

NO. 12540*BH00

EDWARD J. LAMBERT

VS.

PROKO INDUSTRIES, INC. , ET AL

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IN THE DISTRICT COURT OF

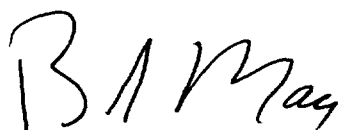
BRAZORIA COUNTY, TEXAS

23RD JUDICIAL DISTRICT

**DEFENDANT, INTERNATIONAL PAPER COMPANY SUCCESSOR TO
CHAMPION INTERNATIONAL CORPORATION'S (SUED IN THIS
LAWSUIT AS CHAMPION INTERNATIONAL CORPORATION)
AMENDED RESPONSE AND OBJECTIONS TO PLAINTIFF'S
REQUEST FOR PRODUCTION NO. 2**

Pursuant to Rules 196, 197, and 198 of the Texas Rules of Civil Procedure, subject to and without waiving Defendant's Motion to Transfer Venue, Defendant, INTERNATIONAL PAPER COMPANY SUCCESSOR TO CHAMPION INTERNATIONAL CORPORATION (sued in this case as Champion International Corporation) ("Champion") hereby files this Amended Response and Objections to Plaintiff's Request for Production No. 2.

TEKELL, BOOK, MATTHEWS & LIMMER L.L.P.

By: 

C. Robert Mace

State Bar No. 12771300

4300 One Houston Center

1221 McKinney

Houston, Texas 77010

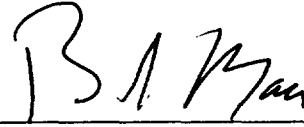
Telephone: 713-222-9542

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Counsel for Defendant, INTERNATIONAL PAPER
COMPANY SUCCESSOR TO CHAMPION INTERNATIONAL
CORPORATION (sued in this case as Champion
International Corporation)

CERTIFICATE OF SERVICE

The foregoing Amended Response to Request for Production was served on all counsel of record according to the Texas Rules of Civil Procedure on this the 5th day of October, 2001.

A handwritten signature in black ink, appearing to read "C. Robert Mace", is written above a horizontal line.

C. Robert Mace

**GENERAL REMARKS APPLICABLE TO
CHAMPION INTERNATIONAL CORPORATION'S ANSWERS TO
PLAINTIFFS' FIRST SET OF INTERROGATORIES,
REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION**

Champion sold the Pasadena Mill to Simpson Pasadena Paper Company ("Simpson") on January 31, 1987; thus, Champion no longer owns the facility and does not have possession, custody, or control over that facility's documents or personnel. The plaintiff alleges in his First set of Interrogatories, Request for Production, and Requests for Admission that the "years at issue" are 1939 to 1965. The plaintiff testified in his deposition, which Champion was not given notice of and therefore was not present at, that he allegedly worked at the Pasadena Mill less than a month and a half out of his total work life history. The plaintiff further testified that his alleged time at the Pasadena Mill "was about the smallest amount of work [plaintiff] ever did on any of the plants." Due to the length of time that has passed since the plaintiff's alleged work at the Pasadena Mill, and due to the plaintiff's failure to assert when and where the plaintiff allegedly worked at the Pasadena Mill, locating documents, information, and witnesses relevant to the plaintiff's allegations and discovery is a time-consuming, expensive, difficult, and in some circumstances, impossible task. Further, pursuant to applicable document retention policies and due to the passage of at least thirty-five years (based on plaintiff's "years at issue"), many of the documents are no longer available. Based on the limited amount of information and documents concerning the plaintiff's alleged work at Champion provided by the plaintiff in discovery to date, it is extremely difficult for Champion to provide answers and responses to most, if not all, of Plaintiff's First Set of Interrogatories, Requests for Production and Requests for Admission with respect to the Pasadena Mill. To the extent that Champion has been able to locate information and/or documents responsive to this discovery, Champion will respond accordingly.

**GENERAL OBJECTIONS APPLICABLE TO
PLAINTIFFS' FIRST SET OF INTERROGATORIES,
REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION**

1. Champion objects to each Interrogatory, Request for Production, and Requests for Admission that is not specifically limited to the time frame that Edward J. Lambert (the "plaintiff") alleges to have worked at the Pasadena Mill . Although plaintiff's deposition was taken on September 6 and 8, 2000, Champion received no notice of the deposition and therefore was not present at the deposition to ask appropriate questions. Thus, to date, Champion has not had a chance to depose the plaintiff to obtain the specific dates, times, locations, and employment history pertaining to the plaintiff's alleged work at the Pasadena Mill . Any Interrogatory, Request for Production and Request for Admission not limited to the specific time frame that the plaintiff allegedly worked at the Pasadena Mill is overly broad, burdensome, not relevant, harassing, and not reasonably calculated to lead to the discovery of admissible evidence.
2. Champion objects to each Interrogatory, Request for Production, and Requests for Admission that relates to Champion's knowledge after January 31, 1987, the date Champion sold the Pasadena Mill to Simpson. Any Interrogatory, Request for Production, and Request for Admission dealing with events after January 31, 1987 is overly broad, burdensome, harassing, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.
3. Champion objects to Plaintiff's "Definitions" and "Instructions" sections of Plaintiff's First set of Interrogatories, Request for Production and Requests for Admission to the extent such "Definitions" and "Instructions" seek to change, alter, expand or modify the Texas Rules of Civil Procedure, in particular Rules 192, 193, 196, 197, and 198. Further, defendant objects because certain of the "Definitions" and "Instructions" are vague, ambiguous, overly broad, unduly burdensome and change the ordinary and common meanings of words. Defendant objects to this discovery being directed to any entity other than Defendant, Champion International Corporation, as being outside the scope of the Texas Rules of Civil Procedure. Defendant will respond to the plaintiff's discovery pursuant to the Texas Rules of Civil Procedure.
4. Champion objects to each Interrogatory, Request for Production, and Requests for Admission that relates to facilities other than the Pasadena Mill. Plaintiff testified in his deposition, which Champion received no notice of and therefore was not present at, that the only relevant Champion facility in this case is the Pasadena Mill. Champion sold the Pasadena Paper Company to Simpson on January 31, 1987. Each Interrogatory, Request for Production, and Request for Admission that inquires about facilities other than the Pasadena Mill is overly broad, burdensome, harassing, irrelevant, and not reasonably calculated to lead to discovery of admissible evidence.

