



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ST. LAWRENCE

-----X
WILLIAM MOULTON and JOAN MOULTON,)

)
)
Plaintiffs,)

Index No. 103587/98

)
)
v.)

)
AC&S INC., ET AL.)

)
)
Defendants.)
-----X

UNITED STATES GYPSUM COMPANY'S RESPONSES TO PLAINTIFFS'
FIRST SET OF PRODUCTION IDENTIFICATION INTERROGATORIES
AND DOCUMENTS REQUESTS

PREFATORY STATEMENT

United States Gypsum Company (hereinafter "U.S. Gypsum") has, to the best of its abilities, gathered non-privileged documents into a document repository for inspection by plaintiffs' counsel in response to requests for production served in asbestos litigation. These documents provide information that supplements and expands upon that provided in these answers to Interrogatories and Requests for Production. Accordingly, by way of further response to these Interrogatories and Requests for Production, U.S. Gypsum hereby offers to make available these documents at a mutually convenient time at its offices at 125 S. Franklin Street, Chicago, Illinois.

In giving its responses to Interrogatories and Requests for Production as to asbestos-containing products, U.S. Gypsum refers to products containing commercial asbestos as part of their formulation and to the type of commercial asbestos used as part of the formulation.

OBJECTIONS

U.S. Gypsum objects to the manner in which plaintiff has defined U.S. Gypsum to the extent that plaintiff purports to include in its definition of U.S. Gypsum predecessors-in-interest,

subsidiaries, and successors-in-interest of the corporate defendant. In that U.S. Gypsum Company is the named defendant, this definition is overly broad and would require U.S. Gypsum to engage in unduly burdensome research, divulge privileged information and produce privileged documents. This defendant, United States Gypsum Company, responds to these Interrogatories and Requests for Production on behalf of itself.

U.S. Gypsum further objects to these Interrogatories and Requests for Production to the extent they seek information or documents protected by the attorney-client privilege and the work product rule and to the extent they seek trial preparation or expert materials or documents.

Finally, U.S. Gypsum objects to these Interrogatories and Requests for Production to the extent they ask for "identification" of voluminous documents on the ground that they are overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. As set forth infra, U.S. Gypsum will produce documents which are the proper subjects of an appropriate document request.

RESPONSES TO INTERROGATORIES

1. Objection. This Interrogatory is overbroad in scope of time. This defendant discontinued manufacturing products with asbestos as part of their formulations in 1977. Inquiries into years subsequent to 1977 will not lead to the discovery of admissible evidence. In addition, this defendant, to its best current knowledge, information and belief, did not "install" asbestos-containing products.

Without waiving these objections, U.S. Gypsum does not possess any records maintained in the normal course of business which identify who the ultimate user of the product was or where it was installed. With that limitation, U.S. Gypsum responds as follows: Prior to 1966, U.S. Gypsum sold its construction products, some of which may have contained small amounts of

asbestos, exclusively through independent dealers. Beginning in about 1966, U.S. Gypsum sold its construction products either directly to independent contractors, independent distributors or, as had previously been the custom, through independent dealers.

This defendant has no sales records for the years prior to 1965, other than records of gross sales of individual products by plant. Sales records thereafter are contained in computer printouts. Records of products which the plaintiff can establish were relevant to the subject matter of this lawsuit will be made available for inspection at a mutually convenient time at 125 South Franklin Street, Chicago, IL 60606.

Other non-privileged, responsive documents, to the extent they exist, will be made available to plaintiff at a mutually convenient time through U.S. Gypsum Company's offices at 125 South Franklin Street, Chicago, IL.

In addition, in the 1950's-1970's, U.S. Gypsum purchased asbestos cement board from National Gypsum Company, which was reshipped as received. In addition, U. S. Gypsum drilled this material and rebranded it for sale and use as asbestos lay-in panels in the late 1950's. U. S. Gypsum also purchased pipe covering from a company believed to be named Baldwin-Ehret-Hill in the 1930's.

