

2.00 PARTIES

2.01 George Creven Houston is an individual and a citizen of the State of Texas. He is the surviving son of George Ail Houston, deceased, who was also a citizen and resident of Texas.

2.02 Candis Houston is an individual and a citizen of the State of Texas. She is the surviving daughter of George Ail Houston, deceased, who was also a citizen and resident of Texas.

2.03 Defendant, SPX Corporation, is a North Carolina corporation which can be served by serving its registered agent CT CORPORATION SYSTEM at 2222 Grand Ave, Des Moines, IA, 50312, or wherever it may be found.

3.00 JURISDICTION & VENUE

3.01 The amount in controversy is within jurisdictional limits of this Court.

3.02 The court has jurisdiction over Defendant, a nonresident, because Defendant purposefully availed itself of the privileges and benefits of conducting business in Texas by engaging in business in Texas. Specifically, Defendant owns and operates a business located at 19191 Northwest Freeway, Houston, Texas 77065.

3.03 Harris County is the proper venue for this action pursuant to the Texas Civil Practice and Remedies Code, Section 15.002(a)(1), *et seq.*, because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

4.00 STATEMENT OF FACTS

4.01 This cause of action arises out of a workplace fatality which occurred at Defendant's facility in Houston, Texas. George Ail Houston was employed as a lathe operator at SPX Corporation.

4.02 On October 11, 2012, George Ail Houston was working in the course and scope of his employment with SPX Corporation at the facility in Houston, Texas. George Ail Houston was performing maintenance on a 46” Bullard CNC Vertical Turret Lathe. While performing maintenance, a co-employee re-energized the lathe. George Ail Houston’s close proximity to the lathe caused him to be pulled into the spinning lathe. As a result of the incident, George Ail Houston sustained severe injuries that resulted in his death.

4.03 As a direct and/or proximate cause of the accident, George Ail Houston was subjected to an extremely frightening and agonizingly painful set of events that culminated in George Ail Houston’s death.

5.00 GROSS NEGLIGENCE

5.01 The incident on October 11, 2012 was proximately caused by the gross-negligence of Defendant, by and through its officers and supervisors by failing to train its employees with regard to lock out tag out procedures and failing to provide a safe workplace.

5.02 Defendant’s acts and/or omissions were of such an entire want of care that said acts and/or omissions were the result of actual conscious indifference to the rights, safety and welfare of George Ail Houston.

5.03 The death of George Ail Houston on October 11, 2012 was proximately caused by the gross negligence of the Defendant in one or more of the following respects, to wit:

- (a) Failing to provide George Ail Houston with a safe workplace;
- (b) Failing to provide George Ail Houston with the proper equipment to render the lathe safe while he performed his assigned tasks;

- (c) Failing to provide a procedure or materials to lock out and tag out the lathe while it is being repaired;
- (d) Failing to warn George Ail Houston of the dangerous conditions and/or activities involved in the performance of his work;
- (e) Failing to provide George Ail Houston with safety instructions, guidelines, and procedures to properly and safely perform his work;
- (f) Failing to provide George Ail Houston with competent and well-trained co-employees to assist in the performance of his work;
- (g) Failing to provide safety training pertaining to maintenance of the lathe;
- (h) Failing to inspect, oversee and otherwise exercise some control over the facilities and operation being worked on; and
- (i) Failing to provide an inspector-overseer who would inspect, oversee and otherwise exercise some control over the facilities and operation being worked on.

5.04 The actions and omissions of Defendant, described above:

- a. constituted gross negligence and were a proximate cause of the injuries and damages in question, entitling Plaintiffs to punitive/exemplary damages;
- b. were carried out with a flagrant disregard for the rights of others and with actual awareness on the part of Defendant that its acts and omissions would, in reasonable probability, result in great bodily harm, justifying the award of punitive/exemplary damages and said acts were a cause, and/or

proximate cause and/or producing cause of the injuries and damages in question.

5.05 Each and all of the foregoing acts or omissions on the part of Defendant, whether taken singularly or collectively, were a proximate cause of the occurrence in question and a direct and proximate cause of the injury and damages sustained by the Plaintiffs, herein.

6.00 STATUTORY EXEMPLARY DAMAGES

Plaintiffs bring this lawsuit pursuant to Section 408.001, Texas Labor Code, and Section 41.001, Civil Practice & Remedies Code, to recover punitive and exemplary damages against Defendant based on the Defendant's gross negligence in causing the incident and the death made the basis of this suit.

7.00 COMMON LAW EXEMPLARY DAMAGES

Further, or in the alternative, Plaintiffs sue pursuant to Article 16, Section 26, Texas Constitution, to recover punitive and exemplary damages against Defendant for common law gross negligence, and for gross negligence at common law. Defendant's acts and/or omissions were a reckless disregard of the rights of others and were the result of conscious indifference to the rights, welfare and safety of other persons, including George Ail Houston. Defendant was aware, or should have been aware, that its acts and/or omissions created an extreme risk of serious injury to others, including George Ail Houston.

