IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SEP 23 1970
JAMES R. COONEY, CLERK
BY DEPUTY Virginia R. Sens

SAMUEL R. POTTER V. FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL	§	CIVIL ACTION NO: 6329
CLARENCE BOREL V. FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL	§	CIVIL ACTION NO: 6449
J. J. CRAWFORD V. FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL	§	CIVIL ACTION NO: 6492

ANSWERS OF DEFENDANT PANACON CORPORATION [PHILIP CAREY CORPORATION[TO INTERROGATORIES PROPOUNDED UNDER RULE 33 OF THE FEDERAL RULES OF CIVIL PROCEDURE AND SERVED UPON YOUR DEFENDANT'S COUNSEL ON AUGUST 25, 1970

TO: PLAINTIFFS, SAMUEL R. POTTER, CLARENCE BOREL AND J. J. CRAWFORD, AND THEIR ATTORNEY WARD STEPHENSON, STEPHENSON & THOMPSON, STEPHENSON BUILDING, ORANGE, TEXAS

COMES NOW Philip Carey Corporation, defendant in the above entitled and numbered causes through its attorneys of record, and makes the following answers to supplemental interrogatories neretofore served on it by counsel for the plaintiffs.

SUPPLEMENTAL INTERROGATORY NO. 1

Have you ever advised those using your products of your so-called threshold limits? If you did, describe exactly how you advised those using your products of such threshold limits.

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ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 1

We have never specifically advised those using our products of our specific threshold limits on our products in a formal way until our recent letter to Industrial Insulators, Inc. of April 3, 1970.

SUPPLEMENTAL INTERROGATORY NO. 2

If you did not advise those using your products of such threshold limit, explain why you did not.

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 2

We did not formally advise those using our product of our specific threshold limits prior to this date simply because most of our customers who use the product in significant amounts to have a serious problem, such as Union Carbide, Dow Chemical, Inc., etc., have their own technical staff and "in house" hygienists who are well aware of the problems and threshold limits on products used in their organizations.

SUPPLEMENTAL INTERROGATORY NO. 3

What do you contend to be the "threshold limits" as used in answering written interrogatories previously propounded to you.

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 3

In the product produced until September 23, 1969, since it contained approximately 6% of asbestos fiber, we considered the threshold limit on dust generated in the use andaapplication of our product to be five million parts per cubic feet of air. In the product produced since that date, we consider the threshold limits to be fifty million parts per cubic feet of air, since it no longer contains asbestos fiber. Some consideration is being given to reducing this to twenty-five million parts per cubic feet of air.

SUPPLEMENTAL INTERROGATORY NO. 4

Where didyou obtain such information concerning threshold limits, and when did you get such information?

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ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 4

This information was obtained from the Division of Safety and Hygiene of the Industrial Commission when they conducted dust tests in our own manufacturing facility in April of 1967. Other information in this regard was obtained from publications of the National Safety Counsel, and follows the American Conference of Governmental Industrial Hygienists of 1962 who adopted these values at their meeting of that date.

SUPPLEMENTAL INTERROGATORY NO. 5

Has your company ever gone into the field and seen, observed, or counted, or in any way shown any interest in ascertaining how much dust is created by the worker applying your products when he is in an enclosed area such as a building, factory, room, or confined space? Answer "Yes" or "No."

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 5

Yes.

SUPPLEMENTAL INTERROGATORY NO. 6

If your answer is "Yes" to Interrogatory No. 5, then please explain the details of when and where such observations were taken, by whom they were taken, giving the complete name and address, the system used for such observation and the complete results, and to whom the results were reported.

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 6

Dust counts were made in our own plant in April of 1967; also at the Union Carbide shops, located at Institute, West Virginia in the fall of 1967, and again in the spring of 1970 at the Union Carbide shops. The first tests were on material containing 6% asbestos. The second tests [spring of 1970] were on asbestos-free products.

The second test was done by Robert Peal, Union Carbide Company hygienist. We have no copy of the results of this test since this was an "in house" document. We have been advised that Philip Carey meets current standards.

Results of these tests have been given to Union Carbide, Dow Chemical and other significant users of this product.

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SUPPLEMENTAL INTERROGATORY NO. 7

If your company is one contending that some dust count constitutes a threshold level, please explain in detail when you got such information, exactly what it is, setting out all the details which you have concerning this in its entirety, and what your company has done to advise those who might use your products.

ANSWER TO SUPPLEMENTAL INTERROGATORY NO. 7

In talking about threshold limit values referred to in prior interrogatories, this information was received by your defendant from American Conference of Industrial Hygienists, described in a series of publications entitled "Threshold Limit Values of Airborne Contaminants."

DATED this 21st day of September, 1970.

FULBRIGHT, CROOKER, FREEMAN,
BATES & JAWORSKI

By _____
W. N. Arnold, Jr.

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

Attorneys for Defendant, Panacon Corporation [Philip Carey Corporation]

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared W. N. ARNOLD, JR., known to me to be the attorney of record for the Defendant mentioned above and to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and that the same is true and correct.

Given under my hand and seal of office this the 21st day of September, 1970.

_____
NOTARY PUBLIC IN AND FOR
HARRIS COUNTY, T E X A S

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing instrument was served on the following attorneys by mailing a true and correct copy thereof to their respective offices on this 21st day of September, 1970.

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