

IN RE: ALL ASBESTOS-RELATED
PERSONAL INJURY OR DEATH
CASES FILED OR TO BE FILED
IN DALLAS COUNTY, TEXAS

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IN THE DISTRICT COURT
DALLAS COUNTY, TEXAS
191ST JUDICIAL DISTRICT

DEFENDANT'S ANSWERS AND OBJECTIONS
TO PLAINTIFFS' INTERROGATORIES AND REQUESTS FOR PRODUCTION

TO: Mr. Russell W. Budd, Baron & Budd, P.C., The Centrum,
3102 Oak Lawn Ave., Ste. 1100, Dallas, TX 75219.

COMES NOW, DANA CORPORATION, Defendant in the above-entitled
and numbered cause, and files the attached Responses and Objections
to Plaintiffs' Interrogatories and Requests for Production.

PRELIMINARY STATEMENT

Dana Corporation manufactures primarily vehicular products
such as transmissions, axles, clutches, pistons, universal joints,
vehicular gaskets, couplings and similar products for the automo-
tive and transportation industries. Some components of a few of
these products, e.g. clutch facings, contain or once contained
asbestos. Upon information and belief the plaintiff herein,
however, does not allege exposure to automotive or vehicular
products. Dana understands that the plaintiff alleges exposure to
asbestos building products in his occupation as a building
tradesman.

DANA-340.040

DEFENDANT'S RESPONSES AND OBJECTIONS TO PLAINTIFFS'
INTERROGATORIES AND REQUESTS FOR PRODUCTION
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Therefore, Dana strictly limits its answers to Dana's brief relationship with Smith & Kanzler Company, which relationship is described below. Dana objects to providing the voluminous information requested in these interrogatories for its automotive, vehicular and industrial products because they are not the type of products to which the plaintiff alleges exposure. Questions about Dana's vehicular products are not relevant and are not calculated to lead to the discovery of relevant and admissible information. Further, because Dana merely owned the stock of Smith & Kanzler Company for less than eighteen (18) months, Dana denies that it has any liability for any products manufactured or sold by Smith & Kanzler Company.

From September, 1967 until February, 1969, Dana owned the stock of a New Jersey corporation known as Smith & Kanzler Company, located in Linden, New Jersey. Smith & Kanzler Company produced certain asbestos containing products that had application in the building construction industry. Dana did not incorporate Smith & Kanzler Company but came to own its stock as a consequence of the dissolution of Victor Manufacturing & Gasket Company in September, 1967. Victor was at that time the sole shareholder of Smith & Kanzler Company's stock. In February, 1969 less than eighteen (18) months after acquiring the stock, Dana sold the stock of Smith & Kanzler Company to Philip Carey Corporation. At that time Philip Carey took possession of Smith & Kanzler Company's business records or those records remained with Smith & Kanzler Company. Dana has located very few of Smith & Kanzler Company's records that remained in its possession after the sale.

Because Dana merely owned the stock of Smith & Kanzler Company for less than eighteen (18) months and because Dana does not have possession of that corporation's business records, Dana by and large cannot determine the specific information sought by these interrogatories for Smith & Kanzler Company and its products.

GENERAL OBJECTIONS

1. Defendant objects to each interrogatory and part thereof to the extent that plaintiff may assert that plaintiff's definitions for words are binding on defendant or purport to impose upon defendant obligations beyond those imposed by the Rules of Civil Procedure.

2. Defendant objects to each interrogatory and part thereof to the extent it calls for answers disclosing information protected by (a) the attorney-client privilege, (b) attorney-work product doctrine, (c) any applicable privilege relating to communications between counsel for defendant and counsel for other defendants in this or other cases regarding defense of the case, (d) any applicable privilege relating to communications between defendant's employees or counsel and defendant's insurers regarding the defense of this claim or claims of this type, (e) any privilege relating to confidential trade secrets, proprietary information or confidential communications with any government agency, (f) the right of privacy or (g) any other privilege.

3. Defendant objects to each interrogatory and part thereof to the extent that information sought is neither relevant to the

subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana.

4. Defendant objects to each interrogatory and part thereof to the extent that it seeks information not within the custody and control of Dana.

5. Defendant objects to each interrogatory and part thereof to the extent that it seeks to require answers or information, or require identification of documents, or impose obligations, beyond those permitted by the applicable rules of Civil Procedure and local rules of Court.

