PLAINTIFF'S EXHIBIT
RR-458a



**CAUSE NO. 96-02602-M**

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| **ROBERT A. GRUBER** | § | **IN THE DISTRICT COURT OF** |
| | § | |
| **vs.** | § | **DALLAS COUNTY, T E X A S** |
| | § | |
| **OWENS-CORNING FIBERGLAS** | § | |
| **CORPORATION, ET AL.** | § | **298TH JUDICIAL DISTRICT** |

**DEFENDANT'S ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES TO DEFENDANT**

To: Plaintiff, ROBERT A. GRUBER, by and through his attorney of record, Ms. Kimberly Castles, Baron & Budd, P.C., 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281.

COMES NOW, The Burlington Northern Santa Fe Railway Company formerly known as the Burlington Northern Railroad and Burlington Northern, Inc., Defendant in the above-entitled and numbered cause, pursuant to the TEXAS RULES OF CIVIL PROCEDURE, and makes and files these its Answers to Plaintiff's First Set of Interrogatories.

Respectfully submitted,
McLEOD, ALEXANDER, POWEL
& APFFEL, P.C.

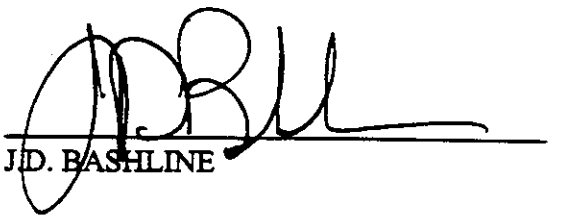
By: _____

J.D. Bashline
TBA #01869600
802 Rosenberg; P.O. Box 629
Galveston, Texas 77553
(409) 763-2481; (713) 488-7150
(409) 762-1155 - Facsimile

**ATTORNEYS FOR DEFENDANT BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY**

## CERTIFICATE OF SERVICE

I, J.D. Bashline, do hereby certify that a true and correct copy of the foregoing instrument has been forwarded to all counsel of record this 29th day of August 1997, by certified U.S. Mail, return receipt requested, by facsimile and regular mail or by regular mail.



J.D. BASHLINE

## DEFINITIONS

As used in these Interrogatories, the following terms mean:

1. The words "Defendant," "You," "Your," "Your company," agents, employees and borrowed servants all mean the corporate Defendant answering these Request for Admissions, and any of its merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries, foreign subsidiaries of predecessors, and/or affiliates. This definition includes present and former officers, directors, agents, employees, and all other persons acting or purporting to act on behalf of the corporate Defendant or its predecessors, subsidiaries, and/or affiliates. "Predecessors" further means any business firm, whether or not incorporated, which had all or some of its assets purchased by you or came to be acquired by you whether by merger or consolidation. "Subsidiaries" further means any business firm, whether or not incorporated, which is or was in any way owned or controlled, in whole or in part by Defendant or its predecessors.

2. The words "document", "documents", "written materials", or "printed matter" include any written, printed, recorded or graphic matter of any kind or character, photographic or video graphic matter or sound reproductions or computer input or output, including but not limited to: brochures, pamphlets, catalogs, warning signs or statements, packaging, logs, bills of lading, invoices, transport logs, contracts, notes, rough drafts, inter-office memoranda, reports, research materials, logs, diaries, calendars, bank statements, tax invoices, diagrams, studies, manuals, minutes, by-laws, articles of incorporation, resolutions, shareholder endorsements, or partnership documents however produced or reproduced, that (1) are now or 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 (2) are known or are believed to be responsive to these Interrogatories and Requests for Production regardless of who now has or formerly had custody, possession or control.

3. The words "person" or "persons" include natural persons, firms, partnerships, associations, joint ventures, corporations, and any other form of business organization or arrangement, and officers, directors, shareholders, employees, agents, and contractors of any business organization or arrangement.

4. The words "meeting" or "meetings" may mean any coincidence or presence of any persons, whether or not such coincidence or presence was pre-arranged, was formal or informal, or was in connection with some other activity.

5. The words "describe" or "description", when referring to a place, thing, or occurrence, mean to identify with sufficient particularity the place, thing, or occurrence so as to enable one to locate, examine and fully comprehend or understand the place, thing, or occurrence described.

