

STATE OF INDIANA  
COUNTY OF TIPPECANOE

IN THE TIPPECANOE SUPERIOR COURT  
CAUSE NO. 79D01-0403-CT-00025

JOHN GRESSER AND JANICE GRESSER,  
Individually and as Parents and Natural  
Guardians of ELIZABETH GRESSER and  
REBEKAH GRESSER,  
Plaintiffs

**FILED**

APR 12 2017

*Christa Coffey*

Clerk Superior Court No. 1 Tippecanoe Co.

vs.

RELIABLE EXTERMINATORS, INC.  
Defendant

**JOINT PRE-TRIAL ORDER**

Pursuant to the Order of the Court, the attorneys for the parties appeared before The Honorable Robert Hall on April 12, 2017 for a Final Pre-Trial Conference. The case is scheduled for a 25 day jury trial, commencing May 15, 2017. Plaintiffs have provided a trial estimate of 15 days and the Defense has provided a trial estimate of 10 days.

Plaintiffs Elizabeth Gresser and Rebekah Gresser are represented by Zoe Littlepage, Esq., Rainey Booth, Esq., Roger L. Pardieck, Esq., Michael J. Stapleton, Esq., Karen M. Davis, Esq. and Elizabeth B. Searle, Esq. Defendant Reliable Exterminators, Inc. is represented by Lane E. Webb, Esq., Gary Hamblet, Esq., Lonnie D. Johnson, Esq. and Belinda R. Johnson-Hurtado, Esq.

**I. JURISDICTION**

Jurisdiction was conceded by counsel and found by the Court to be present.

## **II. CONTENTIONS**

### **A. Plaintiffs' Contentions:**

1. John and Janice Gresser have brought this action to recover damages for physical and psychological injuries to their two daughters, Elizabeth and Rebekah Gresser, after being exposed to Dursban TC termiticide in their home at 479 Robinson, West Lafayette, IN. John and Janice Gresser seek expenses and property damage related to the contamination of the home.

2. The Gressers have brought this lawsuit against Reliable Exterminators, Inc., an Indiana corporation with its principle place of business in Lafayette, IN. Reliable treated the home in February 2000, about a year before the Gressers visited, purchased and moved into the house. At the time Reliable treated the home, it was for sale.

3. Reliable documents state that it treated the house with 160 gallons of Dursban TC solution (1% (percent) Dursban TC) around the basement perimeter and the soil in the basement crawlspaces. Reliable's applicator also injected Dursban TC into concrete blocks in the basement.

4. The intended active ingredient in Dursban TC is chlorpyrifos. Chlorpyrifos, like other organophosphates, is a cholinesterase inhibitor and a central nervous system toxin and causes neurological injuries without regard to cholinesterase inhibition. Chlorpyrifos is volatile, meaning it enters the air and can be redistributed on nontarget items, which means it can be inhaled, ingested and absorbed dermally by residents in the living space of the home.

5. Chlorpyrifos inhibits cholinesterase and can cause brain injury. It is especially toxic to the developing brain of a child. Chlorpyrifos can also cause adverse

brain effects through other mechanisms of action at doses lower than is needed for cholinesterase inhibition.

6. Dursban TC also contains impurities, including sulfotep. Sulfotep is an organophosphate insecticide that was used as an active ingredient in greenhouse fumigation products. It is also a neurotoxin. It is more toxic than chlorpyrifos and more volatile.

7. The Dow Chemical Company first registered chlorpyrifos with the EPA in 1965.

8. The EPA began taking a closer look at chlorpyrifos health effects in 1995. On June 6, 1997, the EPA announced an agreement with registrants of chlorpyrifos to reduce household exposure to chlorpyrifos.

9. The EPA continued to review chlorpyrifos studies and incident reports through 1999.

10. In 2000, the Environmental Protection Agency (EPA) continued its efforts to eliminate all household uses of chlorpyrifos-containing insecticides. EPA initiated the negotiations with registrants after finding chlorpyrifos was an exposure risk, especially to children.

11. The EPA and registrants of chlorpyrifos entered into an agreement on June 7, 2000, which was to eliminate certain uses of chlorpyrifos, including virtually all termite-control uses in existing homes by the end of 2000.

12. On June 8, 2000, the EPA's Health Effects Division announced its determination that chlorpyrifos is toxic to the developing brain and that, therefore, an additional safety factor is required for uses that may expose children to chlorpyrifos.

13. The EPA issued an official notice on September 20, 2000, that, because of “the potential risks, both dietary and non-dietary, that chlorpyrifos use poses, especially to children,” it intended to grant Dow’s request to amend the Dursban TC registration in keeping with Dow’s agreement with the EPA to eliminate “all residential uses” of chlorpyrifos-containing products.

14. On December 6, 2000, the EPA issued an official notice approving the requested amendment to Dursban TC’s registration deleting residential uses.

15. As of December 31, 2000, the application rate for termiticides was reduced to 0.5 percent Dursban solution and use was restricted to professional applicators. After Dec. 31, 2001, use of chlorpyrifos for whole house post construction treatment was prohibited.

16. The Gressers first visited the home in January 2001. They noticed a strange odor in the home, but were told that the house had been closed up for about a year and that opening the windows would remedy the problem. In February 2001, John and Janice Gresser, began cleaning the house. Their children came along with them.

17. On or about March 10, 2001, the Gressers purchased the home and moved into the home on or around the first week of May, 2001.

18. The odor in the home did not leave. The Gressers took various steps to eliminate the odor, but were unsuccessful.

19. After moving in, the Gressers experienced continuous health problems. The family had unremitting flu-like symptoms, colds, excessive secretions, dizziness, fatigue and other problems. The two girls exhibited irritability, behavior problems, learning difficulties, and problems with coordination.

20. Elizabeth Gresser was almost four when the Gressers moved into the house. Before the family moved in, Elizabeth was generally in good health, having experienced the usual coughs and colds. After moving in, Elizabeth experienced frequent illnesses, including respiratory problems, vomiting, rashes, sensitivity to light, vision problems, behavioral problems and developed asthma. While they lived in the house, Elizabeth was drooling, having wetness around her mouth continuously. She had heavy mucus when she sneezed. She had concentration problems, dizziness and outbursts. She began using a nebulizer. She had blueness around her lips. She was lethargic, drooled, had large pupils, excess mucus, dark circles around her eyes; was sometimes nonresponsive, twitching and staring blankly. After leaving the home, some of her symptoms improved, but she has continued to have difficulties, including problems with memory, distractibility/attention deficit, irritability, asthma, eyes tracking, focusing, incoordination. She developed irritant asthma and rhinitis, immune system deficits and neuropsychological disabilities. She has been diagnosed with learning deficits, cognitive disorder not otherwise specified and mathematics disorder. In addition to the above, she continues to have weakness in processing speed, visual motor integration and executive functioning (problem solving, working memory, social anxiety, depression and emotional modulation). Elizabeth continues to have sensitivity to chemicals. She has been diagnosed as having axonal brain injury by DTI scanning and reduced brain volume by volumetrics testing. All the aforementioned conditions and injuries are chronic and permanent.

21. Rebekah Gresser suffered organophosphate poisoning while living in the home. Rebekah Gresser was less than six months old when she was first exposed to Dursban TC at the Robinson Street home. After moving in, Rebekah became generally

lethargic and did not respond well to people. She was very pale with blueness around her lips. She had excessive mucus and frequent ear infections. Rebekah suffered from repeated problems and illnesses after moving into the home, including repeated ear infections, runny nose, mucus secretions, vomiting, diarrhea, rashes, irritability, and dark circles around eyes. Rebekah would sit and stare and drool and be non-responsive. She had compulsive muscle spasms. After the family moved out of the home on June 28, 2002, Rebekah's short-term symptoms improved. However, as a result of her exposure to Dursban, Rebekah has developed chronic and permanent physical and mental injuries including, but not limited to, irritant rhinitis, asthma, immune system deficits, visual motor deficits, incoordination, distractibility/attention deficits, muscle weakness, motor sensory deficits and neuropsychological disabilities. She has vision problems, chemical sensitivity, light sensitivity and sensory deficits. Rebekah has been diagnosed with learning disabilities as well as cognitive deficits including in executive functioning. Her ability to process visual material quickly is a weakness relative to her reasoning ability. Chronic ear infections necessitating medical interventions have led to hearing loss. Rebekah continues to have sensitivity to chemicals. She has been diagnosed with a brain injury by DTI scanning and reduced brain volume All the aforementioned conditions and injuries are chronic and permanent.

22. In either May or June of 2002, Janice Gresser called New Chauncey Housing, the entity that sold them the home, and Reliable Exterminators, Inc. and learned that Reliable Exterminators had applied a pesticide in their home in February 2000.

23. Janice Gresser then contacted the Indiana State Chemist's Office, and Reed Environmental Inc. Both conducted testing on the home. The Indiana State

Chemist's testing found that chlorpyrifos was present in the soil samples from the crawl spaces; swab samples from the living room and the girls' bedroom; air samples from the basement and living room; air samples from the girls' bedroom and both crawl spaces. Reed Environmental testing found chlorpyrifos in air samples from the crawlspace, living room; and girls' room; in in surface wipe samples; bulk samples from various items from the home; and in soil samples from the crawlspaces.

24. Eventually, the family's pediatrician advised the Gressers to leave the home. The family vacated their home on June 28, 2002.

