

Assigned to:
JUDGE MAURICE C. COONAN

IN THE VANDERBURGH
SUPERIOR COURT

DECEMBER 6, 1993

CASE NO: 82D03-9312-CT-2323

ELEANOR PURDUE, personal
representative of the Estate
and Survivors of ALVIN M.
PURDUE, deceased,

Plaintiffs,

v.

GENERAL MOTORS, CORP., ALCOA,
GENERAL ELECTRIC, CORP.,
INDIANAPOLIS POWER & LIGHT CO.
INDIANA MICHIGAN POWER COMPANY
SOUTHERN INDIANA GAS & ELECTRIC

Defendants.

VANDERBURGH SUPERIOR COURT

FILED

DEC 10 1993
Betty Smith
CLERK

PLAINTIFF'S
EXHIBIT
AL-1367

COMPLAINT FOR DAMAGES FOR WRONGFUL DEATH

COMES NOW, ELEANOR PURDUE, Personal Representative of the Estate and Survivors of ALVIN PURDUE, Deceased, and files this, his/her Original Complaint against the Defendants and alleges as follows:

1. ELEANOR PURDUE, Personal Representative of the Estate and Survivors of ALVIN PURDUE, Deceased was the wife of the Decedent.

2. The Decedent, ALVIN PURDUE, died on or about December 8, 1991, as a result of Mesothelioma, caused by and related to his exposure to asbestos.

3. The Decedent, ALVIN PURDUE, died at the age of 66 from his/her asbestos related diseases, being born on March 3, 1925 and

having a life expectancy of approximately 13.6 years at the date of his/her death. U.S. Department of Health and Human Services Vital Statistics of the United States, Volume II, Section 6.

4. The survivors of the Decedent are:

ELEANOR PURDUE (Spouse)	Age 66
ANNA MARIE CORNELIUS (Child)	Age 19
MARY WILLIAMS (Child)	Age 44
KENNETH ROBERT PURDUE (Child)	Age 43

5. Plaintiff's action is an action for damages.

6. The wrongful conduct herein alleged, occurred at least in part, the damages complained of were sustained in the county where the above styled Court sits, and/or at least one of the Defendants against whom this action is brought resides in the county where the above styled Court sits and thus venue of this action properly lies in this Court pursuant to Indiana law.

7. The Plaintiff would further show that Defendants have, at all times material to this cause of action, through their agents, officers and representatives, operated, conducted, engaged in and carried on a business venture in this state and/or maintained an office or agency in this state; committed a tortious act within the state by allowing the Plaintiff to be exposed to an inherently dangerous product, to-wit: asbestos and/or asbestos containing products. Defendants failed to take any reasonable precautions or to exercise reasonable care to adequately or sufficiently warn Decedent and other persons similarly situated, of the risks, dangers and harm, to-wit: death and/or the contracting of the diseases of asbestosis, mesothelioma and other forms of cancers, to

which he/she was exposed by working with, contact with, use, handling and exposure to asbestos and/or asbestos containing products and the inhalation of the asbestos dust and fibers resulting from the ordinary and foreseeable use of said asbestos and/or asbestos containing products, and said tortious conduct is continuing and presently existing; caused injuries and death to Decedent herein, which arose out of the acts and/or omissions which occurred inside and outside of the State of Indiana during the relevant period of time, at which time Defendants were engaged in solicitation or service activities within the State of Indiana, resulting in injuries and death to Decedent. Therefore jurisdiction properly lies in this court, as to Plaintiff's action, pursuant to Indiana law.

8. "Asbestos and/or asbestos-containing products" as used in this complaint means asbestos as well as any and all materials, products, supplies, and/or goods containing or including asbestos in whole or in any mixture (including as a contaminant) with other materials manufactured, marketed and/or used for any and all purposes, including, but not limited to, insulation, talc, soapstone, building supplies, construction materials, fireproofing materials, friction products, brake linings, clutch facings, refractories, gaskets, packing, drywall boards, joint and/or caulking compounds, protective clothing, sprays, electrical wire, conduit and cable products, coated welding rods, etc., including raw asbestos fiber.

