

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS  
CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS, )  
*ex rel.* KWAME RAOUL, Attorney General )  
of the State of Illinois, )

Plaintiff, )

v. )

WILL COUNTY METROPOLITAN )  
EXPOSITION & AUDITORIUM AUTHORITY, )  
a unit of local government, )  
R. BERTI & SON CONTRACTOR INC., )  
an Illinois corporation d/b/a R. BERTI BUILDING )  
SOLUTIONS, and )  
UNIVERSAL ASBESTOS REMOVAL, INC., )

Defendants. )

No. 24 CH 176

FILED  
2024 OCT -2 PM 10:05  
CLERK, CIRCUIT COURT  
WILL COUNTY, ILLINOIS

**AGREED IMMEDIATE AND PRELIMINARY INJUNCTION ORDER**  
**WITH DEFENDANT WILL COUNTY METROPOLITAN EXPOSITION &**  
**AUDITORIUM AUTHORITY ONLY**

This cause coming before the Court on Plaintiff's, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* Kwame Raoul, Attorney General of the State of Illinois, Motion for Immediate and Preliminary Injunction, due notice having been given, the Court having jurisdiction over the parties and the subject matter herein, venue being proper, and the Court otherwise being duly advised in the premises:

NOW THEREFORE, Plaintiff having alleged pursuant to Section 43(a) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/43(a) (2022), that a substantial danger to the environment or to the health and welfare of persons exists pursuant to the Act, 415 ILCS 5/1 *et seq.* (2022); and having also alleged the Defendants WILL COUNTY METROPOLITAN EXPOSITION & AUDITORIUM AUTHORITY ("Authority"), R. BERTI & SON

CONTRACTOR, INC. d/b/a/ R. BERTI BUILDING SOLUTIONS (“Berti”), and UNIVERSAL ASBESTOS REMOVAL, INC. (“Universal”) (collectively, “Defendants”) have violated the Act, the Illinois Pollution Control Board (“Board”) regulations, and the National Emission Standards for Hazardous Air Pollutants regulating asbestos, codified at 40 C.F.R. Part 61, Subpart M (“Asbestos NESHAP”), and that an immediate and preliminary injunction should issue pursuant to Sections 43(a) and 42(e) of the Act, 415 ILCS 5/43(a) and 42(e) (2022), to address the violations; and Defendant Authority and Plaintiff having mutually agreed to the entry of this Agreed Immediate and Preliminary Injunction Order (“Agreed Order”); NOW the Court enters the following immediate and preliminary injunction pursuant to Sections 43(a) and 42(e) of the Act, 415 ILCS 5/43(a) and 42(e) (2022), which shall remain in effect until further order of this Court.

**I. BACKGROUND**

1. Plaintiff incorporates by reference herein the allegations in its Verified Complaint for Injunctive Relief and Civil Penalties filed on September 11, 2024 (“Complaint”).
2. Defendant Authority incorporates by reference herein its Verified Answer, filed on September 17, 2024.
3. Defendant Authority owns and operates a performance and event space known as Rialto Square Theatre located at 102 N. Chicago St., Joliet, Will County, Illinois (“Facility”). The Facility is a multi-use public facility which operates as a venue for concerts and special events, with a seating capacity of approximately 2,000. The Facility is also rented out for weddings and other private events. A portion of the Facility is leased to the University of St. Francis, and another portion of the facility is leased to Midland States Bank. Defendant Authority is the owner and manager of the Facility. The building at the Facility consists of a basement, a first floor, which contains the main event stage, auditorium, seating area, and event rooms, second floor and

mezzanine, third floor, and fourth floor/attic.

4. Plaintiff alleges in the Complaint that the Defendants failed to properly remove, handle, and dispose of disturbed asbestos containing materials ("ACM") at the Facility; caused, threatened, or allowed the discharge of emission of regulated asbestos-containing material ("RACM") into the environment thereby causing, threatening, or allowing air pollution; failing to adequately wet asbestos for removal and storage; and, failed to properly store and dispose of asbestos-containing waste material and that, by doing so, the Defendants created a substantial danger to the environment and the health and welfare of the general public, and violated the Act, Board regulations, and Asbestos NESHAP.

