IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

VALVA L. J. EVILSIZOR	§	
	§	
VS.	§	Civil Action No. B-81-717-CA
	§	
FIBREBOARD CORPORATION, ET AL	§	

ANSWERS OF DEFENDANT ARMSTRONG WORLD INDUSTRIES, INC. TO PLAINTIFF'S INTERROGATORIES

TO: Plaintiff Valva L. J. Evilsizor and his attorney of record, Mr. Stephen W. Hanks of Helm, Pletcher & Hogan, 2800 Two Houston Center, Houston, Texas 77010.

In accordance with the Federal Rules of Civil Procedure, Defendant Armstrong World Industries, Inc. hereby answers Plaintiff's Interrogatories propounded to Defendant. The following Answers are based upon facts known to or believed by this Defendant at the time of answer. Because much of the information is sought from many years ago and is therefore difficult or impossible to reconstruct or retrieve, and because of the volume of discovery requests received daily by us, this Defendant reserves the right to amend these Answers as and if new or better information becomes available to it, or if errors are discovered. Unless otherwise stated in an answer to a specific interrogatory, the answers set forth hereunder are limited to the products and the time peirod during which Plaintiff alleges exposure to Defendant's products and during which this Defendant manufactured and/or sold asbestos-containing insulation products, prior to mid-1969. The answers are from this Defendant's records and knowledge and not those of its former wholly-owned subsidiary, Armstrong Contracting & Supply Corporation, which operated independently of this Defendant.

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Respectfully submitted,

BOSWELL, O'TOOLE, DAVIS & PICKERING

By: _____
B. Stephen Rice
1600 First International Plaza
Houston, Texas 77002
(713) 650-1600

Attorney-in-Charge for Defendant
Armstrong World Industries, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to counsel for Plaintiff by certified mail, return receipt requested, and to all other counsel of record by regular mail, on this the 14th day of June, 1982.

_____
B. Stephen Rice

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1. Has Defendant, at any time, engaged in the mining, manufacture or sale of insulation products containing asbestos fibers? If so, please state a description of the physical (chemical) composition of each such product including the type of asbestos contained in each such product (i.e., amosite, chrysotile or crocidolite), the quantitative percentage of asbestos in each product, and a description of the physical appearance of each such product.

ANSWER: Regarding manufacture or sale, yes; regarding mining, no. See product attachments for composition, type and percentage asbestos, if known, and appearance.

2. Please describe in detail the type of packages in which Defendant has sold asbestos material, listing the dates each type of packaging was used, a physical description thereof, and a description of any printed material or trademarks that appeared thereon.

ANSWER: All information currently known to Defendant is contained in the packaging attachment.

3. Has the Defendant, at any time, published and/or distributed any brochures, sales literature, pamphlets or other written materials (including any caution labels on containers) of any kind or character that contain any warnings, cautions, caveats or directions concerning the possibility of injury resulting from the use of the products listed in your answer to the previous interrogatory? If so, state:

(a) The wording of each such warning;
(b) A description of each such printed material;
(c) The method used to distribute the warning to persons who are likely to use the products;
(d) The date each such warning was issued;
(e) The name, address and job classification of each person who presently has possession of the above described documents.
(f) If you will without a motion, please attach a copy of such warning.
(g) State whether any industrial psychologists or human factors engineers were consulted prior to utilizing such warnings, cautions, etc.

ANSWER: (a) Not as stated. However, this Defendant believes that Armstrong Contracting & Supply Corporation published safety precautions to be followed in all applications of Armaspray. For applications of Armaspray with the A-200 spray equipment, the safety precaution read:

> "Always wear a U.S. approved respirator when spraying. If tamping in the vicinity of the actual spray operator, the tamper should also wear a respirator."

For applications of Armaspray with the Armaspray Jr. spray equipment, the safety precaution read:

> "Always wear a MSA approved respirator when spraying. If tamping in the vicinity of the actual spray operator, the tamper should also wear a respirator."

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ANSWER TO INTERROGATORY NO. 3 (cont.)

Armaspray was sold by this Defendant exclusively to Armstrong Contracting & Supply Corporation.

(b) Armstrong Contracting & Supply Corporation construction manual.

(c) Unknown, but believed to be through training process.

(d) Unknown, but believed to be throughout the entire period of sale of Armaspray, 1966-1969.

(e) Unknown.

(f) Custodian would be ACandS, Inc. (formerly Armstrong Contracting & Supply Corporation).

