

NO. B-126,986

RUSSELL H. ALLEN, ET AL § IN THE DISTRICT COURT OF
 §
VS. § JEFFERSON COUNTY, TEXAS
 §
AMERICAN PETROFINA, ET AL § 60TH JUDICIAL COURT

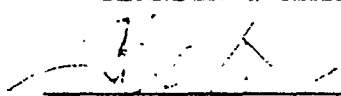
**DEFENDANT MOBIL OIL CORPORATION'S OBJECTIONS AND RESPONSES TO
PLAINTIFFS' REQUESTS FOR PRODUCTION OF DOCUMENTS
PROPOUNDED TO DEFENDANTS**

TO: Russell H. Allen, et al, Plaintiffs, by and through their
attorney of record, Herschel L. Hobson, 2190 Harrison,
Beaumont, Texas 77701

COMES NOW, Defendant Mobil Oil Corporation (including the
responses of Mobil Mining & Minerals Company and Mobil Chemical
Company, Inc.), and pursuant to Rule 167 of the Texas Rules of
Civil Procedure, files its objections and responses to Plaintiffs'
requests for production of documents dated October 22, 1990, as
follows:

Respectfully submitted,

BENCKENSTEIN, NORVELL,
BERNSEN & NATHAN



GAIL C. JENKINS
STATE BAR NO. 05201525
P.O. BOX 551
BEAUMONT, TEXAS 77704
(409) 833-4309 - phone
(409) 833-9558 - fax

ATTORNEYS FOR DEFENDANT,
MOBIL OIL CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the
foregoing document has been hand-delivered to plaintiffs' counsel
on this 23 day of November, 1990.



GAIL C. JENKINS

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REQUESTS FOR PRODUCTION

GENERAL OBJECTIONS TO REQUEST FOR PRODUCTION:

The discovery requests as drafted are contrary to and inconsistent with this Court's prior rulings which (1) limit discovery to the "subject premises" (as defined by plaintiffs to include certain specified counties within Texas only) and (2) do not require defendants to search for documents in every plant facility nationwide or worldwide, for that matter. These discovery requests further violate this Honorable Court's prior rulings because they do not limit the inquiries to asbestos-related diseases, but request all occupational injury and disease records under OSHA (the Court has previously required only the production of asbestos-related disease information, that being the only information relevant to this case). Counsel for plaintiffs was contacted by a designated defense attorney in an effort to limit this request for production to reflect this court's prior rulings, but no such agreement to limit could be reached, necessitating these objections.

Plaintiffs' request for production of OSHA inspections, document logs and field notes, memoranda and other records are not limited to the plant sites where plaintiffs in this case are alleging exposure to asbestos-containing products. Defendants assert that they are being subjected to an undue burden by requests that seek such documents from every site in the United States where plaintiffs have never worked and are not claiming exposure to asbestos-containing products. As such, this is not a request for relevant documents or for information that may lead to relevant evidence in this cause.

Further, Defendant objects to the production of documents to the extent that they relate to an ongoing investigation, or are the subject of a currently pending administrative proceeding or appeal.

REQUEST FOR PRODUCTION NO. 1:

Please produce all OSHA inspection documents which relate in any way to OSHA inspecting your plant or plants for asbestos exposure and/or any part of OSHA regulation 1910.1001 and/or the previously designated regulation for asbestos.

RESPONSE:

Objection. This request as framed is overly broad and burdensome in that it calls for information which "relate in any way", thus encompassing irrelevant information not reasonably calculated to lead to the discovery of admissible evidence in this cause. This non-specific request is also contrary to the parameters set forth for document requests by the Texas Supreme Court in Loftin v. Martin. Moreover, said request is objectionable because it calls

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for information clearly within the public domain and is not limited to the relevant time period. Subject to all objections and without waiver of same, documents responsive to this request will be provided for inspection and copying as they are kept in the usual course of business, upon reasonable notice at a mutually convenient time and date during regular business hours at the office of defendant's counsel.

