

**PLAINTIFF'S
EXHIBIT**

RR-463d

NO. 93-07046

LOUIE WHITE, ET AL.
Plaintiffs

IN THE DISTRICT COURTS OF

VS.

TRAVIS COUNTY, TEXAS

KEENE CORPORATION, ET AL.
Defendants

147TH JUDICIAL DISTRICT

**DEFENDANT UNION PACIFIC RAILROAD COMPANY'S AMENDED
OBJECTIONS AND RESPONSES TO PLAINTIFF'S REQUEST FOR ADMISSIONS**

TO: Plaintiff Decedent E. L. Lambright, by and through his attorneys of record, Kimberly Schauck, Baron & Budd, The Centrum, 3102 Oaklawn Avenue, Suite 1100, Dallas, Texas 75219-4281.

Pursuant to Rules 166b and 167 of the Texas Rules of Civil Procedure, Union Pacific Railroad Company, Successor-in-Interest to Missouri-Kansas-Texas Railroad Company (Improperly named as Missouri Pacific Railroad Co. Individually and d/b/a Union Pacific Railroad Co., Successor-in-Interest to Missouri-Kansas-Texas Railroad Co.), Defendant herein, hereby submits its Objections and Responses to Plaintiff's Request for Admissions.

REQUESTS FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1: Admit or deny that asbestos-containing products were in general use aboard Defendant's railroad during the time period Plaintiff Decedent was employed by Defendant.

RESPONSE: Objection. Defendant objects to the term "general use" in this Request. Further, this Request is vague, ambiguous, overly broad, unlimited in scope and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 2: Admit or deny that Defendant ordered, purchased or otherwise acquired asbestos-containing products, asbestos-containing friction products, machinery requiring the use of asbestos or asbestos-containing products.

RESPONSE: Defendant admits that it used asbestos-containing products during the steam era. However, Defendant denies that it had knowledge during the period of plaintiff's employment that railroad employees were at risk of acquiring an asbestos-related disease under the circumstances in which railroad employees worked.

REQUEST FOR ADMISSION NO. 3: Admit or deny that Defendant used or implemented on Defendant's railroad, asbestos-containing products.

RESPONSE: Objection. Defendant objects to this Request because it is not limited in scope to the plaintiff's employment period, subject to this objection, Defendant admits that it used asbestos-containing products during the steam era.

REQUEST FOR ADMISSION NO. 4: Admit or deny that Defendant's cars, engines and/or locomotives which Plaintiff Decedent worked on or around were unreasonably dangerous and unfit because of the presence of and/or use of asbestos-containing products.

RESPONSE: Defendant denies this Request.

REQUEST FOR ADMISSION NO. 5: Admit or deny that Plaintiff Decedent was a railroad worker, as that term is generally understood, during his employment with Defendant.

RESPONSE: Defendant admits that E. L. Lambright was employed by the railroad.

REQUEST FOR ADMISSION NO. 6: Admit or deny that Plaintiff Decedent, in the course and scope of his work as a railroad worker and/or employee of Defendant, worked on and/or around Defendant's railroad, railway cars, engines and/or locomotives, shops, roundhouses, and transfer sheds where asbestos, and asbestos containing products were present.

RESPONSE: Although Defendant lacks direct knowledge, Defendant admits that Plaintiff Decedent Lambright claims that he worked in the proximity of asbestos materials for a limited time period.

REQUEST FOR ADMISSION NO. 7: Admit or deny that Defendant was aware during the periods of time Plaintiff Decedent worked for Defendant that airborne asbestos dust created a potential health hazard to those who breathed such dust.

RESPONSE: Defendant denies that it had knowledge during the period of Plaintiff Lambright's employment that railroad employees were at risk of acquiring an asbestos-related disease under the circumstances in which railroad employees worked.

REQUEST FOR ADMISSION NO. 8: Admit or deny that Plaintiff Decedent was employed by Defendant or by a predecessor-in-interest of Defendant.

RESPONSE: Defendant admits this request.

REQUEST FOR ADMISSION NO. 9: Admit or deny that Plaintiff Decedent worked on and/or around Defendant's railroad in areas where asbestos-containing products were installed, used, prepared for use, replaced or repaired, stored or loaded, unloaded or transported.

RESPONSE: Defendant lacks sufficient knowledge to admit or deny this Request in its entirety. Defendant admits that asbestos-containing products were used during the steam era but denies that it had knowledge that the products were a potential health hazard to railroad employees under the type of duties they performed.

REQUEST FOR ADMISSION NO. 10: Admit or deny that Defendant did not distribute any literature or warnings of any kind to its employees during the period of time Plaintiff Decedent worked for Defendant regarding the potential health hazards to those who breathe airborne asbestos dust.

RESPONSE: Defendant lacks sufficient knowledge to admit or deny this Request in its entirety. Defendant admits that asbestos-containing products were used during the steam era but denies that it had knowledge that the products were a potential health hazard to railroad employees under the type of duties they performed.

