

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT OF ILLINOIS
McLEAN COUNTY

PLAINTIFF'S EXHIBIT

K-1943

ESTOL L. REED and VIRGINIA REED,

Plaintiffs,

vs.

EMPIRE ACE INSULATION MFG. CORP.,
et al.,

Defendants.

LAW NO: 83 L 68

ANSWERS TO INTERROGATORIES

NOW COMES the defendant, OWENS-ILLINOIS, INC., by HEYL, ROYSTER, VOELKER & ALLEN, its attorneys, and for answer to the interrogatories previously propounded to it by the plaintiffs, ESTOL L. REED and VIRGINIA REED, states as follows:

INTERROGATORY NO. 1: Have these interrogatories been answered fully and in good faith to the extent of the actual knowledge and information available to defendant, OWENS-ILLINOIS, INC., its insurance carrier(s) and attorneys?

ANSWER: This Defendant objects to this interrogatory on the basis that it is irrelevant, argumentative and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the above objection, yes.

INTERROGATORY NO. 2: Is the defendant, OWENS-ILLINOIS, INC., a corporation? If so, state:

- a. The exact corporate name.
- b. The state of incorporation.
- c. The name and address and position within defendant of the person providing sworn answers to these interrogatories.

ANSWER: Yes.

- a. Owens-Illinois Glass Company was incorporated in the State of Ohio in 1929. Owens-Illinois Glass Company changed its name to Owens-Illinois, Inc. on April 28, 1965. The address of the

HEYL ROYSTER VOELKER
& ALLEN
PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 800
JEFFERSON BANK BUILDING
PEORIA ILLINOIS 61602
13081 678 0400

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principal place of business is One SeaGate, Toledo, Ohio 42666.

- b. See answer to 2(a) above.
- c. Philip M. Rice, Assistant Secretary of Owens-Illinois, Inc., One SeaGate, Toledo, Ohio 43666 (419) 247-0949.

INTERROGATORY NO. 3: Has anyone obtained from any person a statement (whether oral or written, signed or unsigned) concerning the matters involved in this case? If so, state as to each statement:

- a. The name and last known address of the person making the statement.
- b. When, where and by whom the statement was taken.
- c. Is there any tangible preservation of the statement, such as a document signed by the person making the statement, a tape-recording, a transcript or a memorandum purporting to reflect what was said?
- d. If your answer to (c) is affirmative, state the name and address of the person having possession of the tangible preservation of the statement.

ANSWER: This Defendant objects to this interrogatory on the grounds that it attempts to discovery information furnished as trial preparation material to its attorneys or other representatives. Without waiving the above objection, this Defendant states that this case has only recently begun and Defendant has not engaged in sufficient discovery to answer this interrogatory. It reserves the right to supplement its answer should discovery warrant. Defendant further states that the only documents or types of information described in this interrogatory which it may have are plaintiffs' deposition transcripts and such medical records as plaintiff may have provided to Defendant's counsel.

INTERROGATORY NO. 4: Has any private firm or company adjustor been directed to investigate the occurrence or ask questions of persons who may have knowledge of facts concerning the case? If so, state the full name and address of each firm or adjustor.

HEYL ROYSTER VOELKER
ALLEN
PRO. AL CORPORATION
ATTORNEYS AT LAW
SUITE 800
JEFFERSON BANK BUILDING
PEORIA ILLINOIS 61602
(309) 676 0400

ANSWER: This Defendant objects to this interrogatory on the grounds of the work product privilege and the attorney-client privilege.

INTERROGATORY NO. 5: Do you have any information regarding plaintiff's physical condition other than that information furnished you by plaintiff's counsel? If so, state the nature of that information, the name and address of its source, and if documentary in nature, who now has each.

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 3.

INTERROGATORY NO. 6: Were any photos taken of Estol Reed? If so, state the total number of photos, the date of each photo, and who has each.

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 3.

INTERROGATORY NO. 7: Were you named or covered under any policy of liability insurance, effective on the date of the occurrence, which may be construed to provide coverage for any claim stated in the complaint? If so, as to each policy, state:

- a. The name of the company.
- b. The policy number.
- c. The effective period.
- d. The maximum liability limits for:
 1. injury to any one person.
 2. aggregate personal injury limits.
- e. What amounts, if any, have previously been paid under the policy which in the opinion of the carrier reduces the coverage available.
- f. Whether the carrier denied coverage or tendered a defense under a reservation of rights.
- g. Whether the policy contains any first party medical pay or disability coverage, and, if so, describe the coverage.

