

versus

Defendants.

TRAVIS COUNTY, TEXAS

53RD JUDICIAL DISTRICT



TO: Plaintiffs, by and through their counsel of record, Russell W. Budd, Baron & Budd, The Centrum, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219.

Comes now Westinghouse Electric Corporation ("Westinghouse"), by and through its attorneys of record, and files these Objections and Responses to Plaintiffs' Interrogatories Mailed to Defendant on or about April 21, 1993.

Westinghouse has a history of cooperation with plaintiffs' counsel, Baron & Budd, and has produced substantial discovery consisting of documents, witnesses and answers to interrogatories. The current interrogatories request verification of the authenticity of certain documents which presumably were previously produced by Westinghouse to Plaintiffs along with literally thousands of other documents. However, many of these documents were not prepared

by Westinghouse and Westinghouse cannot attest to their authenticity. Specifically, Westinghouse lacks the first hand knowledge necessary to determine whether each of these documents is genuine and authentic. Likewise, the origin of many documents cannot be confirmed as Westinghouse documents because Plaintiffs have supplied copies which do not carry a readable bates number. Furthermore, many of the documents themselves are illegible. Finally, many documents on their face appear to be Westinghouse documents but contain other information either typed or hand written which would not have been found on the original document. Again, without knowing the source of the document or at least the source of this extraneous information, Westinghouse cannot attest to the documents authenticity. In essence, Plaintiffs have failed to provide sufficient information for Westinghouse to provide accurate and meaningful responses.

Westinghouse's responses to these Interrogatories are made without in any way waiving: (1) the right to object, on the grounds of competency, relevancy, materiality, hearsay or any other proper grounds, to the use of any such information for any purpose, in whole or in part, in any subsequent stage or proceeding in this action or any other action; or (2) the right to object on any and all grounds, at any time, to any other discovery procedure relating to the subject matter of these Interrogatories.

Without waiving these objections and subject thereto Westinghouse further responds to the Interrogatories as follows:

INTERROGATORIES

INTERROGATORY NO. 1: For each document listed below, please answer whether such document is a true and correct duplicate of a genuine and authentic document:

ANSWER: See general objection. Subject to these objections, these documents appear to be copies of materials provided by Westinghouse to Plaintiffs in various cases.

INTERROGATORY NO. 2: For each document listed below, please answer whether such document was kept and/or generated in the regular course of a regularly conducted business activity of any Westinghouse Entity by an employee or representative of any Westinghouse Entity with knowledge of the act, event, condition or opinion recorded.

ANSWER: See general objection and response to Interrogatory No. 1. The attached documents appear to have been produced to Plaintiffs' counsel by Westinghouse. However, because hundreds of thousands of pages of documents have been made available to Plaintiffs from a large variety of sources within Westinghouse, Westinghouse is unable to determine whether the materials were maintained in the regular course of regularly conducted business activity. Therefore, Westinghouse cannot attest that these documents were "kept and/or generated in the regular course of a regularly conducted business activity of any Westinghouse entity by an employee or representative of any Westinghouse entity with knowledge of the act, event, condition or opinion recorded." The foregoing is also true with respect to any document produced by Westinghouse which was generated by some source outside the corporation. Subject to the foregoing objections and without waiving same see individual responses below.

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
a) WH-396	Memorandum dated March 22, 1976 from John F. Adams to R&D Center 501-2Y34, E. S. Bober; re: Asbestos Air Sampling.

ANSWER: Appears to be a document generated by Westinghouse.

b) WH-397	Memorandum dated April 5, 1976 from T. J. Sweeney to Building 401 Machining Services, W. Jackson, E. Kenyhercz, A. Butcher, C. Watson, J. Catterall.
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ANSWER: Appears to be a document generated by Westinghouse.

c) WH-399	Memorandum dated May 14, 1976 from J. Adams regarding <u>BEDFORD INCIDENT</u> , with attachments.
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ANSWER: Appears to be a document generated by Westinghouse.

d) WH-400	Memorandum dated May 17, 1976 from John F. Adams to R&D Center 501-2Y34, E. S. Bober; re: Asbestos Air Samples.
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ANSWER: Appears to be a document generated by Westinghouse.

