

CAUSE NO. 99CV122

REES SMART AND JANICE SMART, §
et al., §
§
Plaintiffs, §
VS. § GALVESTON COUNTY, TEXAS
§
PITTSBURGH CORNING §
CORPORATION, et al., §
§
Defendants. § 56TH JUDICIAL DISTRICT

DEFENDANT UNION CARBIDE CORPORATION'S SUPPLEMENTAL
ANSWERS TO PLAINTIFF'S MASTER INTERROGATORIES

COMES NOW, UNION CARBIDE CORPORATION, a Defendant in the above entitled and numbered cause and makes and serves this, its answers to Plaintiffs' Rees Smart and Janice Smart, et al., Master Interrogatories to All Premises Defendants.

Respectfully submitted,

DeHAY & ELLISTON, L.L.P.
3500 NationsBank Plaza
901 Main Street
Dallas, Texas 75202
Telephone: (214) 210-2400
Telefax: (214) 210-2500

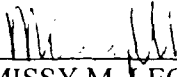
By: 

GARY D. ELLISTON
State Bar No. 06584700
TODD J. SUDDLESON
State Bar No. 00795824
MELISSA M. LEON
State Bar No. 24013028

COUNSEL FOR DEFENDANT
UNION CARBIDE CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the attached Union Carbide Corporation's Answers to Plaintiffs' Master Interrogatories to All Premises Defendants has been forwarded to all counsel of record on this 6th day of March, 2001.


MISSY M. LEON

PRELIMINARY STATEMENT

These answers are made solely for the purposes of this action. Each answer is subject to all appropriate objections which require the exclusion of any statement contained herein as if the Interrogatory were answered by a witness present and testifying in court. All such objections and grounds are reserved and may be interposed at the time of trial.

This Defendant has not yet completed its investigation of the facts relating to this action; has not yet interviewed all witnesses in this action; has not yet completed its discovery in this action; and has not yet completed its preparation for trial. Consequently, the following answers shall be provided without prejudice to this Defendant's right to produce, at any time, subsequently discovered evidence relating to proof of presently known material facts and to produce all evidence, whenever discovered, relating to the proof of subsequently discovered material facts. Except for explicit facts admitted herein, no admissions of any nature whatsoever are implied or should be inferred. The fact that any Interrogatory herein has been responded to should not be taken as an admission or acceptance of the existence of any facts set forth or assumed by such Interrogatory.

GENERAL OBJECTIONS

GENERAL OBJECTION NO. 1:

Union Carbide objects to Plaintiffs' entire set of Interrogatories, to the extent that the Interrogatories call for information about Union Carbide facilities or premises where the plaintiff never worked. Over the course of its business, Union Carbide owned or operated a numerous amount of locations and premises. Ascertaining plant and employee practices for each Union Carbide facility or premises, even during a specified time frame, would be unreasonably and unduly burdensome, if possible at all. Moreover, the nature of the processes and work conducted at

Carbide's various plants and facilities differed considerably, and information relating to another plant or facility may not be relevant to the one(s) where plaintiffs worked. Any general relevant information possessed by Union Carbide concerning practices or conditions at other facilities and/or premises, could be sought directly by requesting corporate-wide policies, practices or by requesting information or beliefs held by Union Carbide officials without seeking the irrelevant or immaterial information about practices or conditions at places where plaintiff did not work.

GENERAL OBJECTION NO. 2:

Union Carbide states that these Answers are accurate as of the date made. Union Carbide's investigation of information that may be responsive to plaintiffs' Interrogatories is continuing and Union Carbide reserves the right to supplement these answers when its investigation is complete.

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

DEFINITIONS AND INSTRUCTIONS OBJECTION NO. 1:

Union Carbide objects to the instructions and definitions supplied by Plaintiffs with regard to these Interrogatories on the grounds that the definitions are overly broad, vague and often inconsistent with the normal common usage and meaning of such words. As a result, these definitions constitute an unreasonable expansion of the Interrogatories themselves. Union Carbide has therefore responded to the interrogatories in the manner which is consistent with the common understanding of the language used in the response and to the extent necessary to fairly and fully respond to the Interrogatories.

DEFINITIONS AND INSTRUCTIONS OBJECTION NO. 2:

Union Carbide objects to Plaintiffs' definitions and instructions to the extent those definitions and instructions request Union Carbide to make any inquiry beyond that which is required by the

Texas Rules of Civil Procedure or to the extent they seek to include documents not within Union Carbide's custody or control.

DEFINITIONS AND INSTRUCTIONS OBJECTION NO. 3:

Union Carbide objects to the term "facility" as defined because it renders the Interrogatories over broad and not reasonably limited to matters which are relevant to the subject matter of this lawsuit or to the discovery of matters which are reasonably calculated to lead to the discovery of admissible evidence. Because Union Carbide has, over the years, owned or operated a variety of locations and premises, and because it appears that Plaintiff's claims against Union Carbide have arisen from his alleged presence at Union Carbide's Texas City facility, Defendant Union Carbide's answers contained herein pertain to solely to Union Carbide's Texas City plant.

ANSWERS TO PLAINTIFF'S MASTER INTERROGATORIES

INTERROGATORY NO. 1

State the name, present business address, present residence for those retired employees, and capacity or title of the individual signing these interrogatories on behalf of the answering Defendant, and all those who were primarily responsible for answering these interrogatories.

ANSWER: Union Carbide Corporation objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and the burden of answering this Interrogatory substantially outweighs the probative value of the information sought should discovery be allowed. Union Carbide Corporation further objects to this Interrogatory to the extent that it seeks information not reasonably calculated to lead to the discovery of admissible evidence. Subject to its objections, Union Carbide responds as follows:

Union Carbide states that these answers and responses are the result of a diligent investigation and review of the Texas City facility business records, as well as, a result of many

interviews conducted by counsel for Union Carbide with current and past Union Carbide employees. Furthermore, the discovery process and Union Carbide's own investigation into this matter remain on-going. Union Carbide has not concluded its examination of Union Carbide files that might contain information or documentation that is responsive to this request. If responsive information can be located, Union Carbide will supplement this Interrogatory with the names of those individuals that have assisted Union Carbide with regard to these Interrogatory Answers.

INTERROGATORY NO. 2

Please state the name, address, home and office telephone numbers of each and every person whom you contend has knowledge of facts relevant to any of the issues involved in this lawsuit. As to each such person, state the person's connection with the case pursuant to Rule 192.3(c).

ANSWER: Union Carbide does not know every person who may have "knowledge of facts relevant to any of the issues involved in this lawsuit", and what "the person's connection with this case" might be, and therefore objects to this Interrogatory to the extent that it is vague, overly broad and calls for speculation. Subject to its objections, Union Carbide responds as follows:

Please refer to Union Carbide's Responses to Plaintiff's Request for Disclosure.

The individuals that have been identified in Union Carbide's Responses to Plaintiff's Request for Disclosure, may be contacted through Union Carbide's counsel of record, DeHay & Elliston, L.L.P., 3500 Bank of America Plaza, 901 Main Street, Dallas, Texas 75202.

INTERROGATORY NO. 3:

Pursuant to Rule 192.3(d), state the name, address, and phone number of each person who is expected to be called to testify at trial.

ANSWER: Union Carbide objects to this Interrogatory to the extent that it is overly broad and constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996). Subject to its objections, Union Carbide responds as follows:

Please refer to Union Carbide's Responses to Plaintiff's Request for Disclosure.