THE DEFENDANTS

9. Plaintiff sues the following Defendants:

GENERAL MOTORS, CORP.,
ALCOA,
GENERAL ELECTRIC, CORP.,
INDIANAPOLIS POWER & LIGHT CO.
INDIANA MICHIGAN POWER COMPANY
SOUTHERN INDIANA GAS & ELECTRIC

10. Defendant, GENERAL MOTORS CORP. (and its predecessors), is a corporation authorized to do and/or doing business within the jurisdiction of this Court, duly organized, created and existing under and by virtue of the laws of Delaware with its principal place of business located in the State of Michigan. At all times material to this cause of action, said Defendant owned, maintained, operated, managed, and/or controlled certain premises, to wit, Central Foundry in Bedford, Indiana where the Decedent worked during the years 1979-1980 and was exposed in his/her trade, occupation and/or daily life, to asbestos fibers from asbestos and/or asbestos containing products which caused him/her to develop the illnesses of asbestosis, mesothelioma and/or other forms of cancer and ultimately caused his/her death. At all times material to this cause of action, said defendant failed to take precautions or failed to take adequate precautions to protect Decedent from the dangers of Asbestos and/or Asbestos Containing Products which it knew or in the exercise of reasonable care should have known existed. The asbestos and/or asbestos containing products to which the Decedent was exposed were used, specified and/or otherwise present on Defendants premises with Defendants knowledge and/or consent.

11. Defendant, ALCOA (and its predecessors), is a corporation

authorized to do and/or doing business within the jurisdiction of this Court, duly organized, created and existing under and by virtue of the laws of Delaware with its principal place of business located in the State of Pennsylvania. At all times material to this cause of action, said Defendant owned, maintained, operated, managed, and/or controlled certain premises, to wit, Alcoa Plant in Evansville, Indiana where the Decedent worked during the years 1955-1956 and was exposed in his/her trade, occupation and/or daily life, to asbestos fibers from asbestos and/or asbestos containing products which caused him/her to develop the illnesses of asbestosis, mesothelioma and/or other forms of cancer and ultimately caused his/her death. At all times material to this cause of action, said defendant failed to take precautions or failed to take adequate precautions to protect Decedent from the dangers of Asbestos and/or Asbestos Containing Products which it knew or in the exercise of reasonable care should have known existed. The asbestos and/or asbestos containing products to which the Decedent was exposed were used, specified and/or otherwise present on Defendants premises with Defendants knowledge and/or consent.

12. Defendant, INDIANA POWER & LIGHT CO. (and its predecessors), is a corporation authorized to do and/or doing business within the jurisdiction of this Court, duly organized, created and existing under and by virtue of the laws of Indiana with its principal place of business located in the State of Indiana. At all times material to this cause of action, said

Defendant owned, maintained, operated, managed, and/or controlled certain premises, to wit, Power Plant in Petersburg, Indiana where the Decedent worked during the years 1964-1967, 1970's and 1980's, and was exposed in his/her trade, occupation and/or daily life, to asbestos fibers from asbestos and/or asbestos containing products which caused him/her to develop the illnesses of asbestosis, mesothelioma and/or other forms of cancer and ultimately caused his/her death. At all times material to this cause of action, said defendant failed to take precautions or failed to take adequate precautions to protect Decedent from the dangers of Asbestos and/or Asbestos Containing Products which it knew or in the exercise of reasonable care should have known existed. The asbestos and/or asbestos containing products to which the Decedent was exposed were used, specified and/or otherwise present on Defendants premises with Defendants knowledge and/or consent.

13. Defendant, INDIANA MICHIGAN POWER COMPANY (and its predecessors), is a corporation authorized to do and/or doing business within the jurisdiction of this Court, duly organized, created and existing under and by virtue of the laws of Indiana with its principal place of business located in the State of Indiana. At all times material to this cause of action, said Defendant owned, maintained, operated, managed, and/or controlled certain premises, to wit, Indiana Michigan Power Plant in Rockport, Indiana where the Decedent worked during the years 1987-1988 and was exposed in his/her trade, occupation and/or daily life, to asbestos fibers from asbestos and/or asbestos containing products

which caused him/her to develop the illnesses of asbestosis, mesothelioma and/or other forms of cancer and ultimately caused his/her death. At all times material to this cause of action, said defendant failed to take precautions or failed to take adequate precautions to protect Decedent from the dangers of Asbestos and/or Asbestos Containing Products which it knew or in the exercise of reasonable care should have known existed. The asbestos and/or asbestos containing products to which the Decedent was exposed were used, specified and/or otherwise present on Defendants premises with Defendants knowledge and/or consent.

