IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
DEC 23 1969
James R. Gourley, Clerk, U. S. Court
By Margaret Driver DEPUTY

SAMUEL R. POTTER

VS.

FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL.

CIVIL ACTION NO. 6329.

ANSWERS OF THE DEFENDANT
RUBEROID COMPANY TO
INTERROGATORIES PROPOUNDED BY PLAINTIFF

TO THE PLAINTIFF, SAMUEL R. POTTER, AND MR. WARD STEPHENSON, STEPHENSON BUILDING, ORANGE, TEXAS, HIS ATTORNEY OF RECORD:

Defendant Ruberoid Company, in response to Interrogatories propounded under Rule 33, Federal Rules of Civil Procedure, served on this Defendant's counsel on or about October 14, 1969, herein files its answers to such Interrogatories. Such answers to such Interrogatories bear the same number as the request:

INTERROGATORY NO. 1.

a. Calsilite - A high Timberate pipe covering and Block. This product has been manufactured since the late 1940's and contains 10% asbestos and the balance is composed of diatamaceous earth and Hydrous Lime Silicate.

b. 7M Cement and Asbestos Insulating and Finishing Cement. This product has been manufactured since 1936 and is composed almost entirely of asbestos fibers.

c. T/ na100 - A Tedlar neoprine asbestos insulating jacketting. This product has been manufactured since 1961 and contains 40% asbestos and the remainder consists of Tedlar (poly vinyl floride) and neoprine.

Published by AsbestosClaims.Law
asbestosclaims.law/library/10481/1

INTERROGATORY 2.

We do not have any contact with workers installing asbestos insulating products. However, we do recommend to our own employees who are in regular contact with asbestos in high dust areas to wear respirators.

INTERROGATORY NO. 3.

Ruberoid Company, itself, has made no such studies. However, this Company is familiar with the studies made by various other agencies, including the United States Government.

INTERROGATORY NO. 4.

See Answer to Interrogatory No. 3.

INTERROGATORY NO. 5.

Yes - These products were sold to contractors, building material, wholesalers, retailers and to other manufacturers. These products are packaged in corrugated cartons or paper bags. These products are sold throughout the United States, except only on a limited basis west of the Rockies.

INTERROGATORY NO. 6.

See Answer to No. 5.

INTERROGATORY NO. 7.

This Interrogatory is objected to as being argumentative, ambiguous, unintelligible, and irrelevant to the issues in this case. Subject to the foregoing objection, this Defendant says that assuming the word "use" means the normal intended usage as insulation products, the answer is No.

INTERROGATORY NO. 8.

Ruberoid Company, itself, has made no such studies. However, this Company is familiar with the studies made by various other agencies, including the United States Government.

The Potter v. Fibreboard Case File (1969-1972), Answers to plaintiff's interrogatories
ACL Doc 10481 · Page 2 of 10
Published by AsbestosClaims.Law
asbestosclaims.law/library/10481/2

INTERROGATORY NO. 9.

No, but see the Answers to Interrogatories No. 3 and No. 8.

INTERROGATORY NO. 10.

We have no control over the working areas where the products which this Company manufactures are being installed by asbestos insulation workers, nor do we have any right to go upon such premises for the purpose of making any inspection. Scientists and others engaged by the United States Government, as well as published literature familiar to this Defendant, indicate that in the areas where insulation workers are installing and using our products, the dust counts have been below the threshold limit values set by the American Conference of Governmental Industrial Hygienists.

INTERROGATORY NO. 11.

This Defendant objects to Interrogatory No. 11 for the reason that it is argumentative, ambiguous, irrelevant and immaterial. The Defendant further objects to such Interrogatory because the same assumes facts which are not in existence, and because the same is not limited to times pertinent to this lawsuit.

INTERROGATORY NO. 12.

This Defendant objects to Interrogatory No. 12 for the reason that it is argumentative, ambiguous, irrelevant and immaterial. The Defendant further objects to such Interrogatory because the same assumes facts which are not in existence, and because the same is not limited to times pertinent to this lawsuit.

INTERROGATORY NO. 13.

This Defendant objects to Interrogatory No. 13 for the reason that it is argumentative, ambiguous, irrelevant and immaterial. The Defendant further objects to such Interrogatory because the same assumes facts which are not in existence, and because the same is not limited to times pertinent to this lawsuit.

