

THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

**IN RE: ASBESTOS PERSONAL
INJURY LITIGATION**

**CIVIL ACTION NO. 03-C-9600
October 2004 Trial Group
Honorable Ronald E. Wilson**

**DOLORES L. BURKE,
Deceased**

Plaintiff,

vs.

Civil Action No. 03-C-3182

ADIENCE, INC., et al.,

Defendants.

**ANSWERS OF DEFENDANT SUED INCORRECTLY HEREIN AS AMCHEM
PRODUCTS, INC. TO PLAINTIFFS' FIRST SET OF INTERROGATORIES TO ALL
PRODUCT MANUFACTURING DEFENDANTS**

Defendant sued incorrectly herein as RHONE-POULENC, INC. or AMCHEM PRODUCTS, INC. ("Amchem")¹ responds to Plaintiffs' First Set of Interrogatories (the "Interrogatories") as follows:

INTRODUCTION

Since Plaintiff has sued this entity in its capacity as the successor to the Benjamin Foster Division of Amchem Products, Inc. these responses are limited to information regarding Amchem Products, Inc. and its Benjamin Foster Division. Since the Benjamin Foster Division of Amchem Products, Inc. produced all of Amchem Products, Inc.'s products which ever contained asbestos (with the sole exception of TRE-HOLD, which has not been alleged as a product at issue in this lawsuit), these responses are limited to information regarding products sold prior to June 1, 1976, when H.B. Fuller Company acquired all assets of the Benjamin Foster Division. To the extent that Plaintiff's alleged exposure relates to Benjamin Foster products sold

¹ The current corporate successor of Amchem Products, Inc. is Bayer CropScience Inc.

**PLAINTIFF'S
EXHIBIT**

WV-021995

**PLAINTIFF'S
EXHIBIT**

79082.00

after June 1, 1976, Plaintiff should direct all discovery for such claims to H.B. Fuller Co.

GENERAL OBJECTIONS

1. Amchem objects generally to the interrogatories as overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent that they are unlimited in time and do not relate to the time period in which Plaintiff's alleged exposure to any product containing asbestos occurred.

2. Amchem objects generally to the interrogatories to the extent that they seek information protected by the attorney-client privilege, the protection afforded attorneys' work product or any other applicable privilege, protection or immunity from discovery.

3. Amchem objects to the interrogatories to the extent that they seek information concerning Amchem's subsidiaries or divisions (other than Benjamin Foster), parents or affiliates and predecessors or successors, which were not involved with Amchem's manufacture or sale of products which contained asbestos. Such information is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence. To provide such information, Amchem could be required to seek and furnish information from, and to reply on behalf of, persons over whom or which Amchem no longer exercises or never exercised control. This would be unduly burdensome and oppressive and is not required by law.

4. Plaintiff has sued this entity as the successor to the Benjamin Foster Division of Amchem Products, Inc. Since the Benjamin Foster Division of Amchem Products, Inc. produced all of the Amchem Products, Inc.'s products which ever contained asbestos (with the sole exception of TRE-HOLD, which has not been alleged as a product at issue in this lawsuit), these responses are limited to information regarding Benjamin Foster products sold prior to June 1, 1976, when H.B. Fuller Company acquired all assets of the Benjamin Foster Division of

Amchem Products, Inc. Amchem objects to each discovery request to the extent that it seeks information from or about Rhone-Poulenc, Inc. itself, or for time periods after June 1, 1976.

5. Amchem objects to the interrogatories to the extent that they seek information about Amchem's manufacturing plants or employees. Inasmuch as Plaintiff was neither employed by Amchem, nor worked at any of Amchem's facilities, interrogatories seeking such information are irrelevant to this case and not reasonably calculated to lead to the discovery of admissible evidence.

6. Amchem objects to all inquiries regarding its TRE-HOLD product. Until late 1979, Amchem produced a tree sprout inhibitor used primarily for telephone poles, made from trees, called TRE-HOLD. TRE-HOLD contained a small quantity of asbestos encapsulated in asphalt carriers. Amchem excludes information concerning TRE-HOLD from its responses because such information is not relevant to this case nor reasonably calculated to lead to the discovery of admissible evidence. All other Amchem products which contained asbestos consisted of sealants, coatings, adhesives or mastics. Unless otherwise stated, Amchem's responses refer or relate only to those products.

7. Since Amchem and its successors were or are corporations, Amchem lacks personal knowledge of the information supplied in these responses. Thus, the information supplied in these responses is based on the knowledge of former employees of Amchem, and on information obtained from documents in Amchem's document repository.

8. Amchem states that trial preparation and factual investigation are ongoing. Amchem's answers to these interrogatories are based on information known to Amchem at this time. Amchem reserves the right, however, to make reference at the trial or at any hearing in this action to facts and documents not identified in these responses, the existence or relevance of

which is later discovered by it or its counsel. By this reservation, Amchem does not in any way assume a continuing responsibility to update its responses to these interrogatories, and specifically objects to each of these interrogatories to the extent that they seek to impose any such continuing obligation upon Amchem, unless such obligation is imposed by law.

9. Amchem objects to this set of interrogatories in its entirety on the grounds that it is not reasonably framed in terms of the facts and subject matter of the present action, with the result that Amchem is called upon to speculate as to what information relevant to the present case, if any, may be deemed to fall within the scope of the interrogatories as phrased.

10. Amchem objects to this set of interrogatories in its entirety on the grounds that the number of Interrogatories and subparts impose an excessive and improper burden on Amchem and are duplicative of each other.

11. Amchem further objects to all discovery requests that seek to impose an obligation on Amchem to research and provide information about all of its products that may or may not have contained any asbestos before Plaintiff has identified the specific Amchem product to which Plaintiff was allegedly exposed.

INTERROGATORIES

1) As to any product containing asbestos in any form, has this defendant designed, manufactured, processed, sold, distributed, patented such a product or relabeled such a product which was manufactured, sold or distributed by another company?

ANSWER:

See Amchem's General Objections. Amchem objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, harassing, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Interrogatory to the extent it does not relate to the time period or location of Plaintiff's alleged exposure.

Subject to its objections, Amchem responds as follows: in 1956, Amchem acquired the Benjamin Foster Company as a subsidiary, which had designed, manufactured and sold a line of products used as sealants, coatings, adhesives or mastics which Amchem then continued to develop, manufacture and sell. Some of these products, both before and after 1956, contained small amounts of encapsulated asbestos. According to Amchem's best available information, the only other product which contained asbestos ever made or sold by Amchem was TRE-HOLD, a tree sprout inhibitor used primarily in telephone poles, in which the asbestos fiber was also fully encapsulated. Amchem did not mine asbestos or sell raw asbestos fiber, and it did not acquire the assets or liabilities of any corporation or entity that did. Some Amchem products which contained asbestos were patented. Amchem sold its Benjamin Foster Division in 1976 and Amchem's available records include neither originals nor copies of actual patents. Amchem never purchased asbestos-containing products which it relabeled or rebranded and never entered into relicensing agreements in the United States.

2) If your answer to any part of No. 1 is "Yes", then please provide the following information:

- (a) Trade name of each product (ex: Unibestos, One-Coat, etc.);
- (b) Date each such product was first sold or distributed and last sold or distributed (ex: 1942-1958);
- (c) Date each such product was first sold or distributed and last sold or distributed (ex: 1942-1958) in West Virginia;
- (d) Type of product (ex: pipecovering, mud, mastic, gasket material);
- (e) Percentage of asbestos content;
- (f) Type of asbestos used in the product (ex: amosite);
- (g) Supplier of asbestos fiber, and if more than one supplier, please list all suppliers.

ANSWER:

(a) See Amchem's General Objections. Amchem objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and harassing. Amchem also objects to this

Interrogatory to the extent that it does not relate to the time period or location of Plaintiff's alleged exposure. Subject to its objections, Amchem responds as follows: Amchem's Benjamin Foster Division manufactured a line of sealants, adhesives, coatings and mastics in several different product lines and brands. Some of these products contained a small amount of chrysotile asbestos fiber to provide texture or properties to meet customer specifications or needs. Certain products containing asbestos were also manufactured in accordance with United States Military specifications, as indicated in Amchem's records. In all such products, the asbestos fiber was fully encapsulated by a binder material and thus free fiber could not be released or emitted from any of the products sufficient to cause any health hazard. All of the products discussed above had the Benjamin Foster and/or Amchem name on their labels. There were several different product lines corresponding to various properties and characteristics. Amchem's repository contains product data for Amchem's products which contained asbestos. The repository is maintained at Mayer, Brown, Rowe & Maw LLP, 190 S. LaSalle St., Chicago, Illinois 60603-3441. Ms. Mary Martin, legal assistant, serves as custodian of the documents. Upon Plaintiff's request, Amchem will make its document repository (excluding privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date.

(b-c) See Amchem's General Objections. Amchem objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and harassing. Amchem also objects to the extent that Plaintiff has not specified time periods for particular work sites. Amchem further objects to the extent this Interrogatory seeks information for job sites unrelated to Plaintiff's occupation for the time period in question. Amchem also objects to this Interrogatory to the extent that it seeks information concerning sales of its products to entities located outside of West Virginia. Subject to its objections, Amchem responds as follows: The Benjamin Foster

Company first sold products which contained asbestos in the early 1940s, before it was acquired by Amchem in 1956. Approximately 13 years after Amchem acquired the Benjamin Foster Company as a subsidiary, it was merged into Amchem and operated as the Benjamin Foster Division, which continued to sell these products and added additional product brands over time. According to Amchem's available records, Amchem began to market the particular product brands shortly after their date of design. Amchem sold its Benjamin Foster Division in 1976 to H.B. Fuller Company. Thereafter Amchem ceased to manufacture or sell all products which contained asbestos except for TRE-HOLD. In 1977, Amchem merged with another corporation and ceased to exist as a separate entity. Amchem's available records may have information as to when particular products may have been discontinued. This information is accessible to Plaintiffs through reviewing Amchem's available documents.

