

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

PLAINTIFF'S EXHIBIT

ZUR-116

WILLIAM PAUL KOETTERS and
LINDA KOETTERS

Plaintiffs,

vs.

A. W. CHESTERTON, INC., ET AL.,

Defendants.

CASE NO. 457561

(JUDGE HARRY A. HANNA)

**ZURN INDUSTRIES, INC.'S OBJECTIONS AND RESPONSES TO PLAINTIFFS'
REQUESTS FOR PRODUCTION OF DOCUMENTS**

ZURN INDUSTRIES, INC. (hereinafter referred to as "Zurn" or "Defendant"), Defendant in this above-entitled cause of action, serves its **Objections and Responses to Plaintiffs Requests for Production of Documents**, as follows:

GENERAL OBJECTIONS

1. Zurn objects to these Discovery Requests on the grounds that they are overly broad and beyond the scope of product identification in this litigation.
2. Zurn also objects to the form, as well as the vague, ambiguous and compound nature of many of the Discovery Requests, in addition to the false predicates contained herein.
3. Many of the questions call for expert opinion and narrative answers not proper for these Discovery Requests. Zurn asserts that the expert opinions and the bases thereof are known to Plaintiffs' attorneys from disclosure of such opinions in this case and others. These Discovery Requests are therefore calculated to be duplicative and harassing.
4. Zurn objects on the grounds these Discovery Requests are unduly burdensome.
5. Zurn objects to any Discovery Request that implies or assumes that Plaintiffs actually have an asbestos-related injury. The burden of proof is on the Plaintiffs to prove that they have asbestos-related disease, and Zurn has a constitutional right to deny the same.
6. Zurn objects to any Discovery Request which requests information that is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence.
7. Zurn objects to the "Definitions" preceding these Discovery Requests to the extent they attempt to redefine the meaning of the terms listed as found in the Rules of Civil Procedure or commonly accepted English usage. Zurn has responded to this discovery on the

assumption that the terms used therein are to be given their usual and customary meaning and objects to any attempt to force the use of some other standard.

8. Zurn objects to Plaintiffs' Discovery Requests for the reason that they, and their subparts, exceed the maximum number allowable under the Rules of Civil Procedure. Notwithstanding these objections and in the spirit of cooperation, Zurn will provide responses to these Discovery Requests subject to and without waiving said objection.
9. Zurn objects to Plaintiffs' Discovery Requests to the extent they seek information from its present or former attorneys which is privileged. Defendant objects to the extent these Discovery Requests seek disclosure of any information or material that is subject to the attorney/client privilege, work-product privilege, investigative privilege, consulting expert privilege, party communications privilege, joint defense privilege, and/or any other applicable privilege or immunity.
10. Zurn objects to the extent Plaintiffs' Discovery Requests seek information or material pertaining to alleged injuries or damages other than of the character allegedly suffered by Plaintiffs in this specific case on the ground that such information is not relevant to any issue in these cases and is not reasonably calculated to lead to the discovery of admissible evidence.
11. Zurn objects to the extent these Discovery Requests seek information prior or subsequent to the date of Plaintiffs' alleged exposure to Defendant's product(s), as such information is not relevant to any issue in this case and is not reasonably calculated to lead to the discovery of admissible evidence.
12. Zurn objects to the extent that these Discovery Requests seek information that includes proprietary information and trade secrets. Information that identifies trade secrets will be redacted from any documents produced.
13. Zurn objects to the extent that these Discovery Requests seek information or documents which, due to the passage of time or other reasons, are not in the possession, custody or control of Zurn. Such requests call for documents or information outside the scope of permissible discovery.
14. Zurn objects to the extent that these Discovery Requests require Zurn to provide information that is equally available to Plaintiffs as it is to Zurn or seeks information in the public domain or in published medical or scientific literature.
15. Zurn objects to any definition within these Discovery Requests that purports to require response on behalf of any entity other than the corporation on which process in this action was served or to require the provision of information and documents regarding subsidiaries, predecessors and divisions that are not relevant to this litigation. Zurn's responses are limited to those divisions and predecessors that manufactured or supplied the boiler products believed to be at issue herein, which may have contained component parts that had some asbestos content.

16. Zurn objects to these Discovery Requests insofar as the information sought is not limited in time or to activities that transpired in a geographical area to which the Plaintiffs asserting claims against Zurn would have had contact. Zurn objects to those Discovery Requests that request information and documents regarding the ultimate sale or distribution of products other than to job sites where Plaintiffs worked and which may not lead to the discovery of relevant, admissible evidence regarding product shipments that may have been utilized at job sites where Plaintiffs are claiming exposure. Information sought regarding other sales or distribution of this Defendant's products is irrelevant and immaterial. Moreover, there is no allegation that the alleged exposure of Plaintiffs is to any specifically identified asbestos-containing product of Zurn. Thus, the discovery sought is irrelevant to the subject matter of the pending litigation, is burdensome, oppressive and not reasonably calculated to lead to the discovery of relevant, admissible evidence. Plaintiffs' discovery should be limited to specifically identified products to which asbestos exposure is claimed at a specific job site during a relevant time frame and to the extent Plaintiffs' Discovery Requests are not so limited, Zurn objects.
17. In light of the breadth of Plaintiffs' inquiries and the fact that information is sought for a virtually unlimited time period, it is essentially impossible for this Defendant to conduct a complete search for the information sought. Even a limited search will be prejudicially time consuming and costly. Therefore, this Defendant objects to these Discovery Requests on such grounds. In searching for information and documents responsive to these Discovery Requests, this Defendant has undertaken searches of its files that appear reasonably calculated to contain documents, if documents exist, relevant to the facts of this action.