25. John Gresser returned to the home daily for short periods to feed the family cat. Occasionally, a family member would visit the home and bring back items. Each time the family brought items over from the house, the children began having symptoms.

26. The Gressers were advised to throw out most of their possession, which they did.

27. Janice Gresser contacted Reliable. At some point, Reliable's Bob Hanstra visited with Janice Gresser at the home. Janice asked why the odor in the house, which she describes as like the odor of a foreign spice, was so strong and if she should be concerned about it. Hanstra did not inform her that the persistent odor in the home signaled an off-target application of Dursban TC.

28. One of the girls' pediatricians advised that the family should not go back to live in the home until it could be cleared of the contamination. The Gressers never moved back into the home, and they eventually resold the home to the entity from whom they had purchased it.

29. The Gresser children were poisoned by unsafe levels of chlorpyrifos and Sulfotep that was in the air of their home and had volatilized and deposited on other surfaces.

30. Reliable breached its duty that it owed to all individuals who may be placed at risk by the pesticide, including Elizabeth and Rebekah Gresser, to exercise reasonable care with respect to advising whether a termiticide application was needed, choosing the termiticide, applying the termiticide, and warning and instructing about the termiticide that was used.

31. Reliable was negligent in choosing to treat the home with Dursban TC in the absence of any active infestation. Robert Hanstra, one of the owners of Reliable, inspected the house before it was treated. He saw some signs the house had been previously been treated for wood-destroying insects. He found evidence of old infestation, but no active infestation.

32. Reliable was aware of alternative termite control products available on the market, but chose to treat the house with Dursban TC.

33. Reliable negligently violated Dursban TC's label instructions by failing to properly apply Dursban TC to the home. Reliable's failure to properly follow label directions and Reliable's negligent application of Dursban TC resulted in chlorpyrifos, sulfotep and Dursban TC's solvents being present throughout the home.

34. Reliable could have treated the home with a termiticide that would not have volatilized as easily as Dursban TC. Other products on the market were less likely to volatilize and be redistributed.

35. According to Reliable's Pesticide Use Report For Wood Destroying Insects, it applied approximately 160 gallons of Dursban TC in and around the Gresser home

where there was no active infestation of termites. Reliable applied a termiticide containing chlorpyrifos that entered the living area of the home through the flooring, ductwork and the furnace and Elizabeth and Rebekah Gresser were exposed to it by inhalation, ingestion, and dermal absorption. Significant levels of chlorpyrifos were found in the home sufficient to result in respiratory, neurobehavioral and central nervous system disorders.

36. Reliable was negligent in failing to warn owners and occupiers of the property, including the Gressers, that the house had been treated with Dursban TC, an insecticide known to be particularly toxic for children, known to easily volatilize and become redistributed throughout structures where occupants can be exposed to its neurotoxic ingredients.

37. Reliable was negligent in failing to warn owners and occupiers of the house, including the Gressers, that it had negligently treated the home with Dursban TC in such a way that the chlorpyrifos in the termiticide would enter the air of the crawlspaces and basement and enter the living areas of the home through the ductwork, furnace, and the flooring where it could cause illness and injuries to the family.

38. Reliable was negligent in failing to advise the Gressers about the EPA's concern regarding health risks of Dursban TC and that it was being taken off the market for residential use because of concerns about health risks, especially to children.

39. Reliable's negligence proximately caused physical injuries to Elizabeth and Rebekah Gresser and property damage to John and Janice Gresser.

40. Reliable is subject to punitive damages for conduct which was willful, wanton and/or for the reckless disregard for the rights and safety of others, including Elizabeth and Rebekah Gresser. Reliable subjected others to probable injury with an

awareness of impending danger and with heedless indifference to the consequences.

Punitive damages are warranted because:

- Reliable claimed a need for application of a termiticide, when there was no active infestation.
- At the time Reliable applied Dursban TC to the house, it knew that Dursban TC was going to be pulled from the market in connection with concerns about its neurotoxicity to humans, especially children. Knowing the particular dangers of Dursban TC, Reliable chose to apply it when other termiticides were available.
- Reliable treated the house even though there was no evidence of an active infestation.
- Reliable either applied pesticide to frozen ground, or applied too much to the interior of the home because the ground was frozen. Because the soil was frozen, it could not have absorbed the recommended rate of application.
- Contrary to Dursban TC's labeling, Reliable failed to seal obvious cracks in the basement block retaining wall. Reliable horizontally drilled treatment holes directly into cracks in the basement block retaining wall. This led to flooding the voids of the blocks with termiticide, causing leakage to occur.
- Reliable failed to properly ventilate the home.
- Reliable failed to turn off of the air handling (HVAC) system until the application was dried.
- Reliable chose not to have two technicians present during the application, a violation of the Dursban TC Resource Manual.
- Reliable chose not to leave any warnings or information that Dursban TC had been applied.
- Reliable chose not to contact the Gressers after Dursban TC had been eliminated for residential use or warn the Gressers of the potential harm from Reliable's use of Dursban TC in their home.
- Reliable chose not to inform the Gressers that the persistent odor in the house was evidence of inappropriate or off-target application.

41. The Gressers, as a proximate result of the Defendants' wrongs have sustained injury and damages which include, but are not limited to, the following:

- Temporary and permanent injury to the mind and body of Elizabeth and Rebekah Gresser.
- Temporary and permanent pain and suffering to Elizabeth and Rebekah Gresser.
- Temporary and permanent physical injury to Elizabeth and Rebekah Gresser.
- Temporary and permanent psychological injury to Elizabeth and Rebekah Gresser.
- Future loss of income/impaired earning capacity of Elizabeth and Rebekah Gresser.
- Past, present and future medical expenses for Elizabeth and Rebekah Gresser.
- Increased risk of future complications and medical conditions for Elizabeth and

Rebekah Gresser.

- Loss of services
- Costs of accommodations needed for education of Elizabeth and Rebekah Gresser.
- Costs of accommodation to lifestyles of Elizabeth and Rebekah Gresser to compensate for physical and psychological injuries and to avoid future exposure to harmful chemicals.
- Loss of the contents of the home, personal property, family heirlooms and memorabilia for the Gressers.
- Loss of improvements made to the home, including, but not limited to cost of a new furnace, radon mitigation system, and painting.
- Loss from damage to real property.
- Cost of cleaning the home.
- Cost of environmental testing.
- Loss of monies paid for the mortgage and related bills.
- Plaintiffs request punitive damages sufficient to deter the Defendant and others from the same or similar conduct in the future.
- Loss of investment in the home.

**B. Defendant's Contentions:**

1. Defendant was hired by ReMax to perform a termite inspection for the sale of the property from Harry & Margaret Galloway to New Chauncey Housing.
2. On January 31, 2000 Defendant inspected the home and determined there was no evidence that the house had not previously undergone a complete termite treatment.
3. Defendant was instructed by Remax to treat the home in accordance with the standard of care in the industry and the approved treatment requirements of the Lafayette Board of Realtors.
4. On February 11, 2000 Defendant applied Dursban TC in conformity with the label and within the standard of care for the product as known at the time.
5. Defendant did not negligently apply Dursban TC.
6. Defendant provided all documentation regarding its termite treatment of the home to ReMax.
7. New Chauncey Housing purchased the home from Harry & Margaret Galloway on February 17, 2000.
8. On March 10, 2001 Plaintiffs purchased the home from New Chauncey Housing.

9. On March 10, 2001 New Chauncey Housing repurchased the home from the plaintiffs for the full purchase price.
10. Defendant did not breach its duty to warn or fail to warn Plaintiffs.
11. Defendant was not aware of any studies, literature, reports, announcements or presentations regarding harmful health effects of Dursban TC as of February 11, 2000.
12. Defendant was not aware of any studies, literature, reports, announcements or presentations regarding Dursban TC being taken off the market for residential use due to its harmful health effects, or any other reason, as of February 11, 2000.
13. Defendant was unaware of any risks associated with Dursban TC at the time of application other than what was provided on the Dursban TC label. Defendant was told Dursban TC was safe.
14. Defendant contends that all of Plaintiffs' symptoms and alleged injuries are the result of pre-existing conditions, normal childhood illnesses and entirely unrelated to Defendant's application of Dursban TC to the home.
15. In March 2017, Scott Pruitt, the head of the EPA, refused to ban the use of chlorpyrifos determining that it was safe based upon studies and recommendations from the US Department of Agriculture, National Association of State Departments of Agriculture, the Central California Almond Grower's Association, the World Health Organization, Health Canada, and the Office of Pest Management Policy.

