



NO. 96-06239-A

JOSEPH LEE DENNIS, ET AL.

Plaintiffs,

v.

OWENS-CORNING FIBERGLASS
CORPORATION, ET AL.,

Defendants.

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IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

14TH JUDICIAL DISTRICT

DEFENDANT'S RESPONSES TO PLAINTIFF'S INTERROGATORIES

TO: Plaintiff Bennie Dunbar by and through his attorneys of record, Peter A. Kraus, Kimberly A. Castles, Lisa Jerge-Lesniak, Baron & Budd, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219

Defendant Point Comfort and Northern Railway

("Defendant") hereby responds to Plaintiff's Interrogatories.

Defendant has not completed its investigation of facts relating to this case, has not fully completed discovery relating to this action, and has not completed preparation for the trial thereof. All of the responses contained herein are based only upon such information and documents which are presently available to and specifically known to Defendant and disclose only those contentions which presently occur to Defendant. Moreover, the information contained herein may include hearsay and other data which is neither reliable or admissible in evidence. It is anticipated that further discovery, independent investigation, legal research and analysis will supply additional facts, add new meaning to the known facts, as well as establish entirely new factual conclusions and legal contentions, all of which may lead to the substantial additions to, changes and variations from the contentions herein set forth. The following responses are given

without prejudice to Defendant's right to produce evidence of any subsequently discovered fact or facts of which Defendant may learn or recall. Defendant accordingly reserves the right to change any and all responses herein as additional facts and contentions are ascertained. The responses contained herein are made in a good faith effort to supply as much factual information and as much specification of legal contentions as is presently known but should in no way prejudice Defendant in relation to further discovery, research or analysis.

GENERAL OBJECTIONS

1. Defendant objects to any discovery directed at information protected by the attorney/client privilege, the attorney work product doctrine, the settlement privilege, the critical self-examination privilege and any other applicable privilege. Defendant also objects to responding to any discovery which concerns trial preparation materials in this case, or any other case, including communications between Defendant and its counsel, including counsel who are or were employees of Defendant.

2. Defendant objects to any discovery which seeks information that is confidential private, business or commercial information, trade secrets, confidential research or development, or proprietary information.

3. Defendant objects to discovery which is not relevant or material, and will not reasonably lead to discovery of admissible evidence.

4. Defendant objects to discovery which is overly broad, vague and ambiguous, and not subject to reasonable limitation in time or scope. Defendant further objects to discovery which does not permit the identification of documents, subjects, and time-frames with sufficient particularity to permit a reasonable production.

5. Defendant objects to any discovery which seeks information subsequent to the date of the incident made the basis of this case.

6. Defendant objects to any discovery which calls for legal conclusions.

7. In this litigation, Plaintiff has alleged that he was exposed to asbestos while working on Defendant's railroad at various times throughout the years 1957 to 1970. Thus, to the extent that these interrogatories seek information from Defendant for time periods unrelated to those years during which Plaintiff worked at the Defendant's railroad, Defendant objects to the requests as overly broad, unduly burdensome, oppressive and unreasonable and not reasonably calculated to lead to the discovery of admissible evidence. Defendant will limit its response to the years in question, unless otherwise indicated.

8. Defendant objects to this set of Interrogatories in its entirety inasmuch as it exceeds the thirty Interrogatory limit established by Texas Rule of Civil Procedure 168(5). This set of Interrogatories contains 49 separate Interrogatories with numerous subparts, both numerated and unnumerated, which sets out several hundred separate inquiries. As such, the Interrogatories

are vexatious, overly broad, oppressive and unreasonably burdensome. Many of these Interrogatories are repetitive, others are unrelated to the issues in this case and seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Consequently, Defendant objects to this set of Interrogatories in its entirety.

10. Plaintiff's Interrogatories contains 3 1/2 pages of single-spaced definitions. Defendant objects generally to these definitions as unduly complex, vague and as adding to the unreasonable burden imposed by the Interrogatories. Defendant objects to the definitions which accompany this discovery to the extent that these definitions change the common meaning of the English language with regard to any phrase or word, to the extent that these definitions alter the scope of discovery under the Texas Rules of Civil Procedure, and to the extent that these definitions define terms differently than such terms are defined under the Texas Rules of Civil Procedure and Texas Common Law.

11. Defendant objects to any discovery where disputed issues are assumed to be resolved and the discovery is phrased in an argumentative, prejudicial or improper fashion.

12. Defendant objects to the defined terms as being vague, ambiguous, overly broad and, therefore, unduly burdensome, and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. In answering this discovery, Defendant will accord each defined term its ordinary meaning in the English language.

13. Each of these general objections are incorporated into each and every response as though fully set forth in addition to any specific objections stated.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO.1: State the name, address, job title, length of time employed by Defendant, and a year-by-year list of all positions, titles, or jobs held while working for Defendant of each person who supplied any information used in answering these Interrogatories.

