



Southland v. Ashland

THE ASSETS ARE SOLD ON AN “AS IS, WHERE IS” BASIS WITHOUT WARRANTY OR GUARANTEE AS TO QUALITY, CHARACTER, PERFORMANCE, OR CONDITION, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Caveat Emptor Case No. 4

M&M Realty v. Eberton

Buyer, at Buyer's expense, shall obtain a Phase I environmental audit and conduct such other testing as it determines acceptable. Buyer's obligation to purchase shall be subject to Buyer's approval of the audit and Buyer's acceptance and approval of any hazardous waste conditions... [etc.].

Buyer shall have the right to declare this agreement null and void if the premises do not meet all local, state, regional and federal environmental standards... [etc.].

If Buyer closes... it does so based on its own investigation... and Buyer accepts the property in "as is condition"... [etc.].

Caveat Emptor Case No. 10

Allied v. Friola

Premises are sold “as is.”

Caveat Emptor Case No. 6

Mobay v. Allied Signal

[Buyer agrees to indemnify Seller from] all obligations and liabilities relating to the [facility] or [products] arising out of claims made, or suits brought, on or after the Closing Date for... any damages to any property... ultimately determined by the finder of fact to have resulted from any condition existing, substance consumed or discharged... on or after the Closing Date, whether or not such cause existed prior to the Closing Date... .

Contract Case No. 10

Fisher Development v. Boise Cascade

[Landlords] remise, release, and forever discharge [Tenant] of and from all debts, obligations,... suits, actions, causes of actions,... judgments,... damages, claims or demands, in law or equity, which [Landlords] ever had, now have or hereafter can, shall, or may have, for, upon or by reason of any matter, cause or thing whatsoever, from the beginning of the world to the day and date of these Presents.

Contract Case No. 23

Bedwell v. Geppert

Contract provides that subcontractor will indemnify building contractor for all losses and expenses:

“... imposed by law...”

arising out of subcontractor’s performance of agreement.

Subsequent letter confirms that subcontractor’s obligation includes indemnifying contractor for subcontractor’s:

“actions in depositing the debris at the GEMS landfill.”

Contract Case No. 40

LaSalle v. EMC Motor Co.

Buyer's remedies are exclusive and in lieu of, and not in addition to, any remedies or rights which it may have....

Contract Case No. 39

Smithkline v. Rohm & Hass

[Seller agrees to indemnify buyer for] all material liabilities relating to its conduct of the business [prior to sale].

Contract Case No. 42

Cordova v. Michigan DNR

Cordova Chemical Company shall not have any responsibility or liability in connection with any other corrective actions which the Department of Natural Resources or any other governmental agency may hereafter deem necessary or advisable in connection with the contamination emanating from the Story Chemical Corporation property, including, without limitation, the creation, maintenance and operation of any purge wells.

Contract Case No. 44

Taracorp v. NL

NL shall bear the responsibility for all investigative and remedial cleanup costs associated with said facility and shall indemnify [Taracorp] for all obligations, responsibilities and liabilities, costs and expenses asserted against it related to environmental hazards associated with the facility... .

Contract Case No. 46

U.S. v. Hardy

[Waste Disposal Company will] indemnify and save [Customer] free and harmless from and against any and all loss, damage, injury, liability, and any claim... including claims for injury or death to any and all persons or property... resulting directly or indirectly by the collection, transportation and disposal by [the Waste Disposal Company].

Contract Case No. 47

Toledo v. Beazer East

[Buyer agrees to assume] all liabilities of Seller of any kind or nature whatever, whether direct or indirect, absolute or contingent, which consist of, arise out of, or in any way relate to... any law, statute, ordinance, regulation [etc.]... whether arising prior to, on or subsequent to the closing and relating to... discharge at the Toledo Coke Plant of industrial products, waste or other materials into the air, streams, lakes, rivers or otherwise... .

Contract Case No. 52

A-C Reorg. Trust v. DuPont

[Buyer agrees to assume] all debts, obligations, contracts and liabilities of [Seller] with respect to the [Division], of any kind, character or description, whether accrued, absolute, contingent or otherwise...

Contract Case No 54

Keystone Chem. v. Mayer Pollock Steel

Paraphrase of clauses:

Tenant agrees to indemnify Landlord for injuries to persons or damage to property suffered upon the demised premises.

Tenant indemnifies Landlord for injuries to persons or damage to property suffered off of the demised premises but caused by Tenant.

Tenant to maintain insurance with Landlord as a named insured to protect both against claims and demands set forth in indemnity clause.

Contract Case No. 56

Diversified v. Simkins

... Tenant represents and warrants that Tenant shall promptly meet, comply with and conform to... all local, state, and federal ordinances, codes, laws, rules, and regulations... including but not limited to... occupation, health, safety, fire and building standards affecting same for so long as Tenant shall continue to use the Premises.

Tenant agrees to hold Landlord harmless and free from any costs or expenses which may be incurred due to the [above] covenants... or failure to act on the part of the Tenant.

Contract Case No. 58

American National Bank v. Harcros

Lessee... does hereby indemnify and agree to save and hold harmless Lessor against and from any and all loss, liability,... damages, cost and expense... which Lessor may suffer or incur arising out of Lessee's failure to comply with [all present and future] laws, rules, orders, ordinances, regulations...

Contract Case No. 60

Dent v. Beazer

Tenant agrees to save Landlord harmless from any and every claim arising out of the use by Tenant of the Demised Premises.

Contract Case No. 61

Nestle v. Overmyer

[Nestle] shall save and hold [Overmyer] harmless from all liabilities, charges, expenses (including counsel fees) and costs on account of all claims for damages and otherwise and/or suits for or by reason of any injury or injuries to any person or property of any kind whatsoever, whether the person or property of [Nestle], its agents, employees or third persons, from any cause or causes whatsoever while in or upon or in proximity to said premises or any part thereof... .

Contract Case No. 62 A

Nestle v. Overmyer
(continued)

[Nestle] is to indemnify Overmyer against] all liabilities, charges, expenses (including counsel fees) and costs on account of all claims for damages and otherwise and/or suits for or by reason of any injury or damages to any person or property of any kind whatsoever.

Contract Case No. 62 B

Olin v. Yeargin

Contractor agrees to protect, indemnify and hold Owner harmless from any and all loss, damage, liability, claims, demands, costs... [etc.] of any nature whatsoever asserted by... any third persons... for property damage, liability, costs... [etc.].

... This indemnity shall include, without limitation, costs... occasioned by such damage... [and] shall apply to the extent that said loss,... liability... [etc.] is caused in whole or in part by negligence of Contractor... regardless of whether such negligence be active or passive, primary or secondary.

Contract Case No. 65

Fina v. Arco

1968 Sale from ARCO to BP:

BP shall indemnify, defend, and hold harmless ARCO... against all claims, actions, demands, losses or liabilities arising from the ownership or the operation of the assets... and accruing from and after closing... except to the extent that any such claim, action, demand, loss or liability shall arise from the gross negligence of ARCO.

1973 Sale from BP to Fina:

Fina shall indemnify, defend, and hold harmless BP... against all claims, actions, demands, losses or liabilities arising from the use or the operation of the assets... and accruing from and after closing.

Contract Case No. 67

Hartz Mountain v. GM

In consideration for the reduction of the purchase price, [Buyer] waives all claims which it might have had concerning the condition of the property, the items left on the property, the condition of utilities, etc. and agrees to take the entire property in an “as is condition” and the provisions of the contract are hereby amended to so provide. The sole exception to this revision is that [Seller] represents that the elevators shall be in working condition at the time of closing.

Contract Case No. 68

WCI v. Westinghouse

[Westinghouse warrants that except as otherwise described] there is not any claim, litigation, proceeding or governmental investigation pending... nor to the best of Westinghouse's knowledge and belief are there any existing facts or conditions which might give rise to any claim, litigation, proceeding or investigation, which might adversely affect the Business or the assets of the Business... .

[Westinghouse agrees to] indemnify and save WCI harmless from... any misrepresentation of Westinghouse contained herein... .

WCI hereby assumes... all obligations and liabilities of the Business, contingent, or otherwise, which are not disclosed or known to Westinghouse on the Closing Date and are not discovered by WCI within a period of one year from the Closing Date.

Contract Case No. 69

Velsicol v. Reilly

First Draft (July 1972):

Paragraph 8(c): That all the property described herein at the time of closing will conform with all applicable ordinances, regulations, zoning, and other laws, and at the time of closing there will not be outstanding any notice or order not complied with affecting the use or occupation of any part of such property or requiring any repairs or alterations or improvements thereto.

Second Draft (September 1974):

Paragraph 9: ...[I]t is understood that the land and improvements are being sold on an “as is” condition at the time of sale.

Contract Case No. 70 A

Velsicol v. Reilly

Third Draft (August 1975):

Paragraph 8(c): That none of the property described herein at the time of closing is in violation of any special, outstanding governmental notices or orders which have not been complied with affecting use of such property. It is clearly understood by all parties that the Seller makes no representations or warranties to the usability of the above described property under present or future Federal, State or local air and water pollution laws, ordinances, or regulations.

Paragraph 9: ...[I]t is understood that the land and improvements are being sold on an “as is” condition at the time of sale.

Contract Case No. 70 B

Black Horse Lane v. Dow Chemical

The parties acknowledge that the Subject Premises... are subject to the provisions of the Environmental Cleanup Responsibility Act... (“ECRA”). Seller agrees to obtain approval of a Cleanup Plan from the Department of Environmental Protection (“DEP”), post the necessary financial security for performance pursuant to ECRA, will implement the approved Cleanup Plan and complete the detoxification of the Subject Premises in accordance with and to the approval of the DEP... . In no event shall Purchasers be obligated under this Contract to assume any ECRA Cleanup responsibilities.

Contract Case No. 71

Southdown v. Allen

Remediation Agreement

2.1. [Seller] shall, at its sole expense... remediate... all known Contamination located on the Real Property or on contiguous property... and all previously unknown Contamination discovered on the Real Property, or on contiguous property..., each to the extent required by the Agencies.

3.1. To the fullest extent permitted by law, [Seller] agrees to indemnify, defend and hold harmless Purchaser... from and against any and all liabilities, costs, expenses..., demands, losses or damages..., or any type of loss or damage whatsoever arising out of or in connection with the performance or breach of any obligation hereunder by [Seller]... .

Contract Case No. 76 A

Southdown **(continued)**

Stock Purchase Agreement

11.2. Indemnification of the Purchaser. The Sellers shall defend, indemnify and hold... the Purchaser... harmless from and against any and all damages suffered by... the Purchaser... as a result of... or in any way related to... the Environmental Claims of which Sellers are aware... .

