

CAUSE NO. 98-07665-F

CHARLES ERNEST BAKER, ET AL	§	IN THE DISTRICT COURT
	§	
VS.	§	DALLAS COUNTY, TEXAS
	§	
OWENS CORNING, ET AL	§	116TH JUDICIAL DISTRICT

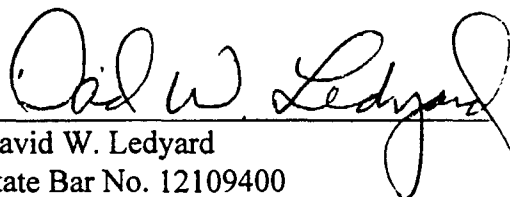
**EXXON CORPORATION'S OBJECTIONS AND
RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION PROPOUNDED TO PREMISES DEFENDANTS**

TO: Plaintiff, Donald Joseph McLean, Sr., et al by and through their attorney of record,
Melissa K. Hutts, BARON & BUDD, 3102 Oak Lawn Avenue, Suite 1100, Dallas,
Texas 75219-4281.

COMES NOW, EXXON CORPORATION, one of the Defendants in the above styled cause,
and make and files its Objections and Responses to Plaintiff's First Set of Interrogatories and
Request for Production Propounded to Premises Defendants.

Respectfully submitted,

STRONG, PIPKIN, NELSON,
BISSELL & LEDYARD, L.L.P.

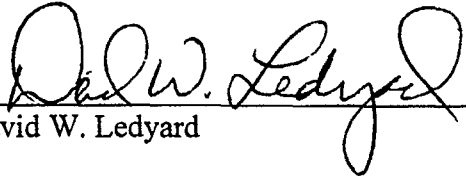

David W. Ledyard
State Bar No. 12109400

Michael T. Bridwell
State Bar No. 02979600
14th Floor, San Jacinto Building
Beaumont, Texas 77701-3255
(409)981-1000
(409)981-1010 Facsimile

ATTORNEYS FOR DEFENDANT.
EXXON CORPORATION

CERTIFICATE OF SERVICE

This will verify that a true and correct copy of Exxon Corporation's Objections and Response to Plaintiff's First Set of Interrogatories has been furnished to counsel for plaintiff, by certified mail, return receipt requested, and to all other known counsel of record by regular U.S. Mail, on this 18 day of April, 2000



David W. Ledyard

INTERROGATORIES

INTERROGATORY NO. 1:

For each person who has supplied any information used in answering these interrogatory state the name, address, job title, length of time employed by Defendant, and a year-by-year list all other positions, titles, or jobs held when working for Defendant.

ANSWER:

Exxon objects to this interrogatory to the extent it seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the foregoing objections, Exxon responds as follows: Undersigned counsel prepared these responses after discussions with his client.

INTERROGATORY NO. 2:

Have you ever been convicted or cited for of any offense (criminal, misdemeanor or felony any violation of federal or state regulations (including but not limited to, OSHA or other regulatory bodies), or country or city ordinances? If so, please list each offense and/or citation, identify court or the administrative body in which the case was filed and the date the conviction, citation violation was issued.

ANSWER:

Exxon objects to this interrogatory as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Exxon objects to this interrogatory to the extent it seeks information which is a matter of public record or otherwise available to Plaintiffs without imposing a burden on Exxon. Exxon further objects to this interrogatory to the extent that it is not limited to the Exxon Baytown facility. In addition, Exxon objects to this interrogatory as overly broad in that it seeks information which is not relevant to any issue in the case TRCP 192.3(a). Without waiving the foregoing objections, Exxon has never been convicted of any asbestos related criminal offense arising from its facility in Baytown.

INTERROGATORY NO. 3:

Please state whether a medical monitoring program, medical examination program or other medical surveillance program ("program") was provided to workers at Defendant's Premises. If programs were offered, please describe these programs in detail; specify in your response

to whom such programs were offered (i.e. contractor employees and Defendant employees); describe the dates that the aforementioned programs were in place; and state what documents concerning the describe programs exist.

