

NO. 97-16973

FRANCIS A. HILL, Individually and as	§	IN THE DISTRICT COURTS OF
Personal Representative of the Heirs and	§	
Estate of LUE J. PATTERSON, Deceased	§	
Plaintiffs,	§	
	§	
vs.	§	
	§	HARRIS COUNTY, TEXAS
MISSOURI PACIFIC RAILROAD CO. d/b/a	§	
UNION PACIFIC RAILROAD CO. (Individually	§	
and as Successor-in-Interest to Texas & Pacific	§	
Railroad)	§	
Defendants.	§	127TH JUDICIAL DISTRICT
	§	

DEFENDANT UNION PACIFIC RAILROAD COMPANY'S
OBJECTIONS AND RESPONSES TO PLAINTIFF'S REQUEST FOR ADMISSIONS

TO: Plaintiff Francis A. Hill, Individually and as Personal Representative of the Heirs and Estate of Lue J. Patterson, by and through her attorneys of record, Kimberly Castles, Baron & Budd, The Centrum, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281.

Pursuant to Rules 166b and 167 of the Texas Rules of Civil Procedure, Union Pacific Railroad Company (Improperly named as Missouri Pacific Railroad Co. d/b/a Union Pacific Railroad Co., Individually and as Successor-in-Interest to Texas & Pacific Railroad), Defendant herein, hereby submits its Objections and Responses to Plaintiff's Request for Admissions.

REQUESTS FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1: Admit or deny that asbestos-containing products were in general use aboard Defendant's railroad during the time period Plaintiff Decedent was employed by Defendant.

RESPONSE: Defendant denies this Request because, after a thorough search of its records, Defendant has not been able to locate any information which would indicate when, or if, Plaintiff Decedent was employed by Defendant.

REQUEST FOR ADMISSION NO. 2: Admit or deny that Defendant ordered, purchased or otherwise acquired asbestos-containing products, asbestos-containing friction products, machinery requiring the use of asbestos or asbestos-containing products.

RESPONSE: Defendant admits this request.

REQUEST FOR ADMISSION NO. 3: Admit or deny that Defendant used or implemented on Defendant's railroad, asbestos-containing products.

RESPONSE: Defendant admits this request.

REQUEST FOR ADMISSION NO. 4: Admit or deny that Defendant's cars, engines and/or locomotives which Plaintiff Decedent worked on or around were unreasonably dangerous and unfit because of the presence of and/or use of asbestos-containing products.

RESPONSE: Defendant denies this Request because, after a thorough search of its records, Defendant has not been able to locate any information which would indicate when, or if, Plaintiff Decedent was employed by Defendant.

REQUEST FOR ADMISSION NO. 5: Admit or deny that Plaintiff Decedent was a railroad worker, as that term is generally understood, during his employment with Defendant.

RESPONSE: Defendant denies this Request because, after a thorough search of its records, Defendant has not been able to locate any information which would indicate when, or if, Plaintiff Decedent was employed by Defendant.

REQUEST FOR ADMISSION NO. 6: Admit or deny that Plaintiff Decedent, in the course and scope of his work as a railroad worker and/or employee of Defendant, worked on and/or around Defendant's railroad, railway cars, engines and/or locomotives, shops, roundhouses, and transfer sheds where asbestos, and asbestos containing products were present.

RESPONSE: Defendant denies this Request because, after a thorough search of its records, Defendant has not been able to locate any information which would indicate when, or if, Plaintiff Decedent was employed by Defendant.

REQUEST FOR ADMISSION NO. 7: Admit or deny that Defendant was aware during the periods of time Plaintiff Decedent worked for Defendant that airborne asbestos dust created a potential health hazard to those who breathed such dust.

RESPONSE: Defendant denies this Request because, after a thorough search of its records, Defendant has not been able to locate any information which would indicate when, or if, Plaintiff Decedent was employed by Defendant or which job sites and/or facilities at which Plaintiff Decedent allegedly worked.

REQUEST FOR ADMISSION NO. 8: Admit or deny that Plaintiff Decedent was employed by Defendant or by a predecessor-in-interest of Defendant.

RESPONSE: Defendant denies this Request because, after a thorough search of its records, Defendant has not been able to locate any information which would indicate when, or if, Plaintiff Decedent was employed by Defendant.

REQUEST FOR ADMISSION NO. 9: Admit or deny that Plaintiff Decedent worked on and/or around Defendant's railroad in areas where asbestos-containing products were installed, used, prepared for use, replaced or repaired, stored or loaded, unloaded or transported.

RESPONSE: Defendant denies this Request because, after a thorough search of its records, Defendant has not been able to locate any information which would indicate when, or if, Plaintiff Decedent was employed by Defendant.

REQUEST FOR ADMISSION NO. 10: Admit or deny that Defendant did not distribute any literature or warnings of any kind to its employees during the period of time Plaintiff Decedent worked for Defendant regarding the potential health hazards to those who breathe airborne asbestos dust.

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unlimited in scope and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, Defendant denies this Request because, after a thorough search of its records, Defendant has not been able to locate any information which would indicate when, or if, Plaintiff Decedent was employed by Defendant.

