

To The Plaintiff *defendant* You Are
Hereby Notified To Plead To The
Complaint *Interrogatories*
Interrogatories of Service thereof
and that Judgment may be
entered Against You.

Robert E. Paul
Attorney For

Plaintiff

PLAINTIFF'S EXHIBIT

NYAB-1

SHEIN & BROOKMAN, P. A.

BY: Robert E. Paul, Esquire
IDENTIFICATION NO. 21252
2232 LAND TITLE BLDG.
PHILADELPHIA, PA. 19110
(215) LO 8-2656

Victor Derrick & Elizabeth Derrick, h/w

v.

Griffin Wheel, et al

COURT OF COMMON PLEAS
DIVISION

October TERM, 1978

No. 1298

(NEW YORK AIR BRAKE)
PLAINTIFFS' INTERROGATORIES TO DEFENDANTS

Plaintiff(s), Victor and Elizabeth Derrick

, by their attorneys SHEIN & BROOKMAN, P.A.,

demand that Defendants or their agents, servants, and employees respond to each of the Interrogatories set forth below in a full and complete manner. Defendants shall respond to these Interrogatories as to their relation to the places of employment of employee plaintiff or if deceased the plaintiff's decedent,

, particularly B & O Railroad, Phila., PA - 1945 to 1946 and 1948 to present.

That is, defendants shall answer whether they sold to B & O Railroad and the other places of employment of employee plaintiff or if deceased the plaintiff's decedent, what products they sold, when they sold it, and how much they sold.

They shall state what labels and instructions were used in the sale. The plaintiffs demand that answers under oath be filed and served within thirty (30) days of receipt. These interrogatories are continuing in character and require the filing of supplemental answers if defendant(s) obtain further or different information after the initial answer.

The term "asbestos product" shall refer to raw asbestos including chrysotile, amosite, or crocidolite asbestos and to finished asbestos products. If you mined and sold only raw asbestos, please answer all the interrogatories by reference to such products. If you manufactured and sold finished asbestos containing products, please answer by reference to said products.

SHEIN & BROOKMAN, P.A.

BY:

ROBERT E. PAUL
Attorney for Plaintiff(s)

1. Please identify each person who has supplied information used in answering these interrogatories and specify the interrogatories for which he is responsible.

Frank McNally, questions 4, 5 and 6; J. C. Pontius, most of the remaining questions except those noted; C. E. Hart, questions 9, 47, 48 and 49.

2. Identify each person who was questioned or consulted in order to answer these interrogatories.

See 1. above.

3. Identify each document that was examined, reviewed, and/or used in answering each interrogatory and specify the interrogatory.

No specific documents were referred to in preparing the Answers to these Interrogatories. The persons furnishing information used in answering these Interrogatories were basing their information on their years of experience in the field, and their familiarity with the operations of NEW YORK AIR BRAKE in terms of its products and its sales. J. C. Pontius is vice-president in charge of marketing and C. E. Hart is former marketing executive, retired.

4. Please state whether or not you are a corporation. If so, state:

- (a) Your correct corporate name;
- (b) The state of incorporation;
- (c) The date of your incorporation;
- (d) the address of your principal place of business;
- (e) The addresses of any other places of business;
- (f) Whether or not you have ever held a certificate of authority to do business in this state;
- (g) Whether or not you have a registered agent for the purpose of accepting service in this state, and if so, the name and present address of that agent;
- (h) State your corporate purposes;
- (i) State whether or not you have or have had subsidiary or predecessor corporation(s), and if so:
 - 1. The name of the subsidiary and/or predecessor;
 - 2. Its date(s) of incorporation, if a corporation;
 - 3. Its state(s) of incorporation;
 - 4. Its corporate purposes.

- (a) NEW YORK AIR BRAKE COMPANY, a unit of General Signal.
- (b) Connecticut.
- (c) 2/13/1904.
- (d) Starbuck Avenue, Watertown, New York, 13601.
- (e) None, except for regional sales offices throughout the country.
- (f) Yes, dated March 4, 1964, still valid.
- (g) CT Corporation, Philadelphia, Pa.
- (h) Engaged in the business of providing transportation equipment.
- (i) No.

5. State whether you have controlled, purchased or in any way acquired any interest in any corporation or business entity which has mined, manufactured, produced, processed, compounded, converted, sold, merchandised, supplied, distributed, and/or otherwise placed in the stream of commerce, raw asbestos or finished asbestos products and if so, state:

- (a) The name and address of said corporation or business entity;
- (b) The date(s) you controlled, purchased or acquired any interest;
- (c) The manner of acquisition, including percentage of ownership;
- (d) Identify all documents with respect to the above;

No -- not applicable.