All of these objections are incorporated by reference and adopted as to each and every response to each Discovery Request contained herein, and are specifically alleged as set forth in the responses to Plaintiffs' Discovery Requests.

PRELIMINARY STATEMENT

Plaintiffs' Discovery Requests concern events which occurred years ago. Because much of the information relates to events of many years ago, it is difficult, if not impossible, for this Defendant to retrieve or reconstruct much of the requested information. Many of the individuals who might have had personal knowledge of the matters to which Plaintiffs' Discovery Requests relate are deceased or otherwise unavailable to Defendant, and investigations to date indicate that at least some information and documents that might relate to matters inquired into by Plaintiffs' Discovery Requests may have been destroyed pursuant to normal document retention policy or are otherwise unable to be found. Defendant is engaged in a continuing investigation in an attempt to locate or confirm the absence of such information or documents and is in a continuing investigation with respect to the matters inquired into by Plaintiffs' Discovery Requests. The responses are believed to be accurate as of the date of filing, but Zurn's investigation of the underlying facts is continuing. If further discovery of additional facts adds meaning to the known facts or establishes new factual conclusions or legal contentions, these responses will be supplemented if required by applicable law. Thus, the following responses are made without prejudice to Zurn's right to produce evidence of any subsequently discovered fact or facts Zurn may later recall. Zurn accordingly reserves the right to amend or supplement any and all responses

herein, if permitted or required by applicable law, as additional facts are ascertained, or as the contentions of the Plaintiffs herein may be discovered or amended. Furthermore, these Responses are given without prejudice to this Defendant's right to rely at trial on subsequently discovered information or on information inadvertently omitted from these Responses as a result of mistake, error or oversight. To the extent information contained herein differs in any material respect from any prior responses to this or other discovery, these responses shall be deemed to update and supersede such prior responses to the extent they may be inconsistent.

Zurn manufactured industrial steam generating equipment that was primarily sold to knowledgeable and sophisticated commercial customers. Zurn does not concede that its boilers were "asbestos-containing products."

Neither Zurn, nor any company it controlled, purchased or acquired, ever mined, milled or sold raw asbestos. Neither Zurn, nor any company it controlled, purchased or acquired, ever made or manufactured asbestos-containing thermal insulation, refractory or sealing products. Certain Zurn boiler products may have had components that contained asbestos-containing products manufactured by others. Upon information and belief, Plaintiffs claim exposure to asbestos-containing components of boiler products formerly manufactured and sold by Zurn or its predecessor entities. As such, Zurn's responses apply only within that scope and context. Zurn's responses are limited to those divisions and predecessors that manufactured or supplied the boiler products believed to be at issue herein, which may have contained component parts that had some asbestos content.

Plaintiffs' Discovery Requests are addressed to a corporation which has no independent knowledge of much of the information supplied in these responses. Zurn Industries, Inc. refers to and is limited to the officers and directors of Zurn Industries, Inc. and those Zurn Industries, Inc. employees or agents who the Company believes are responsible for and who are in possession of corporate documents or information that is responsive to Plaintiffs' Discovery Requests. The information supplied in these responses is based on the knowledge of Zurn's employees and authorized agents regarding the products believed to be at issue in this litigation and the individual attesting to the responses may not have personal knowledge of the matters stated herein.

The responses contained herein are made in a good faith effort to supply as much factual information and as much specification of legal contentions as is currently available, but in no way should prejudice Zurn in relation to further discovery, research or analysis.

Zurn incorporates by reference this preliminary statement into each response to each Discovery Request responded to herein.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1:

Please produce a true and correct copy of each photograph or picture of each asbestos-containing product that Defendant has ever mined, manufactured, sold, marketed, installed, and/or distributed.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome and requests information which is irrelevant and not reasonably calculated to lead to the discovery of relevant, admissible evidence. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation. Defendant objects to providing information concerning products not manufactured by this Defendant or to which Plaintiffs do not claim exposure at job sites and times at issue in this litigation.

Subject to and without waiving such objections, Defendant has limited literature for some boiler products during limited time frames. If Plaintiffs will identify with specificity, the specific boiler type and model to which exposure is claimed during an identified time frame at a particular location, Defendant will determine if any responsive documents exist relative thereto. See also objections and response to Interrogatory No. 5.

