

CAUSE NO. 97-09-6046-D

RAMON MARTINEZ, et al

vs.

OWENS CORNING (a/k/a OWENS
CORNING CORPORATION), et al.,

§ IN THE DISTRICT COURT
§
§ CAMERON COUNTY, TEXAS
§
§ 103RD JUDICIAL DISTRICT

**DEFENDANT UNION CARBIDE CORPORATION'S
FIRST AMENDED ANSWERS AND RESPONSES TO PLAINTIFFS' "FIRST" SET OF
INTERROGATORIES, "FIRST" REQUEST FOR PRODUCTION OF DOCUMENTS,
and "FIRST" REQUEST FOR ADMISSIONS**

TO:Plaintiff, Ramon Martinez and Melvin Ketchum, by and through his attorney of record, Mr.
Russell Budd, Baron & Budd, P.C., 3102 Oak Lawn Ave., Dallas, Texas 75219.

COMES NOW, UNION CARBIDE CORPORATION, and files these First Amended
Answers and Objections to Plaintiffs' "First" Set of Interrogatories, "First" Request for
Production, and "First" Request for Admissions.

Respectfully submitted,

DeHAY & ELLISTON, L.L.P.
3500 Bank of America Plaza
901 Main Street
Dallas, Texas 75202-3736
Telephone: (214) 210-2400
Telefax: (214) 210-2500

By: _____

GARY D. ELLISTON
State Bar No. 06584700
MICHAEL JOHN RAMIREZ
State Bar No. 00788238
ATTORNEYS FOR DEFENDANT UNION
CARBIDE CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been
forwarded to counsel for Plaintiff, Mr. Russell Budd, Baron & Budd, P.C., 3102 Oak Lawn Ave., Suite
1100, Dallas, Texas 75219 on this 27TH day of March, 2000.

MICHAEL JOHN RAMIREZ

CAUSE NO. 97-09-6046-D

RAMON MARTINEZ, et al	§	IN THE DISTRICT COURT
	§	
vs.	§	CAMERON COUNTY, TEXAS
	§	
OWENS CORNING (a/k/a OWENS	§	
CORNING CORPORATION), et al.,	§	103 RD JUDICIAL DISTRICT

**DEFENDANT UNION CARBIDE CORPORATION'S
ANSWERS AND RESPONSES TO PLAINTIFFS' "FIRST" SET OF
INTERROGATORIES, "FIRST" REQUEST FOR PRODUCTION OF DOCUMENTS,
and "FIRST" REQUEST FOR ADMISSIONS**

COMES NOW UNION CARBIDE CORPORATION, Defendant in the above entitled and numbered cause (hereinafter referred to as "Defendant" or "Defendant - Union Carbide Corporation"), and files this its Answers and Response to Plaintiffs' "First" Set of Interrogatories, "First" Request for Production of Documents, and "First" Request for Admissions:

GENERAL OBJECTIONS

Union Carbide objects to the entire set of Plaintiffs' Interrogatories, Request for Production and First Request for Admissions on the following grounds, which are hereby incorporated by reference in Union Carbide's responses to individual Interrogatories, Request for Production and First Request for Admissions below:

GENERAL OBJECTION NO. 1:

Union Carbide states that trial preparation and factual investigation are ongoing. Union Carbide's answers to these Interrogatories, Request for Production and First Request for Admissions are based on information known to Union Carbide at this time. Union Carbide reserves the right, however to make reference at the trial or at any hearing in this action to facts

J. CARLISLE DEHAY, JR.
(1922 - 1991)

GARY D. ELLISTON
DAVID W. CROWE
MEL D. BAILEY
ERIC D. WEWERS
CHRISTOPHER P. MANNING
PAUL E. HAMILTON
KATHRYN HERMES
W. SCOTT BERRY
LAURA E. KUGLER

DEHAY & ELLISTON, L.L.P.

ATTORNEYS AND COUNSELORS
3500 NATIONSBANK PLAZA
901 MAIN STREET
DALLAS, TEXAS 75202-3736
(214) 210-2400
FACSIMILE (214) 210-2500

215 ORLEANS ST.
BEAUMONT, TEXAS 77701
(409) 833-0900
FACSIMILE (409) 833-0964

MAR 16 00* 1999

JILL G. ADAMS
JOHN W. ARNOLD
WILLIAM C. ARNOLD
STUART G. BROOKS
SUSAN CHAPMAN
RUSSELL J. DePALMA
CHRISTI J. DICKSON
WILLIAM A. FYNES
DAVID A. GRAVES
TROY D. HELLING
TANDY V. JOURET
BRENT M. KARREN
JEFFREY M. MAROSZ
M. LAUREN MATHEWS
ANTHONY S. MILLER
KENNETH D. MORRIS
LILY C. MYERS
AMY E. NETTLE
TODD D. OGDEN
RANDY R. RAMIREZ
TODD H. RAMSEY
H. TRACY RICHARDSON, III
KYLE C. STEELE
TODD J. SUDDLESON
MITZI S. WALLACE

WRITER'S DIRECT DIAL
(214) 210-2453

March 15, 2000

VIA U.S. MAIL

Holly J.W. Huart, Esq.
Baron & Budd
The Centrum
3102 Oak Lawn Avenue
Suite 1100
Dallas, TX 75219

Re: Ramon Martinez, et al. v. Owens-Corning Fiberglas; 103rd Judicial District Court; Cause No. 97-09-6046D

Dear Ms. Huart:

Enclosed please find responses to discovery propounded upon Union Carbide. These responses are subject to being amended. Please call me if you have any questions.

Sincerely,



Michael John Ramirez

MJR
encl.

and documents not identified in these responses, the existence or relevance of which is later discovered by it or its counsel. By this reservation, Union Carbide does not in any way assume a continuing responsibility to update its responses to these Interrogatories, Request for Production and First Request for Admissions, and specifically objects to each of these Interrogatories, Request for Production and First Request for Admissions to the extent that they seek to impose any such continuing obligation upon Union Carbide.

GENERAL OBJECTION NO. 2:

Union Carbide objects to plaintiff's Interrogatories, Request for Production and First Request for Admissions in their entirety on the grounds that they are not reasonably framed in terms of the facts and subject matter of the present action, with the result that Union Carbide is called upon to speculate as to what information relevant to the present case, if any, may be deemed to fall within the scope of the Interrogatories, Request for Production and First Request for Admissions as phrased.

GENERAL OBJECTION NO. 3:

Union Carbide also objects to all Interrogatories, Request for Production and First Request for Admissions insofar as they would require the disclosure of information protected by the attorney-client privilege or work product doctrines.

