FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
APR 6 1971
JAMES R. COONEY, CLERK
BY DEPUTY Margaret Stiver

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

SAMUEL R. POTTER

VS.

FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL

CIVIL ACTION NO. 6329

REPLY OF DEFENDANTS TO PLAINTIFF'S REPLY TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW the defendants in the above entitled action, and in reply to the plaintiff's statement concerning the motion for summary judgment in this case would show the Court:

1.

Plaintiff's statement that this motion is identical with the motion filed in the case of Clarence Borel vs. Fibreboard Paper Products Corporation, et al, being Civil Action No. 6449, is incorrect. The facts in the Potter case are not the same as the facts in the Borel case, therefore the motion for summary judgment is not the same. For this very reason, separate motions for summary judgment and separate briefs in support of these motions have been filed with the Court, and defendants urge the Court's serious consideration of each of these briefs. Separate briefs have been filed on the question of the effect of the statute of limitations on the claim in the Crawford case, and it is our intention to file a similar brief in the Potter case based upon the particular facts of that case. Actually, the law applicable in each case is the same and the facts in the Potter case have been pointed out in the main brief.


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Defendants urge the Court not to summarily dispose of the motion for summary judgment in this case without reading and studying the briefs which have been filed for and on behalf of all defendants.

Respectfully submitted;

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*The Potter v. Fibreboard Case File (1969-1972), Reply to defendants' motion for summary judgment*
ACL Doc 10455 · Page 2 of 5
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ACL Doc 10455 · Page 3 of 5
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## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing reply of defendants to plaintiff's reply to defendants' motion for summary judgment was served on Mr. Ward Stephenson, Stephenson & Thompson, Stephenson Building, Orange, Texas 77630, by mailing a copy to his office on the 6th day of April, 1971.

OF COUNSEL



*The Potter v. Fibreboard Case File (1969-1972), Reply to defendants' motion for summary judgment*
ACL Doc 10455 · Page 4 of 5
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REPLY OF DEFENDANTS TO PLAINTIFF'S REPLY TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT.

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