

NO. 98-04000-F

JESUS AMPORO LEAL, et al.	§	IN THE DISTRICT COURT
	§	
	§	
Plaintiffs,	§	
	§	
v.	§	NUECES COUNTY, TEXAS
	§	
OWENS CORNING, et al.,	§	
	§	
Defendants.	§	214 th JUDICIAL DISTRICT

**DEFENDANT REYNOLDS METALS COMPANY'S
PRELIMINARY DESIGNATION OF EXPERT WITNESSES**

Defendant Reynolds Metals Company ("Reynolds"), by counsel, pursuant to the Court's Scheduling Order, designates the following expert witnesses whom it may call to testify at the trial of this matter:

1. Peter J. Barrett, M.D.
300 Boylston Street
Suite 714
Boston, Massachusetts 02116-3923
(617) 426-2110

Dr. Barrett is an expert radiologist and certified B-reader whom Reynolds may call at the trial of this matter to testify regarding his expert analysis of certain x-rays and medical records of Plaintiff Scott. Dr. Barrett may testify as to his review of the Plaintiff's medical records and conclusions reached from this review as set forth in his report attached as Exhibit "A" hereto. Dr. Barrett is expected to testify that the x-rays of Mr. Scott do not demonstrate any evidence of exposure to asbestos.

Specifically, with respect to Plaintiff Scott, Dr. Barrett will testify that the x-rays show that there are no pleural plaques or fibrosis on Mr. Scott's lungs, and no evidence of

asbestosis. He will testify that, in his opinion, Mr. Scott has no asbestos-related disease. Additionally, Dr. Barrett will testify that there is no relationship between Mr. Scott's carcinoma of the colon and his exposure to asbestos.

Dr. Barrett further may address any other matters raised by any expert who testifies at trial, including expert witnesses called by the Plaintiffs, and the import of any exhibit introduced as evidence, or any items prepared for use or used for demonstrative purposes by any witnesses.

**2. Jerome F. Wiot, M.D.
Department of Radiology
222 Piedmont Avenue
Suite 2100
Cincinnati, Ohio 45219**

Dr. Wiot is an expert radiologist and certified B-reader whom Reynolds may call at the trial of this matter to testify regarding his expert analysis of certain x-rays and medical records of Plaintiff Scott. Dr. Wiot may testify as to his review of Plaintiffs' medical records and conclusions reached from this review. Dr. Wiot is expected to testify that the x-rays of the Plaintiff do not demonstrate exposure to asbestos. Specifically, the x-rays of the Plaintiff shows that there are no pleural plaques or fibrosis on Plaintiff's lungs, and no evidence of asbestosis. He will testify that, in his opinion, Plaintiff Scott does not have an asbestos-related disease.

Dr. Wiot further may address any other matters raised by any expert who testifies at trial, including expert witnesses called by the Plaintiffs, and the import of any exhibit introduced as evidence, or any items prepared for use or used for demonstrative purposes by any witnesses.

**3. Hans Weill, M.D.
755 Hearthstone Drive
Basalt, Colorado 81621-2135
(970) 927-9321**

Dr. Weill is a pulmonary specialist whom Reynolds may call at the trial to offer expert testimony regarding any and all medical issues in this matter. Dr. Weill's opinions may be based on his specialized knowledge, education, training and experience, as well as his review of any and all pleadings, transcripts of depositions to be taken in this matter and any and all medical records, x-rays and other documents to be produced in discovery. Dr. Weill is expected to testify regarding the medical condition of Plaintiff Scott, and as to the issues of causation - or lack thereof - between any alleged exposure to asbestos fibers and the medical condition of the Plaintiff, including Plaintiff's allegation that his colon cancer was caused by asbestos exposure, to the extent such evidence is admitted in the Plaintiff's case in chief.

Dr. Weill further may testify generally concerning the history of scientific knowledge, research and study of exposure to asbestos and its effects on the human body; as to all medical state of the art issues; as to his expert opinion as to levels of asbestos exposure required to cause disease and the basis for such opinions; as to exposure to asbestos in regard to development of respiratory diseases; and, as to the effects, or lack thereof, of exposure to various types of asbestos fibers.

Dr. Weill further may address any other matters raised by any expert who testifies at trial, including expert witnesses called by the Plaintiff, and the import of any exhibit introduced as evidence, or any items prepared for use or used for demonstrative purposes by any witnesses.

