

NO. 0103419C

L. W. BROKENBERRY, ET AL.	§	IN THE DISTRICT COURT OF
	§	
V.	§	DALLAS COUNTY, TEXAS
	§	
U.S. GYPSUM COMPANY, ET AL.	§	68 TH JUDICIAL DISTRICT

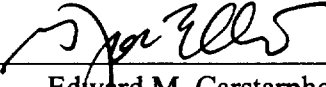
**DEFENDANT PHARMACIA CORPORATION'S, FORMERLY KNOWN AS
MONSANTO COMPANY, OBJECTIONS AND RESPONSES TO PLAINTIFF
THEO GORDON SMITH'S FIRST SET OF INTERROGATORIES,
REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION**

TO: Plaintiffs, by and through their attorneys of record, Elizabeth Schick, Lou Thompson, Stephanie Finch and Monty Sullivan, Baron & Budd, P.C., The Centrum, Suite 1100, 3102 Oak Lawn Avenue, Dallas, Texas 75219.

Pursuant to the Texas Rules of Civil Procedure, attached are Defendant Pharmacia Corporation's, formerly known as Monsanto Company, objections and responses to Plaintiff Theo Gordon Smith's First Set of Interrogatories, Requests for Production and Requests for Admission Propounded on Premises Defendant Monsanto Company (f/k/a Monsanto Chemical Company).

Respectfully submitted,

ELLIS, CARSTARPHEN, DOUGHERTY &
GOLDENTHAL P.C.

By: 

Edward M. Carstarphen
State Bar No. 03906700
G. Joe Ellis
State Bar No. 06575050
Douglas B. Dougherty
State Bar No. 06031560
720 N. Post Oak, Suite 330
Houston, Texas 77024
(713) 547-6800
(713) 647-6884 (fax)

ATTORNEYS FOR DEFENDANT
PHARMACIA CORPORATION, FORMERLY
KNOWN AS MONSANTO COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of July, 2001, a copy of the foregoing was sent by United States certified mail/return receipt requested and/or regular United States mail to all known counsel of record, as follows.

Elizabeth Schick
Lou Thompson
Stephanie Finch
Monty Sullivan
Baron & Budd, P.C.
3102 Oak Lawn Avenue, Suite 1100
Dallas, Texas 75219

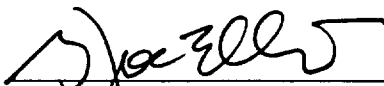

G. Joe Ellis

Exhibit "1"

I.

OBJECTIONS TO PLAINTIFF'S INSTRUCTIONS AND DEFINITIONS, AND GENERAL OBJECTIONS TO PLAINTIFF'S DISCOVERY REQUESTS

1. Defendant objects to Instruction No. 1 seeking to require a particular manner of production of responsive documents on the grounds that it incorrectly states what is required by the Texas Rules of Civil Procedure and improperly seeks to impose an obligation beyond, or more restrictive than that allowed under those rules. Defendant will comply with the Texas Rules of Civil Procedure in responding.

2. Defendant objects to Definition No. 1, attempting to define "Defendant", "you", "your" and "your company" to include legally separate and distinct corporate entities who are not parties to this case on the grounds that such is overly broad, unduly burdensome, harassing, not relevant and not reasonably calculated to lead to the discovery of admissible evidence, and goes beyond the scope of discovery under the Texas Rules of Civil Procedure.

3. Defendant objects to Definition No. 2, attempting to define "document", etc. to include matters outside the scope of discovery under the Texas Rules of Civil Procedure, specifically attempting to require production of materials that are not within the Defendant's possession, custody or control, on the grounds that such is beyond the scope of discovery and the Texas Rules of Civil Procedure, overly broad, unduly burdensome, harassing, and not reasonably calculated to lead to the discovery of admissible evidence.

4. Defendant objects to Definition No. 16 attempting to define the term "identify" with regard to a document to the extent such definition seeks to limit Defendant's right to identify a document by simply producing it, on the grounds that such seeks to impose obligations beyond the scope of discovery, amounts to multiple interrogatories and subparts, is unduly burdensome and harassing.

5. Defendant objects to Plaintiff's Interrogatories, specifically enumerated interrogatories nos. 1 through 20, including all subparts, in their entirety on the grounds that the number of interrogatories, counting discrete subparts, exceeds the allowable number under Rule 190.3(b)(3), Texas Rules of Civil Procedure.

II.

GENERAL RESPONSE TO PLAINTIFF'S DISCOVERY REQUESTS REGARDING PRODUCTION OF DOCUMENTS

In response to Plaintiff's requests for documents and Plaintiff's interrogatories in response to which

Defendant has referred to documents which may contain responsive information, subject to and without waiving the objections states herein, Defendant further responds that documents responsive to Plaintiff's requests were previously copied and provided to Plaintiff's counsel at their request in a prior separate action. Still subject to and without waiving Defendant's objections, additional documents which may be responsive to some of Plaintiff's Discovery requests are available for inspection and will be made available at the offices of Defendant's counsel at a mutually agreeable time upon reasonable request. Furthermore, subject to and without waiving Defendant's objections, as further documents that may be responsive to Plaintiff's Discovery are obtained, if any, such will likewise be made available for inspection.

III.

ASSERTION OF PRIVILEGED DOCUMENTS

Pursuant to Tex. R. Civ. P. 193.3, you are hereby advised that material or information which may be responsive is privileged, and has been withheld from this response on that basis. The privileged materials and information covered by this Assertion of Privileged Documents relate to each and every request for production in this litigation.

The material and information withheld pursuant to this Assertion of Privileged Documents includes:

(a) confidential communications made for the purpose of facilitating the rendition of professional legal services for the client between the client or a representative of the client and the client's lawyers or representatives of the lawyers;

(b) confidential communications made for the purpose of facilitating the rendition of professional legal services for the client between the client's lawyers or lawyers' representatives;

(c) confidential communications made for the purpose of facilitating the rendition of professional legal services for the client by the client or a representative of the client, or the client's lawyers or the lawyers' representatives, to a lawyer or a representative of a lawyer representing another party in an action that was pending at that time, and concerning a matter of common interest therein;

(d) confidential communications made for the purpose of facilitating the rendition of professional legal services for the client between representatives of the client or between the client and a representative of the client;

(e) confidential communications made for the purpose of facilitating the rendition of professional legal services for the client among lawyers and their representatives representing the same client;

(f) returns or reports required by law to be made;

(g) trade secrets owned by the client or other information of a confidential and/or proprietary nature or which otherwise may be the proper subject of a request for confidentiality and/or protective order;

(h) privileged communications to or from lawyers or lawyers' representatives which were created or made from the point at which the client consulted a lawyer in the defense of claims that one or more individuals were injured as the result of exposure to asbestos fibers on a premises owned by Monsanto, other than in this particular lawsuit, and which communications concern litigation and claims other than the claims in this particular lawsuit;

(i) privileged documents of lawyers or lawyers' representatives which were created or made from the point at which the client consulted a lawyer in the defense of claims that one or more individuals were injured as the result of exposure to asbestos fibers on a premises owned by Monsanto, other than in this particular lawsuit, and which documents concern litigation and claims other than the claims in this particular lawsuit;

(j) material prepared, or mental impressions developed, in anticipation of litigation, including other litigation as described above, or for trial (including other trials besides this case) by or for the client or the client's representatives, including the client's attorneys, consultants, sureties, indemnitors, insurers, employees, or agents;

(k) communications made in anticipation of litigation, including other litigation as described above, or for trial (including other trials besides this case) between a client and the client's representatives, or among the client's representatives, including the client's attorneys, consultants, sureties, indemnitors, insurers, employees, or agents;

(l) work products of an attorney or an attorney's representatives that contain the attorney's or the attorney's representative's mental impressions, opinions, conclusions or legal theories in this lawsuit, and in other lawsuits, both pending and resolved, in which it has been alleged that one or more individuals were injured as the result of exposure to asbestos fibers on a premises owned by Monsanto.

For a description of the material and information withheld pursuant to this Assertion of Privileged Documents, a list of privileged documents is available upon appropriate request from Defendants' counsel of record.

Finally, depending on the resolution of the General and Specific Objections made in this response, additional documents may also be withheld from discovery based upon this Assertion of Privileged Documents. In such event, Defendant will supplement the list of privileged documents.

IV.

**DEFENDANT PHARMACIA CORPORATION'S,
FORMERLY KNOWN AS MONSANTO COMPANY, OBJECTIONS
AND RESPONSES TO PLAINTIFF'S INTERROGATORIES**

INTERROGATORY NO. 1:

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

ANSWER:

Responses to these interrogatories are based upon Defendant's corporate knowledge. As such, information responsive to some or all of these interrogatories has been accumulated over a period of time and specific sources of particular information cannot be determined. These responses were prepared based upon available information by both outside legal counsel and in-house legal staff

INTERROGATORY NO. 2:

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

- a. asbestosis
2. lung cancer
3. mesothelioma

ANSWER:

Defendant objects on the grounds that this interrogatory is vague and overly broad. Subject to and without waiving its objection, Defendant responds as follows: Defendant states that Monsanto has always diligently attempted to keep abreast of the published medical literature pertaining to asbestos-related diseases. This type of information, and knowledge thereof, develops gradually over time and is constantly evolving. Additionally, it is difficult, if not impossible, for any corporate entity to pinpoint when it "became aware" of any particular issue, and Defendant is presently unable to state when Monsanto first became aware of any suspected link between asbestos exposure and any physical ailments. Moreover, Defendant, cannot agree with the premise that there is a causal connection between asbestos exposure and physical ailments without first knowing the details regarding the specific ailment involved, the nature, duration and

intensity of any alleged exposure, as well as the medical and work history of any specific individual in whom a causal connection between asbestos exposure and such ailments is alleged. More detailed information concerning when and by what means Monsanto may have become aware of asbestos-related diseases is not within the personal knowledge of current employees of Defendants, but some of this information may be obtained from a review of the documents which will be produced.

