

COURSE
30-07
MFA**PLAINTIFF'S
EXHIBIT**
RR 484b

No. D-153,109

VERNON T. GOODALE, ET AL,
Plaintiffs,

VS.

OWENS-CORNING FIBERGLAS
CORPORATION, ET AL,
Defendants.§ IN THE DISTRICT COURT OF
§
§
§ JEFFERSON COUNTY, T E X A S
§
§
§
§ 136TH JUDICIAL DISTRICT**DEFENDANT SOUTHERN PACIFIC TRANSPORTATION COMPANY'S
ANSWERS AND OBJECTIONS TO PLAINTIFF HERMAN D. MARTELL'S
SECOND SET OF INTERROGATORIES**

TO: Plaintiff Herman D. Martell by and through his attorneys of record, Peter Kraus and Kimberly Castles, Baron & Budd, P.C., The Centrum, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281.

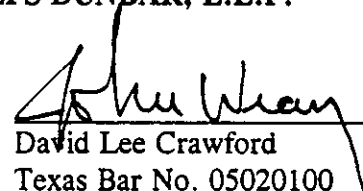
COMES NOW Southern Pacific Transportation Company, one of the Defendants in the above styled and numbered cause, and in accordance with the Texas Rules of Civil Procedure files this its Answers and Objections to Plaintiff Herman D. Martell's Second Set of Interrogatories.

DATED: November 17, 1997

Respectfully submitted,

PHELPS DUNBAR, L.L.P.

By:

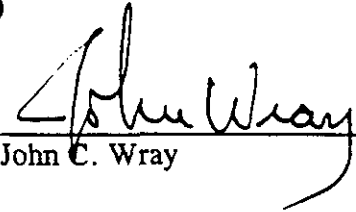

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PACIFIC TRANSPORTATION COMPANY**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 17th day of November, 1997, a true and correct copy of Defendant Southern Pacific Transportation Company's Answers and Objections to Plaintiff Herman D. Martell's Second Set of Interrogatories was served on all known counsel of record in accordance with the Texas Rules of Civil Procedure.

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Mr. Peter Kraus
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All Known Defense Counsel
(Jefferson County Service List)
(w/out enclosures; available upon request)



John C. Wray

VERIFICATION

STATE OF NEBRASKA §
 §
COUNTY OF DOUGLAS §

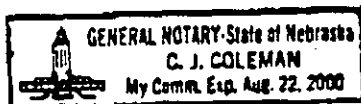
Comes now A. L. Schroeder, Manager of Discovery for Union Pacific Railroad Company, being first duly sworn on her oath, and states that she is authorized on behalf of Southern Pacific Transportation Company to make the foregoing First Supplemental Responses and Objections to Plaintiff Herman D. Martell's First Set of Interrogatories, and that while she does not have personal knowledge of all facts cited therein, the information has been collected and the answers made after a reasonable search of all available records and that she has read the foregoing First Supplemental Responses and Objections to Plaintiff Herman D. Martell's First Set of Interrogatories, and that the information contained therein is true and accurate based on her best knowledge, information and belief. Therefore, the foregoing responses are verified on behalf of Defendant Southern Pacific Transportation Company.

A. L. Schroeder
A. L. Schroeder

Subscribed and sworn to before me this 17th day of November, 1997.

C. J. Coleman
Notary Public

My commission expires: _____



**RESPONSES AND OBJECTIONS TO
PLAINTIFF'S SECOND SET OF INTERROGATORIES**

INTERROGATORY NO. 1:

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:

Objection. Southern Pacific objects to this interrogatory as overly broad, unduly burdensome, and not limited as to time or location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information regarding locations at which Plaintiff did not allegedly work. Also, Southern Pacific objects to providing any information which may be protected by the attorney/client, attorney work product, and party communication privileges.

Subject to and without waiving the foregoing objection, Defendant is unable to locate any documents containing responsive information for the period and location of Plaintiff's alleged employment.

INTERROGATORY NO. 2:

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), the dates conducted, the purpose of such procedure(s), and all results of such procedure(s).

ANSWER:

Objection. Southern Pacific objects to this interrogatory as overly broad, unduly burdensome, and not limited as to time or location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information regarding locations at which Plaintiff did not allegedly work. Also, Southern Pacific objects to providing any information which may be protected by the attorney/client, attorney work product, and party communication privileges.

Subject to and without waiving the foregoing objection, Defendant is unable to locate any documents containing responsive information for the period and location of Plaintiff's alleged employment.

