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IN RE: ALL ASBESTOS-RELATED  
PERSONAL INJURY OR  
DEATH CASES FILED OR  
TO BE FILED IN DALLAS  
COUNTY, TEXAS

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IN THE DISTRICT COURTS OF  
  
DALLAS COUNTY, TEXAS  
  
191ST JUDICIAL DISTRICT

**WESTINGHOUSE ELECTRIC CORPORATION'S RESPONSES AND  
AND OBJECTIONS TO PLAINTIFFS' INTERROGATORIES AND  
REQUESTS FOR PRODUCTION SERVED ON OR ABOUT AUGUST 23, 1993**

TO: Plaintiffs, by and through their attorney of record, Russell W. Budd, Baron & Budd, P.C., 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219.

COMES NOW, Westinghouse Electric Corporation ("Westinghouse"), by and through its attorneys of record, and files this its Responses and Objections to Plaintiffs' Interrogatories and Requests for Production served on or about August 23, 1993.



Respectfully submitted,

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By:



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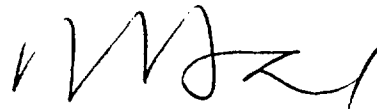
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ATTORNEYS FOR DEFENDANT,  
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CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was provided to counsel for Plaintiffs via hand delivery and to all other counsel of record via regular U.S. mail on this 22nd day of September, 1993.



MARK A. HENDRIX

I.  
Preliminary Statement and General Objections

Westinghouse respects the fact that these discovery requests are in a form which has been used in asbestos cases against defendants whose primary business was the manufacture of asbestos thermal insulation. For the reasons set forth below, Westinghouse respectfully submits that this discovery, as applied to Westinghouse, would be unduly burdensome and would require Westinghouse to invest massive financial and manpower resources which far outweigh the likelihood that this effort would lead to the discovery of admissible evidence. Westinghouse respectfully suggests that discovery rules and principles of fairness, relevance and relative burden must be considered in evaluating Plaintiffs' discovery and Westinghouse's responses to that discovery.

The premise of every lawsuit is that a plaintiff will state a claim and pursue discovery on that claim. There is no authority for the plaintiff to seek discovery without regard to what, if any, Westinghouse products might have been responsible for his injuries. Plaintiffs may not conduct unbridled discovery on every product that may have contained some component which itself contained asbestos without showing a link between that product and his injury. Plaintiffs have had years to discuss the claims with other Plaintiffs, to interview coworker witnesses, and to review numerous documents produced by their employers and other entities. It would be patently unfair to allow the Plaintiffs to conduct a massive fishing expedition through use of the form discovery requests, without any focus on the products at issue.

Westinghouse is not now, nor has it ever been, a miner of asbestos fiber or a manufacturer of the kinds of block, pipe, mud and cement thermal insulation products which have been the focus of asbestos personal injury litigation. With most manufacturers of asbestos

thermal insulation bankrupt, Plaintiffs now aim the standard discovery requests used against those companies against entities like Westinghouse, which cannot deny that some of the thousands of electrical products it made may have contained some asbestos.

Westinghouse has never been a member of the "asbestos industry" as that term has commonly been used in asbestos litigation. Thus, these form interrogatories are over broad and burdensome as applied to Westinghouse because they fail to give weight to this key fact.

Westinghouse does not exist in just a few locations nor does it have small, readily identifiable product lines. It is a broadly diversified, worldwide corporation that has employed upwards of 100,000 people and manufactures several thousand basic products and thousands of variations of those products. Westinghouse has been engaged principally in the manufacture, sale and service of equipment and components for the generation, transmission, utilization and control of electricity. However, especially in recent years, its businesses have expanded to include a wide range of products and services that are unrelated to electrical manufacturing.

Many of the products that Westinghouse manufactures and sells are extremely complex, consisting of hundreds or even thousands of components. Many of these components, as well as other materials, are supplied to Westinghouse by other companies. Westinghouse does not maintain records that identify the composition of each product component. Similarly, Westinghouse does not know and cannot determine the ultimate destination of each product sold because many of its sales are not to the ultimate user.

The Plaintiffs' form interrogatories are not limited in any fashion to the product(s) reasonably believed by the Plaintiff to have been sold, distributed or manufactured by Westinghouse and to which he reasonably believes he was exposed to some type of asbestos.

Although Plaintiffs' counsel, Baron & Budd in past litigation has limited their inquiries to turbines and micarta, these are still generic descriptions covering many types of turbines and hundreds of types of micarta and neither of these product types can be addressed generally without reference to their specific location and use. Yet, Plaintiffs are unwilling to specify when and how they were allegedly exposed to any asbestos from any of these products. Moreover, answers to interrogatories for Plaintiffs purporting to describe exposure from Westinghouse products are routinely disavowed by Plaintiffs at their depositions.

Without basic information about product type and location, it would be unduly burdensome for Westinghouse to attempt to respond because to do so would require review of documents from thousands of files relating to many different products and issues having nothing to do with this litigation.

Upon identification of the type of product(s) which the Plaintiff has reason to believe was manufactured by Westinghouse, and from which he or she may have been exposed to asbestos, Westinghouse can review the documents collected for relevant, responsive information. Following an appropriate review of responsive documents for privilege and proprietary information, Westinghouse will respond fully and fairly based upon the documents and information it is able to collect.

