

NO. 00-08250-K

JERRY LYNN ABSHIER, et al

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IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

VS.

GAF CORPORATION, et al

192ND JUDICIAL DISTRICT

DEFENDANT TEXACO INC.'S RESPONSE TO
PLAINTIFF'S REQUEST FOR DISCLOSURE
SUBJECT TO MOTION TO TRANSFER VENUE

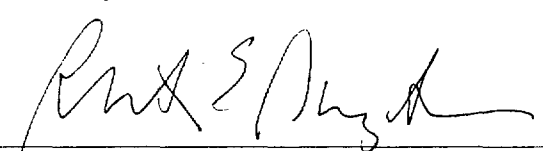
TO: Plaintiff, BILLY AVEN, by and through his attorneys of record, Elizabeth R. Schick, Lou Thompson and Stephanie Finch of Baron & Budd, 3102 Oak Lawn Avenue, Dallas, Texas 75219-4281

Pursuant to TEXAS RULES OF CIVIL PROCEDURE Defendant TEXACO INC. (hereinafter "Defendant") serves the following Response to Plaintiffs' Requests for Disclosure in accordance with Rule 194.2 (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k) of the Texas Rules of Civil Procedure.

Respectfully submitted,

HAYS, McCONN, RICE & PICKERING

A Professional Corporation

By: 

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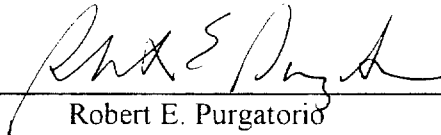
Telephone: (713) 654-1111

Facsimile : (713) 655-9212

Attorneys for Defendant TEXACO INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to counsel for Plaintiffs by certified mail, return receipt requested, and to all other counsel of record by regular mail on this 6th day of AUGUST, 2001.



Robert E. Purgatorio

REQUEST FOR DISCLOSURE

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

RESPONSE:

The proper name of this Defendant is TEXACO INC.

Defendant is without personal knowledge as to the proper name of any other party.

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

RESPONSE:

Unknown at this time; however, it would include any manufacturers of asbestos containing products to which Plaintiff was exposed, and the owners/operators of any premises at which Plaintiff worked as well as the Plaintiff's employers.

(c) *the legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial);*

RESPONSE:

This Defendant denies that any act or omission on its part causes or contributed to any illness or injury complained of by the Plaintiff herein. At all time relevant to matters made the basis of this lawsuit, Defendant complied with Texas and Federal Laws and acted as a reasonably prudent premises owners would under the same or similar circumstances. At all times relevant hereto, Defendant exercised reasonable care in accordance with the knowledge available to maintain a safe place to work, and Defendant denies that its premises created an unreasonable risk of harm, or that there was a defect which existed in Defendant's premises. Accordingly, Defendant denies any liability whatsoever to Plaintiff.

Defendant would show that the Plaintiff's claims are barred by the applicable statute of limitations.

The illnesses and damages of Plaintiff, if any, are due solely to other causes and matters which are not related to this Defendant's acts, operations, conduct or facilities, in that Plaintiff's illnesses, if any, are the result of natural health processes and would have occurred just as they did irrespective of this Defendant's actions and conduct.

Defendant would show that it hired independent contractors who were knowledgeable in their crafts who were expected to perform their work in a safe and workmanlike manner. These

contractors had the right and duty of control of their employees and their sub-contractors' employees which they exercised. Defendant denies that it was negligent or that it had a duty which was breached to any contractors' or sub-contractors' employees. Defendant would show that the Plaintiff's exposure, if any, arose out of the performance of his work or the work of other contractors. Defendant denies that its premises were unsafe or that a defect existed in its premises. Defendant relies on the provisions of Chapter 95 of the Texas Civil Practice and Remedies Code.

If the Plaintiff suffered any injuries and damages, as alleged, all of which are expressly denied, then any such alleged injuries and damages were caused solely by, or contributed to by, reason of the Plaintiff's own fault, and this Defendant requests a reduction of any recovery by Plaintiff in accordance with Chapter 33 of the Texas Civil Practice and Remedies Code and other applicable law.

The Plaintiff's injuries, if any, were the result of new, independent and intervening causes.

Defendant would further show that Plaintiff's injuries, if any, were proximately caused by third parties including the manufacturers of asbestos insulation as alleged by Plaintiff in his Petition, the contractors and unions, or by instrumentalities belonging to third parties, over which Defendant had no control and with regard to which it had no duty.

For further answer, Defendant says that Plaintiff is not entitled to punitive or exemplary damages since a recovery of the same against this Defendant would violate its rights under the contracts clause of Article I § 10, United States Constitution, and would violate the due process clause of the 14th Amendment to the United States Constitution and Article I § 19 of the Texas Constitution because of the lack of sufficient standards governing such an award.

In the alternative, Defendant pleads and invokes the standards of recovery and limitations on the amount of recovery for punitive or exemplary damages set forth in Chapter 41 of the Texas Civil Practice and Remedies Code.

In the unlikely event that Defendant is held liable in this case to Plaintiff, which is not admitted and is expressly denied, Defendant asserts its right to a full credit and a reduction of the amounts of Plaintiff's damages pursuant to Section 33.012(b)(1) of the Texas Civil Practice and Remedies Code.

Defendant would show that Plaintiff was not on its premises or was neither exposed to asbestos nor sustained any injury as a result of contact with, exposure to, or use of any product on its premises, and therefore, there could be no showing of proximate cause of any injury to Plaintiff.

Defendant asserts that the Plaintiff was negligent in smoking cigarettes and the use of other tobacco products which were known to cause chronic obstructive lung disease and in some instances were known to cause or produce cancer, and with this knowledge, the continued smoking of cigarettes and the use of other tobacco products was the proximate cause and/or the producing cause of their injuries, if any. In the alternative, Plaintiff failed to mitigate his damages by not ceasing to smoke.

Defendant would show that any exposure that Plaintiff might have had to products allegedly containing asbestos that were allegedly on Defendant's subject premises was insufficient in quantity and quality, and thus, could not have been a proximate cause of any injury alleged by Plaintiff.

Defendant would show that Plaintiff's claims of injuries and damages, if any, were the result of an unavoidable accident.

Defendant denies that it was grossly negligent and thus cannot be held responsible and liable for alleged gross negligence and/or punitive damages.

Defendant asserts that to the extent the Plaintiff was an employee of Defendant, his causes of action, if any exist, are barred by the exclusive remedy provision of the Workers' Compensation Act of the State of Texas.

Defendant denies that any act or omission of Defendant was a substantial factor in bringing about injury to Plaintiff, if any, which would not otherwise have occurred.

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

RESPONSE:

Not applicable to this Defendant as Defendant is not seeking economic damages.

(e) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;

RESPONSE:

1. All persons identified by Plaintiff or any other party (including this Defendant) in response to an interrogatory seeking identification of persons with knowledge of relevant facts;
2. Each co-worker of Plaintiff identified by Plaintiff in discovery responses;
3. Defendant will supplement as discovery progresses;
4. Defendant designates and incorporate by reference the persons listed as experts on Exhibit "A", who were formerly employees of Texaco.

(f) *for any testifying expert:*

- (1) *the expert's name, address, and telephone number;*
- (2) *the subject matter on which the expert will testify;*
- (3) *the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;*
- (4) *if the expert is retained by, employed by, or otherwise subject to the control of the responding party:*
 - (A) *all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the experts testimony; and*
 - (B) *the expert's current resume and bibliography;*

RESPONSE:

See Designation of Experts attached hereto as Exhibit "A".

(g) *any indemnity and insuring agreements described in Rule 192.3(f);*

RESPONSE:

Since Plaintiff has provided insufficient work history information, Defendant is unable to specify at this time the insurance policies which may be applicable. Defendant will supplement as discovery proceeds. In general Defendant will make applicable policies or charts reflecting insurance policies and periods of coverage, to the extent they exist, available for inspection at a mutually agreeable time.

(h) *any settlement agreements described in Rule 192.3(g);*

RESPONSE:

None in the possession of this Defendant.

(i) *any witness statements described in Rule 192.3(h);*

RESPONSE:

None at this time.

(j) *in a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills;*

RESPONSE:

Not applicable.

(k) *in a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party.*

RESPONSE:

Defendant will produce medical records obtained by authorization, if any, at a mutually agreeable time.

EXHIBIT "A"

1. John Pendergrass, CIH, CSP, PE
6700 Milkhouse Court
Mobile, Alabama 36695
334-607-0946

Mr. Pendergrass is a certified industrial hygienist who will testify from an industrial hygiene point of view the state of the medical and scientific knowledge regarding asbestos particularly in regard to the time period involved during which the Plaintiffs were allegedly on the premises of Defendants. The subject matter will also include the use of asbestos during this time period, its importance, the lack of substitute products, the employer's responsibility pre- and post-OSHA, and the other matters described in the report attached hereto. He will also testify as to the role of manufacturers as suppliers of asbestos products and their responsibility to provide premises owners with knowledge of the known hazards of the products they were selling and installing to the end users, the premises owners. He will also testify that based on the state of the knowledge and judgment as it has developed over time that premises owners acted appropriately in the circumstances. Attached is a copy of Mr. Pendergrass' resume and bibliography.

2. Patrick N. Conoley, M.D.
KELSEY SEYBOLD CLINIC
6624 Fannin, Suite 1800
Houston, Texas 77030
713-791-8787

Dr. Conoley is an M.D. and a "B"-reader, who may testify concerning his review of the radiographs and CT scans of the Plaintiffs and the significance of various x-ray findings on the radiographs of the Plaintiffs and whether those x-rays contain abnormalities consistent with an asbestos disease. In mesothelioma cases he will testify that not all mesotheliomas can be related to asbestos exposure. He will further testify in lung cancer cases that one must have underlying presence of asbestosis before a lung cancer can be attributed to asbestos and the role of cigarettes as the most significant cause of lung cancer. He will also testify that certain cancers are not established as being caused by asbestos. A copy of Dr. Conoley's C.V. is attached.

3. Dorsett Smith, M.D.
4310 Colby Avenue
Everett, Washington 98203
425-259-5171

Dr. Smith is an internal medicine physician with a sub-specialty in pulmonary disease and a "B"-reader. Dr. Smith will testify concerning the state of the medical knowledge as it

pertains to asbestos and disease as the knowledge has evolved over time. He may also testify as to the Plaintiffs' disease and its alleged association with asbestos exposure.

The general substance of Dr. Smith's mental impressions and opinions is that prior to the 1970s the state of the medical and scientific knowledge pertaining to the hazards of asbestos did not establish that workers working in an environment such as the Plaintiffs were at an increased risk of asbestos related disease. Dr. Smith's opinions are also that the level of dust control required using asbestos products was 5 million particles per cubic foot. This level of dust control was thought to be safe, and no significant change was offered until 1968. Dr. Smith's resume and bibliography is attached.

4. Dr. John Craighead
Department of Pathology
UNIVERSITY OF VERMONT
College of Medicine
Burlington, Vermont 05405
802-656-2154

Dr. Craighead is an M.D. pathologist who will testify concerning the state of the medical knowledge as it has existed from time to time as it relates to the effects of asbestos on the human body.

The general substance of Dr. Craighead's mental impressions and opinions and a summary of the basis for them are as follows. Dr. Craighead will provide an overview of the history of asbestos utilization in this country for industrial purposes and to relate, in general, the developing concepts regarding its potential role in the causation of disease. The discussion is divided into three units related to the three disease processes attributable to asbestos, or at least some forms of asbestos.

Asbestosis: This disease process is a scarring of the lung which simulates scarring due to a variety of causes, some of which are unknown. Thus, asbestosis in many respects is similar clinically and pathologically to the fibrotic disease of the lung that occurs in persons who have no environmental exposure to dusts. It develops over a protracted period of exposure and in only a small proportion of the numerous individuals who work with the material. In 1993, we consider asbestosis to be the result of exceedingly heavy exposure to asbestos over an extended period of time. This was the concept that evolved in the early 1900's when asbestos first was used in large amounts in industry.

Historically, asbestosis as a disease process was first recognized in 1900 at autopsy. There was little new information in the literature until the mid 1920's when the asbestos bodies that are typical of the disease were described and more detailed microscopical features of the disease were noted by pathologists. In the - 1920's and 1930's, asbestosis continued to be a disease process associated with heavy and prolonged exposure to asbestos in an era where industrial dust controls were largely lacking. From a historical perspective, the

Second World War is noted as a landmark, for during the period of hostilities, asbestos was used widely in all types of ships and war vehicles. Consumption of asbestos in this country increased exponentially and few, if any, serious attempts were made to control its use and the inhalation of the material by workers in the industrial setting. As a consequence of this almost uncontrolled use of asbestos, many cases of asbestosis appeared years after the cessation of hostilities.

In the early 1960's, Dr. Irwin Selikoff and his associates documented the industrial occurrence of this disease process, particularly in insulators. It soon became apparent that the major groups affected were insulators and workers in the ship building industry, particularly those employed during the Second World War. Thus, in 1965 when the first significant series of publications relating asbestos to disease in this country were published, asbestosis was considered a disease process limited to industrial groups, such as insulators who had heavy exposure to asbestos. Little consideration was given whatsoever to exposure occurring in outside air environments or when asbestos was used under controlled situations. In addition, there was no concern with respect to asbestos utilization in situations such as brake shoes, plastering material, electric wire, etc. This was the state of understanding during the period of time in the 1960's when Dr. Craighead was training in Pathology in Boston, an urban community where significant ship building activity had occurred during the Second World War. It was only in the 1970's and 80's that concern regarding low levels of asbestos exposure as a cause of asbestosis were voiced by federal agencies. Nonetheless, no definitive epidemiological evidence was available to indicate that asbestosis might be a significant problem for those working with low levels of asbestos or in outside environments. This situation continues today since we continue to recognize asbestosis as being a relatively uncommon condition occurring in individuals whose exposure has been unusually heavy. The list of major industries where asbestosis occurs has grown as we have learned more. We now include individuals who have worked in the asbestos textile industry where the material is readily aerosolized in the working environment and among workers in the mining and milling of asbestos, such as Canadian chrysolite miners and millers. Fortunately, we now are exceedingly cautious in insisting that exposure in these industries is controlled by personal respirator use or industrial controls. Frequently, workers in all types of industries have been shown to exhibit abnormal X-rays, and this, by some, has been falsely interpreted as an asbestos-related disease. Most often, the pulmonary abnormalities in these workers are due to cigarette smoking (fibrosis and emphysema) — the major cause of disability among industrial workers.

Lung Cancer: Bronchogenic cancer, a tumor originating from the walls of the airways, is the major cancer occurring in this country among middle-aged men today. It has a high fatality rate and often affects men in the prime of their working life. It is not surprising that concern arose as to the role of asbestos in the genesis of lung cancer. The first reports suggesting this possibility were published in the 1930's and many additional cases were observed in which an asbestos worker who smoked developed the cancer. In 1955, Sir Richard Doll established by epidemiological means a statistically significant relationship between asbestosis and the development of lung cancer. It is important to emphasize that the relationship was based on the disease process asbestosis as demonstrated at autopsy. In

1965, Selikoff and his associates demonstrated a high incidence of lung cancer in workers in trades where exposure was heavy. No attempt was made to define whether or not these individuals had asbestosis. No doubt those that were affected with the cancer often did have asbestosis, whereas in others, the cancer was related exclusively to cigarette smoking. This was the state of art when Dr. Craighead and his colleagues undertook studies in the early 1970's to elucidate the role of asbestos in lung cancer. These studies clearly showed that asbestos, in and of itself, was not a carcinogen, but in large amounts, enhanced the effects of the polycyclic aromatic hydrocarbons and other carcinogens in cigarette smoke. This promoter concept is now well-established in the medical literature and relates to the fact that substances such as asbestos, enhance the effects of cigarette smoking but are not the cause of the cancer. Nonetheless, there were epidemiological reports that suggested that individuals with no smoking history who were exposed to asbestos develop lung cancer. No doubt, a few of these instances exist, but there is no clear epidemiological evidence to indicate that asbestos was the responsible agent. Establishment of the promoter concept of carcinogenesis with regard to lung cancer and asbestos awaited definitive studies in the mid-1980's, the first of which was carried out by Hans Weill and his associates among concrete asbestos workers in New Orleans. These studies and subsequent investigations by Selikoff and his group showed clearly that asbestosis demonstrated radiologically is a necessary precursor for the development of the disease. Asbestosis would appear to be a marker of heavy and prolonged exposure to asbestos as indicated above. The most recent definitive studies by Selikoff and his coworkers which incorporated observations on over 17,000 insulation workers have clearly shown that asbestos exposure in the absence of cigarette smoking cannot be considered a carcinogen. This work was published in abstract form in the late 1980's. In view of these findings, we can consider the lung cancer threat to be limited to those with very heavy and prolonged asbestos exposure in industry, not in those with light exposure or after outside exposure.

Mesothelioma: Mesotheliomas were first described occurring in members of general population in the 1870's, long before asbestos became a commercially usable industrial product. It was exceedingly rare, pathological curiosity. During the Second World War and after the war, occasional cases of mesothelioma were noted in individuals with asbestosis, but an epidemiological association between the disease and exposure to asbestos was not established until 1960 when studies by Wagner and his associates clearly demonstrated that crocidolite asbestos was responsible for the condition among miners and members of the general population in a unique area of So. Africa. At that time, Wagner showed that amosite asbestos and chrysolite asbestos played no role in the genesis of the disease in So. Africa. Mesotheliomas were next reported in 1965 by Selikoff and his associates among workers heavily exposed to asbestos in the insulation trade. Gradually, additional cases were reported in the medical literature, but few epidemiological studies comprised of large numbers of cases were described. The condition continued to be a sporadically observed cancer occurring among individuals exposed to amphibole asbestos types. A clear relationship of amphibole asbestos with mesothelioma, however, was not established until the mid-1980's when careful epidemiological studies discriminated between exposure to the two different types of asbestos among industrial workers.

