

NO. 94-02380

IN RE:

ASBESTOS LITIGATION

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IN THE DISTRICT COURTS OF

TRAVIS COUNTY, TEXAS

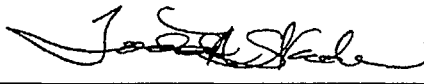
DEFENDANT KELLY-MOORE PAINT COMPANY, INC.'S
AMENDED (02-20-03) OBJECTIONS AND RESPONSES TO
PLAINTIFFS' MASTER INTERROGATORIES AND REQUESTS
FOR PRODUCTION PROPOUNDED TO DEFENDANTS

COMES NOW Defendant Kelly-Moore Paint Company, Inc. and files these *Amended (02-20-03) Objections and Responses to Plaintiffs' Master Interrogatories and Requests for Production Propounded to Defendants* pursuant to the Texas Rules of Civil Procedure and the Standing Order dated February 23, 1994 adopting these Interrogatories and requests for production as the Master Discovery Requests in this matter.

Respectfully submitted,

BROWN MCCARROLL, L.L.P.

By:



TODD N. WADE

State Bar No. 20627500

KAY ANDREWS

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111 Congress Avenue, Suite 1215

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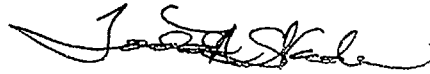
(512) 472-5456 (Telephone)

(512) 479-1155 (Facsimile)

ATTORNEYS FOR DEFENDANT:
KELLY-MOORE PAINT COMPANY, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing instrument was forwarded to the court and plaintiffs' counsel via certified mail, return receipt requested, and by regular mail to all other counsel of record on the 28th day of February, 2003.



Todd N. Wade

All Known Plaintiffs' Counsel (*see attached service list*)

All Known Defense Counsel of Record (*see attached service list*)

OBJECTIONS TO PLAINTIFFS' DEFINITIONS AND INSTRUCTIONS

1. Defendant objects to Plaintiffs' definitions of "Defendant," "You," "Yours," and "Your Company," on the grounds that the definitions are overbroad, unduly burdensome, and seek irrelevant information, because the definitions include persons or entities (e.g., affiliates, predecessors in interest, subsidiaries, divisions, agents, and "all other persons acting or purporting to act on behalf of the corporate Defendant") over whom Defendant has no control, who are not parties to this suit, and for whom the Defendant would have no responsibility. Furthermore, Defendant objects that inclusion of these additional persons and entities within Plaintiffs' definitions renders the definitions vague and ambiguous with respect to the capacity in which Plaintiffs desire these Interrogatories and requests for production to be answered.

2. Defendant objects to Plaintiffs' definition of "document," "documents," "written materials," and "printed matter" on the grounds that the definition is vague, ambiguous, overly broad, unduly burdensome, and constitutes harassment, because the definition attempts to expand and enlarge the definition of "document" contained in the Texas Rules of Civil Procedure, Rule 192.3(b). Additionally, Plaintiffs' request that Defendant produce those documents beyond those currently in its possession, custody or control exceeds the scope of Rule 192.3(b). Furthermore, Plaintiffs' instruction in section (2) of the definition requiring Defendant to produce responsive documents "regardless of who now has or formerly had custody, possession or control" clearly exceeds the scope of Rule 192.3(b) and is harassing and unduly burdensome. Finally, regarding Plaintiffs' instruction to produce all documents in the possession, custody or control of Defendant's "subsidiaries ... or merged or acquired predecessors," Defendant objects on the basis set forth in Objection No. 1, *supra*.

**GENERAL OBJECTIONS APPLICABLE TO ALL
INTERROGATORIES AND REQUESTS FOR PRODUCTION**

1. Defendant further objects to Plaintiffs' requests for production to the extent that Plaintiffs seek to impose a duty or obligation upon Defendant to produce any documents or things which are not currently in Defendant's possession, custody, or control on the grounds that Plaintiffs seek to impose requirements, obligations, and duties on Defendant not prescribed by the Texas Rules of Civil Procedure. Defendant will make a good-faith effort to produce all non-privileged documents, which are properly discoverable under the Texas Rules of Civil Procedure and Evidence, which are, as of the date of this response, within Defendant's possession, custody, or control, which have not previously been produced to Plaintiffs, and which Defendant identifies as responsive to Plaintiffs' requests. Defendant will not produce any documents obtained by Defendant after the date of this response, except to the extent required by Rule 193.5 of the Texas Rules of Civil Procedure, or except as necessary to properly respond to any subsequent discovery requests.

2. Defendant objects to Plaintiffs' requests for production to the extent that any request requires Defendant to produce information and/or documentation within the public domain and equally available to Plaintiffs under the Freedom of Information Act and/or the Texas Open Records Act, from the United States Environmental Protection Agency and/or the Texas Natural Resource Conservation Commission, and/or OSHA, and/or any other appropriate federal or state agency.

3. Defendant objects to the extent these discovery requests are not limited to the time period when Kelly-Moore manufactured or sold any asbestos-containing product (December, 1960 to June, 1978). As Kelly-Moore has been sued in literally thousands of asbestos-related personal injury cases over the years, information has been developed subsequent to that time. Kelly-Moore's responses are thus generally limited to describing information known to it during or shortly after the time it manufactured or sold asbestos-containing products.

ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 1:

State the name, address, job title, length of time employed by Defendant, and a year-by-year list of all other positions, titles, of jobs held when working for Defendant or each person who has supplied any information used in answering these Interrogatories.

ANSWER: Objection: This Interrogatory is unduly burdensome to the extent it asks Defendant to identify each individual supplying any information used in answering these Interrogatories.

Subject to this objection and to the general objections, and without waiving the same, Defendant answers:

Mr. Herbert Giffins
President and Chief Executive Officer
987 Commercial Street
San Carlos, California 94070
Length of time employed: July 1985 to present.

Year by year list of all other positions, titles, or job held:

Merchandise Manger, 1985-1987; Vice-President of Store Operations, 1987-1996; President - Southwest Division, 1996-2002; President and Chief Executive Officer, 2002-Present.

INTERROGATORY NO. 2:

State whether or not you are a corporation. If so, state your correct corporate name, the state of your incorporation, the address of your principal place of business, the name and address of the person or entity authorized to accept service of process on your behalf, and whether or not you have ever held a Certificate of Authority to do business in the State of Texas.

ANSWER: Kelly-Moore Paint Company, Inc., is a California corporation, incorporated 12/4/52. The principal place of business is 987 Commercial Street, San Carlos, California 94070.

Todd Wade of Brown McCarroll, L.L.P., 111 Congress Avenue, Suite 1215, Austin, Texas 78701-4043, is authorized to accept service on behalf of Kelly-Moore Paint Company, Inc. in the State of Texas.

Kelly-Moore Paint Company, Inc., was qualified to do business in the State of Texas on October 14, 1964.

INTERROGATORY NO. 3:

Has Defendant or any of its predecessor or subsidiary companies at any time engaged in the mining and subsequent sale of material containing asbestos fibers? If so, identify the location of the mine(s), the years of its operation, the type of asbestos mined and whether you sold any asbestos to any defendants in the Dallas County asbestos litigation.

ANSWER: Subject to the general objections, and without waiving the same, Defendant answers:

Defendant never mined asbestos.

INTERROGATORY NO. 4:

Identify by name each product containing asbestos fibers that Defendant or any of its predecessor or subsidiary companies at any time manufactured or sold.

ANSWER: Objection: This Interrogatory is overly broad, and requests information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. The only products containing asbestos fibers which might be relevant to this lawsuit are those to which the Plaintiffs claim exposure. Defendant objects to providing information concerning asbestos-containing products to which the Plaintiffs do not claim exposure.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

See Exhibit A, attached to these Interrogatory answers and objections.

INTERROGATORY NO. 5:

Identify by name each product containing asbestos fibers that Defendant or any of its predecessor or subsidiary companies at any time marketed or sold.

ANSWER: Objection: This Interrogatory is overly broad, and requests information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. The only products containing asbestos fibers which might be relevant to this lawsuit are those to which the Plaintiffs claim exposure. Defendant objects to providing information concerning asbestos-containing products to which the Plaintiffs do not claim exposure.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

See Exhibit A.

INTERROGATORY NO. 6:

If the answer to one or more of the last three Interrogatories is in the affirmative or lists any products, state as to each named product the following:

- A. As to each product, state whether such product was mined, manufactured, marketed, and/or sold.
- B. The names of the companies mining, manufacturing, marketing, and/or selling each product mined, manufactured, marketed, and/or sold.
- C. The trade or brand name of each of those products mined, manufactured, marketed and/or sold.
- D. The date each of the named products was placed on the market.
- E. A description of the physical (chemical) composition of each of the named products, including the type of asbestos put in each product.
- F. The date each of the products was removed from the market and no longer sold or distributed and the reason or reasons therefor.
- G. The date asbestos was removed from such products, if ever, and the reasons therefor.
- H. A description of the physical appearance of each of the named products.
- I. A detailed description of the intended uses of the named products.
- J. Identify the last year that you sold each asbestos-containing product.

ANSWER: Objection: Defendant objects to this Interrogatory because it is not limited to any relevant time period or limited to the products to which Plaintiffs claim exposure. Furthermore, Defendant objects to this Interrogatory to the extent that Plaintiffs seek the production of confidential and proprietary business information and/or trade secrets, including the composition of each of the named products. Information concerning the composition of the products beyond asbestos content is protected from disclosure by privilege pursuant to Rule 507 of the Texas Rules of Civil Evidence. Disclosure of such information would be materially damaging to Defendant's business. Furthermore, information concerning the composition of products beyond asbestos is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

(a-j) Kelly-Moore Paint Company, Inc. manufactured, marketed and sold the products listed on Exhibit A. Please see Exhibit A for further details.

The products were generally sold under the Paco Textures Corporation name. Further details regarding the components of the various product formulas and the other details inquired about may be contained within the business records of Kelly-Moore pertaining to its involvement with asbestos-containing products. These documents are available for inspection and copying at the Kelly-Moore document repository, 987 Commercial Street, San Carlos, California 94070 upon reasonable notice. Responding generally, though, to the questions posed, Kelly-Moore can summarize its knowledge as follows:

The asbestos fiber type used by Kelly-Moore was chrysotile asbestos. It was purchased from three principal sources, Johns-Manville, Carey Canadian, and Union Carbide, directly or through their respective distributors. These distributors included Harrison & Crosfield (Pacific), of Emeryville, California, which distributed products on behalf of Union Carbide Corporation; E.S. Browning Corporation, which distributed products on behalf of Carey Canadian; and Thompson Hayward Company, which distributed on behalf of the Johns-Manville Sales Corporation.

Kelly-Moore manufactured products using asbestos as a raw ingredient from 1960 to 1978. On average, the products contained approximately 6% asbestos by weight in the product formulas. Starting in 1972, efforts were made to reduce or eliminate the use of asbestos in Paco's drywall related products. Over time, asbestos was totally eliminated from some products. The use of asbestos was reduced in other products. Some of the products saw a reduction in asbestos to less than ½ of 1% (by weight) of the product. In some cases, Paco was not successful in producing a commercially acceptable asbestos-free product.

In 1978, Kelly-Moore totally ceased manufacturing or selling any products which contained asbestos.

INTERROGATORY NO. 7:

Do any documents, including but not limited to written memoranda, specifications, recommendations, blueprints, or other written materials of any kind or character, relating to the design, preparation, or introduction into the market of the products listed in Interrogatory No. 6 still exist? If so, state:

- A. A description of each such document.
- B. The name, address, and job title of each person who currently has possession of each document, and where the documents are currently located.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it is overbroad, harassing, vague, ambiguous, and unduly burdensome. This Defendant removed all asbestos from its "patching compounds" (including joint compound) no later than 1978. Thousands of claims have since been made against Defendant for asbestos-related injuries, and numerous documents responsive to this Interrogatory have been collected from outside sources and/or developed by Defendant's attorneys and employees in order to defend against these claims. To the extent that this Interrogatory seeks documents that Defendant's attorneys or employees collected or developed in order to defend against asbestos-related injury claims, this Interrogatory is overbroad, harassing and unduly burdensome. Information responsive to this Interrogatory has been withheld pursuant to the work product, attorney-client, and consulting expert privileges.

Defendant herein incorporates by reference objections to Interrogatory 6. Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

- (a) To the extent Kelly-Moore has located or collected documents responsive to this Interrogatory which are not otherwise privileged, those documents are contained within Kelly-Moore's document repository in San Carlos, California. Defendant will make the documents available for inspection upon reasonable notice. The burden of deriving or ascertaining the answer to this Interrogatory from the records is substantially the same for Plaintiffs as for Defendant.

Defendant objects to this Interrogatory to the extent it seeks information protected by the attorney/client or work-product privilege. The custodian of records of these records is Herbert R. Giffins.

- (b) The documents are currently stored in a document repository at 987 Commercial Street, San Carlos, California 94070.

INTERROGATORY NO. 8:

Before distributing, selling, or placing the products listed in your responses to Interrogatory Nos. 3-6 into the streams of commerce, were any tests conducted to determine potential health hazards involved in the use of, or exposure to, the materials such as asbestos, contained in those products? If the answer is affirmative, state:

- A. The names of the products tested and the date of each test.
- B. The name, address, and job title of each person conducting the tests or involved with conducting the tests.
- C. The results of the tests.

ANSWER: Objection: Defendant objects to this Interrogatory as vague, ambiguous, and overly broad, to the extent that it requests information regarding testing of "materials" besides asbestos contained in defendant's products. Defendant further objects to this Interrogatory as vague and ambiguous because it is unclear whether plaintiff is limiting the Interrogatory to information concerning only those tests conducted by, authorized by, or known to Defendant; Defendant

will answer the Interrogatory assuming that the Interrogatory is so limited.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Before 1978, Kelly-Moore had received very few documents, all of which were prepared or written by others, relative to the medical literature regarding testing of health effects from asbestos or asbestos-containing products in general. These products may or may not be similar to the products identified on Exhibit A attached hereto. The documents Kelly-Moore received from others showed that the type of medical research necessary to understand the health effects of asbestos was very complex and specialized. The documents further showed that there appeared to be a consensus among medical researchers specializing in this field that while asbestos could cause adverse health effects, asbestos could also be used safely if exposure to respirable asbestos fibers was controlled or limited by safe work practices.

Kelly-Moore did not perform its own tests to determine potential health hazards involved in the use of, or exposure to the materials such as asbestos, as Kelly-Moore did not have the facilities nor expertise to conduct such tests. Kelly-Moore relied upon its raw material suppliers to advise Kelly-Moore of any known, possible, or potential adverse health effects associated with the use of the raw materials they supplied to Kelly-Moore, including asbestos. Prior to 1971 or early 1972, Kelly-Moore had not received information from any source indicating asbestos was potentially harmful to human health.

Starting in 1972, dust level exposure tests were conducted at Kelly-Moore's manufacturing facilities by Kelly-Moore's workers' compensation insurer, Liberty Mutual Insurance Company, through industrial hygienists provided by Liberty Mutual for that purpose. These tests measured dust levels associated with the manufacturing process. Kelly-Moore does not have complete records of these inspections. In addition, various regulatory agencies would also conduct tests of airborne dust levels at Kelly-Moore's facilities to determine compliance with applicable regulations.

Kelly-Moore is also aware that Union Carbide Corporation conducted tests of various joint compounds (although it is unknown if a Kelly-Moore product was used in these tests) in actual application at numerous job sites throughout the

United States. The results of that testing, which was designed to test levels of airborne asbestos dust, were published in a study by Union Carbide.

In addition, in 1975, a study was done of the amount of airborne asbestos dust from use of certain Kelly-Moore ceiling texture products. This study was conducted in Los Gatos, California. The Los Gatos testing of Kelly-Moore product showed that the normal use of the product generally did not create asbestos dust levels in excess of the permissible exposure levels set by the United States government as to exposure to certain airborne asbestos fibers.

Once Kelly-Moore learned of the potential for adverse health consequences from inhalation of asbestos in "patching compounds" (including joint compound and texture products) of the type manufactured by Kelly-Moore, Kelly-Moore undertook to research ways to make its products asbestos-free or, at a minimum, to try to reduce the amount of asbestos used in the product formulas. Ultimately, the use of asbestos as an ingredient was discontinued entirely in all products in 1978.

