

NO. 96-3062

**BRUCE D. DAVIS and JAMES R. DAVIS,
Individually and as Personal Representatives
of the Heirs and Estate of FRANKIE GENE
DAVIS, Deceased, et al.**

Plaintiffs,

VS.

**OWENS-CORNING FIBERGLAS
CORPORATION, et al.,**

Defendants.

IN THE COUNTY COURT

AT LAW NUMBER 3

EL PASO COUNTY, TEXAS

**DEFENDANTS' SOUTHWESTERN BELL TELEPHONE COMPANY AND
SBC COMMUNICATIONS INC.'S OBJECTIONS TO PLAINTIFFS'
FIRST AMENDED DEPOSITION NOTICE FOR DR. SAM CADE, JR.
AND SUBPOENA DUCES TECUM**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME, Defendants Southwestern Bell Telephone Company and SBC Communications Inc. (hereinafter "Defendants"), and file these Objections to Plaintiffs' First Amended Deposition Notice for Dr. Sam Cade, Jr. and Subpoena Duces Tecum:

A. Defendants Produced the Materials that Dr. Cade has Relied Upon in Accordance with the Scheduling Order.

Plaintiffs issued the attached deposition notice for Dr. Sam Cade, Jr. and Subpoena Duces Tecum on March 19, 2001. See Exhibit "A." This deposition was scheduled by agreement of the parties. This Court entered an Order in January 2001, mandating that all parties produce 48 hours in advance of any expert deposition, all materials that any expert witness has relied upon in forming the opinions he/she will express. See Exhibit "B." On March 14, 2001, Defendants

**DEFENDANTS' OBJECTIONS TO PLAINTIFFS' FIRST AMENDED DEPOSITION NOTICE FOR
DR. SAM CADE, JR. AND SUBPOENA DUCES TECUM - Page 1**

produced all pertinent materials to Plaintiffs in compliance with the Scheduling Order.

B. Plaintiffs' Deposition Notice Exceeds the Scope of Permissible Discovery

Plaintiffs' deposition notice and subpoena duces tecum violates Rule 195 of the Texas Rules of Civil Procedure which limits expert discovery to the disclosure requirements of Rule 194 and to Rule 195 depositions. Rule 195.1, Tex. R. Civ. Pro. By producing the documents that Dr. Cade has relied upon in forming his opinions in this case, Defendants are in compliance with Rule 194 and Rule 195.

C. If Rule 199 Does Apply, Plaintiffs' Deposition Notice Does Not Provide 30 Days' Notice for the Production of Documents.

Plaintiffs' deposition notice is issued pursuant to Rule 199.3. Accepting that an expert deposition may be noticed pursuant to Rule 199.3 for the sake of argument, the notice is nevertheless deficient because it fails to provide the notice required by Rule 205.3(a). Rule 205 governs discovery from non-parties and requires that any document request served in connection with a deposition notice be served no later than 30 days before the deposition. Exhibit "A" was faxed to Defendants on March 19, 2001 and is not deemed served until March 23, 2001, two days after the scheduled deposition. Therefore, Defendants are not obligated to produce any documents responsive to the subpoena duces tecum on March 21, 2001, the date of Dr. Cade's deposition.

D. Defendants' Objections to the Subpoena Duces Tecum

Defendants object to request numbers 2, 4, 5, 6, 8, 9 and 11 because they are overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, unlimited in time and scope, and seek materials irrelevant to this case. Accordingly,

these requests are not reasonably calculated to lead to the discovery of admissible evidence.

WHEREFORE, PREMISES CONSIDERED, Defendants request that its Objections to the Deposition Notice for Dr. Sam Cade, Jr. and Subpoena Duces Tecum be sustained and for any additional relief to which Defendants are entitled.

Respectfully submitted,



Robert E. Thackston
State Bar No. 00785487

JENKENS & GILCHRIST
a Professional Corporation
1445 Ross Avenue, Suite 3200
Dallas, Texas 75202
(214) 855-4500
(214) 855-4300 (fax)

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Objection to the Deposition Notice and Subpoena Duces Tecum for Dr. Sam Cade, Jr., has been sent via facsimile to counsel for Plaintiffs, Holly Huart and Stephanie A. Finch, Baron & Budd, The Centrum, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219 on this the 19th day of March, 2001.


R. Robert Garcia

Exhibit “A”

BARON & BUDD
A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS
THE CENTRUM
3102 OAK LAWN AVENUE
SUITE 1100
DALLAS, TEXAS 75219-4251
(214) 521-3605
TELECOPIER (214) 520-1181

To: Craig S. Wolcott
Company
Fax number: 2149697174
Subject: FW: frankie gene davis case

Date: 03/19/01
Total number of pages: 11
From: Laurie Harris
Company: Baron & Budd, P.C.

