IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS, BEAUMONT DIVISION.

FILED
JAN 30 1967
James R. Cooney, Clerk, U. S. Court
By Mildred C. Verret DEPUTY

CLAUDE J. TOMPLAIT, PLAINTIFF,	§	
VS.	§	CIVIL ACTION NO. 5402
COMBUSTION ENGINEERING, INC.,	§	
ET AL, DEFENDANTS.	§	

MOTION OF DEFENDANTS, COMBUSTION ENGINEERING, INC., REFRACTORY & INSULATION CORPORATION, JOHNS-MANVILLE SALES CORPORATION, JOHNS-MANVILLE PRODUCTS CORPORATION, JOHNS-MANVILLE FIBER GLASS, INC., PITTSBURGH CORNING CORPORATION AND PITSSBURGH PLATE GLASS COMPANY, FOR A MORE DEFINITE STATEMENT:

Now come the defendants, Combustion Engineering, Inc., Refractory & Insulation Corporation (sued herein as R. & I. Refractor and Insulation Corporation), Johns-Manville Sales Corporation, Johns-Manville Products Corporation, Johns-Manville Fiber Glass, Inc., Pittsburgh Corning Corporation, and Pittsburgh Plate Glass Company (sued herein as Pittsburgh Plate and Glass Company), in the above-entitled and numbered cause, and make and file this, their Motion for a More Definite Statement, and as grounds therefor would show unto the Court the following:

1.

The Plaintiff's Complaint herein is so vague and ambiguous in the respects hereinafter set out that these defendants cannot reasonably be required to frame a responsive pleading thereto, and such matters are not alleged with sufficient definiteness or particularity to enable the defendants to properly prepare their defensive pleading, and plaintiff should be required to file a more definite statement with respect to the following matters, to-wit:

(1) Plaintiff's Complaint, in paragraph 15 thereof, and elsewhere in said Complaint, alleges generally that the plaintiff was employed as an insulator, and in the performance of his employment as an insulator he was required to handle large quantities of insulation, compounded, manufactured and prepared by the defendants; and in paragraph 16 of said Complaint he alleges generally that while he was employed as an insulator, and while in the course of his employment, through the negligence and carelessness of the defendants he was caused to come in contact with the insulation produced by defendants. The complaint fails to set forth or specify in any manner the following:

(a) The date upon which the plaintiff claims to have been exposed to any product manufactured by these defendants;

(b) The time, place or circumstances under which plaintiff claims to have been exposed to or received injury from any product manufactured, compounded and prepared by the defendants.

(c) The job on which plaintiff was working, the name of his employer, the place where he was working, or any other facts sufficient to identify or inform these defendants as to any of the facts as to time, place or circumstances of plaintiff's alleged exposure to or injury from defendants' alleged product.

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(d) Plaintiff does not allege any city or town, County or State, where he claims he was working at the time of his alleged exposure, or in what location he claims to have been working.

Such pleading contains such broad generalizations that defendants cannot reasonably be expected to file a responsive pleading to said Complaint, which fails to inform the defendants of any of the facts, circumstances, time, place, location or dates of the alleged exposure or injury; and plaintiff should be required to file a more definite statement informing the defendants of the time, place, date, location and circumstances under which he claims to have been exposed to or come in contact with or been injured by any product allegedly manufactured, compounded and prepared by these defendants.

2.

The complaint is so vague and indefinite and ambiguous that defendants cannot reasonably be required to frame a responsive pleading thereto, in that he alleges in paragraph 15 and elsewhere that he was employed as an insulator and was required to handle products compounded, manufactured and prepared by the defendants; and plaintiff has not named or identified in any manner any of his alleged employers, nor does the complaint name, set forth or identify the time, place or location where plaintiff alleges he worked as an insulator whereby he was required to handle large quantities of insulation compounded or manufactured or prepared by these defendants, and such allegations are so vague and ambiguous that defendants cannot reasonably be required to frame a responsive pleading thereto, and plaintiff should be required to file a more definite statement, naming his alleged employer, and identifying the job, time, place and location where he claims to have been

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required to handle large quantities of any product manufactured, compounded or prepared by this defendant, and the circumstances surrounding the same.

WHEREFORE, defendants move and pray the Court that upon hearing hereof the plaintiff be required to file a more definite statement in the respects aforesaid, and for such other relief in the premises as they may be entitled to receive.

Chas S. Pipkin

ATTORNEYS FOR DEFENDANTS, COMBUSTION ENGINEERING, INC., REFRACTORY & INSULATION CORPORATION, JOHNS-MANVILLE SALES CORPORATION, JOHNS-MANVILLE PRODUCTS CORPORATION, JOHNS-MANVILLE FIBER GLASS, INC., PITTSBURGH CORNING CORPORATION AND PITTSBURGH PLATE GLASS COMPANY;
1014 San Jacinto Bldg., P.O.Box 1632,
Beaumont,Texas.

CERTIFICATE OF SERVICE.

I hereby certify that the above and foregoing motion has been served on the plain tiff and his attorneys of record by placing a true and correct copy thereof in a correctly addressed, stamped and sealed envelope, addressed to Messrs. Stephenson, Thompson & Morris, Stephenson Building, Orange, Texas, plaintiff's attorneys of record, and by depositing same in the United States Mail at Beaumont,Texas, this 30th day of January, 1967.

Chas S. Pipkin

ATTORNEY FOR DEFENDANTS.