The Potter v. Fibreboard Case File (1969-1972), Answers to plaintiff's interrogatories
ACL Doc 10481 · Page 3 of 10
Published by AsbestosClaims.Law
asbestosclaims.law/library/10481/3

INTERROGATORY NO. 14.

No.

INTERROGATORY NO. 15.

This Defendant has no right to enter upon any premises where its materials are being installed in the field; hence, it can take no dust samplings where such products are being installed.

INTERROGATORY NO. 16.

This question is objected to as being irrelevant and immaterial, in that the Plaintiff does not claim he has asbestos-induced lung cancer. Subject to such objection, this Defendant says that although it is not in itself a medical expert, that it understands from its contacts with medical experts that the etiology of cancer is unknown.

INTERROGATORY NO. 17.

This Interrogatory is objected to as being irrelevant and immaterial, in that the Plaintiff does not claim that he has the disease mesothelioma.

INTERROGATORY NO. 18.

Approximately five years ago the company began placing a warning on the packaging containing calsilite. The warning states as follows:

> CAUTION "This product contains asbestos fiber! Inhalation of asbestos in excessive quantities over long periods of time may be harmful. If dust is created when this product is handled, avoid breathing the dust. If adequate ventilation control is not possible, wear respirators approved by the U.S. Bureau of Mines for pneumoconiosis producing dust."

The warning was given at the time it became known to this Defendant that there might be a possibility of harm from long time exposure to high concentration of asbestos dust fibers.

INTERROGATORY NO. 19.

This question is objected to as being irrelevant and immaterial in that Plaintiff does not claim he has the disease of cor pulmonale.

The Potter v. Fibreboard Case File (1969-1972), Answers to plaintiff's interrogatories
ACL Doc 10481 · Page 4 of 10
Published by AsbestosClaims.Law
asbestosclaims.law/library/10481/4

INTERROGATORY NO. 20.

Asbestos fiber is relatively durable. Nothing exists for an infinity of years.

INTERROGATORY NO. 21.

Insofar as this Interrogatory asks about the increase in the use of asbestos, this Defendant says that it is aware of that, but the rest of the Interrogatory is answered No.

INTERROGATORY NO. 22.

No.

INTERROGATORY NO. 23.

No direct contributions of this type are made.

INTERROGATORY NO. 24.

No, but see the Answer to Interrogatory No. 10.

INTERROGATORY NO. 25.

No.

INTERROGATORY NO. 26.

This Defendant objects to Interrogatory No. 26 because it assumes matters of fact which are not admitted but denied, and for the further reason that the question is ambiguous, vague and indefinite, as well as argumentative, irrelevant and immaterial.

INTERROGATORY NO. 27.

Although as worded no answer is required to Interrogatory No. 27, this Defendant says that it is familiar with the testimony of Dr. William H. Stewart, and this Defendant is familiar with the type of products which he was discussing, but this Defendant does not manufacture such products.

INTERROGATORY NO. 28.

This Defendant objects to Interrogatory No. 28 because it assumes matters of fact which are not admitted but denied, and for the further reason

The Potter v. Fibreboard Case File (1969-1972), Answers to plaintiff's interrogatories
ACL Doc 10481 · Page 5 of 10
Published by AsbestosClaims.Law
asbestosclaims.law/library/10481/5

INTERROGATORY NO. 28 (continued).

that the question is ambiguous, vague and indefinite, as well as argumentative, irrelevant and immaterial.

INTERROGATORY NO. 29.

Yes. Our products can always be identified when still in the container. The name of our Company is placed on the containers. In many instances, experts can distinguish the products themselves by their general physical characteristics.

INTERROGATORY NO. 30.

No.

INTERROGATORY NO. 31.

Delaware, April 26, 1929; New York.

INTERROGATORY NO. 32.

Approximately 45 years.

INTERROGATORY NO. 33.

This Defendant contends that respirators are currently on the market which will materially reduce inhalation of asbestos dust and fibers. Such respirators are available under the United States Bureau of Mines Schedule 21B. Tests upon which said approval are based were designed and conducted by that governmental agency and are described in the respiratory protective devices manual published by the American Industrial Hygiene Association, American Conference of Governmental Hygienist 1963. One such respirator, "Dust Foe 77" catalogue No. 10-9600, is manufactured by the Mine Safety Appliance Company.

INTERROGATORY NO. 34.

