

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 RESPONSE TO PLAINTIFF'S REQUESTS FOR PRODUCTION

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 and Northern Railway

("Defendant") hereby responds to Plaintiff's Request for Production. 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 OBJECTIONS

1. Defendant objects to any discovery directed at information protected by the attorney/client privilege, the attorney work product doctrine, the settlement privilege, and any other applicable privilege. Defendant also objects to responding to any discovery which concerns trial preparation materials in this case, or any other case, including communications between Defendant and its counsel, including counsel who are or were employees of Defendant.

2. Defendant objects to any discovery which seeks information that is confidential private, business or commercial information, trade secrets, confidential research or development, or proprietary information.

3. Defendant objects to discovery which is not relevant or material, and will not reasonably lead to discovery of admissible evidence.

4. Defendant objects to discovery which is overly broad, vague and ambiguous, and not subject to reasonable limitation in time or scope. Defendant further objects to discovery which does not permit the identification of documents, subjects, and time-frames with sufficient particularity to permit a reasonable production. Defendant objects to the defined terms as being vague, ambiguous, overly broad and, therefore, unduly burdensome, and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. In answering this discovery, Defendant will accord each defined term its ordinary meaning in the English language.

5. Defendant objects to any discovery which seeks information subsequent to the date of the incident made the basis of this case.

6. Defendant objects to any discovery which calls for legal conclusions.

7. Plaintiff's Interrogatories contains 3 1/2 pages of single-spaced definitions. Defendant objects generally to these definitions as unduly complex, vague and as adding to the unreasonable burden imposed by the Interrogatories. Defendant objects to the definitions which accompany this discovery to the extent that these definitions change the common meaning of the English language with regard to any phrase or word, to the extent that these definitions alter the scope of discovery under

the Texas Rules of Civil Procedure, and to the extent that these definitions define terms differently than such terms are defined under the Texas Rules of Civil Procedure and Texas Common Law.

8. 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 interrogatories seek information from Defendant for time periods unrelated to those years during which 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. Defendant will limit its response to the years in question, unless otherwise indicated.

9. Defendant objects to any discovery where disputed issues are assumed to be resolved and the discovery is phrased in an argumentative, prejudicial or improper fashion.

10. Each of these general objections are incorporated into each and every response as though fully set forth in addition to any specific objections stated.

RESPONSES TO REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO.1: Produce any and all documents (memoranda and/or other writings, including but not limited to books, pamphlets, or other written materials of any kind or character) in your possession, custody or control which would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.2: Produce any and all documents (memoranda and/or other writings) in your possession, custody or control that in any way related to the hazards of asbestos and/or airborne asbestos.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.3: Produce any and all documents in your possession, custody or control which were disseminated or published by any person, trade association or organization of any type and that contain information relating to the hazards of asbestos and/or airborne asbestos.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the

years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.4: Produce any and all safety meeting minutes or other documents, memoranda and/or writings that refer to the dangers of asbestos and/or safety measures to be taken by crew members or workers or employees in the vicinity of asbestos-containing products and/or machinery requiring the use of asbestos or asbestos-containing produces and/or materials on Defendant's railroad.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.5: Produce any and all contracts, memoranda, and/or other writings that in any way reflect arrangements made for the removal of asbestos and/or the installation of asbestos-containing products [on] Defendant's railroad(s).

RESPONSE: Defendant objects to this request as being 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.

Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.6: Produce any and all documents that in any way reflect a removal plan or organized written criteria or schedule for the removal of asbestos on Defendant's railroad(s).

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.7: Produce any and all documents that discuss or relate in any way to removal of asbestos from any Defendant's railroad(s).

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel

during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.8: Please produce any and all documents related to the medical condition of Plaintiff at any time during his employment with Defendant. This request specifically includes, but is expressly not limited to, any and all x-rays, x-ray reports, medical notes and/or medical records of any kind, including annual physical forms.

RESPONSE: Defendant has no documents responsive to this document request.

REQUEST FOR PRODUCTION NO.9: Produce any and all documents that indicate and/or refer to in any way a decision and/or discourse related to ceasing the use of asbestos-containing products on Defendant's railroad(s).

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.10: Produce any and all specifications, blue prints, documents, memoranda and/or other writings that reflect and/or demonstrate in the form of a map and/or chart the location and dimensions of all car(s) and/or engine(s), locomotives, roundhouses and/or shops upon which and in the

vicinity of which Plaintiff worked and specifically including, but not limited to, the location and/or placement, repair, installation and/or use of asbestos-containing products at any time within the last thirty-five (35) years on the railroad(s).

