IN THE UNITED STATES DISTRICT COURT

FOR THE

EASTERN DIVISION OF TEXAS - BEAUMONT DIVISION

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
DEC 3 - 1969
JAMES R. COONEY, CLERK
BY DEPUTY

CLARENCE BOREL,

Plaintiff,

VS.

FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL,

Defendants

CIVIL ACTION NO. 6449

ORIGINAL ANSWER OF DEFENDANT PHILIP CAREY CORPORATION TO PLAINTIFF'S COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Philip Carey Corporation, one of the defendants in the above styled and numbered cause and answering plaintiff's complaint respectfully says:

FIRST DEFENSE

The complaint fails to state a claim against your defendant upon which relief may be granted, and therefore should be dismissed.

SECOND DEFENSE

1. With respect to paragraph 1. of the complaint, your defendant says that in answer thereto it does not know whether this Court has jurisdiction of this controversy since it does not have knowledge as to the citizenship of the other parties defendant, other then your defendant herein.

2. Your defendant admits the allegations of paragraph 2. and 3. of the complaint.

3. With respect to the allegations of paragraph 4. of the complaint your defendant admits that at one time it manufactured and sold insulating material, but specifically denies that any of them caused any injury to the plaintiff.

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4. Your defendant denies the facts stated in paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of the complaint.

THIRD DEFENSE

Your defendant Philip Carey Corporation says that any cause of action which the plaintiff may have had against your defendant herein accrued more than two years prior to the filing of this action, and your defendant here now pleads the two-year statute of limitations of the State of Texas in bar of plaintiff's right to any recovery.

FOURTH DEFENSE

For further answer your defendant says that the plaintiff's physical condition, which he now complains, was due solely to causes other than any fault, breach of warranty or negligence on the part of your defendant.

FIFTH DEFENSE

Your defendant says that the injuries and disability, if any, of which the plaintiff complains were caused solely, or in the alternative, ~~were~~ proximately caused, by the negligent acts and omissions of the plaintiff himself while working with and around insulating materials incident to his trade.

SIXTH DEFENSE

Your defendant would further show unto the Court that the injury and damages of which the plaintiff complains were solely and proximately caused by the negligent acts, either of commission or omission, committed by the various employers for whom the plaintiff alleges that he worked, and during the course of which work he claims that he was exposed to various insulating products.

SEVENTH DEFENSE

Your defendant further says that if any

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judgment is entered herein, jointly and severally against it, or any other defendant or defendants, that then and in that event your defendant is entitled to contribution of and from such other defendants according to the terms and provisions of the laws of the State of Texas, and particularly Article 2212 of the Revised Civil Statutes of the State of Texas.

WHEREFORE, PREMISES CONSIDERED, your defendant prays that on a hearing hereof your plaintiff take nothing and that your defendantgo hence and recover its costs, or in the alternative, have judgment for contribution as prayed for above.

FULBRIGHT, CROOKER, FREEMAN,
BATES & JAWORSKI

By _____
W. N. Arnold, Jr.

Bank of the Southwest Building
Houston, Texas 77002 224-7070

Attorneys for Defendant Philip
Carey Corporation

I, W. N. ARNOLD, JR., one of the attorneys of record for the defendant, Philip Carey Corporation, in the above entitled and numbered cause, hereby certify that a true and correct copy of the above and foregoing answer was on this, the 2nd day of December, 1969, served upon: Mr. Ward Stephenson, Stephenson & Thompson, 712 Division Street, Orange, Texas 77630, as attorney of record for the plaintiff, by mailing a copy thereof through the United States mails, properly stamped and addressed.

_____
W. N. Arnold, Jr.

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IN THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DIVISION
OF TEXAS - BEAUMONT DIVISION

CLARENCE BOREL

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FIBREBOARD PAPER PRODUCTS
CORPORATION, ET AL

CIVIL ACTION NO. 6449

ORIGINAL ANSWER OF DEFENDANT
PHILIP CAREY CORPORATION TO
PLAINTIFF'S COMPLAINT

FULBRIGHT, CROOKER, FREEMAN, BATES & JAWORSKI
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