

NO. 91-891-B

LAWRENCE SMITH and VERA MAE	)	IN THE DISTRICT COURT OF
SMITH; CHESTER KERSHMAN and	)	
RUBIE KERSHMAN; JERRY WILLIAMS;	)	
and THOMAS STALLCUP,	)	
	)	
Plaintiffs,	)	DALLAS COUNTY, TEXAS
	)	
vs.	)	
	)	
ARMSTRONG WORLD INDUSTRIES,	)	
INC., et al.,	)	44TH JUDICIAL DISTRICT
	)	
Defendants.	)	

W.R. GRACE AND CO. - CONN'S SUPPLEMENTAL ANSWERS AND OBJECTIONS
TO PLAINTIFFS' FIRST SET OF INTERROGATORIES

GENERAL OBJECTIONS

The following answers are based upon facts known or believed by W. R. Grace & Co. - Conn., formerly known as W. R. Grace & Co., ("Grace-Conn") at the time of answering these interrogatories. Much of the information is sought from many years ago and is, therefore, difficult or impossible to reconstruct or retrieve. Grace-Conn, therefore, reserves the right to amend these answers as and if new or better information becomes available to it or if errors are discovered.

In Exhibit D to their answers to defendants' master set of discovery requests, plaintiffs Lawrence Smith and Vera Mae Smith allege exposure of Lawrence Smith ("plaintiff Smith") to "Zonolite Acoustical Plasters" and "Zonolite Monokote" at "Numerous schools, hospitals and skyscrapers in Dallas" from 1946-1952 and 1955-1989 and to "Mono-kote" at the "State Capitol Bldg in Austin" in 1962. Plaintiffs further allege exposure of plaintiff Smith to "Zonolite Vermiculite" at a "Powerhouse on Haskell" in Dallas from 1952-1955 and at the "Brookhollow Country Club" in Dallas in 1963. Plaintiff Smith identified "Monokote Zonolite Fireproofing" in the "OCF Picture Book." With regard to the allegation of exposure of plaintiff Smith to "Zonolite Vermiculite", Grace-Conn states that vermiculite is the name of a mineral, not a product. Therefore the allegation of exposure of plaintiff Smith to "Zonolite Vermiculite" is vague and ambiguous. With regard to the various allegations of exposure of plaintiff Smith to "Monokote", Grace-Conn states that beginning in 1958, it or the Zonolite Company, the assets of which Grace-Conn did not acquire until 1963, manufactured four products with the word "Mono-Kote" in their names: Zonolite Mono-Kote (MK-1), Zonolite



Mono-Kote (MK-3), Zonolite Mono-Kote (MK-4), and Zonolite Mono-Kote (MK-5). Zonolite Mono-Kote (MK-4) and Zonolite Mono-Kote (MK-5) have never contained commercial asbestos but do contain vermiculite. Products which contain vermiculite may contain trace amounts of asbestiform tremolite as a contaminant. Grace-Conn therefore limits its answers with regard to plaintiff Smith to Zonolite Acoustical Plaster, Zonolite Mono-Kote (MK-1), Zonolite Mono-Kote (MK-3), Zonolite Mono-Kote (MK-4), and Zonolite Mono-Kote (MK-5) and to the activities of its Construction Products Division ("CPD") associated with the manufacture and sale of same in the United States during the relevant time period.

In Exhibit D to their answers to defendants' master set of discovery requests, plaintiffs Chester Kershman and Rubie Kershman allege exposure of Chester Kershman ("plaintiff Kershman") to "Zonolite Acoustical Plasters" and "Zonolite Monokote" at various commercial buildings, hospitals, and schools in Dallas from 1951-1957, 1959-1967, 1972, 1976-1983, and 1985-1989 and to "Zonolite Monokote Fireproofing" at "Several Commercial Bldgs including the airport" in Dallas in 1965, 1969-1970, and 1972. Further, plaintiff Kershman identified "Zonolite Plaster" and "Zonolite Monokote" in the "OCF Picture Book." With regard to the various allegations of exposure of plaintiff Kershman to "Monokote", Grace-Conn states that beginning in 1958, it or the Zonolite Company, the assets of which Grace-Conn did not acquire until 1963, manufactured four products with the word "Mono-Kote" in their names: Zonolite Mono-Kote (MK-1), Zonolite Mono-Kote (MK-3), Zonolite Mono-Kote (MK-4), and Zonolite Mono-Kote (MK-5). With regard to the allegation of exposure of plaintiff Kershman to "Zonolite Plaster", Grace-Conn states that, upon information and belief, the product to which plaintiff Kershman intended to refer was Zonolite Plaster Aggregate. Zonolite Mono-Kote (MK-4), Zonolite Mono-Kote (MK-5) and Zonolite Plaster Aggregate have never contained commercial asbestos but do contain vermiculite. Products which contain vermiculite may contain trace amounts of asbestiform tremolite as a contaminant. Grace-Conn therefore limits its answers with regard to plaintiff Kershman to Zonolite Acoustical Plaster, Zonolite Mono-Kote (MK-1), Zonolite Mono-Kote (MK-3), Zonolite Mono-Kote (MK-4), Zonolite Mono-Kote (MK-5), and Zonolite Plaster Aggregate and to the activities of its Construction Products Division ("CPD") associated with the manufacture and sale of same in the United States during the relevant time period.

In Exhibit D to their answers to defendants' master set of discovery requests, plaintiff Thomas Stallcup ("plaintiff Stallcup") alleges exposure to "W.R. Grace High Temperature Insulating Cements" at "Wichita Falls" in Red River, NM from 1946-1948 and at "Wichita General Hospital" in Dallas from 1951-1952. Plaintiff Stallcup further alleges exposure to "W.R. Grace Zonolite Acoustical Plaster" at "Several Schools and Commercial Buildings including Memorial Auditorium" at Grand Prairie, TX in 1949 and 1955-1959 and at Fort Worth Nat'l Bank in Fort Worth in 1952. Plaintiff Stallcup further alleges exposure to "Zonolite Vermiculite" at "Thomas Jefferson High School" in Tyler, TX in 1955 and to "Zonolite Plasters" at "Southland Center" in LaJolla, CA from 1958-1962. With regard to plaintiff Stallcup's

INTERROGATORIES

INTERROGATORY 1

Please identify by trade or brand name and serial number each asbestos-containing product manufactured, sold and/or distributed by Defendant. For each product identified, please state the following:

- (a) The years that each product was manufactured, sold and/or distributed;
- (b) The asbestos content of each said product;
- (c) A description of the intended uses of each such product; and
- (d) A description of any instructions that appeared on the product or on the product's container regarding the proper use of same, if any.