### **III. WITNESSES**

#### **A. Plaintiffs' Witnesses:**

1. Anderson, Deborah Ph.D.: Neuropsychologist, Carolina Rehabilitation, 1100 Blythe Blvd., Charlotte, NC 28203
2. Beers, Sue: 3811 O'Hara Street, Pittsburgh, PA 15213
3. Benson, Randall M.D.: 4201 St Antoine St, Detroit, MI 48201
4. Blakemore, James Cliff: 2811 Newman Road, West Lafayette, IN
5. Blakemore, Norma Jean: 2811 Newman Road, West Lafayette, IN
6. Blondell, Jerome: Former EPA investigator, 8556 Tyrolean Way, Springfield, VA 22153

7. Canary, Karrie: Occupational Therapist, 1116 N. 16th Street, Lafayette, IN
8. Chacko, Sarah: Friend of Elizabeth Gresser, 3510 Hayden Dr., Charlotte, NC 28269
9. Charlotte Ear, Nose & Throat Associates, 6035 Fairview Road, Charlotte, NC 28210: Medical care providers from such facility for Elizabeth and Rebekah Gresser: Dr. Michael Mallonee, Dr. Erin Schotthoefer, Dr. Steven Gold and Dr. Timothy Saunders as well as the custodian of the records (if necessary to prove up trial exhibits)
10. Clarian-Arnett Clinic, 2600 Greenbush St and 2600 Ferry St. Lafayette, IN 47904: Medical care providers from such facility for Elizabeth and Rebekah Gresser including Dr. James Bien, Dr. Scott Hoyer, Dr. Richard Beesley and / or Dr. Thomas Brennan as well as the custodian of the records (if necessary to prove up trial exhibits)
11. Crompton, Cyndee MS, OT: Certified Driver Rehab Specialist, Driver's Rehabilitation Services, PO Box 418, McLeansville, NC 27301
12. Dayal, Usha: Neurologist, 12311 Copper Way, Charlotte, NC 28277
13. Dow, Jennifer: Home School Coordinator, 402 Candice Road, Huntersville, NC 28078
14. Earnst, Kelly Ph.D.: 3660 Rome Dr, Lafayette, IN 47905
15. Filley, Rose: Managing Director, Purdue University, West Lafayette, IN 47907
16. Filley, Tim: Professor, Purdue University, 550 Stadium Mall Drive, West Lafayette, IN 47907
17. Ford, Sara: Vocational Planner, Vocational Economics, Inc., 100 South Ashley Drive, Suite 600, Tampa, FL 33602
18. Gresser, Elizabeth: 10082 Paisley Drive, Charlotte, NC
19. Gresser, Janice: 10082 Paisley Drive, Charlotte, NC
20. Gresser, John: 10082 Paisley Drive, Charlotte, NC
21. Gresser, Rebekah: 10082 Paisley Drive, Charlotte, NC
22. Hanstra, Robert: Reliable Exterminators, Inc., 1813 Main Street, Lafayette, IN 47904

23. Hardy, Jeff: formerly at Office of the Indiana State Chemist, 807 S CR 400 W, New Castle, IN 47362
24. Hunter, Michael M.D.: Clarian-Arnett–West Lafayette, 29925 N. Salisbury St, West Lafayette, IN
25. Jones, Sherry: 406 S Old Statesville Rd, Huntersville, NC 28078
26. Keramida, Inc.: 401 N College Ave, Indianapolis, IN 46202: Representatives for such entity Christina Haviland, Kristen Belcredi, Vasiliki Keramida, Markus Jones and /or Mack Overton as well as the custodian of the records (if necessary to prove up trial exhibits)
27. Key, Ellen, Occupational Therapist, Shining Hope Farms, 3701 Kidd Lane, Charlotte, NC 28126
28. Lafayette Neighborhood Housing Authority: Representatives for such entity Patricia Stephenson and / or Marie Morse as well as the custodian of the records (if necessary to prove up trial exhibits)
29. Leeth, Joseph D.V.M: Antech Diagnostics, 510 South State Road 135, Greenwood, IN 46142
30. Levy, Lucie D.V.M., MS: Veterinarian, Calgary, Alberta, Canada
31. Lipsey, Richard, 1400 Prudential Drive, Suite 7, Jacksonville, FL 32207
32. Mann, Rebecca: Beering Hall 5114, West Lafayette, IN
33. Mazor, Susan, M.D.: Toxicologist, Medical Director at Seattle Children's, 4800 Sand Point Way NE, Seattle, WA 98105
34. Meggs, William M.D: Medical toxicologist, 600 Moye Blvd, Greenville, NC 27834
35. Meyer- Roswarski, Virginia: Montessori school teacher, 180 Glenn Court, West Lafayette, IN
36. Mikhail, Lavern: Dance teacher for Elizabeth Gresser, 908 Rose Lane, Lafayette, IN
37. Mysz, Amy, US EPA Region 5, Ralph Metcalfe Federal Building, 77 West Jackson Blvd., Chicago, IL 60604
38. Neal, David: Exterminator for Reliable, 1198 E. Jefferson Street, Franklin, IN 46131

39. Neal, Jonathan: Purdue University, Department of Entomology, 901 West State Street, West Lafayette, IN 47907
40. New Chauncey Housing Inc., 279 Littleton Street, West Lafayette, IN 47906: Representatives for such entity Katy Bunder and / or Ann Brandyberry as well as the custodian of the records (if necessary to prove up trial exhibits)
41. Parker, Thomas Ph.D.: 469 Mimosa Circle, Kennet Square, PA
42. Paul, Anna: School friend of Elizabeth Gresser, 10012 Links Land Dr., Huntersville, NC 28078
43. Pearl, John: Family friend, 7610 N 350 W., West Lafayette, IN
44. Pearl, Shauna: Family friend, 7610 N 350 W., West Lafayette, IN
45. Reed, Leslie: c/o Reed Environmental, 40 Sloans Court, Lafayette, IN 47905
46. Reigart, John M.D.: 171 Ashley Ave, Charleston, SC 29425
47. Saxton, George: Office of the Indiana State Chemist, 175 S. University St., W. Lafayette, IN 47907-2063
48. Simon, Robert Ph.D.: AAA Simon Holdings, 4730 Mountain Rd., Pasadena, MD
49. Slotkin, Theodore Ph.D.: Duke University School of Medicine, Durham, NC
50. Takahashi, Rebecca Dr.: 5727 Prosperity Crossing Dr., Charlotte, NC 28269
51. Talavage, Thomas: Professor of Biomedical Engineering at Purdue University, 465 Northwestern Ave., West Lafayette, Indiana 47907-2035
52. Tiffany, Kristine, Greater Lafayette Area Special Services (GLASS), 2300 Cason Street, Lafayette, IN 47904 (now 1177 Blackfoot Trail, Woodland Park, CO)
53. VanHoy, Mary O.D.: Eyes for Wellness, 9302 N Meridian St #170, Indianapolis, IN 46260
54. Wargo, John Ph.D.: 7 Maple Hill Rd., Killingworth, CT

55. Wisconsin Occupational Health Laboratory, PO Box 7996, Madison, WI 53707-7996: Representatives for such entity Mark Hudziak and / or Steve Strebel as well as the custodian of the records (if necessary to prove up trial exhibits)
56. Webb, Nadia PsyD, MP: 1000 Cordova Place, Santa Fe, NM 87505
57. Any and all witnesses necessary for the purposes of impeachment or rebuttal.
58. Any and all witnesses listed by Defendant as either a fact of expert witness in this matter as if copied from below and set forth verbatim herein.
59. Any and all witnesses and / or custodian of the records necessary to provide a foundation for any exhibit listed on either party's exhibit list or evidence
60. Any and all persons listed in response to any discovery request
61. Any person whose deposition has been taken by any party in this action

**B. Defendant's Witnesses:**

1. Albin, Lila Ph.D
2. Beers, Susan Ph.D
3. Belcredi, Kristen
4. Beesley, Richard M.D.
5. Benedek, Elissa, M.D.
6. Bien, James M.D.
7. Brennan, Thomas M.D.
8. Bucholz, David M.D.
9. Bunder, Katy
10. Clark, Richard M.D.
11. Crabtree, Kelly
12. Dayal, Usha M.D.
13. Donnelly, Patrick J. Ph.D.
14. Earnst, Kelly Ph.Dl.
15. Gray, Mary H. DVM
16. Gresser, John
17. Gresser, Janice
18. Gresser, Elizabeth
19. Gresser, Rebekah
20. Hanstra, Robert
21. Harbison, Raymond Ph.D.
22. Hardy, Jeff
23. Haviland, Christina S.

24. Henson, Stephen
25. Hoyer, Scott M.D.
26. Hunter, Michael M.D.
27. Jachetta, John J. Ph.D
28. Kingma, Paula
29. Lipsey, Richard Ph.D
30. Logsdon, Larry
31. LoPachin, M. Richard Ph.D
32. Lowrey, Lauren M.A.
33. Mann, Ann M. M.D.
34. Provenzale, Janes M.D.
35. Reed, Leslie C.
36. Ross, John H.
37. Saxton, George Ph.D
38. Siegel, Michal M.D.
39. Stanford, Lisa Dale Ph.D
40. Strebel, Steve
41. Talavaage, Thomas Ph.D
42. Tiffany, Kristine Ph.D

#### IV. EXHIBITS

##### A. Plaintiffs' Exhibits:

Date	Description	PX #
12/6/79	National Pest Control Association : Good Practices in the Use of Insecticide in Subterranean Termite Control - Appendix I	001
12/22/83	National Pest Control Association : Approved Reference Procedures for Subterranean Termite Control	002
6/86	Hodgson, Block & Parkinson, <i>Organophosphate Poisoning in Office Workers</i> , J. of Occupational Medicine, Vol. 28, No. 6, p. 434 (June 1986)	003
1987	Knaak JB, Schreider J, Berteau PE, <i>Hazard assessment of indoor use of chlorpyrifos, dichlorvos, propoxur and other organophosphates and N-methyl carbamate</i> , Worker Health and Safety Branch Report No. HS-1423, Sacramento, CA: California Department of Food and Agriculture	004
1988	Purdue University: Truman's Scientific Guide to Pest Control Operations	005

