IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

FILED
M. NOV 20 1969
James R. Cooney, Clerk, U. S. District Court
By Margaret Deaver
DEPUTY

SAMUEL R. POTTER

VS.

FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL

CIVIL ACTION NO. 6329.

DEFENDANT RUBEROID COMPANY'S
FIRST AMENDED ORIGINAL ANSWER

COMES NOW the Defendant "Ruberoid Company" and files its First Amended Original Answer to Plaintiff's First Amended Original Complaint, and as grounds therefor would respectfully represent unto the Court the following:

MOTION TO DISMISS

This Defendant, "Ruberoid Company," denies that it is a corporation, and further denies that the C. T. Corporation System of Dallas, Texas, is an agent for service upon said named Defendant, and for such good and sufficient reasons Plaintiff's complaint as to "Ruberoid Company" should be dismissed.

Robert E. Barnes.

Sworn to and subscribed before me, the undersigned authority, on this 21 day of November, A. D. 1969.

Gladys B. Barnes.
Notary Public in and for
Jefferson County, Texas.

FIRST DEFENSE

This Defendant admits the allegations contained in paragraph No. 1.

SECOND DEFENSE.

This Defendant admits the allegations contained in paragraph No. 2.

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THIRD DEFENSE.

This Defendant admits the allegations contained in paragraph No. 3.

FOURTH DEFENSE.

Since this named Defendant is not a corporation nor an entity of any kind, it cannot admit nor deny the allegations contained in paragraph No. 4, nor does this named Defendant have any knowledge as to the other Defendants, and for such reason this named Defendant can neither admit nor deny the allegations contained in paragraph No. 4.

FIFTH DEFENSE.

This Defendant has no knowledge about the matters alleged in paragraph No. 5, and therefore can neither admit nor deny the same.

SIXTH DEFENSE.

This Defendant denies the allegations contained in paragraph No. 6.

SEVENTH DEFENSE.

This Defendant denies the allegations contained in paragraph No. 7.

EIGHTH DEFENSE

This Defendant denies the allegations contained in paragraph No. 8.

NINTH DEFENSE.

This Defendant denies the allegations contained in paragraph No. 9.

TENTH DEFENSE.

This Defendant denies the allegations contained in paragraph No. 10.

ELEVENTH DEFENSE.

This Defendant denies the allegations contained in paragraph No. 11.

TWELFTH DEFENSE.

This Defendant denies the allegations contained in paragraph No. 12.

THIRTEENTH DEFENSE.

This Defendant denies the allegations contained in paragraph No. 13.

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FOURTEENTH DEFENSE.

This Defendant denies the allegations contained in paragraph No. 14.

FIFTEENTH DEFENSE.

This Defendant denies the allegations contained in paragraph No. 15.

SIXTEENTH DEFENSE.

This Defendant denies the allegations contained in Plaintiff's Prayer.

SEVENTEENTH DEFENSE.

This Defendant says that Plaintiff's cause of action is barred by the two-year Statute of Limitations and that for such good and sufficient reason, Plaintiff's pleadings should be dismissed, at least as to this Defendant.

EIGHTEENTH DEFENSE.

This Defendant says further that Plaintiff is guilty of acts and omissions of negligence proximately causing his condition which he makes the basis of this suit.

NINETEENTH DEFENSE.

This Defendant says further that Plaintiff voluntarily exposed himself to a known risk which he appreciated and did so as the result of deliberate choice, and therefore is barred from recovery by the doctrine of volenti non fit injuria.

TWENTIETH DEFENSE.

This Defendant says further that Plaintiff's condition which is made the basis of this lawsuit was caused solely by acts of parties other than this Defendant.

TWENTY-FIRST DEFENSE.

This Defendant says further, in the alternative, that Plaintiff's condition which is made the basis of this lawsuit is the result of an unavoidable accident as between the Plaintiff and this Defendant, since this Defendant was guilty of no negligence proximately causing the same.

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WHEREFORE, premises considered, this Defendant prays that it be dismissed and go hence without day and recover its costs.

Respectfully submitted,

BARNES & BARNES

BY Robert E. Barnes

2315 Calder - P. O. Box 5098,
Beaumont, Texas,
Telephone 833-8601,
Attorneys for said Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served upon all counsel of record by depositing the same in the United States mail properly addressed, with postage paid, on the 21 day of November, A. D. 1969.

Robert E. Barnes

Robert E. Barnes.

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Civil Action No. 6329

In the United States District Court for the Eastern District of Texas, Beaumont Division

Samuel R. Potter

vs.

Fibreboard Paper Products Corporation, et al.

Defendant Ruberoid Company's First Amended Original Answer

BARNES & BARNES
ATTORNEYS AT LAW
[illegible]
BEAUMONT, TEXAS

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