6. Defendant objects to each interrogatory and part thereof to the extent that it seeks information in a form different from that maintained by Dana in the ordinary course of its business.

7. Defendant objects to each interrogatory and part thereof to the extent that it seeks information concerning or contained in documents which it objects to producing.

8. Defendant objects to each interrogatory and part thereof to the extent that it seeks to impose on defendant a discovery obligation to respond for defendant's businesses and entities not parties to this litigation. Defendant responds to these interrogatories on behalf of itself with information known to it about Smith & Kanzler Company and that company's product known as SprayCraft. Defendant does not respond for other companies that plaintiff may consider to be "subsidiaries" or "affiliates" of defendant but which are not defendant's. Dana was incorporated under the name Spicer Manufacturing Corporation. The corporation changed its name in 1946 to Dana Corporation. There is no

"predecessor" entity to Dana. Further, because Dana is a company employing thousands of people, it would be practically impossible to inquire of all Dana's officers, directors, employees, or partners about their individual knowledge and Dana objects to doing so.

9. Dana objects to each interrogatory or part thereof as unreasonable, unduly burdensome or expensive, given the needs and parameters of this case, to the extent that the interrogatories relate or may relate to defendant's vehicular products.

10. Defendant objects to each interrogatory and part thereof to the extent that the interrogatory seeks information about events that occurred, or may have occurred, prior to the incorporation of Smith & Kanzler Company in 1964 or after Dana's sale of Smith & Kanzler Company stock in 1969.

11. Defendant objects to each interrogatory or part thereof that seeks to determine the knowledge, familiarity, or awareness of Dana. It is not possible to state precisely if or when a corporation can be said to have such knowledge; that is a mixed question of fact and law. Defendant objects to imputing knowledge, familiarity or awareness of an employee or employees or agent or agents of Dana.

12. Dana objects to each interrogatory and part thereof calling for opinions rather than facts.

13. Dana objects to each interrogatory unless plaintiff's identify a product injuring them for which Dana is responsible.

The objections stated above are incorporated by reference in each response herein, as if fully set forth below. No such

objection is waived by answering an interrogatory in whole or in part.

Any response provided herein is subject to and limited by all objections raised and all objections as to admissibility and all such objections are hereby expressly reserved and may be interposed at the time of trial or in response to any motion.

INTERROGATORIES

INTERROGATORY NO. 1:

State the name, address, job title, length of time employed by Defendant, and a year-by-year list of all other positions, titles, or jobs held when working for Defendant of each person who has supplied any information used in answering these Interrogatories.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Subject to and without waiving objections, Mark G. Hess, in-house counsel for Dana Corporation supplied the information used in answering these interrogatories. It is not possible to identify each person who may have supplied information to Mr. Hess. Mr. Hess acquired his knowledge during the years he served in his position as in-house counsel to Dana and his review of numerous records in the ordinary course of business.

INTERROGATORY NO. 2:

For the time period during which asbestos-containing products were manufactured, assembled, sold or distributed by Defendant, and for the year preceding such activity, identify by date any meetings of the board of directors of Defendant at which the following topics were discussed:

- (a) Asbestos-containing products;
- (b) Asbestosis;
- (c) other asbestos-related diseases, including but not limited to lung cancer, mesothelioma, pleural plaques; and
- (d) dust studies that measure asbestos dust and fibers.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company's board of directors had any meetings at which (a) asbestos-containing products; (b) asbestosis; (c) other asbestos-related diseases, including but not limited to lung cancer, mesothelioma, pleural plaques; or (d) dust studies that measure asbestos dust and fibers were discussed.

INTERROGATORY NO. 3:

For the time period during which asbestos-containing products were manufactured, assembled, sold or distributed by Defendant, and for the year preceding such activity, identify by date any safety meetings, or meetings concerning safety issues, at any plant or other facility of Defendant where the following topics were discussed:

- (a) Asbestos-containing products;
- (b) Asbestosis;
- (c) other asbestos-related diseases, including but not limited to lung cancer, mesothelioma, pleural plaques; and
- (d) dust studies that measure asbestos dust and fibers.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company had any safety meetings, or meetings concerning safety issues, at any plant or facility where (a) asbestos-containing products; (b) asbestosis; (c) other asbestos-related diseases, including but not limited to lung cancer, mesothelioma, pleural plaques; and (d) dust studies that measure asbestos dust and fibers were discussed.