To the extent further information is in document form, responsive, non-privileged documents are located at Kelly-Moore's document repository in San Carlos, California, and are available for inspection upon reasonable notice. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 9:

Do any documents, including but not limited to written memoranda, specifications, recommendations, blueprints, or other written materials of any kind or character, relating to the testing of the products referred to in Interrogatory No. 6 now exist? If so, state:

- A. A description of each such document.
- B. The name, address, and job title of each person who currently has possession of each document, and where it is presently located.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it is overbroad, harassing, vague, ambiguous, and unduly burdensome. This Defendant removed all asbestos from its "patching compounds" (including joint compound) no later than 1978. The response to this Interrogatory is limited to the records of Kelly-Moore from the time period Kelly-Moore manufactured or sold

products which contained asbestos (1960-1978). Thousands of claims have since been made against Defendant for asbestos-related injuries, and numerous documents responsive to this Interrogatory have been collected from outside sources and/or developed by Defendant's attorneys and employees in order to defend against these claims. To the extent that this Interrogatory seeks documents that Defendant's attorneys or employees collected or developed in order to defend against asbestos-related injury claims, this Interrogatory is overbroad, harassing and unduly burdensome. Information responsive to this Interrogatory has been withheld pursuant to the work product, attorney-client, and consulting expert privileges.

Defendant herein incorporates by reference objections to Interrogatory No. 6. Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Yes. The answer to Subparts (a) and (b) of this Interrogatory may be derived or ascertained from the documents currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 10:

Did Defendant or any of its predecessor or subsidiary companies make any design changes or modifications as a result of those tests described in responses to Interrogatory No. 8? If the answer is affirmative, state:

- A. The trade names of the products changed.
- B. The nature of the changes made and the date of such changes or modifications.
- C. The name, address, and job title of each person responsible for having caused a change to be made, or having made a change or modification.

ANSWER: Objection: Defendant objects to this Interrogatory because it is not limited to any relevant time period. Furthermore, Defendant objects to this Interrogatory to the extent that Plaintiffs seek the production of confidential and proprietary business information and/or trade

secrets, including the composition of each of the named products. Information concerning the composition of the products beyond asbestos content is protected from disclosure by privilege pursuant to Rule 507 of the Texas Rules of Civil Evidence. Disclosure of such information would be materially damaging to Defendant's business. Furthermore, information concerning the composition of products beyond asbestos is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence.

Defendant herein incorporates by reference objections to Interrogatories 6 and 8. Subject to these objections and to the general objections set forth above, and without waiving the same, Kelly-Moore answers:

Yes. See responses to Interrogatories 6 and 8.

Beginning in the early 1970's, various Kelly-Moore employees were involved in efforts to develop asbestos-free formulas for various products. Kelly-Moore also worked to re-formulate its products to reduce the amount of asbestos fiber used in the product formula. In certain instances, Kelly-Moore was able to reduce the amount of asbestos to less than ½ of 1%, and Kelly-Moore was able to completely eliminate asbestos in other products. In some instances, Kelly-Moore was not successful in developing commercially usable asbestos-free formulations of certain products. In 1978, though, Kelly-Moore discontinued the use of asbestos in any product that it manufactured.

Douglas Merrill of Kelly-Moore was in charge of product reformulation between 1972 and 1978.

At various times from 1972-77, tests were conducted by Kelly-Moore on the commercial viability of, or effectiveness of, the asbestos-free or reduced asbestos formula products Kelly-Moore was working to develop. Over 236 different formulas were tested in Kelly-Moore's effort to develop commercially acceptable asbestos-free or reduced asbestos products.

To the extent documentation regarding the above information is available, those documents are available for inspection at Kelly-Moore's document repository in San Carlos, California, upon reasonable notice. The custodian of these records is Herbert R. Giffins, see Interrogatory No. 1. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 11:

After releasing the products listed in Interrogatory No. 6 to the public, were any tests conducted on them to determine potential health hazards resulting from the use of or exposure to the materials, such as asbestos, contained in those products? If the answer is affirmative, state:

- A. The names of the products tested and the dates of such tests.
- B. The name, address, and job title of each person who conducted those tests.
- C. The results of those tests.
- D. Whether, as a result of the tests, any products were removed from the market.
- E. The names of all products removed from the market as a result of these tests.

ANSWER: Objection: Defendant objects because this Interrogatory is not limited in time. Defendant further objects to this Interrogatory on the grounds that it is overbroad, harassing and unduly burdensome. This Defendant removed all asbestos from its "patching compounds" (including joint compound and texture products) no later than 1978. The response to this Interrogatory is limited to the records of Kelly-Moore from the time period Kelly-Moore manufactured or sold products which contained asbestos (1960-1978). Thousands of claims have since been made against Defendant for asbestos-related injuries, and numerous documents responsive to this Interrogatory have been collected from outside sources and/or developed by Defendant's attorneys and employees in order to defend against these claims. To the extent that this Interrogatory seeks documents that Defendant's attorneys or employees collected or developed in order to defend against asbestos-related injury claims, this Interrogatory is overbroad, harassing and unduly burdensome. Information responsive to this Interrogatory has been withheld pursuant to the work product, attorney-client, and consulting expert privileges.

Defendant further objects to this Interrogatory as vague, ambiguous, and overly broad, to the extent that it requests information regarding testing of "materials" besides asbestos contained in defendant's products. Defendant further objects to this Interrogatory as vague and ambiguous because it is not clear whether the Interrogatory is limited to a request for information concerning tests conducted or authorized by this Defendant; Defendant further objects to this Interrogatory as overbroad to the extent that it seeks information concerning tests neither conducted nor authorized by this Defendant.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Tests were conducted as described in response to Interrogatory No. 8 and 47. Kelly-Moore does not have complete records of these inspections. To the extent any further information is available regarding these tests, the answer to Subparts (a), (b), (c), (d), and (e) of this Interrogatory may be derived or ascertained from the documents currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 12:

Do any documents, including written memoranda, specifications, recommendations, blueprints, or other written materials of any kind or character, relating to the potential health hazards of the products listed in Interrogatory No. 6 now exist? If so, state:

- A. The name of each product.
- B. A description of each document and how it relates to each product.
- C. The name, address, and job title of each person who currently has possession of each document, and where it is presently located.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it is overbroad, harassing and unduly burdensome. This Defendant removed all asbestos from its products no later than 1978. Thousands of claims have since been made against Defendant for asbestos-related injuries, and numerous documents responsive to this Interrogatory have been collected from outside sources and/or developed by Defendant's attorneys and employees in order to defend against these claims. To the extent that this Interrogatory seeks documents that Defendant's attorneys or employees collected or developed in order to defend against asbestos-related injury claims, this Interrogatory is overbroad, harassing and unduly burdensome. Information responsive to this Interrogatory has been withheld pursuant to the work product, attorney-client, and consulting expert privileges. Further, defendant objects to this

Interrogatory as overbroad and unduly burdensome to the extent that it concerns documents neither generated by this Defendant nor known to this Defendant. Furthermore, Defendant objects to this Interrogatory as overbroad because it is not limited in scope to health hazards at issue in this suit.

Defendant herein incorporates by reference objections to Interrogatory No. 6. Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Yes. Kelly-Moore first began receiving written information pertaining to the potential health hazards of asbestos in late 1971 or early 1972. Before 1978, Kelly-Moore had received very few documents, all of which were prepared or written by others, relative to the medical literature regarding testing of health effects from asbestos or asbestos-containing products in general. These products may or may not be similar to the products identified on Exhibit A attached hereto. The documents Kelly-Moore received from others showed that the type of medical research necessary to understand the health effects of asbestos was very complex and specialized. The documents further showed that there appeared to be a consensus among medical researchers specializing in this field that while asbestos could cause adverse health effects, asbestos could also be used safely if exposure to respirable asbestos fibers of a certain size was controlled or limited by safe work practices.

Once Kelly-Moore learned of the potential for adverse health consequences from inhalation of asbestos in "patching compounds" (including joint compound) of the type manufactured by Kelly-Moore, Kelly-Moore undertook to research ways to make its products asbestos-free or, at a minimum, to try to reduce the amount of asbestos used in the product formulas. Ultimately, the use of asbestos as an ingredient was discontinued entirely in all products in 1978. Also, see responses to Interrogatories 8 and 25.

To the extent further information is in document form, responsive, non-privileged documents are located at Kelly-Moore's document repository in San Carlos, California, and are available for inspection upon reasonable notice. Document will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 13:

Did Defendant or any of its subsidiary companies make any design changes as a result of the tests discussed in your response to Interrogatories No. 8 or 11? If the answer is affirmative, state:

- A. The names of the products changed or modified.
- B. The name, address, and job title of each person responsible for having made a change or modification.
- C. The nature of the hazard or defect which resulted in such change or modification.

ANSWER: Defendant herein incorporates by reference objections to Interrogatory No. 10. Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Defendant refers Plaintiffs' counsel to response to Interrogatory No. 10.

INTERROGATORY NO. 14:

Has Defendant or any of its predecessor or subsidiary companies at any time published or distributed any printed material, including brochures, pamphlets, catalogs, packaging or other written material or any kind or character containing any warnings concerning the possibility of injury resulting from the use of the asbestos-containing products listed in Interrogatory No. 6? If so, state:

- A. The names of each relevant product.
- B. The exact wording of each warning statement on each printed material.
- C. A description of the printed material other than the warning statement.
- D. The method used to distribute the warning to persons likely to use the product.
- E. The date each warning was first issued, distributed, or place on packaging.
- F. The name, address, and job title of each person responsible for having drafted or issued the warning.
- G. The current location of any such printed material and the custodian thereof.
- H. The form in which such literature or printed material can be accessed, i.e., the manner in which such literature is indexed or stored.

ANSWER: Objection: This Interrogatory is overly broad, vague, ambiguous, and subjects Kelly-Moore to unnecessary expense and undue burden. Furthermore, Defendant objects to this Interrogatory as overly

broad because it is not limited to any relevant time period nor to the products to which Plaintiffs claim exposure.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Yes.

(a) See Exhibit A.

(b)-(c) The warning stated:

CAUTION

**CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
BREATHING ASBESTOS DUST MAY CAUSE
SERIOUS BODILY HARM**

Defendant refers Plaintiffs to the photographs of packaging of asbestos products which are available for inspection and review upon reasonable notice at Plaintiffs' request at Defendant's document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the photographs and packaging exemplars is substantially the same for Plaintiffs as for Defendant.

(d) Stamped, stickered, or printed on product package.

Also, in January of 1976, Kelly-Moore sent a letter to all Paco customers advising them that federal and state laws were restricting the use of asbestos in drywall finishing products. The notice also advised that the state of California required all spray materials to be free of asbestos by July 1, 1976. Kelly-Moore is also aware that some correspondence exists between Kelly-Moore and some customers where Kelly-Moore responded to questions regarding asbestos hazards or safe work practices.

(e) No later than November 1972.

(f) Robert Miller was the Kelly-Moore employee who identified the warning label regulations promulgated by OSHA in 1972. In 1972, Mr. Miller advised Kelly-Moore of the OSHA warning requirement including the

required phrasing of that warning, and immediately thereafter Kelly-Moore undertook to place a warning on its products. The language used was the language mandated and required by the federal government.

(g) See response to Subpart (b)-(c).

(h) See response to Subpart (b)-(c).

INTERROGATORY NO. 15:

Before 1970, had you received notice that any individual or individuals, other than those Plaintiffs who have filed personal injury actions in Dallas County, Texas, is or are claiming or has or have claimed an injury as a result of using asbestos products manufactured and/or sold by your company or any of its predecessors or subsidiaries before 1970? If so, state:

- A. The name and address of each claimant.
- B. The date of notice of each claim.
- C. A description of the claim.
- D. The type of injuries allegedly sustained.
- E. The name and address of each attorney who represents each individual making a claim.
- F. The style and court number of each claim.
- G. The disposition of each claim that has been settled or taken to judgment.

ANSWER: Defendant objects to this Interrogatory on the grounds that this Interrogatory is vague, ambiguous, and unintelligible.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

No, none to Defendant's knowledge.

INTERROGATORY NO. 16:

Were your asbestos products distributed, marketed, packaged, labeled and/or sold by companies other than your own? If the answer is affirmative, list the names and addresses of each of those companies, and the products in question.

ANSWER: Objection: This Interrogatory is vague and ambiguous because it fails to identify or define the terms "distributed, marketed, packaged, labeled and/or sold." It is also overly broad because, as written, it is not limited to rebranding agreements concerning Defendant's asbestos-containing products.

Subject to these objections and to the general objections, and without waiving the same, and limiting its response to asbestos-related agreements, Defendant answers:

Yes; Defendant refers Plaintiffs' counsel to Interrogatory No. 32, *infra*, regarding Rebranding Agreements.

Further information may be derived or ascertained from the documents currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. Defendant will make the documents available for inspection upon reasonable notice. The burden of deriving or ascertaining the answers from the documents is substantially the same for Plaintiff as for Defendant. Documents will be produced in the manner in which they are currently stored. In addition, discovery and investigation is ongoing, and Kelly-Moore reserves the right to supplement its discovery responses.

INTERROGATORY NO. 17:

Did you or any of your predecessors, successors, or subsidiaries have any distributors or sales representatives of asbestos products in the States of Alabama, Florida, Mississippi, Oregon, Washington, Georgia, Tennessee, Texas, and Virginia? If so, state:

- A. The name and address of each such distributor or sales representatives.
- B. The years in which such company or person distributed, marketed, or sold your products.
- C. What products were distributed, marketed, or sold and in what years.

ANSWER: Objection: This Interrogatory is overly broad, harassing, and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, because it seeks information concerning geographical areas having no connection with the plaintiffs' claims. Defendant further objects to this Interrogatory on this grounds that it is vague and ambiguous because the term "distributors or sales representatives" is confusing and undefined.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Kelly-Moore Paint Company, Inc. had employees who were sales representatives of Paco asbestos-containing products in the states of Oregon, Washington, and Texas, and Oklahoma. To Defendant's knowledge, Kelly-Moore Paint Company, Inc. has never had any resident distributors or sales representatives of asbestos products in the states of Alabama, Massachusetts, Louisiana, Indiana, Kentucky, and Montana. Kelly-Moore had an office in Georgia for a brief period of time, located at 2080 Peachtree Industrial Court, Atlanta, Georgia 30005 in 1968-69. The Georgia office did not generally distribute asbestos-containing products. It is believed the Georgia office was intended to sell tape and/or spray machines. Further information can be derived or ascertained from the invoices and records of Kelly-Moore Paint Company of Georgia that have been produced to other plaintiffs' counsel, and are available upon request.

(a)-(c) See Exhibit A for products which may have been sold by Kelly-Moore sales representatives.

Further answers to Subparts (a), (b), and (c) of this Interrogatory may be derived or ascertained from the documents currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice. The documents will be produced in the manner in which they are currently stored. In addition, discovery and investigation is ongoing, and Kelly-Moore reserves the right to supplement its discovery responses.

INTERROGATORY NO. 18:

List each employee (including only physicians and/or hygienists) who has acted in a medical advisory capacity to your company at any time during the past 40 years including, but not limited to, physicians and industrial hygienists, and the current address, telephone number and job title of each of those individuals and who has, had or may have had any knowledge regarding the hazards of asbestos.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it is overly broad and requests information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. This Interrogatory is not limited to any relevant time period.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

None, to Defendant's knowledge.

INTERROGATORY NO. 19:

Does Defendant have in its possession any books, pamphlets, memoranda, or written materials of any kind or character that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings? If so, state:

- A. The name of each such publication.
- B. The date of publication and the names of the author and publisher (if any).
- C. The date received by Defendant, if known.
- D. The name, job title, and address of each person who currently has possession of each publication and its present location.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it is overly broad, harassing and unduly burdensome. This Defendant removed all asbestos from its "patching compounds" (including joint compound) no later than 1978. Thousands of claims have since been made against Defendant for asbestos-related injuries, and numerous documents responsive to this Interrogatory have been collected from outside sources and/or developed by Defendant's attorneys and employees in order to defend against these claims. To the extent that this Interrogatory seeks documents that Defendant's attorneys or employees collected or developed in order to defend against asbestos-related injury claims, this Interrogatory is overly broad, harassing and unduly burdensome. Information responsive to this Interrogatory has been withheld pursuant to the work product, attorney-client, and consulting expert privileges. The response to this Interrogatory is generally limited to materials in Kelly-Moore's possession through 1978.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Yes. Before 1978, Kelly-Moore had received very few documents, all of which were prepared or written by others, relative to the medical literature regarding testing of health effects from asbestos or asbestos-containing products in general. These

products may or may not be similar to the products identified on Exhibit A attached hereto. The documents Kelly-Moore received from others showed that the type of medical research necessary to understand the health effects of asbestos was very complex and specialized. The documents further showed that there appeared to be a consensus among medical researchers specializing in this field that while asbestos could cause adverse health effects, asbestos could also be used safely if exposure to respirable asbestos fibers was controlled or limited by safe work practices. Furthermore, Defendant refers Plaintiffs' counsel to Interrogatory No. 25 through Interrogatory No. 29, *infra*.