REQUEST FOR PRODUCTION NO. 2:

Please produce all OSHA logs, including but not limited to the OSHA form 200, for occupational injuries and illnesses for each of this defendant's facilities.

RESPONSE:

Objection. This request as framed is not limited to information relevant to this litigation, i.e. asbestos exposure, the specific subject premises, and the relevant time period. Said request is likewise overly burdensome in scope since it calls for all OSHA logs regardless of time period, type of occupational injury and/or illness, and regardless of which facilities. Said request also calls for information within the public domain. Subject to all objections and without waiver of same, documents responsive to this request will be provided for inspection and copying as they are kept in the usual course of business, upon reasonable notice at a mutually convenient time and date during regular business hours at the office of defendant's counsel.

REQUEST FOR PRODUCTION NO. 3:

Please produce all field notes, memorandums, or other records which deal with or relate to any OSHA inspection of your facilities for asbestos under the OSHA regulations as described in Request for Production No. 1 above. This request includes, but is not limited to, air sampling results whether collected by you or by OSHA, field notes of personnel accompanying and/or observing OSHA personnel, correspondence between anyone which reports and/or mentions such a survey, correspondence which reports and/or mentions any corrective action considered by this defendant as a result of said inspections, requests for additional personnel to comply with any aspect of said OSHA regulations, requests for additional funds to comply with any of said regulations and/or any requests for additional equipment to comply with said regulations.

RESPONSE:

Objection. This request as framed is overly broad and burdensome in scope because it is not limited to the pertinent time period, and globally calls for any and all documents which "deal with or relate to any OSHA inspection of all of defendant's facilities for asbestos," thus violating the scope of discovery as pronounced in

Loftin v. Martin. Said request is also overly broad and burdensome on its face since it requests any correspondence whatsoever "between anyone which reports and/or mentions" such surveys, or "mentions" any corrective action "considered" by this defendant. Said request calls for the identification of all requests for additional personnel, funds, and equipment, thus imposing a burden that clearly outweighs any relevance to this litigation. Defendant further objects to the extent that this request may call for the production of documents exempt from discovery under the attorney-client privilege or the work-product privilege. If these types of documents are located, and if requested, they will be provided to the Court for an in camera inspection pursuant to the Texas Rules. Otherwise, subject to all objections and without waiver of same, documents responsive to this request will be provided for inspection and copying as they are kept in the usual course of business, upon reasonable notice at a mutually convenient time and date during regular business hours at the office of defendant's counsel.

REQUEST FOR PRODUCTION NO. 4:

Please produce all correspondence which mentions and/or discusses any aspect of the Walsh Healey Act and asbestos.

RESPONSE:

Defendant objects because it does not understand the relevance to this proceeding or how this discovery request will ever lead to the discovery of relevant evidence. Plaintiffs are requesting defendants to undertake a burdensome search of its records at every facility in the United States for any document that mentions or discusses the referenced act and asbestos, yet plaintiffs' request fails to specify or limit the request to any documents relevant to this proceeding. As such, said request as framed clearly violates the principles espoused in Loftin v. Martin by the Texas Supreme Court. Said request is overly broad, vague, and burdensome in that it requires this defendant to produce all correspondence which "mentions and/or discusses any aspect" of the Act and asbestos. Said request is not limited to the relevant time period at issue, not limited to the subject premises made the basis of this litigation. Defendant further objects to the extent that this request may call for the production of documents exempt from discovery under the attorney-client privilege or the work-product privilege. If these types of documents are located, and if requested, they will be provided to the Court for an in camera inspection pursuant to the Texas Rules.

REQUEST FOR PRODUCTION NO. 5:

Please produce your records which concern the preparation of comments, the compilation of comments and/or data, and/or the comments themselves which were submitted to any trade association and/or any other business entity for the purpose and/or partial purpose of making comments on or about any regulation and/or proposed regulation at any level which in any way concerned asbestos and/or exposures of humans to asbestos.

