



NO. 97-01769-F

CHARLES EDWARD HERION,	§	IN THE DISTRICT COURT
	§	
Plaintiffs,	§	
	§	
vs.	§	DALLAS COUNTY, TEXAS
	§	
NORFOLK SOUTHERN RAILWAY	§	
COMPANY, individually and as	§	
a subsidiary of	§	
NORFOLK SOUTHERN CORPORATION,	§	
and as successor-in-interest	§	
to SOUTHERN RAILWAY COMPANY	§	
	§	
Defendants.	§	116TH JUDICIAL DISTRICT

**OBJECTIONS AND RESPONSES OF DEFENDANT NORFOLK SOUTHERN
RAILWAY COMPANY TO PLAINTIFF'S REQUESTS FOR PRODUCTION**

COMES NOW, Defendant Norfolk Southern Railway Company (NSRC), individually and as a subsidiary of NORFOLK SOUTHERN CORPORATION, and as successor-in-interest to SOUTHERN RAILWAY COMPANY, Defendant in the above-referenced matter, and files this its Objections and Responses to Plaintiff's Requests for Production and would show the Court the following:

PRELIMINARY STATEMENT AND GENERAL OBJECTION

The following responses are being provided after diligent investigation and inquiry by Defendant. However, because many of the events relating to the matters inquired about by Plaintiff's requests occurred more than forty (40) years ago, the availability of persons involved and the existence of applicable documents has been limited.

As a result of the foregoing factors, many of the individuals who might have had personal knowledge of the matters to which Plaintiff's requests relate are deceased, retired, or are otherwise unavailable to NSRC, and investigations to date indicate that at least some documents which relate to matters inquired about by these requests may have been destroyed in keeping with normal corporate record retention policy.

Accordingly, some responses are possibly incomplete. NSRC's investigation is continuing and should additional information surface, supplemental responses will be submitted. The following is a part of and is incorporated by reference in every response provided hereinafter:

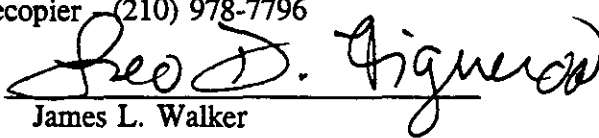
This response is accurate as of the date of the Responses of Defendant Norfolk Southern Railway Company to Plaintiff's Request for Production. Norfolk Southern objects to responding to this request in regard to any period of time other than the period during which it employed Plaintiff and further objects to providing information about geographic locations and operating units within its system other than those at which and for whom Plaintiff worked. The bases for such objections are that any responses would be irrelevant to the subject matter of the pending litigation, would not be reasonably calculated to lead to the discovery of admissible evidence, and would be burdensome and oppressive.

The answers that follow, unless otherwise apparent from the context, are limited to the specific period (approximately 1939 to approximately 1957), the period that NSRC allegedly employed Plaintiff as a laborer and machinist; and to the area in and around Spencer, North Carolina, the place where Plaintiff allegedly worked for NSRC.

Respectfully submitted,

JACKSON & WALKER, L.L.P.
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By:


James L. Walker

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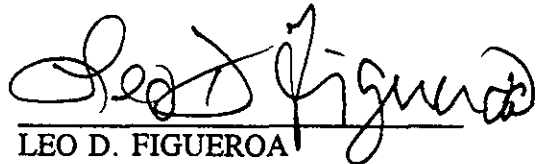
ATTORNEYS FOR DEFENDANT,

NORFOLK SOUTHERN RAILWAY COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served by certified mail, return receipt requested, to mr. Peter Kraus/Ms. Judy Bradshaw, Baron & Budd, The Centrum, Suite 1100, 3102 Oak Lawn Avenue, Dallas, Texas 75219, on this the 13th day of June, 1997.

All defense counsel may request a copy of this document.


LEO D. FIGUEROA

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Produce any and all documents (memoranda and/or other writings, including but not limited to books, pamphlets, or other written materials of any kind or character) in your possession, custody or control which would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is vague;
4. the request is ambiguous;
5. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
6. the request infringes on the attorney work product privilege;
7. the request infringes on the investigative/party communication privilege;
8. the request infringes on the attorney-client privilege;
9. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
10. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO. 2: Produce any and all documents (memoranda and/or other writings) in your possession, custody or control that in any way related to the hazards of asbestos and/or airborne asbestos.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is vague;
4. the request is ambiguous;
5. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
6. the request infringes on the attorney work product privilege;
7. the request infringes on the investigative/party communication privilege;
8. the request infringes on the attorney-client privilege;
9. the request exceeds the scope of discovery permitted by Rule 166b of the