ANSWER:

1. David A. Bessio, President, c/o Point Comfort Northern Railway, P.O. Box 238, Lolita, Texas 77971;
2. Philip Smith, 206 Wallingford Drive, Pittsburgh, PA 15237.

INTERROGATORY NO.2: State the full and proper business name and address of the Defendant. State whether or not you are a corporation. If so, state your corporate name, the state of your incorporation, the address of your principal place of business, the name and address of the person or entity authorized to accept service of process on your behalf, and whether or not you have ever held a Certificate of Authority to do business in the State of Texas, maintained a registered agent in Texas, engaged in business in Texas or recruited or hired employees in Texas.

ANSWER: The Point Comfort and Northern Railway Company is incorporated in Texas and has at its principal place of business Lolita, Texas. It has a Certificate of Authority to do business in the state of Texas, and has engaged in business in Texas.

INTERROGATORY NO.3: With regard to each policy of liability insurance intended to provide coverage to Defendant, its agents

and/or employees for the liability in connection with the allegations such as those delineated in Plaintiff's Original and Amended Petitions including, but not limited to, all primary and excess policies covering the Defendant for such liability, state the name and address of each carrier.

ANSWER: For purposes of this lawsuit Defendant is self-insured.

INTERROGATORY NO.4: State whether you contend that the Plaintiff has done anything or failed to do anything that constitutes contributory negligence. If so, please describe the basis of your contention and what evidence exists to support that contention.

ANSWER: Defendant objects to this Interrogatory as calling for a legal conclusion. Subject to and without waiving the foregoing objection, Defendant responds as follows: Defendant has only begun to investigate Plaintiff's claim and has not yet determined whether Plaintiff was contributorily negligent. Defendant is continuing to investigate this issue.

INTERROGATORY NO.5: State whether you contend that the Plaintiff has done or failed to do anything that constitutes a failure to mitigate damages. If so, please describe the basis of your contention and what evidence exists to support that contention.

ANSWER: Defendant objects to this Interrogatory as calling for a legal conclusion. Subject to and without waiving the foregoing objection, Defendant responds as follows: Defendant has only begun investigating Plaintiff's claim. Defendant has not yet determined whether Plaintiff failed to mitigate his damages. Defendant is continuing to investigate this matter.

INTERROGATORY NO.6: List each and every place of work and job assignment of the Plaintiff which he held during his

employment with Defendant and describe in detail the duties involved in each of the job assignments.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous and overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor unreasonably calculated to lead to the discovery of admissible evidence. Defendant further objects inasmuch as this information is more readily available to Plaintiff than to Defendant. Furthermore, these matters were discussed at Plaintiff's deposition. Subject to and without waiving the foregoing objections, Defendant responds as follows: Plaintiff worked both as a trainman and brakeman.

INTERROGATORY NO.7: Describe in detail how asbestos-containing products were used by railroad workers on Defendant's railroad(s) during the period of Plaintiff's employment by Defendant.

ANSWER: Defendant objects to this Interrogatory as vague, ambiguous and overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. At issue in this case is only the exposure of the Plaintiff which was discussed at his recent deposition. Moreover, Defendant objects to this Interrogatory as argumentative inasmuch as it assumes facts which are disputed. Subject to and without waiving the foregoing objections, Defendant responds as follows: Railroad workers on Defendant's railroad would not have used asbestos-containing products during the period of Plaintiff's employment.

INTERROGATORY NO.8: Describe in detail where asbestos-containing products were used by railroad workers on Defendant's railroad(s) during the period of Plaintiff's employment by Defendant.

ANSWER: Defendant objects to this Interrogatory as vague, ambiguous and overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. At issue in this case is only the exposure of the Plaintiff which was discussed at his recent deposition.

Moreover, Defendant objects to this Interrogatory as argumentative inasmuch as it assumes facts which are disputed. Subject to and without waiving the foregoing objections, Defendant responds as follows: Railroad workers on Defendant's railroad would not have used asbestos-containing products during the period of Plaintiff's employment.

INTERROGATORY NO.9: If you have alleged in your answer that Plaintiff's injuries and/or damages were caused by some other injury, disease or condition, either pre-existing or unrelated to and arising after or in conjunction with the Plaintiff's exposure to asbestos-containing products, please describe in detail such pre-existing or subsequent disease, injury or condition. For each alleged other injury, disease or condition, identify all evidence upon which you base this contention.

ANSWER: Defendant has only recently begun to investigate Plaintiff's claim and, therefore, does not yet know the causes of his condition. Defendant's investigation into this matter is ongoing.

INTERROGATORY NO.10: Please state the name of each and every person having knowledge of facts relevant to this action including most recent address(es) and present telephone number(s), along with the experience and qualifications, if applicable, of each and every person, known to Defendant's agents, including, but not limited to:

- a. identification of asbestos-containing products or type of products or type of products to which Plaintiff was exposed

or facts disputing the identification of these products;

- b. Plaintiff's damages, injuries and/or facts disputing Plaintiff's damages and/or injuries;
- c. the negligence of any person or entity other than Defendant which Defendant contends was a cause of Plaintiff's injuries and/or damages; and
- d. each of Defendant's defenses enumerated in Defendant's last filed answer.