- e) WH-401 Memorandum dated July 19, 1976 from J. F. Adams to Derry Plant, IMD, G. Shilling; re: Asbestos Air Samples.

ANSWER: Appears to be a document generated by Westinghouse.

- f) WH-402 Westinghouse Electric Corporation Document titled "Large Rotating Apparatus Division, ID 76-31, Asbestos in LRA Progress Report" by C. R. Ruffing, August 24, 1976.

ANSWER: Appears to be a document generated by Westinghouse.

- g) WH-403 Memorandum dated October 20, 1976 from G. T. Brady to William H. Ziefel, re: Industrial Hygiene - Legal Statement with attachment.

ANSWER: Appears to be a document generated by Westinghouse.

- h) WH-406 Article titled "The Town Dilemma" by Don Jordan, reprinted from the March 1977 issue of Environment.

ANSWER: Not a Westinghouse generated document.

- i) WH-414 Memorandum dated August 25, 1978 from Franklin H. Hawke to Edward F. Hanley, re: Subpoena of Records, Thomas F. Johnson with enclosed: Commonwealth of Pennsylvania, Department of Labor Workers' Compensation claim.

ANSWER: The memo dated August 25, 1978 appears to be a document generated by Westinghouse. However, the remainder of the document was not generated by Westinghouse.

- j) WH-416 Memorandum dated March 8, 1979 from C. G. Rausch to All PGSD Area and District Managers; re: Bearing Bracket Sealing (Tite Seal)

ANSWER: Appears to be a document generated by Westinghouse.

- k) WH-418 Memorandum dated November 28, 1978 from H. D. Ruppel to Research & Development Center, John F. Gormley, re: Comments and Restrictions for Asbestos Uses.

ANSWER: Appears to be a document generated by Westinghouse.

- l) WH-423 Memorandum dated July 25, 1980 from Paul Palmieri and Harry B. Burr to Personnel Relations Managers, Personnel Relations Representatives, Industrial Hygiene and Safety Coordinators, Medical Departments, re: OSHA Access to Employee Exposure and Medical Records Rule - 1910.20 with attachment.

ANSWER: Appears to be a document generated by Westinghouse.

- m) WH-424 Westinghouse Electric Corporation letter dated November 21, 1980 from James E. Ford to Executive Secretary, Occupational Safety & Health Review Commission; re: Secretary of Labor v. Westinghouse, OSHRC Docket No. 806779, with enclosure: Answer to Complaint, Marshall v. Westinghouse, USA Occupational Safety and Health Review Commission, November 21, 1980.

ANSWER: Appears to be a document generated by Westinghouse.

- n) WH-425 Citation and Notification of Penalty dated September 26, 1980, to M. P. Whittington, Westinghouse Electric Corporation, Lester, PA. and attached Westinghouse Corporation letter dated October 13, 1980 from James E. Ford to Walter E. Wilson, OSHA Area Director.

ANSWER: The letter dated October 13, 1980 appears to be a Westinghouse generated document. However, the remainder of the document was not generated by Westinghouse.

- o) WH-433 Handwritten cover note from L. G. Rudolph to Wayne Bickerstaff transmitting Westinghouse letter dated May 25, 1984 from L. G. Rudolph to J. H. Askins, Att: Mary Doscci, re: Barbara Boysen v. Westinghouse.

ANSWER: Appears to be a document generated by Westinghouse.

- p) WH-440 Document dated April 16, 1985, titled "Library, Industrial Hygiene Department".

ANSWER: Appears to be a document generated by Westinghouse.

- q) WH-458 Letter dated September 3, 1987 from Michael J. Hodgson to Joel Persky regarding Charles Krieger.

ANSWER: Not a Westinghouse generated document.

- r) WH-462 Memorandum dated November 5, 1987 from C. W. Bickerstaff to E. P. Massaro regarding October Activities Report.

