

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

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IN RE: ALL
ASBESTOS LITIGATION
FILED BY BONO, GOLDENBERG,
HOPKINS & BILBREY, P.C.

* LEAD CASE:
* ADAMS
* NO. 86-2-1827

PLAINTIFF'S
EXHIBIT
GF-2388

* * * * *

RESPONSES OF GAF CORPORATIONS TO
PLAINTIFFS' SUPPLEMENTAL INTERROGATORIES

GAF Corporation ("GAF") hereby responds to Plaintiffs' Supplemental Interrogatories ("the Interrogatories") only pursuant to, under the protection of and to the extent that such requests comply with the applicable Illinois Rules of Civil Procedure, as follows:

GENERAL OBJECTIONS

1. GAF objects to these Interrogatories to the extent that they seek to require it to respond on behalf of any other entity. GAF will respond with such knowledge as GAF possesses as to The Ruberoid Co. prior to its merger with GAF on May 26, 1967, and on behalf of GAF thereafter.

2. GAF objects to these Interrogatories to the extent that they seek to require it to provide information other than that which may be obtained through a reasonably diligent search of its records.

3. GAF objects to these Interrogatories to the extent that they seek to require it to respond other than in accordance with the applicable Illinois Rules of Civil Procedure. Thus, GAF

declines any obligation to (a) locate or interview former employees or any other person not presently employed or engaged by GAF; (b) generate documents not presently existing; (c) describe its unsuccessful efforts to answer any interrogatory; (d) identify an unknown custodian or the current custodian of documents not in GAF's possession; (e) identify the file designation and other identifying designation, the present location, or the source of documents identified unless specifically requested in the interrogatory; (f) add to or to change the meaning of any interrogatory in the conjunctive or disjunctive; (g) respond to any aspect of an interrogatory not described with reasonable particularity by the express language of the interrogatory; or (h) provide medical or other expert opinion beyond the scope of GAF's business.

4. GAF objects to these Interrogatories to the extent that they seek to require it to reveal trade secrets or other confidential product or commercial information. Therefore, GAF will submit certain responses only on the condition that the plaintiffs agree in writing and undertake to maintain the confidential nature of certain trade secrets and other confidential product or commercial information.

5. GAF objects to these Interrogatories to the extent that they seek to require it to respond to questions or to identify or produce documents relating to times, events and other things beyond the subject matter of the Complaint, or outside of the period from 1928 to 1981, during which this defendant may have manufactured asbestos-containing industrial thermal insulation products, or

relating to any products other than asbestos-containing industrial thermal insulation products.

6. GAF objects to these Interrogatories to the extent that they seek to require it to provide information specifically with respect to mining and manufacturing operations, or any safety precautions or tests undertaken therein whether in compliance with OSHA or otherwise, inasmuch as the occupational level exposures of asbestos mining and manufacturing workers are different from the occupational level exposures of insulators and construction bystanders working with finished asbestos-containing products.

7. GAF objects to these Interrogatories to the extent that they seek to require it to provide information or to identify any documents or other tangible things prepared or obtained in anticipation of litigation or for trial where the plaintiffs have not shown that they (1) have substantial need for the materials in the preparation of the case and (2) are unable to obtain the substantial equivalent of the materials by other means without undue hardship.

8. GAF objects to these Interrogatories to the extent that they seek to require it to disclose privileged attorney-client communications or information otherwise protected from discovery on the grounds of privilege.

9. GAF objects to the definitions and instructions preceding the Interrogatories on the grounds that they are beyond the scope of applicable Illinois Rules of Civil Procedure.

10. GAF objects generally and individually to the Interrogatories on the grounds and to the extent that they assume

facts not in evidence or otherwise erroneous (i.e., that GAF had "distributors") and on the further grounds that they are vague, overly broad, oppressive, unduly burdensome, excessive in number, not relevant to the subject matter of the litigation, and not calculated to lead to the discovery of admissible evidence.

11. GAF hereby adopts the motions and objections of the other defendants, and reserves the right to adopt future motions and objections relating to Plaintiffs' Interrogatories.

12. GAF objects to these Interrogatories to the extent that they seek to require it to gather and summarize information contained in voluminous papers that are already a matter of public record.

13. GAF objects to these Interrogatories to the extent that they seek to require it to provide information which is equally available to the plaintiffs as to GAF.

14. GAF objects to these Interrogatories to the extent that they seek it to respond other than in accordance with the Federal Rules of Civil Procedure and thus GAF declines to identify computer tapes and programs, computer printouts and any electronic, mechanical or electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, recordings and computer memories), or fields, files, menus, databases, or other computer classifications or material, inasmuch as such documents constitute documents or other things prepared or obtained in anticipation of litigation or for trial work product, confidential attorney-client communications, and otherwise privileged documents.

