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September 10, 2001

VIA FEDERAL EXPRESS

Allen Vaught, Esq.
Baron & Budd, PC
3102 Oak Lawn Avenue
Suite 1100
Dallas, TX 75219

Re: *Kinsey v. Owens-Corning et al.*
Our File No.: 00532-37116

Dear Allen:

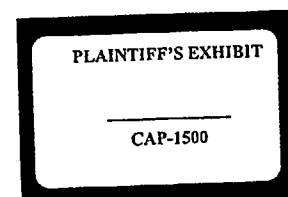
Please find enclosed Defendant Capco's Responses to Plaintiff's Request for Production Accompanying the Second Amended Video-Taped Deposition of a Corporate Representative.

Very truly yours,


Kenneth R. Meyer

Enclosures

cc: Samuel Stubbs, Esq. (via facsimile)



CAUSE NO. 10346*BH99

DONALD R. KINSEY et al.	§	IN THE DISTRICT COURT
	§	
Plaintiffs,	§	
	§	
v.	§	BRAZORIA COUNTY, TEXAS
	§	
OWENS-CORNING (CORP.), <i>et al.</i>	§	
	§	
Defendants.	§	23 RD JUDICIAL DISTRICT

**DEFENDANT CAPCO'S RESPONSES TO PLAINTIFF'S REQUEST FOR
PRODUCTION ACCOMPANYING THE SECOND AMENDED NOTICE OF
VIDEO-TAPED DEPOSITION OF A CORPORATE REPRESENTATIVE**

COMES NOW CAPCO Pipe Co., Inc. ("Capco") and responds as follows to Plaintiff's Request for Production accompanying the Second Amended Notice of Video-Taped Deposition of a Corporate Representative.

GENERAL OBJECTIONS

1. Capco generally objects to any document request, definition, or instruction that purports to require Capco to respond to any discovery request in a manner or to an extent not required by the Texas Rules of Civil Procedure.
2. Capco objects to any document request which seeks information protected by any privilege, including the attorney-client and/or attorney work product privileges.
3. Capco objects to any document request to the extent that it seeks information regarding trade secrets, confidential financial data, or other proprietary information.
4. Capco objects to any document request to the extent that it seeks information that is not within the personal knowledge of Capco or its current officers.
5. Capco generally objects to plaintiffs' requests for documents to the extent that such documents are not in Capco's possession, custody, or control.
6. Capco objects to any document request that seeks information that is not relevant to the subject matter involved in the pending action, that is not reasonably calculated to lead to the discovery of admissible evidence, that was prepared in anticipation of litigation or for trial by or for Capco's representatives, including attorneys, consultants, and agents, or that are otherwise

beyond the scope of discovery permitted by the Texas Rules of Civil Procedure. Accordingly, Capco objects to any requests for documents after 1972, the last year that Plaintiff Kiker alleges exposure to Capco pipe. Capco also objects to producing herewith documents that have previously been produced in this litigation.

7. Capco generally objects to any document requests seeking information as to entities other than Capco on the grounds that such requests are overly broad, unduly burdensome, and seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

8. Where Capco otherwise responds to a document request, it does so by incorporating each of these General Objections by reference into each individual response, without waiving any of its stated objections.

SUBJECT TO the foregoing objections and limitations which are applicable to each of the numbered paragraphs of the Request for Production, and subject to any documents being in existence and recoverable through a reasonably diligent search, Capco further responds to the individual Request for Production without waiver and with preservation of:

a. The right to object to the use of any documents, or the subject matter thereof, on any ground in any proceedings in any action (including any trials);

b. The right to object on any ground at any time to a demand or request for a further response to the discovery request or to any other documents, or other discovery involving or relating to the subject matter of the discovery requests herein responded to; and

c. The right at any time to revise, correct, add to, supplement or clarify any of the responses to the individual Requests for Production.