6. The words "asbestos," "product containing asbestos fibers," "asbestos-containing products," "asbestos products" all refer to any products or materials prepared in any way for sale and/or

distribution that contained any kind of asbestos in any possible form, including, but not limited to fibers and dust. The words "asbestos materials" refer to any and all materials, substance, or matter used or assembled or fabricated during the manufacture of a product, and that contain at least some asbestos fibers. "Product" includes, but is not limited to, pipe covering, pipe turbines, cement, filler, flat siding, corrugated siding, roofing, block, gaskets, packing, plaster, joint compound, floor and ceiling tiles, mastics, boilers, raw fibers, fireproofing, shingles, panels, sheets, paper, clothing, flooring, tapes, wire, cable, casings, boards, millboard, refractory cement, boilers, firebrick, brake and clutch linings and facings, finishing compound, texture, and other construction, building, drywall, lath and insulation materials, containing trace amounts of asbestos.

7. The words "distribute," "distributed," "distributor," and "distribution" all refer to the sale, marketing, dispersal and/or shipment of asbestos-containing products for purposes of their sale, resale and/or for purposes of filling orders provided by other business concerns. The word "distributor" specifically refers to a company or its sales representatives, whether dependent or independent, responsible for sales or marketing of products.

8. The words "medical advisory capacity" refer to the duties, abilities or capabilities of any member of Defendant's staff, or any individual or organization who has contracted with Defendant, to provide services of a medical nature, including but not limited to providing medical advice.

9. The words "trade organization," or "trade association" mean any organizations or associations of business or industrial entities that are associated and/or meet for the purpose of achieving common goals and/or exchanging information related to common needs or interests, and/or learning information or facts of interest to the various members of the organization or association.

10. The words "research" and "research department" refer to efforts, whether scientific or otherwise, to develop new and/or different types of products, processes or designs of pre-existing products and is meant to incorporate all efforts that specifically contemplated the possible alteration of products.

11. The words "medical department" and "safety department" refer to an individual or a section or group of individuals working for Defendant, either directly or in a contractual capacity, whose purpose was or is to provide guidance, assistance, or advice concerning any aspects of medical health, including but not limited to, the safety of Defendant's workers and the safety of individuals using or exposed to asbestos products.

12. The words "industrial hygiene surveys" mean surveys, tests, interviews, or other procedures taken or effectuated for the purpose of determining the possibility or existence of detrimental health effects caused by exposure to asbestos.

13. The words "potential health hazards," or "health hazards" refer and relate to any injury, effect, damage, scarring, wound, impairment or disability of any part of the human anatomy, including but not limited to the lungs and lung linings, that is caused by or associated with exposures

to asbestos dust and fibers.

14. The terms "test" and "testing" are used in their broadest sense, including but not limited to, studies of atmospheric dust samples, studies of the concentration of asbestos in such airborne test sample, studies of the lung conditions of workers (by x-ray or other means of medical surveillance), pulmonary function studies of workers, animal studies, pathological studies, industrial hygiene studies, risk assessment studies, cost benefit analyses and any other studies concerning health and safety.

15. The terms "the railroads," "railroad", "railway cars and/or engines" "railroad component(s)" and/or "railyard(s)", refer and relate to any and all railroad track lines, roundhouses, shops, railyards, and freight, passenger, refrigerator or other railroad cars, engines, and/or locomotives, as well as the brakes and boilers used in the operation of such freight, passenger, refrigerator or other railroad cars, engines and/or locomotives, and/or in operation of the roundhouses and/or shops and including those containing boilers owned, either as owner or owner pro hac vice, rented, leased, chartered, operated, or otherwise utilized by Defendant in Defendant's regular course of business or over which Defendant had the right to direct, control, repair, or place in railway operation.

16. The terms "railroad worker" "employee" includes any operator, laborer, or maintenance and/or repair workers, persons who have been hired by or contacted at the direction of Defendant to include, maintain or operate cars and/or engines or railroad track lines, or who are connected with the railroad as such and in some capacity to assist in its conduct, maintenance, or service, including all those whose labor contributes to the operation of the railroad in any capacity. The term includes anyone who, in the course of his work about a railroad, exposes himself to risk traditionally associated with railroad duties of a member of a railroad's crew. As such, a "railroad worker" is an employee whose duties contribute to the function of the "railroad" on which he works or the accomplishment of its mission.

