

CAUSE NO. 97-4054-F

MARIO RAMIREZ,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
vs.	§	NUECES COUNTY, TEXAS
	§	
OWENS CORNING (a/k/a OWENS	§	
CORNING CORPORATION), et al.	§	
Defendants.	§	214th JUDICIAL DISTRICT

**DEFENDANT CITGO REFINING AND CHEMICALS COMPANY, L.P.'S
RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

TO: Plaintiff, Mario Ramirez, by and through his attorney of record Mr. Russell Budd, Baron & Budd, P.C., The Centrum, Suite 1100, 3102 Oak Lawn Avenue, Dallas, Texas, 75219.

COMES NOW Defendant CITGO Refining and Chemicals Company, L.P. ("CITGO"), and makes this its objections and responses to Plaintiff's First Set of Interrogatories pursuant to the Texas Rules of Civil Procedure.

Respectfully submitted,

ROYSTON, RAYZOR, VICKERY & WILLIAMS, L.L.P.

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CERTIFICATE OF SERVICE

This certifies that a true and correct copy of the foregoing has been served via the indicated means to the below listed counsel of record this 4th day of September, 2001.

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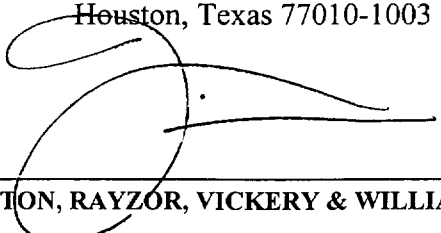
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OF ROYSTON, RAYZOR, VICKERY & WILLIAMS, L.L.P.

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

The Defendant objects to the instructions and definitions included in the Plaintiff's discovery request to the extent that they seek to impose duties or obligations which are beyond that imposed by the Texas Rules of Civil Procedure. In addition, the Defendant makes the following specific objections:

The Defendant objects to the definitions of "Defendant", "You", "Your", and "Your Company" as being overly broad, vague, burdensome, harassing, and not reasonably calculated to lead to the discovery of admissible evidence. The definitions seek to require the Defendant to answer questions based upon the knowledge of all of its employees (both present and past), its "Agents," which term is vague in itself, and any companies which are now or have ever been in any way related to this Defendant. The definition seeks to place a burden upon the Defendant which is impossible to discharge and which is well beyond any contemplated by the Texas Rules of Civil Procedure.

The Defendant objects to the terms "Product containing asbestos fibers", "asbestos-containing products", "asbestos products" for the reason that this Defendant is not a manufacturer of asbestos or asbestos related products. As such, it does not possess knowledge regarding the manufacture of asbestos-containing products, unless that information is provided. Therefore, these terms are overly broad, vague, harassing and burdensome to the extent that they require this Defendant to respond with regard to the manufacture of each and every product within its facility.

The Defendant objects to the definition of the term "Time Period At Issue" as being overly broad, vague and ambiguous to the extent that it refers the Defendant to a number of different sources, which are or may be conflicting, to determine the period of time specified. Subject to and without waiving its objections, Plaintiff's Fourth Amended Asbestos Petition alleges Plaintiff's dates of exposure in the refinery for which this Defendant is responsible to be 1988 through 1991. The Defendant, therefore, objects to providing information or documents with respect to any period of time other than 1988 through 1991.

RESPONSES TO 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 Plaintiff's 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:

CITGO objects to the definition of the term "Defendant" for the reasons set forth above. CITGO also objects to this interrogatory as being overly broad and burdensome insofar as it calls for the identification of persons who provided "any information" used in answering the written discovery requests as calling for virtually an endless list of people responsive to the request. Subject to and without waiving said objections, the following is a list of some of the people that provided assistance to counsel in responding to discovery: 1. Debra Richards, 2. Jeffery Sasara, 3. Philip Vrazel, 4. Mike Wittliff, 5. Terry Meyers, 6. Henry Sijanski, and 7. Roger Porter. Requested information regarding their employment will be supplemented.

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:

CITGO objects to the terms "Defendant" and "you" for the reasons stated above. CITGO also objects to the interrogatory as being overly broad and burdensome insofar as the inquiry relates to cancer and mesothelioma, which are conditions not involved in this litigation. CITGO further objects as this Interrogatory exceeds the number of interrogatories permitted by Texas Law. Subject to and without waiving these objections, CITGO believes that the owners/operators of the refinery during the period 1988 - 1991 were aware of information indicating that asbestos had been linked to health problems such as asbestosis when those companies came into existence. For Champlin Refining Company, who owned and operated the refinery in 1988, it would have been in 1986. For Champlin Refining and Chemicals, Inc. it would have been in 1989, the year it was formed.

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:

CITGO objects to the terms "Defendant" and "you" for the reasons stated above.

