

BARNARD AND GANNON

**PLAINTIFF'S
EXHIBIT**

BW-25a

BARNARD AND GANNON
BY: TIMOTHY B. BARNARD, ESQUIRE
ATTORNEY I.D. NO. 03458
218 WEST FRONT STREET
P. O. BOX 289
MEDIA, PA 19063
(215) 565-4055

ATTORNEY FOR DEFENDANT,
BORG-WARNER CORPORATION

VERNELL LONDON, EXECUTRIX OF
THE ESTATE OF BIRK REED

vs.

FLINTKOTE CO., et al

: COURT OF COMMON PLEAS
:
: PHILADELPHIA COUNTY
:
: MAY TERM, 1983
:
: NO. 6849 (2268)

DEFENDANT BORG-WARNER CORPORATION'S ANSWERS
TO PLAINTIFF'S INTERROGATORIES

Defendant, Borg-Warner Corporation objects to Plaintiff's definition of "asbestos product" as being overbroad, ambiguous, misleading and unlimited in scope. Therefore, without waiving this objection, Borg-Warner has responded to Plaintiff's Interrogatories only with regard to automotive products to which Plaintiff is claiming exposure, i.e., service brake and clutch products, and only with regard to the Borg-Warner divisions which have manufactured or sold them and only with regard to U.S. operations.

1. Please identify each person who has supplied information used in answering these interrogatories and specify the interrogatories for which he is responsible.

Esther G. Boynton, Esquire, Borg-Warner Corporation, is responsible for these Answers, which are based upon information developed through review of numerous documents and communications with many Borg-Warner employees over a period of several years.

2. Identify each person who was questioned or consulted in order to answer these interrogatories.

See Answer to Interrogatory No. 1.

3. Identify each document that was examined, reviewed, and/or used in answering each interrogatory and specify the interrogatory

Objection on grounds that this Interrogatory is overly broad, vague, burdensome and harassing. See response to Interrogatory No. 1.

4. Please state whether or not you are a corporation. If so, state:

- (a) Your correct corporate name;
- (b) The state of incorporation;
- (c) The date of your incorporation;
- (d) the address of your principal place of business;
- (e) The addresses of any other places of business;
- (f) Whether or not you have ever held a certificate of authority to do business in this state;
- (g) Whether or not you have a registered agent for the purpose of accepting service in this state, and if so, the name and present address of that agent;
- (h) State your corporate purposes;
- (i) State whether or not you have or have had subsidiary or predecessor corporation(s), and if so:
 - 1. The name of the subsidiary and/or predecessor;
 - 2. Its date(s) of incorporation, if a corporation;
 - 3. Its state(s) of incorporation;
 - 4. Its corporate purposes.

4. Yes.

(a) Borg-Warner Corporation.

(b-c) Borg-Warner was initially incorporated in Illinois in 1928. It was incorporated as a Delaware corporation on September 20, 1967.

(d) 200 South Michigan Avenue, Chicago, Illinois, 60604.

(e) Objection on grounds that this subpart is overly broad and burdensome. Borg-Warner has hundreds of places of business, most of which have nothing to do with the manufacture of products even arguably relevant to this case. Without waiving this objection, Borg-Warner states that the principal locations of its divisions which have manufactured clutch or service brake products incorporating asbestos-bearing materials are as follows:

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Borg & Beck Division	
6558 South Menard Avenue	6700 18-1/2 Mile Road
Chicago, Illinois 60638	Sterling Heights, Michigan
Rockford Division	
1200 Windsor Road	
Rockford, Illinois 61125-7007	
Spring/Brummer Division	
700 South 25th Avenue	
Bellwood, Illinois 60104	

In our current organization these divisions now are units within a newly-formed subsidiary, Borg-Warner Automotive, Inc.

(f) Yes.

(g) CT Corporation System
123 Broad Street
Philadelphia, PA

(See Attached Sheet.)

(h) To carry on and conduct any and every kind of manufacturing, distribution and service business; to manufacture, process, fabricate, rebuild, service, purchase or otherwise acquire, to design, invent or develop, to import or export, and to distribute, lease, sell, assign, or otherwise dispose of and generally deal in and with raw materials, products, goods, wares, merchandise, and real and personal property of every kind and character; and to provide services of every kind and character; to conduct any lawful business, to exercise any lawful purpose and power, and to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware; in general, to possess and exercise all the powers and privileges granted by the General Corporation Law of Delaware or by any other law of Delaware or by this Restated Certificate of Incorporation together with any powers incident thereto, so far as such powers and privileges are necessary or convenient to the conduct, promotion or attainment of the business or purposes of the Corporation.

(i) Objection on grounds that this subpart is overly broad, vague, burdensome and harassing resulting in the gathering of a great deal of information irrelevant to the instant suit.

5. State whether you have controlled, purchased or in any way acquired any interest in any corporation or business entity which has mined, manufactured, produced, processed, compounded, converted, sold, merchandised, supplied, distributed, and/or otherwise placed in the stream of commerce, raw asbestos or finished asbestos products and if so, state:

- (a) The name and address of said corporation or business entity;
- (b) The date(s) you controlled, purchased or acquired any interest;
- (c) The manner of acquisition, including percentage of ownership;
- (d) Identify all documents with respect to the above;

Objection on grounds that this Interrogatory is overly broad, vague, burdensome and harassing. Without waiving this objection Borg-Warner states that three of its corporate divisions have been involved in the manufacture, distribution and sale of service brake products or clutch assemblies. See responses to Interrogatories 3(e) and 6(f). Additionally, Borg-Warner distributed such products to the aftermarket through its Automotive Products Division ("APD"), 11045 Gage Avenue, Franklin Park, Illinois, 60131. Borg-Warner sold APD to Echlin, Inc. in 1981.

