



UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

Betty Freiberg, Trustee for the)
next-of-kin of Omar Freiberg,)
decedent,)

Plaintiff,)

vs.)

Atlas-Turner, Inc., et al.,)

Defendants,)

and)

Turner & Newall PLC,)

Defendant and)
Third-Party Plaintiff,)

vs.)

Mine Safety Appliance Company,)

Third-Party Defendant.)

ANSWERS AND OBJECTIONS
OF DEFENDANT AND THIRD-
PARTY PLAINTIFF TURNER
& NEWALL PLC TO THE
INTERROGATORIES SERVED
UPON IT BY PLAINTIFF

TO: Betty Freiberg, and her attorney Gary Stoneking, Esq.
of Hvass, Weisman & King, 715 Cargill Building,
Minneapolis, Minnesota 55402:

Pursuant to Rule 33 of the Federal Rules of Civil
Procedure, defendant and third-party plaintiff Turner &
Newall PLC (T&N) submits the following answers and
objections to the interrogatories served upon it by plaintiff.

General Objections

1. T&N objects to each interrogatory to the extent that it requests information of or pertaining to companies "related" to Turner & Newall PLC other than Turner & Newall PLC itself and its branch company J.W. Roberts Ltd. Turner & Newall PLC is a holding company, owning stock in a variety of branch and subsidiary companies operating in the United Kingdom and elsewhere. The only product involved in this action that was manufactured by Turner & Newall PLC or any of its branch companies is Sprayed Limpet Asbestos, which was manufactured and distributed by J.W. Roberts Ltd. As to the subsidiary companies of T&N, these are separate and independent entities for whose acts or omissions T&N is not and is not alleged to be liable to plaintiff. The branch companies other than J.W. Roberts Ltd. were unconnected with the manufacture, sale or distribution of Sprayed Limpet Asbestos in the United States during the relevant time period. Compilation of information relating to the branch companies other than J.W. Roberts Ltd. and to the subsidiary companies of T&N would be extremely burdensome, and such information is neither relevant to the subject matter involved in the pending action nor reasonably calculated to lead to the discovery of admissible evidence.

2. T&N objects to each interrogatory to the extent that it requests information about Sprayed Limpet Asbestos

relating to the time after the last sale or shipment of Sprayed Limpet Asbestos by J.W. Roberts Ltd. to or for the United States, which took place in early 1967. Such information is not relevant to the subject matter of this action and is not reasonably calculated to lead to the discovery of admissible evidence.

3. T&N objects to each interrogatory to the extent that it requests information about any particular product relating to the time after the last demonstrated exposure of Omar Freiberg to that product. Such information is not relevant to the subject matter of this action and is not reasonably calculated to lead to the discovery of admissible evidence.

4. T&N objects to each interrogatory to the extent it requests information pertaining to products other than those to which Omar Freiberg was exposed. Such information is not relevant to the subject matter of this action and is not reasonably calculated to lead to the discovery of admissible evidence.

5. T&N objects to each interrogatory to the extent that it requests information relating to applicators of sprayed asbestos insulation other than those engaged in the application of such insulation on land-based construction sites such as decedent worked on. For instance, information pertaining to shipyard insulation work is not relevant to the subject matter of this action and is not reasonably calculated to lead to the discovery of admissible evidence.

6. T&N objects to each interrogatory to the extent that it requests information relating to the processes or

conditions of manufacturing asbestos-containing products. Such information is not relevant to the subject matter of this action and is not reasonably calculated to lead to the discovery of admissible evidence.

7. T&N objects to each interrogatory to the extent that it requests information pertaining to the causation of diseases other than those from which Omar Freiberg is alleged to have suffered. Such documents are not relevant to the subject matter of this action and are not reasonably calculated to lead to the discovery of admissible evidence.

8. T&N objects to each interrogatory to the extent that it requests information concerning the licensing, distribution or sale of Sprayed Limpet Asbestos to or for markets other than the United States. Such information is not relevant to the subject matter of this action and is not reasonably calculated to lead to the discovery of admissible evidence.

9. T&N objects to each interrogatory to the extent that it requests information concerning the distribution of Sprayed Limpet Asbestos to sublicensees other than the employer of Omar Freiberg. Such information is not relevant to the subject matter of this action and is not reasonably calculated to lead to the discovery of admissible evidence.

*10. T&N objects to each interrogatory to the extent that it requests information protected by the attorney-client or other applicable privilege.

Interrogatory No. 1:

Did you sell and/or distribute asbestos and/or asbestos fibers to Peterson & Hede, 314 17th Avenue North, Hopkins, Minnesota, from 1950 to 1980?

Response to Interrogatory No. 1:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

No.

