

# INSTRUCTIONS FOR FILING A CLAIM WITH THE FULLER-AUSTIN ASBESTOS SETTLEMENT TRUST

## GENERAL INSTRUCTIONS

The Fuller-Austin Asbestos Settlement Trust (“FAST”) was established as a result of the bankruptcy and reorganization of the Fuller-Austin Insulation Company (“Fuller-Austin”). FAST is organized to provide prompt determination and payment of Asbestos Claims and Demands in accordance with claim resolution procedures (the “CRP”) approved by the District Court in Delaware.

FAST will pay claimants who have established (i) their exposure to asbestos containing products sold, installed or removed by Fuller-Austin Insulation Company (“FA ACM”) and (ii) the existence of an asbestos-related disease. If a claimant has established Fuller-Austin exposure, FAST will review the claimant’s medical information to determine the compensable disease, if any, for which the claimant qualifies under the Claims Resolution Procedures (the “CRP”).

These Instructions for Filing a Claim with the Fuller-Austin Asbestos Settlement Trust (the “Instructions”) were drafted to supplement the instructions resident in the Claim Form and assist attorneys and pro se claimants in properly filing a claim with FAST. The Instructions are not intended to modify, amend, supplant or contradict anything in the current version of the CRP.

### Who may Submit Claims?

Licensed attorneys may submit Claim Forms on behalf of their clients either in paper format or in electronic format. To submit Claim Forms, attorneys must first complete the Law Firm Registration process. Attorneys may request a Law Firm Registration Form from the FAST claims professional named in the Contact Us section of these Instructions. After the Law Firm Registration has been completed by the attorney and verified by FAST, the attorney will be able to set up additional attorneys and contacts for the firm. To identify the filing law firm, the law firm will select the attorney and the contact for each claim filed. The paper form may be copied for use on behalf of additional claimants.

*Pro Se* claimants (or the representatives of such claimants) are not required to complete a Registration Form. *Pro Se* claimants must complete a paper claim form. Electronic filing is not available for *Pro Se* claimants. The heading of the claim form for *Pro Se* claimants will include the words “Pro Se Only”. This Pro Se Only Claim Form may be obtained upon written request to the FAST claims professional named in the Contact Us section of these Instructions. See page 11. Certain sections of these Instructions are not applicable for *Pro Se* claimants. These are noted as follows: “*Not Applicable for Pro Se Claimants*”. *Pro Se* claimants should ignore these inapplicable sections of the Instructions.

### What Form Should I Use?

Attorneys who have completed the Law Firm Registration and who represent claimants suffering from an asbestos-related disease as a result of exposure to FA ACM should use the FAST Claim Form. The *Pro Se* claimants suffering from an asbestos-related disease as a result of exposure to FA ACM should use the FAST Claim Form-Pro Se Only.

An Injured Party **must submit** the appropriate, fully completed Claim Form, including all supporting information referenced in the form. Any Claim Form that is not complete when filed, or is missing any of the required supporting information, will be deficient and subject to rejection/disallowance unless the deficiency is cured. The party submitting a Claim Form will be given notice of any deficiency by FAST and an opportunity to cure such deficiency.

### Whom Do I Contact for Assistance?

For a complete list of contacts, with telephone numbers and e-mail addresses, see the Contact Us section of these Instructions on page 11.

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## How to Qualify for a Settlement Offer:

To qualify for a valid bodily injury claim, an Injured Party **must provide**:

- a completed Claim Form; accompanied by
- supporting medical evidence diagnosing the Injured Party with a compensable asbestos-related disease in accordance with Section 4.3.c Categorization Criteria of the FAST CRP;
- exposure evidence supporting the Injured Party's exposure to FA ACM in accordance with Section 4.3.c Categorization Criteria of the FAST CRP; and
- any other supporting documentation indicated in these Claim Form Instructions.

## DETAILED INSTRUCTIONS FOR COMPLETION OF CLAIM FORM

### Claim Form - Part 1: INJURED PARTY INFORMATION

#### Section 1.1:

Provide the name, Social Security Number, mailing address, Date of Birth and daytime phone number of the Injured Party for whom the claim is being filed.

#### Section 1.2:

Indicate whether the Injured Party is living by checking Yes or No. If the Injured Party is not living, provide the Injured Party's Date of Death. The death certificate must be provided if the Injured Party is deceased.

#### Section 1.4:

If the Injured Party or the Injured Party's estate or heirs has a representative (the "Claimant Representative"), provide the Claimant Representative's name, address, capacity (Executor, Attorney-in-Fact, Guardian, etc.), and relationship (Spouse, Child) along with documentation that grants the Claimant Representative the authority to act on behalf of the Injured Party. This information must be provided even if the Claim Form is submitted by an attorney who has completed the Law Firm Registration.

### Claim Form - Part 2: ASBESTOS LITIGATION

Complete Sections 2.1 through 2.5 **only** if an asbestos personal injury lawsuit has been filed on behalf of the Injured Party or the estate or heirs of the Injured Party. Please note that for your claim to be evaluated by FAST, (i) Fuller-Austin and/or DynCorp must have been dismissed or non-suited in all lawsuits in which the Injured Party for whom this claim is filed is the source of the alleged damage or loss suffered by the Plaintiff in a related lawsuit (such as loss of consortium filed by a spouse) and (ii) no action shall be taken subsequently against Fuller-Austin, DynCorp or the Fuller-Austin Asbestos Settlement Trust other than as provided by the Plan of Reorganization and the Order Confirming the Plan of Reorganization.

This Asbestos Litigation information is important for properly determining the tolling period for the applicable Statute of Limitations.

#### Section 2.1:

Indicate whether a lawsuit has ever been filed on behalf of the Injured Party by checking Yes or No.

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## Section 2.2:

Indicate whether Fuller-Austin Insulation Company or DynCorp was named as a defendant by checking Yes or No.

## Section 2.3:

Provide the court, state and date filed for the lawsuit.

## Section 2.4:

Indicate the current status of the lawsuit by checking Pending, Judgment, Dismissed or Settled.

## Section 2.5:

Indicate whether Fuller-Austin Insulation Company or DynCorp has been dismissed or non-suited in all lawsuits in which the Injured Party for whom this claim is filed is the source of the alleged damage or loss suffered by the Plaintiff in a related lawsuit (such as loss of consortium by a spouse) by checking Yes or No.

## **EVIDENCE REQUIRED TO ESTABLISH A COMPENSABLE ASBESTOS-RELATED DISEASE**

### **Claim Form - Part 3: MEDICAL HISTORY**

#### Section 3.1:

Provide the earliest date of diagnosis for each disease claimed. The required medical documentation for each disease claimed must be provided, including the first and all subsequent diagnoses and the first and all subsequent reports of x-rays, CT scans, HRCT scans and/or pathological evidence.

**To receive an offer for one of the five asbestos-related disease categories listed below, a claim must provide evidence of exposure to asbestos-containing material sold, installed or removed by Fuller-Austin and must satisfy the applicable following criteria:**

#### **Medical Criteria**

##### **Category I: Pleural Disease**

1. The injured party must document pleural disease (bilateral plaques or thickening) or unilateral diaphragmatic plaque diagnosed on the basis of x-ray, CT scan, HRCT scan or pathological evidence; and
2. The proof of claim must establish a 10-year latency period between the date of first exposure to asbestos and the date of diagnosis.

##### **Category II: Asbestosis**

1. The injured party must submit a diagnosis of asbestosis by a medical doctor; and
2. The injured party must submit a medical report stating that a causal relationship exists between asbestos exposure and the asbestosis; and
3. The proof of claim must establish a 10-year latency period between the date of first exposure to asbestos and the date of diagnosis of asbestosis.

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## Category III: Other Cancers

1. Injured party must demonstrate by medical report the existence of primary asbestos-related cancer of the following sites:
  - a. Colo-rectal;
  - b. Laryngeal;
  - c. Esophageal; or
  - d. Pharyngeal; and
2. The injured party must demonstrate by medical report the existence of one of the following:
  - a. Bilateral interstitial lung disease;
  - b. Bilateral pleural disease (thickening or plaques) or unilateral diaphragmatic plaque, or
  - c. Pathological evidence of asbestosis; and
3. The proof of claim must establish a 10-year latency period between the date of the first exposure to asbestos and the date of diagnosis of the cancer.

## Category IV: Lung Cancers

1. The injured party must demonstrate by medical report the existence of primary asbestos related cancer of the lung; and
2. The proof of claim must establish a 10-year latency period between the date of the first exposure to asbestos and the date of diagnosis of the cancer.

