



NO. 94-12336-K

HAROLD LARMOUR, et al.,	§	IN THE DISTRICT COURT
	§	
vs.	§	DALLAS COUNTY, TEXAS
	§	
OWENS-CORNING FIBERGLAS	§	
CORP., et al.	§	192nd JUDICIAL DISTRICT

**DEFENDANT ILLINOIS CENTRAL RAILROAD COMPANY'S SUPPLEMENTAL
RESPONSES AND OBJECTIONS TO PLAINTIFF MILFORD RAWSON'S SECOND
REQUEST FOR ADMISSIONS SUBJECT TO AND WITHOUT WAIVING ITS
SPECIAL APPEARANCE TO PRESENT MOTION OBJECTING TO JURISDICTION**

TO: Plaintiff, Milford Rawson, by and through his attorney of record, Kimberly Shauck,
Baron & Budd, 3102 Oaklawn Avenue, Suite 1100, Dallas, Texas 75219-4281.

NOW COMES Illinois Central Railroad Company ("ICRC"), Defendant, Subject to its
Special Appearance to Present Motion Objecting to Jurisdiction, and files this its Supplemental
Responses and Objections to Plaintiff Milford Rawson's Second Request for Admissions to
Defendant, Subject to and Without Waiving Special Appearance to Present Motion Objecting to
Jurisdiction, pursuant to Rules 120a and 169, Texas Rules of Civil Procedure.

Respectfully submitted,

By _____
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ATTORNEYS FOR DEFENDANTS ILLINOIS CENTRAL
CORPORATION and ILLINOIS CENTRAL RAILROAD
COMPANY

I.

PRELIMINARY STATEMENT AND OBJECTIONS

Subject to and without waiving its current or any future special appearances, ICRC makes this preliminary statement and these objections:

ICRC currently has special appearance motions pending in several cases in Dallas County, Texas, a case in Cameron County, Texas, and two cases in Jefferson County, Texas. Each of these cases involve numerous other Plaintiffs who are residents of states other than Texas. Each and every objection, response or matter contained in these responses and answers is made strictly subject to and without waiving any pending special appearance motion. To the extent that ICRC is named and served as a party in future cases in Dallas County, or any other Texas county, these responses shall also be subject to and without waiving any future special appearance motions.

ICRC expressly objects to each and every discovery request to the extent that it seeks any information in those cases wherein a special appearance is pending for the reason that such discovery requests are not related to any special appearance motion or likely to lead to the discovery of evidence admissible in a special appearance hearing.

ICRC will provide substantive responses to those requests related to jurisdictional issues as they relate to those Plaintiffs who have sued ICRC. However, ICRC objects to each and every discovery request and/or interrogatory to the extent that it is unrestricted as to time and geography on the grounds that such requests/interrogatories are unreasonably burdensome and not reasonably related to the discovery of jurisdictional evidence related to such claims.

ICRC does not own or control any railroad track in Texas. ICRC specifically reserves its right to provide further objections and/or responses in the event that is jurisdictional objections are overruled.

II.

GENERAL OBJECTIONS

1. ICRC further objects to each and every discovery request, interrogatory and request for admission to the extent that it requires ICRC to search through all corporate documents or all corporate documents for the reason that such requests are clearly over broad, unduly burdensome, exceptionally expensive, and not reasonably related to the discovery of evidence relevant to the claims of Plaintiffs claiming injury arising out of alleged exposure in Texas.

2. ICRC further objects to those requests as a whole, since they seek matters which are privileged under the Tex. R. Civ. P. and Tex. R. Civ. Evid., including, but not limited to information and matters precluded by the attorney/client privilege, attorney/work product exemption and the party communications privilege.

3. ICRC further objects to the definitions set forth at the beginning of Plaintiffs' requests as an improper attempt to give meanings to ordinary English words that are contrary to their accepted meanings and which render the interrogatories ambiguous, clearly over broad and/or unduly burdensome to answer.

4. ICRC further objects to these requests as vague and unclear since they are not limited to the time period or location when and where Plaintiffs were alleged to have been employed by Defendant.

5. ICRC further objects to these requests as being vague and unclear since most, if not all, requests contain compound and numerous requests for admission which render it impossible to ascertain how to respond accurately.

6. ICRC expressly incorporates each and every general objection and preliminary statement into its response to each request for admission, subject to and without waiving its Special Appearance Motion Objecting to Jurisdiction.