6. State whether you have at any time directly or indirectly been engaged in the mining, manufacturing, producing, processing, compounding, converting, selling, merchandising, supplying, distributing, and/or otherwise placing in the stream of commerce of raw asbestos or finished asbestos products. If so, be specific in your answer and state as to each such asbestos product:

- (a) The trade name, general name and/or other identification of each asbestos product, raw or finished;
- (b) The dates during which you mined, manufactured, supplied, distributed, and/or otherwise placed in the stream of commerce each such asbestos product;
- (c) The intended use of each such asbestos product;
- (d) Furnish a complete description of each such asbestos product including the type of asbestos contained therein and the percentage of asbestos contained in said product;
- (e) Describe the physical appearance including color of each such product specifying whether the said product was/is sold in a solid, loose, powdered or other form;
- (f) Identify the location of each plant or facility which produces each of the aforesaid asbestos products;

(See attached Sheet.)

6. Objection on grounds that this Interrogatory is overly broad, vague, burdensome and harassing. Without waiving this objection Borg-Warner states that it manufactured and sold asbestos-bearing disc brake pads over a five-year period and has sold clutch assemblies which contain asbestos-bearing materials manufactured and supplied to Borg-Warner by others.

(a) The brand name of the Disc Brake Pad was SD-712; the trade name was BW-712. Friction materials incorporated in clutches have been supplied to Borg-Warner by Raybestos Manhattan (Raymark), American Brake Shoe, Ausco, Gatke, Johns-Manville, National Friction Products, Russe, Stadco, and H.K. Porter, Inc., Thermoid Division, Amco Works.

(b) Clutch assemblies containing asbestos-bearing components supplied by other manufacturers to Borg-Warner have been sold by Borg-Warner since 1928. Disc brake pads were manufactured and sold by Borg-Warner from 1971 to 1975.

(c) Disc brake pads manufactured as original equipment for Ford, Mercury, and Meteor police and New York taxi vehicles for model years 1971 and 1972 and Ford Torino and Montego police vehicles for model years 1973 through 1975. Clutch assemblies manufactured for use in various automotive vehicles.

(d) The Disc brake pad/asbestos product was composed of Chrysotile asbestos, organic and inorganic fillers and resin binders. The chemical compositions of the friction materials supplied to Borg-Warner by suppliers listed above are unknown to Borg-Warner and maintained as proprietary information by such suppliers.

(e) Clutch facings: solid form varying in color from gray to black and brown. They were sold as received except Borg-Warner affixed them to clutch plates. Disc brake pads were a solid black product with some visible white fibers impregnated in them.

(f) Spring/Brummer Division - Bellwood, Illinois -
disc brake pads from 1971 to 1975.

Borg & Beck Division - Sterling Heights, Michigan
- clutch assemblies.

Rockford Division - Rockford, Illinois -
clutch assemblies.

7. Do asbestos products that you mine, manufacture, produce, process, compound, convert, sell, merchandise, supply, distribute and/or otherwise place in the stream of commerce require any further change or modification before being put to their ultimate use by the user? For example, is there any mixing or cutting that has to be done? If there are any changes or modifications whatsoever, state the specific nature of the change or modification.

No. Borg-Warner sells clutch assemblies with friction material already installed.

8. State whether you presently mine, manufacture, produce, process, compound, convert, sell merchandise, supply, distribute, and/or otherwise place in the stream of commerce the product(s) previously listed in interrogatory 6.

Borg-Warner no longer manufactures or sells asbestos-bearing disc brake pads. Borg-Warner continues to sell clutch assemblies; the friction materials incorporated therein at Borg-Warner's facilities have always been manufactured and supplied to Borg-Warner by others.

9. Identify all distributors of your asbestos products and state:
- (a) The date(s) your product(s) were sold or delivered to said distributor;
 - (b) The quantity or type of product(s) sold or delivered to said distributor;
 - (c) Identify and produce all documents relating to said distributor;
 - (d) Whether any agreement concerning third party liability existed between you and the distributors; and if so, if such agreement was in writing, attach a copy of such agreement; if such agreement was oral, then set forth fully the terms and the identity of the persons making such oral agreement.

Objection on grounds that this Interrogatory is overly broad, vague, burdensome and harassing. This Interrogatory would require a search for and review of all records covering a period of fifty-seven years. Without waiving this objection Borg-Warner states that it distributed clutch assemblies to the aftermarket through APD. See answer to Interrogatory 5. Borg-Warner has also supplied clutch assemblies to the original equipment manufacturers and other customers listed in Exhibit A, attached hereto, and to: American Motors Corp., 14250 Plymouth Road, Detroit, MI, 48232; General Motors Corp., General Motors Building, 3044 West Grand Boulevard, Detroit, MI, 48202; Chrysler Corporation, World Headquarters, 12000 Lynn Townsend Drive, Highland Park, MI, 28212; Echlin, Inc., 100 Double Beach Road, Branford, CT, 06405. Borg-Warner's disc brake pads for original equipment manufacturer customers were sold only to Kelsey-Hayes Company (Detroit, MI) and Bendix Corporation, Bendix Brake Division (South Bend, IN) for use only by Ford Motor Company in its Ford, (See Attached Sheet.)

10. Were any patents or trademarks ever applied for or granted with regard to any product(s) listed in interrogatory 6? If so, for each such product state:
- (a) The number of each patent;
 - (b) The date(s) issued and to whom issued;
 - (c) The name of each patent application that is presently pending.

