FILED

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

NOV 27 1968 M 19
James R. Cooney, Clerk, U. S. Court
By Margaret Turner DEPUTY

CLAUDE J. TOMPLAIT :

VS. : CIVIL NO. 5402

COMBUSTION ENGINEERING, INC., ET AL :

NOTICE

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. Rienstra
Attorney at Law
707 Beaumont Savings Building
Beaumont, Texas 77701
Attorney for Defendant OWENS-CORNING FIBER GLASS CORPORATION

Mr. George A. Weller
Attorney at Law
P. O. Box 350
Beaumont, Texas 77701
Attorney for Defendant FIBERBOARD PAPER PRODUCTS CORPORATION

Mr. Charles S. Pipkin
Attorney at Law
P. O. Box 1632
Beaumont, Texas 77704
Attorney for Defendants COMBUSTION ENGINEERING, INC. and REFRACTORY & INSULATION CORPORATION

Mr. George E. Duncan
Attorney at Law
Beaumont Savings Building
Beaumont, Texas 77701
Attorney for Defendant PITTSBURGH CORNING CORPORATION

Mr. Gordon R. Pate
Attorney at Law
1119 Beaumont Savings Building
Beaumont, Texas 77701
Attorney for Defendant JOHNS-MANVILLE PRODUCTS CORPORATION

Gentlemen: Please take notice that the deposition of

Arthur J. Santry, Jr., President, Combustion Engineering, Inc.,

770 Park Avenue, New York, New York, will be taken on behalf of the plaintiff upon certain interrogatories, of which a copy is herewith served upon you, and such cross-interrogatories as may be duly served herein, before Southern District Court Reporters, United States Court House, Foley Square 7, New York, New York.

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

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

INTERROGATORIES

Interrogatories to be propounded to Arthur J. Santry, Jr., President, Combustion Engineering, Inc., 770 Park Avenue, New York, New York, a witness to be produced, sworn and examined on the part of the above named plaintiff by Southern District Court Reporters, United States Court House, Foley Square 7, New York, New York:

No. 1 Please give your name, home address, office address, the name of your employer, and your exact position, giving title and responsibilities assigned to you.

No. 2 Have you done any studies or has your company conducted any studies concerning the effects of inhalation of asbestos dust or fibers by one using or being exposed to any of the asbestos materials manufactured by your company? In answer to this question, please give the date and nature of your studies, if any, the name or names of the persons conducting the studies and their address, what the purpose of the studies were, and attach a copy of any report based upon such studies, showing to whom such report was given and when.

No. 3 Have you or your company or any of its employees conducted studies designed to minimize or eliminate the inhalation of asbestos dust and fibers by those exposed to the use of your company's products? If so, give the name or names of such persons conducting such studies, attach copies of reports of such studies, by

whom they were made, and to whom they were given, and when, and state what action, if any, was taken based upon such studies in an effort to minimize or eliminate the effects of inhalation of asbestos dust or fibers upon those using or being exposed to the dust and fibers contained in such products as manufactured by your company.

No. 4 In an article in the October 12, 1968 issue of THE NEW YORKER magazine, it is stated, "He (referring to Dr. Irving J. Selikoff) wrote to several other large asbestos manufacturers in the United States, inquiring about the health experiences in their plants, and was unable to obtain information from any of them." Please state whether or not your company was one of the companies contacted by Dr. Selikoff in this regard and if it was, why you or your company did not furnish him with the information requested.

No. 5 Do you or your company have any regular inspection of areas where workers are using products manufactured by your company containing asbestos as to the dust count? If you do not, then please explain why this is not done, and if you do, please explain what action if any is taken by your company following the taking of dust counts at any of the locations referred to above. Also please give the dates if any that your company first started making this dust count.

No. 6 Do you or your company recognize that as early as the year 1900 Dr. H. Montague Murray, a physician in London's Charing Cross Hospital, found spicules of asbestos in the lung tissue? If you agree with this, then state what action if any your company has taken since 1900 to reduce or eliminate the dangers to those using your asbestos products from inhaling the dust and fibers.

No. 7 Do you or your company recognize that in 1924, Dr. W. E. Cook, also of England, found clear evidence of asbestosis and that such discovery was published in the British Medical Journal of July 26, 1924, and re-published in 1927? If you do, then please state what action if any was taken by your company based upon these studies to reduce or eliminate asbestosis in those using your products. If your answer is that you do not recognize the truth of such statement, then please state what you or your company has done in an effort to keep abreast of medical literature concerning the disease produced from the products which you manufacture, if in truth you have.

No. 8 Do you or your company recognize that in 1931, an English Parliament passed legislation making asbestosis a compensable disease and requesting improved methods of exhault ventilation and dust suppression in asbestos-textile factories, and also instituted periodical medical examinations for workers engaged in particularly dusty processes in the asbestos-textile industry? If you do recognize the truth of the statement above, please state what action if any you or your company took in response

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition notice and interrogatories, Arthur Santr… Published by AsbestosClaims.Law
ACL Doc 10820 · Page 4 of 9 asbestosclaims.law/library/10820/4

to such knowledge in an effort to reduce or eliminate the effects of asbestos to those using your products. If you do not recognize the truth of such statement then please state why you or your company did not keep in touch with legislation and programs adopted endeavoring to reduce or eliminate the disease of asbestosis in those using asbestos products.

