IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
OCT 25 1971
JAMES R. COONEY, CLERK
BY DEPUTY Margaret Driver

CLARENCE BOREL :

VS. : CIVIL ACTION NO. 6449

FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL :

PLAINTIFF'S MOTION FOR NEW TRIAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the plaintiff, and moves the Court to grant a new trial in the above entitled cause, for the following reasons and upon the following grounds:

1.

Because this Honorable Court only granted the plaintiff six (6) strikes on the selection of the jury herein, and allowed the defendants nine (9) strikes.

2.

That the damages awarded by the jury were inadequate, appearing to have been given under the influence of bias or prejudice against the plaintiff.

3.

That the evidence was conclusive to warrant a finding by the jury that the defendants were guilty of gross negligence.

4.

Because the Court erred in failing to submit this case under the doctrine of res ipsa loquitor as requested by the plaintiff.

5.

Because the Court erred in charging the jury that contributory negligence was a defense and a bar to recovery

The Borel v. Fibreboard Case File (1969-1972), Motion for new trial
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under gross negligence; that the jury knew under the Court's charge that if they found contributory negligence, such contributory negligence barred plaintiff's recovery both on the negligence and gross negligence counts against the defendants.

WHEREFORE, plaintiff prays that this Honorable Court grant a new trial in this cause.

STEPHENSON & THOMPSON

By _____
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CERTIFICATE OF SERVICE BY MAIL

I, Ward Stephenson, hereby certify that a true and correct copy of the foregoing instrument was on this 21st day of October, 1971, mailed to the following named attorneys:

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

Ward Stephenson

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