1988	Reliable: Produced Dow sales training booklet: " <i>Selling the Homeowner with Dursban</i> "	006
1/4/98	Berton Roueche, The New Yorker, Annals of Medicine The Fumigation Chamber	007
After 10/25/88	Purdue Pesticide Programs: Private Pesticide Applicator Training Manual	008
10/16/89	Applicator Examination test results for Dave Neal	009
2/90	EPA: Indoor Air Fact No. 7: Residential Air Cleaners	010
3/21/90	Safety and Handling of the Current Termiticides	011
6/90	NCAMP's Technical Report, Vol. 5, No. 6 (June 1990)	012
9/90	NCAMP's Technical Report, Vol. 5, No. 9 (September 1990)	013
Summer 1992	Judy Pegg, <i>Dream Home Turns into a Nightmare: Insecticide Contamination by a California Pest Control Operator</i> , Journal of Pesticide Reform, Vol. 12, No. 2 (Summer 1992)	014
1993	National Academy of Sciences, National Research Council: <i>Pesticides in the Diets of Infants and Children</i> . NAS Press	015
2/17/93	Pricing Preconstruction Termiticide Applications from the Office of the Indiana State Chemist office	016
4/93	Potter, <i>Diagnosis and Management of Powderpost Beetles</i> , Pest Control Technology	017
8/93	McCall's Magazine, The Inside Story, Thomas Calvin, <i>Danger on our Doorsteps</i>	018
1994	Pesticides and Neurological Diseases: Second Edition by Ecobichon and Joy	019
6/3/94	"Dear Pest Control Professional letter" from Bart Marshall (Urban Pest Management, DowElanco)	020
8/12/94	Dursban Material Safety Data Sheet (MSDS)	021
10/5/94	MSDS for Equity Termiticide (DowElanco)	022
11/7/94	Dow Elanco Submission to the EPA	023
5/11/95	Indiana State University Genetic Testing for John and Janice Gresser	024
5/95	Dursban TC Advertisement: Unexcelled Residential Control of Subterranean Termites	025
7/26/95	US Department of Housing and Urban Development Memo and Suggested Guidelines for Completing the National Wood Destroying Insect Infestation Inspection Report	026
12/11/95	1995 Dursban label	027
6/96	EPA: Health Effects Test Guidelines OPPTS 870.6300 Developmental Neurotoxicity Study	337
8/12/96	Indiana Pesticide Laws and Regulations	028 028A
1/7/97	Materials from 61 <sup>st</sup> Purdue Pest Control Conference: January 7-11, 1997	029

1/14/97	EPA Memorandum: Review of Chlorpyrifos Poisoning Data by Jerome Blondell, Ph.D. & Virginia A. Dobozy, V.M.D., M.P.H.	030
1/14/97	EPA Letter to John Hagaman of DowElanco	031
1997 1998	Dow: Odor Reduction and Deactivation	032
After 1/97	NRDC: National Resource Defense Council website (Our Children At Risk): Chlorpyrifos: How Children are Exposed to Pesticides from Multiple Sources	033
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	All anatomical/medical drawings, models or slides	627
	All reports, memoranda, tests, or other documents prepared by or on behalf of any caregiver related to Plaintiffs	628
	All reports, memoranda, tests, or other documents relating to the Plaintiffs	629
	All authoritative writings or learned treatises relating to the products at issue or their ingredients and health effects arising from exposure	630
	Any response by any Defendant to any authoritative writings relating to the product at issue or their active ingredients and health effects arising from exposure	631
	All writings from the U.S. EPA or other governmental entity relating to the product at issue or its active ingredients and health effects arising from exposure, as well as any response by any Defendant	632
	All documents related to the complaint filed by the State of	633

	New York and Consent Order and Judgment	
	All writings from any foreign governmental entity relating to the products at issue or their active ingredients and health effects arising from exposure, as well as any response by any Defendant	634
	All writings from any non-governmental entities, such as the National Academy of Sciences, relating to the product at issue or their active ingredients and health effects arising from exposure, as well as any response by any Defendant	635
	All writings relating to toxicological profiles or properties of the products and their ingredients at issue	636
	All depositions and exhibits to depositions taken by any party to this action	637
	All exhibits listed by Defendant	638
	All exhibits necessary for the purposes of impeachment or rebuttal	639
	All exhibits necessary to lay the foundation of other evidence	640
	Life expectancy tables	641

**B. Defendant's Exhibits:**

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1000	01/31/00	Reliable Exterminators Wood Destroying Insect Infestation Inspection Report
1001	02/11/00	Termite Control Service Agreement between Reliable Exterminators and RE/Max Realtors
1002	02/11/00	Pesticide Use Report for Wood Destroying Insects
1003	03/10/01	Residential Purchase Agreement for 479 Robinson Street
1004	03/23/01	Wagoner Professional Inspections, Inc. Pre-Inspection Agreement and Building Analysis Report
1005	05/10/01	Settlement Statement for sale 479 Robinson Street from New Chauncey Housing to John & Janice Gresser
1006	12/30/01	American Diamond Heating & Cooling Services invoices
1007	06/25/02	Indiana State Chemist's Pesticide Incident Form

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1008	07/02/02	Pesticide Notice of Inspection by the Indiana State Chemist
1009	07/02/02	Photos of Gresser residence by George Saxton (Indiana State Chemist)
1010	07/02/02	Air Sampling Worksheet by George Saxton (Indiana State Chemist)
1011	07/02/02	Chain of Custody Record of Indiana State Chemist
1012		[RESERVED]Lafayette Board of Realtors Sample Purchase Agreement.
1013	08/20/02	Memo from Kathleen Harris to George Saxton (Indiana State Chemist) re Air Tube results
1014	08/20/02	Memorandum from Jeffrey Hardy to George Saxton (Indiana State Chemist)
1015	08/21/02	Indiana State Chemist Residue Sample Report
1016	09/07/02	Report by Lila Albin, Ph.D of Barron & Associates re odor
1017	09/18/02	Pesticide Notice of Inspection by Indiana State Chemist
1018	09/18/02	Sample Collection Report of Indiana State Chemist
1019	09/30/02	Email from Dr. Richard Lipsey to NJ Bathome with Contract for Professional Services signed by Janice Gresser
1020	10/23/02	Lab report of Samples taken from Gresser residence
1021	10/23/02	Memo from Kathleen Harris to George Saxton of the Indiana State Chemist
1022	10/28/02	Letter from John Ruyack (Indiana State Department of Health) to Janice Gresser
1023	11/12/02	Letter from George Saxton (Indiana State Chemist) to Reliable Exterminators
1024	11/12/02	Case Summary by George Saxton (Indiana State Chemist)
1025	11/22/02	FAX from Janice Gresser to Dr. Richard Lipsey
1026	12/11/02	Letter from George Saxton of Indiana State Chemist to Janice Gresser
1027	12/23/02	LNS Environmental Services laboratory report

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1028	12/24/02	Report of P&K Microbiology Services, Inc.
1029	01/03/03	FAX Cover Sheet from Dr. Richard Lipsey to Janice Gresser with LNS lab report
1030	01/09/03	Wisconsin Occupational Health Laboratory report of Dursban Analysis Results by Dr. Lipsey
1031	01/21/03	Facsimile from Indiana State Chemist to Leslie Reed
1032	01/30/03	Letter from Dr. Richard Lipsey to N. Shah of LNS Laboratory
1033	01/31/03	Facsimile from Steve Strelbel of the Wisconsin Occupational Health Laboratory (WOHL) to Leslie Reed
1034	02/07/03	Letter from LNS Environmental lab to Dr. Richard Lipsey
1035	02/13/03	Sample Submission Form from Leslie Reed to Wisconsin Occupational Health Laboratory (WOHL)
1036	02/26/03	Analytical Results of Wisconsin Occupational Health Laboratory (WOHL) for air samples collected by Reed
1037	02/26/03	Analytical Laboratory Report by the Wisconsin Occupational Health Laboratory (WOHL) for bulk samples collected by Reed
1038	02/26/03	Pesticide Analysis Results by the Wisconsin Occupational Health Laboratory (WOHL) for bulk samples collected by Reed
1039	03/04/03	Laboratory results for the bulk samples collected by Reed stated in micrograms by the Wisconsin Occupational Health Laboratory (WOHL)
1040	03/09/03	Invoice from the Wisconsin Occupational Health Laboratory to Leslie Reed
1041	03/18/03	Letter from Leslie Reed to Janice Gresser re test results
1042	03/18/03	Report by Leslie Reed of Reed Evironmental to Janice Gresser
1043	05/21/03	Air Sampling Worksheet of Wisconsin Occupational Health Laboratory (WOHL)
1044	05/21/03	Chain of Custody Record of Wisconsin Occupational Health

