



NO. 96-62699

STEVE EVANS,
Plaintiffs,

§ IN THE DISTRICT COURTS OF

§ HARRIS COUNTY, TEXAS

vs.

OWENS-CORNING FIBERGLAS
CORPORATION, ET AL
Defendants.

§ 334TH JUDICIAL DISTRICT

**UNION PACIFIC RAILROAD COMPANY'S
OBJECTIONS AND RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

TO: Plaintiff Steve Evans, by and through his attorneys of record, Kimberly Castles, Baron & Budd, The Centrum, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281.

Pursuant to Rules 166b and 168 of the Texas Rules of Civil Procedure, Union Pacific Railroad Company (Improperly named as Missouri Pacific Railroad Co. d/b/a Union Pacific Railroad Co., Individually and as Successor-in-Interest to Texas & Pacific Railroad), Defendant herein, hereby submits its Objections and Responses to Plaintiff's First Set of Interrogatories.

General Objections

1. Defendant objects to the Interrogatories to the extent that they request information protected from disclosure by the attorney-client privilege and/or the attorney work-product doctrine. Any information subject to any such privilege inadvertently provided by Defendant in response to the Interrogatories shall not constitute or be deemed to constitute a waiver of any such privilege.

2. Defendant objects to the Interrogatories to the extent that they request information that is neither relevant nor likely to lead to the discovery of admissible evidence.

3. Defendant objects to the Interrogatories to the extent that they exceed the scope of permissible discovery under the Texas Rules of Civil Procedure.

4. Defendant objects to the Interrogatories to the extent that they purport to require Defendant to provide information that is available to Plaintiff where the burden of deriving or ascertaining such information is substantially the same as for Plaintiff as for Defendant.

5. Defendant objects to the Interrogatories to the extent that they purport to require Defendant to provide information pertaining to any time period other than the relevant time period which Plaintiff was allegedly employed by Defendant.

6. Defendant reserves the right to supplement or amend its responses as appropriate.

INTERROGATORIES

INTERROGATORY NO. 1: State the name, address, job title, length of time employed by Defendant, and a year-by-year list of all positions, titles, or jobs held while working for Defendant of each person who supplied any information used in answering these interrogatories.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Arlene Schroeder, Manager of Discovery, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, Nebraska 68179.

INTERROGATORY NO. 2: State the full and proper business name and address of the Defendant. State whether or not you are a corporation. If so, state your corporate name, the state of your incorporation, the address of your principal place of business, the name and address of the person or entity authorized to accept service of process on your behalf, and whether or not you have ever held a Certificate of Authority to do business in the State of Texas, maintained a registered agent in Texas, engaged in business in Texas or recruited or hired employees in Texas.

ANSWER: Defendant Union Pacific Railroad Company is a Utah Corporation licensed to do business in the State of Texas. Defendant's home office is in Omaha, Nebraska. It does business in Texas, maintains a registered agent in Texas, Norma Davenport, 808 Travis, Suite 620 Houston, Texas 77002 is authorized to accept service. Defendant engages in business and has employees in Texas.

INTERROGATORY NO. 3: With regard to each policy of liability insurance intended to provide coverage to Defendant, its agents and/or employees for the liability in connection with the allegations such as those delineated in Plaintiff's Original and Amended Petitions including, but not limited to, all primary and excess policies covering the Defendant for such liability, state the name and address of each carrier.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence.

INTERROGATORY NO. 4: State whether you contend that the Plaintiff has done anything or failed to do anything that constitutes contributory negligence. If so, please describe the basis of your contention and what evidence exists to support that contention.

ANSWER: Defendant anticipates that some of the Plaintiff's social habits may have contributed to his medical condition.

INTERROGATORY NO. 5: State whether you contend that the Plaintiff has done or failed to do anything that constitutes a failure to mitigate damages. If so, please describe the basis of your contention and what evidence exists to support that contention.

ANSWER: Objection. This Interrogatory is premature because Defendant will not know the answer until discovery is completed.

INTERROGATORY NO. 6: List each and every place of work and job assignment of the Plaintiff which he held during his employment with Defendant and describe in detail the duties involved in each of the job assignments.

ANSWER: Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendant has no information responsive to this request.

INTERROGATORY NO. 7: Describe in detail how asbestos containing products were used by railroad workers on Defendant's railroad(s) during the period of Plaintiff's employment by Defendant.

ANSWER: Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence.

Further, this Interrogatory is not limited to the job sites and/or facilities at which Plaintiff was allegedly employed by Defendant.

INTERROGATORY NO. 8: Describe in detail where asbestos containing products were used by railroad workers on Defendant's railroad(s) during the period of Plaintiff's employment by Defendant.

ANSWER: Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, this Interrogatory is not limited to the job sites and/or facilities at which Plaintiff was allegedly employed by Defendant.

INTERROGATORY NO. 9: If you have alleged in your answer that Plaintiff's injuries and/or damages were caused by some other injury, disease or condition, either pre-existing or unrelated to and arising after or in conjunction with the Plaintiff's exposure to asbestos-containing products, please describe in detail such pre-existing or subsequent disease, injury or condition. For each alleged other injury, disease or condition, identify all evidence upon which you base this contention.

ANSWER: Objection. This Interrogatory is premature. Defendant will not know the answer until discovery is completed and/or more information is obtained or furnished.

INTERROGATORY NO. 10: Please state the name of each and every person having knowledge of facts relevant to this action including most recent address and present telephone number, along with the experience and qualifications, if applicable, of each and every person, known to Defendant's agents, including, but not limited to:

- A. Identification of asbestos-containing products or type of products to which Plaintiff was exposed or facts disputing the identification of these products;
- B. Plaintiff's damages, injuries and/or facts disputing Plaintiff's damages and/or injuries; and
- C. The negligence of any person or entity other than Defendant which Defendant contends was a cause of Plaintiff's injuries and/or damages.
- D. Each of Defendant's defenses enumerated in Defendant's last filed Answer.

ANSWER: To the extent the requested information is available to Defendant, the following individuals can be named; however, this is not a representation that each person is knowledgeable as to each interrogatory.

A-C. Discovery is continuing, Defendant will supplement.

D. Objection. This Interrogatory is overly broad and unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, this Interrogatory is outside the scope of knowledge of the persons identified.

INTERROGATORY NO. 11: Please identify documents or things, including x-rays, MRI's, CT-scans or other materials, which will be used at time of trial, (Exhibit List, Deposition List), which are relevant to each of Defendant's enumerated defenses in Defendant's last filed Answer.

ANSWER: Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Moreover, this Interrogatory seeks information, if any exists, which is protected by the attorney-client privilege and the work product doctrine.

INTERROGATORY NO. 12: Identify the names and addresses of all individuals Defendant may call as an expert witness(es) at trial, and for each individual, please state:

- A. The subject matter on which the witness is expected to testify, specific as to each individual Plaintiff's case, the substance of the facts and opinions to which the witness intends to testify on the Defendant's behalf and a summary of the grounds for each opinion, specific as to each individual Plaintiff's case;

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- B. All factual observations, test results, supporting data, learned treatise (books, general articles, texts or other publications) and opinions which the witness has generated, been provided, intends to use, and/or may use to support his/her opinions and conclusions relative to the case whereupon which the witness has or will base his/her testimony in this matter, specific as to each individual Plaintiff's case. The identity, address, and job classification of each consulting expert whose opinions or data have been referred to and/or relied upon by the expert witness, and the complete title and author of each learned treatise referred to and/or relied upon by the witness for information and/or corroborating his/her opinions regarding the subject matter of this lawsuit;
- C. Whether any person identified in subparagraph B above has provided a report or other documentation to you, and if so, identify each such document or report, specific as to each individual Plaintiff's case, separate and distinct from all other Plaintiffs within the group.
- D. Identify all documents or other materials, including but not limited to x-rays, pathology, CT-scans, you have provided to each person identified in response to subparagraph B above, specific as to each individual Plaintiff's case, separate and distinct from all other Plaintiffs within the group.
- E. Describe in detail the education and work history of, and identify any books, treatises, articles, published and unpublished reports, studies or other scholarly works authored by any individual identified in response to subparagraph B above. Alternatively, in lieu of said response, attach a copy of a resume or curriculum vitae and a list of publications to your answers.

ANSWER: Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Moreover, this Interrogatory seeks information, if any exists, which is protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, Defendant answers as follows:

- A. Experts have not been identified.
- B. Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objection, the expert's opinions and basis of opinion will be included in their reports. If experts prepare reports, Defendant will produce them.
- C. If experts prepare reports, Defendant will produce them.
- D. Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence.
- E. When experts are identified, a copy of their curriculum vitae will be provided under separate cover.

INTERROGATORY NO. 13: Identify all persons, entities, agencies or others, whether governmental (state or federal) or private, who participated in any investigation of the claims made the basis of this lawsuit.

ANSWER: Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Moreover, this Interrogatory seeks information, if any exists, which is protected by the attorney-client privilege and the work product doctrine. Further, Defendant's first notice of Plaintiff's claim was when he filed suit.

INTERROGATORY NO. 14: Please state whether Defendant or any successor or predecessor was ever a member of the Railroad Claims Registry, and if so, please state the years Defendant was a member; the years of attendance at and involvement in the Railroad Claims Registry Meetings; the name, job classification, address and telephone number of each and every agent and/or representative and/or employee of Defendant attending each and every Railroad Claims Registry Meeting and the year that agent and/or representative and/or employee of Defendant attended the meeting; and the location of the Railroad Claims Registry Meeting for each year attended by Defendant.

