

IN RE: ALL ASBESTOS-RELATED §
INJURY OR DEATH CASES FILED §
BY BARON & BUDD, P.C. OR TO §
BE FILED BY BARON & BUDD, P.C. §
IN DALLAS COUNTY, TEXAS §

IN THE DISTRICT COURTS OF
DALLAS COUNTY, TEXAS
160TH JUDICIAL DISTRICT

DEFENDANT U. S. GYPSUM COMPANY'S
ANSWERS TO PLAINTIFFS' INTERROGATORIES

TO: Plaintiffs, by and through their attorney of record, Mr.
Russell W. Budd, Baron & Budd, P.C., The Centrum, 3102
Oak Lawn Ave., Ste. 1100, Dallas, TX 75219

COMES NOW, U. S. GYPSUM COMPANY, Defendant in the above-
entitled and numbered cause, and files the attached Answers to
Plaintiffs' Interrogatories.

Respectfully submitted,

DeHAY & ELLISTON, L.L.P.
1500 Maxus Energy Tower
717 North Harwood Street
Dallas, Texas 75201-6508
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By: David W. Crowe
DAVID W. CROWE
State Bar No. 05164250

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and
foregoing document has been forwarded to Plaintiffs' counsel of
record, Mr. Russell W. Budd, Baron & Budd, 8333 Douglas Avenue,
Suite 1000, Dallas, Texas 75225, by Certified Mail, return receipt
requested, on the 21 day of MAY, 1993.

David W. Crowe
DAVID W. CROWE

DEFENDANT U. S. GYPSUM COMPANY'S
ANSWERS TO PLAINTIFFS' INTERROGATORIES
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PREFATORY STATEMENT

United States Gypsum Company (hereinafter "U.S. Gypsum") has, to the best of its abilities, gathered non-privileged documents into a document repository for inspection by plaintiffs' counsel in response to requests for production served in asbestos litigation. These documents provide information that supplements and expands upon that provided in these answers to Interrogatories, U.S. Gypsum hereby offers to make available these documents at a mutually convenient time at its offices at 125 S. Franklin Street, Chicago, Illinois.

In giving its response to Interrogatories as to asbestos-containing products, U.S. Gypsum refers to products containing commercial asbestos as part of their formulation and to the type of commercial asbestos used as part of the formulation.

OBJECTIONS

U.S. Gypsum objects to the manner in which plaintiff has defined U.S. Gypsum to the extent that plaintiff purports to include in its definition of U.S. Gypsum its subsidiaries and predecessors in interest, its present and former officers, executives, directors, agents, employees and all other persons acting or purporting to act on behalf of U.S. Gypsum. In that U.S. Gypsum is the named defendant, this definition is overly broad and would require U.S. Gypsum to engage in unduly burdensome research, divulge privileged information and produce privileged documents. This defendant, U.S. Gypsum Company, responds to these Interrogatories on behalf of itself.

U.S. Gypsum further objects to these Interrogatories to the extent they ask for "identification" of voluminous documents on the ground that they are overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. As set forth *infra*, U.S. Gypsum will produce documents which are the proper subjects of an appropriate document request.

ANSWERS TO INTERROGATORIES

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) USG7	Letter 8/17/36 T.R. Parrish to Scott, MacLeish & Falk
b) USG44	Letter 5/11/37 Vandiver Brown to J. S. Offutt enclosing Dr. Gardner's first report dated 5/5/37
c) USG122	Memo 11/1/71 C. P. Kipp to Tobey, Thiel, Snell, Watt, Holloway, et al, with attached newspaper articles, "Asbestos Now Linked to Cancer", 10/21/71, and "Asbestos Seen Cancer Factor", by Thomas O'Toole
d) USG164	10/4/37 New Bulletin - Elimination of Dusty Conditions
e) USG167	2/11/54 General Order Bulletin Elimination of Dusty Condition
f) USG181	Letter 5/5/37 to G. D. King from J. S. Offutt
g) USG189	Memo 3/24/82 Torrey to Snell
h) USG200	Letter 9/16/37 Scharwath to Barrett
i) USG223	Copy of article titled "Dr. Morris Fishbein's Daily Health Service, Most Industrial Dust is Not Injurious to Lungs of Workers, <u>Chico Cal. Enterprise</u> , October 23, 1932. United States Gypsum Library Chicago stamped in upper right corner of page.
j) USG224	Article titled "United States Gypsum Company Acquires Properties of National Asbestos Mfg. Company", <u>Asbestos</u> , page 12, March 1936
k) USG225	Memorandum dated August 13, 1936 from General Service Manager to W. L. Keady, Vice President; re: Dust Survey - Jersey City.

