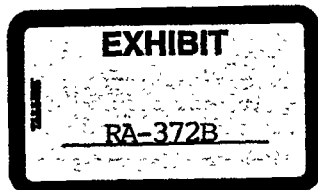


NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

To all to whom these presents shall come. Greeting:

By virtue of the authority vested in me by the Archivist of the United States, I certify on his behalf,
under the seal of the National Archives and Records Administration, that the attached reproduction(s) is
true and correct copy of documents in his custody.



SIGNATURE	
<i>Tuila Ridgeway</i>	
NAME	DATE
for KENT C. CARTEE	9-22-98
TITLE	
Regional Director	
NAME AND ADDRESS OF DEPOSITORY	
Office of Regional Records Services Southwest Region 501 W. Felix St., Bldg. 1 Fort Worth, TX 76115	

GPC 387-782/03529

NA FORM 13040 (10-86)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

SAMUEL R. POTTER

V.

FIBREBOARD PAPER PRODUCTS
CORPORATION, ET AL

§
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§
§
§
§

CIVIL ACTION NO. 6329

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

NOV 23 1971

ANSWERS TO INTERROGATORIES OF
THE DEFENDANT PHILIP CAREY
CORPORATION

JAMES R. COONEY, CLERK

By
DEPUTY

TO: PLAINTIFF, SAMUEL R. POTTER, AND HIS
ATTORNEY WARD STEPHENSON, STEPHENSON
& THOMPSON, STEPHENSON BUILDING, ORANGE,
TEXAS

COMES NOW Philip Carey Corporation, defendant
in the above entitled and numbered cause, through its attorneys
of record, and makes the following answers to written interro-
gatories heretofore served on it by counsel for the plaintiff.

INTERROGATORY NO. 1

Fibreboard Paper Products Corporation, one of the
defendants in this case, has stated that it has devised a
high temperature heat insulation which does not contain
asbestos. Has your company devised a high temperature heat
insulation which does not contain asbestos?

ANSWER TO INTERROGATORY NO. 1

1. Yes.

INTERROGATORY NO. 2

If your company has not devised a high temperature
heat insulation which does not contain asbestos, please state
whether or not you know if any other company has done so, and
if so, state the full name of such company.

ANSWER TO INTERROGATORY NO. 2

No answer required.

INTERROGATORY NO. 3

If you have devised a high temperature heat insulation which does not contain asbestos, please state the name of such product.

ANSWER TO INTERROGATORY NO. 3

Careytemp 1500.

INTERROGATORY NO. 4

If you have devised a high temperature heat insulation which does not contain asbestos, please state how long you have been manufacturing this insulation.

ANSWER TO INTERROGATORY NO. 4

Since October 19, 1969.

INTERROGATORY NO. 5

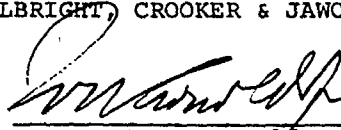
If you have devised a high temperature heat insulation which does not contain asbestos, please state the exact content of such insulation.

ANSWER TO INTERROGATORY NO. 5

Expanded Perlite	77.0%
Bentonite Clay	10.0%
Starch (Acetylated)	6.0%
Phenolic Resin	2.5%
Silicone (Methyltrimethoxysilane)	0.5%
Glass Fiber (Borosilicate Glass)	4.0%

DATED this 22nd day of November, 1971.

FULBRIGHT, CROOKER & JAWORSKI

By 

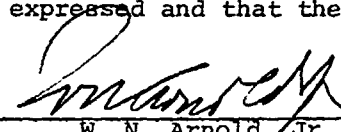
W. N. Arnold, Jr.

Bank of the Southwest Building
Houston, Texas 77002 224-7070

Attorneys for Defendant Philip
Carey Corporation

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared W. N. ARNOLD, JR., known to me to be the attorney of record for the Defendant mentioned above and to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and that the same is true and correct.


W. N. Arnold, Jr.

GIVEN UNDER MY HAND AND SEAL of office this the
22nd day of November, 1971.

Barbara S. Hill
NOTARY PUBLIC IN AND FOR
HARRIS COUNTY, T E X A S

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing instrument
was served on the following attorneys by mailing a true and
correct copy thereof to their respective offices on this 22nd
day of November, 1971.

Mr. Ward Stephenson
Stephenson & Thompson
Stephenson Building
Orange, Texas

Mr. Geo. A. Weller
Weller, Wheelus, Green & Brocato
Beaumont Savings Building
P. O. Box 350
Beaumont, Texas 77704

Mr. George E. Duncan
P. O. Box 3708
Beaumont, Texas 77704

Mr. Gordon R. Pate
Beaumont Savings Building
Beaumont, Texas 77701

Mr. Ben L. Reynolds
Royster, Rayzor & Cook
877 San Jacinto Building
Houston, Texas 77701

Mr. Dale Dowell
707 Beaumont Savings Building
Beaumont, Texas 77701

Mr. James W. Mehaffy, Sr.
San Jacinto Building
Beaumont, Texas 77701

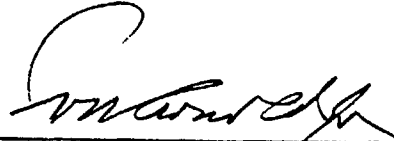
Mr. Charles S. Pipkin
P. O. Box 1632
Beaumont, Texas 77704

Mr. John G. Tucker
Orgain, Bell & Tucker
Beaumont Savings Building
Beaumont, Texas 77701

Mr. Gerald P. Coley
Vinson, Elkins, Searls & Smith
First City National Bank Building
Houston, Texas 77002

Mr. Robert E. Barnes, Jr.
P. O. Box 5098
Beaumont, Texas 77706

Mr. Frank Bean
Bean & Manning
500 Jefferson Building
Houston, Texas 77702



W. N. Arnold, Jr.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

MAR 3 - 1970

BEAUMONT DIVISION

JAMES R. COONEY, CLERK

BY DEPUTY James R. Cooney

SAMUEL R. POTTER

V.

CIVIL ACTION NO. 6329

FIBREBOARD PAPER PRODUCTS
CORPORATION, ET AL

ANSWERS OF DEFENDANT PHILIP CAREY CORPORATION
TO THAT PORTION OF INTERROGATORIES CON-
TAINED IN THE FIRST SET OF INTERROGATORIES

COMES NOW Philip Carey Corporation, one of the defendants in the above entitled and numbered cause, and makes the following answers to that portion of interrogatories contained in the first set of interrogatories heretofore served upon it, and which were answered subject to the objections leveled thereto, and for such answers says:

DIRECT INTERROGATORY NO. 7

Do you recognize that prolonged use of the insulation materials manufactured by you can cause or contribute to cause various occupational diseases, including asbestosis, silicosis and dermatitis?

ANSWER

With respect to the usual, customary and expected use of its products defendant denies the matters inquired in Interrogatory No. 7. Your defendant knows of no case in which any period of use, commercial, residential or other, of its insulating materials has caused any disease.

DIRECT INTERROGATORY NO. 11

Does your company recognize that as early as the year 1900 Dr. H. Montague Murray, a physician in London's Charing Cross Hospital, found spicules of asbestos in the lung tissue? If you agree with this, then state what action, if any, your company has taken since 1900 to reduce or eliminate the dangers to those using your asbestos products from inhaling the dust and fibers.

ANSWER

Your defendant says that it is not familiar with Dr. Murray's findings.

DIRECT INTERROGATORY NO. 14

Do you agree that once asbestos fibers or dust are inhaled into the lungs, there is no way to eliminate such dust or fibers from the lungs for the balance of such persons' life?

ANSWER

No.

DIRECT INTERROGATORY NO. 16

Does your company recognize that asbestos causes asbestos-induced cancer? If your answer is "Yes", when did you come to such realization and what action did you take in response thereto? If your answer is "No", then please explain why no studies were made by your company to ascertain that this fact was indeed true and thereafter to take action to advise those exposed to your products of their dangerous nature.

ANSWER

Your defendant has no knowledge or information sufficient to answer said interrogatory, and therefore states that it does not know.

DIRECT INTERROGATORY NO. 17

Does your company recognize there is a direct connection between the inhalation of asbestos dust and fibers and the disease mesothelioma? If your answer is "Yes", to this question, then please advise what notices were given to those exposed to your asbestos products of this fact.

ANSWER

No. Your defendant knows of no case of mesothelioma among its employees or those working with its products.

DIRECT INTERROGATORY NO. 19

Do you agree that asbestos has been directly associated medically with the disease of cor pulmonale?

ANSWER

No.

DIRECT INTERROGATORY NO. 20

Does your company recognize that asbestos fiber exists for an infinity of years? In other words, unlike some dangerous products, it does not eventually dissipate or reduce itself in danger to those who might be exposed to it?

ANSWER

Your defendant understands that asbestos fiber is inorganic.

DIRECT INTERROGATORY NO. 21

Does your company recognize that year-by-year, more asbestos is used in the United States, and therefore the public is thereby exposed to a greater and greater extent to the inhalation of asbestos dust and fibers? If your answer is "Yes", then please state what action your company has taken to reduce or eliminate this danger and what action, if any, you have taken to notify the public at large of this danger.

ANSWER

Your defendant is not familiar with all of the working conditions where asbestos products are used, and therefore must answer that it does not know.

DIRECT INTERROGATORY NO. 23

Does your company contribute any funds to research concerning asbestos and its relation to lung and larynx disease? If so, please state the amount of money contributed, when and to whom, attaching any report or reports from such individual or organization to whom your funds were contributed.

ANSWER

Your defendant has not contributed to any research concerning asbestos and its relation to lungs and larynx disease. It understands that a subsidiary of your defendant, which is a member of a Quebec Mining Association, made some contribution, the amount of which is unknown, and your defendant has not received any report from such association or research organization.

DIRECT INTERROGATORY NO. 26

Do you agree that the problem of asbestos dust extends further than to those merely using your products but that the exposure is shared with other construction workers as well?

ANSWER

No.

