

NO. A153112



DONALD WOODROW DEVINE, et al.,) IN THE DISTRICT COURT
)
)
 Plaintiffs,)
)
 v.) FOR JEFFERSON COUNTY, TEXAS
)
)
 OWENS-CORNING FIBERGLAS)
 CORPORATION, et al.,)
)
)
 Defendants.) 58TH JUDICIAL DISTRICT

**INITIAL RESPONSES OF DEFENDANT NORFOLK
 SOUTHERN RAILWAY COMPANY TO PLAINTIFF
 JAMES CLAYTON THOMPSON'S INTERROGATORIES**

Defendant Norfolk Southern Railway Company ("NSRC") f/k/a/ Southern Railway Company ("Southern"), for its response to Plaintiff James Clayton Thompson's ("Thompson") Interrogatories, states as follows:

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

NSRC has no knowledge regarding Thompson's alleged employment by it. Thompson has supplied NSRC with information regarding the years of Thompson's alleged employment, but not the craft involved, or the specific locations where Thompson allegedly worked. NSRC has found no employment information pertaining to James C. Thompson. Accordingly, at this time NSRC is unable to respond to any of Thompson's interrogatories.

NSRC's investigation is continuing and should additional information surface, or should Thompson supply NSRC with proof of employment, including time, place and craft, supplemental answers will be submitted. NSRC objects to responding to these requests in regard to any period of time other than the period during which it allegedly employed

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Thompson and further objects to providing information about geographic locations and operating units within its system other than those at which and for whom Thompson supposedly worked. The bases for such objections are that any responses would be irrelevant to the subject matter of the pending litigation, would not be reasonably calculated to lead to the discovery of admissible evidence, and would be burdensome and oppressive.

Finally, NSRC objects to this set of interrogatories to the extent that it requires far more than thirty answers. Accordingly, NSRC refuses to answer any interrogatories beyond the first thirty.

OBJECTIONS TO THOMPSON'S DEFINITIONS

NSRC objects to the definitions supplied by Thompson to the extent that they cause such requests to exceed the scope of the Texas Rules of Civil Procedure and attempt to alter applicable statutory and case law. NSRC also objects to these definitions on the bases that they are overbroad, vague, and often inconsistent with the normal usage and meaning of such words. NSRC therefore gives notice that it does not consider itself bound by the definitions propounded by Thompson and instead has answered these interrogatories in a manner consistent with the normal understanding of the language used in each interrogatory and to the extent necessary to fairly and fully answer each interrogatory.

OBJECTIONS AND ANSWERS TO INTERROGATORIES

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

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the

attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it requests so much marginally relevant information. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. Subject to and without waiving these objections, NSRC responds as follows:

It would be impossible to identify all persons who were consulted in connection with the answers to these interrogatories, and NSRC objects to this interrogatory to the extent it seeks information within the work product privilege. However, in the spirit of discovery and without waiving its objection, NSRC can state that since 1983 interrogatories have been answered in lawsuits based upon asbestos exposure claims. Attorneys for NSRC have assisted in the preparation of answers to the various discovery requests after consultation with many departments within the railroad, visits to various locations within the railroad, and, review of historical documentation including, Federal Register, office data, personnel files, corporate files, periodicals, industry publications, claims, health regulations, material handling files, structural material files, OSHA regulations, locomotive materials, safety recommendations, Federal Railway Administration rules and regulations, material catalogs, suppliers catalogs, letter files, plans, building files and computer printouts.

INTERROGATORY NO. 2: State the full and proper business name and address of the Defendant. State whether or not you are a corporation. If so, state your corporate name, the state of your incorporation, the address of your principal place of business, the name and address of the person or entity authorized to accept service of process on your behalf, and whether or not you have ever held a Certificate of Authority to do business in the State of Texas, maintained a registered agent in Texas, engaged in business in Texas or recruited or hired employees in Texas.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to the portion of this interrogatory devoted to a Certificate of Authority and operations in the State of Texas for the reason that Thompson, if he worked for NSRC, did not do so in the State of Texas. Therefore, the response of NSRC to such interrogatory could not lead to the discovery of admissible evidence. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. Subject to and without waiving these objections, NSRC responds as follows:

Norfolk Southern Railway Company
One Commercial Place
Norfolk, Virginia 23510

NSRC is a corporation, organized and existing in the State of Virginia, with its principal place of business in Norfolk, Virginia.

