

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

VIRGINIA URSULA NIUSINI,

Plaintiff,

v.

SABERHAGEN HOLDINGS, INC., et al.

Defendants.

NO. 09-2-11889-8

DEFENDANT J.A. SEXAUER, INC.'S
SUPPLEMENTAL ANSWERS AND
RESPONSES TO PLAINTIFF'S FIRST
INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF
DOCUMENTS

COMES NOW Defendant J.A. Sexauer, Inc. ("Sexauer") and provides the following supplemental answers and objections to Plaintiff's First Interrogatories and Requests for Production of Documents.

GENERAL OBJECTIONS

J.A. Sexauer, Inc. objects to the "Instructions" and "Definitions" which precede Plaintiff's Requests. The purported definitions are vague, ambiguous, overly broad and unduly burdensome. Additionally, Sexauer objects to the "Instructions" and "Definitions" insofar as they purport to establish rules for discovery that contravene, contradict, enlarge, or attempt to override procedural and substantive laws of Washington. Washington law provides sufficient

1 instruction, procedures, and guidance for responding to discovery, and the consequences and
2 legal import of such responses, without the intervention of plaintiff's counsel.

3 In particular, Sexauer objects to Plaintiffs' purported definitions of "Defendant", "you,"
4 "your," "your company," and "J.A. SEXAUER INCORPORATED," which are an obvious
5 attempt to broaden the scope of this discovery insofar as it calls for information concerning
6 entities other than Sexauer. Sexauer has been named and sued solely in its own capacity, and
7 since there have been no allegations concerning any alleged liability for any other entity, Sexauer
8 shall answer this discovery on that basis. Sexauer further objects to those definitions as vague,
9 ambiguous and overly broad, and because they would include entities that are not predecessors.
10 To that extent, these definitions are intended to have legal significance beyond temporal
11 description and call for a legal conclusion.

12 2. Sexauer objects to the information sought insofar as each Interrogatory/Request is
13 vague, overly broad, unduly burdensome, harassing, and seeks information which is neither
14 relevant nor reasonably calculated to lead to the discovery of admissible evidence.

15 3. Sexauer objects to producing information regarding locations, job sites, or equipment
16 other than those identified by Plaintiff as the places where decedent allegedly encountered
17 exposure to asbestos and only at those work sites where Plaintiff has allegedly identified a
18 Sexauer presence.

19 4. Sexauer objects to producing information for periods of time unrelated to this
20 litigation. The only relevant time periods are those for which Plaintiff can demonstrate
21 decedent's exposure to asbestos at work sites where Sexauer may have had a presence.
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1 5. Sexauer objects to each Interrogatory/Request on the grounds it calls for a scientific,
2 medical, or other expert opinion which is beyond this Defendant's expertise and will be
3 addressed by experts at trial.

4 6. Sexauer objects to each Interrogatory/Request on the grounds it is misleading, calls
5 for speculation, is presented in the abstract without sufficient information to adequately or safely
6 respond, and as such, is unintelligible as phrased. Notwithstanding such objection, Defendant
7 will make reasonable efforts to respond to the Interrogatory/Request as Defendant understands
8 and interprets the inquiry. If Plaintiff subsequently asserts an interpretation of any
9 Interrogatory/Request which differs from that of Defendant, Defendant reserves its right to
10 supplement its responses accordingly.

11 7. Sexauer objects to Plaintiff's use of such phrases as "your asbestos products," "your
12 asbestos-containing products, "Defendant's products," or any derivation thereof. Such phrases
13 are objectionable as vague, ambiguous, overly broad, and argumentative under the
14 circumstances, as they incorrectly imply that Sexauer manufactured particular products or
15 materials containing asbestos. Ordinary and common usage of such phrases relates to the
16 products of a product manufacturer and do not apply to this Defendant.

17 8. Sexauer objects to Plaintiff's attempt to enlarge the scope of this litigation beyond this
18 Defendant by requesting information concerning "... its predecessors or subsidiaries," or the
19 like, or by any other request for information from an entity other than this Defendant. Sexauer
20 has been named in this litigation in its own capacity, and there have been no allegations
21 concerning any alleged liability for any other entity. Accordingly, Sexauer shall respond in its
22 own behalf, and not as to any other entity.