ANSWER 1

Subject to the General Objections interposed above, and with regard to plaintiff Smith, Grace-Conn states the following:

See Product Appendix Nos. 3, 10-13(a).

- a. See Product Appendix Nos. 3, 10-13(b).
- b. See Product Appendix Nos. 3, 10-13(c).
- c. See Product Appendix Nos. 3, 10-13(d).
- d. Grace-Conn states that no such instructions were placed directly on any of the products in the product appendix. Further responding, to the extent that they exist, relevant, non-privileged, non-trade secret documents containing information responsive to this interrogatory will be made available to plaintiffs in Boston, Massachusetts at a mutually agreeable time.

Subject to the General Objections interposed above, and with regard to plaintiff Kershman, Grace-Conn states the following:

See Product Appendix Nos. 3, 10-14(a).

- a. See Product Appendix Nos. 3, 10-14(b).
- b. See Product Appendix Nos. 3, 10-14(c).
- c. See Product Appendix Nos. 3, 10-14(d).

- d. Grace-Conn states that no such instructions were placed directly on any of the products in the product appendix. Further responding, to the extent that they exist, relevant, non-privileged, non-trade secret documents containing information responsive to this interrogatory will be made available to plaintiffs in Boston, Massachusetts at a mutually agreeable time.

Subject to the General Objections interposed above, and with regard to plaintiff Stallcup, Grace-Conn states the following:

See Product Appendix Nos. 1-9, 14(a).

- a. See Product Appendix Nos. 1-9, 14(b).
- b. See Product Appendix Nos. 1-9, 14(c).
- c. See Product Appendix Nos. 1-9, 14(d).
- d. Grace-Conn states that no such instructions were placed directly on any of the products in the product appendix. Further responding, to the extent that they exist, relevant, non-privileged, non-trade secret documents containing information responsive to this interrogatory will be made available to plaintiff in Boston, Massachusetts at a mutually agreeable time.

With regard to plaintiff Williams, Grace-Conn states see the General Objections interposed above.

INTERROGATORY 2

Prior to releasing the products listed in Interrogatory No. 1 to the public for sale, were any tests conducted on same by Defendant or Defendant's agents and/or consultants to determine any potential health impacts involved in the use of or exposure to any of the products listed in answer to Interrogatory No. 1?

If so, please state:

- (a) The name, address, and job classification of each individual who conducted such tests;
- (b) The dates of each such test, if any; and
- (c) The results of such tests.

ANSWER 2

Subject to the General Objection interposed above, and with regard to plaintiffs Smith, Kershman, and Stallcup, Grace-Conn states not to its knowledge.

With regard to plaintiff Williams, Grace-Conn states see the General Objections interposed above.

INTERROGATORY 3

Were any design, marketing, labeling and/or packaging changes made as a result of such tests?

If so, please state:

- (a) The nature and date of the change made;
- (b) The name, address, and job classification of each person in charge of making a change.

ANSWER 3

Not applicable.

INTERROGATORY 4

After releasing the products listed in answer to Interrogatory No. 1 to the public, were any tests conducted thereon by or for Defendant to determine potential health impacts involved in the use of or exposure to any of the products identified in answer to Interrogatory No. 1?

If so, please state:

- (a) The name, address, and job classification of each person conducting said tests; and
- (b) The results and date of said tests.

ANSWER 4

Subject to the General Objections interposed above, and with regard to plaintiffs Smith, Kershman, and Stallcup, Grace-Conn states not to its knowledge.

With regard to plaintiff Williams, Grace-Conn states see the General Objections interposed above.

INTERROGATORY 5

Has Defendant, at any time, published and/or distributed any brochures, pamphlets, packagings or other written materials of any kind or character that contain any warnings, cautions, caveats, instructions or directions concerning the possibility of injury or health impacts resulting from the use of or exposure to any of the products listed in Interrogatory No. 1?

If so, for each such product, if any, please state:

- (a) The wording of each such warning;
- (b) The method used to distribute the warning to persons who are likely to use and/or be exposed to the products;

- (c) The date each such warning was issued; and
- (d) Any tests, research data, studies and publications relied upon in whole or in part in the decision to release such warning, if any.

ANSWER 5

Grace-Conn objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence as it is not limited as to caution, time periods, locations, etc. Grace-Conn further objects to this interrogatory on the grounds that it is vague and ambiguous in that terms such as "warning" are undefined and subject to various interpretations. Grace-Conn further objects to this interrogatory on the grounds that it improperly implies that Grace-Conn's products presented a hazard to users. Subject to these objections and to the General Objections interposed above, and with regard to plaintiffs Smith, Kershman, and Stallcup, Grace-Conn states that no warnings were placed on the packaging of its products that contained commercial asbestos nor were any warnings placed directly on any of its products. Grace-Conn further states that it had sales brochures for most of its products.

Further answering with regard to plaintiffs Smith and Kershman, Grace-Conn states that the 1970 Grace-Conn brochure published in Sweet's Catalog of 1971 contained the following paragraphs:

"POLLUTION AND HEALTH: Because of the constantly changing conditions involving fireproofing and its relation to pollution and health, we recommend that you contact your Zonolite sales office for the latest data on these subjects. Recent tests at Underwriters Laboratories, Inc. have provided some fire-ratings on an asbestos-free formula Mono-Kote. Other tests and ratings will follow."

"Existing formulations of Mono-Kote contain minimal amounts of asbestos which are locked in during the mixing process. Mono-Kote is wet mixed, pumped and sprayed, and hardens to a cementitious mass. Job-site tests show air fiber counts well below occupational Threshold Limit Values proposed by government bodies."

