FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MAR 13 1970
JAMES R. COONEY, CLERK
BY DEPUTY,

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

S. R. POTTER

vs

FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL

CIVIL ACTION NO. 6329

ANSWERS AND OBJECTIONS OF DEFENDANT, JOHNS-MANVILLE PRODUCTS CORPORATION TO PLAINTIFF'S SECOND SET OF INTERROGATORIES

TO: PLAINTIFF, SAMUEL R. POTTER, AND MR. WARD STEPHENSON, STEPHENSON, THOMPSON & MORRIS, STEPHENSON BUILDING, ORANGE, TEXAS, HIS ATTORNEYS OF RECORD:

Comes now Defendant, Johns-Manville Products Corporation, and pursuant to the applicable Federal Rules of Civil Procedure, files this its Answers and Objections to the second set of Interrogatories heretofore propounded by the Plaintiff, as follows:

INTERROGATORY NO. 1

Defendant, Johns-Manville Products Corporation has already answered this Interrogatory in its response to Interrogatories 3 and 4 of Plaintiff's first set of Interrogatories.

INTERROGATORY NO. 2

This Interrogatory is not applicable to Defendant, Johns-Manville Products Corporation, as this Defendant did not so indicate in its answers to the Plaintiff's first set of Interrogatories.

INTERROGATORY NO. 3

This Interrogatory is not applicable to Defendant, Johns-Manville Products Corporation, as this Defendant did not so indicate in its answers to Plaintiff's first set of Interrogatories.

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INTERROGATORY NO. 4.

In its answer to Interrogatory No. 18 of Plaintiff's first set of Interrogatories, Defendant did not answer that it placed warnings on "containers containing asbestos materials", but answered that it placed a warning "on the packaging of all industrial insulation products of Defendant, which contain asbestos". Defendant began to place such warning on such products at that time because in 1963 it first learned of certain joint studies by Dr. Irving J. Selikoff, Dr. J. Churg, and Dr. E. C. Hammond, which were completed in 1963, and which indicated that a risk of the contracting of asbestosis might exist with respect to insulation workers. The specific knowledge and information upon which this finding of these doctors was based is set forth in an article entitled "The Occurrence of Asbestosis among Insulation Workers in the United States", which article is published in Volume 132, Article 1, Page 139 of the "Annals of the New York Academy of Sciences".

Defendant objects to that portion of the Interrogatory which inquires "why did you not use such warnings long prior thereto?" on the grounds that such question is argumentative and based on a fact clearly not in evidence as Defendant has already stated that it was not until 1963 that the need for any such warning was perceived (as a result of the aforesaid studies of Dr. Selikoff, et al.). In particular, Defendant states that the word "long" is improper, because it is argumentative in that it assumes a fact which is not in evidence and carries an implicit assumption that is incorrect and insupportable.

INTERROGATORY NO. 5.

Defendant objects to this Interrogatory on the grounds that the question posed in the first sentence, although superficially "simple" is so broad and general and such a gross over-simplification as to render it not only scientifically meaningless, but actually incapable of being meaningfully responded to.

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Defendant further objects to said Interrogatory on the grounds that the Plaintiff is inquiring into medical facts which will necessarily have to be developed through expert testimony at the time of the trial, and, therefore, said Interrogatory is argumentative and improper, and this Defendant should not be called upon to answer a question such as this, calling for such a medical conclusion, which is also one of the ultimate issues to be tried in this case.

Gordon R Pate

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Attorney for Defendant, Johns-Manville Products Corporation

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THE STATE OF TEXAS I

COUNTY OF JEFFERSON I

BEFORE ME, the undersigned authority, personally appeared GORDON R. PATE, attorney of record for Defendant, Johns-Manville Products Corporation, and stated that the foregoing Answers and Objections to Interrogatories are true and correct based upon information and belief.

Gordon R Pate
Gordon R. Pate

SUBSCRIBED AND SWORN TO BEFORE ME on this the 12th day of March, 1970.

Lora K. Boone
Notary Public in and for Jefferson County, Texas

CERTIFICATE OF SERVICE

I certify that copies of the foregoing Answers and Objections to Interrogatories were mailed to Attorney for Plaintiff, Ward Stepehnson, Stephenson Building, Orange, Texas, and to other attorneys of record, on this the 12th day of March, 1970.

Gordon R Pate
Gordon R. Pate

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