

CAUSE NO. 90-23333

IN RE: ASBESTOS CASES

* IN THE DISTRICT COURT OF
*
* HARRIS COUNTY, TEXAS
*
* MASTER ASBESTOS FILE

**DEFENDANT KELLOGG BROWN & ROOT, INC.,
F/K/A BROWN & ROOT, INC.'S OBJECTIONS AND RESPONSES
TO PLAINTIFFS' MASTER SET OF INTERROGATORIES TO DEFENDANT**

TO: Plaintiffs, by and through the counsel of record, Steve Kherkher, Williams Bailey Law Firm, L.L.P., 8441 Gulf Freeway, Suite 600, Houston, Texas 77017-5001:

COMES NOW, Kellogg Brown & Root, Inc., f/k/a Brown & Root, Inc., Defendant in the above-entitled and numbered cause, and files these its Responses to Plaintiffs' Master Interrogatories, pursuant to Rules 167 and 168 of the Texas Rules of Civil Procedure and the Houston Standing Order.

Respectfully submitted,

GODWIN & CARLTON, P.C.

By: 

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ATTORNEYS FOR DEFENDANT
KELLOGG BROWN & ROOT, INC.
F/K/A BROWN & ROOT, INC.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document was sent via federal express, to Plaintiffs' counsel and via regular mail to all other known counsel of record, on this 23rd day of February, 1999.



Paul M. Bass, III

COMMON OBJECTIONS

Each and every request for information and documents is responded to subject to the common objections set forth below. These objections are set forth here to avoid the duplication and repetition of restating them in each response.

These common objections may be specifically referred to herein for the purposes of clarity. Defendant's failure to specifically incorporate a common objection in a response, however, should not be construed as a waiver of the common objection.

1. Defendant objects to each request for information and documents to the extent it seeks information or documents protected from disclosure by the attorney-client privilege, the attorney work product privilege, and/or the party communication privilege provided for by Rule 166b, Tex. R. Civ. P. and Rule 503, Tex. R. Evid.

2. Defendant further objects to each request for information or documents to the extent that it seeks non-relevant information or documents. As used herein, all objections as to relevance shall mean that information or documents requested are irrelevant to the subject matter involved in the pending action and are not reasonably calculated to lead to the discovery of admissible evidence.

3. Defendant further objects to each request for information or documents to the extent that it seeks information or documents equally accessible to Plaintiff as to Defendant.

4. Defendant further objects to each request for information or documents to the extent that it seeks information or documents not in the possession or control of Defendant.

5. Defendant further objects in that the requests require answers in excess of the maximum allowable number of such requests in violation of the rule of limitation of interrogatory answers. *Tex. R. Civ. P. 168(5)*.

Subject to the foregoing common objection, Defendant makes and files these its Objections and Answers to Plaintiffs' Master Interrogatories and Requests for Production.

Interrogatories

1. Identify the registered name of answering defendant, as well as all prior names or predecessor entities by which defendant has existed.

ANSWER:

Prior Names: Brown & Root, Inc., Brown & Root I, Inc.; Brown & Root Marine Operators, Inc., Brown & Root Construction Company, Inc.; Brown & Root U.S.A., Inc.; Kellogg Brown & Root, Inc.

2. Identify all past and present divisions, subsidiaries or affiliated companies of the answering defendant, having any function which now or in the past engaged in any phase of mining, manufacturing, sale, supply purchase, application, installation, relabeling, processing or distribution of asbestos or asbestos-containing products. With respect to each of such divisions, subsidiaries or companies, set forth with particularity the precise relationship with the answering defendant the dates thereof, and identify the nature and extent of such functions during the relevant periods of time in which such activities have or had occurred.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Subject thereto, Brown & Root, Inc., is not, nor ever has, engaged in the mining, manufacture, or distribution of asbestos or asbestos-containing products.

3. List by brand name all of your asbestos-containing products. Your asbestos-containing products includes all products which contain any amount of asbestos manufactured, sold, designed, supplied, distributed, mined, milled, relabeled, resold, processed, applied or installed by you or for your by others. By you and yours, Plaintiffs refer to Defendant, to all your predecessors in interest, (whether, by purchase, merger, consolidation or otherwise), to all of your subsidiaries, divisions, joint ventures or affiliates in which you own or did own any proprietary interest or share. As to each product, state the following:

- (a) type of product (e.g., acoustical plaster, fireproofing, etc.);
- (b) the date the product first went into production;
- (c) the last date the product was produced;

