

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DIVISION
OF THE EASTERN JUDICIAL DISTRICT OF MISSOURI.
MARCH TERM, 1935.

ELMORE STILES,

Plaintiff,

No. 11317

vs.

ETERNIT, INC., a corporation,
ETERNIT MILLS, a corporation,
THE RUBEROID COMPANY, a corporation,
and PAUL BEESON, an individual,

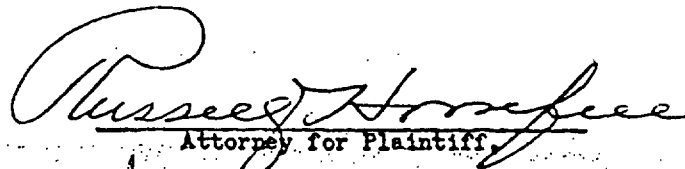
Div. No. 1

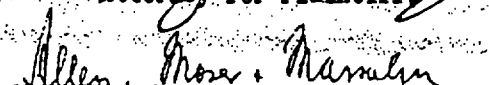
Defendants.

STIPULATION FOR DISMISSAL.

All of the matters and things in controversy in the above
entitled cause having been adjusted, compromised and finally settled,
it is hereby stipulated and agreed, by and between the above named
plaintiff and defendants Eternit, Inc., The Ruberoid Company and Paul
Beeson, that this cause shall be dismissed with prejudice to any other
or future action on account of the matters and things contained and
set forth in plaintiff's petition, and that Court costs shall be paid
by defendants Eternit, Inc., and The Ruberoid Company.

Witness our hands, at St. Louis, Missouri, this 21 day of
June, 1935.


Attorney for Plaintiff.


Attorneys for Defendants Eternit,
Inc., The Ruberoid Company and Paul
Beeson.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DIVISION OF THE
EASTERN JUDICIAL DISTRICT OF MISSOURI.
MARCH TERM, 1935.

EMORE STILES,

Plaintiff,

vs.

ETERMIT, INC., a corporation,
ETERMIT MILLS, a corporation,
THE RUBEROID COMPANY, a corporation,
and PAUL BEESON, an individual,

Defendants.

STIPULATION FOR DISMISSAL.

JUN 27 1935

for E. D. Beeson
01/14

FORM NO.

MISSOURI CIRCUIT COURT
TWENTY SECOND JUDICIAL CIRCUIT
(ST. LOUIS CITY)

Elmore Stiles

VS. No. 210062-B Room

Eternit, Inc., a corp.,
et al

ENTIRE FILE

GAF 22312

STATE OF MISSOURI }
CITY OF ST. LOUIS }

I, FREEMAN R. BOSLEY, JR., CLERK OF THE CIRCUIT COURT, CITY OF ST. LOUIS, within and for the City and State aforesaid (said Court being a Court of Record, having a Clerk and official Seal), do hereby certify that the annexed and foregoing is a full, true and complete copy of the original. Entire File.

in the cause aforesaid, as fully as the same remains among the records and files of said Court in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at office, in the City of St. Louis,

this 15th day of October, 19⁹²



FREEMAN R. BOSLEY, JR.
CLERK, CIRCUIT COURT

By John E. Swain
Deputy

210062 Elmore ST, LOS

210062

680

of 1948 1948

H. SAM PRIEST
ADDRESS

1948 Paid by Attorney

Deposited for Court

Cash Applied

Cash Paid by JUL 5 - 1948

Am't Refunded

Execution No. Term, 193

Execution No. Term, 193

Execution No. Term, 193

Fee Bill No.

PHOTOCOPYED
Record 210062

GAF 22313

MINUTES OF PROCEEDINGS

JAN 25 1935

Application of *Prof. Paul P. Brown* filed
Separate
Ordinance to cause to State of Illinois
to take steps for said 136/15

JAN 25 1935

Ordinance issued as directed

FEB 1 - 1935

Notified, petitioning and bond of *defendant*
Smith and the Anderson Company for
removal filed

FEB 4 1935

Notice given to *Paul P. Brown* and *Paul*
of the Anderson Co. for removal granted
that at the removal bond 1000 with

National Company Co. against *officer*
by court order
that of the State for removal granted
was removed to the State of Illinois
that the Anderson Company

Section B

N. D. 662 Division

Circuit Court, City of St. Louis

February Term, 1935

Stella Elmore

Chas. J. Elmore

Motion for Security for Costs

Filed February 19, 1935

H. J. Elmore Clerk

GAF 22315

Form 12

No. 210,062 Series B.

Division

Stiles Clumore

Plaintiff.

Chermit Inc. et al

Defendant.

STATE OF MISSOURI,
City of St. Louis }

IN THE CIRCUIT COURT,
City of St. Louis

February Term, 1933.

AND NOW, AT THIS DAY, come H. SAM PRIEST, Clerk of this Court, and THOMAS R. MADDEN, Sheriff of the City of St. Louis, and move the Court to rule that Plaintiff give security for the costs already accrued, or hereafter to accrue, in the above entitled cause, for the reason that plaintiff has not sufficient property, subject to execution, out of which the officers of the Court could levy their costs.

H. Sam Priest
Clerk, Circuit Court.

Thos R Madden
Sheriff of the City of St. Louis

STATE OF MISSOURI,
City of St. Louis }

WILLIAM HOERN, being duly sworn, upon his oath states that he is a Deputy Clerk of the Circuit Court, City of St. Louis, that he has examined into the subject matter of the above motion, and that the facts stated in said motion are true, to the best of his information and belief.

William Hoern

Subscribed and sworn to before me this 4th day of February, 1933.

H. Sam Priest
Clerk, Circuit Court.

STATE OF MISSOURI)
CITY OF ST. LOUIS) ss

IN THE CIRCUIT COURT - FIRST DISTRICT

WILSON STILES,

Plaintiff,

vs.

ETERNITY, INC., a corporation,
MILBURN HILLS, a corporation,
THE RUBENOLD COMPANY, a corporation,
and PAUL WILSON, an individual,

Defendants.

Defendants.)

NOTICE OF REMOVAL PETITION.

TO THE ABOVE NAMED PLAINTIFF, WILSON STILES, OR RUSSELL J. WATKINSFIELD, ESQ.,
HIS ATTORNEY:

You are hereby notified that defendant Eternity, Inc., and The Rubenold Company will file in the Circuit Court, City of St. Louis, Missouri, the removal petition and removal bond hereto attached, for the purpose of removing the said cause to the District Court of the United States for the Eastern Division of the Eastern Judicial District of Missouri. And you are further notified that the said defendants will, on Monday, February 4, 1935, at 5:00 o'clock A.M., or as soon thereafter as they may be heard, pray said Circuit Court, City of St. Louis, Missouri, to approve said bond and to accept the averments thereof and to order removal as prayed in said petition to said District Court of the United States for the Eastern Division of the Eastern Judicial District of Missouri.

ETERNITY, INC.; and THE RUBENOLD COMPANY,

By Allen Moore Chandler
Their Attorneys.

The undersigned plaintiff in the above cause hereby acknowledges that copy of the above notice, with copy of petition and bond for removal therein mentioned, was duly served upon him this day of February, 1935.

WILSON STILES
Plaintiff,

Russell J. Watkinsfield
His Attorney.

GAF 22317

STATE OF MISSOURI)
) ss
CITY OF ST. LOUIS)

IN THE CIRCUIT COURT - PROBATE DIVISION

ELMORE STILES;

Plaintiff,

vs. ELMORE

vs.

ETERNIT, INC., a corporation,
ETERNIT MILLS, a corporation,
THE RUBEROID COMPANY, a corporation,
and PAUL PESSON, an individual,

Div. No. 1

Defendants.)

PETITION OF ETERNIT, INC., AND THE RUBEROID COMPANY,
CORPORATIONS, FOR REMOVAL OF CAUSE TO UNITED STATES
DISTRICT COURT.

Now come Eternit, Inc., and The Ruberoid Company, defendants above named, and file their petition for the removal of the above entitled cause to the United States District Court in and for the Eastern Division of the Eastern Judicial District of Missouri; and respectfully show to the Court that this is a civil action at law, being a suit brought by the above named plaintiff against the above named defendants to recover for alleged injuries which plaintiff claims in said petition to have been caused by alleged negligence on the part of the above named defendants; that the plaintiff in said cause was at the time of the commencement of said suit and ever since has been and still is a citizen and resident of the State of Illinois; that Eternit, Inc., was at the time of the commencement of said suit and ever since has been and still is a corporation organized under the laws of the State of Delaware, a citizen and resident of said state; that The Ruberoid Company was at the time of the commencement of said suit and ever since has been and still is a corporation organized under the laws of the State of New Jersey, a citizen and resident of said state; that Eternit Mills, alleged in plaintiff's petition to be a corporation, is not now and never has been a corporation and is not and never has been a legal entity capable of suing or being sued and is merely the name

of a manufacturing plant of the Rubenold Company until to date, that it is
other manufacturing plants of said company; and that the value of the
dispute in said cause exceeds, exclusive of interest and costs, the sum of
value of Three Thousand Dollars (\$3,000.00).