(d) See Amchem's General Objections. Amchem objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and harassing. Amchem also objects to this Interrogatory to the extent that it does not relate to the time period or location of Plaintiff's alleged exposure. Subject to its objections, Amchem responds as follows: Amchem's Benjamin Foster Division manufactured sealants, adhesives, coatings and mastics in several different product lines and brands.

(e) See Amchem's General Objections. Amchem objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and harassing. Subject to its objections, Amchem responds as follows: Amchem's Benjamin Foster Division manufactured and sold a variety of sealants, coatings, adhesives and mastics, many of which contained no asbestos at all. Most of the products which contained asbestos contained less than 5% asbestos by weight, and in many products the asbestos content was much lower.

(f) See Amchem's General Objections. Amchem objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and harassing. Subject to its objections: Amchem responds as follows: chrysotile was the type of asbestos always used in Amchem's/Benjamin Foster's products that contained asbestos.

(g) See Amchem's General Objections. Subject to its objections, Amchem responds as follows: the principal suppliers of asbestos to Amchem's Benjamin Foster Division for use as a product compound were the Johns-Manville Corporation, 22 E. 40th Street, New York, NY and the Philip Carey Company, P.O. Box 190, East Broughton Station, Quebec, Canada. Other suppliers of asbestos may have included the Lehman-Philips Company, 2550 Glendale Ave, Fort Worth, Texas and National Asbestos Mines Ltd., Thetford Mines, Quebec, Canada. Amchem's available records do not provide further information responsive to this Interrogatory.

3) Does Defendant have records that reflect sales of its asbestos or asbestos-containing products to any plants or other locations in West Virginia, Ohio and/or Kentucky including, but not limited to, Weirton Steel, Weirton, West Virginia? If so, please identify each such plant or location and identify the following:

- (a) All such records;
- (b) The names and last known addresses of those people with such knowledge;
- (c) The location of such records;
- (d) How the records were organized.

ANSWER:

(a-d) See Amchem's General Objections. Amchem objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and harassing. Amchem also objects to the extent that Plaintiff has not specified time periods for particular work sites. Amchem further objects to the extent this Interrogatory seeks information for job sites unrelated to Plaintiff's occupation for the time period in question. Amchem also objects to this Interrogatory to the extent that it seeks information concerning sales of its products to entities located outside of

West Virginia. Subject to its objections, Amchem responds as follows: Amchem sales of products which contained asbestos (with the sole exception of TRE-HOLD, which is not relevant to this action) were made through the Benjamin Foster Division, which Amchem sold to the H.B. Fuller Company in 1976. The Benjamin Foster Division sales records that are still in Amchem's possession include sales by Amchem to end users and distributors; they do not include a record of distributor sales. The remaining sales records still under Amchem's control are now in the custody of Amchem's counsel, Mayer, Brown, Rowe & Maw LLP, 190 S. LaSalle St., Chicago, Illinois 60603-3441. Pursuant to West Virginia Rule of Civil Procedure No.33, the burden of reviewing Amchem's business records for additional information that may be responsive to this Interrogatory is substantially the same for Plaintiff as for Amchem. Accordingly, upon Plaintiff's request, Amchem will make its sales records (excluding privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date.

4) Before placing in the market any asbestos-containing products that Defendant manufactured, did Defendant conduct, perform or cause to be performed any studies to determine whether its asbestos-containing products would be hazardous to people? If so, please identify:

- (a) The name of the products tested and the date of each test;
- (b) The name, address, and job classification of each individual who conducted such tests; and
- (c) The results of such tests.

ANSWER:

(a-c) See Amchem's General Objections. Amchem objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and harassing. Amchem further objects to this Interrogatory's incorrect assumption that any Amchem product which contained asbestos created any health hazard or that tests or studies were necessary or required. Subject to its objections, Amchem responds as follows: Amchem's products were subject to quality control

and other testing. According to the best available information regarding tests and studies prior to the 1976 sale of the Benjamin Foster Division, Amchem's products were manufactured to comply with both customer needs or specifications and all applicable government standards and were tested prior to their sale. Amchem, under the direction of Wayne Ellis (now deceased), conducted some tests regarding friability in the 1970's and concluded that its products were not friable.

Amchem apparently retained few business records pertaining to those products after the 1976 sale. The documents are maintained in a repository at Mayer, Brown, Rowe & Maw LLP, 190 S. LaSalle St., Chicago, Illinois 60603-3441. Upon Plaintiff's request, Amchem will make its repository (excluding any privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date.

5) Please identify each distributor or wholesaler located or authorized to sell or distribute products within West Virginia, Ohio or Kentucky, including but not limited to, Weirton Steel, Weirton, West Virginia, of your asbestos-containing products identified in response to Interrogatory Number 2. For each distributor or wholesaler, please state:

- (a) Name and last known address;
- (b) The years of, and the geographical area encompassed by the relationship;
- (c) Whether there was a written distributorship agreement;
- (d) Whether the distributorship was exclusive;
- (e) The extent to which sales to customers in this state were handled through distributors or wholesalers located outside this state.

ANSWER:

(a-e) See Amchem's General Objections. Amchem objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, harassing, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Amchem also objects to the extent that this Interrogatory does not relate to the time period of Plaintiff's alleged exposure. Amchem also objects to this Interrogatory to the extent that it seeks information concerning sales of its

products to entities located outside of West Virginia. Subject to its objections, Amchem responds as follows: Amchem's sales records do not distinguish between end users and distributor purchases. According to Amchem's available information, no purchaser ever re-sold a Benjamin Foster product under a different trade name or label. Additional documents referencing distributors are contained in the Amchem repository. Pursuant to West Virginia Rule of Civil Procedure No. 33, the burden of reviewing Amchem's business records for additional information that may be responsive to this Interrogatory is substantially the same for Plaintiff as for Amchem. Accordingly, upon Plaintiff's request, Amchem will make its available sales records (excluding privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date.

6) Please list the names, titles and current address of each of your past and present sales managers and sales personnel responsible for sale of asbestos product sales to businesses, corporations, and/or entities located in West Virginia.

ANSWER:

See Amchem's General Objections. Amchem objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and harassing. Subject to its objections, Amchem responds as follows: Amchem sold its Benjamin Foster Division in 1976 to H.B. Fuller Company. In 1977, Amchem merged with another corporation and ceased to exist as a separate entity. Amchem's available documents identify names of various persons who would have been involved, if at all, in sales. Amchem's available records to the extent they reference employees are contained in the repository. Pursuant to West Virginia Rule of Civil Procedure No. 33, the burden of reviewing Amchem's business records for additional information that may be responsive to this Interrogatory is substantially the same for Plaintiff as for Amchem. Accordingly, upon Plaintiff's request, Amchem will make its repository (excluding any

privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date. The documents are maintained in a repository at Mayer, Brown, Rowe & Maw LLP, 190 S. LaSalle St., Chicago, Illinois 60603-3441.

7) Please state whether Defendant ever contacted any customer, installer or user of its asbestos-containing products regarding testing of the asbestos exposure levels created during the installation or use of Defendant's asbestos-containing products. If so, please identify the following:

- (a) Which of Defendant's asbestos-containing products were part of the test;
- (b) The customers, installers or users for which asbestos exposure levels were obtained;
- (c) The dates of such tests; and
- (d) The results of such tests.

ANSWER:

See Amchem's General Objections. Amchem objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and harassing. Amchem also objects to the extent that Plaintiff has not specified time periods for particular work sites. Amchem further objects to the extent this Interrogatory seeks information for job sites unrelated to Plaintiff's occupation for the time period in question. Subject to its objections, Amchem states that it is not aware of any such inspections, tests, or studies conducted at facilities other than its own.

8) Has Defendant ever issued a recall of any asbestos containing product or taken any action to take any such products off the market? If so, identify each such product and include:

- (a) The date of said recall; and
- (b) The name of the company which issued the recall.

ANSWER:

See Amchem's General Objections. Subject to its objections, Amchem responds as follows: Amchem's available records do not evidence that Amchem ever recalled any products containing asbestos from the market.

9) State what action, if any, you have taken at any time to minimize or eliminate any risk of occupational disease or pneumoconiosis to those who were at any time engaged in the manufacture, production or installation of asbestos-containing products.

ANSWER:

See Amchem's General Objections. Amchem objects to this Interrogatory as overly broad, harassing, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Interrogatory's incorrect assumption that any Amchem product which contained asbestos created a health hazard. Amchem further objects to this Interrogatory to the extent it seeks information regarding individuals who worked at Amchem plants where some products which contained asbestos were manufactured, on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence in that any exposure under such conditions would differ in type, quality, duration, and degree from any exposure at issue in this action. *See Smith v. Celotex*, 387 Pa. Super. 340, 347-348, 564 A.2d 209 (Pa. Super. Ct. 1989). In as much as Plaintiff was neither employed by Amchem nor worked at any Amchem plant, inquiries regarding Amchem employees or facilities are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to its objections, Amchem responds as follows: according to Amchem's best information available, Amchem always upheld and satisfied applicable government standards regarding occupational exposure to asbestos, and the existence of such standards is information equally available to Plaintiff. Amchem reserves the right to supplement this response with particular citations. In addition, Amchem employees, including Benjamin Foster personnel, may have been subject to periodic medical examinations. Amchem took dust samples in its factories to comply with the Federal Occupational Safety and Health Act and applicable state statutory requirements. Amchem's available records do not include information about these tests, the dates they were conducted or

their results, nor do they provide further information responsive to this Interrogatory.

