

NO. 93-03625-I

HELEN GAMBRELL, Individually	§	IN THE DISTRICT COURT
and as the Special Administratrix	§	
of the Estate of ROBERT GAMBRELL,	§	
Deceased,	§	DALLAS COUNTY, TEXAS
	§	
Plaintiff	§	
	§	
vs.	§	
	§	
THE ABER COMPANY, et al.	§	
	§	
Defendants.	§	162ND JUDICIAL DISTRICT

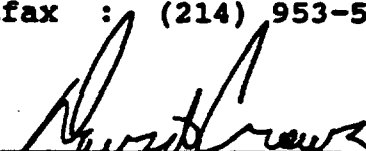
DEFENDANT UNITED STATES GYPSUM COMPANY'S
ANSWERS AND OBJECTIONS TO PLAINTIFFS' INTERROGATORIES

To: Helen Gambrell, Individually and as Special Administratrix of the Estate of Robert Gambrell, Deceased, by and through her attorney of record, Mr. Russell W. Budd, Baron & Budd, P.C., The Centrum, 3102 Oak Lawn Ave., Ste. 1100, Dallas, TX 75219.

COMES NOW, UNITED STATES GYPSUM COMPANY, Defendant in the above-entitled and numbered cause, and files the attached Answers and Objections to Plaintiffs' Interrogatories.

Respectfully submitted,

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By: 
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COUNSEL FOR DEFENDANT
UNITED STATES GYPSUM COMPANY

DEFENDANT'S ANSWERS TO INTERROGATORIES
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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, Mr. Russell W. Budd, Baron & Budd, P.C., The Centrum, 3102 Oak Lawn Ave., Ste. 1100, Dallas, TX 75219, by Certified Mail, return receipt requested, on this 12 day of MAY, 1994.



DAVID W. CROWE

PREFATORY STATEMENT

United States Gypsum Company (hereinafter "U.S. Gypsum") has, to the best of its abilities, gathered non-privileged documents into a document repository for inspection by plaintiffs' counsel in response to requests for production served in asbestos litigation. These documents provide information that supplements and expands upon that provided in these answers to Interrogatories. Accordingly, by way of further response to these Interrogatories, U. S. Gypsum hereby offers to make available these documents at a mutually convenient time at its offices at 125 S. Franklin Street, Chicago, Illinois.

In giving its responses to Interrogatories as to asbestos-containing products, U. S. Gypsum refers to products containing commercial asbestos as part of their formulation and to the type of commercial asbestos used as part of the formulation.

OBJECTIONS

U. S. Gypsum objects to the manner in which plaintiff has defined U. S. Gypsum to the extent that plaintiff purports to include in its definition of U. S. Gypsum its subsidiaries and predecessors in interest, its present and former officers, executives, directors, agents, employees and all other persons acting or purporting to act on behalf of United States Gypsum Company. In that U. S. Gypsum Company is the named defendant, this definition is overly broad and would require U. S. Gypsum to engage in unduly burdensome research, divulge privileged information and

produce privileged documents. This defendant, United States Gypsum Company, responds to these Interrogatories on behalf of itself.

U. S. Gypsum further objects to these Interrogatories to the extent they seek information or documents protected by the attorney-client privilege and the work product rule and to the extent they seek trial preparation or expert materials or documents.

Finally, U. S. Gypsum objects to these Interrogatories to the extent they ask for "identification" of voluminous documents on the ground that they are overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. As set forth infra, U. S. Gypsum will produce documents which are the proper subjects of an appropriate document request.

ANSWERS AND OBJECTIONS TO INTERROGATORIES

INTERROGATORY NO. 1:

For each document listed below, please answer whether such document is a true and correct duplicate of a genuine and authentic document:

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
a) USG140	Minutes 10/10-12/73 K.S. Freeman to J. N. Walker
b) USG142	"Evaluation of Exposure to Asbestos During Mixing and Sanding of Joint Treatment Compounds, Robert D. Soule, 11/19/73
c) USG180	7/31/36 report of Dust Survey at National Asbestos Company plants at Jersey City, N.J.
d) USG203	Telegram 11/10/48 J.W. Butler to Vandiver Brown

- e) USG204 Letter 11/12/48 Brown to Butler
- f) USG206 Letter 3/3/49 Vandiver Brown to American Brakebloc, et al.

