

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

PEGGY E. LAWRENCE, Administratrix of the Estate of EDWARD DELAWARE LAWRENCE, Deceased,	)	
Plaintiff,	)	
v.	)	At Law No. 19513-M
RAYMARK INDUSTRIES, INC., et al.,	)	
Defendants.	)	

SUPPLEMENTAL ANSWERS OF H. K. PORTER COMPANY, INC. AND SOUTHERN TEXTILE CORPORATION TO PLAINTIFF'S INITIAL INTERROGATORIES

The defendants H. K. Porter Company, Inc. (Porter) and Southern Textile Corporation (Southern) pursuant to Court Order and rulings of August 28, 1985, hereby file supplemental responses to Interrogatories of Plaintiff.

These defendants have responded where possible to each interrogatory regarding information known, if any, concerning conduct and action of Southern Asbestos Company from 1930 to 1958. In many cases, there is no individual alive who can provide the information sought in the interrogatories. Porter and Southern continue to note their objection to the Court's ruling; however, they provide information where possible.

These defendants reserve the right to amend and/or supplement these answers, if it is found that inadvertent omissions are made, or in the event more information becomes

available that is required to be provided by the Rules of the Supreme Court of Virginia, or by the Court in accordance with Orders theretofore or hereafter entered in this action. Defendants Porter and Southern state that these responses are made only with regard to the Lawrence matter and would object to any use in any case other than the one currently pending in the Circuit Court for the City of Chesapeake.

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

ANSWER: Porter and Southern adopt the previous Answer Number 1.

2. State whether H. K. Porter or Southern Textile or an predecessor or subsidiary corporation of HKP/ST has at any time, been engaged in the mining, manufacturing, producing, processing, compounding or converting (hereinafter commonly referred to as "manufacturing" or "manufactured"), selling, merchandising, supplying, distribution, and/or otherwise placing in the stream of commerce (hereinafter commonly referred to as "distributing", "distributed" or "distribution") of asbestos, material containing asbestos, asbestos products and compounds (hereinafter commonly referred to as "product(s) containing asbestos").

If so:

A. State the trade name(s) of each product containing asbestos manufactured and/or distributed by HKP/ST.

B. State the dates during which HKP/ST manufactured and/or distributed said products containing asbestos.

C. State in detail all of the uses of ~~each~~ product containing asbestos manufactured and/or distributed by HKP/ST.

ANSWER: Porter and Southern state that our information has been provided with regard to products manufactured and/or distributed by these defendants Porter and Southern. In accordance with the Order of this Court of August 28, 1985, these defendants provide the following information with regard to Southern Asbestos Company:

(A. & B.) There is no individual left at Porter or Southern who gave information regarding what textile products were manufactured or distributed by Southern Asbestos Company. However, based upon information and belief, these defendants state that Southern Asbestos Company manufactured generically asbestos textile products, cloth, yarn, tape and rope. We assume that these products were manufactured on some occasions to meet the requirements of various military specifications in effect at certain times between 1930 and 1958. Some references to pre 1958 military specifications exist in the records of Southern/

Porter held by Porter in Pittsburgh, Pennsylvania. These references are in documents made available through production to plaintiff.

C. Upon information and belief, products manufactured by Southern Asbestos Company probably contained the same percentages of chrysotile asbestos, 65% - 95% as did products produced after 1958. There is no available product literature regarding Southern Asbestos Company products.

3. State in detail the manufacturing, labeling and licensing of product line sales history for each product containing asbestos which HKP/ST manufactured and/or distributed. Include identification of all other manufacturers, repackagers or distributors of each product containing asbestos which you bought from, traded raw materials or finishing products with, and/or sold to for relabeled resale along with the beginning and ending dates of the material manufacturer and trade agreement. This information shall completely detail the history of each and every asbestos containing product in which your company or companies dealt in during its operational history, detailing whether and when products containing asbestos manufactured were finally sold under another companies brand name. (Include the alternative brand names in the requested list).

ANSWER: Refer to Supplemental Interrogatory Answer Number 2 above. Upon information and belief, there may have been same sales to Southern Asbestos Company from or to

other asbestos manufacturers. There may have been one sale to Keasbey Mattison in 1951. Unfortunately there is no individual available to testify whether or not this sale transaction did or did not occur. The depositions of previous Southern/Porter employees do not support such sales except on one or two occasions. Those depositions have been designated by plaintiffs' attorneys in this case.

4. As to each asbestos containing product manufactured and/or distributed by HKP/ST, state whether you have a sample of that product and, if so, state the name and current address of the custodian of the sample.

ANSWER: No supplementation required.

5. As to each asbestos containing product manufactured and/or distributed by HKP/ST, state whether you have a sample of the package in which said product was received by you and, if so, state the name and current address of the custodian of the package.

ANSWER: No supplementation required.

6. Has HKP/ST consulted with any medical experts in order to determine the existence of any potential hazard of exposure to asbestos?

