

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

*IN RE: ASBESTOS PERSONAL
INJURY LITIGATION*

Civil Action No. 03-C-9600
October 2004 Trial Group
Honorable Ronald E. Wilson

DOLORES L. BURKE,
Deceased
Plaintiff,

vs.

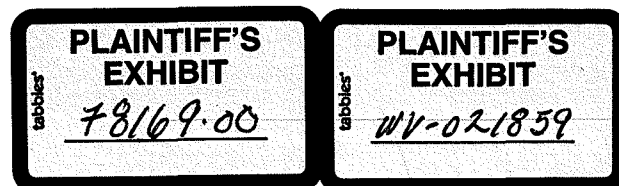
Civil Action No. 03-C-3182

ADIENCE, INC., et al.,
Defendants.

**DEFENDANT, OWENS-ILLINOIS, INC.'S RESPONSES TO
PLAINTIFF'S FIRST INTERROGATORIES AND REQUEST FOR PRODUCTION**

PRELIMINARY STATEMENT

Some of the events which may be relevant to the matters inquired about by Plaintiffs' Interrogatories and Requests apparently occurred more than forty-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 the asbestos-containing insulation products manufacturing business. It does not now and it has not since that sale manufactured, distributed, or sold any of its Kaylo asbestos-containing insulation 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 and requests 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 and requests were transferred to Owens-Corning Fiberglas Corporation with the transfer of the business in question in 1958. Unless otherwise stated in an answer to a specific interrogatory or request, the answers set out hereinafter are limited to the period during which Owens-Illinois, Inc. manufactured asbestos-



containing Kaylo 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. 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 and request concerning any period of time other than the period during which it engaged in the manufacture and sale of the Kaylo products alleged to be 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.

Commencing in 1963 and continuing through 1977, Kimble Glass Company, a unit of Owens-Illinois, Inc., offered for sale gaskets, inserts and spacers as accessory parts intended for use in conjunction with Kimble's conical end glass piping system. Some of these accessory parts contained asbestos as one of their ingredients. These accessory parts were not manufactured by Kimble, but were purchased from other suppliers. From approximately 1966 through 1977, the Kimble Division also offered for sale a field beading kit that included a small plate and a covering over each of two small hoses. The plate and hose coverings may possibly have contained asbestos, but Owens-Illinois cannot yet confirm the ingredients of these materials based upon its business records presently reviewed. Kimble also sold Glass Lined Reactors manufactured by Schwelm for a period of time presently unknown which incorporated gaskets containing asbestos as one of their ingredients. At the end of 1977, Owens-Illinois transferred its interest in the glass pipe and Schwelm Reactor product lines and related assets to OI/Schott Process Systems, Inc. in exchange for 50% of the stock of the Corporation and, pursuant to a Sales Agreement dated May 24, 1990, sold its interest in OI/Schott Process Systems, Inc. to Schott Corporation. From 1982 through 1985, Kontes Glass Company, a subsidiary of Owens-Illinois during that time period, purchased certain asbestos-containing materials from other manufacturers and incorporated those materials into four of its products. Based upon the

information available to Owens-Illinois to date concerning the nature of Plaintiff's claim, it is Owens-Illinois' understanding that the only Owens-Illinois asbestos-containing product to which the Plaintiff alleges exposure is Kaylo. Therefore, Owens-Illinois objects to responding to these interrogatories and requests in regard to the above described asbestos-containing products sold by Kimble Glass Company and Kontes Glass Company 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. In the event that Owens-Illinois is subsequently informed that the Plaintiff alleges exposure to asbestos-containing products sold by Kimble Glass Company or Kontes Glass Company, Owens-Illinois will supplement these answers to interrogatories and requests within a reasonable time after receiving such notice to the extent that a supplementation is necessary in order to respond to the interrogatories and requests in light of the alleged exposure to asbestos-containing products sold by either Kimble Glass Company or Kontes Glass Company.

Furthermore, Owens-Illinois, Inc. objects to the instructions and definitions supplied by plaintiffs with regard to these interrogatories and requests, 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 and requests 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 and requests in a manner consistent with a normal understanding of the language used in the interrogatory and request and to the extent necessary to fairly and fully answer the interrogatory and request.

INTERROGATORIES

Q. 1. As to any product containing asbestos in any form, has this defendant designed, manufactured, processed, sold, distributed, patented such a product or relabeled such a product which was manufactured, sold or distributed by another company?

A. 1. This defendant objects to this interrogatory on the basis that it is vague, ambiguous, seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the above objection, regarding its Kaylo product, Owens-Illinois Glass Company began limited pilot plant operations involving the production of "Kaylo" asbestos-containing products in 1943. It began the manufacture and sale of commercial quantities of "Kaylo" asbestos-containing products in about 1948, and began the manufacture and sale of commercial quantities of "Kaylo-20" in or after mid-1955, and continued such manufacture and sale until about April 30, 1958.

In 1953 defendant entered into a "Sales Agreement" under which it agreed to sell certain amounts of its asbestos-containing thermal insulation products to Owens-Corning Fiberglas Corporation. Furthermore, this defendant has found information in its records which indicate that in at least 1956, it placed Owens-Corning Fiberglas Corporation's logo on some of its boxes.

This defendant's documents are limited in number and scope; however, defendant has investigated information concerning any such United States Patents. It appears that the following patents may have been related to this defendant's asbestos-containing products at one time:

<u>Patent No.</u>	<u>Inventor</u>	<u>Issue Date</u>
2,425,610	Finley	8-12-47
2,439,724	Finley	4-13-48
RE.23,228	Frasor	5-09-50
(reissue of 2,469,379	Frasor	5-10-49)
2,534,303	Serinis	12-19-51
2,540,354	Selden	2-06-51
2,547,127	Kalousek	4-03-51
2,570,835	Mooney, et al.	10-09-51
2,574,667	Shuman	11-13-51
2,665,996	Kalousek	1-12-54
2,748,008	Kalousek	5-29-56
2,787,345	Soubier, et al.	4-02-57
2,788,304	Scovronek	4-09-57

This defendant does not have sufficient information in its business records to further answer this interrogatory.