Such products have been manufactured for years, but are not placed on the open market to be purchased and used by the public generally.

The Potter v. Fibreboard Case File (1969-1972), Answers to plaintiff's interrogatories
ACL Doc 10481 · Page 6 of 10
Published by AsbestosClaims.Law
asbestosclaims.law/library/10481/6

INTERROGATORY NO. 35.

We do not believe that our insulation products are harmful or dangerous when used for their intended purpose. We rely on tests and studies conducted by the American Conference of Governmental Industrial Hygienists and the work of Scientists employed by the United States Government, as well as others. We are aware of two cases of respiratory disease among our Vermont Asbestos Mining employees. The exact medical cause of each lung disease is a matter of conjecture. No cases of respiratory illness have been reported in any of our manufacturing plants.

INTERROGATORY NO. 36.

1. Mr. Reed C. Manosh - Montgomery Center, Vt. 05471 - Dr. L. E. Judd - Enosburg Falls, Vt. 05450.

2. Mr. Arthur J. Lumbra - Montgomery Center, Vt. 05471 - Dr. Thomas G. Howrigan - 67 Fairfield Street, St. Albans, Vt. 05478.

INTERROGATORY NO. 37.

This Interrogatory is objected to as being argumentative, ambiguous, irrelevant, and immaterial. It is also objected to on the basis that it assumes matters that are not admitted but denied and as to which there is no evidence in this record.

INTERROGATORY NO. 38.

Our Calsilite is packaged pre cut in various lengths and is attached by the use of a metal band. Very little cutting is necessary. When it becomes necessary to cut on the job at the point of application, the applicator can use either a hand or power saw for this operation.

Our 7 M Cement is poured into a pail, mixed with water, stirred and then applied with a trowel.

Our T/na100 produces little if any dust during its application as it is saturated with neoprine. Any cutting would usually be done on a band saw and due to the nature of the product, it will not result in any appreciable dust.

The Potter v. Fibreboard Case File (1969-1972), Answers to plaintiff's interrogatories
ACL Doc 10481 · Page 7 of 10
Published by AsbestosClaims.Law
asbestosclaims.law/library/10481/7

INTERROGATORY NO. 39.

See Answer to Interrogatory No. 36.

INTERROGATORY NO. 40.

No.

INTERROGATORIES NO. 41-44.

Plaintiff has been furnished a copy of our 1967 and 1968 Annual Reports containing the information inquired about.

INTERROGATORY NO. 45.

No Answer required.

INTERROGATORY NO. 46.

This Defendant objects to Interrogatory No. 46 on the basis that it inquires about a matter of opinion as opposed to a matter of fact. Subject to the foregoing objection, this Defendant would say that it has no basis upon which to form an opinion regarding the matter inquired about.

INTERROGATORIES NO. 47-84.

This Defendant objects to these Interrogatories because the same call for an agreement on matters of law, and for the further reason that said Interrogatories call for conclusions and opinions regarding matters of law.

Robert E. Barnes.

Sworn to and subscribed before me the undersigned authority on this the 23rd day of December, 1969.

Notary Public in and for
Jefferson County, Texas.

Respectfully submitted,

BARNES & BARNES

BY

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

The Potter v. Fibreboard Case File (1969-1972), Answers to plaintiff's interrogatories
ACL Doc 10481 · Page 8 of 10
Published by AsbestosClaims.Law
asbestosclaims.law/library/10481/8

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served upon Mr. Ward Stephenson, Stephenson Building, Orange, Texas, Attorney for Plaintiff, by mailing a copy to his address by certified mail on the 23rd day of December, 1969, and a copy was served on each and all other counsel of record by depositing the same in the United States mail properly addressed, with postage paid, on the 23rd day of December, 1969.

Robert E. Barnes.

The Potter v. Fibreboard Case File (1969-1972), Answers to plaintiff's interrogatories
ACL Doc 10481 · Page 9 of 10
Published by AsbestosClaims.Law
asbestosclaims.law/library/10481/9

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.

ANSWERS OF THE DEFENDANT RUBEROID COMPANY TO INTERROGATORIES PROPOUNDED BY PLAINTIFF

BARNES & BARNES
ATTORNEYS AT LAW
2315 CALDER - P. O. BOX 5098
BEAUMONT, TEXAS

Published by AsbestosClaims.Law
asbestosclaims.law/library/10481/10