Interrogatory No. 2:

If your answer to the preceding Interrogatory is in the affirmative, for each year that you sold asbestos and/or asbestos fiber to Peterson & Hede, please state:

- a. The quantity of asbestos and/or asbestos fiber sold;
- b. The trade name of asbestos and/or asbestos fiber sold;
- c. The type of asbestos and/or asbestos fiber sold;
- d. From where each shipment was sent;
- e. To where each shipment was sent;
- f. The manner and/or motive, shipment or delivery;
- g. The annual dollar amount of sales of asbestos and/or asbestos fiber to Peterson & Hede;
- h. The mining or milling concern from which the raw asbestos fiber was obtained.

Response to Interrogatory No. 2:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

Not applicable.

Interrogatory No. 3:

State whether or not warnings were provided or accompanied your asbestos and/or asbestos fiber sold to Peterson & Hede.

Response to Interrogatory No. 3:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

Not applicable.

Interrogatory No. 4:

If you at any time provided or attached cautions and/or warnings to the products and/or materials sold to Peterson & Hede. For each such warning please state:

- a. The precise wording of the caution and/or warning;
- b. The overall dimensions of the caution and/or warning;
- c. The dimensions of the lettering used in the caution and/or warning;
- d. Please attach a copy of each such warning.

Response to Interrogatory No. 4:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

Not applicable.

Interrogatory No. 5:

Do you have any sales records, invoices, bills of lading or other documents that show sales or deliveries of asbestos and/or asbestos fiber by you to Peterson & Hede.

Response to Interrogatory No. 5:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

No.

Interrogatory No. 6:

If your answer to the preceding Interrogatory is in the affirmative, please state the name and address of the custodian of such documents and state the address where such documents are located.

Response to Interrogatory No. 6:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

Not applicable.

Interrogatory No. 7:

Have you consulted with any expert whom you expect to call as an expert witness at the trial of this case? If so, please give:

- a. The name and address of each such person so consulted;
- b. The subject matter on which the expert is expected to testify;
- c. The substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds of each opinion of the expert.

Response to Interrogatory No. 7:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

No.

Interrogatory No. 8:

Did you provide respirators to plaintiff's decedent, plaintiff's decedent's employers or persons at plaintiff's decedent's job sites during the time period plaintiff was employed at Peterson & Hede?

Response to Interrogatory No. 8:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

No.

Interrogatory No. 9:

If your answer to the preceding Interrogatory is in the affirmative, please state:

- a. The dates respirators were provided;
- b. To whom the respirators were provided;
- c. The type of respirator provided;
- d. The instructions and/or warnings provided with the respirators, if any.

Response to Interrogatory No. 9:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

Not applicable.

Interrogatory No. 10:

State the name, present business address, present residence, and capacity or title of the individual signing these Interrogatories on behalf of the answering defendant.

Response to Interrogatory No. 10:

Christopher John Dodson; Ashburton Road West,
Trafford Park, Manchester, England; Manchester, England;
Secretary of Turner & Newall PLC.

Interrogatory No. 11:

Have you received notice that any other person was claiming injury as a result of using and/or working with asbestos products manufactured and/or sold by your company (both prior to and subsequent to the filing of this action)?

Response to Interrogatory No. 11:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

Yes.

Interrogatory No. 12:

If your answer to the preceding Interrogatory is in the affirmative, with respect to each such notice of claim, state:

- a. The name and address of each claimant;
- b. The date of notice of each claim;
- c. A description of the claim, i.e., workers' compensation, products liability, etc.;
- d. The type of injuries alleged;
- e. The name and address of each attorney who represents individuals making such claim;
- f. The style and court number of each such claim currently pending;
- g. The resolution of each claim that has been settled or taken to judgment.

Response to Interrogatory No. 12:

T&N repeats its General Objections. In addition, T&N objects to this interrogatory on the grounds that it is burdensome and oppressive and on the grounds that the information that it requests is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 13:

Does the defendant contend that plaintiff's decedent improperly used their products?

Response to Interrogatory No. 13:

T&N has not yet taken discovery regarding decedent's alleged use of Sprayed Limpet Asbestos. When that discovery is completed, T&N will supplement its answer to this interrogatory.

Interrogatory No. 14:

If your answer to the preceding Interrogatory is in the affirmative, please set out in detail the facts upon which said claim of improper use is based, including the names and addresses of each witness who will so testify.

Response to Interrogatory No. -14:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

Not applicable.

Interrogatory No. 15:

Does defendant have policies of insurance that might cover the claims that have been made by the plaintiff here?

Response to Interrogatory No. 15:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations

stated therein, T&N answers this interrogatory as follows:

T&N has no policy of insurance that will completely cover any payment that it may make to plaintiff.

Interrogatory No. 16:

If your answer to the preceding Interrogatory is in the affirmative, please state the name of each insurance carrier who may have coverage, the amount of such coverage and the dates of each such policy.

Response to Interrogatory No. 16:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

Not applicable.

