

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING
PROFESSIONAL CORPORATIONS

BUTLER & BINION
1600 FIRST INTERSTATE BANK PLAZA
1000 LOUISIANA
HOUSTON, TEXAS 77002-5093
(713) 237-3111
TELEX 775532 IWUI
TELECOPIER 237-3201 237-3202

332

WASHINGTON, D.C.
(202) 466-6900
DALLAS
(214) 220-3100
SAN ANTONIO
(512) 227-2200

May 7, 1991

FEDERAL EXPRESS

Mr. Bill Long
District Clerk
Dallas County Courthouse
600 Commerce
Dallas, Texas 75202

RE: CA No. 88-09327-A; Martin L. Mason, et al v. Fibreboard Corporation, et al; In the 14th Judicial District of Texas; Dallas County

Dear Mr. Long:

Enclosed please find Owens-Corning Fiberglas Corporation's Supplemental Answers to Plaintiffs' Interrogatories and Response to Requests for Production of Documents for Kenneth Thrapp, without exhibits, for filing in the above-referenced case.

Please return a file stamped copy of this letter to me in the enclosed self-addressed, stamped envelope.

By copy of this letter, I am notifying all known counsel of record of this filing.

Sincerely,

Elizabeth M. Thompson

Elizabeth M. Thompson

Enclosures

j:\wp\trans\disc\mason.ltr

cc: Mr. Russell Budd /Federal Express
Baron & Budd
8333 Douglas Ave., 10th Floor
Dallas, Texas 75225

All counsel of record



KENNETH THRAPP AND
LINDA THRAPP,

Plaintiffs,

versus

ARMSTRONG WORLD INDUSTRIES, INC.,
ET AL.

Defendants.

§
§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

14TH JUDICIAL DISTRICT

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

Defendant Owens-Corning Fiberglas Corporation ("OCF"), by
counsel, supplements its responses to Plaintiffs'
Interrogatories, 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 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 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.

Incorporating the above objections into each response, OCF supplements its responses as follows:

INTERROGATORY NO. 1:

Please state the name, address and job title of each person who supplied information used in answering these interrogatories.

SUPPLEMENTAL RESPONSE NO. 1:

OCF objects to this interrogatory as overly broad and burdensome. Without waiving its objections, OCF states that answers to these interrogatories were prepared with the assistance of counsel and based upon information obtained from presently existing corporate files and records, and from interviews with various employees of the company. No single officer, employee or agent of the company has the personal knowledge to supply each and every answer required. The person signing the responses is informed that the files, documents and interviews referred to above do support the responses based upon information available as of the date of signature. If information is later obtained which modifies any of the answers herein, such information will be conveyed to the parties submitting these interrogatories. These interrogatories are signed by Robert A. McOmber, Litigation, Owens Corning Fiberglas Corporation, Fiberglas Tower, Toledo, Ohio 43659. The telephone number of the corporation is A/C (419) 248-8000.

INTERROGATORY NO. 2:

Has Defendant, Defendant's predecessor or any of Defendant's subsidiary companies at any time engaged in the marketing, distribution, and/or sale of any commercial and/or industrial products containing asbestos fibers? If yes, please state as to each the following:

- a. The name of the company manufacturing, mining, marketing, distributing or selling such products.
- b. The trade or brand name of each such product mined, manufactured, and/or marketed.
- c. The date each of such products was placed on and removed from the market.
- d. A description of the physical (chemical) composition of each such product or material including the type of asbestos contained in each product (e.g., amosite, chrysotile, or crocidilite) and the quantitative percentage of asbestos in each product.

SUPPLEMENTAL RESPONSE NO. 2:

OCF objects to this interrogatory on the grounds that it is overly broad and burdensome. Without waiving its objections, OCF states that it manufactured asbestos-containing Kaylo insulating products from 1958 to 1972 and distributed such products from 1953 to 1973. OCF also had limited involvement in the manufacture and/or distribution of other asbestos-containing products. See attached Exhibit B, a chart listing those asbestos-containing products previously manufactured and/or sold by OCF. OCF notes that it has never "mined" asbestos-containing products.