6. State whether you have at any time directly or indirectly been engaged in the mining, manufacturing, producing, processing, compounding, converting, selling, merchandising, supplying, distributing, and/or otherwise placing in the stream of commerce of raw asbestos or finished asbestos products. If so, be specific in your answer and state as to each such asbestos product:

- (a) The trade name, general name and/or other identification of each asbestos product, raw or finished;
- (b) The dates during which you mined, manufactured, supplied, distributed, and/or otherwise placed in the stream of commerce each such asbestos product;
- (c) The intended use of each such asbestos product;
- (d) Furnish a complete description of each such asbestos product including the type of asbestos contained therein and the percentage of asbestos contained in said product;
- (e) Describe the physical appearance including color of each such product specifying whether the said product was/is sold in a solid, loose, powdered or other form;
- (f) Identify the location of each plant or facility which produces each of the aforesaid asbestos products;

- (a) Cobra brake shoes distributed.
- (b) Distributed brake shoes from 1958 to May of 1980.
- (c) Brake shoes for locomotives and freight cars of railroads.
- (d) Percentage of asbestos fibre unknown. Brake shoes vary in thickness from 1-1/2 to 2 inches in width from 3-3/8 to 6-1/8 and in length from 12-1/4 to 16 inches.
- (e) The product is sold in solid form and its physical appearance can be seen from the attached sales material which are attached hereto as exhibit "A".

(f) Not applicable; we are a distributor.

7. Do asbestos products that you mine, manufacture, produce, process, compound, convert, sell, merchandise, supply, distribute and/or otherwise place in the stream of commerce require any further change or modification before being put to their ultimate use by the user? For example, is there any mixing or cutting that has to be done? If there are any changes or modifications whatsoever, state the specific nature of the change or modification.

No.

8. State whether you presently mine, manufacture, produce, process, compound, convert, sell merchandise, supply, distribute, and/or otherwise place in the stream of commerce the product(s) previously listed in interrogatory 6.

No. It is our understanding that since May of 1980 all Cobra brake shoes are asbestos-free.

9. Identify all distributors of your asbestos products and state:
- (a) The date(s) your product(s) were sold or delivered to said distributor;
 - (b) The quantity or type of product(s) sold or delivered to said distributor;
 - (c) Identify and produce all documents relating to said distributor;
 - (d) Whether any agreement concerning third party liability existed between you and the distributors; and if so, if such agreement was in writing, attach a copy of such agreement; if such agreement was oral, then set forth fully the terms and the identity of the persons making such oral agreement.

Not applicable.

10. Were any patents or trademarks ever applied for or granted with regard to any product(s) listed in interrogatory 6? If so, for each such product state:
- (a) The number of each patent;
 - (b) The date(s) issued and to whom issued;
 - (c) The name of each patent application that is presently pending.

Not applicable.

11. Identify each business entity from whom you have received raw asbestos if you are not a miner or distributor of mineral or raw asbestos during the period of plaintiff's or decedent's employ, including:

Not applicable.

- (a) name of and address of supplier;
- (b) the date(s);
- (c) amount;
- (d) types received;
- (e) identify and produce all documents relating to such purchase;

12. Identify each business entity from whom you have received finished asbestos products if you are not a miner or a distributor of mined asbestos indicating;

- (a) name and address of said entity;
 - (b) the date(s);
 - (c) amount(s);
 - (d) types received;
 - (e) identify and produce all documents relating thereto;
- (a) Railroad Friction products, Wilmerding, PA.
(b) 1958 to May of 1980.
(c) Impossible to say except check hundreds of thousands of invoices; we did distribute five to ten percent of Cobra brake shoes nationally

13. Did you sell raw asbestos or finished asbestos products to the employers of employee plaintiff or if deceased, the plaintiff's decedent; namely,
Yes.

during or immediately prior to the periods of employment of

. If yes, identify

- (a) dates of sales;
- (b) amounts of sales;
- (c) names of finished asbestos containing products sold;
- (d) amount of raw asbestos sold;

Invoice records can be attached to answer this interrogatory.

- (a) 1965 to 1978.
- (b) A very small percent of total Cobra shoes distributed, less than one percent.
- (c) Cobra brake shoes.
- (d) None.

12 (Continued)

(c) continued: which, of course, included sales to B&O Railroad and the Chessie System.