INTERROGATORY NO. 3:

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

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

ANSWER:

Defendant objects to this request on the grounds and to the extent it is overly broad, overreaching, onerous, oppressive, harassing, seeks information that is not relevant to this claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, is not reasonably limited in scope to any relevant time frame, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W.2d 145 (Tex. 1989), *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W.2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S.W.2d 429 (Tex. 1996). Defendant further objects to this request on the grounds that it is vague and non-specific in that the particular organizations inquired about cannot reasonably be identified. Subject to and without waiving the foregoing, Defendant states that at this time it has no knowledge of membership in any such organization. Defendant further states that Monsanto has had a policy of paying for association memberships for its professional employees. Gathering information on these individual memberships,

committee memberships and specific meetings attended over the last 50+ years is impossible. However, Defendant has found that individuals within Monsanto's organization maintained the following memberships, but is not stating that the following organizations and/or associations actually published or disseminated documents or information relating to asbestos:

- Industrial Hygiene Foundation, member 1937-1954
- American Chemistry Council (formerly Chemical Manufacturer's Association and Manufacturing Chemists Association), member since 1910
- American Petroleum Institute, member 1955-1986
- Texas Chemical Council, member (dates unknown)
- National Safety Council, member (dates unknown)
- Industrial Medical Association, member (dates unknown)
- National Safety Council, member since 1916
- American Industrial Hygiene Association, member since 1957
- American Congress of Governmental and Industrial Hygienists, member (dates unknown)
- Gulf Coast Section of American Industrial Hygiene Association, member (dates unknown)
- Texas Safety Association, member (dates unknown)
- Texas Public Health Association, member (dates unknown)
- American Academy of Occupational Medicine, member (dates unknown)
- American Academy of Occupational Hygiene, member (dates unknown)
- Texas Chemical Council, member (dates unknown)
- American Medical Association, member (dates unknown)

INTERROGATORY NO. 4:

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

ANSWER:

Defendant objects to his interrogatory on the grounds that it is vague, overly broad, unduly burdensome and harassing, and is not reasonably calculated to lead to the discovery of admissible evidence, and is not reasonably limited in scope as to any relevant time frame. Subject to and without waiving the foregoing objections, Defendant states that gathering information on individual conferences attended by

employees over the last 50+ years is impossible; however, information responsive to this request may be contained within the documents which have been or will be produced and the burden of ascertaining such is substantially the same for Plaintiff as it is for Defendant.

INTERROGATORY NO. 5:

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

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

ANSWER:

Defendant objects on the grounds and to the extent that this interrogatory is overly broad, unduly burdensome, over-reaching, seeks information that is not relevant or material to the parties or issues in this case, and is not reasonably calculated to lead to the discovery of admissible evidence because it is not reasonably limited in time, is not limited to the asbestos-containing products used in units or areas where Plaintiff allegedly worked, and is not limited to the specific types of products or materials with which or around which Plaintiff allegedly worked and/or to which Plaintiff was allegedly exposed.

Subject to and without waiving the foregoing objections, Defendant states that, based upon the information available to it at this time, asbestos was present in a number of materials used in and around its Texas facilities, including gaskets, packing, floor tiles, transit board, roofing materials, siding, and pipe and vessel insulation. Inasmuch as insulation containing asbestos was the only available insulating material for use in certain applications at industrial plants such as Defendant's Texas facilities prior to the 1970's, Defendant generally used asbestos-containing insulation products in units where pipes and vessels required such insulation materials. Defendant believes that asbestos-containing insulation materials may have been used or installed at Defendant's Texas facilities up until 1972, at which time Defendant ceased purchasing such asbestos-containing insulation products. Asbestos containing gaskets may have been used after 1972 while Defendant attempted to secure an acceptable substitute. More detailed information concerning the dates when and locations where asbestos-containing products were used or installed in Defendant's Texas facilities is not known at the present time and this Defendant will supplement this response in accordance with the Texas Rules of Civil Procedure if other responsive information becomes available. However, some of this information may be derived or ascertained from an examination of the documents of this Defendant, which have been or will be made available to Plaintiffs in this case. Detailed information concerning trade or common names of asbestos-containing products present in the Defendant's Texas facilities is either unavailable at this time or may be ascertained from the answer below or from documents which have been or will be produced in this case or from testimony of former employees or workers who worked on Defendant's Premises in Texas.

Based upon the information which is available to it at this time, however, Defendant believes that Johns Manville and Owens-Corning were manufacturers of some of the insulation products that were present in and around Defendant's Texas facilities. Defendant believes that the following were makers or distributors of asbestos-containing materials present in and around Defendant's Texas facilities: J. T. Thorpe (insulation materials); Lion Oil (Nokorode, a water-proofing mastic); Gulf Supply (gaskets); Lamons (gaskets); Marine Petro (gaskets); John Crane (gaskets); Texas Marine (gaskets); Triplex (gaskets); and Flexitallic (gaskets). Defendant does not know, and is unable at this time to identify with any reasonable degree of accuracy, the distributors of other possible asbestos-containing materials present in and around Defendant's Texas facilities. More detailed information concerning the product names, what such products were used for, sellers and/or manufacturers, locations where installed, when purchased and persons and entities who may have installed asbestos-containing products present in Defendant's Texas facilities is unavailable at this time and this Defendant will supplement this response in accordance with the Texas Rules of Civil Procedure if other responsive information becomes available. However, some of this information may be derived or ascertained from an examination of the documents of this Defendant which have been or will be made available to Plaintiffs in this case and the burden of such is substantially the same for Plaintiff as for Defendant.

INTERROGATORY NO. 6:

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

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

ANSWER:

Defendant objects to this interrogatory on the grounds that it is vague, overly broad, unduly burdensome, over-reaching, harassing, oppressive, onerous, seeks information that is not relevant or material to the claims in this lawsuit, and is not reasonably calculated to lead to the discovery of admissible evidence because it is not limited in time, or units or areas within a facility where Plaintiff allegedly worked, is not limited to the specific types of products or materials with which or around which Plaintiff allegedly worked and/or to which Plaintiff was allegedly exposed.

Subject to and without waiving its objections, Defendant states that, in line with Defendant's corporate policy, its plants began the systematic removal of asbestos-containing material in the 1970s. Removal was accomplished as asbestos-containing insulation materials had to be replaced on each pipe

or vessel in each unit of Defendant's facility. Where removal was inappropriate, Defendant encapsulated those materials and such were maintained in this encapsulated condition either by steel piping, paint or duct tape and, as such, were in a non-friable state. Further, information responsive to this request may be ascertained from the documents that have been or will be produced to Plaintiff's counsel and the burden of ascertaining this information is substantially the same for Plaintiff as it is for Defendant.

INTERROGATORY NO. 7:

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

ANSWER:

Defendant objects to this interrogatory and the phrase "known to you, your agents, or contractors" to the extent it requires a response as to matters not specific to this particular defendant but as to other separate entities and would require this defendant to speculate as to the matters inquired of. Defendant further objects on the ground that this interrogatory is the subject of a Request for Disclosure. Subject to and without waiving the foregoing objections, Defendant states that discovery and investigation of facts is ongoing. Defendant does not know that Plaintiff was ever present or worked on its premises, the work he may have performed, what location he performed any work, or the exact details existing at the time Plaintiff was allegedly on Defendant's Premises. Further, Defendant refers Plaintiff to Defendant's Response to Plaintiff's Request for Disclosure.

INTERROGATORY NO. 8:

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

- a. entering into contracts or purchase orders (including specifications) with such contractors
- b. allowing such contractors access to Defendant's Premises at Issue,
- c. overseeing or supervising or observing or monitoring such contractor activities or

- d. addressing any contractor questions or concerns relating to the work being performed
- e. providing or approving asbestos-containing materials to be used by such contractors
- e. inspecting or approving work done by such contractors or authorizing payment for work done by such contractors.

ANSWER:

Defendant objects to this interrogatory and the phrase "known to you, your agents, or contractors" to the extent it requires a response as to matters not specific to this particular defendant but as to other separate entities and would require this defendant to speculate as to the matters inquired of. Defendant further objects to this interrogatory on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, over-reaching, harassing, oppressive, onerous, seeks information that is not relevant or material to the claims in this lawsuit, and is not reasonably calculated to lead to the discovery of admissible evidence; it is not limited or specific enough as to time, or units or areas within a facility where Plaintiff allegedly worked, is not limited to the specific types of products or materials with which or around which Plaintiff allegedly worked and/or to which Plaintiff was allegedly exposed. Subject to and without waiving the foregoing, Defendant responds that some of this information may be obtained from the documents which have or will be produced to Plaintiffs' counsel and the burden of ascertaining such is substantially the same for Plaintiff as it is for Defendant.

INTERROGATORY NO. 9:

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

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

ANSWER:

Defendant objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, over-reaching, harassing, oppressive and onerous. Subject to and without waiving its objections, Defendant responds as follows:

- a. Defendant has operated a corporate medical department, which included industrial hygiene, since at least 1946.
- b. Jack Wheeler (deceased)
Corporate industrial hygiene director 1947-1974

Jack T. Garrett (deceased)
Corporate industrial hygiene director 1974-1985
Provided industrial hygiene services to Texas City plant from 1950s-1970s or 1980s

Carl Bohl
Corporate industrial hygienist 1966-1991

Bruce Eley
Corporate industrial hygiene manager 1971-1987

John E. Fox
Texas City industrial hygiene supervisor late 1950s -1985

Dr. R. Emmet Kelly (deceased)
Corporate medical director (1946-1974)

Dr. George Roush
Corporate medical director (1975-1988)

Dr. Barry Friedlander
Corporate medical director (1988-1994)

INTERROGATORY NO. 10:

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

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

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

ANSWER:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, harassing, not reasonably calculated to lead to the discovery of admissible evidence, is not limited in time to the period when Plaintiff allegedly worked at a Monsanto facility or any reasonable time period and is not limited to the specific unit or units where Plaintiff allegedly worked.

