinary matter into extraordinary surfaces. Thanks to the quality of our products, the attention to our customers' needs, and a deep knowledge of international markets, we have been one of the great pioneers in the engineered stone industry. Today we are one of the world's leading companies in the production of quartz and marble surfaces. Our passion, handed down from generation to generation, is deeply rooted in Italy…a never-ending source of inspiration, rich in culture and solid traditions. **SM Marble** surfaces offer the charm, elegance and glamour of natural stone certified and tested as safe for contact with food and indoor environments, to obtain superior, versatile and technically advanced surfaces. Please see our recommended maintenance and care precautions. **SM Quartz** surfaces are resistant to flexing, abrasion and acids, thus making them the ideal surface for high traffic and everyday use. Crafted from quartz sands and carefully selected resins, SM Quartz complies with the strict international standards required for the food industry and safe indoor environments. SM Quartz kitchen counter tops feature high scratch resistance, low water absorption and high chemical resistance. Kitchen substances of everyday use will not leave surface stains. Our polished finish is exceptionally stain resistant and does not retain dirt, making it easy to keep clean. . . . ." https://www.santamargherita.net/us/faqs/

1063. The webpage for SM Quartz, titled "**Why You'll Love SM Quartz,"** says: "Crafted from quartz sands and carefully selected resins that then undergo an intense manufacturing, grading, and polishing process, SM Quartz complies with the strict international standards required for the food industry and safe indoor environments. SM Quartz is ideal for a wide variety of applications from prestigious large open commercial spaces to intimately detailed interior design solutions in kitchens, bathrooms, flooring and more." https://www.santamargherita.net/us/sm-quartz/.

SantaMargherita Enters the US Market

1064. The story of SantaMargherita's entry into the artificial stone market in the United States is told by a series of advertisements and publications about the company that have been published in *Stone World* since the summer of 2001.

1065. On August 16, 2001 an advertisement by SantaMargherita was published in *Stone World*. It said: "A quartz engineered stone suitable for kitchen countertops, bathroom vanities, walls and floors has been introduced by Santa Margherita. Legacy offers the beauty of natural stone in a wide range of colors, while providing resistance to heat, staining and scratching, according to the company. Legacy quartz engineered stone is available in large-format slabs measuring 55 x 120 cm and ranging from .9 to 3 cm thick, and also in most standard tile sizes. This material, which is 94% quartz and 6% polyester, is offered in a variety of textures, including glass and mirror chips. Legacy is sold throughout the U.S. by Santa Margherita USA and Verona Marble Co."

1066. The very next month, an article was published by Michael Reis in *Stone World* titled "Agglomerate stone producer adds new plant." It said: "As a manufacturer of composite stone products for over 30 years, Santa Margherita of Volargne (VR), Italy has become a world leader in this sector of the industry. And it recently added to its status by establishing its newest Bretonstone plant, adding to its existing operation for producing agglomerate stone. The company has been producing Bretonstone products since 1988, starting with 122- x 122-cm slabs and eventually manufacturing larger slabs. The new plant will focus on the production for 305- x 140-cm slabs, with a maximum thickness of 3 cm. Production in the 10,000-square-meter plant began in the fall of last

year, and the facility can manufacture 1,000 square meters of material in a 9-hour shift. Over the course of the year, the company is looking to run two shifts in the new plant each day. The new facility is divided into two sections - production of slabs and finishing of slabs - and virtually all of the production, handling and finishing equipment is from Breton. The manufacturing process for the product, which is 94% quartz and 6% polyester resin, begins by extracting the raw material from silos. The first operation is mixing the quartzite with the resin and pigment, and there are two possible mixing processes, depending on the final product. For monocolor products, the pigment is added during the initial mixing process. For bi-color products - such as a material with a dark green surface and light green accents - the two shades are mixed separately, and are then combined later in the process. After mixing, the material is poured into a rubber mold, and a polyurethane film is placed on top. The slab then moves through a press, and then into an oven that heats the slab for 18 minutes. The protective film is then automatically removed and stacked with other film. The mold is automatically separated from the slab, and a vacuum lifter moves the slab to a cooling unit, while another line cleans and recycles the rubber mold. Once the slabs are cooled, they are automatically unloaded from the line, and a crane delivers them to the finishing line. The rough edges of the slab (approximately 2 cm) are trimmed away, and the slabs then move to calibration. Two polishers - a 6-head Levibreton KCP and an 8-head Levibreton KCP - are used for calibrating, and polished slabs continue onto an 18-head Levibreton KFG. After calibration and polishing, the slabs are then dried. When the agglomerate material is being made into tiles, the slabs go through a cross cutter, and then through another section of the finishing line that bevels all four edges of the tile. The tiles are then dried and automatically packed in boxes and stamped with a sticker denoting the name of the tile, the production date and the UPC code. Another machine automatically picks up the boxes and places them onto a palette. The increased production of Bretonstone - which had stood at 7,000 square meters per day prior to the expansion - was due to increased market demand, according to the company. Santa Margherita's directors decided that its 60,000-square-meter factory was no longer able to satisfy demand for the product. The layout and machinery of the new facility was determined by working directly with representatives from Breton, which has a fully equipped research laboratory to help determine new technical and aesthetic solutions for Bretonstone products.

Varieties of agglomerate stone include Agglosimplex (made of marble chips and polyester resins); Marghestone (made of marble grits and polyester resins) and Crystal Stone (made of marble grits with colored glass inserts). Slabs are used for applications such as kitchen countertops and vanity tops - primarily for residential and hotel projects. A total of 95% of the company's production is exported, and the European Union is the company's top export market, led by Germany. The U.S. is the second strongest export target, and Santa Margherita is currently looking to increase its presence in the American market."

1067. On March 3, 2003 an advertisement titled "New employee" was published in *Stone World*. It said: "The Verona Marble Co. and Santa Margherita S.p.A. of Verona, Italy, have announced the appointment of Charles Tynan as the Director of Sales and Marketing for the firms' U.S. operations. Tynan brings over 25 years of industry experience to his new position. He began his career as a consultant specializing in the development of marketing tools for the ceramic tile and stone industry with a focus on the architectural specification market. Following roles with major U.S. ceramic manufacturers Tynan eventually became the executive vice president of IMC, Inc. of Dallas, TX, as well as the president of IMCA in Phoenix, AZ. 'In joining the team of Verona Marble and Santa Margherita, I will be able to couple my experience in building distributive systems with their broadly based line of marble and quartz based materials,' said Tynan. 'I know that this will be an exciting and productive time for all of us at Verona Marble as well as for our customers around the country.'"

SantaMargherita Registers to Do Business in Florida and California

1068. On March 23, 2012, Santa Margherita USA, Inc. filed Articles of Incorporation with the Florida Secretary of State, stating that its principal place of business was "c/o Santa Margherita S.p.A., via Ita Marzotto 8, 30025 - Fossalta di Portogruaro (VE) Italy" and identifying Ettore Nicoletto as the corporation's Chief Executive Officer, and naming three Directors, all of whom resided in Italy.

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1069. On January 24, 2013, Santa Margherita USA, Inc., a Florida corporation, filed a Statement and Designation by Foreign Corporation with the California Secretary of State, listing its business address as 444 madison Ave., Suite 1206, New York, NY 100022.

1070. On January 31, 2022, Santa Margherita USA, Inc., a Florida corporation, filed a Statement of Information with the California Secretary of State, listing its principal executive office as 1900 Sunset Harbour Drive, Annex 3, Miami Beach, Florida 33139 and identifying Vincent Chiaramonte as its Chief Executive Officer, Laura Reitano-Taylor as its Secretary, Francesco Lorenzon as its Chief Financial Officer, and identifying its type of business as "Wine Wholesaler."

SantaMargherita's Safety Indications for Working with SM Quartz

1071. On July 7, 2015 Santa Margherita S.p.A. issued a document titled "SM Quartz® Safety Indications for Working." Immediately after the title, the document states: "This document is not a 'material safety data sheet"; it is not required for the product as in accordance with section 31 of the REACH regulation (EC 1907/2006)." This is an odd statement, because the document has the same basic format and provides the same categories of information that are provided in Safety Data Sheets. It appears that the statement represents wishful thinking on the part of Santa Margherita that its SM Quartz is not a hazardous substance that is subject to the requirements of a Safety Data Sheet. Article 31 of the REACH regulation (Requirements for safety data sheets) states: "1. The supplier of a substance or a mixture shall provide the recipient of the substance or mixture with a safeta data sheet compiled in acordance with Annex II: (a) where a substance or mixture meets the criteria for classification as hazardous in accordance with Regulation (EC) No. 1272/2008 . . . ." Subsection 4 of the regulation states: "The safety data sheet need not be supplied where hazardous substances or mixtures offered or sold to the general public are provided with sufficient information to enable users to take the necessary measures as regards the protection of human health, safety and the environment, unless requested by a downstream user or distributor."

1072. The section of the document regarding "Information Regarding Ingredients" identifies the "general composition" of the product as containing 7-13% Polymerised polyester resin, 87-93%

Quartz, Mirror, Granite, Glass, Mother of Pearl, < 3.0% Pigments and < 0.5 % Additives." The document then says: "All the raw materials are incorporated within the three-dimensional structure of the polyester resin during the production process and are therefore trapped and not readily available." It appears that Santa Margherita claims there can be no exposure to the crystalline silica and other toxic constituents of the product because they are "trapped" and are therefore "not readily available." Thus, the section of the document titled "Hazard Indications" states: "**The product itself constitutes no danger to the health and environment, in accordance with the REACH regulation (EC N° 1907/2006) and with European Directives 67/548/EEC, 91/155/EEC, 76/769/EEC, 199/45/EEC and amendments, 93/112/EEC, 2001/58/EEC and 2001/60/EEC."** (Emphasis in original). The document then states: "In the case of cutting or grinding the product, as the material consists primarily of silicate aggregates, any dust produced by the process will contain silica (SiO_2)." Although the document states that "the product itself constitutes no danger to . . . health," the document then proceeds to warn that the product "causes damage to lungs through prolonged or repeated exposure by inhalation" and instructs one to "Wear respiratory protection for particles." Thus, the statement that "the product itself constitutes no danger to . . . health" is at best misleading and confusing, and at worst, blatantly false.

1073. The fourth page of the document begins with a heading titled "Classification according to directive 1999/45/EC" which states: "R20 Harmful by inhalation, R48 Danger of serious damage to health, S22 Do not breath the dust by prolonged exposure, S38 Use personal protective equipment P3." The first two statements do provide some warning of a hazard to health by inhalation, but the latter two statement wholly fail to inform fabrication workers how to prevent such damage from occurring. The statement "Do not breath the dust by prolonged exposure" is actually harmful, because it suggests that it is safe to breathe dust of the product as long as one's inhalation exposure is not "prolonged." However, the word "prolonged" is meaningless, because it could refer to an exposure of a minutes, hours, weeks, months, or years, so a fabrication worked cannot know whether his exposure is "prolonged" and therefore injurious to his health. Likewise, the instruction to "use personal protective equipment P3" is meaningless, because a worker cannot ascertain what type of personal protective equipment he must wear to prevent damage to health.

1074. The document then states: "**The use of water-based dust suppression systems is recommended.**" While water-based dust suppression can reduce exposure to crystalline silica dust during artificial stone countertop fabrication processes, the statement fails to specify what water-based dust suppression systems are effective and it fails to explain that the slurry generated by water-based dust suppression systems dries and then becomes airborne as a result of people walking through dried slurry in the fabrication and air currents re-entraining dried dust into workroom air.

1075. The document then states: "Prolonged and/or intensive inhalation of crystalline silica may cause pulmonary fibrosis and silicosis." This information is not helpful, because without quantifying what "prolonged . . . inhalation" is, a fabrication worker cannot know whether his inhalation of the product is "prolonged." Likewise, without quantifying what level of inhaling crystalline silica is "intensive," a fabrication worker cannot know whether his inhalation of the product is harmful. The statements that "exposure to dust must be monitored and kept under control, and adequate ventilation and extraction systems must be installed in the work area" are also unhelpful, because no quantitation is provided for what level of exposure to dust is "under control" and no standard is provided for the efficacy of "ventilation and extraction systems."

1076. The last statement in this section of the document states: "Workers must be provided with FFP3 type protective masks." This terminology is unclear to a fabrication worker, but it refers to a particulate mask that reduces exposure to crystalline silica dust. However, this instruction is actually harmful, because the dust from artificial stone is so tiny that it penetrates through particulate filter masks, so prescribing this type of respiratory protection provides workers a false sense of safety and conceals that the only type of respirator that can prevent silicosis from artificial stone dust is an air-supplied respirator.

1077. A section of the document titled "Exposure Control / Personal Protection" states: "These measures must only be implemented in the case of processes producing dust, and do not apply to the product itself, which requires no exposure control or personal protection measures." This language provides a false impression that no control or personal protection measures are necessary to protect workers from the product except when dust is produced, even though crystalline

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silica dust is so small that it is generally not visible in the air and it remains in the air of artificial stone fabrication shops for hours or even days.

1078. Page 9 of the document contains a section of the document titled "Toxicological Information." This section states that "IARC (International Agency for Research on Cancer) maintains that prolonged exposure to crystalline silica by inhalation in the workplace may cause lung cancer in humans." However, this is not what the referenced IARC monograph says. Rather, it concludes: "there is *sufficient evidence* in humans for the carcinogenicity of inhaled crystalline silica in the form of quartz or cristobalite from occupational sources." International Agency for Research on Cancer, IARC Monographs on the Evaluation of Carcinogenic Risks to Humans: Vol. 68: Silica, Some Silicates, Coal Dust and Para-Aramid Fibrils," (IARC 1997).

1079. The document then contains a very confusing section that states: "The SCOEL (European Commission's Scientific Committee on Occupational Exposure Limits) has stated that "Silicosis is the primary effect of inhalation of crystalline silica in humans. There is sufficient information to conclude that the risk of contracting lung cancer increases in persons with silicosis (and, apparently, does not increase in workers without silicosis and exposed to silica dust in mines and the ceramic industry). Therefore, preventing the onset of silicosis will also reduce the risk of cancer. As no clear threshold at which silicosis develops can be identified, any reduction in exposure will reduce the risk of silicosis." The statement that risk of lung cancer is "apparently" not increased in workers without silicosis is simply untrue. The statement that "no clear threshold at which silicosis develops can be identified" is true, but it contradicts the information that only "prolonged and/or intensive inhalation of crystalline silica may cause pulmonary fibrosis and silicosis."

1080. To summarize, the document, which says that it "<u>is not a 'material safety data sheet'</u> is confusing and harmful. The statement that "the product itself constitutes no danger to . . . health" – although it causes silicosis and lung cancer – is misleading and conceals the true hazard of the product. The document misleads fabrication workers to believe the product is safe and that they will not be harmed from fabricating the product as expected and intended, unless exposure to the product is "prolonged" and "intensive," which terms are undefined and are therefore misleading to workers. Critically, the document recommends the use of particulate air filter masks, which are inadequate

to prevent silicosis among artificial stone countertop fabricators, because artificial stone dust is so small that it penetrates through particulate air filter respirators, such that air-supplied respirators are the only type of respirators that can prevent fabrication workers from getting silicosis. By failing to inform artificial stone fabricators that they must wear an air-supplied respirator to prevent developing and suffering from silicosis, the document provides workers a false sense of security that wearing particulate air filter respirators will protect them, whereas the use of such respirators by artificial stone fabricators causes or contributes to the development of silicosis in such workers.

SEIEFFE COMPANIES

1081. According to Bloomberg, Seieffe Srl is an Italian company that was founded in 1994 whose "line of business includes the manufacturing, cutting, shaping and finishing of granite, marble, limestone, slate and other stones for buildings."

1082. According to Breton, "Seieffe Industrie is a company operating in the production of quartz-resin agglomerates using Bretonstone® technology; its material is known under the OKITE brand name. The company is located in one of the most beautiful historical and scenic places in Campania, the Caudina Valley, between two natural parks and the scene of the famous battle between the Romans and the Samnites "Le Forche Caudine."

1083. According to Breton, Seieffe Industrie "is one of the Izzo family companies and has an industrial tradition of over 60 years, which began with the founder Luigi Izzo, whose entrepreneurial history is characterised by winning choices pursued with enthusiasm and determination."

1084. According to Breton, "[a] commitment to innovation, care for design and constant research in the field of raw materials have led the company to expand its core business over the years. Founded as a company dedicated to the production of cement products and prefabricated elements - both in the public and private sectors - in the early 2000s it decided to diversify its production and enter the world of quartz surfaces."

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1085. According to Breton, "[t]oday, Seieffe is a solid industrial group headed by Antonio Izzo, which operates in various sectors: building construction, prefabrication and production of quartz surfaces for quality furniture. All the companies in the group are managed by the Izzo family."

1086. According to Antonio Izzo, in the early 1990s "we approached Breton and the world of composite stone. We set up a new company under the name SEIEFFE (Sei Fratelli – Six Brothers) with Antonio Izzo as director. We created two production lines: 1. Bretonstone slabs [and] 2. Terastone bricks. Even though we initially believed that Terastone could complement the ceramic product market, we quickly realised that we would have to focus on the production of quartz resin slabs."

1087. According to Antonio Izzo, "[i]t was in 98-99 that we witnessed one of the biggest transformations in the quartz/resin agglomerate slab industry: its use as part of residential furniture, mainly kitchen and bathroom tops, replacing natural stone."

1088. According to Antonio Izzo, "[i]n addition to the Italian market, the two markets we initially focused on were USA and Middle East; we were immediately very satisfied, both in terms of production capacity and turnover."

1089. In Italy, Seieffe invested heavily in its brand and, even today, for many consumers Okite is the first request and the most recognised brand. A simple and direct message was coined - Okite, the kitchen countertop - which, combined with a widespread communication strategy on television, in national and sector newspapers and a dense sales network throughout Italy, has led the company to be recognised as a reference point in the sector."

1090. According to Antonio Izzo, "even today, after 20 years, the Okite name still appeals. The brand is strong and the quartz on the Italian market continues to be Okite. I am very satisfied with this. In the past, it happened several times that they falsified the certification of our product, we had to claim respect for our rights, urging them to transform the classic paper certification into a digital card that could be issued exclusively by us. We have always considered it essential to emphasise the quality of our product compared to other quartz products on the market - even to be able to justify a higher cost. In this respect, we have turned down orders when we were asked to remove the Okite brand from the slabs."

1091. According to Antonio Izzo, "[w]e have developed our own technology to produce the veined products; together with the R&D department, we have studied the best way to manipulate the material and we have our own know-how to create specific equipment for the result."

1092. According to Antonio Izzo, "[a]s far as safety is concerned, we are aware that crystalline silica is a serious problem. Also coming from the mining business, we have always been particularly sensitive to this issue, and it has helped us at SEIEFFE to refine our control measures in order to reduce the risk to below the levels set by law." See, Breton Customer Story: "A coffee with . . . Antonio Izzo (Seieffe Industrie, Italy), available online on the Breton website at https://breton.it/en_na/customer-stories/a-coffee-with-antonio-izzo-seieffe-industrie-italy.

Seieffe Registers to Do Business in California

1093. On September 4, 2002, Seieffe Corporation, a California corporation, filed Articles of Incorporation with the California Secretary of State. On August 6, 2003, Seieffe Corporation filed a Statement of Information with the California Secretary of State, identifying Luigi Izzo as the California corporation's Chief Executive Officer, Secretary, Chief Financial Officer and Director. The website of the California Secretary of State indicates that Seiffe Corporation, a California corporation, was suspended by the California Secretary of State in 2006 for failure to pay taxes to the Franchise Tax Board and failure to file a Statement of Information with the Secretary of State.

1094. On February 11, 2003, Seiffe Corporation, a Texas corporation, filed Articles of Incorporation with the Texas Secretary of State. On May 1, 2018 Seieffe Corporation, a Texas corporation, filed a Statement and Designation by Foreign Corporation with the California Secretary of State. This Statement was signed by Marcello Izzo, President of the Corporation. The website of the California Secretary of State indicates that by the next year, the company had "FTB forfeited."

1095. Searching for Seiffe Corporation on Google brings one to the "OKITE®" website: us.okite.com. Clicking on "Contact" and then "Find a Representative" brings one to a Distributor webpage which indicates that Seieffe Corporation has US Headquarters in Texas and New Jersey and that the company is represented in California by Stone West, located at 3510 Arundell Circle,

Ventura, CA 93003. While the Stone West website offers natural and engineered stone from around the world, its engineered stone offerings are for Compac, Pental and Vadara, but not Okite.

Seieffe's September 9, 2008 Material Safety Data Sheet

1096. On September 9, 2008, Seieffe s.r.l., issued a Material Safety Data Sheet for its OKITE® product which it described as a "Composite stone product obtained by mixing quartz granultes and/or silica sands bound with Orthophtalic polyester resin" containing more than 90% crystalline silica.