ANSWER: Appears to be a document generated by Westinghouse.

- s) WH-463 Undated report signed by Jeffrey J. Bair and C. W. Bickerstaff.

ANSWER: Appears to be a document generated by Westinghouse.

- t) WH-464 Memorandum dated November 19, 1987 from Jeffrey J. Bair to Wayne Bickerstaff regarding Review of Documents at Industrial Hygiene.

ANSWER: Appears to be a document generated by Westinghouse.

- u) WH-465 Memorandum dated December 29, 1987 from C. W. Bickerstaff to S. R. Pitts regarding Proposed 1988 Objectives.

ANSWER: Appears to be a document generated by Westinghouse.

- v) WH-466 Report entitled "Proposed 1988 I.X. Objectives," dated January 8, 1988.

ANSWER: Appears to be a document generated by Westinghouse.

- w) WH-467 Memorandum dated January 29, 1988 from C. W. Bickerstaff to J. W. Fisch regarding document retention.

ANSWER: Appears to be a document generated by Westinghouse.

- x) WH-478 Letter dated May 6, 1988 from Craig D. Lowry to Westinghouse Corporation regarding non-formal complaint #5-0055.

ANSWER: Not a Westinghouse generated document.

- y) WH-485 Letter dated April 6, 1989 from Richard M. Dayoub to Mr. Smelstoys.

ANSWER: Not a Westinghouse generated document.

- z) WH-489 Memorandum dated August 10, 1989 from Mark Perriello to Ron Lawrence regarding asbestos records stored at STC.

ANSWER: Appears to be a document generated by Westinghouse.

- aa) WH-490 Memorandum dated October 12, 1989 from C. Wayne Bickerstaff to industrial hygiene & safety officers, et al regarding EPA Bans Asbestos products.

ANSWER: The memo dated October 12, 1989 appears to be a Westinghouse generated document. However, the remainder of the document was not generated by Westinghouse.

- bb) WH-491 Citation dated November 16, 1989 from Peter M. Clark to Lloyd West with attached report.

ANSWER: Not a Westinghouse generated document.

- cc) WH-493 Letter dated October 11, 1991 from Roger E. Wills to the Honorable Edwin G. Salyers regarding Martin v. Westinghouse Electric Corporation Docket No. 91-1874 with attachment.

ANSWER: Appears to be a document generated by Westinghouse.

- dd) WH-494 Letter dated December 13, 1991 from Newmyer Associates to Westinghouse Electric Corporation regarding job safety enforcement - report of interest group with attached survey.

ANSWER: Not a Westinghouse generated document.

ee) WH-495 Facsimile cover sheet from Jerry Brady to Roger Wills regarding enclosed letter dated July 28, 1992 from Cois M. Brown to Westinghouse.

ANSWER: The facsimile cover sheet appears to be a Westinghouse generated document. However, the remainder of the document was not generated by Westinghouse.

ff) WH-499 Bulletin entitled "Standards of Conduct - II. Health and Safety in the Workplace."

ANSWER: Appears to be a document generated by Westinghouse.

gg) WH-500 George D. Clayton & Association, Inc., letter (DRAFT) from George D. Clayton to Paul Tuttle.

ANSWER: Not a Westinghouse generated document.

hh) WH-501 Safe Practice Data Sheet A-20 entitled "Asbestos" dated 1/2/53.

ANSWER: Appears to be a document generated by Westinghouse.

ii) WH-504 Letter dated September 4, 1963 from A. C. Richardson, Marketing Manager, to H. W. Speicher regarding Sprayed "Limpet" Asbestos, with enclosure.

ANSWER: Not a Westinghouse generated document.

jj) WH-507 Memorandum dated March 6, 1970 from Zella R. Rees to J. Welshones.

ANSWER: Appears to be a document generated by Westinghouse.

kk) WH-574 Westinghouse memorandum dated February 7, 1973 from E. J. Hlavaty, to W. G. Craig; re: Use of Asbestos Cloth, Paper and Tape in Soldering Operations.

ANSWER: Appears to be a document generated by Westinghouse.