12. Noncompetition Covenant. Sellers understand and acknowledge that a portion of the value of the Shares... is attributable to business relationships between the Companies and key customers of the Companies... .

Contract Case No. 76 B

Sherwin-Williams v. ARTRA

1980 Sale Agreement

8(a). Purchaser shall assume... all liabilities and obligations of Seller under the leases, mortgages, license agreements, contracts and other agreements set forth in Schedule 9 annexed hereto accruing and allocable to the period from and after the Closing Date and... all other obligations relating to this transaction which are specifically set forth in this Agreement.

8(b). Except as expressly set forth in Section (8)a..., Purchaser shall not assume... any debts, liabilities, leases, mortgages, licenses, or other obligations of Seller, whether now existing or hereinafter [sic] arising for whatever reason; and... shall not assume... any liability or obligation with respect to any claim, action, suit, or demand or any legal, administrative or other proceeding or judgment with respect to causes of action arising out of Seller's ownership of... the Assets prior to the Closing Date... .

Contract Case No. 77 A

Sherwin-Williams
(continued)

1980 Assumption Agreement

Seller hereby retains and agrees to pay and discharge all other liabilities..., whether known, unknown, contingent or otherwise, and whether or not disclosed to Purchaser... that are not specifically assigned to and assumed by Buyer under... Section 8... .

Contract Case No. 77 B

New York v. Panex

II. REPRESENTATIONS AND WARRANTIES OF M-E.

2.16 Litigation and Claims. Except as set forth in Schedule 2.16 hereto, there is no litigation or to the knowledge of M-E claim pending or threatened involving or affecting any Turbodyne Subsidiary... . To the knowledge of M-E, there is no threatened or pending investigation including written inquiries, citations or complaints by any federal, state or local government... .

IX. INDEMNIFICATION

9.1 Indemnification by M-E. M-E shall and hereby agrees to indemnify and hold Dresser... harmless against and in respect of any damages as hereinafter defined. Damages as used herein, shall included any claim, action, loss, ...arising out of: (a) Any inaccurate representation made by M-E in this Agreement; (b) Any inaccurate representation made in or omission of required information from an document, certificate or instrument furnished by M-E... pursuant to this Agreement; (c) Breach of any of the warranties made by M-E in this Agreement; (d) Breach or default in performance by M-E of any of the obligations which are to be performed by M-E... under this Agreement; (e) Any claim against Dresser..., relating to any period through the Closing Date, to the extent the liability therefore is not reserved on the Closing Balance Sheet or unless otherwise provided herein... .

Contract Case No. 78 A

Panex
(continued)

Except as provided below, the above indemnification shall extend for a period of two years after the Closing Date, provided, however, that the foregoing two-year limitation shall not apply to... claims of which Dresser has given M-E specific written notice within said two-year period;

...provided, however, that the time limitation and the M-E contingency amount shall not apply to any claims relating to warranties of title[,] pending litigation or claims made known to the management of M-E or Turbodyne... prior to the Closing Date, or tax claim or to Section... 2.16... .

Schedule 2.16

(16) The city of Wellsville has received notification from the New York Department of Environmental Conservation that the Department of Conservation intends to perform an environmental survey of the Andover Landfill. The city of Wellsville has elected to perform that survey itself and Turbodyne has agreed to supply \$12,000 to the city to help defray the \$50,000 cost. This is an environmental survey only and is not a claim or investigation instituted against the Turbodyne Subsidiaries.

Contract Case No. 78 B

Waste Management v. Park District

1979 Option Agreement

2.3 Site Closure Requirements. OSC shall provide, in place, at its expense, ... and in compliance with the requirements of the Water Board and any other governmental agency having jurisdiction for closure of the landfill site, the cover materials and other items specified...in the site closure plan finally approved by the Water Board and complete all other requirements of the Water Board and of the Closure Plan

2.8 Dedication of Fee Title and Easements. Provided this Agreement has not been sooner terminated, OSC hereby covenants that it will offer to convey fee title to the Site to the Park District in one or more Parcel increments (as said Parcels are described in the Closure Plan) promptly following the date that OSC has completed all of its obligations under Section 2.3 above, as to each such Parcel.

...

Contract Case No. 79 A

Waste Management

(continued)

It is further agreed that:

(a) Consideration. Park District shall pay no additional consideration, monetary or otherwise, for any such conveyance. ...

(c) Title. ... The deeds shall contain a condition providing that in the event the Park District fails to accept any offer of OSC as described above in this Section 2.8, fee title to the entire Site shall immediately vest in the City of San Leandro, subject only to acceptance by the City, failing which such title shall revert to OSC. In the event the City accepts title to the site, it shall succeed to all of the then executory rights and obligations of Park District under this Agreement.

3.7 Water Quality Board Approval. OSC shall be solely responsible for processing and obtaining all approvals for closure of the Site, including approval of the Water Board. Park District shall not participate or enter into such proceedings. OSC shall not represent to or knowingly permit the Water Board to believe that the Park District prefers, recommends or supports any particular closure specifications or procedure or that the Park District takes anything other than a neutral position with respect to the decisions of the Water Board.

Contract Case No. 79 B

Buffalo Color Corp. v. AlliedSignal

3(a)(2)(ii). Effective the closing date, Purchaser shall assume... and... indemnify Seller against and hold it harmless from any costs, expenses, losses or liabilities, including attorneys fees, suffered or incurred by Seller for reason of... all obligations and liabilities relating to the... Business arising out of claims made, or suits brought by employees or third parties for injury, sickness, disease or death of any person, or any damage to any property, on or after the Closing Date, ...which resulted from... fault or defect, patent or latent, in the physical assets..., whether or not such fault or defect existed prior to the closing date.

3(b). Except as expressly provided in this Agreement, Purchaser shall not assume any other liability or obligation of Seller, fixed or contingent, disclosed or undisclosed, at the Closing Date... and Seller shall indemnify and hold Purchaser harmless from and against any and all costs, expenses, losses or liabilities, including attorneys fees, suffered or incurred by Purchaser arising out of any such liability or obligation not expressly required to be assumed by Purchaser as provided in this Agreement.

Contract Case No. 80 A

Buffalo Color Corp.
(Continued)

16. All representations, warranties and agreements made by Purchaser and Seller in this Agreement... shall survive the closing of title... provided, however, that... no claim with respect to any... representations, warranties and agreements [other than those relating to the state of the Seller's title] shall be asserted after the second anniversary date of the Closing Date.

Contract Case No. 80 B

Horsehead v. Paramount

1981 Asset Purchase Agreement

Buyer agrees to pay, perform and discharge: "... [a]ll commitments, obligations and requirements imposed upon Seller by virtue of any environmental, safety and health, reclamation or other law, rule, regulation, action or proceeding by any governmental agency and any order emanating therefrom and all liabilities, damages, costs, obligations and requirements imposed upon Seller by virtue of any action or rule or regulation relating to the maintenance or operation of the Purchased Assets or to the conduct of the Seller's Business at any time prior to or after the Transfer Date, including, but not limited to, those matters disclosed in Schedule VIII."

Contract Case No. 81 A

Horsehead v. Paramount

(Continued)

Schedule VIII: Defaults, Litigation, Claims, Environmental Matters, Etc.

... The Comprehensive Environmental Response, Compensation and Liability Act... commonly known as the "Superfund" legislation, requires reporting of all unpermitted releases into the environment of hazardous substances from facilities... and requires present and past owners to report existing and abandoned hazardous waste disposal facilities that do not have approval or interim status under [RCRA]. "Superfund" also... imposes liability for hazardous waste spills, and sets financial responsibility requirements... .

... The former owner may be liable for cleanup and disposal costs... .

Contract Case No. 81 B

Burlington Northern v. **Phillips Petroleum**

Lease provides that:

- **Tenant will observe and comply with all federal and state laws and ordinances.**
- **Tenant will keep the premises in a neat, orderly and safe condition at all times.**
- **Upon termination of the lease, Tenant will restore the premises to substantially its former state and in a condition satisfactory to the Landlord, and in case of Tenant's failure to do so within 30 days after termination, Landlord may, at its discretion, restore the premises at the expense of Tenant.**
- **Tenant indemnifies and holds Landlord harmless against loss or destruction of or damage to the property, caused or directly contributed to by the use or occupancy by Tenant of the premises, and/or the violation or breach of any provisions of the lease.**

Contract Case No. 83

BP Amoco v. Sun Oil

[Sellers represent and warrant that other than specifically disclosed liabilities in schedules to stock sale, subject companies have no] ...liabilities of any nature, whether absolute, accrued, contingent, or otherwise, and whether due or to become due.

[Sellers also represent and warrant:] Since June 30, 1967, there has not been... any damage, destruction, or loss (whether or not covered by insurance) materially or adversely affecting the property or business of [the subject companies] or any item carried in the property account of [the companies] at more than \$50,000.

Contract Case No. 84

Calabrese v. McHugh

1972 Warranty Deed provisions:

The Grantee has knowledge that Scovill Manufacturing Company is dumping and has the right to continue to dump ashes and other material on the aforesaid property until June 30, 1974.

The Grantee, for himself, his heirs and assigns, by acceptance of this deed, agrees that he will not make any claim for loss or damage against Scovill Manufacturing Company or the Grantor based on use by Scovill Manufacturing Company, or its successors, of aforesaid land, or maintain any suit based on such use, and expressly recognizes that said land is and will continue to be used by Scovill Manufacturing Company as a dump for fly-ash, cinders and other refuse from its manufacturing operations.

Contract Case No. 85

Servco Pacific v. Dods

1961 Lease

(4)... Lessee will at his own expense, from time to time at all times during said term, well and substantially repair, maintain... and keep all buildings, drainage ditches, culverts, tunnels and other improvements now or hereafter built on the land hereby demised with all necessary reparations and amendments whatsoever in good order and condition.

(6)... Lessee will, during the whole of said term, keep said premises in a strictly clean and sanitary condition and observe and perform all laws, ordinances, rules and regulations for the time being applicable to said premises...; and will indemnify the Lessors and the Estate... of... Damon... against all actions, suits, damages and claims by whomsoever brought or made by reasons of the nonobservance or nonperformance of said laws, ordinances, rules and regulations or of this covenant.

Contract Case No. 86 A

Servco **(Continued)**

1983 Assignment

... Assignee does hereby covenant and agree to and with the Assignor that it (Assignee) will faithfully observe and perform all of the terms, covenants and provisions [of the 1961 lease] and on the part of the Lessee to be observed and performed, and will indemnify and save harmless the Assignor against and from the... non-performance of said other terms, covenants and provisions.

1983 Leases

6. Laws and Ordinances. [This paragraph track paragraph (6) “Laws and Ordinances” clause from the 1961 lease set forth above.]