Ltr dated 3/19/01 from Stephanie Finch transmitting Plaintiffs' Notice of Taking Deposition and SDT for Dr. Morton Corn on 3/28/01 @ 10:00 in Baltimore, Maryland, First Amended Notices of Taking Deposition and SDT for Dr. Gail Stockman and Dr. Sam Cade on March 20th and 21st respectively.

-----Original Message-----

From: lh [mailto:lh]
Sent: Monday, March 19, 2001 10:51 AM
To: lharris@baronbudd.com
Subject: frankie gene davis case

Please open the attached document
This document was sent to you using an HP Digital Sender

Sent by: <lh>
Number of pages: 10
Document type: B/W Document
Attachment File Format: MTIFF

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Notice of Confidentiality

The information contained in and transmitted with this facsimile is either subject to the Attorney-Client privilege, Attorney work product, or confidential and is intended only for the individual or entity designated above. You are hereby notified that any dissemination, distribution, copying, or use of or reliance upon the information contained in and transmitted with this facsimile by or to anyone other than the recipient designated above by the sender is unauthorized and strictly prohibited. If you have received this facsimile in error, please notify Baron & Budd by telephone at 214-521-3605 immediately. Any facsimile erroneously transmitted to you should be immediately returned to the sender by U.S. Mail, or if authorization is granted by the sender, destroyed.

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BRUCE D DAVIS and JAMES R. DAVIS,
Individually and as Personal Representatives of the
Heirs and Estate of FRANKIE GENE DAVIS,
Deceased;
Plaintiffs,

Plaintiffs,

VS.

OWENS-CORNING FIBERGLAS
CORPORATION; et al,

Defendants.

IN THE COUNTY COURT

EL PASO COUNTY, TEXAS

COUNTY COURT AT LAW # 3

TO: ALL COUNSEL OF RECORD in the above-styled and numbered cause of action.

FIRST AMENDED NOTICE OF TAKING DEPOSITION AND SUBPOENA DUCES TECUM
NABIL DAVIS EGUEL-PL-1A-DA1stamendedcadedepositionwtd0319.wpd

Respectfully submitted,

BARON & HUDD, P.C.
3102 Oak Lawn Ave., Suite 1100
Dallas, Texas 75219-4281
214/521-3605 telephone
214/520-1181 facsimile

By: 

HOLLY J. W. HUART
Texas State Bar No. 10131430
STEPHANIE A. FINCH
Texas State Bar No. 24007180

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The above and foregoing has been served upon all counsel of record via facsimile on the 19th day of March, 2001.



HOLLY J. W. HUART
STEPHANIE A. FINCH

SUBPOENA DUCES TECUM

The items to be produced by the deponent at this deposition are as follows:

1. Current resume and curriculum vitae.
2. All publications relied upon by deponent in formulating any opinions to be offered in this litigation.
3. A copy of all publications, books, articles, etc., authored by deponent, alone or in collaboration. Only if copies are not available deponent than shall produce a bibliographic listing of all such publications, books and articles.
4. All reports summaries, forecasts, narratives, charts, tables, video or audio records, photos, etc., prepared by deponent as a result of any tests, investigations, or analyses conducted concerning the subject matter of this lawsuit.
5. All books, guidelines, checklists, articles, publications or other materials consulted by deponent during any such tests, investigations, or analyses or in the preparation of any reports, summaries, forecasts, narrative, charts, tables, video or audio records, etc.
6. Deponent's complete file and all documents that you have been provided, reviewed, received, written or prepared relating to any aspect of this lawsuit, to include pleadings, depositions, correspondence, time records or time sheets, billing statements, handwritten notes, and telephone call slips.
7. A report by deponent stating the subject matter on which he will testify, all facts known by him, his mental impressions, and all opinions held by deponent in this case.
8. All documents, tangible things used, prepared, referred to, tangible reports, physical models, compilations of data and other material prepared by the deponent or for the deponent in anticipation of such expert's anticipated trial and/or deposition testimony.
9. Any photographs or video recordings, relating to the subject matter of this lawsuit that deponent has taken, been provided or reviewed.
10. A copy of all documents relied upon or consulted in formulating any opinions to be offered at the trial of this cause.
11. All correspondence, bills, memoranda, or other documents sent by deponent to any Defendant in this case or received by deponent from any Defendant in this cause.
12. All copies of any reports created by the deponent concerning this case.

Exhibit “B”

NO. 96-3062

BRUCE D. DAVIS and JAMES R. DAVIS,
Individually and as Personal Representatives
of the Heirs and Estate of FRANKIE GENE
DAVIS, Deceased, et al.

Plaintiffs,

v.

OWENS-CORNING FIBERGLAS
CORPORATION, et al.,

Defendants.

