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ASB-FBT-CV-15-6049135-S

HAROLD DUSTO AND ANITA DUSTO

vs.

ROGERS CORP., et al.

SUPERIOR COURT

J.D. OF FAIRFIELD

AT BRIDGEPORT

DEFENDANT, ROGERS CORPORATION'S RESPONSES TO PLAINTIFFS'
THIRD SUPPLEMENTAL SET OF DISCOVERY REQUESTS

Defendant Rogers Corporation ("Rogers"), by and through their counsel, Pierce Davis & Perritano, hereby provides its responses to the plaintiffs' Third Supplemental Set of Requests for Discovery including, Interrogatories and Requests for Production of Documents (collectively "Discovery Requests") as follows:

PRELIMINARY STATEMENT

Rogers's responses to each of these Discovery Requests ("Responses") incorporates these Preliminary Statements:

1. The information supplied in these Responses is based upon the institutional knowledge of Rogers, contemporaneous hereto, which includes substantial information assembled by or within the knowledge of Rogers' authorized employees, officers, agents, representatives, and – unless privileged – attorneys. Because much of the information assembled over the years concerns events of many years ago, it is difficult, if not impossible, for Rogers to retrieve or reconstruct the source of some of that information. Many of the individuals who had personal knowledge of the information assembled are deceased or are otherwise unavailable to Rogers, and some documents with information used as a source of Rogers' institutional knowledge may have been inadvertently lost or destroyed within the ordinary course of business, if such documents ever existed. Rogers is engaged in a continuing investigation in an attempt to locate or confirm the absence of such information or documents that form the basis of Rogers' institutional knowledge. Therefore, Rogers reserves the right to amend these Responses if new or more accurate information becomes available or errors are discovered. Furthermore, these Responses are given without prejudice to Rogers' right to rely on at trial subsequently discovered information or on information inadvertently omitted from these Responses as a result of mistake, error, or oversight. However, nothing contained in this Preliminary Statement shall be construed to place an obligation on Rogers to amend these Responses beyond what is required per the Connecticut Rules of Civil Procedure and case law of this jurisdiction.

2. These Discovery Requests have been interpreted and answered to the best of Rogers' ability based on the common and plain meanings and grammatical English usage of the Requests as written, and – to the extent not specifically challenged by objection – the definitions

and instructions, if same were included. Where Plaintiffs have included vague and ambiguous terms in these Discovery Requests, without the benefit of a definition, Rogers will attempt to respond as complete as possible using the common meaning of the term or as defined by the Oxford English Dictionary (2d ed.). Where Rogers objects to a Discovery Request as vague and ambiguous, but nevertheless attempts to provide a response, such response is given to Rogers' best interpretation of the meaning of the Interrogatory and that meaning is to be construed broadly in Rogers' favor to support its own interpretation of the meaning or intention of the Interrogatory and the information sought therein.

3. Rogers is engaged in a continuing investigation with respect to the matters inquired into by these Discovery Requests. These Responses are made to the best of Rogers's knowledge, information, and belief, as of the date of the verification of these Discovery Requests, and Rogers reserves the right to supplement these Responses pursuant to the Connecticut Rules of Civil Procedure and any discovery orders of this Court, should it obtain additional information through its investigation.

4. If any Response to these Discovery Requests are different from, or contrary to, and prior Responses of Rogers in any other Discovery Requests – whether in this matter or others – these Responses control, and such prior Responses shall be deemed null and void or amended to reflect the Response stated herein.

5. In responding to these Discovery Requests, Rogers does not concede the relevancy, materiality, or admissibility of any information sought by the Discovery Requests or any responses thereto. These Responses are made subject to and without waiver of any questions or objections as to the competency, relevancy, materiality, privilege, or admissibility of evidence, documents, or information referred to herein, or the subject matter thereof, in any proceeding including trial.

ANSWERS TO INTERROGATORIES

1. Did the defendant ever provide written notice to Harold Dusto that he had been exposed at any time to airborne concentrations of asbestos fibers in excess of an 8-hour time-weighted average of 5 fibers, longer than 5 micrometers, per cubic centimeter of air? If so, please state all dates on which such written notice was provided to Harold Dusto.

