

NO. 2000-2113

PABLO AGUILERA, TOMAS TORRES,
PEDRO PAZ BAEZA, ROBERT BAEZA and
MANUEL MACIAS,

Plaintiffs,

AT LAW NO. THREE

VS.

GAF CORPORATION et al.,

Defendants.

EL PASO COUNTY, TEXAS

**DEFENDANT ASARCO INCORPORATED'S SUPPLEMENTAL RESPONSE TO
PLAINTIFF ROBERT BAEZA'S REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now ASARCO INCORPORATED formerly known as American Smelting and Refining Company, a corporation of the State of New Jersey, with a principal place of business in the State of Arizona (hereinafter referred to as "ASARCO"), named Defendant herein, and in answer to Plaintiff, Robert Baeza's (hereinafter "Plaintiff") request for disclosure, makes and files this response pursuant to Rule 194 of the Texas Rules of Civil Procedure, respectfully showing unto the Court the following:

(a) Correct names of the parties to the lawsuit:

ASARCO Incorporated, formerly known as American Smelting and Refining Company.

(b) the name, address and telephone number of any potential parties:

No other potential parties are known at this point in time. As ASARCO's investigation of Plaintiff's claim is ongoing, ASARCO's right to amend and/or supplement this response is expressly reserved.

(c) the legal theories and, in general, the factual bases of the responding party's claims or defenses:

ASARCO denies that its conduct toward Plaintiff was in any way negligent or grossly negligent and denies responsibility for the injuries alleged by Plaintiff in the original petition and all subsequent amended pleadings. ASARCO denies that it failed to maintain a safe workplace and denies that Plaintiff was exposed to any asbestos and/or asbestos-containing products at its El Paso facility.

Further, even if Plaintiff could establish that he was exposed to asbestos and/or asbestos-containing products at the El Paso facility, such exposure was not the cause of Plaintiff's alleged injuries and/or death. Even if ASARCO is found to be negligent, Plaintiff's alleged injuries and/or death were not proximately related to or caused by ASARCO's conduct. ASARCO denies that Plaintiff's injuries and/or death were caused by an asbestos-related disease.

Further, even if Plaintiff did suffer from an asbestos-related disease, he failed to assert a claim for such injuries within the applicable limitations period. In addition, Plaintiff was himself negligent and/or assumed the risk of injury by failing, on occasions, to avail himself of or use safety equipment, respirators, and other protective devices that could have reduced or prevented his exposure to industrial dusts and/or chemicals. If Plaintiff was a cigarette smoker, Plaintiff was negligent and otherwise caused or contributed to his alleged injuries by continuing to smoke cigarettes in the face of knowledge and/or warnings that cigarette smoking was hazardous to health.

Further, with regard to the work it performed at the El Paso facility, Plaintiff's employer was a knowledgeable and sophisticated contractor who had a duty to safeguard and protect its employees from actual and potential workplace hazards, and, therefore, ASARCO had no direct duty to Plaintiff to ensure that Plaintiff's employment was free from hazards encountered under the direction of his employer.

In addition, Plaintiffs' damages, if any, were caused by negligent acts or omissions or breach of warranty by third parties or other defendants and/or exposure to certain products manufactured or distributed by said third parties or defendants. Accordingly, pursuant to applicable law, ASARCO is entitled to a comparative apportionment of fault, if any, as to the other defendants and/or third parties and is entitled to a judgment against them for contribution and/or indemnity or a percentage reduction in accordance with the apportionment of fault. Alternatively, ASARCO also contends that the injuries and damages about which the Plaintiffs complain were caused by new and independent intervening causes and by conduct other than that of ASARCO which was their sole cause.

Finally, ASARCO refers Plaintiff to the Special Exceptions, General Denial and Affirmative Defenses set forth in its Answer to Plaintiffs' Original and any subsequent Petition. As ASARCO's investigation of Plaintiff's claim is ongoing, ASARCO reserves the right to amend and/or supplement this response.

(d) The Amount and any Method of Calculating Economic Damages:

Plaintiffs have not yet shared their method of calculating economic damages with ASARCO. Once that information is obtained, Defendant reserves the right to argue that Plaintiffs' method and calculation of economic damages is incorrect; that Plaintiffs have utilized an inappropriate and incorrect mathematical, economic and legal model for forecasting and predicting the present value of past and future losses; and that Plaintiffs are not entitled to recover the damages and losses which they have alleged.

