FILED

JUN 1 1970

James R. Cooney, Clerk, U. S. Court

By Virginia R. Sears DEPUTY

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

S. 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 the objections of the defendant, Armstrong Cork Company, to plaintiff's first set of interrogatories.

Defendant objects to Interrogatories Nos. 11-13, 17, 19, 20, 26-28, 35, 36, 40, 46 and 85. The primary objection to these interrogatories is that they seek to elicit medical opinions and conclusions which the defendant alleges are not discoverable. In answering other interrogatories, however, the defendant has denied that products manufactured by it were of a dangerous nature or that such products created problems affecting health. Since even qualified answers to the interrogatories listed above 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), the defendant will be required to answer these interrogatories. In like manner, defendant's objections to Interrogatories Nos. 48-84 cannot be sustained. Defendant objects to these interrogatories as calling for legal opinions and conclusions which is not within

Civ. Order Book
Vol 40 Page 89

Published by AsbestosClaims.Law
asbestosclaims.law/library/10435/1

the proper scope of discovery under Rule 33, F.R.Civ.P. It is apparent to the court, however, that the thrust of these inquiries is to determine the extent of defendant's awareness of the facts inquired about. Adelman v. Nordberg Manufacturing Co., 6 F.R.D. 383 (E.D. Wis. 1947); 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 Interrogatories Nos. 11-13, 17, 19-20, 26-28, 35-36, 40, 46, 48-84 be, and they are hereby, overruled.

Defendant objects to Interrogatories Nos. 2, 7, 21,23, 25 and 39 on the grounds that such interrogatories are vague, argumentative, irrelvant and immaterial. It appears to the court, however, that the meaning of such interrogatories is clearly discernable and the information sought well within the scope of permissible discovery as set out in Rule 26(b), F.R.Civ.P. Interrogatory No. 25 is, however, indefinite in its description of the hearing inquired about. Accordingly, it is

ORDERED that defendant's objections to Interrogatories Nos. 2, 7, 21, 23, and 39 be, and they are hereby, overruled. It is further

ORDERED that defendant's objection to Interrogatory No. 25 be, and it is hereby, sustained.

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. While phrased in hypothetical terms, this interrogatory is seeking to discovery objective facts, which, if in existence, have much relevance to the subject matter of this civil action. Accordingly, it is

Published by AsbestosClaims.Law
asbestosclaims.law/library/10435/2

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

SIGNED and ENTERED this 1st day of June, 1970.

Wm. Wayne Justice
UNITED STATES DISTRICT JUDGE

Published by AsbestosClaims.Law
asbestosclaims.law/library/10435/3