Westinghouse also objects to this discovery as duplicative of information previously provided. Many of these requests are substantially similar to, if not identical to, Plaintiffs' Master Interrogatories and Requests for Production or various other discovery requests in asbestos litigation in Dallas County. Furthermore, this discovery is similar to discovery requests in other asbestos litigation in Texas or nationwide in which Plaintiffs' attorneys herein represent

other persons in their various suits against Westinghouse. Plaintiffs' counsel has access to this information and in fact Westinghouse has provided Plaintiffs' attorneys numerous opportunities to review documents which are responsive to many of these requests. Instead of sifting through the volumes of information which Plaintiffs' attorneys previously requested, Plaintiffs have served this duplicative discovery. This discovery is an attempt to force Westinghouse to perform research to assist Plaintiffs in meeting Plaintiffs' burden of proof, even though Plaintiffs are not inclined to perform such research.

In summary, Westinghouse opposes only the type and scope of discovery which would impose an unreasonable burden on Westinghouse because it is not tailored in any way to deal with a corporation such as Westinghouse, or reasonably designed to lead to the discovery of admissible evidence concerning the products the Plaintiffs reasonably believe to have caused them harm.

Without waiving these objections, Westinghouse states that beginning in approximately 1985, it made an effort to identify individuals in various Westinghouse divisions which it reasonably believed likely to have documents that could be relevant in asbestos personal injury cases. Documents were collected from these locations, copied and placed in a repository in Richmond, Virginia. These documents are segregated according to the division from which they were collected. They are not organized according to type of product, date or place of sale, customer name or geographical region.

Further, since approximately 1933 Westinghouse has had a corporate industrial hygiene department. This department has been the largest, most central location at which information relating to a wide range of safety and health issues has been collected. Westinghouse does not

oppose reasonable, focused discovery relating to the corporate industrial hygiene files and has previously made these records available to Plaintiffs.

Westinghouse has a history of cooperation with Plaintiffs' counsel, Baron & Budd, and has produced substantial discovery consisting of documents, witnesses and answers to interrogatories. The current interrogatories request information redundant of what has already been produced. Specifically, much of the information requested was provided to Plaintiffs' counsel in either Dallas or Travis County litigation. Furthermore, additional information regarding some of the sites listed where Plaintiffs may have worked has been made available to Plaintiffs' counsel.

Accordingly, and in general response to Plaintiffs' Interrogatories and Requests for Production, please see documents produced to Plaintiffs' counsel, including those documents produced on March 16 and March 17, 1992, in New York, New York, at the offices of Amon & Sabatini; documents produced on March 18, 1992, in Norfolk, Virginia; and hundreds of thousands of documents in the Corporate Industrial Hygiene library and files produced in Pittsburgh, Pennsylvania, which were made available for inspection in October, November and December 1992 and from which over 100,000 documents were copied by Plaintiffs' counsel. This production included 94 file drawers of documents, 20 boxes of documents, 6 rolls of microfilm reduced to hard copy and 3 boxes of microfiche (with each box containing approximately 1024 cards, with 1 to 60 images/pages on each card). For answers to many of these interrogatories, Plaintiffs should further refer to depositions they have taken of Westinghouse corporate representatives: John Morykon on March 19, 1992; John Tabbutt on April 29, 1992; Wayne Bickerstaff on May 27, 1992; and Jim Gate on June 30, 1992. Plaintiffs

have also deposed Westinghouse expert witnesses John Lumsden and Alexander Kusko. Westinghouse has also produced a list of turbine-generator units in Alabama, the Florida Panhandle, and South Central Tennessee.

These documents and depositions provide Plaintiffs much more voluminous information that is more precise than what Westinghouse can or should have to simply recite or regurgitate in response to these Interrogatories.

Without waiving these objections, and subject thereto, Westinghouse further responds to the Plaintiffs' Interrogatories and Requests for Production as follows:

## II.

### INTERROGATORIES

INTERROGATORY NO. 1: State the name, address, job title, length of time employed by Defendant, and a year-by-year list of all other positions, titles, or jobs held when working for Defendant of each person who has supplied any information used in answering these Interrogatories.

ANSWER: See general objection. Westinghouse further objects to this Interrogatory to the extent it calls for information protected by the attorney client privilege or attorney work product doctrine. All answers are derived from numerous sources, persons and documents over an extended period. The person signing these responses does so to satisfy the requirement for an officer or employee of the corporation answering the interrogatories to affix his signature. Such signing person does not necessarily have direct knowledge regarding the matters included in these responses. No single officer, employee or agent of Westinghouse has direct knowledge

of each and every answer requested. Westinghouse objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving these objections, for purposes of compliance with Texas Rule of Civil Procedure 168, please refer to the affidavit appended to these responses. The affiant, Daniel Vickovic, Assistant Secretary, has his office at Six Gateway Center, Pittsburgh, Pennsylvania 15222.

INTERROGATORY NO. 2: For the time period during which asbestos-containing products were manufactured, assembled, sold or distributed by Defendant, and for the year preceding such activity, identify by date any meetings of the board of directors of Defendant at which the following topics were discussed:

- (a) Asbestos-containing products;
- (b) Asbestosis;
- (c) other asbestos-related diseases, including but not limited to lung cancer, mesothelioma, pleural plaques; and
- (d) dust studies that measure asbestos dust and fibers.

ANSWER: See general objection. Westinghouse further objects to this Interrogatory to the extent it calls for information protected by the attorney client privilege or work product doctrine. Discussions by Westinghouse's attorneys with its Board of Directors regarding this litigation or its overall strategy in similar litigation along with minutes of those meetings clearly are privileged from discovery.

Westinghouse further objects to responding to these Interrogatories for any products not alleged to have contributed to Plaintiffs' injuries. Such a general or unlimited request is overly broad and unduly burdensome and seeks information which is irrelevant and immaterial to these proceedings and information which is not reasonably calculated to lead to the discovery of relevant, material or admissible evidence.