ANSWER: Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Moreover, this Interrogatory seeks information, if any exists, which is protected by the attorney-client privilege and the work product doctrine.

INTERROGATORY NO. 15: Please state whether Defendant or any successor or predecessor ever attended or sent an agent on its behalf to any of the Association of American Railroads and American Railway Association meetings from 1930 to the present, and if so, please state the years of attendance; the location of the meeting; the name, address, job classification and telephone number of each and every agent and/or employee and/or representative of Defendant attending each and every Association of American Railroads and American Railway Association meeting and the exact year of attendance.

ANSWER: Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Moreover, this Interrogatory seeks information, if any exists, which is protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, Defendant has been a member of the Association of American Railroads since 1934. Prior to 1934, Defendant was a member of the American Railway Association. Defendant does not currently have in its possession any records which indicate whether it had representatives at the Medical and Surgical Section of the Association of American Railroad for the years listed. Counsel for Defendant has obtained minutes of the Medical and Surgical Section from the Association of American Railroads. These records indicate that the following individuals were in attendance as representatives of Defendant at the following meetings. Defendant has no records which indicate that these individuals were employed by Defendant.

1921	P.F. Vasterling
1922	P.F. Vasterling, J. O. Graves, A. Isom, G. M. Snellings
1926	W.B. Burns, J. B. Caharton, W. P. Coyle, T.B.M. Craig, H.W. Cummings, J.N. Greene, C.C. Hawke, S.C. Murray, E.B. Parsons, L.L. Purefoy, E.H. Skinner
1929	O.B. Zeinert
1930	O.B. Zeinert
1931	O.B. Zeinert
1932	O.B. Zeinert
1933	O.B. Zeinert
1934	O.B. Zeinert
1935	O.B. Zeinert
1936	O.B. Zeinert
1937	O.B. Zeinert, J.A. Lembeck, D.S. Long
1939	O.B. Zeinert
1940	O.B. Zeinert
1941	O.B. Zeinert, A.J. Brown
1946	O.B. Zeinert
1947	O.B. Zeinert
1949	O.B. Zeinert
1950	O.B. Zeinert
1951	O.B. Zeinert
1952	J.A. Lembeck
1953	J.A. Lembeck
1955	J.A. Lembeck
1956	J.A. Lembeck, G.W. Balc
1957	J.A. Lembeck
1958	J.A. Lembeck

1965

J.M.L. Jensen

INTERROGATORY NO. 16: Before 1980, did Defendant receive notice that any individual who at any time was employed by the Defendant claimed injury as a result of exposure to asbestos? If so, state:

- A. The name and address of each claimant;
- B. The date of notice of each claim;
- C. A description of the claim;
- D. The type of injuries allegedly sustained by each claimant;
- E. The name and address of each attorney who represented each individual making a claim;
- F. The style and court number of each claim;
- G. The disposition of each claim that has been settled or taken to judgment;
- H. The name, address and title of the person having custody of the records pertaining to each such claim.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period in which Plaintiff was allegedly employed by Defendant nor limited to the job site or facilities on which Plaintiff was allegedly employed by Defendant. Moreover, this Interrogatory seeks information, if any exists, which is protected by the attorney-client privilege and the work product doctrine.

INTERROGATORY NO. 17: Before 1980, did Defendant receive notice that any individual who at any time was employed by any Railroad claimed injury as a result of exposure to asbestos? If so, state:

- A. The name and address of each claimant;
- B. The date of notice of each claim;
- C. A description of the claim;
- D. The type of injuries allegedly sustained by each claimant;
- E. The name and address of each attorney who represented each individual making a claim;
- F. The style and court number of each claim;
- G. The disposition of each claim that has been settled or taken to judgment;
- H. The name, address and title of the person having custody of the records pertaining to each such claim.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period in which Plaintiff was allegedly employed by Defendant nor limited to the job site or facilities on which Plaintiff was allegedly employed by Defendant. Moreover, this Interrogatory seeks information, if any exists, which is protected by the attorney-client privilege and the work product doctrine.

INTERROGATORY NO. 18: Has Defendant at any time published, distributed or displayed any printed material, including brochures, pamphlets, catalogs, warning signs or statements, packaging or other written material of any kind or character containing any warning concerning the possibility of injury resulting from the use of asbestos-containing products and/or exposure to airborne asbestos? If so, state:

- A. The exact wording of each warning statement and a description of the material upon which the warning was printed;
- B. The method(s) used to distribute the materials to persons likely to use the asbestos-containing products or likely to be exposed to airborne asbestos;
- C. The date each warning was first issued or distributed;
- D. The name, address, and job title of each person responsible for having drafted or issued the warning statements and/or written materials;
- E. The current location of any such printed material and the custodian thereof;

- F. The form in which such literature or printed material can be accessed, i.e., the manner in which such literature is indexed or stored.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period in which Plaintiff was allegedly employed by Defendant nor limited to the job site or facilities on which Plaintiff was allegedly employed by Defendant. Subject to and without waiving the foregoing objection, Defendant has displayed and distributed brochures and warning signs concerning the use of asbestos-containing products.

INTERROGATORY NO. 19: Did Defendant install, replace, use, repair, assemble, transport or store, either as an original appurtenance of the railroad or placed in/on the railroad in conjunction with repairs or alterations to the railroad, any asbestos-containing products during the time Plaintiff worked for Defendant? If so, identify:

- A. By name and number each of Defendant's railroad(s), whether operating or in railyards, upon which the asbestos-containing product(s) were installed, repaired, used, stored or transported during the time Plaintiff worked for Defendant;
- B. The particular type of asbestos-containing product(s);
- C. The trade or brand name of each of the asbestos-containing products;
- D. The years during which each named asbestos product was applied, stored, used, repaired, installed or transported either as an original appurtenance of the railroad or placed on/in the railroad in conjunction with repairs or alterations to the railroad(s); and
- E. The dates of any removal or abatement of such asbestos-containing products from Defendant's railroad(s).

ANSWER: Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendant does not maintain purchasing records known to cover the course of Plaintiff's employment. Purchase orders for non-stock items are retained for five years. For stock order materials, purchase orders are maintained for 3 years.

Based on information obtained in the course of other litigation, Defendant has the following information regarding the use of asbestos-containing products in the railroad industry:

- i. Asbestos-containing mittens - manufacturers include Sager Glove Company. These mittens were used for handling hot objects in the course of manufacture. Use of these products was discontinued in the early 1980s.
- ii. Asbestos tape - manufacturers include Amatex, Novatex, Jane's Brand 116, Anchor Rubber Company and Johns-Manville. This material was used to wrap steam and hot water pipes on steam locomotives and business cars. This material is not presently maintained in Defendant's store stock.
- iii. Ground asbestos - manufacturers include Johns-Manville, Product 7M-13. This was used for post curing process for glued Vortex and Allegheny insulated joints. This product was discontinued November 14, 1978.
- iv. Sealing and glazing compounds - The following sealing and glazing compounds were in use up until at least the mid 1980s and contained a small percentage of asbestos (usually less than 5%):

Product	Manufacturer
Duxseal Sealing Compound	Johns-Manville
Chalking Glazing Compound	Tremco Manufacturing Company
M242 Elastic Glazing Compound	Pecora Chemical Company
Mastic	Overall Paint Inc.
No. 1-723 Lt. Gray Anti-Skid	Mazcor Company, Inc.
Dayco Wood Filler	Day, James B and Company

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| | Wood Filler Paste | - | Lawrence-McFadden Co. |
| | Black Plastic Cement | - | Johns-Manville |
| | Medium Black Cement | - | No-Ko-Rode |
| | Heavy Black Cement No. 169 | - | Lucan |
- v. Asbestos-containing barriers in dynamic brakeshoes - manufacturers include General Electric, General Motors and Moseback. These barriers were insulation in dynamic brake grids on locomotives. This product was first used in approximately 1937 by General Motors.
 - vi. Firebox linings - manufacturers unknown. A product containing asbestos was used to line the bottom of fireboxes in steam locomotives. Steam locomotives have not been operated by Defendant since approximately 1955.
 - vii. Gaskets - Defendant is aware that some gasket material contained a small percentage of asbestos - Manufacturers include Garlock, Chesterton and Johns-Manville Company. These were used in the stack and base gaskets for steam generators. This was also used on some diesel locomotives. The use of asbestos-containing gaskets in diesel locomotives was discontinued by General Motors (Electro Motive Division ("EMD") and General Electric in approximately 1984.
 - viii. Asbestos heat shields - These were used in or around cabin stoves or cabooses and used in welding for heat protection. These were first used sometime before 1980. They were no longer placed in cabooses after 1984.
 - ix. Composition brake shoes - Suppliers for composition brake shoes have included Railroad Friction Products, Westinghouse, Griffin, Abex (predecessor to ABC Rail), Anchor Brake Shoes (predecessor to Standard Car, Truck/Anchor and Cobra). Defendant was advised that Griffin discontinued including asbestos as a component in October 1981, Abex in January 1977, Railroad Friction Products in 1980, Anchor Brake Shoe in 1981 and Cobra in August 1978.
 - x. Arc chutes and wire coverings - Manufacturers unknown. This material was used to contain contact of flashing when making or breaking contact on locomotives; provide protection covering for high voltage and high current wiring on locomotives. The material ceased to being used in locomotives sometime prior to 1983.
 - xi. Flexible trainline insulation - Manufacturer is Gustin-Bacon. This was used for insulating steam lines on passenger cars. The defendant discontinued purchase of the material on April 18, 1973.
 - xii. Lagging and Packing on steam locomotives - 85% Magnesia material was used as insulation on boilers on steam locomotives and for packing of steam joints. Possible supplies and manufacturers include Johns-Manville, Union Rubber and Asbestos, Fiberboard ("Fabco"), Owens Corning Fiberglass and Owens Illinois and Philip Carey and Garlock. Use of this material would have ceased when Defendant ceased operating steam locomotives in approximately 1955.
- In addition, defendant is aware that asbestos millboard was purchased from Insulating and Materials Company, 1020 Central Industrial Drive, St. Louis, Missouri 63110. Asbestos paper was purchased from General Gasket Company, 2322 South Seventh Street, St. Louis, Missouri 63104. Asbestos gloves were purchased from Midwest Safety Equipment, P.O. Box 277, St. Louis, Missouri 63301. Eighteen inch asbestos welding sleeves were purchased from Sager Glove Company, 4030 Nashville Avenue, Chicago, Illinois 60634

