



NO. A-0152874

RICHARD DAVIS,	)	IN THE DISTRICT COURT
	)	
Plaintiffs,	)	
	)	
v.	)	JEFFERSON COUNTY, TEXAS
	)	
	)	
OWENS-CORNING FIBERGLAS	)	
CORPORATION, et al.	)	
	)	
Defendants.	)	58th JUDICIAL DISTRICT

**ANSWERS AND OBJECTIONS OF DEFENDANTS NORFOLK
SOUTHERN RAILWAY COMPANY AND NORFOLK SOUTHERN
CORPORATION TO FIRST INTERROGATORIES PROPOUNDED BY PLAINTIFF
RICHARD DAVIS**

Defendants, Norfolk Southern Railway Company ("NSRC") f/k/a Southern Railway Company ("Southern") and Norfolk Southern Corporation ("NSC"), for their answers and objections to Interrogatories propounded by Plaintiff, Richard Davis, as follows:

PRELIMINARY STATEMENT AND GENERAL OBJECTION

The following answers are being provided after diligent investigation and inquiry by defendant. However, because many of the events relating to the matters inquired about by plaintiff's interrogatories occurred more than fifty-five (55) years ago, the availability of persons involved and the existence of applicable documents has been limited.

As a result of the foregoing factors, many of the individuals who might have had personal knowledge of the matters to which plaintiff's interrogatories relate are deceased, retired, or are otherwise unavailable to NSRC, and investigations to date indicate that at least some documents which relate to matters inquired about by these interrogatories may have been destroyed in

keeping with normal corporate record retention policy. Accordingly, some answers are possibly incomplete. NSRC's investigation is continuing and should additional information surface, supplemental answers will be submitted. The following is a part of and is incorporated by reference in every answer provided hereinafter: .

This answer is accurate as of the date of the Answers and Objections of Defendant Norfolk Southern Railway Company to Plaintiff's Interrogatories. Norfolk Southern objects to answering this interrogatory in regard to any period of time other than the period during which it employed plaintiff and further objects to providing information about geographic locations and operating units within its system other than those at which and for whom plaintiff worked. The bases for such objections are that any answers would be irrelevant to the subject matter of the pending litigation, would not be reasonably calculated to lead to the discovery of admissible evidence, and would be burdensome and oppressive.

NSRC objects to the instructions and definitions supplied by plaintiff with regard to these interrogatories, on the bases that the definitions are overbroad, vague and often inconsistent with the normal usage and meaning of such words. The instructions are overbroad, burdensome and constitute an unreasonable expansion of the interrogatories themselves. NSRC therefore gives notice that it does not consider itself bound by the instructions and definitions propounded by plaintiff, and instead has answered these interrogatories in a manner consistent with the normal understanding of the language used in the interrogatory and to the extent necessary to fairly and fully answer the interrogatory.

Defendant Norfolk Southern Corporation objects to answering each and every Interrogatory in this First Set of Interrogatories due to the fact that the plaintiff was never an employee of this defendant and it was not in existence at the time of plaintiff's alleged employment. Effective June 1, 1982, Southern Railway Company and Norfolk and Western

Railway Company became sister corporations and the stock of each became owned by the Northern Southern Corporation, a non-carrier holding company which has never operated a railroad. Each of the carriers continued to operate as separate legal entities, a practice which continues to date. Southern Railway Company subsequently changed its name to Norfolk Southern Railway Company, but never employed the plaintiff. Norfolk Southern Railway Company remains a separate and distinct entity.

The answers that follow, unless otherwise apparent from the context, are limited to the 1940s when plaintiff alleges he was employed by NSRC for four or five years in Bessemer, Alabama. NSRC has found no record of plaintiff's alleged employment in its corporate files.

ANSWERS AND OBJECTIONS TO INTERROGATORIES

INTERROGATORY NO. 1: State the name, address, job title, length of time employed by Defendant, and a year-by-year list of all positions, titles, or jobs held while working for Defendant of each person who supplied any information used in answering these interrogatories.