ANSWER: This Defendant objects to this interrogatory on the grounds that it seeks information which is not relevant to the subject matter of this

litigation and is not calculated to lead to the discovery of admissible evidence. Without waiving the above objections, this Defendant responds that the status of its liability coverage by its insurer, Aetna, with regard to actions brought against this Defendant allegedly resulting from the use of asbestos-containing products has not yet been resolved and is unclear at this time.

INTERROGATORY NO. 8: Which, if any, of the carriers listed in your answer to the preceding interrogatory are providing a defense to this suit?

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 7.

INTERROGATORY NO. 9: Identify those expert witnesses (as defined in Supreme Court Rule 220(a)(a)) from whom you may offer opinion testimony at trial, and for each such expert, state:

- a. His name, current address, telephone number, occupation, and employer.
- b. The subject matter on which the expert is expected to testify.
- c. His conclusions and opinions and the bases therefore.
- d. His qualifications, including all formal education subsequent to high school, a history of his employment and the citation to each of his published writings.
- e. The amount paid, or agreed to be paid to him, specifying his hourly rate of compensation.
- f. The name of the first plaintiff, first defendant, the court in which filed and the cause number for every cause in which such expert has testified, whether at deposition or trial, and the date of his testimony.

ANSWER: Dr. David Main, Urbana, Illinois. The report has previously been furnished to plaintiff's attorney. We have not retained any other expert witness at this time, but reserve the right to do so.

INTERROGATORY NO. 10: Has defendant ever had one or more persons whose primary responsibility included looking after or monitoring the health of de-

MEYER, ROYSTER, VOELKER
 & ALLEN
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 SUITE 600
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 (309) 678-0400

Defendant's employees, such as a medical director? If so, state the following as to each person who has held this position:

- a. The name and address of the person.
- b. The name of the position he or she held.
- c. The dates during which he or she held the position.
- d. The address of his or her office during the time he or she held the position.
- e. State whether there was a written job description for that position at that time.
- f. If there was a written job description, set forth the words of the description or attached a copy hereto.

ANSWER: Charles Shook, M.D., deceased, employed from March 25, 1946, until June 30, 1960, was the Medical Director during the period in which this Defendant manufactured, sold or distributed asbestos-containing products.

This Defendant's chief medical officer is responsible for assuring and promoting preventive and corrective medical programs, services and practices to protect and preserve employee health and productivity throughout Owens-Illinois, Inc. The individual in this position develops, organizes, introduces and implements pre-employment and periodic examinations as well as new health programs in order to insure the continued well being of Defendant's employees in a safe and healthy environment. The person in this position is also responsible for the quality of medical services at Owens-Illinois locations.

INTERROGATORY NO. 11: Has defendant ever directed or contributed money toward a study of the effects of asbestos exposure upon the health of some or all of its employees? If so, state the following as to each such study:

- a. The description or title of the study.
- b. The dates during which it was made.
- c. The location or locations of the plants at which the employees were employed.
- d. The number of employees studied.

- e. Brief description of the study.
- f. Whether any of the results were reported into written form, and if so, who now has a copy of the report.

ANSWER: Insofar as this interrogatory pertains to asbestos-containing products other than Kaylo, this Defendant states that it ceased the manufacture, sale and distribution of asbestos-containing products in 1958 and does not have any records from which it can obtain information sufficient to answer this interrogatory, nor can it locate any present employees with knowledge thereof.

Insofar as this interrogatory pertains to its own asbestos-containing product, Kaylo, this Defendant states that it ceased the manufacture, sale and distribution of asbestos-containing products in 1958 and does not have any records from which it can obtain information sufficient to answer this interrogatory. During May, 1979, various papers and reports were produced by an employee of the Trudeau Institute, Mr. Allan Logie, regarding animal experiments conducted at laboratories at Saranac Lake involving dust collected during Kaylo manufacturing process. These papers and reports may contain information relating to the substance of this interrogatory. The employee, Mr. Logie, had no personal knowledge about the course or conduct of any such experiments, the preparation of papers and reports he produced, or the retention or completeness of those papers and reports. Therefore, he could not authenticate these papers and reports. This Defendant has not been able to find these papers and reports in its business records or correspondence although it has searched for and continues to search for them.

This Defendant's counsel obtained copies of some of the papers and reports produced by Mr. Logie. However, these copies constitute only a portion of a larger volume of papers and reports which this Defendant has not copied. This Defendant also has reason to believe that Plaintiffs' counsel has copies

of the documents produced by Mr. Logie. Other documents possibly relating to this interrogatory may have been produced by Owens-Corning Fiberglas Corporation.