8.00 PROXIMATE CAUSE AND DAMAGES

8.01 As a direct and proximate result of the gross negligence of Defendant, George Creven Houston and Candis Houston have suffered substantial damages for which Plaintiffs seek recovery from Defendant.

8.02 George Creven Houston and Candis Houston, on behalf of the Estate of George Ail Houston, seeks survival damages for the conscious pain and mental anguish suffered by George Ail Houston before his death, past medical expenses for medical treatment received by George Ail Houston for his injuries and the reasonable funeral and burial expenses incurred on behalf of George Ail Houston.

8.03 George Creven Houston, as the surviving son of George Ail Houston, seeks wrongful death damages individually consisting of past and future pecuniary loss, past and future loss of companionship and society, and past and future mental anguish due to the wrongful death of his father, George Ail Houston.

8.04 Candis Houston, as the surviving daughter of George Ail Houston, seeks wrongful death damages individually consisting of past and future pecuniary loss, past and future loss of companionship and society, and past and future mental anguish due to the wrongful death of her father, George Ail Houston.

8.05 Plaintiffs also seek recovery for all costs of court, and prejudgment and post-judgment interest in the maximum amounts allowable by law.

9.00 PRAYER

Plaintiffs respectfully pray that Defendant be cited to appear and answer herein, and that upon a final hearing hereof, Plaintiffs recover a judgment over and against the Defendant for the damages as pled herein in amounts the jury determines to be fair and reasonable, and for such other and further relief, at law and in equity, to which the Plaintiffs may show themselves justly entitled.

Respectfully submitted,
GROSSMAN LAW OFFICES, P.C.



Keith C. Purdue

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G. Jerrell Wise

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Dallas, Texas 75244

(214) 220-9191

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ATTORNEYS FOR PLAINTIFFS

CAUSE NO. _____

**GEORGE CREVEN HOUSTON and
CANDIS HOUSTON, Individually,
as wrongful death beneficiaries, and
on behalf of the Estate of GEORGE
AIL HOUSTON
Plaintiffs**

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IN THE _____

vs.

JUDICIAL DISTRICT COURT

**SPX CORPORATION
Defendant**

HARRIS COUNTY, TEXAS

PLAINTIFFS' REQUEST FOR DISCLOSURE

TO: Defendant SPX Corporation.

Pursuant to Texas Rule of Civil Procedure 194, Plaintiffs request disclosure from Defendant of those items contained in 194.2(a)-(l). Upon service of citation, along with this Original Petition, Defendant is required to respond to this Request for Disclosure within fifty (50) days hereafter.

Respectfully submitted,
GROSSMAN LAW OFFICES, P.C.



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IN THE _____

vs.

JUDICIAL DISTRICT COURT

**SPX CORPORATION
Defendant**

HARRIS COUNTY, TEXAS

**PLAINTIFF GEORGE CREVEN HOUSTON’S REQUEST
FOR INTERROGATORIES TO DEFENDANT**

TO: Defendant SPX Corporation.

Pursuant to Texas Rules of Civil Procedure 197.2(a), you are requested to respond to the written discovery as set out below herein within fifty (50) days from the date of service.

Respectfully submitted,
GROSSMAN LAW OFFICES, P.C.



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ATTORNEYS FOR PLAINTIFFS

DEFINITIONS AND INSTRUCTIONS

As used herein, the words, defined below shall be deemed to have the following meanings unless indicated otherwise in an individual discovery request.

Statement: The term “Statement” as used in these requests shall mean (a) a written statement signed or otherwise adopted or approved by the person making it, and (b) stenographic, mechanical, electrical, or other type of recording, or any transcription, which is a substantial verbatim recital of a statement made by the person and contemporaneously recorded.

Possession/Custody/Control: The terms “Possession”, “custody”, or “control” shall include, constructive possession such that the person need not have actual possession. As long as the person has a superior right to compel the production from the third-party (including an agency, authority, or representative), the person has possession, custody, or control.

Persons with Relevant Knowledge: The term “Persons with relevant knowledge” shall include a person that has or may have knowledge of any discoverable matter. The information need not be admissible in order to satisfy the requirements of Rule 196 of the Texas Rules of Civil Procedure and personal knowledge is not required.

Settlement: The term “Settlement” shall mean any oral or written, disclosed or undisclosed, agreement, bargain, contract, settlement, partial settlement, limited settlement, “arrangement,” “deal,” “understanding,” loan agreement, credit agreement, contingent settlement, limitation on the amount of liability or judgment, or promise by or between Plaintiff and any party or potential party where Plaintiff has in any way released or compromised in whole or in part, directly or indirectly, or agreed to do so in the future, any of the matters in controversy in this lawsuit whether before, after, or during trial before or after any jury verdict that is returned in this lawsuit or a judgment is entered or rendered in this lawsuit.

Discovery Request: The term “Discovery Request” includes, but is not limited to an interrogatory, request for admission, and request for production of documents.

