IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

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

CLAUDE J. TOMPLAIT,
Plaintiff

VS.

COMBUSTION ENGINEERING, INC., ET AL,
Defendants

CIVIL ACTION NO. 5402

PRE-TRIAL CONTENTIONS OF THE DEFENDANT, FIBERBOARD PAPER PRODUCTS CORPORATION

TO SAID HONORABLE COURT:

COMES NOW the defendant, Fiberboard Paper Products Corporation, and files this, its statement of contentions which should be incorporated in any pre-trial order, and in explanation thereof would show:

1.

The plaintiff filed his original complaint on or about December 23, 1966, alleging an action for damages allegedly resulting to plaintiff from the use of certain products manufactured and sold by numerous defendants, of which this defendant is alleged to have been one. Plaintiff alleges in his original complaint that he does not know which of the defendants are responsible, neither did he inform this defendant of the name of the insulation or insulation material which plaintiff contends he came in contact with and which he alleges and contends caused injury to his body. Further, the allegations do not inform this defendant of either the year, the place, the date or dates of alleged contact, the date or dates of alleged injury, the name of the product, or any other information whereby the exact nature of the claim could be ascertained.

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2.

This defendant denies that the plaintiff sustained any such injury as a result of contact or use of any product manufactured by this defendant.

3.

If plaintiff did sustain any injury as a result of the use of any product manufactured by this defendant, then such occurred more than two (2) years prior to the filing of this suit on December 23, 1966, and such cause of action for personal injury is barred by the two (2) year statute of limitation of the State of Texas.

4.

This defendant further contends that if plaintiff did sustain any injury as a result of the use of any product manufactured by this defendant, that plaintiff was guilty of various acts and omissions constituting negligence, one or more of which was a proximate cause of his alleged injury, and therefore he is barred from recovery by contributory negligence. In this connection, although the plaintiff was experienced in working with insulating materials, he failed and refused to wear a mask to protect himself from materials and lint and dust in the air.

In the event any pre-trial order is entered, it is requested that the contentions of this defendant be incorporated.

DATED this 13 day of April, 1967.

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

BY _____
GEO. A. WELLER,
ATTORNEYS FOR DEFENDANT,
FIBERBOARD PAPER PRODUCTS
CORPORATION.

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Submitted to the Honorable Joe J. Fisher, Judge, on the _____ day of April, 1967, and approved.

_____
JOE J. FISHER, JUDGE

Copies of the foregoing were mailed to the following attorneys of record:

Mr. Ben L. Reynolds
Royston, Rayzor & Cook
877 San Jacinto Building
Houston, Texas 77002

Mr. John G. Tucker
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Beaumont Savings Building
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Mr. Gordon R. Pate
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Beaumont, Texas

Mr. George Duncan
Beaumont Savings Building
Beaumont, Texas

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FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

CLAUDE J. TOMPLAIT, Plaintiff		
VS.		CIVIL ACTION NO. 5402
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2.

This defendant denies that the plaintiff sustained any such injury as a result of contact or use of any product manufactured by this defendant.

3.

If plaintiff did sustain any injury as a result of the use of any product manufactured by this defendant, then such occurred more than two (2) years prior to the filing of this suit on December 23, 1966, and such cause of action for personal injury is barred by the two (2) year statute of limitation of the State of Texas.

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

BY_____
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CORPORATION.

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CIVIL ACTION NO. 5402

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Plaintiff

VS.

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Defendants

PRE-TRIAL CONTENTIONS OF THE DEFENDANT, FIBERBOARD PAPER PRODUCTS CORPORATION.

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