EXHIBIT A

ED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

PROOF OF CLAIM

Name of Debtor Against Which You Assert Your Claim:
Met-Coil Systems Corporation

Case Number:
03-12676 (MFW)
CHAPTER 11

s4568

UNKNOWN UNSECURED CONTINGENT, DISPUTED, UNLIQUIDATED

Note: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor and Address

04405847002745

PUNTERO, PHILLIP
C/O DAVID P BONACCORSI ESQ
BERNARD BALGLEY & BONACCORSI
3900 NEWPARK MALL RD 3RD FL
NEWARK, CA 94560

☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

☐ Check box if you have never received any notices from the bankruptcy court in this case.

☐ Check box if the address differs from the address on the envelope sent to you by the court.

If an amount is set forth above, you have a claim scheduled by the Debtor as shown. If you agree with the amount and classification of your claim as scheduled by the Debtor and you have no other claims against the Debtor, you do not need to file this proof of claim, EXCEPT AS FOLLOWS: If the amount shown is DISPUTED, UNLIQUIDATED OR CONTINGENT, a proof of claim MUST be filed in order to receive any distribution in respect of your claim. If you have already filed a proof of claim with the Bankruptcy Court or BMC, you need not file again.

If above address is incorrect, or if notices should be sent to a different address, please complete the following:

Telephone No. of Creditor:
(510) 791-1888

Tax I.D. # / SS # of Creditor:
547-97-9027

Account Or Other Number By Which Creditor Identifies Debtor:

Check here ☐ replaces if this claim ☐ amends a previously filed claim, dated _____

1. BASIS FOR CLAIM:
- ☐ Goods sold
- ☐ Services performed
- ☐ Money loaned
- ☒ Personal injury/wrongful death
- ☐ Taxes
- ☐ Other _____
- ☐ Severance Agreement
- ☐ Refund
- ☐ Real Property Lease
- ☐ Personal Property Lease
- ☐ Other Contract
- ☐ Property Damage
- ☐ Retiree Benefits as defined in 11 U.S.C. § 1114(a)
- ☐ Wages, salaries, and compensation (Fill out below)
  Your SS# _____
  Unpaid Compensation for services performed
  From: _____ (Date) to: _____ (Date)

2. Date debt was incurred:
October 19, 2001

3. If court judgment, date obtained:
N/A

4. Total Amount Of Claim as of Petition Date: $821,705.15 (unsecured) + $_____ (secured) + $_____ (priority) = $821,705.15 (total)
If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.
☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

5. Secured Claim.
☐ Check this box if your claim is secured by collateral (including a right of setoff).
Brief description of Collateral:
☐ Real Estate ☐ Motor Vehicle ☐ Other _____
Value of Collateral: $_____
Amount of arrearage and other charges at time case filed included in secured claim, if any
$_____.

6. Unsecured Priority Claim.
☐ Check this box if you have an unsecured priority claim
Amount entitled to priority $_____
Specify the priority of the claim
☐ Wages, salaries, or commissions (up to $4,650), earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier -- 11 U.S.C. § 507(a)(3)
☐ Contributions to an employee benefit plan -- 11 U.S.C. § 507(a)(4)
☐ Up to $2,100 of deposits toward purchase, lease, or rental of property or services for personal, family, or household use -- 11 U.S.C. § 507(a)(6)
☐ Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7)
☐ Taxes or penalties of governmental units -- 11 U.S.C. § 507(a)(8)
☐ Other – specify applicable paragraph of 11 U.S.C. § 507(a)(___).

7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.
8. Supporting Documents. *Attach copies of supporting documents*, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.
9. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

The original of this completed proof of claim form must be sent by mail or hand delivered (FAXES NOT ACCEPTED) so that it is received on or before 4:00 p.m., November 14, 2003, Pacific Time to: Bankruptcy Management Corporation Attn: Met-Coil Systems Corporation, Claims Processing, P.O. Box 1033, El Segundo, CA 90245-1033 (if via U.S. mail), or Bankruptcy Management Corporation, Claims Processing, 1330 East Franklin Avenue, El Segundo, CA 90245 (if via delivery by hand, courier or overnight service) **NO FAXES ACCEPTED**. Creditors are requested to send a duplicate copy of the proof of claim in addition to the original and any acknowledgement copy.