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
		Laboratory (WOHL)
1045	06/10/03	Letter from George Saxton (Indiana State Chemist) to Janice Gresser
1046	07/17/03	Lab Report of Samples taken by Indiana State Chemist
1047	07/21/03	Letter from George Saxton (Indiana State Chemist) to Janice Gresser
1048	03/10/01	Residential Purchase Agreement
1049	07/06/05	Letter from Christina Haviland of Keramida Environmental to New Chauncey Housing
1050	07/06/05	Report by from Christina Haviland of Keramida Environmental
1051	06/06/06	Final Report by Christina Haviland of Keramida Environmental
1052	11/12/14	Inspection/Treatment Graph by Larry Logsdon
1053	11/12/14	Partly Excavated Basement – Graphic by Larry Logsdon
1054		Graphics of former Gresser House – Exterior
1055		Graphics of former Gresser House – Basement
1056		Graphics of former Gresser House – Basement Footprint
1057		Graphics of former Gresser House – Foundation Heat Loss
1058		Demonstrative Evidence for use in connection with the examination of Larry Logsdon
1059		RESERVED
1060		Preliminary expert report of John H. Ross, Ph.D, D.A.B.T.
1061		Graphics of Gresser House at 479 Robinson Street
1062		Handwritten letter regarding Elizabeth Gresser regression in school (unsigned) Virginia Meyer letter without signature
1063		Handwritten letter regarding Elizabeth Gresser regression in school (signed)

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1064	06/07/00	EPA Memorandum of Understanding
1065		[RESERVED]
1066		[RESERVED]
1067		[RESERVED]
1068		[RESERVED]
1100	07/02/97	Newborn Physical Examination Record of Memorial Hospital re Elizabeth Gresser
1101	07/25/97	Progress Notes of Dr. Homer L Marquit for Elizabeth Gresser
1102	07/25/97	Admission records of Memorial Hospital re Elizabeth Gresser
1103	09/12/97	Progress Notes of Dr. Homer L Marquit for Elizabeth Gresser
1104	10/27/97	Progress Notes of Dr. Homer L Marquit for Elizabeth Gresser
1105	11/12/97	Letter from Dr. Mark S. Dorfman to Dr. Henry Levine re Elizabeth Gresser
1106	12/19/97	Progress Notes of Dr. Homer L Marquit for Elizabeth Gresser
1107	12/30/97	Progress Notes of Dr. Beesley, Arnett Clinic re Elizabeth Gresser
1108	01/05/98	Progress Notes of Dr. Homer L Marquit for Elizabeth Gresser
1109	04/02/98	Progress Notes of Dr. Homer L Marquit for Elizabeth Gresser
1110	04/29/98	Progress Notes of Dr. Homer L Marquit for Elizabeth Gresser
1111	12/28/98	Progress Notes of Dr. Beesley, Arnett Clinic re Elizabeth Gresser
1112	01/04/99	Progress Notes of Dr. Brennan Arnett Clinic re Elizabeth Gresser

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1113	01/09/99	Admission records of Memorial Hospital re Elizabeth Gresser
1114	03/22/99	Progress Notes of Dr. Beesley, Arnett Clinic re Elizabeth Gresser
1115	03/24/99	Telephone call (note) from Janice to Arnett Clinic re Elizabeth Gresser
1116	03/25/99	Progress Notes of Dr. Brennan, Arnett Clinic re Elizabeth Gresser
1117	03/30/99	Surgical report of Dr. Brennan re bilateral myringotomy re Elizabeth Gresser
1118	04/14/99	ER report of Memorial Hospital re Elizabeth Gresser
1119	01/10/00	Progress Notes of Dr. Brennan, Arnett Clinic re Elizabeth Gresser
1120	02/01/00	Progress Notes of Dr. Beesley, Arnett Clinic re Elizabeth Gresser
1121	03/20/00	Progress Notes of Dr. Beesley, Arnett Clinic re Elizabeth Gresser
1122	Undated	Progress Notes of Dr. Beesley, Arnett Clinic re Elizabeth Gresser
1123	05/25/00	Progress Notes of Arnett Clinic re Elizabeth Gresser
1124	06/01/00	Progress Notes of Dr. Beesley, Arnett Clinic re Elizabeth Gresser
1125	06/09/00	Progress Notes of Dr. Beesley, Arnett Clinic re Elizabeth Gresser
1126	07/11/00	History and Operative Report by Dr. Thomas Brennan re Elizabeth Gresser
1127	08/17/00	Three Year Examination at Arnett Clinic of Elizabeth Gresser
1128	09/11/00	Progress Notes of Dr. Brennan, Arnett Clinic, re Elizabeth Gresser
1129	09/28/00	Progress Notes of Dr. Beesley, Arnett Clinic, re Elizabeth Gresser

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1130	03/10/01	Progress Notes of Dr. Beesley, Arnett Clinic re Elizabeth Gresser
1131	03/27/01	Progress Notes of Dr. Beesley Arnett Clinic, re Elizabeth Gresser
1132	05/10/01	Progress Notes of Dr. Beesley Arnett Clinic, re Elizabeth Gresser
1133	09/25/01	Progress Notes of Dr. Beesley Arnett Clinic, re Elizabeth Gresser
1134	10/04/01	Four Year Examination of Elizabeth Gresser by Dr. Beesley
1135	10/15/01	Progress Note of Dr. Brennan , Arnett Clinic, re Elizabeth Gresser
1136	10/21/01	Progress Notes of Dr. Reeder, Arnett Clinic, re Elizabeth Gresser
1137	10/22/01	Progress Notes of Dr. Brennan, Arnett Clinic, re Elizabeth Gresser
1138	11/14/01	Progress notes of Dr. Beardman,
1139	11/19/01	Progress Notes of Dr. Brennan, Arnett Clinic, re Elizabeth Gresser
1140	11/27/01	Progress Notes of Dr. Brennan, Arnett Clinic, re Elizabeth Gresser
1141	11/30/01	Progress Notes of Dr. Beesley, Arnett Clinic, re Elizabeth Gresser
1142	12/06/01	ER Admission report of St Elizabeth Medical Center re Elizabeth Gresser
1143	12/06/01	Operative report of Dr. Thomas Brennan re Elizabeth Gresser
1144	12/09/01	Progress Notes of Dr. Beardmore, Arnett Clinic, re Elizabeth Gresser
1145	12/13/01	Telephone note of call from Janice Gresser re Elizabeth Gresser
1146	12/19/01	Progress notes of Dr. Ketan Sheth, Arnett Clinic re Elizabeth Gresser

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1147	12/19/01	Allergy Department questionnaire
1148	02/16/02	Progress Notes of Dr. Beardmore, Arnett Clinic, re Elizabeth Gresser
1149	02/22/02	Audiologic Evaluation at Arnett Clinic of Elizabeth Gresser
1150	06/26/02	Progress Notes of Dr.Hunter Arnett Clinic, re Elizabeth Gresser
1151	06/27/02	Telephone note of Arnett Clinic re call from Janice re Elizabeth Gresser
1152	07/24/02	Five Year Examination of Elizabeth Gresser by Dr. Bien
1153	08/02/02	Telephone note of Arnett Clinic re call from Janice re Elizabeth Gresser
1154	08/06/01	Report of results of cholinesterase testing (#1) from South Bend Medical
1155	08/21/02	Telephone note of Arnett Clinic re call from Janice re Elizabeth Gresser
1156	09/09/02	Report of results of cholinesterase testing (#2) from South Bend Medical
1157	10/31/02	Telephone note of Arnett Clinic re call from Janice re Elizabeth Gresser
1158	12/02/02	Letter from Dr. James Bien "To Whom it May Concern" re Elizabeth Gresser
1159	01/14/03	Report of South Bend Medical results of cholinesterase testing (#3)
1160	02/14/03	Progress Notes of Dr. Bien, Arnett Clinic re Elizabeth Gresser
1161	03/09/03	ER report from Lafayette Home Hospital re admission of Elizabeth Gresser
1162	03/15/03	Progress Note of Dr. Bien, Arnett Clinic, re Elizabeth Gresser
1163	05/04/03	Progress Note of Dr. Bien, Arnett Clinic, re Elizabeth Gresser
1164	05/05/03	Telephone note of call from Janice Gresser re Elizabeth

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1165	08/22/03	School Age Examination of Elizabeth Gresser by Dr. Bien
1166	09/26/03	Progress Note of Dr. Bien, Arnett Clinic, re Elizabeth Gresser
1167	10/04/03	Telephone encounter report re call from Janice Gresser re Elizabeth
1168	10/05/03	Telephone encounter report re call from Janice Gresser re Elizabeth
1169	10/05/03	ER report of admission to Lafayette Home Hospital of Elizabeth Gresser
1170	10/09/03	Telephone encounter report re call from Janice Gresser re Elizabeth
1171	11/17/03	Report by Dr. James Bien re Elizabeth Gresser
1172	01/19/04	Report by Dr. James Bien of meeting with Janice Gresser re Elizabeth Gresser
1173	02/23/04	Letter by Dr. Scott Hoyer to Kelly Earnst, Ph.D
1174	04/04/04	Telephone note from Janice Gresser re Elizabeth
1175	04/07/04	Progress Notes of Dr. Bien, Arnett Clinic re Elizabeth Gresser
1176	04/30/04	Progress Notes of Dr. Hoyer re Elizabeth Gresser
1177	05/26/04	Progress Notes of Arnett Clinic re Elizabeth Gresser
1178	08/27/04	Progress Notes of Dr. Tigrani, Arnett Clinic re Elizabeth Gresser
1179	08/27/04	Notes of Dr. Larew re Ophthalmology exam of Elizabeth Gresser
1180	10/01/04	Electroencephalogram Report on Elizabeth Gresser
1181	10/06/04	Progress Notes of Dr. Tigrani re Elizabeth Gresser
1182	11/15/04	Neurology Phone Triage notes of telephone call from Janice re Elizabeth Gresser
1183	11/19/04	Arnett Clinic note to Janice Gresser re EEG testing
1184	12/14/04	Progress Notes of Dr. Mann re Elizabeth Gresser