COUNTY COURT AT LAW NO. 3

OF EL PASO COUNTY, TEXAS

SUPPLEMENTAL SCHEDULING
ORDER OF JANUARY 16, 2001

The Court enters the following Order in connection with discovery and pre-trial in the
referenced matter:

1. By January 30, 2001, Defendant Southwestern Bell Telephone Company
("SWBT") will designate a corporate representative to testify about matters A
through K of Plaintiffs' deposition notice. By February 6, 2001, Plaintiffs will
depose this individual by said date. In addition, SBC or SWBT must designate a
corporate representative to discuss the corporate structure as it relates to the
relationships among Mountain States Bell Company, SWBT, SBC and AT&T, by
January 30, 2001.
2. On February 6, 2001, SBC, Inc. will produce a corporate representative to discuss
the corporate structure as it relates to the relationships among Mountain States
Bell Company, SWBT, SBC and AT&T.
3. On February 19, 2001, Plaintiffs will produce Dr. Richard Lemen for deposition.

4. On February 23, 2001, Plaintiffs will produce Dr. Hector Batifora for deposition.
5. On February 26, 2001, Plaintiffs will produce Dr. William Longo for deposition in Dallas, Texas.
6. As to all expert witnesses, each party will produce, no later than 48 hours before the commencement of the deposition, reports prepared by and materials relied upon by such expert in forming his opinions and all materials responsive to a properly served deposition notice and subpoena duces tecum.
7. Within 10 days from the entry of this order, Plaintiffs will supplement and answer in full all outstanding discovery previously propounded on Plaintiffs by Defendants SWBT and SBC, including interrogatories, requests for admission and requests for production.
8. Defendant Southwestern Bell Telephone will produce the following fact witnesses on these dates:
 - A. Dr. Marcus Bond on February 9, 2001 in Golden, Colorado.
 - B. Bud Dailey will not be allowed to testify unless Defendants produce Bud Dailey for deposition by February 21, 2001.
 - C. Gladys Haacker on February 6, 2001 in San Antonio, Texas.
9. The Plaintiffs will produce the following fact witnesses on these dates:
 - A. Pat Anderson on January 29, 2001 at 1:30 p.m. in El Paso, Texas.
 - B. Felix Benavides on February 14, 2001 at 9:00 a.m. in El Paso, Texas.
 - C. James Stuckey on January 29, 2001 at 9:00 a.m. in El Paso, Texas.

D. Antonio Zúbia on February 14, 2001 at 1:30 p.m. in El Paso,
Texas.

E. Alberto Lopez on February 15, 2001 at 1:00 p.m. in El Paso,
Texas.

10. The Defendants will identify their expert witnesses no later than March 10, 2001.
11. The Defendants will produce their expert witnesses for deposition no later than March 15, 2001.

Signed and entered this _____ day of _____, 2001.

Judge

APPROVED AS TO FORM:



ENRIQUE MORENO
Attorney for Plaintiffs

with changes



CARLOS RINCON
Attorney for Southwestern Bell Telephone Company
and SBC Communications, Inc.

NO. 96-3062

**BRUCE D. DAVIS and JAMES R. DAVIS,
Individually and as Personal Representatives
of the Heirs and Estate of FRANKIE GENE
DAVIS, Deceased, et al.**

Plaintiffs,

vs.

**OWENS-CORNING FIBERGLASS
CORPORATION, et al.,**

Defendants.

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 2. **Summarize the main idea in your own words.**
 3. **Identify the author's purpose.**
 4. **Identify the main supporting details.**
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IN THE COUNTY COURT

AT LAW NUMBER 3

EL PASO COUNTY, TEXAS

**SOUTHWESTERN BELL TELEPHONE COMPANY'S
FOURTH AMENDED RESPONSE TO PLAINTIFFS' REQUESTS FOR DISCLOSURE**

COMES NOW, Defendant Southwestern Bell Telephone Company ("SWBT") and pursuant to TEX. R. CIV. PRO. 193, 194, and 195, files these Fourth Amended Responses to Plaintiffs' Requests for Disclosure as follows:

- (a) the correct names of the parties to the lawsuit;

ANSWER: Southwestern Bell Telephone Company

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

ANSWER: Based on developing evidence in this case, Plaintiffs perhaps should have sued Mountain States Bell or AT&T.

