

IN RE: ALL ASBESTOS-RELATED PERSONAL § IN THE DISTRICT COURTS
INJURY OR DEATH CASES FILED §
BY BARON & BUDD, P.C. OR TO § OF DALLAS COUNTY, TEXAS
BE FILED BY BARON & BUDD, §
P.C. IN DALLAS COUNTY, TEXAS § 160TH JUDICIAL DISTRICT

DEFENDANT OWENS-CORNING FIBERGLAS CORPORATION'S
RESPONSES TO PLAINTIFFS' INTERROGATORIES

Defendant Owens-Corning Fiberglas Corporation ("OCF"), by counsel, responds to plaintiffs' Interrogatories, dated June 29, 1992, as follows:

INTRODUCTORY STATEMENT AND OBJECTIONS

Plaintiffs seek information which in many instances is contained in numerous files and records. Further, certain of these interrogatories may call for the collection of information from OCF offices located in various parts of the United States. Therefore, OCF has responded on the basis of the best information now available to it. Subsequent investigation may reveal additional information relevant to these interrogatories and lead to a supplemental response. It is also noted that persons who are not now officers, directors or managing agents of OCF may have information relevant to the subject matter of these interrogatories, and OCF does not purport, in the following responses, to give the response of any such persons.

OCF's responses are made without in any way waiving: (1) the right to object, on the grounds of competency, relevancy, materiality, hearsay or any other proper ground, to the use of any such information for any purpose, in whole or in part, in any

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subsequent stage or proceeding in this action or any other action; or (2) the right to object on any and all grounds, at any time, to any other discovery procedure relating to the subject matter of these interrogatories.

Furthermore, to the extent that these interrogatories seek information concerning injury or disease other than those allegedly experienced by plaintiffs herein or concerning asbestos-containing products other than those to which plaintiffs allegedly were exposed, OCF objects on the grounds that such information is beyond the proper scope of discovery and is not reasonably calculated to lead to the discovery of admissible evidence. To the extent that these interrogatories are not limited in time to the years that OCF manufactured and/or sold asbestos-containing products, OCF objects on the grounds that these interrogatories are overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

OCF also objects to these interrogatories to the extent that they seek: (1) information which is protected from discovery as attorney work product and/or attorney-client communications, protected by the right to privacy, or protected by any other applicable privilege; or (2) material which is considered to be proprietary and trade secret.

OCF states that it has collected numerous records and documents relating to asbestos generally. These documents are stored in OCF's document library located in Richmond, Virginia.

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The document library contains existing documents generated and/or received at OCF's corporate headquarters in Toledo, Ohio; its technical center in Granville, Ohio; and its manufacturing facilities in Berlin, New Jersey; Bloomington, Illinois; Newark, Ohio; and Santa Clara, California. The library also contains certain files obtained from Fiberglas Engineering and Supply Company in San Francisco, California, and Seattle, Washington. Other documents relating to Fiberglas Engineering and Supply Company of San Francisco are maintained by the law firm of Popelka, Allard, McCowan & Jones in San Jose, California, pursuant to an agreement contained in Defendant OCF's response to Plaintiffs' Request for Production in Heley, et al. v. Fibreboard, et al., June 10, 1989. Additional documents relating to OCF's supply and contracting units may be in the possession of various OCF trial counsel.

The library contains responsive, non-privileged materials generated before and during the time that OCF manufactured asbestos-containing Kaylo insulation.

At a mutually convenient time, OCF will make available for inspection by plaintiffs' counsel the non-privileged documents stored in its document library. Counsel for OCF will provide an index, which sets forth the file titles of those files contained in each box, and personnel to assist plaintiffs' counsel in locating documents responsive to the discovery requests in this matter. OCF will also make arrangements for copying documents which plaintiffs' counsel may select. Copying and shipping costs

will be borne by plaintiffs, unless otherwise ordered by the Court.

OCF's library includes documents that contain information which is considered to be proprietary and trade secret. Therefore, such documents will be produced only after the entry of an appropriate protective order.

OCF has removed from the library any existing materials which it contends are protected from discovery as privileged attorney-client communications, attorney work product materials, or otherwise beyond the scope of permissible discovery. Each document removed as privileged has been substituted with an easily identifiable marker which describes the privileged document by document type, (e.g., memo, letter, note), date, author, recipient, subject matter, and basis for objection. These markers may be designated for copying in the same manner as non-privileged documents. OCF refers plaintiff to attached Exhibit 1, a copy of an index of those documents generated and/or received by OCF prior to 1973 which OCF claims are protected from discovery as attorney-client communications and/or attorney work product, and to attached Exhibit 2, a copy of an index of those document generated and/or received by OCF after 1972 which OCF claims are protected from discovery as attorney-client communications and/or attorney work product.

Visits to the library may be scheduled through OCF's local counsel.

OCF does not maintain any wholly-owned domestic subsidiary corporations that were involved in the manufacture or sale of asbestos-containing products, nor is any other corporation a predecessor to OCF as OCF understands the definition of the term "predecessor."

OCF generally objects to these interrogatories as an inappropriate use of this discovery vehicle; plaintiffs' interrogatories are more appropriately asserted as requests for admission.

OCF specifically objects to Interrogatory No. 1 on the grounds that it is vague and ambiguous, particularly with respect to plaintiffs' definition of the term "genuine." OCF will respond to Interrogatory No. 1 by stating whether or not the exhibits provided by plaintiffs are true and correct duplicates of authentic documents maintained in OCF's files related to asbestos.

OCF specifically objects to Interrogatory No. 2 on the grounds that it is vague and ambiguous with respect to plaintiffs' use of the phrase "kept and/or generated in the regular course of a regularly conducted business activity of any OCF Entity by an employee or representative of any OCF Entity with knowledge of the act, event, condition or opinion recorded." OCF will respond to Interrogatory No. 2 by stating whether or not the original of each of plaintiffs' exhibits was "generated" or "received" by an OCF employee during the course of his/her employment. For purposes of this response, OCF will use the word

"generated" to mean documents authored by an OCF employee for intracompany as well as external distribution; OCF will use the word "received" to mean documents authored by a person outside of OCF and received by an OCF employee. Thus, OCF intracompany correspondence will be "generated," but not "received," by OCF personnel.

Incorporating the above objections into each response, OCF responds as follows:

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) KA-4	Minutes of the Health and Safety Committee, National Insulation Manufacturers Association, dated May 10, 1966. (Bates Nos. 42 013 0917 - 42 013 0918)
b) KA-5	Minutes of the Health and Safety Committee, National Insulation Manufacturers Association, dated August 10, 1967. (Bates Nos. 42 013 0927 - 04 013 0930)
c) K-523	August 23, 1967 letter from Lee B. Grant to Jack M. Barnett, NIMA, with attachment: article "Mesothelioma and Its Association With Asbestosis". JAMA, August 21, 1967. (Bates Nos. 02 212 0540 - 02 212 0545)

RESPONSE NO. 1:

a) OCF states that plaintiff's Exhibit KA-4 is a true and correct duplicate of an authentic document maintained in OCF's files related to asbestos, except insofar as it

contains exhibit stickers, handwriting, marginalia and/or other marks which do not appear on the original document.

- b) OCF states that plaintiff's Exhibit KA-5 is a true and correct duplicate of an authentic document maintained in OCF's files related to asbestos, except insofar as it contains exhibit stickers, handwriting, marginalia and/or other marks which do not appear on the original document.
- c) OCF states that plaintiff's Exhibit K-523 is a true and correct duplicate of an authentic document maintained in OCF's files related to asbestos, except insofar as it contains exhibit stickers, handwriting, marginalia and/or other marks which do not appear on the original document.

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 OCF Entity by an employee or representative of any OCF Entity with knowledge of the act, event, condition or opinion recorded.

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
a) KA-4	Minutes of the Health and Safety Committee, National Insulation Manufacturers Association, dated May 10, 1966. (Bates Nos. 42 013 0917 - 42 013 0918)
b) KA-5	Minutes of the Health and Safety Committee, National Insulation Manufacturers Association, dated August 10, 1967. (Bates Nos. 42 013 0927 - 04 013 0930)
c) K-523	August 23, 1967 letter from Lee B. Grant to Jack M. Barnett, NIMA, with attachment: article "Mesothelioma and Its Association With Asbestosis". JAMA, August 21, 1967. (Bates Nos. 02 212 0540 - 02 212 0545)

RESPONSE NO. 2:

- a) OCF states that the original of plaintiffs' Exhibit KA-4 was received by an OCF employee during the course of his/her employment.
- b) OCF states that the original of plaintiffs' Exhibit KA-5 was received by an OCF employee during the course of his/her employment.
- c) OCF states that the original of plaintiffs' Exhibit K-523 was not received by an OCF employee during the course of his/her employment.

INTERROGATORY NO. 3:

From 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) KA-4	Minutes of the Health and Safety Committee, National Insulation Manufacturers Association, dated May 10, 1966. (Bates Nos. 42 013 0917 - 42 013 0918)
b) KA-5	Minutes of the Health and Safety Committee, National Insulation Manufacturers Association, dated August 10, 1967. (Bates Nos. 42 013 0927 - 04 013 0930)
c) K-523	August 23, 1967 letter from Lee B. Grant to Jack M. Barnett, NIMA, with attachment: article "Mesothelioma and Its Association With Asbestosis". <u>JAMA</u> , August 21, 1967. (Bates Nos. 02 212 0540 - 02 212 0545)

RESPONSE NO. 3:

OCF objects to this interrogatory, on the grounds that it is vague and ambiguous. Without waiving its objection, OCF refers plaintiffs to Response No. 1.

INTERROGATORY NO. 4:

Has OCF 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?

RESPONSE NO. 4:

OCF objects to this interrogatory on the grounds that it is overly broad and burdensome, and to the extent that it seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Without waving its objections, OCF would respond as follows: no compilation of such information exists.

Respectfully submitted,

BEAN & MANNING

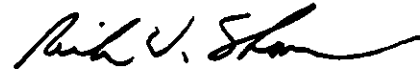


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ATTORNEYS FOR DEFENDANT,
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CERTIFICATE OF SERVICE

I hereby certify that Owens-Corning Fiberglas Corporation's Responses to Plaintiffs' Request For Production has been served upon plaintiff's counsel of record, Baron & Budd by Airborne Express and to all other counsel of record by regular mail this 14th day of AUGUST, 1992.



Rick W. Thamm