(d) Cobra Railroad Brake Shoes.

(e) Impossible to furnish at this time. Records are only retained for a seven-year period as a regular course of business.

17. Since the initial date of said mining, manufacturing, producing processing, compounding, converting, selling, merchandising, supplying, distribution and/or otherwise placing in the stream of commerce your asbestos products as specified in the answer to number 6, advise whether or not there have been any alterations or changes, then as to said alterations or changes, state:
- (a) the trade name(s) of each such product(s);
 - (b) The date(s) each such product(s) was altered or changed;
 - (c) The specific nature and date(s) of each such alteration or change of composition.
 - (d) The reason for each alteration or change of composition;

We have no knowledge of any change in the manufacture of the Cobra brake shoes except that in May of 1980 we understand that there was no longer asbestos fibre in the composition of the shoe.

18. Describe in detail the packages in which you would, distribute or deliver asbestos products to the wholesaler or retailer for resale to companies such as Plaintiff's employers, stating:
- (a) The type of box or package used;
 - (b) The date each type of box or package was used;
 - (c) A physical description thereof, including the size and color of the box or package;
 - (d) A description of size and color of any printed material that appeared on or in said box or package stating:
 - 1. A verbatim statement of any warnings or cautions;
 - 2. The date(s) each such warning or caution was first used and last used.
 - (e) Identify and produce a copy of said warning or caution.

The brake shoes were packed in pallets of 500 shoes each and there were no instructions or warnings on the pallets as to the use of the brake shoes.

19. Prior to releasing the asbestos product(s) listed in interrogatory 6 for sale, were any tests conducted on same to determine potential health hazards involved in the use, handling or exposure of the materials contained therein: If so, state:
- (a) The identity of each individual or firm who conducted such tests;
 - (b) The date, purpose and result of each such test;
 - (c) Identify and produce all documents relating to such tests;

Not applicable.

20. Did you make any changes in your asbestos products as a result of such test: If so, state:
- (a) The product changes;
 - (b) The nature of the change made;
 - (c) The purposes of the change;
 - (d) The date of such change;
 - (e) The identity of each person or firm responsible for making the change.

Not applicable.

21. Has any written material of any kind been prepared by you indicating how your product(s) should be used, applied or handled by the workers who would be reasonably expected to use your asbestos products? If so, please state:
- (a) Identify each person or firm who prepared same;
 - (b) Identify each person or firm who presently has possession of same;
 - (c) The date(s) and manner in which said material was distributed to purchasers or users of your product(s);
 - (d) Identify and produce all applicable documents.

Not applicable.

22. If there have been any changes in any labels, inserts or other information which has ever accompanied any of your products as it was placed on the market, state the reasons therefore and the name and address of the person who recommended or ordered the change.

My best recollection is that the advertising material for Cobra brake shoes has remained substantially the same throughout the years except for cosmetic changes.

23. State the names, titles and addresses of defendant's advertising agents who are employed or used in connection with the promotion of the product(s) specified in answer to interrogatory 6, and give a summary of all the instructions given to such agents regarding the uses, safety, and health related effects of the use of the products and their obligations to provide this information to customers.

We do not promote or advertise the product. It is done by the manufacturer -- Railroad Friction Products Corporation.

14. If you have no records of sales earlier than a date identified in your answer to number 13 supra, will you admit that you sold asbestos products to the companies involved during or immediately prior to the employ of _____ by said companies?

NEW YORK AIR BRAKE COMPANY sold Cobra brake shoes to the B&O Railroad and to the Chessie System after B&O was incorporated into the Chessie System from approximately 1965 to 1978, but the amount sold to the B&O was quite small since we sold only five to ten percent nationally of Cobra brake shoes, the remaining percentage being sold by Wabco, Westinghouse Air Brake Company.

15. Did you sell asbestos products to distributors who would resell your asbestos products to the employers identified in number 13 supra, or ship asbestos products to such employers through sales to such distributors? If so, name the distributors, identifying No.

- (a) name, address of distributors;
- (b) asbestos products sold to distributors;
- (c) raw asbestos sold to distributors;
- (d) amounts sold;
- (e) dates of sale;

16. Did you, at any time, assign or license any of your asbestos products to any person, firm or corporation? If so, state:

- (a) Identify the assignors or licensee;
- (b) The purpose of such assignment or license;
- (c) The name(s) of the produce(s) so assigned or licensed;
- (d) The time period of the assignment(s) or license;
- (e) Identify and produce all documents relating to such assignment or license;

No.