- (d) the last date the product was sold;
- (e) all manufacturing locations;
- (f) dates of manufacture at each location;
- (g) the percentage of asbestos (state if percentage is by volume or weight,) and the dates and all reasons for any modification thereof;
- (h) the type of asbestos;
- (i) the specific source of asbestos with dates;
- (j) the color, physical characteristic, and appearance of the product;
- (k) a full and precise description of the package in which the product was sold, including, but not limited to, type of package, size, color(s), and writings thereon;
- (l) all other names under which the product as sold;
- (m) the number and dates of each patent or patent application as to the product;
- (n) if the product continued to be produced after the deletion of asbestos, all reasons why the asbestos was deleted, the identity of the person who made the decision to delete the asbestos, and the date the product was first produced without the asbestos;
- (o) if the product is no longer produced, all reasons it was discontinued, the identity of the person who made the decision to discontinue the product, the brand name of the replacement product, and the date the replacement product first went into production;
- (p) a precise description of your identifying logo or initials and the dates of including on the product;
- (q) state during what period of time such product has been associated with defendant;
- (r) identify all sales literature, including brochures, advertisement, pamphlets or other material describing such product, its uses and methods of application or installation;
- (s) identify any warning labels, inserts or other writings provided with such product and with every such printed warning, state what period of time it has or had accompanied the product, the exact working of the warning, any amendments made to the wording, where the warning was located in each product or packaging, and on what asbestos products the warning appear(ed);
- (t) geographic distribution range of each such product.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Subject thereto, Brown & Root, Inc. is not, nor ever has, engaged in the mining, manufacture, or distribution of asbestos or asbestos-containing products.

4. Did you claim your asbestos product(s) to be safe, effective and/or easy to handle? If so, identify all documents, which have made such assertions, including, but not limited to, brochures

or advertisements (radio, television or printed), and revisions thereof by publication(s) and date. Your asbestos products includes all products which contain any amount of asbestos manufactured, sold, designed, supplied, distributed, mined, milled, relabeled, resold, processed, applied or installed by you or you by others.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Subject thereto, Brown & Root, Inc. is not, nor ever has, engaged in the mining, manufacture, or distribution of asbestos or asbestos-containing products.

5. Did you specifically inform the purchaser or user of your products at the time that your product was sold, installed, used, supplied or subsequently, that your products could cause lung cancer, asbestosis, and mesothelioma? If so, identify the document containing such information by date and location.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Subject thereto, Brown & Root, Inc. is not, nor ever has, engaged in the mining, manufacture, or distribution of asbestos or asbestos-containing products.

6. Identify any and all labeling or relabelling agreements between answering Defendant and other entities, including other Defendants concerning asbestos containing products and materials.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Subject thereto, Brown & Root, Inc. is not, nor ever has, engaged in the mining, manufacture, or distribution of asbestos or asbestos-containing products. Consequently, Defendant engaged in no such agreements.

7. Have you ever mined asbestos? If so, as to each mine and type of asbestos produced there, state the following:

- (a) the location;
- (b) the dates of operation by you;
- (c) the type (e.g., chrysotile, amosite, etc.) produced;
- (d) the grade of each type of asbestos fiber produced, the percentage of each grade to the total fiber produced by year or other period, and the recommended use of the grade of fiber;
- (e) the gross annual sales in dollars and in volume[sic] for each type and grade of asbestos fiber;
- (f) a full and precise description of the package in which the asbestos fiber was sold, including, but not limited to, type of package, size, color(s), and writing thereon;
- (g) all names under which the asbestos fiber was sold;
- (h) the identity of all records reflecting the sale or transfer of said asbestos fiber;
- (i) the identity of the present custodian of photographs, of burlap bags in which the asbestos fibers was stored and/or shipped;
- (j) the address of each sales office and sales region for the sale of the asbestos fiber;
- (k) the name of each authorized distributor of the asbestos fiber produced;
- (l) the identity of each owner and operator of the mine prior to the date you first began operation of the mine, and the dates thereof, and
- (m) the identity of each owner and operator of the mine subsequent to your ceasing operation of the mine.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Subject thereto, Brown & Root, Inc. is not, nor ever has, engaged in the mining of asbestos or asbestos-containing products.

8. Is answering defendant aware of the possible connection between exposure to asbestos or asbestos products and:

- (a) Asbestosis?
- (b) Lung cancer, all cell types?
- (c) Mesothelioma?
- (d) Colon cancer?
- (e) Stomach Cancer?
- (f) Laryngeal cancer?
- (g) Cancer of the Kidney?
- (h) Cancer of the Esophagus?
- (i) Other gastrointestinal cancers?
- (j) Pneumoconiosis?

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Although Defendant does not possess the medical expertise necessary to answer, it understands that under certain circumstances -- no of which appear to exist in this case -- inhalation of certain types of asbestos fibers, if significant in intensity and duration, may cause the disease of asbestosis. Records indicate that Defendant first began to hear of the possible relationship between certain asbestos exposure and asbestosis some time after the OSHA regulations became effective. Since then Defendant also has heard allegations that under certain circumstances some asbestos exposure to some products might also be linked to the diseases of lung cancer and mesothelioma, but the scientific evidence is not clear on this.

9. If your answer to the above Interrogatory, as to any or all of its sub-parts, is affirmative, identify:

- (a) When and how defendant first learned of such connection;
- (b) If knowledge was obtained by attendance at any conference, lecture, convention, symposium or meeting, identify such meeting and provide the identity or person attending or documents, obtained;
- (c) If knowledge was obtained from medical or scientific studies, or any other published work, identify same;
- (d) If otherwise obtained, identify manner of receipt of document or communication.