Q. 2. If your answer to any part of No. 1 is "Yes", then please provide the following information:

- (a) Trade name of each product (ex: Unibestos, One-Coat, etc.);
- (b) Date each such product was first sold or distributed and last sold or distributed (ex: 1942-1958);
- (c) Date each such product was first sold or distributed and last sold or distributed (ex: 1942-1958) in West Virginia;
- (d) Type of product (ex: pipecovering, mud, gasket material);
- (e) Percentage of asbestos content;
- (f) Type of asbestos used in the product (ex: amosite);
- (g) Supplier of asbestos fiber, and if more than one supplier, please list all suppliers.

A. 2. (a) Kaylo and Kaylo 20

(b) Owens-Illinois Glass Company began limited pilot plant operations involving the production of "Kaylo" asbestos-containing products in 1943. It began the manufacture of commercial quantities of "Kaylo" asbestos-containing products in about 1948, and began the manufacture of commercial quantities of "Kaylo-20" in or after mid-1955, and continued such manufacture until about April 30, 1958.

(c) This defendant objects to this interrogatory on the basis that it is overly broad, seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to sales of Kaylo to plaintiff's employers during plaintiff's periods of employment. Without waiving the above objection, this defendant has found documents in its business records indicating sales of Kaylo within the State of West Virginia in 1952 and 1953.

(d) This defendant's Kaylo thermal insulation product was manufactured in two forms, pipe covering and block.

(e-f) This defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958. Defendant's documents relating to the composition

of each such product, including the type of asbestos contained therein (i.e., amosite or chrysotile) and the quantitative percentage of asbestos, are limited and incomplete. These documents are primarily research records rather than records from the production or manufacture of defendant's Kaylo product. However, this defendant believes its commercially produced asbestos-containing products were hydrous calcium silicates containing between 13% and approximately 20% asbestos. Chrysotile asbestos was the primary type apparently used. Amosite was incorporated to a lesser extent. For some periods of time, light density pipe covering and block insulation contained only chrysotile asbestos. Roof deck and door core contained both chrysotile and amosite asbestos.

(g) This defendant believes that the chrysotile which was the primary type of asbestos used in its insulation products was imported from Canada, and that at least some of this chrysotile was purchased from Canadian Johns-Manville, Ltd. This defendant further believes that when amosite asbestos was used, it was imported from South Africa and at least a portion of such amosite was purchased from the African and European Agencies. This defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958 and does not have information sufficient to further answer this interrogatory.

Q. 3. Does Defendant have records that reflect sales of its asbestos or asbestos-containing products to any plants or other locations in West Virginia, Ohio and/or Kentucky including, but not limited to, Weirton Steel, Weirton, West Virginia? If so, please identify each such plant or location and identify the following:

- (a) All such records;
- (b) The names and last known addresses of those people with such knowledge;
- (c) The location of such records;
- (d) How the records were organized.

A. 3. This defendant objects to this interrogatory on the basis that it is overly broad, seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to

sales of Kaylo to plaintiff's employers during plaintiff's periods of employment. Without waiving the above objection, this defendant ceased the manufacture, sale and distribution of its Kaylo product in 1958. Defendant has found no documents in its business records indicating the sale of its Kaylo product to Weirton Steel at any time.

Q. 4. Before placing in the market any asbestos-containing products that Defendant manufactured, did Defendant conduct, perform or cause to be performed any studies to determine whether its asbestos-containing products would be hazardous to people? If so, please identify:

- (a) The name of the products tested and the date of each test;
- (b) The name, address, and job classification of each individual who conducted such tests; and
- (c) The results of such tests.

A. 4. This defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958 and does not have any records from which it can obtain information sufficient to answer this interrogatory.

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. These papers and reports may contain information relating to the substance of this interrogatory. This defendant has not been able to find these papers and reports in its business records or correspondence.

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. Other documents possibly relating to this interrogatory may have been produced by Owens-Corning Fiberglas Corporation in the asbestos litigation.

Those documents found at Saranac Lake and at Owens-Corning Fiberglas Corporation and elsewhere, indicate that during the period of time when Owens-Illinois was in the business of manufacturing asbestos-containing products, the state of government, industrial hygiene and medical community knowledge was that there was a recognized safe exposure level for asbestos dust and that persons installing insulation were not exposed to excessive or hazardous levels of asbestos dust. The foregoing documents also indicate that Kaylo plant employees were x-rayed periodically and displayed no asbestos-related chest disease; that this defendant made appropriate efforts to provide ventilation and to control the emissions of all dust emitted during the manufacturing process within recognized safe levels of exposure, including the use of respirators in some instances, dust collection equipment and other devices as necessary; and that therefore during the period in which this defendant was in the business of manufacturing Kaylo it had no reason to believe that the foreseeable use of Kaylo would create a hazard to users.

The documents produced by Owens-Corning Fiberglas Corporation indicate that the September, 1955 publication in the A.M.A. Archives of Industrial Health was a publication of inhalation experiments.

To the extent that this interrogatory seeks the production of documents, such documents, as outlined in this response, have not been found as part of this defendant's records and, to the extent that this defendant is in possession of copies of documents, it possesses copies only of documents collected in preparation for litigation. This defendant objects to producing the same. The documents are available from their proper source.

Q. 5. Please identify each distributor or wholesaler located or authorized to sell or distribute products within West Virginia, Ohio or Kentucky, including, but not limited to, Weirton Steel, Weirton, West Virginia, of your asbestos-containing products identified in response to Interrogatory Number 2. For each distributor or wholesaler, please state:

- (a) Name and last known address;
- (b) The years of, and the geographical area encompassed by the relationship;
- (c) Whether there was a written distributorship agreement;

- (d) Whether the distributorship was exclusive;
- (e) The extent to which sales to customers in this state were handled through distributors or wholesalers located outside this state.

A. 5. This defendant objects to this interrogatory on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to sales or distribution of Kaylo to plaintiff's employers during plaintiff's periods of employment. Without waiving the above objection, defendant has found no documents in its business records indicating the sale or distribution of its Kaylo product to Weirton Steel at any time.

Q. 6. Please list the names, titles and current address of each of your past and present sales managers and sales personnel responsible for sale of asbestos product sales to businesses, corporations, and/or entities located in West Virginia.

