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Date Decided: June 17, 2004

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Re: *Asbestos Workers Local No. 42 Welfare
Fund v. Brewster and Snyderman*
Civil Action No. 19476-NC

Dear Counsel:

On March 11, 2004, I wrote to counsel and established a dispositive motion and briefing schedule. Any dispositive motion, together with an opening brief, was to be filed on or before May 15. The answering brief was due two weeks after the opening brief and the reply brief was due one week after the answering brief. Defendants complied with my March 11 Order and filed their motion for summary judgment with supporting brief on May 15. Plaintiff did not comply with my Order, but did file a motion for summary judgment with supporting brief on May 17. Neither party has complied with the direction in my Order to file an answering brief and a reply brief. Notwithstanding this violation of the Court's direct Order, I will proceed to address the pending motions based on the briefing that has been provided to me.

This is an action brought by plaintiff Asbestos Workers Local No. 42 Welfare Fund, seeking reimbursement from the defendants for all sums that the Fund expended on behalf of defendant Mrs. Brewster for medical care. Specifically, the Fund seeks reimbursement for \$42,000 in health insurance benefits that it paid out on behalf of defendant Mrs. Brewster for medical care and

treatment. Although the complaint states that this is an action for declaratory judgment, breach of contract and breach of fiduciary duty, it is clear that the Fund seeks to enforce its contractual subrogation claim. It is for the breach of that subrogation agreement that the Fund seeks reimbursement in the amount of \$42,000. In short, it is evident that the claim in this matter is a garden-variety breach of contract claim for which money damages is the sole form of relief to be awarded. Accordingly, where a full and complete remedy exists at law, this Court has no subject matter jurisdiction. Thus, I dismiss this action for lack of jurisdiction. Within fifteen days from the date of this Order, plaintiff may elect to transfer this case to the Superior Court pursuant to 10 *Del. C.* § 1902. In the event no election is filed to transfer, this matter will be dismissed with prejudice.

IT IS SO ORDERED.

Very truly yours,

/S/ William B. Chandler III

William B. Chandler III

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