

CAUSE NO. 94-CI-10078



IN RE: ASBESTOS LITIGATION

§ IN THE DISTRICT COURT OF
§
§ 285TH JUDICIAL DISTRICT
§
§ BEXAR COUNTY, TEXAS

**DEFENDANT, ACandS, INC.'S RESPONSE TO
PLAINTIFFS' MASTER INTERROGATORIES AND REQUEST FOR PRODUCTION**

TO: Plaintiffs, by and through their attorneys of record, Mary E. Skelnik and Russell W. Budd, Baron & Budd, P.C., The Centrum, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281 and Carl Tucker, Silber•Pearlman, P.C., SPB Building, 3110 Webb, Dallas, Texas 75205

COMES NOW, ACandS, INC., a named Defendant in the above entitled and numbered cause, and pursuant to Texas Rules of Civil Procedure 166b, 167 and 168, files this, its Response to Plaintiffs' Master Interrogatories and Request for Production.

Respectfully submitted:

DUNN, KACAL, ADAMS, PAPPAS & LAW, P.C.

By:

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Preliminary Statement

The information used in answering these discovery requests was assembled by authorized employees and counsel for ACandS, Inc. ("ACandS") and was derived primarily from an ongoing review of ACandS' records and information compiled from past and ongoing discussions with ACandS' past and present employees. Because much of the information asked about is of, or relates to, events of years ago, it is difficult, if not impossible, for ACandS to retrieve or reconstruct some of it. Therefore, ACandS reserves the right to amend these responses if new or more accurate information becomes available, or if errors are discovered. Furthermore, these responses are given without prejudice to ACandS' right to rely at trial on subsequently discovered information or on information inadvertently omitted from these answers as a result of mistake, error or oversight.

Many of these discovery requests appear to be form questions directed to the activities, organization and structure of companies which are or were engaged in the mining and/or manufacture of asbestos or asbestos-containing products and facts and issues relevant to claims against such companies. Unlike the vast majority of defendants in asbestos-related litigation, ACandS was not a miner or manufacturer of asbestos or asbestos-containing products. The Company is, and has been since it began operation in 1958, a contracting company primarily engaged in the installation of thermal insulation materials. The Company utilizes and provides various thermal insulation materials as they are called for by contract requirements/specifications. During the period from January 1, 1958 through 1973, some of those materials contained asbestos. To the extent that these discovery requests are not designed to inquire about the facts and issues relevant to claims against such a company, they are vague, ambiguous and potentially misleading.

By January, 1974 the Company's policy was that it would not furnish, handle, use or install products containing asbestos except for products in which the asbestos fibers were encapsulated or coated, such as mastics. Each interrogatory and document request is overbroad, unduly burdensome and seeks irrelevant information to the extent it relates to periods after 1974. Unless otherwise stated in an individual response, all responses relate to the time period 1958, when the Company began operations, to 1974.

ACandS objects to each discovery request to the extent that it uses argumentative terms or otherwise implies facts which ACandS denies. The use of phrases such as "your asbestos-containing products," "your products" or "asbestos-containing products manufactured by you" make the requests misleading because they imply or assume that ACandS manufactured asbestos-containing products, which it did not. Obviously, such requests are not directed to ACandS and are not applicable to it. In responding to these requests, ACandS has attempted to give words their usual, commonly understood meanings.

ACandS objects to each discovery request to the extent that it seeks information protected from discovery by any privilege or by the work product doctrine.

ACandS objects to these discovery requests to the extent that they seek disclosure of information generated by persons other than ACandS that has come into the possession of ACandS' attorneys during the course of discovery and trial preparation in asbestos-related litigation.

ACandS objects to plaintiffs' instructions and definitions to the extent that they are vague and ambiguous and seek to impose on ACandS any obligations greater than those imposed by the Texas Rules of Civil Procedure.

ACandS does not waive any objections by providing responses to individual discovery requests or by raising additional objections to individual discovery requests. This statement is incorporated by reference in each response set forth below.

INTERROGATORIES

INTERROGATORY NO. 1:

State the name, address, job title, length of time employed by Defendant, and a year-by-year list of all other positions, titles, or jobs held when working for Defendant of each person who has supplied any information used in answering these interrogatories.

ANSWER: These interrogatories are signed on behalf of ACandS, Inc. by Phyllis Burkholder, Secretary-Treasurer of ACandS, Inc., 120 N. Lime Street, Lancaster, PA 17603. Ms. Burkholder began her employment with ACandS in

1958.

The information used in answering these interrogatories was assembled by authorized employees and counsel for ACandS and was derived primarily from an ongoing review of ACandS' records and information compiled from past and ongoing discussions with ACandS' past and present employees. Since the information was gathered in a cumulative fashion for the purposes of litigation, rather than on an individual question-by-question basis for this particular set of interrogatories, it is not possible to identify by name each person who could be said to have supplied information used in answering these interrogatories.

INTERROGATORY NO. 2:

State whether or not you are a corporation. If so, state your correct corporate name, the state of your incorporation, the address of your principal place of business, the name and address of the person or entity authorized to accept service of process on your behalf, and whether or not you have ever held a Certificate of Authority to do business in the State of Texas.

ANSWER: ACandS, Inc. was incorporated in the State of Delaware on November 26, 1957 under the name Armstrong Contracting and Supply Corporation. Effective June 18, 1969, the Company's name was changed to ACandS, Inc. ACandS, Inc.'s principal place of business is located at 120 North Lime Street, Lancaster, PA 17603. CT Corporation Systems, 1601 Elm Street, Dallas, TX 75201 is authorized to accept service of process on behalf of

ACandS. ACandS, Inc. has been authorized to do business in the State of Texas since December 30, 1957.

INTERROGATORY NO. 3:

Has Defendant or any of its predecessor or subsidiary companies at any time engaged in the mining and subsequent sale of material containing asbestos fibers? If so, identify the location of the mine(s), the years of its operation, the type of asbestos mined and whether you sold any asbestos to any Defendants in the Dallas County asbestos litigation.

ANSWER: No.

INTERROGATORY NO. 4:

Identify by name each product containing asbestos fibers that Defendant or any of its predecessor or subsidiary companies at any time manufactured or sold.

ANSWER: ACandS objects to this interrogatory on the grounds that it is overbroad and seeks information not reasonably calculated to lead to the discovery of admissible evidence since, among other things, it is not limited to the relevant time period, geographic area, or to the products to which the plaintiffs allege exposure. ACandS further objects to this interrogatory on the ground that it assumes and implies that ACandS was something other than a contracting company. ACandS is not now and never has been a miner or manufacturer of asbestos-containing products and is not now and has not in the past engaged in the business of selling asbestos-containing products. Without waiving its objections, since it began operations on January 1,

1958, ACandS has been a contracting company primarily engaged in the installation of thermal insulation materials. During the period from January 1, 1958 through approximately 1973, ACandS utilized and provided various thermal insulation materials containing asbestos at different times and locations when they were called for by contract requirements/specifications. Those materials were manufactured by others. In connection with its contracting business, ACandS sold some of those products directly to other entities, but the sales were minor and not the primary business activity of the Company. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action. By way of further reply, ACandS incorporates by reference its response to Interrogatory No. 6.

INTERROGATORY NO. 5:

Identify by name each product containing asbestos fibers that Defendant or any of its predecessor or subsidiary companies at any time marketed or sold.

ANSWER: ACandS incorporates by reference its response to Interrogatory Nos. 4 and 6.

INTERROGATORY NO. 6:

If the answer to one or more of the last three interrogatories is in the affirmative or lists any products, state as to each named product the following:

- A. As to each product, state whether such product was mined, manufactured, marketed and/or sold.
- B. The names of the companies mining, manufacturing, marketing, and/or selling each product mined, manufactured, marketed, and/or sold.
- C. The trade or brand name of each of those products mined, manufactured, marketed and/or sold.
- D. The date each of the named products was placed on the market.
- E. A description of the physical (chemical) composition of each of the named products, including the type of asbestos contained in the product and the percentage of asbestos put in each product.
- F. The date each of the products was removed from the market and no longer sold or distributed and the reason or reasons therefor.
- G. The date asbestos was removed from such products, if ever, and the reasons therefor.
- H. A description of the physical appearance of each of the named products.
- I. A detailed description of the intended uses of the named products.
- J. Identify the last year that you sold each asbestos-containing product.

