

NO. 2000-757

IGNACIO SERAFIN, ET AL	§	IN THE COUNTY COURT
	§	
VS.	§	AT LAW NO. 3
	§	
CHEVRON U.S.A. INC.	§	EL PASO COUNTY, TEXAS

**CHEVRON U.S.A. INC.'S AMENDED RESPONSES TO
PLAINTIFFS' FIRST SET OF INTERROGATORIES**

TO: ENRIQUE SUBIA GARCIA, by and through his attorney of record, Ms. Jennifer Kinder,
BARON & BUDD, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281.

NOW COMES CHEVRON U.S.A. INC., Defendant herein, and makes and files this its
Amended Response to Plaintiff's First Set of Interrogatories.

Respectfully submitted,

STRONG, PIPKIN, NELSON,
BISSELL & LEDYARD, L.L.P.

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ATTORNEYS FOR DEFENDANT,
CHEVRON U.S.A. INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Chevron U.S.A. Inc.'s Supplemental Response to Plaintiffs' First Set of Interrogatories is being furnished to Plaintiffs' counsel by certified mail, return receipt requested, and to all other counsel of record by regular mail, on this the 15th day of September, 2000.

Michael T. Bridwell

OBJECTIONS

A. OBJECTIONS TO DISCOVERY

1. Defendant objects to Plaintiff's First Set of Interrogatories and Request for Production in their entirety because they were served at a time in direct contravention of Standing Order No. 1 for asbestos litigation in the District Courts and County Courts at Law of El Paso County, Texas. Plaintiff served the subject discovery on or about June 30, 1998 at a time when Standing Order No. 1 prohibited such interrogatories being served and responses being required without leave of court after hearing. See Paragraph No. 14 of Standing Order No. 1.
2. Defendant objects to Plaintiff's Interrogatories and Request for Production as they are overly broad, over burdensome and harassing given that Plaintiffs have not yet adequately specified the work history of Enrique Subia Garcia. Specifically, Defendants would show that Standing Order No. 1 includes master discovery propounded to the plaintiff which provide that the Plaintiff is to detail the applicable employment history including, the dates when the decedent worked for each employer, the location and description of each job site where the decedent was employed, the dates the decedent worked at each such job site, the wage rate for each job site where asbestos exposure is claimed, each job site where the Plaintiff claims the decedent was exposed to asbestos, the dates when it is claimed decedent was exposed to asbestos and the name, business address, home address, relationship to Plaintiff and present occupation of each and every witness that has knowledge of fact relevant to any time that Plaintiff claims that the decedent was exposed to asbestos containing products. The information provided by Plaintiffs did not (and still does not) comport with the requirements of Standing Order No. 1 and accordingly, Plaintiffs have not provided sufficient information to establish presence of the decedents on Defendant's premises such that discovery to Defendant is justified.
3. Defendant objects to the whole of Plaintiff's discovery requests as so overly broad and overburdensome that Plaintiff's discovery constitutes harassment. This suit involves a person employed by a finite number of employers at a finite number of locations during specific years (albeit yet unidentified specifically by Plaintiffs). Plaintiff's claim is that decedent was exposed to asbestos containing produces on Defendant's premises during the course and scope of his employment with various known employers. Plaintiffs should be seeking production of records and information relevant to issues raised by that particular fact situation. Plaintiff's attempts to expand discovery to include information regarding irrelevant time periods and irrelevant materials produced at irrelevant locations by irrelevant persons or entities constitutes an impermissible abuse of the discovery rules and general misuse of the laws of the State of Texas.

