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ATTORNEYS AT LAW

3400 MARINE MIDLAND CENTER

BUFFALO, NEW YORK 14203

May 30, 1975

RESEARCH CENTER

6424

A. Earl Mays, Esq.
Legal Department
Secretary's Office
Armstrong Cork Company
Lancaster, Pa. 17604

Dear Mr. Mays:

Thank you for the deliberation which you have given to the asbestos label issue.

In accordance with the information contained in your letter of May 27, we have advised National Gypsum Company that shipments of asbestos cement products to Armstrong need only contain the OSHA label and need make no specific reference to cancer or asbestosis.

We sincerely appreciate your consideration of this issue.

Very truly yours,

William L. Rieth

Bhl

bcc: A. H. Fay (w/copy of Mr. Mays' letter)
R. O. Kreinheder (" " ")

by Bob Brown

ARM

PLAINTIFF'S EXHIBIT 1767.0

Armstrong
CORK COMPANY

[illegible]
[illegible]
LANCASTER, PA [illegible]

March 21, 1975

RESEARCH CENTER
6430

Mr. Harold A. Scrimshaw, Product Manager
Acoustical and Insulation Board Products
Gold Bond Building Products
Division of National Gypsum Company
325 Delaware Avenue
Buffalo, NY 14202

Dear Mr. Scrimshaw:

This will reply to your letter of March 11, 1975 to our Mr. H. R. Hess concerning your standard statement of notice and caution imprinted on cartons of asbestos products. It is agreed that the statement meets OSHA requirements.

Although the notice gives warning to users, I question whether it provides adequate warning of the risk. Your company, as well as ours, has been involved in certain liability suits involving asbestos containing products. The typical situation involved is where the contractor's employee, while working with an asbestos containing product, contracts asbestosis or cancer. The contractor's liability is covered under workmen's compensation, but a liability suit against the manufacturer is not precluded.

It is with the third party suits where the greatest exposure to liability occurs. In the Borel case, which was decided last year, the Fifth Circuit Court of Appeals stated that the users must be specifically warned of the dangers involved in handling products presenting a risk to the user. If the danger involved is contracting asbestosis or cancer, the worker should be warned of that fact. It is for this reason that we believe the following warning should be placed on the label for asbestos containing products shipped under our name:

CAUTION
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
BREATHING ASBESTOS DUST MAY CAUSE ASBESTOSIS,
CANCER OR OTHER SERIOUS BODILY HARM

PLAINTIFF'S EXHIBIT
1767 (2)

MAR 24 19 5
PRODUCTS DIVISION

I concur with the placement of the warning on the carton flaps on top of the carton in full view of the mechanic opening the cartons. If the notice warns of the specific dangers involved, then I do not believe that a user will be in a position to contend that he did not receive proper notice.

In light of the foregoing, it will be appreciated if you will reconsider a revision of the warning that currently appears on the carton.

Very truly yours,

A. Earl Mays/mfh

A. Earl Mays
Legal Department
Secretary's Office

MFH

RESEARCH CENTER
6431

PLAINTIFF'S EXHIBIT
1767 (3)

12. You have stated that lung cancer can develop from lower levels of exposure than asbestosis, yet most cases of lung cancer occur among workers who already have asbestosis. How is this explained?

13. What percentage of the lung cancer deaths in the insulation workers whom you have studied occur among those workers who don't have asbestosis?

PLAINTIFF'S EXHIBIT 1767 (4)