This defendant purchased adhesive products for resale from W. W. Henry Company and a company believed to be a subsidiary of Sherwin Williams, but U. S. Gypsum has been unable to confirm dates of such purchases.

This defendant manufactured colored exterior stucco for National Gypsum Company from the 1940's to the 1970's. This was resold under National Gypsum's Gold Bond label. U. S. Gypsum possesses documents which indicate that it was authorized to manufacture exterior finish stucco for the following companies who sold it under their company label: National Brickstone, early

1960's; Brickstone International, early 1960's to early 1970's; Temple Brick Corporation, mid-1960's.

This defendant manufactured a wallboard adhesive in the 1970's for National Gypsum Company that was resold under National Gypsum's Gold Bond label. U. S. Gypsum may have manufactured other adhesives for resale during the 1970's, but it has been unable to verify such production.

This defendant manufactured a high temperature block insulation product for A. P. Green Refractories Company for an eighteen month period in 1970 and 1971.

Further, this defendant manufactured ~~SprayDon Fireproofing from 1966 to 1971~~ for the Sprayon Research Corporation. Those products were sold and distributed by Sprayon Research Corporation and Metropolitan Spray, and manufactured according to Sprayon specifications by this defendant.

The above-referenced documents will be made available for plaintiff's inspection through U.S. Gypsum's offices at 125 S. Franklin Street, Chicago, Illinois.

2. Objection. This Interrogatory is overbroad in scope of time. This defendant discontinued manufacturing products with asbestos as part of their formulations in 1977. Inquiries into years subsequent to 1977 will not lead to the discovery of admissible evidence. In addition, this defendant, to its best current knowledge, information and belief, did not "install" asbestos-containing products. Further, this defendant did not sell raw asbestos or "equipment/machinery." Without waiving these objections, see this defendant's response to Interrogatory No. 1.

3. Objection. This Interrogatory is overbroad in scope of time. This defendant discontinued manufacturing products with asbestos as part of their formulations in 1977. Inquiries into years subsequent to 1977 will not lead to the discovery of admissible evidence. In addition,

plaintiff is attempting to use this discovery procedure as a substitute for his own efforts to uncover information. This defendant has no such information other than what it may have developed to defend this litigation and which is subject to attorney work product and attorney client privilege.

4. Objection. This Interrogatory is overbroad in scope of time. This defendant discontinued manufacturing products with asbestos as part of their formulations in 1977. Inquiries into years subsequent to 1977 will not lead to the discovery of admissible evidence. In addition, plaintiff is attempting to use this discovery procedure as a substitute for his own efforts to uncover information. This defendant has no such information other than what it may have developed to defend this litigation and which is subject to attorney work product and attorney client privilege. Furthermore, defendant objects to this request on the grounds that it is burdensome, vague, conclusory, ambiguous, overly broad, irrelevant and not calculated to lead to the discovery of relevant information.

5. Objection. This Interrogatory is overbroad in scope of time. This defendant discontinued manufacturing products with asbestos as part of their formulations in 1977. Inquiries into years subsequent to 1977 will not lead to the discovery of admissible evidence. In addition, plaintiff is attempting to use this discovery procedure as a substitute for his own efforts to uncover information. This defendant has no such information other than what it may have developed to defend this litigation and which is subject to attorney work product and attorney client privilege. Furthermore, defendant objects to this request on the grounds that it is burdensome, vague, conclusory, ambiguous, overly broad, irrelevant and not calculated to lead to the discovery of relevant information.

6. Objection. This Interrogatory is overbroad in scope of time. This defendant discontinued manufacturing products with asbestos as part of their formulations in 1977. Inquiries

into years subsequent to 1977 will not lead to the discovery of admissible evidence. In addition, plaintiff is attempting to use this discovery procedure as a substitute for his own efforts to uncover information. This defendant has no such information other than what it may have developed to defend this litigation and which is subject to attorney work product and attorney client privilege. Furthermore, defendant objects to this request on the grounds that it is burdensome, vague, conclusory, ambiguous, overly broad, irrelevant and not calculated to lead to the discovery of relevant information.

