



IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DISTRICT

THOMAS W. WILLIAMS, SR., and
ELIZABETH WILLIAMS,

Plaintiffs,

vs.

THE CELOTEX CORPORATION,
et al.,

Defendants.

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CIVIL ACTION 89-0717-AH-C

CONSOLIDATED WITH AND TO
PROCEED UNDER 89-0717-AH-C

89-03000-AH (COLBERT)

89-03001-AH (BURKETT)

89-03002-AH (LEONARD)

89-03003-AH (MORRISON)

PLAINTIFFS' ANSWERS TO DEFENDANT,
GARLOCK INC'S INTERROGATORIES AND
REQUEST FOR PRODUCTION REGARDING CIVIL CONSPIRACY

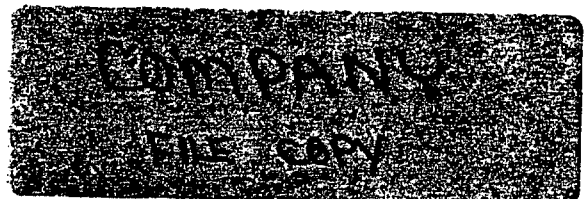
COME NOW, PLAINTIFFS above and answer Defendant Garlock
Inc's Interrogatories and Request for Production Regarding Civil
Conspiracy pursuant to Rule 33 and 34 of the Federal Rules of
Civil Procedure.

Respectfully submitted,

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BY: 

RUSSELL W. BUDD
State Bar No. 03312400



ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 1:

Set forth with particularity each and every overt act in which you contend Defendant, Garlock Inc engaged in furtherance of the conspiracy alleged in your complaint.

For each and every overt act specified, set forth the following:

- a. The date of the overt act.
- b. The exact identity of the individuals involved, including corporate affiliation, if any.
- c. The location at which the overt act occurred.
- d. The substance of the overt act.
- e. The name and present of each and every witness or person known to you who can testify or who has knowledge relevant to the matters referred to in subparagraphs (a) through (d).

ANSWER: Please refer to Appendix I.

INTERROGATORY NO. 2:

Do you contend that the substance of any of the overt acts referred to in response to Interrogatory No. 1 are embodied in correspondence:

If so, set forth with particularity the following:

- a. The exact identity of the individuals sending and receiving the correspondence, including corporate

affiliations, if any.

- b. The date of the correspondence.
- c. The substance of the correspondence.
- d. Attach hereto true and accurate copies of the correspondence.

ANSWER: Please refer to Appendix I.

INTERROGATORY NO. 3:

Do you contend that the substance of any of the overt act referred to in response to Interrogatory No. 1 were embodied in any sort of discussion or communication between any of the Defendants in this action or others?

If so, for each such discussion or communication, set forth with particularity the following:

- a. The date of the discussion or communication.
- b. The exact identity of the individuals participating in the discussion or communication, including corporate affiliations, if any.
- c. The substance of the discussion or communication.
- d. Attache hereto true and accurate copies of any and all documents which reflect the substance of these discussions or communications.
- e. List each and every person who has knowledge of the substance of these discussions or communications. For each such person, provide the following:
 - (1) His present address.

(2) His corporate affiliation, if any.

(3) A brief summary of his relevant knowledge.

ANSWER: Please refer to Appendix I.

INTERROGATORY NO. 4:

Do you contend that Defendant, Garlock Inc, had any meetings with other Defendants to this action or others in furtherance of the conspiracy alleged in your complaint?

If so, set forth with particularity the following:

- a. The date of any such meeting.
- b. The location of any such meeting.
- c. Each individual participating in or present at the meeting, including their corporate affiliation, if any.
- d. The substance of any such meeting.
- e. Attach hereto true and accurate copies of any and all documents which reflect, relate, or refer to the substance of such meetings, including but not limited to memoranda, correspondence or minutes.

ANSWER: Please refer to Appendix I.

INTERROGATORY NO. 5.:

Have you received any letters or other communications, excluding these pleadings, from any other Defendants or others in this case which mention the name of Defendant, Garlock Inc?

If so, attache hereto true and accurate copies of any such letters or communications.

ANSWER: Please refer to Appendix I.

INTERROGATORY NO. 6:

List each and every witness you intend to call at the trial of this matter in support of your contention that Defendant, Garlock Inc, participated in a civil conspiracy as alleged in your complaint. For each such witness, furnish the following:

- a. His present address.
- b. His corporate affiliation, if any.
- c. The substance of his expected testimony.

ANSWER: Please refer to Appendix I.

INTERROGATORY NO. 7:

List each and every person who has knowledge relevant to the facts which support your allegation that Defendant, Garlock Inc, participated in a civil conspiracy as alleged in your complaint, whether or not you presently intend to call such individual as a witness at the time of trial. For each such person, provide the following:

- a. His present address.
- b. His corporate affiliation, if any.
- c. A brief summary of his relevant knowledge.

ANSWER: Please refer to Appendix I.

INTERROGATORY NO. 8:

For each person listed in answer to Interrogatory Nos. 6 or 7, state whether you have access to or have in your possession any statements, writings, depositions, or trial testimony of that person.

For each such statement, writing, deposition, or trial testimony, provide the following:

- a. If a statement, set forth with particularity:
 - (1) The exact identity of the person to which it pertains, including corporate affiliation, if any.
 - (2) The exact identity of the person making the statement, including corporate affiliation, identified in (a) above.
 - (3) The circumstances surrounding the making of the statement, including the purpose therefore.
 - (4) The person to whom the statement was made, or the person requesting the statement.
- b. If a writing, provide the following:
 - (1) The exact identity of the person to which it pertains, including corporate affiliation, if any.
 - (2) The exact identify of the person or persons making and/or receiving the writing.
 - (3) The date of the writing.
 - (4) The substance of such writing.
 - (5) Attach hereto true and accurate copies of any such writing.
- c. If a deposition or trial testimony, provide the following:
 - (1) The exact identity of the witness to which it pertains, including corporation affiliation, if

any.

- (2) The style of the case, court and case number to which it pertains.
- (3) The caption of the case.
- (4) The name, address and telephone number of the court reporter for such deposition or trial testimony.

ANSWER: Please refer to Appendix I.

INTERROGATORY NO. 9:

List any document, writing, note or other evidentiary exhibits of whatever description, which you intend to use at the trial of this matter to establish Defendant, Garlock Inc's, alleged participation in the civil conspiracy alleged in your complaint. Attach hereto a true and accurate copy of each such exhibit.

ANSWER: Please refer to Appendix I.

INTERROGATORY NO. 10:

For each document listed in response to Interrogatories Nos. 7 and 8, provide the following:

- a. The author of the document.
- b. Where the original of the document may be found.
- c. The date of authorship.
- d. A general description of the document.
- e. The identity of any witness or person who can authenticate the document.

- f. If you contend such document is admissible in evidence, please specify the Federal Rule of Evidence upon which you rely for admission.

ANSWER: Please refer to Appendix I.

INTERROGATORY NO. 11:

List each and every item of medical or scientific information which you contend that Defendant, Garlock Inc, withheld from the public in furtherance of the civil conspiracy alleged in your complaint.

For each such item of information listed, provide the following:

- a. The author, title and date of the information.
- b. If the information was published, the journal title and the volume and page at which it appears.
- c. If the information is written but unpublished, identify the present custodian of any such monograph, and specify the date of its dissemination and the number of copies disseminated, and to whom disseminated.
- d. If such information is oral, identify the person giving the information, the persons receiving the information, and the date on which it was transmitted. Attache hereto true and accurate copies of any and all documents which reflect the substance of these discussions.
- e. Specify the exact date upon which you contend

Defendant, Garlock Inc, conspired to withhold this information from the public.

- f. Specify the date on which you contend Defendant, Garlock Inc, had access to the listed information.
- g. List the specific act engaged in by Defendant, Garlock Inc, which resulted in the withholding of this information from the public.
- h. If this information at any time became known to the public, specify the date on which it became known and the method by which it became known.

ANSWER: Please refer to Appendix I.

INTERROGATORY NO. 12:

Do you contend that Defendant, Garlock Inc, or its alleged predecessors entered into any agreement to withhold or alter information concerning the alleged health effects of exposure to asbestos-containing products through membership, affiliation, or involvement of any kind with a trade association or trade organization?

If so state:

- a. The name and last known address of the trade association or trade organization.
- b. The exact identity of all officers or employees of the trade association or trade organization having knowledge of any facts which support the allegations of conspiracy in your complaint.

- c. The names of all other members of the trade association or trade organization during the time period relevant to the alleged conspiracy.
- d. Set forth with particularity the act or acts of the trade association or trade organization or its members which you contend constitute an agreement to withhold or alter information as set forth above.
- e. Attach hereto true and accurate copies of any and all documents which reflect, refer or relate to an agreement to withhold or alter information as set forth above.

ANSWER: Please refer to Appendix I.

INTERROGATORY NO. 13:

Identify any and all persons, corporations or other entities, other than those named in your complaint which were involved in the conspiracy alleged in your complaint.

ANSWER: Please refer to Appendix I.

INTERROGATORY NO. 14:

Set forth the specific connection or involvement each person, corporation or other entity listed in response to Interrogatory No. 13 and each defendant named in the complaint had with the conspiracy.

ANSWER: Please refer to Appendix I.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above
and foregoing was mailed to all counsel of record on the
_____ day of _____, 19____.



RUSSELL W. BUDD

APPENDIX I

- I. Garlock, Inc. Answers to Plaintiffs' Interrogatories; USDC, Dist. of MA, 1982; Cir. Ct. for the County of Wayne, MI, 1989; USDC, W. Dist. of TX, El Paso Div., 1983; and, USDC N. Dist. of OK, 1988.

Garlock lists 9 Workmen's Compensation Claims involving possible asbestosis and/or pulmonary problems which had been filed by their employees.

Garlock admits that they first learned of a diagnosed case of asbestosis, meso, or lung cancer involving one of their employees in 1958.

Trade organizations to which Garlock belonged included: Fluid Sealing Association., ATI, AIA, ASTM, and the National Safety Council.

Garlock admits that they maintained an engineering or technical library for many years and that they have subscribed to many engineering and industrial journals and magazines from time to time.

Garlock never placed warning labels on their asbestos-containing products until the 1980's.

The percentage of asbestos in Garlock products ranged from 10% to 85%.

Garlock purchased raw asbestos fiber from 1954 to 1960 from Lake Asbestos, Ruberoid, Johns-Manville, and Bell Asbestos Mines.

II. ASBESTOS TEXTILE INSTITUTE

Garlock was a member of the ATI. Garlock employees served on the Board of Directors, the Technical Committee, and the Air Hygiene and Manufacturing Committee. G. Ellwood Houghton presented a speech entitled "The Use of Asbestos Textiles in Industrial Products" at the ATI general meeting on February 10, 1967. Garlock was one of the plants which was surveyed for the Hemeon Report. The following minutes show Garlock employees attended various ATI meetings:

A. 3-7-56 Air Hygiene Comm. Meeting with Houghton attending as a guest. Dr. Kenneth Smith of JM reviews Hueper's Public Health Monograph No. 36. The minutes read, "In the publication he ties together Asbestosis and Cancer throughout-creating a new word for the medical dictionary such as Asbestosis-Cancer." (ATI 23)

B. 3-7-56 Board of Directors Meeting. Minutes read, "Under the subject of new members President Waken advised that Mr. G. E. Houghton, Garlock Packing company, and Mr. Frank Gatke, Asbestos Textile Company, had attended the Air Hygiene Committee meeting earlier in the day and had conferred with him immediately preceeding this meeting of the Board of Governors regarding the

possibility of rejoining the Asbestos Textile Institute."

(ATI 23)

C. 3-8-56 Minutes of the General Meeting showing G. E. Houghton as a guest. (ATI 23)

D. 10-9-64 Minutes of the General Meeting listing G. E. Houghton as a guest. These minutes show Dr. Crallen of the U.S. Public Health Service discussing his survey of member's plants and announcing that he will present some of his data at the conference on "Biological Effects of Asbestos" to be held October 19-21, 1964. (ATI 37)

E. 6-9-66 Minutes of the Board of Governors Meeting showing G. P. Wiess attending as a member. The ATI board voted unanimously to join the IHF. "The secretary will proceed to make application for membership." (ATI 54)

F. 6-10-66 Minutes of the General Meeting listing G. E. Houghton and Olson as members attending. "P. Jay Flocken, legal counsel, presented a report entitled 'Some of the Legal Problems on Asbestos Publicity.'" Dr. J. H. Wolfsie, Corporate Medical Director, United States Rubber Company, was the guest speaker, and his subject was 'Asbestos and Health.'" (ATI 55)

Attached to these minutes are the minutes of the Air Hygiene and Manufacturing Committee dated 6-9-66 which report a

proposal by Drs. deTreville and Gross of the IHF for a supplementary investigation of the specificity of asbestos bodies and the biologic effects of trace substances associated with chrysotile asbestos. Also attached are the minutes of the Technical Committee dated 6-9-66, showing Houghton attending. (ATI 55)

G. 10-6-66 Board of Governors Minutes with H. T. Schaefer attending. "Mr. Hugh recommended that the Board of Governors should authorize our Legal Counsel to draft a letter protesting the Chemical Week article of September 10, 1966, entitled 'Asbestos-Awaiting Trial.' and send same to the editor of Chemical Week; also to the proper official in McGraw-Hill Publishing Company. Further, that Legal Counsel should attempt to set up a meeting with McGraw-Hill and/or Chemical Week at which he, accompanied by three representatives of A.T.I., could register a verbal protest." (ATI 56)

H. 10-7-66 Minutes of the General Meeting with Houghton attending. These minutes report that G. P. Wiess would be a member of the Board of Governors for the coming year and that N.L.A. Martucci would be Treasurer of the ATI for the coming year. (ATI 57)

I. 6-8-67 Minutes of the Air Hygiene and Manufacturing Comm. with L. Garrison attending. Dr. Cralley attended and

discussed his study of the asbestos textile industry. "He also reported on a meeting attended by a number of independent researchers interested in the study of the health effects of asbestos on workers in the industry." (ATI 58)

J. 2-10-67 Minutes of the General Meeting with N.L.A. Martucci, "Mr. G. Ellwood", G.B. Houghton and W.A. Garrison attending. Houghton, of Garlock, was the main speaker. His subject: 'The Use of Asbestos Textiles in Industrial Products,' was of great interest to the members present, and we are pleased to have had the opportunity to hear his presentation." (ATI 59)

K. 6-7-67 Minutes of the Board of Governors Meeting reports that G. Parry Weiss of Garlock, Inc. was absent. These minutes report that the Board of Governors had approved the purchase of a Bauch & Lomb Dust Counters for use by all the regular members of the Institute. "The question of use of the equipment by rotation among member companies was brought up. Mr. Floken asked if it was the intention to make permanent record of dust counts, and if so, if such records would create a problem if the union got possession of them." "Mr. Schuman referred to the planned publicity program as discussed in the Sales Promotion Committee at the February meeting...Quoted a letter from Mr. Martucci of Garlock, Inc., in reference the firm of Edward W. Robotham of Westport, Conn., who specializes in sales promotion

work. Mr. Shuman said that he would ask Mr. Martucci to explore the possibilities of this company giving us an idea of how much money it might cost the A.T.I. to present an effective sales promotion program, and what this program might entail." (ATI 60)

L. 6-8-67 Minutes of the Technical Committee list G. E. Houghton in attendance. These minutes report that the committee had a meeting on May 11th and 12th at ASTM Headquarters in Philadelphia, PA to discuss revising specifications on D 299 yarn and D 375 roving. Houghton and Gary Garrison attended the May meeting. (ATI 61)

M. 6-8 & 9-67 Minutes of the Fiber Testing committee. These minutes report that the first part of the meeting was held jointly with the Technical Committee. In the subjects discussed section, "The Encyclopedia of Industrial Chemical Analysis is soon to publish a section in volume six on tests pertaining to asbestos. Raybestos-Manhattan was asked to contribute to this section. It was suggested that any A.T.I. member asked to contribute articles on asbestos testing in this publication in the future might first wish to present their contribution to appropriate committees within the A.T.I. for review. Such a review might produce suggestions that could result in a presentation representative of the views of the asbestos industry." (ATI 62)

N. 6-8-67 Minutes of the Air Hygiene and Manufacturing Committee list L. Garrison of Garlock as being absent. These minutes report that c. L. Sheckler gave a report on Asbestos Textile Industry Health Regulation in Great Britian. "In brief, they are proposing the manufacture of asbestos textiles shall be a totally enclosed operation in which the operators will never be exposed to any visible dust. All surfaces, building and machine, shall be polished and resist dust accumulation. All materials shall be handled and transported in sealed containers. Vacuum cleaners shall not exhaust air into the building. The committee found the recommendations impractical and extreme. However, there seems to be no doubt that the British government will attempt to enforce them." (Though Garrison was absent, he received a copy of these minutes.) (ATI 58)

O. 10-5-67 Minutes of the Board of Governors Meeting show N.L.A. Martucci substituting for G. P. Weiss. These minutes report that G. P. Weiss would be on the Board of Governors for the coming year, and G. P. Weiss would be Treasurer of the ATI. (ATI 59)

P. 10-5-67 Minutes of the Technical Committee report that G. E. Houghton attended a meeting of this committee which was held in Atlanta on Aug. 17th and 18th. (ATI 60)

Q. 10-5-67 Minutes of the Air Hygiene and Manufacturing Committee list L. Garrison as being absent. "A number of

newspaper articles regarding claims against one member company were discussed." (ATI 61)

R. 10-3-68 Minutes of the Air Hygiene & Manufacturing Committee. "Members of the committee stressed the point that dry weaving of asbestos cloth presents one of the greatest health safety problems in the production of asbestos textiles. To achieve the tentative ACGIH threshold limit values of 2MPPCF of air or the alternate, 12 fibres per cc-5 microns+, engineering asbestos dust abatement in the dry weaving process is, it appears, an impossible task. Wet weaving throughout the industry, however, will achieve tremendous strides towards accomplishing the standards recommended by the United States Public Health Service and the American Conference of Governmental Industrial Hygienists." (ATI 62)

S. 10-3-68 Minutes of the Board of Governors Meeting report that G. P. Weiss was absent, and that he was nominated by Garlock to be on the board again for the coming year. (ATI 63)

T. 10-9-69 Minutes of the Technical Committee list Houghton and S. G. Dixit attending. (ATI 64)

U. 10-10-69 Minutes of the General Meeting show Houghton, S. G. Dixit, and A. Kuzmuk attending. (ATI 43)

Also see follwing ATI documents listed on Plaintiffs' Exhibit List: ATI-45, T-106, ATI-6, ATI-18, ATI-19, ATI-22,

ATI-23, ATI-24, ATI-26, ATI-34. T-106 is the "Hemeon Report" of June, 1957.

III. NATIONAL SAFETY COUNCIL

Garlock has been a member of the National Safety Council from 1922 to the present. Several publications from the NSC contain articles about the hazards of industrial dust:

- A. 1932 Transactions of the National Safety Council (G-17)
- B. 1933 Transactions of the National Safety Council (G-18)
- C. 1934 Transactions of the National Safety Council (G-19)
- D. 1935 Transactions of the National Safety Council (G-20)
- E. 1936 Transactions of the 25th National Safety Congress (G-21)
- F. 1937 Transactions of the 26th National Safety Congress (G-22)
- G. 1938 Transactions of the Silver Jubilee Safety Congress (G-23)
- H. 1939 Transactions of the 28th National Safety Congress (G-24)
- I. 1940 Transactions of the 29th National Safety Congress (G-25)
- J. 1941 Transactions of the 30th National Safety Congress (G-26)
- K. 1942 Transactions of the 31st National Safety Congress (G-27)
- L. Accident Prevention Manual for Industrial Operations, 4th Edition, National Safety Council, pp. 11-9 to 11-10, 11-29 to 11-30, and 41-7 to 41-8, 1959. (G-28)
- M. Accident Prevention Manual for Industrial Operations, 5th Edition, National Safety Council, pp. 39-5 to 39-8, 1964. (G-29)

- N. Supervisors Safety Manual, 3rd Edition, National Safety Council, pp. 107 to 110, 1967. (G-30)
- O. "Fume and Dust Exposure," V.J. Castrop, National Safety News, Feb., 1948. (G-31)
- P. "The Expanding Field of Industrial Hygiene," A.C. Pabst, National Safety News, April, 1955. (G-32)

The 1932 and 1934 Transactions contain articles written by Leroy Gardner: 1932-"The Effects of Inhaled Mineral Dusts," and, 1934-"Types of Dust That Cause Occupational Diseases."

IV. ASBESTOS INFORMATION ASSOCIATION

Garlock was a member of the AIA from 1974 to 1980. During this time Matthew Swetonic made his "Swetonic Speech" at an ATI meeting. (6/7/73). The deposition of Swetonic authenticates this speech. George Bader, Sr., et al v. AWI, et al, No. WOOD026087, N.J. Super. Ct., Middlesex Co., Law Div.).

V. MISCELLANEOUS EXHIBITS

Plaintiffs adopt and incorporate herein Plaintiffs' Answers to Interrogatories on Civil Conspiracy served by both Owens-Corning Fiberglas Corporation (Thomas Williams, Sr., et al v. The Celotex Corp., et al, 89-0717-AH-C, D.C. S. Ala. 1989) and Eagle-Picher Industries, Inc. (Thomas Williams, Sr., et al v. The Celotex Corp., et al, 89-0717-AH-C, D.C. S. Ala. 1989). These respective sets of interrogatory answers have previously been sent to counsel for Garlock and are on file with the Court. If Garlock does not have copies of these interrogatory answers, please notify counsel for Plaintiffs and same will be delivered

shortly thereafter. Plaintiffs' herein also incorporate all exhibits and documents attached to the above Owens-Corning Fiberglas Corporation and Eagle-Picher Industries, Inc. interrogatory answers, as well as all witnesses identified therein.

Also see deposition of Ellwood Houghton taken on June 9, 1988 by Fred Baron.