RESPONSE: Rogers objects to this Interrogatory on the basis that the term "exposed" is vague and not adequately defined to allow Rogers to fully respond.

Subject to and without waiving the above objections, Rogers states that it is unaware, or has no knowledge, that Mr. Dusto was ever actually exposed to (i.e. breathed in) airborne concentrations of asbestos fibers exceeding 5 fibers per cc over an 8-hour time weighted average. However, Rogers did routinely monitor the air in its factories where asbestos was used and notified employees, including Mr. Dusto of the results. Rogers also routinely conducted medical screenings of employees who worked with or around asbestos and advised those employees, in writing, of the results of those screenings.

2. Did the defendant ever provide written notice to any employees that they had been exposed at any time to airborne concentrations of asbestos fibers in excess of an 8-hour time-weighted average of 5 fibers, longer than 5 micrometers, per cubic centimeter of air? If so, please state all dates on which such written notices were provided and the names of each employee receiving such notices.

RESPONSE: Rogers objects to this interrogatory on the basis that the information sought is not relevant to the subject matter involved in the pending litigation. The Plaintiff's claim against Rogers seeks to circumvent the exclusive remedy afforded to the plaintiff under Connecticut's Workers' Compensation Act C.G.S.A §§31-284(a), et seq. by showing that Rogers actually intended to injure the plaintiff or intentionally created a dangerous condition that made the plaintiff's injuries substantially certain to occur.

Rogers also objects to this Interrogatory on the basis that the term "exposed" is vague and not adequately defined to allow Rogers to fully respond.

3. Did the defendant ever provide written notice to Harold Dusto that he had been exposed at any time to airborne concentrations of asbestos fibers in excess of 10 fibers, longer than 5 micrometers, per cubic centimeter of air? If so, please state all dates on which such written notice was provided to Harold Dusto.

RESPONSE: Rogers objects to this Interrogatory on the basis that the term "exposed" is vague and not adequately defined to allow Rogers to fully respond.

Subject to and without waiving the above objections, Rogers states that it is unaware, or has no knowledge, that Mr. Dusto was ever actually exposed to (i.e. breathed in) airborne concentrations of asbestos fibers exceeding 10 fibers per cc. However, Rogers did routinely monitor the air in its factories where asbestos was used and notified employees, including Mr. Dusto of the results. Rogers also routinely conducted medical screenings of employees

who worked with or around asbestos and advised those employees, in writing, of the results of those screenings.

4. Did the defendant ever provide written notice to any employees that they had been exposed at any time to airborne concentrations of asbestos fibers in excess of 10 fibers, longer than 5 micrometers, per cubic centimeter of air? If so, please state all dates on which such written notices were provided and the names of each employee receiving such notices.

RESPONSE: Rogers objects to this interrogatory on the basis that the information sought is not relevant to the subject matter involved in the pending litigation. The Plaintiff's claim against Rogers seeks to circumvent the exclusive remedy afforded to the plaintiff under Connecticut's Workers' Compensation Act C.G.S.A §§31-284(a), et seq. by showing that Rogers actually intended to injure the plaintiff or intentionally created a dangerous condition that made the plaintiff's injuries substantially certain to occur.

Rogers also objects to this Interrogatory on the basis that the term "exposed" is vague and not adequately defined to allow Rogers to fully respond.

5. Did the defendant ever establish a respirator program in accordance with the requirements of the American National Standards Practices for Respiratory Protection, ANSI Z88.2-1969? If so, please state the date on which the defendant established such program and the names of the people who established it and the names of the people responsible for administering the program.

RESPONSE: Rogers objects to the term "respirator program" as vague and not adequately defined to allow Rogers to fully respond.

Subject to and without waiving the above objections, Rogers did require those employees who worked in operations where there was a possibility of momentary exposure exceeding OSHA specified levels to wear respirators in accordance with the ANSI Z88.2-1969 standard beginning in or around 1971. Based on Rogers' information and belief, Messrs. Murray Kupsaw, Clarence Maron, and Edward Sweeney were responsible for establishing and administering the use of respirators at the Manchester, CT facility.