In addition, with regard to plaintiffs Smith, Kershman, and Stallcup, Grace-Conn states with regard to its vermiculite products that beginning in 1976, in the form of Material Safety Data Sheets it notified customers of the need to wear NIOSH/MESA-approved respirators when threshold limit values were exceeded. Also starting in 1976 or 1977, Grace-Conn affixed a caution regarding nuisance dust to the packaging of its vermiculite products. This caution read:

CAUTION
 AVOID CREATING DUST
 BREATHING DUST MAY BE HARMFUL TO YOUR HEALTH
 USE WITH ADEQUATE VENTILATION
 OR WITH RESPIRATORY PROTECTION

Relevant, non-privileged and non-trade secret documents containing information responsive to this interrogatory will be made available to the plaintiffs in Boston, Massachusetts at a mutually agreeable time.

With regard to plaintiff Williams, Grace-Conn states see the General Objections interposed above.

INTERROGATORY 6

Did Defendant receive notice prior to 1972 that any person was claiming injury, including but not limited to workers' compensation claims, as a result of using and/or being exposed to any asbestos-containing products that were manufactured, distributed and/or sold by Defendant, Defendant's predecessor or any of Defendant's subsidiary companies?

If so, please state:

- (a) The name and address of each claimant;
- (b) The date of notice of each claim;
- (c) A description of the claim;
- (d) The type of injuries allegedly sustained;
- (e) The style, court number and/or claim number of each such claim; and
- (f) The disposition of such claim.

ANSWER 6

Grace-Conn objects to this interrogatory on the grounds that none of the plaintiffs were employees of Grace-Conn and, therefore, this interrogatory is irrelevant, immaterial and seeks information not reasonably calculated to lead to the discovery of admissible evidence. In addition, Grace-Conn objects on the grounds that the information sought regarding other personal injury claims are a matter of public record equally available to plaintiffs as to Grace-Conn. Subject to these objections and to the General Objections interposed above and with regard to plaintiffs Smith, Kershman, and Stallcup, Grace-Conn states that in 1955 an employee, possibly named Weismantle, of the California Zonolite Company, in its Sacramento, California plant, filed a claim with the State Compensation Insurance Fund in California for disability allegedly because of asbestosis. No further

information is known about this possible claim. In providing this information about the California Zonolite Company, Grace-Conn does not admit that the knowledge or activities of that company are in any way imputable to Grace-Conn. Other worker's compensation claims prior to 1972 are as follows:

1. a. Lilas Welch, address unknown.
 b. April 1967.
 c. Claim filed for worker's compensation.
 d. Asbestosis.
 e. Unknown.
 f. Settled for \$10,000.
2. a. Herman Hermesen, address unknown.
 b. September 11, 1967.
 c. Unknown.
 d. Asbestosis.
 e. Unknown.
 f. Unknown.
3. a. William Locke, 4701 Lowell Avenue, LaCrecenta, California.
 b. December 1965.
 c. Claim filed with Grace-Conn's Worker's Compensation carrier.
 d. Lung condition.
 e. Worker's Compensation Appeals Board, State of California, Docket No. 6EUM9562.
 f. Unknown. -

In providing this information about the California Zonolite Company, Grace-Conn does not admit that the knowledge or activities of that company are in any way imputable to Grace-Conn.

4. a. Frank G. Alvidrez, address unknown.
 b. September 15, 1967.
 c. Unknown.

- d. Lung condition.
 - e. Unknown.
 - f. Unknown.
5. a. Eddie D. Manuel, 4920 Cleland, Los Angeles, California.
- b. March 1967.
 - c. Unknown.
 - d. Lung condition.
 - e. Workers' Compensation Appeals Board, State of California, Docket No. 67LA306-493.
 - f. Unknown.
6. a. Robert E. Cohenour, Box 422, Troy, Montana.
- b. Employees first report of injury filed 1968; worker's compensation claim filed in 1973.
 - c. Unknown.
 - d. Pulmonary Disorder.
 - e. Unknown.
 - f. Unknown.
7. a. Johnnie Lee Pace, address unknown.
- b. 1966.
 - c. Unknown.
 - d. Occupational disease.
 - e. Unknown.
 - f. Settlement.
8. a. Donald Zak, address unknown.
- b. 1964.
 - c. Unknown.
 - d. Occupational disease.
 - e. Unknown.
 - f. Settlement.

In providing this information about the Western Mineral Products Company, Grace-Conn does not admit that the knowledge or activities of that company are in any way imputable to Grace-Conn.

9. a. Edward Graske, 18446 Gottschalk, Homewood, IL 60430.
- b. October 8, 1967.
- c. Unknown.
- d. Industrial Disease.
- e. Unknown.
- f. Unknown.
10. a. Clarence Wallace, General Delivery, Lowndes, Missouri 63951.
- b. October 28, 1971.
- c. Unknown.
- d. Occupational Disease.
- e. Unknown.
- f. Unknown.

With regard to plaintiff Williams, Grace-Conn states see the General Objections interposed above.

INTERROGATORY 7

Please state whether or not the Defendant has ever conducted any tests in the field (i.e., where Defendant's asbestos-containing products were actually being used) to determine the concentration of asbestos dust and fibers generated from the use, preparation, application and/or removal of any of the asbestos products listed in answer to Interrogatory No. 1.

If so, please identify:

- (a) The date, place and nature of each and every test;
- (b) The particular product to which each test applied; and
- (c) The results of each test with particular reference to the concentrations of asbestos dust and fibers per cubic centimeter of air found to which the person was exposed.

ANSWER 7

Subject to the General Objections interposed above and with regard to plaintiffs Smith and Kershman, Grace-Conn states the following concerning tests relating to the spraying of Mono-Kote fireproofing (MK-3):

1. Tabershaw-Cooper Associates conducted air sampling in July, 1970, at three buildings in San Francisco. Fiber concentrations in all spray areas, except for one reading, were found to be below the then existing Threshold Limit Value for occupational exposures.
2. In 1970, the Werby Laboratory reported on air samples taken by Grace-Conn employees during Mono-Kote spraying operations in Chicago, Illinois, Los Angeles, California, Omaha, Nebraska and Bethpage, New York. Fiber concentrations were found to be well within the then existing threshold limit values set by the ACGIH.

