

TALMADGE DOWDLAN, SR. and VIRGINIA	\$	IN THE DISTRICT COURT
DOWDLAN, ED FINKLEA, ANN HARLAN,	\$	
Individually and as Personal	\$	
Representative of the Heirs and	\$	
Estate of CHESTER E. HARLAN,	\$	
Deceased, and RICKY BARRON LONG,	\$	
Individually and as Personal	\$	
Representative of the Heirs and	\$	DALLAS COUNTY, TEXAS
Estate of JONAS BARRON LONG,	\$	
Deceased and HEATHER LONG, and	\$	
DONALD EUGENE BRAY and CHERYL	\$	
BRAY,	\$	
	\$	
Plaintiffs,	\$	
	\$	
versus	\$	
	\$	
KEENE CORPORATION, et al.,	\$	
	\$	
Defendants.	\$	162ND JUDICIAL DISTRICT



DEFENDANT UNITED STATES GYPSUM COMPANY'S
ANSWERS AND OBJECTIONS TO PLAINTIFFS' INTERROGATORIES

To: Ricky Barron Long, Individually and as Personal Representative of the Heirs and Estate of Jonas Barron Long, Deceased, Plaintiff, by and through his attorney of record, Mr. Russell W. Budd, Baron & Budd, P.C., The Centrum, 3102 Oak Lawn Ave., Ste. 1100, Dallas, TX 75219.

COMES NOW, UNITED STATES GYPSUM COMPANY, Defendant in the above-entitled and numbered cause, and files the attached Answers and Objections to Plaintiffs' Interrogatories.

Respectfully submitted,

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By:

David W. Crowe
DAVID W. CROWE

State Bar No. 05164250

COUNSEL FOR DEFENDANT
UNITED STATES GYPSUM COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to counsel for Plaintiffs, Mr. Russell W. Budd, Baron & Budd, P.C., The Centrum, 3102 Oak Lawn Ave., Ste. 1100, Dallas, TX 75219, by Certified Mail, return receipt requested, on this 12 day of MAY, 1994.

David W. Crowe
DAVID W. CROWE

PREFATORY STATEMENT

United States Gypsum Company (hereinafter "U.S. Gypsum") has, to the best of its abilities, gathered non-privileged documents into a document repository for inspection by plaintiffs' counsel in response to requests for production served in asbestos litigation. These documents provide information that supplements and expands upon that provided in these answers to Interrogatories. Accordingly, by way of further response to these Interrogatories, U.S. Gypsum hereby offers to make available these documents at a mutually convenient time at its offices at 125 S. Franklin Street, Chicago, Illinois.

In giving its responses to Interrogatories as to asbestos-containing products, U.S. Gypsum refers to products containing commercial asbestos as part of their formulation and to the type of commercial asbestos used as part of the formulation.

OBJECTIONS

U.S. Gypsum objects to the manner in which plaintiff has defined U.S. Gypsum to the extent that plaintiff purports to include in its definition of U.S. Gypsum predecessors-in-interest, subsidiaries, and successors-in-interest of the corporate defendant. In that U.S. Gypsum Company is the named defendant, this definition is overly broad and would require U.S. Gypsum to engage in unduly burdensome research, divulge privileged information and produce privileged documents. This defendant, United States Gypsum Company, responds to these Interrogatories on behalf of itself.

U.S. Gypsum further objects to these Interrogatories to the extent they seek information or documents protected by the attorney-client privilege and the work product rule and to the extent they seek trial preparation or expert materials or documents.

Finally, U.S. Gypsum objects to these Interrogatories to the extent they ask for "identification" of voluminous documents on the ground that they are overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. As set forth infra, U.S. Gypsum will produce documents which are the proper subjects of an appropriate document request.

ANSWERS AND OBJECTIONS TO INTERROGATORIES

INTERROGATORY NO. 1:

For each document listed below, please answer whether such document is a true and correct duplicate of a genuine and authentic document:

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
a) USG22	1932 Transactions - National Safety Council
b) USG23	1933 Transactions - National Safety Council
c) USG82	Memo 10/10/68 Kirkland to Reckett
d) USG83	Letter 10/17/68 Kempthorne to Setterberg
e) USG102	Memo 11/25/69 CCT to Diersen
f) USG116	Letter 8/25/71 Bradley Walls to Principals and Representatives of Health & Safety Council / ACPA

ANSWER:

a) USG 22: This document has not been found in the files of United States Gypsum Company and United States Gypsum Company cannot confirm said document was produced to it during the course of the asbestos litigation. United States Gypsum Company has made reasonable inquiry and the information known or readily obtainable by it is insufficient to enable it to either admit or deny whether said document is genuine, authentic, an accurate copy of the original, is a business record of another company or organization, was made contemporaneously to the event, activity or occurrence, was made in course of a regularly conducted business activity or whether it was a regular practice for that business activity to make such document.

b) US 23: This document has not been found in the files of United States Gypsum Company and United States Gypsum Company cannot confirm said document was produced to it during the course of the asbestos litigation. United States Gypsum Company has made reasonable inquiry and the information known or readily obtainable by it is insufficient to enable it to either admit or deny whether said document is genuine, authentic, an accurate copy of the original, is a business record of another company or organization, was made contemporaneously to the event, activity or occurrence, was made in course of a regularly conducted business activity or

whether it was a regular practice for that business activity to make such document.

