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JAN 18 2001
DISTRICT COURT OF CAMERON COUNTY, TEXAS
DEPUTY

CAUSE NO. 2000-05-1962-C

ROBERT HENRY VILLARREAL, Individually and as Personal Representative of the Heirs and Estate of JOHN HENRY VILLARREAL	§	IN THE DISTRICT COURT OF
Plaintiffs,	§	
vs.	§	CAMERON COUNTY, TEXAS
GAF CORPORATION HOLDINGS, INC.), ET AL.	§	
Defendants.	§	197TH JUDICIAL DISTRICT

PLAINTIFF'S EXHIBIT
USG-552

DEFENDANTS' MOTION TO BIFURCATE

COME NOW, Dana Corporation, Quigley Company, Inc., T&N LTD (f/k/a T&N plc and Turner & Newell plc), Union Carbide Corporation f/k/a Union Carbide Chemicals and Plastics, Inc., and United States Gypsum Company, (hereinafter "Defendants"), Defendants in the above-referenced cause, hereby request the court to bifurcate the determination of the amount of punitive damages, if any, from the trial of all other issues, and in support thereof show:

I.

This is an action by Plaintiffs for damages based upon alleged exposure to asbestos products. In addition to actual damages, Plaintiffs seek an award of punitive damages against the Defendants.

II.

Defendants, in good faith, believe it would be unfairly prejudicial to allow evidence relevant only to the amount of punitive damages to be considered by the jury along with other issues in this matter. According to the Texas Supreme Court in *Transportation Ins. Co. v. Moriel*, 879 S.W.2d 10 (Tex. 1994), "evidence of a defendant's net worth, which is generally relevant only to the *amount* of punitive damages, by highlighting the relative wealth of a defendant, has a very real potential for

prejudicing the jury's determination of other disputed issues in a tort case." *Id.* at 30. Thus, if presented with a timely motion, the trial court should bifurcate the determination of the amount of punitive damages from the remaining issues. *Id.*

III.

In *Moriel*, the Texas Supreme Court provided that the jury should first hear evidence relevant to liability for actual damages and liability for punitive damages, and then return findings on those issues. The same jury should then be presented with evidence of a defendant's net worth, and any other evidence relevant to the amount of punitive damages, only if it answered the punitive damage liability question in the plaintiff's favor. *Id.*

WHEREFORE. Defendants respectfully request that the court order a bifurcation of the determination of the amount of punitive damages from the remaining issues in this matter, and make such other orders as the court deems fair and just.

Respectfully submitted,

POWERS & FROST, L.L.P.

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct of Defendants' Motion to Bifurcate has been forwarded to Plaintiffs' counsel of record either by first class mail, return receipt requested, delivery or facsimile on this the 12th day of January, 2001.

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