(g) Unknown to this Defendant.

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4. Did you receive any reports or communications from your workmen's compensation carrier or products liability insurance carrier with regard to the hazards incident to use of asbestos containing insulation products? If so, please state who had possession of said reports, the location of said reports and the substance of the contents of said reports, listing for each such report the respective insurance company, its address, and the agent signing such correspondence.

ANSWER: Objection - as to the period of time during which this Defendant neither manufactured nor sold asbestos insulation products, this interrogatory is irrelevant and immaterial and the information sought will not lead to admissible evidence. As to the period during which Armstrong either manufactured and/or sold asbestos insulation products, no.

5. Has this Defendant exchanged results of research, tests, medical studies or experiments regarding the state of the medical knowledge regarding the connection between asbestos exposure and the contracting of pulmonary diseases including lung cancer and asbestosis since 1930 with any other company which manufactured or sold asbestos-containing products? If so, state:

(a) When these exchanges took place.
(b) Who participated in these exchanges.
(c) Summarize the content of these exchanges of studies.

ANSWER: Prior to the onset of litigation involving persons claiming injuries as a result of exposure to asbestos-containing products, Armstrong, to its knowledge, never received such information. As a result of the asbestos litigation, our legal representatives have received a good deal of such information from various sources, all of which is protected and privileged.

6. Please state if the Defendant or anybody on behalf of the Defendant ever conducted or sponsored or contributed financially to any studies or research to determine if the inhalation of asbestos fibers may be harmful. If so, please state:

(a) By whom the research was conducted, giving complete names and addresses.
(b) The dates that each such test was conducted.
(c) The complete results of each test or study.
(d) Supply copies of reports of the research department pertaining to the use by the corporation of asbestos in their manufactured insulation products.

ANSWER: Not to our knowledge.

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7. Please state the names and addresses of all physicians who were employed, retained or otherwise engaged by the Defendant at any of its facilities from the years of 1930 until the present time, including chief medical officers.

ANSWER: See attached physician's list. This Defendant never employed chief medical officers during the period it sold and/or manufactured asbestos insulation products.

8. Please state the names and addresses of all persons employed by Defendant from 1930 until the present time who functioned as industrial hygienists. As contemplated by these Interrogatories, an industrial hygienist is one who performs engineering or health studies to identify, and evaluate potential occupational health hazards and suggest methods of dealing with the same. Please state:

(a) The facility or office to which they were assigned.
(b) Their complete and precise duties and responsibilities.

ANSWER: (a)-(b) During the period in which we manufactured and/or sold asbestos insulation products, we did not employ an industrial hygienist. In 1972, Robert Kilgour was hired as the first industrial hygienist at Armstrong, Liberty and Charlotte Streets, Lancaster, Pennsylvania, a post which he holds today. The industrial hygienist monitors health and safety aspects of the manufacturing facilities in order to assist in maintaining compliance with OSHA and other health regulations.

9. Please state if the Defendant's medical officers ever made at any time any recommendations and/or suggestions to the Defendant pertaining to the risks or hazards to persons involved in the manufacturing or use of insulation products containing asbestos. If so, please state:

(a) Where were such recommendations and/or suggestions made?
(b) To whom were such recommendations and/or suggestions made?
(c) By whom were these recommendations and/or suggestions made?
(d) The substance of the recommendations and/or suggestions.

ANSWER: Not applicable. See answer to No. 7.

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10. Please state the names of trade association periodicals to which the Defendant subscribed from 1928 to the present date. State whether or not the Defendant had any knowledge of any articles being printed in industry trade journal essays, memoranda and other similar sources pertaining to the hazardous potentials of asbestos and which of such articles were received by you.

ANSWER: Although no records exist by which to answer this interrogatory, we believe none relating to the asbestos insulation product industry. To our knowledge, this Defendant has never subscribed to trade association periodicals. During the course of other asbestos litigation, we have become aware of other articles which, therefore, are privileged and protected.

11. Please state organizations, groups, inter-company or industrial organizations to which the Defendant belongs which conducted studies or researched the relationship, if any, between exposure to asbestos fibers or products and asbestosis and lung cancer from 1945 to 1970, and in regard to such studies, state:

(a) The type or nature of the studies.
(b) When the studies were conducted.
(c) The complete results of the studies.
(d) The recommendations of the studies.
(e) The resulting implementation of the studies by Defendant.
(f) The date when first implemented.

