

A-134,614

FRENCH HICKS, ET AL

VS.

BETHLEHEM STEEL CORP., ET AL

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IN THE DISTRICT COURT OF

JEFFERSON COUNTY, TEXAS

58TH JUDICIAL DISTRICT

DEFENDANT ETHYL CORPORATION'S ANSWERS
TO PLAINTIFF JAMES H. ALEXANDER'S SEPTEMBER 11, 1992
INTERROGATORIES AND REQUESTS FOR PRODUCTION

To: Plaintiff, James H. Alexander, by and through his attorney of record, Joseph C. Blanks, Reaud, Morgan & Quinn, 801 Laurel Street, Beaumont, Texas 77701.

COMES NOW, Defendant ETHYL CORPORATION in the above numbered and entitled cause of action and subject to and without waiving its Motion for Protection on file herein and the objections contained therein and pursuant to the Texas Rules of Civil Procedure makes and files these Answers to Plaintiff James H. Alexander's September 11, 1992 Interrogatories and Requests for Production as follows:

SEE ATTACHED.

Respectfully submitted,

HAYS, McCONN, RICE & PICKERING

By: 

B. STEPHEN RICE

State Bar No. 16838000

400 Citicorp Center

1200 Smith Street

Houston, Texas 77002

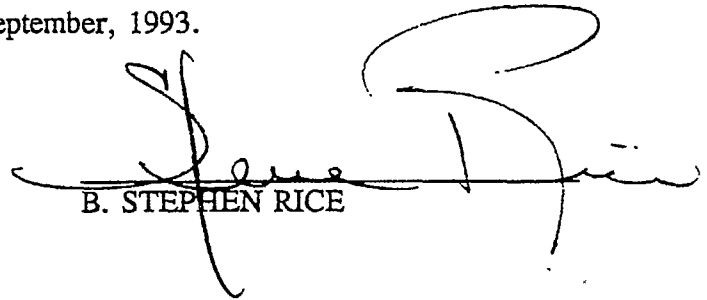
713/654-1111 (Telephone)

713/655-9212 (Facsimile)

Attorney for Defendant,
ETHYL CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was mailed certified mail, return receipt requested and/or hand delivered and/or via facsimile to all counsel of record on this the 10th day of September, 1993.


B. STEPHEN RICE

INTERROGATORIES

(1) For the years 1935 to 1985, identify who your insurance carriers (including excess carriers) were by year showing, as well, the remaining policy limits for each policy of the type listed below:

- (a) workers compensation;
- (b) general liability;
- (c) boiler; and
- (d) any other policy under which you have given notice of the claims raised in this action.

Answer:

- (a) See the Nov. 18, 1992 letter from B. Stephen Rice to Joseph C. Blanks.
- (b) See the Nov. 16, 1992 letter from B. Stephen Rice to Joseph C. Blanks. There was at least \$ 5 MM in primary insurance. Ethyl has not made a claim upon the excess carriers..
- (c) The Hartford Steam Boiler Co. provided boiler insurance for the years 1935-85.
- (d) None.

(2) Identify each of your insurers who ever inspected or caused to be made an inspection of your production facility premises for purposes of evaluating risks or hazards thereat, either for your benefit or their own.

Answer: The Travelers Indemnity Co. inspected the subject premises prior to 1985. To the best of Ethyl's current knowledge, no excess or other carrier has ever inspected or caused such an inspection prior to 1985.

(3) Identify by name and last known address and phone number each person (other than secretarial staff) who worked in your corporate or subject premises insurance department(s) or was responsible for procuring insurance from 1945 through 1985. Please give the job description and years for each.

Answer: E.L. Tomlinson, 330 South Fourth Street, Richmond, VA, 1976 through 1985 (and to the present); James I. Brierly, deceased, 1963-1976; Edward J. Kettle, Unknown, 1958-1963; James Southwick, deceased, 1955-1958. The Insurance Department was created in about 1955, according to Mr. Tomlinson's recollection.

(6) Identify each company (particularly including affiliates and related companies, be they subsidiaries, parents, divisions, or other) to which you provided services or consultations in the field of:

- a. Industrial hygiene
- b. Occupational medicine
- c. Toxicology

Please do not answer as to your response to customer inquiries for which you received no payment.

Answer: Ethyl Corporation did not provide consultations regarding dusts to other companies for a payment in the referenced fields regarding dust from 1935-1985. Ethyl Corporation did provide services and consultations to its customers, without payment, regarding lead antiknock compounds and lead, including lead dusts.

(7) Identify each rubber or tire plant you ever owned in Georgia.

Answer: None.