- (c) the legal theories and, in general, the factual basis of the responding party's claims or defense;

ANSWER:

Based on discovery conducted to date, SWBT states that it may assert the following legal theories or defenses:

- 1) Lack of medical causation. SWBT states that until it has had sufficient opportunity to examine and/or evaluate through additional physician(s) Plaintiff's Decedent's alleged asbestos-related disease, SWBT contends that Decedent's injuries were either not caused by asbestos or caused by asbestos to which he was exposed while not working for the Defendant.
- 2) Lack of exposure to asbestos while employed by SWBT. Decedent was not exposed to asbestos in sufficient quantities, if he was exposed at all, during his employment with SWBT. Decedent's position as a repair technician caused him to work on customer premises that SWBT had no right or opportunity to control and where he had little or no exposure to asbestos. SWBT's safety practices established for its employees complied with applicable OSHA regulations and any other applicable laws. SWBT acted in accordance with applicable laws, regulations, and safety practices with regard to Mr. Davis and his work for SWBT. SWBT was not grossly negligent and is not otherwise liable to the Plaintiffs.
- 3) This Defendant is not responsible for the conduct alleged against Mr. Davis' employer between 1956 and 1978.

(d) the amount and any method of calculating economic damages;

ANSWER: Not applicable to SWBT.

(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;

ANSWER:

1. William J. Edens
Southwestern Bell Telephone
2308 Jim Dent Rd.
El Paso, Texas 79936
915-591-4630

Mr. Edens, a retired Manager Installation & Repair, worked for SWBT and before that,

Mountain States Bell, for 35 years. He will testify regarding the nature of work performed by Frankie Davis during his career and working conditions at various residential, commercial and industrial job sites. Additionally, he will testify to work and safety practices employed by the telephone company and premises owners of various commercial and industrial job sites between 1965 and 1990. Also, he will testify regarding the layout of various commercial and industrial job sites and identify where a telephone company employee might provide telephone service. Additionally, he will testify regarding Frankie Davis' alleged exposure to and use of asbestos-containing products as a telephone company employee. Further, he may testify regarding the corporate relationship and dealings among SWBT, Mountain States Bell, AT&T and any other former Bell System entity. See his deposition taken in this case.

2. Jose A. Marquez
Southwestern Bell Telephone
821 Southwestern
El Paso, Texas 79912
915-585-5822

Mr. Marquez, Manager Installation & Repair, has worked for SWBT and before that, Mountain States Bell for 29 years. He will testify regarding the nature of work performed by Frankie Davis during his career and working conditions at various residential, commercial and industrial job sites. Additionally, he will testify to work and safety practices employed by the telephone company and premises owners of various commercial and industrial job sites between 1971 and 1990. Also, he will testify regarding the layout of various commercial and industrial job sites and identify where a telephone company employee might provide telephone service. Additionally, he will testify regarding Frankie Davis' alleged exposure to and use of asbestos-containing products as a telephone company employee. Further, he may testify regarding the corporate relationship and dealings among SWBT, Mountain States Bell, AT&T and any other former Bell System entity. He may testify regarding the corporate conduct of SWBT and any other provider of telephone services. See his deposition taken in this case.

3. David Garcia
Southwestern Bell Telephone
500 Texas Rm. 330
El Paso, Texas 79901
915-521-6640

Mr. Garcia, Area Manager Installation & Repair, has worked for SWBT and before that, Mountain States Bell for 24 years. He will testify regarding the nature of work performed by Frankie Davis during his career and working conditions at various residential, commercial and industrial job sites. Additionally, he will testify to work and safety practices employed by the telephone company and premises owners of various commercial and industrial job sites between 1976 and 1990. Also, he will testify regarding the layout of various commercial and industrial job

sites and identify where a telephone company employee might provide telephone service. Additionally, he will testify regarding Frankie Davis' alleged exposure to and use of asbestos-containing products as a telephone company employee. Further, he may testify regarding the corporate relationship and dealings among SWBT, Mountain States Bell, AT&T and any other former Bell System entity. See his deposition taken in this case.

4. Marcus Bond, M.D.
1711 Arbutus Street
Golden, Colorado 80401
303-232-7832

The witness is expected to offer opinions regarding the merits of Plaintiffs' claims and the defenses offered by SWBT, including opinions on liability, damages, and causation issues. The witness is expected to testify that any asbestos exposure of Davis allegedly occurring as an employee of SWBT was not the cause, nor did it contribute to cause Davis' alleged injuries. The witness may testify that some other exposures to asbestos, was the cause of the mesothelioma, injuries, damages and death alleged herein. The witness may testify as to the "state of the art," and medical & scientific literature availability and content. Dr. Bond has worked for both AT&T, former parent of SWBT, and Mountain States Bell, and will offer opinions on their policies, procedures and conduct. He may also offer opinions on the Davis' jobs, his alleged exposure to asbestos, phone company work, the spectrum of hazards and occupational concerns relevant to the telephone company. He may compare the developing knowledge regarding asbestos hazards, such as textile mill studies in the 1930s and shipyard studies in the mid 1960s and how the products, doses, diseases and jobs studied compare or contrast with Plaintiffs claims in this case. He may further testify about occupational medicine, medical & scientific literature, "state of the art," disease and causation. Further, he may testify regarding the corporate relationship and dealings among SWBT, Mountain States Bell, AT&T and any other former Bell System entity. He may testify as to any other matter raised by experts called by Plaintiffs or any other matter which he may be so qualified to testify. See his deposition taken in this case.

