599

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
NEWARK 1, N. J.

REYNIER J. WORTENDYKE, JR.
JUDGE

January 2, 1958

Re: C-741-57 - LeGrande v. Johns Manville Products Corp.

William L. Brach, Esq.,
60 Park Place,
Newark 2, New Jersey

Stryker, Tams & Horner, Esqs.,
Attention: John J. Monigan, Jr., Esq.,
744 Broad Street,
Newark 2, New Jersey

Gentlemen:

In determining the propriety of interrogatories under Federal Rule 33, the limitations embodied in Rule 26(b) must serve as a criterion. The critical language expressing the scope of inquiry by deposition or interrogatory permits examination "regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the examining party or to the claim or defense of any other party, * * *."

Defendant has filed objections to interrogatories propounded to it by the plaintiff and a hearing was held upon these objections on December 23, 1957, at the conclusion of which the Court undertook to examine the interrogatories objected to and to decide the issue of the propriety or otherwise of the objections.

The interrogatories criticized by the objector, and the Court's view with respect to each, will appear from the following:

1. Defendant has subsequently consented to answer this interrogatory with the understanding that the phrase "or its controlled subsidiaries" is transferred from its present pla to immediately following the word "defendant," and plaintiff

EXHIBIT
P-599

CRMC-Motley1000-Subj-001977

may not inquire further back than the year 1952.

6. By analogy to the principle in Kluchenac v. Oswald & Hess Co., D.C. Pa. 1957, 20 F.R.D. 87, the making of the scientific and statistical research which this interrogatory calls for is a burden which, in my opinion, plaintiff may not properly impose upon defendant. The objection to this interrogatory is sustained.

5. The objection to this interrogatory must be sustained because it calls upon the defendant, without any showing of its knowledge or ability to obtain information respecting the same, to disclose transactions between Porter and suppliers other than the defendant.

7. Subdivisions (a), (b) and (c) of this interrogatory call for information which, in my opinion, is not relevant to the issues in this case, hence the objections thereto are sustained. The objection to subdivision (d) is overruled. The objection to subdivision (e) is sustained because the interrogatory is not sufficiently specific but is too general.

8. I sustain the objections to this interrogatory and its subdivisions for reasons similar to those expressed in connection with interrogatory No. 5.

9. I consider this interrogatory to be in the same category as No. 8, and therefore objectionable.

10. With the understanding that this interrogatory shall be deemed to relate to "experimentation, study or inquiry" made or caused to be made by the defendant, the objection is overruled.

11. A responsive answer to this interrogatory and its subdivisions would be relevant to the issues in this case, and might lead to evidence relevant thereto. The objection to the interrogatory is overruled. This disposition, however, is subject to the deletion from the interrogatory of the references to the "subsidiaries" of the defendant.

CRMC-Motley1000-Subj-001978

12. Subject to the elimination of reference to defendant's "subsidiaries" in this interrogatory, the objections thereto are overruled.

13. I overrule the objection to this interrogatory.

14. The objection to this interrogatory is sustained because I consider that instructions or warnings given by defendant or its subsidiaries to any of its employees respecting hazards of their employment is irrelevant to the issue of whether defendant violated its duty to the plaintiff, who I understand was not its employee.

16. The objection to this interrogatory is sustained because a responsive answer thereto would be irrelevant to the issues in this case, and because it is too broad.

17. The objection to this interrogatory is sustained for the same reasons stated respecting No. 16.

18. The objection to this interrogatory is sustained because the relationship between the parties to this action renders responsive answer thereto irrelevant.

19. The objection to this interrogatory is overruled.

22. Subdivision (c). The objection to this subdivision is sustained for the obvious reason that it is dependent upon the contingency that the defendant may desire to call the expert and because the defendant cannot be required to guarantee what will be the expert's opinion.

25. Subdivision (a). The objection to this interrogatory subdivision is overruled.

26. The objection to this interrogatory is sustained.

Very truly yours,

Reynier J. Wortendyke, Jr.
Judge, United States District Court

RJW,Jr/e
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CRMC-Motley1000-Subj-001979


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