To the extent further information is in document form, responsive, non-privileged documents are located at Kelly-Moore's document repository in San Carlos, California, and are available for inspection upon reasonable notice. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 20:

Has Defendant or any of its subsidiary or predecessor companies at any time been a member of any trade organization or association that published or disseminated any documents or information relating to the hazards of asbestos comprised of other manufacturers, miners, marketers, and/or sellers of asbestos products? If so, state:

- A. The name and address of each such association or organization.
- B. The dates during which Defendant or any of its subsidiaries or predecessors were members.
- C. The names and dates of any publications, minutes, or reports published, written, or disseminated by any of the named associations or organizations.
- D. Whether any of those publications are still in your possession, and if so:
 - 1. A description of the publications, including the date.
 - 2. The current location of such publications.
 - 3. The custodian of such publications.
 - 4. The method or manner in which such publications are maintained.

ANSWER: Objection: Defendant objects to this Interrogatory because it exceeds the permissible scope of discovery by asking this Defendant to speculate regarding the publications or disseminations of which this Defendant is not aware.

Subject to this objection and to the general objections, and without waiving the same, Defendant answers:

Defendant has been a member of the California Paint and Coatings Association ("CPCA") (and its predecessor, Golden Gate Paint & Coatings Association) from 1991 to the present. Defendant has also been a member of the Coatings Research Group ("CRGI") from 1989 to the present. Additionally, certain of Defendant's employees may have belonged to the local chapter of the Societies for Coatings Technology in San Carlos, California in the past.

Defendant has no knowledge whether any of these organizations have ever published or disseminated any documents or information relating to the hazards of asbestos. To the extent that Defendant received any reports, studies, minutes, or investigations from the above-referenced organizations, they would be included within the Kelly-Moore document repository located at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from these documents is substantially the same for Plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice. The documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 21:

Identify by name and location each plant or manufacturing facility in which the products listed in your answers to Interrogatory Nos. 3-6 were manufactured, assembled, or prepared for sale or marketing, specifying which plants produced each item, the dates each plant is or was in operation, and the time span during which each named item was produced or manufactured.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it is overly broad, vague and unduly burdensome. This Interrogatory is not limited to the plants or manufacturing facilities relevant to the products to which Plaintiffs claim exposure.

Subject to these objections, and to the general objections, and without waiving the same, Defendant answers:

Paco Textures Corporation, Richmond, CA; Kelly-Moore Paint Company, Inc., 987 Commercial Street, San Carlos, CA 94070; Kelly-Moore Paint Company, Inc., Dallas, TX; Kelly-Moore Paint Company, Inc., 301 West Hurst Blvd., Hurst, TX 75053; Kelly-Moore Paint Company, Inc., 3600 East 45th Avenue, Denver, CO 80216; Kelly-Moore Paint Company, Inc., 11200 Kirkland Way, Kirkland, WA

98033; Kelly-Moore Paint Company, Inc., Tulsa, OK; Kelly-Moore Paint Company, Inc., West Kenosha Street, Broken Arrow, OK 74012; Kelly-Moore Paint Company Inc., The Alameda, Houston, TX; Kelly-Moore Paint Company, Inc., 1400 Campus Drive, Ontario, CA 91764.

Kelly-Moore purchased Paco Textures Corporation and its Richmond, California facility in December, 1960. The operation was moved to the San Carlos, California facility in April, 1964. See Exhibit A for each type of product manufactured, processed, or assembled at this facility. San Carlos began operation April, 1964 and ceased manufacturing asbestos-containing products in January, 1978. See Exhibit A for each type of product manufactured, processed or assembled at this facility.

The Hurst, Texas facility began operation, as far as Defendant is aware, in 1970 and is currently operating today. The Dallas, Texas facility began operation, as far as Defendant is aware, in 1963 and ceased operations, as far as Defendant is aware, in 1970, when its operations moved to the Hurst facility. See Exhibit A for each type of product manufactured, processed or assembled at these facilities.

The Denver, Colorado facility began operations, as far as Defendant is aware, in 1971 and ceased operations, as far as Defendant is aware, in 1976. This facility manufactured, processed or assembled drywall products. See Exhibit A for each type of product manufactured, processed or assembled at this facility.

The Kirkland, Washington facility began operations, as far as Defendant is aware, in 1969 and ceased operations, as far as Defendant is aware, in 1972. This facility manufactured, processed or assembled drywall products. See Exhibit A for each type of product manufactured, processed or assembled at this facility.

The Broken Arrow, Oklahoma facility began operations, as far as Defendant is aware, in 1975 and ceased operations, as far as Defendant is aware, in 1978. The Tulsa, Oklahoma facility began operation, as far as Defendant is aware, in 1969 and ceased operations, as far as Defendant is aware, in 1975, when the operations were moved to the Broken Arrow facility. These facilities manufactured, processed or assembled drywall products. See Exhibit A for each type of product manufactured, processed or assembled at these facilities.

The Houston, Texas facility began operations, as far as Defendant is aware, in 1967 and ceased operations, as far as Defendant is aware, in 1974. This facility manufactured, processed or assembled ceiling texture products. See Exhibit A for each type of product manufactured, processed or assembled at this facility.

The Ontario, California facility began operations, as far as Defendant is aware, in approximately 1966 and ceased operations in January 1975. This facility manufactured, processed or assembled drywall products. See Exhibit A for each type of product manufactured, processed or assembled at this facility.

INTERROGATORY NO. 22:

Have printed sales materials been prepared by Defendant or any of its subsidiary or predecessor companies or their agents for purposes of marketing or advertising products containing asbestos? If so, state:

- A. The name, address, and job title of each person or entity who prepared such materials.
- B. The name, address, and job title of each person who currently has possession of such materials and their present location.
- C. The date the materials were prepared.
- D. The media used to disseminate the sales materials.

ANSWER: Objection: Defendant objects because the term "sales materials" is vague and ambiguous. Defendant further objects to this Interrogatory as overly broad, unduly burdensome, harassing and requests information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. This Interrogatory is not limited to any relevant time period or to the products to which Plaintiffs claim exposure.

Subject to this objection and to the general objections, and without waiving the same, Defendant answers:

Yes; further information and all non-privileged documents in Kelly-Moore's possession which may contain information responsive to this Interrogatory or from which such information may be derived or ascertained is currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. These documents may contain copies of "printed sales materials". The burden of deriving or ascertaining additional information from the documents is substantially the same for Plaintiff as for Kelly-Moore. Kelly-Moore will make the documents available for inspection upon reasonable notice at Plaintiff's request. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 23:

Have any written or printed materials or instructions of any kind or character been prepared by Defendant or any of its subsidiary or predecessor companies or their agents indicating how asbestos products should be used and maintained? If so, state:

- A. The name, address, and job title of each person who prepared such materials or instructions or assisted in their preparation.
- B. The name, address and job title of each person who currently has possession of such materials or instructions and their present location.
- C. The dates of distribution or use and the manner in which such materials or instructions were distributed to purchasers of Defendant's products or those of its subsidiaries or predecessors.
- D. The year each such written material or instruction was prepared and disclosed to potential consumers.

ANSWER: Objection: Defendant objects to this Interrogatory as overly broad and unduly burdensome because it is neither limited to any relevant time period nor to the products to which Plaintiffs claim exposure.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Yes. Kelly-Moore did not make "asbestos products." Kelly-Moore made drywall joint compounds and textures, some of which contained a small percentage of asbestos.

Kelly-Moore provided information on how to store, apply and use its drywall related products. Kelly-Moore also warned users of its products that breathing asbestos dust was harmful. The warning label for all products stated :

CAUTION

**CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
BREATHING ASBESTOS DUST MAY CAUSE
SERIOUS BODILY HARM**

Also, in January of 1976, Kelly-Moore sent a letter to all Paco customers advising them that federal and state laws were restricting the use of asbestos in drywall

finishing products. The notice also advised that the state of California required all spray materials to be free of asbestos by July 1, 1976. Kelly-Moore is also aware that some correspondence exists between Kelly-Moore and some customers where Kelly-Moore responded to questions regarding asbestos hazards or safe work practices.

Further information responsive to this Interrogatory may be derived or ascertained from the documents currently stored at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 24:

Does Defendant have insurance policies that might cover the claims made by Plaintiff in this case? If so, list the name of each insurance carrier, the amount of initial coverage, amount of coverage remaining at the present time and the effective dates of each policy. (If properly answered, this Interrogatory need not be supplemented as to the remaining amount of coverage.)

ANSWER: Defendant has exhausted all of its primary insurance policies, but Defendant has a layer of excess coverage that might cover the claims made by the Plaintiffs in these cases. Defendant is currently in the process of determining more specific details in regards to its insurance coverage, and will supplement its response to this Interrogatory at a later date.

INTERROGATORY NO. 25:

As to the disease asbestosis, state:

- A. The date on which Defendant or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.
- B. How Defendant became aware of the existence of the disease.
- C. Who within the company first discovered, recognized or understood the adverse consequences or effects of the disease and/or asbestos exposure.
- D. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- E. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in any written form.

- F. Who is the custodian of such information.
- G. The date on which you first received knowledge or information that asbestosis was caused by inhalation of asbestos fibers.

ANSWER: Objection: This Interrogatory is overly broad, vague, ambiguous, burdensome, harassing, irrelevant to this litigation, and is not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, this Defendant would defer to the judgment and opinions of its medical expert witnesses on such questions of human diseases, their causes, and diagnoses. Finally, the Interrogatory is argumentative and without foundation to the extent it implies that all levels of asbestos exposure can result in the development of asbestosis.

Defendant further objects to this Interrogatory on the grounds that it is overbroad, harassing and unduly burdensome. This Defendant removed all asbestos from its "patching compounds" (including joint compound) no later than 1978. Thousands of claims have since been made against Defendant for asbestos-related injuries, and numerous documents responsive to this Interrogatory have been collected from outside sources and/or developed by Defendant's attorneys and employees in order to defend against these claims. To the extent that this Interrogatory seeks documents that Defendant's attorneys or employees collected or developed in order to defend against asbestos-related injury claims, this Interrogatory is overbroad, harassing and unduly burdensome. Information responsive to this Interrogatory has been withheld pursuant to the work product, attorney-client, and consulting expert privileges.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

To the best of Kelly-Moore's knowledge, it did not receive any information regarding the potential health hazards from asbestos prior to the 1970's. Kelly-Moore's first knowledge of the hazards of asbestos was received shortly after the OSHA legislation was enacted. Kelly-Moore received information from OSHA and from industrial hygienists employed by or retained by Kelly-Moore's workers' compensation insurer between 1971 and 1972 and thereafter. Kelly-Moore also believes that it was provided with references to certain published articles between 1972 and 1978 which dealt with potential for adverse health effects associated with the use of asbestos in certain products and the way in which safe work practices would reduce or eliminate

this health hazard. These documents may contain copies of some of the articles which Kelly-Moore received between the time frame 1972 to 1978. These documents are available for inspection and copying upon reasonable notice.

Kelly-Moore was first provided information by an asbestos manufacturer/supplier regarding the state of medical knowledge about the potential for adverse health effects from asbestos in 1973, when information was conveyed by Johns-Manville Sales Corporation to Kelly-Moore at a seminar. Doug Merrill attended the seminar. The substance of this information was provided again by Johns-Manville in 1974. Kelly-Moore also received some information from other manufacturers or suppliers in the mid-1970's, but the exact date upon which that information was received is unknown.

The substance of the information provided to Kelly-Moore by the asbestos manufacturers and suppliers was that asbestos could potentially cause various lung-related diseases if the time and amount of exposure to airborne asbestos fibers above a certain size exceeded certain threshold levels. The same material also stated that asbestos had many very beneficial uses which made it well-suited for use in Kelly-Moore's drywall-related products as well as in many other different types of products not related to drywall. The manufacturers and suppliers of asbestos represented that asbestos could be used safely and that there was no reason to cease the use of asbestos as a raw material ingredient in the types of products manufactured by Kelly-Moore. The information received from asbestos suppliers appeared consistent with the prior information Kelly-Moore had received from OSHA and from Kelly-Moore's workers' compensation insurer's industrial hygienists commencing in the 1971-72 time frame. None of the information provided by the asbestos manufacturers or suppliers to Kelly-Moore suggested that there was any great urgency to remove asbestos from every drywall joint compound product of the type manufactured by Kelly-Moore. Nonetheless, Kelly-Moore had already begun work, starting in late 1971 or early 1972, to try to reduce or eliminate asbestos from its product formulas.

Further information and all non-privileged documents in Kelly-Moore's possession which may contain information responsive to this Interrogatory or from which such information may be derived or ascertained is currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. These documents may contain copies of some of the articles which Kelly-Moore received between the time frame 1972 to 1978. The burden of deriving or ascertaining additional information from the documents is substantially the same for Plaintiff as for Kelly-Moore. Kelly-Moore will make the documents available for inspection

upon reasonable notice at Plaintiff's request. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 26:

As to the disease lung cancer, state:

- A. The date on which Defendant or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.
- B. How Defendant or its subsidiary or predecessor became aware of the disease and its relationship to asbestos exposure.
- C. Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure.
- D. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- E. Whether any such information is still maintained by Defendant or its subsidiaries or predecessors in a written form.
- F. Who is the custodian of such information.
- G. The date on which you first received knowledge or information that lung cancer was caused by inhalation of asbestos dust and fibers.

ANSWER: Objection: This Interrogatory is overly broad, vague, ambiguous, burdensome, harassing, irrelevant to this litigation, and is not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, this Defendant would defer to the judgment and opinions of its medical expert witnesses on such questions of human diseases, their causes, and diagnoses. Finally, the Interrogatory is argumentative and without foundation to the extent it implies that all levels of asbestos exposure can result in the development of lung cancer.

Defendant further objects to this Interrogatory on the grounds that it is overbroad, harassing and unduly burdensome. This Defendant removed all asbestos from its "patching compounds" (including joint compound) no later than 1978. Thousands of claims have since been made against Defendant for asbestos-related injuries, and numerous documents responsive to this Interrogatory have been collected from outside sources and/or developed by Defendant's attorneys and employees in order to defend against these claims. To the extent that this Interrogatory seeks documents that Defendant's attorneys or employees collected or developed in order to defend against asbestos-related injury claims, this Interrogatory is overbroad, harassing and

unduly burdensome. Information responsive to this Interrogatory has been withheld pursuant to the work product, attorney-client, and consulting expert privileges.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

To the best of Kelly-Moore's knowledge, it did not receive any information regarding the potential health hazards from asbestos prior to the 1970's. Kelly-Moore's first knowledge of the hazards of asbestos was received shortly after the OSHA legislation was enacted. Kelly-Moore received information from OSHA and from industrial hygienists employed by or retained by Kelly-Moore's workers' compensation insurer between 1971 and 1972 and thereafter. Kelly-Moore also believes that it was provided with references to certain published articles between 1972 and 1978 which dealt with potential for adverse health effects associated with the use of asbestos in certain products and the way in which safe work practices would reduce or eliminate this health hazard.

Kelly-Moore was first provided information by an asbestos manufacturer/supplier regarding the state of medical knowledge about the potential for adverse health effects from asbestos in 1973, when information was conveyed by Johns-Manville Sales Corporation to Kelly-Moore at a seminar. Doug Merrill attended the seminar. The substance of this information was provided again by Johns-Manville in 1974. Kelly-Moore also received some information from other manufacturers or suppliers in the mid-1970's, but the exact date upon which that information was received is unknown.