INTERROGATORY NO. 4:

Identify any asbestos-containing products manufactured by other companies that were sold and/or distributed by Defendant, its predecessors and/or subsidiaries. State the time periods during which any such products were sold and/or distributed.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company, its predecessors and/or subsidiaries, sold or distributed any asbestos-containing products manufactured by other companies.

INTERROGATORY NO. 5:

Identify by name and location each plant ever owned, operated, or at any time bought by or under the control of Defendant in which asbestos-containing products were manufactured, assembled, or prepared for sale or marketing, and state the time periods during which that activity took place.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, from September 1967 until February 1969 Smith & Kanzler Company owned and operated a plant in Linden, New Jersey in which asbestos-containing products were manufactured, assembled, or prepared for sale or marketing.

INTERROGATORY NO. 6:

For each plant identified in Interrogatory No. 5, and for the time periods identified therein, list the dates, if any, on which ventilation systems were installed, or modifications to improve ventilation were made to existing systems. Provide a brief description of the changes made.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company ever installed ventilation systems or made modifications to improve ventilation to existing systems.

INTERROGATORY NO. 7:

For each plant identified in Interrogatory No. 5, and for the time periods identified therein, list the dates, if any, on which respirators were provided to employees.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company ever provided its employees respirators.

INTERROGATORY NO. 8:

For each plant identified in Interrogatory No. 5, and for the time periods identified therein, list the dates, if any, on which warnings about the health hazards of asbestos were issued to employees.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company ever issued warnings about the health hazards of asbestos to its employees.

INTERROGATORY NO. 9:

Identify by name and location each plant ever owned, operated or at a later date bought or under control of Defendant in which asbestos-containing products were used, and state the time periods during which such products were used at each plant.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, see answer to Interrogatory No. 5, which is incorporated herein as if fully rewritten. Further, Dana does not know whether Smith & Kanzler Company used asbestos-containing products in any plant other than its Linden, New Jersey facility.

INTERROGATORY NO. 10:

For each plant identified in Interrogatory No. 9, and for the time periods identified therein, list the dates, if any, on which ventilation systems were installed, or modifications to improve ventilation were made to any existing ventilation systems. Provide a brief description of the changes made.

ANSWER:

See answer to Interrogatory No. 9, which is incorporated herein as if fully rewritten. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company installed any ventilation systems or made modifications to improve ventilation in any of its plants.

INTERROGATORY NO. 11:

For each plant identified in Interrogatory No. 9, and for the time periods identified therein, list the dates, if any, on which respirators were provided to any employees using asbestos-containing products.

ANSWER:

See answer to Interrogatory No. 9, which is incorporated herein as if fully rewritten. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company ever

provided respirators to any employees using asbestos-containing products.

INTERROGATORY NO. 12:

For each plant identified in Interrogatory No. 9, and for the time periods identified therein, list the dates, if any, on which warnings about the health hazards of asbestos were issued to employees.

ANSWER:

See answer to Interrogatory No. 9, which is incorporated herein as if fully rewritten. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company ever issued warnings about the health hazards of asbestos to its employees.

INTERROGATORY NO. 13:

Prior to 1990, did any person file a claim against a Workers' Compensation carrier covering Defendant, its predecessors, and/or its subsidiaries, alleging that he/she contracted a disease from inhaling asbestos fibers while employed by Defendant, its predecessors, and/or its subsidiaries? If so, provide:

- (a) a list of the claims, including each claimant's name, address and the date each claim was filed, and including the caption and jurisdiction of the claim;
- (b) the disease alleged in each such claim;
- (c) a brief summary of the disposition of each such claim; and
- (d) the name, address and title of the person having custody of the records pertaining to each such claim.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether prior to 1990, any person filed a claim against a Workers' Compensation carrier covering Smith & Kanzler Company, its predecessors, and/or its subsidiaries, alleging that he/she contracted a disease from inhaling asbestos fibers while employed by Smith & Kanzler Company, its predecessors, and/or its subsidiaries.

INTERROGATORY NO. 14:

State the time periods, if any, during which Defendant was a member of each of the following organizations:

- (a) Asbestos Textile Institute (ATI);
- (b) Quebec Asbestos Mining Association (QAMA);
- (c) National Insulation Manufacturers Association (NIMA);
- (d) Industrial Hygiene Foundation (IHF);
- (e) Air Hygiene Foundation (AHF);
- (f) Asbestos Information Association (AIA); and
- (g) American Conference of Governmental Industrial Hygienists (ACGIH).

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company was ever a member of the organizations listed in Interrogatory No. 14.