1097. Section 3 (Health Hazard Identification) of the Material Safety Data Sheet begins by stating: "OKITE® is not hazardous." This is, of course, a false statement, because the product is an industrial product containing more than 90% crystalline silica that has to be fabricated, which inevitably results in the generation of toxic crystalline silica dust. Indeed, after stating that "OKITE® is not hazardous," the Material Safety Data Sheet continues: "However, during fabrication operations such as sawing, routing, drilling, polishing it can generate dust. High concentrations of dust can irritate eyes, nose, throat and respiratory tract causing coughing and sneezing. SEIEFFE always recommends using an anti-dust mask during these operations." These statements are also false and misleading, because it is not merely possible that fabrication operations can generate dust; they always generate dust. Additionally, irritation effects are not the major hazard of exposure to artificial stone dust; silicosis is the lethal hazard of inhaling dust from the product. Lastly, SEIEFFE's recommendation of using an "anti-dust mask during these operations" is a grossly inadequate respiratory protection instruction - one that, if followed, will cause silicosis and death, because dust masks are totally inadequate to prevent silicosis from the inhalation of artificial stone dust, because the particles are so tiny they penetrate through masks and particulate filter respirators. Critically, the Material Safety Data Sheet fails to mention the most serious hazard of inhaling OKITE® dust - silicosis. Indeed, the word "silicosis" is nowhere to be found in the Material Safety Data Sheet - a gross violation of the Hazard Communication Standard.

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1098. Section 11 (Toxicological Information) states, regarding "Corrosive / irritant powers," that "Chronic effects could be possible at long term" to the Lungs. This is a deficient statement of the respiratory toxicity of crystalline silica, because crystalline silica causes silicosis and other lung diseases and, by the date of the Material Safety Data Sheet, was also known to cause lung cancer.

Seieffe's 2019 Safety Data Sheet

1099. It was apparently not until 2019 that Seiffe even mentioned silicosis on its Material Safety Data Sheet for OKITE®. A 2019 Quartz Surfacing Material Safety Data Sheet for OKITE® issued by Seieffe Corporation at 12227 FM 529 Suite K, Houston TX 77041 identifies the following "Potential Health Effects" in Section 2 (Hazards Identification) of the Material Safety Data Sheet:

> **Acute Eye:**
> Product in finished form does not present a health hazard via this route of entry. Dusts and flying particles generated during cutting, grinding and forming may cause irritation and injury.
>
> **Acute Skin:**
> Dusts generated from this product may cause skin irritation.
>
> **Acute Inhalation:**
> Dusts from product may cause irritation to respiratory tract, nose, throat and lungs.
>
> **Acute Ingestion:**
> Not considered a potential health hazard via this route of entry. This product may cause gastrointestinal irritation if dusts are swallowed.
>
> **Chronic Exposure:**
> The adverse health effects from crystalline silica exposure - silicosis, cancer, scleroderma, tuberculosis, and nephrotoxicity - are chronic effects.

1100. The 2019 Material Safety Data Sheet is misleading and downplays that hazards of exposure to crystalline silica dust from the product, by stating that the "product in finished form does not present a health hazard" although the product is not a finished end-use product, but is rather an industrial product that is intended to be fabricated into countertops which. after installation in customers' homes or businesses, are only then finished consumer products. The company apparently didn't even mention the hazard of silicosis until 2019 and thereby concealed this most critical hazard

of the product for about 20 years – hardly indicating that the company has "always been particularly sensitive to this issue," as the company's CEO, Antonio Izzo, claimed in his interview with Breton.

1101. Seieffe's concealment of the true nature and severity of the silicosis hazard presented by Okite, its artificial stone product, its misleading statements that its Okite product does not present a health hazard, and its concealment of the critical need fo stone countertop fabricators to always use respiratory protection, specifically an air-supplied respirator, when fabricating the product to prevent them from developing and suffering from silicosis, was approved and ratified by Antonio Izzo, Chief Executive Officer of the Italian corporation, Luigi Izzo, Chief Executive Officer of Seieffe Corporation, a California corporation; Marcello Izzo, Chief Executive Officer of Seieffe Corporation, a Texas corporation and Christopher Millard, Vice-President of Seieffe Corporation, a Texas corporation.

STONE ITALIANA S.P.A.

1102. According to its website, "Stone Italiana was founded in 1979 through the brilliant and far-sighted intuition of Roberto Dalla Valle who, after having left the lithographic printing company that he owned, decided to embark on a new adventure in the field of interior cladding products. He was driven by enthusiasm, curiosity and determination, as well as by his innate entrepreneurial flair. He wanted to lay the foundations for a revolutionary approach to interior design: at that moment he could never have imagined that his products would become a fundamental part of some of the most famous architectural projects in the world. With the aim of introducing a new material into the interior design landscape, Stone Italiana initially offered industrially-produced marble as an alternative to the natural materials existing on the market. It was the first company in the world to apply this technology, manufacturing engineered marble and, later, quartz. Over the years the company has changed the way in which stone materials are perceived and used, rediscovering the uniqueness, inimitability and variety that can only be found in nature. Today Stone Italiana is first and foremost an expression of excellence, Made in Italy. An ambassador for Italian creativity the world over, it offers architects, designers and marble artisans range of products based

on marble or quartz, with infinite colour options and elements that enhance the raw material, giving it even greater sophistication and value, along with a complete arsenal of the highest technical specifications. To quote the company founder, "We all have skill and imagination, all it takes is effort," Stone Italiana performs incessant research activities in all its manufacturing sectors. From the range of surface finishes to the enhancement of product performance, not forgetting attention to topical trends, everything is subjected to research, benefiting from technical equipment which, though highly sophisticated, never loses the magical touch of an artisanal workshop." https://stoneitaliana.com/en/about-us/.

1103. On February 1, 2012, Stone Italiana published an Advertisement titled "More than three decades of progression" in *Stone World*, which provided the following timeline of events for the company:

1979 Stone Italiana is established in Zimella, near Verona, manufacturing recomposed marble.

1981 First supply of a raised access flooring system called Stonit.

1982 The "Uniform White" concept embodied by the Almond White collection meets with huge success. This product line is presented at the Salone del Mobile in Milan.

1983 First supplies of ventilated facades for Bank Institutions located in Padua and Prato, Italy.

1984 Stone Italiana supplies the flooring for Schiphol Airport, Amsterdam.

1985 Stone Italiana's Filidoro collection is an award winner at the Saiedue Exhibition in Bologna.

1988 A subsidiary called Niston is established at Lavis, near Trento. It manufactures recomposed granite slabs.

1990 New commercial offices are opened at San Martino Buon Albergo, near Verona.

1992 Stone Italiana's products are chosen for the Deutsche Bank branches in Germany.

1994 First meeting with Italcementi, leading to an agreement for the introduction of 300-x 120-cm recomposed quartz slabs.

1995 Initial proposals for the supply of Stone Italiana products to German Mail and Railway, in cooperation with Milan-based Studio De Lucchi.

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1996 Production of 300- x120-cm recomposed quartz slabs is increased and extended to encompass other applications in addition to floors, such as kitchen countertops, vanities, stairs and more.

1997 Stone Italiana takes over Polistone, a company headquartered in Villesse, near Gorizia. The company manufactures exclusively large-format recomposed quartz slabs. The Niston subsidiary is sold.

1998 New administrative and commercial offices are opened in the heart of Verona's business district (Palazzo Bauli).

1999 The company introduces Cottostone, a revolutionary, world-patented surfacing material developed jointly with Sannini Impruneta. Stone Italiana's technology made it possible to manufacture cotto slabs in a size of 300 x 120 cm.

2000 Reduced-thickness slabs (as thin as 6 mm) and a new surface finish called Nat are introduced.

2001 The company starts production of 75- x 300-cm slabs in various thicknesses, primarily for the kitchen countertop market.

2002 Stone Italiana strengthens its presence at retailers worldwide, providing them with customized tools and showroom support.

2003 Stone Italiana's range is complemented with three new collections: Luce, Absolute and Jaipur.

2004 As it celebrates its 25th anniversary, Stone Italiana achieves ISO 9001:2000 Certification for Quality Management. At the same time, it takes great steps forward in technology and production. It creates the Metallico collection by mixing quartz with scrap from the microelectronics industry and patents an anti-static and dissipative floor — the first ever in its class.

2005 Stone Italiana is selected by the Italian Government to supply the floor for the Italian Pavilion at the International Expo in Aichi, Japan.

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2006 Stone Italiana introduces its Bathroom Collection, a new product line especially designed for the bathroom. It allows the creation of customized bathrooms through the use of new materials, new formats and innovative decorations.

2007 Stone Italiana widens its product range with Mosaico Italiano, a collection of mosaic tiles, which come pre-grouted. This offers a solution to the problems connected with the installation of mosaic tiles.

2008 Stone Italiana introduces its Luxury Collection, a new collection of precious quartz surfaces featuring semi-precious gems (Fire Agathe, Sodalite, Jadeite, Rosequartz, Amethyst, Red Jasper), complemented by a matching color shade for each one of the six gems.

2009 Stone Italiana doubles its production by opening a new plant and offices at Zimella, near Verona. The company celebrates its 30th anniversary by opening the very first "All-Quartz" showroom in Europe, based in Milan.

2010 Stone Italiana products continue to be chosen for top projects such as Dubai Underground stations, Shanghai Expo, Armani Fifth Avenue in New York, and more.

2011 The company introduces its revolutionary U Design collection . . . .

1104. The February 1, 2012, Advertisement in *Stone World*, titled, "More than three decades of progression" in *Stone World*, stated: "Established in 1979 in Verona, Italy, by Roberto Dalla Valle, Stone Italiana has developed into a world leader in the field of engineered quartz slabs and tiles. The company, which is owned by the Dalla Valle and Vassanelli families, prides itself on its extensive research and development, and it continually studies quality, color, technology and unique surface finishes. Production — all of which carries the "Made in Italy" distinction — includes slabs measuring 305 x 140 cm (55 x 120 inches) and tiles up to 120 x 120 cm (48 x 48 inches). Stone Italiana has two large manufacturing plants certified UNI EN ISO 9001:2000 — one in Zimella (Verona), producing large slabs for cut-to-size items and small slabs for tiles, and another in Villesse (Gorizia), also producing large slabs."

1105. Regarding production, the Advertisement stated: "Stone Italiana's production facilities utilize the Bretonstone Slab plants, which are made to produce slabs and tiles of compound

stone bonded with polyester using a "vibrocompression vacuum process." The Stone Italiana product range is the result of a leading-edge controlled manufacturing process that is aimed to achieve products suitable for special applications in the building industry. These products consist of a composite material, which is mostly quartz- or marble-based. The manufacturing process begins by mixing a combination of raw materials (quartz or marble) in various grain sizes (from fine dust up to 5- to 6-mm grit), organic dyes and structural polyester resin (approximately 7%). Besides acting as a binder, the resin allows for a finished product that displays excellent characteristics in terms of flexural strength, impact strength and a low absorption coefficient. The polyester resin is heat cured and, through a computerized industrial process of vibrocompression under vacuum at high pressure, it permits the manufacturing of large-format slabs (120 x 120 cm and 140 x 305 cm) in various thicknesses (1, 1.3, 2 and 3 cm thick), suited for a wide range of applications. The processing cycle results in the production of individual slabs, thereby eliminating the need for any block cutting operations. The raw materials are first mixed and homogenized via computerized control units. The resulting mix is then poured between two paper sheets in the amount needed to get the desired thickness. From there, it is placed on a conveyor belt that delivers the product to the compaction area, where the mix is pressed into slabs. Each slab is then cured in a curing chamber that consists of a tower-like structure with a number of heating trays, which are kept at a temperature in the region of 176 to 185 degrees (80 to 85 degrees C). Through heat treatment, the mixture pressed into a slab will solidify in approximately 30 to 40 minutes. Finally, each slab is processed to the desired surface finish through a number of steps, including surface smoothing, calibrating, polishing, trimming, beveling and edge work, depending on the intended use. Finished slabs from Stone Italiana can be supplied in very large quantities with controlled, quality-assured features, such as consistency in weight, thickness and compactness, and uniform design and color of the exposed surface. The plant in Zimella, Verona, produces 30,000 square meters of slabs measuring 305 x 140 cm (55 x 120 inches) and 35,000 square meters of tiles ranging from 30 x 30 to 120 x 120 cm (12 x 12 to 48 x 48 inches) per month, along with production of the U Design engineered quartz sink collection. Additionally, the plant in Villesse, Gorizia, produces 30,000 square meters of slabs measuring 305 x 140 cm (55 x 120 inches) per month."

1106. Regarding sales, the Advertisement stated: "At the latest tally, Stone Italiana's sales were 68% slabs, 28% tiles and 3% other products. Among slab sales, a total of 53% was shipped within Italy, with 27% being shipped elsewhere within the European Community and 20% going to the rest of the world. For tile sales, a total of 30% was shipped within Italy, with 33% being shipped elsewhere within the European Community and 38% going to the rest of the world. Internationally, main markets include Holland, Germany, Qatar, Hong Kong, the U.S., Russia, France, the U.K., Spain, Australia and Canada. It maintains a number of exclusive distributors for North America. Among the company's noteworth installations, Stone Italiana has supplied material for Armani on Fifth Avenue in New York, NY; Victoria's Secret stores across North America; Gap stores across North America; Newark Liberty International Airport in New Jersey; the Dubai Metro Underground Stations; Shanghai Expo 2010 in China; and the Qatar Foundation University College in Doha."

2017 Safety Data Sheet

1107. On April 6, 2017, Stone Italiana issued a Safety Data Sheet for its Engineered quartz stone, which it identified as containing 90-93% Free Crystalline silica and unspecified amounts of colouring pigments, polyester resins, catalysts, accelerator,"special inserts," glass, mirror, metallic silica, mother of peral, gems, glitter, and "various stone grits."

1108. Section 3 (Hazards Identification) of the Safety Data Sheet identifies only one hazard of the product: "In case of airborne dust caused by dry cutting operations: Hazardous when inhaled. Crystalline silica may cause abrasions of the cornea." This is a grossly deficient identification of the health hazards of the product, which causes silicosis and other lung diseases as well as lung cancer, all of which hazards to the respiratory system have been concealed. The identification of hazards is also harmful, because it suggests that Stone Italiana's artificial stone products can be dry-cut, which produces huge amounts of respirable crystalline silica dust that causes silicosis, and therefore should never be done. Indeed, various regulators have prohibited all dry-cutting of artificial stone products for this very reason.

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1109. Section 8 (Exposure Control / Personal Protection) of the Safety Data Sheet provides the following information regarding Respiratory Protection: "Dust filters," Dust filtering facepieces," Dust filters of rubber masks," "Class P2 Filtering respirator / half mask Full-Face)." This information is confusing because it appears to prescribe multiple different types of masks, but fails to inform workers that particulate filter masks are inadequate to prevent silicosis from the product and conceals that the only type of respirator that can prevent silicosis among stone countertop workers who fabricate artificial stone is an air-supplied respirator.

1110. It is not until Section 11 (Toxicological Information) that the SDS mentions silicosis: "Chronic toxicity (silicosis): Prolonged exposure to dry quartz dust may cause irreversible damage." This statement is inadequate to protect workers because silicosis is not mentioned in the Hazards Identification section of the Safety Data Sheet and the statement suggests that silicosis can only occur as a result of "prolonged exposure to dry quartz dust," which is not true.

1111. The Safety Data Sheet is grossly deficient and does not comply with the regulatory requirements of the Hazard Communication Standard, because it fails to warn of the lethal hazard of silicosis in the Hazards Identification section of the Safety Data Sheet, fails to warn that exposure to crystalline silica causes lung cancer, falsely suggests that particulate filter masks are adequate to prevent silicosis, and conceals from workers that they must wear air-supplied respirators so as not to get silicosis. This concealment of the health hazards of the product and the means of preventing them was approved and ratified by officers, directors, and managing agents of Stone Italiana.

STONEVILLE USA

1112. On February 1, 2006, Articles of Incorporation of Stoneville USA, Inc. were filed with the California Secretary of State, designating Ignatius Ravi Kasturiraj as the corporation's initial agent for service of process.

1113. According to Stoneville USA, Inc., it entered into an agreement with Pental Granite and Marble, Inc. in July 2009, "where Pental would provide stoneville a Chroma Quartz product on a consignment basis, and Stoneville would remit payment for the sold product by the end of the

following month after the product was sold. *Stoneville USA, Inc. v. Pental Granite and Marble, Inc., et al.,* (C.D. Cal., Sept. 18, 2012) 2012 WL 4107863. According to Stoneville USA, Inc., it sold Pental quartz products until January 2012 when Pental decided to sell Chroma Quartz itself in the Los Angeles area and ceased supplying Chroma Quartz to Stoneville. *Id.*

1114. In about October 2017, Stoneville USA, Inc. "entered into an exclusive distribution agreement with Compacstone USA, Inc.," whereby Stoneville USA, Inc. "would act as [Compacstone's] exclusive distributor to promote, market, stock and sell [its] engineered quartz in the California counties of Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura." *Stoneville USA, Inc. v. Compacstone USA, Inc.* (C.D. Cal., March 6, 2020) 2020 WL 13413472.

1115. On March 2, 2022, Stoneville USA, Inc. filed a Statement of Information with the California Secretary of State stating that its principal office and executive office in California, as well as its mailing address in California is 12906 Saticoy Street, North Hollywood, CA 91605, and that Ignatius Ravi Kasturiraj is the Chief Executive Officer, Secretary, Chief Financial officer, Director, and Agent for Service of Process at the company's business address.

1116. According to its Company Profile in *Stone World*, Stoneville is an importer and distributor of Forza, Titan Quartz, Quartz surfacing, as well as slabs of natural stone, including Bluestone, Granite, Limestone, Marble, Onyx, Quartzite, Sandstone, Shellstone, Slate, Soapstone Sodalite, and Travertine.

1117. According to its website, Stoneville offers for sale the following artificial stone brands: Caesarstone, Cambria, Cosentino's Dekton and Silestone, Dupont's Corian Solid Surface, Forza Porcelain, Geoluxe Pyrolithic Stone, Hanex Solid Surfaces, Hanstone Quartz, Premium Natural Quartz from MSI, Sapienstone Porcelain, Silestone, Vetrazzo Recycled Surfaces, and Vadara.

1118. According to Stoneville USA, Inc., it "is currently one of the leading distributors of granite, marble, quartzite, engineered quartz and other natural and man-made materials in Southern California." *Stoneville USA, Inc. v. Compacstone USA, Inc.* (C.D. Cal., March 6, 2020) 2020 WL 13413472.

1119. Stoneville has prepared its own Safety Data Sheet for Quartz which is available on its website at https://www.stonevilleusa.com/wp-content/uploads/TITAN-QUARTZ-SDS.pdf. This Safety Data Sheet for Quartz is dated March 11, 2021 and states that "[f]or the purposes of this SDS, the term "Quartz" encompasses all types of Quartz products manufactured/sourced by Stoneville USA, Inc." Although the Quartz products that Stoneville sells contain extremely high concentrations of crystalline silica, a known cause of silicosis, lung cancer and other human diseases, the SDS states that "Quartz is one of the most environmentally friendly building materials you can buy today." The Hazards Identification section of the SDS states: "Quartz products are mixtures natural [sic] occurring minerals that have been mined. The finished products are odorless, table, non-flammable, and pose no immediate hazard to health. Respiratory, hand, and eye protection may be needed to prevent excess exposure to airborne particulates if dust is produced by cutting product during installation or by any other operations . . . ." The Hazards Identification section of the SDS states that the product "may cause cancer," "may cause respiratory irritation," and "causes damage to organs (lung/respiratory) through prolonged or repeated exposure (inhalation)." Conspicuously absent from the Hazards Identification section of the SDS is any mention of silicosis - the greatest hazard of artificial stone quartz products. The Hazards Identification section of the SDS provides a few "precautionary statements," including "Do not breathe dust/spray," an absurd use instruction, because it is impossible to not breathe dust of the product when fabricating it unless one wears an air-supplied respirator, which is not recommended. Indeed, the last precautionary statement in the Hazards Identification section of the SDS states: "Wear protective gloves, protective clothing, eye protection, face protection," but does not state that respiratory protection is needed. The section of the SDS titled "Composition/Information on Ingredients" states that "Quartz products are mixtures natural occurring minerals . . . [that]do not contain asbestos" and that "under normal conditions these products do not release hazardous materials after installation and are not considered hazardous waste should disposal be necessary." This statement is grossly misleading, because the products do release hazardous materials (crystalline silica, metals and other toxic chemicals) when they are cut, ground, polished and otherwise fabricated, as is always necessary. A section of the SDS regarding Exposure Controls and Personal Protection states that "Use of a properly fitted NIOSH/MSHA

approved particulate respirator is recommended when cutting Quartz products for installation or during the removal of installed product." This instruction is misleading and harmful, because the greatest respiratory hazard to the product is during fabrication (which is not mentioned), use of a particulate respirator is inadequate to prevent silicosis, and use of an air-supplied respirator (the only type of respirator that can prevent silicosis from fabrication of the product) is not recommended. The SDS for Stoneville's Quartz products therefore provides false and misleading information which, if followed, can cause, rather than prevent, silicosis and other harm from these most dangerous industrial products.