INTERROGATORY NO. 4

Please state the Defendant's correct legal name, as well as prior names or predecessor entities by which Defendant has existed, including the years the predecessor entities existed. In regards to the predecessor entities, this interrogatory is limited to those predecessors which were owners or occupiers of a subject Facility.

ANSWER: Union Carbide Corporation. The Texas City facility was built by Union Carbide and began operations in 1941, and has been owned and operated by Union Carbide continuously since that time.

INTERROGATORY NO. 5

For each Facility, (please see the Definitions section for the definition "Facility") please give the following:

- a) A brief history of the Facility, including who built it, when, and who has owned it since including during what time period;
- b) The complete address of that Facility;
- c) A brief description of the type of Facility including the common name of the Facility;
- d) Describe each unit in each Facility either by the common name of the unit or the type of process, and give the years of operation of such unit(s);
- e) The dates of Defendants' ownership of that Facility;
- f) The dates of Defendants' operation of that Facility;
- g) If Defendant no longer owns the Facility, to whom Defendant sold the Facility.

ANSWER: Union Carbide objects to this Interrogatory to the extent it is overly broad and is not reasonably limited to a specific time period, or for that matter, a particular plant or premises and as such, this Interrogatory as drafted, constitutes an impermissible fishing expedition. *K-Mart v.*

Sanderson, 937 S.W.2d 429, 430 (Tex. 1996). In addition, Union Carbide objects to this Interrogatory on grounds that it is vague and unduly burdensome, and the oppressive, time consuming and costly nature of this burden, to the extent that responsive information and/or documentation exists, substantially outweighs the probative value of any of the information sought by this Interrogatory. Subject to its objections, Union Carbide responds as follows:

The Texas City facility was built by Union Carbide and began operations in approximately 1941 and has been owned and operated by Union Carbide continuously since that time. The plant is located at 3301 Fifth Avenue South, Texas City, Texas 77593.

INTERROGATORY NO. 6

Please state whether you have been sued in the proper capacity as it concerns this lawsuit. If you contend that you were not sued in the proper capacity, please state the basis for such contention(s).

ANSWER: As it concerns this lawsuit, Union Carbide Corporation has been sued in the proper capacity.

INTERROGATORY NO. 7

Identify each current or former Corporate Officer of Plant Supervisory Personnel of yours who testified in a case known to you to involve a claim for an "alleged" asbestos-related injury or death in which Defendant was party.

ANSWER: Union Carbide objects to this Interrogatory to the extent it is overly broad and is not reasonably limited to a specific time period, or for that matter, a particular plant or premises and as such, this Interrogatory as drafted, constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996). In addition, Union Carbide objects to this Interrogatory on grounds that it is vague and unduly burdensome, and the oppressive, time consuming and costly nature of this burden, to the extent that responsive information and/or

documentation exists. substantially outweighs the probative value of any of the information sought by this Interrogatory. Union Carbide further objects to this Interrogatory on grounds that it is unclear and lacks specificity, and as a result, calls for speculation. Subject to its objections, Union Carbide responds as follows:

Union Carbide has been named in many lawsuits which have involved a claim for an "alleged" asbestos-related injury or death. The discovery process and Union Carbide's investigation into these matters remains on-going. Therefore, Union Carbide states that it is attempting to search for the existence of court records identifying Union Carbide employees which have testified in the past. Said documents, to the extent they exist, may or may not be in its possession of this Defendant, but if responsive information can be located, Union Carbide will make all responsive, non-privileged material available for review by the requesting party at a suitable time and place.

INTERROGATORY NO. 8

Please identify dates of memberships for the following trade associations, and if one of Defendants employees was on a committee please provide the name of the employee and the committee including the dates on such committee.

- a) American Petroleum Institute
- b) American Congress of Governmental and Industrial Hygienist
- c) Gulf Coast Section of American Industrial Hygiene Association
- d) National Safety Counsel
- e) American Industrial Hygiene Association
- f) Industrial Medicine Association
- g) Industrial Hygiene Foundation
- h) American Medical Association
- i) Chemical Manufacturers Association
- j) Texas Chemical Counsel
- k) National Petroleum Refineries Association

ANSWER: Union Carbide objects to this Interrogatory to the extent it is overly broad and is not reasonably limited to a specific time period, or for that matter, a particular plant or premises and as such, this Interrogatory as drafted, constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996). In addition, Union Carbide objects to this Interrogatory on grounds that it is vague and unduly burdensome, and the oppressive, time consuming and costly nature of this burden, to the extent that responsive information and/or documentation exists, substantially outweighs the probative value of any of the information sought by this Interrogatory. Subject to its objections, Union Carbide responds as follows:

Over the years, Union Carbide was a member and/or participated in the following organizations: the Industrial Health Association, the Asbestos Information Association of North America, the American Conference of Governmental Industrial Hygienists, the Gulf Coast Section of American Industrial Hygiene Association, the American Industrial Hygiene Association, the National Safety Council and the Industrial Hygiene Foundation.

It is unknown to Union Carbide at this time whether or not information and/or other materials which may be responsive to the full breadth of this overly broad Interrogatory exist, and can be located through a reasonably diligent review of the Texas City business records. Therefore, upon the conclusion of its examination, Union Carbide will make available for inspection and review, all responsive and non-privileged documentation and/or materials pertaining to the trade associations in which Union Carbide and/or the Texas City facility participated in and/or joined, to the requesting party at a mutually agreeable place and time.

INTERROGATORY NO. 9

Did you perform, direct to be performed, finance, sponsor or receive the results of any dust monitoring tests at any Facility where asbestos-containing products were being applied and/or removed prior to 1985? If so, state:

- a) The date and location of the first such test;
- b) When, where and at what intervals subsequent tests were performed;
- c) Who performed such tests; and
- d) Where the results of such tests are maintained.

ANSWER: Union Carbide objects to this Interrogatory on grounds that it is overly broad and has not been confined to a specific time period, or for that matter, a particular plant or premises and as such, this Interrogatory as drafted, constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996). In addition, Union Carbide objects to this Interrogatory on grounds that it is vague and unduly burdensome, and the oppressive, time consuming and costly nature of this burden, to the extent that responsive information and/or documentation exists, substantially outweighs the probative value of any of the information sought by this Interrogatory. Subject to its objections, Union Carbide responds as follows:

Union Carbide states that over the years, the Industrial Hygiene department at the Texas City facility performed numerous tests and surveys regarding air sampling and air quality in an effort to minimize or generally avoid dust exposure in an effort to comply with all applicable state, federal and industrial regulations. The specific date upon which the first asbestos air monitoring test or survey was conducted is currently unknown at this time. Union Carbide states that the discovery process as well as Union Carbide's own investigation into this matter remain on-going, and that upon the conclusion of Union Carbide's examination of the Texas City industrial hygiene records, Union

Carbide will produce any and all responsive dust counts or air studies in its possession that relate to the asbestos monitoring that was conducted at the Texas City facility prior to 1985.

INTERROGATORY NO. 10

Please identify by name and dated subscription of all medical journals to which defendant or one of its employees subscribed and the dates of such subscription.

