

NO. 00-10192-K

JERRY WAYNE MORRIS, et al.	§	IN THE DISTRICT COURT
	§	
Plaintiffs,	§	
	§	
vs.	§	DALLAS COUNTY, TEXAS
	§	
U.S. GYPSUM COMPANY, et al.	§	
	§	
Defendants.	§	K-192ND JUDICIAL DISTRICT

**DEFENDANT CELANESE LTD.'S RESPONSE TO
PLAINTIFF LEVI AVERICE PENTON'S REQUESTS FOR DISCLOSURE**

In accordance with Rule 194 of the Texas Rules of Civil Procedure and in response to Plaintiff Levi Averice Penton's Rule 194 Requests for Disclosure, Defendant Celanese Ltd. ("Celanese") provides the following information:

(a) The correct names of the parties to the lawsuit:

Celanese Ltd. is the correct name of this defendant.

(b) The name, address, and telephone number of any potential parties:

At this stage of the suit, Celanese has insufficient information to know if all proper parties are joined.

(c) The legal theories and, in general, the factual bases of the responding party's claims or defenses:

On the basis of the limited information and vague allegations contained in Plaintiffs' Petition, Celanese believes the following affirmative defenses do or may apply to this case:

The sole proximate cause of Plaintiff's alleged injuries or damages were the acts or omissions of other parties or persons over whom Celanese had no control and for whom Celanese is not legally responsible. No act or omission on the part of Celanese either caused or contributed to Plaintiff's alleged injuries or damages. Further, Celanese owed Plaintiff no duty, legal or otherwise, and is therefore not liable to Plaintiff for any alleged breach of any alleged duty.

As to any injuries or damages Plaintiff alleges to have incurred, Plaintiff voluntarily and knowingly assumed the risk of incurring any of the injuries or damages alleged. Additionally, Plaintiff failed to exercise ordinary care for his own safety, and such failure on his part proximately caused any injuries or damages alleged.

Plaintiff's claims against Celanese are barred by the applicable statute of limitations and the doctrines of laches and waiver.

Finally, assuming Plaintiff did perform some type of independent contractor work at a Celanese facility, Celanese denies that Plaintiff was exposed to asbestos at all, or in sufficient quantities to have caused any harm. Celanese believes its plants are and were safe and well-maintained industrial facilities, and there would have been insufficient opportunity for any such exposure.

(d) The amount and any method of calculating economic damages:

Celanese is not claiming monetary damages in this suit at this time.

(e) The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case:

At this time, Celanese has insufficient information regarding Plaintiff or where and when he worked to say who at Celanese or elsewhere has knowledge of relevant facts. Investigation is ongoing, and Celanese will supplement as discovery progresses.

(f) For any testify expert: 1) the expert's name, address, and telephone number; 2) the subject matter on which the expert will testify; 3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information; 4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party: (A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and (B) the expert's current resume and bibliography:

Celanese does not have sufficient information at this time to decide which, if any, experts might be needed or utilized in this case. Celanese reserves the right to supplement.

(g) Any discoverable indemnity and insuring agreements:

Celanese is investigating to determine whether any such agreements exist. Celanese reserves the right to supplement.

(h) Any discoverable settlement agreements:

None.

(i) Any discoverable witness statements:

None.

(j) In a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills:

Not applicable.

(k) In a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party:

None at this time. Celanese will supplement if necessary and appropriate.

Respectfully submitted,

KASOWITZ, BENSON, TORRES
& FRIEDMAN LLP

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served via facsimile and/or hand delivery and/or U.S. mail, postage prepaid, to all counsel of record on this 15th day of August, 2001.



Scott D. Nelson

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K-192ND JUDICIAL DISTRICT

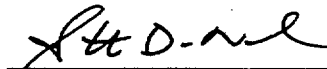
**DEFENDANT CELANESE LTD.'S
CERTIFICATE OF WRITTEN DISCOVERY**

I, Scott D. Nelson, counsel for Defendant Celanese Ltd., certify that on the 15th day of August, 2001, I served the following discovery by certified mail, return receipt requested, on counsel for the plaintiff:

- 1) Defendant Celanese Ltd.'s Objections and Responses to Plaintiff Levi Averice Penton's First Set of Interrogatories, Requests for Production and Requests for Admission; and
- 2) Defendant Celanese Ltd.'s Response to Plaintiff Levi Averice Penton's Requests for Disclosure.

Respectfully submitted,

KASOWITZ, BENSON, TORRES
& FRIEDMAN LLP



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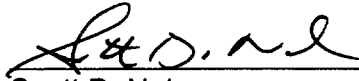
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing has been served via certified mail, return receipt requested, upon counsel for plaintiffs on this 15th day of August, 2001, and by regular U. S. mail, postage prepaid, upon counsel for defendants.



Scott D. Nelson