



No. 96-06239-A

JOSEPH LEE DENNIS, ET AL,
Plaintiffs,

VS.

OWENS-CORNING FIBERGLAS
CORPORATION, ET AL,
Defendants.

§ IN THE DISTRICT COURT OF
 §
 §
 § DALLAS COUNTY, TEXAS
 §
 §
 §
 § 14TH JUDICIAL DISTRICT

**DEFENDANT SOUTHERN PACIFIC TRANSPORTATION COMPANY'S
 RESPONSES AND OBJECTIONS TO PLAINTIFF BENNIE DUNBAR'S
REQUEST FOR PRODUCTION**

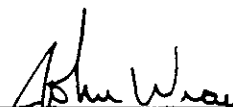
TO: Plaintiff Bennie Leon Dunbar by and through his attorneys of record, Peter Kraus and Kimberly Castles, Baron & Budd, P.C., The Centrum, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281.

COMES NOW Southern Pacific Transportation Company, one of the Defendants in the above styled and numbered cause, and in accordance with the Texas Rules of Civil Procedure files this its Responses and Objections to Plaintiff Bennie Dunbar's Request for Production.

DATED: March 10, 1997

Respectfully submitted,

PHELPS DUNBAR, L.L.P.

By: 

David Lee Crawford
 Texas Bar No. 05020100
 John C. Wray
 Texas Bar No. 00797699
 3040 Post Oak Blvd., Suite 900
 Houston, Texas 77056
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**ATTORNEYS FOR DEFENDANT SOUTHERN
 PACIFIC TRANSPORTATION COMPANY**

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PD5:64297.1

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 11th day of March, 1997, a true and correct copy of Defendant Southern Pacific Transportation Company's Responses and Objections to Plaintiff Bennie Dunbar's Request for Production was served on all known counsel of record via first class mail, certified, return receipt requested.

PLAINTIFFS

Mr. Russell W. Budd
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Defendant Southern Pacific's
Responses and Objections to Plaintiff's Request for Production

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Strausburger & Price
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Dallas, Texas 75202
Tel: (214) 651-4300 or 651-4534
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Ms. Kathy Hermes
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PROKO INDUSTRIES, INC.

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Bowers Orr & Robertson
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Fax: (803) 252-1068

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THE FLINTKOTE COMPANY

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UNIROYAL, INC.

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One Jackson Place, Suite 1200
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**AQUA-CHEM, INC. (d/b/a
CLEAVER-BROOKS DIVISION)**

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55 Waugh Drive, Suite 1200
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HARBISON-WALKER CORP.

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Mr. Lewis C. Miltenberger
Vial Hamilton Koch & Knox
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KELLY-MOORE PAINT CO.

Mr. Michael Truncale
Orgain, Bell & Tucker, L.L.P.
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Fax: (409) 838-6959

RAPID-AMERICAN CORP.

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Fax: (214) 855-4300

ILLINOIS CENTRAL CORPORATION

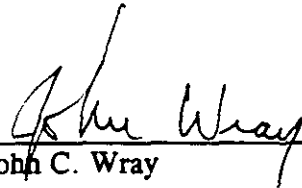
Mr. David J. Pels
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& Miller, L.L.P.
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Fax: (817) 336-3735

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PITTSBURGH CORNING CORP.

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Fax: (713) 217-2828



John C. Wray

**DEFENDANT SOUTHERN PACIFIC TRANSPORTATION COMPANY'S
RESPONSES AND OBJECTIONS TO PLAINTIFF'S 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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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 relate to the hazards of asbestos and/or airborne asbestos.

RESPONSE:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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 or asbestos-containing products and/or materials on Defendant's railroad.

RESPONSE:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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.

RESPONSE:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

REQUEST FOR PRODUCTION NO. 6:

Produce any and all documents that in any way reflect a removal plan or organizes written criteria or schedule for the removal of asbestos on Defendant's railroad(s).

RESPONSE:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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:

Railroad Retirement Board records (attached) indicate that Plaintiff was employed by the Texas & New Orleans Railroad Company from March through July of 1951. Due to the age of the requested documents and Defendant's normal records retention practices, Defendant has been unable to locate any responsive documents.

REQUEST FOR PRODUCTION NO. 9:

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 on Defendant's railroad.

RESPONSE:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. In addition, Defendant objects to this request to the extent that it may inquire into information which is protected by the attorney/client,

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attorney work product, and party communication privileges. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. In addition, Defendant objects to this request to the extent that it may inquire into information which is protected by the attorney/client, attorney work product, and party communication privileges. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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 or 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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. In addition, Defendant objects to this request to the extent that it may inquire into information which is protected by the attorney/client, attorney work product, and party communication privileges. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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:

Objection. Defendant objects to this request as overly broad and unduly burdensome. In addition, Defendant objects to this request to the extent that it may inquire into information which is protected by the attorney/client, attorney work product, and party communication privileges.

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; and (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 herein 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:

Two experts designated by Defendant, Drs. Vance Strange and Horton Hinshaw, will be offered by video deposition. Dr. Strange is no longer living and a curriculum vitae is not available. Dr. Strange was a medical doctor and head of Southern Pacific's medical department for many years. Dr. Hinshaw is elderly and likewise does not have and is unable to provide a current curriculum vitae. Dr. Hinshaw served Southern Pacific in a capacity similar to that of Dr. Strange. Deposition transcripts from these experts will be provided. Curriculum vitae, as well as written reports, for those other experts designated by Defendant will be provided. Defendant will supplement its response to this request in accordance with the Texas Rules of Civil Procedure.

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:

Discovery is continuing such that Defendant is not currently in possession of any responsive documents. However, Defendant is unaware of any potentially liable party that is not already a party to this lawsuit. Defendant will supplement its response to this request if additional information becomes available.