ANSWER:

Exxon objects to this interrogatory to the extent that it is not limited to the Exxon Baytown facility and is overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds at follows: See the transcript of Clyde Berry from *Allen vs. American Petrofina*. See also the Procedures Concerning Safeguarding Workers from asbestos Health Hazards before OSHA. Exxon believes Exxon has had medical programs since its inception. Exxon did not medically monitor employees of independent contractors. Exxon expected such services to be provided by the employers of those workers, just as Exxon did for its employees. Exxon did make available to contract employees its medical facilities for certain injuries occurring on Exxon's premises.

INTERROGATORY NO. 4:

Please state the years during which Defendant Operated a medical department and identify persons who directed, headed or supervised said department and state the years of their service in capacity.

ANSWER:

Exxon objects to this interrogatory to the extent that it is not limited to the Exxon Baytown facility is overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: See Exxon's response to Interrogatory No. 3.

INTERROGATORY NO. 5:

Have you ever provided safety equipment to persons working on Defendant's Premises? If so, please list the safety equipment provided and indicate when the equipment was first provided, to whom the equipment was provided and under what circumstances the equipment was provided. Further, identify the person with the most knowledge of your "safety equipment" policies.

ANSWER:

Exxon objects to this interrogatory to the extent that it is not limited to the Exxon Baytown facility is overly broad, and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Exxon further objects to this interrogatory to the extent that the information sought is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. For instance, this objection refers to, but is not limited to Plaintiff's use of such general terms as "tests", "studies", "safety equipment" and/or "policies." To the extent this interrogatory seeks information unrelated to the subject matter of this lawsuit, the information sought is irrelevant. TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows. See "Dust Producing Operations in the Production of Petroleum Products and Associated Activities" by Roy Bonsib (1937), the transcript of James Hammond from *Allen vs. American Petrofina*., and Exxon's Procedures Concerning Safeguarding Workers from Asbestos Health Hazards before OSHA. See also, the transcript of Clyde Berry from *Allen vs. American Petrofina*.

INTERROGATORY NO. 6:

Please list all asbestos-containing products ("products") used at Defendant's Premises state what these products were used for, from whom these products were purchased, where the products were installed, and the specific persons or contractors who installed these products. Further, indicate the first year each specific asbestos-containing product was no longer purchased installed on Defendant's Premises.

ANSWER:

Exxon objects to this interrogatory to the extent that it is not limited to the Exxon Baytown facility is overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Exxon objects to this interrogatory the extent that many of the terms used therein are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure", "inhalation", "hazards", "hazardous and or "injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows. Sometime prior to 1972 Exxon decided to phase out the use of asbestos containing materials by using non-asbestos materials in its facility. Defendant will produce responsive documents to this request for inspection and copying at the offices of this Defendant's counsel at a mutually convenient time.

INTERROGATORY NO. 7:

Please state whether any asbestos-containing products in place or in use at Defendant's Premises have been abated at any time. If so, please list each person or company involved with the abatement of asbestos, including address and telephone number, and state the dates and particular locations of each abatement procedure.

ANSWER:

Exxon objects to this interrogatory to the extent that it is not limited to the Exxon Baytown facility is overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Exxon objects to this interrogatory the extent that many of the terms used therein are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure", "inhalation", "hazards", "hazardous and/or "injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: Prior to the development and distribution of appropriate alternates, certain products which contained asbestos were of necessity applied to certain operations. During this time frame if insulation had to be removed, insulation of like quality and composition were of necessity used as a replacement. As alternate materials became available, insulation containing asbestos has been removed (if present) during ordinary maintenance, and insulation which does not contain asbestos has been installed.

INTERROGATORY NO. 8:

Do you contend that Defendant, Defendant's representatives, insurance carriers and or agents performed any measurements and/or studies prior to 1970 to determine the quantity of asbestos fibers in the air at the Exxon facility? If the answer is anything other than "no", identify each and every fact which supports this contention.