INTERROGATORY NO. 3: For each document listed below, please answer whether such document was found in your files in such a condition as to create no suspicion concerning its authenticity.

ANSWER: See general objections and response to Interrogatory Nos. 1 and 2 above. Except as noted below, each of these documents appears in the condition as found in Westinghouse files.

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
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| b) WH-397 | Memorandum dated April 5, 1976 from T. J. Sweeney to Building 401 Machining Services, W. Jackson, E. Kenyhercz, A. Butcher, C. Watson, J. Catterall. |
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ANSWER: This document contains unidentified extraneous information.

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| f) WH-402 | Westinghouse Electric Corporation Document titled "Large Rotating Apparatus Division, ID 76-31, Asbestos in LRA Progress Report" by C. R. Ruffing, August 24, 1976. |
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ANSWER: This document contains unidentified extraneous information.

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| g) WH-403 | Memorandum dated October 20, 1976 from G. T. Brady to William H. Ziefel, re: Industrial Hygiene - Legal Statement with attachment. |
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ANSWER: This document contains unidentified extraneous information. Furthermore, it is unknown whether this document is complete or whether additional portions should be attached hereto.

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| h) WH-406 | Article titled "The Town Dilemma" by Don Jordan, reprinted from the March 1977 issue of <u>Environment</u> . |
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ANSWER: Not only was this document not generated by Westinghouse but also it is illegible and incomprehensible. Accordingly, Westinghouse can provide no information regarding its authenticity.

- i) WH-414 Memorandum dated August 25, 1978 from Franklin H. Hawke to Edward F. Hanley, re: Subpoena of Records, Thomas F. Johnson with enclosed: Commonwealth of Pennsylvania, Department of Labor Workers' Compensation claim.

ANSWER: The memo dated August 25, 1978 contains unidentified extraneous information. Furthermore, the remaining documents are illegible and it is unknown whether these remaining documents regarding this unsubstantiated claim are a complete set of those documents filed. Finally, this document was not generated by Westinghouse and therefore Westinghouse can provide no information regarding its authenticity.

- j) WH-416 Memorandum dated March 8, 1979 from C. G. Rausch to All PGSD Area and District Managers; re: Bearing Bracket Sealing (Tite Seal).

ANSWER: This document contains unidentified extraneous information.

- k) WH-418 Memorandum dated November 28, 1978 from H. D. Ruppel to Research & Development Center, John F. Gormley, re: Comments on Restrictions for Asbestos Uses.

ANSWER: This document contains unidentified extraneous information.

- n) WH-425 Citation and Notification of Penalty dated September 26, 1980, to M. P. Whittington, Westinghouse Electric Corporation, Lester, PA. and attached Westinghouse Corporation letter dated October 13, 1980 from James E. Ford to Walter E. Wilson, OSHA Area Director.

ANSWER: Because this citation and unsubstantiated claim is not a Westinghouse generated document, Westinghouse is unsure as to whether this document has been provided in its entirety. Furthermore, as a non-Westinghouse generated document Westinghouse can provide no information regarding its authenticity. However, the letter dated October 13, 1980 appears to be a copy of a Westinghouse generated document.

- o) WH-433 Handwritten cover note from L. G. Rudolph to Wayne Bickerstaff transmitting Westinghouse letter dated May 25, 1984 from L. G. Rudolph to J. H. Askins, Att: Mary Doscci, re: Barbara Boysen v. Westinghouse.

ANSWER: This document contains unidentified extraneous information.