4. **Gail Diane Stockman, M.D.**
Longview Pulmonary Consultants
Medical Plaza
703 East Marshall Street, Suite 4002
Longview, Texas 75601
(903) 753-0787

Dr. Stockman is an expert pulmonologist whom Reynolds may call at the trial of this matter to offer expert opinion testimony as to any and all medical issues in the case. Dr. Stockman's opinions may be based on her specialized knowledge, education, training and experience, as well as her review of any and all pleadings, transcripts of depositions to be taken in this matter and any and all medical records, x-rays and other documents to be produced in discovery. Dr. Stockman's opinions also may be based on a medical examination of the Plaintiff. Dr. Stockman is expected to testify regarding the medical condition of Plaintiff Scott and that he is not suffering from an asbestos related disease and that his past colon cancer, if the court allows evidence of such cancer, was not related to exposure to asbestos and as to the issues of causation - or lack thereof - between any alleged exposure to asbestos fibers and his medical condition.

Dr. Stockman further may testify generally concerning the history of scientific knowledge, research and study of exposure to asbestos and its effects on the human body; as to all medical state of the art issues; as to her expert opinion as to levels of asbestos exposure required to cause disease and the basis for such opinions; as to exposure to asbestos in regard to development of respiratory diseases; and, as to the effects, or lack thereof, of exposure to various types of asbestos fibers.

Dr. Stockman further may address any other matters raised by any expert who testifies at trial, including expert witnesses called by the Plaintiffs, and the import of any exhibit

introduced as evidence, or any items prepared for use or used for demonstrative purposes by any witnesses.

5. **Kathryn Ann Hale, M.D.
Baylor College of Medicine
Pulmonary Section
6550 Fannin St., Suite 1236
Houston, Texas 77030
(713) 790-2076**

Dr. Hale is an expert pulmonologist whom Reynolds may call at the trial of this matter to offer expert opinion testimony as to any and all medical issues in the case. Dr. Hale's opinions may be based on her specialized knowledge, education, training and experience, as well as her review of any and all pleadings, transcripts of depositions to be taken in this matter and any and all medical records, x-rays and other documents to be produced in discovery. Dr. Hale's opinions also may be based on a medical examination of the Plaintiff. Dr. Hale is expected to testify regarding the medical condition of Plaintiff Scott and that he is not suffering from an asbestos related disease and that his past colon cancer, if the court allows evidence of such cancer, was not related to exposure to asbestos and as to the issues of causation – or lack thereof – between any alleged exposure to asbestos fibers and his medical condition.

Dr. Hale further may testify generally concerning the history of scientific knowledge, research and study of exposure to asbestos and its effects on the human body; as to all medical state of the art issues; as to her expert opinion as to levels of asbestos exposure required to cause disease and the basis for such opinions; as to exposure to asbestos in regard to development of respiratory diseases; and, as to the effects, or lack thereof, of exposure to various types of asbestos fibers.

Dr. Hale further may address any other matters raised by any expert who testifies at trial, including expert witnesses called by the Plaintiffs, and the import of any exhibit introduced as evidence, or any items prepared for use or used for demonstrative purposes by any witnesses.

6. **William G. Hughson, M.D., Ph.D.**
University of California Center for
Occupational Disease Control
200 West Arbor Drive
San Diego, CA 92103-8800
(619) 294-6001

Dr. Hughson is the Director of the Occupational Health Center and an Associate Clinical Professor of Medicine at the University of California, San Diego. Dr. Hughson's opinions may be based on his specialized knowledge, education, training and experience, as well as his review of any and all pleadings, deposition transcripts, any and all medical records, x-rays and other documents produced in this litigation. Dr. Hughson may testify as to any and all medical issues, including those in the area of pulmonology, occupational medicine, epidemiology, state-of-the art and asbestos disease. He is expected to testify regarding the medical condition of Plaintiff Scott, and as to the issues of causation - or lack thereof - between any alleged exposure to asbestos fibers and his medical condition, including Plaintiff's allegation that his colon cancer was caused by asbestos exposure, to the extent such evidence is admitted in the Plaintiff's case in chief.

Dr. Hughson further may address any other matters raised by any expert who testifies at trial, including expert witnesses called by the Plaintiff, and the import of any exhibit introduced as evidence, or any items prepared for use or used for demonstrative purposes by any witnesses.

