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12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION

15 THOMAS & THOMAS RODMAKERS,)	Case No. CV-99-07796-FMC(RNBx)
16 INC., et al., On Their Own Behalf and)	(Consolidated)
17 On Behalf of All Others Similarly)	<u>CLASS ACTION</u>
18 Situated,)	STIPULATION OF SETTLEMENT WITH THE CYTEC DEFENDANTS
19 Plaintiffs,)	
20 vs.)	
21 NEWPORT ADHESIVES AND)	
22 COMPOSITES, INC., et al.,)	
23 Defendants.)	

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1 This Stipulation of Settlement with the Cytec Defendants dated as of August 26,
2 2004 (the “Stipulation”), is made and entered into by and among the following
3 Settling Parties (as defined further in §IV hereof): (i) the Representative Plaintiffs (on
4 behalf of themselves and each of the Class Members), by and through their counsel of
5 record in the Litigation; and (ii) the Cytec Defendants by and through their counsel of
6 record in the Litigation. The Stipulation is intended by the Settling Parties to fully,
7 finally and forever resolve, discharge and settle the Released Claims, upon and subject
8 to the terms and conditions hereof.

9 **I. THE LITIGATION**

10 On and after July 29, 1999, the following class actions were filed in the United
11 States District Court for the Central District of California (the “Court”):

CASE NAME	CASE NUMBER	DATE FILED
<i>Thomas & Thomas Rodmakers, Inc. v. Newport Adhesives and Composites, Inc.</i>	CV-99-07796GHK(CTx)	07/29/99
<i>Lamiglas, Inc. v. Hexcel Corporation</i>	SACV-99-986-GLT(EEx)	07/30/99
<i>Highland Injection Molding, Inc. v. Amoco Polymers, Inc.</i>	CV-99-08017-WDK(RCx)	08/06/99
<i>Cape Composites, Inc. v. Mitsubishi Rayon Co., Ltd.</i>	CV-99-08260-RSWL(AJWx)	08/13/99
<i>Tex Tech Industries v. Amoco Polymers, Inc.</i>	SACV-99-1039-AHS(EEx)	08/19/99
<i>Gold Tip, Inc. v. Amoco Polymers, Inc.</i>	CV-99-09199-RJK(EXx)	09/09/99
<i>Royal Precision, Inc. v. Amoco Polymers, Inc.</i>	CV-99-10040-GHK(AIJx)	09/30/99

1 2 3	<i>Cannondale Corporation, Inc. v. Newport Adhesives and Composites</i>	CV-00-04913-HLH(CTx)	05/09/00
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4 By order entered September 21, 1999, the Court executed Amended Pretrial
5 Order No. 1, in which the Court, among other things, appointed Co-Lead Counsel, and
6 ordered the filing of a consolidated complaint. The operative complaint is the
7 Amended and Consolidated Class Action Complaint for Violation of 15 U.S.C. §1 *et*
8 *seq.* filed on October 5, 1999 (the “Complaint”). The Complaint and the claims
9 contained therein are referred to herein as the “Litigation.”

10 **II. CYTEC DEFENDANTS’ DENIALS OF WRONGDOING AND
LIABILITY**

11 The Cytec Defendants have denied and continue to deny each and all of the
12 claims alleged by the Representative Plaintiffs and the Class in the Litigation against
13 the Cytec Defendants. The Cytec Defendants expressly have denied and continue to
14 deny all charges of wrongdoing or liability against them arising out of any of the
15 conduct or acts alleged, or that could have been alleged, in the Litigation. The Cytec
16 Defendants also have denied and continue to deny, *inter alia*, the allegations that the
17 Representative Plaintiffs or the Class have suffered damage as a result of any acts or
18 omissions by Cytec, or that the Representative Plaintiffs or the Class were harmed in
19 any way by Cytec’s conduct.

20 Nonetheless, the Cytec Defendants have concluded that further defense of the
21 Litigation would be protracted and expensive, and would entail a continuing
22 distraction of management and diversion of resources. The Cytec Defendants also
23 have taken into account the uncertainty and risks inherent in any litigation, especially
24 in complex cases like the Litigation. The Cytec Defendants have, therefore,
25 determined that it is desirable and beneficial to them that the Litigation be settled in
26 the manner and upon the terms and conditions set forth in this Stipulation.

1 **III. CLAIMS OF THE REPRESENTATIVE PLAINTIFFS AND**
2 **BENEFITS OF SETTLEMENT**

3 The Representative Plaintiffs believe that the claims asserted in the Litigation
4 have merit. However, counsel for the Representative Plaintiffs and the Class
5 recognize and acknowledge the expense and length of continued proceedings
6 necessary to prosecute the Litigation against the Cytec Defendants through trial and
7 subsequent appeals. Counsel for the Representative Plaintiffs and the Class also have
8 taken into account the uncertain outcome and the risk of any litigation, especially in
9 complex actions such as the Litigation, as well as the difficulties and delays inherent
10 in such litigation. Counsel for the Representative Plaintiffs and the Class also are
11 mindful of the inherent problems of proof under and possible defenses to the
12 violations asserted in the Litigation. Counsel for the Representative Plaintiffs and the
13 Class believe that the settlement set forth in this Stipulation confers substantial
14 benefits upon the Class. Based on their evaluation, counsel for the Representative
15 Plaintiffs and the Class have determined that the settlement set forth in the Stipulation
16 is in the best interests of the Representative Plaintiffs and the Class.

17 **IV. TERMS OF STIPULATION AND AGREEMENT OF**
18 **SETTLEMENT**

19 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and
20 among the Representative Plaintiffs (for themselves and the Class Members) and the
21 Cytec Defendants, by and through their respective counsel or attorneys of record, that,
22 subject to the approval of the Court, the Litigation and the Released Claims shall be
23 finally and fully compromised, settled and released, and the Litigation shall be
24 dismissed with prejudice, as to all Settling Parties, upon and subject to the terms and
25 conditions of the Stipulation, as follows.