This Space Is For Court Use Only

FILED

NOV 07 2003

BMC

Met Coil

00154

Date
11/6/03

Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):
David P. Bonaccorsi, Attorney for Creditor Phillip Puntero

Penalty for presenting fraudulent claim: Fine of up to $500,000 or imprisonment for up to five years, or both. 18 U.S.C. §§ 152 and 3571.

SUPPORTING DOCUMENTS

SUMMARY OF EXHIBITS

Exhibit 1: Summary of Claim and Itemization of Damages

Exhibit 2: Complaint filed by Philipp Puntero in San Mateo County Superior Court, State of California, Case No. CIV 426369

Exhibit 3: Amendment to Philipp Puntero's Complaint substituting in Met-Coil Systems Corporation

Exhibit 4: Cross-Complaint for Express Indemnity, Implied Equitable Indemnity, Concurrent Tortfeasors, and Declaratory Relief filed by Roper Whitney of Rockford, Inc. against Met-Coil systems Corporation

Exhibit 5: Answer to Cross-Complaint filed by Met-Coil Systems Corporation

Exhibit 6: Selected Specially Prepared Interrogatories propounded by Philipp Puntero to the Defendant Roper Whitney of Rockford, Inc. (Interrogatory Nos. 1 through 9)

Exhibit 7: Selected verified responses by the Defendant Roper Whitney of Rockford, Inc. to the interrogatories to the Specially Prepared Interrogatories propounded by the Plaintiff Philipp Puntero. (Interrogatory Nos. 1 through 9)

SUMMARY OF CLAIM

Medical Specials: (through June, 2003): $7447.75
Future Medical Specials: Unknown*
Past Wage Loss through October 31, 2003: $64,257.40**
Loss of Earning Capacity/Lost Future Wages: Unknown
General Pain and Suffering: $750,000
Total Claim to Date: $821,705.15

*Philipp Puntero suffered a crush amputation of the left fourth (ring) and fifth finger from a punch press, known as a Roper Whitney "Profab", Model HPR-Z610, Serial #102-4-88. Dr. Steven Avon and Dr. Teresa Yin have opined that a small tip in the patient's left little finger may need to be surgically repaired if the hole continues to enlarge or becomes symptomatic. Dr. Avon also advised of the possible need for an surgical incision over the volar aspect of the left little finger proximal phalanx/proximal stump of the flexor digitorum profundus, with traction being placed over the flexor digitorum profundus. Additionally, according to Dr. Yin and Dr. Chang, Plaintiff may become a surgical candidate for tip prosthesis. Discovery is continuing.

**This figure does not take into account lost overtime, loss of other fringe benefits, such as medical, dental, 401(k) contributions, disability, social security contributions, or losses reflecting an increase in the base pay and differential pay given to press operators. Again, this figure does not take into accounts matters which may be the subject of expert opinion.

ITEMIZATION

MEDICAL SPECIALS (through June, 2003)

AMERICAN MEDICAL RESPONSE
P.O. Box 3429, Modesto, CA 95353

10/19/01 Ambulance Service $997.66

TOTAL $997.66

Stanford Medical Center Emergency Room/Dr. Victoria Powell
300 Pasteur Drive
Stanford, CA 94305
(650) 723-4000

Various Dates of Treatment $190.37

Philipp Puntero
Summary of Claim

Dr. James Chang
Plastic Surgeon c/o
Stanford Medical Center
300 Pasteur Drive
Stanford, CA 94305

10/19/01	Hand 3 views	$38.00
10/19/01	Emerg. Dept. Visit	$242.00
10/19/01	Medical Services	$25.00
10/19/01	IV Infusion Therapy	$245.00
11/06/01	Op Visit	$70.00
10/23/01	Op Visit	$177.00
12/11/01	Op Visit	$70.00
02/12/02	Op Visit	$70.00
	Total	$937.00

Bruce Fabric, M.D., INC.
740 Mowry Ave., Suite 103
Fremont, Ca. 94536
(510) 792-6660/(510) 744-9913 (fax)

11/13/01 ..... $180.00

Note: There was a recent follow-up visit Dr. Bruce Fabric for which bills have yet to obtained.

