



NO. 95-12951-D

JEANIE LEIGH FLEMING, individually and as,)	IN THE DISTRICT COURT
Personal Representative of the Heirs and Estate)	
of ROY FLEMING, Deceased; and THOMAS)	
RICHARD GORMAN and ROSE MARY)	
GORMAN;)	
Plaintiffs,)	
v.)	DALLAS COUNTY, TEXAS
OWENS-CORNING FIBERGLAS)	
CORPORATION, et al.,)	
Defendants.)	95TH JUDICIAL DISTRICT

**ANSWERS OF DEFENDANT NORFOLK SOUTHERN RAILWAY
COMPANY TO FIRST SET OF INTERROGATORIES
PROPOUNDED BY PLAINTIFF JEANIE LEIGH FLEMING**

Defendant Norfolk Southern Railway Company (NSRC) f/k/a/ Southern Railway Company (Southern), for its answers to Plaintiff's First Set of Interrogatories, states as follows:

PRELIMINARY STATEMENT AND GENERAL OBJECTION

NSRC objects to the First Set of Interrogatories propounded by Plaintiff for the reason that Plaintiff's decedent was never employed by NSRC. At the time of the deposition of Plaintiff's decedent, NSRC became aware that Plaintiff's decedent was employed by Nickel Plate Road (The New York, Chicago and St. Louis Railroad Company) and Norfolk and Western Railway Company. NSRC has requested the personnel and medical files of Plaintiff's decedent from Norfolk and Western Railway Company (NW) and that file reveals that Plaintiff's decedent was first employed by Nickel Plate in August, 1955 as a brakeman in Bellevue, Ohio and through his career for the Nickel Plate and NW, he worked as a brakeman

and switchman in the Bellevue, Ohio and Conneaut, Ohio area. Plaintiff's decedent voluntarily resigned from the NW and took a buy-out in December, 1986.

NSRC has not located any employment information to support the allegation that Plaintiff's decedent, Roy Fleming was ever employed by it. For that reason, NSRC believes that Plaintiff's decedent was never employed by NSRC or Southern. Accordingly, at this time NSRC is unable to respond to any of the interrogatories propounded by Plaintiff.

NSRC objects to the instructions and definitions supplied by Plaintiff with regard to these interrogatories, on the bases that the definitions are overbroad, vague and often inconsistent with the normal usage and meaning of such words. The instructions are overbroad, burdensome and constitute an unreasonable expansion of the interrogatories themselves. NSRC therefore gives notice that it does not consider itself bound by the instructions and definitions propounded by Plaintiff, and instead has answered these interrogatories in a manner consistent with the normal understanding of the language used in the interrogatory and to the extent necessary to fairly and fully answer the interrogatory.

INTERROGATORIES

INTERROGATORY NO. 1: State the name, address, job title, length of time employed by Defendant, and a year-by-year list of all positions, titles, or jobs held while working for Defendant of each person who supplied any information used in answering these interrogatories.

ANSWER: OBJECTION. NSRC objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it. NSRC further objects to the interrogatory to the extent it seeks information within the work product privilege. Without waiving its objection, NSRC states: T. M. Brady, Assistant to the General Manager-Casualty Claims, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA, with the assistance of counsel, answered the interrogatories herein contained. It would be impossible to identify all persons who were consulted in connection with the answers to these interrogatories. However, in

the spirit of discovery, NSRC can state that since 1983 interrogatories have been answered in lawsuits based upon asbestos exposure claims. Attorneys for NSRC have assisted in the preparation of answers to the various discovery requests after consultation with many departments within the railroad, visits to various locations within the railroad, and, review of historical documentation including, Federal Register, office data, personnel files, corporate files, periodicals, industry publications, claims, health regulations, material handling files, structural material files, OSHA regulations, locomotive materials, safety recommendations, Federal Railway Administration rules and regulations, material catalogs, suppliers catalogs, letter files, plans, building files and computer printouts.

INTERROGATORY NO. 2: State the full and proper business name and address of the Defendant. State whether or not you are a corporation. If so, state your 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, maintained a registered agent in Texas, engaged in business in Texas or recruited or hired employees in Texas.