OCF further states that generally, the batch formulation for asbestos-containing Kaylo manufactured by the filter press method included chrysotile asbestos, celite, hydrated lime and alum. For pan mold Kaylo, the formula generally included amosite asbestos, chrysotile asbestos, quicklime, silica, diatomaceous earth, clay, chromite, limestone, and sodium silicate. The asbestos content of asbestos-containing Kaylo was approximately 15% by weight. Slight changes were made in the batch formulation

continually throughout the period of time that OCF manufactured asbestos-containing Kaylo.

Kaylo 10 pipecovering and block contained approximately 15% asbestos of which one-half to two-thirds of the total asbestos content was amosite and one-third to one-half of the total asbestos content was chrysotile. Kaylo 20 pipecovering and block contained approximately 20 percent asbestos, of which one-half to two-thirds of the total asbestos content was amosite and one-third to one-half of the total asbestos content was chrysotile.

Additional information pertaining to this request would be located in OCF's files related to asbestos as described below.

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

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 plaintiffs 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.

INTERROGATORY NO. 3:

Has Defendant, Defendant's predecessors, and/or Defendant's subsidiary companies, at any time, entered into a "rebranding" agreement with any other company, either as a buyer or seller, concerning asbestos materials. If so, please describe the agreement.

SUPPLEMENTAL RESPONSE NO. 3:

OCF objects to this interrogatory on the grounds that it is vague and ambiguous. Without waiving its objections, OCF states that it had a rebrand agreement with the Pabco Division of Fibreboard Corporation between 1960 until the late 1960's or early 1970's by which Pabco's insulation was rebranded as Kaylo for OCF. Also, Johns-Manville manufactured and rebranded insulation for OCF by which insulation was rebranded for OCF during 1958-1960 (exact dates not known). Eagle-Picher

manufactured and rebranded asbestos-containing cements for OCF from approximately 1958-1968. Copies of the agreements between OCF and Fibreboard Corporation (Pabco), Johns-Manville, and Eagle-Picher are attached hereto as Exhibits C, D and E.

OCF also distributed Owens-Illinois' asbestos-containing Kaylo product from 1953 to 1958. See attached Exhibit F, a copy of the distribution agreement between OCF and Owens-Illinois and B a chart listing those asbestos-containing products previously manufactured and/or distributed by OCF.

See also attached Exhibits 1 and 2, previously provided.

OCF states that asbestos-containing Kaylo was rebranded for Eagle-Picher under their name Hy-Lo beginning around 1958/1960; the date the rebrand ended is unknown at present. Asbestos-containing Kaylo was rebranded for Armstrong Cork under their name of Armstrong LK insulation. At the present time, OCF is not aware of the dates of these transactions.

Additional materials relating to the subject matter of rebranding arrangements may be found in OCF's files related to asbestos, as described in Response No. 2.

INTERROGATORY NO. 6:

Before placing your asbestos-containing products or materials or substances on the market, did you make or cause to be made, any studies to determine whether your products would be hazardous to people? If so, please state the date of said studies and what studies were done.

SUPPLEMENTAL RESPONSE NO. 6:

OCF objects to this interrogatory on the grounds that it is overly broad and burdensome, vague and ambiguous. OCF also

objects to this interrogatory to the extent that it seeks information which is protected from discovery as attorney-client communications and/or attorney work product. Without waiving its objections, OCF states that it did not originally design or develop asbestos-containing Kaylo. Kaylo was designed and developed by Owens-Illinois Glass Co. in the early 1940's. OCF did not begin the distribution of asbestos-containing Kaylo until 1953. However, in an effort to respond, OCF provides the following review of those tests or studies of which it is aware, which pertain to the potential health effects of asbestos-containing Kaylo:

Surveys relating to the manufacture of asbestos-containing Kaylo were conducted by Aetna, Bradley, and Clayton. See attached Exhibits G, H and I, copies of the results of those surveys.

Industrial hygiene surveys, consisting of dust counts, were conducted during the fabrication of Kaylo block insulation on December 11, 1961, February 25, 1963, and in March 1963 at Union Carbide's Construction Insulation Shop in Charleston, West Virginia by Mr. Robert Peele, an Industrial Hygienist for Union Carbide. As a result of his surveys, Mr. Peele concluded that 1) the fabrication of Kaylo block insulation produced negligible health effects; 2) the environmental condition in evidence during the fabrication of Kaylo block insulation was not hazardous to health; and 3) Kaylo block insulation could be fabricated safely at Union Carbide's Construction Insulation Shop. Subsequent to

conducting these tests, Mr. Peele met with two OCF employees, Robert Esteep and William Lotz, and discussed his surveys.