1120. Throughout the time that Stoneville sold its stone products, exposing stone countertop fabricators and installers to respirable crystalline silica from the company's products, Stoneville's officers were aware that the company's stone products were defective because they contained extremely high concentrations of crystalline silica, were aware that the use instructions that Stoneville provided were inadequate to prevent silicosis and would actually cause silicosis in exposed workers, and were aware that fabrication companies could not protect fabricators and installers from the lethal silicosis hazard presented by Stoneville's defective stone products. Among Stoneville's officers and members who had this knowledge but who nevertheless consciously disregarded the health and safety of fabricators and installers is Ignatius Ravi Kasturiraj, the Founder, Chief Executive Officer, Secretary, Chief Financial Officer, and Director of Stoneville USA, Inc.

SURFACE WAREHOUSE L.P.

Corporate History

1121. In 2006 Lee P. Wood, a Texas attorney, and Robert Butts, a Texas businessman, founded Surface Warehouse L.P. in Austin Texas.

1122. On May 8, 2006 Surface Warehouse, L.P. filed its Certificate of Formation as a Limited Partnership with the Texas Secretary of State, providing 8868 Research Blvd., Ste. 309,

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Austin, TX 78758 as its business address and identifying Surface Enterprises, LLC as its general partner. The Certificate was dated April 13, 2006 and signed by Lee P. Wood, as Vice-President.

1123. On May 7, 2024, Lee Wood gave a deposition in the case of *Gustavo Reyes-Gonzalez v. Aaroha Radiant Marble & Granite Slabs, et al.*, LASC Case No. 22STCV 31907, on behalf of Surface Warehouse, L.P. at which he testified: "The purpose of the business was to supply countertop material known as solid surface, which is an acrylic-based material," Dupont's Corian being the major brand of that surface material.

1124. At the company's deposition in the *Reyes-Gonzalez* case, Mr. Wood testified that when Surface Warehouse was formed, it began distributing acrylic solid surface materials that were branded Livingstone and contained no silica, but that as quartz became more popular, the company realized that if it was going to stay in business and continue to grow the business, the company needed to enter into the quartz business.

1125. On May 13, 2009 Surface Warehouse, L.P. filed an Application for Registration as a Foreign Limited Partnership with the California Secretary of State.

1126. At the company's deposition in the *Reyes-Gonzalez* case, Lee Wood testified that in 2016 Surface Warehouse launched the quartz line that was called Vadara. Mr. Wood testified that Vadara is an engineered stone product that contains approximately 85% to 90% quartz, i.e., silica.

1127. At the company's deposition in the *Reyes-Gonzalez* case, Mr. Wood also testified that Surface Warehouse, L.P. has done business under the name U.S. Surface Warehouse and the name US Surfaces.

Company Website

1128. According to a press release that was on Vadara's website, "Vadara Quartz Surfaces was founded in 2016 in Los Angeles, California, under the parent company US Surface Warehouse." According to the press release, "Vadara represents the collaboration of Arik Tendler, former CEO of Caesarstone Quartz, and solid surface pioneer Robert Butts, who currently owns US Surface Warehouse. Together, they have catapulted Vadara to success with a savvy combination of leader-

ship experience, innovative products, and state-of-the-art technology integration." "Vadara Quartz Surfaces has become the fastest growing quartz brand in 2016 with rapid openings of distribution centers across the United States. In 2016, the company opened their first distribution center in Los Angeles and by year's end added three more locations in San Francisco, Chicago, and Atlanta." https://www.vadaraquartz.com/news-press/press-release/year-in-review-vadara-quartz-surfaces-opens-four-distribution-centers-in-2016/#:~:text=Vadara%20represents%20the%20collaboration%20of,currently%20owns%20US%20Surface%20Warehouse.

1129. The company now a has a website under the name "us surfaces" at ussurfaces.com. This website has an "About Us" web page that states: "Since 2007, US Surfaces has been in the business of marketing and distributing premium quality, cost-effective building products to both residential and commercial customers. We are the creators of premier brands Vadara Quartz Surfaces and LivingStone Solid Surfaces. Our products are extremely competitive and we are exceptionally easy to do business with. Join us."

1130. The "About Us" web page has a section that bears a heading "Formation" that states: "US Surfaces is a vertically integrated company that creates, markets and distributes solid-surface sheets and quartz slabs. It was formed in 2007 by industry veterans to disrupt the outmoded ways surfacing materials were produced and brought to market. We are now the 3rd largest solid surface company in the U.S. and Vadara® is the fastest growing quartz brand."

1131. A "No Middlemen" section of the webpage states: "Conventional, multi-step distribution involves products being bought and sold many times before reaching the ultimate user. US Surfaces is a vertically integrated company, meaning that no agents or middlemen tack on their costs.

Arik Tendler Joins the Company to Launch Vadara

1132. At a deposition that he gave in the case of *Victor Gonzalez v. ADB Global Trade LLC*, LASC Case No. 21STCV 06984 on July 21, 2023, Arik Tendler, formerly the Chief Executive Officer of Caesarstone USA, Inc., testified that towards the end of 2015 he joined Surface Warehouse, L.P. to market Vadara as a "private label quartz company" under the Vadara brand

name. At that time Surface Warehouse began to lease a facility at 8969 Bradley Avenue in Sun Valley, California, and later leased facilities in Hayward, California and Costa Mesa, California.

1133. When Surface Warehouse began marketing artificial stone slabs under the Vadara brand name, the company imported artificial stone slabs from China as well as some other countries. At the company's deposition in the *Reyes-Gonzalez* case, Lee Wood recalled that Surface Warehouse L.P. imported artificial stone from Foshan, Monica, Teltos, Basix, and Loyalty Enterprise Stone Company in China, as well as Lion Chemtech Company and LE Korea in South Korea.

Knowledge of Health Hazards

1134. At his deposition in the *Victor Gonzalez* case, Arik Tendler testified that he learned of the disease called silicosis before he left Caesarstone towards the end of 2011, by which time a lawsuit had been filed in Texas against Caesarstone USA for causing silicosis. At that time his understanding was the lawsuit was of people fabricating countertops unsafely who got sick.

1135. At the deposition of Surface Warehouse L.P. in the *Reyes-Gonzalez* case, Lee Wood testified that he was aware as early as 2015 or 2016 that "overexposure to silica can lead to health hazards, including silicosis." He explained that by "overexposure" he meant "that exposure over the period of time that is not conducted in a safe workplace with a safe work environment may lead to silicosis." At that time he understood that silicosis is a lung disease that is caused by inhaling silica dust.

1136. At his deposition that he gave in the *Victor Gonzalez* case, Mr. Tendler testified that "in this industry is always dust. . . . So it's part of the business. It has always been."

Vadara's 2017 Safety Data Sheet

1137. On May 1, 2017 Vadara issued a Safety Data Sheet for Vadara Quartz Surfaces, identifying the manufacturer/supplier of the product as Vadara Quartz Surfaces, 8969 Bradley Avenue, Sun Valley, CA 91352."

1138. Section 3 of the Safety Data Sheet states that the ingredients of the product as Quartz (>85%) and "Non-Regulated Ingredients" (<15%)."

1139. Section 2 of the Safety Data Sheet, titled "Hazards Identification," provides the following statement regarding "Classification" of the product: "As shipped, non-hazardous quartz surfacing product." This is a misleading statement, because the product is not a finished consumer product, but is rather an industrial product that must be fabricated into a countertop before being installed in kitchens and bathrooms as a consumer product, and in the process of fabricating the product, respirable crystalline silica dust is generated at air concentrations that cause silicosis.

1140. Section 2 of the Safety Data Sheet then provides the following information as Hazard Warnings: "Exposure limits may be applicable when cutting or grinding product creating dust, which can contain particles of crystalline silica (quartz). Overexposure to airborne quartz particles can cause silicosis." The first statement is false and downplays the hazard of silicosis, because exposure limits ***are always*** applicable when cutting or grinding artificial stone that contains crystalline silica. The second statement is misleading, because it does not explain what constitutes an "overexposure" to airborne quartz particles, and because exposures to silica below the permissible exposure limit have been shown to cause silicosis among workers exposed to artificial stone dust.

1141. Section 2 of the Safety Data Sheet then provides the following information as "Signal Word": "Danger: Do not breathe dust (522). Wear suitable respiratory equipment when ventilation insufficient (538)." The first statement an inadequate and harmful instruction, because dust is always generated when artificial stone is fabricated, workers must breathe to work and live, workers cannot hold their breath an entire workshift, and the statement does not inform workers how they can do their work without breathing dust from the product. The second statement is also inadequate, because it does not explain to workers how they can tell whether ventilation is insufficient and it does not specify the type of respiratory equipment that workers must wear to prevent silicosis (i.e., a NIOSH-approved air supplied respirator), thereby misleading workers to believe that air-purifying respirators will protect them, although air-purifying respirators are inadequate to protect workers fabricating artificial stone from silicosis due to the extremely high

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crystalline silica content of the product and the very fine respirable crystalline silica dust that is generated using power tools.

1142. Section 2 of the Safety Data Sheet then provides the following statement as a "Risk Phrase": "Danger of serious health damage by prolonged exposure through inhalation. (R 20/48)." This statement is also inadequate, because it does not explain whether the "prolonged" exposure that can cause serious health damage is one that lasts days, weeks, months, years, or decades, and because acute silicosis has typically been reported among artificial stone fabrication workers after about 3 years of exposure, but has even been detected in artificial stone workers after as little as 1 or 2 years of exposure, which is not a "prolonged" exposure. The statement is therefore inadequate and would mislead workers to believe they are safe because they have been exposed for just a few years.

1143. Section 8 of the Safety Data Sheet, titled Exposure Control/ Personal Protection, provides the following information regarding Exposure Limit Values: "Not appropriate for material as shipped from manufacturer. When cutting or grinding for example, workers should seek from their employer appropriate personnel protective equipment as required by the work environment conditions and equipment." This first statement is incorrect, because the product is an industrial material that must be fabricated into countertops which necessarily involves cutting, grinding and polishing the product, generating respirable crystalline silica dust and other airborne particulates and fumes for which regulatory exposure limits apply. The second statement is inadequate and constitutes a refusal on the part of the company to provide critical safe use and handling information. Since Vadara knows that its high silica content product will be cut, ground and polished, it is incumbent on Vadara to inform workers that they must wear a NIOSH-approved air supplied respirator when performing any and all fabrication tasks to prevent exposure and silicosis.

1144. Section 8 of the Safety Data Sheet, titled Exposure Control/ Personal Protection, also provides the following information regarding Respiratory Protection: "In case of insufficient ventilation, wear suitable respiratory equipment. Dust masks do not provide suitable respiratory protection." This use instruction is inadequate and constitutes a dangerous, harmful use instruction for several reasons. First, to prevent silicosis, adequate respiratory protection is necessary whenever workers fabricate artificial stone or are present where it is being fabricated. However, the instruction

suggests that respiratory protection may not be needed when workers are fabricating artificial stone, thereby subjecting them to harmful exposure to respirable crystalline silica and putting them at substantial risk of silicosis and other occupational diseases. Second, the the instruction does not provide workers with any quantitative information or explain to them how they can determine whether the ventilation where they are working is "insufficient," although ventilation of respirable crystalline silica from the fabrication of artificial stone is always insufficient to prevent silicosis. Third, although the statement that "dust masks do not provide suitable respiratory protection" is true, it is misleading, because it suggests to workers they should wear a particulate filter respirator or an organic vapor respirator, although all air-purifying respirators are inadequate to protect artificial stone fabricators from silicosis, because only a NIOSH-approved air supply respiratory can do so.

Knowledge of the Silicosis Hazard by Vadara's Officers

1145. Throughout the time that Vadara manufactured and sold its artificial stone products, exposing stone countertop fabricators and installers to respirable crystalline silica from the company's products, Vadara's officers were aware that the company's artificial stone products were defective because they contained extremely high concentrations of crystalline silica, were aware that the use instructions that Vadara provided were inadequate to prevent silicosis and would actually cause silicosis in exposed workers, and were aware that fabrication companies could not protect fabricators and installers from the lethal silicosis hazard presented by Vadara's defective artificial stone products. Among Vadara's officers and directors who had this knowledge but who nevertheless consciously disregarded the health and safety of fabricators and installers are: Stephen A. Schwarzman, Chairman and Chief Executive Officer; Jonathan D. Gray, President & Chief Operating Officer; Hamilton E. James, Executive Vice Chairman; David S. Blitzer, Global Head of Tactical Opportunities; Arik Tendler, Chief Executive Officer; Lee Wood; Robert Butts; Ed Rogers.

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THESIZE SURFACES

1146. TheSize Surfaces SL is a Spanish company, located at Poligono Industrial Camí Fondo, Supoi 8. C / Ibers 31. 12550 Almazora, (Castellón), Spain. On July 7, 2014 TheSize Surfaces USA LLC filed Articles of Organization with the Delaware Secretary of State. On August 22, 2022 Thesize Surfaces USA, LLC, a Delaware limited liability company registered with the California Secretary of State to do business in California as an out-of-state limited liability company. On August 25, 2022, Thesize Surfaces USA, LLC filed a Statement of Information with the California Secretary of State, listing its principal office as 725 Dell Rd., Carlstadt, NJ 07072 and stating that it had no business address in California. This Statement of Information identified three managers or members: Jose M. Romero, Jose Luis Ramon, and Neolith Distribution SL, whose address was listed as Avenida de los Rosales 42, Edificio Novosur, Nave 3-15, Madrid, Spain 28021. The Statement identified the company's type of business as Architectural Design and Manufacturing.

Neolith 2022 Safety Data Sheet

1147. In 2022 The Size Surfaces, S.L., located at P.I. Cami Fondo, Supoi 8. C/Dels Ibers, 31 12550 Almazora (Castellón), Spain, issued a Safety Data Sheet for Neolith® (sintered stone).

1148. Section 3 of the Safety Data Sheet (Composition and information on ingredients) states: "Mixture: NEOLITH is composed of a glassy matrix containing crystalline silica, aluminosilicates, zircon and inorganic pigments. The crystalline silica content is less than 9%."

1149. Section 2 (Hazard(s) Identification) of the Safety Data Sheet during cutting and polishing of the product: "STOT RE 2 H373: May cause damage to organs (lungs and respiratory system) through prolonged or repeated exposure by inhalation" and "Carc. 1A H350i: May cause cancer by inhalation." This section of the Safety Data Sheet also states, regarding "Other Hazards not Leading to a Classification": "Dry cutting or grinding of Neolith® may generate respirable suspended crystalline silica particles which may be harmful to human health if inhaled."

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1150. Section 8 (Exposure controls/personal protection) doesn't state what type of respirator workers must wear, but has pictograms of a particulate filter respirator and a mask, both of which are inadequate to prevent silicosis from exposure to artificial stone dust but actually cause silicosis.

TITAN QUARTZ

1151. A Facebook page titled "Titan Quartz, by Stoneville" dated September 17, 2012 states: "Titan Quartz is the original quartz line by Stoneville,USA INC, and the largest in-stock selection and variety of quartz found almost anywhere. The surfaces are non-porous, homogenous, highly durable, resistant to scratching, staining and water absorption. They are composed of 90% to 93 % premium grade pure quartz, 7% to 10% high quality polyester resin and the finest quality unleaded pigments resulting in a product that is unmatched in strength, beauty and color consistency."

1152. On February 16, 2016, Titan Quartz LLC filed Articles of Organization of a Limited Liability Company with the California Secretary of State, providing its initial address in California of 12906 Saticoy Street, North Hollywood, CA 91605. The Articles of Organization of Titan Quartz LLC were signed by Ignatius Ravi Kasturiraj, who is also the Chief Executive Officer of Stoneville Corporation.

1153. On May 5, 2016, the company filed a Statement of Information with the California Secretary of State, identifying Ignatius Kasturiraj as the company's Chief Executive Officer, and listing two businesses as managers of the company: Tierra Sol Ventures LLC, 12906 Saticoy Street, North Hollywood, CA 91605 and Foshan Yixin Stone Co., I, 97 Lugang Industrial District, Foshan City, China. The Statement of Information described the type of business in which the company was engaged as "Distribution of Quartz Surfaces."

1154. On February 28, 2018, Titan Quartz LLC filed a Statement of Information with the California Secretary of State, describing the company's type of business as "Wholesale and Retail."

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1155. On January 4, 2021, Titan Quartz LLC filed a Certificate of Cancellation of Limited Liability Company with the California Secretary of State, stating that all the members of the company had voted to dissolve the limited liability company.

1156. Although Titan Quartz LLC has purported to dissolve the business of the limited liability company, Titan Quartz LLC still appears to be is the registered owner of the Titan wordmark which Stoneville Corporation continues to use, Titan Quartz LLC having become the owner of the Titan wordmark after Stoneville Corporation first filed an application for the wordmark.

1157. Although Titan Quartz LLC has purported to dissolve the business of the limited liability company, the dissolution merely appears to have been a "paper transaction," because Titan Quartz LLC and Stoneville Corporation have been managed by Ignatius Ravi Kasturiraj, the Chief Executive Officer of Stoneville Corporation and the Manager of Titan Quartz, LLC, and both companies have operated out of the same buildings at 12906 Saticoy Street, North Hollywood, CA 91605, which have born signage of both Stoneville Corporation and Titan Quartz, LLC.

1158. The Hazard Communication Standard requires all companies that manufacture, import or distribute hazardous substances to which workers are exposed to evaluate their products to determine if they are hazardous [8 C.C.R. § 5194(d)(1)]; to identify and consider the available scientific evidence concerning such hazards [8 C.C.R. § 5194(d)(2) et seq.]; ensure that each container of hazardous chemicals leaving their facilities is labeled, tagged or marked with the (i) identity of the hazardous chemical(s); (ii) appropriate hazard warnings; and (iii) the name and address of the chemical manufacturer or other responsible party [8 C.C.R. § 5194(f)(1)]; obtain or develop a material safety data sheet for each hazardous substance they produced [8 C.C.R. § 5194(g)(1)]; include on the material safety data sheet the chemical and common names of each hazardous substance [8 C.C.R. §5194(g)(2)(A)]; the health hazards of the hazardous substance, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the substance [8 C.C.R. § 5194(g)(2)(D)]; the primary routes of entry [8 C.C.R. § 5194(g)(2)(E)]; the OSHA permissible exposure limit, ACGIH Threshold Limit Value, and any other exposure limit used or recommended by defendants [8 C.C.R. § 5194(g)(2)(F)]; whether the hazardous chemical is listed in the National Toxicology Program (NTP)

Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions), or by OSHA [8 C.C.R. § 5194(g)(2)(G)]; include on the material safety data sheet generally applicable precautions for safe handling and use known to defendants, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks [8 C.C.R. § 5194(g)(2)(H)]; generally applicable control measures known to defendants, such as appropriate engineering controls, work practices, or personal protective equipment [8 C.C.R. § 5194(g)(2)(I)]; a description in lay terms, if not otherwise provided, of the specific potential health risks posed by the hazardous substance intended to alert the person reading the information [8 C.C.R. § 5194(g)(2)(M)]; ensure that the information contained on material safety data sheets accurately reflects the scientific evidence used in making the hazard determination [8 C.C.R. § 5194(g)(5)]; and ensure that material safety data sheets complying with the Hazard Communication Standard are provided to employers . . . .[8 C.C.R. §5194(g)(6) & (7).

1159. Although the quartz stone slabs and other products that Titan Quartz imported, distributed and sold to its customers are hazardous materials within the meaning of the Hazard Communication Standard and exposure to dust from the company's artificial stone products causes silicosis, lung cancer, and other diseases, at no time did Titan Quartz prepare a safety data sheet for its quartz stone products, at no time did it obtain safety data sheets for the products, or provide them to customers, including the employers of the fabrication shops where fabrication workers, including plaintiff, were exposed to dust from Defendants' products that caused plaintiff's silicosis and other injuries. By failing to provide Safety Data Sheets to the fabrication shops, Titan Quartz therefore concealed the hazards and use instructions that it was legally obligated to provide to protect stone countertop fabrication workers from being injuriously exposed to crystalline silica dust from Defendants' artificial stone products and thereby caused Plaintiff's silicosis and other injuries.

1160. Among the officers, directors and managing agents of Titan Quartz who authorized and ratified the companies' violation of the Hazard Communication Standard and their concealment of the hazards of the silicosis hazard and the use instructions necessary to prevent exposed workers

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from getting silicosis is Ignatius Ravi Kasturiraj, the Manager of Titan Quartz, LLC, who is also the Chief Executive Officer of Stoneville Corporation.

UMI, LLC (FKA UNITED MATERIALS, INC.)

1161. Defendant, UMI, LLC (fka United Materials, Inc.), is a Delaware limited liability company formerly known as United Materials, Inc., a Florida corporation, which has conducted its business as Forum Quartz.