No. 9 Do you agree that once asbestos fibers or dust are inhaled into the lungs there is no way to eliminate such dust or fibers from the lungs for the balance of such person's life?

No. 10 What technique, if any, does your company use to make dust samplings, explaining the technique and when it was commenced and what the purpose was and what action has been taken in response to the findings is to the dust samples.

No. 11 Do you or your company recognize that asbestos causes asbestos-induced lung cancer? If your answer is "Yes" when did you come to such realization and what action did you take in response thereto? If your answer is "No" then please explain why no studies were made by your company to ascertain that this fact was indeed true and thereafter to take action to advise those exposed to your products of its dangerous nature.

No. 12 Do you or your company recognize that there is a direct connection between the inhalation of asbestos dust and fibers and the disease mesothelioma? If your answer is "Yes" to this question, then please advise what notices were given to those exposed to your asbestos products of this fact.

No. 13 Does your company place any warning signs on its asbestos products? If so, please state exactly what the warning is, where it is used and when its use was first begun. If your answer to this question is "Yes" then please explain why your company uses such warning notices.

No. 14 Do you agree that asbestos has been directly associated medically with the disease of cor pulmonale?

No. 15 Do you or your company recognize that asbestos fiber exists for an infinity of years? In other words, unlike some dangerous products, it does not eventually dissipate or reduce itself in danger to those who might be exposed to it?

No. 16 Do you or your company recognize that year-by-year more asbestos is used in the United States and therefore, the public is being exposed to a greater and greater extent to the inhalation of asbestos dust and fiber? If your answer is "Yes" then please state what action you or your company have taken to reduce or eliminate this danger and what action, if any, you have taken to notify the public at large of this danger.

No. 17 Do you know of Dr. Irving J. Selikoff of New York?

No. 18 Have you or your company consulted with Dr. Selikoff concerning asbestosis, and if so, please state when and under what circumstances and what information, if any, was furnished by your company, giving dates, to him.

No. 19 Does your company contribute any funds to research concerning asbestos and its relation to lung and larynx disease? If so, please state the amount of money contributed, when and to whom, attaching any report or reports from such individual or organization to whom your funds were contributed.

No. 20 Do you have any labor inspectors or anyone from your company whose job it is to go to areas where your products are being used to make a dust level count, and if so, please state when your company started such procedure, the purpose of it, and what action, if any, was taken in response to your findings.

No. 21 Have you read or familiarized yourself with the hearing conducted in March 1967 before the House of Representatives of the United States Congress Sub-Committee on Labor?

No. 22 Do you agree that the problem of asbestos dust extends further than to those merely using your products but that the exposure is shared with other construction workers as well?

No. 23 If your answer to the preceding Interrogatory No. 22 is "No" then please state whether or not you have familiarized yourself with Dr. William H. Stewart, Surgeon General of the United States, testifying before the Committee mentioned above that probably three and one-half million construction workers are being exposed to asbestos dust in addition to those workers actually using the materials containing asbestos?

No. 24 Do you recognize or agree that the problems of air laden with asbestos dust is so great that possibly millions of the people in the United States are being exposed to the inhalation of asbestos dust who have nothing to do with its use or application? If your answer is "Yes" then please advise what action your company has taken, if any, to advise the general public of the dangerous nature of asbestos and what steps have been taken to endeavor to protect the general public from the dangerous effects of the inhalation of the asbestos dust and fibers, when such action was taken, and what it consists of.

No. 25 Is it possible with all of your products containing asbestos to distinguish your products from those manufactured by a competitor? If your answer is "Yes",

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition notice and interrogatories, Arthur Santr… Published by AsbestosClaims.Law
ACL Doc 10820 · Page 6 of 9 asbestosclaims.law/library/10820/6

please describe how you contend your products in all instances can be distinguished from that of a competitor. If there are products which cannot be, in your opinion, distinguished from products of a similar kind manufactured by a competitor, please state the name of such product, who manufactures it, as well as the product manufactured by your competitor.

No. 26 It is true, is it not, that most of the products manufactured by your company containing asbestos will in most instances have to be cut, sawed, scribed, shaped or mixed by the ultimate user and his employees?

No. 27 Please give the state of incorporation of your company, the date it was organized, and the domicile of your company at this time.

No. 28 How many years has your company been engaged in the manufacture of products containing asbestos and which are commonly used by insulators and asbestos workers?

No. 29 If you, your company or your company's attorney contend that any respirators or other breathing device is currently on the market that will prevent the inhalation of asbestos dust and fibers, give the detailed description of such respirator or other breathing device, together with how you know this will prevent the inhalation of such dust and fibers, what tests were conducted, by whom and where, with sufficient detail to enable us to obtain the results of such tests.