12. Indemnity. Lessee will indemnify and hold the Lessors harmless from and against all claims and demands for loss or damage, including property damage... arising out of or in connection with the use or occupancy of said premises by the Lessee or any other person claiming by, through or under the Lessee... or any failure by the Lessee to keep said premises or sidewalk in a safe condition, and will reimburse the Lessors for all their costs and expenses including reasonable attorneys’ fees incurred in connection with the defense of any such claims[.]

Contract Case No. 86 B

Cytec Industries v. B.F. Goodrich

1952 Plan of Liquidation:

Harmon Color Works, Inc.,... will distribute, subject to its liabilities, all of its property and assets of every kind, including its goodwill and business as a going concern, to The B.F. Goodrich Company... .

Contract Case No. 87

Delaware v. Mascaro

Bid:

[Mascaro] offers to furnish and operate equipment for full and complete removal and disposal of residue from the Delaware County Refuse Incinerator... in accordance with the annexed General Conditions and Specifications.

General Conditions section of Contract:

[Mascaro] shall defend, indemnify and save harmless [Delaware County] from and against all suits for claims that may be based on any alleged injury (including death) to any person or property that may be alleged to have occurred in the course of the performance of this Contract... .

Contract Case No. 90

DuPont v. U.S.

1940 Indemnification Clause:

It is the understanding of the parties hereto, and the intention of this contract, that all work under this [contract] is to be performed at the expense of the Government and that the Government shall hold [DuPont] harmless against any loss, expense (including expense of litigation), or damage (including damage to third persons because of death, bodily injury or property injury or destruction or otherwise) of any kind whatsoever arising out of or in connection with the performance of the work under this [contract]... .

1940 Reimbursement Clause:

[DuPont] shall be reimbursed... for such of its actual expenditures in the performance of the work under this contract, heretofore or hereafter incurred, as may be approved or ratified by the Contracting Officer and as are included in the following items:

...

k. Losses, expenses, and damages, not compensated by insurance or otherwise... actually sustained by [DuPont] in connection with the work... .

Contract Case No. 93 A

DuPont
(continued)

**1946 Unknown Claims Clause of
Termination Supplement:**

[Releases both parties from all liabilities under the contract with the exception of claims by third parties against DuPont listed in an attached schedule, claims relating to employment, and claims by DuPont against the Government for liabilities to third parties not then known by DuPont.]

Contract Case No. 93 B

XDP v. Watamull

1989 Contract Clause

Buyer agrees to take the property:

... as is, where is, subject to all liens, encumbrances thereon, or other obligations related thereto which [Buyer] shall pay.

Caveat Emptor Case No. 13

Norfolk Southern v. Chevron

1977 Settlement Agreement

[Landlord] does hereby release and forever discharge [Tenant], its successors and assigns, from any and all actions, causes of action, claims and demands for, upon or by reason of any damage, loss or injury, which heretofore has been or which hereafter may be sustained by [Landlord] arising out of any contamination by oil of the [oil terminal] which is alleged to have occurred during [Tenant's] use and occupancy of said property and all those matters alleged in [the lawsuit].

This release extends and applies to, and also covers and includes, all unknown, unforeseen, unanticipated and unsuspected injuries, damages, loss and liability, and the consequences thereof, arising out of the alleged oil contamination, as well as those now disclosed and known to exist.

Contract Case No. 94

Ford v. U.S.

1941 War Contract

Obligates the government to indemnify Ford against:

... loss or destruction of or damage to property as may arise out of or in connection with the performance of the work under this contract.

1946 Termination Agreement

Reserves to Ford:

... Claims of the Contractor against the Government which are based upon the responsibility of the Contractor to Third Parties... and which involve costs reimbursable under the Contract... but which are not now known to the Officers, Directors, or other personnel of the Contractor whose duties include the acquisition of such knowledge.

Contract Case No. 95

Ferguson v. Arcata Redwood I

"Assumed liabilities" shall mean all liabilities that (i) arose out of the Forest Products Business, (ii) are recorded in the Books and Records, and (iii) are owed by Arcata as of the Effective Time (whether or not then due) for (A) accrued journals, (B) accounts payable, and (C) with respect only to Arcata Employees who become Simpson employees immediately after the Closing Date, accrued salaries and wages, accrued vacations (if any) and holidays, and accrued payroll taxes, in each case as those accounting terms are used in the balance sheet.

Contract Case No. 96

Muniz v. Rexnord

1993 Purchase Agreement

Provides that buyers of interests in Rexnord will jointly and severally indemnify and hold Rexnord harmless:

... from and against all losses, liabilities, claims, damages, fines, penalties, assessments, encumbrances, liens, costs and expenses (including the reasonable and necessary costs, expenses and fees of outside attorneys, consultants, or contractors for investigating, preparing, or defending against any liability, commenced or threatened, and including all response, remedial and corrective actions, group administrative and engineering costs), relating to Rexnord's or its predecessor's ownership, operation, possession or control of the MPD [Mechanical Power Division] businesses, properties or facilities on or prior to August 19, 1988... arising out of or in any way related or connected to an Environmental Law... as a result of the generation, use, handling, storage, transport, disposal, release, or threatened release of any Materials of Environmental Concern.

Contract Case No. 98 A

Muniz
(continued)

Further provides that rights and obligations of parties:

... shall be... construed and interpreted in accordance with, the law of the State of Delaware. ...Any legal action or proceeding with respect to this Purchase Agreement may be brought in the courts of the State of Delaware or of the United States of America for the Southern District of New York... . Nothing in this Section... shall affect the right of the other parties to... commence legal proceedings or otherwise proceed against the other parties in any other jurisdiction.

Contract Case No. 98 B

St. Charles v. Whirlpool

1989 Contract

As soon as reasonably practicable, Seller will undertake, in accordance with applicable law and regulations, such remedial action as is necessary to bring... [the property] into compliance with applicable federal, state and local environmental laws and regulations... .

2000 Settlement Agreement

[Requires seller to clean up the property and to obtain a comprehensive "No Further Remediation" letter ("NRF") from the Illinois Environmental Protection Agency.]

Contract Case No. 99

Ferguson v. Arcata Redwood II

1988 Asset Purchase Agreement

[T]he parties shall have and retain all statutory, regulatory and common law rights of indemnity, contribution or other recourse against each other with respect to third party claims... and resulting liabilities and expenses which arise out of... such other party's ownership, use, misuse, or operation of the [assets or business].

Contract Case No. 101

Caldwell Trucking v. Rexion

1989 Stock Purchase Agreement

Paragraph 1.05:

[Pullman] Retention of Certain Liabilities

Anything contained herein or in any other document, instrument or agreement to the contrary notwithstanding, [Pullman] agrees to assume and become liable for, and to pay, perform and discharge and to indemnify [Rexion] and to hold [Rexion] harmless from and against any and all liabilities and obligations with respect to the following:

...(c)2 any and all liabilities and obligations (including without limitation, any liabilities or obligations to third parties for any consequential or punitive damages) arising out of or relating to... any actual or alleged violation of or non-compliance by [Rexion] with any Environmental Laws as of or prior to the Closing Date (including without limitation, Superfund liabilities or similar liabilities for other sites...).

Contract Case No. 102

Coy/Superior v. BNFL

2000 Demolition and Scrapping Subcontract

Provides that:

BNFL has removed all known asbestos-containing materials.

[If Coy/Superior] encounters any suspect materials in the execution of its work, it shall notify the BNFL STR [Subcontract Technical Advisor] immediately.

The Subcontractor(s) shall assume total regulatory responsibility, liability, and title to the wastes and recyclable material upon loading onto the Subcontractor's vehicle at the ETTP [East Tennessee Technology Park] site. Any wastes and/or by-products generated during shipment, storage, disposal and/or other management of waste shall be the responsibility of the Subcontractor(s) and shall be disposed via approved disposal methods and procedures.

Contract Case No. 103

Vine Street v. Keeling

1968 Purchase Agreement

"Sentence 1":

Buyer hereby assumes and agrees to perform, and agrees to indemnify and hold Seller free and harmless from all obligations which shall arise after the Closing Date under, any contract, license, lease commitment, sales order or purchase order which either is listed or referred to in any Exhibit hereto or relates to the business of [the Norge] Division but is not required to be listed in any Exhibit hereto pursuant to the provisions hereof.

"Sentence 2":

Buyer will also assume, and will indemnify and hold Seller free and harmless from, all liabilities of Seller, absolute or contingent, under any warranty, guarantee, ...indemnity or other obligation given or incurred in connection with the sale, lease or service of products of [the Norge] Division in the ordinary course of business of [the] Division prior to the Closing Date and as to which suit has not been commenced prior to the Closing Date.

Contract Case No. 104 A

Vine Street v. Keeling **(continued)**

"Sentence 3":

In addition, Buyer hereby agrees to indemnify Seller against and hold it harmless from, all liability arising out of suits, proceedings, demands, judgments, expenses (including counsel fees) and costs which Seller may suffer or incur by reason of the failure of Buyer so to pay, perform and discharge such obligations and liabilities of Seller or injury or loss suffered or alleged to have been suffered by any customer of products sold by [the Norge] Division arising out of the sale to Buyer of the business, properties and assets contemplated by this Agreement or by any person out of any action taken by Buyer on or after the Closing Date.

Contract Case No. 104 B

Chicago v. Arvinmeritor

1988 Stock purchase agreement

Section 7.2(i):

The Sellers... jointly and severally agree to indemnify, defend, and hold harmless Buyer... from and against all demands, claims, actions or causes of action, assessments, losses, damages, liabilities, costs and reasonable expenses, including without limitation, interest, penalties and reasonable attorneys' fees and expenses (collectively, "Claims"), asserted against or imposed upon or incurred by Buyer resulting from, relating to, or by reason of... .

Contract Case No. 105 A

Chicago v. Arvinmeritor

(continued)

Section 7.2(v):

If the party seeking indemnification (the "Claiming Party") shall be presented with or have actual notice of any action, claim or demand which gives rise (or may give rise) to a claim for indemnification under this section 7.2 against another party (the "Indemnifying Party"), then the Claiming Party shall within 30 days thereafter notify the Indemnifying Party in writing thereof... . Following such notice, the Indemnifying Party shall have the right, after acknowledging in writing to the Claiming Party that the Indemnifying Party is indemnifying the Claiming Party, at its sole cost and expense, to contest or defend such action, claim or demand, through attorneys... of its own choosing, and satisfactory to the Claiming Party, and in the event it elects to do so, it shall promptly notify the Claiming Party of its intent to contest or defend such action, claim or demand.

