

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

BARBARA J. RHOTON, INDIVIDUALLY,
AND AS PERSONAL REPRESENTATIVE
OF THE HEIRS AND ESTATE OF LENNY
DALE RHOTON, SR., DECEASED,

CASE NO. 434065

Plaintiffs,
HANNA)

(JUDGE HARRY A.

-vs-

A-BEST PRODUCTS COMPANY, ET AL.,

Defendants.

**RESPONSES TO PLAINTIFF'S REQUESTS FOR PRODUCTION
OF DOCUMENTS PROPOUNDED TO
ASBESTOS CORPORATION, LTD.**

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

The responses to the plaintiff's discovery requests directed to defendant set forth herein are subject to, and without in any way, waiving or intending to waive: (a) All questions as to competency, relevancy, materiality, privilege and admissibility as evidence for any purpose, of any of the information set forth in the responses herein, in any subsequent proceeding in, or the trial of, this action or any other actions; and (b) the right to object to other discovery procedures involving or related to the subject matter of the responses set forth herein.

The defendant, Asbestos Corporation Ltd., objects to all questions and requests for production of documents which refer or relate to documents on the grounds that the defendant, Asbestos Corporation Ltd., is prohibited from disclosing such information by the requirements of the Quebec Business Concerns Records Act, Chapter D-12 of the Revised Statutes of Quebec (1977). (Hereinafter, QBCRA). Further, the defendant, Asbestos Corporation Ltd., objects to all questions which refer or relate to documents on the grounds that such requests require the defendant to locate and segregate an indefinite number of documents which is unduly burdensome.

The defendant, Asbestos Corporation Ltd., objects to each question and request for documents to the extent that it requests the disclosure of information or documents incorporating or containing information which is protected by the attorney/client privilege, the work product privilege or other privileges, or which is material prepared in anticipation of litigation or for trial within the meaning of the Ohio Rules of Civil Procedure, upon the ground that privileged matter is exempt from discovery, and trial preparation materials may only be discoverable upon the

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terms set forth in Rule 26(B)(3) and (4) of the Ohio Rules of Civil Procedure.

The defendant, Asbestos Corporation Ltd., objects to each question and request for production of documents to the extent that it seeks the disclosure of information, documents or data which is beyond the permissible scope of Rule 26(B)(1) of the Ohio Rules of Civil Procedure as being irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence.

The defendant, Asbestos Corporation Ltd., objects to each question and request for production of documents to the extent that it is vague, ambiguous, confusing or overbroad and otherwise lacks sufficient precision or particularity to permit formation of a response.

The defendant, Asbestos Corporation Ltd., objects to each question and document request to the extent that it calls for a response, identification of documents or other action by this defendant relating to any product or fiber of any defendant other than this defendant; relating to any occupation or category of employment in which plaintiff alleges he was a member, or calls for a response, identification of documents or other action by the defendant beyond that required by Rule 34 of the Ohio Rules of Civil Procedure.

The defendant, Asbestos Corporation Ltd., objects to each question and document request to the extent that it requests the defendant to respond on behalf of any entity other than this defendant, and to the extent that it seeks information or documents from or with respect to other entities, which information is not available to this defendant and which documents are not within the possession, custody or control of this defendant, upon the grounds that such request exceeds the permissible scope of discovery under Rule 34 of the Ohio Rules of Civil Procedure.

The defendant, Asbestos Corporation Ltd., objects to each question and document request on the grounds that it is overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it requests specific information regarding asbestos fiber and/or types and brand names of products which have not been identified by the plaintiffs as those they were exposed to. Furthermore, the dates relevant to this action are confined to the time period in which the plaintiffs claim exposure to this defendant's asbestos. These time periods have not yet been totally provided to this defendant.

Furthermore, Asbestos Corporation Ltd. objects to the instructions and definitions supplied by plaintiffs with regard to these interrogatories and requests, on the basis that the definitions are overbroad, vague and often inconsistent with the normal usage and meaning of such words, and the instructions are overbroad, burdensome and constitute an unreasonable expansion of the requests themselves. Asbestos Corporation Ltd. therefore gives notice that it does not consider itself bound by the instructions and definitions propounded by plaintiff, and instead shall answer the requests in a manner consistent with a normal understanding of the language used in the request and to the extent necessary to fairly and fully answer the requests.

