



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
AND
SOUTHERN DISTRICT OF NEW YORK

IN RE JOINT EASTERN AND SOUTHERN
DISTRICT ASBESTOS LITIGATION

NYAL-PH-8888

THIS DOCUMENT RELATES TO:
ALL POWERHOUSE CASES

SUPREME COURT OF THE STATE OF NEW YORK
ALL COUNTIES WITHIN THE CITY OF NEW YORK

IN RE: NEW YORK CITY ASBESTOS LITIGATION

Index No.
40,000

THIS DOCUMENT RELATES TO:

ALL CASES

ANSWERS AND OBJECTIONS OF W.R. GRACE & CO. - CONN.
TO PLAINTIFFS' FIRST SET OF SUPPLEMENTAL
INTERROGATORIES TO W.R. GRACE

PRELIMINARY STATEMENT

The following answers are based upon facts known or believed by W. R. Grace & Co. - Conn., formerly known as W. R. Grace & Co., ("Grace-Conn") at the time of answering these interrogatories. Much of the information is sought from many years ago and is, therefore, difficult or impossible to reconstruct or retrieve. Grace-Conn, therefore, reserves the right to amend these answers as and if new or better information becomes available to it or errors are discovered.

Unless otherwise stated in an answer to a specific interrogatory, these answers are limited to products which were used in the commercial construction industry that had fireproofing, thermal or acoustical insulating properties and contained commercial asbestos, hereinafter described as "asbestos-containing products." These answers are further limited to the activities of Grace-Conn's Construction Products Division ("CPD") associated with the manufacture and sale of same in the United States during the relevant time period.

Any reference to the manufacture, sale or distribution of a product by an entity other than Grace-Conn, e.g., by the Zonolite

Company, should not be considered an admission that Grace-Conn is liable or responsible for injuries alleged to have resulted from the manufacture, sale, or use of such product. Grace-Conn reserves the right to object to the admissibility of part or all of any answer to an interrogatory on this basis.

INTERROGATORIES

INTERROGATORY 1

Please state when defendant, W. R. Grace became aware of the January, 1946 Article "A Health Survey of Pipe Covering Operations in Constructing Naval Vessels" by Walter E. Fleischer, Frederick J. Viles, Jr., Robert L. Gade and Philip Drinker.

ANSWER 1

Grace-Conn objects to this interrogatory on the grounds that it is irrelevant, immaterial, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, Grace-Conn states that it has no record that it was aware of this article at the time that the article was published.

INTERROGATORY 2

Did defendant ever rely on said Article as a reason for not warning users or consumers or (sic) its asbestos containing products. If so, when.

ANSWER 2

No.

INTERROGATORY 3

If defendant ever became aware of the Article referred to in Interrogatory No. 1, produce all documents (including statements and trial or deposition testimony of current or former employees of defendant) in possession of defendant indicating that defendant relied on said Article as a reason for not warning users or consumers of its asbestos containing products of any and all actual or potential hazards associated with such products.

ANSWER 3

Grace-Conn states that it has no such documents.

INTERROGATORY 4

Please state when defendant W.R. Grace became aware of the Threshold Limit Value of 5 Million Particles Per Cubic Foot of Air.

ANSWER 4

Grace-Conn states that a 1956 Montana State Board of Health report to the Zonolite Company, whose assets Grace-Conn did not acquire until 1963, referred to maximum allowable concentrations of dust, silica and asbestos, as recommended by the ACGIH, the U.S. Public Health Service, and the American Industrial Hygiene Association. Grace-Conn expressly denies that this information is relevant to the subject matter of this lawsuit or attributable to Grace-Conn. Review of documents indicates that in 1968, threshold limit values were mentioned in an HEW report on air sampling done at Grace-Conn's vermiculite mine and mill in Libby, Montana.

INTERROGATORY 5

Did defendant ever rely on said Threshold Limit Value as a reason for not warning users or consumers of its asbestos containing products. If so, when.

ANSWER 5

Grace-Conn objects to this interrogatory on the grounds that it is overly broad, unduly burdensome and improperly implies that Grace-Conn's asbestos-containing products could have adverse health consequences for users or consumers. Grace-Conn further objects to this interrogatory to the extent that it seeks information protected by the attorney-client privilege or attorney work product doctrine. Subject to these objections, Grace-Conn states that relevant, non-privileged, non-trade secret documents will be made available in Boston, Massachusetts at a mutually convenient time.

INTERROGATORY 6

If defendant ever became aware of the Threshold Limit Value referred to in Interrogatory No. 4, produce all documents (including statements and trial or deposition testimony of current or former employees of defendant) in possession of defendant indicating that defendant relied on said Threshold Limit Value as a reason for not warning users or consumers of its asbestos containing products of any and all actual or potential hazards associated with such products.

ANSWER 6

See Answer 5, above.

INTERROGATORY 7

When and if defendant became aware of the Threshold Limit of 5 Million Particles Per Cubic Foot of Air, what, if any, efforts did defendant make to determine if the manner in which defendant's asbestos products were actually used limited the amount of dust produced by such products to below the Threshold Limit Value.

