IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
NOV 19 1969
JAMES R. COONEY, CLERK
BY DEPUTY

CLARENCE BOREL :

VS. : CIVIL ACTION NO. 6449

FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL :

REPLY TO MOTION FOR MORE DEFINITE STATEMENT FILED BY DEFENDANT COMBUSTION ENGINEERING, INC.

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW CLARENCE BOREL, plaintiff in the above entitled and numbered cause, and files this his reply to the motion for more definite statement filed by defendant Combustion Engineering, Inc., and would respectfully show the following:

1.

Plaintiff herein, with permission of this Court, hereby adopts the reply of plaintiff to motion for more definite statement filed by defendant Fibreboard Paper Products Corporation.

WHEREFORE, plaintiff prays that the motion for more definite statement filed by defendant Combustion Engineering, Inc. be in all things denied.

STEPHENSON AND THOMPSON

By Ward Stephenson
Attorneys for Plaintiff
StephensonBuilding
Orange, Texas 77630

CERTIFICATE OF SERVICE BY MAIL

I, Ward Stephenson, hereby certify that a copy of the foregoing answer to motion for more definite statement was on this 18 day of November, 1969, mailed to Charles S. Pipkin, P. O. Box 1632, Beaumont, Texas 77704, Attorney for Defendant Combustion Engineering, Inc.

Ward Stephenson
Ward Stephenson

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BY DEPUTY Virginia R. Sears

CLARENCE BOREL :

VS. : CIVIL NO. 6449

FIBREBOARD PAPER PRODUCTS CORPORATION ET AL :

REPLY TO MOTION TO DISMISS FILED BY DEFENDANT RUBEROID COMPANY

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW CLARENCE BOREL, plaintiff in the above entitled and numbered action, and files this his reply to the motion to dismiss filed herein by defendant Ruberoid Company, and would respectfully show unto the Court the following:

1.

The defendant in its motion to dismiss has alleged that "Ruberoid Company" is not a corporation, and further denies that C.T. Corporation System of Dallas, Texas, is an agent for service upon said named defendant, and for "such good and sufficient reasons" plaintiff's complaint as to "Ruberoid Company" should be dismissed.

2.

The plaintiff would like to call the attention of the Court to the proceedings had in Civil No. 6329, styled Samuel R. Potter vs. Fibreboard Paper Products Corporation, et al, and in such case the Ruberoid Company was also named as defendant. In such proceeding referred to, plaintiff propounded interrogatories to defendant Ruberoid Company and answers to such

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interrogatories made by the attorney of record for said defendant, to-wit:

> Interrogatory No. 1: "Please give the correct name and address of your company, and the name and address of the agent for service in Texas."
>
> Answer "Ruberoid Company, a division of GAF. The undersigned attorney (Robert E. Barnes) will accept service of process."
>
> Interrogatory No. 2: "Is your company a corporation, partnership, or individual proprietorship, and if it is not, what type of entity is your company?"
>
> Answer: "A division of a corporation."

3.

The plaintiff herein would show unto the Court that in this action, the defendant Ruberoid Company has been sued as follows: "RUBEROID COMPANY, a Division of GAF CORPORATION, a corporation organized, created and existing under the laws of the State of Delaware, with an agent for service, to-wit, C. T. Corporation System, Republic National Bank Building, Dallas, Dallas County, Texas." In this connection, plaintiff would like to point out that said defendant has been sued in the same name given by said defendant. That plaintiff's attorneys called the Secretary of State's office in Austin, Texas, and was advised by telephone that the correct name of GAF is "GAF Corporation" and that it is a Delaware corporation having permission to do business in Texas, and that C. T. Corporation System, Republic National Bank Building, Dallas, Dallas County, Texas, is the agent for service upon such corporation.

4.

Plaintiff therefore says that there is no basis for the defendant's motion to dismiss, and that the same should be overruled.

WHEREFORE, plaintiff prays that the motion to dismiss filed by said defendant be in all respects overruled.

STEPHENSON AND THOMPSON

By Ward Stephenson
Attorneys for Plaintiff
Stephenson Building
Orange, Texas 77630

CERTIFICATE OF SERVICE BY MAIL

I, Ward Stephenson, hereby certify that a true and correct copy of the foregoing instrument was, on this the 20 day of November, 1969, mailed to Robert E. Barnes, P. O. Box 5098, Beaumont, Texas, Attorney for Defendant Ruberoid Company.

Ward Stephenson
WARD STEPHENSON

The Borel v. Fibreboard Case File (1969-1972), Reply to Combustion Engineering motion for more definite stateme... Published by AsbestosClaims.Law
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