INTERROGATORY NO. 3: With regard to each policy of liability insurance to provide coverage to Defendant, its agents and/or employees for the liability in connection with the allegations such as those delineated in Plaintiff's Original and Amended Petitions including, but not limited to, all primary and excess policies covering the Defendant for such liability, state the name and address of each carrier.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 4: State whether you contend that the Plaintiff has done anything or failed to do anything that constitutes contributory negligence. If so, please describe the basis of your contention and what evidence exists to support that contention.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO.5: State whether you contend that the Plaintiff has done or failed to do anything that constitutes a failure to mitigate damages. If so, please describe the basis of your contention and what evidence exists to support that contention.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 6: List each and every place of work and job assignment of the Plaintiff which he held during his employment with Defendant and describe in detail the duties involved in each of the job assignments.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. NSRC also objects to this interrogatory to the extent that it seeks information that is equally available to and/or better known to Thompson than to NSRC.

INTERROGATORY NO. 7: Describe in detail how asbestos containing products were used by railroad workers on Defendant's railroad(s) during the period of Plaintiff's employment by Defendant.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 8: Describe in detail where asbestos containing products were used by railroad workers on Defendant's railroad(s) during the period of Plaintiffs employment by Defendant.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 9: If you have alleged in your answer that Plaintiff's injuries and/or damages were caused by some other injury, disease or condition, either pre-existing or unrelated to and arising after or in conjunction with the Plaintiff's exposure to asbestos-containing products, please describe in detail such pre-existing or subsequent disease, injury or condition. For each alleged other injury, disease or condition, identify all evidence upon which you base this contention.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 10: Please state the name of each and every person having knowledge of facts relevant to this action including most recent address and present telephone number, along with the experience and qualifications, if applicable, of each and every person, known to Defendant's agents, including, but not limited to:

- A. Identification of asbestos-containing products or type of products to which Plaintiff was exposed or facts disputing the identification of these products;
- B. Plaintiff's damages, injuries and/or facts disputing Plaintiff's damages and/or injuries; and

- C. The negligence of any person or entity other than Defendant which Defendant contends was a cause of Plaintiff's injuries and/or damages.
- D. Each of Defendant's defenses enumerated in Defendant's last filed answer.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent that it is multifarious. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. NSRC also objects to this interrogatory to the extent that it seeks information that is equally available to and/or better known to Thompson than to NSRC.

INTERROGATORY NO. 11: Please identify documents or things, including x-rays, MRI'S, CT-scans or other materials, which will be used at time of trial, (Exhibit List, Deposition List), which are relevant to each of Defendant's enumerated defenses in Defendant's last filed Answer.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory as being vague and ambiguous to the extent that it refers to the terms "Exhibit List" and "Deposition List." NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. NSRC also objects to this interrogatory to the extent it actually constitutes a request for production of documents. Subject to and without waiving these objections, NSRC responds as follows:

NSRC has not yet determined which documents it will use at trial.

INTERROGATORY NO. 12: Identify the names and addresses of all individuals Defendant may call as an expert witness(es) at trial, and for each individual, please state:

- A. The subject matter on which the witness is expected to testify, specific as to each individual Plaintiff's case, the substance of the facts and opinions to which the witness intends to testify on the Defendant's behalf and a summary of the grounds for each opinion, specific as to each individual Plaintiff's case;
- B. All factual observations, test results, supporting data, learned treatise (books, general articles, texts or other publications) and opinions which the witness has generated, been provided, intends to use, and/or may use to support his/her opinions and conclusions relative to the case whereupon which the witness has or will base his/her testimony in this matter, specific as to each individual Plaintiff's case. The identity, address and job classification of each consulting expert whose opinions or data have been referred to and/or relied upon by the expert witness, and the complete title and author of each learned treatise referred to and/or relied upon by the witness for information and/or corroborating his/her opinions regarding the subject matter of this lawsuit.
- C. Whether any person identified in subparagraph B above has provided a report or other documentation to you, and if so, identify each such document or report, specific as to each individual Plaintiff's case, separate and distinct from all other Plaintiffs within the group.
- D. Identify all documents or other materials, including but not limited to x-rays, pathology, CT-scans, you have provided to each person identified in response to subparagraph B above, specific as to each individual Plaintiff's case, separate and distinct from all other Plaintiffs within the group.
- E. Describe in detail the education and work history of, and identify any books, treatises, articles, published and unpublished reports, studies or other scholarly works authored by any individual identified in response to subparagraph B above. Alternatively, in lieu of said response, attach a copy of a resume or curriculum vitae and a list of publications to your answers.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent that it is multifarious. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. NSRC also objects to this