Your petitioners further show to the Court that the defendant Paul
Beeson, who is a citizen and resident of the State of Missouri, was not joined
in good faith as a party defendant in said cause, but was fraudulently joined
by the plaintiff as a defendant in said cause for the purpose of fraudulently
defeating the jurisdiction of the District Court of the United States in said
cause and for the fraudulent purpose of preventing a removal of this cause to
the District Court of the United States; that the allegations contained in
paragraphs numbered 1 to 6, inclusive, in plaintiff's petition fail to state
facts constituting a cause of action against defendant Paul Beeson, because
said Paul Beeson was not at any time the employer of the plaintiff and such
allegations can be directed only against plaintiff's employer and master and
the negligence attempted to be alleged under said allegations against said
Paul Beeson is such as only plaintiff's master and employer could be liable
for; your petitioners further state that the allegations contained in paragraphs
numbered 7 and 8 in plaintiff's petition charging that said Paul Beeson, as
one of the defendants herein, negligently assured plaintiff that he would with
reasonable safety work under the conditions described and he negligently ordered
and directed plaintiff to keep clean the mill and the floor thereof with a house
broom, under the conditions described, are false and fraudulent and plaintiff
is without credible evidence to support such allegations and they are made solely
for the purpose of attempting to state a cause of action against said Paul
Beeson in an attempt to fraudulently prevent a removal of this case to the
District Court of the United States.

Your petitioners further state that the allegations in plaintiff's
petition to the effect that he was employed by all the defendants are false and
fraudulent; they state that plaintiff at no time was employed by defendant The
Rubenold Company, and likewise at no time was he employed by defendant Paul

Boesen and your petitioners state that defendant The Huberoid Company acquired the plant and property of defendant Eternit, Inc., after December, 1931, when plaintiff ceased employment, he having theretofore been employed by defendant Eternit, Inc.; your petitioners respectfully state and show to the Court that prior to January, 1933, the plant and factory where plaintiff worked was owned and operated by Eternit, Inc., and in January, 1933, The Huberoid Company, acquired said plant and factory, since which time it has operated the same; that even if plaintiff had been employed by defendant The Huberoid Company, which petitioners deny, it and defendant Eternit, Inc., would not be jointly liable to plaintiff; that joint liability cannot arise in favor of plaintiff against successive employers under the allegations in plaintiff's petition and there is a misjoinder of parties defendant in this case and there exists in this suit a separate and severable cause of action on which a separate and distinct suit might properly have been brought by plaintiff against defendant Eternit, Inc.; and complete relief afforded as to such cause of action with all the parties on one side of the controversy citizens of different states from those on the other side, the plaintiff in such suit being a citizen and resident of the State of Illinois and the defendant Eternit, Inc., being a corporation organized under the laws of the State of Delaware.

And your petitioners further show that the time within which they are required by the laws of the State of Missouri and by the rules of this Court to answer or plead in said cause has not yet expired.

And your petitioners offer herewith a bond of good and sufficient surety for their entering in the District Court of the United States for the Eastern Division of the Eastern Judicial District of Missouri within thirty days from the date of filing this petition, a certified copy of the record in this suit, and for paying all costs that may be awarded by said District Court if said Court shall hold that this cause was wrongfully or improperly removed thereto.

WHEREAS, your petitioners pray that they be
no further herein except to make the order of removal of said
to accept said surety and bond, and to cause the record to be
into said district Court of the United States.

By W. H. Hines
The Petitioner.

By W. H. Hines
The Agent.

Allen Moxon Pringle
Attorney for Petitioners.

STATE OF MISSOURI }
CITY OF ST. LOUIS } ss

A. E. Moser, being first duly sworn, on his oath says he is agent
and attorney for defendants Eternit, Inc., and The Eternit Company in this
behalf; that he has read the foregoing petition and knows the contents
thereof and the statements therein contained are true, as he verily believes.

Subscribed and sworn to before me, this 3rd day of January, 1935.
My commission expires Jan 30, 1936
William D. Seal
Notary Public.

FILED

FEB 1 - 1957

H. L. Hunt
CLARK

GAF 22322

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

IN THE CIRCUIT COURT - DECEMBER TERM - 1934.

EMORE STILES,

Plaintiff,

No. 21502

vs.

Div. No. 1

STERNIT, INC., a corporation,
STARNIT MILLS, a corporation,
THE RUBENOID COMPANY, a corporation,
and PAUL BEESON, an individual,

Defendants.)

APPLICATION OF DEFENDANT PAUL BEESON FOR A
DECRET.

Comes now Paul Beeson, one of the above named defendants, and respectfully shows the Court that he desires to take the depositions of witnesses who reside in Jersey County, in the State of Illinois; that heretofore, on, to-wit: the 24th day of January, 1935, this defendant served upon Russell J. Horsfield, Esq., attorney for plaintiff, a notice that depositions to be used in evidence in this case will be taken on behalf of defendant Paul Beeson at the office of F. A. DuRoi, Second Floor Elks' Building, located on the north side of West Pearl Street, between State Street and Washington Street, in Jerseyville, Jersey County, Illinois, on Wednesday, January 30, 1935.

WHEREFORE, this defendant prays the Court for a commission directed to any officer authorized by law to take depositions in the State of Illinois, for the purpose of taking said depositions.

Allen Thorne & Marsalis
Attorneys for Defendant Paul Beeson.

GAF 22323

FILED

[Handwritten signature]

60134320

67-23349-22

GAF 22325

of defendant, should have been with plaintiff for the removal of dust, generated and produced in said work, and that plaintiff stated that he was employed by all of the said defendants from the 1st day of July 1928, to December of 1931.

Plaintiff further states that said defendants were at all the times hereinafter mentioned engaged in a trade or process which subjected their employees and plaintiff to the danger and likelihood of contracting an illness or disease incident and peculiar to said work or process, to-wit: the manufacture, crushing, sawing, trimming, edging and loading into box cars of asbestos, vermiculite, magnesium silicate, aluminum, silica and other asbestos products; that the aforementioned operations generated and produced great quantities of injurious, poisonous and noxious dust, and that in said plant and mill and in and about the places where plaintiff was required to work, the atmosphere was charged with a minute, hot, dry dust, capable of being breathed into the air sacs of the lungs through the nose, throat and respiratory system, and that said dust caused chemical reaction and mechanical irritation of the respiratory tract and lungs and produced the diseases peculiar to the inhalation of said dust, namely dust bronchitis, peribronchitis, pneumoconiosis, asbestosis, pulmonary fibrosis, and other forms of respiratory diseases, all of which were peculiar to the inhalation of dust generated and produced in the aforementioned operations, and that said trade or process was especially dangerous to the health of plaintiff as provided by Section 13253 of the Revised Statutes of Missouri, 1929.

Plaintiff for his cause of action states that during all of his employment by the defendants he was ordered and directed to work in its plant and mill in the loading of box cars and in and around crushers, saws, edgers, trimmers, and other machines which generated and produced great quantities of the aforementioned dust; that he was required to clean the mill with a house broom and to sweep said dust, was required to sweep piles of shingles with a broom, which required great quantities

1. That the defendant in said trade or process, operated said machine, hose, nozzles, bitumen, chemicals, binders, which, while being used, caused vast quantities of dust, dry, hot dust to be emitted into the atmosphere and negligently and carelessly failed and refused to protect said dust with a hood, blanket or suction.

fan of sufficient power to carry off said dust, smoke and gases, all in violation of the law of the State of Missouri, then and there in full force and effect, being Revised Statutes of Missouri, 1929, Section 13254 being as follows:

"PREVENTION OF SMOKE, DUST AND GAS -- Every person, firm or corporation using any polishing wheel or machine of any character which generates dust, smoke or poisonous gases in its operation, shall provide each and every such wheel or machine with a hood which shall be connected with a blower or suction fan of sufficient power to carry off said dust, smoke and gases and prevent its inhalation by those employed about said wheel or machine ***."

2. That the defendants in the conduct of their said trade or process operated various hoppers, saws, and Sanders, which, while being operated, caused vast quantities of dust to be emitted into the atmosphere and did negligently and carelessly fail and omit to provide each and every said machine with a hood or covering, and an adequate and efficient apparatus or other proper devices for the purpose of drawing away from the employees noxious, poisonous or injurious dusts and preventing the employees from coming into unnecessary contact therewith, and negligently failed to provide covers or dampen said conveyors or receptacles, and negligently did fail to remove from the floor of said plant the dust and refuse of a dangerous character, all in violation of the law of the State of Missouri, then and there in full force and effect, being Revised Statutes of Missouri, 1929, Section 13262 which is as follows:

"HOPPERS, CRUTES, ETC. TO BE PROVIDED WITH COVERING. All hoppers or crutes or similar devices used in the course of any process or manufacture referred to in Section 13255 shall be provided with a hood or covering and an adequate and efficient apparatus or other proper device for the purpose of drawing away from the employees noxious, poisonous or injurious dusts, and preventing the employees from coming into unnecessary contact therewith; and all conveyances or receptacles used for the transportation about or the storage in any place where any such process or manufacture or labor referred to in Section 13255 is carried on, shall be properly covered or dampened in such a way as to protect the health of the employees, and no refuse of a dangerous character incident to the work or process carried on in any such place shall be allowed to remain accumulated on the floors thereof."