ANSWER: Union Carbide objects to this Interrogatory to the extent it is overly broad and is not reasonably limited to a specific time period, or for that matter, a particular plant or premises and as such, this Interrogatory as drafted, constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996). In addition, Union Carbide objects to this Interrogatory on grounds that it is vague and unduly burdensome, and the oppressive, time consuming and costly nature of this burden, to the extent that responsive information and/or documentation exists, substantially outweighs the probative value of any of the information sought by this Interrogatory. Union Carbide further objects to this Interrogatory on grounds that it is unclear and lacks specificity, and as a result, calls for speculation. Subject to its objections, Union Carbide responds as follows:

The discovery process as well as Union Carbide's own investigation into this matter is ongoing. Over the years the Union Carbide Corporation has subscribed to numerous medical journals, and should discovery be allowed, Union Carbide will be forced to identify and revisit every subscription, the name of every subscriber and the various dates of the subscriptions, and a result, should discovery be allowed, an obligation would be imposed upon Union Carbide which can only be characterized as oppressive. It is unknown to Union Carbide at this time whether or not documents or information and/or other materials which may be responsive to the full breadth of this

overly broad Interrogatory even exist, and can be located through a reasonably diligent review of the Texas City medical records. Upon the conclusion of its examination, and to the extent that such information exists, Union Carbide will produce all responsive, non-privileged material to the requesting party.

INTERROGATORY NO. 11

Please state the name, address, and telephone number of all experts who have been hired and are deemed by you to be a consulting expert. For each consulting expert whose opinions or impressions have been reviewed by an expert that may testify in this cause. For each such consulting expert state the mental impressions and opinions held by the consulting expert, and the facts known to the expert (regardless of when the factual information was acquired) which relate to or form the basis of his/her mental impressions and opinions.

ANSWER: Union Carbide objects to this Interrogatory to the extent that it seeks the identity of consulting experts and the disclosure of such information is outside the scope of the Texas Rules of Civil Procedure. Subject to its objection, Union Carbide responds as follows:

Union Carbide states that it has not yet determined who its experts will be and will supplement this answer if necessary.

INTERROGATORY NO. 12

For each Facility, please identify all person(s) primarily responsible for the safety department (or your equivalent) employed by this Defendant prior to 1985, and give the following:

- a) Name;
- b) Living or deceased;
- c) Last known home address and telephone number;
- d) Dates in that capacity.

ANSWER: Union Carbide objects to this Interrogatory on grounds that it is overly broad, vague and unduly burdensome, and the immense burden entailed in responding to this Interrogatory substantially outweighs the probative value of the information sought should discovery be allowed.

In addition, Union Carbide objects to this Interrogatory on grounds that it is not reasonably calculated to lead to the discovery of admissible evidence. Subject to its objections, Union Carbide responds as follows:

Union Carbide states that regarding individuals who have worked in a safety capacity for the Texas City plant, there is considerable overlap within the area of Industrial Hygiene. In addition, it was and is Union Carbide's philosophy that each and every department is responsible for the safety of its operations and the department(s) with responsibility for safety issues have usually been combined with other departments. Moreover, certain people have been key personnel in the area of safety at the plant through the years and their positions and departments have been subsequently modified and result, Union Carbide may not be able to provide the names, years of service and exact positions for these employees. Therefore, according to the best information available, the following past and current Union Carbide employees have been identified to the extent that they have acted in some capacity in the area of safety: Tom Rapp, Charlie Phinney, A. Gilbert, F. Keller, Harvey Schultz, Perihan Yalcinkaya, Bob Temple, Harold Ritchie, Jim Kinney, Gary Jenson, Jim Craig, Kate Harris, Pam Watkins, Earl Vicknair, Phil Bartlett, John McCory, Keith Harding and L.B. Guy.

The investigation into this issue is still ongoing. Upon the receipt of additional information concerning the above-named individuals, Union Carbide will supplement this answer.

These individuals may be contacted through UCC's counsel of record, DeHay & Elliston, L.L.P., 3500 Bank of America Plaza, 901 Main Street, Dallas, Texas 75202.

INTERROGATORY NO. 13

For each Facility, prior to 1985, please identify all industrial hygienists (or your equivalent) employed and/or consulted on asbestos matters by this Defendant including those employees in the corporate offices, and those consulted on asbestos matters company-wide, and give the following:

- a) Name;
- b) Living or deceased;
- c) Last known home address and telephone number;
- d) Dates in that capacity.

ANSWER: Union Carbide objects to this Interrogatory to the extent it is overly broad and is not reasonably limited to a specific time period, or for that matter, a particular plant or premises and as such, this Interrogatory as drafted, constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996). In addition, Union Carbide objects to this Interrogatory on grounds that it is not reasonably calculated to lead to the discovery of admissible evidence. Subject thereto, Union Carbide responds as follows:

Union Carbide states that the following individuals have been identified as Industrial Hygienists: Tim Campbell, Don Deese, Andrew Jackson, Newton Ketchum, Robert Peele, H. Schultz, Kirk Martin, Debbie Seid and Perihan Yalcinkaya.

Please refer to Union Carbide's Answer to Interrogatory No. 12. These individuals may be contacted through UCC's counsel of record, DeHay & Elliston, L.L.P., 3500 Bank of America Plaza, 901 Main Street, Dallas, Texas 75202.

INTERROGATORY NO. 14

For each Facility, prior to 1985, please identify all epidemiologist (or your equivalent) employed and/or consulted on asbestos matters by this Defendant including those employees in the corporate offices, and those consulted on asbestos matters company-wide, and give the following:

- a) Name;
- b) Living or deceased;

- c) Last known home address and telephone number;
- d) Dates in that capacity.

ANSWER: Union Carbide objects to this Interrogatory on grounds that it is overly broad and is not limited in time, scope or for that matter, a particular facility or premises. Union Carbide further objects to this Interrogatory to the extent that this Interrogatory seeks information which is beyond the scope of discovery and as a result, as drafted, this Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence. Subject thereto, please refer to Union Carbide's Answers to Interrogatory No. 15 contained herein.

INTERROGATORY NO. 15

For each Facility, prior to 1985, please identify all physicians and other health care providers employed and/or consulted on asbestos matters by this Defendant including those employees in the corporate offices, and those consulted on asbestos matters company-wide, and give the following:

- a) Name;
- b) Living or deceased;
- c) Last known home address and telephone number;
- d) Dates in that capacity.

ANSWER: Union Carbide objects to this Interrogatory on grounds that it is overly broad and is not limited in time, scope or for that matter, a particular facility or premises. Union Carbide further objects to this Interrogatory to the extent that it seeks information which is beyond the scope of discovery and as a result, as drafted, this Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence. Subject to its objections, Union Carbide responds as follows:

Union Carbide is currently investigating this issue to determine the exact years the following physicians were employed at the Texas City facility. Upon receipt of additional information, Union Carbide will supplement the following answer:

The best information currently available indicates that Dr. Carl Dernehl was the Texas City plant physician from approximately 1947-1955. Dr. Dernehl is believed to be deceased at this time. Dr. Roy Joyner served as the Texas City, Plant Medical Director from 1955-1965 and then became UCC's Gulf Coast Medical Director. Dr. Joyner served in that position until 1972. After Dr. Joyner, UCC believes that Dr. David Glenn served as the Medical Director/Plant Physician, but UCC is uncertain at this time what his years of service were. Dr. Glenn is at this time, believed to be deceased. After Dr. Glenn, Dr. Aniesto Dominguez served as a staff doctor to UCC Texas City. UCC has no current information on Dr. Dominguez or what his exact years of service were. Dr. Jeff Higgs served as the next plant physician for approximately ten years, before retiring from UCC. His current address is: 18647 Cape Charles, Houston, Texas 77058. The next plant physician was Dr. Paul Rountree, and he retired from UCC in 1993. His current address The University of Texas Health Center, Tyler, Texas, P.O. Box 2003, Tyler, Texas. Since 1993, Dr. Kim Koller has held the position of plant physician at Texas City.