Without waiving any of these objections, the defendant herein responds as follows.

TO: ASBESTOS CORPORATION, LTD., by and through its attorneys of record, Terrance P. Gravens and John R. Christie, Rawlin, Gravens & Franey Co., L.P.A., 1240 Standard Building, Cleveland, Ohio 44113.

Asbestos Corporation, Ltd. ("Defendant") is hereby requested to objects or tangible things

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for inspection, copying, reproduction and photographing within twenty-eight (28) days of the time service is made upon Defendant, in accordance with Ohio Civil Rule 34. For purposes of these Requests for Production, the following definitions apply:

DEFINITIONS

1. The words "Defendant," "You," "Your," or "Your company," all mean the corporate Defendant separately answering these Interrogatories, and any of its merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries, foreign subsidiaries of predecessors, and/or affiliates. This includes, but is not limited to, those known to have mined, manufactured, sold, marketed, utilized or distributed asbestos or asbestos-containing products or that incorporated asbestos or asbestos-containing products at any work site. This definition includes present and former officers, directors, servants, agents, employees, and all other persons acting or purporting to act on behalf of the corporate Defendant or its predecessors, subsidiaries, and/or affiliates known to have mined, manufactured, sold, marketed, utilized or distributed asbestos or asbestos-containing products. "Predecessors" means any business firm, whether or not incorporated, which had all or some of its assets purchased by you or came to be acquired by you whether by merger, consolidation, or otherwise known to have mined, manufactured, sold, marketed, utilized, or distributed asbestos or asbestos-containing products. "Subsidiaries" means any business firm, whether or not incorporated, which is or was in any way owned or controlled, in whole or in part by Defendant or its predecessors and which is known to have mined, manufactured, sold, marketed, utilized or distributed asbestos or asbestos-containing products.

2. "Document" includes, but is not limited to, correspondence, letter, memoranda, message, note, report, cable, telegram, photograph, film, tape, and all other written communications of every kind and character; note, recording disk, or any other record of oral communication; microfilm; worksheet; schedule; exhibit; demonstrative aid; letter; contract; agreement; deeds, bills of sale, deeds of trust, security agreements, leases and other instruments or documents of title; maps; diagrams; logs; summaries; printouts; graphs, charts; compilations, tables; publications; manuals; minutes; by-laws; articles of incorporation; resolution; shareholder endorsements; partnership documents; minute books, diaries; calendars, bank statements, tax returns; lists; tapes, video tapes; and any other data compilations from which information can be obtained and translated.

3. "Identify" means to give the date, title, origin, author, and addressee to enable plaintiff to retrieve it from a file; and further, identify means to give the name, address, position, title, and whether a person is employed or not employed by Defendant.

4. The words "person" or "persons" include natural persons, firms, partnerships, associations, joint ventures, corporations, and any other form of business organization or arrangement, and officers, directors, shareholders, employees, agents, and contractors of any business organization or arrangement.

5. The words "meeting" or "meetings" may mean any coincidence or presence of any persons, whether or not such coincidence or presence was pre-arranged, was formal or informal, or was in connection with some other activity.

6. The words "describe" or "description", when referring to a place, thing, or occurrence, mean to identify with sufficient particularity the place, thing, or occurrence so as to

enable one to locate, examine and fully comprehend or understand the place, thing, or occurrence described.

7. The words "product containing asbestos fibers," "asbestos-containing products," or "asbestos products" all refer to any products or materials prepared in any way for sale and/or distribution that contained any kind of asbestos in any possible form. The words "asbestos materials" refer to any and all materials, substance, or matter used or assembled or fabricated during the manufacture of a product, and that contain at least some asbestos fibers. "Product" includes, but is not limited to, pipecovering, turbines, cement, block, gaskets, packing, plaster, joint compound, floor and ceiling tiles, mastics, boilers, raw fibers, fireproofing, shingles, panels, sheets, boards, millboard, refractory cement, boilers, firebrick, brake and clutch linings, finishing compound, texture, and other construction, building, drywall, lath and insulation materials.