ANSWER: ACandS objects to this interrogatory on the grounds that it is overbroad since it is not limited to the relevant time period or geographic area and therefore is not reasonably calculated to lead to the discovery of admissible evidence. ACandS further objects to this interrogatory on the grounds that it incorrectly assumes or implies that ACandS engaged in each of the listed activities. Without waiving its objections, ACandS incorporates by reference its response to

Interrogatory No. 4. By way of further response and to the extent that this interrogatory seeks information about the products utilized by ACandS in its contracting operations, ACandS states that as a contracting company primarily engaged in the installation of thermal insulation materials, the Company used a wide variety of products, some of which contained asbestos, including products from virtually every major manufacturer of asbestos-containing thermal insulation products as well as from other companies. The particular products used on a given job would vary according to the specific requirements and specifications of that contract. Due to its record retention program, and the fact that ACandS has had branches operating throughout the country since it began operations in 1958, ACandS is not able to identify each and every asbestos-containing product it used in the course of its contracting operations. The Company used a variety of insulation materials and products, including such general types of asbestos-containing materials as: 85% magnesia pipe covering and block insulation, calcium silicate pipe covering and block insulation, asbestos insulating and finishing cement, asbestos-containing spray-applied insulation products, and a variety of other materials that contained asbestos, including mastics and cloth.

Included in the list of manufacturing companies from which ACandS obtained asbestos-containing products were: 1) Atlas Asbestos Company and its predecessors and successors; 2) Keene Corporation and its predecessors; 3) Philip Carey/Celotex and its successors; 4) Eagle-Picher Industries; 5) Flintkote Co.; 6) Forty-Eight Insulations; 7) Benjamin Foster Co.; 8) Johns Manville; 9) Armstrong Cork Co.; 10) Rockwool Manufacturing Co.; 11) G.A.F./Ruberoid; 12) Turner & Newall and its subsidiary and related companies; 13) Ryder Industries; 14) Owens-Corning Fiberglas Corp.; 15) Pittsburgh Corning Corp.; 16) Raybestos-Manhattan, Inc.; 17) Southern Asbestos Co.; 18) Amatex; 19) UNARCO; 20) Standard Insulation; 21) Fibreboard/Pabco; 22) Keasbey & Mattison Co.; 23) H.K. Porter; 24) Nicolet; and 25) U.S. Gypsum. By so responding, ACandS does not represent that it utilized all the products manufactured by each of the listed companies or that the listed companies were the only companies from which it obtained asbestos-containing insulation materials.

By 1972, the Company was moving to eliminate the use of insulation products that contained asbestos and was encouraging its customers to specify asbestos-free materials to the extent that they were available. Those efforts continued through 1973 and by January,

1974 the Company's policy was that it would not furnish, handle, use or install products containing asbestos except for those products in which the asbestos fibers were encapsulated or coated, such as mastics.

Lastly, since ACandS did not manufacture the asbestos-containing products which it used, the Company does not have sufficient information to respond to this interrogatory with the specificity requested. Some of the product-specific information requested may be contained in the descriptive pamphlets or brochures provided to ACandS by the manufacturers and/or distributors of the various asbestos-containing products. To the extent that those documents have been retained by ACandS, they are available for inspection by plaintiffs, at plaintiffs' expense, at a mutually agreeable time in Philadelphia, Pennsylvania. In so responding, ACandS does not represent that it used each of the products described in those materials.

INTERROGATORY NO. 7:

Do any documents, including but not limited to written memoranda, specifications, recommendations, blueprints, or other written materials of any kind or character, relating to the design, preparation, or introduction into the market of the products listed in Interrogatory No. 6 still exist? If so, state:

- A. A description of each such document.
- B. The name, address, and job title of each person who currently has possession of each document, and where

the documents are currently located.

ANSWER: Not applicable. ACandS did not manufacture or design the asbestos-containing products it used in its contracting operations. This interrogatory is more appropriately directed to the manufacturers of the products. By way of further reply, ACandS incorporates by reference its response to Interrogatory Nos. 4 and 6.

INTERROGATORY NO. 8:

Before distributing, selling, or placing the products listed in your responses to Interrogatory Nos. 3-6 into the streams of commerce, were any tests conducted to determine potential health hazards involved in the use of, or exposure to, the materials such as asbestos, contained in those products? If the answer is in the affirmative, state:

- A. The names of the products tested and the date of each test.
- B. The name, address, and job title of each person conducting the tests or involved with conducting the tests.
- C. The results of the tests.

ANSWER: The text of this interrogatory indicates that it is intended for the manufacturers of the products and is not applicable to ACandS, an insulation contracting company that was never a manufacturer. To the extent that this interrogatory is intended to inquire about ACandS' testing of products that it did not manufacture, ACandS did not conduct, engage in or participate in any tests, studies and/or research

outside of the context of litigation but reasonably expected the manufacturers of the products it used in its contracting operations to conduct all necessary testing.

INTERROGATORY NO. 9:

Do any documents, including but not limited to written memoranda, specifications, recommendations, blueprints, or other written materials of any kind or character, relating to the testing of the products referred to in Interrogatory No. 6 now exist? If so, state:

- A. A description of each such document.
- B. The name, address, and job title of each person who currently has possession of each document, and where it is presently located.

ANSWER: ACandS incorporates by reference its response to Interrogatory Nos. 6 and 8.

INTERROGATORY NO. 10:

Did Defendant or any of its predecessor or subsidiary companies make any design changes or modifications as a result of those tests described in responses to Interrogatory No. 8? If the answer is affirmative, state:

- A. The trade name of the products changed.
- B. The nature of the changes made and the date of such changes or modifications.
- C. The name, address, and job title of each person responsible for having caused a change to be made, or having made a change or modification.

ANSWER: Not applicable. ACandS did not manufacture or design asbestos-containing products and did not conduct any such tests. By way of further reply, ACandS

incorporates by reference its response to Interrogatory No. 8. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 11:

After releasing the products listed in Interrogatory No. 6 to the public, were any tests conducted on them to determine potential health hazards resulting from the use of or exposure to the materials, such as asbestos, contained in those products? If the answer is affirmative, state:

- A. The names of the products tested and the dates of such tests.
- B. The name, address, and job title of each person who conducted those tests.
- C. The results of those tests.
- D. Whether, as a result of the tests, any products were removed from the market.
- E. The names of all products removed from the market as a result of these tests.

ANSWER: The text of this interrogatory indicates that it is intended for the manufacturers of the products and is not applicable to ACandS. By way of further reply, ACandS incorporates by reference its response to Interrogatory No. 8.

INTERROGATORY NO. 12:

Do any documents, including written memoranda, specifications, recommendations, blueprints, or other written materials of any kind or character, relating to the potential health hazards of the products listed in Interrogatory No. 6 now exist? If so, state:

- A. The name of each product.
- B. A description of each document and how it relates to each product.
- C. The name, address, and job title of each person who currently has possession of each document, and where it is presently located.

ANSWER: ACandS incorporates by reference its response to Interrogatory No. 8.

INTERROGATORY NO. 13:

Did Defendant or any of its subsidiary companies make any design changes as a result of the tests discussed in your response to Interrogatories No. 10 or 13[sic]? If the answer is affirmative, state:

- A. The name of the products changed or modified.
- B. The name, address, and job title of each person responsible for having made a change or modification.
- C. The nature of the hazard or defect which resulted in such change or modification.

ANSWER: Not applicable. ACandS did not manufacture or design asbestos-containing products and did not conduct any such tests. By way of further reply, ACandS incorporates by reference its response to Interrogatory No. 8. ACandS further responds that it has no subsidiaries relevant to this action.

INTERROGATORY NO. 14:

Has Defendant or any of its predecessor or subsidiary companies at any time published or distributed any printed material, including brochures, pamphlets, catalogs, packaging or other written material or[sic] any kind or character containing any warnings concerning the possibility of injury resulting from the use of the asbestos-containing products listed in

Interrogatory No. 6? If so, state:

- A. The names of each relevant product.
- B. The exact wording of each warning statement on each printed material.
- C. A description of the printed material other than the warning statement.
- D. The method used to distribute the warning to persons likely to use the product.
- E. The date each warning was first issued, distributed, or placed on packaging.
- F. The name, address, and job title of each person responsible for having drafted or issued the warning.
- G. The current location of any such printed material and the custodian thereof.
- H. The form in which such literature or printed material can be accessed, i.e., the manner in which such literature is indexed or stored.

ANSWER: ACandS incorporates by reference its response to Interrogatory No. 6. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action. At this time, ACandS has not identified among its records any "printed material, including brochures, pamphlets or other written materials" that contained warnings, concerning the possibility of injury resulting from the use of products utilized in ACandS' contracting activities, which were "published" or "distributed" by the Company for general circulation or distribution outside the Company. Without waiving its objections, ACandS states that during the course of its contracting operations, ACandS made use of warning

labels and signs in compliance with OSHA requirements. In addition, any directions or warnings that were provided by manufacturers or distributors of asbestos-containing products that were used by ACandS would have been conveyed to the job site or point of delivery.

