

Case No 96-333

IN RE: ALL ASBESTOS-RELATED §
PERSONAL INJURY OR DEATH CASES §
FILED BY BARON & BUDD, P.C., OR TO §
BE FILED BY BARON & BUDD, P.C. §
IN EL PASO COUNTY, TEXAS §

IN THE DISTRICT COURT OF EL PASO COUNTY, TEXAS
COUNTY COURTS AT LAW
BY [Signature] DEPUTY
OF EL PASO COUNTY, TEXAS

STANDING ORDER NO 2A

Came on this day for hearing, Plaintiffs' Motion for Leave of Court to Substitute "Premises Liability Specific Discovery" as Master Discovery to "Premise Defendants" (defined as Defendants sued on the basis that Plaintiffs were exposed to asbestos and asbestos-containing materials while working at Defendant's facility) in the above-captioned matter. The Court, having heard the evidence and arguments of counsel, finds that such Motion is well taken and should be granted as follows.

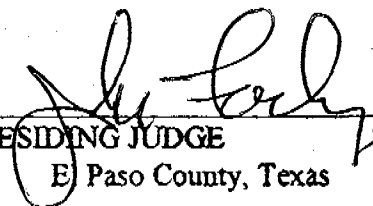
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that only in the cases of Defendants sued as Premises Defendants, a substitution of the current Standing Order to Master Discovery to Defendants with the Premises Liability Specific Discovery, attached as Exhibit "A" to the Motion for Leave of Court, it is

FURTHER ORDERED ADJUDGED AND DECREED, that the Premises Defendants sued pursuant to Texas Law respond to the Premises Liability Specific Discovery, attached as Exhibit "A" to the Motion for Leave of Court, within the time periods prescribed by the Standing Order of this County; it is

FURTHER ORDERED ADJUDGED AND DECREED, that the Premises Defendants sued pursuant to Texas law be ordered to respond to this Premises Liability Specific Discovery fully and separately as to each and every Plaintiff bringing suit against Premises Defendants; it is

FURTHER ORDERED, ADJUDGED AND DECREED that no party subject to this Order shall be penalized for exceeding discovery response deadlines in cases pending prior to the entry of this Order, however, Defendants' response to Premises Liability Specific Discovery shall be due in accordance with the provisions of Standing Orders Numbers 1 and 2, which time periods shall be initiated on the date this Order is signed for all cases pending prior to its execution.

SIGNED on this 20 day of August, 1998.



PRESIDING JUDGE
El Paso County, Texas

PLAINTIFFS' FIRST SET OF INTERROGATORIES AND REQUEST
FOR PRODUCTION PROPOUNDED TO PREMISES DEFENDANT

FIELD(Defendant)

TO: FIELD(Def's Name), by and through its attorney of record, FIELD(Def's Atty), c/o FIELD(
address), FIELD(city, state & zip).

FIELD(Plaintiff's), request that the Defendant referenced above, through its officers or
agents who have access to the information requested herein, answer, under oath, the following
Interrogatories and Requests for Production within thirty (30) days of the date of service.

Respectfully submitted,

BARON & BUDD
A PROFESSIONAL CORPORATION
The Centrum
3102 Oak Lawn Avenue
Suite 1100
Dallas, Texas 75219
(214) 521-3605
FAX: (214) 520-1181

By: _____
RUSSELL W. BUDD
TX State Bar No. 03312400
PETER A. KRAUS
TX State Bar No. 11712980
PATRICK N. HAINES
TX State Bar No. 00784191



DEFINITIONS

As used in this set of Interrogatories and Request for Production, the following terms mean:

1. The terms "Defendant" "You" "Your" "Your company" all mean the corporate Defendant answering these Interrogatories, and any of its merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries, foreign subsidiaries of predecessors, and/or affiliates. This definition includes present and former officers, directors, agents, employees, and all other persons acting or purporting to act on behalf of the corporate Defendant or its predecessors, subsidiaries, and affiliates. "Predecessors" further means any business firm, whether or not incorporated, which had all or some of its assets purchased by you or came to be acquired by you whether by merger or consolidation. "Subsidiaries" further means any business firm, whether or not incorporated, which is or was in any way owned or controlled, in whole or in part by Defendant or its predecessors.
2. The terms "document", "documents", "written materials", or "printed matters" include any written, printed, recorded or graphic matter, photographic or video graphic matter or sound reproductions or computer input or output, including but not limited to: contracts, notes, rough drafts, interoffice memoranda, reports, research materials, logs, diaries, calendars, bank statements, tax invoices, diagrams, studies, manuals, minutes, by-laws, articles of incorporation, resolutions, shareholder endorsements, or partnership documents however produced or reproduced, that (1) are now or were formerly in the possession, custody, or control of the Defendant (including documents at any time in the possession, custody or control of their subsidiaries, whether domestic or international, or merged or acquired predecessors), or (2) are known or are believed to be responsive to these Interrogatories and Requests for Production regardless of who now has or formerly had custody, possession or control.
3. The terms "person" or "persons" include natural persons, firms, partnerships, associations, joint ventures, corporations, and any other form of business organization or arrangement, and officers, directors, shareholders, employees, agents, and contractors of any business organization or arrangement.
4. The words "meeting" or "meetings" may mean any coincidence or presence of any persons, whether or not such coincidence or presence was prearranged, was formal or informal, or was in connection with some other activity.
5. The words "describe" or "description", when referring to a place, thing, or occurrence, mean to identify with sufficient particularity the place, thing, or occurrence so as to enable one to locate, examine and fully comprehend or understand the place, thing, or occurrence described.

6. The terms "product containing asbestos fibers," "asbestos-containing products," "asbestos products" all refer to any products or materials prepared in any way for sale or distribution that contained any kind of asbestos in any possible form. The terms "asbestos" and "asbestos materials" refer to any and all materials, substance, or matter used or assembled or fabricated during the manufacture of a product, and that contains at least some asbestos fibers. "Product" includes, but is not limited to, pipecovering, turbines, cement, block, gaskets, packing, plaster, joint compound, floor and ceiling tiles, mastics, boilers, raw fibers, fireproofing, shingles, panels, sheets, boards, millboard, refractory cement, boilers, firebrick, brake and clutch linings, finishing compound, texture, and other construction, building, drywall, lath and insulation materials.
7. The terms "medical advisory capacity" refers to the duties, abilities or capabilities of any member of Defendant's staff, or any individual or organization who has contracted with Defendant, to provide services of a medical nature, including but not limited to providing medical advice.
8. The terms "trade organization," and "trade association" mean any organizations or associations of business or industrial entities that are associated and/or meets for the purpose of achieving common goals and/or exchanging information related to common needs or interests, and/or learning information or facts of interest to the various members of the organization or association.
9. The terms "plant" and "facility" means a manufacturing or assembly facility where products are refined, converted, chemically altered, changed, assembled, manufactured, constructed, fabricated, or where component parts, materials, substances, or matter of such products are fabricated, assembled, or manufactured or are prepared for further fabrication or assembly.
10. The terms "manufacture," or "manufactured" means to fabricate, construct, assemble, prepare for fabrication or assembly, or take any other action prior to completion of the product or material before the time of its shipment.
11. The terms "research" and "research department" refer to efforts, whether scientific or otherwise, to develop new or different types of products, processes or designs of pre-existing products and is meant to incorporate all efforts that specifically contemplated the possible alteration of products.
12. The terms "medical department" and "safety department" refer to an individual or a section or group of individuals working for Defendants, either directly or in a contractual capacity, whose purpose was or is to provide guidance, assistance, or advice concerning any aspects of medical health, including but not limited to, the safety of Defendant's workers and the safety of individuals using or exposed to asbestos products.