5. On July 1, 2024, the Defendants <sup>UNIVERSAL</sup> submitted a State of Illinois Demolition/Renovation/Asbestos Project Notification Form ("Notice") to Illinois Environmental Protection Agency ("Illinois EPA"), wherein Defendants <sup>UNIVERSAL</sup> advised that ~~they~~ <sup>IT</sup> would be removing Regulated Asbestos Containing Material ("RACM") from the Facility as part of renovation activities. The Defendants <sup>authorities</sup> further advised that ~~they~~ <sup>IT</sup> would be removing 6,000 linear feet of pipe insulation RACM from the basement, and 1,000 square feet of floor tile and mastic RACM from the first floor.

6. On July 24, 2024, the Illinois EPA inspected the basement of the Facility where asbestos removal work was taking place. As detailed fully in the Complaint, Plaintiff alleges that, on that day, the following conditions existed: bags labeled "Danger, contains asbestos fibers" were present in the basement; glove bags were not sealed to prevent the release of asbestos fibers, and had not been properly wetted to prevent migration of asbestos fibers; plastic sheeting was not installed in an amount or in a fashion as to create a barrier to asbestos fiber migration; and, devices were not properly installed to create "negative pressure" to prevent asbestos fiber migration.

7. On July 25, 2024, Illinois EPA recommended that demolition and renovation work be stopped at the Facility, and that access to the Facility be restricted.

8. On July 25, 2024, all work was stopped and the basement and majority of the first floor were secured from entry.

9. On September 4, 2024, Defendant Authority submitted a project design plan to Illinois EPA to ensure the safe reopening of the Facility ("Proposed Project Design Plan"). Following revisions made at the request of Illinois EPA, Illinois EPA approved the Proposed Project Designed Plan on September 20, 2024 ("Approved Plan").

10. Defendant Authority has begun to implement the Approved Plan.

**II. GENERAL PROVISIONS**

1. This Agreed Order is not a final resolution on the merits of Plaintiff's Complaint, but rather addresses Plaintiff's most immediate concerns regarding the allegations set forth in the Complaint.

2. This Agreed Order does not, nor is it intended to, determine the liability of the Defendants for the allegations in the Complaint, ~~except as to their compliance with the requirements of this Agreed Order. By entering into this Agreed Order and complying with its terms, Defendant Authority does not admit any of the allegations of violations in the Complaint, and its compliance with this Agreed Order shall not be interpreted as including any such admissions~~

3. Where applicable, terms used in this Agreed Order shall have the meaning as defined in the Plaintiff's Complaint in this matter or unless defined in this Agreed Order. In the event of any conflict, the meaning provided in this Agreed Order shall prevail.

4. Defendants shall not claim that any report or any exhibits or attachments thereto,

or any portion thereof, submitted to the Plaintiff or the Illinois EPA pursuant to this Agreed Order are subject to attorney-client privilege or constitute attorney work product.

5. This Agreed Order shall apply to and bind Plaintiff and Defendant Authority.

6. The Court shall retain jurisdiction of this matter and shall consider any motion by the Plaintiff or Defendants for the purposes of interpreting and enforcing the terms and conditions of this Agreed Order.

### **III. IMMEDIATE INJUNCTIVE RELIEF**

1. Defendant Authority shall continue to implement the Approved Plan in accordance with its provisions until fully implemented.

2. For all areas of the Facility not authorized for occupancy by the Approved Plan, Defendant Authority shall continue to secure the Facility to Illinois EPA's satisfaction, including locking and securing the Facility and prohibiting and continuing to prohibit entry by any person other than Illinois-licensed asbestos professionals, anyone performing asbestos abatement work authorized to do so pursuant to an Illinois EPA-approved Design Plan, or other person authorized or approved by the Illinois EPA.

3. Effective immediately upon the entry of this Order, and until the written approval of the Plaintiff or further order of this Court, Defendant Authority shall continue to take all necessary actions to prevent the discharge or release of asbestos into the air to Illinois EPA's satisfaction, including but not limited to continuing to implement measures to adequately wet, keep wet, and secure all debris at the Facility, including debris in dumpsters.

