

NO. 81-G-1331

BARBARA MEYER

IN THE DISTRICT COURT OF

V.

BRAZORIA COUNTY, TEXAS

JOHNS-MANVILLE SALES
CORPORATION, ET AL

239TH JUDICIAL DISTRICT

DEPENDANT'S OBJECTIONS &
ANSWERS TO PLAINTIFF'S INTERROGATORIES

TO: Plaintiff, Barbara Meyer, by and through her attorney of record, Scott Kimball, III,
Boyd & Hippard, Suite 500, The Main Building, 1212 Main, Houston, Texas 77002.

Pursuant to Rule 168 of the Texas Rules of Civil Procedure, Defendant, The Dow
Chemical Company objects and answers as follows to Plaintiff's Interrogatories:

1. Were asbestos and/or asbestos containing products and/or materials present on the premises of this Defendant's chemical plant at Freeport, Brazoria County, Texas, between 1941 and 1965?

ANSWER: Yes.

2. If your answer to Interrogatories [sic] No. 1 is in the affirmative, please identify and/or describe in detail all such asbestos containing products and/or materials, including in your answer the asbestos content of each.

ANSWER: Defendant objects to the interrogatory because it is overly broad, unduly burdensome, unlimited as to any specific area where Plaintiff allegedly worked nor limited to any time span when Plaintiff allegedly worked on Defendant Dow's premises. In support of Defendant Dow's objection that this interrogatory is unduly burdensome, the Texas Operations facility located in Freeport, Texas covers over 4,200 acres and was constructed in late 30's and early 40's. There are literally thousands of buildings, pipeways, valves, roofs, floors, etc. where asbestos could be located during any specific time period. Further, this Defendant does not retain construction records indefinitely and unless the information that is being sought covers the last five (5) years, it will be unlikely information is available as to what the content would be of any asbestos product contained on Dow's premises.

3. When did this Defendant first become aware that asbestosis mesothelioma, or any other lung disease, could occur among workers exposed to the inhalation of asbestos fibers and/or dust from asbestos containing products and/or materials present at this Defendant's chemical plant at Freeport, Brazoria County, Texas?

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ANSWER: Defendant objects to the term "any other lung disease" as being vague, overbroad and not phrased in such a way as to lead to the discovery of admissible evidence. Without waiving the foregoing, Defendant first became aware of potential harmful affects from inhalation of asbestos fibers and/or dust when it received warnings, if any, regarding such potential dangers from the manufacturers and/or suppliers of such products.

4. When did this Defendant first warn its employees of any possible adverse health consequences which could be caused by inhalation of asbestos fibers and/or dust from asbestos containing products and/or materials present at this Defendant's chemical plant at Freeport, Brazoria County, Texas?

ANSWER: Defendant objects to the term "any possible adverse health consequences" as being vague, overbroad and unduly burdensome. Without waiving the foregoing, Dow has required employees and contractor employees to protect themselves from heavy vapors and respirable dust since the 1940's. After Dow received warnings from suppliers and/or manufacturers of asbestos products, it began to require contractor employers to provide their employees with proper respiratory equipment while on Dow premises if they had not been doing so previously, and required Dow employees to follow more rigorous rules regarding use of respiratory protection.

5. Did this Defendant ever produce printed literature and/or material which advised workers at Defendant's chemical plant at Freeport, Brazoria County, Texas, of the hazards of asbestos and/or asbestos dust and recommended ways of handling asbestos containing materials that would reduce and/or eliminate the creation of asbestos dust? If so, please describe in detail all such printed literature and/or material, or attach copies to your answers hereto.

ANSWER: Defendant objects to this interrogatory as being vague, overbroad and unduly burdensome. This interrogatory is not limited to the period of time in which plaintiff was exposed to, or allegedly worked with, asbestos products. Furthermore, the term "hazard" is undefined and is in no way limited to the alleged injuries sustained by plaintiff.

6. Has this Defendant ever conducted or participated in any studies concerning the possible adverse effects of the inhalation of asbestos dust fibers on one being exposed to any of the asbestos containing materials installed and/or located at the chemical plant at Freeport, Brazoria County, Texas, between 1941 and 1965? If so, please state:

ANSWER: Dow relied on warnings received, if any, from the manufacturers and suppliers of any such material.