Investigation continues.

10) Identify all actions taken by you at any time to minimize or eliminate any risk of occupational disease or pneumoconiosis to persons who may be exposed to asbestos from your asbestos-containing products including, but not limited to, those persons who may have been exposed in the home or otherwise via contact with occupationally exposed individuals.

ANSWER:

See Amchem's General Objections. Amchem objects to this Interrogatory as overly broad, harassing, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Interrogatory's incorrect assumption that any Amchem product which contained asbestos created a health hazard. Amchem also objects to this Interrogatory to the extent that it does not relate to the time period or location in which Plaintiff's alleged exposure to any product containing asbestos occurred. Subject to its objections, Amchem responds as follows: In all Amchem asbestos-containing products, the asbestos fiber was fully encapsulated by a binder material and thus free fiber could not be released or emitted from any of the products in sufficient quantities to cause any health hazard.

The asbestos content in most of the Amchem products which contained asbestos did not exceed 5% by weight. In fact, the asbestos content in many of the products was much lower. In all products, the asbestos fibers were encapsulated by binder material compounds. As a result, neither the application or use of, nor any damage to the products which contained asbestos could cause asbestos fiber to be released from those products sufficient to cause a health hazard.

The encapsulation was achieved by wet-state mixing in the production process. Through this process, all asbestos fibers were thoroughly saturated or impregnated with binder ingredients such as asphalt, polymers, resins and plasticizer. Consequently, unencapsulated fiber did not exist within and therefore could not be released or emitted from any Amchem product under

normal conditions sufficient to cause any health hazard. Thus, there was no danger of inhaling asbestos fibers or dust or other airborne material from using, installing or being exposed to any Benjamin Foster product. Indeed the United States Environmental Protection Agency has exempted products containing encapsulated asbestos, such as Amchem's products, "[t]hat are encapsulated with bituminous or resinous binder materials," from the prohibition against spraying products containing asbestos. See 43 Federal Register No. 118, pp. 26372-73 (June 19, 1978), 40 C.F.R. § 61-22(e)(3). OSHA likewise exempted such products from the requirement that warnings be placed on asbestos-containing products in 1972. See 37 Federal Register No. 110, pp. 11316-11322 (June 7, 1972).

However, Amchem did advise users of certain protective equipment related to other certain characteristics of certain products, e.g. use of gloves or masks during application.

11) If you advertised any asbestos-containing products in newspapers, magazines, or other publications at any time, please identify for each such product advertised:

- (a) The name of the publication in which it appeared;
- (b) The dates during which the advertisement was published.

ANSWER:

(a-b) See Amchem's General Objections. Amchem objects to this Interrogatory as harassing, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Amchem also objects to this Interrogatory to the extent that it does not relate to the time period or location in which Plaintiff's alleged exposure to any product containing asbestos occurred. Subject to its objections, Amchem responds as follows: Amchem's products were not sold to consumers or the general public and would not have been advertised in newspapers or general circulation magazines. Amchem maintains a repository of documents it still has in its possession from its former Benjamin Foster Division or Company. Additional sales or

advertising related documents are contained in this repository. The repository is maintained at Mayer, Brown, Rowe & Maw LLP, 190 S. LaSalle St., Chicago, Illinois 60603-3441. Ms. Mary Martin, legal assistant, serves as custodian of the documents. Upon Plaintiff's request, Amchem will make its document repository (excluding privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date.

12) Please state whether you ever commissioned, relied upon, contracted with and/or permitted any insurance company to investigate the possible hazards or health effects of exposure to asbestos, and if so please state the following:

- (a) The name of the insurance company;
- (b) The nature of each such the investigation;
- (c) The results of each such investigation; and
- (d) The name, affiliation and address of each individual involved in each such investigation.

ANSWER:

(a-d) See Amchem's General Objections. Amchem objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and harassing. Amchem objects to this Interrogatory's incorrect assumption that any Amchem product which contained asbestos created any health hazard or that tests or studies were necessary or required. Amchem also objects to this Interrogatory to the extent that it does not relate to the time period or location in which Plaintiff's alleged exposure to any product containing asbestos occurred. Subject to its objections, Amchem responds as follows: Amchem's available records do not indicate that Amchem ever commissioned, relied upon, contracted with and/or permitted any such tests or studies as to whether the asbestos in certain of Amchem's products would be hazardous to people during the time that Amchem sold asbestos-containing products since the nature and composition of its products was such that no such testing or study was required.

13) For each asbestos-containing product for which you have developed a non-asbestos substitute, state:

- (a) The name of the asbestos-containing product and its substitute product;
- (b) The chemical composition of the substitute;
- (c) The date on which the substitute was first sold;
- (d) The date on which the asbestos-containing product was last sold;
- (e) Whether the substitute contained vermiculite; and
- (f) What material was substituted for asbestos.

ANSWER:

(a-f) See Amchem's General Objections. Amchem objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, harassing and irrelevant. Amchem also objects to the extent that it does not relate to the time period of Plaintiff's alleged exposure. Subject to its objections, Amchem responds as follows: many of the Benjamin Foster Division products contained no asbestos. Customers could choose between the asbestos-containing and non-asbestos products or product brands in accordance with their needs or specifications. Amchem's Benjamin Foster Division used asbestos in some of its products mainly for strength-imparting abilities, fire resistance and viscosity control properties. These properties and the use of asbestos to provide these properties were necessary for products to satisfy customer needs or specifications, as well as certain applicable governmental standards. Amchem ceased to manufacture and sell its Benjamin Foster Division products in 1976. Amchem's available records do not provide information as to whether the non-asbestos products or product brands could achieve or approximate the same properties as those products which contained some asbestos fiber. In products containing asbestos, the fiber was fully encapsulated by binder materials and did not pose a health hazard. See Amchem's response to Interrogatory No. 10.

14) Did you participate in or receive any reports or documents concerning statistical or other studies conducted by Metropolitan Life Insurance Company from 1929 to 1960 on asbestos workers and health or more generally on the health effects on humans or animals from inhalation or ingestion of asbestos? If so, identify:

- (a) This Defendant's participation in each such study;
- (b) The documents received by the Defendant;

(c) The current location of the documents identified in response to (b).

ANSWER:

(a-c) See Amchem's General Objections. Amchem objects to this Interrogatory's incorrect assumption that any Amchem product which contained asbestos created any health hazard or that tests or studies were necessary or required. Subject to its objections, Amchem responds as follows: Amchem's available records do not indicate that Amchem ever participated in or received any such tests or studies. The nature and composition of its products was such that no such testing or study was required.

15) Identify all industrial hygiene, safe working practice, air monitoring or dust monitoring programs or other internal controls instituted by Defendant for each location at which Defendant manufactured asbestos-containing products.

ANSWER:

See Amchem's General Objections. Amchem objects to this Interrogatory as overly broad, harassing, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Interrogatory's incorrect assumption that any product which contained asbestos created a health hazard. Amchem further objects to this Interrogatory to the extent it seeks information regarding individuals who worked at Amchem plants where some products which contained asbestos were manufactured, on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence in that any exposure under such conditions would differ in type, quality, duration, and degree from any exposure at issue in this action. *See Smith v. Celotex*, 387 Pa. Super. 340, 347-348, 564 A.2d 209 (Pa. Super. Ct. 1989). In as much as Plaintiff was neither employed by Amchem nor worked at any Amchem plant, inquiries regarding Amchem employees or facilities are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to its objections, Amchem

responds as follows: according to Amchem's best information available, Amchem always upheld and satisfied applicable government standards regarding occupational exposure to asbestos, and the existence of such standards is information equally available to Plaintiff. Amchem reserves the right to supplement this response with particular citations. In addition, Amchem employees, including Benjamin Foster personnel, may have been subject to periodic medical examinations. Amchem took dust samples in its factories to comply with the Federal Occupational Safety and Health Act and applicable state statutory requirements. Amchem's available records do not include information about these tests, the dates they were conducted or their results, nor do they provide further information responsive to this Interrogatory. Investigation continues.

16) Identify all industrial hygiene, safe working practice, air monitoring or dust monitoring programs or other internal controls instituted by Defendant at each location owned or operated by Defendant and containing asbestos or asbestos-containing materials which were not identified in response to the preceding interrogatory.

ANSWER:

See Amchem's response to Interrogatory No. 15, including all objections set forth therein.

17) Identify all chemical, industrial, medical or trade associations to which you have belonged since 1936 and the dates of membership in each.

ANSWER:

See Amchem's General Objections. Amchem also objects to this Interrogatory to the extent that it does not relate to the time period in which Plaintiff's alleged exposure to any product containing asbestos occurred. Subject to its objections, Amchem responds as follows: Amchem was a member of the Adhesive and Sealant Council (ASC). Wayne P. Ellis, Amchem's former Director of Research, now deceased, served on a number of committees of, and was the president of The American Society for Testing and Materials (ASTM). Robert Sage,

former Amchem employee, attended some ASTM, ASC, American Society of Civil Engineers and Philadelphia Society for Paint Technology meetings. Pursuant to West Virginia Rule of Civil Procedure No. 33, the burden of reviewing Amchem's business records for additional information that may be responsive to this Interrogatory is substantially the same for Plaintiff as for Amchem. Accordingly, upon Plaintiff's request, Amchem will make its repository (excluding privileged materials) available for Plaintiff's review and duplication, at a mutually convenient time and date.

