

BARNEY RAY STEEL and JAQUIE
STEEL; MILDRED NAOMI PATRICK,
Individually and as Personal
Representative of the Heirs
and Estate of FRED PATRICK,
deceased,

Plaintiffs,

v.

FIBREBOARD CORPORATION,
et al.,

Defendants.

IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

162ND JUDICIAL DISTRICT



* * * * *

RESPONSE OF GAF CORPORATION TO
PLAINTIFFS' SECOND INTERROGATORIES

GAF Corporation ("GAF") hereby responds to Plaintiffs' Second Interrogatories ("the Interrogatories") only pursuant to, under the protection of and to the extent that such requests comply with the Texas Rules of Civil Procedure, as follows:

GENERAL OBJECTIONS

1. GAF objects to these Interrogatories to the extent that they seek to require it to respond on behalf of any other entity. GAF will respond with such knowledge as GAF possesses as to The Ruberoid Co. prior to its merger with GAF on May 26, 1967, and on behalf of GAF thereafter.

2. GAF objects to these Interrogatories to the extent that they seek to require it to provide information other than that which may be obtained through a reasonably diligent search of its records.

3. GAF objects to these Interrogatories to the extent that they seek to require it to respond other than in accordance with

the applicable Rules of Civil Procedure. Thus, GAF declines any obligation to: (a) locate or interview former employees or any other person not presently employed or engaged by GAF; (b) generate documents not presently existing; (c) describe its unsuccessful efforts to answer any request; (d) identify an unknown custodian or the current custodian of documents not in GAF's possession; (e) identify the file designation and other identifying designation, the present location, or the source of documents identified unless specifically requested in the request; (f) add to or to change the meaning of any request in the conjunctive or disjunctive; (g) respond to any aspect of a request not described with reasonable particularity by the express language of the request; or (h) provide medical or other expert opinion beyond the scope of GAF's business.

4. GAF objects to these Interrogatories to the extent that they seek to require it to reveal trade secrets or other confidential product or commercial information. Therefore, GAF will submit certain responses only on the condition that the plaintiff agrees in writing and undertakes to maintain the confidential nature of certain trade secrets and other confidential product or commercial information.

5. GAF objects to these Interrogatories to the extent that they seek to require it to respond to questions or to identify or produce documents relating to times, events and other things beyond the subject matter of the Complaint, or outside of the period from 1928 to 1981, during which this defendant may have manufactured

asbestos-containing industrial thermal insulation products, or relating to any products other than asbestos-containing industrial thermal insulation products.

6. GAF objects to these Interrogatories to the extent that they seek to require it to provide information specifically with respect to mining and manufacturing operations, or any safety precautions or tests undertaken therein whether in compliance with OSHA or otherwise, inasmuch as the occupational level exposures of asbestos mining and manufacturing workers are different from the occupational level exposures of insulators and construction bystanders working with finished asbestos-containing products.

7. GAF objects to these Interrogatories to the extent that they seek to require it to provide information or to identify any documents or other tangible things prepared or obtained in anticipation of litigation or for trial where the plaintiffs have not shown that they (1) have substantial need for the materials in the preparation of the case and (2) are unable to obtain the substantial equivalent of the materials by other means without undue hardship.

8. GAF objects to these Interrogatories to the extent that they seek to require it to disclose privileged attorney-client communications or information otherwise protected from discovery on the grounds of privilege.

9. GAF objects to the definitions and instructions preceding the Interrogatories on the grounds that they are beyond the scope of the applicable Rules of Civil Procedure.

10. GAF objects generally and individually to the Interrogatories on the grounds and to the extent that they assume facts not in evidence or otherwise erroneous (i.e., that GAF had "distributors") and on the further grounds that they are vague, overly broad, oppressive, unduly burdensome, excessive in number, not relevant to the subject matter of the litigation, and not calculated to lead to the discovery of admissible evidence and thus declines to pursue a detailed search of its documents in Linden, New Jersey, or elsewhere.

11. GAF hereby adopts the motions and objections of the other defendants, and reserves the right to adopt future motions and objections relating to Plaintiffs' Interrogatories.

12. GAF objects to these Interrogatories to the extent that they seek to require it to gather and summarize information contained in voluminous papers that are already a matter of public record.

13. GAF objects to these Interrogatories to the extent that they seek to require it to provide information which is equally available to the plaintiffs as to GAF.

