

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

DANIEL PELZER  
4708 ELM STREET  
LISLE, IL 60532

and

SALLY PEPPING  
2005 SOUTH FINLEY ROAD #410  
LOMBARD, IL 60148

Plaintiffs,

v.

THE LOCKFORMER COMPANY,  
A DIVISION OF METCOIL SYSTEMS,  
CORP., A DELAWARE CORPORATION,

and

MESTEK, INC., A PENNSYLVANIA  
CORPORATION

and

HONEYWELL INTERNATIONAL,  
INC., A DELAWARE CORPORATION

Defendants,

01C 6485

Case No. \_\_\_\_\_

JUDGE ZAGEL

Judge \_\_\_\_\_

MAGISTRATE JUDGE DENLOW

Magistrate \_\_\_\_\_

JURY DEMAND  
INDORSED HEREON

DOCKETED

AUG 22 2001

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FILED-ED4

COMPLAINT

I. Statement of Jurisdiction:

1. Subject matter jurisdiction lies with this honorable Court and is predicated upon 28 U.S.C. 1332, diversity jurisdiction.
2. Plaintiffs Daniel Pelzer and Sally Pepping are citizens of the state of Illinois.

3. Defendant Lockformer Company, a Division of MetCoil Systems Corporation (hereinafter "Lockformer") is a Delaware corporation, having its principal place of business in the state of Iowa.
4. Defendant Mestek, Inc. (hereinafter "Mestek") is a Pennsylvania corporation, having its principal place of business in the state of Massachusetts.
5. Defendant Honeywell International Inc. (hereinafter "Honeywell") is a Delaware corporation.
6. Complete diversity exists herein.
7. In excess of \$ 75,000.00, exclusive of interest and/or costs, is in controversy herein.

## II. Statement of the Claims:

8. Plaintiffs incorporate paragraphs 1 through 7 as if fully rewritten herein.
9. Plaintiff Daniel Pelzer (hereinafter "Pelzer") resides at 4708 Elm Street, Lisle, Illinois.
10. Plaintiff Sally Pepping (hereinafter "Pepping") resides at 2005 South Finley Road # 410, Lombard, Illinois.
11. At all times relevant herein, Lockformer was and/or is engaged in the business of metal fabrication and manufacturing, and is located at 711 Ogden Avenue, Lisle, Illinois (the Lockformer site).
12. Lockformer was, in October of 2000, merged into, and became a division of Metcoil Systems Corporation.
13. Mestek owns and operates Lockformer, and has done so since purchasing the entity in approximately June of 2000.
14. The Lockformer site (711 Ogden Avenue, Lisle, Illinois) is located north and west, and hydrologically upgradient from Pelzer's residence.
15. During the course of its business operations, Lockformer has engaged in the use of chlorinated solvents, including Trichloroethylene (hereinafter "TCE").
16. Lockformer maintained and used a solvent storage tank upon the roof of its facility at the Lockformer site from approximately 1968 until and including 1997.

17. Lockformer's rooftop storage tank was filled with chlorinated solvents, including TCE, via a fill pipe that was affixed to the western exterior wall of the Lockformer facility.
18. Allied Signal, Inc. supplied Lockformer with chlorinated solvents from approximately 1970 until approximately 1992. Allied Signal Inc. was merged into and became known as Honeywell International (Defendant "Honeywell") prior to the commencement of this action. Allied Signal Inc., as a separate and distinct entity, no longer exists.
19. During the time period beginning in approximately 1968 and ending in approximately 1999, chlorinated solvents, including TCE, were released into the environment as the result of one or all of the following negligent acts:
  - (a) As the result of Honeywell's failure to exercise reasonable care, TCE was released into the environment at the Lockformer site, at or near the fill pipe, during the course of filling the rooftop storage tank;
  - (b) As the result of Lockformer's failure to exercise reasonable care, TCE was released into the environment at the Lockformer site, at or near the fill pipe, as well as including but not limited to, through Lockformer's drains, floors, through the floor of Lockformer's vapor degreaser pit, and/or through Lockformer's refuse disposal;
  - (c) Mestek, failed to exercise reasonable care in its ownership, management, and/or monitoring of Lockformer with respect to Lockformer's procurement, use, handling, and/or disposal of chlorinated solvents, including TCE;
20. As a direct and proximate result of the foregoing negligent acts or omissions, a plume of toxic chemicals, including TCE, formed at and beneath the ground surface at the Lockformer site.
21. As a direct and proximate result of the foregoing negligent acts or omissions, the plume of toxic chemicals, including TCE, has contaminated soils and groundwater systems in, beneath, and near the Lockformer site.
22. As a direct and proximate result of the foregoing negligent acts or omissions, the plume of toxic chemicals migrated to and/or upon and/or beneath the property on which Plaintiff Daniel Pelzer resides and has resided since 1970.
23. As a direct and proximate result of the foregoing negligent acts or omissions, toxic chemicals, including TCE, have come into contact with the person of Plaintiff Daniel Pelzer.