GENERAL OBJECTION NO. 4:

Union Carbide objects to providing information about any asbestos-containing products, which it has manufactured, sold or distributed, on the grounds that the asbestos fiber in those products was encapsulated by or embedded in other material and on the grounds that the plaintiff has made no allegation of exposure to those products. According to Union Carbide's best presently available information, these products consist of the following: a tree sprout inhibitor

used primarily to inhibit growth on telephone poles; a phenolic molding compound used in electronic parts and products such as switches and radios; a thermoplastic molding material used primarily in camera cases; Prestone radiator products; acetylene cylinder liners; a scarfer machine; a heat exchanger; and, possibly, certain polyethylene and polystyrene products sold in limited quantities on an experimental basis. Union Carbide no longer manufactures any of the above products. From 1963 until June 30, 1985, Union Carbide mined and sold short fiber chrysotile asbestos initially as "Union Carbide Asbestos" and then under the trade name Calidria (some distributors marketed Calidria under other trade names). All responses to these Interrogatories, Request for Production and First Request for Admissions refer to Calidria asbestos only.

GENERAL OBJECTION NO. 5:

Union Carbide objects to this entire set of Interrogatories, Request for Production and First Request for Admissions to the extent that they call for information about Union Carbide employees or premises, or policies pertaining to Union Carbide employees or premises other than Brownsville, TX. Inasmuch as the plaintiffs do not allege that they or their decedents were ever employed by Union Carbide or worked at any job site controlled by Union Carbide other than Brownsville, TX, such information is irrelevant and immaterial to matters at issue in this case. Any pertinent information which the employee or premises information can be said to reflect can be requested directly without requesting the irrelevant and immaterial information or documentation about employees or premises.

**PLAINTIFF'S INTERROGATORIES, REQUESTS FOR PRODUCTION,
AND REQUESTS FOR ADMISSION**

INTERROGATORY NO. 1:

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

RESPONSE: UCC refers Plaintiff to prior discovery pertaining to the Brownsville plant.

REQUEST FOR ADMISSION NO. 1:

Admit that Defendant ordered, purchased or otherwise acquired asbestos-containing products, asbestos-containing friction products, and/or machinery requiring the use of asbestos or asbestos-containing products.

RESPONSE: Admitted.

REQUEST FOR PRODUCTION NO. 1:

If you deny the foregoing request, in whole or in part, produce all documents supporting

your denial.

RESPONSE: See above response.

REQUEST FOR ADMISSION NO. 2:

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 between the years 1970 and 1983.

RESPONSE: UCC can neither admit nor deny this request fully and with specificity because it ceased the use of asbestos materials at some point before the closure of the plant in 1983 and UCC has made reasonable inquiry and the information known or easily obtainable is insufficient to enable UCC to fully answer the request. Subject thereto, admitted that such products were used in the 1970's, but the date of last usage unknown.

INTERROGATORY NO. 2:

If you admit the foregoing, please list all asbestos-containing products used at Defendant's premises and for each product state the following:

- a. What these products were used for
- b. From whom these products were purchased

- c. Where these products were installed
- d. Specific persons or contractors who installed these products
- e. The first year each product was no longer purchased and installed on Defendant's Premises

RESPONSE: UCC objects to this Interrogatory to the extent it is duplicative of Plaintiff's prior discovery propounded to Union Carbide. Subject thereto, UCC states that the Brownsville plant has been closed since approximately 1983 and UCC began the discontinuation of the use of asbestos-products several years before that time. UCC is therefore unable to provide an all-inclusive list of each specific product, each specific location where asbestos may have been installed, by whom the product was installed, and the date the product was discontinued. UCC states further that several contractors, including Brown & Root, worked on-site at the Brownsville plant, may have employed insulators. UCC refers Plaintiff to documents produced previously in this case.

REQUEST FOR PRODUCTION NO. 2:

Produce all ordering and sales documents pertaining to the purchase or acquisition of such asbestos-containing products for use at Defendant's Premises, including but not limited to invoices, price quotations, purchase orders, requisitions, bills of lading, and other purchasing and/or shipping documents of a similar nature.

RESPONSE: UCC has previously responded to this request for the Brownsville plant and has

produced all records pertaining to asbestos usage and/or removal.

REQUEST FOR ADMISSION NO. 3:

Admit that during the time Plaintiff was employed by Defendant, it was foreseeable that asbestos-containing products on Defendant's Premises would or could be removed, stripped, replaced or repaired at some time after installation.

RESPONSE: UCC has made reasonable inquiry and has no information that Plaintiff was an employee of UCC or what the conditions of his employment, if any, may have been. Subject to its objections, UCC admits that generally it was foreseeable that asbestos-containing products might be removed, replaced or repaired.

INTERROGATORY NO. 3:

Please state whether any asbestos-containing products in place or in use at Defendant's Premises have been abated at any time.

- a. If so, list each person or company that performed such abatement services
(including address and telephone number)
- b. State the dates and locations of abatement procedures;
- c. State which asbestos-containing products were abated.

RESPONSE: UCC objects to the extent this Interrogatory is duplicative of previously propounded discovery. Subject to the foregoing, UCC states it did conduct abatement activities and has produced all documents related to those activities.

REQUEST FOR PRODUCTION NO. 3:

Produce all documents that in any way pertain to abatement of asbestos-containing materials on Defendant's Premises, including but not limited to a removal plan or organized criteria or schedule for the removal of asbestos at Defendant's Premises, and in operation and maintenance plan.

RESPONSE: See response to Interrogatory No. 3 herein.

REQUEST FOR ADMISSION NO. 4:

Admit that Plaintiff worked on premises owned by Defendant or by a predecessor-in-interest of Defendant.

RESPONSE: UCC has made reasonable inquiry and has insufficient information to either admit or deny this request.

REQUEST FOR PRODUCTION NO. 4:

If you deny the foregoing request, produce all documents supporting your denial.

RESPONSE: See above response.

REQUEST FOR PRODUCTION NO. 5:

If you admit the foregoing request, in whole or in part, produce all documents supporting your admission that Plaintiff was on Defendant's Premises.

RESPONSE: See above response.

REQUEST FOR PRODUCTION NO. 6:

Produce all records identifying contractors and/or the employees of contractors who were on your premises between the dates 1970 and 1983, including but not limited to sign-in logs, gate records, visitor's logs, identification badge logs and procedures, and other documents of a similar nature.

RESPONSE: UCC objects to this request to the extent it seeks information which is not relevant and will not lead to admissible evidence. UCC further objects to the extent this request is over broad and not reasonably limited to the subject matter of the lawsuit and constitutes an impermissible fishing expedition. *K-Mart Corp. v. Sanderson*, 937 S.W. 2d 429, 431 (Tex. 1996). UCC states further, subject to its objections, that it has previously produced any and all

documents relating to the installation and/or removal of asbestos by contractors at the Brownsville facility.

REQUEST FOR PRODUCTION NO. 7:

Produce all records pertaining to the methods and manner of identification of individuals entering and/or leaving your facilities, between the years 1970 and 1983, including but not limited to fingerprinting or other methods of identifying contractor employees at your premises, and specifically including any fingerprinting or other records identifying the Plaintiff.