A. 6. This defendant objects to this interrogatory on the basis that it is overly broad, seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to sales of Kaylo to plaintiff's employers during plaintiff's periods of employment. Without waiving the above objection, this defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958. This defendant has not found information in its records sufficient to enable it to answer this interrogatory.

Q. 7. Please state whether Defendant ever contacted any customer, installer or user of its asbestos-containing products regarding testing of the asbestos exposure levels created during the installation or use of Defendant's asbestos-containing products. If so, please identify the following:

- (a) Which of Defendant's asbestos-containing products were part of the test;

- (b) The customers, installers or users for which asbestos exposure levels were obtained;
- (c) The dates of such tests; and
- (d) The results of such tests.

A. 7. This defendant objects to this interrogatory on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the above objection, this defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958. This defendant has not found information in its records sufficient to enable it to answer this interrogatory.

Q. 8. Has Defendant ever issued a recall of any asbestos containing product or taken any action to take any such products off the market? If so, identify each such product and include:

- (a) The date of said recall; and
- (b) The name of the company which issued the recall.

A. 8. This defendant objects to this interrogatory on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the above objection, this defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958. This defendant has found no information indicating it issued a recall of its Kaylo product.

Q. 9. State what action, if any, you have taken at any time to minimize or eliminate any risk of occupational disease or pneumoconiosis to those who were at any time engaged in the manufacture, production or installation of asbestos-containing products.

A. 9. This defendant objects to this interrogatory on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the above objection, this defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958. This defendant has not found information in its records sufficient to enable it to answer this interrogatory. The documents referenced in answer to interrogatory no. 4 may contain information related to the subject matter of this interrogatory. Those documents indicate that Kaylo plant employees were x-rayed periodically and displayed no asbestos-related chest disease; that this defendant made appropriate efforts to provide ventilation and to control the emissions of all dust emitted during the manufacturing process within recognized safe levels of exposure, including the use of respirators in some instances, dust collection equipment and other devices as necessary.

Q. 10. Identify all actions taken by you at any time to minimize or eliminate any risk of occupational disease or pneumoconiosis to persons who may be exposed to asbestos from your asbestos-containing products including, but not limited to, those persons who may have been exposed in the home or otherwise via contact with occupationally exposed individuals.

A. 10. This defendant objects to this interrogatory on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the above objection, this defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958. This defendant has not found information in its records

sufficient to enable it to answer this interrogatory. However, during the time period this defendant was involved in the manufacture and sale of its Kaylo product, the state of medical and scientific knowledge was such that defendant had no reason to believe that the use of its product would result in a foreseeable risk of harm.

Q. 11. If you advertised any asbestos-containing products in newspapers, magazines, or other publications at any time, please identify for each such product advertised:

- (a) The name of the publication in which it appeared;
- (b) The dates during which the advertisement was published.

A. 11. This defendant objects to this interrogatory on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the above objection, refer to Exhibit I. This defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958. This defendant has not found information in its records sufficient to enable it to further answer this interrogatory.

Q. 12. Please state whether you ever commissioned, relied upon, contracted with and/or permitted any insurance company to investigate the possible hazards or health effects of exposure to asbestos, and if so please state the following:

- (a) The name of the insurance company;
- (b) The nature of each such the investigation;
- (c) The results of each such investigation; and
- (d) The name, affiliation and address of each individual involved in each such investigation.

A. 12. Owens-Illinois objects to this interrogatory on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not

reasonably calculated to lead to the discovery of admissible evidence, except as it relates to the period of time during which this defendant engaged in the manufacture, sale, and distribution of its Kaylo asbestos-containing products. Owens-Illinois further objects on the basis that such documents, reports, or communications obtained after such time period may be protected from discovery by the work product doctrine.

Without waiving the above objections, Owens-Illinois states that a document produced at the deposition of E. C. Shuman on June 12, 1979 in a case then pending in the United States District Court for the Eastern District of Virginia, C/P 77-1-N indicates that a "dust survey" was done by the Aetna Casualty and Surety Company, and Owens-Illinois believes that it was obtained from Aetna. This document may contain information related to the substance of this interrogatory. Owens-Illinois was not a party to that case, the deponent, Mr. Shuman, had no personal knowledge about the contents of the document, its preparation or authenticity. Owens-Illinois has not been able to find this document in its business records or correspondence and therefore cannot attest to its authenticity.

To the extent that this interrogatory seeks the production of documents, such documents, as outlined in this response, have not been found as part of this defendant's records, and to the extent that this defendant is in possession of copies of documents, it possesses copies only of documents collected in preparation for litigation.

Q. 13. For each asbestos-containing product for which you have developed a non-asbestos substitute, state:

- (a) The name of the asbestos-containing product and its substitute product;
- (b) The chemical composition of the substitute;
- (c) The date on which the substitute was first sold;
- (d) The date on which the asbestos-containing product was last sold;
- (e) Whether the substitute contained vermiculite; and
- (f) What material was substituted for asbestos.

A. 13. This defendant has located information in its records indicating that several efforts were made to substitute other materials for the asbestos in its Kaylo products; however, such efforts were unsuccessful. Defendant will make available to plaintiffs' counsel through its local counsel reports on such experiments. Some of the reports are contained on microfilm which is old and of poor quality. Adequate copies may not be made from it, and reading it requires a reader device. Other documents possibly relating to this interrogatory may have been produced by Owens-Corning Fiberglas Corporation in the asbestos litigation.

Q. 14. Did you participate in or receive any reports or documents concerning statistical or other studies conducted by Metropolitan Life Insurance Company from 1929 to 1960 on asbestos workers and health or more generally on the health effects on humans or animals from inhalation or ingestion of asbestos? If so, identify:

- (a) This Defendant's participation in each such study;
- (b) The documents received by the Defendant;
- (c) The current location of the documents identified in response to (b).

A. 14. This defendant has found no information indicating it received any such reports or documents during the relevant time period.

Q. 15. Identify all industrial hygiene, safe working practice, air monitoring or dust monitoring programs or other internal controls instituted by Defendant for each location at which Defendant manufactured asbestos-containing products.

A. 15. This defendant objects to this interrogatory on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the

above objection, this defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958. This defendant has not found information in its records sufficient to enable it to answer this interrogatory. The documents referenced in answers to interrogatories nos. 4 and 12 may contain information related to the subject matter of this interrogatory.