18) For each association identified in the answer to the immediately preceding interrogatory, identify:

- (a) The names of all individuals associated with the answering defendant who have had dealings with each association;
- (b) The nature of their dealings with each such association;
- (c) Each person's last known address;
- (d) Current job and title for each person still employed by Defendant;
- (e) All documents related to said affiliation.

ANSWER:

See Amchem's response to Interrogatory No. 17, including all objections set forth therein.

19) Please identify whether or not Defendant ever conducted, participated in or received the results of any tests to determine the nature and extent of airborne asbestos dust or fiber where asbestos-containing products were applied, used or removed. If so, for each test please identify:

- (a) The date, place and nature of the test;
- (b) The asbestos-containing products involved;
- (c) The results of the test, including air sample results and dust counts; and
- (d) Each person who received the results indicated in the answers to (c).

ANSWER:

See Amchem's General Objections. Amchem objects to this Interrogatory as vague and ambiguous. Subject to its objections, Amchem states that it is not aware of any such inspections,

tests, or studies conducted at facilities other than its own.

20) Please identify whether or not Defendant ever obtained any knowledge of whether asbestos may be hazardous to human health. If so, please identify:

- (a) When Defendant first became aware of the hazardous potential of asbestos dust and asbestos fibers;
- (b) The manner in which the Defendant first obtained this knowledge;
- (c) What information was disseminated within Defendant's company regarding this knowledge;
- (d) Whether any such information is still maintained by Defendant in any written form;
- (e) The name, address and job classification of the custodian of such information.
- (f) When this Defendant first learned of the "Dressen Report"; Dressen, W.C., et al. A Study of Asbestos in-the Asbestos Textile Industry, Public Health Bull. No. 241, Washington, D.C.: U.S. Public Health Service, 1938.
- (g) Which persons (by occupation or otherwise) have been identified that could potentially be at risk including, but not limited to, those in the home of occupationally exposed individuals.

ANSWER:

(a-b) See Amchem's General Objections. Amchem objects to this Interrogatory as overly broad. Amchem objects to this Interrogatory as calling for speculation or an expert medical or scientific opinion regarding its products or products made by others. Amchem further objects to this Interrogatory's incorrect assumption that any Amchem product which contained asbestos created a health hazard. Amchem objects to this Interrogatory as harassing, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to its objections, Amchem responds as follows: Amchem, through its Director of Research, Wayne P. Ellis, recognized that possible adverse health effects were associated with inhaling any type of dust particle, and in the late 1960's or early 1970's, learned of potential hazards associated with the inhalation of asbestos fibers. In approximately May, 1972, Mr. Ellis read an article entitled "Asbestos: Airborne Danger" in the May-June, 1972 issue of Safety Standards, a magazine

published by the United States Department of Labor, Occupational Safety and Health Administration. In January, 1973, Mr. Ellis read an article published in the January 21, 1973 edition of the New York Times Sunday Magazine entitled, "Asbestos, the Saver of Lives, Has a Deadly Side." Other articles or publications are contained in the document repository. None of these articles stated that any of the types of products manufactured by Amchem posed any health hazard. Amchem surveyed its products and believed that its products posed no such health hazards due to the fact that the fiber in its products was encapsulated and thus did not pose a health hazard. Amchem was further aware of the exemption from the OSHA warning requirements for products like those made by Amchem.

(c) See Amchem's General Objections. Amchem objects to this Interrogatory as calling for speculation or an expert medical or scientific opinion regarding its products or products made by others. Amchem further objects to this Interrogatory's incorrect assumption that any Amchem product which contained asbestos created a health hazard. Amchem further objects to this Interrogatory to the extent it seeks information regarding individuals who worked at Amchem plants where some products which contained asbestos were manufactured, on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence in that any exposure under such conditions would differ in type, quality, duration, and degree from any exposure at issue in this action. *See Smith v. Celotex*, 387 Pa. Super. 340, 347-348, 564 A.2d 209 (Pa. Super. Ct. 1989). In as much as Plaintiff was neither employed by Amchem nor worked at any Amchem plant, inquiries regarding Amchem employees or facilities are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to its objections, Amchem responds as follows: Amchem took reasonable steps to protect its employees who handled asbestos based on the knowledge it had in the late 1960s and 1970s as

regulations were promulgated by OSHA.

(d) See Amchem's General Objections. Subject to its objections, Amchem responds as follows: Any remaining articles or publications are contained in the document repository.

(e) See Amchem's General Objections. Subject to its objections, Amchem responds as follows: The repository is maintained at Mayer, Brown, Rowe & Maw LLP, 190 S. LaSalle Street, Chicago, Illinois 60603-3441. Ms. Mary Martin, legal assistant, serves as custodian of the documents. Upon Plaintiff's request, Amchem will make its document repository (excluding privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date.

(f) See Amchem's General Objections. Subject to its objections, Amchem responds as follows: According to its best available information, Amchem had no knowledge of the "Dressen Report".

(g) See Amchem's General Objections. Subject to its objections, Amchem responds as follows: Amchem's available records do not provide information responsive to this Interrogatory.

21) Have you ever been investigated or cited by OSHA or any other governmental agency for any matter related to asbestos or asbestos exposure? If so, for each investigation and/or citation, please identify the dates, the site and the result.

ANSWER:

See Amchem's General Objections. Amchem objects to this Interrogatory as overly broad, vague, unduly burdensome, oppressive, harassing and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege and work product doctrine. Amchem further objects to this Interrogatory to the extent it seeks information regarding individuals who

worked at Amchem plants where some products which contained asbestos were manufactured, on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence in that any exposure under such conditions would differ in type, quality, duration, and degree from any exposure at issue in this action. See *Smith v. Celotex*, 387 Pa. Super. 340, 347-348, 564 A.2d 209 (Pa. Super. Ct. 1989). In as much as Plaintiff was neither employed by Amchem nor worked at any Amchem plant, inquiries regarding Amchem employees or facilities are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to its objections, Amchem responds as follows: Amchem's available records do not evidence any such investigation or citation.

The asbestos content in most of the Amchem products which contained asbestos did not exceed 5% by weight. In fact, the asbestos content in many of the products was much lower. In all products, the asbestos fibers were encapsulated by binder material compounds. As a result, neither the application or use of, nor any damage to the products which contained asbestos could cause asbestos fiber to be released from those products in sufficient quantities to cause a health hazard.

The encapsulation was achieved by wet-state mixing in the production process. Through this process, all asbestos fibers were thoroughly saturated or impregnated with binder ingredients such as asphalt, polymers, resins and plasticizer. Consequently, unencapsulated fiber did not exist within and therefore could not be released or emitted from any Amchem product under normal conditions sufficient to cause any health hazard. Thus, there was no danger of inhaling asbestos fibers or dust or other airborne material from using, installing or being exposed to any Benjamin Foster product. Indeed the United States Environmental Protection Agency has exempted products containing encapsulated asbestos, such as Amchem's products, "[t]hat are

encapsulated with bituminous or resinous binder materials,” from the prohibition against spraying products containing asbestos. See 43 Federal Register No. 118, pp. 26372-73 (June 19, 1978), 40 C.F.R. § 61-22(e)(3). OSHA likewise exempted such products from the requirement that warnings be placed on asbestos-containing products in 1972. See 37 Federal Register No. 110, pp. 11316-11322 (June 7, 1972). Amchem states that it conducted monitoring at its plants to the extent required by OSHA or any applicable state regulations.

22) Has Defendant ever been compelled or requested, because of the presence of asbestos, to institute any industrial hygiene controls, safe working practice or exposure monitoring? If so, please identify the date, place and circumstances of each such compulsion or request and identify all documents relevant thereto.

ANSWER:

See Amchem’s General Objections. Amchem objects to this Interrogatory as harassing, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Interrogatory to the extent it assumes any Amchem asbestos-containing product posed a health hazard. Amchem further objects to this Interrogatory to the extent it seeks information regarding individuals who worked at Amchem plants where some products which contained asbestos were manufactured, on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence in that any exposure under such conditions would differ in type, quality, duration, and degree from any exposure at issue in this action. *See Smith v. Celotex*, 387 Pa. Super. 340, 347-348, 564 A.2d 209 (Pa. Super. Ct. 1989). In as much as Plaintiff was neither employed by Amchem nor worked at any Amchem plant, inquiries regarding Amchem employees or facilities are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to its objections, Amchem responds as follows: According to Amchem’s best available information, the Benjamin Foster Division of Amchem Products, Inc. made available and made mandatory x-ray testing and pulmonary function tests

for its employees consistent with governmental regulations enacted in the 1970's. Amchem's available records do not contain information about this testing.

According to Amchem's best available information, dust masks and/or respirators were available to employees in its plants, but Amchem does not currently have sufficient information to specify the time periods for such practices or to provide other information about any requirements for their use other than to state that Amchem complied with applicable governmental regulations related to occupational exposure to asbestos at its facilities.

Amchem began to conduct dust counts and air sampling in its facilities where asbestos containing products were manufactured in accordance with government regulations enacted in the 1970's. Available information indicates that John Horn conducted such tests at Amchem's Pennsylvania facilities. Amchem's available records do not provide information about these tests, the dates they were conducted or their results. Investigation continues. Amchem states that it conducted monitoring at its plants to the extent required by OSHA or any applicable state regulations.

23) Please identify all physicians, medical advisors, industrial hygienists and others (including their names, titles and addresses) employed, retained or otherwise engaged by Defendant for research, investigation or study concerning asbestos dust control or asbestos-related diseases.

