

NO. 87-11728-H

FRANK BROADNAX, et al	§	IN THE DISTRICT COURT
	§	
vs.	§	160TH JUDICIAL DISTRICT
	§	
ARMSTRONG WORLD INDUSTRIES,	§	
INC., et al	§	DALLAS COUNTY, TEXAS

ANSWERS AND OBJECTIONS OF W.R. GRACE & CO. - CONN.
TO PLAINTIFFS' SECOND SET OF INTERROGATORIES
TO DEFENDANT W.R. GRACE & COMPANY

GENERAL OBJECTIONS

W.R. Grace & Co. - Conn., formerly known as W.R. Grace & Co., ("Grace-Conn") incorporates herein by reference its General Objections set forth in its Amended Answers and Objections to Plaintiffs' First Set of Interrogatories.

INTERROGATORIES

INTERROGATORY 1

Please identify any past or future or present Defendant employee, officer, executive or any other person who has knowledge regarding the sale of asbestos-containing products within the State of Texas or elsewhere during the 1950's, 1960's and/or 1970's by the Texas Vermiculite Company.

- a. Is Defendant willing to produce this/these person(s) for deposition?

ANSWER 1

Robert T. Frohlich
552 Springs Road
Bedford, MA 07130

Further responding, Grace-Conn states that it will supplement its response to this interrogatory when its review of all available information has been completed.



INTERROGATORY 2

What asbestos-containing products were manufactured, sold and/or distributed by the Texas Vermiculite Company in the 1950's, 1960's and/or 1970's? Please identify said products by their trade names, who made them, what their intended uses were, what percentage of asbestos was contained therein, and when, if ever, warning labels regarding asbestos-related health impacts were affixed to the containers of the respective products.

ANSWER 2

Subject to the General Objections interposed above, Grace-Conn states see the product appendix attached to Grace-Conn's Amended Answers and Objections to Plaintiffs' First Set, subparts a-d, Nos. 1-5, 10, 19-22 and 24-28. Further responding, Grace-Conn objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence as it is not limited as to caution, time periods, location, etc. Grace-Conn further objects to this interrogatory on the grounds that it improperly implies that Grace-Conn's products had any health consequences for users. Without waiving or in any way limiting these objections or the General Objections interposed above, Grace-Conn states that no warnings were placed on the packaging of its products that contained commercial asbestos or placed directly on any of its products. Starting in 1976 or 1977, Grace-Conn affixed a caution regarding nuisance dust to the packaging of its vermiculite products. This caution read:

CAUTION
AVOID CREATING DUST
BREATHING DUST MAY BE HARMFUL TO YOUR HEALTH
USE WITH ADEQUATE VENTILATION
OR WITH RESPIRATORY PROTECTION

INTERROGATORY 3

What asbestos-containing products were manufactured, sold and/or distributed by Vermiculite Products, Inc. in the 1950's, 1960's and/or 1970's? Please identify said products by their trade names, who made them, what their intended uses were, what percentage of asbestos was contained therein, and when, if ever, warning labels regarding asbestos-related health impacts were affixed to the containers of the respective products.

ANSWER 3

Subject to the General Objections, Grace-Conn states that during the relevant time period, it or the Zonolite Company, the assets of which were acquired by Grace-Conn in 1963, entered into a series of licensing/distribution agreements with Vermiculite Products Inc. under which Vermiculite Products Inc. manufactured certain products which all bore Zonolite labels.

Further responding, Grace-Conn states that to the extent they exist, relevant, non-privileged and non-trade secret documents containing information responsive to this interrogatory will be made available to the plaintiffs in Boston, Massachusetts at a mutually agreeable time. Further answering as to warnings, Grace-Conn states see the answer to No. 2 above.

INTERROGATORY 4

What asbestos-containing products were manufactured, sold and/or distributed by the Southwest Vermiculite Company in the 1950's, 1960's and/or 1970's? Please identify said products by their trade names, who made them, what their intended uses were, what percentage of asbestos was contained therein, and when, if ever, warning labels regarding asbestos-related health impacts were affixed to the containers of the respective products.

ANSWER 4

Subject to the General Objections, Grace-Conn states that during the relevant time period, it or the Zonolite Company, the assets of which were acquired by Grace-Conn in 1963, entered into a series of licensing/distribution agreements with Southwest Vermiculite Products Inc. under which Southwest Vermiculite Products Inc. manufactured certain products which all bore Zonolite labels.

Further responding, Grace-Conn states that to the extent they exist, relevant, non-privileged and non-trade secret documents containing information responsive to this interrogatory will be made available to the plaintiffs in Boston, Massachusetts at a mutually agreeable time. Further answering as to warnings, Grace-Conn states see the answer to No. 2 above.

INTERROGATORY 5

Did W. R. Grace, Texas Vermiculite Company, Vermiculite Products, Inc. and/or Southwest Vermiculite Company ever sell any asbestos-containing products to the Dallas Independent School District? This question includes circumstances where any or all of the above companies sold said products to contractors or other persons for use inside the Dallas Independent School District.