4. In the event of any additional discharge or release of ACM or RACM at the Facility, Defendant Authority shall immediately notify Plaintiff, as set forth in Section V, below, and shall take all necessary actions to contain the ACM or RACM.

5. Effective immediately upon the entry of this Order, and until the written approval of Plaintiff or further order of this Court, Defendant Authority shall continue to ensure that construction debris and other related materials from the Facility are removed from the Facility only in conformance with the Approved Plan.

6. Effective immediately, Defendant Authority shall submit a commitment letter to Illinois EPA certifying that all future demolition and renovation activities in the State of Illinois will be performed in compliance with the Asbestos NESHAP, 40 C.F.R. 61, Subpart M, and all other federal, State, and local rules and regulations regarding ACM or RACM.

**IV. PRELIMINARY INJUNCTIVE RELIEF**

**A. Inspection and Maintenance Records**

Within 10 business days of the date of entry of this Agreed Order, Defendant Authority shall submit to Plaintiff all records in its possession related to any and all actions taken to date regarding ACM or RACM mitigation at the Facility. Thereafter, Defendant Authority shall submit to Plaintiff all records in its possession or control related to any and all actions taken at the Facility until Illinois EPA confirms in writing that the asbestos abatement has been completed.

**B. Summary Report**

1. Within 30 days after the date of entry of this Agreed Order, Defendant Authority shall provide to Plaintiff a written report based on information in its possession summarizing the status of the work on the Approved Plan and related work performed at the Facility in response to the Release (“Summary Report”). To the extent that Defendant Authority has relevant information in its possession, the Summary Report shall include:

- a) the date renovation and/or demolition began at the Facility;
- b) a description of all renovation and demolition work prior to July 24, 2024;

- c) a description of any and all objects that were removed from the after July 24, 2024, where said objects were taken, and who authorized their removal;
- d) all relevant records from Carnow Conibear or any other environmental consultant; and
- e) documentation of all waste material that has been collected and/or removed from the Facility to date, including ACM and RACM, the amount of said waste material, who removed it, and where it was taken.

2. Within seven days after the date of entry of this Agreed Order, Defendant Authority shall submit to Plaintiff the analytical data, results, and locations of any on-site or off-site related sampling conducted by Defendant Authority during or following the activities at the Facility that were not already submitted to Plaintiff by Defendant Authority.

3. Defendant Authority shall provide clarifying information as requested by Plaintiff, according to a schedule established by Plaintiff.

**C. Restart of Renovation and Demolition**

Defendant Authority shall not engage in or restart any renovation activities at the Facility until abatement pursuant to the Approved Plan is complete, and shall only restart demolition with written approval from Plaintiff.

**V. NOTICES**

All submittals and correspondence relating the requirements of this Agreed Order shall be directed to the following persons:

**FOR PLAINTIFF**

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 Cara V. Sawyer  
 Assistant Attorneys General

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FOR DEFENDANTS

WILL COUNTY METROPOLITAN EXPOSITION & AUDITORIUM  
AUTHORITY

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**VI. DUTY TO COOPERATE**

The Plaintiff and Defendant Authority shall cooperate with each other in the implementation of this Agreed Order.

**VII. COMPLIANCE WITH OTHER LAWS AND REGULATIONS**

This Agreed Order in no way affects the responsibilities of Defendant Authority to comply with any other federal, State, or local laws or regulations, including but not limited to the Act, 415 ILCS 5/1 *et seq.* (2022), the Board's Regulations, 35 Ill. Adm. Code Part 101 *et seq.*, and the Asbestos NESHAP and all other federal, State, or local rules and regulations regarding ACM and RACM.

**VIII. DISPUTE RESOLUTION**

The parties shall use their best efforts to resolve any and all disputes or differences of opinion arising with regard to this Agreed Order, informally and in good faith. If, however, a dispute arises concerning this Agreed Order that the parties are unable to resolve informally, any party to this Agreed Order may, by written motion, request that the parties hold an evidentiary hearing before the Circuit Court of Will County, Illinois, to resolve the dispute between the parties.