Q. 16. Identify all industrial hygiene, safe working practice, air monitoring or dust monitoring programs or other internal controls instituted by Defendant at each location owned or operated by Defendant and containing asbestos or asbestos-containing materials which were not identified in response to the preceding interrogatory.

A. 16. This defendant objects to this interrogatory on the basis that it is overly broad and unduly burdensome and seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the above objection, refer to objection and response to interrogatory no. 15.

Q. 17. Identify all chemical, industrial, medical or trade associations to which you have belonged since 1936 and the dates of membership in each.

A. 17. This defendant objects to this interrogatory on the grounds that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence except as it relates to the period of time within which this defendant manufactured its Kaylo asbestos-containing products.

Without waiving the above objection, this defendant states that insofar as this interrogatory refers to associations or organizations of which this defendant was a member during the time when it manufactured Kaylo asbestos-containing products, it was a member of the Industrial Hygiene Foundation (which changed its name to the Industrial Health Foundation

in 1970) for the years 1936 through 1975. This defendant has been unable to find any information in its records which would enable it to further answer this interrogatory.

Q. 18. For each association identified in the answer to the immediately preceding interrogatory, identify:

- (a) The names of all individuals associated with the answering defendant who have had dealings with each association;
- (b) The nature of their dealings with each such association;
- (c) Each person's last known address;
- (d) Current job and title for each person still employed by Defendant;
- (e) All documents related to said affiliation.

A. 18. Refer to objection and answer to interrogatory no. 17. This defendant has been unable to find any information in its records which would enable it to further answer this interrogatory.

Q. 19. Please identify whether or not Defendant ever conducted, participated in or received the results of any tests to determine the nature and extent of airborne asbestos dust or fiber where asbestos-containing products were applied, used or removed. If so, for each test please identify:

- (a) The date, place and nature of the test;
- (b) The asbestos-containing products involved;
- (c) The results of the test, including air sample results and dust counts;
and
- (d) Each person who received the results indicated in the answers to
(c).

A. 19. This defendant objects to this interrogatory on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not

reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the above objection, this defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958. This defendant has not found information in its records sufficient to enable it to answer this interrogatory.

Q. 20. Please identify whether or not Defendant ever obtained any knowledge of whether asbestos may be hazardous to human health. If so, please identify:

- (a) When Defendant first became aware of the hazardous potential of asbestos dust and asbestos fibers;
- (b) The manner in which the Defendant first obtained this knowledge;
- (c) What information was disseminated within Defendant's company regarding this knowledge;
- (d) Whether any such information is still maintained by Defendant in any written form;
- (e) The name, address and job classification of the custodian of such information.
- (f) When this Defendant first learned of the "Dressen Report";
Dressen, W.C., et al. A Study of Asbestos in-the Asbestos Textile Industry, Public Health Bull. No. 241, Washington, D.C.: U.S. Public Health Service, 1938.
- (g) Which person (by occupation or otherwise) have been identified that could potentially be at risk including, but not limited to, those in the home of occupationally exposed individuals.

A. 20. To the extent this interrogatory inquires as to asbestos-containing products manufactured or sold by other defendants, this defendant states that it does not have any records from which it can obtain information sufficient to answer this interrogatory, nor can it locate any present employees with knowledge thereof.

Insofar as this interrogatory inquires as to asbestos-containing products manufactured by this defendant, this defendant states that it ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products effective April 30, 1958 and has not engaged in such business since.

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. These papers and reports may contain information relating to the substance of this request. This defendant has not been able to find these papers and reports in its business records or correspondence.

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 that this defendant has not copied. This defendant also has reason to believe that plaintiffs' counsel has copies of the documents produced by Mr. Logie. They are available through Winne, Banta, Rizzi, Hetherington & Basralian, 25 E. Salem Street, Hackensack, New Jersey. Other documents possibly relating to this request may have been produced by Owens-Corning Fiberglas Corporation. Those documents indicate that experiments referred to in the documents produced by Mr. Logie were published in an AMA publication in September, 1955. As with the documents produced by Mr. Logie, the documents produced by Owens-Corning Fiberglas Corporation have not been found as part of this defendant's records.

The foregoing documents indicate that during the time in which this defendant engaged in the manufacture, sale, and distribution of its Kaylo asbestos-containing products, its products contained a relatively small proportion of asbestos when compared to other asbestos-containing products in use during and prior to the same period of time. It appears that this defendant's employees at its asbestos product manufacturing plants were x-rayed periodically and displayed no asbestos-related chest disease, although in the course of their employment they were exposed to the raw materials of this defendant's products as well as the dust of the finished product. Furthermore, these documents indicate that there were no worker's compensation claims filed by its employees for asbestos-related diseases.

It was this defendant's understanding of the state of medical and industrial hygiene knowledge that exposure to asbestos in excessive amounts over a prolonged period of time (years), in the conditions typically experienced in asbestos factories, workshops, and

possibly mines and mills could lead to the potential hazard of contracting a disease known as asbestosis.

However, the state of medical and industrial hygiene knowledge was also to the effect that there was a safe level (threshold limit value) of asbestos to which a person could be exposed without risk of injury. This defendant was aware of the threshold limit value for asbestos as published by the American Conference of Governmental Industrial Hygienists (ACGIH) in the 1940's and 1950's through publications by the Industrial Hygiene Foundation, ACGIH and from the above referenced "Logie" and "OCF" documents.

In addition, it appears that an employee of this defendant subscribed to and received the Journal of Industrial Hygiene and Toxicology, which contained in January, 1946 an article published by the Navy entitled, "A Health Survey of Pipe Covering Operations in Constructing Naval Vessels," by Fleischer, Viles, Gade and Drinker. This article stated that persons who worked as insulators in shipyards were not exposed and did not work in conditions similar to those experienced in asbestos factories, workshops, mines, and mills, and were not exposed to levels of asbestos above the recognized safe limits. Therefore, the article concluded that such persons were not engaged in a hazardous occupation. The article by Fleischer, et al also made reference to a study by Dreessen and others dated 1938 and published as United States Public Health Service Bulletin No. 241.