REQUEST FOR PRODUCTION NO. 2:

Please produce a true and correct copy of each document which reflects sales of those asbestos-containing products listed in response to Interrogatory No. 5 to any of the job sites listed on Exhibit A, attached hereto.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is argumentative, assumes facts not in evidence, is vague, ambiguous, overly broad, unduly burdensome and requests information which is irrelevant and not reasonably calculated to lead to the discovery of relevant, admissible evidence. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation. Defendant objects to providing information concerning products not manufactured by this Defendant or to which Plaintiffs do not claim exposure at job sites and times at issue in this litigation.

Subject to and without waiving such objections, Defendant has limited literature for some boiler products during limited time frames. If Plaintiffs will identify with specificity, the specific boiler type and model to which exposure is claimed during an identified time frame at a particular location, Defendant will determine if any responsive documents exist relative thereto. See objections and response to Interrogatory No. 5 and 8.4.

REQUEST FOR PRODUCTION NO. 3:

Please produce a true and correct copy of each document which reflects sales of Defendant's asbestos-containing products to companies that may have distributed, packaged, labeled, and/or sold Defendant's asbestos-containing products.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is argumentative, assumes facts not in evidence, is overly broad, unduly burdensome, vague,

ambiguous and not reasonably calculated to lead to the discovery of relevant, admissible evidence. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation. Subject to and without waiving such objections, see objections and response to Interrogatory No. 8.

REQUEST FOR PRODUCTION NO. 4:

Please produce a true and correct copy of each record and/or contract which reflects the sales of Defendant's asbestos-containing products to any of the job sites listed on Exhibit A, attached hereto.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of relevant, admissible evidence. It is not limited to a relevant time frame, product and job site, if any, involved in this litigation. Moreover, it is argumentative to the extent that it assumes without evidence that Defendant's products were sold to job sites at issue in this lawsuit. Subject to and without waiving such objections, because Plaintiffs have not identified any particular boiler to which exposure is claimed at a specific job site during a specific time frame, it is difficult for Defendant to respond in the abstract. Existing Zurn records relating to its steam generating equipment are primarily maintained by boiler number. Without this information, it is difficult to conclusively determine whether any responsive information exists. It Plaintiffs will identify with specificity, the boiler number of any boiler to which asbestos exposure is claimed in this litigation, or at a minimum a particular job site, during a particular time frame, Defendant will determine if any responsive documents exist. See objections and response to Interrogatory Nos. 8.1 and 8.4.

REQUEST FOR PRODUCTION NO. 5:

Please produce a true and correct copy of each record and/or contract which reflects the sales of Defendant's asbestos-containing products to distributors and marketers who may have called on any of the job sites listed on Exhibit A, attached hereto.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of relevant, admissible evidence. It is not limited to a relevant time frame, product and job site, if any, involved in this litigation. Moreover, it is argumentative to the extent that it assumes without evidence that Defendant's products were sold to job sites at issue in this lawsuit. Subject to and without waiving such objections, see objections and response to Interrogatory No. 8.

REQUEST FOR PRODUCTION NO. 6:

Please produce a true and correct copy of each contract and/or work order that reflects contracts for Defendant to have asbestos-containing products installed or removed at any of the job sites listed on Exhibit A, attached hereto.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of relevant, admissible evidence. It is not limited to a relevant time frame, product and job site, if any, involved in this litigation. Moreover, it is argumentative to the extent that it assumes without evidence that Defendant's products were sold to job sites at issue in this lawsuit. Subject to and without waiving such objections, because Plaintiffs have not identified any particular boiler to which exposure is claimed at a specific job site during a specific time frame, it is difficult for Defendant to respond in the abstract. Existing Zurn records relating to its steam generating equipment are primarily maintained by boiler number. Without this information, it is difficult to conclusively determine whether any responsive information exists. It Plaintiffs will identify with specificity, the boiler number of any boiler to which asbestos exposure is claimed in this litigation, or at a minimum, a particular job site, during a particular time frame, Defendant will determine if any responsive documents exist. See also objections and response to Request for Production No.4.

REQUEST FOR PRODUCTION NO. 7:

Please produce a true and correct copy of each work order and contract that reflects contract business between Defendant and any of the job sites listed on Exhibit A, attached hereto, for the application of asbestos-containing products.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is overly broad, vague, ambiguous, unduly burdensome, argumentative, assumes facts not in evidence and is not reasonably calculated to lead to the discovery of relevant, admissible evidence. Subject to and without waiving such objections, Defendant states that it was a manufacturer of industrial steam generating equipment. Defendant did not engage in the business of "applying asbestos-containing products," as that phrase is contemplated in this Request. See also objections and response to Interrogatory No. 10.

REQUEST FOR PRODUCTION NO. 8:

Please produce a true and correct copy of each document relating to the design and preparation of the asbestos-containing products listed in Defendant's answer to Interrogatory No. 5.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome and requests information which is irrelevant and not reasonably calculated to lead to the discovery of relevant, admissible evidence. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation. Defendant objects to providing information concerning products not manufactured by this Defendant or to which Plaintiffs do not claim exposure at job sites and times at issue in this litigation.

Subject to and without waiving such objections, Defendant has limited literature for some boiler products during limited time frames. If Plaintiffs' will identify with specificity, the specific boiler type and model to which exposure is claimed during an identified time frame at a particular location, Defendant will determine if any responsive documents exist relative thereto. See also objections and response to Interrogatory No. 5.

