

BARNARD AND GANNON



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BARNARD AND GANNON
BY: TIMOTHY B. BARNARD
IDENTIFICATION NO. 03458
218 WEST FRONT STREET
P.O. BOX 289
MEDIA, PENNSYLVANIA 19063
(215) 565-4055

Atty. for Borg-Warner Corp.

ALBERT DiSANTIS and : NO. 87-0515
MARGARET DiSANTIS, h/w :

vs.

BORG-WARNER CORPORATION, :
et al.

DEFENDANT BORG-WARNER CORPORATION'S ANSWERS AND
OBJECTIONS TO PLAINTIFFS' INTERROGATORIES SET II

Though Borg-Warner Corporation has made every good faith effort to respond to those interrogatories to which it has not objected, in making such response, Borg-Warner does not purport to have adopted or applied any definitions set forth at the outset of, or at other places in, Plaintiffs' interrogatories nor has Borg-Warner assumed the improper, unproved and hypothetical facts set forth in, implied or alluded to in Plaintiffs' interrogatories or accepted those allegations of Plaintiffs' claims or argumentative terminology or characterizations which are similarly set forth in, implied or alluded to those interrogatories.

Defendant, Borg-Warner Corporation, further objects to

Plaintiffs' definition of "asbestos product" as being overbroad, ambiguous, misleading and unlimited in scope. Therefore, without waiving this objection, Borg-Warner has responded to Plaintiffs' interrogatories only with regard to automotive products to which Plaintiff is claiming exposure, i.e., service brake and clutch products, and only with regard to the Borg-Warner divisions which have manufactured or sold them and only with regard to U.S. operations.

The responses made herein are made without in any way waiving or intending to waive, but on the contrary intending to reserve and reserving: (1) the right to object on the grounds of competency, privilege, relevancy and materiality, or any other proper ground, to the use of any such information, for any purpose, in whole or in part, in any subsequent step or proceeding in this action or any other action; and (2) the right to object on any and all grounds, at any time, to any other discovery procedure involving or relating to the subject matter of these interrogatories.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ALBERT DiSANTIS and	:	CIVIL ACTION
MARGARET DiSANTIS, h/w	:	
	:	
vs.	:	NO. 87-0515
	:	
ABEX CORPORATION, et al.	:	<u>ASBESTOS CASE</u>

ANSWERS OF BORG-WARNER CORPORATION TO
PLAINTIFF'S SECOND SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO DEFENDANT,

Plaintiff(s), by their attorneys PAUL, REICH & MYERS, demand that Defendants or their agents, servants, and employees respond to each of the Interrogatories set forth below in a full and complete manner. Defendants shall respond to these Interrogatories as to their relation to the places of employment of employee plaintiff or if deceased the plaintiff's decedent, to wit, Southeastern Pennsylvania Transportation Authority (SEPTA) or Philadelphia Transportation Authority

Answers are hereby demanded within 30 days of receipt pursuant to the Rules of Civil Procedure. If defendant refers to a document, writing, or picture, it is hereby demanded by way of a Request for Production pursuant to the Rules of Civil Procedure.

The term "automotive" in these interrogatories is specifically defined herein to include products used or associated with cars, buses, trains and/or trolleys or repair of such vehicles.

PAUL, REICH & MYERS

BY: _____
ROBERT E. PAUL, Esquire

1. Is it possible to distinguish the asbestos products listed by you in your answer to interrogatory #6 of Plaintiff's First Set of Interrogatories from those manufactured by competitors?

- (a) If the answer is anyway in the affirmative, please describe how you contend your product can be distinguished, both as a new product, and as one which is removed after use. Also describe how the products by trade and generic name are distinguishable, and the years in which they can be distinguished.

See attached.

- (b) If there are products which cannot be, in your opinion, distinguished from products of a similar kind manufactured by a competitor, please state the name of such product, who manufactures it, as well as the trade name of the product manufactured by your competitor and the years in which they cannot be distinguished.

Unknown

2. When did you first learn that there were or might be adverse health effects associated with the use and fabrication and/or manufacturing, cutting, splicing, removal, installation or rip-out or tear-out of asbestos containing products; state the date, source, nature and extent of such information.

Borg-Warner learned that there may be adverse health effects associated with the use and fabrication of asbestos when this became general public knowledge.

- (a) When and how did you learn that, in the use of your asbestos containing products, they would emit asbestos dust into the air?

See attached.

3. Have you ever conducted any inspection or made any dust count of areas at plaintiff's place of employment or at any other facilities where workers used asbestos products manufactured by your company?

No.

1(a) Yes. Clutch facings may be distinguished by the part number inside the facing. The physical appearance of the driven member design differs from that of competitors. Borg-Warner's disc brake pads were marked on one edge with BW-712C in either white or yellow ink. Another marking identified the particular batch of material used (e.g. BD069) and a blue paint stripe was on one end.

2(a) Borg-Warner objects to (a) of this Interrogatory on grounds that it is argumentative and asserts, as fact, matters neither in evidence nor admitted by defendant; more specifically Borg-Warner does not admit that the use of its products containing asbestos bearing components would emit asbestos dust into the air.

(a) If you have not, explain why this was not done;
Borg-Warner objects to (a) of this Interrogatory on grounds that it is an improper and argumentative Interrogatory.

(b) If you have, explain what action, if any, was taken by your company following the inspection or the taking of dust counts at plaintiff's place of employment or other facility. Also please give the dates and places, if any, that your company made such dust counts, and set forth the names and addresses of the persons who made, authorized, and received the results of the dust counts.

Not applicable.

4. State whether from 1930 to the present you have promulgated any rules, written or oral, for the handling of asbestos products by your own employees. If so, state: Objection on the grounds that this relates only to the internal practices and files of Borg-Warner Corporation and is irrelevant to this action.

(a) When such rules were promulgated;

(b) The substance of the rules, if oral, and the name and title of the person who disseminated them;

(c) If in writing, either attach a copy of the rules or identify the written rules by date, title, identification number, present location and the name and address of the custodian thereof;

(d) Whether any such material was provided to plaintiff's employer or any other defendant, and, if so, when and to whom.

