

**CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA**

NO. 545-012

DIVISION

ngn

DOCKET 4

JERRY WELLS

VS.

NATIONAL GIPSON, ET AL

SERVED SEP 8 1972-9 15 AM
CT CORP. SYSTEM

CITATION

TO: NATIONAL GYPSUM COMPANY, through their registered agent:

C. T. CORPORATION SYSTEM
1300 HIBERNIA BANK BUILDING
NEW ORLEANS, LOUISIANA

YOU ARE HEREBY CITED to either comply with the demand contained in the petition of which certified copy accompanies this citation, or make an appearance, either by filing a pleading or otherwise, in The Civil District Court for the Parish of Orleans, State of Louisiana, the address of which is The Civil Courts Building, 421 Loyola Avenue, New Orleans, Louisiana within fifteen days after the service hereof under penalty of default, and you are further ordered to show cause on the 25th day of September, 1972, at 9:30 o'clock A.M., why the order permitting the herein named litigant to litigate, or to continue litigation, without the payment of the accrued costs, all as prayed herein.

Witness the Honorables OLIVER P. CARRIERE, CLARENCE DOWLING, PAUL P. GAROFALO, S. SANFORD LEVY, RICHARD J. GARVEY, WALTER F. MARCUS, JR., THOMAS A. EARLY, JR., GEORGE C. CONNOLLY, JR., GERALD P. FEDOROFF and HENRY J. ROBERTS, JR., Judges of the said Court.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of The Civil District Court for the Parish of Orleans, State of Louisiana, this 7th day of September in the year of our Lord 19 72.

THOMAS S. BUCKLEY, SR., Clerk of
The Civil District Court for the
Parish of Orleans, State of Louisiana

by

Deputy Clerk.

Clerk's Office, Room 402, Civil Courts Building
421 Loyola Avenue, New Orleans, Louisiana

SHERIFF'S RETURN:

Deputy Sheriff

IN FORMA PAUPERIS

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JERRY WELLS

VS.

NATIONAL GYPSUM, ET AL

FILED: September 6, 1972

A. O'BRIEN

DEPUTY CLERK

PETITION IN WORKMEN'S COMPENSATION
PROCEEDING FOR BENEFITS AND PENALTIES

The petition of JERRY WELLS, of full age and a resident of the Parish of Orleans, State of Louisiana, with respect, represents that:

1.

As hereinbelow set forth, the following named defendants are liable, jointly and in solido, to your petitioner for five hundred (500) weeks of compensation at the rate of FORTY-NINE (\$49.00) DOLLARS per week, beginning September 5, 1972, with interest on each weekly payment at the legal rate from due date until paid, subject to a credit for payments previously made; for medical expenses in the full sum of TEN THOUSAND (\$10,000.00) DOLLARS, together with interest thereon at the legal rate from date of judicial demand until paid:

- A) NATIONAL GYPSUM COMPANY, a foreign corporation which is and was, at all times pertinent hereto, qualified to do and doing business in the city of New Orleans, State of Louisiana.
- B) XYZ INSURANCE COMPANY, whose proper name will be later substituted, and which company is, on information and belief, a foreign insurance company qualified to do and doing business in the Parish of Orleans, State of Louisiana, and which insurance company, on information and belief and at all times pertinent hereto, had in full force and effect a policy or policies of Workmen's Compensation or other insurance covering the entire liability of the said NATIONAL GYPSUM COMPANY, to petitioner herein and additionally providing for medical payment up to the full sum of \$10,000.00.

2.

From September 1967 until September 1971 petitioner was employed by NATIONAL GYPSUM COMPANY at its plant location in New Orleans, Louisiana in the shipping department at a rate in excess of \$80/wk, which employment is hazardous within the scope of and covered by the Workmen's Compensation Laws of Louisiana.

3.

During the aforesaid period, petitioner, while performing his duty as an employee at the plant in New Orleans contracted a severe and disabling lung disease or diseases, which disease or diseases have rendered him totally and permanently disabled from doing work of any reasonable character.

4.

As a result of the above shown illnesses, petitioner was treated by Dr. Morris Klinger, Dr. Shea Hall, and at the Charity Hospital, in which hospital petitioner was confined for five weeks, and at which hospital petitioner is under continuing treatment as an out patient.

5.

As a further result of the above shown illnesses, petitioner has needed and will continue to need medical treatment for the rest of his life.

6.

