FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MAR 3 - 1970
JAMES R. COONEY, CLERK
BY DEPUTY Margaret Turner

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 §
CORPORATION, ET AL §

ANSWERS OF DEFENDANT PHILIP CAREY CORPORATION TO THAT PORTION OF INTERROGATORIES CONTAINED IN THE FIRST SET OF INTERROGATORIES

COMES NOW Philip Carey Corporation, one of the defendants in the above entitled and numbered cause, and makes the following answers to that portion of interrogatories contained in the first set of interrogatories heretofore served upon it, and which were answered subject to the objections leveled thereto, and for such answers says:

DIRECT INTERROGATORY NO. 7

Do you recognize that prolonged use of the insulation materials manufactured by you can cause or contribute to cause various occupational diseases, including asbestosis, silicosis and dermatitis?

ANSWER

With respect to the usual, customary and expected use of its products defendant denies the matters inquired in Interrogatory No. 7. Your defendant knows of no case in which any period of use, commercial, residential or other, of its insulating materials has caused any disease.

DIRECT INTERROGATORY NO. 11

Does your company recognize that as early as the year 1900 Dr. H. Montague Murray, a physician in London's Charing Cross Hospital, found spicules of asbestos in the lung tissue? If you agree with this, then state what action, if any, your company has taken since 1900 to reduce or eliminate the dangers to those using your asbestos products from inhaling the dust and fibers.

ANSWER

Your defendant says thatit is not familiar with Dr. Murray's findings.

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DIRECT INTERROGATORY NO. 14

Do you agree that once asbestos fibers or dust are inhaled into the lungs, there is no way to eliminate such dust or fibers from the lungs for the balance of such persons' life?

ANSWER

No.

DIRECT INTERROGATORY NO. 16

Does your company recognize that asbestos causes asbestos-induced cancer? If your answer is "Yes", when did you come to such realization and what action did you take in response thereto? If your answer is "No", then please explain why no studies were made by your company to ascertain that this fact was indeed true and thereafter to take action to advise those exposed to your products of their dangerous nature.

ANSWER

Your defendant has no knowledge or information sufficient to answer said interrogatory, and therefore states that it does not know.

DIRECT INTERROGATORY NO. 17

Does your company recognize there is a direct connection between the inhalation of asbestos dust and fibers and the disease mesothelioma? If your answer is "Yes", to this question, then please advise what notices were given to those exposed to your asbestos products of this fact.

ANSWER

No. Your defendant knows of no case of mesothelioma among its employees or those working with its products.

DIRECT INTERROGATORY NO. 19

Do you agree that asbestos has been directly associated medically with the disease of cor pulmonale?

ANSWER

No.

DIRECT INTERROGATORY NO. 20

Does your company recognize that asbestos fiber exists for an infinity of years? In other words, unlike some dangerous products, it does not eventually dissipate or reduce itself in danger to those who might be exposed to it?

ANSWER

Your defendant understands that asbestos fiber is inorganic.

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DIRECT INTERROGATORY NO. 21

Does your company recognize that year-by-year, more asbestos is used in the United States, and therefore the public is thereby exposed to a greater and greater extent to the inhalation of asbestos dust and fibers? If your answer is "Yes", then please state what action your company has taken to reduce or eliminate this danger and what action, if any, you have taken to notify the public at large of this danger.

ANSWER

Your defendant is not familiar with all of the working conditions where asbestos products are used, and therefore must answer that it does not know.

DIRECT INTERROGATORY NO. 23

Does your company contribute any funds to research concerning asbestos and its relation to lung and larynx disease? If so, please state the amount of money contributed, when and to whom, attaching any report or reports from such individual or organization to whom your funds were contributed.

ANSWER

Your defendant has not contributed to any research concerning asbestos and its relation to lungs and larynx disease. It understands that a subsidiary of your defendant, which is a member of a Quebec Mining Association, made some contribution, the amount of which is unknown, and your defendant has not received any report from such association or research organization.

DIRECT INTERROGATORY NO. 26

Do you agree that the problem of asbestos dust extends further than to those merely using your products but that the exposure is shared with other construction workers as well?

ANSWER

No.

DIRECT INTERROGATORY NO. 28

Do you recognize or agree that the problems of air laden with asbestos dust is so great that possibly millions of the people in the United States are being exposed to the inhalation of asbestos dust who have nothing to do with its use or application? If your answer is "Yes", then please advise what action your company has taken, if any, to advise the general public of the dangerous nature of asbestos and what steps have been taken to endeavor to protect the general

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public from the dangerous effects of the inhalation of the asbestos dust and fibers, when such action was taken, and what it consists of.

ANSWER

No.

DIRECT INTERROGATORY NO. 35

Do you or your company recognize that such asbestos insulating materials are dangerous and harmful to human beings and to the health of man? If your answer to this question is "Yes" then please explain when you came to this conclusion and what, if anything, you have done about it to notify the public. If your answer is that your products are not harmful then explain what tests were made upon which you base such conclusion.

ANSWER

Your defendant does not recognize the accuracy of the statement made. It is possible that some inert substances may be injurious to health but only when the quantity of airborne particles exceed certain levels over a period of time.

DIRECT INTERROGATORY NO. 36

Please state whether or not your company has had knowledge of any deaths or serious lung disease among your employees which has been attributed to the inhalation of asbestos dust or fibers. If so, please give the number, the name where known, and address of such persons, together with the name and address of the doctor who administered treatment to such persons, if known.