5. State the names, and addresses of all professional, industrial, health and safety organizations to which you have belonged which have anything to do with the health effects of asbestos, the proper methods of working with asbestos, methods of controlling asbestos dust, setting of standards or regulations, information, lobbying, research, engineering, or use of asbestos

products, materials, or fibres, stating the inclusive dates of such membership and the names and addresses of defendant's representatives attended the meetings.

See attached sheet.

(a) Were you at any time a member of the Industrial Hygiene Foundation?

(b) If the answer to 5a is yes, during what years?

(c) Did you receive the monthly digest of the IHF during the period of your membership?

(d) Did you ever request articles listed in the IHF digest?

(e) If the answer to 5d is yes, please list the date of all such requests and the article(s) requested.

(f) Did you ever request articles on asbestos from the IHF?

(g) If the answer to 5(f) is yes, please list:

(1) All articles requested;

(2) Date of request;

(3) Person requesting them;

5. Objection on grounds that this Interrogatory is overly broad, vague, burdensome and harassing. Without waiving this objection, Borg-Warner states that some of its employees are members of, or have attended seminars held by various trade associations such as the American Society of Metals, the American Association of Mechanical Engineers, Society of Automotive Engineers (Friction Subcommittee, Transmission and Drivetrain Technical Committee) and the National Safety Council. Additionally, R. Rosenberg of the Borg-Warner Research Center has attended meetings of the Asbestos Information Association.

(a) See answer to Interrogatory #35, Plaintiff's Interrogatories Set I.

(b - g) Not applicable.

- (4) All persons known to have received each such article.

6. State whether defendant or its representatives attended any conferences, symposis or other meetings concerning the health effects of asbestos exposure, the proper methods of working with asbestos, controlling asbestos dust, setting of standards, regulations, information, lobbying, research, engineering, or use of asbestos products, materials or fibres. If so, state or identify:

See answer to Interrogatory #5.

- (a) The person or organization that sponsored it;

- (b) The date and place it was held;

- (c) Your personnel who attended it;

- (d) All information provided there concerning the health consequences of asbestos exposure, the proper methods of working with asbestos, or methods of controlling asbestos dust;

- (e) Produce all writings distributed at or concerning the conference, symposium or meeting.

7. Do you maintain a library dealing with disease, industrial hygiene, medicine, safety or engineering related to asbestos? If so, state:

See attached sheet

- (a) The date you established the library;

7. Objection on grounds that this Interrogatory is overly broad, vague, burdensome and harassing. Without waiving this objection, defendant states that Richard Rosenberg established a collection of industrial and medical publications on July 12, 1976, but no longer maintains it. These materials have been located in his office at Borg-Warner's Roy C. Ingersoll Research Center, Des Plaines, Illinois. Mr. Rosenberg's current title is Manager, Regulatory Affairs and Safety. Among the resources of this collection was the publication Asbestos. The subscription to this publication has not been renewed for the past three years. Other materials which were collected included excerpts from various publications too numerous to list.

- (b) The location of the library;
- (c) The name of the librarian(s) since 1930;
- (d) All journals subscribed to by you concerning asbestos, industrial hygiene, medicine, safety or engineering;
- (e) The date(s) such journals were acquired;
- (f) All books and articles dealing with asbestos and asbestos related diseases and the date acquired;
- (g) The name(s) and position(s) of those for whom the library was established;
- (h) If no library was established, explain why.

8. Have you, at any time since 1940, maintained any office or department dealing with medical or scientific research? If so, state:

Yes.

- (a) The name of such department;
Roy C. Ingersoll Research Center
- (b) The location of such department;
Des Plaines, IL

(c) The name, address, and title of each person who has been in charge of the department. The Center was established in 1956. Its directors are listed below:

1956-58	Dr. LeVan Griffis	1959-75	Dr. Donald Collier
1958-59	Dr. John Weiffenbach	1975-8/31/87	Dr. Donald Hoeg
		9/1/87-present	Dr. Terry K. Lindquist

9. Has defendant hired a "medical director"? If so, state: Borg-Warner has not hired a medical director to oversee the

(a) The reason for hiring such a medical director; Corporation in general. (Although some divisions and subsidiaries of the corporation retain physicians to provide physical examinations and handle minor injuries or illness).

(b) The location where the medical director was assigned;

(c) The duties of the medical director;

(d) The names and addresses of the persons hiring such medical director and of the medical director;

(e) Whether such medical director ever made recommendations with regard to minimizing, eliminating, or controlling asbestos dust exposure to your own workers or the workers exposed to your asbestos products, and if so, what were the recommendations;

(f) The date defendant first hired a medical director;

(g) The person(s) to whom the medical director reported;

(h) If no medical director was hired, please explain why. Objection on grounds that this relates only to the internal practices of Borg-Warner and is irrelevant to this action.

10. Has defendant hired anyone in a medical advisory capacity?
If so, please state:

See attached sheet.

- (a) The reason for hiring a medical advisor;
- (b) The location where the medical advisor was assigned;
- (c) The duties of the medical advisor;
- (d) The names and addresses of the persons hiring such medical advisor and of the medical advisor;
- (e) Whether such medical advisor ever made recommendations with regard to minimizing, eliminating, or controlling asbestos dust exposure to your own workers or the workers exposed to your asbestos products, if so, what were the recommendations;
- (f) The date defendant first hired a medical advisor;
- (g) The person(s) to whom the medical advisor reported;
- (h) If no such person was hired, explain why.

11. Has defendant ever hired an industrial hygienist, safety director or an occupational health advisor? If so, please state:

See attached sheet.

- (a) The reason for hiring such an individual;

10. Objection on grounds that this Interrogatory is overly broad, vague, burdensome, harassing and argumentative and seeks internal information completely irrelevant to the instant suit. Without waiving this objection, defendant would refer to its response to Interrogatory No. 9.

