FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
JUL 24 1970
JAMES R. COONEY, CLERK
BY DEPUTY

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

S. R. POTTER	:	
	:	
VS.	:	CIVIL ACTION NO. 6329
	:	
FIBREBOARD PAPER PRODUCTS CORPORATION	:	

ADDITIONAL AND SUPPLEMENTAL ANSWERS OF THE DEFENDANT, JOHNS-MANVILLE PRODUCTS CORPORATION, TO PLAINTIFF'S FIRST SET OF INTERROGATORIES

TO: PLAINTIFF, SAMUEL R. POTTER, AND MR. WARD STEPHENSON, STEPHENSON, THOMPSON & MORRIS, STEPHENSON BUILDING, ORANGE, TEXAS, HIS ATTORNEYS OF RECORD:

COMES NOW the Defendant, Johns-Manville Products Corporation, and pursuant to the Court's Order over-ruling certain objections to Interrogatories submitted to Defendant by Plaintiff, files this its Additional and Supplemental Answers to certain Interrogatories. Such answers to each Interrogatory bear the same number as the request:

INTERROGATORY NO. 9.

The printing date of the two (2) booklets referred to in Defendant's previous Answers is May 1, 1968.

INTERROGATORY NO. 23.

Defendant is, and since its creation has been, a wholly owned subsidiary of Johns-Manville Corporation. Defendant and/or Johns-Manville Corporation contributed funds to sponsor animal research on the effects of asbestosis at the Saranac Laboratory of the Trudeau Foundation in upstate New York commencing in 1928. The funds were contributed by Defendant and/or Johns-Manville Corporation in the form of premium payments and assessments to the Metropolitan Life Insurance Company, which was the immediate sponsor. The amount of such contributions is not known to, nor determinable by, Defendant.

In early 1931 a report on these animal experiments was published by Dr. Leroy U. Gardner (the original director of this project) in

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Vol. 13 No. 3 (March, 1931, issue) of the Journal of Industrial Hygiene. This report was entitled "Studies on Experimental Pneumonokoniosis Inhalation of Asbestos Dust: Its Effect upon Primary Tuberculous Infection." A copy of such report is available at the principal offices of Defendant at 22 East 40th Street, New York, N. Y., for inspection and copying by Plaintiff's attorney.

In 1929, shortly after the launching of the Saranac studies, the parent of Defendant and/or Defendant and other companies in the asbestos industry asked the Metropolitan Life Insurance Company to determine whether asbestos dust was an occupational hazard and, if so, the nature of the hazard and what could be done to control it. The amounts of Defendant's and/or its parent's contributions in the form of increased premiums and assessments is not known to, nor determinable by, Defendant. The Industrial Hygiene Division of the Department of Public Health of the McGill University Medical School in Montreal assisted Metropolitan Life in this research. The results were published in 1935 in the Public Health Reports, Vol. 50 No. 1, issued by the U. S. Public Health Service in an article entitled "Effects of the Inhalation of Asbestos Dust on the Lungs of Asbestos Workers." The cost of publication was paid for by general tax funds. Copies of the report are presumably available to the Plaintiff's attorney at the Office of the United States Public Health Service.

As a result of the aforesaid Metropolitan Life study, additional health research on the effects of prolonged and excessive inhalation of asbestos fiber on human beings was undertaken at the Saranac Laboratory. The Quebec Asbestos Mining Association ("QAMA"), of which a sister corporation of Defendant was and is a principal member, contributed to this new research. The amounts of such contributions are not known to, nor determinable by, Defendant but Defendant's sister corporation, as a principal member of QAMA, furnished a significant portion of the total amount. A report on this research was delivered at the Seventh Saranac Lakes Symposium in 1952, and was entitled "Pulmonary Function Studies in Men Exposed for Ten or More Years to Inhalation of Asbestos Fibers." It was

co-authored by Dr. Fernand Gregoire, presently Director of the Clinique Lavoisier, Montreal, and Dr. George W. Wright, presently Director of Medical Research, St. Luke's Hospital, Cleveland. A copy of such report is available for inspection and copying by Plaintiff's attorney at Defendant's principal offices in New York City.

Another report arising out of the industry-sponsored studies at Saranac Laboratory was entitled "Experimental Studies of Asbestosis." It was written by Dr. Vorwald, Thomas M. Durkin and Dr. Philip C. Pratt, and appeared in the A.M.A. Archives of Industrial Hygiene and Occupational Medicine in January, 1951, at Vol. 3 Page 1. This paper is presumably available to the Plaintiff's attorney through the American Medical Association.

In the early 1950s an animal research project to investigate the reported association between asbestos exposure and lung cancer was begun at Saranac Lake and funded by QAMA. The amount of the funding is not known to, nor determinable by, Defendant but a sister corporation of Defendant furnished a significant portion of such funding. A report entitled "Asbestosis and Pulmonary Cancer" was released in 1952 and is available for inspection and copying by Plaintiff's attorney at Defendant's principal offices in New York City.

