



NO. 96-06238-A

CHARLIE BETHEL, ET AL.	§	IN THE DISTRICT COURT
	§	
Plaintiffs,	§	
	§	
VS.	§	DALLAS COUNTY, TEXAS
	§	
OWENS-CORNING FIBERGLAS	§	
CORPORATION; ET AL	§	
	§	
Defendants.	§	14TH JUDICIAL DISTRICT

**DEFENDANT ILLINOIS CENTRAL RAILROAD COMPANY'S RESPONSES AND
OBJECTIONS TO PLAINTIFFS' REQUESTS FOR ADMISSIONS SUBJECT TO AND
WITHOUT WAIVING SPECIAL APPEARANCE TO PRESENT MOTION
OBJECTING TO JURISDICTION**

TO: CHARLIE BETHEL, by and through his counsel of record, Peter A. Kraus, Baron & Budd,
P.C., 3102 Oak Lawn Ave., Suite 1100, Dallas, Texas 75219-4281.

Pursuant to Rules 120a, 166b and 169 of the Texas Rules of Civil Procedure, Defendant
Illinois Central Railroad Company ("ICRC") hereby files its Responses and Objections to Plaintiffs'
Requests for Admissions, Subject to and Without Waiving Special Appearance to Present Motion
Objecting to Jurisdiction.

Respectfully submitted,

BROWN MCCARROLL & OAKS HARTLINE,
a Registered Limited Liability Partnership

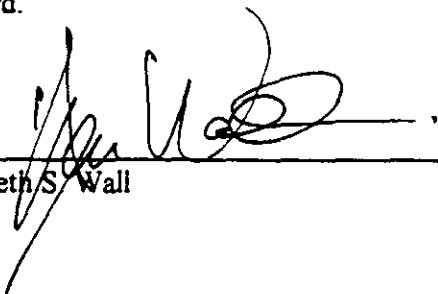
By:

Kenneth S. Wall
State Bar No. 20756790
2727 Allen Parkway
1300 Wortham Tower
Houston, Texas 77019
(713) 529-3110
FAX (713) 525-6295

ATTORNEYS FOR DEFENDANT
ILLINOIS CENTRAL RAILROAD COMPANY

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been forwarded via certified mail, return receipt requested to counsel for Plaintiffs on this 14th day of March, 1997, and made available to all other counsel of record.



Kenneth S. Wall

I.

PRELIMINARY STATEMENT AND OBJECTIONS

Subject to and without waving its current or any future special appearances, ICRC makes this preliminary statement and these objections:

ICRC currently has special appearance motions pending in various cases in Dallas County, Texas. Each of these cases involve numerous Plaintiffs who are residents of states other than Texas. Each and every objection, response or matter contained in these responses and answers is made strictly subject to and without waving any pending special appearance motion. To the extent that ICRC is named and served as a party in future cases in Dallas County, these responses shall also be subject to and without waving any future special appearance motions.

ICRC expressly objects to each and every discovery request to the extent that it seeks any information in those cases wherein a special appearance is pending for the reason that such discovery requests are not related to any special appearance motion or likely to lead to the discovery of evidence admissible in a special appearance hearing. ICRC does not own or control any railroad track in Texas.

ICRC will provide substantive responses to those requests related to jurisdictional issues as they relate to those Plaintiffs who have sued ICRC. However, ICRC objects to each and every discovery request and/or interrogatory to the extent that it is unrestricted as to subject, time and geography on the grounds that such requests/interrogatories are unreasonably burdensome and not reasonably related to the discovery of jurisdictional evidence related to such claims.

II.

GENERAL OBJECTIONS

1. ICRC objects to these requests in their entirety for the reason that such requests were not in the master set of discovery. Plaintiffs have neither sought nor obtained leave of court to serve this Defendant with discovery other than the master discovery previously approved by Dallas County. ICRC objects to this unilateral attempt by Plaintiffs to circumvent the procedures set forth by the Master Asbestos Judge in Dallas County. However, because Defendant has filed a Special Appearance contesting jurisdiction over it by this Texas Court, Defendant will provide substantive responses to those requests which are jurisdictional in nature.

2. ICRC further objects to each and every discovery request, interrogatory and request for admission to the extent that they require ICRC to search through all corporate documents on the ground that such requests are clearly overly broad, unduly burdensome, exceptionally expensive, and not reasonably related to the discovery of evidence relevant to the claims of Plaintiffs claiming injury arising out of alleged exposure while employed by ICRC in Texas.

3. ICRC further objects to those requests as a whole, since they seek matters which are privileged under the Texas Rules of Civil Procedure and Texas Rules of Civil Evidence, including, but not limited to, information and matters precluded by the attorney/client privilege, attorney/work product exemption and the party communications privilege.

4. ICRC further objects to the definitions set forth at the beginning of Plaintiffs' requests as an improper attempt to give meanings to ordinary English words that are contrary to their accepted meanings and which render the requests ambiguous, overly broad and/or unduly burdensome to answer.

