

NO. 90-G-2055

WELDON R. MOAKE,
ET AL.

VS.

OWENS-CORNING FIBERGLAS,
ET AL.

§ IN THE DISTRICT COURT OF
§
§
§ BRAZORIA COUNTY, TEXAS
§
§
§ 239TH JUDICIAL DISTRICT

**DEFENDANT THE DOW CHEMICAL COMPANY'S
RESPONSES TO PLAINTIFFS' REQUEST FOR DISCLOSURES**

TO: Plaintiffs, by and through their attorneys of record Holly J. W. Huart and Stephanie Finch,
Baron & Budd, P.C., 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219.

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendant, The Dow Chemical
Company (Defendant), files the following responses to plaintiffs' request for disclosures.

Respectfully submitted,

MEHAFFY & WEBER

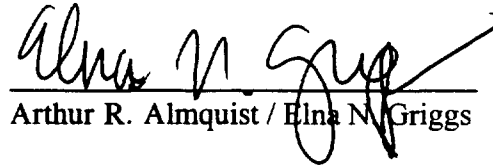
By: 

Arthur R. Almquist
State Bar No. 01108800
Elna N. Griggs
State Bar No. 24013232
500 Dallas, Suite 1200
Houston, Texas 77002
Telephone - (713) 655-1200
Telecopier - (713) 655-0222

**ATTORNEYS FOR DEFENDANT
THE DOW CHEMICAL COMPANY**

CERTIFICATE OF SERVICE

This will certify that a copy of the foregoing document was furnished to all counsel of record on this the 15th day of August, 2000, pursuant to the Texas Rules of Civil Procedure.


Arthur R. Almquist / Elna N. Griggs

DISCLOSURES

A. The correct names of the parties to the lawsuit.

ANSWER:

Defendant states that its correct name is The Dow Chemical Company. Defendant lacks sufficient information to determine the correct names of the other parties to the lawsuit.

B. The name, address, and telephone number of any potential parties.

ANSWER:

Defendant does not have sufficient information about plaintiffs' claims to identify any potential parties to this case at this time. However, since plaintiffs are claiming asbestos related injury any manufacturer of products to which they were exposed or any premises where they were exposed may be a potential party.

C. The legal theories and, in general, the factual bases of your client's claims or defenses.

ANSWER:

Plaintiffs' claims are vague and ambiguous at this point, and Defendant does not have enough factual information regarding Plaintiffs' claims to allow Defendant an opportunity to determine all the factual bases of its defenses. Defendant states that it generally has neither manufactured nor sold asbestos or asbestos-containing products or machinery requiring or calling for the use of asbestos or asbestos-containing products. Defendant states that it did exercise reasonable care to protect Plaintiffs from the foreseeable dangers associated with exposure to asbestos.

Defendant contends it was not negligent.

Defendant states that it has not knowingly agreed, contrived, combined, confederated or conspired with any other defendants to cause Plaintiffs' injuries.

Defendant states that it has not aided, abetted, encouraged, induced or directed the negligent or intentional acts of any other defendants.

Defendant contends it did not engage in a pattern or practice of intentional wrongful conduct or malice resulting in injury to Plaintiffs.

Defendant contends that it did not engage in oppression, fraud, wilfulness, wantonness or malice with regard to Plaintiffs.

Defendant contends it did not cause plaintiffs' damages, if any.

Defendant does not have sufficient information to determine whether or not plaintiffs have contracted an asbestos-related disease.

Defendant does not have sufficient information to determine whether or not plaintiffs were ever on Defendant's premises and, if so, if plaintiffs were exposed to asbestos or asbestos-containing products while on Defendant's premises.

In the unlikely event Defendant is found liable to plaintiffs, which liability is expressly denied, Defendant contends that it is entitled to a credit or offset for any and all sums plaintiffs have received or will receive from payments or settlements arising from plaintiffs' claims.

Defendant states that in the unlikely event it is held legally responsible to plaintiffs, such responsibility being expressly denied, Defendant invokes the provisions of Chapter 33 of the Texas civil Practice & Remedies Code. The provisions of this Chapter entitles Defendant to a reduction for the negligence, liability, responsibility or other conduct which is attributable to any other party or settling person or third party. Plaintiffs may also be barred from recovery under the provisions of Chapter 33.

D. The amount and any method of calculating economic damages.

ANSWER:

Defendant is not making a claim for economic damages in the present suit.

E. The names, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

ANSWER:

All plaintiffs named in this lawsuit.

All medical providers for the plaintiffs, including nurses, physicians, hospitals and custodians of medical records.

Any person or entity designated by any other party or any person or entity deposed in this lawsuit.

Plaintiffs' claims are vague and ambiguous at this point, and Defendant does not have

enough information to determine all of the persons having knowledge of facts relevant to this case. Defendant reserves the right to supplement this response as discovery proceeds.

F. For any testifying expert;

1. the expert's name, address, and telephone number;
2. the subject matter on which the expert will testify;
3. the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by or otherwise subject to the control of the responding party, documents reflecting such information;
4. if the expert is retained by, employed by, or otherwise subject to your control;
 - a. all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
 - b. the expert's current resume and bibliography.

ANSWER:

Defendant has yet to designate its experts. Defendant will supplement this response as required by the Texas Rules of Civil Procedure.

G. Any discoverable indemnity and insuring agreements.

ANSWER:

Plaintiffs have not provided information on when they were allegedly exposed to asbestos containing products on defendant's premises, which premises were involved or who the employer was at the time of the alleged exposure. All of this information is necessary before defendant can identify any indemnity or insuring agreements which may apply to plaintiffs' claims.

H. Any discoverable settlement agreements.

ANSWER:

Defendant has no settlement agreements related to this case.

I. Any discoverable witness statements.

ANSWER:

Plaintiffs' claims are vague and ambiguous at this point, and Defendant does not have enough information to determine if it has any witness statements that would be relevant to this case. Defendant will supplement this response as required by the Rules.

J. All medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills.

ANSWER:

Defendant does not possess any such medical records or bills other than those produced by plaintiffs in their discovery responses. If such records are obtained this answer will be supplemented.

K. All medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party.

ANSWER:

Defendant has yet to order any of plaintiffs' medical records or bills. If such records are obtained this answer will be supplemented.