FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
FEB 17 1970
JAMES R. COONEY, CLERK
BY DEPUTY Margaret Driver

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

CLARENCE BOREL :

VS. : CIVIL ACTION NO. 6449

FIBREBOARD PAPER PRODUCTS :
CORPORATION, ET AL :

NOTICE OF MOTION AND MOTION FOR
LEAVE TO AMEND COMPLAINT

TO THE DEFENDANTS IN THE ABOVE ENTITLED AND NUMBERED CAUSE AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

You and each of you will please take notice that the plaintiff in the above entitled action will, in the offices of the United States District Judge, Federal Building, Beaumont, Texas, as soon as the court will hear counsel, move for an order permitting the plaintiff to file his proposed amendment to his complaint, a copy of which is hereto attached and herewith served upon you.

Dated: February 16, 1970.

STEPHENSON AND THOMPSON

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

171

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BY DEPUTY Margaret Brewer

MOTION FOR LEAVE TO AMEND COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes the plaintiff and moves the Court to allow him to file his first amended original complaint, and would show unto the Court:

1.

That the plaintiff has named as one of the defendants herein the ARMSTRONG CONTRACTING AND SUPPLY CORPORATION. That in answer to certain interrogatories propounded to said company in Civil Action No. 6329 (styled Samuel R. Potter vs. Fibreboard Paper Products Corporation et al), said company has stated under oath that they were never a manufacturer of insulating products.

2.

The plaintiff says that upon information and belief, he believes that the actual company which did in fact manufacture insulating products was the ARMSTRONG CORK COMPANY and that because of the fact that the two names are so similar, a mistake may have been made in naming ARMSTRONG CONTRACTING AND SUPPLY CORPORATION a defendant herein.

3.

The plaintiff further says that during his lifetime working as an insulator, he worked around products manufactured by a company which he now believes was ARMSTRONG CORK COMPANY and that such

172

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company should be made a party defendant herein.

4.

Further the plaintiff says that the doctrine of strict liability applies in this case, and that he desires to enlarge upon the allegations concerning strict liability.

5.

That a copy of the plaintiff's proposed amended complaint is hereto attached and made a part hereof.

WHEREFORE, plaintiff prays that this motion be granted by this Court.

STEPHENSON AND THOMPSON

By _____
Attorneys for Plaintiff
Stephenson Building
Orange, Texas 77630

173

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