17. The term "agreement" includes any contract either oral or written entered into between Defendant and any other party either voluntarily or as the result of any sale, purchase, negotiation, collective bargaining or course of dealing.

18. "EPA" means Environmental Protection Agency. This agency is charged with the promulgation and enforcement of emissions from manufacturing sources into the air and water. It is charged with maintaining and/or improving the quality of the environment. Several other agencies have groups which work on asbestos diseases, including the National Institutes of Health, the National Cancer Institute, and several interagency committees.

19. "NIOSH" means National Institute for Occupational Safety and Health. This group, part of Health, Education and Welfare, is responsible for providing data on the toxicity and safe exposure limits for chemical and physical agents found in the workplace.

20. "NIEHS" means National Institute of Environmental Health Sciences. This group, also an

agency of Health, Education and Welfare, performs studies on chemical and physical agents emitted into the environment which may have an impact on the population.

21. "OSHA" means Occupational Safety and Health Administration. This group is responsible for promulgating and enforcing exposure of workers in the workplace. It is part of the Department of Labor.

22. "Friction product" includes any product used to absorb, alleviate, disperse or distribute friction or the effects of friction and includes, but is specifically not limited to, brake shoes and linings and clutch linings.

23. "Each" shall mean each and every; "All" shall mean any and all.

24. "Identify" or "Identity" when used in reference to documents shall be understood as an instruction to identify the document completely. The identification shall include, but not be limited to, the documents date, title, authors, addresses and other recipients, type (e.g. letter, notes, memoranda, diary, etc.), subject matter, present location, present custodian, and the purposes for which the document was created or prepared.

25. Relating to" and "regarding" shall mean embodying, pertaining to, concerning, constituting, comprising, reflecting, discussing, referring to, or having any logical or factual connection whatsoever with the subject matter in question.

26. "Relationship" means any connection, affiliation or association of any nature or kind whatsoever, currently or previously in existence.

27. The words "releasing products to the public" means selling, distributing, marketing, or otherwise causing the products to be available to the general public and/or retail and wholesale outlets for further distribution or sale.

28. The words "marketed," and "market" mean and include all efforts to aid or assist in the distribution and/or sale of products, including offers on the part of the manufacturer or distributor to sell products and the advertising of products and sales solicitation efforts.

29. The word "manufacture," or "manufactured" means to fabricate, to construct, to assemble, to prepare for fabrication, construction or assembly, and any other action taken prior to completion of the product or material before the time of its shipment.

30. The word "use" means to install, repair, replace, fabricate, implement, prepare for use, stock or store.

31. "Plaintiff" shall refer to Decedent in all cases in which the railroad worker or railroad employee, is deceased.

## INTERROGATORIES

INTERROGATORY NO. 1:

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

ANSWER:

Robert T. Attridge, Assistant Director
Assistant Director of Occupational Claims
The Burlington Northern & Santa Fe Railway Company
3800 Continental Plaza
777 Main Street
Ft. Worth, Texas 87102-5384

J. D. Bashline
McLeod, Alexander, Powel & Apffel, P.C.
2285 America Tower
2929 Allen Parkway
Houston, Texas 77019
Attorneys for Defendant

INTERROGATORY NO. 2:

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

ANSWER:

The Burlington Northern & Santa Fe Railway Company, formerly known as the Burlington Northern Railroad Company, a corporation; the predecessor Burlington Northern Railroad Company was incorporated in Delaware with its principal place in Texas. Agent for service of process is CT Corporation System. The company has done business in, maintained a registered agent in, and recruited and hired employees in Texas.

INTERROGATORY NO. 3:

With regard to each policy of liability insurance intended to provide coverage to Defendant, its agents and/or employees for the liability in connection with the allegations such as those delineated in Plaintiff's Original and Amended Petitions including, but not limited to, all primary and excess policies covering the Defendant for such liability, state the name and address of each carrier.