7. **Jack E. Petersen, P.E., Ph.D., CIH**
Petersen Associates
Industrial Hygiene Consultants
2830 Via Viejas Oeste
Alpine, California 91901
(619) 445-9668

Dr. Petersen is a certified industrial hygienist whom Reynolds may call at the trial of this matter to offer expert testimony generally as to industrial hygiene state of the art. He may testify as to his review of documents provided to him regarding Reynolds' corporate history and knowledge pertaining to asbestos, documents produced by Plaintiffs in this litigation, and published and unpublished reports. He may testify about his knowledge of the composition and asbestos content, if any, of the products to which Plaintiff Scott allegedly was exposed. He also may testify about the working environment of reduction and alumina plants and the potential exposure risks from differing activities in general, and of the Reynolds San Patricio and Sherwin plants in particular, including the potential for Plaintiff to have been exposed to harmful levels of asbestos fibers. He will testify that Plaintiff Scott was not exposed to such harmful levels, and certainly not the levels required to produce an asbestos-related lung cancer.

He further may testify generally about applicable governmental standards, standard industrial hygiene practices, principles and methodologies of the time and the history and use of threshold limit values. He may testify to industrial state-of-the-art issues in general and as to how they relate to the industrial hygiene practices of the Reynolds' San Patricio and Sherwin plants.

Dr. Petersen further may address any other matters raised by any expert who testifies at trial, including expert witnesses called by the Plaintiffs, and the import of any exhibit

introduced as evidence, or any items prepared for use or used for demonstrative purposes by any witnesses.

8. **J. Leroy Balzer, Ph.D.
408 Horse Trail Court
Walnut Creek, California 94595
(510) 274-1413**

Dr. Balzer is an expert in industrial hygiene, occupational and environmental health and safety, forensic science and state-of-the art. Reynolds may call Dr. Balzer as an expert witness to testify, either live or by deposition, in any or all of these fields. He has personal knowledge of some facts, but is also an expert based upon his specialized knowledge, skill and training.

He may testify as to his review of documents provided to him regarding Reynolds' corporate history and knowledge pertaining to asbestos, documents produced by Plaintiff Scott in this litigation, and published and unpublished reports. Dr. Balzer is familiar with the workings of reduction and alumina plants and the potential for exposure to occupational hazards, including asbestos fibers. He may testify about his knowledge of the composition and asbestos content, if any, of the products to which Plaintiff Scott allegedly was exposed. He also may testify about the working environment of reduction plants and the potential exposure risks from differing activities in general, and of the Reynolds San Patricio and Sherwin plants in particular, including the potential for Plaintiffs to have been exposed to harmful levels of asbestos fibers.

He further may testify generally about applicable governmental standards, standard industrial hygiene practices, principles and methodologies of the time and the history and use of threshold limit values. He may testify to industrial state-of-the-art issues in general and as

to how they relate to the industrial hygiene practices of the Reynolds San Patricio and Sherwin plants.

Dr. Balzer further may address any other matters raised by any expert who testifies at trial, including expert witnesses called by the Plaintiff, and the import of any exhibit introduced as evidence, or any items prepared for use or used for demonstrative purposes by any witnesses.

**9. William L. Dyson, Ph.D., CIH
1022 Jefferson Road
Greensboro, North Carolina
(910) 665-0847**

Dr. Dyson is an industrial hygienist and an industrial hygiene consultant who will testify at the trial as an expert regarding general industrial hygiene standards and related issues, threshold values, permissible exposure limits and/or other documentary evidence relevant to the defense of Plaintiffs' claims regarding damages and causation. He may testify, if relevant, specifically about the history of industrial and scientific knowledge, research and study of exposure to asbestos and its effects on the human body, as to all state of the art issues; as to his expert opinion as to safe levels of asbestos exposure and the basis for such opinions; as to exposure to asbestos in regard to development of respiratory diseases; and, as to the effects of exposure to various types of asbestos fibers.

He is expected to testify, based on his review of relevant documents and other evidence, that Plaintiff Scott was not exposed to harmful levels of asbestos at any Reynolds facility, and that Reynolds complied with the appropriate standard of care. Specifically, he will testify that a review of the deposition testimonies, work history sheets, employment records, and the documents related to the specific work being performed by Plaintiffs shows

that, within a reasonable degree of scientific certainty, Plaintiffs should not have been exposed to harmful levels of airborne asbestos fibers while on Reynolds' premises. He will testify that the records of such work show no harmful asbestos exposure. Dr. Dyson is also expected to analyze Plaintiff Scott's entire work history and the specific jobs Plaintiff Scott performed, and discuss the potential for harmful exposure to airborne asbestos fibers.

