

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSISSIPPI

IN RE: ASBESTOS PERSONAL INJURY CASES ABRAMS LEAD NOS.
88-5422(2), 89-5088(2), 89-5121(2), 90-5247(2),
88-5420(2), 89-5252(2), 90-5069(2), 90-5322(2),
89-5153(2), 90-5353(2), 89-5268(2), 90-5045(2),
90-5274(2), 88-5181(2), 91-5000(2), 91-5119(2),
90-5178(2), 90-5369(2), 90-5387(2), 91-5098(2),
91-5153(2) and 91-5187(2)

**WESTINGHOUSE ELECTRIC CORPORATION'S
RESPONSE TO PLAINTIFFS' REQUEST TO PRODUCE TO
WESTINGHOUSE ELECTRIC CORPORATION DATED JUNE 9, 1992**

Westinghouse Electric Corporation ("Westinghouse"), by counsel and without waiving any objection to these Requests on the grounds that they seek to elicit information protected by the attorney-client privilege, by the attorney work product doctrine or as trial preparation material, hereby responds to Plaintiffs' Request to Produce to Westinghouse Electric Corporation Dated June 9, 1992. All definitions and instructions contained in plaintiffs' previous discovery requests are applicable hereto.

REQUEST NO. 1:

Curriculum vitae of Wayne Bickerstaff.

RESPONSE TO REQUEST NO. 1:

Mr. Bickerstaff's resume is attached as Exhibit A hereto.

REQUEST NO. 2:

The deposition given by Mr. Wayne Bickerstaff in approximately April, 1992, to which reference was made during May 29, 1992 deposition.



RESPONSE TO REQUEST NO. 2:

The deposition sought by Plaintiffs' Request was taken in the course of litigation to determine insurance coverage. Westinghouse objects to this Request to the extent it seeks materials unrelated to any matter at issue in this litigation. Without waiving its objection, Westinghouse has attached the complete transcripts of Mr. Bickerstaff's April 23, 1992 deposition (Volume I) and his April 29, 1992 deposition (Volume II) as Exhibit B hereto.

REQUEST NO. 3:

The one inch thick file to which reference was made that Wayne Bickerstaff reviewed prior to the May 29, 1992 deposition.

RESPONSE TO REQUEST NO. 3:

Copies of the documents which Mr. Bickerstaff reviewed prior to his May 29, 1992 deposition are attached as Exhibit C hereto.

REQUEST NO. 4:

The management organization chart and/or file to which reference was made by Wayne Bickerstaff in his May 29, 1992 deposition.

RESPONSE TO REQUEST NO. 4:

The document sought by Plaintiffs' Request, as indicated by Mr. Bickerstaff's deposition testimony, is contained in the documents produced in response to Plaintiffs' Request No. 3.

REQUEST NO. 5:

All minutes, notes, documentation, and memoranda involving the ten person team appointed by Westinghouse to evaluate asbestos abatement and removal in its facilities to which reference was made at Wayne Bickerstaff's May 29, 1992 deposition.

RESPONSE TO REQUEST NO. 5:

Westinghouse objects to Plaintiffs' Request on the grounds that it is overbroad, burdensome and oppressive and demands an investigation into matters which are irrelevant and immaterial to any issue raised by these proceedings and which are not reasonably calculated to lead to the discovery of relevant, material or admissible evidence. Plaintiffs' Request seeks documents related to asbestos abatement. They concern neither asbestos-containing products used or manufactured by Westinghouse nor any relevant knowledge Westinghouse may have had concerning potential hazards involved in the use of asbestos-containing products.

Upon reasonable information and belief, Westinghouse did not become involved in asbestos abatement until the early 1980's. Documents generated by Westinghouse in the 1980's, particularly those concerning asbestos abatement issues, have no conceivable bearing on the cases of individual plaintiffs alleging injury as a result of exposure to asbestos at Ingalls Shipbuilding. Upon limited investigation, Westinghouse has learned that the documents requested are not necessarily maintained in a central repository but may exist at various Westinghouse facilities, including the more than 30 locations which have undertaken abatement efforts. Any documents Westinghouse may have concerning those issues are so unlikely to provide or lead to relevant or material information that the burden represented by the location and production of those documents cannot be

justified by the limited potential benefit they may provide to Plaintiffs.