INTERROGATORY NO. 15:

State the dates and amounts of any financial contributions that were made by this Defendant to each of the following organizations:

- (a) Asbestos Textile Institute (ATI);
- (b) Quebec Asbestos Mining Association (QAMA);
- (c) National Insulation Manufacturers Association (NIMA);
- (d) Industrial Hygiene Foundation (IHF);
- (e) Air Hygiene Foundation (AHF);
- (f) Asbestos Information Association (AIA); and
- (g) American Conference of Governmental Industrial Hygienists (ACGIH).

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know what amounts of financial contributions, if any, that Smith & Kanzler Company made to the organizations listed in Interrogatory No. 15.

INTERROGATORY NO. 16:

Has any employee or agent of Defendant ever testified before any governmental entity regarding asbestos, asbestos-containing products or diseases related to the inhalation of asbestos dust or fibers? If so, provide the name of each person so testifying, and the name, date, and location of each hearing.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether any Smith & Kanzler Company employee or agent ever testified before any governmental entity regarding asbestos, asbestos-containing products or diseases related to the inhalation of asbestos dust or fibers.

INTERROGATORY NO. 17:

Before 1974, did Defendant ever furnish any papers, documents, internal memoranda, or other writings concerning asbestos-related diseases and/or the health hazards of inhaling asbestos dust and fibers to the United States Public Health Service or to any other governmental agencies? If so, identify the writings and the dates they were so furnished.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company, before 1974, ever furnished any papers, documents, internal memoranda, or other writings concerning asbestos-related diseases and/or the health hazards of inhaling asbestos dust and fibers to the United States Public Health Service or to any other governmental agencies.

INTERROGATORY NO. 18:

Before 1974, did Defendant ever furnish any papers, documents, internal memoranda, or other writings concerning asbestos-related diseases and/or the health hazards of inhaling asbestos dust and fibers, to the United States Navy or United States Naval Facilities? If so, identify the writings and the dates they were so furnished.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company, before 1974, ever furnished any papers, documents, internal memoranda, or other writings concerning asbestos-related diseases and/or the health hazards of inhaling asbestos dust and fibers, to the United States Navy or United States Naval facilities.

INTERROGATORY NO. 19:

Did Defendant ever provide any information to a military or other governmental entity concerning the health hazards of inhaling asbestos dust and fibers that was used, or was intended to be used, in the drafting of military specifications for the use of asbestos-containing products?

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company ever provided any information to a military or other governmental entity concerning the health hazards of inhaling asbestos dust and fibers that were used, or were intended to be used, in the drafting of military specifications for the use of asbestos-containing products.

INTERROGATORY NO. 20:

Did Defendant ever provide information to a military or other governmental entity that was used or intended to be used in drafting military specifications for the design of asbestos-containing products? If so, for each entity:

- (a) State the name of the entity;
- (b) Describe the information provided; and
- (c) Give the dates on which the information was provided.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company ever provided information to a military or other governmental entity that was used or intended to be used in drafting military specifications for the design of asbestos-containing products.

INTERROGATORY NO. 21:

Did any employee or agent of Defendant ever receive a copy of any of the following articles? If so, for each article, state the name of the recipient and the date the article was received:

- (a) WALDEMAR DREESSEN, "A Study of Asbestosis in the Asbestos Textile Industry," U.S. Treasury Dept. Public Health Bull. No. 241, August, 1938.
- (b) WALTER FLEISCHER, PHILLIP DRINKER, et al., "Health Survey of Pipe Covering Operations in Constructing Naval Vessels," Journ. Industrial Hyg. & Tox. 28:9 (1946).
- (c) RICHARD DOLL, "Mortality from Lung Cancer in Asbestos Workers," Brit. J. Industr. Med. 12: 81-86 (1955).
- (d) E.R.A. MEREWETHER, "The Occurrence of Pulmonary Fibrosis and Other Pulmonary Affections in Asbestos Workers," J. Ind. Hyg., Vol. XII (1930).

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is

neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether any employee or agent of Smith & Kanzler Company ever received a copy of any of the articles listed in Interrogatory No. 21.

INTERROGATORY NO. 22:

Has Defendant ever conducted any tests or studies concerning the effects of the inhalation of asbestos dust or fibers on the animal or human respiratory system? If so, provide the name, date, and location of each test or study and state by whom in the corporation the report of the results was received.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company ever conducted any tests or studies concerning the effects of the inhalation of asbestos dust or fibers on the animal or human respiratory system.

