

SULLIVAN & CROMWELL

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PLAINTIFF'S
EXHIBIT

JMMC-329

125 Broad Street, New York 10004

250 PARK AVENUE, NEW YORK 10017
1775 PENNSYLVANIA AVE., WASHINGTON, D. C. 20006
17, AVENUE MATIGNON, 75008 PARIS
21 IRONMONGER LANE, LONDON EC2V 8JB

October 9, 1981

RECEIVED

FEB - 8 1982

LEGAL COUNSEL

Downs (94)
Gage (94)

Rodger Wilson, Esq.,
Johns-Manville Corporation,
Ken-Caryl Ranch,
Denver, Colorado 80217

Re: Texas Asbestos Litigation
Fiber Supply to Denison, Texas

Dear Mr. Wilson:

I understand from Mike Tabor that you will be handling Johns-Manville's Denison, Texas litigation, including various matters that Mike and I have been discussing over the course of several months. Under the circumstances -- and at the risk of burdening this letter with papers -- I felt I could make our discussions more productive by attaching copies of the principal documents. Because this matter has been pending for several months, I am interested in reaching a resolution expeditiously.

As Mike may have mentioned to you, he and I have been discussing J-M's grounds for identifying my client, Turner & Newall Limited, as a supplier of asbestos in the Downs and Gage cases. It is T&N's view that J-M's response to plaintiff's interrogatory number 59 is misleadingly overbroad and that T&N is not a proper defendant in these actions. I have attached a copy of this interrogatory response for your convenience. (Exhibit A)

On July 9, 1981 Mike Tabor sent me a copy of various Denison plant "batch books" and indicated that T&N had been identified as a supplier on the basis of the information contained in those materials. (Exhibit B) Based upon our review of the batch books, we concluded that nearly all

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of the fiber grades identified as "T&N fiber" were, in fact, asbestos fiber grades mined and sold by unrelated companies, the Cape Asbestos Group of Companies. The only fiber usage that is likely to be connected with T&N occurred during a period when neither of plaintiff's decedents in the Downs and Gage cases was employed by J-M. Our position is set forth in greater detail in my letter to Mike Tabor dated July 28, 1981. (Exhibit C)

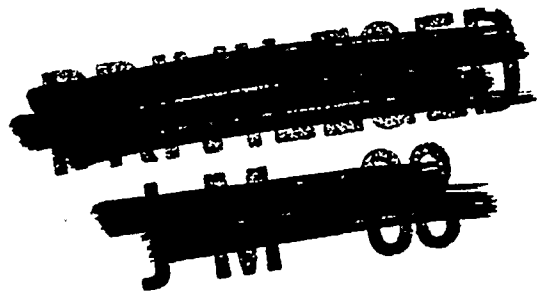
I would like to discuss with you how best to correct the impression created by J-M's overbroad interrogatory response that Glen Gage and Charles Downs were exposed to fiber supplied by T&N. I propose that we discuss this matter during the week of October 19 and consider whether this matter can be handled by supplemental interrogatories, along the lines suggested by my draft in Exhibit D.

I am interested in resolving this matter shortly, so that we can avoid the necessity and expense of deposing the J-M personnel responsible for the preparation and accuracy of J-M's response to interrogatory number 59.

Very truly yours,

Lindsay H. Lew

(Attachments)



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July 28, 1981

Michael D. Tabor, Esq.,
Johns-Manville Corporation,
Ken-Caryl Ranch,
Denver, Colorado 80217

Re: Texas Asbestos Litigation
Fiber Supply to Denison, Texas

Dear Mike:

We have completed our review of the Denison "batch books" that you sent to me earlier this month. You indicated in your letter of July 9, 1981 that J-M believes that the following asbestos fiber grades were supplied by Turner & Newall: C&G3, C&G5, GSA grades (A, B, C and S Blue), Government Blue, Amosite M and Amosite K3. Our analysis confirms that nearly all of these fiber types were in fact supplied by other, unrelated companies.

T&N has brokered fiber designated "C&G3" to J-M from time to time until November 1965. Accordingly, the "C&G3" mentioned on the Universal Atlas Cements note paper dated October 30, 1964 probably refers to fiber supplied by T&N. The other references to C&G3 (December 14 and 20, 1966 and

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January 5, 1967), occur well after the last date that T&N brokered this fiber and, therefore, those references almost certainly relate to fiber supplied from other sources. I am told that there is no fiber grade "C&GS" and believe that the "S" is a typographical error of the number "3."

None of the remaining fiber types were sold by T&N to J-M or the U.S. government -- directly or indirectly -- at any time. As the enclosed brochure indicates, each of these fiber types were supplied by the Cape Asbestos Group of Companies (see clipped page for list of fiber types). Moreover, the conclusion that these fiber types were purchased by J-M directly or indirectly from the Cape Group is suggested by J-M's own records. I have enclosed materials produced at the deposition of H. Blechar, Downs v. Johns-Manville Corp., No. S-78-145-CA (Nov. 30, 1979), demonstrating that Cape Group companies (Cape Blue Mines, Egnep and North American Asbestos Corp.) supplied many of these types directly to J-M.

As detailed above, only the single use of C&G3 in 1964 is likely to be connected with T&N. Under these circumstances, T&N does not appear to be a proper defendant in either the Downs (decedent employed 8/4/58-6/25/59 and 10/19/59-1/12/60) or Gage (decedent employed 9/1/66-9/5/75) cases. In responding to plaintiffs' interrogatory number 59,

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Michael D. Tabor, Esq.

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however, J-M listed T&N as a supplier of fiber to the Denison plant without qualification. I would like to discuss with you how best to correct the impression created by this overbroad answer that Glen Gage and Charles Downs were exposed to fiber supplied by T&N.

Very truly yours,

Lindsay H. Lew

(Enclosure

cc: Marvin S. Sloman (w/enc.)

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