ANSWER:

Exxon objects to each interrogatory to the extent that it is not limited to the Exxon Baytown facility and to the extent that the information sought is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. For instance, this objection refers to, but is not limited to Plaintiff's use of such general terms as "tests", "studies", "safety equipment" and/or "policies." To the extent this interrogatory seeks information unrelated to the subject matter of this lawsuit, the information sought is irrelevant. TRCP 192.3(a). Further, Exxon objects to this interrogatory to the extent it seeks information the subject of

which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the foregoing objections, Exxon responds as follows: See "Dust Producing Operations in the Production of Petroleum Products and Associated Activities" by Roy Bonsib (1937) and Exxon's Procedures Concerning Safeguarding Workers from Asbestos Health Hazards before OSHA.

INTERROGATORY NO. 9:

State in detail what tests have been conducted with regard to the quantity, quality threshold limit values of asbestos dust or particles to which workers were exposed while us working with or around, or installing asbestos-containing products in any of your facilities. Please state where and when these tests were conducted, by whom these tests were conducted, and results of any such test.

ANSWER:

Exxon objects to this interrogatory to the extent that it is not limited to the Exxon Baytown facility and to the extent that the information sought is neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence. For instance, this objection refers to, but is not limited to Plaintiff's use of such general terms as "tests", "studies", "safety equipment" and/or "policies." To the extent these requests seek information unrelated to the subject matter of this lawsuit, the information sought is irrelevant. TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: Exxon does not have detailed knowledge of all the tests conducted at its facilities over the years. See "Dust Producing Operations in the Production of Petroleum Products and Associated Activities: by Roy Bonsib (1937).

INTERROGATORY NO. 10:

Have you ever had a policy requiring workers on Defendant's premises to use respirators? (If so, please state when this policy was implemented; describe this policy in detail. state to whom it applied (i.e. Defendant employees and contractor employees); and describe what types and tn names of respirators were required by you.

ANSWER:

Exxon objects to this interrogatory to the extent that it is not limited to the Exxon Baytown facility is overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Exxon further objects to this interrogatory to the extent that the information sought is neither

relevant to nor reasonably calculated to lead to the discovery of admissible evidence. For instance, this objection refers to, but is not limited to Plaintiff's use of such general terms as "tests", "studies", "safety equipment" and/or "policies." To the extent this interrogatory seeks information unrelated to the subject matter of this lawsuit, the information sought is irrelevant. TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: See "Dust Producing Operations in the Production of Petroleum Products and Associated Activities" by Roy Bonsib (1937), the transcript of Hammond from *Allen vs. American Petrofina.*, and Exxon's Procedures Concerning Safeguarding Workers from Asbestos Health Hazards before OSHA. See also the transcript of Clyde Berry from *Allen vs. American Petrofina.* Exxon has no records of when respirators were first used at its facility but Roy Bonsib, prior Chief Safety Inspector of Standard Oil Company (NJ), reports the use of respirators in 1937. The respirators provided included the M.S.A. "Comfo" or Wilson dust respirator, which was approved by the Bureau of Mines.

INTERROGATORY NO. 11:

Do you contend that at no time during the time frame between 1948-1990, Defendant did have the right to advise or, if necessary, control the activities of employees of contractors, work on the premises of the Exxon facility, who were engaged in activities which could be potentially hazardous to either themselves or Exxon Corporation employees? If the answer is anything other than "no", identify each and every fact which supports this contention.

ANSWER:

Exxon objects to this interrogatory to the extent that it is not limited to the Exxon Baytown facility is overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Exxon objects to this interrogatory the extent that many of the terms used therein are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure", "inhalation", "hazards", "hazardous and or "injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: Independent contractors were retained by Exxon to perform various activities on its premises because independent contractors were experts in the various fields in which they were retained. The contractors were independent and control over the details of the work was left to their expertise. Further, each independent contractor agrees to take all reasonable precautions to protect the workmen. Exxon anticipated that most, if not all, advice and control of contractors' day to day activities regarding safety would come from the contractors' employer.