REQUEST NO. 6:

Asbestos removal contracts, documents, correspondence to and from Westinghouse with Brand Project Development [sic], Clean All, and any other companies with which Westinghouse has contracted and/or for the removal of asbestos from its facilities.

RESPONSE TO REQUEST NO. 6:

See Response of Westinghouse to Plaintiffs' Request No. 5.

REQUEST NO. 7:

All contracts, correspondence, and reports between Westinghouse and any outside consultants that evaluated any in-place asbestos in Westinghouse facilities.

RESPONSE TO REQUEST NO. 7:

See Response of Westinghouse to Plaintiffs' Request No. 5.

REQUEST NO. 8:

Any and all documents involving asbestos removal, encapsulation, or abatement of in-place asbestos in Westinghouse facilities, including, but not limited to, any evaluation of the merits of any of the three methods of handling in-place asbestos.

RESPONSE TO REQUEST NO. 8:

See Response of Westinghouse to Plaintiffs' Request No. 5.

REQUEST NO. 9:

The corporate documents involving Westinghouse Environmental Geotechnical, a part of the Westinghouse Environmental Systems Division including, but not limited to, all corporate documents which reflect the sale of that group by Westinghouse, all advertising by that group involving asbestos consulting and/or removal, encapsulation, or abatement of in-place asbestos, advertising literature involving asbestos. (This request is also intended to include any remaining portion which was incorporated into the Westinghouse Environmental Geotechnical, Westinghouse Environmental Systems Division after the sale of part of the Westinghouse Environmental Geotechnical, all of which was discussed at Mr. Bickerstaff's deposition on May 29, 1992).

RESPONSE TO REQUEST NO. 9:

See Response of Westinghouse to Plaintiffs' Request No. 5. The Westinghouse Environmental Geotechnical Division was not acquired by Westinghouse until 1988, well beyond any time period relevant to these cases. Only a very small portion of that Division's business was in anyway related to asbestos. A search for corporate documents which reflect the sale of that Division or advertising by that group involving asbestos consulting and/or removal, encapsulation or abatement of in-place asbestos would require, at a minimum, a review of at least 500 boxes of inactive files. In addition, documents of the portion of that division which was not sold by Westinghouse are contained in an equal number of active files which are maintained by various field offices all over the country.

Westinghouse objects to Plaintiffs' Request on the grounds it is overly burdensome and oppressive. The likelihood of locating responsive documents by a search of those records is so small that it cannot justify the man hours and expense that such a search would entail and any potential benefit to plaintiffs is far outweighed by the burden it would present.

REQUEST NO. 10:

Any videotapes regarding asbestos whatsoever, including, but not limited to, methods of abatement and/or removal, maintenance of asbestos, safety and health hazards.

RESPONSE TO REQUEST NO. 10:

See Response of Westinghouse to Plaintiffs' Request No. 5. The only videotapes in Westinghouse's possession which would be responsive to Plaintiffs' Request concern asbestos abatement issues and are, therefore, unrelated to these proceedings.

REQUEST NO. 11:

All of the files, notes, slides, hand-out materials, and demonstrative evidence existing as a result of the asbestos seminar on abatement that was put on by Westinghouse. This was referenced in Mr. Bickerstaff's deposition of May 29, 1992.

RESPONSE TO REQUEST NO. 11:

See Response of Westinghouse to Plaintiffs' Request No. 5. Without waiving its objections, Westinghouse states that, to the extent documents sought by Plaintiffs' Request have been retained, they are maintained in the Industrial Hygiene library which Plaintiffs' counsel has visited and has had ample opportunity to review.

RESPONSE TO REQUEST NO. 12:

Any and all assessment reports on in-place asbestos.

RESPONSE TO REQUEST NO. 12:

See Response of Westinghouse to Plaintiffs' Request No. 5.