ANSWER:

Defendant is believed to be self-insured for any such liability as may result from the allegations of Plaintiff's Complaint.

INTERROGATORY NO. 4:

State whether you contend that the Plaintiff has done anything or failed to do anything that constitutes contributory negligence. If so, please describe the basis of your contention and what evidence exists to support that contention.

ANSWER:

Defendant objects to this Interrogatory to the extent that it seeks information exempted from discovery by the attorney work product privilege. Subject to the foregoing objection and without waiving same, Defendant has pleaded contributory negligence and will, after relevant discovery, supplement this answer.

INTERROGATORY NO. 5:

State whether you contend that the Plaintiff has done or failed to do anything that constitutes a failure to mitigate damages. If so, please describe the basis of your contention and what evidence exists to support that contention.

ANSWER:

Defendant objects to this Interrogatory to the extent that it seeks information exempted from discovery by the attorney work product privilege. Also, Defendant is unable to answer this question at this time, because Plaintiff refuses to respond to specific written discovery from this Defendant; and because Plaintiff has not yet been deposed. This answer will be supplemented as necessary.

INTERROGATORY NO. 6:

List each and every place of work and job assignment of the Plaintiff which he held

during his employment with Defendant and describe in detail the duties involved in each of the job assignments.

ANSWER:

Defendant objects to this Interrogatory for the reason that it is unreasonably vague and ambiguous and therefore cannot be answered. Defendant further objects that this Interrogatory is premature in that Defendant presently does not know the areas in which Plaintiff worked during his employment with this Defendant. Further, this Interrogatory is better suited for deposition testimony. An investigation will continue during the discovery of this matter and our response will be supplemented as required. Subject to the foregoing objection and without waiver of same, Defendant believes that Plaintiff was employed by the Panhandles & Santa Fe Railway Company from April 1953 to May 1953.

INTERROGATORY NO. 7:

Describe in detail how asbestos containing products were used by railroad workers on Defendant's railroad(s) during the period of Plaintiffs employment by Defendant.

ANSWER:

Defendant objects to this Interrogatory because it is unduly broad, vague, burdensome, and harassing. Moreover, it is irrelevant in the absence of any evidence from Plaintiff that he was employed in a craft or location where he might encounter asbestos products.

INTERROGATORY NO. 8:

Describe in detail where asbestos containing products were used by railroad workers on Defendant's railroad(s) during the period of Plaintiffs employment by Defendant.

ANSWER:

See Answer No. 7.

INTERROGATORY NO. 9:

If you have alleged in your answer that Plaintiff s injuries and/or damages were caused by some other injury, disease or condition, either pre-existing or unrelated to and arising after or in conjunction with the Plaintiff's exposure to asbestos-containing products, please describe in detail such preexisting or subsequent disease, injury or condition. For each alleged other injury, disease or condition, identify all evidence upon which you base this contention.

ANSWER:

Defendant objects to this Interrogatory to the extent that it seeks information exempted from discovery by the attorney work product privilege. Subject to the foregoing objection and without waiving same, Defendant is not aware of information at this time to make this contention. However, Defendant reserves the right to supplement this answer after the completion of discovery.

INTERROGATORY NO. 10:

Please state the name of each and every person having knowledge of facts relevant to this action including most recent address and present telephone number, along with the experience and qualifications, if applicable, of each and every person, known to Defendant's agents, including, but not limited to:

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

ANSWER:

A. No determination as to persons with knowledge of relevant facts can be made until after further discovery. Such persons will be identified pursuant to the Texas Rules of Civil Procedure.

B. No determination as to persons with knowledge of relevant facts can be made until after further discovery. Further, this information is known by Plaintiff, and therefore this Interrogatory is better suited for deposition testimony. Nevertheless, such persons will be identified pursuant to the Texas Rules of Civil Procedure.

C. No determination as to persons with knowledge of relevant facts can be made until after further discovery. Such persons will be identified pursuant to the Texas Rules of Civil Procedure.

