

SUPREME COURT OF THE STATE OF NEW YORK
SEVENTH JUDICIAL DISTRICT

In Re Seventh Judicial District
Asbestos Litigation

SEVENTH JUDICIAL DISTRICT
ASBESTOS LITIGATION

This Document Applies to:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ONTARIO

ANNE M. TINKER, Executrix of the
Estate of TIMOTHY W. TINKER, Deceased,
and Individually as the Surviving
Spouse of TIMOTHY W. TINKER,

Plaintiff, CASE NO. 83778

vs.

A.E. CLEVITE, INC.;
et al.,

Defendants.

PLAINTIFFS' FIRST SET OF INTERROGATORIES
[PRODUCT DEFENDANTS]

TO: Thomas M. VanStrydonck, Esq.
Trevett, Lenweaver & VanStrydonck, P.C.
Attorneys for Defendant MACK TRUCKS, INC.
700 Reynolds Arcade
16 East Main Street
Rochester, NY 14614-1803

Respectfully submitted,

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DATED: July __, 1996
Buffalo, New York

INSTRUCTIONS

INTERROGATORIES ARE CONTINUING IN NATURE

These Interrogatories shall be deemed continuing and supplemental responses shall be required promptly if the Defendant directly or indirectly obtains further information.

Pursuant to Civil Practice Law and Rules Section 3132, the Plaintiff demands that the Defendant hereby respond under oath to Plaintiff's First Set of Interrogatories [Product Defendants] within sixty (60) days of the service of these documents.

SPECIAL INSTRUCTIONS

These Interrogatories apply both to the A.E. Clevite and McCord activities or division of J.P. Industries.

DEFINITIONS

As used in these interrogatories, the following words and terms shall mean and include the following:

1. "Plaintiff" means Timothy Tinker and Ann Tinker.
2. "Defendant" or any synonym thereof means the defendant corporation answering these interrogatories, as well as all, divisions, predecessors-in-interest, subsidiaries, agents, servants and employees, officers, executives, directors, private investigators, attorneys, representatives or others who are in possession of or who may have obtained information or knowledge for or on behalf of the defendant.
3. "You" or "Your" unless otherwise specified means the responding defendant. Present tense should be construed as also including past tense.
4. "Predecessor" means any corporation, entity, or assets at any time acquired or possessed by the defendant through any means including merger, consolidation, stock purchase, asset purchase, assumption, etc.
5. "Produce" means attach, make available or authorize the obtaining of any materials or documents requested to be produced for the purpose of inspection and/or copying.

PLAINTIFF'S FIRST SET OF INTERROGATORIES
[PRODUCT DEFENDANTS]

1. DATA SOURCES

A. Identify each person with whom you consulted or who provided information used in answering these Interrogatories and specify the Interrogatory for which information was given.

B. Identify each person's:

- (1) Address;
- (2) Position with the Defendant.

2. CORPORATE INFORMATION

State the following:

- A. Defendant's correct corporate name;
- B. State of your incorporation;
- C. Address of your principal place of business;
- D. Dates and time period during which defendant held a certificate of authority to do business in the state of New York;
- E. Dates and time period during which defendant regularly conducted business in New York.

3. CORPORATE HISTORY

A. Describe in detail Defendant's complete corporate or business history for all business entities that were involved, in any manner, in the sale, manufacture, and/or distribution of asbestos and/or asbestos containing products.

B. State whether or not you have or have had subsidiary or predecessor corporation(s), and if so:

- (1) The name of the subsidiary and/or predecessor;
- (2) Its date(s) of incorporation, if a corporation;
- (3) Its state(s) of incorporation;

- (4) Its corporate purposes;
- (5) Whether the subsidiary or predecessor was involved in any manner in the sale, manufacture, and/or distribution of asbestos-containing products
 - (a) The years that the subsidiary or predecessor was involved in the sale, manufacture, and/or distribution of asbestos-containing products.
 - (b) A description of the nature or type of asbestos that the subsidiary or predecessor sold, manufactured, or distributed.

4. **ASBESTOS/MANUFACTURE**

Has Defendant at any time, engaged in the manufacture of any asbestos containing product? If so, please state:

- A. The years during which such activity took place;
- B. If such activity was terminated, the reason why;
- C. Identify the organizational unit of Defendant so engaged.

5. **ASBESTOS/SALES - DISTRIBUTOR**

Has Defendant at any time, engaged in the sale and/or distribution of any asbestos containing product? If so, please state:

- A. The years during which such activity took place;
- B. If such activity was terminated, the reason why;
- C. Identify the organizational unit of Defendant so engaged.

6. **ASBESTOS/REBRANDING - RELABELING**

Has Defendant at any time, engaged in the rebranding or relabeling of asbestos containing products manufactured by other companies or entities? If so,

- A. Identify such other companies or entities;
- B. Indicate the specific asbestos products rebranded for each company;
- C. Provide the dates of such rebranding.

7. **ASBESTOS PRODUCTS - MANUFACTURE**

- A. Have you ever manufactured any of the following category of asbestos-containing products:
 - (1) Brakes and brake products including but not limited to brake shoes and brake linings, brake pads and brake assemblies;
 - (2) Clutches, clutch facings, and any other clutch products;
 - (3) Gaskets.
- B. If so, as to each category of asbestos products state:
 - (1) The time period that product was manufactured;
 - (2) Product trade name;
 - (3) Percentage of asbestos in product;
 - (4) Type of asbestos in product (i.e., chrysotile, amosite, crocidolite);
 - (5) Product size;
 - (6) Product color;
 - (7) Describe packaging of asbestos product as to:
 - a. The type box/container used;
 - b. The date each type of box/container was used;
 - c. A physical description thereof, including the size and color of the box/container;

d. A description of size and color of any printed material that appeared on or in the box/container stating:

- ((1)) A verbatim statement of any warnings or cautions;
- ((2)) The date(s) each warning or caution was first used and last used;
- ((3)) Identify and produce a copy of the warning or caution.