Those documents found at Saranac Lake and at Owens-Corning Fiberglas Corporation and elsewhere, indicating that during the period of time when Owens-Illinois was in the business of manufacturing asbestos-containing products, those products contained a relatively small proportion of asbestos. The inhalation of asbestos dust in excessive amounts over a prolonged period of time (years), under certain conditions, could lead to the potential hazard where exposures were in excess of recognized safe limits, that plant workers were not exposed to levels above the recognized safe limits, that users were not exposed to dust levels above the recognized safe limits, that Kaylo plant employees were X-rayed periodically and displayed no asbestos-related chest disease, and that therefore during the period in which this Defendant was in the business of manufacturing Kaylo it had no reason to believe that the foreseeable use of Kaylo would create a hazard to users.

To the extent that this interrogatory seeks the production of documents, such documents, as outlined in this response, have not been found as part of this Defendant's records and, to the extent that this Defendant is in possession of copies of documents, it possesses copies only of documents collected in preparation for litigation. This Defendant objects to producing the same. The documents are available from their proper source.

INTERROGATORY NO. 12: Have there been any studies of the effect of asbestos exposure upon the health of any of defendant's employees? If so, state:

- a. The description or title of the study.
- b. The dates during which it was made.

HEYL, ROYSTER VOELKER
& ALLEN
PEORIA ILLINOIS CORPORATION
ATTORNEYS AT LAW
SUITE 800
JEFFERSON BANK BUILDING
PEORIA ILLINOIS 61602
(309) 678-0400

- c. The location or locations of the plants at which the employees were employed.
- d. The number of employees studied.
- e. Brief description of the study.
- f. Whether any of the results were reported into written form, and if so, who now has a copy of the report.

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 11.

INTERROGATORY NO. 13: Is there a disease or disease process known as asbestosis?

ANSWER: This Defendant objects to this interrogatory on the basis that it is an improper form of discovery in that Plaintiff is in effect submitting a disguised Request for Admission.

INTERROGATORY NO. 14: Is asbestosis caused by exposure to asbestos?

ANSWER: During the period of time in which this Defendant engaged in the manufacture, sale and distribution of its asbestos-containing products, it was this Defendant's understanding that the inhalation of asbestos dust in excessive amounts over a prolonged period of time (years), under certain conditions, could lead to the potential hazard of contracting a disease known as asbestosis. However, in 1958 and before and for some years thereafter, the state of the medical and scientific knowledge was to the effect that there was a safe level of asbestos to which a person could be exposed without risk of injury and to the effect that persons such as Plaintiffs were not exposed to excessive amounts of asbestos.

INTERROGATORY NO. 15: If your answer to the preceding interrogatory is in the affirmative, when did defendant first learn that asbestosis was caused by exposure to asbestos?

ANSWER: This Defendant ceased the manufacture, sale and distribution of asbestos-containing products in 1958. This Defendant has not found

information in his records sufficient to enable it to answer this interrogatory. Its investigation into the subject matter referred to in this interrogatory is continuing.

INTERROGATORY NO. 16: Is there a disease or disease process known as lung cancer?

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 13.

INTERROGATORY NO. 17: Can lung cancer be caused by exposure to asbestos?

ANSWER: This Defendant objects on the basis that its present knowledge is irrelevant to this action in that evidence of a "causal connection" between cancer and asbestos was first accepted by medical science after the period of time Defendant ceased the manufacture of asbestos-containing products. Without waiving its objections, Defendant is informed and believes that at no time prior to 1958 was there reason to believe that the medical and scientific community accepted that there was a "causal connection" established between exposure to asbestos and a risk of contracting cancer.

INTERROGATORY NO. 18: If your answer to the preceding interrogatory is in the affirmative, when did defendant first learn that lung cancer can be caused by exposure to asbestos?

ANSWER: This Defendant objects to this interrogatory on the grounds that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence except as it relates to the period of time Defendant ceased the manufacture of asbestos-containing products. Without waiving its objections, Defendant is informed and believe that at no time prior to 1958 was there reason to believe that the medical and scientific community accepted that there was a "causal connection" established between exposure to asbestos and a risk of contracting any asbestos-induced carcinoma.

MEYL ROYSTER VOELKER
ALLEN
PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 600
JEFFERSON BANK BUILDING
PEORIA ILLINOIS 61602
(308) 876 0400

INTERROGATORY NO. 19: Does exposure to asbestos increase the incidence of lung cancer?

