

FILE NAME: CertainTeed (CERT)

DATE: 1995

DOC#: CERT046

DOCUMENT DESCRIPTION: Legal - Filing of Plaintiff

NO. [REDACTED]

[REDACTED]

CHARLES DAVIS BRY,
Plaintiff,

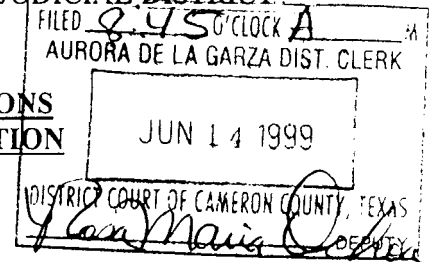
VS.

OWENS-CORNING FIBERGLAS
CORPORATION, et al.,

Defendants.

§ IN THE DISTRICT COURT
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§ CAMERON COUNTY, TEXAS
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§ 197TH JUDICIAL DISTRICT

**PLAINTIFFS' MOTION FOR SANCTIONS
AGAINST CERTAINTEED CORPORATION**



THE HONORABLE JUDGE OF SAID COURT:

COME NOW the Plaintiffs, and file this their Motion for Sanctions against CertainTeed Corporation, under Rule 13, Texas Rules of Civil Procedure, and Chapter 10, Texas Civil Practice and Remedies Code, and would show as follows:

I.

INTRODUCTION

CertainTeed Corporation (hereafter "CertainTeed"), defendant herein, filed answers to Plaintiffs' Master Interrogatories. In those answers, Defendant denied the existence of any documents relating to the potential health hazards of products it manufactured, mined, or distributed.

This Motion for Sanctions is based on the fact that the answer to interrogatories is perjured; that the answer was provided by CertainTeed with knowledge that it was perjured and that it otherwise contained false and misleading statements.

The answer to interrogatories was filed In re all asbestos litigation before this court on November 29th, 1995. Therefore, not only has Mr. Bry's claim been prejudiced by Defendant's perjury, but also the claims of numerous other plaintiffs against Defendant.

Here, in connection with the answers to interrogatories filed In Re all asbestos litigation before this court, the plaintiffs seek:

- Sanctions under Rule 13, TEX. R. CIV. P. against CertainTeed for providing a perjured answer, which is both groundless and brought in bad faith or for purposes of harassment;
- Sanctions under Chapter 10, TEX. CIV. PRACT. & REM. CODE against CertainTeed for providing an interrogatory answer for an improper purpose, because the factual contentions found in the answer lack evidentiary support, and because the facts sworn to in the answer are not warranted on the evidence.

The Plaintiffs seek the following relief: (1) reasonable attorney's fees and costs incurred in bringing this motion; (2) that any objection to the admission of the documents based on notice or authenticity be deemed waived; (3) an instruction to the jury that CertainTeed filed false answers in discovery about the existence of these and perhaps other documents and that they may draw inferences from that act; (4) that the pleadings of CertainTeed be stricken; (5) that the Court enter judgment by default on the issue of liability; (6) that Defendant be compelled to produce all documents in its possession relating to asbestos; (7) any appropriate additional sanction under Rule 13 and/or Chapter 10.

II.

ARGUMENT

I. THE FALSE, FRIVOLOUS AND GROUNDLESS STATEMENTS

Plaintiffs' Interrogatory No. 12 filed In Re: Asbestos Litigation before this court asks, "Do any documents, including written memoranda, specifications, recommendations, blueprints, or other written materials of any kind or character, relating to the potential health hazards of the products listed in Interrogatory No. 6 (asking for a list of the trade names of asbestos containing products manufactured or distributed by Defendant) now exist?" See EXHIBIT A. On November 29th, 1995, Defendants provided a one word answer, "No."

Plaintiffs and their attorneys operated under the belief that no such documents existed until April of this year when the documents attached as EXHIBIT B were provided to counsel for Plaintiff by a third party. Most, if not all, of these documents directly pertain to the hazards of asbestos cement pipe and other products manufactured by Defendant. Many of these documents are proverbial "smoking guns" which show that CertainTeed was fully aware of the hazards its products posed and engaged in an active campaign to hide these dangers from the consumer. For example, the documents contain correspondence between Johns-Manville and Defendant in which it is agreed that information about asbestos hazards associated with asbestos cement pipe "is to be kept strictly on a top executive level. It is definitely not to be distributed to the field." See Memo of Herb Ball dated 2-7-68.

Because of Defendant's perjured answer to interrogatories, these documents remained undiscovered for at least the past three and a half years. During that time the claims of this plaintiff and many others against Defendant have been prejudiced and Defendant has benefitted from its fraud.

2. THE APPLICABLE LAW

The sworn answer of Defendant is false. Texas law provides a number of remedies when false statements are made in pleadings and other documents.

A. Rule 13 Sanctions

Rule 13, Texas Rules of Civil Procedure provides that when a document is submitted to the Court containing statements which are groundless and made in bad faith or for purposes of harassment, the Court may impose any appropriate sanction, including those permitted for discovery abuse under Rule 215. The answer at issue here clearly is sanctionable under Rule 13. The answer, being false, is by definition "groundless." The fact that the false answer was deliberately given amply shows "bad faith."

Rule 215.2(b)(2) provides that a court can tax the expenses of discovery and court costs against a party which has committed sanctionable conduct. Therefore, Plaintiffs request attorneys fees in the amount of \$4000 for the work put into preparing this motion and obtaining the evidence which supports it. Rule 215.2(b)(5) allows the court to enter an order striking the pleadings of a party guilty of sanctionable conduct and entering default judgment against it. Such a sanction is clearly appropriate in this instance due to the egregious harm Defendant's perjury has done to the claims of this plaintiff and many others in the past. Additionally, Rule 215 allows the court to make orders compelling discovery when a party has abused the process. Accordingly, Plaintiffs ask the court to compel Defendant to produce all documents in its possession or under its control relating to the subject of asbestos. Finally, Rule 215.2(b)(3) allows the Court to deem designated facts established for the purposes of this trial. Therefore, the Court may make a finding that Defendant has submitted false answers to interrogatories and instruct the jury appropriately on the matter.

2. Chapter 10 Sanctions

Chapter 10, Texas Civil Practice and Remedies Code provides that the signing of a motion or pleading constitutes a certificate by the signer that the pleading or motion “is not being presented for any improper purpose, including to harass or to cause unnecessary delay or needless increase in the cost of litigation.” (Section 10.001(1)). The signature also certifies that “each allegation or other factual contention in the pleading or motion has evidentiary support,” (Section 10.001(3)) and that “each denial in the pleading or motion of a factual contention is warranted on the evidence.” (Section 10.001(4)). Monetary sanctions for violating any of the foregoing provisions may, as is the case with Rule 13, be awarded against the signatory.

Here, it is plain that false testimony and false statements in pleadings do not, by definition, have evidentiary support, indeed the contrary is true.

The Court should award Chapter 10 Sanctions against CertainTeed. Such a sanction should include the costs and fees incurred in this Motion for Sanctions. In addition, as provided by Section 10.004(b)(2), the Court should order the payment of an additional penalty into court to compensate for the imposition caused by the submission of the false pleadings.

III.

CONCLUSION

This Court should order the payment of monetary sanctions by CertainTeed for submitting the false answer. Filing false answers to interrogatories and false statements in pleadings is an affront to this Court warranting the severest of sanctions. Plaintiffs also seek all other relief to which they are entitled.

IN RE: ASBESTOS LITIGATION

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IN THE DISTRICT COURT OF
CAMERON COUNTY, TEXAS



**RESPONSES OF CERTAINTEED CORPORATION TO PLAINTIFFS'
MASTER INTERROGATORIES**

Pursuant to the Texas Rules of Civil Procedure, defendant CertainTeed Corporation ("CertainTeed"), hereby responds to Plaintiffs' Master Interrogatories and Requests for Production as follows:

GENERAL OBJECTION

CertainTeed objects to these Interrogatories and Requests for Production on the grounds that they are overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of relevant information inasmuch as they request information about products which were never sold in Texas and about products with which the plaintiffs never would have worked and to which the plaintiffs would never have been exposed. The following responses are limited to asbestos-bearing products which could have reached the geographic area of Texas, Alabama, Florida, Mississippi, Oregon, Washington, Georgia, Tennessee, Arkansas and Virginia.

1. Defendant objects to each interrogatory and request for production and part thereof to the extent that Plaintiffs may assert that Plaintiffs definitions for words are binding on defendant or purport to impose upon Defendant obligations beyond those imposed by the rules of civil procedure.

DEFENDANT'S RESPONSES TO PLAINTIFFS' MASTER INTERROGATORIES
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2. Defendant objects to each interrogatory and request for production in part thereof to the extent it calls for answers disclosing information protected by (a) the attorney-client privilege, (b) the attorney work product doctrine, (c) any applicable privilege relating to communications between counsel for defendant and counsel for other defendants in this or other cases regarding defense of the case, (d) any applicable privilege relating to communications between defendants employees counsel and defendant insurers regarding the defense of this claim or claims of this type, (e) any privilege relating to confidential trade secrets, proprietary information or confidential communications with any government agency, (f) the expert witness exemption, (g) the witness statements exemption, (h) the party communications exemption, (i) the right of privacy or (j) any other privilege.

3. Defendant objects to each interrogatory and request for production and part thereof to the extent that information sought is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence as it relates to defendant.

4. Defendant objects to each interrogatory and request for production and part thereof to the extent that it seeks information not within the custody and control of Defendant.

5. Defendant objects to each interrogatory and request for production in part thereof to the extent that it seeks to require answers or information, or require identification

of documents, or impose obligations beyond those permitted by the applicable rules of Civil Procedure and local rules of court.

6. Defendant objects to each interrogatory and request for production in part thereof to the extent that it seeks information in a form different from that maintained by Defendant in the ordinary course of its business.

7. Defendant objects to each interrogatory and request for production in part thereof to the extent that it seeks information concerning or contained in documents which it objects to providing.

8. Defendant objects to each interrogatory and request for production in part thereof to the extent that it seeks to impose on Defendant a discovery obligation to respond for Defendants' businesses and entities not parties to this litigation.

9. Defendant objects to each interrogatory and request for production and part thereof as unreasonable, unduly burdensome, expensive, harassing, annoying, overly broad, vague, and ambiguous given the needs and parameters of this case. First, because Certainteed is a company employing many people it would be practically impossible to inquire of all Defendants' officers, directors, employees, or partners about their individual knowledge. Second, the requests seek information about products which were never sold in Texas and about products which the plaintiffs never would have worked with or around and

which the plaintiffs would never have been exposed. In this regard, the requests are not reasonably calculated to lead to the discovery of admissible evidence and are irrelevant. The following responses are limited to asbestos bearing products which could have reached the geographic areas of Texas, Alabama, Florida, Mississippi, Oregon, Washington, Georgia, Tennessee, Arkansas, and Virginia.

10. Defendant objects to each interrogatory and request for production or part thereof that seeks to determine the knowledge, familiarity, or awareness of defendant. It is not possible to state precisely if or when a corporation can be said to have such knowledge; that is a mixed question of fact and law. Defendant objects to imputing knowledge, familiarity or awareness of an employee or employees or agent or agents of defendant.

11. Defendant objects to each interrogatory and request for production unless Plaintiff identify a product injuring them for which Defendant is responsible.

