



NO. 97-09313-H

|                                     |   |                         |
|-------------------------------------|---|-------------------------|
| FRANK C. HOSINSKI; CHARLES PERKINS; | § | IN THE DISTRICT COURT   |
| DANIEL SALINAS; BILLY DON SKELTON;  | § |                         |
| BILLY JOE STIMPSON; DONALD GLEN     | § |                         |
| BLASCHKE, SR.; ISABEL ESPINDOLA;    | § |                         |
| FRANKLIN EDWARD HALL; and           | § |                         |
| WARREN BAXTER VANCE, SR.            | § | DALLAS COUNTY, TEXAS    |
|                                     | § |                         |
| VS.                                 | § |                         |
|                                     | § |                         |
| OWENS CORNING, ET AL.               | § | 160TH JUDICIAL DISTRICT |

**DUPONT'S RESPONSE TO PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS  
AND SECOND REQUEST FOR PRODUCTION PROPOUNDED ON PREMISES  
DEFENDANT E.I. DUPONT DE NEMOURS AND COMPANY ("DUPONT")**

**TO: Isabel Espindola, Plaintiff, by and through his attorneys, Holly Huart and Stepanie Finch, whose address is Baron & Budd, The Centrum, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219.**

Pursuant to Rules 196 and 198 of the Texas Rules of Civil Procedure, E. I. DU PONT DE NEMOURS AND COMPANY, Defendant, (hereinafter "DuPont"), makes its Response to Plaintiff's First Request for Admissions and Second Request for Production.

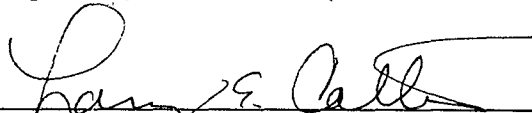
**PRELIMINARY STATEMENT AND GENERAL OBJECTIONS**

Information provided in these responses is based upon such information as presently is reasonably available to DuPont, and DuPont expressly reserves the right, without imposing on DuPont any duty not required by the Texas Rules of Civil Procedure, to supplement these responses when and if additional information or documentation comes to its attention. Unless otherwise indicated, the time frame covered by these responses is through 1985. When the response to a request for production indicates that documents previously have been produced or otherwise refers to documents, the documents that will be produced or that are being referred to, unless otherwise specifically indicated in the response, were collected from DuPont's corporate headquarters and/or its Victoria, Texas facility, which is the DuPont facility at which Plaintiff, Isabel Espindola alleges he was exposed to asbestos-containing materials. The corporate and Victoria documents referred to

in these responses have previously been produced to Plaintiffs' counsel, but will be made available for inspection and copying again at the offices of Kirkley Schmidt & Cotten, L.L.P. at 10:00 a.m. on August 23, 2000.

Responses made after objection are made without waiver of those objections. All responses are made subject to and without waiving this Preliminary Statement.

Respectfully submitted,

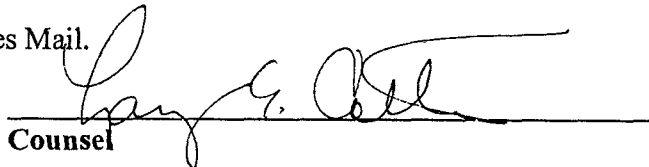


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**Attorneys For Defendant**  
**E. I. du Pont de Nemours and Company**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of this pleading was served by Certified United States Mail, Return Receipt Requested, on this 18<sup>th</sup> day of August, 2000, on Plaintiffs' attorney of record, William K. Tapscott, Jr., Holly Huart and Stephanie Finch, BARON & BUDD, P.C., The Centrum, Suite 1100, 3102 Oak Lawn Avenue, Dallas, Texas 75219, and on all known defense counsel of record by First Class United States Mail.

  
Counsel

## OBJECTIONS TO DEFINITIONS

1. a. DuPont objects to plaintiffs' definition of "Defendant", "You", "Your", and "Your company" to the extent that it includes "subsidiaries, foreign subsidiaries, foreign subsidiaries of predecessors, and/or affiliates" because the definition is overbroad and seeks information that would be irrelevant and not calculated to lead to the discovery of admissible evidence in this case. Further, the definition amounts to an impermissible fishing expedition because DuPont is not being sued in this case for any alleged conduct of any "subsidiaries, foreign subsidiaries, foreign subsidiaries of predecessors, and/or affiliates".

b. DuPont objects to the portion of the plaintiffs' definition of "Defendant", "You", "Your", and "Your company" that refers to "all other persons acting or purporting to act on behalf of the corporate Defendant or its predecessors, subsidiaries, and affiliates" because it is overbroad, vague, ambiguous, and requires DuPont to speculate about who may or may not come within the definition. Further, the definition amounts to an impermissible fishing expedition because DuPont is not being sued in this case for any alleged conduct of any predecessors, subsidiaries, and affiliates".

c. DuPont objects to the portion of plaintiffs' definition of "Defendant", "You", "Your", and "Your company" that defines "Predecessors" because it is overbroad, vague, ambiguous, and improperly attempts to require DuPont to answer for or with respect to separate legal entities for whose conduct or liabilities DuPont could not be responsible as a matter of law. Further, the definition amounts to an impermissible fishing expedition because DuPont is not being sued in this case for any alleged conduct of any "Predecessors."

d. DuPont objects to the portion of plaintiffs' definition of "Defendant", "You", "Your", and "Your company" that defines "Subsidiaries" because it is overbroad, vague, ambiguous, attempts to expand unreasonably the meaning of a word that has a definite legal meaning, and improperly attempts to require DuPont to answer for or with respect to separate legal entities for whose conduct or liabilities DuPont could not be responsible as a matter of law. Further, the definition amounts to an impermissible fishing expedition because DuPont is not being sued in this case for any alleged conduct of any "Subsidiaries."

2. DuPont objects to the portion of plaintiffs' definition of "document", "documents", "written materials", or "printed matter" that refers to documents that "were formerly in the possession, custody, or control of the Defendant (including documents at any time in the possession, custody or control of their subsidiaries, whether domestic or international, or merged or acquired predecessors), or . . . regardless of who now has or formerly had custody, possession or control," because it is overbroad and attempts to expand DuPont's obligation to produce documents far beyond the requirements of the Texas Rules of Civil Procedure. Further, the definition amounts to an impermissible fishing expedition because DuPont is not being sued in this case for any alleged conduct of any subsidiaries or affiliates.

3. DuPont objects to plaintiffs' definition of "meeting" or "meetings" because it is overbroad, vague, ambiguous, and calls for speculation.

4. DuPont objects to plaintiffs' definition of "medical advisory capacity" because it is overbroad, ambiguous, and calls for speculation. It would include anyone on DuPont's "staff" who might have any medical "abilities or capabilities" (whatever that means) even if their job had nothing to do with any medical function.

### **RESPONSES AND OBJECTIONS TO SPECIFIC DISCOVERY REQUESTS**

The Preliminary Statement set forth above is adopted and incorporated into the responses and objections to each of the following discovery requests as if fully repeated verbatim in response to each request. The Objections to Definitions set forth above are adopted and incorporated into the responses and objections to each of the following discovery requests in which the objected-to terms appear, as fully as if those objections were repeated verbatim in response to each such request.

#### **REQUEST FOR ADMISSION NO. 1:**

Admit that Defendant ordered, purchased or otherwise acquired asbestos-containing products, asbestos-containing friction products, and/or machinery requiring the use of asbestos or asbestos-containing products.

#### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. DuPont objects that this request is impermissibly vague and ambiguous in that it fails to specify particular asbestos-containing products or machinery at issue. DuPont further objects that this request is compound. Therefore, DuPont cannot admit to the whole of the request. Subject to its preliminary statement and without waiving any objection, DuPont admits, in part, that asbestos-containing products were used at the Victoria plant during the times plaintiff Isable Espindola alleges he was present at the site. DuPont otherwise denies this request as stated.

#### **REQUEST FOR PRODUCTION NO. 1:**

If you deny the foregoing request, in whole or in part, produce all documents supporting you denial.

## **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 1. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information pertaining to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

## **REQUEST FOR ADMISSION NO. 2:**

Admit that asbestos-containing products, asbestos-containing friction products, and/or machinery requiring the use of asbestos or asbestos-containing products were utilized on Defendant's Premises during the years at issue.

## **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. DuPont objects that this request is impermissibly vague and ambiguous in that it fails to specify particular asbestos-containing products or machinery at issue. DuPont further objects that this request is compound. Therefore, DuPont cannot admit to the whole of the request. Subject to its preliminary statement and without waiving any objection, DuPont admits, in part, that asbestos-containing products were used at the Victoria plant during the times plaintiff Isable Espindola alleges he was present at the site. DuPont otherwise denies this request as stated.

## **REQUEST FOR PRODUCTION NO. 2:**

Produce all ordering and sales documents pertaining to the purchase or acquisition of such asbestos-containing products for use at Defendant's Premises, including but not limited to invoices, price quotations, purchase orders, requisitions, bills of lading, and other purchasing and/or shipping documents of the similar nature.

## **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. DuPont further objects that this request is impermissibly vague and ambiguous in that it fails to specify particular asbestos-containing products at issue. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information pertaining to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

REQUEST FOR ADMISSION NO. 3:

Admit that during the time Plaintiff was employed by Defendant, it was foreseeable that asbestos-containing products on Defendant's Premises would or could be removed, stripped, replaced or repaired at some time after installation.

RESPONSE

DuPont objects to this request on the grounds that Plaintiff was never employed by Defendant, DuPont. As such, this admission is vague, ambiguous and compound. DuPont denies this request as stated.

REQUEST FOR PRODUCTION NO. 3:

Produce all documents that in any way pertain to abatement of asbestos-containing materials on Defendant's Premises, including but not limited to a removal plan or organized written criteria or schedule for the removal of asbestos at Defendant's Premises, and in operation and maintenance plan.

RESPONSE

DuPont objects to this Request because it is overbroad, burdensome, and is not limited in time, location, or subject matter to any circumstances reasonably related to Plaintiff's claims in this case. DuPont further objects that this Request constitutes an unwarranted fishing expedition that is beyond the permissible scope of discovery under the Texas Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 4:

Admit that Plaintiff worked on premises owned by Defendant or by a predecessor-in-interest of Defendant.

RESPONSE

DuPont objects to this request to the extent it is not limited to E. I. du Pont de Nemours and Company, the named defendant in this case. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned the Victoria plant during the times that plaintiff alleges he was present at the site. However, DuPont otherwise denies this request as stated.

REQUEST FOR PRODUCTION NO. 4:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant because it is not limited to the Victoria plant site during the times that plaintiff alleges he was present at the site.

### **REQUEST FOR PRODUCTION NO. 5:**

If you admit the foregoing request, in whole or in part, produce all documents supporting your admission that Plaintiff was on Defendant's Premises.

### **RESPONSE**

DuPont objects to this request as ambiguous and confusing to the extent it purports to relate to the "foregoing request." DuPont also objects to this request to the extent it assumes that DuPont admits "Plaintiff was on Defendant's Premises." Subject to its preliminary statement and without waiving any objection, upon reasonable investigation, DuPont has not located documents indicating that plaintiff, Isable Espindola was present at the Victoria plant.

### **REQUEST FOR PRODUCTION NO. 6:**

Produce all records identifying contractors and/or the employees of contractors who were on your premises during the years at issue, including but not limited to sign-in-logs, gate records, visitor's logs, identification badge logs and procedures, and other documents of a similar nature.

### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant because it is not limited to documents indicating that plaintiff, Isable Espindola was present at the Victoria site and is not limited to those times when he alleges he was present at the site. DuPont further objects to identifying contractors and/or the employees of contractors for the reason that this is overbroad and outside the scope of the Texas Rules of Civil Procedure. Subject to its preliminary statement and without waiving any objection, upon reasonable investigation, DuPont has not located documents indicating that plaintiff, Isable Espindola was present at the Victoria plant.

### **REQUEST FOR PRODUCTION NO. 7:**

Produce the contract documents pertaining to the contractors who performed services on Defendant's Premises during the years at issue, including but not limited to invitations to bid, requests for proposals, bids, proposals, scope of work, specifications, blue prints, plans, acceptances, contracts, amendments, addenda, change orders, and other contract documents of a similiar nature.

### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent

it is not limited to the Victoria plant site during the time periods that plaintiff Isabel Espindola allegedly was present on the site. DuPont further objects to the extent that this interrogatory is not limited to contracts entered with Plaintiff's employer during the time period relevant to plaintiff's claims. Subject to its preliminary statement and without waiving any objection, upon reasonable investigation, DuPont has not located contracts between DuPont and plaintiff's employer, Arthur Brothers, during the time period he alleges to have been at the Victoria plant.

**REQUEST FOR ADMISSION NO. 5:**

Admit that Plaintiff worked on Defendant's Premises where Defendant used or applied asbestos-containing products.

**RESPONSE**

DuPont objects to the use of the terms "where Defendant used or applied" is vague, ambiguous, and subject to different interpretations. DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant. As stated above, upon reasonable investigation, DuPont has not located documents indicating that plaintiff worked at the Victoria plant. DuPont denies this request as stated.

**REQUEST FOR PRODUCTION NO. 8:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE**

Subject to its preliminary statement and without waiving any objection, upon reasonable investigation, DuPont has not located documents indicating that plaintiff worked at the Victoria plant.

