

IN RE: ALL ASBESTOS-RELATED) IN THE DISTRICT COURT OF
PERSONAL INJURY, SURVIVAL AND)
WRONGFUL DEATH CASES IN WHICH) DALLAS COUNTY, TEXAS
PLAINTIFFS ARE REPRESENTED BY)
BARON & BUDD, P.C. IN DALLAS)
COUNTY, TEXAS) 162ND JUDICIAL DISTRICT

DEFENDANT, KEENE CORPORATION'S,
RESPONSE TO PLAINTIFF'S REQUEST FOR ADMISSIONS

COMES NOW Defendant, KEENE CORPORATION, and files this its
Response to Plaintiffs' Request for Admissions in the above-
styled and numbered cause.

Respectfully submitted,

ATCHLEY, RUSSELL, WALDROP
and HLAVINKA, L.L.P.
1710 Moores Lane - P.O. Box 5517
Texarkana, Texas 75503
(903) 792-8246
Facsimile (903) 792-5801


J. Dennis Chambers
State Bar No. 04073800

ATTORNEYS FOR DEFENDANT,
KEENE CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above
and foregoing document has been forwarded to counsel of record
for Plaintiff herein, Mr. Russell Budd, BARON & BUDD, The
Centrum, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas, 75219,
by certified mail, return receipt requested, and a like copy to
all other counsel of record by mailing same postage prepaid on
this 4th day of December, 1991.


J. Dennis Chambers

DEFENDANT, KEENE CORPORATION'S, RESPONSE TO
PLAINTIFFS' REQUEST FOR ADMISSIONS



IN RE:	ALL ASBESTOS-RELATED	\$	IN THE DISTRICT COURT OF
	PERSONAL INJURY,	\$	
	SURVIVAL AND WRONGFUL	\$	
	DEATH CASES IN WHICH	\$	
	PLAINTIFFS ARE	\$	DALLAS COUNTY, T E X A S
	REPRESENTED BY BARON &	\$	
	BUDD, P.C. IN DALLAS	\$	
	COUNTY, TEXAS,	\$	162ND JUDICIAL DISTRICT

KEENE CORPORATION'S RESPONSE TO PLAINTIFF'S
REQUEST FOR ADMISSIONS
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 requests for admissions 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 requests for admissions assume the truth of facts not proven or facts not in evidence. Objection is made to these requests for admissions 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 requests for admissions 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 requests for admissions to the extent that they seek confidential, trade secret, or other proprietary information or materials.

Keene further objects to these requests for admissions 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 requests for admissions 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); Catasqua 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 requests for admissions 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

requests for admissions 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. For each document listed below, please answer whether such document is a true and correct duplicate of a genuine and authentic document found in the document depository files of Keene Corporation:

	K EXHIBIT NO.	DESCRIPTION
a)	KN194	Letter dated October 16, 1974 to G. Heins from L.E. (1 page)
b)	KN195	Letter dated February 7, 1975 to Don-Ray, from Robert J. Schirick (2 pages)
c)	KN196	Memo dated August 19, 1975 to J. Boreas from Robert Martin; Subject: Asbestos Containing cal Sil (1 page)
d)	KN197	Memo dated November 17, 1975 to J. Boreas from Robert Martin; Subject: Asbestos Cal Sil (1 page) (Bates No. 0004404)

RESPONSE TO REQUEST FOR ADMISSION NUMBER 1: Admitted.

2. For each document listed below, admit whether such document was kept and/or generated in the regular course of a regularly conducted business activity of any Keene entity by any employee or representative of Keene entity with the knowledge of the act, event, condition or opinion reported:

	K EXHIBIT NO.	DESCRIPTION
--	---------------	-------------

- a) KN194 Letter dated October 16, 1974 to G. Heins from L.E. (1 page)
- b) KN195 Letter dated February 7, 1975 to Don-Ray, form Robert J. Schirick (2 pages)
- c) KN196 Memo dated August 19, 1975 to J. Boreas form Robert Martin; Subject: Asbestos Containing cal Sil (1 page)
- d) KN197 Memo dated November 17, 1975 to J. Boreas from Robert Martin; Subject: Asbestos Cal Sil (1 page) (Bates No. 0004404)

RESPONSE TO REQUEST FOR ADMISSION NUMBER 2: Keene objects to this request on the grounds that it is vague or lacks particularity. Admitted that the referenced exhibits are among the document collection of business records and documents of KBPC, BEH, and BEH's corporate predecessors.

3. For each document listed below, admit or deny whether such document was found in your files in such condition as to create no suspicion concerning its authenticity:

- | K EXHIBIT NO. | DESCRIPTION |
|---------------|--|
| a) KN194 | Letter dated October 16, 1974 to G. Heins from L.E. (1 page) |
| b) KN195 | Letter dated February 7, 1975 to Don-Ray, form Robert J. Schirick (2 pages) |
| c) KN196 | Memo dated August 19, 1975 to J. Boreas form Robert Martin; Subject: Asbestos Containing cal Sil (1 page) |
| d) KN197 | Memo dated November 17, 1975 to J. Boreas from Robert Martin; Subject: Asbestos Cal Sil (1 page) (Bates No. 0004404) |

RESPONSE TO REQUEST FOR ADMISSION NUMBER 3: Admitted.