INTERROGATORY NO. 20: Did any entities or persons at Defendant's direction, whether direct or indirect, including but not limited to contractors and subcontractors install, replace, use, repair, assemble, transport or store, either as an original appurtenance of the railroad or placed in/on the railroad in conjunction with repairs or alterations to the railroad, any asbestos-containing products during the time Plaintiff worked for Defendant? If so, identify:

- A. By name and number each of Defendant's railroad(s), whether operating or in railyards, upon which the asbestos-containing product(s) were installed, repaired, used, stored or transported during the time Plaintiff worked for Defendant;
- B. The particular type of asbestos-containing product(s);
- C. The trade or brand name of each of the asbestos-containing products;
- D. The years during which each named asbestos product was applied, stored, used, repaired, installed or transported either as an original appurtenance of the railroad or placed on/in the railroad in conjunction with repairs or alterations to the railroad(s); and
- E. The dates of any removal or abatement of such asbestos-containing products, from Defendant's railroad(s).

ANSWER: Objection. This Interrogatory is vague, ambiguous, overly broad and unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence.

INTERROGATORY NO. 21: If the answer to any portion of the preceding interrogatory is in the affirmative and/or if any asbestos-containing products are identified in response to such interrogatory, state the following as to each identified product:

- A. The name(s) of the railroad workers repairing, replacing, or using each asbestos-containing product on Defendant's railroad(s) during Plaintiff's period of employment by Defendant;
- B. A description of the physical appearance of each of the named asbestos-containing products;
- C. A detailed description of the uses of the named asbestos-containing products;
- D. A detailed description of the areas on Defendant's railroad where such asbestos-containing products were installed, replaced or used.

ANSWER: The extent of Defendant's knowledge in respect to this Interrogatory is set forth in Defendant's Objections and Response to Interrogatory No. 20.

INTERROGATORY NO. 22: Has Defendant or any other entity at the direction of Defendant, contracted with another entity for the acquisition, ordering, purchasing, supplying or distributing of asbestos-containing products, at any time prior to or during the time Plaintiff was employed by Defendant. If so, identify:

- A. Each of Defendant's railroad components by name and number for which the asbestos-containing products were ordered, purchased, supplied or distributed during the time Plaintiff was employed by Defendant;
- B. The particular type of asbestos-containing products acquired;
- C. The trade or brand name of each of those asbestos-containing products ordered, purchased, supplied or distributed;
- D. The years such asbestos-containing products were acquired, ordered, purchased, supplied or distributed by Defendant;
- E. The dates of any removal or abatement of asbestos-containing products.

ANSWER: Objection. This Interrogatory is vague, ambiguous, overly broad and unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence.

INTERROGATORY NO. 23: If your answer to any portion of the preceding interrogatory is in the affirmative, or if any asbestos-containing products, are identified in response to that interrogatory, state the following as to each product:

- A. The name(s) of the company(ies), entity(ies), manufacturers from which the asbestos-containing products were acquired, ordered, purchased, supplied or distributed;
- B. The date(s) each asbestos-containing product was ordered, purchased, supplied or distributed;
- C. A description of the physical appearance of each of the named asbestos-containing product;
- D. A detailed description of the uses of the named asbestos-containing products;
- E. Identify the last year that Defendant ordered, purchased, supplied or distributed each identified asbestos-containing product.

ANSWER: The extent of Defendant's knowledge in respect to this Interrogatory is set forth in Defendant's Objections and Response to Interrogatory No. 19.

INTERROGATORY NO. 24: State whether Defendant maintained from 1950 through the present or for any portion thereof, copies of invoices, shipping receipts, bills of lading, purchase orders, or other documents of a similar nature relating to the purchase or acquisition of asbestos-containing products. If so, state:

- A. The location of such documents;
- B. The name and address of the custodian of the documents;
- C. The format in which the documents are kept, i.e., hard copy, microfilm, microfiche, etc.;
- D. In what form the documents can be accessed.

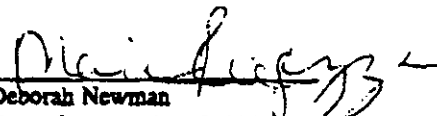
ANSWER: The extent of Defendant's knowledge in respect to this Interrogatory is set forth in Defendant's Objections and Response to Interrogatory No. 19.

INTERROGATORY NO. 25: Identify all persons, including name, address and telephone number, who provided and/or conducted or were responsible for conducting any type of safety training, during the time Plaintiff was employed by Defendant.

ANSWER: Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence.

Respectfully submitted,

PHELPS DUNBAR

By 
Deborah Newman
Texas State Bar No. 01237257
Maria Ragazzo
Texas Bar No. 00783564
3040 Post Oak Boulevard
Suite 900
Houston, TX 77056
(713) 626-1386
(713) 626-1388 FAX

THOMPSON COBURN

By 
Allan McD. Goodloe, Jr.
Missouri State Bar No. 23983
Tracy J. Cowan
Missouri State Bar No. 40229
One Mercantile Center
St. Louis, Missouri 63101
314-552-6000
FAX 314-552-7000

*Signed by Permission

Attorneys for Defendant
Union Pacific Railroad Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Defendant Union Pacific Railroad Company's Objections and Responses to Plaintiff's First Set of Interrogatories has been sent via Federal Express and Facsimile to Kimberly A. Castles, Baron & Budd, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281 and via First Class Mail to all parties of record on attached service list and this 27 day of June, 1997.


Maria Ragazzo

NO. 96-62699

STEVE EVANS,
Plaintiffs,

vs.

OWENS-CORNING FIBERGLAS
CORPORATION, ET AL
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IN THE DISTRICT COURTS OF

HARRIS COUNTY, TEXAS

334TH JUDICIAL DISTRICT

**UNION PACIFIC RAILROAD COMPANY'S
OBJECTIONS AND RESPONSES TO PLAINTIFF'S SECOND SET OF INTERROGATORIES**

TO: Plaintiff Steve Evans, by and through his attorneys of record, Kimberly Castles, Baron & Budd, The Centrum, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281.

Pursuant to Rules 166b and 168 of the Texas Rules of Civil Procedure, Union Pacific Railroad Company (Improperly named as Missouri Pacific Railroad Co. d/b/a Union Pacific Railroad Co., individually and as Successor-in-Interest to Texas & Pacific Railroad), Defendant herein, hereby submits its Objections and Responses to Plaintiff's Second Set of Interrogatories.

General Objections

1. Defendant objects to the Interrogatories to the extent that they request information protected from disclosure by the attorney-client privilege and/or the attorney work-product doctrine. Any information subject to any such privilege inadvertently provided by Defendant in response to the Interrogatories shall not constitute or be deemed to constitute a waiver of any such privilege.

2. Defendant objects to the Interrogatories to the extent that they request information that is neither relevant nor likely to lead to the discovery of admissible evidence.

3. Defendant objects to the Interrogatories to the extent that they exceed the scope of permissible discovery under the Texas Rules of Civil Procedure.

4. Defendant objects to the Interrogatories to the extent that they purport to require Defendant to provide information that is available to Plaintiff where the burden of deriving or ascertaining such information is substantially the same as for Plaintiff as for Defendant.

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5 Defendant objects to the Interrogatories to the extent that they purport to require Defendant to provide information pertaining to any time period other than the relevant time period which Plaintiff was allegedly employed by Defendant.

6. Defendant reserves the right to supplement or amend its responses as appropriate.

INTERROGATORIES

INTERROGATORY NO. 1: At any time prior to 1980 did Defendant or anyone at the direction of Defendant conduct an investigation, survey or other process to identify the primary emission sources of airborne asbestos fibers and/or to assess and/or sample for the detection of, the quantity of, or threshold limit value of airborne asbestos fibers in relation to Defendant's railroad? If so, please identify with particularity the entity and/or persons conducting such investigation(s), survey(s), or test(s), the dates conducted and the results.

ANSWER: Defendant is aware of current permissible exposure limits for exposure to asbestos fibers and its predecessors promulgated by the OSHA. Investigation with regard to TLVs and the date upon which Defendant first became aware of this "concept" has not been established.