B. OBJECTIONS TO PLAINTIFF'S DEFINITIONS

1. Defendant objects to Plaintiff's definition of the terms "Defendant", "you", "your", and "your company". To the extent the terms can be read to refer to Defendant's attorneys, any interrogatory or request for production utilizing any of these terms necessarily invades the work product privilege in violation of Rule 192.5 of the Texas Rules of Civil Procedure and Rule 503 of the Texas Rules of Evidence. To the extent the terms are defined to include predecessors, divisions, subsidiaries, foreign subsidiaries, foreign subsidiaries of predecessors, and/or affiliates, as well as present and former officers, directors, agents, employees and other persons acting or purporting to act on behalf of the corporate defendant, any interrogatory or request for production utilizing these terms is so overly broad, and over burdensome as to make any request or interrogatory utilizing the term virtually impossible to answer. Further, to the extent the definition is defined to include any merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries, foreign subsidiaries of predecessors, and/or affiliates, any interrogatory or request for production utilizing any of these terms is necessarily overly broad, over burdensome, and calls for material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to Plaintiff's apparent attempt to place upon Defendant the burden to seek information from former officers, directors, agents and employees over whom Defendant no longer has dominion or control. Any interrogatory or request for production utilizing any of these terms is a "fishing expedition" in violation of Texas law as concerns discovery.
2. Defendant objects to Plaintiff's definition of the terms "document", "documents", "written materials", or "printed matters" as the definition of those terms renders any interrogatory or request for production utilizing any of these terms overly broad, over burdensome, harassing, and reduces any such interrogatory or request for production to a "fishing expedition" in violation of Texas law concerning discovery. Defendant further objects to the definition of these terms as calling for the production of material or information which is neither relevant nor reasonably calculated to the discovery of admissible evidence. Defendant further objects to the definition of these terms to the extent it purports to include an obligation to locate and produce information or documentation which is no longer in the possession or control of this Defendant or from entities who are not parties to this cause of action.
3. Defendant objects to Plaintiff's definition of the words "meeting" or "meetings" as any interrogatory or request for production utilizing those terms is overly broad, and over burdensome in that it purports to require documentation or information concerning any casual or coincidental meeting.
4. Defendant objects to Plaintiff's definition of the terms "potential health hazards" or "health hazards" in that any interrogatory or request for production utilizing these terms is vague and ambiguous in that issues exists and minds differ with respect to impairments or disabilities and their associations with exposures to asbestos dust and fibers, if any.

DEFENDANT'S SPECIFIC RESPONSES TO PLAINTIFF'S INTERROGATORIES AND REQUEST FOR PRODUCTION

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:

In addition to all previous objections which are incorporated herein, Defendant specifically objects to this interrogatory as it invades the work product privilege embodied in Rule 192.5 of the Texas Rules of Civil Procedure and Rule 503 of the Texas Rules of Evidence.

Defendant has not undertaken an effort to provide information or documentation which constitutes "work product" as that term is defined in the Rules of Civil Procedure. Any such material arguably otherwise responsive to this request is withheld.

Without waiving the foregoing, the interrogatories to which this question applies are, for the most part, interrogatories to which no one person has a precise answer. Interrogatories inquiring about expert witnesses and settlement agreements are answered by counsel. Most of the remaining questions require that a conclusion be reached from looking at documents or talking to various and sundry people, both within this Defendant's organization and without. Answers given to these interrogatories are based on the best information which is available to counsel upon reasonable inquiry, at the time the answers are given. Defendant's answers are accordingly based upon the best information which is available to Defendant and Defendant's counsel upon reasonably inquiry.

The interrogatories are being executed by H. P. Walker, Chevron U.S.A. Inc., P. O. Box 7643, San Francisco, California 94120-7643.

INTERROGATORY NO. 2:

Please identify each person known to Defendant as having knowledge of facts relevant to this case. For each person identified, please describe the relevant facts which you believe are within such person's scope of knowledge and about which such person could be expected to testify if called to trial as a witness. Further, if such person is or has been an employee of Defendant, please state the years of employment and the person's employment positions.

ANSWER:

In addition to all previous responses and objections, and without waiving any of the same, please see Defendant's Third Supplemental Response to Request for Disclosure dated

September 15, 2000, which is incorporated herein by reference the same as if fully set forth at length.