OBJECTIONS TO DEFINITIONS

1. Capco objects to plaintiff's definition of "Defendant", "You", "Your", and "Your company" to the extent that it includes entities that are not parties. Capco further objects to this definition to the extent it includes former officers, directors, agents and employees over whom Capco no longer has dominion and control. By way of further objection, the use of these definitions transforms plaintiff's request for production into an overly broad, unduly burdensome fishing expedition and is, therefore, in violation of the Texas Rules of Civil Procedure.

2. Capco objects to plaintiff's definition of the words "document" and "documents" to the extent it includes information protected by privilege, including the attorney-client and attorney work product privileges. Capco further objects to this definition to the extent it includes documents which are no longer in Capco's possession and which, consequently, cannot be produced. By way of further objection, Capco objects to this definition to the extent it includes documents from entities which are not named defendants.

3. Capco objects to plaintiff's definition of the words "person" and "persons" to the extent it includes entities that are not parties. Capco further objects to this definition to the extent it includes former officers, directors, agents and employees over whom Capco no longer has dominion and control. By way of further objection, the use of these definitions transforms plaintiffs' interrogatories and request for production into an overly broad, unduly burdensome fishing expedition and is, therefore, in violation of the Texas Rules of Civil Procedure.

4. Capco objects to plaintiff's definition of the following words and/or phrases as these definitions are misleading and/or inconsistent with the customary and usual definitions of the word or phrase: "meeting or meetings," "describe or description," "distribute, distributed, distributor and distribution", "marketed and market", "medical advisory capacity", "manufacture or manufactured", "medical department and safety department", "potential health hazards or health hazards", "identify," "product containing asbestos fibers, asbestos containing products, asbestos products, substance and asbestos materials." These definitions are further objected to on the grounds that they are overly broad, vague, ill-defined and not susceptible to precise response.

REQUEST FOR PRODUCTION NO. 1: Any and all documents related or pertaining to acquisition by Defendant or any predecessor or subsidiary or related company of the assets, stock, property, rights, holdings or liabilities of each and all of those entities.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 2: Any and all documents related or pertaining to the assignment or lack thereof of any assets and liabilities by Defendant's predecessors or subsidiaries to Defendant or to any predecessor, successor, subsidiary or related company, any and all documents related or pertaining to the potential liability of Defendant for the sale, manufacture, marketing and/or distribution of asbestos products by Defendant and its related entities.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 3: Any and all documents related or pertaining to any judicial decision on the issue of Defendant's liability for the acts of any subsidiaries or predecessors.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 4: All documents in Defendant's or any subsidiary's possession relating to insurance coverage proceeds that would or could indemnify Defendant for any losses sustained as a result of a cause of action brought by Plaintiffs.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 5: Any and all photographs of any asbestos-containing products manufactured, sold or distributed by Defendant or any subsidiary, predecessor or affiliated company, including such products that are packaged at the time the photograph was taken and products that were not packaged at the time the photograph was taken.

See documents produced.

REQUEST FOR PRODUCTION NO. 6: A photograph or photocopy of any warning labels, if any, that were provided or placed on any asbestos-containing product or any packaging for any asbestos-containing product manufactured, sold and/or distributed by Defendant or any subsidiary, predecessor or affiliated company.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 7: Any and all documents reflecting profits made from the sale, distribution, or marketing of any products manufactured by the Defendant or a predecessor, subsidiary or affiliate company that contained any amount of asbestos or asbestos fibers.

Capco objects to this request on the grounds that it is unduly burdensome, overly broad and not calculated to lead to the discovery of relevant evidence.

REQUEST FOR PRODUCTION NO. 8: Any documents relating to the design, preparation, or introduction into the market or stream of commerce of any asbestos-containing products manufactured, sold, or distributed by the Defendant or any subsidiary, predecessor or affiliated company. These documents include, but are not limited to, written memoranda, specifications, recommendations, blueprints, and other written materials of any kind or character.