5. Morton Corn, M.D.
The Johns Hopkins University
3208 Bennett Point Road
Queenstown, Maryland 21658-1126

The witness may testify concerning regulatory requirements for the health and safety of workers exposed to asbestos, including OSHA, EPA and other state and federal requirements pertaining to asbestos. He may be asked to testify concerning the actions of SWBT, or any other entity at issue in this case or any others similarly situated under the same or similar circumstances existing at all times material to this case. He may testify about his knowledge of the processes involved in construction and federal and state standards applicable to employers, contractors and premises owners. The witness may testify concerning the potential hazards of different types of

asbestos, when such hazards were known or knowable by different segments of trade and industry. He may testify about industrial hygiene publications and literature from the 1940s to the present. He may also testify generally about the concept of dose-response, the evolution and use of threshold limit values and the knowledge that the telephone industry, contractors and premises owners had available to them during certain time periods. He may also testify regarding relative risk and OSHA risk models. He may testify about the nature of the working environments and the control and use of substances in such locations. He may testify about his knowledge of the composition and asbestos content, if any, of the products alleged to have been used by or around telephone company employees while performing telephone repair and installation, the ability of such products to emit asbestos fibers under certain conditions and the likelihood that Davis inhaled these fibers. The witness may also testify regarding the reasonableness of the corporate response of SWBT and others similarly situated concerning the potential hazards of asbestos usage and safety of workers under the same or similar circumstances. He may testify about the size, construction, layout and working environment of facilities where Davis worked. The witness may testify about the appropriateness of any telephone company's policies, procedures or actions with respect to health and safety and the significance of asbestos to those health and safety concerns. He may testify that telephone company actions with respect to any asbestos hazards posed to their workers were appropriate, not negligent or grossly negligent. He may also testify about epidemiology of asbestos-related disease, and the general scientific and medical literature on the topic. He will testify about the cohorts structured and that, between the late 1950s and the late 1970s, there were no epidemiological studies of any cohort similar to telephone company workers that showed any increased risk of asbestos-related disease. The witness may do research, gather facts, inspect the premises in question, and review relevant scientific and medical literature. He will testify regarding toxicology, engineering and industrial hygiene generally and particularly as they relate to alleged asbestos fiber exposure under different conditions, including the facts of this case. He may respond to testimony given by Plaintiffs' experts regarding any industrial hygiene issue including product testing and levels of asbestos that may be present in any given industrial, commercial or residential environment. He may testify as to any matter raised by experts called by Plaintiffs or any other matter which he may be qualified to testify.

6. Carlton "Bud" Dailey
10035 South Marlene
Affton, Missouri 63123

Mr. Dailey, a retired General Plant Training Supervisor, worked for SWBT and before that, Mountain States Bell for over 30 years. He is knowledgeable of SWBT's practices and procedures and safety rules and regulations. He may testify as to the many safety and health concerns that confronted telephone company employees and interaction between AT&T and regional operating telephone companies. Further, he may testify regarding the corporate relationship and dealings among SWBT, Mountain States Bell, AT&T and any other former Bell System entity. He may testify regarding any other matter relevant to phone company work that arises in this case. See his deposition taken in this case.

7. Herman Dean Goolsby
5329 Temple
El Paso, Texas
915-779-5068

He may testify about work practices and procedures and the customary practices among contractors and construction trades in the El Paso area in the 1960s and 1970s. See his deposition taken in this case.

8. Patrick Anderson
1000 Worsham
El Paso, Texas 79927
915-851-3244

He may testify about work practices and procedures and safety rules and regulations among telephone company employees in the 1960s and 1970s. Further, he may testify regarding the corporate relationship and dealings among SWBT, Mountain States Bell, AT&T and any other former Bell System entity. See his deposition taken in this case.

9. James Stuckey
8612 Grover Drive
El Paso, Texas 79925
915-778-9022

He may testify about work practices and procedures and safety rules and regulations among telephone company employees in the 1960s and 1970s. Further, he may testify regarding the corporate relationship and dealings among SWBT, Mountain States Bell, AT&T and any other former Bell System entity. See his deposition taken in this case.

10. Walter Schade
9800 Album
El Paso, Texas 79925
915-598-0072

He may testify about work practices and procedures and safety rules and regulations among telephone company employees in the 1950s, 1960s and 1970s. Further, he may testify regarding the corporate relationship and dealings among SWBT, Mountain States Bell, AT&T and any other former Bell System entity. See his deposition taken in this case.