Before the purchase of the Berlin, New Jersey Kaylo manufacturing plant by OCF from Owens-Illinois, Owens-Illinois sponsored studies on Kaylo. These studies were conducted at the Trudeau Foundation located in Saranac Lake, New York.

In 1956, before the acquisition of the Kaylo manufacturing plant from Owens-Illinois, OCF inquired into the information that Owens-Illinois had regarding the health aspects of the Owens-Illinois Kaylo product. OCF was informed that a study at Lake Saranac, published in 1955, showed that animals, if exposed for a prolonged period of time to high concentrations of Kaylo dust, could develop a mild asbestosis reaction. However, OCF was informed at the same time that experience in the manufacturing plants, including x-ray results, revealed no lung changes of any kind that could be attributed to the occupational exposure to Kaylo.

Documents, presumably received from Owens-Illinois around the time of the acquisition, informed OCF that Owens-Illinois had concluded, based on the experience in the factories, in the field and its consideration of the Saranac Lake report, that the actual hazard to the health of those handling Kaylo was considered to be small. See attached Exhibit J, a collection of documents regarding the Saranac Laboratory of the Trudeau Institute which were discovered in OCF's files and which OCF believes it received shortly after it acquired the Berlin, New Jersey, Kaylo

manufacturing plant. OCF may have in its possession other documents of the type inquired of herein, which were received by OCF after litigation began and in the course of discovery.

OCF further states that it conducted an survey of its workers in the Berlin, New Jersey Kaylo manufacturing plant which was concluded in December 1970. See attached Exhibit K.

Dust surveys were performed at a power plant in Montour, Pennsylvania on January 15, 1973 and in Peachbottom, Pennsylvania on January 16 and 17, 1973, and at a shipyard in San Diego, California on June 26 and 27, 1973. These surveys were done by G. E. Devitt, Chief Industrial Hygienist, Owens-Corning Fiberglas Corporation, Fiberglas Tower, Toledo, Ohio 43659. Results of the surveys were communicated to OCF's Contracting Division. See attached Exhibit L, the results of those surveys conducted at Montour, Pennsylvania; Peachbottom, Pennsylvania; and San Diego, California.

Additional information relating to the subject matter of this interrogatory would be located in OCF's files related to asbestos, as described in Response No. 2.

INTERROGATORY NO. 7:

Based upon the material contents of your products, the method of manufacturing, and the method of application for the purpose of which it was intended, can your asbestos products or materials be generally applied or used without creating dust?

SUPPLEMENTAL RESPONSE NO. 7:

OCF objects to this interrogatory on the grounds that it is vague and ambiguous. Without waiving its objections, OCF states that its asbestos-containing Kaylo insulation products might have

emitted some dust, a small percentage of which was asbestos, when the product was cut or sawed; and OCF's asbestos-containing cements might have emitted some dust, a small percentage of which was asbestos, when the cements were mixed. Neither would do so during installation unless subject to the previously stated activities.

Additional information relating to the subject matter of this interrogatory would be located in OCF's files related to asbestos, as described in Response No. 2.

INTERROGATORY NO. 9:

Has Defendant, Defendant's predecessors or any of Defendant's subsidiary companies at any time, published and/or distributed any brochures, pamphlets, packaging or any other written materials of any kind or character that contained warnings, cautions, caveats or directions concerning the possibility of injury resulting from the use of products listed in your answer to Interrogatory No. 3? If so, please state:

- a. The wording of such warnings.
- b. The date such warning was issued.
- c. Whether any such warning accompanied any of your asbestos-containing products or materials, sales literature, handouts or pamphlets.

SUPPLEMENTAL RESPONSE NO. 9:

OCF objects to this interrogatory on the grounds that it is overly broad and burdensome, vague and ambiguous. Without waiving its objections, In 1964, at the suggestion of Eagle-Picher, OCF agreed to the placement of a cautionary label on bags of OC-110 (SC-30) and OC-660 (SC-40) cement manufactured by Eagle-Picher and rebranded for OCF. These labels read as follows: "CAUTION: This product contains asbestos fiber.

Inhalation of asbestos in excessive quantities over long periods of time may be harmful. If dust is created when this product is handled, avoid breathing the dust. If adequate ventilation control is not possible, wear respirators approved by the U.S. Bureau of Mines for pneumoconiosis producing dust." See attached Exhibit M. OCF did not author the OC-110 or OC-660 warnings.