DIRECT INTERROGATORY NO. 28

Do you recognize or agree that the problems of air laden with asbestos dust is so great that possibly millions of the people in the United States are being exposed to the inhalation of asbestos dust who have nothing to do with its use or application? If your answer is "Yes", then please advise what action your company has taken, if any, to advise the general public of the dangerous nature of asbestos and what steps have been taken to endeavor to protect the general

public from the dangerous effects of the inhalation of the asbestos dust and fibers, when such action was taken, and what it consists of.

ANSWER

No.

DIRECT INTERROGATORY NO. 35

Do you or your company recognize that such asbestos insulating materials are dangerous and harmful to human beings and to the health of man? If your answer to this question is "Yes" then please explain when you came to this conclusion and what, if anything, you have done about it to notify the public. If your answer is that your products are not harmful then explain what tests were made upon which you base such conclusion.

ANSWER

Your defendant does not recognize the accuracy of the statement made. It is possible that some inert substances may be injurious to health but only when the quantity of airborne particles exceed certain levels over a period of time.

DIRECT INTERROGATORY NO. 36

Please state whether or not your company has had knowledge of any deaths or serious lung disease among your employees which has been attributed to the inhalation of asbestos dust or fibers. If so, please give the number, the name where known, and address of such persons, together with the name and address of the doctor who administered treatment to such persons, if known.

ANSWER

Your defendant says that it has knowledge of the following dates of lung disease cases among its employees which may have been attributed to the inhalation of asbestos dust or fibers:

- (1) Henry N. Hoerst, 10109 Wayne Avenue, Cincinnati, Ohio 45215, Dr. Ralph C. Scott, Holmes Hospital, Cincinnati, Ohio; Dr. R. J. Duffner, 406 W. Benson St., Cincinnati, Ohio 45215; Dr. J. E. Singer, 4026 Clifton Avenue, Cincinnati, Ohio; Dr. Frank Princi, address unknown.
- (2) Clarence Hulette, 9163 Winton Road, Cincinnati, Ohio 45231.
- (3) William E. Latto, 1073 Mason Street, Warren, Ohio. Dr. F. O. Kravic, address unknown; Dr. Carl Bruckner, Ormond Beach, Florida.

- (4) Essie Jackson, 3425 Bevis Street, Cincinnati, Ohio 45215. Dr. V. A. Plessinger, Central Trust Tower, Cincinnati, Ohio 45202.
- (5) Roosevelt Cross, 747 Jackson Street, Cincinnati, Ohio 45215. Dr. F. Jay Ach, 8337 Vine Street, Cincinnati, Ohio 45215.
- (6) R. L. Griffith, 2713 Vine St., Cincinnati, Ohio. Dr. V. A. Plessinger, Central Trust Tower, Cincinnati, Ohio 45202.
- (7) Harlan Williams, 9880 Dick Road, Harrison, Ohio 45030. Dr. V. A. Plessinger, Central Trust Tower, Cincinnati, Ohio 45202.
- (8) Earl B. Bolds, 625 Oak Street, Cincinnati, Ohio 45215. Dr. V. A. Plessinger, Central Trust Tower, Cincinnati, Ohio 45202; Dr. Carl G. Ruehlmann, Crescent & Cooper, Cincinnati, Ohio 45215.
- (9) Robert J. Horsman, 1725 Hayter Street, Lakewood, California, Dr. George H. Derry and Dr. Reginald Smart, addresses unknown. Mr. Horsman worked for our company 80 hours in June, 1967 and 83 hours in December, 1967.
- (10) William C. McCormick, 3169 Live Oak, Huntington Park, California. Dr. Carlos A. Prietto, St. Francis Hospital. Mr. McCormick worked for our company 112 hours in October, 1967.
- (11) Edward L. Pflieghaar, 141 Monterey Street, Brisbane, California. Dr. Manuel Morales, address unknown. Mr. Pflieghaar worked for our company for a short period in 1956, earning gross wages of \$260.35 and a short period in 1958, number of hours and wages unknown.
- (12) Wayne E. Boyer, 1122 Palm Street, Las Vegas, Nevada. Dr. J. K. McBeath, 637 East Sahara Avenue, Las Vegas, Nevada. Mr. Boyer worked for our company on a part time basis, earning gross wages of \$631.10 in 1966 and \$2,164.38 in 1967.
- (13) Lowell M. Pond, 10989 Amery Avenue, South Gate, California. Dr. Carlos Prietto and Dr. Frank F. Frazier, addresses unknown. We have no record of employed Mr. Pond. We have a record of employing one Milton L. Pond from December 7, 1967 until December 27, 1968.
- (14) Morris L. Frislief, 2436 West Lomita Boulevard, Lomita, California. Dr. John A. Chapman and Dr. John Reeves, Torrance Memorial Hospital. Mr. Frislief worked for our company from August 29, 1966 to January 10, 1969.

DIRECT INTERROGATORY NO. 40

If you have available, do you have any medical information or information of your own knowledge, concerning the most common cause of death of one having asbestosis, then please describe what the most frequent cause of death from one suffering from such disease is.

ANSWER

No.

DIRECT INTERROGATORY NO. 46

Does your company recognize that Dr. Irving J. Selikoff, of New York, is an outstanding authority in the field of asbestosis, particularly among insulation workers?

ANSWER

Your defendant does not have sufficient information to affirm or deny the matters inquired about.

DIRECT INTERROGATORIES NO. 47 THROUGH 84

Your defendant says that it is not familiar with the laws of any states other than the one in which it operates. Under the Workmen's Compensation law of the State of Ohio asbestosis is not mentioned. Your defendant, from hearsay, says that it understands that most states have workmen's compensation laws, which in some form or another relate to occupational diseases, but whether or not such laws specifically cover asbestosis, and the dates that such laws became effective, your defendant does not have sufficient information to predicate a sworn answer.

DATED this the 25th day of February,
1970.

PHILIP CAREY CORPORATION

By

LaBeche, Jr.
Secretary

THE STATE OF OHIO

COUNTY OF HAMILTON

§
§
§

BEFORE ME, the undersigned authority, on this day

personally appeared L. A. Pechstein, Jr.,

Secretary of Philip Carey Corporation, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

Given under my hand and seal of office, this
25th day of February, 1970.

William J. Oliverio
NOTARY PUBLIC IN AND FOR
HAMILTON COUNTY, OHIO

WILLIAM J. OLIVERIO
Notary Public, Hamilton County, Ohio
My Commission Expires Apr. 8, 1970

CERTIFICATE OF SERVICE

I, W. N. ARNOLD, JR., hereby certify that a true and correct copy of the foregoing instrument was, on this the 27th day of February, 1970, mailed by certified mail, return receipt requested, to Mr. Ward Stephenson, Stephenson & Thompson, P. O. Box 68, Orange, Texas 77630

W. N. Arnold, Jr.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

FILED

U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

SEP 23 1970

BEAUMONT DIVISION

JAMES R. COONEY, CLERK
BY Virginia R. Sene
DEPUTY

SAMUEL R. POTTER

V.

FIBREBOARD PAPER PRODUCTS
CORPORATION, ET AL

CIVIL ACTION NO: 6329

CLARENCE BOREL

V.

FIBREBOARD PAPER PRODUCTS
CORPORATION, ET AL

CIVIL ACTION NO: 6449

J. J. CRAWFORD

V.

FIBREBOARD PAPER PRODUCTS
CORPORATION, ET AL

CIVIL ACTION NO: 6492

ANSWERS OF DEFENDANT PANACON CORPORATION
[PHILIP CAREY CORPORATION] TO INTERROGA-
TORIES PROPOUNDED UNDER RULE 33 OF THE
FEDERAL RULES OF CIVIL PROCEDURE AND
SERVED UPON YOUR DEFENDANT'S COUNSEL ON
AUGUST 25, 1970

TO: PLAINTIFFS, SAMUEL R. POTTER, CLARENCE BOREL AND
J. J. CRAWFORD, AND THEIR ATTORNEY WARD STEPHENSON,
STEPHENSON & THOMPSON, STEPHENSON BUILDING, ORANGE,
TEXAS

COMES NOW Philip Carey Corporation, defendant
in the above entitled and numbered causes through its attorneys
of record, and makes the following answers to supplemental
interrogatories heretofore served on it by counsel for the
plaintiffs.

SUPPLEMENTAL INTERROGATORY NO. 1

Have you ever advised those using your products
of your so-called threshold limits? If you did, describe
exactly how you advised those using your products of such
threshold limits.

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 1

We have never specifically advised those using our products of our specific threshold limits on our products in a formal way until our recent letter to Industrial Insulators, Inc. of April 3, 1970.

SUPPLEMENTAL INTERROGATORY NO. 2

If you did not advise those using your products of such threshold limit, explain why you did not.

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 2

We did not formally advise those using our product of our specific threshold limits prior to this date simply because most of our customers who use the product in significant amounts to have a serious problem, such as Union Carbide, Dow Chemical, Inc., etc., have their own technical staff and "in house" hygienists who are well aware of the problems and threshold limits on products used in their organizations.

SUPPLEMENTAL INTERROGATORY NO. 3

What do you contend to be the "threshold limits" as used in answering written interrogatories previously propounded to you.

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 3

In the product produced until September 23, 1969, since it contained approximately 6% of asbestos fiber, we considered the threshold limit on dust generated in the use and application of our product to be five million parts per cubic feet of air. In the product produced since that date, we consider the threshold limits to be fifty million parts per cubic feet of air, since it no longer contains asbestos fiber. Some consideration is being given to reducing this to twenty-five million parts per cubic feet of air.

SUPPLEMENTAL INTERROGATORY NO. 4

Where did you obtain such information concerning threshold limits, and when did you get such information?

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 4

This information was obtained from the Division of Safety and Hygiene of the Industrial Commission when they conducted dust tests in our own manufacturing facility in April of 1967. Other information in this regard was obtained from publications of the National Safety Council, and follows the American Conference of Governmental Industrial Hygienists of 1962 who adopted these values at their meeting of that date.

SUPPLEMENTAL INTERROGATORY NO. 5

Has your company ever gone into the field and seen, observed, or counted, or in any way shown any interest in ascertaining how much dust is created by the worker applying your products when he is in an enclosed area such as a building, factory, room, or confined space? Answer "Yes" or "No."

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 5

Yes.

SUPPLEMENTAL INTERROGATORY NO. 6

If your answer is "Yes" to Interrogatory No. 5, then please explain the details of when and where such observations were taken, by whom they were taken, giving the complete name and address, the system used for such observation and the complete results, and to whom the results were reported.

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 6

Dust counts were made in our own plant in April of 1967; also at the Union Carbide shops, located at Institute, West Virginia in the fall of 1967, and again in the spring of 1970 at the Union Carbide shops. The first tests were on material containing 6% asbestos. The second tests [spring of 1970] were on asbestos-free products.

The second test was done by Robert Peal, Union Carbide Company hygienist. We have no copy of the results of this test since this was an "in house" document. We have been advised that Philip Carey meets current standards.

Results of these tests have been given to Union Carbide, Dow Chemical and other significant users of this product.

SUPPLEMENTAL INTERROGATORY NO. 7

If your company is one contending that some dust count constitutes a threshold level, please explain in detail when you got such information, exactly what it is, setting out all the details which you have concerning this in its entirety, and what your company has done to advise those who might use your products.

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 7

In talking about threshold limit values referred to in prior interrogatories, this information was received by your defendant from American Conference of Industrial Hygienists, described in a series of publications entitled "Threshold Limit Values of Airborne Contaminants."

DATED this 21st day of September, 1970.

FULBRIGHT, CROOKER, FREEMAN,
BATES & JAWORSKI

By W. H. Arnold, Jr.

Bank of the Southwest Building
Houston, Texas 77002 224-7070

Attorneys for Defendant, Panacore
Corporation [Philip Carey Corporation]

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared W. H. ARNOLD, JR., known to me to be the attorney of record for the defendant mentioned above and to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and that the same is true and correct.

Given under my hand and seal of office this the 21st day of September, 1970.

NOTARY PUBLIC IN AND FOR
HARRIS COUNTY, TEXAS

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing instrument was served on the following attorneys by mailing a true and correct copy thereof to their respective offices on this 21st day of September, 1970.

Mr. Ward Stephenson
Stephenson & Thompson
Stephenson Building
Orange, Texas

Mr. Geo. A. Weller
Weller, Wacelus, Green & Brocato
Beaumont Savings Building
P. O. Box 350
Beaumont, Texas 77704

Mr. George E. Duncan
P. O. Box 3708
Beaumont, Texas 77704

Mr. Gordon R. Fate
Beaumont Savings Building
Beaumont, Texas 77701

Mr. Ben L. Reynolds
Royster, Rayzor & Cook
877 San Jacinto Building
Houston, Texas 77702

Mr. Dale Dowell
707 Beaumont Savings Building
Beaumont, Texas 77701

Mr. James W. Mehaffy, Sr.
San Jacinto Building
Beaumont, Texas 77701
H

Mr. Charles S. Pipkin
P. O. Box 1632
Beaumont, Texas 77704

Mr. John G. Tucker
Orgain, Bell & Tucker
Beaumont Savings Building
Beaumont, Texas 77701

Mr. Gerald P. Coley
Vinson, Elkins, Searls & Connally
First City National Bank Building
Houston, Texas 77002

Mr. Robert E. Barnes, Jr.
P. O. Box 5098
Beaumont, Texas 77706

Mr. Frank Bean
Bean & Manning
500 Jefferson Building
Houston, Texas 77702

W. H. Arnold, Jr.

IN THE UNITED STATES DISTRICT COURT **FILED**
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

SAMUEL R. POTTER

V.

FIBREBOARD PAPER PRODUCTS
CORPORATION, ET AL

CIVIL ACTION NO. 6329

CLARENCE BOREL

V.

FIBREBOARD PAPER PRODUCTS
CORPORATION, ET AL

CIVIL ACTION NO. 6449

J. J. CRAWFORD

V.

FIBREBOARD PAPER PRODUCTS
CORPORATION, ET AL

CIVIL ACTION NO. 6492

ANSWERS TO SUPPLEMENTAL INTERROGATORIES
PROPOUNDED TO DEFENDANT PANACON CORPORATION
[FORMERLY PHILIP CAREY CORPORATION]

TO: PLAINTIFFS, SAMUEL R. POTTER, CLARENCE BOREL AND
J. J. CRAWFORD, AND THEIR ATTORNEY WARD STEPHENSON,
STEPHENSON & THOMPSON, STEPHENSON BUILDING, ORANGE,
TEXAS

COMES NOW Panacon Corporation, formerly
Philip Carey Corporation, one of the defendants in the above
entitled and numbered causes, and through its attorney of
record, makes the following answers to supplemental in-
terrogatories:

SUPPLEMENTAL INTERROGATORY NO. 1

In connection with your answer to Supplemental
Interrogatory No. 3, what material in your product produced
since September 23, 1969 is smaller than asbestos dust or
fibers?

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 1

None.

SUPPLEMENTAL INTERROGATORY NO. 2

In considering the relative size of asbestos

fibers and the material in your currently manufactured product, which produces five million parts of dust per cubic feet of air, which is the larger, asbestos fibers or the ingredient producing fifty million parts of dust per cubic feet of air?

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 2

It is believed that the propounder of this interrogatory has not understood our previous answers. When employed in accordance with the practice of the trade of insulating applicators, neither the product produced prior to September 23, 1969, nor the product produced thereafter necessarily would produce five million parts of dust per cubic feet of air. We have stated in answer to prior interrogatories that the threshold of five million parts of dust per cubic feet of air and fifty million parts of dust per cubic feet of air, for asbestos containing an asbestos free product, respectively, were set by governmental authorities named in our answer. A particle of asbestos dust is smaller than a particle of dust of any other ingredient contained in either the pre- or post- September 23, 1969 product.

SUPPLEMENTAL INTERROGATORY NO. 3

In answer to Supplemental Interrogatory No. 7, you omitted answering the part which asked when you got such information. Please give the exact date.

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 3

Your defendant got the information upon receipt of Data Sheet No. 531 "Dusts, Fumes and Mists in Industry", published in 1963 by the National Safety Council, which quoted threshold limits published by the American Conference of Industrial Hygienists in 1962.

SUPPLEMENTAL INTERROGATORY NO. 4

In answer to Supplemental Interrogatory No. 7, you omitted answering that part of the question which asked what your company has done to advise those who might use your product of the information you claim you have obtained. Please set out in detail exactly what your company has done.

ANSWER TO INTERROGATORY NO. 4

Please see answer to prior interrogatory No. 6.

The 1967 test results were given to Union Carbide, Dow Chemical, Inc., and other significant users of our company's products. Since no user required formulation or performance changes, the company continued to manufacture products in accordance with applicable Federal and Military Specifications.

SUPPLEMENTAL INTERROGATORY NO. 5

Do employees of Philip Carey Corporation apply and install its products containing asbestos?

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 5

Yes.

SUPPLEMENTAL INTERROGATORY NO. 6

Do the employees of Philip Carey Corporation apply and install products manufactured by the other defendants in these actions?

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 6

Yes.

SUPPLEMENTAL INTERROGATORY NO. 7

If your answer to the preceding question is "Yes", then please state which of the defendants' products Philip Carey Corporation employees use or have used in the last ten years.

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 7

Our employees use calcium silicate pipe and block covering, amosite asbestos pipe covering, and various types of mineral wool and asbestos finishing cements manufactured by the defendants named in these actions. In addition, our employees use similar products manufactured by manufacturers not parties defendant in these actions. In addition, our employees have used similar products manufactured by certain defendants and non-defendants more than ten years ago, the exposure to which in the ordinary course of their employment is highly significant in view of the allegation of plaintiffs' own "exposure" in these cases.

SUPPLEMENTAL INTERROGATORY NO. 8

Has Philip Carey Corporation warned its

employees of any danger incident to the use and installation of products containing asbestos?

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 8

Yes, and for decades the company has required its employees to employ the dust collector at the saw and masks or respirators in the application area.

SUPPLEMENTAL INTERROGATORY NO. 9

If your answer to the preceding question is "Yes," please explain when, giving the date, and what, setting out the full context of such advice or notice, and setting out in your answer exactly to whom such advice or notice was given, giving their names and addresses or the class of worker or employee so that the same may be identified by plaintiffs.

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 9

The advice or notice was given on all occasions, too numerous to date, to all employees, all of whom were members of Asbestos Workers Locals having jurisdiction. The context thereof was to employ the company furnished dust collector at the saw and masks or respirators, because of job site dust conditions created by all construction crews. In general, the dust collector at the saw was employed. In general, the employees objected to the use of masks or respirators, particularly those who smoked cigarettes. Hot weather was another basis for employee's refusal to employ masks or respirators. It has no record of the names and addresses of each employee.

SUPPLEMENTAL INTERROGATORY NO. 10

When did Union Carbide, Dow Chemical, Inc. and other of your customers who you refer to as "etc." become aware of the problems and threshold limits of your products containing asbestos which were used by them in their organizations? Give the exact date, advise exactly how you have such information and advise where you obtained such information, giving the names and addresses of such person or persons who furnished the same to you. Explain fully what problems Union Carbide, Dow Chemical, Inc., etc. are well aware of, setting out in detail the problems you refer to. Please explain in detail the threshold limits on products used in their organizations, or that is, Union Carbide, Dow Chemical, Inc., which you refer to in your answer to Supplemental Interrogatory No. 2.

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 10

The company does not know of any "problems" with the product of which Union Carbide, Dow Chemical, Inc. or other of our customers became aware, nor do we know when they became aware of threshold limits. Inasmuch as Union Carbide and Dow Chemical, Inc. are large corporations employing full time hygienists and other technical personnel, we assume they have full access to and are aware of threshold limits of all substances, including asbestos containing products, employed in industry and which may be hazardous. We believe their interest, in addition to airborne dust particles, includes all chemical compounds in liquid, solid or gaseous forms. We do not know what threshold limits Union Carbide and Dow Chemical, Inc. have established for asbestos containing products. We have given them the composition of our products and the results of dust tests made in the Union Carbide shops. Since these companies continue to purchase our products, we assume that threshold limits acceptable to them have been met.

SUPPLEMENTAL INTERROGATORY NO. 11

In your answer to Supplemental Interrogatory No. 6, you stated dust counts were made in April, 1967 in your plant and also at Union Carbide shops. Explain in detail why no dust counts were made prior to April, 1967.

ANSWER TO SUPPLEMENTAL INTERROGATORY No. 11

Dust counts were made in our Lockland plant and the Union Carbide shops in 1967 to determine whether our products were acceptable for use in Union Carbide's fabrication shops. Since Union Carbide's first attempt to make use of our products in a prefabrication shop occurred in 1967, there was no need to make dust counts for Union Carbide prior to 1967. In our Answer to Interrogatory 15, we stated that dust samplings have been taken at our plants by state authorities since the 1930's.

SUPPLEMENTAL INTERROGATORY NO. 12

In your answer to Supplemental Interrogatory No. 6, you stated you have "been advised that Philip Carey meets current standards." Please explain who advise you, giving their names and addresses, what the advice was, and who has established any "current standards."

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 12

We do not know at what level of acceptability Union Carbide's standards are established. Considered products are submitted to their technical department which tests the products and advises our approved distributor whether our products are acceptable. Our approved distributor in the case of Union Carbide is Allied Services, Inc., Charleston, West Virginia and our approved distributor in the case of Dow Chemical, Inc. is Industrial Insulations, Inc., Bay City, Michigan.

SUPPLEMENTAL INTERROGATORY NO. 13

In your answer to Supplemental Interrogatory No. 6, you stated, "Results of these tests have been given to Union Carbide, Dow Chemical and other significant users of this product." Please set out in detail the results of the tests which were given to Union Carbide, Dow Chemical and "other significant users of this product," and state (a) When such results were given, (b) where a copy of such results might be obtained, giving the full address, and (c) the names of "Other significant users" to whom you refer in your answer to Supplemental Interrogatory No. 6.

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 13

Please see attached copy of report dated January 2, 1968 of Dust Tests conducted by Kettering Laboratory with respect to our product containing asbestos. The report was furnished to Union Carbide on January 16, 1970 and Dow Chemical, Inc. on March 4, 1970. In addition, it was furnished to certain of our field representatives, but we have no record of the distribution, nor the date thereof, nor the distribution the field representatives made of the report.

SUPPLEMENTAL INTERROGATORY NO. 14

In the answers your attorney prepared to supplemental interrogatories submitted to Armstrong Cork Company, your co-defendant herein, in answer to Supplemental

Interrogatory No. 2, it is indicated that "advice to purchasers concerning such values (speaking of threshold limit values) would probably have been ineffective and could have been adverse to the best interests of persons installing such products." Is it the contention of Philip Carey Corporation that advice to purchasers concerning threshold limit values have been given by Philip Carey Corporation, and (a) that such advice was effective, and (b) that such advice was to the best interest of persons installing such products?

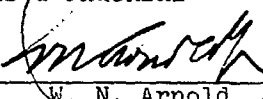
ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 14

We have given advice concerning threshold limits to our purchasers requesting it. The purchasers have continued to purchase our products and we assume they have found the threshold limits acceptable. However, we are in no position to either confirm or deny that such advice was effective and to the best interests of persons installing such product.

DATED this 4th day of November, 1970.

FULBRIGHT, CROOKER, FREEMAN,
BATES & JAWORSKI

By


W. N. Arnold, Jr.

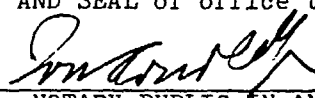
Bank of the Southwest Building
Houston, Texas 77002 224-7070

Attorneys for Defendant Panacorn
Corporation [Philip Carey Corporation]

THE STATE OF TEXAS §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared W. N. ARNOLD, JR., known to me to be the attorney of record for the defendant mentioned above and to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and that the same is true and correct.

GIVEN UNDER MY HAND AND SEAL of office this the 4th day of November, 1970.


NOTARY PUBLIC IN AND FOR
HARRIS COUNTY, TEXAS

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing instrument was served on the following attorneys by mailing a true and

correct copy thereof to their respective offices on this 4th day of November, 1970.

Mr. Ward Stephenson
Stephenson & Thompson
Stephenson Building
Orange, Texas

Mr. Geo. A. Weller
Weller, Wheelus, Green & Brocato
Beaumont Savings Building
P. O. Box 350
Beaumont, Texas 77704

Mr. George E. Duncan
P. O. Box 3708
Beaumont, Texas 77704

Mr. Gordon R. Pate
Beaumont Savings Building
Beaumont, Texas 77701

Mr. Ben L. Reynolds
Royster, Rayzor & Cook
877 San Jacinto Building
Houston, Texas 77002

Mr. Dale Dowell
707 Beaumont Savings Building
Beaumont, Texas 77701

Mr. James W. Mehaffy, Sr.
San Jacinto Building
Beaumont, Texas 77701

Mr. Charles S. Pipkin
P. O. Box 1632
Beaumont, Texas 77704

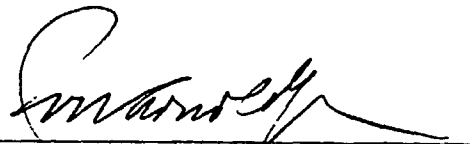
Mr. John G. Tucker
Orgain, Bell & Tucker
Beaumont Savings Building
Beaumont, Texas 77701

Mr. Gerald P. Coley
Vinson, Elkins, Searls & Connally
First City National Bank Building
Houston, Texas 77702

Mr. Robert E. Barnes, Jr.
P. O. Box 5098
Beaumont, Texas 77706

Mr. Frank Bean
Bean & Manning
500 Jefferson Building
Houston, Texas 77002

Mr. George E. Murphy
615 San Jacinto Building
Beaumont, Texas 77701


W. N. Arnold, Jr.

JAMES O. PIERCE, SC.D.
KETTERING LABORATORY
EDEN AND BETHESDA AVENUE
CINCINNATI, OHIO 45219

January 2, 1968

Mr. Arthur P. Mueller
Research Division
Philip Carey Manufacturing Company
320 South Wayne Avenue
Cincinnati, Ohio 45215

Dear Mr. Mueller:

We have completed our analyses of samples of air taken during fabrication of Carey Temp insulation at the Union Carbide Plant in Charleston, West Virginia. I do not know if you wish to have a formal report, complete with recommendations, etc., for methods of control of dust. Unless I hear otherwise, I will assume that this letter will suffice.

I do not feel it necessary to describe to you the conditions under which these samples were taken, since you were present during the entire operation. All of the impinger samples were breathing zone samples collected directly below the face of the operator. These samples are representative of an individual's exposure to the dust produced at the operation in question.

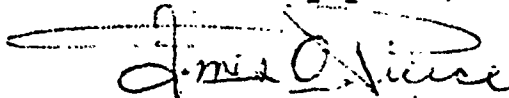
The impinger samples numbered 1 through 3 were collected during one "run," whereas numbers 4 through 6 were taken during the second cutting operation. The electrostatic precipitator samples were located near the saw table and could not be as representative of breathing zone samples as are the impinger samples. In addition, a high volume air sampler was used to collect dust from the air during the total period of time we were there. This sample naturally includes some down-time.

The samples were analyzed by standard procedures. A sample of dust collected with the high volume air sampler was prepared for examination by X-ray diffraction to determine the per cent of crystalline free silica and asbestos in the airborne dust. The X-ray diffraction pattern failed to indicate the presence of crystalline material in the dust. The probable limit of detection by X-ray diffraction for asbestos or quartz in untreated samples is approximately 5 per cent for each material.

Microscopic examination of the samples of dust indicated the presence of some fibers, but it was not always possible to differentiate between glass fibers or asbestos fibers. As you are aware, the threshold limit value for asbestos is 5 million particles per cubic foot of air and for inert or nuisance particulates this value is raised to 50 mppcf or 15 mg/m³, whichever is the smaller (source: Threshold Limit Values for 1967, ACGIH). Since asbestos is known to be an ingredient of the parent material, my personal recommendation would be to use the lower value even though the analysis indicated that the dust contained less than 5 per cent asbestos.

The results of the sampling are given in the attached table. If additional information is required, please do not hesitate to let me know. Also enclosed is a statement of charges involved, including charges for analyses incurred by the Kettering Laboratory. Please make the check payable directly to me personally for the full amount and I will reimburse the Laboratory.

Sincerely yours,



J. O. Pierce, Sc.D.
Assistant Professor of
Environmental Health

JOP:egm

Enclosures

RESULTS OF SURVEY
AT THE UNION CARBIDE PLANT, CHARLESTON, WEST VIRGINIA
DURING FABRICATION OF PHILIP CAREY (CAREY TEMPE) INSULATION BOARD

DESCRIPTION AND LOCATION OF SAMPLER	MILLIONS OF PARTICLES PER CUBIC FOOT OF AIR Mppcf	MILLIGRAMS OF PARTICULATE PER CUBIC METER OF AIR Mg/M ³
#1-Impinger- located at breathing zone of Mr. D. E. Raines, operator at saw #1 during unload- ing and cutting of insu- lation board	16.4	-
#2-Impinger- same as #1 except attached to other operator, Mr. W. L. Alford	15.9	-
#3-Impinger- located at breathing zone of Mr. J. Jordan, operator at saw #2 during 1st phase of sawing	19.5	-
#4-Impinger- located at breathing zone of Mr. W. L. Alford, operator at saw #2 during second phase of sawing operation	19.9	-
#5-Impinger- located at breathing zone of Mr. J. Jordan, operator at saw #2 during second phase of sawing operation	23.8	-
#6-Impinger- same as #5 except attached to other operator, Mr. H. Witt	27.3	-
#7-Electrostatic Precipi- tator Sampler- located appr. 5" above plate of saw #1 during first unloading and cutting cycle	8.65	64.3

DESCRIPTION AND LOCATION OF SAMPLER	MILLIONS OF PARTICLES PER CUBIC FOOT OF AIR Mppcf	MILLIGRAMS OF PARTICULATE PER CUBIC METER OF AIR Mg/M ³
#8-Electrostatic Precipitator- located at same location as #7 during clean-up operation between runs	5.5	29.1
#9-Electrostatic Precipitator- located at saw #2, left side, appr. 8-10" above plate of saw during second phase of cutting operation	3.0	21.1
#10-High Volume Air Sampler using fluted filter- located at the right side, appr. 4' from saw #1 during entire operations	-	37.3*

* X-Ray Diffraction indicates no detectable crystalline material present in this sample

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

DEC 23 1969

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT, DIVISION

JAMES R. COONEY, CLERK
BY DEPUTY *[Signature]*

SAMUEL R. POTTER

VS.

CIVIL ACTION NO. 6329

FIBREBOARD PAPER PRODUCTS
CORPORATION, ET AL

REPLY OF DEFENDANT, PHILIP CAREY
CORPORATION TO PLAINTIFF'S INTERROGATORIES

Philip Carey Corporation, one of the defendants in the above entitled and numbered cause, through its attorneys of record, makes the following answers to the written interrogatories heretofore served on it on or about October 14, 1969, time within which to answer having been extended to December 24, 1969.

INTERROGATORY NO. 1

Please give the names and trade names of all types of insulating materials manufactured by you, giving the dates that you began to manufacture such materials, starting in 1940, a description of the materials and what they contain.

ANSWER TO INTERROGATORY NO. 1

Plymouth Meeting, Pennsylvania

	<u>Name, Trade Name and Description</u>	<u>Date of Manufacture</u>	<u>Contents</u>
(1)	85% Magnesia Pipe Covering and Block	1906-1961	Basic magnesium Carbonate and asbestos fiber
(2)	No. 19 Hitemp Pipe Covering and Block	1906-1961	Diatomaceous earth and asbestos fiber
(3)	Temp-Chek Pipe Covering and Block	1940-1954	Diatomaceous earth, basic magnesium carbonate and asbestos fiber
(4)	Alltemp Pipe Cover- ing and Block	1954-1958	Expanded Perlite, Bentonite clay and asbestos fiber
(5)	Careytemp Pipe	1958-1962	Expanded Perlite Bentonite clay, chopped glass roving and asbestos fiber

Lockland, Ohio

(1)	Careytemp Pipe Covering and Block	1958- Sept. 1969	Expanded Perlite, Bentonite clay, chopped glass roving and asbestos fiber
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- | | | |
|---|---------------------------------|---|
| (2) New Careytemp 1500
Pipe Covering and
Block | Sept. 23,
1969 to
present | Expanded Perlite,
Bentonite clay and
chopped glass roving |
| (3) Aircell Pipe Covering
and Board | 1906-1960 | Asbestos paper
(asbestos fiber and
starch) and sodium
silicate |
| (4) Excel Pipe Covering
and Board | 1906-1960 | Asbestos paper and
sodium silicate |
| (5) Careycel Pipe Covering
and Board | 1906-1960 | Asbestos paper and
sodium silicate |
| (6) Asbestos Rope and Wick | 1906-1954 | Asbestos Fiber and
cotton fiber |
| (7) MW 50 Cement | 1940-1967 | Mineral Wool fiber,
asbestos fiber and
Bentonite clay |
| (8) MW 1 Cement | 1950-1967 | Mineral wool fiber,
Portland cement
and Bentonite clay |
| (9) Asbestos Finishing
Cements
#100
#303
#707
#LF20
#7M90 | 1940-1967 | Asbestos fiber,
ground gypsum and
Bentonite clay |
| (10) No. 19 Vitricel Cement | 1940-1967 | Asbestos fiber,
and mica |

Linden, New Jersey

- | | | |
|--|--------------------------------|---------------------------------------|
| (1) Asbestos Paper Pipe
Covering
(4, 6 and 8 ply
Aircell Coverings) | Feb. 18,
1969 to
present | Asbestos paper and
sodium silicate |
|--|--------------------------------|---------------------------------------|

Since September of 1969 asbestos fiber has been eliminated from regular Careytemp and fiberglass has been substituted therefor. It was felt that Careytemp reinforced with glass fiber is less susceptible to breakage.

INTERROGATORY NO. 2.

Did you ever at any time give warnings to workers of the dangerous nature of your products? If so, describe your warnings and to whom such warnings were given.

ANSWER TO INTERROGATORY NO. 2

The allegations and implications of Interrogatory No. 2 as to your defendant's insulating material being of a "dangerous nature" is specifically denied. Your defendant does not believe that any of its industrial insulating material is of a "dangerous nature." Inasmuch as your

defendant has no control, or right of control, over employees of insulating contractors, or other contractors or owners with respect to the working conditions of any non-Philip Carey Corporation employees, it has assumed that the employees of such insulating workers have been furnished with a safe place in which to work.

INTERROGATORY NO. 3

What studies have you made to determine the effect of your products on the lungs and physical condition of persons employed as insulators and asbestos workers who use your product?

ANSWER TO INTERROGATORY NO. 3

We have made no studies to determine the effect of our products on the lungs and physical condition of persons employed as insulators and as asbestos workers by independent contractors or owners who use our products.

INTERROGATORY NO. 4

Who made such studies, when were they made, and attach copies of the reports of such studies.

ANSWER TO INTERROGATORY NO. 4

Not applicable. See answer to Interrogatory No. 3.

INTERROGATORY NO. 5

Did you package and sell any products containing asbestos from the years 1940 to 1967? If so, how were the products sold, how were the products packaged, and were these products universally used throughout the United States?

ANSWER TO INTERROGATORY NO. 5

Yes. Products were sold to the distributor trade, to insulation application contractors, and to owners who used their own application crews, or who contracted with insulation application contractors. Pipe covering and block were packaged in cardboard cartons. The products have been used throughout the United States.

INTERROGATORY NO. 6

If these products were used primarily in any specific location or area, please explain where such products were primarily used.

ANSWER TO INTERROGATORY NO. 6

The products were used primarily in industrial metropolitan areas east of the Mississippi River.

INTERROGATORY NO. 7.

Do you recognize that prolonged use of the insulating materials manufactured by you can cause or contribute to cause various occupational diseases, including asbestosis, silicosis and dermatitis?

ANSWER TO INTERROGATORY NO. 7

Your defendant objects to Interrogatory No. 7 for the reason that the same is wholly irrelevant and immaterial to any issue in the case at bar.

Subject to the above and foregoing objections your defendant answers by stating that assuming that the interrogatory refers to the usual, customary and expected use of its products, the answer is no. Your defendant knows of no case in which any period of use, commercial, residential or other, of its insulating materials has caused any disease.

INTERROGATORY NO. 8

Has your company done any studies or has your company conducted any studies concerning the effects of inhalation of asbestos dust or fibers by one using or being exposed to any of the asbestos materials manufactured by your company? In answer to this question, please give the date and nature of your studies, if any, the name or names of the persons conducting the studies and their address, what the purpose of the studies were, and attach a copy of any report based upon such studies, showing to whom such report was given and when.

ANSWER TO INTERROGATORY NO. 8

No.

INTERROGATORY NO. 9

Have you or any of your employees conducted studies designed to minimize or eliminate the inhalation of asbestos dust and fibers by those exposed to the use of your company's products? If so, give the name or names of such persons conducting such studies, attach copies of such studies, by whom they were made, and to whom they were given, and when, and state what action, if any, was taken based upon such studies in an effort to minimize or eliminate the effects of inhalation of asbestos dust or fibers upon those using or being exposed to the dust and fibers contained in such products as manufactured by your company.

ANSWER TO INTERROGATORY NO. 9

No.

INTERROGATORY NO. 10

Do you or your company have any regular inspection of areas where workers are using products manufactured by your company containing asbestos as to the dust count? If you do not, then please explain why this is not done, and if you do, please explain what action, if any, is taken by your company following the taking of dust counts at any of the locations referred to above. Also please give the dates, if any, that your company first started making this dust count.

ANSWER TO INTERROGATORY NO. 10

Inasmuch as your defendant's products are sold to insulation application contractors, and/or to owners who may and do use their own insulation application employees, and such products are used at various points in the United States, a program as suggested in Interrogatory No. 10 is not feasible.

INTERROGATORY NO. 11

Does your company recognize that as early as the year 1900 Dr. H. Montague Murray, a physician in London's Charing Cross Hospital, found spicules of asbestos in the lung tissue? If you agree with this, then state what action, if any, your company has taken since 1900 to reduce or eliminate the dangers to those using your asbestos products from inhaling the dust and fibers.

ANSWER TO INTERROGATORY NO. 11

Your defendant objects to Interrogatory No. 11 for the following reasons:

(a) The same is too vague and to indefinite. Your defendant does not understand what is meant by the term "recognize" as used therein;

(b) Such interrogatory inquires as to matters which upon its face, reflects that it is within the personal knowledge of your defendant, and is therefore outside of the purview and intent of the federal laws of procedure, and particularly Federal Rule 33;

(c) Such interrogatory does not inquire as to any matter of fact as authorized by Federal Rule 33;

(d) Such interrogatory inquires to to a medical opinion which is not required to be answered under Federal Rule 33.

(e) The interrogatory inquires as to a matter which is immaterial and irrelevant to any issue in this action.

Subject to the above and foregoing objections and exceptions, your defendant says that it is not familiar with Dr. Murray's findings.

INTERROGATORY NO. 12

Does your company recognize that in 1924, Dr. W. E. Cook, also of England, found clear evidence of asbestosis and that such discovery was published in the British Medical Journal of July 26, 1924, and re-published in 1927? If you do, then please state what action, if any, was taken by your company based upon these studies to reduce or eliminate asbestosis in those using your products. If your answer is that you do not recognize the truth of such statement, then please state what your company has done in an effort to keep abreast of medical literature concerning the disease produced from the products which you manufacture, if in truth you have.

ANSWER TO INTERROGATORY NO. 12

Your defendant objects to Interrogatory No. 12 for the following reasons:

(a) The same is too vague and indefinite. Your defendant does not understand what is meant by the term "recognize" as used therein;

(b) The same inquires as to a matter that, upon its face, reflects that it is not within the personal knowledge of your defendant, and is therefore outside the scope of Federal Rule 33;

(c) The same does not inquire as to any matter of fact as authorized by Federal Rule 33;

(d) The same inquires as to a medical opinion which is not required to be answered by Federal Rule 33;

(e) The matter inquired about is immaterial and irrelevant to any issue in this action.

Subject to the above and foregoing objections and exceptions, your defendant says that it is not familiar with Dr. W. E. Cook's findings.

INTERROGATORY NO. 13

Does your company recognize that in 1931, an English Parliament passed legislation making asbestosis a compensable disease and requesting improved methods of

exhaust ventilation and dust suppression in asbestos-textile factories, and also instituted periodical medical examinations for workers engaged in particularly dusty processes in the asbestos-textile industry? If you do recognize the truth of the statement above, please state what action, if any, your company took in response to such knowledge in an effort to reduce or eliminate the effects of asbestos to those using your products. If you do not recognize the truth of such statement, then please state why your company did not keep in touch with legislation and programs adopted endeavoring to reduce or eliminate the disease of asbestosis in those using asbestos products.

ANSWER TO INTERROGATORY NO. 13

Your defendant objects to Interrogatory No. 13 for the following reasons:

- (a) Such interrogatory is vague and indefinite;
- (b) Such interrogatory does not inquire as to any matter of fact as authorized by the applicable federal rules;
- (c) Such interrogatory inquired as to a matter of law, which is not required to be answered by the Federal Rules of Procedure;
- (d) Such interrogatory inquires as to matters irrelevant and immaterial to any issue in this action.

Subject to the above and foregoing objections and exceptions your defendant says that it is not familiar with the described legislation allegedly passed by an English Parliament. Your defendant has never had a producing plant in England or subject to English law. Your defendant has always complied with all applicable legislation and programs of jurisdictions to which it is subject. Your defendant assumes that contractors and/or owners using your defendant's products have complied with legislation and programs of the law making bodies having jurisdiction over them.

INTERROGATORY NO. 14

Do you agree that once asbestos fibers or dust are inhaled into the lungs, there is no way to eliminate such dust or fibers from the lungs for the balance of such person's life?

ANSWER TO INTERROGATORY NO. 14

Your defendant objects and excepts to Interrogatory

No. 14 for the following reasons:

(a) Such interrogatory does not inquire as to a fact, but calls for the explanation of a medical opinion, and therefore does not fall within the purview of the applicable federal rules.

Subject to the above and foregoing exception and objection your defendant says that its answer is "no."

INTERROGATORY NO. 15

What technique, if any, does your company use to make dust samplings, explaining the technique and when it was commenced and what the purpose was and what action has been taken in response to the findings as to the dust samples.

ANSWER TO INTERROGATORY NO. 15

Since the 1930's, dust samplings at our Lockland, Ohio plant have been taken by the Division of Safety and Hygiene, Industrial Commission of Ohio. The Division employs either an electrostatic precipitator owned by it or a "midgit impinger" produced by Mine Safety Appliances Company. We believe these devices charge dust particles either negatively or positively and impinge them on a plate oppositely charged. The samples thus collected are applied against screens in order to measure the size and number of dust particles and determine if the area sampled is within the safe standards prescribed by the Division. Dust collectors are in constant operation to maintain safe levels. An authority of the Commonwealth of Pennsylvania followed similar procedures at our Plymouth Meeting, Pennsylvania insulation plant prior to its close in 1962. At the present time, we are participating with a number of other companies in a program conducted by the U. S. Department of Public Health to determine safe dust limits in areas in which products composed in part of asbestos, talc, mica or stone dust are produced.

INTERROGATORY NO. 16

Does your company recognize that asbestos causes asbestos-induced lung cancer? If your answer is "yes", when did you come to such realization and what action did you

take in response thereto? If your answer is "No", then please explain why no studies were made by your company to ascertain that this fact was indeed true and thereafter to take action to advise those exposed to your products of their dangerous nature.

ANSWER TO INTERROGATORY NO. 16

Your defendant objects and excepts to Interrogatory No. 16 for the following reasons:

(a) Such interrogatory does not inquire as to any matter of fact as authorized by the applicable Rules of Federal Procedure;

(b) Such interrogatory inquires as to a medical opinion which is not required to be answered under the applicable Federal Rules of Procedure;

(c) Such interrogatory inquires as to an ultimate issue, which is solely to be determined by the fact finder on the trial hereof.

Subject to the above and foregoing objections and exceptions, your defendant says that "it does not know."

INTERROGATORY NO. 17

Does your company recognize there is a direct connection between the inhalation of asbestos dust and fibers and the disease mesothelioma? If your answer is "Yes" to this question, then please advise what notices were given to those exposed to your asbestos products of this fact.

ANSWER TO INTERROGATORY NO. 17

Your defendant objects and excepts to Interrogatory No. 17 for the following reasons:

(a) That such interrogatory is vague and indefinite; your defendant does not understand what is meant by the term "recognize" as used therein;

(b) Such interrogatory does not inquire as to any matter of fact authorized by the Federal Rules of Procedure.

(c) Such interrogatory inquires as to a medical opinion which is not required to be answered under the rules of federal procedure.

(d) Such interrogatory inquires as to an ultimate issue in the case at bar, which is to be determined by the fact finder.

Subject to the above and foregoing objections and exceptions your defendant answers "No." Your defendant knows of no case of mesothelioma among its employees, or those working with its products.

INTERROGATORY NO. 18

Does your company place any warning signs on its asbestos products? If so, please state exactly what the warning is, where it is used, and when its use was first begun. If your answer to this question is "Yes", then please explain why your company uses such warning notices.

ANSWER TO INTERROGATORY NO. 18

No. However, persons working with your defendant's asbestos products are furnished, and urged to use, masks recommended by the U. S. Bureau of Mines, and dust collectors attached to saw.

INTERROGATORY NO. 19

Do you agree that asbestos has been directly associated medically with the disease of cor pulmonale?

ANSWER TO INTERROGATORY NO. 19

Your defendant objects and excepts to Interrogatory No. 19 for the following reasons:

(a) Your defendant says that such interrogatory is vague and indefinite. Your defendant does not understand what is meant by the term "directly associated" as used therein;

(b) Such interrogatory does not inquire as to any matter of fact as authorized by Federal Rule 33;

(c) Such interrogatory inquires as to a medical opinion which is not required to be answered by the applicable Federal Rules of Procedure;

(d) Such interrogatory inquires as to an ultimate issue which is to be determined solely by the fact finder on a trial hereof.

Subject to the above and foregoing objections and exceptions your defendant answers "No."

INTERROGATORY NO. 20

Does your company recognize that asbestos fiber exists for an infinity of years? In other words, unlike some dangerous products, it does not eventually dissipate or reduce itself in danger to those who might be exposed to it?

ANSWER TO INTERROGATORY NO. 20

Your defendant objects and excepts to Interrogatory No. 20 for the following reasons:

- (a) Such interrogatory is vague and indefinite. Your defendant does not understand what is meant by the term "recognize" as used therein;
- (b) Such interrogatory does not inquire as to any matter of fact by Federal Rule 33;
- (c) Such interrogatory inquires as to a scientific opinion not required to be answered by the applicable Federal Rules of Procedure.

Subject to the above and foregoing objections and exceptions your defendant says that it understands that asbestos fiber is inorganic.

INTERROGATORY NO. 21

Does your company recognize that year-by-year, more asbestos is used in the United States, and therefore the public is thereby exposed to a greater and greater extent to the inhalation of asbestos dust and fiber? If your answer is "Yes", then please state what action your company has taken to reduce or eliminate this danger and what action, if any, you have taken to notify the public at large of this danger.

ANSWER TO INTERROGATORY NO. 21

Your defendant objects and excepts to Interrogatory No. 21 for the following reasons:

- (a) Said interrogatory is too vague and indefinite inasmuch as your defendant does not understand what is meant by the term "recognize" as used therein;
- (b) The same is irrelevant and immaterial to any issue in this action.

Subject to the above and foregoing objections and exceptions your defendant says that it is not familiar with all of the working conditions where asbestos products are used, and therefore must answer that it does not know.

INTERROGATORY NO. 22

Has your company consulted with Dr. Irving J. Selikoff, of New York, New York, concerning asbestosis, and if so, please state when and under what circumstances and what information, if any, was furnished by your company, giving dated, to him.

ANSWER TO INTERROGATORY NO. 22

Your defendant objects and excepts to Interrogatory 22 for the reason that the same is immaterial and irrelevant to any issue in this action.

Subject to the above and foregoing objection and exception the answer is "No."

INTERROGATORY NO. 23

Does your company contribute any funds to research concerning asbestos and its relation to lung and larynx disease? If so, please state the amount of money contributed, when and to whom, attaching any report or reports from such individual or organization to whom your funds were contributed.

ANSWER TO INTERROGATORY NO. 23

Your defendant objects and excepts to Interrogatory No. 23 for the reason that the same is irrelevant and immaterial to any issue in this action.

Subject to the above and foregoing objection and exception your defendant says that it has not contributed to any research concerning asbestosis and its relation to lungs and larynx disease. It understands that a subsidiary of your defendant, which is a member of a Quebec Mining Association, made some contribution, the amount of which is unknown, and your defendant has not received any report from such association or research organization.

INTERROGATORY NO. 24

Do you have any labor inspectors or anyone from your company whose job it is to go to areas where your products are being used to make a dust level count, and if so, please state when your company started such procedure, the purpose of it, and what action, if any, was taken in response to your findings.

ANSWER TO INTERROGATORY NO. 24

No. The areas in which your defendant's products are applied are on construction sites, marine vessels and the like, which are owned and controlled by others.

INTERROGATORY NO. 25

Is your company familiar with the hearing conducted in March, 1967, before the House of Representatives of the United States Congress Sub-Committee on Labor?

ANSWER TO INTERROGATORY NO. 25

Your defendant objects and excepts to Interrogatory No. 25 for the following reasons:

(a) The same is vague and indefinite inasmuch as your defendant does not understand what is meant by the term "familiar" as used therein;

(b) The same does not inquire as to any matter of fact as authorized by the applicable Federal Rules of Procedure;

(c) The same does not set forth sufficiently and with particularity the specific hearing inquired about;

(d) Such interrogatory is immaterial and irrelevant to any issue in this action.

Subject to the above and foregoing objections and exceptions the answer is "No."

INTERROGATORY NO. 26

Do you agree that the problem of asbestos dust extends further than to those merely using your products but that the exposure is shared with other construction workers as well?

ANSWER TO INTERROGATORY NO. 26

Your defendant objects and excepts to Interrogatory No. 26 for the following reasons:

(a) The same does not inquire as to any matter of fact as authorized by the applicable Federal Rules of Procedure;

(b) Such interrogatory inquires as to a medical or scientific opinion which is not required to be answered under Federal Rule 33;

(c) Such interrogatory is immaterial and irrelevant to any issue in this action.

Subject to the above and foregoing objections and

exceptions your defendant says its answer is "No."

INTERROGATORY NO. 27

If your answer to the preceding Interrogatory No. 26 is "No", then please state whether or not you have familiarized yourself with Dr. William H. Stewart, Surgeon-General of the United States, testifying before the Committee mentioned above that probably three and one-half million construction workers are being exposed to asbestos dust in addition to those workers actually using the materials containing asbestos?

ANSWER TO INTERROGATORY NO. 27

Your defendant says that its answer is that it does not know. Your defendant objects and excepts to Interrogatory No. 27 for the following reasons:

(a) Such interrogatory is vague and indefinite.

Your defendant does not understand what is meant by the term "familiarized" as used therein;

(b) Such interrogatory does not inquire as to any matter of fact as authorized by the applicable Federal Rules of Procedure;

(c) Such interrogatory inquires as to a matter involving a medical opinion, which is not required to be answered under the Federal Rules of Procedure;

(d) Such interrogatory is immaterial and irrelevant to any issue in this action.

Subject to the above and foregoing objections and exceptions your defendant says that it is not familiar with said testimony.

INTERROGATORY NO. 28

Do you recognize or agree that the problems of air laden with asbestos dust is so great that possibly millions of the people in the United States are being exposed to the inhalation of asbestos dust who have nothing to do with its use or application? If your answer is "Yes", then please advise what action your company has taken, if any, to advise the general public of the dangerous nature of asbestos and what steps have been taken to endeavor to protect the general public from the dangerous effects of the inhalation of the asbestos dust and fibers, when such action was taken, and what it consists of.

ANSWER TO INTERROGATORY NO. 28

Your defendant objects and excepts to Interrogatory No. 28 for the following reasons:

(a) Such interrogatory does not inquire as to

a matter of fact as authorized by Federal Rule 33;

(b) Such interrogatory inquires as to a scientific or medical opinion which is not required to be answered under the applicable Federal Rules of Procedure;

(c) Such interrogatory is immaterial and irrelevant to any issue in this action.

Subject to the above and foregoing objections and exceptions your defendant answers "No."

INTERROGATORY NO. 29

Is it possible with all of your products containing asbestos to distinguish your products from those manufactured by a competitor? If your answer is "Yes," please describe how you contend your products in all instances can be distinguished from that of a competitor. If there are products which cannot be, in your opinion, distinguished from products of a similar kind manufactured by a competitor, please state the name of such product, who manufactures it, as well as the product manufactured by your competitor.

ANSWER TO INTERROGATORY NO. 29

"Careytemp" may be distinguished from insulation products manufactured by others through its formulation protected by patents in the United States and certain other countries. We have only one licensee, whose limited right to manufacture "Careytemp" is described in our answer to Interrogatory No. 30. We discontinued the manufacture of 85% magnesia approximately ten years ago. The cartons in which our 85% magnesia products were shipped would distinguish the products from like products of others. Without cartons, 85% magnesia products of our manufacture would be difficult to distinguish from like products manufactured at that time by Fibreboard Paper Products Corporation, John-Manville Products Corporation, The Ruberoid Company, Baldwin-Ehret-Hill, Inc., and Mundet Cork Corporation. We believe that today 85% magnesia products are manufactured by only a few companies, all of which are outside of the United States. We discontinued the manufacture of asbestos paper insulation products approximately eight years ago. The cartons in which these products were shipped would distinguish

them from like products of others. Without cartons, these products of our manufacture would be difficult to distinguish from like products manufactured at that time by Ace Asbestos Company, Empire-Ace Asbestos Company, Badham Insulation Company, Norristown Insulation Company, Standard Asbestos Manufacturing and Insulating Company, Johns-Manville Products Corporation, Baldwin-Ehret-Hill, Inc., and Smith & Kanzler Corporation. Today, such products are manufactured by Empire Asbestos Company only to the best of our knowledge.

INTERROGATORY NO. 30

It is true, is it not, that most of the products manufactured by your company containing asbestos will in most instances have to be cut, sawed, scribed, shaped or mixed by the ultimate user and his employees?

ANSWER TO INTERROGATORY NO. 30

The statement is untrue. In 1959, we licensed B & B Engineering & Supply Company, Inc., Houston, Texas, to manufacture and use, transfer or sell "Careytemp" insulation elements molded to fit valves, tube turns, tees, ells, unions, flanges and other fittings of boilers, breachings, piping and the like requiring insulation. We purchase the elements from our licensee and furnish them to our customers purchasing conventional forms of "Careytemp." The availability of such elements has eliminated the cutting, sawing, scribing, shaping and mixing by the ultimate purchaser and his employees. There have been isolated instances in which insulation workers and their local unions have resisted the use of such elements. Non-standard fittings require a minor amount of on-site cutting or sawing.

INTERROGATORY NO. 31

Please give the state of incorporation of your company, the date it was organized, and the domicile of your company at this time.

ANSWER TO INTERROGATORY NO. 31

The State of Ohio. December 1, 1966. It is domiciled in the State of Ohio.

INTERROGATORY NO. 32

How many years has your company been engaged in the manufacture of products containing asbestos and which are commonly used by insulators and asbestos workers?

ANSWER TO INTERROGATORY NO. 32

Ten years and nine months.

INTERROGATORY NO. 33

If you, your company, or your company's attorneys, contend that any respirators or other breathing device is currently on the market that will prevent the inhalation of asbestos dust and fibers, give the detailed description of such respirator or other breathing device, together with how you know this will prevent the inhalation of such dust and fibers, what tests were conducted, by whom and where, with sufficient detail to enable us to obtain the results of such tests.

ANSWER TO INTERROGATORY NO. 33

No contentions are made with respect to masks or respirators recommended by U. S. Bureau of Mines.

INTERROGATORY NO. 34

It is true, is it not, that your company has for many years manufactured insulating materials containing asbestos and that such products have been placed upon the open market to be purchased and used by the public?

ANSWER TO INTERROGATORY NO. 34

See our answer to Interrogatory No. 5.

INTERROGATORY NO. 35

Do you or your company recognize that such asbestos insulating materials are dangerous and harmful to human beings and to the health of man? If your answer to this question is "Yes" then please explain when you came to this conclusion and what, if anything, you have done about it to notify the public. If your answer is that your products are not harmful then explain what tests were made upon which you base such conclusion.

ANSWER TO INTERROGATORY NO. 35

Your defendant objects and excepts to Interrogatory No. 35 for the following reasons:

(a) Same is vague and indefinite. Your defendant does not understand what is meant by the term "recognized" as used therein;

(b) The same does not inquire as to any matter of fact as authorized by Federal Rule 33;

(c) Such interrogatory inquires as to a medical opinion which is not required to be answered by the Federal Rules of Procedure;

(d) Such interrogatory inquires as to an ultimate fact issue which is to be determined solely by the fact finder upon the trial hereof.

Subject to the above and foregoing objections and exceptions your defendant says that it does not recognize the accuracy of the statement made. It is possible that most toxic substances may be injurious to health only when the quantity of airborne particles exceed certain levels over a period of time.

INTERROGATORY NO. 36

Please state whether or not your company has had knowledge of any deaths or serious lung disease among your employees which has been attributed to the inhalation of asbestos dust or fibers. If so, please give the number, the name where known, and address of such persons, together with the name and address of the doctor who administered treatment to such persons, if known.

ANSWER TO INTERROGATORY NO. 36

Your defendant objects and excepts to Interrogatory No. 36 for the following reasons:

(a) The same does not inquire as to any matter of fact authorized by the applicable Federal Rules of Procedure;

(b) The same inquires as to a matter of medical opinion which is not required to be answered under Federal Rule 33;

(c) The same is immaterial and irrelevant to any issue in this action.

Subject to the above and foregoing objections and exceptions your defendant answers that it has knowledge of the following dates of lung disease cases among its employees which may have been attributed to the inhalation of asbestos dust or fibers:

- (1) Henry N. Hoerst, 10109 Wayne Avenue, Cincinnati, Ohio 45215, Dr. Ralph C. Scott, Holmes Hospital, Cincinnati, Ohio; Dr. R. J. Duffner, 406 W. Benson St., Cincinnati, Ohio 45215; Dr. J. E. Singer, 4026 Clifton Avenue, Cincinnati, Ohio; Dr. Frank Princi, address unknown.
- (2) Clarence Hulette, 9163 Winton Road, Cincinnati, Ohio 45231.
- (3) William E. Latta, 1073 Mason Street, Warren, Ohio. Dr. F. O. Kravic, address unknown; Dr. Carl Bruckner, Ormond Beach, Florida.
- (4) Essie Jackson, 3425 Bevis Street, Cincinnati, Ohio, 45215. Dr. V. A. Plessinger, Central Trust Tower, Cincinnati, Ohio 45202.
- (5) Roosevelt Cross, 747 Jackson Street, Cincinnati, Ohio 45215. Dr. F. Jay Ach, 8337 Vine Street, Cincinnati, Ohio 45215.
- (6) R. L. Griffith, 2713 Vine St., Cincinnati, Ohio. Dr. V. A. Plessinger, Central Trust Tower, Cincinnati, Ohio 45202.
- (7) Harlan Williams, 9880 Dick Road, Harrison, Ohio 45030. Dr. V. A. Plessinger, Central Trust Tower, Cincinnati, Ohio 45202.
- (8) Earl B. Bolds, 625 Oak Street, Cincinnati, Ohio 45215. Dr. V. A. Plessinger, Central Trust Tower, Cincinnati, Ohio 45202; Dr. Carl G. Ruehlmann, Crescent & Cooper, Cincinnati, Ohio 45215.
- (9) Robert J. Horsman, 1725 Hayter Street, Lakewood, California, Dr. George H. Derry and Dr. Reginald Smart, addresses unknown. Mr. Horsman worked for our company 80 hours in June, 1967 and 83 hours in December, 1967.
- (10) William C. McCormick, 3169 Live Oak, Huntington Park, California. Dr. Carlos A. Prietto, St. Francis Hospital. Mr. McCormick worked for our company 112 hours in October, 1967.
- (11) Edward L. Pflieghaar, 141 Monterey Street, Brisbane, California. Dr. Manuel Morales, address unknown. Mr. Pflieghaar worked for our company for a short period in 1956, earning gross wages of \$260.35 and a short period in 1958, number of hours and wages unknown.
- (12) Wayne E. Boyer, 1122 Palm Street, Las Vegas, Nevada. Dr. J. K. McBeath, 637 East Sahara Avenue, Las Vegas, Nevada. Mr. Boyer worked for our company on a part time basis, earning gross wages of \$631.10 in 1966 and \$2,164.38 in 1967.
- (13) Lowell M. Pond, 10989 Amery Avenue, South Gate, California. Dr. Carlos Prietto and Dr. Frank F. Frazier, addresses unknown. We have no record of employing Mr. Pond. We have a record of employing one Milton L. Pond from December 7, 1967 until December 27, 1967.
- (14) Morris L. Frislie, 2436 West Lomita Boulevard, Lomita, California. Dr. John A. Chapman and Dr. John Reeves, Torrance Memorial Hospital. Mr. Frislie worked for our company from August 29, 1966 to January 10, 1969.

INTERROGATORY NO. 37

Assume for the purpose of this question that it has been known for many years that asbestos dust and fibers have been dangerous to human beings: Assuming the truth of such statement, has your company done anything prior to 1966 to notify any segment of the American population of such danger? If so, please explain what.

ANSWER TO INTERROGATORY NO. 37

Your defendant objects and excepts to Interrogatory No. 37 for the following reasons:

(a) Such interrogatory does not inquire as to any matter of fact authorized by the Federal Rules of Procedure;

(b) Such interrogatory poses a hypothetical question to your defendant, to which no answer is required under the Federal Rule of Procedure;

Subject to the above and foregoing objections and exceptions your defendant says that it does not accept the truth of the question as stated. For many years prior to 1966 your defendant has advised its employees concerning the breathing of any kind of dust, and has furnished its employees with masks, and has installed mechanical dust collectors.

INTERROGATORY NO. 38

If your company manufactures any insulating products which are commonly used by insulators and which contain asbestos, please describe how the following products are cut, shaped, mixed and applied on the jobs:

- (1) Asbestos cement;
- (2) Asbestos pipe covering;
- (3) Asbestos bricks or blocks;
- (4) Asbestos sheeting;
- (5) Asbestos insulation used to cover extremes of heat as well as cold;
- (6) Asbestos insulation in loose form which may be blown into homes or buildings;
- (7) Asbestos in spray form,

giving particular reference as to whether or not the materials have to be sawed or cut on the job, blown, into confined areas, or mixed with water into a cement or paste. Then please state if there is any way known to you that the above products can be used and applied without the worker inhaling any of the asbestos dust or fibers.

ANSWER TO INTERROGATORY NO. 38

- (1) Not applicable;
- (2) Cut with a knife or saw;
- (3) Cut with a knife or saw;
- (4) Not applicable;
- (5) Cut with a knife or saw;
- (6) Not applicable;
- (7) A blend of asbestos fibers, white mineral wool fibers and inorganic binders is applied by mechanical spray equipment, which, at a nozzle, combines atomized water mist with the mix to form a lightweight mat. The dry mix is conveyed pneumatically to the nozzle through an airtight hose. Applicators wear masks to prevent inhalation of any free asbestos dust or fibers.

INTERROGATORY NO. 39

Do you have any statistical figures available showing the number of employees employed with your company who are exposed to asbestos dust and fibers and who have worked for your company twenty years or longer who have lung disease? If so, please give such figures.

ANSWER TO INTERROGATORY NO. 39

Your defendant objects and excepts to Interrogatory No. 39 for the reason that such interrogatory is immaterial and irrelevant to any case at bar.

Subject to the above and foregoing objections and exceptions your defendant answers "No."

INTERROGATORY NO. 40

If you have available, do you have any medical information or information of your own knowledge, concerning the most common cause of death of one having asbestosis, then please describe what the most frequent cause of death from one suffering from such disease is.

ANSWER TO INTERROGATORY NO. 40

Your defendant objects and excepts to Interrogatory No. 40 for the following reasons:

(a) Such interrogatory does not inquire as to any matter of fact as authorized by Federal Rule 33;

(b) Such interrogatory inquires as to a matter of medical opinion which is not required to be answered;

(c) Such interrogatory is immaterial and irrelevant to any issue in this case.

Subject to the above and foregoing objections and

exceptions the answer is "No."

INTERROGATORIES NO. 41, 42 and 43

Interrogatories No. 41, 42 and 43 and the answers thereto are as follows:

ANSWERS TO INTERROGATORIES 41, 42 and 43

<u>YEAR</u>	<u>CONSOLIDATED</u>		
	<u>Net Profit</u> <u>(\$000's)</u>	<u>Net Worth</u> <u>(\$000's)</u>	<u>Net Sales*</u> <u>(\$000's)</u>
1960	2,404	35,238	69,569
1961	2,806	36,082	69,953
1962	1,875	36,329	73,202
1963	2,142	36,843	69,363
1964	3,102	38,282	75,931
1965	2,614	38,848	78,454
1966	2,874	40,279	80,988
1967	1,280	41,162	85,047
1968	4,670	44,331	96,632

*Approximately 12% of the amounts shown is derived from sales of products purchased from others for resale.

43. (Continued). The total amount of sales of insulation products containing asbestos is as follows:

<u>YEAR</u>	<u>NET SALES (\$000's)*</u>
1960	2,672
1961	2,405
1962	2,389
1963	1,763
1964	1,948
1965	2,417
1966	2,739
1967	2,567
1968	2,398

*Approximately 9% of the amounts shown is derived from sales of products purchased from others for resale.

INTERROGATORY NO. 44

Please give the name and address of the president of your company; and also the name and address of the Chairman of the Board of Directors.

ANSWER TO INTERROGATORY NO. 44

Charles E. Tennesson, Jr.
7285 Post and Rail Lane
Cincinnati, Ohio 45243

Paul A. Johnston
51 Oakwood Drive, Box 1034
Chapel Hill, North Carolina.

INTERROGATORY NO. 45

If your company has been unable to answer any of the foregoing interrogatories herein propounded, or any of the interrogatories hereinafter propounded, please state the name and address of the person in your company having knowledge of the matters inquired about in these interrogatories.

ANSWER TO INTERROGATORY NO. 45

Not applicable.

INTERROGATORY NO. 46

Does your company recognize that Dr. Irving J. Selikoff, of New York, is an outstanding authority in the field of asbestosis, particularly among insulation workers?

ANSWER TO INTERROGATORY NO. 46

Your defendant objects and excepts to Interrogatory No. 46 for the following reasons:

- (a) The same is vague and indefinite inasmuch as this defendant does not understand what is meant by the term "recognize" as used therein;
- (b) Such interrogatory does not inquire as to any matter of fact as authorized by Federal Rule 33;
- (c) Such interrogatory inquires as to a matter of medical opinion for which an answer is not required by Federal Rule 33;
- (d) Such interrogatory is irrelevant and immaterial to any issue in this action.

Subject to the above and foregoing objections and exceptions your defendant answers:

We can neither affirm nor deny the statement.

INTERROGATORIES 47 through 84

ANSWERS TO INTERROGATORIES 47 through 84

With respect to Interrogatories 47 through and including Interrogatory 84, your defendant objects and excepts for the following reasons:

(a) The same do not inquire as to a matter of fact as authorized by the applicable Federal Rules of Procedure;

(b) Such interrogatories inquire as to a matter of law which does not require to be answered under Federal Rule 33;

(c) Such interrogatories are immaterial and irrelevant to any issue in the case at bar.

Subject to the above and foregoing your defendant says that it is not familiar with the laws of any state other than the one in which it operates. Under the Workmen's Compensation law of the State of Ohio asbestosis is not mentioned.

DATED this the 19th day of December, 1969.

PHILIP CAREY CORPORATION

By

L. A. Pechstein, Jr.
Secretary

STATE OF OHIO

COUNTY OF HAMILTON

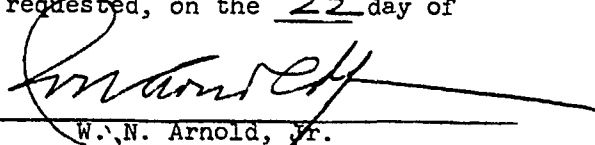
BEFORE ME, the undersigned authority, on this day personally appeared L. A. Pechstein, Jr.,
Secretary of Philip Carey Corporation, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

Given under my hand and seal of office, this 19th day of December, 1969.

WILLIAM J. OLIVERIO
Notary Public, Hamilton County, Ohio
My Commission Expires Apr. 8, 1970

William J. Oliverio
NOTARY PUBLIC IN AND FOR
HAMILTON COUNTY, OHIO

I certify that the above and foregoing Answers of Defendant, Philip Carey Corporation, to Written Interrogatories was served upon plaintiff, Samuel R. Potter, by mailing a copy thereof to his attorney Mr. Ward Stephenson, Stephenson, Thompson and Morris, P. O. Box 68, Orange, Texas 77630, by certified mail, return receipt requested, on the 22 day of December, 1969.


W.N. Arnold, Jr.