PLAINTIFF'S EXHIBIT

K-2028

DIVISION OF SAFETY AND HYGIENE
THE INDUSTRIAL COMMISSION OF OHIO
Richard F. Celeste, Governor
246 N. High St., Col., O. 43215

June 2, 1987

Legal Section
Industrial Commission of Ohio
246 North High Street
Columbus, Ohio

Re: OD#26810-22
Earl E. Lute
Owens-Illinois Glass Company
741 East Jenkins Avenue
Columbus, Ohio 43207

Attn: Judy Spencer

Dear Ms. Spencer:

An unannounced visit was made to the office of the Owens-Illinois (O-I) Glass Company's Industrial Relations Director, Ms. Kathy Finnie, on March 4, 1987. Subsequently a letter of request was sent on March 6. (Refer to Enclosure 1.) On April 30, 1987, O-I's industrial hygienist, Mr. Terry Richardson, was interviewed during a telephone conversation. He stated that all of the requested information is being held by the company's legal representative and will be forwarded at a latter date. To date the information has not been received by the Division of Safety and Hygiene. It will be sent to you upon receipt.

Mr. Earl Lute, the claimant, is seeking to have the claim allowed for asbestosis, allegedly due to asbestos exposure while working for O-I from 1946-1986. According to the claimant's statement on the claim application, "I worked with asbestos in very heavy concentrations from 1949 through 1970 as a lehr tender, lehr control man, instrument repair worker and crew leader for this employer. Even after I phased out the use of asbestos, exposure continued for short periods of time as old furnaces were removed. The exposure during my first 21 years with Owens was very heavy."

According to Ms. Finnie, the company is disallowing the claim of asbestosis, because it is not substantiated by medical evidence.

She also stated that by 1980, all asbestos use was phased out except for asbestos gloves and pads. All asbestos including gloves and pads was removed approximately 5 years ago.

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Enclosure 2 defines asbestosis as "a fibrosing disease of the lungs where the lungs are permanently scarred and the victim progressively disabled. The affected individuals experience the same physical shortness of breath as emphysema patients... It takes about 15 to 35 years after first exposure for asbestosis to appear. The occurrence of asbestosis is time and dose related, but this must be considered in light of measurement methods for asbestos exposure from twenty to thirty years ago. Because it takes so long to develop, the disease found today does not necessarily indicate that today's actual exposure conditions will contribute to similar disease rates in the future. Some scientists feel that a level of exposure can be reached where the threat of asbestosis is minimal". (p. 35) The 2 fiber per cubic centimeter of air, OSHA Permissible Exposure Limit that preceded the current standard was based on a British study that established the level as protecting the majority of workers from contracting asbestosis.

Cigarette smoking increases the risk of asbestosis. However, three widely differing statements were made in the claim file concerning Mr. Lute's smoking history, ranging from "never smoked" to "20 pack-years".

The claimant alleged that it was his responsibility to climb inside a 12 X 140 foot lehr approximately once a week for 40 years. He sited the asbestos dust as being so thick at times, (probably from 1949-1970) that he could not see across the area; and the dust would allegedly leave the lehr and float into another room where he also worked.

Two excerpts linking the risk of contracting an asbestos-related disease with handling of asbestos curtains and doing maintenance work inside an oven are attached." (Enclosure 3 and 4.)

Asbestosis is not a newly identified disease. It was first diagnosed around the turn of the century. In 1918 the first death was reported in the U.S. from fibrosis of the lung due to asbestos exposure. Insurance companies in the U.S. refused to continue the sale of insurance to asbestos workers that same year. In 1927 the first workers' compensation claim for asbestosis was granted in America to a brake mechanic foreman. "After numerous studies and statistical analyses, asbestos exposure was irrefutably linked to asbestosis in the early 1930's..." (p. 35, Enclosure 2)

Whether the claimant was required to wear a respirator is not known. If an adequate respirator program was enforced from 1946 through the early 1980's when any potential asbestos exposure could occur, this would be a mitigating factor.

No conclusions can be drawn from an industrial hygiene standpoint. No information has been forthcoming from the O-I legal representative. Mr. Richardson did not know if there are

2

any current employees who could describe the lehr conditions during asbestos removal and replacement procedures.

Enclosure 5, page 564, discusses medical problems encountered with diagnosis of asbestosis.

Respectfully submitted,

Beth Purcell

Beth Purcell
Industrial Hygienist

Enclosures:

1. Letter of request sent to O-I on March 6, 1987

2. Messier, "Asbestos: Is the New Permissible Exposure Level Justified", Professional Safety, November, 1984, pp. 35-37.

3. 5-21-87 computer search, Excerpt by Paggiaro, Serretti, and Franco, 1982, "Asbestos Fibers Released from Thermic Clothes: A True Occupational Hazard".

4. (Excerpt) Nicholson, Perkel, Selikoff, "Occupational Exposure ;to Asbestos: Population to Risk and Projected Mortality - 1980-2030", American Journal of Industrial Medicine, 1982, pp. 259 & 263.

5. Baum, Gitter, Goldsmith, Cugell, Lilis, Richter, Trainin, "Common Practical Problems: Panel Discussion", American Journal of Industrial Medicine, 1986, pp. 563-572.

6. Council on Scientific Affairs, "A Physician's Guide to Asbestos-Related Diseases", Journal of the American Medical Association, Volume 252, November 9, 1984, pp. 2593-2597.

7. Division of Safety and Hygiene Asbestos Hazard Awareness Training, 1986, pages 1-12 through 1-16 and 11-3.

8. Samimi, and Williams, "Occupational Exposure to Asbestos Fibers Resulting from Use of Asbestos Gloves", American Industrial Hygiene Association, December, 1981, pp. 870-875.