In December 1966, OCF handstamped cautionary labels on containers of Kaylo insulation which read as follows: "This product contains asbestos fiber. If dust is created when this product is handled, avoid breathing the dust. If adequate ventilation control is not possible, wear respirator approved by the U. S. Bureau of Mines." Cartons with preprinted warnings were used after February 1967. No reproductions of the hand-stamped packages are available. However, attached Exhibit N accurately reflects the labeling stamped on all packages from December 1966 to November 1970.

In November 1970, OCF changed the Kaylo cautionary label to read: "CAUTION - Product contains asbestos fiber. Inhalation of dust in excessive quantities over long periods of time may be harmful. Avoid breathing dust. If adequate ventilation is not possible, wear respirators approved by the U. S. Bureau of Mines for pneumoconiosis producing dust." See attached Exhibit O.

After its purchase of the Bloomington, Illinois, plant from Unarco on April 15, 1970, OCF continued to use the warning labels already printed on Unarcoboard (Fyrcor) packaging which read as follows: "CAUTION - This product contains asbestos fiber.

Inhalation of asbestos in excessive quantities over long periods of time may be harmful. If dust is created when this product is handled avoid breathing the dust. If inadequate ventilation control is not possible, wear respirators approved by the U. S. Bureau of Mines for pneumoconiosis producing dusts." See attached Exhibit P. OCF did not author the original Unarco board warning.

In May 1971, OCF revised the Fyrcor warning to read: "WARNING - This product contains asbestos fibers. Inhalation of asbestos fibers in excessive quantities over long periods of time may be harmful. Avoid breathing the dust. If adequate ventilation control is not possible, wear respirators of a type approved by the U. S. Bureau of Mines for pneumoconiosis dusts." See attached Exhibit Q.

The author of the 1966 Kaylo cautionary label is presently unknown; however, J. M. Briley (retired) directed that the cautionary label be printed on Kaylo product cartons. The person responsible for the change of Fyrcor's label in 1971 is also unknown. Per Saverstrom (retired) was involved in the change of Kaylo's cautionary label in 1970.

The above described cautionary labels were directed to all users of those products.

OCF placed cautionary statements on its asbestos-containing products as a result of more definitive information regarding reported health concerns associated with the use of asbestos-containing products.

Additionally, OCF, on its own and through the National Insulation Manufacturers Association, prepared and disseminated to contractors, distributors, and insulators information regarding potential health hazards associated with asbestos-containing insulation. In 1968, NIMA published a pamphlet entitled "Recommended Health Safety Practices for Handling and Applying Thermal Insulation Products Containing Asbestos." This pamphlet was distributed at meetings of the Insulation Distributor Contractors National Association. OCF also directly distributed the pamphlet to its branch managers, Supply and Contracting (S & C) supervisors, Home Building Products (HBP) supervisors, and S & C managers with instructions to review the matter with their salesmen. See attached Exhibit R, a copy of this pamphlet.

OCF also participated, through the educational and legislative committee of NIMA and at regional meetings of the IDCNA, in the presentation of health and safety programs to distributors and contractors. At those meetings, contractors and distributors: (1) were advised of the current status of health and safety activities pertinent to their businesses; (2) were given copies of the NIMA publications on health and safety practices and medical research literature; (3) discussed the contents of those publications; (4) discussed the merits of the proposed pre-employment and periodic physical examination programs on a cooperative employer-employee basis; (5) were urged to establish regional health and safety committees; and (6) were

given an opportunity to ask questions of the experts. These NIMA programs were presented to contractors and distributors with the intention that they would instruct their employees accordingly.

In 1972, Donald Bradshaw, OCF's Region Manager of Power and Process for the West Coast and Chairman of the National Insulation Contractor's Association's Occupational Health and Safety Committee, authored, along with other committee members, a pamphlet entitled, "Safety Reminders." See attached Exhibit 3. It is OCF's present understanding that this pamphlet was disseminated to contractors, distributors, and insulators.

OCF further refers plaintiffs to attached Exhibit S, a pamphlet entitled "Caution: Asbestos Dust . . ." published by the National Institute for Occupational Safety and Health. This pamphlet was distributed by OCF to its asbestos worker employees on or around October 30, 1973.