RESPONSE:

Defendant objects because it does not understand the relevance to this proceeding or how this discovery request will ever lead to the discovery of relevant evidence. Plaintiffs are requesting defendants to undertake a burdensome search of its records at every facility in the United States for any potentially responsive document that mentions the referenced topics, yet plaintiffs' request fails to specify or limit the request to any documents relevant to this proceeding. As such, said request as framed clearly violates the principles espoused in Loftin v. Martin by the Texas Supreme Court. Without such explanation, specification or limitation of these discovery requests, defendants are not able to determine whether the discovery requests will call for privileged documents or confidential business documents, so defendant must object to the extent that any such document may be included in the overly broad categories requested. Defendant must object to the extent that this request may call for the production of documents exempt from discovery under the attorney-client privilege or the work-product privilege. If these types of documents are located, and if requested, they will be provided to the Court for an in camera inspection pursuant to the Texas Rules. This request as framed is overly broad, ambiguous, and unduly burdensome in scope in that it calls for records not only dealing with comments, but the preparation and compilation of same, which were in turn submitted to any trade association and/or unidentified business entity or entities for the "purpose and/or partial purpose" of commenting on or about any "regulation and/or proposed regulation at any level which in any way concerned asbestos and/or exposures of humans to asbestos". For many reasons, this request as framed is objectionable on its face because it violates the specificity requirements espoused by the Texas Supreme Court in Loftin v. Martin. It is not limited to the relevant time periods at issue, not relevant to the asbestos exposure made the basis of this litigation, non-specific with regard to regulations, either existing or proposed, and is too global in calling for comments at "any level" which "in any way concerned" asbestos and asbestos exposure. This request is clearly a fishing expedition and is unduly burdensome because it requires the location, assimilation and gathering of any and all forms of comments submitted to any and all business entities regarding past, present or proposed regulations referring to the global topics of asbestos and/or asbestos exposure to humans.

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REQUEST FOR PRODUCTION NO. 6:

Please produce your records which show the compilation of information used to determine compliance costs with any regulation which covers asbestos and/or compliance with asbestos.

RESPONSE:

Defendant objects because it does not understand the relevance to this proceeding or how this discovery request will ever lead to the discovery of relevant evidence. Plaintiffs are requesting defendants to undertake a burdensome search of its records at every facility in the United States for any potentially responsive document that mentions the referenced topics, yet plaintiffs' request fails to specify or limit the request to any documents relevant to this proceeding. As such, said request as framed clearly violates the principles espoused in Loftin v. Martin by the Texas Supreme Court. Without such explanation, specification or limitation of these discovery requests, defendants are not able to determine whether the discovery requests will call for privileged documents or confidential business documents, so defendant must object to the extent that any such document may be included in the overly broad categories requested. Defendant must object to the extent that this request may call for the production of documents exempt from discovery under the attorney-client privilege or the work-product privilege. If these types of documents are located, and if requested, they will be provided to the Court for an in camera inspection pursuant to the Texas Rules. In addition, defendants must object because this request as framed is not limited to the relevant time period at issue, not limited to the subject premises at issue, clearly calls for irrelevant information not reasonably calculated to lead to the discovery of admissible evidence in this litigation, not limited to relevant regulations, globally includes anything to do with asbestos, and calls for the compilation of information concerning compliance costs which are irrelevant to this litigation.

REQUEST FOR PRODUCTION NO. 7:

Please produce records which show any position taken by you directly and/or through any other entity with regard to any regulation and/or proposed regulation and/or proposed change in regulation which in any way involved asbestos.