Contract Case No. 105 B

OXY v. Borden

1974 Asset Purchase Agreement

... Borden hereby assumes all the obligations of Cities, arising out of events occurring after the Closing Date relating to the business or assets of the Levey Division transferred hereunder, except to the extent that any such obligation arises from a breach by Cities of a warranty or covenant. Cities will continue to be responsible for all obligations arising out of events occurring prior to and on the Closing Date relating to the business or assets of the Levey Division. Cities makes no representation as to the condition of the assets transferred being in compliance with any federal, state, or local laws... . Cities shall have no obligations or liabilities arising out of failure of such assets to have been in compliance prior to the Closing, with any federal, state or local law except to the extent that any such obligation arises from a breach by Cities of the foregoing warranty.

Contract Case No. 106

Ameripride v. Valley Industrial

1983 Purchase Agreement

Section 18:

Records and Litigation. ... With respect to claims and items of litigation resulting from operations of the Rental Business prior to Closing Date, Seller shall continue to defend such matters without regard to the limitations on survival of representations and warranties set forth herein and will be liable for all liabilities and expenses resulting therefrom. ...

Section 13(b):

(b) Indemnification. The Seller shall indemnify and hold the Purchaser harmless against and in respect of any liabilities, claims, damages or deficiencies asserted against or suffered by Purchaser... arising from any misrepresentation, breach of warranty or a non-fulfillment of any agreement on the part of Seller under this Agreement, or any misrepresentation in or omission from any certificate or other instrument to be furnished to Purchaser... and any and all actions, suits, proceedings, demands... costs and expenses incident to any of the foregoing, subject, however, to the twelve (12) month limitation provided... .

Contract Case No. 107 A

Ameripride v. Valley Industrial
(continued)

Section 1:

Purchaser will indemnify and hold Seller harmless from liability under the accrued contracts accruing or incurred subsequent to closing.

Section 7:

Purchaser shall indemnify, defend and hold Seller harmless from all costs, expenses, fees... [on particular issues].

Section 13(b):

Seller shall indemnify and hold the Purchaser harmless against and in respect of any liabilities, damages, or deficiencies... [on particular issues].

Contract Case No. 107 B

Ameripride v. Valley Industrial
(continued)

Section 14:

Seller and Purchaser shall each indemnify the other and hold it harmless against and in respect to any claims for brokerage or other commissions.

Section 16:

Seller covenants and agrees to protect, defend, indemnify and save and hold Purchaser harmless from and against any obligations and liabilities of Seller... [on particular issues].

Contract Case No. 107 C

DeAngelo v. Horne

1997 Stock Purchase Agreement

Indemnification Clause

Each of the Shareholders [Horne and Jensen], covenants and agrees at his sole cost and expense, to severally indemnify, defend, protect, save and hold harmless Buyer [Paul and Neal DeAngelo] and the Company [Habco] from and against any and all claims, demands, lawsuits... damages (including reasonable attorneys and other professional fees...), directly or indirectly related to actions or causes of action arising out of or resulting from... Environmental Damages arising from the litigation styled:... ("K.C. 1986 Limited Partnership Litigation")... or any separate claim, suit or action threatened or instituted against the indemnified parties with respect to the K.C. 1986 Limited Partnership Litigation or an assertion, or attempted assertion against any such indemnified person... for the damages asserted in the K.C. 1986 Limited Partnership Litigation or any Environmental Damages relating to the property which is the subject of such litigation.

Contract Case No. 108 A

DeAngelo v. Horne

(continued)

Survival Clause

The indemnification obligations of shareholders shall survive until fifteen (15) months after the Closing Date; provided, that the indemnification obligations made pursuant to... [certain tax provisions],... [labor and employment provisions],... and the K.C. 1986 Limited Partnership Litigation shall survive the Closing until the expiration of the applicable statute of limitations related to the subject matter thereof.

Contract Case No. 108 B

Master Lock v. Hawn

2003 Merger Agreement

Provides that Sellers:

... shall indemnify, defend, reimburse and hold harmless [Buyers] from and against any and all Losses... resulting from or relating to... (a) any breach of any representation or warranty... ; (c) Third-Party Claims... ; (g) any Cleanup Costs... incurred or suffered... as a result of Hazardous Substances existing on, in or under the Real Property to the extent such Hazardous Substances require investigation, remediation or any other action under Environmental Laws to meet cleanup criteria applicable to the Real Property;... and Cleanup Costs incurred or suffered... as a result of actions reasonably necessary to obtain determinations from the applicable state governmental entity that no further remediation is required with respect to the Real Property.

Contract Case No. 109 A

Master Lock v. Hawn
(continued)

Sellers represent and warrant that:

... the Company complies in all material respects with all Environmental Laws applicable to the operation of its business... possesses all material licenses and permits required by all Environmental Laws;... [n]o underground storage tanks are or... have ever been located on the Real Property which contain or, to the knowledge of [Sellers], previously contained Hazardous Substances... .

Cleanup Costs defined as:

... reasonable costs, liabilities, damages and expenses (including, without limitation, legal and consultant expenses and response costs under CERCLA and other Environmental Laws), to investigate, monitor, remediate, clean up or otherwise address Hazardous Substances.

Contract Case No. 109 B

Master Lock v. Hawn **(continued)**

Hazardous Substance defined as including:

... any pollutant, contaminant, hazardous substance or waste, solid waste, regulated, defined, or designated as hazardous, extremely or imminently hazardous, dangerous, or toxic under any Environmental Law, including but not limited to the following federal statutes and their state counterparts, as well as these statutes' implementing regulations: [CERCLA], [RCRA], and the Hazardous Materials Transportation Act ("HAZMAT")...; ... petroleum or any fraction thereof;... friable asbestos; and... natural gas synthetic gas, and any mixture thereof.

Losses defined as:

... any and all demands, claims, payments, obligations, actions or causes of action, assessments, losses, liabilities, damages, costs and expenses paid or incurred, including without limitation any legal or other expense reasonably incurred in connection with investigation or defending any claims or actions and all amounts paid in settlement of claims or actions... .

Contract Case No. 109 C

Master Lock v. Hawn
(continued)

[Third-Party Claims separately defined.]

Notice of Other Claims:

In the event any Indemnitee should have a claim against any Indemnitor hereunder that does not involve a Third-Party Claim being asserted against or sought to be collected from the Indemnitee, the Indemnitee shall notify the Indemnitor... [who] shall remit... payment for the amount of such claim... .

Contract Case No. 109 D

Pharmacia v. Motor Carrier

1994 Agreement of Sale

Section 9.12:

Neither party shall take any action or make any communication which could reasonably be expected to have a materially adverse effect on the resolution or outcome of any matter for which the other party may be liable under Article 2... without providing at least five (5) business days advance notice to the other party. Any material breach of this obligation shall relieve the party to whom such notice was not provided of liabilities and indemnification under Article 2... with respect to such matter to the extent that such non-notified party has been prejudiced by the lack of timely and adequate notice.

Contract Case No. 110 A

Pharmacia v. Motor Carrier

(continued)

Section 2.2:

[Pharmacia] is currently performing remedial action at the Plant under an approved remedial action work plan (“Work Plan”) pursuant to an administrative consent order (“ACO”) agreed upon with the [NJDEP].

...[Pharmacia] intends to complete prior to Closing such remedial action at the Plant as provided in the current Work Plan... except for the groundwater sampling which is expected to be continued by [Pharmacia] beyond the Closing. After the Closing, [Pharmacia] will continue groundwater sampling as required by the NJDEP under such Work Plan. If [Pharmacia] elects to require Closing prior to receipt of the NFA Letter... and the NJDEP after Closing conditions issuance of the NFA Letter upon and modifies the current Work Plan and ACO to mandate additional remediation... with respect to soil or soil media for Substances known or shown to be present prior to Closing, for which [Pharmacia] (and not Motor Carrier or its affiliates) is responsible, [Pharmacia] will perform such required remedial

Contract Case No. 110 B

Pharmacia v. Motor Carrier **(continued)**

action or take other action with respect to such Substances in soil or soil media for which [Pharmacia] is responsible to the extent necessary to furnish such NFA letter. ...If the NJDEP modifies the current Work Plan and/or ACO and mandates additional remedial action or other action as a direct result of information provided to the NJDEP by [Pharmacia]... [Pharmacia] will perform such required remedial action at the Plant. ...If Motor Carrier after the Effective Time is required to treat, remove, and/or dispose of an Unknown ISRA/Spill Act Hazardous Material or PCB's as part of a Government Mandated ISRA/Spill Act Clean-up, [Pharmacia] will pay the Incremental Cost of such treatment, removal and/or disposal... .

Contract Case No. 110 C

Pharmacia v. Motor Carrier

(continued)

Section 2.3:

Except as otherwise provided in Section 2.2 of this Agreement, Purchaser and its respective successors in title or interest and assigns shall bear and be liable for (i) any and all costs and expenses (including attorney's fees) of Clean-up (including but not limited to any Clean-up or costs arising therefrom under federal law, including but not limited to, any Clean-up under CERCLA ... and any Clean-up under the laws of the State of New Jersey, including but not limited to ISRA, the Spill Act or other acts or regulations promulgated by the State of New Jersey) (ii) and any voluntarily incurred costs and expenses (including attorney's fees) to investigate, remediate, remove, treat, clean up or prevent the escape, in each case of any Substances present at or which migrate from the Kearny Site, the Plant or the Property at any time after the Effective Time, including but not limited to Substances, PCB's and/or Unknown ISRA/Spill Act Hazardous Material... .

Contract Case No. 110 D

Pharmacia v. Motor Carrier

(continued)

Section 2.4:

[Pharmacia] will be liable for and will indemnify... Motor Carrier and its Affiliates... from and against: ... (b) the costs of the Clean-up required to obtain the NFA Letter or subsequently required under ISRA by amendment to the current Work Plan and ACO for groundwater described in and limited by Section 2.2 of this Agreement as required pursuant to ISRA (but expressly excluding any liability for Incremental Cost for PCB's, and/or Unknown ISRA/Spill Act Hazardous Material under a Government Mandated ISRA/Spill Act Clean-up under Section 2.2 of the Agreement, which liability is subject to reimbursement only as limited by the terms and conditions in Section 2.2)... .

Contract Case No. 110 E

Pharmacia v. Motor Carrier

(continued)

Section 2.5:

Purchaser... will be liable for and will indemnify, save and hold harmless [Pharmacia]... from and against: ... (b) any costs of Clean-up of Substances, including but not limited to, any Clean-up under federal law ... or any clean-up under the laws of the State of New Jersey... for all substances... and whether or not such Clean-up arises from or in connection with Substances dumped, buried, injected, deposited or disposed of by [Pharmacia]... (except to the extent covered under Section 2.2 of this Agreement as it pertains to the NFA Letter and performance of remedial or other action with respect to groundwater mandated by the current Work Plan and ACO or an amendment thereto)... .

