IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
June 24 1969
James R. Cooney, Clerk, U. S. Court
By Myra Barton
DEPUTY

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| SAMUEL R. POTTER | ( ) | |
| VS. | ( ) | CIVIL ACTION NO. 6329 |
| FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL | ( ) | |

ORIGINAL ANSWER OF DEFENDANT
EAGLE-PICHER INDUSTRIES, INC.

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES EAGLE-PICHER INDUSTRIES, INC., one of the Defendants in the above numbered and entitled civil action, hereinafter called Defendant, and in response to the Complaint of SAMUEL R. POTTER on file herein, would respectfully show unto the Court as follows:

FIRST DEFENSE

The Complaint of SAMUEL R. POTTER fails to state a claim against Defendant for which a relief may be granted.

SECOND DEFENSE

The allegations of the Complaint of SAMUEL R. POTTER are hereinafter answered by correspondingly numbered paragraphs:

FIRST: Denied for lack of information sufficient to form a belief as to the truth thereof.

SECOND: Denied for lack of information sufficient to form a belief as to the truth thereof.

THIRD: Denied for lack of information sufficient to form a belief as to the truth thereof.

FOURTH: Denied for lack of information sufficient to


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form a belief as to the truth thereof, except that it is admitted that EAGLE-PICHER INDUSTRIES, INC. is engaged in the manufacture of materials used for insulation and that such insulation, from time to time, contains asbestos.

FIFTH: Denied for lack of information sufficient to form a belief as to the truth thereof.

SIXTH: Denied for lack of information sufficient to form a belief as to the truth thereof.

SEVENTH: Denied.

EIGHTH: Denied.

NINTH: Denied.

TENTH: Denied for lack of information sufficient to form a belief as to the truth thereof.

ELEVENTH: Denied for lack of information sufficient to form a belief as to the truth thereof.

TWELFTH: Denied for lack of information sufficient to form a belief as to the truth thereof.

THIRTEENTH: Denied.

FOURTEENTH: Denied.

FIFTEENTH: Denied.

THIRD DEFENSE

Defendant alleges and would show that the damages referred to in the Complaint of SAMUEL R. POTTER were proximately caused and occasioned by his own fault and neglect.

FOURTH DEFENSE

Defendant alleges and would show that the damages referred


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to in the Complaint of SAMUEL R. POTTER resulted from his voluntary submission to the hazards of his chosen profession and, therefore, that the doctrine of assumption of risk and/or volenti non fit injuria is applicable hereto.

FIFTH DEFENSE

The accident in question was an unavoidable one, as that term is known in law, or in the alternative, was caused by the acts and omissions of third persons, or by instrumentalities in nowise connected with Defendant.

WHEREFORE, premises considered, Defendant EAGLE-PICHER INDUSTRIES, INC. prays that Plaintiff SAMUEL R. POTTER take nothing and that it have judgment for its costs, and for general relief.

BEAN & MANNING
Attorneys for Defendant
EAGLE-PICHER INDUSTRIES, INC.

By: Frank M. Bean
2010 500 Jefferson Building
Houston, Texas 77002
CA 4-5276

CERTIFICATE OF SERVICE

We hereby certify that a true copy of the foregoing Original Answer of Defendant EAGLE-PICHER INDUSTRIES, INC. was served upon Plaintiff SAMUEL R. POTTER by mailing the same to STEPHENSON, THOMPSON & MORRIS, Stephenson Building, P. O. Box 68, Orange, Texas 77630 on this the 20th day of June, 1969.

BEAN & MANNING
Attorneys for Defendant
EAGLE-PICHER INDUSTRIES, INC.

By: Frank M. Bean
Frank M. Bean


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C. A. NO. 6329

SAMUEL R. POTTER

VS.

FIBREBOARD PAPER PRODUCTS
CORPORATION, ET AL

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ORIGINAL ANSWER OF DEFENDANT
EAGLE-PICHER INDUSTRIES, INC.

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IN THE DISTRICT COURT OF THE

UNITED STATES FOR THE EASTERN

DISTRICT OF TEXAS, BEAUMONT

DIVISION

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ATTORNEYS AT LAW
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