3. That the said work and manufacture which defendants were engaged in was a work which would produce illness or disease peculiar to the work or process carried on there, and that at the time of plaintiff's employment and for a long time prior thereto, there had been manufactured and in use approved and effective devices, means and methods which, when in use, would prevent the diseases aforesaid; that said approved and effective devices are as follows, to-wit: (1) respirators, masks and muzzles to be worn by the said employees, (2) dust preventing, dust collecting, dust removing and dust dampening machinery, appliances and apparatus (3) wet saws and water attachments to be placed upon dry saws, (4) natural ventilation, ventilating systems, air purifying and cooling apparatus, heat and humidity reducing appliances. Plaintiff further states that during the time of his employment the defendants failed and omitted to furnish all or any of the above described approved and effective devices, means or methods for the prevention of the diseases aforesaid, all in violation of the law of the State of Missouri, then and there in full force and effect, being Section 13252 of the Revised Statutes of the State of Missouri, 1929, which is as follows:

"EMPLOYER TO PROVIDE PROTECTION FROM DISEASES. That every employer of labor in this state engaged in carrying on any work, trade or process which may produce any illness or disease peculiar to the work or process carried on, or which subjects the employee the danger of illness or disease incident to such work, trade or process, to which employees are exposed, shall, for the protection of all employees engaged in such work, trade or process, adopt and provide approved and effective devices, means and methods for the prevention of such industrial or occupational diseases as are incident to such work, trade or process."

4. That the defendants negligently ordered and directed plaintiff to work in and about its plant where the atmosphere was fully charged with fine, minute, dry, hot particles of dust, capable of entering the air sacs of the lungs and negligently failed to provide for and place at the disposal of its employees, adequate and approved respirators, without cost to the employees, when said dust in which plaintiff was required to work was noxious, poisonous and injurious to the health when breathed into the body, all in violation of the law of the State of Missouri, then and there in full force and effect, being

Section 13253 of the Revised Statutes of Missouri, 1929,

which is as follows:

"EMPLOYERS TO BE EXAMINED MONTHLY BY PHYSICIAN. Every employer engaged in carrying on any process of manufacture referred to in section 13253 shall, as often as once every calendar month, cause all employees who come into direct contact with the poisonous agencies or injurious processes referred to in section 13253 to be examined by a competent, licensed and reputable physician for the purpose of ascertaining if there exists in any employee any industrial or occupational disease or illness or any disease or illness due or incident to the character of the work in which employee is engaged."

5. That the said work and process which defendants were engaged in was a trade or process which was especially dangerous to the health of plaintiff as provided by Section 13253 of the Revised Statutes of Missouri, and defendants negligently failed during plaintiff's employment to require him to be examined by a competent, licensed, reputable physician as often as once every calendar month for the purpose of ascertaining if there existed in plaintiff any industrial or occupational disease or illness peculiar or incident to the character of the work in which plaintiff was engaged, all in violation of the law of the State of Missouri, being Revised Statutes of Missouri, 1929, Section 13253 which is in words and figures as follows:

"EMPLOYERS TO BE EXAMINED MONTHLY BY PHYSICIAN. Every employer engaged in carrying on any process of manufacture referred to in section 13253 shall, as often as once every calendar month, cause all employees who come into direct contact with the poisonous agencies or injurious processes referred to in section 13253 to be examined by a competent, licensed and reputable physician for the purpose of ascertaining if there exists in any employee any industrial or occupational disease or illness or any disease or illness due or incident to the character of the work in which employee is engaged."

6. That the said work and process in which defendants were engaged was a work or process which was especially dangerous to the health of plaintiff, in that there was generated and produced great quantities of injurious, corrosive and poisonous dust containing asbestos, radioactive elements, silicon and other substances, and defendants

negligently failed to post in conspicuous place in its plant where such work and process was carried on, appropriate notices of the danger to the health of said employees, arising from the said work or process, and simple instructions as to the known means of avoiding the injurious consequences thereof, all in violation of the law of the State of Missouri, then and there in full force and effect being Section 13251 of the Revised Statutes of Missouri, 1929.

V. That the defendants negligently and carelessly assured plaintiff that he could with reasonable safety, work in its said plant where great quantities of obnoxious, poisonous asbestos dust was generated and produced, and which was breathed into his lungs and capable of entering the air sacs thereof, without danger to his health under the circumstances aforesaid, when the defendants knew, or by the exercise of ordinary care, could have known that the inhalation of silica dust was dangerous to the health of plaintiff, and if breathed into his lungs would cause and permit the development of diseases peculiar to the inhalation of said dust. All of which plaintiff says was directly due to and caused by the concurrent negligence of the defendants, directly and proximately producing and causing the development of plaintiff's illness and disease aforesaid.

8. That the defendants negligently ordered and directed plaintiff to clean said mill and the floor thereof, and piles of shingles therein with a house broom, and to sweep said dust and to create said dust in the air, which he was required to breathe, and negligently failed to dampen said dust, when the defendants knew, or by the exercise of ordinary care on their part could have known that the sweeping of said dust dry, with a house broom would create dust in the air where plaintiff was required to breathe, in such quantities as to be harmful, injurious and obnoxious, and knew, or by the exercise of ordinary care, could have known that it was practicable and feasible to dampen said dust with water or other means, and thus and thereby prevent the generation of said dust, thereby directly causing plaintiff's illness and disease.



GAF 22332

FILED
CITY OF SALT LAKE
JAN 11 1962

1962 JAN 11 3:04

H. Sam. C. [unclear]

210062

Series B
FEBRUARY 1962

210062

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

STATE OF MISSOURI,
City of St. Louis.

The State of Missouri,

In the County of St. Louis.

We command you to appear before the judges of our Circuit Court, on the first day of the next term of said court, to be held in the City of St. Louis, at the Civil Courts Building, 12th and Market Streets, on the first Monday of February, at ten o'clock in the forenoon, to answer the complaint of

ELMER STINE,
and there to answer the complaint of

as set forth in the annexed petition; and have you there this writ:

ELSAMER STINE

Witness my hand and seal, Clerk of our said Court, with the seal thereof hereunto affixed, at office in the City of St. Louis, this 17th day of January, 1934, in the year of our Lord, nineteen hundred and thirty-four.

H. Samer Stine, Clerk

(SEAL)

I acknowledge myself bound for all costs that have accrued or may accrue in the case of

against

Witness my hand and seal at St. Louis, this day of

1934.

(SEAL)

Approved

this day of 1934
Clerk

18 January
B. Trampe (Sect.)

Thos R Madden
Carl Glass

3
The Rubberoid Company
18 January 35
B. Trampe (Sect.)

8
Thos R Madden
Carl Glass

18 January 35
Paul Benson

Thos R Madden
Carl Glass

Eternit Mills, a Corporation
Thos R Madden
A. Harrison

3 450
1 100
5.50

STATE OF MISSOURI, }
CITY OF ST. LOUIS. } ss.

BE IT REMEMBERED, that heretofore, to-wit:
on the sixteenth day of January, Nineteen Hundred and thirty-
fifth, there was filed in the office of the Clerk of the Circuit
Court of the City of St. Louis, within and for the City and
State aforesaid, a petition in cause No. 210002, Series "B"
of the causes in said Court, wherein Elmore Stiles, is plaintiff
and Eternit, Inc., a corporation, Starnit Mills, a corporation,
The Huberoid Company, a corporation, and Paul Beeson, an
individual, are defendants.

The said petition is in words and figures,
as follows, to-wit:

(copy petition #1)

Upon the filing of said petition writ
of summons for service upon the defendants was issued by the
Clerk of said Court, directed to the Sheriff of the City of
St. Louis, which writ of summons and Sheriff's returns thereon
are respectively in words and figures, as follows, to-wit:

(copy writ #2, return #3)

And at the December Term, 1934, the following
further proceedings were had in said cause, to-wit:

(book 536 page 75)

The said application of defendant Paul
Beeson for a delinquent is in words and figures, as follows, to-wit:

(copy application #4)