6. Did the defendant ever provide, and require the use of, special clothing, such as coveralls or similar whole body clothing, head coverings, gloves, and foot coverings for any employee exposed to airborne concentrations of asbestos fibers, which exceeded 10 fibers, longer than 5 micrometers, per cubic centimeter of air? If so, please state the date on which the defendant first provide and required the use of such clothing and the names of the people responsible for administering the use of such clothing.

RESPONSE: Rogers objects to the term "exposed" as vague and not adequately defined to allow Rogers to fully respond.

Subject to and without waiving the above objections, Rogers states that it is unaware, or has no knowledge, that any employee was ever actually exposed to (i.e. breathed in) airborne concentrations of asbestos fibers exceeding 10 fibers per cc. However, Rogers did

provide employees with work clothes, change rooms, showers, and separate lockers for their work clothes and street clothes. The dirty work clothes were stored in a closed container until such time as they were picked up by a laundry service.

7. Did the defendant ever monitor every employee at its Manchester factory to determine whether every employee's exposure to asbestos fibers was below an 8-hour time-weighted average of 5 fibers, longer than 5 micrometers, per cubic centimeter of air?

RESPONSE: Rogers conducted routine air sampling analyses on a regular basis throughout the plant in general and personally for those employees who worked with or around asbestos to monitor that levels of asbestos concentrations were within OSHA specified levels.

8. Did the defendant ever monitor every employee at its Manchester factory to determine whether every employee's exposure to asbestos fibers was below 10 fibers, longer than 5 micrometers, per cubic centimeter of air?

RESPONSE: See Rogers' answer to Interrogatory No. 7, which it fully incorporates herein.

9. Did the defendant ever post caution signs at each location in its Manchester factory where airborne concentrations of asbestos fibers may be in excess of occupational exposure limits set by the Occupational Safety and Health Administration? If so, please state:

- a. all dates that such caution signs were posted
- b. all locations where such caution signs were posted
- c. the text of all such caution signs
- d. describe how those caution signs changed over time, if at all
- e. identify the people responsible for posting the caution signs
- f. identify the people responsible for administering any policies, procedures or changes to such caution signs

RESPONSE: Rogers objects to the term "each location in its Manchester factory" as it is vague and ambiguous and not adequately defined or limited in scope to allow Rogers to fully respond. Rogers also objects to the request in this Interrogatory for "all dates" and "all locations" where signs were posted as Rogers does not have that information readily available to it and it would be unduly burdensome, if not impossible, for Rogers to identify each and every specific date and location that a warning sign may have been posted.

Subject to and without waiving the above objections, Rogers states that beginning in or about 1972, caution signs conforming to OSHA specified sizes, coloring and lettering were posted in areas where asbestos was being used. Based on Rogers information and belief, Messrs. Murray Kupsaw, Clarence Maron, and Edward Sweeney were responsible for establishing and administering the policy of posting warning signs at the Manchester, CT facility.

10. Did the defendant ever affix caution labels to all asbestos-containing raw materials, mixtures, scrap, waste, debris and other products containing asbestos stored, handled or used at its Manchester factory? If so, please state:

- a. all dates that such caution labels were posted
- b. all locations where such caution labels were posted
- c. the text of all such caution labels
- d. describe how those caution labels changed over time, if at all
- e. identify the people responsible for posting the caution labels
- f. identify the people responsible for administering any policies, procedures or changes to such caution labels

RESPONSE: Rogers objects to the term “mixtures” as it is vague and ambiguous and not adequately defined or limited in scope to allow Rogers to fully respond. Rogers also objects to the terms “scrap”, “waste”, and “debris” listed separately in this Interrogatory as if each had a different meaning, but where the plaintiffs have failed to give specific meanings to each, thus making them vague and ambiguous to Rogers. Rogers therefore will treat each term as synonymous to “waste” as that term is commonly understood. Rogers also objects to the request in this Interrogatory for “all dates” and “all locations” where signs were posted as Rogers does not have that information readily available to it and it would be unduly burdensome, or possibly impossible, for Rogers to identify each and every specific date and location that a warning sign may have been posted.