INTERROGATORY NO. 3:

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:

Southern Pacific objects to this interrogatory as overly broad, unduly burdensome, and irrelevant to the extent that it seeks information for employees other than Plaintiff and time periods before and/or after Plaintiff's period of alleged employment with Southern Pacific. Southern Pacific also objects to this interrogatory on the grounds that the terms "exposure" and "asbestos" are vague, ambiguous, and overly broad. For example, this interrogatory is silent as to (1) the time, duration, and concentration of "exposure," and (2) the purity or fiber type of "asbestos."

Subject to and without waiving the foregoing objections, Southern Pacific responds as follows:

Defendant is now aware of reports from the 1930s, 1940s, and 1950s which report injury from asbestos which was associated with continuous exposure to high levels of asbestos dust in asbestos mines, in asbestos processing, and in the asbestos

textile industry. As a result of the passage of time, this Defendant is aware of no living witnesses and possesses no documents of relevance to this Defendant's actual knowledge in the time period. However, the existing medical literature indicates that during these years there was a continuing general belief within the industrial medical community that low-level exposure to chrysotile the form of asbestos mineral (which was used in products used in the railroad industry) did not represent a hazard to workers. The existing medical literature also demonstrates that there was no general recognition within the industrial medical community that the use of asbestos-containing products as used by this Defendant would result in asbestosis or other injury.

For example, in 1938, the U.S. Public Health Service published Public Health Bulletin 241 which was prepared at the direction of the Surgeon General and was based upon an investigation of the textile industry. That study concluded that even in that industry there was no reason to expect injury, if dust containing asbestos fibers could be maintained at levels not exceeding 5 million particles in each cubic foot of factory air. As a result of that study, the American Conference of Government Industrial Hygienists (ACGIH) in 1946, adopted a threshold limit value of 5 million particles per cubic foot as an acceptable industrial air level. According to the ACGIH, it was considered that workers may be exposed, day after day, to this level of asbestos dust without their health being adversely affected. Also, in 1946, the Fleischer-Drinker study, published with the permission of the U.S. Navy, reported that a group of intensely exposed insulation workers constructing Navy vessels in shipyards were not generally at any increased risk of injury. Thus, physicians and individuals responsible for safety within the railroad industry would have reasonably concluded that asbestos exposures large enough to pose a health risk could only be achieved in asbestos textile mills and that the downstream use of products, such as those in the railroad industry which contain only small percentages of chrysotile-type asbestos, was safe based upon the medical and scientific literature available at that time.

In addition, Defendant has never mined, manufactured, or sold asbestos containing products. To the extent Defendant may have been a consumer of certain chrysotile containing products, Defendant never received any warnings from any manufacturer concerning any adverse health effects associated with exposure to chrysotile (or any other asbestos fiber) containing product. Indeed, based upon discovery in other asbestos litigation, Southern Pacific is aware of allegations that asbestos manufacturers covered up information relating to the suspected dangers of asbestos-containing products and prevented the information from reaching purchasers of their asbestos-containing products such as school districts, hospitals, railroads, and other consumers.

Southern Pacific has determined that it did not have any claim by a railroad worker for disease associated with exposure to asbestos-containing products until approximately the late 1970s. Indeed, Defendant is not aware of any doctor, scientist, or other individual who published a report of asbestosis in any railroad worker in this country until the 1980s.

INTERROGATORY NO. 4:

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 employee's) 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:

Objection. Southern Pacific objects to this interrogatory as overly broad, unduly burdensome, and not limited as to location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information regarding locations at which Plaintiff did not allegedly work. Also, Southern Pacific objects to providing any information which may be protected by the attorney/client, attorney work product, and party communication privileges.

Subject to and without waiving the foregoing objection, Southern Pacific's chief surgeons for the years 1938 through 1974 are:

Dr. C. A. Walker: 1938 - 1945
Dr. William Washburn: 1945 - 1957
Dr. Vance Strange: 1957 - 1974

INTERROGATORY NO. 5:

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:

Objection. Southern Pacific objects to this interrogatory as overly broad, unduly burdensome, and not limited as to location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information regarding locations at which Plaintiff did not allegedly work. Also, Southern Pacific objects to providing any information which may be protected by the attorney/client, attorney work product, and party communication privileges.