11. Objection on grounds that this Interrogatory is overly broad, vague, burdensome and harassing and argumentative and seeks internal information completely irrelevant to the instant suit. Without waiving this objection, defendant would refer to its response to Interrogatory No. 7, identifying Richard Rosenberg who reports to Clyde C. Robinson. Additionally, Ron Groer, located at Borg-Warner's offices at 100 South Wacker Drive, Chicago, is generally responsible for enforcement of safety regulations and policies.

- (b) The location where the individual was assigned;
- (c) The duties of the individual;
- (d) The names and addresses of the persons hiring such individual and of the individual;
- (e) Whether such individual ever made recommendations with regard to minimizing, eliminating, or controlling asbestos dust exposure to your own workers or the workers exposed to your asbestos products, and if so, what were the recommendations;
- (f) The date defendant first hired such individuals;
- (g) The person(s) to whom the individual director reported;
- (h) If no such individual was hired, please explain why.

12. If any of your employees or officers have testified at trial or by deposition in any litigation or before any Congressional Committee or administrative agency, published any articles, or made any written statements concerning asbestos exposure, pulmonary or asbestos related diseases or industrial hygiene relating to asbestos use, state:

Not applicable.

- (a) The name, address and title of each person;

(b) The date, location, and forum of such statement, article or testimony;

(c) Whether defendant has a copy of such statement, article or testimony.

13. Have you undertaken to investigate the occurrence alleged in Plaintiff's complaint? If so, state:

(a) The name, address and title of the persons participating in such investigation; Defendant has undertaken to investigate Plaintiff's complaint through the formal discovery process. Plaintiff's counsel is aware of all information obtained through this process.

(b) List each written record pertaining to such investigation and its location and custodian;

(c) Whether you have obtained any written statements made by the plaintiff concerning any of the allegations in his complaint.

14. Do you contend that the detrimental effects of asbestos to human health differ between asbestos factory workers, miners, millers, insulation workers, and users of friction products? If so, explain in detail each such contention and supply the basis for each such contention.

We do not equate the type of asbestos in friction products with that to which insulation workers would be exposed. The user of friction products would not standardly be exposed to free asbestos.

15. Have you ever maintained an outside or independent unit which was responsible for installing, modifying, replacing, reconditioning or repairing asbestos friction products at locations outside of your own manufacturing plant? If so, please state: Objection on the grounds this relates only to the internal practices and files of Borg-Warner and is irrelevant to this action.

(a) When such units were created;

- (e) The chemical composition of such asbestos product;
- (f) The quantity of each such sale, delivery or supply, and the price paid by employer for the shipment;
- (g) The invoice and purchase order number of such shipments and other information required to indentify each such shipment;
- (h) The department and officer or employees of plaintiff's employer who:
 - 1. Placed the order;
 - 2. Accepted delivery.
- (i) The department and officer or employee of defendant who:
 - 1. Accepted the order;
 - 2. Packaged the order;
 - 3. Shipped the order;

- (b) Where such units were employed or used;
- (c) Whether you maintained workers compensation insurance on these workers;
- (d) When, if ever, you received notice of an asbestos related disease among such workers;
- (e) The names and addresses of the persons who notified you of their asbestos related disease.

16. Set forth each and every method, if any, used by defendant to restrict release of asbestos dust, fibres or materials out of the transport containers or from the products themselves, indicating with regard to each such method the time period it was used.

Objection on the grounds this relates only to the internal practices and files of Borg-Warner and is irrelevant to this action. Furthermore, defendant does not admit that asbestos dust it released from Borg-Warner's products.

17. Set forth in detail with regard to each and every sale, delivery or supply of an asbestos product to plaintiff's employer the following:

- (a) The date of such sale or delivery;
- (b) The generic name of the asbestos product;
- (c) The brand name of the asbestos product;
- (d) The trademark name of the asbestos product;

17. As previously stated in Borg-Warner's answer to Interrogatory No. 13, Set I Borg-Warner Corporation has no record of selling, delivering or supplying asbestos products directly to plaintiff's employers and has no knowledge of any entities which may have done so.

4. Has possession at the present time of the records concerning such shipment.

18. With regard to each order of asbestos products sold, delivered or supplied by defendant to plaintiff's employer, state whether:

See answer to Interrogatory No. 17.

- (a) Defendant provided employer with product specifications concerning the asbestos products sold;
- (b) The employer provided product specifications to defendant concerning the asbestos products ordered from defendant;
- (c) The defendant provided employer with any advertising or promotional material;
- (d) The defendant provided any instructions concerning the proper use of asbestos materials;
- (e) The defendant provided warnings regarding the asbestos products sold or delivered;
- (f) The defendant provided any warranties concerning the asbestos products delivered;
- (g) The defendant expressly disclaimed any warranties concerning the asbestos products delivered.

19. If any part of the Interrogatory above is answered in the affirmative:

See answer to Interrogatory No. 17.

- (a) Describe each document in detail;
- (b) Identify each such document by date, title and identification number;
- (c) Indicate the name, address and job title of the person who prepared it;
- (d) Indicate the name, address and job title of the person who authorized its use;
- (e) Indicate the means of transmission of each;
- (f) Attach copies of all of same hereto.

20. If any of the information referred to in the interrogatory above was transmitted orally, set forth in detail;

See answer to Interrogatory No. 17.

- (a) The substance of each transmission;
- (b) The date of each transmission;
- (c) The name and address and job title of each party who so transmitted same;

(d) The means of each oral transmission;

(e) The name, address and job title of the party of employer who received the transmission.

21. If not already supplied in the answers to the preceding interrogatories, with regard to asbestos related disease, protective equipment or the use of asbestos, set forth in detail: Defendant objects to this Interrogatory in that it is overly vague, overly broad and

(a) Any and all information, notices, warnings or advice received prior to 1970 from any and all co-defendants, additional defendants, or workmen's compensation and product liability insurers;

burdensome so as to be impossible to answer intelligently and with sufficient specificity.

(b) The date same was received;

(c) The names and addresses with whom such information, notices, warnings or advice originated;

(d) The name and the address of the person who received such information, notice, warning or advice;

(e) If written, attach all copies hereto.