Subject to and without waiving the above objections, Rogers states that beginning in or about 1972, caution labels conforming to OSHA specifications were affixed to all raw materials, mixtures, scrap, waste, debris, and products containing asbestos. Based on Rogers’ information and belief, Messrs. Murray Kupsaw, Clarence Maron, and Edward Sweeney were responsible for establishing and administering the policy of affixing caution or warning labels at the Manchester, CT facility.

11. Did the defendant ever keep all external surfaces in its Manchester factory free of accumulations of asbestos fibers where if, with their dispersion, there would be an excessive concentration? If so, please state:

- a. The manner in which such external surfaces were maintained
- b. The people responsible for maintaining such external surfaces
- c. The people responsible for policies and procedures pertaining to the maintenance of such external surfaces

RESPONSE: Rogers objects to the term “external surfaces” as it is vague and ambiguous and not adequately defined by the plaintiffs to allow Rogers to adequately respond. Rogers also objects to the term “excessive concentration” as that term is not adequately defined by the plaintiffs.

12. Did the defendant collect and dispose of asbestos waste, scrap, debris, bags, containers, equipment, and asbestos-contaminated clothing, consigned for disposal, in sealed impermeable bags, or other closed, impermeable containers? If so, please state:

- a. A specific description of the manner in which such collection and disposal occurred from 1970 through 1991
- b. A specific description of how the collection and disposal of such materials was handled over time from 1970 through 1991
- c. The people responsible for the collection and disposal of such materials from 1970 through 1991
- d. The people responsible for policies and procedures pertaining to the collection and disposal of such materials from 1970 through 1991

RESPONSE: Yes. Rogers objects to subparts a. and b. in that each requests that Rogers provides a “specific description” of its process for collecting and disposing of asbestos containing materials and clothing over a 20 year period without adequately defining or limiting in scope what specifics the plaintiffs are seeking. Subject to and without waiving those objections, Rogers states that asbestos containing waste and asbestos contaminated clothing was collected and stored in sealed, impermeable bags or containers. Waste was disposed of in waste facility sites approved by Federal and state regulations to handle asbestos waste, while asbestos contaminated clothing was laundered in such a manner to prevent release of fibers and the person or persons doing such laundry service were notified of the fact that the clothing may be contaminated with asbestos. Rogers has no records or knowledge of the persons responsible for the collection and disposal of asbestos containing waste, or the laundering of asbestos contaminated clothing, including whether such persons were employees of Rogers or third-party contractors. Based on Rogers’ information and belief, Messrs. Murray Kupsaw, Clarence Maron, and Edward Sweeney were responsible for establishing and administering the policy of collecting and disposing of asbestos containing waste and laundering of asbestos contaminated clothing at the Manchester, CT facility.

REQUESTS FOR PRODUCTION

1. Please produce complete color copies of any and all written notices provided to Harold Dusto pertaining to whether he had exposures to airborne asbestos in excess of 5 fiber/cc as an 8-hour time-weighted average, as referenced in the preceding interrogatories.

RESPONSE: Rogers objects to this Interrogatory on the basis that the term “exposed” is vague and not adequately defined to allow Rogers to fully respond.

Subject to and without waiving the above objections, Rogers states that it is unaware, or has no knowledge, that Mr. Dusto was ever actually exposed to (i.e. breathed in) airborne concentrations of asbestos fibers exceeding 5 fibers per cc over an 8-hour time weighted average. However, Rogers refers the plaintiffs to previously produced records labeled as “Rogers (Dusto-CT) 000001 – 000147” and sent on July 23, 2019, as well as Rogers’ production of documents enclosed with these responses and labelled as “Rogers (Dusto – CT) 000148 – 013616”.

2. Please produce complete color copies of any and all written notices provided to any and all employees of the Manchester factory pertaining to whether they had exposures to airborne asbestos in excess of 5 fiber/cc as an 8-hour time-weighted average, as referenced in the preceding interrogatories.

RESPONSE: Rogers objects to this interrogatory on the basis that the information sought is not relevant to the subject matter involved in the pending litigation. The Plaintiff's claim against Rogers seeks to circumvent the exclusive remedy afforded to the plaintiff under Connecticut's Workers' Compensation Act C.G.S.A §§31-284(a), et seq. by showing that Rogers actually intended to injure the plaintiff or intentionally created a dangerous condition that made the plaintiff's injuries substantially certain to occur.