Further, ACandS published manuals for use within the Company relating to various aspects of its contracting operations which contained recommendations for general safety and construction practices, including recommendations with respect to the handling and use of asbestos products. ACandS also provided copies of a pamphlet prepared by NIMA relating to the handling of asbestos-containing materials to various branch offices as well as a NICA pamphlet entitled "Safety Reminders" and copies of applicable OSHA regulations pertaining to the use of asbestos materials were distributed within the Company. Furthermore, the use of asbestos products and health matters were topics that would have been discussed in the normal course of business at routine meetings at various levels within the Company.

Safety was (and is) a prime concern of the Company which, for example, required the holding of toolbox safety meetings at the start of each job and periodically thereafter. Construction superintendents and foremen were responsible for safety. By 1968,

foreman were specifically instructed to discuss and review the "Recommended Health Safety Practices for Handling and Applying Thermal Insulation Products Containing Asbestos and Mineral Fibers" published by the National Insulation Manufacturers Association. ACandS does not have sufficient records to identify each and every occasion on which such toolbox meetings were held or the contents of each such meeting. Furthermore, it is impossible to identify each and every occasion on which cautionary information or instructions concerning asbestos products may have been orally communicated to its employees. In so responding, ACandS does not represent that each of the documents or discussions referred to above falls within the category described in this interrogatory - "warnings concerning the possibility of injury resulting from the use of asbestos-containing products" - and does not concede that it had the obligation to make any such warnings.

INTERROGATORY NO. 15:

Before 1970, had you received notice that any individual or individuals other than those Plaintiffs who have filed personal injury actions in Texas State Courts is or are claiming or has or have claimed an injury as a result of using asbestos products manufactured and/or sold by your company or any of its predecessors or subsidiaries before 1970? If so, state:

- A. The name and address of each claimant.
- B. The date of notice of each claim.

- C. A description of the claim.
- D. The type of injuries allegedly sustained.
- E. The name and address of each attorney who represents each individual making a claim.
- F. The style and court number of each claim.
- G. The disposition of each claim that has been settled or taken to judgment.

ANSWER: ACandS objects to this interrogatory on the grounds that it is overbroad and seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence since it is not limited to claims filed during the relevant time period or involving claims of exposure similar to those asserted by the plaintiffs. Without waiving its objections, ACandS has been named as a respondent in workers' compensation actions and as a defendant in other civil actions by plaintiffs seeking to recover damages for injuries allegedly resulting from the inhalation and/or ingestion of asbestos fibers. Before August 1, 1969, claims against the Company were handled by the Armstrong Cork Company. Therefore, ACandS does not have sufficient records to respond to this interrogatory. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action. The only civil action filed and served before 1970 by a non-Texas plaintiff against ACandS alleging injury allegedly resulting from the inhalation and/or

ingestion of asbestos fibers was:

		<u>Served</u>	<u>Dismissed</u>
LA	Parker, David R. U.S.D.C., W.D. LA, Lake Charles Division Civil Action No. - UNKNOWN	8/12/69	1970

ACandS is unable to determine whether plaintiff alleged exposure to products sold by ACandS.

INTERROGATORY NO. 16:

Were your asbestos products distributed, marketed, packaged, labeled and/or sold by companies other than your own? If the answer is affirmative, list the names and addresses of each of those companies, and the products in question.

ANSWER: Not applicable. Use of the phrase "your asbestos products" and the text of this interrogatory indicates that it is intended for entities other than ACandS, which was not a marketer or manufacturer of asbestos-containing products. ACandS is and was a contracting company.

INTERROGATORY NO. 17:

Did you or any of your predecessors, successors, or subsidiaries have any distributors or sales representatives of asbestos products in the States of Alabama, Florida, Mississippi, Oregon, Washington, Georgia, Tennessee, Arkansas, Texas and Virginia? If so, state:

- A. The name and address of each such distributor or sales representatives.
- B. The years in which such company or person distributed, marketed, or sold your products.

- C. What products were distributed, marketed, or sold and in what years.

ANSWER: No. Use of the phrase "your products" and the text of this interrogatory indicates that it is intended for entities other than ACandS, which was not a manufacturer of asbestos-containing products. By way of further reply, as a contracting company, ACandS did not employ "distributors or sales representatives of asbestos products." ACandS further responds that it has no predecessors or successors and no subsidiaries relevant to this action.

INTERROGATORY NO. 18:

List each employee (including only physicians and/or hygienists) who has acted in a medical advisory capacity to your company at any time during the past 40 years, including, but not limited to, physicians and industrial hygienists, and the current address, telephone number and job title of each of those individuals and who has, had or may have had any knowledge regarding the hazards of asbestos.

ANSWER: ACandS objects to this interrogatory to the extent that it seeks identification of experts obtained or consulted for purposes of litigation. ACandS further objects to this request in that it is not limited to the relevant time period. Without waiving these objections, outside the context of litigation, ACandS has not employed anyone in a medical advisory capacity.

INTERROGATORY NO. 19:

Does Defendant have in its possession any books, pamphlets, memoranda, or written materials of any kind or character that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings? If so, state:

- A. The name of each such publication.
- B. The date of publication and the names of the author and publisher (if any).
- C. The date received by Defendant, if known.
- D. The name, job title, and address of each person who currently has possession of each publication and its present location.

ANSWER: ACandS objects to this interrogatory on the ground that it is overbroad, unduly burdensome and seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence since, among other things, it is not limited to "books, pamphlets, memoranda or written materials" published, made available or received during the relevant time period. In addition, this interrogatory is vague and ambiguous and calls for the opinions and mental impressions of defendant's attorneys insofar as it seeks the identification of materials "that would indicate." Further, to the extent it seeks work-product and/or documents or information protected by the work-product privilege, it is improper.

INTERROGATORY NO. 20:

Has Defendant or any of its subsidiary or predecessor companies at any time been a member of any trade organization or association that published or disseminated any documents or information relating to the hazards of asbestos comprised of

other manufacturers, miners, marketers, and/or sellers of asbestos products? If so, state:

- A. The name and address of each such association or organization.
- B. The dates during which Defendant or any of its subsidiaries or predecessors were members.
- C. The names and dates of any publications, minutes, or reports published, written, or disseminated by any of the named associations or organizations.
- D. Whether any of those publications are still in your possession, and if so:
 - 1. A description of the publications, including the date.
 - 2. The current location of such publications.
 - 3. The custodian of such publications.
 - 4. The method or manner in which such publications are maintained.

ANSWER: ACandS objects to this interrogatory on the ground that it incorrectly assumes that ACandS engaged in each of the listed activities, is vague, ambiguous and lacks reasonable specificity and particularity in its reference to "any trade organizations or associations." ACandS also objects to this interrogatory on the ground that it is overbroad since, among other things, it is not limited to the relevant time period or to documents pertaining to asbestos-containing products. Without waiving its objections, ACandS was a member of IDCNA, the forerunner of NICA (now named NIAC) from January, 1958 until October, 1961. Since June 1972, the Company has belonged to NICA (NIAC) and various of its branch

offices belong to local contractors' associations. In so responding, ACandS does not represent that the foregoing organizations fall within the description stated in this interrogatory. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 21:

Identify by name and location each plant or manufacturing facility in which the products listed in your answers to Interrogatory Nos. 3-6 were manufactured, assembled, or prepared for sale or marketing, specifying which plants produced each item, the dates each plant is or was in operation, and the time span during which each named item was produced or manufactured.

ANSWER: The text of this interrogatory indicates that it not applicable to ACandS, which was not a manufacturer of asbestos-containing products and did not have "plants or manufacturing facilities." This interrogatory is intended for and should be directed to the manufacturers of the products.

INTERROGATORY NO. 22:

Have printed sales materials been prepared by Defendant or any of its subsidiary or predecessor companies or their agents for purposes of marketing or advertising products containing asbestos? If so, state:

- A. The name, address, and job title of each person or entity who prepared such materials.
- B. The name, address, and job title of each person who currently has possession of such materials and their present location.
- C. The date the materials were prepared.