**IX. FORCE MAJEURE**

1. For the purpose of this Agreed Order, *force majeure* is an event arising beyond the reasonable control of Defendant Authority which prevents the timely performance of any of the requirements of this Agreed Order. For purposes of this Agreed Order *force majeure* shall include, but is not limited to, events such as floods, fires, tornadoes, other natural disasters and labor disputes beyond the reasonable control of Defendant Authority.

2. When, in the opinion of Defendant Authority, circumstances have occurred that cause or may cause a delay in the performance of any of the requirements of this Agreed Order, Defendant Authority shall give oral notice to the Attorney General's Office and the Illinois EPA

within 48 hours of the occurrence and written notice shall be given to the Attorney General's Office and the Illinois EPA no later than ten (10) calendar days after the claimed occurrence.

3. Failure of Defendant Authority to comply with the notice requirements of the preceding paragraph shall render this *force majeure* provision voidable by the Plaintiff as to the specific event for which Defendant Authority has failed to comply with the notice requirement. If voided, this section shall be of no effect as to the particular event involved.

4. An increase in costs associated with implementing any requirement of this Agreed Order shall not, by itself, excuse Defendant Authority under the provisions of this Section of the Agreed Order from a failure to comply with such a requirement.

**X. RIGHT OF ENTRY**

In addition to any other authority, Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon the Facility, at all reasonable times for the purpose of conducting inspections and evaluating compliance status. In conducting such inspections, Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, may take photographs and samples and collect information, as they deem necessary.

**XI. EXTENSIONS AND MODIFICATIONS**

The parties to this Agreed Order may, by mutual written consent, extend any compliance date or modify the terms of this Agreed Order without leave of Court. A request for modification shall be in writing and be submitted to the designated representatives of the parties to the Agreed Order indicated in Section V (Notices). Each such agreed modification shall be in writing and signed by an authorized representative of each party, which shall then be deemed incorporated by

reference to this Agreed Order.

**XII. RESERVATION OF RIGHTS**

Nothing contained herein shall be deemed a finding of fact or adjudication by this Court of any of the facts or claims contained in the Complaint. The Plaintiff reserves the right to seek additional technical relief and civil penalties in this matter.

**XIII. RETENTION OF JURISDICTION**

This Court shall retain jurisdiction of this matter and shall consider any motion by the Plaintiff or Defendant Authority for the purposes of interpreting and enforcing the terms and conditions of this Agreed Order.

**XIV. BINDING ON SUCCESSORS, ASSIGNS AND FUTURE OWNERS/OPERATORS**

This Agreed Order shall be binding upon Defendant Authority, its successors, assigns, and future owners and/or operators of the Facility.

**XV. STATUS CONFERENCE WITH THE COURT**

This matter is set for a status conference on ~~December 30, 2024~~ at 9:00 a.m., without further notice.  
*Jan. 3, 2025*

**XVI. SIGNATURE**

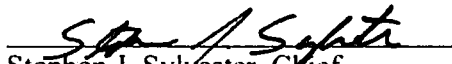
This Agreed Immediate and Preliminary Injunction Order may be signed in counterparts, all of which shall be considered one agreement.

WHEREFORE the parties, by their representatives, enter into this Agreed Immediate and Preliminary Injunction Order and submit it to the Court that it may be approved and entered.

**AGREED:**

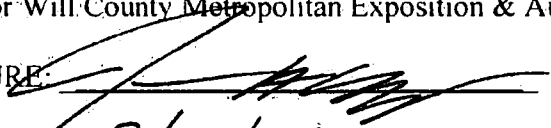
PEOPLE OF THE STATE OF ILLINOIS  
*ex rel.* KWAME RAOUL, Attorney General  
of the State of Illinois,

MATTHEW J. DUNN, Chief  
Environmental/Asbestos Litigation Division


By:   
Stephen J. Sylvester, Chief  
Environmental Bureau  
Assistant Attorney General

DATE: 09/26/24

WILL COUNTY METROPOLITAN EXPOSITION &  
AUDITORIUM AUTHORITY, by James A. Murphy,  
attorney for Will County Metropolitan Exposition & Auditorium Authority

SIGNATURE: 

DATE: 9/26/24

ENTERED:   
JUDGE  
Date: 10-2-24

[People v. Will County Metropolitan Exposition & Auditorium Authority et al.]