ANSWER: This Defendant objects to this interrogatory on the ground that it is not limited to the period of time pertinent to this litigation. This Defendant further objects on the basis that this interrogatory calls for a medical and scientific opinion which this Defendant is not qualified to give.

INTERROGATORY NO. 20: If your answer to the preceding interrogatory is in the affirmative, state when defendant first learned that exposure to asbestos increased the incidence of lung cancer.

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 19.

INTERROGATORY NO. 21: Is there a disease or disease process known as mesothelioma?

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 13.

INTERROGATORY NO. 22: Can mesothelioma be caused by exposure to asbestos?

ANSWER: This Defendant objects to this interrogatory on the grounds that its present knowledge is irrelevant to this action in that evidence of a causal connection between mesothelioma and asbestos was first accepted by medical science after the period of time Defendant ceased the manufacture of asbestos-containing products. Without waiving its objections, Defendant is informed and believes that at no time prior to 1958 was there reason to believe that the medical and scientific community accepted that there was a causal connection established between exposure to asbestos and a risk of contracting mesothelioma.

MEYL ROYSTER VOELKER
ALLEN
PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 600
JEFFERSON BANK BUILDING
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13091 876 0400

INTERROGATORY NO. 23: If your answer to the preceding interrogatory is in the affirmative, when did defendant first learn that mesothelioma can be caused by exposure to asbestos?

ANSWER: This Defendant objects to this interrogatory on the grounds that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence except as it relates to the period of time within which this Defendant manufactured its asbestos-containing products. Without waiving the above objections, Defendant is informed and believes that at no time prior to 1958 was there any reason to believe that there was a causal relationship established between exposure to asbestos and a risk of contracting mesothelioma.

INTERROGATORY NO. 24: Does exposure to asbestos increase the incidence of mesothelioma?

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 19.

INTERROGATORY NO. 25: If your answer to the preceding interrogatory is in the affirmative, state when defendant first learned that exposure to asbestos increased the incidence of mesothelioma.

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 24.

INTERROGATORY NO. 26: Is there a disease or disease process known as cancer of the gastrointestinal tract?

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 13.

INTERROGATORY NO. 27: Does exposure to asbestos cause cancer of the gastrointestinal tract?

ANSWER: This Defendant objects on the basis that its present knowledge is irrelevant to this action in that evidence of a causal connection between

MEYER, ROYSTER VOELKER
ALLEN
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SUITE 600
JEFFERSON BANK BUILDING
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13081 876 0400

other diseases of the lungs and gastrointestinal area and asbestos was first accepted by medical science after the period of time Defendant ceased the manufacture of asbestos-containing products. Without waiving its objections, Defendant is informed and believes that at no time prior to 1958 was there reason to believe that the medical and scientific community accepted that there was a causal connection established between exposure to asbestos and a risk of contracting other diseases of the lungs and cancer of the gastrointestinal tract.

INTERROGATORY NO. 28: If your answer to the preceding interrogatory is in the affirmative, when did defendant first learn that exposure to asbestos caused cancer of the gastrointestinal tract?

ANSWER: This Defendant objects to this interrogatory on the grounds that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence except as it relates to the period of time within which this Defendant manufactured its asbestos-containing products. Without waiving the above objections, Defendant is informed and believes that at no time prior to 1958 was there any reason to believe that there was a causal relationship established between exposure to asbestos and a risk of contracting cancer of the gastrointestinal tract.

INTERROGATORY NO. 29: Does exposure to asbestos increase the incidence of cancer of the gastrointestinal tract?

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 19.

INTERROGATORY NO. 30: If your answer to the preceding interrogatory is in the affirmative, state when defendant first learned that exposure to asbestos increased the incidence of cancer of the gastrointestinal tract.

MEYER, ROYSTER VOELKER
& ALLEN
PEORIA CORPORAION
ATTORNEYS AT LAW
SUITE 800
JEFFERSON BANK BUILDING
PEORIA, ILLINOIS 61602
(308) 676-0400

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 29.

INTERROGATORY NO. 31: List the following information for each claim brought against defendant by a present or former contract-unit employee of defendant or the spouse or child of a deceased such employee alleging a disease or condition of ill-being caused by asbestos:

- a. The name and address of the person alleged to be diseased or in a condition of ill-being.
- b. When the alleged disease or condition of ill-being began.
- c. The circumstances under which the employee is alleged to have come into contact with asbestos.
- d. Whether the person is represented by an attorney, and if so, the name and address of his attorney.
- e. The agency where the claim was filed, the docket number of the claim and the date the claim was filed.