ANSWER: **OBJECTION.** NSRC objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it. Further, NSRC objects to the portion of Interrogatory No. 2 devoted to a Certificate of Authority and operating in the State of Texas for the reason that Plaintiff's decedent, did not work for NSRC nor did he work in the State of Texas. Therefore, the response of NSRC to such interrogatories could not lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, NSRC answers: Norfolk Southern Railway Company, One Commercial Place, Norfolk, Virginia 23510. NSRC is a corporation, organized and existing in the State of Virginia, with its principal place of business in Norfolk, Virginia.

INTERROGATORY NO. 3: With regard to each policy of liability insurance to provide coverage to Defendant, its agents and/or employees for the liability in connection with the allegations such as those delineated in Plaintiff's Original and Amended Petitions including, but not limited to, all primary and excess policies covering the Defendant for such liability, state the name and address of each carrier.

ANSWER: OBJECTION. NSRC objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it. Subject to and without waiving the foregoing objection, NSRC answers not applicable.

INTERROGATORY NO. 4: State whether you contend that the Plaintiff has done anything or failed to do anything that constitutes contributory negligence. If so, please describe the basis of your contention and what evidence exists to support that contention.

ANSWER: OBJECTION. NSRC objects to this request on the following grounds: 1. the request is premature. NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 5: State whether you contend that the Plaintiff has done anything or failed to do anything that constitutes a failure to mitigate damages. If so, please describe the basis of your contention and what evidence exists to support that contention.

ANSWER: OBJECTION. NSRC objects to this request on the following grounds: 1. the request is premature. NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it. Subject to and without waiving the foregoing objections, NSRC incorporates the testimony regarding smoking and tobacco usage given by the Plaintiff, Roy A. Fleming in his deposition of January 30-31, 1996, and the information contained in his smoking questionnaire.

INTERROGATORY NO. 6: List each and every place of work and job assignment of the Plaintiff which he held during his employment with Defendant and describe in detail the duties involved in each of the job assignments.

ANSWER: OBJECTION. NSRC objects to this interrogatory on the grounds that the interrogatory is overly broad, vague and ambiguous. NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it. Subject to and without waiving the foregoing objections, NSRC refers Plaintiff to the decedent's oral deposition testimony January 30-31, 1996.

INTERROGATORY NO. 7: Describe in detail how asbestos containing products were used by railroad workers on Defendant's railroad(s) during the period of Plaintiff's employment by Defendant.

ANSWER: **OBJECTION.** NSRC objects to this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
6. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC Further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO.8: Describe in detail where asbestos containing products were used

by railroad workers on Defendant's railroad(s) during the period of Plaintiff's employment by Defendant.

ANSWER: **OBJECTION.** NSRC objects to this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
6. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 9: If you have alleged in your answer that Plaintiff's injuries and/or damages were caused by some other injury, disease or condition, either pre-existing or unrelated to and arising after or in conjunction with the Plaintiff's exposure to asbestos-containing products, please describe in detail such pre-existing or subsequent disease, injury or condition. For each alleged other injury, disease or condition, identify all evidence upon which you base this contention.

ANSWER: OBJECTION. NSRC objects to this request on the following grounds: 1. the request is premature.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 10: Please state the name of each and every person having knowledge of facts relevant to this action including most recent address and present telephone number, along with the experience and qualifications, if applicable, of each and every person, known to Defendant's agents, including, but not limited to:

- A. Identification of asbestos-containing products or type of products to which Plaintiff was exposed or facts disputing the identification of these products;
- B. Plaintiff's damages, injuries and/or facts disputing Plaintiff's alleged damages and/or injuries; and
- C. The negligence of any person or entity other than Defendant which Defendant contends was a cause of Plaintiff's injuries and/or damages;
- D. Each of Defendant's defenses enumerated in Defendant's last filed Answer.

ANSWER: OBJECTION. NSRC Defendant objects to this request on the following grounds:

- 1. the request is overly broad;
- 2. the request is vague;
- 3. the request is ambiguous;
- 4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
- 5. the request infringes on the attorney work product privilege;
- 6. the request infringes on the investigative/party communication privilege;
- 7. the request infringes on the attorney-client privilege; and,
- 8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

Subject to and without waiving the foregoing objections, please see attached list.

INTERROGATORY NO. 11: Please identify documents or things, including x-rays, MRI's, CT scans or other materials 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.