Lewani Prem, Physical Therapist
Tri-City Physical Therapy
2805 Whipple Road
Union City, CA 94587
(510) 441-8906/441-8908 (facsimile)
Various Dates of Treatment: Total Bill: $1987.36

Dr. Teresa Yin, D.C.
39210 State Street
Fremont, California 94538
(510) 793-6302

Philipp Puntero
Summary of Damages

12/12/01	Initial Visit	$95.00
12/17/01	Chiropractic Manipulation	$40.00
	NueroMuscularRe-ed	$34.00
	Traction	$10.00
	E-stim	$10.00
12/19/01	Chiropractic Manipulation	$40.00
	NueroMuscularRe-ed	$34.00
	E-stim	$10.00
12/26/01	Chiropractic Manipulation	$40.00
	NueroMuscularRe-ed	$34.00
	Traction	$10.00
	E-stim	$10.00
1/02/02	Chiropractic Manipulation	$40.00
	Therapeutic Exercise	$34.00
	Traction	$10.00
	E-stim	$10.00
1/09/02	Re-Eval Est Patient	$95.00
	NueroMuscularRe-ed	$34.00
	E-stim	$10.00
	Hot/cold pak	$10.00
	PR2 Special Report	$18.00
1/11/02	Intermediate Call	$34.85
1/18/02	Myofacial Release-STM	$45.00
	Chiropractic Manipulation	$40.00
	Traction	$10.00
1/23/02	Myofacial Release-STM	$45.00
	Chiropractic Manipulation	$40.00
	E-stim	$10.00
1/29/02	Chiropractic Manipulation	$40.00

Philipp Puntero
Summary of Damages

		Therapeutic Exercise	$34.00
		E-stim	$10.00
		PR2 Special Report	$30.00
	PR2 Special Report addit page		$15.00
2/6/02		Chiropractic Manipulation	$40.00
		Therapeutic Exercise	$34.00
		Traction	$10.00
		E-stim	$10.00
2/13/02		Chiropractic Manipulation	$40.00
		Therapeutic Exercise	$34.00
2/20/02		Re-Eval Est Patient	$70.00
		Myofascial Release-STM	$45.00
		Chiropractic Manipulation	$40.00
		PR2 Special Report	$18.00
	PR2 Special Report addit page		$15.00
3/6/02		Chiropractic Manipulation	$40.00
		Therapeutic Exercise	$34.00
3/20/02		Re-Eval Est Patient	$70.00
	Total		$1481.85

Note: There was a recent follow-up visit w/ Dr. Teresa Yin and referral to Ergo Rehab for which bills have yet to obtained.

Ergo Rehabilitation
39201 State Street, Fremont, CA 94538
(510)791-5521/(510)791-6380 (fax)

Various Dates of Treatment $1451.23
12/21/2001-3/21/02

Steven Avon, M.D.
Fremont Orthopaedic, a Professional Corporation
38690 Stivers Street, Ste. A
Fremont, CA 94536-5336
(510) 793-6655/(510) 793-4318 (fax)

2/11/02 Orthopaedic Consultation $222.28:

Philipp Puntero
Summary of Damages

WAGE LOSS

Through December 31, 2002, Creditor as a former employee of Tyco has lost $37,922.40.

This $37,922.40 was calculated based on a base 80 hour work week and Creditor's base pay of $14.32 per hour plus shift differential of approximately $2.15 per hour. Creditor was paid bi-weekly on average the approximate sum of $1316.75 for an 80 hours or 40 hours per week. Creditor's monthly rate on average was $1316.75 x 2 = $2633.50. Creditor's daily rate therefore was approximately $1316.75/80 hours/10 = $131.675 per 8 hour day.

After the INCIDENT, there would have been 8 working days left: October 22 through 26, and October 29 through 31, 2001. The loss through October 31, 2001 would be $131.675 x 8 days = $1053.40.

From November 1, 2001 through December 31, 2002, Creditor has lost work for an additional 14 months. 14 months x $2633.50 = $36,869.00. Thus, through December 31, 2002, Creditor has lost, at a minimum, $36,869 + $1053.40 = $37,922.40.

From January 1, 2003 through October 31, 2003, Creditor has lost wages for an additional 10 months, or 10 X $2633.50 = $26,335.00.