INTERROGATORY NO. 12:

Have you ever warned workers on Defendant's Premises of the hazards of asbestos-containing products? If so, describe in detail the methods of such warnings, who you warned and when. Please include in your response a description of any written warnings relating to the hazards of asbestos in place at Defendant's Premises and state when the written warnings installed, how many were installed, and whether they have been removed.

ANSWER:

Exxon objects to this interrogatory to the extent that it is not limited to the Exxon Baytown facility. Further, Exxon objects to this interrogatory the extent that many of the terms used therein are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure", "inhalation", "hazards", "hazardous and/or injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: Exxon refers plaintiff's counsel to the transcript of James Hammond from *Allen vs. American Petrofina*, Exxon's Procedures Concerning Safeguarding Workers from Asbestos Health Hazards before OSHA and List of Potentially Hazardous Material.

INTERROGATORY NO. 13:

Please state the year you first learned that persons could suffer physical injury through the inhalation of asbestos fibers and how Defendant became aware of the existence of asbestos hazards. Further, please identify any documents that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings.

ANSWER:

Exxon objects to this interrogatory as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to this interrogatory the extent that many of the terms used therein are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure", "inhalation", "hazards", "hazardous and/or injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: Exxon cannot locate a reference demonstrating when it first learned of

a health related injury associated with exposure to asbestos. See however, "Dust Producing Operations in the Production of Petroleum Products and Associated Activities" by Roy Bonsib (1937).

INTERROGATORY NO. 14:

If Defendant has ever been a member of any trade organization that published or disseminated any documents or information relating to the hazards of asbestos, state the names of such organizations and list the dates of membership.

ANSWER:

Exxon objects to this interrogatory the extent that many of the terms used therein are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure", "inhalation", "hazards", "hazardous and/or injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: Exxon has located no records documents from trade organizations responsive to this request.

INTERROGATORY NO. 15:

Identify every individual ever employed at Defendant's facilities who has made or presented a Worker's Compensation or other claim for personal injury or death resulting from inhalation asbestos. Please include in your response the date of any such claims and a description of the injury alleged.

ANSWER:

Exxon objects to this interrogatory to the extent that it is not limited to the Exxon Baytown facility is overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Exxon objects to this interrogatory the extent that many of the terms used therein are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure", "inhalation", "hazards", "hazardous and or injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows:

Independent contractors were retained by Exxon to perform various activities on its premises because independent contractors were experts in the various fields in which they were retained. The contractors were independent and control over the details of the work was left to their expertise. Further, each independent contractor agrees to take all reasonable precautions to protect the workmen. Exxon anticipated that most, if not all, advice and control of contractors' day to day activities regarding safety would come from the contractors' employer.

INTERROGATORY NO. 16:

Do you contend that Defendant specifically warned Plaintiff about the hazards of asbestos-containing products? If the answer is anything other than "no", identify each and every which supports this contention.

ANSWER:

Exxon does not know if it specifically warned Donald McLean about alleged hazards of asbestos containing products. See however, "Dust Producing Operations in the Production of Petroleum Products and Associated Activities" by Roy Bonsib (1937).

INTERROGATORY NO. 17:

Please identify the date when Defendant first provided any warnings to its own employees regarding the potential health hazards of asbestos.

ANSWER:

Exxon objects to this interrogatory to the extent that it is not limited to the Exxon Baytown facility is overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Exxon objects to this interrogatory the extent that many of the terms used therein are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure", "inhalation", "hazards", "hazardous and or "injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests IROP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows. Independent contractors were retained by Exxon to perform various activities on its premises because independent contractors were experts in the various fields in which they were retained. The contractors were independent and control over the details of the work was left to their expertise. Further, each independent contractor agrees to take all reasonable

precautions to protect the workmen. Exxon anticipated that most, if not all, advice and control of contractors' day to day activities regarding safety would come from the contractors' employer. Without waiving the foregoing objections, Exxon responds as follows: Exxon cannot locate a reference demonstrating when it first learned of a health related injury associated with exposure to asbestos or provided warnings to its employees. See however, "Dust Producing Operations in the Production of Petroleum Products and Associated Activities" by Roy Bonsib (1937).

