

18TH JUDICIAL DISTRICT COURT

PARISH OF IBERVILLE

STATE OF LOUISIANA

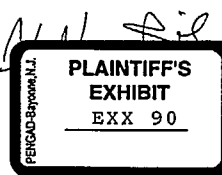
JOSEPH A. CLEBERT and
GLORIA GOMEZ CLEBERT

SUIT NO.: 38,744

VERSUS

DIVISION "B"

MCCARTY CORPORATION, ET AL



EXXON CORPORATION'S RESPONSES TO CONSOLIDATED
REQUESTS FOR ADMISSIONS, INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS

Exxon Corporation ("Exxon"), defendant, hereby responds to the consolidated requests for admissions, interrogatories and request for production of plaintiff as follows:

1.1 REQUEST FOR ADMISSION

Admit that you have authorized and/or permitted the presence of insulation material which contained asbestos at your refinery located in Baton Rouge, Louisiana, between the years 1935 and 1980.

RESPONSE TO 1.1 REQUEST FOR ADMISSION

Exxon objects to this request for admission because it is overly broad and irrelevant, in that plaintiff does not claim to have been at Exxon's premises from 1935 to 1980, and also inasmuch as the "presence of insulation material which contained asbestos," in itself, could not be injurious to plaintiff. Without waiving its objections, Exxon admits that asbestos-containing insulation products have been present in Exxon's Baton Rouge refinery during the period 1935-1980. However, Exxon denies that it purchased and installed insulation containing asbestos during the entire time period set forth in Request for Admission 1.1.

1.2 INTERROGATORY

If you admit the foregoing Request for Admission, please state without limitation:

- (a) Was asbestos contained insulation present during the construction of the catalytic converter (Cat Cracker I or II) which was being built in the period including the years 1950-1952?
- (b) Identify the insulation contractors who were responsible for applying the insulation to the Cat Cracker I or II during the period 1950-1952.
- (c) The type of insulation (block, pipe covering, cement, etc.) and any specification as to the brand of asbestos used (i.e. Thermabestos, Unibestos, etc.) on the Cat Cracker I or II during the years 1950-1952.
- (d) The total quantity of asbestos contracted or installed on the Cat Cracker I or II during the years 1950-1952.

RESPONSE TO 1.2 INTERROGATORY

Exxon objects to Interrogatory 1.2 in its entirety as overly broad and burdensome and not reasonably calculated to lead to the discovery of relevant discovery insasmuch as the interrogatory requests responses "without limitation."

(a) Exxon objects to part (a) of this interrogatory as ambiguous and insufficiently clear, particularly the phrase "asbestos contained insulation," which has no meaning to this defendant, and also objects to part (a) as vague and ambiguous and overly broad, burdensome, and irrelevant in that no specific location is set forth to restrict the meaning of "present" to those locations where plaintiff alleges to have worked. Without waiving these objections, Exxon further states that this defendant is unsure what is asked by this question; Exxon has admitted in reponse to Request for Admission 1.1 that asbestos-containing insulation was present at its Baton Rouge facility during the 1935 1980 time period, which includes the 1950-1952 time period. Without waiving its objections, Exxon does not know and cannot affirm or deny Interrogatory 1.2(a) because Exxon's investigation to date indicates that neither Cat Cracker I or II or any other Cat

Cracker was at Exxon's Baton Rouge refinery in 1950-1952 as described in this interrogatory, but our search for relevant information continues and Exxon will supplement its responses in accord with applicable rules as necessary.

(b) Subject to the objections stated in 1.2(a) above, see Exxon's response to Interrogatory 1.2(a). Our search for relevant information continues and these records, if any exist and can be located, will be made available for plaintiff's counsel's inspection at a mutually agreeable time.

(c) Subject to the objections stated at 1.2(a) above, Exxon is searching for relevant information and documentation, and will make available for plaintiff's counsel's inspection at a mutually agreeable time, the records it locates, if any, which are responsive, pursuant to Article 1460, La. C.C.P.