REQUEST FOR PRODUCTION NO. 9:

For each product listed in response to Interrogatory No. 5, please produce a copy of all tests that were conducted to determine any potential health hazards involved in its use or exposure (this Request for Production relates to Plaintiffs' Interrogatory No. 18 previously propounded to Defendant in this litigation).

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, argumentative, assumes facts not in evidence and is not reasonably calculated to lead to the discovery of relevant, admissible evidence. Subject to and without waiving such objections, see objections and response to Interrogatory No. 18.

REQUEST FOR PRODUCTION NO. 10:

Please produce a true and correct copy of all documents relating to the testing of any product which Defendant listed in response to Interrogatory No. 5 (this Request for Production relates to Plaintiffs' Interrogatory No. 19 previously propounded to Defendant in this litigation).

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, argumentative, assumes facts not in evidence and is not reasonably calculated to lead to the discovery of relevant, admissible evidence. Subject to and without waiving such objections, see objections and response to Interrogatory Nos. 18 and 19.

REQUEST FOR PRODUCTION NO. 11:

Please produce a true and correct copy of all tests which Defendant conducted and/or has in its possession to determine potential health hazards involved in the use of or exposure to asbestos products listed in response to Interrogatory No. 5 (this Request for Production relates to Plaintiffs' Interrogatory No. 21 previously propounded to Defendant in this litigation).

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, argumentative, assumes facts not in evidence and is not reasonably calculated to lead to the discovery of relevant, admissible evidence. Subject to and without waiving such objections, see objections and response to Interrogatory No. 21.

REQUEST FOR PRODUCTION NO. 12:

Please produce a true and correct copy of all studies which Defendant conducted or caused to be conducted concerning the effects of the inhalation of asbestos dust and/or fibers in workers or other persons using, working with and/or around, installing and/or applying any of the asbestos products mined, manufactured, sold, distributed, marketed, installed and/or re-labeled for distribution by Defendant or Defendant's predecessor (this Request for Production relates to Plaintiffs' Interrogatory No. 22 previously propounded to Defendant in this litigation).

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, argumentative, assumes facts not in evidence and is not reasonably calculated to lead to the discovery of relevant, admissible evidence. Subject to and without waiving such objections, see objections and response to Interrogatory No. 22.

REQUEST FOR PRODUCTION NO. 13:

Please produce a true and correct copy of all documents relating to any studies made or caused to be made by Defendant, to determine whether the asbestos-containing products mined, manufactured, sold, marketed, installed or distributed by Defendant or Defendant's predecessor would be hazardous to people (this Request for Production relates to Plaintiffs' Interrogatory No. 23 previously propounded to Defendant in this litigation).

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, argumentative, assumes facts not in evidence and is not reasonably calculated to lead to the discovery of relevant, admissible evidence. Subject to and without waiving such objections, see objections and response to Interrogatory No. 23.

REQUEST FOR PRODUCTION NO. 14:

Please produce a true and correct copy of all tests in the field which Defendant conducted or caused to be conducted to determine the nature and extent of asbestos dust and/or fiber exposure to insulators, applicators, fellow employees or other workers removing and/or tearing out asbestos-containing products (this Request for Production relates to Plaintiffs' Interrogatory No. 24 previously propounded to Defendant in this litigation).

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, argumentative, assumes facts not in evidence and is not reasonably calculated to lead to the discovery of relevant, admissible evidence. Subject to and without waiving such objections, see objections and response to Interrogatory No. 24.

REQUEST FOR PRODUCTION NO. 15:

Please produce a true and correct copy of each test which Defendant conducted or caused to be conducted regarding the quantity, quality, or threshold limit value of asbestos dust, fibers, and/or particles to which workers were exposed while using, working with and/or around, installing and/or applying Defendant's asbestos-containing products (this Request for Production relates to Plaintiffs' Interrogatory No. 31 previously propounded to Defendant in this litigation).

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, argumentative, assumes facts not in evidence and is not reasonably calculated to lead to the discovery of relevant, admissible evidence. Subject to and without waiving such objections, see objections and response to Interrogatory No. 31.

REQUEST FOR PRODUCTION NO. 16:

For each product listed in response to Interrogatory No. 5, please produce a true and correct copy of all promotional or sales material including, but not limited to, brochures, pamphlets, catalogs, packaging, or other written materials of any kind or character.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of relevant, admissible evidence. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation. Subject to and without waiving such objections, Defendant has limited literature for some boiler products during limited time frames. If Plaintiffs will identify with specificity, the specific boiler type and model to which exposure is claimed during an identified time frame at a particular location, defendant will determine if any

responsive documents exist relative thereto. See also objections and responses to Interrogatory Nos. 5 and 41.

REQUEST FOR PRODUCTION NO. 17:

Please produce a true and correct copy of all warnings, cautions, caveats or directions concerning the possible health effects of the products listed in response to Interrogatory No. 5 (this Request for Production relates to Plaintiffs' Interrogatory No. 41 previously propounded to Defendant).