(e) the name, address and telephone number of persons having knowledge of relevant facts and a brief statement of each identified person's connection with the case:

1. All individuals named or to be named as medical witnesses, lay, expert, product identification, liability, and other non-medical witnesses by Plaintiff in this action including but not limited to the following:

John Riordan	Robert Bustamante
Ernie Rodriguez	Juan Barrios
Ronny Hatch	Frank Rico
Salvidor Rubio	Robert Baeza, Jr.
Paul Baeza	Matthew Baeza
Issac Baeza	

To date Plaintiff Robert Baeza has not provided ASARCO with the names of any medical provider and/or treating physicians. ASARCO reserves the right to supplement this response upon receipt of same.

2. All individuals named or to be named as medical witnesses, lay, expert, product identification, liability, and other non-medical witnesses by any other defendant in this action. To date, ASARCO has not been served with any discovery responses or witness designations by co-defendants or other parties to this action. ASARCO reserves the right to supplement this response upon receipt of same.

3. All individuals named or to be named in any party's answers to interrogatories.

4. Any individual heretofore named as an expert witness by ASARCO.

5. Individuals who were employed as plant managers, industrial hygienists, and/or safety personnel at the El Paso facility during the relevant time period.

6. Michael O. Varner, 4 Wilshire Run, Scotch Plains, NJ 07076, telephone number unlisted. Mr. Varner was employed by ASARCO from 1971 through approximately 1999 and he held various positions in the Environmental Sciences, Technical Services and Environmental Operations departments.

7. John B. Richardson, 2144 East Streamview Drive, Sandy UT 84093, (801) 942-2621. Mr. Richardson has been employed by ASARCO since approximately 1973, and he has held various positions in the Environmental Sciences and Technical Services departments.

8. James P. Sieverson, 15451 W. Lacey Road, Pocatello, Idaho (208) 237-1029. Mr. Sieverson was employed by ASARCO from approximately 1972 through 1990 in various positions in the Environmental Sciences department.

9. Donald A. Robbins, ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Mr. Robbins is currently employed by ASARCO as the Director of Environmental Services.

ASARCO reserves the right to call additional fact witnesses for the purpose of rebuttal or impeachment, if necessary, at the time of trial. As discovery in this case is ongoing, ASARCO further reserves the right to amend and/or supplement this response up to the time of trial.

(I) for any testifying expert:

(1) the expert's name, address and telephone number:

(2) the subject mater on which the expert will testify:

(3) The general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information:

(4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:

(A) All documents, tangible things, reports, models or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and

(B) the expert's current resume and bibliography.

1. All individuals designated or to be designated as expert witnesses by Plaintiff, whether live or by deposition testimony.

2. All individuals designated or to be designated as expert witnesses by any other party to this action, whether live or by deposition testimony, and without regard to that party's presence at the time of trial.

3. All physicians or other health care practitioners who have treated Plaintiff at any time and for any condition and whose names, addresses, and qualifications are already known to Plaintiff, may be called to testify, whether live or by deposition testimony. To date Plaintiff Robert Baeza has not provided ASARCO with the names of any medical provider and/or treating physicians. ASARCO reserves the right to supplement this response upon receipt of same.

4. All physicians who have prior to trial examined Plaintiff and/or Plaintiff's medical records, hospital records, laboratory test results, x-ray or other diagnostic imaging films and/or any other information of whatever kind relating to the health of Plaintiff, on behalf of any party, without regard to that party's presence at the time of trial, who will testify as to the Plaintiff's clinical course and causation of any illness, either live or by deposition testimony.

5. John E. Craighead, M.D., 1845 Four Winds Road, Ferrisburgh, VT 05456. Dr. Craighead is a clinical and anatomical pathologist specializing in pulmonary pathology. Dr. Craighead will testify generally as to his background, training and experience. Dr. Craighead will testify as to his knowledge of pathology and asbestos-related diseases. He will further testify as to the general medical issues concerning the development, cause, and diagnosis of asbestos-related disease and/or other diseases that may mimic asbestos-related diseases.

Dr. Craighead will testify generally as to the dangers posed by the inhalation of asbestos fibers and the relative risks associated with exposure to low levels of airborne asbestos. Dr. Craighead may also address thresholds of exposure below which there is no measurable increased risk of contracting an asbestos-related disease and the latency periods required for the development of the various asbestos-related diseases.

Dr. Craighead may review the pathological evidence in this case, if any, and testify concerning whether it is diagnostic of asbestos-related disease.

Dr. Craighead may also testify concerning asbestos fiber counts in the lung tissue of different populations and their significance with regard to dose-response relationships and causation. Dr. Craighead may offer such other opinions as may become necessary to rebut the opinions of Plaintiff's experts.