5. Champion objects to each Interrogatory, Request for Production, and Requests for Admission as burdensome and harassing because many, if not most, documents relevant to the specific time that plaintiff allegedly worked on the Champion premises are unavailable to Champion pursuant to Champion's document retention program. Moreover, Champion no longer owns the Pasadena Mill and does not have possession, custody, or control over that facility's documents or personnel. To the limited extent that Champion has any non-privileged and non-objectionable information or documents regarding Champion's knowledge, policies, and/or practices with respect to asbestos at the Pasadena Mill, Champion will respond with information or documents relevant to the time frame set forth in General Objection #1.
6. Champion objects to each Interrogatory, Request for Production, and Requests for Admission to the extent it calls for information or documents protected from discovery by all applicable privileges and exemptions from discovery, including, but not limited to the attorney-client, work product, consulting expert, investigation, trial preparation, physician-patient, and anticipation of litigation privileges.
7. Champion objects to each Interrogatory, Request for Production, and Requests for Admission to the extent it infers that Champion manufactured or assembled asbestos-containing products at the Pasadena Mill.
8. Champion objects to each Requests for Admission to the extent it impermissibly calls for an admission of a legal question/conclusion. *See Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.-Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal question/conclusion); *Birido v. Parker*, 842 S.W.2d 699 (Tex. App.-Tyler 1992, writ denied) (requests for admission should not be used as a tool to trap opponent).
9. Champion object to each Request for Admission to the extent it violates Texas Rule of Civil Procedure 198.
10. Champion objects to each of Plaintiff's Interrogatories that exceeds twenty-five (25) as they violate Tex.R.Civ. P. Rule 190.2 and 190.3 in that they exceed 25 written interrogatories, since each discreet part of an interrogatory is considered a separate interrogatory.
11. Champion objects to each of Plaintiff's Request for Production to the extend it does not describe the documents with reasonable particularity.
12. Champion objects to each of Plaintiff's Interrogatories, Request for Production, and Requests for Admission to the extent it exceeds the purpose, scope and intent of Texas Rules of Civil Procedure 192, 193, 196, 197, and 198.

13. Champion objects to this discovery to the extent it seeks information and/or documents which are exempted or privileged from discovery because they are trade secrets, confidential, or proprietary in nature.
14. Champion hereby incorporates each and every general objection into each of its discovery responses.

PLAINTIFFS' REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION No. 2:

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

RESPONSE:

Defendant incorporates its General Objections and the parameters established in its General Remarks. Defendant objects to this request on the grounds it is excessive, overly broad, vague, not limited to the matters made the basis of this suit, and therefore seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant objects in that Plaintiff has failed to identify the specific time period and place wherein he allegedly worked on Defendant's premises. Subject to and without waiving these objections, Defendant will supplement in accordance with the Texas Rules of Civil Procedure.

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VS.

PROKO INDUSTRIES, INC., ET AL

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IN THE DISTRICT COURT OF

BRAZORIA COUNTY, TEXAS

23RD JUDICIAL DISTRICT

CERTIFICATE OF DELIVERY OF DISCOVERY DOCUMENT

Pursuant to Local Rule, I hereby certify that a true copy of *Defendant International Paper Company Successor to Champion International Corporation's (Sued in this Lawsuit as Champion International Corporation) Amended Response and Objections to Plaintiff's Request for Production No. 2* was delivered to all known counsel of record on this 5th day of October, 2001.

Respectfully submitted,

TEKELL, BOOK, MATTHEWS & LIMMER, LLP

By: 

C. Robert Mace

State Bar No. 12771300

4300 One Houston Center

1221 McKinney

Houston, Texas 77010

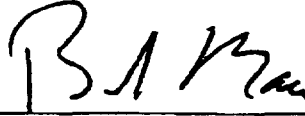
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Counsel for Defendant, INTERNATIONAL PAPER COMPANY
SUCCESSOR TO CHAMPION INTERNATIONAL CORPORATION'S
(sued in this case as CHAMPION INTERNATIONAL
CORPORATION)

CERTIFICATE OF SERVICE

I, C. Robert Mace, do hereby certify that a true and correct copy of the above and foregoing instrument was sent to Plaintiff's counsel of record, via Federal Express and certified mail, return receipt requested and to all other known counsel of record via regular U.S. Mail on this 5th day of October, 2001.

A handwritten signature in black ink, appearing to read "C. Robert Mace", written over a horizontal line.

C. ROBERT MACE