

COPY

CAUSE NO. 2000-05-1962-C

FILED	6:00	O'CLOCK	M
AURORA DE LA GARZA DIST. CLERK			
JAN 18 2001			
DISTRICT COURT OF CAMERON COUNTY, TEXAS			
Elvira S. Ortiz DEPUTY			

ROBERT HENRY VILLARREAL,
Individually and as Personal Representative
of the Heirs and Estate of JOHN HENRY
VILLARREAL

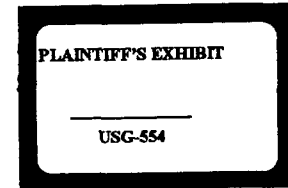
Plaintiffs,

vs.

GAF CORPORATION
HOLDINGS, INC.), ET AL.

Defendants.

IN THE DISTRICT COURT OF



CAMERON COUNTY, TEXAS

197TH JUDICIAL DISTRICT

**MOTION IN LIMINE OF DEFENDANT UNITED
STATES GYPSUM COMPANY TO EXCLUDE EVIDENCE
AND ARGUMENT RELATING TO MIRIELLO ISSUE**

Defendant United States Gypsum Company ("U.S. Gypsum") hereby moves as follows to exclude all evidence and argument relating to Ben Miriello, a letter written by him, and the matters discussed in that letter:

1. At the trial of this matter, plaintiff may seek to introduce a copy of a letter written by a Ben Miriello to U.S. Gypsum, dated June 8, 1950.
2. In that letter, Mr. Miriello asserts that his father worked in a U.S. Gypsum facility, was occupationally exposed to raw asbestos fibers, and died as a result of his exposure.
3. Plaintiff presumably offers this letter to demonstrate U.S. Gypsum's knowledge in 1950 of the alleged danger of exposure to asbestos.
4. This evidence is inadmissible for at least four reasons.
 - (a) Mr. Miriello is not competent to testify to the matters in this letter.
 - (b) The letter contains multiple layers of hearsay.

(c) The letter is irrelevant.

(d) Even if deemed minimally relevant, the letter's probative value is far outweighed by its prejudicial effect.

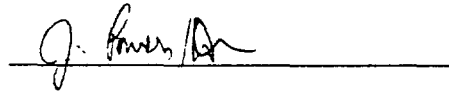
5. Plaintiff also has listed as exhibits additional documents relating to the subject matter of the Miriello letter, and may also seek to read deposition testimony of Mr. Miriello.

6. Additional support for this motion is contained in the accompanying memorandum of law, which is incorporated by reference herein.

WHEREFORE, U.S. Gypsum respectfully requests that the Court enter an Order excluding any evidence or argument relating to Mr. Miriello, his letter, or the matters contained in that letter.

Respectfully submitted,

POWERS & FROST, L.L.P.



James H. Powers
Texas State Bar No. 16217400
Sharla J. Frost
Texas State Bar No. 07491100
Gwendolyn S. Frost
Texas State Bar No. 07488750
2600 Two Houston Center
909 Fannin
Houston, Texas 77010
Telephone: (713) 767-1555
Facsimile: (713) 767-1799

**ATTORNEYS FOR DEFENDANT UNITED
STATES GYPSUM COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct of Defendant United States Gypsum Company's Motion in Limine has been forwarded to Plaintiffs' counsel of record either by first class mail, return receipt requested, delivery or facsimile on this the 12th day of January, 2001.