D. The media used to disseminate the sales materials.

ANSWER: ACandS objects to this interrogatory on the grounds that it is overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence since, among other things, it is not limited to the relevant time period, jobsites or to the products at issue. ACandS also objects to the use of the phrase "sales materials" which incorrectly implies or assumes that ACandS was in the business of selling asbestos-containing products. ACandS is not now and has not in the past engaged in the business of directly selling asbestos-containing products. Without waiver of its objections, as a contracting company, ACandS was not in the business of marketing or advertising. To the extent that the Company conducted any such activities, ACandS generally advertised or marketed its contracting services as opposed to advertising products manufactured by others. To the extent that ACandS provided product specific materials, such materials consisted primarily of product data sheets, brochures or descriptive information provided by the manufacturers of the products ACandS used in its contracting operation or derived from such materials. By way of further reply, ACandS incorporates by reference its response to Interrogatory No. 6. ACandS further responds that it has no predecessors and no

subsidiaries relevant to this action.

INTERROGATORY NO 23:

Have any written or printed materials or instructions of any kind or character been prepared by Defendant or any of its subsidiary or predecessor companies or their agents indicating how asbestos products should be used and maintained? If so, state:

- A. The name, address, and job title of each person who prepared such materials or instructions or assisted in their preparation.
- B. The name, address and job title of each person who currently has possession of such materials or instructions and their present location.
- C. The dates of distribution or use and the manner in which such materials or instructions were distributed to purchasers of Defendant's products or those of its subsidiaries or predecessors.
- D. The year each such written material or instruction was prepared and disclosed to potential consumers.

ANSWER: The text of this interrogatory and the use of the phrase "Defendant's products" indicate that it is directed to manufacturers of asbestos-containing products and not to contracting companies such as ACandS which itself was a user of asbestos-containing products. ACandS further objects to this interrogatory on the ground that it is overbroad in that it is not limited to the relevant period of time. ACandS also objects to this interrogatory on the ground that the interrogatory is vague and ambiguous in its application to a contracting company such as ACandS. Without waiving these objections, to the extent that ACandS

issued any brochures or pamphlets to potential customers pertaining to use or maintenance of specific asbestos products, such materials consisted primarily of product data sheets, brochures or descriptive information provided by the manufacturers of the products ACandS used in its contracting operation or derived from such materials. Of course, as an insulation contracting company, the use of insulating materials, including materials containing asbestos, was a topic discussed in various Company manuals. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 24:

Does Defendant have insurance policies that might cover the claims made by Plaintiffs in these cases? If so, list the name of each insurance carrier, the amount of initial coverage, amount of coverage remaining at the present time, and the effective dates of each policy. (If properly answered, this Interrogatory need not be supplemented as to the remaining amount of coverage).

ANSWER: Because the primary and excess insurance purchased and maintained by ACandS since its formation, provides protection against false and fraudulent claims as well as meritorious claims, it would cover claims of the type made by the plaintiffs here. The Company's insurance policies are available for inspection by plaintiffs, at plaintiffs' expense, at a mutually convenient time in Philadelphia, Pennsylvania.

INTERROGATORY NO. 25:

As to the disease asbestosis, state:

- A. The date on which Defendant or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.
- B. How Defendant became aware of the existence of the disease.
- C. Who within the company first discovered, recognized or understood the adverse consequences or effects of the disease and/or of asbestos exposure.
- D. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- E. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in any written form.
- F. Who is the custodian of such information.
- G. The date on which you first received knowledge or information that asbestosis was caused by inhalation of asbestos fibers.

ANSWER: ACandS objects to this interrogatory to the extent that it seeks an expert medical opinion and also on the grounds that it is vague, ambiguous and seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence. Further, since it began operations in 1958, ACandS has been a contracting company with branches operating throughout the United States. In light of the size and geographic scope of those contracting operations, it is virtually impossible to respond to this interrogatory with the specificity and in the manner requested. Without waiving its objections, ACandS states that in the mid

to late 1960's and into the 1970's, various company employees were developing an increasing awareness that there might be potentially serious health hazards to insulation workers as a result of the occupational inhalation of asbestos fibers in asbestos-containing insulation products, although there was (and the Company understands still is) some dispute and lack of understanding about the exact hazards and extent of inhalation required to create them. Among the factors contributing to this developing awareness were word of mouth within the trade, the attendance of Mr. Liddell (then President of ACandS) at a seminar in May, 1968 at which Dr. Selikoff spoke, and the actions of the manufacturers in removing asbestos from their insulation products. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 26:

As to the disease lung cancer, state:

- A. The date on which Defendant or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.
- B. How Defendant or its subsidiary or predecessor became aware of the disease and its relationship to asbestos exposure.
- C. Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure.

- D. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- E. Whether any such information is still maintained by Defendants or its subsidiaries or predecessors in a written form.
- F. Who is the custodian of such information.
- G. The date on which you first received knowledge or information that lung cancer was caused by inhalation of asbestos dust and fibers.

ANSWER: ACandS incorporates by reference its response to Interrogatory No. 25.

INTERROGATORY NO. 27:

As to pleural disease, pleural thickening or pleural plaques, state:

- A. The date on which Defendant or its subsidiary or predecessor learned such disease was caused by inhalation of asbestos fibers by humans.
- B. How Defendant or its subsidiary or predecessor became aware of the disease and that it was caused by exposure to asbestos.
- C. Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure.
- D. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- E. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in a written form.
- F. Who is the custodian of such information.

ANSWER: ACandS incorporates by reference its response to Interrogatory No. 25.

INTERROGATORY NO. 28:

As to the disease mesothelioma, state:

- A. The date on which Defendant or its subsidiary or predecessor first learned such disease was caused by inhalation of asbestos fibers by humans.
- B. The date on which Defendant first suspected that mesothelioma was caused by inhalation of asbestos dust and fibers.
- C. How Defendant or its subsidiary or predecessor became aware of the disease and that it was caused by exposure to asbestos.
- D. Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure.
- E. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- F. Whether any such information is still maintained by Defendants or its subsidiary or predecessor in a written form.
- G. Who is the custodian of such information.
- H. Whether Defendant agrees that there is no known medical cure for mesothelioma.

ANSWER: ACandS incorporates by reference its response to Interrogatory No. 25.

INTERROGATORY NO. 29:

As to gastro-intestinal cancer, laryngeal cancer, pharyngeal cancer or lymphatic cancer, state:

- A. The type of cancer and the date on which Defendant or its subsidiary or predecessor first learned that such diseases were caused by inhalation of asbestos fibers by humans.
- B. What cancers has the Defendant or its subsidiary or predecessor become aware can be caused by exposure to asbestos fibers?

- C. The date on which Defendant first suspected other cancers were caused by asbestos inhalation.
- D. Who within the company or its subsidiary or predecessor first discovered the adverse consequences or effects of asbestos exposure.
- E. What information was disseminated with Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- F. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in a written form.
- G. Who is the custodian of such information.

ANSWER: ACandS incorporates by reference its response to.

Interrogatory No. 25.

INTERROGATORY NO. 30:

Does Defendant contend that asbestos products can be manufactured or designed so as to eliminate all potential health hazards to persons working with or exposed to them? If the answer is affirmative, explain in detail, and attach any studies or surveys on which this answer is based.

ANSWER: ACandS objects to this interrogatory on the ground that it seeks irrelevant information, an expert opinion and is vague and ambiguous in that it did not specify the types of products or conditions referred to. Further this defendant is not now and never has been engaged in the manufacture of insulation products containing asbestos. Furthermore, this interrogatory seeks irrelevant information insofar as it seeks information concerning present day state of the art with respect to the manufacture of insulation products.

INTERROGATORY NO. 31:

Describe in detail the types of packages or packaging which Defendant or any of its subsidiary or predecessor companies used for asbestos material or products, listing the dates each type of package was used, a physical description of each type of package, and providing a description of any printed material or trademarks that appeared thereon.

ANSWER: ACandS objects to this interrogatory on the ground that it is overbroad, unduly burdensome and seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence since it is not limited to the relevant time period, geographic area or to the asbestos-containing products at issue. Without waiving its objections, ACandS incorporates by reference its response to Interrogatory Nos. 4 and 6. By way of further response, as a contracting company, ACandS did not package the materials that it used. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 32:

Has Defendant or any of its subsidiary or predecessor companies at any time entered into a "rebranding" agreement with any other company, either as buyer or seller, concerning asbestos materials or asbestos products? If so, state, as to each such agreement:

- A. The name of the company manufacturing the asbestos products.
- B. The trade name affixed to those products.
- C. The periods of time covered by each such agreement.
- D. The volume, in dollar amount, of each transaction.
- E. The initial purchaser of the products.