Dr. Craighead may base his testimony on the available medical and scientific literature, his own training and experience, the opinions and reports of other experts named or to be named by any other party, whether presented live or by deposition, the testimony of all other witnesses named or to be named by any other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

6. Allen R. Gibbs, M.D., Department of Pathology, Llandough Hospital, South Glamorgan, Penarth CF, 61XX, United Kingdom, is a pulmonary pathologist who received his medical degree from Newcastle Upon Tyne. He is a Fellow of the Royal College of Pathologists. He is a consultant pathologist to South Glamorgan Health Authority and is an honorary clinical teacher to the University of Wales College of Medicine. Dr. Gibbs is also an honorary consultant to the MRC external staff team on occupational lung diseases at Llandough Hospital. He was a

senior lecturer in pathology at the University of Wales College of Medicine. He has special expertise in the diagnosis of asbestos-related diseases and the pathogenicity of the various forms of asbestos for pulmonary and pleural diseases and has reviewed over 1,000 lung samples involving asbestos-related changes. Additionally, Dr. Gibbs has authored or co-authored over 45 articles, papers and chapters in the field of pathology, many of which relate to asbestos-related disease.

Dr. Gibbs may review the pathological evidence in this case and testify concerning whether it is diagnostic of asbestos-related disease, including mesothelioma.

On the basis of Dr. Gibbs' personal research into issues concerning asbestos-related disease, his knowledge of the medical literature and his knowledge of the facts of this case as they are known to date, Dr. Gibbs may testify generally as to the dangers posed by the inhalation of asbestos fibers, the relative risks associated with exposure to low levels of airborne asbestos dust in the general environment, and the risks posed to Plaintiff from his alleged exposure to airborne asbestos dust.

7. Jeremiah Lynch, C.I.H., 25 Waterman Avenue, Rumson, New Jersey. Mr. Lynch is a Certified Industrial Hygienist. Mr. Lynch will testify generally as to his background, training and experience. Mr. Lynch will testify as to the methods and procedures involved in industrial hygiene, the methods and procedures utilized in the collection of airborne asbestos samples, including fiber measurement and counting techniques, and the use of industrial hygiene methods to control worker exposure to airborne asbestos dust. Mr. Lynch will further testify concerning threshold limit values, the various threshold limit values for asbestos exposure, the basis for the original threshold limit value and its subsequent changes. Mr. Lynch will further testify concerning the setting and implementation of asbestos exposure limits by OSHA, and the subsequent changes to those limits, and OSHA regulations pertaining to Plaintiff's workplace at various times. Mr. Lynch may also testify concerning the industrial hygiene programs implemented at Plaintiff's workplaces at various times, and how those programs compared to the industrial hygiene standards at various times. Mr. Lynch will further testify with regard to the effectiveness of the industrial hygiene program at Plaintiff's workplaces as compared to the various standards applicable at different times. Mr. Lynch may also testify as to the asbestos exposures which Plaintiff would have had at various times during his employment history. Mr. Lynch will also testify with regard to environmental exposures to airborne asbestos experienced by millions of Americans for which there is no epidemiological evidence of disease. Mr. Lynch may offer such other opinions as may become necessary to rebut the opinions of Plaintiff's experts.

Mr. Lynch will base his testimony on the available medical and scientific literature, applicable statutes and regulations, his own training and experience, the opinions and reports of other experts named or to be named by any other party, whether presented live or by deposition, the testimony of all other witnesses named or to be named by any other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

8. Ernest Mastromatteo, M.D., 19 Carey Road, Toronto, Ontario, Canada M4S 1N9. Dr. Ernest Mastromatteo will testify generally as to his background, training and experience. Dr. Mastromatteo is a medical doctor specializing in occupational and environmental health. He is currently Professor Emeritus, Occupational and Environmental Health, University of Toronto and self-employed as a consultant in Occupational and Environmental Health. Dr. Mastromatteo received his Doctor of Medicine degree from the University of Toronto in 1947. He received a Diploma in Public Health from the University of Toronto in 1950 and a Diploma in Industrial Health from the University of Toronto in 1958. In 1958, Dr. Mastromatteo was certified in Occupational Medicine by the American Board of Preventive Medicine. In 1981, Dr. Mastromatteo was certified in Occupational Medicine by the Canadian Board of Occupational Medicine.

From 1949 to 1952, Dr. Mastromatteo served as the Medical Director of the Virden Local Health Unit, Virden, Manitoba. In 1952, Dr. Mastromatteo commenced employment as a physician and consultant with the Ontario Ministry of Health. In 1968, he became the Director of the Division of Occupational and Environmental Health of the Ontario Ministry of Health. He remained in that position until 1974. From 1966 to 1974, Dr. Mastromatteo also served as a Consultant in Occupational Diseases to the Ontario Workers' Compensation Board. From 1968 to 1974, Dr. Mastromatteo was a part-time professor at the University of Toronto, and from 1972 to 1974, he was Professor and the Head of the Department of Occupational and Environmental Health of the University of Toronto.