The following tests were conducted during spraying operations of Mono-Kote (MK-4) and (MK-5):

1. On February 26, 1976, Grace-Conn conducted air sampling during the application of MK-5 at the Allstate Insurance and Title Co., Irving, Texas.
2. On June 1, 1976, Grace-Conn conducted air sampling during the application of MK-4 at 60 State Street, Boston, Massachusetts.
3. On January 26, 1977, Grace-Conn conducted air sampling during the application of MK-4 at the Westminster Court Building, Westminster, California.
4. On March 2, 1977, Grace-Conn conducted air sampling during the application of MK-5 at the Jackson Hospital, Montgomery, Alabama.
5. On March 8, 1977, Grace-Conn conducted air sampling during the application of MK-4 at the Hyatt Regency, Dallas, Texas.
6. On March 9, 1977, Grace-Conn conducted air sampling during the application of MK-5 at the Imperial Savings and Loan Office Building, San Diego, California.
7. On March 10, 1977, Grace-Conn conducted air sampling during the application of MK-4 at the South County Hall of Justice, Fremont, California.
8. On March 11, 1977, Grace-Conn conducted air sampling during the application of MK-4 at the California Federal Savings & Loan, Burbank, California.

9. On May 3, 1977, Grace-Conn conducted air sampling during the application of MK-4 at the Union Bank & Trust Co., Kokomo, Indiana.
10. On June 2, 1977, Grace-Conn conducted air sampling during the application of Mono-Kote, type unknown, at an unknown job site, by Pandol & Sons, applicators, Delano, California. Investigation continues for additional information concerning this test.
11. On April 26, 1983, Grace-Conn conducted air sampling during the application of MK-5 at the Westshore Office Building, Harrisburg, Pennsylvania.
12. On June 3, 1985 Grace-Conn conducted air sampling during the application of MK-5 at 599 Lexington Avenue, New York, New York.
13. On June 19, 1985, Grace-Conn conducted air samplings during the application of MK-5 at 53rd Street and 3rd Avenue, New York, New York.
14. On July 30, 1985, Grace-Conn conducted air sampling during the application of MK-5 at the Allied Bank Tower, Dallas, Texas.
15. On April 15, 1986, Grace-Conn conducted air sampling during the application of MK-5 at 10 South LaSalle Street, Chicago, Illinois.
16. On April 16, 1986, Grace-Conn conducted air sampling during the application of MK-5 at 190 South LaSalle Street, Chicago, Illinois.
17. On April 17, 1986, Grace-Conn conducted air sampling during the application of MK-5 at the Corporetum Office Complex, Lisle, Illinois.
18. On June 18, 1986, Grace-Conn conducted air sampling during the application of MK-5 at Concourse B, Stapleton Airport, Denver, Colorado.

Fiber concentrations in all spray areas at each job site listed above were found to be well below the then existing Threshold Limit Value for occupational exposure.

With regard to plaintiff Stallcup, and subject to the General Objections interposed above, Grace-Conn states not to its knowledge.

With regard to plaintiff Williams, Grace-Conn states see the General Objections interposed above.

INTERROGATORY 8

'Has Defendant ever sold any asbestos-containing materials for use in any place outside the continental United States of America (and Hawaii) without affixing to the product a caution or warning label which discussed the health impacts caused by asbestos?

If so, answer the following questions:

- (a) Identify these products by trade name and describe the percentage of asbestos content of same;
- (b) Identify the years said products were sold; and
- (c) Identify the buyers of said products and the nations or states in which said products were intended to be delivered for use.

ANSWER 8

Grace-Conn objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY 9

Did Defendant before 1973 ever conduct studies or tests of the concentration of dust generated in any of its asbestos products manufacturing plants? If so,

- (a) Identify the dates of every such dust count studies taken;
- (b) Identify every plant at which such dust count studies were taken; and
- (c) Please produce all documents which show any dust count studies or tests taken at any of Defendant's asbestos manufacturing plant(s).

ANSWER 9

Grace-Conn objects to this interrogatory on the grounds that none of the plaintiffs were employees of Grace-Conn and, therefore, this interrogatory is irrelevant, immaterial and seeks information not reasonably calculated to lead to the discovery of admissible evidence. Subject to this objection and to the General Objections interposed above and with regard to plaintiffs Smith, Kershman, and Stallcup, Grace-Conn states that beginning in approximately 1965, air sampling as a part of general health and safety reviews were performed by Grace-Conn personnel at its Libby, Montana mine and mill. Grace-Conn further states that since approximately 1969 periodic dust studies as part of general health and safety reviews have been performed by Grace-Conn

personnel at its manufacturing facilities on a routine basis. Relevant, non-privileged and non-trade secret documents containing information responsive to this interrogatory will be made available to the plaintiffs in Boston, Massachusetts at a mutually convenient time.

With regard to plaintiff Williams, Grace-Conn states see the General Objections interposed above.

INTERROGATORY 10

Did Defendant before 1973 ever conduct studies or tests of the concentration of asbestos dust to which insulators, fireproofers or bystanders were exposed during the application of any of their asbestos products in the workplace? If so,

- (a) Identify the dates of every such dust count study taken;
- (b) Identify every workplace or jobsite at which such dust count studies were taken;
- (c) Describe the conditions under which the dust count studies were performed;
- (d) Describe what steps were taken to ensure that the conditions under which the studies were performed represented the same or similar conditions existing on industrial or commercial jobsites where users would be exposed to Defendant's asbestos-containing products; and
- (e) Please produce all documents which discuss any dust count studies or tests or test results taken at any of Defendant's asbestos manufacturing plant(s) or any other facility.

ANSWER 10

See Answer 7, above.

INTERROGATORY 11

Did Defendant ever recommend to any United States Government agency or any state government agency that the threshold limit value (TLV) for exposure to asbestos dust be lowered from 5 mppcf? If so, when was such recommendation made, who made it, and to whom was it made?

ANSWER 11

Subject to the General Objections interposed above, and upon information and belief, Grace-Conn states no.