8. The words "design changes," or "modifications" mean alterations in the makeup and/or components of a particular product, including but not limited to, variations in the amount or type of asbestos used in the process of manufacturing the product.

9. The words "distribute," "distributed," "distributor," or "distribution" all refer to the sale, marketing, dispersal and/or shipment of asbestos-containing products for purposes of their sale, resale and/or for purposes of filling orders provided by other business concerns. The word "distributor" specifically refers to a company or its sales representatives, whether dependent or independent, responsible for sales or marketing of products.

10. The words "marketed," or "market" mean and include all efforts to assist in the distribution and/or sale of products. More generally, these terms refer to only efforts on your part or the part of manufacturers or distributors to sell or otherwise distribute products.

11. The words "medical advisory capacity" refer to the duties, abilities or capabilities of any member of Defendant's staff, or any individual or organization who has contracted with Defendant, to provide services of a medical nature, including but not limited to providing medical advice.

12. The words "trade organization," or "trade association" mean any organizations or associations of business or industrial entities that are associated and/or meet for the purpose of achieving common goals and/or exchanging information related to common needs or interests, and/or learning information or facts of interest to the various members of the organization or association.

13. The word "plant" means a manufacturing or assembly facility where products are assembled, manufactured, constructed, fabricated, or where component parts, materials, substances, or matter of such products are fabricated, assembled, or manufactured or are prepared for further fabrication and/or assembly.

14. The word "manufacture," or "manufactured" means to fabricate, to construct, to assemble, prepare for fabrication or assembly, or any other action taken prior to completion of the product or material before the time of its shipment.

15. The words "sales materials," or "written sales materials" mean any and all documents or literature of a promotional nature that were created or printed for the purpose of assisting in the marketing or distribution of the products. Such documentation may include, but is not limited to, sales invoices, order slips, and other written indicia of orders received and sales made.

16. The words "rebranding agreement" mean an agreement of any kind whereby one party to the agreement is provided products by the other party to the agreement and the agreement contemplates that the first party will place the brand name of its choice upon the products, either by repackaging or otherwise, and then proceed to sell, market, distribute and/or place the product in the stream of commerce, utilizing its new brand name.

17. The words "research" or "research department" refer to efforts, whether scientific or otherwise, to develop new and/or different types of products, processes or designs of pre-existing products and is meant to incorporate all efforts that specifically contemplated the possible alteration of products.

18. The words "medical department" refer to an individual or a section or group of individuals working for Defendants, either directly or in a contractual capacity, whose purpose was or is to provide guidance, assistance, or advice concerning any aspects of medical health, including but not limited to, the safety of Defendant's workers and the safety of individuals using products manufactured by Defendant.

19. The words "industrial hygiene surveys" mean surveys, tests, interviews, or other procedures taken or effectuated for the purpose of determining air quality, air contamination, dust content, safety of a facility or hazards at any site or facility.

20. The words "health hazards," or "potential health hazards" refer and relate to any injury, effect, damage, scarring, wound, impairment or disability of any part of the human anatomy, including but not limited to the lungs and lung linings.

21. The words "test" or "testing" are used in their broadest sense, including but not limited to, studies of atmospheric dust samples, studies of the concentration of asbestos in such airborne test samples, studies of the lung conditions of workers (by x-ray or other means of medical surveillance), pulmonary function studies of workers, animal studies, pathological studies, industrial hygiene studies, risk assessment studies, cost-benefit analyses and any other studies on the product concerning health and safety required by any governmental agency.

REQUEST FOR PRODUCTION NO. 1:

Please produce a true and correct copy of each photograph or picture of each asbestos-containing product that Defendant has ever mined, manufactured, sold, marketed, installed, and/or distributed.