ANSWER:

Defendants object to the interrogatory to the extent it seeks information within the work product privilege and the investigative/party communication privilege. NSRC further objects to this interrogatory on the grounds that the interrogatory is overly broad, vague and ambiguous.

Subject to and without waiving the foregoing objections, Defendant answers: T. M. Brady, Manager-Occupational Claims, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA, with the assistance of counsel, answered the interrogatories herein contained. In the spirit of discovery, NSRC can state that since 1983 interrogatories have been answered in lawsuits based upon asbestos exposure claims. Attorneys for NSRC have assisted in the preparation of answers to the various discovery requests after consultation with many departments within the railroad, visits to various locations within the railroad, and, review of historical documentation including, Federal Register, office data, personnel files, corporate files, periodicals, industry publications,

claims, health regulations, material handling files, structural material files, OSHA regulations, locomotive materials, safety recommendations, Federal Railway Administration rules and regulations, material catalogs, suppliers catalogs, letter files, plans, building files and computer printouts.

INTERROGATORY NO. 2: State the full and proper business name and address of the

Defendant. State whether or not you are a corporation. If so, state your corporate name, the state of your incorporation, the address of your principal place of business, the name and address of the person or entity authorized to accept service of process on your behalf, and whether or not you have ever held a Certificate of Authority to do business in the State of Texas, maintained a registered agent in Texas, engaged in business in Texas or recruited or hired employees in Texas.

ANSWER:

Defendants object to the portion of Interrogatory No. 2 devoted to a Certificate of Authority and operating in the State of Texas for the reason that Plaintiff, Richard Davis, if he worked for NSRC, did not do so in the State of Texas. Therefore, the response of NSRC to such interrogatories could not lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Defendant answers: Norfolk Southern Railway Company, One Commercial Place, Norfolk, Virginia 23510. NSRC is a corporation, organized and existing in the State of Virginia, with its principal place of business in Norfolk, Virginia. OBJECTION.

INTERROGATORY NO. 3: With regard to each policy of liability insurance to provide coverage to Defendant, its agents and/or employees for the liability in connection with the allegations such as those delineated in Plaintiff's Original and Amended Petitions including, but not limited to, all primary and excess policies covering the Defendant for such liability, state the name and address of each carrier.

ANSWER: Not applicable.

INTERROGATORY NO. 4: State whether you contend that the Plaintiff has done anything or failed to do anything that constitutes contributory negligence. If so, please describe the basis of your contention and what evidence exists to support that contention.

ANSWER:

See Preliminary Statement and General Objection. Defendants further object to this request on the grounds that the request is premature. Investigation continues.

INTERROGATORY NO.5: State whether you contend that the Plaintiff has done or failed to do anything that constitutes a failure to mitigate damages. If so, please describe the basis of your contention and what evidence exists to support that contention.

ANSWER:

See Preliminary Statement and General Objection. Defendants further object to this request on the grounds that the request is premature. Investigation continues.

INTERROGATORY NO.6: List each and every place of work and job assignment of the Plaintiff which he held during his employment with Defendant and describe in detail the duties involved in each of the job assignments.

ANSWER:

See Preliminary Statement and General Objection. NSRC further objects to this interrogatory on the grounds that the interrogatory is overly broad, vague and ambiguous.

Subject to and without waiving the foregoing objections, NSRC has located no railroad personnel file, railroad medical file nor any other record indicating that plaintiff was employed by it.

INTERROGATORY NO. 7: Describe in detail how asbestos containing products were used by railroad workers on Defendant's railroad(s) during the period of Plaintiff's employment by Defendant.

ANSWER:

Defendants object to this request on the following grounds: that the request is overly broad; the request is unlimited in terms of geographic scope; the request is vague; the request is ambiguous; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and, the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure. NSRC objects to this interrogatory for the reason that NSRC has no record of the plaintiff's alleged employment.