INTERROGATORY NO. 23:

Has Defendant ever litigated the issue of insurance coverage in a case involving exposure to asbestos? If so, for each case state:

- (a) the names of the parties, the court, and the case number;
- (b) the filing date;
- (c) the name and address of the attorneys representing the insurance carrier; and
- (d) whether the case has been settled.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company has

ever litigated the issue of insurance coverage in a case involving exposure to asbestos.

INTERROGATORY NO. 24:

Has Defendant ever conducted any tests or studies concerning the health hazards to an individual exposed to both asbestos dust/fibers and tobacco smoke? If so, provide the names and dates of each test or study.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company ever conducted any tests or studies concerning the health hazards to an individual exposed to both asbestos dust/fibers and tobacco smoke.

INTERROGATORY NO. 25:

To date, has Defendant furnished any information to consumers, other users of asbestos-containing products, or to the general public, about the health hazards to an individual exposed to both asbestos dust/fibers and tobacco smoke? If so, state how and when this information was conveyed.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company ever furnished any information to consumers, other users of asbestos-containing products, or to the general public, about the health hazards to an individual exposed to both asbestos dust fibers and tobacco smoke.

INTERROGATORY NO. 26:

To date, has Defendant ever attempted to recall its asbestos-containing products?

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know whether Smith & Kanzler Company ever attempted to recall its asbestos containing products.

INTERROGATORY NO. 27:

Describe in detail:

- (a) How your documents relating to asbestos, asbestos diseases, and asbestos-containing products are maintained;
- (b) How your documents relating to asbestos, asbestos diseases and asbestos-containing products are organized; and
- (c) Where these documents are kept.

ANSWER:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, the interrogatory is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, Dana does not know where or how Smith & Kanzler Company maintained and organized its documents relating to asbestos, asbestos diseases, and asbestos-containing products.

REQUEST FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Produce copies of the minutes of any meetings of the board of directors of Defendant at which the following topics were discussed:

- (a) Asbestos-containing products;
- (b) Asbestosis;
- (c) other asbestos-related diseases, including but not limited to lung cancer, mesothelioma, pleural plaques; and
- (d) dust studies that measure asbestos dust and fibers.

RESPONSE:

See Preliminary Statement and General Objections, which are incorporated herein as if fully rewritten. Further objecting, Dana limits its response to documents created or relating to a time after Smith & Kanzler Company was incorporated and prior to or contemporaneous with the alleged installation of SprayCraft but in no event later than February 18, 1969, when Dana sold the stock of Smith & Kanzler Company. Further objecting, the request is overly broad given the parameters and subject matter of this case. Further objecting, the information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to Dana. Subject to and without waiving objections, in February, 1969, less than eighteen months after acquiring the stock of Smith & Kanzler Company, Dana sold the stock of Smith & Kanzler Company to Philip Carey Corporation. At that time Smith & Kanzler Company's business records either remained with Smith & Kanzler Company or were passed to Philip Carey Corporation. Because Dana merely owned the stock of Smith & Kanzler Company for less than eighteen months and because Dana does not have possession of Smith & Kanzler Company's records, Dana does not have custody and control of documents, if any, sought by this request that were generated during or relate to the relevant time period described above.

REQUEST FOR PRODUCTION NO. 2:

Produce copies of the minutes of any safety meetings or any meetings at any plant or facility of Defendant where the following topics were discussed:

- (a) Asbestos-containing products;
- (b) Asbestosis;
- (c) other asbestos-related diseases, including but not limited to lung cancer, mesothelioma, pleural plaques; and
- (d) dust studies that measure asbestos dust and fibers.

RESPONSE:

See response to Request for Production No. 1, which is incorporated herein as if fully rewritten.

REQUEST FOR PRODUCTION NO. 3:

Produce copies of the patents obtained for the asbestos-containing products manufactured, assembled, and/or prepared for sale or marketing by Defendant.

RESPONSE:

See response to Request for Production No. 1, which is incorporated herein as if fully rewritten.

REQUEST FOR PRODUCTION NO. 4:

Produce copies of the patents obtained for those asbestos-free products intended to be substitutes for asbestos-containing products manufactured, assembled, or prepared for sale or marketing by Defendant.

RESPONSE:

See response to Request for Production No. 1, which is incorporated herein as if fully rewritten.

