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(1922 - 1991)

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April 28, 2000

Ms. Sandra Humphrey
44th District Court Clerk
George L. Allen Sr. Courts Bldg.
Dallas, Texas 75202

Re: No. CC-08033-B; Malcom Murphy, Jr., et al. v. Owens-Corning Fiberglas, et al.; In
County Court at Law #2, Dallas County, Texas

Dear Ms. Humphrey:

With regard to the above-referenced matter, please be advised Defendant Elliot
Turbomachinery has forwarded the following documents to Plaintiff's Counsel of Record:

- (1.) Defendant Elliot Turbomachinery's Objections and Responses to Plaintiffs' *Duces
Tecum* Document Requests;
- (2.) Defendant Elliot Turbomachinery's Objections and Responses to Plaintiffs' Master
Interrogatories and Request for Production; and
- (3.) Defendant's Master Discovery Responses filed In Re: Asbestos.

Should you have any questions or comments, please do not hesitate to contact me. Thank
you for your assistance in this matter.

Sincerely yours,

David Crowe
David Crowe

cc: Mr. Ben Dubose - Baron & Budd (via certified mail & hand-delivery)

IN RE: ALL ASBESTOS-RELATED
PERSONAL INJURY OR DEATH CASES
FILED OR TO BE FILED IN DALLAS
COUNTY, TEXAS

§
§
§
§

IN THE CIVIL DISTRICT COURTS
AND COUNTY COURTS AT LAW

OF DALLAS COUNTY, TEXAS

**DEFENDANT ELLIOTT TURBOMACHINERY'S
OBJECTIONS AND RESPONSES TO PLAINTIFFS' MASTER
INTERROGATORIES AND REQUEST FOR PRODUCTION**

TO: Plaintiffs by and through their counsel, Ben K. DuBose, Esq., Baron & Budd, P.C., The
Centrum, Suite 1100, 3102 Oak Lawn Ave., Dallas, Texas 75219.

COMES NOW, ELLIOTT TURBOMACHINERY, a defendant in the above-styled and
numbered cause ("Elliott" or "Defendant") and makes and files this, its objections and
answers/responses to Plaintiffs' Master Interrogatories and Requests for Production.

Respectfully Submitted,

DeHay & Elliston, L.L.P.

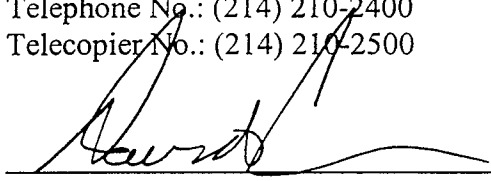
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By: 

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**ATTORNEYS FOR DEFENDANT
ELLIOTT TURBOMACHINERY**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing **Defendant Elliot Turbomachinery's Objections and Responses to Plaintiffs' Master Interrogatories and Request for Production** has been forwarded to counsel of record for Plaintiff by hand delivery and to all other known counsel of record by U.S. Mail, postage prepaid, on this the 28th day of April, 2000.

David Crowe by permissio
David W. Crowe

**GENERAL OBJECTIONS TO MASTER
INTERROGATORIES AND REQUESTS FOR PRODUCTION**

Elliott objects to the entire set of interrogatories because they require answers which exceed in number that which is permitted under the Texas Rules of Civil Procedure ("the Rules") and the Master Asbestos Case Management Order for Dallas County. Further, Elliott objects to each discovery request to the extent it seeks trade secrets or other proprietary information. These general objections are incorporated into each specific objection below as if fully set forth verbatim.

SPECIFIC OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

1. Elliott objects to all of the definitions accompanying these discovery requests as they are vague, unduly burdensome, or an attempt to impose upon Elliott a burden greater than that imposed upon a party under the Texas Rules of Civil Procedure. In the paragraphs below, Elliott identifies additional objections to specific definitions.

2. Elliott objects to the definition of the terms "Defendant," "You," "Your," "Your company," because such definitions are ambiguous, overly broad, and unduly burdensome. The definition is inaccurate. This definition purports to include defendant's "merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries, foreign subsidiaries of predecessors, and/or affiliates . . . present and former officers, directors, agents, employees, and all other persons acting or purporting to act on behalf of the corporate defendant . . ." Elliott objects that the definition is overly broad and attempts to require that third-parties and other non-parties to this lawsuit provide information in response to these discovery requests. The definition exceeds the scope of permissible discovery under the Texas Rules of Civil Procedure. Similarly, the definitions of the terms "predecessors" and "subsidiaries" are confusing, ambiguous, overly broad and are objectionable for the reasons cited above. These definitions are also objectionable to the extent they seek to impose an obligation upon Elliott for alleged acts of another. Elliott further objects to the use of "subsidiaries or predecessors" to the extent that by their use, Plaintiffs attach any legal

has been a manufacturer, marketer or distributor of "product[s] containing asbestos fibers", "asbestos-containing products" and "asbestos products" as Elliott understands the common meaning and usage of those terms. To the extent Plaintiffs suggest anything to the contrary, Elliott objects.

7. Elliott objects to the definition of the terms "design changes," and "modifications" because such is ambiguous and overly broad. Elliott objects to each discovery request containing such terms to the extent they seek trade secrets or other proprietary information.

8. Elliott objects to the definition of the terms "distribute," "distributed," "distributor," and "distribution" because such are ambiguous, overly broad, unduly burdensome, and, especially as applied to Elliott in this case, conflicts with ordinary usage in the dictionary definition of those terms. *See* objection no. 6 above.

9. Elliott objects to the definition of the terms "marketed" and "market" because such are ambiguous, overly broad, unduly burdensome, and, especially as applied to Elliott in this case, conflicts with ordinary usage in the dictionary definition of those terms. *See* objection no. 6 above.

10. Elliott objects to the definition of the terms "medical advisory capacity" because such is ambiguous, overly broad, unduly burdensome, and conflicts with ordinary usage and the dictionary definition of the term.

11. Elliott objects to the definition of the terms "trade organization" and "trade association" because such is ambiguous, overly broad, unduly burdensome, and conflicts with the ordinary usage and the dictionary definition of the term.

12. Elliott objects to the definition of the terms "manufacture" and "manufactured" because such is ambiguous, overly broad, unduly burdensome, and, especially as applied to Elliott in this case, conflicts with ordinary usage and the dictionary definition of the term. *See* objection no. 6 above.

13. Elliott objects to the definition of the terms "sales material" and "written sales

material” because such is ambiguous, overly broad, unduly burdensome, and conflicts with ordinary usage and the dictionary definition of the term.

14. Elliott objects to the definition of the terms “research” and “research department” because such is ambiguous, overly broad, unduly burdensome, and conflicts with ordinary usage and the dictionary definition of the term.

15. Elliott objects to the definition of the term “medical department” because such is ambiguous, overly broad, unduly burdensome, and conflicts with ordinary usage and the dictionary definition of the term.

16. Elliott objects to the definition of the term “industrial hygiene surveys” because such is ambiguous, overly broad, unduly burdensome, and conflicts with ordinary usage and the dictionary definition of the term.

17. Elliott objects to the definition of the terms “potential health hazards” and “health hazards” because such is ambiguous, overly broad, unduly burdensome, and conflicts with ordinary usage and the dictionary definition of the term.

18. Elliott objects to the definition of the term “testing” because such is ambiguous, overly broad, unduly burdensome, and conflicts with ordinary usage and the dictionary definition of the term.

OBJECTIONS AND RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

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

OBJECTIONS/RESPONSE:

Defendant objects that the interrogatory is overly broad to the extent that it requests the names of persons who supplied "any information used" in answering these interrogatories.