1162. The Forum Quartz website has an "About" webpage which states that "Forum Quartz is a natural surface material made from pure and natural quartz." This is a false statement, because Forum Quartz is an artificial surface material rather than a natural surface material made from natural stone such as granite or marble.

1163. The Forum Quartz website states that "Forum Quartz is made up of 93% crushed natural stone and 7% resin." This statement is misleading because the "natural stone" that comprises 93% of the product is actually crystalline silica, which is a very toxic substance that is known to cause silicosis, lung cancer and several other human diseases, as alleged above.

1164. The Forum Quartz website states that Forum Quartz is made by an "Eco-Friendly Production Process" that is "free of volatile organic compounds" and that "[t]he plant and process for manufacturing of Forum Quartz does not pollute the environment" and "does not release any polluting gaseous . . . emissions into the atmosphere." This statement is at best misleading, because Forum Quartz is not a finished consumer product, but is rather an industrial slab product that requires much processing (including cutting, grinding, and polishing) before being installed as a countertop in customers' kitchens or bathrooms, which processes release huge amounts of respirable crystalline silica dust, as well as volatile organic compounds and other toxic and fibrogenic substances that cause silicosis, lung cancer and other diseases among fabricators exposed to dust of this product in the course of fabricating countertops.

1165. The UMI website states that "UMI has been importing and distributing the finest stone surfaces since 2002. By leveraging our long-standing relationship swith exclusive sources

worldwide, UMI is able to offer an extensive collection of rare and exquisite natural stones and beautifully crafted quartz."

1166. The UMI website states that "UMI is proud to be part of IDG (International Designs Group), a leading slab and tile distribution company specializing in supplying high-quality materials for the kitchen and bath industry. . . . UMI has created distinctive brands, such as Pompeii Quartz and Forum Quartz . . . . These brands are manufactured according to the exact specifications and standards of the patented Breton Technology."

1167. Although UMI has at all times had the legal obligation to prepare Safety Data Sheets for its Forum Quartz product and to provide them to its customers, no Safety Data Sheets for Forum Quartz appear on the Forum Quartz website or the UMI website. It therefore appears that UMI has never complied with its legal duty to prepare and provide Safety Data Sheets for its lethal Forum Quartz product and has therefore at all times concealed critical health hazard and use information regarding the toxic hazards of its lethal product from stone fabrication workers.

VERONA QUARTZ INC.

1168. On April 28, 2016 a company by the name of Eco Quartz Inc. filed Articles of Incorporation with the California Secretary of State. On May 16, 2016 the company filed a Certificate of Amendment of Articles of Incorporation with the California Secretary of State whereby the company changed its name from Eco Quartz, Inc. to Verona Quartz, Inc. On August 31, 2022, the company filed a Statement of Information with the California Secretary of State, stating that its principal office was 9415 Telfair Avenue, Sun Valley CA 91352, that Sarkis Grigoryan was the company's Chief Executive Officer, Secretary, Chief Financial Officer, as well as its Agent for Service of Process, and identifying the company's business as "wholesale slabs."

1169. On June 26, 2023 a company by the name of Verona Quartz Surfaces LLC filed Articles of Organization with the California Secretary of State, listing its principal office as 9415 Telfair Avenue, Sun Valley CA 91352. On July 19, 2023, the company filed a Statement of Information with the California Secretary of State, listing Sarkis Grigoryan was the company's

Manager, and identifying the company's type of business as "Wholesale and Retail home improvement product."

1170. According to the company's website, veronaquartz.com, "Verona Quartz Surfaces is a brand of engineered quartz countertops that are made from natural quartz and recycled materials. Known for durability, resistance to stains and scratches, and low maintenance. They are often used in kitchen and bathroom countertops, as well as other applications such as flooring and wall cladding. They are available in a variety of colors and patterns, and can be customized to meet the specific needs of a project. Our slab variety consists of 67 quartz countertops, kitchen countertops, counters, marble look countertops, quartz counter tops, colored quartz countertop, stone countertops, quartz countertop colors, countertop quartz colors and we are mainly focused on making calacatta quartz designs look more natural. We carry the largest amount of calacatta verona quartz. With dealers nationwide, you can find our quartz product locally."

1171. Per the company website, "Verona Quartz Surfaces Are Made With 93% Quartz Minerals And A 7% Pigment and Resin Ratio." https://www.veronaquartz.com/quartz-countertops.

1172. The Hazard Communication Standard requires all companies that manufacture, import or distribute hazardous substances to which workers are exposed to evaluate their products to determine if they are hazardous [8 C.C.R. § 5194(d)(1)]; to identify and consider the available scientific evidence concerning such hazards [8 C.C.R. § 5194(d)(2) et seq.]; ensure that each container of hazardous chemicals leaving their facilities is labeled, tagged or marked with the (i) identity of the hazardous chemical(s); (ii) appropriate hazard warnings; and (iii) the name and address of the chemical manufacturer or other responsible party [8 C.C.R. § 5194(f)(1)]; obtain or develop a material safety data sheet for each hazardous substance they produced [8 C.C.R. § 5194(g)(1)]; include on the material safety data sheet the chemical and common names of each hazardous substance [8 C.C.R. §5194(g)(2)(A)]; the health hazards of the hazardous substance, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the substance [8 C.C.R. § 5194(g)(2)(D)]; the primary routes of entry [8 C.C.R. § 5194(g)(2)(E)]; the OSHA permissible exposure limit, ACGIH Threshold Limit Value, and any other exposure limit used or recommended by defendants [8 C.C.R. §

5194(g)(2)(F)]; whether the hazardous chemical is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions), or by OSHA [8 C.C.R. § 5194(g)(2)(G)]; include on the material safety data sheet generally applicable precautions for safe handling and use known to defendants, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks [8 C.C.R. § 5194(g)(2)(H)]; generally applicable control measures known to defendants, such as appropriate engineering controls, work practices, or personal protective equipment [8 C.C.R. § 5194(g)(2)(I)]; a description in lay terms, if not otherwise provided, of the specific potential health risks posed by the hazardous substance intended to alert the person reading the information [8 C.C.R. § 5194(g)(2)(M)]; ensure that the information contained on material safety data sheets accurately reflects the scientific evidence used in making the hazard determination [8 C.C.R. § 5194(g)(5)]; and ensure that material safety data sheets complying with the Hazard Communication Standard are provided to employers . . . .[8 C.C.R. §5194(g)(6) & (7).

1173. Although the quartz stone slabs and other products that Verona Quartz imported, distributed and sold to its customers are hazardous materials within the meaning of the Hazard Communication Standard and exposure to dust from the company's artificial stone products causes silicosis, lung cancer, and other diseases, at no time did Verona Quartz prepare a safety data sheet for its quartz stone products, at no time did it obtain safety data sheets for the products, or provide them to customers, including the employers of the fabrication shops where fabrication workers, including plaintiff, were exposed to dust from Defendants' products that caused plaintiff's silicosis and other injuries. By failing to provide Safety Data Sheets to the fabrication shops, Verona Quartz therefore concealed the hazards and use instructions that it was legally obligated to provide to protect stone countertop fabrication workers from being injuriously exposed to crystalline silica dust from Defendants' artificial stone products and thereby caused Plaintiff's silicosis and other injuries.

1174. Among the officers, directors and managing agents of Verona Quartz Inc. and Verona Surfaces LLC who authorized and ratified the companies' violation of the Hazard Communication Standard and concealment of the hazards of the silicosis hazard and the use instructions necessary

to prevent exposed workers from getting silicosis is Sarkis Grigoryan, CEO, Secretary, and CFO of Verona Quartz, Inc. and Manager of Verona Quartz Surfaces LLC.

VICOSTONE AND ITS DISTRIBUTOR STYLENQUAZA

Vicostone Joint Stock Company

1175. Vicostone JSC (Vicostone Joint Stock Company) is a Vietnamese manufacturer of artificial stone whose corporate headquarters is located in Hanoi, Vietnam.

1176. Vicostone JSC has a website whose URL is us.vicostone.com. The website states that Vicostone was established in December 2002 at the Hoa Lac High-Tech Park in the Thach district in Hanoi, Vietnam. The website has a photograph of the company's huge manufacturing plant in Hanoi which the company describes as a 40-hectare production complex with 6 Breton production lines. The website states that Vicostone produces 2.5 million square meters of quartz slabs annually.

1177. On its website the company touts itself as the "best manufacturer of Quartz surfaces" and describes itself as "a pioneer in manufacturing quartz based engineered stones in Asia." The website further states that "with a global distribution network, Vicostone Quartz Surfaces are now available in all continents and recommended by interior designers and architects."

Vicostone "Milestones"

1178. A recently published Vicostone published states: "Vicostone is a leading global manufacturer of quartz-based engineered stone. Established in 2002, Vicostone has grown to operate six slab production lines in Hanoi, Vietnam using the most advanced techniques in the industry and the latest technology from Breton S.p.A. of Italy. Thirty million square feet of Vicostone are made every year and sold in over 50 countries." The brochure states the following Vicostone "Milestones""

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2002 Vicostone J.S.C. is established in Hanoi, Vienam. Operations begin with a single BretonStone® quartz production line.

2010 Vicostone USA is established in Dallas, Texas. Vicostone's distribution reaches North America, Australia and Europe.

2014 Vicostone Chicago opens. Vicostone's realistic granite-look quartz color Alaska White™ . Safari®, and Blanco Romano® receive praise.

2015 Vicostone Atlanta and Vicostone Houston open. Misterio®, Statuario™ and Venatino™ quartz establish Vicostone as a leading marble-look quartz manufacturer.

2017 Vicostone's innovation leads the inudstry after 15 years of research & development. New travertine vein-cut quartz and fusion quartz colors showcase unique creativity.

2018 The new color series drawing inspiration from fierce thunderstomrs, modern concrete cities and mosaic terrazzo floors grow Vicostone's diverse design palette.

2019 Vicostone Chicago expands into new facility. Vicostone reaches top-three largest quartz suppliers and launches its popular cloud-vein color series.

2020 Vicostone USA's 10th Anniversary. Vicostone adds its sixth BretonStone® quartz production line growing annual production capacity to 30 million sq ft.

2021 Vicostone Tulsa opens, Bahia® , Amarcord® , Vivalioro® , Volakano®, Madreperola® and Thasos® launch the next generation of quartz colors inspired by nature.

2023 Vicostone St. Louis and Vicostone Cincinnati open. 23 new colors launch in the US, with the most realistic engineered stone designs ever.

Stylenquaza, LLC

1179. Vicostone distributes its artificial stone products in the United States through its domestic subsidiary, Stylenquaza LLC, a limited liability company that was organized in Texas in December 2010 and does business as Vicostone US. Stylenquaza has a website - us.vicostone.com.

1180. Stylenquaza's website lists multiple "Regional Distributors" including 5 distributors located in California: (1) Integrated Resources Group, Inc., 8460 Elder Creek Rd., Sacramento, CA

95828; P: 916-387-0481, W: https://marblecompany.com/; (2) Integrated Resources Group, Inc., 6800 Sierra Court, Suite A, Dublin, CA 94568, P: 925-829-1133, W:https://marblecompany.com; (3) Integrated Resources Group, Inc., 275 Valley Drive, Brisbane, CA 94005, P: 415-657-0280 W: https://marblecompany.com; (4) Architectural Surfaces Anaheim East, 3840 East La Palma Ave., Anaheim, CA 92807, P: 714-465-5220, W: https://arcsurfaces.com/locations/anaheim-granite-marble-quartzite-soapsotone-pentalquartz/; and (5) Architectural Surfaces Los Angeles, 7050 Valjean Ave., Van Nuys, CA 91406, P: 818-787-7937, W: https://arcsurfaces.com/locations/anaheim-granite-marble-quartzite-soapsotone-pentalquartz-tile/.

1181. An Nguyen is the manager and one of the owners of Stylenquaza LLC. According to a declaration of Mr. Nguyen November 15, 2022, "Stylenquaza does business under the name 'Vicostone USA'" and its "sole business is to distribute quartz slabs supplied by Vicostone JSC."

1182. According to Mr. Nguyen's declaration, "Pental Granite and Marble, LLC. . . has been distributing Vicostone-made products on the West Coast . . . under the Pental brand name" and "Pental has a large Vicostone-sourced distribution range spread across many West Coast states."

1183. According to Mr. Nguyen's declaration, Pental occasionally "purchases some quartz slabs from Stylenquaza," "book[ing] a third-party truck company to pick up the products from Stylenquaza." Additionally, according to Mr. Nguyen's declaration, "between 2018 and 2022, Stylenquaza distributed . . . pre-fabricated tops directly to California" and "also supplied . . . six (6) shipments to California [of] stone slabs."

Vicostone's 2015 Safety Data Sheet

1184. On May 5, 2015 Vicostone issued a Safety Data Sheet for its artificial stone product Vicostone® Quartz Surfaces. Section 3 of the Safety Data Sheet (Composition/information on ingredients) identified three ingredients in the product: Crystalline Silica (quartz) (~90%), Polymeric resin (7-12%), and Pigment and Trace Minerals (~2%).

1185. Section 2 of the Safety Data Sheet (Hazard(s) identification) states: "VICOSTONE® Quartz Surfaces are safe for delivery, storage and use as certified by GREENGUARD for indoor air

quality, children and schools and by NSF for food safety (ANSI 051). However, operations such as sawing, drilling, grinding, sanding and routing can generate silica dust. The fine dust of quartz (silicon dioxide) containing crystalline silica can cause potential health effects." These statements are misleading, because the product supplied is not a finished product that is sold to schools or consumers. Rather, the product is a slab of artificial stone, an industrial product that is sold to countertop fabrication companies that fabricate the slab into a countertop that is sold to consumers. It is the finished countertops that are safe for children and for schools - not the industrial product. The statement that "operations such as sawing, drilling, grinding, sanding and routing can generate silica dust" is also misleading, because the statement suggests that these operations do not necessarily generated silica dust, although they invariably generate high concentrations of respirable crystalline silica dust. Further, the fine crystalline silica dust generated by fabrication processes is not such as merely "can cause potential health effects;" those operations ***do*** cause ***real*** health effects, including silicosis, chronic obstructive pulmonary disease, lung cancer, chronic kidney disease, and several autoimmune diseases. Thus, the statement in the Safety Data Sheet minimizes these hazards.

1186. Section 2 of the Safety Data Sheet provides the following statements regarding Chronic Exposure: "Prolonged exposure to respirable crystalline silica can cause silicosis and has been linked to other diseases, such as lung cancer, tuberculosis, fibrosis of the lungs, chronic obstructive pulmonary disease and kidney disease." The statement that "prolonged exposure to respirable crystalline silica can cause silicosis" is misleading, because it does not state how many days, weeks, months, years, or decades of exposure to crystalline constitutes the "prolonged exposure" that can cause silicosis. The statement is also misleading, because exposure to artificial stone dust typically causes accelerated silicosis within 5-10 years of exposure or acute silicosis within 1-5 years of exposure, which are relatively short durations of occupational exposure.

1187. Section 8 of the Safety Data Sheet, titled "Exposure controls/personal protection," provides the following information regarding Respiratory Protection: "Respirators may protect workers from inhaling crystalline silica dust when carefully and properly selected, worn and used. Use only respiratory protection authorized in the U.S. Federal OSHA Standard (29 CFR 1910.134), applicable U.S. State regulations, or the Canadian CSA Standard Z94.4-93 and applicable standards

of Canadian Provinces." This statement is inadequate, because it does not inform workers that the only type of respirator that will protect them from inhaling crystalline dust when fabricating artificial stone products is a NIOSH-approved air supply respirator. By failing to provide this critical safety information, the Safety Data Sheet misleads workers to believe that a NIOSH-approved air purifying respirator will adequately protect them. However, studies have shown that air-purifying respirators are inadequate to prevent silicosis from the fabrication of artificial stone because of its extremely high crystalline silica content. The statement is therefore inadequate, misleading and thus harmful.

1188. Section 11 of the Safety Data Sheet, regarding Toxicological information, provides three statements regarding chronic effects of exposure: The first statement is: "Prolonged and/or massive inhalation of crystalline silica can cause pulmonary fibrosis and pneumoconiosis and silicosis, as well as a worsening of other pulmonary diseases (bronchitis, emphysema, etc)." This statement is misleading, because it is not only "prolonged" or "massive" inhalation of crystalline silica that causes silicosis and other lung diseases. Studies have shown that exposure to artificial stone dust either causes accelerated silicosis within 5-10 years of exposure or acute silicosis within just 1-5 years of exposure. Studies have also shown that tiny amounts of crystalline silica where exposures are below the permissible exposure limit also cause silicosis. Thus, the statement that "prolonged and/or massive inhalation of crystalline silica can cause pulmonary fibrosis and pneumoconiosis and silicosis" is misleading because workers can also get silicosis from relatively short and low-level exposure to crystalline silica from fabricating artificial stone.

1189. The second statement regarding chronic effects of exposure is: "The main symptom of silicosis is the loss of pulmonary capacity." The second statement is also misleading and incorrect, because loss of pulmonary capacity is not a symptom of silicosis, but is rather an adverse effect of the disease. The main symptoms of silicosis are shortness of breath after exercise, chest pain, a harsh dry cough and fatigue - not loss of pulmonary capacity. Indeed, it is not until workers have lost about half of their lung function that they begin to have symptoms, at which point the worker has advanced disease that is irreversible and progresses even after silica exposure ceases.

1190. The third statement regarding chronic effects of exposure is: "People with silicosis have a greater risk of getting lung cancer." Although true, this statement is misleading, because it

suggests that silicosis causes cancer. However, silicosis does not cause cancer; it is exposure to respirable crystalline silica that causes cancer. Persons who have been diagnosed with silicosis typically have had a greater cumulative exposure to crystalline silica than do persons who have not been diagnosed with silicosis, so persons who have silicosis have an increased risk of developing lung cancer because of their greater exposure to crystalline silica.

Knowledge of the Silicosis Hazard by Vicostone Officers and Directors

1191. Throughout the time that Vicostone manufactured and sold its artificial stone products, exposing stone countertop fabricators and installers to respirable crystalline silica from the company's products, Vicostone's officers were aware that the company's artificial stone products were defective because they contained extremely high concentrations of crystalline silica, were aware that the use instructions that Vicostone provided were inadequate to prevent silicosis and would actually cause silicosis in exposed workers, and were aware that fabrication companies could not protect fabricators and installers from the lethal silicosis hazard presented by Vicostone's defective artificial stone products. Among Vicostone's officers, directors and managers who had this knowledge but who nevertheless consciously disregarded the health and safety of fabricators and installers are An Nguyen, manager and one of the owners of Stylenquaza LLC, and its two other owners, Hoang Anh Ho, and Style Stone Joint Stock company.

WALKER & ZANGER, LLC, dba WALKER ZANGER

1192. On February 19, 1953, Walker & Zanger, Inc. incorporated in the State of New York.

1193. On January 22, 1958, Walker & Zanger (West Coast), Ltd. filed a Certificate of Incorporation in the State of New York.

1194. On March 3, 1958, Walker & Zanger (West Coast), Ltd. filed a Statement of Foreign Corporation with the California Secretary of State to do business in California.

1195. On February 13, 2001, an Amended Statement by Foreign corporation was filed with the California Secretary of State whereby Walker & Zanger (West Coast), Ltd. changed its name to Walker & Zanger, Inc.

1196. On August 1, 2002, an article published in *Stone World* honored Leon Zanger of Walker & Zanger, Inc., observing that "Walker Zanger, which was started 50 years ago . . . by Zanger and former partner Marvin Walker, had revenues last year of $99.4 million." Anonymous, "Entrepreneur honored," *Stone World* (August 1, 2002).

1197. On June 2, 2009, an article published in *Stone World* reported that "Walker Zanger recently announced the opening of its largest Southern California showroom in Tustin, CA. The more than 60,000-square-foot facility replaces the former costa Mesa, CA, location. . . . The Tustin showroom is located at 1702 Edinger Avenue . . . ." Anonymous, "Walker Zanger Opens its Largest Southern California Showroom," *Stone World* (June 2, 2009).

1198. On July 1, 2009, an article published in *Stone World* reported that "Walker Zanger, a large distributor of stone and tile with locations throughout the U.S., recently announced its acquisition of one of the world's largest artisan ceramic tile manufacturing facilities, Cerámica Antique." Anonymous, "Walker Zanger acquires Cerámica Antique," *Stone World* (July 1, 2009).

1199. On April 13, 2010 an article published in *Stone World* reported that Walker Zanger showrooms are located throughout the U.S. Locations include: Atlanta, GA, Charlotte, NC, Coconut Creek, FL, Dallas, TX, Dania Beach, FL, Estero, FL, Fort Lauderdale, FL, Hayward, CA, Houston, TX, Las Vegas, NV, West Hollywood, CA, New York, NY, Mount Vernon, NY, Perth Amboy, NJ, San Francisco, CA, Sun Valley, CA, and Tustin, CA. Anonymous, "Walker Zanger offers event planning resources to industry organizations," *Stone World* (April 13, 2010).