4. Admit that Keene Corporation has stipulated, agreed or admitted to the authenticity of any of these documents referenced in Request for Admissions No. 1 with any person before the date of these Request for Admissions:

	K EXHIBIT NO.	DESCRIPTION
a)	KN194	Letter dated October 16, 1974 to G. Heins from L.E. (1 page)
b)	KN195	Letter dated February 7, 1975 to Don-Ray, from Robert J. Schirick (2 pages)
c)	KN196	Memo dated August 19, 1975 to J. Boreas from Robert Martin; Subject: Asbestos Containing cal Sil (1 page)
d)	KN197	Memo dated November 17, 1975 to J. Boreas from Robert Martin; Subject: Asbestos Cal Sil (1 page) (Bates No. 0004404)

RESPONSE TO REQUEST FOR ADMISSION NUMBER 4: Keene objects to this request on the grounds that it seeks information which is not relevant or is not likely to lead to the discovery of admissible evidence. Keene objects to this request as being unduly burdensome, harassing, or oppressive. Keene objects to this request on the grounds that it is overly broad as to time, scope, or location.

5. Admit that the following documents were generated by employees or officers of the Keene Corporation, Baldwin-Ehret Hill, Ehret Magnesia, Baldwin Hill Company or any of its subsidiary companies:

	K EXHIBIT NO.	DESCRIPTION
a)	KN194	Letter dated October 16, 1974 to G.

- Heins from L.E. (1 page)
- b) KN195 Letter dated February 7, 1975 to Don-Ray, from Robert J. Schirick (2 pages)
 - c) KN196 Memo dated August 19, 1975 to J. Boreas from Robert Martin; Subject: Asbestos Containing cal Sil (1 page)
 - d) KN197 Memo dated November 17, 1975 to J. Boreas from Robert Martin; Subject: Asbestos Cal Sil (1 page) (Bates No. 0004404)

RESPONSE TO REQUEST FOR ADMISSION NUMBER 5: Admitted.

6. Admit that the following documents were generated by employees or officers of the Keene Building Products Corporation, Keene International or any of its subsidiaries:

- | | K EXHIBIT NO. | DESCRIPTION |
|----|---------------|--|
| a) | KN194 | Letter dated October 16, 1974 to G. Heins from L.E. (1 page) |
| b) | KN195 | Letter dated February 7, 1975 to Don-Ray, from Robert J. Schirick (2 pages) |
| c) | KN196 | Memo dated August 19, 1975 to J. Boreas from Robert Martin; Subject: Asbestos Containing cal Sil (1 page) |
| d) | KN197 | Memo dated November 17, 1975 to J. Boreas from Robert Martin; Subject: Asbestos Cal Sil (1 page) (Bates No. 0004404) |

RESPONSE TO REQUEST FOR ADMISSION NUMBER 6: Admitted
that the referenced exhibits were generated by employees of KBPC.

7. Admit that the following documents came from the

files of the Keene Corporation:

	K EXHIBIT NO.	DESCRIPTION
a)	KN194	Letter dated October 16, 1974 to G. Heins from L.E. (1 page)
b)	KN195	Letter dated February 7, 1975 to Don-Ray, from Robert J. Schirick (2 pages)
c)	KN196	Memo dated August 19, 1975 to J. Boreas from Robert Martin; Subject: Asbestos Containing cal Sil (1 page)
d)	KN197	Memo dated November 17, 1975 to J. Boreas from Robert Martin; Subject: Asbestos Cal Sil (1 page) (Bates No. 0004404)

RESPONSE TO REQUEST FOR ADMISSION NUMBER 7: Keene objects to this request on the grounds that it is vague or lacks particularity. Admitted that the referenced exhibits are among the document collection of business records and documents of KBPC, BEH, and BEH's corporate predecessors.

8. Admit that the following documents can be found in files of Keene Corporation:

	K EXHIBIT NO.	DESCRIPTION
a)	KN194	Letter dated October 16, 1974 to G. Heins from L.E. (1 page)
b)	KN195	Letter dated February 7, 1975 to Don-Ray, from Robert J. Schirick (2 pages)
c)	KN196	Memo dated August 19, 1975 to J. Boreas from Robert Martin; Subject: Asbestos Containing cal Sil (1 page)
d)	KN197	Memo dated November 17, 1975 to J. Boreas from Robert Martin; Subject:

RESPONSE TO REQUEST FOR ADMISSION NUMBER 8: Keene objects to this request on the grounds that it is vague or lacks particularity. Admitted that the referenced exhibits are among the document collection of business records and documents of KBPC, BEH, and BEH's corporate predecessors.

9. Admit that Keene Corporation has designated Mr. John G. O'Brian[sic] - Legal Associate General Counsel and Assistant Secretary of the Keene Corporation to be the person most knowledgeable of the facts contained in its responses to Discovery requests.

RESPONSE TO REQUEST FOR ADMISSION NUMBER 9: Keene states see attached verification.

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

JOHN G. O'BRIEN being duly sworn, deposes and says that he is Associate General Counsel and Assistant 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.



John G. O'Brien

Sworn to before me this
27th day of November 1991



Notary Public

KONRAD R. MATTHAEI
Notary Public, State of New York
No. 31-4986999
Qualified in New York County
Commission Expires Sept. 30, 1993