INTERROGATORY NO. 3:

Have you owned, operated, controlled, possessed, or otherwise managed or occupied Defendant's Premises at all times that Plaintiff worked or was present at Defendant's Premises? If not, please state the dates wherein Defendant owned, operated, controlled, possessed and managed Defendant's Premises, the entity from whom Defendant acquired Defendant's Premises, the entity to whom Defendant sold Defendant's Premises and the person with the most knowledge of each transaction.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory as it is vague and ambiguous given Plaintiff's definition of the terms "you" and "Defendant" and because Plaintiff has not identified those specific times, if any, that Plaintiff worked or was present at the premises in question. This interrogatory therefore asks for information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Without waiving the foregoing, the El Paso Refinery opened in approximately 1927 as PASOTEX. PASOTEX was a Delaware corporation which was one hundred percent owned by the California Company, a California corporation. In July of 1935, PASOTEX changed its name to Standard Oil of Texas which was merged into the California company in December of 1960. At that time the company's name was changed to California Oil Company. California Oil Company's name was changed to Chevron Oil Company effective July 1, 1965. The name of Chevron Oil Company was changed to Chevron U.S.A., Inc. effective January 1, 1977. Chevron U.S.A., Inc., a California Corporation, was merged into Gulf Oil Corporation, a Pennsylvania Corporation, on July 1, 1985. On the same date, Gulf Oil Corporation changed its name to Chevron U.S.A., Inc., a wholly owned subsidiary of Chevron Corporation. Chevron Products Company is a division of Chevron U.S.A., Inc. and is the current operator of the El Paso Refinery.

INTERROGATORY NO. 4:

If you contend that Plaintiff has used a misnomer or sued a wrong party in this action, please explain this basis for this contention and list the parties who should be sued state any corrections of misnomers that you contend Plaintiff has made.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory as it is vague and ambiguous given Plaintiff's definition of the term "you".

Without waiving the foregoing, Defendant's proper name is Chevron U.S.A. Inc. Defendant does not contend that there has been any misnomer used by Plaintiff. Defendant has been improperly sued as Defendant breached no legal duty owed to Enrique Subia Garcia in connection with any of the incidents made the basis of this suit.

INTERROGATORY NO. 5:

If you contend that you do not have the legal capacity to be sued, or that Plaintiff cannot recover in the capacity in which he has sued, or that you are not liable in the capacity in which you have been sued, please explain the basis for the contention.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory as it is vague and ambiguous given Plaintiff's definition of the term "you".

Without waiving the foregoing, Defendant contends that it is not liable in this case because Defendant breached no legal duty owed to Enrique Subia Garcia in connection with any of the incidents made the basis of this suit.

INTERROGATORY NO. 6:

Please state whether a medical monitoring program, medical examination program or other medical surveillance program ("program") was provided to workers at Defendant's Premises. If such programs were offered, please describe these programs in detail; specify in your response to whom such programs were offered (i.e. contractor employees and Defendant employees); describe the dates that the aforementioned programs were in place; and state what documents concerning the described programs exist.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory as it is overly broad in that it is not limited to any applicable time period. Defendant further objects to this interrogatory to the extent it seeks information which may be confidential, privileged or private to other persons who are otherwise protected from disclosure.

Without waiving the foregoing, the El Paso Refinery used outside contractor physicians for employee physicals and medical services with support from the corporate medical department

in San Francisco. The refinery is not believed to have conducted such programs on contractor employees during the applicable periods. Defendant reserves the right to supplement this response as additional information is located.

INTERROGATORY NO. 7:

Please state the years during which Defendant operated a medical department and identify all persons who directed, headed or supervised said department and state the years of their service in that capacity.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory as vague and ambiguous given Plaintiff's definition of the term "Defendant". Defendant further objects to this interrogatory as it is overly broad and calls for information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because the interrogatory is not limited to the applicable time periods (which have yet to be provided by Plaintiffs) nor in scope to the premises made the basis of this action.

Defendant has not undertaken historical research to identify and locate all present and past agents or employees of all "merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries or predecessors, and/or affiliates"; and then to contact and interview all such persons for information or documentation arguably responsive to this request.