ANSWER: Defendant does not every person who may have "knowledge of facts relevant to this action" and, therefore, objects to this Interrogatory on the grounds that it calls for speculation, is vague, is overly broad and is unduly burdensome. Additionally, Defendant objects to this Interrogatory on the grounds that the identity and opinions of any and all consulting experts are protect from disclosure by the attorney work product privilege. Defendant also objects to providing information about the occupation and relationship, as well as other knowledge, of fact witnesses because this requests for such information violates the attorney work product privilege. Subject to and without waiving the foregoing objections, Defendant responds as follows: See Defendant's answer to Interrogatory No. 1 incorporated herein by reference; see also Defendant's list of designated experts; see also Plaintiff's medical records; see also Plaintiff's deposition. In addition, the following individuals may be knowledgeable:

- 1. David Bessio
- 2. Philip Smith
- 3. Elo Foyt
- 4. Frank Wier
- 5. Pierce Thedford
- 6. Tony Colucci
- 7. Dennis Thedford
- 8. Roland Williams
- 9. John Brady
- 10. Lupe Ballin
- 11. Carl Herron

INTERROGATORY NO.11: Please identify documents or things, including x-rays, MRI's, CT-scans or other materials, which will be used at the time of trial, (Exhibit List, Deposition List), which are relevant to each of Defendant's enumerated defenses in Defendant's last filed Answer.

ANSWER: Defendant objects to this Interrogatory as vague, ambiguous and overly broad and, therefore, unduly burdensome and is seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant also objects to this Interrogatory on the grounds that it seeks Defendant's trial strategy and other information protected by the attorney work product privilege.

INTERROGATORY NO.12: Identify the names and addresses of all individuals Defendant may call as an expert witness(es) at trial, and for each individual, please state:

- a. the subject matter on which the witness is expected to testify, specific as to each individual Plaintiff's case, the substance of the facts and opinions to which the witness intends to testify on the Defendant's behalf and a summary of the grounds for each opinion, specific as to each individual Plaintiff's case;
- b. all factual observations, test results, supporting data, learned treatise (books, general articles, texts or other publications) and opinions which the witness has generated, been provided, intends to use, and/or may use to support his/her opinions and conclusions relative to the case whereupon which the witness has or will base his/her testimony in this matter, specific as to each individual Plaintiff's case. The identity, address and job classification of each consulting expert whose opinions or data have been referred to and/or relied upon by the expert witness, and the complete title and author of each learned treatise referred to and/or relied upon by the witness for information and/or corroborating his/her

opinions regarding the subject matter of this lawsuit;

- c. whether any person identified in subparagraph b above has provided a report or other documentation to you, and if so, identify each such document or report, specific as to each individual Plaintiff's case, separate and distinct from all other Plaintiff's within the group;
- d. identify all documents or other materials, including but not limited to x-rays, pathology, CT-scans, you have provided to each person identified in response to subparagraph b above, specific as to each individual Plaintiff's case, separate and distinct from all other Plaintiff's within the group; and
- e. describe in detail the education and work history of, and identify any books, treatises, articles, published and unpublished reports, studies or other scholarly works authored by any individual identified in response to subparagraph b above. Alternatively, in lieu of said response, attach a copy of a resume or curriculum vitae and a list of publications to your answers.

ANSWER: Defendant objects to this Interrogatory as vague, ambiguous and overly broad and therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Additionally, Defendant objects to this Interrogatory on the grounds that the identity and opinions of any and all consulting experts are protected from disclosure by the attorney work product privilege. Subject to and without waiving the foregoing objections, Defendant responds as follows: Please see Defendant's list of designated experts and the summaries contained therein. If reports are created they will be furnished.

INTERROGATORY NO.13: Identify all persons, entities, agencies or others, whether governmental (state or federal) or private,

who participated in any investigation of the claims made the basis of this lawsuit.

ANSWER: Defendant objects to this Interrogatory as seeking information that violates the attorney-client privilege and/or the attorney work product doctrine. Moreover, Defendant objects to this Interrogatory as seeking information outside the proper scope of discovery as defined by Rule 166b of the Texas Rules of Civil Procedure. Subject to and without waiving the foregoing objections, Defendant responds as follows: See answer to Interrogatory No. 1; see Defendant's list of designated experts; see expert reports to be supplied.

INTERROGATORY NO.14: Please state whether Defendant or any successor or predecessor was ever a member of the Railroad Claims Registry, and if so, please state the years Defendant was a member; the years of attendance at and involvement in the Railroad Claims Registry Meetings; the name, job classification, address and telephone number of each and every agent and/or representative and/or employee of Defendant attending each and every Railroad Claims Registry Meeting and the year that agent and/or representative and/or employee of Defendant attended the meeting; and the location of the Railroad Claims Registry Meeting for each year attended by Defendant.

ANSWER: Defendant was never a member of the Railroad Claims Registry.

INTERROGATORY NO.15: Please state whether Defendant or any successor or predecessor ever attended or sent an agent on its behalf to any of the Association of American Railroads and American Railway Association meetings from 1930 to the present, and if so, please state the years of attendance; the location of the meeting; the name, address, job classification and telephone

number of each and every agent and/or employee and/or representative of Defendant attending each and every Association of American Railroads and American Railway Association meeting and the exact year of attendance.

ANSWER: Defendant objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: Between the years 1957 and 1970, Philip Smith attended the annual meeting of the accounting division of the ARA in 1969 and 1970. He attended meetings pertaining to revenue each year.

INTERROGATORY NO. 16: Before 1980, did Defendant receive notice that any individual who at any time was employed by the Defendant claimed injury as a result of exposure to asbestos? If so, state:

- a. the name and address of each claimant;
- b. the date of notice of each claim;
- c. a description of the claim;
- d. the type of injuries allegedly sustained by each claimant;
- e. the name and address of each attorney who represented each individual making a claim;
- f. the style and court number of each claim;
- g. the disposition of each claim that has been settled or taken to judgment; and
- h. the name, address and title of the person having custody of the records pertaining to each such claim.

ANSWER: Defendant objects to this Interrogatory as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections,

Defendant responds as follows: Prior to 1970, Defendant never received notice that any individual, who at any time was employed by Defendant, claimed injury as a result of exposure to asbestos.

INTERROGATORY NO.17: Before 1980, did Defendant receive notice that any individual who at any time was employed by any Railroad claimed injury as a result of exposure to asbestos? If so, state:

- a. the name and address of each claimant;
- b. the date of notice of each claim;
- c. a description of the claim;
- d. the type of injuries allegedly sustained by each claimant;
- e. the name and address of each attorney who represented each individual making a claim;
- f. the style and court number of each claim;
- g. the disposition of each claim that has been settled or taken to judgment; and
- h. the name, address and title of the person having custody of the records pertaining to each such claim.

ANSWER: Defendant objects to this Interrogatory as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: Prior to 1970, Defendant never received notice that any individual, who at any time was employed by Defendant, claimed injury as a result of exposure to asbestos.

INTERROGATORY NO.18: Has Defendant at any time published, distributed, or displayed any printed material, including brochures, pamphlets, catalogs, warning signs or statements,

packaging or other written material of any kind or character containing any warning concerning the possibility of injury resulting from the use of asbestos-containing products and/or exposure to airborne asbestos? If so, state:

- a. the exact wording of each warning statement and a description of the material upon which the warning was printed;
- b. the method(s) used to distribute the materials to persons likely to sue the asbestos-containing products or likely to be exposed to airborne asbestos;
- c. the date each warning was first issued or distributed;
- d. the name, address, and job title of each person responsible for having drafted or issued the warning statements and/or written materials;
- e. the current location of any such printed material and the custodian thereof; and
- f. the form in which such literature or printed material can be accessed, i.e., the manner in which such literature is indexed or stored.

ANSWER: Defendant also objects to this Interrogatory on the grounds that it is vague, ambiguous, overly broad and, therefore, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: Defendant published no warnings of the possible potential hazards of asbestos during the time period of plaintiff's employment.

INTERROGATORY NO.19: Did Defendant install, replace, use, repair, assemble, transport or store, either as an original appurtenance of the railroad or placed in/on the railroad in conjunction with repairs or alterations to the railroad, any

asbestos-containing products during the time Plaintiff worked for Defendant? If so, identify:

- a. by name and number each of Defendant's railroad(s), whether operating or in railyards, upon which the asbestos-containing product(s) were installed, repaired, used, stored or transported during the time Plaintiff worked for Defendant;
- b. the particular type of asbestos-containing products;
- c. the trade or brand name of each of the asbestos-containing products;
- d. the years during which each named asbestos-containing product was applied, stored, used, repaired, installed or transported either as an original appurtenance of the railroad or placed on/in the railroad in conjunction with repairs or alterations to the railroad(s); and
- e. the dates of any removal or abatement of such asbestos-containing products, from Defendant's railroad(s).

ANSWER: Defendant further objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: See Defendant's Response to Plaintiff's Request for Production of Documents. Responsive documents will be made available to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice.

INTERROGATORY NO. 20: Did any entities or persons at Defendant's direction, whether direct or indirect, including but not limited to contractors and subcontractors install, replace, use, repair, assemble, transport or store, either as an original appurtenance of the railroad or placed in/on the railroad in

conjunction with repairs or alterations to the railroad, any asbestos-containing products during the time Plaintiff worked for Defendant? If so, identify:

- a. by name and number each of Defendant's railroad(s), whether operating or in railyards, upon which the asbestos-containing product(s) were installed, repaired, used, stored or transported during the time Plaintiff worked for Defendant;
- b. the particular type of asbestos-containing product(s);
- c. the trade or brand name of each of the asbestos-containing products;
- d. the years during which each named asbestos product was applied, stored, used, repaired, installed or transported either as an original appurtenance of the railroad or placed on/in the railroad in conjunction with repairs or alterations to the railroad(s); and
- e. the dates of any removal or abatement of such asbestos-containing products, from Defendant's railroad(s).

ANSWER: Defendant further objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: See Defendant's Response to Plaintiff's Request for Production of Documents. Responsive documents will be made available to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice.

INTERROGATORY NO.21: If the answer to any portion of the preceding Interrogatory is in the affirmative and/or if any asbestos-containing products are identified in response to such Interrogatory, state the following as to each identified product:

- a. the name(s) of the railroad workers repairing, replacing or using each asbestos-containing product on Defendant's railroad(s) during Plaintiff's period of employment by Defendant;
- b. a description of the physical appearance of each of the named asbestos-containing product(s)
- c. a detailed description of the uses of the named asbestos-containing product(s); and
- d. a detailed description of the areas on Defendant's railroad where such asbestos-containing products were installed, replaced or used.

ANSWER: Defendant further objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: See Defendant's responses to Plaintiff's request for production of documents. Responsive documents will be made available to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice.

INTERROGATORY NO. 22: Has Defendant or any other entity at the direction of Defendant, contracted with another entity for the acquisition, ordering, purchasing, supplying or distributing of asbestos-containing products, at any time prior to or during the time Plaintiff was employed by Defendant. If so, identify:

- a. each of Defendant's railroad components by name and number for which the asbestos-containing products were ordered, purchased, supplied or distributed during the time Plaintiff was employed by Defendant;
- b. the particular type of asbestos-containing products acquired;

- c. the trade or brand name of each of those asbestos-containing products ordered, purchased, supplied or distributed;
- d. the years such asbestos-containing products were acquired, ordered, purchased, supplied or distributed by Defendant; and
- e. the dates of any removal or abatement of asbestos-containing products.

ANSWER: Defendant further objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: See Defendant's Response to Plaintiff's Request for Production of Documents. Responsive documents will be made available to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice.

INTERROGATORY NO.23: If your answer to any portion of the preceding Interrogatory is in the affirmative, or if any asbestos-containing products, are identified in response to that Interrogatory, state the following as to each product:

- a. the name(s) of the company(ies), entity(ies), manufacturer(s) from which the asbestos-containing products were acquired, ordered, purchased, supplied or distributed;
- b. the date(s) each asbestos-containing product was ordered, purchased, supplied or distributed;
- c. a description of the physical appearance of each of the named asbestos-containing product;
- d. a detailed description of the uses of the named asbestos-containing products; and
- e. identify the last year that Defendant ordered, purchased, supplied or

distributed each identified asbestos-containing product.

ANSWER: Defendant further objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: See Defendant's Response to Plaintiff's Request for Production of Documents. Responsive documents will be made available to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice.

INTERROGATORY NO. 24: State whether Defendant maintained from 1950 through the present copies of invoices, shipping receipts, bill of lading, purchase orders, or other documents of a similar nature relating to the purchase or acquisition of asbestos-containing products. If so, state:

- a. the location of such documents;
- b. the name and address of the custodian of the documents;
- c. the format in which the documents are kept, i.e. hard copy, microfilm, microfiche, etc.; and
- d. in what form the documents can be accessed.

ANSWER: Defendant further objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: See Defendant's Response to Plaintiff's Request for Production of Documents. Defendant generally adheres to a seven year document retention policy. Responsive documents will be made available to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice.

INTERROGATORY NO.25: Identify all persons, including name, address and telephone number, who provided and/or conducted or were responsible for conducting any type of safety training, during the time Plaintiff was employed by Defendant.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: The two individuals who most frequently gave safety training during the time period Plaintiff was employed by Defendant were Carl Partlow and Rockne Shaffer. See also documents produced by Defendant for the identity of additional individuals.

INTERROGATORY NO.26: At any time prior to 1980 did Defendant or anyone at the direction of Defendant conduct an investigation, survey or other process to identify the primary emission sources of airborne asbestos fibers and/or to assess and/or sample for the detection of, the quantity of, or threshold limit value of airborne asbestos fibers in relation to Defendant's railroad? If so, please identify with particularity the entity and/or persons conducting such investigation(s), survey(s) or test(s), the dates conducted and the results.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: No such tests were conducted during the time Plaintiff was employed by Defendant, 1957 to 1970.

INTERROGATORY NO.27: Did Defendant ever arrange for any labor agency, insurance company, government agency, inspectors or anyone from your company to go into any of Defendant's railway

car(s) and/or engine(s) and/or locomotive(s) and/or roundhouses and/or shops to take dust level counts related to asbestos dust? If so, identify with particularity the party(ies) conducting such procedure(s), the dates conducted, the purpose of such procedure(s), and all results of such procedure(s).

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: No such tests were conducted during the time Plaintiff was employed by Defendant, 1957 to 1970.

INTERROGATORY NO.28: Did Defendant obtain facts, knowledge, or information from any industry, insurance company, governmental agency, union, and/or any other entity regarding the potential health effects and/or health hazards created for persons exposed to airborne asbestos dust? If so, please list all sources of such information and the dates received.

ANSWER: Defendant objects to this Interrogatory on the grounds that it is vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: It did not learn of any potential health effects or health hazards created for persons exposed to airborne asbestos dust prior to 1970.

INTERROGATORY NO.29: List each person who has acted in a medical advisory capacity to your company at any time during the past 40 years, including, but not limited to, physicians (including those physicians who would have been responsible for conducting physicals, evaluations or screenings of Defendant's employee) and industrial hygienists, and the current address,

telephone number and job title of each of those individuals who has had or may have had any knowledge regarding the hazards of airborne asbestos dust.

ANSWER: Defendant further objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: See Defendant's Response to Plaintiff's Request for Production of Documents. Responsive Documents will be made available to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice.

INTERROGATORY NO.30: Does Defendant have in its possession any books, pamphlets, memoranda, or written materials of any kind or character that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings? If so, state:

- a. the name of each such publication;
- b. the date of publication and the names of the author and publisher (if any);
- c. the date received by Defendant; and
- d. the name, job title, and address of each person who currently has possession of each publication and its present location.

ANSWER: Defendant further objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this interrogatory as seeking information protected by the attorney-client privilege, the investigative privilege and the work-product doctrine. Subject to and without waiving the foregoing objections, Defendant responds as follows: See Defendant's Response to Plaintiff's Request for Production of Documents. Responsive documents will be made available to Plaintiff's counsel for inspection and copying

at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice.

INTERROGATORY NO.31: Has Defendant at any time been a member of any trade organization or association that published or disseminated any documents or information relating to the hazards of airborne asbestos? If so, state:

- a. the name and address of each such association or organization;
- b. the dates during which Defendant member;
- c. the names and dates of any publications, minutes, or reports published, written, or disseminated by any of the named associations or organizations; and
- d. whether any of those publications are still in your possession, and if so:
 1. a description of the publication, including the date;
 2. the current location of such publications;
 3. the custodian of such publications; and
 4. the method or manner in which such publications are maintained.

ANSWER: Defendant further objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: Not prior to 1970.

INTERROGATORY NO.32: As to the disease asbestosis, state:

- a. the date on which Defendant first learned that such disease was caused by inhalation of asbestos fibers;

- b. how Defendant became aware of the existence of the disease;
- c. who within the company first discovered, recognized or understood the adverse consequences or effects of the disease;
- d. what information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
- e. whether any such information is still maintained by Defendant or its subsidiary or predecessor in any written form;
- f. who is the custodian of such information; and
- g. the date on which you first received knowledge or information that asbestosis was caused by inhalation of asbestos fibers alone or in conjunction with second hand smoke.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this interrogatory as seeking information protected by the attorney-client privilege, the investigative privilege, the consulting expert privilege and the attorney work-product doctrine. Subject to and without waiving the foregoing objections, Defendant responds as follows: Defendant did not learn of the possibility of this disease prior to 1970.

INTERROGATORY NO. 33: As to the disease lung cancer, state:

- a. the date on which Defendant first learned that such disease was caused by inhalation of asbestos fibers;
- b. how Defendant or its subsidiary or predecessor became aware of the disease and its relationship to asbestos exposure;
- c. who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure;

- d. what information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
- e. whether any such information is still maintained by Defendant or its subsidiaries or predecessors in a written form;
- f. who is the custodian of such information; and
- g. the date on which you first received knowledge or information that lung cancer was caused by inhalation of asbestos dust and fibers.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this interrogatory as seeking information protected by the attorney-client privilege, the investigative privilege, the consulting expert privilege and the attorney work-product doctrine. Subject to and without waiving the foregoing objections, Defendant responds as follows: Defendant did not learn of the possibility of this disease during the period of Plaintiff's employment.

INTERROGATORY NO.34: As to the disease mesothelioma, state:

- a. the date on which Defendant first learned such disease was caused by inhalation of asbestos fibers;
- b. the date on which Defendant first suspected that mesothelioma was caused by inhalation of asbestos dust and fibers;
- c. how Defendant or its subsidiary or predecessor became aware of the disease and that it was caused by exposure to asbestos;
- d. who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure;

- e. what information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
- f. whether any such information is still maintained by Defendant or its subsidiary or predecessor in a written form;
- g. who is the custodian of such information; and
- h. whether Defendant agrees that there is no known medical cure for mesothelioma.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this interrogatory as seeking information protected by the attorney-client privilege, the investigative privilege, the consulting expert privilege and the attorney work-product doctrine. Subject to and without waiving the foregoing objections, Defendant responds as follows: Defendant did not learn of the possibility of this disease during the period of Plaintiff's employment.

INTERROGATORY NO. 35: As to gastro-intestinal cancer, laryngeal cancer, pharyngeal cancer and/or lymphatic cancer, state:

- a. the type of cancer and the date on which Defendant first learned that such diseases were caused by inhalation of asbestos fibers by humans;
- b. what cancers has the Defendant become aware can be caused by exposure to asbestos fibers;
- c. the date on which Defendant first suspected other cancers were caused by asbestos inhalation;
- d. who within the company or its subsidiary or predecessor first discovered the adverse consequences or effects of asbestos exposure;

- e. what information was disseminated with Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
- f. whether any such information is still maintained by Defendant or its subsidiary or predecessor in a written form; and
- g. who is the custodian of such information.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this interrogatory as seeking information protected by the attorney-client privilege, the investigative privilege, the consulting expert privilege and the attorney work-product doctrine. Subject to and without waiving the foregoing objections, Defendant responds as follows: Defendant did not learn of the possibility of this disease during the period of Plaintiff's employment.

INTERROGATORY NO.36: Did Defendant maintain written minutes of corporate meetings, either board of directors, departmental, or otherwise, which reflect discussions pertaining to any subject matter related to asbestos, asbestos health hazards or asbestos products? If so, for each such set of minutes, state:

- a. the dates of each such meeting;
- b. the general subject matter discussed at each meeting;
- c. who was in attendance at each meeting;
- d. where and by whom the written minutes are presently maintained;
- e. by whom the minutes were taken and put into final format; and
- f. whether the minutes were abstracted and reports disseminated to other individuals, and if so, the names and job titles of those individuals.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: See Defendant's Response to Plaintiff's Request for Production of Documents. Responsive documents will be made available to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice.

INTERROGATORY NO.37: Does Defendant intend to call a company representative as a witness at the trial of this case? If so, list:

- a. the name, address, and job title of each company representative who may be called;
- b. a summary of the testimony expected to be given by each such witness; and
- c. list any and all previous times that the named witnesses have either given deposition or trial testimony in an asbestos-related case, including the jurisdiction, style of the case, case number, date of testimony, and the name of the attorney taking the deposition for the Plaintiff(s) in that case.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Interrogatory on the grounds that it seeks information protected by the attorney-client privilege and/or the attorney work product doctrine. It exceeds the permissible scope of discovery under the Texas Rules of Civil Procedure. Subject to and without waiving the foregoing objections, Defendant responds as follows: Defendant has not yet determined if a company representative will be called as a witness in the trial of this case.

INTERROGATORY NO.38: Does Defendant have, or has it ever had, a Medical Department or Medical Section? If so, state:

- a. the year such Medical Department or Section was established;
- b. whether or not such Medical Department or Section has operated continuously since being established;
- c. the name of each director, chief, or head of your Medical Department or Section year by year, beginning with the first year of its existence and the last known address and phone number of each; and
- d. state the duties and responsibilities of such Medical Department or Section.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: Defendant has never had a medical department or section.

INTERROGATORY NO.39: Please state whether written warnings were placed at any locations adjacent to or near asbestos in place on Defendant's railroad(s), at anytime from 1930 to the present. If so, please describe with specificity such signs, including size, color, wording, etc. Additionally, please state the number of such signs that were installed and indicate the specific location of each such sign and the dates such sign was at that location.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO.40: Does Defendant have, or has it ever had, a Safety Department? If so, state:

- a. the year such Safety Department was established;
- b. whether or not such Safety Department has operated continuously since being established;
- c. the name of each director, chief, or head of your Safety Department year by year, beginning with the first year you had a Safety Director or Safety Department, and the last known address and phone number of each; and
- d. state the duties and responsibilities of such Safety Department.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: Defendant has never had a safety department.

INTERROGATORY NO. 41: Please state whether a medical monitoring program, medical examination program or other medical surveillance was provided to your employees and specifically to Plaintiff. If so, please indicate what records of such program, examination or surveillance concerning Plaintiff exist at this time, including but not limited to reports, x-rays and medical notes.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: Defendant generally adheres to a seven year document retention policy. Medical records regarding the Plaintiff no longer exist.

INTERROGATORY NO. 42: Please state whether Defendant has at any time provided safety equipment to the Plaintiff and/or the

railroad workers of Defendant present at any time during Plaintiff's employment by Defendant for protection against the inhalation of airborne asbestos dust, including but not limited to masks, respirators, other breathing devices, protective clothing, protective gloves, etc. For each such item of equipment, please indicate when such item was first provided, under what circumstances, and the name, address and telephone number of the person most knowledgeable concerning such provision.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: Masks were available but were generally used only by employees who were painting.

INTERROGATORY NO.43: Please state whether Defendant ever agreed by contract, agreement, negotiation, collective bargaining or otherwise, to provide masks to Plaintiff and other crew members and/or employees of Defendant working with or around asbestos products. If so, please state verbatim the specific agreement or contract and/or other document by which Defendant agreed to provide such masks. Include the date the agreement was entered into, the period of time covered by the agreement and the parties to the agreement.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: Not prior to 1970.

INTERROGATORY NO.44: Please state the precise State and/or Federal regulations, laws, statutes, or other authority pertaining to industrial hygiene or worker safety and health that governed, regulated controlled and/or were applicable to airborne asbestos exposure in your operations and/or in relation to Defendant's railroad.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Interrogatory as calling for legal conclusions. Plaintiff is represented by counsel. This information is equally accessible to Plaintiff as to Defendant.

INTERROGATORY NO.45: Please describe each and every occasion during the past thirty years when any regulatory agency or other governing body inspected Defendant's railroad to ascertain whether health and safety regulations were being followed or adhered to, including the date of such inspection and/or meeting, the results, and whether a written report was produced.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: See Defendant's Response to Plaintiff's Request for Production of Documents. Responsive documents will be made available to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice.

INTERROGATORY NO.46: Please state whether any asbestos-containing products in place or in use on Defendant's railroad, has been removed or abated at any time from 1965 to the present. If so, please answer the following:

- a. list each and every abatement company or other contractor involved with the removal of asbestos, including address and telephone number, dates of such removal, and whether a contract for such removal exists;
- b. indicate the total amount in dollars spent by Defendant to abate or remove asbestos from the railroads;
- c. state whether any "removal plan" or organized written criteria or other document related to asbestos removal on the railroad(s) was ever prepared by Defendant;
- d. state whether corporate documents discussing or relating to the removal of asbestos are in existence and, if so, where they are maintained; and
- e. state precise dates and locations when and where such removal or abatement took place for each railroad.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: See Defendant's Response to Plaintiff's Request for Production of Documents. Responsive documents will be made available to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice.

INTERROGATORY NO. 47: As to either the threshold limit values or maximum allowable concentrations of both asbestos dust and total dust provided by the American Conference of Governmental Industrial Hygienists, state:

- a. the year in which Defendant was first advised of such limits or concentrations;
- b. the name of the employee or official of the company receiving such advice; and

c. how Defendant received notice of such limits or concentrations.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: Defendant did not learn of such limits or concentrations prior to 1970.

INTERROGATORY NO. 48: Please state whether and when Defendant received a copy of the Fleischer/Drinker Report published in 1945/1946.

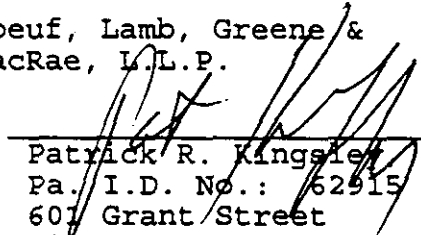
ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant responds as follows: Never.

INTERROGATORY NO. 49: Please describe all actions taken by Defendant to comply with the Boiler Inspection Act, previously 45 U.S.C. § 23 during the past thirty-five (35) years, now designated at 49 U.S.C. §20701 et seq.

ANSWER: Defendant objects to this Interrogatory as being vague, ambiguous, overly broad and, therefore, unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Interrogatory on the grounds that it calls for legal conclusions.

Respectfully submitted,

LeBoeuf, Lamb, Greene &
MacRae, L.L.P.

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(facsimile)

ATTORNEYS FOR DEFENDANT

THE STATE OF TEXAS
COUNTY OF DALLAS

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BEFORE ME, the undersigned authority, on this day personally appeared David Bessio, in his position as President, Point Comfort and Northern Railway in Denison, Texas, who after first being by me duly sworn upon oath stated that he has read the foregoing and that the facts stated therein are true and correct to the best of his knowledge and belief.


David Bessio

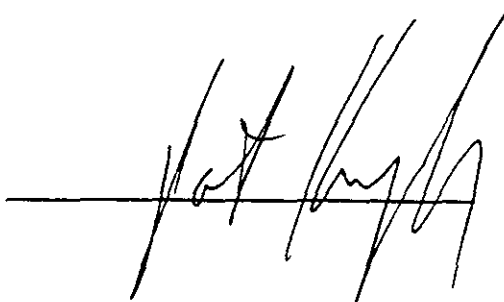
SUBSCRIBED AND SWORN TO before me, by the said David Bessio, on this the 13th day of March, 1997, to certify which witness my hand and seal of office.




Notary Public in and for
the State of Texas

CERTIFICATE OF SERVICE

I certify that on this 14th day of March, 1997, a true and correct copy of the above and foregoing document was served on all counsel of record.

A handwritten signature in black ink, appearing to be "Pat [unclear]", is written over a horizontal line.

PRK/33946.1