RESPONSE: See response to Request for Production No. 6 herein. Subject to its objections, UCC will produce any and all documents relating to Plaintiff if located.

INTERROGATORY NO. 4:

Identify the contractors who worked on your premises between the years 1970 and 1983 and for each, state:

- a. The type of work performed by the contractor
- b. The dates such work was performed
- c. Identify your employee responsible for monitoring, verifying, or instructing concerning these services to be performed by such contractors.

RESPONSE: UCC objects to this Interrogatory because it seeks information which is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. UCC objects further because it is over broad and constitutes an impermissible fishing expedition. K-Mart Corp. v. Sanderson, 937 S.W. 2d 429, 431 (Tex. 1996). UCC states further, subject to its objections, that it has previously produced all responsive documents in its possession relating to asbestos usage, installation, and/or removal by contractors at the Brownsville location.

REQUEST FOR PRODUCTION NO. 8:

Produce the contract documents pertaining to contractors who performed services on Defendant's Premises between the years 1970 and 1983, including but not limited to, invitations to bid, requests for proposals, bids, proposals, scope of work, specifications, blueprints, plans, acceptances, contracts, amendments, addenda, change orders, and other contract documents of a similar nature.

RESPONSE: UCC objects to this request to the extent it seeks information which is not relevant and not calculated to lead to the discovery of admissible evidence. UCC further objects to the extent the request is over broad and not reasonably limited to the subject matter of the lawsuit and constitutes an impermissible fishing expedition. K-Mart Corp. v. Sanderson, 937 S.W. 2d 429, 431 (Tex. 1996). Subject to its objections, Union Carbide states it has previously produced all documents in its possession relating to the usage, installation and/or removal of asbestos including any documents pertaining to contractors engaged in that work.

INTERROGATORY NO. 5:

Identify each employee who was responsible for allowing contractor employees access to Defendant's Premises between the years 1970 and 1983.

RESPONSE: UCC objects to this Interrogatory because it lacks specificity and is vague and unclear and UCC has no means to identify the information which Plaintiff requests.

REQUEST FOR ADMISSION NO. 5:

Admit that Plaintiff worked on Defendant's Premises where Defendant used or applied asbestos-containing products.

RESPONSE: UCC has made reasonable inquiry and has insufficient information to either admit or deny this request.

REQUEST FOR PRODUCTION NO. 9:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: See above response.

INTERROGATORY NO. 6:

Do you contend that Plaintiff was not exposed to asbestos while working at the Defendant's Premises in Brownsville, Texas? If the answer is anything other than "no", identify each and every fact which supports this contention.

RESPONSE: UCC objects to this request because it is over broad and improperly seeks all factual assertions and a marshaling of proof supporting Carbide's contentions. TRCP 197. UCC also objects to the extent this request is premature because UCC will not have any information until discovery has been accomplished. UCC states further subject to its objections that it cannot make any contentions about where Plaintiff worked and what he may have been exposed to because it is without sufficient information. UCC does not admit that Plaintiff was exposed to asbestos while at the Brownsville plant, if in fact he worked at that location.

REQUEST FOR ADMISSION NO. 6:

Admit that Plaintiff, in the course and scope of his work as an employee of an independent contractor, worked around Defendant's employees who were using and/or applying asbestos-containing products.

RESPONSE: UCC has made reasonable inquiry and has no information to either admit or deny this request.

REQUEST FOR PRODUCTION NO. 10:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: See above response.

REQUEST FOR ADMISSION NO. 7:

Admit that Plaintiff worked on and/or around Defendant's Premises in areas where asbestos-containing products were installed, used, prepared for use, replaced or repaired, stored or loaded, unloaded or transported.

RESPONSE: UCC has made reasonable inquiry and has no information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 8:

Admit that in 1970 Defendant was aware that airborne dust created a potential health hazard to those who breathed such dust.

RESPONSE: UCC's knowledge concerning health hazards possibly associated with excessive exposure to asbestos fiber inhalation developed gradually and Union Carbide can neither admit

nor deny this request with specificity because it does not have sufficient information, has made reasonable inquiry, and the information obtainable by UCC is insufficient. Subject to its objections, UCC admits it was aware that certain excessive exposures in certain circumstances could pose certain health risks.

REQUEST FOR PRODUCTION NO. 11:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to the extent this request seeks all documents supporting UCC's contentions and allegations and not specific documents. Subject thereto, UCC refers Plaintiff to previously produced documents including UCC's repository for asbestos-related materials.

REQUEST FOR ADMISSION NO. 9:

Admit that Defendant was aware of the presence of and/or use of asbestos-containing products on Defendant's Premises during the time period Plaintiff was working on Defendant's Premises.

RESPONSE: UCC can neither admit nor deny this request as drafted because it has insufficient information to establish if and when Plaintiff was working on its Premises and it has made a

reasonable effort to ascertain this information. Subject to the foregoing, Carbide admits that it was aware of the presence of asbestos in its facility during the usage of the material and during abatement activities.

REQUEST FOR PRODUCTION NO. 12:

Produce any and all photographs or videographic depictions or films depicting the use by you or your employees 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 by your employees by your employees at any location.

RESPONSE: UCC refers Plaintiff to previously produced documents where responsive materials may be located.

INTERROGATORY NO. 7:

Please identify any and all warnings ever given by Defendant, if any, to Plaintiffs regarding the hazards of asbestos and the dangers inherent in the inhalation of asbestos fibers.

RESPONSE: With regard to the time period that UCC was still using asbestos products, UCC has insufficient information to answer this Interrogatory specifically with regard to Plaintiff(s). During that period, UCC may have provided materials related to asbestos to independent contractors and employees and these documents, to the extent they are in UCC's possession,

have been previously produced to Plaintiff. With regard to the time period that UCC was conducting abatement procedures, the best information currently available to UCC indicates that it did provide warnings to workers on its premises and to the extent that any documents reflecting or relating to those warnings are in UCC's possession, they have been previously produced to Plaintiff.

REQUEST FOR PRODUCTION NO. 13:

Produce all such warnings.

RESPONSE: See response to Interrogatory No. 7 herein. UCC refers Plaintiff to its previously produced documents and to its repository for asbestos-related documents.

REQUEST FOR ADMISSION NO. 10:

Admit that Defendant did not distribute any literature or warnings of any kind to its employees during the period of time Plaintiff worked on Defendant's Premises regarding the potential health hazards to those who breathe airborne asbestos dust.

RESPONSE: UCC can neither admit nor deny this request and has made a reasonable effort to ascertain this information and has insufficient information since it does not know if and when Plaintiff worked at the Brownsville facility. Subject thereto, please refer to UCC's responses to Interrogatory No. 7 and Request for Production No. 13 herein.

REQUEST FOR PRODUCTION NO. 14:

If you deny the foregoing, produce all warnings.