ANSWER:

See Amchem's General Objections. Amchem objects to this request as overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent it is unlimited in time and does not relate to the time period in which Plaintiff's alleged exposure to any product containing asbestos occurred. Amchem objects to this Interrogatory to the extent it seeks information protected by the attorney work product doctrine or joint defense privilege. Subject to its objections, Amchem responds as

follows: although Amchem did not employ or retain an industrial hygienist or any physicians at its facilities. Amchem, through its Director of Research Wayne P. Ellis, made a reasonable effort to be informed of technical research and developments relevant to its products by collecting various pamphlets and articles and keeping abreast of the pertinent product related literature.

24) Were you notified or named as a defendant in any lawsuit prior to 1975 by any person who claimed to have been injured by asbestos-containing products manufactured by you? If your answer is in the affirmative, provide the date on which each lawsuit was filed against you, the court in which said suit was filed and the name of the plaintiff in each suit.

ANSWER:

See Amchem's General Objections. Amchem objects to this Interrogatory as overly broad, unduly burdensome, oppressive and not reasonably calculated to lead to the discovery of admissible evidence. Amchem further objects to this Interrogatory's request in that it seeks information regarding alleged consequences of exposures to other companies' products in circumstances and conditions entirely different from those alleged in Plaintiff's complaint. Subject to its objections, Amchem responds as follows: According to Amchem's best available information, Amchem was first named as a Defendant in an asbestos related suit in 1974. *DeRocco and Carolla v. Forty-Eight Insulation, Inc., et al.*, No 2880 July Term 1974, No. 2881 July Term 1974. Amchem has since been named in a number of personal injury suits where Plaintiff has alleged exposure to asbestos. This does not mean that such Plaintiff was necessarily exposed to an Amchem product because often times there is no identification by Plaintiff of an Amchem product on the subject premises. Amchem may be named in a suit without Plaintiff knowing whether he or she was exposed to an Amchem product. Sometimes, evidence of whether Plaintiff used an Amchem product is not obtained before a case is resolved. Amchem disputes this allegation in such cases. Moreover, the asbestos fiber in Amchem's products which

contained asbestos was fully encapsulated within other binder materials, and thus, even if exposed to an Amchem product, a person would not be exposed to any asbestos contained therein sufficient to create any health hazard.

25) Identify whether you are and have been insured for product liability or personal injury liability, including "excess or umbrella" policies, and/or worker's compensation claims, and if so, for each applicable insurance policy please identify,

- (a) The limits of coverage;
- (b) The name of the insurance company;
- (c) Whether this claim has been accepted or whether a letter of intent to deny coverage has been received.

ANSWER:

(a-c) See Amchem's General Objections. Amchem objects to this Interrogatory as overly broad, unduly burdensome, oppressive, harassing, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Amchem further objects to this Interrogatory as seeking information beyond the scope of the West Virginia Rules of Civil Procedure. Subject to its objections, Amchem responds as follows: Amchem possesses sufficient insurance coverage for claims arising from this case.

26) Identify any agreement Defendant has entered into with any corporation other than a corporation in the insurance business regarding settlement or non-settlement and/or allocation of damages.

ANSWER:

See Amchem's General Objections. Amchem objects to this Interrogatory to the extent that it seeks information protected by the work product doctrine or the joint defense privilege. Amchem objects to this Interrogatory as overly broad, unduly burdensome, oppressive, harassing and not reasonably calculated to lead to the discovery of admissible evidence. Subject to its objections, Amchem responds as follows: According to Amchem's available records, Amchem has entered into no such agreement.

27) Other than any insurance policies identified in response to any other interrogatories herein, are you now or have you ever been an indemnitee under any contract or agreement providing for your indemnification for any claims or judgments of personal injury or property damage arising after 1965? If the answer to this interrogatory is in the affirmative, please identify:

- (a) The name and address of the indemnitor;
- (b) The contract or agreement under which such indemnity is claimed;
- (c) The nature and terms of the indemnifying agreement; and,
- (d) The identity of all documents related to the subject matter of this interrogatory.

ANSWER:

See Amchem's response to Interrogatory No. 26, including all objections set forth therein.

28) To the best of your knowledge are you an additional insured, or have you been an additional insured, since 1965, under any liability insurance policy providing liability insurance coverage for the operation or ownership of your business or the acts alleged in Plaintiffs' Complaint? If so, please identify the following:

- (a) The identity of any such policies or documents;
- (b) The name and address of the underwriting insurance company;
- (c) The name and address of the insurance agency or broker through whom the insurance coverage was procured;
- (d) The dates of initiation, inspection, renewal and expiration of the policy;
- (e) The nature of coverage provided;
- (f) The liability policy limit or limits; and
- (g) Whether or not, in your opinion, that liability insurance policy provides coverage for the acts alleged in Plaintiffs' Complaint or any judgment which may be entered against Defendant in this lawsuit.

ANSWER:

See Amchem's response to Interrogatory No. 26, including all objections set forth therein.

29) What warnings or other notice did you provide to employees, business invitees, and/or their family members including employees of outside contractors, about the location and any potential health hazard of asbestos at any location in West Virginia, Ohio and/or Kentucky including, but not limited to, Weirton Steel in Weirton, West Virginia which contained your asbestos-containing products?

ANSWER:

See Amchem's General Objections. Amchem further objects to this Interrogatory's incorrect assumption that any Amchem product which contained asbestos created a health hazard or required any warning. Amchem also objects to this Interrogatory as overly broad, unduly burdensome, harassing, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Amchem further objects to this Interrogatory to the extent it seeks information regarding individuals who worked at Amchem plants where some products which contained asbestos were manufactured, on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence in that any exposure under such conditions would differ in type, quality, duration, and degree from any exposure at issue in this action. *See Smith v. Celotex*, 387 Pa. Super. 40, 347-348, 564 A.2d 209 (Pa. Super. Ct. 1989). In as much as Plaintiff was neither employed by Amchem nor worked at any Amchem plant, inquiries regarding Amchem employees or facilities are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Interrogatory to the extent that it seeks information concerning sales of its products to entities located outside of West Virginia. Subject to its objections, Amchem responds as follows: Amchem took reasonable steps to protect its employees who handled asbestos based on the knowledge it had in the late 1960s and 1970s as regulations were promulgated by OSHA. As to Amchem's products, because they posed no asbestos-related health hazard, Amchem did not have to educate or warn distributors or purchasers. Amchem's products were not sold to consumers or the general public, and Amchem had no duty to warn the general public or anyone else about the general hazards of asbestos.

30) Identify whether you have ever undertaken an asbestos abatement program in your facilities. If your answer is in the affirmative, identify the year the abatement began, the year the abatement was finished, the name of the abatement contractor who performed the work,

the type of asbestos materials that were abated (i.e., pipecovering, block, gaskets, etc.) and whether any asbestos materials were not abated.

ANSWER:

See Amchem's General Objections. Amchem objects to this Interrogatory as overly broad. Amchem objects to this Interrogatory's incorrect assumption that any Amchem product which contained asbestos created any health hazard or that an asbestos abatement program was necessary in Amchem's facilities. Subject to its objections, Amchem responds as follows: Amchem's available records do not indicate that Amchem ever undertook any such program.

31) If this defendant has not been sued under its correct name, please provide the following corporate information:

- (a) Company's corporate name;
- (b) Address and corporate headquarters;
- (c) Identify of incorporation;
- (d) Date of incorporation; and
- (e) Address of any branch offices operating in West Virginia.

ANSWER:

See Amchem's General Objections. Amchem also objects to this Interrogatory to the extent that it does not relate to the time period or location in which Plaintiff's alleged exposure to any product containing asbestos occurred. Amchem further objects to this Interrogatory to the extent that it seeks information concerning Amchem's predecessors. Subject to its objections, Amchem responds as follows:

(a-d) Amchem Products, Inc., as named in this case, no longer transacts business. In 1914, Amchem Products, Inc. was incorporated in Delaware as the American Chemical Paint Company. In 1956, the American Chemical Paint Company purchased the Benjamin Foster Company, which had manufactured certain products that contained asbestos, and the Benjamin Foster Company then became a wholly-owned subsidiary of the American Chemical Paint

Company. The Benjamin Foster Company, in turn, had been incorporated in Delaware in 1923 after being initially founded as a proprietorship in 1909. In 1958, the American Chemical Paint Company changed its name to Amchem Products, Inc. ("Amchem"). In 1968, Amchem changed its state of incorporation to Pennsylvania as a result of a transaction in which it became a wholly-owned subsidiary of Rorer-Amchem, Inc. Amchem maintained a principal place of business in Ambler, Pennsylvania. In 1969, the Benjamin Foster Company, then a subsidiary of Amchem, merged into and became a division of Amchem. With one exception not pertinent here, the Benjamin Foster Company, and later the Benjamin Foster Division, produced all of Amchem's asbestos-containing products. The exception was TRE-HOLD, a tree sprout inhibitor made by Amchem. Amchem sold the assets of the Benjamin Foster Division in 1976 to H.B. Fuller Company and then ceased to manufacture or sell asbestos-containing products except for TRE-HOLD.

In 1977, after divesting its Benjamin Foster Division, Amchem merged with another Pennsylvania corporation, UCAR Corporation. UCAR Corporation was at the time a subsidiary of Union Carbide Corporation ("Union Carbide"). UCAR was the surviving corporation in the merger, and changed its name to Amchem Products, Inc. In 1979, Amchem Products, Inc. changed its name to Union Carbide Agricultural Products Company, Inc. ("UCAPCO").² In 1986, Union Carbide sold the stock of UCAPCO to Rhone-Poulenc Inc. UCAPCO was renamed RP Ag Company in 1987 and later that same year changed its name to Rhone-Poulenc Ag Company. In 1992, Rhone-Poulenc Ag Company merged with and into Rhone-Poulenc Inc. and

² In 1979, a new company, named Amchem Products, Inc., a Delaware corporation, was formed to carry on the metal finishing chemicals business previously operated by Amchem Products, Inc., the Pennsylvania Corporation. This "new" Amchem was subsequently sold to Henkel Corporation in 1980. UCAPCO continued the agricultural chemicals business of the "old" Amchem until the sale to Rhone-Poulenc in 1986.

