

NO. 99-05894-K

JOHNNY FRANKLIN GIFFORD, et al.,	§	IN THE DISTRICT COURT
	§	
Plaintiffs,	§	
	§	
vs.	§	DALLAS COUNTY, TEXAS
	§	
OWENS CORNING (a/k/a OWENS	§	
CORNING CORPORATION), et al.,	§	
	§	
Defendants.	§	192ND JUDICIAL DISTRICT

**DEFENDANT CELANESE LTD.'S FIRST SUPPLEMENTAL
RESPONSES TO PLAINTIFF SAM ELLIOTT DIVINE'S FIRST
SET OF INTERROGATORIES, FIRST REQUEST FOR
PRODUCTION AND FIRST REQUEST FOR ADMISSIONS**

TO: Plaintiff Sam Elliott Divine, by and through his attorney, Stephanie Finch, BARON & BUDD, The Centrum, Suite 1100, 3102 Oak Lawn Avenue, Dallas, Texas 75219

Pursuant to the Texas Rules of Civil Procedure (the "Rules"), Defendant Celanese Ltd. (referenced herein as "Defendant" or "Celanese") submits these First Supplemental Responses to Plaintiff Sam Elliott Divine's First Set of Interrogatories, First Request for Production and First Request for Admissions Propounded on Premises Defendant Celanese Ltd. as follows:

GENERAL RESPONSES, OBJECTIONS AND ASSERTIONS OF PRIVILEGE

Defendant makes the following general objections to each and every request and interrogatory directed to it:

1. Celanese objects to Plaintiff's Instruction No. 1. Defendant may produce non-privileged responsive documents in the manner in which they are kept in the ordinary course of business.

2. Defendant objects to the interrogatories and requests to the extent that they seek to compel the disclosure of information specifically exempted from discovery by the privileges afforded in the Texas Rules of Civil Procedure and Article V. of the Texas Rules of Evidence ("Rules of Evidence"), including the attorney/client privilege, the joint defense privilege, the attorney work product doctrine, or the investigative privilege. Withholding of documents or information on the basis of privilege, if any, will be specifically noted as part of Defendant's objections and responses after the discovery request calling for such privileged information and/or documents, if any.

3. Defendant objects to paragraph one of the DEFINITIONS regarding "Defendant," "You," "Your," and "Your Company" and paragraph three regarding "persons" because they are overly broad and unduly burdensome and pertain to corporations other than those who are parties to this suit. Defendant also objects to paragraphs one and three because they include Defendant's attorneys; information and things protected by the attorney client privilege and work product doctrine are not discoverable.

4. Defendant objects to paragraph two of the DEFINITIONS because the definition of the word "document" and the instructions regarding "possession, custody or control" are overly broad, seeks information specifically exempted from discovery by the privileges afforded in the Rules and Rule 503 of the Rules of Evidence, including the attorney work product doctrine, and the attorney client privilege because it exceeds the scope of Rule 192.3 of the Rules. Throughout these responses, Celanese will assume that the word will have its commonly used meaning, as set forth in Rule 192.3(b), and will respond accordingly.

5. Defendant objects to the definitions of "identify" contained in paragraphs 16 and 17 of the DEFINITIONS because they are overly broad, unduly burdensome and harassing.

6. Defendant objects to DEFINITION 6 to the extent information is sought concerning asbestos in a non-friable form.

7. Celanese further objects to any discovery request seeking to charge it with knowledge or information held by its "predecessors or subsidiaries" or requiring it to provide information regarding plants other than the ones identified by plaintiff Sam Elliot Divine in his deposition testimony. Celanese objects to DEFINITION 18, DEFENDANT'S PREMISES, because, according to his deposition testimony, plaintiff Sam Elliot Divine never worked at any Celanese plant "located at Corpus Christi, Texas." Celanese operated multiple facilities and employs thousands of workers. Accordingly, it is unduly burdensome, excessively expensive and harassing to require Celanese to respond to these discovery requests as to all plants and/or any plant at which plaintiff was never present.

9. Defendant objects to Plaintiff's discovery requests to the extent they are unlimited in time.

10. Defendant objects to Plaintiff's requests to the extent that they necessarily seek disclosure of trade secrets, proprietary material and other confidential information protected from discovery by the Texas Rules of Civil Procedure.

