IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
NOV 13 1967
M ____ 19__
James R. Cooney, Clerk, U. S. Court
By _____ DEPUTY

CLAUDE J. TOMPLAIT

VS.

COMBUSTION ENGINEERING, INC., ET AL

CIVIL ACTION NO. 5402

OBJECTIONS OF DEFENDANTS
JOHNS-MANVILLE SALES CORPORATION
JOHNS-MANVILLE PRODUCTS CORPORATION AND
JOHNS-MANVILLE FIBER GLASS, INC.,
TO INTERROGATORIES OF PLAINTIFF

COME NOW the defendants, Johns-Manville Sales Corporation, Johns-Manville Products Corporation and Johns-Manville Fiber Glass, Inc., and without waiving, but still insisting upon their motion for a more definite statement and subject to such motion, and in response to interrogatories served by the Plaintiff upon their undersigned counsel, respectfully object thereto upon the following good and sufficient grounds:

1.

These defendants should not be required to answer said interrogatories until plaintiff amends his complaint or files a more definite statement and in this connection, these defendants would show that there is pending before the Court, undisposed of, a second motion for a more definite statement.

2.

These defendants further object to the entire set of interrogatories Nos. 1 through 8 for the following reasons:

(a) Plaintiff alleges in his first amended complaint, on file herein, that his first exposure was in 1959, whereas, by interrogatory No. 1, he seeks to obtain information starting with the year 1950 and these defendants should not be required to

Published by AsbestosClaims.Law
asbestosclaims.law/library/10728/1

assemble and furnish information requested by interrogatory No. 1, prior to plaintiff's first alleged exposure in 1959;

(b) Said interrogatories are too broad in their scope and would impose upon these defendants an undue burden and great expense in searching for the material and information requested by said interrogatories;

(c) The information requested by said interrogatories is not presently available and to assimilate same from the year 1950 would require an undue amount of time on the part of these defendants and its employees and would cause them to go to great expense in searching for said information;

(d) Plaintiff is seeking by said interrogatories to force these defendants to accumulate information upon which the plaintiff can prepare his own case and therefore places the burden upon these defendants of establishing the plaintiff's case, if any, he has;

(e) Said interrogatories amount to no more than a fishing expedition on the part of the plaintiff;

(f) Because said interrogatories are too broad in scope and cover too great a period of time and to comply with same would work an undue hardship on these defendants and would put them to needless expense and annoyance in attempting to accumulate and furnish plaintiff with the information which he seeks.

Published by AsbestosClaims.Law
asbestosclaims.law/library/10728/2

3.

These defendants further object to each of said interrogatories Nos. 1 through 8, for the reason that said interrogatories do not come within the purpose and intent and meaning of Rule 33, in that they call for the defendants to search for and produce information, reports, trade names, confidential information and other matters which can only be obtained under Rule 34, upon the filing of a proper motion, notice and a showing of good cause therefore.

4.

These defendants further object to interrogatory Nos. 1 through 8, for the reason that same are not limited to area or to the place where plaintiff contends in his amended complaint that he was exposed and said interrogatories should be limited specifically to the area where the plaintiff contends that he was exposed.

5.

These defendants further object to interrogatories Nos. 1 through 8, for the reason that plaintiff in his first amended complaint lists twenty-one different types of materials which he claims he came into contact with during the years 1959 through 1964, and said interrogatories should be specifically limited to which of these materials, if any, either of these defendants manufactured and to require these defendants to list each and every type of insulating material that they manufactured from the year 1950 to date, would cause them to go to great expense which is not necessary and would not be necessary under the plaintiff's theory of the case and would work an undue hardship on these defendants and would require them to furnish information which has no relevancy.

Published by AsbestosClaims.Law
asbestosclaims.law/library/10728/3

6.

These defendants further object to interrogatory No. 8 for the reason that same is ambiguous in that it inquires as to whether or not these defendants manufactured or sold any insulating products which were used by several named companies between the year 1950 to date, and same should be limited to the products mentioned in plaintiff's first amended complaint.