Without waiving its objection, Westinghouse states there are no minutes which are responsive to this Interrogatory which are not privileged. A chart outlining the privileged minutes responsive to this request was provided for in camera review to the Honorable Mark Whittington as the judge presiding over the In Re: Asbestos Common Issue Docket.

**INTERROGATORY NO. 3:** For the time period during which asbestos-containing products were manufactured, assembled, sold or distributed by Defendant, and for the year preceding such activity, identify by date any safety meetings, or meetings concerning safety issues, at any plant or other facility of Defendant where the following topics were discussed:

- (a) Asbestos-containing products;
- (b) Asbestosis;
- (c) other asbestos-related diseases, including but not limited to lung cancer, mesothelioma, pleural plaques; and
- (d) dust studies that measure asbestos dust and fibers.

**ANSWER:** See general objection. Westinghouse further objects to this Interrogatory to the extent it calls for information protected by the attorney client privilege or work product doctrine. Discussions by Westinghouse's attorneys with Westinghouse employees regarding

safety issues, if any, involved in this litigation or its overall strategy in similar litigation along with minutes of those meetings clearly are privileged from discovery.

Westinghouse further objects to responding to these Interrogatories for any products not alleged to have contributed to Plaintiffs' injuries. Such a general or unlimited request is overly broad and unduly burdensome and seeks information which is irrelevant and immaterial to these proceedings and information which is not reasonably calculated to lead to discovery of relevant, material or admissible evidence.

Without waiving these objections, Westinghouse states it had a medical department concerned with the health and various health issues of Westinghouse employees. It has retained plant physicians and nurses in numerous locations over many years.

Additionally, Westinghouse has had an Industrial Hygiene Department since the early 1930's. Currently the Industrial Hygiene and Corporate Product and Safety departments are within the Department of Environmental Affairs. Corporate Medical is located within Corporate Human Resources.

The title "Industrial Hygiene" defines the department's function. The Industrial Hygiene Department's primary role relates to identifying and reducing conditions in the workplace which are hazardous or dangerous to Westinghouse employees or which in some form threaten worker safety. The Medical Department's role is to provide medical services where appropriate to Westinghouse employees. The administrator of medical services advises the corporation on such topics as the layout for the plant medical department, the acquisition of medical equipment and the feasibility of placing medical services departments at particular plants.

Westinghouse has had a Safety Department since the 1930's. The title given to the Safety Department has changed over the years. For example, at one time the Safety Department was known as Accident Prevention. Westinghouse employed personnel at various facilities whose primary responsibility was job-site safety. Currently the Safety Department is within the Department of Environmental Affairs. The title "Safety" defines the department's functions. The Safety Department's primary role relates to identifying and reducing conditions in the workplace which are hazardous or dangerous to Westinghouse employees or which in some form threaten worker safety. Westinghouse has employed safety personnel at various locations and times, some of whom were certified industrial hygienists.

Furthermore, Westinghouse refers Plaintiffs to documents and information previously provided and referenced in the preliminary statement above. Specifically, Westinghouse refers Plaintiffs to documents produced from Westinghouse Corporate Industrial Hygiene files. Finally, Westinghouse refers Plaintiffs to various witnesses and exhibits designated by Westinghouse. Such exhibits are available for review at a mutually convenient time at the offices of Vial, Hamilton, Koch & Knox.

**INTERROGATORY NO. 4:** Identify any asbestos-containing products manufactured by other companies that were sold and/or distributed by Defendant, its predecessors and/or subsidiaries. State the time periods during which any such products were sold and/or distributed.

**ANSWER:** See general objection. Westinghouse also objects to responding to this Interrogatory for any product not alleged to have contributed to the injuries of Plaintiffs on the

grounds it is overly broad and unduly burdensome and seeks information which is irrelevant and immaterial to these proceedings and which is not reasonably calculated to lead to the discovery of relevant, material or admissible evidence.

Without waiving these objections, Westinghouse distributed, through Westinghouse Electric Supply Company (WESCO), a Westinghouse division, an extensive array of products, manufactured by Westinghouse and other companies, some of which contained asbestos. The following is a list of asbestos-containing products of other companies that were available for sale through WESCO.

- American Beauty Heater Cord
- Armored Thermostat Cable
- Asbestos Insulated Heat-resisting Fixture Cord, type AF
- Asbestos Insulated Wire and Cable
- Asbestos Ranger and Rheostat Wire "Rockbestos"
- Collyer Asbestos Heater Cord
- General Cable Asbestos Insulated Fixture Wire
- General Cable Asbestos Insulated Flexible Cord
- Heater Cord Type HPO
- Rockbestos Asbestos Varnished Cambric Wire Types ABC and AVP
- Rockbestos Asbestos-covered Nickel Cord
- Rockbestos AVC Boiler Room Wire and Cable
- Rockbestos AVC Switchboard Wire
- Rockbestos Heat Resisting Fixture Wire
- Rockbestos Power Cable
- Rockbestos Stove Wire
- Rockbestos Table LH Hotbed or Industrial Heating Cable
- Thermostat Cable

Additional information may be contained within the documents provided to Plaintiffs' counsel. Specifically, Westinghouse refers Plaintiffs to information referenced in the General Statement above and refers Plaintiffs to its designated witnesses and exhibits. These exhibits are available for review at a mutually convenient time at the offices of Vial, Hamilton, Koch & Knox.

INTERROGATORY NO. 5: Identify by name and location each plant ever owned, operated, or at any time bought by or under the control of Defendant in which asbestos-containing products were manufactured, assembled, or prepared for sale or marketing, and state the time periods during which that activity took place.