D. Defendant objects to this Interrogatory to the extent that it seeks information exempted from discovery by the attorney work product privilege. See *Texas Tech Univ. Health Sciences Ctr. v. Schild*, 828 S.W.2d 502 (Tex. App.-El Paso 1992, no writ). Subject to the foregoing objection and without waiving same, Defendant will supplement such information at the time of the final Pre-trial Conference, or pursuant

to the Texas Rules of Civil Procedure.

Further, subject to the forgoing objections, none known at this time, with the exception of those persons named by Plaintiff in his discovery responses and any supplemental responses.

INTERROGATORY NO. 11:

Please identify documents or things, including x-rays, MRI'S, CT-scans or other materials, which will be used at time of trial, (Exhibit List, Deposition List), which are relevant to each of Defendant's enumerated defenses in Defendant's last filed Answer.

ANSWER:

Defendant objects to this Interrogatory because it seeks information beyond the scope of discovery permitted by Rule 166b. Specifically, the Interrogatory requests information privileged by the attorney client and work product privileges. Subject to the foregoing objection, please refer to Defendant's responses to Request for Production.

INTERROGATORY NO. 12:

Identify the names and addresses of all individuals Defendant may call as an expert witness(es) at trial, and for each individual, please state:

ANSWER:

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

B. All factual observations, test results, supporting data, learned treatise (books, general articles, texts or other publications) and opinions which the witness has generated, been provided, intends to use, and/or may use to support his/her opinions and conclusions relative to the case whereupon which the witness has or will base his/her testimony in this matter, specific as to each individual Plaintiff's case. The identity, address and job classification of each consulting expert whose opinions or data have been referred to and/or relied upon by the expert witness, and the complete title and author of each learned treatise referred to and/or relied upon by the witness for information and/or corroborating his/her opinions regarding the subject matter of this lawsuit.

C. Whether any person identified in subparagraph B above has provided a report or other documentation to you, and if so, identify each such document or

report, specific as to each individual Plaintiff's case, separate and distinct from all other Plaintiffs within the group.

D. Identify all documents or other materials, including but not limited to x-rays, pathology, CT-scans, you have provided to each person identified in response to subparagraph B above, specific as to each individual Plaintiff's case, separate and distinct from all other Plaintiffs within the group.

E. Describe in detail the education and work history of, and identify any books, treatises, articles, published and unpublished reports, studies or other scholarly works authored by any individual identified in response to subparagraph B above. Alternatively, in lieu of said response, attach a copy of a resume or curriculum vitae and a list of publications to your answers.

ANSWER:

Defendant *may* call one or more of the following witnesses at time of trial. No witness listed below has received any information relative to this claim, or rendered any report, at this time.

R. Keith Wilson, M.D.
Respiratory Consultants of Houston
6550 Fannin, Suite 2403
Houston, Texas 77030
(713)

Dr. Wilson may testify regarding Plaintiff's medical condition. His opinion will be contained in his report, which will be produced when written.

Phillip T. Cagle, M.D.
Department of Pathology - Baylor College of Medicine
One Baylor Plaza
Houston, Texas 77030
(713) 798-3671

Dr. Cagle may testify regarding Plaintiff's medical condition. His opinion will be contained in his report, which will be produced when written.

Jeffrey S. Lee, Ph.D.
Rocky Mountain Center for Occupational and Environmental Health
University of Utah
Salt Lake City, Utah 84112

Dr. Lee may testify regarding the history of asbestos uses, permissible exposure limits, dust levels, history of medical/industrial hygiene literature regarding asbestos related diseases, with specific focus on the railroad industry, and other more general topics related to

industrial hygiene. His opinion will be contained in his report, which will be produced when written.

Frank Weir, Ph.D. (Toxicology/Public Health)
8131 Wycomb
Houston, Texas 77077

Dr. Weir will testify regarding the history of asbestos uses, permissible exposure limits, dust levels, history of medical/industrial hygiene literature regarding asbestos related diseases, with specific focus on the railroad industry, and other more general topics related to industrial hygiene. His opinion will be contained in his report, which will be produced when written.

Defendant further identifies all of Plaintiff's treating physicians and all custodian of medical records pertaining to Plaintiff. These individuals may testify to Plaintiff's condition and course and scope of medical treatment.