Subject to the foregoing objection, and without waiving same, the following employee of Elliott supplied information used in answering these interrogatories:

Mr. Ross A. Hackel
Elliott Company
901 North Fourth Street
Jeannette, Pennsylvania 15644-1473
(724) 527-2811

Mr. Hackel was first employed by Elliott in March, 1960. March 1960, Service Engineer; February 1961, Application Engineer; February 1964, Eastern Region Engineering Manager; July 1967, Elliott Overseas Corporation Engineering Manager; February 1972, Manager of Technical Services; October 1980, Director of Product Integrity. Recently semi-retired.

INTERROGATORY NO. 2:

State whether or not you are a corporation. If so, state your correct 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.

RESPONSE:

Elliott Turbomachinery Co., Inc. is a Delaware Corporation. Its principal place of business is 901 North Fourth Street, Jeannette, Pennsylvania 15644. The entity authorized to accept service is CT Corporation System, 3 Gateway Center, 16th Floor, West, Pittsburgh, Pennsylvania 15222. Elliott was qualified to do business in Texas on December 6, 1989. The registered agent for service in Texas is CT Corporation, 350 N. St. Paul St., Dallas, Texas 75201.

INTERROGATORY NO. 3:

Has Defendant or any of its predecessor or subsidiary companies at any time engaged in the mining and subsequent sale of material containing asbestos fibers? If so, identify the location of the mine(s), the years of its operation, the type of asbestos mined and whether you sold any asbestos to any Defendants in the Dallas County asbestos litigation.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott has never engaged in the mining and subsequent sale of "material containing asbestos fibers".

INTERROGATORY NO. 4:

Identify by name each product containing asbestos fibers that Defendant or any of its predecessor or subsidiary companies at any time manufactured or sold.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott is a manufacturer of turbomachinery and related products. Elliott never "manufactured" products containing asbestos as it understands the common usage of that term. However, to the extent Elliott may be considered to have been a "manufacturer" of asbestos-containing products by virtue of having incorporated purchased asbestos-containing insulation, gaskets, packing and similar materials manufactured by others as minor components into some of its turbomachinery and related products (Elliott should not, however, be considered a "manufacturer" in this sense), Elliott answers: turbines, compressors, turbochargers, ejectors, heaters, deaerators, condensers, and strainers.

INTERROGATORY NO. 5:

Identify by name each product containing asbestos fibers that Defendant or any of its predecessor or subsidiary companies at any time marketed or sold.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott is a manufacturer of turbomachinery and related products. Elliott never "marketed" products containing asbestos as it understands the common usage of that term. However, to the extent Elliott may be considered to

have been a "marketer" of asbestos-containing products by virtue of having incorporated purchased asbestos-containing insulation, gaskets, packing and similar materials manufactured by others as minor components into some of its turbomachinery and related products (Elliott should not, however, be considered a "marketer" in this sense), Elliott answers: turbines, compressors, turbochargers, ejectors, heaters, deaerators, condensers, and strainers.

INTERROGATORY NO. 6:

If the answer to one or more of the last three interrogatories is in the affirmative or lists any products, state as to each named product the following:

- A. As to each product, state whether such product was mined manufactured, marketed, and/or sold.
- B. The names of the companies mining, manufacturing, marketing, and/or selling each product mined, manufactured, marketed, and/or sold.
- C. The trade or brand of each of those products mined, manufactured, marketed and/or sold.
- D. The date each of the named products was placed on the market.
- E. A description of the physical (chemical) composition of each of the named products, including the type of asbestos contained in the product and the percentage of asbestos put in each product.
- F. The date each of the products was removed from the market and no longer sold or distributed and the reason or reasons therefor.
- G. The date asbestos was removed from such products, if ever, and the reasons therefor.
- H. A description of the physical appearance of each of the named products.
- I. A detailed description of the intended uses of the named products.
- J. Identify the last year that you sold each asbestos-containing product.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Further, Elliott objects that the detailed information sought in the interrogatory is unduly burdensome.

Subject to the foregoing objections, and without waiving same, Elliott answers that it is not a "manufacturer" or "marketer" of asbestos-containing products as it understands the common usage

INTERROGATORY NO. 8:

Before distributing, selling, or placing the products listed in your responses to Interrogatory Nos. 3-6 into the streams of commerce, were any tests conducted to determine potential health hazards involved in the use of, or exposure to, the materials such as asbestos, contained in those products? If the answer is affirmative, state:

- A. The names of the products tested and the date of each test.
- B. The name, address, and job title of each person conducting the tests or involved with conducting the tests.
- C. The results of the tests.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Moreover, Elliott objects to the phrase "were any tests conducted to determine potential health hazards involved in the use of, or exposure to, the materials such as asbestos, contained in those products" because such is ambiguous and overly broad.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has conducted no tests to determine whether the minimal amounts of asbestos, if any, utilized in some of its turbomachinery and related products may pose "health hazards".

INTERROGATORY NO. 9:

Do any documents, including but not limited to written memoranda, specifications, recommendations, blueprints, or other written materials of any kind or character, relating to the testing of the products referred to in Interrogatory No. 6 now exist? If so state:

- A. A description of each such document.
- B. The name, address, and job title of each person who currently has possession of each document, and where it is presently located.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Moreover, Elliott objects to the interrogatory because it would be unduly burdensome to answer.

Subject to the foregoing objections, and without waiving same, Elliott answers: not applicable.

INTERROGATORY NO. 10:

Did Defendant or any of its predecessor or subsidiary companies make any design changes or modifications as a result of those tests describes in responses to Interrogatory No. 8? If the answer is affirmative, state:

- A. The trade names of the products changed.
- B. The nature of the changes made and the date of such changes or modifications.
- C. The name, address, and job title of each person responsible for having caused a change to be made, or having made a change or modification.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Elliott objects to providing trade secrets or other proprietary information.

Subject to the foregoing objections, and without waiving same, Elliott answers: not applicable.

INTERROGATORY NO. 11:

After releasing the products listed in Interrogatory No. 6 to the public, were any tests conducted on them to determine potential health hazards resulting from the use of or exposure to the materials, such as asbestos, contained in those products? If the answer is affirmative, state:

- A. The names of the products tested and the dates of such tests.
- B. The name, address, and job title of each person who conducted those tests.
- C. The results of those tests.
- D. Whether, as a result of the tests, any products were removed from the market.
- E. The names of all products removed from the market as a result of these 0 tests.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Moreover, Elliott objects to the phrase "were any tests conducted to determine potential health hazards involved in the use of, or exposure to, the materials such as asbestos, contained in those products" because such is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence. Elliott objects to providing trade secret or other proprietary information.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has conducted no tests to determine whether the minimal amounts of asbestos, if any, utilized in some of its turbomachinery and related products may pose "health hazards".

INTERROGATORY NO. 12:

Do any documents, including but not limited to written memoranda, specifications, recommendations, blueprints, or other written materials of any kind or character, relating to the potential health hazards of the products referred to in Interrogatory No. 6 now exist? If so state:

- A. The name of the product.
- B. A description of each document and how it relates to each product.
- C. The name, address, and job title of each person who currently has possession of each document, and where it is presently located.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Moreover, Elliott objects to the phrase "relating to potential health hazards" because such is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence. Elliott objects to providing trade secret or other proprietary information.

Elliott objects to this interrogatory on the basis that it calls for a description of documents that would invade the attorney/client and/or work product privileges.

INTERROGATORY NO. 13:

Did Defendant or any of its subsidiary companies make any design changes as a result of the tests discussed in your response to Interrogatories No. 8 or 11? If the answer is affirmative, state:

- A. The names of the product. Changed or modified.
- B. The name, address, and job title of each person responsible for having made a change or modification.
- C. The nature of the hazard or defect which resulted in such change or modification.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Elliott objects to providing trade secret or other proprietary information.