If so, state:

A. The date of the consultations(s).

B. The names and current addresses of said medical experts.

C. What did you learn from said consultation.

D. What did you do as a result of said consultation.

E. The name and current address of the custodian of the information received.

ANSWER: Yes. As counsel for plaintiff knows, the U.S. Public Health Bulletin No. 241, August 1938, entitled "A Study of Asbestosis in the Asbestos Textile Industry" by Dreessen, Dallavalle, Edwards, Miller and Sayers with the assistance of H. F. Easom, M.D. and M. F. Trice, discussed the presence of asbestos-related diseases in the asbestos textile worker population including the Charlotte facility of Southern Asbestos Company. Although there is no one to testify whether or not there were consultations per se, from 1935 to 1958, it would appear that employees of Southern Asbestos Company were at least aware of the study being conducted by Dr. Dreesen and others, since the law of North Carolina required annual physicals for asbestos health reasons as a prerequisite to continued employment. Dr. Hillis Seay, a North Carolina physician, has testified by deposition that Southern Asbestos Company sponsored physical examinations and x-ray programs of their employees from the 1935 time frame forward. Apparently from time to time x-rays were also reviewed by the State or North Carolina, division of Industrial Hygiene, Dr. Easom's employer. Dr. Easom, also a North Carolina doctor, has testified in depositions that from 1939 until 1982 he interpreted chest

x-rays taken of people working the "dusty trades", which included those of Southern Asbestos personnel. Dr. Easom did not conduct any consultation work on behalf of Southern Asbestos Company, H. K. Porter or Southern Textile, nor was he an employee or independent contractor for Southern Asbestos Company.

Upon information and belief various employees of Southern Asbestos Company, H. K. Porter and Southern Textile have attended meetings of the Asbestos Textile Institute from the 1940's forward. There is no information available relating to these defendants regarding any consultations between Southern personnel and any physicians affiliated with the Asbestos Textile Institute.

Dr. Hillis Seay has testified by deposition that he attended in 1964 the lectures of Dr. Irving Selikoff and the New York Academy of Science presentation on asbestos at the request of Southern Asbestos. A letter from him to Southern regarding that conference has already been produced.

The last known address of Dr. H. F. Easom is P. O. Box 1521, Wilson, North Carolina and of Dr. Hillis Seay is Huntersville, North Carolina. Plaintiffs alleges Porter or its predecessors consulted with Dr. O. A. Sanders with regard to health hazards, based on plaintiffs exhibit of the Minutes of the Air Hygiene Committee of the Asbestos Textile Institute, dated October 6, 1954 listing Dr. O. A. Sanders as supposedly present representing Southern Asbestos

Company. These defendants do not admit the authenticity of that document or the veracity of its contents. Based on information provided by Jerry Mitchell (Jerry Mitchell was associated with Southern Asbestos in the 1950's and later in the 1970's) before his death, Dr. Sander was not a Southern consultant. Unfortunately, Jerry Mitchell is now dead and can no longer so testify. Other efforts to verify or deny the Sander connection have proven futile. Further, upon information and belief, no one is available to state whether Dr. Sanders did, in fact, consult with Southern Asbestos Company.

D. Although there is no specific information available as to what was done as a result of consultation, upon information and belief, Southern Asbestos Company, Porter and Southern attempted to comply with the guidelines set forth in the Dreessen report of 1938 and later with the requirements set forth by OSHA. It is virtually impossible to give specifics as to what steps were taken. Suffice it to say that dust counts, examination of workers and installation of the ventilation equipment including fans occurred from time to time. This was the result of communications with the North Carolina Board of Health and has been testified to by Dr. Easom and Jerry Mitchell.

E. Upon information and belief, there are no written consultation reports known at this time. Refer to attached document regarding the 1938 Dreessen study. Further,

defendants refer plaintiff's to deposition of Dr. Hillis Seay dated November 29, 1982, and Dr. Hammon Easom dated December 29, 1982. Counsel for plaintiff in this matter was present at both of these depositions. A copy of the deposition will be made available upon request.

7. When did HKP/ST first receive any information that exposure to asbestos might cause any illness or disease.

ANSWER: Pursuant to the Court's instruction that this answer be amended to include Southern Asbestos Company and assuming a definition of "user" to include any human being exposed to asbestos, these defendants state upon information and belief that Southern Asbestos Company should have been aware of the 1935 North Carolina Workmen's Compensation law defining asbestos as a "dusty trade", in which the law provided for compensation for asbestosis and medical screening to assure continued eligibility for each worker to work, and should have been aware of the information contained in the 1938 U.S. Public Health Service Bulletin 24[illegible] authored by Dr. Dreessen and others at some time in 19[illegible] since part of the study involved the Charlotte Southern As[illegible]os facility. Dr. Dreessen reviewed the studies of Drs. Shull and McPheeters which included evaluation of some employees at the Charlotte facility of Southern Asbestos Company. There is no one available to testify whether Drs. Shull or McPheeters were "consultants" for Southern Asbestos Company; however, they probably were

not in view of the company's history of not having a medical consultant. Unfortunately there is no individual available to testify as to a particular time when these defendants, including the predecessor Southern Asbestos Company received any information that exposure to asbestos may cause any illness or disease.