interrogatory to the extent it actually constitutes a request for production of documents. Subject to and without waiving these objections, NSRC responds as follows:

NSRC has not yet hired an expert witness to appear and testify at the trial of this cause.

INTERROGATORY NO. 13: Identify all persons, entities, agencies or others, whether governmental (state or federal) or private, who participated in any investigation of the claims made the basis of this lawsuit.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 14: Please state whether Defendant or any successor or predecessor was ever a member of the Railroad Claims Registry, and if so, please state the years Defendant was a member; the years of attendance at and involvement in the Railroad Claims Registry Meetings; the name, job classification, address and telephone number of each and every agent and/or representative and/or employee of Defendant attending each and every Railroad Claims Registry Meeting and the year that agent and/or representative and/or employee of Defendant attended the meeting; and the location of the Railroad Claims Registry Meeting for each year attended by Defendant.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 15: Please state whether Defendant or any successor or predecessor ever attended or sent an agent on its behalf to any of the Association of American Railroads and American Railway Association meetings from 1930 to the present, and if so, please state the years of attendance; the location of the meeting; the name, address, job classification and telephone number of each and every agent and/or employee and/or representative of Defendant

attending each and every Association of American Railroads and American Railway Association meeting and the exact year of attendance.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 16: Before 1980, did Defendant receive notice that any individual who at any time was employed by the Defendant claimed injury as a result of exposure to asbestos? If so, state:

- A. The name and address of each claimant;
- B. The date of notice of each claim;
- C. A description of the claim;
- D. The type of injuries allegedly sustained by each claimant;
- E. The name and address of each attorney who represented each individual making a claim;
- F. The style and court number of each claim;
- G. The disposition of each claim that has been settled or taken to judgment.
- H. The name, address and title of the person having custody of the records pertaining to each such claim.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 17: Before 1980, did Defendant receive notice that any individual who at any time was employed by any Railroad claimed injury as a result of exposure to asbestos? If so, state:

- A. The name and address of each claimant;
- B. The date of notice of each claim;
- C. A description of the claim;
- D. The type of injuries allegedly sustained by each claimant;
- E. The name and address of each attorney who represented each individual making a claim;
- F. The style and court number of each claim;
- G. The disposition of each claim that has been settled or taken to judgment.
- H. The name, address and title of the person having custody of the records pertaining to each such claim.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 18: Has Defendant at any time published, distributed or displayed any printed material, including brochures, pamphlets, catalogs, warning signs or statements, packaging or other written material of any kind or character containing any warning concerning the possibility of injury resulting from the use of asbestos-containing products and/or exposure to airborne asbestos? If so, state:

- A. The exact wording of each warning statement and a description of the material upon which the warning was printed;
- B. The method(s) used to distribute the materials to persons likely to use the asbestos-containing products or likely to be exposed to airborne asbestos;
- C. The date each warning was first issued or distributed;
- D. The name, address, and job title of each person responsible for having drafted or issued the warning statements and/or written materials;
- E. The current location of any such printed material and the custodian thereof;
- F. The form in which such literature or printed material can be accessed, i.e., the manner in which such literature is indexed or stored.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the

attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. Subject to and without waiving these objections, NSRC responds as follows:

In the September/October 1983 edition of NS World magazine, a "Notice and Warning to Railroad Employees Who Have Been Exposed to Asbestos" was published. It went to current and former NSRC employees who may have been exposed to asbestos-containing products purchased by NSRC.