REQUEST FOR PRODUCTION NO. 5:

Produce copies of the testimony of each and every employee or agent of Defendant at each and every hearing by a governmental entity concerning asbestos, asbestos-containing products, or diseases related to the inhalation of asbestos dust and fibers.

RESPONSE:

See response to Request for Production No. 1, which is incorporated herein as if fully rewritten.

REQUEST FOR PRODUCTION NO. 6:

Produce copies of every test or study that measured the asbestos fibers or measured the asbestos dust and/or fiber levels at every plant owned, operated, bought by or under the control of Defendant. Provide the dates for each test or study.

RESPONSE:

See response to Request for Production No. 1, which is incorporated herein as if fully rewritten.

REQUEST FOR PRODUCTION NO. 7:

Produce copies of every test or study received by Defendant that measured asbestos fibers or measured the asbestos dust and/or fiber levels at the Thetford Mines.

RESPONSE:

See response to Request for Production No. 1, which is incorporated herein as if fully rewritten.

REQUEST FOR PRODUCTION NO. 8:

Produce all documents in the possession, custody, or control of Defendant relating to the Braun & Truan study done for the Quebec Asbestos Mining Association.

RESPONSE:

See response to Request for Production No. 1, which is incorporated herein as if fully rewritten.

REQUEST FOR PRODUCTION NO. 9:

Produce copies of all documents which contain any reference to tests or studies that found either asbestos dust, or total dust including asbestos, in quantities exceeding 2 million particles per cubic foot of air, at any plant owned, operated, bought by or under the control of Defendant, during the manufacture, assembly, or preparation for sale or assembly, of any asbestos-containing products.

RESPONSE:

See response to Request for Production No. 1, which is incorporated herein as if fully rewritten.

REQUEST FOR PRODUCTION NO. 10:

Produce copies of all documents which contain any reference to tests or studies which found either asbestos dust, or total dust

including asbestos, in quantities exceeding 5 million particles per cubic foot of air, at any plant owned, operated, bought by or under the control of Defendant, during the use of any asbestos-containing products.

RESPONSE:

See response to Request for Production No. 1, which is incorporated herein as if fully rewritten.

REQUEST FOR PRODUCTION NO. 11:

Produce copies of any and all tests or studies conducted by Defendant concerning the effects of the inhalation of asbestos dust or fibers on animal or human respiratory systems.

RESPONSE:

See response to Request for Production No. 1, which is incorporated herein as if fully rewritten.

REQUEST FOR PRODUCTION NO. 12:

Produce copies of all documents produced during the course of Defendant's litigation with any insurance carrier concerning exposure to asbestos.

RESPONSE:

See response to Request for Production No. 1, which is incorporated herein as if fully rewritten.

REQUEST FOR PRODUCTION NO. 13:

Produce copies of all depositions taken by any party during the course of Defendant's litigation with any insurance carrier concerning exposure to asbestos.

RESPONSE:

See response to Request for Production No. 1, which is incorporated herein as if fully rewritten.

REQUEST FOR PRODUCTION NO. 14:

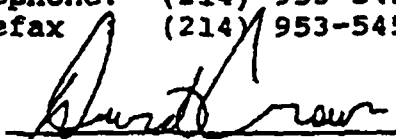
Produce copies of any tests or studies conducted by, or received by, Defendant concerning the health hazards to an individual exposed to both asbestos dust/fibers and tobacco smoke.

RESPONSE:

See response to Request for Production No. 1, which is incorporated herein as if fully rewritten.

Respectfully submitted,

DeHAY & ELLISTON, L.L.P.
1500 Maxus Energy Tower
717 North Harwood Street
Dallas, Texas 75201-6508
Telephone: (214) 953-5454
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By: 

DAVID W. CROWE
State Bar No. 05164250

COUNSEL FOR DEFENDANT DANA CORP.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to counsel for Plaintiffs, Mr. Russell W. Budd, Baron & Budd, P.C., The Centrum, 3102 Oak Lawn Ave., Ste. 1100, Dallas, TX 75219, by hand delivery, on this 20 day of SEPT., 1993.


DAVID W. CROWE

VERIFICATION

I Mark G. Hess, state that I have read the foregoing answers to interrogatories and the same are true and accurate to the best of my knowledge and belief.


Mark G. Hess

Sworn to and subscribed in my presence this 9th day of September, 1993.


Notary Public
LORETTA TAYLOR
Notary Public — State of Ohio
My Commission Expires Mar. 21, 1995

* * *

As to objections:
