KELSEY-SEYBOLD CLINIC
6624 Fannin Street JAckson 6-5371
Houston, Texas 77025

PLAINTIFF'S EXHIBIT
tabbies
00899.00

29 April 1968

Ben L. Reynolds, Attorney
Royston, Rayzor & Cook
877 San Jacinto Building
Houston, Texas 77002

Re: Claude J. Tomplait (17,233)
29-444

Dear Mr. Reynolds:

It was my pleasure to see Mr. Claude J. Tomplait on 27 April 1968. He has more than a 20-year history of occupational exposure to asbestos, and a 10-year history of increasing breathlessness and nonproductive cough to the point that, at present, he is unable to do more than sedentary activity without breathlessness.

Physical findings are those typical of pulmonary fibrosis. His pulmonary function test discloses restrictive ventilatory defect without significant airway obstruction. His chest x-ray shows increased markings in both lower lobes and diaphragmatic calcification, the latter finding being noted extremely rarely, if ever, in any disease except asbestosis. In my opinion, the diagnosis of pulmonary fibrosis associated with asbestosis is unequivocal.

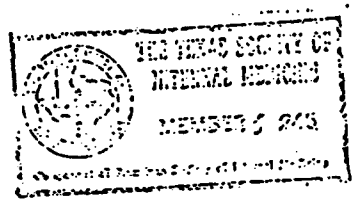
Thank you for the opportunity of seeing this interesting case. If additional information is needed, please let me know.

Sincerely yours,

S. P. Fischer

Stanton P. Fischer, M.D.

SPF/pl
Enclosure



PLAINTIFF'S EXHIBIT
tabbies
WV-000320

October 2, 1964

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE
Social Security Administration
P. O. Box 1119 - District Office
Port Arthur, Texas

Dear Sir:

Mr. Claude J. Templeit 44

P. O. Box 507, Bridge City, Texas (S.S.#460-10-1966)

9-7-64 9-10-64

J. C. Greco, M. D.

Patient complains of paroxysmal coughing. Illness began as patient sustained a severe episode of coughing and could not catch his breath. He was brought to hospital for treatment. Admitted 4-5-63 to 4-11-63 for Lobar Pneumonia Left Lower Lobe. Admitted 4-27-63 to 5-1-63 for Pneumonia. Patient has chronic lung disease due to inhalation of asbestos.

BP 120/80; P 96; R 18.
Lung: there are rales in both bases. Heart increased size to percussion. All other systems are negative. OBS: W.B.C. (Not on chart)

6-30-62

SUMMONS IN A CIVIL ACTION

CIV. 1a (2-44)
(Formerly D. C. Form No. 46a Rev. (6-43))

United States District Court

Ex. 89

FOR THE

EASTERN DISTRICT OF TEXAS, BEAUMONT DIVISION

CIVIL ACTION FILE NO. 5402

CLAUDE J. TOMPLAIT

Plaintiff

v.

COMBUSTION ENGINEERING, INC., ET AL

Defendant

SUMMONS IN CIVIL ACTION

SUMMONS

To the above named Defendant : EAGLE-PICHER INDUSTRIES, INC., service to be made upon its agent, C. T. Corporation System, Republic National Bank Building, Dallas, Texas.

You are hereby summoned and required to serve upon

Hon. Ward Stephenson

plaintiff's attorney , whose address is:

Stephenson Building
Orange, Texas 77630

an answer to the complaint which is herewith served upon you, within twenty days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint.

JAMES R. COONEY
Clerk of Court.

Virginia R. Lee
Deputy Clerk.

Date: December 23, 1966

[Seal of Court]

RETURN ON SERVICE OF WRIT

I hereby certify and return, that on the day of 19 ,

I received this summons and served it together with the complaint herein as follows:

MARSHAL'S FEES

Travel ..... $.....

Service .....

By .....

Deputy United States Marshal.

Subscribed and sworn to before me, a this day of , 19 .

[SEAL]

Note:—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy.

SUMMONS IN CIVIL ACTION

Returnable not later than days after service.

Attorney for Plaintiff

No.....

United States District Court FOR THE

Plaintiff

Delendant

SUMMONS

CIVIL ACTION FILE NO. 2402

FOR THE

United States District Court

SUMMONS IN A CIVIL ACTION

RETURN ON SERVICE OF WRIT

I received this summons and served it together with the complaint herein as follows:

Subscribed and sworn to before me, a

this

day of , 19 .

[SEAL]

Note.—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy.

MARSHAL'S FEES

Travel .....

Service .....

Deputy United States Marshal.

United States District Court

FOR THE

EASTERN DISTRICT OF TEXAS, BEAUMONT DIVISION

CIVIL ACTION FILE NO. 2505

SUMMONS

Attorney for Plaintiff

SUMMONS IN CIVIL ACTION

Returnable not later than days after service.

Defendant

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
DEC 23 1966
M.
James R. Cooney, Clerk, U. S. Court
By HAZEL E. STUDDARD
DEPUTY

CLAUDE J. TOMPLAIT :

VS. : CIVIL ACTION NO. 5402

COMBUSTION ENGINEERING, INC., ET AL :

COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW CLAUDE J. TOMPLAIT, hereinafter called plaintiff, complaining of COMBUSTION ENGINEERING, INC., R. & I. REFRACTOR AND INSULATION CORPORATION, JOHNS-MANVILLE SALES CORPORATION, JOHNS-MANVILLE PRODUCTS CORPORATION, JOHNS-MANVILLE FIBER GLASS, INC., OWENS-CORING FIBER GLASS CORPORATION, PITTSBURGH CORNING CORPORATION, GUSTIN-BACON MANUFACTURING COMPANY, PITTSBURGH PLATE AND GLASS COMPANY, FIBREBOARD PAPER PRODUCTS CORPORATION and EAGLE-PICHER INDUSTRIES, INC., hereinafter called defendants, and for cause of action, plaintiff alleges:

1.

That the ground upon which the jurisdiction of this Court depends is diversity of citizenship of the parties hereto.

2.

That the amount in controversy herein exceeds the sum of Ten Thousand ($10,000.00) Dollars, exclusive of interest and costs.

3.

That plaintiff is a resident of the State of Texas, and resides in Orange County, State of Texas.

A TRUE COPY I CERTIFY
JAMES R. COONEY, CLERK
U. S. DISTRICT COURT
EASTERN DISTRICT, TEXAS
By Hazel E. Studdard
Deputy

4.

That defendant COMBUSTION ENGINEERING, INC. is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of the State of Delaware; that such defendant has an agent for service, to-wit, C. T. Corporation System, Republic National Bank Building, Dallas, Dallas County, Texas.

5.

That defendant, R. & I. REFRACTOR AND INSULATION CORPORATION is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of some State, with an agent for service; however at this time, plaintiff does not know the name and address of such agent for service.

6.

That defendants JOHNS-MANVILLE SALES CORPORATION, JOHNS-MANVILLE PRODUCTS CORPORATION and JOHNS-MANVILLE FIBER GLASS, INC. were and during all of the times herein mentioned were corporations duly organized, created and existing under and by virtue of the laws of the State of Delaware; that all of such defendants have an agent for service, to-wit: Prentice-Hall Corporation System, Littlefield Building, Austin, Travis County, Texas. That plaintiff is suing all of these corporations and alleges that he is suing whichever one is responsible for the manufacture, production and distribution of the insulation materials hereinafter mentioned, but it is not known by plaintiff at this time which of said corporations is responsible.

7.

That defendant OWENS-CORING FIBER GLASS CORPORATION is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of the State of Delaware; that such defendant has an agent for service, to-wit: C. T. Corporation System, Republic National Bank Building, Dallas, Dallas County, Texas.

8.

That defendant PITTSBURGH CORNING CORPORATION is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of the State of Pennsylvania; that such defendant has an agent for service, to-wit, C. T. Corporation System, Republic National Bank Building, Dallas, Dallas County, Texas.

9.

That defendant GUSTIN-BACON MANUFACTURING COMPANY is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of the State of Missouri; that such defendant has an agent for service, to-wit: Paul O. Craig, 5531 Armour Drive, Houston, Harris County, Texas.

10.

That defendant PITTSBURGH PLATE AND GLASS COMPANY is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of the State of Pennsylvania; that such defendant has an agent for service, to-wit: C. T. Corporation System, Republic National Bank Building, Dallas, Dallas County, Texas.

11.

That defendant FIBREBOARD PAPER PRODUCTS CORPORATION is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of the State of Delaware; that such defendant has an agent for service, to-wit: C. T. Corporation System, Republic National Bank Building, Dallas, Dallas County, Texas.

12.

That defendant EAGLE-PICHER INDUSTRIES, INC. is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of the State of Ohio; that such defendant has an agent for service, to-wit: C. T. Corporation System, Republic National Bank Building, Dallas, Dallas County, Texas.

13.

That defendants during all times herein mentioned and for a long time prior thereto, have been and now are engaged in the manufacture of materials used for insulation, such materials containing fiber glass, rock wool, foam glass, magnesium insulation, mineral wool, calcium silicate and asbestos; that the products manufactured, compounded and prepared by defendants, acting through their servants, employees, representatives and agents were and are placed on the market to be purchased and used by the public.

14.

That the various types of insulation compounded, manufactured and placed in containers and sold by the

defendants contained chemicals and minerals and deleterious substances and matter which were highly poisonous, dangerous and harmful to human beings and to the health of man; that such materials were defective and were not suitable for the purposes for which they were intended. That each of the defendants knew, or should have known, that the chemical compounds and deleterious substances and matter in said insulation as compounded, prepared and manufactured by defendants were highly poisonous, dangerous and harmful to human beings and to the health of man and that such materials were defective and were not suitable for the purposes for which they were intended.

15.

That at all times herein mentioned, the plaintiff was employed as an insulator, and in the performance of his employment as an insulator he was required to handle large quantities of the said insulation, compounded, manufactured and prepared by the defendants.

16.

That during the period of time in which the plaintiff was employed as an insulator, in the course of his employment, due to the negligence and carelessness of the defendants, he was caused to come in contact with the insulation produced by defendants and its chemical compounds, deleterious substances and matter and directly in consequence of said negligence and carelessness of the defendants did sustain severe, permanent and disabling injuries as hereinafter set forth.

17.

That the injuries and damages complained of herein were directly and proximately caused by the negligence and carelessness of the defendantsiin the following additional particulars:

(a) That the defendants knew, or in the exercise of ordinary or reasonable care, ought to have known that the insulation they so prepared and manufactured were deleterious, poisonous and highly harmful to plaintiff's body, lungs, respiratory system, skin and health, and that plaintiff would not know of such danger to his health, notwithstanding which defendants negligently failed to take any reasonable precautions or exercise reasonable care to warn plaintiff of the danger and harm to which he was exposed while handling the defendants' said insulation;

(b) That the defendants knew or, in the exercise of ordinary care, ought to have known that their said insulation was deleterious, poisonous and highly harmful to plaintiff's body, lungs, respiratory system, skinand health, and that the plaintiff would not know of such dangerous character, notwithstanding which defendants failed and omitted to provide plaintiff with the knowledge as to what would be reasonably safe and sufficient wearing apparel and proper protective equipment and appliances to protect him from being poisoned and disabled as he was by exposure to such deleterious and harmful compound substances and other material contained in said defendants' insulation.

(c) That the defendant knew or, in the exercise of ordinary or reasonable care, ought to have known that

their insulation was deleterious, poisonous and highly harmful to plaintiff's body, lungs, respiratory system, skin and health, notwithstanding which defendants negligently and carelessly packaged said insulation so that in the ordinary handling for installation thereof, this plaintiff would come in contact with such deleterious, poisonous and highly harmful compound substances and other material contained in said defendants' insulation.

(d) That the defendants knew or, in the exercise of ordinary or reasonable care, ought to have known that the insulation they produced contained deleterious, poisonous and highly harmful substances to human body, lungs, respiratory system, skin and health, notwithstanding which defendants negligently failed to take any reasonable precautions or exercise reasonable care by placing any warnings on their containers of said insulation to warn the handlers thereof of the dangers to health in coming in contact with said insulation.

(e) That the defendants knew or, in the exercise of ordinary or reasonable care, ought to have known that its insulation contained deleterious, poisonous and highly harmful substances to the human body, lungs, respiratory system, skin and health, notwithstanding which defendants negligently supplied to plaintiff containers of said insulation which were broken open and could not be transported without coming in contact with plaintiff's skin and body.

(f) That the defendants knew or, in the exercise of reasonable care, ought to have known that their insulation contained deleterious and highly harmful substances to

plaintiff's health, body, lungs, respiratory system, and skin, and defendants knew or, in the exercise of ordinary or reasonable care, should have known that plaintiff would not know the dangerous characteristics of their said insulation, notwithstanding which defendants negligently failed to take reasonable precautions or exercise reasonable care to warn the plaintiff of said danger and to instruct the plaintiff in the proper handling of their said insulation, or to take any reasonable precautions or exercise any reasonable care to protect plaintiff from harm and negligently failed to adopt and enforce a reasonably safe plan and method of handling and installing said insulation.

(g) That the defendants knew or, in the exercise of reasonable care, ought to have known that their insulation was defective and that such insulation was not suitable for the purposes for which it was intended.

18.

That as a direct and proximate cause of the aforesaid occurrences and circumstances and the negligence and carelessness of the defendants, plaintiff was permanently and severely injured; that he has sustained a very serious and permanent injury to his lungs and respiratory system, which has affected other parts of his body; that he suffers from shortness of breath, inability to breathe, clubbing of the fingers and toes; that it is necessary that plaintiff have available to him at all times a container containing oxygen in order that he may be able to breathe; that plaintiff has extreme difficulty with sleeping; that he tires easily; that he

constantly coughs; that he has suffered from an extreme loss of weight; that his future outlook is very dim; that he has sought the services of many physicians in an effort to cure or arrest the conditions from which he is suffering, but to no avail; that the plaintiff has lost his good health, all of which is permanently disabling to him.

19.

That by reason of the negligence and carelessness of the defendants, and each of them, as hereinbefore alleged, and because of the harm and injury to his health and the resulting disability therefrom, plaintiff has suffered a total loss of wages and earnings and will continue to suffer such loss; that he was unable to continue in his employment as an insulator, an employment that he had been engaged in for many years, or to engage in any gainful activity at the present time, and his earning capacity has been greatly and forever permanently diminished and impaired.

20.

That in an effort to treat, relieve and heal himself of said injuries and to regain his health, the plaintiff was obliged to incur and will incur in the future an expense amounting to a considerable sum of money for medical and hospitalization care, expenses for medicines, supplies, and so forth, the exact amount of which plaintiff is unable to accurately estimate at this time.

21.

That by reason of the facts hereinbefore alleged, plaintiff has suffered and sustained at the hands of the

defendants, and each of them, general and special damages in the sum of Five Hundred Thousand ($500,000.00) Dollars.

WHEREFORE, plaintiff demands judgment against the defendants, and each of them, in the sum of Five Hundred Thousand ($500,000.00) Dollars, together with his costs and disbursements herein.

STEPHENSON, THOMPSON AND MORRIS

By /s/ WARD STEPHENSON
Attorneys for Plaintiffs
Stephenson Building
Orange, Texas

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

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

PLAINTIFF'S FIRST AMENDED COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW CLAUDE J. TOMPLAIT, hereinafter called plaintiff, complaining of COMBUSTION ENGINEERING, INC., R & I REFRACTOR AND INSULATION CORPORATION, JOHNS-MANVILLE SALES CORPORATION, JOHNS-MANVILLE PRODUCTS CORPORATION, JOHNS-MANVILLE FIBER GLASS, INC., OWENS-CORING FIBER GLASS CORPORATION, PITTSBURGH CORNING CORPORATION, GUSTIN-BACON MANUFACTURING COMPANY, PITTSBURGH PLATE AND GLASS COMPANY, FIBREBOARD PAPER PRODUCTS CORPORATION and EAGLE-PICHER INDUSTRIES, INC., hereinafter called defendants, and for cause of action, plaintiff alleges:

1.

That the ground upon which the jurisdiction of this Court depends is diversity of citizenship of the parties hereto.

2.

That the amount in controversy herein exceeds the sum of Ten Thousand ($10,000.00) Dollars, exclusive of interest and costs.

3.

That plaintiff is a resident of the State of Texas, and resides in Orange County, State of Texas.

4.

That defendant COMBUSTION ENGINEERING, INC. is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of the State of Delaware; that such defendant has an agent for service, to-wit, C. T. Corporation System, Republic National Bank Building, Dallas, Dallas County, Texas.

5.

That defendant, R & I REFRACTOR AND INSULATION CORPORATION is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of some State, with an agent for service; however, at this time, plaintiff does not know the name and address of such agent for service.

6.

That defendants JOHNS-MANVILLE SALES CORPORATION, JOHNS-MANVILLE PRODUCTS CORPORATION AND JOHNS-MANVILLE FIBER GLASS, INC. were and during all of the times herein mentioned were corporations duly organized, created and existing under and by virtue of the laws of the State of Delaware; that all of such defendants have an agent for service, to-wit: Prentice-Hall Corporation System, Littlefield Building, Austin, Travis County, Texas. That plaintiff is suing all of these corporations and alleges that he is suing whichever one is responsible for the manufacture, production and distribution of the insulation materials hereinafter mentioned, but it is not known by plaintiff at this time which of said corporations is responsible.

7.

That defendant OWENS-CORING FIBER GLASS CORPORATION is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of the State of Delaware; that such defendant has an agent for service, to-wit: C. T. Corporation System, Republic National Bank Building, Dallas, Dallas County, Texas.

8.

That defendant PITTSBURGH CORNING CORPORATION is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of the State of Pennsylvania; that such defendant has an agent for service, to-wit, C. T. Corporation System, Republic National Bank Building, Dallas, Dallas County, Texas.

9.

That defendant GUSTIN-BACON MANUFACTURING COMPANY is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of the State of Missouri; that such defendant has an agent for service, to-wit: Paul O. Craig, 5531 Armour Drive, Houston, Harris County, Texas.

10.

That defendant PITTSBURGH PLATE AND GLASS COMPANY is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of the State of Pennsylvania; that such defendant has an agent for service, to-wit, C. T. Corporation System, Republic National Bank Building, Dallas, Dallas County, Texas.

11.

That defendant FIBREBOARD PAPER PRODUCTS CORPORATION is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of the State of Delaware; that such defendant has an agent for service, to-wit, C. T. Corporation System, Republic National Bank Building, Dallas, Dallas County, Texas.

12.

That defendant EAGLE-PICHER INDUSTRIES, INC. is and during all of the times herein mentioned was a corporation duly organized, created and existing under and by virtue of the laws of the State of Ohio; that such defendant has an agent for service, to-wit, C. T. Corporation System, Republic National Bank Building, Dallas, Dallas County, Texas.

E-P

13.

That defendants during all times herein mentioned and for a long time prior thereto, have been and now are engaged in the manufacture of materials used for insulation, such materials containing fiber glass, rock wool, foam glass, magnesium insulation, mineral wool, calcium silicate and asbestos; that the products manufactured, compounded and prepared by defendants, acting through their servants, employees, representatives and agents were and are placed on the market to be purchased and used by the public.

14.

That the various types of insulation compounded, manufactured and placed in containers and sold by the

defendants contained chemicals and minerals and deleterious substances and matter which were highly poisonous, dangerous and harmful to human beings and to the health of man; that such materials were defective and were not suitable for the purposes for which they were intended. That each of the defendants knew, or should have known, that the chemical compounds and deleterious substances and matter in said insulation as compounded, prepared and manufactured by defendants were highly poisonous, dangerous and harmful to human beings and to the health of man and that such materials were defective and were not suitable for the purposes for which they were intended.

15.

The plaintiff says that in the year 1959, the exact dates being unknown, he was employed by B & B Engineering and Supply Company at the DuPont Plant in Orange, Texas, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Foamglas, magnesium and fireproofing.

16.

The plaintiff says that in the year 1959, for approximately nine to ten months, he was employed by Brooks-Fisher Insulating Company at the Gallitan Power House in Gallitan, Tennessee, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Asbestos and magnesium.

17.

The plaintiff says that in the year 1960, for

approximately two months, he was employed by The Fluor Corporation, Ltd. at Kaplan, Louisiana on the Cow Island Job, and that in the course of his employment as an insulator, he was required to come in contact with magnesium.

18.

The plaintiff says that in the year 1960, the exact dates being unknown, he was employed by B & B Engineering & Supply Company, Inc. at the DuPont Plant in Orange, Texas, and that in the course of his employment as an insulator, he was required to come in contact with foamglas, magnesium and fireproofing.

19.

The plaintiff says that in the year 1960, the exact dates being unknown, he was employed by Armstrong Contracting and Supply Corporation at the Firestone Plant in Orange, Texas, and that in the course of his employment as an insulator, he was required to come in contact with magnesium.

20.

The plaintiff says that in the year 1961, the exact dates being unknown but being for approximately nine months, he was employed by Armstrong Contracting and Supply Corporation at the Firestone Plant in Orange, Texas, and that in the course of his employment as an insulator, he was required to come in contact with magnesium and Careytemp.

July, 1962 Dan. M.J.

21.

The plaintiff says that in the year 1961, from September, 1961, to January, 1962, he was employed by The Aber Company, Inc., at the Gulf States Power House, in Bridge

City, Texas, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Kaytherm (calcium silicate); Aber 2 to 3 (cement); Sealfas 3149 (mastic); Aluminum ells (mastic); Foamglas (foamed silicate); aluminum rolls (foamed silicate); Overkote (asphalt emulsion); Unibestos (asbestos fiber); Climaseal (mastic); Steel bands (mastic); and Aluminum seals (mastic).

22.

The plaintiff says that from March, 1962, to May, 1962, he was employed by The Aber Company, Inc., at the Gulf Oil Refinery, in Port Arthur, Texas, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Kaytherm (calcium silicate); Aber 2 to 3 (cement); Sealfas 3149 (mastic); Aluminum ells (mastic); Foamglas (foamed silicate); Aluminum rolls (foamed silicate); Overkote (asphalt emulsion); Unibestos (asbestor fiber); Climaseal (mastic); Steel bands (mastic); and Aluminum seals (mastic).

23.

The plaintiff says that during the year 1962, he worked for Sabine Insulation Company, Inc., at the Firestone Plant in Orange, Texas, and at Levingston Shipbuilding Company in Orange, Texas, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Calcium silicate, mineral wool insulating cement and aluminum jacketing.

24.

The plaintiff says that during the year 1962, he worked for Armstrong Contracting & Supply Corporation, the exact dates being unknown to him, at the Firestone Plant in

Orange, Texas, and that in the course of his employment as an insulator, he was required to come in contact with magnesium.

25.

The plaintiff says that during the year 1962, the exact dates being unknown to him, he worked for Johns-Manville Sales Corporation at the Bridge City Power House, in Bridge City, Texas, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Kaytherm (calcium silicate); Aber 2 to 3 (cement); Sealfas 3149 (mastic); Aluminum ells (mastic); Foamglas (foamed silicate); Aluminum Rolls (foamed silicate); Overkote (asphalt emulsion); Unibestos (asbestos fiber); Climaseal (mastic); Steel bands (mastic); and Aluminum seals (mastic).

26.

The plaintiff says that in the year 1962, from about June 11th to June 15th, 1962, he was employed by B & B Engineering & Supply Company, at the Big Three Welding Plant in Orange, Texas, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Foamglas, Careytemp, Thermoglas and Rock wool.

27.

The plaintiff says that from November 30, 1962, to January 18, 1963, he was employed by The Aber Company at the Gulf States Power House in Bridge City, Texas, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Kaytherm (calcium silicate); Aber 2 to 3 (cement); Sealfas 3149 (mastic); Aluminum ells (mastic); Foamglas (foamed

silicate); Aluminum rolls (foamed silicate); Overkote (asphalt emulsion); Unibestos (asbestos fiber); Climaseal (mastic); Steel bands (mastic); and Aluminum seals (mastic).

28.

The plaintiff says that in the year 1963, the exact date being unknown, he was employed by Sabine Insulation Company, Inc., at the Firestone Plant in Orange and Levingston Shipbuilding Company in Orange, Texas, and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Calcium silicate, mineral wool insulating cement, aluminum jacketing, and fiberglas.

29.

The plaintiff says that in the year 1963, he was employed by B & B Engineering Company, at the DuPont Plant in Orange, Texas, the exact date being unknown to him, and that in the course of his employment as an insulator, he was required to come in contact with the following material: Careytemp.

30.

The plaintiff says that in July and August, 1963, plaintiff was employed by Insulation Engineers, Inc., at some refinery in Pascagoula, Mississippi (the exact name being unknown to plaintiff), and that in the course of his employment as an insulator, he was required to come in contact with the following materials: Foamglas and magnesium.

31.

The plaintiff says that in the year 1963, he was employed by Triangle Insulation Company at the Houston Chemical Plant, in Beaumont, Texas, and that in the course

of his employment as an insulator, he was required to come in contact with 85% magnesium.

32.

Plaintiff says that during the month of January, 1964, he was employed by B & B Engineering & Supply Company at the Big Three Welding Company plant in Orange, Texas, and that in the course of his employment, he was required to come in contact with Foamglas.

33.

The plaintiff says that in the year 1964, he was employed by Triangle Insulation Company at the Houston Chemical Plant, in Beaumont, Texas, and that in the course of his employment as an insulator, he was required to come in contact with 85% magnesium.

34.

The plaintiff says that during the year 1964, he was employed by Industrial Insulation, Inc. at the Jefferson Chemical Plant, in Port Neches, Texas, and that in the course of his employment, he was required to come in contact with asbestos insulating material, fiberglas and magnesium; and he also was employed by Industrial Insulation, Inc. at the Atlantic Refinery, in Port Arthur, Texas, and that in the course of his employment, he was required to come in contact with magnesium.

35.

The plaintiff says that during the year 1964, he was employed by Sabine Insulation Company, Inc. at the Firestone Plant in Orange, Texas, and Levingston Shipbuilding Company, in Orange, Texas, and that in the course of his employment, he was required to come in contact with calcium silicate, mineral wool insulating cement, aluminum jacketing

and fiberglas.

36.

The plaintiff says that during the year 1964, he was also employed by Johns-Manville Sales Corporation at the Gulf States Power Plant, Bridge City, Texas, and that in the course of his employment, he was required to come in contact with calcium silicate, rock wool and 85% magnesium.

37.

That at all times herein mentioned, the plaintiff was employed as an insulator, and that in the performance of his employment as an insulator, he was required to handle large quantities of the said insulation hereinabove mentioned, compounded, manufactured and prepared by the defendants.

38.

That during the period of time in which the plaintiff was employed as an insulator, in the course of his employment, due to the negligence and carelessness of the defendants, he was caused to come in contact with the insulation produced by defendants and its chemical compounds, deleterious substances and matter and directly in consequence of said negligence and carelessness of the defendants did sustain severe, permanent and disabling injuries as hereinafter set forth.

39.

That the injuries and damages complained of herein were directly and proximately caused by the negligence and carelessness of the defendants in the following additional particulars:

(a) That the defendants knew, or in the exercise of ordinary or reasonable care, ought to have known that the

insulation they so prepared and manufactured were deleterious, poisonous and highly harmful to plaintiff's body, lungs, respiratory system, skin and health, and that plaintiff would not know of such danger to his health, notwithstanding which defendants negligently failed to take any reasonable precautions or exercise reasonable care to warn plaintiff of the danger and harm to which he was exposed while handling the defendants' said insulation;

(b) That the defendants knew or, in the exercise of ordinary care, ought to have known that their said insulation was deleterious, poisonous and highly harmful to plaintiff's body, lungs, respiratory system, skin and health, and that the plaintiff would not know of such dangerous character, notwithstanding which defendants failed and omitted to provide plaintiff with the knowledge as to what would be reasonably safe and sufficient wearing apparel and proper protective equipment and appliances to protect him from being poisoned and disabled as he was by exposure to such deleterious and harmful compound substances and other material contained in said defendants' insulation.

(c) That the defendant knew or, in the exercise of ordinary or reasonable care, ought to have known that their insulation was deleterious, poisonous and highly harmful to plaintiff's body, lungs, respiratory system, skin and health, notwithstanding which defendants negligently and carelessly packaged said insulation so that in the ordinary handling for installation thereof, this plaintiff would come in contact with such deleterious, poisonous and highly harmful compound substances and other material contained in said defendants' insulation.

(d) That the defendants knew or, in the exercise

of ordinary or reasonable care, ought to have known that the insulation they produced contained deleterious, poisonous and highly harmful substances to human body, lungs, respiratory system, skin and health, notwithstanding which defendants negligently failed to take any reasonable precautions or exercise reasonable care by placing any warnings on their containers of said insulation to warn the handlers thereof of the dangers to health in coming in contact with said insulation.

(e) That the defendants knew or, in the exercise of ordinary or reasonable care, ought to have known that its insulation contained deleterious, poisonous and highly harmful substances to the human body, lungs, respiratory system, skin and health, notwithstanding which defendants negligently supplied to plaintiff containers of said insulation which were broken open and could not be transported without coming in contact with plaintiff's skin and body.

(f) That the defendants knew or, in the exercise of reasonable care, ought to have known that their insulation contained deleterious and highly harmful substances to plaintiff's health, body, lungs, respiratory system, and skin, and defendants knew or, in the exercise of ordinary or reasonable care, should have known that plaintiff would not know the dangerous characteristics of their said insulation, notwithstanding which defendants negligently failed to take reasonable precautions or exercise reasonable care to warn the plaintiff of said danger and to instruct the plaintiff in the proper handling of their said insulation, or to take any reasonable precautions or exercise any reasonable care to protect plaintiff from harm and negligently failed to adopt and enforce a reasonably safe

plan and method of handling and installing said insulation.

(g) That the defendants knew or, in the exercise of reasonable care, ought to have known that their insulation was defective and that such insulation was not suitable for the purposes for which it was intended.

40.

That as a direct and proximate cause of the aforesaid occurrences and circumstances and the negligence and carelessness of the defendants, plaintiff was permanently and severely injured; that he has sustained a very serious and permanent injury to his lungs and respiratory system, which has affected other parts of his body; that he suffers from shortness of breath, inability to breathe, clubbing of the fingers and toes; that it is necessary that plaintiff have available to him at all times a container containing oxygen in order that he may be able to breathe; that plaintiff has extreme difficulty with sleeping; that he tires easily; that he constantly coughs; that he has suffered from an extreme loss of weight; that his future outlook is very dim; that he has sought the services of many physicians in an effort to cure or arrest the condition from which he is suffering, but to no avail; that the plaintiff has lost his good health, all of which is permanently disabling to him.

41.

That by reason of the negligence and carelessness of the defendants, and each of them, as hereinbefore alleged, and because of the harm and injury to his health and the resulting disability therefrom, plaintiff has suffered a total loss of wages and earnings and will continue to suffer such loss; that he was unable to continue in his

employment as an insulator, an employment that he had been engaged in for many years, or to engage in any gainful activity at the present time, and his earning capacity has been greatly and forever permanently diminished and impaired.

42.

That in an effort to treat, relieve and heal himself of said injuries and to regain his health, the plaintiff was obliged to incur and will incur in the future an expense amounting to a considerable sum of money for medical and hospitalization care, expenses for medicines, supplies, and so forth, the exact amount of which plaintiff is unable to accurately estimate at this time.

43.

That by reason of the facts hereinbefore alleged, plaintiff has suffered and sustained at the hands of the defendants, and each of them, general and special damages in the sum of Five Hundred Thousand ($500,000.00) Dollars.

WHEREFORE, plaintiff demands judgment against the defendants, and each of them, in the sum of Five Hundred Thousand ($500,000.00) Dollars, together with his costs and disbursements herein.

STEPHENSON, THOMPSON AND MORRIS

By_____
Attorneys for Plaintiff
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CERTIFICATE

A copy of the foregoing Amended Complaint has been forwarded to the following attorneys of record:

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_____
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