22. Does the defendant have in its possession any books, pamphlets, memoranda or written materials of any kind or character written before 1970, which would indicate that asbestos fibres when inhaled can be dangerous to the health of human beings? If so, please set forth for each such publication:

See answer to Interrogatory No. 21.

- (a) The name of each such publication, document or written material;
- (b) The date each such document, memoranda or written material was published and the name of the publisher and author;
- (c) The date defendant first acquired knowledge of each such publication;
- (d) The name, job title and address of each person who currently has possession of such documents.

23. Set forth, in detail, all knowledge defendant had (giving date knowledge was obtained in each instance and the name and address of the person who obtained such knowledge) with regard to jobs, work area and general environment of plaintiff, including:

None

- (a) The materials used and the names of the manufacturers or suppliers;
- (b) Amount of asbestos friction materials used;
- (c) Grade or type of asbestos friction materials used;
- (d) Environmental conditions;
- (e) Threshold limit values of asbestos;

(f) Medical examination and treatment of employees;

(g) Health and safety program and procedures used;

(h) Work practices;

(i) Available protective equipment.

24. Did defendant at any time make any efforts to ascertain the conditions under which their products containing asbestos were used or might be used at the plaintiff's employer's facility? If so, state: No efforts were made to check conditions at the facilities of plaintiff's employer. Defendant has no knowledge that its products were used there.

(a) When such efforts were made;

(b) What such efforts revealed;

(c) The individual and his or her job classification who made such efforts;

(d) What defendant did as a result of obtaining such information;

(e) If not, explain why.

25. Has any officer, employee, or representative of defendant visited any automotive repair shop or bus or train or trolley repair shop where its asbestos products were used? If so, state:

See attached sheet.

(a) The name, address, and title of each employee who visited the shop, and the name of the shop visited;

(b) The purpose of each visit;

(c) The person he or she saw at the shop on each occasion;

(d) Whether such party or parties discussed the effects on health and safety of exposure to asbestos with any personnel at said shop, and if so, state:

1. The content of such discussions;

2. The dates of such discussions;

(e) Whether such party or parties attempted to impart information concerning health and safety ramifications of asbestos exposure, and if so, state:

1. Results of such efforts;

2. The content of the information sought to be imparted;

25. Defendant, Borg-Warner Corporation, objects to this Interrogatory as being overly broad and unlimited in scope so as to be patently burdensome and onerous. The burden upon Borg-Warner in terms of cost and man hours to respond to this Interrogatory with respect to each officer, employee or representative of Borg-Warner who visited an automotive or other repair shop where its asbestos products were being used would far outweigh any benefits that this information would provide.

3. The dates of such efforts;

4. To whom such information was imparted;

(f) Whether reports, memoranda, or notes were prepared as a result of such visits, and if so, attach copies hereto.

26. Did any representatives of the following direct any correspondence to you? See attached sheet.

(a) Any of the automotive repair facilities listed in plaintiff's complaint;

(b) Any other plant or automotive repair shop employing your asbestos products in their operations;

(c) Any of the named defendants or third-party defendants in this action.

27. If the answer to any of the subparts in the previous interrogatory is in the affirmative, please indicate whether there is any part of said correspondence which can be classified in any of the following enumerated categories:

See answer to Interrogatory No. 26.

(a) Medical policy, practices and procedures, preventive occupational medicine or industrial hygiene;

(b) Asbestos product safety;

26. Defendant, Borg-Warner Corporation, objects to this Interrogatory as being overly broad and unlimited in scope so as to be patently burdensome and onerous. The burden upon Borg-Warner Corporation in terms of cost and man hours to respond to this Interrogatory with respect to each product, each piece of correspondence that defendant has received from any automotive or other repair facility would far outweigh any benefit that said correspondence would provide.

- (c) Knowledge of actual, alleged or possible health effects associated with exposure to asbestos fibres or products;
- (d) Warnings to direct or indirect purchasers, employees, users, employers, and other individuals such as husband or wife plaintiffs concerning the health effects of asbestos, protective equipment to be worn or used when exposed to asbestos, and the proper method for handling asbestos;
- (e) Actions taken to protect direct or indirect purchasers, employees, users, employers, and other individuals such as husband or wife plaintiffs from the adverse health effects of asbestos;
- (f) Any actions taken to publicize the existence of the adverse health effects of asbestos;
- (g) Rebranding of your asbestos fibres or products by others for sale to any of the entities mentioned in interrogatory 26;
- (h) Rebranding of asbestos fibres or products or others for sale by you to any of the entities mentioned in interrogatory 26;
- (i) Sales of your asbestos fibres or products to any of the entities mentioned in interrogatory 26;

- (j) Procedures for the manufacture of asbestos friction materials supplied to any of the entities mentioned in interrogatory 26;
- (k) Procedures for which asbestos fibres or products would be used by individuals such as husband-plaintiff;
- (l) Communications by you or any trade association of which you were a member with respect to any actual, alleged, or possible health effects associated with exposure to asbestos;
- (m) Communications by you or any trade association of which you were a member with respect to actual or proposed standards or regulations concerning the manufacture, processing, use, handling or distribution of asbestos or asbestos products;
- (n) Actions taken by you to improve ventilation or dust collection equipment at your asbestos facilities;
- (o) Discussions or grievances or complaints filed by any person, employee or union with respect to allegedly unsafe working conditions or the adverse health effects of asbestos;
- (p) Discussions or complaints or warnings by any governmental agency with respect to allegedly unsafe working conditions or the adverse health effects of asbestos or violations of safety regulations;

- (q) History of asbestos linked illnesses among employees exposed to asbestos;
- (r) Workmen's compensation claims, contract unit claims or lawsuits alleging illnesses resulting from exposure to asbestos;
- (s) State of medical, scientific and industry knowledge regarding asbestos related disease;

28. If the answer to the above interrogatory is in the affirmative, identify the following:

See answer to Interrogatory No. 26.

- (a) The name and title of the person authorizing the correspondence;
- (b) The date of each correspondence;
- (c) Whether or not a copy of the correspondence is presently retained by this defendant or its representatives;
- (d) The name and address of the custodian of such correspondence.