INTERROGATORY NO. 13:

Identify all persons, entities, agencies or others, whether governmental (state or federal) or private, who participated in any investigation of the claims made the basis of this lawsuit.

ANSWER:

Other than such inquires made by the company as a result of this lawsuit, none known.

INTERROGATORY NO. 14:

Please state whether Defendant or any successor or predecessor was ever a member of the Railroad Claims Registry, and if so, please state the years Defendant was a member; the years of attendance at and involvement in the Railroad Claims Registry Meetings; the name, job classification, address and telephone number of each and every agent and/or representative and/or employee of Defendant attending each and every Railroad Claims Registry Meeting and the year that agent and/or representative and/or employee of Defendant attended the meeting; and the location of the Railroad Claims Registry Meeting for each year attended by Defendant.

ANSWER:

Unknown; will supplement.

INTERROGATORY NO. 15:

Please state whether Defendant or any successor or predecessor ever attended or sent an agent on its behalf to any of the Association of American Railroads and American Railway Association meetings from 1930 to the present, and if so, please state the years of attendance; the location of the meeting; the name, address, job classification and telephone number of each and every agent and/or employee and/or representative of Defendant attending each and every Association of American Railroads and American Railway Association meeting and the exact year of attendance.

ANSWER:

Will supplement.

INTERROGATORY NO. 16:

Before 1980, did Defendant receive notice that any individual who at any time was employed by the Defendant claimed injury as a result of exposure to asbestos? If so, state:

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

ANSWER:

Defendant objects to this Interrogatory for the reason that it is overly broad, unduly burdensome, harassing, immaterial, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Moreover, to research and assemble the requested information would be oppressively and unreasonably expensive in light of its lack of relevance. Also, the Interrogatory is not limited to the specific areas in which Plaintiff worked during his employment with this Defendant. Subject to the foregoing objections and without waiving same, the first claim by a Santa Fe employee of injury related to asbestos exposure, that has been located, is the claim of Stanley W. Hutchison. The claim was filed on or about June 1, 1976 in the Superior Court of the State of California, for the County of Los Angeles, Docket No. C-157-663. Counsel for Plaintiff was Hildebrand, McLeod, and

Nelson, Inc. This claim was settled for $125,000.00.

INTERROGATORY NO. 17:

Before 1980, did Defendant receive notice that any individual who at any time was employed by any Railroad claimed injury as a result of exposure to asbestos? If so, state:

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

ANSWER:

Defendant objects to this Interrogatory for the reason that it is overly broad, unduly burdensome, vague, ambiguous, and not limited to the time period during which Plaintiff worked for this Defendant. Moreover, this Interrogatory is irrelevant because it seeks information about alleged injuries occurring at other Railroads.

INTERROGATORY NO. 18:

Has Defendant at any time published, distributed or displayed any printed material, including brochures, pamphlets, catalogs, warning signs or statements, packaging or other written material of any kind or character containing any warning concerning the possibility of injury resulting from the use of asbestos-containing products and/or exposure to airborne asbestos? If so, state:

A. The exact wording of each warning statement and a description of the material upon which the warning was printed;
B. The method(s) used to distribute the materials to persons likely to use the asbestos-containing products or likely to be exposed to airborne asbestos;
C. The date each warning was first issued or distributed;
D. The name, address, and job title of each person responsible for having drafted or issued the warning statements and/or written materials;
E. The current location of any such printed material and the custodian thereof,
F. The form in which such literature or printed material can be accessed, i.e., the

mariner in which such literature is indexed or stored.

ANSWER:

Defendant objects to this Interrogatory for the reason that it is overly broad, unduly burdensome, and is not limited to the time period during which Plaintiff worked for this Defendant or to the areas in which Plaintiff worked. Subject to the foregoing objections and without waiving same, it is believed that Defendant did post warning posters, concerning the hazards of asbestos, in the shops where the railroad workers were employed. An investigation will continue during the discovery of this matter and our response will be supplemented as required.