9. Sexauer objects to each Interrogatory/Request to the extent it seeks or encompasses information which is protected from disclosure by privilege, including but not limited to the attorney-client privilege, the attorney work-product doctrine, and/or any applicable joint defense privilege. As to any such inquiry, Sexauer asserts such privilege(s) as applicable.

10. Sexauer objects to any Interrogatory/Request that calls for information specific to a location, worksite or other alleged area of exposure for the reason that Plaintiff has failed to provide sufficient information regarding the alleged exposure to enable Sexauer to respond in a meaningful fashion. Sexauer reserves the right to amend or supplement any such response to the extent sufficient information is later provided.

Sexauer incorporates each and all of the foregoing objections into its answers and responses, below.

* * * * *

INTERROGATORIES

INTERROGATORY NO. 5: State the date on which You learned that asbestos poses a potential hazard to human health, and how you came to possess that knowledge.

ANSWER: Sexauer objects to this interrogatory as vague, ambiguous, overly broad and potentially misleading, because it assumes facts and is not related to or limited to a product sold by Sexauer or a product to which plaintiff alleges exposure. Sexauer objects to the extent this interrogatory assumes or implies that any product it distributed posed a hazard to human health. Subject to and without waiver of the foregoing objections, Sexauer understands that the degree to which various substances, including asbestos, pose a health risk depends on the frequency, duration and intensity of exposure, the type of asbestos in question, smoking history of the individual in question, whether or not available protective methods or devices were used, and other factors. To the extent it distributed packing material containing encapsulated asbestos fibers, Sexauer was informed by the manufacturers of that material that it was not a “potential hazard to human health.” **Sexauer never learned that any asbestos-containing products it may have sold posed a potential human health hazard.**

INTERROGATORY NO. 6: Have You at any time engaged in the manufacture, sale or distribution of asbestos-containing products, *specifically including but not limited to packing?*

1 If so, please identify:

- 2 (1.) the names of Your entities manufacturing, selling or distributing each of
those products;
- 3 (2.) the trade or brand name of each asbestos-containing product
manufactured, sold or distributed by You;
- 4 (3.) the dates each product was manufactured, sold or distributed;
- 5 (4.) a description of each product, including the fiber type and percentage of
asbestos contained in said product;
- 6 (5.) how each product was packaged;
- 7 (6.) Your gross sales of each asbestos-containing product between 1957 and
1980; and
- 8 (7.) the entity from which You obtained the asbestos in your products.

9 **ANSWER:** Sexauer objects to this interrogatory because it is vague, overly broad, compound,
10 argumentative, unduly burdensome, not relevant and not reasonably calculated to lead to the
11 discovery of admissible evidence. Sexauer objects to the extent this interrogatory is not limited
12 to the time period or product at issue in this case, and seeks information regarding products not
13 identified by plaintiff. Subject to and without waiver of the foregoing objections, some, but not
14 all, packing material distributed by Sexauer from the 1940s through late 1980s may have
15 contained encapsulated asbestos fiber. **During that approximate period, Sexauer sold Handy
Andy kits with gaskets and packing, some of which contained asbestos, usually
encapsulated in Teflon or graphite. Those products were not manufactured by Sexauer,
but were purchased from other suppliers. Sexauer is unable to locate or supply other
information as requested.**

16 **INTERROGATORY NO. 7:** For any product identified in response to Interrogatory
17 No. 6 identify all warnings You employed to protect the purchasers and users of said products,
18 items, or pieces of equipment from asbestos-related harm including in Your answer the text of
19 said warning and the date on which it commenced.

20 **ANSWER:** See Response to Interrogatory Nos. 5 and 6, above. **Subject to and without waiver
of the foregoing, such warnings were not indicated or provided.**

21 **INTERROGATORY NO. 8:** Please state whether any of Your products identified in
22 response to Interrogatory No. 6 were ever were supplied, sold, used, installed or otherwise
23 located on any job site identified on the attached Appendix 1 to these interrogatories. If so,
please include Your answer the following information:

- a. Name of job site on which the product, item, or piece of equipment was
supplied, used, installed or located;
- b. Dates during which the product, item, or piece of equipment was on the
job site;
- c. The type and brand name of the product, item, or piece of equipment
supplied to or used, installed or located on the job site;
- d. The amounts of products supplied

1 **ANSWER:** See Response to Interrogatory No. 6, above. **Subject to and without waiver of the**
2 **foregoing, Sexauer has not located any records relating to the sites identified.**

3 **INTERROGATORY NO. 9:** Identify all measures You employed to protect Your
4 employees involved in the manufacture and/or distribution of products identified in response to
5 Interrogatory No. 6 from asbestos-related disease.