CITGO also objects to this interrogatory as being overly broad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence insofar as it is not limited to any particular period of time and vague because of its reference to "groups". Subject to and without waiving said objections, CITGO does not believe that the owners/operators of the refinery during the period 1988-1991 were members of any of the organizations listed by the Plaintiff.

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 in documentary form.

ANSWER:

CITGO objects to the term "Defendant" for the reasons stated above. CITGO also objects to the phrase "conferences of a scientific, medical or technical nature" is being vague and ambiguous. Subject to said objections and without waiving its objections, as CITGO understands the interrogatory, it knows of no information responsive to this inquiry.

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

ANSWER:

CITGO objects to the term "you" and the phrase "asbestos containing products" for the reasons stated above. CITGO also objects to the interrogatory as being overly broad, vague, burdensome, harassing and not reasonably calculated to lead to the discovery of admissible evidence insofar as it seek information for years other than 1988 - 1991. Subject to and without waiving said objections, Plaintiff testified he worked as an insulator. CITGO is unaware of any asbestos insulation being purchased by the refinery during the period 1988 -1991.

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:

CITGO objects to this interrogatory as being overly broad, burdensome, harassing and not reasonably calculated to lead to the discovery of admissible evidence insofar as it is not limited in time. CITGO further objects as this Interrogatory exceeds the number of interrogatories permitted by Texas Law. Subject to and without waiving said objections, Service Abatement Company, later known as Service Environmental Company was the primary asbestos abatement contractor at the refinery during the period 1988 through 1991. CITGO is presently searching for documents that would provide the information requested regarding the dates, locations, and if available, description of the material abated for the years 1988 - 1991. These documents are also available from the contractor. Asbestos abated was double bagged and disposed of at a landfill.

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:

CITGO objects to the term "you" and "Time Period At Issue" for the reasons set forth above. CITGO also objects to this interrogatory as being overly broad, vague, burdensome and not reasonably to lead to the discovery of admissible evidence insofar as it is not limited to any particular period of time, talks in terms of general or "relevant" knowledge of the refinery and the general "experience and qualification" of personnel, and is not limited to the topic of asbestos. CITGO also objects to the interrogatory as being argumentative insofar as it assumes that Plaintiff was exposed to asbestos at the refinery, which has yet to be established by the Plaintiff and is denied by CITGO. CITGO further objects as this Interrogatory exceeds the number of interrogatories permitted by Texas Law. Subject to and without waiving these objections, Mike Wittliff, Ray Perez and Roger Porter acted as a liaison for the asbestos abatement companies and had knowledge regarding the locations where asbestos was abated.

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 Plaintiff's 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:

- c. entering into contracts or purchase orders (including specifications) with such contractors
- d. allowing such contractors access to Defendant's Premises At Issue,
- e. 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:

CITGO objects to the term "you" and "Time Period At Issue" for the reasons set forth above. CITGO also objects to the use of the term "Plaintiff's employer" as being vague and undefined. CITGO also objects to the term "asbestos-containing products" for the reasons set forth above. CITGO also objects to this interrogatory as being argumentative, as it assumes that Plaintiff's employer installed, removed, maintained, repaired or replaced asbestos-containing products at CITGO's refinery between 1988 and 1991, or that refinery personnel supervised asbestos abatement activities, or provided or approved the use of asbestos insulation during that period, which is denied. CITGO also objects to the interrogatory as being overly broad, vague, burdensome, harassing and not reasonably calculated to lead to the discovery of admissible evidence insofar as it is not limited to any particular period of time and to the extent that it seeks all the "experience and qualification" of personnel without limits. CITGO further objects as this Interrogatory exceeds the number of interrogatories permitted by Texas Law. Subject to and without waiving said objections, during the period 1988 through 1991, Mike Wittliff, Ray Perez and Roger Porter served as liaison for the asbestos abatement companies that worked in the refinery.

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:

CITGO objects to the term "you" and phase "Time Period At Issue" for the reasons stated above. CITGO also objects to the interrogatory as being overly broad, vague, burdensome, harassing and not reasonably calculated to lead to the discovery of admissible evidence insofar as it is not limited to any particular period of time and to the extent that it seeks all the "experience and qualifications" of personnel without limits. CITGO further objects as this Interrogatory exceeds the number of interrogatories permitted by Texas Law. Subject to and without waiving said objections, during the period 1988 through 1991, the refinery had a Safety Department, which included a company nurse. The Safety Department was formed by a prior owner of the refinery. However, the personnel from the Safety Department were hired to work for the new owner/operator of the refinery when it began operations in 1987. The personnel in the department were: Safety Manager, Robert Loveless. Working under Mr. Loveless were Jeffrey Sasara, Bob Koy, Jim Kucera, Gloria Newman, Mary Word and Kathryn Giepner. Kathryn Giepner(RN) was the company nurse. Mary Word and Gloria Newman were also nurses during said period.