REQUEST NO. 13:

Any correspondence, documentation, memoranda, or other documents regarding efforts by Westinghouse to seek cost recovery from manufacturers of the in-place asbestos or others in the chain of distribution.

RESPONSE TO REQUEST NO. 13:

At this time, Westinghouse is not aware of any such efforts made by Westinghouse or on its behalf and, therefore, is unable to provide documents responsive to Plaintiffs' Request.

REQUEST NO. 14:

The asbestos file within the industrial hygiene files.

RESPONSE TO REQUEST NO. 14:

Any such files that may exist will be made available to Plaintiffs' counsel for inspection and copying, as a part of the complete files of the Corporate Industrial Hygiene Department in Pittsburgh, at a time and place convenient to both parties.

REQUEST NO. 15:

The documents which were copied by the paralegals of McGuire, Woods, Battle & Boothe law firm and by the legal department of Westinghouse from the industrial hygiene files which Mr. Bickerstaff discussed at his May 29, 1992 deposition.

RESPONSE TO REQUEST NO. 15:

Westinghouse objects to Plaintiffs' Request on the ground that the results of any review of documents by counsel for Westinghouse are attorney work product and any compilation of documents created by counsel for Westinghouse as a result of that review was prepared in anticipation of litigation. As such, the documents plaintiffs seek are not discoverable. The originals of those documents are a part of the complete files of the Industrial Hygiene Department which will be made available to Plaintiffs' counsel for inspection and copying at a time and place convenient to both parties.

REQUEST NO. 16:

Plaintiff requests access to the complete industrial hygiene files maintained by Westinghouse from which the documents provided to McGuire, Woods plaintiffs' counsel Battle originated.

RESPONSE TO REQUEST NO. 16:

Subject to its objections regarding production of abatement-related documents, as set out in Response to Request No. 5, Westinghouse will make available to Plaintiffs' counsel for inspection and copying the complete files of the Corporate Industrial Hygiene Department in Pittsburgh, which were reviewed by McGuire, Woods, Battle & Boothe personnel, at a time and place convenient to both parties.

REQUEST NO. 17:

Plaintiff requests access to the Westinghouse libraries, including, but not limited to, the library in Pittsburgh which was discussed by Mr. Bickerstaff at his May 29, 1992 deposition.

RESPONSE TO REQUEST NO. 17:

Plaintiffs' counsel visited the Industrial Hygiene Department's library at the Pittsburgh offices of Westinghouse on Friday, June 26, 1992. Westinghouse is unaware of any other library maintained at Corporate Headquarters in Pittsburgh which would contain any asbestos-related materials. Westinghouse ought not be required to undertake efforts to locate other collections of reference materials which may or may not exist at the hundreds of Westinghouse facilities across the country which may or may not maintain relevant materials. Westinghouse objects to Plaintiffs' request to the extent it calls for such a search on the grounds that it is unduly burdensome and oppressive and that

the burden represented by that search would outweigh any possible benefit to plaintiffs that could result.

REQUEST NO. 18:

The index of air samples conducted by Westinghouse which would specifically include, but not be limited to, the index entry for the 1951, 1952, or 1953 air sample at the Westinghouse plant near Pittsburgh and the index of the air sample at that same plant in the early 1970's and in the mid-1970's. Plaintiffs further request production of all documents from which the index was prepared.

RESPONSE TO REQUEST NO. 18:

The index to which Mr. Bickerstaff referred in his deposition and the air sampling records from which it was prepared are maintained in the files of the Corporate Industrial Hygiene Department which will be made available to Plaintiffs' counsel for inspection and copying at a time and place convenient to both parties.

REQUEST NO. 19:

Documents which would reflect whether or not the suppliers of asbestos materials of any type purchased by Westinghouse provided the chemical composition of its products, including, but not limited to, all material safety data sheets for any asbestos-containing products that were incorporated into or specified for use with the products ultimately sold by Westinghouse.

RESPONSE TO REQUEST NO. 19:

Westinghouse will produce the documents maintained in the files of the Corporate Industrial Hygiene Department which will be made available to Plaintiffs' counsel for inspection and copying at a time and place convenient to both parties.