INTERROGATORY NO. 19:

Did Defendant install, replace, use, repair, assemble, transport or store, either as an original appurtenance of the railroad or placed in/on the railroad in conjunction with repairs or alterations to the railroad, any asbestos-containing products during the time Plaintiff worked for Defendant? If so, identify:

A. By name and number each of Defendant's railroad(s), whether operating or in railyards, upon which the asbestos-containing product(s) were installed, repaired, used, stored or transported during the time Plaintiff worked for Defendant;
B. The particular type of asbestos-containing product(s)-,
C. The trade or brand name of each of the asbestos-containing products;
D. The years during which each named asbestos product was applied, stored, used, repaired, installed or transported either as an original appurtenance of the railroad or placed on/in the railroad in conjunction with repairs or alterations to the railroad(s); and
E. The dates of any removal or abatement of such asbestos-containing products, from Defendant's railroad(s).

ANSWER:

Defendant objects to this Interrogatory because it requires responding to more than thirty interrogatories, including sub-sections. Also, it is unduly burdensome, oppressive, and harassing. Moreover, unduly broad and therefore irrelevant, unless limited to products in places to which this Plaintiff may have worked for the railroad and to the duration of his employment. Without knowledge of the physical location of employment, and the craft or trade which Plaintiff followed, it is simply not possible to provide answers to this interrogatory, without regard to the objections which have been made.

INTERROGATORY NO. 20:

Did any entities or persons at Defendant's direction, whether direct or indirect, including but not limited to contractors and subcontractors install, replace, use, repair, assemble, transport or store, either as an original appurtenance of the railroad or placed in/on the railroad in conjunction with repairs or alterations to the railroad, any asbestos-containing products during the time Plaintiff worked for Defendant? If so, identify:

A. By name and number each of Defendant's railroad(s), whether operating or in railyards, upon which the asbestos-containing product(s) were installed, repaired, used, stored or transported during the time Plaintiff worked for Defendant;
B. The particular type of asbestos-containing product(s);
C. The trade or brand name of each of the asbestos-containing products;
D. The years during which each named asbestos product was applied, stored, used, repaired, installed or transported either as an original appurtenance of the railroad or placed on/in the railroad in conjunction with repairs or alterations to the railroad(s); and
E. The dates of any removal or abatement of such asbestos-containing products, from Defendant's railroad(s).

ANSWER:

Defendant objects to this Interrogatory because it is unduly burdensome, oppressive, and harassing. Also, it requires Defendant to answer more than thirty interrogatories. Moreover, it is unduly broad and therefore irrelevant, unless limited to products in places to which this Plaintiff may have worked for the railroad and to the duration of his employment. Without knowledge of the physical location of employment, and the craft or trade which Plaintiff followed, it is simply not possible to provide answers to this interrogatory, without regard to the objections which have been made.

INTERROGATORY NO.21:

If the answer to any portion of the preceding interrogatory is in the affirmative and/or if any asbestos-containing products are identified in response to such interrogatory, state the following as to each identified product:

A. The name(s) of the railroad workers repairing, replacing or using each asbestos-containing product on Defendant's railroad(s) during Plaintiff s period of employment by Defendant;
B. A description of the physical appearance of each of the named asbestos-containing products-,

C. A detailed description of the uses of the named asbestos-containing products;
D. A detailed description of the areas on Defendant's railroad where such asbestos-containing products were installed, replaced or used.

ANSWER:

Defendant objects to this Interrogatory because it is unduly burdensome, oppressive, and harassing. Also, it requires Defendant to answer more than thirty interrogatories. Moreover, it is unduly broad and therefore irrelevant, unless limited to products in places to which this Plaintiff may have worked for the railroad and to the duration of his employment. Without knowledge of the physical location of employment, and the craft or trade which Plaintiff followed, it is simply not possible to provide answers to this interrogatory, without regard to the objections which have been made.

INTERROGATORY NO. 22:

Has Defendant or any other entity at the direction of Defendant, contracted with another entity for the acquisition, ordering, purchasing, supplying or distributing of asbestos-containing products, at any time prior to or during the time Plaintiff was employed by Defendant. If so, identify:

A. Each of Defendant's railroad components by name and number for which the asbestos containing products were ordered, purchased, supplied or distributed during the time Plaintiff was employed by Defendant-
B. The particular type of asbestos-containing products acquired;
C. The trade or brand name of each of those asbestos-containing products ordered, purchased, supplied or distributed;
D. The years such asbestos-containing products were acquired, ordered, purchased, supplied or distributed by Defendant;
E. The dates of any removal or abatement of asbestos-containing products.