13. The phrase "industrial hygiene surveys" mean surveys, tests, interviews, or other procedures taken or effectuated for the purpose of determining the possibility or existence of detrimental health effects caused by exposure to asbestos.
14. The terms "potential health hazards," or "health hazards" refer and relate to any injury, effect, damage, scarring, wound, impairment or disability of any part of the human anatomy, including but not limited to the lungs and lung linings, that is caused by or associated with exposures to asbestos dust and fibers.
15. The terms "test" and "testing" are used in their broadest sense, including but not limited to, studies of atmospheric dust samples, studies of the concentration of asbestos in such airborne test samples, studies of the lung conditions of workers (by x-ray or other means of medical surveillance), pulmonary function studies of workers, animal studies, pathological studies, industrial hygiene studies, risk assessment studies, cost-benefit analyses and any other studies concerning health and safety.
16. The term "identify" with regard to a document means state the name or title of the document, the date of the document, the author of the document, the date the document was received by Defendant and the current custodian of the document.
17. The term "identify" with regard to a person means state the person's full name, title, last known address, and phone number.
18. The terms "DEFENDANT'S PREMISES" shall mean Defendant's plant(s) located at FIELD(Jobsite Location).
19. The terms "workers" or "persons working on Defendant's Premises" refer to both Defendant's employees and contractor employees.
20. The terms "abate" and "abatement" refer to any removal of products at a facility.

INTERROGATORIES

INTERROGATORY NO. 1:

For each person who has supplied any information used in answering these interrogatories, state the name, address, job title, length of time employed by Defendant, and a year-by-year list of all other positions, titles, or jobs held when working for Defendant.

ANSWER:

INTERROGATORY NO. 2:

Please identify each person known to Defendant as having knowledge of facts relevant to this case. For each person identified, please describe the relevant facts which you believe are within such person's scope of knowledge and about which such person could be expected to testify if called to trial as a witness. Further, if such person is or has been an employee of Defendant, please state the years of employment and the person's employment positions.

ANSWER:

INTERROGATORY NO. 3:

Have you owned, operated, controlled, possessed, or otherwise managed or occupied Defendant's Premises at all times that Plaintiff worked or was present at Defendant's Premises? If not, please state the dates wherein Defendant owned, operated, controlled, possessed and managed Defendant's Premises, the entity from whom Defendant acquired Defendant's Premises, the entity to whom Defendant sold Defendant's Premises and the person with the most knowledge of each transaction.

ANSWER:

INTERROGATORY NO. 4:

If you contend that Plaintiff has used a misnomer or sued a wrong party in this action, please explain this basis for this contention and list the parties who should be sued state any corrections of misnomers that you contend Plaintiff has made.

ANSWER:

INTERROGATORY NO. 5:

If you contend that you do not have the legal capacity to be sued, or that Plaintiff cannot recover in the capacity in which he has sued, or that you are not liable in the capacity in which you have been sued, please explain the basis for this contention.

ANSWER:

INTERROGATORY NO. 6:

Please state whether a medical monitoring program, medical examination program or other medical surveillance program ("program") was provided to workers at Defendant's Premises. If such programs were offered, please describe these programs in detail; specify in your response to whom such programs were offered (i.e. contractor employees and Defendant employees); describe the dates that the aforementioned programs were in place; and state what documents concerning the described programs exist.

ANSWER:

INTERROGATORY NO. 7:

Please state the years during which Defendant operated a medical department and identify all persons who directed, headed or supervised said department and state the years of their service in that capacity.

ANSWER:

INTERROGATORY NO. 8:

Have you ever provided safety equipment to persons working on Defendant's Premises? If so, please list the safety equipment provided and indicate when the equipment was first provided to whom the equipment was provided and under what circumstances the equipment was provided. Further, identify the person with the most knowledge of your "safety equipment" policies.