10. Texas Rules of Civil Procedure; and,
the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO. 3: Produce any and all documents in your possession, custody or control which were disseminated or published by any person, trade association or organization of any type and that contain information relating to the hazards of asbestos and/or airborne asbestos.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is vague;
4. the request is ambiguous;
5. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
6. the request infringes on the attorney work product privilege;
7. the request infringes on the investigative/party communication privilege;
8. the request infringes on the attorney-client privilege;
9. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
10. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO. 4: Produce any and all safety meeting minutes or other documents, memoranda and/or writings that refer to the dangers of asbestos and/or safety measures to be taken by crew members or workers or employees in the vicinity of asbestos-containing products and/or machinery requiring the use of asbestos-containing products and/or materials on Defendant's railroad.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is vague;
4. the request is ambiguous;
5. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information

- necessary to respond to this request;
6. the request infringes on the attorney work product privilege;
 7. the request infringes on the investigative/party communication privilege;
 8. the request infringes on the attorney-client privilege;
 9. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
 10. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO. 5: Produce any and all contracts, memoranda, and/or other writings that in any way reflect arrangements made for the removal of asbestos and/or the installation of asbestos-containing products [on] Defendant's railroad(s).

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request infringes on the attorney work product privilege;
8. the request infringes on the investigative/party communication privilege;
9. the request infringes on the attorney-client privilege;
10. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
11. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO. 6: Produce any and all documents that in any way reflect a removal plan or organized written criteria or schedule for the removal of asbestos on Defendant's railroad(s).

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;

6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request infringes on the attorney work product privilege;
8. the request infringes on the investigative/party communication privilege;
9. the request infringes on the attorney-client privilege;
10. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
11. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO. 7: Produce any and all documents that discuss or relate in any way to removal of asbestos from any Defendant's railroad(s).

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request infringes on the attorney work product privilege;
8. the request infringes on the investigative/party communication privilege;
9. the request infringes on the attorney-client privilege;
10. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
11. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO. 8: Please produce any and all documents related to the medical condition of Plaintiff at any time during his employment with Defendant. This request specifically includes, but is expressly not limited to, any and all x-rays, x-ray reports, medical notes and/or medical records of any kind, including annual physical forms.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;
4. the request is argumentative;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request infringes on the attorney work product privilege; and
8. the request infringes on the investigative/party communication privilege.

REQUEST FOR PRODUCTION NO. 9: Please produce any and all documents that indicate and/or refer to in any way a decision and/or discourse related to ceasing the use of asbestos-containing products Defendant's railroad(s).

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is vague;
4. the request is ambiguous;
5. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
6. the request infringes on the attorney work product privilege;
7. the request infringes on the investigative/party communication privilege;
8. the request infringes on the attorney-client privilege;
9. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
10. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO. 10: Produce any and all specifications, blue prints, documents, memoranda and/or other writings that reflect and/or demonstrate in the form of a map and/or chart the location and dimensions of all car(s) and/or engine(s), locomotives, roundhouses and/or shops upon which and in the vicinity of which Plaintiff worked and specifically including, but not limited to, the location and/or placement, repair, installation and/or use of asbestos-containing products at any time within the last thirty-five (35) years on the railroad(s).

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is vague;
4. the request is ambiguous;
5. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
6. the request infringes on the attorney work product privilege;
7. the request infringes on the investigative/party communication privilege;
8. the request infringes on the attorney-client privilege;
9. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
10. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO. 11: Produce any photographs of asbestos products in place or asbestos products being used, fabricated and/or utilized on Defendant's railroad(s).

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time; and,
3. the request is unlimited in terms of geographic scope.

REQUEST FOR PRODUCTION NO. 12: Produce any actual warning signs or photographs of warning signs or other statements in place at any time relating to asbestos-containing products [in place] at any time during the last thirty-five (35) years on Defendant's railroad(s).

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time; and,
3. the request is unlimited in terms of geographic scope.

REQUEST FOR PRODUCTION NO. 13: Produce any documents which indicate in any way that individuals claimed injury to their lungs as a result of exposure to asbestos on any of Defendant's railroad(s).

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
7. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
8. the request infringes on the attorney work product privilege;
9. the request infringes on the investigative/party communication privilege;
10. the request infringes on the attorney-client privilege;
11. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
12. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO. 14: Produce any documents, minutes or other notes or records from any meetings at which the hazards and/or potential hazards of asbestos were discussed by officers, agents, and/or employees of Defendant.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;

6. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
7. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
8. the request infringes on the attorney work product privilege;
9. the request infringes on the investigative/party communication privilege;
10. the request infringes on the attorney-client privilege;
11. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
12. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO. 15: Produce any and all documents, including invoices, shipping receipts, bills of lading, purchase orders, or other documents of a similar nature related to the purchase of asbestos-containing products for use on Defendant's railroad(s).