Thus from the date of the incident through October 31, 2003, Creditor has lost $37,922.40 + $26,335.00 = $64,257.40. Creditor continues to suffer lost wages at a minimum of the base monthly sum of $2633.50 per month.

DAVID P. BONACCORSI, ESQ. (SB# 129042)
BERNARD, BALGLEY & BONACCORSI
3900 NewPark Mall Road, Third Floor
Newark, CA 94560
Telephone: (510) 791-1888

Attorneys for Plaintiff
PHILIPP PUNTERO

ENDORSED FILED
SAN MATEO COUNTY
OCT 15 2002
Clerk of the Superior Court
By M. MARLOWE
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

PHILIPP PUNTERO,

Plaintiff,

vs.

TYCO ELECTRONICS, INC., ROPER WHITNEY OF ROCKFORD, INC., and DOES 1-100

Defendants.

Case No. CV426369

COMPLAINT FOR PERSONAL INJURY

Unlimited Jurisdiction
(Amount Demanded Exceeds $25,000)

BY FAX

The Plaintiff PHILIPP PUNTERO alleges as follows:

INTRODUCTORY ALLEGATIONS

1. Plaintiff is, and at all times herein mentioned was, a resident of Alameda County, California.

2. Plaintiff, at all relevant times, was an employee of the Defendant TYCO ELECTRONICS and DOES 1-10 located at 308 Constitution Drive, Menlo Park, San Mateo County, California (hereinafter " TYCO".)

Filed By Fax & File

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Newark, CA 94560

(510) 791-1888
Fax (510) 791-8008

3. Plaintiff is informed and believes, and based upon such information and belief, alleges, that the Defendant TYCO and Does 1-10, and at all times herein mentioned was a corporation, which Plaintiff is informed and believes has its principal place of business in California, and is doing business in San Mateo.

4. The Defendant ROPER WHITNEY OF ROCKFORD, INC. ("ROPER WHITNEY") is a corporation which Plaintiff is informed and believes is incorporated in Illinois but does business in California, and is engaged in the business of designing, manufacturing, assembling, supplying and/or distributing and among other things, power punches for sale to and use by members of the general public.

5. ROPER WHITNEY and DOES 11 through 30 inclusive, designed, manufactured, assembled, supplied and/or distributed a line of punch presses including the specific Profab CNC Punch Press that caused injury to the Plaintiff (hereinafter "PUNCH PRESS.")

6. Plaintiff is informed and believes that the PUNCH PRESS at all relevant times was owned and operated by the Defendant TYCO.

7. Plaintiff is informed and believes, and based upon that information and belief, alleges that each of the fictitiously named Defendants DOES 1 through 100 is, and at all times herein mentioned was, responsible in some manner for the events and occurrences which proximately caused injury and damage to Plaintiff.

8. Plaintiff is ignorant of the true names of the Defendants sued herein as DOES 1 through 100, inclusive, and, therefore, sues these Defendants by such fictitious names. Plaintiff will amend this complaint to insert their true names and capacities when ascertained.

9. Plaintiff is informed and believes, and based upon such information and belief alleges, that each Defendant was the agent, employee and/or servant of each of the other Defendants, and in doing the things herein alleged, was acting within the purpose and scope of such agency and employment.

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FIRST CAUSE OF ACTION

(LIABILITY OF EMPLOYER UNDER LABOR CODE SECTION 4558

AGAINST THE DEFENDANTS TYCO and DOES 1 through 10)

10. Plaintiff refers to Paragraph 1 through 9 and incorporates the same herein by this reference though fully set forth at length.

11. Plaintiff is informed and believes that the employer Defendants TYCO and DOES 1 through 10, and each of them, failed to install or removed a point of operation guard within the meaning of California Labor Section 4558 (b).

12. As a direct and legal result of the acts as hereinbefore described of the Defendants TYCO and DOES 1 through 10, and each of them, caused Plaintiff, on or about October 19, 2001, a CNC operator, a partial amputation of his left ring finger and small finger.

13. As a direct and legal result of the acts of the Defendants described above, and each of them, Plaintiff was hurt and injured in his health, strength, and activity, all of which injuries have caused, and continue to cause Plaintiff great mental, physical, emotional, and nervous pain and suffering.