Subject to the foregoing objections, and without waiving same, Elliott answers: not applicable.

INTERROGATORY No. 14:

Has Defendant or any of its predecessor or subsidiary companies at any time published or distributed any printed material, including brochures, pamphlets, catalogs, packaging or other written material of any kind or character containing any warnings concerning the possibility of injury resulting from the use of the asbestos-containing products listed in Interrogatory No. 6? If so, state:

- A. The names of each relevant product.
- B. The exact wording of each warning statement on each printed material.
- C. A description of the printed material other than the warning statement.
- D. The method used to distribute the warning to persons likely to use the product.
- E. The date each warning was first issued, distributed, or placed on packaging.
- F. The name, address, and job title of each person responsible for having drafted or issued the warning.
- G. The current location of any such printed material and the custodian of thereof.
- H. The form in which such literature or printed material can be accessed, i.e., the manner in which such material is indexed or stored.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers: no.

INTERROGATORY NO. 15:

Before 1970, had you received notice that any individual or individuals, other than those Plaintiffs who have filed personal injury actions in Dallas County, Texas, is or are claiming or has or have claimed an injury as a result of using asbestos products manufactured and/or sold by your company or any of its predecessors or subsidiaries before 1970? 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.
- E. The name and address of each attorney who represents 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.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Moreover, Elliott objects that the interrogatory is not limited to matters at issue in this lawsuit, nor is it limited to a relevant time period prior to the incidents complained in plaintiffs' petition, and, further objects that the interrogatory is not limited to information regarding an exposure similar to the type alleged in this lawsuit. Elliott objects to the phrase "is or are claiming or have claimed an injury . . ." because such is ambiguous and overly broad. Moreover, the identities of individuals who may have claimed an injury is not relevant to the subject matter of the pending action nor is it calculated to lead to the discovery of admissible evidence.

Subject to the foregoing objections, and without waiving same, Elliott answers: no.

INTERROGATORY NO. 16:

Were your asbestos products distributed, marketed, packaged, labeled and/or sold by companies other than your own? If the answer is affirmative, list the names and addresses of each of those companies, and the products in question.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory assumes facts not in evidence and is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has never mined, manufactured, marketed, sold or distributed "asbestos products" as it understands the meaning of that term. Elliott is a manufacturer of turbomachinery and related equipment, some of which in the past may have contained minor asbestos-containing components, including packing, gaskets and/or sealants. That established, Elliott answers: no.

INTERROGATORY NO. 17:

Did you or any of your predecessors, successors, or subsidiaries have any distributors or sales representatives of asbestos products in the States of Alabama, Florida, Mississippi, Oregon, Washington, Georgia, Tennessee, Texas and Virginia? If so, state:

- A. The name and address of each such distributor or sales representatives.
- B. The years in which such company or person distributed, marketed, or sold your products.
- C. What products were distributed, marketed, or sold and in what years.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Similarly, Elliott objects that the areas inquired about are not relevant to the matters in dispute in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has never mined, manufactured, marketed, sold or distributed "asbestos products" as it understands the meaning of those terms. Elliott is a manufacturer of turbomachinery and related equipment, some of which in the past may have contained minor asbestos-containing components, including packing, gaskets and/or sealants. That established, Elliott answers that its own sales force has

historically sold most of its products. Some products, such as tube tools (which never contained any asbestos components) were, at times, sold through distributors and/or sales representatives. Elliott does not maintain historical records for these distributors and/or sales representatives.

INTERROGATORY NO. 18:

List each employee (including only physicians and/or hygienists) who has acted in a medical advisory capacity to your company at any time during the past 40 years, including, but not limited to, physicians and industrial hygienists, and the current address, telephone number and job title of each of those individuals and who has, had or may have had any knowledge regarding the hazards of asbestos.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is overly broad, burdensome, not reasonably limited in time or scope, and is not reasonably calculated to lead to the discovery of admissible evidence. The request objectionable because it is not limited to employees specifically charged with advisory on medical or industrial hygiene issues related to the product, if any, at issue in this case.

Subject to the foregoing objections, Elliott answers that since 1989 Mr. Robert Leyshock, Manager of Environment & Industrial Hygiene, 901 North Fourth Street, Jeannette, Pennsylvania 15644-1473, has worked as Elliott's industrial hygienist. Prior to 1989 Elliott did not employ an industrial hygienist or anyone else acting in the type of "medical advisory capacity" referenced in this interrogatory.

INTERROGATORY NO. 19:

Does Defendant have in its possession any books, pamphlets, memoranda, or written materials of any kind or character that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings? If so, state:

- A. The name of each such publication.
- B. The date of publication and the names of the author and publisher (if any).
- C. The date received by Defendant, if known.
- D. The name, job title, and address of each person who currently has possession of each publication and its present location.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Elliott objects to this interrogatory on the basis that it calls for a description of documents that would invade the attorney/client and/or work product privileges.

Subject to the foregoing objections, and without waiving same, Elliott answers that Plaintiffs should refer to the documents labeled Bates ET-000001 and ET-000003 through ET-000004 which are attached to Elliott's Responses to Plaintiffs' *Duces Tecum* documents requests served on Elliott's corporate representative. Mr. Ross A. Hackel is the Elliott employee in custody of these documents.

INTERROGATORY NO. 20:

Has Defendant or any of its subsidiary or predecessor companies at any time been a member of any trade organization or association that published or disseminated any documents or information relating to the hazards of asbestos comprised of other manufacturers, miners, marketers, and/or sellers of asbestos products? If so, state:

- A. The name and address of each such association or organization.
- B. The dates during which Defendant or any of its subsidiaries or predecessors were members.
- C. The names and dates of any publications, minutes, or reports published, written, or disseminated by any of the named associations or organizations.
- D. Whether any of those publications are still in your possession, and if so:
 - 1. A description of the publications, including the date.
 - 2. The current location of such publications.
 - 3. The custodian of such publications.
 - 4. The method or manner in which such publications are maintained.

OBJECTIONS/RESPONSE:

Defendant objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Defendant objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers from approximately 1974 to 1987 it was a member of the National Safety Council. Elliott has also been a member of the American Society of Testing Materials for fifty years. Elliott is unaware of any publication or dissemination by either of these organizations of documents relating to the alleged hazards of asbestos. Elliott has no such documents in its possession, custody or control.

INTERROGATORY NO. 21:

Identify by name and location each plant or manufacturing facility in which the products listed in your answers to Interrogatory Nos. 3-6 were manufactured, assembled, or prepared for sale or marketing, specifying which plants produced each item, the dates each plant is or was in operation, and the time span during which each named item was produced or manufactured.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers that the vast majority of Elliott's turbomachinery and related products have been manufactured at its principle place of business in Jeannette, Pennsylvania. Elliott moved to Jeannette from Pittsburgh, Pennsylvania in 1914.

INTERROGATORY NO. 22:

Have printed sales materials been prepared by Defendant or any of its subsidiary or predecessor companies or their agents for purposes of marketing or advertising products containing asbestos? If so, state:

- A. The name, address, and job title of each person or entity who prepared such materials.
- B. The name, address, and job title of each person who currently has possession of such materials and their present location.
- C. The date the materials were prepared.
- D. The media used to disseminate the sales materials.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Elliott objects that the interrogatory would be unduly burdensome to answer, and that it calls for a description of trade secret or proprietary information.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has never mined, manufactured, marketed, sold or distributed "products containing asbestos" as it understands the meaning of that term. Elliott is a manufacturer of turbomachinery and related

equipment, some of which in the past may have contained minor asbestos-containing components, including packing, gaskets and/or sealants. That established, Elliott further answers that it has utilized printed sales materials for purposes of marketing or advertising its turbomachinery and related products. Some of these advertised products may have contained minor asbestos components, and some did not. If they desire to do so, Plaintiffs may inspect and copy these materials at Elliott's principle place of business in Jeannette, Pennsylvania at a mutually convenient date and time.