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, argumentative, assumes facts not in evidence and requests information which is irrelevant and not reasonably calculated to lead to the discovery of relevant, admissible evidence. The request is not limited to a relevant product, time frame or job site, if any, at issue in this litigation. Subject to and without waiving such objections, see objections and responses to Interrogatory Nos. 5 and 41.

REQUEST FOR PRODUCTION NO. 18:

Please produce a true and correct copy of all written materials prepared by Defendant or Defendant's predecessors or any of Defendant's subsidiaries indicating how the products listed in response to Interrogatory No. 5 should be used or maintained by the ultimate user (this Request for Production relates to Plaintiffs' Interrogatory No. 43 previously propounded to Defendant).

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of relevant, admissible evidence. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation. Subject to and without waiving such objections, see objections and response to Interrogatory No. 43.

REQUEST FOR PRODUCTION NO. 19:

Please produce a true and correct copy of all notices received by Defendant prior to 1968 that any person was claiming injury or had sustained an abnormal x-ray reading as a result of using asbestos-containing products mined, manufactured, sold, marketed, installed, or distributed by Defendant (this Request for Production relates to Plaintiffs' Interrogatory No. 48 previously propounded to Defendant).

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of relevant, admissible evidence. Subject to and without waiving such objections, see objections and response to Interrogatory No. 48.

REQUEST FOR PRODUCTION NO. 20:

Please produce a true and correct copy of statements from all people with knowledge of relevant facts to this lawsuit.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is overly broad, unduly burdensome, vague, ambiguous and is not reasonably calculated to lead to the discovery of relevant, admissible evidence. Subject to and without waiving such objections, discovery is ongoing. Defendant has not yet obtained statements from "all people" with knowledge of relevant facts to this lawsuit. Defendant reserves the right to supplement this response as discovery is ongoing. See objections and response to Interrogatory No. 57.

REQUEST FOR PRODUCTION NO. 21:

Please produce a true and correct copy of all documents which mention, allude or refer to tests performed on breathing devices to prevent the inhalation of asbestos dust and/or fibers (this Request for Production relates to Plaintiffs' Interrogatory No. 52 previously propounded to Defendant).

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, argumentative, assumes facts not in evidence and seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. It is not limited to a relevant time frame, job site, or product, if any, involved in this litigation. Subject to and without waiving such objections, see objections and response to Interrogatory No. 52.

REQUEST FOR PRODUCTION NO. 22:

Please produce a true and correct copy of all reports by experts that Defendant may call upon at the trial of this case (this Request for Production relates to Plaintiffs' Interrogatory No. 53 previously propounded to Defendant).

RESPONSE:

Defendant objects to this Request on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, and requests information that is irrelevant and not reasonably calculated to lead to the discovery of relevant admissible evidence. Defendant further objects on the grounds that this request is beyond the scope of permissible discovery under the Rules. Subject to and without waiving any objections, see objections and response to Interrogatory No. 53.

REQUEST FOR PRODUCTION NO. 23:

Please produce a true and correct copy of all policies of insurance under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is overly broad, unduly burdensome and requests information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving such objections, see objections and response to Interrogatory No. 56.

REQUEST FOR PRODUCTION NO. 24:

Please produce a true and correct copy of all notices received by Defendant prior to 1968 that any person was claiming an injury or had sustained an abnormal x-ray reading as a result of using asbestos-containing products, regardless of the manufacturer or seller of the products.

RESPONSE:

See objections and response to Interrogatory No. 48.

REQUEST FOR PRODUCTION NO. 25:

Please produce a true and correct copy of all documents, correspondence or communications pertaining to all marketing; sales, negotiations, delivery or distribution of all of your asbestos-containing or industrial insulation products to all Defendants to this lawsuit other than the answering Defendant.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is argumentative, assumes facts not in evidence, is vague, ambiguous, overly broad, unduly burdensome and requests information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation. Defendant objects to providing information concerning products not manufactured by this Defendant or to which Plaintiffs do not claim exposure at job sites and times at issue in this litigation. Subject to and without waiving such objections, see objections and response to Interrogatory No. 8.03.

REQUEST FOR PRODUCTION NO. 26:

Please produce a true and correct copy of all documents memorializing or referring, relating or pertaining to communications or correspondence among and/or between your officers, director, agents, representatives, employees or consultants and any employer, purchaser or user of your asbestos-containing products, its officers, directors, agents, representatives, employees or

consultants which in any way relates, refers or pertains to asbestos, asbestos-containing products, pneumoconiosis, asbestos-related illness, injury or disease, dust or workplace health or safety.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, argumentative, assumes facts not in evidence and requests information which is irrelevant and not reasonably calculated to lead to the discovery of relevant, admissible evidence. It requests information protected by the attorney/client privilege and/or the attorney work product doctrine. The request is not limited to a relevant product, time frame or job site, if any, at issue in this litigation.