REQUEST FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Produce all documents that reflect, indicate or in any way relate to communications between you and any manufacturer of asbestos-containing products concerning or related to the asbestos contained in such products.

RESPONSE:

Exxon objects to this requests for production to the extent that it is not limited to the Exxon Baytown facility TRCP 192.3(a). Further, Exxon objects to this requests for production to the extent it seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the foregoing objections, Exxon responds as follows: Exxon will produce responsive documents to this request for inspection and copying at the offices of this Defendant's counsel at a mutually convenient time. See also, Venable Dust Study.

REQUEST FOR PRODUCTION NO. 2:

Produce all documents that indicate that asbestos fibers, when inhaled, can be hazardous, the health of human beings.

RESPONSE:

Exxon objects to this request for production to the extent it is overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. For instance, this objection refers to, but is not limited to Plaintiff's use of such general terms as "tests", "studies", "safety equipment" and or "policies." To the extent these requests seek information unrelated to the subject matter of this lawsuit, the information sought is irrelevant. In addition, this request includes terms used therein which are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure", "inhalation", "hazards", "hazardous and/or "injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests TRCP 192.3(a). In addition, this request seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or

any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the forgoing objections, Exxon responds as follows: See documents previously produced to plaintiff, Exxon's Procedures Concerning Safeguarding Workers from Asbestos Health Hazards before OSHA, and "Dust Producing Operations in the Production of Petroleum Products and Associated Activities" by Roy Bonsib (1937).

REQUEST FOR PRODUCTION NO. 3:

Produce all documents disseminated or published by any trade association that contain information relating to the hazards of asbestos and all documents which refer to such document

RESPONSE:

Exxon objects to this request for production to the extent it is overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to this request to the extent that many of the terms used therein are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure", "inhalation", "hazards", "hazardous and/or injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: See Answer to Interrogatory No. 14.

REQUEST FOR PRODUCTION NO. 4:

Produce all documents, that relate to any inspections by any regulatory agency for the purpose, of ascertaining whether health or safety regulations were being followed or adhered to at any of your plants. This request specifically seeks any and all such documentation referring to dust hazards, including but not limited to asbestos in your plants.

RESPONSE:

Exxon objects to this request for production to the extent it is overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to this request to the extent that it is not limited to the Exxon Baytown facility TRCP 192.3(a). In addition, Exxon objects to this request to the extent that it seeks information which is a matter of public record or otherwise available to Plaintiffs without imposing a burden on Exxon. Exxon objects to the extent this request seeks information the subject of which is protected

from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the foregoing objections, Exxon responds as follows: Exxon has found no report responsive to this request for the Baytown facility.

REQUEST FOR PRODUCTION NO. 5:

Produce all safety meeting minutes or other documents, that refer to the dangers of asbestos safety measures to be used in the vicinity of asbestos at Defendant's Premises.

RESPONSE:

Exxon objects to this request for production to the extent it is overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to the extent that it is not limited to the Exxon Baytown facility. In addition, Exxon objects to this request to the extent that many of the terms used therein are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure", "inhalation", "hazards", "hazardous and/or injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests TRCP 192.3(a). Exxon objects to the extent this request seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the foregoing objections, Exxon responds as follows: Exxon refers plaintiff's counsel to the transcript of James Hammond from *Allen vs. American Petrofina*, Exxon's Procedures Concerning Safeguarding Workers from Asbestos Health Hazards before OSHA and List of Potentially Hazardous Material.

REQUEST FOR PRODUCTION NO. 6:

Produce all contracts, or other documents that related to abatement of asbestos at Defendant's Premises.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to the extent that it is not limited

to the Exxon Baytown facility TRCP 192.3(a). In addition, Exxon objects to this request to the extent it seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the foregoing objections, Exxon responds as follows: Exxon has located no documents to date for the Baytown facility.

