

FILE NAME: Early Asbestos Damage Suits (EADS)

DATE: 1934

DOC#: EADS008

DOCUMENT DESCRIPTION: Documents from Case of Concetta Ferone

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CONCETTA PERONE, administratrix
of the estate of MICHAEL PERONE,
deceased, and CONCETTA PERONE,
administratrix ad prosequendum of
MICHAEL PERONE, deceased,
Plaintiff,
-vs-
JOHNS-MANVILLE CORPORATION, a cor-
poration of the State of New York,
Defendant.

ACTION AT LAW
AMENDED AND SUPPLEMENTAL
COMPLAINT.

FIRST COUNT.

The plaintiff, Concetta Perone, administratrix
of the estate of Michael Perone, deceased, residing at Bound
Brook, Somerset County, State of New Jersey, says that:-

1. The intestate, Michael Perone, was in the
employ of the defendant corporation at its plant at Manville,
New Jersey, in the month of August, 1927, and for several
years prior thereto.

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

3. The said defendant employed the intestate
at the time and place aforesaid in its manufacture of said
asbestos products and the said defendant not only knew, but
should have known, that the said asbestos product 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 close
contact with the same.

negligent in allowing the said dangerous fibers and particles to escape and to come into close proximity of the intestate's person and exposed 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 permeated and infected with the same.

5. The 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 reason of the negligence of the defendant.

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

(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 safeguards 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 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

by reason of the loss of the major part of his lifetime, of his physical and mental well being, of his wage earnings, and also the considerable amount of medical expense involved in his effort to retard the suffering from his disease, and mend the wrecking of his body, he was caused to suffer losses and damages to the extent of \$50,000.00.

8. On the 14th day of June, 1930, the plaintiff, Concetta Perone, was duly appointed by the surrogate of Somerset County administratrix of the goods and chattels, rights and credits which were of Michael Perone deceased, and here and now proffers her said letters of administration.

WHEREFORE, the administratrix as aforesaid, demands the sum of \$50,000.00 under this first count for losses sustained to the estate of Michael Perone deceased, from the defendant.

SECOND COUNT.

The plaintiff, Concetta Perone, administratrix ad prosequendum of Michael Perone, residing at Bound Brook, Somerset County, State of New Jersey, says that:-

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

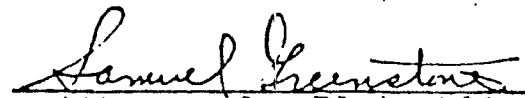
2. On the 14th day of June, 1930, the plaintiff, Concetta Perone was duly appointed by the surrogate of Somerset County, administratrix ad prosequendum of Michael Perone, deceased, to prosecute the action for damages

John Perone, Mary Perone, Dominick Perone, Ralph Perone, Charles Perone, Nicholas Perone, and Benjamin Perone, Jr., all dependent upon the said intestate for support.

4. 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.

5. The said next of kin suffered pecuniary losses by reason of the death of the said Michael Perone in the sum of \$50,000.00.

WHEREFORE, the administratrix as aforesaid, demands the sum of \$50,000.00 under this second count for losses sustained to the estate of Michael Perone deceased, from the defendant.


Attorney for Plaintiff.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CONCETTA PERONE, administratrix of the estate of MICHAEL PERONE, deceased, and CONCETTA PERONE, administratrix ad prosequendum of MICHAEL PERONE, deceased, Plaintiff, :
Action at Law

-vs- FIRST DEFENSE TO FIRST COUNT ANSWER TO
AMENDED AND SUPPLEMENTAL COMPLAINT

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

The defendant, JOHNS-MANVILLE CORPORATION, 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 at Manville, New Jersey, from December 28, 1926 to the month of August, 1927.

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 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 the month of August, 1927.

4. It denies Paragraph 4.

5. It denies Paragraph 5.

6. It denies Paragraph 6.

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.

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 this 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 appliances provided by the defendant for the purpose of protecting the plaintiff's intestate against the alleged

the original action, when commenced and instituted by the plaintiff's intestate during his lifetime, had not been commenced and instituted within two years next after the alleged cause of action accrued, and by reason of the premises the present action of the plaintiff is barred.

FIRST DEFENSE TO SECOND COUNT

1. It repeats the allegations of Paragraphs 1, 2, 3, 4, 5, 6 and 7 of the First Defense to First Count.

2. It has no knowledge or information sufficient to form a belief as to the allegations of Paragraph 2.

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

4. It denies the allegations of Paragraph 4 except that it has been informed and believes that this action was brought within two years after the death of the plaintiff's intestate.

5. It has no knowledge or information sufficient to form a belief as to the allegations of Paragraph 5.

SECOND DEFENSE TO SECOND COUNT

It repeats the allegations of the Second Defense to First Count.

THIRD DEFENSE TO SECOND COUNT

It repeats the allegations of the Third Defense to First Count.

FOURTH DEFENSE TO SECOND COUNT

It repeats the allegations of the Fourth Defense to First Count.

SIXTH DEFENSE TO SECOND COUNT

It repeats the allegations of the Sixth Defense
to First Count.

Hobbs & Lincoln
Attorneys of Defendant

UNITED STATES DISTRICT Court
FOR THE DISTRICT OF NEW JERSEY

CONCETTA PERONE, administratrix of
the estate of MICHAEL PERONE, deceased,
and CONCETTA PERONE, administratrix ad
prosequendum of MICHAEL PERONE, deceased,
Plaintiff

vs.

JOHNS-MANVILLE CORPORATION, a cor-
poration of the State of New York,

Defendant

Action at Law.

ORDER FOR DISCONTINUANCE.

1955

The above entitled cause having been settled between the parties thereto;

*It is ORDERED, that the same be, and it is hereby discontinued, without costs to either party
as against the other.*

George T. Lammert
Sub

G. Charles S. Chivers

Deputy

Entered June 13, 1934

On motion of

Robert A. Minard

Attorneys of defendant

Consent is hereby given to the making and entering of the above order.

Samuel J. Perone
Attorney of Plaintiff