Subject to and without waiving its objection, NSRC states: During the steam era, asbestos-containing materials were used to insulate boilers and steam pipes. With respect to uses of asbestos-containing products for locomotive repair and overhaul: NSRC's diesel locomotives have required replacement of asbestos tape, asbestos-containing gaskets and gasket material during maintenance, repair and overhaul. Asbestos-composition brake shoes were also used at one point on NSRC rolling stock.

With respect to other uses of asbestos-containing materials: At various times NSRC utilized asbestos-containing pipe insulation, pipe tape, gaskets, gasket material, sheet asbestos, asbestos roofing materials, transite pipe, transite siding and vinyl asbestos floor tile in connection with the maintenance and operation of its shops and associated buildings. NSRC has also furnished asbestos-containing gloves to employees required to do welding or work around high temperatures.

INTERROGATORY NO. 8: Describe in detail where asbestos containing products were used by railroad workers on Defendant's railroad(s) during the period of Plaintiff's employment by Defendant.

ANSWER:

Defendants object to this request on the following grounds: the request is overly broad; the request is unlimited in terms of geographic scope; the request is vague; the request is ambiguous; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and, the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, please see Answer and Objection to Interrogatory No. 7.

INTERROGATORY NO. 9: If you have alleged in your answer that Plaintiff's injuries and/or damages were caused by some other injury, disease or condition, either pre-existing or unrelated to and arising after or in conjunction with the Plaintiff's exposure to asbestos-containing products, please describe in detail such pre-existing or subsequent disease, injury or condition. For each alleged other injury, disease or condition, identify all evidence upon which you base this contention.

ANSWER:

Defendants object to this request on the grounds that the request is premature.

Subject to and without waiving the foregoing objection, Defendants answer: none known to NSRC at this time. Investigation continues.

INTERROGATORY NO. 10: Please state the name of each and every person having knowledge of facts relevant to this action including most recent address and present telephone number, along with the experience and qualifications, if applicable, of each and every person, known to Defendant's agents, including, but not limited to:

- A. Identification of asbestos-containing products or type of products to which Plaintiff was exposed or facts disputing the identification of these products;
- B. Plaintiff's damages, injuries and/or facts disputing Plaintiff's alleged damages and/or injuries;
- C. The negligence of any person or entity other than Defendant which Defendant contends was a cause of Plaintiff's alleged injuries and/or damages;
- D. Each of Defendant's defenses enumerated in Defendant's last filed Answer.

ANSWER:

Defendants object to this request on the following grounds: the request is overly broad; the request is vague; the request is ambiguous; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; the request infringes on the attorney work product privilege; the request infringes on the investigative/party communication privilege; the request infringes on the attorney-client privilege; and, the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, see preceding answers to interrogatories regarding plaintiff's alleged employment or plaintiff's illness, injuries and damages. NSRC has no records of asbestos product purchases prior to the mid-1980s. Investigation continues.

INTERROGATORY NO. 11: Please identify documents or things, including x-rays, MRI's, CT scans or other materials which will be used at time of trial (Exhibit List, Deposition List), which are relevant to each of Defendant's enumerated defenses in Defendant's last filed Answer.

ANSWER:

Defendants object to this request on the following grounds: the request is overly broad; the request is vague; the request is ambiguous; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; the request infringes on the attorney work product privilege; the request infringes on the investigative/party communication privilege; and, the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, NSRC has not made a decision at this time on what exhibits or witnesses it may call at the time of the trial of this cause. NSRC will comply with the Orders of the Court regarding the identification of exhibits.

