

IN RE: ALL ASBESTOS-RELATED PERSONAL § IN THE DISTRICT COURTS OF
INJURY OR DEATH CASES FILED §
BY BARON & BUDD, P.C. OR TO § DALLAS COUNTY, TEXAS
BE FILED BY BARON & BUDD, P.C. §
IN DALLAS COUNTY, TEXAS § 191ST JUDICIAL DISTRICT

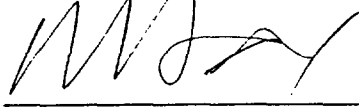
**DEFENDANT WESTINGHOUSE ELECTRIC CORPORATION'S
FIRST AMENDED OBJECTIONS AND RESPONSES TO PLAINTIFFS'
INTERROGATORIES SERVED ON OR ABOUT SEPTEMBER 24, 1993**

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

Comes now, Westinghouse Electric Corporation ("Westinghouse"), by and through its attorneys of record, and files these First Amended Objections and Responses to Plaintiffs' Interrogatories served on or about September 24, 1993.

Respectfully submitted,

VIAL, HAMILTON, KOCH & KNOX
1717 Main Street, Suite 4400
Dallas, Texas 75201
(214) 712-4400
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By: 

MARK A. HENDRIX
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State Bar No. 20032700
McGUIRE, WOODS, BATTLE &
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One James Center
Richmond, Virginia 23219
(804) 775-1000



ATTORNEYS FOR DEFENDANT WESTINGHOUSE ELECTRIC CORPORATION

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Westinghouse Electric Corporation's First Amended Objections and Responses to Plaintiffs' Interrogatories served on or about September 24, 1993 has been forwarded to counsel for Plaintiffs via hand delivery on the 24 day of November, 1993. All other known counsel of record were notified of the filing of this document by letter only.



MARK A. HENDRIX

Objection Pursuant to Rule 168(5)

Westinghouse has a history of cooperation with Plaintiffs' counsel, Baron & Budd, and has produced substantial discovery consisting of documents, witnesses and answers to interrogatories. The Texas Rules of Civil Procedure provide, however, that the questions in a set of interrogatories, including subsections, may not require more than thirty answers. TEX. R. CIV. P. 168(5). The present set is divided into four questions. Each of the first three, however, requires separate answers regarding information on 36 different documents. Thus, responding to this set of interrogatories would require 109 separate answers. Westinghouse, therefore, objects to the number of answers required by this set of interrogatories in excess of the first thirty.

Preliminary Statement and General Objections

The current interrogatories request verification of the authenticity of certain documents, some of which presumably were previously produced by Westinghouse to Plaintiffs, along with thousands of other documents. While some of these documents were produced by Westinghouse, Westinghouse cannot answer how they arrived in the files, who placed them there or under what circumstances they came to the files. Many of these documents were not prepared by Westinghouse, and Westinghouse cannot attest to their authenticity. Specifically, Westinghouse lacks the first-hand knowledge necessary to determine whether each of these documents is genuine and authentic. Likewise, many of the documents cannot be confirmed as originating from Westinghouse, because Plaintiffs have supplied copies that do not carry a readable bates number, appear to be missing pages or contain pages that do not appear to be part of the original document. Furthermore, many of the documents themselves are illegible. Finally, many

documents on their face appear to be Westinghouse documents, but contain extraneous typed or hand-written information that would not have been found on the original document. Again, without knowing the source of the document or at least the source of this extraneous information, Westinghouse cannot attest to the documents' authenticity. In essence, Plaintiffs have failed to provide sufficient information for Westinghouse to provide more specific responses. For these reasons, Westinghouse objects to these interrogatories pursuant to Texas Rule of Civil Procedure 166b(4).

All responses to these interrogatories are made without waiving: (1) the right to object on the grounds of competency, relevancy, materiality, hearsay or any other proper grounds; (2) the right to object to the use of any such information for any purpose, in whole or in part, in any subsequent stage or proceeding in this action or any other action; or (3) the right to object on any and all grounds, at any time, to any other discovery procedure relating to the subject matter of these interrogatories.

Without waiving these objections, Westinghouse further responds to the interrogatories as follows:

INTERROGATORIES

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

ANSWER: See Objection Pursuant to Rule 168(5) and the Preliminary Statement and General Objections (above). Responses indicating that a document appears to be a copy of material provided by Westinghouse refer only to the underlying document, as the source of extraneous markings cannot be determined. Subject to these objections, see individual responses below.