Subject to and without waiving the foregoing objections, Defendant does not know that Plaintiff was ever present or worked on its premises, the work he may have performed, what location he performed any work, or the exact details existing at the time Plaintiff was allegedly on Defendant's Premises. However, although Defendant has no record of any communications directly with Plaintiff, Defendant states that it provided a safe workplace and appropriate safety information to workers on its premises at all relevant times. It is Defendant's position that Plaintiff, and all other persons at Defendant's facility, were not exposed to asbestos at levels then thought to be hazardous. The existence, nature and extent of the safety information known by and available to, and the precautions taken for and by, Monsanto's employees and its contractors would have depended on the year when the work was performed, the type of work done, the location of the work performed, the particular contractor involved, the particular employee involved, the anticipated level of airborne particles, the terms of the contract between Monsanto and the contractor, and other factors. Generally, Monsanto's policies and safety measures evolved over the years along with the increase in knowledge of the risks associated with exposures to dust and asbestos and Monsanto always attempted to stay abreast of pertinent information and comply with or exceed the minimum requirements for safety for all workers on its premises. Monsanto held regular impromptu safety meetings where appropriate safe work practices and the potential hazards of many products and processes were discussed. However, it is not possible to state the first time a warning was given about the hazards of asbestos exposure. Further, responsive information may be obtained from documents which have been or will be produced in this case and the burden of ascertaining such is substantially the same for Plaintiff as it is for Defendant.

INTERROGATORY NO. 11:

If Defendant has or had or maintained in its possession any books, pamphlets, memoranda, or written materials of any kind or character that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings, please identify

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

ANSWER:

Defendant objects to this interrogatory on the grounds that it is unduly burdensome, oppressive, harassing, overly broad, and not reasonably limited to any relevant time frame or location. Subject to and without waiving the foregoing objections, the information sought may be ascertainable from Defendant's records which have been or will be produced to Plaintiff's counsel. There is no greater burden on the Plaintiff to obtain the information requested from those documents than it is for Defendant to do so. Additionally, due to the passage of time and the passing of former employees who may have knowledge relevant to this interrogatory, it is virtually impossible to know the individuals who received, maintained, reviewed or disseminated the information contained in such written materials or when, how and why these materials came into Defendant's possession.

INTERROGATORY NO. 12:

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

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

ANSWER:

Defendant objects on the grounds and to the extent that this interrogatory is overly broad, unduly burdensome, over-reaching, seeks information that is not relevant or material to the parties or issues in this case, and is not reasonably calculated to lead to the discovery of admissible evidence because it is not reasonably limited in time, is not limited to the asbestos-containing products used in units or areas where Plaintiff allegedly worked, and is not limited to the specific types of products or materials with which or around which Plaintiff allegedly worked and/or to which Plaintiff was allegedly exposed.

Subject to and without waiving the foregoing objections, Defendant states that, based upon the information available to it at this time, asbestos was present in a number of materials used in and around its Texas facilities, including gaskets, packing, floor tiles, transit board, roofing materials, siding, and pipe and vessel insulation. Inasmuch as insulation containing asbestos was the only available insulating material for use in certain applications at industrial plants such as Defendant's Texas facilities prior to the 1970's, Defendant generally used asbestos-containing insulation products in units where pipes and vessels required such insulation materials. Defendant believes that asbestos-containing insulation materials may have been used or installed at Defendant's Texas facilities up until 1972, at which time Defendant ceased purchasing such asbestos-containing insulation products. Asbestos containing gaskets may have been used after 1972 while Defendant attempted to secure an acceptable substitute. More detailed information concerning the dates when and locations where asbestos-containing products were used or installed in Defendant's Texas

facilities is not known at the present time and this Defendant will supplement this response in accordance with the Texas Rules of Civil Procedure if other responsive information becomes available. However, some of this information may be derived or ascertained from an examination of the documents of this Defendant, which have been or will be made available to Plaintiffs in this case. Detailed information concerning trade or common names of asbestos-containing products present in the Defendant's Texas facilities is either unavailable at this time or may be ascertained from the answer below or from documents which have been or will be produced in this case or from testimony of former employees or workers who worked on Defendant's Premises in Texas.

Based upon the information which is available to it at this time, however, Defendant believes that Johns Manville and Owens-Corning were manufacturers of some of the insulation products that were present in and around Defendant's Texas facilities. Defendant believes that the following were makers or distributors of asbestos-containing materials present in and around Defendant's Texas facilities: J. T. Thorpe (insulation materials); Lion Oil (Nokorode, a water-proofing mastic); Gulf Supply (gaskets); Lamons (gaskets); Marine Petro (gaskets); John Crane (gaskets); Texas Marine (gaskets); Triplex (gaskets); and Flexitallic (gaskets). Defendant does not know, and is unable at this time to identify with any reasonable degree of accuracy, the distributors of other possible asbestos-containing materials present in and around Defendant's Texas facilities. More detailed information concerning the product names, what such products were used for, sellers and/or manufacturers, locations where installed, when purchased and persons and entities who may have installed asbestos-containing products present in Defendant's Texas facilities is unavailable at this time and this Defendant will supplement this response in accordance with the Texas Rules of Civil Procedure if other responsive information becomes available. However, some of this information may be derived or ascertained from an examination of the documents of this Defendant which have been or will be made available to Plaintiffs in this case and the burden of such is substantially the same for Plaintiff as for Defendant.

INTERROGATORY NO. 13:

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

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

ANSWER:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, overreaching, onerous, oppressive, harassing, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996), and because it is not reasonably limited in scope to a specific facility and/or to the types of materials to which Plaintiff was allegedly exposed and is not limited to areas or units where Plaintiff allegedly worked and to the extent that it is not limited to the specific time period Plaintiff allegedly worked at Defendant's facility. Subject to and without waiving the foregoing objections, with regard to Defendant's Texas facilities, please see responses to Interrogatories 5 and 12.

INTERROGATORY NO. 14:

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

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

ANSWER:

Defendant objects to this interrogatory on the grounds that this interrogatory is broad, overreaching, onerous, oppressive, harassing, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including on or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996).

Subject to and without waiving the foregoing objections, Defendant responds as follows. Dust monitoring and air sampling were conducted at Defendant's Texas plants and laboratory analyses of air samples were performed. Defendant purchased a Bausch & Lomb dust counter in 1947 for the purposes of air sampling to determine working conditions at its facilities. In later years, a phase contrast microscope and an electron microscope were purchased and similar analyses were done. Air sampling, monitoring, and industrial hygiene programs increased in the later years along with the increased indications in the published literature regarding the potential health risks from long-term exposure to given levels of airborne particles, including asbestos, and the publication of governmental guidelines regarding airborne particles, including asbestos. Industrial hygienists at Monsanto's Texas facilities and Monsanto's corporate industrial hygienists would have collected the dust samples prior to the early 1970's. Samples would have been sent to outside laboratories for analysis using particle counting methods. Starting in the early 1970's, when asbestos fibers would be counted using phase contrast light microscopy, samples were sent to Monsanto's physical science center at its John F. Queeny plant for analysis. The results of the monitoring and sampling performed always revealed safe and acceptable levels of airborne particles at Defendant's facilities. Further, to the extent the information can be ascertained from Defendant's documents in this case, Defendant refers Plaintiff to those documents pursuant to TExCP 197.2(c).

INTERROGATORY NO. 15:

For the Time Period At Issue, if you provided or caused to be provided any safety equipment or medical programs (including, but not limited to, masks, respirators, other breathing devices, protective clothing, protective gloves, area air filtration systems, and area exhaust systems or barriers or enclosures or medical monitoring program, medical examination program, or other medical or safety program) to employees, contractors, or invitees at any of your plants, facilities, locations, or premises where asbestos and asbestos-containing products were manufactured, used, assembled, installed, or removed, please indicate

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

ANSWER:

Defendant objects to this interrogatory on the grounds that this interrogatory is overly broad, unduly burdensome, overreaching and is not reasonably calculated to lead to the discovery of admissible

evidence because it is not limited to the specific units or areas where Plaintiff allegedly worked or any reasonable scope of locations and to the extent that it is not limited to the specific time period Plaintiff allegedly worked at Defendant's facility.

