IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
JUL 21 1970
JAMES R. COONEY, CLERK
BY DEPUTY

CLARENCE BOREL :

VS. : CIVIL ACTION NO. 6449

FIBREBOARD PAPER PRODUCTS :
CORPORATION ET AL :

FURTHER ANSWERS OF DEFENDANT ARMSTRONG CORK COMPANY TO INTERROGATORIES HERETOFORE SERVED UPON DEFENDANT'S COUNSEL

Armstrong Cork Company, one of the defendants in the above entitled and numbered cause, through its attorneys of record, makes the following further answers to the written interrogatories heretofore served on it by counsel for the plaintiff.

INTERROGATORY NO. 2

Did you ever at any time give warnings to workers of the dangerous nature of your products? If so, describe your warnings and to whom such warnings were given.

ANSWER TO INTERROGATORY NO. 2

A variety of warnings have been affixed to Armstrong products from time to time, as required by law and good industrial practice. Such warnings most frequently appear in the form of cautionary statements printed on the labels of containers in which Armstrong products are sold or distributed. Typical examples of such warnings would relate to flammability characteristics, in which case the warnings would be such as to comply with regulations of the Interstate Commerce Commission and various local fire prevention authorities; eye or skin irritants, in which case the warnings would comply with Federal and state hazardous substances labeling acts and regulations issued thereunder; etc.

INTERROGATORY NO. 12

Does your company recognize that in 1924, Dr. W. E. Cook, also of England, found clear evidence of asbestosis and that such discovery was published in the British Medical Journal of July 26, 1924, and re-published

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in 1927? If you do, then please state what action, if any, was taken by your company based upon these studies to reduce or eliminate asbestosis in those using your products. If your answer is that you do not recognize the truth of such statement, then please state what your company has done in an effort to keep abreast of medical literature concerning the disease produced from the products which you manufacture, if in truth you have.

ANSWER TO INTERROGATORY NO. 12

In addition to the previously submitted answer to this interrogatory, this defendant states that, although it is not primarily engaged in the field of medical research, a limited number of medical journals are, and for approximately two decades have been, received in its research library and made available to the staff of its Research and Development Center.

INTERROGATORY NO. 35

Do you or your company recognize that such asbestos insulating materials are dangerous and harmful to human beings and to the health of man? If your answer to this question is "Yes" then please explain when you came to this conclusion and what, if anything, you have done about it to notify the public. If your answer is that your products are not harmful then explain what tests were made upon which you base such conclusion.

ANSWER TO INTERROGATORY NO. 35

Subject to objections and exceptions previously of record, this defendant does not agree to the accuracy of the statement made; on the contrary, if properly used, our products are not injurious to health as long as the threshold limit value does not exceed specified levels. This conclusion is based on actions and statements of the American Board of Governmental and Industrial Hygienists, which this defendant understands had conducted a series of tests over an extended period of time; the exact nature of these tests is not within the personal knowledge of this defendant or any of its officers, agents or employees.

INTERROGATORIES NOS. 47 THROUGH 84

Do you agree that the State of _____ had a Workmen's Compensation Law covering the occupational disease of asbestosis beginning in the year _____?

ANSWER TO INTERROGATORIES NOS. 47 THROUGH 84

Answering Interrogatories Nos. 47-84 inclusive, this defendant states that it does not have direct knowledge of the occupational disease laws of

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most of the states and other jurisdictions referred to in such interrogatories. Under today's interpretations such occupational disease laws would probably cover the disease of asbestosis either by specific reference thereto or by judicial interpretation. This defendant does not believe that such interpretations can be considered retroactive to the dates referred to in the interrogatories propounded in this case, which this defendant understands to be the dates of original enactment of various workmen's compensation acts.

Specifically answering Interrogatory No. 54, defendant admits that the State of Pennsylvania has an occupational disease act which specifically provides compensation for disability resulting from asbestosis, but denies that such coverage began in the year 1937; furthermore, such compensation is in substitution for the right of the workman "to any form or amount of compensation or damages for any disability or death resulting from occupational disease", other than as provided in said act, and thus would, in the opinion of this defendant, constitute a statutory bar to any recovery such as sought by plaintiff in the present litigation.

This defendant does not have sufficient knowledge or information upon which to predicate a sworn response to Interrogatories Nos. 47-84 other than as hereinabove indicated.

DATED this the 17th day of July, 1970.

ARMSTRONG CORK COMPANY

By _____
R. S. Trigg
Assistant Secretary

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF LANCASTER :

BEFORE ME, the undersigned authority, on this day personally appeared R. S. TRIGG, Assistant Secretary of Armstrong Cork Company, a corporation, known to me to be the person whose name is subscribed to the

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foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

Given under my hand and seal of office, this 17th day of July, 1970.

W. Layton Crist

NOTARY PUBLIC IN AND FOR
LANCASTER COUNTY, PENNSYLVANIA

W. LAYTON CRIST, Notary Public
Lancaster, Lancaster County, Pa.
My Commission Expires June 10, 1974

I certify that the above and foregoing Further Answers of Defendant, Armstrong Cork Company, to Written Interrogatories was served upon plaintiff, Clarence Borel, by mailing a copy thereof to his attorney Mr. Ward Stephenson, Stephenson, Thompson and Morris, P. O. Box 68, Orange, Texas 77630, by certified mail, return receipt requested, on the 20 day of July, 1970.

W. N. Arnold, Jr.

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