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
a) WH-579	Photographs of insulation blankets being applied to turbines. Bates Nos. 28012071, 28012072, 28012074, 28012076, and 28012086.
<u>ANSWER:</u>	This document appears to be a copy of material provided to Plaintiffs by Westinghouse.
b) WH-580	Westinghouse Electric Corporation letter dated October 21, 1975 from Ronald G. Ingham to Wayne Brooks.
<u>ANSWER:</u>	This document does not appear to have come from Westinghouse.
c) WH-713	Asbestos Micarta/Marinite Composite Panel Sawing Experiment Report, Law Associates' Job #1191-2122-00. April 26, 1991.
<u>ANSWER:</u>	This document does not appear to have come from Westinghouse.
d) WH-714	Video Micarta Panel Testing #1191-2122-00, 04/12/91. "Asbestos Release Evaluation". Law Engineering and Testing.
<u>ANSWER:</u>	This document does not appear to have come from Westinghouse.
e) WH-715	Westinghouse Flexible Insulating Materials booklet.
<u>ANSWER:</u>	This document appears to be a copy of material provided to Plaintiffs by Westinghouse.
f) WH-721	Article titled "The Practice of Industrial Health" by T. L. Hazlett, <u>Southern Medical Journal</u> , November 1941.
<u>ANSWER:</u>	This document does not appear to have come from Westinghouse.
g) WH-722	Article titled "These Tailors make 'Topcoats' for Turbines", <u>The Westinghouse News</u> , May 30, 1950.
<u>ANSWER:</u>	This document appears to be a copy of material provided to Plaintiffs by Westinghouse.
h) WH-723	Westinghouse memorandum dated January 31, 1956 from W. C. Hood to D. E. Baldwin; subject: Progress Report on C.O.D. D-8-56 - Fireproof Bulkheads to be Used on New Ships - Moore McCormack, with attachment.

ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.

- i) WH-724 Memorandum dated February 22, 1956 from D. E. Baldwin to G. F. Sutton; re: Moore-McCormick Negotiations (sic), C.O.D. 8-56, Project 659-10.

ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.

- j) WH-725 Letter dated April 29, 1957 from W. H. Leland to R. H. Dement; subject: Underwriter's Approval of Asbestos MICARTA.

ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.

- k) WH-726 Westinghouse memo dated May 10, 1957 from W. C. Woods (sic) to D. E. Baldwin; subject: Discoloration of Inks on Moore McCormick Samples.

ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.

- l) WH-727 Marine Turbine Drawings, issued June 25, 1957.

ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.

- m) WH-729 Letter dated February 2, 1959 from D. E. Baldwin to R. H. Dement.

ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.

- n) WH-730 Underwriters' Laboratory, Inc. letter dated February 13, 1959 from A. A. Briber to W. C. Hood.

ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.

- o) WH-731 Memo dated April 3, 1959 from D. E. Baldwin to C. R. Keller re: Underwriters' Laboratories Testing.

ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.

- p) WH-734 United States Plywood Corporation letter dated August 14, 1959 from R. H. Dement to H. C. Smith.
- ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.
- q) WH-735 United States Plywood Corporation letter dated January 18, 1961 from R. H. Dement to D. E. Baldwin, with attachment.
- ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.
- r) WH-736 Letter dated January 27, 1961 from D. E. Baldwin to R. H. Dement.
- ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.
- s) WH-738 Letter dated February 17, 1961 from Howard Grosh to R. H. Dement; subject: UL Progress (sic) - Your letter 1/18/61, with enclosure.
- ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.
- t) WH-739 Purchase Requisition No. 42-31292 dated March 21, 1961 from D. E. Baldwin, with attachment.
- ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.
- u) WH-740 United States Patent No. 3,018,206 dated January 23, 1962.
- ANSWER: This document does not appear to have come from Westinghouse, nor do the apparently unrelated documents that were included behind this document.
- v) WH-741 Westinghouse memo dated February 20, 1962 from V. P. McGean to Regional Micarta Sales Managers, Regional Micarta Salesmen (Decorative) and U.S. Plywood Division & Branch Managers; re: .050" Fire-Resistant Asbestos Micarta.
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- w) WH-742 Process Specification No. 60-01-11, Application of Asbestos Compound by Spraying from J. W. Desmond dated May 1, 1962.

ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.

- x) WH-743 Westinghouse memo dated December 27, 1962 from T. W. Botham, Route M.L. #8-15; subject: Steam Service Data Letter #62-23, with attachment.

ANSWER: This document does not appear to have come from Westinghouse and appears to be incomplete.

- y) WH-745 Westinghouse Electric Corporation letter dated June 7, 1967 from S. E. Palazzolo to Bob F. Flanagan, with attachment.

ANSWER: Only the first page of this document (Bates #07001146) appears to be a copy of material provided to Plaintiffs by Westinghouse. The second page does not appear to have come from Westinghouse.