Subject to and without waiving the foregoing objections, Defendant states that, generally, Defendant's policies and safety measures have evolved over the years along with the increase in knowledge of suspected dust and asbestos inhalation hazards. The contractors hired by Defendant held themselves out to be experienced and competent contractors familiar with the work involved, the risks attendant thereto, the safety equipment necessary for the work to be performed, and the regulations and standards governing the performance of their work. Defendant's contractors also were required by contract to comply with all applicable laws and regulations relating to dust and airborne asbestos. As such, Defendant relied on those contractors to provide the requisite and appropriate guidance, safety measure and safety equipment when working with and around asbestos-containing materials. Defendant is unable at this time to provide any more reasonably detailed answer to this interrogatory, which spans several decades in time, because the existence, nature and extent of precautions taken or to be taken, and the equipment issued or to be issued, would depend upon the year when any work involving asbestos-containing materials was performed, the type of work performed, the location where the work was performed, the particular contractor or employee involved, the anticipated level of airborne particulates, the terms of the contract between Defendant and the contractor, and other factors. Defendant can state, however, based upon information available to it at this time, since before it acquired its first plant in Texas from the United States Government in 1946, it recommended dust masks and made them available to workers on its premises who worked in dusty conditions. By no later than 1950, Defendant provided respirators approved by the U.S. Bureau of Mines and later, NIOSH, to persons working in dusty conditions. Later, Defendant further increased its safety and industrial hygiene programs and personnel along with increased emphasis and warnings concerning dust and asbestos-containing materials. Further, to the extent such are considered responsive, Defendant further states that during relevant times it required periodic medical exams and chest x-rays for its workers, and also, in the 1960's, Dr. Emmett Kelly, corporate medical director, surveyed for the incidence of certain illnesses in its employees in connection with potential exposures to asbestos. See also response to Interrogatory Nos. 10 and 14. Should more specific information responsive to this interrogatory be discovered, this answer will be supplemented in accordance with the Texas Rules of Civil Procedure. For further response, responsive information may be obtained from documents which have been or will be produced to Plaintiff's counsel in this case and the burden of ascertaining such is substantially the same for Plaintiff as it is for Defendant.

INTERROGATORY NO. 16:

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

ANSWER:

Defendant objects to this interrogatory on the grounds that this interrogatory is overly broad, unduly burdensome, overreaching and is not reasonably calculated to lead to the discovery of admissible evidence because it is not limited to the specific area where Plaintiff allegedly worked or any reasonable scope of locations and to the extent that it is not limited to the specific time period Plaintiff allegedly worked at Defendant's facility. Subject to and without waiving the foregoing objections, responsive information may be obtained from documents which have been or will be produced to Plaintiff's counsel in this case and the burden of ascertaining such is substantially the same for Plaintiff as it is for Defendant.

INTERROGATORY NO. 17:

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

ANSWER:

Defendant objects to this interrogatory on the grounds that this interrogatory is overly broad, unduly burdensome, overreaching and is not reasonably calculated to lead to the discovery of admissible evidence because it is not limited to the specific units or areas where Plaintiff allegedly worked or any reasonable scope of locations and to the extent that it is not limited to the specific time period Plaintiff allegedly worked at Defendant's facility. Subject to and without waiving the foregoing objections, responsive information may be obtained from documents which have been or will be produced to Plaintiff's counsel in this case and the burden of ascertaining such is substantially the same for Plaintiff as it is for Defendant.

INTERROGATORY NO. 18:

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

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

ANSWER:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, overreaching, onerous, oppressive, harassing, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc. v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996). Additionally, Defendant objects on the grounds that such request is not reasonably limited or specific as to any relevant time, facility, or unit where plaintiff allegedly worked or any other relevant location. Subject to and without waiving the foregoing objections, Defendant states that to the best of its current knowledge, the first claim of this type inquired of was a worker's compensation claim filed by a worker in its Springfield, Massachusetts plant alleging some type of asbestos-related injury on August 15, 1979.

INTERROGATORY NO. 19:

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

ANSWER:

Defendant objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, harassing, vague and unclear as to what is being asked. Defendant further objects to the defined "time period at issue" as overly broad and vague and non-specific. Subject to and without waiving these objections, with regard to ownership and operation of the plant at issue, with regard to the Time Period At Issue i.e. 1945-1989, Defendant states that it purchased the Texas City Plant from the U.S. Government in 1946 and sold it to Sterling Chemicals, Inc. on August 1 1986. With regard to the issue of "control," Defendant acknowledges that it had the right in general terms to manage and oversee the condition of its own plant, to require independent contractors and their employees to comply with federal laws and general safety guidelines, order work stopped or resumed, to inspect the progress of the work and to receive reports, but denies that it had the right to control the means, methods, and details of independent contractors' work.

INTERROGATORY NO. 20:

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

ANSWER:

As to that portion of this interrogatory inquiring of Defendant's "next three most significant business locations," Defendant objects to this interrogatory on the grounds that it is overly broad, seeks information and/or documents not relevant and/or material in this cause, is not reasonably calculated to lead to the discovery of admissible evidence and goes beyond the permissible scope of discovery under the Texas Rules of Civil Procedure. Subject to and without waiving the foregoing objections, Defendant responds as follows: Defendant has filed a motion to transfer venue denying the county of suit is a proper county for venue purposes and it is Plaintiffs' burden to establish proper venue. Discovery is ongoing and Defendant will supplement this response as may be appropriate.

V.

RESPONSES TO PLAINTIFFS' REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, seeks documents which are not relevant or material to the claim made by the Plaintiff, is not reasonably calculated to lead to the discovery of admissible evidence and because it is not reasonably limited in scope to the relevant time period when Plaintiff allegedly worked at Defendant's facility, is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked or to the specific materials to which Plaintiff alleges he was exposed. Subject to and without waiving the foregoing objections, documents responsive to this request have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 2:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, harassing, oppressive, onerous, seeks information that is not relevant or material to the claims in this lawsuit, and is not reasonably calculated to lead to the discovery of admissible evidence because it is not limited in time, is not limited to the units or areas where Plaintiffs allegedly worked, is not limited to the specific types of products or materials with which or around which Plaintiff allegedly worked and/or to which Plaintiff was allegedly exposed. Subject to and without waiving the foregoing objections, Defendant responds that documents responsive to this request may be included in the documents which have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 3:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, harassing, and not reasonably calculated to lead to the discovery of admissible evidence, is not limited in time to the period when Plaintiff worked at a Monsanto facility or any reasonable time period and is not limited to any reasonable scope of locations. Subject to the foregoing objections, documents which may be responsive to this request have been or will be produced to Plaintiff.

REQUEST FOR PRODUCTION NO. 4:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, harassing, and not reasonably calculated to lead to the discovery of admissible evidence, is

not limited in time to the period when Plaintiff allegedly worked at a Monsanto facility, or any reasonable time period, and is not limited to any reasonable scope of locations. Subject to the foregoing objections, no such records are known to exist.

REQUEST FOR PRODUCTION NO. 5:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, seeks information that is not relevant or material to Plaintiff's claims, is not reasonably calculated to lead to the discovery of admissible evidence, and is not limited to any reasonable scope of locations or the specific area that Plaintiff allegedly worked or any reasonable scope of type of contractor or type of work being performed. Subject to and without waiving the foregoing objections, documents which may be responsive to this request have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 6:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, onerous, not limited to the specific time period Plaintiff allegedly worked at Defendant's facility or any reasonable time frame, seeks documents which are not relevant or material to the claims made by Plaintiff, is not reasonably calculated to lead to the discovery of admissible evidence, concerns contracts for work which Plaintiff is not alleging could expose a worker to asbestos or in areas or units of the plant where Plaintiff did not allege to have worked and is not reasonably limited to any relevant time frame or scope of locations.

REQUEST FOR PRODUCTION NO. 7:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, harassing, and not reasonably calculated to lead to the discovery of admissible evidence, is not limited in time to the period when Plaintiff allegedly worked at a Monsanto facility, or any reasonable time period, is not limited to any reasonable scope of locations. Subject to and without waiving the foregoing, documents which may be responsive to this request have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 8:

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

RESPONSE:

Defendant objects to this request on the grounds and to the extent that it is overly broad, unduly burdensome, overreaching, harassing, onerous, seeks documents which are not relevant or material to the claims made by the Plaintiff, and is not reasonably calculated to lead to the discovery of admissible evidence and because it is not limited to any reasonable time frame or to documents that may have been posted at, issued by or at, circulated by or at, or maintained by or at Defendant's Texas facilities or Defendant's corporate headquarters to workers at Defendant's Texas facilities. Defendant further objects to any requirement, as a result of the ambiguity attendant to the term "warnings" in this request, to review the entire company files and employee's files and library of publications it has for documents responsive to this request on the grounds that such a request is onerous, oppressive and harassing and the burden on Defendant to search for, gather and produce the requested documents is far greater than any reasonable probative value those documents would possess for Plaintiff in this case. Subject and limited to the foregoing, and without waiving the objections, responsive documents have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 9:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks documents which are not relevant or material to the claims made by the Plaintiff, is not reasonably calculated to lead to the discovery of admissible evidence, and constitutes an impermissible fishing expedition, in violation of *Loftin v. Martin*, 776 S.W.2d 145 (Tex. 1989), *Texaco, Inc. v. Sanderson*, 829 S.W.2d 813 (Tex. 1995), *Dillard Dept. Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex. 1995), and/or *K-Mart Corp v. Sanderson*, 937 S.W.2d 429 (Tex. 1996) and because it is not reasonably limited in scope to a specific facility and/or to the types of materials to which Plaintiff was allegedly exposed or any relevant time period and is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked. Subject to and without waiving the foregoing, responsive documents will be produced.

REQUEST FOR PRODUCTION NO. 10:

Please produce all documents that relate to any inspections by any regulatory agency for the purpose of ascertaining whether health or safety regulations were being followed or adhered to at any of your plants. This request specifically seeks any and all such documentation referring to dust hazards, including but not limited to asbestos in your plants.

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks documents which are not relevant or material to the claims made by the Plaintiff, is not reasonably calculated to lead to the discovery of admissible evidence, and constitutes an impermissible fishing expedition, in violation of *Loftin v. Martin*, 776 S.W.2d 145 (Tex. 1989), *Texaco, Inc. v. Sanderson*, 829 S.W.2d 813 (Tex. 1995), *Dillard Dept. Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex. 1995), and/or *K-Mart Corp v. Sanderson*, 937 S.W.2d 429 (Tex. 1996) and because it is not reasonably limited in scope to a specific facility and/or to the types of materials to which Plaintiff was allegedly exposed or any relevant time period and is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked. Subject to and without waiving the foregoing objections, documents responsive to this request, limited to relating to asbestos products and Texas facilities, have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 11:

In the event that Defendant performed or had performed any dust level counts or measurements of any of its plant or industrial facilities with respect to asbestos dust, please produce any documents, memoranda, or other writings that in any way reflect the results of such studies or counts and actions taken as a result of such counts or studies.