Contract Case No. 110 F

Pharmacia v. Motor Carrier

(continued)

Section 1.5(b):

Without limiting the availability of any other remedies under the terms of the Deed, the Deed will reserve to [Pharmacia]... the right... to reenter and terminate the estate granted to Motor Carrier (or any successor in title or interest to Motor Carrier), without obligation to reimburse Motor Carrier (or any such successor) for any improvements made, upon the occurrence of... the following event[]:... (ii) any breach of any of the conditions and obligations of Motor Carrier, its Affiliates, its successors in title or interest in the Deed or this Agreement... .

Contract Case No. 110 G

Cal. DTSC v. California Fresno Inv. Co.

1976 Bill of Sale:

Realty transfers to Fresno all:

... right, title and interest in and to all of the assets and liabilities of California-Fresno Realty Company, as such assets and liabilities are reflected in the balance sheet set forth as Exhibit 'A' attached [to the bill of sale], such balance sheet reflecting all of the assets and liabilities of California-Fresno Realty Company other than the [Railroad] real property.

Contract Case a.a.a.

Rhodia v. Bayer

1998 Asset Contribution Agreement

Section 2.1:

Assumed Liabilities. (A) Subject to the terms and conditions of this Agreement, upon the transfer of the Acquired Assets at the Closing, Rhodia shall assume, agree to pay, perform, discharge and indemnify RPI against, and otherwise be responsible for, all of the liabilities and obligations of RPI relating to the Acquired Assets... and the Business, of any kind, character or natures [sic] whatsoever, whether known or unknown, accrued, absolute, contingent, liquidated... including, without limitation, the following (together with the liabilities described in Section 2.2, the Assumed Liabilities):

... (iv) any liability or obligation with respect to any litigation, investigation or other proceeding pending or threatened in respect of the Business on or prior to the date hereof or subsequently asserted with respect to events or omissions which occurred on or prior to the date hereof giving rise to a cause of action...

Contract Case No. 111 A

Rhodia v. Bayer

(continued)

Section 7.3:

Indemnification by Rhodia... Rhodia shall indemnify RPI and its officer [sic] and directors for, and shall hold them harmless from, any and all damages, losses, obligations, liabilities, claims, costs and expenses, including without limitation, attorney's fees, court costs, interest and penalties (collectively, "Liabilities") asserted against or incurred or sustained by any of them relating to or arising out of (i) any breach of any covenant or agreement contained in this Agreement... ; (ii) any breach of any of the warranties or representations set forth in Article 4 hereof... ; (iii) any of the Assumed Liabilities; (iv) Liabilities arising out of or relating to the Business and the Acquired Assets; and (v) any of the taxes and costs payable by Rhodia.

Contract Case No. 111 B

Del Monte Fresh v. Fireman's Fund

1989 Bill of Sale

[Del Monte Corp.] hereby conveys, assigns, transfers and delivers to [Del Monte Fresh], all of its right, title and interest in and to all the Assets, subject to the related liabilities, as the same shall exist on the date hereof. The Assets shall include all of the properties and assets (real and personal, tangible and intangible) of [Del Monte Corp.] constituting a part of, used in, arising out of or pertaining or relating in any manner whatsoever to the business of the Del Monte Tropical Fruit Division located in Hawaii (the "Hawaiian Business") of every nature, kind, character, description, absolute, contingent and otherwise, wherever located or situated, including, without limitation, ... (B) any and all other assets of the Hawaiian Business, including, without limitation,... any... insurance policies of the Hawaiian Business, any causes of action, judgments, claims, and demands of whatever nature of the Hawaiian Business [.]

Contract Case No. 112 A

Del Monte Fresh v. Fireman's Fund (continued)

1989 Assumption Agreement

[Del Monte Fresh] hereby undertakes, assumes and agrees to perform, pay or discharge when due, to the extent not heretofore performed, paid or discharged...: ... (iv) all liabilities and obligations arising out of and relating to the operations of the Hawaiian Business, including without limitation, any and all contingent liabilities related to the contamination of ground water or the use [of] heptachlor [.]

Contract Case No. 112 B

In re Safety-Kleen

2002 Acquisition Agreement

Assumed Liabilities. On the terms and subject to the conditions set forth in this Agreement, at the Closing, the Purchaser and the Purchasing Subs shall assume from the Seller and the Selling Subs and thereafter pay, perform or otherwise discharge in accordance with their terms... liabilities and obligations, whether arising before or after the Closing Date, in connection with... the operation of the Business (including liabilities and obligations arising under Environmental Laws (or other Laws) [sic] that relate to violations of Environmental Laws... .

Contract Case No. 113 A

In re Safety-Kleen (continued)

Excluded Liabilities. ...[A]ny liabilities and obligations with respect to, arising out of or relating to the ownership, possession or use of the Acquired Assets and other operation of the Business prior to the Closing Date (i) which are to be discharged by the Bankruptcy Court in accordance with Section 3.8 hereof, (ii) with respect to fines imposed by any Governmental Entity, (iii) with respect to injuries suffered by employees of the Seller or any Business Sub, (iv) with respect to tort (other than environmental clean-up) and common law claims for which post-1986 general liability insurance containing pollution exclusions normally would provide coverage, (v) which are amounts due from the Business or BSSD or (vi) which are Taxes... .

Title to Property. Upon the entry of the Section 363/365 Order and, if applicable, the Confirmation Order, at the Closing the Seller and each of the Selling Subs will sell, assign, transfer, convey and deliver, as the case may be, to the Purchaser and the Purchasing Subs the Acquired Assets, and the Acquired Assets and the assets held by the Domestic Transferred Subs will be free and clear of all liens, claims, encumbrances and security interests other than Permitted Exceptions.

Contract Case No. 113 B

American Int'l v. U.S.

2000 MOA

Notwithstanding any other provision of this Agreement, and except as set forth in the Deed described herein, the Authority and its assigns do not hereby assume any liability or responsibility for environmental impacts and damage caused by the Government's use of toxic or hazardous wastes, substances or materials, or petroleum derivatives, on any portion of the Property. The Authority and its assigns have no obligation under this agreement to undertake the defense of any claim or action, whether in existence now or brought in the future, or to conduct any cleanup or remediation action solely arising out of the use or release of any toxic or hazardous wastes, substances or materials, or petroleum or petroleum derivatives, on or from any part of the Property due to activity on the Property by the Government.

Contract Case No. 114 A

American Int'l v. U.S.

(continued)

2000 Deed

Except as otherwise provided herein, or as otherwise provided by law, the GRANTEE acknowledges that it has inspected, is aware of, and accepts the condition and state of repair of the Property, and that the property is conveyed "as is" and "where is" without any representation, promise, agreement, or warranty on the part of the GRANTOR regarding such condition and state of repair, or regarding the making of any alterations, improvements, repairs or additions. Except for the environmental remediation required to be undertaken by GRANTOR, the GRANTEE further acknowledges that the GRANTOR shall not be liable for any latent or patent defects in the Property except to the extent required by applicable law.

...

Grant of Covenant [CERCLA 42 U.S.C. Section 9620(h)(3)(A)(ii)(I)]. The GRANTOR covenants that all remedial action necessary to protect human health and the environment with respect to any hazardous substances remaining on the Property has been taken before the date of the transfer [.]

...

Contract Case No. 114 B

American Int'l v. U.S.
(continued)

Additional Remediation Obligation [CERCLA 42 U.S.C. Section 9620(h)(3)(A)(ii)(II)]. The GRANTOR covenants and warrants that GRANTOR shall conduct any additional remedial action necessary after the date of transfer for any hazardous substance existing on the Property prior to the date of this Deed. The covenant shall not apply to the extent that the GRANTEE caused or contributed to any release or threatened release of any hazardous substance, pollutant, contaminant, petroleum or petroleum derivative[.]

...

Indemnification Regarding Transferees. The GRANTOR hereby recognizes its obligations under Section 330 of the National Defense Authorization Act of 1993 (Pub L. 102-484), as amended, regarding indemnification of transferees of closing Department of Defense properties[.]

Contract Case No. 114 C

Shell v. U.S.

1942-1943 Avgas Supply Contracts

U.S. agrees to pay Shell ("Seller"):

[A]ny new or additional taxes, fees, or charges, other than income, excess profits, or corporate franchise taxes, which Seller may be required to pay by any municipal, state, or federal law in the United States or any foreign country to collect or pay by reason of the production, manufacture, sale or delivery of the [avgas].

Contract Case No. 115

Benderson v. Neumade

1991 Lease Agreement

54. A. Lessee shall not conduct any activities with respect to the Demised Premises or the shopping center which result in the generation, storage or release of any toxic, hazardous or similar substances (as those terms may be defined from time to time in any federal, state or local law or regulation). Lessee shall bear all liability for any claim, injury, loss or damage to any person or the environment as a result of any such toxic, hazardous or similar substances and Lessee will save Lessor harmless and indemnify Lessor against any such loss, claim, injury or damage.

54. C. Environmental Cleanup. At the end of the Lease term, including any renewal or extension thereof, Lessee will provide Lessor with any environmental clearance which may be required by any governmental authority having jurisdiction. Until such time as the Demised Premises are delivered to the Lessor by the Lessee in a "clean" condition, as specified by law, Lessee will pay to Lessor the monthly rental based upon the then fair market value during said interim period, and will notify Lessor at least ninety (90) days prior to obtaining a clean condition report as specified by law.

Contract Case No. 116

Georgia-Pacific v. International Paper

1972 Purchase Agreement

The consideration to be paid by RPC for the transfer of the Properties to it shall be (i) the payment by RPC to Federal of \$6,770,018.00... and (ii) the assumption by RPC of the liabilities of Federal directly attributable to the New Jersey Operations on the Closing Date, including, but not by way of limitation, those listed in Schedule B attached hereto... but excluding those expressly excluded in this Agreement or listed in Schedule C attached hereto.

[Neither Schedule B ("Non-Exclusive List of Liabilities Assumed") nor Schedule C ("Liabilities – Not Assumed") refers to environmental cleanup or liability.]

Contract Case No. 118

Sentry Paint v. Topth

2008 Sale Agreement

Paragraph 10(e)(i):

[Provides that Buyer may conduct, at its own cost and expense, an investigation into:]

... compliance with Environmental Laws, the presence of Contaminants on, over, under, migrating from or affecting the Property... .