26 **1. Definitions**

27 As used in the Stipulation the following terms have the meanings specified
28 below:

1 1.1 “Authorized Claimant” means any Class Member whose claim for
2 recovery has been allowed pursuant to the terms of the Stipulation.

3 1.2 “Carbon Fiber”, as used herein, means carbon fiber and industrial fabrics,
4 filaments and prepregs made from or with carbon fiber. When used herein, Carbon
5 Fiber is intended to encompass all products at issue in the Litigation.

6 1.3 “Claimant” means any Class Member who files a Proof of Claim in such
7 form and manner, and within such time, as the Court shall prescribe.

8 1.4 “Claims Administrator” means the firm of Heffler, Radetich & Saitta
9 L.L.P.

10 1.5 “Class” means all Persons (excluding governmental entities, Defendants,
11 their subsidiaries and affiliates) who purchased Carbon Fiber in the United States
12 directly from any of the Defendants or any subsidiary or affiliate thereof, at any time
13 during the period from January 1, 1993 through January 31, 1999. Excluded from the
14 Class are those Persons who requested exclusion pursuant to the Notice of Pendency
15 of Class Action dated October 4, 2002, who are identified on Exhibit C hereto.

16 1.6 “Class Member” or “Member of the Class” means a person who falls
17 within the definition of the Class as set forth above.

18 1.7 “Class Period” means the period from January 1, 1993 through January
19 31, 1999.

20 1.8 “Cytec Defendants” means Cytec Engineered Materials Inc. (the
21 successor to Cytec Fiberite Inc.) and Cytec Industries Inc. and their predecessors,
22 successors, parents, subsidiaries, affiliates, divisions, present and former officers,
23 agents, directors and employees. Cytec Defendants specifically excludes all Non-
24 Settling Defendants and their predecessors, successors, parents, subsidiaries, affiliates
25 and divisions, including Amoco Performance Products, Inc., Amoco Polymers, Inc.
26 and BP Amoco Polymers, Inc.

27 1.9 “Defendants” means BP Amoco Polymers, Inc. (the successor to Amoco
28 Polymers, Inc. and Amoco Performance Products, Inc.), Grafil, Inc., Hexcel

1 Corporation, Hercules, Inc., Newport Adhesives and Composites, Inc., Mitsubishi
2 Rayon Company, Ltd., Toho Carbon Fibers, Inc., Toho Rayon Company, Ltd., Toray
3 Composites America, Inc., Toray Industries, Inc. and Toray Carbon Fibers (America),
4 Inc. and the Cytec Defendants.

5 1.10 “Effective Date” means the first date by which all of the events and
6 conditions specified in ¶7.1 of the Stipulation have been met and have occurred.

7 1.11 “Escrow Agent” means jointly the law firms of Lerach Coughlin Stoia
8 Geller Rudman & Robbins LLP or its successor(s); and Barrack, Rodos & Bacine or
9 its successor(s).

10 1.12 “Final” means the date on which the first of the following occurs: (i) the
11 date of final affirmance on an appeal of the Judgment, the expiration of the time for a
12 petition for or a denial of a writ of certiorari to review the Judgment and, if certiorari
13 is granted, the date of final affirmance of the Judgment following review pursuant to
14 that grant; or (ii) the date of final dismissal of any appeal from the Judgment or the
15 final dismissal of any proceeding on certiorari to review the Judgment; or (iii) if no
16 appeal is filed, the expiration date of the time for the filing or noticing of any appeal
17 from the Court’s Judgment approving the Stipulation substantially in the form of
18 Exhibit B attached hereto, *i.e.*, thirty (30) days after entry of the Judgment, such that
19 the Judgment represents a final and binding judgment with respect to the Litigation.
20 Any proceeding or order, or any appeal or petition for a writ of certiorari pertaining
21 solely to any plan of allocation and/or application for attorneys’ fees, costs or
22 expenses, shall not in any way delay or preclude the Judgment from becoming Final.

23 1.13 “Judgment” means the judgment to be rendered by the Court,
24 substantially in the form attached hereto as Exhibit B.

25 1.14 “Non-Settling Defendants” means all Defendants except the Cytec
26 Defendants.

27 1.15 “Person” means any individual, partnership, corporation, association or
28 other business or legal entity.

1 1.16 “Plaintiffs’ Settlement Counsel” means court appointed Co-Lead
2 Counsel: Lerach Coughlin Stoia Geller Rudman & Robbins LLP, Joy Ann Bull,
3 Bonny E. Sweeney, 401 B Street, Suite 1700, San Diego, California 92101, Telephone
4 (619) 231-1058; Barrack, Rodos & Bacine, Leonard Barrack, Jeffrey B. Gittleman,
5 3300 Two Commerce Square, 2001 Market Street, Philadelphia, Pennsylvania 19103,
6 Telephone (215/963-0600); and Barrack, Rodos & Bacine, Stephen R. Basser, 402
7 West Broadway, Suite 850, San Diego, California 92101, Telephone (619/230-0800).

8 1.17 “Plan of Allocation” means a plan or formula of allocation of the
9 Settlement Fund whereby the Settlement Fund shall be distributed to Authorized
10 Claimants after payment of expenses of notice and administration of the settlement,
11 Taxes and Tax Expenses and such attorneys’ fees, costs, expenses and interest as may
12 be awarded by the Court. Any Plan of Allocation is not part of the Stipulation and
13 Cytec Defendants shall have no responsibility or liability with respect thereto.