INTERROGATORY NO. 19: Did Defendant install, replace, use, repair, assemble, transport or store, either as an original appurtenance of the railroad or placed in/on the railroad in conjunction with repairs or alterations to the railroad, any asbestos-containing products during the time Plaintiff worked for Defendant? If so, identify:

- A. By name and number each of Defendant's railroad(s), whether operating or in railyards, upon which the asbestos-containing product(s) were installed, repaired, used, stored or transported during the time Plaintiff worked for Defendant;
- B. The particular type of asbestos-containing product(s);
- C. The trade or brand name of each of the asbestos-containing products;
- D. The years during which each named asbestos product was applied, stored, used, repaired, installed or transported either as an original appurtenance of the railroad or placed on/in the railroad in conjunction with repairs or alterations to the railroad(s); and
- E. The dates of any removal or abatement of such asbestos-containing products, from Defendant's railroad(s).

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few

restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 20: Did any entities or persons at Defendant's direction, whether direct or indirect, including but not limited to contractors and subcontractors install, replace, use, repair, assemble, transport or store, either as an original appurtenance of the railroad or placed in/on the railroad in conjunction with repairs or alterations to the railroad, any asbestos-containing products during the time Plaintiff worked for Defendant? If so, identify:

- A. By name and number each of Defendant's railroad(s), whether operating or in railyards, upon which the asbestos-containing product(s) were installed, repaired, used, stored or transported during the time Plaintiff worked for Defendant;
- B. The particular type of asbestos-containing product(s);
- C. The trade or brand name of each of the asbestos-containing products;
- D. The years during which each named asbestos product was applied, stored, used, repaired, installed or transported either as an original appurtenance of the railroad or placed on/in the railroad in conjunction with repairs or alterations to the railroad(s); and
- E. The dates of any removal or abatement of such asbestos-containing products, from Defendant's railroad(s).

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 21: If the answer to any portion of the preceding interrogatory is in the affirmative and/or if any asbestos-containing products are identified in response to such interrogatory, state the following as to each identified product:

- A. The name(s) of the railroad workers repairing, replacing or using each asbestos-containing product on Defendant's railroad(s) during Plaintiff's period of employment by Defendant;
- B. A description of the physical appearance of each of the named asbestos-containing products;
- C. A detailed description of the uses of the named asbestos-containing products;
- D. A detailed description of the areas on Defendant's railroad where such asbestos-containing products were installed, replaced or used.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 22: Has Defendant or any other entity at the direction of Defendant, contracted with another entity for the acquisition, ordering, purchasing, supplying or distributing of asbestos-containing products, at any time prior to or during the time Plaintiff was employed by Defendant. If so, identify:

- A. Each of Defendant's railroad components by name and number for which the asbestos containing products were ordered, purchased, supplied or distributed during the time Plaintiff was employed by Defendant;
- B. The particular type of asbestos-containing products acquired;
- C. The trade or brand name of each of those asbestos-containing products ordered, purchased, supplied or distributed;
- D. The years such asbestos-containing products were acquired, ordered, purchased, supplied or distributed by Defendant;
- E. The dates of any removal or abatement of asbestos-containing products.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 23: If your answer to any portion of the preceding interrogatory is in the affirmative, or if any asbestos-containing products, are identified in response to that interrogatory, state the following as to each product:

- A. The name(s) of the company(ies), entity(ies), manufacturer(s) from which the asbestos-containing products were acquired, ordered, purchased, supplied or distributed;
- B. The date(s) each asbestos-containing product was ordered, purchased, supplied or distributed;
- C. A description of the physical appearance of each of the named asbestos-containing product;
- D. A detailed description of the uses of the named asbestos-containing products;
- E. Identify the last year that Defendant ordered, purchased, supplied or distributed each identified asbestos-containing product.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 24: State whether Defendant maintained from 1950 through the present copies of invoices, shipping receipts, bills of lading, purchase orders, or other documents of a similar nature relating to the purchase or acquisition of asbestos-containing products. If so, state:

- A. The location of such documents;
- B. The name and address of the custodian of the documents;
- C. The format in which the documents are kept, i.e., hard copy, microfilm, microfiche, etc.;
- D. In what form the documents can be accessed.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. Subject to and without waiving these objections, NSRC responds as follows:

Such records are unavailable due to NSRC's corporate record retention policy of two (2) years for purchasing records.