ANSWER: See general objection. Westinghouse further objects to responding to this Interrogatory for any products not alleged to have contributed to the injuries of Plaintiffs. Westinghouse also objects to responding to this Interrogatory for any plants or locations which have not been identified by Plaintiffs in Work History sheets as a plant or location at which they worked and at which Plaintiffs believe they were exposed to a specific Westinghouse product. Such a general and unlimited request is overly broad and unduly burdensome and seeks information which is irrelevant and immaterial to these proceedings and which is not reasonably calculated to lead to the discovery of relevant, material or admissible evidence. However, if Plaintiffs will identify a particular product to which they allege exposure during a particular time, Westinghouse will endeavor to supplement this response.

As noted in the General Statement above, Westinghouse is a large corporation, manufacturing thousands of products. These products are manufactured at various facilities throughout the United States. However, Plaintiffs would place an undue burden on Westinghouse to search its records throughout the United States to determine which products were manufactured at these facilities regardless of whether such products are in issue herein. Westinghouse cannot answer such a global request until Plaintiffs more narrowly define their allegations and properly identify a Westinghouse product, if any, as a cause of their alleged harm.

INTERROGATORY NO. 6: For each plant identified in Interrogatory No. 5, and for the time periods identified therein, list the dates, if any, on which ventilation systems were installed, or modifications to improve ventilation were made to existing systems. Provide a brief description of the changes made.

ANSWER: See general objection and see objection and response to Interrogatory No. 5. Furthermore, this interrogatory seeks irrelevant information as a ventilation system could have been installed or modified for reasons unrelated to asbestos or asbestos-containing products.

Without waiving these objections, Westinghouse's Industrial Hygiene and Safety personnel have endeavored at all times to keep generally abreast of developments pertaining to a wide range of industrial health issues, including asbestos. Individual plants are responsible for taking appropriate measures to reduce hazards in the workplace. Those measures would include, among others, providing adequate ventilation for Westinghouse employees to reduce plant dust, regardless of its characteristics.

INTERROGATORY NO. 7: For each plant identified in Interrogatory No. 5, and for the time periods identified therein, list the dates, if any, on which respirators were provided to employees.

ANSWER: See general objection and see objection and response to Interrogatory No. 5. Furthermore, this interrogatory seeks irrelevant information as respirators could have been used for reasons unrelated to asbestos or asbestos-containing products.

Without waiving these objections, Westinghouse's Industrial Hygiene and Safety personnel have endeavored at all times to keep generally abreast of developments pertaining to

a wide range of industrial health issues, including asbestos. Individual plants are responsible for taking appropriate measures to reduce hazards in the workplace. In 1953 Westinghouse suggested the use of respirators in certain circumstances.

**INTERROGATORY NO. 8:** For each plant identified in Interrogatory No. 5, and for the time periods identified therein, list the dates, if any, on which warnings about the health hazards of asbestos were issued to employees.

**ANSWER:** See general objection and see objection and response to Interrogatory No. 5. Without waiving these objections, Westinghouse's Industrial Hygiene and Safety personnel have endeavored at all times to keep generally abreast of developments pertaining to a wide range of industrial health issues, including asbestos. Individual plants are responsible for taking appropriate measures to reduce hazards in the workplace.

**INTERROGATORY NO. 9:** Identify by name and location each plant ever owned, operated or at a later date bought or under control of Defendant in which asbestos-containing products were used, and state the time periods during which such products were used at each plant.

**ANSWER:** See general objection and objection and response to Interrogatory No. 5. Westinghouse further objects to responding to this Interrogatory for any products not alleged to have contributed to the injuries of Plaintiffs. Westinghouse also objects to responding to this Interrogatory for any plants or locations which have not been identified by Plaintiffs in Work History sheets as a plant or location at which they worked and at which Plaintiffs believe they

were exposed to a specific Westinghouse product. Such a general and unlimited request is overly broad and unduly burdensome and seeks information which is irrelevant and immaterial to these proceedings and which is not reasonably calculated to lead to the discovery of relevant, material or admissible evidence. However, if Plaintiffs will identify a particular product to which they allege exposure during a particular time, Westinghouse will endeavor to supplement this response.

Westinghouse also refers Plaintiffs to its most recent Objections and Responses to Plaintiffs' Master Interrogatories and Requests for Production, specifically Interrogatory Nos. 4 and 6.

**INTERROGATORY NO. 10:** For each plant identified in Interrogatory No. 9, and for the time periods identified therein, list the dates, if any, on which ventilation systems were installed, or modifications to improve ventilation were made to any existing ventilation systems. Provide a brief description of the changes made.

**ANSWER:** See general objection and objection and response to Interrogatory Nos. 6 and 9.

Furthermore, this interrogatory seeks irrelevant information as a ventilation system could have been installed or modified for reasons unrelated to asbestos or asbestos-containing products.

**INTERROGATORY NO. 11:** For each plant identified in Interrogatory No. 9, and for the time periods identified therein, list the dates, if any, on which respirators were provided to any employees using asbestos-containing products.

ANSWER: See general objection and objection and response to Interrogatory Nos. 7 and 9.

Furthermore, this interrogatory seeks irrelevant information as respirators could have been used for reasons unrelated to asbestos or asbestos-containing products.

INTERROGATORY NO. 12: For each plant identified in Interrogatory No. 9, and for the time periods identified therein, list the dates, if any, on which warnings about the health hazards of asbestos were issued to employees.

ANSWER: See general objection and objection in response to Interrogatory Nos. 8 and 9.