There have also been several area physicians and several nurses who, over the years, have served as contract and/or part-time medical personnel for the Texas City plant. Union Carbide will supplement this Interrogatory answer if, after concluding its ongoing examination of the Texas City business records, it can obtain current information in regard to those physicians and other medical personnel who served Union Carbide prior to 1985.

These individuals may be contacted through UCC's counsel of record, DeHay & Elliston, L.L.P., 3500 Bank of America Plaza, 901 Main Street, Dallas, Texas 75202.

INTERROGATORY NO. 16

State what corporate industrial hygiene program was required in the way of respiratory protection from asbestos dust inhalation since you first began to require respiratory protection until 1985 stating:

- a) When you first began;
- b) What devices used;
- c) What training programs;
- d) Person primarily responsible for the program; and
- e) Person still living with the most knowledge of program;
 - a) At Corporate level; and
 - b) At each Facility.

ANSWER: Union Carbide objects to this Interrogatory to the extent it is overly broad and is not reasonably limited to a specific time period, or for that matter, to a particular plant or premises and as such, this Interrogatory as drafted, constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996). In addition, Union Carbide objects to this Interrogatory on grounds that it is vague and unduly burdensome, and the oppressive, time consuming and costly nature of this burden, to the extent that responsive information and/or documentation exists, substantially outweighs the probative value of any of the information sought by this Interrogatory. Subject to its objections, Union Carbide responds as follows:

Union Carbide states that according to the best information which is currently available, since the early seventies, and in accordance with all of the applicable government, state and industrial standards, the Texas City facility maintained numerous safety policies in regard to the usage of respiratory devices for protection against exposure to asbestos dust. In addition, the contractors that worked on the premises of the Texas City facility during the relevant time periods surrounding its operation, were obligated to provide safety equipment to their own employees in a manner consistent

with Federal, State and plant guidelines. The imposition and the acceptance of this obligation, on the part of the contractors, to adhere to the applicable safety guidelines was considered a condition precedent to Union Carbide's decision to accept any of the various contractors proposals or bids which had been submitted for consideration. Over the years, Union Carbide has continued to modify and improve its policies and procedures pertaining to respiratory protection in a conscious effort to strictly adhere to the guidelines and other industrial safety standards of all state, federal and industrial regulations. Union Carbide will make all responsive, non-privileged materials and/or other information pertaining to the respiratory protection programs at the Texas City facility available for inspection and copying by the requesting party at a mutually agreeable place and time.

INTERROGATORY NO. 17

Identify each company which provided to you services or consultations in asbestos matters prior to 1984 in the field of:

- a) Industrial hygiene;
- b) Occupational medicine; and
- c) Toxicology.

ANSWER: Union Carbide objects to this Interrogatory on grounds that it is vague and overly broad to the extent that it seeks information which has not been limited in time, scope or for that matter, to a particular facility or premises. The immense burden entailed in responding to this Interrogatory substantially outweighs the probative value of the information sought should discovery be allowed. Furthermore, UCC objects to this interrogatory to the extent that it seeks information which is not reasonably calculated to lead to the discovery of admissible evidence. Subject to its objections, Union Carbide responds as follows:

It is unknown to Union Carbide at this time whether or not information and/or materials which may or may not be responsive to the full breadth of this overly broad Interrogatory exist, and can be located through a reasonably diligent review of the Texas City business records pertaining to asbestos. In addition, Union Carbide has over the years utilized numerous consulting firms for a variety of asbestos and non-asbestos related services in the areas of Industrial Hygiene and occupational medicine/toxicology, and as a result ascertaining the identity of each and every consultant ever used prior to 1984 is an immensely overwhelming and costly task. Therefore, Union Carbide states that it is currently reviewing its records and upon the conclusion of its examination, Union Carbide will produce all responsive and non-privileged documentation and/or materials pertaining to the Texas City facility and the services and/or consultations which have been performed in regard to asbestos matters.

INTERROGATORY NO. 18

Please state whether or not Defendant conducted research regarding:

- a) Any toxicity testing of asbestos or asbestos-containing materials;
 - b) Any studies, literature reviews, or investigations prior to 1975 identifying asbestos as a suspected or know cause of pulmonary disease, cancer or mesothelioma;
- and

Please identify each such researcher and the documents reflecting such work.

ANSWER: Union Carbide objects to this Interrogatory to the extent that it is overly broad and constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996). Union Carbide further objects to this Interrogatory on grounds that it seeks information beyond the scope of the subject matter made the basis of this lawsuit, and to the extent that it has not been limited in time, scope or for that matter, to a particular facility or premises, and as such is not reasonably calculated to lead to the discovery of admissible evidence. In addition, Union Carbide

objects to this Interrogatory on grounds that it is unduly burdensome, and the oppressive, time consuming and costly nature of this burden, to the extent that responsive information and/or documentation exists, substantially outweighs the probative value of any of the information sought by this Interrogatory. Subject to its objections, Union Carbide responds as follows:

Union Carbide states that its knowledge concerning health hazards possibly associated with excessive exposure to asbestos fiber inhalation developed gradually. Union Carbide further states that over the course of its business it has operated a variety of facilities and as a result numerous studies have been conducted, both at the corporate and local level, regarding the potential hazards which have been associated with excessive exposure to asbestos and asbestos containing products, making it virtually impossible to identify each and every test or study which has been performed, much less the specific researcher and work product generated. Subject to the information which has been explicitly qualified herein, two studies of Calidria asbestos were conducted by the Chemical Hygiene Fellowship of the Mellon Institute on behalf of Union Carbide:

1. The first study was entitled "The Fibrogenic Potential of Asbestos Products-Via Intraperitoneal Injection in Guinea Pigs, Rats and Rabbits and by the Intratracheal Route in the Rat." Although Union Carbide can not represent that it knows the names of the persons who conducted the study, the following individuals did sign the study: Edwin R. Kinkhead, B.S., Research Assistant, Urbano C. Pozzani, M.S. Senior Fellow and Charles P. Carpenter, Ph.D., Assistant Administrative Fellow. Also, the following persons received an acknowledgment in the study: Charles C. Hahn, B.S., Junior Fellow and John M. King, Ph.D., DVM, Fellow. The study was completed

on July 8, 1966. The purpose of the study was to evaluate the degree of fibrogenicity of asbestos mined at Union Carbide's King City, California facility, as compared with other forms of asbestos.

2. The second study was entitled "Calidria Asbestos Resin Grade RG244, Tracheal Insufflation of Rat Lungs with Interpretation of Pathology After 20, 60, 90 and 180 Days." Although Union Carbide cannot represent that it knows the names of the persons who conducted the study, Charles P. Carpenter, Ph.D., Administrative Fellow, was the editor of the study's report. In addition, the following individuals were named as contributors to the study: D.L. Geary, Jr., E.R. Kinkhead, R.C. Myers and D.J. Nachreiner. The study was completed on September 3, 1971. The purpose of the study was to evaluate the degree of fibrogenicity of Union Carbide's RG244 as compared with other forms of asbestos.