ANSWER: See preceding answer.

10. With regard to any knowledge obtained subsequent to that identified in the above Interrogatory, and up until the time that you ceased to sell and/or manufacture asbestos products, identify:

- (a) All documents or other communications, oral or written, concerning the casual connection between exposure to asbestos or asbestos products and disease, and identity of person so communicating;
- (b) Did answering defendant obtain from or transmit any such information to other defendants in this case? If so, identify:
 - (1) manner of receipt or communication for each contact;
 - (2) all documents and person involved.

ANSWER: See preceding answer.

11. As to any knowledge possessed by answering defendant at any time referred to in answers to the preceding three interrogatories did you educate your employees, distributors, or purchasers about the hazards known to you and the safety precautions necessary to guard against cancer and other diseases arising from the use and handling of your asbestos products? If so identify:

- (a) When and in what manner customers, insulators, non-employee factory workers and the general public were so informed;
- (b) Documents communicating or otherwise disseminating such information;
- (c) Programs initiated or sponsored to establish or promote safety procedures, methods or usage of asbestos containing products;
- (d) Published articles or reports by employees (present or prior), including those of medical directors, scientists, engineers or other professionals;
- (e) Symposia or lectures sponsored for the benefit of asbestos workers and/or the general public.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant complied at all times with applicable state and Federal requirements regarding hazardous material training and procedures.

12. When, before 1972, and by what manner were you first aware of health hazards relating to exposure to asbestos or asbestos products for: insulators; plasterers; pipefitters; boilermakers; operators; sheet metal worker; helpers; drywall finishers; mechanics; carpenters; shipfitters; machinist and bystanders exposed to inhalers.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Subject thereto, See answer to Interrogatory number 8.

13. Did you perform, direct to be performed, finance, sponsor or receive the results of any studies or tests concerning potential health hazards involved with the use of asbestos containing materials? If so, identify such studies or tests and state:

- (a) When, where and at what intervals such studies were performed;
- (b) Were such studies in writing or reported at a later date in writing;

- (c) Were the results of such studies published or otherwise disseminated? If so, state to whom and when;
- (d) Who performed such studies;
- (e) What were the results of such studies?

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products. Subject thereto, none.

14. During the time period that you manufactured, sold, supplied, applied, distributed or installed asbestos containing products, what tests have been performed by any governmental agency, body, commission or health organization including, but not limited to, the U.S. Public Health Service, OSHA or NIOSH, in your plants or on job sites owned or controlled by you concerning: specific hazards associated with the use and handling of asbestos and asbestos products; any restrictions in use of same; requirements for medical surveillance and examinations for your workers, dust monitoring or availability of safety equipment? If such findings were made, identify:

- (a) The date or dates of such findings and by which organization or entity such findings were made;
- (b) The form in which such finding were made and, if written, the exact wording of same or location in regulation, order, bulletin, report or other writing;
- (c) What steps were taken to comply with such findings and the dates when such acts of compliance occurred;
- (d) How users of or bystanders exposed to asbestos or asbestos containing products were informed of such findings and if such information was written identifying same.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant are not manufacturers or distributors, as defined in the common vernacular, of any such products. Further, Plaintiffs have equal access to this information by request through the applicable agencies referenced in this interrogatory. Defendant refers Plaintiffs to these agencies.

15. During the time that you manufactured, sold, designed, supplied, distributed, mined, milled, relabeled, resold, processed, applied or installed asbestos containing products, did you perform, direct to be performed, finance, sponsor or receive the results of any dust monitoring tests at job sites where asbestos-containing products were being applied and/or removed? If so, state:

- (a) The date and location of the first such test;
- (b) When, where and at what intervals subsequent tests were performed;
- (c) Who performed such tests;
- (d) Where the results of such tests are maintained;
- (e) What steps were taken by you to improve results of such tests, and dates when such improvements were made.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products. Subject thereto, Defendant lacks sufficient knowledge regarding Plaintiffs' identities and claims to further identify information.

16. If your answer to the above Interrogatory is in the negative, state your reasons for not performing dust monitoring tests.

ANSWER: See preceding answer.

17. During the time that Defendant sold, manufactured, designed, supplied, distributed, mined, milled, relabeled, resold, processed, applied or installed asbestos containing products, did the Defendant ever have any inspectors or anyone from your company or hired by your company whose job it was to go to areas where your asbestos containing products were being used, removed or installed to make a dust level count? If so, state when this procedure started, the purpose of such procedure and the findings and what action, if any, was taken in response to the findings, and attach results.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products.

Subject thereto, Defendant lacks sufficient information/knowledge regarding Plaintiffs' identities and claims to further identify information.

