IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED

MAY 29 1968 19

James R. Cooney, Clerk, U. S. Court

By DEPUTY

CLAUDE J. TOMPLAIT :

VS. : CIVIL NO. 5402

COMBUSTION ENGINEERING, INC., ET AL :

NOTICE OF MOTION

TO: Mr. Ben L. Reynolds
Royston, Rayzor and Cook
Attorneys at Law
877 San Jacinto Building
Houston, Texas 77002

Attorney for Defendant EAGLE-PICHER INDUSTRIES, INC.

Mr. John D. Reenstra
Attorney at Law
707 Beaumont Savings Building
Beaumont, Texas 77701

Attorney for Defendant OWENS-CORNING FIBER GLASS CORPORATION

Mr. John Tucker
Attorney at Law
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Beaumont, Texas 77701

Attorney for Defendant GUSTIN-BACON MANUFACTURING COMPANY

Mr. George A. Weller
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Attorney for Defendant FIBERBOARD PAPER PRODUCTS CORPORATION

Mr. Charles S. Pipkin
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P. O. Box 1632
Beaumont, Texas 77704

Attorney for Defendants COMBUSTION ENGINEERING, INC. and REFRACTORY & INSULATION CORPORATION

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Mr. George E. Duncan
Attorney at Law
Beaumont Savings Building
Beaumont, Texas 77701

Attorney for Defendants PITTSBURGH PLATE GLASS COMPANY and PITTSBURGH CORNING CORPORATION

Mr. Gordon R. Pate
Attorney at Law
1119 Beaumont Savings Building
Beaumont, Texas 77701

Attorney for Defendants JOHNS-MANVILLE PRODUCTS CORPORATION and JOHNS-MANVILLE FIBER GLASS, INC.

Gentlemen: Please take notice that the undersigned will bring the attached motion on for hearing before this Court, as its place of setting in the Federal Building, Beaumont, Texas, as soon as the Court can hear the same, at a time and date to be set by this Honorable Court.

STEPHENSON, THOMPSON AND MORRIS

By _____
Attorneys for Plaintiff
Stephenson Building
Orange, Texas 77630

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

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MAY 2 5 19__M
James R. Cooney, Clerk U. S. D. C.
By Emily G. Walker DEPUTY

CLAUDE J. TOMPLAIT :

VS. : CIVIL NO. 5402

COMBUSTION ENGINEERING, INC., ET AL :

MOTION FOR DISCOVERY

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now the plaintiff, Claude J. Tomplait, and makes this his motion for discovery and in support thereof would show:

1.

That the plaintiff presently has a cause of action pending in this Honorable Court concerning the manufacture and distribution of asbestos insulating products, and that in the interest of a full and complete, yet speedy trial, plaintiff says that it is necessary that each of the defendants produce such materials as they each manufacture for use in insulating which contain any asbestos.

2.

That it will also be necessary that such products be identified at the time they are produced by the name of the manufacturer and the trade name of the product, together with when the product was first manufactured, sothat during the trial of this case, there will be a simple method of identifying the products manufactured or distributed by each of the defendants, and proof of the manufacturer and distributor of these products if

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required by other witnesses other than the defendants would be cumbersome, lengthy and unduly expensive.

3.

In addition, plaintiff says that each of the defendants should be ordered to produce all sales literature concerning each product.

4.

That also in addition thereto, each defendant should be ordered to produce all engineering, scientific and research data concerning such products, its suggested use and adaptability, method of applying and any safety controls suggested.

5.

That if any of the defendants maintain medical or scientific research departments, that they be ordered to produce the name and address of such person in charge of such department or departments.

6.

That each of these defendants be ordered to produce any breathing apparatus, device or other safeguards which such defendants claim would materially reduce or completely eliminate the disease of asbestosis if used by the workers applying asbestos materials.

7.

That the defendants have the possession, control and custody of each of the foregoing, and each of them constitute or contain evidence relevant and material to this cause of action, and as more fully shown in Exhibit A attached hereto.

STEPHENSON, THOMPSON AND MORRIS

By _____

Attorneys for Plaintiff
Stephenson Building
Orange, Texas 77630

"EXHIBIT A"

THE STATE OF TEXAS :

COUNTY OF ORANGE :

Ward Stephenson, of the law firm of Stephenson, Thompson and Morris, being first duly sworn, says:

(1) That I am one of the attorneys for Claude J. Tomplait, plaintiff in the above civil action;

(2) That the above requested documents and things are official company records and in the possession of and under the control of the defendants herein;

(3) That the above requested documents and things are relevant to the issues in this cause and are not privileged or within the work product rule; that the production of such requested documents and things will facilitate the trial of this cause, and that the denial of discovery would unduly hinder the preparation of plaintiff's case; that plaintiff will be handicapped in formulating appropriate questions and in covering all the relevant aspects of the occurrence unless he has the benefit of the above requested documents and things.

Ward Stephenson
WARD STEPHENSON

SWORN TO AND SUBSCRIBED before me, this 28th day of May, 1968.

Jackie Bean
NOTARY PUBLIC, ORANGE COUNTY, TEXAS

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CERTIFICATE OF SERVICE BY MAIL

A copy of the foregoing Notice and Motion for Discovery has been forwarded to the respective attorneys for the defendants whose names and addresses are set forth in the attached Notice, on this the 28th day of May, 1968, by certified mail, return receipt requested.

Ward Stephenson

Ward Stephenson

NO. 5402

CLAUDE J. TOMPLAIT

VS.

COMBUSTION ENGINEERING, INC., ET AL

NOTICE AND MOTION FOR DISCOVERY

LAW OFFICES
STEPHENSON, THOMPSON & MORRIS
STEPHENSON BUILDING
ORANGE, TEXAS

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