**REQUEST FOR ADMISSION NO. 6:**

Admit that Plaintiff, in the course and scope of his work as an employee of an independent contractor, worked around Defendant's employees who were using and/or applying asbestos-containing products.

**RESPONSE**

DuPont denies this request as stated.

REQUEST FOR PRODUCTION NO. 9:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE

Subject to its preliminary statement and without waiving any objection, upon reasonable investigation, DuPont has not located documents indicating that plaintiff was present at the Victoria plant.

REQUEST FOR ADMISSION NO. 7:

Admit that Plaintiff worked on and/or around Defendant's Premises in areas where asbestos-containing products were installed, used, prepared for use, replaced or repaired, stored or loaded, unloaded or transported.

RESPONSE

DuPont objects to this request as vague, ambiguous, compound and lacking adequate specificity. DuPont denies this request as stated.

REQUEST FOR ADMISSION NO. 8:

Admit that in 1962 Defendant was aware that airborne asbestos dust created a potential health hazard to those who breathed such dust.

RESPONSE

DuPont objects to the use of the terms "potential health hazard" as overbroad, vague, ambiguous, and subject to different interpretations. DuPont further objects that this request is too vague, general, and nonspecific in reducing a subject of considerable scientific complexity, controversy, and investigation to the simplistic phrase "airborne asbestos dust created a potential health hazard." Subject to its preliminary statement and without waiving any objection, DuPont denies this request as stated.

REQUEST FOR PRODUCTION NO. 10:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

## **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 8. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information pertaining to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

## **REQUEST FOR ADMISSION NO. 9:**

Admit that Defendant was aware of the presence of and/or use of asbestos-containing products on Defendant's Premises during the time period Plaintiff was working on Defendant's Premises.

## **RESPONSE**

DuPont objects to this request as vague, ambiguous, compound and lacking adequate specificity. DuPont denies this request as stated.

## **REQUEST FOR PRODUCTION NO. 11:**

Produce any and all photographs or videographic depictions or films depicting the use by you or your employees of any safety precautions (such as containment areas, warning signs, etc.) taken to protect bystanders from the hazards of airborne asbestos resulting from the use of asbestos-containing products by your employees at any locations.

## **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff allegedly was present on the plant site. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information pertaining to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

## **REQUEST FOR ADMISSION NO. 10:**

Admit that Defendant did not distribute any literature or warnings of any kind to its employees during the period of time Plaintiff worked on Defendant's Premises regarding the potential health hazards to those who breathe airborne asbestos dust.

## **RESPONSE**

DuPont objects that this request is overbroad and ambiguous because it is unclear whether plaintiffs are referring to all employees of DuPont, wherever they may be or whatever jobs they may be performing, or employees working under certain conditions, at certain jobs, or in certain facilities

or parts of facilities. DuPont denies this request for admission.

REQUEST FOR PRODUCTION NO. 12:

If you deny the foregoing, produce all such warnings.

RESPONSE

DuPont incorporates by reference the objections stated in response to request for admission no. 10. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information pertaining to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P., on August 23, 2000, at 10:00 a.m.

REQUEST FOR ADMISSION NO. 11:

Admit that Defendant consciously decided not to warn its employees of the dangers of asbestos.

RESPONSE

DuPont denies this request for admission

REQUEST FOR ADMISSION NO. 12:

Admit that Defendant did not continuously provide face masks to contract employees working with or around asbestos from 1945 to the present for the purpose of protecting these employees from inhaling asbestos.

RESPONSE

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola was allegedly present on the site. DuPont also objects to the terms "contract employee" and "continuously provide" as overbroad, vague, ambiguous and subject to different interpretations. DuPont further objects to this request to the extent it assumes that DuPont had a duty to provide face masks to "contract employees." Subject to its preliminary statement and without waiving any objection, DuPont denies this request as stated.

REQUEST FOR ADMISSION NO. 13:

Admit that you did not erect containment barriers to prevent emission of asbestos dust at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

## **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isabel Espindola allegedly was present on the site. Given that more than 37 years has passed since plaintiff, Isable Espinola allegedly began visiting at the Victoria plant, it is difficult, if not impossible, to reconstruct fully where precisely plaintiff Isable Espindola could have been working at the site and is not limited to those times when he alleges he was present at the site. Subject to its preliminary statement and without waiving any objection, DuPont denies this request as stated.

## **REQUEST FOR PRODUCTION NO. 13:**

If you deny the foregoing request, in whole or in part, produce all documents supporting you denial.

## **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 13. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

## **REQUEST FOR ADMISSION NO. 14:**

Admit that you did not utilize engineering controls such as isolation or enclosure at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

## **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. Given that more than 37 years have passed since plaintiff allegedly began visiting the Victoria plant, it is difficult, if not impossible, to reconstruct fully where precisely plaintiff could have been working at the the site and is not limited to those times when he alleges he was present at the site. Subject to its preliminary statement and without waiving any objection, DuPont denies this request as stated.

## **REQUEST FOR PRODUCTION NO. 14:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

## **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 14. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

## **REQUEST FOR ADMISSION NO. 15:**

Admit that you did not utilize ventilation or exhaust systems to divert dust at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

## **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. Given that more than 37 years have passed since plaintiff allegedly began visiting the Victoria plant, it is difficult, if not impossible, to reconstruct fully where precisely plaintiff could have been working at the site and is not limited to those times when he alleges he was present at the site. Subject to its preliminary statement and without waiving any objection, DuPont denies this request as stated.

## **REQUEST FOR PRODUCTION NO. 15:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

## **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 15. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

## **REQUEST FOR ADMISSION NO. 16:**

Admit that you did not utilize dust collection engineering controls to trap airborne asbestos dust at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

## **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. Given that more than 37 years have passed since plaintiff allegedly began visiting the Victoria plant, it is difficult, if not impossible, to reconstruct fully where precisely plaintiff could have been working at the site and is not limited to those times when he alleges he was present at the site. Subject to its preliminary statement and without waiving any objection, DuPont denies this request as stated.

## **REQUEST FOR PRODUCTION NO. 16:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

## **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 16. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

## **REQUEST FOR ADMISSION NO. 17:**

Admit that you did not require your employees to handle, mix, apply, remove, cut or score asbestos-containing products in a wet state to prevent emission of airborne asbestos fibers at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

## **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isabel Espindola allegedly was present on the site. Given that more than 37 years have passed since plaintiff allegedly began visiting the Victoria plant, it is difficult, if not impossible, to reconstruct fully where precisely plaintiff could have been working at the site and is not limited to those times when he alleges he was present at the site. DuPont further objects to this request as vague, ambiguous, compound and lacking adequate specificity. Subject to its preliminary statement and without waiving any objection, DuPont denies this request as stated.

## **REQUEST FOR PRODUCTION NO. 17:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your

denial.

**RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 17. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

**REQUEST FOR ADMISSION 18:**

Admit that you did not evacuate the premises prior to the utilization of asbestos-containing materials at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

**RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff allegedly was present on the site. DuPont further objects to the terms "evacuate the premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont denies this request as stated.

**REQUEST FOR PRODUCTION NO. 18:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 18. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

**REQUEST FOR ADMISSION NO. 19:**

Admit that you did not post warning, caution or hazard signs prior to the utilization of asbestos-containing materials by your employees at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. DuPont further objects to the terms "warning, caution or hazard signs" and "prior to the utilization of asbestos-containing materials" as vague, ambiguous and lacking adequate specificity. Subject to its preliminary statement and without waiving any objection, DuPont denies this request as stated.

### **REQUEST FOR PRODUCTION NO. 19:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

### **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 19. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

### **REQUEST FOR ADMISSION NO. 20:**

Admit that you did not issue any warnings to others at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. DuPont further objects that the use of the terms "to others" is overbroad, vague and ambiguous because it is not clear which "others" plaintiffs are referring to, where they might have been or what jobs they might have been performing. Subject to and without waiving its objections, DuPont states that, historically, it has provided information advising that exposure to any occupational dust, including asbestos, potentially was hazardous. DuPont addressed dust and asbestos related safety issues in a variety of ways, which depended upon circumstances such as the nature and scope of the work and the evolution of industrial hygiene practices. DuPont denies this request as stated.

### **REQUEST FOR PRODUCTION NO. 20:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

### **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 20. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

### **REQUEST FOR PRODUCTION NO 21:**

Produce all documents reflecting payments made to contractors during the years at issue, including Plaintiff's employer, including but not limited to invoices, bills, check requests, requisitions, canceled checks, or other documents of a similar nature reflecting payment for services rendered by Plaintiff's employer.

### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to payments made to plaintiff's employer during the time plaintiff was employed by that employer and allegedly present at the Victoria plant. Subject to its preliminary statement and without waiving any objection, upon reasonable investigation, DuPont has not located documents responsive to this request.

### **REQUEST FOR ADMISSION NO. 21:**

Admit that the use of asbestos-containing materials on Defendant's Premises created a substantial risk of injury.

### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isabel Espindola allegedly was present on the site and is not limited to circumstances reasonably related to the Plaintiffs' claims against DuPont in this case. DuPont further objects to this request as vague, ambiguous and lacking adequate specificity because it does not identify the person or persons allegedly at risk of injury and because the words "substantial risk" are vague, indefinite, and ambiguous. Subject to its preliminary statement and without waiving any objection, DuPont denies this request as stated.

### **REQUEST FOR ADMISSION NO. 22:**

Admit that during the years at issue, Defendant had the power to control Defendant's Premises.

### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff allegedly was present on the site. DuPont objects to the use of the terms "power to control Defendant's premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request as stated.

### **REQUEST FOR PRODUCTION NO. 22:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

### **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 22. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

### **REQUEST FOR ADMISSION NO. 23:**

Admit that, during the years at issue, Defendant had the power to manage the use or condition of Defendant's Premises.

### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. DuPont objects to the use of the terms "power to manage the use or condition of Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request as stated.

### **REQUEST FOR PRODUCTION NO. 23:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

### **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission

no. 23. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

REQUEST FOR ADMISSION NO. 24:

Admit that, during the years at issue, Defendant had the power to direct the use or condition of Defendant's Premises.

RESPONSE

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. DuPont objects to the use of the terms "power to direct the use or condition of Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request as stated.

REQUEST FOR PRODUCTION NO. 24:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE

DuPont incorporates by reference the objections stated in response to request for admission no. 24. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

REQUEST FOR ADMISSION NO. 25:

Admit that, during the years at issue, Defendant had the power to superintend the use or conditions of Defendant's Premises.

RESPONSE

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isabel Espindola allegedly was present on the site. DuPont objects to the use of the terms "power to superintend the use or conditions of Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont

otherwise denies this request as stated.

REQUEST FOR PRODUCTION NO. 25:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE

DuPont incorporates by reference the objections stated in response to request for admission no. 25. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

REQUEST FOR ADMISSION NO. 26:

Admit that, during the years at issue, Defendant had the power to restrict the use or condition of Defendant's Premises.

RESPONSE

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isabel Espindola allegedly was present on the site. DuPont objects to the use of the terms "power to restrict the use or condition of Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request as stated.

REQUEST FOR PRODUCTION NO. 26:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial

RESPONSE

DuPont incorporates by reference the objections stated in response to request for admission no. 26. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

REQUEST FOR ADMISSION NO. 27:

Admit that, during the years at issue, Defendant had the power to regulate the use or condition of Defendant's Premises.

## **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. DuPont objects to the use of the terms "power to regulate the use or condition of Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request for admission as stated.

### **REQUEST FOR PRODUCTION NO. 27:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

## **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 27. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

### **REQUEST FOR ADMISSION NO. 28:**

Admit that, during the years at issue, Defendant had the power to govern the use or condition of Defendant's Premises.

## **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. DuPont objects to the use of the terms "power to govern the use or condition of Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request as stated.

### **REQUEST FOR PRODUCTION NO. 28:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

### **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 28. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

### **REQUEST FOR ADMISSION NO. 29:**

Admit that, during the years at issue, Defendant had the power to oversee the use or condition of the Defendant's Premises.

### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. DuPont objects to the use of the terms "power to oversee the use or condition of Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request as stated.

### **REQUEST FOR PRODUCTION NO. 29:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

### **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 29. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

### **REQUEST FOR ADMISSION NO. 30:**

Admit that, during the years at issue, Defendant had the power to administer the use or condition of Defendant's Premises.

### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isabel Espindola allegedly was present on the site. DuPont objects to the use of the terms "power to administer the use or

condition of Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request as stated.

REQUEST FOR PRODUCTION NO. 30:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE

DuPont incorporates by reference the objections stated in response to request for admission no. 30. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

REQUEST FOR ADMISSION NO. 31:

Admit that, during the years at issue, Defendant controlled Defendant's Premises

RESPONSE

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff allegedly was present on the site. DuPont objects to the use of the term "controlled" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request as stated.

REQUEST FOR PRODUCTION NO. 31:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE

DuPont incorporates by reference the objections stated in response for admission no. 31. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

REQUEST FOR ADMISSION NO. 32:

Admit that, during the years at issue, Defendant managed the use or condition of Defendant's Premises.

**RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. DuPont objects to the use of the terms "managed the use or condition of Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. Pont otherwise denies this request as stated.

**REQUEST FOR PRODUCTION NO. 32:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 32. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

**REQUEST FOR ADMISSION NO. 33**

Admit that, during the years at issue, Defendant directed the use or condition of Defendant's Premises.

**RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isabel Espindola allegedly was present on the site. DuPont objects to the use of the terms "directed the use or condition of Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request as stated.

**REQUEST FOR PRODUCTION NO. 33:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 33. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

**REQUEST FOR ADMISSION NO. 34**

Admit that, during the years at issue, Defendant superintended the use or conditions of Defendant's Premises.

**RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. DuPont objects to the use of the terms "superintended the use or conditions of Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request as stated.

**REQUEST FOR PRODUCTION NO. 34:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 34. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

**REQUEST FOR ADMISSION NO. 35**

Admit that, during the years at issue, Defendant restricted the use or condition of Defendant's Premises.

## **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isabel Espindola allegedly was present on the site. DuPont objects to the use of the terms "restricted the use or condition of Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request as stated.

## **REQUEST FOR PRODUCTION NO. 35:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

## **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission No. 35. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

## **REQUEST FOR ADMISSION NO. 36**

Admit that, during the years at issue, Defendant regulated the use or condition of Defendant's Premises.

## **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isabel Espindola allegedly was present on the site. DuPont objects to the use of the terms "regulated the use or condition of Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request for admission as stated.

## **REQUEST FOR PRODUCTION NO. 36:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

### **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 36. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, 10:00 a.m.

### **REQUEST FOR ADMISSION NO. 37**

Admit that, during the years at issue, Defendant governed the use or condition of Defendant's Premises.

### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isabel Espindola allegedly was present on the site. DuPont objects to the use of the terms "governed the use or condition of Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request for admission as stated.

### **REQUEST FOR PRODUCTION NO. 37:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

### **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 37. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, 10:00 a.m.

### **REQUEST FOR ADMISSION NO. 38**

Admit that, during the years at issue, Defendant oversaw the use or condition of Defendant's Premises.

### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isabel Espindola allegedly was present on the site. DuPont objects to the use of the terms "oversaw the use or condition of

Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request for admission as stated.

REQUEST FOR PRODUCTION NO. 38:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE

DuPont incorporates by reference the objections stated in response to request for admission no. 38. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, 10:00 a.m.

REQUEST FOR ADMISSION NO. 39

Admit that, during the years at issue, Defendant administered the use or condition of Defendant's Premises.

RESPONSE

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. DuPont objects to the use of the terms "administered the use or condition of Defendant's Premises" as vague, ambiguous and subject to different interpretations. Subject to its preliminary statement and without waiving any objection, DuPont admits that it owned and operated the Victoria plant during the times plaintiff alleges that he was on the site. DuPont otherwise denies this request for admission as stated.

REQUEST FOR PRODUCTION NO. 39:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE

DuPont incorporates by reference the objections stated in response to request for admission no. 39. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, 10:00 a.m.

REQUEST FOR ADMISSION NO. 40

Admit that, Defendant retained some control over the manner in which Plaintiff's work was performed.

RESPONSE

DuPont objects to the use of the terms "some control" as vague, ambiguous and subject to different interpretations. DuPont further objects to this request because it does not specify which work, which facility, or which time period(s) it refers to. Subject to its preliminary statement and without waiving any objection, DuPont denies this request as stated.

REQUEST FOR PRODUCTION NO. 40:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE

DuPont incorporates by reference the objections stated in response to request for admission no. 40. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

REQUEST FOR ADMISSION NO. 41

Admit that Defendant retained some control over the manner in which Plaintiff's employer performed the work requested by the Defendant.

RESPONSE

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. DuPont objects to the use of the terms "some control" as vague, ambiguous and subject to different interpretations. DuPont further objects to this request because it does not specify which employer, work, location(s) or time period(s) it refers to. Subject to its preliminary statement and without waiving any objection, DuPont denies this request as stated.

REQUEST FOR PRODUCTION NO. 41:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

### **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 41. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

### **REQUEST FOR ADMISSION NO. 42**

Admit that Plaintiff was not entirely free to do the work on Defendant's Premises in his own way.

### **RESPONSE**

DuPont objects to the use of the terms "entirely free" as vague, ambiguous and subject to different interpretations. DuPont further objects to this request because it does not specify the work, locations(s), or time period(s) it refers to. Subject to its preliminary statement and without waiving any objection, DuPont denies this request as stated.

### **REQUEST FOR PRODUCTION NO. 42:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

### **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 42. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

### **REQUEST FOR ADMISSION NO. 43**

Admit that Plaintiff's employer was not entirely free to do the work requested by Defendant on Defendant's Premises in its own way.

### **RESPONSE**

DuPont objects to the use of the terms "entirely free" as vague, ambiguous and subject to different interpretations. DuPont further objects to this request because it does not specify the employer, work, location(s) or time period(s) to which it refers. Subject to its preliminary statement and without waiving any objection, DuPont denies this request as stated.

REQUEST FOR PRODUCTION NO. 43:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE

DuPont incorporates by reference the objections stated in response to request for admission no. 43. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

REQUEST FOR ADMISSION NO. 44:

Admit that asbestos-containing gaskets were installed at Defendant's Premises.

RESPONSE

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the time periods that plaintiff Isable Espindola allegedly was present at the Victoria site. Subject to its preliminary statement and without waiving any objection, DuPont admits that asbestos-containing products were used at the Victoria plant during the times plaintiff alleges he was on the site. DuPont otherwise denies this request as stated.

REQUEST FOR PRODUCTION NO. 44:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE

DuPont incorporates by reference the objections stated in response to request for admission no. 44. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

REQUEST FOR ADMISSION NO. 45:

Admit that asbestos-containing pipe covering was installed at Defendant's Premises.

### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the time periods that plaintiff Isable Espindola allegedly was present at the Victoria site. Subject to its preliminary statement and without waiving any objection, DuPont admits that asbestos-containing products were used at the Victoria plant during the times plaintiff alleges he was on the site. DuPont otherwise denies this request as stated.

### **REQUEST FOR PRODUCTION NO. 45:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

### **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 45. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

### **REQUEST FOR ADMISSION NO. 46:**

Admit that asbestos-containing boilers were installed at Defendant's Premises.

### **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the time periods that plaintiff Isabel Espindola allegedly was present at the Victoria site. Subject to its preliminary statement and without waiving any objection, DuPont admits that asbestos-containing products were used at the Victoria plant during the times plaintiff alleges he was at the site. DuPont otherwise denies this request as stated.

### **REQUEST FOR PRODUCTION NO. 46:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

### **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 46. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

REQUEST FOR ADMISSION NO. 47:

Admit that asbestos-containing fireproofing was installed at Defendant's Premises.

RESPONSE

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the time period that plaintiff Isable Espindola allegedly was present at Victoria site. Subject to its preliminary statement and without waiving any objection, DuPont admits that asbestos-containing products were used at the Victoria plant during the times plaintiff alleges he was on the site. DuPont otherwise denies this request as stated.

REQUEST FOR PRODUCTION NO. 47:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE

DuPont incorporates by reference the objections stated in response to request for admission no. 47. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

REQUEST FOR ADMISSION NO. 48:

Admit that asbestos-containing joint compound was installed at Defendant's Premises.

RESPONSE

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the time periods that plaintiff Isabel Espindola allegedly was present at the Victoria site. Subject to its preliminary statement and without waiving any objection, DuPont admits that asbestos-containing products were used at the Victoria plant during the times plaintiff alleges he was on the site. DuPont otherwise denies this request as stated.

REQUEST FOR PRODUCTION NO. 48:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE

DuPont incorporates by reference the objections stated in response to request for admission

no. 48. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

REQUEST FOR ADMISSION NO. 49:

Admit that asbestos-containing insulation was installed at Defendant's Premises.

RESPONSE

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the time periods that plaintiff Isabel Espindola allegedly was present at the Victoria site. Subject to its preliminary statement and without waiving any objection, DuPont admits that asbestos-containing products were used at the Victoria plant during the times plaintiff alleges he was on the site. DuPont otherwise denies this request as stated.

REQUEST FOR PRODUCTION NO. 49:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE

DuPont incorporates by reference the objections stated in response to request for admission no. 49. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

REQUEST FOR ADMISSION NO. 50:

Admit that such installation was done under your direction, supervision, and/or control.

RESPONSE

DuPont objects to the use of the terms "such installation" as vague, ambiguous and lacking adequate specificity. DuPont also objects to this request as vague and compound. DuPont further objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isabel Espindola allegedly was present on the site. Subject to its preliminary statement and without waiving any objection, DuPont cannot admit or deny this request as stated, and, therefore, denies this request as stated.

REQUEST FOR PRODUCTION NO. 50:

If you deny the foregoing request, in whole or in part, produce all documents supporting your

denial, including but no limited to all documents identifying the entities or individuals who directed, supervised, and/or controlled such installation activities.

**RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 50. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

**REQUEST FOR PRODUCTION NO. 51:**

Produce all documents that indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings.

**RESPONSE**

DuPont objects to this request because it is overbroad, burdensome, and is not limited to any circumstances reasonably related to plaintiffs' claims in this case. Subject to and without waiving its objections and in accordance with the Preliminary Statement, documents containing nonprivileged information pertaining to this Request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

**REQUEST FOR ADMISSION NO. 51:**

Admit that you supervised the health and safety procedures implemented by contractors working on Defendant's Premises.

**RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the time periods that plaintiff Isabel Espindola allegedly was present at the Victoria site. DuPont further objects to the use of the terms "supervised" and "health and safety procedures" as vague, ambiguous and subject to different interpretations. DuPont further objects to this request because it does not identify any contractors to which it refers, nor does it identify the health and safety procedure allegedly implemented by any contractor to which the request refers. Subject to its preliminary statement and without waiving any objection, DuPont cannot admit or deny this request as stated, and, therefore, denies this request as stated.

**REQUEST FOR ADMISSION NO. 52:**

Admit that you supervised the health and safety practices implemented by Plaintiff's employer.

## **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the time periods that plaintiff Isabel Espindola allegedly was present at the Victoria site. DuPont further objects to the use of the terms "supervised" and "health and safety practices" as vague, ambiguous and subject to different interpretations. DuPont further objects to this request because it does not identify any contractors to which it refers, nor does it identify the health and safety procedure allegedly implemented by any contractor to which the request refers. Subject to its preliminary statement and without waiving any objection, DuPont cannot admit or deny this request as stated, and, therefore, denies this request as stated.

## **REQUEST FOR ADMISSION NO. 53:**

Admit that you did not protect the Plaintiff from exposure to asbestos on Defendant's Premises.

## **RESPONSE**

DuPont objects to this request to the extent it assumes that plaintiff was exposed to asbestos while on the Victoria site. DuPont further objects to this request to the extent it assumes that DuPont breached a duty owed to plaintiff. Subject to its preliminary statement and without waiving any objection, DuPont denies this request as stated.

## **REQUEST FOR PRODUCTION NO. 52**

Produce all documents supporting the legal theories and factual bases of your defenses set forth in your response to Plaintiff's Request for Disclosure under Tex.R.C.P.194.2, subparagraph (c).

## **RESPONSE**

DuPont objects to this request for the reason that it is overbroad, ambiguous, and argumentative. DuPont further objects that Rules 194.2 and 198 do not require a party to marshal all of its available proof or the proof the party intends to offer at trial. DuPont further objects that this request does not describe the documents sought with reasonable particularity. This request is outside the scope of the Texas Rules of Civil Procedure.

## **REQUEST FOR ADMISSION NO. 54:**

Admit that Plaintiff's exposure to asbestos at Defendant's Premises was a substantial contributing factor in causing his asbestos-related injury.

## **RESPONSE**

DuPont objects to this request to the extent it assumes that plaintiff Isabel Espindola was exposed to asbestos while on the Victoria site. DuPont objects to the term "substantial contributing factor" for the reason that it is vague and ambiguous. DuPont further objects that this request is vague, ambiguous and does not identify the alleged asbestos-related injury. In addition, DuPont objects to this request to the extent it seeks an expert opinion regarding causation which this defendant is not qualified to express. Subject to its preliminary statement and without waiving any objection, DuPont denies this request.

## **REQUEST FOR PRODUCTION NO. 53:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

## **RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 54. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

## **REQUEST FOR ADMISSION NO. 55:**

Admit that Defendant did not exercise reasonable care to reduce or eliminate the risk of asbestos-related injury.

## **RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isable Espindola allegedly was present on the site. DuPont further objects that this request is vague, ambiguous, and nonspecific because it does not identify the alleged risk to which it refers, the persons allegedly at risk, or any circumstances, conditions, or activities allegedly giving rise to the alleged risk. Subject to its preliminary statement and without waiving any objection, DuPont denies this request.

## **REQUEST FOR ADMISSION NO 56:**

Admit that Defendant did not reduce or eliminate the unreasonable risk of harm posed by the use of asbestos-containing products at Defendant's Premises.

## **RESPONSE**

DuPont objects to this request because it assumes that there was an unreasonable risk of harm

posed by the use of asbestos-containing products at Defendant's Premises. DuPont further objects that this request is overbroad, vague, ambiguous, and nonspecific because it does not identify the alleged risk to which it refers, the persons allegedly at risk, or any circumstances, conditions, or activities allegedly giving rise to the alleged risk. Subject to its preliminary statement and without waiving any objection, DuPont denies this request.