ANSWER: This Defendant has never formed nor maintained a group or groups known as "contract units," such "contract units" being a division or group within or maintained by the corporation which, *inter alia*, engaged in the actual installation of insulation products containing asbestos at job sites.

INTERROGATORY NO. 32: List the following information for each claim, not identified in your answer to the preceding interrogatory, brought against defendant by a present or former employee of defendant or the spouse or child of a deceased employee alleging a disease or condition of ill-being caused by asbestos:

- a. The name and address of the person alleged to be diseased or in a condition of ill-being.
- b. When the alleged disease or condition of ill-being began.
- c. The circumstances under which the employee is alleged to have come into contact with asbestos.
- d. Whether the person is represented by an attorney, and if so, the name and address of his attorney.

HEYL ROYSTER VOELKER
ALLEN
PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 600
JEFFERSON BANK BUILDING
PEORIA ILLINOIS 61602
(309) 678-0400

- e. The agency where the claim was filed, the docket number of the claim and the date the claim was filed.

ANSWER: During the period in which this Defendant engaged in the manufacture of its asbestos-containing products, it received no Workers' Compensation claims for any asbestos-related disease.

INTERROGATORY NO. 33: List the following information regarding each document (as defined in Supreme Court Rule 201(b)(1)) authored by an employee of defendant in the course of his employment, dealing in whole or in part with the consequences of exposure to asbestos:

- a. Name, title or other means of identification of the document.
- b. Name, position at time document authored, and current address, position and employer of each author of the document.
- c. Date prepared or published.
- d. The name and address of the entity responsible for its publication and/or distribution.
- e. If available in typewritten or printed form, the number of pages.

ANSWER: This Defendant objects to this interrogatory on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to the period of time during which this Defendant engaged in the manufacture, sale and distribution of its asbestos-containing products. Without waiving the above objection, during May, 1979, various papers and reports were produced by an employee of the Trudeau Institute, Mr. Allan Logie, regarding animal experiments conducted at laboratories at Saranac Lake involving dust collected during the Kaylo manufacturing process. These papers and reports may contain information relating to the substance of this interrogatory. This Defendant has not been able to find these papers and reports in its business records or correspondence although it has searched for and continues to search for them.

HEYL, ROYSTER, VOELKER
LLEN
PROFES CORPORATION
ATTORNEYS AT LAW
SUITE 800
JEFFERSON BANK BUILDING
PEORIA ILLINOIS 61602
13081 676 0400

This Defendant's counsel obtained copies of some of the papers and reports produced by Mr. Logie. However, these copies constitute only a portion of a larger volume of papers and reports which this Defendant has not copied. They are available at Milbank, Tweed, Hadley & McCloy, 1 Chase Manhattan Plaza, New York, New York. This Defendant also has reason to believe that Plaintiffs' counsel has copies of the documents produced by Mr. Logie. Other documents possibly relating to this interrogatory may have been produced by Owens-Corning Fiberglas Corporation in the asbestos litigation.

The documents produced by Owens-Corning Fiberglas Corporation indicate that the September, 1955, publication in the A.M.A. Archives of Industrial Health was a publication of inhalation experiments.

INTERROGATORY NO. 34: List all international unions and local unions which have represented employees of defendant while the employees were using asbestos containing products or were being exposed from asbestos products.

ANSWER: This Defendant objects to this interrogatory on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the above objection, this Defendant ceased the manufacture, sale and distribution of asbestos-containing products in 1958. This Defendant has not found information in its records sufficient to enable it to answer this interrogatory. Its investigation into the subject matter referred to in this interrogatory is continuing.

INTERROGATORY NO. 35: Did any of the unions listed in your answer to the previous interrogatory ever instruct, advise or caution your employees on the safe handling of asbestos?

If so, please state fore each instruction, advice or warning:

- a. The name and address of the union and person instruction, advising or warning your employees.

HEYL, ROYSTER VOELKER
& ALLEN
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SUITE 600
JEFFERSON BANK BUILDING
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3081 676 0400

- b. The method and content of the instruction, advice or warning.
- c. The dates of the instruction, advice or warning.
- d. Whether your employees took any action based on this instruction, advice or warning.
- e. Whether the union ever promulgated, recommended or bargained for any regulations, standards, or guidelines concerning the safe handling of asbestos.

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 34.