**SUPPLEMENTAL RESPONSES TO
SECOND REQUEST FOR ADMISSIONS**

Request for Admission No. 1: Admit or deny that asbestos-containing products were in general use aboard Defendant's railway cars, engines and/or locomotives during the time period Plaintiff was employed by Defendant.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objections, Defendant admits that at some time during Mr. Rawson's employment with Illinois Central Railroad Company between 1946 and 1969, asbestos-containing products were used on Defendant's railroad.

Request for Admission No. 2: Admit or deny that Defendant ordered, purchased or otherwise acquired asbestos-containing products, asbestos-containing friction products, machinery requiring the use of asbestos or asbestos-containing products and/or materials for use during the time period Plaintiff was employed by Defendant.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objections, Defendant admits Request for Admission No. 2 to the extent it is limited to some period of time between 1946 and 1969.

Request for Admission No. 3: Admit or deny that Defendant used or implemented upon Defendant's railway cars, engines and/or locomotives on which or in the vicinity of which Plaintiff worked, asbestos-containing products, asbestos-containing friction products or machinery requiring the use of asbestos or asbestos-containing products.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objections, Defendant admits Request for Admission No. 3 in that at some time between 1946 and 1969, asbestos-containing products were present on some "railway cars, engines [or] locomotives" used by defendant.

Request for Admission No. 4: Admit or deny that Defendant's cars, engines and/or locomotives which Plaintiff worked on or around were unfit because of the presence of and/or use of asbestos-containing products, machinery requiring the use of asbestos or asbestos-containing products and/or asbestos-containing friction products on these railway cars, engines and/or locomotives.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objection, Defendant denies Request for Admission No. 4.

Request for Admission No. 5: Admit or deny that Plaintiff was a railroad worker, as that term is generally understood, during his employment with Defendant.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objections, and its general understanding that a railroad worker is a person who works for a railroad company, Defendant admits Request for Admission No. 5.

Request for Admission No. 6: Admit or deny that Plaintiff, in the course and scope of his work as a railroad worker and/or employee of Defendant, worked on and/or around Defendant's railroad, railway cars, engines and/or locomotives where asbestos, asbestos-containing products and/or machinery calling for the use of asbestos or asbestos-containing products were present.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objections, Defendant admits Request for Admission No. 6.

Request for Admission No. 7: Admit or deny that Defendant was aware at any time during the period of time Plaintiff worked for Defendant that airborne asbestos dust created a potential health hazard to those who breathed such dust.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objections, Defendant denies that it possessed any awareness of any asbestos "health hazard" relating to Plaintiff.

Request for Admission No. 8: Admit or deny that Plaintiff was employed by Defendant or by a predecessor-in-interest of Defendant.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objections, Defendant admits Request for Admission No. 8.

Request for Admission No. 9: Admit or deny that Plaintiff worked on an/or around Defendant's railway cars, engines and/or locomotives where asbestos-containing products, asbestos-containing friction products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials were installed, used, prepared for, replaced or repaired.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objections, Defendant admits Request for Admission No. 9 to the extent it is limited to some time period between 1946 and 1969.

Request for Admission No. 10: Admit or deny that Defendant did not distribute any literature or warnings of any kind to its employees during the period of time Plaintiff worked for Defendant regarding the potential health hazards to those who breathe airborne asbestos dust.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objections, Defendant denies Request for Admissions No. 10 and further states that it is not currently known what warnings Plaintiff may have been given or received between 1946 and 1969.

Request for Admission No. 11: Admit or deny that the friction products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials were placed on or used in Defendant's railway cars, engines and/or locomotives during the time period Plaintiff was employed by Defendant and upon Defendant's railway cars, engines and/or locomotives where Plaintiff worked were the following asbestos-containing products:

- a. any asbestos-containing product and/or machinery requiring the use of asbestos-containing products and/or materials,
- b. asbestos tiles,
- c. asbestos millboard,
- d. asbestos friction products,
- e. asbestos pipecovering,
- f. asbestos gaskets,
- g. asbestos joint compound,
- h. asbestos cement,
- i. asbestos block,
- j. asbestos packing,
- k. boilers,
- l. brake shoes,
- m. brake linings,
- n. clutch linings,

- o. firebrick,
- p. refractories/castables, and
- q. turbines

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objections, Defendant admits some of the above products were placed on or used on Illinois Central Railroad Company "railway cars, engines and/or locomotives" at some time between 1946 and 1969.