Rogers also objects to this Interrogatory on the basis that the term "exposed" is vague and not adequately defined to allow Rogers to fully respond.

3. Please produce complete color copies of any and all written notices provided to Harold Dusto pertaining to whether he had exposures to airborne asbestos in excess of 10 fiber/cc, as referenced in the preceding interrogatories.

RESPONSE: After a reasonable search, Rogers has found no responsive documents in its possession, custody, or control.

4. Please produce complete color copies of any and all written notices provided to any and all employees of the Manchester factory pertaining to whether they had exposures to airborne asbestos in excess of 10 fiber/cc, as referenced in the preceding interrogatories.

RESPONSE: Rogers objects to this interrogatory on the basis that the information sought is not relevant to the subject matter involved in the pending litigation. The Plaintiff's claim against Rogers seeks to circumvent the exclusive remedy afforded to the plaintiff under Connecticut's Workers' Compensation Act C.G.S.A §§31-284(a), et seq. by showing that Rogers actually intended to injure the plaintiff or intentionally created a dangerous condition that made the plaintiff's injuries substantially certain to occur.

Rogers also objects to this Interrogatory on the basis that the term "exposed" is vague and not adequately defined to allow Rogers to fully respond.

5. Please produce complete color copies of any and all documents, records or other tangible things pertaining to the defendant's respirator program, as referenced in the preceding interrogatories.

RESPONSE: Rogers objects to the term "respirator program" as vague and not adequately defined to allow Rogers to fully respond.

Subject to and without waiving the above objections, Rogers refers the plaintiffs to previously produced records labeled as "Rogers (Dusto-CT) 000001 – 000147" and sent on

July 23, 2019, as well as Rogers' production of documents enclosed with these responses and labelled as "Rogers (Dusto - CT) 000148 - 013616".

6. Please produce complete color copies of any and all documents, records or other tangible things pertaining to the defendant's use of special clothing, as referenced in the preceding interrogatories.

RESPONSE: Rogers refers the plaintiffs to previously produced records labeled as "Rogers (Dusto-CT) 000001 - 000147" and sent on July 23, 2019, as well as Rogers' production of documents enclosed with these responses and labelled as "Rogers (Dusto - CT) 000148 - 013616".

7. Please produce complete color copies of any and all documents, records or other tangible things pertaining to the defendant's monitoring for airborne asbestos fibers in its Manchester factory, including but not limited to reports of all personal samples, reports of all area samples, and all written policies and procedures regarding monitoring for airborne asbestos.

RESPONSE: Rogers refers the plaintiffs to previously produced records labeled as "Rogers (Dusto-CT) 000001 - 000147" and sent on July 23, 2019, as well as Rogers' production of documents enclosed with these responses and labelled as "Rogers (Dusto - CT) 000148 - 0135xx".

8. Please produce complete color copies of any and all documents, records or other tangible things pertaining to the defendant's posting of asbestos caution signs around the Manchester factory, as referenced in the preceding interrogatories, including but not limited to representatives samples of all such caution signs and all written policies and procedures regarding the posting of asbestos caution signs.

RESPONSE: Rogers refers the plaintiffs to previously produced records labeled as "Rogers (Dusto-CT) 000001 - 000147" and sent on July 23, 2019, as well as Rogers' production of documents enclosed with these responses and labelled as "Rogers (Dusto - CT) 000148 - 013616".

9. Please produce complete color copies of any and all documents, records or other tangible things pertaining to the defendant's use of asbestos caution labels in the Manchester factory, as referenced in the preceding interrogatories, including but not limited to representatives samples of all such caution labels and all written policies and procedures regarding the use of asbestos caution labels.

RESPONSE: Rogers refers the plaintiffs to previously produced records labeled as "Rogers (Dusto-CT) 000001 – 000147" and sent on July 23, 2019, as well as Rogers' production of documents enclosed with these responses and labelled as "Rogers (Dusto – CT) 000148 – 013616".

