

IN RE: ALL ASBESTOS, PERSONAL INJURY AND WRONGFUL DEATH CASES FILED BY BARON & BUDD, P.C. IN DALLAS COUNTY, TEXAS	§	IN THE DISTRICT COURTS
	§	OF DALLAS COUNTY, TEXAS
	§	

NO. 87-15627

FREDDIE A. MITCHEM AND THELMA MITCHEM; BETTY GOODRUM AND CARL GOODRUM; LONZO COLEMAN; JAMES B. WHITE AND BEATRICE WHITE,	§	IN THE DISTRICT COURT OF
Plaintiffs,	§	
Versus	§	DALLAS COUNTY, T E X A S
ARMSTRONG WORLD INDUSTRIES, INC., ET AL.	§	
Defendants.	§	116TH JUDICIAL DISTRICT

NO. 87-11673-F

GRACIE MOTT, Individually and Personal Representative of the Heirs and Estate of RAYMOND MOTT, Deceasedl and JESSIE LANE, Individually and as Personal Representative of the Heirs and Estate of EDWARD C. LANE, JR., Deceased,	§	IN THE DISTRICT COURT OF
Plaintiffs,	§	
Versus	§	DALLAS COUNTY, T E X A S
ARMSTRONG WORLD INDUSTRIES, INC., ET AL.,	§	
Defendants.	§	116TH JUDICIAL DISTRICT

NO. 88-4323-F

PAT DEMPSEY CREEL, SR. AND ANNIE CREEL,	§	IN THE DISTRICT COURT OF
Plaintiffs,	§	
Versus	§	DALLAS COUNTY, T E X A S
ARMSTRONG WORLD INDUSTRIES, INC., ET AL.,	§	
Defendants.	§	116TH JUDICIAL DISTRICT

NO. 88-9447-F

FRANCIS P. HOLT, JR.,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
Versus	§	DALLAS COUNTY, T E X A S
H.K. PORTER COMPANY, INC., ET AL.,	§	
Defendants.	§	116TH JUDICIAL DISTRICT

NO. 88-14404-F

SARAH ELIZABETH MORRIS, Individually and as Personal Representative of the Heirs and Estate of HENRY B. MORRIS, Deceased; ARTHUR W. TERKEURST and EULA MAE TERKEURST; DREW W. P ARISH and VIVAN E. PARISH; WILLIE WILSON, GEORGE M. LANIER, and FRANK MUNLIN,	§	IN THE DISTRICT COURT OF
Plaintiffs,	§	
Versus	§	DALLAS COUNTY, T E X A S
FIBREBOARD CORPORATION, ET AL.,	§	
Defendants.	§	116TH JUDICIAL DISTRICT

NO. 88 9876-F

JOSEPH CROSTIC and MARIANNE CROSTIC; WILLIAM STANLEY; DONALD MOTLEY and VIRGINIA MOTLEY; and LUTHER OWENS, JR. and SANDRA OWENS,	§	IN THE DISTRICT COURT
Plaintiffs,	§	
Versus	§	
OWENS-CORNING FIBERGLAS CORPORATION; ET AL	§	OF DALLAS COUNTY, TEXAS
Defendants.	§	116TH JUDICIAL DISTRICT

NO. 89-5927-F

JAMES ALFRED ARNOLD and MARY ARNOLD; SAMUEL J. CAUSEY and ARLENE CAUSEY, THURMAN J. SPRAYBERRY and BETTY SPRAYBERRY; ROBERT L. WYATT and WANDA WYATT, and CLIFFORD RAY COUCH and CHERRY COUCH,	§	IN THE DISTRICT COURT OF
Plaintiffs,	§	
Versus	§	DALLAS COUNTY, T E X A S
FIBREBOARD CORPORTION, ET AL.,	§	
Defendants.	§	116TH JUDICIAL DISTRICT

NO. 89-08200-F

MARLES TURNER, Individully and as Personal Representative of the Heirs and Estate of LAWRENCE TURNER (Deceased), THOMAS IVEY DOROUGH and CAROLYN DOROUGH,	§	IN THE DISTRICT COURT OF
Plaintiffs,	§	
Versus	§	DALLAS COUNTY, T E X A S
ARMSTRONG WORLD INDUSTRIES, INC., ET AL.,	§	
Defendants.	§	116TH JUDICIAL DISTRICT