Subject to and without waiving the foregoing objection, personnel in Southern Pacific's various departments have subscribed to a variety of periodicals. However, Southern Pacific has been unable to locate any records which indicate which periodicals were subscribed to and when the subscriptions began or ended. Medical periodicals were housed in the library of the Southern Pacific Employees' Hospital in San Francisco. This hospital was sold in 1972 and permanently closed in 1974. Although an attempt has been made to determine what happened to the hospital's library, Southern Pacific has been unable to make that determination.

INTERROGATORY NO. 6:

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 if 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 publication;
 - 3. The custodian of such publications;
 - 4. The method or manner in which such publications are maintained.

ANSWER:

Objection. Southern Pacific objects to this interrogatory as overly broad, unduly burdensome, and not limited as to location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information regarding locations at which Plaintiff did not allegedly work. Also, Southern Pacific objects to providing any information which may be protected by the attorney/client, attorney work product, and party communication privileges. Subject to and without waiving the foregoing objection, see answer to Interrogatory No. 3.

INTERROGATORY NO. 7:

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 Defendant's 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:

Objection. Southern Pacific objects to this interrogatory as overly broad, unduly burdensome, and not limited as to location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information regarding locations at which Plaintiff did not allegedly work. Also, Southern Pacific objects to providing any information which may be protected by the attorney/client, attorney work product, and party communication privileges. Subject to and without waiving the foregoing objection, see answer to Interrogatory No. 3.

INTERROGATORY NO. 8:

As to the disease lung cancer, state:

- A. The date in 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:

Objection. Southern Pacific objects to this interrogatory as overly broad, unduly burdensome, and not limited as to location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information regarding locations at which Plaintiff did not allegedly work. Also, Southern Pacific objects to providing any information which may be protected by the attorney/client, attorney work product, and party communication privileges. Subject to and without waiving the foregoing objection, see answer to Interrogatory No. 3.

INTERROGATORY NO. 9:

As to the disease mesothelioma, state:

- A. The date on which Defendant first learned such disease as 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:

Objection. Southern Pacific objects to this interrogatory as overly broad, unduly burdensome, and not limited as to location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information regarding locations at which Plaintiff did not allegedly work. Also, Southern Pacific objects to providing any information which may be protected by the attorney/client, attorney work product, and party communication privileges. Subject to and without waiving the foregoing objection, see answer to Interrogatory No. 3.

INTERROGATORY NO. 10:

As to gastro-intestinal 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:

Objection. Southern Pacific objects to this interrogatory as overly broad, unduly burdensome, and not limited as to location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information regarding locations at which Plaintiff did not allegedly work. Also, Southern Pacific objects to providing any information which may be protected by the attorney/client, attorney work product, and party communication privileges.

Subject to and without waiving the foregoing objection, Defendant is not aware of any scientific studies which affirmatively establish that asbestos "causes" gastro-intestinal cancer, laryngeal cancer, pharyngeal cancer and/or lymphatic cancer.

INTERROGATORY NO. 11:

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 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:

Objection. Defendant objects to this interrogatory as overly broad, unduly burdensome, and not limited as to time. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, Defendant objects to this interrogatory to the extent that it may inquire into information that is protected by the attorney/client, attorney work product, and party communication privileges.

INTERROGATORY NO. 12:

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:

Defendant will supplement its answer to this interrogatory when and if additional information becomes available.

INTERROGATORY NO. 13:

Does Defendant 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:

Objection. Southern Pacific objects to this interrogatory as overly broad, unduly burdensome, and not limited as to time and location. Subject to and without waiving the foregoing objection, see answer to Interrogatory No. 4.

INTERROGATORY NO. 14:

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 present. If so, please describe with specificity such signs, including size, color, wording, etc. Additionally, please state the number of such signs that ere installed and indicate the specific location of each such sign and the dates such sign was at that location.

ANSWER:

Objection. Defendant objects to this interrogatory as overly broad, unduly burdensome, and not limited as to location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, Defendant objects to this interrogatory to the extent that it inquires into information that may be privileged by the attorney/client, work product, and party communication privileges. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant

or admissible evidence because it seeks information regarding locations at which Plaintiff did not allegedly work.

Subject to and without waiving the foregoing objection, Defendant answers as follows: Southern Pacific's employees were subject to work rules which, since the 1940s, required employees to use respirators in certain conditions. Specifically, Rule 4045 states:

Respirators of various types or which may be fitted with appropriate kind of filter, are provided for use when spray painting or working where fumes or excessive dust may be encountered. Acquaint yourself with these appliances and use them when needed and to best advantage.