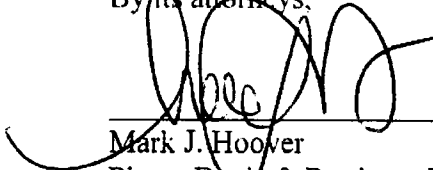
10. Please produce complete color copies of any and all documents, records or other tangible things pertaining to the defendant's policies, procedures and efforts to keep all external surfaces in its Manchester factory free of accumulations of asbestos fibers where if, with their dispersion, there would be an excessive concentration.

RESPONSE: Rogers objects to the term "external surfaces" as it is vague and ambiguous and not adequately defined by the plaintiffs to allow Rogers to adequately respond. Rogers also objects to the term "excessive concentration" as that term is not adequately defined by the plaintiffs.

11. Please produce complete color copies of any and all documents, records or other tangible things pertaining to the defendant's policies, procedures and efforts to collect and dispose of asbestos waste, scrap, debris, bags, containers, equipment, and asbestos-contaminated clothing, consigned for disposal, in sealed impermeable bags, or other closed, impermeable containers.

RESPONSE: Rogers refers the plaintiffs to previously produced records labeled as "Rogers (Dusto-CT) 000001 – 000147" and sent on July 23, 2019, as well as Rogers' production of documents enclosed with these responses and labelled as "Rogers (Dusto – CT) 000148 – 013616".

Respectfully submitted,
The Defendant,
ROGERS CORPORATION,
By its attorneys,



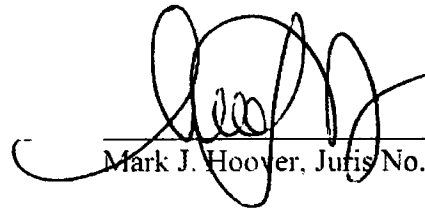
Mark J. Hoover
Pierce Davis & Perritano LLP
10 Post Office Square, Suite 1100N
Boston, MA 02109
(617) 350-0950
Juris No. 410899

Date: November 25, 2019

CERTIFICATION

I, Mark J. Hoover, hereby certify that a true copy of the above document was served electronically via e-mail to the following Plaintiff's counsel on November 25, 2019:

Christopher Meisenkothen
Early, Lucarelli, Sweeney & Meisenkothen, LLC
265 Church Street
P.O. Box 1866
New Haven, CT 06508-1866



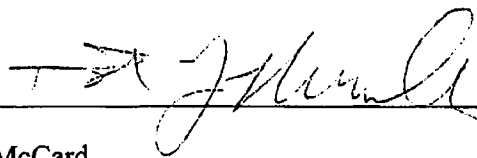
Mark J. Hoover, Jufis No. 410899

VERIFICATION OF ROBERT MCCARD

COMES NOW, ROBERT MCCARD, who, after being first duly sworn, deposes and states under penalty of perjury, as follows: COMES NOW, ROBERT MCCARD, who, after being first duly sworn, deposes and states under penalty of perjury, as follows:

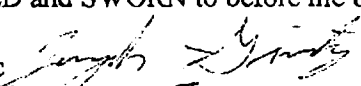
1. I am Associate General Counsel for Rogers Corporation. My business address is Rogers Corporation, 2225 W. Chandler Blvd., Chandler AZ 85224.
2. I am over eighteen years of age, have never been convicted of a felony, and am competent in all respects to make this verification.
3. I am authorized on behalf of Rogers Corporation to sign the foregoing Responses to the plaintiff's Third Supplemental Interrogatories, and Requests for Production in the matter styled, *Harold and Anita Dusto v. Rogers Corp., et al.*, Superior Court, J.D. of Fairfield at Bridgeport, ASB-FBT-CV-15-6049135-S. I make this verification with the assistance and advice of counsel and other representatives of Rogers Corporation;
4. While I do not have personal knowledge of all the facts recited in these Responses, they were prepared at my direction, and are true to the best of my knowledge, information and belief, based on the contemporaneous institutional knowledge of Rogers as described in the Preliminary Statement to these Responses.

FURTHER AFFIANT SAYTH NAUGHT.



Robert McCard
Rogers Corporation

SUBSCRIBED and SWORN to before me by the Affiant on this 8th day of November, 2019.

Notary Public 

My Commission expires June 30 2021