RESPONSE: UCC refers Plaintiff to its responses to Interrogatory No. 7 and Request for production No. 13 herein

INTERROGATORY NO. 8:

Describe Defendant's safety policy as it relates to the use of asbestos-containing materials at the jobsites where Defendant's employees were performing services. In your answer, please state:

- a. When, if ever, Defendant's employees were first warned about the hazards of asbestos exposure; and
- b. What instructions, if any, were given to Defendant's employees on the identification of materials which might or did contain asbestos.

RESPONSE: UCC refers Plaintiff to previously answered discovery and previously produced documents in this case. UCC further refers Plaintiff to its responses to Interrogatory No. 7 and Request for Production No. 13 herein.

REQUEST FOR PRODUCTION NO. 15:

Produce all such safety policies.

RESPONSE: See response to Interrogatory No. 8 herein.

REQUEST FOR ADMISSION NO. 11:

Admit that Defendant consciously decided not to warn its employees of the dangers of asbestos.

RESPONSE: Denied.

INTERROGATORY NO. 9:

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

RESPONSE: UCC objects to this request to the extent it improperly seeks all factual assertions and a marshaling of proof in support of its contentions. Subject thereto, UCC has no information with which to answer this Interrogatory with specificity regarding this Plaintiff. Refer to UCC's response to Interrogatory No. 7 herein.

INTERROGATORY NO. 10:

Describe all safety precautions taken by you or your employees (such as containment areas, warning signs, ventilation systems, evacuating the premises, etc.) for the protection of bystanders (including but not limited to Plaintiffs) from the hazards resulting from the use of asbestos-containing products by your employees at any locations.

RESPONSE: UCC objects to this Interrogatory to the extent it is over broad, not reasonably limited in time, and not reasonably limited to the Union Carbide Brownsville facility where Plaintiff is claiming exposure. Subject to its objections, UCC states that during the time the Brownsville plant was in operation, there were several safety policies in place which were related to asbestos usage and abatement. In previous discovery propounded to Plaintiff pertaining to this plant, UCC produced documents containing and/or related to all safety policies and amendments thereto.

INTERROGATORY NO. 11:

Have you ever provided safety equipment to persons working on Defendant's Premises?

If so, please list the safety equipment provided and indicate:

- a. When the equipment was first provided
- b. To whom the equipment was provided

- c. Under what circumstances the equipment was provided
- d. Further, identify the person with the most knowledge of your “safety equipment” policies.

RESPONSE: UCC objects to this Interrogatory to the extent it is over broad in that it seeks information about safety equipment relating to materials other than asbestos and therefore is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to the foregoing, UCC states that it has always provided safety equipment to its employees for protection against numerous hazards in the workplace. In response to previously propounded discovery, UCC has produced all safety policies relating to the Brownsville facility as well as its repository for asbestos-related documents. Refer to UCC’s response to Interrogatory No. 8 herein.

REQUEST FOR ADMISSION NO. 12:

Admit that Defendant did not continuously provide face masks to contract employees working with or around asbestos from 1945 to the present for purpose of protecting these employees from inhaling asbestos.

RESPONSE: UCC objects to this request to the extent it seeks information relating to the Brownsville plant before and after the plant’s period of operation. Subject thereto, UCC has

made reasonable inquiry and has insufficient information to either admit or deny this request with specificity with regard to the entire time period inquired about. Subject thereto, UCC admits that in general, according to its best information, its contractors were responsible for providing safety equipment to their own personnel, therefore this request is admitted as qualified above.

INTERROGATORY NO. 12:

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

RESPONSE: UCC has previously responded to this interrogatory and produced any and all responsive documents.

INTERROGATORY NO. 13:

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

RESPONSE: UCC objects to this Interrogatory to the extent it improperly seeks all factual assertions and a marshaling of evidence in support of its contentions. TRCP 197. Subject thereto, the best information currently available indicates that such measurements may have been performed by UCC, but UCC does not know if such studies were performed by insurance carriers and/or their agents. UCC has previously produced any and all dust counts or air studies performed at any time and by any personnel during the operation of the facility.

INTERROGATORY NO. 14:

Please state each time any regulatory agency or other governing body has inspected the Defendant's premises to determine if health and safety regulations governing exposure to asbestos were being followed. Include in your response the date and results of each inspection, and state whether a written report was generated.

RESPONSE: UCC refers Plaintiff to previously propounded discovery and UCC's responses and responsive documents produced thereto.

REQUEST FOR ADMISSION NO. 13:

Admit that you did not erect containment barriers to prevent the emission of asbestos dust at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

RESPONSE: UCC objects to this request as over broad to the extent it seeks information about UCC facilities other than Brownsville and is not limited to a specific time frame. UCC states further that subject to its objections, it can neither admit nor deny this request with specificity as drafted because it has made reasonable inquiry and has no information regarding if, when and where Plaintiff worked on its premises. Subject to the foregoing, UCC admits that the best information currently available to it indicates that during part of the time it used asbestos-containing products, UCC did not erect containment barriers. UCC denies the request as to other portions of time asbestos was either being removed or installed and as to certain usages, applications or locations.

REQUEST FOR PRODUCTION NO. 16:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request in that it does not see specific documents but rather all documents in support of a contention. Subject thereto, UCC refers Plaintiff to its previously produced documents.

REQUEST FOR ADMISSION NO. 14:

Admit that you did not utilize engineering controls such as isolation or enclosure at the worksites where your employees were using asbestos-containing materials, including the

worksites where Plaintiff was present.

RESPONSE: UCC refers Plaintiff to its response and objection to Request for Admission No. 13 herein.

REQUEST FOR PRODUCTION NO. 17:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC refers Plaintiff to its response and objection to Request for Production No. 16 herein.

REQUEST FOR ADMISSION NO. 15:

Admit that you did not utilize ventilation or exhaust systems to divert dust at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

RESPONSE: UCC refers Plaintiff to its response and objection to Request for Admission No. 13 herein.

REQUEST FOR PRODUCTION NO. 18:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC refers Plaintiff to its response and objection to Request for Production No. 16 herein.

REQUEST FOR ADMISSION NO. 16:

Admit that you did not utilize dust collection engineering controls to trap airborne asbestos dust at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

RESPONSE: UCC refers Plaintiff to its response and objection to Request for Admission No. 13 herein.

REQUEST FOR PRODUCTION NO. 19:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC refers Plaintiff to its response and objection to Request for Production No. 16 herein.

REQUEST FOR ADMISSION NO. 17:

Admit that you did not require your employees to handle, mix, apply, remove, cut or score asbestos-containing products in a wet state to prevent emission of airborne asbestos fibers at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

RESPONSE: UCC refers Plaintiff to its response and objection to Request for Admission No. 13 herein.

REQUEST FOR PRODUCTION NO. 20:

If you deny the foregoing in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC refers Plaintiff to its response and objection to Request for Production No. 16 herein.

REQUEST FOR ADMISSION NO. 18:

Admit that you did not evacuate the premises prior to the utilization of asbestos-containing materials at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

RESPONSE: UCC refers Plaintiff to its response and objection to Request for Admission No. 13 herein.