- | | |
|---------------------------|---------------------------------|
| 8. Named insured: | Zonolite Company |
| Type: | Comprehensive General Liability |
| Policy Number: | RLG 021629 |
| Policy Period: | 4/1/59-4/1/60 |
| Applicable Policy Limits: | Unknown |
| 9. Named insured: | Zonolite Company |
| Type: | Comprehensive General Liability |
| Policy Number: | RLG 621620 |
| Policy Period: | 4/1/60-4/1/61 |
| Applicable Policy Limits: | Unknown |
| 10. Named insured: | Zonolite Company |
| Type: | Comprehensive General Liability |
| Policy Number: | RLG 021621 |
| Policy Period: | 4/1/61-4/1/62 |
| Applicable Policy Limits: | Unknown |
| 11. Named insured: | Zonolite Company |
| Type: | Comprehensive General Liability |
| Policy Number: | Unknown |
| Policy Period: | 4/1/62-4/1/63 |
| Applicable Policy Limits: | Unknown |
| 12. Named insured: | Zonolite Company |
| Type: | Comprehensive General Liability |
| Policy Number: | LU 1731-62 |
| Policy Period: | Expired 5/26/68 |
| Applicable Policy Limits: | Unknown |

General Insurance Company of America

- | | |
|---------------------------|-----------------------------|
| 1. Named insured: | Vermiculite-Northwest, Inc. |
| Type: | Blanket Liability |
| Policy Number: | BLP 270815 |
| Policy Period: | 6/1/66-6/1/67 |
| Applicable Policy Limits: | \$250,000 |

Aetna Casualty And Surety Co.

- | | |
|---------------------------|---------------------------------|
| 1. Named insured: | Ari-Zonolite Company |
| Type: | Comprehensive General Liability |
| Policy Number: | 33 AL 84357CC |
| Policy Period: | Expired 1/01/70 |
| Applicable Policy Limits: | Unknown |

2. Named insured: Ari-Zonolite Company
 Type: Comprehensive General Liability
 Policy Number: 33 AL 053762
 Policy Period: Policy in force in 1967
 Applicable Policy Limits: Unknown
3. Named insured: Western Mineral Products
 Type: Comprehensive General Liability
 Policy Number: 37 AL 011243
 Policy Period: Policy in force in 1966
 Applicable Policy Limits: Unknown
4. Named insured: California Zonolite Company
 Type: Comprehensive General Liability
 Policy Number: 33 AL 051406CC
 Policy Period: Expired 12/30/66
 Applicable Policy Limits: Unknown

INTERROGATORY 15

What year, if ever, did Defendant first receive a copy of the article entitled "A Health Survey of Pipe Covering Operations in Constructing Naval Vessels", published in January, 1946 in the Journal of Industrial Hygiene & Toxicology, and authored by W. Fleischer and P. Drinker, et al (the Fleischer-Drinker Report)?

- (a) Identify the name and position of the employee or officer who received same;
- (b) Please produce all documents generated by Defendant which discuss or in any way reference the "Fleischer-Drinker" study prior to 1968;
- (c) Please produce all documents upon which you (sic) responses above are based;
- (d) Please identify the name(s) and address(es) of any person(s) who can verify your above response;
- (e) Did Defendant ever rely on the Fleischer-Drinker Report in whole or in part as a basis that Defendant (sic) asbestos products could be used in the workplace without risk of asbestos-related health impacts to the consumer and/or bystander;
- (f) If so, please produce every document which evidences in any way that Defendant relied on the Fleischer-Drinker Report in whole or in part for the proposition stated in Interrogatory 15 (e) above; and

- (g) If your answer to 15 (e) is yes, when was the first date Defendant relied on the Fleischer-Drinker Report in whole or in part for the proposition stated in 15 (e) above?

ANSWER 15

Subject to the General Objections interposed above, and with regard to plaintiffs Smith, Kershman, and Stallcup, Grace-Conn states that to the best of its knowledge, it has not received a copy of the above-mentioned article, unless it has received it in the course of asbestos litigation.

- a-c. Not applicable.
- d. See Answer 23, below.
- e. Not to its knowledge.
- f,g. Not applicable.

With regard to plaintiff Williams, Grace-Conn states see the General Objections interposed above.

INTERROGATORY 16

Before 1972, did Defendant ever advise any customers or users or consumers of any of its asbestos-containing products to maintain exposure of dust from any of its asbestos products below 5 mpccf? If so, please answer the following questions:

- (a) Identify the names of the entities to whom this information was given;
- (b) Identify the form in which this information was supplied (oral and/or in writing);
- (c) Identify the dates all such information was delivered to the customer or users;
- (d) Please identify any person who can verify your above responses; and
- (e) Please produce all documents which support or provide a basis for your responses above.

ANSWER 16

Subject to the General Objections interposed above, Grace-Conn states that it did not provide warnings with any of its products before 1972. Grace-Conn further states that from time to time certain of its employees would discuss the use of its products with customers. While Grace-Conn is unaware of any such communications referencing dust levels, it is impossible to recreate those conversations.

INTERROGATORY 17

Please identify all trade associations involving the mining, manufacturing, research, marketing, sale of (sic) distribution of asbestos products to which Defendant is/was a member and the years of said membership and the name and address of Defendant's representative at each meeting held by such association during which asbestos health impacts were discussed.

ANSWER 17

Grace-Conn objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence. Subject to this objection and the General Objections interposed above and with regard to plaintiffs Smith, Kershman, and Stallcup, Grace-Conn states that it has attended annual meetings of the Asbestos Information Association since approximately 1977. Further answering, Grace-Conn has been a member of the Perlite Institute from 1968 to the present, a sustaining member of the American Industrial Hygiene Association since 1976, and a member of the American Industrial Health Council since 1978. Grace-Conn has been a member of the Association of Walls and Ceilings International since the 1970's, a member of the Vermiculite Institute from 1963 to 1971, a member of the Exterior Insulation Manufacturers Association since 1984, a member of the Safe Building Alliance since the spring of 1984, a member of the Committee for Equitable Compensation since the summer of 1987, a member of the Vermiculite Association since 1988, and is a member of the Construction Products Manufacturers Council.

Grace-Conn further states that Robert H. Locke attended annual meetings of the Asbestos Information Association from 1977 to 1984 or 1985. Robert Merther attended the annual meetings of the Association of Walls and Ceilings International from 1976 to 1984. Robert J. Bettacchi and Robert C. Walsh attended the meetings of the Safe Buildings Alliance until 1988. SBA meetings are currently attended by Kenneth Millian and Edlu Thom. Kenneth Millian and Jacquelyn M. Johnson attend the meetings of the Committee for Equitable Compensation. With regard to the subjects of these meetings, Grace-Conn states that this interrogatory should be directed to the relevant trade organizations.

Grace-Conn further states that relevant, non-privileged, non-trade secret documents containing information responsive to this interrogatory will be made available to plaintiffs in Boston, Massachusetts at a mutually agreeable time.

