

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS



IN RE: ALL ASBESTOS	)	LEAD CASE: ADAMS
LITIGATION FILED BY BONO,	)	
GOLDENBERG, HOPKINS, BILBREY	)	NO. 86-L-1827
& HENDRICKS, P.C.	)	

DEFENDANT OWENS-CORNING FIBERGLAS CORPORATION'S
RESPONSES TO PLAINTIFFS' SUPPLEMENTAL INTERROGATORIES

Defendant Owens-Corning Fiberglas Corporation ("OCF"), by counsel, responds to Plaintiffs' Supplemental Interrogatories, dated January 15, 1991, as follows:

INTRODUCTORY STATEMENT AND OBJECTIONS

Plaintiffs seek information which in many instances is contained in numerous files and records. Further, certain of these interrogatories may call for the collection of information from OCF offices located in various parts of the United States. Therefore, OCF has responded on the basis of the best information now available to it. Subsequent investigation may reveal additional information relevant to these interrogatories and lead to a supplemental response. It is also noted that persons who are not now officers, directors or managing agents of OCF may have information relevant to the subject matter of these interrogatories, and OCF is not purporting in the following responses to be giving the response of any such persons.

OCF's responses are made without in any way waiving: (1) the right to object on the grounds of competency, relevancy and materiality, hearsay or any other proper ground to the use of any such information, for any purpose, in whole or in part, in any subsequent stage or proceeding in this action or any other

action; and (2) the right to object on any and all grounds, at any time, to any other discovery procedure involving or relating to the subject matter of these interrogatories.

Furthermore, to the extent that these interrogatories seek information concerning injury or disease other than those allegedly experienced by plaintiffs herein or concerning asbestos-containing products other than those to which plaintiffs allegedly were exposed, OCF objects on the grounds that such information is beyond the proper scope of discovery and is not reasonably calculated to lead to the discovery of admissible evidence. To the extent these interrogatories are not limited in time to the years that OCF manufactured and/or sold asbestos-containing products, OCF objects on the grounds that these interrogatories are overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

OCF also objects to these interrogatories to the extent that they seek information which is protected from discovery as attorney work-product, attorney-client communications, protected by the right to privacy, any other applicable privilege or material which is considered to be proprietary and trade secret.

OCF further objects to these interrogatories to the extent that they inquire as to a "predecessor" of OCF; OCF does not have a "predecessor" as it understands the definition of that term.

Incorporating the above objections into each response, OCF responds as follows:

SUPPLEMENTAL INTERROGATORY NO. 1:

When was the first time that this defendant became aware of the contents and existence of Public Health Bulletin No. 241, entitled "A Study of Asbestosis in the Asbestos Textile Industry" by Dreessen [sic], Dallavale, Edwards, Miller and Sayers.

RESPONSE NO. 1:

Based upon current information, OCF is unable to determine exactly when it acquired Public Health Bulletin No. 241, entitled "A Study of Asbestos in the Asbestos Textile Industry," by Dreessen, Dallavale, Edwards, Miller and Sayers. However, in the early 1940s, some employees of OCF became aware of reports of asbestosis and asbestos corns associated with the inhalation of heavy concentrations of asbestos fibers in the asbestos textile manufacturing industry from published medical studies such as the Dreessen publication described above.

SUPPLEMENTAL INTERROGATORY NO. 2:

With respect to the article referred to in Interrogatory No. 1, state:

- a. How Defendant became aware of the existence of such article;
- b. How Defendant first became aware of the content of such article;
- c. Which individuals or representatives of Defendant were the first to become aware of the content and existence of such article;
- d. The job title or position held by that representative(s) of Defendant who first became aware of the contents and existence of the article.

RESPONSE NO. 2:

OCF objects to this interrogatory on the grounds that it is overly broad and burdensome. Without waiving its objections, OCF states that a copy of the article published as a Public Health

Bulletin No. 241 was found in OCF's historical files. However, it is impossible to know exactly which employees would have read this article.

Further answer to this interrogatory may be located in OCF's document library described below.

OCF has collected numerous records and documents relating to asbestos generally. These documents are stored in OCF's document library located in Richmond, Virginia.

The document library contains existing documents generated and/or received at the OCF corporate headquarters in Toledo, Ohio; its technical center in Granville, Ohio; and its manufacturing facilities in Berlin, New Jersey; Bloomington, Illinois; Newark, Ohio; and Santa Clara, California. The library also contains certain files obtained from Fiberglas Engineering and Supply Company in San Francisco, California, and Seattle, Washington. Other documents relating to Fiberglas Engineering and Supply Company of San Francisco are maintained by the law firm of Popelka, Allard, McCowan & Jones in San Jose, California, pursuant to an agreement contained in Defendant's response to plaintiffs' request for production in Heley, et al. v. Fibreboard, et al., June 10, 1989. Additional documents relating to OCF's supply and contracting units may be in the possession of various OCF trial counsel.

The library contains responsive, non-privileged materials generated before and during the time that OCF manufactured asbestos-containing Kaylo insulation.

At a mutually convenient time, OCF will make available for inspection by plaintiffs' counsel the non-privileged documents stored in its document library. Counsel for OCF will provide an index, which sets forth the file titles of those files contained in each box, and personnel to assist plaintiffs' counsel in locating documents responsive to the discovery requests in this matter. OCF will also make arrangements for copying documents which plaintiffs' counsel may select. Copying and shipping costs will be borne by plaintiffs, unless otherwise ordered by the Court.

OCF's library includes documents that contain information which is considered to be proprietary and trade secret. Therefore, they will be produced after the entry of an appropriate protective order.

OCF has removed from the library any existing materials which it contends are protected from discovery as privileged attorney-client communications, attorney work product materials, materials within the physician/patient privilege or those otherwise beyond the scope of permissible discovery. Each document removed as privileged has been substituted with an easily identifiable marker which describes the privileged document by document type, (e.g., memo, letter, note), date, author, recipient, subject matter, and basis for objection. These markers may be designated for copying in the same manner as non-privileged documents.

Visits to the library may be scheduled through OCF's local counsel.

SUPPLEMENTAL INTERROGATORY NO. 3:

State whether Defendant's knowledge of the contents of the article referred to Interrogatory No. 1 was relied upon by the Defendant at any time in deciding whether a caution or warning statement should be placed upon the Defendant's asbestos containing products concerning the potential health hazards of exposure to asbestos.

RESPONSE NO. 3:

OCF objects to this interrogatory on the grounds that it is vague and ambiguous, particularly as to time. Without waiving its objections, OCF states that its decision to place a caution statement on packages of its asbestos-containing Kaylo in December 1966 was based on a number of factors, including the developing medical literature regarding the health effects of asbestos exposure.

OCF is now aware of medical literature associating various health concerns with the inhalation of asbestos fibers. There was no specific date as to when OCF became aware of the relationship of exposure to asbestos fibers and dust to various health concerns. Likewise, there was no specific date as to when OCF became aware of the relationship of exposure to Kaylo dust to various health concerns. The knowledge of that relationship was developed over a considerable period of time.

In the early 1940s, some employees of OCF became aware of reports of asbestosis and asbestos corns associated with the inhalation of heavy concentrations of asbestos fibers in the asbestos textile manufacturing industry from published medical studies such as W.C. Dreessen, et al., "A Study of Asbestosis in the Asbestos Textile Industry," Public Health Bulletin No. 241, August 1938, and A.J. Lanza, et al., "Effects of the Inhalation

of Asbestos Dust on the Lungs of Asbestos Workers," Public Health Reports, Vol. 50, No. 1., January 1935.

In 1953, OCF began to distribute a hydrous calcium silicate reinforced with asbestos, called Kaylo, which was manufactured by Owens-Illinois. OCF began to manufacture the product in 1958 when it purchased the Berlin, New Jersey, Kaylo manufacturing plant from Owens-Illinois.

In 1956, before the acquisition of the Kaylo manufacturing plant from Owens-Illinois, OCF inquired into the information that Owens-Illinois had regarding the health aspects of the Owens-Illinois Kaylo product. OCF was informed that a study conducted by the Trudeau Foundation located in Saranac Lake, New York, published in 1955, showed that animals, if exposed for a prolonged period of time to heavy concentrations of Kaylo dust, could develop a mild asbestosis reaction. However, OCF was informed at the same time that experience in the manufacturing plants, including x-ray results, revealed no lung changes of any kind that could be attributed to the occupational exposure of Kaylo.

Other documents, presumably received from Owens-Illinois around the time of the acquisition, informed OCF that Owens-Illinois had concluded, based on its experiences in the factories and in the field and its consideration of the Saranac Lake report, that the actual effect to the health of those handling Kaylo was considered to be small.

During the approximate period of 1964-1966, OCF became aware of new developments concerning potential problems with asbestos

insulating materials. This information was discussed by Dr. Selikoff in reports presented as part of the proceedings of the New York Academy of Sciences and published in the Annals of the New York Academy of Science on December 31, 1965. These articles, as they related to prolonged use and exposure to asbestos insulating materials and potential lung disease, were questioned by certain employees of OCF with regard to their application to the product Kaylo. It was felt that Kaylo, a calcium silicate, could not have been involved to any appreciable extent in the studies because the studies involved men who had entered the insulation trade before 1943 and Kaylo had not yet been marketed in 1943. In addition, the fact that the asbestos in Kaylo was altered physically and chemically during the autoclaving process raised the issue as to whether or not the alteration changed the possible cancer inducing tendencies of the original asbestos.

Moreover, in 1963, the Union Carbide Company studied Kaylo and concluded that (1) the fabrication of Kaylo block insulation produced negligible health effects; (2) the environment condition in evidence during the fabrication of Kaylo block insulation was not hazardous to health; and (3) Kaylo block insulation could be fabricated safely at Union Carbide's Construction Insulation Shop.

As of the mid 1960s, no Worker's Compensation cases had been filed by employees of the Berlin, New Jersey, Kaylo manufacturing plant. In October of 1966, certain employees of OCF became aware

of a potential claim by an insulation worker in Massachusetts alleging lung damage due to the handling of Kaylo.

Shortly thereafter, notwithstanding the fact that there was still doubt among certain OCF employees as to whether Kaylo could cause lung disease, a decision was made to place cautionary labels on Kaylo cartons, and this decision was implemented in December 1966.

OCF does not know whether or to what extent Public Health Bulletin No. 241, entitled "A Study of Asbestosis in the Asbestos Textile Industry," was specifically relied upon in deciding whether a caution or warning statement should be placed on OCF's packaging for asbestos-containing products. Further information pertinent to this interrogatory may be found in OCF's files related to asbestos as described in Response No. 2.

SUPPLEMENTAL INTERROGATORY NO. 4:

If the answer to the foregoing Interrogatory is in the affirmative, please state:

- a. How much article influenced the decision concerning the placement of warnings on Defendant's asbestos containing products concerning the potential health hazards posed by exposure to asbestos;
- b. Attache hereto copies of all writing, including memos, letters, etc. concerning Defendant's reliance on the article referred to in Interrogatory No. 1 in deciding whether to place warning labels on Defendant's asbestos containing products.

RESPONSE NO. 4:

OCF objects to this interrogatory on the grounds that it is vague, ambiguous, overly broad and burdensome. Without waiving its objections, OCF refers plaintiffs to Response No. 3.

SUPPLEMENTAL INTERROGATORY NO. 5: ✓

When was the first time that this Defendant became aware of the contents and existence of the article entitled "A Health Survey of Pipe Covering Operations in Constructing Naval Vessels" by Fleischer, Viles, Gade and Drinker.

RESPONSE NO. 5:

Based upon current information, OCF is unable to determine exactly when it acquired the article entitled "A Health Survey of Pipe Covering Operations in Constructing Naval Vessels" by Fleischer, Viles, Gade and Drinker or when it first "became aware of the contents and existence" of this article.

SUPPLEMENTAL INTERROGATORY NO. 6:

With respect to the article referred to in Interrogatory No. 5, state:

- a. How Defendant became aware of the content of such article;
- b. How Defendant first became aware of the content of such article;
- c. Which individuals or representatives of Defendant were the first who first became aware of the content and existence of such article;
- d. The job title or position held by that representative of Defendant who first became aware of the contents and existence of the article.

RESPONSE NO. 6:

Based on current information, OCF is unable to determine which individuals or representatives of OCF first became aware of the article entitled "A Health Survey of Pipe Covering Operations in Constructing Naval Vessels" by Fleischer, Viles, Gade and Drinker. OCF is also unaware of how it became aware of such article. Further information pertinent to this interrogatory may

be found in OCF's files related to asbestos as described in Response No. 2.

SUPPLEMENTAL INTERROGATORY NO. 7:

State whether Defendant's knowledge of the contents of the article referred to Interrogatory No. 5 was relied upon by Defendant at any time in deciding whether a caution or warning statement should be placed upon the Defendant's asbestos-containing products concerning the potential health hazards of exposure to asbestos.

RESPONSE NO. 7:

OCF objects to this interrogatory on the grounds that it vague and ambiguous, particularly as to time. Without waiving its objections, OCF states that its decision to place a caution statement on packages of its asbestos-containing Kaylo in December of 1966 was based on a number of factors, including the developing medical literature regarding the health effects of asbestos exposure. OCF refers plaintiffs to Response No. 3.

OCF does not know whether or to what extent the article entitled "A Health Survey of Pipe Covering Operations in Constructing Naval Vessels" by Fleischer, Viles, Gade and Drinker was relied upon in deciding whether a caution or warning statement should be placed on OCF's packaging for asbestos-containing products. Further information pertinent to this interrogatory may be found in OCF's files related to asbestos as described in Response No. 2.

SUPPLEMENTAL INTERROGATORY NO. 8:

If the answer to the foregoing Interrogatory is in the affirmative, please state:

- a. How such article influenced the decision concerning the placement of warnings on Defendant's asbestos containing products concerning the potential health hazards posed by exposure to asbestos;

- b. Attached hereto copies of all writings, including memos, letters, etc., concerning Defendant's reliance on the article referred to in Interrogatory No. 5 in deciding whether to place warning labels on Defendant's asbestos containing products.

RESPONSE NO. 8:

OCF objects to this interrogatory on the grounds that it is vague, ambiguous, overly broad and burdensome. Without waiving its objections, OCF refers plaintiffs to Response No. 7.

ARMSTRONG, TEASDALE, SCHLAFLY,
DAVIS & DICUS

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IN THE CIRCUIT COURT
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IN RE: ALL ASBESTOS
LITIGATION FILED BY
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HOPKINS, BILBREY,
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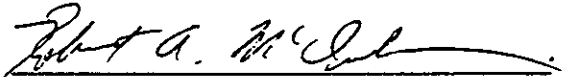
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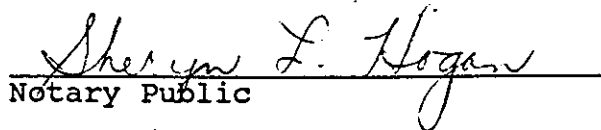
STATE OF OHIO)
COUNTY OF LUCAS)

AFFIDAVIT

ROBERT A. MCOMBER, being duly sworn, deposes and says that he is Counsel - Litigation for OWENS-CORNING FIBERGLAS CORPORATION and that he verifies the foregoing answers to plaintiffs' Supplemental Interrogatories for and on behalf of OWENS-CORNING FIBERGLAS CORPORATION and is duly authorized so to do; that the matters stated therein are not within the personal knowledge of deponent; that the facts stated therein have been assembled by authorized employees and counsel of OWENS-CORNING FIBERGLAS CORPORATION and deponent is informed that the facts stated therein are true.


ROBERT A. MCOMBER

SWORN TO and subscribed
before me this 18th day
of March, 1991.


Notary Public

SHERYN L. HOGAN
Notary Public, State of Ohio
My Commission Expires Aug. 18, 1994

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was mailed postage prepaid this 19th day of March, 1991 to the following:

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