Subject to the foregoing objections and limitations which are applicable to each of the numbered paragraphs of the Interrogatories, and subject to any documents being in existence and recoverable through a reasonably diligent search (taking into account normal changes in personnel and document locations over the decades of asbestos litigation), and without representing that any particular document or documents are or are not thus existing and recoverable, GAF further responds to the individual Interrogatories without waiver and with preservation of:

The right to object to the use of any responses, or the subject matter thereof, on any ground in any proceedings in any action (including any trials);

The right to object on any ground at any time to a demand or request for a further response to this discovery request or to any other interrogatories, document requests, or other discovery proceedings involving or relating to the subject matter of the discovery requests herein responded to; and,

The right at any time to revise, correct, add to, supplement or clarify any of the individual Interrogatories as follows:

INTERROGATORIES

INTERROGATORY NO. 1:

When was the first time that this defendant became aware of the contents and existence of Public Health Bulletin No. 241, entitled "A Study of Asbestosis in the Asbestosis Textile Industry" by Dressen, Dallavalle, Edwards, Miller and Sayers.

RESPONSE TO INTERROGATORY NO. 1:

Subject to the objections set forth in the preliminary paragraphs of this response, and without waiver thereof, this defendant responds, after reasonable investigation, unknown.

INTERROGATORY NO. 2:

With respect to the article referred to in Interrogatory No. 1, state:

- a. How Defendant became aware of the existence of such article;
- b. How Defendant first came aware of the content of such article;
- c. Which individuals or representatives of Defendant were the first to become aware of the content and existence of such article;
- d. The job title or position held by that representative(s) of Defendant were the first to become aware of the content and existence of such article;

RESPONSE TO INTERROGATORY NO. 2:

Subject to the objections set forth in the preliminary paragraphs of this response, this defendant responds that, prior to 1964 or 1965, Ruberoid officials were not aware of any health hazard from asbestos related to the use of its industrial thermal insulation products. In approximately 1964, Ruberoid became aware of opinions expressed by some members of the medical profession that there might be a health risk to some persons who install thermal insulation products containing asbestos from the inhalation of excessive quantities of asbestos fibers over prolonged periods of time under certain conditions, although the knowledge did not

relate specifically to the use of GAF products. The health risk may have involved asbestosis, although this defendant became aware of medical theories which related asbestos exposure to the medical disease of asbestosis during the course of asbestos litigation. Any information which did exist as to the potential health effects of asbestos was kept by Mr. Harry Mesler while he headed Corporate Safety for Ruberoid, later GAF, from approximately the early 1960's to 1971. Prior to Mr. Mesler's appointment to this position, ruberoid, later GAF, employees may have from time-to-time maintained or possessed personal files containing periodicals and other maintained or possessed personal files containing periodicals and other literature relating to asbestos, its uses and qualities. Mr. Mesler died in 1972 and the whereabouts of any such information is unknown. The only existing materials containing such information are in the possession of GAF's Legal, Corporate and Environmental Engineering Departments. GAF further responds that a limited amount of material responsive to this request is contained in files maintained by GAF's Legal Department in connection with this and related litigation. No list, abstract or summary of such material exists in discoverable form. GAF objects to preparing such a list on the grounds that: 1) to do so would be unduly burdensome and oppressive; and 2) to do so would invade the work product of GAF's attorneys:

INTERROGATORY NO. 3:

State whether Defendant's knowledge of the contents of the article referred to Interrogatory No. 1 was relied upon by the Defendant at any time in deciding whether a caution or warning

statement should be placed upon the Defendant's asbestos containing products concerning the potential health hazards of exposure to asbestos.

RESPONSE TO INTERROGATORY NO. 3:

Subject to the objections set forth in the preliminary paragraphs of this Response, this Defendant responds that in approximately 1964, The Ruberoid Co. began placing warning labels on packages of its asbestos-containing industrial thermal insulation products.

Until 1972, GAF's use of these warnings followed the lead of other manufacturers in the industry which used such cautionary notices after some opinions were expressed by members of the medical profession that there might be a health risk to some persons who installed thermal industrial insulation products containing asbestos from the inhalation of excessive quantities of asbestos fibers over prolonged period of time under certain conditions. Commencing in 1972, this defendant complied with the requirements of the Occupational Safety and Health Act of 1970. All observers of this packaging, whether purchasers, users, handlers, distributors, or contractors, would have seen, and thus received, the warnings as set forth above. No list or other compilation of documents relating to this interrogatory exists in discoverable form; this Defendant identifies William Schwingen and Phillip Bettoli as persons having knowledge.

INTERROGATORY NO. 4:

If the answer to the foregoing Interrogatory is in the affirmative, please state:

- a. How much article influenced the decision concerning the placement of warnings on Defendant's asbestos containing products concerning the potential health hazards posed by exposure to asbestos;
- b. Attach hereto copies of all writing, including memos, letters, etc. concerning Defendant's reliance on the article referred to in Interrogatory No. 1 in deciding whether to place warning labels on Defendant's asbestos containing products.

RESPONSE TO INTERROGATORY NO. 4:

Not applicable.

INTERROGATORY NO. 5:

When was the first time that this Defendant became aware of the contents and existence of the article entitled "A Health Survey of Pipe Covering Operations in Constructing Naval Vessels" by Fleishcher, Viles, Gade and Drinker.

RESPONSE TO INTERROGATORY NO. 5:

Subject to this objections set forth in the preliminary paragraphs of this response, and without waiver thereof, this defendant responds, after reasonable investigation, unknown.