INTERROGATORY NO. 12: Identify the names and addresses of all individuals Defendant may call as an expert witness(es) at trial, and for each individual, please state:

- A. The subject matter in which the witness is expected to testify, the substance of the facts and opinions to which the witness intends to testify on the Defendant's behalf and, a summary of the grounds for each opinion, specific as to each individual Plaintiff's case;

- B. All factual observations, test results, supporting data, learned treatise (books, general articles, texts or other publications) and opinions which the witness has generated, been provided, intends to use, and/or may use to support his/her opinions and conclusions relative to the case whereupon which the witness has or will base his/her testimony in this matter, specific as to each individual Plaintiff's case. The identity, address and job classification of each consulting expert whose opinions or data have been referred to and/or relied upon by the expert witness, and the complete title and author of each learned treatise referred to and/or relied upon by the witness for information and/or corroborating his/her opinions regarding the subject matter of this lawsuit.
- C. Whether any person identified in subparagraph B above has provided a report or other documentation to you, and if so, identify each such document or report, specific as to each individual Plaintiff's case, separate and distinct from all other Plaintiffs within the group.
- D. Identify all documents or other materials, including but not limited to x-rays, pathology, CT-scans, you have provided to each person identified in response to subparagraph B above, specific as to each individual Plaintiff's case, separate and distinct from all other Plaintiffs within the group.
- E. Describe in detail the education and work history of, and identify any books, treatises, articles, published and unpublished reports, studies or other scholarly works authored by any individual identified in response to subparagraph B above. Alternatively, in lieu of said response, attach a copy of a resume or curriculum vitae and a list of publications to your answers.

ANSWER:

Defendants object to this request on the following grounds: the request is overly broad; the request is vague; the request is ambiguous; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and, the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Subject to and without waving the foregoing objections, NSRC has not yet determined any expert witnesses whom it may call to testify in this case.

INTERROGATORY NO. 13: Identify all persons, entities, agencies or others, whether governmental (state or federal) or private, who participated in any investigation of the claims made the basis of this lawsuit.

ANSWER:

Defendants object to this request on the following grounds: the request is vague; the request is ambiguous; the request infringes on the attorney work product privilege; the request infringes on the investigative/party communication privilege; the request infringes on the attorney-client privilege; and, the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, Defendants answer: not applicable.

INTERROGATORY NO. 14: Please state whether Defendant or any successor or predecessor was ever a member of the Railroad Claims Registry, and if so, please state the years Defendant was a member; the years of attendance at and involvement in the Railroad Claims Registry Meetings; the name, job classification, address and telephone number of each and every Railroad Claims Registry Meeting and the year that agent and/or representative and/or employee of Defendant attended the meeting; and the location of the Railroad Claims Registry Meeting for each year attended by Defendant.

ANSWER:

See Preliminary Statement and General Objections. Defendants object to this request on the following grounds: the request is overly broad; the request is unlimited in terms of time; the request is vague; the request is ambiguous; the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and, the request seeks information which is private, confidential and/or proprietary.

NSRC further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

INTERROGATORY NO. 15: Please state whether Defendant or any successor or predecessor ever attended or sent an agent on its behalf to any of the Association of American Railroads and American Railway Association meetings from 1930 to the present, and if so, please state the years of attendance; the location of the meeting; the name, address, job classification, and telephone number of each and every agent and/or representative of Defendant attending each and every Association of American Railroads and American Railway Association meeting and the exact year of attendance.

ANSWER:

See Preliminary Statement and General Objections. Defendants object to this request on the following grounds: the request is overly broad; the request is unlimited in terms of time; the request is vague; the request is ambiguous; the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and, the request seeks information which is private, confidential and/or proprietary.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, NSRC states it was a member of the American Railway Association in 1930 and the Association of American Railroads since its inception in 1934. There have been hundreds of committees and subcommittees of the ARA/AAR over the years and if plaintiff has a specific question about any particular meeting or meetings NSRC will investigate and attempt to respond.