- z) WH-751 Johns-Manville Research and Engineering Report No. 404-105 dated March 30, 1972; title: Thermobestos and Marinite - Fiber and Dust Release on Cutting, by R. M. Haller, with attachments.

ANSWER: This document does not appear to have come from Westinghouse, nor do the apparently unrelated documents that were included behind this document.

- aa) WH-753 Westinghouse memo dated April 30, 1973 from J. C. Botts to E-General; subject: Asbestos Based Micarta.

ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.

- bb) WH-754 Memo dated May 7, 1973 from John F. Adams to Bath Works, T. J. Katner.

ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.

- cc) WH-756 Memo dated April 17, 1974 to G. T. Laney re: Fire Retardant Sales.

ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.

- dd) WH-758 Asbestos. Measurement Requirements, Compliance, Impact, Medical Requirements, Permissible Concentrations, Record Requirements, Regulated Area. March, 1976.

ANSWER: This document appears to be a copy of material provided to Plaintiffs by Westinghouse.

- ee) WH-759 Article titled "The Konicid (sic) Club (1932-1940), Hatch and Pendergrass, Journal of Occupational Medicine, Vol. 19, No. 5, May 1977.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

- ff) WH-768 Westinghouse memo dated August 29, 1989 from R. A. Cancilla; re: Asbestos Notification.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

- gg) WH-769 Soil & Material Engineers letter dated May 20, 1989 from J. Phillips, B. Lester and Mike Cashio to Mike Cannon re: Westinghouse Micarta Division, Hampton South Carolina, Soil & Material Engineers Project #1238-89-164, with Asbestos Survey.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

- hh) WH-771 MVA, Inc. letter dated November 11, 1992 from M. Bottrell and James R. Millette to Jennifer Wagner re: Asbestos Board Tests, MVA Project No. 0393, with attached report.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

- ii) WH-772 MVA, Inc. letter dated December 3, 1992 from J. Millette, to Jennifer Wagner; re: Studies to Determine Asbestos Fiber Release During Cutting of Asbestos Board Materials, Micarta/Marinite, MVA Project No. 0393, with attached report.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

- jj) WH-773 Article titled "Medical-Engineering Control of Industrial Health Hazards", by T. L. Hazlett, Industrial Medicine, May, 1936.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

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

ANSWER: Because hundreds of thousands of pages of documents have been made available to Plaintiffs from a large variety of sources within Westinghouse, Westinghouse is unable to determine whether these materials were maintained in the regular course of regularly conducted business activity. In addition, many of these documents contain extraneous handwritten or typed notations obviously not a part of the original document and whose origin is unknown. Therefore, Westinghouse cannot attest that these documents as attached, were "kept and/or generated in the regular course of a regularly conducted business activity of any Westinghouse entity by an employee or representative of any Westinghouse entity with knowledge of the act, event, condition or opinion recorded." The foregoing is also true with respect to any document produced by Westinghouse that was generated by some source outside the corporation. See also Objection Pursuant to Rule 168(5) and the Preliminary Statement and General Objections (above).

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
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ANSWER: See Objection Pursuant to Rule 168(5) (above).

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ANSWER: See Objection Pursuant to Rule 168(5) (above).

- c) WH-713 Asbestos Micarta/Marinite Composite Panel Sawing Experiment Report, Law Associates' Job #1191-2122-00. April 26, 1991.
- ANSWER: See Objection Pursuant to Rule 168(5) (above).
- d) WH-714 Video Micarta Panel Testing #1191-2122-00, 04/12/91. "Asbestos Release Evaluation". Law Engineering and Testing.
- ANSWER: See Objection Pursuant to Rule 168(5) (above).
- e) WH-715 Westinghouse Flexible Insulating Materials booklet.
- ANSWER: See Objection Pursuant to Rule 168(5) (above).
- f) WH-721 Article titled "The Practice of Industrial Health" by T. L. Hazlett, Southern Medical Journal, November 1941.
- ANSWER: See Objection Pursuant to Rule 168(5) (above).
- g) WH-722 Article titled "These Tailors make 'Topcoats' for Turbines", The Westinghouse News, May 30, 1950.
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- h) WH-723 Westinghouse memorandum dated January 31, 1956 from W. C. Hood to D. E. Baldwin; subject: Progress Report on C.O.D. D-8-56 - Fireproof Bulkheads to be Used on New Ships - Moore McCormack, with attachment.
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- ANSWER: See Objection Pursuant to Rule 168(5) (above).
- m) WH-729 Letter dated February 2, 1959 from D. E. Baldwin to R. H. Dement.
- ANSWER: See Objection Pursuant to Rule 168(5) (above).
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- p) WH-734 United States Plywood Corporation letter dated August 14, 1959 from R. H. Dement to H. C. Smith.
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- u) WH-740 United States Patent No. 3,018,206 dated January 23, 1962.