Without waiving the foregoing, the El Paso Refinery did not maintain a medical department. The El Paso Refinery used outside contractor physicians. A corporate medical department in California was available to consult with the safety engineers at each facility. The corporate medical director in the 40's, 50's and 60's was Dr. Lee Curtis (now deceased). Dr. Gordon Richmond was the corporate medical director from 1970 up to 1975. From 1980 to 1983, Dr. R.E. Swencicki (now deceased) shared the position with Dr. William T. Kelly (February 1980 to June 1980) and with Dr. Samuel N. Bacon (June 1980 to October 1983). Dr. Swencicki held the medical director position from then until 1995. From 1995 to present, the corporate medical director has been Dr. T. L. Bridge, 575 Market, San Francisco, California 94105-2856, (415)894-3926.

INTERROGATORY NO. 8:

Have you ever provided safety equipment to persons working on Defendant's Premises? If so, please list the safety equipment provided and indicate when the equipment was first provided to whom the equipment was provided and under what circumstances the equipment was provided. Further, identify the person with the most knowledge of your "safety equipment"

policies.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory as it is vague, ambiguous, overly broad and over burdensome given Plaintiff's definition of the terms "you" and "your". Defendant further objects to this interrogatory as overly broad, over burdensome and calling for information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence given that the term "safety equipment" is nowhere defined and necessarily therefore includes equipment which is in no way relevant to Plaintiff's claims. Defendant further objects to this interrogatory as it is not limited to any applicable time period nor in scope to any applicable unit, work site or to contractors.

Defendant has not undertaken historical research to identify and locate all present and past agents or employees of all "merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries or predecessors, and/or affiliates"; and then to contact and interview all such persons for information or documentation arguably responsive to this request

Without waiving the foregoing, on information and belief, it is not our policy to provide such equipment to contractor employees. Specifically, we believe the contracts with contractors required contractors to provide their own safety equipment. However, based on information presently available, it appears that if a contractor determined he was without a piece of safety equipment, the refinery would provide the contractor with access to whatever equipment it had available. Defendant reserves the right to supplement this response as additional information is located.

INTERROGATORY NO. 9:

Please list all asbestos-containing products ("products") used at Defendant's Premises and state what these products were used for, from whom these products were purchased, where these products were installed, and the specific persons or contractors who installed these products. Further, indicate the first year each specific asbestos-containing product was no longer purchased and installed on Defendant's Premises.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant further objects to this interrogatory as overly broad, over burdensome and harassing in that it is not limited in scope nor to any applicable time period. Defendant further objects to this interrogatory as calling for information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Without waiving any of the foregoing, we have located a number of purchase orders, invoices and work orders from the El Paso facility which contain information regarding the use or purchase of such products. (Some of the documents produced may not reflect actual use of such products because we may have located and produced information received from manufacturers and suppliers from whom we purchased no products.) Please refer to our response to Plaintiffs' Request for Production No. 19 provided in Cause No. 98-1338; *Mary Hermosillo vs. Owens Corning, et al*; In the District Court, El Paso County, Texas, County Court at Law No. 2 and to documents which have been provided to Plaintiff's counsel in this case by supplement. Defendant reserves the right to supplement this response as additional information is located.

INTERROGATORY NO. 10:

Please state whether any asbestos-containing products in place or in use at Defendant's Premises have been abated at any time. If so, please list each person or company involved with the abatement of asbestos, including address and telephone number, and state the dates and particular locations of each abatement procedure.

ANSWER:

Without waiving any previous objection, insulation was replaced with non-asbestos insulation when insulation was replaced incident to some other work or repair in the 1970s. Records located to date indicate that the refinery began to specify calcium silicate or asbestos free insulation in the early 1970s. Defendant reserves the right to supplement this response as additional information is located.