ANSWER: None to our knowledge.

12. Please state whether the Defendant has or had a department, division or section devoted to scientific and/or medical research during the period from 1936 until the present time. If so, please state when it was first formed.

ANSWER: This Defendant has had an industrial research laboratory since 1940. However, this research laboratory has never performed any medical research or any purely scientific research.

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13. Please state the scientific or medical periodicals to which the Defendants, its medical department or industrial hygiene division subscribed during the period between 1950 and 1964, specifying the date such subscriptions were begun.

ANSWER: "Safety News" 1946 on

"Industrial Hygiene" 1962 on

"Professional Safety" approximately 1959 on

14. Please state whether any employee of the Defendant has ever made a claim for asbestosis under the Occupational Disease or Workmen's Compensation Statute of any state. If so, please state the date that the Defendant first received notice of any claim for asbestosis under the Occupational Disease or Workmen's Compensation Statute of any state and state the total number of claims filed for the years 1946 to 1965.

ANSWER: We have no record of any employee at our manufacturing facility where asbestos insulation products were manufactured ever having made a claim for asbestosis under any occupational disease or worker's compensation statute. With regard to contract unit employees, the first claim was made in 1952. Up to and including 1965, 37 claims were made.

15. Has the Defendant ever been a member of the Asbestos Textile Institute, the Industrial Hygiene Foundation or the Industrial Health Foundation? If so, when did it first become a member and list the years inclusively of membership.

ANSWER: Not to our knowledge.

16. Since 1930, has the Defendant sponsored for its employees or distributors any meetings, seminars, conferences, or conventions where the subject of occupational health and exposure to asbestos was discussed? If so, state:

(a) The date and place of such meeting, seminar, conference, or convention where the subject of occupational health and exposure to asbestos was discussed.
(b) The name and address of the speaker or discussant.

ANSWER: Although no records currently exist by which to answer this interrogatory, we believe that we did not sponsor any such meetings, etc. during the period in which we manufactured and/or sold asbestos insulation products.

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17. At any time prior to 1964 were any tests or studies conducted or sponsored by you to determine:

(a) The level of dust or fiber concentration incident to:
(i) Cutting or sawing your insulation products containing asbestos;
(ii) Implacing the product on pipes and/or boilers;
(iii) Tearing down the product during repair and maintenance functions;
(iv) Mixing asbestos containing insulating cements.
(b) Whether long term (20 years or more) exposure to insulation products containing 15 percent asbestos or less for work periods less than 8 hours a day, both indoors and outdoors, which resulted in the liberation of asbestos dust or fiber below 5 million particles per cubic foot (mppcf) might cause asbestosis or expose such worker to an increased statistical risk of contracting bronchogenic cancer, mesothelioma (pleural or peritoneal) or gastrointestinal cancer.

ANSWER: (a)-(b) To our current knowledge, no such tests or experiments as described in this interrogatory were conducted.

18. Please identify all texts, articles, publications, pamphlets, standards and rules upon which you intend to rely at the time of trial to support your case.

ANSWER: Unknown at this time.

19. Please describe and define threshold limit value of dust containing asbestos and the application of threshold limit value to the asbestos manufacturing and insulating trade, and state the date and the source from which you received your first notice and awareness of threshold values pertaining to the concentration of airborne asbestos fibers.

ANSWER: The threshold limit values refer to airborne concentrations of substances and represent conditions under which it was believed at the time these values were established or changed that nearly all workers may be repeatedly exposed, day after day, without adverse effects. The value is a time-weighted average concentration for a seven to eight hour work day. During the time we manufactured LT Cork Covering and Armaspray, the threshold limit value for dust containing asbestos was 5 million particles per cubic foot of air based on the impinger method counted by light field techniques. In 1947, the American Conference of Governmental Industrial Hygienists had adopted as guidelines for employee exposure to airborne substances values called "Maximum Allowable Concentration" (MAC). These were subsequently changed to the term "Threshold Limit Values of 1948", and at that time, we became aware that these threshold limit values could be used as guidelines for determining employee exposure to airborne contaminants.

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20. Please state whether or not you ever obtained any knowledge concerning the likelihood of asbestos inhalation being hazardous to health, and if so, state when the corporation first became aware of the hazardous potential of asbestos and its products. State how the Defendant first obtained this knowledge and became so aware of said hazards and from what source this information was obtained.