OCF also held meetings with the International Association of Heat and Frost Insulators and Asbestos Workers and the Glass Bottle Blowers. The meeting between OCF and the president of the International Association of Heat and Frost Insulators and Asbestos Workers took place in the union's offices in Washington, D. C; the exact date of this meeting is unknown but OCF believes it was before 1972. OCF is uncertain as to the details regarding its meeting with the Glass Bottle Blowers. At these meetings, OCF attempted to discuss the then-known health concerns regarding asbestos.

Also, OCF management held meetings with the unions at OCF's Berlin, New Jersey, manufacturing plant and made special presentations to employees to discuss those health concerns related to asbestos.

OCF also refers plaintiffs to attached Exhibits T, U, V and W, and 4, OCF's Product Data and Application Information.

Additional information relating to the subject matter of this interrogatory would be located in OCF's files related to asbestos, as described in Response No. 2.

INTERROGATORY NO. 10:

Did Defendant, Defendant's predecessors, or any of Defendant's subsidiary companies receive notice before 1968 that any person was claiming an injury as a result of using asbestos-containing products, manufactured, and/or sold or marketed by Defendant, Defendant's predecessors or any of Defendant's subsidiary companies? If so, please state:

- a. The name and address of each claimant.
- b. The date or notice of each claim.

SUPPLEMENTAL RESPONSE NO. 10:

OCF objects to this interrogatory on the grounds that it is overly broad and burdensome, vague and ambiguous. Without waiving its objections, OCF states that it was named as a party in Worker's Compensation actions filed by persons believed to have been employees of its Contracting and Supply Division alleging injury from exposure to asbestos. These claimants were apparently insulation workers, who filed actions against numerous past and present employers, and alleged injury from exposure over a period of many years to a variety of asbestos and nonasbestos-

containing materials manufactured and/or distributed by a number of entities.

OCF lacks records to provide a complete response to this interrogatory, because Worker's Compensation claims historically have been processed by OCF's insurance carriers, and OCF's corporate headquarters did not always receive contemporaneous notification of individual claims.

OCF has had in its possession certain claims materials from such Worker's Compensation actions. These materials were located, for the most part, in the Law Department of the company's Santa Clara, California manufacturing plant. However, all such files originally located at Santa Clara have not been located in company files during a recent review of documents. A diligent search continues.

The following table sets forth the factual information which is presently known about these claims. Based on a preliminary review of these materials conducted in 1980, it appears that the injuries claimed were asbestosis, and in some instances, lung cancer.

<u>Name</u>	<u>Approx Date of claim Filed Against OCF</u>	<u>Location</u>
1. Harold Bronson	1964	Los Angeles, California
2. Leonard Brookenshire	1968	Los Angeles, California
3. Allan Everitt	1963	Unknown

4. Minnie Louise & Bruce Frederick	1967	Fresno, California
5. Steve Gillovich	Unknown	Unknown
6. Robert O. Goans	1963	Oakland, California
7. Robert E. Goodwin	1969	California
8. Paul Gratishire	1962	Oakland, California
9. Allen Hamberg	Unknown	Seattle, Washington
10. Roy B. Harris	1973	Phoenix, Arizona
11. Gerald Herrick	1970	Anchorage, Alaska
12. Harold Hilstrom	1973	Washington
13. Burton Kramer	1960	Washington
14. Marvin Lindholm	1973	Seattle, Washington
15. William Lee Mabry	1967	Oregon
16. W. L. Menzies	1968	Los Angeles, California
17. Fred Moffett	1966	Oregon
18. Willis E. Moore	Unknown	Seattle, Washington
19. Edward Meyers	1962	San Francisco, California
20. George Nelson	1968	Phoenix, Arizona
21. Henry Puetz	1966-1967	Unknown
22. John Stanley	1969	Los Angeles, California
23. M. E. Sutton	Unknown	Unknown
24. David Swindell	1975	Sacramento, California
25. William E. Tudor	1967	Seattle, Washington
26. Charles Vincent	1970	Anchorage, Alaska
27. James Whitcomb Riley	1959	Unknown
28. Leroy C. Winters	1959	Albuquerque, New Mexico
29. John Wyss	1962	Unknown

In addition, a review of the OCF Toledo Medical Department files indicates the following information relating to these kinds of Workmen's Compensation claims.