**SOUTHWESTERN BELL TELEPHONE COMPANY'S FOURTH AMENDED RESPONSE TO
PLAINTIFFS' REQUESTS FOR DISCLOSURE - Page 6**

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11. Albert Lopez
1008 Magoffin
El Paso, Texas 79945
915-328-5651
12. Antonio Zubia
10929 Rye Lane
El Paso, Texas 79927
915-859-1676
13. Felix Benevides
2124 Diciembre
El Paso, Texas 79935
915-592-7075

Mr. Lopez, Mr. Zubia and Mr. Benevides may testify regarding the layout of various commercial and industrial job sites, use of products at those sites, location of telephone company equipment and any other matter discussed in their deposition taken in this case.

14. Debra Schmulbach
Southwestern Bell Telephone
Dallas, Texas 75201

Mrs. Schmulbach may testify about SWBT practices, procedures including installation and repair, work practices, health and safety rules, union contracts, medical and health care and any issues raised by plaintiffs regarding the defendant in this case.

15. Roger Wolhert
10 Remington
San Antonio, Texas

Mr. Wolhert may testify regarding the corporate relationship and dealings among SWBT, Mountain States Bell, AT&T and any other former Bell System entity and any other matter raised in his deposition taken in this case.

16. Gladys Haecker
8205 Traner Hale
Converse, Texas 78109

Ms. Haecker may testify regarding the corporate relationship and dealings among SWBT, Mountain States Bell, AT&T and any other former Bell System entity and any other matter raised in her deposition taken in this case.

All witnesses identified by Plaintiffs, live or by deposition, that have knowledge of relevant facts.

All witnesses deposed in this lawsuit.

We will supplement this answer according to the Texas Rules of Civil Procedure and this Court's Scheduling Order.

(f) for any testifying expert:

- (1) the expert's name, address, and telephone number;
- (2) the subject matter 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.

ANSWER:

1. Marcus Bond, M.D.
1711 Arbutus Street
Golden, Colorado 80401
303-232-7832

The witness is expected to offer opinions regarding the merits of Plaintiffs' claims and the defenses offered by SWBT, including opinions on liability, damages, and causation issues. The witness is expected to testify that any asbestos exposure of Davis allegedly occurring as an employee of SWBT was not the cause, nor did it contribute to cause Davis' alleged injuries. The witness may testify that some other exposures to asbestos, was the cause of the mesothelioma, injuries, damages and death alleged herein. The witness may testify as to the "state of the art," and medical & scientific literature availability and content. Dr. Bond has worked for both AT&T, former parent of SWBT, and Mountain States Bell, and will offer opinions on their policies, procedures and conduct. He may also offer opinions on the Davis' jobs, his alleged exposure to asbestos, phone company work, the spectrum of hazards and occupational concerns relevant to the telephone company. He may compare the developing knowledge regarding asbestos hazards,

such as textile mill studies in the 1930s and shipyard studies in the mid 1960s and how the products, doses, diseases and jobs studied compare or contrast with Plaintiffs claims in this case. He may further testify about occupational medicine, medical & scientific literature, "state of the art," disease, fiber type, causation and epidemiology. He may testify as to any other matter raised by experts called by Plaintiffs or any other matter which he may be so qualified to testify. Further, he may testify regarding the corporate relationship and dealings among SWBT, Mountain States Bell, AT&T and any other former Bell System entity. See his deposition taken in this case.

2. Morton Corn, M.D.
The Johns Hopkins University
3208 Bennett Point Road
Queenstown, Maryland 21658-1126

The witness may testify concerning regulatory requirements for the health and safety of workers exposed to asbestos, including OSHA, EPA and other state and federal requirements pertaining to asbestos. He may be asked to testify concerning the actions of SWBT, or any other entity at issue in this case or any others similarly situated under the same or similar circumstances existing at all times material to this case. He may testify about his knowledge of the processes involved in construction and federal and state standards applicable to employers, contractors and premises owners. The witness may testify concerning the potential hazards of different types of asbestos, when such hazards were known or knowable by different segments of trade and industry. He may testify about industrial hygiene publications and literature from the 1940s to the present. He may also testify generally about the concept of dose-response, the evolution and use of threshold limit values and the knowledge that the telephone industry, contractors and premises owners had available to them during certain time periods. He may also testify regarding relative risk and OSHA risk models. He may testify about the nature of the working environments and the control and use of substances in such locations. He may testify about his knowledge of the composition and asbestos content, if any, of the products alleged to have been used by or around telephone company employees while performing telephone repair and installation, the ability of such products to emit asbestos fibers under certain conditions and the likelihood that Davis inhaled these fibers. He may further testify about fiber type and causation. The witness may also testify regarding the reasonableness of the corporate response of SWBT and others similarly situated concerning the potential hazards of asbestos usage and safety of workers under the same or similar circumstances. He may testify about the size, construction, layout and working environment of facilities where Davis worked. The witness may testify about the appropriateness of any telephone company's policies, procedures or actions with respect to health and safety and the significance of asbestos to those health and safety concerns. He may testify that telephone company actions with respect to any asbestos hazards posed to their workers were appropriate, not negligent or grossly negligent. He may also testify about epidemiology of asbestos-related disease, and the general scientific and medical literature on the topic. He will testify about the cohorts structured and that, between the late 1950s and the late 1970s, there were no epidemiological studies of any cohort similar to telephone company workers that showed any