Rhone-Poulenc Inc. was the surviving corporation. In 1998, Rhone-Poulenc Inc. changed its name to Rhone-Poulenc Ag Company Inc. In January 2000, as a result of another transaction, Rhone-Poulenc Ag Company Inc. changed its name to Aventis CropScience USA Inc., and remained a New York corporation. In June of 2002, Aventis CropScience Holding S.A. of which Aventis CropScience USA Inc. was an indirect wholly-owned subsidiary was sold to Bayer AG. After that transaction, Aventis CropScience USA Inc. changed its name to Bayer CropScience Inc., a New York corporation, the current corporate successor of Amchem Products, Inc. Bayer CropScience Inc. is now an indirect subsidiary of Bayer AG.

(e) Amchem has no branch offices in West Virginia.

32) If this defendant has not been sued under its correct name, please identify the correct name and provide the information requested in the preceding interrogatory.

ANSWER:

See Amchem's response to Interrogatory No. 31, including all objections set forth therein.

33) Has this defendant ever acquired through purchase, reorganization or merger another corporation, company or business which manufactured, sold, processed, distributed or contracted to apply products containing asbestos? If the answer is "Yes", then identify the following concerning such predecessor:

- (a) Full and correct name;
- (b) The principal place of business
- (c) Identify of incorporation;
- (d) Date of acquisition by defendant; and
- (e) Manner of date of acquisition by defendant

ANSWER:

See Amchem's response to Interrogatory No. 31, including all objections set forth therein.

34) Identify the names and addresses of all lay witnesses whom you presently intend to call to testify at trial, and briefly identify the subject matter of their testimony and what

connection each such person has with matters relevant to this lawsuit (e.g., former co-workers of Plaintiff, former plant manager of plant X, etc.). Supplement this list as you ascertain any additional witnesses.

ANSWER:

See Amchem's General Objections. Amchem also objects to this Interrogatory as premature. Amchem objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, work product doctrine or joint defense privilege. Subject to its objections, Amchem responds as follows: Amchem has not yet determined which witnesses it intends to call at trial for this case. Amchem will provide Amchem's Fact Witness List at an appropriate time.

35) Please identify all present or past employees of Defendant who have ever testified under oath in connection with any asbestos-related lawsuit or claim.

ANSWER:

See Amchem's General Objections. Amchem objects to this Interrogatory as harassing, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Interrogatory to the extent it seeks information that is more accessible or at least equally accessible to Plaintiff as it is to Amchem. Amchem objects to the production of transcripts from other litigation as beyond the scope of proper discovery Subject to its objections, Amchem responds as follows:

Wayne P. Ellis, Amchem's former Director of Research, testified in *Victor L. Martin v. American Petrofina, Inc., et al.*, Case No. 83-365-A, in the United States District Court for the Middle District of Louisiana on April 24, 1984. Irvin Steltz, a former Benjamin Foster employee, testified on a telephonic deposition in *In Re: MON MASS II*, in the Circuit Court of Monongalia County, West Virginia on December 30, 1997. Robert Lucian Cirrito, a retired former employee of Amchem who was neither an executive or officer nor a managerial

employee, was deposed in the case of *In Re: All Asbestos Cases v. Owens Corning Fiberglas Corporation et al.*, in the Virginia Circuit Court for the City of Newport News, Case No. CL 99-2000000-00, on August 13, 2002. Robert Sage, a retired former employee of Amchem, who was neither an executive nor an officer, was deposed in the case of *In Re: All Asbestos Cases v. Owens Corning Fiberglas Corporation et al.*, in the Virginia Circuit Court for the City of Newport News, Case No. CL 99-2000000-00, on August 14, 2002. Local counsel of record for Amchem in these cases is Carl E. Pierce. Carl Pierce can be contacted at Pierce, Hems, Sloan & McLeod LLC, The Blake House, 321 East Bay Street, P.O. Box 22437, Charleston, South Carolina 29413. Robert Sage was also deposed in the case of *Flowers v. Aqua-Chem, Inc. et al.* in Fulton County, Georgia, Case No. 01-VS-014834-D and in *Roberts v. American Cyanamid Company, et al.* in the Civil District for the Parish of Orleans, Louisiana on October 24, 2003.

36) Please identify each person who was consulted or who provided information to answer these interrogatories. For each such person, indicate the number of the interrogatory and its subpart for which the person provided the information.

ANSWER:

See Amchem's General Objections. Subject to its objections, Amchem responds as follows: Amchem's Benjamin Foster Division, which manufactured the Benjamin Foster products allegedly at issue in this case, was sold in 1976 and Amchem Products, Inc. has no employees and no longer transacts business. See Amchem's response to Interrogatory No. 31. Accordingly, Amchem's counsel prepared these responses on Amchem's behalf. Counsel has based its responses on information contained in available, relevant business records of Amchem's former Benjamin Foster Division and on information provided over time by former Amchem officials or employees. In particular, much information was provided by Wayne P. Ellis, now deceased, Amchem's former Director of Research. Irvin Steltz, a former Benjamin

Foster employee, has also provided much of the information set forth therein. In addition, former employees, Robert Sage, Robert Cirrito and Alan Slotkin, may have provided and verified information contained in the responses set forth herein. Mr. Sage, Mr. Slotkin and Mr. Cirrito may be contacted through counsel for Amchem. Mr. Slotkin has signed these Interrogatories on behalf of Amchem.

37) Please identify any witness who has testified on behalf of defendant in regard to household exposures to asbestos resulting from occupationally-exposed workers.

ANSWER:

See Amchem's General Objections. Amchem objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, oppressive, harassing, and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Interrogatory as calling for speculation or an expert medical or scientific opinion. Amchem further objects to this Interrogatory's incorrect assumption that any Amchem product which contained asbestos created a health hazard. Amchem objects to the production of transcripts from other litigation as beyond the scope of proper discovery. Subject to its objections, Amchem responds as follows: Amchem is not aware of any such persons or testimony.

Respectfully submitted this 18th day of July, 2004.

HAWKINS & PARNELL, LLP

Handwritten signature of Albert H. Parnell in cursive, followed by a horizontal line.

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Margaret A. Droppleman
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**COUNSEL FOR AMCHEM
PRODUCTS, INC.**

IN THE CIRCUIT OF KANAWHA COUNTY, WEST VIRGINIA

**IN RE: ASBESTOS PERSONAL
INJURY LITIGATION**

**CIVIL ACTION NO. 03-C-9600
October 2004 Trial Group
Honorable Ronald E. Wilson**

**DOLORES L. BURKE,
Deceased
Plaintiff,**

vs.

Civil Action No. 03-C-3182

**ADIENCE, INC., et al.,
Defendants.**

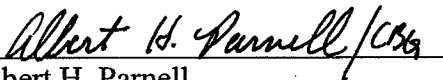
Certificate of Service

This is to certify that I have this day caused to be served a copy of the within and foregoing **Answers of Defendant Sued Incorrectly Herein as Rhone-Poulenc, Inc. or Amchem Products, Inc. to Plaintiffs' First Set of Interrogatories to All Asbestos Product Manufacturing Defendants** upon opposing counsel by depositing a copy of same in the United States Mail with adequate postage thereon to ensure delivery.

I also certify that all known counsel are hereby notified of this filing via Defense E-mail Chain.

This 18th day of July, 2004.

HAWKINS & PARNELL, LLP


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IN THE CIRCUIT OF KANAWHA COUNTY, WEST VIRGINIA

**IN RE: ASBESTOS PERSONAL
INJURY LITIGATION**

**CIVIL ACTION NO. 03-C-9600
October 2004 Trial Group
Honorable Ronald E. Wilson**

**DOLORES L. BURKE,
Deceased**

Plaintiff,

vs.

Civil Action No. 03-C-3182

ADIENCE, INC., et al.,

Defendants.

**RESPONSES OF DEFENDANT SUED INCORRECTLY HEREIN AS
RHONE-POULENC, INC. OR AMCHEM PRODUCTS, INC. TO
PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION TO ALL
PRODUCT MANUFACTURING DEFENDANTS**

Defendant sued incorrectly herein as RHONE-POULENC, INC. or AMCHEM PRODUCTS, INC. (hereinafter referred to as "Amchem")¹ responds to Plaintiff's Master Set of Requests for Production (the "Requests") as follows:

INTRODUCTION

Since Plaintiff has sued this entity in its capacity as the successor to the Benjamin Foster Division of Amchem Products, Inc. these responses are limited to information regarding Amchem Products, Inc. and its Benjamin Foster Division. Since the Benjamin Foster Division of Amchem Products, Inc. produced all of Amchem Products, Inc.'s products which ever contained asbestos (with the sole exception of TRE-HOLD, which has not been alleged as a product at issue in this lawsuit), these responses are limited to information regarding products

¹ The current corporate successor of Amchem Products, Inc. is Bayer CropScience Inc.

sold prior to June 1, 1976, when H.B. Fuller Company acquired all assets of the Benjamin Foster Division. To the extent that Plaintiff's alleged exposure relates to Benjamin Foster products sold after June 1, 1976, Plaintiff should direct all discovery for such claims to H.B. Fuller Co.