INTERROGATORY NO. 23:

Have any written or printed materials or instructions of any kind or character been prepared by Defendant or any of its subsidiary or predecessor companies or their agents indicating how asbestos products should be used and maintained? If so, state:

- A. The name, address, and job title of each person who prepared such materials or instructions or assisted in their preparation.
- B. The name, address and job title of each person who currently has possession of such materials or instructions and their present location.
- C. The dates of distribution or use and the manner in which such materials or instructions were distributed to purchasers of Defendant's products or those of its subsidiaries or predecessors.
- D. The year each such written material or instruction was prepared and disclosed to potential consumers.

OBJECTIONS/RESPONSE:

Defendant objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Defendant objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Defendant objects to the inquiry about subsidiary or predecessor companies.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has always prepared technical or instruction manuals on the use of its turbomachinery and related products. However, Elliott never prepared any such manuals specifically regarding how asbestos-containing products which may or may not have been installed as minor components of certain Elliott products should be used or maintained.

INTERROGATORY NO. 24:

Does Defendant have insurance policies that might cover the claims made by Plaintiffs in these cases? If so, list the name of each insurance carrier, the amount of initial coverage, amount of the coverage remaining at the present time, and the effective dates of each policy. (If properly answered, this Interrogatory need not be supplemented as to the remaining amount of coverage).

OBJECTIONS/RESPONSE:

For purposes of this litigation Elliott is self-insured. Elliott does have major liability insurance which might become available under certain circumstances, and it has provided its carriers with notice of this litigation. Elliott has not tendered the defense of this lawsuit to those carriers. At this time Elliott's carriers have not accepted responsibility for the claims involved in this litigation and are merely monitoring it.

INTERROGATORY NO. 25:

As to the disease asbestosis, state:

- A. The date on which Defendant became or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.
- B. How Defendant became aware of the existence of the disease.
- C. Who within the company first discovered, recognized or understood the adverse consequences or effects of the disease and/or of asbestos exposure.
- D. What information was disseminated within Defendant's comp or its subsidiary or predecessor regarding such adverse consequences or effects.
- E. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in any written form.
- F. Who is the custodian of such information.
- G. The date on which you first received knowledge or information that asbestosis was caused by inhalation of asbestos fibers.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers that on a very general level it first became aware of hazards presented by the inhalation of asbestos fibers in June, 1973. At that time, Elliott understood the hazards to apply only to personnel in its manufacturing facilities that were directly handling items such as, for example, asbestos-containing insulation materials used on piping in those facilities. Elliott did not understand the hazards to apply to asbestos-containing items such as gaskets, packing and sealants which, at that time, may have been incorporated into some of Elliot's manufactured products.

Later, in the 1980s, Elliott's vendors began suggesting alternate materials to use in place of asbestos-containing components, and began discontinuing the previously-supplied asbestos-

containing components. It was during this transition that Elliott began to understand more fully some of the specific hazards posed by asbestos, although Elliott continued to question (and still does) whether these hazards are posed by gaskets, packing and sealants, the primary asbestos-containing components which were utilized in Elliott's manufactured products.

INTERROGATORY NO. 26:

As to the disease lung cancer, state:

- A. The date on which Defendant became or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.
- B. How Defendant or its subsidiary or predecessor became aware of the disease and its relationship to asbestos fibers.
- C. Who within the company first discovered, recognized or understood the adverse consequences or effects of the disease and/or of asbestos exposure.
- D. That information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- E. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in any written form.
- F. Who is the custodian of such information.
- G. The date on which you first received knowledge or information that asbestosis was caused by inhalation of asbestos fibers.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, please see Elliott's answer to Interrogatory No. 25.

INTERROGATORY NO. 27:

As to the pleural disease, pleural thickening or pleural plaques, state:

- A. The date on which Defendant became or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.

- B. How Defendant or its subsidiary or predecessor became aware of the disease and its relationship to asbestos fibers.
- C. Who within the company first discovered, recognized or understood the adverse consequences or effects of the disease and/or of asbestos exposure.
- D. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- E. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in any written form.
- F. Who is the custodian of such information.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, please see Elliott's answer to Interrogatory No. 25.

INTERROGATORY NO. 28:

As to the disease mesothelioma, state:

- A. The date on which Defendant became or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.
- B. The date on which Defendant first suspected that mesothelioma was caused by inhalation of asbestos fibers
- C. How Defendant or its subsidiary or predecessor became aware of the disease and its relationship to asbestos fibers.
- D. Who within the company first discovered, recognized or understood the adverse consequences or effects of the disease and/or of asbestos exposure.
- E. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- F. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in any written form.
- G. Who is the custodian of such information.

H. Whether Defendant agrees that there is no known medical cure for mesothelioma.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Defendant objects to the inquiry about subsidiary or predecessor companies.

Subject to the foregoing objections, and without waiving same, please see Elliott's answer to Interrogatory No. 25.

INTERROGATORY NO. 29:

As to gastrointestinal cancer, laryngeal cancer, pharyngeal cancer or lymphatic cancer, state:

- A. The type of cancer and the date on which Defendant became or its subsidiary or predecessor first learned that such diseases were caused by inhalation of asbestos fibers by humans.
- B. What cancer has the Defendant or its subsidiary or predecessor become aware can be caused by exposure to asbestos fibers?
- C. The date on which Defendant first suspected that mesothelioma was caused by inhalation of asbestos fibers
- D. Who within the company first discovered, recognized or understood the adverse consequences or effects of the disease and/or of asbestos exposure.
- E. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.
- F. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in any written form.
- G. Who is the custodian of such information.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, please see Elliott's answer to Interrogatory No. 25.

INTERROGATORY NO. 30:

Does Defendant contend that asbestos products can be manufactured or designed so as to eliminate all potential health hazards to persons working with or exposed to them? If the answer is affirmative, explain in detail, and attach any studies or surveys on which this answer is based.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Furthermore, this interrogatory is objectionable to the extent it calls for a medical opinion from a non-medical source, and calls for expert testimony regarding product design issues.

INTERROGATORY NO. 31:

Describe in detail the types of packages or packaging which Defendant or any of its subsidiary or predecessor companies used for asbestos material or products, listing the dates each type of package was used, a physical description of each type of package, and providing a description of any printed material or trademarks that appeared thereon.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Elliott objects that this interrogatory would be unduly burdensome to answer.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has not and does not mine, manufacture, market, sell or distribute asbestos-containing products as it understands the meaning of those terms. Elliott is a manufacturer of turbomachinery and related equipment, some of which in the past may have contained minor asbestos-containing components. Elliott's turbomachinery and related products, many of which are custom ordered and designed, vary greatly in size and shape. For this reason, after Elliott's products are manufactured and painted they are typically custom crated and shipped out. There is no standard type or set of Elliott packaging which can be described in the context of answering this interrogatory.

INTERROGATORY NO. 32:

Has Defendant or any of its subsidiary or predecessor companies at any time entered into a "rebranding" agreement with any other company, either as buyer or seller, concerning asbestos materials or asbestos products? If so, state, as to each such agreement:

Product

Manufacturer

Service Sheet & Insulation

Johns Manville

Compressed Asbestos Sheet

Crane Packing Company

Compressed Asbestos Sheet

Garlock

Wizard Sheet

U.S. Rubber Company

Velbestos

Vellomoid Company

Braided Asbestos Packing

Crane Packing Company

Turbo 50 & Plastic Gasket

Anchor Packing Company

Flexitallic Gaskets

Flexitallic, Inc.

