

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DANIEL AHNERT)	MDL-875
)	
v.)	PA-ED Case No. 10-67443
)	
CBS CORPORATION, et al.,)	

EXPLANATION AND ORDER

Presently before the Court is “Plaintiff’s Motion to Compel Production of Documents Concerning Westinghouse” (Doc. 107), together with Westinghouse’s response (Doc. 115) and plaintiff’s reply (Doc. 119). The document requests at issue, numbered 10, 17 and 24, seek “statements and transcripts” with respect to previous asbestos litigation involving Westinghouse at six separate and specific job sites. Westinghouse has objected to these requests asserting that they are overbroad, vague and ambiguous, call for irrelevant evidence, and are not calculated to lead to the discovery of admissible evidence. Westinghouse further asserted that a response to the request would impose unreasonable burdens upon it.

We have rejected Westinghouse’s arguments with respect to relevance, and at the time of a June 18, 2012 teleconference with counsel, urged the parties to work cooperatively in an effort to eliminate any concern with respect to overbreadth, vagueness, ambiguity and discuss realistically the question of burden. While plaintiff’s counsel has now provided Westinghouse with the dates that plaintiff worked at each job site, we conclude that it is unlikely any further agreement can be reached and the motion requires a ruling.

We have concluded that now that plaintiff has established sensible temporal restrictions on the requests associated with the periods of time when he worked at particular job sites and was exposed to Westinghouse products; and once plaintiff’s counsel has identified for Westinghouse what deposition transcripts they have in their possession from other cases involving these job sites such that Westinghouse would not be required to search for transcripts which plaintiff’s counsel already possesses;

and once plaintiff's counsel has established that they have assessed what deposition transcripts are available with respect to the job sites and time periods in question from Pohlman USA Court Reporting, Westinghouse shall be obligated to produce any remaining transcripts of depositions in its or its counsel's possession pertaining to the job sites in question and relating to the periods of time within which plaintiff may have suffered asbestos exposure. While we accept that some burden is placed upon Westinghouse to produce these transcripts, we deem it justified if and when plaintiff is unable to establish that the discovery it seeks is not available from a "more convenient source." *See* Fed. R. Civ. P. 26(b)(2)(C)(I).

Further, we limit the subject matter of the production to deposition transcripts and do not require production of statements to the extent that deposition transcripts have a greater likelihood of being admissible at trial, and would not implicate any questions of work product or attorney-client privilege.

Accordingly, it is hereby **ORDERED** that the motion is **GRANTED in part**, and

1. Plaintiff's counsel shall: (a) search for any transcripts in their possession relating to these six job sites during the times specified in their June 25, 2012 letter to counsel for Westinghouse; and (b) determine what similarly relevant transcripts Pohlman USA Court Reporting has available, and provide a list of those transcripts to Westinghouse **by July 13, 2012**;

2. Westinghouse shall produce to plaintiff's counsel the transcripts of depositions in its or its counsel's possession pertaining to the six job sites in question and relating to the periods of time within which plaintiff worked at those job sites and may have suffered asbestos exposure, save those transcripts on the list provided by plaintiff's counsel as delineated above, **by July 20, 2012**.

BY THE COURT:

Dated: June 28, 2012

/s/ David R. Strawbridge USMJ
DAVID R. STRAWBRIDGE
UNITED STATES MAGISTRATE JUDGE