IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
FEB 10 1970
JAMES R. COONEY, CLERK
BY DEPUTY Imogene R. Jones

SAMUEL R. POTTER )
)
V. ) CIVIL ACTION NO. 6329
)
FIBREBOARD PAPER PRODUCTS )
CORP., ET AL )

O R D E R

This day came on to be considered objections of the defendant, Owens-Corning Fiberglas Corporation, to interrogatories propounded by plaintiff pursuant to Rule 33, F.R.Civ.P.

Defendant objects to the portions of Interrogatories Nos. 4, 8, and 9 which request the production of certain reports and copies. Since these interrogatories fail to comply with the requirements for production pursuant to Rule 34, F.R.Civ.P., it is

ORDERED that defendant's objection to Interrogatories Nos. 4, 8,and 9 be, and it is hereby, sustained.

Defendant objects to Interrogatories Nos. 7, 11-14, 16, 17, 19, 20, 26-28, 35, 36, 46, 47-84. The primary objection to these interrogatories is that they seek to elicit opinions and conclusions. In answering other interrogatories, defendant has denied that products manufactured by it were of a dangerous nature or that such products created problems affecting health. Even qualified answers to these interrogatories may serve the substantial purpose of narrowing and clarifying the issues in controversy between the parties. Hickman v. Taylor, 329 U.S. 495, 67 S.Ct. 385, 91 L.Ed. 451 (1947); Schwartz v. Howard Hosiery Co., 27 F.Supp. 443 (E.D. Pa. 1939); Interbrough News Co. v. Curtis Publishing Co., 14 F.R.D. 408 (S.D. N.Y. 1953). Defendant's further objections to

Civ.Order Book
Vol 38 Page 164


Published by AsbestosClaims.Law
asbestosclaims.law/library/10421/1

Interrogatories Nos. 47-84, that such information is equally available to the plaintiff, or that such interrogatories impose an unduly onerous burden on the defendant, cannot be sustained. Rowe Spacarb, Inc. v. Cole Products Corp., 21 F.R.D. 311 (D. Ill. 1957); Erone Corp. v. Skowras Theatres Corp., 22 F.R.D. 494 (S.D. N.Y. 1958). This is especially true when, as in these interrogatories, the thrust of the inquiry is to determine the extent of the defendant's awareness of the facts inquired about and when, in all other respects, the information sought is a proper object of discovery. Adelman v. Nordberg Manufacturing Co., 6 F.R.D. 383 (E.D. Wis. 1947); Brown v. Dunbar & Sullivan Dredging Co., 8 F.R.D. 107 (W.D. N.Y. 1948); Federal Cartridge Corp. v. Olin Mathieson Chem. Corp., 41 F.R.D. 531 (D. Minn. 1967). Accordingly, it is

ORDERED that defendant's objections to these interrogatories be, and they are hereby, overruled.

Defendant objects to Interrogatories Nos. 41-45 on the grounds that such interrogatories seek information that is a matter of public record equally available to the plaintiff, and that such information is highly prejudicial, in that it would allow the plaintiff to make a comparison of the relative financial resources between himself and this defendant. It is apparent, however, that the financial information sought by these interrogatories is neither highly prejudicial nor equally available to the plaintiff. Accordingly, it is

ORDERED that defendant's objections to Interrogatories Nos. 41-45 be, and they are hereby, overruled.

Defendant objects to Interrogatories Nos. 21 and 25 as vague and indefinite, which objections the court is

unable to sustain since it is quite apparent what the plaintiff is seeking by these interrogatories. Accordingly, it is

ORDERED that the defendant's objections to Interrogatories Nos. 21 and 25 be, and they are hereby, overruled.

Defendant objects to Interrogatory No. 37 as posing a hypothetical question to which no answer is required under the Federal Rules of Civil Procedure. Such interrogatory requests specific information on the assumption that asbestos dust and fibers are dangerous to human beings. While phrased as a hypothetical question, this interrogatory is seeking to discover concrete facts which, if in existence, have substantial relevance to the subject matter of this law suit. Accordingly, it is

ORDERED that defendant's objection to Interrogatory No. 37 be, and it is hereby, overruled.

SIGNED and ENTERED this 10th day of February, 1970.

Wm. Wayne Justice
UNITED STATES DISTRICT JUDGE