Gaskets

Richard Klinger, Inc.

INTERROGATORY NO. 34:

Does Defendant or any of its subsidiaries or predecessor currently have possession of any writings or contracts on those rebranding agreements set forth in the answer to Interrogatory No. 32? If the answer is affirmative, state:

- A. The name, address, and job title of each person having custody of each of those documents and their current location.
- B. A brief description of each such document, including the dates and the parties signatory.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers: not applicable.

INTERROGATORY NO. 35:

Prior to 1968, did any person file a claim against Worker's Compensation carrier covering Defendant or any of its subsidiaries or predecessors alleging that he/she contracted a disease from inhaling asbestos fiber? If so, provide:

- A. A list of the claims, including each claimant's name, address and the date each claim was filed, and including the caption and jurisdiction of the claim.
- B. The disease alleged in each such claim.
- C. A brief summary of the disposition of each such claim.
- D. The name, address and title of the person having custody of the records pertaining to each such claim.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers: no.

INTERROGATORY NO. 36:

Did defendant or any of its subsidiaries or predecessors maintain written minutes of corporate meetings, either board of directors, departmental, or otherwise, which reflect discussions pertaining to any subject matter related to asbestos, asbestos health hazards or asbestos products? If so, for each such set of minutes, state:

- A. The dates of each such meeting.
- B. The general subject matter discussed at each meeting.
- C. Who was in attendance at each meeting.
- D. Where by whom the written minutes are presently maintained.
- E. By whom the minutes were taken and put into final format.
- F. Whether the minutes were abstracted and reports disseminated to other individuals, and if so, the names and job titles of those individuals.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers: no.

INTERROGATORY NO. 37:

Do you or any of your subsidiaries, including foreign business entities, currently manufacture any products containing asbestos? If so, state:

- A. As to each product, whether such product is mined, manufactured, and/or marketed or sold.
- B. The names and addresses of the companies mining, manufacturing, marketing, and/or selling each of those products.
- C. The trade or brand name of each of those products mined, manufactured, marketed, and/or sold.
- D. The date each of the named products was placed on the market.
- E. A description of the physical (chemical) composition of each of the named products, including the type of asbestos contained in the product.
- F. A description of the physical appearance of each product and its packaging.
- G. A detailed description of the intended uses of each of the named products.
- H. Whether there are any warning labels on said products or containers regarding potential asbestos-related health hazards.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers: no.

INTERROGATORY NO. 38:

State whether you or any of your predecessors and/or subsidiaries maintain, from 1940 through the present or for any portion thereof, copies of invoices, shipping documents, bills of lading, purchase orders, or other documents of similar nature relating to the mining, manufacture, marketing, sale or distribution of asbestos 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, i.e., by state, by product, etc., and if by product, whether kept according to asbestos or non-asbestos.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers that it does not mine, manufacture, market, sell or distribute asbestos-containing products as it understands the meaning of those terms. Elliott is a manufacturer of turbomachinery and related equipment, some of which in the past may have contained minor asbestos-containing components. That established, Elliott maintains drawings on most of its turbomachinery and related products. For most turbomachinery, it has descriptive parts lists, purchase requisitions, some part orders and various other documents. Depending on the document, it may be stored in the form of a hard copy, microfiche, on computer disk, on tape, or some of each. Mr. Ross A. Hackel is the custodian of these records.

INTERROGATORY NO. 39:

May you call company representatives as witnesses at the trial of any of these cases? If so, list:

- A. The name, address, and job title of each company representative who may be called.
- B. A summary of the testimony expected to be given by each such witness.
- C. List any and all previous times that the named witnesses have either given deposition or trial testimony in an asbestos-related case, including the jurisdiction, style of the case, case number, date of testimony, and the name of the attorney taking the deposition for the Plaintiffs in that case.

OBJECTIONS/ANSWER:

Elliott objects that is not proper discovery under the Texas Rules of Civil Procedure. Further, Elliott objects to providing "a summary of the testimony expected to be given" by witnesses because such calls for speculation and invades the attorney work product. Elliott objects to the request for information in subpart C because it is overly broad, not properly limited in time or scope and is not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit.

Subject to the foregoing objections, and without waiving same, Mr. Ross A. Hackel (address, telephone number and title provided in answer to Interrogatory No. 1) is expected to testify regarding, among other things, Elliott's corporate history, the extent to which Elliott has utilized asbestos-containing products as minor components in its turbomachinery and related equipment down through the years, the limited extent, if any, to which Elliott has become aware of the alleged hazards of exposure to asbestos fibers, especially as such exposure relates to the installation, operation and maintenance of Elliott's turbomachinery and related products. Mr. Hackel is also expected to testify regarding certain specifics of Plaintiff Malcolm Murphy's allegations in this case, especially about the types of Elliott products Mr. Murphy claims to have worked on or around, and the extent, if any, to which those products would have engendered exposure to asbestos fibers given the products' design, installation requirements, and operating features. Finally, Mr. Hackel, as custodian of records for Elliott Turbomachinery, is expected to lay the necessary predicate for the admission of certain Elliott documents (including business records) into evidence.

Mr. Hackel has previously provided his deposition as Elliott's corporate representative in the following cases:

1) *Geyer v. Babcock & Wilcox v. USX Corp. et al.*; 92CV70075DT; USDC, Eastern District of Michigan, Southern Division. March 8, 1995. Plaintiff's counsel not present.

2) *Luna v. Abex Corp. et al.*; 954371; Superior Court for the State of California, County of San Francisco. April 5, 1995. Taken by Mark W. Banta of Tooker & Antz, 131 Steuart Street, San Francisco, CA 94105.

3) All Asbestos Cases presently pending before and all future cases assigned to the Hon. Robert J. Colombo, Jr., Circuit Court Judge in the Circuit Court for the County of Wayne, State of Michigan; 93-32580 ND. December 11, 1995. Taken by Gay L. Haver of Lana M. Byer & Associates, 555 Grant St., Suite 340, Pittsburgh, PA 15219.

4) *William Green, Jr. v. Asbestos Defendants*; 983721; Superior Court of California, County of San Francisco. March 22, 1999. Taken by Marjorie Foreman of Tooker & Antz, 818 Mission St., 5th Floor, San Francisco, CA 94103.

5) *Kelvin Manbodh Asbestos Litigation Series*; 324/1997 in the Territorial Court of the Virgin Islands Division of St. Croix at Kingshill. September 22, 1999. Taken by Julee Norman C.S.R. at 9B Nora Gade. P.O. Box 9968, St. Thomas, USVI 00801.

INTERROGATORY NO. 40:

Have Defendant or its subsidiaries or predecessors ever acquired through purchase, reorganization, or merger another corporation, company, or business which manufactured, sold, processed, distributed, or contracted or supplied products containing asbestos? If so, for each such entity, state:

- A. Full and correct name;
- B. Principal place of business;
- C. State of incorporation;

- D. Date of acquisition by Defendant;
- E. Whether or not the business entity was ever authorized to transact business in the State of Texas;

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers that it does not consider itself to be, or have been, in the business of manufacturing, selling, processing, distributing, or contracting or supplying "products containing asbestos". Elliott is a manufacturer of turbomachinery and related equipment, some of which in the past may or may not have contained minor asbestos-containing components. Accordingly, to the extent it may have acquired a company or companies that manufactured similar-type turbomachinery products, Elliott would not consider same to have manufactured, sold, processed, distributed, contracted or supplied "products containing asbestos" either. That established, in 1940 Elliott Company obtained a license from Dr. Alfred J. Buchi to manufacture a turbocharger. It is unknown if this particular licensed turbocharger included minor component parts that contained asbestos.