1200. On July 9, 2012 an article was published in *Stone World* regarding Walker Zanger's 60th anniversary, stating: "This year This year marks the 60th anniversary of Walker Zanger, which was founded in 1952 by Leon Zanger and Marvin Walker. Today, the company is headed by Leon's son, Jonathan Zanger, and has grown to include nine warehouses, 16 company-owned showrooms and more than 200 independent dealers. Anonymous, "A 60th Anniversary Retrospective of Walker Zanger," *Stone World* (July 9, 2012).

1201. In 2015 Walker Zanger purchased Mustang Stone Quarries, LLC, and thereby acquired its own limestone quarry in Oklahoma. Anonymous, "Walker Zanger purchases limestone quarry," *Stone World* (September 10, 2015).

1202. On March 2, 2017, an article in *Stone World* announced Walker Zanger's new global headquarters in the San Fernando Valley -- a "new custom-designed 127,000-square-foot facility" consisting of "its corporate officers, impressive new showroom, indoor slab gallery and working photo studio." Anonymous, "Walker Zanger global headwaurters wins three awards for innovative showroom," *Stone World* (March 2, 2017).

1203. On July 5, 2017, an article in *Stone World* reported that "Walker Zanger recently debuted Secolo Porcelain Slab countertops. Thinner than natural stone, porcelain has traditionally been offered as slabs 3-6 mm thick which can be fragile. By increasing the thickness of the porcelain to 12 mm, Walker Zanger will offer slabs up to 126" x 63" to use as countertops. The new porcelain slabs emulated marble, cement, and wood – all with a polished finish . . . ." The article reported: "Porcelain has significant advantages over quartz countertops, such as being nonporous and stain-proof, making it impervious to red wine, lemon juice, and other acids that are common culprits of staining natural stone," said Jared Becker, Walker Zanger's vice president of design and marketing. "Additionally, porcelain has the strength and durability for a home chef to cut food directly on the surface or even place hot cookware on the counter without damaging the material." Anonymous, "Walker Zanger Debuts New Category of Countertops," *Stone World* (July 5, 2017).

1204. On January 31, 2020 Walker & Zanger, Inc. filed a Statement of Information with the California Secretary of State, stating that its principal executive office is 16719 Schoenborn Street, North Hills, California 91343 and that its business is that of a distributor of tile and stone.

1205. On January 11, 2021, Leon Zanger, the founder of Walker & Zanger, died. Less than 6 months later, on July 7, 2021, Mosaic Companies LLC announced its acquisition of Walker & Zanger. Anonymous, "Mosaic Companies announces acquisition of Walker Zanger and Opustone, creating an industry leader in luxury natural and engineered stone slabs and tiles," (July 7, 2021).

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1206. Walker & Zanger "is a producer of high quality stone and ceramic decorative tiles and tile collections for use in a variety of settings." *Walker & Zanger Inc. v. Paragon Industries, Inc.* (N.D. Cal., May 3, 2007) 549 F.Supp.2d 1168, 1172.

1207. Walker & Zanger's website offers slabs of the following materials: Glass, Granite, Limestone, Marble, Natural Stone, Onxy, Porcelain, Quartz, Quartzite, Soapstone, Terrazzo, Travertine. [https://www.walkerzanger.com/]

Walker Zanger's 2014 Safety Data Sheet

1208. In October 2014 Walker Zanger prepared a Safety Data Sheet for its product "Quartz slabs, pre-fabricated countertops and cut-to-size countertops."

1209. Section 2 (Hazards Identification) of this Safety Data Sheet begins with the statement: "This product is a chemically inert, non-combustible mixture of inorganic minerals including crystalline silica and polyester resins and pigments." This is an intentionally misleading statement, "because it does not disclose any of the multiple known health hazards of crystalline silica, but instead suggests that the product is not chemically reactive and is therefore neither toxic nor hazardous. Moreover, the statement that the product is chemically inert is incorrect because crystalline silica, which has long been considered not to be chemically reactive, actually is chemically reactive. See, Alexander Beadle, "Silica Particles Are Not As Inert As We Thought," *Technology Networks* (Aug. 22, 2023).

1210. After providing the signal word "Danger," Section 2 of the Safety Data Sheet then provides the following hazard statements: "May cause cancer if inhaled (contains crystalline silica)," "Causes damage to lungs through prolonged or repeated exposure if inhaled," and "May cause respiratory irritation." These statements are all misleading and minimize the health hazards of the product. The statement "may cause cancer if inhaled (contains crystalline silica)" is misleading, because it suggests that crystalline silica is not a known human carcinogen and that it may or may not cause cancer. The statement "Causes damage to lungs through prolonged or repeated exposure if inhaled," is also misleading, because it suggests that only prolonged or repeated exposure to the

product is harmful whereas silica can cause silicosis and other adverse health effects acutely. The statement "may cause respiratory irritation" is misleading, because silica is an irritant substance, although irritation is among the least harmful effects of respiratory exposure to crystalline silica.

1211. After providing two pictograms which are largely unintelligible, the Safety Data Sheet states: "Quartz slab surfaces do not emit silica dust." This is a misleading statement, because quartz slabs are not finished products but are rather industrial products that require cutting, grinding and polishing during which quartz slab surfaces which do emit silica dust. The next sentence states that "operations such as sawing, grinding, routing, drilling and sanding can generate dust," which is also misleading, because these operations always and invariably do (rather than can) generate dust.

1212. The next sentence states: "Do not breathe high concentrations of dust." This statement is meaningless, because it does not define what "high concentrations of dust" are or explain whether such concentrations of dust are even visible or can otherwise be ascertained by any of the human senses, and because it is virtually impossible not to breathe dust when the product is fabricated.

1213. The next sentence states: "Silicosis is a respiratory disease, which can result in delayed, disabling and sometimes fatal lung injury." This is also a misleading statement, because silicosis can occur acutely and in an accelerated manner as well as chronically (i.e., delayed), and because silicosis is always a disabling and fatal disease that has no known cure, so the suggestion that silicosis "can result in . . . disabling and sometimes fatal lung injury" minimizes the known health hazards of exposure to respirable crystalline silica..

1214. Section 3 (Composition/information on Ingredients) states that the product contains greater than 88 percent silica quartz and less than 12 percent polyester resins and pigments by weight. This information is inadequate because it does not identify the chemical composition of the polyester resins or the pigments in the product, so their toxicity and adverse health effects cannot be ascertained.

1215. Section 7 (Handling and Storage) begins with the statement: "The product should be made, fabricated and installed using wet production methods to minimize dust." This statement is misleading, because it suggests that minimizing the production of dust during fabrication activities

will prevent disease, which is not true because wet processing methods produce slurry (mud) which dries and becomes dust and the instruction "to minimize dust" appears to conflict with the prior precautionary statement: "Do not breathe dust." The statement is also misleading and cannot be executed, because some fabrication processes (e.g., lamination) cannot be done using wet production methods, and wet processing methods cannot be used when performing cutting, grinding, and polishing in customers' homes in the process of finishing and installing quartz countertops.

1216. Section 8 (Exposure Controls/Personal Protective) states regulatory and advisory exposure limits that are difficult for workers to understand and to know whether they are being exceeded. This section then provides the following instruction for Personal Protective Equipment: "Use safety goggles, face and neck protection and dust masks during cutting, sanding and polishing." This instruction is not merely inadequate, but it is actually harmful, because it suggests that "dust masks" provide adequate respiratory protection to artificial stone dust, which is not the case, so that the instruction, if followed, could well or likely would cause silicosis or other silica-related disease.

1217. The Safety Data Sheet then states the following regarding Respiratory Protection: "Use NIOSH-approved filtering face piece respirator or higher levels of respiratory protection as indicated for particulates if there is a potential to exceed the exposure limits or for symptom relief or worker comfort." This instruction is also inadequate and potentially harmful, because it suggests that air-purifying respirators are adequate to protect fabricators from artificial stone dust, whereas only air-supplied respirators are adequate to protect fabricators from getting silicosis and would not conflict with the precautionary statement in Section 2: "Do not breathe dust."

Walker Zanger's 2023 Proposition 65 Warning

1218. In or about 2023 Walker Zanger inconspicuously posted a Proposition 65 Warning on its website. The Proposition 65 Warning is not accessible by from any tab on the website. However, at the very bottom of webpages on the website there is extremely fine print that says:

> © 2023 Walker & Zanger, LLC
> Terms and Conditions | Prop 65 Warning | Privacy Policy | Cookie Preferences
> Do Not Sell of Share My Personal information

The Proposition 65 warning can be accessed by clicking on "Prop 65 Warning." It says: "This page informs and educates our consumers regarding Prop 65. In addition, when applicable, our products will be marked with information similar to what is shown below:

> **WARNING**: This product can expose you to chemicals including silica, which is known to the State of California to cause cancer. For more information, visit www.P65Warnings.ca.gov

This warning (which does not mention silicosis) is not directed to fabricators, but is directed to consumers, who are at minimal risk of disease from exposure to Walker & Zanger products. After the warning (which is preceded by an exclamation point in a triangle), is the following:

> Exposures to Crystalline Silica during installation of the Ceramic Tiles.
>
> An independent study by Environmental Health & Engineering, Inc. (EH&E), commissioned by the Tile Council of North America (TCNA), in partnership with different national and international trade organization, found that the potential excess lifetime cancer risk (ELCR) associated with tile-related crystalline silica exposure for the average installers who installs tile is 1.3 in 10 million (1.3 x 10-7), or 0.013 per 100,000, a value that is 75-times below the threshold of 1 in 100,000 established under the Prop 65 regulation, when cutting tile using the traditional, wet saw method.
>
> Emissions from cutting tile by the score and snap method were 50 times lower than found from wet-cutting, and over 1000 times lower than from motorized dry cutting.
>
> In conjunction with a prior OSHA determination that wet-cutting tile with a stationary masonry saw requires no personal protective equipment (PPE). The same is true when scoring and snapping tile.

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This is the only information on the Walker Zanger website about the hazard of silica to persons other than consumers, and it only relates to the installation of ceramic tiles. It does not apply to fabrication of stone slabs and suggests that fabricating Walker Zanger stone slabs presents no health hazard to fabricators, because it states that wet-cutting "with a stationary masonry saw requires no personal protective equipment," even though wet-cutting stone slabs requires use of an air-supplied respirator and other protective equipment necessary to prevent silicosis, which hazard is not even mentioned. Critically, the Walker Zanger website does not afford access to Safety Data Sheets for any natural or artificial stone slabs that Walker Zanger sells. The language on the webpage is grossly inadequate, misleading, and negates the effect of the warning provided such that it constitutes an anti-warning.

Knowledge of the Silicosis Hazard by Walker Zanger Officers and Directors

1219. Plaintiff is informed and believes and thereon alleges that throughout the time Walker & Zanger imported and sold its stone products, exposing stone countertop fabricators and installers to respirable crystalline silica from the company's products, Walker & Zanger officers and directors were aware that the company's artificial stone products were defective because they contained extremely high concentrations of crystalline silica, were aware that the use instructions that Walker & Zanger provided were inadequate to prevent silicosis and would actually cause silicosis in exposed workers, and were aware that fabrication companies could not protect fabricators and installers from the lethal silicosis hazard presented by Walker & Zanger's defective artificial stone products. Among Walker & Zanger's officers and directors who had this knowledge but who nevertheless consciously disregarded the health and safety of fabricators and installers are Leon Zanger (deceased), Founder and former Chief Executive Officer; Jonathan Zanger, Chief Executive Officer; Michael Bastone, Secretary; and Chris Tucker, Chief Financial Officer.

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WILSONART LLC

1220. Wilsonart LLC is a global manufacturer and distributor of high pressure laminates and other engineered composite materials, used in countertops, worktops and other applications. Headquartered in Temple, Texas.

Wilsonart's Corporate History

1221. The company's website provides the following corporate history:

1956 Ralph Wilson Plastics Company was founded in 1956 by Mr. Ralph Wilson, Sr. in Temple, Texas.

Ralph Wilson Plastics Company purchases a 5'x12' press, making Wilsonart the first in the industry to offer customers the material for two kitchen tops from one sheet, one pressing.

1975 Wilsonart invents and patents Chemsurf®, which offers exceptional chemical resistance for Wilsonart® Laminate designs.

1984 Wilsonart introduces Solicor® Color through Decorative Laminate to the market, allowing designers to create surfaces with high performance characteristics and solid color throughout.

1990 Ralph Wilson distribution facility opens in Mexico.

1996 Wilsonart Limited, UK, is established in Shildon, England, to serve the European marketplace.

1997 Resopal, the oldest manufacturer of High Pressure Laminate in Europe, is added to the Wilsonart family of brands.

Arborite, the industry innovator in High Pressure Laminates in Canada, is added as Wilsonart continues to expand service into new areas.

1998 Wilsonart establishes and begins manufacturing High Pressure Laminate in Shanghai and Thailand for the Asian market.

Wilsonart Limited acquires Direct Worktops, the leading manufacturer of countertop components in the United Kingdom.

2001 Polyrey, a leading manufacturer of decorative surfaces in France, is added, expanding Wilsonart's global footprint.

Wilsonart® HD® High Definition® Laminate is introduced with the addition of AEON™ Enhanced Scratch & Scuff-Resistant Performance Technology – a high-performance coating that extends the life and beauty of laminate with extra scratch, scuff, and stain resistance.

Wilsonart® Resopal introduces Spa Styling waterproof panels engineered for wet spaces in Western Europe.

2013 Wilsonart completes purchase of Durcon, Inc., adding durable epoxy resin surfaces ideal for laboratory, classroom, and research worktops because of their durability, chemical resistance, and fire/moisture resistance.

2014 Resopal introduces Traceless® — the first fingerprint-resistant laminate for commercial applications.

Wilsonart introduces the Virtual Design Library, a curated collection of unique designs, and WilsonartXYou, a one-of-a-kind custom laminate program.

2015 Wilsonart® Coordinated Surfaces is introduced – a suite of products (Wilsonart® High Pressure Laminate, TFL Panels, and Edgeband) available in 237 designs that are the best matched products in the industry in both design and texture.

Wilsonart introduces Quartz with 50 exclusive designs for residential and commercial customers.

2016 Arborite acquires Laminart®, Inc., a supplier of distinctive High Pressure Laminate, metals, and wood veneer surfacing.

Wilsonart acquires Kara Board, a manufacturer and seller of Karaboard brand decorative melamine boards, nuform high pressure laminates, and Nu Door thermo-laminated doors and panels.

Wilsonart acquires Bushboard, a leading supplier of worktops and wall systems in the United Kingdom.

2017 Wilsonart acquires TFL manufacturing in Oxford, MS . . . .

Wilsonart and Hanwha L&C Corp. announce a joint-venture agreement to build a manufacturing facility in Temple, TX, supporting expansion and growth of the Wilsonart® Solid Surface and Hanex Solid Surfaces product lines.

Wilsonart acquires KML, manufacturer of decorative surfaces and panels.

Wilsonart acquires Shore Laminates and Mermaid Panels in the United Kingdom.

2018 Wilsonart acquires Laminate Works Dallas division.

2019 Wilsonart introduces THINSCAPE® Performance Tops, a European-inspired, highly durable, ultra-thin countertop unlike anything else in the marketplace.

Wilsonart completes acquisition of Technistone, a.s., headquartered in Hradec Králové, Czech Republic. Wilsonart closes the transaction to divest its Asia business.

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2020 Wilsonart signs a definitive agreement to acquire Alpine Sales, Inc., a Columbia, South Carolina-based wholesale distributor to the building and remodeling industry.

Wilsonart announces it will increase its TFL (Thermally Fused Laminate) capacity and footprint in North America with a new facility in Klamath Falls, Oregon.

2021 Wilsonart acquires Flagg Incorporated, a leading wholesale distributor to the building and remodeling industry based in Cincinnati with branches in Ohio, Kentucky, and Indiana.

Wilsonart Begins Doing Business in California

1222. On August 9, 2012, Wilsonart LLC filed its Articles of Organization in the State of Delaware. Its principal place of business is 13413 Galleria Circle #200, Austin TX 78738.

1223. On October 23, 2012, Wilsonart LLC filed its Application to register a Foreign Limited Liability Company with the California Secretary of State.

Wilsonart Enters the Stone Slab Business

1224. In 2015 Wilsonart LLC made its entry into the artificial stone business with the introduction of 50 quartz slab designs.

1225. In an advertisement published in *Stone World* on March 30, 2018, Wilsonart introduced "new Quartz and Solid Surface designs that blend nature's beauty and look stunning in both home and commercial settings." The article concluded: The 2018 Quartz and Solid Surface designs celebrate natural materials with 10 new Qaurtz and seven new Solid Surface introductions."

1226. In an advertisement published in *Stone World* on May 3, 2019, Wilsonart introduced "THINSCAPE™ Performance Tops, a European-inspired, highly-durable, ultra-thin countertop," "unlike anything in the marketplace." "Manufactured in the USA, THINSCAPE Performance Tops are easy to clean and are extremely impact-, scratch- and moisture-resistant."

1227. In an advertisement published in *Stone World* on August 8, 2019, Wilsonart reported: "Wilsonart Engineered Surfaces has signed an agreement to acquire Technistone, a.s., a world-leading manufacturer of quartz stone that has specilzied in the industry for more than 20 years. The

Company is located in the heart of Europe, just outside of Prague in Hradec Králové, Czech Republic, and successfully exports quartz slabs to more than 75 countries worldwide on five continents. In 2018, Technistone® completed significant state-of-the-art investments to upgrade their existing Bretonstone® production lines to increase capacity and improve design capabilities and quality. Technistone is globally recognized for high-quality and premium technical stone with a sophisticated system of objective color measurement and a reputation for excellent service." The advertisement quoted Andrew Korzen, vice-president of product management for Engineered Solid Surfaces, Wilsonart: "We are steadfast in our commitment to provide the global marketplace with a high-quality and reliable source of engineered surfacing options, across a broad range of materials. As the demand for quartz increases in both the commercial and residential markets, the addition of Technistone allows us to better provide our customers high-quality quartz products, combined with the service they have come to expect from Wilsonart." An October 7, 2019 report in *Stone World* noted that "Wilsonart Engineered Surfaces has completed the acquisition of Technistone, a.s."

2017 Safety Data Sheet for Wilsonart Quartz

1228. On June 30, 2017, Wilsonart issued an updated Safety Data Sheet for its artificial stone product Wilsonart Quartz, stating that the product contains 60-100% crystalline silica (quartz). Although this Safety Data Sheet stated that the crystalline silica content of the product was as much as 100%, Wilsonart totally concealed the hazard of silicosis from the use of this product. Indeed, the word "silicosis" is not found anywhere in the entire Safety Data Sheet.

1229. In the "Hazards identification" section of its 2017 Safety Data Sheet, Wilsonart disclosed only two health hazards: "May cause cancer" and "Causes damage to organs through prolonged or repeated exposure," without explaining how many days, weeks, months, years or decades constitutes "prolonged" exposure that "causes damage to organs" and without quantifying the number of exposures that constitute "repeated exposure" that causes such damage. Wilsonart falsely stated that "No additional information [is] available regarding "Other hazards," although much additional information regarding the hazard of silicosis was known to Wilsonart.

1230. Wilsonart provided 8 "Precautionary Statements" - none of which were to wear any respirators: (1) "Obtain special instructions before use" (without stating what "special instructions" were to be obtained and from whom such special instructions could be obtained); (2) "Do not handle until all safety precautions have been read and understood," (as though Plaintiff, who neither speaks nor reads English could possibly read and understand the "safety precautions" in English), (3) "Do not breathe dust" (as though Plaintiff should hold his breath throughout the work day), (4) "Wash clothing, hands forearms and face thoroughly after handling" (although the products do not present appreciable health hazards by skin absorption); (5) "Do not eat, drink or smoke when using this product" (although the product does not present any significant health hazards by ingestion); (6) "Wear eye protection, face protection, protective clothing, protective gloes" (rather than the critical information that it is essential to wear an air supplied respirator when fabricating and/or installing artificial stone products); (7) "If exposed or concerned: Get medical advice/attention," (although fabricators are constantly exposed to the product when they cut, saw, grind, drill, edge, and polish the product); and (8) "Store locked up," (a meaningless instruction, because slabs of the product are too large to lock up and are so heavy they can only be stolen with great difficulty).

1231. In its 2017 Safety Data Sheet, Wilsonart also concealed the identities of the ingredients of the product other than quartz, by stating that the product contains "binding resins" and "colorants" without identifying the ingredients of these components of the product, and without identifying any inorganic and/or metallic constituents of the product other than quartz.

1232. In a section about Exposure controls, Wilsonart provided the following "appropriate engineering controls" instruction: "Provide adequate general and local exhaust ventilation." This instruction not only failed to specify the type or degree of ventilation that is necessary to prevent silicosis, but constitutes a dangerous, lethal instruction, because general ventilation is never adequate when artificial stone containing 60-100% crystalline silica is sawed, cut, ground, routed, drilled, sanded or polished. Indeed, when fabricating artificial stone products, special ventilation is always required; using general ventilation for these tasks will cause silicosis, rather than prevent it.

1233. In the "Exposure controls" section of the Safety Data Sheet, Wilsonart recommended the following "respiratory protection": "Use NIOSH (or other equivalent national standard) -

approved dust/articulate respirator." This instruction concealed critical information necessary to prevent silicosis, to wit, the specific type of respirator that is necessary to prevent silicosis (an air-supplied respirator), and instead provided misleading information – that a dust/particulate respirator would protect workers from harm, although air-purifying respirators do not protect artificial stone fabricators from silicosis and actually contribute to the development of silicosis, because they do not adequately filter our respirable crystalline silica.

Knowledge of the Silicosis Hazard by Wilsonart Officers and Directors

1234. Plaintiff is informed and believes and thereon alleges that throughout the time Wilsonart manufactured and sold stone products, exposing stone countertop fabricators and installers to respirable crystalline silica from the company's products, Wilsonart officers and directors were aware that the company's artificial stone products were defective because they contained extremely high concentrations of crystalline silica, were aware that the use instructions that Wilsonart provided were inadequate to prevent silicosis and would actually cause silicosis in exposed workers, and were aware that fabrication companies could not protect fabricators and installers from the lethal silicosis hazard presented by Wilsonart's defective artificial stone products. Plaintiff is informed and believes and thereon alleges that among Wilsonart's officers and directors who had this knowledge but who nevertheless consciously disregarded the health and safety of fabricators and installers are:

Timothy O'Brien	President and Chief Executive Officer
Dave Rodgers	Chief Financial Officer
Tim Pearson	President EMEA
Andrew Korzen	Vice President Sales for the U.S. and Canada
Jay Kirshnamurthy	Chief Information Officer
Shawn Wicketts	Vice President Human Resources
Fred King	General Counsel
Danielle Mikesell	Vice President Marketing and Design
Jeff Petru	Vice President

Rakesh Ramamurthy	Vice President Innovation and Technology
David Matthews	Vice President Product Management, High Pressure Laminate
Robert Stroescu	Vice President Product Management, Solid Surface & Epoxy
Kimberly Watson	Vice President Material Replacement

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FIRST CAUSE OF ACTION

FOR NEGLIGENCE

PLAINTIFF, FERNANDO ABREGO PEREZ, COMPLAINS OF ALL DEFENDANTS HEREIN NAMED AND DOES 1-100 FOR A CAUSE OF ACTION FOR NEGLIGENCE, PURSUANT TO CIVIL CODE § 1714, CACI 400, 401, 430, 431, 1220, 1221, 1222, 1223, AND ALLEGES:

1235. Plaintiff incorporates herein by reference, as though fully set forth herein, the allegations and facts contained in all of the foregoing paragraphs.

General Duty of Due Care

1236. A basic tenet of California law is that everyone is required to use ordinary care in their activities so as to regard the safety of others and prevent injury to others from their conduct or omissions. (Civ. Code, § 1714, subd. (a); Williams v. J-M Manufacturing Co., Inc., (2024) 102 Cal. App. 5th 250, 259; Pedeferri v. Seidner Enterprises (2013) 216 Cal.App.4th 359, 365; Cabral v. Ralphs (2011) 51 Cal.4th 764; Merrill v. Navegar, Inc. (2002) 26 Cal.4th 465; Hilyar v. Union Ice Co. (1955) 45 Cal.2d 30, 36.) Civil Code § 1714 does not limit responsibility for negligence to a certain class of defendants; rather, it provides that "[e]very one is responsible for an injury occasioned to another by [one's] want of ordinary care or skill." (Safeco Ins. Co. v. Robert S. (2001) 26 Cal.4th 758, 764 (emphasis added).)

> Negligence may be active or passive in character. It may consist in heedlessly doing an improper thing or in heedlessly refraining from doing the proper thing. Whether the circumstances call for activity or passivity, one who does not do what he should is equally chargeable with negligence with him who does what he should not.

(Basler v. Sacramento Gas & Electric Co. (1910) 158 Cal. 514, 518.) Under general negligence principles, everyone is "obligated to exercise due care in his or her own actions so as not to create an unreasonable risk of injury to others, and this legal duty generally is owed to the class of persons who it is reasonably foreseeable may be injured as the result of the actor's conduct." (Lugtu v. California Highway Patrol (2001) 26 Cal.4th 703, 716 (emphasis added); Cal. Civ. Code, § 1714; see generally Rest.2d Torts, § 281; Prosser & Keeton on Torts (5th ed. 1984) § 31, p. 169; 3 Harper, et al., The Law of Torts (2d ed. 1986) § 18.2, 654-655.)

1237. As manufacturers, importers, distributors, suppliers, brokers, designers, testers, and/or contractors of stone slab, block and tile products, Defendants owed Plaintiff a legal duty to exercise due care in manufacturing, designing, testing, importing, producing, supplying, brokering, contracting, and/or distributing stone products to which Plaintiff was exposed in his work as a countertop fabricator and installer.

Breach of the General Duty of Due Care

1238. At all times herein mentioned, Defendants, singularly and jointly, failed to use ordinary care to prevent harm to others, negligently acted or failed to act, negligently did things that a reasonably careful person would not do in the same situation, negligently failed to do things that a reasonably careful person would do in the same situation, negligently and carelessly researched or failed to research, manufactured, designed or failed to design, modified or failed to modify, tested or failed to test, warned or failed to warn of the health hazards, failed to provide safe use instructions or provided use instructions that were inadequate and thereby caused harm, labeled or failed to label, assembled, distributed, purchased, offered for sale, supplied, sold, inspected or failed to inspect, marketed, warranted, rebranded, manufactured for others, packaged and advertised, and/or failed to recall the stone products, so that said products proximately caused personal injuries to users, bystanders, family members, and others, including the plaintiff herein (hereinafter collectively called "exposed persons"), while being used in a manner that was reasonably foreseeable, thereby rendering said products and substances unsafe and dangerous for use by "exposed persons."

1239. Defendants negligently and carelessly manufactured, designed, imported, produced, sold, tested, failed to test, supplied, contracted, brokered and/or distributed the stone slab and block products to which Plaintiff, FERNANDO ABREGO PEREZ, was exposed in his work as a countertop fabricator and installer.

1240. Defendants failed to adequately warn Plaintiff, FERNANDO ABREGO PEREZ, of the toxic hazards of their stone products and failed to provide adequate instructions to Plaintiff, FERNANDO ABREGO PEREZ, how to safely use their products so as to prevent him from developing and suffering from silicosis and other disease.

1241. Defendants, knew, or should have known, that the aforementioned stone products when used as intended, and/or foreseeably misused, would result in the indiscriminate release of toxic and carcinogenic dust, and exposure to "exposed persons," including plaintiff herein.

1242. Plaintiff used, or has been otherwise exposed to, stone products referred to herein in a manner that was reasonably foreseeable and from the intended use of the stone products.

Duties Imposed on Defendants by Statutes and Regulations

1243. Labor Code § 6390.5 is a health and safety statute enacted to protect, among others, workers in the position of Plaintiff, FERNANDO ABREGO PEREZ, and imposing on manufacturers and distributors of any hazardous substance the duty to label each container of a hazardous substance consistent with the Hazard Communication Standard. (8 C.C.R. § 5194).

1244. The Hazard Communication Standard (8 C.C.R. § 5194) is a health and safety regulation promulgated to protect, among others, workers in the position of Plaintiff, FERNANDO ABREGO PEREZ, and imposing on manufacturers, suppliers, brokers, and distributors of chemical products the duty to, among other things:

(a) evaluate their products to determine if they are hazardous [8 C.C.R. § 5194(d)(1)];

(b) identify and consider the available scientific evidence concerning such hazards [8 C.C.R. § 5194(d)(2) et seq.];

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(c) consider a product containing at least one percent of a component as presenting the same health hazard as that component [8 C.C.R. § 5194(d)(5)(B)];

(d) consider as carcinogenic a product containing at least 0.1% of a component which has been determined under 8 C.C.R. § 5194(d)(4) to be a carcinogen [8 C.C.R. § 5194(d)(5)(B)];

(e) consider as hazardous a product which contains a component in a concentration of less than one percent which could be released in concentrations which would exceed the established OSHA permissible exposure limit or ACGIH Threshold Limit Value, or could present a health hazard to workers in those concentrations [8 C.C.R. § 5194(d)(5)(D)];

(f) consider as carcinogenic a product which contains a component which has been determined under 8 C.C.R. § 5194(d)(4) to be carcinogenic in a concentration of less than .1% which could be released in concentrations which would exceed the established OSHA permissible exposure limit or ACGIH Threshold Limit Value, or could present a health hazard to workers in those concentrations [8 C.C.R. § 5194(d)(5)(D)];

(g) ensure that each container of hazardous chemicals leaving their facilities is labeled, tagged or marked with the (I) identity of the hazardous chemical(s); (ii) appropriate hazard warnings; and (iii) the name and address of the chemical manufacturer or other responsible party [8 C.C.R. § 5194(f)(1)];

(h) obtain or develop a material safety data sheet for each hazardous substance they produced [8 C.C.R. § 5194(g)(1)];

(i) include on the material safety data sheet the chemical and common names of each hazardous substance [8 C.C.R. §5194(g)(2)(A)];

(j) include on the material safety data sheet the health hazards of the hazardous substance, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the substance [8 C.C.R. § 5194(g)(2)(D)];

(k) include on the material safety data sheet the primary routes of entry [8 C.C.R. § 5194(g)(2)(E)];

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(l) include on the material safety data sheet the OSHA permissible exposure limit, ACGIH Threshold Limit Value, and any other exposure limit used or recommended by defendants [8 C.C.R. § 5194(g)(2)(F)];

(m) include on the material safety data sheet whether the hazardous chemical is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions), or by OSHA [8 C.C.R. § 5194(g)(2)(G)];

(n) include on the material safety data sheet generally applicable precautions for safe handling and use known to defendants, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks [8 C.C.R. § 5194(g)(2)(H)];

(o) include on the material safety data sheet generally applicable control measures known to defendants, such as appropriate engineering controls, work practices, or personal protective equipment [8 C.C.R. § 5194(g)(2)(I)];

(p) include on the material safety data sheet a description in lay terms, if not otherwise provided, of the specific potential health risks posed by the hazardous substance intended to alert the person reading the information [8 C.C.R. § 5194(g)(2)(M)];

(q) ensure that the information contained on material safety data sheets accurately reflects the scientific evidence used in making the hazard determination [8 C.C.R. § 5194(g)(5)];

(r) update material safety data sheets with newly-discovered significant information regarding the hazards of products and/or their components within three months [8 C.C.R. § 5194(g)(5)]; and,

(s) ensure that material safety data sheets complying with the Hazard Communication Standard are provided to employers, directly or via a distributor [8 C.C.R. § 5194(g)(6) & (7).

1245. Defendants are manufacturers, suppliers, importers, producers, brokers, contractors, and/or distributors of stone products to which Plaintiff, FERNANDO ABREGO PEREZ, was exposed in the course of his work, and were obligated to comply with California Labor Code § 6390.5 and the Hazard Communication Standard (8 C.C.R. § 5194).

Breach of Duties Imposed on Defendants by Statutes and Regulations

1246. Defendants violated California Labor Code § 6390.5 and the Hazard Communication Standard (8 C.C.R. §5194) in the manufacture, importation, supply, brokering, contracting, production, and distribution of their toxic stone products to which Plaintiff, FERNANDO ABREGO PEREZ, was exposed by:

(a) failing and refusing to evaluate their products to determine if toxic chemicals contained in their products presented a health hazard of causing silicosis and lung disease to workers using or exposed to their products [8 C.C.R. § 5194(d)(1)];

(b) failing and refusing to identify and consider the available scientific evidence to determine if the toxic chemicals contained in their products presented a health hazard of causing silicosis to workers using or exposed to their products [8 C.C.R. § 5194(d)(2) et seq.];

(c) failing and refusing to identify their products as presenting a health hazard of causing silicosis even though the toxic chemicals contained in their products presented a health hazard of causing silicosis to workers using or exposed to their products [8 C.C.R. § 5194(d)(5)];

(d) failing and refusing to ensure that each container of their products was labeled, tagged or marked to (i) identity the toxic chemicals contained in their products and (ii) appropriately warn that the toxic chemicals contained in their products presented a health hazard of causing silicosis to workers using or exposed to their products [8 C.C.R. § 5194(f)(1)];

(e) failing and refusing to obtain or develop a material safety data sheet for the toxic chemicals contained in their products [8 C.C.R. § 5194(g)(1)];

(f) failing and refusing to include on the material safety data sheet the chemical and common names for the toxic chemicals contained in their products [8 C.C.R. § 5194(g)(2)(A)];

(g) failing and refusing to include on the material safety data sheet that the toxic chemicals contained in their products presented a health hazard of causing silicosis to workers using or exposed to their products [8 C.C.R. § 5194(g)(2)(D)];

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(h) failing and refusing to include on the material safety data sheet the primary routes of entry for the toxic chemicals contained in their products in respect of the health hazard of causing silicosis to workers using or exposed to their products [8 C.C.R. § 5194(g)(2)(E)];

(i) failing and refusing to include on the material safety data sheet the OSHA permissible exposure limit, ACGIH Threshold Limit Value, and any other exposure limit used or recommended by defendants for the toxic chemicals contained in their products in respect of the health hazard of causing interstitial lung disease to workers using or exposed to their products [8 C.C.R. § 5194(g)(2)(F)];

(j) failing and refusing to include on the material safety data sheet whether the toxic chemicals contained in their products is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions), or by OSHA [8 C.C.R. § 5194(g)(2)(G)];

(k) failing and refusing to include on the material safety data sheet generally applicable precautions for safe handling and use known to Defendants for the toxic chemicals contained in their products in respect of preventing the health hazard of causing silicosis to workers using or exposed to their products [8 C.C.R. § 5194(g)(2)(H)];

(l) failing and refusing to include on the material safety data sheet generally applicable control measures known to Defendants for the toxic chemicals contained in their products in respect of preventing the health hazard of causing silicosis to workers using or exposed to their products [8 C.C.R. § 5194(g)(2)(I)];

(m) failing and refusing to include on the material safety data sheet or otherwise the specific potential health risks posed by the toxic chemicals contained in their products in respect of causing silicosis to workers using or exposed to their products [8 C.C.R. § 5194(g)(2)(M)];

(n) failing and refusing to ensure that the information contained on material safety data sheets accurately reflects the scientific evidence of the health risks posed by the toxic chemicals contained in their products in respect of causing silicosis to workers using or exposed to their products [8 C.C.R. § 5194(g)(5)];

(o) failing and refusing to update material safety data sheets with newly-discovered significant information regarding the hazards of the toxic chemicals contained in their products in respect of causing silicosis to workers using or exposed to their products [8 C.C.R. § 5194(g)(5)];

(p) failing and refusing to ensure that material safety data sheets complying with the Hazard Communication Standard (including specifying the potential health risks posed by the toxic chemicals contained in their products in respect of causing silicosis to workers using or exposed to their products) were provided to Plaintiff, FERNANDO ABREGO PEREZ's employers or hirers, directly or via a distributor. [8 C.C.R. § 5194(g)(6) & (7)]

1247. Plaintiff, FERNANDO ABREGO PEREZ, is a member of the class of persons designed to be protected by Labor Code § 6390.5 and the Hazard Communication Standard (8 C.C.R. § 5194).

Standard of Care of Manufacturers and Suppliers of Highly Toxic Chemical Products

1248. In addition to the foregoing common law duties of due care and the statutory and regulatory duties that Defendants owed to Plaintiff as manufacturers, importers, and distributors of hazardous chemical products, Defendants, as manufacturers and suppliers of highly toxic chemical products owed special duties of care to Plaintiff, FERNANDO ABREGO PEREZ, and other persons who would be exposed to the toxic, fibrogenic, and carcinogenic dust from Defendants' stone products.

1249. Thus, in *Warner v. Santa Catalina Island Co.* (1955) 44 Cal.2d 310, 317, the California Supreme Court wrote: "The risk incident to dealing with fire, firearms, explosive or highly inflammable matters, corrosive or otherwise dangerous or noxious fluids requires a great deal of care to be exercised. In other words, the standard of care required of the reasonable person when dealing with such dangerous articles is so great that a slight deviation therefrom will constitute negligence."

1250. Consistent with the duty of due care that those who manufacture and supply highly toxic chemical products must exercise, Defendants owed Plaintiff and others duties of due care consistent with industrial standards of care of responsible chemical manufacturers and suppliers.

1251. In 1976 Dow Chemical Company published a "Product Stewardship" brochure saying:

> **Responsible Care Commitment.** We are committed to exercising responsible care for our products both in manufacturing and distribution and later in their handling by distributors and use by our customers. This means assessing the environmental impact of the products and then taking appropriate steps to protect employee and public health, and the environment as a whole.
>
> **Responsibilities of Research and Development.** We expect Research and Development to:
>
> Determine that product testing is conducted at each stage of product development so that safety hazards and both short and long range environmental effects can be assessed . . . ."
>
> Give primary consideration to human safety . . . in selecting products for development and sale. . . .
>
> Dow employees, customers, plant communities and the public at large must be considered, as well as both short and long range environmental hazards in the distribution [and] use of our products.
>
> Provide information ... so ... distributors of our products, and customers may be instructed in the safe . . . use . . . of our products.
>
> **Responsibilities of Marketing.** We expect Marketing to:
>
> Furnish customers and distributors of Dow products appropriate information to foster the safe handling [and] use of Dow products.
>
> Alert Dow personnel immediately to problems of use involving human or environmental safety and assist in modifications of either products or use patterns, as required, to correct these problems.

1252. In 1991 Dow Chemical Company issued a brochure titled "*Product Stewardship*: Guidelines for Visits to Customer Facilities." This brochure stated:

> **Customer Outreach.** Depending on the hazard potential of the product and the knowledge of the customer, it may be appropriate to visit the customer's facilities to help them understand the safe and proper handling, use, and disposal of our products. Customer visits should be considered whenever: a product is being used for the first time at a location; there is a product health or environmental concern; or, there is a need to better understand how a product is used by the customer.
>
> **Customer Plant Visits.** Most visits at customers' plants will be very positive and require little follow-up beyond the customary letter and any reports. However, occasionally a hazardous situation may be observed in a customer's plant or a product's misuse may be uncovered that demands immediate attention and follow-up.

Concern for Health and Safety of Customer's Employees.

If there is serious concern on the use of the product or for the health and safety of the customer's employees, or for the environment, the following steps should be taken:

Inform the customer of your concern and get assurance that the situation will get immediate attention and be corrected by a given date.

Offer to work with the customer and provide information that may assist him to solve his problems.

Review the situation with your product management group and with legal counsel.

Confirm, either by a visit or by a letter from the customer, that the situation has been corrected on the agreed follow-up date.

If insufficient or no corrective action is taken, stop sales to the customer until adequate corrective action is taken.

1253. In 1998 Gregory G. Bond, Ph.D., Corporate Director of Product Responsibility of The Dow Chemical Company, wrote an article titled "Product Stewardship: A New Mindset," that was reprinted in the March 1998 edition of *Environmental Protection*. Dr. Bond wrote: "Product stewardship is a basic requirement for every business operating in today's atmosphere of concern for the environment. . . . The purpose of product stewardship is obvious: to protect employees, community neighbors, customers and the environment." He wrote: "Our goal is to eliminate all injuries, prevent adverse environmental and health impacts, reduce wastes and emissions and promote resource conservation at every sage of the life cycle of our products." Critically, Dr. Bond wrote: **"It is not enough to develop a full EH&S program in your own company. Product stewardship must be transferred to distributors, customers, the customers of customers and other product receivers. This is particularly important for the more hazardous products.** (Emphasis added) Product stewardship transfer involves communicating all relevant EH&S product information to the customer. **"Depending on the hazard of the product, it may also involve visiting a customer's or distributor's plant to make sure safe handling and emergency equipment and processes are in place and functioning, and to determine the appropriateness of the customer's application. A responsible producer will not sell a product for inappropriate uses."** (Emphasis added) . . . . Commensurate with risk, there may be a review of the customer's

storage, unloading and safe-handling practices. This may also include a pre-delivery inspection of the customer's facilities, periodic reinspections, product safety training for employees, industrial hygiene surveys to determine the exposures of the employees, a dosimeter program to test average exposure over an employee's shift and analytical services if the product hazard necessitates them. In case of any discrepancies noticed during an audit, a remediation program is instituted." The article concluded with the following statement: **"It is our policy to cease sales of a product if the customer . . . is unable or unwilling to take appropriate steps to handle the product safely."** (Emphasis added)

1254. These industrial standards of care have been implemented by responsible chemical product manufacturers and suppliers not only for toxic liquid chemicals, but also for solid chemical products that result in the formation of airborne toxic dust during fabrication processes.

