IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
M. APR 17 1967 19
James R. Cooney, Clerk, U. S. Court
By Virginia R. Sessions DEPUTY

CLAUDE J. TOMPLAIT,
Plaintiff

VS.

COMBUSTION ENGINEERING, INC., ET AL,
Defendants

CIVIL ACTION NO. 5402

MOTION OF DEFENDANT, FIBERBOARD PAPER PRODUCTS CORPORATION, TO REQUIRE PLAINTIFF TO FILE AMENDED PLEADING, OR IN THE ALTERNATIVE, TO DISMISS

TO SAID HONORABLE COURT:

COMES NOW the defendant, Fiberboard Paper Products Corporation, and files this, its motion to require plaintiff to file his amended complaint, or in the alternative, to dismiss this cause as to the defendant, Fiberboard Paper Products Corporation, and as grounds therefor would show the court:

1.

This suit was filed by plaintiff on or about December 23, 1966, on the theory of negligence against numerous defendants. This defendant filed its motion for more definite statement, reference to which is here made.

This Court entered an order on February 20, 1967, granting the defendants' motions for more definite statement. No additional pleading has been filed by the plaintiff.

2.

This case is now scheduled for pre-trial on Monday, April 17, 1967, but this defendant has no further information about the alleged claim of the plaintiff and cannot make any

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investigation or determine the nature of plaintiff's complaint against this defendant without definite pleadings.

Further, this defendant is of the opinion that the plaintiff's claim for damages is barred by the two (2) year statute of limitation of the State of Texas, and for this reason the plaintiff should be required to apprise this defendant of the day, the year, the place and the name of the product which he claims caused his alleged injury.

WHEREFORE, this defendant prays that the Court order the plaintiff to file his amended pleading which will comply with the Court's ruling for more definite statement, and failing to file such amended pleading, that this cause be dismissed. This defendant prays for such other orders as the Court may deem proper to enter.

Respectfully submitted;

WELLER, WHEELUS & GREEN
P. O. BOX 350
BEAUMONT, TEXAS

BY _____
GEO. A. WELLER,
ATTORNEYS FOR DEFENDANT,
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CORPORATION.

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A copy of this motion has been mailed to the following attorneys of record:

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The Tomplait v. Combustion Engineering Case File (1962-1969), Motion to dismiss or amend
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