INTERROGATORY NO. 16: Before 1980, did Defendant receive notice that any individual who at any time was employed by the Defendant claimed injury as a result of exposure to asbestos? If so, state:

- A. The name and address of each claimant;
- B. The date of notice of each claim;

- C. A description of the claim;
- D. The type of injuries allegedly sustained by each claimant;
- E. The name and address of each attorney who represented each individual making a claim;
- F. The style and court number of each claim;
- G. The disposition of each claim that has been settled or taken to judgment.
- H. The name, address and title of the person having custody of the records pertaining to each such claim.

ANSWER:

Defendants object to this request on the following grounds: the request is overly broad; the request is vague; the request is ambiguous; the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and, the request seeks information which is private, confidential and/or proprietary.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, NSRC has no knowledge of any asbestos-related claims prior to the 1980's. Commencing in 1983, NSRC has been the subject of a number of asbestos-related claims including the instant litigation. Information regarding many of these recent claims is well known to plaintiff's counsel.

INTERROGATORY NO. 17: Before 1980, did Defendant receive notice that any individual who at any time was employed by any Railroad claimed injury as a result of exposure to asbestos? If so, state:

- A. The name and address of each claimant;
- B. The date of notice of each claim;
- C. A description of the claim;

- D. The type of injuries allegedly sustained by each claimant;
- E. The name and address of each attorney who represented each individual making a claim;
- F. The style and court number of each claim;
- G. The disposition of each claim that has been settled or taken to judgment.
- H. The name, address and title of the person having custody of the records pertaining to each such claim.

ANSWER:

Defendants object to this request on the following grounds: the request is overly broad; the request is vague; the request is ambiguous; the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and; the request seeks information which is private, confidential and/or proprietary.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, Defendant answers: no.

INTERROGATORY NO. 18: Has Defendant at any time published, distributed or displayed any printed material, including brochures, pamphlets, catalogs, warning signs or statements, packaging or other written material of any kind or character containing any warning concerning the possibility of injury resulting from the use of asbestos-containing products and/or exposure to airborne asbestos? If so, state:

- A. The exact wording of each warning statement and a description of the material upon which the warning was printed;
- B. The method(s) used to distribute the materials to persons likely to use the asbestos-containing products or likely to be exposed to airborne asbestos;

- C. The date each warning was first issued or distributed;
- D. The name, address, and job title of each person responsible for having drafted or issued the warning statements and/or written materials;
- E. The current location of any such printed material and the custodian thereof;
- F. The form in which such literature or printed material can be accessed, i.e., the manner in which such literature is indexed or stored.

ANSWER:

See Preliminary Statement and General Objection. Defendants object to this request on the following grounds: the request is overly broad; the request is unlimited in terms of time; the request is unlimited in terms of geographic scope; the request is vague; the request is ambiguous; the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and, the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, NSRC states in the September/October, 1983 edition of NS World magazine, a "Notice and Warning to Railroad Employees Who Have Been Exposed to Asbestos" was published. It went to current and former NSRC employees who may have been exposed to asbestos-containing products purchased by NSRC.

INTERROGATORY NO. 19: Did Defendant install, replace, use, repair, assemble, transport or store, either as an original appurtenance of the railroad or placed in/on the railroad in conjunction with repairs or alterations to the railroad, any asbestos-containing products during the time Plaintiff worked for Defendant? If so, identify:

- A. By name and number each of Defendant's railroad(s), whether operating or in railyards, upon which the asbestos-containing product(s), were installed, repaired, replaced, used, stored or transported during the time Plaintiff worked for Defendant;
- B. The particular type of asbestos-containing product(s);
- C. The trade or brand name of each of the asbestos-containing products;

- D. The years during which each named asbestos product was applied, stored, used, repaired, installed or transported either as an original appurtenance of the railroad or placed on/in the railroad in conjunction with repairs or alterations to the railroad(s); and
- E. The dates of any removal or abatement of such asbestos-containing products from Defendant's railroad(s).