INTERROGATORY NO. 41:

Was each of your asbestos products generally expected to reach, or packaged to reach, the consumer or user, without substantial change in the condition in which it was sold? If not, with respect to any such product, explain in what way the Defendant claims its products were altered or substantially changed after sale or distribution and before reaching the user.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Elliott objects to this interrogatory as calling for a legal conclusion.

Subject to the foregoing objections, and without waiving same, Elliott answers that it does not mine, manufacture, market, sell or distribute "asbestos products" as it understands the meaning of those terms. Elliott is a manufacturer of turbomachinery and related equipment, some of which in the past may have contained minor asbestos-containing components. In addition, Elliott never sold its products to "consumers" as it understands the common usage of that term. Elliott's products have been sold primarily to refineries, chemical plants, industrial users and other types of businesses that had power houses. Elliott manufactured products were generally expected to reach the user without substantial change in the condition for which they were sold. As alluded to in answers to

interrogatories nos. 8 and 43, however, oftentimes Elliott products, particularly large turbines, were shipped to installation sites without piping, instrumentation and insulation installed. In cases where insulation was required on large, high temperature turbines, it was usual for Johns Manville to provide a separate package with all insulation materials needed to insulate the turbine. After the turbine had been set in place, aligned and piped up, it would be insulated by the installing contractor using the materials supplied by Johns Manville or others.

INTERROGATORY NO. 42:

For each asbestos-containing product identified in response to Interrogatory No. 6, identify all foreseeable users such as insulators, helpers, pipefitters, welders, mechanists, plasterers, drywall finishers, carpenters, boilermakers, shipwrights and riggers, etc. of any Defendant's asbestos-containing products.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope, not limited to the alleged exposure or product at issue in this lawsuit, and calls for a legal conclusion. Finally, the term "foreseeable users" is vague, ambiguous and overly broad.

INTERROGATORY NO. 43:

Based upon the material contents of your asbestos-containing products, the method of manufacturing, and the method of application, can such products be generally applied without liberating asbestos fibers into the air?

- A. If there is a different answer concerning different products manufactured, sold, distributed, or used by your company, then specify the different products by precise manufacturer's name and popular name.
- B. If there is a difference in your answer depending on the year or years in which a particular product was used, then specify in detail what year or years you are referring to and the specific products you are referring to and year involved.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Elliott objects to providing trade secret or other proprietary information. Elliott objects to this interrogatory to the extent it calls for an expert opinion.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has never mined, manufactured, marketed, sold or distributed "asbestos-containing products" as it understands the meaning of those terms. Elliott is a manufacturer of turbomachinery and related equipment, some of which in the past may have contained minor asbestos-containing components, including packing, gaskets and/or sealants. As shipped, these asbestos-containing materials, if any, were encapsulated in the metal on the equipment, and installation of the equipment typically would not require the materials to be disturbed. Furthermore, during the normal use and operation of the equipment the asbestos-containing material, if any, remained encapsulated such that exposure to any asbestos-containing components, if any, inside would not occur.

With regard to certain steam turbines manufactured by Elliott (large, multistage, multivalve turbine generator units built between approximately 1940 and 1980), and where it was specified that Elliott supply the insulation, Elliott would normally purchase an insulation package from Johns Manville. That insulation may or may not have contained asbestos. Elliott would receive the package from Johns Manville and ship it to the installation site unopened. Near completion of the installation the insulation package would be opened by the individuals installing the turbine (the installation contractors) and the insulation would be applied. During application of the insulation some asbestos fibers might be liberated. Once the insulation was installed metal lagging would cover it completely such that no asbestos would be exposed to the outside environment.

INTERROGATORY NO. 44:

Was it foreseeable use of your asbestos-containing products that they may have been removed, stripped, or replaced at some time after installation?

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Elliott objects that this interrogatory calls for a legal conclusion.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has never mined, manufactured, marketed, sold or distributed "asbestos-containing products" as it understands the meaning of those terms. Elliott is a manufacturer of turbomachinery and related equipment. These products, due to normal wear and tear over time, may ultimately have to be removed and replaced long after their installation.

INTERROGATORY NO. 45:

Before 1970, did you or your subsidiaries or predecessors ever arrange for any labor inspectors, insurance company inspectors or anyone from your company to go to job sites where your products were being used or installed to make or take dust level counts? If so, state when this procedure started, the purpose of such procedures, and all results of such procedures.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers: no.

INTERROGATORY NO. 46:

If Defendant performed or had performed any dust level counts, what action, based on the results, did your company take?

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Elliott objects to providing trade secret or other proprietary information.

Subject to the foregoing objections, and without waiving same, Elliott answers: not applicable.

INTERROGATORY NO. 47:

Has your company or its subsidiaries or predecessors ever conducted or caused to be conducted any studies designed to assist in minimizing or eliminating the inhalation of asbestos dust and fibers by those exposed to the use of your company's products? If so, give the following:

- A. Name of the person or firm conducting such studies;
- B. The date the studies began and the date they were completed;
- C. Any publication or other written dissemination of the results of the studies;
- D. The nature of any action to eliminate or minimize the inhalation of asbestos dust fibers;

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time

or scope and not limited to the alleged exposure or product at issue in this lawsuit. Elliott objects that the phrase "any study designed to assist in minimizing or eliminating the inhalation of asbestos dust and fibers" is vague and confusing. Similarly, the inquiry in subpart D to give "the nature of any action to eliminate or minimize the inhalation of asbestos dust fibers" is vague, confusing, and overly broad.

Subject to the foregoing objections, and without waiving same, Elliott answers: no.

INTERROGATORY NO. 48:

Does your company have, has it ever had, or have your predecessors or subsidiaries ever had, a Research Department? If so, give the year such Research Department was established, and whether or not such Research Department has operated continuously since being established. State also:

- A. The amount of time and money expended each year on research concerning asbestos or asbestos-containing products?
- B. What percentage of gross sales did your company or its predecessors spend on research concerning the health effects of asbestos?
- C. State in detail the purposes, duties, and responsibilities of such Research Department.

OBJECTIONS/ANSWER:

Defendant objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. The request is not limited to employees specifically charged with research concerning issues related to the Elliott's product, if any, at issue in this case.

Subject to the foregoing objection, and without waiving same, Elliott answers that it has had a research department for over 70 years with the purpose of developing its turbomachinery and related equipment. Elliott does not have information regarding the amount of time and money, if any, spent each year regarding research, if any, conducted on asbestos or asbestos-containing products. Elliott's research department never conducted studies regarding the health effects of asbestos.

INTERROGATORY NO. 49:

Does your company have, or has it ever had, or have your predecessors or subsidiaries ever had, a Medical Department? If so, state:

- A. The year such Medical Department was established;

- B. Whether or not such Medical Department has operated continuously since being established;
- C. The name of each director, chief, or head of your Medical Department year by year, beginning with the first year you had a Medical Director or Medical Department, and the last known address and phone number of each;
- D. State the duties and responsibilities of such Medical Department.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has never had a medical department. It has had a First Aid department for many ye The function of this department has been and is to treat any minor medical problems, such as s or abrasions, its employees may encounter in a workday.

INTERROGATORY NO. 50:

Did your company or its predecessors or subsidiaries ever place any warning directly on any of its asbestos-containing product or on their packaging. If so, identify the product(s) and year said warning was first applied.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has never mined, manufactured, marketed, sold or distributed "asbestos-containing products" as it understands the meaning of those terms. Elliott is a manufacturer of turbomachinery and related equipment, some of which in the past may have contained minor asbestos-containing components, including packing, gaskets and/or sealants. That established, Elliott has in the past and continues to provide warnings to purchasers of its turbomachinery and related equipment. These warnings concern the dangers presented by rotating equipment on its turbomachinery and related products. Elliott has never placed any warnings in or on its equipment that relate to asbestos.