18. During the time that Defendant manufactured, sold, designed, supplied, distributed, mined, milled, relabeled, resold, processed, applied, or installed asbestos containing products, identify any medical examination programs offered or sponsored by defendant or its insurance carrier(s) for employees of its insured handling or otherwise exposed to asbestos and asbestos products. With respect to each program; state:

- (a) Manner of communication with employees about such program;
- (b) Whether examination was mandatory or optional;
- (c) What percentage of workers permitted to undergo such examination participated;
- (d) What percentage of workers were found to have asbestosis or mesothelioma;
- (e) With respect to (d), what percentage of such workers were paid disability or workmen's compensation benefits or for whose benefit medical expenses were paid to undergo treatment for such conditions.

ANSWER: Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant lacks sufficient knowledge regarding Plaintiffs' identities and claims to properly identify such information. Further, Defendant objects to this request in that the information sought is protected from disclosure by the "zone of privacy" created by the UNITED STATES CONSTITUTION as to the participants in such programs, if any. *Whalen v. Roe*, 429 U.S. 589, 598-600, 97 S.Ct. 869, 875-77, 51 L.Ed.2d 64 (1977); *Tarrant County Hosp. Dist. v. Hughes*, 734 S.W.2d 675, 679 (Tex. App.--Fort Worth 1987, no writ). As such, Defendant is not authorized to release such information and records of participants in such programs, if any. Defendant will supplement as necessary after it learns Plaintiffs' exposure facts and theories of liability.

19. Does the Defendant have or has it ever had, a Medical department, and/or a research department and/or an Industrial Hygiene department. If so, give the date upon when such Medical department and/or Industrial Hygiene department was established, and whether or not such department has operated continuously since being established.

- (a) Name each director, chief or head of your Medical department and/or Industrial Hygiene department year by year with the first year you had a director of such department. Give the last known address of each.
- (b) State in detail the duties, responsibilities and purpose of such department(s);
- (c) State the percentage of gross sales the Defendant expended on each such department.

ANSWER: Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Subject to these objections, Defendant lacks sufficient knowledge regarding Plaintiffs' identities, work histories, and claims to properly identify such persons. Subject thereto, not applicable as to a "medical department." However, the individual who acts in a medical advisory capacity to Defendant is Robert Conte, M.D. c/o Brown & Root, Houston, Texas.

20. Identify all asbestos related trade organizations, associations, or other entities including, but not limited to the Gypsum Association, Vermiculite Institute, Asbestos Textile Institute, Industrial Hygiene Foundation, Magnesia Insulation Manufacturers Association, National Insulation Manufacturers Association, Asbestos Information Association, National Insulation Contractors Association, Thermal Insulation Manufacturers Association, Quebec Asbestos Manufacturers Association, Quebec Asbestos Producers Association to which you have belonged or in which you have participated and as to each respective organization, identify the dates of membership or participation.

ANSWER: Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Subject to these objections, Defendant Brown & Root, Inc.'s safety department, at some time, were members of the following organizations: Associated General Contractors, Texas Safety Association, National Safety Council, and Association of Builders and Contractors.

21. Identify any documents, not currently on file in the Master Asbestos File of Harris County, either received by you from those trade organizations, associations or other entities identified in the preceding interrogatory or else submitted by you to those trade associations, organizations or other entities that relate to any relationship between asbestos exposure and disease.

ANSWER: Defendant objects to this interrogatory to the extent that it seeks information or documents protected from disclosure by the attorney-client privilege, the attorney work product privilege, and/or the party communication privilege provided for by Rule 166b, Tex. R. Civ. P. and Rule 503, Tex. R. Evid. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Subject to these objections, Defendant may have such materials but it will be necessary for Plaintiffs'

attorneys to review the volumes contained in the corporate industrial hygiene library to verify the existence of such documents.

22. Identify all agreements, oral or written, between you, any of the other defendant in this lawsuit, and/or any other organizations, associations or other entities identified in your answer to Interrogatory No. 20 and/or any medical or scientific foundations, not currently on file in the Master Asbestos File of Harris County, relating to the standardization of:

- (a) Specifications for paper or burlap bags, or other packaging to be used for the transport and/or storage of asbestos-containing products during the time that you manufactured, sold, distributed, or applied asbestos-containing products;
- (b) Warning or caution labels to be applied to asbestos products and/or their packaging, cartons, containers, or boxes during the time that you manufactured, sold, distributed, or applied asbestos-containing products;
- (c) Methods of dissemination of public relations information to defendant's purchasers, advertisers, distributors, factory workers, contractors, insulators, users, consumers of asbestos products and/or the general public pertaining to asbestos health hazards.
- (d) Safety equipment and/or protective clothing to be utilized while handling defendant's asbestos products;
- (e) Medical programs related to asbestos health hazards to be offered or sponsored by defendant.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products to which the information sought relates. Further, Defendant objects to this request in that the information sought is protected from disclosure by the "zone of privacy" created by the UNITED STATES CONSTITUTION as to the participants in such programs, if any. *Whalen v. Roe*, 429 U.S. 589, 598-600, 97 S.Ct. 869, 875-77, 51 L.Ed.2d 64 (1977); *Tarrant County Hosp. Dist. v. Hughes*, 734 S.W.2d 675, 679 (Tex. App.--Fort Worth 1987, no writ). As such, Defendant is not authorized to release such information and records of participants in such programs, if any. Subject thereto, none.