14. GAF objects to these Interrogatories to the extent that they seek it to respond other than in accordance with the Texas Rules of Civil Procedure and thus GAF declines to identify computer tapes and programs, computer printouts and any electronic, mechanical or electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, recordings and computer memories), or fields, files, menus, databases, or

other computer classifications or material, inasmuch as such documents constitute documents or other things prepared or obtained in anticipation of litigation or for trial, work product, confidential attorney-client communications, and otherwise privileged documents.

Subject to the foregoing objections and limitations which are applicable to each of the numbered paragraphs of the Interrogatories, and subject to any documents being in existence and recoverable through a reasonably diligent search (taking into account normal changes in personnel and document locations over the decades of asbestos litigation), and without representing that any particular document or documents are or are not thus existing and recoverable, GAF further responds to the individual Interrogatories without waiver and with preservation of:

The right to object to the use of any responses, or the subject matter thereof, on any ground in any proceedings in any action (including any trials);

The right to object on any ground at any time to a demand or request for a further response to this discovery request or to any other interrogatories, document requests, or other discovery proceedings involving or relating to the subject matter of the discovery requests herein responded to; and,

The right at any time to revise, correct, add to, supplement or clarify any of the responses to the individual Interrogatories as follows:

INTERROGATORIES

1. Please state the name, address and job title of each person who supplied information used in answering these interrogatories.

RESPONSE

Subject to the objections set forth in the preliminary paragraphs of this response, this defendant states that various GAF officers and outside counsel have participated in the preparation of answers to interrogatories and provided information utilized in the preparation of certain of the answers to these interrogatories.

In the course of answering interrogatories over several years, various persons have provided information and referred to documents which persons and documents this defendant is presently unable to identify individually or in relation to specific items of information.

The following former and current GAF employees or representatives are known to have supplied information in response to the preparation of interrogatories:

William Schwingen - Vice President, Technical Services, GAF Building Materials Corporation - employed at 1361 Alps Road, Wayne, New Jersey 07470.

Phillip Bettoli - (retired) - former Technical Director, Research Department, GAF Corporation - formerly employed at South Bound Brook, New Jersey 08880.

Wayne Page - former Vice President of Manufacturing of Consumer Products Group, GAF Corporate Headquarters - formerly employed at New York, New York.

Michael DiStetano - plant manager, Dallas facility.

In addition, counsel for GAF Corporation, various local counsel for GAF, and their paralegal professionals have assisted in the preparation of these responses.

2. Did Defendant GAF Corporation or any of Defendant's predecessors and/or subsidiary companies (including but not limited to Ruberoid Company) at any time engage in the mining, manufacturing, marketing, distribution and/or sale of products containing asbestos fibers at its facility located in Dallas, Texas? If yes, please state as to each product the following:

- a) The name of the company manufacturing, mining, marketing, distributing or selling such products;
- b) The trade or brand name of each such product mined, manufactured, marketed, distributed and/or sold;
- c) The dates each such product was placed on and removed from the marker;
- d) A description of the physical and chemical composition of each such product or material including the type of asbestos contained in each product (e.g. amosite, chrysotile or crocidolite) and the quantitative percentage of asbestos in each product.

RESPONSE

Subject to the preliminary objections, and particularly No. 5, this defendant responds that asbestos-cement type shingles and siding were manufactured at its Dallas plant. These products

contained only fully bound encapsulated chrysotile asbestos, completely bound by Portland cement.

3. Identify the company and/or entity from whom Defendant purchased asbestos, asbestos fiber, and/or asbestos-containing material for use in its products manufactured at its plant in Dallas, Texas in each of the years 1957, 1958 and 1959.

RESPONSE

Subject to the preliminary objections, and particularly No. 5, the defendant responds, unknown.

4. State the name and last known address of the person or persons most knowledgeable about the purchase of asbestos, asbestos fiber, or asbestos-containing material for use in the manufacture of Defendant's products at its plant located in Dallas, Texas in each of the years 1957, 1958 and 1959.

RESPONSE

Subject to the preliminary objections, and particularly No. 5, the defendant responds, not applicable; see response to Interrogatory No. 3.

5. State the location of all written material of any kind, including but not limited to invoices, bills of lading, acknowledgements, purchase orders and/or work orders for asbestos, asbestos fiber, and/or asbestos-containing material used in the manufacture of asbestos-containing products manufactured at Defendant's facility located in Dallas, Texas in each of the years 1957, 1958 and 1959.

RESPONSE

Subject to the preliminary objections, and particularly No. 5, the defendant responds, none.