Contract Case No. 120 A

Sentry Paint v. Topth **(Continued)**

Paragraph 10(e)(iv):

If the environmental investigation indicates any non-compliance with any Environmental Law at or in connection with the Property or Personal Property or the use or operation thereof, or the presence of Contaminants on, under, over, migrating from or affecting the Property or the presence of any condition that may affect Buyer's intended use of the Property, and the cost to remediate same would exceed the sum of TEN THOUSAND DOLLARS (\$10,000), then (A) the Seller would have the option to repair/remediate the non-complying condition at Seller's cost, or (B) offer the Buyer a price reduction, or (C) terminate this Agreement. The Buyer must provide the Seller notice of its intent to seek recourse under the provisions of Paragraph 10(e)(iv) within three (3) business days of receiving notice of the non-complying condition.

Contract Case No. 120 B

Sentry Paint v. Toph
(Continued)

Paragraph 19(m):

[Provides that in the case of litigation arising from the agreement, the prevailing party is to recover:]

... all costs incurred, including reasonable attorney's fees.

Contract Case No. 120 C

Celanese v. Essex County

1998 Sale Agreement

Article 4.5

(a) Except as set forth in section 4.5(b) below, Purchaser hereby releases and shall defend, indemnify and hold harmless Seller... from any and all claims, demands, liabilities, actions, suits, debts, causes of action, obligations, controversies, expenses, penalties, fees, accounts, damages, personal injuries, losses, judgments and costs (including attorneys' fees and expert witness fees) of every kind and character whatsoever, in law, equity or otherwise, whether compensatory, consequential or punitive in nature, and whether based upon present or future laws, in tort, contract, or any other present or future theory of liability, arising, directly or indirectly, from or related to (1) the presence of Contaminants on or emanating from the Property without regard to the date such Contaminants were first placed or discharged on or about the Property, (2) all obligations contained in the [Declaration of Environmental Restrictions], (3) the requirement to or failure to install and maintain engineering controls, (4) the ISRA Cases and the ACO, and (5) all injuries and damages of any kind whatsoever related directly or indirectly to or arising from any of the foregoing.

Contract Case No. 122 A

Celanese v. Essex County

(Continued)

(b) Notwithstanding any provision of Section 4.5(a) above to the contrary, Seller hereby releases and shall defend, indemnify and hold harmless Purchaser... from any and all claims, demands, liabilities, actions, suits, debts, causes of action, obligations, controversies, expenses, penalties, fees, accounts, damages, losses, judgments and costs (including attorney fees and expert witness fees) asserted by third parties (i) for personal injury arising from alleged exposure to Contaminants prior to the Closing Date, and (ii) resulting from the failure of the Seller to perform the Dowtherm Area Work and active groundwater remediation to the extent required... .

Article 4.6

[States that all of the provisions of Article would survive the closing, be incorporated into the deed and] "run with the land such that its provisions are binding on Purchaser and any subsequent owners of the Property, jointly and severally, for the benefit of Seller."

Contract Case No. 122 B

Celanese v. Essex County
(Continued)

In interpreting any provision of this Agreement, no weight shall be given to, nor shall any construction or interpretation be influenced by, the fact that counsel for one of the parties drafted this Agreement, each party recognizing that it and its counsel have had an opportunity to review this Agreement and have contributed to the final form of same.

Contract Case No. 122 C

Ceramicas v. Met Life

1997 Share Purchase Agreement

3.20(c) Except as set forth in... the Disclosure Schedule, to the Knowledge of Seller... there are no past or present actions, activities, circumstances, conditions, events or incidents... that could form the basis of any Environmental Claim against the Company or Seller... .

8.4(a) From and after the Closing, Seller shall indemnify and hold harmless Buyer... from and against any liabilities... arising from or in connection with... any inaccuracy in any representation... contained in or made pursuant to Section 3.20.

8.4(e) No action, claim or set off for Damages subject to indemnification under this Section 8.4 shall be brought or made... after the date on which such representation... shall terminate pursuant to Section 8.3... .

8.3(a) ... [A]ll representations and warranties contained in Sections 3.14 and 3.20 shall survive the Closing and remain in full force and effect until sixty (60) days after expiration of the applicable statute of limitations (including any extensions thereof)... .

Contract Case No. 123

Hinds v. Ryan

Circa 1981 Lease

[Tenant must] ...comply with all of the requirements of all municipal, state and federal authorities... and shall faithfully observe in said use all municipal ordinances and state and federal statutes... .

The judgment of any court of competent jurisdiction... shall be conclusive of that fact as between the Landlord and Tenant.

[Tenant] will hold [Landlord] exempt and harmless from any damage or injury to any person... .

Contract Case No. 124

U.S. Bank v. EPA

1998 Agreement and Assignment

The Assignor has agreed... to assign to the Assignee all of the Assignor's right, title and interest in the properties, assets... and rights (the "Contributed Property") of the Assignor's Technologies Division (the "Business")..., and the Assignee has agreed that it will accept such assignment and will assume all of the liabilities and obligations of the Assignor with respect to the Business (collectively, the "Obligations")... .

The Assignee accepts such assignment, and assumes and agrees to perform, pay, discharge and comply with all of the covenants, conditions, agreements, terms, obligations and restrictions to be performed or complied with on the part of the Assignor under or in connection with the Business or the Obligations arising from and after the date hereof, subject to the covenants, conditions, agreements, terms, obligations, restrictions and other provisions set forth in the Contributed Property and the Obligations.

Contract Case No. 125

Silgan v. Alcoa

1997 Acquisition Agreement

Article 14

... Notwithstanding anything contained in this Article XIV, all claims for indemnification arising out of or related to environmental matters shall be solely covered by and subject to Article XII and the limitations set forth therein. The limitations, rights, and remedies contained in this [Article] XIV are distinguished from and in addition to those separately provided in Article XII.

Contract Case No. 126 A

Silgan v. Alcoa
(Continued)

Article 12

[Alcoa agrees to indemnify Silgan for "Pre-Closing Environmental Liabilities," including:]

... all liabilities, obligations, responsibilities, losses, damages, deficiencies,... costs of Cleanup, other costs and expenses... fines, penalties, restitutions and monetary sanctions... sustained, incurred or required to be paid as a result of, based upon or arising out of any claim, demand, cause of action, suit, order, judgment, citation, notice of violation or consent decree, whether based on contract, tort, or any Applicable Law.

["Applicable Law" includes CERCLA.]

Contract Case No. 126 B

Silgan v. Alcoa
(Continued)

Article 16

Any dispute arising out of or relating to this Agreement... shall be resolved first by consultation between the parties. If any dispute cannot be so resolved, the parties shall be entitled to pursue any remedies available to them, in law or in equity, but only to the extent permitted under, and subject to the limitations set forth in, Articles XII and XIV.

Contract Case No. 126 C

Halliburton v. NL

1972 Lease Amendment

Lessee agrees that it will indemnify, defend, protect, hold and save harmless the Lessor from and against any claims, loss, liability, attorney's fees, costs or any other expense arising out of or resulting from any injury, loss or damage to persons or property in, on or about the demised premises.

Contract Case No. 127

Trinity v. Greenlease

1986 Purchase and Sale Agreement

Section 2.03. Assumption of Certain Contract and Liabilities [sic]. ... [Trinity] has not assumed, and expressly denies assumption hereby of, any other liability, obligation or commitment of [Greenlease] other than as set forth above or otherwise expressly set forth herein.

Contract Case No. 128 A

Trinity v. Greenlease (continued)

Section 9.03. Indemnity for Certain Laws. [Greenlease] agrees to indemnify and hold harmless [Trinity] against Damages arising out of or related to violations of Environmental Laws, which were caused by [Greenlease] or its predecessors in title to the assets at the Greenville Facility on or prior to the date of Closing. [Trinity] agrees to indemnify and hold harmless [Greenlease] against Damages arising out of [sic] related to violations of Environmental Laws, which are caused by [Trinity] or its successors in title to the assets at the Green Facility after the dated [sic] of the Closing. It is the intention of the parties that liability under this Section for any condition that is caused by the acts of [Greenlease] or its predecessors in title to the assets prior to the date of the Closing and by the acts of [Trinity] or its successors in title to the assets after the date of Closing shall be allocated between the parties in a just manner taking into account degree of fault, period of violation and other relevant factors.

Contract Case No. 128 B

Trinity v. Greenlease

(continued)

Section 9.04. Survival. Each of the foregoing indemnities shall survive and continue in force after the transfer of the Subject Assets to [Trinity] for a period ending on the third anniversary of the date of the Closing; *provided, however,* that... the foregoing limitation shall not apply to any Circumstances for which the party seeking indemnification has given notice to the Indemnifying Party pursuant to Section 9.05 prior to the third anniversary of the date of the Closing... .

Section 11.13. Governing Laws. This Agreement shall be construed in accordance with and governed by the laws of the State of Pennsylvania.

Section. 11.19. Non-waiver of Remedies. ... The rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies which the parties hereto may otherwise have at law or in equity.

Contract Case No. 128 C

Pateley v. Pitney Bowes

1978 Lease

Lessee shall defend all actions against Lessor with respect to, and shall pay, protect, indemnify and save harmless Lessor from and against any and all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees and expenses) causes of action, suits, claims, demands or judgments of any nature (a) to which Lessor is subject because of its estate in the Premises or (b) arising from (i) injury to or death of any person, or damage to or loss of property, on the Premises or on adjoining sidewalks, streets or ways, or connected with the use, condition or occupancy of any thereof, (ii) violation of this Lease, (iii) any act or omission of Lessee or its agents, contractors, licensees, sublessees or invitees, and (iv) any contest referred to in paragraph 17.

Contract Case No. 129

Textileather v. GenCorp

1990 Asset Purchase Agreement

Section 9.1.3 [Textileather] will assume [GenCorp's] liabilities in respect of any substance or environmental conditions relating to the Business except those retained by [GenCorp] provided in Sections 9.1.1 and 9.1.2]

[GenCorp] will retain responsibility for: (a) all liabilities, if any, to third persons in respect of the substances, conditions and other matters which are included on the Chemicals List in Section 9.16, . . . whenever such liabilities may arise, and by whatever third persons may assert such liabilities, specifically including (A) fines, penalties, judgments, awards, settlements, losses, damages, costs, fees (including attorneys' and consultants' fees), expenses and disbursements, (B) defense and other responses to any administrative or judicial action (including claims, notice letters, complaints and other assertions of liability) instituted by any third person concerning any such liability, and (C) financial responsibility for (i) cleanup costs and injunctive relief, including any removal, remedial or other response actions, and natural resource damages, and (ii) any other compliance or remedial measures

Contract Case No. 130 A

Textileather v. GenCorp

(continued)

[GenCorp] will have no responsibility or obligation in respect of . . . (2) any substance, condition or other matter included on the Chemicals List in respect of which an action is first asserted after [the deal closed], to the extent that such action: . . . (b) is asserted directly because of actions taken by [Textileather] or its employees, except actions (including the filing of any report or document that [Textileather] is legally obligated to take.