12. Defendant objects to the definitions "Defendant", "You", "Your", "Your company", "Predecessors", "Subsidiaries" these definitions are overly broad, vague, ambiguous, unduly burdensome, harassing, annoying, unnecessarily expensive, and not reasonably calculated to lead to the discovery of admissible evidence.

13. Defendant answers these requests for production on behalf of itself with information developed after a reasonable investigation into the relevant facts. The objections

stated above are incorporated by reference in each response herein as if fully set forth below. No such objection is waived by answering a request for production in whole or in part. Any response provided herein is subject to and limited by all objections raised and all objections as to admissibility and all such objections are hereby expressly reserved and may be interposed at any time.

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

A. CertainTeed objects to the instructions and definitions supplied by plaintiffs with regard to these interrogatories and requests on the grounds that the definitions are overly broad, vague, and often inconsistent with the normal usage and meaning of such words. These definitions constitute an unreasonable expansion of the interrogatories and requests themselves. CertainTeed has therefore responded to the interrogatories in the manner consistent with a normal understanding of the language used in the response and to the extent necessary to fairly and fully respond to the interrogatories and requests.

B. CertainTeed objects to plaintiffs' definitions and instructions to the extent those definitions and instructions request CertainTeed to make any inquiry beyond that which is required by the Texas Rules of Civil Procedure or to the extent they seek to include documents not within CertainTeed's custody or control.

INTERROGATORY NO. 1:

State the name, address, job title, length of time employed by Defendant, and a year-by-year list of all other positions, titles, or jobs held when working for Defendant of each person who has supplied any information used in answering these interrogatories.

RESPONSE:

Curtis M. Pontz
Associate General Counsel and Assistant Secretary
CertainTeed Corporation
750 E. Swedesford Road
Valley Forge, PA 19482

Mr. Pontz has been employed by CertainTeed for 19 years. The remainder of this Interrogatory is objected to on the basis that it is not reasonably calculated to lead to the discovery of relevant information.

INTERROGATORY NO. 2:

State whether or not you are a corporation. If so, state your correct corporate name, the state of your incorporation, the address of your principal place of business, the name and address of the person or entity authorized to accept service of process on your behalf, and whether or not you have ever held a Certificate of Authority to do business in the State of Texas.

RESPONSE:

CertainTeed Corporation (the name was changed from CertainTeed Products Corporation in May 1976).

Address of principal place of business:

750 East Swedesford Road
Valley Forge, PA 19482

Originally incorporated in Maryland in 1917 and most recently incorporated in Delaware on May 31, 1989. CertainTeed is authorized to do business in Texas. Such authority was first issued May 14, 1918 and last renewed May 24, 1988.

Entity authorized to accept service of process:

CT Corporation
1601 Elm Street
Dallas, Texas 75201

INTERROGATORY NO. 3:

Has Defendant or any of its predecessor or subsidiary companies at any time engaged in the mining and subsequent sale of material containing asbestos fibers? If so, identify the location of the mine(s), the years of its operation, the type of asbestos mined and whether you sold any asbestos to any Defendants in the Dallas County asbestos litigation.

RESPONSE:

No.

INTERROGATORY NO. 4:

Identify by name each product containing asbestos fibers that Defendant or any of its predecessor or subsidiary companies at any time manufactured or sold.

RESPONSE:

ROOF CEMENTS AND COATINGS AND FOUNDATION COATING:

1. Asbestos Roof Coating - First placed on the market prior to 1930. Withdrawn from the market in 1982 due to economic considerations (poor profit margins). It was composed of asphalt, mineral spirits and approximately 6.7% 7M chrysotile asbestos fiber. It was designed for use as a coating for smooth surface asphalt roofs and was sold in 1 gallon friction top steel cans, 5 gallon steel pails and 30 and 55 gallon steel drums. The CertainTeed name appeared on the container. It was a viscous black liquid that could be spread with a brush or sprayed and any atmospheric temperature was recommended.
2. Blind Nailing Cement - First placed on the market prior to 1930. Withdrawn from the market in 1979 due to economic considerations (poor profit margins). It was composed of asphalt, mineral spirits and approximately 13% 7M chrysotile asbestos fiber. It was designed for use in sealing the laps of roll roofing applied with no exposed nails and was sold in 1 gallon friction top steel cans, 5 gallon steel pails and 30 and 55 gallon steel drums. The CertainTeed name appeared on the container. It was a viscous black liquid that could be applied with a stiff brush or trowel and any atmospheric temperature was recommended.
3. Plastic Cement - First placed on the market prior to 1930. Withdrawn from the market in 1983 due to economic considerations (poor profit margins). It was composed of asphalt, mineral spirits, pulverized limestone and approximately 18% 7 K chrysotile asbestos fiber and 18% 7M chrysotile asbestos fiber. It was designed for flashing, caulking, heavy duty roof repairs and patching roof flashings and was sold

in 1 pint, 1 quart, 1/2 gallon and 1 gallon friction top steel cans, 3 and 5 gallon steel pails and 30 and 55 gallon steel drums. The CertainTeed name appeared on the container. It was a black mastic that could be applied with a trowel and any atmospheric temperature was recommended.

4. Sealing Cement - First placed on the market prior to 1930. Withdrawn from the market in 1976 due to economic considerations (poor profit margins). It was composed of asphalt, mineral spirits and approximately 29% 7M chrysotile asbestos fiber. It was designed for sealing down asphalt shingles and was sold in 1 gallon friction top steel cans, 5 gallon steel pails and 30 and 55 gallon steel drums. The CertainTeed name appeared on the container. It was a black mastic that could be applied with a trowel and any atmospheric temperature was recommended.
5. Cold Process Cement - First placed on the market in approximately 1940. Withdrawn from the market in 1967 (replaced by Cold Process Asphalt). It was composed of asphalt, mineral spirits and approximately 6.7% 7M chrysotile asbestos fiber. It was designed for use in applying rolls of smooth roofing to obtain a built-up roof and was sold in 1 gallon friction top steel cans, 5 gallon steel pails and 30 and 55 gallon steel drums. The CertainTeed name appeared on the container. It was a viscous black liquid that could be spread with a brush or sprayed and any atmospheric temperature was recommended.
6. Cold Process Asphalt - First placed on the market in 1967. Withdrawn from the market in 1983 due to economic considerations (poor profit margins). It was composed of asphalt, mineral spirits and approximately 6.7% 7M chrysotile asbestos fiber. Cold process asphalt was the name given to "cold process cement" subsequent to 1967. It was sold in 1 gallon friction top steel cans, 5 gallon steel pails and 30 and 55 gallon steel drums. The CertainTeed name appeared on the container. It was a viscous black liquid that could be spread with a brush or sprayed and any atmospheric temperature was recommended.
7. Stabilized Roof Coating - First placed on the market in approximately 1940. Withdrawn from the market in 1967 due to economic considerations (poor profit margins). It was composed of asphalt, mineral spirits and approximately 6.7% 7M chrysotile asbestos fiber. It was designed for coating cold process smooth surface built-up asphalt roofs and was sold in 1 gallon friction top steel cans, 5 gallon steel pails and 30 and 55 gallon steel drums. The CertainTeed name appeared on the container. It was a viscous black liquid that could be spread with a brush or sprayed and any atmospheric temperature was recommended.
8. Wet Seal Plastic Cement - First placed on the market in 1961. Withdrawn from the market in 1983 due to economic considerations (poor profit margins). It was composed of asphalt, mineral spirits, an amine wetting agent, pulverized limestone

and approximately 18% 7K chrysotile asbestos and 18% 7M chrysotile asbestos. It was designed for use in providing adhesion to wet or damp surfaces in making heavy duty repairs to wet roofs and was sold in 1 gallon friction top steel cans, 5 gallon steel pails and 30 and 55 gallon steel drums. The CertainTeed name appeared on the container. It was a black mastic that could be applied with a trowel and any atmospheric temperature was recommended.

9. Asphalt Fibered Emulsion - First placed on the market sometime during the 1950's. Withdrawn from the market in 1983 due to economic considerations (poor profit margins). It was composed of asphalt, water, clay, electrolyte and an unknown quantity of asbestos fiber. It was designed for coating smooth surface asphalt roofs and was sold in 1 gallon friction top steel cans, 5 gallon steel pails and 30 and 55 gallon steel drums. The CertainTeed name appeared on the container. It was a viscous black liquid that could be spread with a brush or sprayed and any atmospheric temperature was recommended.
10. Fibered Aluminum Roof Coating - First placed on the market in 1951. Withdrawn from the market in 1979 due to economic considerations (poor profit margins). It was composed of asphalt, mineral spirits, aluminum powder and an unknown quantity of asbestos fiber. It was designed for coating smooth surface asphalt roofs and was sold in 1 gallon friction top steel cans, 5 gallon steel pails and 30 and 55 gallon steel drums. The CertainTeed name appeared on the container. It was a viscous aluminum colored liquid that could be spread with a brush or roller and any atmospheric temperature was recommended.
11. Asphalt Foundation Coating - First placed on the market in approximately 1940. Withdrawn from the market in 1981 due to economic considerations (poor profit margins). It was composed of asphalt, mineral spirits, and approximately 6.7% 7M chrysotile asbestos fiber. It was designed for coating the exterior of foundations before backfilling and was sold in 1 gallon friction top steel cans, 5 gallon steel pails and 30 and 55 gallon steel drums. The CertainTeed name appeared on the container. It was a viscous black liquid that could be spread with a brush or sprayed and any atmospheric temperature was recommended.

At some point CertainTeed commenced affixing its logo (C and T with the stem of the T inserted sideways into the C) to the containers in which its roof coatings and cements and foundation coating were packaged.

BUILT-UP ROOFING PLY SHEET:

12. No. 15 Perforated Saturated Asbestos Felt - First placed on the market in 1968. Withdrawn from the market in 1976 due to lack of demand for the product. It was

composed of asphalt, organic fiber and 58% asbestos fiber (type and grade unknown). It was designed for use as plies for built-up roofs and flashing and packaged with a kraft paper wrapper, was not color coded, and contained no logo or markings except for laying lines of aluminum paint. The CertainTeed name appeared on the wrap. It was a black roll good which was applied with hot asphalt and any atmospheric temperature was recommended.

13. Asbestos Base Sheet - First placed on the market in 1968. Withdrawn from the market in 1976 due to lack of demand for the product. It was composed of asphalt, organic fiber, glass fiber, pulverized limestone, pulverized talc and 20% asbestos fiber (type and grade unknown). It was designed for use as the first ply in applying a built-up roof and packaged with a kraft paper wrapper, was not color coded, and contained no logo or other marking except for laying lines of orange-red paint. It was a black roll good which was nailed or applied with hot asphalt and any atmospheric temperature was recommended.
14. Asbestos Base Flashing - First placed on the market in 1968. Withdrawn from the market in 1976 due to lack of demand for the product. It was composed of asphalt, organic fiber, pulverized limestone, pulverized talc, 19% asbestos fiber (type and grade unknown) and either glass, hemp or jute fiber. It was designed for use as one ply in installing flashing and packaged with a kraft paper wrapper, was not color coded and contained no logo or other markings. The CertainTeed name appeared on the wrap. It was a black roll good which was applied with hot asphalt and any atmospheric temperature was recommended.
15. Asbestos Cap Sheet (mineral surfaced) - First placed on the market in 1973. Withdrawn from the market in 1976 due to lack of demand for the product. It was composed of asphalt, organic fiber, pulverized limestone, pulverized talc, coarse crushed rock and 13.8% asbestos fiber (type and grade unknown). It was designed for use as the top ply on built-up roofs and packaged with a kraft paper wrapper, was not color coded and contained no logo or other markings except for a laying line of orange-red paint. The CertainTeed name appeared on the wrap. It was a black roll good which was applied with hot asphalt and any atmospheric temperature was recommended.