(d) Exxon objects to Part (d) of this interrogatory as vague and ambiguous and susceptible to various interpretations, and overly broad and irrelevant, particularly in that it is not clear to this defendant what "total quantity of asbestos contracted" means, nor can this defendant speak as to "quantities of asbestos . . . installed" without knowing the percentage of asbestos in the asbestos-containing product that might have been installed. Without waiving its objections, Exxon has not yet located such documents, but Exxon will make available for plaintiff's counsel's inspection at a mutually agreed time relevant documents Exxon locates, if any.

1.3 REQUEST FOR PRODUCTION

Please produce all contracts and specifications relating to the insulation in force during the years 1950-1952.

RESPONSE TO 1.3 REQUEST FOR PRODUCTION

Exxon objects to this request for production as overly broad and unnecessarily burdensome in that it is not restricted to the area where plaintiff allegedly worked, or restricted to asbestos-containing insulation. Exxon further objects to this request for production because it is vague,

particularly phrases such as "insulation in force." Subject to these objections, Exxon incorporates its response to Interrogatory 1.2 above. To the extent it can find any documents which satisfy this request, it will only produce those which relate to the area where plaintiff allegedly worked, and only within the 1950-1952 period.

-2.1 REQUEST FOR ADMISSION

Admit that by 1950 you had knowledge that asbestos dust caused damage to the lung tissues.

RESPONSE TO 2.1 REQUEST FOR ADMISSION

Exxon objects to this request for admission as ambiguous, vague, overly broad and irrelevant. The phrase "asbestos dust caused damage to lung tissue," absent further clarification, is too vague to have any precise meaning to this defendant. The admission requested does not clarify the term "asbestos dust" by restricting the term to specific conditions of unprotected exposure to asbestos fibers, by fiber type and concentration and for a certain length of time does not define "caused," or "damage to lung tissue," or even restrict this admission to human beings, much less to plaintiff. Moreover, plaintiff has alleged contraction of a specific disease, mesothelioma, and not merely "damage to lung tissue." Without waiving its objections, Exxon admits that it knew by 1950 that prolonged, unprotected exposure to sufficiently high levels of certain types of asbestos fibers could cause a disease or condition known as "asbestosis," which involves damage to the lung tissue of the individual who has the disease or condition. However, Exxon does not and cannot admit, and in fact denies that in 1950 it was aware of any connection known or suspected between asbestos and "mesothelioma," the disease which plaintiff alleges to have contracted, because the scientific and medical community did not recognize, write about or know about any connection between mesothelioma and asbestos until the 1960's.

2.2 INTERROGATORY

If you admit the preceding request for admission, please state without limitation:

- (a) When and how you became aware that dust could cause such damage.
- (b) Please state if any of your medical officers, hygienists, or other employees, or anyone acting on their behalf, ever made any reports, recommendations and/or suggestions to anyone in your company pertaining to the existence of a relationship between asbestos exposure and diseases.

RESPONSE TO 2.2 INTERROGATORY

(a) Exxon objects to this interrogatory by incorporating herein its objections to 2.1 above. Without waiving its objections, see response to 2.1 above.

(b) Yes.

2.3 INTERROGATORY

If the answer to the foregoing interrogatory is in the affirmative, please state with respect to each recommendation, report or suggestion:

- (a) When each such recommendation, report or suggestion was made;
- (b) To whom each such recommendation, report or suggestion was made;
- (c) By whom each such recommendation, report or suggestion was made;
- (d) Substance of each such recommendation, report or suggestion.

