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

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
APR 29 1970
JAMES R. COONEY, CLERK
BY DEPUTY Margaret Driver

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CLARENCE BOREL
v.
FIBREBOARD PAPER PRODUCTS CORP., ET AL.

C. A. No. 6449

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BE IT REMEMBERED, that on this the 23rd day of April, 1970, at ten o'clock a.m. in the residence of Mr. Clarence Borel, 4500 Lawndale, Groves, Jefferson County, Texas, before Mrs. Edna LaBove, Court Reporter and Notary Public in and for Jefferson County, Texas, proceedings were conducted as follows:

APPEARANCES:-

Mr. Ward Stephenson
Stephenson Building
Orange, Texas — FOR THE PLAINTIFF

Mr. George Weller
Weller, Wheelus & Green
Beaumont Savings Bldg.
Beaumont, Texas — FOR FIBREBOARD PAPER PRODUCTS

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Mr. Gordon R. Pate
Beaumont Savings Building
Beaumont, Texas

Mr. George E. Duncan
Wells, Duncan and Beard
Beaumont Savings Building
Beaumont, Texas — FOR PITTSBURGH CORNING

Mr. Dale Dowell
King, Sharfstein & Rienstra
Beaumont Savings Building
Beaumont, Texas — FOR OWENS-CORNING

Mr. W. N. Arnold, Jr.
Fulbright, Crooker,
Freeman & Jaworski
Bank of the SW Bldg.
Houston, Texas — FOR PHILIP CAREY & ARMSTRONG CONTRACTING & SUPPLY

Mr. Ben Reynolds
Royston, Rayzor & Cook
877 San Jacinto Building
Houston, Texas — FOR EAGLE - PICHER

MR. Charles Pipkin
Strong, Pipkin, Nelson, Parker and Powers
San Jacinto Building
Beaumont, Texas — FOR COMBUSTION ENGINEERING

Mr. Gerald P. Coley
Vinson, Elkins, Searls & Connally
First City National Bank Building
Houston, Texas — FOR UNARCO

Mr. Robert E. Barnes, Jr.
Post Office Box 5098
Calder Avenue
Beaumont, Texas — FOR RUBEROID COMPANY

Mr. Clarence Borel
4500 Lawndale
Groves, Texas — PLAINTIFF

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MR. STEPHENSON: You and Mr. Ben Reynolds question Mr. Borel. And we are going to have to limit it to about an hour, and, if you all need some more time, we will come back for another hour until you get all your questions asked, because he can't stand very much. If he can go for an hour why we will do it. If he can't we will have to stop.

MR. DOWELL: How much break do you think we'll need between?

MR. STEPHENSON: I mean that's all for today.

MR. PATE: In one day?

MR. STEPHENSON: He just got out of the hospital here about two weeks ago.

MR. PIPKIN: What's that?

MR. STEPHENSON: What I'm saying, Charlie, he don't have enough strength to go very long.

MR. PIPKIN: I see.

MR. STEPHENSON: And so what we'll have to do, we don't mind coming back a dozen times if you all want to, to interrogate him. But he runs out of strength and they have to give him pain medication and that sort of thing and so he hasn't had any and about an hour is going to be it. If you want to come back tomorrow or Monday or -- why we will pick up and take another hour and handle it that way until you get whatever questions you want asked.

MR. PIPKIN:I see.

MR. STEPHENSON: And he can't go very long.

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MR. REYNOLDS: Would it be better if we wait two or three months until he's in better shape.

MR. STEPHENSON: There isn't any need, Ben. Just don't go into that. I will get with you later.

(Whereupon, at this time, all counsel retired to the front lawn of Mr. Borel's residence for an off-the-record conference, the record being continued following the conference as follows:)

MR. PATE: The Attorneys for the defense having been advised by the plaintiff's Attorney that Mr. Borel would only be able to testify for one hour today and that only three of the Attorneys could interrogate Mr. Borel, and Mr. Stephenson having furnished us this morning with authorizations to obtain income tax returns and medical records and the Defendants being of the opinion that the deposition could be shortened if they had these records before commencing Mr. Borel's deposition, it was agreed that the deposition would be postponed until the above records could be obtained and reviewed in order to shorten the oral deposition.

MR. STEPHENSON: That's not my agreement. I want to get out a commission to take his deposition as promptly as I can. Maybe it's - it might be six months before all the records you want to come in, however long it takes the government to provide them, but I got to take the man's deposition.

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MR. REYNOLDS: Can we agree on a date at which we might resume. I would suggest in about 30 days. We will agree to make every effort to resume within 30 days.

MR. STEPHENSON: I can't agree to that.

(Off the record discussion)

MR. WELLER: If we cannot stipulate that, a partial deposition will not be admissible until and unless the deposition has been fully completed, then we propose that we ask the Court to set the rules for the taking of this deposition.

MR. STEPHENSON: You can put down what you want to, but I would like for the record to reflect that I was here, Mr. Borel was here, the witness was ready to proceed, the court reporter was here for the taking of the deposition.

He has one lung removed, is in a weakened condition, has had to have glucose and pain medication and cannot endure a lengthy interrogation such as this general group of counsel conducted when they examined a prior asbestous man with seven straight hours of interrogation, and that the deposition can be taken in one-hour intervals, each hour to be on a separate day. We have submitted him for that purpose, and at this time I plan to get out a notice to take his deposition and advise the Court of the facts surrounding this situation.

MR. REYNOLDS: Let the record show defense counsel was not advised of Mr. Borel's condition until we arrived here this morning.

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(PROCEEDINGS ADJOURNED)

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THE STATE OF TEXAS)
COUNTY OF JEFFERSON)

I, Mrs. Edna LaBove, a Notary Public and Court Reporter in and for Jefferson County, Texas, do hereby certify that the facts as stated by me in the caption hereto are true; that the above and foregoing proceedings as indicated herein were taken down in shorthand by me and thereafter reduced to typewriting by me; that the above and foregoing is a full, true and correct transcript of the proceedings had at the time and place stated herein.

I FURTHER CERTIFY that I am not, in any capacity, a regular employee of any party in whose behalf these proceedings were taken, and certify that I am not interested in the cause, nor of kin or counsel to either of the parties.

Given under my hand and seal of office on this the 23rd day of April, 1970.

Edna La Bove
Notary Public and Court Reporter
Jefferson County, Texas

My commission expires June 1, 1970.

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