

FILED

KATHERINE TYRA  
District Clerk

JUL 02 1992

CONSOLIDATED NO. 87-37068

RICHARD B. JACKSON, ET UX  
(HARRY MERCANTEL)

IN THE DISTRICT COURT

VS.

HARRIS COUNTY, TEXAS

OWENS-CORNING FIBERGLAS  
CORPORATION, ET AL

165TH JUDICIAL DISTRICT

By M. V. [Signature]  
Deputy

MASTER'S REPORT

TO THE HONORABLE JUDGE KEN HARRISON:

Pursuant to Order of this Court, Special Master in Chancery, Joseph F. Archer submits this report concerning said Order and makes the following findings of fact and recommendations for appropriate sanctions in the above consolidated cause of action.

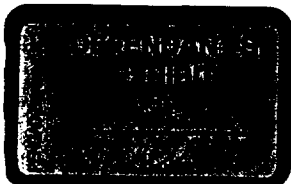
FINDINGS OF FACT:

1. Owens-Illinois, Inc. is a corporation that manufactured and sold an asbestos containing product called Kaylo between the years 1943 and 1958.

2. Owens-Corning Fiberglas was the exclusive distributor of the Kaylo product between the years 1953 and 1958, at which time Owens-Illinois, Inc. sold the Kaylo product line to Owens-Corning Fiberglas.

3. Owens-Illinois, Inc. and Corning Glass Works formed Owens-Corning Fiberglas in 1938 with each owning a major interest in Owens-Corning Fiberglas.

4. On or about the time Owens-Illinois, Inc. began manufacturing and selling the Kaylo product, it retained Saranac Laboratory to test the product to determine if the



product would expose either factory employees or users to a risk of harm.

5. Saranac Laboratory, initially, and over a period of years, warned Owens-Illinois, Inc. that the product was dangerous.

6. The Kaylo product exposed users and consumers to serious risks of bodily injury and/or death from asbestosis or cancer.

7. Owens-Illinois, Inc. has never warned users and consumers that they would be exposed to serious risk of bodily injury and/or death if they were exposed to the Kaylo product.

8. Plaintiff, in preparing his case for trial, propounded certain interrogatories to Owens-Illinois, Inc., to establish these liability facts concerning Owens-Illinois, Inc.'s failures and the consequences thereof.

9. At the time Owens-Illinois, Inc. prepared and filed its answers to Plaintiff's interrogatories, it was in possession of, or had access to, information sufficient to enable it to answer the interrogatories truthfully.

10. Owens-Illinois, Inc. did not truthfully answer interrogatories no. 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13.

11. Owens-Illinois, Inc., and its counsel, sponsored witnesses in this Court in an effort to create a fact issue where none exists. Owens-Illinois, Inc. has played the "corporate shell game" with the plaintiffs, specifically the witness Mr. Bunda.

15. The conduct of Owens-Illinois, Inc. has prejudiced the Plaintiff and has obstructed the orderly administration of justice in this Court.

16. Plaintiffs' counsel has expended much effort and time in bringing these facts to the attention of the Court and should be compensated for their effort.

RECOMMENDED SANCTIONS:

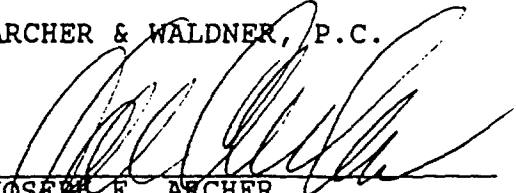
Attorneys fees be paid to the plaintiffs' attorneys, Robert Ballard and Lawrence Madeksho for their efforts, time and expense expended in prosecuting and proving the wrongful misconduct of Owens-Illinois, Inc. That evidence of the time and expense expended by these lawyers be offered to the Master to determine the amount of fees and expenses to be awarded.

That monetary sanctions in the amount of ONE MILLION DOLLARS (\$1,000,000.00) be levied against Owens-Illinois, Inc. to punish it for misconduct in this Court and to deter it from such misconduct in the future. The Court's discretion is invoked in determining to whom the fine is to be paid. Asbestos exposure is a proven cause of cancer. This Master recommends that the fine be ordered to be paid into the registry of the court for distribution to public agencies devoted to the care and treatment of cancer. M.D. Anderson Hospital is one such agency.

That the Jury in the trial of these consolidated causes  
be advised of the misconduct of Owens-Illinois, Inc.

Respectfully submitted,

ARCHER & WALDNER, P.C.



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JOSEPH F. ARCHER

July 2, 1992

**FILED**  
KATHERINE TYRA  
District Clerk  
JUL 02 1992  
Time: 2:27 (713) 523-4455  
Harris County, Texas  
By M. Vela  
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Re: Cause No. 87-37068; Richard B. Jackson, et ux  
(Consolidated) v. Owens-Corning Fiberglas  
Corporation, et al; In the 165th Judicial  
District Court of Harris County, Texas

Dear Sirs:

Enclosed is a copy of the report I am filing as Master  
in this cause, the original of which will be filed with the  
Court this date.

Thank you for your attention to this matter.

Sincerely yours,

  
Joseph F. Archer

JFA/lb  
Enclosure

cc: Honorable Ken Harrison  
Judge, 165th Judicial  
District Court