ANSWER:

INTERROGATORY NO. 9:

Please list all asbestos-containing products ("products") used at Defendant's Premises and state what these products were used for, from whom these products were purchased, where these products were installed, and the specific persons or contractors who installed these products. Further, indicate the first year each specific asbestos-containing product was no longer purchased and installed on Defendant's Premises.

ANSWER:

INTERROGATORY NO. 10:

Please state whether any asbestos-containing products in place or in use at Defendant's Premises have been abated at any time. If so, please list each person or company involved with the abatement of asbestos, including address and telephone number, and state the dates and particular locations of each abatement procedure.

ANSWER:

INTERROGATORY NO. 11:

Identify by name and location each facility owned or operated by you in which asbestos-containing products have been manufactured, assembled, distributed, or sold. Include in your response a detailed description of each such product and the amount of asbestos in each such product.

ANSWER:

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.

ANSWER:

INTERROGATORY NO. 13:

Have you ever had a policy requiring workers on Defendant's premises to use respirators? If so, please state when this policy was implemented; describe this policy in detail; state to whom it applied (i.e. Defendant employees and contractor employees); and describe what types and brand names of respirators were required by you.

ANSWER:

INTERROGATORY NO. 14:

Please state each time any regulatory agency or other governing body has inspected the Defendant's premises to determine if health and safety regulations governing exposure to asbestos were being followed. Include in your response the date and results of each inspection, and state whether a written report was generated.

ANSWER:

INTERROGATORY NO. 15:

If you contend that the acts and/or omissions of someone other than yourself caused or contributed to any Plaintiff's injuries and damages, please identify each such person or entity, the specific act(s) of which you complain and each person or entity with knowledge of facts regarding your contentions.

ANSWER:

INTERROGATORY NO. 16:

Have you ever warned workers on Defendant's Premises of the hazards of asbestos and asbestos-containing products? If so, describe in detail the methods of such warnings, who you warned and when. Please include in your response a description of any written warnings relating to the hazards of asbestos in place at Defendant's Premises and state when the written warnings were installed, how many were installed, and whether they have been removed.

ANSWER:

INTERROGATORY NO. 17:

Has Defendant ever published or distributed any printed material containing any warnings concerning the possibility of injury resulting from the use of asbestos-containing products or exposure to asbestos? If so, describe the printed material and identify each person responsible for having drafted or issued the warning statements or written materials, and the dates when the printed material was first issued or distributed.

ANSWER:

INTERROGATORY NO. 18:

If Defendant has ever been a member of any trade organization that published or disseminated any documents or information relating to the hazards of asbestos, state the names of such organizations and list the dates of membership.

ANSWER:

INTERROGATORY NO. 19:

Identify every individual ever employed at Defendant's facilities who has made or presented a Worker's Compensation or other claim for personal injury or death resulting from inhalation of asbestos. Please include in your response the date of any such claims and a description of the injury alleged.

ANSWER:

INTERROGATORY NO. 20:

If you have insurance policies which might cover the claims made by Plaintiff in this case, please state the amounts of insurance coverage that are currently available as of the date you answer

these interrogatories; how much coverage, if any, is in dispute; the amount of the deductible; the effective date(s) of coverage afforded by each policy; whether any of the policies are being defended under a reservation of rights letter and, if so, the name of the carrier and the date(s) it issued such letter(s) to you; the aggregate limits and the amount of aggregate limits presently consumed; and the policy numbers, amount of coverage and date(s) of coverage of any policies that may provide primary and excess coverage for the liability asserted in these proceedings.

ANSWER:

INTERROGATORY NO. 21:

Please state the following with respect to each expert witness that you may call during trial of these cases:

- a. Identify the expert witnesses;
- b. the subject matter on which the expert is expected to testify;
- c. the substance of the facts and opinions which underlie the expert's opinion; and,
- d. a summary of the grounds for each opinion and whether any such expert has provided a report or other documentation.

ANSWER:

INTERROGATORY NO. 22:

Please state the year you first learned that persons could suffer physical injury through the inhalation of asbestos fibers and how Defendant became aware of the existence of asbestos hazards. Further, please identify any documents that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings.

ANSWER:

INTERROGATORY NO. 23:

If you are aware of any documents or things that are or may be responsive to any of Plaintiff's Requests for Production of Documents, and you will not or cannot produce them, please:

- (a) identify each such document or thing;
- (b) identify the last person(s) known to you to have custody thereof;
- © state the reason(s) why you will not or cannot produce them; and

- (d) identify the person(s) who attempted to fulfill or comply with Plaintiff's requests and the sources consulted in the attempt to comply with each such request for production.

ANSWER:

INTERROGATORY NO. 28:

Have you ever been convicted or cited for of any offense (criminal, misdemeanor or felony), any violation of federal or state regulations (including but not limited to, OSHA or other regulatory bodies), or country or city ordinances? If so, please list each offense and/or citation, identify the court or the administrative body in which the case was filed and the date the conviction, citation or violation was issued.

REQUEST FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Produce all documents that reflect, indicate or in any way relate to communications between you and any manufacturer of asbestos-containing products concerning or related to the asbestos contained in such products.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2:

Produce all documents that indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3:

Produce all documents disseminated or published by any trade association that contain information relating to the hazards of asbestos and all documents which refer to such documents.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4:

Produce all documents, that relate to any inspections by any regulatory agency for the purpose of ascertaining whether health or safety regulations were being followed or adhered to at any of your plants. This request specifically seeks any and all such documentation referring to dust hazards, including but not limited to asbestos in your plants.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5:

Produce all safety meeting minutes or other documents, that refer to the dangers of asbestos safety measures to be used in the vicinity of asbestos at Defendant's Premises.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6:

Produce all contracts, or other documents that relate to abatement of asbestos at Defendant's Premises.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7:

Produce all contracts, or other documents that relate to the installation of asbestos products at Defendant's Premises.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8:

Produce all documents that in any way reflect a removal plan or organized written criteria or schedule for the removal of asbestos at Defendant's Premises.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9:

Produce all documents that relate to abatement of asbestos from any of your plants, including but not limited to the Defendant's Premises located in FIELD(Jobsite Location), Texas.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10:

Produce all documents related to the medical condition of FIELD(Plaintiff's Name) at any time during his employment at Defendant's Premises. This request specifically includes any and all x-rays, x-ray reports, medical notes and/or medical records of any kind, annual physical forms, and employment records relating to Plaintiff's health.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11:

Produce Plaintiff's entire personnel file from Defendant's Premises.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12:

Produce all documents that reflect the layout of Defendant's Premises, including the location and dimensions of all buildings and the location and placement of asbestos-containing products.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13:

Produce all documents containing any warnings concerning the possibility of injury resulting from the use of asbestos-containing products or exposure to asbestos.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14:

Produce all photographs of asbestos products in place or asbestos-containing products being fabricated or utilized at Defendant's Premises.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15:

Produce all photographs of warning signs or warning statements which are or have been in place at Defendant's Premises in the vicinity of asbestos-containing products.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16:

PRODUCE ALL DOCUMENTS RELATING TO ANY INDIVIDUALS CLAIMED INJURY AS A RESULT OF EXPOSURE TO ASBESTOS AT DEFENDANT'S PREMISES, INCLUDING, BUT NOT LIMITED TO, WORKERS COMPENSATION CLAIMS.

RESPONSE:

REQUEST FOR PRODUCTION NO. 17:

PRODUCE ALL DOCUMENTS, INCLUDING BUT NOT LIMITED TO, CORPORATE MINUTES, WHICH MENTION THE HAZARDS OR POTENTIAL HAZARDS OF ASBESTOS.