[GenCorp] will indemnify and defend [Textileather] with respect to the liabilities retained by [GenCorp] as provided in Section 9.1.1 and 9.1.2 above; provided that [Textileather] promptly gives [GenCorp] notice of any claims or actions, . . . [Textileather] will indemnify and defend [GenCorp] with respect to the liabilities assumed by [Textileather] as provided in Section 9.1.3 above; provided that [GenCorp] promptly gives [Textileather] notice of any claims or actions,

Section 11.3 [Provides that the agreement is governed by Ohio law.]

Contract Case No. 130 B

Textileather v. GenCorp **(continued)**

1992 APA Amendment

In lieu of and in substitution for GenCorp's obligation described in Section 9.1.2(c) of the Agreement, GenCorp will pay to Textileather \$150,000 within... 14 days of the execution of this letter agreement.

Contract Case No. 130 C

Litgo v. Martin

1985 Agreement of Sale

The parties acknowledge that the Property is subject to the provisions of N.J.S.A. 13:1K-6 ("ECRA")... . [Sanzari] agrees to comply with all of the provisions of ECRA by obtaining a Negative Declaration or a Clean-up Plan from the DEP... . In the event, however, that the net cost to [Sanzari] of obtaining and processing a Clean-up Plan exceeds the sum of... \$100,000..., [Sanzari] shall have the option of terminating this Agreement of Sale, unless [Goldstein] agrees to pay such cost in excess of... \$100,000... .

[Goldstein agrees to] ... accept conveyance of the Property... in [its] "as is" condition.

[Sanzari assumes] ... the risk of loss or damage to the Property beyond ordinary wear and tear until delivery of the deed to [Goldstein] at the closing of title.

Contract Case No. 131 A

Litgo v. Martin

(continued)

1989 Settlement Agreement

Goldstein shall elect to move forward with the transaction at issue by assuming all ECRA compliance costs in excess of \$100,000 in writing delivered within 10 days of receipt by Goldstein's counsel of a copy of test results... regarding the water samples taken from the... five monitoring wells on April 7, 1989... . It is expressly understood that Goldstein's election shall be made after those test results are received and not on any subsequent testing or sampling, provided, however, that the test must give results on all five wells.

[Sanzari agrees upon closing to] ... assign to Goldstein any and all of his rights to pursue reimbursement claims against tenants and others including insurance carriers, if any.

1990 Deed

[Specifies that Goldstein assumed all of Sanzari's obligations under the cleanup plan that had been approved by DEP.]

Contract Case No. 131 B

Schultz v. Ichimoto

1980s Lease

In the event of litigation concerning the terms of this lease or the use of premises, the Court may award to the prevailing party such attorney's fees as it may deem reasonable.

Lessee(s) shall save the Lessors harmless from all claims, demands, actions and suits arising from the use and occupancy of the premises.

Contract Case No. 132

Sanchez v. Esso

1985 and 1992 Contract

[Retailer agreed to] assume[] the risk and exclusive liability, and agree[d] to hold harmless ESSO, from any and all claims for injuries, loss, or damage of any class or kind, to person or property, by anyone who suffers or alleges the same, as a result of:

(a) The condition or use of the leased station, with all of its edifices, improvements and equipment, or the operation thereof by the Retailer during the term of this lease... regardless of whether it is due to a hidden or evident defect, except... when the Retailer has sent a written notification to ESSO about a defective condition for whose repair ESSO is responsible under this lease...

(b) The negligence or conduct of the Retailer... even if manifested inside or outside of the station, or of any other person who penetrates the premises upon express or implicit invitation from the Retailer.

(c) The breach by the Retailer, its agents, servants, or employees of any provision of this lease.

Contract Case No. 133

U.S. Home Corp. v. U.S.

1989 GSA Affidavit

[N]o hazardous substances have been manufactured or stored on [the property]. This portion of the former [Raritan] Arsenal was used as open space (golf course); storage and general supply warehousing. We have no record of any hazardous material being buried on [the property].

2003 Deed

[Contains recitation of environmental conditions at the property and specific promises by the U.S. as seller concerning its responsibilities for remediation of hazardous waste contamination there; and disclaims any other warranty.]

The Grantee, in accepting this Deed, acknowledges that the Grantor has made no representation or warranty concerning the condition or state of repair of the Property that has not been fully set forth in this Deed.

Contract Case No. 134

Kugle v. Island Cement

1984 Lease

[Provides that Lessee and its assigns will keep property in good order and condition and indemnify Lessor for all actions, suits, claims, loss, damages, and costs and expenses related to any nonobservance or nonperformance of the law and breach of the lease covenants.]

[Lessee] will indemnify and hold Lessors harmless from and against all claims and demands for loss or damage, including property damage and will reimburse Lessors for all their costs and expenses including reasonable attorneys' fees.

2007 Settlement Agreement between Assignor and Assignee

[Assignee agrees to take 1984 Lease subject to] ...the observance and performance... of all covenants and conditions contained in the Lease.

[Assignee] does hereby promise, covenant and agree to and with the Assignor and to and with the Lessor under the Lease, in consideration of the consent of the Lessor to the foregoing assignment, as follows.

Contract Case No. 135 A

Kugle v. Island Cement

(continued)

[Assignment then lists four paragraphs that court paraphrases as providing that Assignee would: (1) indemnify Assignor for any unpaid rent, (2) indemnify the Lessor for all environmental contamination caused by the Assignee, (3) indemnify the Assignor for environmental contamination that existed before the 1984 Lease, and (4) indemnify the Lessor and Assignor from any environmental contamination caused by the Assignor.]

2007 Guaranty of Assignee Settlement Obligations

Guarantor[s] hereby absolutely and unconditionally guarantees and promises to [Assignor] the due, punctual and full performance by [Assignee] of each and all of the covenants, obligation, liabilities and promises of [Assignee] under the Agreement, the Assignment, and upon consent from [Lessor], the Lease, with the intent that the liability of Guarantor hereunder shall be the same as if Guarantor were named as [Assignee] in the Agreement, Lease and Assignment during the Guaranty Term.

Contract Case No. 135 B

Eby v. One Beacon

Circa 1979 Construction Contract

The contractor [Eby] agrees that he has sole responsibility for the protection of facilities, structures, and properties inside and outside the limits of construction and agrees to indemnify and hold harmless the Owner, the Engineer [KBR], and owners of adjoining properties from and against all damages, claims, demands, suits, and judgment costs including attorney's fees and expenses for or on account of damage to property of any person, firm, corporation, company, or government agency, or death of or injury to any person or persons (including property and employees of the Coastal Industrial Water Authority, Brown & Root, Inc., the Contractor, and employees of the Contractor), directly or indirectly arising from or caused by or in connection with the performance or failure to perform any work provided for hereunder by the Contractor, his subcontractors, or their or the Contractor's agents, servants, or employees. It is agreed and understood that in the prosecution of work under the provisions hereof, the Contractor is and shall continue to be an independent contractor.

Contract Case No. 136

Stimson Lumber v. International Paper

1993 Asset Purchase and Sale Agreement

Except for the express warranties made in Section 3, Buyer accepts the Division Assets “AS IS” in their present condition based solely upon Buyer’s own inspection and determination as to value and not based upon any expressed or implied representation or warranty by Seller... .

[Warranties under Section 3 include express warranty by Seller that conduct of business prior to closing has been] in compliance with, and not in violation of, any of the terms or conditions of... any Environmental Law... [including CERCLA].

[13.2][Seller agrees to indemnify Buyer for environmental matters specifically including those arising out of the] presence (at levels or concentrations that would require remedial or corrective actions under any environmental law) of any solid toxic, hazardous, industrial or chemical wastes [resulting from the use of the subject mill property prior to closing, and for] [c]laims for environmental cleanups under any federal, state, or local law... including but not limited to [CERCLA].

Contract Case No. 137 A

Stimson Lumber v. International Paper

(continued)

[Seller's] obligations to indemnify [Buyer] hereunder are subject to the time periods and notice provisions of paragraph 5.1.

[5.1] Representations and warranties of Seller relating to [environmental matters]... survive the Closing for a period of ten (10) years and thereafter shall expire and terminate except as to matters for which Buyer has provided notice to Seller of the inaccuracy or breach of such representations or warranties... .

[Base Price clause of APA provides that Buyer] ... shall not assume or be responsible for any [of the Seller's] liabilities or obligations.

Contract Case No. 137 B

Ashley v. PCS Nitrogen

1966 Letter of Agreement

Seller agrees to indemnify and hold harmless Buyer in respect to all acts, suits, demands, assessments, proceedings [sic] and cost and expenses resulting from any acts or omission of the Seller occurring prior to the closing date and pertaining herein, provided the Seller receives prompt notice in writing of such claim or demand and Seller shall have the right to litigate or contest such claim.

1966 Bill of Sale

It is the intention of the Seller by this instrument to fully and effectually implement its obligation to deliver to the Buyer certain tangible personal property and interest in certain real and personal property pursuant to a certain Letter of Agreement dated January 7, 1966... and it is accordingly declared that the Letter of Agreement... shall survive the execution and delivery of this Bill of Sale, so that it shall be the continuing obligation of the Seller to execute and deliver such further instruments of conveyance and assurance as may be required in order that the Seller shall faithfully and fully implement its obligation above referred to.

Contract Case No. 138

Wells Fargo v. Renz

1974 Lease

1. (a) Landlord leases to Tenant and Tenant hires from Landlord those certain premises ("Premises") described as follows: A portion of that certain single-story commercial store building located on the easterly line of Telegraph Avenue... and more specifically described as the northern most two stores in said building, being stores #1 and #2... and known as 2529 Telegraph Avenue.

8. Lessee, as a material part of the consideration to be rendered to Lessor, hereby waives all claims against Lessor for damages to goods, wares and merchandise, and all other personal property in, upon or about said premises and for injuries to person in or about said premises from any cause arising at any time, and Lessee will hold Lessor exempt and harmless from any damage or injury to any person, or the goods, wares and merchandise and all other personal property of any person, arising from the use of the premises by Lessee, or from the failure of Lessee to keep the premises in good condition and repair as herein provided.

Contract Case No. 139

JFE v. ICI Americas

1991 Asset Purchase Agreement

Section 1.02 Assumption of Liabilities

On the terms and subject to the conditions of this Agreement, the Purchaser agrees, at the time of the Closing and effective from such time, to assume and satisfy the Assumed Liabilities, and the Seller shall retain and satisfy the Retained Liabilities.

Article XII Survival: Claim for Breach: Indemnification

Section 12.01 Survival; Remedy of Breach

... The covenants and agreements of the parties which by their terms require performance or compliance on or after the Closing Date, as well as the indemnities set forth in this Article XII, shall continue in force thereafter in accordance with their terms. ...