NO. 89-8836-F

ERNEST M. HOOVER, ET AL.,	§	IN THE DISTRICT COURT OF
Plaintiffs,	§	
Versus	§	DALLAS COUNTY, T E X A S
H.K. PORTER COMPANY, INC., ET AL.,	§	
Defendants.	§	116TH JUDICIAL DISTRICT

NO. 89-10233-F

ANNIE BELL WALKER, Individually and as Personal Representative of the Heirs and Estate of ELLIS WALKER, SR., Deceased, WILMER RAY KELLY and ELSIE JEANETTE KELLY; CARLOS DAVISON; RUBY STRINGFELLOW, Individually and as Personal Representative of the Heirs and Estate of WILLIE C. STRINGFELLOW, SR.; Deceased, and RICHARD CARROLL,	§	IN THE DISTRICT COURT OF
Plaintiffs,	§	
vs.	§	DALLAS COUNTY, T E X A S
FIBREBOARD CORPORATION, et al,	§	
Defendants.	§	116TH JUDICIAL DISTRICT

NO. 89-10294-F

HELEN GRACE BOOKER and ELZY M. BOOKER; MALCOLM RAY HARRISON and ADELL T. HARRISON; OLLIE HERMAN LEE and JULIA LEE; THOMAS FRANKLIN MOODY and BEATRICE MARIE MOODY; MURRAY HILL, Individually and as Personal Representative of the Heirs and Estate of EMANUEL C. YOUNG, Deceased,	§	IN THE DISTRICT COURT OF
Plaintiffs,	§	DALLAS COUNTY, TEXAS
Versus	§	
FIBREBOARD CORPORATION, et al,	§	
Defendants.	§	116TH JUDICIAL DISTRICT

NO. 89-11174-F

JOHN C. GOSNEY, SR.,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
vs.	§	DALLAS COUNTY, T E X A S
H.K. PORTER COMPANY, INC., et al.,	§	
Defendants.	§	116TH JUDICIAL DISTRICT

NO. 89-11197-F

LAWRENCE BRASWELL,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
vs.	§	DALLAS COUNTY, T E X A S
H.K. PORTER COMPANY, INC., et al.,	§	
Defendants.	§	116TH JUDICIAL DISTRICT

NO. 90-448-F

WILLIAM T. LINDSEY and SHIRLEY LINDSEY; JEANETTE JOLLIFF, Individually and as Personal Representative of the Heirs and Estate of WINFIELD H. JOLLIFF, Deceased; TOMMIE LOU WADE, Individually and as Personal Representative of the Heirs and Estate of JIMMIE E. WADE, Deceased; DEWEY HOWELL and SONJA HOWELL; HOWARD BARLOW and ELLEN BARLOW,	§	IN THE DISTRICT COURT OF
Plaintiffs,	§	DALLAS COUNTY, TEXAS
versus	§	
FIBREBOARD CORPORATION, et al,	§	
Defendants.	§	116TH JUDICIAL DISTRICT

KEENE CORPORATION'S RESPONSES TO
PLAINTIFF'S INTERROGATORIES

INTRODUCTION

Keene Corporation ("Keene") has never mined asbestos, nor manufactured, processed, fabricated, routinely sold, distributed, or otherwise placed into commerce thermal insulation or acoustical products containing asbestos. A former subsidiary of Keene, Keene Building Products Corporation ("KBPC"), and KBPC's corporate predecessors, Baldwin-Ehret-Hill, Inc. ("BEH"), a Pennsylvania corporation, Ehret Magnesia Manufacturing Company ("Ehret"), a Pennsylvania corporation, and Baldwin-Hill Company ("B-H"), a New Jersey corporation, did at one time manufacture and sell thermal insulation or acoustical products containing asbestos. Keene

expressly denies that it is the successor to the unknown and unforeseen contingent tort, contractual, or other liabilities of KBPC, BEH, and BEH's corporate predecessors.