increased risk of asbestos-related disease. The witness may do research, gather facts, inspect the premises in question, and review relevant scientific and medical literature. He will testify regarding toxicology, engineering and industrial hygiene generally and particularly as they relate to alleged asbestos fiber exposure under different conditions, including the facts of this case. He may respond to testimony given by Plaintiffs' experts regarding any industrial hygiene issue including product testing and levels of asbestos that may be present in any given industrial, commercial or residential environment. He may testify as to any matter raised by experts called by Plaintiffs or any other matter which he may be qualified to testify.

3. Dr. Mark Robert Wick
301 Peacock Drive
Charlottesville, VA 22903-9716
804-245-9613
804-245-9643

Dr. Wick is a pathologist. He may testify, live or by deposition, concerning his review of the medical records, pathology and/or work history of Plaintiff and Plaintiff's medical condition, and the cause of Plaintiff's medical condition. His testimony may also include discussion of asbestos and its effect on human health generally and Plaintiff's specifically, and the effect that other substances have on human health generally and Plaintiff's condition specifically. Dr. Wick may also testify regarding the medical conditions of Plaintiff based on review of medical records, x-rays, Plaintiff's experts' reports and supplemental reports and his training, experience and other special expertise. Dr. Wick may also testify concerning the increased risk, if any, of cancer faced by asbestos exposed workers and the prognosis of such individuals. He may further testify that Plaintiff suffered from a variety of critical medical problems that may have caused his death.

In addition, if called to testify, either live or by deposition, Dr. Wick is expected to provide testimony regarding the areas stated below:

- (1) the anatomy and function of the respiratory and circulatory systems, including the protective systems of the body with regards to the inhalation and retention of dust, and the diagnosis and treatment of disease affecting such systems;
- (2) the nature of asbestos and asbestos-related diseases;
- (3) the symptomatology, disease process and diagnosis of asbestosis and cancer associated with the respiratory system, peritoneum and peritoneal cavity;
- (4) the nature and extent of medical and scientific knowledge regarding any association of obstructive pulmonary disease with asbestos fiber exposure;

- (5) the effect of exposure to substances other than asbestos on the development and manifestation of obstructive and restrictive conditions and diseases of the respiratory system and other causes of obstructive and restrictive disease or defects of the respiratory system;
- (6) methods of diagnosis of various diseases, especially the means of establishing the differential diagnosis of alleged asbestos-related diseases with other non-asbestos-related diseases;
- (7) incidence of lung cancer among individuals with asbestosis or asbestos exposure as compared to non-asbestotic asbestos workers, non-asbestos exposed workers and to the general population;
- (8) cigarette smoking and its effects on the lungs and other organs;
- (9) the relationship of cigarette smoking to cancer of the lung and cancers of other body parts with reference to epidemiology studies and physiologic effect;
- (10) the difference between impairment and disability;
- (11) the effect of asbestosis or other asbestos-related disease, or asbestos exposure without asbestosis or other asbestos-related disease, on disability and life expectancy;
- (12) the lack of relationship between the presence of pleural plaques and a later development of any form of cancer;
- (13) the history of evolution and knowledge of asbestos related diseases;
- (14) the import of any exhibit introduced as evidence, or any items prepared for use or used for demonstrative purposed by any witness;
- (15) cancer incidence in the general population and among asbestos workers and its potential causes;
- (16) the incidence of mesothelioma among various kinds of workers exposed to asbestos, and the relative importance of various fiber types and the cause of mesothelioma; and
- (17) to the extent not covered above, asbestos medicine in general.

4. Gail Diane Stockman, M.D., Ph.D.
701 E. Marshall, Suite 4002
Longview, Texas 75601
903-753-0787

Dr. Stockman may testify concerning her review and analysis of Davis' medical records and her assessment of Davis' physical condition and the relationship of that condition, if any, to Plaintiffs' alleged exposure to asbestos. She may also testify regarding the matters set forth in her report dated December 4, 2000, including but not limited to the other critical medical problems Davis suffered from that may have caused his death. Dr. Stockman is a pulmonologist. She may testify about general medical issues relating to that specialty. She may also testify about fiber type, causation and epidemiology. Dr. Stockman may further testify concerning the anatomy and function of the respiratory and circulatory system; the nature of asbestos; the disease process of asbestos-related conditions; and the diagnosis of asbestosis, lung cancer and mesothelioma. She may also testify regarding the nature, extent and development of medical and scientific knowledge regarding the association of pulmonary disease with asbestos fiber exposure. She may testify about the effect of exposure to substances other than asbestos on the development or manifestation of obstructive and restrictive conditions and diseases. Dr. Stockman may testify concerning the effects of smoking on lung function and the incidence of smoking-related lung diseases, including lung cancer. She may testify concerning the incidence of lung cancer and mesothelioma among individuals with asbestosis compared with non-asbestos exposed individuals. She may also testify as to any other matter raised by experts called by the Plaintiff.