17. Did you rebrand any of your asbestos products for other companies? If so,

- (a) Identify such companies;
 - (b) Indicate the specific products rebranded for each company;
 - (c) The dates of each such rebranding;
- That is, did you manufacture or acquire asbestos products and affix the names of other companies to the product or its containers?

No.

24. Have you at any time published and/or distributed any document containing any warnings concerning the possibility of illness, disease, or injury resulting from the use of or exposure to the asbestos products listed in answer to interrogatory 6. If so, please state:

- (a) The wording of each such warning;
- (b) A description of each such document;
- (c) The method used to distribute the warnings to persons who are likely to use, handle or be exposed to your product(s);
- (d) The date(s) such warning was issued;
- (e) Identify each person who presently has possession of the above-described documents;
- (f) Identify and produce all the documents mentioned in parts (a) through (e) of this question;
- (g) In particular, was any warning ever given, either in writing or in any other way concerning the possibility of the illness as known as cancer resulting from the use of or exposure to any of the asbestos products listed in answer to interrogatory 6.
- (h) How the document and the information involved were communicated to purchasers of the product?

No.

25. Have you ever given any warnings to your employees of dangers of illness and/or disease by reason of their use, handling or exposure to asbestos products: If so, state:

- (a) The date of each such warning;
- (b) How such warnings were given;
- (c) If such warnings were oral, state the names and addresses of the person(s) giving and receiving such warnings;
- (d) If such warnings were written, state;
 - 1. The date(s) of such warning(s);
 - 2. The present location of such warning(s);
 - 3. The names and addresses of individuals who prepared such warning(s);
 - 4. Where and/or how such warning(s) were posted,
 - 5. The reasons for such warning(s).

(e) Whether or not in the course of such warnings, there was any warning concerning the possibility of contracting the disease known as cancer resulting from the use of or exposure to the asbestos products. in particular, whether there was any warning concerning that type of cancer known as mesothelioma.

No; we don't manufacture the product.

26. Were you ever advised by any member of the medical profession or other profession, such as industrial hygienists occupational hazard professionals or other persons to utilize hazard labels on your products and to give clear and explicit warnings concerning the possibility of cancer, and/or mesothelioma and/or other serious illnesses and diseases including but not limited to asbestos to those who might use, handle, or be exposed to your asbestos products after they have left your control? Identify this individual or individuals or company set forth the date of this advise, and attach copies of this advise if written.

No.

27. When, if at all, did you first become aware that airborne dust containing some asbestos fibers might be created in the course of the use of your asbestos products by workers in:

- (a) the pipe insulating trade;
- (b) textile factories;
- (c) companies manufacturing asbestos products;
- (d) other industries such as but not limited to
 - (1) railroads
 - (2) oil burner service

Not applicable.

28. When did you first become aware that airborne dust containing asbestos fibers or ~~fi~~briles would be created in use or removal of your asbestos products by an insulation worker or other workers could cause asbestosis, pleural thicaning or pleural plaque, mesothelioma, or lung cancer? Please identify the date of this knowledge by product whether raw asbestos or a finished product and the date of knowledge that each of the diseases set out could develop from exposure to asbestos.

We are distributors only but we believe this question is irrelevant since it speaks of an insulation worker and not a railroad worker.

29. If your answer to question 28 is in the affirmative, please explain whether the Threshold Limit Value is based on counts of all particles in the air or just the asbestos fibers in the air.

Not applicable.

30. When did defendant know that any governmental or private agency, or other entity, issued guidelines suggesting Threshold Limit Values for exposure to asbestos dust? If ever:

- (a) Identify the agency or entity issuing the guideline;
- (b) State the content of the guideline(s) verbatim;
- (c) State the date issued and the date you first knew the purpose of the guideline(s).

Not applicable.

31. Does the defendant contend that the asbestos products mined, manufactured, produced, processed, compounded, converted, sold, merchandised, supplied, distributed and/or otherwise placed in the stream of commerce by the defendant are not "hazardous substances", as defined in 15 U.S. Code, §1261 (5)? Said definition is incorporated herein by reference, and defendant is required to reply as to all the parts of said definition. If so, state the facts, opinions or conclusions upon which defendant relies to support such contention, and identify each document which is applicable.

As a distributor we have no knowledge whether the Cobra brake shoes fits the U. S. Code's definition of hazardous substances.