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
7. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 16: Produce any and all documents reflecting in any way any inspections by labor inspectors, insurance company inspectors or anyone from Defendant's company or hired by Defendant where asbestos-containing products were being used or installed and that included the taking of measure of "dust counts." This request specifically includes any and all of Defendant's railroad(s) and railway car(s) and/or engine(s) and/or locomotive(s) and/or roundhouse(s) or shops during the last thirty-five (35) years.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request infringes on the attorney work product privilege;
8. the request infringes on the investigative/party communication privilege;
9. the request infringes on the attorney-client privilege;
10. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
11. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO. 17: In the event that Defendant performed or had performed any dust level counts with respect to asbestos dust on any of its railroads, produce any documents that in any way reflect or discuss the results of such studies or counts and actions, or potential actions, if any, taken as a result of such counts or studies.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request infringes on the attorney work product privilege;
8. the request infringes on the investigative/party communication privilege;
9. the request infringes on the attorney-client privilege;
10. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
11. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO. 18: Please provide all documents referred to in answering Plaintiff's interrogatories propounded to the Defendant, identifying with specificity which documents were used to answer which interrogatories.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;
4. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
5. the request infringes on the attorney work product privilege;
6. the request infringes on the investigative/party communication privilege;
7. the request infringes on the attorney-client privilege;
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
9. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO. 19: (1) Please provide a curriculum vitae for each and every expert witness or expert that the Defendant has retained or employed and cannot unequivocally state will not be a witness on its behalf at trial; (2) with respect to any and all expert witness(es) identified in subpart (1), please provide any and all documents or tangible things including, but not limited to, all tangible reports, drawings, charts, exhibits, physical models, compilations of data, factual observations, tests, calculations, photographs, diagrams, sketches, movies, videotapes and tape recordings, opinions, supporting data and other documents and/or things reviewed and/or relied upon by him or her in formulating his or her opinions and conclusions on this case, including all learned treatises (texts, articles, studies, monographs, etc.) and consultant expert work product which forms the basis, in whole or in part, of the witness(es)' opinions or which he or she believes substantiates or corroborates his or her conclusions regarding this lawsuit.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;
4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
5. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, Defendant states at this time, NSRC has not hired an expert witness to appear and testify at the trial of this cause.

REQUEST FOR PRODUCTION NO. 20: As to all such potential legal entities who are not now a party to this lawsuit, but who may be responsible for the incident in question, please provide:

- A. All documents tending to establish such liability; and,
- B. A list of all tangible items or things that may be reviewed tending to establish such liability, along with their location and the identity of the person to contact to view such tangible things.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

- 1. the request is overly broad;
- 2. the request is vague;
- 3. the request is ambiguous;
- 4. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
- 5. the request infringes on the attorney work product privilege;
- 6. the request infringes on the investigative/party communication privilege;
- 7. the request infringes on the attorney-client privilege; and,
- 8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 21: Provide a copy of each policy of liability insurance intended to provide coverage to the Defendant, its agents and/or employees for liability on the date in question for allegations such as those delineated in Plaintiff's Original Complaint (and all amended complaints thereafter) including, but not limited to, all primary and excess policies covering the Defendant on the date in question, indicating the name and address of each carrier.

RESPONSE: NSRC has no documents responsive to this request covering Plaintiff's claim.

REQUEST FOR PRODUCTION NO. 22: Provide a copy of all invoices, purchase orders, agreements, contracts, correspondences, telefaxes, telexes, and/or documents of any type passing between this Defendant and any other entity regarding the acquisition, ordering, purchasing, supplying, removal or distribution of asbestos-containing products by Defendant during the time period Plaintiff was employed by Defendant.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request infringes on the attorney work product privilege;
8. the request infringes on the investigative/party communication privilege;
9. the request infringes on the attorney-client privilege;
10. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
11. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO. 23: Provide a copy of all documents from which your present net worth may be ascertained.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;
4. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
5. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
6. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
7. the request seeks information which is private, confidential and/or proprietary.

OBJECTION. NSRC objects to this Request for the reason that it could not lead to the discovery of admissible evidence. Punitive damages are not available in FELA actions.