H. K. Porter and Southern Textile respond to this interrogatory even though the language contained therein asks for receipt of any information that exposure might cause illness or disease. Further, information contained in the 1938 Dreessen study was widely disseminated and readily available to employers including Virginia Power. Dr. Hillis Seay stated in deposition dated November 29, 1982 on page 6 that he knew in the late '30's that a plant worker could get asbestosis from working in an asbestos plant. In responding to this question, Porter and Southern do not concede that exposures to workers in an asbestos textile manufacturing plant are substantially similar to exposures sustained by end users of a product in a setting such as a VEPCO power station facility. With this limitation stated, H. K. Porter and Southern Textile readopt the answer previously provided in Interrogatory Number 7.

8. As to each asbestos associated disease (asbestosis, lung cancer, mesothelioma, etc.) of which HKP/ST is presently aware, state the date that you first received any information that said disease process might be caused by exposure to asbestos.

ANSWER: Porter and Southern, pursuant to Order of this Court of August 28, 1985, respond to this question with regard to Southern Asbestos Company and with the definition ordered by the Court as suggested by the plaintiff that this question be construed to include all human beings as "users". Porter and Southern continue to object to characterizations that all "users" including textile workers and employees like Mr. Lawrence would have substantially similar exposures.

Southern Asbestos Company, as a predecessor to the named defendants, became aware that asbestos could be related to asbestosis in textile factory workers sometime during the 1935-1938 time frame in connection with the Dreessen study. Refer to the Answer previously filed in response to Interrogatory Number 8.

With regard to the issue of when H. K. Porter and Southern Textile or Southern Asbestos first received any information regarding each disease process and whether it might be caused by exposure to asbestos, we presently do not know when information would have been received. However, Dr. Hillis Seay indicated that he attended the World Conference on Asbestosis presented by the New York Academy of Sciences in 1964 at the request of Porter and Southern. It was his testimony and deposition of November 29, 1982 that this was the first time he heard information regarding risks to end users.

As regards cancer/mesothelioma, Dr. Seay on page 52 of his deposition of November 29, 1982 recalls he saw one case of mesothelioma from an asbestos plant in Charlotte in the 1968-1970 time frame. Other than this testimony, and his report of the 1964 New York Academy conference, Porter and Southern have no information at present with regard to the first receipt of information that said disease processes might be caused by exposure to asbestos. It is believed this knowledge would follow closely the time the world was given evidence of these associations and would place that time in the mid to late 1960's.

As regards the knowledge of these defendants with regard to the disease processes to the "end user," including employees like Mr. Lawrence, Porter and Southern adopt the answer previously provided in Answer Number 8.

9. State the name(s), current address(es), employment address(es), and present whereabouts of all persons now emplcyed or formerly employed by HKP/ST, who:

A. Have information, knowledge or experience regarding the existence of or the possibility of danger to health by reason of use, handling or exposure to asbestos.

B. Are familiar with the dangers to health by reason of use, handling or exposure to asbestos.

C. Have expressed an opinion or belief that use, handling or exposure to asbestos can be dangerous to your health.

D. Have expressed an opinion or belief that warnings or notifications should be given to users of asbestos regarding the existence of or possibility of danger to health by reason of exposure or use.

ANSWER: Upon information and belief, Porter and Southern state that the individuals previously identified in Interrogatory Answer Number 9 are the only individuals known to date who may have expressed opinions or beliefs that the use of asbestos or asbestos-containing products could be dangerous to an individual's health. The specific names have been provided and their addresses appear in the depositions.

10. List all published literature or medical articles of which HKP/ST is aware which deal with illness, sickness or disease due to exposure to asbestos. Specify the date, month and year of each such article and how long after publication you became aware of the existence of the article.

ANSWER: H. K. Porter, Southern Textile and/or Southern Asbestos do not have any file or index of published literature or medical articles as requested by plaintiffs which deal with illness, sickness and disease due to exposure to asbestos. They have previously acknowledged the 1938 Dreessen report and the Shull study and McPhetters therein, the 1964 New York Academy presentation as reported through Dr. Seay, and the Jerry Mitchell article entitled

"Health Progress in an Asbestos Textile Works" by Jerry Mitchell, Charlotte, North Carolina appearing in the Archives of Environmental Health, Volume 3, July - December 1964.

There is no individual known to Porter or Southern to date who may testify regarding an awareness of any other articles present or not present in any H. K. Porter or Southern Textile file, and to their knowledge no such articles exist.

Insofar as this interrogatory requests names of published literature of which these defendants are aware after the litigation with regard to asbestos began in the late 1970's, this information is privileged as having been developed by their counsel separately and independently of them and as such are not subject to discovery. There is no evidence to date that any article collected in anticipation of litigation by certain attorneys are at all relevant to the level of knowledge of H. K. Porter or Southern Textile.

