IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
MAY 1 1967
James R. Cooney, Clerk, U. S. Court
By Virginia K. Jones
DEPUTY

CLAUDE J. TOMPLAIT :

VS : CIVIL ACTION NO. 5402

COMBUSTION ENGINEERING, INC., ET AL :

SECOND MOTION FOR MORE DEFINITE STATEMENT OF JOHNS-MANVILLE SALES CORPORATION, JOHNS-MANVILLE PRODUCTS CORPORATION, and JOHNS-MANVILLE FIBER GLASS, INC.

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW the defendants, Johns-Manville Sales Corporation, Johns-Manville Products Corporation, and Johns-Manville Fiber Glass, Inc., and file this their second motion for more definite statement, and as grounds therefor would show unto the Court:

1.

The plaintiff, in paragraph 14 of his first amended complaint, alleges that various types of insulation compounded, manufactured and placed in containers and sold by the defendants contained chemicals and minerals and deleterious substances and matter which were highly poisonous, dangerous and harmful to human beings and to the health of man; that such materials were defective and were not suitable for the purposes for which they were intended. In paragraphs 15 through 36, inclusive, the plaintiff alleges that beginning in the year 1959 through the year 1964, he was employed by various and sundry employers on certain construction projects, during which time he followed the work of an insulator and came in contact with certain materials. He does not specify the name of the manufacturer of each product which was used by the various contractors and employers.

In paragraph 37, he alleges that in the performance of his employment as an insulator, he was required to handle large quantities of the insulation above mentioned, which quantities of insulation were compounded, manufacturer and prepared by the defendants.

Said allegations are too vague and indefinite and do not inform these defendants of the name of the insulation or insulation

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material and whether such was manufactured by any of these defendants or some other defendant, nor does he allege the date or dates on which he came into contact with the alleged materials which were manufactured by these defendants.

Said allegations wholly fail to allege a time and place or the name of the material or other means of identification of the alleged products which he claims caused his alleged injury, and such are therefore too vague and indefinite to apprise these defendants of any information whereby either of said defendants can affirmatively admit or deny plaintiff's claims.

2.

Said petition in its entirety fails to allege a date or dates of alleged injury, a date or dates of alleged contact with a specific product, and the name of the product, and it should not be encumbent upon these defendants to answer such vague and indefinite claims.

3.

Said petition is too vague and indefinite as to where plaintiff first suffered any injury as alleged, and definite information as to this alleged claim should be required of plaintiff before these defendants are required to answer any complaint, either specifically admitting or denying the allegations.

4.

In paragraphs 38 and 39, 40 and 41, plaintiff alleges that the defendants collectively were guilty of negligence and carelessness causing plaintiff injury. Such allegations are vague, general and indefinite, and do not apprise these defendants or any defendant of any definite, specific act or omission complained of; they do not inform either of these defendants whether the plaintiff came into contact with any product or products manufactured by these defendants, the name of the product, the date on which the contact was made, or otherwise.

WHEREFORE, Johns-Manville Sales Corporation, Johns-Manville Products Corporation, and Johns-Manville Fiber Glass, Inc., pray that the Court set this motion for hearing and grant their motion for more

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definite statement in order that these defendants can know the nature of the claim made as against each of these defendants and have sufficient detail as to the definite materials allegedly manufactured by these defendants, the dates, time and place that the plaintiff allegedly came in contact with the materials manufactured by each of these defendants, in order that said defendants can investigate the claim and file an appropriate answer either admitting or denying the allegations.

Respectfully submitted,

GORDON R. PATE, Attorney for
Johns-Manville Sales Corporation,
Johns-Manville Products Corporation
and Johns-Manville Fiber Glass, Inc.

A copy of the above and foregoing motion has been served on Mr. Ward Stephenson, Stephenson Building, Orange, Texas, attorney for plaintiff, on this 1st day of May, 1967, by certified mail, return receipt requested.

A copy of the above and foregoing motion has been furnished to the following attorneys of record, by regular mail, on this 1st day of May, 1967.

Copies to: Mr. Ben L. Reynolds
877 San Jacinto Building
Houston, Texas

Mr.John G. Tucker
Beaumont Savings Building
Beaumont, Texas

Mr. Charles S. Pipkin
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Mr. George Weller
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