GENERAL OBJECTIONS

1. Amchem objects generally to the requests as overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent that they are unlimited in time and do not relate to the time period in which Plaintiffs' alleged exposure to any product containing asbestos occurred.

2. Amchem objects generally to the requests to the extent that they seek information protected by the attorney-client privilege, the protection afforded attorneys' work product or any other applicable privilege, protection or immunity from discovery.

3. Amchem objects to the requests to the extent that they seek information concerning Amchem's subsidiaries or divisions (other than Benjamin Foster), parents or affiliates and predecessors or successors, which were not involved with Amchem's manufacture or sale of products which contained asbestos. Such information is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence. To provide such information, Amchem could be required to seek and furnish information from, and to reply on behalf of, persons over whom or which Amchem no longer exercises or never exercised control. This would be unduly burdensome and oppressive and is not required by law.

4. Plaintiff has sued this entity as the successor to the Benjamin Foster Division of Amchem Products, Inc. Since the Benjamin Foster Division of Amchem Products, Inc. produced all of the Amchem Products, Inc.'s products which ever contained asbestos (with the sole exception of TRE-HOLD, which has not been alleged as a product at issue in this lawsuit), these

responses are limited to information regarding Benjamin Foster products sold prior to June 1, 1976, when H.B. Fuller Company acquired all assets of the Benjamin Foster Division of Amchem Products, Inc. Amchem objects to each discovery request to the extent that it seeks information from or about Rhone-Poulenc, Inc. itself, or for time periods after June 1, 1976.

5. Amchem objects to the requests to the extent that they seek information about Amchem's manufacturing plants or employees. Inasmuch as Plaintiffs were neither employed by Amchem, nor worked at any of Amchem's facilities, requests seeking such information are irrelevant to this case and not reasonably calculated to lead to the discovery of admissible evidence.

6. Amchem objects to all inquiries regarding its TRE-HOLD product. Until late 1979, Amchem produced a tree sprout inhibitor used primarily for telephone poles, made from trees, called TRE-HOLD. TRE-HOLD contained a small quantity of asbestos encapsulated in asphalt carriers. Amchem excludes information concerning TRE-HOLD from its responses because such information is not relevant to this case nor reasonably calculated to lead to the discovery of admissible evidence. All other Amchem products which contained asbestos consisted of sealants, coatings, adhesives or mastics. Unless otherwise stated, Amchem's responses refer or relate only to those products.

7. Since Amchem and its successors were or are corporations, Amchem lacks personal knowledge of the information supplied in these responses. Thus, the information supplied in these responses is based on the knowledge of former employees of Amchem, and on information obtained from documents in Amchem's document repository.

8. Amchem states that trial preparation and factual investigation are ongoing. Amchem's answers to these requests are based on information known to Amchem at this time.

Amchem reserves the right, however, to make reference at the trial or at any hearing in this action to facts and documents not identified in these responses, the existence or relevance of which is later discovered by it or its counsel. By this reservation, Amchem does not in any way assume a continuing responsibility to update its responses to these requests, and specifically objects to each of these requests to the extent that they seek to impose any such continuing obligation upon Amchem, unless such obligation is imposed by law.

9. Amchem objects to this set of requests in its entirety on the grounds that it is not reasonably framed in terms of the facts and subject matter of the present action, with the result that Amchem is called upon to speculate as to what information relevant to the present case, if any, may be deemed to fall within the scope of the requests as phrased.

10. Amchem further objects to all discovery requests that seek to impose an obligation on Amchem to research and provide information about all of its products that may or may not have contained any asbestos before Plaintiff has identified the specific Amchem product to which Plaintiff was allegedly exposed.

REQUESTS FOR PRODUCTION

1. All documents sent or received by this Defendant to or from consumers, contractors, installers, employees and unions concerning the use of asbestos or asbestos-containing product.

RESPONSE:

See Amchem's General Objections. Amchem objects to this Request as overly broad, unduly burdensome, oppressive, harassing and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Request to the extent it does not relate to the location or time period of Plaintiff's alleged exposure to any asbestos-containing product. Subject to its objections, Amchem responds as follows: Amchem sold its Benjamin Foster

Division in 1976 to H.B. Fuller Company. Thereafter, Amchem ceased to manufacture or sell all products which contained asbestos except for TRE-HOLD. In 1977, Amchem merged with another corporation and ceased to exist as a separate entity. Amchem Products, Inc. no longer transacts business or maintains any corporate office. Available records of the Benjamin Foster Division, the division which manufactured the products which may be at issue in this case, are maintained in a repository at the law offices of Mayer, Brown, Rowe & Maw LLP, 190 S. LaSalle St., Chicago, Illinois 60603-3441. Upon Plaintiff's request, Amchem will make its records (excluding privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date.

2. All records, minutes, and other documents reflecting any meetings of your product safety committee, industrial hygiene committee, or any other safety or health-related committee within the organization of this Defendant, including all subsidiaries, divisions, and predecessor entities, wherein the potential health hazards of asbestos were discussed.

RESPONSE:

See Amchem's General Objections. Amchem objects to this request as overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Request to the extent it does not relate to the location or time period of Plaintiff's alleged exposure to any asbestos-containing product. Subject to its objections, Amchem responds as follows: According to its best available information, Amchem has no documents responsive to this Request.

3. All invoices and other documents related to the sale and/or installation of your asbestos or asbestos-containing products in West Virginia, including, but not limited to, Weirton Steel, Weirton, West Virginia.

RESPONSE:

See Amchem's General Objections. Amchem objects to this Request on the grounds that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the

discovery of admissible evidence. Amchem objects to this Request to the extent that it does not relate to the time period in which Plaintiff was allegedly exposed to any product which contained asbestos. Amchem objects to this Request as vague and ambiguous. Amchem further objects on the ground that in the absence of product identification by Plaintiff, this Request is premature and unduly burdensome. Amchem also objects to this Request to the extent that it seeks information concerning sales of its products to entities located outside of West Virginia. Subject to its objections, Amchem responds as follows: all Amchem sales of products which contained asbestos (with the sole exception of TRE-HOLD, which is not relevant to this action) were made through the Benjamin Foster Division, which Amchem sold to the H. B. Fuller Company in 1976. The Benjamin Foster Division sales records that are still in Amchem's possession include sales by Amchem to end users and distributors; they do not include a record of distributor sales. The remaining sales records still under Amchem's control are now in the custody of Amchem's counsel, Mayer, Brown, Rowe & Maw LLP, 190 S. LaSalle St., Chicago, Illinois 60603-3441. Ms. Mary Martin, legal assistant, serves as custodian of the documents. Upon Plaintiff's request, Amchem will make its document repository (excluding privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date.

4. All documents, including but not limited to, written memoranda, specifications, recommendations, blueprints or other written materials of any kind or character relating to the installation of your asbestos-containing products in West Virginia.

RESPONSE:

See Amchem's General Objections. Amchem objects to this Request on the grounds that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Request to the extent that it does not relate to the time period in which Plaintiff was allegedly exposed to any product which contained

asbestos. Amchem objects to this Request as vague and ambiguous. Amchem further objects on the ground that in the absence of product identification by Plaintiff, this Request is premature and unduly burdensome. Amchem also objects to this Request as unduly burdensome because Amchem over the years manufactured numerous different products which had many uses. Subject to its objections, Amchem responds as follows: To the extent Amchem has any documents responsive to this Request, any such documents are maintained in the document repository. The Amchem document repository is maintained at Mayer, Brown, Rowe & Maw LLP, 190 S. LaSalle St., Chicago, Illinois 60603-3441. Ms. Mary Martin, legal assistant, serves as custodian of the documents. Upon Plaintiff's request, Amchem will make its document repository (excluding privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date.

5. All documents, including but not limited to, written memoranda, specifications, recommendations, blueprints or other written materials of any kind of character relating to the maintenance, repair or removal of asbestos-containing products in West Virginia.

RESPONSE:

See Amchem's General Objections. Amchem objects to this Request on the grounds that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Request to the extent that it does not relate to the time period in which Plaintiff was allegedly exposed to any product which contained asbestos. Amchem objects to this Request as vague and ambiguous. Amchem further objects on the ground that in the absence of product identification by Plaintiff, this Request is premature and unduly burdensome. Amchem also objects to this Request as unduly burdensome because Amchem over the years manufactured numerous different products which had many uses. Amchem objects to this Request as irrelevant, harassing and not reasonably calculated to lead to

the discovery of admissible evidence to the extent that it seeks information about the premises of any Amchem affiliate or subsidiary. Amchem further objects to this Request if Plaintiff was neither employed by Amchem nor worked at any Amchem plant. Subject to its objections, Amchem responds as follows: According to Amchem's best available information, neither Amchem nor any Amchem division or subsidiary was ever engaged in the business of removing or abating asbestos or asbestos materials. To the extent Amchem has any documents responsive to this Request, any such documents are maintained in the document repository. The Amchem document repository is maintained at Mayer, Brown, Rowe & Maw LLP, 190 S. LaSalle St., Chicago, Illinois 60603-3441. Ms. Mary Martin, legal assistant, serves as custodian of the documents. Upon Plaintiff's request, Amchem will make its document repository (excluding privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date.

6. All documents sent or received by this Defendant or its agents concerning the need for and/or use of respirators, dust masks, etc., when working in the presence of asbestos.