11. Does HKP/ST or has HKP/ST maintained a library wherein you subscribe or did subscribe to various periodicals, articles, magazines, texts, technical magazines, trade journals and/or medical journals or medical publications and the like, which in any way dealt with or had any dealing with any information concerning the illnesses and/or diseases of any kind arising from the usage, handling or exposure to asbestos?

If so, state:

A. All such journals, periodicals, etc., setting forth the frequency of publication (i.e., annual, monthly, etc.).

B. The date you first subscribed to each such journal, periodical, etc.

C. Whether your subscription has continued from inception to the present on a continuous basis.

ANSWER: No. These defendants have not maintained a medical library either as Southern Asbestos Company, H. K. Porter or Southern Textile. They have from time to time subscribed to various trade publications which may have carried articles regarding the asbestos health problem. However, defendants have kept no index of articles appearing in such publications, nor the publications themselves and they do not know the dates of any such publications.

As answered in response to another interrogatory, Southern Asbestos Company, Porter and Southern Textile have from time to time had employees who were individual members of the American Textile Institute. Plaintiff is well aware that minutes of the American Textile Institute dating from as early as 1947 have been previously submitted as plaintiff's exhibits in pending asbestos litigation. Porter and Southern do not state which, if any, minutes from the Asbestos Textile Institute are in their files. However, by agreement, between attorneys for H. K. Porter, Southern

Textile and plaintiff's counsel in this matter, the files of Porter and Southern are now being made available for review.

12. State whether or not any research or tests were ever conducted by HKP/ST, or at your request, to determine any health hazards associated with the exposure to the products containing asbestos distributed by you.

If your answer is in the affirmative, state the date of the research; the name and current address of anyone connected with conducting said research, and the results of said research.

ANSWER: The question as framed relates to products and health hazards. Until 1972 and the Federal law requirements under OSHA, testing related to products use was not required and were not done. From time to time from 1935 forward dust counts were taken at the Southern Asbestos facilities to ensure that the presence of asbestos particles in the air were within the threshhold limits in effect at a particular time. These studies were with regard to asbestos textile workers working in Southern Asbestos Company, Porter or Southern Textile facilities.

By deposition, Mr. Childers, has indicated that most testing conducted by his department was fully concerned with adherence to specifications with regard to asbestos content, purity and tensile strength.

Upon information and belief and according to testimony previously provided by Frank Williams, testing did occur in

January through May, 1970 sometimes at the Norfolk Naval Shipyard facility with regard to comparisons between "treated" Porter/Southern material and untreated material. Documents regarding this testing are attached to this Supplemental Response to Interrogatory Number 12.

Porter and Southern Textile utilized both a vibration and a membrane filter test to assure compliance with the OSHA standards so as to be able to distribute products without the need of health hazard labelling as initiated in 1972. Products made when using the "Cleangard" process met OSHA standards for distribution without the need for such labelling. The most recent testing to assure OSHA compliance was in 1977. Before initiation of OSHA standards in 1972, there was no standard published by any state or federal agency regarding testing with respect to asbestos exposure and no such tests were conducted.

13. Has any employee or agent of HKP/ST ever testified before any governmental agency or body regarding the hazards of exposure to asbestos?

If so, state:

A. The name(s) and current address(es) of the person(s) giving such testimony.

B. The governmental agency or body before whom such testimony was given and the date(s) of such testimony.

C. Whether the person(s) testifying prepared a written statement of your position, and if so, state:

(1) Who prepared such statement.

(2) When such statement was prepared.

(3) The present location of such prepared statement, including the name and current address of the custodian of such statement.

D. Whether a transcript was made of the testimony given.

E. Attach copies of all such transcripts, or, in the alternative, identify such transcripts with such particularly so as to enable same to be subject to a Motion for Production of Documents, pursuant to Rule 4:9 of the Rules of The Supreme Court of Virginia.

ANSWER: Upon information and belief, Porter and Southern have no knowledge and do not believe there was any testimony before any governmental agency by any employee of Southern Asbestos Company from 1930 to 1958. Unfortunately, there is no individual available to supply additional information in this regard.

14. As to each product containing asbestos manufactured and/or distributed by HKP/ST, state whether any of said products were shipped or received by you with any cautionary language on the product itself.

ANSWER: Upon information and belief, no product containing asbestos manufactured or distributed by Southern Asbestos Company from 1930 to 1958 had cautionary language on the product itself since no federal or state law

required the same. Even with the introduction of the Federal law OSHA standard of 1972 no cautionary language was specifically required to be on the product itself. Porter and Southern Textile placed no cautionary language on the product itself from 1958 to 1983.

15. As to each product containing asbestos manufactured and/or distributed by HKP/ST, state whether you ever placed any cautionary language on the product itself.

ANSWER: No. Refer to Supplemental Answer No. 14.

16. As to each product containing asbestos manufactured and/or distributed by HKP/ST, state whether any cautionary language ever appeared on the package.

