

TALMADGE DOWDLAN, SR. and VIRGINIA \$
DOWDLAN, ED FINKLEA, ANN HARLAN, \$
Individually and as Personal \$
Representative of the Heirs and \$
Estate of CHESTER E. HARLAN, \$
Deceased, and RICKY BARRON LONG, \$
Individually and as Personal \$
Representative of the Heirs and \$
Estate of JONAS BARRON LONG, \$
Deceased and HEATHER LONG, and \$
DONALD EUGENE BRAY and CHERYL \$
BRAY, \$

Plaintiffs,

versus

KEENE CORPORATION, et al.,

Defendants.

IN THE DISTRICT COURT

DALLAS COUNTY, TEXAS



162ND JUDICIAL DISTRICT

DEFENDANT UNITED STATES GYPSUM COMPANY'S
ANSWERS AND OBJECTIONS TO PLAINTIFFS' INTERROGATORIES

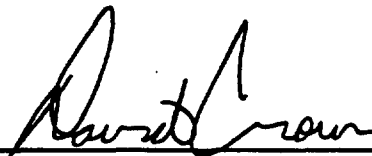
To: Ann Harlan, Individually and as Personal Representative of the Heirs and Estate of Chester E. Harlan, Deceased, by and through her attorney of record, Mr. Russell W. Budd, Baron & Budd, P.C., The Centrum, 3102 Oak Lawn Ave., Ste. 1100, Dallas, TX 75219.

COMES NOW, UNITED STATES GYPSUM COMPANY, Defendant in the above-entitled and numbered cause, and files the attached Answers and Objections to Plaintiffs' Interrogatories.

Respectfully submitted,

DeHAY & ELLISTON, L.L.P.
1500 Maxus Energy Tower
717 North Harwood Street
Dallas, Texas 75201-6508
Telephone: (214) 953-5454
Telefax : (214) 953-5455

By:



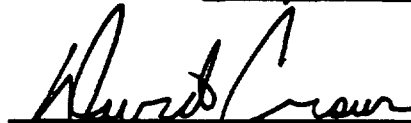
DAVID W. CROWE

State Bar No. 05164250

COUNSEL FOR DEFENDANT
UNITED STATES GYPSUM COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to counsel for Plaintiffs, Mr. Russell W. Budd, Baron & Budd, P.C., The Centrum, 3102 Oak Lawn Ave., Ste. 1100, Dallas, TX 75219, by Certified Mail, return receipt requested, on this 12 day of MAY, 1994.



DAVID W. CROWE

PREFATORY STATEMENT

United States Gypsum Company (hereinafter "U.S. Gypsum") has, to the best of its abilities, gathered non-privileged documents into a document repository for inspection by plaintiffs' counsel in response to requests for production served in asbestos litigation. These documents provide information that supplements and expands upon that provided in these answers to Interrogatories. Accordingly, by way of further response to these Interrogatories, U.S. Gypsum hereby offers to make available these documents at a mutually convenient time at its offices at 125 S. Franklin Street, Chicago, Illinois.

In giving its responses to Interrogatories as to asbestos-containing products, U.S. Gypsum refers to products containing commercial asbestos as part of their formulation and to the type of commercial asbestos used as part of the formulation.

OBJECTIONS

U.S. Gypsum objects to the manner in which plaintiff has defined U.S. Gypsum to the extent that plaintiff purports to include in its definition of U.S. Gypsum predecessors-in-interest, subsidiaries, and successors-in-interest of the corporate defendant. In that U.S. Gypsum Company is the named defendant, this definition is overly broad and would require U.S. Gypsum to engage in unduly burdensome research, divulge privileged information and produce privileged documents. This defendant, United States Gypsum Company, responds to these Interrogatories on behalf of itself.

U.S. Gypsum further objects to these Interrogatories to the extent they seek information or documents protected by the attorney-client privilege and the work product rule and to the extent they seek trial preparation or expert materials or documents.

Finally, U.S. Gypsum objects to these Interrogatories to the extent they ask for "identification" of voluminous documents on the ground that they are overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. As set forth infra, U.S. Gypsum will produce documents which are the proper subjects of an appropriate document request.

ANSWERS AND OBJECTIONS TO INTERROGATORIES

INTERROGATORY NO. 1:

For each document listed below, please answer whether such document is a true and correct duplicate of a genuine and authentic document:

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
a) USG1	Letter 8/17/36 T.R. Parrish to Scott, MacLeish & Falk
b) USG70	11/25/64 cancellation and replacement of page 2 of 7/24/64 Operating Division General Order - Personnel Safety and Health
c) USG96	Letter 5/23/69 Richard Kempthorne to D.M. Diersen
d) USG132	February 14, 15, 6, 1973 Gypsum Association - Minutes of the Nineteenth Meeting of the Technical Committee
e) USG143	"Report of Special Task Force on Joint Treatment Compound", Joseph Volk, November 1973
f) USG150	Letter 1/5/78 Freeman to Miller
g) USG151	Letter 7/18/78 Freeman to Vilord

ANSWER:

(a) USG 1: U.S. Gypsum after reasonable investigation has not located a copy of this document in its files. U.S. Gypsum admits a copy was found in the files of its outside law firm. U.S. Gypsum does not intend to contest the genuineness and authenticity of this document at trial.

(b) USG 70: This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. However, it is denied that this document, which is comprised of individual pages of an operating bulletin, constituted the complete operating bulletin in effect from time to time.

(c) USG 96: This defendant admits that this document is an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company has made reasonable inquiry and the information known or readily obtainable by it is insufficient to enable it to either admit or deny that this document is genuine, authentic, a business record, that it was made in the course of a regularly conducted business activity or that it was the regular practice of that business activity to make the document or that this document was made at or near the time of the event.