8. ASBESTOS PRODUCTS - SOLD

A. Have you ever sold any of the following category of asbestos-containing products:

- (1) Brakes and brake products including but not limited to brake shoes and brake linings, brake pads and brake assemblies;
- (2) Clutches, clutch facings, and any other clutch products;
- (3) Gaskets.

B. From what company or companies did you purchase the asbestos-containing product identified in Interrogatory No. 8A(1)-(3)? NOTE: If you purchased an asbestos product from more than one company, indicate in Interrogatory No. 8C(1)-(7) each company and each asbestos product.

C. If so, as to each category of asbestos products identified in Interrogatory No. 8A(1)-(3) state:

- (1) The time period that product was sold;
- (2) Product trade name;
- (3) Percentage of asbestos in product;
- (4) Type of asbestos in product (i.e., chrysotile, amosite, crocidolite);
- (5) Product size;
- (6) Product color;

- (7) Describe packaging of asbestos product as to:
- a. The type box/container used;
 - b. The date each type of box/container was used;
 - c. A physical description thereof, including the size and color of the box/container;
 - d. A description of size and color of any printed material that appeared on or in the box/container stating:
 - ((1)) A verbatim statement of any warnings or cautions;
 - ((2)) The date(s) each warning or caution was first used and last used;
 - ((3)) Identify and produce a copy of the warning or caution.

9. **TESTING**

Were any tests conducted of the asbestos products listed in Interrogatory No. 7 or 8 to determine potential health hazards involved in the products' use or handling? If so, state as to each asbestos product:

- A. The identify of each individual or firm who conducted such tests;
- B. The date, purpose, and result of each such test;
- C. Identify and produce all documents relating to such tests.

10. **ASBESTOS FREE PRODUCTS**

For each asbestos containing product identified in Interrogatory Answer No. 7 and 8, state:

- A. Was the product, or a substitute for that product, ever manufactured and/or sold by you without asbestos; if so, when did the manufacture and/or sale of the product commence;

- B. The brand name of the asbestos free product;
- C. The reason product was manufactured without asbestos;
- D. Was the asbestos-containing counterpart of the product manufactured and/or sold while the asbestos-free counterpart was being manufactured and/or sold, and, if so, provide the time periods.

11. KNOWLEDGE/ASBESTOSIS - LUNG CANCER - MESOTHELIOMA

A. State whether Defendant obtained, prior to 1980, any knowledge concerning the association, if any, between the inhalation of asbestos fibers and: (1) asbestosis; (2) lung cancer; (3) mesothelioma. If so, state as to (1) asbestosis; (2) lung cancer; (3) mesothelioma:

- (1) When this knowledge was first acquired;
- (2) How it was acquired;
- (3) Identify by whom it was acquired;
- (4) State the substance of the knowledge acquired.

B. Identify all documents relevant to your acquisition of knowledge concerning the disease and the custodian thereof.

12. WARNING/INSERT

Has Defendant ever placed any form of package insert or informative brochure in a box/container of an asbestos-containing product, listed in response to Interrogatory 7 and 8, explaining the health hazards of asbestos? If so, state as to each such insert or brochure:

- A. When was it first placed in containers and for what years thereafter;
- B. What products had the insert or brochure included;
- C. Provide a verbatim statement of the insert.

13. WARNING/MASK

Has Defendant ever placed any form of disposable face mask or respirator in a container of an asbestos-containing product? If so, please state:

- A. The products covered by the practice;
- B. The year this practice began and the years it was implemented;
- C. Describe the type of face mask or respirator included in the container.

14. TRADE ASSOCIATION

A. State the names and addresses of all professional, industrial, health and safety organizations to which you have belonged which have anything to do with the health effects of asbestos, the proper methods of working with asbestos, methods of controlling asbestos dust, setting of standards or regulations, information, lobbying, research, engineering, or use of asbestos products, materials, or fibers.

B. As to each trade association state the date of membership.

15. WORKMEN COMPENSATION CLAIMS

Have you had any claims of employees alleging injury due to asbestos exposure? If so, state:

- A. The date the claim was filed;
- B. The type and description of the injury claimed;
- C. The name of the claimant;
- D. The disposition of the claim;
- E. Identify and produce all documents relating to each workmen compensation claim.

STATE OF _____:

COUNTY OF _____:

BEFORE ME, a Notary Public, personally appeared _____
_____, who being duly sworn according to law deposes
and says that he/she is the _____, of _____
_____, and that he/she is authorized to make this
affidavit on its behalf, and that the facts contained in the
foregoing Answers to Plaintiff's First Set of Interrogatories are
true and correct to the best of his/her knowledge and belief.

SWORN TO AND SUBSCRIBED
before me this _____ day
of _____, 1996.

NOTARY PUBLIC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document, "Plaintiff's First Set of Interrogatories [Product Defendant]," was served on the counsel of record listed below by regular U.S. Mail on the ____ day of July, 1996.

TO: Thomas M. VanStrydonck, Esq.
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