Interrogatory No. 17:

Please describe in detail the type of packages in which defendant has sold asbestos-containing material, listing the dates each type of package was used, a physical description thereof, and a description of any printed material or trade marks that appeared thereon.

Response to Interrogatory No. 17:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

During the years relevant to this action, T&N believes that Sprayed Limpet Asbestos was packaged in

multi-layered paper bags that were coated with bitumen as a sealant and covered with woven hessian. T&N further believes that printed on the face of these bags was the product name, grade, the name and location of the licensed distributor and the weight of the bag.

Interrogatory No. 18:

Did you receive any reports or communications from your workers' compensation insurance carrier or products liability insurance carrier with regard to the hazards incident to the use of asbestos-containing products?

Response to Interrogatory No. 18:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

No.

Interrogatory No. 19:

If your answer to the preceding Interrogatory is in the affirmative, please state the name and address of the custodian of said reports, the location of said reports, the substance of the contents of said reports, the name of the insurance company sending said reports, including its address, and the agent signing such correspondence.

Response to Interrogatory No. 19:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

Not applicable.

Interrogatory No. 20:

If the defendant has discontinued manufacturing and/or selling asbestos-containing products, please state the reason or reasons therefor.

Response to Interrogatory No. 20:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

J.W. Roberts Ltd. stopped selling and shipping Sprayed Limpet Asbestos to or for the United States in early 1967 because Atlas Asbestos Company manufactured, sold and shipped all Limpet to and for the United States starting at that time.

Interrogatory No. 21:

Have any of the other asbestos manufacturers or retailers ever furnished the defendant answering these Interrogatories with information as to the state of the medical knowledge regarding the connection between asbestos exposure and pulmonary diseases including cancer and asbestosis?

Response to Interrogatory No. 21:

T&N repeats its General Objections. In addition, T&N objects to this interrogatory on the grounds that the phrase "any of the other asbestos manufacturers or retailers" is vague and overbroad.

Interrogatory No. 22:

If your answer to the preceding Interrogatory is in the affirmative, state:

- a. What information was received by the defendant;
- b. The date on which the defendant was furnished with the information;
- c. By whom the defendant was furnished the information.

Response to Interrogatory No. 22:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

Not applicable.

Interrogatory No. 23:

Has the defendant become aware as the result of other litigation or by any other means of any studies, research, experiments or tests conducted by any other company which, if known at the time of said study, research, experiment or tests were made, would have altered the manner in which the defendant answering these Interrogatories acted in distributing asbestos-containing products?

Response to Interrogatory No. 23:

T&N repeats its General Objections. In addition, T&N objects to this interrogatory on the grounds that the information that it requests is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 24:

If your answer to the preceding Interrogatory is in the affirmative, please state:

- a. The date on which these studies, research, experiments or tests were made;
- b. By whom the studies, research, experiments or tests were made;
- c. Summarize the contents of each of the studies and how the defendant would have acted differently.

Response to Interrogatory No. 24:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

Not applicable.

Interrogatory No. 25:

Please state the names and addresses of the defendant's chief medical officers from 1930 until the present time, listing the periods of time each such medical officer was employed by the defendant in that capacity.

Response to Interrogatory No. 25:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

Medical officers of T&N or J. W. Roberts Ltd. during the years relevant to this action were Dr. J. F. Knox (until 1965); Dr. W. Kerns (1965-1966); Dr. H. Lewinsohn (after 1966). Dr. Knox is deceased. T&N does not know the address of Dr. Kerns. T&N believes that Dr. Lewinsohn resides in Connecticut.

Interrogatory No. 26:

State whether you subscribe to or receive copies of the publication Asbestos Worker, and state the years of subscription or receipt of this magazine.

Response to Interrogatory No. 26:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

T&N's records do not state that it received Asbestos Worker.

Interrogatory No. 27:

Please state whether you subscribe to the Asbestos magazine and list the inclusive dates of your subscription.

Response to Interrogatory No. 27:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

T&N received Asbestos during the years relevant to this action.

Interrogatory No. 28:

Please identify all booklets, manuals, journals, and all publications directed from you to customers and users of all asbestos-containing insulation products and the dates said information was forwarded regarding the proper use and application of your asbestos-containing insulation products.

Response to Interrogatory No. 28:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations

stated therein, T&N answers this interrogatory as follows:

T&N will produce copies of such documents at a time and place agreed upon by counsel.

Interrogatory No. 29:

Please describe and define threshold limit value of dust-containing asbestos and the application of threshold limit value to the asbestos manufacturing and insulation trade.

Response to Interrogatory No. 29:

T&N repeats its General Objections. In addition, T&N objects to this interrogatory on the grounds that it is vague, overbroad and unintelligible and that the information that it requests is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 30:

State whether or not you had an opinion in 1960 as to whether or not the concentration of airborne asbestos fibers at job sites at which your asbestos-containing products were being applied by workers who were within the prescribed threshold limit values for 1960 when said application was being performed and state the basis for your opinion and list all publications upon which you relied in formulating said opinion.

