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May 6, 1993

VIA AIRBORNE DELIVERY #2982963211

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

RECEIVED
MAR 28 1993
BARON & BUDD

RECEIVED
MAY 07 1993
BARON & BUDD

RE: In Re: All Asbestos-Related Personal 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 160th
Judicial District of Dallas County, Texas

Dear Mr. Long:

Enclosed herewith please find Owens-Corning Fiberglas Corporation's Responses to Interrogatories. Please file this pleading among the papers of the above referenced matter and, by appropriate notation on the margin of this letter, notify me of such filing.

A copy of this pleading has been forwarded to the opposing attorney of record, as shown below. Also, a copy of this transmittal letter has been forwarded to the various counsel of record as indicated below.

Should you have any questions or comments concerning this matter, please do not hesitate to contact me.

Kindest personal regards.

Very truly yours,

BEAN & MANNING, L.L.P.

Rick W. Thamm

Rick W. Thamm



RWT/amh
Enclosure

cc: Mr. Russell W. Budd

w/o Enclosures
All Other Counsel of Record

VIA AIRBORNE #2982963314

VIA REGULAR MAIL

IN RE: ALL ASBESTOS-RELATED PERSONAL § IN THE DISTRICT COURTS OF
INJURY OR DEATH CASES FILED §
BY BARON & BUDD, P.C. OR TO § DALLAS COUNTY, TEXAS
BY FILED BY BARON & BUDD, P.C. §
IN DALLAS COUNTY, TEXAS § 160TH JUDICIAL DISTRICT
§

DEFENDANT OWENS-CORNING FIBERGLAS CORPORATION'S
RESPONSES TO INTERROGATORIES

Defendant Owens-Corning Fiberglas Corporation ("OCF"), by counsel, responds to Plaintiffs' Interrogatories, dated April 7, 1993, as follows:

INTRODUCTORY STATEMENT AND OBJECTIONS

Plaintiffs seek information which in many instances is contained in numerous files and records. Further, certain of these interrogatories may call for the collection of information from OCF offices located in various parts of the United States. Therefore, OCF has responded on the basis of the best information now available to it. Subsequent investigation may reveal additional information relevant to these interrogatories and lead to a supplemental response. It is also noted that persons who are not now officers, directors or managing agents of OCF may have information relevant to the subject matter of these interrogatories, and OCF does not purport, in the following responses, to give the response of any such persons.

OCF's responses are made without in any way waiving: (1) the right to object, on the grounds of competency, relevancy, materiality, hearsay or any other proper ground, to the use of any such information for any purpose, in whole or in part, in any subsequent stage or proceeding in this action or any other action; or (2) the right to object on any and all grounds, at any

time, to any other discovery procedure relating to the subject matter of these interrogatories.

Furthermore, to the extent that these interrogatories seek information concerning injury or disease other than those allegedly experienced by plaintiffs herein or concerning asbestos-containing products other than those to which plaintiffs allegedly were exposed, OCF objects on the grounds that such information is beyond the proper scope of discovery and is not reasonably calculated to lead to the discovery of admissible evidence. To the extent these interrogatories are not limited in time to the years that OCF manufactured and/or sold asbestos-containing products, OCF objects on the grounds that these interrogatories are overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

OCF also objects to these interrogatories to the extent that they seek: (1) information which is protected from discovery as attorney work-product and/or attorney-client communications, protected by the right to privacy, or protected by any other applicable privilege; or (2) material which is considered to be proprietary and trade secret.

Incorporating the above objections into each response, OCF responds as follows:

RESPONSES

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) K-625	Owens-Corning Fiberglas Intra-company correspondence dated April 12, 1979, from J.L. Konzen to L.W. Saxby; re: Asbestos Related Disease.

RESPONSE NO. 1:

OCF objects to this interrogatory on the grounds that the document in question is protected from discovery as attorney-client communications, party communications and attorney work product. (See Affidavit of Robert A. McOmber attached hereto which pertains to this document.) The document in question, which is dated April 12, 1979 and has the Bates No. 02 419 0933-0946, is a Medical Department memo to Management with a copy to the Law Department responding to a request for information regarding asbestos-related disease with an attached questions and answers outline prepared by the Medical Department for a Berlin plant presentation. This document constitutes an attorney-client communication and attorney work product.

Without waiving its objections, OCF states that plaintiffs' Exhibit K-625 described above is a true and accurate copy of an authentic document found in the files of OCF relating to asbestos except insofar as it contains marginalia, exhibit stickers, handwriting and other marks which do not appear on the original of this document.

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

EXHIBIT NO.