INTERROGATORY NO. 11:

Identify by name and location each facility owned or operated by you in which asbestos-containing products have been manufactured, assembled, distributed, or sold. Include in your response a detailed description of each such product and the amount of asbestos in each such product.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory as it is overly broad, overburdensome, harassing and calls for information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this interrogatory as it is vague and ambiguous as well as overly broad and over burdensome given plaintiff's definition of the term "you". Plaintiff has not identified any products in this litigation to which Enrique Subia Garcia was exposed which are alleged to have been manufactured, assembled, distributed or sold by this defendant.

Without waiving the foregoing, the El Paso Refinery has never been involved in the manufacturing, assembling, distributing or selling of asbestos containing products.

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.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory as being overly broad and over burdensome, especially given the definition of the term "your".

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all "merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of predecessors, and/or affiliates"; and then to contact and interview all such persons for information or documentation arguably responsive to this request.

Without waiving any foregoing objections, please refer to documents produced to Plaintiff's counsel by Defendant in this case or in prior cases. Defendant reserves the right to supplement this response as additional information is located.

INTERROGATORY NO. 13:

Have you ever had a policy requiring workers on Defendant's premises to use respirators? If so, please state when this policy was implemented; describe this policy in detail; state to whom it applied (i.e. Defendant employees and contractor employees); and describe what types and brand names of respirators were required by you.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory as overly broad and calling for information which is neither relevant nor reasonably calculated to lead to admissible evidence.

Without waiving the foregoing, Chevron would have expected its contractors to take all reasonable precautions, including the use of respiratory protection, whenever the contractor

deemed it necessary and appropriate. In addition, the refinery required contractors to abide by all applicable laws and regulations during the applicable time period which necessarily would have included any requirements imposed by OSHA. Further, please refer to documents produced to Plaintiff's counsel by Defendant 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.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory as overly broad, over burdensome and not limited to the applicable time period. As such, this interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Without waiving the foregoing, this is not believed to have occurred at the El Paso Refinery between 1940 and 1977. Defendant reserves the right to supplement this response as additional information is located.

INTERROGATORY NO. 15:

If you contend that you have not been negligent towards Plaintiff, as Plaintiff has alleged in Plaintiff's Original Petition and any amendments thereto, please state in full the basis for this contention and describe all regulations, laws, statutes, or other authority including internal procedures relating to asbestos that you have relied upon in making this contention.

ANSWER:

In addition to all previous responses and objections, and without waiving any of the same, please see Defendant's Third Supplemental Response to Request for Disclosure dated September 15, 2000, which is incorporated herein by reference the same as if fully set forth at length.

INTERROGATORY NO. 16:

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:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory as it is overly broad, over burdensome, vague, harassing and it calls for information which is neither relevant or reasonably calculated to lead to the discovery of admissible evidence. This interrogatory is especially vague and harassing given Plaintiff's definitions of the term "you".

Defendant has not undertaken historical research to identify and locate all present and past agents or employees of all "merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries or predecessors, and/or affiliates"; and then to contact and interview all such persons for information or documentation arguably responsive to this

Without waiving the foregoing objections, we have not yet been able to identify what specific information, if any, was posted or disseminated at Defendant's El Paso Refinery during the applicable periods. Defendant reserves the right to supplement this response as additional information is located.

INTERROGATORY NO. 17:

Has Defendant ever published or distributed any printed material containing any warnings concerning the possibility of injury resulting from the use of asbestos-containing products or exposure to asbestos? If so, describe the printed material and identify each person responsible for having drafted or issued the warning statements or written dates when the printed material was first issued or distributed.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory as overly broad, over burdensome, harassing and not limited to any applicable time period. This interrogatory seeks information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Without waiving the foregoing, please refer to the documents which have been produced to Plaintiff's counsel in this case or in prior cases.

INTERROGATORY NO. 18:

If Defendant has ever been a member of any trade organization that published or disseminated any documents or information relating to the hazards of asbestos, state the names of such organizations and list the dates of membership.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant further objects to the purported burden of this interrogatory to search all materials ever published by any of these trade organizations for any specific information.

Defendant has not undertaken historical research to identify and locate all present and past agents or employees of all "merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries or predecessors, and/or affiliates"; and then to contact and interview all such persons for information or documentation arguably responsive to this request.