In addition to the above described two tests, Union Carbide cooperated with the Pneumoconiosis Research Unit of the Llandough Hospital in the United Kingdom to conduct a "trace element analysis" of asbestos and provided samples of Calidria asbestos for such analysis. Union Carbide may also have conducted "patch tests" to determine the impact, if any, of Calidria on skin and other soft tissue. Union Carbide is currently attempting to ascertain the possible location of the reports of this testing.

See Union Carbide's Answer to Interrogatory No. 9, contained herein.

Union Carbide states that the discovery process as well as Union Carbide's own investigation into this matter remain on-going. Union Carbide is diligently attempting to conclude its examination of the Texas City business records pertaining research which has been conducted in regard to asbestos, and to the extent that responsive and non-privileged documentation and/or other materials containing information pertinent to the full breadth of this Interrogatory are discovered, said documents and/or materials will be produced to the Plaintiff.

INTERROGATORY NO. 19

Please state whether you received the results of any research as stated in (a) or (b) of the previous interrogatory (but not limited to your facilities) and please identify the documents reflecting such research.

ANSWER: Please refer to Union Carbide's Answer to Interrogatory No. 18, including all of the objections set forth therein. Subject thereto, Union Carbide responds as follows.

Union Carbide will produce the results and/or other materials pertaining to the information described in Union Carbide's Answer to Interrogatory No. 18.

INTERROGATORY NO. 20

Identify each company who provided loss control services at each Facility, including engineering inspections or safety audits, to you or for you in regards to asbestos prior to 1985.

ANSWER: Union Carbide objects to this Interrogatory to the extent it is overly broad and is not reasonably limited to a specific time period, or for that matter, a particular plant or premises and as such, this Interrogatory as drafted, constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996). In addition, Union Carbide objects to this Interrogatory on grounds that it is vague and unduly burdensome, and the oppressive, time consuming and costly nature of this burden, to the extent that responsive information and/or

documentation exists, substantially outweighs the probative value of any of the information sought by this Interrogatory. Union Carbide further objects to this Interrogatory on grounds that as drafted, this Interrogatory is unintelligible and lacks specificity and as a result calls for speculation. Subject to its objections, Union Carbide responds as follows:

Please refer to Union Carbide's Answer to Interrogatory No. 17 contained herein.

INTERROGATORY NO. 21

State in which year(s) your facilities were constructed:

- a) Identify the general contractor(s) for the construction of each Facility, including the construction of new units after the original constructions;
- b) Identify the insulation contractor(s) for the construction of each Facility; the construction of new units after the original construction; and the maintenance work.

ANSWER: Union Carbide objects to this Interrogatory to the extent that it is overly broad and constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W. 2d 429, 430 (Tex. 1996). Union Carbide further objects to this Interrogatory on grounds that it seeks information beyond the scope of the subject matter made the basis of this lawsuit, and to the extent that it has not been limited in time, scope or for that matter, a particular facility or premises, and as such is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving such objections, Union Carbide responds as follows:

Union Carbide states that the construction of the Texas City plant was completed on or about May of 1941.

INTERROGATORY NO. 22

Did this Defendant, at any time, purchase, use or have applied any pipe covering, block, mud, or any type of insulation product containing asbestos in any Facility, if so, please state which types

of products were used, and when they were used, and identify each unit in each Facility where products containing asbestos were ever present.

ANSWER: Union Carbide objects to this Interrogatory on grounds that it is vague and unduly burdensome, and the oppressive, time consuming and costly nature of this burden, to the extent that responsive information and/or documentation exists, substantially outweighs the probative value of any of the information sought by this Interrogatory. Furthermore, Union Carbide objects to this Interrogatory to the extent that it seeks information which has not been limited in time, scope or for that matter, a particular facility or premises. Subject thereto, Union Carbide responds as follows:

Union Carbide used asbestos-containing products at its Texas City facility over an extensive period of time, in variety of industrial units. Union Carbide began discontinuing the use of asbestos-containing products well over twenty years ago and as such, will be unable to produce an all-inclusive list of products by brand name, the location where these products may have been purchased, used or applied, or the time period in which they were present. Subject to its objections, Union Carbide states that it is diligently searching for the existence of any and all documents and/or other materials which identify the asbestos containing products which were utilized at the Texas City facility during the years of Plaintiff's employment. To the extent that such documents and/or other materials can be located, they will be made available for inspection and copying to the requesting party at a mutually agreeable time and place.

INTERROGATORY NO. 23

Please state:

- a) Which years your own employees installed asbestos containing products upon each Facility; and
- b) When, if ever, did you change your policy to require that only contractors install such products.

ANSWER: Union Carbide objects to this Interrogatory on grounds that it is vague, unintelligible, and calls for speculation. Union Carbide objects to this Interrogatory to the extent that it is overly broad and is not reasonably limited to a specific time period, or for that matter, a particular plant or premises and as such, this Interrogatory as drafted, constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996).

INTERROGATORY NO. 24

Please identify all insulators at each Facility employed by this Defendant prior to 1980, and give the following:

- a) Name;
- b) Living or deceased;
- c) Last known home address and telephone number;
- d) Dates in that capacity.

ANSWER: Union Carbide objects to this Interrogatory to the extent that it seeks a year-by-year listing of all insulators employed by Union Carbide at each of its many facilities on grounds that it is overly broad and unduly burdensome and the oppressive, time consuming and costly nature of this burden, to the extent that responsive information and/or documentation exists, substantially outweighs the probative value of any of the information sought by this Interrogatory. Union Carbide further objects to this Interrogatory on grounds that it has not been limited to a particular plant or facility, nor has this Interrogatory been confined to the subject matter of this lawsuit and as a result this Interrogatory as drafted, constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996). Subject thereto, Union Carbide responds as follows:

Over the years, the Texas City facility employed various contractors to perform virtually every aspect of the plants numerous operations, and as a result Union Carbide is unable to identify

every insulator which worked at the Texas City facility prior to 1980. Union Carbide states that it is currently diligently searching for information and/or other materials pertaining to the Texas City facility, which may or may not be responsive to the full breadth of this overly broad and oppressive Interrogatory. If responsive information can be located, Union Carbide will supplement this Interrogatory with the names of all the insulators which can be identified. In addition, Union Carbide will make all of the responsive documentation and/or other materials available to the requesting party for inspection and review at a mutually agreeable place and time.

INTERROGATORY NO. 25

If this Defendant stopped purchasing or contracting to have asbestos containing insulation products installed in your Facilities, please state the following:

- a) The year in which this Defendant stopped purchasing or contracting to have installed insulation products containing asbestos;
- b) The reason this Defendant stopped making such purchases;
- c) Who with the company made the decision to stop purchasing these products;
- d) Identify the documents available regarding the decision to stop purchasing asbestos insulation products;
- e) After the last date of purchase was the asbestos containing insulation on hand installed in your Facility, if so how much was installed, and please identify documents related to such.

ANSWER: Union Carbide objects to this Interrogatory to the extent that it seeks a year-by-year listing of all insulators employed by Union Carbide at each of its many facilities on grounds that it overly broad and unduly burdensome and the oppressive, time consuming and costly nature of this burden, to the extent that responsive information and/or documentation exists, substantially outweighs the probative value of any of the information sought by this Interrogatory. Union Carbide further objects to this Interrogatory on grounds that it has not been limited to a particular plant or facility, nor has this Interrogatory been confined to the subject matter of this lawsuit and as a result

this Interrogatory as drafted, constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996). Subject thereto, Union Carbide responds as follows:

Union Carbide states that it was not part of the insulation industry and therefore, does not have specialized knowledge with regard to asbestos insulation. Union Carbide further states that as its knowledge of the potential harm associated with excessive exposure to the inhalation of asbestos fibers gradually developed, Union Carbide, during the seventies, embarked on a major abatement project throughout the Texas City facility in an effort to eliminate the potential threat of harm which has been associated with asbestos fiber inhalation. As a result of Union Carbide's conscious effort to ensure that the Texas City facility was operated in a manner which was consistent with all applicable state, federal and industrial standards in regard to asbestos exposure, various programs and policies were developed and implemented in order to minimize or eliminate the potential for asbestos exposure. Union Carbide will make all responsive, non-privileged materials and/or documents pertaining to the abatement of asbestos containing materials available for inspection and duplication by the requesting party at a mutually agreeable place and time.

INTERROGATORY NO. 26

If Defendant contends that it took precautions of any kind to protect contractors and its employees from exposure to asbestos or asbestos containing products prior to 1980, please:

- a) state the facts that form the basis for such contention;
- b) identify each document in your possession that forms any basis for this contention;
and
- c) identify each person who has knowledge of facts relevant to this contention.

ANSWER: Union Carbide objects to this Interrogatory on grounds that it is vague and overly broad. Union Carbide further objects to this Interrogatory on grounds that it has not been reasonably limited to a particular Union Carbide premises or facility, and as a result this Interrogatory, as

drafted, constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996). Union Carbide objects to this request to the extent that improperly seeks the discovery of all factual assertions and a marshaling of proof supporting Union Carbide's contentions and as a result, this Interrogatory is inconsistent with Rule 197 of the Texas Rules of Civil Procedure. Subject thereto, Union Carbide responds as follows:

With regard to the time period during which asbestos-containing products were present at the Texas City facility, Union Carbide states that the discovery process as well as Union Carbide's own investigation into this matter remain on-going. As a result Union Carbide is diligently attempting to conclude its own examination of the Union Carbide files pertaining to the Texas City facility prior to 1980, in an effort to discover the existence of some information or documentation which might be pertinent and responsive to the full breadth of this Interrogatory. Furthermore, Union Carbide's knowledge concerning health hazards possibly associated with excessive exposure to asbestos fiber inhalation developed gradually and at some point in time, acting in accordance with the utmost concern for the safety of its own and contractor employees, Union Carbide began posting cautionary warning signs to advise workers of the presence of asbestos and/or asbestos containing materials. Union Carbide believes that these general cautionary warning signs were posted at various locations within the Texas City facility. The specific locations of these signs and dates and length of time these signs were posted is currently unknown. In addition to cautionary warning signs, Union Carbide disseminated health and safety information regarding the most current industrial and government knowledge of the potential adverse health effects which could possibly be associated with excessive inhalation of asbestos fibers, all in an effort to actively insure that employees and

contractors were well advised on ways to avoid the potential harm which could result from excessive exposure to asbestos dust. Union Carbide, as well as, the numerous amounts of contractors which have been present at the Texas City facility over the years, utilized various safety procedures which were enforced by the respective companies for the benefit of their own employees. According to the best information currently available to Union Carbide, the Texas City facility prior to 1980 developed industrial hygiene and occupational health programs and policies that were implemented by Union Carbide and enforced by each of the respective contractors for the protection of all plant workers. Over the years, these policies and programs have been revised and expanded in order to accurately reflect the most current and accurate industrial knowledge. To the extent that the above referenced safety policies and procedures and/or other material can be located, they will be made available to the requesting party for inspection and copying at a mutually agreeable place and time.

INTERROGATORY NO. 27

State the year that this Defendant was first advised of threshold limit values (TLV's) or maximum allowable concentrations of both asbestos dust and total dust by the American Conference of Governmental Industrial Hygienists, or any other organization, and state the name of the employee of the company receiving such information, the information received, the method or receipt of such information and attach copies of the instrument communicating such advise.

ANSWER: Union Carbide objects to this Interrogatory on the grounds that it is overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Union Carbide further objects to this Interrogatory to the extent that it has not been reasonably limited in time, geographic scope, or for that matter, to a particular plant or premises. In addition, as drafted, this Interrogatory constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996). Subject to and without waiving the above objections, Union Carbide responds as follows:

During the time that Union Carbide owned and operated its Calidria business from 1958-1985, Union Carbide was aware of and recognized the pre-OSHA standard Threshold Limit Value set forth by the American Conference of Governmental Industrial Hygienists (ACGIH) and the later Threshold Limit Value established by OSHA in 1972. Union Carbide included the early ACGIH Threshold Limit Value in toxicological reports distributed to Calidria sales personnel and disseminated the later OSHA standard to Calidria customers in material safety data sheets, AIA and other health and safety information made available or sent to Calidria customers and Union Carbide employees. Union Carbide also offered to take air samples of the premises of Calidria customers, in an effort to ensure strict adherence to all applicable TLV guidelines. In evaluating whether a sample met the Threshold Limit Value, Union Carbide has maintained that when uncertainty existed as to distinguishing non-asbestos from asbestos particles, that all particles should be counted. Union Carbide will make all responsive, non-privileged materials and/or documents available to the requesting party for inspection and duplication at mutually agreeable time and place.

INTERROGATORY NO. 28

When, if ever, did this Defendant advise its employees including insulators that there was a TLV or threshold limit value in regards to asbestos.

ANSWER: Please refer to Union Carbide's Answers to Interrogatory Nos. 26 and 27, contained herein.

INTERROGATORY NO. 29

Did this Defendant advise its employees that the TLV in regards to asbestos was or was not designed to protect against cancer, including mesothelioma, and if so, when.

ANSWER: Union Carbide objects to this Interrogatory on grounds that it is vague, argumentative and calls for speculation. Union Carbide further objects to this Interrogatory to the extent that it is

overly broad and is not reasonably limited to a specific time period, much less the specific time period relevant to the subject matter of this lawsuit, or for that matter to a particular plant or Union Carbide premises.

INTERROGATORY NO. 30

Is it this Defendant's understanding that the TLV when measured in millions of particles per cubic foot of air, measures total dust or only asbestos dust, and has this Defendant's understanding ever been different. Please identify the documents and/or witnesses which Defendants relied upon to formulate their answer to this interrogatory.

ANSWER: Union Carbide objects to this Interrogatory on the grounds that as drafted it is vague and overly broad. Subject thereto, Union Carbide responds as follows:

Union Carbide states that the TLV when measured in millions of particles per cubic foot measures total dust. Union Carbide states that this information was provided by Newell Bolton, a former Union Carbide industrial hygienist. Furthermore, Union Carbide states that it is unknown whether others have ever had a different understanding of the TLV, and as a result, Union Carbide states that it cannot make such a contention.