INTERROGATORY NO. 13: Prior to 1990, did any person file a claim against a Workers' Compensation carrier covering Defendant, its predecessors, and/or its subsidiaries, alleging that he/she contracted a disease from inhaling asbestos fibers while employed by Defendant, its predecessors, and/or its subsidiaries? If so, provide:

- (a) a list of the claims, including each claimant's name, address and the date each claim was filed, and including the caption and jurisdiction of the claim;
- (b) the disease alleged in each such claim;
- (c) a brief summary of the disposition of each such claim; and
- (d) the name, address and title of the person having custody of the records pertaining to each such claim.

ANSWER: See general objection. Westinghouse further objects to this Interrogatory on the ground that it is overly broad, unduly burdensome, and seeks information which is irrelevant and immaterial to these proceedings and which is not reasonably calculated to lead to the discovery of relevant, material or admissible evidence. In addition, the attorney client privilege work product doctrine may be applicable.

Westinghouse further objects to this Interrogatory as duplicative of Plaintiffs' Master Interrogatories and Requests for Production. Specifically, Interrogatory No. 35, of such set, is almost identical to this request. However, instead of reviewing the available information. Plaintiffs instead would have Westinghouse regurgitate this information or sift through the volume of information previously provided.

Without waiving its objections and upon information and belief, Westinghouse responds that its earliest claim for asbestos-related illness occurred in 1976.

INTERROGATORY NO. 14: State the time periods, if any, during which Defendant was a member of each of the following organizations:

- (a) Asbestos Textile Institute (ATI);
- (b) Quebec Asbestos Mining Association (QAMA);
- (c) National Insulation Manufacturers Association (NIMA);
- (d) Industrial Hygiene Foundation (IHF);
- (e) Air Hygiene Foundation (AHF);
- (f) Asbestos Information Association (AIA); and
- (g) American Conference of Governmental Industrial Hygienists (ACGIH).

ANSWER: See general objection. See also Westinghouse's Objections and Responses to Plaintiffs' Master Interrogatories and Requests for Production as specifically, Interrogatory No. 20 which is almost identical to this request.

Westinghouse further objects to reviewing its records to identify organizations to which its employees (past or present) may have belonged over the years. Furthermore, there is no central repository of such information. Individual Westinghouse health and safety professional employees have belonged to various professional, trade, industrial and safety, hygiene or health organizations and research foundations or organizations such as the American Industrial Hygiene Association, Health Physics Society, and the Society of Safety Engineers. Westinghouse's records do not include the dates individual memberships were commenced or terminated and who, if anyone, attended meetings.

Subject to the foregoing objections and without waiving same, Westinghouse responds that it has never been a member of Asbestos Textile Institute, Quebec Asbestos Mining Association, National Insulation Manufacturers Association or Asbestos Information Association. However, Westinghouse was a member of Industrial Hygiene Foundation from 1936 to 1984.

INTERROGATORY NO. 15: State the dates and amounts of any financial contributions that were made by this Defendant to each of the following organizations:

- (a) Asbestos Textile Institute (ATI);
- (b) Quebec Asbestos Mining Association (QAMA);
- (c) National Insulation Manufacturers Association (NIMA);
- (d) Industrial Hygiene Foundation (IHF);

- (e) Air Hygiene Foundation (AHF);
- (f) Asbestos Information Association (AIA); and
- (g) American Conference of Governmental Industrial Hygienists (ACGIH).

ANSWER: See general objection and objection and response to Interrogatory No. 14.

Westinghouse further objects to this interrogatory based on the grounds that it seeks information that is irrelevant and immaterial to these proceedings and which is not reasonably calculated to lead to the discovery of relevant, material or admissible evidence.

Westinghouse also objects to this Interrogatory as overly broad, unduly burdensome and vague in that the term "contribution" is undefined. Contributions in the form of dues are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. However, Plaintiffs attempt to place an undue burden on Westinghouse to identify all "contributions" of all of its many employees throughout its history of operations even though such information is immaterial to these proceedings.

Subject to the foregoing objections and since Westinghouse was not a member of these organizations, Westinghouse is unaware of any contributions to Asbestos Textile Institute, Quebec Asbestos Mining Association, National Insulation Manufacturers Association or Asbestos Information Association.

INTERROGATORY NO. 16: Has any employee or agent of Defendant ever testified before any governmental entity regarding asbestos, asbestos-containing products or diseases related to the inhalation of asbestos dust or fibers? If so, provide the name of each person so testifying, and the name, date, and location of each hearing.

ANSWER: See general objection. Westinghouse further objects to this Interrogatory as overly broad and duly burdensome and unlimited as to time or scope. Specifically, this Interrogatory is not limited to any specific product to which Plaintiffs allegedly were exposed during any particular or relevant time period.

Furthermore, Westinghouse objects to this interrogatory as duplicative of information previously provided. Westinghouse has produced for deposition many employees or former employees and has made available thousands of documents any of which may provide information responsive to this request. Accordingly, Westinghouse refers Plaintiffs to its Responses and Objections to Master Interrogatories and Requests for Production and specifically Interrogatory No. 6 and all witnesses and exhibits designated by Westinghouse. Furthermore, Westinghouse refers Plaintiffs to the volumes of documents previously made available to Plaintiffs as noted in the preliminary statement above.

INTERROGATORY NO. 17: Before 1974, did Defendant ever furnish any papers, documents, internal memoranda, or other writings concerning asbestos-related diseases and/or the health hazards of inhaling asbestos dust and fibers to the United States Public Health Service or to any other governmental agencies? If so, identify the writings and the dates they were so furnished.

ANSWER: See general objection and objection and response to Interrogatory No. 16.

Without waiving these objections, Westinghouse has worked with the Government on many occasions in the development of numerous products. However, Plaintiffs attempt to place an undue burden on Westinghouse to identify each of these occasions regardless of the specific

issues addressed with the Government even though Plaintiffs are unwilling or unable to properly identify a Westinghouse product as a cause of their alleged harm. Without further or more specific information from Plaintiffs, Westinghouse is unable to more fully respond to this Interrogatory.