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.11: Produce any photographs of asbestos products in place or asbestos products being used, fabricated and/or utilized on Defendant's railroad(s).

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.12: Produce any actual warning signs or photographs of warnings signs or other statements in place at any time relating to asbestos-containing products [in place] at any

time during the last thirty-five (35) years on Defendant's railroad(s).

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.13: Produce any documents which indicate in any way that individuals claimed injury to their lungs as a result of exposure to asbestos on any of Defendant's railroad(s).

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.14: Produce any documents, minutes or other notes or records from any meetings at which the hazards and/or potential hazards of asbestos were discussed by officers, agents, and/or employees of Defendant.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.15: Produce any and all documents, including invoices, shipping receipts, bills of lading, purchase orders, or other documents of a similar nature related to the purchase of asbestos-containing products for use on Defendant's railroad(s).

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.16: Produce any and all documents reflecting in any way any inspections by labor inspectors, insurance company inspectors or anyone from Defendant's company or hired by Defendant where asbestos-containing products were being used or installed and that included the taking or measure of "dust counts." This request specifically includes any and all of Defendant's railroad(s) and railway car(s) and/or engine(s)

and/or locomotive(s) and/or roundhouse(s) or shops during the last thirty-five (35) years.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.17: In the event that Defendant performed or had performed any dust level counts with respect to asbestos dust on any of its railroads, produce any documents that in any way reflect or discuss the results of such studies or counts and actions, or potential actions, if any, taken as a result of such counts or studies.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.18: Please provide all documents referred to in answering Plaintiff's Interrogatories propounded

to the Defendant, identifying with specificity which documents were used to answer which Interrogatories.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.19: (1) Please provide a curriculum vitae for each and every expert witness or expert that the Defendant has retained or employed and cannot unequivocally state will not be a witness on its behalf at trial; and (2) with respect to any and all expert witness(es) identified in subpart (1), please provide any and all documents or tangible things including, but not limited to, all tangible reports, drawings, charts, exhibits, physical models, compilations of data, factual observations, tests, calculations, photographs, diagrams, sketches, movies, videotapes and tape recordings, opinions, supporting data and other documents and/or things reviewed and/or relied upon by him or her in formulating his or her opinions and conclusions on this case, including all learned treatises (texts, articles, studies, monographs, etc.) and consultant expert work product which forms the basis, in whole or in part, of the witness(es)' opinions or which he or she believes substantiates or corroborates his or her conclusions regarding this lawsuit.

RESPONSE: Defendant objects to this request as being 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 and as seeking information protected by the consulting expert privilege. Defendant further objects on the grounds that this request seeks information protected by the attorney work product doctrine. Subject to and without waiving the foregoing objections, Defendant states that documents currently in Defendant's possession that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.20: As to all such potential legal entities who are not now a party to this lawsuit, but who may be responsible for the incident in question, please provide:

- a. all documents tending to establish such liability; and
- b. a list of all tangible items or things that may be reviewed tending to establish such liability, along with their location and the identity of the person to contact to view such tangible things.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.21: Provide a copy of each policy of liability insurance intended to provide coverage to the Defendant, its agents and/or employees for liability on the date in question for allegations such as those delineated in Plaintiff's Original complaint (and all amended complaints

thereafter) including, but not limited to, all primary and excess policies covering the Defendant on the date in question, indicating the name and address of each carrier.

RESPONSE: For purposes of this lawsuit, Defendant is self-insured.

REQUEST FOR PRODUCTION NO.22: Provide a copy of all invoices, purchase orders, agreements, contracts, correspondences, telefaxes, telexes, and/or documents of any type passing between this Defendant and any other entity regarding the acquisition, ordering, purchasing, supplying, removal or distribution of asbestos-containing products by Defendant during the time period Plaintiff was employed by Defendant.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.23: Provide a copy of all documents from which your present net worth may be ascertained.

RESPONSE: Defendant objects to this request as being 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 PRODUCTION NO.24: Provide a copy of all photographs, diagrams, videotapes, slides and/or movie film of Defendant's railroad(s), owned or operated by Defendant including, but

specifically not limited to the engine room, boiler room, common areas, living quarters, railroads, roundhouses, shop locomotives, or transport cars.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.25: Provide a copy of all medical records obtained by the Defendant relating to the Plaintiff.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.26: Provide a copy of all documents including but not limited to invoices, purchase orders, agreements and contracts involving Defendant as a result of the transport, use, installation, repair, replacement, removal and/or applying of asbestos-containing products on the railroad.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.27: Provide a copy of all documents regarding safety, safety training and/or safety meetings provided to or for the benefit of Plaintiff and other railroad workers to asbestos or asbestos-containing products on the railroad. Include any documents given out at such safety meetings and copies of the minutes of or notes from all safety meetings held for the benefit of the employees or crew members that worked on the railroad in the last thirty-five (35) years.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.28: Provide a copy of all Defendant's safety and policy manuals regarding the use of or exposure to asbestos-containing products from 1930 to the present.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.29: Provide a copy of all personnel files maintained by Defendant and/or any agent of Defendant concerning the Plaintiff including but not limited to all earnings files, administrative files, and any files concerning any physical examination conducted by the Defendant or for the benefit of the Defendant regarding Plaintiff either for hiring purposes, screening purposes or otherwise.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.30: Provide a copy of all reports, investigations, transcripts memoranda, correspondence and/or documents of any type you receive from, or sent to any city, county, state, or federal entity, including but not limited to the EPA, NIOSH, NIEHS or OSHA regarding either the potential

health hazards or dangers associated with exposure to asbestos-containing products or airborne asbestos, and/or regarding any surveys, testing or other actions taken to determine the presence of and concentration of airborne asbestos on such of Defendant's railroad(s).

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.31: Provide a copy of all safety inspection or site inspection records referencing in any way asbestos or asbestos-containing products used on Defendant's railroad(s).

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.32: Provide a copy of all Defendant safety inspection policies and procedures in effect during the

time Plaintiff was employed by Defendant regarding the handling of, application, use or exposure to asbestos-containing products.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.33: Provide a copy of any and all photographs or video recordings, sketches, drawings, or pictures in Defendant's custody or control or that of your attorney, or of any agent or representative of you or your attorney, whether made as part of the reports of experts or made by you, your attorney, or persons acting as your agents or representative, and pertaining to any of Defendant's railroad(s), including, but not limited to, locomotive, engine rooms, boiler rooms, railyards, roundhouses, shops and common areas, concerning any asbestos-containing products in those areas. Request is hereby made for one print of each photograph or video recording produced in response to this request.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to

this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.34: Produce a copy of any reports prepared by any person you plan to call as an expert witness at the time of trial which pertain to the incident made the basis of this suit, specifically including all factual observations and opinions of consulting experts, if such consulting expert's opinion forms the basis of any opinions, theories, or conclusions reached by any testifying experts, and any accompanying photographs, drawings, charts, models, video recordings or other visual aids to such reports. If any expert has not prepared a written report, or if the information mentioned above has not been compiled into report form, then request is hereby made that each expert make a written report containing all said information and that each report be produced for inspection and copying.

RESPONSE: Defendant objects to this request as being 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. Defendant further objects to this document request as imposing on Defendant obligations beyond the Texas Rules of Civil Procedure. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents currently in the possession of Defendant that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.35: Any and all documents prepared by, delivered to, or in the possession of any person you plan to call as an expert witness at the time of the trial, or who won't be called as a witness but whose work product forms a basis in whole or in part of an expert who will be called to testify, which related to any fact or matter that is the subject of or related to the subject of this suit.

RESPONSE: Defendant objects to this request as being 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. Defendant further objects to this document request as seeking discovery beyond the limits of the Texas Rules of Civil Procedure and as seeking information protected by the attorney work product doctrine. Subject to and without waiving the foregoing objections, Defendant states that documents currently in the possession of Defendant that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.36: All witness statements or other documents generated or obtained in any investigations into the asbestos exposure made the basis of this lawsuit whether signed or unsigned. If you contend any such document is privileged, please identify each document withheld, along with the specific privilege asserted.

RESPONSE: Defendant objects to this request as being 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. Defendant further objects to this document requests as imposing obligations on Defendant beyond those imposed by the Texas Rules of Civil Procedure and as seeking information protected by the attorney-client privilege and/or the attorney work product doctrine. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will

be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.37: Any models, visual aids, experiments, documents or other writings or any items of demonstrative evidence prepared or preserved by you, your attorney, your experts, or any other person acting on your behalf that will or may be used in the trial of this lawsuit.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.38: Please provide curriculum vitae for all expert witnesses that Defendant intends to consult or call as witnesses at the trial in this case.

RESPONSE: See response to document request no. 19 incorporated herein by reference.

REQUEST FOR PRODUCTION NO.39: Copies of all depositions of any person previously employed by you specifically including, but not limited to, Defendant or Defendant's employees, representatives, or agents, taken in connection with any alleged asbestos exposure at Defendant's railroad(s).

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.40: Provide a copy of each and every document (including all reports, memos, photographs, statements and any material collected or acquired of any investigation, and all correspondence between Defendant and Defendant insurer, and any reports, notes or any other documents regarding testing, examinations, inspections, or opinions related in any way to asbestos or any other communication from any individual or entity to Defendant, Defendant's insurer or any agent or representative of Defendant or Defendant's insurer concerning this incident or any injuries or any injuries or disabilities allegedly resulting therefrom) in Defendant's possession or control, or that of Defendant's insurer, health insurer, disability insurer, liability insurer, or other insurer, relating to Defendant's claim or the investigation of this incident by Defendant, Defendant's insurer, or any individual or entity engaged for such a purpose.

RESPONSE: Defendant objects to this request as being 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. Defendant further objects to this document request as seeking information protected by the work product doctrine.

REQUEST FOR PRODUCTION NO.41: Provide a copy of all accident, injury or illness reports concerning the Plaintiff prepared by and/or for Plaintiff's employer(s) and/or agents in the general course of business.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.42: Provide copies of any and all safety standards, regulations, rules or codes pertaining in any way to asbestos or inhalation of toxic fumes or substances, whether promulgated by government or private industry, or Plaintiff's employer from 1930 to the present.

RESPONSE: Defendant objects to this request as being 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. Defendant further objects to this document requests on the grounds that such documents are in the public domain and are as readily available to Plaintiff as to Defendant. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents currently in its possession that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.43: Provide a copy of any and all contract and/or agreement of any kind (if oral, reduce the agreement to writing) made by Defendant to supply masks and/or other safety equipment to the Plaintiff or any other employees or railroad workers.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.44: Provide copies of any and all documentation evidencing Defendant's compliance with the Boiler Inspection Act, formerly U.S.C. §20701, during the last thirty-five (35) years.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.45: Provide copies of any and all documentation which in any way relates to the transport by Defendant's railroad(s) of asbestos-containing products.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.46: Provide a copy of all documents, reports and other materials identified in Answer to Interrogatory No. 12.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located. See also answer to interrogatory no. 12 incorporated herein by reference.

REQUEST FOR PRODUCTION NO.47: Please produce any and all x-rays, MRI's, CT-scans, videotapes, or other electronically or technologically created representations, depictions,

picturizations, imaging, or imagery collected by Defendant in the course of discovery.

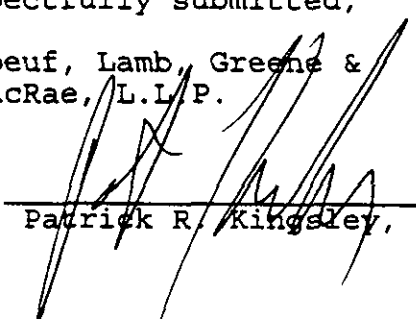
RESPONSE: Defendant objects to this request as being vague, ambiguous, overly broad and unduly burdensome and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this document request on the grounds that this request seeks information protected by the attorney work product privilege. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

REQUEST FOR PRODUCTION NO.48: Provide copies of any and all documentation relating to a National Claims Registry and/or any other entity, group, organization or membership which catalogued, reported upon or collected information relating to claims of work related injuries by railroad workers.

RESPONSE: Defendant objects to this request as being 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. Subject to and without waiving the foregoing objections, Defendant states that it will limit its response to the years 1957 to 1970. By way of further response, Defendant generally adheres to a seven year document retention policy. Subject to and without waiving the foregoing objections, Defendant states that documents that may be responsive to this request will be produced to Plaintiff's counsel for inspection and copying at the offices of Defendant's counsel during reasonable business hours and upon reasonable advance notice to the extent they exist and can be located.

Respectfully submitted,

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

By: 
Patrick R. Kingsley, Esq.

Pa. I.D. No.: 62915
601 Grant Street
Pittsburgh, PA 15219-
4405
(412) 594-2300

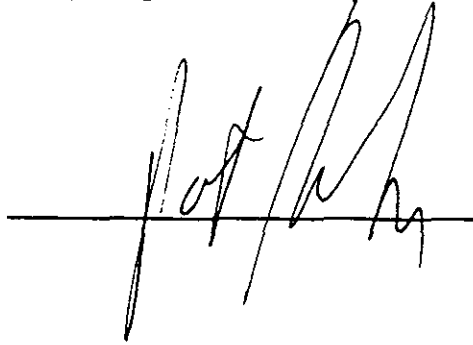
Phelps, Dunbar, L.L.P.

By: Deborah Newman, Esq.
State Bar No.:
3040 Post Oak Boulevard
Suite 900
Houston, Texas 77056
(713) 626-1386
(713) 626-1388
(facsimile)

ATTORNEYS FOR DEFENDANT

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 "John R. [unclear]", is written over a horizontal line.

PRK/33946.1