INTERROGATORY NO. 2: Did Defendant ever arrange for any labor agency, insurance company, government agency, inspectors or anyone from your company to go into any of Defendant's railway car(s) and/or engine(s) and/or locomotive(s) and/or roundhouses and/or shops to take dust level counts related to asbestos dust? If so, identify with particularity the party(ies) conducting such procedure(s), the dates conducted, the purpose of such procedure(s), and all results of such (s).

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period in which Plaintiff was allegedly employed by Defendant nor is it limited to the job site or facilities on which Plaintiff was allegedly employed by Defendant. Moreover, this Interrogatory seeks information, if any exists, which is protected by the attorney-client privilege and the work product doctrine.

INTERROGATORY NO. 3: Did Defendant obtain facts, knowledge or information from any industry, insurance company, governmental agency, union, and/or any other entity regarding the potential health effects and/or health hazards created for persons exposed to airborne asbestos dust? If so, please list all sources of such information and the dates received.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Interrogatory seeks information if any exists, which is protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, Defendant has not located any documents from the time period during which Plaintiff was allegedly employed by Defendant which are responsive to this Interrogatory.

INTERROGATORY NO. 4: List each person who has acted in a medical advisory capacity to your company at any time during the past 40 years, including, but not limited to, physicians (including those physicians who would have been responsible for conducting physicals, evaluations or screenings of Defendant's employees) and industrial hygienists, and the current address, telephone number and job title of each of those individuals who has had or may have had any knowledge regarding the hazards of airborne asbestos dust.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period during which Plaintiff was allegedly employed by Defendant.

Subject to and without waiver of the foregoing objections, Ernest T. Rouse, 710 Hanley, St. Louis, MO 63105, was Medical Director for Missouri Pacific Railroad Company from approximately 1969 until approximately 1986.

Dennis Richling is Union Pacific Railroad Company's current medical director. He began at the railroad in 1986. His business address is 1416 Dodge, Omaha, Nebraska 68179. Dr. L.C. Bevilacqua was with the Union Pacific from 1978 to 1989. Dr. Bevilacqua lives in the Omaha area. Dr. R. D. Sellers was a contract physician with the Union Pacific

Railroad from approximately 1974 to 1978. It is believed that Dr. Sellers is in the Council Bluffs, Iowa area.

INTERROGATORY NO. 5: 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, state:

- A. The name of each such publication;
- B. The date of publication and the names of the author and publisher (if any);
- C. The date received by Defendant;
- D. The name, job title, and address of each person who currently has possession of each publication and its present location.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Interrogatory seeks information, if any exists, which is protected by the attorney-client privilege and the work product doctrine.

INTERROGATORY NO. 6: Has Defendant at any time been a member of any trade organization or association that published or disseminated any documents or information relating to the hazards of airborne asbestos? If so, state:

- A. The name and address of each such association or organization;
- B. The dates during which Defendant member (Sic);
- C. The names and dates of any publications, minutes, or reports published, written, or disseminated by any of the named associations or organizations;
- D. Whether any of those publications are still in your possession, and if so:
 - 1. A description of the publications, including the date;
 - 2. The current location of such publications;
 - 3. The custodian of such publications;
 - 4. The method or manner in which such publications are maintained.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Subject to and without waiver of the foregoing objections, Defendant has been a member of the Association of American Railroads since 1934. Prior to 1934, Defendant was a member of the American Railway Association. Defendant does not currently have in its possession any records which indicate whether it had representatives at the Medical and Surgical Section of the Association of American Railroad for the years listed. Counsel for Defendant has obtained minutes of the proceedings of the Medical and Surgical Section of the American Railway Association and the American Association of Railroads for certain years through the course of other asbestos litigation. These records indicate that the following individual were in attendance at the following meetings. Defendant has no records which indicate that these individuals were employed by Defendant.

1921 P.F. Vasterling
 1922 P.F. Vasterling, J. O. Graves, A. Isom, G. M. Snellings
 1926 W.B. Burns, J. B. Cahartan, W. P. Coyle, T.B.M. Craig, H.W. Cummings, J.N. Greene, C.C. Hawke, S.C. Murray, E.B. Parsons, L.L. Purefoy, E.H. Skinner
 1929 O.B. Zeinert
 1930 O.B. Zeinert
 1931 O.B. Zeinert
 1932 O.B. Zeinert
 1933 O.B. Zeinert
 1934 O.B. Zeinert

1935 O.B. Zeinert
 1936 O.B. Zeinert
 1937 O.B. Zeinert, J.A. Lembeck, D.S. Long
 1939 O.B. Zeinert
 1940 O.B. Zeinert
 1941 O.B. Zeinert, A.J. Brown
 1946 O.B. Zeinert
 1947 O.B. Zeinert
 1949 O.B. Zeinert
 1950 O.B. Zeinert
 1951 O.B. Zeinert
 1952 J.A. Lembeck
 1953 J.A. Lembeck
 1955 J.A. Lembeck
 1956 J.A. Lembeck, G.W. Balo
 1957 J.A. Lembeck
 1958 J.A. Lembeck
 1965 J.M.L. Jensen

INTERROGATORY NO. 7: As to the disease asbestosis, state:

- A. The date on which Defendant first learned that such disease was caused by inhalation of asbestos fibers;
- B. How Defendant became aware of the existence of the disease;
- C. Who within the company first discovered, recognized or understood the adverse consequences or effects of the disease;
- D. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
- E. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in any written form;
- F. Who is the custodian of such information;
- G. The date on which you first received knowledge or information that asbestosis was caused by inhalation of asbestos fibers alone or in conjunction with second hand smoke.

ANSWER:

Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period in which Plaintiff was allegedly employed by Defendant and does not reference any condition of which Plaintiff allegedly suffered. Moreover, this Interrogatory seeks information, if any exists, which is protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, it is not known what year Defendant first became aware of this issue; however, as possibilities became more probable based on more concrete medical information, Defendant's awareness of these possibilities increased. To the best of our knowledge, it appears that the company was reasonably aware of these issues by approximately 1977.

INTERROGATORY NO. 8: As to the disease lung cancer, state:

- A. The date on which Defendant first learned that such disease was caused by inhalation of asbestos fibers;
- B. How Defendant or its subsidiary or predecessor became aware of the disease and its relationship to asbestos exposure;
- C. Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure;

- D. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
- E. Whether any such information is still maintained by Defendants or its subsidiaries or predecessors in a written form;
- F. Who is the custodian of such information;
- G. The date on which you first received knowledge or information that lung cancer was caused by inhalation of asbestos dust and fibers.

ANSWER: See Defendant's Objections and Response to Interrogatory 32.

INTERROGATORY NO. 9: As to the disease mesothelioma, state:

- A. The date on which Defendant first learned such disease was caused by inhalation of asbestos fibers;
- B. The date on which Defendant first suspected that mesothelioma was caused by inhalation of asbestos dust and fibers;
- C. How Defendant or its subsidiary or predecessor became aware of the disease and that it was caused by exposure to asbestos;
- D. Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure;
- E. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
- F. Whether any such information is still maintained by Defendants or its subsidiary or predecessor in a written form;
- G. Who is the custodian of such information;
- H. Whether Defendant agrees that there is no known medical cure for mesothelioma.

ANSWER: See Defendant's Objections and Response to Interrogatory 32.

INTERROGATORY NO. 10: As to gastrointestinal cancer, laryngeal cancer, pharyngeal cancer and/or lymphatic cancer, state:

- A. The type of cancer and the date on which Defendant first learned that such diseases were caused by inhalation of asbestos fibers by humans;
- B. What cancers has the Defendant become aware can be caused by exposure to asbestos fibers;
- C. The date on which Defendant first suspected other cancers were caused by asbestos inhalation;
- D. Who within the company or its subsidiary or predecessor first discovered the adverse consequences or effects of asbestos exposure;
- E. What information was disseminated with Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
- F. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in a written form;
- G. Who is the custodian of such information.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Interrogatory seeks information, if any exists, which is protected by the attorney-client privilege and the work product doctrine.

INTERROGATORY NO. 11: Did Defendant maintain written minutes of corporate meetings, either board of directors, departmental, or otherwise, which reflect discussions pertaining to any subject matter related to asbestos, asbestos health hazards or asbestos products? If so, for each such set of minutes, state:

- A. The dates of each such meeting;

- B. The general subject matter discussed at each meeting;
- C. Who was in attendance at each meeting;
- D. Where and by whom the written minutes are presently maintained;
- E. By whom the minutes were taken and put into final format;
- F. Whether the minutes were abstracted and reports disseminated to other individuals, and if so, the names and job titles of those individuals.

ANSWER: Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Interrogatory seeks information, if any exists, which is protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, Defendant has not located any information responsive to this Interrogatory.

INTERROGATORY NO. 12: Does Defendant intend to call a company representative as a witness at the trial of this case? If so, list:

- A. The name, address, and job title of each company representative who may be called;
- B. A summary of the testimony expected to be given by each such witness;
- C. List any and all previous times that the named witnesses have either given deposition or trial testimony in an asbestos-related case, including the jurisdiction, style of the case, case number, date of testimony, and the name of the attorney taking the deposition for the Plaintiff(s) in that case.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Moreover, this Interrogatory seeks information, if any exists, which is protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, Defendant does not presently intend to call a company representative as a witness at the trial of this matter.