RESPONSE: Not applicable to answering defendant, which had no asbestos containing product. Further, see response to Interrogatory No. 5, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 2:

Please produce a true and correct copy of each document which reflects sales of those asbestos-containing products listed in response to Interrogatory No. 5 to any of the job sites listed on Exhibit A, attached hereto.

RESPONSE: See response to Interrogatory No. 8.1, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 3:

Please produce a true and correct copy of each document which reflects sales of Defendant's asbestos-containing products to companies that may have distributed, packaged, labeled, and/or sold Defendant's asbestos-containing products.

RESPONSE: Not applicable to answering defendant which had no asbestos containing products. Further, see response to Interrogatory No. 8, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 4:

Please produce a true and correct copy of each record and/or contract which reflects the sales of Defendant's asbestos-containing products to any of the job sites listed on Exhibit A, attached hereto.

RESPONSE: Not applicable to answering defendant. Further, see response to Interrogatory No. 8.1, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 5:

Please produce a true and correct copy of each record and/or contract which reflects the sales of Defendant's asbestos-containing products to distributors and marketers who may have called on any of the job sites listed on Exhibit A, attached hereto.

RESPONSE: Not applicable to answering defendant. Further, see response to Interrogatory Nos. 8, 8.1 and 8.2, which are incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 6:

Please produce a true and correct copy of each contract and/or work order that reflects contracts for Defendant to have asbestos-containing products installed or removed at any of the job sites listed on Exhibit A, attached hereto.

RESPONSE: Not applicable to answering defendant, which had no contracting units and did not install or remove any asbestos containing products.

REQUEST FOR PRODUCTION NO. 7:

Please produce a true and correct copy of each work order and contract that reflects contract business between Defendant and any of the job sites listed on Exhibit A, attached hereto, for the application of asbestos-containing products.

RESPONSE: Not applicable to answering defendant, which had no contracting units and did not install or remove any asbestos containing products.

REQUEST FOR PRODUCTION NO. 8:

Please produce a true and correct copy of each document relating to the design and preparation of the asbestos-containing products listed in Defendant's answer to Interrogatory No. 5.

RESPONSE: Not applicable. See response to Interrogatory No. 14, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 9:

For each product listed in response to Interrogatory No. 5, please produce a copy of all tests that were conducted to determine any potential health hazards involved in its use or exposure (this Request for Production relates to Plaintiffs' Interrogatory No. 18 previously propounded to Defendant in this litigation).

RESPONSE: Not applicable. See response to Interrogatory No. 18; which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 10:

Please produce a true and correct copy of all documents relating to the testing of any product which Defendant listed in response to Interrogatory No. 5 (this Request for Production relates to Plaintiffs' Interrogatory No. 19 previously propounded to Defendant in this litigation).

RESPONSE: Not applicable. See response to Interrogatory no. 19, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 11:

Please produce a true and correct copy of all tests which Defendant conducted and/or has in its possession to determine potential health hazards involved in the use of or exposure to asbestos products listed in response to Interrogatory No. 5 (this Request for Production relates to Plaintiffs' Interrogatory No. 21 previously propounded to Defendant in this litigation).

RESPONSE: Not applicable. See response to Interrogatory No. 21, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 12:

Please produce a true and correct copy of all studies which Defendant conducted or caused to be conducted concerning the effects of the inhalation of asbestos dust and/or fibers in workers or other persons using, working with and/or around, installing and/or applying any of the asbestos products mined, manufactured, sold, distributed, marketed, installed and/or relabeled for distribution by Defendant or Defendant's predecessor (this Request for Production relates to Plaintiffs' Interrogatory No. 22 previously propounded to Defendant in this litigation).

RESPONSE: Not applicable. See response to Interrogatory no. 22, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 13:

Please produce a true and correct copy of all documents relating to any studies made or caused to be made by Defendant, to determine whether the asbestos-containing products mined, manufactured, sold, marketed, installed or distributed by Defendant or Defendant's predecessor would be hazardous to people (this Request for Production relates to Plaintiffs' Interrogatory No. 23 previously propounded to Defendant in this litigation).

RESPONSE: Not applicable. See response to Interrogatory no. 23, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 14:

Please produce a true and correct copy of all tests in the field which Defendant conducted or caused to be conducted to determine the nature and extent of asbestos dust and/or fiber exposure to insulators, applicators, fellow employees or other workers removing and/or tearing out asbestos-containing products (this Request for Production relates to Plaintiffs' Interrogatory No. 24 previously propounded to Defendant in this litigation).

RESPONSE: Not applicable. See response to Interrogatory no. 24, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 15:

Please produce a true and correct copy of each test which Defendant conducted or caused to be conducted regarding the quantity, quality, or threshold limit value of asbestos dust, fibers, and/or particles to which workers were exposed while using, working with and/or around, installing and/or applying Defendant's asbestos-containing products (this Request for Production relates to Plaintiffs' Interrogatory No. 31 previously propounded to Defendant in this litigation).

RESPONSE: Not applicable. See response to Interrogatory no. 31, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 16:

For each product listed in response to Interrogatory No. 5, please produce a true and correct copy of all promotional or sales material including, but not limited to, brochures, pamphlets, catalogs, packaging, or other written materials of any kind or character.

RESPONSE: Not applicable. See response to Interrogatory No. 5, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 17:

Please produce a true and correct copy of all warnings, cautions, caveats or directions concerning the possible health effects of the products listed in response to Interrogatory No. 5 (this Request for Production relates to Plaintiffs' Interrogatory No. 41 previously propounded to Defendant).

RESPONSE: Not applicable. See response to Interrogatory No. 5, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 18:

Please produce a true and correct copy of all written materials prepared by Defendant or Defendant's predecessors or any of Defendant's subsidiaries indicating how the products listed in response to Interrogatory No. 5 should be used or maintained by the ultimate user (this Request for Production relates to Plaintiffs' Interrogatory No. 43 previously propounded to Defendant).

RESPONSE: Not applicable. See response to Interrogatory Nos. 5 and 43, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 19:

Please produce a true and correct copy of all notices received by Defendant prior to 1968 that any person was claiming injury or had sustained an abnormal x-ray reading as a result of using asbestos-containing products mined, manufactured, sold, marketed, installed, or distributed by Defendant (this Request for Production relates to Plaintiffs' Interrogatory No. 48 previously propounded to Defendant).

RESPONSE: Not applicable. See response to Interrogatory No. 48, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 20:

Please produce a true and correct copy of statements from all people with knowledge of relevant facts to this lawsuit.

RESPONSE: Answering defendant has no such documents.

REQUEST FOR PRODUCTION NO. 21:

Please produce a true and correct copy of all documents which mention, allude or refer to tests performed on breathing devices to prevent the inhalation of asbestos dust and/or fibers (this Request for Production relates to Plaintiffs' Interrogatory No. 52 previously propounded to Defendant).

RESPONSE: Not applicable. See response to Interrogatory No. 52, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 22:

Please produce a true and correct copy of all reports by experts that Defendant may call upon at the trial of this case (this Request for Production relates to Plaintiffs' Interrogatory No. 53 previously propounded to Defendant).

RESPONSE: See response to Interrogatory No. 53, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 23:

Please produce a true and correct copy of all policies of insurance under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

RESPONSE: Objection; overbroad, irrelevant, not reasonably calculated to lead to the discovery of admissible evidence and beyond the scope of permissible discovery. Further, to the extent that this request seeks information, the disclosure of which is prohibited by the QBCRA, it is objected to.

REQUEST FOR PRODUCTION NO. 24:

Please produce a true and correct copy of all notices received by Defendant prior to 1968 that any person was claiming an injury or had sustained an abnormal x-ray reading as a result of using asbestos-containing products, regardless of the manufacturer or seller of the products.

RESPONSE: Objection; overbroad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Further, defendant objects to this request to the extent that it seeks a response on behalf of any other entity.