c) US 82: United States Gypsum Company admits that this document appears to be an accurate copy of a document obtained during the course of litigation from its former subsidiary, Canadian Gypsum Company, but this document was not contained within the files of United States Gypsum Company. Therefore, this defendant is unable to answer whether such document is a true and correct duplicate of a genuine and authentic document.

d) US 83: United States Gypsum Company admits that this document is an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company has made reasonable inquiry and the information known or readily obtainable by it is insufficient to enable it to either admit or deny that this document is genuine, authentic, a business record, that it was made in the course of a regular practice of that business activity to make the document or that this document was made at or near the time of the event.

e) US 102: This defendant admits that this document is genuine, authentic, and an accurate copy of a document found within the files maintained by United States Gypsum Company.

f) USG 116: This defendant admits that this document is an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company has made reasonable inquiry and the information known or readily obtainable by it is insufficient to enable it to either admit or deny that this document is genuine, authentic, a business record, that it was made in the course of a regular practice of that business activity to make the document or that this document was made at or near the time of the event.

INTERROGATORY NO. 2:

For each document listed below, please answer whether such document was kept and/or generated in the regular course of a regularly conducted business activity of any United States Gypsum Company Entity by an employee or representative of any United States Gypsum Company Entity with knowledge of the act, event, condition or opinion recorded.

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
a) USG22	1932 Transactions - National Safety Council
b) USG23	1933 Transactions - National Safety Council
c) USG82	Memo 10/10/68 Kirkland to Reckett

- d) USG83 Letter 10/17/68 Kempthorne to Setterberg
- e) USG102 Memo 11/25/69 CCT to Diersen
- f) USG116 Letter 8/25/71 Bradley Walls to Principals and
Representatives of Health & Safety Council /
ACPA

ANSWER:

- a) USG 22: Not to this defendant's best current knowledge, information or belief.
- b) USG 23: Not to this defendant's best current knowledge, information or belief.
- c) USG 82: United States Gypsum Company admits that this document is a business record of United States Gypsum Company. United States Gypsum Company admits that this document is a business record of its former subsidiary, Canadian Gypsum Company, that it was made at or near the time of the event referred to or by information transmitted by a person with knowledge, that it was made in the course of a regularly conducted business activity and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that the document was prepared by or at the direction of United States Gypsum Company.
- d) USG 83: United States Gypsum Company denies that the document was prepared by or at the direction of United States Gypsum Company.
- e) USG 102: United States Gypsum Company admits that this document was prepared by or at the direction of United States Gypsum Company, that the document was made at or near the time of the event and that it was made in the course of a regularly conducted business activity, and that it was the regular practice of that business activity to make the document. United States Gypsum Company denies that all statements made in the document were made by or from information transmitted by a person with knowledge, and United States Gypsum Company therefore denies that this document is a business record and reserves the right to object to the admission into evidence of such document as hearsay.
- f) UGS 116: United States Gypsum Company denies that this document was prepared by or at the direction of United States Gypsum Company.

INTERROGATORY NO. 3:

For each document listed below, please answer whether such document was found in your files in such a condition as to create no suspicion concerning its authenticity.

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
a) USG22	1932 Transactions - National Safety Council
b) USG23	1933 Transactions - National Safety Council
c) USG82	Memo 10/10/68 Kirkland to Reckett
d) USG83	Letter 10/17/68 Kempthorne to Setterberg
e) USG102	Memo 11/25/69 CCT to Diersen
f) USG116	Letter 8/25/71 Bradley Walls to Principals and Representatives of Health & Safety Council / ACPA

ANSWER:

a) USG 22 Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, a copy of this document was not found in this defendant's files.

b) USG23 Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, a copy of this document was not found in this defendant's files.

c) USG82 Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, a copy of this document was not found in this defendant's files.

d) USG83 Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, this defendant admits that this document is an accurate copy of a document found within the files maintained by United States Gypsum Company.

e) USG102 Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection,

defendant admits that this document is an accurate copy of a document found within the files maintained by United States Gypsum Company.

f) USG116 Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, defendant admits that this document is an accurate copy of a document found within the files maintained by United States Gypsum Company.

INTERROGATORY NO. 4:

Has United States Gypsum Company stipulated or agreed to the authenticity of any of the documents referenced in Interrogatory No. 1 with any person prior to the date of these Interrogatories?

ANSWER:

a) USG 22: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U.S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

b) USG 23: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U.S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

c) USG 82: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U.S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

d) USG 83: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U.S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

e) USG 102: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U.S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

f) USG 116: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U.S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

VERIFICATION

I, F. M. Poremski, declare:

I am the Director, Financial & Accounting Services, of United States Gypsum Company, one of the above named defendants, and am authorized to make this verification for and on behalf of said company;

I have read the foregoing Answers, Objections, and other Responses to Plaintiffs' Interrogatories and am informed and believe that the same is true and on that ground allege that the matters therein stated are true.

I declare, under penalty of perjury, that the foregoing is true and correct, and that this declaration was executed on May 11, 1994 in Chicago, Illinois.

F. M. Poremski

F. M. Poremski

Subscribed and sworn to before me
this 11th day of May, 1994.

Sally A. Bednarek
Notary Public