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:

None. Defendant is self-insured.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

REQUEST FOR PRODUCTION NO. 23:

Provide a copy of all documents from which your present net worth may be ascertained.

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RESPONSE:

Objection. Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

REQUEST FOR PRODUCTION NO. 25:

Provide a copy of all medical records obtained by the Defendant relating to the Plaintiff.

RESPONSE:

Railroad Retirement Board records (attached) indicate that Plaintiff was employed by the Texas & New Orleans Railroad Company from March through July of 1951. Due to the age of the requested documents and Defendant's normal records retention practices, Defendant has been unable to locate any responsive documents.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

REQUEST FOR PRODUCTION NO. 27:

Provide a copy of all documents regarding safety, safety training and/or safety meeting provided to or for the benefit of Plaintiff and other railroad workers to asbestos or asbestos-contain 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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

REQUEST FOR PRODUCTION NO. 28:

Provide a copy of all Defendants safety and policy manuals regarding the use of or exposure to asbestos-containing products from 1930 to the present.

RESPONSE:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to location. It is so overly broad and general that it subjects Defendant to undue burden and

unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period before and after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

REQUEST FOR PRODUCTION NO. 29:

Provide a copy of all personnel 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:

Railroad Retirement Board records (attached) indicate that Plaintiff was employed by the Texas & New Orleans Railroad Company from March through July of 1951. Due to the age of the requested documents and Defendant's normal records retention practices, Defendant has been unable to locate any responsive documents.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the

foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

REQUEST FOR PRODUCTION NO. 31:

Provide a copy of all safety inspection or site inspection records referencing in any way asbestos or asbestos-containing products used on Defendant's railroad(s).

RESPONSE:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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 a 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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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 for inspection and copying.

RESPONSE:

See response to Request No. 19.

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 the 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.

**Defendant Southern Pacific's
Responses and Objections to Plaintiff's Request for Production**

RESPONSE:

Objection. Defendant objects to providing any information which may be protected by the attorney/client, attorney work product, and consulting expert privileges. Subject to and without waiving the foregoing objection, Defendant will supplement its response to this request if additional information becomes available.

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:

Objection. Defendant objects to providing any information which may be protected by the attorney/client, attorney work product, party communication, and investigation privileges. Subject to and without waiving the foregoing objection, none at this time.

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:

Objection. Defendant objects to providing any information which may be protected by the attorney/client and attorney work product privileges. Subject to and without waiving the foregoing objection, Defendant will supplement its response to this request.

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:

See response to Request No. 19.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, see response to Request No. 19.

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, 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 purpose.

RESPONSE:

Objection. Defendant objects to this request as overly broad and unduly burdensome. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence. In addition, Defendant objects to providing any information which may be protected by the attorney/client, attorney work product, party communication, and investigation privileges.

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:

Railroad Retirement Board records (attached) indicate that Plaintiff was employed by the Texas & New Orleans Railroad Company from March through July of 1951. Due to the age of the requested documents and Defendant's normal records retention practices, Defendant has been unable to locate any responsive documents.

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:

Objection. Defendant objects to this request as overly broad and unduly burdensome. This request is overly broad and unduly burdensome in that the requested information is equally available to Plaintiff. Furthermore, Defendant objects to this request as irrelevant and not reasonably calculated to lead to the discovery of relevant or admissible evidence in that it seeks information for the time periods before and after Plaintiff's employment with Southern Pacific. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the

time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

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:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. This request is overly broad in that it does not specify the ways in which Defendant might have failed to comply with the Boiler Inspection Act. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

REQUEST FOR PRODUCTION NO. 45:

Provide copies of any and all documentation which in any way relates to the transport by Defendant's railroad(s) of asbestos-containing products.

RESPONSE:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, Defendant has been unable to locate any responsive documents for the time period of Plaintiff's employment.

REQUEST FOR PRODUCTION NO. 46:

Provide a copy of all documents, reports and other materials identified in Answer to Interrogatory No. 12.

RESPONSE:

See Defendant's Designation of Expert Witnesses which was filed with the Court and served upon Plaintiff on February 14, 1997. Defendant will supplement its response to this request if additional information becomes available.

REQUEST FOR PRODUCTION NO. 47:

Please produce any and all x-rays, MRI's, 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 is in possession of copies of two chest x-ray films which are dated February 1, 1996. These x-ray films were provided by Plaintiff such that Plaintiff is apparently already in possession of these films. Defendant will return these copies upon request.

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 relating to claims of work related injuries by railroad workers.

RESPONSE:

Objection. Defendant objects to this request as overly broad, unduly burdensome, and not limited as to time or location. It is so overly broad and general that it subjects Defendant to undue burden and unnecessary expense in its defense of this matter. Furthermore, Defendant objects to this request because it inquires into information that is irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence because such information is related to the time period after Plaintiff's employment with Southern Pacific, as well as information regarding work locations at which Plaintiff did not perform his duties. Subject to and without waiving the foregoing objection, none.



UNITED STATES OF AMERICA
RAILROAD RETIREMENT BOARD
OFFICE OF PROGRAMS
DIVISION OF COMPENSATION AND CERTIFICATION
844 N. RUSH STREET
CHICAGO, ILLINOIS 60611-2092

B. Dunbar
428-44-5665

Railway Express Agency

<u>Year</u>	<u>Service Months</u>
1948	2 (February and March)

Texas and New Orleans Railroad Company

1951	5 (March through July)
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Gulf Mobile and Ohio Railroad Company

1954	4 (September through December)
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Point Comfort and Northern Railway Company

1957	4 (January through April)
1960	1 (January)
1964	10 (March through December)
1965-1968	48 (12 months each year)
1969	11 (January through October and December)
1970	5 (March, April, June, July and December)

Total	<u>90</u>
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