INTERROGATORY NO. 13: Does Defendant have, or has it ever had, a Medical Department or Medical Section? If so, state:

- A. The year such Medical Department or Section was established;
- B. Whether or not such Medical Department or Section has operated continuously since being established;
- C. The name of each director, chief, or head of your Medical Department or Section year by year, beginning with the first year of its existence and the last known address and phone number of each;
- D. State the duties and responsibilities of such Medical Department.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Subject to and without waiver of the foregoing objections, see Defendant's response to Interrogatory No. 29.

INTERROGATORY NO. 14: Please state whether written warnings were placed at any locations adjacent to or near asbestos in place on Defendant's railroad(s), at anytime from 1930 to the present. If so, please describe with specificity such signs, including size, color, wording, etc. Additionally, please state the number of such signs that were installed and indicate the specific location of each such sign and the dates such sign was at that location.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it does not reference any time period during which Plaintiff was allegedly employed by Defendant nor is it limited to the job site or facilities on which Plaintiff was allegedly employed by Defendant.

INTERROGATORY NO. 15: Does Defendant have, or has it ever had, a Safety Department? If so, state:

- A. The year such Safety Department was established;
- B. Whether or not such Safety Department has operated continuously since being established;
- C. The name of each director, chief, or head of your Safety Department year by year, beginning with the first year you had a Safety Director or Safety Department, and the last known address and phone number of each;
- D. State the duties and responsibilities of such Safety Department.

ANSWER: Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Subject to but without waiver of the foregoing objections, all Railroad Departments are conscious of safety issues.

INTERROGATORY NO. 16: Please state whether a medical monitoring program, medical examination program or other medical surveillance was provided to your employees and specifically to Plaintiff. If so, please indicate what records of such program, examination or surveillance concerning Plaintiff exist at this time, including but not limited to reports, x-rays and medical notes.

ANSWER: Objection. This Interrogatory is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. This Interrogatory seeks information which is protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, Defendant has not located any documents which would indicate that medical monitoring and/or surveillance was conducted by Defendant on Plaintiff.

INTERROGATORY NO. 17: Please state whether Defendant has at any time provided safety equipment to the Plaintiff and/or the railroad workers of Defendant present at any time during Plaintiff's employment by Defendant for protection against the inhalation of airborne asbestos dust, including but not limited to masks, respirators, or other breathing devices, protective clothing, protective gloves, etc. For each such item of equipment, please indicate when such item was first provided, under what circumstances, and the name, address and telephone number of the person most knowledgeable concerning such provision.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the job site and facilities on which Plaintiff was allegedly employed by Defendant. Subject to and without waiver of the foregoing objections, respiratory protection has been available to Defendant's employees for a number of years.

INTERROGATORY NO. 18: Please state whether Defendant ever agreed by contract, agreement, negotiation, collective bargaining or otherwise, to provide masks to Plaintiff and other crew members and/or employees of Defendant working with or around asbestos products. If so, please state verbatim the specific agreement or contract and/or other document by which Defendant agreed to provide such masks. Include the date the agreement was entered into, the period of time covered by the agreement and the parties to the agreement.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period in which Plaintiff was allegedly employed by Defendant nor limited to the job site or facilities on which Plaintiff was allegedly employed by Defendant. Subject to and without waiver of the foregoing objections, Defendant has not located any information which would indicate that Defendant entered into such an agreement during the years of Plaintiff's employment with Defendant.

INTERROGATORY NO. 19: Please state the precise State and/or Federal regulations, laws, statutes, or other authority pertaining to industrial hygiene or worker safety and health that governed, regulated controlled and/or were applicable to airborne asbestos exposure in your operations and/or in relation to Defendant's railroad.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period during which Plaintiff was allegedly employed by Defendant. Further the information requested is public record and is equally available to Plaintiff and Defendant.

INTERROGATORY NO. 20: Please describe each and every occasion during the past thirty years when any regulatory agency or other governing body inspected Defendant's railroad to ascertain whether health and safety regulations were being followed or adhered to, including the date of such inspection and/or meeting, the results, and whether a written report was produced.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period during which Plaintiff was allegedly employed by Defendant nor is it limited to the job site or facilities on which Plaintiff was allegedly employed by Defendant.

INTERROGATORY NO. 21: Please state whether any asbestos-containing products in place or in use on Defendant's railroad, has been removed or abated at any time from 1965 to the present. If so, please answer the following:

- A. List each and every abatement company or other contractor involved with the removal of asbestos, including address and telephone number, dates of such removal, and whether a contract for such removal exists;
- B. Indicate the total amount in dollars spent by Defendant to abate or remove asbestos from the railroads.
- C. State whether any "removal plan" or organized written criteria or other document related to asbestos removal on the railroad(s) was ever prepared by Defendant;
- D. State whether corporate documents discussing or relating generally to the removal of asbestos are in existence and, if so, where they are maintained;
- E. State precise dates and locations when and where such removal or abatement took place for each railroad.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it does not reference any time period during which Plaintiff was allegedly employed by Defendant. Moreover, this Interrogatory seeks information, if any exists, which is protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, Defendant has been involved in the abatement of asbestos in use on the railroad.

INTERROGATORY NO. 22: As to either the threshold limit values or maximum allowable concentrations of both asbestos dust and total dust provided by the American Conference of Governmental Industrial Hygienists, state:

- A. The year in which Defendant was first advised of such limits or concentrations;
- B. The name of the employee or official of the company receiving such advice;
- C. How Defendant received notice of such limits or concentrations.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Moreover, this Interrogatory seeks information which is protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, Defendant is aware of current permissible exposure limits for exposure to asbestos fibers and its predecessors promulgated by the OSHA. Investigation with regard to TLVs and the date upon which Defendant first became aware of this "concept" has not located any documents which address this issue. Additionally, investigation continues on this issue, and this answer will be supplemented as appropriate.

INTERROGATORY NO. 23: Please state whether and when Defendant received a copy of the Fleischer/Drinker Report published in 1945/1946.

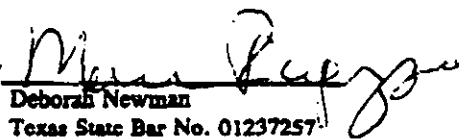
ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period during which Plaintiff was allegedly employed by Defendant. Subject to and without waiver of the foregoing objections, counsel for Defendant has obtained this document through the course of other asbestos litigation.

INTERROGATORY NO. 24: Please describe all actions taken by Defendant to comply with the Boiler Inspection Act, previously 45 U.S.C. §23 during the past thirty-five (35) years, now designated at 49 U.S.C. §20701 et seq.

ANSWER: Objection. This Interrogatory is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence because it is not limited to the time period during which Plaintiff was allegedly employed by Defendant nor is it limited to the job site or facilities on which Plaintiff was allegedly employed by Defendant. Moreover, this Interrogatory seeks information, if any exists, which is protected by the attorney-client privilege and the work product doctrine. Finally, this Interrogatory requires Defendant to make a legal conclusion in order to respond to it.

Respectfully submitted,

PHELPS DUNBAR

By 

Deborah Newman
Texas State Bar No. 01237257
Maria Ragazzo
Texas Bar No. 00783564
3040 Post Oak Boulevard
Suite 900
Houston, TX 77056
(713) 626-1386
(713) 626-1388 FAX

THOMPSON COBURN

By 

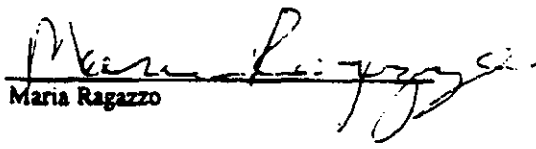
Allan McD. Goodloe, Jr.
Missouri State Bar No. 23983
Tracy J. Cowan
Missouri State Bar No. 40229
One Mercantile Center
St. Louis, Missouri 63101
314-552-6000
FAX 314-552-7000

*Signed by Permission

Attorneys for Defendant
Union Pacific Railroad Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Defendant Union Pacific Railroad Company's Objections and Responses to Plaintiff's Second Set of Interrogatories has been sent via Federal Express and Facsimile to Kimberly A. Castles, Baron & Budd, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281 and via First Class Mail to all parties of record on attached service list and this 27 day of June, 1997.


Maria Ragazzo

NO. 96-62699

STEVE EVANS,
Plaintiffs,

vs.

OWENS-CORNING FIBERGLAS
CORPORATION, ET AL
Defendants.§
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IN THE DISTRICT COURTS OF

HARRIS COUNTY, TEXAS

334TH JUDICIAL DISTRICT

**UNION PACIFIC RAILROAD COMPANY'S
OBJECTIONS AND RESPONSES TO PLAINTIFF'S REQUEST FOR PRODUCTION**

TO: Plaintiff Steve Evans, by and through his attorneys of record, Kimberly Castles, Baron & Budd, The Centrum, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281.

Pursuant to Rules 166b and 167 of the Texas Rules of Civil Procedure, Union Pacific Railroad Company (Improperly named as Missouri Pacific Railroad Co. d/b/a Union Pacific Railroad Co., individually and as Successor-in-Interest to Texas & Pacific Railroad), Defendant herein, hereby submits its Objections and Responses to Plaintiff's Request for Production.

