

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

CURTIS BOLTON and MELBA BOLTON

Plaintiff,

v.

3 M COMPANY a/k/a MINNISOTA MINING  
& MANUFACTURING COMPANY, et. al.

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2021-CP-42-2480

CONSENT ORDER ALLOWING DEFENDANTS TO  
PERFORM ADDITIONAL PATHOLOGY TESTING

This matter came before the Court on the Motion of Defendant John Crane Inc. pursuant to South Carolina Standing Discovery and Scheduling Order, at Ex. 6, file-stamped 6/25/2015, for an Order permitting JCI to have performed by an expert of their choosing a fiber burden analysis on the available lung tissue of Curtis Bolton. Plaintiffs have now consented to an Order granting JCI's Motion.

JCI seeks to perform a fiber burden analysis of Mr. Bolton's available lung tissue in connection with Plaintiff's claim that his mesothelioma was caused by his alleged exposure to the asbestos-containing products manufactured, sold, or supplied by Defendants, among others. The South Carolina Standing Discovery and Scheduling Order (at Ex. 6) envisions that parties will be allowed to undertake the tissue examination requested.

The testing is directly relevant to Plaintiff's claims and JCI's defenses in this matter. Plaintiff claims that Mr. Bolton's mesothelioma was caused by JCI's products, which allegedly contained chrysotile asbestos fibers. JCI denies such allegations and contends that Mr. Bolton's mesothelioma was instead caused by his exposure to products containing amphibole asbestos fibers. A fiber burden analysis will reveal what type of asbestos fibers, if any, were present in Mr. Bolton's lung tissue at the time of his death. JCI asserts that they are

entitled to perform such testing to explore all possible defenses to Plaintiff's claims, including evidence of Mr. Bolton's other exposures to asbestos and alternative theories of causation.

It is clear that there is ample lung tissue available to perform the requested testing. JCI's expert will only require a small fraction of the available lung tissue to perform the fiber burden analysis. The requested testing will not prevent Plaintiff's experts from performing their own fiber burden analysis, should they choose to do so. As a result, JCI's testing will not cause any prejudice to Plaintiff.

JCI will be prejudiced if it is not permitted to perform a fiber burden analysis in this matter. The requested testing is critical to support JCI's defenses in this matter and in ascertaining the truth. Fiber burden studies on lung tissue are widely used throughout the United States and the world to determine an individual's occupational exposure to asbestos and any relationship between that exposure and the individual's alleged disease. If JCI is not permitted to perform the testing on Mr. Bolton's tissue, the evidence presented to the jury at trial in this case would be incomplete.

IT IS THEREFORE ORDERED,

1) JCI's Motion to perform a fiber burden analysis on the available lung tissue of Plaintiff's decedent is GRANTED.

2) Plaintiffs and JCI will work together to agree on a written protocol for the division of the tissue.

3) Plaintiff will produce to JCI's counsel pathology currently in their possession pursuant to the agreed upon written protocol for the division of tissue within 10 days of agreement on a written protocol, and will produce to JCI's counsel any other pathology including that held by the University of North Carolina Hospitals, and any other providers,

pursuant to the agreed upon written protocol for the division of tissue within 10 days of their receipt.

4) If parties cannot timely agree on a written protocol they may contact the Court to schedule a hearing on the outstanding issues.

IT IS SO ORDERED.

WE CONSENT:

SIMON GREENSTONE PANATIER, PC

s. Sean Kerley  
Sean Kerley  
1201 Elm Street, Suite 3400  
Dallas, Texas 75270

AND

KASSELL MCVEY ATTORNEYS AT LAW

Theile B. McVey (SC Bar 16692)  
1330 Laurel Street  
Columbia, SC 290202

ATTORNEYS FOR PLAINTIFF

WE CONSENT:

RICHARDSON PLOWDEN & ROBINSON, P.A.

/s James H. Elliott, Jr.

James H. Elliott, Jr. (SC Bar # 7034)  
235 McGrath Darby Blvd., suite 100  
Mt. Pleasant, SC 29464

ATTORNEYS FOR JOHN CRANE INC.



## Spartanburg Common Pleas

**Case Caption:** Curtis Bolton , plaintiff, et al VS 3M , defendant, et al

**Case Number:** 2021CP4202480

**Type:** Order/Consent Order

So Ordered

Jean H. Toal