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, seeks documents which are not relevant or material to the claim made by the Plaintiff and is not reasonably calculated to lead to the discovery of admissible evidence because it is not reasonably limited in scope to Defendant's Texas facilities or the relevant time period when Plaintiff allegedly worked at Defendant's facility, is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked or to the specific materials to which Plaintiff alleges he was exposed. Subject to and without waiving the foregoing objections and subject to the stated limitations, documents responsive to this request relating to Defendant's Texas facilities have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 12:

Please produce all documents relating to inspections by labor inspectors, insurance company inspectors or anyone from your company or hired by your company, that included the taking or measuring of "dust counts."

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks documents which are not relevant or material to the claims made by the Plaintiff, is not reasonably calculated to lead to the discovery of admissible evidence, and constitutes an impermissible fishing expedition, in violation of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc. v. Sanderson*, 829 S.W. 2d 813 (Tex. 1995), *Dillard Dept. Stores, Inc. V. Hall*, 909 S.W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. V. Sanderson*, 937 S.W. 2d 429 (Tex. 1996) and because it is not reasonably limited in scope to a specific facility and/or to the types of materials to which Plaintiff was allegedly exposed or any relevant time period. Subject to and without waiving the foregoing objections, documents responsive to this request, limited to relating to asbestos products and Texas facilities, have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 13:

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

RESPONSE:

Defendant objects to any requirement, as a result of this request, to review all of its files and employee's files and the library of publications it has and its employees may have for documents responsive to this request on the grounds that such a request is onerous, oppressive and harassing and the burden on Defendant to search for, locate and produce responsive documents would be unduly burdensome, onerous, oppressive and harassing and the burden would far outweigh any reasonable probative value that any responsive documents may provide to the Plaintiffs in this case. Subject to and without waiving any of its objections, responsive documents which Defendant has assembled as a result of prior document searches have already been produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 14:

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

RESPONSE:

Defendant objects to this request on the grounds and to the extent that it invades the attorney work-product exemption and attorney-client privilege. Defendant further objects to this request on the grounds that it is vague, ambiguous, overly broad, global, lacks the specificity required for a proper document request, and seeks to require the marshaling of evidence.

REQUEST FOR PRODUCTION NO. 15:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, ambiguous, overbroad, lacks the requisite specificity, seeks to require the marshaling of evidence and seeks and would require production of attorney work product and information protected by the attorney-client privilege. Subject to and without waving the foregoing objections, defendant states that discovery and investigation of facts is ongoing and

Defendant will supplement this response should more information be discovered. Defendant does not know that Plaintiff was ever present or worked on its premises, the work he may have performed, what location he performed any work, or the exact details existing at the time Plaintiff was allegedly on Defendant's premises. Subject to and without waiving the foregoing objections, documents responsive to this request may be contained within the documents which have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 16:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds that it is overly broad and lacks the specificity required of a proper document request. Subject to this objection, Defendant is unable to specifically identify such requested documents. However, documents containing some of the information supplied have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 17:

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

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

RESPONSE:

Defendant objects to this request on the grounds that it is not limited to any reasonable or relevant time frame, is overly broad, and to the extent it calls for the production of material protected from discovery

under the attorney client privilege or work-product exemption. Subject to the foregoing objections, documents responsive to this request have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 18:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and ambiguous (Defendant cannot determine what documents are being sought), is overbroad, not limited to any reasonable time period or subject matter, and to the extent it calls for production of material protected from disclosure by the attorney-client privilege and/or work-product exemption.

REQUEST FOR PRODUCTION NO. 19:

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

RESPONSE:

Defendant objects to this request on the grounds that it is unduly burdensome, oppressive, harassing, overly broad, and not reasonably limited to any relevant time frame or location. Subject to the foregoing objections, documents of the type requested have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 20:

Please produce all documents that reflect, indicate or in any way relate to communications between you and any manufacturer of asbestos-containing products concerning or related to the asbestos contained in such products.

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks documents which are not relevant or material to the claims made by the Plaintiff, is not reasonably calculated to lead to the discovery of admissible evidence, and constitutes an impermissible fishing expedition, in violation of *Loftin v. Martin*, 776 S.W.2d 145 (Tex. 1989), *Texaco, Inc. v. Sanderson*, 829 S.W.2d 813 (Tex. 1995), *Dillard Dept. Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex. 1995), and/or *K-Mart Corp v. Sanderson*, 937 S.W.2d 429 (Tex. 1996) and because it is not reasonably limited in scope to a specific facility and/or to the types of materials to which Plaintiff was allegedly exposed or any relevant time period and is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked. Subject to the and without waiving the foregoing objections, responsive documents have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 21:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks documents which are not relevant or material to the claims made by the Plaintiff, is not reasonably calculated to lead to the discovery of admissible evidence, and constitutes an impermissible fishing expedition, in violation of *Loftin v. Martin*, 776 S.W.2d 145 (Tex. 1989), *Texaco, Inc. v. Sanderson*, 829 S.W.2d 813 (Tex. 1995), *Dillard Dept. Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex. 1995), and/or *K-Mart Corp v. Sanderson*, 937 S.W.2d 429 (Tex. 1996) and because it is not reasonably limited in scope to a specific facility and/or to the types of materials to which Plaintiff was allegedly exposed or any relevant time period. Subject to and without waiving the foregoing objections, while Defendant knows of no such documents responsive to this request within its possession, custody or control, if there were any such documents they would be contained in the documents which have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 22:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and ambiguous, overly broad and is not reasonably limited to any relevant time frame or location. Subject to and without waiving any of its objections, documents responsive to this request have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 23:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and ambiguous, overly broad and is not reasonable limited to any relevant time frame and the units or areas where Plaintiff allegedly worked. Subject to and without waiving any of its objections, documents responsive to this request have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 24:

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

RESPONSE:

No such documents are known to exist.

REQUEST FOR PRODUCTION NO. 25:

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

RESPONSE:

No such documents are known to exist.

REQUEST FOR PRODUCTION NO. 26:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996) and because it is not reasonably limited in scope to the types of materials to which Plaintiff was allegedly exposed or any relevant time period and is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked.

REQUEST FOR PRODUCTION NO. 27:

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

RESPONSE:

Defendant objects to this request on the grounds that it lacks the requisite specificity, seeks to require the marshaling of evidence, seeks information protected by the attorney client and/or work product privileges and exemptions. Furthermore, this request is premature at this time; defendant has not yet determined which, if any, documents it will use at the time of trial.

REQUEST FOR PRODUCTION NO. 28:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc. v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996) and because it is not reasonably limited in scope to the types of materials to which Plaintiff was allegedly exposed or any relevant time period and is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked. Subject to and without waiving the foregoing, responsive documents will be produced.

REQUEST FOR PRODUCTION NO. 29:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, lacks the requisite specificity, is unduly burdensome, overreaching, oppressive, harassing, onerous, seeks documents which are not relevant or material to the claims made by the Plaintiff, is not reasonably calculated to lead to the discovery of admissible evidence, and constitutes an impermissible fishing expedition, in violation of *Loftin v. Martin*, 776 S.W.2d 145 (Tex. 1989), *Texaco, Inc. v. Sanderson*, 829 S.W.2d 813 (Tex. 1995), *Dillard Dept. Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex. 1995), and/or *K-Mart Corp v. Sanderson*, 937 S.W.2d 429 (Tex. 1996).

REQUEST FOR PRODUCTION NO. 30:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, lacks the requisite specificity for a proper request, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996) and because it is not reasonably limited in scope to the types of materials to which Plaintiff was allegedly exposed or any relevant time period and is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked.

REQUEST FOR PRODUCTION NO. 31:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, lacks the requisite specificity for a proper request, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996) and because it is not reasonably limited in scope to the types of materials to which Plaintiff was allegedly exposed or the specific time period Plaintiff was allegedly on Defendant's premises. Subject to and without waiving the foregoing, responsive documents will be produced.

REQUEST FOR PRODUCTION NO. 32:

Please produce all documents which will be used at the time of trial, including all potential exhibits and those documents which may be used to cross-examine other witnesses or in rebuttal, and which you contend are relevant to any of Defendant's enumerated defenses in Defendant's most recently filed Answer.

RESPONSE:

Defendant objects to this request on the grounds that it lacks the requisite specificity, seeks to require the marshaling of evidence, seeks information protected by the attorney client privilege and invades the attorney work product exemption. Furthermore, this request is premature at this time; Defendant has not yet determined which, if any, documents it will use at the time of trial.

REQUEST FOR PRODUCTION NO. 33:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, seeks documents which are not relevant or material to this claims made by the Plaintiff and is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to the extent such documents are protected by the attorney-client or work product privileges and exemptions. Without waiving its objections, however, Defendant is not aware at this time of any documents in its possession, custody or control that are responsive to this request.

REQUEST FOR PRODUCTION NO. 34:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, seeks documents which are not relevant or material to this claims made by the Plaintiff and is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to the extent such documents are protected by the attorney-client or work product privileges and exemptions. Without waiving its objections, however, Defendant is not aware at this time of any documents in its possession, custody or control that are responsive to this request.