Mesothelioma was considered to be a sporadic disease even in the late 1970's when Dr. Craighead undertook studies with a committee of experts through a contract with NIOSH. This investigation was an attempt to define the asbestos-associated diseases as carefully as one could for pathological evaluation. Since that time, increasingly large numbers of mesotheliomas have been reported in individuals who were exposed to asbestos many years in the past in the shipyard or where insulation material was used without careful control of dust. The long latency period of this disease was demonstrated and as time has passed, the latency period of many tumors has been found to be 30 and 50 years or more.

A copy of Dr. Craighead's curriculum vitae is attached.

5. Dr. William Hughson
UCSD Center for Occupational & Environmental Medicine
200 West Arbor Drive
San Diego, CA 92103-8800
619-220-5050

The subject matter on which Dr. Hughson will testify is from an epidemiological and medical standpoint as to the state of the medical and scientific knowledge as it existed from time to time and in particular in regard to the time period involved in the alleged exposures in this case. No documents have been submitted to, or reviewed by, or prepared by Dr. Hughson in anticipation of his testimony.

The general substance of Dr. Hughson's mental impressions and opinions and a summary of the basis for them are as follows. Dr. Hughson will describe the role of case reports in the development of the scientific and medical literature. Case reports cannot be used to describe risk, since there is no estimate of the expected number of cases. Lacking risk data, case reports cannot be used to determine causation. Retrospective studies are often plagued by bias and confounding, since the experimenters were not present when the injurious exposures occurred. Prospective studies provide the most robust data; such studies did not become available for asbestos until after Dr. Selikoff began publishing in the 1960s.

Dr. Hughson has also reviewed the epidemiologic method of proving causation, often referred to as the Bradford-Hill criteria. These criteria include the strength, consistency, specificity, biological plausibility, dose-response, temporal relationship, and statistical significance of the association. Because of the need for replication (i.e. consistency) of data, and the long latency for developing asbestos-related diseases, it took decades for the health effects of asbestos to be truly appreciated.

Dr. Hughson has organized his opinions in decades:

Prior to 1930. Dr. Hughson will begin his testimony by discussing Cooke's article published in 1927. This described two cases of asbestosis. Following this article, Seiler published what is described as the first "pure" cases of asbestosis, where tuberculosis was not an issue. As a result of these publications, the British government requested a survey of the textile industry, which was performed by Dr. Merewether, and reported in 1930.

From 1930 to 1939. Dr. Merewether performed a survey of 374 textile workers in England. His results were reported both in England and in the United States. These articles described various aspects of the textile industry. Dr. Merewether concluded that asbestosis could be prevented if the dust levels could be reduced to the level pertaining to spinners. Those levels would be approximately 17 to 170 million particles per cubic foot (mppcf). Following Merewether's report, the British government passed the Asbestos Industry Regulations to reduce the level of exposure to asbestos dust. In 1933 and 1934, Merewether reviewed events to date, and concluded that keeping exposures below the dust level pertaining to spinners would prevent the development of asbestosis.

In 1935, Lanza surveyed five textile plants in the United States, and described findings in 126 people. In the same time frame, other articles reviewed asbestos fabricating methods, and the effects of various methods of dust control.

In 1938, Dreesen published a survey of four asbestos textile plants in the United States, and concluded that new cases of asbestosis would not occur if asbestos dust exposures were kept below 5 mppcf. In a subsequent article, Dreesen again predicted that new cases of asbestosis would not appear if asbestos dust concentrations were kept below 5 mppcf.

To summarize, by the end of the 1930's it was recognized that asbestosis was a pneumoconiosis distinct from silicosis or coal workers' pneumoconiosis, and that it was not a complication of tuberculosis. Most data came from individuals engaged in the primary production of asbestos products, such as the textile industry. It was generally believed that the disease could be prevented if exposure to asbestos dust was controlled. The 5 mppcf level recommended by Dreesen became widely accepted as a safe exposure limit, and was adopted as such by many States. The 5 mppcf level remained in force until 1968, when data indicated that new cases of asbestosis were occurring despite adherence to this standard.

From 1940 to 1949. Prior to 1940, the medical and scientific literature had focused on workers engaged in the primary production of asbestos products. In 1941, Brown reported on a survey of the New York Navy Yard pipe insulating shop and commented on findings in two other yards; no cases of asbestosis were found. This was the first survey of end-users of insulation products.

In 1946, Fleischer reported a survey of 1074 pipe insulators working in four shipyards. Total dust and asbestos dust concentrations during various operations were described; with one exception, the asbestos counts were below 5 mppcf. There were only 3 cases of asbestosis in this population, and it was concluded that pipe covering was not a dangerous occupation. The authors felt that low prevalence of asbestosis was not surprising, considering the nature of shipyard pipe covering work.

In 1946, the American Conference of Governmental Hygienists (ACGIH) adopted 5 mppcf of asbestos dust as the Threshold Limit Value (TLV). As stated above, the 5 mppcf

standard was widely accepted in the United States, and remained in place until 1968, when a new TLV of 2 mppcf (equivalent to 12 fibers/cc) was recommended.

In 1949, an editorial was published on the Journal of the American Medical Association. This described an increased frequency of lung cancer in people with asbestosis. The conclusion was that asbestosis was associated with an increased risk of lung cancer. Of course, it was generally believed that asbestosis could be prevented by reducing exposure to asbestos dust. Therefore the risk of lung cancer could be eliminated by the same methods.

To summarize, by the end of the 1940's the published literature concerning end-users of asbestosis indicated minimal or no risk, probably because exposure to asbestos dust was intermittent and relatively low compared to primary producers. The issue of lung cancer had been raised, but this was in the context of asbestosis, which was believed preventable by limiting asbestos dust exposure.

From 1950 to 1959. In 1952, Smith described a visit to England, where he met with Drs. Gloyne, Merewether and Wyers. The consensus of opinion was that the risk of lung cancer due to asbestosis no longer existed under current working conditions.

In 1953, Isselbacher and Hardy reported a case of asbestosis and bronchogenic cancer, and reviewed the existing literature. They indicated that 5 mppcf of asbestos dust was accepted as a safe working concentration and recognized the work of Doll and others implicating smoking as a cause of lung cancer.

In 1955, Richard Doll published the first epidemiological study indicating an increased risk of lung cancer in people with asbestosis. He studied workers employed at a textile factory in England and concluded that there was approximately a 10-fold risk of lung cancer compared to the general population. All of the cases included in his risk assessment had asbestosis, and all had been employed prior to 1923, at least 9 years prior to passage of the Asbestos Industry Regulations. Doll believed that the risk had become progressively less as duration of employment under the old dusty condition had decreased.

In 1958, Braun and Truan published a study of chrysolite miners. They concluded that lung cancer was not increased among the miners, or in areas contiguous to mining operations.

To summarize, by the end of the 1950's there was some epidemiological evidence that lung cancer risk was increased in people with asbestosis, though negative studies also existed.

From 1960 to 1969. In 1960, Wagner published a description of 33 cases of mesothelioma associated with crocidolite exposure in South Africa. He noted that pathological evidence for associating mesothelioma with asbestos exposure was not conclusive, since asbestos was found in only 8 of the 33 cases.

In 1962, the Public Health Service reviewed the amounts and uses of asbestos imported into the United States, and concluded that there were many unanswered questions concerning health effects. One of the questions was whether malignancies were all occupational risk among asbestos workers.

In 1964, Selikoff reported an increased risk of lung cancer and mesothelioma in a group of 632 insulation workers. In the same year, the Public Health Service again concluded that it was still unknown whether malignancies were an occupational risk among asbestos workers. The Public Health Service was aware of Dr. Selikoff's findings.

In October 1964, a major conference on the health effects of asbestos was held in New York. The proceedings of the conference were published in the Annals of the New York Academy of Sciences in December 1965. Among the articles published was a paper by Selikoff describing the occurrence of asbestosis among insulators. Selikoff pointed out that the only previous large scale survey of asbestos insulation workers (Fleischer 1946) had concluded that pipe covering was a relatively safe occupation. However, Fleischer's study had included few workers employed for more than 10 years. Selikoff indicated that counts for asbestos fibers were generally less than 5 mppcf during insulation activities.

In 1965, Selikoff published a paper concerning mesothelioma. He noted that crocidolite asbestos (implicated as a cause of mesothelioma by Wagner in 1960) had been imported to the United States. He questioned whether mesothelioma was due solely to crocidolite, or whether other types of asbestos could cause this tumor. The paper reported pathology and epidemiologic data indicating that mesothelioma was a problem in the United States, but available information could not determine whether crocidolite was responsible. That question was not answered until 1972, when Selikoff described 4 cases of mesothelioma in which he believed crocidolite had been excluded, and only amosite exposure had occurred.

In 1968, Balzer and Cooper published a paper which questioned the safety of the 5 mppcf standard. In the same year, the ACGIH recommended lowering the standard to 2 mppcf, which equated to 12 fibers/cc. This began a series of reductions in the allowable concentration of asbestos (see below).

1970 and thereafter. Legislation creating the Occupational Safety and Health Administration (OSHA) was passed in 1970. In 1972, OSHA promulgated its first Permissible Exposure Limit (PEL) for asbestos; the limit was set at 5 fibers/cc as a time-weighted average (TWA). Following this, there was a succession of new PEL's in 1976, 1986, and 1994. The current PEL is 0.1 fiber/cc.

A copy of Dr. Hughson's C.V. is attached.

6. Allen Peterson
1838 Baxter Ridge
St. Louis, Missouri 63017
314-537-9084

Mr. Peterson will testify on the issue of contractor control of the worksite.

The general substance of Mr. Peterson's mental impressions and opinions and a brief summary of the basis for them are that he will testify not only from a factual standpoint but also to the extent that his testimony may be considered to be opinion testimony, he therefore is designated as an expert as well. Mr. Peterson's opinions are that in petrochemical plant work, it is the contractor who controls its employees and subcontractor employees and not the premises owners concerning the work to be performed by the contractor. Mr. Peterson's opinions will be that the contractors would have been in charge and control of their workers and sub-contractors' workers including but not limited to the installation of asbestos materials. Mr. Peterson's testimony is based on his long experience of working in the industry as a contractor.

No documents have been submitted to, or reviewed by, or prepared by Mr. Peterson in anticipation of his testimony. Attached is a copy of Mr. Peterson's resume or bibliography.

7. J. LeRoy Balzer
408 Horse Trail Court
Alamo, California 94507
925-274-0826

Mr. Balzer is an industrial hygienist who will testify concerning the state of the industrial hygiene knowledge concerning asbestos as it has existed from time to time and the availability of substitute products. Mr. Balzer's opinions are further summarized in the report attached hereto. A copy of his curriculum vitae is also attached. --

8. Dr. Janet M. Hughes
School of Medicine
TULANE UNIVERSITY
1700 Perdido Street
New Orleans, Louisiana 70112
504-588-5265

Dr. Hughes is an M.D. pulmonologist who will testify concerning the state of the medical knowledge as it has existed from time to time as it relates to the effects of asbestos on the human body.

9. Dr. Elliot Henkies
301 N. Prairie, #311
Inglewood, California 90301
310-674-0050

Dr. Henkies is a pulmonologist and oncologist who will testify concerning the state of the medical knowledge as it has existed from time to time and possibly concerning the medical condition of the Plaintiffs and its causes including the relationship of cigarette smoking.

10. Lawrence R. Birkner
McKintyre Birkner & Associates, Inc.
Thousand Oaks, California
805-494-8173

Mr. Birkner is a certified industrial hygienist and certified safety professional. He received a Bachelor of Science degree from Portland State University in 1973 and a Masters Degree in Occupational Safety and Health at New York University in 1975. Between 1974 and 1976, Mr. Birkner worked closely with Dr. Irvin Selikoff and others at Mount Sinai while employed as a safety and health research specialist at Environmental Sciences Laboratory in New York. From 1976 through 1996, Mr. Birkner worked extensively as a practicing industrial hygienist in American industry; in the course of that employment, Mr. Birkner worked as a corporate industrial hygienist for Celanese Corporation 1977-1981. Mr. Birkner is a fellow of the AIHA and a member of the other professional industrial hygiene organizations reflected on Mr. Birkner's curriculum vitae.

Mr. Birkner will provide testimony regarding the history of industrial hygiene, industrial hygiene methods, exposure levels which trigger diseases associated with dust exposure, good housekeeping measures, and other related matters. He is prepared to testify about respiratory history, what constitutes good hygiene practice, and the periods of time from an industrial hygiene standpoint when people and companies became aware of associated health risks. Mr. Birkner may give testimony regarding the level of fiber release, if any, from asbestos-containing products in the occupational setting and may testify regarding the availability of materials as substitutes for asbestos-containing products. He may testify as to issues involving re-entrainment and fiber drift. Mr. Birkner may also testify regarding work practices applicable to various types of occupations using products that contain asbestos, and he will provide a retrospective assessment or estimate of the Plaintiffs' likely exposure to asbestos in particular work environments based on historical literature and the facts available in this case.

Mr. Birkner has personal knowledge of relevant facts, but he also possesses generalized expertise in his field based on his specialized knowledge, skills and training. He may provide testimony regarding the applicability of the ACGIH, OSHA and EPA guidelines as they relate to occupational exposures to various types of asbestos-containing products. Mr. Birkner may testify regarding the size, construction, layout and working environment of facilities such as where the Plaintiffs worked. He may testify about the nature of the working environment in such locations. He may testify about his knowledge of the composition and asbestos content, if any, of products present in the Plaintiffs' work place and may testify concerning the ability of such products to emit asbestos fibers under certain conditions. Mr. Birkner may testify to the dust levels produced by particular occupational operations and products, to include those associated with the use of pipe and block insulation.

Mr. Birkner may testify about the development of literature and information about asbestos-related diseases as they relate to the gradual development of knowledge within industry and

within the field of industrial hygiene about asbestos exposure and appropriate control measures. He will address the evolution of work place practices available to control exposures, to include the historical development of the use of respiratory protection in association with the handling of asbestos-containing products. Mr. Birkner will testify regarding the development over time of governmental standards and regulations pertaining to asbestos, to include the historical evolution of permissible exposure levels to asbestos developed by professional organizations and governmental agencies. He will discuss his own research into asbestos-related diseases as they relate to industrial hygiene, the carcinogenicity of various fiber types as they relate to industrial hygiene, and the relationship, if any, between asbestos and various diseases. Mr. Birkner will provide testimony regarding the epidemiology of asbestos-related diseases, latency, state-of-the-art, and other related matters as they impact industrial hygiene.

Based on the above evidence developed in this case, Mr. Birkner will testify that the Plaintiffs had little or no opportunity for any harmful exposure to asbestos while working at particular facilities because of the nature of Plaintiffs' occupation and particular working environment. He will also testify that the Defendant's approach to the handling and control of any asbestos-containing materials on its premises were reasonable in light of available information and industrial hygiene practices at different points of time. He may also testify as to any matter raised by experts called by the Plaintiffs or any co-defendants in this action. A copy of Mr. Birkner's C.V. is attached.

11. James D. Crapo, M.D.
National Jewish Medical and Research Center
1400 Jackson Street
Denver, CO 80206
(303) 398-1436

Dr. Crapo received a Bachelor of Science degree from Brigham Young University in 1967 and his medical degree from the University of Rochester, New York, in 1971. He taught medicine for many years at Duke University in Durham, North Carolina. Dr. Crapo is board certified in internal medicine with a sub-specialty certification in pulmonary disease. He presently practices medicine at the National Jewish Medical Center in Denver, Colorado, and teaches at the University of Colorado Health Science Center. Dr. Crapo is a fellow of the American Thoracic Society, the American College of Chest Physicians, and other professional organizations reflected on Dr. Crapo's curriculum vitae. Dr. Crapo may testify live or by deposition at trial in this matter.

Dr. Crapo is expected to testify about the pulmonary aspects of asbestos exposure, including matters such a dose response, pathogenicity, carcinogenicity and the potential for asbestos-related disease as a result of exposure to the different types of fiber. Dr. Crapo is also expected to testify as to general medical issues and physiology.

Dr. Crapo's testimony is based in part on the personal knowledge of relevant facts, but he also possesses general expertise in his field based upon specialized knowledge, skills and

training. Dr. Crapo is expected to testify about alleged occupational exposure - as described by Plaintiffs and Plaintiffs' witnesses - and whether such exposure occurred for a sufficient period of time and in a sufficient dose to be of medical consequence, and whether such exposure could be considered a substantial contributing factor to the Plaintiffs' alleged disease. In connection with this, based on his own experience and a review of the medical, scientific and/or technical literature and the opinions and conclusions contained in that literature, Dr. Crapo will provide historical state-of-the-art testimony on the gradual development of knowledge within the medical profession of the asbestos-related illnesses. Dr. Crapo may provide testimony regarding the reasonableness of Defendants' usage and control of asbestos at their premises from a medical standpoint, based on the developing state of medical knowledge concerning asbestos overtime.