Furthermore, defendant is informed and believes that at no time prior to 1958 did the medical and scientific community generally accept that there was a causal connection established between exposure to asbestos and a risk of contracting cancer.

In an article published in the A.M.A. Archives of Industrial Health, September 1955, Vol. 12, pp 348-360 entitled "Effect of Inhaled Commercial Hydrous Calcium Silicate Dust on Animal Tissues," Schepers, Durkan, and Delahant, reported on the Saranac Laboratory studies referenced above. In that article, the authors concluded that there was no evidence of neoplastic change in the tissue of the subject animals. As a result, this defendant had information indicating that exposure to its product did not pose any risk of cancer.

From the foregoing papers, reports and articles, this defendant had no reason to believe that exposure to its Kaylo asbestos-containing products would result in a foreseeable risk of harm to users.

This defendant reserves the right to supplement this response as discovery and the case warrant. This defendant has reason to believe that plaintiffs' counsel is in possession of a substantial library of asbestos-related literature containing articles that defendant may wish to rely upon.

To the extent that this request seeks the production of documents, such documents, as outlined in this response, have not been found as part of this defendant's records and, to the extent that this defendant is in possession of copies of documents, it possesses copies only of documents collected in preparation for litigation. This defendant objects to producing the same. The documents are available from their proper source.

Q. 21. Have you ever been investigated or cited by OSHA or any other governmental agency for any matter related to asbestos or asbestos exposure? If so, for each investigation and/or citation, please identify the dates, the site and the result.

A. 21. This defendant objects to this interrogatory on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the above objection, this defendant ceased the manufacture, sale and distribution of its Kaylo thermal insulation product in 1958, years before the creation of OSHA.

Q. 22. Has Defendant ever been compelled or requested, because of the presence of asbestos, to institute any industrial hygiene controls, safe working practice or exposure monitoring? If so, please identify the date, place and circumstances of each such compulsion or request and identify all documents relevant thereto.

A. 22. This defendant objects to this interrogatory on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this

defendant's Kaylo asbestos-containing thermal insulation product business. This defendant also objects on the grounds that the terms "compelled" and "requested" are vague and ambiguous. Without waiving the above objection, this defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958. This defendant has not found information in its records sufficient to enable it to answer this interrogatory. The documents referenced in answer to interrogatories nos. 4 and 12 may contain information related to the subject matter of this interrogatory.

Q. 23. Please identify all physicians, medical advisors, industrial hygienists and others (including their names, titles and addresses) employed, retained or otherwise engaged by Defendant for research, investigation or study concerning asbestos dust control or asbestos-related diseases.

A. 23. This defendant objects to this interrogatory on the basis that it is vague, ambiguous, seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the above objection, Charles Shook, M.D., deceased, employed from March 25, 1946 until June 30, 1960 was the Medical Director during the period in which this defendant manufactured, sold, or distributed Kaylo asbestos-containing products. W. G. Hazard, deceased, was employed as this defendant's industrial hygienist during the period of time in which this defendant engaged in the manufacture, sale, and distribution of its Kaylo asbestos-containing products. This defendant has no information indicating that either of these people was hired for the purposes outlined in this interrogatory.

Q. 24. Were you notified or named as a defendant in any lawsuit prior to 1975 by any person who claimed to have been injured by asbestos-containing products manufactured by you? If your answer is in the affirmative, provide the date on which each

lawsuit was filed against you, the court in which said suit was filed and the name of the plaintiff in each suit.

A. 24. This defendant objects to this interrogatory on the basis that it seeks information that is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the above objection, no. This defendant received its first complaint involving an alleged asbestos-related injury in 1975.

Q. 25. Identify whether you are and have been insured for product liability or personal injury liability, including “excess or umbrella” policies, and/or worker’s compensation claims, and if so, for each applicable insurance policy please identify,

- (a) The limits of coverage;
- (b) The name of the insurance company;
- (c) Whether this claim has been accepted or whether a letter of intent to deny coverage has been received.

A. 25. This defendant objects to this interrogatory on the grounds that it seeks irrelevant and immaterial information that is not reasonably calculated to lead to the discovery of admissible evidence. Expressly reserving and without waiving its objections, and subject to them, this defendant states that there were disputes over insurance coverage for the asbestos-related claims against this defendant, which were the subject of litigation against certain insurance carriers. See, Owens-Illinois, Inc. v. Aetna Casualty and Surety Company, 597 F.Supp. 1515 (D.D.C. 1984); Owens-Illinois, Inc. v. United Insurance Co., 135 N.J. 306 650 A.2d 974(1994). This litigation has been settled. The terms and conditions of the settlement agreements are confidential and the parties are precluded from disclosing the terms or contents of the agreements. In general, the company expects some further recovery from deferred payment provisions of existing settlement agreements and from pursuing certain additional reimbursement claims.

Q. 26. Identify any agreement Defendant has entered into with any corporation other than a corporation in the insurance business regarding settlement or non-settlement and/or allocation of damages.

A. 26. This defendant objects to this interrogatory on the grounds that it is overly broad, vague, and ambiguous and seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, defendant has no such agreement with any other defendant relating to this action.

Q. 27. Other than any insurance policies identified in response to any other interrogatories herein, are you now or have you ever been an indemnitee under any contract or agreement providing for your indemnification for any claims or judgments of personal injury or property damage arising after 1965? If the answer to this interrogatory is in the affirmative, please identify:

- (a) The name and address of the indemnitor;
- (b) The contract or agreement under which such indemnity is claimed;
- (c) The nature and terms of the indemnifying agreement; and,
- (d) The identity of all documents related to the subject matter of this interrogatory.

A. 27. This defendant objects to this interrogatory on the grounds that it is overly broad and seeks irrelevant and immaterial information that is not reasonably calculated to lead to the discovery of admissible evidence. Expressly reserving and without waiving its objections, and subject to them, defendant is unaware of any indemnity agreement for personal injury claims arising out of defendant's Kaylo asbestos-containing thermal insulation product business other than the agreements referenced in response to Interrogatory No. 25 above.

