FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
FEB 11 1972
JAMES R. COONEY, CLERK
BY DEPUTY

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

CLARENCE BOREL

VS.

FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL

CIVIL ACTION NO. 6449

AMENDED DESIGNATION OF DOCUMENTS TO BE PRINTED ON BEHALF OF DEFENDANTS IN APPENDIX IN CONNECTION WITH APPEAL

The defendants, Fibreboard Corporation, Pittsburgh Corning Corporation, Philip Carey Croporation, Armstrong Cork Company, Johns-Manville Products Corporation and Ruberoid Company, appellants, file this as an amendment to their designation of documents to be printed in the appendix in connection with this appeal. This designation is in lieu of the original designation dated January 25, 1972, and is an attempt to comply with the Fifth Circuit's local rules governing the contents of the appendix.

The following documents are designated to be printed in the appendix:

1. Plaintiff's Original Complaint, filed 10/20/69.
2. Each of the defendants who are parties to this appeal filed cross-actions for contribution against each and all of the original eleven defendants in this case and each of the cross-defendants filed an answer to the respective cross-actions; such cross-actions for indemnity and answers thereto are not being printed in the interest of brevity.
3. Plaintiff's Second Amended Original Complaint, filed 7/10/70.
4. Plaintiff's Motion to Take Judicial Knowledge in Civil Actions 6329, 6449 and 6492, filed 11/18/70.
5. Reply to Plaintiff's Motion to Take Judicial Knowledge, filed 11/30/70.
6. Order on Judicial Knowledge, filed 12/17/70.

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7. Supplemental Motion For Summary Judgment of Defendant, Owens-Corning Fiberglas Corporation, filed 12/17/70.

8. Pre-Trial Stipulation and Order, filed 1/28/71

9. Second Amended Answer of Defendant, Fibreboard Corporation, to Plaintiff's Second Amended Original Complaint, filed 5/11/71.

NOTE: Each of the Defendants-Appellants have filed separate Answers substantially the same as the Answer of Fibreboard Corporation. These Answers will not be copied in the appendix but are referred to and designated here only for purposes of reference. They are not to be printed in the appendix:

a. First Amended Original Answer of Defendant, Pittsburgh Corning Corporation, to Plaintiff's Second Amended Original Complaint, filed 1/29/71.

b. Second Amended Original Answer of Johns-Manville Products Corporation to Plaintiff's Second Amended Original Complaint, filed 2/11/71.

c. Second Amended Answer of Armstrong Cork Company to Plaintiff's Amended Original Complaint, filed 4/23/71

d. Second Amended Answer of Philip Carey Corporation to Plaintiff's Second Amended Original Complaint, filed 4/23/71

e. Answer to Defendant, Ruberoid Company, to Plaintiff's Second Amended Complaint, filed 1/21/71

10. Letter of E. Judge Elderkin, Attorney, San Francisco, California, concerning California Law, addressed to Mr. George A. Weller, filed 5/18/71

11. Motion of Defendants to Submit Case Upon Special Interrogatories Under Rule 49(a), filed 9/15/71

12. Defendants' Requested Special Interrogatories, filed 9/15/71

13. Defendants' Requested General Charges, filed 9/15/71

14. Defendants' Objection to Limiting the Number of Peremptory Challenges to be Exercised by Defendants to Nine, and to the Allowance to Plaintiff of More Than Three Peremptory Challenges, to-wit, Six, filed 9/20/71.

15. Second Supplemental Answer of Defendant, Fibreboard Corporation, Amending Its Second Amended Answer to Plaintiff's Second Amended Petition, filed 9/27/71.

16. Order Overruling Defendants' and Cross-Plaintiff's Objection With Respect to Peremptory Challenges, filed 9/20/71

17. Motion of Defendant, Fibreboard Corporation, For a Directed Verdict at the Close of All of the Evidence, filed 9/27/71.

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NOTE: Each of the Defendants-Appellants filed Motions for a Directed Verdict at the Close of All of the Evidence, but the same are not printed in this appendix for reasons of brevity.