ASBESTOS-CEMENT SIDING SHINGLES:

16. Asbestos-Cement Siding Shingles (manufactured by others) - First placed on the market in approximately 1950. Withdrawn from the market in approximately the early 1970's due to economic considerations (poor profit margins). Asbestos-cement siding shingles were flat slabs which came in various colors (type, grade and quantity of asbestos fiber unknown). They were designed for use on the exterior of homes and they were supplied in packages having a corrugated fiberboard band and sides held in

place by two wire ties. The CertainTeed name appeared on the band and any atmospheric temperature was recommended.

ASBESTOS-CEMENT PIPE:

17. Asbestos-Cement Pipe (may have carried the brand name Fluid-Tite) - First placed on the market on June 1, 1962. CertainTeed ceased manufacture of asbestos-cement pipe in 1992. The asbestos fiber was bound into the asbestos-cement pipe by a combination of cement, silica and water through an autoclave (high pressure steam atmosphere) curing process. It contained the following amounts of asbestos by weight:

Pressure Pipe	15 - 20%
Sewer Pipe	10 - 15%
Irrigation Pipe	11 - 20%

Of the total asbestos content of the asbestos-cement pipe, anywhere from 0% to 24% was crocidolite (blue) fiber by weight, with the remaining fiber being chrysotile (white). The ratio of these fibers varied in accordance with various factors, including type of pipe and physical dimensions.

Asbestos-cement pipe was used for the underground transmission of water and sewage. No packaging was used in connection with this product. The sewer pipe contained black lettering, including the name "CertainTeed", the pressure pipe contained either black or orange lettering, including the name "CertainTeed" and the irrigation pipe had black lettering including the name "CertainTeed". It was installed in the form in which it was sold except to the extent that it may have required machining in order to meet a specific length.

Asbestos-cement pipe was cylindrical in shape, cement gray in color with a smooth interior, relatively rough textured exterior, with ends machined to given dimensions. Pipe lengths were connected with an asbestos-cement coupling with two rubber rings contained in machined grooves. The temperature limit was 200° F.

SPECIALTY RAILROAD INSULATION PRODUCTS:

18. Glass Fiber Blanket Insulation Faced with Asbestos Paper for Railroad Car Application - First placed on the market by Gustin-Bacon Manufacturing Company in 1945 (CertainTeed, through merger, acquired the Gustin-Bacon Manufacturing Company on July 1, 1966, and at the time of the merger, all the ordinary liabilities of Gustin-Bacon were assumed by CertainTeed). Withdrawn from the market in 1947 because of poor moisture vapor transmission and as a result of the determination that there was no need for an incombustible facing. It was composed of nine-micron glass

fiber blanket and reinforced asbestos paper facing. It was intended solely for use in insulating ceilings, walls and floors of railroad passenger cars and was packaged in cardboard or wrapped in heavy kraft paper. No writing is believed to have been on the product. The content of any writing on the packaging is unknown and the recommended temperature range is unknown.

19. Flexible Trainline - First placed on the market by Gustin-Bacon Manufacturing Company in 1945. First manufactured and sold by CertainTeed in 1966. Withdrawn from the market in 1970 due to lack of demand for the product. It was composed of nine-micron glass fiber blanket, resin bonded and adhered with adhesive to neoprene coated asbestos cloth. It was intended solely for use in insulating railroad passenger car steam lines. It was packaged in cardboard or wrapped in heavy kraft paper. No writing is believed to have been on the product. The content of any writing on the packaging is unknown and the recommended temperature limit was 300°F.

JOINT TREATING COMPOUND:

20. Joint Treating Compound (may have carried the brand name Bestwall) - First placed on the market in 1937. Sales of this product were discontinued on June 30, 1956, when CertainTeed sold its gypsum assets. The composition is unknown other than it is believed to have contained approximately 4 percent asbestos fiber by weight. Joint treating compound was applied to the joints of gypsum wallboard and sold in bags (no additional information is known). It was grayish white and the recommended temperature range is unknown.

ACOUSTICAL PLASTER:

21. Acoustical plaster (carried the tradename Kalite) - sales commenced sometime between 1936 and 1940, but the product may not have been sold in asbestos-containing form until approximately 1943. Sales of this product were discontinued on June 30, 1956, when CertainTeed sold its gypsum assets. This plaster was a hard plaster and is believed to have contained approximately 2% asbestos by weight. It was packaged in kraft color 80 pound bags which contained the product name, name of manufacturer, and bag weight.

INTERROGATORY NO. 5:

Identify by name each product containing asbestos fibers that Defendant or any of its predecessor or subsidiary companies at any time marketed or sold.

RESPONSE:

See answer to Interrogatory No. 4.

INTERROGATORY NO. 6:

If the answer to one or more of the last three interrogatories is in the affirmative or lists any products, state as to each named product the following:

- (a) As to each product, state whether such product was mined, manufactured, marketed, and/or sold.
- (b) The names of the companies mining, manufacturing, marketing, and/or selling each product mined, manufactured, marketed, and/or sold.
- (c) The trade or brand name of each of those products mined, manufactured, marketed and/or sold.
- (d) The date each of the named products was placed on the market.
- (e) A description of the physical (chemical) composition of each of the named products, including the type of asbestos contained in the product and the percentage of asbestos put in each product.
- (f) The date each of the products was removed from the market and no longer sold or distributed and the reason or reasons therefor.
- (g) The date asbestos was removed from such products, if ever, and the reasons therefor.
- (h) A description of the physical appearance of each of the named products.
- (i) A detailed description of the intended uses of the named products.
- (j) Identify the last year that you sold each asbestos-containing product.

RESPONSE:

- (a) See answer to Interrogatory No. 4.
- (b) CertainTeed was the manufacturer except as follows:

Asbestos Roof Coating - made from 1977 to 1982 by APOC
Blind Nailing Cement - made from 1977 to 1979 by APOC
Plastic Cement - made from 1977 to 1983 by APOC
Cold Process Asphalt - made from 1977 to 1983 by APOC
Wet Seal Plastic Cement - made from 1977 to 1983 by
APOC

Asphalt Fibered Emulsion - made by Chevron Asphalt
Company from 1950's to 1983
Fibered Aluminum Roof Coating - made by Chevron Asphalt
Company from 1951 to 1979

(c)-(j) See answer to Interrogatory No. 4.

INTERROGATORY NO. 7:

Do any documents, including but not limited to written memoranda, specifications, recommendations, blueprints, or other written materials of any kind or character, relating to the design, preparation, or introduction into the market of the products listed in Interrogatory No. 6 still exist? If so, state:

- (a) A description of each such document.
- (b) The name, address, and job title of each person who currently has possession of each document, and where the documents are currently located.

RESPONSE:

No.

INTERROGATORY NO. 8:

Before distributing, selling, or placing the products listed in your responses to Interrogatory Nos. 3-6 into the streams of commerce, were any tests conducted to determine potential health hazards involved in the use of, or exposure to, the materials such as asbestos, contained in those products? If the answer is affirmative, state:

- (a) The names of the products tested and the date of each test.
- (b) The name, address, and job title of each person conducting the tests or involved with conducting the tests.
- (c) The results of the tests.

RESPONSE:

No.

INTERROGATORY NO. 9:

Do any documents, including but not limited to written memoranda, specifications, recommendations, blueprints, or other written materials of any kind or character, relating to the testing of the products referred to in Interrogatory No. 6 now exist? If so, state:

- (a) A description of each such document.
- (b) The name, address, and job title of each person who currently has possession of each document, and where it is presently located.

RESPONSE:

Not applicable.

INTERROGATORY NO. 10:

Did Defendant or any of its predecessor or subsidiary companies make any design changes or modifications as a result of those tests described in responses to Interrogatory No. 8? If the answer is affirmative, state:

- (a) The trade names of the products changed.
- (b) The nature of the changes made and the date of such changes or modifications.
- (c) The name, address, and job title of each person responsible for having caused a change to be made, or having made a change or modification.

RESPONSE:

Not applicable.

INTERROGATORY NO. 11:

After releasing the products listed in Interrogatory No. 6 to the public, were any tests conducted on them to determine potential health hazards resulting from the use of or exposure to the materials, such as asbestos, contained in those products? If the answer is affirmative, state:

- (a) The names of the products tested and the dates of such tests.
- (b) The name, address, and job title of each person who conducted those tests.
- (c) The results of those tests.

- (d) Whether, as a result of the tests, any products were removed from the market.
- (e) The names of all products removed from the market as a result of these tests.

RESPONSE:

No.

INTERROGATORY NO. 12:

Do any documents, including written memoranda, specifications, recommendations, blueprints, or other written materials of any kind or character, relating to the potential health hazards of the products listed in Interrogatory No. 6 now exist? If so, state:

- (a) The name of each product.
- (b) A description of each document and how it relates to each product.
- (c) The name, address, and job title of each person who currently has possession of each document, and where it is presently located.

RESPONSE:

No.

INTERROGATORY NO. 13:

Did Defendant or any of its subsidiary companies make any design changes as a result of the tests discussed in your response to Interrogatories No. 10 or 13? If the answer is affirmative, state:

- (a) The names of the products changed or modified.
- (b) The name, address, and job title of each responsible for having made a change or modification.
- (c) The nature of the hazard or defect which resulted in such change or modification.

RESPONSE:

Not applicable.

INTERROGATORY NO. 14:

Has Defendant or any of its predecessor or subsidiary companies at any time published or distributed any printed material, including brochures, pamphlets, catalogs, packaging or other written material or any kind or character containing any warnings concerning the possibility of injury resulting from the use of the asbestos-containing products listed in Interrogatory No. 6? If so, state:

- (a) The names of each relevant product.
- (b) The exact wording of each warning statement on each printed material.
- (c) A description of the printed material other than the warning statement.
- (d) The method used to distribute the warning to persons likely to use the product.
- (e) The date each warning was issued, distributed, or placed on packaging.
- (f) The name, address, and job title of each person responsible for having drafted or issued the warning.
- (g) The current location of any such printed material and the custodian thereof.
- (h) The form in which such literature or printed material can be accessed, i.e., the manner in which such literature is indexed or stored.

RESPONSE:

- (a)-(e) The label placed on CertainTeed asbestos-cement pipe beginning in 1979 read as follows:

"CAUTION: Always use recommended work practices. Do not use abrasive saws. When cutting, machining and tapping, refer to Recommended Work Practices Guide furnished by manufacturer to your employer."

In approximately July 1985 the caution label was changed to read as follows:

CAUTION:

Contains asbestos fiber.
Avoid creating dust. Breathing
asbestos dust can cause serious
bodily harm, including cancer and asbestosis.

When cutting, machining and tapping always use recommended work practices (Refer to Recommended Work Practices Guide furnished by manufacturer to your employer).
Do not use Abrasive Disc Saws.

The warning was placed on the unmachined portion of pipe (quarter lengths and larger) at or near the end of the pipe.

Commencing in 1977 CertainTeed included in the comprehensive asbestos-cement pipe binder collation furnished to purchasers of its asbestos-cement pipe a booklet entitled "Recommended Work Practices for A/C Pipe" published by the A/C Pipe Producers Association. The entire booklet was intended to warn about improper pipe machining techniques. The booklet was incorporated into the CertainTeed Installation Guide for Fluid-Tite Asbestos-Cement Pressure Pipe as well as into the CertainTeed Asbestos-Cement Pressure Installation Guide.