INTERROGATORY NO. 25: Identify all persons, including name, address and telephone number, who provided and/or conducted or were responsible for conducting any type of safety training, during the time Plaintiff was employed by Defendant.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few

restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 26: At any time prior to 1980 did Defendant or anyone at the direction of Defendant conduct an investigation, survey or other process to identify the primary emission sources of airborne asbestos fibers and/or to assess and/or sample for the detection of, the quantity of, or threshold limit value of airborne asbestos fibers in relation to Defendant's railroad? If so, please identify with particularity the entity and/or persons conducting such investigation(s), survey(s) or test(s), the dates conducted and the results.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 27: Did Defendant ever arrange for any labor agency, insurance company, government agency, inspectors or anyone from your company to go into any of Defendant's railway car(s) and/or engine(s) and/or locomotive(s) and/or roundhouses and/or shops to take dust level counts related to asbestos dust? If so, identify with particularity the party(ies) conducting such procedure(s), the dates conducted, the purpose of such procedure(s), and all results of such procedure(s).

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 28: Did Defendant obtain facts, knowledge or information from any industry, insurance company, governmental agency, union, and/or any other entity regarding the potential health effects and/or health hazards created for persons exposed to airborne asbestos dust? If so, please list all sources of such information and the dates received.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. Subject to and without waiving these objections, NSRC responds as follows:

In 1977 Southern received a letter from J.E. Martin, Vice President, Association of American Railroads, which attached a copy of a letter from Mr. Donald W. Bennett, Associated Administrator for Safety of the Department of Transportation, Federal Railroad Administration, which had originally been sent to Mr. John A. Risendahl, Executive Director, Safety and Special Services Division of the Association of American Railroads. Mr. Bennett's letter concerned a NIOSH survey of trade name products containing one or more carcinogens currently regulated by OSHA. Said letter pointed out that asbestos might pose a health hazard and that some railway employees might be exposed to a risk of exposure during certain rail welding processes. In 1978 Southern's AVP Safety and Claim Prevention F.M. Kaylor received a Superintendent's General Notice issued on the Rock Island Lines concerning asbestos composition brakeshoes and precautions to be taken in regard to the residue dust. Mr. Kaylor distributed the Notice to Southern's Medical Department and Research & Test Department who commented.

Dr. Max Rogers, Chief Surgeon of NSRC from 1966-1983, has testified that in medical school a course on general medicine discussed pulmonary diseases and asbestosis was mentioned along with other forms of pneumoconiosis. However, there were no claims of asbestos-related disease during Dr. Rogers' tenure as Chief Surgeon. Copies of all documents referred to will be produced to counsel for Plaintiffs.

INTERROGATORY NO. 29: List each person who has acted in a medical advisory capacity to your company at any time during the past 40 years, including, but not limited to, physicians (including those physicians who would have been responsible for conducting physicals, evaluations or screenings of Defendant's employees) and industrial hygienists, and the current address, telephone number and job title of each of those individuals who has had or may have had any knowledge regarding the hazards of airborne asbestos dust.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 30: Does Defendant have in its possession any books, pamphlets, memoranda, or written materials of any kind or character that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings? If so, state:

- A. The name of each such publication;
- B. The date of publication and the names of the author and publisher (if any);
- C. The date received by Defendant;
- D. The name, job title, and address of each person who currently has possession of each publication and its present location.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. NSRC also objects to this interrogatory to the extent that it seeks information that is equally available to and/or better known to Thompson than to NSRC. Subject to and without waiving these objections, NSRC responds as follows:

NSRC's counsel has obtained many such articles in connection with the defense of NSRC in asbestos-related FELA actions.

INTERROGATORY NO. 31: Has Defendant at any time been a member of any trade organization or association that published or disseminated any documents or information relating to the hazards of airborne asbestos? If so, state:

- A. The name and address of each such association or organization;
- B. The dates during which Defendant member;
- C. The names and dates of any publications, minutes, or reports published, written, or disseminated by any of the named associations or organizations;
- D. Whether any of those publications are still in your possession, and if so:
 - 1. A description of the publications, including the date;
 - 2. The current location of such publications;
 - 3. The custodian of such publications;
 - 4. The method or manner in which such publications are maintained.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent that it is multifarious. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 32: As to the disease asbestosis, state:

- A. The date on which Defendant first learned that such disease was caused by inhalation of asbestos fibers;
- B. How Defendant became aware of the existence of the disease;
- C. Who within the company first discovered, recognized or understood the adverse consequences or effects of the disease;

- D. What information was disseminated within Defendants company or its subsidiary or predecessor regarding such adverse consequences or effects;
- E. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in any written form;
- F. Who is the custodian of such information;
- G. The date on which you first received knowledge or information that asbestosis was caused by inhalation of asbestos fibers alone or in conjunction with second hand smoke.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent that it is multifarious. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 33: As to the disease lung cancer, state:

- A. The date on which Defendant first learned that such disease was caused by inhalation of asbestos fibers;
- B. How Defendant or its subsidiary or predecessor became aware of the disease and its relationship to asbestos exposure;
- C. Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure;
- D. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
- E. Whether any such information is still maintained by Defendants or its subsidiaries or predecessors in a written form;

- F. Who is the custodian of such information;
- G. The date on which you first received knowledge or information that lung cancer was caused by inhalation of asbestos dust and fibers.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent that it is multifarious. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 34: As to the disease mesothelioma, state:

- A. The date on which Defendant first learned such disease was caused by inhalation of asbestos fibers;
- B. The date on which Defendant first suspected that mesothelioma was caused by inhalation of asbestos dust and fibers;
- C. How Defendant or its subsidiary or predecessor became aware of the disease and that it was caused by exposure to asbestos;
- D. Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure;
- E. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
- F. Whether any such information is still maintained by Defendants or its subsidiary or predecessor in a written form;
- G. Who is the custodian of such information;
- H. Whether Defendant agrees that there is no known medical cure for mesothelioma.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent that it is multifarious. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 35: As to gastrointestinal cancer, laryngeal cancer, pharyngeal cancer and/or lymphatic cancer, state:

- A. The type of cancer and the date on which Defendant first learned that such diseases were caused by inhalation of asbestos fibers by humans;
- B. What cancers has the Defendant become aware can be caused by exposure to asbestos fibers;
- C. The date on which Defendant first suspected other cancers were caused by asbestos inhalation;
- D. Who within the company or its subsidiary or predecessor first discovered the adverse consequences or effects of asbestos exposure;
- E. What information was disseminated with Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
- F. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in a written form;
- G. Who is the custodian of such information.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent that it is multifarious. NSRC

also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 36: Did Defendant maintain written minutes of corporate meetings, either board of directors, departmental, or otherwise, which reflect discussions pertaining to any subject matter related to asbestos, asbestos health hazards or asbestos products? If so, for each such set of minutes, state:

- A. The dates of each such meeting;
- B. The general subject matter discussed at each meeting-;
- C. Who was in attendance at each meeting;
- D. Where and by whom the written minutes are presently maintained;
- E. By whom the minutes were taken and put into final format;
- F. Whether the minutes were abstracted and reports disseminated to other individuals, and if so, the names and job titles of those individuals.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent that it is multifarious. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 37: Does Defendant intend to call a company representative as a witness at the trial of this case? If so, list:

- A. The name, address, and job title of each company representative who may be called;
- B. A summary of the testimony expected to be given by each such witness;
- C. List any and all previous times that the named witnesses have either given deposition or trial testimony in an asbestos-related case, including the jurisdiction, style of the case, case number, date of testimony, and the name of the attorney taking the deposition for the Plaintiff(s) in that case.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent that it is multifarious. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 38: Does your company have, or has it ever had, a Medical Department or Medical Section? If so, state:

- A. The year such Medical Department or Section was established;
- B. Whether or not such Medical Department or Section has operated continuously since being established;
- C. The name of each director, chief, or head of your Medical Department or Section year by year, beginning with the first year of its existence and the last known address and phone number of each;
- D. State the duties and responsibilities of such Medical Department or Section.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent that it is multifarious. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 39: Please state whether written warnings were placed at any locations adjacent to or near asbestos in place on Defendant's railroad(s), at anytime from 1930 to the present. If so, please describe with specificity such signs, including size, color, wording, etc. Additionally, please state the number of such signs that were installed and indicate the specific location of each such sign and the dates such sign was at that location.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 40: Does your company have, or has it ever had, a Safety Department? If so, state:

- A. The year such Safety Department was established;
- B. Whether or not such Safety Department has operated continuously since being established;

- C. The name of each director, chief, or head of your Safety Department year by year, beginning with the first year you had a Safety Director or Safety Department, and the last known address and phone number of each;
- D. State the duties and responsibilities of such Safety Department.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 41: Please state whether a medical monitoring program, medical examination program or other medical surveillance was provided to your employees and specifically to Plaintiff. If so, please indicate what records of such program, examination or surveillance concerning Plaintiff exist at this time, including but not limited to reports, x-rays and medical notes.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 42: Please state whether Defendant has at any time provided safety equipment to the Plaintiff and/or the railroad workers of Defendant present at any time during Plaintiff's employment by Defendant for protection against the inhalation of airborne asbestos

dust, including but not limited to masks, respirators, other breathing devices, protective clothing, protective gloves, etc. For each such item of equipment, please indicate when such item was first provided, under what circumstances, and the name, address and telephone number of the person most knowledgeable concerning such provision.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 43: Please state whether Defendant ever agreed by contract, agreement, negotiation, collective bargaining or otherwise, to provide masks to Plaintiff and other crew members and/or employees of Defendant working with or around asbestos products. If so, please state verbatim the specific agreement or contract and/or other document by which Defendant agreed to provide such masks. Include the date the agreement was entered into, the period of time covered by the agreement and the parties to the agreement.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 44: Please state the precise State and/or Federal regulations, laws, statutes, or other authority pertaining to industrial hygiene or worker safety and health that

governed, regulated controlled and/or were applicable to airborne asbestos exposure in your operations and/or in relation to Defendant's railroad.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. NSRC also objects to this interrogatory to the extent that it seeks information that is equally available to and/or better known to Thompson than to NSRC.

INTERROGATORY NO. 45: Please describe each and every occasion during the past thirty years when any regulatory agency or other governing body inspected Defendant's railroad to ascertain whether health and safety regulations were being followed or adhered to, including the date of such inspection and/or meeting, the results, and whether a written report was produced.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 46: Please state whether any asbestos-containing products in place or in use on Defendant's railroad, has been removed or abated at any time from 1965 to the present. If so, please answer the following:

- A. List each and every abatement company or other contractor involved with the removal of asbestos, including address and telephone number, dates of such removal, and whether a contract for such removal exists;
- B. Indicate the total amount in dollars spent by Defendant to abate or remove asbestos from the railroads.
- C. State whether any "removal plan" or organized written criteria or other document related to asbestos removal on the railroad(s) was ever prepared by Defendant;
- D. State whether corporate documents discussing or relating generally to the removal of asbestos are in existence and, if so, where they are maintained;
- E. State precise dates and locations when and where such removal or abatement took place for each railroad.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent that it is multifarious. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 47: As to either the threshold limit values or maximum allowable concentrations of both asbestos dust and total dust provided by the American Conference of Governmental Industrial Hygienists, state:

- A. The year in which Defendant was first advised of such limits or concentrations;
- B. The name of the employee or official of the company receiving such advice;
- C. How Defendant received notice of such limits or concentrations.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 48: Please state whether and when Defendant received a copy of the Fleischer/Drinker Report published in 1945/1946.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

INTERROGATORY NO. 49: Please describe all actions taken by Defendant to comply with the Boiler Inspection Act, previously 45 U.S.C. §23 during the past thirty-five (35) years, now designated at 49 U.S.C. §20701 et seq.

ANSWER:

See Preliminary Statement and General Objections. NSRC also objects to this interrogatory and any additional interrogatories in this set to the extent that they call for more than thirty answers. NSRC also objects to this interrogatory to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this interrogatory to the extent it seeks information that is not relevant to the

subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this interrogatory because it is overly broad and unduly burdensome due to the time period involved. NSRC also objects to this interrogatory to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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ATTORNEYS FOR DEFENDANT NORFOLK
SOUTHERN RAILWAY COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was served by certified mail, return receipt requested, to Kimberly A. Castles, Baron & Budd, The Centrum, Suite 1100, 3102 Oak Lawn Avenue, Dallas, Texas 75219-4281, on this the 21st day of January, 1997.

Michelle DeVoe
Michelle M. DeVoe