Q. 28. To the best of your knowledge are you an additional insured, or have you been an additional insured, since 1965, under any liability insurance policy providing liability insurance coverage for the operation or ownership of your business or the acts alleged in Plaintiffs' Complaint? If so, please identify the following:

- (a) The identity of any such policies or documents;
- (b) The name and address of the underwriting insurance company;
- (c) The name and address of the insurance agency or broker through whom the insurance coverage was procured;
- (d) The dates of initiation, inspection, renewal and expiration of the policy;
- (e) The nature of coverage provided;
- (f) The liability policy limit or limits; and
- (g) Whether or not, in your opinion, that liability insurance policy provides coverage for the acts alleged in Plaintiffs' Complaint or any judgment which may be entered against Defendant in this lawsuit.

A. 28. This defendant objects to this interrogatory on the grounds that it is overly broad, vague and ambiguous and seeks irrelevant and immaterial information that is not reasonably calculated to lead to the discovery of admissible evidence. Expressly reserving and without waiving its objections, and subject to them, defendant is unaware of any agreement or policy making it an additional insured for personal injury claims arising out of defendant's Kaylo asbestos containing thermal insulation product business other than the agreements referenced in response to Interrogatory No. 25 above.

Q. 29. What warnings or other notice did you provide to employees, business invitees, and/or their family members including employees of outside contractors, about the location and any potential health hazard of asbestos at any location in West Virginia, Ohio and/or Kentucky including, but not limited to, Weirton Steel in Weirton, West Virginia which contained your asbestos-containing products?

A. 29. This defendant objects to this interrogatory on the basis that it is vague, ambiguous, it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the above objection, this defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958. This defendant has not found information in its records sufficient to enable it to answer this interrogatory. However, it does not appear that any warning concerning asbestos was given in that it does not appear that this defendant had reason to believe that the use of its products would result in a foreseeable risk of harm. Further, this defendant has found no documents in its business records indicating the sale of its Kaylo product to Weirton Steel.

Q. 30. Identify whether you have ever undertaken an asbestos abatement program in your facilities. If your answer is in the affirmative, identify the year the abatement began, the year the abatement was finished, the name of the abatement contractor who performed the work, the type of asbestos materials that were abated (i.e., pipecovering, block, gaskets, etc.) and whether any asbestos materials were not abated.

A. 30. This defendant objects to this interrogatory on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the above objection, this defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958. This defendant has not found information in its records sufficient to enable it to answer this interrogatory regarding its Kaylo facilities.

Q. 31. If this defendant has not been sued under its correct name, please provide the following corporate information:

- (a) Company's corporate name;
- (b) Address and corporate headquarters;
- (c) Identify of incorporation;
- (d) Date of incorporation; and
- (e) Address of any branch offices operating in West Virginia.

A. 31. This defendant does not contest service. Owens-Illinois Glass Company was incorporated in the State of Ohio in 1929. Owens-Illinois Glass Company changed its name to Owens-Illinois, Inc. on April 28, 1965. Due to corporate restructuring in 1987, this defendant is now a Delaware corporation. The address of the principal place of business is One SeaGate, Toledo, Ohio 43666.

Q. 32. If this defendant has not been sued under its correct name, please identify the correct name and provide the information requested in the preceding interrogatory.

A. 32. Refer to defendant's answer to interrogatory no. 31.

Q. 33. Has this defendant ever acquired through purchase, reorganization or merger another corporation, company or business which manufactured, sold, processed, distributed or contracted to apply products containing asbestos? If the answer is "Yes", then identify the following concerning such predecessor:

- (a) Full and correct name;
- (b) The principal place of business;
- (c) Identify of incorporation;
- (d) Date of acquisition by defendant; and
- (e) Manner of date of acquisition by defendant

A. 33. Not applicable to this defendant. However, American Structural Products Company, a wholly owned subsidiary of Owens-Illinois Glass Company, engaged in

the manufacture, sale, and distribution of asbestos-containing insulation products from about January, 1948 until about June, 1949 when it became the Kaylo Division of Owens-Illinois Glass Company. The Kaylo Division of this defendant continued to manufacture such products until about April 30, 1958 when it was purchased by Owens-Corning Fiberglas Corporation from this defendant effective on that date. As of that time, this defendant ceased the manufacture and sale of Kaylo asbestos-containing thermal insulation products, and it has not engaged in such business since that date.

Q. 34. Identify the names and addresses of all lay witnesses whom you presently intend to call to testify at trial, and briefly identify the subject matter of their testimony and what connection each such person has with matters relevant to this lawsuit (e.g., former co-worker of Plaintiff, former plant manager of plant X, etc.). Supplement this list as you ascertain any additional witnesses.

A. 34. The identity of witnesses to be called at trial is not known at the present time. Defendant will designate witnesses to be used at trial in accordance with the applicable rules of civil procedure and/or the pretrial order in this case.

Q. 35. Please identify all present or past employees of Defendant who have ever testified under oath in connection with any asbestos-related lawsuit or claim.

A. 35. This defendant objects to this request on the basis that it is vague, ambiguous, burdensome, harassing, seeks information that is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the above objection, this defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958. This defendant is aware that the following present or former employees have testified at trial or by deposition in asbestos-related litigation: Edward C. Ames [deceased]; George N. Bates, M.D., 1928 Green Valley Drive, Toledo, OH 43614; Richard R. Beck, 4418 Sheri Lane, Toledo, OH 43614; Howard G. Bruss,

Esq., One SeaGate, Toledo, OH 43666; John Cantello, One SeaGate, Toledo, Ohio 43666; Steven Fuller, 3107 Sylvan Road, Atlanta, GA 30354; Susan Gibbons, One SeaGate, Toledo, Ohio 43666; Robert W. Grim, 6102 Alexa Lane, Sylvania, OH 43560; Richard L. Grimmie, 202 First Avenue, West Berlin, NJ; Willis G. Hazard [deceased]; David Innes, 18 Windward Place, Placida, FL 33946; William Justice; Joseph Lemieux, One SeaGate, Toledo, Ohio 43666; William Lugar, 10 Par Club Circle, Village of Golf, Boynton Beach, FL 33436; Michael E. McConnell, Esq., [deceased]; Philip McWeeny, Esq., One SeaGate, Toledo, OH 43666; Thomas A. Meehan, Esq., 608 Madison Ave., Toledo, OH 43604; John Pershing; John Rhoads; Michael Scheiding, One SeaGate, Toledo, OH 43666; Samuel F. Schillaci, Brookdale Trillium Place, 3500 Trillium Crossing, Apt. 3031, Columbus, OH 43235; Everett Shuman, 307 S. Corl Street, State College, PA; Dennis Silvas, One SeaGate, Toledo, OH; Robert Towles, One SeaGate, Toledo, OH 43666; David Van Hooser, One SeaGate, Toledo, OH 43666; June Welser; and Lee Wesselman, One SeaGate, Toledo, OH 43666.