<u>Name</u>	<u>Approx date claim pending against OCF</u>	<u>Alleged Injury</u>	<u>Location</u>
1. Wayne E. Boyer	1969-70	Asbestosis	Los Angeles, CA
2. Lawrence F. Brimmer	1969	Unknown	Flint/Grand Rapids, MI
3. Maurine Clark	1969-70	Unknown	Los Angeles, CA
4. James E. Clark	1969-70	Unknown	San Francisco, CA
5. James Clark	1970	Asbestosis	Seattle, WA
6. Bruce Frederick (Minnie Louise)	1967-70	Asbestosis	Fresno, CA
7. Charles F. Funkhouser	1970	Asbestosis	Los Angeles, CA
8. Robert E. Goodwin	1969-70	Pneumoconiosis Asbestos exposure	Los Angeles, CA
9. Gerald D. Herrick	1970	Asbestosis	Anchorage, AK
10. Robert Horsman	1969-70	Asbestosis	Los Angeles, CA
11. Roy B. Merrill	1969-70	Pneumoconiosis Asbestos exposure	Los Angeles, CA

12. Fred Moffet	1967-68	Disability: Exposure to asbestos	Unknown
13. Willis W. Moore	1969-70	Asbestosis	Seattle, WA
14. Frances E. Owens	1969-70	Unknown	Los Angeles, CA
15. Edward L. Pfleggar	1968-70	Asbestosis	San Francisco, CA
16. Henry C. Puetz	1966-70	Asbestosis	San Francisco, CA
17. John Stanley	1968-70	Asbestosis	Los Angeles, CA
18. Vernon F. Tucker	1969-70	Asbestosis	Los Angeles, CA
19. William E. Tudor	1967-70	Asbestosis	Seattle, WA
20. Charles L. Vincent	1969-70	Asbestosis	Anchorage, AK

Certain other Worker's Compensation claims files have been furnished to OCF by plaintiffs' counsel in the course of litigation. It is believed that these files were originally obtained from codefendants or from public records. Copies of these files were not found among OCF's historical documents, but some of these files relate to the same claimants whose names appear in the tables above. These files number in excess of 2,300 pages and will be made available upon request for inspection and copying at a reasonable cost.

OCF states that the date on which it first received notice of a person claiming injury relating to primary or exclusive use of OCF's asbestos-containing Kaylo product was October 1966. The claimant's name is unknown; however, he was an employee of New

England Insulation, and he alleged asbestosis. The claim was a Worker's Compensation action made to the Massachusetts Industrial Accident Board.

Additional information relating to the subject matter of this interrogatory would be located in OCF's files related to asbestos, as described in Response No. 2.

INTERROGATORY NO. 12:

Please state whether or not Defendant, Defendant's predecessors, or Defendant's subsidiary companies ever obtained any knowledge concerning the likelihood of asbestos being hazardous to human health. If so, please state:

- a. When Defendant, Defendant's predecessors, or Defendant's subsidiary companies first became aware of "the hazardous potential of asbestos dust and asbestos fibers."
- b. The manner in which the Defendant, Defendant's predecessors, or Defendant's subsidiary companies first obtained this knowledge and became aware of said hazards and from what source this information was obtained.

SUPPLEMENTAL RESPONSE NO. 12:

OCF objects to this interrogatory on the grounds that it is overly broad and burdensome, vague and ambiguous. OCF also objects to this interrogatory on the grounds that it requires OCF to make a subjective determination as to when OCF "first became aware of the hazardous potential of asbestos dust and asbestos fibers." Without waiving its objections, OCF offers the following overview:

OCF is now aware of medical literature associating various health concerns with the inhalation of asbestos fibers. There was no specific date as to when OCF became aware of the

relationship of exposure to asbestos fibers and dust to various health concerns. Likewise, there was no specific date as to when OCF became aware of the relationship of exposure to Kaylo dust to various health concerns. The knowledge of that relationship was developed over a considerable period of time.

In the early 1940's some employees of OCF became aware of reports of asbestosis and asbestos corns associated with the inhalation of heavy concentrations of asbestos fibers in the asbestos textile manufacturing industry. Employees learned of these reports from published medical studies such as W. C. Dreessen, et al., "A Study of Asbestosis in the Asbestos Textile Industry," Public Health Bulletin No. 241, August 1938, and A. J. Lanza, et al., "Effects of the Inhalation of Asbestos Dust on the Lungs of Asbestos Workers," Public Health Reports, Vol. 50, No. 1., January 1935.