- a) the date and nature of such studies;

ANSWER:

N/A — See objection above.

- b) the names and addresses of the persons and/or entities that conducted such studies;

ANSWER:

N/A — See objection above.

c) the purpose of such studies, and;

ANSWER:

N/A — See objection above.

d) the results of such studies, including in your answer, copies of reports pertaining to such studies.

ANSWER:

N/A — See objection above.

7. Did any person and/or entity ever contact this Defendant regarding, or inform Defendant of, any means, methods, and/or precautions which should be taken or used in installing, maintaining, and/or removing asbestos containing materials installed and/or located at Defendant's chemical plant at Freeport, Brazoria County, Texas, between 1941 and 1965? If so, please state:

ANSWER: Defendant objects this interrogatory as vague, ambiguous, burdensome and overly broad and specifically to the terms "anyone", "ever" and "any means". Defendant further objects to this interrogatory as being overbroad in that it is not limited to the particular products to which plaintiff was allegedly exposed or to the particular years for which plaintiff was exposed to each such product. Without waiving the foregoing, during the years from 1941 to 1965, there were thousands of employees at the Texas Operations facility of Dow and it would be virtually impossible for this Defendant to know of all contacts made to each employee and for what reason. Because the Texas Operations facility of Dow has no written documentation of any type regarding such contacts as are being asked about in this interrogatory, this Defendant denies any such "contacts" were made.

a) the names and addresses of each person and/or entity;

ANSWER:

N/A — See objection above.

b) the date such contacts were made and/or information supplied; and

ANSWER:

N/A — See objection above.

c) a detailed description of any and all such means, methods, and/or precautions.

ANSWER:

N/A — See objection above.

8. Please describe in detail any and all precautionary measures intended to minimize and/or eliminate the hazards associated with asbestos containing materials, if any, utilized and/or exercised by this Defendant in the installation, maintenance, and/or removal of asbestos containing materials installed and/or located at Defendant's chemical plant at Freeport, Brazoria County, Texas, between 1941 and 1965.

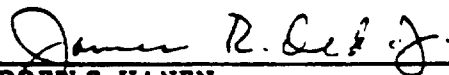
ANSWER: See answers to Interrogatories #4 and #5.

9. Please describe in detail any and all precautionary measures intended to minimize and/or eliminate the hazards associated with asbestos containing materials, if any, utilized and/or exercised by this Defendant in the installation, maintenance, and/or removal of asbestos containing materials installed and/or located at Defendant's chemical plant at Freeport, Brazoria County, Texas, after 1965.

ANSWER: Defendant objects to this interrogatory as being overbroad and unduly burdensome. It is not limited to the years in which plaintiff was allegedly exposed to asbestos or asbestos containing materials and therefore such information is totally irrelevant to this litigation.

Respectfully submitted,

ANDREWS & KURTH

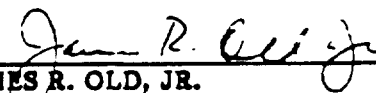


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ATTORNEYS FOR DEFENDANT,
DOW CHEMICAL COMPANY

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing instrument has been served upon all counsel of record herein in accordance with the Texas Rules of Civil Procedure, on this the 7th day of March, 1990.



JAMES R. OLD, JR.

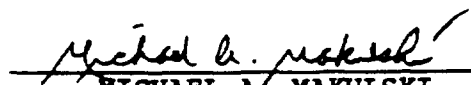
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VERIFICATION

STATE OF TEXAS)
)
COUNTY OF BRAZORIA)

BEFORE ME, the undersigned authority, on this day personally appeared Michael A. Makulski, Division Counsel, The Dow Chemical Company, known to me to be the person whose name is subscribed to the foregoing instrument, and after having duly sworn stated upon his oath that he has read the above and foregoing Objections and Answers to Plaintiff's Interrogatories, and that the statements contained therein are true and correct to the best of his knowledge and belief based on all available information.


MICHAEL A. MAKULSKI

SUBSCRIBED AND SWORN TO BEFORE ME on this the 16 day of March, 1990.


NOTARY PUBLIC, STATE OF TEXAS