6 **ANSWER:** Sexauer objects to this interrogatory because it is argumentative, and to the extent
7 it assumes or implies that any product it distributed presented a hazard. For further answer, see
8 Response to Interrogatory Nos. 5 and 6, above. **Subject to and without waiver of the**
9 **foregoing, Sexauer has no record of taking employee protective measures relating to**
10 **asbestos. No Sexauer employee has ever claimed to have a work-related, asbestos-related**
11 **disease.**

12 **INTERROGATORY NO. 10:** Do You maintain a listing of the sales of Your asbestos
13 containing products and which You identified in response to Interrogatory No. 6? If so,
14 describe the information maintained including whether said sales are broken down by
15 geographic area, the type of information storage system, and the manner in which specific sales
16 information can be retrieved.

17 **ANSWER:** See Response to Interrogatory No. 6, above. **Subject to and without waiver of the**
18 **foregoing, no.**

19 **INTERROGATORY NO. 16:** To the extent not provided in your answers to
20 Interrogatories Nos. 6 and/or 7 above, did You ever warn Your customers that Your asbestos-
21 containing packing could be harmful if disturbed during installation, removal, maintenance,
22 and/or repairs? If your answer is Yes, please provide the time period when such a warning was
23 given, and the content of the warning.

ANSWER: See Response to Interrogatory Nos. 5 and 6, above. **Subject to and without**
waiver of the foregoing, no.

INTERROGATORY NO. 18: Reference is made to the photographs attached hereto as
Exhibits A-1 through A-4. With respect to the J.A. Sexauer packing material depicted in
Exhibits A-1 through A-4, please provide the following information, if known: (a) the date of
manufacture of the product, (b) the place of manufacture, (c) the type of asbestos utilized in the
product, (d) the amount of asbestos utilized in the product, (e) from where the asbestos was
obtained that was utilized in the product.

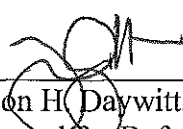
ANSWER: Unknown.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 5: Produce legible copies of all product
specifications, instruction manuals, advertising, marketing materials, promotional brochures
and photographs of all products referenced in response to Interrogatory No. 6.

1 **RESPONSE:** See Response to Interrogatory No. 6, above.

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3 DATED this 18th day of May, 2011.

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6 Jason H. Daywitt, WSBA #: 31959
7 Counsel for Defendant J.A. Sexauer, Inc.
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VERIFICATION

Carmelo Sbezzi certifies under penalty of perjury under the laws of the State of New York that he is the former Vice President of Sales and former Vice President of Purchasing for the defendant J.A. Sexauer, Inc., that he has read the foregoing responses to Interrogatories and Requests for Productions, knows the contents thereof and believes the same to be true.

Signed: Carmelo Sbezzi

Dated: May 24, 2011

SUBSCRIBED AND SWORN TO before me on the 24th day of May 2011.

Matthew Kingber
Notary Public in and for the State of New York
residing at Bronx County
My commission expires: 02-16-2015



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**DECLARATION OF DELIVERY
AND/OR MAILING**

14 I am employed by the law firm of Rizzo Mattingly Bosworth PC in Portland, Oregon. I
15 am over the age of eighteen years and not a party to the subject cause. My business address is
411 S.W. Second Avenue, Suite 200, Portland, OR 97204.

16 On the date below, I caused to be served **DEFENDANT J.A. SEXAUER, INC.'S**
17 **SUPPLEMENTAL ANSWERS AND RESPONSES TO PLAINTIFFS' FIRST**
18 **INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS** on all
19 parties in this action by transmitting a true copy thereof in the following manner unless otherwise
indicated.

20 VIA E-MAIL & FAX:

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21 Brian Ladenburg

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26

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16 **Counsel for Automated Laundry Systems**
17 **& Supply Corporation**

16 I declare under penalty of perjury and under the laws of the State of Washington
17 (RCW 9A.72.085) that the foregoing is true and correct.

18 Executed at Portland, Oregon, this 19th day of May, 2011.

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21 Barbara Kitchel
22 Paralegal
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