INTERROGATORY NO. 51:

Did your company or its predecessors or subsidiaries ever stamp or place the name of the

company, its initials, or any identifying logo on any of its asbestos-containing products? If so, please state the name brand names of such products, a description of such stamp or logo and the dates such were placed on the referred products.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has never mined, manufactured, marketed, sold or distributed "asbestos-containing products" as it understands the meaning of those terms. Elliott is a manufacturer of turbomachinery and related equipment, some of which in the past may have contained minor asbestos-containing components, including packing, gaskets and/or sealants. That established, please refer to the document attached and labeled Bates ET-000112 for examples of trademarks Elliott has used in the past.

INTERROGATORY NO. 52:

Has your company, or your predecessors or subsidiaries, ever devised a research plan to develop, or actually developed or had developed, a product which did not contain asbestos and which could be substituted for one or more of your asbestos-containing products? If so, state the date that such research plan was begun and when such asbestos-free product was first placed on the market.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Defendant objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has never mined, manufactured, marketed, sold or distributed "asbestos-containing products" as it understands the meaning of those terms. Elliott is a manufacturer of turbomachinery and related equipment, some of which in the past may have contained minor asbestos-containing components, including packing, gaskets and/or sealants. That established, Elliott answers: no.

INTERROGATORY NO. 53:

Did your company or its predecessors or subsidiaries ever recall any products containing asbestos from the market or stream of commerce? If so, state:

A. All detail of such recalls;

- B. The name of the product recalled, including the reason for the recall and the names and current addresses of those individuals who determined that it should take place;
- C. The dates of recall;
- D. The purpose for the recall.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has never mined, manufactured, marketed, sold or distributed "products containing asbestos" as it understands the meaning of those terms. Elliott is a manufacturer of turbomachinery and related equipment, some of which in the past may have contained minor asbestos-containing components, including packing, gaskets and/or sealants. That established, Elliott answers: no.

INTERROGATORY NO. 54:

Before 1970, did you ever manufacture or sell products which did not contain asbestos and which could be substituted for your asbestos-containing products? If so, state the date such asbestos-free products were first placed on the market.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Elliott objects to the term "substituted" as vague, ambiguous and overly broad.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has never mined, manufactured, marketed, sold or distributed "asbestos-containing products" as it understands the meaning of those terms. Elliott is a manufacturer of turbomachinery and related equipment, some of which in the past may have contained minor asbestos-containing components, including packing, gaskets and/or sealants. Elliott has in the past manufactured products which did not contain any asbestos components whatsoever. These products, however, were never manufactured as "substitutes" for Elliott products which may have contained minor asbestos components.

INTERROGATORY NO. 55:

Have any products identified in your response to Interrogatory Nos. 52 and 54 not performed as intended? Please list all such products that have not performed as intended.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers: not applicable.

INTERROGATORY NO. 56:

Did your company or its predecessors or subsidiaries ever make, order, or arrange for any industrial hygiene surveys regarding asbestos or asbestos-containing dust? If so, give the date of such surveys and state who, or what entity, was responsible for completion of such surveys.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers: no.

INTERROGATORY NO. 57:

As to either the threshold limit values or maximum allowable concentrations of both asbestos dust and total dust provided by the American Conference of Governmental Industrial Hygienists, state:

- A. The year in which Defendant or any predecessors or subsidiaries were first advised of such limits or concentrations;
- B. The name of the employee or official of the company receiving such advice;
- C. How Defendant received notice of such limits or concentrations.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably

calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Defendant objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers that it is unaware of having been provided either the threshold limit values or maximum allowable concentrations of both asbestos dust and total dust numbers referenced in this interrogatory.

INTERROGATORY NO. 58:

Were the threshold limit values or maximum allowable concentrations inquired about in Interrogatory No. 57 for total dust, and not asbestos dust alone?

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers: not applicable.

INTERROGATORY NO. 59:

State in detail what tests, if any, Defendant ever made with regard to the quantity, quality, or threshold limit values of asbestos dust or particles to which workers were exposed while using, working with or around, or installing your asbestos containing products.

OBJECTIONS/ANSWER:

Elliott answers that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Defendant objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers that it has never mined, manufactured, marketed, sold or distributed "asbestos-containing products" as it understands the meaning of those terms. Elliott is a manufacturer of turbomachinery and related equipment, some of which in the past may have contained minor asbestos-containing components, including packing, gaskets and/or sealants. That established, Elliott further answers: none.

INTERROGATORY NO. 60:

Please state the following with respect to each expert witness you that you may call during

trial of these cases. Please designate with specificity the expert witnesses that you will call, including:

- (a) The name, address, and job classification of each such expert witness;
- (b) The subject matter on which the expert is expected to testify;
- © The substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion;
- (d) Whether any person identified in subparagraph (a) above has provided a report or other documentation to you, and if so, identify each such document or report;
- (e) Identify all documents that you have provided to each person identified in response to subparagraph (a) above;
- (f) 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 (a) above. Alternatively, in lieu of said response, attach a copy of a resume or curriculum vitae and a list of publications to your answers.

OBJECTIONS/ANSWER:

Elliott objects to this interrogatory because it exceeds the scope of permissible discovery as to experts under the Texas Rules of Civil Procedure. Elliott objects to providing the information requested in subpart (e) because it is burdensome and the information can be obtained directly from the expert. Elliott objects to the detailed information requested in subpart (f) because it is overly broad, unlimited in time and scope, and exceeds the scope of permissible discovery as to experts.

Subject to the foregoing objections, and without waiving same, Elliott has not yet designated experts but will supplement this interrogatory in accordance with the local standing orders and the Texas Rules of Civil Procedure.

INTERROGATORY NO. 61:

Please state the name, present address and present telephone number, along with the experience and qualifications, if applicable, of each and every person, known to Defendant or to Defendant's agents, having knowledge of facts relevant to these cases involving, but not limited to:

- (a) identification of asbestos-containing products to which each and every individual Plaintiff, separate and distinct from all other Plaintiffs within the group, allegedly was exposed or facts disputing the identification of asbestos-containing products in this case.
- (b) Each and every individual Plaintiff's, separate and distinct from all other Plaintiffs within the group, alleged damages, injuries and/or facts disputing each and every Plaintiff's alleged damages and/or injuries;

- (c) the negligence of any person or entity other than Defendant which Defendant contends was a cause of each and every individual Plaintiff's, separate and distinct from all other Plaintiffs within the group, alleged injuries and/or damages;
- (d) each of Defendant's defenses enumerated in Defendant's last filed Answer in each of these cases.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and unduly burdensome, and exceeds the scope of permissible discovery under the Texas Rules of Civil Procedure. Elliott to the request that it provide information "separate and distinct" for each plaintiff. Elliott objects to the request that it state the experience and qualifications of witnesses. Subject to and without waiving the foregoing objections, defendant states:

Malcolm Lee Murphy, Jr.

Annette Murphy

William Henry Brandon Murphy

Malcolm Lee Murphy, III

1317 S.E. Second Street

Moore, Oklahoma 73160

(405) 793-1299

Mr. Ross A. Hackel

Elliott Company

901 North Fourth Street

Jeannette, Pennsylvania 15644-1473

(724) 527-2811

Tom Cumming

5500 Northwester

Oklahoma City, Oklahoma

William E. Ware, Jr.