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1185	11/18/05	Telephone note of call from Janice to Arnett Clinic
1186	12/04/06	Report of Kris Tiffany, Ph.D
1187	01/07	Report of Lauren Lowrey re hearing loss of Elizabeth Gresser
1188	06/21//10	Telephone note re call by Janice to University Pediatrics re Elizabeth Gresser
1189	07/27/11	Report by Dr. Usha Dayal
1190	08/02/11	EEG report from Carolina Neurological Clinic
1191	08/29/11	Report of 24 Hour Ambulatory/Computer Monitored EEG Recording
1192	09/14/11	Report of Dr. Erin Schotthoefer re Elizabeth Gresser
1193	09/14/11	Letter from Dr. Erin Schotthoefer to Dr. /Dayal re Elizabeth Gresser
1194		[RESERVED]
1195		[RESERVED]
1196		[RESERVED]
1197		[RESERVED]
1198		[RESERVED]
1199	07/17/09	Medical Timeline – Elizabeth Gresser
1200		Medical Records of Arnett Clinic re Elizabeth Gresser: 1997 – 2000
1201		Medical Records of Arnett Clinic re Elizabeth Gresser: 2001
1202		Medical Records of Arnett Clinic re Elizabeth Gresser: 2002
1203		Medical Records of Arnett Clinic re Elizabeth Gresser: 2003
1204		Medical Records of Arnett Clinic re Elizabeth Gresser: 2004
1205		Medical Records of Arnett Clinic re Elizabeth Gresser:

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
		2005
1206		Medical Records of Arnett Clinic re Elizabeth Gresser: 2006
1207		RESERVED
1208		RESERVED
1209		RESERVED
1210		Montessori School of Greater Lafayette report for 2001-02 School Year re Elizabeth Gresser (Teacher: Virginia Meyer)
1211		Montessori School of Greater Lafayette report for 2001-02 School Year re Elizabeth Gresser (Teacher: Nohemi Lugo)
1212		Montessori School of Greater Lafayette report for 2002-03 School Year re Elizabeth Gresser (Virginia Meyer)
1213		Tippecanoe School Corporation Elementary Record for Elizabeth Gresser
1214	01/13/04	Parent Permission for an Educational Evaluation – Greater Lafayette Are Special Services
1215	01/16/04	Letter from Dr. Kelly Earnst to Kris Tiffany, Ph.D re Elizabeth Gresser
1216	01/22/04	Special Education Teacher Report re Elizabeth Gresser
1217	02/12/04	Report of evaluation by Kris Tiffany, Ph.D of Elizabeth Gresser
1218	03/30/04	Case Conference Summary re Elizabeth Gresser
1219	Spring 2005	Progress Report for Fall 2004 to Spring 2005 for Elizabeth Gresser
1220	01/26/06	Notes of Kris Tiffany, Ph.D of case conference re Elizabeth Gresser
1221	Spring 2006	Progress Report for Fall 2005 to Spring 2006 for Elizabeth Gresser
1222	Spring 2007	Progress Report for Fall 2006 to Spring 2007 for Elizabeth Gresser

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1223	09/25/07	Parent Notice of Evaluation Request re Elizabeth Gresser
1224	10/03/07	Report of evaluation by Kris Tiffany, Ph.D of Elizabeth Gresser
1225	10/31/07	Case Conference Committee Notification re Elizabeth Gresser
1226	11/06/07	Case Conference Summary re Elizabeth Gresser
1227	11/06/07	Report of "Not Disabled" re Elizabeth Gresser
1228	11/20/07	Letter from James Sands, GLASS, to John and Janice Gresser with Case Conference Summary re Elizabeth Gresser
1229	06/21/08	Summary and Score Report for Elizabeth Gresser
1230	06/20/09	Summary and Score Report for Elizabeth Gresser
1231	06/09/10	Summary and Score Report for Elizabeth Gresser
1232	05/13/13	Stanford Achievement Test Scores (9 <sup>th</sup> Grade)
1233	2014	PSAT Scores of Elizabeth Gresser
1234	2015	SAT Scores of Elizabeth Gresser
1235	01/04/17	Official Homeschool Transcript – Gresser’s Grace and Truth Emporium
1236		RESERVED
1237		RESERVED
1238		RESERVED
1239		RESERVED
1240		RESERVED
1300	12/27/00	Medical Records of Lafayette Home Hospital re birth of Rebekah
1301	01/10/01	Report of Two Week Examination of Rebekah Gresser at Arnett Clinic by Phyllis Myer, CPN

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1302	01/12/01	Record of telephone call by Janice Gresser to Arnett Clinic regarding Rebekah (vomiting, fever, irritable)
1303		RESERVED
1304	01/30/01	Progress Notes of Arnett Clinic re doctor visit by Rebekah Gresser (congestion, fever, rash)
1305	02/05/01	Report of Two Week Examination of Rebekah Gresser at Arnett Clinic (croup, rash)
1306	03/05/01	Progress Notes of Arnett Clinic re doctor visit by Rebekah Gresser (cough, stuffy nose)
1307	03/10/01	Progress Notes of Dr. Bien (Arnett Clinic) re initial examination of Rebekah Gresser (ear infection)
1308	03/27/01	Progress Notes of Arnett Clinic re doctor visit by Rebekah Gresser (ear infection)
1309	04/10/01	Progress Notes of visit to Arnett Clinic by Rebekah Gresser (fever, cough, ear)
1310	04/12/01	Progress Notes of visit to Arnett Clinic by Rebekah Gresser (cough, up at night)
1311	04/24/01	Report of Four Month Exam of Rebekah Gresser at Arnett Clinic (pulling at ear, rash)
1312	05/01/01	Lafayette Home Hospital Emergency Dept. Record of visit by Rebekah Gresser (constant crying, ear infection)
1313	05/10/01	Progress Notes of visit to Arnett Clinic by Rebekah Gresser (fever, ear infection)
1314	10/04/01	Nine month physical of Rebekah Gresser at Arnett Clinic
1315	01/29/02	Progress notes of Dr. Beesley for Rebekah Gresser (hit on head)
1316	02/28/02	Surgical report of Dr. Thomas Brennan for Rebekah Gresser (bilateral myringotomy and tube insertion)
1317	05/29/02	Progress Notes of Dr. Bien re Rebekah Gresser (croupy cough)
1318	06/02/02	Progress Notes of Dr. Bien re Rebekah Gresser (URI, cough)

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1319	06/26/02	Progress Note of Dr. Hunter re Rebekah Gresser (chemical in house)
1320		RESERVED
1321	06/28/02	Nurse Triage Call (St Vincent Hospital) re Rebekah Gresser (choked on cracker)
1322	06/28/02	Radiology Report of Home Hospital re Rebekah Gresser (cough)
1323	06/29/02	Progress notes of Dr. Hunter re Rebekah Gresser (Dursban exposure)
1324	06/30/02	Nurse Triage Call (St Vincent Hospital) re Rebekah Gresser (Irritability)
1325	06/30/02	ER Record of Lafayette Home Hospital re Rebekah
1326	07/01/02	Arnett Clinic note re Rebekah Gresser (wheezing)
1327	07/02/02	Progress Note by Dr. Reeder (Arnett Clinic) re Rebekah Gresser (wheezing)
1328	07/15/02	Pediatric Telephone Triage form (Arnett Clinic) re Rebekah Gresser (hit back of head on glass table)
1329	07/24/02	Eighteen Month Examination of Rebekah Gresser by Dr. Bien
1330	08/06/02	Progress Note of Dr. Bien re Rebekah Gresser (wheezing)
1331	08/06/02	South Bend Medical lab report re Rebekah Gresser (cholinesterase testing)
1332	08/21/02	Arnett Clinic note re Rebekah Gresser (results of cholinesterase testing)
1333	09/12/02	Arnett Clinic note re Rebekah Gresser (results of cholinesterase testing)
1334	09/23/02	Progress Notes by Dr. Bien re Rebekah Gresser (mothers concerns)
1335	10/03/02	Progress Notes by Dr. McCullough re Rebekah Gresser (red welt)
1336	10/16/02	Progress Notes by Dr. Reeder re Rebekah Gresser (runny

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
		nose, pulling ear)
1337	11/17/02	Progress Notes by Dr. ? re Rebekah Gresser (bruise on back)
1338	11/25/02	Telephone Note by Arnett Clinic re Rebekah Gresser (request for letter)
1339	12/02/02	Letter from Dr. James Bien "To Whom is My Concern"
1340	12/04/02	Progress Notes by Dr. Reeder (Arnett Clinic) re Rebekah Gresser (crying episodes)
1341	12/05/02	Telephone note from Arnett Clinic re Janice's request for cholinesterase test
1342	12/27/02	Order by Dr. Bien for cholinesterase test
1343	01/11/03	Progress Notes for Dr. Bien (Arnett Clinic) re Rebekah Gresser (cough, fever)
1344	01/14/03	South Bend Medical lab results for Rebekah Gresser (cholinesterase tests)
1345	01/15/03	Progress Notes for Dr. Bien (Arnett Clinic) re Rebekah Gresser (wheezing)
1346	01/17/03	Progress Notes for Dr. Hunter (Arnett Clinic) re Rebekah Gresser (cough for one week)
1347	01/23/03	Telephone note from Arnett Clinic re Janice's request to send cholinesterase results to Dr. Mazor
1348	02/11/03	Progress Notes for Dr. Lipp (Arnett Clinic) re Rebekah Gresser (cough, headache)
1349	02/21/03	Progress Notes for Dr. Bien (Arnett Clinic) re Rebekah Gresser (respiratory infection)
1350	03/01/03	Nurse Triage Call (St Vincent Hospital) re Rebekah Gresser (swallowed albuterol inhalant solution)
1351	05/04/03	Progress Note of Dr. ? (Arnett Clinic) re Rebekah Gresser (URI)
1352	05/05/03	Pediatric Telephone Triage note of telephone call from Janice Gresser to Dr. Bien (kids get cough after going to house)