ANSWER: OBJECTION. NSRC objects to this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;
4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
5. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 12: Identify the names and addresses of all individuals

Defendant may call as an expert witness(es) at trial, and for each individual, please state:

- A. The subject matter in which the witness is expected to testify, specific as to each individual Plaintiff's case, the substance of the facts and opinions to which the witness intends to testify on the Defendant's behalf and, a summary of the grounds for each opinion, specific as to each individual Plaintiff's case;
- B. All factual observations, test results, supporting data, learned treatise (books, general articles, texts or other publications) and opinions which the witness has generated, been provided, intends to *use*, and/or may use to support his/her opinions and conclusions relative to the case whereupon which the witness has or will base his/her testimony in this matter, specific as to each individual Plaintiff's case. The identity, address and job classification of each consulting expert whose opinions or data have been referred to and/or relied upon by the expert witness, and the complete title and author of each learned treatise referred to and/or relied upon by the witness for information and/or corroborating his/her opinions regarding the subject matter of this lawsuit.
- C. Whether any person identified in subparagraph B above has provided a report or other documentation to you, and if so, identify each such document or report, specific as to each individual Plaintiff's case, separate and distinct from all other Plaintiffs within the group.

- D. Identify all documents or other materials, including but not limited to x-rays, pathology, CT-scans, you have provided to each person identified in response to subparagraph B above, specific as to each individual Plaintiff's case, separate and distinct from all other Plaintiffs within the group.
- E. 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 B above. Alternatively, in lieu of said response, attach a copy of a resume or curriculum vitae and a list of publications to your answers.

ANSWER: **OBJECTION.** NSRC objects to this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;
4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
5. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

Subject to and without waiving the foregoing objections, please see attached list.

INTERROGATORY NO. 13: Identify all persons, entities, agencies or others, whether governmental (state or federal) or private, who participated in any investigation of the claims made the basis of this lawsuit.

ANSWER: **OBJECTION.** NSRC objects to this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;
4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
5. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 14: Please state whether Defendant or any successor or predecessor was ever a member of the Railroad Claims Registry, and if so, please state the years Defendant was a member; the years of attendance at an involvement in the Railroad Claims Registry Meetings; the name, job classification, address and telephone number of each and every agent and/or representative and/or employee of Defendant attending each and every Railroad Claims Registry Meeting and the year that agent and/or representative and/or employee of Defendant attended the meeting; and the location of the Railroad Claims Registry Meeting for each year attended by Defendant.

ANSWER: OBJECTION. NSRC objects to this request on the following grounds:

1. the request is overly broad and burdensome;
2. the request is unlimited in terms of time;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
8. the request seeks information which is private, confidential and/or proprietary.

NSRC further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 15: Please state whether Defendant or any successor or predecessor ever attended or sent an agent on its behalf to any of the Association of American Railroads and American Railway Association meetings from 1930 to the present, and if so, please state the years of attendance; the location of the meeting; the name, address, job

classification, and telephone number of each and every agent and/or representative of

Defendant attending each and every Association of American Railroads and American Railway

Association meeting and the exact year of attendance.

ANSWER: OBJECTION. NSRC objects to this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
8. the request seeks information which is private, confidential and/or proprietary.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 16: Before 1980, did Defendant receive notice that any individual who at any time was employed by the defendant claimed injury as a result of exposure to asbestos? 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 by each claimant;
- E. The name and address of each attorney who represented 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.
- H. The name, address and title of the person having custody of the records pertaining to each such claim.

ANSWER: OBJECTION. NSRC objects to this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
8. the request seeks information which is private, confidential and/or proprietary.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 17: Before 1980, did Defendant receive notice that any individual who at any time was employed by any Railroad claimed injury as a result of exposure to asbestos? 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 by each claimant;
- E. The name and address of each attorney who represented 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.
- H. The name, address and title of the person having custody of the records pertaining to each such claim.

ANSWER: OBJECTION. NSRC objects to this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
8. the request seeks information which is private, confidential and/or proprietary.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 18: Has Defendant at any time published, distributed or displayed any printed material, including brochures, pamphlets, catalogs, warning signs or statements, packaging or other written material of any kind or character containing any warning concerning the possibility of injury resulting from the use of asbestos-containing products and/or machinery requiring the use of asbestos-containing products and/or exposure to airborne asbestos? If so, state:

- A. The exact wording of each warning statement and a description of the material upon which the warning was printed;
- B. The method(s) used to distribute the materials to persons likely to use the asbestos-containing products or likely to be exposed to airborne asbestos;
- C. The date each warning was first issued or distributed;

- D. The name, address, and job title of each person responsible for having drafted or issued the warning statements and/or written materials;
- E. The current location of any such printed material and the custodian thereof;
- F. The form in which such literature or printed material can be accessed, i.e., the manner in which such literature is indexed or stored.