INTERROGATORY NO. 36: Did defendant sell, ship or deliver any asbestos containing products to any of the sites on Exhibit A on or before January 1, 1982? If so, state the following:

- a. The type and quantity sold, shipped or delivered.
- b. The date.
- c. Describe or attach the documents evidencing such sale or shipment.

ANSWER: This Defendant ceased the manufacture, sale and distribution of asbestos-containing products in 1958. This Defendant states that it has no records indicating that it sold, shipped or delivered any asbestos-containing products to any of the sites on Exhibit A.

INTERROGATORY NO. 37: List the following information regarding each instance where an individual has testified (at deposition or trial) that a product manufactured or sold by defendant was present or used at any of the sites on Exhibit A: (In lieu of providing the answers to the following, you may provide a transcript of the testimony and plaintiff's lawyer will pay your charges for providing the same).

- a. Name and address of witness.
- b. First named plaintiff, number, and court in which case is pending.
- c. Date of testimony.

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& ALLEN
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SUITE 800
JEFFERSON BANK BUILDING
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(309) 678-0400

- d. Name and address of reporter.
- e. Whether you have a transcript of the testimony.

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 36.

INTERROGATORY NO. 38: On what date did defendant first become aware that asbestosis was a compensable occupational disease under a State Workers' Compensation Act? (Source: GAF's Int. 53 in Reed, 83 L 68).

ANSWER: This Defendant objects to this interrogatory on the grounds that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further states that it is vague, ambiguous and unintelligible. Without waiving the above objection, Defendant states that it has not found any information in his records sufficient to enable it to answer this interrogatory. Its investigation is continuing.

INTERROGATORY NO. 39: Please describe the date, place and circumstances under which defendant first became aware that any adverse effects of exposure to asbestos and asbestos containing materials may be cumulative in nature and that continued exposure to such materials by one suffering from asbestosis or related illnesses might have a significant adverse effect upon the extent and severity of such illness. In addition, please state:

- a. The specific identity of each source of information providing or leading to such awareness.
- b. Any change in defendant's behavior, work rules, etc., precipitated by such awareness. (Source: GAF's Int. 54 in Reed, 83 L 68).

ANSWER: This Defendant objects to this interrogatory on the basis that it seeks information which is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence, except as it relates to the period of time during which this

HEYL ROYSTER VOELKER
& ALLEN
PERSONAL CORPORATION
ATTORNEYS AT LAW
SUITE 600
JEFFERSON BANK BUILDING
PEORIA ILLINOIS 61602
13081 876 0400

Defendant engaged in the manufacture, sale and distribution of its asbestos-containing products. Defendant further objects on the basis that this interrogatory is vague, ambiguous, overly broad and burdensome. Without waiving the above objections, this Defendant is informed and believes that in 1958 and before and for some years after, the state of the medical and scientific knowledge was to the effect that there was a safe level of asbestos to which a person could be exposed without risk of injury.

INTERROGATORY NO. 40: Did defendant ever suggest or recommend that persons using or exposed to the dust from defendant's asbestos containing products might or should use any device to reduce exposure to, or inhalation of, asbestos dust or fibers? If so, please state for each and every such suggestion or recommendation:

- a. Date, time and place when each such suggestion or recommendation was made.
- b. Identify each person present when such suggestion or recommendation was made to or received by plaintiff.
- c. Identify each person receiving same or similar suggestion or recommendation.
- d. Exact wording and content of such suggestion or recommendation.
- e. Whether such suggestions or recommendations was written or oral, and
 1. If written please identify in detail each such writing.
 2. If oral, identify all persons involved and details as to the manner in which each such suggestion or recommendation was presented.
- f. Type, make and model of each device referred to in each such suggestion or recommendation. (Source: GAF's Int. 58 in Reed, 83 L 68).

ANSWER: This Defendant ceased the manufacture, sale and distribution of asbestos-containing products in 1958. This Defendant has not found information in its records sufficient to enable it to answer this interrogatory. Its investigation into the subject matter referred to in this interrogatory is continuing.

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ALLEN
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ATTORNEYS AT LAW
SUITE 600
JEFFERSON BANK BUILDING
PEORIA ILLINOIS 61602
13091 678 0400

INTERROGATORY NO. 41: Identify all documents of which you have knowledge, including but not limited to medical articles, medical journals, case reports, text books, abstracts, or synopses, which you believe relate to your "state-of-the-art" defense. (Source: GAF's Int. 89 in Reed, 83 L 68).