The substance of the information provided to Kelly-Moore by the asbestos manufacturers and suppliers was that asbestos could potentially cause various lung-related diseases if the time and amount of exposure to airborne asbestos fibers above a certain size exceeded certain threshold levels. The same material also stated that asbestos had many very beneficial uses which made it well-suited for use in Kelly-Moore's drywall-related products as well as in many other different types of products not related to drywall. The manufacturers and suppliers of asbestos represented that asbestos could be used safely and that there was no reason to cease the use of asbestos as a raw material ingredient in the types of products manufactured by Kelly-Moore. The information received from asbestos suppliers appeared consistent with the prior information Kelly-Moore had received from OSHA and from Kelly-Moore's workers' compensation insurer's industrial hygienists commencing in the 1971-72 time frame. None of the information provided by the asbestos manufacturers or suppliers to Kelly-Moore suggested that there was any great urgency to remove asbestos from every drywall joint compound product of the type

manufactured by Kelly-Moore. Nonetheless, Kelly-Moore had already begun work, starting in late 1971 or early 1972, to try to reduce or eliminate asbestos from its product formulas.

Further information and all non-privileged documents in Kelly-Moore's possession which may contain information responsive to this Interrogatory or from which such information may be derived or ascertained is currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. These documents may contain copies of some of the articles which Kelly-Moore received between the time frame 1972 to 1978. The burden of deriving or ascertaining additional information from the documents is substantially the same for Plaintiff as for Kelly-Moore. Kelly-Moore will make the documents available for inspection upon reasonable notice at Plaintiff's request. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 27:

As to pleural disease, pleural thickening or pleural plaques, state:

- A. The date on which Defendant or its subsidiary or predecessor learned such disease was caused by inhalation of asbestos fibers by humans.
- B. How Defendant or its subsidiary or predecessor became aware of the disease and that it was caused by exposure to asbestos.
- C. Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure.
- D. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- E. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in a written form.
- F. Who is the custodian of such information.

ANSWER: Objection: This Interrogatory is overly broad, vague, ambiguous, burdensome, harassing, irrelevant to this litigation, and is not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, this Defendant would defer to the judgment and opinions of its medical expert witnesses on such questions of human diseases, their causes, and diagnoses. Finally, the Interrogatory is argumentative and without foundation to the extent it implies that all levels of asbestos

exposure can result in the development of pleural disease, pleural thickening or pleural plaques.

Defendant further objects to this Interrogatory on the grounds that it is overbroad, harassing and unduly burdensome. This Defendant removed all asbestos from its "patching compounds" (including joint compound) no later than 1978. Thousands of claims have since been made against Defendant for asbestos-related injuries, and numerous documents responsive to this Interrogatory have been collected from outside sources and/or developed by Defendant's attorneys and employees in order to defend against these claims. To the extent that this Interrogatory seeks documents that Defendant's attorneys or employees collected or developed in order to defend against asbestos-related injury claims, this Interrogatory is overbroad, harassing and unduly burdensome. Information responsive to this Interrogatory has been withheld pursuant to the work product, attorney-client, and consulting expert privileges.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

To the best of Kelly-Moore's knowledge, it did not receive any information regarding the potential health hazards from asbestos prior to the 1970's. Kelly-Moore's first knowledge of the hazards of asbestos was received shortly after the OSHA legislation was enacted. Kelly-Moore received information from OSHA and from industrial hygienists employed by or retained by Kelly-Moore's workers' compensation insurer between 1971 and 1972 and thereafter. Kelly-Moore also believes that it was provided with references to certain published articles between 1972 and 1978 which dealt with potential for adverse health effects associated with the use of asbestos in certain products and the way in which safe work practices would reduce or eliminate this health hazard.

Kelly-Moore was first provided information by an asbestos manufacturer/supplier regarding the state of medical knowledge about the potential for adverse health effects from asbestos in 1973, when information was conveyed by Johns-Manville Sales Corporation to Kelly-Moore at a seminar. Doug Merrill attended the seminar. The substance of this information was provided again by Johns-Manville in 1974. Kelly-Moore also received some information from other manufacturers or suppliers in the mid-1970's, but the exact date upon which that information was received is unknown.

The substance of the information provided to Kelly-Moore by the asbestos manufacturers and suppliers was that asbestos could potentially cause various lung-related diseases if the time and amount of exposure to airborne asbestos fibers above a certain size exceeded certain threshold levels. The same material also stated that asbestos had many very beneficial uses which made it well-suited for use in Kelly-Moore's drywall-related products as well as in many other different types of products not related to drywall. The manufacturers and suppliers of asbestos represented that asbestos could be used safely and that there was no reason to cease the use of asbestos as a raw material ingredient in the types of products manufactured by Kelly-Moore. The information received from asbestos suppliers appeared consistent with the prior information Kelly-Moore had received from OSHA and from Kelly-Moore's workers' compensation insurer's industrial hygienists commencing in the 1971-72 time frame. None of the information provided by the asbestos manufacturers or suppliers to Kelly-Moore suggested that there was any great urgency to remove asbestos from every drywall joint compound product of the type manufactured by Kelly-Moore. Nonetheless, Kelly-Moore had already begun work, starting in late 1971 or early 1972, to try to reduce or eliminate asbestos from its product formulas.

Further responding, no individual at Kelly-Moore Paint Company, Inc. has any specific recollection of the date or event by which Kelly-Moore Paint Company obtained knowledge of pleural disease, pleural thickening or pleural plaques.

Further information and all non-privileged documents in Kelly-Moore's possession which may contain information responsive to this Interrogatory or from which such information may be derived or ascertained is currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. These documents may contain copies of some of the articles which Kelly-Moore received between the time frame 1972 to 1978. The burden of deriving or ascertaining additional information from the documents is substantially the same for Plaintiff as for Kelly-Moore. Kelly-Moore will make the documents available for inspection upon reasonable notice at Plaintiff's request. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 28:

As to the disease mesothelioma, state:

- A. The date on which Defendant or its subsidiary or predecessor first learned such disease was caused by inhalation of asbestos fibers by humans.
- B. The date on which Defendant first suspected that mesothelioma was caused by inhalation of asbestos dust and fibers.
- C. How Defendant or its subsidiary or predecessor became aware of the disease and that it was caused by exposure to asbestos.
- D. Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure.
- E. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- F. Whether any such information is still maintained by Defendants or its subsidiary or predecessor in a written form.
- G. Who is the custodian of such information.
- H. Whether Defendant agrees that there is no known medical cure for mesothelioma.

ANSWER: Objection: This Interrogatory is overbroad, burdensome, vague, ambiguous, harassing, irrelevant to this litigation, and is not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, this Defendant would defer to the judgment and opinions of its medical expert witnesses on such questions of human diseases, their causes, and diagnoses. Finally, the Interrogatory is argumentative and without foundation to the extent it implies that all levels of asbestos exposure can result in the development of mesothelioma.

Defendant further objects to this Interrogatory on the grounds that it is overbroad, harassing and unduly burdensome. This Defendant removed all asbestos from its "patching compounds" (including joint compound) no later than 1978. Thousands of claims have since been made against Defendant for asbestos-related injuries, and numerous documents responsive to this Interrogatory have been collected from outside sources and/or developed by Defendant's attorneys and employees in order to defend against these claims. To the extent that this Interrogatory seeks documents that Defendant's attorneys or employees collected or developed in order to defend against asbestos-related injury claims, this Interrogatory is overbroad, harassing and unduly burdensome. Information responsive to this Interrogatory has been withheld pursuant to the work product, attorney-client, and consulting expert privileges.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

To the best of Kelly-Moore's knowledge, it did not receive any information regarding the potential health hazards from asbestos prior to the 1970's. Kelly-Moore's first knowledge of the hazards of asbestos was received shortly after the OSHA legislation was enacted. Kelly-Moore received information from OSHA and from industrial hygienists employed by or retained by Kelly-Moore's workers' compensation insurer between 1971 and 1972 and thereafter. Kelly-Moore also believes that it was provided with references to certain published articles between 1972 and 1978 which dealt with potential for adverse health effects associated with the use of asbestos in certain products and the way in which safe work practices would reduce or eliminate this health hazard.

Kelly-Moore was first provided information by an asbestos manufacturer/supplier regarding the state of medical knowledge about the potential for adverse health effects from asbestos in 1973, when information was conveyed by Johns-Manville Sales Corporation to Kelly-Moore at a seminar. Doug Merrill attended the seminar. The substance of this information was provided again by Johns-Manville in 1974. Kelly-Moore also received some information from other manufacturers or suppliers in the mid-1970's, but the exact date upon which that information was received is unknown.

The substance of the information provided to Kelly-Moore by the asbestos manufacturers and suppliers was that asbestos could potentially cause various lung-related diseases if the time and amount of exposure to airborne asbestos fibers above a certain size exceeded certain threshold levels. The same material also stated that asbestos had many very beneficial uses which made it well-suited for use in Kelly-Moore's drywall-related products as well as in many other different types of products not related to drywall. The manufacturers and suppliers of asbestos represented that asbestos could be used safely and that there was no reason to cease the use of asbestos as a raw material ingredient in the types of products manufactured by Kelly-Moore. The information received from asbestos suppliers appeared consistent with the prior information Kelly-Moore had received from OSHA and from Kelly-Moore's workers' compensation insurer's industrial hygienists commencing in the 1971-72 time frame. None of the information provided by the asbestos manufacturers or suppliers to Kelly-Moore suggested that there was any great urgency to remove asbestos from every drywall joint compound product of the type manufactured by Kelly-Moore. Nonetheless, Kelly-Moore had already begun work,

starting in late 1971 or early 1972, to try to reduce or eliminate asbestos from its product formulas.

Further information and all non-privileged documents in Kelly-Moore's possession which may contain information responsive to this Interrogatory or from which such information may be derived or ascertained is currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. These documents may contain copies of some of the articles which Kelly-Moore received between the time frame 1972 to 1978. These documents are available for inspection and copying upon reasonable notice. The burden of deriving or ascertaining additional information from the documents is substantially the same for Plaintiff as for Kelly-Moore. Kelly-Moore will make the documents available for inspection upon reasonable notice at Plaintiff's request. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 29:

As to gastro-intestinal cancer, laryngeal cancer, pharyngeal cancer or lymphatic cancer, state:

- A. The type of cancer and the date on which Defendant or its subsidiary or predecessor first learned that such diseases were caused by inhalation of asbestos fibers by humans.
- B. What cancers has the Defendant or its subsidiary or predecessor become aware can be caused by exposure to asbestos fibers?
- C. The date on which Defendant first suspected other cancers were caused by asbestos inhalation.
- D. Who within the company or its subsidiary or predecessor first discovered the adverse consequences or effects of asbestos exposure.
- E. What information was disseminated with Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- F. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in a written form.
- G. Who is the custodian of such information.

ANSWER: Objection: This Interrogatory is overly broad, vague, ambiguous, burdensome, harassing, irrelevant to this litigation, and is not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, this Defendant would defer to the judgment and opinions of its medical expert witnesses on such questions of human diseases, their causes, and diagnoses. Finally, the Interrogatory is argumentative and without foundation to the extent it implies that all levels of asbestos

exposure can result in the development of gastro-intestinal cancer, laryngeal cancer, pharyngeal cancer or lymphatic cancer.

Defendant further objects to this Interrogatory on the grounds that it is overbroad, harassing and unduly burdensome. This Defendant removed all asbestos from its "patching compounds" (including joint compound) no later than 1978. Thousands of claims have since been made against Defendant for asbestos-related injuries, and numerous documents responsive to this Interrogatory have been collected from outside sources and/or developed by Defendant's attorneys and employees in order to defend against these claims. To the extent that this Interrogatory seeks documents that Defendant's attorneys or employees collected or developed in order to defend against asbestos-related injury claims, this Interrogatory is overbroad, harassing and unduly burdensome. Information responsive to this Interrogatory has been withheld pursuant to the work product, attorney-client, and consulting expert privileges.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

To the best of Kelly-Moore's knowledge, it did not receive any information regarding the potential health hazards from asbestos prior to the 1970's. Kelly-Moore's first knowledge of the hazards of asbestos was received shortly after the OSHA legislation was enacted. Kelly-Moore received information from OSHA and from industrial hygienists employed by or retained by Kelly-Moore's workers' compensation insurer between 1971 and 1972 and thereafter. Kelly-Moore also believes that it was provided with references to certain published articles between 1972 and 1978 which dealt with potential for adverse health effects associated with the use of asbestos in certain products and the way in which safe work practices would reduce or eliminate this health hazard.

Kelly-Moore was first provided information by an asbestos manufacturer/supplier regarding the state of medical knowledge about the potential for adverse health effects from asbestos in 1973, when information was conveyed by Johns-Manville Sales Corporation to Kelly-Moore at a seminar. Doug Merrill attended the seminar. The substance of this information was provided again by Johns-Manville in 1974. Kelly-Moore also received some information from other manufacturers or suppliers in the mid-1970's, but the exact date upon which that information was received is unknown.

The substance of the information provided to Kelly-Moore by the asbestos manufacturers and suppliers was that asbestos could potentially cause various lung-related diseases if the time and amount of exposure to airborne asbestos fibers above a certain size exceeded certain threshold levels. The same material also stated that asbestos had many very beneficial uses which made it well-suited for use in Kelly-Moore's drywall-related products as well as in many other different types of products not related to drywall. The manufacturers and suppliers of asbestos represented that asbestos could be used safely and that there was no reason to cease the use of asbestos as a raw material ingredient in the types of products manufactured by Kelly-Moore. The information received from asbestos suppliers appeared consistent with the prior information Kelly-Moore had received from OSHA and from Kelly-Moore's workers' compensation insurer's industrial hygienists commencing in the 1971-72 time frame. None of the information provided by the asbestos manufacturers or suppliers to Kelly-Moore suggested that there was any great urgency to remove asbestos from every drywall joint compound product of the type manufactured by Kelly-Moore. Nonetheless, Kelly-Moore had already begun work, starting in late 1971 or early 1972, to try to reduce or eliminate asbestos from its product formulas.

Further responding, no individual at Kelly-Moore Paint Company, Inc. has any specific recollection of the date or event by which Kelly-Moore Paint Company obtained knowledge of gastro-intestinal cancer, laryngeal cancer, pharyngeal cancer or lymphatic cancer.

Further information and all non-privileged documents in Kelly-Moore's possession which may contain information responsive to this Interrogatory or from which such information may be derived or ascertained is currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. These documents may contain copies of some of the articles which Kelly-Moore received between the time frame 1972 to 1978. The burden of deriving or ascertaining additional information from the documents is substantially the same for Plaintiff as for Kelly-Moore. Kelly-Moore will make the documents available for inspection upon reasonable notice at Plaintiff's request. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 30:

Does Defendant contend that asbestos products can be manufactured or designed so as to eliminate all potential health hazards to persons working with or exposed to them? If the answer is affirmative, explain in detail, and attach any studies or surveys on which this answer is based.

ANSWER: Objection: The Interrogatory is overly broad, harassing, argumentative, vague, ambiguous and calls for speculation, because it pertains to all types of "asbestos products" which were manufactured and sold by others and about which Defendant has no knowledge. Defendant further objects on the grounds that the request seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. Defendant also objects as overly broad, argumentative to the extent it asks about "all potential health hazards", since to Defendant's knowledge there is no product of any type or kind that could never under any circumstance cause injury in some fashion.

Defendant herein incorporates by reference objections to the five preceding Interrogatories, Interrogatory No. 25 through Interrogatory No. 29. Subject to these objections, and to the general objections, and without waiving the same, Defendant answers:

Unknown.

Defendant refers Plaintiffs' counsel to answers to the five preceding Interrogatories, Interrogatory No. 25 through Interrogatory No. 29.

INTERROGATORY NO. 31:

Describe in detail the types of packages or packaging which Defendant or any of its subsidiary or predecessor companies used for asbestos material or products, listing the dates each type of package was used, a physical description of each type of package, and providing a description of any printed material or trademarks that appeared thereon.

ANSWER: Objection: Defendant objects to this Interrogatory as overly broad and unduly burdensome because it is neither limited to any relevant time period nor to the products to which Plaintiffs claim exposure.

Defendant herein incorporates by reference objections to Interrogatory No. 14. Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

See Exhibit A and Interrogatory No. 14. In general, Paco's products came in bags, boxes, pails or cartons of various sizes over the years. Kelly-Moore has photographs of some, but not all, of its products. To the extent further detail is required, the answer to this Interrogatory may be derived or ascertained from the documents currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 32:

Has Defendant or any of its subsidiary or predecessor companies at any time entered into a "rebranding" agreement with any other company, either as buyer or seller, concerning asbestos materials or asbestos products? If so, state, as to each such agreement:

- A. The name of the company manufacturing the asbestos products.
- B. The trade name affixed to those products.
- C. The periods of time covered by each such agreement.
- D. The volume, in dollar amount, of each transaction.
- E. The initial purchaser of the products.

ANSWER: Objection: This Interrogatory is vague and ambiguous because it fails to identify or define the terms "rebranding agreement." It is also overly broad because, as written, it is not limited to rebranding agreements concerning Defendant's asbestos-containing products to which the Plaintiffs claim exposure.

Subject to these objections and to the general objections, and without waiving the same, and limiting its response to asbestos-related agreements, Defendant answers:

Yes; a Rebranding Agreement was entered into by Defendant with Georgia-Pacific Corporation under which a small quantity of asbestos-containing products manufactured by Defendant were packaged in a Georgia-Pacific labeled package and sold to Georgia-Pacific and shipped to Georgia-Pacific facilities in California and, to a limited extent, to a Georgia-Pacific facility in the Denver, Colorado area for re-sale by Georgia-Pacific. This Agreement was signed on 11/5/68 and was

terminated on 10/12/71. A limited number of re-labeled products continued to be sold to Georgia Pacific into 1972. Further information may be derived or ascertained from the documents currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. Defendant will make the documents available for inspection upon reasonable notice. The burden of deriving or ascertaining the answers from the documents is substantially the same for Plaintiff as for Defendant. Documents will be produced in the manner in which they are currently stored. In addition, discovery and investigation is ongoing, and Kelly-Moore reserves the right to supplement its discovery responses.

INTERROGATORY NO. 33:

List the name and address of each company from which Defendant or its subsidiary or predecessor purchased materials or asbestos products which Defendant sold or distributed in any form, stating the form of the materials, the dates of such purchases, and the ultimate disposal of such materials.

ANSWER: Objection: This Interrogatory is overly broad, irrelevant to this litigation, ambiguous, and is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Interrogatory on the grounds that it is vague and ambiguous because plaintiffs fail to define "materials" and "ultimate disposal", and the Interrogatory requires defendant and its attorneys to speculate as to plaintiffs' intent in using those terms. To the extent that the term "materials" refers to products other than asbestos, defendant objects to this Interrogatory as overbroad and unduly burdensome, and because it is not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, defendant objects to the requirement to supply the dates of purchase and the "ultimate disposal" as unduly burdensome as Plaintiffs do not claim exposure to such raw "materials."

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Raw asbestos was purchased primarily from Johns-Manville Sales Corporation (Greenwood Plaza, Denver, Colorado 80217), Union Carbide Corporation (P.O. Box 4115, Church Street, New York, New York 10008), and from Carey Canadian Mines Co., Ltd. (East Broughton Station, Quebec, Canada), and from distributors who

resold these manufacturers' products. See Response to Interrogatory No. 6. Further answer to this Interrogatory may be derived or ascertained from the documents currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 34:

Does Defendant or any of its subsidiaries or predecessor currently have possession of any writings or contracts on those rebranding agreements set forth in the answer to Interrogatory No. 32? If the answer is affirmative, state:

- A. The name, address, and job title of each person having custody of each of those documents and their current location.
- B. A brief description of each such document, including the dates and the parties signatory.

ANSWER: Defendant herein incorporates by reference objections to Interrogatory No. 32. Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Defendant has possession of the Rebranding Agreement between Defendant and Georgia-Pacific dated November 5, 1968, and the Termination Agreement terminating the Rebranding Agreement dated October 12, 1971. These documents, and any other documents concerning the Rebranding Agreement with Georgia-Pacific, are located in the documents currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 35:

Prior to 1968, did any person file a claim against a Worker's Compensation carrier covering Defendant or any of its subsidiaries or predecessors alleging that he/she contracted a disease from inhaling asbestos fibers? If so, provide:

- A. A list of the claims, including each claimant's name, address and the date each claim was filed, and including the caption and jurisdiction of the claim.
- B. The disease alleged in each such claim.
- C. A brief summary of the deposition of each such claim.
- D. The name, address and title of the person having custody of the records pertaining to each such claim.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it is harassing and unduly burdensome. Thousands of Plaintiffs have filed claims against this Defendant alleging injury from inhaling asbestos fibers; information concerning these claims is a matter of public record and is as readily available to the Plaintiffs as to Defendant.

Subject to the above objections and to the general objections, and without waiving the same, Defendant answers:

No, not to Defendant's knowledge.

INTERROGATORY NO. 36:

Did Defendant or any or of its subsidiaries or predecessors maintain written minutes of corporate meetings, either board of directors, departmental, or otherwise, which reflect discussions pertaining to any subject matter related to asbestos, asbestos health hazards or asbestos products? If so, for each such set of minutes, state:

- A. The dates of each such meeting.
- B. The general subject matter discussed at each meeting.
- C. Who was in attendance at each meeting.
- D. Where and by whom the written minutes are presently maintained.
- E. By whom the minutes were taken and put into final format.
- F. Whether the minutes were abstracted and reports disseminated to other individuals, and if so, the names and job titles of those individuals.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it is overbroad and harassing because it is not limited to a relevant time period, and because it requests information concerning "any subject matter related to asbestos."

Defendant further objects to this Interrogatory on the grounds that it is overbroad, harassing and unduly burdensome. This Defendant removed all asbestos from its "patching compounds" (including joint

compound) no later than 1978. Thousands of claims have since been made against Defendant for asbestos-related injuries, and minutes responsive to this Interrogatory regarding asbestos-related claims have been generated. To the extent that this Interrogatory seeks minutes generated at meetings conducted after asbestos was removed from Defendant's products, this Interrogatory is overbroad, harassing and unduly burdensome. Information responsive to this Interrogatory has been withheld pursuant to the work product, attorney-client, and consulting expert privileges.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Yes. The answers to (a) - (f) may be derived or ascertained from the documents currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for Plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice at Plaintiffs' request. Documents will be produced in the manner in which they are currently stored. In addition, discovery and investigation is ongoing, and Kelly-Moore reserves the right to supplement its discovery responses.

INTERROGATORY NO. 37:

Do you or any of your subsidiaries, including foreign business entities, currently manufacture any products containing asbestos? If so, state:

- A. As to each product, whether such product is mined, manufactured, and/or marketed or sold.
- B. The names and addresses of the companies mining, manufacturing, marketing, and/or selling each of those products.
- C. The trade or brand name of each of those products mined, manufactured, marketed, and/or sold.
- D. The date each of the named products was placed on the market.
- E. A description of the physical (chemical) composition of each of the named products, including the type of asbestos contained in the product.
- F. A description of the physical appearance of each product and its packaging.
- G. A detailed description of the intended uses of each of the named products.
- H. Whether there are any warning labels on said products or containers regarding potential asbestos-related health hazards.

ANSWER: Objection: Defendant objects to this Interrogatory as overly broad and unduly burdensome as it is not limited to any time frame to which Plaintiffs claim exposure nor to any products to which Plaintiffs claim exposure.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

No.

INTERROGATORY NO. 38:

State whether you or any of your predecessors and/or subsidiaries maintain, from 1940 through the present or for any portion thereof, copies of invoices, shipping documents, bills of lading, purchase orders, or other documents of a similar nature relating to the mining, manufacture, marketing, sale or distribution of asbestos products. If so, state:

- A. The location of such documents.
- B. The name and address of the custodian of the documents.
- C. The format in which the documents are kept, i.e., hard copy, microfilm, microfiche, etc.
- D. In what form the documents can be accessed, i.e., by state, by product, etc., and if by product, whether kept according to asbestos or non-asbestos.

ANSWER: Objection: This Interrogatory is overly broad, vague, ambiguous, irrelevant to this litigation, unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence. Also, the Interrogatory subjects this Defendant to undue burden and unnecessary expense. This Interrogatory does not identify those locations at which Plaintiffs were allegedly exposed to asbestos. Furthermore, this Interrogatory is neither limited to any time frame to which Plaintiffs claims claim exposure nor to any products to which Plaintiffs claim exposure.

Furthermore, Defendant objects to the term "asbestos product." Kelly-Moore did not manufacture or sell "asbestos products." This Defendant manufactured "patching compounds" (including joint compound and texture products), some of which contained a small

percentage of asbestos fibers. Defendant further objects to the term "maintain" as being vague and ambiguous.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Yes, Kelly-Moore has certain records relating to its business of the type inquired about in the Interrogatory. To the extent they exist, copies of invoices, purchase orders, shipping receipts and other documents relating to or connected in anyway to the manufacture or sale of asbestos-containing drywall related products by Kelly-Moore are currently stored in the Kelly-Moore document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for Plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice at Plaintiffs' request. Documents will be produced in the manner in which they are currently stored. In addition, discovery and investigation is ongoing, and Defendant reserves the right to supplement these answers.

INTERROGATORY NO. 39:

May you call company representatives as witnesses at the trial of any of these cases? If so, list:

- A. The name, address, and job title of each company representative who may be called.
- B. A summary of the testimony expected to be given by each such witness.
- C. List any and all previous times that the named witnesses have either given deposition or trial testimony in an asbestos-related case, including the jurisdiction, style of the case, case number, date of testimony, and the name of the attorney taking the deposition for the Plaintiffs in that case.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous because the term "company representatives" is undefined. Assuming that Plaintiffs intend "company representatives" to include current employees of Kelly-Moore Paint Company, Defendant may call one or more of the following company representatives at the trial of this case:

- 1.A. Mr. Herbert Giffins
Kelly-Moore Paint Company, Inc.

987 Commercial Street
San Carlos, California 94070
President and Chief Executive Officer

- B. Mr. Giffins will testify regarding many relevant issues, including but not limited to the following: the nature, composition and use of Kelly-Moore/Paco products; the manufacturing facilities at which Kelly-Moore/Paco's asbestos-containing products were made; Kelly-Moore/Paco's operations, sales and product development and distribution throughout the United States; acquisition of raw asbestos for inclusion in Kelly-Moore/Paco products; Kelly-Moore/Paco's corporate knowledge and documentation regarding asbestos and asbestos health hazards; Kelly-Moore's document retention policies and repository in San Carlos, California; tests conducted on Kelly-Moore/Paco products and Kelly-Moore/Paco's facilities to determine levels of dust and asbestos in the air; Kelly-Moore/Paco's placement of warnings on asbestos-containing products and compliance with governmental regulations; Kelly-Moore/Paco's use of respirators and other safety measures at its manufacturing facilities and compliance with governmental regulations; Kelly-Moore/Paco's program of developing asbestos-free products; Kelly-Moore/Paco corporate history; Kelly-Moore's loss prevention activities, and Kelly-Moore/Paco's recall of asbestos-containing products from the market and cessation of production of asbestos-containing products.
- C. Mr. Giffins has testified via deposition or trial testimony in the following listed asbestos-related cases as of June 12, 2002. He has also testified since that time, and it is expected that he will be called upon to testify in depositions or in trials in the future. It is unduly burdensome to track all of his appearances on an ongoing basis, as plaintiffs counsel has easy access to such information from the public record and from counsel's other cases against Kelly-Moore. Therefore, Kelly-Moore notes that the following list is current only as of June 12, 2002:
- a. *Jim Maltais, et al. v. AC&S, Inc.*, Cause No. 01-04801-C; In the County Court at Law No. 3 of Dallas County, Texas; Case No. BC 220 887, In the Superior Court of the State of California, for the County of Los Angeles; and Case No. BC 243 037; In the Superior Court of the State of California, for the County of Los Angeles. Deposition was taken by C. Andrew Waters of Waters & Kraus on October 17, 2001;

- b. *Barbara Navarro, et al v. A C & S, Inc., et al*; Cause No. BC 243 027; In the County of Los Angeles, California. Deposition was taken by C. Andrew Waters of Waters & Kraus on October 17, 2001;
- c. *Nancy Sheehy, Individually and as Personal Representative of Gerald Sheehy, et al v. A. C. & S., Inc., et al*; Cause No. BC 220887; In the County of Los Angeles, California. Deposition was taken by C. Andrew Waters of Waters & Kraus on October 17, 2001;
- d. *Thomas Love v. A.C.&S, Inc., et al.*; Cause No. BO10305-C; In the 163rd Judicial District Court of Orange County, Texas. Deposition taken by Peter Kraus of Waters & Kraus on March 7, 2002, and at trial in this case on June 12, 2002;
- e. *William L. Cotton, et al., v. A.P. Green Refractories Company, et al.*; Cause No. B-150,374-AK; In the 60th Judicial District Court of Jefferson County, Texas; Deposition was taken by Brent Coon of Brent Coon & Associates on May 31, 2002;
- f. *Verda Sutton, et al., v. ACANDS, Inc., et al.*; Cause No.41,862; In the 356th Judicial District Court of Hardin County, Texas; Deposition was taken by Brent Coon of Brent Coon & Associates on May 31, 2002;
- g. *Klaus Brauch and Susan Brauch v. Kelly-Moore Paint Company, Inc., et al*; Cause No. BC-258-492; In the Superior Court of the State of California for the County of Los Angeles. Deposition taken by Troyce Wolf of Waters & Kraus on March 15, 2002;
- h. *Gail Jagneaux, et al.v. Union Carbide, et al.*; Cause No. B163425-B; In the 60th Judicial District Court of Jefferson County, Texas. Deposition taken by Novak of Ness Motley and Shrader of Hissey, Kientz, & Herron on February 5, 2002.

2.A. Mr. Douglas W. Merrill
 Kelly-Moore Paint Company, Inc.
 987 Commercial Street
 San Carlos, California 94070
 Director of Manufacturing

Mr. Merrill may testify live or by deposition. Mr. Merrill's deposition testimony or trial testimony from the following cases may be introduced by Kelly-Moore at the time of trial.

- B. Mr. Merrill has historical knowledge of Kelly-Moore's use of asbestos in manufacturing, similar to the issues Mr. Giffins may testify to as described above.

Mr. Merrill's deposition testimony or trial testimony from one or more of the following cases may be introduced by Kelly-Moore at the time of trial:

- a. *Daniel Aldrete v. Owens-Corning Fiberglas Corp, et al*; Cause No. 97-02640-B; In the 44th Judicial District Court of Dallas County, Texas. Deposition taken by Steve Barron of Silber*Pearlman, September 18, 1998;
 - b. *Vincent Depalma, et al. v. Owens-Corning Fiberglas Corp. et al.*; Cause No. 00-3673-F; In the 24th Judicial District Court of Nueces County, Texas. Deposition taken by Michael Kaeske of Kaeske-Reeves, LLP on June 12, 2001;
 - c. *Rudolph Cardenas v. Owens-Corning, et al.*; Cause No. 98-6-52109-A; In the 24th Judicial District Court of Victoria County, Texas. Taken in February 12, 2000;
 - d. *Nancy Sheehy, et al v. ACANDS, Inc., et al*; Cause No. BC 220-887; In the Superior Court for the State of California and for the County of Los Angeles. Deposition taken by Troyce Wolf on March 14, 2002;
 - e. *Robert Maney and Dorothy Maney v. ACANDS, Inc., et al*; Cause No. A010133-C; In the 128th Judicial District Court of Orange County, Texas; Deposition taken by Troyce Wolf on March 14, 2002;
- C. In addition to the above listed causes, Mr. Merrill has testified via deposition or trial testimony in the following listed asbestos-related cases as of June 12, 2002. He may have also testified since that time, and he may be deposed in the future. It is unduly burdensome to track all of his appearances on an ongoing basis, as plaintiffs counsel has easy access to such information from the public record and from counsel's other cases against Kelly-Moore.

Therefore, Kelly-Moore notes that the following list is current only as of June 12, 2002:

- a. *State of Hawaii v. W.R. Grace & Co., et al*; Cause No. 93-4161-10; In the Circuit Court of the First Circuit, State of Hawaii. Deposition taken by Mary Caroline Parker, Special Deputy Attorney General on November 9, 2000, November 10, 2000, January 29, 2001, January 30, 2001, and January 31, 2001;
- b. *Patricio Sanchez v. Kelly-Moore*; Cause No. 96-2807; In the County Court at Law No. 2 of El Paso County, Texas. Deposition taken by Michael Kaeske of Baron & Budd on March 12, 1997 and at trial in this case on March 14, 1997;
- c. *Samuel Wooley v. OCF*; Cause No. 94-09-04823B. Deposition taken by Allen Stewart of Baron & Budd on November 20, 1995;
- d. *In re: Clapper & Brayton Shipyard and Applicator Asbestos Cases*; various cause numbers in Solano County, California. Deposition taken by Jack Clapper of Clapper & Brayton on November 1, 1984 and February 27, 1985;
- e. *Pete Fairl v. Western McArthur Company*; Cause No. 296985; In the Superior Court of the State of California in and for the County of Sacramento. Deposition taken by George V. Kilbourne on October 8, 1984;
- f. *Thomas Love v. A.C.&S, Inc., et al*; Cause No. BO10305-C; In the 163rd Judicial District Court of Orange County, Texas. Deposition taken by Ron Eddins of Waters & Kraus on March 6, 2002;

3.A. Ms. Sandy L. Joy
Kelly-Moore Paint Company, Inc.
303 West Hurst Boulevard
Hurst, Texas 76053
Division Controller (Southwest Division)

- B. Ms. Joy may testify regarding several subjects, including but not limited to: General operations at the Kelly-Moore Hurst facility since 1978; Kelly-Moore's document destruction and retention policy at the Hurst facility; the

location and existence of various Kelly-Moore records from the Hurst facility; the identity of Kelly-Moore employees at the Hurst facility since 1978.

C. Ms. Joy has testified via deposition in the following asbestos-related cases:

- a. *Aldrete, et al v. OCF*, Cause No. 97-02640-B; In the 44th Judicial District Court of Dallas County, Texas. The deposition was taken on January 14, 1999 by Mike Hissey of Silber Pearlman;
- b. *Thomas Love v. AC&S, Inc., et al*; Cause No. B010305-C; In the 163rd Judicial District Court of Orange County, Texas. The deposition was taken on March 8, 2002 by Waters & Kraus.

4.A. Mr. Juan Gauna
Kelly-Moore Paint Company, Inc.
4107 Victory Drive
Austin, Texas 78744
Sales Representative

B. Mr. Gauna may testify regarding several subjects, including but not limited to: knowledge of sales in the Austin and San Antonio areas; knowledge of nature, composition, and uses of Paco products; distribution of Paco products; and packaging of and warnings on Paco products.

C. In asbestos related cases, Mr. Gauna has given a deposition in *Thomas Love v. AC&S, Inc., et al*; Cause No. B010305-C; In the 163rd Judicial District Court of Orange County, Texas. The deposition was taken on March 7, 2002 by Waters & Kraus. Mr. Gauna has also given a deposition in *Jimmy Dwayne Miller, et ux. v. Kellogg-Brown & Root, Inc., et al*; Cause No. GN201185; In the 261st Judicial District Court of Travis County, Texas. The deposition was taken November 20, 2002 by McCurdy & McCurdy. Mr. Gauna also testified at the trial of this case.

5.A. Albert Cisneros
Kelly-Moore Paint Store
400 W. Whitestone
Cedar Park, Texas 78613

- B. Mr. Cisneros may be asked to testify concerning his knowledge of materials used on construction jobs at which plaintiff has claimed exposure to Kelly-Moore products. Further, Mr. Cisneros may be asked to testify regarding his knowledge of products sold by Kelly-Moore stores in various areas in Texas, and construction practices during the relevant time period when plaintiff claims to have been exposed to Kelly-Moore products.
 - C. Mr. Cisneros has never given deposition or trial testimony in any asbestos-related case.
- 6.A. Mr. John J. Moeller
Kelly-Moore Paint Company, Inc.
303 W. Hurst Boulevard
Hurst, Texas 76053
Corporate Internal Audit Manager
- B. Mr. Moeller may testify regarding several subjects, including but not limited to: general operations at the Kelly-Moore Hurst facility since 1969; Kelly-Moore's document destruction and retention policy at the Hurst facility; the identity of Kelly-Moore employees at the Hurst facility since 1969; and Kelly-Moore accounting, inventory, and bookkeeping practices.
 - C. Mr. Moeller has testified via deposition in the following asbestos-related cases:
 - a. *Aldrete, et al v. OCF*, Cause No. 97-02640-B; In the 44th Judicial District Court of Dallas County, Texas. The deposition was taken on January 14, 1999 by Mike Hissey of Silber Pearlman.
 - b. *Thomas Love v. AC&S, Inc., et al*; Cause No. B010305-C; In the 163rd Judicial District Court of Orange County, Texas. The deposition was taken on March 6, 2002 by Waters & Kraus.
- 7.A. Mr. Marion Hicks
Kelly-Moore Paint Company, Inc.
303 W. Hurst Boulevard
Hurst, Texas 76053

- B. Employee of Kelly-Moore, with general knowledge of Kelly-Moore/Paco products and plant operations during the time frames associated with his employment at various locations in Texas.
 - C. Mr. Hicks has never given deposition or trial testimony in any asbestos-related case.
- 8.A. Manual Juarez
Gaby Lopez
Richard Rodriguez
Oscar Fernandez
- Kelly-Moore Paint Store, Inc.
6622 San Pedro St.
San Antonio, Texas 78216
- B. Messrs. Juarez, Lopez, Rodriguez and Fernandez may be asked to testify concerning their knowledge of materials used on construction jobs at which Plaintiff has claimed exposure to Kelly-Moore products. Further, these witnesses may be asked to testify regarding their knowledge of products sold by Kelly-Moore stores and construction practices in the San Antonio and central Texas areas during the relevant time period when Plaintiff claims to have been exposed to Kelly-Moore products.
 - C. Messrs. Juarez, Lopez, Rodriguez and Fernandez have never given depositions or trial testimonies in any asbestos-related cases.
9. Other current employees may be called to testify by Defendant. Defendant will timely notify Plaintiff in accordance with the Texas Rules of Civil Procedure and any applicable Standing Orders.

In addition to the above-named employees, former employees, including Mr. William Doyle Freeman, Freeman Products, 1912 W. Kenosha, Broken Arrow, Oklahoma 74012, may be asked to testify on behalf of Kelly-Moore at trial. Mr. Freeman is a former general manager for Kelly-Moore who worked at the Tulsa and Broken Arrow plants. He will testify regarding several subjects, including but not limited to: the nature and composition of Paco products; distribution of Paco products from Kelly-Moore's manufacturing facilities, particularly the facilities in Broken Arrow and Tulsa, Oklahoma. Mr. Freeman may also testify regarding all sales and distribution of Kelly-Moore and Paco products generally and regarding specific sales outside of states where Kelly-Moore stores were located. He

may also testify regarding general issues of Kelly-Moore's history, products, sales, and product development and distribution. Mr. Freeman was deposed in *Perry v. Keene Corporation*; Cause No. 93-09896; In the 299th Judicial District Court of Travis County, Texas, on January 11, 1995. The deposition was taken by Andrew Waters of Baron & Budd. Mr. Freeman was also deposed in *Ronald Bailey, et al v. Able Supply Co., et al*; Cause No. 26,721; In the 20th Judicial District Court of Milam County, Texas, on October 5, 2000. The deposition was taken by Randall Iola, Law Offices of Randall Iola.

Other former employees include the following:

Mr. Robert Miller; Mr. Miller is a former employee of Kelly-Moore; Mr. Miller may testify regarding his employment at Kelly-Moore including his work regarding OSHA compliance and regulatory issues, company's knowledge of OSHA, and efforts to comply with all facets of OSHA in Kelly-Moore plants. Mr. Miller may also testify with regard to Kelly-Moore products, including replacement of warnings on asbestos-containing products starting in October of 1972. He may testify as to how the company first began to learn of any health or safety issues relative to the use of asbestos, and the company's decision to begin efforts to develop asbestos-free products. Mr. Miller may be contacted through Todd Wade at Brown McCarroll, L.L.P., 111 Congress Avenue, Suite 1215, Austin, Texas 78701.

Mr. William Harrison; Mr. Harrison is a former employee of Kelly-Moore; Mr. Harrison may testify concerning his employment at Kelly-Moore. Mr. Harrison may be contacted through Todd Wade at Brown McCarroll, L.L.P., 111 Congress Avenue, Suite 1215, Austin, Texas 78701.

Mr. John Winslow; Mr. Winslow is a former employee of Kelly-Moore; Mr. Winslow may testify regarding his employment at Kelly-Moore as Sales Manager and Salesman for Paco and Kelly-Moore products. Mr. Winslow may be contacted through Todd Wade at Brown McCarroll, L.L.P., 111 Congress Avenue, Suite 1215, Austin, Texas 78701.

Defendant further incorporates by reference its most recent designation made in this case, whether made through Defendant's Response to Request for Disclosure or through Defendant's Designation of Fact and Expert Witnesses filed in this cause and supplements this list with that designation.

INTERROGATORY NO. 40:

Have Defendant or its subsidiaries or predecessors ever acquired through purchase, reorganization, or merger another corporation, company, or business which manufactured, sold, processed, distributed, or contracted or supplied products containing asbestos? If so, for each such entity, state:

- A. Full and correct name;
- B. Principal place of business;
- C. State of incorporation;
- D. Date of acquisition by Defendant;
- E. Whether or not the business entity was ever authorized to transact business in the State of Texas;

ANSWER: Subject to the general objections, and without waiving the same, Defendant answers:

Yes.

- (a) Paco Textures Corporation.
- (b) Richmond, California.
- (c) California.
- (d) 12/19/60.
- (e) Kelly-Moore does not believe that Paco Textures Corporation was authorized to or did transact business in Texas before Paco Textures Corporation was purchased by Kelly-Moore in December of 1960. Such information is equally available to plaintiffs through the public record. Kelly-Moore is authorized to transact business in Texas.

In addition, Kelly-Moore did acquire the assets of two very small California-based drywall products companies between 1961 and 1978. The exact dates of the acquisitions are not presently known. The transactions were asset purchases only and the companies were then closed by Kelly-Moore. The companies' names were K. V. Alger and Blue Ribbon. The exact legal names are not presently known. After a search, Kelly-Moore has not been able to locate the acquisition documents as to those entities. It is believed the assets of both entities were purchased in 1969, exact date unknown. It is believed no products, or only a minimal amount, were sold by Kelly-

Moore under the name of these entities, and such sales would have been limited to California and the state of Washington. Defendant does not believe either entity did business in Texas or was licensed to do business in Texas.

INTERROGATORY NO. 41:

Was each of your asbestos products generally expected to reach, or packaged to reach, the consumer or user, without substantial change in the condition in which it was sold? If not, with respect to any such product, explain in what way the Defendant claims its products were altered or substantially changed after sale or distribution and before reaching the user.

ANSWER: Objection: This Interrogatory is overly broad, vague, ambiguous, burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence. This Interrogatory is not limited to the products to which Plaintiffs claim exposure.

Subject to the general objections, and without waiving the same, Defendant answers:

All asbestos-containing products were expected to reach the consumer or user without substantial change.

INTERROGATORY NO. 42:

For each asbestos-containing product identified in response to Interrogatory No. 6, identify all foreseeable users such as insulators, helpers, pipefitters, welders, machinists, plasterers, drywall finishers, carpenters, boilermakers, shipwrights, and riggers, etc. of any of Defendant's asbestos-containing products.

ANSWER: Objection: This Interrogatory is not proper because it requires the Defendant to speculate as to who might be using its products.

Subject to this objection and to the general objections, and without waiving the same, Defendant answers:

Drywall finishers.

INTERROGATORY NO. 43:

Based upon the material contents of your asbestos-containing products, the method of manufacturing and the method of application, can such products be generally applied without liberating asbestos fibers into the air?

- A. If there is a different answer concerning different products manufactured, sold, distributed, or used by your company, then specify the different products by precise manufacturer's name and popular name.
- B. If there is a difference in your answer depending on the year or years in which a particular product was used, then specify in detail what year or years you are referring to and the specific products you are referring to and year involved.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous because plaintiffs fails to define "generally applied" and the Interrogatory requires defendant and its attorneys to speculate as to plaintiffs' intent in using that term.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Yes. Some products are pre-mixed, so it was believed the asbestos fibers did not become airborne during application. Kelly-Moore believes that use of dry products generally could liberate dust during mixing or sanding, and this dust may contain asbestos.

(a) Not applicable.

(b) Not applicable.

INTERROGATORY NO. 44:

Was it a foreseeable use of your asbestos-containing products that they may have been removed, stripped, or replaced at some time after installation?

ANSWER: Objection: This Interrogatory is vague, overly broad in scope, ambiguous, requests information which is irrelevant to this Defendant in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

Defendant further objects to this Interrogatory because it calls for defendant to speculate regarding all possible or potential uses of its products. Defendant further objects to this Interrogatory because it exceeds the permissible scope of discovery, because it requires defendant to state a legal conclusion, namely, whether a particular use of products was "foreseeable," without supplying any factual background upon which Defendant could make such a conclusion.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

No, if by removed, stripped or replaced, plaintiff is implying that removal and replacement of the product was an intended use, such as for periodic maintenance as may be associated with some types of products unlike those manufactured by Paco. Typically, Paco type products would be disturbed after installation only upon demolition of the wall or ceiling to which they were affixed. Demolition was a foreseeable event.

INTERROGATORY NO. 45:

Before 1970, did you or your subsidiaries or predecessor (s) ever arrange for any labor inspectors, insurance company inspectors or anyone from your company to go to job sites where your products were being used or installed to make or take dust level counts? If so, state when this procedure started, the purpose of such procedures, and all results of such procedures.

ANSWER: Objection: This Interrogatory is argumentative to the extent it implies that this Defendant was under a duty to make inspections of work sites or that any product sold by Kelly-Moore Paint Company would expose workers to harmful dose levels. The Plaintiffs or the Plaintiffs' employer(s) had complete control over the work place and a non-delegable responsibility for insuring the safety of the work place. Plaintiffs or the Plaintiffs' employer(s) could adequately train, supervise, and monitor its employees in proper methods to use and handle products used in the work place, including asbestos-containing products.

Defendant herein incorporates by reference its objections to Interrogatory No. 8 and Interrogatory No. 11.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

At various times from 1972-77, tests were conducted by Kelly-Moore Paco Textures Division, Union Carbide, and by various regulatory agencies, at Defendant's San Carlos, Ontario, Broken Arrow, Hurst, and Denver facilities. These are the first dust level counts Kelly-Moore is aware of relating to its products or facilities. Dust level exposure tests were conducted at Kelly-Moore's manufacturing facilities by Kelly-Moore's workers' compensation insurer, Liberty Mutual Insurance Company, through industrial hygienists provided by Liberty Mutual for that purpose. These tests measured dust levels associated with the manufacturing process. Kelly-Moore does not have complete records of these inspections. The various regulatory agencies would also conduct tests of airborne dust levels at Kelly-Moore's facilities to determine compliance with applicable regulations. In 1975, there was a dust count study done at job sites in Los Gatos, California. This study showed that generally the Kelly-Moore products tested did not release airborne asbestos fibers in excess of the OSHA limits in normal use.

Defendant herein refers Plaintiffs to Response to Interrogatory No. 8 and Response to Interrogatory No. 11.

To the extent any further information regarding these tests is available, the answer may be derived or ascertained from the documents currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for Plaintiffs as for Defendant. Defendant will make the documents available for inspection and review upon reasonable notice at Plaintiffs' request. Documents will be produced in the manner in which they are currently stored. In addition, discovery and investigation is ongoing, and Defendant reserves the right to supplement these answers.

INTERROGATORY NO. 46:

If Defendant performed or had performed any dust level counts, what action, based on the results, did your company take?

ANSWER: Objection: This Interrogatory is argumentative to the extent it implies that this Defendant was under a duty to make inspections of work sites or that any product sold by Kelly-Moore Paint Company would expose workers to harmful dose levels.

Defendant herein incorporates by reference objections to Interrogatories 10, 13, and 47. Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Defendant refers Plaintiffs' counsel to Interrogatories 10 and 13 and Interrogatory 47, below.

INTERROGATORY NO. 47:

Has your company or its subsidiaries or predecessor(s) ever conducted or caused to be conducted any studies designed to assist in minimizing or eliminating the inhalation of asbestos dust and fibers by those exposed to the use of your company's products? If so, give the following:

- A. Name of the person or firm conducting such studies;
- B. The date the studies began and the date they were completed;
- C. Any publication or other written dissemination of the results of the studies;
- D. The nature of any action to eliminate or minimize the inhalation of asbestos dust fibers;

ANSWER: Objection: This Interrogatory is unduly burdensome, overly broad, and it inquires into matters that are irrelevant and immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence.