29. Did you direct any correspondence to any representatives of the entities mentioned in interrogatory 26?

See answer to Interrogatory No. 26.

30. If the answer to any of the subparts in the previous interrogatory is in the affirmative, please indicate whether there is

any part of said correspondence which can be classified in any of the following enumerated categories:

See answer to Interrogatory No. 26.

- (a) Medical policy, practices and procedures, preventive occupational medicine or industrial hygiene;
- (b) Asbestos product safety;
- (c) Knowledge of actual, alleged or possible health effects associated with exposure to asbestos fibres or products;
- (d) Warnings to direct or indirect purchasers, employees, users, employers, and other individuals such as husband or wife plaintiffs concerning the health effects of asbestos, protective equipment to be worn or used when exposed to asbestos, and the proper method for handling asbestos;
- (e) Actions taken to protect direct or indirect purchasers, employees, users, employers, and other individuals such as husband or wife plaintiffs from the adverse health effects of asbestos;
- (f) Any actions taken to publicize the existence of the adverse health effects of asbestos;
- (g) Rebranding of your asbestos fibres or products by others for sale to any of the entities mentioned in interrogatory 26;

- (h) Sales of your asbestos fibres or products to any of the entities mentioned in interrogatory 26;
- (i) Procedures for the manufacture of asbestos friction materials supplied to any of the entities mentioned in interrogatory 26;
- (j) Procedures for which asbestos fibres or products would be used by individuals such as husband-plaintiff;
- (k) Communications by you or any trade association of which you were a member with respect to any actual, alleged, or possible health effects associated with exposure to asbestos;
- (l) Communications by you or any trade association of which you were a member with respect to actual or proposed standards or regulations concerning the manufacture, processing, use, handling or distribution of asbestos or asbestos products;
- (m) Actions taken by you to improve ventilation or dust collection equipment at your asbestos facilities;
- (n) Discussions or grievances or complaints filed by any person, employee or union with respect to allegedly unsafe working conditions or the adverse health effects of asbestos;
- (o) Discussions or complaints or warnings by any governmental agency with respect to allegedly unsafe

working conditions or the adverse health effects of asbestos or violations of safety regulations;

- (p) History of asbestos linked illnesses among employees exposed to asbestos;
- (q) Workmen's compensation claims, contract unit claims or lawsuits alleging illnesses resulting from exposure to asbestos;
- (r) Workmen's compensation claims, contract unit claims or lawsuits alleging illnesses resulting from exposure to asbestos;
- (s) State of medical, scientific and industry knowledge regarding asbestos related disease.

31. If the answer to the above interrogatory is in the affirmative, identify the following:

See answer to Interrogatory No. 26.

- (a) The name and title of the person authorizing the correspondence;
- (b) The date of each correspondence;
- (c) Whether or not a copy of the correspondence is presently retained by this defendant or its representatives;

- (d) The name and address of the custodian of such correspondence.

32. From 1930 until the present, identify the individual(s) who are or were the most knowledgeable concerning the specific categories which follow, and indicate the period of time over which such person was most knowledgeable. If the most knowledgeable person is deceased or is no longer in your employ, please state his or her name and last known address and also, the name of the most knowledgeable person who is in your employ:

See attached sheet.

- (a) Medical policy, practices and procedures, preventive occupational medicine or industrial hygiene;
- (b) Asbestos product safety;
- (c) Knowledge of actual, alleged or possible health effects associated with exposure to asbestos fibres or products;
- (d) Warnings to direct or indirect purchasers, employees, users, employers, and other individuals such as husband or wife plaintiffs concerning the health effects of asbestos, protective equipment to be worn or used when exposed to asbestos, and the proper method for handling asbestos;
- (e) Actions taken to protect direct or indirect purchasers, employees, users, employers, and other individuals such as husband or wife plaintiffs from the adverse health effects of asbestos;
- (f) Any actions taken to publicize the existence of the adverse health effects of asbestos;

32. Defendant, Borg-Warner Corporation, objects to this Interrogatory as being overly broad and unlimited in scope as to be patently burdensome and onerous. The burden upon Borg-Warner Corporation in terms of cost and man hours to respond to this Interrogatory with respect to the most knowledgeable person in its employ in 22 different categories over the past 55 years would far outweigh any benefit such information would provide.

- (g) Rebranding of your asbestos fibres or products by others for sale to any of the entities mentioned in interrogatory 26;
- (h) Rebranding of asbestos fibres or products or others for sale by you to any of the entities mentioned in interrogatory 26;
- (i) Sales of your asbestos fibres or products to any of the entities mentioned in interrogatory 26;
- (j) Procedures for the manufacture of asbestos friction materials supplied to any of the entities mentioned in interrogatory 26;
- (k) Procedures for which asbestos fibres or products would be used by individuals such as husband-plaintiff;
- (l) Communications by you or any trade association of which you were a member with respect to any actual, alleged, or possible health effects associated with exposure to asbestos;
- (m) Communications by you or any trade association of which you were a member with respect to actual or proposed standards or regulations concerning the manufacture, processing, use, handling or distribution of asbestos or asbestos products;

- (n) Actions taken by you to improve ventilation or dust collection equipment at your asbestos facilities;
- (o) Discussions or grievances or complaints filed by any person, employee or union with respect to allegedly unsafe working conditions or the adverse health effects of asbestos;
- (p) Discussions or complaints or warnings by any governmental agency with respect to allegedly unsafe working conditions or the adverse health effects of asbestos or violations of safety regulations;
- (q) History of asbestos linked illnesses among employees exposed to asbestos;
- (r) Workmen's compensation claims, contract unit claims or lawsuits alleging illnesses resulting from exposure to asbestos;
- (s) State of medical, scientific and industry knowledge regarding asbestos related disease;
- (t) Your corporate history;
- (u) Your relationship with other corporate entities under your ownership or control;

- (v) Location, purpose and operation of your manufacturing facilities.

33. Did this defendant ever become aware that other companies which sold or supplied asbestos friction or insulation products began to affix precautionary health warning labels to their containers of asbestos fibre or packages of asbestos products? If so, state: Defendant, Borg-Warner, became aware of the use of warning labels on

- (a) When you first became aware;

asbestos products when this became a matter of public knowledge.

