

NO. A153112



DONALD WOODROW DEVINE, et al.,) IN THE DISTRICT COURT
)
)
Plaintiffs,)
)
v.) FOR JEFFERSON COUNTY, TEXAS
)
)
OWENS-CORNING FIBERGLAS)
CORPORATION, et al.,)
)
)
Defendants.) 58TH JUDICIAL DISTRICT

**INITIAL RESPONSES OF DEFENDANT NORFOLK
SOUTHERN RAILWAY COMPANY TO PLAINTIFF
JAMES EDWARD COLAGROSS' REQUESTS FOR PRODUCTION**

Defendant Norfolk Southern Railway Company ("NSRC") f/k/a/ Southern Railway Company, for its responses to Plaintiff James Edward Colagross' ("Colagross") Requests for Production of Documents, states as follows:

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

NSRC has no knowledge regarding Colagross' alleged employment by it. Colagross has supplied NSRC with information regarding the years of Colagross' alleged employment, but has not supplied information regarding the craft involved, or the specific locations where Colagross allegedly worked. NSRC has not located any employment information to support the allegation that James C. Colagross was employed by it. Accordingly, at this time NSRC is unable to respond to any of these requests for production of documents.

NSRC's investigation is continuing and should additional information surface, or should plaintiff supply NSRC with proof of employment, including time, place and craft, supplemental responses will be submitted. NSRC objects to responding to these requests in regard to any

period of time other than the period during which it allegedly employed Colagross and further objects to providing information about geographic locations and operating units within its system other than those at which and for whom Colagross supposedly worked. The bases for such objections are that any responses would be irrelevant to the subject matter of the pending litigation, would not be reasonably calculated to lead to the discovery of admissible evidence, and would be burdensome and oppressive.

OBJECTIONS TO COLAGROSS' DEFINITIONS

NSRC objects to the definitions supplied by Colagross to the extent that they cause such requests to exceed the scope of the Texas Rules of Civil Procedure and attempt to alter applicable statutory and case law. NSRC also objects to these definitions on the bases that they are overbroad, vague, and often inconsistent with the normal usage and meaning of such words. NSRC therefore gives notice that it does not consider itself bound by the definitions propounded by Colagross and instead has responded to these requests in a manner consistent with the normal understanding of the language used in each request and to the extent necessary to fairly and fully respond each request.

OBJECTIONS TO 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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to

this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever.

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever.

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever.

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(s).

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome due to the time period involved. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome due to the period of time involved. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead

to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 16: Produce any and all documents reflecting in any way any inspections by labor inspectors, insurance company inspectors or anyone from Defendant's company or hired by Defendant where asbestos-containing products were being used or installed and that included the taking 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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome due to the time period involved. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. Subject to and without waiving these objections, NSRC responds as follows: Documents identified in answer to Colagross' interrogatories within NSRC's care, custody, or control, if any, will be produced to counsel for Colagross at a mutually agreeable time and location pursuant to the Texas Rules of Civil Procedure.

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 her in formulating his or her opinions and conclusions on this case, including all learned treatises (texts, articles, studies, monographs, etc.) and consultant expert work product which forms the basis, in whole or in part, of the witness(es)' opinions or which he or she believes substantiates or corroborates his or her conclusions regarding this lawsuit.

RESPONSE:

NSRC objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. Subject to and without waiving these objections, NSRC responds as follows: NSRC has not yet hired an expert witness to appear and testify at the trial of this cause.

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

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has few restrictions.

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. NSRC also objects to this request for the reason that it constitutes an invasion of personal and property rights by seeking the production of proprietary and confidential information. NSRC also objects to this request for the reason that it could not lead to the discovery of admissible evidence. Punitive damages are not available in FELA actions.

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to

this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. NSRC also objects to this request to the extent that it seeks information that is equally available to and/or better known to Colagross than to NSRC. Subject to and without waiving these objections, NSRC responds as follows: Any medical records which relate to Colagross and have been obtained through medical authorizations supplied by Colagross will be produced to counsel for Colagross, for the cost of copying.

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 27: Provide a copy of all documents regarding safety, safety training and/or safety meetings provided to or for the benefit of Plaintiff and other railroad workers to asbestos or asbestos-containing products on the railroad. Include any documents given out at such safety meetings and copies of the minutes of or notes from all

safety meetings held for the benefit of the employees or crew members that worked on the railroad in the last thirty-five (35) years.

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome due to the time period involved. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome due to the time period involved. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead

to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has few restrictions. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has few restrictions.

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

NSRC objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. Subject to and without waiving these objections, NSRC responds as follows: NSRC has not yet hired an expert witness to appear and testify at the trial of this cause.

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.

RESPONSE:

NSRC objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. Subject to and without waiving these objections, NSRC responds as follows: NSRC has not yet hired an expert witness to appear and testify at the trial of this cause.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, the investigatory privilege, and the privilege encompassing witness statements. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

NSRC objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. Subject to and without waiving these objections, NSRC responds as follows: Although such documents may be used at the time of trial, NSRC has neither prepared nor is aware of the identity of such documents.

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:

NSRC objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. Subject to and without waiving these objections, NSRC responds as follows: NSRC has not yet hired an expert witness to appear and testify at the trial of this cause.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever and is propounded merely to annoy and harass NSRC. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. NSRC also objects to this request to the extent that it seeks information that is equally available to and/or better known to Colagross than to NSRC.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome due to the time period involved. NSRC also objects to this

request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure.

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

RESPONSE:

NSRC objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. Subject to and without waiving these objections, NSRC responds as follows: NSRC has not yet hired an expert witness to appear and testify at the trial of this cause.

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

RESPONSE:

See Preliminary Statement and General Objections. NSRC also objects to this request to the extent it seeks information protected by the privilege, including but not limited to, the attorney-client privilege, the attorney work-product doctrine, the party-communications privilege, and the investigatory privilege. NSRC also objects to this request to the extent it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. NSRC also objects to this request because it is overly

broad and unduly burdensome in that it has no restrictions whatsoever. NSRC also objects to this request to the extent it calls for information beyond the scope of discovery permitted under the Texas Rules of Civil Procedure. Subject to and without waiving these objections, NSRC responds as follows: Any medical records which relate to Colagross and have been obtained through medical authorizations supplied by Colagross will be produced to counsel for Colagross, for the cost of copying.

JACKSON & WALKER, L.L.P.

By: Michelle DeVoe

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ATTORNEYS FOR DEFENDANT NORFOLK
SOUTHERN RAILWAY COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was served by certified mail, return receipt requested, to Kimberly A. Castales, Baron & Budd, The Centrum, Suite 1100, 3102 Oak Lawn Avenue, Dallas, Texas 75219-4281, on this the 21st day of January, 1997.

Michelle DeVoe
Michelle M. DeVoe