

IN RE: ALL ASBESTOS-RELATED
PERSONAL INJURY OR DEATH
CASES FILED BY BARON & BUDD,
P.C. OR TO BE FILED BY BARON &
BUDD, P.C. IN DALLAS COUNTY,
TEXAS

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IN THE DISTRICT COURT
OF DALLAS COUNTY, TEXAS
160TH JUDICIAL DISTRICT

BAHUN & BUDD

JAN 22 1993

RECEIVED

**DEFENDANT, OWENS-ILLINOIS, INC.'S ANSWERS
TO PLAINTIFFS' INTERROGATORIES**

TO: ALL PLAINTIFFS, by and through their attorneys of record, Baron & Budd, P.C.,
The Centrum, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219.

PRELIMINARY STATEMENT

Some of the events which may be relevant to the matters inquired about by Plaintiffs' Interrogatories apparently occurred more than thirty-five years ago. In addition, effective April 30, 1958, Owens-Illinois, Inc. disposed of the business involved in this action by way of sale of that business to Owens-Corning Fiberglas Corporation. Since that time, Owens-Illinois, Inc. has not engaged in any such business. It does not now and it has not since that sale manufactured, distributed or sold any asbestos-containing products. As a result of the foregoing factors, many of the individuals who might have had personal knowledge of the matters to which plaintiffs' interrogatories relate are deceased, or are otherwise unavailable to Owens-Illinois, Inc., and investigations to date indicate that at least some documents which relate to matters inquired about by these interrogatories were transferred to Owens-Corning Fiberglas Corporation with the transfer of the business in question in 1958. Owens-Illinois, Inc. is engaged in a continuing investigation in an attempt to locate, confirm the transfer of, or confirm the absence of, such documents and is also engaged in a continuing investigation into the matters inquired about in these



interrogatories. Unless otherwise stated in an answer to a specific interrogatory, the answers set out hereinafter are limited to the period during which Owens-Illinois, Inc. manufactured asbestos-containing insulation products and to the facilities related to that business. The following is a part of and is incorporated by reference in every answer provided hereinafter:

This answer is accurate as of the date made. However, Owens-Illinois, Inc.'s investigation is continuing, and Owens-Illinois, Inc. cannot exclude the possibility that it may be able to obtain more complete information or even information which indicates that the answer being supplied is incorrect. Owens-Illinois, Inc. objects to answering this interrogatory in regard to any period of time other than the period during which it engaged in the business involved in this case which ended in mid-1958 or concerning any facility not related to that business, on the basis that any such answer would be irrelevant to the subject matter of the pending litigation, would not be reasonably calculated to lead to the discovery of admissible evidence, and would be burdensome and oppressive.

Furthermore, Owens-Illinois, Inc. objects to the instructions and definitions supplied by plaintiffs with regard to these interrogatories, on the basis that the definitions are overly broad, vague, and often inconsistent with the normal usage and meaning of such words, and the instructions are overly broad, burdensome and constitute an unreasonable expansion of the interrogatories themselves. Owens-Illinois, Inc. therefore gives notice that it does not consider itself bound by the instructions and definitions propounded by plaintiffs,

and instead shall answer the interrogatories in a manner consistent with a normal understanding of the language used in the interrogatory and to the extent necessary to fairly and fully answer the interrogatory.

**ANSWERS TO PLAINTIFFS' AMENDED INTERROGATORIES
REGARDING EXHIBIT K-556**

INTERROGATORY NO. 1: Please answer whether the letter head featured on the document listed below is identical to genuine and authentic Owens-Illinois letterhead in use at O-I on November 10, 1949.

<u>Exhibit No.</u>	<u>Description</u>
a) K-556	Owens-Illinois Glass Company letter dated November 10, 1949 from W.G. Hazard to J.F. McMahon, Industrial Hygiene Foundation.

ANSWER: This defendant has been unable to find information in its business records to enable it to answer this interrogatory. However, during May 1979, various papers and reports were produced by an employee of the Trudeau Institute, Mr. Allan Logie, regarding animal experiments conducted at laboratories at Saranac Lake involving dust collected during the Kaylo manufacturing process. This defendant has not been able to find these papers and reports in its business records or correspondence although it has searched for and continues search for them. This defendant's counsel obtained copies of some of the papers and reports produced by Mr. Logie. However, these copies constitute only a portion of a larger volume of papers and reports which this defendant has not copied. They are available through Winne, Banta, Rizzi, Hetherington & Basralian, 25 E. Salem Street, Hackensack, New Jersey. This

defendant also has reason to believe that plaintiffs' counsel has copies of the documents produced by Mr. Logie. The letterhead on the November 10, 1949 document produced by plaintiffs appears to be the same as the letterhead on some of the documents produced by Mr. Logie, some of which are dated 1949. However, this defendant can make no statements regarding the authenticity or genuineness of any of the aforementioned documents as none of the documents referred to have been found as a part of this defendant's business records.

INTERROGATORY NO. 2: For the document listed below, please answer whether O-I has any evidence the closing signature is not a genuine and authentic signature of W.G. Hazard.

<u>Exhibit No.</u>	<u>Description</u>
a) K-556	Owens-Illinois Glass Company letter dated November 10, 1949 from W.G. Hazard to J.F. McMahon, Industrial Hygiene Foundation.

ANSWER: This defendant is not a handwriting expert and objects to this Interrogatory to the extent it requires this defendant to render an expert opinion. Owens-Illinois also objects to the form of this Interrogatory, in that it implies that the absence of evidence to the contrary constitutes proof of genuineness or authenticity. Owens-Illinois objects further to the form of the Interrogatory because it attempts to place on this defendant the burden of proving a negative. Subject to and without waiving these objections, Owens-Illinois states as follows: The document referred to was not found as part of Owens-Illinois's business records, and the document appeared for the very first time

in this litigation when plaintiffs attached it to their interrogatories. Therefore, Owens-Illinois is unable to determine from its records whether the closing signature is genuine and authentic. Other than these facts, Owens-Illinois has no evidence (as that term is generally defined) that suggests such closing signature is not genuine and authentic.

**SUPPLEMENTAL ANSWER TO PLAINTIFF'S INTERROGATORY
NO. 2, SERVED AUGUST 25, 1992**

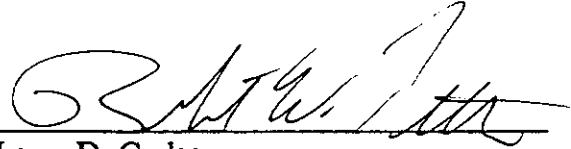
INTERROGATORY NO. 2: For the document listed below, please answer whether Owens-Illinois has any evidence that suggests such document is not a true and correct copy of a genuine and authentic document.

<u>Exhibit No.</u>	<u>Description</u>
a) K-556	Owens-Illinois Glass Company letter dated November 10, 1949 from W.G. Hazard to J.F. McMahon, Industrial Hygiene Foundation.

ANSWER: Owens-Illinois objects to the form of this Interrogatory, in that it implies that the absence of evidence to the contrary constitutes proof of genuineness or authenticity. Owens-Illinois also objects to the form of the Interrogatory because it attempts to place on this defendant the burden of proving a negative. Subject to and without waiving these objections, Owens-Illinois states as follows: The document referred to was not found as part of Owens-Illinois's business records and the document appeared for the very first time in this litigation when plaintiffs attached it to their interrogatories. Therefore, Owens-Illinois is unable to determine from its records whether the document is a true and correct copy of a genuine and authentic document. Other than

these facts, Owens-Illinois has no evidence (as that term is generally defined) that suggests such document is not a true and correct copy of a genuine and authentic document.

Respectfully submitted,



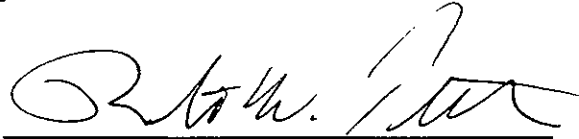
Larry D. Carlson
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Peter A. Moir
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ATTORNEYS FOR DEFENDANT
OWENS-ILLINOIS, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing answers to plaintiffs' interrogatories has been served on plaintiffs' counsel by hand-delivery and by certified mail, return receipt requested this 22nd day of January, 1993.



Robert W. Teeter

AFFIDAVIT

STATE OF OHIO)

)SS:

COUNTY OF LUCAS)

A. H. SMITH, being duly sworn according to law, deposes and says that he is an Assistant Secretary of Owens-Illinois, Inc., a defendant herein; that as such he is authorized to make an Affidavit on its behalf; and that the facts set forth in the foregoing DEFENDANT, OWENS-ILLINOIS, INC.'S ANSWERS TO INTERROGATORIES, are true and correct to the best of his knowledge, information and belief.

A. H. Smith

A. H. SMITH

SWORN TO and subscribed before me this 29th day of January, 1992.
My Commission Expires: January 4th, 1996

SEAL

Mary Janet Crawford

Notary Public

MARY JANET CRAWFORD
Notary Public, State of Ohio
My Commission Expires 1-4-96