In 1974, Dr. Mastromatteo became Chief of the Occupational Health and Safety Branch of the International Labour Office ("ILO") in Geneva, Switzerland. He remained in that position until 1976. From 1976 to 1985, Dr. Mastromatteo was employed as Director of Occupational Health for Inco Limited, Toronto, Canada. From 1985 to 1994, Dr. Mastromatteo was employed as the Program Director, Occupational and Environmental Health, of ORC Canada Inc., Toronto, Canada. During part of this period, from 1985 to 1990, Dr. Mastromatteo also served as a consultant to the Occupational Health Policy Branch of the Ontario Workers' Compensation Board. From 1976 to the present, Dr. Mastromatteo has served as an Honorary Consultant to the Occupational Health Clinic of St. Michael's Hospital, Toronto, Canada.

Dr. Mastromatteo is a member of the Ontario Medical Association, and he has chaired its Section on Occupational Health and its Committee on Public Health. He is also a member of the Canadian Medical Association. Dr. Mastromatteo was elected to the Ramazzini Medical Society in 1968 and has been a member of the International Commission on Occupational Health since 1968. Dr. Mastromatteo is an Honorary Lifetime Member of the American Conference of Governmental Industrial Hygienists ("ACGIH"). Dr. Mastromatteo has served as a member of the ACGIH Threshold Limit Value ("TLV") Committee since 1964. He was Chair of the TLV Committee from 1985 to 1990 and President of the ACGIH for the 1969-1970 term. Dr. Mastromatteo has received numerous honors and awards in the field of occupational medicine. Among his other awards, in 1981 he received the Stokinger Award for Scientific Contributions to Occupational Toxicology in the United States. In 1986, he received the Yant Award for Scientific Contributions to Industrial Hygiene in the United States. In 1987, Dr. Mastromatteo received the Knudsen Award for his

contributions to Occupational Medicine in the United States. In 1987, he was also inducted into the Safety and Health Hall of Fame International.

Dr. Mastromatteo will further testify that as a long-standing member of the American Conference of Governmental Industrial Hygienists Threshold Limit Value Committee, he is familiar with that organization's criteria for establishing threshold limit values. In setting those thresholds, the ACGIH examines all of the available evidence and bases its decision on the weight of evidence. As such, the ACGIH examines the relevant studies and evaluates those studies based on their methodology and scientific reasoning. Based on its review of the best medical evidence, the ACGIH set its first threshold limit value for asbestos in 1946 and has changed it from time to time where the medical evidence has warranted such a change. Dr. Mastromatteo will testify as to the threshold limit values at different points in time and the medical knowledge that was available to the ACGIH concerning the health effects of asbestos.

Dr. Mastromatteo will further testify that the Occupational Safety and Health Administration (OSHA) does not rely on the weight of evidence, but sets its Permissible Exposure Limit (PEL) based on a different control strategy. OSHA determines a safe level then sets the permissible exposure limit (PEL) by adding factors of between ten (10) and one hundred (100) times. OSHA has most recently set the PEL for all types of asbestos at 0.1 f/cc. That level of exposure is many times below the level of exposure which one would expect to cause disease in the average worker.

9. Howard E. Ayer, C.I.H., 2812 Linwood Avenue, Cincinnati, Ohio. Mr. Ayer is a Certified Industrial Hygienist and a Certified Safety Professional. He is Emeritus Professor of Environmental Health, Division of Environmental Hygiene and Safety, University of Cincinnati. Mr. Ayer received his Bachelors in Chemical Engineering in 1948 from the University of Minnesota. He received a Masters of Science in Industrial Hygiene Engineering from Harvard University in 1955.

Mr. Ayer was employed by the United States Public Health Service (USPHS) from 1948 to 1972. During that time period he served with the National Institute for Occupational Safety and Health, and its predecessor organizations (Division of Occupational Health, Occupational Health Program and Bureau of Occupational Safety and Health), assigned by the USPHS to the Kansas State Board of Health, the Occupational Health Field Station in Salt Lake City, Utah, and the Occupational Health Field Headquarters in Cincinnati, Ohio. Mr. Ayer was Assistant Chief of the Engineering Section from 1961 to 1964, Chief from 1964 to 1967, and Assistant Director of the Division of Field Studies from 1967 to 1972. Mr. Ayer has been with the University of Cincinnati, Institute of Environmental Health (Kettering Laboratory) as a Professor and Emeritus Professor since 1972. From 1982 to 1983, Mr. Ayer took a sabbatical year in safety engineering at Texas A&M.