As a result of extensive tests administered at Charity Hospital in January, 1972, petitioner's condition and its connection with him employment was then first specifically diagnosed and discovered.

7.

In his efforts to secure medical treatment and evaluation of his disability, petitioner has kept every medical appointment which has ever been made for him, has undergone all treatments prescribed, and has submitted to every examination requested; and petitioner is and will remain unable to do work of any reasonable character.

8.

Because of his poverty and want of means, petitioner is not able to pay the costs of this suit in advance or as they accrue or to give bond for costs and further shows that he is a citizen of the State of Louisiana and is entitled to prosecute this action under the provisions of the Louisiana Code of Civil Procedure, Articles 5181-5188.

WHEREFORE, petitioner JERRY WELLS respectfully prays that he be allowed to file this petition without prior payment of costs, that defendants NATIONAL GYPSUM COMPANY and the XYZ INSURANCE COMPANY be served a copy of this petition, and duly cited to answer the same, and that, after due proceedings had, there be judgment herein in favor of petitioner and against said defendants, jointly and in solido, as follows:

- 8/27/72
10,000
- A) Compensation at the rate of FORTY-NINE (\$49.00) DOLLARS per week for five hundred (500) weeks, beginning with all accrued amounts to be paid in a lump sum, together with interest thereon at the legal rate from due date until paid, subject to a credit for payments previously made;
 - B) Medical expenses in the amount of TEN THOUSAND (\$10,000.00) DOLLARS, subject to a credit for such expenses as have been paid by defendants, together with interest thereon at the legal rate from date of judicial demand until paid;
 - C) And/or such other amounts or relief as may be provided in the Workmen's Compensation Act or Acts or as ordered by this Honorable Court;
 - D) For all general and equitable relief and all costs of these proceedings.

(SGD) CARL O. BROWN, JR.,

CARL O. BROWN, JR.
Attorney for Petitioner
505 S. Carrollton Avenue
New Orleans, Louisiana 70118
866-7469

PLEASE SERVE:

National Gypsum Company
Through its registered agent for service
C T Corp. System
1300 Hibernia Bldg.
New Orleans, Louisiana 70112

XYZ Insurance Company
(Proper name to be furnished at a later date)

ORDER

The allegations of the foregoing petition and the supporting Affidavits being considered:

IT IS ORDERED that petitioner be permitted to litigate this action without the payment of the costs of Court in advance, or as they accrue, or to furnish security therefor.

IT IS FURTHER ORDERED that the said petitioner, and the defendants in the within proceedings, show cause, if any they have, on September 25th, 1972 at 9:30 a.m., why the hereinabove Order permitting the herein named litigants to litigate, or to continue litigation, without paying the accrued costs as they accrue, or furnishing security therefor, should not be rescinded and all accrued costs paid, failing in which the said litigation shall be stayed.

NEW ORLEANS, LOUISIANA

September 6, 1972

A TRUE COPY
J. Ballot
DEPUTY CLERK OF DISTRICT COURT
PARISH OF ORLEANS
STATE OF LA.

(SGD) WALTER F. MARCUS, JR.,
JUDGE

AFFIDAVIT

STATE OF LOUISIANA
PARISH OF ORLEANS

BEFORE ME, the undersigned authority, personally appeared

KATTIE SCOTT, who being sworn, deposed:

That she knows JERRY B. WELLS, the plaintiff in
the above and foregoing petition, and knows his financial condition
and she firmly believes that the said JERRY B. WELLS is unable
either to pay the costs of the cause in advance or as they accrue, or to
give bond for the payment of these costs.

Mrs. Katie Scott

KATTIE SCOTT

Sworn to and subscribed
before me this 5th day
of September, 1972

Carl P. [Signature]
NOTARY

AFFIDAVIT

STATE OF LOUISIANA
PARISH OF ORLEANS

BEFORE ME PERSONALLY came and appeared JERRY B. WELLS, who being
duly sworn, deposed: That he is a citizen and is presently domiciled
in the State of Louisiana; that he is unable, because of his poverty
and want of means, to make prior payment of the costs of these proceed-
ings or as they accrue, or to furnish security therefor; and, further,
that he is the plaintiff in these proceedings and has read the above
and foregoing petition and that it is true and correct to the best of
his knowledge, information, and belief.

M. [Signature]

JERRY B. WELLS

Sworn to and subscribed
before me this 5th day
of September, 1972

Carl P. [Signature]
NOTARY