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1353	05/16/03	Progress Notes of Dr. Bien re Rebekah Gresser (L ear pain, cough)
1354	09/05/03	Progress Notes of Dr. Bien re Rebekah Gresser
1355	09/08/03	Progress Notes of Dr. Bien re Rebekah Gresser (ear)
1356	10/04/03	Progress Notes of Dr. Hunter re Rebekah Gresser (exposure to Hep A).
1357	12/17/03	Progress Notes of Dr. Bien re Rebekah Gresser (final visit)
1358	02/24/04	Progress Notes of Dr. Hoyer re Rebekah Gresser (mother claiming sound and light sensitivity and language delay)
1359	02/24/04	Neurology Initial Visit to Dr. Hoyer by Rebekah Gresser
1360	02/24/04	Letter by Dr. Scott Hoyer to Dr. Kelly Earnst re neurological examination of Rebekah Gresser
1361		RESERVED
1362		RESERVED
1363		RESERVED
1364		RESERVED
1365		RESERVED
1366	09/27/05	Surgical Report by Dr. Thomas Brennan (Lafayette Home Hospital) re Rebekah Gresser (bilateral myringotomy and Toma-tube insertion)
1367	11/18/05	Pediatric Telephone Report of call from Janice Gresser with request to stay with Dr. Mann
1368	12/27/05	Triage Detail Report of telephone call from Janice Gresser re fall by Rebekah hitting teeth
1369		RESERVED
1370	09/13/06	Progress Notes of Dr. Mann (Arnett Clinic) re Rebekah Gresser (hit head at school)
1371	09/19/06	Surgical report by Dr. Thomas Brennan re Rebekah Gresser (Left typanoplasty with removal of cholesteatoma)
1372	11/30/06	Letter from Andrea Gray, M.S. to Dr. Brennan re audiologic

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
		evaluation of Rebekah Gresser (mild left hearing loss)
1373		RESERVED
1374	01/07	Speech/Language Evaluation report by Lauren Lowrey, M.A. regarding Rebekah Grasser
1375	04/27/07	NICHQ Vanderbilt Assessment Scale – Teach Informant
1376	05/09/07	NICHQ Vanderbilt Assessment Scale – Parent Informant
1377	03/10/08	Medical record of exam by Dr. Gold, Charlotte EENT, re Rebekah Gresser
1378	03/26/08	Medical record of exam by Dr. Gold, Charlotte EENT, re Rebekah Gresser
1379	05/19/08	Medical record of exam by Dr. Gold, Charlotte EENT, re Rebekah Gresser
1380		RESERVED
1381	05/22/08	Operative Report of Dr. Gold, Charlotte EENT, re Rebekah Gresser
1382	08/28/08	Medical record of exam by Dr. Mallonee, Charlotte EENT, re Rebekah Gresser
1383	11/18/09	CMC-Northeast Psychiatric Services – Child Testing Referral Form
1384	11/23/09	EEG Report re Rebekah Gresser
1385	03/02/11	Medical record of exam by Dr. Mallonee, Charlotte EENT, re Rebekah Gresser
1386	08/17/11	Letter from Dr. Erin Schotthoefer to Dr. Usha Dayal re Rebekah Gresser
1387	05/01/12	Medical record of exam by Dr. Mallonee, Charlotte EENT, re Rebekah Gresser
1388	09/24/15	Report of eye examination of Rebecca Gresser by Dr. Timothy Saunders at Charlotte, Eye, Ear, Nose & Throat
1389	09/24/15	Handwritten note by Dr. Timothy Saunders re Rebekah Gresser's eye exam

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1390		RESERVED
1391		RESERVED
1392		RESERVED
1393		Medical Records of Arnett Clinic for Rebekah Gresser: 2001
1394		Medical Records of Arnett Clinic for Rebekah Gresser: 2002
1395		Medical Records of Arnett Clinic for Rebekah Gresser: 2003
1396		Medical Records of Arnett Clinic for Rebekah Gresser: 2004
1397		Medical Records of Arnett Clinic for Rebekah Gresser: 2005
1398		Medical Records of Arnett Clinic for Rebekah Gresser: 2006
1399	10/29/09	Medical Timeline – Rebekah Gresser
1400	2004	Toddler Progress Report 2003-04 - Montessori School of Greater Lafayette regarding Rebekah Gresser
1401	2005	Pre-Primary Progress Report 2004-05 - Montessori School of Greater Lafayette regarding Rebekah Gresser
1402	2006	Pre-Primary Progress Report 2005-06 - Montessori School of Greater Lafayette regarding Rebekah Gresser
1403	2007	Kindergarten Progress Report – 2006-07 re Rebekah Gresser
1404	10/09/06	School Situations Questionnaire
1405	11/16/06	School Absences Report re Rebekah Gresser
1406	12/04/06	Report of Kris Tiffany, Ph.D , Greater Lafayette Area Special Services re Rebekah Gresser
1407	01/07	Report of Lauren Lowrey, M.A., Speech Language Pathologist re Rebekah Gresser
1408	04/18/07	E-mail from John Gresser to Burnett at Burnett Creek School re Rebekah Gresser
1409	06/28/08	Summary and Score Report re Rebekah Gresser
1410	06/20/09	Summary and Score Report re Rebekah Gresser

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1411	06/09/10	Summary and Score Report re Rebekah Gresser
1412	01/04/17	Transcript of Rebekah Gresser at Gresser's Grace and Truth Emporium: 2016-17
1413	05/13/12	Stanford Achievement Test scores for Rebekah Gresser
1414	05/13/15	Stanford Achievement Test scores for Rebekah Gresser
1415		Locations Visited - Jamestown
1416		Grandma – poem by Rebekah Gresser
1417		PAPA – poem by Rebekah Gresser
1418		BECKS poem by Rebekah Gresser
1419		McCain poem by Rebekah Gresser
1500	06/28/11	Letter from Roger Pardieck Esq.. to Dr. Anderson re additional testing
1501		RESERVED
1502	11/11/04	Pediatric History Form by Dr. Sue Beers re Elizabeth Gresser
1503	11/11/04	Parent/Child Interview – CHP Head Injury Study by Dr. Sue Beers re Elizabeth Gresser
1504	06/09/05	Invoice from Dr. Sue Beers to Roger Pardieck, Esq. for \$4,783
1505	01/25/05	Telephone note of Dr. Sue Beers re “test document”
1506	01/25/05	Note by Dr. Sue Beers re Rebekah Gresser
1507	01/25/05	Invoice from Dr. Sue Beers for Rebekah Gresser for \$2,070
1508		RESERVED
1509		RESERVED
1510		Master Index of Records Reviewed by Dr. Elissa Benedek

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1511	05/12/10	Psychiatric Evaluation report by Dr. Dr. Elissa Benedek re Janice, Elizabeth and Rebekah Gresser
1512	05/28/15	Psychiatric Evaluation report by Dr. Dr. Elissa Benedek re Elizabeth and Rebekah Gresser
1513	05/15/10	Parent Rating Scales Report regarding Elizabeth Gresser
1514	05/15/10	Self-Report or Personality Report re Elizabeth Gresser
1515	05/15/10	Multirater Report regarding Elizabeth Gresser
1516	05/15/10	Parent Rating Scales Report regarding Rebekah Gresser
1517	05/15/10	Self-Report or Personality Report re Rebekah Gresser
1518	05/15/10	Multirater Report regarding Rebekah Gresser
1519		Demonstrative Evidence for use during the examination Dr. Elissa Benedek
1520	09/11/14	New Patient Information Form for Elizabeth Gresser
1521	09/11/14	Interpersonal Reactivity Index for Elizabeth Gresser
1522	09/11/14	Caregiver Questionnaire for Elizabeth Gresser
1523	09/11/14	Binocular Vision Symptom Questionnaire for Elizabeth Gresser
1524	Undated	DWI Acquisition scan details
1525	03/30/05	Invoice from Dr. Benson to Roger Pardieck, Esq. for Elizabeth
1526		Documents promised to be produced at Deposition of Dr. Benson on Feb. 22, 2017
1527		RESERVED
1528		RESERVED
1529		RESERVED
1530		RESERVED
1531	12/20/10	Report by Dr. Richard Clark re Elizabeth and Rebekah Gresser

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1532		Demonstrative Evidence for use during the examination Dr. Richard Clark
1533		RESERVED
1534		Report of Mary H. Gray, D.V.M.
1535		Demonstrative Evidence for use during the examination of Mary H. Gray, DVM
1536		RESERVED
1537		Demonstrative Evidence for use during the examination of Dr. Michael Henson
1538		RESERVED
1539	06/15/10	Report by Richard M. LoPachin Ph.D
1540		Graphics of molecules by Dr. Richard M. LoPachin, Ph.D
1541		Demonstrative Evidence for use during the examination of Dr. LoPachin
1542		RESERVED
1543		Outline of Opinions of Dr. James Provenzale
1544		Demonstrative Evidence for use during the examination of Dr. James Provenzale
1545		RESERVED
1546		Neuropsychological Opinion Report of Lisa D. Stanford, Ph.D re Elizabeth Gresser
1547		Neuropsychological Opinion Report of Lisa D. Stanford, Ph.D re Rebekah Gresser
1548		Handwritten notes of Lisa D. Stanford, Ph.D
1549		Demonstrative Evidence for use during the examination of Lisa Stanford, Ph.D
1550	08/04/15	Nadia Webb Expert Witness Retention Contract
1551		RESERVED
1552		RESERVED

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1553		RESERVED
1554		RESERVED
1555		RESERVED
1556		RESERVED
1557		RESERVED
1558		RESERVED
1559		RESERVED
1560		RESERVED
1600	07/26/93	Psychiatric Evaluation of Janice Gresser
1601	04/21/95	Progress Notes of Dr. Michael B. Lockwood re Janice Gresser
1602	04/21/95	Letter from Dr. Michael Lockwood to Dr. Donald McKinnery re Janice Gresser
1603	08/18/95	Operative Report of Dr. Charles Cline, St. Elizabeth Hospital
1604	03/24/02	Letter from Dr. Brenda A. Stein to Dr. Karen K. Clark re Janice Gresser
1605	01/19/04	Neuropsychological Evaluation Report of Kelly Earnst, Ph.D re Janice Gresser
1606	02/20/04	Neuropsychological Evaluation Report of Kelly Earnst, Ph.D re John Gresser
1607	02/23/04	Letter from Dr. Scott Hoyer to Dr. Charles Turner re Janice Gresser
1608		RESERVED
1607		RESERVED
1608		RESERVED

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1609		RESERVED
1610		RESERVED
		<b>BULK EXHIBITS</b>
1700		Medical Records of St. Elizabeth Medical Center re Elizabeth Gresser
1701		Medical Records of Alpine Clinic re Elizabeth Gresser
1702		Medical Records of Carolina Neurological Clinic re Elizabeth Gresser
1703		Medical Records of Charlotte Eye, Ear, Nose & Throat Associates re Elizabeth Gresser
1704		Medical Records of University Pediatrics re Elizabeth Gresser
1705		Medical Records of Dr. Homer Marquit re Elizabeth Gresser
1706		Medical Records of Home Hospital re Elizabeth Gresser
1707		Records of Greater Lafayette Area Special Services re Elizabeth Gresser
1708		Records of Morton Community Center re Elizabeth
1709		Records of Burnett Creek Elementary School re Elizabeth Gresser
1710		Medical Records of St. Elizabeth Medical Center re Rebekah Gresser
1711		Medical Records of Alpine Clinic re Rebekah Gresser
1712		Medical Records of Carolina Neurological Clinic re Rebekah Gresser
1713		Medical Records of Charlotte Eye, Ear, Nose & Throat Associates re Rebekah Gresser

<b>Exhibit No.</b>	<b>Date</b>	<b>Description</b>
1714		Medical Records of University Pediatrics re Rebekah Gresser
1715		Medical Records of Home Hospital re Rebekah Gresser
1716		Academic Records of Janice Gresser
1717		Academic Records of John Gresser

**C. Exhibit Stipulations:**

The parties agree to stipulate to the authenticity and/or the admissibility of various exhibits. They agree to confer prior to trial to discuss such stipulations. Any agreement on the stipulations will be submitted to this Court.

**VI. AGREED FACTS**

1. Reliable Exterminators, Inc. is an Indiana corporation, with its principal place of business located at 1813 Main Street, Lafayette, Indiana.
2. At the time of the termiticide application at issue in this case, David Neal was an employee of Reliable Exterminators, Inc.

The parties anticipate stipulating to additional facts. Any further agreements will be submitted to the Court.

**VII. FILINGS AND NOTIFICATION TO THE COURT**

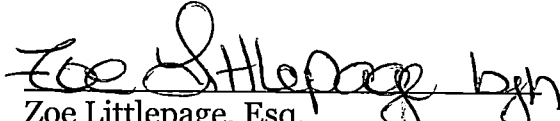
Preliminary jury instructions shall be exchanged and filed on or before April 12, 2017.

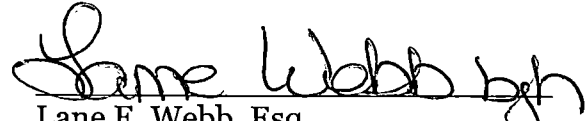
**VIII. SETTLEMENT**

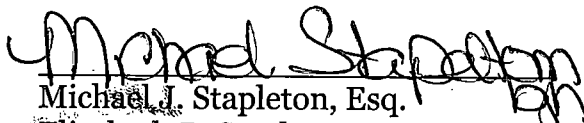
The parties have discussed settlement but have been unable to reach agreement. This Pre-Trial Order has been formulated following conference between counsel for all parties to this matter. Reasonable opportunity has been afforded counsel for

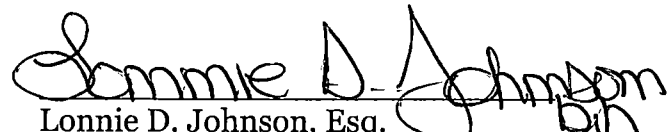
corrections or additions prior to signing by the Court. Hereafter, this Order will control the course of the trial and may not be amended except by consent of the parties and the Court, or by order of the Court to prevent manifest injustice. The pleadings are deemed merged herein.

Respectfully submitted,

  
Zoe Littlepage, Esq.  
Rainey Booth, Esq.

  
Lane E. Webb, Esq.  
Gary Hamblet, Esq.

  
Michael J. Stapleton, Esq.  
Elizabeth B. Searle, Esq.

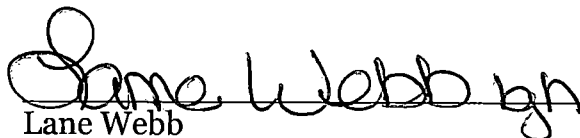
  
Lonnie D. Johnson, Esq.  
Belinda R. Johnson-Hurtado, Esq.

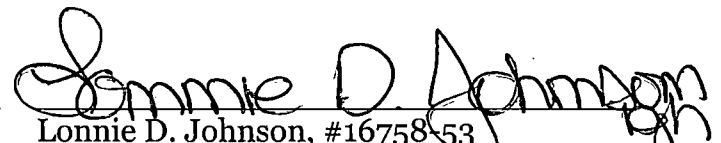
SO ORDERED \_\_\_\_\_

Dated this 12<sup>th</sup> day of April, 2017.

  
\_\_\_\_\_  
Honorable Robert Hall

Respectfully Submitted,

  
Lane Webb  
Gary Hamblet  
**Morris Polich & Purdy, LLP**  
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600 West Broadway, Suite 500  
San Diego, California 92101  
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Lonnie D. Johnson, #16758-53  
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P.O. Box 428  
Bloomington, IN 47402  
*Attorneys for Defendant*

## Certificate of Service

The undersigned hereby certifies pursuant to Rule 5 of the Indiana Rules of Trial Procedure that a copy of the foregoing motion or pleading was served in person or by United States First Class Mail, postage prepaid, upon all parties or their counsel of record this \_\_\_ day of April, 2017, to:

Roger Pardieck, Karen M. Davis, Sarah Miller Hyatt, **Pardieck Law Firm**, 100 North Chestnut Street, P.O. Box 608, Seymour, IN 47274. Attorneys for Plaintiffs.

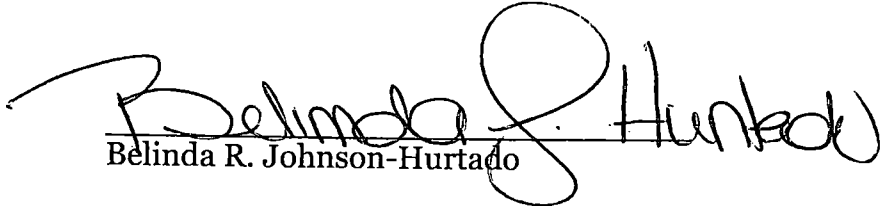
Michael J. Stapleton, Elizabeth B. Searle, **Ball, Eggleston, Bumbleburg, McBride, Walkey & Stapleton, P.C.**, 810 Bank One Building, P.O. Box 1535, Lafayette, Indiana 47902. Attorney for Plaintiffs.

Zoe Littlepage, Rainey Booth, **Littlepage Booth**, 2043a West Main, Houston, TX 77098.

Hon. Robert M. Hall, **Hall Law Office**, 520 N. Monroe Street, Williamsport, Indiana 47993.

Lane E. Webb, Richard Hyde, **Morris Polich & Purdy, LLP**, One American Plaza, 600 West Broadway, Suite 500, San Diego, California 92101

Christa Coffey, **Tippecanoe County Clerk**, 301 Main Street, P.O. Box 1665, Lafayette, IN 47902-1665

  
Belinda R. Johnson-Hurtado

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