14. As a direct and legal result of the acts of the Defendants described above, and each of them, Plaintiff has suffered general damages in an amount within the jurisdiction of the Superior Court.

15. As a direct and legal result of the acts of the Defendants described above, and each of them, Plaintiff has incurred, and will continue to incur medical and related expenses, in an amount according to proof.

16. As a direct and legal result of the acts of the Defendants described above, and each of them, Plaintiff has suffered lost wages and his earning capacity has been and will be greatly impaired, both in the past, present and future in an amount according to proof.

WHEREFORE, Plaintiff prays judgment against defendants as hereinafter set forth.

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Newark, CA 94560

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Fax (510) 791-8008

SECOND CAUSE OF ACTION

(NEGLIGENCE - AGAINST THE DEFENDANTS ROPER WHITNEY and DOES 11 through 30)

17. Plaintiff refers to Paragraphs 1 through 9 and incorporates the same herein by this reference though fully set forth at length.

18. At all times herein mentioned that Defendants ROPER WHITNEY and DOES 1 through 30, and each of them, as the manufacturer of the PUNCH PRESS and the Profab CNC punch presses of the type which caused injury to the Plaintiff, owed a duty of due care to Plaintiff and others in the class of Plaintiffs, as an operator of the PUNCH PRESS.

19. The Defendants ROPER WHITNEY and DOES 11 through 30, and each of them, negligently manufactured and designed the PUNCH PRESS so as to cause Plaintiff, on or about October 19, 2001, a CNC operator, a partial amputation of his left ring finger and small finger.

20. As a direct and legal result of the negligence of the Defendants described above, and each of them, Plaintiff was hurt and injured in his health, strength, and activity, all of which injuries have caused, and continue to cause Plaintiff great mental, physical, emotional, and nervous pain and suffering.

21. As a direct and legal result of the negligence of the Defendants described above, and each of them, Plaintiff has suffered general damages in an amount within the jurisdiction of the Superior Court.

22. As a direct and legal result of the negligence of the Defendants described above, and each of them, Plaintiff has incurred, and will continue to incur medical and related expenses, in an amount according to proof.

23. As a direct and legal result of the negligence of the Defendants described above, and each of them, Plaintiff has suffered lost wages and his earning capacity has been and will be greatly impaired, both in the past, present and future in an amount according to proof.

WHEREFORE, Plaintiff prays judgment against defendants as hereinafter set forth.

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THIRD CAUSE OF ACTION

(STRICT LIABILITY - AGAINST THE DEFENDANTS ROPER WHITNEY and DOES 11 through 30)

24. Plaintiff refers to Paragraphs 1 through 9, and 17 through 23, and incorporates the same herein by this reference though fully set forth at length.

25. Plaintiff is informed and believes and, based on that information and belief, alleges that Cross-Defendants knew that the punch presses which they designed, manufactured and installed would be purchased for and used by members of the public without inspection for defects.

26. Plaintiff is informed and believes and, based on that information and belief, alleges that the PUNCH PRESS, and the Profab CNC punch presses of the type which caused injury to the Plaintiff were defective and unsafe for their intended purpose in that the punch presses were inadequately designed, including, but not limited to the absence of any safety devices to safeguard against the type of injury and the risk of great injury of the kind sustained by the Plaintiff.

27. As a direct and legal result of the acts of the Defendants described above, and each of them, Plaintiff was hurt and injured in his health, strength, and activity, all of which injuries have caused, and continue to cause Plaintiff great mental, physical, emotional, and nervous pain and suffering.

28. As a direct and legal result of the acts of the Defendants described above, and each of them, Plaintiff has suffered general damages in an amount within the jurisdiction of the Superior Court.

29. As a direct and legal result of the acts of the Defendants described above, and each of them, Plaintiff has incurred, and will continue to incur medical and related expenses, in an amount according to proof.

30. As a direct and legal result of the acts of the Defendants described above, and each of

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them, Plaintiff has suffered lost wages and his earning capacity has been and will be greatly impaired, both in the past, present and future in an amount according to proof.