DESCRIPTION

a) K-625	Owens-Corning Fiberglas Intra-company correspondence dated April 12, 1979, from J.L. Konzen to L.W. Saxby; re: Asbestos Related Disease.
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RESPONSE NO. 2:

OCF objects to this interrogatory on the grounds that the document in question is protected from discovery as attorney-client communications, party communications and attorney work product. (See Affidavit of Robert A. McOmber attached hereto which pertains to this document.) The document in question, which is dated April 12, 1979 and has the Bates No. 02 419 0933-0946, is a Medical Department memo to Management with a copy to the Law Department responding to a request for information regarding asbestos-related disease with an attached questions and answers outline prepared by the Medical Department for a Berlin plant presentation. This document constitutes an attorney-client communication and attorney work product.

OCF objects to plaintiffs' use of the term "business activity" on the grounds that it is vague and ambiguous.

Without waiving its objections, OCF states that the original of plaintiffs' Exhibit K-625 described above was prepared by an OCF employee during the course of his or her employment for the

purpose of assisting OCF counsel in its defense of OCF in the asbestos litigation.

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) K-625	Owens-Corning Fiberglas Intra-company correspondence dated April 12, 1979, from J.L. Konzen to L.W. Saxby; re: Asbestos Related Disease.

RESPONSE NO. 3:

OCF objects to this interrogatory on the grounds that the document in question is protected from discovery as attorney-client communications, party communications and attorney work product. (See Affidavit of Robert A. McOmber attached hereto which pertains to this document.) The document in question, which is dated April 12, 1979 and has the Bates No. 02 419 0933-0946, is a Medical Department memo to Management with a copy to the Law Department responding to a request for information regarding asbestos-related disease with an attached questions and answers outline prepared by the Medical Department for a Berlin plant presentation. This document constitutes an attorney-client communication and attorney work product.

Without waiving its objections, OCF states that the original of plaintiffs' Exhibit K-625 described above has been kept in OCF's files since its creation.

INTERROGATORY NO. 4:

Has OCF 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?

RESPONSE NO. 4:

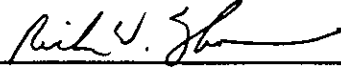
OCF objects to this interrogatory as overly broad and burdensome. OCF further objects to this interrogatory on the grounds that it seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

OCF also objects to this interrogatory on the grounds that the document in question is protected from discovery as attorney-client communications, party communications and attorney work product. (See Affidavit of Robert A. McOmber attached hereto which pertains to this document.) The document in question, which is dated April 12, 1979 and has the Bates No. 02 419 0933-0946, is a Medical Department memo to Management with a copy to the Law Department responding to a request for information regarding asbestos-related disease with an attached questions and answers outline prepared by the Medical Department for a Berlin plant presentation. This document constitutes an attorney-client communication and attorney work product.

Without waiving its objections, OCF states that it does not have a compilation of the information requested herein.

Respectfully submitted,

BEAN & MANNING, L.L.P.



Rick W. Thamm
Texas State Bar No. 19820020
5847 San Felipe, Suite 1500
Houston, Texas 77057
(713) 783-7070
(713) 974-8173 Fax Number

ATTORNEYS FOR DEFENDANT,
OWENS-CORNING FIBERGLAS CORP.

CERTIFICATE OF SERVICE

I hereby certify that Owens-Corning Fiberglas Corporation's Responses to Plaintiffs' Interrogatories has been served upon Mr. Russell Budd, Baron & Budd, The Centrum, 3102 Oak Lawn Avenue, Suite 1100, Dallas Texas 75219, plaintiff's counsel of record, by overnight delivery and to all other counsel of record by regular mail this 6th day of May, 1993.



Rick W. Thamm

IN RE: ALL ASBESTOS-RELATED PERSONAL § IN THE DISTRICT COURTS OF
INJURY OR DEATH CASES FILED §
BY BARON & BUDD, P.C. OR TO § DALLAS COUNTY, TEXAS
BY FILED BY BARON & BUDD, P.C. §
IN DALLAS COUNTY, TEXAS § 160TH JUDICIAL DISTRICT
§

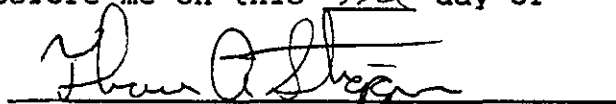
STATE OF OHIO)
COUNTY OF WOOD)

AFFIDAVIT

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


Robert A. McOmber

Sworn to and subscribed before me on this 7th day of May, 1993.