Dr. Dyson further may address any other matters raised by any expert who testifies at trial, including expert witnesses called by the Plaintiff, and the import of any exhibit introduced as evidence, or any items prepared for use or used for demonstrative purposes by any witnesses.

**10. Elliot Hinkes, M.D.
301 North Prairie Avenue, Suite 311
Inglewood, California 90301
(301) 674-0050**

Dr. Hinkes is a board-certified oncologist whom Reynolds may call as an expert witness at the trial of this matter to provide testimony regarding any and all medical issues in the case. His testimony may include, but is not limited to, the nature of asbestos and asbestos-related diseases generally; the nature and extent of any asbestos-related disease or injury which Mr. Scott may have or have had; the history of evolution and knowledge of asbestos-related diseases; the incidence of colon cancer among various kinds of workers exposed to asbestos, and to offer the opinion that exposure to asbestos is not a causally related colon cancer; causation; and, asbestos medicine in general. Dr. Hinkes' expert opinions may be based on his specialized knowledge, education, training and experience, as well as his review of any and all pleadings, transcripts of depositions, any and all medical records, x-rays and other documents produced in this litigation.

Dr. Hinkes further may address any other matters raised by any expert who testifies at trial, including expert witnesses called by the Plaintiffs or by any codefendant, and the import of any exhibit introduced as evidence, or any items prepared for use or used for demonstrative purposes by any witnesses.

**11. Robert N. Sawyer, M.D.
Entek Environmental and Technical Services, Inc.
1724 5th Avenue
Troy, New York 12180**

Dr. Sawyer is a specialist in the field of asbestos exposure, risk assessment, and safety whom Reynolds may call at the trial to offer expert testimony regarding any and all issues concerning asbestos in this matter. Dr. Sawyer's opinions may be based on his specialized knowledge, education, training and experience, as well as his review of any and all pleadings, transcripts of depositions to be taken in this matter, and any and all records, analyses, diagnoses, reports, x-rays, surveys and other documents to be produced in discovery.

Dr. Sawyer is expected to testify regarding health issues associated with asbestos. It is further expected that he will testify regarding the levels of asbestos exposure, if any, from various types of products, as well as the amount of asbestos exposure, and the fiber type necessary to cause or contribute to the formation of various types of asbestos-related diseases. He may testify that Mr. Scott was not exposed to harmful levels of asbestos from products at Reynolds' Sherwin and San Patricio facilities.

Dr. Sawyer further may testify generally concerning the history of scientific knowledge, research and study of exposure to asbestos and its effects on the human body; as to all medical state of the art issues; and as to his expert opinion as to levels of asbestos exposure required to

cause disease and the basis for such opinions. Additionally, Dr. Sawyer will testify that there is no relationship between carcinoma of the colon and exposure to asbestos.

Dr. Sawyer further may address any other matters raised by any expert who testifies at trial, including expert witnesses called by the Plaintiff or any codefendant, and the import of any exhibit introduced as evidence, or any items prepared for use or used for demonstrative purposes by any witnesses.

12. Reynolds reserves the right to offer as an expert witness any of the physicians, nurses or other medical and/or psychological professionals who have either treated or diagnosed Mr. Scott or consulted with any such treating professional.
13. Any and all expert witnesses identified by Plaintiffs or any codefendant.
14. Reynolds reserves the right to designate additional expert witnesses for rebuttal or any other purpose.

II

Witnesses Capable of Offering Both Lay and Expert Testimony

1. **Homer M. Cole**
Reynolds Metals Company
6601 West Broad Street
Richmond, VA 23230

Homer Cole is the Corporate Director of Industrial Hygiene and Toxicology at Reynolds Metals Company. He has been an industrial hygienist at Reynolds since 1972. He is familiar with the workings of reduction plants and the potential for exposure to occupational hazards, including asbestos fibers. He performed industrial hygiene surveys at the San Patricio plant and may testify regarding such surveys as well as other factual matters based on his personal experience and knowledge. Mr. Cole will testify as a factual witness, but because he qualifies as an expert, he may offer expert testimony in the fields of industrial hygiene, occupational and environmental health and safety, state-of-the art, governmental regulations of

workplace exposures, threshold limit values, the measurement of occupational asbestos exposures as well as other potential occupational hazards, respiratory protection, and proper work practices.