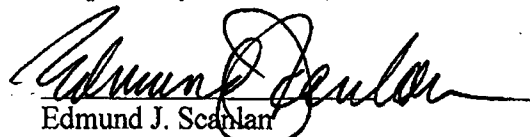
24. Plaintiff Daniel Pelzer was, in or about 1988, diagnosed with Nephroic Syndrome, a fatal disease affecting the kidneys.
25. Pelzer has no known family history or genetic predisposition to diseases of the kidneys, and has not engaged in any activities that have been shown to cause diseases of the kidneys.
26. During or about January of 1993, after exhausting all reasonable medical treatments for his kidney disease, Pelzer underwent surgery to transplant a healthy kidney in place of his diseased kidneys.
27. Plaintiff Sally Pepping is Daniel Pelzer's natural sister and was the person compatible for purposes of kidney donation to Daniel Pelzer.
28. During or about January of 1993, Plaintiff Sally Pepping underwent surgery to donate one of her kidneys to her brother, Daniel Pelzer.
29. TCE is a known human carcinogen and is as well clinically proven to cause diseases of the kidneys, including Nephroic Syndrome.
30. As a direct and proximate result of one or more of the Defendants' negligent acts or omissions, Plaintiff Daniel Pelzer has:
  - (a) contracted a fatal disease of the kidneys;
  - (b) underwent conscious pain and suffering;
  - (c) suffered mental anguish, and will continue to suffer such anguish;
  - (d) lost wages in the past, and will continue to lose wages in the future due to a diminution of earning capacity;
  - (e) incurred medical expenses, hospital expenses, and other related expenses, and will continue to incur such expenses in the future;
  - (f) incurred the need for increased medical monitoring.
31. As a direct and proximate result of one or more of the Defendants' negligent acts or omissions, Plaintiff Sally Pepping has:
  - (a) suffered the loss of one of her kidneys;
  - (b) underwent conscious pain and suffering;
  - (c) suffered mental anguish, and will continue to suffer such anguish;
  - (d) lost wages in the past, and will continue to lose wages in the future due to a diminution of earning capacity;
  - (e) incurred medical expenses, hospital expenses, and other related expenses, and will continue to incur such expenses in the future;
  - (f) incurred the need for increased medical monitoring.

32. Defendants have had actual and/or constructive knowledge of the releases of TCE since 1990.
33. Plaintiffs were not provided any notice or any warnings concerning the releases of TCE until March of 2000.
34. One or more of Defendants' negligent acts or omissions occurred with wanton and willful disregard for the rights and interests of Plaintiffs Daniel Pelzer and Sally Pepping.

**III. Prayer for Relief:**

35. Plaintiffs incorporate paragraphs 1 through 34 as if fully rewritten herein.
36. Plaintiffs respectfully demand a jury pursuant to Rule 38, FRCP.
37. Plaintiff Daniel Pelzer demands judgment against Lockformer, a Division of MetCoil Systems Corporation, and Mestek, and Honeywell, individually, jointly, and severally, in an amount in excess of \$ 75,000.00.
38. Plaintiff Sally Pepping demands judgment against Lockformer, a Division of MetCoil Systems Corporation, and Mestek, and Honeywell, individually, jointly, and severally, in an amount in excess of \$ 75,000.00.
39. Plaintiffs demand an award of punitive damages.
40. Plaintiffs demand interest, the costs of this action, attorneys fees, and all other relief that this Court deems just and equitable.