A second such project was an epidemiological study of lung cancer among asbestos miners in the Province of Quebec in Canada. This study was also sponsored by QAMA and, again, a significant portion of the funding was furnished by a sister corporation of Defendant. The amount of the funding is not known to, nor determinable by, Defendant. The study was conducted by Dr. Daniel C. Braun and Dr. T. David Truan for the Industrial Hygiene Foundation of America, Pittsburgh, Pa. The study was completed in 1957 and published in the June, 1958, Vol. 17 issue of the A.M.A. Archives of Industrial Health at Page 634 and was entitled "An Epidemiological Study of Lung Cancer in Asbestos Workers." This study is presumably available to the Plaintiff's attorney through the American Medical Association.

Inter-tracheal injection experiments on test animals were conducted by the Industrial Hygiene Foundation (and completed in July, 1968) using asbestos fiber taken from a mine of a sister corporation of Defendant. Johns-Manville Corporation contributed $1,250 to this study. This study is entitled "The Pulmonary Response to Coalinga Asbestos Dust." A copy of this study is available for inspection and copying by Plaintiff's attorney at the principal offices of Defendant.

In 1967 and 1968 Johns-Manville Corporation sponsored a study of the effect of automobile brake drum dust on the lives of laboratory animals. Johns-Manville Corporation contributed $1,250 to this study. A study entitled "The Pulmonary Response to Brake Drum Dust" was reported in 1968 and is available for inspection and copying by Plaintiff's attorney at the principal offices of Defendant.

Johns-Manville Corporation is presently contributing to the "Insulation Industry Hygiene Research Program (IIHRP): Mount Sinai School of Medicine, City University of New York", which program is undertaking a health research program for industrial workers. Its purpose is to:

1. *develop improved methods for minimizing exposure of insulation workers to dusts and fumes encountered in their work;*
2. *disseminate knowledge of these improved methods of dust control wherever they may be applied advantageously; and*
3. *offer cooperation, advice and assistance toward their universal adoption.*

Johns-Manville Corporation is contributing $262,500 to this program. There are presently no final reports but progress reports are presumably available to Plaintiff's attorney through the Director of the Program, Dr. Irving J. Selikoff, at Mt. Sinai Hospital.

Defendant has contributed the time of its personnel and data to a seven to ten year environmental clinical and epidemiological study of workers exposed to asbestos which is now being conducted by the Division of Occupational Health of the United States Public Health Service and is entitled "Asbestos Industry Study: U. S. Public

Health Service." The following reports are based on such study:

"Techniques for the Detection, Identification and Analysis of Fibers" by Robert G. Keenan and Jeremiah R. Lynch;

"The Role of Trace Metals in Chemical Carcinogenesis - Asbestos Cancers" by J. R. Dixon, et al.;

"Identification and Control of Asbestos Exposures" by Lewis J. Cralley.

Each of these studies is presumably available to Plaintiff's counsel through the Consumer Protection and Environmental Health Service of the Public Health Service of the U. S. Department of Health, Education and Welfare.

Another such study entitled "Fibrous and Mineral Content of Cosmetic Talcum Products", by L. J. Cralley, et al., was printed at Page 350 of the July-August, 1968, issue of the American Industrial Hygiene Association Journal. A copy of such study is presumably available to Plaintiff's attorney through the Occupational Health Program, National Center for Urban and Industrial Health.

Epidemiological studies of the Canadian general population designed to examine the relationship, if any, between asbestos exposure and disease among various population groups in Canada, including the Quebec asbestos miners, is presently being conducted. Again, this study is being funded by QAMA and a sister corporation of Defendant is furnishing a significant portion (over half) of such funding. The total amount of such funding is $704,700 for 1966 -1974.

Johns-Manville Corporation is funding a study being conducted by the Mt. Sinai School of Medicine, City University of New York, entitled "Biological Effects of Modified Inorganic Fibrous Microparticles." The amount of such funding is $142,000. There are no reports available as yet. The purpose of the study is to explore the development of new biological test systems for fibrous materials and to determine the effect on biological activity of asbestos fiber which has been coated with a variety of physical and/or chemical substances.

Johns-Manville Corporation has contributed $70,000 to the Industrial Hygiene Foundation of America's "Fibrous Dust Study." The

purpose of this program is to investigate factors involved in the pathogenicity of major varieties of asbestos fiber to determine the true nature of ferruginous bodies. Although some reports have been written based on this research no reports of the research per se have yet been published. Among such reports are the following:

"Pulmonary Ferruginous Bodies" by Dr. Paul Gross, et al., printed at Vol. 85, Page 539 of Arch Path in May, 1968.

"Pulmonary Ferruginous Bodies in City Dwellers" by Dr. Paul Gross, et al., printed at Vol. 19, Page 186 of Arch Environ Health, in August, 1969.

"Ferruginous Bodies in Human Lungs" by Dr. Michael D. Utidjian, et al., printed at Vol. 17, Page 327 of Arch Environ Health, in September, 1968.

Each of these reports is presumably available to Plaintiff's attorney through the Industrial Hygiene Program of America, Inc.

