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WHIP-MIX'S KNOWLEDGE OF ASBESTOS HAZARDS

I have reviewed pertinent portions of the Deposition of Whip Mix's Person-Most-Knowledgeable David Steinbock who testified in this action on January 21, 2021.

Whip Mix was founded in 1919 as Falls City Dental Specialties Company. Whip Mix sold and supplied asbestos dental products from the 1930's to the 1980's. Whip Mix company product directories and fliers displayed asbestos products beginning in the late 1930's. Whip Mix's Person-Most-Knowledgeable David Steinbock testified to the presence of asbestos in their products.

As a major supplier of dental products and equipment, Whip Mix would have been aware of publications in dental journals concerning asbestos hazards. Whip Mix advertised regularly in the Journal of the American Dental Association through the 1960's and 1970's as a review of some of the publication demonstrates. It was the premier publication for dentists and the dental industry in the United States.

The first article discussing asbestos hazards specifically in dental products (in addition to the body of literature about asbestos generally set forth in Paragraphs 9-28) was published in 1967 in the British Dental Journal titled "The Possible Adverse Effects of Asbestos in Gingivectomy Packs." This article discussed the potential hazards of asbestos in dental products and specifically mentioned asbestosis, lung cancer and mesothelioma as risks of exposure to asbestos. The publication recommended that this particular dental product, asbestos gingivectomy packs, be discontinued because of the hazards posed to dentists working with them.

In April 1976, the Journal of the American Dental Association published an article titled "Hazards of Asbestos in Dentistry" that **specifically mentioned the hazards of asbestos casting ring tape, a product sold by Whip Mix.** This article amongst other things, mentioned the risk of developing cancer and mesothelioma specifically from asbestos exposure. Then in the August 1976 edition of the same publication, as set forth above in Paragraph 33, experts from the National Institute for Occupational Safety and Health replied to the JADA article on asbestos urging that precautions be taken to prevent asbestos exposures from these products.

Whip Mix's person most knowledgeable David Steinbock testified that Whip-Mix executives received warnings about the hazards of asbestos in 1973 or 1974 via a notation from the Federal Register of the OSHA asbestos regulations. He further testified that the company might have provided warnings with its products about asbestos hazards as early as 1974 or as late as 1978. Regardless, the warning that he testified Whip-Mix provided made no reference to a risk of cancer.

In addition, Whip-Mix paid a consultant who published an article downplaying the hazards of asbestos in dental products.

In the mid-1990's, Whip Mix hired Dennis R. Davis, DDS to conduct a study and publish an article in the September 1995 issue of The Journal of Prosthetic Dentistry entitled the "Release of asbestos fibers during casting ring liner manipulation." The message in that study/article is that "the potential health risks from using asbestos ring liner seems low." In fact, the abstract states "Civil lawsuits have been filed that allege wrongful deaths of at least one dentist and one dental technician from asbestos exposure. However, no known published scientific studies support such allegations." Whip-Mix certainly knew the view of the doctor it sponsored for this paper since he had previously published asbestos articles, including but not limited to "The nature and hazards of asbestos" published in the June 1986 issue of The Journal of the California Dental Association also known as the CDA Journal in which the same doctor concluded that "The use of chrysotile asbestos in dentistry can be continued without fear."

Regulations like the OSHA asbestos standard are published in the Federal Register to provide notice to employers like Whip Mix Corporation who are impacted by the regulation. As an employer whose business included the sale of asbestos products, OSHA's asbestos regulations applied to Whip Mix Corporation. The OSHA's emergency asbestos standard published in 1971 and asbestos standard published in 1972 also put Whip Mix on notice of the hazards of asbestos. Whip Mix acknowledged that it has evidence that it knew of OSHA asbestos regulation as of 1973/4. Whip Mix purchased the asbestos products mentioned above and its employees physically handled these materials to install in other products or to repackage for sale. Whip Mix was subject to OSHA regulations to protect its own employees. Because its employees physically handled the asbestos products, Whip Mix should have known of the friable nature of these products. From the available literature at the time, Whip Mix would have known that its asbestos products would cause exposures to asbestos, that exposure to asbestos causes cancer, but never warned about these cancer risks.

Thus, based on the above, I can opine that Whip-Mix had actual knowledge of the hazards of asbestos, including that it causes cancer, as early as 1973 or 1974. Further, Whip-Mix should have had knowledge about asbestos hazards through the generally available scientific and medical literature, and more likely than not had knowledge as early as 1967 when it was first reported in a major dental journal. And, finally, if the company did in fact warn end users such as the plaintiff in this case at all, its warning inadequately failed to warn of the cancer risk that Dr. Springer ultimately developed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this _____ day of April 2021, in Garrett Park, Maryland.