IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED

JUN 7 1968

M ____ P.

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

By _____ DEPUTY

CLAUDE J. TOMPLAIT :

VS. : CIVIL NO. 5402

COMBUSTION ENGINEERING, INC., ET AL :

REPLY TO MOTION TO LIMIT PLAINTIFF'S MOTION FOR DISCOVERY

TO THE HONORABLE JUDGE OF SAID COURT:

In reply to the motion to limit plaintiff's motion for discovery filed by defendant Fiberboard Paper Products Corporation, plaintiff says that each matter sought in the motion for discovery is necessary to the plaintiff's case and would not place any burden on the said defendant and could readily be done, and is probably available to all the salesmen if this company wanted to make any money in selling the products; and plaintiff further shows to the Court:

1.

That this is another effort on the part of the defendants to hamstring the investigation of the plaintiff and should not be allowed. The introduction of each item manufactured by the defendants containing asbestos, and the identifying trade names, should be required so that the products can be readily identified by the various witnesses who will testify concerning these products. That to do what the said defendant wishes the Court to do would make a farce of the trial of this case.

2.

That sales literature concerning the asbestos products manufactured by the defendant is certainly not difficult for said defendant to obtain, and has necessary descriptive material dealing with the percentage of asbestos fibers in the products, the use to which it is to be put, with other information such as photographs helpful to the parties on the trial of the case.

3.

Plaintiff objects to any effort to restrict the plaintiff's discovery of research data, use, adaptability, and methods of applying and safety controls, because this is the very basis of this lawsuit. Such could not be and should not be confidential. That for this defendant to say so is an affront to humanity and a suggestion to which all reasonable persons should be indignant.

4.

The fact that the plaintiff has certain information should not prevent the defendant from identifying the products, and bringing them into court through discovery, so that all of these matters can be done in advance of trial; and therefore, the volume of proof required would be greatly reduced and justice would be better served.

5.

The plaintiff states that his information is that there is no breathing apparatus made today that is suitable to stop the disease of asbestosis, and that the defendants know this to be true and are trying to practice a sham on the plaintiff by saying there is such an apparatus when there is not, and therefore, they should be required to produce it and upon the production

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of such apparatus, the plaintiff will then have the same tested by qualified testing laboratory to conclusively establish the inadequacy of the apparatus, if in truth the defendants produce any such apparatus.

WHEREFORE, plaintiff prays that said defendant's motion to limit and restrict the plaintiff's motion for discovery be overruled by this Court.

STEPHENSON, THOMPSON AND MORRIS

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CERTIFICATE OF SERVICE BY MAIL

I, Ward Stephenson, hereby certify that a copy of the foregoing reply to motion to limine and restrict plaintiff's motion for discovery has been filed to each of the following named attorneys on this the 6th day of June, 1968, by certified mail, returnreceipt requested:

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