14. Defendant, GENERAL ELECTRIC, CORP. (and its predecessors), is a corporation authorized to do and/or doing business within the jurisdiction of this Court, duly organized, created and existing under and by virtue of the laws of New York with its principal place of business located in the State of Connecticut. At all times material to this cause of action, said Defendant owned, maintained, operated, managed, and/or controlled certain premises, to wit, General Electric Plant in Mt. Vernon, Indiana where the Decedent worked during the years 1979-1980 and was exposed in his/her trade, occupation and/or daily life, to asbestos fibers from asbestos and/or asbestos containing products which caused him/her to develop the illnesses of asbestosis, mesothelioma and/or other forms of cancer and ultimately caused his/her death. At all times material to this cause of action, said defendant failed to take precautions or failed to take adequate precautions to protect Decedent from the dangers of Asbestos and/or

Asbestos Containing Products which it knew or in the exercise of reasonable care should have known existed. The asbestos and/or asbestos containing products to which the Decedent was exposed were used, specified and/or otherwise present on Defendants premises with Defendants knowledge and/or consent.

15. Defendant, SOUTHERN INDIANA GAS & ELECTRIC CO. (and its predecessors), is a corporation authorized to do and/or doing business within the jurisdiction of this Court, duly organized, created and existing under and by virtue of the laws of Indiana with its principal place of business located in the State of Indiana. At all times material to this cause of action, said Defendant owned, maintained, operated, managed, and/or controlled certain premises, to wit, A.B. Brown Power in Princeton, Indiana where the decedent worked during the years 1978-1979 and Culley Power Plant in Yankee Town, Indiana where the Decedent worked during the years 1970-1973 and was exposed in his/her trade, occupation and/or daily life, to asbestos fibers from asbestos and/or asbestos containing products which caused him/her to develop the illnesses of asbestosis, mesothelioma and/or other forms of cancer and ultimately caused his/her death. At all times material to this cause of action, said defendant failed to take precautions or failed to take adequate precautions to protect Decedent from the dangers of Asbestos and/or Asbestos Containing Products which it knew or in the exercise of reasonable care should have known existed. The asbestos and/or asbestos containing products to which the Decedent was exposed were used, specified and/or otherwise

present on Defendants premises with Defendants knowledge and/or consent.

COUNT I: PREMISES LIABILITY

16. While employed upon the premises of the Defendants herein, Decedent was exposed to and inhaled asbestos fibers which were released into the air of the premises during operation, construction and/or repair of the Defendants' premises by persons who were employed by Defendants and by other independent contractors hired by the Defendants' herein.

17. Asbestos containing products were used, applied and or torn out on the premises of Defendants at the time that Decedent was present on the premises as more specifically described above.

18. At all times that Decedent was upon the premises of Defendants as described above, Defendants retained control over the premises and continued to occupy the premises.

19. At all times that Decedent was upon the premises of Defendants, Defendants specified the use, installation and or tear out of asbestos and/or asbestos containing products which were used, or otherwise present in close proximity of the Decedent, by employees of the Defendants and/or contractors retained and/or hired by the Defendants who were doing work under the Defendants direction and/or control and which caused asbestos fibers to be liberated into the air which were inhaled by the Decedent.

20. At all times that Decedent was upon the premises of Defendants as described above, he was lawfully on the premises working for and employed by Independent Contractors retained, hired

by and/or otherwise invited to be on the premises of Defendants by Defendants.

21. At all times that Decedent was on the premises of Defendants, as more specifically described above, defendants knew or should have known the decedent neither knew or should have known of the following:

(a) that potentially lethal asbestos fibers from asbestos and/or asbestos containing products were being applied and handled on said premises;

(b) that Decedent and persons similarly situated, worked in close proximity to those persons who were handling and applying potentially lethal asbestos and/or asbestos containing products;

(c) that potentially lethal asbestos fibers were being released into the atmosphere of said premises by persons other than decedent or the employees of decedent's employer;

(d) that Decedent and persons similarly situated, were being exposed to potentially lethal asbestos and/or asbestos containing products and were inhaling asbestos fibers;

(e) that the inhalation of asbestos fibers was hazardous to the health of human beings and more specifically to Decedent and persons similarly situated;

(f) that Defendants had not tested and/or adequately tested the concentrations of asbestos particles in the atmosphere of their premises.