32. Have your asbestos products at any time been subjected to:

- (a) Tests or studies by a governmental agency;
- (b) Test or studies by any independent organization;
- (c) Tests conducted on humans or animals on your behalf or on behalf of any co-defendant in this action. If your answer to any of the subsections (a) through (d) is in the affirmative, for each test or study state:
 - 1. The date it began;
 - 2. The date it ended;
 - 3. The procedure of the test or study;
 - 4. The number of man hours spent on it;
 - 5. The place where it was conducted.

See letter report dated 12/6/78 attached as Exhibit "B".

33. Have you, at any time, been a member of any "trade association or association" composed of other miners, manufacturers, suppliers, distributors, producers, processors, compounders, converters, sellers, merchandisers, and/or anyone otherwise placing in the stream of commerce asbestos products? If so, state:

- (a) Identify each such association or organization;
- (b) The dates during which you were a member?
- (c) The names of any publication published by or written by such association or organization;
- (d) The dates and addresses of all other members;
- (e) What meetings you attended and identify who attended;
- (f) Who spoke at such meetings;
- (g) Were transcripts or summaries or minutes or notes made of such meetings? If so, identify the above, tell specifically what was made and give the name, title and address of the person or persons who have custody of the transcripts and/or summaries and or minutes and/or notes mentioned above and state when and where counsel for the plaintiff may examine and copy these documents.

No.

34. Have you, at any time, been a member of and/or contributed to the Industrial Hygiene Foundation: If so, state:

- (a) The dates you were a member and/or contributed;
- (b) The identifications of any publication of any such organization;
- (c) What meetings you attended and who attended;
- (d) Who spoke at such meetings;
- (e) Where transcripts or summaries or minutes or notes made of such meetings? If so, identify the above, tell specifically what was made and give the name, title and address of the person or persons who have custody of the transcripts and/or summaries and or minutes and/or notes mentioned above and state when and where counsel for the plaintiff may examine and copy these documents.

No.

35. State whether you have received any workmen's compensation claim for injury, occupational disease, or death, to any of your employees or to any persons working as independent contractor for you, or under your direction or to any persons in "contract units" operated by you or your subsidiaries or divisions or to any persons hired on an occasional basis by your agents, employees or directors, in the course of work activity performed by the aforementioned "contract unit" for the following diseases: asbestosis, emphysema, chronic bronchitis, pulmonary fibrosis, dyspnea, carcinoma of the lungs, or mesothelioma. In answering this question confine your answer to workers who were occupationally exposed to asbestos products by their using, handling, fabricating, installing, removing, mixing, cutting, packing or transporting products containing any percentage whatsoever of asbestos whether raw or finished and whether made by you or made by some other company but used, handled, modified, installed, removed, mixed, cut, packed or transported by the person or persons making the workmen's compensation claim for injury or occupational disease or death whether your employees or contract unit managers or contract unit occasional workers independently contracted for. If there have been any workman's compensation claims within the above-described criteria between the years 1930 and 1978, state:

- (a) The date you received notice of the claim;
- (b) The identity of the person making the claim; or on whose behalf the claim was made;
- (c) The specific disease or illness complained of. In particular, all complaints of: asbestosis, emphysema, chronic bronchitis, pulmonary fibrosis, dyspnea, carcinoma of the lungs and mesothelioma;
- (d) The name of any physician or nurse who made any notes on the claim or who inscribed any words whatsoever on any document, paper, letter, book, or record pertaining to the evaluation of the facts and/or the merits and/or the medical workup of the claim filed;
- (e) A brief summary of the substance of the written materials mentioned in section (d);
- (f) The present location(s) of the documents, medical or otherwise, relevant to the claim files, if any, specified in section (a);
- (g) An index to the claim files, if any specified in section (a) showing how, if at all, they are broken down by the defendant in the ordinary course of the defendant's business activity (i.e. by geographical region, by plant, by profit center, by disease, by injury, by level of compensation demanded, by estimate on the eventual payments that will be required on the claim, by worker's name or number, by contract unit, by date, or in any other way that the defendant as a practical matter in the ordinary course of defendant's business actually breaks down and indexes the claims of the kind specified for purposes of defendant's own internal filing and record keeping.
- (h) The state or federal agency or agencies which would in the ordinary course of defendant's business and in the ordinary course of the state and federal government's business receive notice of the claims;

- (i) The indexing or filing system used by those agencies in the respective states, or in the respective federal agencies.
- (j) The records retention policies concerning claims of the kinds specified in Part (a) of the defendant, and of any state agencies of which the defendant has knowledge in states where the defendant does business, and to which the defendant supplies information concerning claims of this kind. Also include any federal agencies which would receive notice directly or in the defendant's knowledge indirectly as a matter of the ordinary business of the federal government concerning claims of the aforementioned kind;
- (k) The disposition of said claim(s) including benefits paid or settlements reached or moneys voluntarily paid by your insurers, if any;
- (l) The last known address of the attorney representing the Claimant, if any.