Notary Public

My Commission expires:

Thomas A. Striggow
Notary Public, State of Ohio
My Commission Expires Nov. 25, 1994

IN RE: ALL ASBESTOS-RELATED PERSONAL § IN THE DISTRICT COURTS OF
INJURY OR DEATH CASES FILED §
BY BARON & BUDD, P.C. OR TO § DALLAS COUNTY, TEXAS
BY FILED BY BARON & BUDD, P.C. §
IN DALLAS COUNTY, TEXAS § 160TH JUDICIAL DISTRICT
§

AFFIDAVIT OF ROBERT A. McOMBER

REGARDING OCF DOCUMENT 02 419 0933-0946

THE STATE OF OHIO §

COUNTY OF WOOD §

BEFORE ME, the undersigned authority, on this day personally appeared Robert A. McOmber who, after being duly sworn upon his oath, stated as follows:

1. My name is Robert A. McOmber. I am over eighteen, of sound mind, and in all ways competent to make this affidavit. I am an attorney licensed in the State of Ohio and am authorized to make this affidavit on behalf of Owens-Corning Fiberglas Corporation ("OCF"). I began employment with OCF in 1979, was named Attorney in OCF's Equal Employment Opportunity Department in 1981 and joined OCF's Law Department in 1986. Beginning in September of 1988 and continuing through 1992, I was primarily involved in advising OCF in asbestos-related claims and lawsuits. Since 1992 I have continued to advise OCF in connection with such matters. The facts contained herein are based upon information obtained from other OCF employees, counsel for OCF, as well as my own personal knowledge and belief, and include information obtained and gathered during the course of this asbestos-related litigation. I am familiar with the facts cited in this affidavit and they are true and correct.

2. I have reviewed Plaintiffs' Interrogatories dated April 7, 1993, filed in All Asbestos Related Personal 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 Court of Dallas County, Texas, 160th Judicial District. I am familiar with the OCF document Bates Numbered 02 419 0933-0946, which is the subject of plaintiffs' Interrogatories. This document is a communication dated 4/12/79 between J. L. Konzen, M.D., OCF's Medical Director, and Lewis W. Saxby, then a Senior Vice President for OCF. This memo reflects Dr. Konzen's response to Mr. Saxby's request for background information on various asbestos-related medical conditions. The memo was copied to D. M. Phillips, an attorney employed directly by OCF, R. A. Yudkin, Vice President of Corporate Affairs for OCF at the time, and J. F. Vyverberg, then

Vice President of Industry Relations. Dr. Konzen was gathering information at Mr. Saxby's and OCF Law Department's request to assist Mr. Saxby in his preparation as a corporate witness for OCF in the asbestos litigation. During the 1980's, Mr. Saxby was assisting OCF counsel in preparing for the asbestos litigation by preparing to appear as a witness for OCF at asbestos-related trials. In connection with this effort, Dr. Konzen was providing information for Mr. Saxby's use and education as a witness.

3. Mr. Saxby, as a representative of OCF, had the authority to obtain professional legal services, to act on such advice on behalf of OCF, and to assist OCF attorneys in the defense of its asbestos-related litigation. Mr. Phillips, an attorney employed in OCF's Law Department, had the authority from OCF to obtain assistance from various corporate representatives, including Mr. Saxby and Dr. Konzen, in the defense of OCF's asbestos-related litigation and to advise OCF, himself, on issues raised in the asbestos litigation.

4. It has been OCF's custom and practice that documents such as this document between OCF's corporate representatives and attorney were a confidential communications in that they were not intended to be disclosed to third persons other than those third persons to whom disclosure may have been made in furtherance of the rendition of professional legal services to OCF where those third persons may have been reasonably necessary for the transmission of those confidential communications. Further, those third persons to whom the communications were disclosed were, in each instance, also representatives of OCF who have the authority from OCF to obtain professional legal services from a lawyer on behalf of OCF or to act on behalf of OCF on advice rendered pursuant to professional legal services rendered to OCF by a lawyer. The documents were and are confidential communications made specifically for the purposes of facilitating the rendition of professional legal services to OCF. It is OCF's intent that each of these documents remained confidential and to OCF's knowledge, such documents have not been disclosed to anyone outside the above-identified group.

5. This communication reflects Dr. Konzen's efforts to assist OCF counsel and Mr. Saxby in their defense of OCF in the asbestos litigation and was prepared in anticipation of actual litigation. This document was prepared in the context of the asbestos personal injury litigation in which OCF has been involved as a repeat litigant since the 1970's. It was prepared as part of an overall legal strategy for all such cases in which OCF was and is a defendant.

6. Based on the facts set forth herein, OCF claims that this document constitutes an attorney-client communication, as set forth in Texas Rule of Evidence 503(b), and attorney work product as set forth in Texas Rule of Civil Procedure 166(b)(3).

Further, this affiant saith not.

Robert A. McOmber
Robert A. McOmber

SUBSCRIBED AND SWORN TO BEFORE ME the undersigned authority
on this 2nd day of May, 1993.

Thomas A. Striggew
Notary Public in and for
The State of Ohio

Thomas A. Striggew
Notary Public, State of Ohio
My Commission Expires Nov. 25, 1994

Printed Name of Notary and
Expiration of Commission