REQUEST NO. 20:

The safe practice data sheet in 1953 and 1958 to which Mr. Bickerstaff referenced at his May 29, 1992 deposition and any other such safe practice data sheets to which reference is made

therein to asbestos. Plaintiff requests that all such documents issued subsequent to the above dates also be provided.

RESPONSE TO REQUEST NO. 20:

Westinghouse has issued two versions of Safe Practice Data Sheet A-20. The first was issued in 1953. A revision of that document was issued in 1977. Copies of both versions are attached as Exhibits D and E hereto. See Response of Westinghouse to Plaintiffs' Requests Nos. 14, 16 and 19. Any other documents which might be responsive to Plaintiffs' Request are maintained in the Industrial Hygiene files.

REQUEST NO. 21:

Any and all cards which were used by Westinghouse and discussed by Mr. Bickerstaff in his deposition on May 29, 1992 that in any way deal with asbestos. Mr. Bickerstaff specifically mentioned pipe covering and gaskets.

RESPONSE TO REQUEST NO. 21:

Plaintiffs' overbroad Request is an attempt to add to their inventory of information concerning the use of asbestos products by defendants nationwide in an effort to discover new sources of asbestos claims and expand their client base. Westinghouse objects to this request to the extent that it requires investigation into matters which are unrelated to any Westinghouse product at issue in this litigation. The request seeks materials which are neither relevant nor material to any issue involved in these cases and which are not reasonably calculated to lead to the discovery of relevant, material or admissible evidence.

Without waiving its objections, Westinghouse will produce documents responsive to Plaintiffs' Request which are related to products identified in any Plaintiff's deposition or reasonably believed to be the subject of this litigation at a time and place convenient to both parties.

REQUEST NO. 22:

A copy of all air samples that were taken regarding asbestos, including, but not limited to, samples outside of the Westinghouse facility.

RESPONSE TO REQUEST NO. 22:

Westinghouse air sampling records are maintained in the files of the Corporate Industrial Hygiene Department which will be made available to Plaintiffs' counsel for inspection and copying at a time and place convenient to both parties.

REQUEST NO. 23:

Newsletters that were sent to Westinghouse employees involving, or mentioning in any way, asbestos.

RESPONSE TO REQUEST NO. 23:

At this time, Westinghouse is not aware that any documents responsive to this request were ever created by Westinghouse or distributed to Westinghouse employees.

REQUEST NO. 24:

Copies of the two transcripts of industrial hygienists that Mr. Bickerstaff reviewed within 30 days of his May 29, 1992 deposition.

RESPONSE TO REQUEST NO. 24:

The transcripts responsive to Plaintiffs' Request are attached as Exhibits F and G hereto.

REQUEST NO. 25:

Any and all documents, specifications, plans, contracts, standards books, or any other written material of any form whatsoever pertaining to the planning, design, fabrication, installation, sale, or repair of turbines or other equipment sold to Ingalls Shipbuilding or sold to any other individual or company for use and/or installation at Ingalls Shipbuilding in Pascagoula, MS. This request specifically includes, but is not limited to those documents whose existence was referenced by James M. Gate at his deposition of June 3, 1992.

RESPONSE TO REQUEST NO. 25:

At his deposition of June 3, 1992, James M. Gate testified that records pertaining to individual marine turbines provided to specific ships, to the extent they exist, are maintained in "Archives" at the Westinghouse Sunnyvale facility. Those documents are not organized by geographic region or by shipyard. Westinghouse is working to complete a list of the Ingalls ships to which Westinghouse supplied steam turbines. Such a list will facilitate a directed search for any records which still exist pertaining to those ships.

However, an attempt to locate and retrieve all of the material requested by the plaintiffs related to every ship built at Ingalls to which Westinghouse provided a marine turbine would require a massive number of man hours at great expense to Westinghouse. As Mr. Gate has testified, Westinghouse neither specified nor provided thermal insulation materials for use with its marine turbines. Westinghouse, therefore, objects to this request on the grounds that it is unduly burdensome and oppressive. Any potential benefit to the plaintiffs as a result

of such a search is far outweighed by the time and expense that such an unlimited search would require.