23. Did you direct to be performed, sponsor, finance or receive the results of any studies or tests performed by Saranac Lake Laboratory to the Trudeau Foundation relating to asbestos exposure and its effects upon human life? If so identify:

- (a) All documents summarizing findings or results of those studies or tests which you have in your possession or control;
- (b) All communications, oral or written, between answering defendant and Saranac personnel including, but not limited to, Gerrit W.H. Schepers, M.D. and George Wilbur Wright, M.D.;
- (c) All documents relating to Saranac studies received or submitted by you whether directly, through associated or predecessor companies, through other companies, or through trade associations, organizations or other entities;
- (d) All recommendations or findings of such studies relating to:
 - (1) adequacy or inadequacy of threshold limit values;
 - (2) substitution of materials other than asbestos.
- (e) Where document and/or communications identified in answers to (a) - (d) of this Interrogatory are maintained.

ANSWER: See preceding answer.

24. Prior to December 31, 1989, has any employee of answering Defendant ever made a claim for any asbestos related disease under the Occupational Disease or Workmen's Compensation Statute of any State? If so, state:

- (a) The date that defendant first received notice of such claim;
- (b) The total number of such claims per year received to date;
- (c) The number of such claims for which disability benefits and/or medical expenses were paid by Defendant;
- (d) Identify all persons to whom disability benefits and/or medical expenses were paid by defendant and exact medical diagnosis, disease and/or condition for which such benefits/expenses were paid.

ANSWER: Defendant lacks sufficient knowledge regarding Plaintiffs' identities, work histories, and claims to properly identify the requested information. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Further, Defendant objects to this request in that the information sought is protected from disclosure by the "zone of privacy" created by the UNITED STATES CONSTITUTION as to such claimants, if any. *Whale v. Roe*, 429 U.S. 589, 598-600, 97 S.Ct. 869, 875-77, 51 L.Ed.2d 64 (1977); *Tarrant County Hosp. Dist. v. Hughes*, 734 S.W.2d 675, 679 (Tex. App.--Fort Worth 1987, no writ). As such, Defendant is not authorized to release such information and records of participants in such programs, if

any. Subject to these objections, Defendant is unaware of such injuries as relates to the time relevant to this cause of action.

25. Identify each and every magazine or trade publication in which answering Defendant advertised its asbestos products from 1950 until the time you ceased mining, milling, selling, distributing, and/or applying asbestos containing products.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products to which the information sought relates.

26. As to the person(s) answering these interrogatories state:

- (a) Name;
- (b) Title or position with defendant;
- (c) Length of time employed by defendant; and

ANSWER: The information was assembled by employees of Brown & Root, Inc., records and files, and from personnel in the appropriate offices, departments and divisions of the corporation.

27. Have you ever sold raw asbestos fiber? If so, state the dates you were involved in the sale of raw asbestos fiber.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products to which the information sought relates.

28. State whether or not you have any information as to your relative market share regarding each of your asbestos containing products. If so, as to each year between 1940 or the time that you began mining, milling, selling, distributing and/or applying asbestos containing products until cessation of same, and with respect to each type of product, or any subdivisions thereof, provide such information or opinion as to your market share, and identify each document which provides any information to assist you in this determination. Give the same answers as to asbestos containing products in the Texas Gulf Coast area.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products to which the information sought relates.

29. Have you designated distributors of your asbestos-containing products in the State of Texas? If so, then state the name of all companies, their addresses, give the years that each was a designated distributor and the products each distributed.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products to which the information sought relates.

30. If you did not have designated distributors in the State of Texas, then state by what method sales of asbestos containing materials were made. Give the name and addresses of all of Defendant's sales offices relating to asbestos-containing products, located in the State of Texas.

ANSWER: See preceding answer.

31. Did you ever have a division or subsidiary company engaged in the contracting business of applying insulation products? If so, give the name of such division or subsidiary company, and the full address of the home office of such division or subsidiary company, and the dates such division or subsidiary company was engaged in the contracting business.

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. As worded, Defendant and/or its subsidiaries are not insulation contractors.

32. Based upon the contents of your products, the method of manufacturing, and the method of application, could or can your products be generally applied or removed without liberating asbestos fibers? Your answer may be limited to those asbestos-containing products that have been identified in any Harris County asbestos case.

- (a) If there is a different answer concerning different products manufactured, sold, distributed, or used by your company then specify the different products by 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 the year involved.
- (c) If there is a difference in your answer depending on the trade or type worker, then specify which type workers you are referring to.

ANSWER: Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant further objects to Plaintiffs' use of the term "products" without proper prior definition of such terms. Subject to these objections, Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products.

33. Was it anticipated that your asbestos containing products may have to be removed, stripped, disturbed, or replaced at any time after installation?

ANSWER: See preceding answer.