ANSWER

Your defendant says that it has knowledge of the following dates of lung disease cases among its employees which may have been attributed to the inhalation of asbestos dust or fibers:

(1) Henry N. Hoerst, 10109 Wayne Avenue, Cincinnati, Ohio 45215, Dr. Ralph C. Scott, Holmes Hospital, Cincinnati, Ohio; Dr. R. J. Duffner, 406 W. Benson St., Cincinnati, Ohio 45215; Dr. J. E. Singer, 4026 Clifton Avenue, Cincinnati, Ohio; Dr. Frank Princi, address unknown.

(2) Clarence Hulette, 9163 Winton Road, Cincinnati, Ohio 45231.

(3) William E. Latto, 1073 Mason Street, Warren, Ohio. Dr. F. O. Kravic, address unknown; Dr. Carl Bruckner, Ormond Beach, Florida.

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(4) Essie Jackson, 3425 Bevis Street, Cincinnati, Ohio 45215. Dr. V. A. Plessinger, Central Trust Tower, Cincinnati, Ohio 45202.

(5) Roosevelt Cross, 747 Jackson Street, Cincinnati, Ohio 45215. Dr. F. Jay Ach, 8337 Vine Street, Cincinnati, Ohio 45215.

(6) R. L. Griffith, 2713 Vine St., Cincinnati, Ohio. Dr. V. A. Plessinger, Central Trust Tower, Cincinnati, Ohio 45202.

(7) Harlan Williams, 9880 Dick Road, Harrison, Ohio 45030. Dr. V. A. Plessinger, Central Trust Tower, Cincinnati, Ohio 45202.

(8) Earl B. Bolds, 625 Oak Street, Cincinnati, Ohio 45215. Dr. V. A. Plessinger, Central Trust Tower, Cincinnati, Ohio 45202; Dr. Carl G. Ruehlmann, Crescent & Cooper, Cincinnati, Ohio 45215.

(9) Robert J. Horsman, 1725 Hayter Street, Lakewood, California, Dr. George H. Derry and Dr. Reginald Smart, addresses unknown. Mr. Horsman worked for our company 80 hours in June, 1967 and 83 hours in December, 1967.

(10) William C. McCormick, 3169 Live Oak, Huntington Park, California. Dr. Carlos A. Prietto, St. Francis Hospital. Mr. McCormick worked for our company 112 hours in October, 1967.

(11) Edward L. Pfleghaar, 141 Monterey Street, Brisbane, California. Dr. Manuel Morales, address unknown. Mr. Pfleghaar worked for our company for a short period in 1956, earning gross wages of $260.35 and a short period in 1958, number of hours and wages unknown.

(12) Wayne E. Boyer, 1122 Palm Street, Las Vegas, Nevada. Dr. J. K. McBeath, 637 East Sahara Avenue, Las Vegas, Nevada. Mr. Boyer worked for our company on a part time basis, earning gross wages of $631.10 in 1966 and $2,164.38 in 1967.

(13) Lowell M. Pond, 10989 Amery Avenue, South Gate, California. Dr. Carlos Prietto and Dr. Frank F. Frazier, addresses unknown. We have no record of employed Mr. Pond. We have a record of employing one Milton L. Pond from December 7, 1967 until December 27, 1968.

(14) Morris L. Frislie, 2436 West Lomita Boulevard, Lomita, California. Dr. John A. Chapman and Dr. John Reeves, Torrance Memorial Hospital. Mr. Frislie worked for our company from August 29, 1966 to January 10, 1969.

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DIRECT INTERROGATORY NO. 40

If you have available, do you have any medical information or information of your own knowledge, concerning the most common cause of death of one having asbestosis, then please describe what the most frequent cause of death from one suffering from such disease is.

ANSWER

No.

DIRECT INTERROGATORY NO. 46

Does your company recognize that Dr. Irving J. Selikoff, of New York, is an outstanding authority in the field of asbestosis, particularly among insulation workers?

ANSWER

Your defendant does not have sufficient information to affirm or deny the matters inquired about.

DIRECT INTERROGATORIES NO. 47 THOUGH 84

Your defendant says that it is not familiar with the laws of any states other than the one in which it operates. Under the Workmen's Compensation law of the State of Ohio asbestosis is not mentioned. Your defendant, from hearsay, says that it understands that most states have workmen's compensation laws, which in some form or another relate to occupational diseases, but whether or not such laws specifically cover asbestosis, and the dates that such laws became effective, your defendant does not have sufficient information to predicate a sworn answer.

DATED this the 25th day of February, 1970.

PHILIP CAREY CORPORATION

By L. A. Pechstein, Jr.
Secretary

THE STATE OF OHIO §
§
COUNTY OF HAMILTON §

BEFORE ME, the undersigned authority, on this day

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personally appeared L. A. Pechstein, Jr.,
Secretary of Philip Carey Corporation, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

Given under my hand and seal of office, this 25th day of February, 1970.

William J. Oliverio
NOTARY PUBLIC IN AND FOR
HAMILTON COUNTY, OHIO

WILLIAM J. OLIVERIO
Notary Public, Hamilton County, Ohio
My Commission Expires Apr. 8, 1970

CERTIFICATE OF SERVICE

I, W. N. ARNOLD, JR., hereby certify that a true and correct copy of the foregoing instrument was, on this the 27th day of February, 1970, mailed by certified mail, return receipt requested, to Mr. Ward Stephenson, Stephenson & Thompson, P. O. Box 68, Orange, Texas 77630

W. N. Arnold, Jr.

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FULBRIGHT, CROOKER, FREEMAN, BATES & JAWORSKI
ATTORNEYS AT LAW
BANK OF THE SOUTHWEST BUILDING

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