Contract Case No. 140 A

JFE v. ICI Americas **(continued)**

Section 12.02 Indemnification from the Seller

The Seller shall indemnify and defend the Purchaser against, and agrees to hold the Purchaser harmless from, any and all damage, loss, liability and expense (including, without limitation, reasonable expenses of investigation and attorneys' fees) incurred or suffered by the Purchaser arising out of... (ii) any claim, action or proceeding relating to the Retained Liabilities. ...

With respect to clause (ii) of this Section 12.02, claims for indemnification based upon the Retained Liabilities described in paragraph 1 of Schedule D may be made up to ten (10) years after the Closing Date... .

Schedule D Retained Liabilities

All damages, loss, liabilities, claims or complaints (including, without limitation, reasonable expenses of investigation and attorneys' fees) relating to the Business or the Acquired Assets and arising out of liability under any Environmental Law including, without limitation, any use, generation, treatment, storage, transportation or disposal or release prior to the Closing of any Hazardous Substance or hazardous material or waste or any toxic or other material....

Contract Case No. 140 B

JFE v. ICI Americas **(continued)**

[Note: "Environmental Law" is defined in the APA as "any Federal, State or local statute, rule, regulation, or ordinance applicable to the Business relating to the generation, treatment, storage, transportation, disposal or release of pollutants, contaminants, wastes, toxic or radioactive material, [or] Hazardous Substances... in force at the date hereof or at any time prior to the Closing Date."]

1991 Reprocessing Transitional Services Agreement

ICIA will indemnify and hold harmless LNP from any and all liabilities, actions or damages arising out of the noncompliance by ICIA during the term hereof with any Environmental Law (as defined in the Asset Purchase Agreement) in connection with its operations at the [subject Facility] or the use or generation by ICIA of hazardous substances or toxic wastes in connection with its operations at the Facility, during the term hereof... .

Contract Case No. 140 C

JFE v. ICI Americas **(continued)**

1991 Framework Agreement

Section 3.05 Guarantee of the Sellers **Obligations**

[Provides that ICI] shall guarantee the performance of ICIA... under this Agreement and the Sale and Purchase Agreements. ... The liability of any and all of the sellers [including ICIA] shall terminate as set forth in the various Sale and Purchase Agreements... .

[Framework Agreement also caps ICIA's liability for "any claim, action or proceeding relating to the Retained Liabilities described under paragraphs 1 to 5 inclusive of Schedule D of the [Asset Purchase Agreement]..." by providing that the liabilities "shall not exceed in the aggregate thirty million U.S. dollars."

Contract Case No. 140 D

U.S. v. NCR

1978 Asset Purchase Agreement As Quoted in July 2011 Decision

[Purchaser agrees to] assume, pay, perform, defend and discharge, if and when due, to the extent not paid, performed, defended or discharged prior to the Closing Date... all of Seller's obligations and liabilities of any kind, character or description relating to the period subsequent to the Closing Date, which are not known to Seller on the Closing Date, with respect to the compliance of the assets, properties, products or operations of [Seller's Appleton Papers Division] with all governmental laws, ordinances, regulations, rules, and standards;... all of Seller's liabilities... whether accrued, absolute, contingent or otherwise... whether arising from transactions, events or conditions occurring prior to or after the Closing Date, with respect to compliance of the Property ... with all applicable federal, state and local and other governmental environmental and pollution control laws, ordinances, regulations, rules and standards.

Contract Case No. 141 A

U.S. v. NCR
(continued)

1978 Asset Purchase Agreement
As Quoted in 2012 Decision

[Purchaser agrees to] assume, pay, perform, defend and discharge... all of Seller's obligations and liabilities of any kind, character or description relating to the period subsequent to the Closing Date which arise out of or in respect of any state of facts, matter, event or disclosure set forth on an attachment to the agreement that was designated as Schedule A.

Contract Case No. 141 B

U.S. v. NCR
(continued)

Schedule A

Seller has reason to believe that the facilities of Appleton Papers Division located in Pennsylvania and Wisconsin may be operating; in violation of applicable federal, state, local or other governmental environmental and pollution control laws, ordinances, regulations, rules and standards.

[Seller] receives and has received notices from time to time from various federal, state, local and other governmental authorities claiming violation of environmental and pollution control laws, ordinances, regulations, rules and standards (collectively "laws"). These claims may result, and have resulted in fines and corrective action.

Contract Case No. 141 C

U.S. v. ARG Corp.

2006 Contract of Sale

The Seller shall remain solely financially responsible for the Remediation Activities arising from the Seller's ownership, use or operation of the property prior to the Closing Date, provided however, that the Purchaser covenants not to execute against any of the Seller's assets to satisfy the Seller's financial responsibilities for remediation of pre-closing environmental damage except for the proceeds of recoveries under the general liability insurance policies issued to the Seller prior to the closing.

The Purchaser shall be solely financially responsible for the Remediation Activities arising from the Purchaser's ownership, use and operation of the property after to [sic] the Closing Date.

Contract Case No. 142 A

U.S. v. ARG Corp.
(continued)

"Remediation Activities" shall mean investigation and remediation activities, including but not limited to installing, operating, and maintaining all monitoring wells; collecting soil and/or groundwater samples; measuring groundwater levels in measuring wells; soil removal; groundwater treatment; and performing other related assessment activities, necessary to investigate and remediate environmental damage caused by the release of hazardous substances in accordance with any environmental laws.

[The contract] embodies the entire agreement between the parties and cannot be varied except by the written agreement of the parties... .

No representation, promise, or inducement not included in this Agreement shall be binding upon the parties hereto.

Contract Case No. 142 B

McGowan v. Eland

1996 Purchase and Sale Agreement

10(a) Assumption of Obligations. Assignment of the interests to [McGowan] shall constitute an express assumption by [McGowan] of, and [McGowan] expressly agrees to pay, perform, fulfill and discharge all claims, costs, expenses, liabilities and obligations accruing or relating to the owning, developing, exploring, operating and maintaining of the interests conveyed to [McGowan] at the closing, including without limitation, all violations of environmental law and all obligations arising under operating agreements, product sale agreements and other agreements covering or related to the interests, regardless of the negligence of [Eland].

Contract Case No. 143 A

McGowan v. Eland
(continued)

10(c) Indemnification. From and after the closing date, [McGowan] and [Eland] shall indemnify each other as follows:

... (ii) [McGowan] shall defend, indemnify and save and hold harmless [Eland] against all losses, damages, claims, demands, suits, costs, expenses, liabilities and sanctions of every kind and character, including without limitation reasonable attorneys' fees, court costs and costs of investigation, which arise from or in connection with... any of the claims, costs, expenses, liabilities and obligations assumed by [McGowan] pursuant to section 10(a)... .

Contract Case No. 143 B

McGowan v. Eland
(continued)

10(d) Environmental Matters. ...If the Closing occurs, and without limiting [McGowan's] obligation hereunder, [McGowan] hereby assumes and shall be responsible for and shall indemnify, defend and hold harmless [Eland] from and against any and all Loss (as defined below) attributable to the Properties... including but not limited to natural resource damages, Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) response costs, environmental remediation and restoration costs arising out of or attributable to, in whole or in part, either directly or indirectly, the condition or operation of the Properties at any time before, at or after the Effective Date (including without limitation, any claims relating to any condition existing on, in or under, or resulting from operation of the Properties as of the Effective Date, but excluding any claims relating to conditions which [Eland] has undertaken to remediate pursuant to this Section).

Contract Case No. 143 C

McGowan v. Eland
(continued)

10(i) The indemnity provided for in each Section shall extend to any loss, costs, expense, fine, penalty, liability or damage ("Loss") incurred or suffered by the party seeking indemnification under the terms of the Agreement ("Indemnified Party"), including reasonable fees and expenses of attorneys, technical experts and expert witnesses reasonably incident to the matters of such indemnification.

[Arbitration Provision:] All disputes arising out of or in connection with the [PSA], including indemnification, including the existence of a valid claim or amount to be paid by an Indemnifying Party is in dispute [sic], the parties agree to submit to binding arbitration in Dallas, Texas.

Contract Case No. 143 D

U.S. v. Sterling

1952 Purchase and Sale Agreement

[Buyer, having] been advised as to the... assets and liabilities of [Seller, agreed to purchase] all the assets of [Seller], subject to the liabilities of [Seller], which liabilities [Buyer] agreed to assume and cause to be paid promptly.

Contract Case No. 145

Lockheed Martin v. Goodyear

1987 Asset Purchase Agreement

2.1 Acquisition of Assets. Except as provided herein, GAC, and to the extent necessary, Goodyear hereby agree, on the Closing Date, to convey, transfer, assign and deliver to Loral and Loral agrees, on the Closing Date, to acquire and accept as hereinafter provided, all the assets, properties, business and good will of GAC of every kind and description, wherever located, including, without limitation... .

2.2 Assumption of Liabilities. From and after the Closing Date, Loral shall assume and Loral hereby agrees to pay, perform and discharge when due all debts, obligations, contracts and liabilities of GAC of any kind, character or description whether accrued, absolute, contingent or otherwise, whether now or hereinafter arising, provided, however, that Loral shall not assume... (iii) any liabilities arising out of actions unrelated to the transactions contemplated hereby done or permitted to be done by Goodyear after the Closing Date... .

Contract Case No. 146 A

Lockheed Martin v. Goodyear

(continued)

9.2 Entire Agreement. This Agreement sets for [sic] the understanding among the parties concerning the subject matter of this Agreement and incorporates all prior negotiations and understandings. There are no covenants, promises, agreements, conditions or understandings, either oral or written, between them relating to the subject of this Agreement other than those set forth herein... .

Contract Case No. 146 B

U.S. v. ConocoPhillips

1953 Facilities Contract

Contractor shall not be liable for any loss of or damage to the facilities provided hereunder or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto)... .

[Definition of "facilities" includes reference to property at issue.]

1953 Rate Order Contract

The Contractor shall not be liable for any loss of or damage to the Government Property, or for expenses incidental in such loss or damage... .

Contract Case No. 147

CTS. v. Mills

2004 Site Participation Agreement

[Mills] agrees to indemnify, defend and hold harmless CTS from and against any liability which may arise from the Site (other than the Work required pursuant to the Order and for nongovernmental third-party claims for bodily injury or personal injury), including, without limitation, any liability which may arise as a result of [Mill]'s performance or non-performance of the obligations set forth in the Order, this Agreement or the Brownfield's Agreement. CTS agrees to defend, indemnify and hold harmless [Mills] from and against any claim by a third-party for injury to person or non-[Mills] property arising out of the Work performed pursuant to the Order.

Contract Case No. 148