The Motions referred to be reference only which are not to be printed are:

a. Motion of Defendant, Armstrong Cork Company, for a Directed Verdict at Close of Plaintiff's Evidence (Adopted at the Close of all of the Evidence), filed 9/27/71

b. Motion of Defendant, Philip Carey Corporation, for a Directed Verdict at Close of Plaintiff's Evidence (Adopted at the Close of all of the Evidence), filed 9/27/71

c. Motion of Defendant, Johns-Manville Products Corporation, For a Directed Verdict at the Close of All of the Evidence, filed 9/27/71.

d. Motion of Defendant, Ruberoid Company, For a Directed Verdict at the Close of All of the Evidence, filed 9/28/71

18. Motion For a Directed Verdict at the Close of All of the Plaintiff's Evidence Adopted at the Close of All of the Evidence Filed in Behalf of Pittsburgh-Corning Corporation on 9/27/71 (to be printed)

19. Defendant Ruberoid's Specially Requested Instructions Nos. 1-9, filed 9/28/71

20. Order Granting Motion of Defendants to Submit Case on Special Interrogatories, filed 9/27/71

21. Stipulation Signed by Parties and by Court in Regard to Compromise and Settlement Between Plaintiff and Intervenor With Defendants, Owens-Corning Fiberglas Corporation, Standard Asbestor Manufacturing and Insulating Company, Unarco Industries, Inc., and Eagle-Picher Industries, Inc., filed 9/28/71

22. Order Overruling Motions of All Defendants For an Instructed Verdict at Close of All of the Evidence, filed 9/28/71

23. Verdict of the Jury, filed 9/29/71

24. Defendant Fibreboard Corporation's Motion For Judgment on the Verdict of the Jury; In the Alternative, Motion For Judgment Notwithstanding the Verdict of the Jury Under Rule 50-B; and in the Further Alternative, Motion For a New Trial, filed 10/13/71

25. Motion of Defendant, Pittsburgh Corning Corporation, For Judgment Notwithstanding the Verdict of the Jury Under Rule 50-B, filed 10/15/71

NOTE: Each of the Defendants-Appellants filed similar Motions for Judgment on the Verdict in the Alternative Motions for Judgment Notwithstanding the Verdict Under Rule 50-B;

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And in the Further Alternative for New Trial, but same are not to be printed herein in the interest of brevity. If any of the Defendants whose Motions are omitted have special paragraphs which should be considered, such paragraphs shall be designated by the particular Defendant, with the request that same be printed.

The following Motions are listed here only for reference purposes to evidence the fact that each Defendant duly filed a Motion similar to that of Fibreboard Corporation:

a. Motion of Defendant, Pittsburgh Corning Corporation, For Judgment on the Verdict of the Jury; In the Alternative, Motion For Judgment Notwithstanding the Verdict of the Jury Under Rule 50-B; And in the Further Alternative, Motion For a New Trial, filed 10/15/71 (Do not print.)

b. Motion of Defendants, Armstrong Cork Company and Philip Carey Corporation, For Judgment on the Verdict of the Jury; In the Alternative, Motion For Judgment Notwithstanding the Verdict of the Jury Under Rule 50-B; and in the Further Alternative, Motion For New Trial, filed 10/18/71 (Do not print.)

c. Motion of Defendant, Johns-Manville Products Corporation, For Judgment on the Verdict of the Jury; In the Alternative, Motion for Judgment Notwithstanding the Verdict of the Jury, filed 10/18/71 (Do not print.)

d. Motion of the Defendant, Ruberoid Company, For Judgment on the Verdict of the Jury; In the Alternative, Motion For Judgment Notwithstanding the Verdict of the Jury, filed 10/25/71 (Do not print.)

26. Order Overruling the Separate Motion Filed on Behalf of Pittsburgh Corning Corporation For Judgment Notwithstanding the Verdict of the Jury Under Rule 50-B, filed 11/16/71.

27. Order Overruling Defendants' Motion For Judgment on the Verdict of the Jury; Defendants' Alternative Motion For Judgment Notwithstanding the Verdict of the Jury Under Rule 50(b); and Defendants' Further Alternative Motion For New Trial, filed 11/30/71

28. Order Overruling Plaintiff's Motion For New Trial, filed 11/30/71

29. Judgment, filed 11/30/71

30. The Court's Charge

31. Notice of Appeal, filed 12/8/71

NOTE: Appeal Bonds were duly filed by each Appellant on 12/18/71 but are not printed herein.

32. This Designation of Documents

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In addition to the foregoing instruments, and without printing the same, appellants-defendants request that the Clerk transmit to the Fifth Circuit copies of all trial briefs on file in this cause. Such trial briefs are not to be printed.

Respectfully submitted;

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The Borel v. Fibreboard Case File (1969-1972), Amended designation of documents for appeal
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