(d) USG 132: United States Gypsum Company received a copy of this document during the course to the asbestos litigation. A copy of this document was not contained in the files of United States Gypsum Company. Therefore, this defendant is unable to answer whether such document is a true and correct duplicate of a genuine and authentic document.

(e) USG 143: This defendant admits that this document is an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company has made reasonable inquiry and the information known or readily obtainable by it is insufficient to enable it to either admit or deny that this document is genuine, authentic, a business record, that it was made in the course of a regularly conducted business activity or that it was the regular practice of that business activity to make the document or that this document was made at or near the time of the event.

(f) USG 150: This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company.

(g) USG 151: This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company.

INTERROGATORY NO. 2:

For each document listed below, please answer whether such document was kept and/or generated in the regular course of a regularly conducted business activity of any United States Gypsum Company Entity by an employee or representative of any United States Gypsum Company Entity with knowledge of the act, event, condition or opinion recorded.

EXHIBIT NO.

DESCRIPTION

a) USG1

Letter 8/17/36 T.R. Parrish to
Scott, MacLeish & Falk

- b) USG70 11/25/64 cancellation and replacement of page 2 of 7/24/64 Operating Division General Order - Personnel Safety and Health
- c) USG96 Letter 5/23/69 Richard Kempthorne to D.M. Diersen
- d) USG132 February 14, 15, 16, 1973 Gypsum Association - Minutes of the Nineteenth Meeting of the Technical Committee
- e) USG143 "Report of Special Task Force on Joint Treatment Compound", Joseph Volk, November 1973
- f) USG150 Letter 1/5/78 Freeman to Miller
- g) USG151 Letter 7/18/78 Freeman to Vilord

ANSWER:

(a) USG 1: Admitted that this document was prepared by an authorized employee of U.S. Gypsum. Denied that all statements made in the document are statements of an authorized employee and U.S. Gypsum therefore reserves the right to object to the admission into evidence of such document as hearsay. U.S. Gypsum admits that this document was prepared by or at its direction, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. U.S. Gypsum denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and U.S. Gypsum therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

(b) USG 70: United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document. However, it is denied that this document, which is comprised of individual pages of an operating bulletin, constituted the complete operating bulletin in effect from time to time.

(c) USG 96: United States Gypsum Company denies that this document was prepared by or at the direction of United States Gypsum Company.

(d) USG 132: Not to this defendant's best current knowledge, information and belief.

(e) USG 143: United States Gypsum Company denies that this document was prepared by or at the direction of United States Gypsum Company.

(f) USG 150: United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document.

(g) USG 151: United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document.

INTERROGATORY NO. 3:

For each document listed below, please answer whether such document was found in your files in such a condition as to create no suspicion concerning its authenticity.

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
a) USG1	Letter 8/17/36 T.R. Parrish to Scott, MacLeish & Falk
b) USG70	11/25/64 cancellation and replacement of page 2 of 7/24/64 Operating Division General Order - Personnel Safety and Health
c) USG96	Letter 5/23/69 Richard Kempthorne to D.M. Diersen
d) USG132	February 14, 15, 16, 1973 Gypsum Association - Minutes of the

Nineteenth Meeting of the
Technical Committee

- e) USG143 "Report of Special Task Force on
Joint Treatment Compound", Joseph
Volk, November 1973
- f) USG150 Letter 1/5/78 Freeman to Miller
- g) USG151 Letter 7/18/78 Freeman to Vilord

ANSWER:

(a) USG 1: This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, U.S. Gypsum after reasonable investigation has not located a copy of this document in its files. U.S. Gypsum admits a copy was found in the files of its outside law firm. U.S. Gypsum does not intend to contest the genuineness and authenticity of this document at trial.

(b) USG 70: This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, this defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. However, it is denied that this document, which is comprised of individual pages of an operating bulletin, constituted the complete operating bulletin in effect from time to time.

(c) USG 96: Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, this defendant admits that this document is an accurate copy of a document found within the files maintained by United States Gypsum Company.

(d) USG 132: Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, a copy of this document was not found in this defendant's files.

(e) USG 143: Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, this defendant admits that this document is an accurate copy of a document found within the files maintained by United States Gypsum Company.

(f) USG 150: -This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, this defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company.

(g) USG 151: This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, this defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company.

INTERROGATORY NO. 4:

Has United States Gypsum Company stipulated or agreed to the authenticity of any of the documents referenced in Interrogatory No. 1 with any person prior to the date of these Interrogatories?

ANSWER:

(a) USG 1: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U.S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

(b) USG 70: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U.S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

(c) USG 96: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U.S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

(d) USG 132: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U.S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

(e) USG 143: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its

objections, U.S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

(f) USG 150: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U.S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

(g) USG 151: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U.S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

VERIFICATION

I, F. M. Poremski, declare:

I am the Director, Financial & Accounting Services, of United States Gypsum Company, one of the above named defendants, and am authorized to make this verification for and on behalf of said company;

I have read the foregoing Answers, Objections, and other Responses to Plaintiffs' Interrogatories and am informed and believe that the same is true and on that ground allege that the matters therein stated are true.

I declare, under penalty of perjury, that the foregoing is true and correct, and that this declaration was executed on May 11, 1994 in Chicago, Illinois.

F. M. Poremski

F. M. Poremski

Subscribed and sworn to before me
this 11th day of May, 1994.

Sally A. Bednarcik
Notary Public

"OFFICIAL SEAL"
SALLY A. BEDNARCIK
Notary Public, State of Illinois
My Commission Expires 6/19/94