In addition, CertainTeed printed a warning in certain of its brochures as follows:

- (1) CertainTeed Installation Guide Asbestos-Cement Fluid-Tite Non-Pressure Sewer Pipe (Code No. 40-31-06). On page 21, it was stated, "CAUTION - Asbestos-cement pipe contains asbestos fibers. Do not cut or machine without protection. Breathing asbestos dust may cause serious bodily harm." Published early 1980 - use discontinued after document inventory depleted. This document was typically used only in comprehensive asbestos-cement pipe binder collations, which always included a copy of the booklet entitled "Recommended Work Practices for A/C Pipe" published by the A/C Pipe Producers Association.
- (2) Installation Guide Fluid-Tite Pressure Pipe (Code No. 40-21-07). On inside front cover and on page 31, it was stated as cited in (1) above. Published early 1977 - replaced in 1982 by the A/C Pressure Installation Guide cited in subpart (3) below. Also incorporated a reproduction of the booklet entitled "Recommended Work Practices for A/C Pipe" published by A/C Pipe Producers Association.
- (3) A/C Pressure Installation Guide - Distribution and Fluid Transmission Piping Systems (Code 40-23-07). On page 9 it was stated, "CAUTION - Asbestos-cement pipe contains asbestos fibers. Do not cut or machine without protection. Breathing asbestos dust may cause serious bodily harm. Refer to 'Recommended Work Practices for A/C Pipe'." Pages 39-47 were a

reproduction of the booklet entitled "Recommended Work Practices for A/C Pipe" published by the A/C Pipe Producers Association. Published March 1982.

- (f) Those individuals involved in the decision to place a warning on asbestos-cement pipe included: C.M. Pontz, Esq. Associate General Counsel and Assistant Secretary, CertainTeed; L.C. Ambler, Senior Vice President, Pipe & Plastics Group, CertainTeed; J.G. Baker, former Vice President, Pipe & Plastics Group, CertainTeed; J.G. Kelso, former President, Pipe & Plastics Group, CertainTeed. Those individuals involved in the decision to change the warning for asbestos-cement pipe were C.M. Pontz; L.C. Ambler; J.F. Baker; and O.H. Kittilstad, former Director of Health & Safety, CertainTeed Corporation.
- (g) See answer to Interrogatory No. 1.
- (h) Not applicable.

INTERROGATORY NO. 15:

Before 1970, had you received notice that any individual or individuals, other than those Plaintiffs who have filed personal injury actions in Texas State Courts is or are claiming or has or have claimed an injury as a result of using asbestos products manufactured and/or sold by your company or any of its predecessors or subsidiaries before 1970? If so, state:

- (a) The name and address of each claimant.
- (b) The date of notice of each claim.
- (c) A description of the claim.
- (d) The type of injuries allegedly sustained.
- (e) The name and address of each attorney who represents each individual making a claim.
- (f) The style and court number of each claim.
- (g) The disposition of each claim that has been settled or taken to judgment.

RESPONSE:

No.

INTERROGATORY NO. 16:

Were your asbestos products distributed, marketed, packaged, labeled and/or sold by companies other than your own? If the answer is affirmative, list the names and addresses of each of those companies, and the products in question.

RESPONSE:

No.

INTERROGATORY NO. 17:

Did you or any of your predecessors, successors, or subsidiaries have any distributors or sales representatives of asbestos products in the States of Alabama, Florida, Mississippi, Oregon, Washington, Georgia, Tennessee, Arkansas, Texas and Virginia? If so, state:

- (a) The name and address of each such distributor or sales representatives.
- (b) The years in which such company or person distributed, marketed, or sold your products.
- (c) What products were distributed, marketed, or sold in what years.

RESPONSE:

CertainTeed has no sales records relating to roofing products prior to 1973. Since 1978, CertainTeed roofing sales records have been maintained on computer. If required, computer printouts of the pertinent sales, if any, of asbestos-bearing roofing products will be made available at the law offices of CertainTeed counsel for proper counsel's review and/or copying. Invoices for all roofing sales for the years 1973-1975 are stored in cartons by invoice number, by month, at CertainTeed's facility in Blue Bell, Pennsylvania.

Invoices for all roofing sales for the years 1976 and 1977 are on microfilm by invoice number, by month, at CertainTeed's facility in Blue Bell, Pennsylvania. Thus, each invoice would have to be reviewed in order to determine which invoices would be responsive to any request for sales records. Such a review would be unduly burdensome and oppressive to conduct. If required, CertainTeed will make these documents available at its facility in Blue Bell, Pennsylvania, for review and copying by proper counsel at a mutually convenient time with all costs attendant to this inspection and copying to be assumed by the party conducting such inspection.

CertainTeed has no sales records for asbestos-cement pipe for the period 1962 (when CertainTeed commenced the manufacture of said product) to 1966. For the period 1967 to 1979, CertainTeed has invoices of sales for June 1967, October through December 1968, and 1969 through 1979, inclusive. The approximate numbers of such invoices are as follows:

6/67, 10-12/68	2,500
1969	14,950
1970	13,900
1971	16,250
1972	15,050
1973	16,364
1974	23,000
1975	25,000
1976	25,000
1977	28,000
1978	30,800
1979	33,300

These invoices have been maintained on microfilm and are filed only by invoice number, plant and year. Thus, CertainTeed would have to review each and every invoice in order to provide the specific information sought by any request for sales records.

Such a review would be highly burdensome and oppressive. If required, CertainTeed will make available said invoices, which are maintained at the headquarters of CertainTeed's Pipe Group in Valley Forge, Pennsylvania, for review and copying by proper counsel at a mutually convenient time, with all costs attendant to this inspection and any copying to be assumed by the party conducting such inspection.

For the period 1980 to 1992, CertainTeed's sales records for asbestos-cement pipe are contained in computer printouts. At plaintiff's request, CertainTeed's counsel will make said printouts available to proper counsel for review and/or copying at a mutually convenient time, with all costs attendant to any such inspection and any copying to be assumed by the party conducting such inspection.

CertainTeed has no sales records for joint treating compound, acoustical plaster, asbestos-cement siding shingles, Flexible Trainline and glass fiber blanket faced with asbestos paper for railroad car application (the two latter products were sold exclusively to railroad companies).

INTERROGATORY NO. 18:

List each employee (including any physicians and/or hygienists) who has acted in a medical advisory capacity to your company at any time during the past 40 years, including, but not limited to, physicians and industrial hygienists, and the current address, telephone number and job title of each of those individuals and who has, had or may have had any knowledge regarding the hazards of asbestos.

RESPONSE:

CertainTeed has employed a Medical Director since 1973. Dr. J.L. Goodman served from March 1973 until December 1978. Dr. L.J. Mellon has served in that capacity from December 1978 to the present. Said Medical Directors have been assigned to company headquarters in Valley Forge, PA.

The following individuals have been employed as industrial hygienists for CertainTeed Corporation:

Leon Horowitz was employed by CertainTeed Corporation at its offices in Valley Forge, PA from 1962 - 1967. Mr. Horowitz is no longer employed by CertainTeed.

Walter Gubar was employed by CertainTeed at its offices in Kansas City, Kansas from 1966 - 1984. Mr. Gubar is retired from CertainTeed.

Owen H. Kittilstad was employed by CertainTeed at its facilities in Valley Forge, PA from 1977 to 1988. Mr. Kittilstad, who was Corporate Director, Health & Safety, is retired from CertainTeed.

Thomas C. Shaffer was employed by CertainTeed at its facilities in Valley Forge, PA from 1978 - 1981. Mr. Shaffer is no longer employed by CertainTeed.

Janis L. Woodson has been employed by CertainTeed at its facilities in Valley Forge, PA since 1978. Ms. Woodson's current title is Industrial Hygiene Specialist.

Peter J. Norris was employed by CertainTeed as a Corporate Industrial Hygienist at its facilities in Valley Forge, PA from 1981 - 1986. Mr. Norris is no longer employed by CertainTeed.

INTERROGATORY NO. 19:

Does Defendant have in its possession any books, pamphlets, memoranda, or written materials of any kind or character that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings? If so, state:

- (a) The name of each such publication.

- (b) The date of publication and the names of the author and publisher (if any).
- (c) The date received by Defendant, if known.
- (d) The name, job title, and address of each person who currently has possession of each publication and its present location.

RESPONSE:

CertainTeed has maintained a corporate library at its facility in Blue Bell, PA since 1977. Some of the books and articles may deal with asbestos and the health of human beings. However, CertainTeed cannot further respond to this Interrogatory since it has no log or registry or other source which would contain such information.

INTERROGATORY NO. 20:

Has Defendant or any of its subsidiary or predecessor companies at any time been a member of any trade organization or association that published or disseminated any documents or information relating to the hazards of asbestos comprised of other manufacturers, miners, marketers, and/or sellers of asbestos products? If so, state:

- (a) The name and address of each such association or organization.
- (b) The dates during which Defendant or any of its subsidiaries or predecessors were members.
- (c) The names and dates of any publications, minutes, or reports published, written, or disseminated by any of the named associations or organizations.
- (d) Whether any of those publications are still in your possession, and if so:
 - (i) A description of the publication, including the date.
 - (ii) The current location of such publications.
 - (iii) The custodian of such publications.
 - (iv) The method or manner in which such publications are maintained.

RESPONSE:

CertainTeed objects to this Interrogatory on the basis that it is overly broad and unduly burdensome. Without waiving said objection and subject thereto, CertainTeed has belonged to N.I.M.A. from 1967 through 1973, T.I.M.A. from 1973 through the present, A.I.A./N.A. since its founding in 1971, and the Association of Asbestos-Cement Pipe Producers since its formation in 1973. CertainTeed joined the Industrial Health Foundation in 1968 (we have no record of when CertainTeed ended its affiliation), and belonged to the Gypsum Association for an unknown period of time prior to 1956.

INTERROGATORY NO. 21:

Identify by name and location each plant or manufacturing facility in which the products listed in your answers to Interrogatory Nos. 3-6 were manufactured, assembled, or prepared for sale or marketing, specifying which plants produced each item, the dates each plant is or was in operation, and the time span during which each named item was produced or manufactured.