31. At all times herein mentioned that Defendants ROPER WHITNEY and DOES 1 through 30, and each of them, knew that the PUNCH PRESS herein described manufactured and sold by the Defendants, and each of them, were defective in the manner herein alleged that in all likelihood would cause personal injury to users, and yet, notwithstanding this knowledge, ROPER WHITNEY and DOES 1 through 30, and each of them, despicably, and in willful and conscious disregard of the safety of such persons and of the plaintiff herein placed and persisted in placing its herein described defective PUNCH PRESS into the stream of commerce. Plaintiff is therefore entitled to an award of exemplary or punitive damages.

WHEREFORE, Plaintiff prays for judgment as follows:

FOURTH CAUSE OF ACTION

(STRICT LIABILITY - FAILURE TO WARN AGAINST

AGAINST THE DEFENDANTS ROPER WHITNEY

and DOES 20 through 50)

32. Plaintiff refers to Paragraph 1 through 9, and 14 through 31 and incorporates the same herein by this reference though fully set forth at length.

33. At the time of its purchase as herein alleged, the PUNCH PRESS and the model of the PUNCH PRESS was defective as a result of the defendant's failure to give adequate warnings as to its use to prevent its being dangerous to the user and unsafe for its intended purpose as a PUNCH PRESS, said failure to warn proximately causing injury to the Plaintiff as hereinbefore alleged.

WHEREFORE, plaintiff prays judgment against defendant as hereinafter set forth.

WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

FOR ALL CAUSES OF ACTION

1. For general damages according to proof;

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2. For special damages for medical and incidental expenses according to proof;

3. For loss of wages and loss of earning capacity and incidental expenses thereto according to proof;

4. For costs of suit herein incurred; and

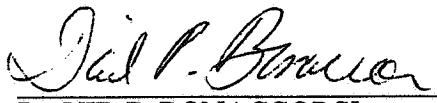
5. For such other further relief as the court may deem just and proper under the circumstances.

FOR THE THIRD AND FOURTH CAUSES OF ACTION

1. For punitive and exemplary damages according to proof.

DATED: October 15, 2002

BERNARD, BALGLEY & BONACCORSI



DAVID P. BONACCORSI
Attorney for Plaintiff
PHILIPP PUNTERO

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Attorneys for Plaintiff
PHILIPP PUNTERO

ENDORSED FILED
SAN MATEO COUNTY
AUG - 5 2003
Clerk of the Superior Court
By SIOLO SALA
DEPUTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

PHILIPP PUNTERO,

Plaintiff,

vs.

TYCO ELECTRONICS, INC., ROPER WHITNEY OF ROCKFORD, INC., and DOES 1-100

Defendants.

Case No. CIV 426369

AMENDMENT TO PHILIPP PUNTERO'S COMPLAINT (SUBSTITUTING DEFENDANT'S TRUE NAME FOR FICTITIOUS NAME)

(Code of Civ.Proc. §474)

BY FAX

Upon filing of the Complaint here, Plaintiff Philipp Puntero being ignorant of the true name of a Defendant, and having designated said Defendant by a fictitious name, to-wit, Doe 20, and having discovered the true name of this Defendant to be Met-Coil Systems Corporation, hereby amends its Complaint by inserting such true name in the place and stead of such fictitious name where it appears in said Complaint.

Dated: August 4, 2003

BERNARD, BALGLEY & BONACCORSI

DAVID P. BONACCORSI
Attorneys for Plaintiff PHILIPP PUNTERO

Filed By One Legal

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Attorneys for Defendant
and Cross-Complainant
ROPER WHITNEY OF ROCKFORD, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

PHILIPP PUNTERO,

Plaintiff,

vs.

TYCO ELECTRONICS, INC., ROPER WHITNEY OF ROCKFORD, INC., and DOES 1 to 100,

Defendants.

Case No. CIV 426369

Judge Mark R. Forcum
Department 8

CROSS-COMPLAINT FOR:
1. **Express Indemnity**
2. **Implied Equitable Indemnity**
3. **Concurrent Tortfeasors**
4. **Declaratory Relief**

ROPER WHITNEY OF ROCKFORD, INC.

Cross-Complainant,

vs.

MET-COIL SYSTEMS CORPORATION and ROES 1 to 50, Inclusive,

Cross-Defendants.