Dr. Crapo is expected to testify about the principles of epidemiology and what is involved in an epidemiologic study. He is expected to testify that studies of particular groups or occupations of people are not necessarily applicable to other groups or occupations. Dr. Crapo is expected to testify as to the information necessary to determine whether a group of people or persons are at risk for contracting an asbestos-related disease and if it is scientifically possible to attribute a disease to a particular exposure. Dr. Crapo is expected to discuss epidemiological analysis of asbestos-related disease in the context of given levels of exposure, and to discuss how such analysis may be applied to the evidence regarding the Plaintiffs.

Finally, Dr. Crapo may testify regarding Plaintiffs' medical condition, cigarette smoking and lung disease, and generally about the pulmonary system and its functions as well as conditions and diseases of the pulmonary system. Dr. Crapo may also testify regarding the diagnosis and prognosis of asbestos-related markers and diseases, and the risks associated with developing cancers. Dr. Crapo may also testify about any matter raised by experts called by Plaintiffs or any Co-defendant, to include but not limited to the Plaintiffs' medical condition, the state of medical knowledge concerning asbestos, asbestos-related disease and other occupational diseases. A copy of Dr. Crapo's C.V. is attached.

13. Peter J. Barrett, M.D.
10 Martin's Lane
Hingham, MA 24043
617-749-5876

Dr. Barrett is currently a Staff Radiologist and former Chairman of Radiology Department and President of the medical staff at Quincy City Hospital, Quincy, Massachusetts. He is also Director of Radiologic Services at the Massachusetts Respiratory Hospital in Braintree. He is board certified in diagnostic radiology and nuclear medicine and has been a "B" reader from NIOSH since 1984. He is a fellow of the American College of Radiology and a member of the American Roentgen Ray Society, the American Thoracic Society, and the Massachusetts Radiological Society in which he has held several offices including the president 1977-1978. He has been a consultant to the U.S. government regarding asbestos concerns and a consultant to the Department of Labor Black Lung Program.

Dr. Barrett will testify concerning the significance of asbestos related abnormalities and neoplastic disease, that asbestos related pleural plaques have no relationship to any type of neoplasm and do not represent asbestosis. He will testify based upon his review of the radiographs as to the presence or absence of radiographic abnormalities related to asbestos in the Plaintiffs and that not all alleged mesotheliomas can be attributed to asbestos exposure but that some mesotheliomas are in fact idiopathic in nature. He will testify concerning the dose needed to cause malignant mesothelioma in general and the difficulty in making pathologic diagnosis of mesothelioma. A copy of Dr. Barrett's C.V. is attached.

14. Dr. David Garabrant
University of Michigan
School of Public Health
1420 Washington Heights
Ann Arbor, Michigan 48109
(734) 936-0753

Dr. Garabrant is a medical doctor and epidemiologist who has done epidemiological studies on populations including those exposed to asbestos and, based on those epidemiological studies and the preponderance of medical and scientific evidence, is of the opinion that colon cancer is not caused by asbestos exposure. He will also offer opinions based on epidemiological studies as to whether other cancers are established as being caused by asbestos exposure. Dr. Garabrant's C.V. is attached.

15. Gregory H. Foster, M.D.
6808 Helen Court
Plano, TX 75023

Dr. Foster is a specialist in the area of respiratory diseases. Dr. Foster may testify as to all matters pertaining to his examination of plaintiff and/or review of plaintiff's medical records, x-rays, and reports and supplemental reports of plaintiffs' experts; any communications with plaintiff or plaintiffs' family members; the diagnostic criteria used to diagnose asbestos-related diseases; his opinions as to whether plaintiff suffers from asbestos-related disease and the basis of such opinions; the Plaintiff's current medical condition and his prognosis thereof, the anatomy and function of the respiratory and circulatory systems; the natures of asbestos; the symptomatology, disease process and diagnosis of asbestosis and cancer associated with the respiratory system, peritoneum and peritoneal cavity; the nature and extent of medical and scientific knowledge regarding any association of pulmonary disease with asbestos exposure; the effect of exposure to substances other than asbestos on the development and manifestation of obstructive and restrictive conditions and diseases of the respiratory system; methods of diagnosis of various diseases, especially the means of establishing the differential diagnosis of alleged asbestos-related diseases with other non-asbestos-related diseases; incidence of lung cancer along individuals with asbestosis as compared to non-asbestotic asbestos workers and to the general smoking to cancer of the lung and cancers of other body parts with reference

to epidemiology studies and physiologic affect; the difference between impairment and disability; the effect of asbestosis on disability and life expectancy; and the lack of relationship between the presence of pleural plaques and a later development of any form of cancer. Dr. Foster's C.V. is attached.

16. Sam Cade, M.D.
Baylor University Medical Center, Department of Radiology
3500 Gaston Avenue
Dallas, TX 75246
214-820-3219

Dr. Cade is an M.D. and a "B"-reader, who will testify concerning his review of the radiographs and CT scans of the Plaintiffs in this case and the significance of various x-ray findings on the radiographs of the Plaintiffs. He will also testify as to the likelihood of whether a plaintiff will develop asbestos-related malignancies, based upon the valid medical and scientific literature. Dr. Cade's C.V. is attached.

17. John R. Holcomb, M.D.
4410 Memorial Drive, Suite 440
San Antonio, Texas 78229
(210) 692-9400

Dr. Holcomb is a specialist in the area of respiratory diseases. Dr. Holcomb may testify as to all matters pertaining to his examination of plaintiff and/or review of plaintiff's medical records, x-rays, and reports and supplemental reports of plaintiffs' experts; any communications with plaintiff or plaintiffs' family members; the diagnostic criteria used to diagnose asbestos-related diseases; his opinions as to whether plaintiff suffers from asbestos-related disease and the basis of such opinions; the Plaintiff's current medical condition and his prognosis thereof, the anatomy and function of the respiratory and circulatory systems; the natures of asbestos; the symptomatology, disease process and diagnosis of asbestosis and cancer associated with the respiratory system, peritoneum and peritoneal cavity; the nature and extent of medical and scientific knowledge regarding any association of pulmonary disease with asbestos exposure; the effect of exposure to substances other than asbestos on the development and manifestation of obstructive and restrictive conditions and diseases of the respiratory system; methods of diagnosis of various diseases, especially the means of establishing the differential diagnosis of alleged asbestos-related diseases with other non-asbestos-related diseases; incidence of lung cancer along individuals with asbestosis as compared to non-asbestotic asbestos workers and to the general smoking to cancer of the lung and cancers of other body parts with reference to epidemiology studies and physiologic affect; the difference between impairment and disability; the effect of asbestosis on disability and life expectancy; and the lack of relationship between the presence of pleural plaques and a later development of any form of cancer. Dr. Holcomb's C.V. is attached.

18. Dr. John Pettigrove
7121 South Padre Island Drive
Suite 300
Corpus Christi, TX
361-696-6163 or 6162

Dr. Pettigrove is a specialist in the area of respiratory diseases. Dr. Pettigrove may testify as to all matters pertaining to his examination of plaintiff and/or review of plaintiff's medical records, x-rays, and reports and supplemental reports of plaintiffs' experts; any communications with plaintiff or plaintiffs' family members; the diagnostic criteria used to diagnose asbestos-related diseases; his opinions as to whether plaintiff suffers from asbestos-related disease and the basis of such opinions; the Plaintiff's current medical condition and his prognosis thereof, the anatomy and function of the respiratory and circulatory systems; the natures of asbestos; the symptomatology, disease process and diagnosis of asbestosis and cancer associated with the respiratory system, peritoneum and peritoneal cavity; the nature and extent of medical and scientific knowledge regarding any association of pulmonary disease with asbestos exposure; the effect of exposure to substances other than asbestos on the development and manifestation of obstructive and restrictive conditions and diseases of the respiratory system; methods of diagnosis of various diseases, especially the means of establishing the differential diagnosis of alleged asbestos-related diseases with other non-asbestos-related diseases; incidence of lung cancer along individuals with asbestosis as compared to non-asbestotic asbestos workers and to the general smoking to cancer of the lung and cancers of other body parts with reference to epidemiology studies and physiologic affect; the difference between impairment and disability; the effect of asbestosis on disability and life expectancy; and the lack of relationship between the presence of pleural plaques and a later development of any form of cancer.

19. Dr. William Burgin
2601 Hospital Blvd.
Corpus Christi, Texas 78405

Dr. Burgin is a specialist in the area of respiratory diseases. Dr. Burgin may testify as to all matters pertaining to his examination of plaintiff and/or review of plaintiff's medical records, x-rays, and reports and supplemental reports of plaintiffs' experts; any communications with plaintiff or plaintiffs' family members; the diagnostic criteria used to diagnose asbestos-related diseases; his opinions as to whether plaintiff suffers from asbestos-related disease and the basis of such opinions; the Plaintiff's current medical condition and his prognosis thereof, the anatomy and function of the respiratory and circulatory systems; the natures of asbestos; the symptomatology, disease process and diagnosis of asbestosis and cancer associated with the respiratory system, peritoneum and peritoneal cavity; the nature and extent of medical and scientific knowledge regarding any association of pulmonary disease with asbestos exposure; the effect of exposure to substances other than asbestos on the development and manifestation of obstructive and restrictive conditions and diseases of the respiratory system; methods of diagnosis of

various diseases, especially the means of establishing the differential diagnosis of alleged asbestos-related diseases with other non-asbestos-related diseases; incidence of lung cancer along individuals with asbestosis as compared to non-asbestotic asbestos workers and to the general smoking to cancer of the lung and cancers of other body parts with reference to epidemiology studies and physiologic affect; the difference between impairment and disability; the effect of asbestosis on disability and life expectancy; and the lack of relationship between the presence of pleural plaques and a later development of any form of cancer. Dr. Burgin's C.V. is attached.

20. Richard J. Lee, Ph.D.
R. J. Lee Group, Inc.
350 Hochberg Road
Monroeville, PA 15146

Dr. Lee is expected to testify about the development of scientific knowledge and techniques regarding the measurement of levels of asbestos in the air and in lung tissue. Dr. Lee may comment upon techniques used by plaintiffs' experts to generate and analyze air, dust and lung tissue samples and conclusions drawn therefrom. Dr. Lee may also testify concerning the propensity of gasketing materials to release fibers and the specific fiber levels generated therefrom during normal use. Dr. Lee's C.V. is attached.

21. Phillip Cagle, M.D.
Baylor School of Medicine
Dept. of Pathology
1200 Moursund Street
Room 286A
Houston, Texas 77030
713-798-3671

The words and language used in this statement are the words and language of counsel who prepared the statement, and not of the witness. Dr. Cagle has not as yet prepared a report; if he does, a copy will be provided to Plaintiffs.

Dr. Cagle will be offered by these defendants as an expert physician, with particular expertise in pathology, in the process of carcinogenesis, as a researcher in the field of asbestos related conditions and their etiology, in the pathologic diagnosis and grading of non-malignant conditions associated with exposure of certain populations to asbestos-containing products and/or materials, and in the epidemiologic and etiologic aspects of certain cancers that are alleged to be causally associated with exposure of certain populations to asbestos containing products and/or materials.

Dr. Cagle is expected to provide testimony concerning the anatomic structure and functioning of the lung from a pathologic perspective, the defense mechanisms and functioning of the lung in health and otherwise, the responses of the lung to various stimuli, and the role of various components of the respiratory system in the proper

functioning of the lung. Dr. Cagle is expected to describe and distinguish various types of asbestos fibers; to describe the things which affect the ability of asbestos fibers to affect various structures within the respiratory system; and to describe the body's specific responses to fibers of asbestos that are inhaled, whether or not they are retained.

It is further believed that Dr. Cagle will define and distinguish various conditions, such as asbestosis, pleural changes and other nonmalignant changes that may be attributable in some persons to the results of long term inhalation and retention of some forms of asbestos fiber. Dr. Cagle is further expected to be able to testify concerning the circumstances under which exposure to certain forms and types of asbestos may be associated with the incidence of some forms of mesothelioma in some persons, and will testify concerning the results of his own experiences, the medical and scientific literature, and existing epidemiologic studies concerning associations that are alleged to exist epidemiologically between exposure to asbestos in some populations and the mortality and/or incidence of some forms of cancer.

Dr. Cagle is further expected to offer testimony concerning the effects of inhaled tobacco smoke and other factors on the occurrence of disease in populations who are also alleged to be exposed to asbestos containing products, and additionally concerning how the effects of inhaled tobacco smoke and other factors can confound the apparent results of certain epidemiologic studies.

Dr. Cagle is also expected to testify that it cannot be said, to a reasonable degree of medical probability, that any hypothetical person's alleged "exposure" to products that may have contained asbestos was of importance to that individual, without reference to that specific person's individual work history, medical history, findings on physical examination and pathological examination of tissue, if any, information concerning the individual's use of protective equipment, specific types of asbestos containing product(s) used and/or handled, resolution of questions regarding exposures to substances other than asbestos-containing products, and other known etiologies for whatever conditions are found to exist.

It is further expected that Dr. Cagle's testimony will generally respond to the pathologic, scientific and epidemiologic testimony which may be offered by plaintiffs' experts, and in that sense his testimony is dependent upon the prior testimony of such experts and cannot be specifically predicted.

In expressing his opinions, Dr. Cagle will rely on his own training, education, experience, research and publications, as well as the published medical and scientific literature that has been available to him over his career.

Dr. Cagle may testify as to the general medical aspects of the diagnosis and treatment of asbestos-related disease and the pathological effect of asbestos on the lung. He may also testify as to the relationship of asbestos exposure and the incidence of cancer. Dr.

Cagle is expected to provide testimony in the following areas:

- (a) Anatomy and function of the respiratory and circulatory systems and the diagnosis and treatment of disease affecting such systems;
- (b) The nature of asbestos and asbestosis;
- (c) The symptomatology, disease process and diagnosis of asbestosis and cancer associated with the respiratory system peritoneum and peritoneal cavity;
- (d) The nature and extent of medical and scientific knowledge regarding any association of obstructive pulmonary disease with asbestos fiber exposure;
- (e) The effect of exposure to substances other than asbestos on the development and manifestation of obstructive and restrictive conditions and diseases of the respiratory system and other causes of obstructive and restrictive disease or defects of the respiratory system;
- (f) Methods of diagnosis of various diseases, particularly means of establishing the differential diagnosis of alleged asbestos-related diseases with other non-asbestos related diseases;
- (g) Incidence of lung cancer among individuals with asbestosis or asbestos exposure without asbestosis, compared with non-asbestotic asbestos workers, non-asbestos exposed workers, and with the general population;
- (h) The import of any exhibit (including without limitation, corporate documents of defendants) introduced as evidence, or any items prepared for use or used for demonstrative purposes by any witness;
- (i) Cigarette smoking and its effect on the lung and other organs;
- (j) The relative danger of these defendants' asbestos-containing products;
- (k) The relationship of cigarette smoking to cancer of the lung and cancers of the other sites with reference to epidemiological studies and physiologic effect;
- (l) Difference between impairment and disability;
- (m) Effect of asbestosis, or asbestos exposure without asbestosis, on disability and life expectancy; effect of pleural plaques or other pleural manifestations of asbestos exposure on lung function or life expectancy;
- (n) The lack of relationship between presence of pleural plaques and a later development of any form of cancer;

- (o) Cancer incidence in the general population and among asbestos workers and its potential causes;
- (p) The history of evolution and knowledge of asbestos-related diseases;
- (q) The fiber types and exposure levels considered to be substantial in causing asbestos-related disease, specifically mesothelioma.

Additionally, Dr. Cagle may testify concerning the diagnosis of plaintiffs. Dr. Cagle may also testify as to his findings and diagnosis after examination and analysis of tissue, slides or other pathologic materials, medical records, reports, radiographs and plaintiffs' work history. He may give testimony concerning his review of any report purported to be diagnostic of any oncological condition and the methods of and procedures for conducting fiber counts. He may give testimony regarding malignancies associated with asbestos exposure or cigarette abuse and other malignancies from which they must be differentiated, the appropriate protocols for the diagnosis of those conditions, prognosis and information relating to the known cause of those malignancies. He may testify concerning the text and other literature relevant to any malignancy purported to be asbestos-related and any other malignancies from which it must be distinguished, including data relevant to contentions of increased risk of asbestos-related disease or cancer, prognosis, the relevant standards of care and considerations relating to medical monitoring. His testimony may include discussions of any relevant epidemiology, anatomy and physiology.

Finally Dr. Cagle may render various opinions relevant to a *Daubert/Havner/Robinson* Analysis. Dr. Cagle's C.V. is attached.

22. Dr. Andrew Churg
Associate Professor
Chief, Laboratory of Anatomic Pathology
University of British Columbia
Health Sciences Center Hospital
2211 Westbrook Mall
Vancouver, B.C., Canada V6TIW5

The words and language used in this statement are the words and language of counsel who prepared the statement, and not of the witness. Dr. Churg has not as yet prepared a report; if he does, a copy will be provided to Plaintiffs.

Dr. Churg will testify about the pathology of asbestos related diseases, his research into asbestos related diseases, the carcinogenicity of various fiber types, and the relationship, if any, between asbestos and various disease.

Dr. Churg is a specialist in the pathology of occupational lung disease.

He is also expected to testify that some asbestos-containing products do not create a health hazard and that any asbestos exposure from these products played no role in the genesis of plaintiffs' lung diseases, if any.

Dr. Churg may testify, either live or by deposition, regarding general pathology and the pathology of plaintiffs. He may also testify as to any matter raised by experts called by plaintiffs or any co-defendants.

In addition, Dr. Churg may testify regarding general medical issues, including but not limited to the following:

- (a) The anatomy and function of the respiratory and circulatory systems, including the protective systems of the body with regards to the inhalation and retention of dust, and the diagnosis and treatment of disease affecting such systems;
- (b) The nature of asbestos and asbestos-related disease;
- (c) The symptomatology, disease process and diagnosis of asbestosis and cancer associated with the respiratory system, peritoneum and peritoneal cavity;
- (d) The nature and extent of medical and scientific knowledge regarding any association of obstructive pulmonary disease with asbestos fiber exposure;
- (e) The effect of exposure to substances other than asbestos on the development and manifestation of obstructive and restrictive conditions and diseases of the respiratory system and other causes of obstructive and restrictive disease or defects of the respiratory system;
- (f) Methods of diagnosis of various diseases with other non-asbestos-related diseases;
- (g) Incidence of lung cancer among individuals with asbestosis or asbestos exposure as compared to non-asbestotic asbestos workers, non-asbestos exposed workers and to the general population;
- (h) Cigarette smoking and its effects on the lungs and other organs;
- (i) The relationship of cigarette smoking to cancer of the lung and cancers of other body parts with reference to epidemiology studies and physiologic effect.

Dr. Churg's C.V. is attached.

23. Dr. Scott G. Donaldson
North Texas Pulmonary Associates
375 Municipal Drive, Suite 140
Richardson, Texas 75080
(972) 680-0666

Dr. Donaldson is a specialist in the area of respiratory diseases. Dr. Donaldson may testify as to all matters pertaining to his examination of plaintiff and/or review of plaintiff's medical records, x-rays, and reports and supplemental reports of plaintiffs' experts; any communications with plaintiff or plaintiffs' family members; the diagnostic criteria used to diagnose asbestos-related diseases; his opinions as to whether plaintiff suffers from asbestos-related disease and the basis of such opinions; the Plaintiff's current medical condition and his prognosis thereof, the anatomy and function of the respiratory and circulatory systems; the natures of asbestos; the symptomatology, disease process and diagnosis of asbestosis and cancer associated with the respiratory system, peritoneum and peritoneal cavity; the nature and extent of medical and scientific knowledge regarding any association of pulmonary disease with asbestos exposure; the affect of exposure to substances other than asbestos on the development and manifestation of obstructive and restrictive conditions and diseases of the respiratory system; methods of diagnosis of various diseases, especially the means of establishing the differential diagnosis of alleged asbestos-related diseases with other non-asbestos-related diseases; incidence of lung cancer along individuals with asbestosis as compared to non-asbestotic asbestos workers and to the general smoking to cancer of the lung and cancers of other body parts with reference to epidemiology studies and physiologic affect; the difference between impairment and disability; the effect of asbestosis on disability and life expectancy; and the lack of relationship between the presence of pleural plaques and a later development of any form of cancer.

Dr. Donaldson's C.V. is attached.

24. Kathryn A. Hale, M.D.
Assistant Professor of Medicine
Baylor College of Medicine and
The Methodist Hospital
6550 Fannin
Smith Tower #1236
Houston, Texas 77030
(713) 790-2076

Dr. Hale is a specialist in the area of respiratory diseases. Dr. Hale may testify as to all matters pertaining to her examination of plaintiff and/or review of plaintiff's medical records, x-rays and reports and supplemental reports of plaintiffs' experts; any communications with plaintiff or plaintiff's family members; the diagnostic criteria used to diagnose asbestos-related diseases; her opinions as to whether plaintiff suffers from

asbestos-related diseases and the basis of such opinions; plaintiff's medical conditions. Dr. Hale may also testify regarding the anatomy and function of the respiratory and circulatory systems; the symptomatology, disease process and diagnosis of asbestosis and cancer of the respiratory systems, peritoneum and peritoneal cavity; the nature and extent of medical and scientific knowledge regarding any association of pulmonary disease with asbestos fiber and the effect of exposure to substances other than asbestos in the development and manifestation of diseases of the respiratory system; the methods of diagnosis and means of establishing the differential diagnosis of asbestos-related diseases with non asbestos-related disease; the incidence of lung cancer in the general population and those individuals exposed to asbestos; cigarette smoking and its effect on the lungs; the difference between impairment and disability; the effect of asbestosis on disability and life expectancy; the lack of relationship between pleural plaques and development of any cancer; the history of evolution and knowledge of asbestos-related diseases; the evolution of the medical community's awareness of the increased risks for an asbestos-related disease in cases of prolonged exposure. In addition, Dr. Hale may also offer various opinions relevant to a *Daubert/Havner/Robinson* Analysis.

Dr. Hale's C.V. is attached.

25. Arthur Langer, Ph.D.
Institute of Applied Sciences
Brooklyn College of the City University
New York, New York
(718) 951-4793

Dr. Langer is a mineralogist with a Ph.D. from Columbia University. He is a Professor of Mineralogy at City University, New York, New York and Director of the Environmental Sciences Laboratory of the Institute of Applied Sciences a Brooklyn College of the City University of New York.

Dr. Langer is expected to identify and describe the various methods by which inorganic material from aerosols, bulk samples or tissue may be analyzed chemically, crystallographically and structurally.

Dr. Langer is expected to testify about the various types of asbestos fiber, the geographic locations where the fibers can be found, the potential biologic activity of the various fibers in the human lung (including inorganic toxicity), the physical and chemical characteristics of the various asbestos fibers, and the identification and characterization of asbestos fibers.

Dr. Langer is expected to testify as to the types of inorganic minerals found in the lung tissue of persons with malignant mesothelioma and which are associated with the incidence of malignant mesothelioma in humans. He is expected to identify the types of fibers that have been shown to create an increased risk for malignant mesothelioma. Dr.

Langer is expected to testify as to the physical and chemical characteristics of the fibers that have been shown to create an increased risk of malignant mesothelioma.

Dr. Langer is expected to testify as to the potential for certain finished asbestos containing products to be contaminated with inorganic minerals and the amounts of the types of trace contaminants that may be found in the products. Dr. Langer is expected to offer testimony as to the amount of contaminants that are found in finished asbestos-contaminated products, if any, and the chemical, crystallographic and structural composition of the contaminants that can be generated from a finished product, if any.

Dr. Langer is expected to testify, based upon his review of the literature and of evidence of exposure, that exposure to certain encapsulated products did not result in a release of any contaminants sufficient to cause disease in persons such as plaintiff's decedent. Dr. Langer is expected to testify that his work and the literature do not establish that certain encapsulated products are contaminated with tremolite asbestos.

Dr. Langer may review the pathology, slides and other records available in this case and perform a fiber burden analysis. Dr. Langer will report on his findings as to whether there could have been an occupational exposure to asbestos.

In addition, Dr. Langer may testify about issues relevant to a *Daubert/Havner/Robinson* Analysis. Dr. Langer's C.V. is attached.

26. Robert M. Ross, M.D.- FCCP
6550 Fannin Street, Suite 2403
Houston, Texas 77030
(713) 383-6100

Dr. Ross is a specialist in the area of respiratory diseases. Dr. Ross may testify as to all matters pertaining to his examination of plaintiff and/or review of plaintiff's medical records, x-rays, and reports and supplemental reports of plaintiffs' experts; any communications with plaintiff or plaintiff's family members; the diagnostic criteria used to diagnose asbestos-related diseases; his opinions as to whether plaintiff suffers from asbestos-related disease and the basis of such opinions; plaintiff's medical conditions; his prognosis with regard to such medical conditions; and, if applicable, his opinions as to the cause of death. Dr. Ross may also testify about general medical issues with emphasis on the respiratory system and the effect that asbestos and other substances have on human health generally and with respect to plaintiff specifically. Dr. Ross may testify concerning his examination and diagnosis of the physical condition of plaintiff and the relationship, if any, of such condition of plaintiff's exposure, if any, to asbestos.

Dr. Ross may also testify regarding the anatomy and function of the respiratory and circulatory systems; the symptomatology, disease process and diagnosis of asbestosis and cancer of the respiratory systems, peritoneum and peritoneal cavity; the nature and

extent of medical and scientific knowledge regarding any association of pulmonary disease with asbestos fiber and the effect of exposure to substances other than asbestos in the development and manifestation of diseases of the respiratory system; the methods of diagnosis and means of establishing the differential diagnosis of asbestos-related diseases with non asbestos-related diseases; the incidence of lung cancer in the general population and those individuals exposed to asbestos; cigarette smoking and its effect on the lungs; the difference between impairment and disability; the effect of asbestosis on disability and life expectancy; the lack of relationship between pleural plaques and development of any cancer; the history of evolution and knowledge of asbestos-related diseases; and the evolution of the medical community's awareness of the increased risks for an asbestos-related disease in cases of prolonged exposure.

In addition, Dr. Ross may testify about issues relevant to a *Daubert/Havner/Robinson* Analysis. Dr. Ross' C.V. is attached.

27. Gail D. Stockman, M.D., Ph.D.
Longview Pulmonary Consultants
703 East Marshall, Suite 4002
Longview, Texas 75601
(903) 753-0787

Dr. Stockman is a specialist in the area of respiratory diseases. Dr. Stockman may testify as to all matters pertaining to her examination of plaintiff and/or review of plaintiff's medical records, x-rays, and reports and supplemental reports of plaintiffs' experts; any communications with plaintiff or plaintiff's family members; the diagnostic criteria used to diagnose asbestos-related diseases; her opinions as to whether plaintiff suffers from asbestos-related disease and the basis of such opinions; plaintiff's medical conditions; her prognosis with regard to such medical conditions; and, if applicable, her opinions as to the cause of death. Dr. Stockman may also testify about general medical issues with emphasis on the respiratory system and the effect that asbestos and other substances have on human health generally and with respect to plaintiff specifically. Dr. Stockman may testify concerning her examination and diagnosis of the physical condition of plaintiff and the relationship, if any, of such condition of plaintiff's exposure, if any, to asbestos.

Dr. Stockman may also testify regarding the anatomy and function of the respiratory and circulatory systems; the symptomatology, disease process and diagnosis of asbestosis and cancer of the respiratory systems, peritoneum and peritoneal cavity; the nature and extent of medical and scientific knowledge regarding any association of pulmonary disease with asbestos fibers and the effect of exposure to substances other than asbestos in the development and manifestation of diseases of the respiratory system; the methods of diagnosis and means of establishing the differential diagnosis of asbestos-related diseases with non asbestos-related diseases; the incidence of lung cancer in the general population and those individuals exposed to asbestos; cigarette smoking and its effect on the lungs; the difference between impairment and disability; the effect of asbestosis on

disability and life expectancy; the history of evolution and knowledge of asbestos-related diseases; and the evolution of the medical community awareness of the increased risks for asbestos-related disease in cases of prolonged exposure.

Dr. Stockman may testify regarding the historical review and state of the art of pulmonary medicine and asbestos-related conditions; the state of scientific and medical art and the history and knowledge of asbestos-related disease in general; and epidemiology and general medicine regarding asbestos exposure. Dr. Stockman may provide opinions on the probable time period(s) of asbestos exposure with relation to the causation of various disease processes. In doing so, Dr. Stockman may also provide percentages of probability of causation for exposure to asbestos from first exposure to last exposure.

In addition, Dr. Stockman may offer opinions relevant to a *Daubert/Havner/Robinson* Analysis. Dr. Stockman's C.V. is attached.

28. Hans Weill M.D.
Tulane University - School of Medicine
1700 Perdido Street
Second Floor
New Orleans, Louisiana 70112

Dr. Weill is a pulmonary specialist. Dr. Weill will testify generally about asbestos-related diseases and diseases of the lungs, chest, respiratory system and other organs of the body. He may offer general testimony relating to cigarette smoking, cancer of various organs, cancer risk associated with cigarette smoking, asbestos exposure and other causative factors, and the pathogenesis and diagnosis of disease, including asbestos-related diseases. Dr. Weill may testify as to the various types of asbestos fibers and their role in the causation of disease. He may also testify as to state-of-the-art medical as it relates to knowledge of health hazards associated with exposure to asbestos-containing dust in varying doses and in varying industries, based on his review of asbestos-related literature, and his own experience. Dr. Weill may testify specifically about plaintiffs' medical condition by relating these general principles to plaintiffs' or plaintiffs' decedents' specific medical history through review of records, x-rays, or by hypothetical.

Dr. Hans Weill, may testify, in general, concerning the epidemiology of asbestos exposure to asbestos upon person in occupational settings, including related diseases and the criteria for diagnosis of an asbestos related disease. He may also testify regarding the existence or non-existence of any asbestos related disease in the plaintiffs, including but not limited to pleural plaques, asbestosis, lung cancer, mesothelioma, laryngeal cancer, esophageal cancer and stomach cancer.

He may also testify on whether any asbestos related disease allegedly suffered by plaintiffs was medically or proximately caused by exposure to asbestos containing gasket

and packing products. He may also testify on the existence of a dose response relationship between exposure to asbestos and asbestos related disease. He may also testify on increased risk of cancer issues and whether a particular plaintiff has a reasonable fear of cancer due to exposure to asbestos. He may also testify on the health consequences of smoking. With respect to particular plaintiffs, he may testify as to review and interpretation of x-ray films, review and interpretation of pulmonary function testing, the nature and extent of any impairment or disability, whether the condition is progressive and whether other disease or conditions are present in plaintiffs.

Dr. Weill's testimony will be based on his training, experience, education, and review of the medical literature concerning asbestos related disease.

In addition, Dr. Weill may testify about issues relevant to a *Daubert/Havner/Robinson* Analysis. Dr. Weill's C.V. is attached.

29. Dr. Frank Weir
5629 FM 1960, Suite 340
Houston, Texas 77069
(281) 893-4003

Dr. Weir is expected to testify in the field of pharmacology, toxicology and industrial hygiene, generally, and particularly as they relate to asbestos fiber exposure in various work places. Also may offer testimony that it is improbable, and scientifically unlikely that plaintiff ever received physiologically meaningful exposures to asbestos fibers. He may also testify regarding the knowledge of the toxicology and appreciation for the hazards relating to the use of asbestos-containing materials at various intervals of time that are of interest in this matter.

Dr. Weir may also respond to testimony of certain witnesses offered at the time of trial. He therefore reserves the right to supplement, amend or to otherwise modify the opinions to be offered accordingly. He will continue to review material which may come to his attention regarding this material. Dr. Weir may utilize this material to develop additional opinions and conclusions or modify his opinions and conclusions if such further evidence of information so warrants.

Dr. Weir may testify as to state-of-the-art of the hazards of asbestos insulation products and the conduct of various industries and companies based on that knowledge.

Dr. Weir's opinions were based upon his education, experience and professional training, his review of relevant medical, epidemiological, scientific and technical literature, and his review and analysis of the case specific materials provided to concerning this matter. He may also render various opinions relevant to a *Daubert/Havner/Robinson* Analysis. Dr. Weir's C.V. is attached.

30. Mark Wick, MD, FCAP
University of Virginia Health Systems
Department of Pathology
Box 214
OMS-Bldg., Room 3882
Charlottesville, Virginia 22908
(804) 924-9038

The words and language used in this statement are the words and language of counsel who prepared the statement, and not of the witness. Dr. Wick has not as yet prepared a report; if he does, a copy will be provided to Plaintiffs.

Dr. Wick is expected to provide testimony concerning the anatomic structure and functioning of the lung from a pathologic perspective, the defense mechanisms and functioning of the lung in health and otherwise, the responses of the lung to various stimuli, and the role of various components of the respiratory system in the proper functioning of the lung. Dr. Wick is expected to describe and distinguish various types of asbestos fibers; to describe the things which affect the ability of asbestos fibers to affect various structures within the respiratory system; and to describe the body's specific responses to fibers of asbestos that are inhaled, whether or not they are retained.

It is further believed that Dr. Wick will define and distinguish various conditions, such as asbestosis, pleural changes and other non-malignant changes that may be attributable in some persons to the results of long term inhalation and retention of some forms of asbestos fiber. Dr. Wick is further expected to be able to testify concerning the circumstances under which exposure to certain forms and types of asbestos maybe associated with the incidence of some forms of mesothelioma in some persons, and will testify concerning the results of his own experiences, the medical and scientific literature, and existing epidemiologic studies concerning associations that are alleged to exist epidemiologically between exposure to asbestos in some populations and the mortality and/or incidence of some forms of cancer.

Dr. Wick is further expected to offer testimony concerning the effects of inhaled tobacco smoke and other factors on the occurrence of disease in populations who are also alleged to be exposed to asbestos containing products and additionally concerning how the effects of inhaled tobacco smoke and other factors can confound the apparent results of certain epidemiologic studies.

Dr. Wick is also expected to testify that it cannot be said, to reasonable degree of medical probability, that any hypothetical person's alleged "exposure" to products that may have contained asbestos was of importance to that individual without reference to that specific person's individual work history, medical history, findings on physical examination and pathological examination of tissue, if any, information concerning the individual's use of protective equipment, specific types of asbestos containing product(s)

used and/or handled, resolution of questions regarding exposures to substances other than asbestos-containing products, and other known etiologies for whatever conditions are found to exist.

It is further expected that Dr. Wick's testimony will generally respond to the pathologic, scientific and epidemiologic testimony which may be offered by plaintiffs' experts, and in that sense his testimony is dependent upon the prior testimony of such experts and cannot be specifically predicted. Dr. Wick's C.V. is attached.

The above designated witnesses may also give testimony about the historical "state-of-the-art," the development of medical knowledge about asbestos, and presence or absence of medical consequences relating to low-dose exposure to asbestos emanating from asbestos containing products. They may offer general testimony-relating to the development of asbestos-related disease, cigarette smoking, cancer of various organs, pneumonia, chronic obstructive lung disease, the pathology of cigarettes and asbestos, the pathogenesis of cigarette related diseases, and the pathogenesis of asbestos related diseases. These witnesses may also testify generally about specific abnormalities that might be in the medical records of the decedent. These witnesses may also testify about the presence or absence of health disease or health risks associated with exposure to low levels of asbestos emanating from asbestos containing products. They may also testify specifically about diseases, such as chronic obstructive pulmonary disease, even though they may not have seen decedent, or reviewed decedent's medical records.

Defendant also designates the following as its experts:

31. Ronald Richards
15877 West Laurel Canyon Court
Surprise, Arizona 85374
602-546-7811

Mr. Richards is a retired industrial hygienist for Texaco who is knowledgeable about asbestos issues for Texaco.

32. James L. Castille CIH, CSP
2709 Miller Street
Port Neches, TX 77651
409-727-0691

Mr. Castille was an industrial hygienist at the Texaco Port Arthur plant beginning in the early 1970s and is knowledgeable about the industrial hygiene issues at Texaco facilities, including asbestos.

Defendant also designates the following depositions taken in previous litigation which may contain opinions constituting expert knowledge and opinions:

1. Joe Shrode in the case of ***Claude J. Tomplait v. Combustion Engineering, et al.***; U.S. District Court for the Eastern District of Texas, Beaumont Division; and/or in ***Samuel R. Porter v. Fibreboard Corporation, et al.***, also in the U.S. District Court for the Eastern District of Texas, Beaumont Division, and/or Mr. Shrode's deposition testimony in the ***Clarence Borel*** trial, also in the U.S. District Court for the Eastern District of Texas
2. Dr. Corwin Hinshaw, expert regarding state of the medical art, in the cases of ***Jimmie L. Vaughan v. Johns-Manville***, CA-3-01-0070-F, USDC, N.D. Tex; ***Antonio Mendoza, et al. v. Fibreboard Corporation, et al.***, CA-2-80-006, USDC, N.D. Tex; ***In Re: Related Asbestos Cases***, C-83-6251-RFP, USDC, N.D. Calif
3. Andrew T. Haas in the cases of ***Barsh v. Keene Corp., et al.***, 1986; and ***Jackie R. Starnes, et ux vs. Combustion Engineering Inc., et al.***, No. 2-75-122, USDC, Eastern District of Tennessee, Northeastern Division, Knoxville, Tennessee, deposition testimony May 10, 1976
4. Roy Steinfurth in the case of ***Jackie R. Starnes v. Combustion Engineering Inc., et al.***, No. 2-75-122, USDC, Eastern District of Tennessee, Northeastern Division, Knoxville, Tennessee, deposition testimony May 10, 1976
5. Dr. Stephen M. Ayres in the cases of ***James F. Srite v. A. C. & S., Inc.***, trial testimony taken April 26, 1991; and ***Lloyd Galveston 82***, Cause No. 6-82-344, June 11, 1987
6. Dr. Kenneth Wallace Smith in the case of ***James Roy DeRocco & Andrew v. Carollo v. Forty-eight Insulation, Inc., et al.***; In the Court of Common Pleas of Allegheny County, Pennsylvania, Civil Action No. 7880, July Term, 1974
7. William Nicholson in Cause No. B-126,986; ***Russell Allen, et al. vs. American Petrofina, Inc., et al.***; In the 60th Judicial District Court of Jefferson County, Texas
8. Stephen Levine in Cause No. B-126,986; ***Russell Allen, et al. vs. American Petrofina, Inc., et al.***; In the 60th Judicial District Court of Jefferson County, Texas.

Defendant reserves the right to amend and supplement this response as additional information is located.

Defendant reserves the right to call any person designated by any other party in this case as an expert witness, whether or not such party is still a party at the time of trial as well as all expert witnesses listed by Plaintiff, custodians of records of any and all physicians, health care facilities, hospitals, clinics and health care providers who have treated or examined Plaintiff in this case who may have records concerning Plaintiff, and any physician who has examined and/or treated Plaintiff not identified.

NO. 00-08250-K

JERRY LYNN ABSHIER, et al

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IN THE DISTRICT COURT OF

VS.

DALLAS COUNTY, TEXAS

GAF CORPORATION, et al

192ND JUDICIAL DISTRICT

**DEFENDANT TEXACO INC.'S OBJECTIONS AND
AND RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES,
FIRST REQUEST FOR PRODUCTION, AND FIRST REQUEST FOR ADMISSIONS
AND FURTHER REQUESTS FOR PRODUCTION
SUBJECT TO MOTION TO TRANSFER VENUE**

TO: Plaintiff, BILLY AVEN, by and through his attorneys of record, Elizabeth R. Schick, Lou Thompson and Stephanie Finch of Baron & Budd, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281

Pursuant to TEXAS RULES OF CIVIL PROCEDURE Defendant TEXACO INC. (hereinafter "Defendant") serves the following Objections and Responses to Plaintiffs' Interrogatories, Requests for Production, and Requests for Admission.

Respectfully submitted,

HAYS, McCONN, RICE & PICKERING
A Professional Corporation

By: _____

B. STEPHEN RICE

TSB No. 16838000

ROBERT E. PURGATORIO

TSB No. 16399600

1200 Smith Street, Suite 400

Houston, Texas 77002

Telephone: (713) 654-1111

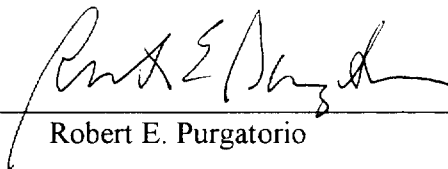
Facsimile : (713) 655-9212

Attorneys for Defendant TEXACO INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to all counsel of record by certified mail, return receipt requested, by facsimile transmission, by regular U.S. Mail and/or hand delivery on this 6th day of AUGUST, 2001.

Elizabeth R. Schick
Lou Thompson
Stephanie Finch
BARON & BUDD, P.C.
Centrum Building
3102 Oak Lawn Ave., Suite 1100
Dallas TX 75219-4281


Robert E. Purgatorio

OBJECTIONS TO DEFINITIONS

Defendant objects to the stated definition of the terms “Defendant,” “You,” “Your” and “Your Company” on the grounds it is overly broad and seeks to extend the definition beyond the scope of discovery allowed under the Texas Rules of Civil Procedure, including but not limited to inquiries relating to subsidiaries, foreign subsidiaries, affiliates, and other separately incorporated non-parties thus rendering the Plaintiff’s stated definitions overly broad, unspecific, vague and improper, and the definition seeks response greater than those called for pursuant to the Texas Rules of Civil Procedure.

Defendant objects to the stated definition of the terms “Document,” “Documents,” “Written Materials” and “Printed Materials” on the grounds it is overly broad, vague and clearly outside the scope of permissible discovery under the Texas Rules of Civil Procedure. This Defendant would specifically object to the attempt to extend the definition of these terms as requiring the responding party to make a determination of what documents may be responsive to these Interrogatories and Requests for Production “regardless of who now has or formerly had custody, possession or control” on the ground that is clearly outside the scope of permissible discovery and could be construed as seeking disclosure of information that would be protected from discovery by virtue of the attorney work product exemption afforded by the Texas Rules of Civil Procedure and the Texas Rules of Civil Evidence.

Defendant would further object to the stated definition of the terms “Meeting” or “Meetings” on the grounds it is so overly broad and vague and renders each discovery request to which it may apply incapable of being answered; and therefore, improper under the Texas Rules of Civil Procedure.

Defendant objects to the stated definition of the terms “products containing asbestos fiber,” “asbestos containing products” and “asbestos products” on the grounds it is overly broad, vague and not limited to the matters made the basis of this lawsuit and therefore, seeks disclosure of information and/or the production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to the discovery of admissible evidence.

Defendant objects to the definition of “identify” with regard to a document as overly broad and requiring more than the Rules of Procedure require.

Defendant objects to the definition of “workers” to include any employee of Defendant or employee of a contractor as being overly broad.

Defendant objects to the term “abate” or “abatement” as overly broad as defined.

PLAINTIFF'S INTERROGATORIES

INTERROGATORY NO. 1:

For each person who has supplied any information used in answering these interrogatories, or who assisted in identifying, locating or retrieving documents responsive to Plaintiffs' Requests for Production, identify such person and include the length of time employed by Defendant or other employer, and a year-by-year list of all other positions, titles, or jobs held.

ANSWER:

Objection. Answers to these Interrogatories are being made by Texaco Inc., a corporation. The scope of Plaintiffs' Interrogatories calls for extensive and massive inquiry, seeking information from innumerable individuals in various locations spanning many years; hence, providing such information would be enormously burdensome. Lastly, such information is protected from disclosure pursuant to the attorney-client privilege and work product exemption.

INTERROGATORY NO. 2:

As to each of the following, please state the first year you first became aware, what you learned, and how Defendant learned that humans who inhale asbestos fibers can contract

- a. asbestosis
- b. lung cancer
- c. mesothelioma

ANSWER:

Defendant objects to this Interrogatory because it is overly broad, vague, not limited to the time periods and corresponding worksites relevant in this case and, therefore, seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Defendant would respond by stating that it has in its possession certain documents which may be responsive to this Interrogatory. Although present personnel cannot confirm or deny the knowledge of previous Texaco personnel, it appears that Texaco was aware by 1949 and recommendations for asbestos concentrations in the air were in existence, and that there was alleged to be a connection between prolonged, heavy asbestos exposure and certain lung problems; however, no lung dysfunction was known to the levels of exposure present during work performed at the Texaco premises by workers situated such as the Plaintiffs in this case. In the mid 1960s, Texaco became aware that Dr.

Silikoff published reports for persons in a relationship between asbestos exposure under certain, specified circumstances and affects to the health of construction insulators. By 1970, Texaco was aware of publications which attributed in part, to asbestos the condition termed "mesothelioma".

Defendant states that pursuant to Rule 197.2(c), any further answer to this Interrogatory may be derived or ascertained from business records of Texaco Inc. which are maintained at an offsite storage facility in Oklahoma which can be made available for inspection and copying at a mutually agreeable time and upon reasonable notice.

INTERROGATORY NO. 3:

Please list all trade organizations, trade associations and any other industry-wide groups to which you belong(ed) (specifically including but not limited to the following groups: American Hygiene Foundation, Industrial Hygiene Foundation, Chemical Manufacturer's Association, American Chemical Council, American Petroleum Institute, Texas Chemical Council, Ohio Safety Congress, National Safety Council, Asbestos Information Association, Industrial Medical Association) in which information or documents relating to asbestos was discussed, disseminated, or published (including, but not limited to, the effects of exposure to asbestos, industrial hygiene measures relating to asbestos dust, and medical information or research relating to asbestos or its effects on animals or humans, populations at risk). As to each such group, please state:

- a. the inclusive dates of your membership and
- b. identify Defendant's employees or former employees or representatives who attended any of the meetings held by each organization, and
- c. the meetings they attended, and
- d. if any individuals employed by Defendant or representing Defendant were members of committees or subcommittees of any such organizations, (such as, e.g., a medical advisory committee or legal committee), identify the committee or subcommittee on which such individual served and the position occupied on the committee, if applicable.

ANSWER:

Defendant objects to this interrogatory to the extent it is overly broad, vague and constitutes nothing more than a "fishing expedition" which is specifically prohibited under Texas law as it relates to discovery. Further this interrogatory is objectionable because it would require this Defendant to speculate on whether an organization disseminated information concerning asbestos.

Subject to and without waiving the foregoing objections, Defendant would respond as follows:

The records of this Defendant reflect membership in several of the associations listed by the Plaintiff. To the best of Texaco's knowledge, the company had been a corporate member of the American Petroleum Institute (API) since approximately 1949. Texaco is currently a member of all thirteen of API's General Committees and it has had such membership for the preceding eight years. Defendant has no records readily available to it that would reflect membership in API committees during the time period referenced in this case. The general committees in which this Defendant has been a participating member for the preceding five years are: Communications, Expiration and Production, Federal Regulations; Finance and Accounting and Information System; Health Environment and Safety; Law; Marine Transportation; Marketing; Pipelines; Refining; State Relations; Statistics and Taxation.

Defendant has no records readily available to it that This Defendant cannot verify that each organization disseminated information concerning asbestos. Defendant is unable to specify the name of each individual who may have attended meetings over a 45-year time frame, however, generally, industrial hygienists have attended meetings related to industrial hygiene organizations and medical doctors have attended meetings of medical organizations. Further, this Defendant may still have in its possession certain documents which contain information further responsive to this Interrogatory. Defendant states that pursuant to Rule 197.2(c), any further answer to this Interrogatory may be derived or ascertained from business records still in the possession of this Defendant, which may be made available for inspection and copying at a mutually agreeable time and upon reasonable notice at an offsite storage facility in the State of Oklahoma.

INTERROGATORY NO. 4

Please identify Defendant's employees or former employees or representatives who attended any proceedings, symposia, or conferences of a scientific or medical or technical nature at which information or documents relating to asbestos was discussed, disseminated, or published, (including, by way of example, the effects of exposure to asbestos, industrial hygiene measures relating to asbestos dust, and medical information or research relating to asbestos or its effects on animals or humans, populations at risk) and specifically including but not limited to the Seventh Saranac Symposium, 1952, and/or New York Academy of Sciences, October 1964, and for each such individual, state the proceedings, symposia, or conferences attended and to whom within your corporate organization information concerning attendance at such proceedings, symposia, or conferences were reported, either verbally or inn documentary form.

ANSWER:

Defendant objects to this interrogatory because it is overly broad, vague and ambiguous, and not limited to the facilities where Plaintiff claims exposure, nor is it limited to the relevant time periods. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. See *In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex. 1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex. 1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex. 1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex. 1989).

Subject to and without waiving the foregoing objections, Defendant is unable to identify each seminar, symposium, conference or other gathering that any officer, agent or representative of Defendant has attended concerning the subject of asbestos. Defendant may still have in its possession certain documents which contain information further responsive to this Interrogatory. Defendant states that pursuant to Rule 197.2(c), any further answer to this Interrogatory may be derived or ascertained from business records still in the possession of this Defendant, which may be examined at a reasonable time and upon reasonable notice at an offsite storage facility in the State of Oklahoma.

INTERROGATORY NO. 5:

Please identify each company from which you acquired asbestos-containing products used at Defendant's Premises At Issue during the years Plaintiff has indicated he worked at Defendant's Premises At Issue and include in your response

- a. a description of each asbestos-containing product acquired and
- b. the dates each asbestos-containing product was acquired.

ANSWER:

Defendant objects to this interrogatory on the grounds it is overly broad, vague, ambiguous and lacking in specificity. Defendant does not know the years in which Plaintiff has indicated he worked at Defendant's premises.

Subject to the foregoing objection, Defendant would respond that it is unable to list all asbestos-containing products used at its facilities. Generally, asbestos-containing products were used for insulation, packing, gasketing and related uses. These products were installed throughout the refineries as needed. Defendant is unable to specify all persons or contractors who

installed the products, nor is the Defendant able to specify from whom each product was purchased, to the extent that this Defendant may have purchased the product. In the early 1970s, asbestos-containing insulation products were no longer purchased and other products such as gaskets were phased out as substitute products became practicable. Defendant may have in its possession certain documents which contain information further responsive to this Interrogatory. Defendant states that pursuant to Rule 197.2(c), any further answer to this Interrogatory may be derived or ascertained from business records of Texaco Inc. which are maintained at an offsite storage facility in the State of Oklahoma which may be made available for inspection and copying at a reasonable time and upon reasonable notice.

INTERROGATORY NO. 6:

If any asbestos-containing materials located or formerly located at Defendant's Premises At Issue have been removed, encapsulated, or otherwise abated at any time,

- a. Identify each person or company that performed such abatement services,
- b. State the dates and locations within Defendant's Premises At Issue of each abatement procedure; and
- c. Describe what asbestos-containing materials were abated
- d. State how such asbestos-containing waste was stored at Defendant's Premises At Issue prior to disposal and how it was disposed of.

ANSWER:

See objection to the definition of "abated" herein above. Defendant further objects to this interrogatory on the grounds that it is overly broad, vague, lacking in specificity, and not limited to the time period relevant in this case and, therefore, seeks disclosure of information wholly irrelevant to any material issue in this case and not reasonably calculated to lead to discovery of admissible evidence. Defendant further objects because the Plaintiff was not involved with asbestos abatement or storage, and thus, the information sought in this interrogatory is also not relevant for that reason.

INTERROGATORY NO. 7:

Please identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as having knowledge of facts relevant to this case concerning Defendant's Premises At Issue during the Time Period At Issue, including but not limited to the identification or location in your premises of asbestos-containing products to which Plaintiff was exposed or facts disputing the identification or location of such product or type of products.

ANSWER:

Defendant objects to the interrogatory to the extent it is overly broad, vague, lacks specificity, and is unduly burdensome. This request seeks to require

this Defendant to provide information broader than that required by the Texas Rules of Civil Procedure which only requires parties to provide the name, address and telephone number of persons with knowledge of relevant facts and their connection to the case. Defendant is unable to identify every person over a 50-year time frame who may have knowledge as specified by Plaintiff.

Subject to the foregoing, Defendant adopts by reference as though fully set forth herein the persons named in its response to Request for Disclosure as having knowledge of relevant facts and any supplements thereto. Furthermore, subject to and without waiver of the foregoing objections, Defendant states that it has in its possession of documents which may contain information responsive to this interrogatory. Pursuant to Rule 197.2(c), documents still in the possession of this Defendant from which a further answer to this Interrogatory may be derived will be made available for inspection and copying at a mutually agreeable time and upon reasonable notice at an offsite storage facility maintained in the State of Oklahoma.