Request for Admission No. 12: Admit or deny that Defendant engaged in any abatement programs for the removal of asbestos or asbestos-containing products, asbestos-containing friction products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials at any time since 1965 on Defendant's railroad, railway cars, engines and/or locomotives during the time of Plaintiff's employment.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objections, Defendant denies Request for Admission No. 12.

Request for Admission No. 13: Admit or deny that Defendant was aware of the presence of and/or use of asbestos-containing products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials during the time period Plaintiff was employed by

Defendant and upon Defendant's railroad, railway cars, engines and/or locomotives where Plaintiff worked.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objections, Defendant admits its Request for Admission No. 13 to the extent it is limited to some time period between 1946 and 1969.

Request for Admission No. 14: Admit or deny that Defendant became aware of the potential health hazards of airborne asbestos during the time periods in which Plaintiff was employed by Defendant.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Defendant further objects to this request for the reason that it does not limit itself to a reasonable time period as related to the issues in this case, and is, therefore, beyond the scope of permissible discovery.

Subject to and without waiving its previously filed objections, Defendant denies Request for Admission No. 14 as limited to Plaintiff.

Request for Admission No. 15: Admit or deny that Defendant did not continuously provide face masks to crew members working with or around asbestos, asbestos-containing products, asbestos-containing friction products and/or machinery requiring the use of asbestos and/or asbestos-

containing products upon Defendant's railway cars, engines and/or locomotives from 1945 to the present for the purpose of protecting these crew members from inhaling asbestos, airborne asbestos fibers and/or dust.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Defendant further objects to this request for the reason that it does not limit itself to a reasonable time period as related to the issues in this case, and is, therefore, beyond the scope of permissible discovery.

Subject to and without waiving Defendant's previously filed objections, Defendant denies Request for Admission No. 15.

Request for Admission No. 16: Admit or deny that during the time Plaintiff was employed by Defendant, it was foreseeable that asbestos-containing products on Defendant's railway cars, engines and/or locomotives would or could be removed, stripped, replaced or repaired at some time after installation.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objections, Defendant admits Request for Admission No. 16 to the extent it is limited to some time period between 1946 and 1969.

Request for Admission No. 17: Admit or deny that during the time Plaintiff was employed by Defendant, Defendant failed to comply with the requirements of the Boiler Inspection Act, formerly 45 U.S.C. § 23; and restated at 49 U.S.C. § 20701 et seq.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objections, Defendant denies Request for Admission No. 17

Request for Admission No. 18: Admit or deny that Plaintiff filed suit against Defendant within three (3) years of the date of discovering his asbestos-related condition or the existence of any asbestos-related causes of action.

Response: Subject to Defendant's special appearance and without waiving same, Defendant hereby incorporates its preliminary statement and general objections. Defendant further objects to this request in that it is vague, unclear and contains compound requests which render it impossible to ascertain how to respond accurately.

Defendant further objects to this request for the reason that it seeks information which is irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence related to the Defendant's jurisdictional contacts, if any, with the State of Texas and is, therefore, beyond the scope of permissible discovery while Defendant has a Special Appearance motion pending.

Subject to and without waiving Defendant's previously filed objections, Defendant denies Plaintiff suffers any asbestos related health conditions, and, alternatively, denies Plaintiff filed his action within three years of suffering shortness of breath symptoms.

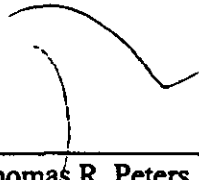
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HAROLD LARMOUR, et al.,	§	IN THE DISTRICT COURT
	§	
vs.	§	DALLAS COUNTY, TEXAS
	§	
OWENS-CORNING FIBERGLAS	§	
CORP., et al.	§	192nd JUDICIAL DISTRICT

CERTIFICATE OF SERVICE

The undersigned attorney certifies that a copy of the foregoing Defendant Illinois Central Railroad Company's Supplemental Responses and Objections to Plaintiff Milford Rawson's Second Request for Admissions Subject to and Without Waiving Special Appearance to Present Motion Objecting to Jurisdiction was faxed to the below-listed counsel on November 20, 1997, and was also deposited in a mail box located near 5000 West Main Street, Belleville, Illinois, with proper postage prepaid at approximately 5:00 p.m. on November 20, 1997, addressed to the following:

Ms. Kimberly Shauck (Fax: 214-520-1181)
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