Representative: The term “representative” means any and all agents, employees, servants, officers, directors, or other natural persons or business or legal entities acting or purporting to act on behalf of the person in question, whether authorized to do so or not, with respect to the matter, subject matter, information, document, item, or tangible thing requested.

Counsel: The term “counsel” means the attorney(s) or law firm(s) retained to represent a party.

Person: The term “person” or “persons” means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments, and other units therein, and shall include, but not being limited to, a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, state, governmental agency, commission/Department of Insurance, bureau, department or any other entity.

Document: the terms “document”, “documents”, “documentation” include, but are not limited to: papers; books; accounts; drawings; graphs; charts; photographs; electronic or videotape recordings; data; and date compilations; writings of every kind, source and authorship; correspondence, records; negotiable instruments; communications and depictions in words, symbols, pictures, sound recordings, films, tapes; information stored in, or accessible through, computer or other information storage or retrieval systems; discovery responses, depositions or other discovery materials produced, disclosed, or made regarding any legal proceeding; statements; pleadings; pleadings; reports; citations; or writings. The terms include originals, drafts and non-identical copies of such documents. Any copy of any “document”, any alterations, notes, comments, or other material not included in the originals or copies referred to above shall be deemed a separate document.

Additionally, as to production of electronic data, of documents, of photographs, and of recordings:

- (i) Any and all *data or information which is in electronic or magnetic form* should be produced in the following form: (a) in written or printed form, and (b) in a finished useable form, which would include all necessary glossaries keys and indices for use and interpretation of the material.
- (ii) In connection with:
 - a. Production of *documents*, the Propounding Party requests that true and correct copies be provided in lieu of production of the originals, and in such event Propounding Party shall reimburse for the reasonable cost of copies;
 - b. Production of *photographs*, the Propounding Party requests that true and correct color copies be provided in lieu of production of the originals, and in such event Propounding Party shall reimburse for the reasonable cost of copies;
 - c. Production of recordings of any kind, whether they are oral, taped, or recorded statements, or recordings of an audio or visual nature, etc., Propounding Party requests that true and correct recording copies be provided in lieu of production of the originals, and in such event Propounding Party shall reimburse for the recognizable costs of copies.

Genuine: The term “genuine” means free of forgery or counterfeiting. [See Tex. Bus. & Com. Code Ann. Sec. 1.201(18) (Vernon 1968)] To admit that a document is “genuine” is to admit that it is the document it purports to be.

Authentic: The term “authentic” means with respect to a writing or document that it is a true and correct copy of the document or writing and that the writing or document is in fact what it purports to be.

Business Record: The term “business record” means business record as defined and stated in Tex. R. Evid. 803(6).

Communication: the term “communication” means any oral or written utterance, notation or statement of any nature whatsoever, by and to whomsoever made, including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and/or all other understandings between or among two or more persons.

Photograph: The terms “photograph” and “photographs” mean and include photographs, pictures, motion pictures, movies, films, videos, magnetically, electronically, digitally, as well as, chemically created or maintained images of any kind, as well as, photographic material of any kind.

Lost or Destroyed Documents: If it is claimed that any document, item or tangible thing has been lost, destroyed, or was once in your possession, custody or control but is no longer; then for each such documents, item or tangible thing, please so note in your response.

Privileged Information or Material: Unless specified, these discovery requests should not be read to request work product, privileged oral and written communications between the attorney and their client, or non-discoverable consulting experts (i.e. information or materials exempt from discovery via Tex. R. Civ. P. 192.3 (e), 192.5, Tex. R. Evid. 503.) The Propounding Party’s counsel in good faith invites Responding Party’s counsel to contact Propounding Party’s counsel should Responding Party’s counsel believe that a protective order is necessary regarding production or use of any of the information and/or documents, items or tangible things requested herein.

Withholding of Information, Documents, Items, or Tangible Things, and Claims of Privilege: If you claim or contend that you are entitled to withhold from production any or all information, documents, items or tangible things, identified herein on the basis of the attorney/client privilege, the work-product doctrine, or other ground, then with respect to information, documents, items or tangible things, please comply with Tex. R. Civ. P. 193.3(a), including but not limited to notice requirements, identification of the discovery request to which it relates, and the privilege(s) asserted.

The Word “Or”: As used herein, the word “or” appearing in a discovery request should not be read so as to eliminate any part of the request, but, whenever applicable, it should be interpreted as “and/or”. For example, an interrogatory stating “support or refer” should be read as “support and/or refer” if an answer that does both can be made.

Time Period: Unless a specific date or dates are set forth in any specific requests herein, you are directed that each discovery request shall be answered for the period of time up to

and including the present date, through the date of the responses to discovery requests, and thereafter through trial. If after responding, responsive information or materials come into the possession of or within the possession, custody or control of the Responding Party, they are under a duty to timely amend or supplement pursuant to Rule 193.5 of the Texas Rules of Civil Procedure.