1255. Brush Wellman has long been the largest producer of beryllium metal and alloys.

1256. Beryllium and crystalline silica are similar because beryllium is a metal and silica is a metalloid; they are both toxic to the lungs; they both cause pulmonary fibrosis, i.e., they scar the lung; crystalline silica causes "silicosis;" beryllium causes "berylliosis;" they both cause lung cancer.

1257. In 1993, Brush Wellman adopted a policy titled "Promoting Customer Safe Handling Practices" which stated:

> **Purpose.** The following is designed to provide a uniform method for dealing with customers who are observed to be handling Brush [beryllium] products in such a way as to create a real or potential health hazard to their employees and/or customers. The steps outlined hereinafter are designed primarily to curtail such practices in a step-by-step manner in keeping with Brush Wellman's environmental, health and safety policies. BWI has a history of promoting a safe environment for its own employees and the general public. The purpose of the program outlined below is to reaffirm and formalize that policy as much as is reasonably possible for Brush's customers, their employees, and third parties with whom they may have contact. . . .
>
> **Stepwise Approach.** The following is a series of progressive steps aimed toward encouraging the safe handling of our products:
>
> Any new customers or existing customers who are observed to be involved in potentially unsafe practices should be notified and offered available educational, advisory and safe handling programs or materials to include, at a minimum, safe handling videotapes, applicable environmental health and safety sales literature, and where requested, individual training and attention at the customer site. The

> latter assistance may take the form of customer visit by Brush environmental, safety or medical personnel followed if appropriate by a written advisory report outlining what, if any, steps could be taken to improve the working environment.
>
> If, as a result of any later observation, the customer continues an unsafe practice, reinforcement of the need for proper handling procedures should be made immediately.
>
> If rigorous encouragement fails to correct the practice(s), a written advisory should be prepared and forwarded to the customer outlining our concerns and urging the customer to correct those practices immediately. A follow up to this written advisory should be made by Brush personnel.
>
> If all steps outlined above fail in their purpose and/or the customer affirmatively refuses to correct unsafe practices, consideration must be given to withholding further sale of our products to that customer.

1258. Thus, by the mid-1990s the industrial standard of care among manufacturers and suppliers of highly toxic chemical products, including solid chemical products that emitted toxic, fibrogenic, and carcinogenic dust when fabricated, required such companies to monitor the use of their toxic chemical products by their customers, to assure that their customers were using their products safely and in a manner that would not endanger the health and safety of their employees and other persons exposed to their toxic chemical products, to counsel customers who were observed not to be using their products safely, and to cease selling their products to customers who persisted in using their products unsafely, endangering the health and safety of their employees and others.

1259. The standard of care requiring manufacturers and suppliers of highly toxic chemical products to cease sales to customers who endanger the health and safety of their workers has been recognized by companies that sell natural and artificial stone slabs. Thus, Arik Tendler, the former Chief Executive Officer of Surface Warehouse L.P., which distributes Vadara artificial stone slabs, testified as follows: at a deposition in a stone countertop fabricator silicosis case on July 21, 2023:

> It is a basic rule in this industry. If you don't cut wet, you're not a fabricator so I won't even sell the slabs if I know. I am not going to sell you slabs. . . . When we know somebody is working unsafely, we don't sell him.... Usually market reps are the people -- our salespeople are the people that say, "Hey, I don't want to sell him. It is all dry over there." So it is a pretty well-known standard in the industry.

Deposition of Arik Tendler in the case of *Victor Gonzalez et al. v. ADB Global Trade LLC, et al.*, Los Angeles Superior Court Case No. 21STCV06984 at page 318, line 16 to page 319, line 6.

1260. Defendants breached these industrial standards of care by failing to monitor the use of their toxic stone products by customers, by failing to assure that customers were using their products safely, by failing to counsel customers who were not using their products safely, and by failing to cease selling their products to customers who persisted in using their products unsafely, thereby endangering the health and safety of their employees and others exposed to their products.

Plaintiff's Exposure to Defendants' Stone Products

1261. Plaintiff, FERNANDO ABREGO PEREZ, was exposed Defendants' products, including those manufactured, distributed, contracted, brokered and supplied by Doe Defendants as alleged above, and to silica, metals and other toxins contained therein and released therefrom.

Plaintiff's Silicosis, Pulmonary Fibrosis, and Other Related Injuries

1262. As a result of Plaintiff, FERNANDO ABREGO PEREZ's exposure to each of Defendants' stone products, silica, metals and other toxins entered Plaintiff, FERNANDO ABREGO PEREZ's body and caused Plaintiff to suffer from specific illnesses, to wit, silicosis, pulmonary fibrosis, and related medical conditions, as set forth in more detail herein.

1263. Each of Defendants' stone products contained silica, toxic metals and other fibrogenic substances, that entered Plaintiff, FERNANDO ABREGO PEREZ's body and were substantial factors in causing, prolonging, and aggravating his silicosis and his related injuries.

1264. As a direct and proximate result of Defendants' negligence as alleged herein, Plaintiff, FERNANDO ABREGO PEREZ, suffers from silicosis and related injuries as set forth herein.

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Damages

1265. As a direct and proximate result of the conduct or omissions of the defendants, as aforesaid, plaintiff's exposure caused severe and permanent injury, damage, loss, or harm to the plaintiff, all to his general damage in a sum in excess of the jurisdictional limits of a limited civil case. This action is an Unlimited Civil Case as defined in Code of Civil Procedure § 88.

1266. As a direct and proximate result of said negligent acts and omissions of Defendants, Plaintiff, FERNANDO ABREGO PEREZ, has been required to spend money and incur obligations for medical and related expenses, and, in the future, he will incur expenses greater than the jurisdictional minimum of the Court, and he has been unable to attend to his usual work and activities.

1267. As a further direct and proximate result of the negligent acts and omissions of defendants resulting in his severe toxic injuries, Plaintiff, FERNANDO ABREGO PEREZ, has suffered lost income, wages, profits, commissions, diminishment of earning potential, and other pecuniary losses, and will continue to suffer such future losses, all to Plaintiff's damage.

1268. As a further direct and proximate result of the negligent acts and omissions of Defendants, Plaintiff, FERNANDO ABREGO PEREZ, has suffered and continues to suffer mental anguish, emotional distress, fear of death, diminished quality of life and other damages.

Punitive Damages

1269. In exposing Plaintiff to their toxic and fibrogenic stone products, Defendants consciously disregarded Plaintiff's safety despite knowledge of the probable dangerous consequences of their products, and willfully and deliberately failed to avoid said dangerous consequences befalling Plaintiff. Defendants were either aware of, or culpably indifferent to, unnecessary risks of injury to Plaintiff and failed and refused to take steps to eliminate or adequately reduce the risk of said dangerous consequences to Plaintiff. Defendants concealed known toxic hazards of their stone products from Plaintiff, specifically by failing to warn Plaintiff of adverse toxic effects of their stone products, and such hazards were known by and such concealment was ratified by the corporate

officers and managers of each of the defendants. Defendants consciously decided to market their stone products with knowledge of their harmful effects and without remedying the toxic effects of their stone products, and such marketing despite knowledge of the foregoing toxic hazards of Defendants' products was ratified by the corporate officers and managers of each of the defendants. Defendants also misrepresented the nature of their stone products, by withholding information from Plaintiff regarding toxic and fibrogenic chemicals, including silica and metals, released from their products during their anticipated or reasonably foreseeable uses, and such misrepresentation and withholding of information was ratified by the corporate officers and managers of the Defendants.

1270. Defendants' conduct in exposing Plaintiff to said toxic, fibrogenic stone products was despicable, malicious, oppressive, and perpetrated in conscious disregard of Plaintiff's right to safety.

SECOND CAUSE OF ACTION

PRODUCTS LIABILITY - FAILURE TO WARN

AS AND FOR A SECOND, SEPARATE, FURTHER AND DISTINCT CAUSE OF ACTION FOR PRODUCTS LIABILITY, PLAINTIFF, FERNANDO ABREGO PEREZ, COMPLAINS OF ALL DEFENDANTS, AND DOES 1-100, PURSUANT TO CACI 430, 431, 1200, 1205, AND 1223, AND ALLEGES AS FOLLOWS:

1271. Plaintiff incorporates herein by reference, as though fully set forth herein, the allegations and facts contained in all of the foregoing paragraphs.

1272. At all times mentioned herein, defendants were the manufacturers, designers, importers, producers, suppliers, contractors, brokers, and/or distributors of hazardous stone slab, block, and tile products to which Plaintiff, FERNANDO ABREGO PEREZ, was exposed in fabricating and installing stone countertops.

1273. The stone products which Defendants manufactured, imported, produced, contracted, supplied, brokered and distributed, and to which Plaintiff was exposed, were defective, because they lacked warnings or contained warnings that were inadequate to apprise Plaintiff of their toxic hazards

and their serious effects upon the human body, and they either lacked instructions for handling and use or lacked instructions adequate to prevent exposure and disease to Plaintiff, FERNANDO ABREGO PEREZ, thereby causing serious injury and disease, to wit, silicosis, pulmonary fibrosis and other diseases and medical conditions as set forth herein.

1274. Plaintiff, FERNANDO ABREGO PEREZ, was occupationally exposed to all of Defendants' toxic stone products.

1275. Each of the toxic stone products to which Plaintiff, FERNANDO ABREGO PEREZ, was exposed, was manufactured, designed, distributed, contracted, brokered and/or supplied by Defendants, including the Doe Defendants.

1276. From his use of the foregoing toxic stone products, Plaintiff, FERNANDO ABREGO PEREZ, was exposed to Defendants' toxic stone products, including artificial stone products as well as natural stone products including granite, marble and other natural stone products.

1277. Each of the toxic stone products to which Plaintiff, FERNANDO ABREGO PEREZ, was exposed, was manufactured, contracted, brokered and/or supplied by Defendants.

1278. As a result of Plaintiff, FERNANDO ABREGO PEREZ's exposure to the foregoing toxic stone products, silica, metals and other toxins within said stone products entered Plaintiff, FERNANDO ABREGO PEREZ's body.

1279. Plaintiff, FERNANDO ABREGO PEREZ, suffers from a specific illnesses, to wit, silicosis as well as other related and consequential injuries as set forth herein.

1280. Each of the foregoing toxic stone products caused Plaintiff, FERNANDO ABREGO PEREZ's silicosis, and his related and consequential injuries as set forth herein.

1281. Each toxin, including silica and metals, that entered Plaintiff, FERNANDO ABREGO PEREZ's body was a substantial factor in bringing about, prolonging, and aggravating Plaintiff, FERNANDO ABREGO PEREZ's silicosis and his related and consequential injuries.

1282. As a direct and proximate result of the defective warnings and use instructions of Defendants' stone products, Plaintiff, FERNANDO ABREGO PEREZ, suffers from silicosis and other related and consequential medical conditions.

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1283. As a direct and proximate result of the defective warnings and use instructions of Defendants' stone products, Plaintiff has been and will be required to expend money and incur obligations for medical and related expenses in an amount not yet determined but which is well in excess of the jurisdictional minimum of the Court, and Plaintiff, FERNANDO ABREGO PEREZ, has been unable to attend to his usual work and activities.

1284. As a further direct and proximate result of the defective warnings and use instructions of Defendants' stone products, Plaintiff, FERNANDO ABREGO PEREZ, has suffered lost income and will continue to suffer loss of future income, support and maintenance, all to Plaintiff's damage in a sum to be established according to proof.

1285. As a further direct and proximate result of defective warnings and use instructions of Defendants' chemical products, Plaintiff, FERNANDO ABREGO PEREZ, has suffered and will continue to suffer general damages, according to proof at trial.

1286. In exposing Plaintiff, FERNANDO ABREGO PEREZ, to said toxic and fibrogenic stone products, Defendants failed to warn Plaintiff of known dangers, consciously disregarded Plaintiff's safety despite knowledge of the probable dangerous consequences of their products, and willfully and deliberately failed to avoid said dangerous consequences befalling Plaintiff. Defendants were either aware of, or culpably indifferent to, unnecessary risks of injury to Plaintiff and failed and refused to take steps to eliminate or adequately reduce the risk of said dangerous consequences to Plaintiff. Defendants concealed known hazards of their stone products from Plaintiff, specifically by failing to warn Plaintiff of adverse toxic effects of their stone products, and such hazards were known by and such concealment was ratified by the corporate officers and managers of each of the defendants.

1287. Defendants consciously decided to market their stone products with knowledge of their harmful effects, without remedying the toxic effects of their stone products, and without providing use instructions adequate to prevent silicosis, despite knowledge of the foregoing toxic hazards of Defendants' products was ratified by the corporate officers and managers of each of the defendants. Defendants also misrepresented the nature of their stone products, by withholding information from Plaintiff regarding toxic and fibrogenic chemicals released from their products

during their anticipated or reasonably foreseeable uses, and such misrepresentation and withholding of information was ratified by the corporate officers and managers of each of the defendants.

1288. Defendants' conduct in exposing Plaintiff to said toxic and fibrogenic stone products without adequate warnings of their toxic hazards and without adequate instructions for safe handling and use of their toxic and lethal products was despicable, malicious, oppressive, and perpetrated in conscious disregard of the rights and safety of Plaintiff, entitling Plaintiff to punitive and exemplary damages.

THIRD CAUSE OF ACTION

PRODUCTS LIABILITY - DESIGN DEFECT

AS AND FOR A THIRD, SEPARATE, FURTHER AND DISTINCT CAUSE OF ACTION FOR PRODUCTS LIABILITY, PLAINTIFF, FERNANDO ABREGO PEREZ, COMPLAINS OF ALL DEFENDANTS, AND DOES 1-100, PURSUANT TO CACI 430, 431, 1200, 1203, 1204, AND ALLEGES AS FOLLOWS:

1289. Plaintiff incorporates herein by reference, as though fully set forth herein, the allegations and facts contained in all of the foregoing paragraphs.

1290. At all times mentioned herein, Defendants were the manufacturers, designers, testers, importers, suppliers, producers, brokers, contractors, and/or distributors of stone slab, block and tile products to which Plaintiff, FERNANDO ABREGO PEREZ, was exposed in the course of his work as a countertop fabricator and/or installer. Defendants defectively designed their stone slab, block and tile products and failed to adequately warn of potential safety hazards of such products.

1291. Defendants' stone products were defective in their design because they failed to perform as safely as an ordinary user would expect when used in an intended or reasonably foreseeable manner and the risks inherent in said design outweighed the benefits thereof.

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1292. Defendants' stone products were also defective in their design because they did not perform as safely as an ordinary worker would expect when used or misused in an intended or reasonably foreseeable way.

1293. Defendants knew and intended that their products would be used without inspection for defects therein and without knowledge of the hazards involved in such use. Said products were defective and unsafe for their intended purpose because exposure to stone dust causes serious disease and death.

1294. These design defects existed in Defendants' stone products when said stone products left defendants' possession.

1295. The stone products did, in fact, cause personal injuries, including to plaintiff as set forth herein, while being used in a reasonably foreseeable manner, thereby rendering the same defective, unsafe and dangerous for use. Moreover, said products failed to be designed, as required by California law, to account for foreseeable risks, even if they arise from the conduct of others. (Collins v. Navistar, Inc. (2013) 214 Cal.App.4th 1486, 1511.) "Exposed persons" did not know of the substantial danger of using said products. Said dangers were not readily recognizable by "exposed persons."

1296. As a direct and proximate result of said design defects, while using Defendants' stone products in a manner that was reasonably foreseeable and intended by Defendants, Plaintiff,FERNANDO ABREGO PEREZ, was exposed to said stone products in the course of his work, and has suffered serious injuries and disease, including silicosis and other related and consequential medical conditions as set forth herein.

1297. Each of the toxic stone products to which Plaintiff, FERNANDO ABREGO PEREZ, was exposed, was manufactured, designed, contracted, brokered and/or supplied by Defendants, including the Doe Defendants.

1298. As a result of Plaintiff FERNANDO ABREGO PEREZ's exposure to Defendants' stone products, silica, metals, and other toxins within said stone products or produced as a result of their fabrication, entered Plaintiff, FERNANDO ABREGO PEREZ's body.

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1299. Plaintiff, FERNANDO ABREGO PEREZ, suffers from specific illnesses, to wit, silicosis, pulmonary fibrosis, and other related and consequential medical conditions as set forth herein.

1300. Each of Defendants' stone products caused Plaintiff, FERNANDO ABREGO PEREZ's silicosis, pulmonary fibrosis, and other related and consequential injuries.

1301. Each toxin, including silica and metals, that entered Plaintiff, FERNANDO ABREGO PEREZ's body was a substantial factor in bringing about, prolonging, and aggravating Plaintiff, FERNANDO ABREGO PEREZ's silicosis, pulmonary fibrosis, and related and consequential injuries.

1302. As a direct and proximate result of the defective design of Defendants' stone products, Plaintiff, FERNANDO ABREGO PEREZ, suffers from silicosis, pulmonary fibrosis, and other related and consequential medical conditions as set forth herein.

1303. As a direct and proximate result of the defective design of Defendants' stone products, as aforesaid, plaintiff's exposure caused severe and permanent injury, damage, loss, or harm to the plaintiff, all to his general damage in a sum in excess of the jurisdictional limits of a limited civil case. This action is an Unlimited Civil Case as defined in Code of Civil Procedure § 88.

1304. As a direct and proximate result of the defective design of Defendants' stone products, Plaintiff, FERNANDO ABREGO PEREZ, has been required to spend money and/or incur obligations for medical and related expenses, and will incur in the future, in an amount which is in excess of the jurisdictional minimum of the Court, and he has been unable to attend to his usual work and activities.

1305. As a direct and proximate result of the defective design of Defendants' stone products, resulting in his severe toxic injuries, Plaintiff, FERNANDO ABREGO PEREZ, has suffered lost income, wages, profits, commissions, diminishment of earning potential, and other pecuniary losses, and will continue to suffer such future losses, all to Plaintiff's damage according to proof.

1306. As a direct and proximate result of the defective design of Defendants' stone products, Plaintiff, FERNANDO ABREGO PEREZ, has suffered and continues to suffer mental anguish, emotional distress, fear of death, diminished quality of life and other damages.

1307. In exposing Plaintiff to their toxic and fibrogenic stone products, Defendants failed to warn Plaintiff of known dangers, consciously disregarded Plaintiff's safety despite knowledge of the probable dangerous consequences of their products, and willfully and deliberately failed to avoid said dangerous consequences befalling Plaintiff. Defendants were either aware of, or culpably indifferent to, unnecessary risks of injury to Plaintiff and failed and refused to take steps to eliminate or adequately reduce the risk of said dangerous consequences to Plaintiff. Defendants concealed known toxic hazards of their stone products from Plaintiff, specifically by failing to warn Plaintiff of adverse toxic effects of their stone products, and such hazards were known by and such concealment was ratified by the corporate officers and managers of each of the defendants.

1308. Defendants consciously decided to market their stone products with knowledge of their harmful effects and without remedying the toxic effects of their stone products, and such marketing despite knowledge of the foregoing toxic hazards of Defendants' products was ratified by the corporate officers and managers of each of the defendants.

1309. Defendants also misrepresented the nature of their stone products, by withholding information from Plaintiff regarding toxic and fibrogenic chemicals, including silica and metals, released from their products during their anticipated or reasonably foreseeable uses, and such misrepresentation and withholding of information was ratified by the corporate officers and managers of each of the Defendants.

1310. Defendants' conduct in exposing Plaintiff to said toxic and fibrogenic stone products without adequate warnings of their toxic hazards and without adequate instructions for safe handling and use to prevent disabling lung disease was despicable, malicious, oppressive, and perpetrated in conscious disregard of the rights and safety of Plaintiff, entitling Plaintiff to punitive damages.

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FOURTH CAUSE OF ACTION

FRAUDULENT CONCEALMENT

AS AND FOR A FOURTH, SEPARATE, FURTHER AND DISTINCT CAUSE OF ACTION FOR FRAUDULENT CONCEALMENT, PLAINTIFF, FERNANDO ABREGO PEREZ, COMPLAINS OF ALL DEFENDANTS AND DOES 1-100, ALLEGING AS FOLLOWS:

1311. Plaintiff, by this reference, incorporates the allegations and facts contained in all of the foregoing paragraphs.

1312. Per *Tenet Healthsystem Desert, Inc. v. Blue Cross of Ca.lifornia* (2016) 245 Cal.App.4th 821, 838:

> Less specificity is required of a complaint when it appears from the nature of the allegations that the defendant must necessarily possess full information concerning the facts of the controversy; even under the strict rules of common law pleading, one of the canons was that less particularity is required when the facts lie more in the knowledge of the opposite party. Per *Jones v. ConocoPhillips* (2011) 198 Cal.App.4th 1187, the Second Appellate district held that allegations of fraudulent concealment far less than what are stated herein are sufficient to state a cause of action for fraudulent concealment.