REQUEST FOR PRODUCTION NO. 27:

Please produce a true and correct copy of all annual reports of Defendant to employees or stock holders for the years 1960 through 1969 and for the past five years.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is overly broad, unduly burdensome and seeks information that is not reasonably calculated to lead to the discovery of relevant, admissible evidence. Specifically, it prematurely seeks information related to Plaintiffs' claims for punitive damages without any determination that punitive damages may be considered in this action. Moreover, it improperly seeks proprietary and confidential information. Subject to and without waiving such objections, Defendant states that should the issue of punitive damages become applicable at the trial of this matter, Defendant will provide under seal to the Court, a supplement to this response.

REQUEST FOR PRODUCTION NO. 28:

Please produce the originals or true and correct copies of all safety or health manuals, pamphlets or brochures issued by Defendant between 1930 and the present and any documents relating to whom said manuals were issued.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is overly broad, unduly burdensome and requests information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. It is argumentative and assumes facts not in evidence to the extent that it assumes, without foundation, that asbestos hazards were posed by Defendants boiler products. Conditions in Defendant's plants, unrelated to its finished end products, are not relevant to this litigation. Moreover, the request is not limited to asbestos health and safety issues, if any.

REQUEST FOR PRODUCTION NO. 29:

Please produce a true and correct copy of all safe workplace practices manuals, pamphlets or brochures issued by Defendant from 1900 through the present.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is overly broad, unduly burdensome and requests information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. It is argumentative and assumes facts not in evidence to the extent that it assumes, without foundation, that asbestos hazards were posed by Defendants boiler products. Conditions in Defendant's plants, unrelated to its finished end products, are not relevant to this litigation. Moreover, the request is not limited to asbestos health and safety issues, if any.

REQUEST FOR PRODUCTION NO. 30:

Please produce a true and correct copy of all documents referring, relating or pertaining to the Industrial Health Foundation or the Industrial Hygiene Foundation in the custody, possession or control of Defendant.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, argumentative, assumes facts not in evidence and overly broad. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation. Subject to and without waiving such objections, Zurn has no present information to indicate that it ever received a copy of said documents. See also objections and response to Interrogatory No. 30.2.

REQUEST FOR PRODUCTION NO. 31:

Please produce a true and correct copy of all documents referring, relating or pertaining to the Trudeau Institute and Saranac Lake Laboratory in the custody, possession or control of Defendant.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, argumentative, assumes facts not in evidence and overly broad. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation. Subject to and without waiving such objections, see objections and response to Interrogatory No. 36.

REQUEST FOR PRODUCTION NO. 32:

Please produce a true and correct copy of all documents referring, relating or pertaining to the Quebec Asbestos Mining Association (QAMA) in the custody, possession or control of Defendant.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, argumentative, assumes facts not in evidence and overly broad. It is not limited

to a relevant product, time frame or job site, if any, involved in this litigation. Subject to and without waiving such objections, Zurn has no present information to indicate that it ever received a copy of said documents. See also objections and response to Interrogatory No. 30.2.

REQUEST FOR PRODUCTION NO. 33:

Please produce a true and correct copy of all documents referring, relating or pertaining to the National Insulation Manufacturers Association (NIMA) in the custody, possession or control of Defendant.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, argumentative, assumes facts not in evidence and overly broad. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation. Subject to and without waiving such objections, Zurn has no present information to indicate that it ever received a copy of said documents. See also objections and response to Interrogatory No. 30.2.

REQUEST FOR PRODUCTION NO. 34:

Please produce a true and correct copy of all documents referring, relating or pertaining to the Thermal Insulation Manufacturers Association (TIMA) in the custody, possession or control of Defendant.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, argumentative, assumes facts not in evidence and overly broad. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation. Subject to and without waiving such objections, Zurn has no present information to indicate that it ever received a copy of said documents. See also objections and response to Interrogatory No. 30.2.

REQUEST FOR PRODUCTION NO. 35:

Please produce a true and correct copy of all documents relating to any conferences, symposia, or meetings attended by any of your officers, physicians, agents, servants, employees or consultants which in any way considered, discussed, reviewed or made recommendations concerning asbestos-related illness, injury or disease; pneumoconiosis; occupational lung disease; dust; industrial hygiene; and/or worker or workplace health or safety.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome and requests information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. It is not

related to any relevant job site, product or time frame, if any, involved in this lawsuit. Subject to and without waiving such objections, see objections and response to Interrogatory No. 40.

REQUEST FOR PRODUCTION NO. 36:

Please produce a true and correct copy of all documents to and/or from Defendant and any person, organization, institution, laboratory, foundation, corporation, entity, board or consultants which refer, relate or pertain to air quality studies, dust counts or dust studies, alleged maximum allowable concentrations (MAC), alleged threshold limit values (TLV) or protection of your employees or any other employees or persons from actual or alleged hazards associated with asbestos exposure.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome and requests information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. It is not related to any relevant job site, product or time frame, if any, involved in this lawsuit. Moreover, conditions in Defendants plants, unrelated to its finished end products, are irrelevant. Subject to and without waiving such objections, see objections and response to Interrogatory Nos. 31, 33, and 33.1.

