IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
M. Oct. 15 1969
James R. Cooney, Clerk, U. S. Court
By Myra Barton
DEPUTY

S. R. POTTER :

VS. : CIVIL NO. 6329

FIBREBOARD PAPER PRODUCTS :
CORPORATION ET AL :

NOTICE OF MOTION

TO: Mr. George E. Duncan
Attorney at Law
P. O. Box 3708
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Attorney for Defendant PITTSBURGH CORNING CORPORATION

Mr. Dale Dowell
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Attorney for Defendant OWENS-CORNING FIBERGLAS CORPORATION

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Attorney for Defendant JOHNS-MANVILLE PRODUCTS CORPORATION

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Attorney for Defendant EAGLE-PICHER INDUSTRIES, INC.

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Attorney for Defendant COMBUSTION ENGINEERING COMPANY, INC.

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Attorney for Intervenor CHARTER OAK FIRE INSURANCE COMPANY

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Attorney for Defendant ARMSTRONG CONTRACTING AND SUPPLY CORPORATION

Mr. Robert E. Barnes, Jr.
Attorney at Law
P. O. Box 5098
Beaumont, Texas 77706
Attorney for Defendant RUBEROID COMPANY

Gentlemen: Please take notice that the undersigned will bring the attached motion on for hearing before this Court, at its place of setting in the Federal Building, Beaumont, Texas, or at such place designated by this Court, as soon as the Court can hearing the same, at a time and date to be set by this Honorable Court.

STEPHENSON AND THOMPSON

By Ward Stephenson
Attorneys for Plaintiff
Stephenson Building
Orange, Texas 77630

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MOTION FOR DISCOVERY

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now the plaintiff, S. R. Potter, and makes this his motion for discovery, and in support thereof would show:

1.

That the plaintiff presently has a cause of action pending in this Honorable Court concerning the manufac ture and distribution of asbestos insulating products, and that in the interest of a full and complete, yet speedy trial, the plaintiff says that it is necessary that each of the defendants produce samples of such materials as they each manufacture for use in insulating which contain any asbestos.

2.

That it will also be necessary that such products be identified at the time they are produced by the name of the manufacturer and the trade name of the product, together with when the product was first manufactured, so that during the trial of this case, there will be a simple method of identifying the products manufactured or distributed by each of the defendants, and proof of the manufacturer and distributor of these products if required by other witnesses other than the defendants would be cumbersome, lengthy and unduly expensive.

3.

In addition, plaintiff says that each of the defendants

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should be order to furnish plaintiff's attorney with a copy of all sales literature concerning the products manufactured or distributed by each defendant.

4.

That also in addition thereto, each defendant should be ordered to produce all engineering, scientific and research data concerning such products, its suggested use and adaptability, method of applying, and any safety controls suggested.

5.

That if any of the defendants maintain medical or scientific research departments, that they be ordered to produce the name and address of such person in charge of such department or departments.

6.

That each of these defendants be ordered to produce any breathing apparatus, device or other safeguards which such defendants claim would materially reduce or completely eliminate the disease of asbestosis if used by the workers applying asbestos materials.

7.

That each defendant be ordered to furnish the plaintiff the name and address of the company representative who will appear at the time of the trial of this case.

8.

That the defendants have the possession, control and custody of each of the foregoing, and each of them constitute or contain evidence relevant and material to this cause of action, and as more fully shown in Exhibit A attached hereto.

STEPHENSON AND THOMPSON

By Ward Stephenson
Attorneys for Plaintiff
Stephenson Building
Orange, Texas 77630

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THE STATE OF TEXAS :

COUNTY OF ORANGE :

Ward Stephenson, of the law firm of Stephenson and Thompson, being first duly sworn, says:

(1) That I am one of the attorneys for S. R. Potter in the above civil action;

(2) That the above requested documents and things are official company records and in the possession of and under the control of the defendants herein;

(3) That the above requested documents and things are relevant to the issues in this cause and are not privileged or within the work product rule; that the production of such requested documents and things will facilitate the trial of this cause, and that the denial of discovery would unduly hinder the preparation of plaintiff's case; that plaintiff will be handicapped in formulating appropriate questions and in covering all the relevant aspects of the occurrence unless he has the benefit of the above requested documents and things.

Ward Stephenson

WARD STEPHENSON

SWORN TO AND SUBSCRIBED before me, this 14th day of October, 1969.

Jackie Pearson

NOTARY PUBLIC, ORANGE COUNTY, TEXAS

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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 the 14th day of October, 19 69, mailed by certified mail, return receipt requested to the following named attorneys for the defendants:

Mr. George E. Duncan
Attorney at Law
P. O. Box 3708
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PITTSBURGH CORNING CORPORATION

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Attorney for Defendant
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