Mr. Ayer has served on numerous committees in the field of industrial hygiene. As a member of the ACGIH, Mr. Ayer served on the Air Sampling Instruments Committee, the Energy Committee, the Ventilation Committee, and the Committee on Environmental Factors in the Pneumoconioses (which he chaired for three years). Mr. Ayer also chaired the ad hoc joint AIHA-

ACGIH Committee on Uniform Methods in Impinger Counting. Mr. Ayer has authored over 40 published papers on matters of industrial hygiene.

Mr. Ayer's testimony will be based on his knowledge, training and experience in the field of industrial hygiene as it relates to asbestos and asbestos-containing products. Mr. Ayer will also testify as to the state of industrial hygiene at various points in time.

Mr. Ayer may also testify as to the asbestos exposures which Plaintiffs would have had at various times during their employment history. Defendant ASARCO reserves the right to supplement this information based on documents or testimony concerning exposure levels which to date have not been discovered.

Mr. Ayer will base his testimony on the available medical and scientific literature, applicable statutes and regulations, his own training and experience, the opinions and reports of other experts named or to be named by ASARCO or any other party, whether live or by deposition, the testimony of all other witnesses named or to be named by ASARCO or any other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

10. Arthur M. Langer, Ph.D., Director, Environmental Sciences Laboratory of the Institute of Applied Sciences, Brooklyn College of the City University of New York, Brooklyn, New York 11210. Dr. Langer received his Bachelor of Arts degree in Geology from Hunter College, City University of New York in 1956. In 1962, Dr. Langer received his Master of Arts in Petrology (geology) from Columbia University. Dr. Langer received his Ph.D. in Mineralogy from Columbia in 1965.

Dr. Langer may testify as to his background, training, experience, fellowships, memberships and other professional activities, honors and awards, editorial board service, appointments, publications in peer reviewed journals, abstracts and symposia proceedings, contributions to books, monographs and reports, national, international and regional committees and consultations, national and international invited seminars, lectures, meetings and conferences, and his participation in post-graduate education courses as fully set forth on his C.V. Dr. Langer may further testify as to his extensive study and experimentation with regard to the family of minerals commonly referred to as asbestos.

Dr. Langer will base his testimony on the available medical and scientific literature, applicable statutes and regulations, his own training and experience, the opinions and reports of other experts named or to be named by ASARCO or any other party, whether live or by deposition, the testimony of all other witnesses named or to be named by ASARCO or any other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

11. Robert Murray, M.D., South Hill, Church Road, Newton Green, Sudbury, Suffolk, CO10 0QP, United Kingdom. Dr. Murray was an occupational health consultant. He qualified in medicine in 1939 at Glasgow University. From 1941 to 1946, he served in the R.A.M.C. in West

Africa, India and Burma and was mentioned in despatches. Dr. Murray received his diploma in Public Health in January, 1947. In April 1947, he became one of only 12 of Her Majesty's Medical Inspectors of Factories and was assigned to the East Lancashire Division based in Manchester where he remained until 1956. While there, his Chief was E.R.A. Merewether. Dr. Murray regularly visited the asbestos factories within his jurisdiction including Turner Brother's Asbestos, British Belting and Asbestos, and Cape Asbestos.

As a Medical Inspector, Dr. Murray's duties included assisting the District Inspector in the implementation of those parts of the Acts and Regulations dealing with occupational health. This included the Asbestos Industry Regulations of 1931.

In 1949, he received his diploma in Industrial Health and lectured in Professor Lane's Department of Occupational Health in Manchester.

Dr. Murray joined the International Labour Office (ILO) in Geneva in 1956 and remained there until 1961. Dr. Murray then became Medical Advisor to the TUC in London, a post which he held until 1974. During the 1960's and 1970's he assisted the TUC in its actions against asbestos which led to the Asbestos Regulations of 1969. In 1974, Dr. Murray began independently consulting in occupational health. He consulted with a number of firms and organizations including the Asbestos Information Association. He served as the Convenor of the Medical Advisory Panel and Scientific Advisory Panel until 1992. In 1975 he became Secretary-Treasurer of the Permanent Commission on Occupational Health, now known as the International Commission on Occupational Health, and from 1981 to 1987 he was its President.