REQUEST FOR PRODUCTION NO. 21:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC refers Plaintiff to its response and objection to Request for Production No. 16 herein.

INTERROGATORY NO. 15:

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

RESPONSE: Refer to responses to Interrogatory No. 7 and Request for Production No. 13 herein.

INTERROGATORY NO. 16:

Have you ever had a policy requiring workers on Defendant's premises to use respirators?

If so, please:

- a. State when this policy was implemented;
- b. Describe this policy in detail
- c. State to whom it applied (i.e. Defendant employees and contractor employees)
- d. And describe what types and brand names of respirators were required by you.

RESPONSE: UCC refers Plaintiff to previously propounded discovery and states that all documents in UCC's possession relating to this policy and any amendments thereto have been previously produced to Plaintiff.

REQUEST FOR ADMISSION NO. 19:

Admit that you did not post warning, caution or hazard signs prior to the utilization of asbestos-containing materials by your employees at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

RESPONSE: UCC refers Plaintiff to its response and objection to Request for Admission No. 13, Interrogatory No. 7 and Request for Production No. 13 herein.

REQUEST FOR PRODUCTION NO. 22:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: See response and objection to Requests for Production Nos 13 and 15 herein.

REQUEST FOR ADMISSION NO. 20:

Admit that you did not issue any warnings to others at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

RESPONSE: UCC refers Plaintiff to its response and objection to Requests for Admission Nos. 13 and 19.

REQUEST FOR PRODUCTION NO. 23:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC refers Plaintiff to its response and objection to Request for Production Nos. 13 and 16.

REQUEST FOR PRODUCTION NO. 24:

Produce all documents reflecting payments made to contractors between the years 1970 and 1983, including Plaintiff's employer, including but not limited to invoices, bills, check requests, requisitions, canceled checks, or other documents of a similar nature reflecting payment for services rendered by Plaintiff's employer.

RESPONSE: UCC objects to this request as over broad in that it seeks information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. UCC has produced documents relating to asbestos installation and/or removal and contractors engaged in those activities. UCC states further that it has insufficient information relating to the identity of Plaintiff's employer(s).

REQUEST FOR ADMISSION NO. 21:

Admit that the use of asbestos-containing materials on Defendant's Premises created a substantial risk of injury.

RESPONSE: Union Carbide objects to this request because it asks UCC to admit a proposition of law. *Esparza v. Diaz*, 802 S.W. 2d 772, 775 (Tex. App. – Houston [14th Dist.] 1990, no writ). Subject thereto, denied.

REQUEST FOR ADMISSION NO. 22:

Admit that between the years 1970 and 1983 Defendant had the power to control Defendant's Premises.

RESPONSE: UCC objects to the request to the extent it is vague in that the term "power to control" is undefined and unclear. Subject thereto, admitted as to UCC's operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 25:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents but is a request for all documents supporting a contention. Subject thereto, UCC refers Plaintiff to documents previously produced in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 23:

Admit that, between the years 1970 and 1983, Defendant had the power to manage the use and condition of Defendant's Premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the terms “power to manage”, “use”, and “condition” are undefined and unclear. Subject thereto, admitted as to UCC’s operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO 26:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents but is a request for all documents supporting a contention. Subject thereto, UCC refers Plaintiff to documents previously produced in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 24:

Admit that, between the years 1970 and 1983, Defendant had the power to direct the use or condition of Defendant’s Premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the terms “power to direct”, “use”, and “condition” are undefined and unclear. Subject thereto, admitted as to UCC’s

operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 27:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents but is a request for all documents supporting a contention. Subject thereto, UCC refers Plaintiff to documents previously produced in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 25:

Admit that, between the years 1970 and 1983, Defendant had the power to superintend the use or conditions of Defendant's Premises.

RESPONSE: UCC objects to the extent this request is vague in that the terms "power to superintend", "use" and "condition" are undefined and unclear. Subject thereto, admitted as to UCC operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 28:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents but is a request for all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 26:

Admit that between the years 1970 and 1983, Defendant had the power to restrict the use or condition of Defendant's premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the terms "power to restrict", "use" and "condition" are undefined and unclear. Subject thereto, admitted as to UCC's operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 29:

If you deny the foregoing request in whole or in part, produce all documents supporting

your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents but rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 27:

Admit that between the years 1970 and 1983, Defendant had the power to regulate the use or condition of Defendant's Premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the terms "power to regulate", "use" and "condition" are undefined and unclear. Subject thereto, admitted as to UCC's operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 30:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 28:

Admit that between the years 1970 and 1983, Defendant had the power to govern the use or condition of the Defendant's premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the terms "power to govern", "use" and "condition" are undefined and unclear. Subject thereto, admitted as to operations and employees of UCC, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 31:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced

documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 29:

Admit that between the years 1970 and 1983, Defendant had the power to oversee the use or condition of Defendant's Premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the terms "power to oversee", "use" and "condition" are undefined and unclear. Subject thereto, admitted as to UCC's operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 32:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville

facility.

REQUEST FOR ADMISSION NO. 30:

Admit that between the years 1970 and 1983, Defendant had the power to administer the use or condition of Defendant's Premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the terms "power to administer", "use" and "condition" are undefined and unclear. Subject thereto, admitted as to UCC's operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 33:

If you deny the foregoing request, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 31:

Admit that between the years 1970 and 1983, Defendant controlled Defendant's Premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the term "controlled" is undefined and unclear. Subject thereto, admitted as to UCC's operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 34:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 32:

Admit that between the years 1970 and 1983, Defendant managed the use or condition of Defendant's Premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the terms “managed”, “use” and “condition” are undefined and unclear. Subject thereto, admitted as to UCC’s operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 35:

If you deny the foregoing request in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 33:

Admit that between the years 1970 and 1983, Defendant directed the use or condition of Defendant’s Premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the terms “directed”, “use” and “condition” are undefined and unclear. Subject thereto, admitted as to UCC’s operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 36:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 34:

Admit that between the years 1970 and 1983, Defendant superintended the use or conditions of Defendant's Premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the terms "superintended", "use" and "conditions" are undefined and unclear. Subject thereto, admitted as to UCC's operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 37:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 35:

Admit that between the years 1970 and 1983, Defendant restricted the use or condition of Defendant's Premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the terms "restricted", "use" and "conditions" are undefined and unclear. Subject thereto, admitted as to UCC's operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 38:

If you deny the foregoing, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 36:

Admit that between the years 1970 and 1983, Defendant regulated the use or condition of Defendant's Premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the terms "regulated", "use" and "conditions" are undefined and unclear. Subject thereto, admitted as to UCC's operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 39:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent

contractors engaged in the installation, repair and removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 37:

Admit that between the years 1970 and 1983, Defendant governed the use or condition of Defendant's Premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the terms "governed", "use" and "conditions" are undefined and unclear. Subject thereto, admitted as to UCC's operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 40:

If you deny the foregoing request in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather it seeks all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 38:

Admit that between the years 1970 and 1983, Defendant oversaw the use or condition of Defendant's Premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the terms "oversaw", "use" and "conditions" are undefined and unclear. Subject thereto, admitted as to UCC's operations and employees, denied as to the operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 41:

If you deny the foregoing in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 39:

Admit that between the years 1970 and 1983, Defendant administered the use or condition of Defendant's Premises.