ANSWER:

a) USG 140: United States Gypsum Company received a copy of this document during the course to the asbestos litigation. A copy of this document was not contained in the files of United States Gypsum Company. Therefore, this defendant is unable to answer whether such document is a true and correct duplicate of a genuine and authentic document.

b) USG 142: United States Gypsum Company admits that this document is an accurate copy of a document found within the files maintained by United States Gypsum Company. United States Gypsum Company has made reasonable inquiry and the information known or readily obtainable by it is insufficient to enable it to either admit or deny that the document is genuine, authentic, a business record, was made in the course of a regularly conducted business activity or was the regular practice of that business activity to make the document.

c) USG 180: After making reasonable inquiry, U. S. Gypsum has not located a copy of this document in its files, and the information readily known or obtainable by it is insufficient to enable it to admit or deny whether this document is genuine and authentic. Admitted that this document is a true and correct copy of a document located in the files of U. S. Gypsum's outside law firm.

d) USG 203: United States Gypsum Company received a copy of this document during the course to the asbestos litigation. A copy of this document was not contained in the files of United States Gypsum Company. Therefore, this defendant is unable to answer whether such document is a true and correct duplicate of a genuine and authentic document.

e) USG 204: United States Gypsum Company received a copy of this document during the course to the asbestos litigation. A copy of this document was not contained in the files of United States Gypsum Company. Therefore, this defendant is unable to answer whether such document is a true and correct duplicate of a genuine and authentic document.

f) USG 206: This exhibit contains copies of two documents which will be responded to separately.

With respect to the letter dated 3/3/49 from Vandiver Brown to American Brakeblok, et al: United States Gypsum Company received a copy of this document during the course to the asbestos litigation. A copy of this document was not contained in the files of United States Gypsum Company. Therefore, this defendant is unable to answer whether such document is a true and correct duplicate of a genuine and authentic document.

With respect to the report "Asbestos Pneumoconiosis, Experimental Studies by The Saranac Laboratory, Report to the Johns-Manville Corporation, January 31, 1949": After making reasonable inquiry, U. S. Gypsum has not located a copy of this document in its files, and the information readily known or obtainable by it is insufficient to enable it to admit or deny whether this document is genuine and authentic. Admitted that this document is a true and correct copy of a document located in the files of U. S. Gypsum's outside law firm.

INTERROGATORY NO. 2:

For each document listed below, please answer whether such document was kept and/or generated in the regular course of a regularly conducted business activity of any United States Gypsum Company Entity by an employee or representative of any United States Gypsum Company Entity with knowledge of the act, event, condition or opinion recorded.

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
a) USG140	Minutes 10/10-12/73 K.S. Freeman to J. N. Walker
b) USG142	"Evaluation of Exposure to Asbestos During Mixing and Sanding of Joint Treatment Compounds, Robert D. Soule, 11/19/73
c) USG180	7/31/36 report of Dust Survey at National Asbestos Company plants at Jersey City, N.J.
d) USG203	Telegram 11/10/48 J.W. Butler to Vandiver Brown
e) USG204	Letter 11/12/48 Brown to Butler
f) USG206	Letter 3/3/49 Vandiver Brown to American Brakeblok, et al.

ANSWER:

a) USG 140: Not to this defendant's best current knowledge, information and belief.

b) USG 142: United States Gypsum Company denies that this document was prepared by or at the direction of United States Gypsum Company.

c) USG 180: U. S. Gypsum admits that this document was prepared at its request. U. S. Gypsum denies that this document is its business record. After reasonable inquiry, the information known or readily obtainable by U. S. Gypsum is insufficient to enable it to either admit or deny that the document is the business record of another company or organization.

d) USG 203: Not to this defendant's best current knowledge, information and belief.

e) USG 204: Not to this defendant's best current knowledge, information and belief.

f) USG 206: This exhibit contains copies of two documents which will be responded to separately.

With respect to the letter dated 3/3/49 from Vandiver Brown to American Brakeblok, et al: Not to this defendant's best current knowledge, information or belief.