Without waiving its objection, upon completion of the list of ships built at Ingalls for which Westinghouse provided turbines, Westinghouse will attempt to retrieve the available records concerning a representative cross-section of the ships built at Ingalls to which Westinghouse furnished turbines and produce those documents to counsel for Plaintiffs for inspection and copying in Sunnyvale on a date convenient with all counsel.

REQUEST NO. 26:

The United States Coast Guard, the United States Naval, the United States military, and any other regulations or specifications referred to by James M. Gate in his deposition of June 3, 1992 and upon which he either reviewed in preparation for his deposition or upon which he relied upon in the planning, design, fabrication, installation, sale, or repair of turbines for use at Ingalls Shipbuilding or any other location.

RESPONSE TO REQUEST NO. 26:

Specifications and regulations which dictated materials and methods for the manufacture of equipment for military or commercial vessels, which were in force when the equipment allegedly at issue in these proceedings was manufactured, are a matter of public record and, as such, are as accessible to Plaintiffs' counsel as they are to Westinghouse.

REQUEST NO. 27:

The "standards books" referred to by James M. Gate in his deposition of June 3, 1992. This request shall be not only for the current "standard books" referred to by Mr. Gate, but all such books prepared by or used by the defendant, Westinghouse, or its employees from 1935 to the present.

RESPONSE TO REQUEST NO. 27:

As Mr. Gate has testified, the "standards book" he referred to in his June 3, 1992 deposition is maintained in a looseleaf binder. When portions of that book are revised, obsolete pages are replaced. There is no corporate, division or department policy which requires the retention of those obsolete materials. Therefore, other than the current standards book, Westinghouse is not aware of the existence of any other documents responsive to Plaintiffs' Request. Westinghouse will produce a copy of the current standards book to Plaintiffs' counsel at a time and place convenient to both parties.

REQUEST NO. 28:

The curriculum vitae of Mr. James M. Gate.

RESPONSE TO REQUEST NO. 28:

The resume of Mr. Gate is attached as Exhibit H hereto.

REQUEST NO. 29:

All reports or other documents, notes, memorandums, correspondence, contracts, invoices, sales receipts, purchase orders, or any other written documentation on the use of asbestos or manufacture of any asbestos-containing material at any time at the Lester, Pennsylvania Westinghouse Plant.

RESPONSE TO REQUEST NO. 29:

Westinghouse objects to this request on the grounds that it is overbroad, requires investigation into matters unrelated to these proceedings and is not reasonably calculated to lead to the discovery of relevant, material or admissible evidence. Upon information and belief the documents sought by Plaintiffs are contained in 5464 cartons of records from the Lester,

Pennsylvania facility. Without waiving its objections, Westinghouse will make those boxes available to Plaintiffs' counsel for inspection and copying at a time and place convenient to both parties.

REQUEST NO. 30:

All reports or other documents, notes, memorandums, correspondence, contracts, invoices, sales receipts, purchase orders, or any other written documentation on the use of asbestos or manufacture of any asbestos-containing material at any time at any plant owned or operated by Westinghouse.

RESPONSE TO REQUEST NO. 30:

Westinghouse objects to Plaintiffs' Request on the grounds that it is unreasonable on its face. Plaintiffs' Request for asbestos-related documents from any and every Westinghouse facility whether or not involved in the manufacture of equipment at issue in these proceedings is overbroad, burdensome and oppressive. A search for documents responsive to Plaintiffs' Request would require a review of all files, current and historical, of every Westinghouse facility ever owned or operated by Westinghouse. There are currently over 600 locations from which documents would have to be examined; that number does not include facilities which have been closed over the years. Westinghouse does not maintain its records according to product type or composition but by source and broad category (i.e., "business records"). Only a review of approximately 240,000 cartons of documents, 160,000 rolls of microfilm, several million microfiche and 25 million aperture cards would yield all documents responsive to Plaintiffs' Request. See Affidavit of

William P. McElravy, attached as Exhibit C to the Opposition of Westinghouse to Plaintiffs' Motion to Compel and Motion of Westinghouse for Protective Order, filed June 19, 1992.