GENERAL OBJECTIONS

1. Defendant objects to the Requests to the extent that they request documents protected from disclosure by the attorney-client privilege and/or the attorney work-product doctrine. Any information subject to any such privilege inadvertently provided by Defendant in response to the Requests shall not constitute or be deemed to constitute a waiver of any such privilege.
2. Defendant objects to the Requests to the extent that they request documents that are neither relevant nor likely to lead to the discovery of admissible evidence.
3. Defendant objects to the Requests to the extent that they exceed the scope of permissible discovery under the Texas Rules of Civil Procedure.
4. Defendant objects to the Requests to the extent that they purport to require Defendant to provide documents that are available to Plaintiff where the burden of deriving or ascertaining such information is substantially the same for Plaintiff as for Defendant.

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5. Defendant objects to the Requests to the extent that they purport to require Defendant to provide documents pertaining to any time period other than the relevant time period during which Plaintiff was allegedly employed by Defendant.

6. Defendant reserves the right to supplement or amend its responses as appropriate.

7. This request is duplicitous. All documents responsive to the following requests have been previously produced in *John F. Antons vs. Owens-Corning Fiberglas Corporation, et. al.*; Cause No. 95-04-02145-C; In the 341st Judicial District of Webb County. To avoid unnecessary expense, copies of the actual documents produced in the *Antons* case are not included herewith however, reference to Bates numbers is provided.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Produce any and all documents, (memoranda and/or other writings, including but not limited to books, pamphlets, or other written materials of any kind or character) in your possession, custody or control which would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings.

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, please see attached Bates Nos. MPM 000052, MPM 000053, MPM 000072, MPM 000201 - 000204, MPM 001146 - 001197, MPM 001230 - 001427, MPM 001547, MPM 001636 - 001640, MPM 001781 - 001823, HO 000208 - HO 000383, HO 000820 - HO 001066, HO 001107 - HO 001130, HO 001199 - HO 001228, OM 013273 - OM 013274, OM 013275, OM 013276 - OM 013288, OM 013299 - OM 013318, OM 013361 - OM 013384, OM 013446 - OM 013449, OM 013463 - OM 013471, OM 013474 - OM 013475, OM 013967 - OM 013970, OM 014602, OM 014746 - OM 014748, OM 014750 - OM 014752, OM 014772 - OM 014773, OM 014815, OM 014957 - OM 014958, OM 015160 - OM 015162, OM 015164 - OM 015167, OM 015170, OM 015173, OM 015176, OM 015206, OM 015211, OM 015224 - OM 015246, OM 015275 - OM 015286, OM 015289, OM 014534 - OM 014537, HOP 000782 - HOP 000789, HOP 000836, HOP 000843, HOP 000848 - HOP 000862, HOP 000864 - HOP 000871, OM 002472 - OM 013269, OM 013270 - OM 013270A, OM 013315, OM 013316 - OM 013323, OM 013325 - OM 013326, OM 013327 - OM 013328, OM 013329 - OM 013332, and OM 013335 - OM 013336.

REQUEST FOR PRODUCTION NO. 2: Produce any and all documents, (memoranda and/or other writings) in your possession, custody or control that in any way related to the hazards of asbestos and/or airborne asbestos.

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, please see Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 3: Produce any and all documents in your possession, custody or control which were disseminated or published by any person, trade association or organization of any type and that contain information relating to the hazards of asbestos and/or airborne asbestos.

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objection, please see Response to Request for Production No. 1, and Bates Nos. MPM 002517, HO 000384 - HO 000426, HO 001067 - HO 001077, HO 001229, OM 002147 - OM 002471, OM 013270 OM 013270A, OM 013316 - OM 013323, and OM 013333 - OM 013334.

REQUEST FOR PRODUCTION NO. 4: Produce any and all safety meeting minutes or other documents, memoranda and/or writings that refer to the dangers of asbestos and/or safety measures to be taken by crew members or workers or employees in the vicinity of asbestos-containing products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials on Defendant's railroad.

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, please see Response to Request for Production No. 1 and Bates Nos. 3284, MPM 001198 - MPM 001214, MPM 001428 - MPM 001545, OM 000759 - OM 001099, OM 013337 - OM 013409, and OM 013430 - OM 013434.

REQUEST FOR PRODUCTION NO. 5: Produce any and all contracts, memoranda, and/or other writings that in any way reflect arrangements made for the removal of asbestos and/or the installation of asbestos-containing products [on] Defendant's railroad(s).

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, please see Response to Request for Production No. 1 and Bates Nos. 3284, MPM 001198 - MPM 001214, MPM 001428 - MPM 001545, OM 000759 - OM 001099, OM 013337 - OM 013409, and OM 013430 - OM 013434.

REQUEST FOR PRODUCTION NO. 6: Produce any and all documents that in any way reflect a removal plan or organized written criteria or schedule for the removal of asbestos on Defendant's railroad(s).

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, please see Response to Request for Production No. 1 and Bates Nos. 3284, MPM 001198 - MPM 001214, MPM 001428 - MPM 001545, OM 000759 - OM 001099, OM 013337 - OM 013409, and OM 013430 - OM 013434.

REQUEST FOR PRODUCTION NO. 7: Produce any and all documents that discuss or relate in any way to removal of asbestos from any Defendant's railroad(s).

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, please see Response to Request for Production No. 1 and Bates Nos. 3284, MPM 001198 - MPM 001214, MPM 001428 - MPM 001545, OM 000759 - OM 001099, OM 013337 - OM 013409, and OM 013430 - OM 013434.

REQUEST FOR PRODUCTION NO. 8: Please produce any and all documents related to the medical condition of Plaintiff at any time during his employment with Defendant. This request specifically includes, but is expressly not limited to, any and all x-rays, x-ray reports, medical notes and/or medical records of any kind, including annual physical forms.

RESPONSE: See Evan's Personnel file, Bates Nos. SE 000001 - SE 000002.

REQUEST FOR PRODUCTION NO. 9: Produce any and all documents that indicate and/or refer to in any way a decision and/or discourse related to ceasing the use of asbestos-containing products on Defendant's railroad(s).

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, please see Response to Request for Production No. 5.

REQUEST FOR PRODUCTION NO. 10: Produce any and all specifications, blue prints, documents, memoranda and/or other writings that reflect and/or demonstrate in the form of a map and/or chart the location and dimensions of all car(s) and/or engine(s), locomotives, roundhouses and/or shops upon which and in the vicinity of which Plaintiff worked and specifically including, but not limited to, the location and/or placement, repair, installation and/or use of asbestos-containing products at any time within the last thirty-five (35) years on the railroad(s).

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, Defendant cannot answer this request because it has no knowledge of where Plaintiff worked for Defendant.

REQUEST FOR PRODUCTION NO. 11: Produce any photographs of asbestos products in place or asbestos products being used, fabricated and/or utilized on Defendant's railroad(s).

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the location or time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine.

REQUEST FOR PRODUCTION NO. 12: Produce any actual warning signs or photographs of warning signs or other statements in place at any time relating to asbestos-containing products [in place] at any time during the last thirty-five years (35) years on Defendant's railroad(s).

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the location or time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, please see Bates Nos. HO 000429 - HO 000729, HO 001078 - HO 001106, OM 001116 - OM 001918, OM 013271 - OM 013314, OM 013324, OM 013335 - OM 013336, and OM 013410 - OM 013429.

REQUEST FOR PRODUCTION NO. 13: Produce any documents which indicate in any way that individuals claimed injury to their lungs as a result of exposure to asbestos on any of Defendant's railroad(s).

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant nor limited to the job sites and/or facilities on which Plaintiff was allegedly employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, please see attached Bates Nos. HO 000764 - HO 000819 and MPM 000169 - MPM 000192.

REQUEST FOR PRODUCTION NO. 14: Produce any documents, minutes or other notes or records from any meetings at which the hazards and/or potential hazards of asbestos were discussed by officers, agents, and/or employees of Defendant.

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, please also see Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 15: Produce any and all documents, including invoices, shipping receipts, bills of lading, purchase orders, or other documents of a similar nature related to the purchase of asbestos-containing products for use on Defendants' railroad(s).

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Subject to and without waiver of the foregoing objections, please see Response to Request for Production No. 5.

REQUEST FOR PRODUCTION NO. 16: Produce any and all documents reflecting in any way any inspections by labor inspectors, insurance company inspectors or anyone from Defendant's company or hired by Defendant where asbestos-containing products were being used or installed and that included the taking or measure of "dust counts." This request specifically includes any and all of Defendant's railroad(s) and railway car(s) and/or engine(s) and/or locomotive(s) and/or roundhouse(s) or shops during the last thirty-five (35) years.

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, please see Bates Nos. MPM 001198 - MPM 001214, MPM 001428 - MPM 001545, OM 000759 - OM 001099, OM 013337 - OM 013409, and OM 013430 - OM 013434.

REQUEST FOR PRODUCTION NO. 17: In the event that Defendant performed or had performed any dust level counts with respect to asbestos dust on any of its railroads, produce any documents that in any way reflect or discuss the results of such studies or counts and actions, or potential actions, if any, taken as a result of such counts or studies.

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. We are unaware of where and when Plaintiff was employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, please see Response to Request for Production No. 16.

REQUEST FOR PRODUCTION NO. 18: Please provide all documents referred to in answering Plaintiff's interrogatories propounded to the Defendant, identifying with specificity which documents were used to answer which interrogatories.

RESPONSE: All documents produced herewith are deemed to be responsive.