REQUEST FOR PRODUCTION NO. 7:

Produce all contracts, or other documents that relate to the installation of asbestos products at Defendant's Premises.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to the extent that it is not limited to the Exxon Baytown facility TRCP 192.3(a). In addition, Exxon objects to this request to the extent it seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the foregoing objections, Exxon responds as follows: Exxon will produce responsive documents to this request for inspection and copying at the offices of this Defendant's counsel at a mutually convenient time. See also transcript and exhibits volume of James Hammond provided to plaintiff's counsel in prior litigation.

REQUEST FOR PRODUCTION NO. 8:

Produce all documents that in any way reflect a removal plan or organized written criteria schedule for the removal of asbestos at Defendant's Premises.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to the extent that it is not limited to the Exxon Baytown facility TRCP 192.3(a). In addition, Exxon objects to this request to the extent it seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the foregoing objections, Exxon responds as

follows: See Asbestos Handling Guidelines (Hammond); see also Exxon's Answer to Interrogatory No. 3.

REQUEST FOR PRODUCTION NO. 9:

Produce all documents that relate to abatement of asbestos from any of your plants, including but not limited to the Defendant's Premises located in Baytown, Texas.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to the extent that it is not limited to the Exxon Baytown facility TRCP 192.3(a). In addition, Exxon objects to this request to the extent it seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the foregoing objections, Exxon responds as follows: Exxon will produce maps of its facility responsive to this request for inspection and copying at the offices of this Defendant's counsel at a mutually convenient time. See Exxon's Response to Request for Production No. 6.

REQUEST FOR PRODUCTION NO. 10:

Produce all documents related to the medical condition of DONALD JOSEPH MCLEAN, at any time during his employment at Defendant's Premises. This request specifically includes any and all x-rays, x-ray reports, medical notes and/or medical records of any kind, annual physical forms, employment records relating to Plaintiff's health.

RESPONSE:

Exxon objects to this request for production to the extent it seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the foregoing objections, Exxon responds as follows: Exxon has no medical x-rays, x-ray reports, medical notes and/or medical records concerning Plaintiff other than those provided by Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 11:

Produce Plaintiff's entire personnel file from Defendant's Premises.

RESPONSE:

Exxon has no personnel file on Plaintiff.

REQUEST FOR PRODUCTION NO. 12:

Produce all documents that reflect the layout of Defendant's Premises, including the location and dimensions of all buildings and the location and placement of asbestos-containing products.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. TRCP 192.3(a). Further, Exxon objects to this request to the extent that it seeks confidential and/or proprietary information and/or trade secrets. In addition, this request seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the foregoing objections, Exxon responds as follows: See transcript and exhibit volume of James Hammond. Exxon will provide maps of the Exxon facility for inspection and copying at the offices of this Defendant's counsel at a mutually convenient time.

REQUEST FOR PRODUCTION NO. 13:

Produce all documents containing any warnings concerning the possibility of injury resulting from the use of asbestos-containing products or exposure to asbestos.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to this request to the extent that many of the terms used therein are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure".

"inhalation"; "hazards", "hazardous and/or "injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests TRCP 192.3(a). In addition, Exxon objects to the extent this request seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5 Without waiving the foregoing objections, Exxon responds as follows: See documents provided to plaintiff's counsel in prior litigation.

REQUEST FOR PRODUCTION NO. 14:

Produce all photographs of asbestos products in place or asbestos-containing products being fabricated or utilized at Defendant's Premises.

RESPONSE:

Exxon objects to this requests for production to the extent that it seeks confidential and/or proprietary information and/or trade secrets. Further, Exxon objects to this request to the extent that it is not limited to the Exxon Baytown facility TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: Exxon has no photographs responsive to this request.

REQUEST FOR PRODUCTION NO. 15:

Produce all photographs of warning signs or warning statements which are or have be place at Defendant's Premises in the vicinity of asbestos-containing products.