No. 30 It is true, is it not, that your company has for many years manufactured insulating materials containing asbestos and that such products have been placed upon the open market to be purchased and used by the public.

No. 31 Do you or your company recognize that such asbestos insulating materials are dangerous and harmful to human beings and to the health of man? If your answer to this question is "Yes" then please explain when you came to this conclusion and what, if anything, you have done about it to notify the public. If your answer is that your products are not harmful then explain what tests were made upon which you base such conclusion.

No. 32 Please state whether or not you or your company has had knowledge of any deaths or serious lung disease among your employees or your company's employees which has been attributed to the inhalation of asbestos dust or fibers. If so, please give the number, the name where known, and address of such persons, together with the name and address of the doctor who administered treatment to such persons, if known.

No. 33 Assume for the purpose of this question that it has been known for many years that asbestos dust and fibers have been dangerous to human beings: Assuming the truth

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition notice and interrogatories, Arthur Santr… Published by AsbestosClaims.Law
ACL Doc 10820 · Page 7 of 9 asbestosclaims.law/library/10820/7

of such statement, has your company done anything prior to 1966 to notify any segment of the American population of such danger? If so, please explain what.

No. 34 If your company manufactures any insulating products which are commonly used by insulators and which contain asbestos, please describe how the following products are cut, shaped, mixed and applied on the jobs:

(1) Asbestos cement;
(2) Asbestos pipe covering;
(3) Asbestos bricks or blocks;
(4) Asbestos sheeting;
(5) Asbestos insulation used to cover extremes of heat as well as cold;
(6) Asbestos insulation in loose form which may be blown into homes or buildings,

giving particular reference as to whether or not the materials have to be sawed or cut on the job, blown into confined areas, or mixed with water into a cement or paste. Then please state if there is any way known to you that the above products can be used and applied without the worker inhaling any of the asbestos dust or fibers.

No. 35 Do you have any statistical figures available showing the number of employees employed with your company who are exposed to asbestos dust and fibers and who have worked for your company twenty years or longer who have lung disease? If so please give such figures.

No. 36 If you have available, do you have any medical information or information of your own knowledge, concerning the most common cause of death of one having asbestosis, then please describe what the most frequent cause of death from one suffering from such disease is.

No. 37 Please state the net profit made by your company for each of the years since and including the year 1960.

No. 38 Please give the net worth of your company as of the end of your annual accounting period for each of the years since 1960.

No. 39 Please give the total volume of sales of products manufactured by your company and include, if possible, the total amount of sales of products of your company containing asbestos for each of the years since 1960.

No. 40 Please give the name and address of the president of your company and also the Chairman of the Board of Directors.

No. 41 If in your answers to any of these interrogatories you state that you are not the one in your company having knowledge of the matter inquired about in such question, please give the name and address of such person in your company who does know the answer.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition notice and interrogatories, Arthur Santr… Published by AsbestosClaims.Law
ACL Doc 10820 · Page 8 of 9 asbestosclaims.law/library/10820/8

No. 42 Have you talked with anyone about these questions before giving your deposition? If so, please state who, his position and what the conversation concerned.

No. 43 Have you read or been shown these questions prior to them being asked you by the court reporter? If so, please state by whom, his position and when.

No. 44 In questions propounded previously, your attorneys have answered that you or your company did not make studies of the dangerous nature of asbestos. Do you agree with this? If you do, please state why no studies were made and what, if anything, your company did to determine the safe or unsafe nature of the products it manufactured containing asbestos. If you do not agree with this statement, please explain what studies were made and what efforts your company used to determine the safe or unsafe nature of the asbestos products it manufactures.

No. 45 In the previous interrogatories propounded to your attorneys, they have stated that your company does not recognize any connection between asbestos or products which you manufacture containing asbestos and the disease of asbestosis. If you disagree with this, please state that there is a connection and your company recognizes it. If you agree with his answer, then please state the medical basis for your conclusion and upon what studies you have based your answer and explain where the name of the disease "asbestosis" comes from.

No. 46 Your attorneys in interrogatories previously propounded have answered that your company believes that if properly handled and used, asbestos fibers will not be inhaled. Please explain in detail if you agree with this the proper handling and use which would result in the fibers not being inhaled. If you disagree with this, please state that you disagree with it affirmatively.

No. 47 If you have stated in the preceding answer that you agreed with your attorneys' statement that if properly handled and used, asbestos fibers will not be inhaled, please state whether or not any notices were given to those who might come in contact with asbestos fibers of the manner or method your company suggests which might prevent inhalation of such dust and fibers.

STEPHENSON, THOMPSON AND MORRIS

By Ward Stephenson

Attorneys for Plaintiff
Stephenson Building
Orange, Texas 77630

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition notice and interrogatories, Arthur Santr… Published by AsbestosClaims.Law
ACL Doc 10820 · Page 9 of 9 asbestosclaims.law/library/10820/9