RESPONSE: UCC objects to this request to the extent it is vague in that the terms "administered", "use" and "condition" are undefined and unclear. Subject thereto, admitted as to UCC's operation and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 42:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 40:

Admit that Defendant retained some control over the manner in which Plaintiff's work was performed.

RESPONSE: UCC has made reasonable inquiry and has no information about what or where or for whom Plaintiff's work was performed and can neither admit nor deny this request with

specificity. Further UCC objects to the extent the request is vague in that the phrase “retained some control over the manner in which Plaintiff’s work was performed” is undefined and unclear. Subject thereto, denied.

REQUEST FOR PRODUCTION NO. 43:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

INTERROGATORY NO. 17:

Do you contend that at no time during the time frame between 1945 to 1990, Defendant did not have the right to advise or, if necessary, control the activities of employees of contractors, working on the premises of Union Carbide Corporation facility, who were engaged in activities which could be potentially hazardous to either themselves or Union Carbide Corporation employees? If the answer is anything other than “no”, identify each and every fact which supports this contention.

RESPONSE: UCC objects to this request as drafted as ambiguous, confusing and unclear in its

usage of negatives, and is vague and unclear as to which Union Carbide facility is meant. UCC objects further to the extent this interrogatory improperly seeks all factual contentions and a marshaling of evidence in support of its contentions. TRCP 197. Subject to its objections, according to UCC's understanding of this interrogatory and assuming the facility inquired about is the Brownsville plant, UCC states that it retained some latitude to direct its independent contractors in general terms as per Koch Refining Co. v. Chapa, ____ S.W. 3d ____, ____ (No. 99-028, Dec. 16, 1999).

REQUEST FOR ADMISSION NO. 41:

Admit that Defendant retained some control over the manner in which Plaintiff's employer performed the work requested by the Defendant.

RESPONSE: UCC has made reasonable inquiry and has insufficient information regarding who Plaintiff's employer(s) was. UCC objects further to the extent the request is vague in that the phrase "retained some control over the manner in which Plaintiff's employer performed the work" is undefined and unclear. Subject thereto, denied.

REQUEST FOR PRODUCTION NO. 44:

If you deny the foregoing request in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 42:

Admit that Plaintiff was not entirely free to do the work on Defendant's Premises in his own way.

RESPONSE: UCC objects to this request as vague, undefined and unclear. Subject thereto, denied.

REQUEST FOR PRODUCTION NO. 45:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville

facility.

REQUEST FOR ADMISSION NO. 43:

Admit that Plaintiff's employer was not entirely free to do the work requested by Defendant on Defendant's Premises in its own way.

RESPONSE: UCC objects to this request as vague, unclear and undefined. Subject thereto, denied.

REQUEST FOR PRODUCTION NO. 46:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR ADMISSION NO. 44:

Admit that asbestos-containing gaskets were installed at Defendant's premises

RESPONSE: Admitted.

REQUEST FOR PRODUCTION NO. 47:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: See above response.

REQUEST FOR ADMISSION NO. 45:

Admit that asbestos-containing pipe covering was installed at Defendant's Premises.

RESPONSE: Admitted.

REQUEST FOR PRODUCTION NO. 48:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: See above response.

REQUEST FOR ADMISSION NO. 46:

Admit that asbestos-containing boilers were installed at Defendant's Premises.

RESPONSE: Admitted.

REQUEST FOR PRODUCTION NO. 49:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: See above response.

REQUEST FOR ADMISSION NO. 47:

Admit that fireproofing was installed at Defendant's Premises.

RESPONSE: Admitted.

REQUEST FOR PRODUCTION NO. 50:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: See above response.

REQUEST FOR ADMISSION NO. 48:

Admit that asbestos-containing joint compound was installed at Defendant's premises.

RESPONSE: Admitted.

REQUEST FOR PRODUCTION NO. 51:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: See above response.

REQUEST FOR ADMISSION NO. 49:

Admit that asbestos-containing insulation was installed at Defendant's Premises.

RESPONSE: Admitted.

REQUEST FOR PRODUCTION NO. 52:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: See above response.

REQUEST FOR ADMISSION NO. 50:

Admit that such installation was done under your direction, supervision, and/or control.

RESPONSE: Admitted as to UCC's operations and employees, denied as to operations and employees of independent contractors.

REQUEST FOR PRODUCTION NO. 53:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial, including but not limited to all documents identifying the entities or individuals who directed, supervised, and/or controlled such installation activities.

RESPONSE: UCC objects to this request because it is over broad, does not seek specific documents, rather it seeks all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility

INTERROGATORY NO. 18:

Please state the first year you learned that persons could suffer physical injury through the inhalation of asbestos fibers and how Defendant became aware of the existence of asbestos hazards.

RESPONSE: UCC refers Plaintiff to previously answered discovery regarding the Brownsville plant and previously produced documents including the repository for asbestos-related materials.

REQUEST FOR PRODUCTION NO. 54:

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

RESPONSE: UCC refers Plaintiff to its response to Interrogatory No. 18 herein.

REQUEST FOR ADMISSION NO. 51:

Admit that you supervised the health and safety procedures implemented by contractors working on Defendant's Premises.

RESPONSE: UCC admits that it advised its contractors with regard to health and safety procedures, otherwise denied.

REQUEST FOR ADMISSION NO. 52:

Admit that you supervised the health and safety practices implemented by Plaintiff's employer.

RESPONSE: UCC has made reasonable inquiry and has no information as to who Plaintiff's employer was and can therefore neither admit nor deny this request.

REQUEST FOR ADMISSION NO. 53:

Admit that you did not protect the Plaintiff from exposure to asbestos on Defendant's Premises.

RESPONSE: Denied.

REQUEST FOR PRODUCTION NO. 55:

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 TRCP 194.2, (c).

RESPONSE: Union Carbide states that per agreement with the Plaintiffs, no Rule 194 disclosure requests were exchanged between Union Carbide and plaintiffs with the exception of witness lists. UCC objects to this request further because it is over broad and seeks all documents relating to UCC's contentions and not specific documents. In re American Optical Corp., __ S.W. 2d __, __ (Tex. 1998) (No. 97-0872, 7-3-98).

INTERROGATORY NO. 19:

Do you contend that Plaintiff's exposure to asbestos at Defendant's Premises was not a substantial contributing factor in causing his asbestos-related injury? If the answer is anything other than "no", identify each and every fact which supports this contention.