6. State whether or not asbestos-containing insulation products were used and/or installed in Defendant's plant located in Dallas, Texas, in each of the years 1957, 1958 and 1959 upon any surface of any kind whatsoever, including but not limited to pipes, boilers, turbines and other machinery involved in operations. If your answer to this Interrogatory is "yes", please state as to each of the referenced years:

- a) The name and last known address of each person or entity that performed or contracted to be performed such maintenance and insulating.
- b) State the name of each company and/or entity from whom Defendant purchased said asbestos-containing insulation products;
- c) Identify the trade or brand name of each such product;
- d) State the intended use of each such asbestos-containing insulation product;
- e) State the location of all written materials of any kind, including but not limited to invoices, bills of lading, acknowledgements, purchase orders, and/or work orders for such asbestos and/or asbestos-containing insulation products.

RESPONSE:

This defendant objects to this interrogatory on the grounds set forth in the preliminary paragraphs of this response and on the further grounds that conditions in GAF's facilities, including provision for safety and health in same, are not at issue in this litigation and, therefore, this interrogatory is irrelevant to the

subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, and without waiver thereof, this defendant responds unknown.

7. At any time during the mining, manufacturing, marketing, distribution, sale and/or use of asbestos fiber, asbestos-containing products, asbestos materials and/or substances at its facility located in Dallas, Texas did Defendant make or cause to be made any studies to determine whether a risk or hazard existed to individuals involved directly or indirectly in said processes or to those working within the facility during said time period?

RESPONSE:

This defendant objects to this interrogatory on the grounds set forth in the preliminary paragraphs of this response and on the further grounds that conditions in GAF's facilities, including provision for safety and health in same, are not at issue in this litigation and, therefore, this interrogatory is irrelevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, and without waiver thereof, this defendant responds as to the years at issue, unknown.

8. Did Defendant, Defendant's predecessors or any of Defendants' subsidiary companies at any time publish and/or distribute any brochures, pamphlets, packaging or any written materials of any kind or character that contained warnings, cautions, caveats or directions concerning the possibility of

injury resulting from working at Defendant's plant located in Dallas, Texas as a result of exposure to asbestos? If so, please state the following:

- a) The wording of such warnings;
- b) The dates such warnings were issued;
- c) The manner in which such warnings were disseminated to Defendant's employees at its plant located in Dallas, Texas?

RESPONSE:

This defendant objects to this interrogatory on the grounds set forth in the preliminary paragraphs of this response and on the further grounds that conditions in GAF's facilities, including provision for safety and health in same, are not at issue in this litigation and, therefore, this interrogatory is irrelevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, and without waiver thereof, this defendant responds, as to the years at issue, unknown.

9. Please state if any medical officer or industrial hygienist or medical consultant or representative of the U.S. Government ever made at any time any recommendations and/or suggestions to the Defendant, Defendant's predecessors or Defendant's subsidiary companies pertaining to risks or hazards to persons involved directly or indirectly in the mining, manufacturing, marketing, distribution and/or sale of asbestos

fiber and asbestos-containing products at Defendant's plant located in Dallas, Texas. If so, please state:

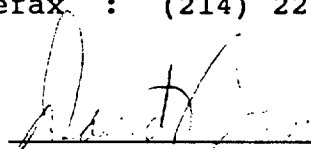
- a) When such recommendations and/or suggestions were made;
- b) by whom and to whom such recommendation and/or suggestion were made;
- c) the substance of each such recommendation and/or suggestion; and
- d) whether Defendant complied with such recommendations and/or suggestions.

RESPONSE

This defendant objects to this interrogatory on the grounds set forth in the preliminary paragraphs of this response and on the further grounds that conditions in GAF's facilities, including provision for safety and health in same, are not at issue in this litigation and, therefore, this interrogatory is irrelevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, and without waiver thereof, this defendant responds as to the years at issue, unknown.

Respectfully submitted,

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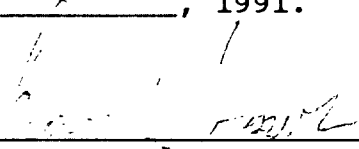
By: 

DAVID W. CROWE
State Bar No. 05164250

COUNSEL FOR DEFENDANT
GAF CORPORATION

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, Ms. Mary E. Skelnik, Baron & Budd, 8333 Douglas Avenue, 10th Floor, Dallas, Texas 75225, by hand delivery, on this the ____ day of _____, 1991.



DAVID W. CROWE