Defendant Borg-Warner objects to this Interrogatory as it is burdensome, vague, onerous, and not calculated to lead to any admissible evidence. Borg-Warner assemblies have been the subject of numerous patents over the years of the company's existence and to list all such patents would be burdensome and irrelevant.

9. (con't.)

Mercury and Meteor police and New York taxi vehicles for model years 1971 and 1972 and in its Ford, Mercury, Torino and Montego police vehicles for model years 1973-75. All such sales of disc brake pads occurred from 1971-75. Additionally, some disc brake pads were sold through APD during 1971 to Richo Parts Warehouse (Richmond, VA), Atkins Auto Parts (Macon, GA), and Harrington Auto Parts (Jesup, CA) and in 1972 to Autotech International (South Bend, IN), A. T. Performance Warehouse (Chicago, IL), Mannolini Auto Supply (Pawtucket, RI), Mass Auto Supply Co., Inc. (Boston, MA), Bahns Automotive, Inc. (York, PA), Penn Auto Service (Scranton, PA), Richco Parts Warehouse (Richmond, VA), Honolulu Auto Parts Co. (Honolulu, HA) and Ute Parts Supply (Phoenix, AZ).

11. Identify each business entity from whom you have received raw asbestos if you are not a miner or distributor of mineral or raw asbestos during the period of plaintiff's or decedent's employ, including:

- (a) name of and address of supplier;
- (b) the date(s);
- (c) amount;
- (d) types received;
- (e) identify and produce all documents relating to such purchase;

(See Attached Sheet.)

12. Identify each business entity from whom you have received finished asbestos products if you are not a miner or a distributor of mined asbestos indicating;

- (a) name and address of said entity;
- (b) the date(s);
- (c) amount(s);
- (d) types received;
- (e) identify and produce all documents relating thereto;

(See Attached Sheet.)

13. Did you sell raw asbestos or finished asbestos products to the employers of employee plaintiff or if deceased, the plaintiff decedent; or did you install or report asbestos pipecovering.

No.

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during or immediately prior to the periods of employment of

. If yes, identify

- (a) dates of sales;
- (b) amounts of sales;
- (c) names of finished asbestos containing products sold;
- (d) amount of raw asbestos sold;

Invoice records can be attached to answer this interrogatory.

14. If you have no records of sales earlier than a date identified in your answer to number 13 supra, will you admit that you sold asbestos products to the companies involved during or immediately prior to the employ of Birk Reed by said companies?

No.

15. Did you sell asbestos products to distributors who would resell your asbestos products to the employers identified in number 13 supra, or ship asbestos products to such employers through sales to such distributors? If so, name the distributors, identifying

- (a) name, address of distributors;
- (b) asbestos products sold to distributors;
- (c) raw asbestos sold to distributors;
- (d) amounts sold;
- (e) dates of sale;

Defendant Borg-Warner does not maintain records which would indicate to whom its distributors may have sold any of its products. See response to Interrogatory 9.

16. Did you, at any time, assign or license any of your asbestos products to any person, firm or corporation? If so, state:

- (a) Identify the assignors or licensees;
- (b) The purpose of such assignment or license;
- (c) The name(s) of the produce(s) so assigned or licensed;
- (d) The time period of the assignment(s) or license;
- (e) Identify and produce all documents relating to such assignment or license;

Objection on grounds that this Interrogatory is overly broad and vague; without waiving this objection, Borg-Warner states that it is unaware of any relevant assignment or licensing of service brake or clutch products.

17. Did you rebrand any of your asbestos products for other companies? If so,

- (a) Identify such companies;
 - (b) Indicate the specific products rebranded for each company;
 - (c) The dates of each such rebranding;
- That is, did you manufacture or acquire asbestos products and affix the names of other companies to the product or its containers?

Borg-Warner does not rebrand friction materials themselves; rather, these are incorporated into Borg-Warner clutch assemblies. Those assemblies sold to original equipment manufacturers are not rebranded. Assemblies sold as service parts are sometimes packaged in boxes which bear the name of Borg-Warner's customers, such as General Motors, International Harvester, J. I. Case, Allis Chalmers, Massey-Ferguson.

11. (a) The asbestos incorporated in Borg-Warner's disc brake pads was produced by Asbestos Corporation, Thatford Mines, Quebec, Canada, and sold to Borg-Warner through Donald R. Fitzgerald Company, Chicago, Illinois.

(b) Disc brake pads: 1971-75.

(c) We have been unable to locate this information to date.

(d) Chrysotile asbestos.

(e) We have not yet located such documents.

12. (a) Objection on grounds that this Interrogatory is overly broad, vague, burdensome and harassing. Without waiving this objection, Borg-Warner states that asbestos-bearing friction material incorporated in Borg-Warner's clutch products have been supplied to Borg-Warner by Raybestos Manhattan (Raymark), American Brake Shoe, Ausco, Gatke, Johns-Manville, National Friction Products, Rusco, Standco, and H.K. Porter, Inc., Thermoid Division, Amco Works

(b) 1928-present.

(c-e) Objection to this subpart as overly broad, vague and requiring a burdensome search of records covering a fifty-seven year period.

17. Since the initial date of said mining, manufacturing, producing, processing, compounding, converting, selling, merchandising, supplying, distribution and/or otherwise placing in the stream of commerce your asbestos products as specified in the answer to number 6, advise whether or not there have been any alterations or changes, then as to said alterations or changes, state:
- (a) the trade name(s) of each such product(s);
 - (b) The date(s) each such product(s) was altered or changed;
 - (c) The specific nature and date(s) of each such alteration or change of composition.
 - (d) The reason for each alteration or change of composition;

Borg-Warner objects to this Interrogatory on grounds that it has manufactured thousands of clutch products since 1928 and a delineation of each change in these products would be an overly burdensome and harassing task, resulting in the gathering of a great deal of information irrelevant to the instant suit. Furthermore, we no longer maintain documentation going back to 1928.

18. Describe in detail the packages in which you would, distribute or deliver asbestos products to the wholesaler or retailer for resale to companies such as Plaintiff's employers, stating:
- (a) The type of box or package used;
 - (b) The date each type of box or package was used;
 - (c) A physical description thereof, including the size and color of the box or package;
 - (d) A description of size and color of any printed material that appeared on or in said box or package stating:
 - 1. A verbatim statement of any warnings or cautions;
 - 2. The date(s) each such warning or caution was first used and last used.
 - (e) Identify and produce a copy of said warning or caution.

Defendant Borg-Warner Corporation itself did not supply clutch assemblies or disc brake pads to wholesalers or retailers. Borg-Warner supplied such products to warehouse distributors and original equipment manufacturers. The distributors would then sell the products to wholesalers and retailers. Generally, Borg-Warner's products have been packaged in individual boxes which in turn are placed in master cartons containing two to six individual packages. Master cartons are placed on skids for shipment. Generally, the packaging is composed of various strengths and sizes of die cut corrugated cardboard.

19. Prior to releasing the asbestos product(s) listed in interrogatory 6 for sale, were any tests conducted on same to determine potential health hazards involved in the use, handling or exposure of the materials contained therein: If so, state:
- (a) The identity of each individual or firm who conducted such tests;
 - (b) The date, purpose and result of each such test;
 - (c) Identify and produce all documents relating to such tests;

With regard to end-users, no.

20. Did you make any changes in your asbestos products as a result of such test: If so, state:
- (a) The product changes;
 - (b) The nature of the change made;
 - (c) The purposes of the change;
 - (d) The date of such change;
 - (e) The identity of each person or firm responsible for making the change.

Not applicable.

21. Has any written material of any kind been prepared by you indicating how your product(s) should be used, applied or handled by the workers who would be reasonably expected to use your asbestos products? If so, please state:

- (a) Identify each person or firm who prepared same;
- (b) Identify each person or firm who presently has possession of same;
- (c) The date(s) and manner in which said material was distributed to purchasers or users of your product(s);
- (d) Identify and produce all applicable documents.

Objection on grounds that this Interrogatory is overly broad, vague, burdensome and harassing. As written, the scope of this Interrogatory would encompass much of the sales literature and design drawings of several Borg-Warner divisions.

22. If there have been any changes in any labels, inserts or other information which has ever accompanied any of your products as it was placed on the market, state the reasons therefore and the name and address of the person who recommended or ordered the change.

Objection on grounds that Borg-Warner has manufactured thousands of products since 1928 and a delineation of each change in the product's label, insert, or accompanying information would be an overly burdensome and harassing task, resulting in the collection of much irrelevant information.

23. State the names, titles and addresses of defendant's advertising agents who are employed or used in connection with the promotion of the product(s) specified in answer to interrogatory 6, and give a summary of all the instructions given to such agents regarding the uses, safety, and health related effects of the use of the products and their obligations to provide this information to customers.

Objection. This Interrogatory would require defendant to research all promotional literature for clutch assemblies going back to 1928 and attempt to discover what information may have been given regarding the use of such products. The Interrogatory also assumes that these products have "health related" effects and the defendant had an "obligation" to provide information about such effects.

24. Have you at any time published and/or distributed any document containing any warnings concerning the possibility of illness, disease, or injury resulting from the use of or exposure to the asbestos products listed in answer to interrogatory 6. If so, please state:

- (a) The wording of each such warning;
- (b) A description of each such document;
- (c) The method used to distribute the warnings to persons who are likely to use, handle or be exposed to your product(s);
- (d) The date(s) such warning was issued;
- (e) Identify each person who presently has possession of the above-described documents;
- (f) Identify and produce all the documents mentioned in parts (a) through (e) of this question;
- (g) In particular, was any warning ever given, either in writing or in any other way concerning the possibility of the illness as known as cancer resulting from the use of or exposure to any of the asbestos products listed in answer to interrogatory 6.
- (h) How the document and the information involved were communicated to purchasers of the product?

No.

25. Have you ever given any warnings to your employees of dangers of illness and/or disease by reason of their use, handling or exposure to asbestos products: If so, state:

(a) The date of each such warning;

(b) How such warnings were given;

(c) If such warnings were oral, state the names and addresses of the person(s) giving and receiving such warnings;

(d) If such warnings were written, state;

1. The date(s) of such warning(s);

2. The present location of such warning(s);

3. The names and addresses of individuals who prepared such warning(s);

4. Where and/or how such warning(s) were posted,

5. The reasons for such warning(s).

(e) Whether or not in the course of such warnings, there was any warning concerning the possibility of contracting the disease known as cancer resulting from the use of or exposure to the asbestos products. in particular, whether there was any warning concerning that type of cancer known as mesothelioma.

Objected to since this Interrogatory seeks information regarding the internal practices of the defendant which are not relevant to any of the issues or claims in this case; it also seeks information regarding manufacturing and assembly procedures which plaintiff's decedent himself was not engaged in.

26. Were you ever advised by any member of the medical profession or other profession, such as industrial hygienists occupational hazard professionals or other persons to utilize hazard labels on your products and to give clear and explicit warnings concerning the possibility of cancer, and/or mesothelioma and/or other serious illnesses and diseases including but not limited to asbestos to those who might use, handle, or be exposed to your asbestos products after they have left your control? Identify this individual or individuals or company set forth the date of this advise, and attach copies of this advise if written.

No.