5. ICRC further objects to Plaintiffs' requests as vague since they are not limited to the time and location when and where Plaintiffs were allegedly employed by ICRC.

6. ICRC expressly incorporates each and every general objection and preliminary statement into its response to each interrogatory, subject to and without waiving its special appearance motion objecting to jurisdiction.

REQUESTS FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1: Admit or deny that asbestos-containing products were in general use aboard Defendant's railroad during the time period Plaintiff was employed by Defendant.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 2: Admit or deny that Defendant transported, ordered, purchased or otherwise acquired asbestos-containing products, asbestos-containing friction products, machinery requiring the use of asbestos or asbestos-containing products.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 3: Admit or deny that Defendant used or implemented on Defendant's railroad, asbestos-containing products.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 4: Admit or deny that Defendant's cars, engines and/or locomotives which Plaintiff worked on or around were unreasonably dangerous and unfit because of the presence of and/or use of asbestos-containing products.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 5: Admit or deny that Plaintiff was a railroad worker, as that term is generally understood, during his employment with Defendant.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 6: Admit or deny that Plaintiff, in the course and scope of his work as a railroad worker and/or employee of Defendant, worked on and/or around Defendant's railroad, railway cars, engines and/or locomotives, shops, roundhouses, and transfer sheds where asbestos, and asbestos containing products were present.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 7: Admit or deny that Defendant was aware during the periods of time Plaintiff worked for Defendant that airborne asbestos dust created a potential health hazard to those who breathed such dust.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 8: Admit or deny that Plaintiff was employed by Defendant or by a predecessor-in-interest of Defendant.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 9: Admit or deny that Plaintiff worked on and/or around Defendant's railroad in areas where asbestos-containing products were installed, used, prepared for use, replaced or repaired, stored or loaded, unloaded or transported.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 10: Admit or deny that Defendant did not distribute any literature or warnings of any kind to its employees during the period of time Plaintiff worked for Defendant regarding the potential health hazards to those who breathe airborne asbestos dust.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 11: Admit or deny that asbestos-containing products were placed on or used in the conduct of Defendant's railroad during the time period Plaintiff was employed by Defendant including the following asbestos-containing products:

- | | |
|--|----------------------------|
| a. any asbestos-containing product and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials | f. asbestos gaskets |
| b. asbestos tiles | g. asbestos joint compound |
| c. asbestos millboard | h. asbestos cement |
| d. asbestos friction products | i. asbestos block |
| e. asbestos pipecovering | j. asbestos packing |
| | k. boilers |
| | l. brake shoes |
| | m. brake linings |

n. clutch linings

o. firebrick

p. refractories/castables

q. turbines

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 12: Admit or deny that Defendant engaged in no abatement programs for the removal of asbestos at any time since 1965.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 13: Admit or deny that Defendant was aware of the presence of and/or use of asbestos-containing products at the Railroad during the time period Plaintiff was employed by Defendant.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible

evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 14: Admit or deny that Defendant became aware of the potential health hazards of airborne asbestos during the time periods in which Plaintiff was employed by Defendant.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Defendant further objects to this request for the reason that it does not limit itself to a reasonable time period as related to the issues in this case, and is, therefore, beyond the scope of permissible discovery.

REQUEST FOR ADMISSION NO. 15: Admit or deny that Defendant did not continuously provide face masks to railroad employees working with or around asbestos from 1945 to the present for the purpose of protecting these employees from inhaling asbestos.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Defendant further objects to this request for the reason that it does not limit itself to a reasonable time period as related to the issues in this case, and is, therefore, beyond the scope of permissible discovery.

REQUEST FOR ADMISSION NO. 16: Admit or deny that during the time Plaintiff was employed by Defendant, it was foreseeable that asbestos-containing products on Defendant's railroad would or could be removed, stripped, replaced or repaired at some time after installation.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 17: Admit or deny that during the time Plaintiff was employed by Defendant, Defendant failed to comply with the requirements of the Boiler Inspection Act, formerly 45 U.S.C. § 23; and restated at 49 U.S.C. § 20701 et seq.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 18: Admit or deny that Plaintiff filed suit against Defendant within three (3) years of the date of discovering his asbestos-related condition or the existence of any asbestos-related causes of action.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and

is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 19: Admit or deny that Defendant is liable for Plaintiff's asbestos related illness.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 20: Admit or deny that Defendant knew or had reason to know that the asbestos was in use on its railroad since the 1930's.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 21: Admit or deny that Defendant consciously decided not to warn its employees of the dangers of asbestos.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 22: Admit or deny that asbestos is still in use and/or in place on Defendants railroad.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 23: Admit or deny that Defendant no longer uses asbestos on its railroad.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 24: Admit or deny that Defendant acquired knowledge, during the 1930's of the Alton Railroad's responses to the Illinois Occupational Diseases Act.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

REQUEST FOR ADMISSION NO. 25: Admit or deny that Defendant was a member of the National Claims Registry which reported information regarding injury claims of railroad workers.

RESPONSE: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.