11. The presence of an objection does not mean that Celanese possesses non-privileged information responsive to a discovery request.

SPECIFIC OBJECTIONS

Each of the following specific responses and objections incorporate by reference the above-stated general responses, objections and assertions of privilege. Subject to the foregoing, Celanese specifically responds as follows:

RESPONSES

REQUEST FOR ADMISSION NO. 4:

Admit that Plaintiff worked on premises owned by Defendant or by a predecessor-in-interest of Defendant.

RESPONSE:

Celanese admits that Plaintiff alleges in his Fourth Amended Petition that he worked at Celanese's Bishop, Texas and Deer Park, Texas plants, and that he alleges in his deposition testimony that he also worked at Celanese's Clear Lake Plant. Celanese has no documents or information reasonably available to it to confirm Plaintiff's statements.

REQUEST FOR PRODUCTION NO. 6:

Produce all records identifying contractors and/or the employees of contractors who were on your premises between the dates 1965 and 1977, including but not limited to sign-in logs, gate records, visitor's logs, identification badge logs and procedures, and other documents of a similar nature.

RESPONSE:

Celanese additionally objects to this request because:

1. It fails to describe with reasonable particularity the item or category of items sought to be inspected, as required by Rule 196.1 of the Texas Rules of Civil Procedure;
2. It seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence;
3. It is vague and ambiguous;
4. It is overly broad and unduly burdensome; and
5. According to his own petition, plaintiff never worked on "Defendant's Premises" as that term is defined by plaintiff in these discovery requests.

Subject to and without waiving the foregoing objections, Celanese states that, after a reasonably diligent search, it is unable to locate any relevant, responsive documents.

REQUEST FOR PRODUCTION NO. 7:

Produce all records pertaining to the methods and manner of identification of individuals entering and/or leaving your facilities, between the years 1965 and 1977, including but not limited to fingerprinting or other methods of identifying contractor employees at your premises, and specifically including any fingerprinting or other records identifying the Plaintiff.

RESPONSE:

Celanese additionally objects to this request because:

1. It fails to describe with reasonable particularity the item or category of items sought to be inspected, as required by Rule 196.1 of the Texas Rules of Civil Procedure;
2. It seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence;
3. It is vague and ambiguous;
4. It is overly broad and unduly burdensome; and
5. According to his own petition, plaintiff never worked on "Defendant's Premises" as that term is defined by plaintiff in these discovery requests.

Subject to and without waiving the foregoing objections, Celanese states that, after a reasonably diligent search, it is unable to locate any relevant, responsive documents.

INTERROGATORY NO. 4:

Identify the contractors who worked on your premises between the years 1965 and 1977 and for each, state:

- a. The type of work performed by the contractor
- b. The dates such work was performed
- c. Identify your employee responsible for monitoring, verifying, or instructing concerning these services to be performed by such contractors.

RESPONSE:

Celanese additionally objects to this request because:

1. It seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence;
2. It is vague and ambiguous; and
3. It is not limited to the plant at issue in this case, and it seeks information about a plant at which plaintiff never worked; and
4. It is overly broad and unduly burdensome.

Subject to these objections, according to plaintiff's deposition testimony, he never worked on "Defendant's Premises" as that term is defined in these discovery requests. As for the independent contractors that employed plaintiff, see plaintiff's deposition testimony for their identities and a description of the work performed by them.

REQUEST FOR ADMISSION NO. 6:

Admit that Plaintiff, in the course and scope of his work as an employee of an independent contractor, worked around Defendant's employees who were using and/or applying asbestos-containing products.

RESPONSE:

Celanese additionally objects to this request because it is vague and ambiguous.

Subject to these objections, denied.

REQUEST FOR PRODUCTION NO. 10:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Celanese additionally objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected, as required by Rule 196.1 of the Texas Rules of Civil Procedure.

Subject to these objections, see deposition transcript of plaintiff Sam Elliot Divine.

REQUEST FOR PRODUCTION NO. 12:

Produce any and all photographs or videographic depictions or films depicting the use by you or your employees of any safety precautions (such as containment areas, warning signs, etc.) taken to protect bystanders from the hazards of airborne asbestos resulting from the use of asbestos-containing products by your employees at any locations.

RESPONSE:

Celanese additionally objects to this request because:

1. It fails to describe with reasonable particularity the item or category of items sought to be inspected, as required by Rule 196.1 of the Texas Rules of Civil Procedure;
2. It seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence; and
3. It is unlimited in time, overly broad and unduly burdensome.

Subject to these objections and after a reasonably diligent inquiry, Celanese states that it is aware of no responsive materials.

INTERROGATORY NO. 7:

Please identify any and all warnings ever given by Defendant, if any, to Plaintiffs [sic] regarding the hazards of asbestos and the dangers inherent in the inhalation of asbestos fibers.

RESPONSE:

Celanese additionally objects to this request because:

1. It fails to describe with reasonable particularity the item or category of items sought to be inspected, as required by Rule 196.1 of the Texas Rules of Civil Procedure;
2. It seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence; and
3. It is unlimited in time, overly broad and unduly burdensome.

Subject to these objections, Celanese has no information at this time regarding warnings that may have been given directly to plaintiff Divine.

INTERROGATORY NO. 12:

State in detail what tests have been conducted with regard to the quantity, quality, or threshold limit values of asbestos dust or particles to which workers were exposed while using, working with or around, or installing asbestos-containing products in any of your facilities. Please state where and when these tests were conducted, by whom these tests were conducted, and the results of any such test.

RESPONSE:

Celanese additionally objects to this request because:

1. It seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence; and
2. It is unlimited in time, overly broad and unduly burdensome.
3. According to his own petition, plaintiff never worked on "Defendant's Premises" as that term is defined by plaintiff in these discovery requests.

Subject to these objections, see the documents produced to plaintiff's counsel on July 13, 1999 in Cause No. 97-8-50,930-B, *Arthur Dominguez, et al. v. Owens-Corning Fiberglas, et al.*, in the 135th Judicial District Court of Victoria County, Texas, bates-labeled 000001-006430. See also the documents previously produced on September 29, 2000, in Cause No. 90G2055, *Weldon R. Moake, et al. v. Owens Corning Fiberglas, et al.*, in the 239th Judicial District Court of Brazoria County, Texas, bates-labeled 9189-10363. Given the passage of time, the referenced documents generally constitute Celanese's best source of information on these topics, and the information sought may be derived from them by plaintiff as easily as by defendant.

REQUEST FOR PRODUCTION NO. 16:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Celanese additionally objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected, as required by Rule 196.1 of the Texas Rules of Civil Procedure.

Subject to these objections, see the documents previously produced to you on July 13, 1999 in Cause No. 97-8-50,930-B, *Arthur Dominguez, et al. v. Owens-Corning*

Fiberglas, et al., in the 135th Judicial District Court of Victoria County, Texas, bates-labeled 000001-006430. See also the documents previously produced on September 29, 2000, in Cause No. 90G2055, *Weldon R. Moake, et al. v. Owens Corning Fiberglas, et al.*, in the 239th Judicial District Court of Brazoria County, Texas, bates-labeled 9189-10363. Discovery is ongoing and Celanese reserves the right to supplement this response and/or produce additional responsive documents, if any, as appropriate.

REQUEST FOR PRODUCTION NO. 17:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Celanese additionally objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected, as required by Rule 196.1 of the Texas Rules of Civil Procedure.

Subject to these objections, see the documents previously produced to you on July 13, 1999 in Cause No. 97-8-50,930-B, *Arthur Dominguez, et al. v. Owens-Corning Fiberglas, et al.*, in the 135th Judicial District Court of Victoria County, Texas, bates-labeled 000001-006430. See also the documents previously produced on September 29, 2000, in Cause No. 90G2055, *Weldon R. Moake, et al. v. Owens Corning Fiberglas, et al.*, in the 239th Judicial District Court of Brazoria County, Texas, bates-labeled 9189-10363. Discovery is ongoing and Celanese reserves the right to supplement this response and/or produce additional responsive documents, if any, as appropriate.

REQUEST FOR PRODUCTION NO. 18:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Celanese additionally objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected, as required by Rule 196.1 of the Texas Rules of Civil Procedure.

Subject to these objections, see the documents previously produced to you on July 13, 1999 in Cause No. 97-8-50,930-B, *Arthur Dominguez, et al. v. Owens-Corning Fiberglas, et al.*, in the 135th Judicial District Court of Victoria County, Texas, bates-labeled 000001-006430. See also the documents previously produced on September 29, 2000, in Cause No. 90G2055, *Weldon R. Moake, et al. v. Owens Corning Fiberglas, et al.*, in the

239th Judicial District Court of Brazoria County, Texas, bates-labeled 9189-10363. Discovery is ongoing and Celanese reserves the right to supplement this response and/or produce additional responsive documents, if any, as appropriate.

REQUEST FOR PRODUCTION NO. 19:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Celanese additionally objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected, as required by Rule 196.1 of the Texas Rules of Civil Procedure.

Subject to these objections, see the documents previously produced to you on July 13, 1999 in Cause No. 97-8-50,930-B, *Arthur Dominguez, et al. v. Owens-Corning Fiberglas, et al.*, in the 135th Judicial District Court of Victoria County, Texas, bates-labeled 000001-006430. See also the documents previously produced on September 29, 2000, in Cause No. 90G2055, *Weldon R. Moake, et al. v. Owens Corning Fiberglas, et al.*, in the 239th Judicial District Court of Brazoria County, Texas, bates-labeled 9189-10363. Discovery is ongoing and Celanese reserves the right to supplement this response and/or produce additional responsive documents, if any, as appropriate.

REQUEST FOR PRODUCTION NO. 20:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Celanese additionally objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected, as required by Rule 196.1 of the Texas Rules of Civil Procedure.

Subject to these objections, see the documents previously produced to you on July 13, 1999 in Cause No. 97-8-50,930-B, *Arthur Dominguez, et al. v. Owens-Corning Fiberglas, et al.*, in the 135th Judicial District Court of Victoria County, Texas, bates-labeled 000001-006430. See also the documents previously produced on September 29, 2000, in Cause No. 90G2055, *Weldon R. Moake, et al. v. Owens Corning Fiberglas, et al.*, in the 239th Judicial District Court of Brazoria County, Texas, bates-labeled 9189-10363.

Discovery is ongoing and Celanese reserves the right to supplement this response and/or produce additional responsive documents, if any, as appropriate.

REQUEST FOR PRODUCTION NO. 21:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Celanese additionally objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected, as required by Rule 196.1 of the Texas Rules of Civil Procedure.

Subject to these objections, see the documents previously produced to you on July 13, 1999 in Cause No. 97-8-50,930-B, *Arthur Dominguez, et al. v. Owens-Corning Fiberglas, et al.*, in the 135th Judicial District Court of Victoria County, Texas, bates-labeled 000001-006430. See also the documents previously produced on September 29, 2000, in Cause No. 90G2055, *Weldon R. Moake, et al. v. Owens Corning Fiberglas, et al.*, in the 239th Judicial District Court of Brazoria County, Texas, bates-labeled 9189-10363. Discovery is ongoing, and Celanese reserves the right to supplement this response and/or produce additional responsive documents, if any, as appropriate.

REQUEST FOR PRODUCTION NO. 22:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Celanese additionally objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected, as required by Rule 196.1 of the Texas Rules of Civil Procedure.

Subject to these objections, see the documents previously produced to you on July 13, 1999 in Cause No. 97-8-50,930-B, *Arthur Dominguez, et al. v. Owens-Corning Fiberglas, et al.*, in the 135th Judicial District Court of Victoria County, Texas, bates-labeled 000001-006430. See also the documents previously produced on September 29, 2000, in Cause No. 90G2055, *Weldon R. Moake, et al. v. Owens Corning Fiberglas, et al.*, in the 239th Judicial District Court of Brazoria County, Texas, bates-labeled 9189-10363. Discovery is ongoing, and Celanese reserves the right to supplement this response and/or produce additional responsive documents, if any, as appropriate.

REQUEST FOR PRODUCTION NO. 23:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Celanese additionally objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected, as required by Rule 196.1 of the Texas Rules of Civil Procedure.

Subject to these objections, see the documents previously produced to you on July 13, 1999 in Cause No. 97-8-50,930-B, *Arthur Dominguez, et al. v. Owens-Corning Fiberglas, et al.*, in the 135th Judicial District Court of Victoria County, Texas, bates-labeled 000001-006430. See also the documents previously produced on September 29, 2000, in Cause No. 90G2055, *Weldon R. Moake, et al. v. Owens Corning Fiberglas, et al.*, in the 239th Judicial District Court of Brazoria County, Texas, bates-labeled 9189-10363. Discovery is ongoing, and Celanese reserves the right to supplement this response and/or produce additional responsive documents, if any, as appropriate.