- q) WH-458 Letter dated September 3, 1987 from Michael J. Hodgson to Joel Persky regarding Charles Krieger.
- ANSWER: Not only does this document contain unidentified extraneous information, but also the document was not prepared by Westinghouse and Westinghouse can provide no information regarding its authenticity.
- s) WH-463 Undated report signed by Jeffrey J. Bair and C. W. Bickerstaff.
- ANSWER: This document contains unidentified extraneous information.
- x) WH-478 Letter dated May 6, 1988 from Craig D. Lowry to Westinghouse Corporation regarding non-formal complaint #5-0055.
- ANSWER: Not only does this document contain unidentified extraneous information, but also this document was not prepared by Westinghouse and Westinghouse can provide no information regarding its authenticity. Furthermore, Westinghouse is uncertain as to whether the document and the attachments thereto is complete or whether there is any basis for this unsubstantiated claim.
- y) WH-485 Letter dated April 6, 1989 from Richard M. Dayoub to Mr. Smelstoys.
- ANSWER: Not only does this document contain unidentified extraneous information, but also this document was not prepared by Westinghouse and Westinghouse can provide no information regarding its authenticity. Furthermore, Westinghouse has no information to verify the basis of this unsubstantiated claim or whether this document is complete.
- aa) WH-490 Memorandum dated October 12, 1989 from C. Wayne Bickerstaff to industrial hygiene & safety officers, et al regarding EPA Bans Asbestos Products.
- ANSWER: Because the information from the EPA is not a Westinghouse document, Westinghouse can provide no information regarding its authenticity. However, the memo dated October 12, 1989 appears to be a Westinghouse document.

- bb) WH-491 Citation dated November 16, 1989 from Peter M. Clark to Lloyd West with attached report.
- ANSWER: Because this unsubstantiated claim is not a Westinghouse generated document, Westinghouse is uncertain as to whether this document is complete or if additional attachments exist. Furthermore, since Westinghouse did not generate this document it can provide no information regarding its authenticity.
- dd) WH-494 Letter dated December 13, 1991 from Newmyer Associates to Westinghouse Electric Corporation regarding job safety enforcement - report of interest group with attached survey.
- ANSWER: Not only does this document contain unidentified extraneous information, but also this document was not prepared by Westinghouse and Westinghouse can provide no information regarding its authenticity.
- ee) WH-495 Facsimile cover sheet from Jerry Brady to Roger Wills regarding enclosed letter dated July 28, 1992 from Cois M. Brown to Westinghouse.
- ANSWER: Not only does this document contain extraneous information, but also the letter dated July 28, 1992 was not prepared by Westinghouse as Westinghouse can provide no information regarding its authenticity.
- ff) WH-499 Bulletin entitled "Standards of Conduct - II. Health and Safety in the Workplace."
- ANSWER: This document contains unidentified extraneous information.
- gg) WH-500 George D. Clayton & Association, Inc., letter (DRAFT) from George D. Clayton to Paul Tuttle.
- ANSWER: Not only does this document contain unidentified extraneous information, but also this document was not prepared by Westinghouse and Westinghouse can provide no information regarding its authenticity.
- ii) WH-504 Letter dated September 4, 1963 from A. C. Richardson, Marketing Manager, to H. W. Speicher regarding Sprayed "Limpet" Asbestos, with enclosure.

ANSWER: Not only does this document contain unidentified extraneous information, but also this document was not prepared by Westinghouse and Westinghouse and Westinghouse can provide no information regarding its authenticity.

kk) WH-574 Westinghouse memorandum dated February 7, 1973 from E. J. Hlavaty, to W. G. Craig; re: Use of Asbestos Cloth, Paper and Tape in Soldering Operations.

ANSWER: This document contains unidentified extraneous information.

INTERROGATORY NO. 4: Has Westinghouse stipulated or agreed to the authenticity of any of the documents referenced in Interrogatory No. 1 with any person prior to the date of these Interrogatories?

ANSWER: Westinghouse is not aware of any stipulation to the authenticity of any of the documents referred to in Interrogatory No. 1 except to the extent Westinghouse may have stated that the documents were provided by Westinghouse via document production in various cases.

Respectfully submitted,

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By: Mark A Hendrix / BmR
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ATTORNEYS FOR WESTINGHOUSE
ELECTRIC CORPORATION

STATE OF _____ §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared DANIEL VICKOVIC, Assistant Secretary of Westinghouse Electric Corporation, who being by me duly sworn, upon his oath deposes and says that he is duly authorized as an agent by and on behalf of Westinghouse Electric Corporation to make this Verification, that he has read Defendant's Answers to Plaintiffs' Master Interrogatories and Requests for Production, and that the facts stated therein are within his personal knowledge and are true and correct.