- 1) USG226 United States Gypsum Co. memorandum dated March 2, 1938 from Operating Control Manager to F. J. Reinking, Works Manager; re: attached paper "Dust and Its Relation To Our Operations".
- m) USG229 United States Gypsum Company Research Laboratories document titled "Plans", dated September 22, 1955 re: Acoustical Plasters by B. W. Nies, A. L. Hampton.
- n) USG230 United States Gypsum Company Research Laboratories Progress Report dated October 20, 1955; re: Audicote Acoustical Plaster
- o) USG231 United States Gypsum advertisement titled "Red Top Audicote a new acoustical plaster"
- p) USG232 United States Gypsum Company memorandum dated October 13, 1966 from R. N. Massey to J. N. Walker; re: Asbestos - Attached. Attachment: article "Asbestos: Awaiting 'Trial'", Chemical Week. September 10, 1966.
- q) USG233 United States Gypsum Company memorandum dated June 4, 1968 from W. W. Holloway to J. N. Walker; re: Asbestos.
- r) USG234 United States Gypsum Company Confidential memorandum dated October 11, 1968 from B. W. Nies to C. F. Lehmann, re: Asbestosis, with handwritten note.
- s) USG235 United States Gypsum Company memorandum dated December 2, 1970 from J. N. Walker to R. P. Entz; re: Approval of Final Notification of or Release of DURABOND XL Joint Treatment - Asbestos Fiber Dust Hazard.
- t) USG236 Memorandum dated January 25, 1971 from D. F. Rohrman to W. J. Brown; re: USG Asbestos Hazard.
- u) USG237 United States Gypsum Company memorandum dated February 5, 1980 from T. S. Snell to R. A. Meyer; re: Certificate of Incorporation, with attachments.
- v) USG238 Product list, Schedule D, April 5, 1988, 16 page
- w) USG239 Product list, Schedule S, Percentage of Asbestos (Volume), "Rec'd 10/88", 8 pages.

Answer:

a) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such a documents as hearsay.

b) This defendant admits that this document is an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company has made reasorable inquiry and the information known or readily obtainable by it us insufficient to enable it to either admit or deny that this document is genuine, authentic, a business record, that it was made in the course of a regularly conducted business activity or that it was the regular practice of that business activity to make the document or that this document was made at or near the time of the event. United States Gypsum Company denies that this document was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that it received the document as of the date of any "Received" stamp or other notation of receipt on the document, but otherwise, after reasonable inquiry, the information known or readily obtainable by it is insufficient to enable it to either admit or deny that the document was received on or about the date indicated thereon or at or near the time of the events and facts recorded therein.

c) With respect to pages 1 and 2 of this document, this defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that

this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

With respect to pages 3 and 4 of this document, this defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company denies that this document is a business record of United States Gypsum Company or that it was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company has made reasonable inquiry and except as noted below the information known or readily obtainable by it is insufficient to enable it to either admit or deny that this document is a business record of another company or organization, was made at or near the time of the event by or from information transmitted by a person with knowledge, was received by United States Gypsum Company at or near the time of the event, was made in the course of a regularly conducted business activity or was the regular practice of that business activity to make the document.