**REQUEST FOR PRODUCTION NO. 54:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 56. Subject to its preliminary statement and without waiving any objection, documents containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

**REQUEST FOR ADMISSION NO. 57:**

Admit that Defendant's failure to reduce or eliminate the risk of harm to Plaintiff was a substantial factor in bringing about Plaintiff's asbestos-related injury.

**RESPONSE**

DuPont objects to this request because it assumes that plaintiff was exposed to asbestos while working on the Victoria site and assumes that DuPont failed to reduce or eliminate any alleged risk of harm to plaintiff. DuPont further objects that the term "substantial" is vague, ambiguous, and nonspecific. DuPont further objects that this request is overbroad, vague, ambiguous, and nonspecific because it fails to identify the alleged risk to which it refers, the circumstances, conditions, or activities allegedly giving rise to the alleged risk, or the alleged asbestos-related injury. In addition, DuPont objects to this request to the extent it seeks an expert opinion regarding causation which this defendant is not qualified to express. Subject to its preliminary statement and without waiving any objection, DuPont denies this request.

**REQUEST FOR PRODUCTION NO. 55:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE**

DuPont incorporates by reference the objections stated in response to request for admission no. 57. Subject to its preliminary statement and without waiving any objection, documents

containing nonprivileged information relating to this request will be produced at the offices of Kirkley Schmidt & Cotten, L.L.P. on August 23, 2000, at 10:00 a.m.

REQUEST FOR PRODUCTION NO. 56:

If you contend that while at the premises on which you or your employees were working with asbestos-containing materials, Plaintiff was not exposed to sufficient quantities of asbestos dust to produce the disease(s) complained of, produce all documents supporting your contention.

RESPONSE

DuPont objects to this request as vague, ambiguous and confusing. DuPont objects to the terms "exposed to sufficient quantities of asbestos dust" as vague, ambiguous and subject to different interpretations. DuPont further objects to this request that it produce "all documents" to support its contention, because, while the Texas Rules of Civil Procedure allow a party to ask for the general factual bases of another party's contentions, it also prohibits requiring a party to marshal all of its available proof or the proof the party intends to offer at trial. DuPont further objects that this request fails to describe the documents sought with reasonable particularity.

REQUEST FOR PRODUCTION NO. 57:

If you contend that Plaintiff is suffering from an asbestos disease as a result of exposures other than asbestos dust at the premises on which you or your employees were working with asbestos-containing materials, produce all documents supporting your contention.

RESPONSE

DuPont objects to this request as vague, ambiguous, unintelligible, nonsensical, and confusing. DuPont further objects that this request fails to describe the documents sought with reasonable particularity.

REQUEST FOR PRODUCTION NO. 58:

If you contend that Plaintiff does not suffer from the asbestos-related disease(s) complained of, produce all documents supporting your contention.

RESPONSE

DuPont objects to this request as vague, ambiguous and confusing. Subject to its preliminary statement and without waiving any objection, DuPont responds that it has not had sufficient opportunity to investigate and form a contention with respect to whether plaintiff is suffering from the alleged asbestos-related diseases complained of.

REQUEST FOR PRODUCTION NO. 59:

If you contend that Plaintiff was not exposed to asbestos dust at the premises on which you or your employees were working with asbestos-containing materials, produce all documents supporting your contention.

### **RESPONSE**

DuPont objects to this request as vague, ambiguous and confusing. DuPont objects to the terms "exposed to asbestos dust" as vague, ambiguous and subject to different interpretations. DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the time periods that Plaintiff was allegedly present at the Victoria site. DuPont further objects to this request that it produce "all documents" to support its contention, because, while the Texas Rules of Civil Procedure allow a party to ask for the general factual bases of another party's contentions, it also prohibits requiring a party to marshal all of its available proof or the proof the party intends to offer at trial.

### **REQUEST FOR PRODUCTION NO. 60:**

Produce any and all documents and other tangible things which refer to the document retention (and/or destruction) policy of Defendant, including the following:

- a. Any document retention and/or destruction policies for Defendant that pertain to documents and records, including but not limited to supplements, addenda, memoranda, operating bulletins, revisions, or any other superseding instructions that referred to the stopping, suspending or resuming of such retention or destruction policies.
- b. Any record retention and/or destruction, dumping, or purging policies for Defendant that pertain to documents and records created, maintained or stored by electronic and/or magnetic means, including but not limited to records that have been microfilmed, microfiche, imaged, scanned, or stored on tapes, disks, diskettes, CD-rom, databases, etc. or on or within any computer hardware, backup system, download system, file dumping or other system of information management, whether on-site or off-site, including but not limited to supplements, addenda, memoranda, operating bulletins, revisions, or any other superseding instructions that referred to the stopping, suspending or resuming of such retention or destruction policies.

### **RESPONSE**

DuPont objects to this request as overbroad and not limited to the time frame relevant to this case. Subject to its preliminary statement and without waiving any objection, DuPont will provide a copy of its current record retention manual.

### **REQUEST FOR PRODUCTION NO. 61:**

Produce any and all documentation, including but not limited to lists, inventories, indices, databases or print-outs thereof, archives, storage inventories, logs, or other search aids that refer or relate to the existence, extent, type, organization, filing system, method of access or retrieval, and/or location of Defendant's documents (maintained or stored on-site or off-site) described in the preceding paragraphs.

**RESPONSE**

DuPont objects to this request as overbroad, vague, ambiguous, irrelevant and seeking information protected by the attorney work product doctrine.

**REQUEST FOR ADMISSION NO. 58:**

Admit that Plaintiff filed suit against Defendant within two (2) years of the date of discovering his asbestos-related condition or the existence of any asbestos-related causes of action.

**RESPONSE**

DuPont objects to this request on the grounds that it requires DuPont to render an expert medical opinion. Subject to its preliminary statement and without waiving any objection, DuPont denies this request.

**REQUEST FOR ADMISSION NO. 59:**

Admit that Defendant is liable for Plaintiff's asbestos related illness.

**RESPONSE**

Denied.

**REQUEST FOR ADMISSION NO. 60:**

Admit that asbestos is still in use and/or in place on Defendant's Premises.

**RESPONSE**

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isabel Espindola allegedly was present on the site. DuPont further objects that this request is impermissibly vague and ambiguous in that it fails to specify particular asbestos-containing products or materials at issue. Subject to its preliminary statement and without waiving any objection, DuPont admits that asbestos-containing products were used at the Victoria plant during the times plaintiff alleges he was on the site. DuPont otherwise denies this request as stated.

REQUEST FOR ADMISSION NO. 61:

Admit that Defendant no longer uses asbestos on its Premises.

RESPONSE

DuPont objects to this request as overbroad, unduly burdensome and irrelevant to the extent it is not limited to the Victoria plant during the time periods that plaintiff Isabel Espindola allegedly was present on the site. DuPont objects that this request is impermissibly vague and ambiguous in that it fails to specify particular asbestos-containing products or materials at issue. DuPont further objects to the multifarious nature of this request. Based on the multifarious nature of this request, DuPont can neither admit nor deny the request as stated. Therefore, DuPont denies this request as stated.

REQUEST FOR PRODUCTION NO. 62:

If you contend that you did not own or control the facility(ies) during any time period that Plaintiff worked (or believes he worked) at the facility(ies), please produce all documentation that supports your contention, including but not limited to documentation pertaining to the purchase, sale, acquisition, merger, or divestment of corporations, subsidiaries, divisions, or other corporate entities or assets that included the purchase, sale, acquisition, merger, or divestment of the facility(ies); such documentation to include, by way of example and not limitation, purchase or sale agreements, minutes, resolutions, annual report, 10K reports or other state or federal agency filings, or deposition, trial testimony or affidavits of your corporate representatives who are the most knowledgeable individuals with respect to such matters.

RESPONSE

DuPont objects to this request for the reason that it is overbroad, ambiguous and not limited to the Victoria site during the time periods plaintiff Isabel Espindola allegedly was present on the site. DuPont objects to the term "control" for the reason that it is vague, overbroad, ambiguous, and subject to different interpretations. Subject to and without waiving its objections and in accordance with the Preliminary Statement, DuPont does not contend that it did not own the Victoria facility during times that plaintiff Isabel Espindola alleges he was there.

STATEMENT UNDER RULE 193.3(a)

Information or material responsive to the following discovery requests, as limited by DuPont's Preliminary Statement and its objections, has been withheld on the basis of attorney-client privilege and work product: Requests for Production 1, 10, 12, 13, 14, 15, 16, 17, 19, 51, and 61. DuPont reserves the right to amend or supplement this statement as may be appropriate in light of further developments in the case.

CAUSE NO. 4333\*RM98

|                          |   |                                     |
|--------------------------|---|-------------------------------------|
| VICENTE MORENO RODRIGUEZ | § | IN THE DISTRICT COURT OF            |
|                          | § |                                     |
| VS.                      | § | BRAZORIA COUNTY, T E X A S          |
|                          | § |                                     |
| OWENS-CORNING, ET AL.    | § | 149 <sup>th</sup> JUDICIAL DISTRICT |

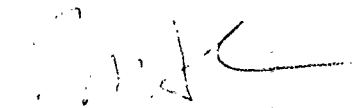
**DEFENDANT'S OBJECTIONS, ANSWERS AND RESPONSES TO  
PLAINTIFF'S INTERROGATORIES, REQUESTS FOR  
PRODUCTION AND REQUESTS FOR ADMISSION**

TO: PLAINTIFF VINCENTE MORENO RODRIGUEZ, by and through his attorneys of record, Holly Huart and Stephanie Finch of BARON & BUDD, The Centrum, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219

Pursuant to TEXAS RULES OF CIVIL PROCEDURE Defendant PHILLIPS PETROLEUM COMPANY serves the following Objections, Answers and Responses to Plaintiff's Interrogatories, Requests for Production and Requests for Admissions.

Respectfully submitted,

HAYS, McCONN, RICE & PICKERING

By: 

B. STEPHEN RICE

TSB No. 16838000

STEVEN M. DUBLE

TSB No. 06144550

1200 Smith Street, Suite 400

Houston, Texas 77002

Telephone: (713) 654-1111

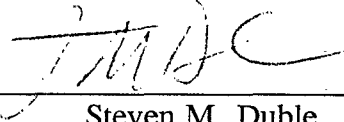
Facsimile : (713) 655-9212

Attorneys for Defendant

**PHILLIPS PETROLEUM COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to counsel for Plaintiffs by facsimile and by certified mail, return receipt requested, and to all other counsel of record by facsimile, on this 16th day of August, 2000.

A handwritten signature in dark ink, appearing to read "JMD", is written over a horizontal line.

Steven M. Duple

### OBJECTIONS TO DEFINITIONS

Defendant objects to the stated definition of the terms "Defendant," "You," "Your" and "Your Company" on the grounds it is overly broad and seeks to extend the definition beyond the scope of discovery allowed under the Texas Rules of Civil Procedure, including but not limited to inquiries relating to subsidiaries, foreign subsidiaries and other separately incorporated non-parties thus rendering the Plaintiff's stated definitions overly broad, vague and improper.

Defendant objects to the stated definition of the terms "Document," "Documents," "Written Materials" and "Printed Materials" on the grounds it is overly broad, vague and clearly outside the scope of permissible discovery under the Texas Rules of Civil Procedure. This Defendant would specifically object to the attempt to extend the definition of these terms as requiring the responding party to make a determination of what documents may be responsive to these Interrogatories and Requests for Production "regardless of who now has or formerly had custody, possession or control" on the ground that is clearly outside the scope of permissible discovery and could be construed as seeking disclosure of information that would be protected from discovery by virtue of the attorney work product exemption afforded by the Texas Rules of Civil Procedure and the Texas Rules of Civil Evidence.

Defendant would further object to the stated definition of the terms "Meeting" or "Meetings" on the grounds it is so overly broad and vain and renders each discovery request to which it may apply incapable of being answered; and therefore, improper under the Texas Rules of Civil Procedure.

Defendant objects to the stated definition of the terms "products containing asbestos fiber," "asbestos containing products" and "asbestos products" on the grounds it is overly broad, vague and not limited to the matters made the basis of this lawsuit and therefore, seeks disclosure of information and/or the production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to the discovery of admissible evidence.

**INTERROGATORY NO. 1:**

For each person who has supplied any information used in answering these interrogatories, state the name, address, job title, length of time employed by Defendant, and a year-by-year list of all other positions, titles, or jobs held when working for Defendant.

**ANSWER**

Objection. Answers to these Interrogatories are being made by Phillips Petroleum Company, a corporation. The scope of Plaintiffs' Interrogatories calls for extensive and massive inquiry, seeking information from innumerable individuals in various locations spanning approximately a 32-year time frame; hence, providing such information would be enormously burdensome. Lastly, such information is protected from disclosure pursuant to the attorney-client privilege and work product exemption.

**REQUEST FOR ADMISSION NO. 1**

Admit that Defendant ordered, purchased or otherwise acquired asbestos-containing products, asbestos-containing friction products, and/or machinery requiring the use of asbestos or asbestos-containing products.

**RESPONSE:**

Defendant objects to this Request because the same is vague and overly broad as it is unlimited as to time and location. Subject to the foregoing objections and without waiving same, Defendant ADMITS that Defendant acquired asbestos-containing products during certain time periods.

**REQUEST FOR PRODUCTION NO. 1:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

N/A

**REQUEST FOR ADMISSION NO. 2:**

Admit that asbestos-containing products, asbestos-containing friction products, and/or machinery requiring the use of asbestos or asbestos-containing products were utilized on Defendant's Premises between the years 1963 and 1995.