REQUEST FOR PRODUCTION NO. 43:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Celanese additionally objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected, as required by Rule 196.1 of the Texas Rules of Civil Procedure. Celanese further objects to this request because it is vague and ambiguous, and, because, according to his own petition, plaintiff never worked on "Defendant's Premises" as that term is defined by plaintiff in these discovery requests. See also plaintiff's deposition testimony in this case.

REQUEST FOR PRODUCTION NO. 61:

If you contend that Plaintiff does not suffer from the asbestos-related disease(s) complained of, produce all documents supporting your contention.

RESPONSE:

Celanese additionally objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure.

Subject to these objections, see all medical records and reports on plaintiff Sam Elliot Divine produced by all parties to this action.

REQUEST FOR PRODUCTION NO. 63:

Produce all documents used, referred to or relied upon in answering any Interrogatories.

RESPONSE:

Celanese additionally objects to this request because:

1. It fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure; and
2. It is vague and ambiguous.

Subject to these objections, see the documents previously produced to you on July 13, 1999 in Cause No. 97-8-50,930-B, *Arthur Dominguez, et al. v. Owens-Corning Fiberglas, et al.*, in the 135th Judicial District Court of Victoria County, Texas, bates-labeled 000001-006430. See also the documents previously produced on September 29, 2000, in Cause No. 90G2055, *Weldon R. Moake, et al. v. Owens Corning Fiberglas, et al.*, in the 239th Judicial District Court of Brazoria County, Texas, bates-labeled 9189-10363. See also Plaintiffs' Most Recent Petition and all medical records and reports regarding Sam Elliott Divine produced by all parties to this action. See also plaintiff's deposition testimony.

REQUEST FOR PRODUCTION NO. 64:

Produce any and all documents and other tangible things which refer to the document retention (and/or destruction) policy of Defendant, including the following:

- a. Any document retention and/or destruction policies for Defendant that pertain to documents and records, including but not limited to supplements, addenda, memoranda, operating bulletins, revisions, or any other

superseding instructions that referred to the stopping, suspending or resuming of such retention or destruction policies.

- b. Any record retention and/or destruction, dumping, or purging policies for Defendant that pertain to documents and records created, maintained or stored by electronic and/or magnetic means, including but not limited to records that have been microfilmed, microfiche, imaged, scanned, or stored on tapes, disks, diskettes, CD-rom, databases, etc. or on or within any computer hardware, backup system, download system, file dumping or other system of information management, whether on-site or off-site, including but not limited to supplements, addenda, memoranda, operating bulletins, revisions, or any other superseding instructions that referred to the stopping, suspending or resuming of such retention or destruction policies.

RESPONSE:

Celanese additionally objects to this request because:

1. It fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure;
2. It is vague and ambiguous; and
3. It is unlimited in time or place location and seeks matters that are not relevant nor reasonably calculated to lead to the discovery of admissible evidence

Subject to these objections, see the documents bates-labeled 009189-009219 produced to plaintiff's counsel on September 29, 2000, in the *Moake* case.

REQUEST FOR PRODUCTION NO. 83:

Produce all documents relating to inspections by labor inspectors, insurance company inspectors or anyone from your company or hired by your company, that included the taking or measuring of "dust counts".

RESPONSE:

Celanese additionally objects to this request because:

1. It fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure;
2. It is vague and ambiguous;
3. It is unlimited in time and plant location and seeks matters that are not relevant nor reasonably calculated to lead to the discovery of admissible evidence; and
4. According to his own petition, plaintiff never worked on "Defendant's Premises" as that term is defined by plaintiff in these discovery requests.

Subject to these objections, see the documents previously produced to you on July 13, 1999 in Cause No. 97-8-50,930-B, *Arthur Dominguez, et al. v. Owens-Corning Fiberglas, et al.*, in the 135th Judicial District Court of Victoria County, Texas, bates-labeled 000001-006430. See also the documents previously produced on September 29, 2000, in Cause No. 90G2055, *Weldon R. Moake, et al. v. Owens Corning Fiberglas, et al.*, in the 239th Judicial District Court of Brazoria County, Texas, bates-labeled 9189-10363.

REQUEST FOR PRODUCTION NO. 84:

In the event that Defendant performed or had performed any dust level counts or measurements of any of its plants or industrial facilities with respect to asbestos dust, produce any documents, memoranda, or other writings that in any way reflect the results of such studies or counts and actions taken as a result of such counts or studies.

RESPONSE:

Celanese additionally objects to this request because:

1. It fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure;
2. It is vague and ambiguous;
3. It is unlimited in time and plant location and seeks matters that are not relevant nor reasonably calculated to lead to the discovery of admissible evidence; and
4. According to his own petition, plaintiff never worked on "Defendant's Premises" as that term is defined by plaintiff in these discovery requests.

Subject to these objections, see the documents previously produced to you on July 13, 1999 in Cause No. 97-8-50,930-B, *Arthur Dominguez, et al. v. Owens-Corning Fiberglas, et al.*, in the 135th Judicial District Court of Victoria County, Texas, bates-labeled 000001-006430. See also the documents previously produced on September 29, 2000, in Cause No. 90G2055, *Weldon R. Moake, et al. v. Owens Corning Fiberglas, et al.*, in the 239th Judicial District Court of Brazoria County, Texas, bates-labeled 9189-10363. See also Plaintiffs' Most Recent Petition and all medical records and reports regarding Sam Elliott Divine produced by all parties to this action. See also plaintiff's deposition testimony.

REQUEST FOR PRODUCTION NO. 96:

Please produce any printed material produced or published by Defendant containing any warnings concerning the possibility of injury resulting from the use of asbestos-containing products or exposure to asbestos?

RESPONSE:

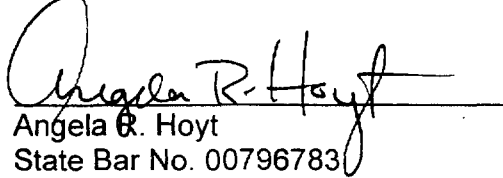
Celanese additionally objects to this request because:

1. It fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure;
2. It is vague and ambiguous;
3. It is unlimited in time and plant location and seeks matters that are not relevant nor reasonably calculated to lead to the discovery of admissible evidence; and
4. According to his own petition, plaintiff never worked on "Defendant's Premises" as that term is defined by plaintiff in these discovery requests.

Subject to these objections, see the documents previously produced to you on July 13, 1999 in Cause No. 97-8-50,930-B, *Arthur Dominguez, et al. v. Owens-Corning Fiberglas, et al.*, in the 135th Judicial District Court of Victoria County, Texas, bates-labeled 000001-006430. See also the documents previously produced on September 29, 2000, in Cause No. 90G2055, *Weldon R. Moake, et al. v. Owens Corning Fiberglas, et al.*, in the 239th Judicial District Court of Brazoria County, Texas, bates-labeled 9189-10363.

Respectfully submitted,

KASOWITZ, BENSON, TORRES
& FRIEDMAN LLP



Angela R. Hoyt

State Bar No. 00796783

700 Louisiana Street, Suite 2200

Houston, Texas 77002-2730

(713) 220-8800

(713) 222-0843 (Facsimile)

Michael E. Hutchins

360 Peachtree Street N.E., Ste. 1150

Atlanta, Georgia 30309

(404) 260-6080

(404) 260-6081 (Facsimile)

ATTORNEYS FOR DEFENDANT
CELANESE LTD.

OF COUNSEL:

Marc E. Kasowitz

Hector Torres

KASOWITZ, BENSON, TORRES

& FRIEDMAN LLP

1633 Broadway

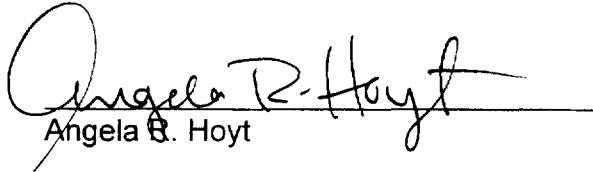
New York, New York 10019

(212) 506-1700

(212) 506-1800 (Facsimile)

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing has been served via facsimile and/or hand delivery and/or by United States mail, postage prepaid, to plaintiff's counsel of record on this 30 day of August, 2001.



Angela R. Hoyt