INTERROGATORY NO. 6:

With respect to the article referred to in Interrogatory No. 5, state:

- a. How Defendant became aware of the content of such article;
- b. How Defendant first became aware of the content of such article;

- c. Which individuals or representatives of Defendants were the first who first became aware of the content and existence of such article;
- d. The job title or position held by that representative of Defendant who first became aware of the contents and existence of the article.

RESPONSE TO INTERROGATORY NO. 6:

Subject to the objections set forth in the preliminary paragraphs of this response, this defendant responds that, prior to 1964 or 1965, Ruberoid officials were not aware of opinions expressed by some members of the medical profession that there might be a health risk to some persons who install thermal insulation products containing asbestos from the inhalation of excessive quantities of asbestos fibers over prolonged periods of time under certain conditions, although the knowledge did not relate specifically to the use of GAF products. The health risk may have involved asbestosis, although this defendant became aware of medical theories which related asbestos exposure to the medical disease of asbestosis during the course of asbestos litigation.

Any information which did exist as to the potential health effects of asbestos was kept by Mr. Harry Mesler while he headed Corporate Safety for Ruberoid, later GAF, from approximately the early 1960's to 1971. Prior to Mr. Mesler's appointment to this position, Ruberoid, later GAF, employees may have from time-to-time maintained or possessed personal files containing periodicals and other literature relating to asbestos, its uses and qualities. Mr. Mesler died in 1972 and the whereabouts of any such information is unknown. The only existing materials containing such information

are in the possession of GAF's Legal, Corporate and Enviromental Engineering Departments. GAF further responds that a limited amount of material responsive to this request is contained in files maintained by GAF's Legal Department in connection with this and related litigation. No list, abstract or summary of such material exists in discoverable form. GAF objects to preparing such a list on the grounds that: 1) to do so would be unduly burdensome and oppressive; and 2) to do so would invade the work product of GAF's attorneys.

INTERROGATORY NO. 7:

State whether Defendant's knowledge of the contents of the article referred to Interrogatory No. 5 was relied upon by Defendant at any time in deciding whether a caution or warning statement should be placed upon the Defendant's asbestos containing products concerning the potential health hazards of exposure to asbestos.

RESPONSE TO INTERROGATORY NO. 7:

Subject, to the objections set forth in the preliminary paragraphs of this Response, this Defendant responds that in approximately 1964, The Ruberoid Co. began placing warning labels on packages of its asbestos-containing industrial thermal insulation products.

Until 1972, GAF's use of these warnings followed the lead of other manufacturers in the industry which used such cautionary notices after some opinions were expressed by members of the medical profession that there might be a health risk to some persons who installed thermal industrial insulation products

containing asbestos from the inhalation of excessive quantities of asbestos fibers over prolonged period of time under certain conditions. Commencing in 1972, this defendant complied with the requirements of the Occupational Safety and Health Act of 1970. All observers of this packaging, whether purchasers, users, handlers, distributors, or contractors, would have seen, and thus received, the warnings as set forth above. No list or other compilation of documents relating to this interrogatory exists in discoverable form; this Defendant identifies William Schwingen and Phillip Bettoli as persons having knowledge.

INTERROGATORY NO. 8:

If the answer to the foregoing Interrogatory is in the affirmative, please state:

- a. How such article influenced the decision concerning the placement of warnings on Defendant's asbestos containing products concerning the potential health hazards posed by exposure to asbestos;
- b. Attach hereto copies of all writings, including memos, letters, etc., concerning Defendant's reliance on the article referred to in Interrogatory No. 5 in deciding whether to place warning labels on Defendant's asbestos containing products.

RESPONSE TO INTERROGATORY NO.8:

Not applicable.

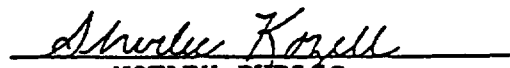
STATE OF NEW JERSEY)
) SS:
COUNTY OF PASSAIC)

A F F I D A V I T

I, ELEANOR CARLSON, after first being duly sworn on oath, depose and state that I am Assistant Secretary of GAF Corporation. The foregoing is verified on behalf of GAF Corporation, and I am authorized to make this verification. The matters stated herein are not within my personal knowledge, but responses have been prepared from information and the records available to GAF Corporation. I am informed that a reasonably diligent search of the records of GAF Corporation has been made in order to prepare the foregoing response. I believe the foregoing to be true, to the best of my knowledge, information, and belief.


ELEANOR CARLSON

Subscribed and sworn to before me this 15th day of February
1991.


NOTARY PUBLIC
SHIRLEE KOZELL
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 10/13/95

AFFID--HEVL

PROOF OF SERVICE

THE UNDERSIGNED certifies that a copy of the foregoing instrument was served upon the attorneys of record of all parties to the above cause by enclosing same in an envelope with postage prepaid, and by depositing said envelope in a United States Post Office mail box in Edwardsville, Illinois on 2-20, 1991 addressed to such attorneys at their business address as disclosed by the pleadings of record herein.

BY: 

HEYL, ROYSTER, VOELKER & ALLEN

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