The question of which corporate officer was responsible for the alleged concealment, or ought to have been responsible for disclosure, is a fact which "lie[s] more in the knowledge" of Defendants, and thus need not be pleaded with specificity. *Id.* As the *Jones* court wrote, beginning on pages 1198-1200 of the court's decision (emphasis added):

> Not every fraud arises from an affirmative misstatement of material fact. 'The principle is fundamental that "[deceit] may be negative as well as affirmative; it may consist of suppression of that which it is one's duty to declare as well as of the declaration of that which is false." [Citations.] Thus section 1709 of the Civil Code provides: "One who wilfully deceives another with intent to induce him to alter his position to his injury or risk, is liable for any damage which he thereby suffers." Section 1710 of the Civil Code in relevant part provides: "A deceit, within the meaning of the last section, is either: ... 3. The suppression of a fact, by one who is bound to disclose it, or who gives information of other facts which are likely to mislead for want of communication of that fact...." ' " (*Lovejoy v. AT&T Corp.* (2001) 92 Cal.App.4th 85, 95, 111 Cal.Rptr.2d 711.) "**[T]he elements of a cause of action for fraud based on concealment are: ' "(1) the defendant must have concealed or suppressed a material fact, (2) the defendant must have been under a duty to disclose the fact to**

the plaintiff, (3) the defendant must have intentionally concealed or suppressed the fact with the intent to defraud the plaintiff, (4) the plaintiff must have been unaware of the fact and would not have acted as he did if he had known of the concealed or suppressed fact, and (5) as a result of the concealment or suppression of the fact, the plaintiff must have sustained damage." ' " (*Kaldenbach v. Mutual of Omaha Life Ins. Co.* (2009) 178 Cal.App.4th 830, 850, 100 Cal.Rptr.3d 637.)...

The Joneses respond that, "[g]enerally speaking, manufacturers have a duty to warn consumers about the hazards inherent in their products. [Citation.] The requirement's purpose is to inform consumers about a product's hazards and faults of which they are unaware, so that they can refrain from using the product altogether or evade the danger by careful use." (*Johnson v. American Standard, Inc.* (2008) 43 Cal.4th 56, 64–65, 74 Cal.Rptr.3d 108, 179 P.3d 905, citing *Anderson v. Owens–Corning Fiberglas Corp.* (1991) 53 Cal.3d 987, 1003, 281 Cal.Rptr. 528, 810 P.2d 549; accord, *Pannu v. Land Rover North America, Inc.* (2011) 191 Cal.App.4th 1298, 1316, 120 Cal.Rptr.3d 605.) Thus, the Joneses argue, defendants owed a duty to share information about the toxicity of their products with those who could be expected to use those products, namely employees like Carlos, and they as plaintiffs should be permitted to explore the extent of defendants' knowledge of these hazards in discovery without first identifying specific acts by defendants, precisely because defendants alone know when they became aware of the particular hazards associated with their products. Requiring specificity at this juncture, they assert, is neither realistic nor mandated by case law. As one court has aptly observed, "it is harder to apply [the requirement of specificity] to a case of simple nondisclosure. 'How does one show "how" and "by what means" something didn't happen, or "when" it never happened, or "where" it never happened?' " (*Alfaro v. Community Housing Improvement System & Planning Assn., Inc.* (2009) 171 Cal.App.4th 1356, 1384, 124 Cal.Rptr.3d 271 (*Alfaro*); see also *Committee on Children's Television, Inc. v. General Foods Corp.* (1983) 35 Cal.3d 197, 217, 197 Cal.Rptr. 783, 673 P.2d 660 [" '[e]ven under the strict rules of common law pleading, one of the canons was that less particularity is required when the facts lie more in the knowledge of the opposite party ...' "].)

These principles are equally pertinent to the scope of defendants' duty to disclose. Although, typically, a duty to disclose arises when a defendant owes a fiduciary duty to a plaintiff (see, e.g., *Goodman v. Kennedy* (1976) 18 Cal.3d 335, 346–347, 134 Cal.Rptr. 375, 556 P.2d 737), a duty to disclose may also arise when a defendant possesses or exerts control over material facts not readily available to the plaintiff. (See, e.g., *Magpali v. Farmers Group, Inc.* (1996) 48 Cal.App.4th 471, 482, 55 Cal.Rptr.2d 225 [" '[t]he duty to disclose may arise without any confidential relationship where the defendant alone has knowledge of material facts which are not accessible to the plaintiff' "].) In *LiMandri v. Judkins* (1997) 52 Cal.App.4th 326, 60 Cal.Rptr.2d 539, a decision relied upon by defendants, each of the circumstances cited by the court in which a duty to disclose may exist absent the presence of a fiduciary relationship concerns the defendant's exertion of control over material facts that were not disclosed to the plaintiff, that is, "when the defendant ha[s] exclusive

> knowledge of material facts not known to the plaintiff"; "when the defendant actively conceals a material fact from the plaintiff"; or "when the defendant makes partial representations but also suppresses some material facts." (Id. at p. 336, 60 Cal.Rptr.2d 539.)
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> Here, the amended complaint alleges defendants were "aware of the toxic nature of their products" and "owed a duty to disclose the toxic properties of their products to [Carlos] because [they] alone had knowledge of material facts, to wit the toxic properties of their products, which were not available to [Carlos]." It also alleges defendants owed a duty to disclose because they "made representations regarding their products, but failed to disclose additional facts which materially qualify the facts disclosed, and/or which rendered the disclosures made likely to mislead [Carlos]." These conclusory allegations are supplemented with respect to the single compound, DMF. The Joneses cite studies published as early as 1969 attesting to DMF's toxicity, several years before Carlos began working at Goodyear where he was exposed to the Dow product containing DMF.
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> At a minimum, the amended complaint states a viable claim for fraudulent concealment against Dow Chemical, the manufacturer of the product Polymide 2080–D/DHV, which allegedly contained DMF. The Joneses have alleged DMF was known to be hazardous as early as 1969, and Dow Chemical concealed the toxic properties of their product, which Carlos would not have used had he been fully advised of its toxicity....
>
> On balance, we conclude the amended complaint does provide adequate notice to the remaining defendants of the material facts they allegedly concealed from Carlos. Based upon the existing allegations, each defendant has received notice of the particular product it made that was used at the Goodyear and Upjohn plants at which Carlos worked. The pleading further alleges these products "contained significant concentrations of organic solvents ... and other toxic chemicals" and "[t]he toxicity of various organic solvents to the liver and kidney has long been recognized." Each defendant is therefore on notice that it allegedly concealed or failed to disclose the toxic properties of the product it sold to Goodyear and Upjohn during the course of Carlos's employment. Although sparse, nothing more is required at this early stage of the litigation.

1313. At all times mentioned herein, Defendants were the manufacturers, designers, suppliers, contractors, brokers, importers, producers and/or distributors of stone products which Plaintiff, FERNANDO ABREGO PEREZ, used and to which he was exposed in his work as a countertop cutter, fabricator and/or installer.

1314. Defendants' stone products are toxic and fibrogenic to the human lungs.

1315. Prior to Plaintiff's exposure to Defendants' stone products, Defendants were aware of the toxic and fibrogenic nature of their stone products and that exposure to them causes silicosis.

1316. Pursuant to the Hazard Communication Standard, Defendants were under a legal duty to disclose by labels to Plaintiff, FERNANDO ABREGO PEREZ, and by Safety Data Sheets to his employers or hirers both the toxic and fibrogenic properties of their products and use instructions to that were adequate to prevent silicosis.

1317. Pursuant to California common law, Defendants were under a legal duty to fully disclose the toxic and fibrogenic properties of their products directly to Plaintiff, FERNANDO ABREGO PEREZ.

1318. Defendants also owed a duty to disclose the toxic hazards of their stone products to Plaintiff, FERNANDO ABREGO PEREZ, because Defendants alone had knowledge of material facts, to wit the toxic properties of their products, which were not accessible to Plaintiff, FERNANDO ABREGO PEREZ.

1319. Defendants also owed a duty to disclose the toxic hazards of their stone products to Plaintiff, FERNANDO ABREGO PEREZ, because Defendants made representations regarding their products, but failed to disclose additional facts that materially qualify the facts disclosed, and/or which rendered the disclosures made, likely to mislead Plaintiff, FERNANDO ABREGO PEREZ.

1320. Defendants also owed a duty to disclose the toxic hazards of their stone products to Plaintiff, FERNANDO ABREGO PEREZ, because a transactional relationship existed between Plaintiff, FERNANDO ABREGO PEREZ, and Defendants inasmuch as Plaintiff, FERNANDO ABREGO PEREZ, purchased and/or received toxic stone products from Defendants.

1321. Notwithstanding their knowledge of the toxic and fibrogenic hazards of their stone products, at all material times hereto, Defendants concealed said toxic hazards from Plaintiff, FERNANDO ABREGO PEREZ, so that he would use Defendants' stone products in his work.

1322. Prior to Plaintiff's exposure to Defendants' stone slab, block and tile products, Defendants were aware that their artificial stone products contained extremely high concentrations of crystalline silica (approximately 95%), which produced extremely high levels of respirable crystalline silica in their ordinary and expected use, when fabricators and/or installers fabricate, cut, grind, drill, edge, and/or polish the products, so their products presented extreme hazards and risks

to the health of exposed workers, in comparison with natural stone products such as granite (which contains about 35% crystalline silica) and marble (which only contains about 5% crystalline silica).

1323. Prior to Plaintiff's exposure to Defendants' stone products, Defendants were aware that commonly used and recommended protective measures (e.g., use of wet processing methods and air purifying respirators) were inadequate to prevent fabricators and installers from getting silicosis.

1324. Prior to Plaintiff's exposure to Defendants' stone products, Defendants were aware that Plaintiff's employers lacked knowledge of the extreme toxic hazards of Defendants' stone products and that Plaintiff's employers were unaware of the extreme protective measures that are necessary to prevent fabricators and installers from getting silicosis from exposure to Defendants' stone products.

1325. At all times prior to Plaintiff's exposure to Defendants' stone products, Defendants nevertheless concealed from Plaintiff and from his employers or hirers the extreme protective measures that are necessary to prevent fabricators and installers from getting silicosis from exposure to Defendants' stone products.

1326. At all times prior to Plaintiff's exposure to Defendants' stone products, Defendants failed to check and monitor the use of Defendants' stone products to determine whether Plaintiff's employers or hirers were using the products in such a manner so as not to endanger the health and safety of their workers, or whether Plaintiff's employers or hirers were endangering the health and safety of their workers by using Defendants' products in such a manner as would cause silicosis, pulmonary fibrosis, other diseases, and death.

1327. At all times prior to Plaintiff's exposure to Defendants' stone products, Defendants failed to cease selling their toxic and lethal stone products to Plaintiff's employers or hirers, who, even with best efforts and intentions, were incapable of using Defendants' stone products safely, were incapable of protecting fabricators and installers from the respiratory and lethal hazards of Defendants' stone products, and, although they attempted to use Defendants' stone products as directed and intended, were nevertheless endangering the health and safety of their workers by exposing them to the toxic and lethal hazards of Defendants' stone products.

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1328. Notwithstanding their knowledge of the carcinogenic, toxic and fibrogenic hazards of their stone products, at all material times hereto, Defendants concealed said hazards from Plaintiff, FERNANDO ABREGO PEREZ, so he would use Defendants' stone products in his work.

1329. Plaintiff, FERNANDO ABREGO PEREZ, was unaware of the toxic and fibrogenic of Defendants' products and would not have acted as he did had he known of said hazards.

1330. Defendants had a duty to disclose the toxic hazards of their products to plaintiff's employers or hirers; Defendants concealed significant health hazards from Plaintiff; Defendants intended that their products be used by Plaintiff; and therefore intended and had reason to expect that their concealment of toxic hazards and health risks would be acted upon by Plaintiff, FERNANDO ABREGO PEREZ, who otherwise would not have used Defendants' stone products. In using Defendants' stone products, Plaintiff, FERNANDO ABREGO PEREZ, acted in justifiable reliance that Defendants had not concealed material facts of the toxic hazards of their stone products.

1331. As a direct and proximate result of Defendants' fraudulent concealment of the toxic and fibrogenic hazards of their stone products, Plaintiff, FERNANDO ABREGO PEREZ, was exposed to Defendants' stone products in the course of his work as a countertop fabricator and installer and he has sustained serious injuries and disease, including silicosis, and other conditions.

1332. Each of the toxic stone products to which Plaintiff, FERNANDO ABREGO PEREZ, was exposed, was manufactured, distributed, contracted, brokered and/or supplied by Defendants, including the Doe Defendants.

1333. As a result of Plaintiff FERNANDO ABREGO PEREZ's exposure to Defendants' toxic stone products, toxins, including silica, metals and other toxic substances, within said stone products entered Plaintiff, FERNANDO ABREGO PEREZ's body.

1334. Plaintiff, FERNANDO ABREGO PEREZ, suffers from specific illnesses, to wit, silicosis and other related and consequential medical conditions as set forth herein.

1335. Each of the foregoing toxic stone products caused Plaintiff, FERNANDO ABREGO PEREZ's silicosis as well as his other related and consequential injuries as set forth herein.

1336. Each toxin, including silica and every metal, that entered Plaintiff, FERNANDO ABREGO PEREZ's body was a substantial factor in bringing about, prolonging, and aggravating

Plaintiff, FERNANDO ABREGO PEREZ's silicosis, and related and consequential injuries as set forth herein.

1337. As a direct and proximate result of Defendants' fraudulent concealment of the toxic hazards of their stone products, Plaintiff, FERNANDO ABREGO PEREZ, suffers from silicosis, pulmonary fibrosis, and other related and consequential medical conditions as set forth herein.

1338. As a direct and proximate result of Defendants' fraudulent concealment of the toxic hazards of their stone products, Plaintiff has been and will in the future be required to expend money and incur obligations for medical and related expenses in an amount not yet determined but which is well in excess of the jurisdictional minimum of the Court, and Plaintiff, FERNANDO ABREGO PEREZ, has been unable to attend to his usual work and activities.

1339. As a further direct and proximate result of Defendants' fraudulent concealment of the toxic hazards of their stone products, Plaintiff, FERNANDO ABREGO PEREZ, has suffered lost income and will continue to suffer loss of future income, support, wages, and maintenance, and other pecuniary loses, all to Plaintiff's damage in a sum to be established according to proof.

1340. As a further direct and proximate result of Defendants' fraudulent concealment of the toxic hazards of their stone products, Plaintiff, FERNANDO ABREGO PEREZ, has suffered and will continue to suffer general damages, according to proof at trial.

1341. In exposing Plaintiff to said toxic and fibrogenic stone products via their fraudulent concealment, Defendants consciously disregarded Plaintiff's safety despite knowledge of the probable dangerous consequences of their products, and willfully and deliberately failed to avoid said dangerous consequences befalling Plaintiff. Defendants were either aware of, or culpably indifferent to, unnecessary risks of injury to Plaintiff and failed and refused to take steps to eliminate or adequately reduce the risk of said dangerous consequences to Plaintiff. Defendants concealed known hazards of their stone products from Plaintiff, specifically by failing to warn Plaintiff of adverse toxic effects of their stone products, and such hazards were known by and such concealment was ratified by the corporate officers and managers of each of the defendants.

1342. Defendants consciously decided to market their stone products with knowledge of their harmful effects and without remedying the toxic effects of their stone products, and such

marketing despite knowledge of the foregoing toxic hazards of Defendants' products was ratified by the corporate officers and managers of each of the defendants. Defendants also misrepresented the nature of their stone products, by withholding information from Plaintiff regarding toxic and fibrogenic substances, including silica and metals, released from their products during their anticipated or reasonably foreseeable uses, and such misrepresentation and withholding of information was ratified by the corporate officers and managers of each of the Defendants.

1343. Defendants' conduct in exposing Plaintiff to said toxic and fibrogenic stone products without adequate warnings of their toxic hazards and without adequate instructions for safe handling and use necessary to prevent disabling lung disease was despicable, malicious, oppressive, and perpetrated in conscious disregard of the rights and safety of Plaintiff.

FIFTH CAUSE OF ACTION
BREACH OF IMPLIED WARRANTIES

AS FOR A FIFTH, SEPARATE, FURTHER AND DISTINCT CAUSE OF ACTION FOR BREACH OF IMPLIED WARRANTIES, PLAINTIFF, FERNANDO ABREGO PEREZ, COMPLAINS OF ALL DEFENDANTS, AND DOES 1 -100, AND ALLEGES AS FOLLOWS:

1344. Plaintiff, by this reference, incorporates the allegations and facts contained in all of the foregoing paragraphs.

1345. At all times mentioned herein, Defendants were the manufactures, suppliers, contractors, brokers, importers, producers and distributors of inherently hazardous stone products that were purchased by Plaintiff's employers or hirers and delivered to Plaintiff's employers or hirers' facilities, where Plaintiff, was exposed to Defendants' toxic stone products.

1346. Defendants' stone products to which Plaintiff was exposed are toxic and fibrogenic.

1347. By placing their hazardous stone products in the stream of commerce, Defendants impliedly warranted that their stone products were reasonably fit for their intended uses, that their stone products were of merchantable quality, that they were not defective, that they would function

as safely as ordinary users including workers would expect when used in an intended or reasonably foreseeable manner, and that they would not cause serious disease, harm, or death.

1348. Defendants, and each of them, breached said implied warranties, because their inherently hazardous stone products were not reasonably fit for their intended uses, were not of merchantable quality, were defective, and failed to function as safely as an ordinary user and worker would expect when used in an intended or reasonably foreseeable manner, and caused serious injuries to Plaintiff, FERNANDO ABREGO PEREZ, to wit, silicosis, pulmonary fibrosis, and other injuries and disease.

1349. From his use of the foregoing inherently hazardous stone products, Plaintiff, was exposed to toxins, including silica, metals, and other toxins in Defendants' stone products.

1350. Each of the toxic stone products to which Plaintiff, FERNANDO ABREGO PEREZ, was exposed, was manufactured, imported, produced, distributed, contracted, brokered and/or supplied by Defendants, including the Doe Defendants.

1351. As a result of Plaintiff, FERNANDO ABREGO PEREZ's exposure to Defendants' stone products, toxins, including silica, metals and other toxic substances, within said stone products entered his body.

1352. Plaintiff, FERNANDO ABREGO PEREZ, suffers from specific illnesses, to wit, silicosis, pulmonary fibrosis, and other related and consequential medical conditions as set forth herein.

1353. Each of Defendants' inherently hazardous stone products caused Plaintiff, FERNANDO ABREGO PEREZ's silicosis, pulmonary fibrosis, and other injuries.

1354. Each toxin, including silica and metals, that entered Plaintiff, FERNANDO ABREGO PEREZ's body was a substantial factor in bringing about, prolonging, and aggravating Plaintiff, FERNANDO ABREGO PEREZ's silicosis, pulmonary fibrosis, and other related injuries.

1355. As a direct and proximate result of Defendants' breaches of implied warranties, Plaintiff, FERNANDO ABREGO PEREZ, has suffered serious injuries and disease, including silicosis, pulmonary fibrosis, and other related and consequential medical conditions.

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[1356. As a direct and proximate result of Defendants' breaches of implied warranties, Plaintiff, FERNANDO ABREGO PEREZ, has been required and will in the future be required to expend money and incur obligations for medical and related expenses in an amount not yet determined but well in excess of the jurisdictional minimum of the Court, and Plaintiff, FERNANDO ABREGO PEREZ, has been unable to attend to his usual work and activities.

1357. As a further direct and proximate result of Defendants' breaches of implied warranties resulting in his severe toxic injuries, Plaintiff, FERNANDO ABREGO PEREZ, has lost income from the date of the inception of his illness and thereafter through his worklife expectancy, all to Plaintiff's damage in a sum to be established according to proof.

1358. As a direct and proximate result of Defendants' breaches of implied warranties, Plaintiff, FERNANDO ABREGO PEREZ, has suffered great physical pain, mental anguish, emotional distress, fear of death, diminished quality/enjoyment of life, and damages to his psyche.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment, seeking damages as follows:

1. For past, present and future general damages in excess of the minimum jurisdictional amount of the court, according to proof;
2. For past, present and future medical expense and incidental expenses related thereto according to proof;
3. For past, present and future loss of income, wages, earnings, earnings potential, and household services, according to proof;
4. For punitive damages according to proof;
5. For Plaintiff's costs of suit incurred herein; and,

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6. For such other relief as the Court deems just and proper, including but not limited to costs and pre-judgment interest provided in C.C.P. §998, C.C.P. §1032, and other provisions of law.

DATE: October 22, 2024

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RAPHAEL METZGER, ESQ.
Attorneys for Plaintiff,
FERNANDO ABREGO PEREZ

DEMAND FOR JURY TRIAL

Pursuant to Cal. Code of Civil Procedure § 600 et seq. (and Rule 38 of the Federal Rules of Civil Procedure should this case ever be removed to federal court), Plaintiff hereby demands trial by jury of all issues which may be tried by a jury.

DATE: October 22, 2024

METZGER LAW GROUP
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RAPHAEL METZGER, ESQ.
Attorneys for Plaintiff,
FERNANDO ABREGO PEREZ