Defendant further objects to this Interrogatory on the grounds that it is overbroad, harassing and unduly burdensome. This Defendant removed all asbestos from its products no later than 1978. Thousands of claims have since been made against Defendant for asbestos-related injuries, and numerous documents responsive to this Interrogatory have been collected from outside sources and/or developed by Defendant's attorneys and employees in order to defend against these claims. To the extent that this Interrogatory seeks documents that Defendant's attorneys or employees collected or developed in order to defend against asbestos-related injury claims, this Interrogatory is overbroad, harassing and unduly burdensome. Information responsive to this Interrogatory has been withheld pursuant to the work product, attorney-client, and consulting expert privileges.

Defendant herein incorporates by reference its objections to Interrogatory No. 8 and Interrogatory No. 11.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Yes. (1) Beginning in 1972, and continuing until the use of any asbestos ceased in 1978, Kelly-Moore employees studied, researched, and designed asbestos-free substitutes for various products. (2) At various times from 1972-77, tests were conducted by Kelly-Moore/Paco Textures Division, by Union Carbide, Liberty Mutual and by various regulatory agencies at Defendant's San Carlos, Ontario, Broken Arrow, Hurst, and Denver facilities. To the extent necessary, steps were taken to reduce or eliminate worker exposure to airborne dust at Kelly-Moore's facilities. (3) On at least one occasion in 1975, Union Carbide tested the exposure levels of individuals during mixing and application of ceiling texture at a jobsite at several houses in Los Gatos, California. See preceding responses to all Interrogatories, and specifically, Interrogatory No. 10.

To the extent any further information regarding these tests is available, the answer to this Interrogatory may be derived or ascertained from the documents currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice. In addition, discovery and investigation is ongoing and Kelly-Moore reserves the right to supplement its discovery responses.

INTERROGATORY NO. 48:

Does your company have, has it ever had, or have your predecessor(s) or subsidiaries ever had, a Research Department? If so, give the year such Research Department was established, and whether or not such Research Department has operated continuously since being established. State also:

- A. The amount of time and money expended each year on research concerning asbestos or asbestos-containing products?
- B. What percentage of gross sales did your company or its predecessor(s) spend on research concerning the health effects of asbestos?
- C. State in detail the purposes, duties, and responsibilities of such Research Department.

ANSWER: Objection: This Interrogatory is overly broad, vague, ambiguous as to the term "Research Department," irrelevant and not reasonable calculated to lead to the discovery of admissible evidence. Furthermore, defendant objects to this Interrogatory as unduly burdensome because it requires defendant to calculate a percentage of gross sales spent on research concerning the health effects of asbestos.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Yes. Kelly-Moore Paint Company had an informal research department from the beginning of the company.

- (a) The work done to eliminate asbestos from Kelly-Moore's products was not a separate line item in a budget.
- (b) Unable to determine because no budget was created specifically for asbestos research. Kelly-Moore did not undertake research on the health effects of asbestos. Kelly-Moore did not have the medical training and sophistication to do so. Instead, Kelly-Moore focused on areas where it was able to be effective. Kelly-Moore began work to develop asbestos-free products and products with a reduced asbestos content. While significant time and effort was expended in this regard, Kelly-Moore did not separately account for these efforts. See preceding Interrogatory answers.
- (c) Designing, developing, improving, reducing product costs, and maintaining quality control of paints and other architectural coatings.

INTERROGATORY NO. 49:

Does your company have, or has it ever had, or have your predecessor(s) or subsidiaries ever had, a Medical Department? If so, state:

- A. The year such Medical Department was established;
- B. Whether or not such Medical Department has operated continuously since being established;
- C. The name of each director, chief, or head of your Medical Department year by year, beginning with the first year you had a Medical Director or Medical Department, and the last known address and phone number of each;
- D. State the duties and responsibilities of such Medical Department.

ANSWER: Objection: This Interrogatory is overly broad, vague, ambiguous as to the term "Medical Department," and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, as Plaintiff has not alleged suffering any injury in a plant owned or operated by Defendant.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

There has been no "Medical Department" at Kelly-Moore. However, in 1972, with the passage of the OSHA legislation, Kelly-Moore appointed Robert Miller as safety director to oversee OSHA compliance and general plant safety issues company wide. In one form or another, Kelly-Moore has continued this general practice. On November 1, 1999, Defendant hired Walter LeClerc as Quality, Environmental, Health and Safety Manager. His duties include development of policies and procedures to ensure Defendant's compliance with OSHA and other health and safety laws, regulations and practices.

INTERROGATORY NO. 50:

Did your company or its predecessor(s) or subsidiaries ever place any warning directly on any of its asbestos-containing products or on their packaging. If so, identify the product(s) and year said warning was first applied.

ANSWER: Defendant herein incorporates by reference objections to Interrogatory 14. Subject to the general objections, and without waiving the same, Defendant answers:

Yes. See Response to Interrogatory No. 14. The warning language required by federal law was placed on the packaging of all asbestos-containing products. Warnings were not affixed to the products themselves due to the nature of the products. The warning was placed on the packaging no later than November 1972. To the extent any further information regarding these warnings is available, the answer to this Interrogatory may be derived or ascertained from the documents currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 51:

Did your company or its predecessor(s) or subsidiaries ever stamp or place the name of the company, its initials, or any identifying logo on any of its asbestos-containing products? If so, please state the name brand names of such products, a description of such stamp or logo and the dates such were placed on the referred products.

ANSWER: Objection: This Interrogatory is overly broad and unduly burdensome.

Subject to this objection and to the general objections, and without waiving the same, Defendant answers:

See Exhibit A. Logos were placed on the product's packaging, but not on the product itself. Defendant refers plaintiffs to the photographs of packages of asbestos-containing products and to the packaging exemplars which are included within Defendant's document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 52:

Has your company, or your predecessor(s) or subsidiaries, ever devised a research plan to develop, or actually developed or had developed, a product which did not contain asbestos and which could be substituted for one or more of your asbestos-containing products? If so, state the date that such research plan was begun and when such asbestos-free product was first placed on the market.

ANSWER: Defendant herein incorporates by reference its objections to Interrogatory No. 10.

Subject to the general objections, and without waiving the same, Defendant answers:

Yes. See Exhibit A and previous Interrogatory answers, and specifically, Response to Interrogatory No. 10. Defendant was developing and testing various asbestos-free substitutes from approximately 1972 through 1978. The first commercially acceptable asbestos-free product went on the market in 1973 or 1974. Other asbestos-free or reduced asbestos products were introduced into the marketplace prior to 1978. Over 236 different formulas were tested in Kelly-Moore's effort to develop commercially acceptable asbestos-free or reduced asbestos products. All asbestos-

containing products were either discontinued or replaced with asbestos-free products in 1978. To the extent further information is available, the answer to this Interrogatory may be derived or ascertained from the documents currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 53:

Did your company or its predecessor(s) or subsidiaries ever recall any products containing asbestos from the market or stream of commerce. If so, state:

- A. All details of such recall.
- B. The name of the product recalled, including the reason for the recall and the names and current addresses of those individuals who determined that it should take place.
- C. The dates of recall.
- D. The purpose for the recall.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it is vague, ambiguous, and overbroad because it requests "all details" of any recall.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Yes. A complete recall of those "patching compounds" banned by the Consumer Product Safety Commission was directed to all retail stores in 1978. The stores were ordered to conduct an inventory and return products subject to the recall. Additionally, Defendant recalled certain texture products in the state of California during the mid-1970s in accordance with California regulations. Further details regarding these recalls, if any, may be derived or ascertained from the documents currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice. Documents will be produced in the manner in which they are currently stored. In

addition, discovery and investigation is ongoing and Kelly-Moore reserves the right to supplement its discovery responses.

INTERROGATORY NO. 54:

Before 1970, did you ever manufacture or sell products which did not contain asbestos and which could be substituted for your asbestos-containing products? If so, state the date such asbestos-free products were first placed on the market.

ANSWER: Objection: This Interrogatory is vague and ambiguous, and it calls for speculation on the part of this Defendant.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

No, not to Defendant's knowledge.

INTERROGATORY NO. 55:

Have any products you identified in your responses to Interrogatory Nos. 52 and 54 not performed as intended? Please list all such products that have not performed as intended.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous because plaintiffs fail to define "not performed as intended" and the Interrogatory requires Defendant and its attorneys to speculate as to plaintiffs' intent in using that phrase.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Yes. In some instances, the asbestos-free joint compound products did not perform as well as asbestos-containing products. There was some resistance from customers to asbestos-free products as many customers preferred the asbestos-containing products in terms of overall performance and ease of application.

INTERROGATORY NO. 56:

Did your company or its predecessor(s) or subsidiaries ever make, order, or arrange for any industrial hygiene surveys regarding asbestos or asbestos-containing dust? If so, give the date of such surveys and state who, or what entity, was responsible for completion of such surveys.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it is overbroad, harassing and unduly burdensome. This Defendant removed all asbestos from its "patching compounds" (including joint compound) no later than 1978. Thousands of claims have since been made against Defendant for asbestos-related injuries, and numerous documents responsive to this Interrogatory have been generated and/or developed by Defendant's attorneys and employees in order to defend against these claims. To the extent that this Interrogatory seeks documents that Defendant's attorneys or employees generated or developed in order to defend against asbestos-related injury claims, this Interrogatory is overbroad, harassing and unduly burdensome. Information responsive to this Interrogatory has been withheld pursuant to the work product, attorney-client, and consulting expert privileges.

Furthermore, Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous because Plaintiffs fail to define "surveys regarding asbestos or asbestos-containing dust," and the Interrogatory requires Defendant and its attorneys to speculate as to Plaintiffs' intent in using those terms. Defendant further objects to this Interrogatory as overbroad because it is not limited to a relevant time period. Defendant further objects to this Interrogatory because it seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because this Plaintiff does not claim exposure from asbestos in any of Defendant's plants or industrial facilities.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Dust level exposure tests were conducted at Kelly-Moore's manufacturing facilities by Kelly-Moore's workers' compensation insurer, Liberty Mutual Insurance Company, through industrial hygienists provided by Liberty Mutual for that purpose. These tests measured dust levels associated with the manufacturing process. Kelly-

Moore does not have complete records of these inspections. In addition, various regulatory agencies would also conduct tests of airborne dust levels at Kelly-Moore's facilities to determine compliance with applicable regulations.

Kelly-Moore is also aware that Union Carbide Corporation conducted tests of various joint compounds (although it is unknown if a Kelly-Moore product was used in these tests) in actual application at numerous job sites throughout the United States. The results of that testing, which was designed to test levels of airborne asbestos dust, were published in a study by Union Carbide.

In addition, in 1975, a study was done of the amount of airborne asbestos dust from use of certain Kelly-Moore ceiling texture products. This study was conducted in Los Gatos, California. The Los Gatos testing of Kelly-Moore product showed that the normal use of the product generally did not create asbestos dust levels in excess of the permissible exposure levels set by the United States government as to exposure to certain airborne asbestos fibers.

Once Kelly-Moore learned of the potential for adverse health consequences from inhalation of airborne asbestos from products of the type manufactured by Kelly-Moore, Kelly-Moore undertook to research ways to make its products asbestos-free or, at a minimum, to try to reduce the amount of asbestos used in the product formulas. Ultimately, the use of asbestos as an ingredient was discontinued entirely in all products in 1978.

To the extent further information is in document form, responsive, non-privileged documents are located at Kelly-Moore's document repository in San Carlos, California, and are available for inspection upon reasonable notice. Documents will be produced in the manner in which they are currently stored.

INTERROGATORY NO. 57:

As to either the threshold limit values or maximum allowable concentrations of both asbestos dust and total dust provided by the American Conference of Governmental Industrial Hygienists, state:

- A. The year in which Defendant or any predecessor(s) or subsidiaries were first advised of such limits or concentrations;
- B. The name of the employee or official of the company receiving such advice;
- C. How Defendant received notice of such limits or concentrations.

ANSWER: Subject to the general objections, and without waiving the same, Defendant answers:

Defendant does not now know precisely who first received this information, nor by what medium the information was initially received. It is believed that Kelly-Moore began to get information regarding dust exposure level standards in 1972. Kelly-Moore made efforts to, and was successful, in meeting the standards in its own plants. Further information responsive to Subsections (a) - (c) can be found in the documents currently stored in Kelly-Moore's document repository at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice. Documents will be produced in the manner in which they are currently stored. In addition, discovery and investigation is ongoing and Kelly-Moore reserves the right to supplement its discovery responses.

INTERROGATORY NO. 58:

Were the threshold limit values or maximum allowable concentrations inquired about in Interrogatory No. 57 for total dust, and not asbestos dust alone?

ANSWER: Objection: Defendant objects to this Interrogatory to the extent that it requires defendant to speculate regarding facts not known to this Defendant. The question is also ambiguous.

Subject to this objection and to the general objections, and without waiving the same, Defendant answers:

Kelly-Moore's focus in its plants was on airborne asbestos dust. See response to Interrogatory No. 47.

INTERROGATORY NO. 59:

State in detail what tests, if any, Defendant ever made with regard to the quantity, quality, or threshold limit values of asbestos dust or particles to which workers were exposed while using, working with or around, or installing your asbestos-containing products.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous because plaintiffs fail to define "quantity, quality or

threshold limit values,” and the Interrogatory requires defendant and its attorneys to speculate as to plaintiffs’ intent in using those terms. Defendant further objects to this Interrogatory as overbroad because it is not limited to a relevant time period. Defendant further objects to this Interrogatory because it seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because this Plaintiff does not claim exposure from asbestos in any of Defendant’s plants or industrial facilities.

Defendant herein incorporates by reference objections to Interrogatory 47. Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

See Defendant’s response to Interrogatory No. 47.

INTERROGATORY NO. 60:

Please state the following with respect to each expert witness that you may call during trial of these cases. Please designate with specificity the expert witnesses that you will call, including:

- (a) The name, address and job classification of each such expert witness.
- (b) The subject matter on which the expert is expected to testify.
- (c) The substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.
- (d) Whether any person identified in subparagraph (a) above has provided a report or other documentation to you and, if so, identify each such document or report.
- (e) Identify all documents that you have provided to each person identified in response to subparagraph (a) above.
- (f) Describe in detail the education and work history of and identify any books, treatises, articles, published and unpublished reports, studies or other scholarly works authored by any individual identified in response to subparagraph (a) above. Alternatively, in lieu of said response, attach a copy of the resume or curriculum vitae and a list of publications to your answers.

ANSWER: Objection: To the extent that this request seeks information concerning Defendant's testifying experts, the request is an improper form of discovery, as information concerning testifying expert witnesses cannot be obtained through Interrogatories. *See* Tex. R. Civ. P. 195.1.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Defendant incorporates by reference its most recent designation of expert witnesses made in this case, whether made through Defendant's Responses to Requests for Disclosure or through Defendant's Designation of Fact and Expert Witnesses.

INTERROGATORY NO. 61:

Please state the name, present address and present telephone number, along with the experience and qualifications, if applicable, of each and every person, known to Defendant or to Defendant's agents, having knowledge of facts relevant to these cases involving, but not limited to:

- (a) identification of asbestos-containing products to which each and every individual Plaintiff, separate and distinct from all other Plaintiffs within the group, allegedly was exposed or facts disputing the identification of asbestos-containing products in this case.
- (b) each and every individual Plaintiff's, separate and distinct from all other Plaintiffs within the group, alleged damages, injuries and/or facts disputing each and every Plaintiff's alleged damages and/or injuries;
- (c) the negligence of any person or entity other than Defendant which Defendant contends was a cause of each and every individual Plaintiff's, separate and distinct from all other Plaintiffs within the group, alleged injuries and/or damages;
- (d) each of Defendant's defenses enumerated in Defendant's last filed Answer in each of these cases.

ANSWER: Objection: To the extent that this request seeks information concerning Defendant's testifying experts, the request is an improper form of discovery, as information concerning testifying expert witnesses cannot be obtained through Interrogatories. *See* Tex. R. Civ. P. 195.1.

Defendant herein incorporates by reference objections to Interrogatory 39. Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

In addition to the individuals identified in response to Interrogatory 39, Defendant incorporates by reference its most recent Designation of Fact and Expert Witnesses and any supplemental or amended Designation made in this case. Defendant further generally identifies experts identified by plaintiffs solely on the issue of negligence of other defendants.

INTERROGATORY NO. 62:

Please identify documents which will be used at time of trial, (Exhibit List, Deposition List), which are relevant to each of Defendant's enumerated defenses in Defendant's last filed Answer.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it exceeds the permissible scope of discovery. Defendant will produce an Exhibit List and/or a "Deposition List" only in accordance with a scheduling order or similar order from the Court. Defendant further objects to this Interrogatory on the grounds that it invades the work product and attorney-client privileges, and based on this objection, information responsive to this Interrogatory has been withheld based on those privileges.