ANSWER 5

Grace-Conn objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, irrelevant, vague, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence in that none of the plaintiffs have alleged exposure to Grace-Conn products at any specific building or facility owned or operated by DISD.

INTERROGATORY 6

For each affirmative answer to Interrogatory No. 5, please answer the following questions:

- a. identify all persons with knowledge of the any of these transactions;
- b. identify all documents which relate to any of these transactions (e.g., invoices, contracts, agreements);
- c. identify the particular buildings within the Dallas Independent School District where any of the above products were applied;
- d. identify who applied said products;
- e. identify the method used to apply said products;
- f. identify the dates of said transactions and said product application;
- g. identify any past or present employees, officers, executives or contractors of any of the above corporate entities who have knowledge regarding any of the above information.

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ANSWER 6

See the answer to Interrogatory No. 5, above.

INTERROGATORY 7

Did W.R. Grace, the Texas Vermiculite Company, Vermiculite Products, Inc. and/or Southwest Vermiculite Company ever advertise any of the aforementioned asbestos-containing products for sale in the State of Texas?

- a. Did salespersons for any of the above entities ever initiated contacts with the Dallas Independent School District during the 1950's, 1960's and/or 1970's for the purpose of selling any of the above products to the Dallas Independent School District?
- b. please identify the names of all such person, the Dallas Independent School District officials with whom they negotiated, the dates of said negotiations and the substance of said negotiations;
- c. please produce all trade brochures, articles, pamphlets and/or advertisements prepared by any of the above Defendant entities for distribution in the State of Texas concerning the sale of any of the above products.

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ANSWER 7

Subject to the General Objections interposed above, Grace-Conn states that to the extent they exist, relevant, non-privileged and non-trade secret documents containing information

responsive to this interrogatory will be made available to the plaintiffs in Boston, Massachusetts at a mutually agreeable time.

INTERROGATORY 8

Did W.R. Grace receive a document in the regular course of a regularly conducted business activity entitled "Zonolite Vermiculite Ore Review", authored by Harry A. Brown/O. Floyd Stewart and dated July 24, 1969? (See attached Exhibit "1").

If so, please describe in detail the job titles, job duties, and years of employment with Defendant the following persons:

- a. C. M. Graff (sic)
- b. R. M. Vining
- c. "Mr. Grace"
- d. Harry A. Brown
- e. O. Floyd Stewart

ANSWER 8

Subject to the General Objections interposed above, Grace-Conn states yes.

- a. C.N. Graf - Group Executive of Industrial Chemical Group 1968-1978; President and Chief Operating Officer of Grace-Conn. from 1978 to 1985.
- b. R.M. Vining - President of Grace-Conn's Construction Products Division from 1969 to 1986.
- c. "Mr. Grace"(J. Peter Grace, Jr.) - Presently Chairman and Chief Executive officer of Grace-Conn. Since 1945 Mr. Grace has either been President, Chief Executive officer or Chairman of Grace-Conn.
- d. Harry A. Brown - Vice President Grace Conn's Construction Products Division Manufacturing 1969 to 1972; Construction Products Division Executive Vice President 1972 to 1977; Vice President Administration Grace-Conn's Corporate Research Division 1977 to 1983. Retired 1983.
- e. O. Floyd Stewart - From 1948 to 1961 he was responsible for the milling operation in Enoree, SC. From 1961 to 1965 he was assistant to the President of Zonolite for production planning. From 1965 to 1975 he was manager of mining operation for both the Libby MT and the Enoree SC mills. From 1975 to present his responsibilities were limited to the Enoree mill.

INTERROGATORY 9

Please identify all facts and opinions, including the source(s) of these facts and opinions and the dates they were known or held by Defendant, on which the following statement appearing in the July 24, 1969 report is based: "Tremolite asbestos is a definite health hazard at both the Libby operation and at the expanding plants using the ore." (See Exhibit "1").

ANSWER 9

Subject to the General Objections interposed above, Grace-Conn states that to the extent they exist, relevant, non-privileged and non-trade secret documents containing information responsive to this interrogatory will be made available to the plaintiffs in Boston, Massachusetts at a mutually agreeable time.

INTERROGATORY 10

Please identify all facts and opinions, including the source(s) of these facts and opinions and the dates they were known or held by Defendant, on which the following statement appearing in the July 24, 1969 report is based: "The second is to eliminate a serious health hazard caused by the presence of vermiculite and asbestos dust in the mill and expanding plants."

ANSWER 10

Subject to the General Objections interposed above, Grace-Conn states that to the extent they exist, relevant, non-privileged and non-trade secret documents containing information responsive to this interrogatory will be made available to the plaintiffs in Boston, Massachusetts at a mutually agreeable time.

INTERROGATORY 11

Please identify all products containing vermiculite manufactured, sold and/or distributed by W.R. Grace, the date said products were made and sold, the percentage of vermiculite in same and the intended use of said products, and the dates warning labels, if any, were placed on said product containers.

ANSWER 11

Subject to the General Objections interposed above, Grace-Conn states see the Product Appendix attached to Grace-Conn's Amended Answers and Objections to Plaintiffs' First Set, subparts a-d, Nos. 2-7, 12, 17-35. Further answering as to warnings, Grace-Conn states see the answer to No. 2, above.

INTERROGATORY 12

When did Defendant learn or suspect that the vermiculite containing products referenced above contained tremolite asbestos?

ANSWER 12

Grace-Conn states that it will supplement its response to this interrogatory when its review of all available information has been completed.

INTERROGATORY 13

When did Defendant first learn or suspect that tremolite asbestos presented a "health Hazard", as that term is used in Exhibit "1", to persons working within their mills and manufacturing plants?

ANSWER 13

Grace-Conn objects to this interrogatory on the grounds that it is overly broad, unduly, burdensome, irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence. further answering, see the General Objections interposed above. Without waiving these objections Grace-Conn states that from its investigation to date it appears that the Zonolite Company, the assets of which Grace-Conn did not acquire until 1963, was informed by the Montana State Board of Health in 1956 that inhalation of asbestos dust had been reported to be associated with the development of pulmonary fibrosis among workers depending upon length of exposure and the nature and concentration of the dust. Grace-Conn expressly denies that this information is relevant to the subject matter of this suit or attributable to Grace-Conn.

INTERROGATORY 14

Did W.R. Grace install a dust collection and control system at any of its mills or manufacturing plants to reduce and/or eliminate asbestos exposure after July 24, 1969?

If so, please identify the dust control system(s) adopted, the dates of adoption of said systems and whether such measures reduced potential asbestos-related health impacts.

ANSWER 14

Subject to the General Objections interposed above, Grace-Conn states yes. Further answering Grace-Conn states, that to the extent they exist relevant, non-privileged, non-trade secret document containing information relevant to this interrogatory will be made available to plaintiffs in Boston, Massachusetts at a mutually agreeable time.

INTERROGATORY 15

Please produce all letters, correspondence, records, documents, photographs, tests, drawings, test results, surveys, compilations, charts, conclusions and reports of the persons identified in your Answer to Interrogatory No. 18 in Plaintiff's First Set of Interrogatories (viz. Dr. Lee, Dr. Kolk, Dr. McFee) regarding the presence of asbestos in any building within the Dallas Independent School District.

✓ ANSWER 15

Grace-Conn objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, irrelevant, vague, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence in that none of the plaintiffs have alleged exposure to Grace-Conn products at any specific building or facility owned or operated by DISD. Further, Grace-Conn objects to production of these documents as this request invades the attorney client privilege, work product and party communication exemptions.

\ INTERROGATORY 16

Does Defendant have any knowledge or information regarding the use of any of Defendant's asbestos-containing products in any of the Schools listed on the attached Exhibit "2" If so, please identify:

- a. the source, dates and custodian of this information and knowledge;
- b. for each respective school, please identify Defendant's asbestos-containing products that were applied therein, including the exact location within the building of the application, the dates, the name(s) of the persons who applied the products, and whether safety precautions were taken with respect to eliminating and/or reducing the release of dust and fibers during and after the application;
- c. will Defendant agree to provide all such information to Plaintiffs?

✗ ANSWER 16

Grace-Conn objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, irrelevant, vague, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence in that none of the plaintiffs have alleged exposure to Grace-Conn products at any specific building or facility owned or operated by DISD.

INTERROGATORY 17

For each product listed on the attached Exhibit "3", please identify the year, if any, labels were affixed to the containers in which the products were packaged warning persons of the health impacts of asbestos exposure and/or any other dangers relating to exposure to said product;

- a. please produce a photograph of the package or container of each of the products listed on Exhibit "3";

- b. for each such produce on Exhibit "3", please produce a photograph depicting the product's warning label and the product's brand or trade name.
- c. for each such product on Exhibit "3", please produce a photograph of the product's package or container before asbestos-related health warning were affixed thereto.

ANSWER 17

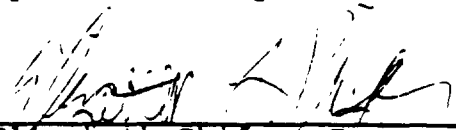
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CAUTION
AVOID CREATING DUST
BREATHING DUST MAY BE HARMFUL TO YOUR HEALTH
USE WITH ADEQUATE VENTILATION
OR WITH RESPIRATORY PROTECTION

- a-c To the extent they exist relevant, non-privileged, non-trade secret documents will be made available to the plaintiffs in Boston, Massachusetts at a mutually agreeable time.

W. R. Grace & Co. - Conn.

By its Attorney,


Elizabeth Phifer, Esq.
Fisk & Fielder
Attorneys at Law
2710 Stemmons Freeway
400 Tower North
Dallas, TX 75207
(214) 638-3744

DATED:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing instrument was hand delivered to Russell W. Budd, and Roger G. Worthington, Baron & Budd, A Professional Corporation, 8333 Douglas Avenue, 10th Floor, Dallas, Texas 75225, and to all other known counsel of record via first class mail this 26th day of January, 1990.

ELIZABETH L. PHIFER