34. Did the defendant, during the time it mined, manufactured, milled, sold or applied asbestos-containing products, give users or other persons exposed to asbestos containing products or their employers who would be applying, using, removing your asbestos containing products

instructions concerning safety precaution to use in applying, using or removing such products? If so, describe such instructions, to whom they were given, the dates they were given, and the manner of giving such instructions.

ANSWER: Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Further, Defendant is without sufficient information regarding Plaintiffs' claims, work histories and alleged exposure facts to properly investigate the requested information. Subject to these objections, Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products. Defendant complied at all times with applicable state and Federal requirements regarding safety training and procedures.

35. If you have pled that the Plaintiff misused Defendant's asbestos containing products, then state in what manner the defendant contends that Plaintiff misused its products? If "Yes", then state in what manner and under what circumstances each product was misused. Also state what Plaintiff could have done to avoid such misuse.

ANSWER: Defendant objects to this request to the extent the information or documents sought are protected from disclosure by the attorney-client privilege, the attorney work product privilege, and/or the party communication privilege provided for by Rule 166b, Tex. R. Civ. P. and Rule 503, Tex. R. Evid. Further, based on information provided by Plaintiffs, Defendant is unable to decide what may be relevant to its defenses. Defendant is without sufficient information at this time regarding Plaintiffs' claims, work histories and alleged exposure facts to properly investigate the requested information.

36. List all the job sites, contractors and/or facilities in the Gulf Coast area of Texas, including, but not limited to, oil refineries, chemical plants, power plants, shipyards, commercial buildings, and manufacturing plants, where or to whom defendant's asbestos products were supplied, distributed, sold and/or used. Also, list which products were involved, the date or time period of such sale, distribution, use or installation and if known, the physical location within the facility listed. Alternative, you may produce the documents requested in Request for Production No. 1.

ANSWER: Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant further objects to Plaintiffs' use of the term "products" without proper prior definition of such terms. Subject to these objections,

Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products.

37. For the attached list of San Antonio job sites, state whether or not Defendant's asbestos products were supplied, distributed, sold and/or used. Also, list which products were involved, the date or time period of such sale, distribution, use of installation and, if known, the physical locations within the facility listed.

ANSWER: Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant further objects to Plaintiffs' use of the term "products" without proper prior definition of such terms. Subject to these objections, Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products.

38. Up until the time that you ceased to sell and/or manufacture asbestos containing products, had the defendant ever conducted or caused to be conducted any studies designed to minimize or eliminate the inhalation of asbestos dust or fiber by those exposed to the use of the defendant's asbestos-containing products? If so, give the following:

- (a) Name of the person or firm conducting such studies;
- (b) The dates the studies began and the dates completed;
- (c) Any publication or dissemination of the results of the studies;
- (d) The nature of any action to eliminated or minimize inhalation of asbestos dust or fibers;
- (e) Attach copies.

ANSWER: Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant further objects to Plaintiffs' use of the term "products" without proper prior definition of such terms. Subject to these objections, Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products.

39. Has the defendant ever directly advised any person or party to whom you sell your asbestos containing products of threshold limit values for exposure to asbestos dust recommended by the American Conference of Governmental Industrial Hygienists, or mandated by any governmental entity? If so, state the date that you so advised such person or party, the manner in which you advised such person or party, and the name of each.

ANSWER: Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant further objects to Plaintiffs' use of the term "products" without proper prior definition of such terms. Subject to these objections, Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products.

40. State the year that this defendant was first advised of threshold limit values and maximum allowable concentrations of both asbestos dust and total dust by the American Conference of Governmental Industrial Hygienist, and state the name of the employee of the company receiving such information, the information received, the method of receipt of such information and attach copies of the instrument communicating such advice.

ANSWER: No records exist and there are no living persons with Defendant with such knowledge.

41. Was such threshold limit values or maximum allowable concentrations inquired about in the preceding interrogatory total dust and not just asbestos dust?

ANSWER: See preceding interrogatory.

42. Up until the time that Defendant ceased to sell and/or manufacture asbestos containing products, state in detail what test, if any, your company or its predecessor(s) ever made with regard to the quantity, quality, or threshold limit values of asbestos dust or particles to which users or bystanders were exposed while using your asbestos containing products.

(a) If there were any such tests or studies, give the name or names of the person(s) conducting the tests, the date of the test and attach true copies of any reports, findings or memoranda concerning such tests or studies.

ANSWER: Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents

which are not limited to the facts and time periods and locations at issue herein. Defendant further objects to Plaintiffs' use of the term "products" without proper prior definition of such terms. Subject to these objections, Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products.

43. Does defendant possess or have in its control any written documents and/or written materials prior to 1980 which indicate that other manufacturers of asbestos containing products had any knowledge, information, or understanding that asbestos would, could, or might be harmful? If so, list each document and/or written material, and attach a copy.