RESPONSE: UCC objects to this interrogatory as argumentative and assuming facts not in evidence in that it assumes Plaintiff was exposed to asbestos at its Premises and that he has suffered an asbestos-related injury. Subject to the foregoing, UCC denies that such exposure, if any, was a substantial contributing factor in causing Plaintiff's asbestos-related injury, if any. UCC further objects to this Interrogatory to the extent it requests UCC to state all its factual assertions or to marshal its evidence. Subject thereto, UCC refers Plaintiff to its Answer and any amendments thereto, and to its previous document production.

REQUEST FOR ADMISSION NO. 54:

Admit that Plaintiff's exposure to asbestos at Defendant's Premises was a substantial contributing factor in causing his asbestos-related injury.

RESPONSE: UCC objects to the request to the extent it is argumentative in that it assumes that Plaintiff was exposed to asbestos at its Premises and that he has suffered an asbestos-related injury. Subject thereto, denied.

REQUEST FOR PRODUCTION NO. 56:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC refers Plaintiff to its response and objection to Interrogatory No. 19 herein.

REQUEST FOR ADMISSION NO. 55:

Admit that Defendant did not exercise reasonable care to reduce or eliminate the risk of asbestos-related injury.

RESPONSE: Denied.

REQUEST FOR ADMISSION NO. 56:

Admit that Defendant did not reduce or eliminate the unreasonable risk of harm posed by the use of asbestos-containing products at Defendant's Premises.

RESPONSE: Denied.

REQUEST FOR PRODUCTION NO. 57:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting its contentions. Subject thereto, UCC refers Plaintiff to previously produced documents.

REQUEST FOR ADMISSION NO. 57:

Admit that Defendant's failure to reduce or eliminate the risk of harm to Plaintiff was a substantial factor in bringing about Plaintiff's asbestos-related injury.

RESPONSE: UCC objects to this request to the extent it is argumentative and assumes that there was a risk of harm posed to Plaintiff, that UCC failed to reduce or eliminate such risk, and that Plaintiff suffered an asbestos-related injury. Subject thereto, denied.

REQUEST FOR PRODUCTION NO. 58:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE: UCC objects to this request because it does not seek specific documents rather all documents supporting a contention. Subject thereto, UCC refers Plaintiff to previously produced

documents.

REQUEST FOR PRODUCTION NO. 59:

If you contend that while at the premises on which you or your employees were working with asbestos-containing materials, Plaintiff was not exposed to sufficient quantities of asbestos dust to produce the disease(s) complained of, produce all documents supporting your contention.

RESPONSE: UCC objects to this request for production to the extent it contains an interrogatory and is not a true document request. UCC objects further to this request because it does not seek specific documents rather all documents supporting a contention. UCC further objects to the extent the request assumes the Plaintiff worked at UCC's premises. Subject thereto, UCC denies the Plaintiff was exposed to sufficient quantities of asbestos dust to produce the complained of disease(s) and refers Plaintiff to its prior document production.

REQUEST FOR PRODUCTION NO. 60:

If you contend that Plaintiff is suffering from an asbestos disease as a result of exposures other than asbestos dust at the premises on which you or your employees were working with asbestos-containing materials, produce all documents supporting your contention.

RESPONSE: UCC objects to this request for production to the extent it contains an interrogatory and is not a true document request. UCC objects further to this request because it does not seek

specific documents rather all documents supporting a contention. UCC objects further to the extent the request assumes Plaintiff has suffered an asbestos-related injury and that he worked at UCC's Premises. Subject thereto, UC states it has no knowledge or information at this time with which to make such a contention and refers Plaintiff to its previous document production.

REQUEST FOR PRODUCTION NO. 61:

If you contend that Plaintiff does not suffer from the asbestos-related disease(s) complained of, produce all documents supporting your contention.

RESPONSE: UCC objects to this request to the extent it contains an interrogatory and is not a true document request. UCC objects further because it does not seek specific documents rather all documents supporting a contention. UCC denies Plaintiff suffers from an asbestos-related disease and will produce any responsive documents in its possession.

REQUEST FOR PRODUCTION NO. 62:

If you contend that Plaintiff was not exposed to asbestos dust at the premises at which you or your employees were working with asbestos-containing materials, produce all documents supporting your contention.

RESPONSE: UCC objects to this request because it improperly asks whether UCC makes a specific factual contention which is not a proper request for production. UCC further objects to

this request to the extent it is over broad and seeks all documents supporting its contentions.

Subject thereto, UCC denies Plaintiff was exposed to asbestos dust at its Premises and refers Plaintiff to its previous document production.

REQUEST FOR PRODUCTION NO. 63:

Produce all documents used, referred to or relied upon in answering any Interrogatories.

RESPONSE: UCC objects to this request because it is over broad and does not seek specific items or categories of documents. In re American Optical Corp., ____ S.W. 2d ____, ____ (Tex. 1998) (No. 97-0872; 7-3-98).

REQUEST FOR PRODUCTION NO. 64:

Produce any and all documents and other tangible things which refer to the document retention (and/or destruction) policy of the 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, diskettes, disks, backup systems, download systems, 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: UCC objects to this request to the extent it is not reasonably limited to a specific time period. Subject thereto,

REQUEST FOR PRODUCTION NO. 65:

Produce any and all documentation, 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) described in the preceding paragraphs.

RESPONSE: UCC objects to this request because it is over broad in that it seeks information relating to facilities other than Brownsville and information that is not relevant and not

reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 20:

Does Defendant have in its possession any books, pamphlets, memoranda, or written materials of any kind or character that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings? If so, identify the individuals who received, maintained, reviewed, or disseminated the information contained in such written materials.

RESPONSE: UCC has previously produced in this case all such responsive documents in its possession. If UCC has access to information relating to who received, maintained, reviewed or disseminated such materials, it is reflected on those documents.

REQUEST FOR PRODUCTION NO. 66:

Produce the written materials referred to in the interrogatory above.

RESPONSE: Refer to the interrogatory above.

REQUEST FOR ADMISSION NO. 58:

Admit that Plaintiff filed suit against Defendant within two years of the date of discovering his asbestos-related condition or the existence of any asbestos-related causes of

action.

RESPONSE: Denied.

REQUEST FOR ADMISSION NO. 59:

Admit that Defendant is liable for Plaintiff's asbestos-related illness.

RESPONSE: Denied.

REQUEST FOR ADMISSION NO. 60:

Admit that asbestos is still in use and/or in place at Defendant's Premises.

RESPONSE: Denied.

REQUEST FOR ADMISSION NO. 61:

Admit that Defendant no longer uses asbestos on its Premises.

RESPONSE: Admitted.

REQUEST FOR PRODUCTION NO. 67:

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: UCC has responded to this request previously and produced all such responsive documents in its possession.

REQUEST FOR PRODUCTION NO. 68:

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

RESPONSE: UCC has previously produced any and all responsive documents in its possession.