RESPONSE:

Defendant objects because it does not understand the relevance to this proceeding or how this discovery request will ever lead to the discovery of relevant evidence. Plaintiffs are requesting defendants to undertake a burdensome search of its records at every facility in the United States for any potentially responsive document that mentions the referenced topics, yet plaintiffs' request fails to specify or limit the request to any documents

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relevant to this proceeding. As such, said request as framed clearly violates the principles espoused in Loftin v. Martin by the Texas Supreme Court. Without such explanation, specification or limitation of these discovery requests, defendants are not able to determine whether the discovery requests will call for privileged documents or confidential business documents, so defendant must object to the extent that any such document may be included in the overly broad categories requested. Defendant must object to the extent that this request may call for the production of documents exempt from discovery under the attorney-client privilege or the work-product privilege. If these types of documents are located, and if requested, they will be provided to the Court for an in camera inspection pursuant to the Texas Rules. This request as framed is overly broad, ambiguous, and unduly burdensome in scope in that it calls for records not only dealing with comments, but the preparation and compilation of same, which were in turn submitted to any trade association and/or unidentified business entity or entities for the "purpose and/or partial purpose" of commenting on or about any "regulation and/or proposed regulation at any level which in any way concerned asbestos and/or exposures of humans to asbestos". For many reasons, this request as framed is objectionable on its face because it violates the specificity requirements espoused by the Texas Supreme Court in Loftin v. Martin. It is not limited to the relevant time periods at issue, not relevant to the asbestos exposure made the basis of this litigation, non-specific with regard to regulations, either existing or proposed, and is too global in calling for comments at "any level" which "in any way concerned" asbestos and asbestos exposure. This request is clearly a fishing expedition and is unduly burdensome because it requires the location, assimilation and gathering of any and all forms of comments submitted to any and all business entities regarding past, present or proposed regulations referring to the global topics of asbestos and/or asbestos exposure to humans.

BENCKENSTEIN, NORVELL, BERNSEN & NATHAN

LIPSCOMB NORVELL, JR.
DAVID ERIC BERNSEN
JERRY J. NATZAN
GERALD W. RIEDMUELLER¹
GAIL C. JENKINS¹
MICHAEL J. REVIERE
RUSSELL W. HEALD²
DAVID E. GROVE

¹ BOARD CERTIFIED
PERSONAL INJURY TRIAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

² BOARD CERTIFIED
PERSONAL INJURY & CIVIL TRIAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

³ LICENSED IN TEXAS AND LOUISIANA

ATTORNEYS AT LAW
2815 CALDER, 8TH FLOOR
P.O. BOX 551
BEAUMONT, TEXAS 77704
TELEFAX (409) 833-9555
TELEPHONE (409) 833-4309

HOUSTON OFFICE
8 GREENWAY PLAZA, SUITE 802
HOUSTON, TEXAS 77046
TELEFAX (713) 871-1509
TELEPHONE (713) 871-8081

VIRGINIA P. FAWCETT
DONALD FRANCIS LIGHTY
PAUL A. SCHEURICH
FLOYD F. McSPADDEN, JR.
KERRY B. McKNIGHT
SCOT G. DOLLINGER
IRL I. NATHAN
ELIZABETH E. BROWN³
WAYNE E. REVACK
MICHELLE S. ENGLADE
ETHAN L. SHAW
STEPHEN R. WHALEN

JOHN H. BENCKENSTEIN
OF COUNSEL
P.O. BOX 669

November 26, 1990

In Re: No. B-126,986; Russell H. Allen, et al vs. American Petrofina, Inc., et al; In the District Court of Jefferson County; The 60th Judicial District of Texas; Our File No. 4499.117

Mr. John Appleman
District Clerk
P. O. Box 3707
Beaumont, Texas 77704

HAND-DELIVERY

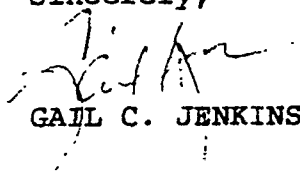
Dear Mr. Appleman:

Enclosed please find the following pleading which I would appreciate your filing in the above numbered and styled cause of action:

DEFENDANT MOBIL OIL CORPORATION'S OBJECTIONS AND
RESPONSES TO PLAINTIFFS' REQUESTS FOR PRODUCTION
OF DOCUMENTS PROPOUNDED TO DEFENDANTS

I would also appreciate your marking the file date on the extra copy of this letter and returning same to me.

Sincerely,


GAIL C. JENKINS

GCJ:pjd
Enclosure
cc: Herschel L. Hobson
All Other Counsel

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