Dr. Murray's other qualifications include Membership (1963) and later Fellowship (1970) of the Royal College of Physicians of Glasgow, honorary Doctor of Technology of the University of Bradford, honorary Fellowship of the Institution of Occupational Safety and Health, Fellowship of the Faculty of Occupational Medicine of the Royal College of Physicians of Ireland, Fellowship of the corresponding Faculty of the Royal College of Physicians of London, honorary Fellowship of the Royal Society of Medicine, honorary Fellowship of the Institute of Occupational Hygienists and honorary Doctor of Science of the University of Glasgow.

Dr. Murray kept in close touch with the increasing amount of literature concerning asbestos. He assisted the Asbestos Institute in Montreal in its efforts to ensure the safe use of asbestos. He participated in the ILO discussions in 1985 and 1986 which resulted in the Convention and Recommendation on the Safe Use of Asbestos and participated in seminars in Turkey, Malaysia, Thailand and Taiwan.

On the basis of Dr. Murray's personal knowledge and experience concerning issues regarding the health hazards of asbestos and the historical developments relating to the development of knowledge concerning asbestos-related diseases and his knowledge of the medical literature, Dr. Murray will testify by deposition or videotape as to the state of knowledge concerning what an employer could have and should have known during particular time periods

with regard to both the dangers of asbestos use and methods of minimizing those dangers via proper hygiene measures.

Dr. Murray will further base his testimony on the available medical and scientific literature, applicable statutes and regulations, his own training and experience, the opinions and reports of other experts named or to be named by ASARCO or any other party, whether live or by deposition, the testimony of all other witnesses named or to be named by ASARCO or any other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

12. Robert Brown, 1169 Pointeview Road, Chapin, South Carolina. Mr. Brown received his Bachelor of Science in chemical engineering from the University of South Carolina in 1935. In or about 1948 or 1949, he obtained a Master of Public Health Degree from Johns Hopkins University School of Hygiene and Public Health.

Mr. Brown began his career in 1936 as a chemical engineer with the Division of Industrial Hygiene of the South Carolina State Board of Health where he worked with an industrial hygiene physician. Mr. Brown was responsible for performing a complete survey on a large sampling basis, including dust studies, of South Carolina industries and developing information of any existing or suspected industrial hygiene problems.

In January, 1942, Mr. Brown was employed as the Chief of Industrial Hygiene Services for the Health Division of the City of St. Louis, Missouri. In 1949, he accepted a position on the faculty of the School of Public Health at Yale University where he taught public and occupational health. In 1951, Mr. Brown joined the Maryland State Department of Health to facilitate the development of the Maryland Bureau of Industrial Hygiene. Mr. Brown accepted a position with the National Sanitation Foundation in Ann Arbor, Michigan in 1965. In 1967, he became the president of the National Sanitation Foundation and remained in that capacity until his retirement in 1980.

Mr. Brown was a charter member and organizer of the National Conference of Governmental and Industrial Hygienists (NCGIH), established in or around 1938. This organization later changed its name to the American Conference of Governmental and Industrial Hygienists (ACGIH). Mr. Brown served as a member of this organization's Executive Committee, Constitutional Review Committee and Industrial Hygiene Codes Committee. The latter committee was responsible for establishing maximum allowable concentrations (MAC) and threshold limit values (TLV). In 1946, the Subcommittee on Threshold Limits of the ACGIH recommended a MAC for asbestos of 6 million particles per cubic foot of air.

Mr. Brown was also a member of the American Industrial Hygiene Association (AIHA). This organization also proposed TLV's and MAC's which were published as Hygiene Standards in the April, 1958 issue American Industrial Hygiene Association Journal and recommended maximum atmospheric concentrations for asbestos over 8 hours of 5 million particles per cubic foot of air. This publication also listed potential hazards of asbestos which noted that in addition to asbestosis there had been reports of an increased risk of lung cancer.

On the basis of Mr. Brown's personal knowledge of the facts surrounding the adoption of asbestos exposure standards, his training and experience in the areas of industrial hygiene and his review of the literature, Mr. Brown will testify by videotape or deposition, with regard to the composition of the membership of the ACGIH and its predecessors, the NCGIH and the AIHA. Mr. Brown will also testify by videotape or deposition, with regard to the facts and circumstances surrounding the proposal and adoption of the asbestos standards and his involvement in these processes. In addition, Mr. Brown may testify by videotape or deposition, with regard to the state of industrial hygiene knowledge during the 1930's, 1940's and 1950's.