RESPONSE:

Following is a list of all pertinent manufacturing locations (the dates in parenthesis represent date facility began operation and date it ceased operation):

Asbestos-cement pipe:

Ambler, PA (1938-1982)
South Main Street
Ambler, PA 19002

St. Louis, MO (1938-1979)
600 St. Cyr Road
St. Louis, MO 63137

Hillsboro, TX (1961-1987)
P.O. Box 403
U.S. Highway 77N
Hillsboro, TX 76645

Santa Clara, CA (1953-1982)
LaFayette & Kifer Roads
Santa Clara, CA 95050

Riverside, CA (1965-1992)
P.O. Box 706

2100 Avalon
Riverside, CA 92501

Specialty Insulation Products for Railroad Industry:

Kansas City, KS (1943-present)
103 Funston Road
Kansas City, KS 66115

Roofing Products:

Avery, OH (1972-present)
11519 U.S. Rt. 250 North
Milan, OH

Chicago Heights, IL (1931-1984)
10th & States Streets
Chicago Heights, IL 60411

Dallas, TX (1946-1984)
79110 S. Central Expressway
Dallas, TX 75216

East St. Louis, IL (1901-1969)
Address Unknown

Kansas City, MO (1901-1981)
1248 Crystal Street
Kansas City, MO 64126

Marseilles, IL (unknown-1955)
Address Unknown

Minneapolis, MN (1934-1973)
Address Unknown

Niagara Falls, NY (unknown-1957)
Address Unknown

Oxford, NC (1979-present)
200 CertainTeed Road

Oxford, NC 27565

Richmond, CA (1915-1984)
1014 Chesley Avenue
Richmond, CA 94804

Savannah, GA (1930-1987)
Foundation Drive
Savannah, GA 31402

Shakopee, MN (1974-present)
3303 Fourth Avenue
Shakopee, MN 55379

Tacoma, WA (1955-1984)
1718 Thorne Road
Tacoma, WA 98402

York, PA (1916-1981)
702 S. Richland Avenue
York, PA 17405

Joint treating compounds:

Acme, TX (unknown-1956)
Address Unknown

Fort Dodge, IA (unknown-1956)
Address Unknown

Acoustical plaster:

Acme, TX (unknown-1956)
Address Unknown

INTERROGATORY NO. 22:

Have printed sales materials been prepared by Defendant or any of its subsidiary or predecessor companies or their agents for purposes of marketing or advertising products containing asbestos? If so, state:

- (a) The name, address, and job title of each person or entity who prepared such materials.

- (b) The name, address, and job title of each person who currently has possession of such materials and their present location.
- (c) The date the materials were prepared.
- (d) The media used to disseminate the sales materials.

RESPONSE:

Promotional Material (including instructions): CertainTeed has no such documents pertaining to joint treating compound, asbestos-cement siding shingles, glass fiber blanket insulation faced with asbestos paper sold to the railroad industry, acoustical plaster or roll roofing products.

The promotional literature of which CertainTeed has possession pertaining to asbestos-cement pipe is listed on Exhibit A attached hereto.

CertainTeed has the following such documents pertaining to roof coatings and cements: "CertainTeed Protective Products -- cements and coatings" (dated January 1972); and "CertainTeed Protective Products -- cements and coatings" (dated August 1975), attached hereto as Exhibit B.

The only such literature in CertainTeed's possession regarding Flexible Trainline is a copy of a two page brochure which was published between 1966 and 1970, attached hereto as Exhibit C.

The remainder of this Interrogatory is objected to on the basis that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of relevant information.

INTERROGATORY NO. 23:

Have any written or printed materials or instructions of any kind or character been prepared by Defendant or any of its subsidiary or predecessor companies or their agents indicating how asbestos products should be used and maintained? If so, state:

- (a) The name, address, and job title of each person who prepared such materials or instructions or assisted in their preparation.
- (b) The name, address, and job title of each person who currently has possession of such materials or instructions and their present location.

- (c) The dates of distribution or use and the manner in which such materials or instructions were distributed to purchasers of Defendant's products or those of its subsidiaries or predecessors.
- (d) The year each such written material or instruction was prepared and disclosed to potential consumers.

RESPONSE:

See answer to Interrogatory No. 14.

INTERROGATORY NO. 24:

Does Defendant have insurance policies that might cover the claims made by Plaintiffs in these cases? If so, list the name of each insurance carrier, the amount of initial coverage, amount of coverage remaining at the present time, and the effective dates of each policy. (If properly answered, this Interrogatory need not be supplemented as to the remaining amount of coverage).

RESPONSE:

CertainTeed is a member of the Center for Claims Resolution and therefore objects to this Interrogatory on the basis that the information sought would not be relevant.

INTERROGATORY NO. 25:

As to the disease asbestosis, state:

- (a) The date on which Defendant or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.
- (b) How Defendant became aware of the existence of the disease.
- (c) Who within the company first discovered, recognized or understood the adverse consequences or effects of the disease and/or asbestos exposure.
- (d) What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- (e) Whether any such information is still maintained by Defendant or its subsidiary or predecessor in any written form.

- (f) Who is the custodian of such information.
- (g) The date on which you first received knowledge or information that asbestosis was caused by inhalation of asbestos fibers.

RESPONSE:

CertainTeed may have been made aware of a link or alleged link between asbestos and the cited disease, but it has no log or registry or other source of information which would enable it to otherwise respond to this Interrogatory.

INTERROGATORY NO. 26:

As to the disease lung cancer, state:

- (a) The date on which Defendant or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.
- (b) How Defendant or its subsidiary or predecessor became aware of the disease and its relationship to asbestos exposure.
- (c) Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure.
- (d) What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- (e) Whether any such information is still maintained by Defendants or its subsidiary or predecessor in a written form.
- (f) Who is the custodian of such information.
- (g) The date on which you first received knowledge or information that lung cancer was caused by inhalation of asbestos dust and fibers.

RESPONSE:

See answer to Interrogatory No. 25.

INTERROGATORY NO. 27:

As to pleural disease, pleural thickening or pleural plaques, state:

- (a) The date on which Defendant or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.
- (b) How Defendant or its subsidiary or predecessor became aware of the disease and that it was caused by exposure to asbestos.
- (c) Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects asbestos exposure.
- (d) What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- (e) Whether any such information is still maintained by Defendant or its subsidiary or predecessor in a written form.
- (f) Who is the custodian of such information.

RESPONSE:

See answer to Interrogatory No. 25.

INTERROGATORY NO. 28:

As to the disease mesothelioma, state:

- (a) The date on which Defendant or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.
- (b) The date on which Defendant first suspected that mesothelioma was caused by inhalation of asbestos dust and fibers.
- (c) How Defendant or its subsidiary or predecessor became aware of the disease and that it was caused by exposure to asbestos.
- (d) Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure.
- (e) What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- (f) Whether any such information is still maintained by Defendants or its subsidiary or predecessor in a written form.
- (g) Who is the custodian of such information.

- (h) Whether Defendant agrees that there is no known medical cure for mesothelioma.

RESPONSE:

See answer to Interrogatory No. 25.

INTERROGATORY NO. 29:

As to gastro-intestinal cancer, laryngeal cancer, pharyngeal cancer or lymphatic cancer, state:

- (a) The type of cancer and the date on which Defendant or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.
- (b) What cancers has the Defendant or its subsidiary or predecessor become aware can be caused by exposure to asbestos fibers?
- (c) The date on which Defendant first suspected other cancers were caused by asbestos inhalation.
- (d) Who within the company or its subsidiary or predecessor first discovered the adverse consequences or effects of asbestos exposure.
- (e) What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- (f) Whether any such information is still maintained by Defendant or its subsidiary or predecessor in a written form.
- (g) Who is the custodian of such information.

RESPONSE:

See answer to Interrogatory No. 25.

INTERROGATORY NO. 30:

Does Defendant contend that asbestos products can be manufactured or designed so as to eliminate all potential health hazards to persons working with or exposed to them? If the

answer is affirmative, explain in detail, and attach any studies or surveys on which this answer is based.

RESPONSE:

CertainTeed objects to this Interrogatory in that it seeks expert opinion. Without waiving said objection and subject thereto, CertainTeed does not so contend.

INTERROGATORY NO. 31:

Describe in detail the types of packages or packaging which Defendant or any of its subsidiary or predecessor companies used for asbestos material or products, listing the dates each type of package was used, a physical description of each type of package, and providing a description of any printed material or trademarks that appeared thereon.

RESPONSE:

See answer to Interrogatory No. 4.

INTERROGATORY NO. 32:

Has Defendant or any of its subsidiary or predecessor companies at any time entered into a "rebranding" agreement with any other company, either as buyer or seller, concerning asbestos materials or asbestos products? If so, state, as to each such agreement:

- (a) The name of the company manufacturing the asbestos products.
- (b) The trade name affixed to those products.
- (c) The periods of time covered by each such agreement.
- (d) The volume, in dollar amount, of each transaction.
- (e) The initial purchaser of the products.

RESPONSE:

No.

INTERROGATORY NO. 33:

List the name and address of each company from which Defendant or its subsidiary or predecessor purchased materials or asbestos products which Defendant sold or distributed in any form, stating the form of the materials, the dates of such purchases, and the ultimate disposal of such materials.

RESPONSE:

See answer to Interrogatory No. 6(b). With respect to suppliers of raw asbestos, the asbestos fibers used in roof coatings and cements were supplied by Johns-Manville until the mid-1960's and by Carey-Canadian Mines from the mid-1960's through 1977. Unknown as to roll roofing products, asbestos-cement siding shingles, Flexible Trainline, glass fiber blanket insulation faced with asbestos paper for railroad car application, joint treating compound and acoustical plaster.

With respect to asbestos-cement pipe, CertainTeed objects to providing the data requested on the basis that this Interrogatory is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of relevant information inasmuch as different asbestos-cement pipe plants received fiber from numerous different sources and in the absence of any showing that a particular plaintiff ever worked with asbestos-cement pipe.

INTERROGATORY NO. 34:

Does Defendant or any of its subsidiaries or predecessor currently have possession of any writings or contracts on those rebranding agreements set forth in the answer to Interrogatory No. 32? If the answer is affirmative, state:

- (a) The name, address, and job title of each person having custody of each of those documents and their current location.
- (b) A brief description of each such document, including the dates and the parties signatory.

RESPONSE:

Not applicable.

INTERROGATORY NO. 35:

Prior to 1968, did any person file a claim against a Worker's Compensation carrier covering Defendant or any of its subsidiaries or predecessors alleging that he/she contracted a disease from inhaling asbestos fibers? If so, provide:

- (a) A list of the claims, including each claimant's name, address and the date each claim was filed, and including the caption and jurisdiction of the claim.
- (b) The disease alleged in each such claim.
- (c) A brief summary of the disposition of each such claim.
- (d) The name, address and title of the person having custody of the records pertaining to each such claim.

RESPONSE:

No.

INTERROGATORY NO. 36:

Did Defendant or any of its subsidiaries or predecessors maintain written minutes of corporate meetings, either board of directors, departmental, or otherwise, which reflect discussions pertaining to any subject matter related to asbestos, asbestos health hazards of asbestos products? If so, for each such set of minutes, state:

- (a) The dates of each such meeting.
- (b) The general subject matter discussed at each meeting.
- (c) Who was in attendance at each meeting.
- (d) Where and by whom the written minutes are presently maintained.
- (e) By whom the minutes were taken and put into final format.
- (f) Whether the minutes were abstracted and reports disseminated to other individuals, and if so, the names and job titles of those individuals.

RESPONSE:

See Exhibit D attached hereto. The remainder of this Interrogatory is objected to on the basis that the information requested is not reasonably calculated to lead to the discovery of relevant information.

INTERROGATORY NO. 37:

Do you or any of your subsidiaries, including foreign business entities, currently manufacture any products containing asbestos? If so, state:

- (a) As to each product, whether such product is mined, manufactured, and/or marketed or sold.
- (b) The names and addresses of the companies mining, manufacturing, marketing, and/or selling each of those products.
- (c) The trade or brand name of each of those products mined, manufactured, marketed, and/or sold.
- (d) The date each of the named products was placed on the market.
- (e) A description of the physical (chemical) composition of each of the named products, including the type of asbestos contained in the product.
- (f) A description of the physical appearance of each product and its packaging.
- (g) A detailed description of the intended uses of each of the named products.
- (h) Whether there are any warning labels on said products or containers regarding potential asbestos-related health hazards.

RESPONSE:

No.