ANSWER: OBJECTION. NSRC objects to this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
7. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 19: Did Defendant install, replace, use, repair, assemble, transport or store either as an original appurtenance of the railroad or placed in/on the railroad in conjunction with repairs or alterations to the railroad, any asbestos-containing products during the time Plaintiff worked for Defendant? If so, identify:

- A. By name and number each of Defendant's railroad(s), whether operating or in railyards, upon which Plaintiff worked and upon which the asbestos-containing product(s) were installed, repaired, used, stored or transported during the time Plaintiff worked for Defendant;
- B. The particular type of asbestos-containing product(s);
- C. The trade or brand name of each of the asbestos-containing products;

- D. The years during which each named asbestos product was applied, stored, used, repaired, installed or transported either as an original appurtenance of the railroad or placed on/in the railroad in conjunction with repairs, or alterations to the railroad(s); and
- E. The dates of any removal or abatement of such asbestos-containing products, from Defendant's railroad(s).

ANSWER: OBJECTION. NSRC objects to this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 20: Did any entities or persons at Defendant's direction, whether direct or indirect, including but not limited to contractors and subcontractors install, replace, use, repair, assemble, transport or store either as an original appurtenance of the railroad or placed in/on the railroad in conjunction with repairs or alterations to the railroad, any asbestos-containing products during the time Plaintiff worked for Defendant? If so, identify:

- A. By name and number each of Defendant's railroad(s), whether operating or in railyards, upon which Plaintiff worked and upon which the asbestos-containing product(s) were installed, repaired, used, stored or transported during the time Plaintiff worked for Defendant;
- B. The particular type of asbestos-containing product(s);

- C. The trade or brand name of each of the asbestos-containing products;
- D. The years during which each named asbestos product was applied, stored, used, repaired, installed or transported either as an original appurtenance of the railroad or placed on/in the railroad in conjunction with repairs, or alterations to the railroad(s); and
- E. The dates of any removal or abatement of such asbestos-containing products, from Defendant's railroad(s).

ANSWER: OBJECTION. NSRC objects to this request on the following grounds:

- 1. the request is overly broad;
- 2. the request is unlimited in terms of geographic scope;
- 3. the request is vague;
- 4. the request is ambiguous;
- 5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
- 6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
- 7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 21: If the answer to any portion of the preceding interrogatory is in the affirmative and/or if any asbestos-containing products are identified in response to such interrogatory, state the following as to each identified product:

- A. The name(s) of the railroad workers repairing, replacing, or using each asbestos-containing product, on Defendant's railroad(s) during Plaintiff's period of employment by Defendant;
- B. A description of the physical appearance of each of the named asbestos-containing products;
- C. A detailed description of the uses of the named asbestos-containing products;

- D. A detailed description of the areas on Defendant's railroad where such asbestos-containing products were installed, replaced or used.

ANSWER: OBJECTION. NSRC objects to this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 22: Has Defendant or any other entity at the direction of Defendant contracted with another entity for the acquisition, ordering, purchasing, supplying or distributing of asbestos-containing products, any time prior to or during the time Plaintiff was employed by Defendant? If so, identify:

- A. Each of Defendant's railroad components by name and number for which for which the asbestos-containing products, were ordered, purchased, supplied or distributed during the time Plaintiff was employed by Defendant;
- B. The particular type of asbestos-containing products acquired;
- C. The trade or brand name of each of those asbestos-containing products, ordered, purchased, supplied or distributed;
- D. The years such asbestos-containing products were acquired, ordered, purchased, supplied or distributed by Defendant;
- E. The dates of any removal or abatement of asbestos-containing products.

ANSWER: OBJECTION. NSRC objects to this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 23: If your answer to any portion of the preceding

interrogatory is in the affirmative, or if any asbestos-containing products, are identified in response to such interrogatory, state the following as to each product:

- A. The name(s) of the company(ies), entity(ies), manufacturer(s) from which the asbestos-containing products, were acquired, ordered, purchased, supplied or distributed;
- B. The date(s) each asbestos-containing product was ordered, purchased, supplied or distributed;
- C. A description of the physical appearance of each of the named asbestos-containing products;
- D. A detailed description of the uses of the named asbestos-containing products;
- E. Identify the last year that Defendant ordered, purchased, supplied or distributed each identified asbestos-containing product.