14 1.18 “Released Claims” means all claims for economic damages (including,
15 but not limited to, Unknown Claims as defined in ¶1.24), losses, rights, causes of
16 action, suits, appeals, demands, damages, penalties, sanctions, punitive, exemplary or
17 enhanced damages, treble damages, restitution, disgorgement, costs, expenses,
18 attorneys’ fees, and any other matters and issues, of any nature whatsoever, whether
19 known or unknown, whether suspected or unsuspected, whether concealed or hidden,
20 of any Representative Plaintiff or Class Member or its predecessors, successors,
21 parents, subsidiaries, affiliates, or divisions against the Cytec Defendants, arising
22 under the antitrust laws of the United States or of any state or other jurisdiction, or
23 under any similar statute, whether sounding in antitrust, unfair or deceptive trade
24 practices or unfair competition, consumer protection, fraud protection, price
25 discrimination, unitary pricing, RICO, or other similar laws, that have been, might
26 have been, or are now asserted in the Litigation and that arise out of any alleged
27 unlawful conspiracy to fix, raise, maintain or stabilize the prices or allocate customers,
28 products, markets or territories of Carbon Fiber in the United States during the Class

1 Period. Released Claims do not include any claims against Non-Settling Defendants
2 or any claims against any Person other than the Cytec Defendants. Released Claims
3 also do not include and shall not be construed to affect or release and do not affect or
4 release: (1) any Representative Plaintiff or Class Member’s claims against BP Amoco
5 Polymers, Inc. and its predecessors arising from sales of carbon fiber by BP Amoco
6 Polymers, Inc. and its predecessors prior to the Cytec Defendants’ acquisition of the
7 carbon fiber assets of BP Amoco Polymers, Inc., BP Corporation North America, BP
8 Amoco Chemicals Company, and Amoco Chemical Deutschland GmbH in September
9 2001; or (2) any Representative Plaintiff or Class Member’s claims against Amoco
10 Performance Products, Inc. and its predecessors arising from sales of carbon fiber
11 prepreg by Amoco Performance Products, Inc. and its predecessors prior to the Cytec
12 Defendants’ acquisition of the carbon fiber prepreg assets of Amoco Performance
13 Products, Inc. in 1994. The Released Claims shall not include any claims arising out
14 of or solely related to non-antitrust disputes (including, without limitation, any claim
15 for a defective product that may have arisen in the ordinary course of business).

16 1.19 “Released Persons” means each and all of the Cytec Defendants.

17 1.20 “Representative Plaintiffs” means Thomas & Thomas Rodmakers, Inc.,
18 Lamiglas, Inc., Gold Tip, Inc., Cannondale Corporation, and Royal Precision, Inc.

19 1.21 “Representative Plaintiffs’ Counsel” means counsel who have appeared
20 for any of the Representative Plaintiffs in the Litigation or who have performed work
21 on behalf of the Class at the request of Plaintiffs’ Settlement Counsel.

22 1.22 “Settlement Fund” means the principal amount of Seven Million Dollars
23 (\$7,000,000), plus any interest that may accrue thereon as provided for herein.

24 1.23 “Settling Parties” means, collectively, each of the Cytec Defendants and
25 the Representative Plaintiffs on behalf of themselves and the Members of the Class.

26 1.24 “Unknown Claims” means any Released Claims which any
27 Representative Plaintiff or Class Member or its predecessors, successors, parents,
28 subsidiaries, affiliates, or divisions does not know or suspect to exist in his, her or its

1 favor at the time of the release of the Released Persons which, if known by him, her or
2 it, might have affected his, her or its settlement with and release of the Released
3 Persons, or might have affected his, her or its decision not to object to this settlement.

4 **2. The Settlement**

5 **a. The Settlement Fund**

6 2.1 The principal amount of \$7,000,000 (plus any interest that may accrue
7 thereon as provided for herein) shall constitute the Settlement Fund. The Settlement
8 Fund shall be paid by or on behalf of the Cytec Defendants by wire transfer into an
9 interest bearing account maintained by the Escrow Agent at San Diego National Bank
10 within two (2) business days after the date the Court executes an order approving the
11 Settlement. The Settlement Fund will include \$7,000,000 plus all interest accrued on
12 this sum from the earlier of (a) October 10, 2004 or (b) the date the Court grants
13 preliminary approval of the Settlement. Interest owed will be calculated at the
14 average 90-day T-bill rate over the interest period.

15 **b. The Escrow Agent**

16 2.2 The Escrow Agent shall invest the Settlement Fund deposited pursuant to
17 ¶2.1 above in 90-day Treasury Bills that are backed by the full faith and credit of the
18 United States Government or fully insured by the United States Government or an
19 agency thereof and shall reinvest the proceeds of these instruments as they mature in
20 similar instruments at their then current market rates. The Escrow Agent shall bear all
21 risks related to investment of the Settlement Fund.

22 2.3 The Escrow Agent shall not disburse the Settlement Fund except as
23 provided in the Stipulation or with the prior written agreement of counsel for the
24 Cytec Defendants and Plaintiffs' Settlement Counsel.

25 2.4 The Escrow Agent is authorized to execute such transactions on behalf of
26 the Class Members as are consistent with the terms of the Stipulation.

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1 2.5 All funds held by the Escrow Agent shall be deemed and considered to be
2 in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court,
3 until such time as such funds shall be distributed pursuant to the Stipulation.

4 2.6 Notwithstanding the agreement on timing of payment of the Settlement
5 Fund in paragraph 2.1 hereof, if the Cytec Defendants have not previously contributed
6 the Settlement Fund to the Escrow Agent, the Cytec Defendants shall be required to
7 pay their *pro rata* share of the notice and administration costs within (5) calendar days
8 following preliminary approval. The Escrow Agent may establish a “Notice and
9 Administration Fund,” and may at any time deposit up to \$100,000 in the aggregate
10 from the Settlement Fund in it. The Notice and Administration Fund may be used by
11 Plaintiffs’ Settlement Counsel to pay the Cytec Defendants’ *pro rata* share of the costs
12 and expenses reasonably and actually incurred in connection with providing notice to
13 the Class, locating Class Members, assisting with the filing of claims, administering
14 and distributing the Settlement Fund to Authorized Claimants, processing Proof of
15 Claim and Release forms and paying escrow fees and costs, if any. The Cytec
16 Defendants’ *pro rata* share shall be calculated as a percentage of the principal amount
17 of the total settlement monies included in the Notice and Summary Notice referenced
18 in ¶3.1 hereof. The Notice and Administration Fund may also be invested and earn
19 interest as provided for in ¶2.3 of this Stipulation.