Subject to the foregoing objections and to the general objections, and without waiving the same, Defendant answers as follows:

Defendant incorporates by reference and adopts its most recent amended Exhibit List filed In Re: All Asbestos-Related Personal Injury or Death Cases Filed or To Be Filed in Dallas County, Texas and any supplemental Exhibit List filed specifically for a particular case.

INTERROGATORY NO. 63:

Please state when you first received a copy of the Fleischer/Drinker Report published in 1945/1946.

ANSWER: Objection: Defendant objects to this Interrogatory on the grounds that it is overly broad, harassing and unduly burdensome. This Defendant removed all asbestos from its "patching compounds" (including joint compound) no later than 1978. This Interrogatory is not limited to the time period in which Defendant manufactured asbestos-containing products. Thousands of claims have since been made against Defendant for asbestos-related injuries, and numerous documents responsive to this Interrogatory have been collected from outside sources and/or developed by Defendant's attorneys and employees in order to defend against these claims. To the extent that this Interrogatory seeks documents that Defendant's attorneys or employees collected or developed in order to defend against asbestos-related injury claims, this Interrogatory is overly broad, harassing and unduly burdensome. Information responsive to this Interrogatory has been withheld pursuant to the work product, attorney-client, and consulting expert privileges.

Subject to these objections and to the general objections, and without waiving the same, Defendant answers:

Defendant did not receive the Fleischer/Drinker Report between 1960 and 1978. However, Defendant's attorneys may have obtained a copy of this Report during the 1980s or thereafter as part of their representation of Defendant in asbestos-related personal injury litigation.

RESPONSES TO REQUESTS FOR PRODUCTION

GENERAL RESPONSE TO ALL REQUESTS FOR PRODUCTION: This Defendant's relevant historical records are currently stored at 987 Commercial Street, San Carlos, California 94070. The burden of deriving or ascertaining the answers from the documents is substantially the same for plaintiffs as for Defendant. Defendant will make the documents available for inspection upon reasonable notice. Documents will be produced in the manner in which they are currently stored. In addition, discovery and investigation is ongoing and Kelly-Moore reserves the right to supplement its discovery responses.

REQUEST FOR PRODUCTION NO. 1:

Please produce a true and correct copy of each photograph of each asbestos-containing product identified in answer to Interrogatory No. 4.

RESPONSE: Defendant incorporates its objections to Interrogatory No. 4.

Subject to this objection and to the general objections, and without waiving the same, Defendant answers:

Defendant refers plaintiffs to the photographs of packages of asbestos-containing products contained within Defendant's document repository in San Carlos, California. Color photocopies are available on request.

REQUEST FOR PRODUCTION NO. 2:

Please produce any diagrams or schematics indicating, stating or detailing the existence of any of your subsidiaries, predecessors or divisions as defined on Page 1 of these Interrogatories and Request for Production.

RESPONSE: Responsive documents, if any exist, can be found within Defendant's document repository in San Carlos, California.

EXHIBIT A

PRODUCT	DESCRIPTION	COLOR	USE	PACKAGING	ON MARKET	WITHDRAWN	USE OF ASBESTOS DISCONTINUED	KNOWN FACTORY LOCATION	TIME PERIOD PRODUCED WITH ASBESTOS
1. Bedding Cement	Dry Powder Chrysotile up to 6%	Grayish-white Powder	Embedding tape over interior gypsum board joints. Between 50°F and 100°F	25 lb. bag	12/60	1970	1970	Richmond, Calif. San Carlos, Calif.	12/60 to 4/64 4/64 to 1970
2. Taping Compound	Dry Powder Chrysotile 0-8.3%	Grayish-white Powder	Embedding tape over interior gypsum board joints. Between 50°F and 100°F	25 lb. bag	1970	1982	12/15/77	San Carlos, Calif. Hurst, Texas	About 1970 to 12/77 Mid 1970's only
3. Finishing Compound	Dry Powder Chrysotile 0-7.5%	Yellow or Gray Powder	To conceal joints and nail holes with interior gypsum board. Between 50°F and 100°F	25 lb. bag	12/60	1982	12/20/77	Richmond, Calif. San Carlos, Calif.	12/60 to 4/64 4/64 to 12/77
4. Quik-Set Joint Compound	Dry Powder Chrysotile 0-6.0%	Off-white Powder	Fast Setting Joint Cement. Between 45°F and 80°F	25 lb. bag	1963	1982	1/8/78	San Carlos, Calif. Dallas, Texas Hurst, Texas	Late 1960's only 1963 to 6/70 6/70 to 1/78
5. All Purpose Joint Compound (Dry) * See Footnote.	Dry Powder Chrysotile 0-8.3%	Grayish-white Powder	For taping, topping and texturing. Between 50°F and 100°F	25 lb. bag	12/60	1982	1/10/78	Richmond, Calif. San Carlos, Calif. Ontario, Calif. Kirkland, Wash. Denver, Colorado Dallas, Texas Hurst, Texas Tulsa, Oklahoma Broken Arrow, Ok.	12/60-4/64 4/64-12/77 Unknown-1/75 10/69 to 3/72 6/71 to 4/76 1963 to 6/70 6/70 to 1/78 1/69 to 8/75 8/75 to 1977
6. Triple Duty	Dry Powder Chrysotile 0-8.3%	Grayish-white Powder	For taping, topping and texturing. Between 50°F and 100°F	25 lb. bag	1969	1971	Ceased manufacturing	San Carlos	1969 to 1971

PRODUCT	DESCRIPTION	COLOR	USE	PACKAGING	ON MARKET	WITHDRAWN	USE OF ASBESTOS DISCONTINUED	KNOWN FACTORY LOCATION	TIME PERIOD PRODUCED WITH ASBESTOS
7. Ready Mix Taping Compound	Pre-Mix Chrysotile 2.0 to 2.6%	Off-white Paste	Embedding tape over interior gypsum board joints. Between 50°F and 100°F	50 lb. ctn.	Unknown date; Limited to Customer Request	1/78	1/78	Hurst, Texas Denver, Colorado San Carlos, Calif.	Unknown to 1/78 Unknown to 4/76 Short time only
8. Ready Mix All Purpose Joint Compound * See Footnote.	Pre-Mix Chrysotile 0-2.6%	Off-white Paste	For taping, topping and texturing interiors. Between 50°F and 100°F	1 gal. pail 48 lb. ctn. 50 lb. ctn. 62 lb. pail	12/60	1982	1/13/78	Richmond, Calif. San Carlos, Calif. Ontario, Calif. Kirkland, Wash. Denver, Colorado Dallas, Texas Hurst, Texas Tulsa, Oklahoma Broken Arrow, Ok.	12/60 to 4/64 4/64 to 1/78 Unknown to 1/75 10/69 to 3/72 6/71 to 4/76 1963 to 6/70 6/70 to 1/78 1/69 to 8/75 8/75 to 1977
9. Ready Mix Topping Compound	Pre-Mix Chrysotile 0-2.6%	Off-white or Yellow Paste	To conceal joints and nail holes for interior gypsum board. Between 50°F and 100°F	50 lb. ctn. 62 lb. pail	1963	1982	1/14/78	possibly Richmond San Carlos, Calif. Ontario, Calif. Kirkland, Wash. Denver, Colorado Dallas, Texas Hurst, Texas Tulsa, Oklahoma Broken Arrow, Ok.	4/64 to 11/77 Unknown to 1/75 10/69 to 3/72 6/71 to 4/76 1963 to 6/70 6/70 to 1/78 1/69 to 8/75 8/75 to 1977
10. Wall Texture	Dry Powder Chrysotile 0-8.8%	Off-white Paste	Wall texture on interiors. Between 50°F and 100°F	25 lb. bag 50 lb. bag	12/60	1982	2/11/78	Richmond, Calif. San Carlos, Calif. Ontario, Calif. Kirkland, Wash. Denver, Colorado Dallas, Texas Hurst, Texas Tulsa, Oklahoma Broken Arrow, Ok.	12/60 to 4/64 4/64 to 1975 Unknown to 1/75 10/69 to 3/72 6/71 to 4/76 1963 to 6/70 6/70 to 2/78 1/69 to 8/75 8/75 to 1977
11. Bestex A	Dry Powder Chrysotile 0-8.8%	Off-white Paste	Wall texture on interiors. Between 50°F and 100°F	25 lb. bag	1969	9/71	Withdrawn 9/71	San Carlos	1969 - 1971

PRODUCT	DESCRIPTION	COLOR	USE	PACKAGING	ON MARKET	WITHDRAWN	USE OF ASBESTOS DISCONTINUED	KNOWN FACTORY LOCATION	TIME PERIOD PRODUCED WITH ASBESTOS
12. Texture Paint	Dry Powder Chrysotile 0-6.7%	Off-white Paste	Texture. Between 50°F and 100°F	25 lb. bag	1971	1980	2/11/78	Hurst, Texas	1971 to 2/78
13. Splatter Texture	Dry Powder Chrysotile 0-6.0%	Off-white Paste	Texture. Between 50°F and 100°F	25 lb. bag	Unknown	1980	1/12/78	Hurst, Texas Denver, Colorado Broken Arrow, Ok.	About 6/70 to 1/78 About 6/71 to 4/76 8/75 - 1977
14. Sand Finish	Dry Powder Chrysotile 0-7.7%	Off-white Paste	Texture. Between 50°F and 100°F	25 lb. bag	Unknown	1980	1/3/78	Dallas, Texas Hurst, Texas	Unknown - 6/70 6/70 to 1/3/78
15. Ceiling Texture	Dry Powder Chrysotile 0-10.0%	Off-white or White Powder	Texture for interior ceilings. Between 50°F and 100°F	31 lb. bag 32 lb. bag 40 lb. bag	1964	1982	3/9/78	San Carlos, Calif. Ontario, Calif. Houston, Texas Hurst, Texas	About 1964 to 12/77 About 1970 to 1/75 1967 to 9/74 9/74 to 3/78
16. Bestex D	Dry Powder Chrysotile 0-10.0%	Off-white or White Powder	Texture for interior ceilings. Between 50°F and 100°F	31 lb. bag	1969	9/71	Withdrawn 9/71	San Carlos	1969 - 1971
17. Bestex D-40	Dry Powder Chrysotile 0-10.0%	Off-white or White Powder	Texture for interior ceilings. Between 50°F and 100°F	40 lb. bag	1969	9/71	Withdrawn 9/71	San Carlos	1969 - 1971
18. Product 225	Paint Chrysotile 0-6.1%	Paint	Surface conditioner	1 gal. pail 5 gal. pail	1963	1998	1968	San Carlos	1963 - 1968
19. Product 235	Paint Chrysotile 0-7.5%	Paint	Tex-Bond	1 gal. pail 5 gal. pail	1972	Est. 1980	1978	San Carlos	1972 - 1978
20. Product 521	Paint Chrysotile 0-3.9%	Paint	Block filler	1 gal. pail 5 gal. pail	1974	Not withdrawn	1978	San Carlos	1974 - 1978
21. Radiant Heat Fill	Dry Powder Chrysotile	Powder	Radiant heat fill	Bag	1970	On or before 1980	Unknown, but did not contain asbestos by 1978	Ontario, Calif. Hurst, Texas	1970 to 1/75 1971 to 12/77
22. Product 1111	Paint Chrysotile 0-2.74%	Paint	Texture coating	1 gal. pail 5 gal. pail	10/70	1978	1974	San Carlos	10/70 to 1974
23. Product 1112	Paint Chrysotile 0-4.54%	Paint	Texture coating	1 gal. pail 5 gal. pail	9/70	Not withdrawn	1974	San Carlos	9/70 to 1974

PRODUCT	DESCRIPTION	COLOR	USE	PACKAGING	ON MARKET	WITHDRAWN	USE OF ASBESTOS DISCONTINUED	KNOWN FACTORY LOCATION	TIME PERIOD PRODUCED WITH ASBESTOS
24. Product 1133	Paint Chrysotile 0-3.00%	Paint	Texture coating	1 gal. pail 5 gal. pail	Unknown date	1978	1974	San Carlos	Unknown to 1974
25. Shur-hide	Dry Powder Chrysotile 0-8.8%	Off-white Paste	Wall texture on interiors. Between 50°F and 100°F	25 lb. bag	Est. 1964	Unknown	1975	San Carlos, Calif.	4/64 to 1975
26. Ready Mix Wall Texture	Paste	Off-white	Texture walls	50 lb. ctn.	Unknown date; short period only	Unknown	Unknown, but prior to 1978	San Carlos, Calif.	Short period only
27. Paco Crete	Paste	Off-white	Fill voids on concrete walls	50 lb. ctn. 62 lb. pail	1970	10/77	10/77	San Carlos, Calif.	1970-10/77
28. Infra Heat Base	Dry Powder Chrysotile	Powder	Radiant heat fill	Bag	1970	On or before 1980	Unknown, but did not contain asbestos by 1978	Ontario, Calif. Hurst, Texas	1970-1/75 1971-12/77

Note: The column headed "Use of Asbestos Discontinued" refers to the last possible date a product could have contained asbestos. Many products had an asbestos-free version or formula developed prior to the end date for the use of asbestos shown on Exhibit A.

* Footnote: For a brief period between 1969 and 1971, it is believed the Ready Mix All Purpose Joint Compound and the All Purpose Joint Compound (dry powder) listed above as Numbers 5 and 8, were also sold under the K.V. Alger label in some states. No further information regarding the details of product labeling has been located.

RE: Cause No. 94-02380; All Asbestos-Related Personal Injury Or Death Cases Filed Or To Be Filed In Travis County, Texas; In the District Courts of Travis County, Texas

VERIFICATION OF INTERROGATORIES

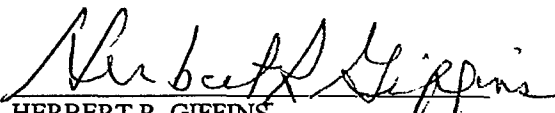
STATE OF CALIFORNIA §
 §
COUNTY OF SAN MATEO §

I, HERBERT R. GIFFINS, hereby declare:

I am an authorized representative of Kelly-Moore Paint Company, Inc. in this case. I verify the foregoing responses to interrogatories for and on behalf of Kelly-Moore Paint Company, Inc. The matters stated in the foregoing amended responses to interrogatories are not all within my personal knowledge, but I am informed and believe that there is no representative of Kelly-Moore Paint Company, Inc. who has personal knowledge of all such matters. The facts stated in the attached responses have been assembled by authorized employees, representatives and counsel of Kelly-Moore Paint Company, Inc.; and I am informed and I believe, after reasonable inquiry that the facts stated in the attached responses are true and correct.

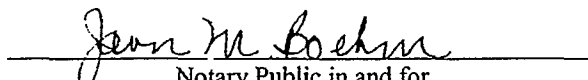
I verify under penalty of perjury that the foregoing is true and correct.

Executed this 8th day of January, 2003

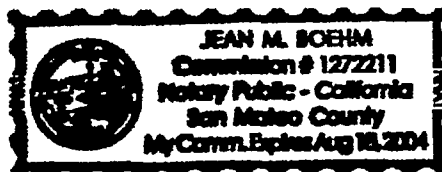

HERBERT R. GIFFINS
President and Chief Executive Officer

STATE OF CALIFORNIA §
 §
COUNTY OF SAN MATEO §

SUBSCRIBED AND SWORN TO BEFORE ME, by HERBERT R. GIFFINS, an authorized representative of KELLY-MOORE PAINT COMPANY, INC., this 8th day of January, 2003, to certify which witness my hand and seal of office. 3


Notary Public in and for
The State of California

My Commission Expires: 8/18/2004



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February 28, 2003

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

All Known Plaintiffs' Counsel
See Attached Service List

Re: Cause No. 94-02380; *In Re: Asbestos Litigation*; In the District Courts of Travis
County, Texas

Dear Counsel:

Please find enclosed **Kelly-Moore Paint Company Inc.'s Amended (02-20-03) Objections and Responses to Plaintiffs' Master Interrogatories and Request for Production.**

Please let me know if you have any questions.

Sincerely,



Geri Austin
Legal Assistant

Enclosures

cc: All known plaintiffs' counsel with enclosures (see attached service list)

Via Certified Mail/RRR

All known defense counsel without enclosures (see attached service list)

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