7. Objection. This Interrogatory is overbroad in scope of time. This defendant discontinued manufacturing products with asbestos as part of their formulations in 1977. Inquiries into years subsequent to 1977 will not lead to the discovery of admissible evidence. In addition, this Interrogatory is overbroad, unduly burdensome, irrelevant, immaterial and will not lead to the discovery of admissible evidence. Without waiving this objection, this defendant will make available to plaintiff for his inspection and review, copies of asbestos-related personal injury complaints filed against U.S. Gypsum Company. Said documents will be made available to plaintiff at a mutually convenient time through U.S. Gypsum's offices at 125 South Franklin Street, Chicago, Illinois 60606.

8. Objection. This Interrogatory is overbroad in scope of time. This defendant discontinued manufacturing products with asbestos as part of their formulations in 1977. Inquiries into years subsequent to 1977 will not lead to the discovery of admissible evidence. In addition, this defendant, to its best current knowledge, information and belief, did not "install" asbestos-containing products. Without waiving these objections, non-privileged, responsive documents, to the extent they exist, will be made available to plaintiff at a mutually convenient time through U.S. Gypsum Company's offices at 125 South Franklin Street, Chicago, IL.

9. To this defendant's best current knowledge, information and belief, no legal proceedings have been brought against it by persons claiming damage to property interests related to asbestos-containing products at the sites listed in rider attached to plaintiffs' interrogatories.

10. To this defendant's best current knowledge, information and belief, no state or federal administrative proceedings have been brought against it by persons claiming damage to property interests related to asbestos-containing products at the sites listed in rider attached to plaintiffs' interrogatories.

11. To this defendant's best current knowledge, information and belief, this defendant has been involved in no asbestos abatement programs related to asbestos-containing products at the sites listed in rider attached to plaintiffs' interrogatories.

RESPONSES TO REQUESTS FOR PRODUCTION

1. Non-privileged, responsive documents, to the extent they exist, will be made available to plaintiff at a mutually convenient time through U.S. Gypsum Company's offices at 125 South Franklin Street, Chicago, IL.

2. Objection. Information responsive to this Request is confidential and protected by attorney client and attorney work product doctrine.

3. Objection. Information responsive to this Request is confidential and protected by attorney client and attorney work product doctrine.

4. Objection. This Request is overbroad in scope of time. This defendant discontinued manufacturing products with asbestos as part of their formulations in 1977. Inquiries into years subsequent to 1977 will not lead to the discovery of admissible evidence. In addition, this defendant, to its best current knowledge, information and belief, did not "install" asbestos-containing products. Without waiving these objections, non-privileged, responsive documents, to the extent they

exist, will be made available to plaintiff at a mutually convenient time through U.S. Gypsum Company's offices at 125 South Franklin Street, Chicago, IL.

5. Objection. This Request is overbroad in scope of time. This defendant discontinued manufacturing products with asbestos as part of their formulations in 1977. Inquiries into years subsequent to 1977 will not lead to the discovery of admissible evidence. Without waiving this objection, non-privileged, responsive documents, to the extent they exist, will be made available to plaintiff at a mutually convenient time through U.S. Gypsum Company's offices at 125 South Franklin Street, Chicago, IL.

6. Objection. This Request is overbroad in scope of time. This defendant discontinued manufacturing products with asbestos as part of their formulations in 1977. Inquiries into years subsequent to 1977 will not lead to the discovery of admissible evidence. In addition, there has been no allegation that plaintiff was ever an employee of this defendant. Therefore, this Request is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence.

7. Objection. This Request is overbroad in scope of time. This defendant discontinued manufacturing products with asbestos as part of their formulations in 1977. Inquiries into years subsequent to 1977 will not lead to the discovery of admissible evidence. Without waiving this objection, U.S. Gypsum does not possess any records maintained in the normal course of business which identify who the ultimate user of the product was or where it was installed. With that limitation, U.S. Gypsum responds as follows: Prior to 1966, U.S. Gypsum sold its construction products, some of which may have contained small amounts of asbestos, exclusively through independent dealers. Beginning in about 1966, U.S. Gypsum sold its construction products either

directly to independent contractors, independent distributors or, as had previously been the custom, through independent dealers.