INTERROGATORY NO. 8:

With respect to Defendant's Premises At Issue during the Time Period At Issue, please identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as being employed by you or having been employed by you whose duties and/or responsibilities included interface or liaison with Plaintiffs employer or other contractors who installed, removed, maintained, repaired or replaced asbestos-containing products (including foremen or supervisors or Plaintiff) on Defendant's Premises At Issue (regardless of job title, including but not limited to "plant engineers", project engineers", "company engineers", project superintendents", "purchasing agents" or job descriptions of a similar nature) and specifically include those whose duties and responsibilities included the following:

- a. entering into contracts or purchase orders (including specifications) with such contractors
- b. allowing such contractors access to Defendant's Premises At Issue,
- c. overseeing or supervising or observing or monitoring such contractor activities or addressing any contractor questions or concerns relating to the work being performed
- d. providing or approving asbestos-containing materials to be used by such contractors
- e. inspecting or approving work done by such contractors or authorizing payment for work done by such contractors.

ANSWER:

Defendant objects to this Interrogatory because it is overly broad, lacks specificity and is unduly burdensome. Further, the Interrogatory is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the

Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. See *In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex. 1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex. 1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex. 1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex. 1989).

Without waiving the objection, pursuant to Rule 197.2(c) any further answer to this interrogatory may be derived or ascertained from business records of Defendant which are maintained at an offsite storage facility in the State of Oklahoma and can be made available for inspection and copying at a mutually agreeable time and upon reasonable notice.

INTERROGATORY NO. 9:

If you have or have had an industrial hygiene or safety or medical department, please

- a. state the year such department was established, and whether it was established on the corporate level or at Defendant's Premises At Issue or both and
- b. with respect to Defendant's Premises At Issue during the Time Period At Issue, please identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as being or having acted in a medical, safety, or industrial hygiene advisory capacity (regardless of job title), specifically including, but not limited to, physicians, medical directors, medical personnel, nurses, safety engineers or managers and industrial hygienists. (You should include in your answer those persons on a corporate level, regardless of whether they worked directly on Defendants' Premises if they had such responsibilities for workers on Defendant's Premises At Issue, and Identify such individuals as affiliated with the corporate headquarters of Defendant.)

ANSWER:

Defendant objects to this interrogatory as being overly broad and not limited to the facility made the basis of this suit nor to the time periods involved in this suit. Subject to the foregoing objections, Defendant identifies the following persons who may have had industrial hygiene responsibility at the corporate or facility level:

At the Texaco Port Arthur Refinery and Asphalt Plant, as well as Texaco Inc. on a corporate level Alan Dooley, deceased, was responsible during the time

period 1946 through 1971. Thereafter, Ron Richards had overall corporate responsibility from 1971 through the mid-1980s. On the local level, under the direction of Mr. Richards, with respect to the Port Arthur Chemical Plant (located adjacent to the former Texaco Port Arthur Refinery), Alan Dooley had responsibility from 1946 through 1971. From 1971 through 1978, Jim Castille had responsibility. Thereafter, C. Moran and Dalton Abel had responsibility up through 1985. With respect to the Jefferson Chemical Company facility (later known as Texaco Chemical Company-East Plant) J. Pitts was a supervisor for the Plant Technical Services and retired in 1975. From 1975 through 1977, T. P. Dearing had the responsibility. From 1978 through 1985, Kathy Harkey had that responsibility. With respect to the former Neches Butane Products Company plant (later known as Texaco Chemical Company-West Plant) Dalton Abel had the responsibility from 1975 through 1982. Kathy Harkey held that position from 1982 through 1985.

Defendant lists the following physicians who worked for Defendant:

The Corporate Medical Directors for Texaco Inc. included Dr. Melvin Newquist (deceased) for the time period 1949 through 1959, Dr. Curtis H. Baylor (deceased) for the time period 1959 through 1974, Dr. Harold Hyder (deceased) from 1974 through 1975 and Dr. Eugene R. Stanton was the medical director from 1975 through 1986.

During the time period referenced by the Plaintiff herein, Texaco Inc. contracted with local physicians to serve as plant physicians.

If Plaintiff would adequately identify the Premises At Issue, Defendant may be able to provide a list of persons in the safety department. Pursuant to Rule 197.2(c), further answer to this Interrogatory which may be ascertained from Defendant's business records will be made available for inspection and copying at a mutually agreeable time at an offsite storage facility maintained by Texaco Inc. in the State of Oklahoma.

INTERROGATORY NO. 10:

Please identify all warnings given by Defendant, if any, to anyone at Defendant's Premises At Issue (including the Plaintiff regarding the hazards of asbestos and the dangers inherent in the inhalation of asbestos fibers, and please include in your response:

- a. to whom these warnings were given (and specifically state if Plaintiff was among them),
- b. when they were given, if ever, and
- c. in what manner they were given (e.g. written pamphlets, signs posted, oral/group meeting, individual discussions, etc.) and
- d. state whether you have ever published, written, edited, or distributed any other printed materials, including brochures, pamphlets, catalogs, packaging, advertising,

- e. signs, statements, or other materials containing any warnings of the possibility of injury from the use or exposure to asbestos or asbestos-containing products, and state whether any of the foregoing warnings were in Spanish or any other language besides English.

ANSWER:

Defendant objects to this Interrogatory because it is overly broad and vague and not limited to the time period relevant in this case. Without waiving the objection, Defendant states that it was the responsibility of the Plaintiff's employer to protect the Plaintiff from excessive exposure to asbestos consistent with the knowledge and judgment as it may have existed from time to time concerning the hazards of asbestos. Pursuant to Rule 197.2(c), further answer to this Interrogatory which may be ascertained from Defendant's business records, still in existence and relating to asbestos, which will be made available for inspection and copying at a mutually agreeable time at an offsite storage facility maintained by Texaco Inc. in the State of Oklahoma.

INTERROGATORY NO. 11:

If Defendant has or had or maintained 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, please identify

- a. the individuals who received, maintained, reviewed, and disseminated the information contained in such written materials,
- b. identify the written materials received, and
- c. state how and why these materials came into Defendant's possession.

ANSWER:

Defendant objects to this Interrogatory because it is overly broad, not limited to relevant time periods in the case and, therefore, not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving this objection, and subject thereto, see persons listed in answer to Interrogatory No. 9 above. Further Defendant states that pursuant to Rule 197.2(c) the answer to this interrogatory may be derived or ascertained from business records. The records from which the answer may be derived will be made available for inspection at a reasonable time at an offsite storage facility maintained by Texaco Inc. in the State of Oklahoma.

INTERROGATORY NO. 12:

Please describe in detail your manufacturing or industrial use of any asbestos or asbestos-containing products at Defendant's Premises At Issue. Please include in your response

- a. the type of asbestos fiber used,
- b. from whom you purchased the asbestos fiber used,
- c. a description of the process in which the asbestos was used.

ANSWER:

Defendant objects to this interrogatory on the grounds that it is overly broad, not limited to the time period relevant, and therefore seeks disclosure of information wholly irrelevant to any material issue in this case and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiver of the foregoing objections, Defendant is unable to specify from whom each product was purchased, to the extent this Defendant may have purchased the product. Generally, asbestos-containing products were used for insulation, packing, gasketing, and related uses. Defendant may have in its possession certain documents which contain information further responsive to this interrogatory. Defendant states that pursuant to Rule 197.2(c) any further answer to this interrogatory may be derived or ascertained from those business records of Defendant, still in existence and relating to asbestos, which may be examined at a reasonable time at an offsite storage facility maintained by Texaco Inc. in the State of Oklahoma.

INTERROGATORY NO. 13:

Identify by name and location each plant, facility, location, or premises owned, operated, or controlled by you in which asbestos-containing products were assembled, stored, used, prepared for use, installed, or fabricated during the Time Period At Issue. For each plant, facility, location, or premises listed as responsive to the above request, specify

- a. the functional dates for each plant, facility, location, or premises and
- b. the period during which asbestos-containing materials were stored, used, prepared for use, installed or fabricated.

ANSWER:

Defendant objects to this interrogatory on the grounds that it is overly broad, vague, ambiguous, unspecific, and not limited to the premises relevant to this case nor to the relevant time period. Subject to and without waiver of the

foregoing objections (for time periods see Answer to Interrogatory No. 5), Defendant may have in its possession certain documents which contain information further responsive to this interrogatory. Defendant states that pursuant to Rule 197.2(c) any further answer to this interrogatory may be derived or ascertained from those business records of Defendant, still in existence relating to asbestos, which may be examined at a reasonable time at an offsite storage facility maintained by Texaco Inc. in the State of Oklahoma.

INTERROGATORY NO. 14

For any of Defendant's Premises At Issue, during the Period At Issue, if you, your affiliates, subsidiaries, or predecessor(s), arranged for any of your employees, labor inspectors, insurance company inspectors, industrial hygienists, or any other party, whether directly employed by you or otherwise, to count or measure quantity, quality or threshold limit values or concentrations of asbestos dust or particles or other dust at any of your plants, facilities, locations, or premises where asbestos or asbestos-containing products were used, assembled, installed, or removed, please describe such tests and indicate

- a. the results obtained,
- b. by whom such tests were performed and
- c. identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as the person most knowledgeable concerning such tests and their results.

ANSWER:

Defendant objects to this interrogatory on the basis that the same is overly broad, vague, ambiguous and lacking in specificity. The results obtained may be ascertained from the documents made available. Generally the results show levels within accepted standards. The names of the persons performing the monitoring may be ascertained from the records made available. See list of Industrial Hygiene people in answer to Interrogatory No. 9 above. Further, answer to this Interrogatory may be ascertained from Defendant's records and pursuant to Rule 197.2(c) any further answer may be derived from Defendant's business records, still in existence and relating to asbestos, which will be made available at an offsite storage facility maintained by Texaco Inc. in the State of Oklahoma.

INTERROGATORY NO. 15:

For the Time Period At Issue, if you provided or caused to be provided any safety equipment or medical program (including, but not limited to, masks, respirators, other breathing devices, protective clothing, protective gloves, area air filtration systems, and area exhaust systems or barriers or enclosures or medical monitoring program, medical examination program, or other medical or

safety program) to employees, contractors, or invitees at any of your plants, facilities, locations, or premises where asbestos and asbestos-containing products were manufactured, used, assembled, installed, or removed, please indicate

- a. when such was first provided to your employees, contractors, and/or invitees and to whom,
- b. under what circumstances such were provided, and
- c. state whether you conducted safety meetings discussing the hazards of asbestos with employees, contractors, or invitees at any of Defendant's Premises At Issue during the Time Period At Issue, and if so, when and what was discussed, and
- d. identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as the person most knowledgeable concerning such equipment and programs and their provision.

ANSWER:

Defendant objects to this Interrogatory because it is overly broad, not limited to the time periods and corresponding worksites relevant in this case and, therefore, seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the foregoing objections, and without waiving same, it was the responsibility of contractors to provide safety equipment for their employees. Defendant may have in its possession certain documents which contain information responsive to this Interrogatory. Defendant states that pursuant to Rule 197.2(c) any further answer to this interrogatory may be derived or ascertained from business records which may be examined at a reasonable time at an offsite storage facility maintained by Texaco Inc. in the State of Oklahoma.

INTERROGATORY NO. 16:

Please state for each of defendant's Premises At Issue, all relevant State and Federal regulations, laws, statutes, mandates, or other authority pertaining to industrial hygiene, safety, and health of which you were aware during the Time Period At Issue that governed, controlled, or applied to exposure to asbestos or asbestos-containing products, abatement or removal of asbestos-containing products, and transportation of asbestos containing waste from such removal or abatement activities.

ANSWER:

Defendant objects to this Interrogatory because it is overly broad and vague as to "mandates, or other authority." Further, Plaintiff has failed to adequately define what premises are at issue and the time period at issue.

Without waiving the objections, Defendant states it was generally aware of applicable state and federal regulations, laws and statutes pertaining to asbestos. There were Texas regulations, the Walsh Healy Act, OSHA and EPA regulations in effect during various periods of time. Defendant may have in its possession certain documents which contain information responsive to this Interrogatory. Defendant states that pursuant to Rule 197.2(c) any further answer to this interrogatory may be derived or ascertained from business records which may be examined at a reasonable time at an offsite storage facility maintained by Texaco Inc. in the State of Oklahoma.

INTERROGATORY NO. 17

For any of Defendant's Premises At Issue, detail every occasion during the Time Period At Issue when any State, Federal, or local regulatory agency, commission, or other examiner inspected or visited any of your plants, facilities, locations, or premises where asbestos and asbestos-containing products were used, manufactured, assembled, installed, or removed to ascertain whether you were in compliance with relevant State, Federal, or local health and safety regulations.

ANSWER:

Defendant objects to this Interrogatory because it is overly broad, not limited to the time periods and corresponding worksites relevant in this case and, therefore, seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Interrogatory as overly broad and vague insofar as any undefined "regulatory agency or other governing body."

Subject to and without waiving the objections, Defendant may have in its possession certain documents which contain information further responsive to this interrogatory. Defendant states that pursuant to Rule 197.2(c) any further answer to this interrogatory may be derived or ascertained from business records of Defendant which may be examined at a reasonable time at an offsite storage facility maintained by Texaco Inc. in the State of Oklahoma.

INTERROGATORY NO. 18:

If, before 1980, you had received notice that any individual or individuals had claimed for alleged injury against you resulting from exposure to asbestos, state for each:

- a. The name and address of the claimant
- b. A description of the claim.
- c. The name and address of the attorney representing such claimant.

ANSWER:

Defendant objects to this interrogatory on the grounds that it is overly broad, not limited to time periods relevant in this case nor it is limited to a facility where it is alleged the Plaintiff might have worked and therefore, seeks disclosure of information wholly irrelevant to any information in this case and not reasonably calculated to lead to the discovery of admissible evidence. Further, this Defendant would object to this interrogatory to the extent it is seeking disclosure of the name and address of the non-parties in violation of that non-party's personal privacy rights. Further, this Defendant objects to this interrogatory to the extent it seeks production of disclosure of information that is a matter of public record and therefore is easily accessible by Plaintiff as this Defendant.

Subject to and without waiving the foregoing objections, based on information currently available to this Defendant, Texaco was first "served with a claim involving an asbestos-related disease or injury" on or about 1979.

INTERROGATORY NO. 19

If you contend that you did not own or operate or control the Defendants' Premises during the Time Period At Issue, or if you contend you are not liable in the capacity alleged in the most recent petition, describe in detail the facts supporting your contention and include a detailed corporate history of and its ownership, sale, acquisition, or divestiture or any of Defendant's Premises At Issue and any relevant mergers, acquisitions, consolidation, or other events of similar nature that you believe bear on the issue of ownership, control, or assumption of liabilities for acts occurring on Defendant's Premises At Issue during the Time Period At Issue and identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as having knowledge of facts relevant to this issue.

ANSWER:

Defendant objects to this interrogatory because "Defendant's Premises" and "Time Period at Issue" have not been adequately defined.

INTERROGATORY NO. 20

If you contend that venue is not proper, identify by municipality and county the location you contend is your principal place of business within this state for purposes of venue, as well as your next three most significant business locations within this state. If you do not contend that any of your locations are a principal place of business, identify up to four of your places of business where your highest level decision makers within this state work.

ANSWER:

Defendant Texaco Inc. maintained its principal place of business within the State of Texas is in Houston, Harris County, Texas. Defendant objects to providing further information because the interrogatory is overly broad, harassing and is not reasonably calculated to lead to the discovery of admissible evidence.

PLAINTIFF'S REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Please produce all ordering, sales, and shipping documents pertaining to the purchase or acquisition of asbestos-containing products for use at Defendant's Premises At Issue at any time.

RESPONSE:

Defendant objects to this Request because it is overly broad, lacks specificity and is unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 2:

Please produce all documents that relate to abatement of asbestos or asbestos-containing materials at Defendant's Premises At Issue and transportation of asbestos-containing waste.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, vague, ambiguous and not limited to the time period relevant to this case and therefore seeks documents wholly irrelevant to any material issue in this case and not reasonably calculated to lead to the discovery of admissible evidence. Defendant would show that any systematic abatement of asbestos at Defendant's premises after the time period during which the Plaintiff stated that he worked at Defendant's premises can have no relevance to this case, and Plaintiff was not involved in the transportation of waste.

REQUEST FOR PRODUCTION NO. 3:

Please produce all records identifying contractors and/or the employees of contractors who were on Defendant's Premises At Issue during the Time Period At Issue, including but not limited to gate records, sign-in logs, visitor's logs, identification badge or "brassing" procedures, fingerprinting, or other documents of a similar nature.

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 4:

Please produce all records pertaining to the methods and manner of identification of individuals entering and/or leaving Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Defendant objects to this Request because it is overly broad, lacks specificity and is unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 5:

Please produce the contract and work progress documents pertaining to the contractors who performed services at Defendant's Premises At Issue during the Time Period At Issue, including, but not limited to, invitations to bid, requests for proposals, bids, proposals, statements of scope of work, work orders, specifications, blueprints, plans, acceptances, contracts, amendments, addenda, change orders, inspection reports, worklogs or contractor logs, including but not limited to all of the contractor documents referring to work to be done, underway, or completed by Plaintiffs employer at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Defendant objects to this Request because it is overly broad, lacks specificity and is unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects because, as phrased, the request seeks proprietary information relating to its processes.