RESPONSE:

REQUEST FOR PRODUCTION NO. 18:

PRODUCE ALL INSURANCE POLICIES THAT MIGHT COVER THE CLAIMS MADE BY PLAINTIFF IN THIS CASE.

RESPONSE:

REQUEST FOR PRODUCTION NO. 19:

PRODUCE ALL DOCUMENTS, INCLUDING INVOICES, SHIPPING RECEIPTS, BILLS OF LADING AND PURCHASE ORDERS, RELATED TO THE PURCHASE OF ASBESTOS-CONTAINING PRODUCTS FOR USE AT DEFENDANT'S PREMISES.

RESPONSE:

REQUEST FOR PRODUCTION NO. 20:

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:

REQUEST FOR PRODUCTION NO. 21:

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:

REQUEST FOR PRODUCTION NO. 22:

Produce all reports, writings (whether published or unpublished) and/or other documentation written, created and/or edited by any of your experts that in any way pertain to asbestos and the hazards and/or diseases that may result therefrom.

RESPONSE:

REQUEST FOR PRODUCTION NO. 23:

Produce all documents provided to any expert or fact witnesses as a result of the filing of this case, if such document forms the basis of the witness's testimony or opinions.

RESPONSE:

REQUEST FOR PRODUCTION NO. 24:

Produce all curriculum vitae resumes of any of the experts and/or persons with knowledge of relevant facts that you have listed in your Answers to Interrogatories.

RESPONSE:

REQUEST FOR PRODUCTION NO. 25:

Produce all documents which will be used at the time of trial, including all potential exhibits and those documents which may be used to cross-examine other witnesses or in rebuttal, and which you contend are relevant to any of Defendant's enumerated defenses in Defendant's most recently filed Answer.

RESPONSE:

REQUEST FOR PRODUCTION NO. 26:

Produce documents between Defendant and any of its worker's compensation carriers regarding the hazards of asbestos and asbestos-containing products.

RESPONSE:

REQUEST FOR PRODUCTION NO. 27:

Produce a copy of all regulations, orders, rules and/or policies which have been used relating to the safety of the Defendant's Premises.

RESPONSE:

REQUEST FOR PRODUCTION NO. 28:

Produce all documents which contain complaints by employees of the Defendant's Premises regarding safety conditions and work place conditions at the Defendant's Premises.

RESPONSE:

REQUEST FOR PRODUCTION NO. 29:

Produce all documents which contain complaints by Union representatives of Defendant's Premises regarding safety conditions and work place conditions at the Defendant's Premises.

RESPONSE:

REQUEST FOR PRODUCTION NO. 30:

Produce all documents, organizational charts or rosters which identify the members of the management at the Defendant's Premises and their areas of responsibility during the time period of Plaintiff's work at Defendant's Premises.

RESPONSE:

REQUEST FOR PRODUCTION NO. 31:

Produce all documents which evidence Defendant's, net worth, including but not limited to all "10-K" forms filed for the last five (5) years.

RESPONSE:

REQUEST FOR PRODUCTION NO. 32:

Produce all documents which evidence Defendant's purchase, acquisition, sale, or transfer of ownership of Defendant's Premises.

RESPONSE:

REQUEST FOR PRODUCTION NO. 33:

Produce all indemnity agreements, assignments of liability, subrogation agreements and other similar documents relating to Defendant's Premises and liabilities arising from said ownership.

RESPONSE:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Plaintiff's First Set of Interrogatories and Request for Production of Documents was forwarded via Certified Mail, Return Receipt Requested, to Defendant, ~~FIELD~~ (Def's Name), and that all other counsel of record were sent a copy of the cover letter via certified mail on the ___ day of _____, 1998.

ALICIA J. HAFF

PLAINTIFFS' FIRST SET OF INTERROGATORIES AND REQUEST
FOR PRODUCTION PROPOUNDED TO PERMITS DEFENDANT - PAGE 19