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NO. 96-06239-A

JOSEPH LEE DENNIS, ET AL.	\$	IN THE DISTRICT COURT OF
	\$	
Plaintiffs,	\$	DALLAS COUNTY, TEXAS
	\$	
v.	\$	
	\$	
OWENS-CORNING FIBERGLASS	\$	14TH JUDICIAL DISTRICT
CORPORATION, ET AL.,	\$	
	\$	
Defendants.	\$	

DEFENDANT'S RESPONSES TO PLAINTIFF'S REQUESTS FOR ADMISSION

TO: Plaintiff Bennie Dunbar by and through his attorneys of record, Peter A. Kraus, Kimberly A. Castles, Lisa Jerge-Lesniak, Baron & Budd, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219

Defendant Point Comfort & Northern Railway

("Defendant") hereby responds to the Request for Admissions Directed to it by Plaintiff Bennie Dunbar and his attorney of record. Defendant has not completed its investigation of facts relating to this case, has not fully completed discovery relating to this action, and has not completed preparation for the trial thereof. All of the responses contained herein are based only upon such information and documents which are presently available to and specifically known to Defendant and disclose only those contentions which presently occur to Defendant. Moreover, the information contained herein may include hearsay and other data which is neither reliable or admissible in evidence. It is anticipated that further discovery, independent investigation, legal research and analysis will supply additional facts, add new meaning to the known facts, as well as establish entirely new factual conclusions and legal contentions, all of which may lead

to the substantial additions to, changes and variations from the contentions herein set forth. The following responses are given without prejudice to Defendant's right to produce evidence of any subsequently discovered fact or facts of which Defendant may learn or recall. Defendant accordingly reserves the right to change any and all responses herein as additional facts and contentions are ascertained. The responses contained herein are made in a good faith effort to supply as much factual information and as much specification of legal contentions as is presently known but should in no way prejudice Defendant in relation to further discovery, research or analysis.

GENERAL OBJECTION

In this litigation, Plaintiff has alleged that he was exposed to asbestos while working on Defendant's railroad at various times throughout the years 1957 to 1970. Thus, to the extent that these request for admissions seek information from Defendant for time periods unrelated to those years during which years Plaintiff worked at the Defendant's railroad, Defendant objects to the requests as overly broad, unduly burdensome, oppressive and unreasonable and not reasonably calculated to lead to the discovery of admissible evidence.

REQUESTS FOR ADMISSION

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 was employed by Defendant.

RESPONSE: Defendant objects to the phrase "in general use" as vague and ambiguous. Subject to and without waiving the foregoing objections, this request is denied.

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

RESPONSE: Defendant objects to this request as overly broad and unduly burdensome and is seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendant denies that it transported, ordered, purchased or otherwise acquired asbestos-containing products, asbestos-containing friction products, machinery requiring use of asbestos or asbestos-containing products during the years 1957 to 1970.

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

RESPONSE: Defendant objects to this request as vague, ambiguous, overly broad and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. This request is unlimited in time and scope. Defendant objects to the words "used" and "implemented" as vague and ambiguous. In his deposition Plaintiff did not claim to be exposed to asbestos used or implemented on the railroad.

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

RESPONSE: Denied.

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

RESPONSE: Admitted.

REQUEST FOR ADMISSION NO.6: Admit or deny that Plaintiff, 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: Defendant objects to this request as overly broad and as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In his deposition Plaintiff did not claim to be exposed to any asbestos on any railway cars, engines, locomotives, shops, roundhouses or transfer sheds of the Defendant.

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

RESPONSE: Defendant objects to the phrase "potential health hazard" as vague and ambiguous. Subject to and without waiving the foregoing objections, Defendant responds as follows: Denied.

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

RESPONSE: Admitted.

REQUEST FOR ADMISSION NO.9: Admit or deny that Plaintiff 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 objects to this request on the grounds that it seeks information that is neither relevant or reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to the words "on" and "around" as used herein as vague and ambiguous.

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 worked for Defendant regarding the potential health hazards to those who breathe airborne asbestos dust.

RESPONSE: Defendant objects to the phrase "potential health hazards" as vague and ambiguous. Defendant admits that literature was not distributed because the potential health hazards of breathing airborne asbestos dust were not known by Defendant during the period of time Plaintiff worked for Defendant.

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 was employed by Defendant including the following asbestos-containing products:

- a. any asbestos-containing product and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials;
- b. asbestos tiles;
- c. asbestos millboard;
- d. asbestos friction products;

- e. asbestos pipe covering;
- f. asbestos gaskets;
- g. asbestos joint compound;
- h. asbestos cement;
- i. asbestos block;
- j. asbestos packing;
- k. boilers;
- l. brake shoes;
- m. brake linings;
- n. clutch linings;
- o. firebrick;
- p. refractories/castables; and
- q. turbines.

RESPONSE: Defendant objects to this request as overly broad and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. At his deposition, Plaintiff did not claim to have been exposed to any of the products listed above while in any area or at any facility owned or controlled by the Defendant.

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: Denied.

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 was employed by Defendant.

RESPONSE: Denied.

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 was employed by Defendant.

RESPONSE: Defendant objects to the phrase "potential health hazards" as vague and ambiguous. Subject to and without waiving foregoing objection, Defendant responds as follows: Denied.

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 objects to this request as vague and ambiguous, overly broad and unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects on the basis that this request for admission is argumentative inasmuch as it assumes that railroad employees would have been working with or around asbestos.

REQUEST FOR ADMISSION NO.16: Admit or deny that during the time Plaintiff 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: Denied.

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: Denied.

REQUEST FOR ADMISSION NO.18: Admit or deny that Plaintiff 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: Denied.

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

RESPONSE: Denied.

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

RESPONSE: Defendant objects to the phrase "had reason to know" as calling for a legal conclusion. Subject to and without waiving the foregoing objections, Defendant responds as follows: Denied.

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

RESPONSE: Denied.

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

RESPONSE: Defendant objects to this request as vague, ambiguous, overly broad and unduly burdensome and as seeking information that is neither relevant nor reasonably calculated 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: Defendant objects to this request as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects further objects to this request as redundant with request for admission no. 22 and, therefore, unduly burdensome.

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.

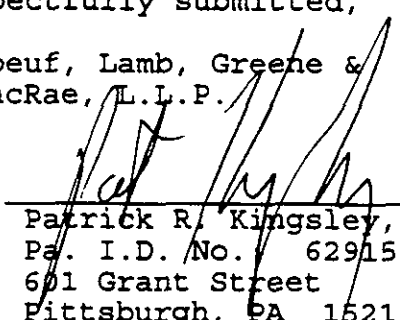
RESPONSE: Denied.

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

RESPONSE: Denied.

Respectfully submitted,

LeBoeuf, Lamb, Greene &
MacRae, L.L.P.

By: 

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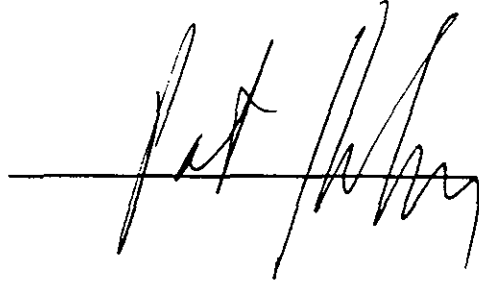
Phelps, Dunbar, L.L.P.

By: _____

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CERTIFICATE OF SERVICE

I certify that on this 14th day of March, 1997, a true and correct copy of the above and foregoing document was served on all counsel of record.

A handwritten signature in black ink, appearing to be "Pat [unclear]", is written over a horizontal line.

PRK/33946.1