REQUEST FOR PRODUCTION NO. 37:

Please produce a true and correct copy of all documents to and/or from Defendant and any person, organization, institution, laboratory, foundation, corporation, entity, board or consultants which refer, relate or pertain to air quality studies, dust counts or dust studies, alleged maximum allowable concentrations (MAC), alleged threshold limit values (TLV) or protection of your employees or any other employees or persons.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome and requests information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. It is not related to any relevant job site, product or time frame, if any, involved in this lawsuit. This request is not limited to alleged hazards associated with asbestos exposure. Moreover, conditions in Defendants plants, unrelated to its finished end products, are irrelevant. Subject to and without waiving such objections, see objections and response to Request for Production No. 36.

REQUEST FOR PRODUCTION NO. 38:

Please produce a true and correct copy of all documents to and/or from Defendant involving any physician, industrial hygienist or public health specialist which in any way relates, refers or pertains to asbestos-related injury, illness or disease, pneumoconiosis, occupational lung disease, dust, industrial hygiene or worker or workplace health or safety.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, overly broad, unduly burdensome and requests information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects insofar as this requests information regarding experts with whom Defendant has consulted for purposes of litigation. Moreover, conditions in Defendant's plants unrelated to any finished end products are irrelevant to Plaintiffs' claims. Subject to and without waiving such objections, see objections and response to Interrogatory No. 27.

REQUEST FOR PRODUCTION NO. 39:

Please produce a true and correct copy of all photographs, pictures, prints or any visual depiction at any time generated showing workers or any person or persons installing, applying, removing or in any manner handling or utilizing an asbestos-containing product at any time manufactured, sold or distributed by Defendant.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is argumentative, assumes facts not in evidence, is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of relevant, admissible evidence. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation. Subject to and without waiving such objections, Defendant has limited literature for some boiler products during limited time frames. If Plaintiffs will identify with specificity, the specific boiler type and model to which exposure is claimed during an identified time frame at a particular location, defendant will determine if any responsive documents exist relative thereto.

REQUEST FOR PRODUCTION NO. 40:

Please produce a true and correct copy of all documents pertaining to the acquisition, purchase or sale by Defendant of any asbestos-containing product manufacturing facility or asbestos-containing product or product line.

RESPONSE: -

Defendant objects to this Request for Production on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of relevant, admissible evidence. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation. Subject to and without waiving such objections, Defendant has limited literature for some boiler products during limited time frames. If Plaintiffs will identify with specificity, the specific boiler type and model to which exposure is claimed during an identified time frame at a particular location, defendant will determine if any responsive documents exist relative thereto.

REQUEST FOR PRODUCTION NO. 41:

Please produce a true and correct copy of all documents pertaining to the acquisition, purchase or sale by Defendant of any asbestos-containing product from any other Defendant in this case or to any other Defendant in this case.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is argumentative, assumes facts not in evidence, is vague, ambiguous, overly broad, unduly burdensome and requests information which is irrelevant and not reasonably calculated to lead to the discovery of relevant, admissible evidence. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation. Defendant objects to providing information concerning products not manufactured by this Defendant or to which Plaintiffs do not claim exposure at job sites and times at issue in this litigation. Subject to and without waiving such objections, see objections and responses to Interrogatory Nos. 8.01 and 8.03.

REQUEST FOR PRODUCTION NO. 42:

For each and every affirmative defense asserted in Defendant's Answer to Plaintiffs' Complaint, the cross-claims or counter-claims of any party against Defendant, produce each and every document which will be offered to prove each and every affirmative defense. For each and every allegation of Defendant in cross-claim(s) asserted by Defendant in this litigation, produce each and every document which will be offered to prove each and every allegation in Defendant's cross-claim(s).

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of relevant, admissible evidence. Subject to and without waiving such objections, Defendant discovery is continuing and to the extent that this Interrogatory seeks discovery of trial exhibits, Defendant has not made a decision at this time as to what documents may be used at the trial of this matter. At present, Defendant can only identify those items listed on Exhibit B. Defendant will supplement this response to identify its trial exhibits in accordance with the Rules of Civil Procedure and any other Scheduling Order entered by the Court.

REQUEST FOR PRODUCTION NO. 43:

Please produce a true and correct copy of every transcript of testimony of each witness Defendant intends to call at trial.

RESPONSE:

Defendant objects to this Request for Production as beyond the scope of permissible discovery under the Rules. Subject to and without waiving such objections, discovery is continuing and Defendant has not yet determined the identity and expected testimony of any

witness it may call at the trial of this matter. This response will be supplemented in accordance with the Rules of Civil Procedure and any Scheduling Order entered by the Court. At present, Defendant can only state that it may produce testimony from those witnesses listed on Exhibit A.

REQUEST FOR PRODUCTION NO. 44:

Please produce a true and correct copy of each and every medical record in the custody, possession or control of Defendant relating to Plaintiffs in this case other than those medical records produced by Plaintiffs and provided to Defendants in this case.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of relevant, admissible evidence. Moreover, the documents requested are equally available to Plaintiffs as to Defendant. Subject to and without waiving such objections, discovery is ongoing, Defendant may supplement this response as may be appropriate, and in accordance with the Rules of Civil Procedure and any Scheduling Order entered by the Court.