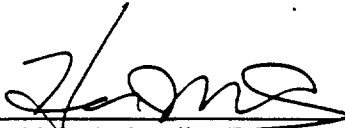
**2. Ronald Benton
Reynolds Metals Company
6601 West Broad Street
Richmond, VA 23230**

Mr. Benton is Manager of Industrial Hygiene and Safety Services at Reynolds Metals Company. He has been an industrial hygienist at Reynolds since 1974. He performed industrial hygiene surveys at the San Patricio plant and may testify regarding such surveys as well as other factual matters based on his personal experience and knowledge. Mr. Benton may testify as a factual witness, but because he qualifies as an expert, he may offer expert testimony in the fields of industrial hygiene, occupational and environmental health and safety, state-of-the art, governmental regulations of workplace exposures, threshold limit values, the measurement of occupational asbestos exposures as well as other potential occupational hazards, respiratory protection, and proper work practices.

3. **E. Claiborne Irby, M.D.**
Reynolds Metal Company
11-1/2 Tapoan Road
Richmond, VA 23226

Dr. Irby is the retired Corporate Medical Director for Reynolds Metals Company. He held that position from 1977 until his retirement in 1992. He began with Reynolds in 1959 as a staff physician. He may be called as a factual witness but because he qualifies as an expert, he may offer expert testimony in the fields of occupational medicine, state of the art, governmental regulations, and medical issues in general as they may relate to occupational asbestos exposures.

REYNOLDS METALS COMPANY

By: 

David Craig Landin (Texas Bar No. 11863720)

John D. Epps (Texas Bar. No. 00796079)

HUNTON & WILLIAMS

951 East Byrd Street

Riverfront Plaza, East Tower

Richmond, Virginia 23219

(804) 788-8200

(804) 788-8218 (facsimile)

R. Clay Hoblit (Texas Bar No. 09743100)

CHAVES, GONZALES & HOBLIT, L.L.P.

2000 Frost Bank Plaza

202 North Carancahua

Corpus Christi, Texas 78470

(512) 888-9392

(512) 888-9187 (facsimile)

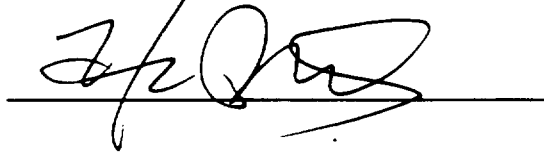
CERTIFICATE OF SERVICE

I hereby certify that on June 29 2000, a true and correct copy of the above and foregoing instrument is being served by facsimile and certified mail, return receipt requested, on the following

Plaintiff's counsel:

Stephanie A. Finch, Esq.
Baron & Budd, P.C.
The Centrum, Suite 1100
3102 Oak Lawn Avenue
Dallas, Texas 75219

All other counsel may call my assistant, Merry Harrison, at (804) 788-8688 to obtain a copy of this pleading.

A handwritten signature in black ink, appearing to read 'Steph A. Finch', is written over a horizontal line.

Peter J. Barrett, MD, FACR
300 Boylston Street, Suite 714
Boston, Massachusetts 02116-3923

April 19, 2000

Hunton & Williams
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219-4074

Attn: Raymond Geoffroy, Esq.

Re: Russell D. Scott

Dear Mr. Geoffroy:

I will summarize below my review of the chest x-rays on Mr. Scott. (Please also see the separately submitted "B" reader forms.) I will then review the clinical data.

The first standard chest x-ray series which is available for interpretation is dated May 9, 1988, and is a quality 1 two-view copy examination. There are no small parenchymal opacities to suggest asbestosis, nor are there any pleural plaques which would indicate significant prior asbestos exposure. There is mild cardiomegaly and chronic obstructive lung disease as well as an old post-tuberculous exposure granuloma located in the left mid lung field laterally.

On September 25, 1989, a repeat good-quality two-view chest x-ray examination shows again the normal status of the lung parenchyma and of the pleural surfaces. There has really been very little significant interval change.