Mr. Brown will further base his testimony on the available medical and scientific literature, applicable statutes and regulations, his own training and experience, the opinions and reports of other experts named or to be named by ASARCO or any other party, whether live or by deposition, the testimony of all other witnesses named or to be named by ASARCO or any other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

13. Leonard J. Bristol, M.D., Hull Road, Rainbow Lake, NY. Dr. Bristol received his M.D. in 1944 from the Long Island College of Medicine. From 1944 to 1945 he had a general rotating internship at St. Catherine's Hospital in Brooklyn, New York. From July, 1945 to April, 1946, he was a resident in radiology at the Long Island College Hospital. From 1946 to 1948, Dr. Bristol was a radiologist at the United States Naval Hospital, National Naval Medical Center in Bethesda, Maryland. During that period of time, he also served as a full-time fellow in the Department of Radiology at the Johns-Hopkins University Medical School. He was certified by the American College of Radiologists in 1949. In 1949, he assumed a full-time position as a radiologist at the Trudeau Sanatorium and the Saranac Lake Laboratory where he remained through the end of 1978. Dr. Bristol has been engaged in the practice of radiology at the General Hospital in Saranac Lake, the Placid Memorial Hospital in Lake Placid, the Alice Hyde Hospital in Malone, New York and was a member of the Department of Radiology at the Edward L. Trudeau Foundation through 1978.

Since 1949, approximately 50 percent of Dr. Bristol's practice involved chest diseases and 25 to 30 percent of his overall practice involved occupational lung disease. He has reviewed several hundred thousand films of workers with occupational lung disease. Dr. Bristol was instrumental in the development of the ILO/UICC classifications for asbestos-related diseases.

On the basis of Dr. Bristol's knowledge, training and experience as a radiologist and his personal knowledge of the research and experiments conducted by the Trudeau Foundation and Saranac Laboratories, Dr. Bristol may testify by deposition or videotape as to the general radiological characteristics and diagnosis of asbestos-related diseases.

Dr. Bristol will further base his testimony on the available medical and scientific literature, applicable statutes and regulations, his own training and experience, the opinions and reports of other experts named or to be named by ASARCO or any other party, whether live or by deposition, the testimony of all other witnesses named or to be named by ASARCO or any

other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

14. Wallace T. Miller, M.D., 3400 Spruce Street, Philadelphia, PA. Dr. Miller is board certified in radiology. Dr. Miller is also a NIOSH certified B Reader. Dr. Miller will testify generally as to his background, training and experience. Dr. Miller will testify as to his knowledge of radiology and its application in assisting the diagnoses of asbestos-related diseases. He will further testify as to the general medical issues concerning the development, cause, and diagnosis of asbestos-related disease and/or other diseases that may mimic asbestos-related diseases radiographically. Dr. Miller will testify as to his review of Plaintiff's medical and radiological records, reports and/or films. He will testify concerning whether they are diagnostic of asbestos-related disease, including asbestosis or other asbestos-related pleural conditions.

Dr. Miller may base his testimony on the available medical and scientific literature, his own training and experience, the opinions and reports of other experts named or to be named by ASARCO or any other party, whether live or by deposition, the testimony of all other witnesses named or to be named by ASARCO or any other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

ASARCO reserves the right to seek leave of court to call experts who may have to be substituted for experts on this list who become unavailable. ASARCO further reserves the right to call additional expert witnesses for the purpose of rebuttal or impeachment, if necessary at the time of trial.

The general description of the area of expertise for each expert's anticipated testimony is not intended to limit such testimony, but is merely an indication of the broad areas in which they may offer testimony. ASARCO reserves the right to supplement these designations up to the time of trial.

(g) any discoverable indemnity and insuring agreements:

Until ASARCO learns more about Plaintiff's alleged exposure at its El Paso facility, a meaningful response cannot be made to this request. Once such exposure information is received, ASARCO will investigate further, and responsive information, if any, will be supplied if, and when, it is obtained.

As ASARCO's investigation of Plaintiff's claim is ongoing, ASARCO's right to amend and/or supplement its response to this request is expressly reserved.

(h) Any Discoverable Settlement Agreements:

None are known at this time. As ASARCO's investigation of Plaintiff's claim is ongoing, ASARCO reserves the right to amend and supplement this response.

(i) any discoverable witness statements:

None are known at this time. As ASARCO's investigation of Plaintiff's claim is ongoing, ASARCO's right to amend and supplement its response to this request is expressly reserved.

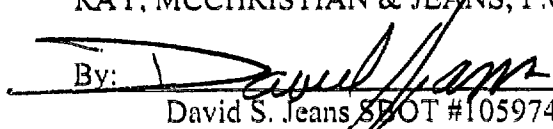
(j) In a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills:

Not applicable to the Defendant.