REQUEST FOR PRODUCTION NO. 24: Provide a copy of all photographs, diagrams, videotapes, slides and/or movie film of Defendant's railroad(s), owned or operated by Defendant including, but specifically not limited to the engine room, boiler room, common areas, living quarters, railroads, roundhouses, shops, locomotives, or transport cars.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
7. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 25: Provide a copy of all medical records obtained by the Defendant relating to the Plaintiff.

RESPONSE: Any medical records which relates to Plaintiff and have been obtained through medical authorizations supplied by Plaintiff will be produced to counsel for Plaintiff, for the cost of copying.

REQUEST FOR PRODUCTION NO. 26: Provide a copy of all documents including but not limited to invoices, purchase orders, agreements and contracts involving Defendant as a result of the transport, use, installation, repair, replacement, removal and/or applying of asbestos-containing products on the railroad.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;

7. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 27: Provide a copy of all documents regarding safety, safety training and/or safety meetings provided to or for the benefit of Plaintiff and other railroad workers to asbestos or asbestos-containing products on the railroad. Include any documents given out at such safety meetings and copies of the minutes of or notes from all safety meetings held for the benefit of the employees or crew members that worked on the railroad in the last thirty-five (35) years.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous; and,
5. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 28: Provide a copy of all Defendant's safety and policy manuals regarding the use of or exposure to asbestos-containing products from 1930 to the present.

RESPONSE:

OBJECTION. Plaintiff was last allegedly employed by NSRC in 1957. NSCR is aware of no such documents, presently in existence, which were generated prior to or during the time of Plaintiff's alleged employment. To the extent that this request seeks items applicable after 1957, Defendant objects to this Request on the following grounds:

1. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence; and,
2. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 29: Provide a copy of all personal files maintained by Defendant and/or any agent of Defendant concerning the Plaintiff including but not limited to all earnings files, administrative files, and any files concerning any physical examination conducted by the Defendant or for the benefit of the Defendant regarding Plaintiff either for hiring purposes, screening purposes or otherwise.

RESPONSE: NSRC has been unable to locate any such documents. Investigation continues and if any such documents are located, they will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO.30: Provide a copy of all reports, investigations, transcripts, memoranda, correspondence and/or documents of any type you received from, or sent to any city, county, state, or federal entity, including but not limited to the EPA, NIOSH, NIEHS or OSHA regarding either the potential health hazards or dangers associated with exposure to asbestos-containing products or airborne asbestos, and/or regarding any surveys, testing or other actions taken to determine the presence of and concentration of airborne asbestos on such of Defendant's railroad(s).

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
5. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
6. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO.31: Provide a copy of all safety inspection or site inspection records referencing in any way asbestos-containing products used on Defendant's railroad(s).

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
7. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
8. the request infringes on the attorney work product privilege;
9. the request infringes on the investigative/party communication privilege;
10. the request infringes on the attorney-client privilege;

11. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
12. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO.32: Provide a copy of all Defendant's safety inspection policies and procedures in effect during the time Plaintiff was employed by Defendant regarding the handling of, application, use or exposure to asbestos-containing products.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope; and,
3. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO.33: Provide a copy of any and all photographs or video recordings, sketches, drawings, or pictures in Defendant's custody or control or that of your attorney, or of any agent or representative of you or your attorney, whether made as part of the reports of experts or made by you, your attorney, or persons acting as your agents or representatives, and pertaining to any of Defendant's railroad(s), including, but not limited to, locomotives, engine rooms, boiler rooms, railyards, roundhouses, shops and common areas, concerning any asbestos-containing products in those areas. Request is hereby made for one print of each photograph or video recording produced in response to this request.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
7. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

OBJECTION. The request as framed is overbroad, burdensome and harassing.

REQUEST FOR PRODUCTION NO.34: Produce a copy of any reports prepared by any person you plan to call as an expert witness at the time of trial which pertain to the incident made the basis of this suit, specifically including all factual observations and opinions of consulting experts, if such consulting expert's opinion forms the basis of any opinions, theories, or conclusions reached by any testifying experts, and any accompanying photographs, drawings, charts, models, video recordings or other visual aids to such reports. If any expert has not prepared a written report, or if the information mentioned above has not been compiled into report form, then request is hereby made that each expert make a written report containing all said information and that each report be produced by inspection and copying.

RESPONSE: Defendant objects to the form and substance of this request on the ground that the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO.35: Any and all documents prepared by, delivered to, or in the possession of any person you plan to call as an expert witness at the time of trial, or who won't be called as a witness but whose work product forms a basis in whole or in part of an expert who will be called to testify, which related to any fact or matter that is the subject of or related to the subject of this suit.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous; and,
4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request.