Response to Interrogatory No. 30:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

T&N believed in 1960 that the asbestos dust created by the application of Sprayed Limpet Asbestos was within safe levels. The documents on which T&N based its belief will be produced at a time and place agreed upon by counsel.

Interrogatory No. 31:

State the date and source from which you received your first notice and awareness of threshold limit values pertaining to the concentration of airborne asbestos fibers.

Response to Interrogatory No. 31:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

T&N does not know when it first became aware of "Threshold Limit Value," a term used by the American Conference of Governmental Industrial Hygienists.

Interrogatory No. 32:

Describe what action was taken by you prior to 1960 to determine whether workers who were applying your asbestos-containing products were exposed to concentrations below the threshold limit value and state the date and nature of each action taken by you.

Response to Interrogatory No. 32:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

The information requested by this Interrogatory can be derived from business records of J.W. Roberts Ltd., which T&N will produce at a time and place agreed upon by counsel.

Interrogatory No. 33:

If it is your contention that plaintiff's decedent knew that the inhalation of asbestos fibers was harmful to his health, please state how plaintiff's decedent would have acquired said knowledge.

Response to Interrogatory No. 33:

T&N repeats its General Objections. In addition, T&N objects to this interrogatory on the grounds that it calls for speculation. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

T&N has not yet taken discovery regarding the decedent's use of asbestos products and will supplement its answer to this interrogatory upon the completion of such discovery.

Interrogatory No. 34:

If written documentation in the form of "scientific data" will be introduced into evidence upon a trial of this case by the defendant, describe each such document, and include its title, author, and date and identity of any publication in which said data was published.

Response to Interrogatory No. 34:

T&N repeats its General Objections. In addition, T&N objects to this interrogatory on the grounds that it is not required to specify the evidence that it will introduce at trial until the time of the pre-trial order.

Interrogatory No. 35:

Please state if the defendant intends to assert a defense of the statute of limitations. If so, state all the facts on which the defendant bases its contention that the statute of limitation has run on the plaintiff's claims.

Response to Interrogatory No. 35:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

T&N has not yet taken discovery regarding the decedent's use of asbestos-containing products and subsequent illness. T&N will supplement its answer to this interrogatory upon the completion of such discovery.

Interrogatory No. 36:

Please state if the defendant intends to assert the defense that there is no causal relationship between plaintiff's decedent's injuries and death and the exposure to asbestos and asbestos-containing materials.

Response to Interrogatory No. 36:

T&N repeats its General Objections. Without waiver of those objections, and subject to the limitations stated therein, T&N answers this interrogatory as follows:

Yes.

Interrogatory No. 37:

If your answer to the preceding Interrogatory is in the affirmative, state all facts on which the defendant bases this contention and the names and addresses of each witness who will testify concerning this contention.

Response to Interrogatory No. 37:

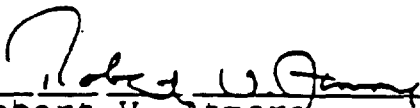
T&N objects to this interrogatory on the grounds that it is not required to specify the witnesses that it will call at trial until the time of the pre-trial order. Without waiver of that objection, T&N answers this interrogatory as follows:

T&N has not yet taken discovery regarding decedent's alleged exposure to asbestos and subsequent illness. When it completes such discovery, T&N will supplement its answer to this interrogatory.

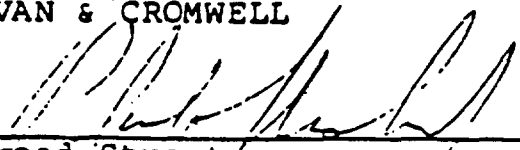
Dated: July 13, 1983

Pursuant to Rule 33(a) the Federal Rules of Civil Procedures, the foregoing Objections are signed by the following attorneys making them:

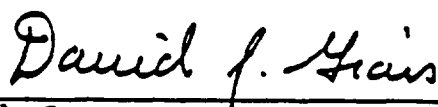
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Attorneys for Defendant and Third-Party Plaintiff Turner & Newall PLC

GREAT BRITAIN AND NORTHERN IRELAND)
 : ss.:
MANCHESTER, ENGLAND)

I, C.J. DODSON, make oath and say as follows:

I am the Secretary of Turner & Newall PLC. I have read the foregoing answers to Plaintiff's Interrogatories and said answers are true and correct to the best of my knowledge, information and belief.

C.J. Dodson
C.J. Dodson

Dated: July 19, 1983

On this ____ day of July, 1983, C.J. Dodson appeared before me, swore to and executed the foregoing answers to interrogatories.

Notary Public