(k) in a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party:

None at this time. As ASARCO's investigation of Plaintiff's claim is ongoing, ASARCO's right to amend and supplement its response to this request is expressly reserved.

RAY, MCCHRISTIAN & JEANS, P.C.

By: 

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Of Counsel:

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Morristown, New Jersey 07962-1997
(973) 538-4006 FAX: 538-5146

Attorneys for Defendant.

ASARCO Incorporated, formerly known
as American Smelting and Refining
Company

CERTIFICATE OF SERVICE

I hereby certify that true and correct copy of the foregoing was sent by facsimile to all counsel of record on the following service list on the 5 day of September, 2001.


DAVID S. JEANS

SERVICE LIST FOR AGUILERA

Nicole Brown Kennedy	214/520-1181	Plaintiffs
Roberto Oaxaca	544-7349	Plaintiffs
Mel D. Bailey	214/210-2500	Georgia Pacific
Gregory Bevel	214/659-4401	Rapid American Corp.
Richard L. Forman	601/960-8613	Uniroyal Holding
Thomas F. Dougall	803/788-6767	Proko Industries, Inc.
Gary D. Elliston	214/210-2500	GAF Corp; U.S. Gypsum; Armstrong Work Industries' Asbestos Claim Management, Quigley Company; Gasket Holding, Inc., Dana Corp. U.S. Mineral, Certainteed Corp., T&N Plc
Francis G. Harmon, III	713/752-8618	Crown Cork & Seal
James M. Harris, Jr.	409/833-4240	Flintkote Co.
Kathy Hermes	214/210-2500	Synkoloid
John L. Hill	713/223-3717	Metropolitan Life
Jerome Kacal, Jr.	713/980-9153	ACandS, Inc.
Patricia Kelly	956/428-2954	W.R. Grace
Ken Meyer	973/538-5146	Asarco, Inc.
David Ledyard	409/981-1010	Chevron
David Livingston	281/876-3599	Aqua-Chem, Inc.
D. Ferguson McNiel	713/615-5493	North American Refractories, Co.
Lewis C. Miltenberger	817/820-0373	Harbison-Walker Refractories Company f/k/a Indresco, Inc. & A.P. Green Industries, Inc. f/k/a A.P. Green Refractories, Company, a subsidiary of U.S. Gypsum Company
Jeffery Mundy	512/494-8318	Owens Corning
Russell Nunnally	214/ 740-1499	Kaiser Aluminum Chemical Corp.
James H. Powers	713/767-1799	Pittsburgh Corning Corp.
W. Neil Rambin	214/651-4330	General Refractories Co.
Stephen Rice	713/655-9212	Texaco
James Riley, Jr.	713/651-0220	Foster Wheeler Energy Corp.
James Rush	915/363-9121	
Mark Schaffer	713/626-1388	Union Pacific Railroad

Michael D. Stell
David M. Taylor
Carlos Villa
Todd N. Wade
R. Mark Willingham

546-8333 Phelps Dodge Refining
214/871-8209 3M
915/532-2041 Garlock; The Anchor Packing Co.
713/426-1846 Kelly-Moore
713/426-1717 Asten Group, Inc.

IN THE COUNTY COURT AT LAW NUMBER THREE
EL PASO COUNTY, TEXAS

PABLO AGUILERA, ET AL.

Plaintiffs,

v

GAF CORPORATION, ET AL.,

Defendants.

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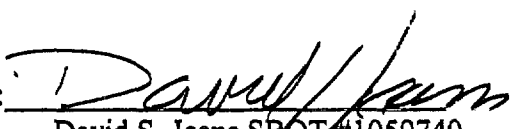
CAUSE NO. 2000-2113

CERTIFICATE OF WRITTEN DISCOVERY

Defendant hereby certifies to the Court that Defendant ASARCO Incorporated's Supplemental Response to Plaintiff Baeza's Request for Disclosure, in the above-referenced cause, has been properly served upon Plaintiff.

Respectfully Submitted,

RAY, MCCHRISTIAN & JEANS, P.C.

By: 

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ASARCO Incorporated, formerly known
as American Smelting and Refining Co.

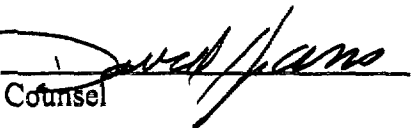
CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 21, T.R.C.P., on the above date a true and correct copy of the foregoing instrument was delivered as follows:

See Attached Service List

Delivered Via:

- ☐ Facsimile
- ☐ Certified Mail
- ☐ Regular Mail
- ☐ Hand Delivery
- ☐ Overnight Mail

By 
Of Counsel

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