RESPONSE TO 2.3 INTERROGATORY

Exxon objects to this interrogatory by incorporating herein its objections to 2.1 above. Without waiving its objections, Exxon also objects that this interrogatory is overly broad and vague, and that it would be impossible for this defendant, which employed literally thousands of people

in this time period, to know of every such "recommendation, report or suggestion" ever made, at any place and time, by anyone to anyone within the company, whether written or oral, and to expect this defendant to undertake such an investigation would be unduly burdensome. Without waiving its objections, Exxon states that the "Medico-Safety Survey" by Roy S. Bonsib dated 1937 sets forth recommendations pertaining to the relationship between certain asbestos exposures and asbestosis, and we believe that these recommendations were not communicated and formed the basis for most or all recommendations made by Exxon employees concerning safe handling of asbestos-containing insulation until the advent of the Occupational Safety and Health Agency (OSHA) regulations governing this area. ?

3.1 REQUEST FOR ADMISSION

Admit that a bulletin entitled "Dust Producing Operations in the Production of Petroleum Products and Associated Activities, date July - 1937" (the cover page of which is attached as Exhibit 1) was prepared for and/or published by R.S. Bonsib, Chief Safety Inspector, Standard Oil Company, New Jersey.

RESPONSE TO 3.1 REQUEST FOR ADMISSION

Denied as worded. Exxon does admit that Roy S. Bonsib authored "Dust Producing Operations in the Production of Petroleum Products and Associates Activities: A Medico-Safety Survey."

3.2 INTERROGATORY

If you admit the foregoing request for admission, please state without limitation:

- (a) What were the recommended threshold or permissible dust limits of asbestos particles per cubic foot as determined by Public Health Service technique in force in the Cat Cracker I or II during the years 1950-1952?

- (b) Who were your employees responsible for seeing that the recommended threshold or dust limits were enforced?
- (c) Were the recommendations, if any, referred to in 3.2(a) in writing?
- (d) Were regulations prescribed by you for those persons working in Cat Cracker I or II in the years 1950-1952 relating to:
- (1) Respiratory protection;
 - (2) Dust suppression;
 - (3) Prevention of redispersion of dust.

RESPONSE TO 3.2 INTERROGATORY

Exxon objects to this interrogatory in its entirety as overly broad and irrelevant to the extent that it requests a response "without limitation," nor is it clear what "in force in the Cat Cracker I or II" means.

(a) Without waiving the above objections, Exxon states that the Bonsil bulletin is the evidence of its content on this issue. ←

(b) Exxon objects that this subpart (b) of the interrogatory is not restricted as to time or place or to asbestos-containing dust, and is therefore overly broad, irrelevant, and burdensome. Without waiving its objections, Exxon states that all workers at Exxon's Baton Rouge facility were responsible for compliance with safety rules and recommendations.

(c) Yes.

(d) Exxon objects to subpart (d) of the interrogatory as overly broad and irrelevant to the extent that it seeks information concerning "dust," which plaintiff does not allege to have caused his condition. Exxon also objects to the phrase "regulations prescribed by you for those persons working in Cat Cracker I or II" as worded because it is unclear what is asked: See response to Interrogatory 1.2(a). Without waiving these objections, Exxon responds that

safety recommendations were plantwide, and not limited to a specific unit or work area.

3.3 REQUEST FOR PRODUCTION

Please produce:

- (a) Bulletin entitled "Dust Producing Operations in the Production of Petroleum Products and Associated Activities, dated July - 1937.
- (b) Dust studies, if any, prepared by those parties identified in 3.2 above.
- (c) Recommendations referred to in 3.2(c) above.
- (d) Regulations admitted in 3.2(d).

RESPONSE 3.3 REQUEST FOR PRODUCTION

- (a) Exxon's objects to this request for production. ←

If the publication requested by this request for production is the publication whose title page appears as Exhibit 1, that publication is within the public domain and equally accessible to plaintiff's counsel; in fact, plaintiff's counsel has already obtained a copy, a copy of which he later sent to Exxon's counsel.

(b) Exxon objects to this request for production as overly broad and irrelevant, particularly as to "dust studies," since plaintiff does not claim to have been injured by "dust," and the request is not limited or restricted in time or place, nor does it limit the dust studies, if any, "prepared by those parties" to studies done by those parties in their capacity as employees or agents of this defendant. Without waiving its objections, Exxon is searching for any studies of asbestos-containing dust concentrations in the workplace relevant to the time and work area where plaintiff allegedly worked and will produce any such studies Exxon locates.