ANSWER 7

See Answer 5, above.

INTERROGATORY 8

When did defendant learn of the hazards or dangers or potential hazards or potential dangers associated with the inhalation of asbestos dust or fibers by those using asbestos containing products.

ANSWER 8

Grace-Conn objects to this interrogatory on the grounds that it is vague and ambiguous in that it lacks sufficient specificity regarding the type of asbestos and the level, duration, nature and manner of exposure. Without in any way waiving these objections, Grace-Conn states that it cannot identify the precise date or manner in which one or more of its employees might have become aware of any health hazards alleged to be associated with the inhalation of asbestos fibers by human beings. However, from Grace-Conn's investigation to date, it appears that the Zonolite Company, which assets Grace-Conn did not acquire until 1963, was informed by the Montana State Board of Health in 1956 that the inhalation of asbestos dust had been reported to be associated with the development of pulmonary fibrosis among workers depending upon length of exposure and the nature and concentration of the dust. Grace-Conn expressly denies that this information is relevant to the subject matter of this suit or attributable to Grace-Conn.

INTERROGATORY 9

When did defendant learn of the hazards or dangers or potential hazard or potential dangers associated with the inhalation of asbestos dust or fibers by those not directly using asbestos containing products yet working near other (sic) who were using such products.

ANSWER 9

Grace-Conn objects to this interrogatory on the grounds that it is overly broad, irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence. Grace-Conn further objects to this interrogatory on the grounds that it is vague and ambiguous in that it lacks sufficient specificity regarding the type of asbestos referred to, and the level, duration, nature, and manner of exposure of other workers. Further answering, this interrogatory calls for an expert opinion.

INTERROGATORY 10

When and if defendant became aware of the hazards or potential hazards discussed in Interrogatory Nos. 8 and 9, what if any actions did defendant take to ascertain whether its asbestos-containing products were in place or in use at any site where users or consumers would continue to be exposed to such products.

ANSWER 10

See Answer 5, above.

INTERROGATORY 11

When and if defendant became aware of the hazards or potential hazards discussed in Interrogatory Nos. 8 and 9, what if any steps did defendant take to recall its asbestos containing products from the marketplace, stream of commerce or sites where such asbestos containing products had previously been installed.

ANSWER 11

Grace-Conn objects to this interrogatory on the grounds that it is overly broad, unduly burdensome and improperly implies that Grace-Conn's asbestos-containing products could have adverse health consequences for users or consumers. Subject to these objections, Grace-Conn states that it has never recalled its asbestos-containing products from the marketplace, stream of commerce, or sites where such products had been installed.

INTERROGATORY 12

Are any of the asbestos containing products manufactured, mined, milled, produced, supplied or specified to be used on equipment manufactured or supplied by defendant still in use today (in any country).

ANSWER 12

Grace-Conn objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence. Grace-Conn further objects on the grounds that the phrase "still in use" is vague and ambiguous. Subject to these objections, Grace-Conn states that it no longer manufactures or sells asbestos-containing products in the United States.

INTERROGATORY 13

Confirm whether or not all indicia of sales of asbestos containing products maintained by or in the possession of defendant are complete and up to date records spanning all years in which defendant sold, produced, manufactured, mined, milled, processed, compounded, converted, supplied, distributed or installed such products.

ANSWER 13

Grace-Conn objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, Grace-Conn states that it has not destroyed any such records since the inception of asbestos litigation involving Grace-Conn.

Respectfully submitted,



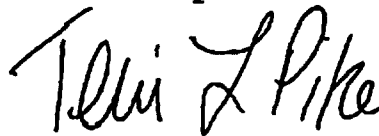
Cathi A. Hession, Esq.
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71 Broadway
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DATED: New York, New York
January 6, 1992

CERTIFICATION

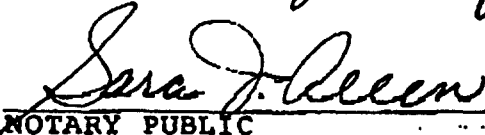
STATE OF FLORIDA)
)
COUNTY OF PALM BEACH, SS.)

Terri L. Pike, being first duly sworn, on oath deposes and says she is Controller, Office of Environmental Policy of W. R. Grace & Co. - Conn., defendant in the above-entitled action; that she has read the foregoing answers to interrogatories and knows the contents thereof; that said answers were prepared by and with the assistance of employees and representatives of the corporation, with the assistance and advice of counsel, upon which she has relied; that the answers set forth herein, subject to inadvertent or undiscovered errors, are based on and therefore necessarily limited by the records and information still in existence, presently recollected and thus far discovered in the course of the preparation of these answers; that consequently W. R. Grace & Co. - Conn. reserves the right to make any changes in the answers if it appears at any time that omissions or errors have been made therein or that more accurate information is available; and that subject to the limitations set forth herein the said answers are true to the best of her present knowledge, information and belief.



TERRI L. PIKE

Subscribed and sworn to before me
this 6 day of January, 1992.


NOTARY PUBLIC

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES 4.1995
BONDED THRU GENERAL INS. UND.