ANSWER: This Defendant objects to this interrogatory on the basis that it is vague, ambiguous, overly broad, burdensome and unintelligible. Defendant further objects on the basis that such documents are protected from discovery by the attorney work product and attorney client privileges. Without waiving the above objection, if Plaintiff is seeking documents which Defendant intends to rely on at trial, then Defendant states that the documents which this Defendant intends to rely upon at trial are not known at the present time. This Defendant reserves the right to designate documents to be used at trial at a later date. As a partial listing, however, the following materials may be relied upon: "A Study of Asbestosis in the Asbestos Textile Industry," Dreessen, W.C. (1938); an article published in the transactions of the Eleventh Annual Meeting, Industrial Hygiene Foundation, November 7, 1946, by J. J. Bloomfield; "A Health Survey of Pipe Covering Operations in Construction Naval Vessels," Fleischer, Drinker, et al., (1946); "Asbestos Exposure During Naval vessel Overhaul," Marr, William T. (1964); "Prevalence of Chronic Respiratory Disease," Ferris, B. G., Jr. (1971); "Asbestosis and Bronchogenic Carcinoma," Isselbacher, K. J. (1953); Annals of the New York Academy of Sciences Volumes 132 and 330; and the Threshold Limit Values promulgated by the American Conference of Governmental Industrial Hygienists for the years 1946 through 1958.

INTERROGATORY NO. 42: In Defendant's Third Affirmative Defense to the Amended Complaint in Reed, 83 L 68, defendant states that the plaintiff "was not using the products complained of in a proper manner." During the decade of the 1950's, were there in effect within defendant, or at the site where employees of defendant were using or working near asbestos containing products

MEYER ROYSTER, VOELKER
& ALLEN
CORPORATION
ATTORNEYS AT LAW
SUITE 600
JEFFERSON BANK BUILDING
PEORIA ILLINOIS 61602
13091 876 0400

manufactured or sold by defendant, any rules, regulations or other requirements concerning the safe and proper manner of using asbestos containing products manufactured or sold by defendant? If yes, please state for each rule, regulation or other requirement:

- a. The name, number or otherwise identify the rule, regulation or other requirement.
- b. When the rule, regulation or other requirement was promulgated.
- c. The content of the rule, regulation or other requirement
- d. Whether defendant fully enforced the rule, regulation or other requirement
- e. If defendant did not fully enforce the rule, regulation or other requirement, why not?

ANSWER: This Defendant ceased the manufacture, sale and distribution of asbestos-containing products in 1958 and does not have any records from which it can obtain information sufficient to answer this interrogatory.

During May, 1979, various papers and reports were produced by an employee of the Trudeau Institute, Mr. Allan Logie, regarding animal experiments conducted at laboratories at Saranac Lake involving dust collected during the Kaylo manufacturing process. These papers and reports may contain information relating to the substance of this interrogatory. The employee, Mr. Logie, had no personal knowledge about the course or conduct of any such experiments, the preparation of papers and reports he produced, or the retention or completeness of those papers and reports. Therefore, he could not authenticate these papers and reports. This Defendant has not been able to find these papers and reports in its business records or correspondence although it has searched for and continues to search for them.

This Defendant's counsel obtained copies of some of the papers and reports produced by Mr. Logie. However, these copies constitute only a portion of a larger volume of papers and reports which this Defendant has not copied.

HEYL ROYSTER VOELKER
& ALLEN
PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 600
JEFFERSON BANK BUILDING
PEORIA ILLINOIS 61602
(309) 676-0400

This Defendant also has reason to believe that Plaintiffs' counsel has copies of the documents produced by Mr. Logie. Other documents possibly relating to this interrogatory may have been produced by Owens-Corning Fiberglas Corporation.

To the extent that this interrogatory seeks the production of documents, such documents, as outlined in this response, have not been found as part of this Defendant's record and, to the extent that this Defendant is in possession of copies of documents, it possesses copies only of documents collected in preparation for litigation. This Defendant objects to producing same. The documents are available from their proper source.

The above documents which have been located in places other than Owens-Illinois, Inc. indicate that this Defendant took appropriate measures to provide ventilation and to maintain within recognized safe levels of exposure the emissions of all dust created during the manufacturing process, including the use of dust collection equipment, respirators in certain instances, and other devices and measures as deemed necessary. Such documents also indicate that plant workers received periodic chest X-rays pursuant to established company policy, and that such X-rays and related health evaluations showed no asbestos-related plant workers disease.