INTERROGATORY NO. 38:

State whether you or any of your predecessors and/or subsidiaries maintain, from 1940 through the present or for any portion thereof, copies of invoices, shipping documents, bills of lading, purchase orders, or other documents of a similar nature relating to the mining, manufacture, marketing, sale or distribution of asbestos products. If so, state:

- (a) The location of such documents.
- (b) The name and address of the custodian of the documents.
- (c) The format in which the documents are kept, i.e., hard copy, microfilm, microfiche, etc.

- (d) In what form the documents can be accessed, i.e., by state, by product, etc., and if by product, whether kept according to asbestos or non-asbestos.

RESPONSE:

See answer to Interrogatory No. 17.

INTERROGATORY NO. 39:

Will you call company representatives as witnesses at the trial of any of these cases?
If so, list:

- (a) The name, address, and job title of each company representative who may be called.
- (b) A summary of the testimony expected to be given by each such witness.
- (c) List any and all previous times that the named witnesses have either given deposition or trial testimony in an asbestos-related case, including the jurisdiction, style of the case, case number, date of testimony, and the name of the attorney taking the deposition for the Plaintiffs in that case.

RESPONSE:

Not yet determined.

INTERROGATORY NO. 40:

Have Defendant or its subsidiaries or predecessors ever acquired through purchase, reorganization, or merger another corporation, company, or business which manufactured, sold, processed, distributed, or contracted or supplied products containing asbestos? If so, for each such entity, state:

- (a) Full and correct name;
- (b) Principal place of business;
- (c) State of incorporation;
- (d) Date of acquisition by Defendant;
- (e) Whether or not the business entity was ever authorized to transact business in the State of Texas;

RESPONSE:

On June 1, 1962, CertainTeed purchased from Keasbey & Mattison Company (pursuant to an Agreement between Keasbey & Mattison Company and Certain-teed Products Corporation dated April 1, 1962) its four asbestos-cement pipe plants and all of its machinery, fixtures, tools and supplies which related to and had been used by Keasbey & Mattison exclusively in the making of asbestos-cement pipe. CertainTeed's purchase of Keasbey & Mattison's assets was limited to the four aforementioned asbestos-cement pipe plants and related machinery, etc. CertainTeed did not purchase any Keasbey & Mattison assets which had been used to manufacture insulation, textile or roofing materials.

At the time of the purchase of the Keasbey & Mattison asbestos-cement pipe assets, there was no general assumption of liability by CertainTeed nor did CertainTeed specifically assume liability for claims growing out of the sale of any Keasbey & Mattison products manufactured prior to the date of purchase by CertainTeed of Keasbey & Mattison's asbestos-cement pipe assets. The asbestos-cement pipe made by CertainTeed was used solely for the underground transmission of water and sewage, was not used in conjunction with insulation material, was typically installed by pipeline contractors, and was never installed inside buildings.

On July 1, 1966, CertainTeed, through merger, acquired the Gustin-Bacon Manufacturing Company (pursuant to an Agreement and Articles of Merger between Certain-teed Products Corporation and Gustin-Bacon Manufacturing Company dated April 19, 1966). At the time Gustin-Bacon Manufacturing Company merged into CertainTeed, all the ordinary liabilities of the former entity were assumed by CertainTeed. The only asbestos-bearing products with which Gustin-Bacon ever had any nexus were two specialty insulation products sold exclusively to railroad companies. One of these products, Flexible Trainline, which was made of fiber glass which had an asbestos cloth facing, was used to insulate steam lines on railway passenger cars, and the other, which had no trade name, was a glass fiber blanket faced with asbestos paper (referred to herein as "glass fiber blanket insulation faced with asbestos paper") which was used to insulate the walls, floors and ceilings of railway passenger cars. Other than the two aforesaid specialty insulation products, CertainTeed has never made or sold any asbestos-bearing insulation products whatsoever.

INTERROGATORY NO. 41:

Was each of your asbestos products generally expected to reach, or packaged to reach, the consumer or user, without substantial change in the condition in which it was sold? If not, with respect to any such product, explain in what way the Defendant claims its products were altered or substantially changed after sale or distribution and before reaching the user.

RESPONSE:

Yes.

INTERROGATORY NO. 42:

For each asbestos-containing product identified in response to Interrogatory No. 6, identify all foreseeable users such as insulators, helpers, pipefitters, welders, machinists, plasterers, drywall finishers, carpenters, boilermakers, shipwrights and riggers, etc. of any of Defendant's asbestos-containing products.

RESPONSE:

See answer to Interrogatory No. 4.

INTERROGATORY NO. 43:

Based upon the material contents of your asbestos-containing products, the method of manufacturing, and the method of application, can such products be generally applied without liberating asbestos fibers into the air?

- (a) If there is a different answer concerning different products manufactured, sold, distributed, or used by your company, then specify the different products by precise manufacturer's name and popular name.
- (b) If there is a difference in your answer depending on the year or years in which a particular product was used, then specify in detail what year or years you are referring to and the specific products you are referring to any year involved.

RESPONSE:

Yes.

INTERROGATORY NO. 44:

Was it a foreseeable use of your asbestos-containing products that they may have been removed, stripped, or replaced at some time after installation?

RESPONSE:

It was foreseeable that the Flexible Trainline product cited in the answer to Interrogatory No. 4 might have to be removed.

INTERROGATORY NO. 45:

Before 1970, did you or your subsidiaries or predecessor(s) ever arrange for any labor inspectors, insurance company inspectors or anyone from your company to go to job sites where your products were being used or installed to make or take dust level counts? If so, state when this procedure started, the purpose of such procedures, and all results of such procedures.

RESPONSE:

No.

INTERROGATORY NO. 46:

If Defendant performed or had performed any dust level counts, what action, based on the results, did your company take?

RESPONSE:

Not applicable.

INTERROGATORY NO. 47:

Has your company or its subsidiaries or predecessor(s) ever conducted or caused to be conducted any studies designed to assist in minimizing or eliminating the inhalation of asbestos dust and fibers by those exposed to the use of your company's products? If so, give the following:

- (a) Name of the person or firm conducting such studies;
- (b) The date the studies began and the date they were completed;
- (c) The nature of any action to eliminate or minimize the inhalation of asbestos dust fibers;

RESPONSE:

No.

INTERROGATORY NO. 48:

Does your company have, has it ever had, or have your predecessor(s) or subsidiaries ever had, a Research Department? If so, give the year such Research Department was established, and whether or not such Research Department has operated continuously since being established. State also:

- (a) The amount of time and money expended each year on research concerning asbestos or asbestos-containing products?
- (b) What percentage of gross sales did your company or its predecessor(s) spend on research concerning the health effects of asbestos?
- (c) State in detail the purposes, duties, and responsibilities of such Research Department.

RESPONSE:

CertainTeed objects to this Interrogatory on the basis that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of relevant information. Without waiving said objection and subject thereto, CertainTeed states that it has had research facilities, but it had no research facility which ever dealt with the health aspects of asbestos.

INTERROGATORY NO. 49:

Does your company have, has it ever had, or have your predecessor(s) or subsidiaries ever had, a Medical Department? If so, state:

- (a) The year such Medical Department was established;
- (b) Whether or not such Medical Department has operated continuously since being established;
- (c) The name of each director, chief, or head of your Medical Department year by year, beginning with the first year you had a Medical Director or Medical Department, and the last known address and phone number of each;
- (d) State the duties and responsibilities of such Medical Department.

RESPONSE:

See answer to Interrogatory No. 18. Furthermore, the Medical Director is responsible for CertainTeed's medical program, a program of preventive medical care to deal constructively with the health of employees in relation to their work. The basic objectives of the medical program are as follows: (1) To protect employees against health and safety hazards in their work situation; (2) Insofar as practical and feasible, to protect the general environment of the community; (2) Insofar as practical and feasible, to protect the general environment of the community; (3) To facilitate the placement of workers according to their

physical, mental and emotional capacities in work which they can perform with an acceptable degree of efficiency and without endangering their own health and safety or that of others; (4) To assure adequate medical care and rehabilitation of the occupationally ill and injured; and (5) To encourage and assist in measures for personal health maintenance, including the retention of a personal physician whenever possible.

INTERROGATORY NO. 50:

Did your company or its predecessor(s) or subsidiaries ever place any warning directly on any of its asbestos-containing product or on their packaging. If so, identify the product(s) and year said warning was first applied.

RESPONSE:

See answer to Interrogatory No. 14.

INTERROGATORY NO. 51:

Did your company or its predecessor(s) or subsidiaries ever stamp or place the name of the company, its initials, or any identifying logo on any of its asbestos-containing products? If so, please state the name brand names of such products, a description of such stamp or logo and the dates such were placed on the referred products.

RESPONSE:

See answer to Interrogatory No. 4.

INTERROGATORY NO. 52:

Has your company, or your predecessor(s) or subsidiaries, ever devised a research plan to develop, or actually developed or had developed, a product which did not contain asbestos and which could be substituted for one or more of your asbestos-containing products? If so, state the date that such research plan was began and when such asbestos-free product was first placed on the market.

RESPONSE:

No.

INTERROGATORY NO. 53:

Did your company or its predecessor(s) or subsidiaries ever recall any products containing asbestos from the market or stream of commerce? If so, state:

- (a) All details of such recall;
- (b) The name of the product recalled, including the reason for the recall and the names and current addresses of those individuals who determined that it should take place;
- (c) The dates of recall;
- (d) The purpose for the recall.

RESPONSE:

No.

INTERROGATORY NO. 54:

Before 1970, did you ever manufacture or sell products which did not contain asbestos and which could be substituted for your asbestos-containing products? If so, state the date such asbestos-free products were first placed on the market.

RESPONSE:

No.

INTERROGATORY NO. 55:

Have any products you identified in your response to Interrogatory Nos. 52 and 54 not performed as intended? Please list all such products that have not performed as intended.

RESPONSE:

Not applicable.

INTERROGATORY NO. 56:

Did your company or its predecessor(s) or subsidiaries ever make, order, or arrange for any industrial hygiene surveys regarding asbestos or asbestos-containing dust? If so, give the date of such surveys and state who, or what entity, was responsible for completion of such surveys.

RESPONSE:

Dust samples were taken periodically at CertainTeed's asbestos-cement pipe plants subsequent to June 1, 1962 (when CertainTeed began manufacturing asbestos-cement pipe), by state or federal agencies or by the loss control departments of CertainTeed's workers' compensation insurance carriers. In-house monitoring commenced in the mid-1970's. Any sampling results in the custody of CertainTeed are on file in CertainTeed's Corporate Health and Safety Department in Valley Forge, Pennsylvania. CertainTeed objects to providing such documents because such sampling results are incorporated in data which is greater than three feet in depth, and thus this Interrogatory places an unreasonable burden on CertainTeed. Should there be any interest in reviewing any of the pertinent documents, CertainTeed will make all such documents in its possession available at its executive office in Valley Forge, Pennsylvania, for review and copying by proper counsel. All costs attendant to this inspection, including all copying costs, shall be borne by the party requesting said inspection. CertainTeed cannot respond to this Interrogatory since it has no log or registry or other source which would contain such information.

INTERROGATORY NO. 57:

As to either the threshold limit values or maximum allowable concentrations of both asbestos dust and total dust provided by the American Conference of Governmental Industrial Hygienists, state:

- (a) The year in which Defendant or any predecessor(s) or subsidiaries were first advised of such limits or concentrations;
- (b) The name of the employee or official of the company receiving such advice;
- (c) How Defendant received notice of such limits or concentrations.

RESPONSE:

CertainTeed cannot respond to this Interrogatory since it has no log or registry or other source which would contain such information.