INTERROGATORY NO. 31

For each Facility, identify each of your insurers who ever inspected or caused to be made an inspection of such Facility for purposes of evaluating risks or hazards associated with asbestos dust prior to 1985, either for your benefit or their own. If so, please provide the dates of the inspection(s), the results, and identify by name, author and date of all documents concerning or in any way related to such inspection.

ANSWER: Union Carbide objects to this Interrogatory on grounds that it is overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Further, Union Carbide objects to the extent that this Interrogatory seeks information which has not been limited to the relevant time periods during the Plaintiff's alleged presence at the Texas City facility, nor has this

Interrogatory specified a particular plant or premises and as a result this Interrogatory constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996). Union Carbide objects to this Interrogatory on grounds that it seeks the discovery of all factual assertions and a marshaling of proof supporting Union Carbide's contentions regarding the alleged risks and hazards associated with excessive inhalation of asbestos fiber dust and as a result, this Interrogatory is inconsistent with Rule 197 of the Texas Rules of Civil Procedure. Union Carbide also objects to this Interrogatory as it calls for the disclosure of information which is protected pursuant to the Texas Rules of Civil Procedure and the Texas Rules of Evidence as attorney-client communication, attorney work product and /or confidential communications. Subject thereto, Union Carbide responds as follows:

The discovery process and Union Carbide's own investigation in regard to these matters remains on-going. Union Carbide states that according to the best information currently available which indicates that inspections may have been performed at the Texas City facility, but Union Carbide does not know if such studies were performed by insurance carriers and/or their agents. Therefore, to the extent that responsive, non-privileged documentation and/or other materials pertaining to the Texas City facility exists and can be located after a reasonably diligent search, Union Carbide will make said responsive documentation and/or other materials available to the requesting party for inspection and copying at a mutually agreeable time and place.

INTERROGATORY NO. 32

Has the Defendant ever conducted or caused to be conducted any studies designed to minimize or eliminate the inhalation of asbestos dust or fibers by those exposed to them at the Defendant's facilities prior to 1985. If so, give the following:

- a) Name of person or firm conducting such studies;
- b) The date the studies began and the date completed;
- c) Any publication or dissemination of the results of the studies; and
- d) The nature of any action to eliminate or minimize inhalation of asbestos dust or fibers.

ANSWER: Union Carbide objects to this Interrogatory on grounds that it is duplicative and repetitious of numerous prior request for information. Subject thereto, Union Carbide responds as follows:

Please refer to Union Carbide's Answer to Interrogatory No. 18, including all of the objections set forth therein.

INTERROGATORY NO. 33

Have you ever been investigated by OSHA or any other governmental agency for any matter related to asbestos or asbestos exposure at any Facility? If so, please provide the dates of the investigation(s), the results, and identify by name, author and date of all documents concerning or in any way related to such investigation(s).

ANSWER: Union Carbide objects to this Interrogatory on grounds that it is unduly burdensome and overly broad to the extent that it seeks information which has not been limited in time, scope or for that matter, a particular facility or premises. In addition, the immense burden entailed in responding to this Interrogatory substantially outweighs the probative value of the information sought should discovery be allowed. Subject to its objections, Union Carbide responds as follows:

Union Carbide is diligently searching for materials which may reflect any such inspections by numerous state and/or federal government agencies to Union Carbide's Texas City facility and upon the discovery of responsive information, Union Carbide will produce said materials to Plaintiff.

INTERROGATORY NO. 34

When, if at all, and how did this Defendant become aware of the diseases of asbestosis and mesothelioma.

ANSWER: Union Carbide objects to this Interrogatory on grounds that it is argumentative in that it relies on the presumption that Union Carbide has taken the position that it is unaware of the diseases that have been associated with excessive exposure and inhalation of asbestos fibers. Union Carbide further objects to this Interrogatory to the extent that it is overly broad, vague and as a result calls for speculation. Subject thereto, Union Carbide responds as follows:

UCC's knowledge concerning the potential health hazards that have possibly been associated with, in some cases, excessive exposure to asbestos fiber inhalation, developed gradually and it is therefore impossible to state precisely when and how this information was acquired.

INTERROGATORY NO. 35

If your answer to the above interrogatory is affirmative, identify:

- a) When and how the Defendant first learned such connection;
- b) If knowledge was obtained by attendance at any conference, lecture, convention, symposium or meeting, identify such meeting and provide the identity of person attending and documents obtained;
- c) If knowledge was obtained from medical or scientific studies, or any other published work, identify same; and
- d) If otherwise obtained, identify manner of receipt of document or communication.

ANSWER: According to the best information currently available, Union Carbide's knowledge concerning the potential health hazards which, in some cases, have possibly been associated with excessive exposure to asbestos fiber inhalation developed gradually and as a result, it is impossible to state precisely when and how this information was ultimately acquired. Union Carbide is aware that the following sources of asbestos related information contributed to Union Carbide's knowledge of the potential hazards of excessive asbestos exposure: Union Carbide's participation in various

trade association conferences and meetings, the development of OSHA and other government-related information and programs in regard to asbestos, general and scientific published literature throughout the years, and corporate research, reports and memoranda developed by or for Union Carbide employees. Union Carbide states that its own investigation of the Texas City records remains ongoing, and upon the conclusion of its examination, Union Carbide will make any responsive, non-privileged documents and/or materials available to the requesting party for inspection and review at a mutually agreeable time and place.

INTERROGATORY NO. 36

What was the earliest year in which you were advised that an employee of yours or a worker upon one of your facilities showed radiographic evidence or indication of:

- a) Asbestos;
- b) Asbestos-related pleural changes;
- c) Parenchymal changes suggestive of asbestosis; or
- d) Any other asbestos-related abnormality.

ANSWER: Union Carbide objects to this Interrogatory on grounds that it is overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Further, Union Carbide objects to the extent that this Interrogatory seeks information that has not been limited to the relevant time periods during the Plaintiff's alleged presence at the Texas City facility, nor has this Interrogatory specified a particular plant or premises and as a result this Interrogatory constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W.2d 429, 430 (Tex. 1996). Subject thereto, Union Carbide responds as follows:

Union Carbide states that based on all of the best information currently available, Union Carbide first received notice of a lawsuit alleging an asbestos-related injury in 1970.

Please refer to Union Carbide's Answer to Interrogatory No. 37.

INTERROGATORY NO. 37

Please identify the year in which the first workers compensation claim for an asbestos related disease was filed by one of your employees at any Facility, and specify the number of asbestos related claims made each year thereafter until 1985 at each Facility.

ANSWER: Union Carbide objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and the oppressive, time consuming and costly nature of this burden of production, to the extent that responsive information and/or documentation exists, substantially outweighs the probative value of any of the information sought by this Interrogatory. Additionally, Union Carbide objects to this Interrogatory to the extent that it assumes facts which are not in evidence. Subject thereto Union Carbide responds as follows:

Union Carbide states that it does not know the year in which the first workers compensation claim for an asbestos related disease was filed. Furthermore, Union Carbide does not even know each and every person who has ever worked at the Texas City facility and has made such a claim. Therefore, based on all of the best information currently available, Union Carbide cannot specify the amount, if any, of workers compensation asbestos related claims which may have been filed over the years. Union Carbide states that it is attempting to search for the existence of Union Carbide workers compensation records to the extent that such records exist, and will supplement this answer upon the receipt of any additional relevant information.

INTERROGATORY NO. 38

State for each Facility each construction, maintenance, or insulation contractor who worked upon such Facility up to 1985, specifying the year such contractor was working in each Facility.