(c) See attached Exhibit A.

(d) Exxon objects to subpart 3(d) in that Exxon's response to Interrogatory 3.2(d) is not "admitted." Subject to this objection, and without waiving this objection and the objections stated in 3.2(d) above, see attached Exhibit A.

4.1 REQUEST FOR ADMISSION

Admit that from 1937 until 1952 you conducted surveys as to hazards involving asbestos at the Exxon facility in Baton Rouge, Louisiana.

RESPONSE TO 4.1 REQUEST FOR ADMISSION

Exxon objects to this request for admission as overly broad, ambiguous, vague and irrelevant, particularly the unqualified and unexplained term "surveys," and the irrelevancy of Exxon's knowledge about anything as early as 1937, before plaintiff allegedly worked at Exxon's premises, or anyone's knowledge of mesothelioma up to 1952, since the disease from which the plaintiff allegedly suffers was not known, recognized or written about by the scientific and medical community in connection with asbestos until the 1960's. Exxon also objects to this admission because it is based upon the premise that "hazards involving asbestos at the Exxon facility in Baton Rouge, Louisiana" existed from 1937 until 1952 or some part of that time period, which is not admitted by Exxon. Exxon also objects to this request for admission as vague and speculative inasmuch as the terms "hazards" and "hazards involving asbestos" require qualification or definition before they denote a reasonably precise meaning in this context. Without waiving these objections, Exxon states that it did conduct dust counts in connection with potential exposures to asbestos-containing dust at times falling within the 1937-1952 time period.

4.2 INTERROGATORY

If you admit the foregoing request for admission, please state without limitation:

- (a) The dates and locations of such surveys.
- (b) Were these reduced to writing?
- (c) Identify those responsible for conducting such surveys.

RESPONSE TO 4.2 INTERROGATORY

See response to Request for Admission 4.1 and objections therein; subject to the objections stated in 4.1 above,

(a) See attached Exhibit B, a 1949 publication concerning Exxon's Baton Rouge facility;

(b) Yes;

(c) See response to 3.2(b) above and see Exhibit B.

4.3 REQUEST FOR PRODUCTION

Please produce all surveys referred to in your answer to the preceding interrogatory.

RESPONSE TO 4.3 REQUEST FOR PRODUCTION

See Exhibit B.

5.1 REQUEST FOR ADMISSION

During the years 1950-1952, you maintained asbestos regulations and/or standards for use at the Exxon facility in Baton Rouge, Louisiana.

RESPONSE TO 5.1 REQUEST FOR ADMISSION

Exxon objects to this request for admission as vague and speculative, inasmuch as the terms "maintained" and "asbestos regulations and/or standards for use" are not specific or precise enough to have any meaning which this defendant can simply affirm or deny. Without waiving its objections, Exxon admits that its Baton Rouge facility had a program for safe handling of asbestos-containing insulation materials which was in force in the 1950-1952 time period. See response to 2.3 above.

5.2 REQUEST FOR PRODUCTION

If the foregoing request for admission is in the affirmative, please produce all documents, tangible things and supporting documents or extracts thereof indicating or serving as a basis for the preceding request for admission.

RESPONSE TO 5.2 REQUEST FOR PRODUCTION

See Exhibit A. Pursuant to Article 1460, La. C.C.P., Exxon will make available for plaintiff's counsel's

inspection any Exxon documents which are subsequently located and which are responsive to Request for Production 5.2.

6.1 INTERROGATORY

Identify other petrochemical processors, labor unions, federal and state governments with whom you have shared information concerning asbestos.