Defendant is unable to locate any information regarding asbestos warnings during the time period or location of Plaintiff's alleged employment. See Supplemental response to Interrogatory No. 3, above.

INTERROGATORY NO. 15:

Does Defendant 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:

Objection. Southern Pacific objects to this interrogatory as overly broad, unduly burdensome, and not limited as to location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information regarding locations at which Plaintiff

did not allegedly work. Also, Southern Pacific objects to providing any information which may be protected by the attorney/client, attorney work product, and party communication privileges.

Subject to and without waiving the foregoing objection, Southern Pacific did maintain a Safety Department during the period of Plaintiff's alleged employment. Former directors of this department include A.A. Lowe and O.J. Pilcher. Southern Pacific is continuing to investigate and will supplement its answer to this interrogatory if additional information becomes available.

INTERROGATORY NO. 16:

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:

Objection. Defendant objects to this interrogatory as overly broad, unduly burdensome, and not limited as to location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information regarding locations at which Plaintiff did not allegedly work. Subject to and without waiving the foregoing objection, Defendant is unable to locate any records related to the medical monitoring and/or medical examination programs, if any, that may have been provided to employees during the period of Plaintiff's employment.

INTERROGATORY NO. 17:

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 provision.

ANSWER:

Objection. This interrogatory is overly broad, unduly burdensome, and unlimited as to location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. It seeks information which is not material or relevant to this litigation and which is not reasonably calculated to lead to the discovery of relevant or admissible evidence, in that it inquires into locations at which Plaintiff did not allegedly work.

Subject to and without waiving the foregoing objection, Defendant answers as follows: Yes. Southern Pacific employees were provided with safety equipment to protect them from the hazards of airborne dust. Southern Pacific's employees were subject to work rules which, since the 1940s, required employees to use respirators in certain conditions.

INTERROGATORY NO. 18:

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:

Objection. Defendant objects to this interrogatory as overly broad, unduly burdensome, and not limited as to location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information regarding locations at which Plaintiff did not allegedly work.

Subject to and without waiving the foregoing objection, Defendant is continuing to conduct a diligent and reasonable search of its records and will supplement its answer to this interrogatory if additional information becomes available.

INTERROGATORY NO. 19:

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:

Objection. Defendant objects to this interrogatory as overly broad and unduly burdensome. This information is a matter of public record and is therefore equally accessible to plaintiff.

INTERROGATORY NO. 20:

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:

Objection. Defendant objects to this interrogatory as overly broad, unduly burdensome, and not limited as to location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information regarding locations at which Plaintiff did not allegedly work. Defendant also objects to providing any information which may be protected by the attorney/client, attorney work product, and party communication privileges. Furthermore, Defendant objects to providing any information which is a matter of public record and is therefore equally accessible to plaintiff.

INTERROGATORY NO. 21:

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:

**Defendant Southern Pacific's
Answers and Objections to Plaintiff's Second Set of Interrogatories**

- 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:

Objection. Defendant objects to this interrogatory as overly broad, unduly burdensome, and not limited as to location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information regarding locations at which Plaintiff did not allegedly work. Defendant also objects to providing any information which may be protected by the attorney/client, attorney work product, and party communication privileges.

INTERROGATORY NO. 22:

As to either the threshold limit values or maximum allowable concentrations of both asbestos and 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:

Objection. Defendant objects to this interrogatory as overly broad, and unduly burdensome. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Subject to and without waiving the foregoing objection, Defendant is continuing to conduct a diligent and reasonable search of its records and will supplement its answer to this interrogatory if additional information becomes available.

INTERROGATORY NO. 23:

Please state whether and when Defendant received a copy of the Fleischer/Drinker Report published in 1945/1946.

ANSWER:

Objection. Defendant objects to this interrogatory as overly broad, and unduly burdensome. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific.

Subject to and without waiving the foregoing objection, through its legal counsel, Defendant has become aware of this article in recent years in connection with other litigation. Southern Pacific has been unable to locate any documents indicating when, or if, it became aware of this article other than its awareness through its legal counsel.

INTERROGATORY NO. 24:

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:

Objection. Defendant objects to this interrogatory as overly broad, unduly burdensome, and not limited as to location. Furthermore, Southern Pacific objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information for the time period prior to, and after, Plaintiff's alleged employment with Southern Pacific. Furthermore, this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it seeks information regarding locations at which Plaintiff did not allegedly work. Furthermore, this interrogatory is ambiguous in that Plaintiff has not specified the manner in which Defendant may or may not have complied with the Boiler Inspection Act.