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- w) WH-742 Process Specification No. 60-01-11, Application of Asbestos Compound by Spraying from J. W. Desmond dated May 1, 1962.

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ANSWER: See Objection Pursuant to Rule 168(5) (above).

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- z) WH-751 Johns-Manville Research and Engineering Report No. 404-105 dated March 30, 1972; title: Thermobestos and Marinite - Fiber and Dust Release on Cutting, by R. M. Haller, with attachments.

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ANSWER: See Objection Pursuant to Rule 168(5) (above).

- bb) WH-754 Memo dated May 7, 1973 from John F. Adams to Bath Works, T. J. Katner.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

- cc) WH-756 Memo dated April 17, 1974 to G. T. Laney re: Fire Retardant Sales.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

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ANSWER: See Objection Pursuant to Rule 168(5) (above).

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

ANSWER: See the Objection Pursuant to Rule 168(5) and the Preliminary Statement and General Objections (above).

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
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ANSWER: See Objection Pursuant to Rule 168(5) (above).

- cc) WH-756 Memo dated April 17, 1974 to G. T. Laney re: Fire Retardant Sales.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

- dd) WH-758 Asbestos. Measurement Requirements, Compliance, Impact, Medical Requirements, Permissible Concentrations, Record Requirements, Regulated Area. March, 1976.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

- ee) WH-759 Article titled "The Konicid (sic) Club (1932-1940), Hatch and Pendergrass, Journal of Occupational Medicine, Vol. 19, No. 5, May 1977.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

- ff) WH-768 Westinghouse memo dated August 29, 1989 from R. A. Cancilla; re: Asbestos Notification.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

- gg) WH-769 Soil & Material Engineers letter dated May 20, 1989 from J. Phillips, B. Lester and Mike Cashio to Mike Cannon re: Westinghouse Micarta Division, Hampton South Carolina, Soil & Material Engineers Project #1238-89-164, with Asbestos Survey.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

hh) WH-771 MVA, Inc. letter dated November 11, 1992 from M. Bottrell and James R. Millette to Jennifer Wagner re: Asbestos Board Tests, MVA Project No. 0393, with attached report.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

ii) WH-772 MVA, Inc. letter dated December 3, 1992 from J. Millette, to Jennifer Wagner; re: Studies to Determine Asbestos Fiber Release During Cutting of Asbestos Board Materials, Micarta/Marinite, MVA Project No. 0393, with attached report.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

jj) WH-773 Article titled "Medical-Engineering Control of Industrial Health Hazards", by T. L. Hazlett, Industrial Medicine, May, 1936.

ANSWER: See Objection Pursuant to Rule 168(5) (above).

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

ANSWER: See Objection Pursuant to Rule 168(5) (above).

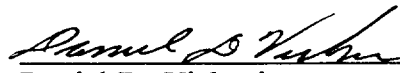
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IN RE: ALL ASBESTOS-RELATED PERSONAL
INJURY OR DEATH CASES FILED
BY BARON & BUDD, P.C. OR TO
BE FILED BY BARON & BUDD, P.C.
IN DALLAS COUNTY, TEXAS

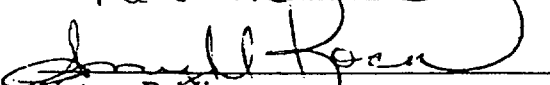
§ IN THE DISTRICT COURT
§
§ DALLAS COUNTY, TEXAS
§
§ 191ST JUDICIAL DISTRICT

COMMONWEALTH OF PENNSYLVANIA)
)
COUNTY OF ALLEGHENY) SS:

Before me, the undersigned authority, a Notary Public in and for said Commonwealth and County, personally appeared Daniel D. Vickovic, who, being duly sworn, deposes and says that he is ASSISTANT SECRETARY OF WESTINGHOUSE ELECTRIC CORPORATION, and that he signs the foregoing DEFENDANT WESTINGHOUSE ELECTRIC CORPORATION'S OBJECTIONS AND RESPONSES TO PLAINTIFF'S INTERROGATORIES SERVED ON OR ABOUT SEPTEMBER 24, 1993, on behalf of that defendant and is duly authorized so to do; that the matters stated in the foregoing document are not necessarily within the personal knowledge of deponent and that deponent is informed that there is no officer of WESTINGHOUSE ELECTRIC CORPORATION who has personal knowledge of all such matters; and that the facts stated in the foregoing document have been assembled by authorized employees and counsel of defendant and deponent is informed by those authorized employees that the facts stated in the foregoing document are true and correct.


Daniel D. Vickovic
Assistant Secretary

SWORN TO and subscribed
before me on this 15th day
of November, 1993.


Notary Public