(4) Please state whether or not any of your facilities which conducted research, including those of your affiliates or subsidiaries, ever did:

- (a) any toxicity testing of asbestos or asbestos-containing materials;
- (b) any studies, literature review, or investigations prior to 1972 identifying asbestos as a suspected or known cause of pulmonary disease, cancer or mesothelioma; and please identify each such researcher and the documents reflecting such work.

Answer: None that this Defendant is presently aware of.

(5) Identify each company (particularly including affiliates and related companies, be they subsidiaries, parents, divisions, or other) which provided to you services or consultations in the field of:

- a. Industrial hygiene
- b. Occupational medicine
- c. Toxicology

Please do not answer as to vendor-provided services for which you made no payment, unless that person be a co-defendant in this action.

Answer: The University of Cincinnati and then the Kettering Laboratory of the University of Cincinnati provided such services from about 1924 to 1965. Melvin W. First, Sc.D., Harvard University [295 Upland Ave., Newton Highland, MA 02161, 617-432-1164] was consulted on a dust matter.

(8) Identify each company who provided loss control services, including engineering inspections or safety audits, to you or for you, or for your insureds (who are defendants or manufacturers of asbestos insulation products) in connection with insurance policies issued to or by you.

Answer: The Travelers Indemnity Co. inspected Ethyl Corporation's premises prior to 1985. However, reports of inspections prior to 1985 have not been retained.

(9) Did your answers and responses to this and previous discovery requests include information or documents known to or in the custody of the following? If yes, please identify the applicable entity.

For SHELL, Shell Development Co., including Emoryville CA
Shell research laboratory, Wood River,
Shell research laboratory, Wilmington;
Shell research laboratory, Martinez, CA

For TEXACO, Texaco Development Co.?
Texaco Research and Technical Dept. (including the Beacon Laboratories)?

For EXXON, Esso Research and Engineering (now Exxon R & E)?
Bayway refinery?
Baton Rouge refinery?
Bayonne refinery?

For ARCO, Arco Research & Engineering?

For MOBIL, Mobil Research & Development?

For GOODYEAR, Environmental Safety & Health Services?

For all defendants, any affiliate, subsidiary, parent, joint venturer, or related-company which either conducted research and development as a principal activity or which provided consultation or services to you in the field of toxicology, industrial hygiene, or occupational medicine?

If you have not already answered in response to other questions, please identify each such affiliate, subsidiary, parent, joint venturer, or related company which either conducted research and development as a principal activity or which provided consultation or services to you in the field of toxicology, industrial hygiene, or occupational medicine.

Answer: Ethyl Corporation's previous answers and responses to discovery did not include information or documents in the custody of the named entities. To the best of this defendant's knowledge, no affiliate, subsidiary, parent, joint venturer or related company conducted research and development as a principal activity or provided consultation or services to Ethyl Corporation in the field of toxicology, industrial hygiene, or occupational medicine.

(10) Identify each current or former employee of yours or employee of a supplier to you who has testified in a case known to you (excluding this case) to involve a claim for an "alleged" asbestos-related disease or injury.

Answer: To the best of this defendant's knowledge, no current or former employee of Ethyl Corporation, or of a supplier to Ethyl Corporation, has testified in a case

(excluding this case) in which Ethyl Corporation was a defendant and which involved a claim for an "alleged" asbestos-related disease or injury.

(11) Identify each non-employee expert who has testified in a case known to you (excluding this case) to involve a claim for an "alleged" asbestos-related disease or injury (but not including physicians, economists, or others who testified regarding the particulars of the respective claimant's conditions or injuries).

Answer: Ethyl Corporation does not know of any case in which Ethyl Corporation or a subsidiary was a party and which involved a claim for an "alleged" asbestos-related disease or injury in which a non-employee expert testified (other than a physician, economist or other who testified regarding the particulars of the respective claimant's conditions or injuries).

(12) Please identify each document to which you have asserted a claim of privilege in asbestos-related litigation in which you were a party.

Answer: Objection previously stated.

(13) Identify each person (other than plaintiffs in this action) who has testified that asbestos-containing products were installed or used upon the subject premises, or each insulator who has testified regarding the presence of asbestos-containing materials upon the subject premises. Alternatively, each fact witness who has testified in an asbestos-related claim filed in the counties making up the Beaumont and Tyler Divisions of the Eastern District, the Houston and Galveston Divisions of the Southern District of Texas and the Lake Charles and Baton Rouge Divisions of their respective Districts of Louisiana.

Answer: Objections previously stated. Without waiving any previous objection, Ethyl Corporation is not aware of any person (other than plaintiffs in this action) who has testified that asbestos-containing products were installed or used upon premises of Ethyl Corporation. Neither is Ethyl Corporation aware of an insulator who has testified regarding the presence of asbestos-containing materials upon Ethyl Corporation's Pasadena, Texas Plant or Baton Rouge, Louisiana Plant.

