

FILE NAME: Early Asbestos Damage Suits (EADS)

DATE: 1932

DOC#: EADS017

DOCUMENT DESCRIPTION: Documents from Case of Magdalena Stepka for Paul Stepka

1-28-32

NEW JERSEY SUPREME COURT

and came into close proximity of the SOMERSET COUNTY

MAGDALENA STEPKA, general administratrix of PAUL STEPKA, deceased, and MAGDALENA STEPKA, administratrix ad prosequendum of PAUL STEPKA, deceased, lungs and body became infected with the Plaintiffs,

ACTION AT LAW

5. Intestate was not infected or harmed by the COMPLAINT.

JOHNS-MANVILLE CORPORATION, (a) of the nature of the said corporation of the State of New York, (b) of the nature of the said corporation of the State of New York, (c) of the nature of the said corporation of the State of New York, brought into close Defendant. by the defendant's negligence.

6. The negligence of the defendant complained of in FIRST COUNT.

The plaintiff, Magdalena Stepka, general administratrix of Paul Stepka, deceased, residing at Manville, New Jersey, says that:-

1. The intestate was in the employ of the defendant corporation, at its plant in Manville, New Jersey, in the month of November, 1930, and for several years prior thereto.

2. The defendant corporation at the time herein set forth was engaged in the manufacture of asbestos products for commercial purposes.

3. The said defendant employed the intestate at the time and place above set forth in its manufacture of said asbestos products, and the said defendant not only knew, but should have known, that the said asbestos products contained certain dangerous, insidious and harmful agencies composed of asbestos fibers and other particles that were destructive to life and health in the human body, when brought into a close contact with same. or 17, 1931. By reason of the

expenses and damages to the extent of \$50,000.00

and come into close proximity of the intestate's person

and expose the intestate so that he came into contact with, and inhaled the said dangerous fibers and particles to the extent that his bronchial tubes, lungs and body became

infected with the same.

Intestate of

5. Intestate was not informed or warned by the defendant, and had no knowledge of the nature of the said dangerous asbestos fibers and particles with which he was brought into close proximity by the defendant's negligence.

6. The negligence of the defendant complained of is as follows:-

SECOND COUNT.

(a) In failing to use reasonable care to provide the intestate with a reasonably safe place of work.

(b) In failing to use reasonable care to provide the intestate with proper masks or other appliances or safeguard in said work.

(c) In failing to use reasonable care to provide a proper ventilating system at its plant.

(d) In failing to use reasonable care to give proper warning, information and knowledge about the dangerous character of its work with the said asbestos fibers and particles to the said intestate at the time and place above mentioned.

7. The said asbestos fibers and particles were introduced into the intestate's body at the time and place

aforsaid, so that the intestate was permanently injured externally and internally, in and about his head, body and limbs, causing him great pain and suffering, both mental and physical, greatly lowered his resistance to disease, and he became a victim of pulmonary diseases, and died as a

expenses and damages to the extent of \$50,000.00

8. On December 26, 1931, the plaintiff, Magdalena Stepka, was duly appointed general administratrix of the estate of Paul Stepka, deceased, by the surrogate of Somerset County, and here and now proffers her said letters of administration.

THE PLAINTIFF, Magdalena Stepka, general administratrix of the estate of Paul Stepka, deceased, demands the sum of \$50,000.00 as damages from the defendant, under this first count.

BY PLAINTIFF, Magdalena Stepka, administratrix ad prosequendum of Paul Stepka, deceased, demands the sum

The plaintiff, Magdalena Stepka, administratrix ad prosequendum of Paul Stepka, deceased, residing in Manville, New Jersey, says that:-

1. She repeats the allegations of paragraphs one, two, three, four, five and six of the first count.

2. The said asbestos fibers and particles were introduced into the intestate's body at the time and place afore said, so that the intestate became permanently injured, externally and internally, in and about his head, body and limbs, causing him great pain and suffering, both mental and physical, greatly lowered his resistance to disease, and he became a victim of pulmonary diseases, and died as a result thereof on December 17, 1931.

3. On December 26, 1931, the plaintiff, Magdalena Stepka was duly appointed by the surrogate of Somerset County, administratrix ad prosequendum of Paul Stepka, deceased, and here and now proffers her said letters of

intestate for support.

5. The plaintiff, as administratrix as aforesaid, for the benefit of the said next of kin, is vested by virtue of the statute in such case made and provided, with a cause of action against the defendant for negligently causing the death of her intestate, and brings this action within two years after the death of the said intestate.

6. The said next of kin suffered pecuniary losses by reason of the death of the said Paul Stepka, in the sum of \$50,000.00.

THE PLAINTIFF, Magdalena Stepka, administratrix ad prosequendum of Paul Stepka, deceased, demands the sum of \$50,000.00 as damages from the defendant under this second count.