INTERROGATORY NO. 58

Were the threshold limit values or maximum allowable concentrations inquired about in Interrogatory No. 63 for total dust, and not asbestos dust alone?

RESPONSE:

See answer to Interrogatory No. 57.

INTERROGATORY NO. 59:

State in detail what tests, if any, Defendant ever made with regard to the quantity, quality, or threshold limit values of asbestos dust or particles to which workers were exposed while using, working with or around, or installing your asbestos-containing products.

RESPONSE:

None.

INTERROGATORY NO. 60:

Please state the following with respect to each expert witness you that you may call during trial of these cases. Please designate with specificity the expert witnesses that you may call, including:

- (a) The name, address, and job classification of each such expert witness;
- (b) The subject matter on which the expert is expected to testify;
- (c) The substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion;
- (d) Whether any person identified in subparagraph (a) above has provided a report or other documentation to you, and if so, identify and produce each such document or report;
- (e) Identify all documents that you have provided to each person identified in response to subparagraph (a) above;
- (f) Describe in detail the education and work history of, and identify any books, treatises, articles, published and unpublished reports, studies or other scholarly works authored by any individual identified in response to subparagraph (a) above. Alternatively, in lieu of said response, attach a copy of a resume or curriculum vitae and a list of publications to your answers.

RESPONSE:

Defendant objects to this interrogatory on the grounds that it is overly broad and unduly burdensome and is an improper request in a master set of interrogatories as each individual case is different and will require different and unique witnesses. Defendant further objects on the grounds that it purports to call for disclosure of information protected by the attorney/client privilege and work product doctrine, and that it improperly and

prematurely seeks the disclosure of experts in contravention of the statutory procedures of discovery. Subject to and without waiver of these objections:

- (a) 1. Dr. Hans Weill, a Board Certified Pulmonary Specialist at Tulane Medical School, 1700 Perdido Street, New Orleans, Louisiana.
- 2. Dr. Harry B. Demopoulos, Pathologist, Health Maintenance Programs, Inc., P.O. Box 252, Valhalla, New York 10595.
- 3. Dr. H. Corwin Hinshaw (by deposition), retired Emeritus Professor of Medicine at the University of California School of Medicine, P.O. Box 546, Belvedere, California 94920.
- 4. Dr. Edward A. Gaensler, Boston University Medical Center, 80 East Concord Street, Boston, Massachusetts 02118.

Drs. Weill, Demopoulos, Hinshaw, and Gaensler, if called to testify, are expected to provide testimony in the following areas:

- a. Anatomy and function of the respiratory and circulatory system;
- b. The nature of asbestos;
- c. The symptomatology, disease process and diagnosis of asbestos and cancer associated with the respiratory system, peritoneum and peritoneal cavity;
- d. The nature and extent of medical and scientific knowledge regarding any association of obstructive pulmonary disease with asbestos fiber exposure;
- e. The effect of exposure to substances other than asbestos on the development and manifestation of obstructive and restrictive conditions and diseases of the respiratory system;
- f. Methods of diagnosis of various diseases particularly means of establishing the differential diagnosis of alleged asbestos-related diseases with other non-asbestos-related diseases;
- g. Incidence of lung cancer among individuals with asbestosis, compared with non-asbestotic asbestos workers and with the general population;

- h. Cigarette smoking and its effect on the lung;
- i. The relationship of cigarette smoking to cancer of the lung and cancers of other sites with reference to epidemiological studies and physiologic effect;
- j. Difference between impairment and disability;
- k. Effect of asbestosis on disability and life expectancy;
- l. The lack of a relationship between presence of pleural plaques and a later development of any form of cancer; and
- m. The history of evolution and knowledge of asbestos related diseases.

It is also expected that Drs. Weill, Demopoulos, Hinshaw, and Gaensler will testify that the medical community became aware that insulators with prolonged intense exposure might be at risk for asbestos related diseases in the late 1960's or early 1970's. Drs. Hinshaw, Weill, Demopoulos, and Gaensler will not testify concerning the diagnosis or physical condition of these particular Plaintiffs.

- 5. Dr. R. Keith Wilson, Respiratory Consultants of Houston, 6535 Fannin, Fondren Building, Houston, Texas 77030.
- 6. Dr. Peter Heidbrink, a Board Certified Pulmonary Specialist at Southwest Pulmonary Associates, St. Paul Professional Building #2, 5959 Harry Hines Boulevard, Suite 711, Dallas, Texas 75235.
- 7. Dr. George Delclos, Pulmonary Section F907, Methodist Hospital, 6565 Fannin, Houston, Texas.
- 8. Dr. Gregory Foster, North Texas Pulmonary Associates, 375 Municipal Drive, Suite 140, Richardson, Texas 75080.
- 9. Dr. Scott R. Donaldson, North Texas Pulmonary Associates, 375 Municipal Drive, Suite 140, Richardson, Texas 75080.
- 10. Dr. Paul M. Stevens, a Board Certified Pulmonary Disease Specialist and Professor of Medicine at the Baylor College of Medicine in Methodist Hospital in Houston, Texas.

11. Drs. Stevens, Wilson, Heidbrink, Delclos, Foster, and Donaldson will testify concerning their examination and diagnosis of the physical condition of the particular Plaintiffs. It is expected that Drs. Wilson, Heidbrink, Stevens, Delclos and Foster will testify that the Plaintiffs do not have asbestosis and will further testify concerning the overall condition and the relationship of that condition, if any, to Plaintiff's exposure to asbestos. Each doctor will also testify concerning the following areas:
- a. Anatomy and function of the respiratory and circulatory systems;
 - b. The nature of asbestos;
 - c. The symptomatology, disease process and diagnosis of asbestos and cancer associated with the respiratory system, peritoneum and peritoneal cavity;
 - d. The nature and extent of medical and scientific knowledge regarding any association of obstructive pulmonary disease with asbestos fiber exposure;
 - e. The effect of exposure to substances other than asbestos on the development and manifestation of obstructive and restrictive conditions and diseases of the respiratory system;
 - f. Methods of diagnosis of various diseases particularly means of establishing the differential diagnosis of alleged asbestos-related diseases with other government warnings, smoking, and some areas of state-of-the-art.
 - g. Incidence of lung cancer among individuals with asbestos, compared with non-asbestotic asbestos workers and with the general population;
 - h. Cigarette smoking and its effect on the lung;
 - i. The relationship of cigarette smoking to cancer of the lung and cancers of other sites with reference to epidemiological studies and physiologic effect;
 - j. Difference between impairment and disability;
 - k. Effect of asbestosis on disability and life expectancy;

1. The lack of a relationship between presence of pleural plaques and a later development of any form of cancer.
12. Dr. Elliott Hinkes, a Board Certified Oncologist and Hematologist at 301 North Prairie Avenue, suite 311, Inglewood, California 90301. Dr. Hinkes will testify concerning the relationship of asbestos and smoking to the development of cancer. Dr. Hinkes will also testify concerning the incidence of lung cancer among individuals with asbestosis or exposure to asbestos-containing insulation products.
13. Dr. Keith Morgan, who will testify on state-of-the-art and the Saranac papers, to the effect that the Defendants could not have known and users were at risk until approximately the late 1960's.
14. Dr. Forde A. McIver, Pathology Associates, P.A., 135 Rutledge Avenue, Charleston, South Carolina 29401. Dr. McIver will testify on state-of-the-art and the Saranac papers, to the effect that the Defendants could not have known end users were at risk until approximately the late 1960's.
15. Dr. Joseph M. Miller, Box 365, New Hampton, New Hampshire. Dr. Miller will testify on state-of-the-art and the Saranac papers, to the effect that the Defendants could not have known end users were at risk until approximately the late 1960's.
16. Dr. Jesse Steinfield, who will testify concerning government warnings, smoking, and some areas of state-of-the art.
17. Dr. Stephen Ayres, Sanger Hall Room 1-014, Box 565, MCV Station, Richmond, Virginia 23298. Dr. Ayres will testify on state-of-the-art and the Saranac papers, to the effect that the Defendants could not have known end users were at risk until approximately the late 1960's.
18. Dr. Elvin Adams, General Conference of SDA's, 6840 Eastern Avenue, N.W., Washington, D.C. 20012. Dr. Adams will testify on asbestos-related diseases' effects, and in particular on smoking's effects.
19. Dr. Thomas Wheeler, The Methodist Hospital, Department of Pathology, 6565 Fannin Street, Mail Station 205, Houston, Texas 77030. Dr. Wheeler will testify regarding general pathology and the pathology of the Plaintiff and/or Plaintiff's decedent.

20. Dr. Robert O'Neal, Route 1, Box 168, Perkinston, Mississippi 39573. Dr. O'Neal will testify regarding general pathology and the pathology of the Plaintiff and/or Plaintiff's decedent.
21. Dr. Andrew Churg, The University of British Columbia, 2211 Wesbrook Mall, Vancouver, B. C. Canada V6T1W5, phone number 604-228-7111. Dr. Churg will testify regarding general pathology and the pathology of the Plaintiff and/or Plaintiff's decedent.
22. Dr. James Robert Shepherd, III, University of Texas Health Center at Tyler, Department of Radiology, P.O. Box 2003, Tyler, Texas 75710. Dr. Shepherd is a B reader and will testify regarding the radiographs of the Plaintiff and/or Plaintiff's decedent.
23. Dr. Sam H. Cade, Jr., Radiology Department, Baylor University Medical Center, 3500 Gaston Avenue, Dallas, Texas 75242. Dr. Cade is a B reader and will testify regarding the radiographs of the Plaintiff and/or Plaintiff's decedent.
24. Dr. Allan Shulkin, Medical City Dallas Hospital, 7777 Forest Lane, Suite 202, Dallas, Texas 75230.
25. Dr. Bobby F. Craft, Industrial Health, Inc., 640 East Wilmington Avenue, Salt Lake City, Utah 84106. Dr. Craft will testify that the medical community became aware that insulators with prolonged intense exposure might be at risk for asbestos related diseases in the late 1960's or early 1970's.
26. Dr. Jeffrey S. Lee, Building 512, University of Utah, Salt Lake City, Utah 84112. Dr. Lee will testify that the medical community became aware that insulators with prolonged intense exposure might be at risk for asbestos related diseases in the late 1960's or early 1970's.
27. Dr. Oscar Auerbach, 158 Long Hill Drive, Short Hills, New Jersey 07078. Dr. Auerbach will testify regarding the pathology of the Plaintiff and/or Plaintiff's decedent.
28. Dr. Donald Greenberg, The Methodist Hospital, Department of Pathology, 6565 Fanning, 2nd Floor, Houston, Texas 77030. Dr. Greenberg will testify regarding the pathology of the Plaintiff and/or Plaintiff's decedent.
29. Dr. Michael D. Henderson, 330 Rittiman Road, San Antonio, Texas 78209. Dr. Henderson will testify concerning the relationship of asbestos and smoking to the development of cancer. Dr. Henderson will also testify concerning the

incidence of lung cancer among individuals with asbestosis or exposure to asbestos-containing insulation products.