ANSWER: In late 1968, we first became aware of the likelihood of an ascertainable relationship between the inhalation of airborne asbestos fibers and adverse health consequences when George Nickel brought the article "The Magic Mineral" in the New Yorker magazine (dated 10/12/68) to the attention of a number of management people at Armstrong. Prior to that time, certain information came to other employees at different times which alleged a relationship but the first awareness of this Defendant was as stated above.

21. Please state whether or not Defendant ever maintained a library or collection of medical information pertaining to effects of asbestos upon human health, including its hazardous effects, and if so, where said library or collection was and is located, the names and addresses of all medical librarians employed by Defendant since 1930, and what bibliography of medical articles, materials, and other reports were a part of said library on said subject, including journals, publications, reports and all memoranda published and received by you since 1930.

ANSWER: During the period in which we manufactured and/or sold asbestos insulation products, we did not maintain a library or collection of medical information as described. As a result of other asbestos litigation, this Defendant's legal representatives have acquired medical information, the production of which would be a violation of attorney work product and attorney/client privileges.

22. Please state the date when you first notified your employees working in your manufacturing plants and factories as to the need to wear and use a respirator.

ANSWER: We have always provided positive ventilation and respirators in our manufacturing plants for use in jobs where any kind of dust might be present. Although no records exist by which to state a specific date, we believe that we provided such ventilation and respirators as long as technology has been available.

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23. State the name of any expert witness that you intend to rely upon at the trial of this action, and identify the subject matter upon which each said expert will testify, his opinions, and the grounds upon which the opinions are based.

ANSWER: Expert witnesses have not yet been determined but will most likely be a physician who examines the Plaintiff and one on state of the art such as Dr. Dan Jenkins. Additionally, Armstrong might call as fact witnesses on their products, William B. King or Emmett Hines.

24. Please state if the Defendant intends to assert a defense of the Statute of Limitations. If so, state all facts on which the Defendant bases its contention that the Statute of Limitations had run on the Plaintiff's claim.

ANSWER: Yes, but this matter must be determined by further discovery and review of medical records.

25. Please state any product within your knowledge which could be or is being used for the same purpose as asbestos containing insulation material, and state when it was determined that said materials could be used as a substitute for asbestos insulation products.

ANSWER: We no longer manufacture and/or sell asbestos insulation products and, therefore, are not aware of the current technology in that industry.

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Packaging and Labeling of Products

To this Defendant's knowledge, all pipe covering, block and sheet was packaged in cartons; and cements and K. P. Asbestos Floats were packaged in bags.

LT Cork Covering was packaged in cardboard cartons. The corporate name and address were printed on the cartons, with our trademark which consisted of the word "Armstrong" with the letter "A" being centered in a colored disc.

Armaspray was packaged in 50 lb. kraft paper bags on which Armstrong Contracting & Supply Corporation, Lancaster, Pennsylvania was printed.

Armabestos was packaged in cartons with Armstrong's trademark and label in accordance with a rebranding agreement with Unarco.

85% Magnesia Pipe Covering, manufactured by Ehret Magnesia Manufacturing Company, was sold under the Armstrong trade name in 1957.

Calcium Silicate Pipe Covering, manufactured by Ehret Magnesia Manufacturing Company, was sold under the Armstrong trade name in 1957.

Kaylo was packaged in cartons with the Owens-Corning Fiberglas name.

The balance of the products identified in Attachment A were labeled by their manufacturer.

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COMMONWEALTH OF PENNSYLVANIA:
: SS
COUNTY OF LANCASTER :

I, the undersigned, J. H. Miller, Jr., being first duly sworn according to law, depose and say that I am an Assistant Secretary of Armstrong World Industries, Inc. The information contained in the responses hereto was gathered pursuant to my overall guidance by employees of this Company. I have no personal knowledge of same but am informed and therefore believe the answers to be true and correct. The responses have been prepared by counsel. I am executing this affidavit solely for the purpose of affixing the Company's signature hereto.

DATED: December 16, 1981

ARMSTRONG WORLD INDUSTRIES, INC.
A Pennsylvania Corporation

BY: _____
Assistant Secretary

On this 16th day of December, 1981, before me personally appeared J. H. Miller, Jr., to me known to be the person described herein, and who executed the foregoing instrument and who acknowledged that he voluntarily executed the same.

_____
Notary Public

CATHY J. PRETZMAN, Notary Public
LANCASTER, LANCASTER COUNTY, PA.
MY COMMISSION EXPIRES MARCH 7, 1983

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