REQUEST FOR ADMISSION NO. 11: Admit or deny that asbestos-containing products were placed on or used in the conduct of Defendant's railroad during the time period Plaintiff Decedent was employed by Defendant including the following asbestos-containing products:

- | | |
|--|---------------------------|
| a. any asbestos-containing product and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials | I. asbestos block |
| b. asbestos tiles | j. asbestos packing |
| c. asbestos millboard | k. boilers |
| d. asbestos friction products | l. brake shoes |
| e. asbestos pipecovering | m. brake linings |
| f. asbestos gaskets | n. clutch linings |
| g. asbestos joint compound | o. firebrick |
| h. asbestos cement | p. refractories/castables |
| | q. turbines |

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unlimited in scope and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, Defendant denies this Request because, after a thorough search of its records, Defendant has not been able to locate any information which would indicate when, or if, Plaintiff Decedent was employed by Defendant.

REQUEST FOR ADMISSION NO. 12: Admit or deny that Defendant engaged in no abatement programs for the removal of asbestos at any time since 1965.

RESPONSE: Defendant denies this Request.

REQUEST FOR ADMISSION NO. 13: Admit or deny that Defendant was aware of the presence of and/or use of asbestos-containing products at the Railroad during the time period Plaintiff Decedent was employed by Defendant.

RESPONSE: Defendant denies this Request because, after a thorough search of its records, Defendant has not been able to locate any information which would indicate when, or if, Plaintiff Decedent was employed by Defendant.

REQUEST FOR ADMISSION NO. 14: Admit or deny that Defendant became aware of the potential health hazards of airborne asbestos during the time periods in which Plaintiff Decedent was employed by Defendant.

RESPONSE: Defendant denies this Request because, after a thorough search of its records, Defendant has not been able to locate any information which would indicate when, or if, Plaintiff Decedent was employed by Defendant.

REQUEST FOR ADMISSION NO. 15: Admit or deny that Defendant did not continuously provide face masks to railroad employees working with or around asbestos from 1945 to the present for the purpose of protecting these employees from inhaling asbestos.

RESPONSE: Defendant denies this Request.

REQUEST FOR ADMISSION NO. 16: Admit or deny that during the time Plaintiff Decedent was employed by Defendant, it was foreseeable that asbestos-containing products on Defendant's railroad would or could be removed, stripped, replaced or repaired at some time after installation.

RESPONSE: Defendant denies this Request because, after a thorough search of its records, Defendant has not been able to locate any information which would indicate when, or if, Plaintiff Decedent was employed by Defendant.

REQUEST FOR ADMISSION NO. 17: Admit or deny that during the time Plaintiff Decedent was employed by Defendant, Defendant failed to comply with the requirements of the Boiler Inspection Act, formerly 45 U.S.C. § 23; and restated at 49 U.S.C. § 20701 et seq.

RESPONSE: Defendant denies this Request.

REQUEST FOR ADMISSION NO. 18: Admit or deny that Plaintiff Decedent filed suit against Defendant within three (3) years of the date of discovering his asbestos-related condition or the existence of any asbestos-related causes of action.

RESPONSE: Defendant denies this Request because, after a thorough search of its records, Defendant has not been able to locate any information which would indicate when, or if, Plaintiff Decedent was employed by Defendant.

REQUEST FOR ADMISSION NO. 19: Admit or deny that Defendant is liable for Plaintiff Decedent's asbestos related illness.

RESPONSE: Defendant denies this Request.

REQUEST FOR ADMISSION NO. 20: Admit or deny that Defendant knew or had reason to know that the asbestos [was] in use on its railroad since the 1930's.

RESPONSE: Defendant admits this Request.

REQUEST FOR ADMISSION NO. 21: Admit or deny that Defendant consciously decided not to warn its employees of the dangers of asbestos.

RESPONSE: Defendant denies this Request.

REQUEST FOR ADMISSION NO. 22: Admit or deny that asbestos is still in use and/or in place on Defendants railroad.

RESPONSE: Objection. This Request seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 23: Admit or deny that Defendant no longer uses asbestos on its railroad.

RESPONSE: Objection. This Request seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 24: Admit or deny that Defendant acquired knowledge, during the 1930's of the Alton Railroad's responses to the Illinois Occupational Diseases Act.

RESPONSE: Defendant denies this Request that it acquired knowledge in the 1930's.

REQUEST FOR ADMISSION NO. 25: Admit or deny that Defendant was a member of the National Claims Registry which reported information regarding injuries claims of railroad workers.

RESPONSE: Defendant denies this Request.

Respectfully submitted,

PHELPS DUNBAR

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*Signed by permission

Attorneys for Defendant
Union Pacific Railroad
Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Defendant Union Pacific Railroad Company's Objections and Responses to Plaintiff's Request for Admissions has been sent via Federal Express and Facsimile to Kimberly A. Castles, Baron & Budd, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281 and via First Class Mail to all parties of record on attached service list, this 3rd day of June, 1997.

Maria Raguzzo