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July 19, 1974

Raybestos-Manhattan
205 Middle Street
Bridgeport, Connecticut 06603

Attention: Mr. William Simpson, President

Dear Bill:

As you may know, the Asbestos Textile Institute has been named a defendant in two suits against Pittsburgh Corning Corp. for damages to the health of employees allegedly suffered while they were working in a Tyler, Texas plant. Although counsel for ATI believes that a motion to dismiss the ATI as a defendant may be granted, the Tyler, Texas cases could have far-reaching effects, touching all manufacturers in the asbestos industry as well as manufacturers who may not use asbestos at all. If not properly defended, the decisions in these cases might hold:

(1) that the reputed health hazards involved in the use of asbestos were known long before that actually could have been the case.

(2) that the technology required to control or eliminate factory asbestos dust was available to industry long before it actually was (if, indeed, it is available even today),

(3) that an employer has an affirmative duty to warn his employees of hazards inherent in the use of materials which they may handle, no matter how slight the hazard may be or how tenuous the evidence of danger, and

(4) that an employer is charged with knowledge of hazards involved in handling materials in his plant even though, in fact, he has no such knowledge and publication of the data and conclusions may have been confined to a select group of scientific specialists.

JHM 22435
M-616

CRMC-Motley1000-Subj-002085

It is my understanding that workmen's compensation laws in many states do not fully protect employers against individual or class actions for injuries to health suffered on the job. That being the case, it should be obvious that any decision in the Tyler cases which includes findings of the sort listed above may set judicial precedents which could expose asbestos (and other) manufacturers to summary judgments in future cases, judgments which might cost literally millions of dollars. The stakes are high.

As long as the ATI remains a defendant in the Tyler cases, it intends to make every effort, within the limitations of its budget, to see that the court record and the decisions are as favorable to manufacturers as possible. On the other hand, because of the risk of substantial liability to itself and its members (ATI is an unincorporated association), the ATI must make every effort to be dismissed from the action. And, if that should happen, there then will be no one a party to the proceedings who will have an incentive to advocate all those positions of fact and of law which may be of great importance to your company and mine. (For instance, the primary defendants, Pittsburgh Corning, PPG and Corning, may wish to argue that dust conditions at Tyler were not severe, whereas other asbestos manufacturers may wish the record to show, if such were the case, that the situation at Tyler was deplorable so that, in the future, conditions in their plants may be distinguished).

I am writing this letter to the chief executive officers of several companies which produce or use asbestos fiber to suggest that, if and when ATI is dismissed from the Tyler suits, a group of companies in the industry may wish to move quickly to form a special incorporated association to intervene in the Tyler cases as third party defendant or amicus curiae. Of course, our admission to the suit would be discretionary with the court, but I believe that, because of the potential impact on our business, we should have a reasonable chance of being admitted. It would be preferable to be admitted as a third party defendant so that we then may cross-examine, present evidence and otherwise endeavor to influence the findings of fact as well as of law; but we still, in my opinion, should seek to appear as amicus curiae to argue points of law only, if that is all that the court will permit. The corporate form of the special association should protect its members against potential liability; and, if enough companies participate, the cost to each one should be easily justifiable.

JRM 22436

CRMC-Motley1000-Subj-002086

Please give this idea some thought and let me have your views; so that we may move promptly to form our association, if circumstances should indicate the desirability of taking that step. I also suggest that you have your counsel follow the progress of the Tyler cases so that he can advise you of their potential significance.

Very truly yours,

Guy George Gabrielson, Jr.
President

GGG/jed

JHM 22437

CRMC-Motley1000-Subj-002087

Tyler — By past standards — Monaghan clean today
Very bad

TBA
Rockdale 2
Hindley Green
Frame
Carnarven
Chisel-en-le-Faith
Scandura
G E Bott
G E York Insulation Heater Corp. - not as clean as Bott
Brake Syst.
Raidis
Herman Chec
Allanic
Carlock Palmyra Tex. BAD
JM - Manville 3 BAD 1st visit - Now as clean as Co.
Marsh ville 1 BAD - Not as bad as Manville
Waukegan ✓
Weld-Bestos (2nd worst appearance)
Comins - near Boston - Traction
Carlyle - molded
Becker
Wagner - Baltimore FM+
Pawling, NY
Hartford - 3 mixers
TR/M plants

22438
JHM

CRMC-Motley1000-Subj-002088