



OHIO BUILDING ENVIRONMENT REPORT

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Regulators' Environmental Panel

BECO held a panel discussion during its October 2006, conference. The discussion, moderated by David Gandee, Gandee & Associates, Inc. (Moderator), was about the various environmental issues affecting us today. The panelists were: Tom Buchan, Sarah Gostomsky and Kelli Steward, Ohio EPA (EPA); Mark Needum, Ohio Department of Health (ODH); David G. Cox, Lane, Alton & Horst (Attorney); and Joel Hogue, Elemental Services & Consulting (Hg Cons.). The topics for discussion were questions generated from the audience.

The following is a list of questions posed and a summary of answers provided during the panel discussion. If, after reading this article, panelists find any errors, omissions, or misunderstandings, we ask that BECO be contacted so that these issues can be corrected in a subsequent BECO Report.

The following questions were asked and addressed:

- 1. Question:** What are the regulatory requirements for submittal of notifications when multiple houses/buildings are being demolished/renovated for a single purpose?

ODH: If the entire project is on a single site then only 1 notification is required for all houses/buildings located on that site; note, however, that a single site is defined by the installation or presence of fencing around the entire site. This does allow work in multiple houses/buildings on a single site to be controlled by a one asbestos hazard abatement specialist. The following examples of how this issue is being handled were presented: Ohio State University campus is not considered one site; and General Electric's buildings at a single factory are considered one site. ODH indicated that if anyone would like to request a variance to this interpretation, they should request, in writing, that the interpretation be reviewed by offering arguments against the current interpretation.

EPA: The definition of installation is the determining factor for whether or not multiple notifications would be required. In most cases, if work to be completed is in a group of buildings on a single site then only one notification is necessary. Contractors submitting a single notification for multiple houses/buildings on a single installation should list addresses of buildings included in the scope of work. If there is any question whether or not multiple notifications would be required, it is recommended that the local EPA office be contacted for guidance.
- 2. Question:** If a gypsum board system has two separate layers of joint compound, should those two layers be analyzed separately?

EPA: Since wallboard and joint compound need not be separated by layer then the two layers of joint compound need not be separated. Upon being asked for a clarification, EPA noted that the guidance regarding sampling of joint compound applies to all wallboard systems and not just gypsum board systems.

ODH: Since OSHA requires that the multiple layers found in any building material be analyzed separately, ODH would also require that the individual layers be analyzed separately since ODH follows the most stringent regulatory requirements in each situation. ODH noted that this interpretation would apply even if the work is being

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From the President



Current President James Prarat passes the gavel to new President Wayne Ingram.

My 2 years as President of BECO have come to an end. I want to thank all of BECO's officers, Trustees, and all of our members for your contributions and participation that have helped BECO to continue to be a viable and valuable organization. And I want to give special thanks to Dave and Kim Corey, whose help has been invaluable in managing and coordinating everything that is BECO, and I know that we wouldn't be where we are today without their skillful and dedicated input. I think that we have evolved and adapted well over that past 2 years, and I can assure you that the positive developments will continue under the leadership of the incoming President, Wayne Ingram. Wayne has been a source of tremendous energy and great effort as a Trustee for the

past several years, and I'm sure that such contributions will continue under his Presidency for the next 2 years.

And let me give you one last reminder of the BECO-related activities that are available to all members, and I will continue to urge all BECO members to maximize your participation in the following:

- 1) contribute to the newsletter** — Just fax or email your contributions or suggestions to Kim Corey at 614-784-9771 or kcorey@osca.net.
 - 2) attend the Regional meeting** — we have 2 per year in the NE Region (January and July), and 1 per year in the Central, SE and NW Regions. You are encouraged to bring a guest, so join us if you haven't already. Contact Kim at 614-784-9772 for more information.
 - 3) attend the Fall Conference** — our recent Fall Conference this past October 25-26 in Columbus was, in my humble opinion, a great success. The 2007 Fall Conference is already being planned, and more information will be coming to you soon.
 - 4) participate in a BECO Board meeting or on a Committee** — do you have anything that you wish to communicate to the Board? We welcome your comments, and all members are welcome to join in our Board meetings. Kim will be more than happy to provide you with dates and times at your request.
- If you feel that there is any type of service that BECO could offer to its members, or could improve on, please let us know. Do you know of a new topic that you feel that BECO should branch into? Let us know. Refer to the Board member list on the back page, and feel free to contact us with your questions, comments, or ideas. Enjoy the newsletter.



