FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
OCT 7 - 1971
JAMES R. COONEY, CLERK
BY DEPUTY Margaret Turner

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 :

MOTION FOR JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now the plaintiff in this cause, and moves the Court for an entry of judgment on the verdict of the jury herein, a copy of the proposed judgment being hereto attached and made a part hereof.

WHEREFORE, plaintiff moves for the entry of a judgment on the verdict of the jury.

Respectfully submitted,

STEPHENSON AND THOMPSON

By _____
Attorneys for Plaintiff
Stephenson Building
Orange, Texas 77630

1732

Published by AsbestosClaims.Law
asbestosclaims.law/library/10250/1

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 :

JUDGMENT

This action came on regularly for trial on the 20th day of September, 1970 before the Court and a jury, Honorable Joe J. Fisher, District Judge, presiding. A jury of twelve persons was regularly impaneled and sworn to try said action, and witnesses on the part of plaintiff and defendants were duly sworn and examined. After hearing the evidence, the arguments of counsel and instructions of the Court, the jury retired to consider their verdict and subsequently returned into Court with the verdict signed by the foreman as follows:

"VERDICT OF THE JURY

SPECIAL INTERROGATORY NO. 1

Do you find from a preponderance of the evidence that any of the Defendants listed below was negligent in any of the respects contended by Plaintiff, which negligence was a proximate cause of the injuries and death of the deceased?

Answer "Yes" or "No" opposite the named Defendant.

ANSWER:

Pittsburgh Corning Corporation No
Armstrong Cork Company No
Philip Carey Corporation Yes
Ruberoid Company, Division of GAF Corporation Yes
Johns-Manville Products Corporation Yes
Fibreboard Paper Products Corporation Yes

SPECIAL INTERROGATORY NO. 2

Do you find from a preponderance of the evidence that any of the Defendants listed below committed some act of gross negligence as contended by the Plaintiff and that

1733

Published by AsbestosClaims.Law
asbestosclaims.law/library/10250/2

such act of gross negligence was a proximate cause of the death of the deceased?

Answer "Yes" or "No" opposite the named Defendant.

ANSWER:

Pittsburgh Corning Corporation No
Armstrong Cork Company No
Philip Carey Corporation No
Ruberoid Company, Division of GAF Corporation No
Johns-Manville Products Corporation No
Fibreboard Paper Products Corporation No

"Gross negligence"is defined as a heedless and reckless disregard for the rights of others.

"Heedless and reckless disregard" means that such an entire want of care as to indicate that the act, or failure to act, in question was a result of conscious indifference to the rights, welfare, or safety of the persons affected by it, and in order to establish "gross negligence" the burden is on the plaintiffs to show that defendant could or should have foreseen and prevented the injury and that the defendant acted with a degree of negligence which brought about the accident and injury.

If you have answered either Special Interrogatory 1 or 2 "Yes" and in that event only, you will answer the following interrogatory.

SPECIAL INTERROGATORY NO. 3

Do you find from a preponderance of the evidence that the deceased was guilty of contributory negligence and that such negligence was a proximate cause of the injuries and death of the deceased?

Answer "Yes" or "No."

Answer: Yes

SPECIAL INTERROGATORY NO. 4

Do you find from a preponderance of the evidence that the warranties as contended for by the Plaintiff were violated by any of the Defendants listed below, which breach of warranty was a proximate cause of the injuries and death of the deceased?

Answer "Yes" or "No" opposite the named Defendant.

ANSWER:

Pittsburgh Corning Corporation Yes
Armstrong Cork Company Yes
Philip Carey Corporation Yes
Ruberoid Company, Division of GAF Corporation Yes
Johns-Manville Products Corporation Yes
Fibreboard Paper Products Corporation Yes

SPECIAL INTERROGATORY NO. 5

What amount of money, if paid now in cash, would fairly and reasonably compensate the Plaintiff, Freida Borel, for the damages she sustained by virtue of the death of her husband?

Published by AsbestosClaims.Law
asbestosclaims.law/library/10250/3

Answer in dollars and cents, if any.

ANSWER:

Actual Damages

$68,000.00

Damages for Gross Negligence

None

We, the jury, return the above answers to the special interrogatories propounded to us herein as our verdict in this case.

September 29, 1971
Date

/s/ Roy Jenkins
FOREMAN OF THE JURY"

It further appearing to the Court that the medical expenses of the deceased were in the amount of $9,783.30 and that the funeral expenses of the deceased were in the amount of $ 1,652.94 and that the same should be added to any judgment or verdict entered herein:

It is ORDERED AND ADJUDGED that the plaintiff, Thelma Freida Borel, recover of and from the defendants, Pittsburgh Corning Corporation, Armstrong Cork Company, Philip Carey Corporation, Ruberoid Company, Division of GAF Corporation, Johns-Manville Products Corporation and Fibreboard Paper Products Corporation, the sum of $ 79,436.24, with interest thereon at the rate of six (6%) percent per annum as provided by law, together with her costs herein incurred, and that she have execution therefor.

It is further ORDERED, ADJUDGED AND DECREED by the Court that of and from the amount decreed to plaintiff herein, that intervenor, National Surety Corporation, do have and recover as follows:

It is ORDERED that intervenor, National Surety Corporation recover over and against plaintiff, Thelma Freida Borel, the sum of $ 8,578.85.

JUDGMENT Entered October _____, 1971.

JUDGE OF THE UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF TEXAS, BEAUMONT DIVISION

1735

Published by AsbestosClaims.Law
asbestosclaims.law/library/10250/4

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that a true and correct copy of the foregoing motion and proposed judgment were on this 6th day of October, 1971, mailed to the following named attorneys:

Mr. George E. Duncan
Mr. W. N. Arnold, Jr.
Mr. Robert E. Barnes
Mr. Charles S. Pipkin
Mr. George A. Weller
Mr. James W. Mehaffy
Mr. Gordon R. Pate
Mr. John Tucker
Mr. George E. Murphy
Mr. Dale Dowell
Mr. Gerald P. Coley
Mr. Ben L. Reynolds

Ward Stephenson

WARD STEPHENSON

1736

Published by AsbestosClaims.Law
asbestosclaims.law/library/10250/5