With regard to plaintiff Williams, Grace-Conn states see the General Objections interposed above.

INTERROGATORY 18

Has Defendant by or through any trade association to which it has ever belonged ever opposed any regulation proposed by any agency of the federal or state government that would lower the threshold limit value or permissible exposure level for occupational exposure to asbestos? If so, answer the following questions:

- (a) Identify the proposed regulation and the date of said proposal and specify the name of all individuals acting on behalf of Defendant and/or its trade association;
- (b) Did Defendant and/or its trade associations submit written comments to the government agency in question and, if so, please produce each such set of written comments;
- (c) Did Defendant and/or any of its trade associations provide oral comments at any public hearing held by the government agency in question and, if so, please identify the date of such oral presentation and please produce the text of such presentation;
- (d) Did Defendant and/or any of its trade associations ever submit written comment to any government agency recommending that the standard for occupational asbestos exposure be raised? If so, please produce the text of all such comments;
- (e) Did Defendant and/or any of its trade associations submit written comments to the Environmental Protection Agency regarding the EPA's proposed ban on all uses of asbestos in the United States and, if so, please produce all texts of such comments; and
- (f) Identify the representatives from Defendant, if any, who opposed any of the proposed regulations above.

ANSWER 18

Subject to the General Objections and with regard to plaintiffs Smith, Kershman, and Stallcup, Grace-Conn states that to the extent that this interrogatory seeks to elicit information regarding the actions of the organizations in Answer 17, above, this interrogatory should be directed to those organizations.

With regard to plaintiff Williams, Grace-Conn states see the General Objections interposed above.

INTERROGATORY 19

Did Defendant, Defendant's predecessor, and/or Defendant's subsidiaries ever maintain any distribution agreement(s) with any company located in Texas with respect to any of the products identified in answer to Interrogatory No. 1? If so, please state the following:

- (a) The name, address, and telephone number of the contact person with whom Defendant, Defendant's predecessors and/or Defendant's subsidiaries maintained such an agreement, and the years that each agreement was maintained; and
- (b) The asbestos-containing products that the agreements involved.

ANSWER 19

Subject to the General Objections interposed above and with regard to plaintiffs Smith, Kershman, and Stallcup, Grace-Conn states that it is unaware of any formal distribution agreements in the State of Texas during the relevant time period, except for a series of licensing/distribution agreements with the Texas Vermiculite Company, Vermiculite Products, Inc. and Southwest Vermiculite Company. Further responding, Grace-Conn states that it acquired a majority of the shares of Texas Vermiculite Company as a result of its acquisition of the assets of the Zonolite Company in 1963. In 1975, Grace-Conn acquired the remainder of the shares of Texas Vermiculite Company and that company was dissolved.

To the extent that they exist, relevant, non-privileged, non-trade documents containing information responsive to this interrogatory will be produced to plaintiffs in Boston, Massachusetts at a mutually agreeable time.

With regard to plaintiff Williams, Grace-Conn states see the General Objections interposed above.

INTERROGATORY 20

List by name and address each and every expert witness Defendant intends to call at trial and include the following in your answer:

- (a) Areas of expertise;
- (b) Expected mental impressions and opinions held by the expert with respect to the subject matter on which he will testify; and
- (c) The facts known to the expert (regardless of when the factual information was acquired) which relate to or form the basis of the mental impressions and opinions held by the expert.

ANSWER 20

Grace-Conn has not yet decided whom it will call at the time of trial but reserves the right to do so prior to trial. When such decision is made, the information requested will be supplied in an appropriate manner.

INTERROGATORY 21

Please state the name, present address and present telephone number, along with the experience and qualifications, if applicable, of each and every person, known to Defendant or to Defendant's agents, having knowledge of facts relevant to this case involving, but not limited to:

- (a) Identification of asbestos-containing products to which Plaintiff allegedly was exposed or facts disputing the identification of asbestos products in this case;
- (b) Alleged damages, injuries and/or facts disputing Plaintiff's alleged damages and/or injuries;
- (c) The negligence of any person or entity other than Defendant which Defendant contends was a cause of Plaintiff's alleged injuries and/or damages; and
- (d) Any other facts relevant to this lawsuit.

ANSWER 21

Grace-Conn objects to the portion of this interrogatory which requires information regarding the experience and qualifications of any persons listed in response to the interrogatory as such information is not discoverable under Tex. R. Civ. P. 166b(2)(d). Grace-Conn further objects to the form of this interrogatory as it invades attorney work product by requesting witnesses' names to be broken out by category.

Without waiving the foregoing objections, with regard to the identity and location of persons with knowledge of relevant facts, Grace-Conn is at this time only able to designate Plaintiffs. Discovery is continuing, and such response will be supplemented pursuant to Tex. R. Civ. P. 166b(6).

INTERROGATORY 22

Please state the net worth of Defendant and each of its divisions or subsidiaries in 1989 and 1990.

ANSWER 22

Grace-Conn objects to this interrogatory on the grounds that the information sought is a matter of public record equally available to plaintiffs as to Grace-Conn.

INTERROGATORY 23

Please list the name, address, and job title of each person who provided assistance in answering these interrogatories.

21

ANSWER 23

Grace-Conn objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving or in any way limiting this objection or the General Objections interposed above, Grace-Conn states that these answers were prepared with the assistance of many employees and representatives of Grace-Conn, with the assistance and advice of Grace-Conn counsel, retained counsel and their staffs, who, in the course of preparing for these and other cases have interviewed many individuals and have reviewed voluminous records of Grace-Conn.

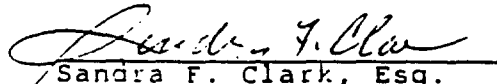
INTERROGATORY 24

Please identify and provide all documents relevant to each of the allegations appearing in Plaintiff's Complaint and to each of your defenses in your answer.

ANSWER 24

Grace-Conn objects to this interrogatory on the grounds that it is overly broad and unduly burdensome. Subject to this objection and to the General Objections interposed above, Grace-Conn states that it is unable to answer this interrogatory at this time because it has not obtained sufficient information from plaintiffs and other sources to make this determination and reserves the right to do so prior to trial. Due and appropriate notice will be given to all parties concerned when such facts, testimony and exhibits have been determined. However, Grace-Conn states that the applicable affirmative defenses are set forth in its answer to the Complaint.