Effective April 30, 1958, this defendant sold its asbestos-containing product manufacturing division to Owens-Corning Fiberglas Corporation. At that time certain employees who worked in the division, some of whom are mentioned above, transferred to Owens-Corning Fiberglas Corporation. These individuals have been deposed with regard to asbestos-related litigation involving Owens-Corning Fiberglas Corporation.

This defendant objects to the production of copies of the transcripts of these depositions on the basis that said transcripts are filed with various courts around the country, they are therefore matters of public record, and therefore plaintiffs have equal access to such documents. Defendant reserves the right to advance additional arguments against the production of such documents if and when plaintiffs file a request for production.

Q. 36. Please identify each person who was consulted or who provided information to answer these interrogatories. For each such person, indicate the number of the interrogatory and its subpart for which the person provided the information.

A. 36. These interrogatory answers were prepared by various people in or associated with the Owens-Illinois, Inc. legal department, including outside counsel, over a

period of time beginning in approximately 1977 and continuing to the present. The answers to these interrogatories are based on a review of relevant Owens-Illinois corporate records which will be made available to the plaintiff upon request, or upon information gathered in the course of the asbestos litigation by Owens-Illinois legal department personnel or outside counsel. The person who is authorized by Owens-Illinois, Inc. to sign the verifying affidavit on its behalf is Susan J. Gibbons, Assistant Secretary of Owens-Illinois, Inc., One SeaGate, Toledo, Ohio 43666.

Q. 37. Please identify any witness who has testified on behalf of defendant in regard to household exposures to asbestos resulting from occupationally-exposed workers.

A. 37. This defendant objects to this request on the basis that it is vague, ambiguous, overly broad, oppressive, burdensome and harassing. This defendant further objects to this request on the basis that it seeks information that is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, this defendant has no index or other such information that would enable it to identify witnesses who testified in any particular type of lawsuit; ie, household exposure, etc.

REQUESTS

REQUEST NO. 1. All documents sent or received by this Defendant to or from consumers, contractors, installers, employees and unions concerning the use of asbestos or any asbestos-containing product.

RESPONSE NO. 1. This defendant objects to this request on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the

above objection, refer to Exhibit I. This defendant ceased the manufacture, sale and distribution of its Kaylo product in 1958 and has found no additional documents responsive to this request in its business records.

REQUEST NO. 2. All records, minutes, and other documents reflecting any meetings of your product safety committee, industrial hygiene committee, or any other safety or health-related committee within the organization of this Defendant, including all subsidiaries, divisions, and predecessor entities, wherein the potential health hazards of asbestos were discussed.

RESPONSE NO. 2. This defendant objects to this request on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the above objection, this defendant ceased the manufacture, sale and distribution of its Kaylo product in 1958 and has found no documents responsive to this request in its business records relating to its Kaylo product.

REQUEST NO. 3. All invoices and other documents relating to the sale and/or installation of your asbestos or asbestos-containing products in West Virginia, including, but not limited to, Weirton Steel, Weirton, West Virginia.

RESPONSE NO. 3. This defendant objects to this request on the basis that it seeks information that is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to sales of Kaylo to plaintiff's employers during plaintiff's periods of employment. Without waiving the above objection, this defendant has found no documents in its business records indicating the sale of its Kaylo product to Weirton Steel. This defendant ceased the manufacture, sale, and distribution of its Kaylo thermal insulation products in 1958.

REQUEST NO. 4. All documents, including but not limited to, written memoranda, specifications, recommendations, blueprints or other written materials of any kind or character relating to the installation of your asbestos-containing products in West Virginia.

RESPONSE NO. 4. This defendant objects to this request on the basis that it seeks information that is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to sales of Kaylo to plaintiff's employers during plaintiff's periods of employment. Without waiving the above objection, this defendant has found no documents in its business records indicating the sale of its Kaylo product to Weirton Steel. This defendant ceased the manufacture, sale, and distribution of its Kaylo thermal insulation products in 1958.

REQUEST NO. 5. All documents, including but not limited to, written memoranda, specifications, recommendations, blueprints or other written materials of any kind or character relating to the maintenance, repair or removal of asbestos-containing products in West Virginia.

RESPONSE NO. 5. This defendant objects to this request on the grounds that it is overly broad, vague and ambiguous, not limited by time or location, not limited to applicable work sites, burdensome, and seeks information that is not relevant to the subject matter of this litigation and not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 6. All documents sent or received by this Defendant or its agents concerning the need for and/or use of respirators, dust masks, etc., when working in the presence of asbestos.

RESPONSE NO. 6. This defendant objects to this request on the grounds that it is overly broad, vague and ambiguous. Without waiving the above objection, this defendant ceased the manufacture, sale and distribution of its Kaylo product in 1958. Refer to Exhibit II. Defendant has found no additional documents responsive to this request in its business records relating to its Kaylo product. The documents referenced in answer to plaintiff's interrogatory no. 4 in this case may be related to the subject matter of this request.

REQUEST NO. 7. All documents, reports, records, writings, photographs, diagrams, and films which you may introduce into evidence during the trial of this civil action.

RESPONSE NO. 7. The documents which this defendant intends to rely upon at trial are not known at the present time. This defendant reserves the right to designate documents to be used at trial at a later date. As a partial listing, however, the following materials may be relied upon: "A Study of Asbestosis in the Asbestos Textile Industry," Dreessen, W.C. (1938); an article published in the Transactions of the Eleventh Annual Meeting, Industrial Hygiene Foundation, November 7, 1946 by J. J. Bloomfield; "A Health Survey of Pipe Covering Operations in Constructing Naval Vessels," Fleischer, Drinker, et al., (1946); "Asbestos Exposure During Naval Vessel Overhaul," Marr, William T. (1964); "Prevalence of Chronic Respiratory Disease," Ferris, B. G., Jr. (1971); "Asbestosis and Bronchogenic Carcinoma," Isselbacher, K. J. (1953); Annals of the New York Academy of Sciences Volumes 132 and 330; and the Threshold Limit Values promulgated by the American Conference of Governmental Industrial Hygienists for the years 1946 through 1958. This defendant objects to the production of such documents in that they are available publicly to plaintiff as well as this defendant.