20 **c. Taxes**

21 2.7 Settling Parties and the Escrow Agent agree to treat the Settlement Fund
22 as being at all times a “qualified settlement fund” within the meaning of Treas. Reg.
23 §1.468B-1. In addition, the Escrow Agent shall timely make such elections as
24 necessary or advisable to carry out the provisions of this ¶2.7, including the “relation-
25 back election” (as defined in Treas. Reg. §1.468B-1) back to the earliest permitted
26 date. Such elections shall be made in compliance with the procedures and
27 requirements contained in such regulations. It shall be the responsibility of the
28 Escrow Agent to timely and properly prepare and deliver the necessary documentation

1 for signature by all necessary parties, and thereafter to cause the appropriate filing to
2 occur.

3 (a) For the purpose of §468B of the Internal Revenue Code of 1986, as
4 amended, and the regulations promulgated thereunder, the “administrator” shall be the
5 Escrow Agent. The Escrow Agent shall timely and properly file all informational and
6 other tax returns necessary or advisable with respect to the Settlement Fund
7 (including, without limitation, the returns described in Treas. Reg. §1.468B-2(1)).
8 Such returns (as well as the election described in this ¶2.7) shall be consistent with
9 this ¶2.7 and in all events shall reflect that all Taxes as defined in subsection (b) below
10 (including any estimated Taxes, interest or penalties) on the income earned by the
11 Settlement Fund shall be paid out of the Settlement Fund as provided in ¶2.7(b)
12 hereof.

13 (b) All (i) Taxes (including any estimated Taxes, interest or penalties)
14 arising with respect to the income earned by the Settlement Fund, including any Taxes
15 or tax detriments that may be imposed upon the Cytec Defendants with respect to any
16 income earned by the Settlement Fund for any period during which the Settlement
17 Fund does not qualify as a “qualified settlement fund” for federal or state income tax
18 purposes (“Taxes”), and (ii) expenses and costs incurred in connection with the
19 operation and implementation of this ¶2.7 (including, without limitation, expenses of
20 tax attorneys and/or accountants and mailing and distribution costs and expenses
21 relating to filing (or failing to file) the returns described in this ¶2.7) (“Tax
22 Expenses”), shall be paid out of the Settlement Fund; in all events the Cytec
23 Defendants shall not have any liability or responsibility for the Taxes or the Tax
24 Expenses. The Escrow Agent shall indemnify and hold each of the Cytec Defendants
25 harmless for Taxes and Tax Expenses (including, without limitation, Taxes payable by
26 reason of any such indemnification). Further, Taxes and Tax Expenses shall be
27 treated as, and considered to be, a cost of administration of the Settlement Fund and
28 shall be timely paid by the Escrow Agent out of the Settlement Fund without prior

1 order from the Court and the Escrow Agent shall be obligated (notwithstanding
2 anything herein to the contrary) to withhold from distribution to Authorized Claimants
3 any funds necessary to pay such amounts including the establishment of adequate
4 reserves for any Taxes and Tax Expenses (as well as any amounts that may be
5 required to be withheld under Treas. Reg. §1.468B-2(1)(2)). The Settling Parties
6 hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys
7 and accountants to the extent reasonably necessary to carry out the provisions of this
8 ¶2.7.

9 (c) For the purpose of this ¶2.7, references to the Settlement Fund
10 shall include both the Settlement Fund and the Notice and Administration Fund and
11 shall also include any earnings thereon.

12 **d. Termination of Settlement**

13 2.8 In the event that the Stipulation is not approved, or is terminated,
14 canceled, or fails to become effective for any reason, including, without limitation, in
15 the event the Judgment is reversed or vacated following any appeal taken therefrom,
16 the Settlement Fund (including accrued interest) less the Cytec Defendants' *pro rata*
17 share of reasonable expenses actually incurred or due and owing from the Notice and
18 Administration Fund, shall be refunded to the Cytec Defendants as described in ¶7.5
19 below.

20 **3. Notice Order and Settlement Hearing**

21 3.1 Promptly after execution of the Stipulation, the Representative Plaintiffs
22 shall submit the Stipulation together with its Exhibits to the Court and shall apply for
23 entry of an order (the "Notice Order"), substantially in the form and content of Exhibit
24 A attached hereto, requesting, *inter alia*, the preliminary approval of the settlement set
25 forth in the Stipulation, and approval for the mailing and publication of a settlement
26 notice substantially in the form and content of Exhibits A-1 (the "Notice"), and A-3
27 (the "Summary Notice") hereto. The Notice shall include the general terms of the
28 settlement set forth in the Stipulation, the proposed Plan of Allocation, the general

1 terms of the Fee and Expense Application as defined in ¶6.1 below and the date of the
2 Settlement Hearing (*i.e.*, the final approval hearing) as defined below.

3 3.2 The Settling Parties request that after notice is given, the Court hold a
4 hearing (the “Settlement Hearing”) and approve the settlement of the Litigation as set
5 forth herein. At or after the Settlement Hearing, Plaintiffs’ Settlement Counsel also
6 may request that the Court approve the proposed Plan of Allocation and the Fee and
7 Expense Application.

8 **4. Releases**

9 4.1 Upon the Effective Date, as defined in ¶1.10, the Representative
10 Plaintiffs and each of the Class Members shall be deemed to have, and by operation of
11 the Judgment shall have, fully, finally, and forever released, relinquished and
12 discharged all Released Claims against the Released Persons, whether or not such
13 Class Member executes and delivers a Proof of Claim and Release. The Released
14 Claims do not include claims for breach of the Stipulation. All rights of any Class
15 Member against the Non-Settling Defendants or any other Person other than the
16 Released Persons are specifically reserved by the Representative Plaintiffs and Class
17 Members.

18 4.2 With respect to any and all Released Claims, the Settling Parties stipulate
19 and agree that, upon the Effective Date, the Representative Plaintiffs and their
20 predecessors, successors, parents, subsidiaries, affiliates, and divisions shall expressly
21 waive and each of the Class Members and its predecessors, successors, parents,
22 subsidiaries, affiliates, and divisions shall be deemed to have, and by operation of the
23 Judgment shall have, expressly waived, the provisions, rights and benefits of Cal. Civ.
24 Code §1542, which provides:

25 A general release does not extend to claims which the creditor
26 does not know or suspect to exist in his favor at the time of executing the
27 release, which if known by him must have materially affected his
28 settlement with the debtor.