ANSWER: **OBJECTION.** NSRC objects to this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;

5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 24: State whether Defendant maintained, from 1950 through the present, copies of invoices, shipping receipts, bills of lading, purchase orders, or other documents of a similar nature relating to the purchase or acquisition of asbestos-containing 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.

ANSWER: **OBJECTION.** Defendant objects to this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

NSRC objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

INTERROGATORY NO. 25: Identify all persons, including name, address and telephone number, who provided and/or conducted or were responsible for conducting any type of safety training, during the time Plaintiff was employed by Defendant.

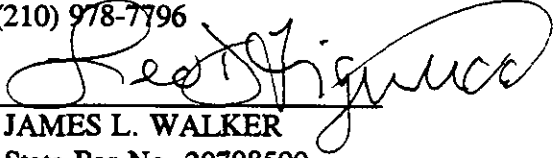
ANSWER: **OBJECTION.** NSRC objects to this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

NSRC further objects to this interrogatory on the grounds that it exceeds the number of interrogatories permitted by Rule 168 of the Texas Rules of Civil Procedure.

NSRC objects to this interrogatory for the reason that Plaintiff's decedent was never employed by it.

JACKSON WALKER L.L.P.
112 E. Pecan, Suite 2100
San Antonio, Texas 78205
TEL: (210) 978-7700
FAX: (210) 978-7796

By: 

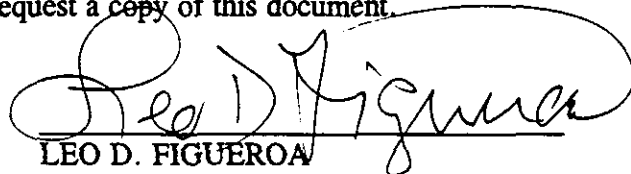
JAMES L. WALKER
State Bar No. 20708500
LEO D. FIGUEROA
State Bar No. 06984100

ATTORNEYS FOR DEFENDANT, NORFOLK
SOUTHERN RAILWAY COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was served by hand delivery, to Mr. Peter Kraus / Ms. Kimberly A. Castles, Baron & Budd, A Professional Corporation, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219, on this the 21 day of August, 1997.

All defense counsel may request a copy of this document.


LEO D. FIGUEROA

1612040/02

NORFOLK SOUTHERN RAILWAY COMPANY

By: T. M. Brady

T. M. Brady

Assistant to the General Manager

- Casualty Claims

Norfolk Southern Corporation

STATE OF VIRGINIA)

CITY OF NORFOLK)

T. M. Brady, being first duly sworn upon his oath, says that he has read the above and foregoing Answers and Objections of Defendant Norfolk Southern Railway Company to Plaintiff's Interrogatories Directed to Norfolk Southern Railway Company; that he does not have personal knowledge regarding the answers thereto but that the matters set forth therein are true, according to his best information and belief; and that he is authorized to execute these answers on behalf of the Norfolk Southern Railway Company.

T. M. Brady

T. M. Brady

Assistant to the General
Manager Casualty Claims

Norfolk Southern Corporation

Subscribed and sworn to before me this 7th day of
August, 1997.

Cheri A. Bradley

Notary Public

COMMISSIONED AS CHERI L. TATE

My Commission Expires:

9-30-98

Answer to Interrogatory No. 10

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Kathy and David Rose
Hauser, NC

Bonnie Munday - Fleming
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Twin City Community Hospital
and Custodian of Records
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Galax, VA

Newport News Shipbuilding & Drydock Company
Newport News Shipyard
Newport News, VA

Rockingham Construction Company, Inc.
Rural Electrification Agency
Harrisonburg, VA

Minnesota Mining and Manufacturing Company

ABEX Corporation

A. P. Green

Allied-Signal, Inc.

Allis Chalmers

Amchem

American Steel & Wire Company

Anaconda

Anchor Packing Company

A. P. Green Industries, Inc.

Armstrong Contracting and Supply

Armstrong World Industries, Inc.