INTERROGATORY NO. 18: Before 1974, did Defendant ever furnish any papers, documents, internal memoranda, or other writings concerning asbestos-related diseases and/or the health hazards of inhaling asbestos dust and fibers, to the United States Navy or United States Naval Facilities? If so, identify the writings and the dates they were so furnished.

ANSWER: See general objection and objection and response to Interrogatory No. 16 and 17.

INTERROGATORY NO. 19: Did Defendant ever provide any information to a military or other governmental entity concerning the health hazards of inhaling asbestos dust and fibers that was used, or was intended to be used, in the drafting of military specifications for the use of asbestos-containing products?

ANSWER: See general objection and objection and response to Interrogatory No. 16 and 17.

INTERROGATORY NO. 20: Did Defendant ever provide information to a military or other governmental entity that was used or intended to be used in drafting military specifications for the design of asbestos-containing products? If so, for each entity:

- (a) State the name of the entity;
- (b) Describe the information provided; and
- (c) Give the dates on which the information was provided.

ANSWER: See general objection and objection and response to Interrogatory No. 16 and 17.

INTERROGATORY NO. 21: Did any employee or agent of Defendant ever receive a copy of any of the following articles? If so, for each article, state the name of the recipient and the date the article was received:

- (a) WALDEMAR DREESSEN, "A Study of Asbestosis in the Asbestos Textile Industry," U.S. Treasury Dept. Public Health Bull. No. 241, August, 1938.
- (b) WALTER FLEISCHER, PHILLIP DRINKER, et al., "Health Survey of Pipe Covering Operations in Constructing Naval Vessels," Journ. Industrial Hyg. & Tox. 28:9 (1946).
- (c) RICHARD DOLL, "Mortality from Lung Cancer in Asbestos Workers," Brit. J. Industr. Med. 12:81-86 (1955).
- (d) E.R.A. MEREWETHER, "The Occurrence of Pulmonary Fibrosis and Other Pulmonary Affections in Asbestos Workers," J. Ind. Hyg., Vol. XII (1930).

ANSWER: See general objection. Westinghouse further objects to this Interrogatory as overly broad and duly burdensome and unlimited as to time or scope. Specifically, this Interrogatory is not limited to any specific product to which Plaintiffs allegedly were exposed during any relevant time period. Westinghouse further objects to Interrogatory No. 21 as

duplicative of Interrogatory Nos. 63 and amended 63 of Plaintiffs' Master Interrogatories and Requests for Production.

Without waiving these objections, Westinghouse cannot state exactly when it may have become aware of these published studies related to asbestos manufacturers and the asbestos industry, of which Westinghouse is not a member.

INTERROGATORY NO. 22: Has Defendant ever conducted any tests or studies concerning the effects of the inhalation of asbestos dust or fibers on the animal or human respiratory system? If so, provide the name, date, and location of each test or study and state by whom in the corporation the report of the results was received.

ANSWER: See general objection. Westinghouse further objects to this Interrogatory as duplicative of Plaintiffs Master Interrogatories and Requests for Production and specifically Interrogatory No. 8. Without waiving these objections, see Westinghouse's responses to Plaintiffs' Master Interrogatories and Requests for Production particularly Interrogatory Nos. 6 and 8. In August 1974, a report titled "Identification and Quantification of Fibrous Dust and Ferruginous Bodies in Lungs of Autopsied Adults" was published by the Industrial Health Foundation, Inc. Westinghouse's name, along with Alcoa and Gulf Oil, appears on the cover of this report. The report was prepared by Paul Gross, M.D., John M. G. Davis, Ph.D. and Russell A. Harley, Jr., M.D. This report studied the mineral fiber (including asbestos) content of human lungs. Westinghouse has no present knowledge of the reason for the appearance of its corporate name on this report.

INTERROGATORY NO. 23: Has Defendant ever litigated the issue of insurance coverage in a case involving exposure to asbestos? If so, for each case state:

- (a) the names of the parties, the court, and the case number;
- (b) the filing date;
- (c) the name and address of the attorneys representing the insurance carrier; and
- (d) whether the case has been settled.

ANSWER: See general objection. Westinghouse further objects to this request as irrelevant to the extent that it relates to any lawsuit other than the ones asserted by these plaintiffs. To the extent that it does relate to the instant plaintiffs, Westinghouse states that it cannot determine applicable coverage without some indication of how and what products the Plaintiffs claim caused their injuries. Coverage under the various policies may depend on the the dates of Plaintiffs alleged exposure, the type of exposure, the manifestation, if any, of illness or other pertinent information. However, if Plaintiffs will provide more specific information as noted above, Westinghouse will endeavor to further respond to this interrogatory.

INTERROGATORY NO. 24: Has Defendant ever conducted any tests or studies concerning the health hazards to an individual exposed to both asbestos dust/fibers and tobacco smoke? If so, provide the names and dates of each test or study.

ANSWER: See general objection and Interrogatory Answer No. 22. Westinghouse further objects to this Interrogatory as duplicative of Plaintiffs Master Interrogatories and Requests for Production and specifically Interrogatory No. 8. Furthermore, Westinghouse

objects to this Interrogatory to the extent that it seeks information regarding products which have not been identified by Plaintiffs as a cause of their alleged harm.

INTERROGATORY NO. 25: To date, has Defendant furnished any information to consumers, other users of asbestos-containing products, or to the general public, about the health hazards to an individual exposed to both asbestos dust/fibers and tobacco smoke? If so, state how and when this information was conveyed.

