

DISTRICT COURT, BOULDER COUNTY, COLORADO		
Boulder District Court 1777 6 th Street P.O. Box 4249 Boulder, Colorado 80306		
IN RE: ASBESTOS CASES		
Attorneys for Defendant: Name(s): Mary Price Birk #10415 Ronald L. Hellbusch, #26094 Address: Baker & Hostetler LLP 303 E. 17 th Ave., #1100 Denver, Colorado 80203 Phone Number: 303-861-0600 Fax Number: 303-861-7805		▲ COURT USE ONLY ▲ Case Number: 1989CV2000 Div. A2
UNION CARBIDE CORPORATION'S RESPONSE TO PLAINTIFFS' SUPPLEMENTAL INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT UNION CARBIDE CORPORATION		

GENERAL OBJECTIONS

Union Carbide Corporation ("Union Carbide") objects to the entire set of Plaintiffs' interrogatories on the following grounds, which are hereby incorporated by reference in Union Carbide's responses to individual interrogatories below:

GENERAL OBJECTION NO. 1

Union Carbide states that trial preparation and factual investigation are ongoing. Union Carbide's responses to these interrogatories are based on information known to Union Carbide at this time. Union Carbide reserves the right, however to make reference at the trial or at any hearing in this action to facts and documents not identified in these

responses, the existence or relevance of which is later discovered by it or its counsel. By this reservation, Union Carbide does not in any way assume a continuing responsibility to update its responses to these interrogatories, and specifically objects to each interrogatory that seeks to impose any such continuing obligation upon Union Carbide to the extent not required by law. To the extent the information contained herein differs in any respect from any prior responses to discovery, these responses shall be deemed to update and supersede such prior responses.

GENERAL OBJECTION NO. 2:

Union Carbide objects to Plaintiffs' interrogatories in their entirety on the grounds that they are not reasonably framed in terms of the facts and subject matter of the present action, with the result that Union Carbide is called upon to speculate as to what information relevant to the present case, if any, may be deemed to fall within the scope of these interrogatories as phrased. In addition, Union Carbide objects to this set of interrogatories to the extent that they seek the production of information not relevant to any matter at issue in this litigation.

GENERAL OBJECTION NO. 3:

Union Carbide objects to these interrogatories insofar as they would require the disclosure of information protected by the attorney-client privilege or work product doctrine.

GENERAL OBJECTION NO. 4:

Union Carbide acquired mineral rights to its Coalinga mine in 1958. From 1958 until late 1963, Union Carbide developed its mining and milling processes. From late 1963 until June 30, 1985, Union Carbide mined and sold a unique tremolite-free short

fiber chrysotile asbestos initially known as "Union Carbide Asbestos" and then under the trade name "Calidria" (some distributors marketed Calidria under other trade names). Throughout the time that Union Carbide was in the asbestos business, and particularly from 1963 to 1965, sales were relatively small. Even as Union Carbide attempted to develop business, Union Carbide remained a relatively small participant with its focus, due to the unique nature of Calidria, on developing applications suitable for the unique fiber. All responses to these interrogatories refer to Calidria asbestos only, unless otherwise stated.

GENERAL OBJECTION NO. 5:

Union Carbide objects to this entire set of interrogatories to the extent that they call for information about Union Carbide employees or premises, or policies pertaining to Union Carbide employees or premises that are unrelated to the claims in this litigation on the grounds that such requests are overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

GENERAL OBJECTION NO. 6:

Union Carbide objects to this entire set of interrogatories to the extent that they seek information contained in documents that are available to Plaintiffs' counsel in the repositories of documents (the "repositories") maintained by Union Carbide's counsel. The repositories are supplemented as additional documents are identified and have been supplemented in the past year. Upon request, a visit to the repositories by Plaintiffs' counsel can be arranged at a mutually convenient time. The burden of determining the responses to these requests for production is equally as demanding on Plaintiffs' counsel as it is on Union Carbide. The burden on Union Carbide is enhanced because many of the

events and circumstances that appear to be at issue took place approximately 40 years ago. With the passage of time, complete records may no longer exist, relevant witnesses with firsthand knowledge are now deceased, memories have faded, and any attempt to recreate history often presents an insurmountable challenge and an undue burden.

GENERAL OBJECTION NO. 7:

Calidria is not "asbestos" or an "asbestos-containing product" as referred to by Plaintiffs in these interrogatories. Calidria is a unique short-fiber chrysotile asbestos uncontaminated by tremolite which Union Carbide extracted from an asbestos ore body in the New Idria area of San Benito County in California. Calidria was marketed and sold by Union Carbide or by Calidria distributors to manufacturers or producers who incorporated and used Calidria in their products or production processes. From 1963 to 1985, Union Carbide sold Calidria asbestos fiber to various third party manufacturers or distributors. The asbestos third party manufacturers to whom Union Carbide sold Calidria used it in manufacturing various products used in commercial applications. Union Carbide did not manufacture those products and had no control over the nature of the products in which the fiber was used. Nevertheless, Union Carbide consistently provided its customers with health and safety information regarding the health effects of asbestos so that, among other things, this information could be passed along to the third party manufacturers' customers.

GENERAL OBJECTION NO. 8:

Union Carbide objects to providing information about any of its products other than Calidria asbestos or phenolic molding compounds and phenolic resins. Any request for documents or information relating to any Union Carbide products other than Calidria

asbestos or phenolic molding compounds and phenolic resins, is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

GENERAL OBJECTION NO. 9:

Union Carbide objects to this entire set of Discovery Requests to the extent that plaintiffs allege exposure to a finished product. Union Carbide's phenolic molding compounds were intermediate materials sold to manufacturers who would use them to mold or manufacture final products. Upon information and belief, no plaintiffs in these cases allege exposure to a phenolic resin or phenolic molding compound, or even to a finished product manufactured by someone other than Union Carbide made of these components, and therefore, any question relating to conditions at the manufacturing facilities of Union Carbide's asbestos-containing phenolic molding compounds is irrelevant to any matter at issue in this litigation.

INTERROGATORIES

INTERROGATORY NO. 1

Is the document attached a true and correct copy of an authentic document?

RESPONSE TO INTERROGATORY NO. 1

See General Objections Nos. 1-9. Union Carbide further objects to this Interrogatory on the grounds that it seeks information that is unrelated to any claims brought against Union Carbide and therefore is not reasonably calculated to lead to the discovery of admissible evidence. Subject to its objections, Union Carbide responds as follows: Exhibit A is an incomplete copy of a report prepared by L. D. Fishberg and C.

F. Martino for Union Carbide. Union Carbide further states that it is unable to provide information regarding the bates labels affixed to Exhibit A.

INTERROGATORY NO. 2

Where is the original document located? Please provide address and custodian of this record.

RESPONSE TO INTERROGATORY NO. 2

See General Objections Nos. 1-9. Union Carbide further objects to this Interrogatory on the grounds that it seeks information that is unrelated to any claims brought against Union Carbide and therefore is not reasonably calculated to lead to the discovery of admissible evidence. Subject to its objections, Union Carbide responds as follows: The document (without the bates numbers labeled on Exhibit A) is located in a document repository maintained by Union Carbide's counsel (the "repository") at 190 South LaSalle Street, Chicago, Illinois, 60603. John MacDonald is the custodian of records for Union Carbide.

INTERROGATORY NO. 3

On the eighth page of the document (the page is numbered "7" at the bottom of the page) the following language appears: "7. Special packing requirements for Cutler Hammer: "Caution" label on container must be blanked out. Each pallet should contain a maximum of 1500 pounds."

- (a) Please state verbatim the wording of the "Caution" to which reference is made;
- (b) Please produce a legible photocopy of the "Caution" to which reference is made;
- (c) Please produce all documents that reference any request or direction by Cutler Hammer to blank out or remove the caution label on containers of products supplied by Union Carbide.
- (d)

RESPONSE TO INTERROGATORY NO. 3

See General Objections Nos. 1-9. Union Carbide further objects to this Interrogatory on the grounds that it seeks information that is unrelated to any claims brought against Union Carbide in these cases and therefore is not reasonably calculated to lead to the discovery of admissible evidence. Union Carbide further objects to this interrogatory because the caution label referenced did not relate to asbestos.

INTERROGATORY NO. 4

Please state whether UCC did supply products to Cutler Hammer on which any caution label on the container had been blanked out.

RESPONSE TO INTERROGATORY NO. 4

See Union Carbide's response to Interrogatory No. 3.

INTERROGATORY NO. 5

Please identify the author of the eighth page of the document attached (the page is numbered "7" at the bottom of the page) and:

- (a) State whether the author identified employed by Union Carbide as of October 29, 1965, and if so;
- (b) State the author's job title or position of employment as of the date of October 29, 1965.

RESPONSE TO INTERROGATORY NO. 5

See General Objections Nos. 1-9. Union Carbide further objects to this Interrogatory on the grounds that it seeks information that is unrelated to any claims brought against Union Carbide and therefore is not reasonably calculated to lead to the discovery of admissible evidence. Subject to its objections, Union Carbide responds as follows: Lewis D. Fishberg signed the eighth page of Exhibit A. As of October 29,

1965, Mr. Fishberg was employed as a chemical engineer in the Phenolic Molding Material Group (R&D) at the Union Carbide Bound Brook plant.

AS TO OBJECTIONS AND DEFENSES:

Duly executed signature on file at the
office of Baker & Hostetler LLP

By: 

Mary Price Birk, Esq. #10415

Ronald L. Hellbusch, Esq. #26094

BAKER & HOSTETLER, LLP

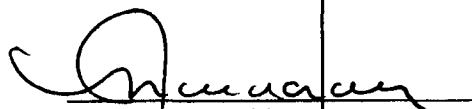
Attorneys for Defendant Union Carbide
Corporation

VERIFICATION

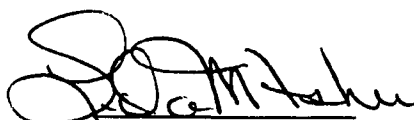
STATE OF CONNECTICUT)
)
COUNTY OF FAIRFIELD)

ss:

JOHN MACDONALD, being duly sworn according to law, deposes and says: that he is the Assistant Corporate Secretary of defendant Union Carbide Corporation, that he has read the answers to these Interrogatories and Requests for Production and is familiar with their contents; that the answers set forth herein were assembled and prepared by counsel for defendant based on information provided to counsel by employees or former employees through their sworn testimony and/or contained in documents located in the repository of asbestos-related documents maintained by counsel; and that to the best of deponent's knowledge, information and belief, the responses are true.


John Macdonald
Assistant Corporate Secretary

Sworn to before me this 6th day
of April, 2004.


Notary Public

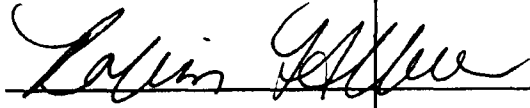
LINDA M. FISHER
NOTARY PUBLIC
COMMISSION EXPIRES 10/31/2007

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13 day of April, 2004, a true and correct copy of the above and foregoing **UNION CARBIDE CORPORATION'S RESPONSE TO PLAINTIFFS' SUPPLEMENTAL INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT UNION CARBIDE CORPORATION** was served via JusticeLink or by U.S. mail, postage prepaid, as indicated to:

J. Conard Metcalf, Esq. Trine & Metcalf, P.C. 1435 Arapahoe Ave. Boulder, CO 80302-6390 <i>Attorneys for Plaintiffs</i> VIA JUSTICELINK	
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Duly executed signature on file at the
office of Baker & Hostetler LLP



Nancy Adler

From: "LexisNexis File and Serve" <efile@fileandserve.lexisnexis.com>
To: <NAdler@Trine-Metcalf.com>
Sent: Tuesday, April 13, 2004 1:38 PM
Subject: Case: 1989CV2000; Filing: 3415599 - Notification of Service

John Conard Metcalf requested that you, Nancy Dene Adler, receive a copy of this notification for Filing ID 3415599. The details for this filing are listed below.

To: John Conard Metcalf
From: LexisNexis File & Serve
Subject: Service of Documents in IN RE ASBESTOS vs. AP GREEN INDUSTRIES INC et al

You are being served documents that have been electronically filed in IN RE ASBESTOS vs. AP GREEN INDUSTRIES INC et al through LexisNexis File & Serve. The details of this filing are listed below.

You can view the documents by accessing them online at http://fileandserve.lexisnexis.com/logon/blank_menu.asp.

Court: CO Boulder County District Court 20th JD
Case Name: IN RE ASBESTOS vs. AP GREEN INDUSTRIES INC et al
Case Number: 1989CV2000
Filing ID: 3415599
Document Title(s):
Defendant Union Carbides Response to Plaintiffs Discovery to Union Carbide 040316
Union Carbide Corporations Response to Plaintiffs Supplemental Interrogatories and Requests for Production of Documents to Defendant Union Carbide Corporation
Authorized Date/Time: Apr 13 2004 3:36PM ET
Authorizing Attorney: Mary Price Birk
Authorizing Attorney Firm: Baker & Hostetler LLP-Denver
Filing Parties:
UNION CARBIDE,
Served Parties:
IN RE ASBESTOS,

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