(14) Do you possess a list sufficient to identify all or some of the documents or persons inquired about in interrogatories:

- (a) 10 above?
- (b) 11 above?
- (c) 12 above?
- (d) 13 above?

Answer:

- (a) No.
- (b) No.
- (c) No.
- (d) No.

(15) Identify each person with knowledge of facts relevant to the allegation of one or more of the plaintiffs herein on your premises.

Answer: All persons named in the Designation of Witnesses in Allen I and Allen II.

(16) Identify each expert witness whom you will call to testify, and each consulting expert upon whose opinion, statements, or observations an expert does rely, stating as to each expert:

- (a) the facts upon which he bases his opinion(s);
- (b) the substance of his opinion(s);
- (c) each document or testimony upon which his testimony is based, if only in part.

Answer: Will supplement.

(17) If you contend that you are not a proper party to this litigation, or have not been properly named or served, please state the reasons why you so contend, and identify the party who should have been named in your stead, e.g., the owner of the subject premises, manufacturer, or contractor attributed to you.

Answer: See information previously provided in response to this inquiry.

(18) Identify each name by which you have been previously known, stating the years during which such other names were used.

Answer: See information previously provided in response to this inquiry.

(19) If you were born out of a merger(s) or acquisition(s), please identify each company with which you have merged or by whom you have been acquired, and each owner of a subject premise that you have acquired or merged with.

Answer: See information previously provided in response to this inquiry.

(20) Identify each plaintiff herein whom you contend was at one time your employee.

Answer:

Phillips, Ray Joseph	439-16-2902	12/18/45 - 03/1/80
McWaters, Forest Dain	437-20-3975	11/04/57 - 10/16/58

(21) If you acquired a subject premise from another person, please identify that person and state what liabilities you accepted upon the acquisition of the premise.

Answer: See information previously provided in response to this inquiry.

(22) If you disposed of a subject premise, please identify the person to whom you made such disposition and state what liabilities were accepted by that person upon the disposition of the premise.

Answer: See information previously provided in response to this inquiry.

(23) Please state your years of ownership of a subject premise, asbestos product manufacturing facility or asbestos-insulation contracting operation, and identify each asbestos mining or manufacturing company or facility owned, at least in part, by you after 1972, wherever located.

Answer: As to the Pasadena, Texas Plant, see information previously provided in response to this inquiry. With respect to the Baton Rouge, Louisiana Plant, Ethyl Corporation has owned and operated that facility since its construction in the 1930's up through the present.

(24) As to this and all prior discovery requests in this case, please state whether or not the information or documents requested are maintained in an electronic data base or retrieval system, and if so, state as to which categories of information or document such electronic data processing record is maintained, where, and by whom.

Answer: No.

(25) Please state when and where it is convenient for your counsel to produce documents herein or heretofore requested from you and as to which you either raised no objection or have had your objections overruled.

Answer: Such documents may be reviewed at the offices of Hays, McConn, Rice & Pickering at the mutual convenience of plaintiffs' counsel and that firm.

(26) Please state when, how, and where you first learned that insulators or laggers employed by you or one of your divisions or subsidiaries or who worked upon your premises claimed to have or were suspected by you of having an asbestos-related disease or condition.

Answer: In 1969 Dr. Robinson of the Baton Rouge plant assembled x-rays of insulators for review by Dr. Felson of the University of Cincinnati. Dr. Felson's June 23, 1969 letter found evidence of asbestosis in one insulator.

(27) In what year were you first named in a suit or served with a claim alleging an asbestos-related disease or injury?

Answer: The first Workers Compensation claim in which an asbestos related injury was reported was in 1976.

(28) What was the earliest year in which you were advised that an employee of yours or a worker upon your premises showed radiographic evidence or indication of:

- (a) a pneumoconiosis?
- (b) asbestosis?
- (c) asbestos-related pleural changes?
- (d) parenchymal changes suggestive of asbestosis?

Answer:

- (a) Unknown
- (b) See answer to 26
- (c) Unknown
- (d) Unknown

(29) In what year, where, how, and by whom were you first informed that dust conditions potentially injurious to human health existed, even temporarily, in one of your premises or a worksite of your employees or contractor employees?

Answer: Defendant has not acknowledged that conditions which might have existed temporarily are appropriate to determine a potentially injurious condition. See answer to interrogatory 28.

(30) Please state in detail precisely when, how, where and by what means and to what effect you attempted to measure the amount of airborne asbestos-containing dust present at:

- (a) the subject premises;
- (b) asbestos product manufacturing or fabrication facilities; and
- (c) any other premise or worksite of your which you sampled earlier than the subject premises;

prior to 1974.

Answer:

- (a) The earliest asbestos monitoring at the Pasadena Plant for which a report has been located was August 18, 1969. Another survey was performed

on September 13-14, 1972. An "Initial Survey of Asbestos Cutting in the Carpenter's Shop was conducted in 1968.

- (b) Not applicable.
- (c) The earliest asbestos monitoring at the Baton Rouge plant was August 20, 1969 and is self-explanatory as to when, where and by what means the survey was conducted. Other surveys were conducted July 8, 1970, September 28, 1972, June 26, July 27 1973, and August 6, 1973

(31) Please identify each asbestos-related personal injury litigation in which you have paid a judgment for exemplary or punitive damages, stating, as well, the amount of each such judgment actually paid by you in satisfaction of such judgement for exemplary damages.

Answer: To the best of this Defendant's current knowledge, none.

Requests for Production of Documents

(1) Please produce all promotional, marketing or sales literature, correspondence and other documents from or about insurance carriers which was meant to induce or influence your purchase of coverage, including those which reference the provision of risk or safety audits or assessments or industrial hygiene or occupational medicine consultation services.

Answer: Responsive documents if any will be produced.

(2) Please produce for inspection and copying each transcript of testimony you possess given by a current or former employee or employee of a supplier to you who has testified in a case known to you (excluding this case) to involve a claim for an "alleged" asbestos-related disease or injury.

Answer: See answer to interrogatory 10.

(3) Please produce for inspection and copying each transcript of testimony you possess given by a non-employee expert who has testified in a case known to you (excluding this case) to involve a claim for an "alleged asbestos-related disease or injury (but not including physicians, economists, or other experts who testified regarding the particulars of a respective claimant's conditions or injuries).

Answer: See answer to interrogatory 11.

(4) Please produce for inspection and copying each transcript of testimony you possess given by a person (other than plaintiffs in this action) who has testified that asbestos containing products were installed or used upon the subject premises, each insulator who has testified regarding the presence of asbestos containing materials upon the subject

premises. Alternatively, produce each transcript of the testimony of a fact witness in an asbestos-related claim filed in the counties making up the Beaumont and Divisions of the

Eastern District, the Houston and Galveston Divisions of the Southern District of Texas, and the Lake Charles and Baton Rouge Divisions of their respective Districts of Louisiana.

Answer: See answer to interrogatory 13.

(5) Please produce for inspection and copying each document to which you have asserted a claim of privilege in asbestos-related litigation in which you were a party.

Answer: See answer to interrogatory 12.

(6) Please produce for inspection and copying all document you have provided to an expert witness in this case.

Answer: Any such document will be provided through the expert witness when deposed.

(7) Please produce for inspection and copying all medical records, personnel files, and other document you possess pertaining to each plaintiff in this action.

Answer: This Defendant has no such documents other than documents that may have been produced by plaintiffs or as otherwise acquired by defense counsel as to all non-employees, past or present of Ethyl Corporation. Responsive documentation pertaining to these individuals identified in response to Interrogatory No. 20, to the extent it exists, will be made available for inspection and copying at a mutually convenient time.

(8) Please produce for inspection and copying all demonstrative aids, films, photographs, recordings, data compilations, summary exhibits, models or other tangible things seen or to be seen by an expert or used in connection with his testimony.

Answer: We will exchange properly discoverable exhibits with Plaintiffs at a mutually agreeable time.

(9) Please produce for inspection and copying all photographs or recordings you possess which portray or depict, if only in part, the installation, removal, fabrication, or cleanup of asbestos-containing material, or the proper methods for doing such work, including any depicting the subject premises, the manufacturing or production facilities of a defendant, or a worksite of your employees or contractor employees.

Answer: Any such records or films will be made available for inspection at a mutually convenient time.

VERIFICATION

STATE OF TEXAS

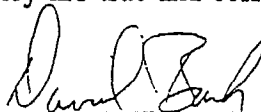
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COUNTY OF HARRIS

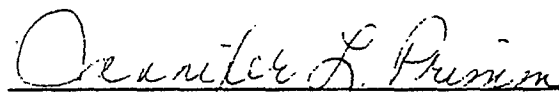
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BEFORE ME, the undersigned authority, on this day personally appeared, David Bach, who acknowledged that he is the Assistant Counsel of Ethyl Corporation and is authorized to answer on behalf of Ethyl Corporation and has read the foregoing Answers to Plaintiff's September 11, 1992 Interrogatories and states that they are true and correct.

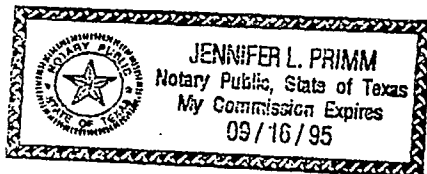


DAVID BACH

SUBSCRIBED AND SWORN to before me on this the 9th day of September of 1993.



NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS



My Commission Expires:

9-16-95