ANSWER:

See Preliminary Statement and General Objection. Defendants object to this request on the following grounds: the request is overly broad; the request is unlimited in terms of geographic scope; the request is vague; the request is ambiguous; the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and, the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, NSRC states as follows: see answer to Interrogatory Nos. 6 and 7. Investigation continues.

INTERROGATORY NO. 20: Did any entities or persons at Defendant's direction, whether direct or indirect, including but not limited to contractors and subcontractors install, replace, use, repair, assemble, transport or store either as an original appurtenance of the railroad or placed in/on the railroad in conjunction with repairs or alterations to the railroad, any asbestos-containing products during the time Plaintiff worked for Defendant? If so, identify:

- A. By name and number each of Defendant's railroad(s), whether operating or in railyards, upon which the asbestos-containing product(s) were installed, repaired, used, stored or transported during the time Plaintiff worked for Defendant;
- B. The particular type of asbestos-containing product(s);
- C. The trade or brand name of each of the asbestos-containing products;

- D. The years during which each named asbestos product was applied, stored, used, repaired, installed or transported either as an original appurtenance of the railroad or placed on/in the railroad in conjunction with repairs, or alterations to the railroad(s); and
- E. The dates of any removal or abatement of such asbestos-containing products, from Defendant's railroad(s).

ANSWER:

Defendants object to this request on the following grounds: the request is overly broad; the request is unlimited in terms of geographic scope; the request is vague; the request is ambiguous; the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and, the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, NSRC states: With respect to uses of asbestos-containing products for locomotive repair and overhaul: NSRC's diesel locomotives have required replacement of asbestos tape, asbestos-containing gaskets and gasket material during maintenance, repair and overhaul. Asbestos-composition brake shoes were also used at one point on NSRC rolling stock.

With respect to other uses of asbestos-containing materials: At various times NSRC utilized asbestos-containing pipe insulation, pipe tape, gaskets, gasket material, sheet asbestos, asbestos roofing materials, transite pipe, transite siding and vinyl asbestos floor tile in connection with the maintenance and operation of its shops and associated buildings. NSRC has also furnished asbestos-containing gloves to employees required to do welding or work around high temperatures.

Composition brake shoes became non-asbestos in the years 1977-1981, and many of the other materials listed above had the asbestos removed from their makeup by their manufacturers during the late 1960's. Exact dates are unknown.

INTERROGATORY NO. 21: If the answer to any portion of the preceding interrogatory is in the affirmative and/or if any asbestos-containing products are identified in response to such interrogatory, state the following as to each identified product:

- A. The name(s) of the railroad workers repairing, replacing, or using, each asbestos-containing product on Defendant's railroad(s) during Plaintiff's period of employment by Defendant;
- B. A description of the physical appearance of each of the named asbestos-containing products;
- C. A detailed description of the uses of the named asbestos-containing products;
- D. A detailed description of the areas on Defendant's railroad where such asbestos-containing products were installed, replaced or used.

ANSWER:

Defendants object to this request on the following grounds: the request is overly broad; the request is unlimited in terms of geographic scope; the request is vague; the request is ambiguous; the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and, the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections Defendants refers plaintiff to its answer thereto and Interrogatory No. 7 concerning defendant's use of asbestos-containing products.

INTERROGATORY NO. 22: Has Defendant or any other entity at the direction of Defendant, contracted with another entity for the acquisition, ordering, purchasing, supplying or distributing of asbestos-containing products, at any time prior to or during the time Plaintiff was employed by Defendant? If so, identify:

- A. Each of Defendant's railroad components by name and number for which the asbestos-containing products were ordered, purchased, supplied or distributed during the time Plaintiff was employed by Defendant;
- B. The particular type of asbestos-containing products acquired;

- C. The trade or brand name of each of those asbestos-containing products ordered, purchased, supplied or distributed;
- D. The years such asbestos-containing products were acquired, ordered, purchased, supplied or distributed by Defendant;
- E. The dates of any removal or abatement of asbestos-containing products.