REQUEST FOR PRODUCTION NO. 35:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, unclear, overly broad, unduly burdensome, overreaching, seeks documents which are not relevant or material to the claim made by the Plaintiff, is not reasonably calculated to lead to the discovery of admissible evidence and because it is not reasonably limited in scope to the relevant time period when Plaintiff allegedly worked at Defendant's facility, is not limited to areas or units within Defendant's facility where Plaintiff allegedly worked or to the specific materials to which Plaintiff alleges he was exposed. Subject to and without waiving the foregoing objections, documents responsive to this request have been or will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 36:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, seeks documents which are not relevant or material to the claims made by the Plaintiff and is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to the extent such documents are protected by the attorney-client or work product privileges and exemptions. Subject to and without waiving these objections, documents which may be responsive to this request, limited to relating to asbestos products, have been or will be produced to Plaintiff's counsel and the burden of ascertaining such is substantially the same for Plaintiff as it is for Defendant.

REQUEST FOR PRODUCTION NO. 37:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, seeks documents which are not relevant or material to the claims made by the Plaintiff and is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to the extent such documents are protected by the attorney-client or work product privileges and exemptions. Subject to and without waiving these objections, documents which may be responsive to this request, limited to relating to asbestos products, have been or will be produced to Plaintiff's counsel and the burden

of ascertaining such is substantially the same for Plaintiff as it is for Defendant.

REQUEST FOR PRODUCTION NO. 38:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, overreaching, seeks documents which are not relevant or material to the claims made by the Plaintiff and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing, responsive documents will be produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 39:

Please produce all documents which evidence Defendant's net worth, including, but not limited to, all "10-K" forms filed for the last five (5) years.

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, overreaching and because Defendant is a publicly traded company and the documents requested are public records and available to the general public. Defendant further objects to this request on the grounds that documents other than Defendant's 10-K forms and/or annual report for the current year would be duplicative, redundant, cumulative, overly broad, unduly burdensome, overreaching, onerous, oppressive and harassing. Subject to the foregoing objections, Defendant will produce its Annual Reports for the requested years and its most current Form 10-K.

REQUEST FOR PRODUCTION NO. 40:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the

claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996).

REQUEST FOR PRODUCTION NO. 41:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, ambiguous, overbroad, lacks the requisite specificity, seeks to require the marshaling of evidence and seeks and would require production of attorney work product and information protected by the attorney-client privilege. Defendant further objects to the request and the phrase "the title documents" on the grounds that such is vague and fails to identify the documents sought.

REQUEST FOR PRODUCTION NO. 42:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, ambiguous, overbroad, lacks the requisite specificity, seeks to require the marshaling of evidence and seeks and would require production of attorney work product and information protected by the attorney-client privilege. Subject to and without waiving the foregoing, based upon the Time Period At Issue i.e. 1945-1989, defendant responds that it purchased the Texas City facility from the U.S. Government in 1946 and sold it to Sterling Chemicals on August 1, 1986 and unless Plaintiff alleges he was present and exposed on such site prior to or after that time, then this interrogatory is not applicable.

REQUEST FOR PRODUCTION NO. 43:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, ambiguous, overbroad, lacks the requisite specificity, seeks to require the marshaling of evidence and seeks and would require production of attorney work product and information protected by the attorney-client privilege.

REQUEST FOR PRODUCTION NO. 44:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996) and because it is not reasonably limited in scope to the types of materials to which Plaintiff was allegedly exposed, any relevant time period, and is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked.

REQUEST FOR PRODUCTION NO. 45:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, ambiguous, overbroad, lacks the requisite specificity, seeks to require the marshaling of evidence and seeks and would require production of attorney work product and information protected by the attorney-client privilege. Subject to and without waiving the foregoing, Defendant states that based upon Plaintiff's definition of the years at issue, this request is not applicable.

REQUEST FOR PRODUCTION NO. 46:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, ambiguous, overbroad, lacks the requisite specificity, seeks to require the marshaling of evidence and seeks and would require production of attorney work product and information protected by the attorney-client privilege. Subject to and without waiving the foregoing, Defendant states that based upon Plaintiff's definition of the years at issue, this request is not applicable.

REQUEST FOR PRODUCTION NO. 47:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc. v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996) and because it is not reasonably limited in scope to a specific facility and/or to the types of materials to which Plaintiff was allegedly exposed or any relevant time period and is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked. Subject to and without waiving the foregoing objections, documents

responsive to this request have been or will be produced.

REQUEST FOR PRODUCTION NO. 48:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996) and because it is not reasonably limited in scope to a specific facility and / or to the types of materials to which Plaintiff was allegedly exposed or any relevant time period and is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked. Subject to and without waiving the foregoing objections, documents responsive to this request have been or will be produced.

REQUEST FOR PRODUCTION NO. 49:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996) and because it is not reasonably limited in scope to the types of materials to which Plaintiff was allegedly exposed, any relevant time period, and is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked.

REQUEST FOR PRODUCTION NO. 50:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996) and because it is not reasonably limited in scope to a specific facility and/or to the types of materials to which Plaintiff was allegedly exposed, any relevant time period, and is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked.

REQUEST FOR PRODUCTION NO. 51:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996) and because it is not reasonably limited in scope to the types of materials to which Plaintiff was allegedly exposed, any relevant time period, and is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked.

REQUEST FOR PRODUCTION NO. 52:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996) and because it is not reasonably limited in scope to the types of materials to which Plaintiff was allegedly exposed or any relevant time period and is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked.

REQUEST FOR PRODUCTION NO. 53:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is vague, overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996) and because it is not reasonably limited in scope to a specific facility and/or to the types of materials to which Plaintiff was allegedly exposed, any relevant time period, and is not limited to areas or units within Defendant's plant where Plaintiff allegedly worked.

REQUEST FOR PRODUCTION NO. 54:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is vague, overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996).

REQUEST FOR PRODUCTION NO. 55:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is vague, overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996). Subject to an without waiving the foregoing objections, at this time, no such documents are known to exist.

REQUEST FOR PRODUCTION NO. 56:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague since Plaintiff's employer has not been identified, overly broad and not reasonably limited to any reasonable scope of time, location, subject matter or a specific location or the specific time period Plaintiff allegedly worked at Defendant's facility. Subject to and without waiving the foregoing, no such documents are known to exist.

REQUEST FOR PRODUCTION NO. 57:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad, unduly burdensome, vague and not reasonably limited in scope as to time, location, type of product, or type of work. Subject to and without waiving the foregoing, Defendant responds that documents responsive to this request may be included in the documents which have been or will be produced to Plaintiff's counsel and the burden of ascertaining such is substantially the same for Plaintiff as it is for Defendant.

REQUEST FOR PRODUCTION NO. 58:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and ambiguous (Defendant cannot determine what documents are being sought), is overbroad, not limited to any reasonable time period or subject matter, and to the extent it calls for production of material protected from disclosure by the attorney-client privilege and/or work-product exemption. Defendant objects to any requirement, as a result of this request, to review all of its files and employee's files and the library of publications it has and its employees may have for documents responsive to this request on the grounds that such a request is onerous, oppressive and harassing and the burden on Defendant to search for, locate and produce responsive documents would be unduly burdensome, onerous, oppressive and harassing and the burden would far outweigh any reasonable probative value that any responsive documents may provide to the Plaintiffs in this case. Subject to and without waiving any of its objections, responsive documents which

Defendant has assembled as a result of prior document searches have already been produced to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 59:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996) and because it is not reasonably limited in scope to a specific facility and/or the types of materials to which Plaintiff was allegedly exposed, any relevant time period, and is not limited to areas or units within Defendant's facility where Plaintiff allegedly worked.

REQUEST FOR PRODUCTION NO. 60:

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

RESPONSE:

Defendant objects to this interrogatory on the grounds and to the extent it is overly broad, unduly burdensome, overreaching, oppressive, harassing, onerous, seeks information that is not relevant to the claims or parties in this case, is not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition in violation of Texas law, including one or more of *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Texaco, Inc., v. Sanderson* 898 S. W. 2d 813 (Tex. 1995), *Able Supply Co. v. Moye*, 898 S.W. 2d 766 (Tex. 1996), *Dillard's Dept. Stores, Inc. v. Hall*, 909 S. W. 2d 491 (Tex. 1995), and/or *K-Mart Corp. v. Sanderson*, 937 S. W. 2d 429 (Tex. 1996).

VI.

RESPONSES TO PLAINTIFF'S REQUESTS FOR ADMISSION AND FURTHER REQUESTS FOR PRODUCTION

REQUEST FOR ADMISSION NO. 1:

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

RESPONSE:

Defendant admits that asbestos-containing insulation materials were used or installed at Defendant's Texas facilities up until 1972, at which time Defendant ceased purchasing such asbestos-containing insulation products. Asbestos containing gaskets may have been used after 1972 while Defendant attempted to secure an acceptable substitute. Defendant denies that asbestos-containing products were utilized throughout the defined "time period at issue," i.e. 1945-1989.

REQUEST FOR ADMISSION NO. 2:

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

RESPONSE:

Defendant states that after reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny that plaintiff was ever present on Defendant's premises. Defendant admits that asbestos-containing insulation materials were used or installed at Defendant's Texas facilities up until 1972, at which time Defendant ceased purchasing such asbestos-containing insulation products. Asbestos containing gaskets may have been used after 1972 while Defendant attempted to secure an acceptable substitute. Defendant denies that asbestos-containing products were utilized throughout the defined "time period at issue," i.e. 1945-1989. To the extent any other portion of this request has not been addressed, same is denied.

REQUEST FOR PRODUCTION NO. 61:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, ambiguous, overbroad, lacks the requisite specificity, seeks to require the marshaling of evidence, seeks and would require production of attorney work product and information protected by attorney client privilege. Subject to the foregoing objections, Defendant responds that based on the referenced response, this request is not applicable.

REQUEST FOR ADMISSION NO. 3:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad and not limited to any unit or area within the facility where Plaintiff allegedly worked or any other reasonable scope of locations. Subject to and without waiving the foregoing, this request is denied.

REQUEST FOR ADMISSION NO. 4:

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

RESPONSE:

Defendant states that after reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny that plaintiff was ever present on Defendant's Premises. Subject to and without waiving the foregoing, the remainder of this request is denied.

REQUEST FOR PRODUCTION NO. 63:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, ambiguous, overly broad, lacks the requisite specificity, seeks to require the marshaling of evidence, and to the extent it seeks and would require production of attorney work product and information protected by attorney client privilege. Defendant further objects to this request on the grounds that it is not limited in time to the specific period in time when Plaintiff allegedly worked at Defendant's facility or any other reasonable time frame, or a specific facility or area within the facility Plaintiff allegedly worked or any other reasonable scope of locations. Subject to and without waiving the foregoing objections, Defendant responds that based on the referenced response, this request is not applicable.

REQUEST FOR ADMISSION NO. 5:

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

RESPONSE:

Defendant admits that asbestos-containing insulation materials were used or installed at Defendant's Texas facilities up until 1972, at which time Defendant ceased purchasing such asbestos-containing insulation products. Asbestos containing gaskets may have been used after 1972 while Defendant attempted to secure an acceptable substitute. Defendant denies that asbestos-containing products were utilized throughout the defined "time period at issue," i.e. 1945-1989. To the extent any other portion of this request has not been addressed, same is denied.

REQUEST FOR ADMISSION NO. 6:

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

RESPONSE:

Defendant admits that asbestos-containing insulation materials were used or installed at Defendant's Texas facilities up until 1972, at which time Defendant ceased purchasing such asbestos-containing insulation products. Asbestos containing gaskets may have been used after 1972 while Defendant attempted to secure an acceptable substitute. Defendant denies that asbestos-containing products were utilized throughout the defined "time period at issue," i.e. 1945-1989. To the extent any other portion of this request has not been addressed, same is denied.

REQUEST FOR ADMISSION NO. 7:

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

RESPONSE:

Defendant admits that asbestos-containing insulation materials were used or installed at Defendant's Texas facilities up until 1972, at which time Defendant ceased purchasing such asbestos-containing insulation products. Asbestos containing gaskets may have been used after 1972 while Defendant attempted to secure an acceptable substitute. Defendant admits that it was aware of the presence of and/or the use of certain asbestos products during certain portions of plaintiff's defined "time period at issue". Defendant denies that asbestos-containing products were utilized throughout the defined "time period at issue," i.e. 1945-1989. To the extent any portion of the request has not been addressed, then same is denied.

REQUEST FOR ADMISSION NO. 8:

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

RESPONSE:

Defendant admits that asbestos-containing insulation materials were used or installed at Defendant's Texas facilities up until 1972, at which time Defendant ceased purchasing such asbestos-containing insulation products. Asbestos containing gaskets may have been used after 1972 while Defendant attempted to secure an acceptable substitute. Defendant admits that it was aware of the presence of and/or the use of certain asbestos products during certain portions of plaintiff's defined "time period at issue". Defendant denies that asbestos-containing products were utilized throughout the defined "time period at issue," i.e. 1945-1989. To the extent any portion of the request has not been addressed, then same is denied.

REQUEST FOR ADMISSION NO. 9:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad since it is not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, this request is denied.

REQUEST FOR ADMISSION NO. 10:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad since it is not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this request.

REQUEST FOR ADMISSION NO. 11:

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

RESPONSE:

Defendant admits that asbestos-containing insulation materials were used or installed at Defendant's Texas facilities up until 1972, at which time Defendant ceased purchasing such asbestos-containing insulation products. Asbestos containing gaskets may have been used after 1972 while Defendant attempted to secure an acceptable substitute. Defendant denies that asbestos-containing products were utilized throughout the defined "time period at issue," i.e. 1945-1989. To the extent any other portion of this request has not been addressed, same is denied.

REQUEST FOR ADMISSION NO. 12:

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

RESPONSE:

Admit

REQUEST FOR ADMISSION NO. 13:

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

RESPONSE:

Admit

REQUEST FOR ADMISSION NO. 14:

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

RESPONSE:

Defendant admits that it ceased purchasing asbestos-containing insulation products for use at its facilities in 1972. Defendant admits that, consistent with governmental regulations and standards, as well as current industrial hygiene state of the art guidelines and principals, all recognizing that in certain instances it is most appropriate and less hazardous to keep asbestos containing materials in place in a non-friable and encapsulated state rather than to disturb it by removal, at the time inquired of there was most likely some amount of asbestos containing material still present at Defendant's Premises.

REQUEST FOR ADMISSION NO. 15:

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

RESPONSE:

Defendant admits that it ceased purchasing asbestos-containing insulation products for use at its facilities in 1972. Defendant admits that, consistent with governmental regulations and standards, as well as current industrial hygiene state of the art guidelines and principals, all recognizing that in certain instances it is most appropriate and less hazardous to keep asbestos containing materials in place in a non-friable and encapsulated state rather than to disturb it by removal, at the time inquired of there was most likely some amount of asbestos containing material still present at Defendant's Premises.

REQUEST FOR ADMISSION NO. 16:

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

RESPONSE:

Defendant objects to this request as overly broad, beyond the specific time frame when Plaintiff allegedly worked at Defendant's facility, and beyond the Plaintiff's own defined "time period at issue" i.e. 1945-1989. Subject to and without waiving the foregoing, Defendant denies that any asbestos-containing products are still being specified, installed or applied at Defendant's Premises and admits that it ceased purchasing asbestos-containing insulation products for use at its facilities in 1972. Although Defendant sold the facility inquired about to Sterling Chemicals in 1986, Defendant admits that, consistent with governmental regulations and standards, as well as current industrial hygiene state of the art guidelines and principals, all recognizing that in certain instances it is most appropriate and less hazardous to keep asbestos-containing materials in place in a non-friable and encapsulated state rather than to disturb it by removal, at the time inquired of there was probably some amount of asbestos-containing material still physically present at such facility.

REQUEST FOR ADMISSION NO. 17:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad since it is not limited or specific enough as to time, contractor, location and the type of work allegedly done by Plaintiff. Subject to these objections, this request is denied.

REQUEST FOR ADMISSION NO. 18:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad since it is not limited or specific enough as to time, contractor, location and the type of work allegedly done by Plaintiff. Subject to these objections, this request is denied.

REQUEST FOR ADMISSION NO. 19:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad since it is not limited or specific enough as to time, contractor, location and the type of work allegedly done by Plaintiff. Subject to these objections, this request is denied.

REQUEST FOR ADMISSION NO. 20:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad since it is not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, this request is denied.

REQUEST FOR ADMISSION NO. 21:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad since it is not limited or specific enough as to time, contractor involved, areas or units where Plaintiff allegedly worked and the type of work allegedly done by Plaintiff. Subject to these objections, this request is denied.

REQUEST FOR PRODUCTION NO. 64:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, ambiguous, overly broad, lacks the requisite specificity, seeks to require the marshaling of evidence and to the extent it seeks and would require production of attorney work product and information protected by attorney client privilege. Subject to and without waiving the foregoing objections documents responsive to this request may be contained within the documents which have been or will be produced to Plaintiff's counsel and the burden of ascertaining such is substantially the same for Plaintiff as it is for Defendant.

REQUEST FOR ADMISSION NO. 22:

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

RESPONSE:

Defendant objects to this request as overly broad, beyond the specific time frame when Plaintiff allegedly worked at Defendant's facility, and beyond the Plaintiff's own defined "time period at issue" i.e. 1945-1989. Subject to and without waiving the foregoing, Defendant denies that any asbestos-containing products are still being specified, installed or applied at Defendant's Premises and admits that it ceased purchasing asbestos-containing insulation products for use at its facilities in 1972. Although Defendant sold the facility inquired about to Sterling Chemicals in 1986, Defendant admits that, consistent with governmental regulations and standards, as well as current industrial hygiene state of the art guidelines and principals, all recognizing that in certain instances it is most appropriate and less hazardous to keep asbestos-containing materials in place in a non-friable and encapsulated state rather than to disturb it by removal, at the time inquired of there was probably some amount of asbestos-containing material still physically present at such facility.

REQUEST FOR ADMISSION NO. 23:

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

RESPONSE:

Defendant objects to this request as overly broad, beyond the specific time frame when Plaintiff allegedly worked at Defendant's facility, and beyond the Plaintiff's own defined "time period at issue" i.e. 1945-1989. Subject to and without waiving the foregoing, Defendant denies that any asbestos-containing products are still being specified, installed or applied at Defendant's Premises and admits that it ceased purchasing asbestos-containing insulation products for use at its facilities in 1972. Although Defendant sold the facility inquired about to Sterling Chemicals in 1986, Defendant admits that, consistent with governmental regulations and standards, as well as current industrial hygiene state of the art guidelines and principals, all recognizing that in certain instances it is most appropriate and less hazardous to keep asbestos-containing materials in place in a non-friable and encapsulated state rather than to disturb it by removal, at the time inquired of there was probably some amount of asbestos-containing material still physically present at such facility.

REQUEST FOR ADMISSION NO. 24:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad and is not reasonably limited in scope as to time, or type of activity. Subject to and without waiving the foregoing objections, Defendant states that after reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this request.

REQUEST FOR ADMISSION NO. 25:

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

RESPONSE:

Defendant objects to this request on the grounds that it is overly broad and is not reasonably limited in scope as to time, or type of activity. Subject to and without waiving the foregoing objections, Defendant

states that after reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this request.

