IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
APR 17 1967
M. James R. Cooney, Clerk, U. S. Court
By Hazel E. Studdard DEPUTY

CLAUDE J. TOMPLAIT,

Plaintiff

vs.

COMBUSTION ENGINEERING, INC., ET AL,

Defendants

CIVIL ACTION

NO. 5402

MOTION OF DEFENDANT PITTSBURGH CORNING CORPORATION TO REQUIRE PLAINTIFF TO FILE AMENDED PLEADING, OR IN THE ALTERNATIVE, TO DISMISS

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now PITTSBURGH CORNING CORPORATION, one of the Defendants named in the above-styled and numbered cause, 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, Pittsburgh Corning Corporation, and as grounds therefor would show the Court:

1.

The above-styled and numbered cause was filed by Plaintiff on or about December 23, 1966, against numerous Defendants, claiming that said Defendants were guilty of negligence in connection with the alleged injuries and/or illnesses of the Plaintiff. Thereafter, this Defendant timely filed its Motion for more definite statement, pursuant to Rule 12(a) and (e) of the Federal Rules of Civil Procedure.

The Court considered this Defendant's Motion for more definite statement and, on February 20, 1967, entered an Order granting this Defendant's Motion for more definite statement. Although Plaintiff, under said Rule 12(e) of the Federal Rules of Civil Procedure, was required to obey the Order of this Court, within ten (10) days after notice of said Order, nevertheless, to this date, Plaintiff has not filed an Amended Complaint against this Defendant.

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This case is now scheduled for pre-trial hearing at 2:30 P.M., on Monday, April 17, 1967, but to date this Defendant has no further information about the alleged claim of the Plaintiff, nor has it received an Amended Complaint filed on behalf of the Plaintiff, and therefore cannot make any investigation or determine the nature of Plaintiff's Complaint, against this Defendant, without more definite pleadings, and therefore is unable properly to answer the allegations contained in Plain tiff's Original Complaint filed herein.

WHEREFORE, this Defendant prays that the Court order the Plaintiff to file an Amended Complaint, which will comply with the Court's ruling, dated February 20., 1967, and that failing to file such Amended pleading, that this cause be dismissed as to the above Defendant.

And this Defendant prays for such other and further Orders as the Court may see fit to enter, or as it may deem just.

Respectfully submitted,

WELLS, DUNCAN AND BEARD

By George E. Duncan
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A copy of this Motion has been mailed to the following attorneys of record:

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