COMES NOW Defendant, Cross-Complainant ROPER WHITNEY OF ROCKFORD, INC. and for causes of action against Cross-Defendants MET-COIL SYSTEMS CORPORATION, and ROES 1 to 50, inclusive, alleges as follows:

FIRST CAUSE OF ACTION

(Express Indemnity)

(AGAINST CROSS-DEFENDANT MET-COIL SYSTEMS CORPORATION AND ROES 1 THROUGH 5)

1. The true names and capacities, whether individual, corporate, associate or otherwise, of Cross-Defendants ROES 1 through 50, inclusive, are unknown to Cross-Complainant who, therefore, sues said Cross-Defendants by such fictitious names. Cross-Complainant will ask leave of Court to amend its Cross-Complaint to show the true names and capacities of such fictitiously names Cross-Defendants when the same have been ascertained. Cross-Complainant upon information and belief, alleges that each of the Cross-Defendants designated as a ROE is responsible under law in some manner, negligently, or otherwise, for the events and happenings referred to herein and proximately thereby caused damage and injuries to Cross-Complainant as herein alleged.

2. Cross-Complainant, upon information and belief, alleges that at all times herein mentioned, Cross-Defendants, and each of them, were the agents, servants and/or employees of each of their co-defendants, and in doing the things herein described, were acting in the course and scope of such agency and/or employment and with the permission and consent of each of their co-defendants.

3. An actual controversy has arisen and now exists between Cross-Complainant and each Cross-Defendant, concerning each party's respective rights and duties in connection with the action brought by Plaintiff who claims to have been injured and/or damaged by Cross-Complainant and/or Cross-Defendants. For purposes of

information only, and without admitting the truth herein as against Cross-Complainant, Cross-Complainant refers to the allegations in Plaintiff's complaint and incorporates the same herein by this reference as though set forth in full.

4. Pursuant to a written asset purchase agreement, Cross-Complainant ROPER WHITNEY OF ROCKFORD, INC. purchased the assets of Cross-Defendants MET-COIL SYSTEMS CORPORATION'S subsidiary, called "Roper Whitney", and ROES 1 through 5, inclusive. Said transaction constituted an "Asset only" purchase.

5. In connection with the asset purchase, Cross-Complainant and Cross-Defendant MET-COIL SYSTEMS CORPORATION, its subsidiary "Roper Whitney" and ROES 1 to 5 executed an express written indemnity agreement in which Cross-Defendant MET-COIL SYSTEMS CORPORATION, its subsidiary "Roper Whitney" and ROES 1 to 5 agreed to indemnify and hold Cross-Complainant harmless for any loss, damage or expense, arising out of Cross-Defendants' operation of its business **or products sold by** Cross-Defendant even though not asserted until after the sale was completed. A true and correct copy of the Asset Purchase Agreement is attached and incorporated herein as Exhibit "A" [Attention is Invited to ¶11 of Exhibit "A"].

6. By virtue of Plaintiff's complaint, and the fact the punch press at issue was manufactured in 1988 by Cross-Defendant MET-COIL SYSTEMS CORPORATION and its subsidiary "Roper Whitney" and ROES 1 to 20, Cross-Defendant owes Cross-Complainant a defense, indemnification and attorneys fees and costs attendant to the defense of Plaintiff's complaint. Cross-Complainant therefore now makes demands upon Cross-Defendants, and each of them, to indemnify and hold Cross-Complainant harmless, to assume defense of this

action on behalf of Cross-Complainant, to take such steps as are necessary and required to protect Cross-Complainant, and to pay all claims, settlements, judgments, attorney's fees and other costs incurred by and/or awarded against Cross-Complainant.

SECOND CAUSE OF ACTION

(Implied Equitable Indemnity)

(AGAINST ALL CROSS-DEFENDANTS)

7. Cross-Complainant incorporates and reasserts Paragraphs 1 through 6 of this cross-complaint as though fully set forth herein.

8. If, upon trial of the complaint, Cross-Complainant is held liable to Plaintiff, then Cross-Complainant is entitled to a judgment of indemnification against Cross-Defendants, and each of them, for the total amount of any judgment awarded against Cross-Complainant. If there was in fact any negligence or other conduct on the part of Cross-Complainant herein relating to the alleged injuries and/or damages sustained by Plaintiff, such negligence and/or conduct was merely passive and secondary, while cross-defendants were actively or primarily negligent and/or otherwise responsible.