On the chest x-rays of July 30, 1991, there is still nothing to suggest pneumoconiosis. There are no pleural plaques, and the granulomata and the C.O.P.D. are the same.

In 1996 and 1997 additional chest x-ray studies show that other than a mild increase in Mr. Scott's left ventricular cardiac size, there has been no significant interval change.

The final standard chest x-ray examination, of May 8, 1998, is also a copy examination with a slight degree of overpenetration. There is no evidence of any significant change. There is only mild cardiomegaly, as noted before.

The clinical data extends from 1989 through 1999. In 1989 he was diagnosed as having a carcinoma of the colon, and he underwent a sigmoid resection and extensive chemotherapy. Apparently he has done quite well since that time. During that hospitalization there were no rales heard on auscultation of his lungs, but he was noted to be a former smoker who had been employed as a plumber, pipefitter, and welder for

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a number of years. The chest x-ray reports noted granulomata and cardiomegaly but no other abnormalities. Other than several podiatric problems, there were no other significant findings.

Yearly from 1990 through 1994 he was evaluated with chest x-rays and CTs of the abdomen as well as with physical examinations. There was no evidence of any recurrence of his colonic neoplasm, nor was there any evidence of any findings to suggest asbestosis or significant prior asbestos exposure. Only the granuloma, a small abdominal aortic aneurysm, a right renal cyst, and clear lung fields were noted.

Similarly, from 1995 through 1997 he was troubled with diabetes mellitus and high blood pressure as well as cardiovascular disease and chronic obstructive airways disease, but there was nothing to suggest asbestosis or significant prior asbestos exposure by any of the treating radiologists. Pulmonary function tests have shown mixed obstructive and restrictive disease, undoubtedly due to his prior smoking habit.

Unlike all of the treating radiologists, one physician, performing an examination specifically for the possibility of prior asbestos exposure in 1997, raised the question of small parenchymal opacities but without pleural plaques. It should be stated that such findings are inconsistent with a diagnosis of asbestosis and that these "parenchymal findings" were not seen at the time of my review of these chest x-rays, nor were they present by the reports of any other physicians throughout the entire clinical record.

From 1998 through 2000 additional chest x-rays and physical examinations noted the presence of mild hypothyroidism, contact dermatitis, diabetes mellitus, chronic obstructive lung disease, and systemic hypertension as well as clear lung fields and only chronic airways disease. There has been nothing clinically or radiographically to suggest pneumoconiosis or significant prior asbestos exposure.

In conclusion, by review of the multiple chest x-rays and the clinical records it is clear that Mr. Scott has nothing to suggest asbestosis or significant prior asbestos exposure clinically, radiographically, or by pulmonary function test. Virtually all of the treating radiologists and physicians have noted the presence of his colonic cancer, chronic lung disease, systemic hypertension, and cardiovascular disease, as well as diabetes mellitus, but they have described nothing to suggest any type of pneumoconiosis or significant prior asbestos exposure. He was a former cigarette smoker who was employed for many years as a plumber, pipefitter, and welder.

It is my opinion, to a reasonable degree of medical certainty, that there is nothing radiographically or clinically to suggest pneumoconiosis or significant prior asbestos

Hunton & Williams
Re: Russell D. Scott
April 19, 2000
Page 3

exposure. It is also well known from the preponderance of the medical literature that there is no relationship between carcinoma of the colon and prior asbestos exposure.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter J. Barrett, M.D.", written in a cursive style.

Peter J. Barrett, M.D.

PJB:cn

HUNTON & WILLIAMS

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LUIS J. FERREIRA
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June 30, 2000

Stephanie A. Finch, Esq.
Baron & Budd, P.C.
The Centrum, Suite 1100
3102 Oak Lawn Avenue
Dallas, Texas 75219

Re: **Jesus Amporo Leal, et al. v. Owens Corning, et al.**

Dear Stephanie:

Enclosed please find *Defendant Reynolds Metals Company's Preliminary Designation of Expert Witnesses*, complete with attached exhibit A. We regret that this attachment was erroneously omitted from the version sent to your office on June 29, 2000, and apologize for any inconveniences.

Defense counsel are being notified of this pleading by copy of this letter and will be furnished copies upon request.

Sincerely yours,



Luis Ferreira
Paralegal

LJF/mh

Enclosure

cc: All Known Counsel of Record (via facsimile and U.S. mail w/o encl.)