

FILE NAME: Early Asbestos Damage Suits (EADS)

DATE: 1930

DOC#: EADS016

DOCUMENT DESCRIPTION: Documents from Case of Joseph Stepka

with, and inhaled, the said dangerous fibers and particles
NEW JERSEY SUPREME COURT
to the extent that his bronchial tubes SOMERSET COUNTY.

JOSEPH STEPKA, with the same.

5-22-30

5. Plaintiff, was not informed or warned by
the defendant, and had no knowledge Action at Law of the
JOHNS-MANVILLE CORPORATION, and a COMPLAINT with which he
a corporation of the State
of New York, etc. close proximity by the defendant's
negligence. Defendant..

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

The plaintiff, residing at Manville, New Jersey,
(a) in failing to use reasonable care to provide the
complaints of the above-named defendant, a foreign corpora
plaintiff with a reasonably safe place of work.

as follows:-

(b) in failing to use reasonable care to provide the

1. The plaintiff was in the employ of the
plaintiff with other machinery or other appliances or safety
defendant corporation, at its plant in Manville, New Jer

in the month of April, 1930, and for many years prior th

(c) in failing to use reasonable care to provide a
to.

proper ventilating system at its plant.

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

3. The said defendant employed the plaintiff

at the time and place above set forth in its manufacture

said asbestos products, and the said defendant not only

knew, but should have known, that the said asbestos pro
contained certain dangerous insidious and harmful agents

composed of asbestos fibers and other particles that we
destructive to life and health in the human body when b
into close contact with the same.

4. The defendant not only knew, but should

and be known a victim of pulmonary diseases.

asbestos fiber

with, and inhaled, the said dangerous fibers and particles to the extent that his bronchial tubes, lungs and body suffering from the disease and from the working of his body, he will be caused to suffer losses, expenses and

5. Plaintiff, was not informed or warned by damages to the extent of \$100,000.00

the defendant, and had no knowledge of the nature of the said dangerous asbestos fibers and particles with which he \$100,000.00 as damages from the defendant. was brought into close proximity by the defendant's negligence.

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

SAUEL GREENSTONE

Attorney for Plaintiff

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

(b) In failing to use reasonable care to provide the plaintiff 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 plaintiff at the time and place above mentioned.

7. The said asbestos fibers and particles were introduced into the plaintiff's body at the time and place aforesaid, so that the plaintiff was permanently injured externally and internally in and about his head, body and limbs causing the plaintiff great pain and suffering, both mental and physical, greatly lowered his resistance to disease, and he became a victim of pulmonary diseases, and so

of medical expense involved in his effort to retard the
suffering from the disease and mand the wrecking of his
body, he will be caused to suffer losses, expenses and
damages to the extent of \$100,000.00

WHEREFORE, the plaintiff demands the sum of
\$100,000.00 as damages from the defendant.

SAMUEL GREENSTONE

Attorney for Plaintiff

DISC'D 6-13-34

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JOSEPH STEPKA,

Plaintiff,

-vs-

Action at Law

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

A N S W E R

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

1. It denies paragraph 1, except that it says that the plaintiff was in its employ at its plant in Manville, New Jersey, at various times from December 28, 1926, to the month of April, 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 at various times from December 28, 1926, to the month of April, 1930.

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

SECOND DEFENSE

The injury and the disease alleged in the complaint

of his employment assumed by

THIRD DEFENSE

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

FOURTH DEFENSE

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

FIFTH DEFENSE

The injury and the disease alleged in the complaint were caused by contributory negligence on the part of the plaintiff in that the plaintiff 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

The injury and the disease alleged in the complaint were due to negligence on the part of a fellow-servant of the plaintiff, in failing to warn and instruct the plaintiff to use the mask and other appliances provided by the defendant for the purpose of protecting the plaintiff against the alleged dangers of his employment.

SEVENTH DEFENSE

Plaintiff's action is barred because it was not commenced and instituted within two years next after the alleged cause of action accrued.

NEW JERSEY SUPREME COURT
SOMERSET COUNTY

VERONA STEPKA, executrix of the
estate of JOSEPH STEPKA, deceased,

defendant, and had as Plaintiff,

JOHNS-MANVILLE CORPORATION, a cor-

poration of the State of New York,

Defendant.

The plaintiff, Verona Stepka, executrix of the estate of Joseph Stepka, deceased, residing at Manville, New Jersey, says that:-

1. The testator was in the employ of the defendant corporation at its plant in Manville, New Jersey, in the month of April, 1930, and for many 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 testator 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 close contact with the same.

4. The defendant not only knew, but should have known, the dangerous nature of said asbestos fibers and particles, but failed to keep the same in control, and was negligent in allowing the said dangerous fibers and

tubes, lungs and body became infected with the same.

5. The testator 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 that testator with a reasonably safe place of work.

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

\$25,000.00 from the defendant, as damages.

(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 testator, at the time and place above mentioned.

7. The said asbestos fibers and particles were introduced into the testator's body at the time and place aforesaid, so that the testator was permanently injured, externally and internally, in and about his head, body and limbs, causing 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 August 14, 1931.

8. The said Joseph Stepka, left a will under which the plaintiff was made executrix of the estate of Joseph

said testator for support.

11. The plaintiff, as executrix as aforesaid, for in 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 testator, and brings this action within two years after the death of the said testator.

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

The plaintiff, as executrix as aforesaid, demands the sum of \$50,000.00 from the defendant, as damages.

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.

Wm. R. Sutphin

Sheriff of Somerset County

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

VERONA STEPKA, executrix
of the Estate of JOSEPH
STEPKA, deceased,

Plaintiff,

-vs-

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

Defendant.

Action at Law

A N S W E R

as set forth in the complaint

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

FIRST DEFENSE

1. It denies paragraph 1, except that it says
that the testator was in its employ at its plant in
Manville, N.J. at various times from December 28, 1926,
to the month of April, 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 testator at various times from December 28,
1926, to the month of April, 1930.

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

5. It has no knowledge or information sufficient
to form a belief as to the allegations of paragraphs 8, 9,

10, 11 and 12 except that it denies the allegations of

SECOND DEFENSE

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

THIRD DEFENSE

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

FOURTH DEFENSE

The injury and the disease alleged in the complaint were caused by contributory negligence on the part of the testator.

FIFTH DEFENSE

The injury and the disease alleged in the complaint were caused by contributory negligence on the part of the testator in that the testator 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

The injury and the disease alleged in the complaint were due to negligence on the part of a fellow-servant of the testator, in failing to warn and instruct the testator to use the mask and other appliances provided by the defendant for the purpose of protecting the testator against the alleged dangers of his employment.

Holbert + Minard

UNITED STATES DISTRICT
DISTRICT OF NEW JERSEY

Court

VERONA STEPKA, executrix of
the Estate of JOSEPH STEPKA, deceased,

Plaintiff

vs.

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

Defendant

Action at Law.

ORDER FOR DISCONTINUANCE.

23017

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

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

George T. Lammner
Clerk
by Charles S. Chevier
Deputy

Entered June 13, 1934

On motion of

Robert A. Menard

Attorneys of defendant

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

U. R.