None.

36. Have you ever been named as a party in any action for workmen's compensation benefits for injury, occupational disease, or death by any of your employees or their estates, or by any persons working as independent contractors for you or under your direction or their estates, or by any directors, managers, or persons involved on a casual labor or occasional worker independently contracted for basis in "contract units" operated by you or their estates where the disease, injury or death was asserted by the Plaintiff and/or claimant in the action to be based in whole or in part on the diseases; asbestosis, emphysema, chronic bronchitis, pulmonary fibrosis, dyspnea, carcinoma of the lungs, or mesothelioma and where the plaintiff and/or claimant in the course of his work experience used, handled, fabricated, installed, removed, mixed, cut, packed or transported asbestos products containing any percentage whatsoever of asbestos? If so, state as to each claim:

- (a) The identity of the Plaintiff and/or claimant and the disease(s) or injury(s) on which the action was premised;
- (b) The date it was filed;
- (c) The name and address of the court, agency, or administrative body, in which it was filed;
- (d) The term and/or number of the action;
- (e) The identity of the claimant's attorney;
- (f) the identity of the claimant's physician;
- (g) The identity of your physician, and/or expert witnesses;
- (h) The disposition of the action including any moneys paid voluntarily or by agreement or in settlement by you or by our insurance carrier.

No. {

37. If you or your insurance carrier have ever paid out money voluntarily, or by agreement, or in settlement, on a claim for the following diseases; asbestosis, emphysema, chronic bronchitis, pulmonary fibrosis, dyspnea, carcinoma of the lungs, or mesothelioma between the years 1930 and 1978, specify for each instance:

- (a) The amount paid out;
- (b) Who paid it;
- (c) Who received the payment;
- (d) The date of the payment(s);
- (e) Whether, if it was an agreement, the agreement went on file with any court, agency, or administrative body, and if so, the date and location of the filing;
- (f) The current location of any document(s) evidencing such voluntary payment, and the name, and address of their present custodian, and the time and place where counsel for plaintiff may examine and copy such document(s).

No.

38. If you or your insurance carrier have ever paid out money, voluntarily, or by agreement, or in settlement to any employee contractor, contract unit worker, contract unit manager, or casual, or incidental laborer for a claim based on the following diseases; asbestosis, emphysema, chronic bronchitis, pulmonary fibrosis, dyspnea, carcinoma of the lungs, or mesothelioma, state as to each recipient of such funds:

- (a) His or her identity;
- (b) The identity of his or her attorney;
- (c) The date the claim was made;
- (d) The date payment commenced and the duration and amount(s) of payment(s);
- (e) The insurance carrier making the payment;
- (f) Whether such agreement was filed in any court; agency or administrative body, if so, state:
 - a. The date it was filed;
 - b. The location of such filing;
- (g) The current location of any document(s) evidencing such

voluntary payment(s) and the name and address of their present custodian and the time and place where counsel for the plaintiff can examine and copy such document(s).

Not applicable.

39 State whether you or your insurance carrier has voluntarily or by agreement paid to any employee benefits for accident, sickness, health, disability, or retirement, by reason of exposure to asbestos products. If so, state as to each:

- (a) The identity of such employee;
- (b) The identity of the employee's attorney;
- (c) The identity of the insurance carrier(s) making such payment;
- (d) The dates the claims were made as to each separate claim by each employee;
- (e) The date payment was made;
- (f) The current location of any documents evidencing such payments, the name and address of their present custodian and the time and place where counsel for the plaintiff can examine and copy such documents.

Not applicable.

40. State the names and addresses of all your insurance carriers for workmen's compensation and occupational disease compensation from 1930 through 1978, and as to each insurance carrier, state the periods when such coverage was provided and the amount provided.

This is not applicable since none of our employees are subject to any asbestos fibre exposure with regard to the brake shoe product.

41. If you or your insurance carrier have ever paid out money as a result of a court decree or jury verdict against you in a case in which the plaintiff asserted injury resulting from exposure to asbestos products mixed, manufactured, produced, processed, compounded, converted, sold, merchandised, supplied, or placed in the stream of commerce identify the:

- (a) Court in which judgement was entered against you.
- (b) Court docket number.
- (c) Plaintiff's name.
- (d) Plaintiff's attorney's name and address
- (e) Amount of judgement.
- (f) Date judgement entered.
- (g) Other defendants against whom judgement was entered.