REQUEST FOR PRODUCTION NO. 6:

Please produce all documents reflecting payments made to Plaintiffs' employer for work contracted to do at Defendant's Premises At Issue during the Time Period At Issue, including but not limited to authorizations for payment, invoices, bills, check requests, requisitions, canceled checks, or other documents of a similar nature reflecting payment for services rendered by Plaintiffs' employer.

RESPONSE:

Defendant objects to this request on the ground that it is unduly burdensome, overly broad, lacking in specificity and not reasonably calculated to lead to the discovery of admissible evidence. Further, the Request fails to specify relevant time periods, worksites, or contractors which employed Plaintiff.

REQUEST FOR PRODUCTION NO. 7:

Please produce all photographs or videographic depictions or films depicting the use of any safety precautions (such as containment areas, warning signs, etc.) taken to protect bystanders from the hazards of airborne asbestos resulting from the use of asbestos-containing products at Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this Request because it is overly broad, vague and ambiguous, nor is it limited to the relevant time periods.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 8:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, vague, not limited to the time period or premises relevant in this case, and not limited to the matter made the basis of this suit, specifically, asbestos-containing thermal insulation products.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s

possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 9:

Please produce all photographs of warning signs or warning statements which are or have been in place at Defendant's Premises At Issue in the vicinity of asbestos-containing products.

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, vague, not limited to the time period relevant in this case, not limited to the matter made the basis of this suit, specifically, asbestos-containing thermal insulation products.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 10:

Please 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

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in the case, nor is it limited to matters made the basis of this lawsuit, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 11:

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, please 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:

Defendant objects to this Request on the grounds that it is overly broad, vague, lacking in specificity, not limited to the time period relevant in this case nor is it limited to a facility where it is alleged the Plaintiff worked and therefore seeks production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to discovery of admissible evidence.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 12:

Please 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:

Objection. Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 13:

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

RESPONSE:

Defendant objects to this Request because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a request to marshal its evidence, which is specifically prohibited by the rules of discovery.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 14:

Please produce all documents supporting the legal theories and factual bases of your defenses set forth in your response to Plaintiff's Request for Disclosure under Texas Rules of Civil Procedure 194.2, subparagraph (c).

RESPONSE:

Defendant objects to this Request because it is overly broad, vague, ambiguous, fails to specify the documents sought with reasonable particularity and amounts to a "fishing expedition." Defendant additionally objects because this Request seeks to require this Defendant to marshal its evidence, which is specifically prohibited by Rule 194.2(c). The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

REQUEST FOR PRODUCTION NO. 15:

If you contend that Plaintiff was not exposed to asbestos dust at Defendant's Premises At Issue, please produce the documents supporting your contention.

RESPONSE:

Defendant objects to this Request because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a “fishing expedition.” Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff’s claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

REQUEST FOR PRODUCTION NO. 16:

Please produce all documents used, referred to or relied upon answering any Interrogatories.

RESPONSE:

Defendant objects to this Request because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a “fishing expedition.” Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff’s claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

REQUEST FOR PRODUCTION NO. 17:

Please produce any and all documents and other tangible things which refer to the document retention (and/or destruction) policy of Defendant, including the following:

- a. Any document retention and/or destruction policies for Defendant that pertain to documents and records, including but not limited to supplements, addenda, memoranda, operating bulletins, revisions, or any other superseding instructions that referred to the stopping, suspending or resuming of such retention or destruction policies.

- b. Any record retention and/or destruction, dumping, or purging policies for Defendant that pertain to documents and records created, maintained or stored by electronic and/or magnetic means, including but not limited to records that have been microfilmed, microfiched, imaged, scanned, or stored on tapes, disks, diskettes, CD-rom, databases, etc. or on or within any computer hardware, backup system, download system, file dumping or other system of information management, whether on-site or off-site, including but not limited to supplements, addenda, memoranda, operating bulletins, revisions, or any other superseding instructions that referred to the stopping, suspending or resuming of such retention or destruction policies.

RESPONSE:

Defendant objects to this Request as the same is overly broad, unlimited in time, not limited to the relevant areas of inquiry in this case, and not reasonably calculated to lead to the discovery of admissible evidence. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

REQUEST FOR PRODUCTION NO. 18:

Please produce all documents, including but not limited to lists, inventories, indices, databases or printouts thereof, archives, storage, inventories, logs, or other search aids that refer or, relate to the existence, extent, type, organization, filing system, method of access or retrieval, and/or location of Defendant's documents (maintained or stored on-site or off-site) pertaining to any of the subject matter areas of Plaintiffs' Interrogatories.

RESPONSE:

Defendant objects to this Request as the same is overly broad, vague, unlimited in time, not limited to the relevant areas of inquiry in this case, and not reasonably calculated to lead to the discovery of admissible evidence. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects because this request seeks

to require production of documents protected by the attorney-client and work product privileges.

REQUEST FOR PRODUCTION NO. 19:

Please produce all books, pamphlets, memoranda, or written materials of any kind or character that that [*sic*] were received by you and that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings.

RESPONSE:

Defendant objects to this Request because it is overly broad, not limited to the time period relevant in this case, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 20:

Please 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:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 21:

Please produce all documents in your possession disseminated or published by any trade association that contain information relating to the hazards of asbestos and all documents which refer to such documents and any documents pertaining to meetings of such trade associations that were attended by any of your employees or representatives..

RESPONSE:

Defendant objects to this Request because it is overly broad, not limited to the relevant time periods or facility in this case. Further, as worded, the Request includes documents protected by the attorney-client, party communications and attorney work product privileges.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 22:

Please produce all of Defendant's safety meeting minutes that refer to the dangers of asbestos.

RESPONSE:

Defendant further objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters presumably made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 23:

Please produce all documents related to the installation of asbestos-containing materials at Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this Request because it is overly broad, vague, ambiguous, not limited in time nor to the premises at issue, fails to specify

the documents sought with reasonable particularity, and amounts to a “fishing expedition.” Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff’s claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.’s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 24:

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

RESPONSE:

Defendant has no documents relating to the medical condition of Plaintiff other than documents produced in discovery in this cause. Defendant will produce any defense medical examinations as they become available.

REQUEST FOR PRODUCTION NO. 25:

Please produce all documents related to Plaintiff, including but not limited to Plaintiff's work performance and/or personnel records at Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this request as overly broad, vague, lacking in specificity, and ambiguous insofar as it seeks “all documents relating to Plaintiff.” Furthermore, this request is objectionable because it seeks to require Defendant to marshal its evidence as to Plaintiff. Subject thereto, Plaintiff was not Defendant’s employee, and Defendant would have no documents relating to Plaintiff’s work performance and/or personnel records other than those which may be obtained in discovery from Plaintiff’s employer, if any.

REQUEST FOR PRODUCTION NO. 26:

Please produce all documents that reflect or depict in any way the layout of Defendant's Premises At Issue, including the location and dimensions of all buildings and the location and placement of asbestos-containing products, and specifically including all photographs, plats, maps, diagrams, blueprints, drawings, specifications or other architectural renderings.

RESPONSE:

Defendant objects to this request on the grounds it is overly broad, vague, not limited to the time period or specific premises sites relevant in this case and therefore seeks production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to the discovery of admissible evidence. Further, to the extent necessary, this Defendant objects to this request to the extent it could be construed as seeking production of documentation that this Defendant considers to be proprietary in nature, and therefore would be protected from discovery by virtue of the trade secret privilege afforded by the Texas Rules of Civil Procedure and the Texas Rules of Civil Evidence.

REQUEST FOR PRODUCTION NO. 27:

Please produce all demonstrative aids Defendant plans to use at trial in this matter.

RESPONSE:

Defendant objects to this Request because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant objects to the extent this Request seeks information protected from discovery by virtue of the attorney work product exemption.

REQUEST FOR PRODUCTION NO. 28:

Please produce all photographs of asbestos products in place or asbestos-containing materials being installed, maintained, removed, replaced, repaired, or manipulated in any way at Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the

matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 29:

Please produce all documents relating to any individuals' claimed injury as a result of exposure to asbestos at any facility of Defendant, including, but not limited to, workers' compensation claims and any documentation going to or received from any insurance carrier pertaining to such claims, and any documentation pertaining to the disposition of such claim.

RESPONSE:

Defendant Texaco Inc. objects to this Request on the grounds that it is overly broad, vague, lacking in specificity, unduly burdensome, not limited to the time period relevant in this case nor is it limited to a facility where it is alleged the Plaintiff worked and therefore seeks production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to discovery of admissible evidence. Defendant further objects because the Request as phrased could include documents which would violate the personal privacy privilege of Defendant's employees, and could include documents protected by the attorney-client and attorney work product privileges.

REQUEST FOR PRODUCTION NO. 30:

Please produce all documents that in any way reflect corporate minutes, corporate records, departmental meetings or discussions, or meetings with agents or contractors that in any way discuss, note, or table a discussion of the hazards of asbestos or potential health hazards of asbestos. The documents sought in this request include those produced and/or maintained at a corporate level by those responsible for supervising or advising personnel at Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to

asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 31:

Please produce all documents of corporate, board of directors, Defendant Premises representatives, departmental persons, task force, or other meetings of members of defendant from 1940 until the last year of the Time Period At Issue that contain discussion or information concerning asbestos, asbestos-related health hazards, or asbestos-containing products.

RESPONSE:

Defendant objects to this Request because it is overly broad, unduly burdensome, fails to specify the documents sought with reasonable particularity and amounts to a "fishing expedition." Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence. Further, this is a request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 32:

Please 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:

Defendant objects to this Request because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant

marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant objects to the extent this Request seeks information protected from discovery by virtue of the attorney work product exemption.

REQUEST FOR PRODUCTION NO. 33:

Please produce documents between Defendant and any of its worker's compensation insurance carriers or any other insurance carriers regarding the hazards of asbestos and asbestos-containing products.

RESPONSE:

Defendant objects to this Request on the grounds that it is overly broad, vague, lacking in specificity, not limited to the time period relevant in this case nor is it limited to a facility where it is alleged the Plaintiff worked and therefore seeks production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to discovery of admissible evidence. Further, this Defendant objects to this Request on the grounds that as phrased, it would necessarily violate the personal privacy rights of the non-parties who may be involved. Defendant further objects to the extent that this Request may seek to discover documents which were created regarding litigation as being in violation of the attorney work product and attorney client privileges.

REQUEST FOR PRODUCTION NO. 34:

Please produce documents between Defendant and any of its insurance carriers relating to any inspections carried out by the insurance carrier in which asbestos or dust in general was mentioned.

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 35:

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

RESPONSE:

Defendant objects to this Request on the grounds that it is overly broad, vague, lacking in specificity, not limited to the time period relevant in this case nor is it limited to a facility where it is alleged the Plaintiff worked and therefore seeks production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 36:

Please produce all documents which contain complaints by employees of defendant at the Defendant's Premises At Issue regarding safety conditions and work place conditions at the Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products. Further, the Request is not reasonably calculated to lead to the discovery of admissible evidence and it amounts to a "fishing expedition."

REQUEST FOR PRODUCTION NO. 37:

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

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products. Further, the Request is not reasonably calculated to lead to the discovery of admissible evidence and it amounts to a "fishing expedition."

REQUEST FOR PRODUCTION NO. 38:

Please produce all documents, organizational charts or rosters which identify the members of the management at the Defendant's Premises At Issue and their areas of responsibility during the Time Period At Issue.

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products. Further, the Request is not reasonably calculated to lead to the discovery of admissible evidence and amounts to a "fishing expedition." Defendant further objects as this is a request to marshal its evidence, which is specifically prohibited by the rules of discovery.

REQUEST FOR PRODUCTION NO. 39:

Please 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:

Defendant objects to this Request because it is overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, copies of the Defendant's annual reports will be provided to Plaintiff's counsel if necessary.

REQUEST FOR PRODUCTION NO. 40:

Please produce all documents which evidence Defendant's purchase, acquisition, sale, or transfer of ownership or of liabilities relating to Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this request on the grounds it is overly broad, vague and ambiguous, and is lacking in specificity and constitutes a "fishing expedition." Defendant further objects as this is a request to marshal its evidence, which is specifically prohibited by the rules of discovery.

REQUEST FOR PRODUCTION NO. 41:

If you contend that you are not liable for any dangerous condition or activity taking place at Defendant's Premises At Issue during the Time Period At Issue, please produce all title documents supporting this contention.

RESPONSE:

Defendant objects to this Request because it is overly broad, vague, ambiguous and unspecific and multifarious and seeks to require this Defendant to marshal its evidence. Defendant objects to this Request because it fails to specify the document sought with reasonable particularity and amounts to a "fishing expedition." The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant denies that it is liable for a dangerous condition or activity created by a contractor.

REQUEST FOR PRODUCTION NO. 42:

If you contend that you did not own or control the facility(ies) during any portion of the Time Period At Issue, please produce all documentation that supports your contention, including but not limited to documentation pertaining to the purchase, sale, acquisition, merger, or divestment of corporations, subsidiaries, divisions, or other corporate entities or assets that included the purchase, sale, acquisition, merger, or divestment of the facility(ies); such documentation to include, by way of example and not limitation, purchase or sale agreements, minutes, resolutions, annual reports, 10-K reports or other state or federal agency filings, or deposition, trial testimony or affidavits of your corporate representatives who are the most knowledgeable individuals with respect to such matters.

RESPONSE:

Defendant objects to this Request because it is overly broad, vague, ambiguous and unspecific and multifarious and seeks to require this Defendant to marshal its evidence. Defendant objects to this Request because it fails to specify the document sought with reasonable particularity and amounts to a "fishing expedition." The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant generally controlled its premises (although

some premises in Borger were controlled by the U.S. government at one time). Defendant did not control the details of the work of its contractors.

REQUEST FOR PRODUCTION NO. 43:

If you contend that you have not been sued in the proper capacity as set forth in Plaintiffs latest petition, produce all documentation that supports your contention, including but not limited to documentation pertaining to the history of Defendant and any relevant purchase, sale, acquisition, merger, or divestment of corporations, subsidiaries, divisions, or other corporate entities or assets that included the purchase, sale, acquisition, merger, or divestment of the facility(ies); such documentation to include, by way of example and not limitation, purchase or sale agreements, minutes, resolutions, annual reports, 10-K reports or other state or federal agency filings, or deposition, trial testimony or affidavits of your corporate representatives who are the most knowledgeable individuals with respect to such matters.

RESPONSE:

Defendant objects to this Request because it is overly broad, vague, ambiguous and unspecific and multifarious and seeks to require this Defendant to marshal its evidence. Defendant objects to this Request because it fails to specify the document sought with reasonable particularity and amounts to a "fishing expedition." The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant generally controlled its premises (although some premises in Borger were controlled by the U.S. government at one time). Defendant did not control the details of the work of its contractors.

REQUEST FOR PRODUCTION NO. 44:

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

RESPONSE:

Defendant objects to this Request because it is overly broad, vague, unduly burdensome, fails to specify the documents sought with reasonable

particularity and amounts to a "fishing expedition." Further, the request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 45:

If you contend Defendant's Premises At Issue was asbestos-free during the Time Period At Issue, please produce all documents which support your contention.

RESPONSE:

Because Plaintiff has failed to adequately define the Premises At Issue and the Time Period At Issue, Defendant is unable to respond to this Request.

REQUEST FOR PRODUCTION NO. 46:

If you contend that some or all of Defendant's Premises At Issue are asbestos-free, please produce all documents, including but not limited to, specifications, blue prints and drawings supporting your contention.

RESPONSE:

Because Plaintiff has failed to adequately define the Premises At Issue and the Time Period At Issue, Defendant is unable to respond to this Request.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 47:

Please produce all documents relating to your manufacturing of any asbestos or asbestos-containing products, or products to which any amount of asbestos was added, for use at any of Defendant's facilities or for sale to others.

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s

possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 48:

Please produce all documents relating to your use of any asbestos containing materials, asbestos-containing products or tools with which asbestos is used, for any process taking place at any of Defendant's facilities.

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 49:

Please produce all documents relating to your use, manipulation or handling of asbestos in any industrial processes at Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 50:

Please produce all marketing and advertising materials related in any way to your manufacturing of asbestos or asbestos containing materials or your use of asbestos or asbestos-containing materials in your industrial processes.

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 51:

Please produce all documents relating to boilers at Defendant's Premises At Issue. This request includes owner manuals, maintenance manuals, purchase orders, and invoices.

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 52:

Please produce all documents relating to any audits you conducted or caused to be conducted at Defendant's Premises At Issue in order to review some aspect of Defendant's safety program.

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 53:

Please produce all documents provided by you to other plants or facilities relating to safety in the industry, audit procedures or means to eliminate dust exposure, including, but not limited to asbestos dust, at industrial facilities.

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 54:

Please produce depositions and trial transcripts of your current or former employees or other corporate representatives taken in any matter involving an alleged injury or claimed property damage due to asbestos or insurance coverage for claims related to asbestos injury or property damage:

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request to the extent the requested documents are public records.

REQUEST FOR PRODUCTION NO. 55:

Please produce exhibit lists produced to you by any other counsel for plaintiff in other cases involving claim of injury or property damage alleged to have been caused by asbestos exposure.

RESPONSE:

Defendant objects to this Request because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and

reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. See *In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

REQUEST FOR PRODUCTION NO. 56:

Please produce all correspondence from you to Plaintiff's employer and from Plaintiff's employer to you during the Time Period At Issue.