If the answer to the foregoing interrogatory is in the affirmative:

A. State in detail the specific language that appeared, its size and locations on the package.

B. State the specific dates during which said cautionary language appeared.

ANSWER: Pursuant to Court Order, Porter and Southern state upon information and belief and according to the knowledge available to date, no cautionary language appeared on any packaging of Southern Asbestos Company products from 1930 to 1958, since the same was not required by state or federal law. From 1972 to 1983, where federal law required labelling under OSHA, cautionary language was used. The specific cautionary language has already been given plaintiff.

17. With regard to any product containing asbestos manufactured and/or distributed by HKP/ST, without cautionary language on the package or on the product itself, has HKP/ST ever recalled the product for the purpose of affixing cautionary language describing the hazards of exposure to asbestos and/or how the product could be safely used.

ANSWER: No. Recalls have not occurred, since they have not be required by law or Court action.

18. State in detail the use, instructions, warnings and cautionary notes supplied to the end user by HKP/ST with each product containing asbestos manufactured and/or distributed by HKP/ST.

ANSWER: There was no cautionary or instructions or warnings supplied to any end user prior to 1972, since none were required by state or Federal law. After 1972 products which were required by OSHA standards to have labeling had such. Upon information and belief, these defendants are not in a position to state whether or not an end user saw any warnings on packaging of products supplied by H. K. Porter or Southern Textile. After the products left the control of these defendants, it is impossible to state what the condition of the product was at the time it reached the "end user." Porter and Southern readopt the Answer provided previously at the conclusion of Interrogatory Number 18.

19. Has HKP/ST ever performed contract work on the premises of any Vepco facility which involved the installation or removal of any product containing asbestos?

If so, state:

A. The name and location of the facility.

B. The date(s) during which the work was performed.

C. The nature of the work performed.

D. The names and current address of the persons employed by HKP/ST performing the work.

E. The names and current addresses of the persons employed by HKP/ST supervising the performance of the work.

F. What products containing asbestos were used during the course of the work.

G. The manufacturer and/or distributor of said products containing asbestos.

H. The manner in which said products containing asbestos were applied, including the tools used.

ANSWER: No.

20. Has HKP/ST manufactured for and/or distributed to any Vepco facility any products containing asbestos.

If your answer is in the affirmative, state:

A. The name and location of said Vepco facility.

B. Whether said product(s) was manufactured and/or distributed by HKP/ST directly or through an agent or subsidiary.

C. The date(s) said product containing asbestos was manufactured and/or distributed.

D. The trade name of said product(s) manufactured and/or distributed.

E. The quantity of said product(s) distributed.

F. The manufacturer(s) of said products containing asbestos.

G. The name(s) and current address(es) of any individual(s) employed by you who have knowledge of such distribution.

H. The name(s) and current address(es) of any individual(s) employed by Vepco who have knowledge of such distribution.

ANSWER: In accordance with the Court's ruling of August 28, 1985, page 67 of the transcript, Porter and Southern need not respond to this question as currently worded. Plaintiff's counsel has indicated that it would amend the Interrogatory. To date, no amendment has been received.

21. State the name(s), current address(es), employment address(es) and present whereabouts of all persons now employed or formerly employed by HKP/ST who:

A. Received orders for products containing asbestos from Vepco.

B. Filled orders for products containing asbestos for Vepco.

C. Made deliveries of products containing asbestos to Vepco.

ANSWER: Pursuant to counsel's statements appearing on page 28 of the transcript of August 28, 1985, this Interrogatory is to be amended by plaintiff.

22. Describe the method by which HKP/ST advised the purchasers and/or users of your products containing asbestos as to how the products should be used, including the name(s) and address(es) of all person(s) giving such advice, the type of written material used, the name(s) and address(es) of all person(s) or entities preparing such material, the media used to disseminate said material, and the name(s) and address(es) of the current custodian of said material.

ANSWER: Upon information and belief and according to information available at this time, Southern Asbestos Company, H. K. Porter and Southern Textile cannot state whether or not a particular purchaser or user of the product was advised as to the use of asbestos. It does appear historically that these defendants, or any manufacturing defendant, told end users how to use a product, since the users and customary purchasers of their products were persons skilled in the insulation and application trades related to the products involved. The craft or trade generally established the work procedures and through time refined them to accomplish their needs. The manufacturers simply made products to meet the requirements of varying

trades and crafts. There is no information developed to date regarding any brochures or literature which might have been disseminated to purchasers and/or users by Southern Asbestos Company. It is supposed that after ten years of litigation with the asbestos industry, such could have turned up, if in fact they ever existed.

H. K. Porter and Southern Textile cannot know or respond to any inquiry regarding whether Virginia Power as the purchaser and user of the product received any brochures or information and disseminated them to its employees.

23. As to the previous interrogatory, explain fully how HKP/ST received such information, identifying the specific information received, by whom received, the source(s) of said information, and he names(s) and address(es) of the current custodian of all documents concerning this information.

ANSWER: Refer to Supplemental Interrogatory Answer No. 22.

24. As to the products containing asbestos manufacture and/or distributed by HKP/ST, have you ever advised the employees of Vepco how to safely use these products?

