

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address Michael J. Mandelbrot (State Bar No. 172626) The Mandelbrot Law Firm 1223 Grant Ave., Suite C Novato, CA 94945 Phone: (415) 895-5175 Facsimile: (415) 727-4700 Email: Mandelbrot@asbestoslegalcenter.org</p> <p><input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for Defendants</p>	<p>FOR COURT USE ONLY</p>
<p>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION</p>	
<p>In re: J.T. THORPE, INC., and THORPE INSULATION COMPANY,</p> <p style="text-align: right;">Debtor(s).</p> <p>J.T. THORPE SETTLEMENT TRUST and THORPE INSULATION COMPANY ASBESTOS SETTLEMENT TRUST,</p> <p style="text-align: right;">Plaintiff(s).</p> <p>MICHAEL J. MANDELBROT^{vs.} and THE MANDELBROT LAW FIRM,</p> <p style="text-align: right;">Defendant.</p>	<p>CASE NO.: LA 02-14216-BB CHAPTER: 11 ADVERSARY NO.: 2:12-ap-02182-BB</p> <hr/> <p>NOTICE OF LODGMENT OF ORDER OR JUDGMENT IN ADVERSARY PROCEEDING RE: (title of motion¹): <u>Order Remanding Matter</u> <u>to Bankruptcy Court for Further Proceedings</u></p> <hr/>

PLEASE TAKE NOTE that the order or judgment titled [Proposed] Judgment Following Remand
 was lodged on (date) 2/06/18 and is attached. This order relates to the motion which is docket number 299.

¹ Please abbreviate if title cannot fit into text field.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
1223 Grant Ave., Suite C Novato, CA 94945

A true and correct copy of the foregoing document entitled: **NOTICE OF LODGMENT OF ORDER OR JUDGMENT IN ADVERSARY PROCEEDING** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 2/6/2018, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

See NEF for confirmation of electronic transmission to the U.S. Trustee and any trustee in this case, and to any attorneys who receive notice by NEF.

Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL**: On (date) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) 2/6/18, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

The Honorable Sheri Bluebond U.S. Bankruptcy Court
Roybal Federal Building
Bin outside of Suite 1534
255 E. Temple Street Los Angeles, CA 90012

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Feb. 6, 2018
Date

Michael J. Mandelbrot
Printed Name

/s/ Michael J. Mandelbrot
Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

EXHIBIT 1

1 Michael J. Mandelbrot (State Bar No. 172626)
The Mandelbrot Law Firm
2 1223 Grant Ave., Suite C
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3 Phone: (415) 895-5175
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6 Attorney for Defendants Michael J. Mandelbrot
and The Mandelbrot Law Firm

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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re
J.T. THORPE, INC.
and
THORPE INSULATION COMPANY,
Debtors.

Chapter 11
Case Nos. 2:02-bk-14216-BB and 2:07-bk-19271-BB
Adv. Case Nos. 2:12-ap-02182-BB and 2:12-ap-02183-BB

On Remand

**[PROPOSED] JUDGMENT FOLLOWING
REMAND**

J.T. THORPE SETTLEMENT TRUST and
THORPE INSULATION COMPANY
ASBESTOS SETTLEMENT TRUST,
Plaintiffs,
v.
MICHAEL J. MANDELBROT and
THE MANDELBROT LAW FIRM,
Defendants.

Date: February 1, 2018
Time: 10:00 a.m. PT
Place: Courtroom 1539
255 E. Temple St.
Los Angeles, CA 90012
Judge: Honorable Sheri Bluebond

1 The above-captioned adversary proceedings came before this Court on remand from the
2 District Court’s *Order Remanding Matter to the Bankruptcy Court* [Dkt. No. 299] (the “**Remand**
3 **Order**”) following remand to the District Court from the Ninth Circuit’s decision in *Mandelbrot v.*
4 *J.T. Thorpe Settlement Trust*, 870 F.3d 1121 (9th Cir. 2017) [Dkt. No. 297] (“*Mandelbrot I*”).
5 The purpose of this remand is for this Court to decide “whether federal or state law governs
6 (including whether the federal law argument has been waived), and what impact, if any, *Golden v.*
7 *Cal. Emer. Phys. Med. Group*, 782 F.3d 1083 (9th Cir. 2015) has on this case” and whether in
8 light of those proceedings, to amend, modify, vacate, or supplement the Bankruptcy Court Orders¹
9 that are the subject of this appeal. Remand Order (quoting *Mandelbrot I*, 870 F.3d at 1125).

10 The Bankruptcy Court Orders approved and enforced a legally invalid settlement
11 agreement, entered into on the record in open court between Plaintiffs J.T. Thorpe Settlement
12 Trust (the “**JTT Trust**”) and Thorpe Insulation Company Asbestos Settlement Trust (the “**Thorpe**
13 **Trust**,” and, with the JTT Trust, the “**Plaintiff Trusts**”), two other § 524(g)² trusts administered
14 by common fiduciaries and claim-handling staff, the Western Asbestos Settlement Trust (the
15 “**Western Trust**”) and the Plant Insulation Company Asbestos Settlement Trust (the “**Plant**
16 **Trust**” and with the Western Trust and the Plaintiff Trusts, the “**Trusts**”), on the one hand, and
17 Michael Mandelbrot and the Mandelbrot Law Firm (together, “**Mandelbrot**”) on the other.