**RESPONSE:**

Defendant objects to this Request as vague. This Request fails to define "utilized". Accordingly Defendant denies as worded. Defendant has never had a plant located at Corpus Christi, Texas, and, therefore, the Request is denied.

**INTERROGATORY NO. 2.**

If you admit the foregoing request, please list all asbestos-containing products used at Defendant's Premises and for each product state the following:

- a. What these products were used for
- b. From whom these products were purchased
- c. Where these products were installed
- d. Specific persons or contractors who install these products
- e. The first year each product was no longer purchased and installed on Defendants Premises

**ANSWER:**

Defendant objects to this Interrogatory because it is overly broad, lacks specificity and is unduly burdensome. Further, the Interrogatory is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections, not applicable, as Defendant never had a plant located at Corpus Christi, Texas.

**REQUEST FOR PRODUCTION NO. 2:**

Produce all ordering and sales documents pertaining to the purchase or acquisition of such asbestos-containing products for use at Defendant's Premises, including but not limited to invoices, price quotations, purchase orders, requisitions, bills of lading, and other purchasing and/or shipping documents of the similar nature.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, lacks specificity and is unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections, not applicable, as Defendant never had a plant located at Corpus Christi, Texas.

**REQUEST FOR ADMISSION NO. 3:**

Admit that during the time Plaintiff was employed by Defendant, it was foreseeable that asbestos-containing products on Defendant's Premises would or could be removed, stripped, replaced or repaired at some time after installation.

**RESPONSE:**

Defendant objects to this Request in that it is vague, assumes facts not in evidence, and improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, not applicable, as Defendant never had a Corpus Christi plant. To our knowledge, Plaintiff VICENTE RODRIGUEZ was never employed by Defendant, and Defendant never had a Corpus Christi plant. To the extent necessary, denied.

**INTERROGATORY NO. 3:**

Please state whether any asbestos-containing products in place or in use at Defendant's Premises have been abated at any time.

- a. If so, list each person or company that performed such abatement services (including address and telephone number)
- b. State the dates and locations of each abatement procedure,
- c. State which asbestos-containing products were abated.

**ANSWER:**

Defendant objects to this Interrogatory because it is overly broad, lacks specificity and is unduly burdensome. Plaintiff was not involved with asbestos abatement. Further, the Interrogatory is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections, not applicable, as Defendant never had a plant located at Corpus Christi, Texas.

**REQUEST FOR PRODUCTION NO. 3:**

Produce all documents that in any way pertain to abatement of asbestos-containing materials on Defendant's Premises, including but not limited to a removal plan or organized written criteria or schedule for the removal of asbestos at Defendant's Premises, and in operation and maintenance plan.

**RESPONSE:**

Objection. Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request because the Plaintiff was never involved in abatement activities and, thus, this Request is not relevant.

Subject to the objections, not applicable, as Defendant never had a plant located at Corpus Christi, Texas.

**REQUEST FOR ADMISSION NO. 4:**

Admit that Plaintiff worked on premises owned by Defendant or by a predecessor-in-interest of Defendant.

**RESPONSE:**

After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request.

**REQUEST FOR PRODUCTION NO. 4:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR PRODUCTION NO. 5:**

If you admit the foregoing request, in whole or in part, produce all documents supporting your admission that Plaintiff was on Defendant's Premises.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, not applicable, as Defendant never had a Corpus Christi plant.

**REQUEST FOR PRODUCTION NO. 6:**

Produce all records identifying contractors and/or the employees of contractors who were on your premises between the dates 1963 and 1995, including but not limited to sign-in-logs,

gate records, visitor's logs, identification badge logs and procedures, and other documents of a similar nature.

**RESPONSE:**

Objection. Defendant objects to this Request because it is overly broad, lacks specificity and is unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 7:**

Produce all records pertaining to the methods and manner of identification of individuals entering and/or leaving your Facilities, between the years 1963 and 1995, including but not limited to fingerprinting or other methods of identifying contractor employees at your premises, and specifically including any fingerprinting or other records identifying the Plaintiff.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, lacks specificity and is unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

**INTERROGATORY NO. 4:**

Identify the contractors who worked on your premises between the years 1963 and 1995 and for each, state:

- a. The type of work performed by the contractor
- b. The dates such work was performed;
- c. Identify your employee responsible for monitoring, verifying, or instructing

concerning these services to be performed by such contractors.

**ANSWER:**

Defendant objects to this Interrogatory because it is overly broad, lacks specificity and is unduly burdensome. Further, the Interrogatory is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 8:**

Produce the contract documents pertaining to the contractors who performed services on Defendant's Premises between the years 1963 and 1995, including but not limited to invitations to bid, requests for proposals, bids, proposals, scope of work, specifications, blueprints, plans, acceptances, contracts, amendments, addenda, change orders, and other contract documents of a similar nature.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, lacks specificity and is unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections, not applicable, as Defendant never had a plant located at Corpus Christi, Texas.

**INTERROGATORY NO. 5:**

Identify each employee who was responsible for allowing contractor employees access to Defendant's Premises between the years 1963 and 1995.

**ANSWER:**

Defendant objects to this Interrogatory because it is overly broad, lacks specificity and is unduly burdensome. Further, the Interrogatory is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections, not applicable, as Defendant never had a plant located at Corpus Christi, Texas.

**REQUEST FOR ADMISSION NO. 5:**

Admit that Plaintiff worked on Defendant's Premises where Defendant used or applied asbestos-containing products.

**RESPONSE:**

Denied. Defendant never had a Corpus Christi plant.

**REQUEST FOR PRODUCTION NO. 9.**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Not applicable. Defendant never had a Corpus Christi plant.

**INTERROGATORY NO. 6:**

Do you contend that Plaintiff was not exposed to asbestos while working at the Defendant's Premise(s) in Corpus Christi, Texas? If the answer is anything other than "no", identify each and every fact which supports this contention.

**RESPONSE:**

Yes. Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 6:**

Admit that Plaintiff, in the course and scope of his work as an employee of an independent contractor, worked around Defendant's employees who were using and/or applying asbestos-containing products.

**RESPONSE:**

Defendant has no knowledge as to whether Plaintiff worked on its premises. After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request.

**REQUEST FOR PRODUCTION NO. 10**

If you deny the foregoing request in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

**REQUEST FOR ADMISSION NO. 7:**

Admit that Plaintiff worked on and/or around Defendant's Premises in areas where asbestos-containing products were installed, used, prepared for use, replaced or repaired, stored or loaded, unloaded or transported.

**RESPONSE:**

Denied. Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 8:**

Admit that in 1963 Defendant was aware that airborne asbestos dust created a potential health hazard to those who breathed such dust.

**RESPONSE:**

DENIED.

**REQUEST FOR PRODUCTION NO. 11:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this request as the same is overly broad, unspecific, vague and ambiguous. Subject thereto, Defendant denies that breathing low levels of asbestos dust was considered as a hazard in 1963.

**REQUEST FOR ADMISSION NO. 9:**

Admit that Defendant was aware of the presence of and/or use of asbestos-containing products on Defendant's Premises during the time period Plaintiff was working on Defendant's Premises.

**RESPONSE:**

DENIED. Defendant never had a Corpus Christi plant.

**REQUEST FOR PRODUCTION NO. 12:**

Produce any and all photographs or videographic depictions or films depicting the use by you or your employees of any safety precautions (such as containment areas, warning signs, etc.) taken to protect bystanders from the hazards of airborne asbestos resulting from the use of asbestos-containing products by your employees at any locations.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, vague and ambiguous, and not limited to the facilities where Plaintiff claims exposure, nor is it limited to the relevant time periods. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

**INTERROGATORY NO. 7:**

Please identify any and all warnings ever given by Defendant, if any, to Plaintiffs regarding the hazards of asbestos and the dangers inherent in the inhalation of asbestos fibers.

**ANSWER:**

Defendant objects to this Interrogatory because it is overly broad and vague. Without waiving the objection, Defendant states that it was the responsibility of the Plaintiff's employer to protect the Plaintiff from excessive exposure to asbestos consistent with the knowledge and judgment as it may have existed from time to time concerning the hazards of asbestos. Defendant is not specifically aware of any direct communication with Plaintiff.

**REQUEST FOR PRODUCTION NO. 13:**

Produce all such warnings.

**RESPONSE:**

Defendant objects to this Request on the same bases stated in Answer to Interrogatory No. 7.

**REQUEST FOR ADMISSION NO. 10:**

Admit that Defendant did not distribute any literature or warnings of any kind to its

employees during the period of time Plaintiff worked on Defendant's Premises regarding the potential health hazards to those who breathe airborne asbestos dust.

**RESPONSE:**

Defendant objects to this Request as overly broad, vague and ambiguous. Defendant cannot admit or deny the Request as stated because Defendant never had a plant in Corpus Christi which is the "Defendant's Premises" inquired of. Accordingly, after reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request.

**REQUEST FOR PRODUCTION NO. 14:**

If you deny the foregoing, produce all such warnings.

**RESPONSE:**

Defendant objects to this Request for the reasons as stated in the Response to Request for Admission No. 10. Further, Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**INTERROGATORY NO. 8:**

Describe Defendant's safety policy as it relates to the use of asbestos-containing materials at jobsites where Defendant's employees were performing services. In your answer, please state:

- a. when, if ever, Defendant's employees were first warned about the hazards of asbestos exposure; and
- b. what instructions, if any, were given to Defendant's employees on the identification of materials which might or did contain asbestos.

**ANSWER:**

Defendant objects to this Interrogatory as overly broad, vague, not

limited to the time periods relevant in this case, not limited to the sites relevant in this case, and, therefore, seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 15:**

Produce all such safety policies.

**RESPONSE:**

Defendant objects to this Request as overly broad, vague, not limited to the time periods relevant in this case, not limited to the sites relevant in this case, and, therefore, seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR ADMISSION NO. 11:**

Admit that Defendant consciously decided not to warn its employees of the dangers of asbestos.

**RESPONSE:**

DENIED.

**INTERROGATORY NO. 9.**

Do you contend that Defendant specifically warned Plaintiff about the hazards of asbestos and asbestos-containing products? If the answer is anything other than "no", identify each and every fact which supports this contention.

**ANSWER:**

Defendant objects to this Interrogatory because it is overly broad and vague. Further, Defendant is not required to marshal its evidence. See, TEX. R. CIV. P. 197.1. Without waiving the objection, Defendant answers as follows: Defendant is not specifically aware of any direct communication with Plaintiff. Defendant hired contractors who were experts in their crafts and who were required to follow applicable guidelines concerning exposure to potentially toxic materials, including asbestos.

**INTERROGATORY NO. 10:**

Describe all safety precautions taken by you or your employees (such as containment areas, warning signs, ventilation systems, evacuating the premises, etc.) for the protection of bystanders (including but not limited to Plaintiffs) from the hazards resulting from the use of asbestos-containing products by your employees at any locations.

**ANSWER:**

Defendant objects to this Interrogatory because it assumes that the Plaintiff may have been working in the vicinity of this Defendant's employees while Defendant's employees may have been using asbestos, which is denied. Defendant further objects to this Interrogatory because it is overly broad, vague, not limited to the time periods relevant in this case, not limited to the sites relevant in this case, and, therefore, seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

**INTERROGATORY NO. 11:**

Have you ever provided safety equipment to persons working on Defendant's Premises? If so, please list the safety equipment provided and indicate:

- a. when the equipment was first provided
- b. to whom the equipment was provided
- c. under what circumstances the equipment was provided
- d. Further, identify the person with the most knowledge of your "safety equipment" policies.

**RESPONSE:**

Defendant objects to this Interrogatory as overly broad, vague, not limited to the time periods and corresponding specific premise sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically, alleged exposures to asbestos-containing thermal insulation products, and the Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence.

Subject thereto, not applicable, because Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 12:**

Admit that Defendant did not continuously provide face masks to contract employees working with or around asbestos from 1963 to 1995 for the purpose of protecting these employees from inhaling asbestos.

**RESPONSE:**

Defendant objects to this Request because the same is overly broad, lacks specificity and the same is not limited to the time periods relevant to this case.

Subject thereto, Defendant is unable to deny as stated. The policy was that independent contractors were required to provide their own safety equipment to their employees, including respiratory protection.

**INTERROGATORY NO. 12:**

State in detail what tests have been conducted with regard to the quantity, quality, or threshold limit values of asbestos dust or particles to which workers were exposed while using, working with or around, or installing asbestos-containing products in any of your facilities. Please state where and when these tests were conducted, by whom these tests were conducted, and the results of any such test.

**RESPONSE:**

Defendant objects to this Interrogatory as overly broad, vague, not limited to the time periods relevant in this case, not limited to the sites relevant in this case, and, therefore, seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

**INTERROGATORY NO. 13:**

Do you contend that Defendant, Defendant's representatives, insurance carriers and/or agents performed any measurements and/or studies prior to 1963 to determine the quantity of asbestos fibers in the air at the Phillips Petroleum Company facility? If the answer is anything other than "no", identify each and every fact which supports this contention.

**RESPONSE:**

Defendant objects to this Interrogatory as overly broad and vague, because it fails to specify which Phillips Petroleum Company facility would be relevant for which the information is sought. Further, there is no showing that the time period of which inquiry is made is relevant to any issue in this case.