DANIEL VICKOVIC, Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this the _____ day of _____, 1993.

Notary Public in and for
the State of _____

My Commission Expires:

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Westinghouse Electric Corporation's Objections and Responses to Plaintiffs' Interrogatories mailed to Defendant on or about April 21, 1993 have been forwarded to counsel for Plaintiffs via certified mail, return receipt requested, and to all other known counsel of record via U.S. Mail, regular delivery, on this the 24 day of May, 1993.

Mark A. Hendrix / PMK
Mark A. Hendrix
ATTORNEYS FOR DEFENDANT

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VIAL, HAMILTON, KOCH & KNOX
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
ATTORNEYS AND COUNSELORS

RECEIVED

BARON & BUSH

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May 28, 1993

Mr. John Dickson
District Clerk
Courthouse
1000 Guadalupe Street
P.O. Box 1748
Austin, Texas 78767

*Angela - did you
find any answers? The
you w/ them.*

RE: *John A. Loper, Sr., et al. v. Fibreboard Corporation, et al.*; Cause No. 92-02693 in the
53rd Judicial District Court of Travis County, Texas

Charles Norman White, et al. v. Fibreboard Corporation, et al.; Cause No. 92-10123
in the 353rd Judicial District Court of Travis County, Texas

Dear Mr. Dickson:

Please find enclosed verifications to be attached to Westinghouse Electric Corporation's Responses to Plaintiff's Interrogatories Mailed to Defendant On Or About April 21, 1993, which were previously filed with the Court on or about May 24, 1993. After you have placed your file mark on the enclosed copies of the verifications, please return same to me via the enclosed self-addressed, stamped envelope.

I appreciate your courtesy and cooperation and remain

Very truly yours,

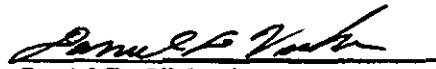
Cathy Hendrickson
Cathy Hendrickson

CH/lft
Enclosures

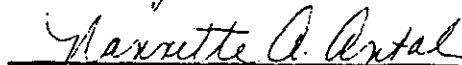
cc: All counsel of record via certified mail/rrr ✓

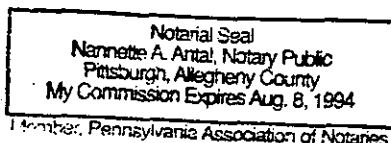
COMMONWEALTH OF PENNSYLVANIA)
) SS:
 COUNTY OF ALLEGHENY)

Before me, the undersigned authority, a Notary Public in and for said Commonwealth and County, personally appeared Daniel D. Vickovic, who, being duly sworn, deposes and says that he is ASSISTANT SECRETARY OF WESTINGHOUSE ELECTRIC CORPORATION, and that he signs the foregoing DEFENDANT WESTINGHOUSE ELECTRIC CORPORATION'S OBJECTIONS AND RESPONSES TO PLAINTIFF'S INTERROGATORIES MAILED TO DEFENDANT ON OR ABOUT APRIL 21, 1993, on behalf of that defendant and is duly authorized so to do; that the matters stated in the foregoing document are not necessarily within the personal knowledge of deponent and that deponent is informed that there is no officer of WESTINGHOUSE ELECTRIC CORPORATION who has personal knowledge of all such matters; and that the facts stated in the foregoing document have been assembled by authorized employees and counsel of defendant and deponent is informed by those authorized employees that the facts stated in the foregoing document are true and correct.


 Daniel D. Vickovic
 Assistant Secretary

SWORN TO and subscribed
 before me on this 25th day
 of May, 1993.


 Notary Public



**WESTINGHOUSE ELECTRIC CORPORATION'S OBJECTIONS
 AND RESPONSES TO PLAINTIFFS' INTERROGATORIES
 MAILED TO DEFENDANT ON OR ABOUT APRIL 21, 1993 - Page 15**