REQUEST FOR PRODUCTION NO. 69:

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: UCC objects to this request because it is over broad and constitutes an impermissible fishing expedition. *K-Mart Corp. v. Sanderson*, 937 S.W. 2d 429, 430 (Tex.

1996). Subject to its objections, UCC refers Plaintiff to previously produced documents in this case.

REQUEST FOR PRODUCTION NO. 70:

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

RESPONSE: UCC refers Plaintiff to previously produced documents in this case.

REQUEST FOR PRODUCTION NO. 71:

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

RESPONSE: Refer to Interrogatory No. 3 and Request for production No. 3 herein.

REQUEST FOR PRODUCTION NO. 72:

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

RESPONSE: UCC refers Plaintiff to previously produced documents in this case including its

repository for asbestos-related documents.

REQUEST FOR PRODUCTION NO. 73:

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

RESPONSE: See response to Interrogatory No. 3 and Request for Production No. 3 herein.

REQUEST FOR PRODUCTION NO. 74:

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

RESPONSE: UCC will produce any such documents in its possession.

REQUEST FOR PRODUCTION NO. 75:

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

RESPONSE: UCC has located no such documents, but if such documents are located, they will

be produced.

REQUEST FOR PRODUCTION NO. 76:

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

RESPONSE: UCC refers Plaintiff to previously produced documents.

REQUEST FOR PRODUCTION NO. 77:

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

RESPONSE: Refer to responses to Interrogatory No. 7 and Request for Production No. 13.

REQUEST FOR PRODUCTION NO. 78:

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

RESPONSE: Refer to previously produced documents in this case.

REQUEST FOR PRODUCTION NO. 79:

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

RESPONSE: Refer to responses to Interrogatory No. 12 and Request for Production No. 13 and to previously produced documents in this case.

REQUEST FOR PRODUCTION NO. 80:

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

RESPONSE: Investigation is continuing in this case and UCC is attempting to locate any responsive documents

REQUEST FOR PRODUCTION NO. 81:

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

RESPONSE: UCC refers Plaintiff to previously produced documents in this case, including the

repository for asbestos-related documents.

REQUEST FOR PRODUCTION NO. 82:

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

RESPONSE: UCC has located no such documents, but if they are located, they will be produced to Plaintiff.

REQUEST FOR PRODUCTION NO. 83:

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: UCC has previously produced any and all dust counts in its possession pertaining to the Brownsville plant. See response to Interrogatory Nos. 12 and 13 herein.

REQUEST FOR PRODUCTION NO. 84:

In the event that Defendant performed or had performed any dust level counts or measurements of any of its plants or industrial facilities with respect to asbestos dust, produce

any documents, memoranda, or other writings that in any way reflect the results of such studies or counts and actions taken as a result of such counts or studies.

RESPONSE: UCC objects to this request as over broad in that it seeks information about facilities other than Brownsville where the Plaintiff is alleged to have worked. Subjects thereto, UCC refers Plaintiff to responses to Interrogatory Nos. 12 and 13 herein and to previously produced documents which contain any such responsive material in UCC's possession.

REQUEST FOR PRODUCTION NO. 85:

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

RESPONSE: UCC will produce these documents at a mutually agreeable time at the offices of UCC's counsel of record.

REQUEST FOR PRODUCTION NO. 86:

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: UCC objects to this request because it is inappropriate. Texas Tech Univ. Health Sciences Ctr. v. Schild, 828 S.W. 2d 502, 504 (Tex. App. – El Paso 1992, orig. proceeding). UC further objects to this request for any documents supporting its contentions and allegations as over broad. In re American Optical Corp., ___ S.W. 2d ___, ___ (Tex. 1998) (No. 97-0872; 7-3-98).

REQUEST FOR PRODUCTION NO. 87:

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

RESPONSE: UCC refers Plaintiff to its repository for asbestos-related documents.

REQUEST FOR PRODUCTION NO. 88:

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

RESPONSE: Refer to response to Request for Production No. 15 herein.

REQUEST FOR PRODUCTION NO. 89:

Produce all documents which contain complaints by employees of the Defendant's

Premises regarding safety conditions and work place conditions at the Defendant's premises.

RESPONSE: UCC refers to previously produced documents in this case.

REQUEST FOR PRODUCTION NO. 90:

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

RESPONSE: UCC refers Plaintiff to previously produced documents in this case.

REQUEST FOR PRODUCTION NO. 91:

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

RESPONSE: UCC states it does not know when the Plaintiff may have worked at its facility, but has produced any such responsive documents in its possession.

REQUEST FOR PRODUCTION NO. 92:

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

RESPONSE: UCC refers Plaintiff to previously filed discovery.

REQUEST FOR PRODUCTION NO. 93:

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

RESPONSE: UCC refers Plaintiff to previously filed discovery.

REQUEST FOR PRODUCTION NO. 94:

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

RESPONSE: UCC objects to this request as seek items that are not relevant to the subject matter of the lawsuit and not reasonable calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 95:

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

RESPONSE: UCC objects to this request as over broad to the extent it seeks materials that are not relevant to the subject matter of this lawsuit and not reasonably calculated to lead to the discovery of admissible evidence. Subject thereto, UCC refers Plaintiff to previously produced documents in this case which include any and all documents relating to UCC and independent contractors engaged in the installation, repair and/or removal of asbestos at the Brownsville facility.

REQUEST FOR PRODUCTION NO. 96:

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

RESPONSE: UCC refers Plaintiff to previously produced documents in this case.

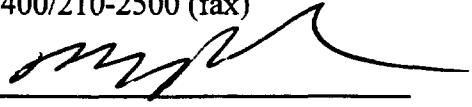
REQUEST FOR PRODUCTION NO. 97:

Produce all documents and other tangible things relating to the Plaintiff.

RESPONSE: UCC objects to the request to the extent any such materials are equally available to Plaintiff. Subject thereto, UCC refers Plaintiff to previously produced documents in this case.

Respectfully submitted,

DEHAY & ELLISTON, L.L.P.
3500 Bank of America Plaza
901 Main Street
Dallas, Texas 75202
(214) 210-2400/210-2500 (fax)

By: 

GARY D. ELLISTON
State Bar No. 06584700
MICHAEL J. RAMIREZ
State Bar No. 00788238

**COUNSEL FOR DEFENDANT
UNION CARBIDE CORPORATION**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **DEFENDANT UNION CARBIDE CORPORATION'S RESPONSES TO PLAINTIFFS' "FIRST" SET OF INTERROGATORIES, "FIRST" REQUEST FOR PRODUCTION, and "FIRST" REQUEST FOR ADMISSIONS** was forwarded to counsel for Plaintiff, Ms. Holly J.W. Huart, Baron & Budd, 3102 Oak Lawn Avenue, Dallas, Texas 75219-4281, via Regular Mail on this 15th day of March, 2000, and to all other known counsel of record (cover letter only), via regular mail on this 16th day of March, 2000.


MICHAEL J. RAMIREZ