**INTERROGATORY NO. 14:**

Please state each time any regulatory agency or other governing body has inspected the Defendant's premises to determine if health and safety regulations governing exposure to asbestos were being followed. Include in your response the date and results of each inspection, and state whether a written report was generated.

**RESPONSE:**

Defendant objects to this Interrogatory because it is overly broad, not limited to the time periods and corresponding worksites relevant in this case and, therefore, seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Interrogatory as overly broad and vague insofar as any undefined "regulatory agency or other governing body."

Subject thereto, not applicable, as this Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 13:**

Admit that you did not erect containment barriers to prevent emission of asbestos dust at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

**RESPONSE:**

Defendant objects to this Request because it assumes that Defendant's employees were using and/or applying asbestos products in the vicinity where Plaintiff was present. Defendant also objects because the Request is not limited in time and is, therefore, overly broad and unspecific. Because of these insufficiencies, Defendant cannot admit or deny the Request as stated.

Subject thereto, Defendant admits that it utilized its judgment to

provide protection from over exposure to asbestos dust as standards, judgment, and knowledge of the hazards of asbestos have evolved over time and Defendant has no knowledge as to whether Plaintiff worked on its premises. After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request.

**REQUEST FOR PRODUCTION NO. 16:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

**REQUEST FOR ADMISSION NO. 14:**

Admit that you did not utilize engineering controls such as isolation or enclosure at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

**RESPONSE:**

Defendant objects to this Request because it assumes that Defendant's employees were using and/or applying asbestos products in the vicinity where Plaintiff was present. Defendant also objects because the Request is not limited in time and is, therefore, overly broad and

unspecific. Because of these insufficiencies, Defendant cannot admit or deny the Request as stated.

Subject thereto, Defendant admits that it has utilized its judgment to provide protection from overexposure to asbestos dust as standards, judgment, and knowledge of the hazards of asbestos have evolved over time. Defendant has no knowledge as to whether Plaintiff worked on its premises. After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request.

**REQUEST FOR PRODUCTION NO. 17:**

If you deny the foregoing request in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 15:**

Admit that you did not utilize ventilation or exhaust systems to divert dust at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

**RESPONSE.**

Defendant objects to this Request because it assumes that Defendant's employees were using and/or applying asbestos products in the vicinity where Plaintiff was present. Defendant also objects because the Request is not limited in time and is, therefore, overly broad and unspecific. Because of these insufficiencies, Defendant cannot admit or deny the Request as stated.

Subject thereto, Defendant admits that it has utilized its judgment to provide protection from overexposure to asbestos dust as standards, judgment, and knowledge of the hazards of asbestos have evolved over time. Defendant has no knowledge as to whether Plaintiff worked on its premises. After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request.

**REQUEST FOR PRODUCTION NO. 18:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:.**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 16:**

Admit that you did not utilize dust collection engineering controls to trap airborne asbestos dust at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

**RESPONSE:**

Defendant objects to this Request because it assumes that Defendant's employees were using and/or applying asbestos products in the vicinity where Plaintiff was present. Defendant also objects because the Request is not limited in time and is, therefore, overly broad and unspecific. Because of these insufficiencies, Defendant cannot admit or deny the Request as stated.

Subject thereto, Defendant admits that it has utilized its judgment to provide protection from overexposure to asbestos dust as standards, judgment, and knowledge of the hazards of asbestos have evolved over time. Defendant has no knowledge as to whether Plaintiff worked on its premises. After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request.

**REQUEST FOR PRODUCTION NO. 19:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711

(Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 17:**

Admit that you did not require your employees to handle, mix, apply, remove, cut or score asbestos-containing products in a wet state to prevent emission of airborne asbestos fibers at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

**RESPONSE:**

Defendant objects to this Request because it assumes that Defendant's employees were using and/or applying asbestos products in the vicinity where Plaintiff was present. Defendant also objects because the Request is not limited in time and is, therefore, overly broad and unspecific. Because of these insufficiencies, Defendant cannot admit or deny the Request as stated.

Subject thereto, Defendant admits that it has utilized its judgment to provide protection from overexposure to asbestos dust as standards, judgment, and knowledge of the hazards of asbestos have evolved over time. Defendant has no knowledge as to whether Plaintiff worked on its premises. After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request.

**REQUEST FOR PRODUCTION NO. 20:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically

prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 18:**

Admit that you did not evacuate the premises prior to the utilization of asbestos-containing materials at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

**RESPONSE:**

Defendant objects to this Request as the same is overly broad, vague and ambiguous, lacks specificity, and is not limited to relevant times or jobsites. Defendant specifically objects to the term "evacuate the premises" as vague and ambiguous. Defendant objects to this Request because it assumes that Defendant's employees were using and/or applying asbestos products in the vicinity where Plaintiff was present. Without waiving the objection, Defendant responds as follows: Defendant has no knowledge as to whether Plaintiff worked on its premises. After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request. Defendant admits that it has utilized its judgment to provide protection from over-exposure to asbestos dust as standards, judgment and knowledge of the hazards of asbestos dust have evolved over time.

**REQUEST FOR PRODUCTION NO. 21:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**INTERROGATORY NO. 15:**

Have you ever warned workers on Defendant's Premises of the hazards of asbestos and asbestos-containing products? If so, describe in detail the methods of such warnings, who you warned and when. Please include in your response a description of any written warnings relating to the hazards of asbestos in place at Defendant's Premises and state when the written warnings were installed, how many were installed, and whether they have been removed.

**ANSWER:**

Defendant objects to this Interrogatory because it is overly broad, not limited to the time periods and corresponding worksites relevant in this case and, therefore, seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to Interrogatories 15 through 20 because they violate TEX. R. CIV. P. 190.2 and 190.3, in that they exceed 25 written interrogatories. Each distinct part of an interrogatory is considered a separate interrogatory. Further, not applicable, as this Defendant never had a plant in Corpus Christi, Texas.

**INTERROGATORY NO. 16:**

Have you ever had a policy requiring workers on Defendant's premises to use respirators?  
If so, please:

- a. state when this policy was implemented;
- b. describe this policy in detail;
- c. state to whom it applied (i.e. Defendant employees and contractor employees);
- d. and describe what types and brand names of respirators were required by you.

**ANSWER:**

Defendant objects to this Interrogatory because it is overly broad, not limited to the time periods and corresponding worksites relevant in this case and, therefore, seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to Interrogatories 10 through 20 because they violate TEX. R. CIV. P. 190.2 and 190.3, in that they exceed 25 written interrogatories. Each distinct part of an interrogatory is considered a separate interrogatory. Further, not applicable, since Defendant never had a plant in Corpus Christi, Texas.

**REQUEST FOR ADMISSION NO. 19:**

Admit that you did not post warning, caution or hazard signs prior to the utilization of asbestos-containing materials by your employees at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

**RESPONSE:**

Defendant objects to this Request because it assumes that Defendant's employees were using and/or applying asbestos products in the vicinity where Plaintiff was present. Defendant also objects because the Request is not limited in time and is, therefore, overly broad and unspecific. Because of these insufficiencies, Defendant cannot admit or deny the Request as stated.

Subject thereto, Defendant admits that it has utilized its judgment to provide protection from overexposure to asbestos dust as standards, judgment, and knowledge of the hazards of asbestos have evolved over

time. Defendant has no knowledge as to whether Plaintiff worked on its premises.

**REQUEST FOR PRODUCTION NO. 22:**

If you deny the foregoing request in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 20:**

Admit that you did not issue any warnings to others at the worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

**RESPONSE:**

Defendant objects to this Request because it assumes that Defendant's employees were using and/or applying asbestos products in the vicinity where Plaintiff was present. Defendant also objects because the Request is not limited in time and is, therefore, overly broad and unspecific. Because of these insufficiencies, Defendant cannot admit or deny the Request as stated.

Subject thereto, Defendant admits that it has utilized its judgment to provide protection from overexposure to asbestos dust as standards, judgment, and knowledge of the hazards of asbestos have evolved over time. Defendant has no knowledge as to whether Plaintiff worked on its premises. After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request.

**REQUEST FOR PRODUCTION NO. 23:**

If you deny the foregoing request in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR PRODUCTION NO. 24:**

Produce all documents reflecting payments made to contractors between the years 1963 and 1995, including Plaintiff's employer, including but not limited to invoices, bills, check requests, requisitions, canceled checks, or other documents of a similar nature reflecting payment for services rendered by Plaintiff's employer.

**RESPONSE:**

Defendant objects to this request on the ground that it is unduly burdensome, overly broad, lacking in specificity and not reasonably calculated to lead to the discovery of admissible evidence. Further, the Request fails to specify relevant time periods, worksites, or contractors which employed Plaintiff.

**REQUEST FOR ADMISSION NO. 21:**

Admit that the use of asbestos-containing materials on Defendant's Premises created a substantial risk of injury.

**RESPONSE:**

DENIED.

**REQUEST FOR ADMISSION NO. 22:**

Admit that between the years 1963 and 1995 Defendant had to power to control Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 25:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and

amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant objects because it never had a plant in Corpus Christi, Texas.

**REQUEST FOR ADMISSION NO. 23:**

Admit that, between the years 1963 and 1995, Defendant had the power to manage the use or condition of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 26:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant never had a plant in Corpus Christi, Texas.

**REQUEST FOR ADMISSION NO. 24:**

Admit that, between the years 1963 and 1995, Defendant had the power to direct the use or condition of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 27:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant never had a plant in Corpus Christi, Texas.

**REQUEST FOR ADMISSION NO. 25:**

Admit that, between the years 1963 and 1995, Defendant had the power to superintend the use or conditions of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 28:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 26:**

Admit that, between the years 1963 and 1995, Defendant had the power to restrict the use or condition of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 29:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically

prohibited by the rules of discovery. Further, Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 27:**

Admit that, between the years 1963 and 1995, Defendant had the power to regulate the use or condition of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 30:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 28:**

Admit that, between the years 1963 and 1995, Defendant had the power to govern the use or condition of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant

never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. See *Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 31:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 29:**

Admit that, between the years 1963 and 1995, Defendant had the power to oversee the use or condition of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. See *Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 32:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 30:**

Admit that, between the years 1963 and 1995, Defendant had the power to administer the use or condition of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 33:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically

prohibited by the rules of discovery. Further, Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 31:**

Admit that between the years 1963 and 1995 Defendant controlled Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 34:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 32:**

Admit that, between the years 1963 and 1995, Defendant managed the use or condition of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this

request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 35:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 33:**

Admit that, between the years 1963 and 1995, Defendant directed the use or condition of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 36:**

If you deny the foregoing request, in whole or in part produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 34:**

Admit that, between the years 1963 and 1995, Defendant superintended the use or conditions of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 37:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically

prohibited by the rules of discovery. Further, Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 35:**

Admit that, between the years 1963 and 1995, Defendant restricted the use or condition of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 38:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 36:**

Admit that, between the years 1963 and 1995, Defendant regulated the use or condition of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant

never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 39:**

If you deny the foregoing request, in whole or In part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 37:**

Admit that, between the years 1963 and 1995, Defendant governed the use or condition of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 40:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 38:**

Admit that, between the years 1963 and 1995, Defendant oversaw the use or condition of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 41**

If you deny the foregoing request in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically

prohibited by the rules of discovery. Further, Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 39:**

Admit that, between the years 1963 and 1995, Defendant administered the use or condition of Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi. Further, Defendant objects to this request as overly broad, vague, and lacking in specificity. Further, this request improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant admits that, between the years 1963 and 1995, it exercised the right of general control over its premises, but denies that it controlled the work performed by contractors and/or employees of contractors.

**REQUEST FOR PRODUCTION NO. 42:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant never had a Corpus Christi plant.

**REQUEST FOR ADMISSION NO. 40:**

Admit that Defendant retained some control over the manner in which Plaintiff's work was performed.

**RESPONSE:**

Defendant objects to this Request as the same improperly asks

Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant cannot admit or deny that Plaintiff worked on Defendant's premises, but assuming that he did, then DENIED.

**REQUEST FOR PRODUCTION NO. 43:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**INTERROGATORY NO. 17:**

Do you contend that at no time during the time frame between 1963-1995, Defendant did not have the right to advise or, if necessary, control the activities of employees of contractors, working on the premises of the Phillips Petroleum Company and Celanese, Ltd. facility who were engaged in activities which could be potentially hazardous to either themselves or Phillips Petroleum Company and Celanese, Ltd. employees? If the answer is anything other than "no", identify each and every fact which supports this contention.

**ANSWER:**

Defendant objects to this Interrogatory because it is overly broad, not limited to the time periods and corresponding worksites relevant in this case and, therefore, seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects because this Request seeks to require this Defendant to marshal its evidence, which is specifically prohibited by Rule 197.1. Defendant further objects to Interrogatories 15 through 20 because they violate TEX. R. CIV. P. 190.2 and 190.3, in that they exceed 25 written interrogatories. Each distinct part of an interrogatory is considered a separate interrogatory. Without waiving the objections, Defendant acknowledges that it exercised the right of general control over its premises, but contends that it did not control the details of the work of

contractors. Defendant hired contractors who were knowledgeable in their crafts and who were in control of the details of the work of their employees and who were required to follow applicable standards in the performance of their work while working on the premises of Phillips Petroleum Company. This Defendant cannot answer the question as to Celanese, Ltd.