REQUEST FOR PRODUCTION NO. 25:

Please produce a true and correct copy of all documents, correspondence or communications pertaining to all marketing, sales, negotiations, delivery or distribution of all of your asbestos-containing or industrial insulation products to all Defendants to this lawsuit other than the answering Defendant.

RESPONSE: Not applicable to answering defendant, which had no asbestos containing or industrial insulation products. See answer to Interrogatory No. 8.

REQUEST FOR PRODUCTION NO. 26:

Please produce a true and correct copy of all documents memorializing or referring, relating or pertaining to communications or correspondence among and/or between your officers, director, agents, representatives, employees or consultants and any employer, purchaser or user of your asbestos-containing products, its officers, directors, agents, representatives, employees or consultants which in any way relates, refers or pertains to asbestos, asbestos-containing products, pneumoconiosis, asbestos-related illness, injury or disease, dust or workplace health or safety.

RESPONSE: Not applicable to answering defendant, which had no asbestos containing products. See answer to Interrogatory No. 8.

REQUEST FOR PRODUCTION NO. 27:

Please produce a true and correct copy of all annual reports of Defendant to employees or stock holders for the years 1960 through 1969 and for the past five years.

RESPONSE: Objection; overbroad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Further, to the extent that this request seeks information, the disclosure of which is prohibited by the QBCRA, it is objected to.

REQUEST FOR PRODUCTION NO. 28:

Please produce the originals or true and correct copies of all safety or health manuals, pamphlets or brochures issued by Defendant between 1930 and the present and any documents relating to whom said manuals were issued.

RESPONSE: Objection; overbroad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Since plaintiffs are not alleged to have been employees of answering defendant, its internal operating procedures with respect to its own employees are immaterial, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Further, to the extent that this request seeks

information, the disclosure of which is prohibited by the QBCRA, it is objected to. Without waiving the objection and subject to the objection, no such documents.

REQUEST FOR PRODUCTION NO. 29:

Please produce a true and correct copy of all safe workplace practices manuals, pamphlets or brochures issued by Defendant from 1900 through the present.

RESPONSE: See response to Request No. 28, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 30:

Please produce a true and correct copy of all documents referring, relating or pertaining to the Industrial Health Foundation or the Industrial Hygiene Foundation in the custody, possession or control of Defendant.

RESPONSE: Objection; overbroad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Further, to the extent that this request seeks information, the disclosure of which is prohibited by the QBCRA, it is objected to. Without waiving the objection and subject to the objection, no such documents.

REQUEST FOR PRODUCTION NO. 31:

Please produce a true and correct copy of all documents referring, relating or pertaining to the Trudeau Institute and Saranac Lake Laboratory in the custody, possession or control of Defendant.

RESPONSE: See response to Request No. 30, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 32:

Please produce a true and correct copy of all documents referring, relating or pertaining to the Quebec Asbestos Mining Association (QAMA) in the custody, possession or control of Defendant.

RESPONSE: Objection; overbroad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Further, to the extent that this request seeks information, the disclosure of which is prohibited by the QBCRA, it is objected to.

REQUEST FOR PRODUCTION NO. 33:

Please produce a true and correct copy of all documents referring, relating or pertaining to the National Insulation Manufacturers Association (NIMA) in the custody, possession or control of Defendant.

RESPONSE: See response to Request No. 30, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 34:

Please produce a true and correct copy of all documents referring, relating or pertaining to the Thermal Insulation Manufacturers Association (TIMA) in the custody, possession or control of Defendant.

RESPONSE: See response to Request No. 30, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 35:

Please produce a true and correct copy of all documents relating to any conferences, symposia, or meetings attended by any of your officers, physicians, agents, servants, employees or consultants which in any way considered, discussed, reviewed or made recommendations concerning asbestos-related illness, injury or disease; pneumoconiosis; occupational lung disease; dust; industrial hygiene; and/or worker or workplace health or safety.

RESPONSE: Unknown. It is impossible at this time to know what corporate representatives may have attended such meetings, if any. Also, see answer to Interrogatory No. 40.