Wayne Ingram presents a certificate of appreciation to James Prarat.

James Prarat

James Prarat, President
BECO

Reflections on the 2006 Annual Conference

by Robert J. Repas

Without reservations, the BECO 2006 Annual Conference and Business Meeting was a resounding success. It had good food, excellent networking and camaraderie-building activities, outstanding technical presentations, good food, dedicated speakers and one of the most impressive product demonstrations I have seen in quite a while. And, oh, did I mention good food?

Seriously, though, the conference had something for everyone.

The conference technical sessions were opened Wednesday evening with an interest catching presentation on Meth Lab clean-ups by Dr. Michael Pinto, CEO of Wonder Maker Environmental, Inc. of Kalamazoo, Michigan. Dr. Pinto is one of the most prolific authors on environmental subjects such as lead, asbestos, mold, etc. I have read in my 20-plus years in the business. Dr. Pinto's presentation included actual meth lab clean-ups with special emphasis on contamination clean-up after the gross chemicals were removed. My first thought was to contact my local law enforcement agencies to see if they were truly doing a good job with this issue.

Dr. Pinto followed the Meth lab session with a brief but comprehensive session on the latest developments in the mold industry.

I very seldom give accolades, but judging from these presentations, if you are in need of an expert on these subjects Dr. Pinto is the man to contact. He can be reached at 269.382.4154 or map@wondermakers.com.

The second presenter on Wednesday evening was Dan Chatfield from the Clark County Ohio, Department of Health. Dan shared some actual lead case studies from his records that renewed my faith in local government enforcement of lead regulations. Would you believe the Clark County Health Department arrested and prosecuted landlords for lead violations? Some people have all the fun!

Did I mention food? The reception, hosted by TSI and Team Environmental, following Dan's presentation was where it began. I and others had a chance to renew old acquaintances, enjoy a good drink, an excellent buffet and just generally relax.

The Thursday activities started early with the general membership meeting, a necessary but blah activity.

The first presentation of the day was by Mark Needham and Josh Koch of the Ohio Department of Health. They made a detailed presentation on the upcoming electronic external prior notification process. This new notification process will be available to users of

the Environmental Abatement and Licensing System. The latest word from Mark puts the fully implemented date around the middle of January, 2007.

Joel Hogue, Executive Director of The Ohio Spill Planning, Prevention and Emergency Response Association, followed with a factual presentation of Mercury Spill Cleanups. Joel gave us a little basic background information then followed up with actual case studies. I was especially impressed with the scope of contamination possible from a very minor mercury spill. Remember mercury encompasses both environmental regulatory violations and effects on human health and safety. Here, too, I found an expert I would not hesitate to contact when I need mercury-specific guidance.

Joel can be reached at OSPPERA, P.O. Box 1045, Columbus, Ohio 43026-1045; (614) 554-0437; or e-mail: joelhogue@osppera.org.

Our third Thursday presentation included a practical demonstration. "Mold Remediation Using Dry Ice Blast Cleaning Method" was the subject. It was presented by Bryan T. Fischer of Continental Carbonic, the manufacturer of the dry ice blasting medium.

Following Brian's oral presentation, we adjourned to the parking lot where Fred Chenault, Operations Manager for Servpro of Springfield/Champaign County, had set up some dry ice blasting equipment. Fred invited us to try a hands-on experience using the equipment to remove black paint sprayed on 2 x 4 timbers. I tried it. It was effective, but truthfully I was having more fun than anything else. This system seems to have intelligent answers to many of the mold remediation problems. Mr. Fischer had a brochure on the process available which included a CD. For me, this is must research. Mr. Fischer can be reached at 513.674.1300 or bfischer@continentalcarbonic.com. Mr. Chenault would be the guy I would contact for practical advice as well as actual service. He can be reached at 888.333.7814.

Did I mention food? Our second encounter with the comestibles was at lunch. We had a speaker here, too. Mark Perkins, Vice President of Sheehan Hutchinson Keenan of Dublin, Ohio covered insurance issues incidental to our business. If any of our presenters could be accused of covering their topic from A to Z, Mark is guilty. His presentation reinforced some issues I have only given lip service to before but he has the knack of tying everything together. If you have questions on insurance issues, you could do no better than to contact Mr. Perkins. He can be reached at 614.784.7000 or mperkins@shkins.com.