Without waiving the foregoing, Defendant has been a member of the American Petroleum Institute from 1949 to the present and the National Safety Council from 1949 to present.

INTERROGATORY NO. 19:

Identify every individual ever employed at Defendant's facilities who has made or presented a Worker's Compensation or other claim for personal injury or death resulting from inhalation of asbestos. Please include in your response the date of any such claims and a description of the injury alleged.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory as overly broad and over burdensome. Defendant objects to this interrogatory insofar as it is potentially violative of the rights of privacy of other individuals making such claims, if any. To the extent the interrogatory seeks information about lawsuits, such records are public and the information is equally available to Plaintiffs or their counsel.

Defendant has not undertaken historical research to identify and locate all present and past agents or employees of all "merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries or predecessors, and/or affiliates"; and then to contact and interview all such persons for information or documentation arguably responsive to this request.

INTERROGATORY NO. 20:

If Defendant has insurance policies that might cover the claims made by Plaintiff in this case,

please list the name of each insurance carrier, the policy number, the amount of available coverage, and the effective dates of each policy.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory as overly broad, overburdensome and calling for information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Without waiving the foregoing, Defendant has sufficient assets and/or insurance to satisfy any adverse judgment in this case.

INTERROGATORY NO. 21

Please state the following with respect to each expert witness that you may call during trial of these cases:

- a. Identify the expert witnesses;
- b. the subject matter on which the expert is expected to testify;
- c. the substance of the facts and opinions which underlie the expert's opinion; and,
- d. a summary of the grounds for each opinion and whether any such expert has provided a report or other documentation.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory because plaintiff has yet to specifically identify the work sites at which she claims decedent was allegedly exposed and the specific dates of such alleged exposure as required by Standing Order No. 1.

Without waiving the foregoing, please refer to Defendant's supplemental response to interrogatory No. 21 dated September 17, 1999 which is fully incorporated herein.

In addition to all previous responses and objections, and without waiving any of the same, please see Defendant's Third Supplemental Response to Request for Disclosure dated September 15, 2000, which is incorporated herein by reference the same as if fully set forth at length.

In addition to Defendant's Answers to Plaintiffs' Master Set of Interrogatories filed *In re: All asbestos-Related Cases Filed by Baron & Budd, P.C. or to be Filed by Baron & Budd, P.C. in El Paso, County, Texas*, and Defendant's Supplemental Answers to Interrogatories, the following expert witnesses are herein designated:

1. Dr. Philip Cagle

Baylor School of Medicine
Baylor College of Medicine
Department of Pathology
One Baylor Plaza, Room 220 B
Houston, Texas 77030

Dr. Cagle is expected to testify regarding his conclusions following his review of the Plaintiff's medical records, pathology slides and other medical information. He is also expected to testify regarding the diseases of adenocarcinoma and mesothelioma and their diagnosis and cause. The witness may also testify regarding any matter contained in any deposition of the witness, and any matter raised by any expert for any party. Dr. Cagle's report regarding his review of the medical records and pathology of Enrique Garcia was provided in Defendant's supplemental disclosure dated November 2, 1999.

2. Dr. Victor Roggli
Assistant Professor of Pathology
Duke University Medical Center
Department of pathology, Box 3712
Durham, NC 27710

Dr. Roggli is expected to testify regarding his conclusions following his review of the Plaintiff's medical records, pathology slides and other medical information. He is also expected to testify regarding the diseases of adenocarcinoma and mesothelioma and their diagnosis and cause. The witness may also testify regarding any matter contained in any deposition of the witness, and any matter raised by any expert for any party.

3. Dr. Frank Wier
8131 Wycomb Drive
Houston, Texas 77070

Dr. Wier is expected to testify regarding the fields of pharmacology, toxicology and industrial hygiene, generally, and particularly as they relate to asbestos fiber exposure in various work places. Dr. Wier may also testify regarding the knowledge of toxicology and appreciation for the hazards relating to the use of asbestos-containing materials at various intervals of time that are of interest in this matter.