REQUEST FOR PRODUCTION NO. 45:

Please produce a true and correct copy of each and every document or other tangible item upon which Defendant will rely for impeachment or rebuttal purposes in the trial of this matter.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving such objections, discovery is continuing and Defendant has not made a decision at this time as to what documents may be used at the trial of this matter. Defendant will supplement this response to identify its trial exhibits in accordance with the Rules of Civil Procedure and any other Scheduling Order entered by the Court.

REQUEST FOR PRODUCTION NO. 46:

Please produce a true and correct copy of each and every document, recording or other tangible item that constitutes in whole or in part a statement by Plaintiffs or a statement by any of Plaintiffs' witnesses in this matter.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome and requests information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving such objections, ongoing investigation is continuing. Defendant has not yet

obtained any documents relating to the Plaintiffs. Discovery is ongoing, Defendant may supplement this response as may be appropriate, and in accordance with the Rules of Civil Procedure and any Scheduling Order entered by the Court.

REQUEST FOR PRODUCTION NO. 47:

Please produce a true and correct copy of each and every photograph, videotape recording or other tangible item that is a photographic representation of Plaintiffs in this matter.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome and requests information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving such objections, ongoing investigation is continuing. Defendant has not yet obtained any documents relating to the Plaintiffs. Discovery is ongoing, Defendant may supplement this response as may be appropriate, and in accordance with the Rules of Civil Procedure and any Scheduling Order entered by the Court.

REQUEST FOR PRODUCTION NO. 48:

Please produce a true and correct copy of all work records or other tangible items relating to Plaintiffs or their employers.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome and requests information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving such objections, ongoing investigation is continuing. Defendant has not yet obtained any documents relating to the Plaintiffs. Discovery is ongoing, Defendant may supplement this response as may be appropriate, and in accordance with the Rules of Civil Procedure and any Scheduling Order entered by the Court.

REQUEST FOR PRODUCTION NO. 49:

Please produce a true and correct copy of every transcript, affidavit or sworn statement by each and every witness called by Defendant in any litigation related to insurance that may cover the claims in this case.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is overly broad, unduly burdensome and requests information that it irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving such objections, see objections and response to Interrogatory Nos. 56 and 56.1.

REQUEST FOR PRODUCTION NO. 50:

For each document for which any privilege is asserted, produce an index containing the following information:

- (a) Author of document;
- (b) Position, title or affiliation of author;
- (c) Date of document;
- (d) Each recipient of the document
- (e) The position, title or affiliation of each recipient of the document;
- (f) The subject matter of the document with sufficient specificity to determine the matters discussed therein; and
- (g) The privilege(s) asserted.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome and requests information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation.

REQUEST FOR PRODUCTION NO. 51:

If Defendant claims that the documents are too voluminous to produce as requested, provide the following:

- (a) The numerical amount of documents responsive to requests herein;
- (b) The method of storage of documents responsive to requests herein;
- (c) The method of organization of documents responsive to requests herein;
- (d) The location of documents responsive to requests herein;
- (e) Whether there is an index or indices, lists, inventories, or other such information for records responsive to requests herein;
- (f) If there is an index, indices, lists, inventories or other such information for records responsive to requests herein, whether such index, indices, lists, inventories or other such information for records responsive herein is printed, or electronically stored, (i.e. listed in a computer, imaged, part of a database, etc.).

- (g) If the index, indices, lists, inventories or other such information for records responsive to requests herein, whether such index, indices, lists, inventories or other such information for records responsive herein is electronically stored, (i.e. listed in a computer, imaged, part of a database, etc.), the method of such storage and software used to create and/or maintain said an index, indices, lists, inventories or other such information for records responsive to requests herein, whether such index, indices, lists, inventories or other such information for records responsive herein.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome and requests information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation.

REQUEST FOR PRODUCTION NO. 52:

If any answer to requests herein is subject to an ongoing investigation or continuing discovery, provide the following information:

- (a) The person or persons responsible for the ongoing investigation or continuing discovery;
- (b) The means or methods used or being used for the ongoing investigation or continuing discovery;
- (c) The beginning date of such ongoing investigation or continuing discovery.

RESPONSE:

Defendant objects to this Request for Production on the grounds that it is vague, ambiguous, overly broad, unduly burdensome and requests information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. It is not limited to a relevant product, time frame or job site, if any, involved in this litigation.

Respectfully submitted,



Laura K. Hong (0033147)
SQUIRE, SANDERS & DEMPSEY L.L.P.
4900 Key Tower
127 Public Square
Cleveland, Ohio 44114-1304
(216) 479-8500
Attorneys for Defendant
Zurn Industries, Inc.

CERTIFICATE OF SERVICE

A copy of the foregoing **Zurn Industries, Inc.'s Objections and Responses to Plaintiffs' Request for Production of Documents** has been filed electronically on the CLAD system, and deemed served on all parties pursuant to the Cuyahoga County Rules of Court this 1st day of October, 2002.



Laura K. Hong
One of the Attorneys for Defendant
Zurn Industries, Inc.