

CAUSE NO. 2000-05-1962-C

JAN 18 2001

Elvira S. Ortiz
DISTRICT CLERK OF CAMERON COUNTY, TEXAS
DEPUTY

Plaintiffs,

vs.

**GAF CORPORATION
HOLDINGS, INC.), ET AL.**

Defendants.

IN THE DISTRICT COURT OF

PLAINTIFF'S EXHIBIT

USG-557

CAMERON COUNTY, TEXAS

197TH JUDICIAL DISTRICT

Defendant United States Gypsum Company (“U.S. Gypsum”) moves *in limine* to exclude evidence and argument relating to claims of asbestos-related disease made by employees of other companies.

1. The evidence at issue relates to claims that two individuals contracted asbestos-related diseases as a result of working at National Asbestos Manufacturing Company's ("National Asbestos") plant in Jersey City, New Jersey.

2. The two individuals never worked for U.S. Gypsum.

3. U.S. Gypsum bought the plant from National Asbestos in 1936, after both individuals had stopped working there.

4. Immediately upon acquiring the facility, U.S. Gypsum engaged in a significant study and clean-up of the extremely dusty conditions to which the two individuals apparently were exposed as employees of National Asbestos.

5. In contrast to these National Asbestos employees, no workers employed by U.S. Gypsum at the Jersey City plant ever filed asbestos-related claims during the thirty-nine years it owned that plant.

6. There is no evidence that plaintiff was exposed to asbestos dust in circumstances even remotely resembling the conditions National Asbestos' employees were exposed to in its Jersey City manufacturing facility.

7. The documents contain multiple layers of hearsay and mischaracterizations of U.S. Gypsum's conduct, repeating allegations made by persons other than the authors, who cannot be cross-examined. They also fail to provide any specific information linking the alleged disease to conditions at the Jersey City plant.

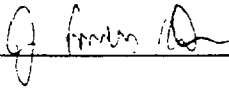
8. Recent decisions have continued the long line of rulings excluding this evidence: See, e.g., *Jacobs v. Owens-Corning Fiberglas Corp.*, No. 97-4-13222, Tr. at 23 (Tex. Dist., Calhoun Cty. Feb. 8, 2000); *Durham v. Able Supply, Inc.*, Cause No. 98-758-B (Tex. Dist., Gregg Cty. Feb. 2000); *Rugani v. Asbestos Defendants*, No. 302355, Tr. at 2 (Cal. Super., S.F. Cty. Feb. 16, 2000).

9. Presentation of this evidence will prejudice U.S. Gypsum, confuse and mislead the jury, and add to the length and complexity of the trial without adding any probative value.

For all the foregoing reasons, U.S. Gypsum respectfully requests that all evidence and argument relating to the claims of other companies' employees be excluded.

Respectfully submitted,

POWERS & FROST, L.L.P.



James H. Powers
Texas State Bar No. 16217400
Sharla J. Frost
Texas State Bar No. 07491100
Gwendolyn S. Frost
Texas State Bar No. 07488750
2600 Two Houston Center
909 Fannin
Houston, Texas 77010
Telephone: (713) 767-1555
Facsimile: (713) 767-1799

**ATTORNEYS FOR DEFENDANT UNITED
STATES GYPSUM COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct of Defendant United States Gypsum Company's Motion in Limine has been forwarded to Plaintiffs' counsel of record either by first class mail, return receipt requested, delivery or facsimile on this the 17th day of January, 2001.