ANSWER:

Defendant objects to this Interrogatory because it is unduly burdensome, oppressive, and harassing. Also, it requires Defendant to answer more than thirty interrogatories. Moreover, it is unduly broad and therefore irrelevant, unless limited to products in places to which this Plaintiff may have worked for the railroad and to the duration of his employment. Without knowledge of the physical location of employment, and the craft or trade which Plaintiff followed, it is simply not possible to provide answers to this interrogatory, without regard to the objections which have been made.

INTERROGATORY NO. 23:

If your answer to any portion of the preceding interrogatory is in the affirmative, or if any asbestos-containing products, are identified in response to that interrogatory, state the following as to each product:

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

ANSWER:

Defendant objects to this Interrogatory for the reason that it requires Defendant to answer more than 30 Interrogatories, including subsections, in violation of Rule 168(5) of the Texas Rules of Civil Procedure. Defendant further objects to this Interrogatory for the reason that it is overly broad, unduly burdensome, vague, ambiguous, and not limited to the time period during which Plaintiff worked for this Defendant. Moreover, discovery is in its infancy; Defendant presently does not know the specific areas in which Plaintiff worked during his employment with this Defendant. Without knowledge of the physical location of employment, and the craft or trade which Plaintiff followed, it is simply not possible to provide answers to this interrogatory, without regard to the objections which have been made.

INTERROGATORY NO. 24:

State whether Defendant maintained from 1950 through the present copies of invoices, shipping receipts, bills of lading, purchase orders, or other documents of a similar nature relating to the purchase or acquisition of asbestos-containing products. If so, state:

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

ANSWER:

Defendant objects to this Interrogatory because it is unduly burdensome, oppressive, and harassing. Also, it requires Defendant to answer more than thirty answers. Without waiver of this objection, it can be said that this Defendant, like other corporations, did have records of purchase of products, equipment and supplies used on its railroad; at present there is not known to have been any segregation of such purchase records solely for asbestos containing products, nor any centralization of such records, whether with regard to asbestos products or otherwise. Among other reasons, this lack of centralization of any such records is one reason by the request is unduly burdensome and harassing, especially in view of Plaintiff's refusal to answer basic discovery about the Plaintiff's work location, and craft by which he may have been employed by this Defendant.

Without waiver of the foregoing objection, this interrogatory will be supplemented if responsive information not subject to any privilege (all of which, if any, are hereby asserted) can be found.

INTERROGATORY NO. 25:

Identify all persons, including name, address and telephone number, who provided and/or conducted or were responsible for conducting any type of safety training, during the time Plaintiff was employed by Defendant.

ANSWER:

Defendant objects to this Interrogatory because it is unduly broad in scope. Also, it requires more than thirty answers. Moreover, and without waiver of this objection, Defendant is unable to answer without knowledge as to the physical location, and craft in which this Plaintiff was allegedly employed by Defendant.

**VERIFICATION**

STATE OF TEXAS §
§
COUNTY OF TARRANT §

Before me, the undersigned authority, on this day personally appeared ROBERT T ATTRIDGE, known to me to be the person whose name is subscribed to this Affidavit and having been duly sworn, upon his oath deposes and says:

> "My name is ROBERT T. ATTRIDGE. I am over eighteen (18) years of age and am fully competent to make this Affidavit. I am the DIRECTOR OF OCCUPATIONAL CLAIMS for The Burlington Northern and Santa Fe Railway Company. While there is no one person who has knowledge of each and every fact herein, however, these answers were compiled through a concerted effort of employees, counsel, and records. I do hereby swear, that they are true and correct."

Further, Affiant sayeth not.

ROBERT T. ATTRIDGE
AFFIANT

Subscribed and sworn to before me on this the 22nd day of August, 1997, to certify which witness my hand and seal of office.

Rosann Reynolds
Notary Public in and for the
State of Texas

My Notary Seal Expires: 12/11/99

ROSANN REYNOLDS
Notary Public
STATE OF TEXAS
My Comm. Exp. 12/11/99