In 1953, OCF began to distribute a hydrous calcium silicate reinforced with asbestos, called Kaylo, which was manufactured by Owens-Illinois. OCF began to manufacture the product in 1958, when it purchased the Berlin, New Jersey Kaylo manufacturing plant from Owens-Illinois.

In 1956, before the acquisition of the Kaylo manufacturing plant from Owens-Illinois, OCF inquired into the information that Owens-Illinois had regarding the health aspects of the Owens-Illinois Kaylo product. OCF was informed that a study conducted by the Trudeau Foundation located in Saranac Lake, New York, published in 1955, showed that animals, if exposed for a

prolonged period of time to heavy concentrations of Kaylo dust, could develop a mild asbestosis reaction. However, OCF was informed at the same time that Owens-Illinois experience in the manufacturing plants, including x-ray results, revealed no lung changes of any kind that could be attributed to the occupational exposure of Kaylo.

Other documents, which OCF presumably received from Owens-Illinois around the time of the acquisition, informed OCF that Owens-Illinois had concluded, based on this experience in the factories and in the field and its consideration of the Saranac Lake report, that the actual effect to the health of those handling Kaylo was considered to be small.

During the approximate period of 1964-1966, OCF became aware of new developments concerning potential problems with asbestos insulating materials, particularly reports authored by Dr. Irving J. Selikoff which were presented as part of proceedings conducted by the New York Academy of Sciences and published in the Annals of the New York Academy of Science on December 31, 1965. These articles, as they related to prolonged use and exposure to asbestos insulating materials and potential lung disease, were questioned by certain employees of OCF with regard to their application to the product Kaylo. It was felt that Kaylo, a calcium silicate, could not have been involved to any appreciable extent in the studies, because the studies involved men who had entered the insulation trade before 1943, and Kaylo was not manufactured until 1943. In addition, the fact that the asbestos

in Kaylo was altered physically and chemically during the autoclaving process raised the issue as to whether or not the alteration changed the possible cancer inducing tendencies of the original asbestos.

Moreover, in 1963, the Union Carbide Company studied Kaylo and concluded that (1) the fabrication of Kaylo block insulation produced negligible health effects; (2) the environment condition in evidence during the fabrication of Kaylo block insulation was not hazardous to health; and (3) Kaylo block insulation could be fabricated safely at Union Carbide's Construction Insulation Shop.

As of the mid '60s no Worker's Compensation cases had been filed by employees of the Berlin, New Jersey Kaylo manufacturing plant. In October of 1966, certain employees of OCF became aware of a potential claim by an insulation worker in Massachusetts alleging lung damage due to the handling of Kaylo.

Shortly thereafter, notwithstanding the fact that there was still doubt among certain OCF employees as to whether Kaylo could cause lung disease, a decision was made to place cautionary labels on e Kaylo cartons, and said decision was implemented in December 1966.

OCF further states that documents, to the extent they exist, documents relating to the subject matter discussed herein would be contained in OCF's files related to asbestos, as described in Response No. 2.

INTERROGATORY NO. 14:

Please state whether the Defendant, Defendant's predecessors, or Defendant's subsidiary companies at any time have been members of any trade organizations or trade associations composed of other manufacturers, miners, sellers, or distributors of asbestos products, and if so, please identify the name and address of each such association or organization, the dates of membership, and the names of any publications listed or written by such association or organization.

SUPPLEMENTAL RESPONSE NO. 14:

OCF objects to this interrogatory on the grounds that it is overly broad and unduly burdensome. OCF also objects to this interrogatory to the extent that it seeks information which is protected from discovery as attorney-clients communications and/or attorney work product. Without waiving its objections, OCF states that it has been a member of the following organizations for the years stated:

National Insulation Manufacturers Association, Inc. (1958 to present), 441 Lexington Ave., New York, New York 10017;

Thermal Insulation Manufacturers Association (1958 to present), 7 Kirby Plaza, Mt. Kisco, New York 10549;

National Mineral Wool Association (1969 to present), 382 Springfield Ave., Summit, New Jersey 07901;

Industrial Hygiene Foundation of America and its successor, Industrial Health Foundation (1942-1950 and 1953 to present), 5232 Center Ave., Pittsburgh, Pennsylvania 15232;

National Insulation Contractors Association (1967 to present), 1025 Vermont Ave., N.W., Suite 410, Washington, D.C. 20005;

American Society for Testing & Materials (Dates of membership unknown), 1916 Race Street, Philadelphia, Pennsylvania 19103.

