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

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

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, Philip Carey Corporation, to interrogatories propounded by plaintiff pursuant to Rule 33, F.R.Civ.P.

Defendant objects to Interrogatories Nos. 7, 21-23, 25 and 39 on the grounds that such interrogatories are vague, immaterial, and irrelevant. It appears to the court, however, that such interrogatories are well within the scope of discovery permitted by Rule 33, and that, in any event, this defendant has failed to establish adequate reasons why these interrogatories should not be answered. 4 Moore's Federal Practice ¶33.10 et seq., Bowen v. Whitehall Laboratories, 41 F.R.D. 359 (S.D.N.Y. 1966); Lucy v. Sterling Drugs, Inc., 240 F.Supp. 632 (W.D.Mich. 1965). Accordingly, it is

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

Defendant objects to Interrogatories Nos. 11-14, 16, 17, 19, 20, 26-28, 35, 36, 40, 46-84. The primary objection to these interrogatories is that they seek to elicit opinions and conclusions. In answering and objecting to other interrogatories, defendant has denied that products manufactured

Civ. Order Book
Vol 38 Page 170

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by it were of a dangerous nature or that such products created problems affecting health. Since even qualified answers to these interrogatories objected to 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. 45 (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), it is

ORDERED that defendant's objections to these interrogatories 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 much relevance to the subject matter of this 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

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