7.

These defendants further object to each and all of said interrogatories for the reason that the same requests these defendants to produce certain documents, results of studies, if any, made by or on behalf of these defendants, and reports which matters cannot be obtained under Rule 33.

8.

In the event these defendants are required to answer any of said interrogatories, then said interrogatories, if any, that these defendants are required to answer should be limited in scope to the particular employer or employers of plaintiff, to whom said defendant either sold or furnished insulation material and to the particular product or products sold or furnished during the period of time mentioned in plaintiff's amended complaint.

9.

These defendants further object to said interrogatories for the reason that they have heretofore served upon plaintiff, certain interrogatories by which interrogatories these defendants sought to determine what products the plaintiff claims that each of these defendants either manufactured, prepared or distributed and in what manner said products were defective, and plaintiff should be required to answer said interrogatories prior to the

Published by AsbestosClaims.Law
asbestosclaims.law/library/10728/4

time that these defendants or either of them are required to answer any of the interrogatories served upon them by plaintiff.

WHEREFORE, defendants Johns-Manville Sales Corporation, Johns-Manville Products Corporation and Johns-Manville Fiber Glass, Inc., moves the Court to enter an order sustaining each and all of the foregoing objections to said interrogatories and that said interrogatories be in all things stricken and these defendants not be required to answer same, or in the alternative, that an appropriate protective order be entered herein restricting the scope and applicability of such interrogatories, and for such other and further relief as these defendants may show themselves justly entitled to receive.

Gordon R. Pate

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

NOTICE TO ALL ATTORNEYS OF RECORD:

Please take notice that the above and foregoing Objections and Motion of the Defendants, Johns-Manville Sales Corporation, Johns-Manville Products Corporation and Johns-Manville Fiber Glass, Inc., will be brought to the attention of the Court for hearing on the 24th day of November, 1967, at 10:00 A.M., or as soon thereafter as counsel may be heard.

Gordon R. Pate

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

Published by AsbestosClaims.Law
asbestosclaims.law/library/10728/5

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing Objections and Motion of the Defendants, Johns-Manville Sales Corporation, Johns-Manville Products Corporation and Johns-Manville Fiber Glass, Inc., was on this the 10th day of November, 1967, served upon counsel for each of the other parties herein by depositing the same in the United States Mail, postage prepaid, addressed to Mr. Ben L. Reynolds, Royston, Rayzor & Cook, 877 San Jacinto Building, Houston, Texas, 77002; Mr. Ward Stephenson, Stephenson Building, Orange, Texas; Mr. John G. Tucker, Beaumont Savings Building, Beaumont, Texas, 77701; Mr. George A. Weller, P. O. Box 350, Beaumont, Texas; 77701; Mr. Charles S. Pipkin, P. O. Box 1632, Beaumont, Texas, 77704; Mr. George Duncan, Beaumont Savings Building, Beaumont, Texas, 77701; and Mr. John D. Rienstra, Beaumont Savings Building, Beaumont, Texas, 77701.

Gordon Gates
Attorney for Johns-Manville Sales Corporation, Johns-Manville Products Corporation and Johns-Manville Fiber Glass, Inc.

Published by AsbestosClaims.Law
asbestosclaims.law/library/10728/6

CIVIL ACTION NO. 5402

CLAUDE J. TOMPLAIT

VS.

COMBUSTION ENGINEERING, INC., ET AL

OBJECTIONS OF DEFENDANTS, JOHNS-MANVILLE SALES CORPORATION JOHNS-MANVILLE PRODUCTS CORPORATION, AND JOHNS-MANVILLE FIBER GLASS, INC., TO INTERROGATORIES OF PLAINTIFF

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

GORDON R. PATE
ATTORNEY AT LAW
1119 BEAUMONT SAVINGS BUILDING
BEAUMONT, TEXAS 77701