27. When, if at all, did you first become aware that airborne dust containing some asbestos fibers might be created in the course of the use of your asbestos products by workers in:

- (a) the pipe insulating trade;
- (b) textile factories;
- (c) companies manufacturing asbestos products;
- (d) other industries such as but not limited to
 - (1) railroads
 - (2) oil burner service

Defendant's products as listed in the response to Interrogatory No. 6 are not used in any of the trades or occupations listed.

28. When did you first become aware that airborne dust containing asbestos fibers or f~~ib~~riles would be created in use or removal of your asbestos products by an insulation worker or other workers could cause asbestosis, pleural thicaning or pleural plaque, mesothelioma, or lung cancer? Please identify the date of this knowledge by product whether raw asbestos or a finished product and the date of knowledge that each of the diseases set out could develop from exposure to asbestos.

Defendant's products as listed in the response to Interrogatory No. 6 are not used by insulation workers. Defendant is not aware of any scientific proof that airborne dust created in the use or removal of any of its products contains asbestos fibers capable of causing disease.

29. If your answer to question 28 is in the affirmative, please explain whether the Threshold Limit Value is based on counts of all particles in the air or just the asbestos fibers in the air.

Not applicable.

30. When did defendant know that any governmental or private agency, or other entity, issued guidelines suggesting Threshold Limit Values for exposure to asbestos dust? If ever:

- (a) Identify the agency or entity issuing the guideline;
- (b) State the content of the guideline(s) verbatim;
- (c) State the date issued and the date you first knew the purpose of the guideline(s).

Defendant became aware of O.S.H.A. regulations and standards for exposure to asbestos dust at the same time that the public and most industrial corporations became aware of them.

31. Does the defendant contend that the asbestos products mined, manufactured, produced, processed, compounded, converted, sold, merchandised, supplied, distributed and/or otherwise placed in the stream of commerce by the defendant are not "hazardous substances", as defined in 15 U.S. Code, §1261 (5)? Said definition is incorporated herein by reference, and defendant is required to reply as to all the parts of said definition. If so, state the facts, opinions or conclusions upon which defendant relies to support such contention, and identify each document which is applicable.

Objection on grounds that this Interrogatory requires defendant to render an expert opinion both scientifically and legally.

32. Have your asbestos products at any time been subjected to:

- (a) Tests or studies by a governmental agency;
- (b) Test or studies by any independent organization;
- (c) Tests conducted on humans or animals on your behalf or on behalf of any co-defendant in this action. If your answer to any of the subsections (a) through (d) is in the affirmative, for each test or study state:
 - 1. The date it began;
 - 2. The date it ended;
 - 3. The procedure of the test or study;
 - 4. The number of man hours spent on it;
 - 5. The place where it was conducted.

No.

33. Have you, at any time, been a member of any "trade association or association" composed of other miners, manufacturers, suppliers, distributors, producers, processors, compounders, converters, sellers, merchandisers, and/or anyone otherwise placing in the stream of commerce asbestos products? If so, state:

- (a) Identify each such association or organization;
- (b) The dates during which you were a member?
- (c) The names of any publication published by or written by such association or organization;
- (d) The dates and addresses of all other members;
- (e) What meetings you attended and identify who attended;
- (f) Who spoke at such meetings;
- (g) Were transcripts or summaries or minutes or notes made of such meetings? If so, identify the above, tell specifically what was made and give the name, title and address of the person or persons who have custody of the transcripts and/or summaries and or minutes and/or notes mentioned above and state when and where counsel for the plaintiff may examine and copy these documents.

Objection on grounds that this Interrogatory is overly broad, vague, burdensome and harassing. Without waiving this objection Borg-Warner states that some of its employees are members of, or have attended seminars held by, various trade associations such as the American Society of Metals, the American Association of Mechanical Engineers, Society of Automotive Engineers, (Friction Subcommittee, Transmission and Drivetrain Technical Committee) and the National Safety Council.

34. Have you, at any time, been a member of and/or contributed to the Industrial Hygiene Foundation: If so, state:

- (a) The dates you were a member and/or contributed;
- (b) The identifications of any publication of any such organization;
- (c) What meetings you attended and who attended;
- (d) Who spoke at such meetings;
- (e) Where transcripts or summaries or minutes or notes made of such meetings? If so, identify the above, tell specifically what was made and give the name, title and address of the person or persons who have custody of the transcripts and/or summaries and or minutes and/or notes mentioned above and state when and where counsel for the plaintiff may examine and copy these documents.

No.

35. State whether you have received any workmen's compensation claim for injury, occupational disease, or death, to any of your employees or to any persons working as independent contractor for you, or under your direction or to any persons in "contract units" operated by you or your subsidiaries or divisions or to any persons hired on an occasional basis by your agents, employees or directors, in the course of work activity performed by the aforementioned "contract unit" for the following diseases: asbestosis, emphysema, chronic bronchitis, pulmonary fibrosis, dyspnea, carcinoma of the lungs, or mesothelioma. In answering this question confine your answer to workers who were occupationally exposed to asbestos products by their using, handling, fabricating, installing, removing, mixing, cutting, packing or transporting products containing any percentage whatsoever of asbestos whether raw or finished and whether made by you or made by some other company but used, handled, modified, installed, removed, mixed, cut, packed or transported by the person or persons making the workmen's compensation claim for injury or occupational disease or death whether your employees or contract unit managers or contract unit occasional workers independently contracted for. If there have been any workman's compensation claims within the above-described criteria between the years 1930 and 1978, state:

- (a) The date you received notice of the claim;
- (b) The identity of the person making the claim; or on whose behalf the claim was made;
- (c) The specific disease or illness complained of. In particular, all complaints of: asbestosis, emphysema, chronic bronchitis, pulmonary fibrosis, dyspnea, carcinoma of the lungs and mesothelioma;
- (d) The name of any physician or nurse who made any notes on the claim or who inscribed any words whatsoever on any document, paper, letter, book, or record pertaining to the evaluation of the facts and/or the merits and/or the medical workup of the claim filed;
- (e) A brief summary of the substance of the written materials mentioned in section (d);
- (f) The present location(s) of the documents, medical or otherwise, relevant to the claim files, if any, specified in section (a);
- (g) An index to the claim files, if any specified in section (a) showing how, if at all, they are broken down by the defendant in the ordinary course of the defendant's business activity (i.e. by geographical region, by plant, by profit center, by disease, by injury, by level of compensation demanded, by estimate on the eventual payments that will be required on the claim, by worker's name or number, by contract unit, by date, or in any other way that the defendant as a practical matter in the ordinary course of defendant's business actually breaks down and indexes the claims of the kind specified for purposes of defendant's own internal filing and record keeping.
- (h) The state or federal agency or agencies which would in the ordinary course of defendant's business and in the ordinary course of the state and federal government's business receive notice of the claims.

- (i) The indexing or filing system used by those agencies in the respective states or in the respective federal agencies.
- (j) The records retention policies concerning claims of the kinds specified in Part(a) of the defendant, and of any state agencies of which the defendant has knowledge in states where the defendant does business, and to which the defendant supplies information concerning claims of this kind. Also include any federal agencies which would receive notice directly or in the defendant's knowledge indirectly as a matter of the ordinary business of the federal government concerning claims of the aforementioned kind;
- (k) The disposition of said claim(s) including benefits paid or settlements reached or moneys voluntarily paid by your insurers, if any;
- (l) The last known address of the attorney representing the Claimant, if any.

Objection on grounds that this Interrogatory seeks defendant's internal information of no relevance to the instant case. Plaintiff's decedent himself never worked for defendant or in manufacturing facilities like defendant's and thus his working conditions differed from those of persons employed at or in defendant's facilities. See also response to Interrogatory 25.

36. Have you ever been named as a party in any action for workmen's compensation benefits for injury, occupational disease, or death by any of your employees or their estates, or by any persons working as independent contractors for you or under your direction or their estates, or by any directors, managers, or persons involved on a casual labor or occasional worker independently contracted for basis in "contract units" operated by you or their estates where the disease, injury or death was asserted by the Plaintiff and/or claimant in the action to be based in whole or in part on the diseases; asbestosis, emphysema, chronic bronchitis, pulmonary fibrosis, dyspnea, carcinoma of the lungs, or mesothelioma and where the plaintiff and/or claimant in the course of his work experience used, handled, fabricated, installed, removed, mixed, cut, packed or transported asbestos products containing any percentage whatsoever of asbestos? If so, state as to each claim:

- (a) The identity of the Plaintiff and/or claimant and the disease(s) or injury(s) on which the action was premissed;
- (b) The date it was filed;
- (c) The name and address of the court, agency, or administrative body, in which it was filed;
- (d) The term and/or number of the action;
- (e) The identity of the claimant's attorney;
- (f) the identity of the claimant's physician;
- (g) The identity of your physician, and/or expert witnesses;
- (h) The disposition of the action including any moneys paid voluntarily or by agreement or in settlement by you or by our insurance carrier.

Objection on grounds that this Interrogatory seeks defendant's internal information of no relevance to the instant case. Plaintiff's decedent himself never worked for defendant or in manufacturing facilities like defendant's and thus his working conditions differed from those of persons employed at or in defendant's facilities. See also response to Interrogatory 25.

37. If you or your insurance carrier have ever paid out money voluntarily, or by agreement, or in settlement, on a claim for the following diseases; asbestosis, emphysema, chronic bronchitis, pulmonary fibrosis, dyspnea, carcinoma of the lungs, or mesothelioma between the years 1930 and 1978, specify for each instance:

- (a) The amount paid out;
- (b) Who paid it;
- (c) Who received the payment;
- (d) The date of the payment(s);
- (e) Whether, if it was an agreement, the agreement went on file with any court, agency, or administrative body, and if so, the date and location of the filing;
- (f) The current location of any document(s) evidencing such voluntary payment, and the name, and address of their present custodian, and the time and place where counsel for plaintiff may examine and copy such document(s).

Objection on grounds that this Interrogatory is overly broad, burdensome and harassing and would require a burdensome search of records of both defendant and its insurance carriers covering a period of forty-eight years.

38. If you or your insurance carrier have ever paid out money, voluntarily, or by agreement, or in settlement to any employee contractor, contract unit worker, contract unit manager, or casual, or incidental laborer for a claim based on the following diseases; asbestosis, emphysema, chronic bronchitis, pulmonary fibrosis, dyspnea, carcinoma of the lungs, or mesothelioma, state as to each recipient of such funds:

- (a) His or her identity;
- (b) The identity of his or her attorney;
- (c) The date the claim was made;
- (d) The date payment commenced and the duration and amount(s) of payment(s);
- (e) The insurance carrier making the payment;
- (f) Whether such agreement was filed in any court; agency or administrative body, if so, state:
 - a. The date it was filed;
 - b. The location of such filing;
- (g) The current location of any document(s) evidencing such

voluntary payment(s) and the name and address of their present custodian and the time and place where counsel for the plaintiff can examine and copy such document(s).

Objection on grounds that this Interrogatory is overly broad, burdensome and harassing and would require a burdensome search of records of both defendant and its insurance carriers covering a period of forty-eight years.