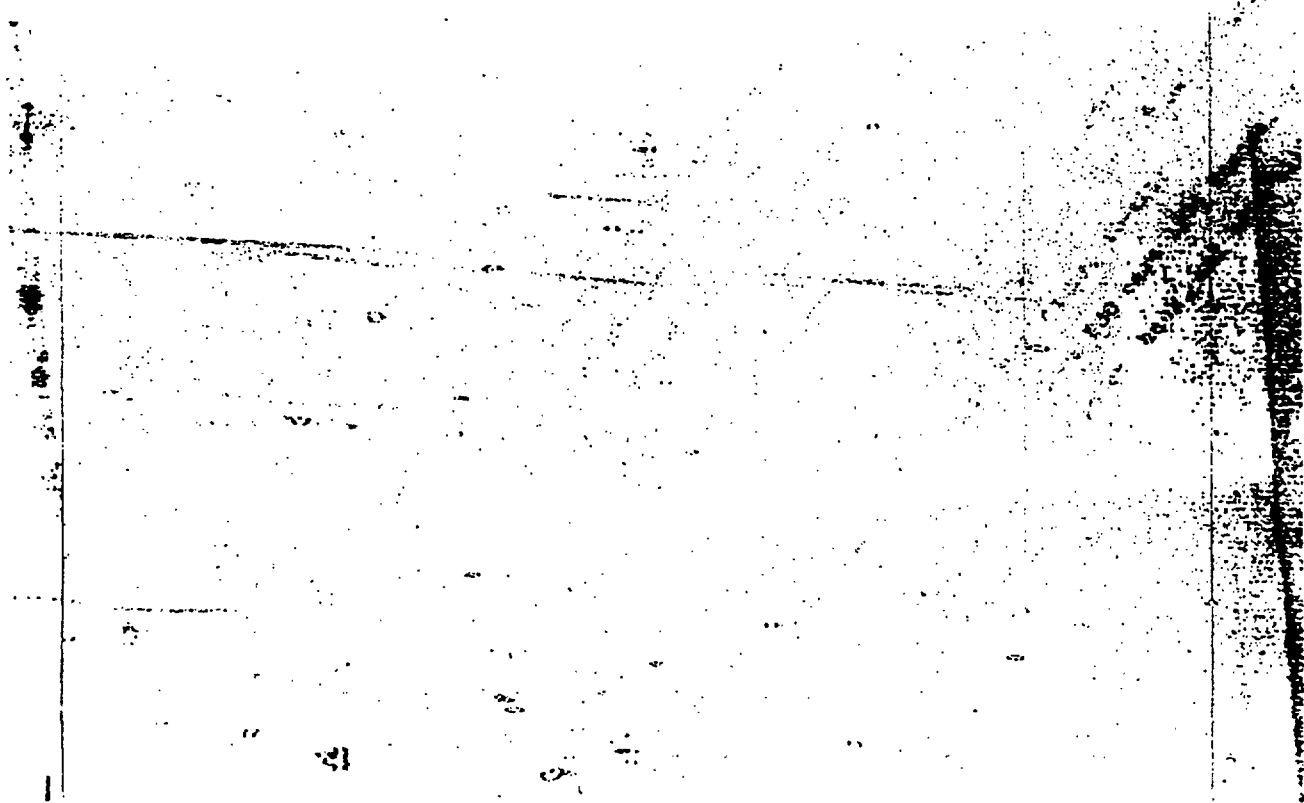
And at the December Term, 1934, the
following further proceedings were had in said cause, to-wit:

(book 536 page 128)

1

1

1



GAF 22337

RECEIVED MAY 1934
FEDERAL U. S. COURT

Elmore Stiles,

Plaintiff,

vs.

Sternit, Inc., a corporation,
et al.,

Defendants.

Russell J. Morsefield,

Atty for Plff.

Allen, Foster & Marsalek,

Attorneys for Defendants,
and Russell J. Morsefield, Plaintiff.

Program

No. 210032 Room 1

Hon. Clyde C. Beck, Judge

Compt. C. S.

Compt. by 1/1

Compt. Cont.

4/10/34
1934
1934
1934

210062 B

TAXED

TAXED FEB - 8 1935

WITNESSES					
				Prison	1355
				Clerk	
				Sheriff Madden	1 yr.
				"	2 yr.
				Sheriff Strode	1 yr.
				"	2 yr.
				"	3 yr.
				"	4 yr.
				Scholar	
				Stenographer	
				Jury	
				Attorney	3.00
				Plaintiff	
				Defendant	
				Witness, Plaintiff	
				Witness, Defendant	
				Notary	
				Referee	
				Spec. Comm'r.	
				Steno.	
					22339

GAF 22339

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

To all to whom these presents shall come. Greeting:

By virtue of the authority vested in me by the Archivist of the United States, I certify on his behalf, under the seal of the National Archives of the United States, that the attached reproduction(s) is a true and correct copy of documents in his custody.



SIGNATURE	
<i>Mark Corrison</i>	
NAME	DATE
Mark Corrison	12/8/93
TITLE	
Assistant Director	
NAME AND ADDRESS OF DEPOSITORY	
National Archives-Central Plains Region 2312 East Bannister Road Kansas City, Missouri 64131	

NA FORM APR 85 1407

GAF 22340

No. 13317

Div. No. 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DIVISION OF THE
EASTERN JUDICIAL DISTRICT OF MISSOURI.
MARCH TERM, 1936.

EMORE STILES,

Plaintiff,

vs.

ETERNIT, INC., a corporation,
ETERNIT MILLS, a corporation,
THE RUSSELL COMPANY, a corporation,
and PAUL BEESON, an individual,
Defendants.

STIPULATION FOR DISMISSAL.

JUN 27 1936

for E.D. Emerson

01742

GAF 22341

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DIVISION
OF THE EASTERN JUDICIAL DISTRICT OF MISSOURI.
MARCH TERM, 1935.

ELMORE STILES,

Plaintiff,

No. 11317

vs.

ETERNIT, INC., a corporation,
ETERNIT MILLS, a corporation,
THE RUBEROID COMPANY, a corporation,
and PAUL BEESON, an individual,

Div. No. 1

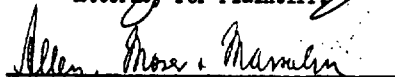
Defendants.

STIPULATION FOR DISMISSAL.

All of the matters and things in controversy in the above entitled cause having been adjusted, compromised and finally settled, it is hereby stipulated and agreed, by and between the above named plaintiff and defendants Eternit, Inc., The Ruberoid Company and Paul Beeson, that this cause shall be dismissed with prejudice to any other or future action on account of the matters and things contained and set forth in plaintiff's petition, and that Court costs shall be paid by defendants Eternit, Inc., and The Ruberoid Company.

Witness our hands, at St. Louis, Missouri, this 21 day of June, 1935.


Attorney for Plaintiff.


Attorneys for Defendants Eternit,
Inc., The Ruberoid Company and Paul
Beeson.

11317

I N D E X

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STATE OF MISSOURI)
CITY OF ST. LOUIS) SS.

BE IT REMEMBERED, that heretofore, to-wit: on the
sixteenth day of January, Nineteen Hundred and Thirty-five,
there was filed in the office of the Clerk of the Circuit
Court of the City of St. Louis, within and for the City and
State aforesaid, a petition in cause No. 210062, Series "B"
of the causes in said Court, wherein Elmore Stiles, is plaintiff
and Eternit, Inc., a corporation, Eternit Mills, a corporation,
The Ruberoid Company, a corporation, and Paul Beeson, an individual
are defendants.

The said petition is in words and figures as follows,
to-wit:

STATE OF MISSOURI)
CITY OF ST. LOUIS) SS.

IN THE CIRCUIT COURT WITHIN AND FOR THE CITY OF
ST. LOUIS, STATE OF MISSOURI.

FEBRUARY TERM - 1935.

ELMORE STILES,)
Plaintiff,)
vs.)
ETERNIT, INC., a corporation)
ETERNIT MILLS, a corporation,)
THE RUBEROID COMPANY, a corporation)
9215 Riverview Drive, and)
PAUL BEESON, an individual,)
5332 Goodfellow Avenue,)
Defendants.)

11317

PETITION

Plaintiff states that the defendants, Eternit, Inc., Eternit
Mills, and the Ruberoid Company are now and were at all the times
heretofore mentioned corporations doing business in the City of
St. Louis, in the State of Missouri, and licensed to do business
as corporations in the State of Missouri, and liable to sue under

the laws of the said state, and to be sued under the laws of said state; that the defendant, Paul Beeson, was at all the times herein mentioned, an individual charged by the defendant corporations, particularly the Ruberoid Company, with the following duties as their employee, and that he entered into the performance of said duties in obedience to the orders of said corporate defendants (1) of determining under what conditions plaintiff should be provided with an adequate and approved respirator, in order to protect him from the dust herein mentioned, (2) of determining, equipping, and placing in operation dust ventilating equipment, dust removers, and other dust removal equipment in said plant for the purpose of removing the dust from the atmosphere, which plaintiff was required to breathe in the performance of his duties for said defendant corporations, (3) of warning plaintiff of the danger of working in an atmosphere charged with dust containing the aforementioned poisonous and injurious qualities (4) of determining when equipment in said plant, machines, saws, edgers, trimmers, should be equipped with blowers and hoods and suction fans for the removal of dust, generated and produced by said machines. Plaintiff states that he was employed by all of the said defendants from the 29th day of July 1928, to December of 1931.

Plaintiff further states that said defendants were at all the times hereinafter mentioned engaged in a trade or process which subjected their employees and plaintiff to the danger and likelihood of contracting an illness or disease incident and peculiar to said work or process, to wit: the manufacture, crushing, sawing, trimming, edging and loading into box cars of asbestos, vermiculite, magnesium silicate, aluminum, silica and other asbestos products; that the aforementioned operations generated and produced great quantities of injurious, poisonous and noxious dust, and that in said plant and mill and in and about the places where plaintiff was required to work, the atmosphere was charged with a minute, not, dry dust, capable of being breathed into the air sacs or the lungs through the nose, throat and respiratory system and that said dust caused

chemical reaction and mechanical irritation of the respiratory tract and lungs and produced the diseases peculiar to the inhalation of said dust, namely dust bronchitis, perioronchitis, pneumoconiosis, asbestosis, pulmonary fibrosis, and other forms of respiratory diseases, all of which were peculiar to the inhalation of dust generated and produced in the aforementioned operations, and that said trade or process was especially dangerous to the health of plaintiff as provided by Section 13233 of the Revised Statutes of Missouri, 1929.

Plaintiff for his cause of action states that during all of his employment by the defendants he was ordered and directed to work in its plant and mill in the loading of box cars and in and around crushers, saws, edgers, trimmers, and other machines which generated and produced great quantities of the aforementioned dust; that he was required to clean the mill with a house broom and to sweep said dust, was required to sweep piles of shingles with a broom, which required great quantities of said dust to be thrown into the atmosphere, and to work in and about its plant and mill where the atmosphere was fully charged with the aforementioned minute, dry, hot, dust containing magnesium silicate, sericite, and other relatively insoluble dusts, which was poisonous, injurious, and obnoxious; that plaintiff inhaled great quantities of said dust which irritated and destroyed the mucous membrane of the nose and throat entered the air sacs of the lungs and gradually produced a pulmonary fibrosis, causing the development of lesions in the lungs, destroying the vital capacity and elasticity of the lungs, rendering plaintiff short of breath, subject to coughing, subject to pains in the chest due to inflammation, productive of pleuritic adhesions and diaphragmatic adhesions, rendering plaintiff subject to the development of tuberculosis and other forms of respiratory diseases; that plaintiff has lost weight, lost his physical vitality, has difficulty in breathing, and that said conditions are permanent, progressive, incurable and fatal; that plaintiff has expended for medical treatment in the X-ray, diagnosis, and observation of his condition to the date of this petition, One Hundred and Fifty Dollars, and will be required in the future to expend additional sums of money in order to properly treat

and care for his said illness and disease; that plaintiff as a direct result of the inhalation of said dust aforesaid, is suffering from asbestosis, bronchitis, pulmonary fibrosis and tuberculosis; that said fibrosis and tuberculosis has produced epigastric disturbances, as a result of which plaintiff has lost a great deal of weight, and is permanently and totally disabled from the performance of any work. All of which plaintiff says was peculiar to and incident to the inhalation of said dust, and directly due to and caused by the joint, and concurrent negligence of the defendants, in this, to wit:

1. That the defendants in said trade or process, operated various machines, saws, edgers, trimmers, crushers, sanders, which, while being operated, caused vast quantities of fine, dry, hot dust to be emitted into the atmosphere and negligently and carelessly failed and omitted to provide each and every machine with a hood blower or suction of sufficient power to carry off said dust and prevent its inhalation by the plaintiff, and other employees, all in violation of the law of the State of Missouri, then and there in full force and effect, being Revised Statutes of Missouri, 1929, Section 13234 being as follows:

"PREVENTION OF SMOKE, DUST AND GAS --Every person, firm or corporation using any polishing wheel or machine of any character which generates dust, smoke or poisonous gases in its operation, shall provide each and every such wheel or machine with a hood which shall be connected with a blower or suction fan of sufficient power to carry off said dust, smoke and gases and prevent its inhalation by those employed about said wheel or machine ***."

2. That the defendants in the conduct of their said trade or process operated various hoppers, saws and sanders, which, while being operated, caused vast quantities of dust to be emitted into the atmosphere and did negligently and carelessly fail and omit to provide each and every said machine with a hood or covering, and an adequate and efficient apparatus or other proper devices for the purpose of drawing away from the employees noxious, poisonous or injurious dusts and preventing the employees from coming into unnecessary contact therewith, and negligently failed to provide

covers or dampen said conveyors or receptacles, and negligently
did fail to remove from the floor of said plant the dust and
refuse of a dangerous character, all in violation of the law of the
State of Missouri, then and there in full force and effect, being
Revised Statutes of Missouri, 1929, Section 13262 which is as follows:

"HOPPERS, CHUTES, ETC. TO BE PROVIDED WITH COVERING.
All hoppers or chutes or similar devices used in the
course of any process or manufacture referred to in
Section 13253 shall be provided with a hood or
covering and an adequate and efficient apparatus or
other proper device for the purpose of drawing away
from the employees noxious, poisonous or injurious
dusts, and preventing the employees from coming into
unnecessary contact therewith; and all conveyances or
receptacles used for the transportation about or the
storage in any place where any such process or manufacture
or labor referred to in Section 13253 is carried on, shall
be properly covered or dampened in such a way as to
protect the health of the employees, and no refuse of a
dangerous character incident to the work or process
carried on in any such place shall be allowed to remain
accumulated on the floors thereof."

3. That the said work and manufacture which defendants
were engaged in was a work which would produce illness or disease
peculiar to the work or process carried on there, and that at the
time of plaintiff's employment and for a long time prior thereto,
there had been manufactured and in use approved and effective devices,
means and methods which, when in use, would prevent the diseases
aforesaid; that said approved and effective devices are as follows,
to wit: (1) respirators, masks and muzzles to be worn by the said
employees, (2) dust preventing, dust collecting, dust removing and
dust dampening machinery, appliances and apparatus (3) wet saws and
water attachments to be placed upon dry saws, (4) natural ventilation,
ventilating systems, air purifying and cooling apparatus, heat and
humidity reducing appliances. Plaintiff further states that during
the time of his employment the defendants failed and omitted to
furnish all or any of the above described approved and effective
devices, means or methods for the prevention of the diseases aforesaid,
all in violation of the law of the State of Missouri, then and there in
full force and effect, being Section 13262 of the Revised Statutes of
the State of Missouri, 1929, which is as follows:

GAF 22348

"EMPLOYER TO PROVIDE PROTECTION FROM DISEASES.

That every employer of labor in this state engaged in carrying on any work, trade or process which may produce any illness or disease peculiar to the work or process carried on, or which subjects the employee the danger of illness or disease incident to such work, trade or process, to which employees are exposed, shall for the protection of all employees engaged in such work, trade or process, adopt and provide approved and effective devices, means and methods for the prevention of such industrial or occupational diseases as are incident to such work, trade or process."

4. That the defendants negligently ordered and directed plaintiff to work in and about its plant where the atmosphere was fully charged with fine, minute, dry, hot particles or dust, capable of entering the air sacs or the lungs and negligently failed to provide for and place at the disposal of its employees, adequate and approved respirators, without cost to the employees, when said dust in which plaintiff was required to work was noxious, poisonous and injurious to the health when breathed into the body, all in violation of the law of the State of Missouri, then and there in full force and effect, being Section 13254 of the Revised Statutes of the State of Missouri, 1929, which is as follows:

"EMPLOYEES TO BE FURNISHED WITH CLOTHING - RESPIRATORS TO BE USED WHILE AT WORK -- Every employer in this state to which this article applies shall provide for and place at the disposal of the employees so engaged, and shall maintain in good condition and without cost to the employees, working clothes to be kept and used exclusively by such employees while at work, and all employees therein shall be required at all times while they are at work to use and wear such clothing; and in all processes or manufacture or labor referred to in this section which are productive or noxious or poisonous dusts, adequate and approved respirators shall be furnished and maintained by the employer in good condition and without cost to the employees, and such employees shall use such respirators at all times while engaged in any work productive or noxious or poisonous dusts."

5. That the said work and process which defendants were engaged in was a trade or process which was especially dangerous to the health of plaintiff as provided by Section 13253 of the Revised Statutes of Missouri, and defendants negligently failed during plaintiff's employment to require him to be examined by a competent, licensed, reputable physician as often as once every calendar month for the purpose of ascertaining if there existed in plaintiff any industrial or occupational disease or illness peculiar or incident to the character

of the work in which plaintiff was engaged, all in violation of the law of the State of Missouri, being Revised Statutes of Missouri, 1929, Section 13253 which is in words and figures as follows:

"EMPLOYEES TO BE EXAMINED MONTHLY BY PHYSICIAN. Every employer engaged in carrying on any process or manufacture referred to in section 13253 shall, as often as once every calendar month, cause all employees who come into direct contact with the poisonous agencies or injurious processes referred to in section 13253 to be examined by a competent, licensed and reputable physician for the purpose of ascertaining if there exists in any employee any industrial or occupational disease or illness or any disease or illness due or incident to the character or the work in which employee is engaged".

6. That the said work and process in which defendants were engaged was a work or process which was especially dangerous to the health of plaintiff, in that there was generated and produced great quantities of injurious, obnoxious and poisonous dust containing asbestos, magnesium silicate, silica and other substances, and defendants negligently failed to post in conspicuous places in its said plant where such work and process was carried on, appropriate notices of the known danger to the health of said employees, arising from the said work or process, and simple instructions as to the known means of avoiding the injurious consequences thereof, all in violation of the law of the State of Missouri, then and there in full force and effect being Section 13254 of the Revised Statutes of Missouri, 1929.

7. That the defendants negligently and carelessly assured plaintiff that he could with reasonable safety, work in its said plant where great quantities of obnoxious, poisonous asbestos dust was generated and produced, and which was breathed into his lungs and capable of entering the air sacs thereof, without danger to his health under the circumstances aforesaid, when the defendants knew, or by the exercise of ordinary care, could have known that the inhalation of silica dust was dangerous to the

health of plaintiff, and if breathed in to his lungs would cause and permit the development of diseases peculiar to the inhalation of said dust. All of which plaintiff says was directly due to and caused by the concurrent negligence of the defendants, directly and proximately producing and causing the development of plaintiff's illness and disease aforementioned.

8. That the defendants negligently ordered and directed plaintiff to clean said mill and the floor thereof, and piles or shingles therein with a house broom, and to sweep said dust and to create said dust in the air, which he was required to breathe, and negligently failed to dampen said dust, when the defendants knew, or by the exercise of ordinary care on their part could have known that the sweeping of said dust dry, with a house broom would create dust in the air where plaintiff was required to breathe, in such quantities as to be harmful, injurious and obnoxious, and knew, or by the exercise of ordinary care, could have known that it was practicable and reasonable to dampen said dust with water or other means, and thus and thereby prevent the generation of said dust, thereby directly causing plaintiff's illness and disease.

WHEREFORE, plaintiff says he has been damaged in the sum of Thirty Thousand Dollars (\$30,000) for which sum he prays judgment against the defendants, together with his costs.

RUSSELL J. HORSEFIELD
Attorney for Plaintiff

Upon the filing of said petition writ or summons for service upon the defendants was issued by the Clerk of said Court, directed to the Sheriff of the City of St. Louis, which writ or summons and Sheriff's returns thereon are respectively in words and figures, as follows, to wit:

GAF 22351

STATE OF MISSOURI)
City of St. Louis) ss.

THE STATE OF MISSOURI,

To the Sheriff of the City of St. Louis--Greeting:

We command you to summon:- ETERNIT, INC., a corporation ETERNIT
MILLS, a corporation, THE RUBEROID COMPANY, a corporation, and
PAUL BEESON, an individual, to appear before the Judges of our
Circuit Court, on the first day of the next term thereof, to be held
in the City of St. Louis, at the Civil Courts Building, 12th and
Market Streets, on the First Monday or Feb. next, then and there
to answer the complaint of Elmore Stiles, as set forth in the
annexed petition; and have you then and there this writ:

Witness H. SAM PRIEST, Clerk of our said
Court, with the seal thereof hereto affix-
ed, at office in the City of St. Louis, this
17th day of January, in the year of our
Lord, nineteen hundred and thirty-five.

(SEAL)

H. SAM PRIEST, Clerk

Served this writ in the City of St. Louis, Missouri, on the
within named defendant the Eternit Inc., (a Corporation), this 18 day
of January, 1935 by delivering a copy of the writ and petition as
furnished by the Clerk to E. Trampe (Sect) of the said defendant
Corporation, he being in said defendants usual business office and
in charge thereof. The President or other Chief Officer of said
Defendant could not be found in the City of St. Louis, at the time
of service.

THOS. R. MADSEN, Sheriff

By CARL GLASS, Deputy

GAF 22352

I further served this writ in the City of St. Louis, Missouri, on the within named defendant The Rubberoid Company (a Corporation), this 18 day of January, 1935, by delivering a copy of the writ as furnished by the Clerk to E. Trampe (Sect.) of the said defendant Corporation, he being in said defendants usual business office and in charge thereof. The President or other Chief Officer of said Defendant could not be found in the City of St. Louis at the time of service.

THOS. R. MADDEN, Sheriff

By CARL GLASS, Deputy

I further executed this writ in the City of St. Louis, Missouri, this 18 day of January, 1935, by delivering a copy of the writ as furnished by the Clerk to Paul Beeson, defendant herein.

THOS R. MADDEN, Sheriff

By CARL GLASS, Deputy

After due and diligent search, the within named defendant Eternit Mills, a Corporation, cannot be found in the City of St. Louis, Mo.

THOS. R. MADDEN, Sheriff

A. NOONAN, Deputy

Fees:	To	3	service, \$4.50
	To	1	non est, \$1.00
	To		miles, \$
	Total		\$6.50

And at the December Term, 1934, the following further proceedings were had in said cause, to-wit:

GAF 22353

Friday, January 25th, 1935.

Elmore Stiles,)
-vs-210062-B)
Eternit, Inc., et al.)

Upon consideration of the application of defendant Paul Beeson, for a dedimus, this day filed, it is ordered by the Court that a dedimus issue to the State of Illinois, to take depositions on behalf of defendant Paul Beeson.

- - -

The said application of defendant Paul Beeson for a dedimus is in words and figures, as follows, to wit:

STATE OF MISSOURI)
)SS.
CITY OF ST. LOUIS)

IN THE CIRCUIT COURT - DECEMBER TERM - 1934.

ELMORE STILES,	)	
Plaintiff,	)	
vs.	)	No. 210062
ETERNIT, INC., a corporation	)	
ETERNIT MILLS, a corporation,	)	
THE RUBEROID COMPANY, a corporation,	)	Div. No. 1.
and PAUL BEESON, an individual,	)	
Defendants.	)	

APPLICATION OF DEFENDANT PAUL BEESON FOR A DEDIMUS.

Comes now Paul Beeson, one of the above named defendants, and respectfully shows the Court that he desires to take the depositions of witnesses who reside in Jersey County, in the State of Illinois; that heretofore, on, to wit: the 24th day of January, 1935, this defendant served upon Russell J. Horserield, Esq., attorney for plaintiff, a notice that depositions to be used in evidence in this

case will be taken on behalf of defendant Paul Beeson at the office of F. A. DuHadway, Second Floor Elks' Building, located on the north side of West Pearl Street, between State Street and Washington Street, in Jerseyville, Jersey County, Illinois, on Wednesday, January 30, 1935.

WHEREFORE, this defendant prays the Court for a commission directed to any officer authorized by law to take depositions in the State of Illinois, for the purpose of taking said depositions.

Allen, Moser & Marsalek
Attorneys for Defendant Paul Beeson.

And at the December Term, 1934, the following further proceedings were had in said cause, to-wit:

Friday, February 1st, 1935.

Elmore Stiles,)
-vs-210062-B)
Eternit, Inc., et al.)

Notice, petition and bond of defendants Eternit, Inc., and The Ruberoid Company, for removal, filed.

The said notice, petition, and bond of defendants Eternit, Inc., a corporation and The Ruberoid Company, a corporation for removal of this cause to the District Court of the United States for the Eastern Division of the Eastern Judicial District of Missouri, are respectively in words and figures, as follows, to-wit:

STATE OF MISSOURI }
CITY OF ST. LOUIS } SS.

IN THE CIRCUIT COURT - FEBRUARY TERM -1935.

ELMORE STILES,	)	
Plaintiff,	)	No.210062
vs.	)	
ETERNIT, INC., a corporation,	)	
ETERNIT MILLS, a corporation,	)	Div. No. 1
THE RUBEROID COMPANY, a corporation	)	
and PAUL BEESON, an individual,	)	
Defendants.	)	

NOTICE OF REMOVAL PETITION.

TO THE ABOVE NAMED PLAINTIFF, ELMORE STILES, OR RUSSELL J. HORSEFIELD, ESQ., HIS ATTORNEY:

You are hereby notified that defendants Eternit, Inc., and The Ruberoid Company will file in the Circuit Court, City of St. Louis, Missouri, the removal petition and removal bond hereto attached, for the purpose of removing the said cause to the District Court of the United States for the Eastern Division or the Eastern Judicial District of Missouri. And you are further notified that the said defendants will, on Monday, February 4, 1935, at 9:30 o'clock A.M., or as soon thereafter as they may be heard, pray said Circuit Court, City of St. Louis, Missouri, to approve said bond and to accept the surety thereof and to order removal as prayed in said petition to said District Court or the United States for the Eastern Division or the Eastern Judicial District of Missouri.

ETERNIT, INC., and THE RUBEROID COMPANY,

By ALLEN, MOSER & MARSALEK
Their Attorneys.

The undersigned plaintiff in the above cause hereby acknowledges that copy of the above notice, with copy of petition and bond for removal therein mentioned, was duly served upon him this 1 day of February, 1935.

ELMORE STILES
Plaintiff

By RUSSELL HORSEFIELD
His Attorney.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DIVISION
OF THE EASTERN JUDICIAL DISTRICT OF MISSOURI.
SEPTEMBER TERM, 1934.

ELMORE STILES,

Plaintiff,

No.

vs.

11317

ETERNIT, INC., a corporation,
ETERNIT MILLS, a corporation,
THE RUBEROID COMPANY, a corporation,
and PAUL BEESON, an individual,

Div. No.

Defendants.)

SEPARATE ANSWER OF DEFENDANT THE RUBEROID
COMPANY.

Now comes The Ruberoid Company, one of the above named defendants,
and, for its separate answer to plaintiff's petition filed herein,
denies each and every allegation in said petition contained and set
forth.

WHEREFORE, having fully answered, this defendant prays to be
hence discharged with its costs.