REQUEST NO. 8. All exhibits, documents, models, or other physical evidence which you may use as demonstrative aids during the trial of this civil action.

RESPONSE NO. 8. The demonstrative aids which this defendant intends to use at trial are not known at the present time. This defendant will respond to this request at the appropriate time, if required under the applicable rules of civil procedure.

REQUEST NO. 9. All documents used to respond to plaintiffs' interrogatories in this case.

RESPONSE NO. 9. Documents related to this defendant's Kaylo product, which are still in the possession of this defendant, are located in defendant's legal department, One SeaGate, Toledo, OH 43666. These documents will be made available for inspection by plaintiff's counsel in Toledo, OH, if requested.

REQUEST NO. 10. All documents not produced in response to any of the foregoing in which the hazards of asbestos or asbestos-containing products are discussed.

RESPONSE NO. 10. This defendant objects to this request to the extent it seeks documents collected only in preparation for litigation and immune from discovery by the attorney work product doctrine. This defendant also objects to this request on the basis that the term "hazards" is vague and ambiguous, it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the above objection, this defendant ceased the manufacture, sale and distribution of its Kaylo product in 1958 and has found no documents responsive to this request in its business records relating to its Kaylo product. The documents referenced in answer to plaintiff's interrogatory no. 4 in this case may be related to the subject matter of this request.

REQUEST NO. 11. All documents relative to air sampling, tests or other procedures conducted by you to determine the amount of asbestos dust released during the

handling, fabrication, application, installation, removal or any other activity involving asbestos-containing products.

RESPONSE NO. 11. This defendant objects to this request on the basis that it is overly broad, vague, ambiguous, seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to this defendant's Kaylo asbestos-containing thermal insulation product business. Without waiving the above objection, this defendant ceased the manufacture, sale and distribution of its Kaylo product in 1958 and has found no documents responsive to this request in its business records relating to its Kaylo product. To the extent this request seeks documents related to air sampling in this defendant's Kaylo manufacturing plants, the documents referenced in answer to plaintiff's interrogatory no. 4 in this case may be related to the subject matter of this request.

REQUEST NO. 12. All warnings, cautions, notices or other writings relative to the hazards of asbestos that you provided to persons who may have come in contact with your asbestos-containing products, including employees or contractors or other business invitees at any facility in West Virginia, including, but not limited to, Weirton Steel, Weirton, West Virginia.

RESPONSE NO. 12. This defendant ceased the manufacture, sale, and distribution of its Kaylo asbestos-containing products in 1958. This defendant has found no documents responsive to this request in its business records. However, it does not appear that any warning concerning asbestos was given in that it does not appear that this defendant had reason to believe that the use of its products would result in a foreseeable risk of harm.

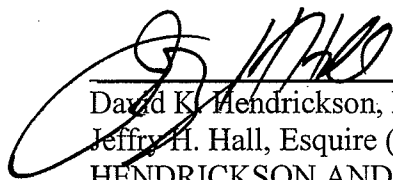
REQUEST NO. 13. All documents in defendants' possession discussing, evidencing knowledge of, or in any way referencing the potential of, occurrence of, or

information relevant to household exposures to asbestos resulting from occupationally-exposed workers.

RESPONSE NO. 13. This defendant objects to this request on the grounds that it is vague, ambiguous and overly broad. This defendant also objects to the extent this request seeks documents collected only in preparation for litigation and immune from discovery by the attorney work product doctrine. Without waiving the above objection, this defendant ceased the manufacture, sale, and distribution of its Kaylo product in 1958 and has found no documents responsive to this request in its business records relating to its Kaylo product.

OWENS-ILLINOIS, INC.

By Counsel:



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Jeffrey H. Hall, Esquire (WV Bar # 5312)
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214 Capitol Street (25301)
P.O. Box 11070
Charleston, West Virginia 25339
Phone: (304) 346-5500

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: ASBESTOS PERSONAL INJURY LITIGATION

CIVIL ACTION NO.: 03-C-9600

DOLORES L. BURKE,
Deceased

Judge Ronald E. Wilson

Plaintiffs,

v.

Civil Action No. 03-C-3182

ADIENCE, INC., *et al.*,

Defendants.

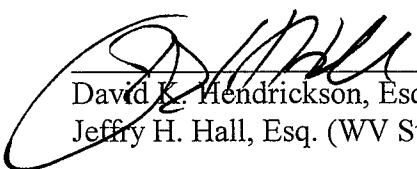
CERTIFICATE OF SERVICE

The undersigned counsel for the Defendant, Owens-Illinois. Inc's, hereby certifies that on the 20th day of October, 2004, the foregoing "OWENS-ILLINOIS RESPONSES TO PLAINTIFFS' FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS" was served upon the following counsel of record, by United States Mail, First Class, postage prepaid, a true copy thereof to said counsel, addressed as follows:

Rudolph L. DiTrapano, Esquire
DiTrapano, Barrett & DiPiero, P.L.L.C.
604 Virginia Street East
Charleston, West Virginia 25301

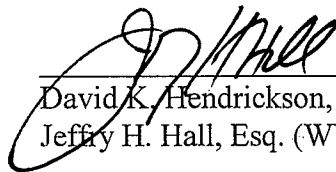
Anne McGinness Kearse, Esq.
Motley Rice, LLC
28 Bridgeside Blvd
Post Office Box 1792
Mt. Pleasant, SC 29465

Defense counsel have been electronically notified of this filing.



David E. Hendrickson, Esq. (WV State Bar # 1678)
Jeffrey H. Hall, Esq. (WV State Bar # 5312)

Defense counsel have been electronically notified of this filing.



David K. Hendrickson, Esq. (WV State Bar # 1678)
Jeffrey H. Hall, Esq. (WV State Bar # 5312)