ANSWER: See general objection. Westinghouse further objects to this Interrogatory as duplicative of Plaintiffs Master Interrogatories and Requests for Production and specifically Interrogatory No. 8. Furthermore, Westinghouse objects to this Interrogatory to the extent that it seeks information regarding products which have not been identified by Plaintiffs as a cause of their alleged harm. Without waiving these objections, Westinghouse responds that it unaware of providing any such information.

INTERROGATORY NO. 26: To date, has Defendant ever attempted to recall its asbestos-containing products?

ANSWER: See general objection. Westinghouse further objects to this Interrogatory as duplicative of Plaintiffs' Master Interrogatories and Requests for Production and specifically Interrogatory No. 53. Westinghouse further objects to this Interrogatory's provisions relating to the "recall [of] its asbestos-containing products" on the ground that the requirement is overbroad and irrelevant, since an asbestos-containing product theoretically could have been recalled for reasons having nothing to do with asbestos. Finally, Westinghouse objects to this

Interrogatory as argumentative in that it implies that Westinghouse had any duty to recall any of its products.

Without waiving its objections, Westinghouse would respond that it manufactured many thousands of products; some may have been recalled over time for various reasons. Further, some asbestos-containing products may have been recalled for reasons having nothing to do with alleged health hazards associated with asbestos. Generally, Westinghouse began a program to eliminate the use of asbestos in its products around 1973. See deposition of Wayne Bickerstaff. See also Westinghouse's Objections and Responses to Plaintiffs' Master Interrogatories and Requests for Production and specifically the Response to Interrogatory No. 6 and Interrogatory No. 53. Finally, see the volumes of documents previously provided as identified in the preliminary statement above.

**INTERROGATORY NO. 27:** Describe in detail:

- (a) How your documents relating to asbestos, asbestos diseases, and asbestos-containing products are maintained;
- (b) How your documents relating to asbestos, asbestos diseases and asbestos-containing products are organized; and
- (c) Where these documents are kept.

**ANSWER:** See general objection. Subject to the foregoing objection and without waiving same, Westinghouse responds that it maintains records storage facilities at Sunnyvale, California and Boyers, Pennsylvania. There is no single length of time for which Westinghouse records are retained. The various retention periods for different types of documents are

determined by many factors, including: regulations and statutes of governments in various countries; contractual requirements; types of documents; litigation requirements; and available space. The various corporate locations also periodically try to purge their files of "dead documents" pursuant to the document retention policy. Documents were not and are not kept, stored or retained according to product content.

Furthermore, Westinghouse, beginning in approximately 1985, made an effort to identify individuals of various Westinghouse divisions which it reasonably believed likely to have documents that could be relevant in asbestos personal injury cases. Documents were collected from these locations, copied and placed in a repository in Richmond, Virginia. These documents are segregated according to division from which they were collected. They are not organized according to the type of products, the date or place of sale, customer name or geographical region.

Sales orders are initially kept at Westinghouse or WESCO office receiving the order. Once the order is filled and payment is received from the customer, the sales order is considered closed. After a one to three year period, closed orders are then sent to the records services facility for retention. Thereafter, sales orders are only retained for a limited period of time, generally for a period of less than ten years.

The personnel responsible for determining document retention policy and directing the removal and destruction of records are as numerous as the Westinghouse divisions that store records at record services. For additional information, see Westinghouse's Objections and Responses to Plaintiffs' Master Interrogatories and Requests for Production and specifically the preliminary statement contained therein.

III.

**REQUEST FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 1:** Produce copies of the minutes of any meetings of the board of directors of Defendant at which the following topics were discussed:

- (a) Asbestos-containing products;
- (b) Asbestosis;
- (c) other asbestos-related diseases, including but not limited to lung cancer, mesothelioma, pleural plaques; and
- (d) dust studies that measure asbestos dust and fibers.

**RESPONSE:** See general objection and objection and response to Interrogatory No. 2 above. Additionally, please see Westinghouse Responses and Objections to Plaintiffs' Master Interrogatories and Requests for Production and specifically the preliminary statement which refers to numerous documents previously produced by Westinghouse to Plaintiffs.

Westinghouse also objects to this Request as seeking information privileged from discovery pursuant to the attorney/client privilege. Without waiving its objection, Westinghouse states there are no minutes which responsive to this Request which are not privileged. A list of these privileged minutes were provided in camera for review to the Honorable Mark Whittington as the judge presiding over the In Re: Asbestos Common Issue Docket.

**REQUEST FOR PRODUCTION NO. 2:** Produce copies of the minutes of any safety meetings or any meetings at any plant or facility of Defendant where the following topics were discussed:

- (a) Asbestos-containing products;
- (b) Asbestosis;
- (c) other asbestos-related diseases, including but not limited to lung cancer, mesothelioma, pleural plaques; and
- (d) dust studies that measure asbestos dust and fibers.

**RESPONSE:** See general objection and objection and response to Interrogatory No. 3 above. Additionally, please see Westinghouse Responses and Objections to Plaintiffs' Master Interrogatories and Requests for Production and specifically the preliminary statement which refers to numerous documents previously produced by Westinghouse to Plaintiffs.

**REQUEST FOR PRODUCTION NO. 3:** Produce copies of the patents obtained for the asbestos-containing products manufactured, assembled, and/or prepared for sale or marketing by Defendant.

**RESPONSE:** See general objection and see Westinghouse's Objections and Response to Plaintiffs' Master Interrogatories and Requests for Production and specifically the preliminary statement and the objections and response to Interrogatory No. 4 and Interrogatory No. 6 of the master set of discovery.

Without waiving these objections, Westinghouse received a patent for its fire resistant decorative micarta in 1960. Upon information and belief, materials relevant to this patent are believed to have been produced previously.