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, 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
- e. state whether any of the foregoing warnings were in Spanish or any other language besides English.

ANSWER:

CITGO objects to the term "Defendant" for the reasons stated above. CITGO also objects to the interrogatory as being overly broad, vague, burdensome, harassing and not reasonably calculated to lead to the discovery of admissible evidence insofar as it is not limited to any particular period of time. CITGO further objects as this Interrogatory exceeds the number of interrogatories permitted by Texas Law. Subject to and without waiving said objections, during the period 1988 through 1991, the refinery had qualified and licensed asbestos abatement contractor(s) remove asbestos from certain locations of the refinery during certain times. There were warning signs posted around the containment areas during the abatement. Those in or near the containment areas would have been exposed to the signs.

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:

CITGO objects to the term "Defendant" for the reasons set forth above. CITGO also objects to the interrogatory as being overly broad, burdensome and harassing insofar as it is not limited to any particular period of time. CITGO further objects as this Interrogatory exceeds the number of interrogatories permitted by Texas Law.

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:

CITGO objects to the terms “your” and “asbestos-containing products” for the reasons set forth above. CITGO also objects to this interrogatory as being overly broad because it is not limited in time. CITGO further objects as this Interrogatory exceeds the number of interrogatories permitted by Texas Law. Subject to and without waiving these objections, CITGO did not manufacture asbestos or products containing asbestos. During the period 1988-1991, asbestos-containing material could be found in certain places in the refinery. The primary function of this material was to insulate.

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:

CITGO objects to the term “you” and the phrases “asbestos-containing products” and “Time Period At Issue” for the reasons set forth above. CITGO objects to the word “used” as being vague in the context of the request. CITGO also objects to the interrogatory as being overly broad, burdensome, harassing and not reasonably calculated to lead to the discovery of relevant evidence insofar as it is not limited to the facilities in which Plaintiff claims he was exposed to asbestos. CITGO further objects as this Interrogatory exceeds the number of interrogatories permitted by Texas Law. Subject to and without waiving these objections, asbestos-containing material could be found in certain locations within the refinery, at certain times during the period 1988-1991. The refinery, which is now known as the CITGO refinery, continues to function.

INTERROGATORY NO. 14

For any of Defendant's Premises At Issue, during the Time 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:

CITGO objects to the terms "you " and "your" and the phrase "Time Period At Issue" for the reasons stated above. Subject to and without waiving its objections, CITGO will produce, subject to a confidentiality agreement, the data responsive to this interrogatory at the offices of its attorneys.

INTERROGATORY NO. 15:

For the Time Period At Issue, if you provided or caused to be provided any safety equipment or medical programs (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 know to you, your agents, or contractors as the person most knowledgeable concerning such equipment and programs and their provision.

ANSWER:

CITGO objects to the term "you" and the phases "asbestos-containing products" and "Time Period At Issue" for the reasons set forth above. CITGO also objects to the word "used" and the phrase "safety program" as being vague. CITGO also objects to the interrogatory as being overly

broad, burdensome and harassing insofar as it is not limited to equipment or programs relating to asbestos. CITGO further objects as this Interrogatory exceeds the number of interrogatories permitted by Texas Law.

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:

CITGO objects to the term "you," and the phases "asbestos-containing products" and "Time Period At Issue" for the reasons set forth above. CITGO objects to the terms "relevant" and "other authority" as vague and overly broad. CITGO objects to the Interrogatory as unduly burdensome and harassing as it does not specify the authorities to which it refers. CITGO further objects as this Interrogatory exceeds the number of interrogatories permitted by Texas law.

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:

CITGO objects to the term "your" and the phrase "Time Period At Issue" for the reasons set forth above. CITGO also objects to this request as being overly broad, burdensome, harassing and not reasonably calculated to lead to the discovery of admissible evidence in this case insofar as the interrogatory is not limited to inspections or compliance relating to asbestos. CITGO further objects as this Interrogatory exceeds the number of interrogatories permitted by Texas Law. Subject to and without waiving these objections, CITGO is not aware of any citation from any governmental agency indicating that the refinery failed to comply with applicable asbestos regulations during the period of 1988-1991.

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:

Not applicable.

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 Defendant 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:

CITGO objects to the terms "Defendant", "you" and "your" and the phrase "Time Period At Issue" for the reasons stated above. Subject to and without waiving said objections, CITGO neither owned nor operated the refinery in Corpus Christi during the period 1988 through 1991. However, it accepts the legal responsibility for the ownership and operation of the refinery during that period of time.

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:

No such contention has been made.