IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
MAY 20 1968
James R. Cooney, Clerk, U. S. Court
By Virginia K. Lowe DEPUTY

CLAUDE J. TOMPLAIT /
/
VS / CIVIL ACTION NO. 5402
/
COMBUSTION ENGINEERING, INC., /
ET AL /

MOTION TO QUASH

NOW COMES Johns-Manville Products Corporation, one of the defendants in the above entitled and numbered cause, and makes and files this its Motion to Quash the subpoena served upon its attorney, and would show the Court the following:

1.

That the plaintiff caused to be served upon the undersigned attorney for this defendant, a subpoena, which subpoena was served on Thursday, May 16, 1968 at 9:30 a.m. directing said attorney to produce at 10:00 a.m., May 27, 1968 a sample or samples at least six inches in diameter of any and all insulating products manufactured by Johns-Manville Products Corporation which contain asbestos, such sample or samples to be labeled with the name of the manufacturer and the trade name of such products.

2.

That said subpoena does not designate what particular products plaintiff's attorney wants produced or the trade names of same.

3.

That the attorney for said defendant is not the proper person or party to product said sample or samples or to testify regarding same because said attorney has no first-hand knowledge as to the composition of said products.

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4.

That as shown by the answers to interrogatories previously filed on behalf of this defendant, it would be unreasonable, considering the short period of time left to require this defendant to accumulate a sample or samples of each and every product called for by said subpoena, and for this reason, said subpoena is oppressive and should be quashed, or in the alternative, restricted to designated products which plaintiff claims this defendant manufactured.

Gordon Pate

GORDON R. PATE
1119 Beaumont Savings Building
Beaumont, Texas 77701
Attorney for Defendant, Johns-Manville Products Corporation

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing Motion To Quash was forwarded to counsel for each of the other parties herein, by mailing the same to Mr. Ben L. Reynolds, Royston, Rayzor & Cook, 877 San Jacinto Building, Houston, Texas 77002; Mr. Ward Stephenson, Stephenson Building, Orange, Texas; Mr. John Rienstra, Beaumont Savings Building, Beaumont, Texas 77701; Mr. George A. Weller, Post Office Box 350, Beaumont, Texas 77704; Mr. Charles S. Pipkin, Post Office Box 1632, Beaumont, Texas 77704; Mr. George Duncan, Beaumont Savings Building, Beaumont, Texas 77701; Mr. John Tucker, Beaumont Savings Building, Beaumont, Texas 77701.

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COMBUSTION ENGINEERING, INC., ET AL

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BEAUMONT DIVISION

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