FILED
JUL 11 1968
James R. Cooney, Clerk, U.S. Court
By Hazel E. Studdard DEPUTY

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

CLAUDE J. TOMPLAIT,
PLAINTIFF

VS.

COMBUSTION ENGINEERING, INC., ET AL, DEFENDANTS

CIVIL ACTION NO. 5402

AMENDED ANSWER OF DEFENDANT, OWENS-CORNING FIBERGLAS CORPORATION TO PLAINTIFF'S THIRD AMENDED COMPLAINT

Comes now Owens-Corning Fiberglas Corporation, one of the defendants in the above styled and numbered action, and answering Plaintiff's Third Amended Complaint respectfully says:

-1-

Answering Paragraph 1 this defendant says that it does not know whether this Court has jurisdiction of this controversy inasmuch as it does not have knowledge as to the citizenship of parties defendant other than this defendant.

-2-

Defendant admits the facts stated in Paragraphs 2, 3 and 7 of said complaint.

-3-

This defendant is required to make no answer to Paragraphs 4, 5, 6, 8, 9, 10, 11 and 12 of said complaint inasmuch as the facts therein alleged pertain to parties defendant other than this defendant.

-4-

Answering Paragraph 13, this defendant does not admit what is contained in all of the materials named in said paragraph. It admits that it manufactured and sold

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insulation materials but denies that any of them caused any injury to the plaintiff.

-5-

This defendant denies the facts stated in Paragraphs 14, 37, 38, 39, 40, 41, 42, 43, 44 and 45 of said complaint.

-6-

Answering Paragraphs 15 through 36 of said complaint, this defendant can not truthfully either admit or deny the facts therein stated as it does not have any knowledge with reference thereto and such facts are within the knowledge of the plaintiff and his attorney.

-7-

This defendant denies that plaintiff is entitled to the relief prayed for in the concluding paragraph of said complaint.

-8-

For affirmative defense herein, this defendant says that any cause of action which plaintiff may have had against this defendant accrued more than two years prior to the filing of this action, and this defendant pleads the two year statute of limitations of the State of Texas in bar of plaintiff's right to recover.

-9-

For further affirmative answer herein, this defendant says that the plaintiff's physical condition, of which he complains, was due solely to causes other than any negligence, fault or breach of warranty on the part of this defendant.

-10-

For further affirmative defense herein, this defendant says that the injuries, conditions and damages of which plaintiff complains were solely and alone caused, or,

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ACL Doc 10601 · Page 2 of 5 asbestosclaims.law/library/10601/2

in the alternative were proximately caused, by negligent acts and omissions committed by the plaintiff himself while working with and around insulation materials incident to his trade.

-11-

For further affirmative defense herein, this defendant says that in 1961, plaintiff was instructed and directed by a physician of his own choice to cease working with and around insulating materials but that plaintiff nevertheless, in the face of such instructions, directions and warnings, continued over a period of several years thereafter to work with and around insulating materials, and voluntarily exposed himself to any conditions, dangers or hazards incident to such work, and this defendant pleads such facts in bar of plaintiff's right, if any he has, to recover.

-12-

For further affirmative defense herein, this defendant says that the injuries, conditions and damages of which plaintiff complains were solely and alone caused by negligent acts and omissions committed by the various employers for whom the plaintiff alleges that he worked and during the course of which work he claims that he was exposed to various insulating products.

-13-

For further grounds of relief, this defendant says that if any judgment is entered herein jointly and severally against it and other defendants, then in such event this defendant is entitled to contribution against such other defendants in accordance with the provisions of Art. 2212 of Vernon's Civil Statutes of Texas.

The Tomplait v. Combustion Engineering Case File (1962-1969), Answer to third amended complaint Published by AsbestosClaims.Law
ACL Doc 10601 · Page 3 of 5 asbestosclaims.law/library/10601/3

WHEREFORE, this defendant prays judgment of the Court that plaintiff take nothing against it by his said complaint and that it go hence and recover its costs in this behalf expended, and in the alternative that it have judgment for contribution as set forth above.

Respectfully submitted,

KING, SHARFSTEIN & RIENSTRA

BY: John W. Rienstra

707 Beaumont Savings Bldg.
Beaumont, Texas
Attorneys for Owens-Corning
Fiberglas Corporation

A true copy of the above and foregoing Amended Answer was on this the 10th day of July, 1968, served upon counsel for the plaintiff by depositing the same in the United States Mail, postage prepaid, addressed to Honorable Ward Stephenson, Attorney at Law, Stephenson Building, Orange, Texas, and also a true copy served on all other interested counsel of record.

John W. Rienstra

Attorney for Defendant, Owens-Corning Fiberglas Corporation

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