Asten-Hill

Atlas Asbestos

A. W. Chesterton Company

Babcock & Wilcox

Baltimore Land Ennis

Barrett Roofing

Belmont Packing Company

Benjamin Foster Company

Berkheimer

Bird & Son

Borg-Warner Corporation

Calsilite

Calcrete

Capco Pip Company, Inc.

C. E. Thurston & Sons, Inc.

Celotex Corporation

Certainteed

Chevron U.S.A., Inc.

Chrysler Corporation

Cleaver Brooks

Colonial Sugar Refineries

Combustion Engineering

Cooper Industries

Crane

Crown Cork & Seal Company

Damit

Dana Corporation

Dossert

Eagle-Picher Industries, Inc,

Excelsior

Fibreboard Corporation

Flexitallic Gasket Company

Flintkote

Ford Motor Co.

Forty-Eight Insulations

Foster Wheeler

GAF-Ruberoid

Garlock, Inc.

General Electric Company

General Motors

General Refractories Company

Georgia Pacific Corporation

Gold Bond

Grant Wilson, Inc.

Guard-Line, Inc.

Harbison-Walker Refractories Company

Hatfield

Haveg Pipe Co.

H. K. Porter Company

Hercules

Indresco Inc.

I.U. North America, Inc.

John Crane

Johns-Manville

K-Fac

Kaiser Aluminum & Chemical Corporation

Kaiser Gypsum Company, Inc.

Kaylo

Keene Corporation

Kelly-Moore Paint Company

Kewaner

Limpet

Koppers

Kurfees

McCord

The Maremont Corporation

Martin Marietta Co.

M. H. Detrick Company

Minnesota Mining & Manufacturing Company

Mobil

Mundet

National Gypsum Company

Nicolet

North American Philips Company

North American Refractories Company

National Service Ind., Inc.

NOSROC Corporation

Nuturn Corporation

Okonite

Owens-Corning Fiberglas Corporation

Owens-Illinois, Inc.

Pabco

Parsons

Pfizer, Inc.

Phelps Dodge

Pittsburgh Corning Corporation

Pneumo Abex Corporation

Proko Industries, Inc.

Quigley Company, Inc.

Rapid American Corporation

Raybestos-Manhattan

Raymark
Riley Stoker Corporation
Rockbestos Product Corporation
Rock Wool Manufacturing Company
Rutland
Sepco Corporation
Shook & Fletcher Insulation
Steel Grip
Synkoloid
Thermo Electric, Inc.
T & N, plc
Unarco Industries
Union Carbide Corporation
Uniroyal Holding, Inc.
U. S. Gypsum Company
U. S. Mineral
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Victor
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Sandra Thacker Pierce
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Corporate Secretary of Norfolk Southern Railway and Norfolk and Western Railway
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Robert M. Ross, M.D.
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Larry Liukonen
Tech-Con
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Arlington, Texas 76013
(817) 460-8400

Horton C. Hinshaw, M.D.
Deceased

Douglas W. Jenkins, M.D.
124 Dallas Street
San Antonio, Texas
(210) 224-1771

Dr. Elliot Hinkes
301 N. Prairie Avenue, Suite 311
Inglewood, California

Frances W. Weir, Ph.D.
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(713-893-4003)

Dr. Philip Cagle
Baylor College of Medicine in Houton
Pathology Department
One Baylor Plaza, Rm. 220B
Houston, TX 77030
(713) 798-4661

Defendant reserves the right to call as a witness all doctors who have examined Plaintiff, reviewed Plaintiff's medical records, and/or have been designated as witnesses by any other parties to this action.

Answer to Interrogatory No. 11

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Drs. Ross, Donaldson, Wilson and Jenkins can testify concerning the following areas:

- a. Anatomy and function of the respiratory and circulatory systems;
- b. The nature of asbestos;
- c. The symptomatology, disease process and diagnosis of asbestos and cancer association with respiratory system, peritoneum and peritoneal cavity;
- d. The nature and extend of medical and scientific knowledge regarding any association of obstructive pulmonary disease with asbestos fiber exposure;
- e. The effect of exposure to substances other than asbestos on the development and manifestation of obstructive and restrictive conditions and diseases of the respiratory system;
- f. Methods of diagnosis of various diseases particularly means of establishing the differential diagnosis of alleged asbestos-related diseases with other non-asbestos-related diseases;
- g. Incidents of lung cancer among individuals with asbestosis, compared with non-asbestotic asbestos workers and with the general populations;
- h. Cigarette smoking and its effect on the lung;
- i. The relationship of cigarette smoking to cancer of the lung and cancers of other sites with reference to epidemiological studies and physiologic effect;
- j. Difference between impairment and disability;
- k. Effect of asbestosis on disability and life expectancy;