5. Sam H. Cade, Jr., M.D.
Radiology Department
Baylor University Medical Center
3500 Gaston Avenue
Dallas, Texas 75242
214-820-3219

Dr. Cade is a B-reader and may testify regarding the radiographs of Plaintiffs.

6. David Garcia
Southwestern Bell Telephone
500 Texas Rm. 330
El Paso, Texas 79901
915-521-6640

Mr. Garcia, Area Manager Installation & Repair, has worked for SWBT and before that, Mountain States Bell for 24 years. He will testify regarding telephone company work, operations of phone systems, locations of phone systems, installation and repair of phone systems at places where plaintiff worked and SWBT procedures. He is both a fact witness and an expert on phone

company procedures, worksite layout and the location, installation, usage and repair of phone company equipment. Further, he may testify regarding the corporate relationship and dealings among SWBT, Mountain States Bell, AT&T and any other former Bell System entity. See his deposition taken in this case.

7. William J. Edens
Southwestern Bell Telephone
2308 Jim Dent Rd.
El Paso, Texas 79936
915-591-4630

Mr. Edens, a retired Manager Installation & Repair, worked for SWBT and before that, Mountain States Bell for 35 years. He will testify regarding telephone company work, operations of phone systems, locations of phone systems, installation and repair of phone systems at places where plaintiff worked and telephone company procedures. He is an expert on these matters and may also testify as a fact witness. Further, he may testify regarding the corporate relationship and dealings among SWBT, Mountain States Bell, AT&T and any other former Bell System entity. See his deposition taken in this case.

8. Jose A. Marquez
Southwestern Bell Telephone
821 Southwestern
El Paso, Texas 79912
915-585-5822

Mr. Marquez, Manager Installation & Repair, has worked for SWBT and before that, Mountain States Bell for 29 years. He will testify regarding telephone company work, operations of phone systems, locations of phone systems, installation and repair of phone systems at places where plaintiff worked and telephone company procedures. He is both a fact witness and an expert on phone company procedures, worksite layout and the location, installation, usage and repair of phone company equipment. Further, he may testify regarding the corporate relationship and dealings among SWBT, Mountain States Bell, AT&T and any other former Bell System entity. See his deposition taken in this case.

We will supplement this answer according to the Texas Rules of Civil Procedure and this Court's Scheduling Order.

- (g) any discoverable indemnity and insuring agreements;

ANSWER:

SWBT states that it is self-insured and has sufficient excess

insurance to respond to a judgment in this action if found liable.

- (h) any discoverable settlement agreements;

ANSWER: None.

- (i) any discoverable witness statements;

ANSWER: None.

- (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;

ANSWER:

Not applicable to SWBT.

- (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.

ANSWER:

These materials will be made available to Plaintiffs upon reasonable notice at the offices of Jenkins & Gilchrist, 1445 Ross Avenue, Suite 3200, Dallas, Texas 75202. Plaintiff has identified physicians and hospitals that treated Decedent and SWBT is currently obtaining same. SWBT will make those records available to Plaintiffs to the extent that Plaintiffs do not already have such records.

Respectfully submitted,

JENKENS & GILCHRIST,
a Professional Corporation
1445 Ross Avenue, Suite 3200
Dallas, Texas 75202
Telephone: (214)855-4500
Facsimile: (214)855-4300

By: *Robert Garcia*
ROBERT E. THACKSTON
State Bar No. 0078587
R. ROBERT GARCIA
State Bar No. 00796602

**ATTORNEYS FOR SOUTHWESTERN BELL
TELEPHONE COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been forwarded to Plaintiffs' attorneys, Holly Huart and Stephanie Finch, Baron & Budd, 3102 Oak Lawn Ave., Suite 1100, Dallas, Texas 75219 via facsimile on this the 17th day of March, 2001.

Robert Garcia
R. ROBERT GARCIA

LSH 4

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FROM THE DESK OF:
R. Robert Garcia
(214) 855-4767

RECIPIENT

Stephanie Finch

COMPANY

Baron & Budd

FAX NO.

214/520-1181

PHONE NO.

• MESSAGE •

PLEASE DELIVERY IMMEDIATELY TO MS. FINCH. THANK YOU.

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