If the answer to the foregoing interrogatory is in the affirmative, then state the following:

A. The name(s) and address(es) of all persons at HKP/ST who have knowledge of said advice.

B. The name(s) and address(es) of all persons at Vepco who have knowledge of said advice.

C. The date(s) said advice was first given.

ANSWER: No. See Answer 22.

25. Has HKP/ST ever asked Vepco what information, if any, Vepco had concerning any potential health hazards of exposure to asbestos?

It so, state:

A. When did you ask.

B. What did you ask.

C. The name and current address by whom it was asked.

D. The name and current address of whom it was asked.

E. What response was received.

F. The name and current address of the custodian of any response received.

ANSWER: No.

26. Has HKP/ST, at any time, advised Vepco, orally or in writing, of any potential hazards of exposure to asbestos?

If so, state:

A. When such advice was given.

B. What advice was given.

C. The manner in which said advice was given.

D. To whom said advice was given.

E. By whom said advice was given.

F. If such advice was written, state the name and current address of the custodian of said written advice.

ANSWER: No, since no Federal or state statute has ever required the same.

27. Has Vepco ever advised HKP/ST of any potential hazards of exposure to asbestos?

If so, state:

A. When such advice was given.

B. What advice was given.

C. The manner in which said advice was given.

D. To whom said advice was given.

E. By whom said advice was given.

ANSWER: No.

28. State whether HKP/ST has ever made any changes in the work practices and/or equipment used by your employees to limit their exposure to asbestos. If so, state:

A. The specific nature of each such change.

B. When said change(s) were put into effect.

C. How these changes were communicated to your employees.

ANSWER: Upon information and belief available at this time, Southern Asbestos Company and Thermoid Company from 1930 to 1958 did make changes in the workplace with regard to work practices and/or equipment to monitor employees as potential exposure to asbestos.

(A.) It is impossible at this point to specifically describe each change. Suffice it to say that as a result of studies including the studies conducted by Dreessen in 1935, resulting in the U.S. Public Health service publication in 1938 and the North Carolina State dustry trade laws, Southern Asbestos Company undertook to assure compliance with guidelines and suggestions set forth therein. The testimony of Dr. Hillis Seay indicates that from some time in the 1930's forward, dust counts were taken periodically and employees were subject to x-ray examination to comply with requirements set forth in the North Carolina Workmans Compensation Act of 1935. There is no individual available to indicate whether or not employees received communications as to changes in the workplace. From a practical standpoint, employees working at facilities in which work practices were changed, had to be in a position to recognize changes in their environment without the need for a particular communication. The 1961 article by Jerry Mitchell, entitled "Health Progress In an Asbestos Textile Works", outlines other changes made. (See answer 10)

As regards Porter and Southern from 1958 to 1980, depositions of Mr. Jerry Mitchell and Drs. Hillis Seay and Herman Easom seem to indicate that changes in work practices including employee monitoring, x-ray programs, dust counts and ventilation would change from time to time to reflect standards imposed by the State of North Carolina Board of

Health and since 1972 by the OSHA requirements as codified and amended. The deposition of Ernie Bratt is also referenced for these changes in the 1960's and 1970's. Ernie Bratt was "works manager" for Porter and Southern Textile and was charged with compliance with Carolina and Federal laws in this regard.

It is virtually impossible to state at this time any work practice which may have been implemented or changed. In addition, these defendants are unable to state at this point in time whether any individuals at Southern Asbestos, Porter or Southern Textile communicated to any particular employee a particular change at a particular time.

29. Has HKP/ST ever given any information to your employees concerning any potential hazards of exposure to asbestos?

If so, state:

A. The specific information given.

B. The date(s) on which said information was given

C. The manner in which said information was given.

D. By whom was said information given (give names and current addresses).

E. To whom was said information given (give names and current addresses).

F. The name and current address of the custodian of any printed information given. Porter and Southern object to this interrogatory on the grounds previously stated in Number 28.

ANSWER: As regards Southern Asbestos Company, from 1930 to 1958, these defendants in good faith state that they do not know if any information was given to employees concerning any potential hazards from exposure to asbestos.

From 1975 to 1982, Southern Textile Corporation distributed to its plant workers a booklet entitled "Caution - Asbestos Dust Information Booklet". This booklet was prepared in cooperation with NIOSH (National Institute for Occupational Safety.) Refer to Interrogatory Number 29 previously provided.

30. Has HKP/ST ever given medical examinations to your employees who were exposed to asbestos?

If so, state:

A. When said examinations were given.

B. Whether chest x-rays were included in the examination.

C. The names and current addresses of the persons who conducted these examinations.

D. Whether any employees who were found to have any abnormality were so advised.

ANSWER: Yes.

As plaintiff's counsel know from depositions in which they participated of Drs. Seay and Easom, the State of North Carolina required that all employees working in dusty trades (including the manufacturer of asbestos textiles), be medically screened for pre-employment and continuing employment certifications. Based upon information and belief, the standard was established in 1935 as a part of North Carolina's Workman's Compensation Act and in one form or another has been in force since then. Dr. Easom has indicated by deposition that pre-employment physicals and x-rays were taken at facilities including the Charlotte facility of Southern Asbestos Company. Dr. Hellis Seay, in his depositions of November 29, 1982 which plaintiff's counsel attended, stated that he participated in pre-employment physicals for Porter and Southern Asbestos employees from 1949 until 1981.