RESPONSE:

See Amchem's General Objections. Amchem objects to this Request on the grounds that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Request to the extent that it does not relate to the time period in which Plaintiff was allegedly exposed to any product which contained asbestos. Amchem objects to this Request as irrelevant, harassing and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks information about the premises of any Amchem affiliate or subsidiary. Amchem further objects to this Request if Plaintiff was neither employed by Amchem nor worked at any Amchem plant. Amchem objects to this Request's incorrect assumption that any product which contained asbestos created a health

hazard or that respirator use was required as a result of asbestos used in any of its products that contained asbestos. Subject to its objections, Amchem responds as follows: Amchem's available records do not indicate that Amchem made or received any such recommendation with respect to its products. In all products, the asbestos fibers were encapsulated by binder material compounds and thus free fiber could not be released or emitted from any of the products in sufficient quantity to cause any health hazard.

7. All documents, reports, records, writings, photographs, diagrams, and films which you may introduce into evidence during the trial of this civil action.

RESPONSE:

See Amchem's General Objections. Amchem objects to this Request to the extent that it seeks waiver of the attorney-client privilege, the protection afforded attorneys' work product or any other applicable privilege, protection or immunity from discovery. Amchem objects to this Request as premature inasmuch as it requests Amchem to identify such materials at this time. Subject to its objections, Amchem responds as follows: Amchem has not yet determined which exhibits, if any, it will rely on at a trial of this case. See also Amchem exhibit lists filed pursuant to the Case Management Order.

8. All exhibits, documents, models, or other physical evidence which you may use as demonstrative aids during the trial of this civil action.

RESPONSE:

See Amchem's General Objections. Amchem objects to this Request to the extent that it seeks waiver of the attorney-client privilege, the protection afforded attorneys' work product or any other applicable privilege, protection or immunity from discovery. Amchem also objects to this Request as vague, ambiguous and unclear, especially in so far that Plaintiff does not define or limit the meaning of the term "models." Amchem further objects to the extent that this

Request seeks materials to be used as demonstrative exhibits, if any, Amchem will disclose only to the extent required at time of trial. Subject to its objections, Amchem responds as follows: Amchem has not yet determined which demonstrative aids, if any, it will rely on at a trial of this case.

9. All documents used to respond to Plaintiffs' interrogatories in this case.

RESPONSE:

See Amchem's General Objections. Amchem objects to this Request as overly broad, unduly burdensome, oppressive and harassing. Subject to its objections, Amchem responds as follows: Amchem's Benjamin Foster Division, which manufactured the Benjamin Foster products allegedly at issue in this case, was sold in 1976 and Amchem Products, Inc. has no employees and no longer transacts business. Accordingly, Amchem's counsel prepared these responses on Amchem's behalf. Counsel has based its responses on information contained in available, relevant business records of Amchem's former Benjamin Foster Division and on information provided over time by former Amchem officials or employees. Available records of the Benjamin Foster Division, the division which manufactured the products which may be at issue in this case, are maintained in a repository at the law offices of Mayer, Brown, Rowe & Maw LLP, 190 S. LaSalle St., Chicago, Illinois 60603-3441. Upon Plaintiff's request, Amchem will make its records (excluding privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date.

10. All documents not produced in response to any of the foregoing in which the hazards of asbestos or asbestos-containing products are discussed.

RESPONSE:

See Amchem's General Objections. Amchem objects to this Request on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of

admissible evidence. Amchem objects to this Request as calling for speculation or an expert medical or scientific opinion. Amchem further objects to this Request's incorrect assumption that any Amchem product which contained asbestos created a health hazard. Subject to its objections, Amchem responds as follows: Amchem sold its Benjamin Foster Division in 1976 to H.B. Fuller Company. Thereafter, Amchem ceased to manufacture or sell all products which contained asbestos except for TRE-HOLD. In 1977, Amchem merged with another corporation and ceased to exist as a separate entity. Amchem Products, Inc. no longer transacts business or maintains any corporate office. Available records of the Benjamin Foster Division, the division which manufactured the products which may be at issue in this case, are maintained in a repository at the law offices of Mayer, Brown, Rowe & Maw LLP, 190 S. LaSalle St., Chicago, Illinois 60603-3441. Upon Plaintiff's request, Amchem will make its records (excluding privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date.

11. All documents relative to air sampling, tests or other procedures conducted by you to determine the amount of asbestos dust released during the handling, fabrication, application, installation, removal or any other activity involving asbestos-containing products.

RESPONSE:

See Amchem's General Objections. Amchem objects to this Request on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Request to the extent it does not relate to the time period or location of Plaintiff's alleged exposure to any asbestos-containing product. Amchem objects to this Request if Plaintiff was neither employed by Amchem nor worked at any Amchem plant. Amchem further objects to this Request's incorrect assumption that any Amchem product which contained asbestos created any health hazard or that it had any duty to

conduct such research or testing. Subject to its objections, Amchem responds as follows: Amchem sold its Benjamin Foster Division in 1976 to H.B. Fuller Company. Thereafter, Amchem ceased to manufacture or sell all products which contained asbestos except for TRE-HOLD. In 1977, Amchem merged with another corporation and ceased to exist as a separate entity. Amchem Products, Inc. no longer transacts business or maintains any corporate office. Available records of the Benjamin Foster Division, the division which manufactured the products which may be at issue in this case, are maintained in a repository at the law offices of Mayer, Brown, Rowe & Maw LLP, 190 S. LaSalle St., Chicago, Illinois 60603-3441. Upon Plaintiff's request, Amchem will make its records (excluding privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date. To the extent responsive to this Request, Amchem notes that it previously produced expert reports related to the manufacture and testing of certain remanufactured products by Exponent and the R.J. Lee Group in the summer of 2002.

12. All warnings, cautions, notices or other writings relative to the hazards of asbestos that you provided to persons who may have come in contact with your asbestos-containing products, including employees or contractors or other business invitees at any facility in West Virginia, including but not limited to, Weirton Steel, Weirton, West Virginia.

RESPONSE:

See Amchem's General Objections. Amchem objects to this Request on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Request to the extent it does not relate to the time period or location of Plaintiff's alleged exposure to any asbestos-containing product. Amchem objects to this Request if Plaintiff was neither employed by Amchem nor worked at any Amchem plant. Amchem objects to this Request's incorrect assumption that any Amchem product which contained asbestos created a health hazard or required any warning. Subject to its

objections, Amchem responds as follows: Amchem sold its Benjamin Foster Division in 1976 to H.B. Fuller Company. Thereafter, Amchem ceased to manufacture or sell all products which contained asbestos except for TRE-HOLD. In 1977, Amchem merged with another corporation and ceased to exist as a separate entity. Amchem Products, Inc. no longer transacts business or maintains any corporate office. Available records of the Benjamin Foster Division, the division which manufactured the products which may be at issue in this case, are maintained in a repository at the law offices of Mayer, Brown, Rowe & Maw LLP, 190 S. LaSalle St., Chicago, Illinois 60603-3441. Upon Plaintiff's request, Amchem will make its records (excluding privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date.

13. All documents in defendants' possession discussing, evidencing knowledge of, or in any way referencing the potential of, occurrence of, or information relevant to household exposures to asbestos resulting from occupationally-exposed workers.

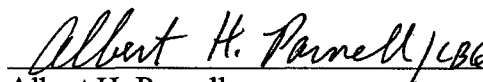
RESPONSE:

See Amchem's General Objections. Amchem objects to this Request on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Amchem objects to this Request as calling for speculation or an expert medical or scientific opinion. Amchem further objects to this Request's incorrect assumption that any Amchem product which contained asbestos created a health hazard. Subject to its objections, Amchem responds as follows: Amchem sold its Benjamin Foster Division in 1976 to H.B. Fuller Company. Thereafter, Amchem ceased to manufacture or sell all products which contained asbestos except for TRE-HOLD. In 1977, Amchem merged with another corporation and ceased to exist as a separate entity. Amchem Products, Inc. no longer transacts business or maintains any corporate office. Available records of the Benjamin Foster Division, the division

which manufactured the products which may be at issue in this case, are maintained in a repository at the law offices of Mayer, Brown, Rowe & Maw LLP, 190 S. LaSalle St., Chicago, Illinois 60603-3441. Upon Plaintiff's request, Amchem will make its records (excluding privileged material) available for Plaintiff's review and duplication, at a mutually convenient time and date.

Respectfully submitted this 18th day of July, 2004.

HAWKINS & PARNELL, LLP

Handwritten signature of Albert H. Parnell in cursive, followed by a horizontal line.

Albert H. Parnell
West Virginia Bar No. 5235
Margaret A. Droppleman
West Virginia Bar No. 5849

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**COUNSEL FOR AMCHEM
PRODUCTS, INC.**

IN THE CIRCUIT OF KANAWHA COUNTY, WEST VIRGINIA

**IN RE: ASBESTOS PERSONAL
INJURY LITIGATION**

**CIVIL ACTION NO. 03-C-9600
October 2004 Trial Group
Honorable Ronald E. Wilson**

**DOLORES L. BURKE,
Deceased**

Plaintiff,

vs.

Civil Action No. 03-C-3182

ADIENCE, INC., et al.,

Defendants.

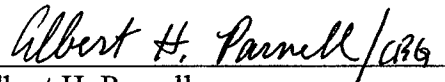
Certificate of Service

This is to certify that I have this day caused to be served a copy of the within and foregoing **Responses of Defendant Sued Incorrectly Herein as Rhone-Poulenc, Inc. or Amchem Products, Inc. to Plaintiffs' First Set of Requests for Production of Documents to All Asbestos Product Manufacturing Defendants** upon opposing counsel by depositing a copy of same in the United States Mail with adequate postage thereon to ensure delivery.

I also certify that all known counsel are hereby notified of this filing via Defense E-mail Chain.

This 18th day of July, 2004.

HAWKINS & PARNELL, LLP



Albert H. Parnell
West Virginia Bar No. 5235
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