Ambiguity: Propounding Party’s counsel in good faith invites Responding Party’s counsel to contact Propounding Party’s counsel should they believe that any of the discovery requests are ambiguous or, in the pursuit of judicial economy, should be more narrowly tailored and still provide the salient information and/or items. Propounding Party’s counsel asks that such request be made in good faith and not to engage in gamesmanship or to limit or secret the discovery of responsive information and/or items.

Requests for interrogatories: If the Responding Party or their counsel is of the opinion that the interrogatories exceed the allowed number (exclusive of identification and authenticity interrogatories), then you are required to answer the allowed number and note your objection to the remaining; and Propounding Party’s counsel in good faith invites Responding Party’s counsel to contact Propounding Party’s counsel to discuss such issue in advance.

Unless otherwise indicated by the inquiry or request, as used herein:

Propounding Party(ies): As used herein, “Propounding Party” means the party(ies) who propounded the subject discovery.

Responding Party(ies): As used herein, “Responding Party” means the party(ies) objecting to and/or providing discovery responses to the subject discovery.

Plaintiffs: As used herein, “Plaintiffs” means George Creven Houston and Candis Houston, Individually, as wrongful death beneficiaries, and on behalf of the Estate of George Ail Houston and includes, as applicable Plaintiffs’ agents, employees, representatives and/or assigns.

Defendant / SPX Corporation: As used herein, the term “Defendant” refers to SPX Corporation, whom is a defendant party in this suit, and, as applicable, includes its agents, employees, representatives, assigns and affiliates.

Incident/Accident/Occurrence/Occurrence in Question: As used herein, the term, “the incident”, “the accident”, “the occurrence”, and “the occurrence in question” refer to the alleged event complained of in Plaintiffs’ Petition.

Negligent / Negligence: As used herein, the term, “negligent” and “negligence” mean the failure to use ordinary care, that is failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

Ordinary Care: As used herein, the term, “ordinary care” means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

Proximately Caused / Proximate Cause: As used herein, “proximately caused” and “proximate cause” mean that cause which, in a natural and continuous sequence, produces an event, and without which cause such event would not have occurred; and, in order to be a proximate cause, the act or omission complained of must be such that a person using “ordinary care” would have foreseen that the event, or some similar event, might be a reasonable result therefrom.

REQUEST FOR INTERROGATORIES

INTERROGATORY NO. 1: Please identify each person who participated in preparing the answers to these interrogatories.

ANSWER:

INTERROGATORY NO. 2: Please state whether or not George Ail Houston was your employee or borrowed employee on October 11, 2012, and, if so, state the job description and type of work that George Ail Houston generally performed.

ANSWER:

INTERROGATORY NO. 3: Please state whether or not SPX Corporation was the actual policyholder and/or named insured on a worker’s compensation policy, if any, which covered George Ail Houston at the time of the accident that makes the basis of this suit.

ANSWER:

INTERROGATORY NO. 4: State whether you gave George Ail Houston any instruction or training regarding the performance of his duties at SPX Corporation relating to the type of work performed at the time of the subject accident, and, if so, state what instructions or training were given, the dates of the instruction or training, the reason for the instruction or training, and whether George Ail Houston complied with the instructions and training at the time of the accident that makes the basis of this suit.

ANSWER:

INTERROGATORY NO. 5: With regard to any investigation conducted by Defendant pertaining to the incident, please state the following:

- a. The person or persons conducting or participating in the investigation;
- b. The findings and/or conclusions or such investigation;
- c. Identify all documents pertaining to the investigation.

ANSWER:

INTERROGATORY NO. 6: Was the Defendant the sole owner and operator of the premises where the subject accident occurred on October 11, 2012? If Defendant was not the sole owner and operator, then please identify each owner as well as operator of the premises.

ANSWER:

INTERROGATORY NO. 7: State whether George Ail Houston was working with any tools and/or machinery at the time of his injury and death alleged in the complaint, and if so, for each tool and/or machinery, state:

- a. the name by which it is designated;
- b. the precise type of work for which the tool(s) and/or machinery was designed;
- c. the precise type of work for which George Ail Houston was utilizing the tool(s) and/or machine at the time of the injury; and
- d. whether you contend that special skill or knowledge is not necessary for the safe use of the tool(s) and/or machinery, and if so, each fact on which you rely to support the contention.

ANSWER:

INTERROGATORY NO. 8: State whether George Ail Houston was given any instruction or training on the proper use of the tool(s) and/or machinery, and if so, for each instruction state:

- a. the date on which the instruction was given;
- b. the name, address, and job title of each person who gave the instruction or training; and
- c. the substance of the instructions and training given.

ANSWER:

INTERROGATORY NO. 9: State whether George Ail Houston was given warning or notice of any dangers involved in the use of the tool(s) and/or machinery, and if so, for each warning or notice state:

- a. the date on which the warning or notice was given;
- b. the substance of the warning or notice given; and
- c. the name, address, and job title of each person who gave the warning or notice.