INTERROGATORY NO. 43: In Defendant's Third Affirmative Defense to the Amended Complaint in Reed, 83 L 68, defendant states that the plaintiff "was not using the products complained of in a proper manner." During the decade of the 1960's, were there in effect within defendant, or at the site where employees of defendant were using or working near asbestos containing products manufactured or sold by defendant, any rules, regulations or other requirements concerning the safe and proper manner of using asbestos containing products manufactured or sold by defendant? If yes, please state for each rule, regulation or other requirement:

MEYL ROYSTER VOELKER
ALLEN
PROF. IAL CORPORATION
ATTORNEYS AT LAW
SUITE 800
JEFFERSON BANK BUILDING
PEORIA ILLINOIS 61602
(309) 676 0400

- a. The name, number or otherwise identify the rule, regulation or other requirement.
- b. When the rule, regulation or other requirement was promulgated.
- c. The content of the rule, regulation or other requirement
- d. Whether defendant fully enforced the rule, regulation or other requirement
- e. If defendant did not fully enforce the rule, regulation or other requirement, why not?

ANSWER: N/A. This Defendant ceased the manufacture, sale and distribution of asbestos-containing products in 1958. It does not now, and it has not since that time, manufactured, sold or distributed any asbestos-containing products.

INTERROGATORY NO. 44: In Defendant's Third Affirmative Defense to the Amended Complaint in Reed, 83 L 68, defendant states that the plaintiff "was not using the products complained of in a proper manner." During the decade of the 1970's, were there in effect within defendant, or at the site where employees of defendant were using or working near asbestos containing products manufactured or sold by defendant, any rules, regulations or other requirements concerning the safe and proper manner of using asbestos containing products manufactured or sold by defendant? If yes, please state for each rule, regulation or other requirement:

- a. The name, number or otherwise identify the rule, regulation or other requirement.
- b. When the rule, regulation or other requirement was promulgated.
- c. The content of the rule, regulation or other requirement
- d. Whether defendant fully enforced the rule, regulation or other requirement
- e. If defendant did not fully enforce the rule, regulation or other requirement, why not?

MEYL ROYSTER VOELKER
S. ALLEN
PRL JONAL CORPORATION
ATTORNEYS AT LAW
SUITE 800
JEFFERSON BANK BUILDING
PEORIA ILLINOIS 61602
(309) 678 0400

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 43.

INTERROGATORY NO. 45: Pursuant to Supreme Court Rule 213(e), identify and give the location of those persons, not previously disclosed, having knowledge of facts relevant to how or why the occurrence described in the complaint took place.

ANSWER: This Defendant objects to this interrogatory in that it seeks information immune from discovery by the attorney work product privilege. Without waiving the above objection, this Defendant states that since this case has just recently begun, Defendant has not engaged in sufficient discovery to answer this interrogatory and the only such persons as those identified through discovery in this case.

INTERROGATORY NO. 46: Pursuant to Supreme Court Rule 213(e), identify and give the location of those persons, not previously disclosed, having knowledge of facts relevant to the nature and extent of plaintiff's injury.

ANSWER: This Defendant incorporates by reference its answer to Interrogatory No. 45.

A F F I D A V I T

STATE OF OHIO)
) SS:
COUNTY OF LUCAS)

PHILIP M. RICE, being duly sworn according to law, deposes and says that he is an assistant Secretary of Owens-Illinois, Inc., a defendant herein; that as such he is authorized to make an Affidavit on its behalf; and that the facts set forth in the foregoing ANSWERS OF DEFENDANT OWENS-ILLINOIS, INC. TO PLAINTIFF'S INTERROGATORIES, in the above captioned case are true and correct to the best of his knowledge, information and belief.



PHILIP M. RICE

Sworn to and subscribed before me this 31st day of January 1985.


NOTARY PUBLIC

BEVERLY A. McNEAR
Notary Public — State of Ohio
My Commission Expires Jan. 29, 1990

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon the attorneys of record of all parties to the above cause by enclosing the same in an envelope addressed to such attorneys at their business address as disclosed by the pleadings of record herein, with postage fully prepaid, and by depositing said envelope in a U.S. Post Office Box in Peoria, Illinois on the 31st day of January A.D. 1985

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ATTORNEY SERVICE LIST

James Walker
James Walker, Ltd.
207 W. Jefferson Street
P. O. Box 3455
Bloomington, IL 61702

Jackson R. Hutton
16 West Madison Street
Danville, IL 61832

Katten, Muchin, Zavis, Pearl
& Galler
525 West Monroe Street
Chicago, IL 60606

Lloyd E. Williams, Jr.
Jacobs, Williams & Montgomery
Suite 3500
20 North Wacker Drive
Chicago, IL 60606