Keene was formed in 1967 and acquired substantially all of the stock of BEH in 1968. BEH became a subsidiary of Keene. BEH resulted from a 1959 merger of Ehret and B-H. In 1970, BEH was merged, and its business was transferred, into another Keene subsidiary, KBPC. KBPC, BEH, and BEH's corporate predecessors manufactured and sold insulation products, including some thermal insulation and acoustical products containing asbestos.

None of the companies was ever in the business of mining, milling, distributing, or importing raw asbestos fiber. During the 1960's, BEH commenced efforts to eliminate asbestos from its products. By 1972, all asbestos was removed from the thermal insulation and acoustical products manufactured by KBPC which contained it. KBPC ceased to be a Keene subsidiary in 1974 and some assets of KBPC were transferred to Keene and the remainder of the assets remained in KBPC whose stock was sold to a third party. Documents generated after that date are not relevant to this lawsuit.

The information provided in these responses is based upon knowledge obtained through a review of Keene's documents and records and through a review of existing documents and records of KBPC, BEH, and BEH's corporate predecessors.

Many of the events which may be relevant to the issues in this lawsuit occurred prior to Keene's purchase of the stock of

BEH. In addition, much of the information being sought by plaintiff involves events which occurred decades prior to the commencement of this suit. Many of the individuals who might have had personal knowledge of the matters to which plaintiff's discovery relates are deceased or are otherwise unavailable to Keene, and investigations to date indicate that at least some of the documents which relate to the matters inquired about were discarded in the regular course of business prior to commencement of the asbestos personal injury litigation.

Furthermore, no single individual can now be found who is aware of all facts relevant to this litigation. Information must be assimilated from those records which still exist and from former employees of companies other than Keene. Accordingly, Keene can only relay this information; it cannot attest to the accuracy or truthfulness of such responses. Information of this nature is being supplied because it may lead to the discovery of admissible evidence.

For these reasons, the information being provided in these responses may be incomplete. Keene is engaged in a continuing investigation into the subject matter sought by this discovery, and its responses are based upon this investigation. Keene cannot exclude the possibility that its continued investigation may at some future time reveal more complete information, or even information which indicates that an answer which is now being supplied is incorrect. Keene reserves the right to supplement these responses at a future date if additional

information is discovered.

Unless the context requires a contrary interpretation, the terms "defendant," "you," or "your" as used herein refer to KBPC, BEH, and BEH's corporate predecessors only, and are not intended to include or refer to Keene alone or in part. Answers referring to the manufacture, distribution, purchase, or sale of thermal insulation or acoustical products containing asbestos or any activities related thereto are based upon acts of KBPC, BEH, and BEH's corporate predecessors.

To the extent that the information contained herein differs in any respect from any prior response to discovery, these responses shall be deemed to update and supersede such prior response in any and all cases.

This introduction is explicitly incorporated into each of the responses hereinafter provided.

GENERAL OBJECTIONS

Keene generally objects to these interrogatories as being unduly burdensome, harassing, oppressive, vexatious, boilerplate, overly broad as to time, scope, or location, vague, lacking in particularity, and repetitious. The use of the words "any," "all," "each," or "every" is overly broad and objected to. Objection is made to the extent these interrogatories assume the truth of facts not proven or facts not in evidence. Objection is made to these interrogatories on the grounds that they seek information which is not relevant or not reasonably calculated to lead to the discovery

of admissible evidence. Objection is also made to these interrogatories to the extent that they seek information or materials which have been gathered or prepared in the course of the asbestos litigation, or which are otherwise protected by the attorney-client privilege, the work product doctrine, or by any other applicable privilege. Keene also objects to these interrogatories to the extent that they seek confidential, trade secret, or other proprietary information or materials.

Keene further objects to these interrogatories to the extent that they improperly call for a legal, medical, or scientific opinion or conclusion which Keene is not qualified to render.

To the extent these interrogatories seek information regarding health risks to individuals who worked at plants where thermal insulation or acoustical products containing asbestos were manufactured, Keene objects on the ground that such information is not relevant or not reasonably calculated to lead to the discovery of admissible evidence. See, e.g., Wesley Theological Seminary v. U.S. Gypsum, 876 F.2d 119 (D.C. Cir. 1989); Lohrmann v. Pittsburgh-Corning Corp., 782 F.2d 1156, 1164-1165 (4th Cir. 1986); Catasaqua Area School District v. Raymark Industries, 662 F. Supp. 64 (E.D. Pa. 1987); Smith v. Celotex, 564 A.2d 209 (Pa. Sup. Ct. 1989); and Martin v. Johns-Manville Corp., 508 Pa. 154, 175, 494 A.2d 1088, 1099 (1985).

Keene further objects to these interrogatories to the extent they seek medical records or other privileged personnel

information, and Keene will not provide such information absent an appropriate waiver of the applicable privilege.

Keene does not concede that any of its answers to these interrogatories are or will be admissible evidence at a trial of this action, and Keene does not waive any objection, on any ground, whether or not asserted herein, to the use of any such answer at trial.

These General Objections are explicitly incorporated into each of the responses hereinafter provided.

1. Has Keene ever shown Dr. Corwin Hinshaw any internal memoranda or corporate documents that mention or discuss the Defendant's knowledge of the hazards of asbestos before 1983?

ANSWER TO INTERROGATORY NUMBER 1: No.

2. At any prior to 1983, has Dr. Corwin Hinshaw ever spoken with any corporate official or employee of Keene regarding the hazards of asbestos? If your answer to this Interrogatory is yes, please state when such conversation occurred, state who was present or spoke with Dr. Hinshaw, and describe what was discussed.

ANSWER TO INTERROGATORY NUMBER 2: No.

3. Please state whether Joseph Saville was an employee of Keene:

a) If you answer to this Interrogatory is yes, please list all positions and job titles that Mr. Saville held and the name of names of Keene entitles he worked for.

ANSWER TO INTERROGATORY NUMBER 3: According to an unsigned correspondence, it appears that Joseph Saville was employed as Manager, Customer Services, Keene Insulation Division

as of February 9, 1976. This is the only information available to Keene at this time.

4. Please describe the dates that Mr. Saville worked for Keene and the job titles that he held for each of those dates.

ANSWER TO INTERROGATORY NUMBER 4: Keene states see answer to interrogatory No. 3.

5. Has Keene ever sold asbestos-containing products overseas? If so, please state the dates that asbestos-containing materials were sold outside the United States.

ANSWER TO INTERROGATORY NUMBER 5: Not to the best of Keene's current knowledge.

6. Has Keene ever sold asbestos-containing products outside the continental United States without a warning substantially similar to the following example:

> "THIS PRODUCT CONTAINS ASBESTOS FIBER. INHALATION OF ASBESTOS IN EXCESSIVE QUANTITIES OVER LONG PERIODS OF TIME MAY BE HARMFUL. IF DUST IS CREATED WHEN THIS PRODUCT IS HANDLED, AVOID BREATHING THE DUST. IF ADEQUATE VENTILATION CONTROL IS NOT POSSIBLE, WEAR RESPIRATORS APPROVED BY U.S. BUREAU OF MINES FOR PNEUMONCONIOSIS PRODUCING DUST."

ANSWER TO INTERROGATORY NUMBER 6: Not to the best of Keene's current knowledge.

7. Has Keen [sic] ever sold asbestos-containing products ouside [sic] the continental United States without a warning on the hazards of asbestos exposure?

ANSWER TO INTERROGATORY NUMBER 7: Not to the best of Keene's current knowledge.

8. Has Keene ever sold asbestos-containing products outside the continental United States without a warning since 1972?

ANSWER TO INTERROGATORY NUMBER 8: Not to the best of Keene's current knowledge.

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

HOWARD A. MILEAF, being duly sworn, deposes and says that he is Vice President, General Counsel and Corporate Secretary of Keene Corporation. The foregoing is verified on behalf of Keene Corporation. The matters stated therein are not within his personal knowledge and have been prepared pursuant to his directions from information and records available to said corporation. He believes the foregoing to be true.

Howard A. Mileaf

Sworn to before me this
14 day of January 1991

Notary Public

NANCY LIPARI
Notary Public, State of New York
No. 24-4871030
Qualified in Kings County
Commission Expires Sept. 08, 1992

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ATTORNEYS FOR DEFENDENT
KEENE CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been forwarded to all known counsel of record on this the 21st day of January, 1991.

J. Dennis Chambers
J. Dennis Chambers