**REQUEST FOR ADMISSION NO. 41:**

Admit that Defendant retained some control over the manner in which Plaintiff's employer performed the work requested by the Defendant.

**RESPONSE:**

Defendant objects to this Request as repetitive and improperly asks Defendant to admit a proposition of law. See *Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex. App. -- Houston [14<sup>th</sup> Dist.] 1990, no writ).

Subject thereto, Defendant cannot admit or deny that Plaintiff worked on Defendant's premises, but assuming that he did, then DENIED.

**REQUEST FOR PRODUCTION NO. 44:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 42:**

Admit that Plaintiff was not entirely free to do the work on Defendant's Premises in his own way.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant

never had a plant in Corpus Christi, Texas. Defendant objects to this Request as the same improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant cannot admit or deny that Plaintiff worked on this Defendant's premises, but assuming that he did, then DENIED.

**REQUEST FOR PRODUCTION NO. 45:**

If you deny the foregoing request in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 43:**

Admit that Plaintiff's employer was not entirely free to do the work requested by Defendant on Defendant's Premises in its own way.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi, Texas. Defendant objects to this Request as the same improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, Defendant cannot admit or deny that Plaintiff worked on this Defendant's premises, but assuming that he did, then DENIED.

**REQUEST FOR PRODUCTION NO. 46:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to

specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 44:**

Admit that asbestos-containing gaskets were installed at Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi, Texas. Defendant objects to this Request as it is overly broad and not properly limited in time or scope. For these reasons, the Request is DENIED.

**REQUEST FOR PRODUCTION NO. 47:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 45:**

Admit that asbestos-containing pipe covering was installed at Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi, Texas. Defendant objects to this Request as it is overly broad and not properly limited in time or scope. For these reasons, the Request is DENIED.

**REQUEST FOR PRODUCTION NO. 48:**

If you deny the foregoing request in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 46:**

Admit that asbestos-containing boilers were installed at Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi, Texas. Defendant objects to this Request as it is overly broad and not properly limited in time or scope. For these reasons, the Request is DENIED.

**REQUEST FOR PRODUCTION NO. 49:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 47:**

Admit that asbestos-containing fireproofing was installed at Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi, Texas. Defendant objects to this Request as it is overly broad and not properly limited in time or scope. For these reasons, the Request is DENIED.

**REQUEST FOR PRODUCTION NO. 50:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 48:**

Admit that asbestos-containing joint compound was installed at Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi, Texas. Defendant objects to this Request as it is overly broad and not properly limited in time or scope. For these reasons, the Request is DENIED.

**REQUEST FOR PRODUCTION NO. 51:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 49:**

Admit that asbestos-containing insulation was installed at Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi, Texas. Defendant objects to this Request as it is overly broad and not properly limited in time or scope. For these reasons, the Request is DENIED.

**REQUEST FOR PRODUCTION NO. 52:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 50:**

Admit that such installation was done under your direction, supervision, and/or control.

**RESPONSE:**

Not applicable and, therefore, DENIED.

**REQUEST FOR PRODUCTION NO. 53:**

If you deny the foregoing request in whole or in part, produce all documents supporting your denial, including but not limited to all documents identifying the entities or individuals who directed, supervised, and/or controlled such installation activities.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is

a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**INTERROGATORY NO. 18:**

Please state the first year you learned that persons could suffer physical injury through the inhalation of asbestos fibers and how Defendant became aware of the existence of asbestos hazards.

**ANSWER:**

Defendant objects to this Interrogatory because it is overly broad, not limited to the time periods and corresponding worksites relevant in this case and, therefore, seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to Interrogatories 15 through 20 because they violate TEX. R. CIV. P. 190.2 and 190.3, in that they exceed 25 written interrogatories. Each distinct part of an interrogatory is considered a separate interrogatory.

**REQUEST FOR PRODUCTION NO. 54:**

Produce all documents that indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further

objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 51:**

Admit that you supervised the health and safety procedures implemented by contractors working on Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi, Texas. Defendant objects to this request as overly broad, vague, ambiguous and not properly limited in time or scope, nor is it limited to matters pertaining to asbestos. Subject thereto DENIED.

**REQUEST FOR ADMISSION NO. 52:**

Admit that you supervised the health and safety practices implemented by Plaintiff's employer.

**RESPONSE:**

Defendant objects to this Request as overly broad, vague, ambiguous and not properly limited in time, scope, or matters pertaining to asbestos.

Subject thereto, Defendant cannot admit or deny that Plaintiff worked on Defendant's premises, but assuming that he did, then DENIED.

**REQUEST FOR ADMISSION NO. 53:**

Admit that you did not protect the Plaintiff from exposure to asbestos on Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi, Texas. Defendant objects to this request as overly broad, vague, ambiguous and not properly limited in time or scope, nor is it limited to matters pertaining to asbestos. Subject thereto, denied.

**REQUEST FOR PRODUCTION NO. 55:**

Produce all documents supporting the legal theories and factual bases of your defenses set forth in your response to Plaintiff's Request for Disclosure under Texas Rules of Civil Procedure 194.2, subparagraph (c).

**RESPONSE:**

Defendant objects to this Request. This Request is overly broad and fails to specify the documents sought with reasonable particularity. Defendant objects to this Request as overly broad, unspecific, vague and ambiguous. Defendant additionally objects because this Request seeks to require this Defendant to marshal its evidence, which is specifically prohibited by Rule 194.2(c). Further, the Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

**INTERROGATORY NO. 19:**

Do you contend that Plaintiffs exposure to asbestos at Defendant's Premises was not a substantial contributing factor in causing his asbestos-related injury? If the answer is anything other than "no", identify each and every fact which supports this contention.

**ANSWER:**

Defendant objects to this Interrogatory as the same violates the Texas Rules of Procedure limiting interrogatories, including subparts, to no more than 25 inquiries. Further, Defendant objects because the Interrogatory assumes facts not in evidence, that is, that the Plaintiff has an asbestos-related injury. Further, Defendant objects because the Interrogatory seeks to require this Defendant to marshal its evidence which is impermissible under the Texas Rules of Civil Procedure. Defendant further objects because the Interrogatory is overly broad, vague, ambiguous and unspecific. Finally, Defendant does so contend

because it never had a plant in Corpus Christi, Texas.

**REQUEST FOR ADMISSION NO. 54:**

Admit that Plaintiff's exposure to asbestos at Defendant's Premises was a substantial contributing factor in causing his asbestos-related injury.

**RESPONSE:**

Defendant objects to this Request as the same improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Further, this request is overly broad, vague, ambiguous, and assumes facts not in evidence. Defendant denies that Plaintiff was exposed to asbestos at Defendant's premises because Defendant never had a Corpus Christi plant; accordingly, this Request is denied.

**REQUEST FOR PRODUCTION NO. 56:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

**REQUEST FOR ADMISSION NO. 55:**

Admit that Defendant did not exercise reasonable care to reduce or eliminate the risk of asbestos-related injury.

**RESPONSE:**

Defendant objects to this Request as the same improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Further, this request is overly broad, vague, ambiguous, and assumes facts not in evidence. Subject thereto, DENIED.

**REQUEST FOR ADMISSION NO. 56:**

Admit that Defendant did not reduce or eliminate the unreasonable risk of harm posed by the use of asbestos-containing products at Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since the Defendant never had a plant in Corpus Christi, Texas. Defendant objects to this Request as the same is repetitive and improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Further, this request is vague, ambiguous, and assumes facts not in evidence. Further, Defendant cannot admit or deny that Plaintiff worked at Defendant's premises, or if he did, that he was exposed. However, assuming that he did, DENIED.

**REQUEST FOR PRODUCTION NO. 57:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is

a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 57:**

Admit that Defendant's failure to reduce or eliminate the risk of harm to Plaintiff was a substantial factor in bringing about Plaintiffs asbestos-related injury.

**RESPONSE:**

Defendant objects to this Request as the same improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Further, this request is overly broad, vague, ambiguous, and assumes facts not in evidence. Subject thereto, this Request is not applicable to this Defendant as it never had a plant in Corpus Christi. Further, Defendant cannot admit or deny that Plaintiff worked at Defendant's premises, or if he did, that he was exposed. However, assuming that he did, DENIED.

**REQUEST FOR PRODUCTION NO. 58:**

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and

amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. See *In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

**REQUEST FOR PRODUCTION NO. 59:**

If you contend that while at the premises on which you or your employees were working with asbestos-containing materials, Plaintiff was not exposed to sufficient quantities of asbestos dust to produce the disease(s) complained of, produce all documents supporting your contention.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. See *In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

**REQUEST FOR PRODUCTION NO. 60:**

If you contend that Plaintiff is suffering from an asbestos disease as a result of exposures

other than asbestos dust at the premises on which you or your employees were working with asbestos-containing materials, produce all documents supporting your contention.

**RESPONSE:**

Defendant objects to this Request because it assumes that the Plaintiff has an asbestos related disease. Defendant further objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Subject thereto, see Plaintiff's work history sheets produced in response to discovery.

**REQUEST FOR PRODUCTION NO. 61:**

If you contend that Plaintiff does not suffer from the asbestos-related disease(s) complained of, produce all documents supporting your contention.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, assumes facts not in evidence, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant additionally objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Subject thereto, see documents produced from Dr. Sam Cade concerning his "B" read of the Plaintiff's x-rays. Defendant will produce other records as they become available.

**REQUEST FOR PRODUCTION NO. 62:**

If you contend that Plaintiff was not exposed to asbestos dust at the premises on which you or your employees we re working with asbestos-containing materials, produce all documents supporting your contention.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

**REQUEST FOR PRODUCTION NO. 63:**

Produce all documents used, referred to or relied upon in answering any Interrogatories.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995);

*Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995);  
*Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

**REQUEST FOR PRODUCTION NO. 64:**

Produce any and all documents and other tangible things which refer to the document retention (and/or destruction) policy of Defendant, including the following:

- a. Any document retention and/or destruction policies for Defendant that pertain to documents and records, including but not limited to supplements, addenda, memoranda, operating bulletins, revisions, or any other superseding instructions that referred to the stopping, suspending or resuming of such retention or destruction policies.
- b. Any record retention and/or destruction, dumping, or purging policies for Defendant that pertain to documents and records created, maintained or stored by electronic and/or magnetic means, including but not limited to records that have been microfilmed, microfiched, imaged, scanned, or stored on tapes, disks, diskettes, CD-rom databases, etc. or on or within any computer hardware, backup system, download system, file dumping or other system of information management, whether on-site or off-site, including but not limited to supplements, addenda, memoranda, operating bulletins, revisions, or any other superseding instructions that referred to the stopping, suspending or resuming of such retention or destruction policies.

**RESPONSE:**

Defendant objects to this Request as the same is overly broad, unlimited in time, not limited to the relevant areas of inquiry in this case, and not reasonably calculated to lead to the discovery of admissible evidence. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

**REQUEST FOR PRODUCTION NO. 65:**

Produce any and all documentation, including but not limited to lists, inventories, indices, databases or print-outs thereof, archives, storage inventories, logs, or other search aids that refer or relate to the existence, extent, type, organization, filing system, method of access or retrieval, and/or location of Defendant's documents (maintained or stored on-site or off-site) described in the preceding paragraphs.

**RESPONSE:**

Defendant objects to this Request as the same is overly broad, vague, unlimited in time, not limited to the relevant areas of inquiry in this case, and not reasonably calculated to lead to the discovery of admissible evidence. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects because this request seeks to require production of documents protected by the attorney-client and work product privileges.

**INTERROGATORY NO. 20:**

Does Defendant have in its possession any books, pamphlets, memoranda, or written materials of any kind or character that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings? If so, identify the individuals who received, maintained, reviewed, or disseminated the information contained in such written materials.

**ANSWER:**

Defendant objects to this Interrogatory because it is overly broad, not limited to relevant time periods in the case and, therefore, not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to Interrogatories 15 through 20 because they violate TEX. R. CIV. P. 190.2 and 190.3, in that they exceed 25 written interrogatories. Each distinct part of an interrogatory is considered a

separate interrogatory.

**REQUEST FOR PRODUCTION NO. 66:**

Produce the written materials referred to in the interrogatory above.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR ADMISSION NO. 58:**

Admit that Plaintiff filed suit against Defendant within two (2) years of the date of discovering his asbestos-related condition or the existence of any asbestos-related causes of action.

**RESPONSE:**

Defendant objects to this Request because it assumes facts not in evidence, i.e. that Plaintiff has an asbestos-related condition. Subject thereto, Defendant does not have enough information at this time to admit or deny this request and does not know when Plaintiff "discovered" his alleged condition.

**REQUEST FOR ADMISSION NO. 59:**

Admit that Defendant is liable for Plaintiffs asbestos related illness.

**RESPONSE:**

Defendant objects to this Request because it assumes the Plaintiff has an asbestos-related injury. Defendant additionally objects to this Request as the same improperly asks Defendant to admit a proposition of law. *See Esparza v. Diaz*, 802 S.W.2d 772, 775 (Tex.App. — Houston [14th Dist.] 1990, no writ). Subject thereto, DENIED.

**REQUEST FOR ADMISSION NO. 60:**

Admit that asbestos is still In use and/or in place on Defendant's Premises.

**RESPONSE:**

Defendant objects to this Request because it is overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, not applicable since Defendant never had a plant in Corpus Christi, Texas; accordingly, to the extent necessary, denied.