United States Gypsum Company admits that pages 3 and 4 of this document were received as of 11/1/71.

d) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document. With respect to documents comprising individual pages of operating bulletins it is denied that such individual pages constituted the complete operating bulletin in effect from time to time.

e) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document. With respect to documents comprising individual pages of operating bulletin, it is denied that such individual pages constituted the complete operating bulletin in effect from time to time.

f) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by

United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

g) This defendant admits that this document is genuine, authentic and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document.

h) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by an employee of United States Gypsum Company, and that the document was made at or near the time of the event. United States Gypsum Company denies that the document was made in the course of a regularly conducted business activity, that it was the regular practice of that business activity to make the document, or that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

i) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company denies that this document is a business record of United States Gypsum Company or that it was prepared by or at the or, of United States Gypsum Company. United States Gypsum Company has made reasonable inquiry and except as noted below the information known or readily obtainable by it is insufficient to enable it to either admit or deny that this document is a business record of another company or organization, was made at or near the time of the event by or from information transmitted by a person with knowledge, was received by United States Gypsum Company at or near the time of the event, was made in the course of a regularly conducted business activity or was the regular practice of that business activity to make the document.

j) This document has not been found in the files of United States Gypsum Company and United States Gypsum Company cannot confirm said document was produced to it during the course of the asbestos Litigation. United States Gypsum Company has made reasonable inquiry and the information known or readily obtainable by it is insufficient to enable it to either admit or deny whether said document is genuine, authentic, an accurate copy of the original, is a business record of another company or organization, was made contemporaneously to the event, activity or occurrence, was made in the course of a regularly conducted business activity, or whether it was a regular practice for that business activity to make such documents. United States Gypsum Company denies that this document is its business record, was prepared by or at its direction or that it received a copy on or about the date indicated thereon or at or near the time of the events and facts recorded therein.

k) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction, of United States Gypsum Company, that the document was made at near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

l) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

m) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made

in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document.

n) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document.

o) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document.

p) With respect to page 1 of this document, this defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

With respect to page 2 of this document, this defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company denies that this document is a business record of United States Gypsum Company or that it was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company has made reasonable inquiry and except as noted below the information known or readily obtainable by it to either admit or deny that this document is a business record of another company or organization, was made at or near the time of the event by or from information transmitted by a person with knowledge, was received by United States

Gypsum Company at or near the time of the event, was made in the course of a regularly conducted business activity or was the regular practice of that business activity to make the document.

g) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction, of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business records and reserves the right to object to the admission into evidence of such document as hearsay.

r) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a persons with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

s) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document.

t) Objection. This document is protected by attorney-client privilege. This defendant objects to discovery in relation to same.

u) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States

Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

v) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company denies that this document is a business record or was made in the course of a regularly conducted business activity or was the regular practice of that business activity to make the document. United States Gypsum Company admits that this document was made at or near the time of the event. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company.

w) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company denies that this document is a business record or was made in the course of a regularly conducted business activity or was the regular practice of that business activity to make the document. United States Gypsum Company admits that this document was made at or near the time of the event. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company.

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

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
a) USG7	Letter 8/17/36 T.R. Parrish to Scott, MacLeish & Falk
b) USG44	Letter 5/11/37 Vandiver Brown to J. S. Offutt enclosing Dr. Gardner's first report dated 5/5/37
c) USG122	Memo 11/1/71 C. P. Kipp to Tobey, Thiel, Snell, Watt, Holloway, et al, with attached newspaper articles, "Asbestos Now Linked to Cancer", 10/21/71, and "Asbestos Seen Cancer Factor", by Thomas O'Toole

- d) USG164 10/4/37 New Bulletin - Elimination of Dusty Conditions
- e) USG167 2/11/54 General Order Bulletin Elimination of Dusty Condition
- f) USG181 Letter 5/5/37 to G. D. King from J. S. Offutt
- g) USG189 Memo 3/24/82 Torrey to Snell
- h) USG200 Letter 9/16/37 Scharwath to Barrett
- i) USG223 Copy of article titled "Dr. Morris Fishbein's Daily Health Service, Most Industrial Dust is Not Injurious to Lungs of Workers, Chico Cal. Enterprise, October 23, 1932. United States Gypsum Library Chicago stamped in upper right corner of page.
- j) USG224 Article titled "United States Gypsum Company Acquires Properties of National Asbestos Mfg. Company", Asbestos, page 12, March 1936
- k) USG225 Memorandum dated August 13, 1936 from General Service Manager to W. L. Keady, Vice President; re: Dust Survey - Jersey City.
- l) USG226 United States Gypsum Co. memorandum dated March 2, 1938 from Operating Control Manager to F. J. Reinking, Works Manager; re: attached paper "Dust and Its Relation To Our Operations".
- m) USG229 United States Gypsum Company Research Laboratories document titled "Plans", dated September 22, 1955 re: Acoustical Plasters by B. W. Nies, A. L. Hampton.
- n) USG230 United States Gypsum Company Research Laboratories Progress Report dated October 20, 1955; re: Audicote Acoustical Plaster
- o) USG231 United States Gypsum advertisement titled "Red Top Audicote a new acoustical plaster"
- p) USG232 United States Gypsum Company memorandum dated October 13, 1966 from R. N. Massey to J. N. Walker; re: Asbestos - Attached. Attachment: article "Asbestos: Awaiting 'Trial'", Chemical Week, September 10, 1966.
- q) USG233 United States Gypsum Company memorandum dated June 4, 1968 from W. W. Holloway to J. N. Walker; re: Asbestos.

- r) USG234 United States Gypsum Company Confidential memorandum dated October 11, 1968 from B. W. Nies to C. F. Lehmann, re: Asbestosis, with handwritten note.
- s) USG235 United States Gypsum Company memorandum dated December 2, 1970 from J. N. Walker to R. P. Entz; re: Approval of Final Notification of or Release of DURABOND XL Joint Treatment - Asbestos Fiber Dust Hazard.
- t) USG236 Memorandum dated January 25, 1971 from D. F. Rohrman to W. J. Brown; re: USG Asbestos Hazard.
- u) USG237 United States Gypsum Company memorandum dated February 5, 1980 from T. S. Snell to R. A. Meyer; re: Certificate of Incorporation, with attachments.
- v) USG238 Product list, Schedule D, April 5, 1988, 16 page
- w) USG239 Product list, Schedule S, Percentage of Asbestos (Volume), "Rec'd 10/88", 8 pages.

Answer:

a) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such a documents as hearsay.

b) This defendant admits that this document is an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company has made reasonable inquiry and the information known or readily obtainable by it is insufficient to enable it to either admit or deny that this document is genuine, authentic, a business record, that it was made in the course of a regularly conducted business activity or that it was the regular practice of that business activity to make the document or that this document was made at or near the time of the event. United States Gypsum Company denies that this document was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that it received the document as of the date of any "Received" stamp or other notation of receipt on the document, but

otherwise, after reasonable inquiry, the information known or readily obtainable by it is insufficient to enable it to either admit or deny that the document was received on or about the date indicated thereon or at or near the time of the events and facts recorded therein.

c) With respect to pages 1 and 2 of this document, this defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

With respect to pages 3 and 4 of this document, this defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company denies that this document is a business record of United States Gypsum Company or that it was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company has made reasonable inquiry and except as noted below the information known or readily obtainable by it is insufficient to enable it to either admit or deny that this document is a business record of another company or organization, was made at or near the time of the event by or from information transmitted by a person with knowledge, was received by United States Gypsum Company at or near the time of the event, was made in the course of a regularly conducted business activity or was the regular practice of that business activity to make the document.

United States Gypsum Company admits that pages 3 and 4 of this document were received as of 11/1/71.

d) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document. With respect to documents comprising individual pages of operating bulletins it is denied that such individual pages constituted the complete operating bulletin in effect from time to time.

e) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document. With respect to documents comprising individual pages of operating bulletin, it is denied that such individual pages constituted the complete operating bulletin in effect from time to time.

f) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

g) This defendant admits that this document is genuine, authentic and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document.

h) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by an employee of United States Gypsum Company, and that the document was made at or near the time of the event. United States Gypsum Company denies that the document was made in the course of a regularly conducted business activity, that it was the regular practice of that business activity to make the document, or that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and

reserves the right to object to the admission into evidence of such document as hearsay.

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j) This document has not been found in the files of United States Gypsum Company and United States Gypsum Company cannot confirm said document was produced to it during the course of the asbestos litigation. United States Gypsum Company has made reasonable inquiry and the information known or readily obtainable by it is insufficient to enable it to either admit or deny whether said document is genuine, authentic, an accurate copy of the original, is a business record of another company or organization, was made contemporaneously to the event, activity or occurrence, was made in the course of a regularly conducted business activity, or whether it was a regular practice for that business activity to make such documents. United States Gypsum Company denies that this document is its business record, was prepared by or at its direction or that it received a copy on or about the date indicated thereon or at or near the time of the events and facts recorded therein.

k) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

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p) With respect to page 1 of this document, this defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document.

United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

With respect to page 2 of this document, this defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company denies that this document is a business record of United States Gypsum Company or that it was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company has made reasonable inquiry and except as noted below the information known or readily obtainable by it to either admit or deny that this document is a business record of another company or organization, was made at or near the time of the event by or from information transmitted by a person with knowledge, was received by United States Gypsum Company at or near the time of the event, was made in the course of a regularly conducted business activity or was the regular practice of that business activity to make the document.

q) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction, of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business records and reserves the right to object to the admission into evidence of such document as hearsay.

r) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a persons with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

s) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document.

t) Objection. This document is protected by attorney-client privilege. This defendant objects to discovery in relation to same.

u) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

v) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company denies that this document is a business record or was made in the course of a regularly conducted business activity or was the regular practice of that business activity to make the document. United States Gypsum Company admits that this document was made at or near the time of the event. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company.

w) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company denies that this document is a business record or was made in the course of a regularly conducted business activity or was the regular practice of that business activity to make the document. United States Gypsum Company admits that this document was made at or near the time of the event. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company.

INTERROGATORY NO. 3:

For 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) USG7	Letter 8/17/36 T.R. Parrish to Scott, MacLeish & Falk
b) USG44	Letter 5/11/37 Vandiver Brown to J. S. Offutt enclosing Dr. Gardner's first report dated 5/5/37
c) USG122	Memo 11/1/71 C. P. Kipp to Tobey, Thiel, Snell, Watt, Holloway, et al, with attached newspaper articles, "Asbestos Now Linked to Cancer", 10/21/71, and "Asbestos Seen Cancer Factor", by Thomas O'Toole
d) USG164	10/4/37 New Bulletin - Elimination of Dusty Conditions
e) USG167	2/11/54 General Order Bulletin Elimination of Dusty Condition
f) USG181	Letter 5/5/37 to G. D. King from J. S. Offutt
g) USG189	Memo 3/24/82 Torrey to Snell
h) USG200	Letter 9/16/37 Scharwath to Barrett
i) USG223	Copy of article titled "Dr. Morris Fishbein's Daily Health Service, Most Industrial Dust is Not Injurious to Lungs of Workers, <u>Chico Cal. Enterprise</u> , October 23, 1932. United States Gypsum Library Chicago stamped in upper right corner of page.
j) USG224	Article titled "United States Gypsum Company Acquires Properties of National Asbestos Mfg. Company", <u>Asbestos</u> , page 12, March 1936
k) USG225	Memorandum dated August 13, 1936 from General Service Manager to W. L. Keady, Vice President; re: Dust Survey - Jersey City.
l) USG226	United States Gypsum Co. memorandum dated March 2, 1938 from Operating Control Manager to F. J. Reinking, Works Manager; re: attached paper "Dust and Its Relation To Our Operations".

- m) USG229 United States Gypsum Company Research Laboratories document titled "Plans", dated September 22, 1955 re: Acoustical Plasters by B. W. Nies, A. L. Hampton.
- n) USG230 United States Gypsum Company Research Laboratories Progress Report dated October 20, 1955; re: Audicote Acoustical Plaster
- o) USG231 United States Gypsum advertisement titled "Red Top Audicote a new acoustical plaster"
- p) USG232 United States Gypsum Company memorandum dated October 13, 1966 from R. N. Massey to J. N. Walker; re: Asbestos - Attached. Attachment: article "Asbestos: Awaiting 'Trial'", Chemical Week, September 10, 1966.
- q) USG233 United States Gypsum Company memorandum dated June 4, 1968 from W. W. Holloway to J. N. Walker; re: Asbestos.
- r) USG234 United States Gypsum Company Confidential memorandum dated October 11, 1968 from B. W. Nies to C. F. Lehmann, re: Asbestosis, with handwritten note.
- s) USG235 United States Gypsum Company memorandum dated December 2, 1970 from J. N. Walker to R. P. Entz; re: Approval of Final Notification of or Release of DURABOND XL Joint Treatment - Asbestos Fiber Dust Hazard.
- t) USG236 Memorandum dated January 25, 1971 from D. F. Rohrman to W. J. Brown; re: USG Asbestos Hazard.
- u) USG237 United States Gypsum Company memorandum dated February 5, 1980 from T. S. Snell to R. A. Meyer; re: Certificate of Incorporation, with attachments.
- v) USG238 Product list, Schedule D, April 5, 1988, 16 page
- w) USG239 Product list, Schedule S, Percentage of Asbestos (Volume), "Rec'd 10/88", 8 pages.

Answer:

a) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business

activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such a documents as hearsay.

b) This defendant admits that this document is an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company has made reasonable inquiry and the information known or readily obtainable by it is insufficient to enable it to either admit or deny that this document is genuine, authentic, a business record, that it was made in the course of a regularly conducted business activity or that it was the regular practice of that business activity to make the document or that this document was made at or near the time of the event. United States Gypsum Company denies that this document was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that it received the document as of the date of any "Received" stamp or other notation of receipt on the document, but otherwise, after reasonable inquiry, the information known or readily obtainable by it is insufficient to enable it to either admit or deny that the document was received on or about the date indicated thereon or at or near the time of the events and facts recorded therein.

c) With respect to pages 1 and 2 of this document, this defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

With respect to pages 3 and 4 of this document, this defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company denies that this document is a business record of United States Gypsum Company or that it was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company has made reasonable inquiry and except as noted below the information known or readily obtainable by it is insufficient to enable it to either admit or deny that this document is a business record of another company or organization, was made at or near the time of the event by or from information transmitted by a person with knowledge, was

received by United States Gypsum Company at or near the time of the event, was made in the course of a regularly conducted business activity or was the regular practice of that business activity to make the document.

United States Gypsum Company admits that pages 3 and 4 of this document were received as of 11/1/71.

d) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document. With respect to documents comprising individual pages of operating bulletins it is denied that such individual pages constituted the complete operating bulletin in effect from time to time.

e) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document is its business record and was prepared by or at the direction of United States Gypsum Company. United States Gypsum Company admits that this document was made at or near the time of the event by or from information transmitted by a person with knowledge and was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document. With respect to documents comprising individual pages of operating bulletin, it is denied that such individual pages constituted the complete operating bulletin in effect from time to time.

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j) This document has not been found in the files of United States Gypsum Company and United States Gypsum Company cannot confirm said document was produced to it during the course of the asbestos litigation. United States Gypsum Company has made reasonable inquiry and the information known or readily obtainable by it is insufficient to enable it to either admit or deny whether said document is genuine, authentic, an accurate copy of the original, is a business record of another company or organization, was made contemporaneously to the event, activity or occurrence, was made in the course of a regularly conducted business activity, or whether it was a regular practice for that business activity to make such documents. United States Gypsum Company denies that this document is its business record, was prepared by or at

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q) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction, of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States

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t) Objection. This document is protected by attorney-client privilege. This defendant objects to discovery in relation to same.

u) This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.

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INTERROGATORY NO. 4:

Has U. S. Gypsum 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?

Answer:

Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

VERIFICATION

I, F. M. Poremski, declare:

I am the Director, Financial & Accounting Services, of United States Gypsum Company, one of the above named defendants, and am authorized to make this verification for and on behalf of said company;

I have read the foregoing Answers, Objections, and other Responses to Plaintiffs' Interrogatories and am informed and believe that the same is true and on that ground allege that the matters therein stated are true.

I declare, under penalty of perjury, that the foregoing is true and correct, and that this declaration was executed on May 14, 1993 in Chicago, Illinois.

F. M. Poremski

F. M. Poremski

Subscribed and sworn to before me
this 14th day of May, 1993.

Sally A. Bedmarick
Notary Public