Allen, Moore, Mairles
Attorneys for Defendant The Ruberoid
Company.

GAF 22357

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DIVISION
OF THE EASTERN JUDICIAL DISTRICT OF MISSOURI.
SEPTEMBER TERM, 1934.

ELMORE STILES, ^{ch}

Plaintiff,)

No.

11317

vs.)

ETERN IT, INC., a corporation,
ETERN IT MILLS, a corporation,
THE RUBEROID COMPANY, a corporation,
and PAUL BEESON, an individual,

Div. No.

Defendants.)

SEPARATE ANSWER OF DEFENDANT THE RUBEROID
COMPANY.

FEB 14 1935

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DIVISION
OF THE EASTERN JUDICIAL DISTRICT OF MISSOURI.
SEPTEMBER TERM, 1934.

ELMORE STILES,

Plaintiff,

No.

11817

vs.

ETERNIT, INC., a corporation,
ETERNIT MILLS, a corporation,
THE RUBEROID COMPANY, a corporation,
and PAUL BEESON, an individual,

Div. No.

Defendants.)

SEPARATE ANSWER OF DEFENDANT PAUL BEESON.

Now comes Paul Beeson, one of the above named defendants,
and, for his separate answer to plaintiff's petition filed herein,
denies each and every allegation in said petition contained and set
forth.

WHEREFORE, having fully answered, this defendant prays to
be hence discharged with his costs.

Allen Morris Marshall
Attorneys for Defendant Paul Beeson.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DIVISION
OF THE EASTERN JUDICIAL DISTRICT OF MISSOURI.
SEPTEMBER TERM, 1934.

ELMORE STILES,

Plaintiff,

No.

11317

vs.

ETERNIT, INC., a corporation,
ETERNIT MILLS, a corporation,
THE RUBEROID COMPANY, a corporation,
and PAUL BEESON, an individual,

Div. No.

Defendants.)

SEPARATE ANSWER OF DEFENDANT PAUL BEESON.

FEB 14 1935

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DIVISION
OF THE EASTERN JUDICIAL DISTRICT OF MISSOURI.
SEPTEMBER TERM, 1934.

ELMORE STILES,

Plaintiff,

No.

vs.

11317

ETERNIT, INC., a corporation,
ETERNIT MILLS, a corporation,
THE RUBEROID COMPANY, a corporation,
and PAUL BEESON, an individual,

Div. No.

Defendants.)

SEPARATE ANSWER OF DEFENDANT ETERNIT, INC.

Now comes Eternit, Inc., one of the above named defendants,
and, for its separate answer to plaintiff's petition filed herein,
denies each and every allegation in said petition contained and set
forth.

WHEREFORE, having fully answered, this defendant prays to be
hence discharged with its costs.

Allen More & Associates
Attorneys for Defendant Eternit,
Inc.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DIVISION
OF THE EASTERN JUDICIAL DISTRICT OF MISSOURI.
SEPTEMBER TERM, 1934.

ELMORE STILES, ..

Plaintiff,)

No.

11317

vs.

ETERNIT, INC., a corporation,
ETERNIT MILLS, a corporation,
THE RUBEROID COMPANY, a corporation,
and PAUL BEESON, an individual,

Div. No.

Defendants.)

SEPARATE ANSWER OF DEFENDANT ETERNIT, INC.

10
FEB 14 1935

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DIVISION
OF THE EASTERN JUDICIAL DISTRICT OF MISSOURI.
SEPTEMBER TERM, 1934.

ELMORE STILES,

Plaintiff,

No.

11317

vs.

ETERNIT, INC., a corporation,
ETERNIT MILLS, a corporation,
THE RUBEROID COMPANY, a corporation,
and PAUL BEESON, an individual,

Div. No.

Defendants.)

MOTION OF DEFENDANTS ETERNIT, INC., AND THE RUBEROID
COMPANY TO REQUIRE PLAINTIFF TO GIVE SECURITY FOR
COURT COSTS.

Now come defendants Eternit, Inc., and The Ruberoid Company and respectfully show to the Court that this is an action for damages brought by plaintiff against defendants on account of alleged injuries, illness and disease which he claims to have sustained through alleged negligence of defendants.

These defendants further respectfully show to the Court that plaintiff has failed to give security for Court costs which will accrue in this action.

WHEREFORE, the premises considered, these defendants move that the Court require plaintiff to give ample security for costs which may accrue in this action.

Allen, Moss & Mandel
Attorneys for Defendants Eternit, Inc.,
and The Ruberoid Company.

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

W. E. Moser, of lawful age, being duly sworn on his oath, states that he is one of the attorneys for defendants Eternit, Inc., and The Ruberoid Company and authorized to make this affidavit in their behalf; that he has read the foregoing motion, knows the contents thereof and that the facts and averments therein contained are true, as he verily believes.

W. E. Moser
Subscribed and sworn to before me, this 24 day of February, 1935.
My commission expires Nov. 20 1938.

Julian O. Darnell
Notary Public.

Copy of the above motion mailed to Russell J. Horsefield, attorney for plaintiff, this 14 day of February, 1935.

GAF 22363

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DIVISION
OF THE EASTERN JUDICIAL DISTRICT OF MISSOURI.
SEPTEMBER TERM, 1934.

ELMORE STILES, Plaintiff,

Plaintiff,

No.

11317

vs. ETERNIT, INC., a corporation,
ETERNIT MILLS, a corporation,
THE RUBEROID COMPANY, a corporation,
and PAUL BEESON, an individual,

Div. No.

Defendants.)

MOTION OF DEFENDANTS ETERNIT, INC., AND THE RUBEROID
COMPANY TO REQUIRE PLAINTIFF TO GIVE SECURITY FOR
COURT COSTS.

FILED
FEB 14 1935

FILED
FEB 14 1935

STATE OF MISSOURI }
CITY OF ST. LOUIS } ss.

IN THE CIRCUIT COURT - FEBRUARY TERM - 1935.

ELMORE STILES,	)	
Plaintiff,	)	No. 210062.
vs.	)	
ETERNIT, INC., a corporation,	)	
ETERNIT MILLS, a corporation,	)	
THE RUBEROID COMPANY, a corporation,	)	Div. No. 1.
and PAUL BEESON, an individual,	)	
Defendants.	)	

PETITION OF ETERNIT, INC., AND THE RUBEROID COMPANY,
CORPORATIONS, FOR REMOVAL OF CAUSE TO UNITED STATES
DISTRICT COURT.

Now come Eternit, Inc., and The Ruberoid Company, defendants,
above named, and file their petition for the removal of the above
entitled cause to the United States District Court in and for the
Eastern Division or the Eastern Judicial District of Missouri, and
respectfully show to the Court that this is a civil action at law,
being a suit brought by the above named plaintiff against the above
named defendants to recover for alleged injuries which plaintiff
claims in said petition to have been caused by alleged negligence
on the part of the above named defendants; that the plaintiff in
said cause was at the time of the commence^{ment} of said suit and ever since
has been and still is a citizen and resident of the State of Illinois;
that Eternit, Inc., was at the time of the commencement of said suit
and ever since has been and still is a corporation organized under
the laws of the State of Delaware, a citizen and resident of said
state; that The Ruberoid Company was at the time of the commencement
of said suit and ever since has been and still is a corporation
organized under the laws of the State of New Jersey, a citizen and

resident of said state; that Eternit Mills, alleged in plaintiff's petition to be a corporation, is not now and never has been a corporation and is not and never has been a legal entity capable of suing or being sued and is merely the name of a manufacturing plant of The Ruberoid Company used to distinguish it from other manufacturing plants of said company; and that the matter and amount in dispute in said cause exceeds, exclusive of interest and costs, the sum or value of Three Thousand Dollars (\$3,000.00).

Your petitioners further show to the Court that the defendant Paul Beeson, who is a citizen and resident of the State of Missouri, was not joined in good faith as a party defendant in said cause, but was fraudulently joined by the plaintiff as a defendant in said cause for the purpose of fraudulently defeating the jurisdiction of the District Court of the United States in said cause and for the fraudulent purpose of preventing a removal of this cause to the District Court of the United States; that the allegations contained in paragraphs numbered 1 to 6, inclusive, in plaintiff's petition fail to state facts constituting a cause of action against defendant Paul Beeson, because said Paul Beeson was not at any time the employer of the plaintiff and such allegations can be directed only against plaintiff's employer and master and the negligence attempted to be alleged under said allegations against said Paul Beeson is such as only plaintiff's master and employer could be liable for; your petitioners further state that the allegations contained in paragraphs numbered 7 and 8 in plaintiff's petition charging that said Paul Beeson as one of the defendants herein, negligently assured plaintiff that he could with reasonable safety work under the conditions described and he negligently ordered and directed plaintiff to keep clean the mill and the floor thereof with a house broom, under the conditions described, are false and fraudulent and plaintiff is without credible evidence to support such allegations and they are made solely for the purpose of attempting to state a cause of action against said Paul Beeson in an attempt to fraudulently prevent a removal of this case to the District Court of the United States.

