

**SUPREME COURT OF THE STATE OF NEW YORK
SEVENTH JUDICIAL DISTRICT**

**In Re: Seventh Judicial District
Asbestos Litigation**

**SEVENTH JUDICIAL DISTRICT
ASBESTOS LITIGATION**

This Document Applies to:

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ONTARIO**

**ANNE M. TINKER, Executrix of the
Estate of TIMOTHY W. TINKER, Deceased,
and Individually as the Surviving
Spouse of TIMOTHY W. TINKER,**

Plaintiff,

CASE NO. 83778

vs.

**A.E. CLEVITE, INC.,;
et al.,**

Defendants

**DEFENDANT MACK TRUCKS, INC.'S RESPONSES
TO PLAINTIFF'S SUPPLEMENTAL REQUEST FOR
INSPECTION AND PRODUCTION OF DOCUMENTS**

Defendant, MACK TRUCKS, INC. ("Mack Trucks"), serves this Response to Plaintiff's Supplemental Request for Inspection and Production of Documents dated June 3, 1997.

INTRODUCTION AND GENERAL RESPONSE

Responses provided herein have been prepared pursuant to a reasonable and duly diligent investigation and search for the information requested. In conducting its business, Mack Trucks has each year created thousands of documents that have been

kept in numerous locations and have been moved as the organization changed and as employees changed jobs. Accordingly, Mack Trucks cannot represent that these responses contained herein provide all information requested; rather, these responses reflect information obtained before this date by Mack Trucks pursuant to a reasonable and duly diligent search and investigation in those areas where responsive information was expected to be found. To the extent that the request purports to require more, Mack Trucks objects on grounds that include that compliance with the request would impose an undue burden and expense.

These responses are intended to be accurate to the best of Mack Truck's knowledge and belief as of the time of the service of this response. To the extent that the responses are not consistent with any previous responses made in other cases, these responses are intended to supersede such earlier responses. Mack Trucks reserves the right to supplement these responses should it discover new information.

Some of the discovery requests ask for "all" documents that may pertain to a subject. Mack Trucks objects to requests for any and all of something on grounds that the requests are overly broad and unduly burdensome.

You have served Mack Trucks with discovery and yet you already may have some pertinent information or documents, perhaps even some information or documents not received from Mack Trucks. Mack Trucks objects on the grounds that it would be less burdensome, more convenient and less expensive for you to identify what documents you already have that fall within the scope of these requests. This would accomplish several purposes: (a) it would obviate Mack Trucks having to search

for and copy documents already in your possession; (b) it would enable Mack Trucks to use the documents provided by you as guides in looking for related material; and © it would, if your purposes were to obtain authentication of particular documents, enable Mack Trucks to authenticate the copies provided by you without having to conduct an uninformed search for those documents in Mack Trucks' files.

Mack Trucks further objects to requests where the matter sought is neither relevant to the subject matter involved in the pending action nor reasonably calculated to lead to the discovery of admissible evidence.

DEFINITIONS

As used in Mack Trucks' objections to these requests:

(i) "Lack of Relevance" means that a request calls for information which is not relevant to the subject matter of this action and is not reasonably calculated to lead to the discovery of admissible evidence;

(ii) "Unduly Burdensome" means that it would be oppressive, time consuming or expensive to require Mack to compile and furnish the information in light of the degree of its relevance and materiality, if any;

(iii) "Overly broad" means that such request is overly broad as to scope, time or location;

(iv) "Lack of Particularity" means that a request does not state with reasonable particularity the information to be furnished, is vague and ambiguous or incomprehensible;

(v) "Improper Assumption" means that a request assumes facts which are not true or accurate;

(vi) "Improper Opinion" means that a request improperly calls for an opinion, conclusion, contention or inference;

(vii) "Privileged" means a request calls for information protected by the attorney/client privilege or the work-product doctrine or the rule protecting materials prepared in anticipation of or in connection with litigation; and

(viii) "Premature" means that a request calls for opinion or contention that relates to fact or the application of law to fact and should not properly be required to be responded to at this time.

These comments and objections are incorporated into each Mack response set forth below as if they were set forth in their entirety as they apply to each response. Responses made after objections are not waivers of objections.

RESPONSES

1. All asbestos-containing brake and brake products (including but not limited to brake shoes and brake linings, brake pads and brake assemblies), and clutches, clutch facings, and any other clutch products manufactured, distributed, sold or relabeled by Mack Trucks or placed in their vehicles (except automobiles) between 1970 and 1980.

RESPONSE: Objections: unduly burdensome, overly broad, lack of particularity.

Without waiving these objections, Mack Trucks states that, to the extent they are located, it will produce exemplar components responsive to this request within a reasonable time.

Dated: July 3, 1997
Orlando, Florida

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