FILE NAME: Merck (MK)

DATE: 0000

DOC#: MK101

DOCUMENT DESCRIPTION: Merck - Barry Castleman Report

Merck

The state of New Jersey, where Merck had operated production facilities since 1899 and research facilities since 1933, recognized asbestosis as a compensable occupational disease by 1944. Moreover, the 1950 edition of "The Merck Manual," its medical reference publication covering a variety of topics including diseases and diagnoses, included a section on asbestosis. [Deposition of John J. Higgins, Jun 15, 2011, at 49:4-20].

Merck's Chief of Industrial Health, Ken Doremus, was a member of the American Industrial Hygiene Association (AIHA) beginning in 1954. He remained a member in 1958, when AIHA published recommendations for maximum acceptable concentrations for workplace asbestos exposures. *See Industrial Hygiene Association Journal*, April 1958, at pp. 161-163. New Jersey implemented threshold limit values for asbestos exposures that same year; Pennsylvania followed suit in 1961.

The winter 1964-1965 issue of *News & Views* – the Pennsylvania Division of Occupational Health's newsletter – reported on the international conference on the "Biological Effects of Asbestos" held by the New York Academy of Sciences. At that conference, speakers presented discussions of cancer in asbestos workers and in persons living in the neighborhoods of asbestos plants. *News & Views* reported: "It is now generally agreed that mesothelial tumors are much more prevalent among those exposed to asbestos than among the general population." George W. Merck, company President and son of founder George Merck, was a trustee at the New York Academy of Sciences at the time.

The 1968 edition of The Merck Index, an encyclopedia of chemicals and other substances, included reference to asbestos-related diseases, including asbestosis and lung cancers; the Index also outlined a number of asbestos-containing products and materials to which employees could be exposed. Even following issuance of OSHA regulations in 1971, the company considered asbestos to be a "nuisance dust" and not a "significant hazard" until personnel from Mt. Sinai Medical Center and School of Medicine visited and found asbestosis in some of the company's pipefitters in the early 1970s. Staff from Mt. Sinai visited the Rahway, New Jersey plant to monitor and observe working conditions resulting in asbestos exposures. .

In January 1974, following the visits from Mt. Sinai personnel, Mr. Doremus, head of the industrial hygiene department, recommended that the company discontinue use of all asbestos-containing products and materials. *See id.* at 91:24-92:18; 93:7-23. However, Merck continued to use asbestos-containing gaskets, rope packing, Transite and other materials for many years. OSHA cited the company in the 1980s for failing to warn employees about asbestos contamination, resulting in exposures with no protective equipment at the Rahway plant. *See id.* at. 89:7-20; 90:3-11. Even in the late 1980s and early 1990s, Merck was only gradually removing asbestos-containing insulation materials from its plants, and maintenance employees – rather than certified abatement personnel – were still being allowed to handle and remove those materials in certain circumstances. [John Higgins deposition]