Dr. Wier may testify as to the state-of-the-art of the hazards of asbestos insulation products and the conduct of various industries and companies based on that knowledge.

Dr. Wier may also be asked to respond to the testimony of certain witnesses offered at the time of trial. He, therefore, reserves the right to supplement, amend or

otherwise modify the opinions to be offered accordingly. He will continue to review material which may come to his attention regarding this material. Dr. Wier may utilize this material to develop additional opinions and conclusions or modify his opinions and conclusions if such further evidence or information so warrants.

Dr. Wier's opinions will be based upon his education, experience and professional training, his review of relevant medical, epidemiological, scientific and technical literature, and his review and analysis of the case specific materials provided to him concerning this matter. The witness may also testify regarding any matter contained in any deposition of the witness, and any matter raised by any expert for any party.

4. John A. Pendergrass, CIH, CSP, PE
6700 Milkhouse Court
Mobile, AL 36695
(334) 607-0946

Mr. Pendergrass is a certified industrial hygienist. He will offer opinions based on information provided, his education, knowledge of asbestos and asbestos related diseases, industrial hygiene and experience as a practicing industrial hygienist over a fifty year period. He will testify regarding state of the art issues and the historical development of knowledge about the toxicity of asbestos and exposure limits designed to protect the health of workers exposed to asbestos and the relative responsibility of the employers of such workers.

5. Patrick M. Conoley, M.D.
Kelsey Seybold Clinic
6624 Fannin, Suite 1800
Houston, TX 77030
(713) 791-8787

Dr. Conoley is a medical doctor and "B" reader who will testify concerning his review of radiographs and CT scans of the Plaintiff or Decedent.

6. Dorsett Smith, M.D.
4310 Colby Avenue
Everett, WA 98203

Dr. Smith is an internal medical physician with a sub-speciality in pulmonary disease and a "B" reader who will testify concerning the review of the radiographs and CT scans, if any, of the Plaintiff or Decedent.

7. Lawrence R. Birkner, CIH, CSP
2026 El Monte Drive
Thousand Oaks, CA 94362

(805) 494-7155

Mr. Birkner is a certified industrial hygienist who will offer opinions based on his education and over twenty years industrial hygiene and safety experience in protecting workers in manufacturing oil production/refining, chemical and other industries. His background includes experience in the evaluation and control of exposure to asbestos. His opinions will be based upon his education and personal experience and a review of relevant discovery, relevant pathology, if any, review of relevant literature. He will offer opinions regarding industrial hygiene, exposure potential, occupational and industrial hygiene state-of-the-art, industrial knowledge and industrial hygiene exposure standards.

8. James Rasmuson
Chemistry and Industrial Hygiene, Inc.
4251 Kipling Suite 110
Wheat Ridge, CO 80033

Mr. Rasmuson is expected to testify in the areas of industrial hygiene and toxicology including, without limitation, retrospective exposure assessment, health risk assessment, product apportionment with respect to asbestos exposure, industrial hygiene and environmental standards. He may also testify on the state-of-the-art in fields of industrial hygiene and toxicology concerning occupational exposure.

9. Leroy Balzer, Ph.D.
408 Horse Trail Court
Alamo, CA 94507

Dr. Balzer is expected to testify regarding his years of experience as an industrial hygienist, including his work with the insulator's union and his studies of asbestos exposures in refinery operations.

10. Venessa Ann Holland, M.D.
7171 Buffalo Speedway #2012
Houston, Texas 77025
(713) 660-4690

Dr. Holland may testify in the field of pulmonary medicine and the results of her examination of one or more of the plaintiffs.

11. Robert J. Awe, M.D.
Baylor College of Medicine
Ben Taub General Hospital
1504 Taub Loop
Houston, Texas 77030

(713) 793-2467

Dr. Awe will testify in the field of internal and pulmonary medicine and the state of knowledge as it existed from time to time relating to the health effects of asbestos exposure.