RESPONSE:

Defendant objects to this Request because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Plaintiff has failed to identify his employer or the time period at issue. Defendant does not know if Plaintiff ever worked on its premises for any employer.

REQUEST FOR PRODUCTION NO. 57:

Please produce all documents that indicate or reference in any way any decision or discussion related to the cessation of the use of asbestos or asbestos-containing products in any of your facilities.

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 58:

Please produce all documents that indicate or reference in any way any the catalog or index or subscriptions or holdings of any library or other research repository of Defendant containing magazines, journals, books, publications or other documents relating to asbestos (including, but not limited to, the effects of exposure to asbestos, industrial hygiene measures relating to asbestos dust, and medical information or research relating to asbestos or its effects on animals or humans, populations at risk, etc.)

RESPONSE:

Defendant objects to this Request because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 59:

Please produce all inventory, stock-on-hand, warehouse or other documents pertaining to asbestos--containing products that were stored, maintained, stockpiled, or kept by Defendant for use at any facility of Defendant, including Defendant's Premises At Issue, at any time.

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR PRODUCTION NO. 60:

Please produce any letters, affidavits, or stipulations concerning authenticity of any of Defendant's documents provided by you in any other case involving claim of injury or property damage alleged to have been caused by asbestos exposure.

RESPONSE:

Defendant objects to this Request because it is overly broad, fails to specify the document sought with reasonable particularity, amounts to a "fishing expedition," and is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

**PLAINTIFF'S REQUESTS FOR ADMISSION AND
FURTHER REQUESTS FOR PRODUCTION**

REQUEST FOR ADMISSION NO. 1:

Admit that asbestos-containing products, asbestos-containing friction products, and/or machinery requiring the use of asbestos or asbestos-containing products were utilized on Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Defendant objects to this Request because it is vague and overly broad. This Request fails to define "utilized". Subject thereto, admitted.

REQUEST FOR ADMISSION NO. 2:

Admit that Plaintiff was exposed to asbestos at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR PRODUCTION NO. 61:

If your response to the foregoing request is anything other than "admit", produce all documents which support your response, including any documents which you believe support a denial of the foregoing admission or any documents showing what reasonable inquiry you undertook in connection with your inability to admit or deny the foregoing request.

RESPONSE:

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Defendant further objects because the request assumes that Plaintiff worked on Defendant's premises and Defendant cannot admit or deny same. Further, Defendant objects because the request seeks to reverse the burden of proof and seeks to require this Defendant to speculate as to when and where Plaintiff was supposedly on Defendant's premises and what craft he may have been performing and for what employer.

REQUEST FOR ADMISSION NO. 3:

Admit that you have no air monitoring for asbestos taken on Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE

Denied.

REQUEST FOR PRODUCTION [sic] NO. 62:

Admit that results of air monitoring for asbestos taken on Defendant's Premises At Issue during the Time Period At Issue indicate Plaintiff was exposed to asbestos at Defendant's Premises At Issue during the Time Period At Issue:

RESPONSE:

Denied.

REQUEST FOR PRODUCTION NO. 63:

If your response to the foregoing request is anything other than "admit", produce all documents which support your response, including any documents which you believe support a denial of the foregoing admission or any documents showing what reasonable inquiry you undertook in connection with your inability to admit or deny the foregoing request.

RESPONSE:

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Defendant further object because the request assumes that Plaintiff worked on Defendant's premises and Defendant cannot admit or deny same. Further, Defendant objects because the request seeks to reverse the burden of proof and seeks to require this Defendant to speculate as to when and where Plaintiff was supposedly on Defendant's premises and what craft he may have been performing and for what employer.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR ADMISSION NO. 4:

Admit that Defendant's employees were working with asbestos-containing materials at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Defendant objects to this Request because it is overly broad and vague. Subject thereto, Defendant admits only that some of its employees worked with asbestos-containing products.

REQUEST FOR ADMISSION NO. 5:

Admit that contractors were working with asbestos-containing materials at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Defendant objects to the this request because it is overly broad, vague, and lacks specificity. Subject thereto, Defendant admits during some of the time period at issue that some contractors on its premises worked with asbestos containing materials. For further answer, see answer to Interrogatory 2.

REQUEST FOR ADMISSION NO. 6:

Admit that Defendant was aware of the presence of asbestos-containing products on Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Defendant admits that it has been aware of the presence of asbestos-containing products on Defendant's premises during the relevant time period. Subject thereto, Defendant admits during some of the time period at issue that some contractors on its premises worked with asbestos containing materials. For further answer, see answer to Interrogatory 2.

REQUEST FOR ADMISSION NO. 7:

Admit that Defendant was aware of the use of asbestos-containing products on Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Defendant admits that it has been aware of the use of asbestos-containing products on Defendant's premises during the relevant time period. Subject thereto, Defendant admits during some of the time period at issue that some contractors on its premises worked with asbestos containing materials. For further answer, see answer to Interrogatory 2.

REQUEST FOR ADMISSION NO. 8:

Admit that you did not post a warning, caution or hazard signs concerning asbestos at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request. Plaintiff has failed to adequately define the premises and time period at issue.

REQUEST FOR ADMISSION NO. 9:

Admit that you did not post a warning, caution or hazard signs in Spanish concerning asbestos at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request. Plaintiff has failed to adequately define the premises and time period at issue.

REQUEST FOR ADMISSION NO. 10:

Admit that you specified the use of asbestos-containing materials at Defendant's Premises At Issue prior to or during the Time Period At Issue.

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, vague, and lacks specificity. Subject thereto, Defendant admits that it utilized asbestos-containing materials during portions of the years at issue. Defendant relied on product manufacturers to provide insulation products meeting its specifications.

REQUEST FOR ADMISSION NO. 11:

Admit that asbestos-containing materials were in use at Defendant's Premises At Issue in the 1950s.

RESPONSE:

Admitted.

REQUEST FOR ADMISSION NO. 12:

Admit that asbestos-containing materials were in use at Defendant's Premises At Issue in the 1960s.

RESPONSE:

Admitted.

REQUEST FOR ADMISSION NO. 13:

Admit that asbestos-containing materials were in use at Defendant's Premises At Issue in the 1970s.

RESPONSE:

Admitted that asbestos containing products were still in place. In the early 1970s Defendant specified the use of asbestos-free insulation.

REQUEST FOR ADMISSION NO. 14:

Admit that asbestos-containing materials were in use at Defendant's Premises At Issue in the 1980s.

RESPONSE:

Admitted that asbestos containing products were still in place. In the early 1970s Defendant specified the use of asbestos-free insulation.

REQUEST FOR ADMISSION NO. 15:

Admit that asbestos-containing materials were in use at Defendant's Premises At Issue in the 1990s.

RESPONSE:

Defendant objects to this Request as being outside of the relevant time period and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objections and subject thereto, see Response to Request for Admission No. 14 above.

REQUEST FOR ADMISSION NO. 16:

Admit that you did not provide to contractors working at Defendant's Premises At Issue health and safety procedures relating to the use of asbestos at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Defendant objects to this Request as the same is overly broad, vague, and lacking in specificity. Subject thereto, Defendant admits that it was the responsibility of contractors to meet applicable guidelines and provide to their employees health and safety information concerning the use of asbestos.

Subject thereto, Defendant admits that it provided information to persons on its premises during part of the relevant time period and in compliance with OSHA.

REQUEST FOR ADMISSION NO. 17:

Admit that you did not provide to contractors working at Defendant's Premises At Issue health and safety procedures in Spanish relating to the use of asbestos at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Defendant objects to this Request as the same is overly broad, vague, and lacking in specificity. Subject thereto, Defendant admits that it was the responsibility of contractors to meet applicable guidelines and provide to their employees health and safety information concerning the use of asbestos, whether such information was provided in English or Spanish. Further Defendant admits that it provided information to persons on its premises during part of the relevant time period and in compliance with OSHA.

REQUEST FOR ADMISSION NO. 18:

Admit that you did not conduct with contractors health and safety meetings relating to the use of asbestos at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Defendant objects to this Request because it is overly broad, lacks specificity and is not limited to the premises and time periods relevant to this case. Plaintiff has failed to adequately identify which premise(s) and specific time periods he allegedly worked at such premise(s).

After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request as worded.

It was the responsibility of contractors to meet applicable guidelines and provide to their employees health and safety information concerning the use of asbestos. Defendant admits only that it provided information to persons on its premises during part of the relevant time period and in compliance with OSHA.

REQUEST FOR ADMISSION NO. 19:

Admit that you did not conduct with contractors health and safety meetings in Spanish relating to the use of asbestos at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Defendant objects to this Request because it is overly broad, lacks specificity and is not limited to the premises and time periods relevant to this case. Plaintiff has failed to adequately identify which premise(s) and specific time periods he allegedly worked at such premise(s).

After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request as worded.

It was the responsibility of contractors to meet applicable guidelines and provide to their employees health and safety information concerning the use of asbestos, whether it was in English or Spanish. Defendant admits only that it provided information to persons on its premises during part of the relevant time period and in compliance with OSHA.

REQUEST FOR ADMISSION NO. 20:

Admit that you did not take any steps to protect contractor employees from exposure to asbestos on Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Denied.

REQUEST FOR PRODUCTION NO. 64:

If your response to the foregoing request is anything other than "admit", produce all documents which support your response, including any documents which you believe support a denial of the foregoing admission or any documents showing what reasonable inquiry you undertook in connection with your inability to admit or deny the foregoing request.

RESPONSE:

Defendant objects to this Request because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and

reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. See *In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR ADMISSION NO. 21:

Admit that asbestos is still in use at Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to adequately define the premises and time period at issue. Further, Defendant objects to this Request as vague because "in use" is not defined. After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 22:

Admit that asbestos is still in place at Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to adequately define the premises and time period at issue. After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 23:

Admit that the United States government has contracted with Defendant for work at Defendant's Premises At Issue.

RESPONSE

Plaintiff has failed to identify the premises at issue. Some of Defendant's premises in Jefferson County Texas, were under U.S. Government control at one time. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 24:

Admit that the United States government paid Defendant more than \$10,000 for the work it contracted with Defendant for work at Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 25:

Admit that Defendant owned Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE

Plaintiff has failed to identify the premises at issue and failed to identify specific time periods at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 26:

Admit that Defendant operated Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Plaintiff has failed to identify the premises at issue and failed to identify specific time periods at issue. Some of Defendant's premises in Jefferson County Texas, were under U.S. Government control during certain years. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 27:

Admit that you did not conduct air monitoring for the presence of asbestos dust during the time period in question.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 28:

Admit that during the Time Period At Issue, you did not conduct air monitoring tests for levels of asbestos at Defendant's Premises At Issue.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 29:

Admit that you were aware that business invitees at Defendant's Premises At Issue did not understand English.

RESPONSE:

Defendant objects to this request because it is overly broad, vague, and lacks specificity. There is no showing that any plaintiff did not understand English and the request is therefore not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Further the term "business invitees" is so broad as to include anyone who may have set foot on the premises.

REQUEST FOR ADMISSION NO. 30:

Admit that you did not take any steps to ascertain whether business invitees at Defendant's Premises At Issue understood English.

RESPONSE:

Defendant objects to this request because it is overly broad, vague, and lacks specificity. There is no showing that any plaintiff did not understand English and the request is therefore not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Further the term "business invitees" is so broad as to include anyone who may have set foot on the premises.

REQUEST FOR ADMISSION NO. 31:

Admit that you did not to [sic] provide safety orientations to contractor employees prior to their commencing work at Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this request because it is overly broad, vague, lacking in specificity, not limited to relevant time periods nor to the issues in this case and is not reasonably calculated to lead to the discovery of admissible evidence. Subject thereto, Defendant states that it was the responsibility of contractors to provide the safety orientation to their employees.

REQUEST FOR ADMISSION NO. 32:

Admit that you did not to [sic] provide safety orientations in Spanish to contractor employees prior to their commencing work at Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this request because it is overly broad, vague, lacking in specificity, not limited to relevant time periods nor to the issues in this case and is not reasonable calculated to lead to the discovery of admissible evidence. Subject thereto, Defendant states that it was the responsibility of contractors to provide the safety orientation to their employees in English or Spanish as appropriate.

REQUEST FOR ADMISSION NO. 33:

Admit that you hired or contracted with Plaintiff's employer to remove asbestos-containing materials from Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 34:

Admit that you hired or contracted with Plaintiff's employer to replace asbestos-containing materials at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 35:

Admit that you hired or contracted with Plaintiff's employer to install asbestos-containing materials at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 36:

Admit that you hired or contracted with Plaintiff's employer to maintain asbestos-containing materials at Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 37:

Admit that you hired or contracted with Plaintiff's employer to do new construction work at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 38:

Admit that you hired Plaintiff's employer to do "turnaround" work at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 39:

Admit that you communicated with Plaintiff's employer concerning the work to be performed on Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 40:

Admit that you instructed Plaintiff's employer concerning the work to be performed on Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request as worded. Defendant admits that it provided general instructions and specifications relating to work to be performed and exercised the right of general control over its premises, but denies that it controlled the details of the work of contractors or their employees.

REQUEST FOR ADMISSION NO. 41:

Admit that you instructed Plaintiff's employer concerning how the work was to be performed on Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request as worded. Defendant admits that it provided general instructions and specifications relating to work to be performed and exercised the right of general control over its premises, but denies that it controlled the details of the work of contractors or their employees.

REQUEST FOR ADMISSION NO. 42:

Admit that you showed Plaintiff's employer how the work was to be performed on Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request as worded. Defendant admits that it provided general instructions and specifications relating to work to be performed and exercised the right of general control over its premises, but denies that it controlled the details of the work of contractors or their employees.

REQUEST FOR ADMISSION NO. 43:

Admit that your specifications indicated to Plaintiff's employer how the work was to be performed on Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request as worded. Defendant admits that it provided general instructions and specifications relating to work to be performed and exercised the right of general control over its premises, but denies that it controlled the details of the work of contractors or their employees.

REQUEST FOR PRODUCTION NO. 65

If your response to the foregoing request is anything other than "admit", produce all documents which support your response, including any documents which you believe support a denial of the foregoing admission or any documents showing what reasonable inquiry you undertook in connection with your inability to admit or deny the foregoing request.

RESPONSE:

Defendant objects to this Request because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and

reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. See *In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

REQUEST FOR ADMISSION NO. 44:

Admit that your specifications indicated to Plaintiff's employer what materials were to be used in performing the work on Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request as worded. Subject to the objections, Defendant admits only that it sometimes provided specifications for materials or equivalents.

REQUEST FOR PRODUCTION NO. 66:

If your response to the foregoing request is anything other than "admit", produce all documents which support your response, including any documents which you believe support a denial of the foregoing admission or any documents showing what reasonable inquiry you undertook in connection with your inability to admit or deny the foregoing request.

RESPONSE:

Defendant objects to this Request because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. See *In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v.*

Martin, 776 S.W.2d 145 (Tex.1989). Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

Subject to the objections and without waiving same, Defendant will make available for inspection and copying documents still in Texaco Inc.'s possession which may be responsive to this request at an offsite storage facility in the State of Oklahoma at a reasonable time and upon reasonable notice.

REQUEST FOR ADMISSION NO. 45:

Admit that you told Plaintiff's employer or supervisor when to start work.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. Defendant states that it did exercise general right of control over its premises, including completion dates for contracts, but Defendant did not control the details of the work of contractors or their employees. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 46:

Admit that you told Plaintiff's employer or supervisor when to stop work.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. Defendant states that it did exercise general right of control over its premises, including completion dates for contracts, but Defendant did not control the details of the work of contractors or their employees. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 47:

Admit that you told Plaintiff's employer what materials to use when doing the work.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is

insufficient to enable Defendant to admit or deny this Request as worded. Subject to the objections, Defendant admits only that it sometimes provided specifications for materials or equivalents.

REQUEST FOR ADMISSION NO. 48:

Admit that you told Plaintiff's employer in what order the work should be done.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request as worded. Defendant admits that it provided general instructions and specifications relating to work to be performed and exercised the right of general control over its premises, but denies that it controlled the details of the work of contractors or their employees.

REQUEST FOR ADMISSION NO. 49:

Admit that you told Plaintiff's employer the deadline by which the work on Defendant's Premises At Issue was to be completed.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. Defendant states that it did exercise general right of control over its premises, including completion dates for contracts, but Defendant did not control the details of the work of contractors or their employees. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 50:

Admit that you had the power to correct the work performed by the employees of Plaintiff's employer on Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request as worded. Defendant admits that it provided general instructions and specifications relating to work to be performed and exercised the right of general control

over its premises, but denies that it controlled the details of the work of contractors or their employees.

REQUEST FOR ADMISSION NO. 51:

Admit that you had the power to require that the work performed by the employees of Plaintiff's employer on Defendant's Premises At Issue be redone to your satisfaction.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. Defendant states that it did exercise general right of control over its premises, including the rejection of defective work, but Defendant did not control the details of the work of contractors or their employees. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 52:

Admit that you had the power to stop the work performed by the employees of Plaintiff's employer on Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. Defendant states that it did exercise general right of control over its premises, including the rejection of defective work, but Defendant did not control the details of the work of contractors or their employees. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 53:

Admit that you observed the work performed by the employees of Plaintiff's employer on Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 54:

Admit that you inspected the work performed by the employees of Plaintiff's employer on Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 55:

Admit that you approved the work performed by the employees of Plaintiff's employer on Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 56:

Admit that you retained the power to control all phases of the work being performed by the employees of Plaintiff's employer on Defendant's Premises At Issue.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. Defendant denies that it controlled the details of the work of contractors or their employees. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.