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

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
FEB 6 - 1970
JAMES R. COONEY, CLERK
BY DEPUTY

SAMUEL R. POTTER

VS.

FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL.

CIVIL ACTION NO. 6329.

"RUBEROID COMPANY'S" REPLY TO
PLAINTIFF'S MOTION TO TAKE ANSWERS
TO WRITTEN INTERROGATORIES AS CONFESSED

COMES NOW "Ruberoid Company," one of the named Defendants in the above styled and numbered cause, and files this its REPLY TO PLAINTIFF'S MOTION TO TAKE ANSWERS TO WRITTEN INTERROGATORIES AS CONFESSED, and would respectfully represent unto the Court as follows:

I.

That said Motion is entirely out of line with the Federal Rules of Civil Procedure, in that said Interrogatories are propounded pursuant to Rule 33 of the Federal Rules of Civil Procedure, wherein no provision is made for "taking answers to Interrogatories as confessed." Moreover, this Defendant would respectfully show unto the Court that the only reasonable interpretation of Plaintiff's Motion is that he seeks some consequence of what he seems to assume is a "refusal to make discovery," the procedure for which is provided by Rule 37 of the Federal Rules of Civil Procedure. Rule 37 does not provide for taking Interrogatories as confessed without first moving the Court upon reasonable notice to issue an Order compelling an answer. That said procedure has not been resorted to by the Plaintiff, and that said procedure is a condition precedent to any type of relief such as is being requested by the Plaintiff in his Motion.

Published by AsbestosClaims.Law
asbestosclaims.law/library/10418/1

WHEREFORE, premises considered, this Defendant respectfully prays that Plaintiff's Motion be in all things overruled.

Respectfully submitted,

BARNES & BARNES

BY Robert E. Barnes

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

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served upon each and all counsel of record by depositing the same in the United States mail properly addressed, with postage paid, on the 5th day of February, 1970.

Robert E. Barnes.

Published by AsbestosClaims.Law
asbestosclaims.law/library/10418/2

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.

REPLY TO PLAINTIFF'S MOTION
TO TAKE ANSWERS TO WRITTEN
INTERROGATORIES AS CONFESSED

Barnes & Barnes
Attorneys at Law
2315 Calder - P. O. Box 5098
Beaumont, Texas 77706