30. All physicians who have seen, examined, and/or treated Plaintiff and/or Plaintiff's decedent.
31. Dr. John E. Craighead
Chairman, Department of Pathology
A249 Given Medical Building
University of Vermont College of Medicine
Burlington, Vermont 05401
32. A. Mitchell Polinsky, Ph.D.
Stanford University
Stanford, California 94305
33. Dr. Robert Jones
Tulane Medical School
1700 Perdido Street
New Orleans, Louisiana
34. Louis Calvin Solmon
University of California in Los Angeles
Los Angeles, California
35. Mr. Phillip Bettoli, GAF Corporation, 1361 Alps Road, Wayne, New Jersey 07470. Mr. Bettoli will testify concerning the utility of asbestos-containing products.
36. Charles Henry Drummond, III
Ceramic Engineering
Ohio State University
2041 College Road
Columbus, Ohio 43210
37. Defendants reserve the right to call as expert witnesses all physicians who have seen, examined, or treated plaintiff; reviewed plaintiff's medical records; and/or been designated as a witness by any other party to this action.
38. Defendants reserve the right to use any affidavit, deposition, answer to interrogatories, and/or answers to requests for admissions made by any party to this action.

39. Defendants incorporate by reference, the depositions listed in Defendants' Designation of Deposition Testimony.
40. Defendants reserve the right to call any witness who may be necessary for rebuttal testimony.
41. James E. Locky, M.D., M.S., 3848 Chimney Hill Drive, Cincinnati, Ohio 45241.
42. Lyle Haack who will testify as to products manufactured by CertainTeed Corporation.
43. Dr. Phillip Cagle, Pathologist, Baylor College of Medicine, One Baylor Plaza, Houston, Texas 77030, who will testify regarding general pathology and pathology of Plaintiff and/or Plaintiff's decedent.
44. All other expert and factual witnesses listed by plaintiffs and defendants in this lawsuit.
45. William C. Schwingen, GAF Building Materials Corp. 1361 Alps Road, Wayne, New Jersey, 07470.

Mr. Schwingen is an employee of GAF Building Materials Corporation. He will be testifying regarding products manufactured by GAF or The Ruberoid Co., including the manufacturing process. His testimony may also include the topics referred to in connection with Mr. Bettoli.

46. Dr. H. Corwin Hinshaw, by deposition testimony in "William L. Nicar v. Johns-Manville Sales Corp., et al", No. W-81-CA-8.
47. Dr. H. Corwin Hinshaw, by deposition testimony in "In Re: Related Asbestos Cases", No. C-83-6251-RFP, in the United States District Court for the Northern District of California; "In Re" Related Shipyard and Applicator Cases: Alameda County Asbestos Litigation", in the Superior Court of the State of California, in and for the County of Alameda; Misc. No. 959, "In Re: Shipyard and Applicator Cases" (Clapper & Brayton) Consolidated for Discovery, in the Superior Court of the State of California, in and for the County of Solano; and "In Re" San Francisco Asbestos Complex Litigation", in the Superior Court of the State of California, in and for the City and County of San Francisco.
48. Dr. H. Corwin Hinshaw, by deposition testimony in "Jimmie L. Vaughan v. Johns-Manville, et al", No. CA3-81-0070-F; "William L. Nicar v. Johns-

Manville Sales Corp., et al", No. W-81-CA-008. "Donald C. Lanier v. Johns-Manville Sales Corp., et al", No. CA-80-1983; Jesse Cupit v. Johns-Manville Sales Corp., et al", No. CA-81-0082; "Jerry Lynn Coon v. Johns-Manville Sales Corp., et al", No. CA-81-0077; "James L. Bush v. Johns-Manville Corp., et al", No. CA-81-0088; "Charles T. Burrow v. Johns-Manville Corp., et al", No. CA-80-1984; Ernest E. Adams v. Johns-Manville Sales Corp., et al", No. CA-80-1982; "A. E. Jacks v. Johns-Manville Sales Corp., et al", No. CA-80-1981; "Clinton Wayne Barlow v. Johns-Manville Sales Corp., et al", No. CA-80-1985; and "Willard Scott, Jr. v. Johns-Manville Sales Corp., et al", No. CA-81-0081.

49. Dr. Hans Weill, by deposition testimony in "Ernest Howell v. Armstrong World Industries, Inc., et al", No. M-80-169-CA.
50. John Sartain, Sartain & Co., Inc., 3811 Turtle Creek Centre, Suite 520, Dallas, Texas 75219. John Sartain is an economist consultant and may testify regarding any economic loss incurred.
51. William Lee Eschenbacher, M.D., F988, Pulmonary Function Laboratory, The Methodist Hospital, 6565 Fannin, Street, Houston, Texas 77030.
52. Dr. Joseph H. Bates
5 Glenridge Road
Little Rock, Arkansas 72207
53. Dr. Russell D. Sherwin
2011 Zonal Avenue, HMR-201
Los Angeles, California 90033-1054
54. Dr. Dala R. Jarolim
12305 S. 14th Street
Jenks, Oklahoma 74037-4903
55. Thomas Howard, M.D.
Osler Medical Center
Suite 300
930 South Harbor City Blvd.
Melbourne, FL 32901
56. Any prior deposition or trial testimony of any witness called by any other party either live or by deposition.

- 57. Any prior deposition or trial testimony of any physician who has treated, examined, or been consulted regarding the Plaintiff.
- 58. Any deposition or custodian of records concerning the Plaintiff.
- 59. Any prior deposition or trial testimony of any Plaintiff represented by Plaintiff's attorney herein.
- 60. Any deposition taken by any party in this case.
- (b) See answer to Interrogatory No. 60(a).
- (c) See answer to Interrogatory No. 60(a).
- (d) None, unless previously provided to plaintiff's counsel.
- (e) The medical records of individual plaintiffs, as well as any and all documents listed in Defendant's answer to Interrogatory No. 62.
- (f) Curriculum vitae are attached hereto as Exhibit "E".

INTERROGATORY NO. 61:

Please state the name, present address and present telephone number, along with the experience and qualifications, if applicable, of each and every person, known to Defendant or to Defendant's agents, having knowledge of facts relevant to these cases involving, but not limited to:

- (a) Identification of asbestos-containing products to which each and every individual Plaintiff, separate and distinct from all other Plaintiffs within the group, allegedly was exposed or facts disputing the identification of asbestos-containing products in this case.
- (b) Each and every individual Plaintiff's, separate and distinct from all other Plaintiffs within the group, alleged damages, injuries and/or facts disputing each and every Plaintiff's alleged damages and/or injuries;
- (c) The negligence of any person or entity other than Defendant which Defendant contends was a cause of each and every individual Plaintiff's, separate and distinct from all other Plaintiffs within the group, alleged injuries and/or damages;

- (d) Each of Defendant's defenses enumerated in Defendant's last filed Answer in each of these cases.

RESPONSE:

Defendant objects to this interrogatory on the grounds that it is overly broad and unduly burdensome and is an improper request in a master set of interrogatories as each individual case is different and will require different and unique witnesses. Subject to and without waiver of these objections:

- (a) Defendant may call as a witness the Plaintiff and any persons listed by the Plaintiff as his co-workers regarding their knowledge of the facts relevant to the Plaintiff's case.
- (b) See answers to Interrogatories No. 39 and 60(a).
- (c) See answers to Interrogatories No. 60(a) and 61(a). In addition, Defendant may call the Plaintiff regarding his own actions, including his history of smoking.
- (d) See answers to Interrogatories No. 60(a), 61(a) and 61(c).

INTERROGATORY NO. 62:

Please identify documents which will be used at time of trial, (Exhibit List, Deposition List), which are relevant to each of Defendant's enumerated defenses in Defendant's last filed Answer.

RESPONSE:

In addition to Plaintiff's medical records and employment records and all depositions taken in Plaintiff's case, Defendant's exhibit list is attached hereto as Exhibit "F".

INTERROGATORY NO. 63:

When, if ever, did Defendant or any of its predecessors-in-interest first receive a copy of the article entitled "A Health Survey of Pipe Covering Operations in Constructing Naval Vessels", published in January, 1946 in the Journal of Industrial Hygiene & Toxicology, and authored by W. Fleischer and P. Drinker, et al ("the Fleischer-Drinker Report")?

- (a) Identify the name and position of the employee or officer who received same;

- (b) Please produce all documents generated by Defendant which discuss or in any way reference the "Fleischer-Drinker" study prior to 1968;
- (c) Please produce all documents upon which your responses above are based;
- (d) Please identify the name(s) and address(es) of any person(s) who can verify your above response;
- (e) Did Defendant ever rely on the Fleischer-Drinker Report in whole or in part as a basis that Defendant's asbestos products could be used in the workplace without risk of asbestos-related health impacts to the consumer and/or bystander;
- (f) If so, please produce every document which evidences in any way that Defendant relied on the Fleischer-Drinker Report in whole or in part for the proposition stated in Interrogatory No. 63(a) above;
- (g) If your answer to 63(e) is yes, when was the first date Defendant relied on the Fleischer-Drinker report in whole or in part for the proposition stated in 63(e) above?

RESPONSE:

CertainTeed cannot respond to this Interrogatory since it has no log or registry or other source which would contain such information.

INTERROGATORY NO. 64:

When, if ever, did Defendant or any of its predecessors-in-interest first receive a copy of the article entitled "A Study of Asbestos in the Asbestos Textile Industry", published in 1938 in Public Health Bill, No. 241, U.S. Public Health Service and authored by W. (c) Dreessen ("the Dreessen Report")?

- (a) Identify the name and position of the employee or officer who received same;
- (b) Please produce all documents generated by Defendant which discuss or in any way reference the "Dreessen" study prior to 1968;
- (c) Please produce all documents upon which your responses above are based;
- (d) Please identify the name(s) and address(es) of any person(s) who can verify your above response;

- (e) Did Defendant ever rely on the Dreessen Report in whole or in part as a basis that Defendant's asbestos products could be used in the workplace without risk of asbestos-related health impacts to the consumer and/or bystander;
- (f) If so, please produce every document which evidences in any way that Defendant relied on the Dreessen Report in whole or in part for the proposition stated in Interrogatory No. 63(a) above;
- (g) If your answer to 63(e) is yes, when was the first date Defendant relied on the Dreessen report in whole or in part for the proposition stated in 63(e) above?

RESPONSE:

See answer to Interrogatory No. 63.

INTERROGATORY NO. 65:

Please identify documents or things, including x-rays, MRIs, CT-scans or other materials which will be used at time of trial (Exhibit List, Deposition List), which are relevant to each of Defendant's enumerated defenses in Defendant's last filed Answer.

RESPONSE:

65. See General Objections and Preliminary Statement, if any, which are incorporated herein as if fully rewritten. Objection to the extent the request seeks information protected by the (a) attorney-client privilege, (b) the attorney work product doctrine, (c) any applicable privilege relating to communications between counsel for defendant and counsel for other defendants in this or other cases regarding defense of this case, (d) any applicable privilege relating to communication's between defendant's employees or counsel and defendant's insurers regarding the defense of this claim or claims of this type, (e) any privilege relating to confidential trade secrets, proprietary information or confidential communications with any government agency, (f) the expert witness exemption, (g) the witness statements exemption, (h) the party communications exemption, (i) the right of privacy, or (j) any other privilege. Objection to the extent the request seeks information not reasonably calculated to lead to the discovery of admissible evidence. Objection to the extent the request is overly broad, vague, ambiguous, unduly burdensome, unnecessarily expensive, harassing, and annoying.

Respectfully submitted,

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By: Kelly C. Caperton
GREG H. BEVEL
State Bar No. 02275800
KELLY C. CAPERTON
State Bar No. 00787199

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to Plaintiffs' counsel of record, by Certified Mail, return receipt requested, on the 29TH day of NOVEMBER 1995.

Kelly C. Caperton
KELLY C. CAPERTON