REQUEST FOR PRODUCTION NO. 36:

Please produce a true and correct copy of all documents to and/or from Defendant and any person, organization, institution, laboratory, foundation, corporation, entity, board or consultants which refer, relate or pertain to air quality studies, dust counts or dust studies, alleged maximum allowable concentrations (MAC), alleged threshold limit values (TLV) or protection of your employees or any other employees or persons from actual or alleged hazards associated with asbestos exposure.

RESPONSE: Objection; overbroad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence Further, to the extent that this request seeks information, the disclosure of which is prohibited by the QBCRA, it is objected to. Also, since plaintiffs are not alleged to have been employees of answering defendant, its internal operating procedures with respect to its own employees are immaterial, irrelevant and not reasonably calculated to lead to the discovery of admissible

evidence.

REQUEST FOR PRODUCTION NO. 37:

Please produce a true and correct copy of all documents to and/or from Defendant and any person, organization, institution, laboratory, foundation, corporation, entity, board or consultants which refer, relate or pertain to air quality studies, dust counts or dust studies, alleged maximum allowable concentrations (MAC), alleged threshold limit values (TLV) or protection of your employees or any other employees or persons.

RESPONSE: Objection; overbroad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Further, to the extent that this request seeks information, the disclosure of which is prohibited by the QBCRA, it is objected to. Also, since plaintiffs are not alleged to have been employees of answering defendant, its internal operating procedures with respect to its own employees are immaterial, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 38:

Please produce a true and correct copy of all documents to and/or from Defendant involving any physician, industrial hygienist or public health specialist which in any way relates, refers or pertains to asbestos-related injury, illness or disease, pneumoconiosis, occupational lung disease, dust, industrial hygiene or worker or workplace health or safety.

RESPONSE: See response to Request No. 30, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 39:

Please produce a true and correct copy of all photographs, pictures, prints or any visual depiction at any time generated showing workers or any person or persons installing, applying, removing or in any manner handling or utilizing an asbestos-containing product at any time manufactured, sold or distributed by Defendant.

RESPONSE: Not applicable to answering defendant, which had no asbestos containing products.

REQUEST FOR PRODUCTION NO. 40:

Please produce a true and correct copy of all documents pertaining to the acquisition, purchase or sale by Defendant of any asbestos-containing product manufacturing facility or asbestos-containing product or product line.

RESPONSE: Not applicable to answering defendant, which had no asbestos containing products.

REQUEST FOR PRODUCTION NO. 41:

Please produce a true and correct copy of all documents pertaining to the acquisition, purchase or sale by Defendant of any asbestos-containing product from any other Defendant in this case or to any other Defendant in this case.

RESPONSE: Objection; overbroad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence Further, not applicable to answering defendant, which had no asbestos containing products. See answer to Interrogatory No. 8.06.

REQUEST FOR PRODUCTION NO. 42:

For each and every affirmative defense asserted in Defendant's Answer to Plaintiffs' Complaint, the cross-claims or counter-claims of any party against Defendant, produce each and every document which will be offered to prove each and every affirmative defense. For each and every allegation of Defendant in cross-claim(s) asserted by Defendant in this litigation, produce each and every document which will be offered to prove each and every allegation in Defendant's cross-claim(s).

RESPONSE: Answering defendant has no such documents at present. See response to Interrogatory No. 55.1, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 43:

Please produce a true and correct copy of every transcript of testimony of each witness Defendant intends to call at trial.

RESPONSE: Witnesses undetermined at present.

REQUEST FOR PRODUCTION NO. 44:

Please produce a true and correct copy of each and every medical record in the custody, possession or control of Defendant relating to Plaintiffs in this case other than those medical records produced by Plaintiffs and provided to Defendants in this case.

RESPONSE: Answering defendant has no such documents.

REQUEST FOR PRODUCTION NO. 45:

Please produce a true and correct copy of each and every document or other tangible item upon which Defendant will rely for impeachment or rebuttal purposes in the trial of this matter.

RESPONSE: Undetermined and not possible of determination at this time.