RESPONSE:

Exxon objects to this requests for production to the extent that it seeks confidential and/or proprietary information and/or trade secrets. Further, Exxon objects to this request to the extent that it is not limited to the Exxon Baytown facility TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: Exxon has located no documents to date.

REQUEST FOR PRODUCTION NO. 16:

Produce all documents relating to any individuals claimed injury as a result of exposure to asbestos at Defendant's Premises, including, but not limited to, workers compensation claims.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to the extent that it is not limited to the Exxon Baytown facility TRCP 192.3(a). In addition, Exxon objects to this request to the extent it seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the foregoing objections, Exxon responds as follows: See Answer to Interrogatory No. 15.

REQUEST FOR PRODUCTION NO. 17:

Produce all documents, including but not limited to, corporate minutes, which mention the hazards or potential hazards of asbestos.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to the extent that it is not limited to the Exxon Baytown facility. In addition, Exxon objects to this request to the extent that many of the terms used therein are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure", "inhalation", "hazards", "hazardous and/or injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests TRCP 192.3(a). In addition, Exxon objects to this request to the extent it seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the foregoing objections, Exxon responds as follows: Exxon has been unable to locate documents responsive to this request. As appropriate in accordance with the Texas Rules of Civil Procedure, Exxon reserves the right to supplement its response.

REQUEST FOR PRODUCTION NO. 18:

Produce all documents, including invoices, shipping receipts, bills of lading and purchase orders, related to the purchase of asbestos-containing products for use at Defendant's Premises.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to this request to the extent that it is not limited to the Exxon Baytown facility TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: Exxon will produce responsive documents to this request for inspection and copying at the offices of this Defendant's counsel at a mutually convenient time.

REQUEST FOR PRODUCTION NO. 19:

Produce all documents relating to inspections by labor inspectors, insurance company inspectors or anyone from your company or hired by your company, that included the taking or measuring of "dust counts".

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to the extent that it is not limited to the Exxon Baytown facility TRCP 192.3(a). In addition, Exxon objects to this request to the extent it seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the foregoing objections, Exxon responds as follows: See the Venable Dust Surveys and Roy Bonsib Report provided to Plaintiff's counsel in prior litigation.

REQUEST FOR PRODUCTION NO. 20:

In the event that Defendant performed or had performed any dust level counts or measurements of any of its plants or industrial facilities with respect to asbestos dust, produce any documents, memoranda, or other writings that in any way reflect the results of such studies or counts and actions taken as a result of such counts or studies.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to the extent that it is not limited to the Exxon Baytown facility TRCP 192.3(a). In addition, Exxon objects to this request to the extent it seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5. Without waiving the foregoing objections, Exxon responds as follows: See the Venable Dust Surveys and Roy Bonsib Report provided to Plaintiff's counsel in prior litigation.

REQUEST FOR PRODUCTION NO. 21:

Produce all reports, writings (whether published or unpublished) and/or other documentation written, created and/or edited by any of your experts that in any way pertain to asbestos and hazards and/or diseases that may result therefrom.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to this request to the extent that many of the terms used therein are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure", "inhalation", "hazards", "hazardous and/or "injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: Exxon has not located any documents responsive to this request.

REQUEST FOR PRODUCTION NO. 22:

Produce all documents which will be used at the time of trial, including all potential exhibits and those documents which may be used to cross-examine other witnesses or in rebuttal, and which you contend are relevant to any of Defendant's enumerated defenses in Defendant's most recently filed Answer.

RESPONSE:

Exxon objects to this request for production to the extent that it is overly broad and burdensome and seeks information the subject of which is protected from disclosure by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, or any other applicable privilege or immunity from discovery provided by TRCP 192.5.

REQUEST FOR PRODUCTION NO. 23:

Produce documents between Defendant and any of its worker's compensation carriers regarding the hazards of asbestos and asbestos-containing products.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to this request to the extent that many of the terms used therein are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure", "inhalation", "hazards", "hazardous and/or "injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds that this request is not applicable. Exxon is self-insured for the purpose of this lawsuit.

