

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.

PLAINTIFF'S SECOND SET OF INTERROGATORIES
[VEHICLE AND ENGINE INTERROGATORIES/PRODUCT DEFENDANTS]

TO: Cynthia Weiss Antonucci, Esq.
Lester, Schwab, Katz & Dwyer
Attorneys for Defendant BEAVER DAM PRODUCTS CORPORATION
120 Broadway
38th Floor
New York, NY 10271-0071

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 Second Set of Interrogatories [Vehicle & Engine Interrogatories/Product Defendants] within sixty (60) days of the service of these documents.

DEFINITIONS

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

1. "Plaintiff" means TIM 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.
6. "Associated Business Entity" or "Business entity associated with you" means any business entity that is and/or was a predecessor in interest, a division and/or a subsidiary of the answering Defendant.
7. "Vehicle" means all vehicles except automobiles.
8. "Component part," as used in these Interrogatories, means: (a) any brake products, including but not limited to brake shoes and brake linings, brake pads and brake assemblies;

(b) clutch products including but not limited to clutches or clutch facings; and (c) gaskets.

9. "Remanufacturer" means any entity which reassembles, rebuilds, or reconstructs any vehicle or engine manufactured by another entity.

10. "Manufacturer of vehicles containing asbestos" means any entity that assembles, puts together, or manufactures any vehicle which contains asbestos or which contains component parts which contain asbestos, regardless of whether that entity actually designs, assembles, or puts together the component part itself, or which in any way processes or packages vehicles containing component parts containing asbestos.

11. "Manufacturer of engines containing asbestos" means any entity that assembles, puts together, or manufactures any engine which contains asbestos or which contains component parts which contain asbestos, regardless of whether that entity actually designs, assembles, or puts together the component part itself, or which in any way processes or packages engines containing component parts containing asbestos.

12. "Distributor of vehicles containing asbestos" means any entity which ships or in any way directs shipments of vehicles containing component parts containing asbestos.

13. "Distributor of engines containing asbestos" means any entity which ships or in any way directs shipments of engines containing component parts containing asbestos.

PLAINTIFF'S SECOND SET OF INTERROGATORIES
[VEHICLE & ENGINE 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. PURCHASE OF ASBESTOS COMPONENT PARTS

List the name, principal place of business of every manufacturer or remanufacturer, and years from whom you purchased the following asbestos-containing component parts for any of your vehicles (except automobiles) or engines during the years 1970-1980.

- A. any clutch products, including but not limited to clutches, clutch assemblies and clutch facings
- B. any brake products, including, but not limited to brake shoes and brake linings, brake assemblies, or brake pads
- C. gaskets

3. MANUFACTURE OF ASBESTOS COMPONENT PARTS

State whether and what years Defendant manufactured or remanufactured any of the following asbestos-containing parts for any of your vehicles (except automobiles) or engines during the years 1970-1980.

- A. any clutch products, including but not limited to clutches, clutch assemblies and clutch facings
- B. any brake products, including, but not limited to brake shoes and brake linings, brake assemblies, or brake pads

C. gaskets

4. SALE OF ASBESTOS COMPONENT PARTS

State whether Defendant sold any of the asbestos-containing component parts during the years 1970-1980 listed in Interrogatory No. 2, either directly or through any of your agents or independent dealers.

If so, state: (1) which component parts you or your agents or independent dealers sold, (2) state the years these component parts were sold, and (3) the trade name(s) under which the component parts were sold.

5. MANUFACTURE OF VEHICLES/ENGINES CONTAINING ASBESTOS COMPONENT PARTS

Has Defendant engaged from 1970 through 1980 in the manufacture or remanufacture of any vehicle (except automobiles) or engine containing any of the asbestos component parts listed in Interrogatory No. 2? If so, state:

- A. Which asbestos-containing part;
- B. The amount of asbestos (%) and fiber type.
- C. The years during which such activity took place;
- D. If such activity was terminated, the reason why.

6. SALE OF VEHICLES/ENGINES CONTAINING ASBESTOS COMPONENT PARTS

Has Defendant engaged from 1970 through 1980 in the sale of any vehicles (except automobiles) or engines containing any of the asbestos component parts listed in Interrogatory No. 2? If so, state:

- A. Which asbestos-containing part;
- B. The amount of asbestos (%) and fiber type.
- C. The date such activity began;

- D. The date when such activity was terminated.

7. RELABELLING OF ASBESTOS COMPONENT PARTS

Has Defendant from 1970 through 1980 engaged in the relabelling or rebranding of any of the asbestos component parts listed in Interrogatory No. 2 manufactured in whole or in part by an unrelated business entity? If so, state:

- A. Which asbestos-containing part;
- B. The name of the unrelated business entity which manufactured the component part;
- C. The component part's original trade and/or brand name;
- D. Who performed the physical relabelling or rebranding and where it was accomplished;
- E. The years during which such activity took place;
- F. The brand name and/or trade name after the product was rebranded;
- G. The amount of asbestos (%) and fiber type;
- H. Whether the rebranded or relabelled parts were ever placed in any of the Defendant's vehicles or engines.

8. TESTING

Were any tests conducted on any asbestos-containing component parts identified in Interrogatory No. 2, 3, 4, 5, 6, or 7 to determine:

- 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.

9. WARNING/DESCRIPTION

For each of the component parts listed in Interrogatory No. 2 which contained asbestos and which were placed in your vehicles (except automobiles) or engines during the period between 1970-80, state whether you placed any caution, warning or hazard statement or explanation involving asbestos on either the component part, the vehicle or engine in which the component part was placed.

If so, provide as to each component part the following information as to the caution, warning or hazard statement:

- A. Its precise wording;
- B. Where was it located on the product, packaging, and what was the size and color of the lettering.
- C. Has the wording or its presentation ever been altered, and if so, how and when;
- D. The years during which each version of a caution, warning or hazard statement appeared on each component part;
- E. Identify all documents relating to the warning.

10. WARNING/INSERT

If you sold or resold any of the component parts listed in Interrogatory No. 2 which contained asbestos, either directly or through any of your independent dealers, did you ever place any form of package insert or informative brochure in the container accompanying the component part explaining the 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;
- D. Identify all documents relating to the warning.

11. WARNING/MASK

If you sold or manufactured any asbestos containing component parts listed in Interrogatory No. 4 and/or 5, did you ever place any form of disposable face mask or respirator in a container for later use by persons who would handle and/or be exposed to such parts? If so, please state:

- A. The parts 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.

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 Second 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 Second Set of Interrogatories [Vehicle & Engine Interrogatories/Product Defendants]," was served on the counsel of record listed below by regular U.S. Mail on the ____ day of July, 1996.

TO: Cynthia Weiss Antonucci, Esq.
Lester, Schwab, Katz & Dwyer
Attorneys for Defendant BEAVER DAM PRODUCTS CORPORATION
120 Broadway
38th Floor
New York, NY 10271-0071

MICHAEL A. PONTERIO
ATTORNEY FOR PLAINTIFF