ANSWER: Union Carbide objects to this Interrogatory to the extent it seeks information which is not reasonably calculated to lead to the discovery of relevant evidence. Union Carbide further objects on grounds that this Interrogatory is vague, overly broad and unduly burdensome and the oppressive, time consuming and costly nature of this burden of production, to the extent that responsive information and/or documentation exists, substantially outweighs the probative value of any of the information sought by this Interrogatory. In addition, this Interrogatory has not been reasonably limited to the subject matter of this lawsuit and as such constitutes an impermissible fishing expedition. *K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431 (Tex. 1996). Subject thereto, Union Carbide responds as follows:

Over the years, the Texas City facility has employed various contractors to perform virtually every one of the plants operations and as a result, Union Carbide is unable to specifically identify any of the information made the subject matter of this Interrogatory. Union Carbide states that, to the extent possible, it will attempt to locate documentation and/or other materials which might be responsive to the full breadth of this overly broad Interrogatory, and will make said documentation and/or other materials available for inspection and copying to the requesting party at a mutually agreeable place and time.

INTERROGATORY NO. 39

State generally the acts or omissions on the part of any party besides plaintiff that you contend were a proximate cause of the injury that made the basis of this lawsuit.

ANSWER: Union Carbide objects to this Interrogatory on grounds that it seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. Additionally, Union

Carbide objects to this Interrogatory to the extent that it is overly broad, vague and calls for speculation.

INTERROGATORY NO. 40

State generally the acts or omission on the part of Plaintiff that you contend were negligent and which were a proximate cause of the injury that made the basis of this lawsuit.

ANSWER: Union Carbide objects to this Interrogatory to the extent that it is overly broad and improperly seeks the discovery of all factual assertions and a marshaling of proof supporting Union Carbide's contentions and as a result, this Interrogatory is inconsistent with Rule 197 of the Texas Rules of Civil Procedure. Union Carbide also objects on grounds that this Interrogatory is vague and calls for speculation. Subject to its objections Union Carbide responds as follows:

The discovery process and Union Carbide's own investigation in regard to this lawsuit remain on-going. Union Carbide will not have any information regarding the extent, if any, of Plaintiff's negligence until discovery has been accomplished and/or completed. Union Carbide states further subject to its objections, that due to the lack of available information regarding Plaintiff, Union Carbide cannot make any contentions about where Plaintiff may have worked and what he may have been exposed to, if anything, while working, and as a result Union Carbide is unable to specify any act or omission on the part of the Plaintiff at this time.

INTERROGATORY NO. 41

Did this Defendant ever manufacture, re-brand, or sell any asbestos containing product? If so, please give the following information:

1. The name of such product;
2. The years such product was manufactured, re-branded or sold;
3. The asbestos content of such product;
4. The type of asbestos such product contained;

5. Whether any tests were run on this product prior to or during the sale of said product;
6. Whether the product contained any friable asbestos;
7. Whether a warning or caution label was placed on the product or its container and if so, when; and
8. Whether the product was applied in any of your facilities and if so, when.

ANSWER: Union Carbide objects to this Interrogatory to the extent that it is overly broad and constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W. 2d 429, 430 (Tex. 1996). Union Carbide further objects to this Interrogatory to the extent that it seeks information beyond the scope of the subject matter made the basis of this lawsuit, to the extent that it has not been limited in time, scope or for that matter, a particular facility or premises, and as such is not reasonably calculated to lead to the discovery of admissible evidence. Subject thereto, Union Carbide responds as follows:

Union Carbide no longer manufactures, produces, or sells any asbestos or asbestos-containing products. According to the best information presently available to Union Carbide, the aforementioned products were manufactured at the following locations:

Calidria - King City, California; This product was never manufactured in any of Union Carbide's current or former facilities other than King City, CA. Union Carbide, therefore, objects to plaintiffs' interrogatories insofar as they request information pertaining to Calidria asbestos as burdensome, oppressive, irrelevant, and immaterial, and not reasonably calculated to lead to the discovery of admissible evidence.

Bakelite - Bound Brook, New Jersey: The version of Bakelite that contained asbestos was never manufactured in any of Union Carbide's current or former facilities other than Bound Brook,

NJ. Union Carbide, therefore, objects to plaintiffs' interrogatories insofar as they request information pertaining to Bakelite as burdensome, oppressive, irrelevant, and immaterial, and not reasonably calculated to lead to the discovery of admissible evidence.

UDEL Polysulfone - Marietta, Ohio or Bound Brook, New Jersey: This product was never manufactured in any of Union Carbide's current or former facilities other than Marietta, Ohio or Bound Brook, NJ. Union Carbide, therefore, objects to plaintiffs' interrogatories insofar as they request information pertaining to LTDEL Polysulfone as burdensome, oppressive, irrelevant, and immaterial, and not reasonably calculated to lead to the discovery of admissible evidence.

Acetylene Cylinders - Speedway, Indiana: This product was never manufactured in any of Union Carbide's current or former facilities other than Speedway, Indiana. Union Carbide, therefore, objects to plaintiffs' interrogatories insofar as they request information pertaining to acetylene cylinders as burdensome, oppressive, irrelevant, and immaterial, and not reasonably calculated to lead to the discovery of admissible evidence.

TRE-HOLD - California or Pennsylvania (originally made by a company acquired by Union Carbide); This product was never manufactured in any of Union Carbide's current or former facilities other than California or Pennsylvania. Union Carbide, therefore, objects to plaintiffs' interrogatories insofar as they request information pertaining to TRE-HOLD as burdensome, oppressive, irrelevant, and immaterial, and not reasonably calculated to lead to the discovery of admissible evidence.

Automotive Radiator Products - Whiting, Indiana, Texas City, Texas, Torrence, California, or Lake River Terminal, Illinois;

Steel Scarfer Machine - Piscataway, New Jersey: This product was never manufactured in any of Union Carbide's current or former facilities other than Piscataway, NJ. Union Carbide, therefore, objects to plaintiffs' interrogatories insofar as they request information pertaining to the steel scarfer machine as burdensome, oppressive, irrelevant, and immaterial, and not reasonably calculated to lead to the discovery of admissible evidence.

Polyethylene and Polystyrene Products Possible Containing Asbestos - Bound Brook, New Jersey: These products were never manufactured in any of Union Carbide's current or former facilities other than Bound Brook, NJ, except possibly for experimental or other limited purposes not relevant to this action (see below).

Union Carbide objects to responding further, with respect to the possible use of small quantities of asbestos in experimental laboratories or pilot plants. Such information is irrelevant to this action inasmuch as the plaintiffs do not allege that they worked in or around any such facilities. Moreover, it would be unduly burdensome, if not virtually impossible, for Union Carbide to respond with respect to all such laboratory or pilot plant facilities.

INTERROGATORY NO. 42

Describe in detail each ownership interest that you or any of your parent or subsidiaries has ever had in:

- a) An asbestos mine;
- b) An asbestos insulation manufacturer; or
- c) An asbestos insulation marketer.

ANSWER: Union Carbide objects to this Interrogatory to the extent that it is overly broad and constitutes an impermissible fishing expedition. *K-Mart v. Sanderson*, 937 S.W. 2d 429, 430 (Tex. 1996). Union Carbide further objects to this Interrogatory to the extent that it seeks information