REQUEST FOR PRODUCTION NO. 46:

Please produce a true and correct copy of each and every document, recording or other tangible item that constitutes in whole or in part a statement by Plaintiffs or a statement by any of Plaintiffs' witnesses in this matter.

RESPONSE: Answering defendant has no such documents. See response to Interrogatory No. 49, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 47:

Please produce a true and correct copy of each and every photograph, videotape recording or other tangible item that is a photographic representation of Plaintiffs in this matter.

RESPONSE: See response to Request No 46, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 48:

Please produce a true and correct copy of all work records or other tangible items relating to Plaintiffs or their employers.

RESPONSE: See response to Request No 46, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 49:

Please produce a true and correct copy of every transcript, affidavit or sworn statement by each and every witness called by Defendant in any litigation related to insurance that may cover the claims in this case.

RESPONSE: See response to Interrogatory No. 56.1, which is incorporated by reference herein.

REQUEST FOR PRODUCTION NO. 50:

For each document for which any privilege is asserted, produce an index containing the following information:

- (a) Author of document;
- (b) Position, title or affiliation of author;
- (c) Date of document;

- (d) Each recipient of the document
- (e) The position, title or affiliation of each recipient of the document;
- (f) The subject matter of the document with sufficient specificity to determine the matters discussed therein; and
- (g) The privilege(s) asserted.

RESPONSE: Not applicable.

REQUEST FOR PRODUCTION NO. 51:

If Defendant claims that the documents are too voluminous to produce as requested, provide the following:

- (a) The numerical amount of documents responsive to requests herein;
- (b) The method of storage of documents responsive to requests herein;
- (c) The method of organization of documents responsive to requests herein;
- (d) The location of documents responsive to requests herein;
- (e) Whether there is an index or indices, lists, inventories, or other such information for records responsive to requests herein;
- (f) If there is an index, indices, lists, inventories or other such information for records responsive to requests herein, whether such index, indices, lists, inventories or other such information for records responsive herein is printed, or electronically stored, (i.e. listed in a computer, imaged, part of a database, etc.).
- (g) If the index, indices, lists, inventories or other such information for records responsive to requests herein, whether such index, indices, lists, inventories or other such information for records responsive herein is electronically stored, (i.e. listed in a computer, imaged, part of a database, etc.), the method of such storage and software used to create and/or maintain said an index, indices, lists, inventories or other such information for records responsive to requests herein, whether such index, indices, lists, inventories or other such information for records responsive herein.

RESPONSE: Not applicable.

REQUEST FOR PRODUCTION NO. 52

If any answer to requests herein is subject to an ongoing investigation or continuing discovery, provide the following information:

- (a) The person or persons responsible for the ongoing investigation or continuing discovery;
- (b) The means or methods used or being used for the ongoing investigation or continuing discovery;
- (c) The beginning date of such ongoing investigation or continuing discovery.

RESPONSE: Not applicable.

CERTIFICATE OF SERVICE

A copy of the foregoing was served via regular U.S. Mail upon plaintiff's counsel, Ladd R. Gibke, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219 on this 10th day of January 2003.



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JOHN R. CHRISTIE

January 10, 2003

Ladd R. Gibke, Esq.
Baron & Budd
3102 Oak Lawn Avenue
Dallas, TX 75218-4281

Re: *Lenny Dale Rhoton, Sr. and Barbara J. Rhoton*
Cuyahoga County Common Pleas Court Case No. 434065

Dear Mr. Gibke:

Please find enclosed the responses to plaintiffs' requests for production of documents propounded to Asbestos Corporation, Ltd.

Further, based upon the information provided in your discovery and the information available to the undersigned, it does not appear that Asbestos Corporation, Ltd. is a viable defendant in the above-captioned matter.

Also, my client's representative, Richard Dufour and Rick Goldfein and Janet Golup, have indicated that at a meeting with Richard Nemeroff of your office, an agreement was reached wherein your office agreed not to bring litigation against my client.

For all these reasons, I would ask you to consider voluntarily dismissing my client from this case.

I thank you for your attention to this letter.

Very truly yours,



Terrance P. Gravens

TPG/lss

Enclosure