ANSWER:

INTERROGATORY NO. 10: Please state the date that machine number 268 being worked on by George Ail Houston in the subject accident was first acquired by Defendant.

ANSWER:

INTERROGATORY NO. 11: Was machine 268, identified in the Interrogatory No. 10, regularly inspected by you (or a person designated by you) from the time of its acquisition until October 11, 2012? If the answer is yes, please describe:

- a. The person or entity who inspected the equipment;
- b. The frequency of inspection(s); and
- c. The results of each inspection and any maintenance/modifications made to the equipment resulting from each such inspection(s).

ANSWER:

INTERROGATORY NO. 12: Please state the most recent date (prior to October 11, 2012) that machine number 268 was inspected by an individual or service representative certified to work on or repair such equipment.

ANSWER:

INTERROGATORY NO. 13: State whether or not George Ail Houston was supplied with any safety dress, equipment, or appliances that were meant to reduce the risk of injury and/or death; and, if so, identify specifically the dress, equipment, or appliances, whether George Ail Houston was provided with such protections, and state the risk(s) they were intended to guard against.

ANSWER:

INTERROGATORY NO. 14: State whether you contend that George Ail Houston's injury and death resulted from the abnormal and unintended use of the tool(s) and/or machinery by George Ail Houston, and if so, state each fact which reveals that George Ail Houston operated the tool and/or machine in an abnormal or unintended manner.

ANSWER:

INTERROGATORY NO. 15: If you contend that George Ail Houston's negligence contributed to his injury and death described in the complaint, state each fact of which you have knowledge to support your allegation that George Ail Houston was negligent and identify all persons who have knowledge of relevant facts which support the contention that George Ail Houston was negligent.

ANSWER:

INTERROGATORY NO. 16: If you contend that George Ail Houston assumed the risk of the injuries described in the complaint, state each inherent risk or hazard that was assumed by George Ail Houston and the facts that reveal that George Ail Houston knew of the inherent risk.

ANSWER:

INTERROGATORY NO. 17: Describe fully and in detail the qualifications required of persons hired and employed by you to perform the same or substantially the same duties as those performed by George Ail Houston at the time he suffered the injury as described in the complaint.

ANSWER:

INTERROGATORY NO. 18: Please state whether or not you are aware of any injuries and/or death(s) that have been sustained by any parties employed to perform job duties that are the same or substantially similar to that of George Ail Houston in the ten (10) years preceding his injury and death as described in his complaint.

ANSWER:

INTERROGATORY NO. 19: If you contend that any person (other than George Ail Houston) or thing caused or contributed in any way to the incident, then identify same completely and the manner in which it caused or contributed to the incident.

ANSWER:

INTERROGATORY NO. 20: State whether you contend that, at the time when George Ail Houston sustained the injury alleged in the complaint, he was not acting in the course and within the scope of his employment with you as either an employee or borrowed employee.

ANSWER:

INTERROGATORY NO. 21: If you contend that George Ail Houston's injury and death is a result of some cause other than that which occurred in the course and within the scope of his employment with SPX Corporation, state each fact on which you have knowledge to support your contention that George Ail Houston did not sustain the injury alleged within the course and scope of his employment as either an employee or borrowed employee.

ANSWER:

CAUSE NO. _____

**GEORGE CREVEN HOUSTON and
CANDIS HOUSTON, Individually,
as wrongful death beneficiaries, and
on behalf of the Estate of GEORGE
AIL HOUSTON
Plaintiffs**

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IN THE _____

vs.

JUDICIAL DISTRICT COURT

**SPX CORPORATION
Defendant**

HARRIS COUNTY, TEXAS

**PLAINTIFFS' REQUEST FOR PRODUCTION
TO DEFENDANT SPX CORPORATION**

TO: Defendant SPX Corporation.

Pursuant to Texas Rules of Civil Procedure 196, you are requested to respond to the written discovery as set out below herein within fifty (50) days from the date of service.

Respectfully submitted,
GROSSMAN LAW OFFICES, P.C.



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Representative: The term “representative” means any and all agents, employees, servants, officers, directors, or other natural persons or business or legal entities acting or purporting to act on behalf of the person in question, whether authorized to do so or not, with respect to the matter, subject matter, information, document, item, or tangible thing requested.

Counsel: The term “counsel” means the attorney(s) or law firm(s) retained to represent a party.

Person: The term “person” or “persons” means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments, and other units therein, and shall include, but not being limited to, a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, state, governmental agency, commission/Department of Insurance, bureau, department or any other entity.

Document: the terms “document”, “documents”, “documentation” include, but are not limited to: papers; books; accounts; drawings; graphs; charts; photographs; electronic or videotape recordings; data; and data compilations; writings of every kind, source and authorship; correspondence, records; negotiable instruments; communications and depictions in words, symbols, pictures, sound recordings, films, tapes; information stored in, or accessible through, computer or other information storage or retrieval systems; discovery responses, depositions or other discovery materials produced, disclosed, or made regarding any legal proceeding; statements; pleadings; pleadings; reports; citations; or writings. The terms include originals, drafts and non-identical copies of such documents. Any copy of any “document”, any alterations, notes, comments, or other material not included in the originals or copies referred to above shall be deemed a separate document.

