

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

RECEIVED

VALVA EVILSIZOR

§

DEC 28 1981

VS.

§

CIVIL ACTION B-81-717-CA

FIBREBOARD CORP., ET AL

§

LEGAL DEPARTMENT

ANSWERS OF THE DEFENDANT, GAF CORPORATION
TO PLAINTIFF'S FIRST SET OF INTERROGATORIES

GAF Corporation, one of the Defendants in the above entitled and numbered cause, through its attorneys of record, makes the following answers to written interrogatories heretofore served on it by counsel for the plaintiff.

1. Has Defendant, at any time, engaged in the mining, manufacture or sale of insulation products containing asbestos fibers? If so, please state a description of the physical (chemical) composition of each such product including the type of asbestos contained in each such product (i.e., amosite, chrysotile or crocidolite), the quantitative percentage of asbestos in each product, and a description of the physical appearance of each such product.

ANSWER: "Calsilite"-A high temperature pipe covering and built-up block containing approximately 10% amosite asbestos fiber and the remainder consisting of hydrous lime silicate and diatomaceous earth. Calsilite was manufactured at Gloucester, New Jersey from the early 1940's until mid-1970 at which time GAF commenced the production of asbestos-free Calsilite ("Calsilite II").

"115" and "214" Insulation Cements-Known generically as 7M and 7K type cements, respectively, these insulating cements were composed of chrysotile asbestos fiber. These cements were manufactured at Hyde Park, Vermont from 1935 through September, 1975

"T/NA-100" Insulation Jacketing - A two-ply laminated product consisting of a layer of asbestos paper in which chrysotile asbestos fibers were bonded with Neoprene and a layer of polyvinyl fluoride (Tedlar) plastic film attached by adhesive on one side. T/NA-100 was manufactured at South Bound Brook, New Jersey from 1962 to September, 1971.

Asbestos Paper and Millboard - Chrysotile insulating paper, used as a jacketing or pipe wrap; manufactured at Erie, Pennsylvania from approximately 1929 until September, 1971. Millboard was used primarily as an industrial fire barrier..

2. Please describe in detail the type of packages in which Defendant has sold asbestos material, listing the dates each type of packaging was used, a physical description thereof, and a description of any printed material or trademarks that appeared thereon.

ANSWER: The products are packaged in corrugated cartons or paper bags. In approximately 1964, Ruberoid began placing warning notices on the packages of its thermal insulation products containing asbestos fiber.

"CAUTION

This product contains asbestos fiber. Inhalation of asbestos in excessive quantities over long periods of time may be harmful.

If dust is created when this product is handled avoid breathing the dust. If adequate ventilation control is not possible, wear respirators approved by the U. S. Bureau of Mines for Pneumoconiosis Producing Dust."

In 1970, this warning label was changed to read as follows:

"CAUTION

Contains asbestos fiber. Inhalation in excessive quantities over long periods of time may be harmful. Avoid breathing dust. If adequate ventilation is not possible, wear respirators approved by the U. S. Bureau of Mines for Pneumoconiosis Producing Dust."

In approximately 1972, this warning was further changed to read as follows:

"CAUTION

Contains asbestos fiber. Inhalation in excessive quantities over long periods of time may be harmful. Avoid breathing dust."

3. Has the Defendant, at any time, published and/or distributed any brochures, sales literature, pamphlets or other written materials (including any caution, labels on containers) of any kind or character that contain any warnings, cautions, caveats or directions concerning the possibility of injury resulting from the use of the products listed in your answer to the previous interrogatory? If so, state:

- (a) The wording of each such warning;
- (b) A description of each such printed material;
- (c) The method used to distribute the warning to persons who are likely to use the products;
- (d) The date each such warning was issued;
- (e) The name, address and job classification of each person who presently has possession of the above described documents.
- (f) If you will without a motion, please attach a copy of such warning.
- (g) State whether any industrial psychologists or human factors engineers were consulted prior to utilizing such warnings, cautions, etc.

ANSWER: See Answer to Interrogatory No. 2.

4. Did you receive any reports or communications from your workmen's compensation carrier or products liability insurance carrier with regard to the hazards incident to use of asbestos containing insulation products? If so, please state who had possession of said reports, the location of said reports and the substance of the contents of said reports, listing for each such report the respective insurance company, its address, and the agent signing such correspondence.

ANSWER: Not to the best of our knowledge.

5. Has this Defendant exchanged results of research, tests, medical studies or experiments regarding the state of the medical knowledge regarding the connection between asbestos exposure and the contracting of pulmonary disease including lung cancer and asbestosis since 1930 with any other company which manufactured or sold asbestos-containing products? If so, state:

- (a) When these exchanges took place.
- (b) Who participated in these exchanges.
- (c) Summarize the content of these exchanges of studies.

ANSWER: Not to the best of our knowledge.