ANSWER: ACandS objects to this interrogatory on the ground that it is overbroad, unduly burdensome and seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence since it is not limited to the relevant time period, geographic area or to the asbestos-containing products at issue. Without waiving its objections, ACandS states that at different times, in the course of its operations as a contracting company, and while it was a subsidiary of Armstrong Cork Company, ACandS dealt with products which were purchased by it under trade names owned by Armstrong Cork Company and utilized by the Company. Effective August 1, 1969, Armstrong Cork Company transferred certain of the trade names to ACandS. A few of the products purchased by ACandS under those trade names contained asbestos. They were not manufactured, designed or developed by ACandS, nor did ACandS play any part in specifying the composition or content of the products. The products were the standard pipe covering, block or cement products of the manufacturers identified below. As a result of ACandS' document retention program, the Company does not have available complete documentation concerning relabelled products. Further, although certain manufacturers sold some asbestos-containing products to ACandS under private trade names, ACandS did not relabel any asbestos-

containing products for others. Based upon the information discovered by ACandS to date, the following is a list of "private" label products that contained asbestos, the type of product involved, the manufacturer and the approximate years the product was sold to ACandS under a private label agreement with ACandS.

<u>RELABELLED NAME</u>	<u>TYPE OF PRODUCT</u>	<u>MANUFACTURER</u>	<u>YEAR/PERIOD OF TIME</u>
LK Pipe- covering & Block	Light Weight Molded Hydrous Calcium- Silicate	Keene Corp. (its former subsidiary companies) Owens-Corning Ruberoid/GAF Atlas Asbestos Fibreboard	April 1963 to November 1972 1960 to 1964 (with certain contracts to December 31, 1965) End of 1963 to October 1971 Late 1960's to 1973 December 1964 to September 1971
Armtemp Cement No. 10	Mineral Wool Insulating & Finishing Cement	Keene Corp. Eagle-Picher Industries, Inc. Rockwool Mfg. Co. Ryder Industries	Never April 1962 to August 1971 July 1966 to 1970 1964 to 1974
Armtemp Cement No. 166	Mineral Wool Insulating Cement	Keene Corp. Eagle-Picher Industries, Inc. Rockwool Mfg. Company Ryder Industries	April 1963 to February 1971 April 1962 to August 1971 July 1966 to 1970 1964 to 1971
Armabestos		Atlas Asbestos	1964 to 1968

ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 33:

List the names and address of each company from which Defendant or its subsidiary or predecessor purchased materials or asbestos products which Defendant sold or distributed in any form, stating the form of the materials, the dates of such purchases, and the ultimate disposal of such materials.

ANSWER: ACandS objects to this interrogatory on the ground that it is overbroad, seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence since among other things, it is not limited to the relevant time, geographic area or products at issue. ACandS also objects to this interrogatory on the ground that it improperly implies or assumes that ACandS' primary business was sales, which it was not. Without waiving its objections, ACandS incorporates by reference its response to Interrogatory Nos. 4 and 6. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 34:

Does Defendant or any of its subsidiaries or predecessor currently have possession of any writings or contracts on those rebranding agreements set forth in the answer to Interrogatory No. 32? If the answer is affirmative, state:

- A. The name, address, and job title of each person having custody of each of those documents and their current location.
- B. A brief description of each such document, including the dates and the parties signatory.

ANSWER: ACandS objects to this interrogatory on the grounds

that it is overbroad and seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence since it is not limited to the relevant time period or to the products at issue. Without waiving its objections and to the extent that ACandS has retained documents that are responsive to this request, they are available for inspection by plaintiffs, at plaintiffs' expense, in Philadelphia, Pennsylvania at a mutually convenient time. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 35:

Prior to 1968, did any person file a claim against a Worker's Compensation carrier covering Defendant or any of its subsidiaries or predecessors alleging that he/she contracted a disease from inhaling asbestos fibers? If so, provide:

- A. A list of the claims, including each claimant's name, address and the date each claim was filed, and including the caption and jurisdiction of the claim.
- B. The disease alleged in each such claim.
- C. A brief summary of the disposition of each such claim.
- D. The name, address and title of the person having custody of the records pertaining to each such claim.

ANSWER: ACandS objects to this interrogatory on the grounds that it is overbroad in that it is not limited to the relevant time period or to claims involving the same conditions of alleged exposure and injury as the plaintiffs. ACandS further objects to this interrogatory on the ground that it seeks information

in the possession of others which is equally available to the plaintiff, seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence and is unduly burdensome. Without waiving its objections, between 1958 and 1968, ACandS was named as a respondent for workmen's compensation actions by individuals seeking to recover for injuries allegedly arising from the inhalation of asbestos fibers. Before August 1, 1969, the Armstrong Cork Company handled all workmen's compensation claims for ACandS. Therefore, ACandS does not have sufficient records to respond to this interrogatory.

INTERROGATORY NO. 36:

Did Defendant or any of its subsidiaries or predecessors maintain written minutes of corporate meetings, either board of directors, departmental, or otherwise, which reflect discussions pertaining to any subject matter related to asbestos, asbestos health hazards or asbestos products? If so, for each such set of minutes, state:

- A. The dates of each such meeting.
- B. The general subject matter discussed at each meeting.
- C. Who was in attendance at each meeting.
- D. Where and by whom the written minutes are presently maintained.
- E. By whom the minutes were taken and put into final format.
- F. Whether the minutes were abstracted and reports disseminated to other individuals, and if so, the names and job titles of those individuals.

ANSWER: ACandS objects to this interrogatory on the grounds

that it is vague, ambiguous, overbroad, seeks confidential information, and seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence since it is not limited to the relevant time period or to discussions relating to asbestos-containing products allegedly used at sites where the plaintiffs claim exposure. Without waving its objections, and as understood by ACandS, ACandS has no minutes that refer to any such discussions during the relevant time period. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 37:

Do you or any of your subsidiaries, including foreign business entities, currently manufacture any products containing asbestos? If so, state:

- A. As to each product, whether such product is mined, manufactured, and/or marketed or sold.
- B. The names and addresses of the companies mining, manufacturing, marketing, and/or selling each of those products.
- C. The trade or brand name of each of those products mined, manufactured, marketed, and/or sold.
- D. The date each of the named products was placed in the market.
- E. A description of the physical (chemical) composition of each of the named products, including the type of asbestos contained in the product.
- F. A description of the physical appearance of each product and its packaging.
- G. A detailed description of the intended uses of each of

the named products.

- H. Whether there are any warning labels on said products or containers regarding potential asbestos-related health hazards.

ANSWER: No. ACandS is not now and has never been a manufacturer of asbestos-containing products. ACandS further responds that it has no subsidiaries relevant to this action.

INTERROGATORY NO. 38:

State whether you or any of your predecessors and/or subsidiaries maintain, from 1940 through the present or for any portion thereof, copies of invoices, shipping documents, bills of lading, purchase orders, or other documents of a similar nature relating to the mining, manufacture, marketing, sale or distribution of asbestos products. If so, state:

- A. The location of such documents.
- B. The name and address of the custodian of the documents.
- C. The format in which the documents are kept, i.e., hard copy, microfilm, microfiche, etc.
- D. In what form the documents can be accessed, i.e., by state, by product, etc., and if by product, whether kept according to asbestos or non-asbestos.

ANSWER: ACandS objects to this interrogatory on the ground that it is overbroad and seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence since it is not limited to information about relevant jobsites, products or time period. Moreover, this interrogatory by its terms appears to be directed to manufacturers of asbestos-containing products and not to a contracting company such as ACandS. Without waiving its objection, ACandS

incorporates by reference its response to Interrogatory Nos. 4 and 6. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 39:

May you call company representatives as witnesses at the trial of any of these cases? If so, list:

- A. The name, address, and job title of each company representative who may be called.
- B. A summary of the testimony expected to be given by each such witness.
- C. List any and all previous times that the named witnesses have either given deposition or trial testimony in an asbestos-related case, including the jurisdiction, style of the case, case number, date of testimony, and the name of the attorney taking the deposition for the Plaintiffs in that case.

ANSWER: ACandS incorporates by reference its response to Interrogatory No. 61.

INTERROGATORY NO. 40:

Have Defendant or its subsidiaries or predecessors ever acquired through purchase, reorganization, or merger another corporation, company, or business which manufactured, sold, processed, distributed, or contracted or supplied products containing asbestos? If so, for each such entity, state:

- A. Full and correct name;
- B. Principal place of business;
- C. State of incorporation;
- D. Date of acquisition by Defendant;
- E. Whether or not the business entity was ever authorized to transact business in the State of Texas.