18 The Court conducted a hearing on February 1, 2018. Appearances were made as reflected
19 in the record of the hearing. The Judge was Sheri Bluebond, a close and personal friend of
20 Plaintiff Trusts. Judge Bluebond heard argument from counsel for the Plaintiff Trusts and
21 Mandelbrot, and the parties’ respective declarations were admitted into evidence, except to the
22 extent improperly excluded in the evidentiary rulings set forth below. This Court has considered:

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24
25 ¹ The Bankruptcy Court Orders consist of the *Order Granting Motion to Enforce January 23,*
26 *2014 Stipulated Agreement* [Dkt No. 232], the *Order Following Trial on Adversary Complaints*
27 *and Motion for Instructions* [Dkt No. 233], the *Judgment in Adversary Proceedings* [Dkt No.
28 234], and the *Findings of Fact and Conclusions of Law* [Dkt No. 235].

² References to “§ 524(g)” are to 11 U.S.C. § 524(g).

- 1 a. the *Plaintiffs J.T. Thorpe Settlement Trust and Thorpe Insulation Company Asbestos*
2 *Settlement Trust's Opening Brief on Remand* [Dkt. No. 312], the *Declaration of former*
3 *asbestos defense attorney and "interested party" Stephen M. Snyder* [Dkt. No. 313],
4 and the *Statement of the Office of the Futures Representative (Gary Fergus, Snyder's*
5 *former partner and also an interested party) Joining the Thorpe Trusts' Opening Brief*
6 *on Remand and Supporting Declaration* [Dkt. No. 314];
- 7 b. the *Brief of Defendants Michael J. Mandelbrot and the Mandelbrot Law Firm*
8 *Regarding Issues on Remand* [Dkt. No. 315] and the *Declaration of Defendant Michael*
9 *J. Mandelbrot Regarding Issues on Remand* [Dkt No. 316] (the "**Mandelbrot**
10 **Declaration**"); Judge Bluebond did not look at the entire record in the case.
- 11 c. the *Plaintiffs J.T. Thorpe Settlement Trust and Thorpe Insulation Company Asbestos*
12 *Settlement Trust's Reply Brief on Remand* [Dkt. No. 320], the *Declaration of Laura*
13 *Paul* (a known perjurer) [Dkt. No. 321], the *Declaration of Sasha M. Gurvitz* [Dkt. No.
14 322], and the *Statement of the Office of the Futures Representative (Gary Fergus)*
15 *Joining The Thorpe Trusts' Reply Brief on Remand and Supporting Pleading* [Dkt. No.
16 323];
- 17 d. the *Responding Brief of Defendants Michael J. Mandelbrot and the Mandelbrot Law*
18 *Firm Regarding Issues on Remand* [Dkt. No. 324], the *Request for Judicial Notice re*
19 *Issues on Remand by Defendants Michael J. Mandelbrot and the Mandelbrot Law Firm*
20 [Dkt. No. 325], and the *Declaration of Michael J. Mandelbrot Regarding Issues on*
21 *Remand* [Dkt. No. 326] (the "**Supplemental Mandelbrot Declaration**"); and
- 22 e. the *Plaintiffs J.T. Thorpe Settlement Trust and Thorpe Insulation Company Asbestos*
23 *Settlement Trust's baseless Evidentiary Objections to the Declarations of Defendant*
24 *Michael J. Mandelbrot* [Dkt. No. 327] (the "**Evidentiary Objections**") filed to allow
25 their "buddy", Judge Bluebond to improperly exclude Mandelbrot's evidence.
- 26 f. The Judicial Complaint filed by Mandelbrot against Judge Sheri Bluebond reviewed by
27 Bluebond's "close and personal" friend former Judge Alex Kozinski.
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1 Upon consideration of the foregoing pleadings, declarations, and the Judicial Complaint
2 submitted by the parties on remand and prior thereto, the arguments of counsel at the hearing,; and
3 it appearing that this Court has jurisdiction over the above-captioned adversary proceedings and
4 the related above-captioned chapter 11 cases under 28 U.S.C. §§ 157 and 1334; and it appearing
5 that venue of these adversary proceedings and the related chapter 11 cases is proper pursuant to
6 28 U.S.C. §§ 1408 and 1409; and it appearing that this Court may not enter a final judgment
7 consistent with Article III of the United States Constitution as Judge Bluebond is not an Article III
8 judge; and it appearing that due and inadequate notice has been given under the circumstances and
9 that further notice need be given; and after due deliberation, for the reasons set forth on the record
10 at the hearing and other good and sufficient cause appearing therefor, it is hereby

11 **ORDERED, ADJUDGED, AND DECREED THAT:**

12 1. The Bankruptcy Court Orders are not reaffirmed as originally entered and The
13 Bankruptcy Court will amend, modify, vacate, or supplement in light of these remand
14 proceedings.