ANSWER:

Defendants object to this request on the following grounds: the request is overly broad; the request is unlimited in terms of geographic scope; the request is vague; the request is ambiguous; the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and, the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, Defendants answer: please see answers and objections to preceding interrogatories.

INTERROGATORY NO. 23: If your answer to any portion of the preceding interrogatory is in the affirmative, or if any asbestos-containing products are identified in response to that interrogatory, state the following as to each product:

- A. The name(s) of the company(ies), entity(ies), manufacturer(s) from which the asbestos-containing products were acquired, ordered, purchased, supplied or distributed;
- B. The date(s) each asbestos-containing product was ordered, purchased, supplied or distributed;
- C. A description of the physical appearance of each of the named asbestos-containing product;
- D. A detailed description of the uses of the named asbestos-containing products;

- E. Identify the last year that Defendant ordered, purchased, supplied or distributed each identified asbestos-containing product.

ANSWER:

Defendants object to this request on the following grounds: the request is overly broad; the request is unlimited in terms of geographic scope; the request is vague; the request is ambiguous; the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and, the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, Defendants answer: please see answers and objections to preceding interrogatories.

INTERROGATORY NO. 24: State whether Defendant maintained, from 1950 through the present copies of invoices, shipping receipts, bills of lading, purchase orders, or other documents of a similar nature relating to the purchase or acquisition of asbestos-containing products. If so, state:

- A. The location of such documents;
- B. The name and address of the custodian of the documents;
- C. The format in which the documents are kept, i.e., hard copy, microfilm, microfiche, etc.;
- D. In what form the documents can be accessed.

ANSWER:

Defendants object to this request on the following grounds: the request is overly broad; the request is unlimited in terms of geographic scope; the request is vague; the request is ambiguous; the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and, the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, Defendants answer: no such documents are presently available. It is not believed that NSRC ever maintained such records specifically with regard to the purchase of asbestos-containing products. General purchasing records would likely have been maintained for no more than two years in keeping with normal corporate record retention policy.

INTERROGATORY NO. 25: Identify all persons, including name, address and telephone

number, who provided and/or conducted or were responsible for conducting any type of safety training, during the time Plaintiff was employed by Defendant.

ANSWER:

See Preliminary Statement and General Objection. Defendants object to this request on the following grounds: the request is overly broad; the request is unlimited in terms of geographic scope; the request is vague; the request is ambiguous; the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence; the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and, the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

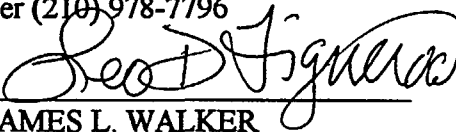
NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, NSRC states that safety training and safety meetings were held as a general practice at most of its locations during the time of plaintiff's alleged employment. NSRC states that safety meetings were held and instructions given on virtually a daily basis, which meetings customarily included discussions such as use of protective devices. Safety and supervisory personnel at all levels are traditionally involved in safety meetings. Investigation continues.

Respectfully submitted,

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By:



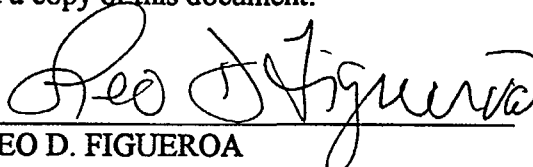
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ATTORNEYS FOR DEFENDANTS NORFOLK
SOUTHERN RAILWAY COMPANY AND NORFOLK
SOUTHERN CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was served by certified mail, return receipt requested, to Mary Skelnick/Kimberly Shauck, Baron & Budd, The Centrum, Suite 1100, 3102 Oak Lawn Avenue, Dallas, Texas 75219-4281, on this the 31 day of January, 1998.

All defense counsel may request a copy of this document.


LEO D. FIGUEROA

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9-30-98