ANSWER: ACandS objects to this interrogatory on the ground that it is overbroad and seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence since it is not limited to the relevant time period or to entities operating in the relevant geographic area. Without waiving its objections, none that did business in Texas.

INTERROGATORY NO. 41:

Was each of your asbestos products generally expected to reach, or packaged to reach, the consumer or user, without substantial change in the condition in which it was sold? If not, with respect to any such product, explain in what way the Defendant claims its products were altered or substantially changed after sale or distribution and before reaching the user.

ANSWER: Not applicable. The text of this interrogatory and the use of the phrase "your asbestos products" indicate that this interrogatory is not applicable to ACandS which, as a contracting company, was itself primarily a user and/or consumer of asbestos-containing products.

INTERROGATORY NO. 42:

For each asbestos-containing product identified in response to Interrogatory No. 6, identify all foreseeable users such as insulators, helpers, pipefitters, welders, machinists, plasterers, drywall finishers, carpenters, boilermakers, shipwrights and riggers, etc. of any of Defendant's asbestos-containing products.

ANSWER: Not applicable. The use of the phrase "Defendant's asbestos-containing products" and the text of this interrogatory indicate that this interrogatory is not applicable to ACandS, which was not a manufacturer of

asbestos-containing products but was itself a user of such products.

INTERROGATORY NO. 43:

Based upon the material contents of your asbestos-containing products, the method of manufacturing, and the method of application, can such products be generally applied without liberating asbestos fibers into the air?

- A. If there is a different answer concerning different products manufactured, sold, distributed, or used by your company, then specify the different products by precise manufacturer's name and popular name.
- B. If there is a difference in your answer depending on the year or years in which a particular product was used, then specify in detail what year or years you are referring to and the specific products you are referring to and year involved.

ANSWER: Not applicable. The text of this interrogatory and the use of the phrases "your asbestos-containing products" indicate that this interrogatory is not applicable to ACandS, which was not a manufacturer of asbestos-containing products.

INTERROGATORY NO. 44:

Was it a foreseeable use of your asbestos-containing products that they may have been removed, stripped, or replaced at some time after installation?

ANSWER: Not applicable. The text of this interrogatory and the use of the phrase "your asbestos-containing products" indicate that this interrogatory is not applicable to ACandS, which was not a manufacturer of asbestos-containing products.

INTERROGATORY NO. 45:

Before 1970, did you or your subsidiaries or predecessor(s) ever arrange for any labor inspectors, insurance company inspectors or anyone from your company to go to job sites where your products were being used or installed to make or take dust level counts? If so, state when this procedure started, the purpose of such procedures, and all results of such procedures.

ANSWER: Not applicable. The text of this interrogatory and the use of the phrase "your products" indicate that this interrogatory is not applicable to ACandS, which was not a manufacturer of asbestos-containing products. This request is intended for and should be directed to the manufacturers of the products. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 46:

If Defendant performed or had performed any dust level counts, what action, based on the results, did your company take?

ANSWER: Not applicable. ACandS incorporates by reference its response to Interrogatory No. 45.

INTERROGATORY NO. 47:

Has your company or its subsidiaries or predecessor(s) ever conducted or caused to be conducted any studies designed to assist in minimizing or eliminating the inhalation of asbestos dust and fibers by those exposed to the use of your company's products? If so, give the following:

- A. Name of the person or firm conducting such studies;
- B. The date the studies began and the date they were completed;
- C. Any publication or other written dissemination of the results of the studies;

- D. The nature of any action to eliminate or minimize the inhalation of asbestos dust fibers.

ANSWER: ACandS objects to this interrogatory on the grounds that it is vague, ambiguous, overbroad and seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence since, among other things, it is not limited to the relevant time period. Moreover, this interrogatory appears to be directed to manufacturers of asbestos-containing products. ACandS also objects to this interrogatory to the extent it seeks to imply an obligation on the part of a contracting company such as ACandS, which did not manufacture asbestos-containing products and which did not own or operate a research or medical facility, to conduct such research or testing. Without waiving its objections, and as ACandS understands this interrogatory, ACandS states that it has not conducted such research or studies. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 48:

Does your company have, has it ever had, or have your predecessor(s) or subsidiaries ever had, a Research Department? If so, give the year such Research Department was established, and whether or not such Research Department has operated continuously since being established. State also:

- A. The amount of time and money expended each year on research concerning asbestos or asbestos-containing products?

- B. What percentage of gross sales did your company or its predecessor(s) spend on research concerning the health effects of asbestos?
- C. State in detail the purposes, duties, and responsibilities of such Research Department.

ANSWER: No. As an insulation contractor, ACandS did not have a Research Department. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 49:

Does your company have, or has it ever had, or have your predecessor(s) or subsidiaries ever had, a Medical Department? If so, state:

- A. The year such Medical Department was established;
- B. Whether or not such Medical Department has operated continuously since being established;
- C. The name of each director, chief, or head of your Medical Department year by year, beginning with the first year you had a Medical Director or Medical Department, and the last known address and phone number of each;
- D. State the duties and responsibilities of such Medical Department.

ANSWER: No. As an insulation contractor, ACandS did not have a Medical Department. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 50:

Did your company or its predecessor(s) or subsidiaries ever place any warning directly on any of its asbestos-containing product or on their packaging. If so, identify the product(s)

and year said warning was first applied.

ANSWER: ACandS objects to this interrogatory on the grounds that it is overbroad and seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence since, among other things, it is not limited to the relevant time period, geographic area or to the products at issue. Further, the text of this interrogatory indicates that this interrogatory is more appropriately directed to the manufacturers of asbestos-containing products rather than to a contracting company such as ACandS. Without waiving its objections, ACandS states that it was not a manufacturer of asbestos-containing products. To the extent that the manufacturers of the products utilized by ACandS in its contracting operations affixed warnings or cautionary labels to their products, such labels would have accompanied the products at the time of their delivery to the job site or to ACandS. Further, in compliance with OSHA requirements, ACandS provided warning tags and/or labels for use on asbestos-containing products and waste materials. The OSHA required warning read:

CAUTION: CONTAINS ASBESTOS FIBERS
AVOID BREATHING DUST
BREATHING ASBESTOS MAY CAUSE
SERIOUS BODILY HARM

ACandS does not have sufficient records to enable it to recite or produce the warning labels affixed by the

manufacturers of the asbestos products it used. The warning tags and/or labels used by ACandS were worded in accordance with the applicable OSHA regulations and were first made available within the Company in 1972. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 51:

Did your company or its predecessor(s) or subsidiaries ever stamp or place the name of the company, its initials, or any identifying logo on any of its asbestos-containing products? If so, please state the name brand names of such products, a description of such stamp or logo and the dates such were placed on the referred products.

ANSWER: Not applicable. The text of this interrogatory and the use of the phrase "its asbestos-containing products" indicate that this interrogatory is not applicable to ACandS, which was not a manufacturer of asbestos-containing products. This request is intended for and should be directed to the manufacturers of the products. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 52:

Has your company, or your predecessor(s) or subsidiaries, ever devised a research plan to develop, or actually developed or had developed, a product which did not contain asbestos and which could be substituted for one or more of your asbestos-containing products? If so, state the date that such research plan was begun and when such asbestos-free product was first placed on the market.

ANSWER: Not applicable. The text of this interrogatory and the use of the phrase "your asbestos-containing products" indicate that it is not applicable to ACandS, which was not a manufacturer of asbestos-containing products. This interrogatory is intended for and should be directed to the manufacturers of the products. As an insulation contractor, ACandS did not have a Research and Development Department. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 53:

Did your company or its predecessor(s) or subsidiaries ever recall any products containing asbestos from the market or stream of commerce? If so, state:

- A. All details of such recall;
- B. The name of the product recalled, including the reason for the recall and the names and current addresses of those individuals who determined that it should take place;
- C. The dates of recall;
- D. The purpose for the recall.

ANSWER: Not applicable. The text of this interrogatory indicates that it is not applicable to ACandS, which was not a manufacturer of asbestos-containing products. This interrogatory is intended for and should be directed to the manufacturers of the products. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 54:

Before 1970, did you ever manufacture or sell products which did not contain asbestos and which could be substituted for your asbestos-containing products? If so, state the date such asbestos-free products were first placed on the market.

ANSWER: Not applicable. The text of this interrogatory and the use of the phrase "your asbestos-containing products" indicate that this interrogatory is not applicable to ACandS, which was not a manufacturer of asbestos-containing products. This interrogatory is intended for and should be directed to the manufacturers of the products.

INTERROGATORY NO. 55:

Have any products you identified in your response to Interrogatory Nos. 52 and 54 not performed as intended? Please list all such products that have not performed as intended.

ANSWER: ACandS incorporates by reference its response to Interrogatory Nos. 52 and 54.

INTERROGATORY NO. 56:

Did your company or its predecessor(s) or subsidiaries ever make, order, or arrange for any industrial hygiene surveys regarding asbestos or asbestos-containing dust? If so, give the date of such surveys and state who, or what entity, was responsible for completion of such surveys.

ANSWER: ACandS objects to this interrogatory on the grounds that the term "industrial hygiene surveys" is vague, ambiguous and undefined. Further, ACandS objects to this interrogatory on the ground that it is overbroad

since it is not limited to surveys relating to issues relevant to this litigation. ACandS further responds that it has no predecessors and no subsidiaries relevant to this action.

INTERROGATORY NO. 57:

As to either the threshold limit values or maximum allowable concentrations of both asbestos dust and total dust provided by the American Conference of Governmental Industrial Hygienists, state:

- A. The year in which Defendant or any predecessor(s) or subsidiaries were first advised of such limits or concentrations;
- B. The name of the employee or official of the company receiving such advice;
- C. How Defendant received notice of such limits or concentrations.

ANSWER: ACandS objects to this interrogatory on the ground that it is overbroad insofar as it relates to dust in general. Without waiving its objections, and to the extent this interrogatory seeks to determine whether this defendant was ever directly advised of threshold limit values concerning asbestos dust by the American Conference of Governmental Industrial Hygienists, ACandS has no record of having been contacted by that organization regarding such limits.

INTERROGATORY NO. 58:

Were the threshold limit values or maximum allowable concentrations inquired about in Interrogatory No. 63 for total dust, and not asbestos dust alone?

ANSWER: Not applicable. Threshold limit values or maximum allowable concentrations were not inquired about in Interrogatory No. 63.

INTERROGATORY NO. 59:

State in detail what tests, if any, Defendant ever made with regard to the quantity, quality, or threshold limit values of asbestos dust or particles to which workers were exposed while using, working with or around, or installing your asbestos-containing products.

ANSWER: Not applicable. The text of this interrogatory and the use of the phrase "your asbestos-containing products" indicate that this interrogatory is not applicable to ACandS, which was not a manufacturer of asbestos-containing products.

INTERROGATORY NO. 60:

Please state the following with respect to each expert witness you[sic] that you may call during trial of these cases. Please designate with specificity the expert witnesses that you will call, including:

- (a) The name, address, and job classification of each such expert witness;
- (b) The subject matter on which the expert is expected to testify;
- (c) The substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion;
- (d) Whether any person identified in subparagraph (a) above has provided a report or other documentation to you, and if so, identify each such document or report;
- (e) Identify all documents that you have provided to each person identified in response to subparagraph (a) above;

- (f) Describe in detail the education and work history of, and identify any books, treatises, articles, published and unpublished reports, studies or other scholarly works authored by any individual identified in response to subparagraph (a) above. Alternatively, in lieu of said response, attach a copy of a resume or curriculum vitae and a list of publications to your answers.

ANSWER: ACandS, Inc. objects to sub-paragraph (f), in that, it is beyond the scope of permissible discovery under Texas Rule of Civil Procedure 166b(2)(e). Furthermore, to the extent that this interrogatory calls for specific information about each individual plaintiff, it is premature since this response is given to a Master Set of Interrogatories and discovery has not been completed as to individual plaintiffs. Subject to the above objections, ACandS, Inc. designates the following individuals as experts that may be called to testify at the time of trial:

Dr. R. Keith Wilson
Respiratory Consultants of Houston
6550 Fannin, Suite 2403
Houston, TX 77030

Dr. Wilson is a specialist in the area of respiratory disease. He may testify to all matters pertaining to his examination of the plaintiff and plaintiff's medical records; any communications with the plaintiff or plaintiff's family; review of x-rays of the plaintiff; the diagnostic criteria used to diagnose asbestosis; his opinion as to whether plaintiff suffers from asbestos related disease and the basis for such opinion; the plaintiff's current medical condition and

prognosis.

Dr. Paul Stevens
Professor of Medicine
Baylor College of Medicine
6516 Bertner
Houston, TX 77030

Dr. Stevens is a specialist in the area of respiratory disease. He may testify as to all matters pertaining to his examination of the plaintiff and plaintiff's medical records; any communication with the plaintiff or plaintiff's family; review of x-rays of the plaintiff; the diagnostic criteria used to diagnose asbestosis; his opinion as to whether plaintiff suffers from asbestos related disease and the basis for such opinion; the plaintiff's current medical condition and prognosis.

Dr. Brian Bradley
403 Woodlawn
Pasadena, TX 77504

Dr. Bradley is a specialist in the area of respiratory disease. He may testify as to all matters pertaining to his examination of the plaintiff and plaintiff's medical records; any communication with the plaintiff or plaintiff's family; review of x-rays of the plaintiff; the diagnostic criteria used to diagnose asbestosis; his opinion as to whether plaintiff suffers from asbestos related disease and the basis for such opinion; the plaintiff's current medical condition and prognosis.

Dr. Philip T. Cagle
Department of Pathology
Baylor College of Medicine
One Baylor Plaza
Houston, TX 77030

Dr. Cagle is an Assistant Professor, Baylor College of Medicine, Department of Pathology, and is a specialist in pulmonary pathology. He may testify as to all matters pertaining to his review/examination of the plaintiff's pathological tissue samples, autopsy results, and medical records to offer medical opinion regarding asbestosis diagnosis and cancer.

Dr. George L. Delclos
6550 Fannin
#2403
Smith Tower
Houston, TX 77030

Dr. Delclos is a specialist in the area of respiratory disease. He may testify as to all matters pertaining to his examination of the plaintiff and plaintiff's medical records; any communication with the plaintiff or plaintiff's family; review of x-rays of the plaintiff; the diagnostic criteria used to diagnose asbestosis; his opinion as to whether plaintiff suffers from asbestos related disease and the basis for such opinion; the plaintiff's current medical condition and prognosis.

Dr. Scott Donaldson
375 Municipal Drive, Suite 140
Richardson, TX 75080

Dr. Donaldson is a specialist in the area of

respiratory disease. He may testify as to all matters pertaining to his examination of the plaintiff and plaintiff's medical records; any communication with the plaintiff or plaintiff's family; review of x-rays of the plaintiff; opinion as to whether plaintiff suffers from asbestos related disease and the basis for such opinion; the plaintiff's current medical condition and prognosis.

Dr. Gregory Foster
North Texas Pulmonary Associates
375 Municipal Drive, Suite 140
Richardson, TX 75080

Dr. Foster is a specialist in the area of respiratory disease. He may testify as to all matters pertaining to his examination of the plaintiff and plaintiff's medical records; any communication with the plaintiff or plaintiff's family; review of x-rays of the plaintiff; the diagnostic criteria used to diagnose asbestosis; his opinion as to whether plaintiff suffers from asbestos related disease and the basis for such opinion; the plaintiff's current medical condition and prognosis.

Dr. William Lee Eschenbacher
Pulmonary Function Laboratory
The Methodist Hospital
6565 Fannin
Houston, TX 77030

Dr. Eschenbacher is a specialist in the area of pulmonary disease. He may testify as to all matters pertaining to his examination of the plaintiff and

plaintiff's medical records; any communication with the plaintiff or plaintiff's family; review of x-rays of the plaintiff; the diagnostic criteria used to diagnose asbestosis; his opinion as to whether plaintiff suffers from asbestos related disease and the basis for such opinion; the plaintiff's current medical condition and prognosis.

Dr. Donald Greenberg
The Methodist Hospital
Department of Pathology
6565 Fannin Street
2nd Floor
Houston, TX 77030

Dr. Greenberg is a specialist in pulmonary pathology. He may testify as to all matters pertaining to his review/examination of the plaintiff's pathological tissue samples, autopsy results, and medical records to offer medical opinion regarding asbestosis diagnosis and cancer.

Dr. Robert O'Neal
Rt. 1, Box 168
Perkinston, MS 39573

Dr. O'Neal is a specialist in pulmonary pathology. He may testify as to all matters pertaining to his review/examination of the plaintiff's pathological tissue samples, autopsy results, and medical records to offer medical opinion regarding asbestosis diagnosis and cancer.

Any and all experts designated by a co-defendant, either in response to Plaintiffs' Interrogatories or on

a witness list. All such responses to interrogatories and witness lists are incorporated by reference the same as if fully set forth at length. Furthermore, ACandS, Inc. reserves the right to call any treating or examining physician of the plaintiffs.

INTERROGATORY NO. 61:

Please state the name, present address and present telephone number, along with the experience and qualifications, if applicable, of each and every person, known to Defendant or to Defendant's agents, having knowledge of facts relevant to these cases involving, but not limited to:

- (a) Identification of asbestos-containing products to which each and every individual Plaintiff, separate and distinct from all other Plaintiffs within the group, allegedly was exposed or facts disputing the identification of asbestos-containing products in this case.
- (b) Each and every individual Plaintiff's separate and distinct from all other Plaintiffs within the group, alleged damages, injuries and/or facts disputing each and every Plaintiff's alleged damages and/or injuries;
- (c) The negligence of any person or entity other than Defendant which Defendant contends was a cause of each and every individual Plaintiff's, separate and distinct from all other Plaintiffs within the group, alleged injuries and/or damages;
- (d) Each of the Defendant's defenses enumerated in Defendant's last filed Answer in each of these cases.

ANSWER: ACandS, Inc. objects to this interrogatory on the ground that it requests information beyond the scope of Texas Rule of Civil Procedure 166b(2). ACandS also objects to this interrogatory to the extent that it requests information protected by the work product doctrine and/or investigative privilege. Furthermore,

this interrogatory is premature with respect to persons with knowledge relating to each individual plaintiff since this response is given to a Master Set of Interrogatories and discovery has not been completed as to individual plaintiffs. Subject to the above objections, ACandS states that individuals with knowledge of ACandS' activities as a contracting company are:

Phyllis W. Burkholder
c/o ACandS, Inc.
120 North Lime Street, P.O. Box 1548
Lancaster, PA 17603
Phone: (717) 397-3631

G.C. Follmer
c/o ACandS, Inc.
120 North Lime Street, P.O. Box 1548
Lancaster, PA 17603
Phone: (717) 397-3631

W.K. Liddell
c/o ACandS, Inc.
120 North Lime Street, P.O. Box 1548
Lancaster, PA 17603
Phone: (717) 397-3631

Bobby Page
c/o ACandS, Inc.
120 North Lime Street, P.O. Box 1548
Lancaster, PA 17603
Phone: (717) 397-3631

Alan Stokely
c/o ACandS, Inc.
120 North Lime Street, P.O. Box 1548
Lancaster, PA 17603
Phone: (717) 397-3631

Individuals who may have knowledge about the plaintiffs are:

Dr. R. Keith Wilson
Respiratory Consultants of Houston
6550 Fannin, Suite 2403
Houston, TX 77030

Dr. Paul Stevens
Professor of Medicine
Baylor College of Medicine
6516 Bertner
Houston, TX 77030

Dr. Brian Bradley
403 Woodlawn
Pasadena, TX 77504

Dr. Philip T. Cagle
Department of Pathology
Baylor College of Medicine
One Baylor Plaza
Houston, TX 77030

Dr. George L. Delclos
6550 Fannin
#2403
Smith Tower
Houston, TX 77030

Dr. Scott Donaldson
375 Municipal Drive, Suite 140
Richardson, TX 75080

Dr. Gregory Foster
North Texas Pulmonary Association
375 Municipal Drive, Suite 140
Richardson, TX 75080

Dr. William Lee Eschenbacher
Pulmonary Function Laboratory
The Methodist Hospital
6565 Fannin
Houston, TX 77030

Dr. Donald Greenberg
The Methodist Hospital
Department of Pathology
6565 Fannin Street
2nd Floor
Houston, TX 77030

Dr. Robert O'Neal
Rt. 1, Box 168
Perkinston, MS 39573

INTERROGATORY NO. 62:

Please identify documents which will be used at time of trial, (Exhibit List, Deposition List), which are relevant to each of Defendant's enumerated defenses in Defendant's last filed Answer.

ANSWER: ACandS objects to this Interrogatory, in that, it is overbroad, vague and ambiguous. ACandS also objects to this interrogatory to the extent that it seeks information protected by the work product doctrine and/or investigative privilege.

INTERROGATORY NO. 63:

Please state when you first received a copy of the Fleischer/Drinker Report published in 1945/1946.

ANSWER: ACandS objects to this interrogatory on the grounds that it seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence since it is not limited to the time period relevant to this litigation. ACandS also objects to this interrogatory to the extent that it seeks information protected by the work product doctrine. Without waiving its objections, ACandS states that it does not appear that anyone in the Company was ever aware of this document or learned about it outside the context of asbestos-related litigation. The document does not exist among the Company's existing records, and the Company has no knowledge of every having received this article in the course of its business

operations. As ACandS understands it, the article was first published in 1946. ACandS was not incorporated until November, 1957 and did not begin business operations until January 1, 1958.

INTERROGATORY NO. 64:

When, if ever, did Defendant or any of its predecessors-in-interest first receive a copy of the article entitled "A Study of Asbestos in the Asbestos Textile Industry" published in 1938 in Public Health Bill No. 241, U.S. Public Health Service and authored by W.C. Dreessen ("the Dreessen Report")?

- a. Identify the name and position of the employee or officer who received same;
- b. Please produce all documents generated by Defendant which discuss or in any way reference the "Dreessen" study prior to 1968;
- c. Please produce all documents upon which your responses above are based;
- d. Please identify the name(s) and address(es) of any person(s) who can verify your above response;
- e. Did Defendant ever rely on the Dreessen Report in whole or in part as a basis that Defendant's asbestos products could be used in the workplace without risk of asbestos-related health impacts to the consumer and/or bystander;
- f. If so, please produce every document which evidences in any way that Defendant relied on the Dreessen Report in whole or in part for the proposition stated in Interrogatory 63(a) above;
- g. If your answer to 63(e) is yes, when was the first date Defendant relied on the Dreessen Report in

whole or in part for the
proposition stated in 63(e) above?

ANSWER: ACandS objects to this interrogatory on the grounds that it seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence since it is not limited to the time period relevant to this litigation. ACandS also objects to this interrogatory to the extent that it seeks information protected by the work product doctrine. Without waiving its objections, ACandS states that it does not appear that anyone in the Company was ever aware of this document or learned about it outside the context of asbestos-related litigation. The document does not exist among the Company's existing records, and the Company has no knowledge of every having received this article in the course of its business operations. As ACandS understands it, the article was first published in 1938. ACandS was not incorporated until November, 1957 and did not begin business operations until January 1, 1958.

REQUEST FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Please produce a true and correct copy of each photograph of each asbestos-containing product identified in answer to Interrogatory No. 4.

ANSWER: ACandS incorporates by reference its response to Interrogatory Nos. 4 and 6.

REQUEST FOR PRODUCTION NO. 2:

Please produce any diagrams or schematics indicating, stating or detailing the existence of any of your subsidiaries, predecessors, or divisions as defined on Page 1 of these Interrogatories and Request for Production.

ANSWER: ACandS objects to this request on the ground that it is overbroad, seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence. Without waiving its objection, ACandS has no predecessors or successors, no "divisions" as it understands that term, and does not have any subsidiaries which do or did business in the state of Texas. Therefore, there are no relevant documents responsive to this request.

REQUEST FOR PRODUCTION NO. 3:

Please produce copies of all reports of Defendants' experts and any and all documents relied upon by such experts.

ANSWER: ACandS will produce any such documents in accordance with the Court's pretrial orders.

COMMONWEALTH OF PENNSYLVANIA

:

:

SS

:

COUNTY OF LANCASTER

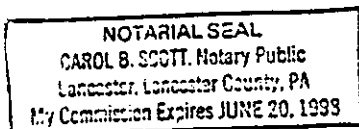
PHYLLIS BURKHOLDER, being duly sworn according to law, deposes and says: I am Secretary - Treasurer of ACandS, Inc. and am authorized to take this Affidavit on its behalf; I have read the foregoing Response to Plaintiffs' Master Interrogatories and know its contents; the facts stated therein are true and correct to the best of my knowledge, information and belief.

Phyllis Burkholder
PHYLLIS BURKHOLDER

Sworn to and Subscribed,
before me this day *26th*
of *December*, 1995.

Carol B. Scott
Notary Public

My Commission Expires:



CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been forwarded to opposing counsel, pursuant to the Texas Rules of Civil Procedure, on this the 28th day of December, 1995.

Ms. Mary E. Skelnik
Mr. Russell W. Budd
Baron & Budd, P.C.
The Centrum
3102 Oak Lawn Avenue, Suite 1100
Dallas, TX 75219-4281

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KENNETH D. RHODES
SB# 1116 P 50