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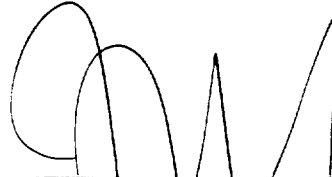
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11. To this defendant's best current knowledge, information and belief, no legal proceedings have been brought against it by persons claiming damage to property interests related to asbestos-containing products at the sites listed in rider attached to plaintiffs' interrogatories. However, plaintiff is invited to perform his own search for non-privileged, responsive documents, to the extent that they exist, will be made available to plaintiff at a mutually convenient time through U.S. Gypsum's offices at 125 South Franklin Street, Chicago, Illinois 60606.

12. To this defendant's best current knowledge, information and belief, no state or federal administrative proceedings have been brought against it by persons claiming damage to property interests related to asbestos-containing products at the sites listed in rider attached to plaintiffs' interrogatories. However, plaintiff is invited to perform his own search for non-privileged, responsive documents, to the extent that they exist, will be made available to plaintiff at a mutually convenient time through U.S. Gypsum's offices at 125 South Franklin Street, Chicago, Illinois 60606. Non-privileged, responsive documents, to the extent they exist, will be made available to plaintiff at a mutually convenient time through U.S. Gypsum Company's offices at 125 South Franklin Street, Chicago, IL.

13. Non-privileged, responsive documents, to the extent they exist, will be made available to plaintiff at a mutually convenient time through U.S. Gypsum Company's offices at 125 South Franklin Street, Chicago, IL.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Judith A. Yavitz', written over a horizontal line.

Judith A. Yavitz, Esq.
Whitman G.S. Knapp, Esq.
ANDERSON KILL & OLICK, P.C.
1251 Avenue of the Americas
New York, New York 10020-1182

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

VERIFICATION

I, M. K. Kendall, declare:

I am the Analytical Services Manager, of United States Gypsum Company, one of the above named defendants, and am authorized to make this verification for and on behalf of said company;

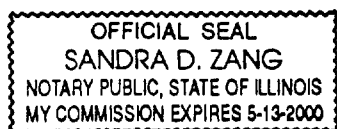
I have read the foregoing Answers, Objections, and other Responses to Plaintiff's Interrogatories and Requests for Production and am informed and believe that the same is true and on that ground allege that the matters therein stated are true.

I declare, under penalty of perjury, that the foregoing is true and correct, and that this declaration was executed on August 18, 1999 in Chicago, Illinois.

M. K. Kendall
M. K. Kendall

Subscribed and sworn to before me
this 18 day of August, 1999.

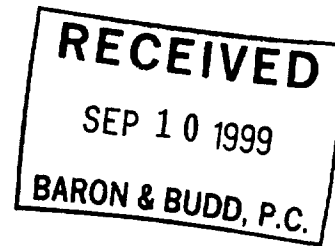
Sandra D. Zang
Notary Public



ANDERSON KILL & OLICK, P.C.

ATTORNEYS AND COUNSELLORS AT LAW

1251 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10020-1182
(212) 278-1000
FAX: (212) 278-1733



WRITER'S DIRECT LINE:

(212) 278-1463

September 9, 1999

Roberta Ashkin, Esq.
Baron & Budd, P.C.
660 Madison Avenue
New York, NY 10021

Re: **William Moulton** **103587/98**

Dear Ms. Ashkin:

Enclosed please find the Response of United States Gypsum Company to Plaintiffs' First Set of Product Identification Interrogatories and Document Requests.

Sincerely,

A handwritten signature in black ink, appearing to read "Alice Jurish", written over the typed name.

Alice Jurish
Legal Assistant

Enclosure