12. Sharon M. D'Orsie, Ph.D.
Eagle Environmental Health, Inc.
2600 Southwest Freeway, Suite 810
Houston, Texas 77098-4614
(713)523-2453

Dr. D.'Orsie will testify in the field of industrial hygiene and the state of knowledge as it existed from time to time relating to the health effects of asbestos exposure.

13. Elizabeth L. Green, PE.
Eagle Environmental Health, Inc.
2600 Southwest Freeway, Suite 810
Houston, Texas 77098-4614
(713)523-2453

Dr.Green will testify in the field of industrial hygiene and the state of knowledge as it existed from time to time relating to the health effects of asbestos exposure.

14. James E. Lockey, M.D., M.S.
556 Meadowcrest Road
Cincinnati, Ohio 45231
(513) 558-0040

Dr. Lockey will testify in the field of internal, pulmonary and occupational medicine and the state of knowledge as it existed from time to time relating to the health effects of asbestos exposure.

15. Andrew Churg, M.D.
1229 W. 7th Avenue
Vancouver, BC
Canada V6H1B7
(604)732-0186

Dr. Churg will testify in the field of occupational medicine and pathology and the state of knowledge as it existed from time to time relating to the health effects of asbestos exposure.

16. Jack E. Peterson, P.E.

Peterson Associates
2830 Via Viejas Oeste
Alpine, CA 91901
(619) 445-9668

Dr. Peterson will testify in the field of industrial hygiene and the state of knowledge as it existed from time to time relating to the health effects of asbestos exposure.

17. John E. Craighead, M.D.
IBC, Inc.
1646 Four Winds Road
Ferrisburgh, VT 05456
(802) 425-3480

Dr. Craighead will testify in the field of occupational medicine and pathology and the state of knowledge as it existed from time to time relating to the health effects of asbestos exposure.

18. Dr. William G. Hughson
Center For Occupational & Environmental Medicine
University of California at San Diego
200 West Arbor Drive
San Diego, CA 92103
(619)220-5050

Dr. Hughson will testify in the field of occupational and pulmonary medicine, epidemiology and the state of knowledge as it existed from time to time relating to the health effects of asbestos exposure.

19. Dr. Hans Wiell
755 Hearthstone Dr.
Basalt, Colorado 81621
(970)927-9321

Dr. Wiell will testify in the field of occupational and pulmonary medicine and the state of knowledge as it existed from time to time relating to the health effects of asbestos exposure.

20. Dr. Elliott Henkies
301 N. Prairie #311
Englewood, CA 90301
(310) 674-0050

Dr. Henkies will testify in the field of pulmonary medicine and oncology and the state

of knowledge as it existed from time to time relating to the health effects of asbestos exposure.

Defendant reserves the right to amend and supplement this response as additional information is located.

Any person designated by any other party in this case as an expert witness, whether or not such party is still a party at the time of trial.

All expert witnesses listed by Plaintiffs.

Custodians of records of any and all physicians, health care facilities, hospitals, clinics and health care providers who have treated or examined the Plaintiff in this case who may have records concerning the plaintiff.

Any physician who has examined and/or treated Plaintiff not identified.

Any and all records custodians, live or by deposition upon written questions, for any physicians or institutions listed herein or revealed in Plaintiffs' Responses to Discovery or any other pleading on file in this case.

INTERROGATORY NO. 22:

Please state the year you first learned that persons could suffer physical injury through the inhalation of asbestos fibers and how Defendant became aware of the existence of asbestos hazards. Further, please identify any documents that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings.

ANSWER:

In addition to all previous objections which are incorporated herein, Defendant objects to this interrogatory as being overly broad and over burdensome, especially given the definition of the term "your".

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all "merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of predecessors, and/or affiliates"; and then to contact and interview all such persons for information or documentation arguably responsive to this request.

Without waiving any foregoing objections, please refer to documents produced to Plaintiff's counsel by Defendant in this case or in prior cases. Defendant reserves the right to supplement this response as additional information is located.