Capco objects to this request on the grounds that it is unduly burdensome, overly broad and not calculated to lead to the discovery of relevant evidence.

REQUEST FOR PRODUCTION NO. 9: Any and all documents reflecting or relating to testing, preparation for tests and/or the results of tests conducted to determine potential health hazards resulting from the use of materials, including but not limited to asbestos, contained in asbestos-containing products before such products were first manufactured, marketed, sold, or distributed by the Defendant or any subsidiary, predecessor or affiliated company. This Request specifically includes, but is not limited to, any written memoranda, specifications, recommendations, blueprints, or other written materials of any kind or character related to the testing of any of Defendant's or any subsidiary's predecessor's or affiliated company's asbestos-containing products prior to their initial sale or distribution.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 10: Any and all documents related in any way to testing of Defendant's or any predecessor's subsidiary's or affiliated company's asbestos-containing products after the products had first been released, sold distributed, manufactured or marketed. This Request includes, but is not limited to, written memoranda, specifications, recommendations, blueprints, or other written materials of any kind or character relating to the potential health hazards of Defendant's or any of its predecessor's subsidiary's or affiliated company's asbestos-containing products or of the asbestos contained in such products.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 11: Any printed material, including brochures, pamphlets, catalogues, packaging or other written material of any kind or character containing any warnings concerning the possibility of injury resulting from the use of asbestos-containing products manufactured, sold, and/or distributed by the Defendant or any predecessor, subsidiary or affiliated company.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 12: Any and all written agreements, or documents reflecting or related to such agreements, for the distribution, marketing, manufacture, and/or sale of Defendant's asbestos-containing products by an entity other than Defendant or its subsidiaries, predecessors or related companies.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 13: Any documents, books, pamphlets, memoranda, articles 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 and that have been maintained in the possession of Defendant, or any subsidiary or affiliated company.

Capco objects to this request to the extent it seeks documents that have been previously produced in response to a document request by Lanier, Parker & Sullivan in this litigation. Without waiving this objection, see documents produced.

REQUEST FOR PRODUCTION NO. 14: Any publications, minutes, circulars, magazines or reports, published, written or disseminated by any trade organization or association comprised of other manufacturers, miners, marketers, and/or sellers of products containing asbestos to which Defendant, any subsidiary, predecessor or affiliated company belonged at any time within the last fifty (50) years.

Capco objects to this request to the extent it seeks documents that have been previously produced in response to a document request by Lanier, Parker & Sullivan in this litigation. Without waiving this objection, see documents produced.

REQUEST FOR PRODUCTION NO. 15: Any and all documents reflecting any agreements, or stating any agreements to which Defendant or any subsidiary, predecessor, or affiliated company are a party to purchase asbestos or products containing asbestos from any other company or entity.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 16: Any printed sales materials prepared by Defendant or any of its subsidiary or predecessor companies or other agents for purposes of marketing, advertising and/or assisting sales of any products containing asbestos that were manufactured, sold or distributed by Defendant or any of its subsidiary, predecessor or affiliated companies.

See documents produced.

REQUEST FOR PRODUCTION NO. 17: Any and all written documentation relating to or stating the results of any studies or surveys including, incorporating or stating the proposition that asbestos products or products containing asbestos could be manufactured or designed so as to eliminate potential health hazards to persons working with or using them.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 18: Any and all documents reflecting or stating a “rebranding” agreement between Defendant or any of its subsidiaries, predecessors or affiliated companies and any other company at any time within the last fifty (50) years.

To the best of Capco’s present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 19: Any and all documents reflecting workers’ compensation claims or workers’ compensation lawsuits brought against Defendant or any of its subsidiaries, predecessors or affiliated companies or any of the compensation carriers that allege that an individual contracted a disease from inhaling asbestos fibers or from inhaling unknown dust fibers.

To the best of Capco’s present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 20: Any and all documents reflecting the minutes of corporate meetings of any kind or nature, whether of boards of directors, departments, or otherwise, which reflect or relate to asbestos, asbestos health hazards or asbestos products.

Capco objects to this request on the grounds that it is unduly burdensome, overly broad and not calculated to lead to the discovery of relevant evidence.

REQUEST FOR PRODUCTION NO. 21: Any and all invoices, shipping documents, bills of lading, purchase orders, or other documents of a similar nature relating to the mining, manufacture, marketing, sale, use, or distribution of asbestos or asbestos-containing products.

Capco objects to this request on the grounds that it is unduly burdensome, overly broad and not calculated to lead to the discovery of relevant evidence. Without waiving this objection, Capco is producing sales cards for sales to customers located in Texas during 1968 - 1972, years that plaintiff Kiker alleges exposure to Capco pipe.

REQUEST FOR PRODUCTION NO. 22: Any and all documents reflecting the acquisition through purchase, reorganization, or merger of another company by Defendant that manufactured, sold, processed, distributed, or supplied asbestos or products containing asbestos at any time within the last forty (40) years.

To the best of Capco’s present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 23: Any and all documents reflecting any studies, or the results of any studies, designed to assist in minimizing or eliminating the inhalation of asbestos dust and fibers by your workers and/or those of any subsidiary, predecessor, or affiliated company and/or those otherwise exposed to your company's asbestos-containing products.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 24: Any and all documents related in any way to the threshold limit values or maximum allowable concentrations of both asbestos dust and total dust provided by the American Conference of Governmental Industrial Hygienists.

See documents produced.

REQUEST FOR PRODUCTION NO. 25: Any and all documents reflecting or related to any tests, or the results of any tests, that Defendant or any of its subsidiaries, predecessors or affiliated companies ever made or completed, or had made or completed on its behalf, or reviewed, related to the quantity, quality, or threshold limit values, of asbestos dust or particles to which workers were exposed while using, working with or around, manufacturing or fabricating, or installing asbestos-containing products manufactured by Defendant or any of its subsidiaries, predecessors or affiliated companies.

See documents produced.

REQUEST FOR PRODUCTION NO. 26: Any and all documents reflecting written guidelines or instructions or otherwise indicating in any way the purpose, nature and/or accomplishments of any research department established by Defendant or any of its subsidiaries, predecessors or affiliated companies, or any independent company that contracted with Defendant to provide research services, at any time within the last fifty (50) years.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 27: Any and all documents reflecting written guidelines or instructions or otherwise indicating in any way the purpose, nature, advice and/or accomplishments of any medical department established by Defendant or any of its subsidiaries, predecessors or affiliated companies, or any independent company that contracted with Defendant to provide medical services or advice, at any time within the last fifty (50) years.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 28: Any and all documents reflecting or related to the recall of any asbestos-containing products from the market or stream of commerce by Defendant or any of its subsidiaries, predecessors or affiliated companies or related to a decision by any of those entities to cease manufacturing, fabricating, selling, and/or distributing products containing asbestos.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 29: Any and all documents reflecting the physical or chemical composition, makeup or breakdown of any and all asbestos-containing products or components of products manufactured, sold, and/or distributed by the Defendant or any of its subsidiaries, predecessors or affiliated companies.

See documents produced.

REQUEST FOR PRODUCTION NO. 30: Any and all documents reflecting the films, disposition or settlement of any claims for workers' compensation benefits against Defendant or any of its subsidiaries, predecessors or affiliated companies, or the workers' compensation carriers of any and all of those entities that alleged an injury from inhalation of asbestos fibers or exposure to asbestos-containing products or dust of an unspecified origin.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 31: Any and all documents reflecting the receipt of raw asbestos, or the receipt of products containing asbestos, the date or dates they were received or shipped, the amounts received or shipped, or other information regarding shipment of raw asbestos or asbestos-containing products to or by Defendant or any of its subsidiaries, predecessors or affiliated companies.

See documents produced.

REQUEST FOR PRODUCTION NO. 32: Any and all documents related in any way to the discovery, initial comprehension, or first learning by Defendant or any of its subsidiaries, predecessors or affiliated companies that asbestos and exposure to asbestos fibers can cause asbestosis.

See documents produced.

REQUEST FOR PRODUCTION NO. 33: Any and all documents related in any way to the discovery, first learning, or initial comprehension by Defendant or any of its subsidiaries, predecessors or affiliated companies that asbestos and exposure to asbestos fibers can cause pleural thickening.

See documents produced.

REQUEST FOR PRODUCTION NO. 34: Any and all documents related in any way to the discovery, first learning, or initial comprehension by Defendant or any of its subsidiaries, predecessors or affiliated companies that asbestos and exposure to asbestos fibers can cause lung cancer.

See documents produced.

REQUEST FOR PRODUCTION NO. 35: Any and all documents related in any way to the discovery, first learning, or initial comprehension by Defendant or any of its subsidiaries, predecessors or affiliated companies that asbestos and exposure to asbestos fibers can cause types of cancer other than lung cancer.

See documents produced.

REQUEST FOR PRODUCTION NO. 36: Any and all documents related in any way to the discovery, first learning, or initial comprehension by Defendant or any of its subsidiaries, predecessors or affiliated companies that asbestos and exposure to asbestos fibers can cause mesothelioma.

See documents produced.

REQUEST FOR PRODUCTION NO. 37: Any and all documents reflecting or related to Defendant's or any of subsidiary's, predecessor's or affiliated company's policies concerning employee safety and the avoidance of accidents, including, but not limited to safety brochures, guidelines, bulletins, publications, safety meeting minutes, and/or safety guidelines.

See documents produced.

REQUEST FOR PRODUCTION NO. 38: Any documents related to work accidents sustained by any of Defendant's or any of its subsidiary's, predecessor's or affiliated company's employees involving the inhalation of fumes, gases or dusts and safety guidelines related to such inhalation, including but not limited to all accident reports or other written materials related in any way to injuries resulting from such inhalations.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 39: Any documents reflecting or related to Defendant's or any of its subsidiary's, predecessor's or affiliated company's right to contractual indemnity or indemnification from any person, corporation, or business entity for any damages, or potential damages, sustained or that could be sustained, or lawsuits that might or could be filed as the result of the manufacture, sale and distribution of any products containing asbestos by Defendant or any of its subsidiaries, predecessors or affiliated companies.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 40: Any chart of an organizational nature demonstrating Defendant's relationship with its subsidiaries (both foreign and domestic), predecessors, and any other related companies or entities from 1930 to the present.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 41: Any documents reflecting or related to Defendant's mix sheets for any products manufactured by Defendant's or Defendant's subsidiaries, predecessors or affiliated companies.

To the best of Capco's present knowledge, no such documents exist.

REQUEST FOR PRODUCTION NO. 42: Any Material Data Safety Sheets (MDS) pertaining any asbestos containing products manufactured and/or distributed by Defendant or any of its subsidiaries, predecessors or affiliate companies.

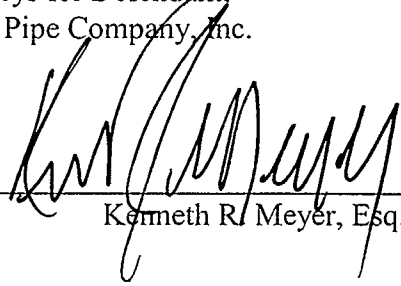
To the best of Capco's present knowledge, no such documents exist.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing instrument has been served on Allen Vaught, Baron & Budd, P.C. by Federal Express on the 10th day of September, 2001.

PORZIO, BROMBERG & NEWMAN, P.C.
Attorneys for Defendant,
Capco Pipe Company, Inc.

By: _____


Kenneth R. Meyer, Esq.

Dated: September 10, 2001