Additionally, as to production of electronic data, of documents, of photographs, and of recordings:

- (iii) Any and all *data or information which is in electronic or magnetic form* should be produced in the following form: (a) in written or printed form, and (b) in a finished useable form, which would include all necessary glossaries keys and indices for use and interpretation of the material.
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 - b. Production of *photographs*, the Propounding Party requests that true and correct color copies be provided in lieu of production of the originals, and in such event Propounding Party shall reimburse for the reasonable cost of copies;
 - c. Production of recordings of any kind, whether they are oral, taped, or recorded statements, or recordings of an audio or visual nature, etc., Propounding Party requests that true and correct recording copies be provided in lieu of production of the originals, and in such event Propounding Party shall reimburse for the recognizable costs of copies.

Genuine: The term “genuine” means free of forgery or counterfeiting. [See Tex. Bus. & Com. Code Ann. Sec. 1.201(18) (Vernon 1968)] To admit that a document is “genuine” is to admit that it is the document it purports to be.

Authentic: The term “authentic” means with respect to a writing or document that it is a true and correct copy of the document or writing and that the writing or document is in fact what it purports to be.

Business Record: The term “business record” means business record as defined and stated in Tex. R. Evid. 803(6).

Communication: the term “communication” means any oral or written utterance, notation or statement of any nature whatsoever, by and to whomsoever made, including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and/or all other understandings between or among two or more persons.

Photograph: The terms “photograph” and “photographs” mean and include photographs, pictures, motion pictures, movies, films, videos, magnetically, electronically, digitally, as well as, chemically created or maintained images of any kind, as well as, photographic material of any kind.

Lost or Destroyed Documents: If it is claimed that any document, item or tangible thing has been lost, destroyed, or was once in your possession, custody or control but is no longer; then for each such documents, item or tangible thing, please so note in your response.

Privileged Information or Material: Unless specified, these discovery requests should not be read to request work product, privileged oral and written communications between the attorney and their client, or non-discoverable consulting experts (i.e. information or materials exempt from discovery via Tex. R. Civ. P. 192.3 (e), 192.5, Tex. R. Evid. 503.) The Propounding Party’s counsel in good faith invites Responding Party’s counsel to contact Propounding Party’s counsel should Responding Party’s counsel believe that a protective order is necessary regarding production or use of any of the information and/or documents, items or tangible things requested herein.

Withholding of Information, Documents, Items, or Tangible Things, and Claims of Privilege: If you claim or contend that you are entitled to withhold from production any or all information, documents, items or tangible things, identified herein on the basis of the attorney/client privilege, the work-product doctrine, or other ground, then with respect to information, documents, items or tangible things, please comply with Tex. R. Civ. P. 193.3(a), including but not limited to notice requirements, identification of the discovery request to which it relates, and the privilege(s) asserted.

The Word “Or”: As used herein, the word “or” appearing in a discovery request should not be read so as to eliminate any part of the request, but, whenever applicable, it should be interpreted as “and/or”. For example, an interrogatory stating “support or refer” should be read as “support and/or refer” if an answer that does both can be made.

Time Period: Unless a specific date or dates are set forth in any specific requests herein, you are directed that each discovery request shall be answered for the period of time up to

and including the present date, through the date of the responses to discovery requests, and thereafter through trial. If after responding, responsive information or materials come into the possession of or within the possession, custody or control of the Responding Party, they are under a duty to timely amend or supplement pursuant to Rule 193.5 of the Texas Rules of Civil Procedure.

Ambiguity: Propounding Party's counsel in good faith invites Responding Party's counsel to contact Propounding Party's counsel should they believe that any of the discovery requests are ambiguous or, in the pursuit of judicial economy, should be more narrowly tailored and still provide the salient information and/or items. Propounding Party's counsel asks that such request be made in good faith and not to engage in gamesmanship or to limit or secret the discovery of responsive information and/or items.

Requests for Production: Per Tex. R. Civ. P. 196, you are required to give complete written responses to each production item request. You are to produce the requested documents, items and tangible things, in your actual or constructive possession, custody or control, and in the actual or constructive possession, custody or control of your agents, counsel, representatives, and/or insurer. As to each request item number, you are also instructed and request is made that you organize and label each document, item and tangible thing to correspond with each category of the request for production and each production item request number. If a response and the accompanying production of documents, items and tangible things, given by the responding party is also fully responsive to and gives full production as to a subsequent request for production, then the responding party need only refer to the prior response when responding and producing as to the subsequent request for production. You are to produce the requested documents, items and tangible things, at the offices of the Propounding Party's counsel.