39 State whether you or your insurance carrier has voluntarily or by agreement paid to any employee benefits for accident, sickness, health, disability, or retirement, by reason of exposure to asbestos products. If so, state as to each:

- (a) The identity of such employee;
- (b) The identity of the employee's attorney;
- (c) The identity of the insurance carrier(s) making such payment;
- (d) The dates the claims were made as to each separate claim by each employee;
- (e) The date payment was made;
- (f) The current location of any documents evidencing such payments, the name and address of their present custodian and the time and place where counsel for the plaintiff can examine and copy such documents.

Objection on grounds that this Interrogatory seeks internal information of no relevance to the instant suit. See also response to Interrogatory 35.

40. State the names and addresses of all your insurance carriers for workmen's compensation and occupational disease compensation from 1930 through 1978, and as to each insurance carrier, state the periods when such coverage was provided and the amount provided

Objection to since this Interrogatory seeks information regarding the internal practices of defendant which are not relevant to any of the issues or claims in this suit.

41. If you or your insurance carrier have ever paid out money as a result of a court decree or jury verdict against you in a case in which the plaintiff asserted injury resulting from exposure to asbestos products mixed, manufactured, produced, processed, compound, converted, sold, merchandised, supplied, or placed in the stream of commerce identify the:

- (a) Court in which judgement was entered against you.
- (b) Court docket number.
- (c) Plaintiff's name.
- (d) Plaintiff's attorney's name and address
- (e) Amount of judgement.
- (f) Date judgement entered.
- (g) Other defendants against whom judgement was entered.

Not applicable.

42. Do you have a medical department that performs occupational studies or reviews of worker's health? If so, describe:

- (a) How long in existence.
- (b) Names of those who have led that department since 1930.
- (c) Any reports or warnings provided to you by that department as to the effects of asbestos.
- (d) Current address of that person or those persons referred to in (b) Supra.

Borg-Warner Corporation itself does not have such a medical department.

43. Have you had a medical advisor or other professional reviewing your products particularly asbestos, and making recommendations for use? If so, please answer (a)-(d) of interrogatory 43.

No.

44. If you are merely a distributor, rather than a manufacturer and distributor of asbestos products, please answer interrogatories 7, 18, 19, 20, 21, 22, 23, 26, 27, with respect to whether you ever received such information from the manufacturers or from the trade association and so indicate by date, place and describe and attach any documents.

Not applicable.

45. (a) Do you contend that the employee plaintiff or, if deceased the plaintiff's decedent or his employer were contributorily negligent?

(b) Do you contend that the employee plaintiff or if deceased the plaintiff's decedent assumed the risk of his employment?

Defendant objects to this Interrogatory since it assumes that the plaintiff's decedent used or was exposed to products manufactured or sold by defendant. By way of further answer, if it be proven that defendant's asbestos-bearing products were used in some way by plaintiff's decedent, or plaintiff's decedent's employer, either plaintiff's decedent or his employer may have been contributorily negligent or assumed a known risk in the manner in which such products were used. No further information is presently available.

46. If the answer to interrogatory number 45 (a) or 45 (b) is yes, please state in detail the factual basis for the contention and name any witnesses you intend to produce to support this contention.

No answer necessary.

47. Do you deny that you sold asbestos products to any places of employment of employee plaintiff or if deceased the plaintiff's decedent, namely, Birk Reed

We believe Borg-Warner never sold products to plaintiff's decedent's employers. We have no way of tracing the sales of all distributors of Borg-Warner products. However, our records and those of APD indicate that no asbestos-bearing disc brake pads were sold by Borg-Warner or its distributors to plaintiff's decedent's employers.

48. Do you deny that you sold asbestos products to the employer of Birk Reed

or to distributors whom you knew would sell to the employers of

Birk Reed

We believe Borg-Warner never sold products to plaintiff's decedent's employers. We have no way of tracing the sales of all distributors of Borg-Warner products. However, our records and those of APD indicate that no asbestos-bearing disc brake pads were sold by Borg-Warner or its distributors to plaintiff's decedent's employers.

49. Did you or employees of your company ever attend meetings of the Asbestos Textile Institute or any of its committees? If yes,

- (a) Identify the meetings and dates.
- (b) Who attended from your company.
- (c) What materials were dispensed.

We know of no attendance by Borg-Warner employees at such meetings.

50. Identify all individuals who are now or have ever been employed by you including their current address who can testify or have testified concerning:

- (a) The history of that portion of your organization responsible for preventive medicine or occupational hygiene.
- (b) Your company medical policy, practices, and procedures.
- (c) The history of that portion of your organization responsible for product safety.
- (d) The nature and extent of your knowledge, over time, of health hazards actually, allegedly, or possibly associated with exposure to asbestos or asbestos products.
- (e) Actions taken by you to warn, direct or indirect purchasers of asbestos products or protect their employees of health hazards
- (f) Actions taken to warn or protect persons such as plaintiff and spouse of hazards of asbestos.

No.

51. If these employees have testified in depositions or trials with respect to the matters ennumerated in interrogatory 54, attach relevant portions of their testimony and identify the court, docket number of the case and date of testimony.

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Not applicable.

52. Did or does defendant maintain a medical library? If yes, state:

- (a) Date established
- (b) Location
- (c) Names and addresses of librarians
- (d) Title, author, and publisher of all journals and book bought or subscribed to during the period 1930-78.
- (e) To whom journals in the area of asbestos, industrial hygiene, medicine, safety or engineering were distributed. (See Attached Sheet.)

SHEIN & BROOKMAN, P.A.