With respect to the report "Asbestos Pneumoconiosis, Experimental Studies by The Saranac Laboratory, Report to the Johns-Manville Corporation, January 31, 1949": U. S. Gypsum denies that this document is a business record of it or that it was prepared by or at its direction. U. S. Gypsum has made reasonable inquiry and the information known or readily obtainable by it is insufficient to enable it to either admit or deny that this document is a business record of another company or organization.

INTERROGATORY NO. 3:

For each document listed below, please answer whether such document was found in your files in such a condition as to create no suspicion concerning its authenticity.

EXHIBIT NO.

DESCRIPTION

a) USG140

Minutes 10/10-12/73 K.S. Freeman to J. N. Walker

b) USG142

"Evaluation of Exposure to Asbestos During Mixing and Sanding

of Joint Treatment Compounds,
Robert D. Soule, 11/19/73

- c) USG180 7/31/36 report of Dust Survey at National Asbestos Company plants at Jersey City, N.J.
- d) USG203 Telegram 11/10/48 J.W. Butler to Vandiver Brown
- e) USG204 Letter 11/12/48 Brown to Butler
- f) USG206 Letter 3/3/49 Vandiver Brown to American Brakebloc, et al.

ANSWER:

a) USG 140: Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, a copy of this document was not found in this defendant's files.

b) USG 142: Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, this defendant admits that this document is a true and correct copy of a document found in U. S. Gypsum's files. This defendant denies that the condition of this document establishes its authenticity in any way.

c) USG 180: Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, after making reasonable inquiry, U. S. Gypsum has not located a copy of this document in its files, and the information readily known or obtainable by it is insufficient to enable it to admit or deny whether this document is genuine and authentic. Admitted that this document is a true and correct copy of a document located in the files of U. S. Gypsum's outside law firm.

d) USG 203: Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, a copy of this document was not found in this defendant's files.

e) USG 204: Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this

objection, a copy of this document was not found in this defendant's files.

f) USG 206: This exhibit contains copies of two documents which will be responded to separately.

With respect to the letter dated 3/3/49 from Vandiver Brown to American Brakeblok, et al: Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, a copy of this document was not found in this defendant's files.

With respect to the report "Asbestos Pneumoconiosis, Experimental Studies by The Saranac Laboratory, Report to the Johns-Manville Corporation, January 31, 1949": Objection. This Interrogatory is vague and ambiguous with respect to "in such a condition as to create no suspicion concerning its authenticity." Without waiving this objection, after making reasonable inquiry, U. S. Gypsum has not located a copy of this document in its files, and the information readily known or obtainable by it is insufficient to enable it to admit or deny whether this document is genuine and authentic. Admitted that this document is a true and correct copy of a document located in the files of U. S. Gypsum's outside law firm.

INTERROGATORY NO. 4:

Has United States Gypsum Company stipulated or agreed to the authenticity of any of the documents referenced in Interrogatory No. 1 with any person prior to the date of these Interrogatories?

ANSWER:

a) USG 140: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U. S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

b) USG 142: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U. S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

c) USG 180: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U. S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

d) USG 203: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U. S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

e) USG 204: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U. S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

f) USG 206: This exhibit contains copies of two documents which will be responded to separately.

With respect to the letter dated 3/3/49 from Vandiver Brown to American Brakeblok, et al: Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U. S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

With respect to the report "Asbestos Pneumoconiosis, Experimental Studies by The Saranac Laboratory, Report to the Johns-Manville Corporation, January 31, 1949": Objection. This Interrogatory is overbroad, irrelevant, immaterial, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiver of its objections, U. S. Gypsum responds that it has not stipulated or agreed in this action to the authenticity of this document.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

VERIFICATION

I, F. M. Poremski, declare:

I am the Director, Financial & Accounting Services, of United States Gypsum Company, one of the above named defendants, and am authorized to make this verification for and on behalf of said company;

I have read the foregoing Answers, Objections, and other Responses to Plaintiffs' Interrogatories and am informed and believe that the same is true and on that ground allege that the matters therein stated are true.

I declare, under penalty of perjury, that the foregoing is true and correct, and that this declaration was executed on May 11, 1994 in Chicago, Illinois.

F. M. Poremski

F. M. Poremski

Subscribed and sworn to before me
this 11th day of May, 1994.

Sally A. Bednarcik
Notary Public