**REQUEST FOR ADMISSION NO. 61:**

Admit that Defendant no longer uses asbestos on its Premises.

**RESPONSE:**

Defendant states that it never had a plant in Corpus Christi, Texas. Defendant admits that some asbestos-containing materials are still in place on its premises and assuming this constitutes "use" in Plaintiff's request, then DENIED.

**REQUEST FOR PRODUCTION NO. 67:**

Produce all documents that reflect, indicate or in any way relate to communications between you and any manufacturer of asbestos-containing products concerning or related to the asbestos contained in such products.

**RESPONSE:**

Objection. Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 68:**

Produce all documents disseminated or published by any trade association that contain information relating to the hazards of asbestos and all documents which refer to such documents.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, not limited to the relevant time periods in this case. Further, as worded, the Request includes documents protected by the attorney-client, party communications and attorney work product privileges.

**REQUEST FOR PRODUCTION NO. 69:**

Produce all documents, that relate to any inspections by any regulatory agency for the purpose of ascertaining whether health or safety regulations were being followed or adhered to at any of your plants. This request specifically seeks any and all such documentation referring to dust hazards, including but not limited to asbestos in your plants.

**RESPONSE:**

Objection. Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 70:**

Produce all safety meeting minutes or other documents, that refer to the dangers of asbestos safety measures to be used in the vicinity of asbestos at Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since Defendant never had a plant in Corpus Christi, Texas. Defendant further objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters presumably made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 71**

Produce all contracts, or other documents that relate to abatement of asbestos at Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since Defendant never had a plant in Corpus Christi, Texas. Defendant further objects to this Request because it is overly broad, vague, ambiguous and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request because the Plaintiff was never involved in abatement activities and, thus, this Request is not relevant.

**REQUEST FOR PRODUCTION NO. 72:**

Produce all contracts, or other documents that relate to the installation of asbestos products at Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since Defendant never had a plant in Corpus Christi, Texas. Defendant further objects to this Request because it is overly broad, vague, ambiguous and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request because the Plaintiff was never involved in abatement activities and, thus, this Request is not relevant.

**REQUEST FOR PRODUCTION NO. 73:**

Produce all documents that in any way reflect a removal plan or organized written criteria or schedule for the removal of asbestos at Defendant's Premises.

**RESPONSE:**

Defendant denies that this Request is applicable since Defendant never had a plant in Corpus Christi, Texas. Defendant further objects to this Request because it is overly broad, vague, ambiguous and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request because the Plaintiff was never involved in abatement activities and, thus, this Request is not relevant.

**REQUEST FOR PRODUCTION NO. 74:**

Produce all documents related to the medical condition of Stanley Franklin Cummings at any time during his employment at Defendant's Premises. This request specifically includes any and all x-rays, x-ray reports, medical notes and/or medical records of any kind, annual physical forms, and employment records relating to Plaintiff's health.

**RESPONSE:**

Not applicable since the Defendant never had a plant in Corpus Christi, Texas. Defendant has no documents relating to the medical condition of VICENTE MORENO RODRIGUEZ other than documents produced in discovery in this cause. Defendant will produce any defense medical examinations as they become available.

**REQUEST FOR PRODUCTION NO. 75:**

Produce Plaintiffs entire personnel file from Defendant's Premises.

**RESPONSE:**

Defendant states that this Request is not applicable to it as it never had a plant in Corpus Christi, Texas. Subject thereto, none. Defendant denies that Plaintiff VICENTE RODRIGUEZ was ever an employee of Phillips Petroleum Company, and therefore it would have no personnel file on Mr. RODRIGUEZ.

**REQUEST FOR PRODUCTION NO. 76:**

Produce all documents that reflect the layout of Defendant's Premises, including the location and dimensions of a buildings and the location and placement of asbestos-containing products.

**RESPONSE:**

Defendant states that this Request is not applicable to it as it never had a plant in Corpus Christi, Texas. Subject thereto, Defendant objects to this request on the grounds it is overly broad, vague, not limited to the time period relevant in this case and therefore seeks production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to the discovery of admissible evidence. Further, to the extent necessary, this Defendant objects to this request to the extent it could be construed as seeking production of documentation that this Defendant considers to be proprietary in nature, and therefore would be protected from discovery by virtue of the trade secret privilege afforded by the Texas Rules of Civil Procedure and the Texas Rules of Civil Evidence.

**REQUEST FOR PRODUCTION NO. 77:**

Produce all documents containing any warnings concerning the possibility of injury resulting from the use of asbestos-containing products or exposure to asbestos.

**RESPONSE:**

Objection. Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 78:**

Produce all photographs of asbestos products in place or asbestos-containing products being fabricated or utilized at Defendant's Premises.

**RESPONSE:**

Not applicable since Defendant never had a plant in Corpus Christi, Texas. Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 79:**

Produce all photographs of warning signs or warning statements which are or have been in place at Defendant's Premises in the vicinity of asbestos-containing products.

**RESPONSE:**

Not applicable since Defendant never had a plant in Corpus Christi, Texas. Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case,

nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 80:**

Produce all documents relating to any individuals claimed injury as a result of exposure to asbestos at Defendant's Premises, including, but not limited to, workers compensation claims.

**RESPONSE:**

Defendant states that this Request is not applicable to it as it never had a plant in Corpus Christi, Texas. Further, Defendant Phillips Petroleum Company objects to this Request on the grounds that it is overly broad, vague, lacking in specificity, unduly burdensome, not limited to the time period relevant in this case nor is it limited to a facility where it is alleged the Plaintiff worked and therefore seeks production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to discovery of admissible evidence. Defendant further objects because the Request as phrased could include documents which would violate the personal privacy privilege of Defendant's employees, and could include documents protected by the attorney-client and attorney work product privileges.

**REQUEST FOR PRODUCTION NO. 81:**

Produce all documents, including but not limited to, corporate minutes, which mention the hazards or potential hazards of asbestos.

**RESPONSE:**

Objection. Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 82:**

Produce all documents, including invoices, shipping receipts, bills of lading and purchase orders, related to the purchase of asbestos-containing products for use at Defendant's Premises.

**RESPONSE:**

Not applicable since Defendant never had a plant in Corpus Christi, Texas. Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 83:**

Produce all documents relating to inspections by labor inspectors, insurance company inspectors or anyone from your company or hired by your company, that included the taking or measuring of "dust counts".

**RESPONSE:**

Objection. Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 84:**

In the event that Defendant performed or had performed any dust level counts or measurements of any of its plants or industrial facilities with respect to asbestos dust, produce any documents, memoranda, or other writings that in any way reflect the results of such studies or counts and actions taken as a result of such counts or studies.

**RESPONSE:**

Objection. Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 85:**

Produce all reports, writings (whether published or unpublished) and/or other documentation written, created and/or edited by any of your experts that in any way pertain to asbestos and the hazards and/or diseases that may result therefrom.

**RESPONSE:**

Defendant objects to this Request because, pursuant to TEX. R. CIV. P. 195.1, this is an improper discovery procedure for obtaining information about or from experts.

**REQUEST FOR PRODUCTION NO. 86:**

Produce all documents which will be used at the time of trial, including all potential exhibits and those documents which may be used to cross-examine other witnesses or in rebuttal, and which you contend are relevant to any of Defendant's enumerated defenses in Defendant's most recently filed Answer.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant objects to the extent this Request seeks information protected from discovery by virtue of the attorney work product exemption.

**REQUEST FOR PRODUCTION NO. 87:**

Produce documents between Defendant and any of its worker's compensation carriers

regarding the hazards of asbestos and asbestos-containing products.

**RESPONSE:**

Defendant Phillips Petroleum Company objects to this Request on the grounds that it is overly broad, vague, lacking in specificity, not limited to the time period relevant in this case nor is it limited to a facility where it is alleged the Plaintiff worked and therefore seeks production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to discovery of admissible evidence. Further, this Defendant objects to this Request on the grounds that as phrased, it would necessarily violate the personal privacy rights of the non-parties who may be involved. Defendant further objects to the extent that this Request may seek to discover documents which were created regarding litigation as being in violation of the attorney work product and attorney client privileges.

**REQUEST FOR PRODUCTION NO. 88:**

Produce a copy of all regulations, orders, rules and/or policies which have been used relating to the safety of the Defendant's Premises.

**RESPONSE:**

Objection. Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 89:**

Produce all documents which contain complaints by employees of the Defendant's Premises regarding safety conditions and work place conditions at the Defendant's Premises.

**RESPONSE:**

Not applicable as this Defendant never had a plant in Corpus Christi, Texas. Further, Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to

the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products. Further, the Request is not reasonably calculated to lead to the discovery of admissible evidence and it amounts to a "fishing expedition."

**REQUEST FOR PRODUCTION NO. 90:**

Produce all documents which contain complaints by Union representatives of Defendant's Premises regarding safety conditions and work place conditions at the Defendant's Premises.

**RESPONSE:**

Not applicable as this Defendant never had a plant in Corpus Christi, Texas. Further, Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products. Further, the Request is not reasonably calculated to lead to the discovery of admissible evidence and it amounts to a "fishing expedition."

**REQUEST FOR PRODUCTION NO. 91:**

Produce all documents, organizational charts or rosters which identify the members of the management at the Defendant's Premises and their areas of responsibility during the time period of Plaintiff's work at Defendant's Premises.

**RESPONSE:**

Not applicable as this Defendant never had a plant in Corpus Christi, Texas. Further, Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 92:**

Produce all documents which evidence Defendant's, net worth, including but not limited to all "10-K" forms filed for the last five (5) years.

**RESPONSE:**

Defendant objects to this Request because it is overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, copies of the Defendant's annual reports have previously been provided to Plaintiff's counsel.

**REQUEST FOR PRODUCTION NO. 93**

Produce all documents which evidence Defendant's purchase, acquisition, sale, or transfer of ownership of Defendant's Premises.

**RESPONSE:**

Defendant states that this Request is not applicable to it as it never had a plant in Corpus Christi, Texas. Subject thereto, Defendant Phillips Petroleum Company objects to this request on the grounds it is overly broad, vague and ambiguous, and is lacking in specificity and constitutes a fishing expedition.

**REQUEST FOR PRODUCTION NO. 94:**

Produce all indemnity agreements, assignments of liability, subrogation agreements and other similar documents relating to Defendant's Premises and liabilities arising from said ownership.

**RESPONSE:**

Defendant objects to this Request because it is overly broad and vague an unduly burdensome.

**REQUEST FOR PRODUCTION NO. 95:**

Produce all contracts pertaining to work done by contractors at Defendant's facility.

**RESPONSE:**

Objection. Defendant objects to this Request because it is overly broad

and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products. Further, the Request is not reasonably calculated to lead to the discovery of admissible evidence and it amounts to a "fishing expedition".

**REQUEST FOR PRODUCTION NO. 96:**

Please produce any printed material produced or published by Defendant containing any warnings concerning the possibility of injury resulting from the use of asbestos-containing products or exposure to asbestos?

**RESPONSE:**

Objection. Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products. Further, the Request is not reasonably calculated to lead to the discovery of admissible evidence and it amounts to a "fishing expedition."

**REQUEST FOR PRODUCTION NO. 97:**

Produce all documents and other tangible things relating to the Plaintiff.

**RESPONSE:**

Defendant objects to this Request because it is overly broad, fails to specify with reasonable particularity the documents sought and constitutes a "fishing expedition." Defendant further objects as this is a request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

**REQUEST FOR PRODUCTION NO. 98:**

If you contend that you did not own or control the facility(ies) during any time period that Plaintiff worked (or believes he worked) at the facility(ies), please produce all documentation

that supports your contention, including but not limited to documentation pertaining to the purchase, sale, acquisition, merger, or divestment of corporations, subsidiaries, divisions, or other corporate entities or assets that included the purchase, sale, acquisition, merger, or divestment of the facility(ies); such documentation to include, by way of example and not limitation, purchase or sale agreements, minutes, resolutions, annual reports, 10K reports or other state or federal agency filings, or deposition, trial testimony or affidavits of your corporate representatives who are the most knowledgeable individuals with respect to such matters.

**RESPONSE:**

Defendant objects to this Request because the Defendant never had a plant in Corpus Christi which is the facility which Plaintiff has identified as "Defendant's Premises". Defendant further objects to this Request because it is overly broad, vague, ambiguous and unspecific and multifarious and seeks to require this Defendant to marshal its evidence. This Request seeks to incorporate many different requests in one Request for Production and therefore cannot possibly be responded to. Defendant objects to this Request because it fails to specify the documents sought with reasonable particularity and amounts to a "fishing expedition." The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

AUG. 21. 00:00 4365

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August 18, 2000

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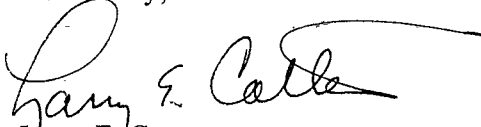
CMRRR 7099 3220 0003 2632 1816

RE: Cause No. 97-09313-H; *Frank C. Hosinski, et al. v. Owens Corning, et al.*  
160th District Court, Dallas County, Texas

Dear Mr. Tapscott, Ms. Huart and Ms. Finch:

Enclosed please find Defendant, E. I. du Pont de Nemours and Company's Response to Plaintiff's First Request for Admissions and Second Request for Production in the above referenced matter.

Yours truly,

  
Larry E. Cotten

Enclosure

cc: All known defense counsel, (wo/encl.)

FIRST CLASS UNITED STATES MAIL