1. The lack of a relationship between presence of pleural plaques and a later development of any form of cancer.

Larry Liukonen
Tech-Con
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(817) 460-8400

Larry Liukonen is an industrial hygienist who can testify about the practices and procedures of the railroad, its bridges, buildings and other structures and locations as they relate to asbestos exposure, if any, on engines, cabooses, rail cars and its shops. He can also testify about the state-of-the-art insofar as the railroad is concerned.

Horton C. Hinshaw, M.D.
Deceased

Dr. Hinshaw was an Emeritus Professor of Medicine at the University of California School of Medicine. Dr. Hinshaw has testified by deposition regarding the state of the scientific and medical knowledge concerning asbestos. Included in his testimony is a discussion of the respiratory system asbestos disease and the effect of other substances on the respiratory system.

Dr. Elliot Hinkes
301 N. Prairie Avenue, Suite 311
Inglewood, California

Dr. Hinkes is a board certified oncologist and hematologist. He will testify concerning the relationship of asbestos and smoking to the development of cancer. Dr. Hinkes will also testify concerning the incidence of lung cancer among individuals with asbestosis or exposure to asbestos-containing insulation products. He will also testify regarding the connection between the decedent's condition and his alleged asbestos exposure, as well

as the treatment for the decedent's condition. He may also be called to testify as to the state-of-the-art of the railroad industry's knowledge of the alleged hazards of asbestos exposure and as to his review of the medical/scientific literature concerning the knowledge or lack thereof.

Frances W. Weir, Ph.D.
8131 Wycomb Drive
Houston, Texas 77070
(713-893-4003)

The topics of Dr. Weir's expected testimony include the fields of pharmacology, toxicology and industrial hygiene, generally and particularly as they relate to asbestos fiber exposure in various work places. He is expected to testify concerning the types and characteristics of asbestos, as well as the recognized pathogenic potential from exposure to fibers of these

substances. If asked, his testimony will include a discussion of the way asbestos containing materials were used, in general with the railroad industry, and specifically within the shops and other facilities of the Norfolk Southern Railway Company at various times of interest in this matter. He will also be prepared to discuss laws and regulations and relevant standards relating to asbestos exposure, the characteristics and epidemiology of asbestos-related or associated diseases and relevant medical and scientific literature on these subjects. Additionally, he is expected to discuss the evolution on the role of health concerns within the industry. Dr Weir may also discuss and describe the effects of chemicals, especially those contained in cigarettes, on human physiology.

It is expected that Dr. Weir will offer the opinion that, based on the various descriptions of work activities of concern in this matter, and assuming those descriptions are correct, that there is no scientific basis or affirmative evidence to conclude that plaintiff's exposures ever regularly exceeded the concurrently acceptable time weighted average values for this material. He will assert that essentially, there was no concurrent basis to conclude that the practices and operation of the railway shops at the times of interest in this matter would have been considered to represent a hazard to the health of workers from the railroad's use of asbestos containing materials.

Dr. Weir may also testify regarding the knowledge of the toxicology and appreciation for the hazards related to the use of asbestos containing materials at various intervals throughout the twentieth century.

Dr. Weir's opinions will be based upon his education, experience and professional training, his review of the relevant medical, epidemiological, scientific and technical literature and, his review and analysis of the case specific materials provided to him concerning this matter.

Dr. Philip Cagle
Baylor College of Medicine in Houton
Pathology Department
One Baylor Plaza, Rm. 220B
Houston, TX 77030
(713) 798-4661

Dr. Cagle is a Pathologist ~~in the~~ who can evaluate pathology materials of the decedent for the purpose of determining whether or not mesothelioma was present. He may also testify about asbestos related diseases, causes of cancer, and the effect of other substances, such as cigarette smoke, on the plaintiff.

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and Custodian of Records
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Twin City Community Hospital
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The Plaintiff's physicians will testify regarding the general treatment, history, diagnosis and prognosis of the Plaintiff.

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