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Your petitioners further state that the allegations in plaintiff's petition to the effect that he was employed by all the defendants are false and fraudulent; they state that plaintiff at no time was employed by defendant The Ruberoid Company and likewise at no time was he employed by defendant Paul Beeson and your petitioners state that defendant The Ruberoid Company acquired the plant and property of defendant Eternit, Inc., after December, 1931, when plaintiff ceased employment, he having theretofore been employed by defendant Eternit, Inc.; your petitioners respectfully state and show to the Court that prior to January, 1933, the plant and factory where plaintiff worked was owned and operated by Eternit, Inc., and in January, 1933, The Ruberoid Company acquired said plant and factory, since which time it has operated the same; that even if plaintiff had been employed by defendant The Ruberoid Company, which petitioners deny, it and defendant Eternit, Inc., would not be jointly liable to plaintiff; that joint liability cannot arise in favor of plaintiff against successive employers under the allegations in plaintiff's petition and there is a misjoinder of causes of action and of parties defendant in this case and there exists in this suit a separate and severable cause of action on which a separate and distinct suit might properly have been brought by plaintiff against defendant Eternit, Inc., and complete relief afforded as to such cause of action with all the parties on one side of the controversy citizens of different states from those on the other side, the plaintiff in such suit being a citizen and resident of the State of Illinois and the defendant Eternit, Inc., being a corporation organized under the laws of the State of Delaware.

And your petitioners further show that the time within which they are required by the laws of the State of Missouri and by the rules of this Court to answer or plead in said cause has not yet expired.

And your petitioners offer herewith a bond or good and sufficient surety for their entering in the District Court of the

United States for the Eastern Division of the Eastern Judicial District of Missouri within thirty days from the date of filing this petition, a certified copy of the record in this suit, and for paying all costs that may be awarded by said District Court if said Court shall hold that this cause was wrongfully or improperly removed thereto.

WHEREFORE, your petitioners pray this Honorable Court to proceed no further herein except to make the order of removal required by law, and to accept said surety and bond, and to cause the record herein to be removed into said District Court of the United States.

ETERNIT, INC.,

By W. E. MOSER
Its Agent.

THE RUBEROID COMPANY,

By W. E. MOSER
Its Agent.

ALLEN, MOSER & MARSALEK
Attorneys for Petitioners.

SENATE OF MISSOURI }
CITY OF ST. LOUIS } SS.

W. E. Moser, being first duly sworn, on his oath says he is agent and attorney for defendants, Eternit, Inc., and The Ruberoid Company in this behalf; that he has read the foregoing petition and knows the contents thereof and the statements therein contained are true, as he verily believes.

W. E. MOSER

Subscribed and sworn to before me, this 31st day of January, 1930.

My commission expires Nov. 30, 1930.

(S E A L)

Julian C. Jaeckel
Notary Public.

STATE OF MISSOURI }
 } ss.
CITY OF ST. LOUIS)

IN THE CIRCUIT COURT - FEBRUARY TERM - 1935

ELMORE STILES,	)	
Plaintiff,	)	No. 210062
vs.	)	
ETERNIT, INC., a corporation	)	
ETERNIT MILLS, a corporation	)	Div. No. 1.
THE RUBEROID COMPANY, a corporation,	)	
and PAUL BEESON, an individual,	)	
Defendants.	)	

REMOVAL BOND

KNOW ALL MEN BY THESE PRESENTS: That the undersigned Eternit, Inc., and The Ruberoid Company, as principal, and National Casualty Company, as surety, are held am firmly bound unto Elmore Stiles in the sum of Five Hundred Dollars (\$500.00) for the payment of which well and truly to be made we do jointly and severly bind ourselves, our heirs, legal representatives and assigns firmly by these presents.

The condition of the above bond is as follows:

That, WHEREAS, the above bounden Eternit, Inc., and The Ruberoid Company have filed their petition in the Circuit Court, City of St. Louis, Missouri, for removal to the District Court of the United States in and for the Eastern Division of the Eastern Judicial District of Missouri, of a certain cause pending in said state court wherein said Elmore Stiles is plaintiff and said Eternit, Inc., a corporation, and said The Ruberoid Company, a corporation, are named as two of the defendants.

NOW, if said Eternit, Inc., and said The Ruberoid Company shall enter in the said District Court of the United States within thirty days from the date of filing said petition a certified copy of the record in said suit, and shall well and truly pay all costs that may be awarded by said District Court or the United States if said Court shall hold that said suit was wrongfully or improperly removed thereto, then this obligation shall be void; otherwise to remain in

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full force and virtue.

WITNESS our hands and seals this 1st day of February, 1935.

(S E A L)

Approved by Court this

4th day of Feb. 1935

Attest:

H. SAM PRIEST
Clerk.

ETERNIT, INC.,

By ALLEN, MOSER, & MARSALSKA
Its Agents and Attorneys.

THE RUBEROID COMPANY,

By ALLEN, MOSER & MARSALSKA
Its Agents and Attorneys.

NATIONAL CASUALTY COMPANY,

By K. M. HICKEY
Attorney-in-Fact (S E A L)

STATE OF MISSOURI)
) ss.
CITY OF ST. LOUIS)

On this 1st day of February, 1935, before me appeared K. M. Hickey to me personally known, who, being by me first duly sworn, did say that he is Attorney-in-Fact of the National Casualty Company, a corporation organized under the laws of the State of Michigan, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and the said K. M. Hickey, acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal, the day and year firstabove written.

My term expires _____ WESLEY H. BECKER
Notary Public, City of St. Louis, Mo.
My commission expires March 17th, 1935.

(SEAL)

And at the February Term, 1935, the following further proceedings were had in said cause, to-wit:

Monday, February 4th, 1936.

Elmore Stiles,)
-vs-210062-B)
Eternit, Inc., a corporation,)
Eternit Mills, a corporation,)
The Ruberoid Company, a corporation,)
and Paul Beeson, an individual.)

Now at this day come the defendants Eternit, Inc., a corporation and The Ruberoid Company, a corporation by their attorneys and submit to the Court a notice and verified petition heretofore filed, praying for an order removing this cause to the District Court of the United States for the Eastern Division or the Eastern Judicial District of Missouri, and also present to the Court their bond heretofore filed, conditioned according to law in the penal sum of Five Hundred Dollars (\$500.00) with National Casualty Company, as surety; and the Court having seen and examined said petition and bond, and being satisfied that written notice of said petition and bond for removal has been given the adverse party to this suit, prior to filing the same, doth accept said petition and bond and doth order that said bond be approved and filed which is done, that the prayer of said petition be granted, and that the Clerk of this Court forthwith certify for entering in the District Court of the United States for the Eastern Division or the Eastern Judicial District of Missouri, a copy of the record in the above entitled cause, as fully as the same remains on file and of record in this Court; that no further proceedings be had in this suit in this Court.

STATE OF MISSOURI }
CITY OF ST. LOUIS } ss.

I, H. SAM PRIEST, Clerk of the Circuit Court, City of St. Louis, within and for the City and State aforesaid, do hereby certify the above and foregoing to be a full, true and complete transcript of the record and proceedings in the above entitled cause, including the notice, petition and bond for removal, acceptance of said petition and bond and the order of removal, as fully as the same remain on file and of record in my office.

IN TESTIMONY WHEREOF, I have hereunto
set my hand and affixed the seal of
said Court, at office, in the City of
St. Louis, this 8th day of February, 1933.

H. Sam Priest
Clerk, Circuit Court.

#1.

I, JOHN SCHMOLL, Clerk of the Circuit Court, City of St. Louis, certify the foregoing
to be a true statement of each and every item of all taxable costs in the cause of
Charles Stiles vs. Edward M. Stal

Witness my hand and the seal of said Court at office in the City
of St. Louis, this 24th day
of February in the year of our Lord nineteen
hundred and thirty four

J. H. Priest Clerk

BILL OF COSTS

Case No. 210061

Charles Stiles Plt.

vs.

Edward M. Stal Def.

I, JOHN SCHMOLL, Clerk of the Circuit Court, City of St. Louis, certify the foregoing
to be a true statement of each and every item of all taxable costs in the cause of

Charles Stiles vs. *Edward M. Chal.*

Witness my hand and the seal of said Court at office in the City
of St. Louis, this *8th* day
of *February* in the year of our Lord nineteen
hundred and thirty *five*

John Priest Clerk

Edward M. Chal.

vs.

Charles Stiles Plt.

Case No. *210067*

BILL OF COSTS

11317

No. SEPTEMBER, Term, 1934

Elmore Stiles

Plaintiff,

vs.

TRANSCRIPT

Eternit, Inc., a corporation,
et al.,

Defendants.

REMOVAL FROM

Circuit Court, City of St. Louis
TO
United States District Court

Russell J. Hornefeld,

Att'y for Plaintiff.

Allen, Moser & Marsalek,

Att'ys for Defendants.
Eternit, Inc., a corporation, and
The Ruberoid Company
Filed

Clerk

\$9.00 Transcribed and Paid FEB 14 1935

By [Signature] FEB 14 1935

No. 210022 John C. Beck

Hon. Clyde C. Beck, Clerk Judge

Notice Mailed FEB 10 1935