SAMUEL GREENSTONE

Attorney for Plaintiff.

(ENDORSEMENTS)

I hereby deputize Chas. H. Murray to serve the within writ. Witness my hand and seal this 26 day of Jan 1932.

Wm. R. Sutphin

Sheriff

Jan. 26. 1932. I served the within summons and complaint upon The Johns-Manville Corporation, a corporation of the State of New York, by serving A. R. Fisher, Plant Manager, personally at Manville, N. J.

Fees \$3.78

6-13-74 DISCONTINUED

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MAGDALENA STEPKA, general :
administratrix of PAUL STEPKA, :
deceased, and MAGDALENA STEPKA, :
administratrix ad prosequendum :
of PAUL STEPKA, deceased, : Action at Law

Plaintiffs, : A N S W E R

-vs-

JOHNS-MANVILLE CORPORATION, a :
corporation of the State of :
New York, :

Defendant. :

Defendant, JOHNS-MANVILLE CORPORATION, a
corporation of the State of New York, having its principal
office in New Jersey, at Manville, Somerset County, says that

FIRST DEFENSE TO FIRST COUNT

1. It denies paragraph 1, except that it says
that the plaintiff's intestate was in its employ at its
plant in Manville, New Jersey, from December 28, 1926, to
November 12, 1930.

2. It denies paragraph 2, except that it says
that it was and has been engaged in the manufacture of
asbestos products for commercial purposes from December 28,
1926 to the present time.

3. It denies paragraph 3, except that it says
that it employed the plaintiff's intestate from December
28, 1926, to November 12, 1930.

4. It denies paragraphs 4, 5, 6 and 7.

5. It has no knowledge or information sufficient

SECOND DEFENSE TO FIRST COUNT

The injury and the disease alleged in the complaint were due to one of the risks of his employment assumed by the plaintiff's intestate as part of the terms of his contract of employment.

THIRD DEFENSE TO FIRST COUNT

The injury and the disease alleged in the complaint were due to one of the risks of his employment assumed by the plaintiff's intestate as part of the terms of his contract of employment in that the plaintiff's intestate knew, or by the exercise of reasonable care on his part should have known, the alleged dangers of his employment.

FOURTH DEFENSE TO FIRST COUNT

The injury and the disease alleged in the complaint were caused by contributory negligence on the part of the plaintiff's intestate.

FIFTH DEFENSE TO FIRST COUNT

The injury and the disease alleged in the complaint were caused by contributory negligence on the part of the plaintiff's intestate in that the plaintiff's intestate failed to exercise reasonable care to protect himself against the alleged dangers of his employment by using the mask and other appliances provided by the defendant for that purpose.

SIXTH DEFENSE TO FIRST COUNT

The injury and the disease alleged in the complaint were due to negligence on the part of a fellow-servant of the plaintiff's intestate, in failing to warn and instruct the plaintiff's intestate to use the mask and other ap-

SEVENTH DEFENSE TO FIRST COUNT

1. The alleged injury, if any, to the plaintiff's intestate was a trespass done to the person of said intestate.

2. Said alleged injury, if any, was caused by the alleged wrongful act, neglect or default of the defendant.

3. No action was commenced and instituted by said intestate, while he was living, to recover for said alleged injury within two years next after the alleged cause of action accrued to said intestate.

EIGHTH DEFENSE TO FIRST COUNT

1. It repeats the allegations of paragraph 1 of the Seventh Defense to the First Count.

2. It repeats the allegations of paragraph 2 of the Seventh Defense to the First Count.

3. No action was commenced and instituted by the plaintiff to recover for said alleged injury, within two years next after the alleged cause of action accrued to said intestate.

FIRST DEFENSE TO SECOND COUNT

1. It repeats the allegations of paragraphs 1, 2, 3 and 4 of the First Count.

2. It denies the allegations of paragraph 2, except that it has no knowledge or information sufficient to form a belief as to the date of the alleged death of the plaintiff's intestate.

3. It has no knowledge or information sufficient to form a belief as to the allegations of paragraph 3.

4. It has no knowledge or information sufficient to form a belief as to the allegations of paragraph 4.

It has no knowledge or information sufficient to

SECOND DEFENSE TO SECOND COUNT

It repeats the Second Defense to First Count.

THIRD DEFENSE TO SECOND COUNT

It repeats the Third Defense to First Count.

FOURTH DEFENSE TO SECOND COUNT

It repeats the Fourth Defense to First Count.

FIFTH DEFENSE TO SECOND COUNT

It repeats the Fifth Defense to First Count.

SIXTH DEFENSE TO SECOND COUNT

It repeats the Sixth Defense to First Count.

Hovert & Minard
Attorneys for Defendant.