Not applicable.

42. Do you have a medical department that performs occupational studies or reviews of worker's health? If so, describe:
- (a) How long in existence.
 - (b) Names of those who have led that department since 1930.
 - (c) Any reports or warnings provided to you by that department as to the effects of asbestos.
 - (d) Current address of that person or those persons referred to in (b) Supra.

Not applicable.

43. Have you had a medical advisor or other professional reviewing your products particularly asbestos, and making recommendations for use? If so, please answer (a)-(d) of interrogatory 43.

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Not applicable.

44. If you are merely a distributor, rather than a manufacturer and distributor of asbestos products, please answer interrogatories 7, 18, 19, 20, 21, 22, 23, 26, 27, with respect to whether you ever received such information from the manufacturers or from the trade association and so indicate by date, place and describe and attach any documents.

See letter report attached as Exhibit "B".

45. (a) Do you contend that the employee plaintiff or, if deceased the plaintiff's decedent or his employer were contributorily negligent?

(b) Do you contend that the employee plaintiff or if deceased the plaintiff's decedent assumed the risk of his employment?

The questions ask for legal conclusions and need not be answered under the Rules of Civil Procedure.

46. If the answer to interrogatory number 45 (a) or 45 (b) is yes, please state in detail the factual basis for the contention and name any witnesses you intend to produce to support this contention.

Not applicable.

47. Do you deny that you sold asbestos products to any places of employment of employee plaintiff or if deceased the plaintiff's decedent, namely,

See answer to Question No. 14 above.

48. Do you deny that you sold asbestos products to the employer of
or to distributors whom you knew would sell to the employers of

See answer to Question No. 14 above.

49. Did you or employees of your company ever attend meetings of the Asbestos Textile Institute or any of its committees? If yes,
No.

(a) Identify the meetings and dates.

(b) Who attended from your company.

(c) What materials were dispensed.

50. Identify all individuals who are now or have ever been employed by you including their current address who can testify or have testified concerning: Not applicable.

(a) The history of that portion of your organization responsible for preventive medicine or occupational hygiene.

(b) Your company medical policy, practices, and procedures.

(c) The history of that portion of your organization responsible for product safety.

(d) The nature and extent of your knowledge, over time, of health hazards actually, allegedly, or possibly associated with exposure to asbestos or asbestos products.

(e) Actions taken by you to warn, direct or indirect purchasers of asbestos products or protect their employees of health hazards

(f) Actions taken to warn or protect persons such as plaintiff and staff against hazards of asbestos.

51. If these employees have testified in depositions or trials with respect to the matters ennumerated in interrogatory 54, attach the relevant portions of their testimony and identify the court, docket number of the case and date of testimony.

! Not applicable.

52. Did or does defendant maintain a medical library? If yes, state:

Not applicable.

- (a) Date established
- (b) Location
- (c) Names and addresses of librarians
- (d) Title, author, and publisher of all journals and book bought or subscribed to during the period 1930-78.
- (e) To whom journals in the area of asbestos, industrial hygiene, medicine, safety or engineering were distributed.

SHEIN & PROOKMAN, P.A.

BY: *Robert E. Paul*

ROBERT E. PAUL

Attorney for Plaintiffs

Joseph I. Fineman
JOSEPH I. FINEMAN, ESQUIRE
Attorney for Defendant NEW YORK
AIR BRAKE

V E R I F I C A T I O N

JOSEPH I. FINEMAN, ESQUIRE, states that he is counsel for the Defendant within, NEW YORK AIR BRAKE, that he is acquainted with the facts set forth in the foregoing pleading; that the same are true and correct to the best of his knowledge, information and belief, and that the statement is made subject to the penalties of 18 Pa. C.S., Section 4904, relating to unsworn falsification to authorities. No affidavit is required pursuant to Rule 206.