REQUEST FOR PRODUCTION NO. 24:

Produce a copy of all regulations, orders, rules and/or policies which have been used relating to the safety of the Defendant's Premises.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to this request to the extent that it is not limited to the Exxon Baytown facility TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: See the transcript of James Hammond from *Williams v. McCarty Corp.*, and Exxon's Procedures Concerning Safeguarding Workers from Asbestos Health Hazards before OSHA. Exxon reserves the right to supplement its response

REQUEST FOR PRODUCTION NO. 25:

Produce all documents which contain complaints by employees of the Defendant's Premises regarding safety conditions and work place conditions at the Defendant's Premises.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to this request to the extent that it is not limited to the Exxon Baytown facility TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: Exxon has not located any documents responsive to this request to date for the Baytown facility.

REQUEST FOR PRODUCTION NO. 26:

Produce all documents which contain complaints by Union' representatives of Defendant's Premises regarding safety conditions and work place conditions at the Defendant's Premises.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, Exxon objects to this request to the extent that it is not limited to the Exxon Baytown facility TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: Exxon has not located any documents responsive to this request to date for the Baytown facility.

REQUEST FOR PRODUCTION NO. 27:

Produce all documents, organizational charts or rosters which identify the members of management at the Defendant's Premises and their areas of responsibility during the time period of Plaintiffs work at Defendant's Premises.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows: Exxon has not located any documents responsive to this request to date.

REQUEST FOR PRODUCTION NO. 28:

Produce all documents which evidence Defendant's, net worth, including but not limited to all "10-K" forms filed for the last five (5) years.

RESPONSE:

Exxon objects to this request for production to the extent that it is not limited to the Exxon Baytown facility TRCP 192.3(a). Further, Exxon objects to this requests for production to the extent that they seek confidential and/or proprietary information and/or trade secrets. This request seeks information which is a matter of public record or otherwise available to Plaintiffs without imposing a burden on Exxon. Without waiving the foregoing objections, Exxon responds as follows: Exxon will produce responsive documents to this request for inspection and copying at the offices of this Defendant's counsel at a mutually convenient time.

REQUEST FOR PRODUCTION NO. 29:

Produce all documents which evidence Defendant's purchase, acquisition, sale, or transfer of ownership of Defendant's Premises.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence TRCP 192.3(a). Without waiving the foregoing objection, only Exxon and its predecessors have own this facility since its inception.

REQUEST FOR PRODUCTION NO. 30:

Produce all indemnity agreements, assignments of liability, subrogation agreements and other similar documents relating to Defendant's Premises and liabilities arising from said ownership.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence TRCP 192.3(a). Without waiving the foregoing objection, Exxon responds as follows: Exxon has not located any documents responsive to this request to date regarding the claims made the basis of this suit.

REQUEST FOR PRODUCTION NO. 31:

Produce all contracts pertaining to work done by contractors at Defendant's facility.

RESPONSE:

Exxon objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence TRCP 192.3(a). Without waiving the foregoing objection, Exxon responds as follows: Exxon has not located relevant documents responsive to this request to date. Exxon reserves the right to supplement its response as discovery continues.

REQUEST FOR PRODUCTION NO. 32:

Please produce any printed material produced or published by Defendant containing warnings concerning the possibility of injury resulting from the use of asbestos-containing products or exposure to asbestos.?

RESPONSE:

Exxon objects to this request to the extent that many of the terms used therein are vague, ambiguous, and overly broad, which renders particular questions unintelligible, and renders a response impossible without speculation as to the meaning of the term. For instance, this objection refers to, but is not limited to Plaintiff's use of such terms as "using", "in place", "working with or around", "exposure", "inhalation", "hazards", "hazardous and/or "injury" or "possibility of injury" relating to asbestos. Plaintiff fails to reference any specific use, exposure condition (i.e. concentration) or type of health injury in their requests TRCP 192.3(a). Without waiving the foregoing objections, Exxon responds as follows. See "Dust Producing Operations in the Production of Petroleum Products and Associated Activities" by Roy Bonsib (1937).