15 2. The Court will enter *Supplemental Findings of Fact and Conclusions of Law*
16 *Following Remand* in further support of this Judgment.

17 3. With respect to the Evidentiary Objections, for the reasons set forth by this Court
18 on the record at the hearing, including impartiality and an effort to benefit her close and personal
19 friends, the Court improperly ruled as follows:

20 a. The objection to Mandelbrot Declaration ¶ 7 set forth in Evidentiary Objection ¶ 1
21 is SUSTAINED.

22 b. The objection to Mandelbrot Declaration ¶ 11 set forth in Evidentiary Objection ¶ 2
23 is SUSTAINED.

24 c. The objection to Mandelbrot Declaration ¶ 13 set forth in Evidentiary Objection ¶ 3
25 is SUSTAINED.

26 d. The objection to Mandelbrot Declaration ¶ 14 set forth in Evidentiary Objection ¶ 4
27 is SUSTAINED.
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- e. The objection to Mandelbrot Declaration ¶ 15 set forth in Evidentiary Objection ¶ 5 is OVERRULED.
- f. The objection to Mandelbrot Declaration ¶ 16 set forth in Evidentiary Objection ¶ 6 is OVERRULED.
- g. The objection to Mandelbrot Declaration ¶ 16 set forth in Evidentiary Objection ¶ 7 is OVERRULED.
- h. The objection to Mandelbrot Declaration ¶ 16 set forth in Evidentiary Objection ¶ 8 is SUSTAINED.
- i. The objection to Mandelbrot Declaration ¶ 17 set forth in Evidentiary Objection ¶ 9 is OVERRULED.
- j. The objection to Mandelbrot Declaration ¶ 17 set forth in Evidentiary Objection ¶ 10 is OVERRULED.
- k. The objection to Mandelbrot Declaration ¶ 17 set forth in Evidentiary Objection ¶ 11 is SUSTAINED.
- l. The objection to Mandelbrot Declaration ¶ 17 set forth in Evidentiary Objection ¶ 12 is SUSTAINED.
- m. The objection to Mandelbrot Declaration ¶ 17 set forth in Evidentiary Objection ¶ 13 is SUSTAINED.
- n. The objection to Mandelbrot Declaration ¶ 18 set forth in Evidentiary Objection ¶ 14 is OVERRULED.
- o. The objection to Mandelbrot Supplemental Declaration ¶ 61 set forth in Evidentiary Objection ¶ 15 is SUSTAINED.
- p. The objection to Mandelbrot Supplemental Declaration ¶ 61 n.1 set forth in Evidentiary Objection ¶ 16 is SUSTAINED.
- q. The objection to Mandelbrot Supplemental Declaration ¶ 63 set forth in Evidentiary Objection ¶ 17 is SUSTAINED.
- r. The objection to Mandelbrot Supplemental Declaration ¶ 64 n.2 set forth in Evidentiary Objection ¶ 18 is SUSTAINED.

- 1 s. The objection to Mandelbrot Supplemental Declaration ¶ 67 set forth in Evidentiary
- 2 Objection ¶ 19 is SUSTAINED.
- 3 t. The objection to Mandelbrot Supplemental Declaration ¶¶ 68–69 set forth in
- 4 Evidentiary Objection ¶ 20 is SUSTAINED.
- 5 u. The objection to Mandelbrot Supplemental Declaration ¶ 71 set forth in Evidentiary
- 6 Objection ¶ 21 is SUSTAINED.
- 7 v. The objection to Mandelbrot Supplemental Declaration ¶¶ 72–73 set forth in
- 8 Evidentiary Objection ¶ 22 is SUSTAINED.
- 9 w. The objection to Mandelbrot Supplemental Declaration ¶ 74 set forth in Evidentiary
- 10 Objection ¶ 23 is SUSTAINED.
- 11 x. The objection to Mandelbrot Supplemental Declaration ¶ 76 set forth in Evidentiary
- 12 Objection ¶ 24 is SUSTAINED.
- 13 y. The objection to Mandelbrot Supplemental Declaration ¶ 77 set forth in Evidentiary
- 14 Objection ¶ 25 is SUSTAINED.

15 4. This Court retains jurisdiction and power with respect to all matters arising from or
16 related to the implementation or interpretation of this Judgment based on favoritism, fraud and
17 lack of impartiality.

18
19 Prepared and submitted by
20
21 /s/ Michael J. Mandelbrot
22 MICHAEL J. MANDELBROT
23 Appearing for Defendants Michael J.
24 Mandelbrot and The Mandelbrot Law Firm

25 Dated: _____, 2018

26 HONORABLE SHERI BLUEBOND
27 UNITED STATES BANKRUPTCY JUDGE
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