1 / 1 1 . 7 . 7
JOSEPH I. FINEMAN, ESQUIRE
Attorney for Defendant
NEW YORK AIR BRAKE



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February, 1977

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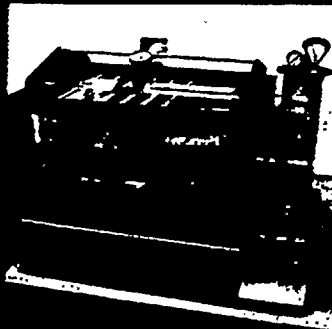
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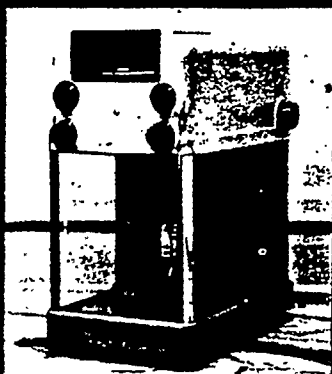
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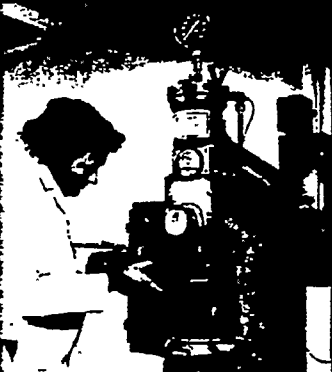
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December 6, 1978

RECEIVED

DEC 11 1978

C. E. HART

Mr. M. A. Scott,
Manager Field Engineering
New York Air Brake Company
Starbuck Avenue
Watertown, New York 13601

Dear Mr. Scott:

COBRA High Friction Composition Brake Shoes
Environmental Safety

With reference to your letter of November 14 to our Mr. W. I. Graham, the following text is suggested for response to a letter of inquiry from Mr. Frank Upton, Assistant Vice President, Milwaukee Road, regarding the asbestos fiber content in COBRA shoes:

"This is in response to your request for information concerning possible environmental hazards that could result from the use of COBRA Composition Brake Shoes. Investigations we have conducted offer reasonable assurance that COBRA brake shoes do not pose an environmental hazard to either personnel handling them or personnel in close proximity to the point where they are utilized during braking operations.

Specific actions that we have taken to insure the environmental safety of COBRA brake shoes are as follows:

- i. A certain amount of asbestos fiber is included in the composition material and backing stock of each COBRA brake shoe. During the manufacturing process, the asbestos and other materials are molded into a hard block of friction material which is bonded to a steel backing plate. At this point, the asbestos is effectively contained within the friction material. As a further protection, the entire brake shoe is dipped in a sealant which will prevent any loose asbestos particles becoming airborne during handling of the brake shoes. The sealant also restricts rusting of the backing plate during outside storage and provides the distinctive "red" shoe color.

2. We have been questioned by various groups and individuals concerning the amount of asbestos fiber released by COBRA brake shoes during braking action. To be able to answer these questions, we ran an elaborate series of dynamometer tests in 1971 during which all the wear dust from various types of braking cycles was collected and analyzed.

The results of these tests show that almost all of the asbestos fiber is decomposed during brake applications. Less than one percent of the original asbestos fiber in the shoe remains as fiber in the wear dust and less than one tenth of that becomes airborne. Since each stop wears only a very small amount of material from each shoe, and since each shoe contains only a very small percentage of asbestos fiber, it can be seen that the amount of asbestos fiber that becomes airborne with each stop is not significant.

3. During the same period of investigation covered in 2 above, possible toxicity of gases liberated by COBRA brake shoes during braking was also given attention. Stop and drag tests were performed and samples of gases given off during braking were collected by a technician from an independent testing laboratory. The samples were subsequently analyzed and the results reported.

Results showed that the COBRA brake shoes gave off no extremely toxic materials, and only small amounts of hydrocarbon gases.

It was concluded that no amounts of harmful gases sufficient to be injurious to health were liberated.

4. The original COBRA brake shoe composition also contained lead. All shoes manufactured since November 1975 have utilized a lead-free composition. The primary reason for this change was to eliminate lead from our plant environment for the protection of manufacturing employees exposed to the raw material.
5. In early 1977, WABCO, in cooperation with John-Mansville research personnel, conducted a series of air sample tests in the Boston Subway in an effort to capture chrysotile fiber during train operations. Samples were taken between the cars near the track level, in the passenger and motorman's area, and on the platforms over a 10 hour period of highest density operation. No significant fiber counts were seen on any of the filters.

We trust the above information will provide answers to questions that may arise as to the environmental characteristics of COBRA brake shoes."

Please let us know if any additional information is required.

Sincerely yours,


E. W. Kojza
Manager-COBRA Shoe Sales

EWK/e

Copy to: ✓ Mr. C. E. Hart
New York Air Brake Company
Starbuck Avenue
Watertown, New York 13601

Copy to: Mr. D. H. Crews
New York Air Brake Company
Suite 3514
55 East Monroe
Chicago, Illinois 60603