REQUEST FOR PRODUCTION NO. 4: Produce copies of the patents obtained for those asbestos-free products intended to be substitutes for asbestos-containing products manufactured, assembled, or prepared for sale or marketing by Defendant.

RESPONSE: See general objection and see Westinghouse's Objections and Response to Plaintiffs' Master Interrogatories and Requests for Production and specifically the preliminary statement and the objections and responses to Interrogatory No. 4 and Interrogatory No. 6 of the master set of discovery.

REQUEST FOR PRODUCTION NO. 5: Produce copies of the testimony of each and every employee or agent of Defendant at each and every hearing by a governmental entity concerning asbestos, asbestos-containing products, or diseases related to the inhalation of asbestos dust and fibers.

RESPONSE: See general objection and objection and response to Interrogatory Nos. 16 through 20.

Subject to the foregoing objection, please see Westinghouse's Objections and Responses to Plaintiffs' Master Interrogatories and Requests for Production along with all identified exhibits. Those exhibits are available for review at a mutually convenient time at the offices of Vial, Hamilton, Koch & Knox. See also volumes of information previously produced as noted in the preliminary statement above.

REQUEST FOR PRODUCTION NO. 6: Produce copies of every test or study that measured the asbestos fibers or measured the asbestos dust and/or fiber levels at every plant

owned, operated, bought by or under the control of Defendant. Provide the dates for each test or study.

RESPONSE: See general objection and objection and response to Interrogatory Nos. 22 and 24.

REQUEST FOR PRODUCTION NO. 7: Produce copies of every test or study received by Defendant that measured asbestos fibers or measured the asbestos dust and/or fiber levels at the Thetford Mines.

RESPONSE: See general objection and objection and response to Interrogatory No. 22 above. Additionally, see Westinghouse's Objections and Responses to Plaintiffs' Master Interrogatories and Requests for Production and specifically Interrogatory No. 6.

Subject to the foregoing objections and without waiving the same, Westinghouse responds that it was not involved in tests performed at the Thetford Mines and thus is unaware of its possession of any documents related to such tests or study.

REQUEST FOR PRODUCTION NO. 8: Produce all documents in the possession, custody, or control of Defendant relating to the Braun & Truan study done for the Quebec Asbestos Mining Association.

RESPONSE: See general objection and objection and response to Interrogatory No. 22 above. Additionally, see Westinghouse's Objections and Responses to Plaintiffs' Master Interrogatories and Requests for Production and specifically Interrogatory No. 6.

Subject to the foregoing objections and without waiving the same, Westinghouse responds that it was not involved in tests performed at the Quebec Asbestos Mining Association and thus is unaware of its possession of any documents related to such tests or study.

**REQUEST FOR PRODUCTION NO. 9:** Produce copies of all documents which contain any reference to tests or studies that found either asbestos dust, or total dust including asbestos, in quantities exceeding 2 million particles per cubic foot of air, at any plant owned, operated, bought by or under the control of Defendant, during the manufacture, assembly, or preparation for sale or assembly, of any asbestos-containing products.

**RESPONSE:** See general objection and objection and response to Interrogatory No. 22 above. Additionally, see Westinghouse's Objections and Responses to Plaintiffs' Master Interrogatories and Requests for Production and specifically Interrogatory No. 4. Finally, please see the volumes of information previously provided to Plaintiffs as referenced in the preliminary statement above.

**REQUEST FOR PRODUCTION NO. 10:** Produce copies of all documents which contain any reference to tests or studies which found either asbestos dust, or total dust including asbestos, in quantities exceeding 5 million particles per cubic foot of air, at any plant owned, operated, bought by or under the control of Defendant, during the use of any asbestos-containing products.

**RESPONSE:** See general objection and objection and response to Interrogatory No. 22 above. Additionally, see Westinghouse's Objections and Responses to Plaintiffs' Master

Interrogatories and Requests for Production and specifically Interrogatory No. 4. Finally, please see the volumes of information previously provided to Plaintiffs as referenced in the preliminary statement above.

**REQUEST FOR PRODUCTION NO. 11:** Produce copies of any and all tests or studies conducted by Defendant concerning the effects of the inhalation of asbestos dust or fibers on animal or human respiratory systems.

**RESPONSE:** See general objection and objection and response to Interrogatory No. 22 above. Additionally, see Westinghouse's Objections and Responses to Plaintiffs' Master Interrogatories and Requests for Production and specifically Interrogatory No. 4. Finally, please see the volumes of information previously provided to Plaintiffs as referenced in the preliminary statement above.

**REQUEST FOR PRODUCTION NO. 12:** Produce copies of all documents produced during the course of Defendant's litigation with any insurance carrier concerning exposure to asbestos.

**RESPONSE:** See general objection and objection and response to Interrogatory No. 23 above.

**REQUEST FOR PRODUCTION NO. 13:** Produce copies of all depositions taken by any party during the course of Defendant's litigation with any insurance carrier concerning exposure to asbestos.

**RESPONSE:** See general objection and objection and response to Interrogatory No. 23 above.

**REQUEST FOR PRODUCTION NO. 14:** Produce copies of any tests or studies conducted by, or received by, Defendant concerning the health hazards to an individual exposed to both asbestos dust/fibers and tobacco smoke.

**RESPONSE:** See general objection and objection and response to Interrogatory Nos. 22 and 24 above. Additionally, see Westinghouse's Objections and Responses to Plaintiffs' Master Interrogatories and Requests for Production and specifically Interrogatory No. 4. Finally, please see the volumes of information previously provided to Plaintiffs as referenced in the preliminary statement above.

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