Unless otherwise indicated by the inquiry or request, as used herein:

Propounding Party(ies): As used herein, "Propounding Party" means the party(ies) who propounded the subject discovery.

Responding Party(ies): As used herein, "Responding Party" means the party(ies) objecting to and/or providing discovery responses to the subject discovery.

Plaintiffs: As used herein, "Plaintiffs" means George Creven Houston and Candis Houston, Individually, as wrongful death beneficiaries, and on behalf of the Estate of George Ail Houston and includes, as applicable Plaintiffs' agents, employees, representatives and/or assigns.

Defendant / SPX Corporation: As used herein, the term "Defendant" refers to SPX Corporation, whom is a defendant party in this suit, and, as applicable, includes its agents, employees, representatives, assigns and affiliates.

Incident/Accident/Occurrence/Occurrence in Question: As used herein, the term, "the incident", "the accident", "the occurrence", and "the occurrence in question" refer to the alleged event complained of in Plaintiffs' Petition.

Negligent / Negligence: As used herein, the term, “negligent” and “negligence” mean the failure to use ordinary care, that is failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

Ordinary Care: As used herein, the term, “ordinary care” means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

Proximately Caused / Proximate Cause: As used herein, “proximately caused” and “proximate cause” mean that cause which, in a natural and continuous sequence, produces an event, and without which cause such event would not have occurred; and, in order to be a proximate cause, the act or omission complained of must be such that a person using “ordinary care” would have foreseen that the event, or some similar event, might be a reasonable result therefrom.

REQUEST FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: A copy of any legal documents that identify Defendant's status as a corporation, partnership, sole proprietorship, or joint venture.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2: SPX Corporation’s personnel file, in its entirety, concerning George Ail Houston.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: Copies of any pre-employment physical examination reports relating to George Ail Houston.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4: George Ail Houston’s earnings records while in the employ of or working under the direction of SPX Corporation.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5: Copies of any documentation, including but not limited to invoices, statements or cancelled checks, proving that SPX Corporation actually paid the cost of the worker's compensation premiums that covered George Ail Houston.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6: Copies of any and all statements made by any party concerning the accident described in the complaint that you have in your possession, custody, or control.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7: Complete and fully audible duplicate audio and/or video tapes and electronic recordings of all statements given by any party concerning the accident described in the complaint that you have in your possession, custody, or control.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8: Any reports, memoranda, or writings of any kind resulting from any investigation conducted by you or your representatives or insurers (including any exhibits to those reports) of or relating to the accident that makes the basis of this suit.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9: Other than those documents and tangible things already produced, all investigative reports relating to the accident that makes the basis of this suit, including but not limited to police reports, fire department reports, OSHA reports, and EMS reports (and attached photos, statements, drawings, communications and other tangible things) which were generated or obtained by or on behalf of SPX Corporation.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10: All mechanical drawings, material specifications, shop drawings and engineering drawings or specifications for machine 268 and any and all other equipment utilized by George Ail Houston at or shortly before the accident that makes the basis of this suit, whether made before or after his death.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11: A copy of the Operator's Manual for machine 268.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12: All maintenance and repair records, if any, relating to machine 268 at (or shortly before) the accident that makes the basis of this suit, whether made before or after his death.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13: A copy of all handouts, overhead slides, power point presentations or other written or visual materials that were given to George Ail Houston or presented to him at any safety meeting or training sessions for the 3 year period preceding the incident in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14: A copy of all your Document Retention Policies that were in existence as of October 11, 2012, to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15: Please produce a copy of all 911 tapes, transcripts or call logs pertaining to the accident in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16: All documents and manuals from the manufacturer of machine 268 relating to repair procedures, dimensions, material specifications, safety equipment, performance data, operating limitations, normal operation and operating procedures and emergency procedures.

RESPONSE:

REQUEST FOR PRODUCTION NO. 17: Please produce a color copy of all news articles that you obtained regarding the accident in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 18: Please produce a color copy of all post-accident photographs and videotapes of the area and scene of the accident in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 19: Any and all documents and/or correspondence to and from you and state or federal agencies regarding corrective actions taken or to be taken by you in response to the agencies' safety audits, safety reviews, inspections, findings and/or safety investigations regarding your business operations, for the 5 year period preceding the accident in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 20: Other than documents previously produced, copies of all diagrams, films, photocopies, photographs and other graphic representations in your possession or to which you have access that are of the equipment or area involved in George Ail Houston's accident as described in the complaint, or are otherwise related in any way to the accident.

RESPONSE:

REQUEST FOR PRODUCTION NO. 21: All lease agreements, records, notations, and memoranda relating to the lease of machine 268 and any and all other equipment utilized by George Ail Houston and involved in the subject accident.

RESPONSE:

REQUEST FOR PRODUCTION NO. 22: Copies of all documents, training materials, pamphlets or other written materials distributed to employees providing instructions, precautions, or warnings to those who have the same or substantially similar job duties as George Ail Houston at the time of the accident as described in the complaint.