REQUEST FOR ADMISSION NO. 11: Admit or deny that asbestos-containing products were placed on or used in the conduct of Defendant's railroad during the time period Plaintiff Decedent was employed by Defendant including the following asbestos-containing products:

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|--|---------------------------|
| a. any asbestos-containing product and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials | i. asbestos block |
| b. asbestos tiles | j. asbestos packing |
| c. asbestos millboard | k. boilers |
| d. asbestos friction products | l. brake shoes |
| e. asbestos pipecovering | m. brake linings |
| f. asbestos gaskets | n. clutch linings |
| g. asbestos joint compound | o. firebrick |
| h. asbestos cement | p. refractories/castables |
| | q. turbines |

RESPONSE: Defendant lacks sufficient knowledge to admit or deny this Request in its entirety. Defendant admits that asbestos-containing products were used during the steam era but denies that it had knowledge that the products were a potential health hazard to railroad employees under the type of duties they performed.

REQUEST FOR ADMISSION NO. 12: Admit or deny that Defendant engaged in no abatement programs for the removal of asbestos at any time since 1965.

RESPONSE: Defendant denies this Request.

REQUEST FOR ADMISSION NO. 13: Admit or deny that Defendant was aware of the presence of and/or use of asbestos-containing products at the Railroad during the time period Plaintiff Decedent was employed by Defendant.

RESPONSE: Defendant lacks sufficient knowledge to admit or deny this Request in its entirety. Defendant admits that asbestos-containing products were used during the steam era but denies that it had knowledge that the products were a potential health hazard to railroad employees under the type of duties they performed.

REQUEST FOR ADMISSION NO. 14: Admit or deny that Defendant became aware of the potential health hazards of airborne asbestos during the time periods in which Plaintiff Decedent was employed by Defendant.

RESPONSE: Defendant denies that it was aware of any potential health hazard to railroad workers under the type of duties they performed.

REQUEST FOR ADMISSION NO. 15: Admit or deny that Defendant did not continuously provide face masks to railroad employees working with or around asbestos from 1945 to the present for the purpose of protecting these employees from inhaling asbestos.

RESPONSE: Defendant denies this Request.

REQUEST FOR ADMISSION NO. 16: Admit or deny that during the time Plaintiff Decedent was employed by Defendant, it was foreseeable that asbestos-containing products on Defendant's railroad would or could be removed, stripped, replaced or repaired at some time after installation.

RESPONSE: Objection. Defendant objects to the term "foreseeable" in this Request. Further, this Request is vague, ambiguous, overly broad, unlimited in scope and seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 17: Admit or deny that during the time Plaintiff was employed by Defendant, Defendant failed to comply with the requirements of the Boiler Inspection Act, formerly 45 U.S.C. § 23; and restated at 49 U.S.C. § 20701 et seq.

RESPONSE: Defendant denies this Request.

REQUEST FOR ADMISSION NO. 18: Admit or deny that Plaintiff Decedent filed suit against Defendant within three (3) years of the date of discovering his asbestos-related condition or the existence of any asbestos-related causes of action.

RESPONSE: Defendant denies this Request.

REQUEST FOR ADMISSION NO. 19: Admit or deny that Defendant is liable for Plaintiff Decedent's asbestos related illness.

RESPONSE: Defendant denies this Request.

REQUEST FOR ADMISSION NO. 20: Admit or deny that Defendant knew or had reason to know that the asbestos [was] in use on its railroad since the 1930's.

RESPONSE: Defendant admits this Request.

REQUEST FOR ADMISSION NO. 21: Admit or deny that Defendant consciously decided not to warn its employees of the dangers of asbestos.

RESPONSE: Defendant denies this Request.

REQUEST FOR ADMISSION NO. 22: Admit or deny that asbestos is still in use and/or in place on Defendants railroad.

RESPONSE: Objection. This Request seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 23: Admit or deny that Defendant no longer uses asbestos on its railroad.

RESPONSE: Objection. This Request seeks information which is neither relevant nor likely to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 24: Admit or deny that Defendant acquired knowledge, during the 1930's of the Alton Railroad's responses to the Illinois Occupational Diseases Act.

RESPONSE: Defendant denies this Request that it acquired knowledge in the 1930's.

REQUEST FOR ADMISSION NO. 25: Admit or deny that Defendant was a member of the National Claims Registry which reported information regarding injuries claims of railroad workers.

RESPONSE: Defendant denies this Request.

Respectfully submitted.

PHELPS DUNBAR

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Union Pacific Railroad
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Defendant Union Pacific Railroad Company's Amended Objections and Responses to Plaintiff's Request for Admissions has been sent via Facsimile to Kimberly Schauck, Baron & Budd, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281, this 28 day of August, 1997 and via First Class Mail to all parties of record on attached service list, this 29 day of August, 1997.

D. Newman *MR for*
Deborah A. Newman