1 The Representative Plaintiffs shall expressly waive and each of the Class Members
2 and its predecessors, successors, parents, subsidiaries, affiliates, and divisions shall be
3 deemed to have, and by operation of the Judgment shall have, expressly waived any
4 and all provisions, rights and benefits conferred by any law of any state or territory of
5 the United States, or principle of common law, which is similar, comparable or
6 equivalent to Cal. Civ. Code §1542. The Representative Plaintiffs and Class Members
7 or their predecessors, successors, parents, subsidiaries, affiliates and divisions may
8 hereafter discover facts in addition to or different from those which any of them now
9 knows or believes to be true with respect to the subject matter of the Released Claims,
10 but each Representative Plaintiff shall expressly and each Class Member and its
11 predecessors, successors, parents, subsidiaries, affiliates and divisions, upon the
12 Effective Date, shall be deemed to have, and by operation of the Judgment shall have,
13 fully, finally, and forever settled and released any and all Released Claims, known or
14 unknown, suspected or unsuspected, contingent or non-contingent, whether or not
15 concealed or hidden, which now exist, or heretofore have existed upon any theory of
16 law or equity now existing or coming into existence in the future, including, but not
17 limited to, conduct which is negligent, intentional, with or without malice, or a breach
18 of any duty, law or rule, without regard to the subsequent discovery or existence of
19 such different or additional facts. The Representative Plaintiffs acknowledge, and the
20 Class Members and their predecessors, successors, parents, subsidiaries, affiliates and
21 divisions shall be deemed by operation of the Judgment to have acknowledged, that
22 the foregoing waiver was separately bargained for and a key element of the settlement
23 of which this release is a part.

24 4.3 The Proof of Claim and Release to be executed by Class Members shall
25 release all Released Claims against the Released Persons and shall be substantially in
26 the form and content contained in Exhibit A-2 attached hereto.

27 4.4 Upon the Effective Date, as defined in ¶1.10, each of the Released
28 Persons shall be deemed to have, and by operation of the Judgment shall have, fully,

1 finally, and forever released, relinquished and discharged each and all of the Class
2 Members and Representative Plaintiffs' Counsel from all claims (including
3 "Unknown Claims"), arising out of, in any way relating to, or in connection with the
4 institution, prosecution, assertion, settlement or resolution of the Litigation or the
5 Released Claims, except for claims for breach of the Stipulation.

6 **5. Administration and Calculation of Claims, Final Awards**
7 **and Supervision and Distribution of the Settlement Fund**

8 5.1 Plaintiffs' Settlement Counsel, or their authorized agents, acting on
9 behalf of the Class, and subject to such supervision and direction of the Court as may
10 be necessary or as circumstances may require, shall administer and calculate the
11 claims submitted by Class Members and shall oversee distribution of the Net
12 Settlement Fund (defined below) to Authorized Claimants. The Settlement Fund shall
13 be applied as follows:

14 (a) To pay all the costs and expenses reasonably and actually incurred
15 in connection with providing notice, locating Class Members, assisting with the filing
16 of claims, administering and distributing the Settlement Fund to Authorized
17 Claimants, processing Proof of Claim and Release forms and paying escrow fees and
18 costs, if any;

19 (b) To pay the Taxes and Tax Expenses described in ¶2.7 above;

20 (c) To pay to Representative Plaintiffs' Counsel attorneys' fees,
21 expenses and costs with interest thereon (the "Fee and Expense Award"); and

22 (d) To distribute the balance of the Settlement Fund (the "Net
23 Settlement Fund") to Authorized Claimants as allowed by the Stipulation, the Plan of
24 Allocation, or the Court.

25 5.2 Upon the Effective Date and thereafter, and in accordance with the terms
26 of the Stipulation, the Plan of Allocation, or such further approval and further order(s)
27 of the Court as may be necessary or as circumstances may require, the Net Settlement
28

1 Fund shall be distributed to Authorized Claimants, subject to and in accordance with
2 the following:

3 (a) Within one-hundred twenty (120) days after the mailing of the
4 Notice or such other time as may be set by the Court, each person claiming to be an
5 Authorized Claimant shall be required to submit to the Claims Administrator a
6 completed Proof of Claim and Release, substantially in the form of Exhibit A-2
7 attached hereto, signed under penalty of perjury and supported by such documents as
8 specified in the Proof of Claim and Release and as are reasonably available to the
9 Authorized Claimant.

10 (b) Except as otherwise ordered by the Court, all Class Members who
11 fail to timely submit a Proof of Claim and Release within such period, or such other
12 period as may be ordered by the Court, or otherwise allowed, shall be forever barred
13 from receiving any payments pursuant to the Stipulation and the settlement set forth
14 herein, but will in all other respects be subject to and bound by the provisions of the
15 Stipulation, the releases contained herein, and the Judgment.

16 (c) The Net Settlement Fund shall be distributed to the Authorized
17 Claimants substantially in accordance with a Plan of Allocation to be described in the
18 Notice and approved by the Court.

19 5.3 The Cytec Defendants shall have no responsibility for, interest in, or
20 liability whatsoever with respect to the investment or distribution of the Settlement
21 Fund, the Plan of Allocation, or the determination, administration, or calculation of
22 claims, nor shall the release of the Cytec Defendants under Section 4 be affected by
23 any such events.

24 5.4 Without waiving the Cytec Defendants' right to reimbursement under
25 ¶¶6.2, 7.4 and 7.5, no person shall have any claim against Representative Plaintiffs'
26 Counsel or any claims administrator, or other agent designated by Plaintiffs'
27 Settlement Counsel, or the Cytec Defendants or their counsel based on distributions
28

1 made substantially in accordance with the Stipulation and the settlement contained
2 herein, the Plan of Allocation, or further orders of the Court.