RESPONSE:

REQUEST FOR PRODUCTION NO. 23: All manuals, memoranda or other written or printed procedures and documents describing or explaining (in whole or in part) any aspect of the operation of machine 268.

RESPONSE:

REQUEST FOR PRODUCTION NO. 24: Any and all documents generated and/or distributed by you to your employees regarding corrective actions to be taken in response to any state and/or federal agencies' findings concerning your business operations for the 5 year period preceding the accident in question through the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 25: All instruction manuals, procedures, and other documents relating to the training of employees regarding the repair of machine 268.

RESPONSE:

REQUEST FOR PRODUCTION NO. 26: Copies of all OSHA standards and regulations which were known to you before October 11, 2012 relating to the subject accident.

RESPONSE:

REQUEST FOR PRODUCTION NO. 27: Copies of all documents, pamphlets or other written materials distributed to George Ail Houston that provide him any instructions, precautions or warnings in carrying out his the job duties at SPX Corporation.

RESPONSE:

REQUEST FOR PRODUCTION NO. 28: Other than those previously produced, copies of all records, documents, films, videotapes or tape recordings which you contend or will contend reflect training provided by you to George Ail Houston in the operation of the equipment involved in the subject accident, and safe practices involved in the same.

RESPONSE:

REQUEST FOR PRODUCTION NO. 29: All organizational charts of your company showing the structure of your company, including the various departments, sections and divisions of your operations for the 3 year period preceding the accident in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 30: A copy of the Repair Manual or other documents relating to the repair of machine 268.

RESPONSE:

REQUEST FOR PRODUCTION NO. 31: Copies of all warning decals located on machine 268.

RESPONSE:

REQUEST FOR PRODUCTION NO. 32: Any and all documents and/or correspondence to and from you and state or federal agencies regarding corrective actions taken or to be taken by you in response to the agencies' safety audits, safety reviews, inspections, findings and/or safety investigations regarding your business operations, for the 5 year period preceding the accident in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 33: Copies of all other reports received from insurance, investigative, and other informational sources with regard to the following:

- a. George Ail Houston's background;
- b. The facts and circumstances surrounding the accident in question;
- c. George Ail Houston's past physical and mental condition.

RESPONSE:

REQUEST FOR PRODUCTION NO. 34: All documents, records, reports, notations, or memoranda regarding George Ail Houston from persons or entities that compile claim information. i.e. insurance claims and worker's compensation claims.

RESPONSE:

REQUEST FOR PRODUCTION NO. 35: Copies of all medical records, reports, and other information regarding George Ail Houston's past and present physical condition, other than those supplied by Plaintiffs and their attorney.

RESPONSE:

REQUEST FOR PRODUCTION NO. 36: All documents relating to ANY injuries that have been suffered by your employees in the performance of the same or substantially similar job duties as George Ail Houston while employed by and/or working under the direction of SPX Corporation in the ten (10) years preceding George Ail Houston's accident as described in the complaint.

RESPONSE:

REQUEST FOR PRODUCTION NO. 37: All documents relating to ANY injuries that have been suffered by your employees in the performance of the same or substantially similar job duties as Plaintiff while employed by and/or working under the direction of SPX Corporation in the time period of October 11, 2012 through the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 38: All documents produced in response to or relating to concerns and/or complaints about the safety of work at SPX Corporation registered by its employees and/or other invitees in the ten (10) years preceding Plaintiff's accident as described in her complaint.

RESPONSE:

REQUEST FOR PRODUCTION NO. 39: All documents produced in response to or relating to concerns and/or complaints about the safety of work at SPX Corporation registered by its employees and/or other invitees in the time period of October 11, 2012 through the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 40: All newspaper articles that pertain to or reference the subject accident.

RESPONSE:

REQUEST FOR PRODUCTION NO. 41: All reports, publications, regulations or other documents evidencing safety standards, laws, regulations, ordinances, and industry standards which you now contend or will contend at trial were violated by George Ail Houston.

RESPONSE:

REQUEST FOR PRODUCTION NO. 42: All other records, reports, statements, correspondence, memoranda, notes, summaries, and all other documents relating in any way to the accident in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 43: Any letters, telegrams, telexes, memos, or other communications in your possession and that contain any reference to George Ail Houston.

RESPONSE:

REQUEST FOR PRODUCTION NO. 44: Copies of all documents reflecting the net worth of SPX Corporation, including but not limited to financial statements and documents evidencing retained earnings.

RESPONSE:

REQUEST FOR PRODUCTION NO. 45: The complete in-house investigation conducted by or on your behalf in the ordinary course of business relative to all citations from OSHA, or any federal or state agencies or inquires relevant to the accident in question, including, but not limited to all things prepared for, and/or presented in, any informal conference or closing conference between you and any governmental representatives (this request specifically included, but is not limited to all photographs, movies, videotapes, audiotapes, reports, memoranda, correspondence, written statements, and all correspondence between you and any such agencies.)

RESPONSE: