

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

DONALD THOMAS KYER and
PAULINE KYER

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§

VS.

CIVIL ACTION NO.
S-88-138-CA

GAF CORPORATION (Successor to
THE RUBEROID COMPANY),

**DEFENDANT GAF CORPORATION'S RESPONSES TO
PLAINTIFFS' SECOND SET OF INTERROGATORIES**

COMES NOW GAF CORPORATION, Defendant herein, and files this
their Responses to Plaintiffs' Second Set of Interrogatories.

Respectfully submitted,

DeHAY & BLANCHARD
Plaza of the Americas
2500 South Tower, LB 201
Dallas, TX 75201-2880

By:

Gary Elliston / n-c
J. CARLISLE DeHAY, JR.
State Bar No. 05644000
GARY D. ELLISTON
State Bar No. 06584700

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing
has been furnished to counsel for plaintiff, Joseph F. Bruegger,
Baron & Budd, 8333 Douglas Avenue, 10th Floor, Dallas, Texas 75225,
by U.S. Certified Mail, and to all other counsel of record by U.S.
Mail, this 6th day of November, 1989.

Gary Elliston / n-c
GARY D. ELLISTON

**DEFENDANT GAF'S RESPONSES TO PLAINTIFFS'
SECOND SET OF INTERROGATORIES**

GENERAL OBJECTIONS

1. GAF objects to these Interrogatories and Requests to the extent that they seek to require it to respond on behalf of any other entity. GAF will respond with such knowledge as GAF possesses as to The Ruberoid Co. prior to its merger with GAF on May 26, 1967, and on behalf of GAF thereafter.

2. GAF objects to these Interrogatories and Requests to the extent that they seeks to require it to provide information other than that which may be obtained through a reasonably diligent search of its records.

3. GAF objects to these Interrogatories and Requests to the extent that they seeks to require it to respond other than in accordance with the applicable Federal Rules of Civil Procedure. Thus, GAF declines any obligation to (a) locate or interview former employees or any other person not presently employed or engaged by GAF; (b) generate documents not presently existing; (c) describe its unsuccessful efforts to answer any interrogatory; (d) identify an unknown custodian or the current custodian of documents not in GAF's possession; (e) identify the file designation and other identifying designation, the present location or the source of documents identified unless specifically requested in the interrogatory; (f) add to or to change the meaning of any interrogatory in the conjunctive or disjunctive; (g) respond to any aspect of an interrogatory not described with reasonable particularity by the express language of the interrogatory; or (h) provide medical or other expert opinion beyond the scope of GAF's business.

4. GAF objects generally and individually to the Interrogatories and Requests on the grounds and to the extent that they assume facts not in evidence or otherwise erroneous (i.e., that GAF had "distributors") and on the further grounds that they are vague, overly broad, oppressive, unduly burdensome, excessive in number, not relevant to the subject matter of the litigation, and not calculated to lead to the discovery of admissible evidence.

5. GAF hereby adopts the motions and objections of the other defendants, and reserves the right to adopt future motions and objections relating to Plaintiffs' First Set of Interrogatories and First Request for the Production of Documents.

6. GAF objects to these Interrogatories and Requests to the extent that they seeks to require it to provide information which is equally available to the plaintiffs as to GAF.

7. GAF objects to these Interrogatories and Requests to the extent that they seeks it to respond other than in accordance with the Federal Rules of Civil Procedure and thus GAF declines to identify computer tapes and programs, computer printouts and any electronic, mechanical or electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, recordings and computer memories), or fields, files, menus, databases, or other computer classifications or material, inasmuch as such documents constitute documents or other things prepared or obtained in anticipation of litigation or for trial pursuant to Rule 26(b) (3), work product, confidential attorney-client communications and otherwise privileged documents.

Subject to the foregoing objections GAF responds to the individual Interrogatories and Requests as follows;

INTERROGATORY NO. 1

Please describe in detail your knowledge of the entity or trade name known as the "Vermont Asbestos Group" or "Vermont Asbestos".

ANSWER: This defendant objects to this interrogatory on the grounds set forth in the preliminary paragraphs of this response. Without waiver of these objections, GAF responds that in 1936 The Ruberoid Co. acquired a Vermont mine with mill formerly owned by the Vermont Asbestos Corporation and located in Eden or Lowell (sometimes referred to as Morrisville or Hyde Park), Vermont; this was the only mine known to have been owned and operated by this defendant. The mine was a division of Ruberoid. GAF sold the mine in 1975 to the Vermont Asbestos Group, which was a company formed by former mine employees.

INTERROGATORY NO. 2

Please describe in detail any affiliation or association of any kind that the Ruberoid Company may have had with the "Vermont Asbestos Group" or "Vermont Asbestos."

ANSWER: This defendant objects to this interrogatory on the grounds set forth in the preliminary paragraphs of this response. Without waiver of these objections, GAF responds that in 1936 The Ruberoid Co. acquired a Vermont mine with mill formerly owned by the Vermont Asbestos Corporation and located in Eden or Lowell (sometimes referred to as Morrisville or Hyde Park), Vermont; this was the only mine known to have been owned and operated by this defendant. The mine was a division of Ruberoid. GAF sold the mine

in 1975 to the Vermont Asbestos Group, which was a company formed by former mine employees.

INTERROGATORY NO. 3

Did the Ruberoid Company, at any period of time, market or sell asbestos-containing products labeled "Vermont Asbestos"? If so, please state:

(a) The names of each such product;

(b) The asbestos content by fiber type and percentage of each such product.

(c) The dates that each such product was manufactured or marketed by Ruberoid.

ANSWER: Subject to the objections set forth in the preliminary paragraphs of this response, this defendant states that insulation cements of different fiber sizes, commonly known as sizes 115 and 214 (also known generically among various manufacturers' products as sizes 7M and 7K) were sold by The Ruberoid Co. from 1937 until 1967 and by General Aniline & Film Corporation and then by GAF Corporation from 1967 to 1975. These insulation cements contained chrysotile asbestos fibers. Prior to 1950, essentially the same grade of insulation cement may have been sold by Ruberoid under a different alphabetical or numerical designation.

INTERROGATORY NO. 4

Please identify each person who has knowledge of any relevant facts regarding the sale by the Ruberoid Company, its predecessors, successors or subsidiaries, of asbestos-containing products labeled "Vermont Asbestos" to the Bendix Plant at Green Island, New York for the time period from 1949 to February, 1960.

ANSWER: This defendant objects to this interrogatory on the grounds that the phrase, "predecessors, successors or subsidiaries," is not defined in the interrogatories and is susceptible to a variety of interpretations, legal conclusions and consequences. Subject to this objection and the objections set forth in the preliminary paragraphs of this response, this defendant states that it has no knowledge of any such person.

INTERROGATORY NO. 5

Please identify the custodian of any and all documents evidencing sales by GAF, its predecessors, subsidiaries or successors, of asbestos-containing products to the Bendix Plant at Green Island, New York for the time period from 1949 to February, 1960.

ANSWER: This defendant objects to this interrogatory on the grounds that the phrase, "predecessors, subsidiaries or successors," is not defined in the interrogatories and is susceptible to a variety of interpretations, legal conclusions and consequences. Subject to this objection and the objections set forth in the preliminary paragraphs of this response, this defendant states that it has no knowledge of any documents relating to this jobsite.

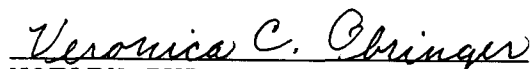
STATE OF NEW JERSEY)
) SS:
COUNTY OF PASSAIC)

A F F I D A V I T

I, ELEANOR CARLSON, being duly sworn according to law,
depose and say that I am an Assistant Secretary of GAF
Corporation, one of the Defendants herein, and that I am
authorized to make this Affidavit in its behalf, and that the
facts set forth in the foregoing Responses are true and correct
to the best of my knowledge, information and belief.


ELEANOR CARLSON

SWORN TO AND SUBSCRIBED
before me this 27th day
of October 1989


NOTARY PUBLIC IN AND FOR
SAID COUNTY AND STATE

Notary Public of New Jersey
My Commission Expires May 6, 1990

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