Upon information and belief, there is no documentation available regarding the specifics required in (D). Further with regard to examinations conducted by Dreessen, et. al., and Shull, refer to Supplemental Answer Number 6.

31. State when HKP/ST received notice of any claim for illness, disease or death to any of your employees or members of their immediate families as a result of their exposure to asbestos.

As to each claim state:

A. The date said notice was received.

B. The name and current address of each claimant.

C. The specific disease or illness complained of.

D. The disposition of said claim, including benefits paid, if any.

E. The name and current address of the custodian of any and all documents concerning any such claim.

ANSWER: As indicated at the hearing of August 28, 1985, these defendants Porter and Southern state that they are unable to provide the information requested in Interrogatory Number 31. There is no index or record of documents available at this time with regard to claims by employees of Southern Asbestos Company, H. K. Porter or Southern Textile or their immediate families. The Court has indicated that if these defendants could state in good faith that it would be as easy for plaintiff's counsel to obtain the information as it would for defendants' counsel, then this would be a sufficient response to the Interrogatory. To date, the only named claim of which these defendants are aware is the Blasinggame decision, which plaintiffs have provided in this action. These defendants do however, acknowledge claims were made from time to time during the 1935-1983 time frame for workman's compensation related to disease or injury from asbestos exposure. Dr. Eason's deposition of December 1982 apparently supports this by his

acknowledgment of changes on x-ray to some of these defendants employees through the years.

32. Has HKP/ST ever been named as a defendant in an action to recover for disease or death as a result of exposure to asbestos?

If so, state as to each claim:

A. The date you were notified of the claim.

B. The name and current address of the claimant.

C. The name and location of the court in which the claim was filed and the number of the action.

D. The specific disease or illness complained of.

E. The name and the address of the attorney of the claimant.

F. The disposition of such action, whether settled, verdict or appeal; if funds paid, the total amount thereof and the amount contributed by each co-defendant.

G. The name and current address of the custodian of the files involving the above actions.

ANSWER: Based upon information and belief and good faith, these defendants state that they are not aware of any unreported cases or lawsuits prior to 1972 which do not appear on a national reporting system in which these defendants have been named as a defendant. There is no index or manner in which this information can be retrieved and there has been no compilation of materials related to information requested.

33. Has HKP/ST, at any time, been a member of any "trade organization" or "association" composed of other miner, manufacturers, producers, compounders, converters, sellers, merchandisers, suppliers, distributors and/or anyone otherwise placing in the stream of commerce products containing asbestos?

If so, state:

A. The name and address of each such association or organization.

B. The dates during which time you were a member.

C. The names of any publications published by or written by such association or organization.

D. The names and dates of membership of all other members of such association or organization.

ANSWER: No. Pursuant to Court Order of August 28, 1985, Subsection (D) of this Response is omitted. With regard to Southern Asbestos Company, documents identified as plaintiff's exhibits with regard to H. K. Porter and Southern Textile indicate that there are Minutes with regard to Committees of the Asbestos Textile Institute beginning in 1947 which reflect that an employee of Southern Asbestos Company was noted as being in attendance. As plaintiff's counsel knows, individuals, not companies, were designated members of the Asbestos Textile Institute.

Upon information and belief, and based on a review of the plaintiff's copies of the Asbestos Textile Institute

Minutes, the records reflect that certain employees were present at meetings from 1947 to 1983. In no way do these defendants intend to authenticate or admit that, in fact, these Minutes were received by Southern Asbestos Company or its employees. Rather, this response is based upon the review of Plaintiff's Exhibits of the Asbestos Textile Institute minutes.

As to H. K. Porter and Southern Textile these defendants adopt the previous Answer Number 33.

34. State in detail and with complete descriptions all components (with amounts of each) for each product containing asbestos manufactured and/or distributed by HKP/ST. Include all product specifications, formulas, and technical descriptions for each product. For any product containing asbestos with particular colors and/or designs, provide accurate representations in color of all products.

ANSWER: As reflected in the Court's Order appearing on page 94-96 of the Transcript, plaintiff's counsel was to limit this interrogatory to five products allegedly manufactured and distributed by Southern Asbestos Company, Porter and/or Southern. To date, no such designation has been received. When the designation is received, brochures with regard to complete descriptions will be provided, if they exist. Again, the composition of these products has been previously provided in Interrogatory Answer Number 2.

35. State the names and addresses of all HKP/ST's carriers for workmen's compensation, occupational disease

compensation, and products liability insurance from 1940 to present, and as to each insurance carrier state the period when such coverage was provided, and the amount of coverage remaining.

ANSWER: Refer to the attached chart which has been previously provided to plaintiff's attorney and is re-provided according to Court Order.