6. Please state if the Defendant or anybody on behalf of the Defendant ever conducted or sponsored or contributed financially to any studies or research to determine if the inhalation of asbestos fibers may be harmful. If so, please state:

- (a) By whom the research was conducted, giving complete names and addresses.
- (b) The dates that each such test was conducted.
- (c) The complete results of each test or study.
- (d) Supply copies of reports of the research department pertaining to the use by the corporation of asbestos in their manufactured insulation products.

ANSWER: This Defendant has no facilities or equipment designed for medical research and has conducted no studies of the nature specified. Likewise, no contributions, directly or indirectly, of this type are made.

7. Please state the names and addresses of all physicians who were employed, retained or otherwise engaged by the Defendant at any of its facilities from the years of 1930 until the present time, including chief medical officers.

ANSWER: This defendant does not have, and has never had, a Medical Department. This defendant has a Research Department. The duties and responsibilities of this Department are to improve existing products and processes and to develop new products and processes.

8. Please state the names and addresses of all persons employed by Defendant from 1930 until the present time who functioned as industrial hygienists. As contemplated by these Interrogatories, an industrial hygienist is one who performs engineering or health studies to identify and evaluate potential occupational health hazards and suggest methods of dealing with the same. Please state:

- (a) The facility or office to which they were assigned
- (b) Their complete and precise duties and responsibilities.

ANSWER: This defendant does not have, and has never employed industrial hygienists.

9. Please state if the Defendant's medical officers ever made at any time any recommendations and/or suggestions to the Defendant pertaining to the risks or hazards to persons involved in the manufacturing or use of insulation products containing asbestos. If so, please state:

- (a) Where were such recommendations and/or suggestions made?
- (b) To whom were such recommendations and/or suggestions made?
- (c) By whom were these recommendations and/or suggestions made?
- (d) The substance of the recommendations and/or suggestions.

ANSWER: See answer to Interrogatory No. 7.

10. Please state the names of trade association periodicals to which the Defendant subscribed from 1928 to the present date. State whether or not the Defendant had any knowledge of any articles being printed in industry trade journal essays, memoranda and other similar sources pertaining to the hazardous potentials of asbestos and which of such articles were received by you.

ANSWER: The trade associations to which this defendant belonged are as follows: National Insulation Manufacturers Assoc., Inc., 7 Kirby Plaza, Mount Kisco, New York 10549 and Asbestos Information Association/North America, Suite 914, 1600 L Street, N.W. Washington, DC 20036. The dates of GAF membership and the names of the publications advanced by these associations are unknown.

11. Please state organizations, groups, inter-company or industrial organizations to which the defendant belongs which conducted studies or researched the relationship, if any, between exposure to asbestos fibers or products and asbestosis and lung cancer from 1945 to 1970, and in regard to such studies, state:

- (a) The type or nature of the studies.
- (b) When the studies were conducted.
- (c) The complete results of the studies.
- (d) The recommendations of the studies.
- (e) The resulting implementation of the studies by Defendant.
- (f) The date when first implemented.

ANSWER: None to the best of our knowledge.

12. Please state whether the Defendant has or had a department, division or section devoted to scientific and/or medical research during the period from 1936 until the present time. If so, please state when it was first formed.

ANSWER: This Defendant has a Research Department. Such department has been in existence since the Company was organized in 1929. Prior to its acquisition by GAF, The Ruberoid Co. also had a research department for a number of years. That department has since been assimilated by the GAF Research Department.

13. Please state the scientific or medical periodicals to which the Defendants, its medical department or industrial division subscribed during the period between 1950 and 1964, specifying the date such subscriptions were begun.

ANSWER: GAF is not in possession of any materials which would provide the information requested in this interrogatory.

14. Please state whether any employee of the Defendant has ever made a claim for asbestosis under the Occupational Disease or Workmen's Compensation Statute of any state. If so, please state the date that the Defendant first received notice of any claim for asbestosis under the Occupational Disease or Workmen's Compensation Statute of any state and state the total number of claims filed for the years 1946 to 1965.

ANSWER: Defendant objects to this interrogatory because such interrogatory pertains to matters which are immaterial to this case and because the same is not confined to compensation claims by those working as insulators and compensation claims by those employed in other capacity would have no bearing on any issue in the case.

15. Has the Defendant ever been a member of the Asbestos Textile Institute, the Industrial Hygiene Foundation or the Industrial Health Foundation? If so, when did it first become a member and list the years inclusively of membership.

ANSWER: This defendant has never been associated with in any manner or a participant or member in the Asbestos Textile Institute, Industrial Hygiene Foundation or the Industrial Health Foundation.

16. Since 1930, has the Defendant sponsored for its employees or distributors any meetings, seminars, conferences, or conventions where the subject of occupational health and exposure to asbestos was discussed? If so, state:

- (a) The date and place of such meeting, seminar, conference, or convention where the subject of occupational health and exposure to asbestos was discussed.
- (b) The name and address of the speaker or discussant.

ANSWER: Objected to as seeking information which is not relevant to the matter at hand. Subject to this objection, GAF responds no.

17. At any time prior to 1964 were any tests or studies conducted or sponsored by you to determine:

- (a) The level of dust or fiber concentration incident to:
 - (i) Cutting or sawing your insulation products containing asbestos;
 - (ii) Implacing the product on pipes and/or boilers;
 - (iii) Tearing down the product during repair and maintenance functions;
 - (iv) Mixing asbestos containing insulation cements.
- (b) Whether long term (20 years or more) exposure to insulation products containing 15 percent asbestos or less for work periods less than 8 hours a day, both indoors and outdoors, which resulted in the liberation of asbestos dust or fiber below 5 million particles per cubic foot (mppcf) might cause asbestosis or expose such worker to an increased statistical risk of contracting bronchogenic cancer, mesothelioma (pleural or peritoneal) or gastrointestinal cancer.

ANSWER: (a) This defendant has no facilities or equipment designed for this type of research and has conducted no studies of the nature specified.

(b) Defendant objects to part B of this interrogatory because it calls for a medical opinion not within defendant's knowledge.

18. Please identify all texts, articles, publications, pamphlets, standards and rules upon which you intend to rely at the time of trial to support your case.

ANSWER: Not known at this time.

19. Please describe and define threshold limit value of dust containing asbestos and the application of threshold limit value to the asbestos manufacturing and insulation trade, and state the date and the source from which you received your first notice and awareness of threshold values pertaining to the concentration of airborne asbestos fibers.

ANSWER: Defendant objects to the interrogatory because the recommendations as to threshold limit values are a matter of public record and readily available to and equally accessible to the plaintiff. If answer is required, defendant states that it makes no contention regarding threshold limit values. Defendant has always endeavored to operate within the recommended limits.

20. Please state whether or not you ever obtained any knowledge concerning the likelihood of asbestos inhalation being hazardous to health, and if so, state when the corporation first became aware of the hazardous potential of asbestos and its products. State how the Defendant first obtained this knowledge and became so aware of said hazards and from what source this information was obtained.

ANSWER: In approximately 1965, GAF became aware of opinions expressed by some members of the medical profession such as Dr. Irving Selikoff that asbestosis could occur among such workers, though the opinion did not specifically relate to use of our products.

21. Please state whether or not Defendant ever maintained a library or collection of medical information pertaining to effects of asbestos upon human health, including its hazardous effects, and if so, where said library or collection was and is located, the names and addresses of all medical librarians employed by Defendant since 1930, and what bibliography of medical articles, materials, and other reports were a part of said library on said subject, including journals, publications, reports and all memoranda published and received by you since 1930.

ANSWER: Objected to as burdensome and as not relevant to the matter at hand. Subject to this objection, GAF responds that to the best of its knowledge, it began acquiring literature on asbestos and asbestosis in 1972 or 1973, after it became involved in asbestosis litigation. The relevant documents are maintained at GAF's Wayne, New Jersey, offices.

22. Please state the date when you first notified your employees working in your manufacturing plants and factories as to the need to wear and use a respirator.

ANSWER: Objected to as seeking information which is not relevant to the matter at hand since GAF has not employed persons in the same capacity as plaintiff.

23. State the name of any expert witness that you intend to rely upon at the trial of this action, and identify the subject matter upon which each said expert will testify, his opinions, and the grounds upon which the opinions are based.

ANSWER: Not known at this time.

24. Please state if the Defendant intends to assert a defense of the Statute of Limitations. If so, state all facts on which the Defendant bases its contention that the Statute of Limitations had run on the Plaintiff's claim.

ANSWER: Will be stated in defendant's pleadings.

25. Please state any product within your knowledge which could be or is being used for the same purpose as asbestos containing insulation material, and state when it was determined that said materials could be used as a substitute for asbestos insulation products.

ANSWER: Objected to as harassing and as seeking information which is equally available to plaintiff, and which, furthermore, is not relevant to the matter at hand.

STATE OF NEW YORK §

COUNTY OF NEW YORK §

PATRICIA CORBUTT, being duly sworn according to law, deposes and says that she is Assistant Secretary of defendant GAF Corporation; that she is duly authorized to make this affidavit on behalf of said corporation; and that all of the statements set forth in the foregoing Responses to Plaintiff's First Set of Interrogatories are true and correct to the best of her knowledge, information and belief.

Patricia Corbutt
PATRICIA CORBUTT

SWORN TO AND SUBSCRIBED before me this 10 day of
March, 1981.

NOTARY PUBLIC
STATE OF NEW YORK
COMM. EXPIRES 12/31/82

John G. Tucker
Notary Public in and for
New York County, New York

My Commission Expires: _____

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Answers to Interrogatories of the Defendant, GAF Corporation, was served by mailing a copy thereof in the United States mails, Certified Mail, return receipt requested, to plaintiff's counsel on this 21 day of March, 1981, and to all other counsel of record.

John G. Tucker
JOHN G. TUCKER
ATTORNEY FOR GAF CORPORATION