REQUEST FOR PRODUCTION NO. 19: (1) Please provide a curriculum vitae for each and every expert witnesses or expert or expert that the Defendant has retained or employed and cannot unequivocally state will not be a witness on its behalf at trial; and (2) with respect to any and all expert witness(es) identified in subpart (1), please provide any and all documents or tangible things including, but not limited to, all tangible reports,

drawings, charts, exhibits, physical models, compilations of data, factual observations, tests, calculations, photographs, diagrams, sketches, movies, videotapes and tape recordings, opinions, supporting data and other documents and/or things reviewed and/or relied upon by him or her in formulating his or her opinions and conclusions on this case, including all learned treatises (texts, articles, studies, monographs, etc.) and consultant expert work product which forms the basis, in whole or in part, of the witness(es)' opinions or which he or she believes substantiates or corroborates his or her conclusions regarding this lawsuit.

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. We are unaware of where and when Plaintiff was employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing objections, Defendant will provide under separate cover the curriculum vitae of experts when they are named.

REQUEST FOR PRODUCTION NO. 20: As to all such potential legal entities who are not now a party to this lawsuit, but who may be responsible for the incident in question, please provide:

- A. All documents tending to establish such liability; and,
- B. A list of all tangible items or things that may be reviewed tending to establish such liability, along with their location and the identity of the person to contact to view such tangible things.

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine.

REQUEST FOR PRODUCTION NO. 21: Provide a copy of each policy of liability insurance intended to provide coverage to the Defendant, its agents and/or employees for liability on the date in question for allegations such as those delineated in Plaintiff's Original Complaint (and all amended complaints thereafter) including, but not limited to, all primary and excess policies covering the Defendant on the date in question, indicating the name and address of each carrier.

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 22: Provide a copy of all invoices, purchase orders, agreements, contracts, correspondences, telexes, and/or documents of any type passing between this Defendant and any other entity regarding the acquisition, ordering, purchasing, supplying, removal or distribution of asbestos-containing products by Defendant during the time period Plaintiff was employed by Defendant.

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, Defendant has no knowledge of when or where Plaintiff was employed by Defendant. Subject to and without waiver of the foregoing objections, please see Response to Request for Production No. 5.

REQUEST FOR PRODUCTION NO. 23: Provide a copy of all documents from which your present net worth may be ascertained.

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 24: Provide a copy of all photographs, diagrams, videotapes, slides and/or movie film of Defendant's railroad(s), owned or operated by Defendant including, but specifically not limited to the engine room, boiler room, common areas, living quarters, railroads, roundhouses, shops, locomotives, or transport cars.

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant nor limited to the jobsites and/or facilities on which Plaintiff was allegedly employed by Defendant.

REQUEST FOR PRODUCTION NO. 25: Provide a copy of all medical records obtained by the Defendant relating to the Plaintiff.

RESPONSE: Objection. This Request seeks information that is available to Plaintiff where the burden of deriving or ascertaining such information is substantially the same for Plaintiff as for Defendant. Subject to and without waiver of the foregoing objections, Defendant will produce any documents in its possession pertaining to Plaintiff's medical condition under separate cover.

REQUEST FOR PRODUCTION NO. 26: Provide a copy of all documents including but not limited to invoices, purchase orders, agreements and contracts involving Defendant as a result of the transport, use, installation, repair, replacement, removal and/or applying of asbestos-containing products on the railroad.

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Subject to and without waiver of the foregoing objections, please see Response to Request for Production No. 5.

REQUEST FOR PRODUCTION NO. 27: Provide a copy of all documents regarding safety, safety training and/or safety meetings provided to or for the benefit of Plaintiff and other railroad workers to asbestos or asbestos-containing products on the railroad. Include any documents given out at such safety meetings and copies of the minutes of or notes from all safety meetings held for the benefit of the employees or crew members that worked on the railroad in the last thirty-five (35) years.

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant nor limited to the jobsites and/or facilities on which Plaintiff was allegedly employed by Defendant. Finally, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine.

REQUEST FOR PRODUCTION NO. 28: Provide a copy of all Defendant's safety and policy manuals regarding the use of or exposure to asbestos-containing products from 1930 to the present.

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited in time. Further, Defendant has no knowledge of when and where Plaintiff was employed by Defendant.

REQUEST FOR PRODUCTION NO. 29: Provide a copy of all personnel files maintained by Defendant or any agent of Defendant concerning the Plaintiff including but not limited to all earnings files, administrative files, and any files concerning any physical examination conducted by the Defendant or for the benefit of the Defendant regarding Plaintiff either for hiring purposes, screening purposes or otherwise.

RESPONSE: See Response to Request No. 8, Bates Nos. SE 000001 - SE 000002.

REQUEST FOR PRODUCTION NO. 30: Provide a copy of all reports, investigations, transcripts, memoranda, correspondence and/or documents of any type you received from, or sent to any city, county, state, or federal entity, including but not limited to the EPA, NIOSH, NIEHS or OSHA regarding either the potential health hazards or dangers associated with exposure to asbestos-containing products or airborne asbestos, and/or

regarding any surveys, testing or other actions taken to determine the presence of and concentration of airborne asbestos on such of Defendant's railroad(s).

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome, unlimited in time and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Further, Defendant has no knowledge of when and where Plaintiff was employed by Defendant.

REQUEST FOR PRODUCTION NO. 31: Provide a copy of all safety inspection or site inspection records referencing in any way asbestos or asbestos-containing products used on Defendant's railroad(s).

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. It is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Further, Defendant has no knowledge of where Plaintiff was employed by Defendant.

REQUEST FOR PRODUCTION NO. 32: Provide a copy of all Defendant's safety inspection policies and procedures in effect during the time Plaintiff was employed by Defendant regarding the handling of, application, use or exposure to asbestos-containing products.

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. It is not limited to the time period in which Plaintiff was allegedly employed by Defendant. Further, Defendant has no knowledge of where Plaintiff was employed by Defendant.

REQUEST FOR PRODUCTION NO. 33: Provide a copy of any and all photographs or video recordings, sketches, drawings, or pictures in Defendant's custody or control or that of your attorney, or of any agent or representative of you or your attorney, whether made as part of the reports of experts or made by you, your attorney, or persons acting as your agents or representatives, and pertaining to any of Defendant's railroad(s), including, but not limited to locomotives, engine rooms, boiler rooms, railyards, roundhouses, shops and common areas, concerning any asbestos-containing products in those areas. Request is hereby made for one print of each photograph or video recording produced in response to this request.

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. It is not limited to the time period in which Plaintiff was allegedly employed by Defendant nor limited to the job sites and/or facilities on which Plaintiff was allegedly employed by Defendant. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine.

REQUEST FOR PRODUCTION NO. 34: Produce a copy of any reports prepared by any person you plan to call as an expert witness at the time of trial which pertain to the incident made the basis of this suit, specifically including all factual observations and opinions of consulting experts, if such consulting expert's opinion forms the basis of any opinions, theories, or conclusions reached by any testifying experts, and any accompanying photographs, drawings, charts, models, video recordings or other visual aids to such reports. If any expert has not prepared a written report, or if the information mentioned above has not been compiled into report form, then request is hereby made that each expert make a written report containing all said information and that each report be produced for inspection and copying.

RESPONSE: Defendant will forward any reports prepared by any persons that Defendant plans to use an expert witness when, and if, said reports are prepared.

REQUEST FOR PRODUCTION NO. 35: Any and all documents prepared by, delivered to, or in the possession of any person you plan to call as an expert witness at the time of the trial, or who won't be called as a witness but

whose work product forms a basis in whole or in part of an expert who will be called to testify, which related to any fact or matter that is the subject of or related to the subject of this suit.

RESPONSE: There are no documents at this time responsive to this request.

REQUEST FOR PRODUCTION NO. 36: All witness statements or other documents generated or obtained in any investigations into the asbestos exposure made the basis of this lawsuit whether signed or unsigned. If you contend any such document is privileged, please identify specifically each document withheld, along with the specific privilege asserted.

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine.

REQUEST FOR PRODUCTION NO. 37: Any models, visual aids, experiments, documents or other writings or any items of demonstrative evidence prepared or preserved by you, your attorney, your experts, or any other person acting on your behalf that will or may be used in the trial of this lawsuit.

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine.

REQUEST FOR PRODUCTION NO. 38: Please provide curriculum vitae for all expert witnesses that Defendant intends to consult or call as witnesses at the trial of this case.

RESPONSE: Objection. This request is vague, ambiguous, and beyond the scope of discovery. Subject to and without waiver of the foregoing, Defendant will produce the curriculum vitae of testify experts under separate cover.

REQUEST FOR PRODUCTION NO. 39: Copies of all depositions of any person previously employed by you specifically including, but not limited to Defendant or Defendant's employees, representatives, or agents, taken in connection with any alleged asbestos exposure at Defendant's railroad(s).

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 40: Provide a copy of each and every document (including all reports, memos, photographs, statements and any material collected or acquired of any investigation, and all correspondence between Defendant and Defendant's insurer, and any notes or any other documents regarding testing, examinations, inspections, or opinions related in any way to asbestos or any other communication from any individual or entity to Defendant, Defendant's insurer or any agent or representative of Defendant or Defendant's insurer concerning this incident or any injuries or disabilities allegedly resulting therefrom) in Defendant's possession or control, or that of Defendant's insurer, health insurer, disability insurer, liability insurer, or other insurer, relating to Defendant's claim or the investigation of this incident by Defendant, Defendant's insurer, or any individual or entity engaged for such a purpose.