- (b) Names and addresses of persons who became aware;

- (c) Circumstances under which plaintiff became aware;

- (d) If your awareness was obtained through a writing, identify the author and date of same, and attach a copy hereto.

34. Did defendant place warnings on its containers of asbestos fibre or products that were distributed outside of the United States?

No.

- (a) If not, explain why, and state the names and addresses of the persons who were responsible for making this decision, and the reason for same;

Objection on grounds that this is an argumentative and improper Interrogatory.

- (b) If so, state:

Not applicable

1. When defendant first placed such warnings;

2. State the verbatim content of a warning;

3. The reason why such warnings were placed in containers or packages.

35. If defendant did not place warnings concerning the adverse health effects of asbestos on its containers of asbestos fibre or products which were distributed or sold outside the United States, or said warnings were placed on the containers of asbestos fibres or products subsequent to their placement on containers sold within the United States, please indicate why such warnings were used in the United States but not elsewhere. Also specify:

Not applicable

- (a) Each and every country where such warnings were or were not used;
- (b) As of what date warnings were used with regard to each country;
- (c) The name and address of the person whose decision it was to place or not to place such warnings.

36. Describe in detail the clothing and/or equipment worn by defendant's employees engaged in the manufacturing, production, processing, packaging, assembly, storage or transportation of its asbestos fibre and/or asbestos products. Also please state:
Objection on grounds that this relates only to the internal practices and files of Borg-Warner and is irrelevant to this action.

- (a) The date such clothing and/or equipment was used;
- (b) The names and addresses of the persons who recommended the use of such clothing or equipment;
- (c) The name and address of the person whose decision it was to use such clothing or equipment;

- (d) State the full and complete purpose of each piece of equipment or clothing;
- (e) If the purpose was to reduce dust levels or provide protection from dust, indicate exactly which dust or dusts, and why defendant wanted to provide protection from dust or reduce the dust level.

37. If your company contends that there was no satisfactory substitute for friction products containing asbestos prior to 1973 state each and every fact which supports that contention, and the names and addresses of persons with any knowledge.

Borg-Warner Corporation objects to this Interrogatory insofar as it calls for a statement of fact supporting a "contention" phrased and characterized by plaintiff's counsel.

38. If your company contends that there was no satisfactory substitute for friction products containing asbestos prior to 1973 state each and every fact which supports that contention, and the names and addresses of persons with any knowledge.

See answer to Interrogatory No. 37.

39. Is it defendant's contention that while there is a casual relationship between asbestos and disease, illness, or injury suffered by the plaintiff, the asbestos which caused same was not the defendant's? If so, set forth in detail:
See attached sheet.

- (a) The source of the asbestos that caused the injury, illness or disease;
- (b) The reasons supporting that conclusion;
- (c) Whether defendant ever supplied asbestos products in any form to that source (indicating the dates of such supply);

39. Borg-Warner Corporation objects to this Interrogatory insofar as it calls for a statement of facts supporting a "contention" phrased and characterized by plaintiff's counsel. As asked, this Interrogatory is unclear and ambiguous. While not offering an opinion as to any cause or relationship between asbestos exposure and disease, defendant, Borg-Warner Corporation, contends that the illness, disease or disability of plaintiff was not related to nor was it caused by any product manufactured or sold by Borg-Warner Corporation. With regard to the actual cause of plaintiff's illness, defendant answers that discovery is continuing.

(d) The names and addresses of persons with any knowledge.

40. If defendant contends that plaintiffs improperly used or misused its asbestos fibre and/or friction products, please set forth in detail in what respect the fibre and/or friction products were improperly used, the facts that support that contention, and the names and addresses of persons with any knowledge.

See attached sheet.

41. If defendant contends that plaintiff was contributorily negligent while using defendant's fibre and/or friction products please set forth in detail in what respect plaintiff was contributorily negligent, stating each and every fact which supports that contention, and the names and addresses of persons with any knowledge.

See answer to Interrogatory No. 40.

42. If defendant contends that plaintiff assumed the risk of injury or illness while using defendant's fibre and/or friction products, please set forth in detail in what respect plaintiff assumed the risk, stating each and every fact which supports that contention, and the names and addresses of persons with any knowledge.

See answer to Interrogatory No. 40.

43. If defendant contends that there are other legally responsible persons or entities not named in this lawsuit, please set forth who those persons or entities are and the facts which support that contention, and the names and addresses of persons with any knowledge. Borg-Warner Corporation objects to this Interrogatory insofar as it calls for a statement of facts supporting a "contention" phrased and characterized by plaintiff's counsel. At present, defendant does not have information sufficient to answer this Interrogatory.

44. If defendant contends that any of the entities listed in interrogatory 26 were more knowledgeable than defendant about the dangers associated with exposure to asbestos during the plaintiff's employ at any of the facilities listed in the plaintiff's complaint, please set forth in detail the facts which support that contention, and the names and addresses of persons with any knowledge. Borg-Warner Corporation objects to this Interrogatory insofar as it calls for a statement of facts supporting a "contention" phrased and characterized by plaintiff's counsel. At present, defendant does not have information sufficient to answer this Interrogatory since it does not know the state of knowledge of the listed entities at any given time.

40. Borg-Warner Corporation objects to this Interrogatory insofar as it calls for a statement of facts supporting a "contention" phrased and characterized by plaintiff's counsel. Defendant further objects to this Interrogatory since it assumes that the plaintiff used or was exposed to products manufactured or sold by defendant. By way of further answer, if it is proven that defendant's products were used in some way by plaintiff, plaintiff may have been contributorily negligent or assumed a known risk in the manner in which he used such products.

45. If the response to the preceding interrogatory is in the affirmative, please set forth why the information which was available to these entities was not also available to defendant.

See answer to Interrogatory No. 44.

46. If defendant contends that it was not the proximate cause of plaintiffs' injuries, please set forth in detail what respect it was not the proximate cause of plaintiffs' injuries, each and every fact which supports that contention, and the names and addresses of persons with any knowledge. Borg-Warner Corporation objects to this Interrogatory insofar as it calls for a statement of facts supporting a "contention" phrased and characterized by plaintiff's counsel. Without waiving this objection, defendant, Borg-Warner Corporation, knows of no evidence that its products were the proximate cause of any injuries, disease or disability of the plaintiff.

47. If defendant contends that plaintiffs' claims are barred by the statute of limitations, please set forth, in detail, each and every fact which supports that contention, and the names and addresses of persons with any knowledge. Borg-Warner Corporation objects to this Interrogatory insofar as it calls for a statement of facts supporting a "contention" phrased and characterized by plaintiff's counsel. The facts relating to the Statute of Limitations and its effect on the plaintiff's claim have been and will be developed through discovery in which all parties will participate.

48. If defendant contends that service was not properly effected upon it, please set forth the facts which support that contention, and the names and addresses of persons with any knowledge.

Not applicable.

49. If defendant contends that the various types of asbestos and asbestos products listed in answer to interrogatory #6 of plaintiff's interrogatories to defendant, first set were not

See attached sheet.

(a) Removed from vehicles which were repaired at any of the facilities listed in plaintiff's complaint as places of employment;

(b) Installed in vehicles which were repaired at any of the facilities listed in plaintiff's complaint as places of employment;

Please set forth in detail the facts which support that contention, as well as the names and addresses of persons who have any information.

49. Borg-Warner Corporation objects to this Interrogatory insofar as it calls for a statement of facts supporting a "contention" phrased and characterized by plaintiff's counsel. Without waiving this objection, defendant, Borg-Warner Corporation, has no knowledge that the asbestos products listed in its answer to Interrogatory No. 6, Set I were removed or installed in vehicles repaired at the facilities listed in Plaintiff's Complaint.

50. If defendant contends that this court does not have jurisdiction over the instant matter, please set forth, in detail, the facts that support that contention, and the names and addresses of persons with any knowledge.

Objected to as calling for a legal conclusion.

51. If defendant contends that the "state of the art" of medical and/or scientific knowledge concerning the dangers or adverse health effects of asbestos was such that defendant should not have known of the risks to which it exposed the plaintiffs as a result of contact with its asbestos fibre or asbestos friction or automotive products, please set forth in detail the facts that support that contention, and the names and addresses of persons with any knowledge. Borg-Warner Corporation objects to this Interrogatory insofar as it calls for a statement of facts supporting a "contention" phrased and characterized by plaintiff's counsel. Without waiving this objection, defendant, Borg-Warner Corporation, has no knowledge that plaintiff was exposed to any of its asbestos products.

52. If defendant contends that it believed that if dust concentrations (of asbestos-containing dust) were kept below 5 million particles per cubic foot, plaintiff and others similarly situated would not contract asbestosis, and in support of this contention will rely upon A Study of Asbestos in the Asbestos Textile Industry, by Dreesen, Dallavale, Edwards, Miller and Sayers, U.S. Treasury Department, Public Health Service, Public Health Bulletin No. 241 (1938), please state: Borg-Warner Corporation objects to this interrogatory insofar as it calls for a statement of facts supporting a "contention" phrased and characterized by plaintiff's counsel.

(a) Who is the first person in defendant's employ who read this article;

(b) Where defendant obtained such article;

(c) When defendant, or its employee, first read this article;

(d) The name of all persons in defendant's employ who read this article prior to 1970;

(e) What steps, if any, defendant took to determine the validity of the study upon which the article was based;

(f) If the person named in subpart (a) above is deceased, upon what facts do you base your statement that this person read this article at the aforementioned time.

53. If defendant contends that plaintiff's employer failed to take adequate precautionary measures to protect plaintiff from exposure to asbestos fibre or asbestos automotive products, please set forth, in detail, in what respect(s) plaintiff's employer did not take adequate precautionary measures, setting forth each and every fact which supports that contention, and the names and addresses of persons with any knowledge. Borg-Warner Corporation objects to this Interrogatory insofar as it calls for a statement of facts supporting a "contention" phrased and characterized by Plaintiff's counsel. Without waiving this objection, defendant, Borg-Warner Corporation, does not know what measures, if any, were taken by plaintiff's employer.

54. Have any of the products listed in answer to interrogatory #6 of plaintiff's interrogatories to defendant, first set been patented at any time? If so, state:

See attached sheet.

(a) The patent number;

(b) When the patent was acquired.

55. If defendant contends that plaintiff's injuries were in any way caused or aggravated by toxins, pollutants, or agents other than asbestos or tobacco, please state the name of each such agent, the injury it caused or aggravated, whether it has caused or aggravated his injuries, and every fact which supports the contention that plaintiff's injuries were so caused or aggravated.

Answering defendant has no evidence at the present time which would enable it to answer this Interrogatory. Investigation is continuing.

56. If defendant contends that the contact of asbestos friction materials against either brake drums or flywheels does not produce asbestos-containing dust, please set forth each and every fact which supports that contention, and the names and addresses of persons with any knowledge. Borg-Warner Corporation objects to this Interrogatory insofar as it calls for a statement of facts supporting a "contention" phrased and characterized by plaintiff's counsel. Without waiving this objection, Borg-Warner Corporation represents that it does not and has never made or sold brake shoes or drums or friction materials for them.

54. Defendant, Borg-Warner, objects to this Interrogatory as it is burdensome, onerous and not calculated to lead to any admissible evidence. Borg-Warner assemblies have been the subject of numerous patents over the years of the company's existence and to list all such patents would be burdensome and irrelevant.

57 . If defendant contends that warnings are not necessary on asbestos-containing automotive products, including but not limited to friction materials, gaskets and shielding, please set forth each and every fact which supports that contention, and the names and addresses of persons with any knowledge. Borg-Warner Corporation objects to this Interrogatory insofar as it calls for a statement of facts supporting a "contention" phrased and characterized by plaintiff's counsel.

58. For each asbestos automotive product listed in your answer to interrogatory #6 of plaintiff's interrogatories to defendants, first set forth:

See attached sheet.

- (a) The type of asbestos fibre used in the product;
- (b) The percentage of the product comprised of asbestos;
- (c) The vendor of the asbestos fibre contained in the product.

59. Please set forth each and every method of affixing defendant's asbestos friction materials to metal shoes or plates from 1938 until the present. Disc brake pads would be riveted or glued on. Borg-Warner has not manufactured or sold, as separate components, asbestos-bearing clutch facings, and users of Borg-Warner's clutch assemblies would not need to install clutch facings, which are installed at Borg-Warner's facilities before the clutch products are sold.

60. Please state whether defendant is aware of the practice of using compressed air to remove accumulated dust and debris from brake drums or friction mechanisms during brake or clutch maintenance or repair.

Objection on grounds that this Interrogatory is argumentative and seeks information beyond the scope of Borg-Warner's own businesses or practices.

61. If the answer to the preceding interrogatory is in the affirmative, please set forth:

Not applicable.

- (a) The date when defendant first became aware of this practice;

58(a). Borg-Warner's disc brake pads contained Chrysotile asbestos, organic and inorganic fillers and resin binders. The chemical composition of the asbestos-bearing friction materials supplied to Borg-Warner by others for incorporation into defendant's clutch assemblies is unknown to Borg-Warner and maintained as proprietary information by such suppliers.

(b). Exact percentages unknown.

(c). Asbestos-bearing friction materials incorporated in Borg-Warner's clutch assemblies have been supplied by Raybestos Manhattan (Raymark), American Brake Shoe, Arisco, Gatke, Johns-Manville, National Friction Products, Rusco, Standco, and H.K. Porter, Inc., Thermoid Division Amco Works. Asbestos incorporated in Borg-Warner's disc brake pads was produced by Asbestos Corporation, Thetford Mines, Quebec, Canada and sold to Borg-Warner through Donald R. Fitzgerald Company, Chicago.

(b) How defendant became aware of this practice;

(c) Whether defendant recommended such practice in product literature, manuals, or instruction booklets, and if so:

1. Set forth the dates during which such practices were recommended;

2. Please attach a copy of any such product literature, manuals, or instruction booklets.

(d) The name and address of persons with any knowledge.

62. Please set forth whether defendant is aware of the practice of grinding or bevelling asbestos friction materials.

Objection on grounds that this Interrogatory is argumentative and seeks information beyond the scope of Borg-Warner's own businesses or practices.

63. If the response to the preceding interrogatory is in the affirmative, please set forth:

Not applicable.

(a) The purpose for which defendant's asbestos friction materials were ground or bevelled;

(b) The date when defendant first became aware of this practice;

(c) How defendant first became aware of this practice;

(d) Whether defendant recommended such practice in product literature, manuals, or instruction booklets, and if so:

1. Please set forth the dates during which such practices were recommended;
2. Please attach a copy of any such literature, manual or instruction booklets.

(e) The name and address of persons with any knowledge.

64. Please state whether defendant is aware of the practice of drilling or punching holes in their asbestos friction products in order to affix such products to metal shoes or plates.

See attached sheet.

65. If the answer to the preceding interrogatory is in the affirmative, please set forth:

Not applicable.

(a) The date when defendant first became aware of this practice;

(b) How defendant first became aware of this practice;

(c) Whether defendant recommended such practice in product literature, manuals, or instruction booklets, and if so:

1. If defendant did recommend such practice, please set forth the dates during which such practice was recommended;

64. Objection on grounds that this Interrogatory is argumentative and seeks information beyond the scope of Borg-Warner's own businesses or practices. Without waiving this objection, Borg-Warner states that disc brake pads would be riveted or glued on. Users of Borg-Warner's clutch assemblies would not need to install clutch facings which are installed at Borg-Warner's facilities before the clutch products are sold.

2. Please attach a copy of any such literature, manuals or instruction booklets.

(d) The name and address of persons with any knowledge.

66. Please list each and every lawsuit involving your asbestos friction products in the following jurisdictions:

(a) Any Common Pleas Court in Pennsylvania;

Objection on the grounds that this information is burdensome, oppressive and equally available to plaintiff's counsel.

(b) Any Federal Court in Pennsylvania;

Objection on the grounds that this information is burdensome, oppressive and equally available to plaintiff's counsel.

(c) Any State Court in:

1. New Jersey;

Objection on the grounds that any suits pending in the jurisdiction listed in these subparts are irrelevant to the instant matter insofar as they involve different employers, products, marketing areas and working conditions from those allegedly involved herein. Furthermore, such

2. New York;

information is a matter of public record, directly obtainable by plaintiff.

3. Delaware;

4. California;

5. Maryland;

(d) Any Federal Court in:

Objection on the grounds that any suits pending in the jurisdiction listed in these subparts are irrelevant to the instant matter insofar as they involve different employers, products, marketing areas and working conditions from those allegedly involved herein. Further more, such information is a matter of public record, directly obtainable by plaintiff.

1. New Jersey;

2. New York;

3. Delaware;

4. California;

5. Maryland.

67. Please list the names and addresses of all plaintiff's attorneys in all these cases.

See answer to Interrogatory No. 66.

PAUL, REICH & MYERS

By: _____
ROBERT E. PAUL

BARNARD AND GANNON

By: _____
TIMOTHY B. BARNARD

AFFIRMATION

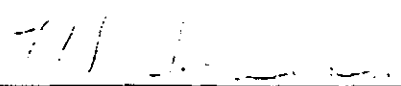
STATE OF MICHIGAN:

: SS

COUNTY OF OAKLAND:

Laurene H. Horiszny hereby deposes and says that she is an attorney for Borg-Warner Automotive, Inc. a wholly owned subsidiary of Borg-Warner Corporation and as such is authorized to take this Affirmation on behalf of Borg-Warner Corporation, and that the facts set forth in the foregoing Answer to Plaintiffs' Interrogatories are true and correct to the best of her knowledge, information and belief.

The statements contained herein are made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsification to authorities.



Laurene H. Horiszny

Attorney

DATE: September 17, 1987