REQUEST FOR PRODUCTION NO.36: All witness statements or other documents generated or obtained in any investigations into the asbestos exposure made the basis of this lawsuit whether signed or unsigned. If you contend any such document is privileged, please identify specifically each document withheld, along with the specific privilege asserted.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request infringes on the attorney work product privilege;
2. the request infringes on the investigative/party communication privilege;
3. the request infringes on the attorney-client privilege;
4. the request seeks information which is private, confidential and/or proprietary; and,
5. the request violates or infringes on the witness statement privilege.

REQUEST FOR PRODUCTION NO.37: Any models, visual aids, experiments, documents or other writings or any items of demonstrative evidence prepared or preserved by you, your attorney, your experts, or any other person acting on your behalf that will or may be used in the trial of this lawsuit.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request infringes on the attorney work product privilege;
3. the request infringes on the investigative/party communication privilege;
4. the request infringes on the attorney-client privilege; and,
5. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO.38: Please provide curriculum vitae for all expert witnesses that Defendant intends to consult or call as witnesses at the trial of this case.

RESPONSE: Defendant objects to this request on the grounds that the request infringes on the consulting expert privilege.

REQUEST FOR PRODUCTION NO.39: Copies of all depositions of any person previously employed by you specifically including, but not limited to Defendant or Defendant's employees, representatives, or agents, taken in connection with any alleged asbestos exposure at Defendant's railroad(s).

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
5. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO.40: Provide a copy of each and every document (including all reports, memos, photographs, statements and any material collected or acquired of any investigation, and all correspondence between Defendant and Defendant's insurer, and any reports, notes or any other documents regarding testing, examinations, inspections, or opinions related in any way to asbestos or any other communication from any individual or entity to Defendant, Defendant's insurer or any agent or representative of Defendant or Defendant's insurer concerning this incident or any injuries or disabilities allegedly resulting therefrom) in Defendant's possession or control, or that of Defendant's insurer, health insurer, disability insurer, liability insurer, or other insurer, relating to Defendant's claim or the investigation of this incident by Defendant, Defendant's insurer, or any individual or entity engaged for such a purpose.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;
4. the request infringes on the attorney work product privilege;
5. the request infringes on the investigative/party communication privilege;
6. the request infringes on the attorney-client privilege;
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure;
8. the request violates or infringes on the witness statement privilege; and,
9. the request infringes on the consulting expert privilege

REQUEST FOR PRODUCTION NO.41: Provide a copy of all accident, injury or illness reports concerning the Plaintiff prepared by and/or for Plaintiff's employer(s) and/or agents in the general course of business.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;
4. the request infringes on the attorney work product privilege;
5. the request infringes on the investigative/party communication privilege;
6. the request infringes on the attorney-client privilege;
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure;
8. the request violates or infringes on the witness statement privilege; and,
9. the request infringes on the consulting expert privilege

REQUEST FOR PRODUCTION NO.42: Provide copies of any and all safety standards, regulations, rules or codes pertaining in any way to asbestos or inhalation of toxic fumes or substances, whether promulgated by government or private industry, or Plaintiff's employer from 1930 to the present.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;

4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
5. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO.43: Provide a copy of any and all contracts and/or agreements of any kind (if oral, reduce the agreement to writing) made by Defendant to supply masks and/or other safety equipment to the Plaintiff or any other employees or railroad workers.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
7. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO.44: Provide copies of any and all documentation evidencing Defendant's compliance with the Boiler Inspection Act, formerly U.S.C. §20701, during the last thirty-five (35) years.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO.45: Provide copies of any and all documentation which in any way related to the transport by Defendant's railroad(s) of asbestos-containing products.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
7. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
9. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO.46: Provide a copy of all documents, reports and other materials identified in Answer to Interrogatory No. 12.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
7. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
9. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO.47: Please produce any and all x-rays, MRIs, CT-scans, videotapes, or other electronically or technologically created representations, depictions, picturizations, imaging or imagery collected by Defendant in the course of discovery.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
7. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
9. the request seeks information which is private, confidential and/or proprietary.

REQUEST FOR PRODUCTION NO.48: Provide copies of any and all documentation relating to a National Claims Registry and/or any other entity, group, organization or membership which catalogued, reported upon or collected information to claims of work related injuries by railroad workers.

RESPONSE: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request infringes on the attorney work product privilege;
8. the request infringes on the investigative/party communication privilege;
9. the request infringes on the attorney-client privilege;
10. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
11. the request seeks information which is private, confidential and/or proprietary.

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