REQUEST NO. 31:

Any reports, documents, notes, memorandums, correspondence, contracts, invoices, receipts or other written documentation concerning visits by James M. Gate to Ingalls Shipbuilding.

RESPONSE TO REQUEST NO. 31:

See Response of Westinghouse to Plaintiffs' Request No. 25. To the extent they exist, any records regarding visits by James M. Gate to the Ingalls Shipyard are maintained in the files in "Archives."

REQUEST NO. 32:

Any reports, documents, notes, memorandums, correspondence, manuals, specifications, instructions in which the installation of or repair of insulation materials or other asbestos-containing materials in turbines is discussed.

RESPONSE TO REQUEST NO. 32:

See Response of Westinghouse to Plaintiffs' Requests Nos. 25, 29 and 30.

REQUEST NO. 33:

All reports, documents, notes, memorandums, correspondence, contracts, invoices, sales receipts, purchase orders or other written documentation identifying the insulation contractors and the materials they used in the testing of the turbine units. The testing of the turbines units was referenced by Mr. James M. Gate in his deposition of June 3, 1992.

RESPONSE TO REQUEST NO. 33:

Insulation for the testing of Westinghouse marine turbine equipment at the Sunnyvale facility was purchased from a company once known as Western Asbestos and currently known as Western

MacArthur. Upon reasonable information and belief, documents responsive to Plaintiffs' Request generated prior to 1985 do not exist. Westinghouse objects to producing those records which do exist on the ground that they are too recent to be relevant or material to occurrences allegedly at issue in these proceedings. Therefore, Westinghouse ought not be required to expend the time and go to the expense of producing these documents.

REQUEST NO. 34:

All reports, documents, notes, memoranda, correspondence, contracts, invoices, sales receipts, purchase orders and other written documentation to or from the New Orleans area and/or Pascagoula, Mississippi. Westinghouse representative concerning the use of sales, repairs, installation, design, fabrication and/or insulation of marine turbines, micarta, on other asbestos-containing equipment to Ingalls Shipbuilding, or to anyone else for use at Ingalls Shipbuilding.

RESPONSE TO REQUEST NO. 34:

See Response of Westinghouse to Plaintiffs' Request No. 25. In addition, Westinghouse objects to Plaintiffs' Request on the grounds that it is, at best, vague and imprecise as written. It would be impossible for Westinghouse to locate responsive documents based on the language of this Request.

REQUEST NO. 35:

All specifications, documents, standard books, material lists or other written documents prepared by or received by the "Standards Department" or the "Materials Lab" concerning the use of approval for use, or recommendation of asbestos containing insulation materials or other types of asbestos containing materials, including but not limited to gaskets, packing, sheet packing and blankets, in turbines, generators, or any other equipment or material manufactured, distributed, installed, or sold by this defendant.

RESPONSE TO REQUEST NO. 35:

Westinghouse objects to this request on the grounds that it is overbroad, burdensome and oppressive, seeks material which is irrelevant and immaterial to these cases and is not reasonably calculated to lead to the discovery of material, relevant or admissible evidence. Without waiving its objection, Westinghouse believes that documents responsive to Plaintiffs' Request which are related to equipment allegedly at issue in this litigation will be produced in response to other Requests made herein.

Respectfully submitted,

WESTINGHOUSE ELECTRIC CORPORATION

BY COUNSEL:

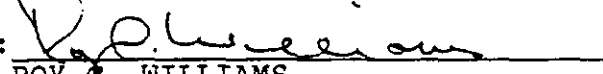
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CERTIFICATE OF SERVICE

A true copy of Westinghouse Electric Corporation's Response to Plaintiffs' Request to Produce to Westinghouse Electric Corporation dated June 9, 1992 was mailed, postage prepaid, to Plaintiffs' counsel on this 28th day of August, 1992.



ROY C. WILLIAMS

Revised: August 25, 1992
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