Had enough? Wait, there's more!

Nanotechnology: What is it and why should you care? This was the subject of Dr. Charles Geraci's presentation. Dr. Geraci is the Chief of the Document Development Branch,

Education and Information Division of NIOSH in Cincinnati, Ohio. I must admit this is a new subject for me and in spite of my best effort to get some beforehand information on nanotechnology, I was not prepared for the sheer scope of this presentation.

Although nanotechnology research and applications are in their infancy, some of the pluses and negatives have been identified but not yet thoroughly researched. However, all the experts I have read so far concurred with Dr. Geraci's assertion that this is the latest and most promising scientific breakthrough of our times. There will be a lot of "gee whizzes" and "no sh-ts" connected with the NT future. If you are a knowledge-weenie like I am, go to www.cdc.gov/niosh/topics/nanotech. You won't be disappointed. For a more personal touch, contact Dr. Geraci direct. He can be reached at 513.523.8339 or cgeraci@cdc.gov.

David Cox, consul with the legal firm of Lane, Alton and Horst of Columbus, Ohio, brought me back down to earth with the next presentation. Thankfully, it was something I could fully understand and appreciate. Dave's topic was "Recent Developments in Mercury and Lead Abatement." Dave has been asked to develop an article on this subject for publication in the newsletter, so I will not try to duplicate his effort, however should you have legal concerns about environmental issues, do not hesitate to contact him. He can be reached at 614.233.4850 or dcox@lah4law.com.

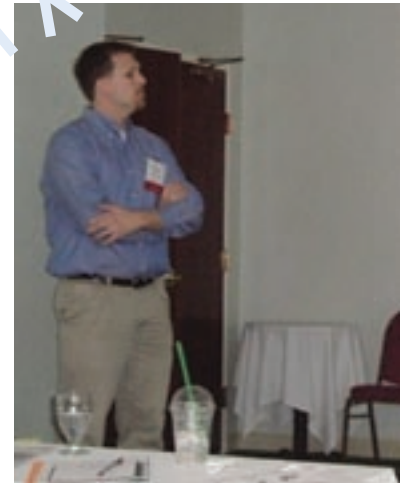
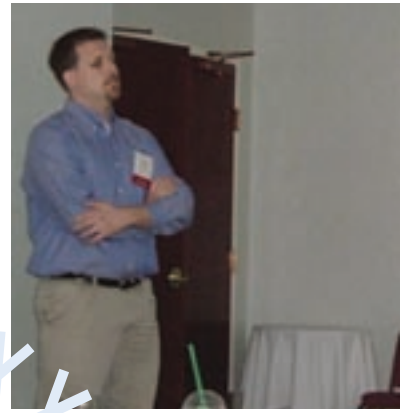
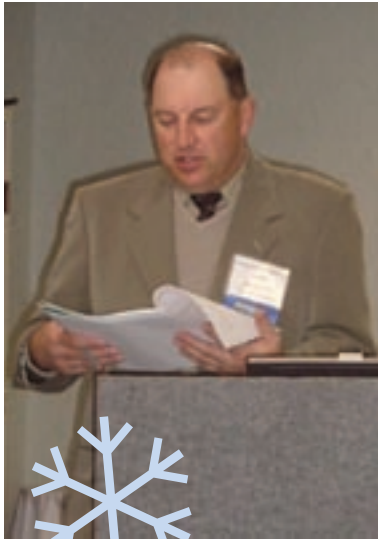
And finally, the "pièce de résistance." The inimical "Regulator's Panel," where we conference attendees get a chance to pose our favorite questions to a panel of experts made up of the regulators we do business with on a day-to-day schedule.

As ever, panel moderator Dave Gandee, did his best to stir things up. He was ably assisted by panel members Josh Koch, Mark Needham, Tom Buchan, Gary Cox, Joel Hogue, Sarah Gostowsky and Kellie Steward. Needless to say, this "back and forth" was lively, spirited and very informative.

To summarize, if you did not attend the 2006 conference, you missed a wonderful opportunity to grow personally and professionally. But don't lose heart! We are planning to do it again in 2007. See you there!



Moments from the 2006 BECO Fall Conference



held October 25 & 26, 2006 in Columbus, Ohio



Solving the IAQ Crisis in US Schools

Reprinted with permission from Aerotech P&K

Within the United States there are approximately 120,000 schools where more than 53 million children and 6 million adults are in attendance every day. Many of these schools contain environmental hazards that may pose risks to the occupants including flaking lead paints, chemical releases, mold and other indoor air quality problems, pesticide exposures and asbestos-containing materials. The U.S. Environmental Protection Agency (EPA) has developed two unique tools to help school districts manage and evaluate such issues. The IAQ Tools for Schools Kit (IAQ TfS) and the Healthy School Environments

Assessment Tool (HealthySEAT) are both designed to be customized and used by district level staff to conduct voluntary self-assessments of their schools and other facilities. In doing so, they have the ability

to track down and manage environmental conditions building by building. Failure to address the IAQ and environmental problems in schools can lead to an increase in long term and short term health problems, increased absenteeism for students and staff, reduced productivity of students and staff, potential liability problems and accelerated deterioration of the facilities.

IAQ Tools for Schools Kit

A report by the U.S. Government Accounting Office in 1995 indicated that over half of our schools have a problem that affects indoor air quality. In response, the EPA developed the TfS Kit, which shows schools how to carry out a practical plan to manage and improve indoor air problems at little or no cost. The kit includes items such as a school walk-through video, an IAQ reference guide, checklists for staff, a problem solving wheel, and much more. In using these tools, faculty and staff can

learn the importance of indoor air quality, what the industry guidelines are, sampling policies, and procedures for best practices. There are also basic guidelines the EPA recommends for school districts that include the use of the Tools for Schools kit in addition to ensuring there is an adequate amount of outdoor air being supplied indoors, testing for radon, separating students and staff from construction/renovation areas, reducing the use of products such as pesticides and adhesives, and maintaining relative humidity indoors at a level below 60%. The EPA Tools for Schools kit can be ordered at no charge online at <http://www.epa.gov/iaq/schools/index.html> or by calling the U.S. EPA National Service Center for Environmental Publications at 800-490-9198.

Healthy Schools Environments Assessment Tool (HealthySEAT)

The EPA has developed this software tool to help school districts manage their facilities for environmental, health and safety issues along with indoor air quality. HealthySEAT is free of charge and intended to be downloaded onto district computers and customized for each facility as the staff sees fit. This program will help districts collect school and hazard specific data necessary for obtaining monies for needed repair, renovation and maintenance and demonstrate to the community that the district is committed to the health and safety of the staff and students. Doing this will help the school identify and correct hazards before they result in issues within the facilities or cause a potential health concern. With the download for this program, the user will get the HealthySEAT User's Manual, which features step by step instructions for customizing and using the program, and the software which includes a customizable checklist and guidebook. HealthySEAT is designed to be fully customized, but includes a checklist organized by the physical areas of the schools to be assessed, the issue-specific topics and sub-topics for each school, and specific assessment actions. Some topics covered in the checklist are chemical management, energy efficiency, hazardous materials and waste, indoor air quality, moisture/mold control, pest control and water quality. For more information on

the HealthySEAT program or to download the software, visit the EPA website at www.epa.gov/schools.

Who is using these programs?

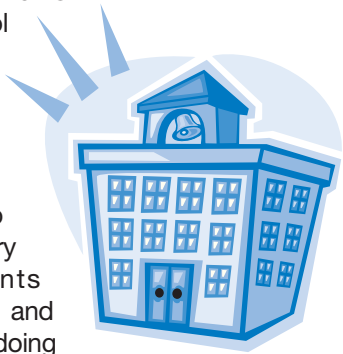
Utilization of these programs is voluntary and can be modified depending on the school's needs or desires. Any information gathered from them is for the benefit and use of the local district and schools for the betterment of their facilities. The EPA does not require retention or submission of any information gathered, and the EPA has no regulatory or enforcement authority regarding general indoor air quality but hopes that the school districts find these easy to use and maintain. Several districts across the country are reaping the benefits of improved IAQ by implementing the TfS program. According to research published in Environmental Health Perspectives, the programs have led to improved workplace satisfaction, and a decrease in asthma attacks, school nurse visits, and absenteeism.

Since 2000 the EPA has been recognizing schools and school districts that have implemented comprehensive and sustainable IAQ management plans with the IAQ TfS Awards Program. During the years of the Awards Program, over 100 U.S. schools and U.S. school districts have been recognized of their dedication and successes to improve IAQ and health related problems. The HealthySEAT program is relatively new but several organizations helped with the developmental phases and provided the EPA with extremely valuable input in this process.

Aerotech P&K is committed to assisting schools and the industries that help support these programs through educational programs, analytical services, and the sale of related IAQ products. For more information, call Aerotech P&K at 800-651-4802, or visit www.aerotechpk.com.

References:

- Moglia, et.al. Prevalence and Implementation of IAQ Programs in U.S. Schools, Environmental Health Perspectives, Volume 114, Number 1, January 2006.
- U.S. Environmental Protection Agency, IAQ Tools for Schools (IAQ TfS) Program, (www.epa.gov/iaq/schools/index.html).



Press Release

Source: Levy Phillips & Konigsberg, LLP

Nation's First Industrial Talc/ Asbestos Verdict

Thursday November 16, 4:41 pm ET

Mineral Used In Ceramics, Paint, Other Manufacturing Caused Harvard Graduate / Pottery Artisan's Mesothelioma Death; R.T. Vanderbilt Company, Incorporated, ("Vanderbilt") Manufacturer Of The Industrial Talc, And Hammill & Gillespie, Inc., Distributor, Must Pay Compensatory Damages, Jury Finds

Toxic Tort Law Firm Levy Phillips & Konigsberg, LLP, Seeks Punitive Damages When Trial's Second Phase Begins November 28th

NEW BRUNSWICK, N.J., Nov. 16 /PRNewswire/ — Industrial talc, an open-pit-mined mineral used in ceramic, paint, and paper manufacturing contains lethal, cancer-causing asbestos fibers responsible for a pottery artisan's fatal mesothelioma, a jury ruled today in the first-ever U.S. verdict connecting industrial talc with asbestos-related cancer, the national toxic tort law firm Levy Phillips & Konigsberg, LLP announced.

More than \$3 million in compensatory damages were awarded by a Middlesex County Superior Court jury to a New Jersey widow whose husband operated pottery studios in Skillman, Lawrenceville and

Lambertville, New Jersey before contracting the agonizingly painful, always fatal disease.

After a four-week trial the four-woman, two-man jury rejected claims by R.T. Vanderbilt, Incorporated ("Vanderbilt") that talc from its New York State mines contained fibers that may have looked similar to but were not a lethal form of asbestos, a position that the company has maintained for decades. Hammill & Gillespie, Inc., which sold the industrial talc, was also found liable.

In the next phase of the trial, punitive damages will be sought against the defendants. It is scheduled to begin November 28 before the Hon. Ann G. McCormick, according to Attorney Moshe Maimon, Esq., of Levy Phillips & Konigsberg, LLP who represents the estate of pottery artisan Peter Stanley Hirsch.

An active outdoorsman who enjoyed rock climbing, mountain climbing, hiking, sailing and skiing before contracting mesothelioma, Hirsch attended Princeton High School before graduating from Harvard University in 1972 with a degree in Engineering and Applied Physics. Hirsch built the first pottery kiln at Harvard in 1970, as part of an extra-curricular program.

After three years of marketing for a high-tech Princeton-based company, Hirsch started "Rock Brook Pottery," first in Lawrenceville, then in Skillman and finally at the Lace Works on N.J. Route 29 in Lambertville. After Hirsch closed the Lambertville studio in 1982 he worked in marketing/sales for three other Princeton-area high-tech firms, then as a self-employed organizational and marketing consultant until he

(continued on back page)

Regulators' Environmental Panel *(continued from page 1)*

completed for demolition purposes; ODH confirmed that, while they do not regulate demolition work, they do regulate removal of asbestos-containing waste from a site following demolition activities.

3. Question: How should gypsum board joint compound be measured for purposes of meeting notification requirements?

EPA: Even though a member of the audience indicated that they had heard about a formula that could be used for determining quantity of joint compound, EPA noted no such knowledge of this formula; therefore, the entire system should be measured unless there is clear evidence as to quantity of joint compound itself. Audience was reminded that Montgomery County office has their own regulations which are in some ways more stringent than Ohio and U.S. EPA requirements; one such requirement is that a notification must be submitted for any project where quantity of materials to be removed exceeds 50 square or 50 linear feet.

ODH: In most cases, the entire wall system should be measured since there is no way to measure the actual square footage of joint compound when painted (actual width of compounds, presence of nails, etc.).

4. Question: Does Ohio EPA require that dirt crawl spaces be sampled for purposes of determining asbestos content and, if so, where does this requirement come from?

Moderator: EPA addressed this issue at the November 2004, BECO Conference. EPA not only stated that soil sampling was required but also offered guidance on how this sampling could be performed (e.g., sampling at a depth of ½ to 1 inch, using a sampling strategy similar to the simplified method).

EPA: Soil needs to be sampled to determine its asbestos content. EPA recommended that one refer to their decision tree for the requirement to determine if soil is contaminated. Contamination exists if soil's asbestos content exceeds the background standard. In the absence

of a comparable standard, if the soil is determined to be contaminated with materials containing more than 1% asbestos then the soil should be treated as an asbestos-containing material.

5. Question: Can carpet contaminated with mercury be decontaminated by simply hanging the carpet outside?

Hg Cons.: Since carpet fibers hold mercury, in most cases it would be much cheaper to simply replace the carpet than to spend the time decontaminating it. That being said, if it is an expensive rug or one that holds some sentimental value, it can probably be decontaminated after a lot of work. Additionally, the carpet should be properly vacuumed multiple times before removing the carpet from the building to prevent spreading the contamination to other areas.

6. Question: If a person's training certificate has expired but their ODH license is still current, can that person work on a project?

ODH: Yes; however, while only the card needs to be current under ODH regulations, OSHA regulations would require that the certificate be current.

EPA: The training certificate has to be current in order to work on a project. Note that NESHAP regulations only require that training be repeated every 2 years, while AHERA regulations require that this training be repeated yearly.

7. Question: Can EPA or ODH issue a citation against a contractor if there is no proof of a violation?

ODH & EPA: Both agencies indicated that they could not issue a citation due to burden of proof. They may simply write a letter to a contractor indicating that they have been informed that regulations were not being followed and let them know that they expect regulations to be followed.

EPA: EPA reported that they receive a lot of phone calls from Contractors reporting incidents where their peers are breaking the rules and regulations.

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Nation's First Industrial Talc/Asbestos Verdict

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was no longer able work, according to court documents and testimony.

Hirsch's exposure to asbestos-contaminated industrial talc occurred during the seven years he operated pottery studios, personally mixing glazes containing Vanderbilt's NYTAL® 100 industrial talc purchased from Hammill & Gillespie, Inc., Livingston, New Jersey, among other sources. Hirsch purchased NYTAL® 100 talc in 50-to-100-pound bags during this period. Each time he opened a bag of Vanderbilt talc, scooped or poured out contents it generated very fine dust that was suspended in the air until it landed on the floor or Hirsch's clothes, Maimon said.

"This first-ever U.S. verdict finally and decisively — proves that industrial talc from Vanderbilt's New York State mines contains lethal asbestos fibers. New Jersey jurors have sent out a powerful, clear message to Vanderbilt and other companies that mine, mill or market industrial talc. Not only must their own workers be protected from lung disease, end users and others who come into contact with the product must be warned properly of the carcinogenic fibers lurking in this dusty powder used in so many manufacturing applications," Maimon said.

"Vanderbilt should immediately edit its Web site and printed materials to eliminate its claim that New York State industrial talc is safe and has no carcinogenic effects," Maimon added.

In addition to Maimon, Carmen Victoria St. George, Esq., of Levy Phillips & Konigsberg, LLP, and Arnold Lakind, Esq., of Szaferman, Lakind, Blumstein, Blader & Lehmann, P.C., Lawrenceville, New Jersey, represent the plaintiff.

SUPERIOR COURT OF NEW JERSEY — LAW DIVISION: MIDDLESEX COUNTY DOCKET NO: MID-L-2706-03AS; BONNIE L. PARKER, individually and as Executrix and the Executrix ad Prosequendum of the ESTATE OF PETER STANLEY HIRSCH VS R.T. VANDERBILT COMPANY, INC, ET AL.



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