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

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MAR 16 1970
JAMES R. COONEY, CLERK
BY Mildred C. Verret

SAMUEL R. POTTER §

VS. § CIVIL ACTION NO. 6329

FIBREBOARD PAPER PRODUCTS
CORPORATION, ET AL §

ANSWERS AND OBJECTIONS TO SECOND SET OF
INTERROGATORIES PROPOUNDED BY PLAINTIFF
OF THE DEFENDANT, UNARCO INDUSTRIES, INC.

TO: THE PLAINTIFF, SAMUEL R. POTTER, AND MR. WARD STEPHENSON, STEPHENSON AND THOMPSON, STEPHENSON BUILDING, ORANGE, TEXAS, HIS ATTORNEY OF RECORD.

COMES NOW the Defendant, UNARCO INDUSTRIES, INC., and files this its objections and answers to the second set of interrogatories propounded by the Plaintiff herein. Said Defendant files its objections and answers to each interrogatory as numbered by the Plaintiff in his request.

Interrogatory No. 1:

No answer is required, since this Defendant answered Interrogatory No. 3 of the original interrogatories that no studies had been conducted by this Defendant.

Interrogatory No. 2:

No answer is required by this interrogatory, since this Defendant originally answered Interrogatory No. 8 that no such studies have been conducted directly by this Defendant and did not indicate familiarity with studies conducted by agencies, including the United States Government, at this time.

Interrogatory No. 3:

No answer is required to Interrogatory No. 3 for the reason

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that this Defendant did not state in its answer to Interrogatory No. 10 of the first set of interrogatories that dust counts had been made by independent organizations, various contractors and various governmental agencies. To the contrary, this Defendant stated that it did not have knowledge of the location of all of the contractors' jobs and that such areas were not under the control and jurisdiction of this Defendant.

Interrogatory No. 4:

In answer to Interrogatory No. 4, Defendant refers Plaintiff to this Defendant's answer to Interrogatory No. 18 of the first set of interrogatories for answer.

Interrogatory No. 5:

This Defendant objects to Interrogatory No. 5 for the reason that the same is argumentative, ambiguous, assumptive, too general and is highly improper. Defendant would show that the interrogatory asks the question whether asbestos causes Asbestosis and then attempts to argue either a "Yes" or a "No" answer, with assumptive, presumptive and argumentative additional questions. Defendant further objects to this interrogatory since it inquires into medical facts and medical theory which will necessarily have to be developed through expert testimony at the time of the trial. Still further, the inquiry is too general and is not limited to products manufactured by this Defendant but deals with asbestos generally. Further, this Defendant would show that the inquiry calls for a medical conclusion and is a question that may well be one of the ultimate issues of fact to be tried in this case. Still further, Defendant would

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show that the inquiry is highly improper and actually is a non-sensical question, not capable of answer, in that it could be likened to an inquiry as to whether water causes drowning or food causes indigestion.

ANSWER TO INTERROGATORY NO. 5,
SUBJECT TO ABOVE OBJECTION

Subject to the foregoing objection, and without waiving the same, this Defendant does not admit the assumption in this interrogatory that its products which contain some asbestos are dangerous or that such products are of a dangerous nature, but says that its products are reasonably fit and reasonably safe for the purpose for which they are manufactured.

This Defendant answers further that the contractors and insulation installers using products containing asbestos know that such product contains asbestos and know further that they should avoid breathing excessive amounts of dust. It is customary in the asbestos insulation trade for the employer to furnish respirators for the use of the employees, especially where they are subjected to an unusual amount of dust. This Defendant has assumed at all times that the contractor and the installers would exercise good industry practice in seeking to eliminate any unusual or excessive dust exposure and to furnish employees a reasonably safe place to work, taking all reasonable precautions to reduce exposure to excessive amounts of dust.

Respectfully submitted,

VINSON, ELKINS, SEARLS & CONNALLY

By: Gerard P. Culley

First City National Bank Bldg.
Houston, Texas 77002 225-2411
ATTORNEYS FOR DEFENDANT, UNARCO INDUSTRIES, INC.

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THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared GERALD P. COLEY, known to me to be the person whose name is subscribed to the foregoing Answers and Objections to the Second Set of Interrogatories propounded by Plaintiff, and who, being by me first duly sworn, did depose and say that the foregoing answers are true to the best of his knowledge, information and belief; that this verification is made by him because there is no officer of Unarco Industries, Inc. within the jurisdiction of this Court; that the sources of his information used in answering such interrogatories are the files and records of Unarco Industries, Inc. furnished to him for such purposes and investigation heretofore made in this case.

Gerald P. Coley

Gerald P. Coley

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority, by the said GERALD P. COLEY, to certify which witness my hand and seal of office this the 13th day of March, 1970.

Geraldine Klein

Notary Public in and for
Harris County, T e x a s

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing Answers and Objections to Second Set of Interrogatories Propounded by Plaintiff was on the 13th day of March, 1970, served upon Mr. Ward Stephenson,

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Stephenson & Thompson, Stephenson Building, Orange, Texas, attorney for Plaintiff, by depositing the same in the United States mail, postage prepaid.

A copy was served on the following attorneys of record on the same date.

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