## Category V: Malignant Mesothelioma

1. The injured party must demonstrate by medical report the existence of malignant Mesothelioma; and
2. The proof of claim must establish a 10-year latency period between the date of the first exposure to asbestos and the date of diagnosis of the cancer.

### Section 3.2:

Indicate the Injured Party's smoking and/or tobacco history by checking Currently Smokes, Formerly Smoked or Never Smoked.

### **EVIDENCE REQUIRED TO ESTABLISH EXPOSURE TO ASBESTOS:**

Exposure to FA ACM must be established by deposition testimony, invoices, affidavits, or other credible evidence acceptable to the Trustees that a claimant worked at a particular facility or location within the time period in which FA ACM was present at such facility. The Trustees may consider other appropriate evidence of exposure and may establish appropriate alternative exposure criteria with the consent of the Trust Advisor and the Legal Representative

### **Claim Form - Part 4: OCCUPATIONAL EXPOSURE**

This part **must be completed** only if the Injured Party's asbestos-related disease is a result of direct exposure to FA ACM, as opposed to exposure through some other person. If the Injured Party's

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exposure is through another person, complete Part 5: EXPOSURE THROUGH AN OCCUPATIONALLY EXPOSED PERSON.

## **Exposure to FA ACM:**

### Section 4.1:

Indicate whether the Injured Party's only asbestos exposure was as an employee of Fuller-Austin Insulation Company by checking Yes or No.

### Section 4.2:

Indicate whether the Injured Party was exposure to FA ACM by checking Yes or No.

## **FA ACM Job Site Information:**

Complete Sections 4.3 through 4.8 for each site where the Injured Party was exposed to FA ACM. (For additional sites, photocopy page 3 of the claim form.)

### Section 4.3:

Provide the employer for which the Injured Party was employed while exposed to FA ACM.

### Section 4.4:

Provide the plant or site name, city and state at which the Injured Party was exposed to FA ACM.

### Section 4.5:

Provide the time period during which the Injured Party was exposed to FA ACM for the employer, site, occupation and industry claimed.

### Section 4.6:

Provide the occupation in which the Injured Party worked when exposed to FA ACM.

If the Injured Party's Fuller-Austin exposure to FA ACM is not typically associated with the occupation and industry claimed, describe how the Injured Party was exposed to FA ACM while working in the occupation and industry claimed.

### Section 4.7:

Provide the code for the industry in which the Injured Party worked when exposed to FA ACM. Refer to the industry codes listed on page 3 of the claim form. If "21 – Other" is chosen, a description of the industry **must be specified** in the space provided on the claim form.

### Section 4.8:

Indicate how closely the Injured Party worked with FA ACM by checking the appropriate box indicating he/she a) worked or resided in a building where FA ACM were previously installed, but not visible, b) worked in an area of a building where FA ACM were previously installed and visible, c) worked in a specific area where FA ACM were being installed or removed, or d) handled FA ACM.

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## Claim Form - Part 5: EXPOSURE THROUGH AN OCCUPATIONALLY EXPOSED PERSON

This part **must be completed** only if the Injured Party's asbestos-related disease is a result of exposure to FA ACM through an Occupationally Exposed Person ("OEP").

### Injured Party's FA ACM Exposure Through OEP:

#### Section 5.1.1:

Indicate whether the Injured Party is alleging their asbestos-related disease resulted solely from exposure to FA ACM through an OEP, such as a family member (spouse, father, sister, etc) by checking Yes or No.

#### Section 5.1.2:

Provide the Injured Party's date of first asbestos exposure, through the OEP, to FA ACM.

#### Section 5.1.3:

Provide the Injured Party's date of last asbestos exposure, through the OEP, to FA ACM.

#### Section 5.1.4:

Provide a description of the Injured Party's exposure to FA ACM through the OEP that is alleged to be the cause of the Injured Party's asbestos-related disease.

### OEP's FA ACM Exposure Information:

#### Section 5.2:

Provide the name of the OEP who exposed the Injured Party to FA ACM.

#### Section 5.3:

Provide the Social Security Number of the OEP.

#### Section 5.4:

Provide the employer for which the OEP was employed while exposed to FA ACM.

