



IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

MERLE BARGER,	)	Cause No. 10-L-754
	)	
and	)	
	)	
MICHAEL THERIAULT, Individually and as	)	
Special Administrator of the Estate of	)	Cause No. 10-L-436
ROBERT THERIAULT, Deceased,	)	
	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
A.W. CHESTERTON, INC., et al.,	)	
	)	
Defendants.	)	

AMENDED NOTICE TO TAKE VIDEOTAPED DISCOVERY DEPOSITION
(amended as to date)

<u>DATE</u>	<u>TIME</u>	<u>DEPONENT</u>	<u>LOCATION</u>
August 5, 2011	9:00a.m. EDT	Robert Petkash, Corporate Representative, Eaton Corporation	Hilton Garden Inn 4900 Emerald Court S.W., Cleveland, OH 44135

PLEASE TAKE NOTICE that the videotaped discovery deposition of the deponent will be taken as indicated above; that counsel for Plaintiff will take the deposition pursuant to Illinois Supreme Court Rule 206(a)(1), and other applicable rules and statutes. Said deposition will be taken on oral examination before a Notary Public and certified Shorthand Reporter, or any other officer authorized by law to take depositions in like cases. This discovery deposition will be conducted of Eaton Corporation, (hereafter referred to as "Defendant") upon the matters set forth in this Notice. If you would like to participate in this deposition by telephone, please contact Pohlman Reporting.



DEFINITIONS

“YOU” and “YOUR” means each Defendant Eaton Corporation, its subsidiaries, agents, officers and any and all predecessors-in-interest.

“PERSON” and “PERSONS” include a natural PERSON, firm, association, organization, partnership, business, trust, corporation or public entity.

“WRITINGS” and “DOCUMENTS” mean, without limitation, the following items, whether printed or recorded or reproduced by any other mechanical process or written or produced by hand: any records, contracts, agreements, communications, correspondence, telegrams, memoranda, summaries of records of telephone conversations, summaries of records of personal conversations or interviews, diaries, graphs, reports, notebooks, note charts, plans, drawings, illustrations, sketches, photographs, maps, minutes, summaries of records or meetings or conference, summaries or reports of investigations or negotiations, opinions or reports of consultants, written analysis reports, tape recordings, motion picture film, brochures, pamphlets, advertisements, circulars, press releases, drafts, letters, any marginal comments appearing on any document, tags, signs, warnings, transcripts, bills, invoices, market surveys, inventories, papers, diagrams, statements, or testimony of any nature, documents, treatises, theses, books or accounting, and any and all other writings.

“PERTAINING TO” shall mean regarding, relating to, referring to, referencing, concerning, discussing, evidencing, supporting, identifying or describing.

“ASBESTOS” means asbestos fiber of any type or grade.

The words “ASBESTOS” or “ASBESTOS-CONTAINING PRODUCTS” (“ACP”) means any and all products, supplies, equipment or other materials which YOU know or believe to have contained any amount of asbestos at any time, including, but not limited to Eaton, Eaton Airflex, Airflex, and/or Fawick brand products, including, but not limited to, clutches and brakes.

“PLAINTIFF” means Robert Theriault and Merle Barger.

“RELEVANT TIME PERIOD” means 1950 through 2010.

“IDENTIFY” and “IDENTIFYING” when used with respect to ACP shall mean to describe by size, shape, color, manufacturer’s name, brand name, name of the entity which supplied YOU with the product or ACP, or other IDENTIFYING characteristics; when used with reference a PERSON shall mean to describe by name, last known telephone number and last known address.

“LOCATIONS AT ISSUE” means Brown Company, Burgess and/or Cascade Mills, located in/near Berlin, New Hampshire; and Lumax Industries, f/k/a Stanley Electric, located in/near Altoona, Pennsylvania.

INFORMATION SOUGHT

1. All information PERTAINING TO YOUR DOCUMENT retention policy.
2. All information PERTAINING TO YOUR corporate formation, acquisitions, mergers and relationships with subsidiary entities.
3. All information PERTAINING TO sales catalogs, brochures, specification sheets, photos, films, photocopies which depict any ASBESTOS-CONTAINING PRODUCTS sold or distributed by YOU.
4. All information PERTAINING TO model number, model name or symbol of any of ASBESTOS-CONTAINING PRODUCTS sold or distributed by YOU.
5. All information PERTAINING TO the packaging, name or logo associated with any of ASBESTOS-CONTAINING PRODUCTS sold or distributed by YOU.
6. All information PERTAINING TO the sales and/or distribution of any and all ASBESTOS and/or ASBESTOS-CONTAINING PRODUCTS which YOU sold or distributed to the LOCATIONS AT ISSUE during or prior to the RELEVANT TIME PERIOD.
7. All information PERTAINING TO the brand name or supplier of ASBESTOS and ACP which YOU sold or distributed.

8. All information PERTAINING TO PERSONS to whom YOU sold or distributed ASBESTOS-CONTAINING PRODUCTS during or prior to the RELEVANT TIME PERIOD.

9. All information PERTAINING TO PERSONS involved in the sales and/or distribution of any and all of ASBESTOS-CONTAINING PRODUCTS which YOU sold or distributed to the LOCATIONS AT ISSUE during the RELEVANT TIME PERIOD.

10. YOUR knowledge of the hazards of asbestos, and specifically when YOU knew that asbestos could cause asbestosis, lung cancer and/or mesothelioma and how YOU learned of same.

11. Any precautions and procedures undertaken by YOU with respect to the hazards of asbestos.

12. Knowledge about the level and content of the asbestos dust generated during the ordinary and foreseeable installation, removal, use or repair of ACPs sold or distributed by YOU.

13. Precautions and procedures undertaken by YOU or YOUR employees with respect to the hazards of asbestos, between 1940 and 1986.

14. Warnings/precautionary statements concerning asbestos accompanying ACPs sold or distributed by YOU, including the content of any such warning/precautionary statements, the reasons for the warning/precautionary statements, the dates such warnings/statements were used and/or revised, the manner in which they accompanied the products into the stream of commerce (e.g. via package insert, label on the product itself, etc.).

15. Any other manner in which YOU contend YOU warned potential users of the potential hazards of asbestos.

16. When and how YOU actually became aware that warnings/precautionary statements were to be placed on asbestos containing products.

17. All information pertaining to asbestos-related claims made against YOU, or YOUR workers' compensation insurance carrier, including the date(s) filed, the alleged injuries, whether or not YOU paid the claim.

18. When and why YOU stopped selling, marketing and/or distributing products which used or contained ASBESTOS.

19. Medical consultations/advice sought and/or received by YOU pertaining to health hazards of ASBESTOS prior to or during the time that YOU were selling, marketing and/or distributing ACPs.

20. The identity of publications/articles/brochures/pamphlets of which YOU were aware that dealt with asbestos-related disease, including any such information received by your client from any trade organization, and when it became aware of that information.

21. The content of YOUR promotional materials (e.g. advertisements, catalogs, brochures, etc.) pertaining to ACPs sold or distributed.

22. Any product recall notices pertaining to ACPs sold or distributed by YOU.

23. Any asbestos related OSHA violations by YOU or asbestos related violations by YOU of federal or state governmental statutes, ordinances or regulations between 1973 and the present.

24. YOUR membership in and/or affiliation with, including years of same, any of the following: American Textile Institute (ATI), Asbestos Information Association (AIA), Industrial Health Foundation or Industrial Hygiene Foundation (IHF), National Insulation Manufacturers Assn. (NIMA), National Insulation Contractors Assn. (NICA), National Safety Council (NSC), American Ceramics Society (ACS), National Building Materials Distributors Assn. (NIA), Sprayed Mineral Fiber Manufacturers Assn. (SMFMA), Thermal Insulation Manufacturers Assn. (TIMA), Quebec Asbestos Mining Assn. (QAMA), American Society of Mechanical Engineers (ASME), and/or any other trade organization of which you were a member.

25. YOUR corporate history.

26. Any and all documents, which relate, in any way, to health hazards or problems associated with the use of ACPs sold or distributed by YOU.

27. Knowledge regarding the ordinary and intended use of ACPs sold or distributed by YOU.

28. YOUR understanding of the potential health effects and risks associated with asbestos as demonstrated by the development and publication of federal Occupational Safety and Health Administration (OSHA) guidelines.

29. All information regarding your compliance with all applicable requirements, specifications and/or guidelines provided by OSHA and/or other federal or state governmental authorities overseeing workplace health and safety.

30. All information pertaining to PERSONS with responsibility for YOUR compliance with all applicable requirements, specifications and/or guidelines provided by OSHA and/or other federal or governmental authorities overseeing workplace health and safety.

31. All information pertaining to any patents held by YOU, acquired by YOU, or for which YOU applied, concerning YOUR ASBESTOS-CONTAINING PRODUCTS.

32. All information pertaining to studies, industrial hygiene surveys, or other testing, conducted by YOU, on YOUR behalf, or by anyone else, concerning YOUR ASBESTOS-CONTAINING PRODUCTS.

33. All information pertaining to studies, industrial hygiene surveys or other testing, conducted by YOU, on YOUR behalf, or by anyone else, concerning the effects of inhalation of ASBESTOS, including but not limited to ASBESTOS emanating from YOUR ASBESTOS-CONTAINING PRODUCTS.

At the specified date and time above, the deponent(s) is/are requested to produce and bring with him all items listed on the attached Exhibit A.

SIMMONS BROWDER GIANARIS
ANGELIDES & BARNERD LLC

By: Ryan J. Kiwala

Ryan J. Kiwala, IL #6289948

One Court Street

Alton, IL 62002

(618) 259-2222 – Phone

(618) 259-2251 – Facsimile

EXHIBIT A

DOCUMENTS TO BE PRODUCED AT DEPOSITION

It is hereby requested that Defendant produce the following to the extent applicable:

1. All DOCUMENTS PERTAINING TO the sale and/or distribution of any and all ASBESTOS and/or ASBESTOS-CONTAINING PRODUCTS which YOU sold or distributed to the LOCATIONS AT ISSUE during or prior to the RELEVANT TIME PERIOD.
2. All DOCUMENTS IDENTIFYING PERSONS involved in the sales and/or distribution of any and all of ASBESTOS-CONTAINING PRODUCTS that YOU sold or distributed to the LOCATIONS AT ISSUE during the RELEVANT TIME PERIOD.
3. Any documents used to refresh the recollection of the designated person(s) most knowledgeable and/or to prepare that person to testify as to areas of inquiry above.