QAMA is sponsoring a study of the health effects of asbestos, if any, on workers in the asbestos cement manufacturing industry in the New Orleans area. The total funding of this study is $200,000 and Defendant's sister corporation is furnishing approximately $142,000 of this sum through QAMA. In addition, Johns-Manville Corporation is contributing time of its personnel at a total cost to it of $14,500. This study began in 1969 and is concentrating on the health status of present and past employees in the plants of Defendant and National Gypsum Company in and around New Orleans. No reports have been published yet.

QAMA is sponsoring a study of the biological effects of asbestos. This study was commenced in 1968 and is being conducted by Prof. Enrico C. Vigliana, Clinica Del Lavoro 'Luigi Devoto', Milan, Italy, and by Prof. Benvenuto Pernis, Instituto Di Medicina Del Lavora, Della Universita Di Genoa, Genoa, Italy. The total funding of this study is $130,000 and Defendant's sister corporation is furnishing a significant portion (over half) of such funding through its membership in QAMA. It is a three year study and no reports have yet been published.

QAMA is sponsoring a research program on the effects of induced asbestos granulomas in hamsters under the direction of Dr. Andre

Dumond of the University of Montreal, Montreal, Canada. The total funding of this study is $11,266 and Defendant's sister corporation is furnishing a significant amount (over half) of such funding through its membership in QAMA. This is a two year study commenced in 1968 but no reports have yet been published.

QAMA is funding a study on the occupational and evnironmental exposure to anthophyllite asbestos by the Institute of Occupational Health, Helsinki, Finland, under the direction of Dr. Leo Noro. The total funding of this study is $42,000 and Defendant's sister corporation is furnishing a significant amount of such funding (over half) through its membership in QAMA. This is a four year study commenced in 1968, and no reports have yet been published.

INTERROGATORY NO. 37.

Assuming, but by no means admitting, the truth of the statement set forth as a premise in this Interrogatory, Defendant states that for many years prior to 1966 Defendant and its sister corporations notified that segment of the American population as to which any danger was appreciated by the medical or scientific worlds. Defendant and its sister corporations for many years prior to 1966 advised employees of Defendant and its sister corporations engaged in certain mining, milling and manufacturing operations of the possible health risks to some people associated with extensive exposure to asbestos dust and fibers under certain conditions over a long period of time. Defendant states that no such risk to persons other than those engaged in such operations under certain conditions over a long period of time was appreciated by it or the medical or scientific worlds prior to the early 1960s when a potential danger to some of the insulation workers exposed to asbestos dust and fibers under certain conditions over a long period of time was first discovered. As a result of that discovery, on or about December 15, 1964, Defendant began to warn such insulation workers of such potential danger by placing a precautionary label in the nature of that described in Defendant's answer to Interrogatory No. 2 upon the products listed in Defendant's

answer to Interrogatory No. 2. The mining, milling and manufacturing operations referred to in the foregoing paragraph involve locations where raw asbestos fiber was handled and/or processed and/or introduced into a product.

Defendant and its sister corporations for many years prior to 1966 installed, maintained and improved mechanical dust collection systems throughout the mining, milling and manufacturing locations under its or its sister corporations' control wherever specific operations required such environmental control. Defendant and its sister corporations for many years prior to 1966 continually introduced dust abatement engineering whenever extensive exposure to asbestos dust and fibers presented potential health hazards to some of the employees working in said operations. Employees involved in operations of such nature constituted the only class of persons with respect to whom any danger was apprehended by Defendant or the medical or scientific worlds prior to the early 1960s and Defendant and its sister corporations constantly, consistently and completely warned their respective employees within said class of the danger for many years prior to 1966.

Moreover, whenever in any of such operations adequate engineering control could not be maintained, Defendant and its sister corporations for many years prior to 1966 provided their respective employees working in said operations with personal protective U. S. Bureau of Mines approved respiratory equipment together with instructions for the proper use of such equipment. For many years prior to 1966 Defendant and its sister corporations also provided respiratory cleaning and maintenance programs wherever such equipment was required. For many years prior to 1966 Defendant and its sister corporations formulated, disseminated, introduced and maintained sound and safe housekeeping practices and rules that were designed to minimize dust and fiber problems and incorporated such practices and rules into their accident prevention programs.

Respectfully submitted,

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Beaumont, Texas

THE STATE OF TEXAS I
COUNTY OF JEFFERSON I

GORDON R. PATE, being duly sworn, upon oath states that he is the attorney of record for the Defendant, Johns-Manville Products Corporation, and authorized in the course of his employment to make and present the foregoing additional and supplemental answers to Plaintiff's Interrogatories, which he does under said authority, and being cognizant of the matters therein set forth and based upon the information furnished him and the investigation conducted as to the subject matter of the Interrogatories, says that the said additional and supplemental answers are true and correct.

Gordon R. Pate
GORDON R. PATE

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the 23rd day of July, 1970.

Joyce K. Brown
NOTARY PUBLIC In and For
Jefferson County, Texas

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing additional and supplemental answers to Interrogatories was on the 23 day of July, 1970, forwarded to all counsel of record.

Gordon R. Pate
GORDON R. PATE