22. At all times material to this Complaint, decedent while on the premises of Defendants was an invitee.

23. Defendants, as owners and occupiers of the premises upon which Decedent performed services, owed Decedent a duty to keep the premises in a reasonable safe condition, and owed a duty to decedent to give him timely notice of latent or concealed perils which were known or should have been known by Defendants.

24. Defendants breached their duty to Decedent at each and every location and at each and every time that the Decedent worked at each location in the following particulars:

(a) failed to advise Decedent that asbestos fibers were being released into the atmosphere in close proximity to him while he was employed on the premises owned and occupied by Defendants;

(b) failed to advise Decedent that the inhalation of asbestos fibers could result in serious bodily injury, cancer and death to Decedent;

(c) failed to use ordinary care to keep the premises in a reasonably safe condition and thereby eliminate or reduce Decedent's exposure to, and inhalation of, lethal asbestos fibers released into the atmosphere on the premises;

(d) failed to test and/or adequately test the atmosphere of the premises to determine the concentration of asbestos fibers in the atmosphere of the premises.

(e) failed to schedule work performed on the premises such that the exposure of Decedent to potentially lethal asbestos fibers would be eliminated or reduced.

25. The breach by Defendants of their duties to Decedent was a direct and proximate cause of his development and contraction of

asbestos-related diseases, including mesothelioma, and his death and resulted in damages more particularly described below.

26. Plaintiff alleges that there were substitute materials available for asbestos known to each Defendant and unknown to the Decedent which could have been used by each Defendant in their designs and specifications.

27. Prior to and at said times and places, Defendants were subject to certain ordinances, statutes, and other government regulations promulgated by the United States Government, the State of Indiana, and others which required said Defendants to provide specific safeguards and/or precautions to prevent or reduce the inhalation of asbestos dust and other toxic fumes or substances and said Defendants failed to provide the required safeguards and precautions or contractors employed by the Defendants failed to provide the required safeguards and precautions and said failure resulted in Plaintiff and/or Decedents injuries, damages and death.

28. At all material times Defendants, and each of them, knew, or in the exercise of ordinary and reasonable care should have known, that the premises that were in their control would be used without knowledge of, or inspection for, defects or dangerous conditions and that the persons working on or using said premises would not be aware of the aforesaid hazardous conditions to which they were exposed on the premises.

29. At all material times defendants, and each of them, negligently failed to maintain, manage, inspect, survey, or control said premises or to abate or correct, or to warn decedent of the

existence of the aforesaid dangerous conditions and hazards on said premises.

LOSS OF CONSORTIUM

30. All of the allegations contained in paragraphs 1 through 29 are realleged herein.

31. As a direct and proximate result of all of the foregoing allegations, Decedent's spouse, has suffered from fear of disease and death, the loss of the services of his/her spouse, his/her support consortium and the care and comfort of his/her society. Additionally because of the injuries, disabilities, and death suffered by the Decedent as alleged herein his/her spouse has incurred expenses for medical attention rendered to his/her said spouse and funeral expenses.

SURVIVAL DAMAGES

32. All of the allegations contained in paragraph 1 through 29 are realleged herein.

33. As a direct and proximate result of the negligence, carelessness, gross negligence, willful misconduct, fraudulent concealment, misrepresentation, and willful omissions of the Defendants as described herein, Decedent was caused to contract diseases and injuries to his/her respiratory system, heart, and other parts of his/her body, including pleural thickening, asbestos related pleural disease, mesothelioma, and/or other diseases and forms of cancer causing Decedent pain, suffering, mental anguish and/or disability.

34. As a direct and proximate result of the aforesaid,

Decedent was obliged to spend various sums of money to treat his/her diseases and injuries and Plaintiff continues to be obliged for the expenses of same; as a direct and proximate result of the aforesaid, Decedent had to stand a loss of earnings and earning capacity; and as a direct and proximate result of the aforesaid, Decedent's enjoyment of life was impaired and Decedent's life expectancy was shortened, all to Decedent's great loss.