#### Section 5.5:

Provide the plant or site name, city and state at which the OEP was exposed to FA ACM.

#### Section 5.6:

Provide the time period during which the OEP was exposed to FA ACM for the employer, site, occupation and industry claimed.

#### Section 5.7:

Provide the occupation in which the OEP worked when exposed to FA ACM.

If the OEP's Fuller-Austin exposure to FA ACM is not typically associated with the occupation and industry claimed, describe how the OEP was exposed to FA ACM while working in the occupation and industry claimed.

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## Section 5.8:

Provide the code for the industry in which the OEP worked when exposed to FA ACM. Refer to the industry codes listed on page 4 of the claim form. If “21 – Other” is chosen, a description of the industry **must be specified** in the space provided on the claim form.

## Section 5.9:

Indicate how closely the OEP worked with FA ACM by checking the appropriate box indicating he/she a) worked or resided in a building where FA ACM were previously installed, but not visible, b) worked in an area of a building where FA ACM were previously installed and visible, c) worked in a specific area where FA ACM were being installed or removed, or d) handled FA ACM.

## **Claim Form – Part 6: CLAIM FORM CERTIFICATION**

### Section 6.1:

The following documents **must be provided** with the properly completed FAST claim form as detailed in other sections of these Instructions.

- Death Certificate (if applicable)
- Claimant Representative documents (if applicable)
- Medial documentation supporting the Injured Party’s asbestos-related disease(s)
- Exposure documentation supporting the Injured Party’s exposure to FA ACM

### Section 6.2:

The Injured Party, the Claimant Representative, or an Attorney, must execute the CLAIM FORM CERTIFICATION section.

Indicate the person who is certifying the claim form by checking The Injured Party or the Claimant Representative or the Attorney (if represented by an attorney). Complete the appropriate claim form certification. If the person filing this claim is a Pro Se claimant and not represented by an attorney who completed the Law Firm Registration, the proper claim form should not contain a section for an Attorney to certify the claim form.

## **Claim Form – Part 7: ATTORNEY CERTIFICATION AND WARRANTY OF CLAIMANT REPRESENTATIVE’S AUTHORITY (Not Applicable For Pro Se Claimants)**

This Part 7 is to be completed by an attorney who has completed the Law Firm Registration and submits a Claim Form on behalf of a Claimant Representative. If this Claim Form is not submitted by an attorney on behalf of a Claimant Representative, skip Part 7. If the person filing this claim is a *Pro Se* claimant and **not** represented by an attorney who completed the Law Firm Registration, the proper claim form should **not** contain Part 7: ATTORNEY CERTIFICATION AND WARRANTY OF CLAIMANT REPRESENTATIVE’S AUTHORITY.

An attorney who has completed the Law Firm Registration and submits a Claim Form on behalf of a Claimant Representative **must provide** evidence of the Claimant Representative’s authority to submit the Injured Party’s claim. Acceptable evidence of such authority is completion of this Part 7 or submission of the Affidavit & Indemnity Form described below. This section must be executed by the attorney filing the claim only if (i) the Injured Party has a Claimant Representative and (ii) the Affidavit & Indemnity or other underlying documents establishing the Claimant Representative’s capacity to submit the Injured Party’s claim is not submitted with the Claim Form.

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By executing this section, the attorney certifies and warrants that this claim is filed by the Claimant Representative on behalf of the Injured Party and that the Claimant Representative is authorized by law to file this claim on behalf of the Injured Party. By executing this certification and warranty, the attorney filing this claim assumes the legal responsibility to determine the Claimant Representative's authority to file this claim on behalf of the Injured Party.

Alternatively, if the attorney is unwilling to certify as to the Claimant Representative's authority, the Claimant Representative must complete the Affidavit & Indemnity Form.

### **AFFIDAVIT AND INDEMNITY FORM:**

An Affidavit and Indemnity Form may be used by an attorney representing a Claimant or by a Pro Se Claimant. For a deceased Injured Party, this Form may be used if the attorney does not wish to certify the Claim Form. This Form may also be used, by an attorney or Pro Se Claimant, if probate documentation is not available for the deceased Injured Party's estate. This Form can be obtained by calling one of the FAST staff listed in the Contact Us section below.

### **STATUTE OF LIMITATIONS**

#### **Pursuant to Section 1.4(d) of the Fuller-Austin Asbestos Settlement Trust's CRP:**

(d) All Asbestos Claims are subject to applicable statutes of limitation in effect at the Petition Date and to those matters which tolled applicable statutes of limitation under applicable state law at any time prior to the Petition Date. Applicable statutes of limitation with respect to Asbestos Claims that arose on or before the Petition Date are tolled as of the Petition Date and will recommence as to each claimant on June 13, 2000 (nine months after the date Claims Materials were first made available under Section 5.1). Applicable statutes of limitations with respect to Asbestos Claims that arose after the Petition Date but prior to Claims Materials first being made available under Section 5.1 are tolled until, and will recommence as to each claimant, on June 13, 2000. Notwithstanding the foregoing or any discovery period or tolling that would otherwise be applicable under the state law, and subject only to the tolling provided by the following provisions of this paragraph (d), any claim with respect to a Malignant Disease must be filed with the Trust on or before the third anniversary of the date of death. If a claimant timely files Claims Materials with the Trust and pays any applicable processing fee, applicable statutes of limitations as to such claimant's Asbestos Claim shall be tolled from the date of filing of such Claims Materials and payment of such fee until the earlier of (1) the date the Asbestos Claim has been withdrawn or is deemed to have been withdrawn pursuant to Section 6.5, or (2) ninety (90) days after the entry of a non-binding arbitration award as to the Asbestos Claim. As used in this paragraph (d), the term "Malignant Disease" shall mean claims for Malignant Mesothelioma (Level V), Lung Cancer (Level IV) and Other Cancers (Level III), all as described in Section 4.3(c). For purposes of the CRP, the term "statutes of limitations" includes prescription and similar provisions which prescribe or limit the time within which claims must be asserted. An Asbestos Claim shall be deemed to have arisen on the earlier of (1) the date of death of a Claimant with a Malignant Disease, if applicable, or (2) the date of the earliest document, diagnosis or medical report sufficient to satisfy the requirements of Section 4.3(c) with respect to such claim.

### **PAYMENTS**

Under the terms of the Fuller-Austin Bankruptcy Plan, FAST is obligated to pay the full Allowed Liquidated Value of each claim. However, due to the refusal of Fuller-Austin's historic insurers to honor their insuring obligations and the Allowed Liquidated Values, the Trust does not have sufficient assets at this time to pay in full the Allowed Liquidated Values of all present and future claims. Upon payment in full of all policy limits of Fuller-Austin's remaining historic insurers, the Trust may have sufficient assets to pay the full Allowed Liquidated Values, depending upon the actual number of future claims. The parties to Fuller-Austin's bankruptcy, including representatives of present and future asbestos claimants, understood that

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the Trust would initially be unable to pay the full Allowed Liquidated Value of all asbestos claims. The parties also recognized that bankruptcy law requires comparable treatment of all present and future claimants. To address these cash flow limitations, the CRP require that the Trustees periodically determine the percentage of Allowed Liquidated Values that can be paid to all present and future claimants and to limit Trust payments to this percentage. Therefore, while the Trust is liable today to pay claimants the full Allowed Liquidated Values of their claims, the limitations on its cash resources require that it can only pay a portion of this liability at the present time.

The Trustees expect that the Trust will continue to make additional payments to claimants over time and may eventually pay the full Allowed Liquidated Value of all claims. The Trustees expect that the Trust will receive additional assets with settlements or resolution of Fuller-Austin's insurance litigation (Fuller-Austin Insulation Co. v. Firemans' Fund, et. al.) and that the payment percentage will be increased if and when the insurance litigation produces such additional funds. If and when the Trustees increase the payment percentage, the Trust will make additional payments to those claimants who have already received payments under a lower payment percentage.

The results of the insurance litigation will influence the timing and amount of payments. The Trustees may need to defer some payments or make installment payments in response to temporary cash shortages.

## **SETTLEMENTS OFFERS BASED ON ALLOWED LIQUIDATED VALUES**

The Trust will offer to liquidate the value of each claim based on the Allowed Liquidated Values established by the CRP for each scheduled disease. These scheduled values were (i) established by the global settlement between present and future claimants, Fuller-Austin and DynCorp (ii) based on tort system values and represent equitable settlement values for most claims that meet the criteria of a corresponding Asbestos-Related Disease Category, and (iii) confirmed by the judgment of the District Court in the Order Confirming the Plan of Reorganization.

<u>Category</u>	<u>Disease</u>	<u>Allowed Liquidated Value</u>
I.	Pleural Disease	\$ 5,500
II.	Asbestosis	\$10,500
III.	Other Cancer	\$15,500
IV.	Lung Cancer	\$25,500
V.	Malignant Mesothelioma	\$58,500

The Allowed Liquidated Values have been adjusted quarterly, beginning January 1, 2008, based on the increase in the Consumer Price Index – All Cities ("CPI") for the previous calendar year. The adjustments are now calculated in January of each year using the CPI for the twelve month period ending the previous November 30. Such adjustments are subject to periodic review by the Trustees and may be terminated by the Trustees.

## **ELECTION OF PAYMENT**

When the Trust informs a claimant of its determination of the asbestos-related disease and makes its offer of the Scheduled Allowed Liquidated Value for that disease, the claimant can accept or appeal the offer. There is no deadline for the executed applicable release to be returned to the Trust.

Claimants who accept their offer will initially receive the portion of the Allowed Liquidated Value equal to the then current payment percentage and will later receive additional payments if and when the payment percentage is increased.

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## APPEAL OR REVIEW OF FAST EVALUATION OF A CLAIM

Claimants who reject the Trust's determination and who wish to dispute their eligibility for payment, disease categorization, or the amount of the Trust's offer, must initiate arbitration pursuant to procedures set forth in the CRP. Only after claimants have rejected a non-binding arbitration award may they file suit against the Trust. The Trustees shall have the right to establish, with the consent of the Trust Advisor and the Legal Representative, appropriate mediation procedures as a prior alternative to arbitration.

## RELEASES

A holder of an Asbestos Claim who receives a settlement offer for a non-malignancy claim shall execute and deliver to the Trustees a limited written release in a form satisfactory to the Trustees and may thereafter file a new Asbestos Claim for an asbestos related malignancy that is subsequently diagnosed. Any additional payments to which such claimant may be entitled shall be reduced by the amount of the prior payment for a nonmalignant disease. Holders of Asbestos Claims who receive a settlement offer for a malignant claim shall execute and deliver to the Trustees a written unlimited release and other documents in a form satisfactory to the Trustees.

Releases shall release Fuller-Austin, as described above, from liability not only for the injured party, but also from any other related claim in which the claimant does not meet the exposure and medical criteria described in 6 and 7 below. This would include claims for loss of consortium.

## FIRST-IN-FIRST-OUT ("FIFO") PROCESSING

All claims will be processed in the order in which they are received. Therefore, the first claims in will be the first claims out ("FIFO").

For claim submissions received by mail, the postmark date of the submission or the pick-up date of the delivery service will be used to determine the time of filing.

## CLAIM SUBMISSIONS

All paper claim form submissions and written communications for FAST should be addressed to:

**Mailing Address:**

**Fuller-Austin Asbestos Settlement Trust  
3967 Princeton Pike  
Princeton, New Jersey 08540**

**Delivery Address:**

**Fuller-Austin Asbestos Settlement Trust  
3967 Princeton Pike  
Princeton, New Jersey 08540**

## FILING FEE (WAIVED UNTIL FURTHER NOTICE)

The initial claim form filed by a claimant must be accompanied by a non-refundable processing fee of \$100.00 payable to the Trust. A claimant who for any reason re-files a Claim previously submitted to the Trust shall not be required to submit an additional processing fee. An Asbestos Claim shall be disallowed if a claimant required to provide claims information fails to pay the processing fee or timely provide such information as may be required to cure a deficiency, unless the claimant demonstrates to the satisfaction of the Trustees that such failure should be excused.

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## CONTACT US

Please contact any of the following individuals responsible for the various operational aspects of the FAST if you need any assistance in filing a claim. If you are unsure of whom to contact with a question, please contact the receptionist at (888) 681-1129

Trustee:

Anne M. Ferazzi, Esq.  
[Contact via email](#)

Counsel:

Steven A. Buxbaum  
713-547-2041 (Direct)  
713-236-5404 (Direct Fax)  
[steven.buxbaum@haynesboone.com](mailto:steven.buxbaum@haynesboone.com)