ANSWER: Defendant objects to this request to the extent the information or documents sought are protected from disclosure by the attorney-client privilege, the attorney work product privilege, and/or the party communication privilege provided for by Rule 166b, Tex. R. Civ. P. and Rule 503, Tex. R. Evid. Further, Defendant objects in that this request calls for a legal conclusion which it is not qualified to make. Further, the request seeks by inference an admission of fact which improperly invades the purview of the finder of fact. Subject to these objections, Defendant may have materials which relate in some way to the subject areas sought, but it will be necessary for Plaintiffs' attorneys to review the volumes contained in the corporate industrial hygiene library to verify the existence of such documents.

44. Did your company or its predecessor(s) ever place any warning directly on any of its asbestos containing products? (i.e. on insulation pipe covering itself). If so, state the wording of such warning, the size, how it was marked and the dates of placement.

ANSWER: Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant further objects to Plaintiffs' use of the term "products" without proper prior definition of such terms. Subject to these objections, Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products.

45. Did the Defendant ever provide a warning within its sales literature pertaining to asbestos containing products? If so, list the wording, the dates and what literature it was placed in.

ANSWER: Defendant objects to this request in that it is unduly burdensome and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant further objects to Plaintiffs' use of the term "products" without proper prior definition of such terms. Subject to these objections, Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products.

46. Were any Material Safety Data Sheets ever prepared by the Defendant for your asbestos products? If so, attach copies.

ANSWER: Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant further objects to Plaintiffs' use of the term "products" without proper prior definition of such terms. Subject to these objections, Defendant is not a manufacturer or distributor, as defined in the common vernacular, of any such products.

47. Does Defendant have insurance policies that might cover the claims made by Plaintiff in this case?

ANSWER: Defendant objects to this request in that it assumes facts not in evidence, and calls for a legal conclusion. Subject thereto, Defendant lacks sufficient knowledge regarding Plaintiffs' identities, work histories and claims to properly identify such information.

48. If the answer to the above interrogatory is affirmative, please state:

- (a) the amount of undisputed insurance coverage that is currently available as of the date you answer these interrogatories;
- (b) how much coverage is in dispute?

ANSWER: See preceding answer.

49. If you have not previously supplied the requested information in the Master Asbestos File, then for each and every expert witness, medical or otherwise, whom you may call to testify during the trial of this cause, please state the following:

- (a) Full name,
- (b) Address,
- (c) Phone number,
- (d) Each subject matter on which the expert witness is expected to testify,
- (e) The mental impressions and opinions held by the expert which relate to this case and in any way,
- (f) The facts known to the expert (regardless of when the factual information was acquired) which relate to or form the basis of the mental impression and opinions held by the expert, and
- (g) Who will be paying each expert and how much?

ANSWER: Defendant lacks sufficient knowledge regarding Plaintiffs' identities and claims to properly identify such persons. Consequently, no decision has been made at this time. Defendant will supplement as necessary after it learns Plaintiffs' exposure facts and theories of liability.

50. If you have previously supplied the requested information in the Master Asbestos File, then for each expert who will not be called as a witness, but whose work product forms the basis in whole or in part of the opinions of an expert who will be called as a witness, state:

- (a) the name, address and telephone number of the non-testifying expert;
- (b) the subject matter of the work product on which the testifying expert will rely;
- (c) The mental impression of the non-testifying expert; and
- (d) The facts known to the non-testifying expert.

ANSWER: Defendant lacks sufficient knowledge regarding Plaintiffs' identities and claims to properly identify such persons. Consequently, no decision has been made at this time. Defendant will supplement as necessary after it learns Plaintiffs' exposure facts and theories of liability.

51. Identify by name, address and telephone number every person whom you intend to call as a witness at trial, who has not previously been listed as a witness in Defendant's Master Witness list on file in the Master Asbestos File.

ANSWER: Defendant objects to this interrogatory to the extent that it seeks information or documents protected from disclosure by the attorney-client privilege, the attorney work product privilege, and/or the party communication privilege provided for by Rule 166b, Tex. R. Civ. P. and Rule 503, Tex. R. Evid. Defendant objects to this request in that it exceeds the permissible scope of discovery in seeking designation of "witnesses". T.R.C.P. 166b(2)(d) permits discovery only of "potential parties and persons with knowledge of relevant facts." Defendant lacks sufficient knowledge regarding Plaintiffs' identities and claims to properly identify such persons. Consequently, no decision has been made at this time. Defendant will supplement as necessary after it learns Plaintiffs' exposure facts and theories of liability.

52. What is Defendant's present net worth?

ANSWER: Defendant objects to this request in that the request is premature in nature based on the status of this litigation. Further, this information varies annually and will likely be incorrect by the time of trial. Defendant will supplement, as necessary, in the discovery of the particular causes applicable to Defendant as each nears trial.

53. Has this defendant, or its present directors or officers acting on its behalf, made monetary contributions in excess of \$5,000.00 within the past ten years to the following scientists or researchers who have written on the subject of asbestos-related diseases or to their employing universities on behalf of or at the request of the scientist or researcher;

Raymond Murphy - Harvard Medical School and Harvard School of Public Health.

Margaret Becklake - McGill University, Montreal, Canada.

Stuart Brooks - University of Florida at Tampa.

Edward A. Gaensler - Boston University of Medicine, Harvard Medical School, Tufts Medical School.

Bernard Gee - Yale University School of Medicine.

Allan Goldman - South Florida College of Medicine, Division of Pulmonary, Critical Care and Occupational Medicine.

Jerome Kleinerman - Case Western Reserve University School of Medicine.

Hilton Lewinsohn - University of Connecticut, Yale University.

Hans Weill - Tulane University.

Morton Corn - Johns Hopkins.

Brooke Mossman - University of Vermont.

John Craighead - University of Vermont.

J. Christopher Wagner

J. Corbett McDonald - McGill University

Peter Elmes

Paul E. Wheeler - Johns Hopkins

Lee Reichman - University of Medical and Dentistry of New Jersey, Newark, New Jersey.

J.M.G. Davis - Institute of Occupational Medicine, Edinburgh, U.K. (England).

J.N.P. Davis - Albany Medical College, New York.

ANSWER: Defendant objects to this interrogatory as irrelevant to any issue as alleged by Plaintiffs, and is not likely to lead to the discovery of admissible evidence.

54. In what year did this defendant first become aware of the 1938 Public Health Bulletin No. 241 entitled "A Study of Asbestosis in the Textile Industry" with its accompanying references to asbestosis and lung cancer and tentative threshold limit value for asbestos or asbestos-containing dust.

ANSWER: Defendant objects to this interrogatory in that it assumes facts not in evidence, lacks proper foundation, and calls for a legal conclusion. Subject thereto, no records exist and there are no living persons with Defendant with such knowledge.

55. In what year did this Defendant first become aware of the 1946 article entitled "A Health Survey of Pipe Covering Operations in Constructing Vessels" by Fleischer, Drinker et al.

ANSWER: Defendant objects to this request in that it is unduly burdensome, and overly broad in time and scope in that it seeks information and documents which are not limited to the facts and time periods and locations at issue herein. Defendant objects to this interrogatory in that it assumes facts not in evidence, lacks proper foundation, and calls for a legal conclusion. Subject thereto, see preceding answer.

56. How many claims or lawsuits (other than workers' compensation claims) were filed against this Defendant in the 1930's alleging, in whole or in part injury, damage or disease from exposure to or inhalation of various dusts? This interrogatory includes cases of asbestosis, pneumoconiosis and silicosis due to the fact individuals were or may have been exposed to mixed types of dusts.

ANSWER: Defendant has no records of any workers' compensation claims in the 1930's.

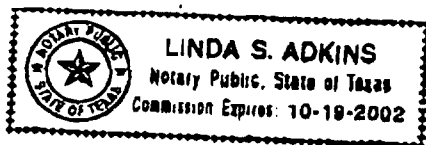
THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

The undersigned, being first duly sworn, deposes and says:

That he is the Secretary of Kellogg Brown & Root f/k/a Bown & Root, Inc., Defendant in this lawsuit; that he is authorized to make this verification on behalf of the Corporation; that the information set forth in the foregoing Answers to Interrogatories was assembled by employees of Kellogg Brown & Root f/k/a Brown & Root, Inc. from the Corporation's records and files and from personnel in the appropriate offices, departments and divisions of the Corporation; that he is informed and, therefore, believes that the matters therein stated are true and on that ground avers that the matters stated therein are true to the best of his knowledge, information and belief.


PETER W. ARBOUR

SUBSCRIBED AND SWORN TO BEFORE ME this 90th day of February, 1999.



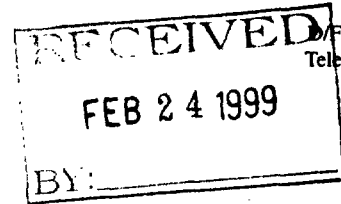

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

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February 23, 1999

Mr. Charles Bacarisse, Harris County District Clerk
Civil Courts Building
301 Fannin Street
Houston, TX 77002

(Via Federal Express)

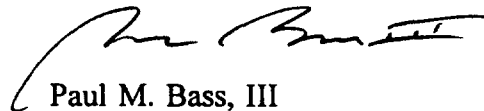
Re: Master Discovery Objections and Responses to Interrogatories - Harris County,
Texas

Dear Mr. Bacarisse:

Enclosed please find the original and one copy of *Defendant Kellogg Brown & Root, Inc., f/k/a Brown & Root, Inc.'s Objections and Responses to Plaintiffs' Master Set of Interrogatories to Defendant*. Please file the original and return a file-marked copy to my office in the enclosed, self-addressed, stamped envelope.

Thank you for your attention to this matter.

Very truly yours,



Paul M. Bass, III

PMB3/kkb
enclosures

cc: Steve Kherkher, Esq. (w/encl.)
Williams Bailey Law Firm

(Via Federal Express)

Bryan Blevins, Esq. (w/encl.)
Provost * Umphrey Law Firm

(Via Federal Express)

All Known Defense Counsel of Record (w/o encl.)

(Via Regular Mail)

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