Rockware International Corporation

Dr. Horton Hughes, Deceased

Records c/o Shawnee Medical Center & Hospital

1102 West MacArthur

Shawnee, Oklahoma

Dr. Eugene Rice, Deceased

Records c/o Shawnee Medical Center & Hospital

1102 West MacArthur

Shawnee, Oklahoma

Dr. Jerold D. Kethly
1927 North Union
Shawnee, Oklahoma 74801

Dr. Robert Zumwalt
198 East Washington
Tecumseh, Oklahoma

Plaintiff's Treating Physician and Healthcare Providers
10th Street and Eastern Street (clinic closed)
Oklahoma City, Oklahoma

Dr. James Hanlon, Retired
Records c/o John W. McCarter
900 North Porter, Suite 310
Norman, Oklahoma 73071

Plaintiff's Treating Physician and Healthcare Providers
Records c/o Mercy Health Center
4300 West Memorial
Oklahoma City, Oklahoma

Dr. Jeffrey Waltner
825 East Robinson
Norman, Oklahoma

Dr. Tom Johnson, Retired
Oklahoma City, Oklahoma

Dr. Michael Blue
500 East Robinson
Norman, Oklahoma 73071

Dr. Edward Glinski
6922 South Western
Oklahoma City, Oklahoma 73139

Plaintiff's Treating Physician and Healthcare Providers
Baxter County Regional Hospital
624 Hospital Drive
Mountain Home, Arkansas 72653

Dr. Robert Lambert
825 East Robinson
Norman, Oklahoma

Dr. Marvin Peyton
3366 Northwest Expressway, Building D
Suite 520
Oklahoma City, Oklahoma 72116

Dr. Kyle W. Toal
3366 Northwest Expressway, Building D
Suite 520
Oklahoma City, Oklahoma 72116

Dr. Muhammed Salim
900 North Porter, Suite 207
Norman, Oklahoma 73071

Dr. John W. McCarter
900 North Porter, Suite 310
Norman, Oklahoma 73071

Dr. James Rick McCurdy
500 East Robinson, Suite 2300
Norman, Oklahoma 73071

Dr. James E. Duncan
1125 Porter, Suite 300
Norman, Oklahoma 73071

Dr. Marial J. Weber
900 North Porter, Suite 109
Norman, Oklahoma 73071

Shawnee/Baxter Hospital
Records c/o Shawnee Medical Center & Hospital
1102 West MacArthur
Shawnee, Oklahoma

A.C.H. Clinic & Hospital (closed)
Records c/o Shawnee Medical Center & Hospital
1102 West MacArthur
Shawnee, Oklahoma

"Old" Mercy Hospital
Records c/o Mercy Health Center
4300 West Memorial
Oklahoma City, Oklahoma

Norman Regional Hospital
901 North Porter
Oklahoma City, Oklahoma 73071

Baxter County Regional Hospital
624 Hospital Drive
Mountain Home, Arkansas 72653

INTERROGATORY NO. 62:

Please identify documents 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.

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and exceeds the scope of permissible discovery under the Texas Rules of Civil Procedure. Further, Elliott objects to the request that it identify documents "relevant to each of defendant's enumerated defenses" because such is overly broad, not a proper discovery request, lacks the requisite specificity, and constitutes an impermissible fishing expedition.

Subject to the foregoing objections, and without waiving same, Elliott will comply with the local standing orders and the Texas Rules of Civil Procedure regarding exhibit lists.

INTERROGATORY NO 63:

When, if ever, did Defendant or any of its predecessor-in-interest first receive a copy of the article entitled "A Health Survey of Pipe Coverings Operations in Constructing Naval Vessels", published in January, 1946 in the Journal of Industrial Hygiene Toxicology, and authored by W. Fleischer and P. Drinker, et al; ("the Fleischer-Drinker Report")?

- a. Identify the name and position of the employee or officer who received same;
- b. please produce all documents generated by Defendant which discuss or in any way reference the "FleischerDrinker" study prior to 1968;
- c. please produce all documents upon which your responses above are based;
- d. please identify the name(s) and address(es) of any person(s) who can verify your above response;
- e. did Defendant ever rely on the Fleischer-Drinker Report in whole or in part as a basis that Defendant's asbestos products could be used in the workplace without risk of asbestos-related health impacts to the consumer and/or bystander;
- f. if so, please produce every document which evidences in any way that Defendant relied on the Fleischer-Drinker Report in whole or in part for the proposition stated in Interrogatory No. 63(a) above;
- g. if your answer to 63(e) is yes, when was the first date Defendant relied on the Fleischer-Drinker Report in whole or in part for the proposition stated in 63(e) above?

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit. Elliott objects that the interrogatory is unduly burdensome and inappropriate for a corporate defendant.

Subject to the foregoing objections, and without waiving same, Elliott answers that it never received this article.

INTERROGATORY NO. 64:

When, if ever, did Defendant or any of its predecessors-in-interest first receive a copy of the article entitled "A Study of Asbestos Textile Industry", published in 1938 in Public Health Bill, No. 241, U.S. Public Health Service and authored by W.C. Dreessen ("the Dreessen Report")?

- a. Identify the name and position of the employee or officer who received same;
- b. please produce all documents generated by Defendant which discuss or in any way reference the "Dreessen" study prior to 196e;
- c. please produce all documents upon which your responses above are based;
- d. please identify the name(s) and address(es) of any person(s) who can verify your above response;
- e. did Defendant ever rely on the Dreessen Report in whole or in part as a basis that Defendant's asbestos products could be used in the workplace without risk of asbestos-related health impacts to the consumer and/or bystander;
- f. if so, please produce every document which evidences in any way that Defendant relied on the Dreessen Report in whole or in part for the proposition stated in Interrogatory No. 63(a) above;
- g. if your answer to 63(e) is yes, when was the first date Defendant relied on the Dreessen Report in whole or in part for the proposition stated in 63(e) above?

OBJECTIONS/ANSWER:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The interrogatory lacks the requisite specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the interrogatory is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing objections, and without waiving same, Elliott answers that it never received this article.

OBJECTIONS/RESPONSES TO REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Please produce a true and correct copy of each photograph of each asbestos-containing product identified in answer to Interrogatory No. 4.

OBJECTIONS/RESPONSE:

Elliott objects that the request is vague, ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The request lacks the level specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the request is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.

Subject to the foregoing, please see the photograph attached hereto as Exhibit "B" and labeled Bates ET-000113.

REQUEST FOR PRODUCTION NO. 2:

Please produce any diagrams or schematics indicating, stating or detailing the existence of any of your subsidiaries, predecessors, or divisions as defined on Page 1 of these Interrogatories and Request for Production.

OBJECTIONS/RESPONSE:

Elliott objects that the interrogatory is ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence in this lawsuit. The request lacks the level specificity required by the Texas Rules of Civil Procedure and constitutes an impermissible fishing expedition. Elliott objects that the request is not properly limited in time or scope and not limited to the alleged exposure or product at issue in this lawsuit.



ELLIOTT COMPANY

A DIVISION OF CARRIER CORPORATION
Steam Turbine Department Jeannette, Pa.

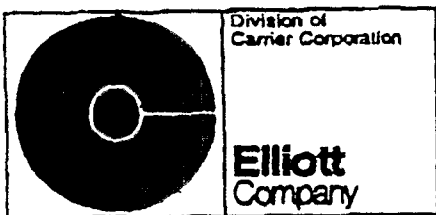


ELLIOTT COMPANY

GENERAL OFFICES: JEANNETTE, PENNSYLVANIA

PLANTS: Jeannette and Ridgway, Pa.; Springfield, Ohio

TURBINES • GENERATORS • MOTORS • COMPRESSORS • TURBOCHARGERS • EJECTORS • STRAINERS • TUBE CLEANERS



General Offices: Jeannette, Pennsylvania

Plants at: Jeannette, Pennsylvania, and Springfield, Ohio



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ELLIOTT

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Elliott Company, Division of Carrier Corporation, Subsidiary of United Technologies Corporation