RESPONSE TO 6.1 INTERROGATORY

Exxon objects to this interrogatory as overly broad in that it is unrestricted as to time and place, and not limited to labor unions and state governments with whom plaintiff might have been associated. Exxon also objects to this interrogatory as vague, inasmuch as the term "information concerning asbestos" is so broad as to require qualification and definition before it denotes a reasonably precise meaning in this context. Exxon also objects to this interrogatory to the extent that it seeks information protected from disclosure by the attorney/client privilege or attorney work product privilege. Without waiving its objections, Exxon states that it did share with others what knowledge it had concerning potential hazards of exposure to asbestos-containing dust, but that knowledge was limited to asbestosis before the 1960's because mesothelioma, the disease from which plaintiff allegedly suffers, was not known or believed to be associated with asbestos exposure before the 1960's.

6.2 REQUEST FOR PRODUCTION

Please produce all documents, tangible things and supporting documents or extracts thereof indicating or serving as a basis for the preceding interrogatory.

RESPONSE TO 6.2 REQUEST FOR PRODUCTION

See objections to 6.1 above.

7.1 INTERROGATORY

Please identify each individual who you will or may call as an expert witness to give opinion testimony and with respect to each state the following:

- (a) The field in which he or she is to be offered as an expert.
- (b) The substance of the facts to which he or she is expected to testify.
- (c) The substance of the opinions which he or she is expected to testify and a summary of the grounds for such opinions.
- (d) A summary of his or her qualifications within the field he or she is expected to testify.
- (e) The identification of all prior testimony of which Louisiana, national and regional counsel are aware.

RESPONSE TO 7.1 INTERROGATORY

James Hammond, former Chief Industrial Hygienist, Exxon Corporation, may be called as a fact witness and may be called as an expert witness. Exxon may retain other experts depending upon the opinions of plaintiff's expert which have not yet been divulged to Exxon.

- (a) Industrial Health and Hygiene.

(b) At this time, since Mr. Clebert has not disclosed the expert testimony that he will present, Exxon is unable to set forth the substance of the facts and opinions to which James Hammond is expected to testify.

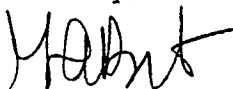
- (c) See (b) above.

(d) See the attached Curriculum Vitae of James Hammond.

(e) Exxon objects that this information is in the public domain and is therefore equally accessible to plaintiff's counsel; Exxon also objects to the extent that this interrogatory is addressed to the knowledge of counsel, and not to the knowledge of the defendant; without waiving

these objections, counsel for the defendant who assisted in preparing these responses states that James Hammond may have testified in many cases which do not involve Exxon, and any testimony Exxon had knowledge of would be within the public domain.

Submitted by:



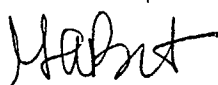
Gary A. Bezet (#3036)
-KEAN, MILLER, HAWTHORNE,
D'ARMOND, McCOWAN & JARMAN
Post Office Box 3513
Baton Rouge, Louisiana 70821
Telephone: (504) 387-0999

David W. Ledyard
STRONG, PIPKIN, NELSON & BISSELL
1400 San Jacinto Building
595 Orleans
Beaumont, TX 77701-3255

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been mailed, postage prepaid to all counsel of record.

Baton Rouge, Louisiana, February 6, 1991.



Gary A. Bezet

VERIFICATION

STATE OF LOUISIANA §
 §
PARISH OF IBERVILLE §

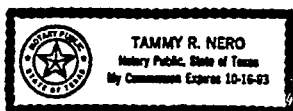
BEFORE ME, undersigned Notary, personally came and appeared:

J. Michael Nussbaum

who, being by me first duly sworn, did depose and state that he is the Attorney for Exxon Corporation and the he has read the foregoing response to consolidated requests for admissions, interrogatories and request for production of documents and that they are true and correct to the best of his knowledge, information and belief.

J. Michael Nussbaum

SWORN TO AND SUBSCRIBED before me, this 4th day of February, 1991.



Tammy R. Nero
NOTARY PUBLIC

My Commission Expires:
October 16, 1993