

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

DONALD LEE ABNER, JAMES R. BRIDGES, :
DAVID LEE ENRIGHT, HOMER R. FINCH, :
CARSON HENSLEY, DAN L. MCINTIRE, :
CLARK R. MOORE, SR., GEORGE KEETON :
PARSHALL, JOHN PAUL PIERATT, and :
JOE CHALMER STANDFILL, :

Plaintiffs, :

vs. :

A-BEST PRODUCTS COMPANY, ET AL., :

Defendants. :

CASE NO. CV96 01 0180
(Hon. George Elliott)

WESTINGHOUSE ELECTRIC CORPORATION'S FIRST
SUPPLEMENTAL RESPONSES TO PLAINTIFFS' INTERROGATORIES
1, 22, 25, 26, 27, 29, 30, 31, 32, 33, 34, 38, 39, 40, 50, 55 and 57

1. For each Interrogatory below, please state the name and last known address of each person answering it, including whether he/she is employed by Defendant and if employed by Defendant include 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.

ANSWER:

Westinghouse incorporates by reference its Preliminary Statement and General Objections. Without waiving its objections, Westinghouse responds that the individual verifying these responses is Janice Fall, who is Assistant Secretary of Westinghouse Electric Corporation, and that the information contained in these responses is not necessarily within the personal knowledge of Ms. Fall. There is no officer of Westinghouse Electric Corporation who has personal knowledge of all the information contained in these responses. The facts stated in these responses have been assembled by authorized employees and counsel of defendant and Ms. Fall has been informed by those authorized employees that the facts stated in the foregoing document are true and correct to the best of their knowledge, information and belief.

22. Has Defendant ever conducted or caused to be conducted any studies concerning the effects of the inhalation of asbestos dust and/or fibers on workers or other persons applying, using and/or working around any of the asbestos products manufactured, sold, distributed and/or relabelled for distribution by you or your predecessor? If so, please state:

- a) The dates and nature of such studies;
- b) The names and addresses of persons conducting such studies;
- c) The purpose of such studies;
- d) Identify and list those persons to whom such reports were given and the date of such dissemination;
- e) State any publication or other written dissemination of the results of such studies;
- f) State the nature of any action to eliminate or minimize the inhalation of asbestos fibers; and
- g) Attach a copy of reports based upon such studies.

ANSWER:

Westinghouse incorporates by reference its Preliminary Statement and General Objections. Without waiving its objections, Westinghouse states that after a reasonable investigation, Westinghouse is unaware of ever having conducted, or having caused to be conducted, any studies concerning the effects of the inhalation of asbestos dust and/or fibers on workers or other persons applying, using and/or working around any of the asbestos products manufactured, sold, or distributed by Westinghouse.

25. Please state whether or not Defendant ever obtained any knowledge concerning the likelihood of asbestos being hazardous to human health. If so, please state:

- a) When Defendant first became aware of the hazardous potential of asbestos dust and asbestos fibers;
- b) The manner in which the Defendant, Defendant's predecessor, or Defendant's subsidiary companies first obtained this knowledge and became aware of said hazards and from what source this information was obtained;
- c) What information was disseminated within Defendant's company, or its subsidiary or predecessor regarding such adverse consequences or effects;
- d) Whether any such information is still maintained by Defendant or its subsidiary or predecessor in any written form.
- e) The name, address and job classification of the custodian of such information.

ANSWER:

Westinghouse incorporates by reference its Preliminary Statement and General Objections. Without waving its objections, Westinghouse states that it was a member of the Air Hygiene Foundation (AHF), and has learned that the AHF distributed abstracts that summarized articles dealing with industrial hazards including asbestos in the mid 1930's. Westinghouse learned that inhalation of certain types and quantities of asbestos fibers, over significant periods of time, was being associated with **increased risks of disease for some people by the early 1940's**. The specifics of exactly how or when Westinghouse personnel acquired such knowledge or awareness, or dates for specific diseases, is not reasonably ascertainable, but it is probable that it came from reading government publications or other public documents, reports, studies or journals. Westinghouse obtained this level of knowledge based upon what was published at that time, all of which was based on the relevant work histories, dose, fiber type, length of exposure and other variables involved in the particular study, periodical or journal.

In August 1974, a report titled "Identification and Quantification of Fibrous Dust and Ferruginous Bodies in Lungs of Autopsied Adults" was published by the Industrial Health Foundation, Inc. Westinghouse's name, along with Alcoa and Gulf Oil, appears on the cover of this report. The report was prepared by Paul Gross, M.D., John M.G. Davis, Ph.D. and Russell A. Harley, Jr., M.D. This report studies the mineral fiber (including asbestos) content of human lungs. Westinghouse has no present knowledge of the reason for the appearance of its corporate name on this report.

Westinghouse objects to and cannot answer this Interrogatory in the categorical manner in which it is phrased. Without waiving its objections, Westinghouse states that it has learned that mere exposure to asbestos, without more, does not constitute a health risk. **Westinghouse generally has learned that inhalation of certain types and quantities of asbestos fibers over certain periods of time is associated with increased health risks for some people.**

By way of further response, Westinghouse states that its industrial hygiene documents are the most likely source of any additional information in Westinghouse's possession that may be responsive to this interrogatory. **The Westinghouse Industrial Hygiene repository consists of approximately 50 boxes of documents that are currently housed in Westinghouse's Corporate Headquarters in Pittsburgh, Pennsylvania.** This collection is the result of a thorough search by Westinghouse for industrial hygiene documents and the repository contains all such documents located to date. Any information sought by plaintiffs in this interrogatory that might be ascertained from these documents can be obtained by plaintiffs from review of the documents at substantially the same burden and

expense as would be incurred by Westinghouse to do so. Westinghouse will make the documents contained in its Industrial Hygiene repository available to plaintiffs' counsel for inspection and copying, in Pittsburgh, Pennsylvania, at a time mutually agreed upon by counsel for the parties.

26. Please state when Defendant first became aware of the possible association between inhalation of asbestos dust and/or fibers and the contraction of asbestosis and cancers including, but not limited to gastrointestinal cancer, laryngeal cancer, renal cancer, lymphoma, lung cancer and mesothelioma. As to each disease or condition, please state the source of that information, including a description of all tests conducted relative to the possibility of such a relationship.

ANSWER:

Westinghouse incorporates by reference its Preliminary Statement and General Objections. Westinghouse further objects to the medical conclusions that are the underlying premises of this interrogatory; i.e., that inhalation of asbestos dust and/or fibers, without regard to the level of exposure, the type of asbestos fiber, the length of exposure and other variables that are unique to each plaintiff's work experience, can produce the diseases or conditions listed in the interrogatory, and that some of the diseases listed, including but not limited to gastrointestinal, laryngeal and renal cancer and lymphoma have been medically associated with asbestos exposure. Moreover, Westinghouse relies upon the conclusions of its medical experts regarding issues of medical causation and disease type and, therefore, is unable provide any further response to this interrogatory.

27. Please identify all physicians, industrial hygienists, and other employees (including their names and addresses) who were employed, retained or otherwise engaged by Defendant for research, investigation or study concerning asbestos or asbestos-related diseases.

ANSWER:

Westinghouse incorporates by reference its Preliminary Statement and General Objections. Westinghouse has had an Industrial Hygiene Department since the early 1930's. A number of industrial hygienists have been employed within the Department since its inception. Records have not been found or are no longer available that would indicate the names and addresses of all such employees.

Without waiving its objections, Westinghouse states that C.W. Bickerstaff and R.J. Wengrzyn are currently employed by Westinghouse in its Industrial Hygiene Department.

The following persons are known to have been employed in the Industrial Hygiene Department:

H.W. Speicher (deceased)
G. Stewart
W.E. Piros
E.C. Barnes (deceased)
Z.R. Heasley
J. Adams
K. Bodden
K. Goellner
R. Sampson
G. Arsensman
M.A. Perriello
D. Whittier

Currently, the Industrial Hygiene and Corporate Product and Safety departments are within the Department of Environmental Affairs. Corporate Medical is located within Corporate Human Resources.

The title "Industrial Hygiene" defines the department's function. The Industrial Hygiene Department's primary role relates to identifying and reducing conditions in the workplace that are hazardous or dangerous to Westinghouse employees or that in some form threaten worker safety.

Westinghouse states that it has retained plant physicians and nurses at numerous locations over many years. There is no central index identifying such personnel. Westinghouse first employed a medical director in 1920.

The following persons were the principal medical personnel:

**Dr. T.L. Hazlett, Corporate Medical Director
before 1950 (deceased)**

Harry Burr, Administrator of Medical Services
1954-1982 (deceased)

E. Carroll Curtis, M.D.
1982-1991

29. Please state if any medical officer or industrial hygienist or medical consultant ever made at any time any recommendations and/or suggestions to Defendant pertaining to the risks or hazards to persons involved in the manufacture or use of asbestos products and, if so, please state when, by whom or to whom such recommendations and/or suggestions were made and the substance of each recommendation.

ANSWER:

Westinghouse incorporates by reference its Preliminary Statement and General Objections. Westinghouse objects to and cannot answer this Interrogatory in the categorical manner in which it is phrased. Without waiving its objections, Westinghouse states that it has learned that mere exposure to asbestos, without more, does not constitute a health hazard. Westinghouse generally has learned that inhalation of certain types and quantities of asbestos fibers over certain periods of time is associated with increased risks of health hazards for some people. The specifics of exactly how or when Westinghouse personnel acquired such knowledge or awareness is not certain. It is probable that it came from reading government publications or other public written materials.

By way of further response, and without waiving its objections, Westinghouse states that its Industrial Hygiene repository is the most likely source of documents containing such information, if any. Any information sought by plaintiffs in this interrogatory that might be ascertained from these documents can be obtained by plaintiffs from review of the documents at substantially the same burden and expense as would be incurred by Westinghouse to do so. Westinghouse will make the documents contained in its Industrial Hygiene repository available to plaintiffs' counsel for inspection and copying, in Pittsburgh, Pennsylvania, at a time mutually agreed upon by counsel.

30. Please state the scientific and/or medical periodicals to which Defendant, its medical department, research department, industrial hygiene divisions, engineering department or consulting physicians subscribed between 1945 to 1975.

ANSWER:

Westinghouse incorporates by reference its Preliminary Statement and General Objections. Westinghouse does not maintain a single, central library. Westinghouse states that it maintains general reference materials and technical

libraries throughout the corporation, which may include various industry periodicals, occupational health and medicine periodicals and other topical reference materials. There is no central indexing system that contains all of the information requested by this interrogatory for all departments within the corporation.

Westinghouse states that as a member of the National Safety Council, Industrial Health Foundation and American Industrial Hygiene Foundation, Westinghouse probably would have received the publications of those organizations routinely distributed to members of those organizations. Information regarding these publications should be sought from the organizations themselves and not from Westinghouse.

By way of further response, and without waiving its objections, Westinghouse states that its Industrial Hygiene repository is the most likely source of documents containing such information, if any. Any information sought by plaintiffs in this interrogatory that might be ascertained from these documents can be obtained by plaintiffs from review of the documents at substantially the same burden and expense as would be incurred by Westinghouse to do so. Westinghouse will make the documents contained in its Industrial Hygiene repository available to plaintiffs' counsel for inspection and copying, in Pittsburgh, Pennsylvania, at a time mutually agreed upon by counsel.

31. State in detail what test, if any, Defendant ever made with regard to the quantity, quality, or threshold limit values of asbestos dust, fibers or particles to which workers were exposed while using, working with and/or around, installing and/or applying your asbestos-containing products.

ANSWER:

Westinghouse incorporates by reference its Preliminary Statement and General Objections. Westinghouse further objects to this interrogatory to the extent it assumes that any workers were exposed to respirable asbestos fibers while using, working with and/or around, installing and/or applying Westinghouse products.

Without waiving the foregoing objections, Westinghouse believes that it would have been aware of and would have adhered to established threshold limit values as a measure of good industrial hygiene practices.

By way of further response, and without waiving its objections, Westinghouse states that its Industrial Hygiene repository is the most likely source of documents containing such information, if any. Any information sought by plaintiffs in this interrogatory that might be ascertained from these documents can be obtained by plaintiffs from review of the documents at substantially the same burden and expense as would be incurred by Westinghouse to do so. Westinghouse will make the documents contained in its Industrial Hygiene repository available to plaintiffs' counsel for inspection and copying, in Pittsburgh, Pennsylvania, at a time mutually agreed upon by counsel.

32. For each test described in Interrogatory No. 31, please give the name of the person conducting the test, the date of the test, and attach true copies of any documents, including but not limited to, reports, finding or memoranda concerning such tests or studies.

ANSWER:

See Answer to Interrogatory 31.

33. Please state the year that Defendant was first advised of either threshold limit values or maximum allowable concentrations of both asbestos dust and total dust by the American Conference of Governmental Industrial Hygienists and state the name of the employee/official of the company receiving such advice.

ANSWER:

Westinghouse incorporates by reference its Preliminary Statement and General Objections. Without waiving its objections, Westinghouse states that it would have learned of the **ACGIH standards at approximately the time that they were published.** After a reasonable investigation, Westinghouse is unable to determine the individual employee or official who would have first become aware of these standards.

34. Does Defendant maintain a library dealing with industrial hygiene, medicine, safety and engineering and/or research? If so, state:

- a) The date each such library was established;
- b) The location of each library;
- c) The name(s) of the librarian(s) since 1930;

- d) List all journals subscribed to by you concerning asbestos, industrial hygiene, medicine, safety, and/or engineering;
- e) List all books and articles dealing with asbestos and asbestos-related diseases and the date acquired.

ANSWER:

Westinghouse incorporates by reference its Preliminary Statement and General Objections. Westinghouse further objects to this Interrogatory, as applied to Westinghouse, on the grounds that it is subject to various interpretations, the primary one being that it presupposes that Westinghouse is a member of the "asbestos industry" (i.e., an asbestos mining or bulk insulation manufacturing operation).

Westinghouse states that as a member of the National Safety Council and Industrial Health Foundation, Westinghouse probably would have received the publications of those organizations routinely distributed to members of those organizations. Information regarding these publications should be sought from the organizations themselves and not from Westinghouse.

By way of further response, and without waiving its objections, Westinghouse states that it does not maintain a single, central library. Westinghouse states that it maintains general reference materials and technical libraries throughout the corporation, that may include various industry periodicals, occupational health and medicine periodicals and other topical reference materials. There is no central indexing system that contains all of the information requested by this interrogatory for all departments within the corporation. Westinghouse states that its Industrial Hygiene repository is the most likely source of documents containing such information, if any. Any information sought by plaintiffs in this interrogatory that might be ascertained from these documents can be obtained by plaintiffs from review of the documents at substantially the same burden and expense as would be incurred by Westinghouse to do so. Westinghouse will make the documents contained in its Industrial Hygiene repository available to plaintiffs' counsel for inspection and copying, in Pittsburgh, Pennsylvania, at a time mutually agreed upon by counsel.

38. With respect to each trade organization or association listed in answer to Interrogatory No. 37, please state whether the minutes of the group's meetings and any correspondence between the members of such groups concerning the hazards of asbestos exposure are available.

ANSWER:

Westinghouse incorporates by reference its Preliminary Statement and General Objections. Westinghouse is unaware of whether the minutes of the meetings of these groups are available from the groups themselves, and states that plaintiff should inquire directly of the groups as to whether their meeting minutes are available.

If the information sought by the interrogatory relates to whether the minutes of meetings of trade organizations or associations are available from Westinghouse, then Westinghouse responds, without waiving its objections, that its Industrial Hygiene repository is the most likely source of documents containing such information, if any. Any information sought by plaintiffs in this interrogatory that might be ascertained from these documents can be obtained by plaintiffs from review of the documents at substantially the same burden and expense as would be incurred by Westinghouse to do so. Westinghouse will make the documents contained in its Industrial Hygiene repository available to plaintiffs' counsel for inspection and copying, in Pittsburgh, Pennsylvania, at a time mutually agreed upon by counsel.

39. Please identify by name the technical and trade association periodicals to which the Defendant subscribed, and state whether Defendant had knowledge of any articles being printed, or withheld from printing, in said periodicals pertaining to the potential hazards of asbestos. If so, please state the following:

- a) The title of each such article;
- b) The periodical in which each such article was published;
- c) The date each such article was published;
- d) A detailed explanation of the reason for withholding any such article for printing;
- e) Produce documentation which refers, alludes or mentions articles which were withheld for publication.

ANSWER:

Westinghouse incorporates by reference its Preliminary Statement and General Objections. Westinghouse further objects and states that it has never been a member of the asbestos industry and is unaware of ever having subscribed to, supported or contributed to technical or trade association periodicals published by the asbestos industry. Based upon the foregoing, and after a reasonable investigation, Westinghouse states that it is unaware of any articles being printed, or withheld from printing, in any technical or trade periodicals pertaining to the potential hazards of asbestos.

By way of further response, and without waiving its objections, Westinghouse states that the most likely source of information regarding which, if any, technical and trade association periodicals to which the defendant may have subscribed, is its Industrial Hygiene repository. Any information sought by plaintiffs in this interrogatory that might be ascertained from these documents can be obtained by plaintiffs from review of the documents at substantially the same burden and expense as would be incurred by Westinghouse to do so. Westinghouse will make the documents contained in its Industrial Hygiene repository available to plaintiffs' counsel for inspection and copying, in Pittsburgh, Pennsylvania, at a time mutually agreed upon by counsel.

40. Please state whether, prior to 1975, the defendant sponsored, or attended any meeting, seminar, conference, convention or legislative hearing where the subject of occupational health and exposure to asbestos was discussed and, if so, please state the date and place of such meeting and the name and address of any speakers or participants.

ANSWER:

Westinghouse incorporates by reference its Preliminary Statement and General Objections. Without waiving its objections, Westinghouse states that after a reasonable investigation, it is unaware of ever sponsoring or attending any meeting, seminar, conference, convention or legislative hearing where the subject of occupational health and exposure to asbestos was discussed prior to 1975.

50. Do you contend that the Plaintiff/Decedent improperly used those products listed in response to Interrogatory No. 5? If so, please set out in detail in what respect the product was improperly used.

ANSWER:

Westinghouse incorporates by reference its Preliminary Statement and General Objections. Without waiving its objections, Westinghouse states that its investigation and discovery is continuing with regard to these matters. As information becomes available that is responsive to this request, Westinghouse will supplement its response to this interrogatory.

55. Does Defendant admit that service of process was properly had on it in these cases? If not, please state why.

ANSWER:

Westinghouse states that it is unaware at this time of any basis to challenge service of process upon it in these cases. However, Westinghouse reserves the right to raise such a challenge in the event that information subsequently becomes available that would support such a challenge.

57. Please state the name and address of each person who has knowledge of relevant facts regarding claims and defenses of this lawsuit.

ANSWER:

Westinghouse incorporates by reference its Preliminary Statement and General Objections. Without waiving its objections, Westinghouse states that its investigation and discovery is continuing with regard to these matters. As information that is responsive to this request becomes available, Westinghouse will supplement its response to this interrogatory.