Respectfully Submitted,



Edmund J. Scanlan  
Trial Counsel for Plaintiffs

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Co-counsel for Plaintiffs

LAW OFFICES OF VINCENT E. SOLANO  
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630.960.5800  
Co-counsel for Plaintiffs

# Cat 2 CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS DANIEL PELZER and SALLY PEPPING

DEFENDANTS THE LOCKFORMER COMPANY, a A DIVISION OF METCOIL SYSTEMS CORPORATION

DOCKETED 01C 6485

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF DuPage, Illinois (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Linn, Iowa (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. JUDGE ZAGEL

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) EDMUND J. SCANLAN LTD. 134 North LaSalle Suite 1700 Chicago, IL 60602 (312) 372-0020

ATTORNEYS (IF KNOWN) MAGISTRATE JUDGE DENLOW, CHUHAK & TECSON 225 West Washington, Ste. 1300 Chicago, IL 60606 (312) 434-9300

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

PTF	DEF	PTF	DEF
<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395m) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determinator Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 610 Motion to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 630 General <input type="checkbox"/> 635 Death Penalty <input type="checkbox"/> 640 Mandamus & Other <input type="checkbox"/> 650 Civil Rights <input type="checkbox"/> 655 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

28 USC 1332; an action for personal injuries based on diversity

VII. REQUESTED IN COMPLAINT

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23  DEMAND \$ in excess of \$75,000.000 CHECK YES only if demanded in complaint JURY DEMAND:  YES  NO

VIII. This case

- is not a refiling of a previously dismissed action.
- is a refiling of case number \_\_\_\_\_, previously dismissed by Judge \_\_\_\_\_

DATE August 14, 2001

SIGNATURE OF ATTORNEY OF RECORD *Edmund Scanlan*

1-2

**United States District Court**

NORTHERN DISTRICT OF ILLINOIS

Eastern Division

**DOCKETED**

AUG 22 2001

In the Matter of Daniel Pelzer and Sally Pepping,  
Plaintiffs,

VS.

The Lockformer Company, a Division of Case Number  
Metcoil Systems, and Mestek, Inc. and Honeywell,  
Honeywell, Defendants.

**01C 6485**

**JUDGE ZAGEL**

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

PLAINTIFFS

MAGISTRATE JUDGE DENLOW

FILED - EDA  
AUG 21 PM 1:08  
U.S. DISTRICT COURT

(A)	(B)
SIGNATURE <i>Edmund J. Scanlan</i>	SIGNATURE
NAME EDMUND J. SCANLAN	NAME
FIRM EDMUND J. SCANLAN LTD.	FIRM
STREET ADDRESS 134 North LaSalle, Ste. 1700	STREET ADDRESS
CITY/STATE/ZIP Chicago, IL 60602	CITY/STATE/ZIP
TELEPHONE NO. (312) 372-0020	TELEPHONE NO.
MEMBER OF TRIAL BAR? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	MEMBER OF TRIAL BAR? <input type="checkbox"/> Yes <input type="checkbox"/> No
TRIAL ATTORNEY? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	TRIAL ATTORNEY? <input type="checkbox"/> Yes <input type="checkbox"/> No
	DESIGNATED AS LOCAL COUNSEL? (SEE ITEM 6 ON REVERSE) <input type="checkbox"/> Yes <input type="checkbox"/> No
(C)	(D)
SIGNATURE	SIGNATURE
NAME	NAME
FIRM	FIRM
STREET ADDRESS	STREET ADDRESS
CITY/STATE/ZIP	CITY/STATE/ZIP
TELEPHONE NO.	TELEPHONE NO.
MEMBER OF TRIAL BAR? <input type="checkbox"/> Yes <input type="checkbox"/> No	MEMBER OF TRIAL BAR? <input type="checkbox"/> Yes <input type="checkbox"/> No
TRIAL ATTORNEY? <input type="checkbox"/> Yes <input type="checkbox"/> No	TRIAL ATTORNEY? <input type="checkbox"/> Yes <input type="checkbox"/> No
DESIGNATED AS LOCAL COUNSEL? (SEE ITEM 6 ON REVERSE) <input type="checkbox"/> Yes <input type="checkbox"/> No	DESIGNATED AS LOCAL COUNSEL? (SEE ITEM 6 ON REVERSE) <input type="checkbox"/> Yes <input type="checkbox"/> No

PLEASE COMPLETE IN ACCORDANCE WITH INSTRUCTIONS ON REVERSE.

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