35. As a direct and proximate result of the aforesaid, Plaintiff has and will continue to suffer ongoing psychological damage which may require future psychological and/or medical treatment; as a direct and proximate result of the aforesaid, Plaintiff has suffered a loss of Decedent's comfort, companionship and consortium in the past and continues to suffer such losses.

36. As a direct and proximate result of the aforesaid, Plaintiff has and will continue to suffer a disintegration and deterioration of the family unit and the relationships existing therein, resulting in enhanced anguish, depression and other symptoms of psychological stress and disorder.

WHEREFORE, Plaintiff prays for judgment against the Defendants and each of them jointly, individually and severally, on all of the aforementioned counts for compensatory damages against all Defendants herein, for their costs expended herein, for interest and for such other and further relief both at law and in equity to which Plaintiff may show himself/herself to be justly entitled.

WRONGFUL DEATH DAMAGES

37. All of the allegations contained in paragraph 1 through

29 are realleged herein.

38. The exposure to the asbestos and/or asbestos containing products on the premises of Defendants was harmful and caused and/or substantially contributed to Decedent's disease and/or injuries. Decedent's death arose out of, was connected to, and was incidental to Decedent's exposure to asbestos on the premises of Defendants.

39. As a direct and proximate result of the negligence, carelessness, gross negligence, willful misconduct, liability, fraudulent concealment, misrepresentation, and willful omissions of the Defendants as described herein, Decedent was caused to contract diseases and injuries to his/her respiratory system, heart, and other parts of his/her body, including pleural thickening, asbestos related pleural disease, mesothelioma, and/or other diseases and forms of cancer which have not yet been diagnosed, causing Decedent pain, suffering, mental anguish, disability and/or death.

40. As a direct and proximate result of the aforesaid, Decedent was obliged to spend various sums of money for hospitalization and/or medical care and treatment to treat his/her diseases and injuries and Plaintiff continues to be obliged for the expenses of same; as a direct and proximate result of the aforesaid, Decedent had to stand a loss of earnings and earning capacity; and as a direct and proximate result of the aforesaid, Decedent's enjoyment of life was impaired and Decedent's life expectancy was shortened, all to Decedent's great loss.

41. As a direct and proximate result of the aforesaid,

Plaintiff has and will continue to suffer ongoing psychological damage which may require future psychological and/or medical treatment; as a direct and proximate result of the aforesaid, Plaintiff has suffered a loss of Decedent's comfort, companionship and consortium in the past and continues to suffer such losses.

42. As a direct and proximate result of the aforesaid, Plaintiff has and will continue to suffer a disintegration and deterioration of the family unit and the relationships existing therein, resulting in enhanced anguish, depression and other symptoms of psychological stress and disorder.

43. As further direct and proximate result of the wrongful death of Decedent, Plaintiff has lost the companionship and protection of Decedent, since the date of his/her injuries and resulting death and will suffer such loss in the future; Plaintiff has sustained severe mental pain, grief and suffering as a result of Decedent's injuries and resulting death from the date of those injuries and will suffer such loss into the future; Plaintiff has lost the support and services of Decedent and will suffer loss in the future.

44. As a direct and proximate result of the wrongful death of Decedent, the Estate of Decedent has sustained the following losses and damages:

- a. loss of earnings of the Decedent from the date of injury to the date of death;
- b. loss of prospective net accumulations; and
- c. medical and funeral expenses due to the Decedent's death.

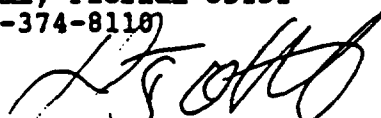
WHEREFORE, Plaintiff, Decedent's estate and survivors, pray for judgment against the Defendants and each of them jointly, individually and severally, on all of the aforementioned counts for compensatory damages against all Defendants herein, for their costs expended herein, for interest and for such other and further relief both at law and in equity to which Plaintiff may show himself/herself to be justly entitled.

DEMAND FOR JURY TRIAL

Plaintiff(s) demand a trial by jury of all issues so triable
as a matter of right.

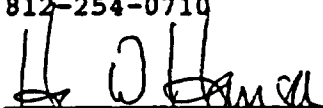
Respectfully Submitted,

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