36. Does HKP/ST have policies of insurance that might cover the claim that has been made by Plaintiff's Decedent herein?

If so, list the name and address of each insurance carrier who has said coverage, the amounts of said coverage and the effective dates of each insurance carrier's coverage.

ANSWER: Yes for compensatory damages; no for punitive damages. Refer to chart provided in Supplemental Answer Number 35 above.

37. Does HKP/ST contend that Plaintiff's Decedent or Vepco improperly used products containing asbestos manufactured and/or distributed by you?

If so, please set out in detail in which respect each said product containing asbestos was improperly used.

ANSWER: As this information is still being developed, supplementation will be provided seasonably.

38. What expert witnesses does HKP/ST intend to call to testify at trial. (This is a continuing interrogatory). As to each expert witness state:

A. That name and current address of each such expert witness.

B. The field of expertise of said expert witness.

C. Whether said expert witness has ever testified in any other litigation; and if so, state:

(1) Date, court and style of such litigation.

(2) Whether there is a transcript of said testimony.

D. The testimony expected to be given by each said expert witness.

ANSWER: On September 6, 1985 Manufacturing Defendants in this matter provided to all Counsel of Record, a witness list including those experts to be used at the time of trial.

39. State whether or not HKP/ST intends to rely upon the defense of "sophisticated user" of Plaintiff's Decedent's employer (Vepco) in this case.

If the answer to this interrogatory is in the affirmative:

A. Identify and give the name and current address of all witnesses whose testimony you intend to use at trial to support said defense.

B. Identify all documentary evidence that you intend to use at trial to support said defense.

ANSWER: No supplementation is needed at this time.

40. What information, if any, was ever given by HKP/ST to Raybestos-Manhattan, Inc. (now Raymark Industries, Inc.), Owens-Corning Fiberglas Corporation, Pittsburgh Corning Corporation, GAF Corporation, The Celotex Corporation, Garlock Inc. (Colt Industries), Eagle-Picher Industries, Inc., Keene Corporation, Waco, Inc., and/or C.E. Thurston & Sons, Inc., regarding the potential health hazards of exposure to asbestos?

If so, state:

A. The date(s) such information was given.

B. The name(s) and current address(es) of person(s) to whom such information was given.

ANSWER: Based upon information available at this time and belief, these defendants are unable to state what information, if any, was ever given by Southern Asbestos Company to the named defendants in this Interrogatory. These defendants admit that plaintiffs have previously designated exhibits including letters from employees of Southern Asbestos Company to other companies. Insofar as this may constitute information given, these defendants will identify these documents without authenticating or admitting receipt of such or that these are part of these defendants' corporate files:

1. The various Minutes of the Asbestos Textile Institute may reflect information supposedly communicated between Porter and some of these defendants.

2. Plaintiff had previously designated a letter dated December 18, 1936 from George Fabel to S. Simpson, president of Raybestos-Manhattan. These defendants merely identify this letter and in no way admit to its authenticity.

3. These defendants do not know if any of the other defendants read or received an article entitled "Health Progress in an Asbestos Textile Works" by Jerry Mitchell, Archives of Environmental Health, Volume 3, December 1961.

41. What information, if any, was ever given by Raybestos-Manhattan, Inc. (now Raymark Industries, Inc.), Owens-Corning Fiberglas Corporation, Pittsburgh Corning Corporation, GAF Corporation, The Celotex Corporation, Garlock Inc. (Colt Industries), Eagle-Picher Industries, Inc., Keene Corporation, Waco, Inc., and/or C. E. Thurston & Sons, Inc., to HKP/ST regarding the potential health hazards of exposure to asbestos?

If so, state:

A. The date(s) such information was given.

B. The name(s) and current address(es) of person(s) to whom such information was given.

C. The name(s) and address(es) of person(s) who gave such information.

ANSWER: Based upon information and belief, no information was given by any manufacturers to these defendants. These defendants acknowledge the document which has previously been identified as Plaintiff's Exhibit No. S143, a letter from John A. Brown to an employee of Porter. This letter is not in the corporate files nor can these

defendants authenticate the document of the receipt of such information.

H. K. PORTER COMPANY, INC. and
SOUTHERN TEXTILE CORPORATION

By Counsel.

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Carol L. Wingo
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P. O. Box 1998
Richmond, Virginia 23236

CERTIFICATE

I hereby certify that a true and correct copy of the foregoing Answers to Interrogatories was mailed, postage fully prepaid to all counsel of record this 13 day of September, 1985.

COUNTY OF ALLEGHENY)
)
)
COMMONWEALTH OF PENNSYLVANIA)

This day appeared Michael J. Mocniak, Assistant Counsel of H.K. Porter Company, Inc., being under oath, did state that the foregoing Supplemental Answers to Interrogatories were true and correct to the best of his information and belief.

Michael J. Mocniak

Sworn to and subscribed before me this 12th day of September, 1985.

Notary Public

JANET MARIE McQUILLEN, NOTARY PUBLIC
PITTSBURGH, ALLEGHENY COUNTY
MY COMMISSION EXPIRES JAN. 29, 1987
Member, Pennsylvania Association of Notaries