National Safety Council (July 1943 to present), 444 N. Michigan Avenue, Chicago, Illinois 60611.

OCF further states that individual employees of which OCF is unaware may have been members of various other organizations.

See attached Exhibits X, Y and Z, copies of various NIMA meeting minutes.

Additional documents relating to the subject matter requested herein may be found in OCF's files related to asbestos, as described in Response No. 2.

INTERROGATORY NO. 15:

Does Defendant's products which previously contained asbestos now perform satisfactorily without asbestos?

SUPPLEMENTAL RESPONSE NO. 15:

OCF objects to this interrogatory on the grounds that it is vague and ambiguous. Without waiving its objections, OCF states that the technology necessary to manufacture asbestos free Kaylo first became available in 1971 and 1972. In November, 1972 OCF began to manufacture asbestos-free Kaylo as a partial substitute for those applications for which asbestos-containing Kaylo had been manufactured. OCF's non-asbestos insulation performs satisfactorily, although it does not insulate up to the same temperature as asbestos-containing products.

C. A. No. 88-09327-A; consolidated with

NO. 90-13212-B

KENNETH THRAPP AND
LINDA THRAPP,

Plaintiffs,

versus

ARMSTRONG WORLD INDUSTRIES, INC.,
ET AL.

Defendants.

) IN THE DISTRICT COURT OF
)
)
)
)
) DALLAS COUNTY, TEXAS
)
)
)
)
) 14TH JUDICIAL DISTRICT

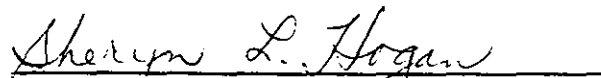
STATE OF OHIO)
)
COUNTY OF LUCAS)

AFFIDAVIT

ROBERT A. MCOMBER, being duly sworn, deposes and says that he is Counsel - Litigation for OWENS-CORNING FIBERGLAS CORPORATION and that he verifies the foregoing answers to plaintiffs' Interrogatories for and on behalf of OWENS-CORNING FIBERGLAS CORPORATION and is duly authorized so to do; that the matters stated therein are not within the personal knowledge of deponent; that the facts stated therein have been assembled by authorized employees and counsel of OWENS-CORNING FIBERGLAS CORPORATION and deponent is informed that the facts stated therein are true.


ROBERT A. MCOMBER

SWORN TO and subscribed
before me this 6th day
of May, 1991.


Notary Public

SHERYN L. HOGAN
Notary Public, State of Ohio
My Commission Expires Aug. 18, 1994

C. A. No. 88-09327-A; consolidated with

NO. 90-13212-B

KENNETH THRAPP AND
LINDA THRAPP,

Plaintiffs,

versus

ARMSTRONG WORLD INDUSTRIES, INC.,
ET AL.

Defendants.

) IN THE DISTRICT COURT OF
)
)
)
)
) DALLAS COUNTY, TEXAS
)
)
)
)
) 14TH JUDICIAL DISTRICT

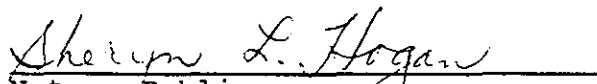
STATE OF OHIO)
)
COUNTY OF LUCAS)

AFFIDAVIT

ROBERT A. MCOMBER, being duly sworn, deposes and says that he is Counsel - Litigation for OWENS-CORNING FIBERGLAS CORPORATION and that he verifies the foregoing answers to plaintiffs' Interrogatories for and on behalf of OWENS-CORNING FIBERGLAS CORPORATION and is duly authorized so to do; that the matters stated therein are not within the personal knowledge of deponent; that the facts stated therein have been assembled by authorized employees and counsel of OWENS-CORNING FIBERGLAS CORPORATION and deponent is informed that the facts stated therein are true.


ROBERT A. MCOMBER

SWORN TO and subscribed
before me this 6th day
of May, 1991.


Notary Public

SHERYN L. HOGAN
Notary Public, State of Ohio
My Commission Expires Aug. 18, 1994