3 5.5 If there is any balance remaining in the Net Settlement Fund after six (6)
4 months from the date of distribution of the Net Settlement Fund (whether by reason of
5 tax refunds, uncashed checks or otherwise) Plaintiffs' Settlement Counsel shall
6 reallocate such balance among Authorized Claimants in an equitable and economic
7 fashion. In the event it is not economically feasible to distribute such balance among
8 Authorized Claimants, any balance that remains shall be donated to an appropriate
9 non-profit organization approved by the Cytec Defendants.

10 5.6 It is understood and agreed by the Settling Parties that any proposed Plan
11 of Allocation of the Net Settlement Fund including, but not limited to, any
12 adjustments to an Authorized Claimant's claim set forth therein, is not a part of the
13 Stipulation and is to be considered by the Court separately from the Court's
14 consideration of the fairness, reasonableness and adequacy of the settlement set forth
15 in the Stipulation, and any orders or proceedings relating to the Plan of Allocation
16 shall not operate to terminate or cancel the Stipulation or affect the finality of the
17 Court's Judgment approving the Stipulation and the settlement set forth herein, or any
18 other orders entered pursuant to the Stipulation.

19 **6. Representative Plaintiffs' Counsel's Attorneys' Fees and**
20 **Reimbursement of Expenses**

21 6.1 Representative Plaintiffs' Counsel may submit an application (the "Fee
22 and Expense Application") for distributions to them from the Settlement Fund for: (a)
23 an award of attorneys' fees from the Settlement Fund; and (b) reimbursement of
24 expenses and costs incurred in connection with prosecuting the Litigation, plus any
25 interest on such attorneys' fees, costs and expenses at the same rate and for the same
26 periods as earned by the Settlement Fund (until paid) as may be awarded by the Court.
27 In no event shall the Cytec Defendants be required to pay attorneys' fees and expenses
28 over and above the sums paid from the Settlement Fund.

1 6.2 One-half of the attorneys' fees and expenses, including the fees of
2 experts and consultants, as awarded by the Court, shall be paid to Plaintiffs'
3 Settlement Counsel from the Settlement Fund, as ordered, immediately after the Court
4 executes an order awarding such fees and expenses. The remainder of the attorneys'
5 fees and expenses awarded by the Court shall be paid to Plaintiffs' Settlement Counsel
6 when the Order awarding such fees and expenses becomes Final. Plaintiffs'
7 Settlement Counsel shall allocate the attorneys' fees amongst Representative
8 Plaintiffs' Counsel in a manner in which they in good faith believe reflects the
9 contributions of such counsel to the prosecution and settlement of the Litigation. In
10 the event that the Effective Date does not occur, or the Judgment or the order making
11 the Fee and Expense Award is reversed or modified, or the Stipulation is canceled or
12 terminated for any other reason, and in the event that the Fee and Expense Award has
13 been paid to any extent, then Representative Plaintiffs' Counsel shall within two (2)
14 business days after receiving notice from the Cytec Defendants' counsel, refund to the
15 Settlement Fund the fees, expenses and costs previously paid to them from the
16 Settlement Fund plus interest thereon at the same rate as earned on the Settlement
17 Fund in an amount consistent with such reversal or modification. Each Representative
18 Plaintiffs' Counsel's law firm, as a condition of receiving such fees and expenses, on
19 behalf of itself and each partner and/or shareholder of it, agrees that the law firm and
20 its partners and/or shareholders are subject to the joint and several obligation to make
21 appropriate refunds or repayments to the Settlement Fund and to the jurisdiction of the
22 Court for the purpose of enforcing the provisions of this paragraph.

23 6.3 The procedure for and the allowance or disallowance by the Court of any
24 applications by any of the counsel to the Representative Plaintiffs for attorneys' fees,
25 costs and expenses to be paid out of the Settlement Fund, are not part of the settlement
26 set forth in the Stipulation, and are to be considered by the Court separately from the
27 Court's consideration of the fairness, reasonableness and adequacy of the settlement
28 set forth in the Stipulation, and any orders or proceedings relating to the Fee and

1 Expense Application, or any appeal from any order relating thereto or reversal or
2 modification thereof, shall not operate to terminate or cancel the Stipulation, or affect
3 or delay the finality of the Judgment approving the Stipulation and the settlement of
4 the Litigation set forth herein.

5 6.4 The Cytec Defendants shall have no responsibility for, and no liability
6 whatsoever with respect to the allocation among Representative Plaintiffs' Counsel
7 and/or any other person who may assert some claim thereto, of any Fee and Expense
8 Award that the Court may make in the Litigation.

9 **7. Conditions of Settlement, Effect of Disapproval,
10 Cancellation or Termination**

11 7.1 The Effective Date of the Stipulation shall be conditioned on the
12 occurrence of all of the following events:

13 (a) The Cytec Defendants have made or caused the contributions to be
14 made to the Settlement Fund as required by ¶2.1 above;

15 (b) The Court has entered the Judgment, or a judgment substantially in
16 the form of Exhibit B attached hereto; and

17 (c) The Judgment has become Final, as defined in ¶1.12, above.

18 7.2 Upon the occurrence of all of the events referenced in ¶7.1 above, any
19 and all remaining interest or right of the Cytec Defendants in or to the Settlement
20 Fund, if any, shall be absolutely and forever extinguished.

21 7.3 If all of the conditions specified in ¶7.1 are not met, then the Stipulation
22 shall be canceled and terminated subject to ¶7.5 unless Plaintiffs' Settlement Counsel
23 and counsel for the Cytec Defendants mutually agree in writing to proceed with the
24 Stipulation.

25 7.4 In the event the Stipulation shall terminate, or be canceled, or shall not
26 become effective for any reason, within five (5) business days after written
27 notification of such event is sent by counsel for the Cytec Defendants or Plaintiffs'
28 Settlement Counsel to the Escrow Agent, the Settlement Fund (including accrued

1 interest), plus any amount then remaining in the Notice and Administration Fund
2 (including accrued interest) less the Cytec Defendants' *pro rata* share of expenses and
3 any costs that have either been properly disbursed pursuant to ¶¶2.7 or 2.8 herein, or
4 are determined to be chargeable to the Notice and Administration Fund, shall be
5 refunded by the Escrow Agent pursuant to written instructions from counsel for the
6 Cytec Defendants. At the request of counsel for the Cytec Defendants, the Escrow
7 Agent or its designee shall apply for any tax refund owed to the Settlement Fund and
8 pay the proceeds, after deduction of any fees or expenses reasonably incurred in
9 connection with such application(s) for refund on a *pro rata* basis to those entities
10 contributing to the Settlement Fund.

11 7.5 In the event that the Stipulation is not approved by the Court or the
12 settlement set forth in the Stipulation is terminated or fails to become effective in
13 accordance with its terms, the Settling Parties shall be restored to their respective
14 positions in the Litigation as of August 25, 2004. In such event, the terms and
15 provisions of the Stipulation, with the exception of ¶¶1.1-1.24, 2.2-2.8, 7.3-7.5, and
16 8.4 herein, shall have no further force and effect with respect to the Settling Parties
17 and shall not be used in the Litigation or in any other proceeding for any purpose, and
18 any judgment or order entered by the Court in accordance with the terms of the
19 Stipulation shall be treated as vacated, *nunc pro tunc* (unless the Judgment has
20 become Final in accordance with the terms hereof). No order of the Court or
21 modification or reversal on appeal of any order of the Court concerning the Plan of
22 Allocation or the amount of any attorneys' fees, costs, expenses and interest awarded
23 by the Court to the Representative Plaintiffs or any of their counsel shall constitute
24 grounds for cancellation or termination of the Stipulation. If the Effective Date does
25 not occur, or if the Stipulation is terminated pursuant to its terms, neither the
26 Representative Plaintiffs nor any of their counsel shall have any obligation to repay
27 any amounts actually and properly disbursed from the Notice and Administration
28 Fund. In addition, any expenses already incurred and properly chargeable to the

1 Notice and Administration Fund pursuant to ¶2.6 hereof at the time of such
2 termination or cancellation but which have not been paid, shall be paid by the Escrow
3 Agent in accordance with the terms of the Stipulation prior to the balance being
4 refunded in accordance with ¶7.4 above.

5 7.6 If a case is commenced in respect to any of the Cytec Defendants under
6 Title 11 of the United States Code (Bankruptcy), or a trustee, receiver or conservator
7 is appointed under any similar law, and in the event of the entry of a final order of a
8 court of competent jurisdiction determining the transfer of the Settlement Fund, or any
9 portion thereof, by or on behalf of a Cytec Defendant to be a preference, voidable
10 transfer, fraudulent transfer or similar transaction, then, as to that Defendant only, the
11 releases given and Judgment entered in favor of such Defendant pursuant to this
12 Stipulation shall be null and void, and, as to such Defendant, the Settling Parties shall
13 thereupon be restored to their respective positions as of August 25, 2004.

14 7.7 In the event Representative Plaintiffs agree to a settlement with more
15 than one other Defendant for less than 1.8% of such Defendant's Carbon Fiber sales in
16 the United States to Class Members during the Class Period, Representative Plaintiffs
17 will refund to the Cytec Defendants an amount determined by multiplying the
18 difference between 1.8% and the percentage of sales such settlement represents times
19 Cytec's Carbon Fiber sales to Class Members during the Class Period. Settlements
20 with related company defendants shall be aggregated for purposes of this calculation,
21 *i.e.*, sales of Mitsubishi Rayon Company, Ltd., Grafil, Inc. and Newport Adhesives
22 and Composites, Inc. will be aggregated and sales of Toray Composites America, Inc.,
23 Toray Industries and Toray Carbon Fibers (America), Inc. will be aggregated. It is
24 agreed that the provisions of this paragraph shall expire and no longer be applicable
25 upon the earliest of: (a) distribution of the net Settlement Fund to the Class or (b) a
26 judgment in favor of any Non-Settling Defendant as to that Defendant only.

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1 **8. Miscellaneous Provisions**

2 8.1 The Settling Parties: (a) acknowledge that it is their intent to consummate
3 this agreement; and (b) agree to cooperate to the extent reasonably necessary to
4 effectuate and implement all terms and conditions of the Stipulation and to exercise
5 their best efforts to accomplish the foregoing terms and conditions of the Stipulation.

6 8.2 The Cytec Defendants warrant that, at the time the payment provided for
7 herein is made, they are not insolvent and the payment will not render them insolvent.
8 This representation is made by each Cytec Defendant, and is not made by counsel for
9 the Cytec Defendants.

10 8.3 The Settling Parties intend this settlement to be a final and complete
11 resolution of all disputes between them with respect to the Litigation. The settlement
12 compromises claims which were contested and shall not be deemed an admission by
13 any Settling Party as to the merits of any claim or defense. The Cytec Defendants
14 agree not to bring any claim asserting that the Litigation was not filed in good faith
15 and in accordance with Rule 11 of the Federal Rules of Civil Procedure. The Settling
16 Parties agree that the amount paid to the Settlement Fund and the other terms of the
17 settlement were negotiated in good faith by the Settling Parties, and reflect a
18 settlement that was reached voluntarily after consultation with competent legal
19 counsel.

20 8.4 Neither the Stipulation nor the settlement, nor any act performed or
21 document executed pursuant to or in furtherance of the Stipulation or the settlement:
22 (a) is or may be deemed to be or may be used as an admission of, or evidence of, the
23 validity of any Released Claim, or of any wrongdoing or liability of the Cytec
24 Defendants; or (b) is or may be deemed to be or may be used as an admission of, or
25 evidence of, any fault or omission of the Cytec Defendants in any civil, criminal or
26 administrative proceeding in any court, administrative agency or other tribunal. The
27 Cytec Defendants may file the Stipulation and/or the Judgment in any action that may
28 be brought against them in order to support a defense or counterclaim based on

1 principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment
2 bar or reduction or any other theory of claim preclusion or issue preclusion or similar
3 defense or counterclaim.

4 8.5 The Settling Parties agree that there is no need for an additional opt-out
5 period pursuant to Rule 23(e) of the Federal Rules of Civil Procedure since prior
6 notice of the pendency of the Litigation dated October 4, 2002 was sent to the Class.
7 However, in the event the Court decides to allow an additional opportunity to opt-out
8 of the Class, Plaintiffs' Settlement Counsel will provide counsel for the Cytec
9 Defendants with a list of those Class Members who timely request exclusion from the
10 class within ten (10) days following the Court's deadline for such exclusion from the
11 Class. The Settling Parties agree that, in the event the Court allows additional opt-
12 outs from the Class, the Cytec Defendants shall have the option to rescind this
13 settlement if the aggregate Carbon Fiber purchases during the Class Period by current
14 Class Members who request exclusion during the additional opt out period exceeds an
15 amount specified in a separate Supplemental Agreement between the Settling Parties.
16 To be valid for purposes of that Supplemental Agreement, a Request for Exclusion
17 will need to contain the information requested in the Notice of Settlement of Class
18 Action. The Supplemental Agreement will not be filed with the Court unless and until
19 a dispute among the Settling Parties concerning its interpretation or application arises.

20 8.6 The Cytec Defendants shall be entitled to exercise the above option to
21 withdraw from the Settlement only if the Cytec Defendants provide Plaintiffs'
22 Settlement Counsel with written notice of their withdrawal from the Settlement and
23 file that notice with the Court within three (3) calendar days prior to the Settlement
24 Hearing.

25 8.7 In addition, any sales of the Cytec Defendants in the United States shall
26 remain in the Litigation as against the Non-Settling Defendants as a basis for damage
27 claims and shall be part of any joint and several liability claims against the Non-
28 Settling Defendants in the Litigation.

1 8.8 The Representative Plaintiffs agree not to oppose any motion to
2 consolidate or coordinate any case the Cytec Defendants may file alleging antitrust
3 violations against the Non-Settling Defendants (which for purposes of this Settlement
4 shall be any defendant in the Litigation other than Hexcel Corporation) relating to the
5 sale of Carbon Fiber during the Class Period.

6 8.9 All discovery is hereby stayed between and among the Settling Parties
7 during the pendency of the negotiation of the Stipulation and final approval of the
8 Settlement. If the Settlement is not consummated for any reason, all discovery will be
9 reinstated at the same point at which it was stayed notwithstanding the close of
10 discovery as to Non-Settling Defendants.

11 8.10 All agreements made and orders entered during the course of the
12 Litigation relating to the confidentiality of information shall survive this Stipulation.

13 8.11 All of the Exhibits to the Stipulation are material and integral parts hereof
14 and are fully incorporated herein by this reference.

15 8.12 The Stipulation may be amended or modified only by a written
16 instrument signed by or on behalf of all Settling Parties or their respective successors-
17 in-interest.

18 8.13 The Stipulation and the Exhibits attached hereto constitute the entire
19 agreement between Representative Plaintiffs and the Class on the one hand, and the
20 Cytec Defendants on the other hand, and supersedes and replaces all prior negotiations
21 and proposed or actual agreements whether written or oral. No representations,
22 warranties or inducements have been made to any party concerning the Stipulation or
23 its Exhibits other than the representations, warranties and covenants contained and
24 memorialized in such documents. Except as otherwise provided herein, each party
25 shall bear its own costs.

26 8.14 The undersigned Plaintiffs' Settlement Counsel, are fully authorized to
27 enter into the terms and conditions of the Stipulation and settlement on behalf of the
28 Representative Plaintiffs and Class Members and to execute and legally bind the

1 Representative Plaintiffs and all Class Members to the terms of the Stipulation.
2 Plaintiffs' Settlement Counsel are expressly authorized to enter into any modifications
3 or amendments to the Stipulation on behalf of the Class which they deem appropriate
4 and to take all appropriate action required or permitted to be taken by the Class
5 pursuant to the Stipulation to effectuate its terms.

6 8.15 Each counsel or other person executing the Stipulation or any of its
7 Exhibits on behalf of any party hereto hereby warrants that such person has the full
8 authority to do so.

9 8.16 The Stipulation may be executed in one or more counterparts. All
10 executed counterparts and each of them shall be deemed to be one and the same
11 instrument. A complete set of executed counterparts shall be filed with the Court.

12 8.17 The Stipulation shall be binding upon, and inure to the benefit of, the
13 successors and assigns of the Settling Parties.

14 8.18 This Stipulation has been negotiated among and drafted by all
15 signatories. To the extent there is any uncertainty or ambiguity in the Stipulation,
16 none of the signatories shall be deemed to have caused such uncertainty or ambiguity.

17 8.19 In the event any one or more of the provisions contained in the
18 Stipulation shall for any reason be held by a court of competent jurisdiction to be
19 invalid, illegal, or unenforceable in any respect, such invalid, illegal, or unenforceable
20 provision shall be ineffective but shall not in anyway invalidate or otherwise affect
21 any other provision.

22 8.20 The Court shall retain jurisdiction with respect to implementation and
23 enforcement of the terms of the Stipulation, and all Settling Parties submit to the
24 jurisdiction of the Court for purposes of implementing and enforcing the settlement
25 embodied in the Stipulation.

26 8.21 The Stipulation and the Exhibits hereto shall be considered to have been
27 negotiated, executed and delivered, and to be wholly performed, in the State of
28 California, and the rights and obligations of the Settling Parties shall be construed and

1 enforced in accordance with, and governed by, the internal, substantive laws of the
2 State of California without giving effect to that State's choice of law principles.

3 IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be
4 executed, by their duly authorized attorneys, dated as of August 26, 2004.

5 LERACH COUGHLIN STOIA GELLER
6 RUDMAN & ROBBINS LLP
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8 BONNY E. SWEENEY
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DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interest in the within action; that declarant's business address is 401 B Street, Suite 1700, San Diego, California 92101.

2. That on October 4, 2004, declarant served the **STIPULATION OF SETTLEMENT WITH THE CYTEC DEFENDANTS** by depositing a true copy thereof in a United States mailbox at San Diego, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed on the attached Service List.

3. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct.
Executed this 1st day of October, 2004, at San Diego, California.

YVETTE D. GRAY