BY:


ROBERT E. PAUL
Attorney for Plaintiffs

BARNARD AND GANNON

By:


Timothy B. Barnard, Esquire
Attorney for Defendant, Borg-Warner
Corporation

52. Richard Rosenberg established a collection of industrial and medical publications on July 12, 1976, but no longer maintains it. These materials have been located in his office at Borg-Warner's Roy C. Ingersoll Research Center, Des Plaines, Illinois. Mr. Rosenberg's current title is Manager, Regulatory Affairs and Safety. Among the resources of this collection was the publication Asbestos. The subscription to this publication has not been renewed for the past three years. Other materials which were collected included excerpts from various publications too numerous to list.

4320030	AM GENERAL CORP.	US ARMY TANK	11045 Gage Ave. Franklin Park, IL 60131	U.S. Army Tank Automotive Command Procurement & Production Div. Warren, MI 48090
1791350	JOHN DEERE COMPANY	AT GENERAL IN	701 W. Chippewa Ave. South Bend, IN 46680	John Deere Company P.O. Box 538 Dubuque, Iowa 52001
4329123	INTERSTATE HARVESTER	THE FARM HARVE		IHC 500 - 42nd Street Rock Island, IL 61201
4329133	INTEL HARVESTER	THE ROCK ISLAND		Allis-Chalmers Corp. P.O. Box 512 Milwaukee, WI 53201
0347040	ALLIS CHALMERS CORP	A/C MILWAUKEE		White Farm Equip. Co. P.O. Box 367 Hopkins, Minnesota 55343
5556020	WHITE FARM EQUIP CO	WHITE FARM HARV		J.I. Case Co. Agricultural Equip. Div. 24th & Mead Streets Racine, WI 53403
1312000	J.I. CASE CO	CASE CASE PROO		Mosley-Ferguson, Inc. P.O. Box 322 Detroit, MI 48212
5689010	MOSLEY FERGUSON LTD	M/F DETROIT		Auto Church & Parts Svc. 3125 Fullerton Ave. Chicago, IL 60647
5689010	MOSLEY FERGUSON LTD	M/F DETROIT		Ottawa Div. BWE Corp. 1111 McKinley Road Ottawa, IL 61350
1629062	BUD CONJURATION	CONJURATION		OMC Lincoln P.O. Box 82409 Lincoln, Ne 68501
1656303	OMC LINCOLN	OMC LINCOLN		Diesel Recon Div. Cummins Engine Co. P.O. Box 3623 Santa Fe Springs, Ca 90670
1750063	DIETZ RECON	DIETZ RECON		Dresser Industries E Comercio Ltda. Avenida Ipiranga 1097-13.0 Caixa Postal 2191
1791303	JOHN DEERE	JOHN DEERE		John Deere Harvester Works 1100 - 13th Ave. East Moline, IL 61244 Sao Paulo S.P. Brazil
5492350	WHITE FARM EQUIP CO	WHITE FARM HARV		White Farm Equip. Co. 300 Lawler St. Charles City, Ia 50616
5417030	BLACK TRUCKS, INC.	BLACK TRUCKS NJ		Black Trucks, Inc. P.O. Box 6311 Bridgewater, N.J. 08807
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Flat-Allis Const. Machinery, Central Parts Op. 245 E. North Ave. - Canal Street, H-60187
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Automotive Parts Div. Int'l. P.O. Box 468 Franklin Park, IL 60131
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		M-F, S.A. La Bourdelle RN 186 92357 La Plazas Robinson Cedex France
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Ford Motor Co. Tractor Implement Div. P.O. Box 320 Troy, MI 48064
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Allis-Chalmers Corp. P.O. Box 1099 Independence, Mo 64051
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		IH Australia Ltd. Parts Distr. Centre 750 Larimer St. Port Melbourne 3207 Australia
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		M-F Industries Ltd. Park Road North Brantford, Ontario Canada N3T-5V4
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		International Harvester Co. 1100 Third Street East Moline, IL 61244
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Karl's Rebuilders Supply 1109 Rock Street Rockford, IL 61101
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Ford Tractor Operations P.O. Box 320 Troy, MI 48064
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		IHC 901 Guelph Line P.O. Box 5012 Burlington, Ontario Canada L7R 3Z5
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Ottawa Div. BWE Corp. 1111 McKinley Road Ottawa, IL 61350
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Automotive Parts Div. 11045 Gage Ave. Franklin Park, IL 60131
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Cummins Mid America 3637 E. Kearney St. Springfield, Mo 65803
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Versatile Mfg. Ltd. 1260 Clarence Ave. Winnipeg, Manitoba R3T 1T3 Canada
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		IHC Plant No. 1 Richmond Street Chatham, Ontario Canada N7M-5M4
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Ballwin-Washington Old Ballwin Road P.O. Box 280 Ballwin, Mo. 63011
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Charles Machine Works P.O. Box 66 Perry, Ok 73077
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Champion Road Mach. Ltd. Goderich, Ontario Canada N7A-3Y6
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Automotive Parts Div. Int'l. P.O. Box 468 Franklin Park, IL 60131
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		John Deere Ottumwa Works Ottumwa, Iowa 52501
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		General Motors Parts Div. 6060 West Bristol Rd. Flint, MI 48554
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Industria Metalmeccanica Aparicio Ares 50550, Calle 6A SUR 50-C-104 Medellin, Colombia
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Catfish Truck Corp. P.O. Box 2566 Oshkosh, WI 54901
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		IHC ReNewing Station 1409 Avenue H East Grand Prairie, Tx 75050
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		International Harvester P.O. Box 757 Florence, Ky 41042
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Borg & Beck Div. 6538 South Marand Ave. Chicago, IL 60638
5451042	BALLANTYN-WASHINGTON	BALLANTYN-WASHIN		Engineering Products Corp. Inc. P.O. Box 1510 Milwaukee, WI 53187

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