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Morgan Lewis Scores Victory for Plant Insulation

SAN FRANCISCO, Calif., May 5, 2010: Today, a judge in San Francisco Superior Court ruled in favor of Morgan Lewis client Plant Insulation Company in the latest round of a multi-phased insurance recovery litigation. The court rejected all of the defendant/insurer's defenses.

Plant has been sued in approximately 10,000 cases in California for asbestos bodily injury and wrongful death since 1978. By the end of 2001, all of Plant's insurers claimed that their coverage was exhausted after paying a single aggregate limit of liability. The company reached out to Morgan Lewis in 2005 to confirm its right to access additional benefits under the insurers' policies to defend and indemnify it against asbestos injury and death claims arising from Plant's insulation contracting work. Morgan Lewis filed *Plant Insulation Company vs. Fireman's Fund Insurance Company et. al.* after determining the company should have access to additional benefits.

The defendants claimed that Plant should not be able to access "operations" or "non-products" coverage, or obtain declarations of contract interpretation, because the company had supposedly believed the insurers' assertions of exhaustion, repeated those assertions in court filings, and engaged in reprehensible conduct. The court rejected these assertions and held that the focus was on the insurers' own conduct, specifically looking at whether the insurers had performed an adequate investigation of the coverage applicable to Plant's asbestos claims in the past, and whether they actually believed their own assertions of "exhaustion" after paying only a single aggregate limit of liability.

For more information about this case, please see the court's decision at <http://www.morganlewis.com/documents/2010-05-05FinalStatementDecisionPhaseIIIssues.pdf>.

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