W.R. Grace & Co. - Conn.
By its attorney


Sandra F. Clark, Esq.
Mehaffy & Weber
2615 Calder Avenue
Post Office Box 16
Beaumont, Texas 77704
(409) 835-5011

DATED:

COMMERCIAL ASBESTOS-CONTAINING PRODUCTS

1. Econo-White 65 and Econo-White 70.
 - b. Zonolite Company (1956-1963); Grace-Conn (1963 until approximately 1970).
 - c. Chemical Composition: Short fiber chrysotile asbestos, Perlite, Bentonite (Montmorillonite type), Titanium dioxide, Sodium lauryl sulfate. Contained approximately 14.97 percent and 14.43 percent 7M asbestos, respectively, by weight.
 - d. Acoustical plaster for walls and ceilings.
2. Zono-Cooustic 2 and Zono-Cooustic Z.
 - b. Zonolite Company (1960-1963); Grace-Conn (1963 until approximately 1973).
 - c. Chemical Composition: Short fiber chrysotile asbestos, Vermiculite, Titanium dioxide, Sodium lauryl sulfate, Plaster of Paris, Hydrated lime. Contained approximately 12.64 percent 7M asbestos by weight.
 - d. Acoustical base coat for walls and ceilings.
3.
 - a. Zonolite Acoustical Plastic/Plaster.
 - b. Zonolite Company (approximately 1945 until 1963); Grace-Conn (1963 until approximately 1972).
 - c. Chemical Composition: (Standard) Short fiber chrysotile asbestos, Vermiculite, Bentonite (montmorillonite type), Sodium lauryl sulfate. Contained approximately 17.11 percent 7M asbestos in standard acoustical plaster. Bermuda Tan: Short fiber chrysotile asbestos, Vermiculite, Bentonite (montmorillonite type), Sodium lauryl sulfate, Dowicide, Sodium nitrite. Contained approximately 18.69 percent 7M asbestos by weight in Bermuda Tan.
 - d. Acoustical coating for ceilings.
4.
 - a. Zonolite Finish Coat (Decorator's White).
 - b. Zonolite Company (1950-1963). First produced by Grace-Conn in 1963; the product may have been produced until 1974.
 - c. Chemical Composition: Short fiber chrysotile asbestos, Vermiculite, Bentonite (montmorillonite type), Titanium dioxide, Sodium lauryl sulfate. Contained approximately 13.11 percent 7M asbestos by weight.

- d. Decorative textured finish.
- 5. a. Zonolite Finish Coat (Decorator's White)(Extra Hard).
 - b. Zonolite Company (1961-1963). First produced by Grace-Conn in 1963; product may have been produced until approximately 1974.
 - c. Chemical Composition: Short fiber chrysotile asbestos, Vermiculite, Bentonite (montmorillonite type), Titanium dioxide, Sodium lauryl sulfate. Contained approximately 12.78 percent 7M asbestos by weight.
 - d. Decorative textured finish.
- 6. a. Zonolite Spra-Tex (Regular).
 - b. Zonolite Company (approximately 1955 to 1963); Grace-Conn (1963-1972).
 - c. Chemical Composition: Short fiber chrysotile asbestos, Vermiculite, Kaolin clay, Titanium dioxide, Sodium lauryl sulfate. Contained approximately 33.045 percent 7M asbestos by weight.
 - d. Decorative textured finish.
- 7. a. Zonolite Spra-Tex (Extra-Hard).
 - b. Zonolite Company (1961-1963); Grace-Conn (1963-1972).
 - c. Chemical Composition: Short fiber chrysotile asbestos, Kaolin clay, Titanium dioxide, Sodium lauryl sulfate, Vermiculite, ZOD concentrate. Contained approximately 32.09 percent 7M asbestos by weight.
 - d. Decorative textured finish.
- 8. a. Z-TEX, may also be marketed as EZ-TEX, Z-TEX 2 and Z-TEX 2 Super White.
 - b. The Zonolite Company (from approximately 1958 to approximately 1962).
 - c. Chemical Composition: Exact composition unknown at this time. The product contained approximately 14.3 percent short fiber chrysotile asbestos. Investigation continues.
 - d. Sprayed texture product.
- 9. a. High Temperature Insulating Cement.
 - b. Zonolite Company (1945-1963); Grace-Conn (1963 until approximately 1970 or 1971).

- c. Chemical Composition: Short fiber chrysotile asbestos, Vermiculite, Bentonite (montmorillonite type), Sodium lauryl sulfate, Sodium Nitrate. Contained approximately 17.11 percent asbestos by weight or approximately 18.69 percent asbestos by weight.
 - d. High temperature insulating cement.
10. a. Zonolite Mono-Kote (MK-1).
- b. Produced by Zonolite Company from December 1958. Virtually all sales ended by 1962, although there may have been some sales until approximately 1969.
 - c. Chemical Composition: approximately 11.9% short fiber chrysotile asbestos, vermiculite, plaster of paris, portland cement, ZOD concentrate.
 - d. Cementitious fireproofing.
11. a. Zonolite Mono-Kote (MK-3).
- b. Zonolite Company (1959 - 1963); Grace-Conn (1963 - 1973).
 - c. Chemical Composition: Short fiber chrysotile asbestos, Vermiculite, Plaster of Paris, Sodium lauryl sulfate. Contained approximately 13.23 percent 7M or 12.18 7R short fiber chrysotile asbestos by weight.
 - d. Fireproofing.

PRODUCTS WHICH DO NOT CONTAIN COMMERCIAL ASBESTOS

12. a. Zonolite Mono-Kote (MK-4).
- b. W. R. Grace & Co. - Conn (1970 to the present, in Southern California and Arizona only).
 - c. Chemical Composition: Grace-Conn objects to providing the chemical composition of this product because the composition is a trade secret. Further answering, this product contains expanded vermiculite.
 - d. Fireproofing.
13. a. Zonolite Mono-Kote (MK-5).
- b. W. R. Grace & Co. - Conn (July, 1972 to the present).
 - c. Chemical Composition: Grace-Conn objects to providing the chemical composition of this product because the composition is a trade secret. Further answering, this product contains expanded vermiculite.