REQUEST FOR ADMISSION NO. 26:

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

RESPONSE:

Defendant admits that it purchased the Texas City facility from the U.S. Government in 1946 and sold it to Sterling Chemicals on August 1, 1986. Defendant denies that it owned its Texas City facility during the entire period defined as the Time Period At Issue, i.e. 1945-1989.

REQUEST FOR ADMISSION NO. 27:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and unclear as to what is being asked. Subject to these objections, Defendant admits that it purchased the Texas City facility from the U.S. Government in 1946 and sold it to Sterling Chemicals on August 1, 1986. Defendant denies that it owned its Texas City facility during the entire period defined as the Time Period At Issue, i.e. 1945-1989. Defendant admits that it had the power, in general terms to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR ADMISSION NO. 28:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad, not limited or specific enough as to time, contractor, location and the type of work allegedly done by Plaintiff or any other reasonable scope of time and location. Subject to these objections, this request is denied.

REQUEST FOR ADMISSION NO. 29:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad since it is not limited or specific enough as to time, contractor, location and the type of work allegedly done by Plaintiff. Subject to these objections, this request is denied.

REQUEST FOR ADMISSION NO. 30:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad since it is not limited or specific enough as to time, persons inquired of, location and the type of work allegedly done by Plaintiff. Subject to these objections, this request is denied.

REQUEST FOR ADMISSION NO. 31:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad since it is not limited or specific enough as to time, persons inquired of, location and the type of work allegedly done by Plaintiff. Subject to these objections, this request is denied.

REQUEST FOR ADMISSION NO. 32:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad since it is not limited or specific enough as to time, contractor, location and the type of work allegedly done by Plaintiff. Subject to these objections, this request is denied.

REQUEST FOR ADMISSION NO. 33:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad since it is not limited or specific enough as to time, contractor, location and the type of work allegedly done by Plaintiff. Subject to these objections, this request is denied.

REQUEST FOR ADMISSION NO. 34:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad and is not limited to the units or areas where Plaintiff allegedly worked and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this request.

REQUEST FOR ADMISSION NO. 35:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad and is not limited to the units or areas where Plaintiff allegedly worked and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this request.

REQUEST FOR ADMISSION NO. 36:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad and is not limited to the units or areas where Plaintiff allegedly worked and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this request.

REQUEST FOR ADMISSION NO. 37:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad and is not limited to the units or areas where Plaintiff allegedly worked and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this request.

REQUEST FOR ADMISSION NO. 38:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad and is not limited to the units or areas where Plaintiff allegedly worked and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this request.

REQUEST FOR ADMISSION NO. 39:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad and is not limited to the units or areas where Plaintiff allegedly worked and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this request.

REQUEST FOR ADMISSION NO. 40:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and unclear as to what is being asked. Furthermore, Defendant objects as overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant's premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR ADMISSION NO. 41:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and unclear as to what is being asked. Furthermore, Defendant objects as overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant's premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR ADMISSION NO. 42:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and unclear as to what is being asked. Furthermore, Defendant objects as overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant's premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR ADMISSION NO. 43:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and unclear as to what is being asked. Furthermore, Defendant objects as overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant's premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR ADMISSION NO. 44:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant's premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR PRODUCTION NO. 65:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, ambiguous, overly broad, lacks the requisite specificity, seeks to require the marshaling of evidence, and to the extent it seeks and would require production of attorney work product and information protected by attorney client privilege. Defendant further objects to this request on the grounds that it is not limited in time to the specific period in time when Plaintiff allegedly worked at Defendant’s facility or any other reasonable time frame, or a specific facility or area within the facility Plaintiff allegedly worked or any other reasonable scope of locations. Subject to and without waiving the foregoing objections, Defendant responds that based on the referenced response, this request is not applicable.

REQUEST FOR ADMISSION NO. 45:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and unclear as to what specifications are being referred to, overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant’s premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports, and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor’s work.

REQUEST FOR PRODUCTION NO. 66:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, ambiguous, overly broad, lacks the requisite specificity, seeks to require the marshaling of evidence, and to the extent it seeks and would require production of attorney work product and information protected by attorney client privilege. Defendant further objects to this request on the grounds that it is not limited in time to the specific period in time when Plaintiff allegedly worked at Defendant’s facility or any other reasonable time frame, or a specific facility or area within the facility Plaintiff allegedly worked or any other reasonable scope of locations. Subject to and without waiving the foregoing objections, Defendant responds that based on the referenced response, this request is not applicable.

REQUEST FOR ADMISSION NO. 46:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague and overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant’s premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor’s work.

REQUEST FOR ADMISSION NO. 47:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR ADMISSION NO. 48:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant's premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR ADMISSION NO. 49:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable

Defendant to admit or deny that Plaintiff was ever on defendant's premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR ADMISSION NO. 50:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant's premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR ADMISSION NO. 51:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant's premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed,

to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR ADMISSION NO. 52:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant's premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR ADMISSION NO. 53:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant's premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their

work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR ADMISSION NO. 54:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant's premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR ADMISSION NO. 55:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant's premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR ADMISSION NO. 56:

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

RESPONSE:

Defendant objects to this request on the grounds that it is vague, overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant's premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

REQUEST FOR ADMISSION NO. 57:

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

RESPONSE:

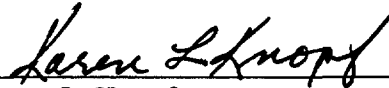
Defendant objects to this request on the grounds that it is vague, overly broad and not limited or specific enough as to time, location and the type of work allegedly done by Plaintiff. Subject to these objections, Defendant states that after reasonable inquiry, the information available is insufficient to enable Defendant to admit or deny that Plaintiff was ever on defendant's premises. Defendant admits that it had the power, in general terms, to manage and oversee the condition of its own plant. Defendant admits that it had the right to require independent contractors and their employees to comply with federal laws and general safety guidelines. Defendant admits that it had the general right to order work stopped or resumed, to inspect the progress of the work and to receive reports and admits that these independent contractors purported to be experts in their craft and Defendant relied on them and their employees to perform their work in a safe and efficient manner of their choosing. Defendant denies that it had the right to control the means, methods and details of the independent contractor's work.

CORPORATE VERIFICATION

STATE OF MISSOURI

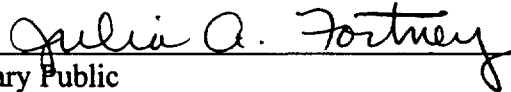
COUNTY OF ST. LOUIS

Karen L. Knopf, being duly sworn, deposes and states that she is Assistant Secretary of Solutia Inc., that she verifies the foregoing answers to interrogatories contained within "DEFENDANT PHARMACIA CORPORATION'S, FORMERLY KNOWN AS MONSANTO COMPANY, OBJECTIONS AND RESPONSES TO PLAINTIFF THEO GORDON SMITH'S FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION" (in Cause No. 0103419C, *L. W. Brokenberry, et al. v. US Gypsum, et al.*; in the 68th Judicial District Court of Dallas County, Texas) for and on behalf of Pharmacia Corporation, formerly known as Monsanto Company, and is duly authorized to do so; that some or all of the facts and matters set forth therein are not within the personal knowledge of the deponent; that the facts and matters set forth therein have been assembled by authorized agents of Pharmacia Corporation, formerly known as Monsanto Company; and that deponent is informed that the facts and matters set forth therein are true.

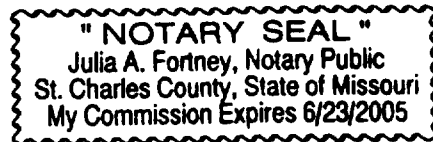


Karen L. Knopf
Assistant Secretary, Solutia Inc.

SUBSCRIBED AND SWORN TO before me on this 5th day of July, 2001.



Notary Public



NO. 0103419C

L. W. BROKENBERRY, ET AL.	§	IN THE DISTRICT COURT OF
	§	
V.	§	DALLAS COUNTY, TEXAS
	§	
U.S. GYPSUM COMPANY, ET AL.	§	68 TH JUDICIAL DISTRICT

**DEFENDANT PHARMACIA CORPORATION'S,
FORMERLY KNOWN AS MONSANTO COMPANY,
CERTIFICATE OF WRITTEN DISCOVERY**

I hereby certify that on the 12th day of July, 2001, true and correct copies of the following documents were sent to counsel for Plaintiff, Elizabeth Schick, Lou Thompson, Stephanie Finch, and Monty Sullivan, Baron & Budd, P.C., The Centrum, Suite 1100, 3102 Oak Lawn Avenue, Dallas, Texas 75219, by U.S. Certified Mail, return receipt requested, and to all other known counsel of record by regular U.S.

Mail:

1. Defendant Pharmacia Corporation's, formerly known as Monsanto Company, Response to Plaintiff's Request for Disclosure Under Rule 194; and,
2. Defendant Pharmacia Corporation's, formerly known as Monsanto Company, Objections and Responses to Plaintiff Theo Gordon Smith's First Set of Interrogatories, Requests for Production, and Requests for Admission.

Respectfully submitted,

ELLIS, CARSTARPHEN, DOUGHERTY &
GOLDENTHAL, P.C.

By: 

Edward M. Carstarphen

State Bar No. 03906700

G. Joe Ellis

State Bar No. 06575050

Douglas B. Dougherty

State Bar No. 06031560

Lawrence E. Goldenthal

State Bar No. 08089508

720 N. Post Oak Rd., Suite 330

Houston, Texas 77024

(713) 647-6800

(713) 647-6884 (fax)

ATTORNEYS FOR DEFENDANT
PHARMACIA CORPORATION, FORMERLY
KNOWN AS MONSANTO COMPANY