9. If, upon trial of the Complaint, the contentions and allegations of Plaintiff are established as true, Cross-Complainant will be damaged as a result of the aforementioned conduct of Cross-Defendants, and each of them, by being compelled to pay a judgment rendered in favor of Plaintiff which should in equity be paid by Cross-Defendants. Cross-Complainants will be further damaged by the aforementioned conduct of Cross-Defendants by being required to

incur costs of suit, including costs of defense, attorney's fees and investigation expenses.

10. Cross-Complainant hereby makes demands upon Cross-Defendants, and each of them, to indemnify and hold Cross-Complainant harmless, to assume defense of this action on behalf of Cross-Complainant, to take such steps as are necessary and required to protect Cross-Complainant, and to pay all claims, settlements, judgments, attorney's fees and other costs incurred by and/or awarded against Cross-Complainant.

THIRD CAUSE OF ACTION

(Concurrent Tortfeasors)

(AGAINST ALL CROSS-DEFENDANTS)

11. Cross-Complainant refers to the allegations set forth in paragraphs 1 through 6 and incorporates the same herein by reference as though fully set forth herein.

12. That if Plaintiff should obtain a judgment and/or settlement in this action, said judgment and/or settlement will not be attributable wholly to the negligence of fault of Cross-Complainant, but would also be a proximate result of the concurrent negligence and/or other wrongful act and/or fault of Cross-Defendants, and each of them.

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FOURTH CAUSE OF ACTION

(Declaratory Relief)

(AGAINST ALL CROSS-DEFENDANTS)

13. Cross-Complainant refers to the allegations set forth in paragraph 1 through 6 and incorporates the same herein by reference as though set fully set forth herein.

14. An actual controversy has arisen and now exists between Cross-Complainant and each Cross-Defendant, concerning each party's respective rights and duties in connection with the action brought by Plaintiff who claims to have been injured and/or damaged by Cross-Complainant and/or Cross-Defendants. For purposes of information only, and without admitting the truth herein as against Cross-Complainant, Cross-Complainant refers to the allegations in Plaintiff's complaint and incorporates the same herein by this reference as though set forth in full.

15. If, upon trial of the complaint, Cross-Complainant is held liable to Plaintiff, then Cross-Complainant is entitled to a judgment of indemnification against Cross-Defendants, and each of them, for the total amount of any judgment awarded against Cross-Complainant. If there was in fact any negligence or other conduct on the part of Cross-Complainant herein relating to the alleged injuries and/or damages sustained by Plaintiff, such negligence and/or conduct was merely passive and secondary, while Cross-Defendants were actively or primarily negligent and/or otherwise responsible.

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16. If, upon trial of the Complaint, the contentions and allegations of Plaintiff are established as true, Cross-Complainant will be damaged as a result of the aforementioned conduct of Cross-Defendants, and each of them, by being compelled to pay a judgment rendered in favor of Plaintiff which should in equity be paid by Cross-Defendants. Cross-Complainant will be further damaged by the aforementioned conduct of Cross-Defendants by being required to incur costs of suit, including costs of defense, attorney's fees and investigation expenses.

17. A declaration of rights and duties as to the responsibility of the Cross-Defendants, and each of them, is appropriate at this time in order to permit Cross-Complainant to ascertain its rights and duties with respect to the incident complained of. No adequate remedy exists at law other than that prayed for by which the respective rights and responsibilities of Cross-Complainant and Cross-Defendants, and each of them, can be determined.

WHEREFORE, Cross-Complainant prays for judgment as follows:

1. For enforcement of the written contract compelling Cross-Defendant MET-COIL SYSTEMS CORPORATION and ROES 1 to 5 to indemnify and hold Cross-Complainant harmless for any and all damages, costs, attorneys' fees, judgments and expenses arising out of Plaintiff's complaint.

2. For a declaration that any responsibility and/or liability which is determined to exist for the damages claimed by Plaintiff herein resulted from the primary and/or active negligence and/or conduct of Cross-Defendants, and each of them, and any from