1. FACTS

• CONSTRUCTION PRODUCTS DIVISION

TO: J. D. RIGGLEMAN, Libby
L. M. KRUPP, Libby

DATE: February 17, 1970

FROM: F. W. EATON

SUBJECT: Membrane Filter
Sampling

cc: E. D. Lovick, Libby

When I was in Libby, I had a chance to go over the membrane filter method of sampling with Lou Krupp, but did not have the time to discuss this with J. D. Riggleman. In this letter, I will try to review it briefly for both of you, and any details omitted can be obtained from the instruction book that is enclosed.

This is a temporary measure, as you know, and as soon as someone is hired to carry on this and other functions at Libby, both Rex Smith and Walt Baker will be freed of this task. I have given both Rex and Walt a copy of the instructions, but neither got copies of the first part of the manual that deals with the hazards associated with asbestos. Both men were given a short training session on the principles involved in the use of the sampling equipment, and I feel will be capable of carrying out this collateral duty that has been assigned to them. I have asked that they both show the sampled monitor and data sheet to you before it is sent to the laboratory here in Boston.

In the membrane filter method of sampling, we are only concerning ourselves with the collection and reading of tremolite and asbestos fibers that are known to be in Libby ore. Through impingere tests that W. Nordin has conducted we know that the particulate level in the dry mill can be controlled within allowable threshold limit values for total dust. What we don't know is the level of fibers and if we are below the threshold limit value established by the U. S. Public Health (12 microns per cc longer than 5 microns in length). Johns Manville and Grace have established a value of 5 fibers per cc. Sampling is a relatively simple procedure and will in no way interfere with the movement of an operator in performing his normal duties. A vacuum pump is attached to a man's belt and connected, by means of a rubber tube, to a monitor fastened to the operator's shirt collar. The monitor is positioned in the breathing zone of a person and the rate of flow through the vacuum pump at the normal respiratory rate of two leaders per minute. The person being sampled should conduct his normal duties and in no way should deviate from them to be either in a clean or dusty environment. As an example, on February 3 we sampled the top floor dry mill operator for ninety minutes, and during this period of time he made one complete round of the upper floors and dryer area, and the remainder of the time was spent in the operators room on the first level. It is not necessary for either Walt or Rex to follow the men around all the time, but every thirty minutes they should check the vacuum pump to see that it is operating properly and observe conditions in the area being sampled so that the sampling data sheet can be filled out with all pertinent information.

Гонимые

TO: J. D. RIGGLEMAN
L. M. KRUPP
FROM: F. W. Eaton
DATE: February 17, 1970
SUBJECT: Membrane Filter Sampling
Page Two

I have requested that 90 minute samples be taken each month at the following locations at the mine and mill:

Mine Sampling Locations:

1. Two truck drivers (one at each shovel)
2. Two shovel operators
3. Drill operator
4. Grader operator
5. Transfer point
6. Portable laboratory

Mill Sampling Locations:

1. Each mill operator, including the sweeper
2. Area maintenance man
3. Skip hoist operator
4. Truck driver at ore transfer point to river site
5. Operator at river ore storage site.
6. Ore car loader
7. Mill shift tester

There are two complete testing setups at Libby (at the present time, one pump is defective and I will see that it is replaced within a week), and I would recommend that two people be sampled at the same time so that there is less time required of Walt and Rex. In the downtown office, there are approximately fifty mailing tubes to be used in sending the sampled monitors to Werby Laboratories in Boston. I would recommend as soon as you have eight samples either at the mine or the mill that they be sent to Werby, along with one copy of the sampling data sheet. One copy of the data sheet should be retained in Libby and another sent to me here in Cambridge.

Until such time as a permanent person is assigned this task it will not be necessary for you to clean and insert new filters in the monitor, nor calibrate the vacuum pumps. I will see that fresh monitors, ready to use, are shipped to you and you should return the vacuum pumps to me in Cambridge every six months for recalibration.

I appreciate your cooperation and if you have any questions, please do not hesitate to call me.

F. W. Eaton (WIS)
F. W. EATON

G001207

O. F. Stewart

June 26, 1967

R. A. Bleich

Sirroco Fan and Montana State Board
of Health Inspections

R. W. Sterrett

Dear Floyd:

We have never had an opinion expressed regarding the Sirroco fan from Mr. Ben ~~Wake~~ State Board Engineer.

Mr. Wake has only been concerned with the inside atmosphere of the mill. This, of course, makes him interested in any source of dust which contributes to the pollution of the mill atmosphere but to our knowledge his observations and comments have been on internal sources. I suppose that it is possible that any possible pollution from the fan could have escaped his observation. That is, for conditions to have been favorable in every respect at each time of his infrequent visits.

Our allowable limit as per the State Board is 20 million particles per cubic foot. We have set our own at 10 m ppcf and the insurance people are trying to dictate 5 m ppcf. Now, there are times when all the conditions are such that some pollution does occur from the fan discharge. These times are infrequent and a small percentage of the total time. Also, there is real doubt as to whether any pollution from the fan during these times actually increases the dust count beyond the allowable limits. However, we must admit that it can and does occur at these infrequent intervals. We have not been able to detect any drastic increase in dust count during these times.

The allowable limit is in effect at all times. Therefore, I believe that it would be natural to expect that Mr. Wake in his capacity would be in favor of any project which would tend to remove any potential source of pollution but would not demand that it be done as long as the dust counts were satisfactory. In other words, I believe that he would leave the method on how to get the required results to us but expects us to get them. He probably would give us an opinion if asked but seriously doubt that he could give us anything except to be in favor of moving the fan.

Moving the fan most certainly will not be detrimental to the dust situation. Just how much benefit will be derived is the unknown question. At times it will help a lot, especially in the outside area, while at other times it probably will not help enough to make any difference. It will not bring the dust count down to 5 m ppcf. Any dry mill extension to the east, etc. will require moving the fan.

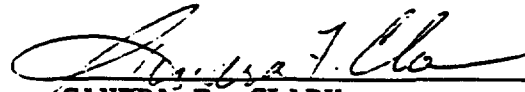
I don't believe that Mr. Parks is going to relent on the subject and will continue to insist. Could our failure to comply with his recommendations ever be used to escape responsibility or liability on their part in the future?

RAbleich/jbg

C:001339

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing instrument was served upon all interested counsel on this the 30th day of May, 1991.


SANDRA F. CLARK