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine.

REQUEST FOR PRODUCTION NO. 41: Provide a copy of all accident, injury or illness reports concerning the Plaintiff prepared by and/or for Plaintiff's employer(s) and/or agents in the general course of business.

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible

evidence. Subject to and without waiver of the foregoing objections, see Response to Request No. 8, Bates Nos. SE 0000010 - SE 000002.

REQUEST FOR PRODUCTION NO. 42: Provide copies of any and all safety standards, regulations, rules or codes pertaining in any way to asbestos or inhalation of toxic fumes or substances, whether promulgated by government or private industry, or Plaintiff's employer from 1930 to the present.

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period during which Plaintiff was allegedly employed by Defendant.

REQUEST FOR PRODUCTION NO. 43: Provide a copy of any and all contracts and/or agreements of any kind (if oral, reduce the agreement to writing) made by Defendant to supply masks and/or other safety equipment to the Plaintiff or any other employees or railroad workers.

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period in which Plaintiff was allegedly employed by Defendant nor limited to the job sites and/or facilities on which Plaintiff was allegedly employed by Defendant.

REQUEST FOR PRODUCTION NO. 44: Provide copies of any and all documentation evidencing Defendant's compliance with the Boiler Inspection Act, formerly U.S.C. §20701, during the last thirty-five (35) years.

RESPONSE: Objection. This Request is overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, it is not limited to the time period during which Plaintiff was allegedly employed by Defendant. Moreover, this Request requires Defendant to make a legal conclusion in order to respond to it. Finally, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine.

REQUEST FOR PRODUCTION NO. 45: Provide copies of any and all documentation which in any way relates to the transport by Defendant's railroad(s) of asbestos-containing products.

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine.

REQUEST FOR PRODUCTION NO. 46: Provide a copy of all documents, reports and other materials identified in Answer to Interrogatory No. 12.

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine. Subject to and without waiver of the foregoing, if experts prepare reports, Defendant will produce same.

REQUEST FOR PRODUCTION NO. 47: Please produce any and all x-rays, MRIs, CT-scans, videotapes, or other electronically or technologically created representations, depictions, picturizations, imaging or imagery collected by Defendant in the course of discovery.

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Moreover, this Request seeks documents, if any exist, which are protected by the attorney-client privilege and the work product doctrine.

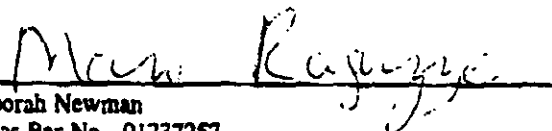
REQUEST FOR PRODUCTION NO. 48: Provide copies of any and all documentation relating to a National Claims Registry and/or any other entity, group, organization or membership which catalogued, reported upon or collected information relating to claims of work related injuries by railroad workers.

RESPONSE: Objection. This Request is vague, ambiguous, overly broad, unduly burdensome and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence. Further, this Request seeks documents which may be obtained by Plaintiff. Defendant does not have a superior right to the requested documents.

Respectfully submitted,

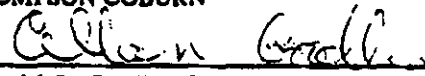
PHELPS DUNBAR

By


Deborah Newman
Texas Bar No. 01237257
Maria Ragazzo
Texas Bar No. 00783564
3040 Post Oak Boulevard
Suite 900
Houston, TX 77056
713-626-1386
FAX 713-626-1388

THOMPSON COBURN

By

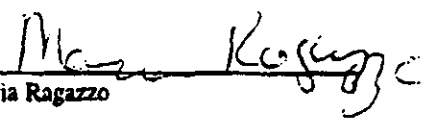

Allan McD. Goodloe, Jr.*
Missouri Bar No. 23983
One Mercantile Center
St. Louis, Missouri 63101
314-552-6000
FAX 314-552-7000

*Signed by Permission

Attorneys for Defendant
Union Pacific Railroad Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Defendant Union Pacific Railroad Company's Objections and Responses to Plaintiff's Request for Production has been sent via Federal Express and Facsimile to Kimberly A. Castles, Baron & Budd, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281 and via First Class Mail to all parties of record on attached service list, this 27 day of June, 1997.


Maria Ragazzo

RESPONSE TO REQUEST

NO. 8

RECEIVED TIME JUN. 27. 10:27AM

JUN-27-97 10:38 From: PHELPS DUNBAR

7136260656

T-584 P.43/43 Job-784

9-75-64

FORM 5514-A

Union Pacific Railroad Company

MEDICAL HISTORY

(Answer all questions in your own handwriting)

2. Social Security No.

427-20-1275

3. Date of birth

06-14-1913

4. Have you ever worked for

Union Pacific Railroad?

Yes (YES)

No ()

5. If yes, give occupation
Locomotive (Trane Opr.6. On what Division?
OK. - H.7. Years of Service
20

Have you ever had, or do you now have:		YES/NO	Have you ever had, or do you now have:		YES/NO
8. How many days were you absent from work in the past two years because of illness or injury?	Approx 1 1/2 yrs.		20. Swelling of Feet or Legs	+	
(Check yes or no after each question)			21. Any Kind of "Stroke"	+	
9. Tuberculosis or Pelio		YES/NO	22. Diabetes (or supposed to have)	+	
10. Operations			23. Blood, Albumin or Sugar in Urine	+	
11. Do you take any medicine regularly?			24. Kidney Trouble	+	
12. Has effort been made to cure you?			25. Stomach, Liver or Intestinal Trouble	+	
13. Rheumatic Fever			26. Gallbladder Trouble or Gallstones	+	
14. Coughing or Vomiting of Blood			27. Jaundice (Yellow skin or eyes)	+	
15. Heart Trouble			28. Piles or Hemorrhoids	+	
16. Shortness of Breath			29. Convulsions, Spasms, Fits or Collapse	+	
17. Pain or Pressure in Chest			30. Severe Headaches	+	
18. Palpitation or Fluttering Heart			31. Fainting or Dizzy Spells	+	
19. High or Low Blood Pressure			32. Any Numbness, Stiffness or Paralysis	+	
			33. Excessive Irritability or Depression	+	
			34. Poor Memory or Difficult Concentration	+	
			35. Excessive Use of Alcohol or Drugs	+	
			36. Stomach or Bowel or Urinary Trouble	+	
			37. Nervous Breakdown or Mental Illness	+	
			The Female Organs		

60. Do you have or have you had any other diseases, disorders, ailments, disability, injury or condition?

61. Has your application for employment with the UPRR Co. ever been disapproved? If yes, give date and place.

62. Have you, for medical reasons, ever been rejected or discharged from any industry for life insurance or military service?

63. Do you now, or have you ever received any pension or disability compensation from any insurance company, the government, any corporation or individual?

64. Has your mother, father, brothers, or sisters ever had (in answer "yes", give relationship)

Stroke, Heart Trouble or High Blood Pressure

Mental or Chronic Nervous Trouble

Epilepsy, Fits or Spasms

Chronic Skin Trouble

Diabetes

65. Do you have any physical, mental or emotional condition which, under such, as in the performance of duty, requires special and unusual attention and which, if not corrected and treated, might result in disability or otherwise incapacitate you or interfere with your safety and efficiency performing your work?

66. Have you consulted or been treated by Physicians, Clinicians, Healers, or other Practitioners within the last five years? If yes, give name and address of doctor, hospital, clinic, etc.

67. Do you use: Spectacles

Contact Lenses

Hearing Aid

Brace or Support

Artificial Appliance (except teeth)

68. Do you take medicine for high blood pressure, heart disease, diabetes or nervousness? Give condition and list medication.

69. Do you take any medicine regularly? Please list.

70. Do you suggest that you be assigned (Circle the applicable one of the following suggestions):

No work restrictions

Work restrictions. (List your suggestions on this page.)

I certify that I have reviewed the foregoing supplied by me and that it is true and complete to the best of my knowledge. I hereby authorize my doctor, hospital or clinic having knowledge of my medical condition to furnish my employer or prospective employer with a full and accurate report of my medical history findings and treatment.

Number of attached sheets

POOR QUALITY DOCUMENT

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RECEIVED TIME JUN. 27. 10:27AM

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NO. 96-62609

STEVE EVANS,
Plaintiffs,

IN THE DISTRICT COURTS OF

vs.

OWENS-CORNING FIBERGLAS
CORPORATION, ET AL
Defendants.

HARRIS COUNTY, TEXAS

334TH JUDICIAL DISTRICT

VERIFICATIONSTATE OF NEBRASKA)
COUNTY OF DOUGLAS)

Comes now A.L. Schroeder, Manager of Discovery for Union Pacific Railroad Company, being first duly sworn on her oath, and states that she is authorized on behalf of Union Pacific Railroad Company to make the foregoing Objections and Responses to Plaintiff's First Set of Interrogatories Directed to Defendant, and that while she does not have personal knowledge of all facts cited therein, the information has been collected and the answers made after a reasonable search of all available records and that she has read the foregoing Objections and Responses to Plaintiff's First Set of Interrogatories, and that the information contained therein is true and accurate based on her best knowledge, information and belief. Therefore, the foregoing responses are verified on behalf of Defendant Union Pacific Railroad Company.

A. L. Schroeder
A. L. Schroeder

Subscribed and sworn to before me this 30th day of June, 1997.

James H. Busenbark
Notary Public

My commission expires:



PDS:72188.1

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