

FILE NAME: Early Asbestos Damage Suits (EADS)

DATE: 1934

DOC#: EADS010

DOCUMENT DESCRIPTION: Documents from Case of Helen Zackwiejz

NEW JERSEY SUPREME COURT
SOMERSET COUNTY
HELEN ZACKWIEJZ, by next friend,
her mother, MARY ZACKWIEJZ, vs. the

5. Plaintiff, not informed of same, by the
defendant, advised no knowledge of the nature of the said
ACTION AT LAW
COMPLAINT
JOHNS-MANVILLE CORP., a Corporation:
of the State of New York, by the defendant's negligence.

6. Defendantence of the defendant complained
-X

(The plaintiff, residing at Manville, New Jersey,
complains of the above named defendant, a foreign corporation
as follows:-) 1. The plaintiff was in the employ of the de-
fendant corporation at its plant in Manville, New Jersey,
in the month of May, 1929, and for several years prior
thereto ventilating system at its plant.

2. The defendant corporation at the time
herein set forth was engaged in the manufacture of
asbestos products for commercial purposes, and asbestos
3. The said defendant employed the plaintiff
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 prod-
ucts 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

person and exposed the plaintiff so that she came into contact with, and inhaled, the said dangerous fibers and particles to the extent that her bronchial tubes, lungs and body became infected with the same. Working of her body, she was. Plaintiff 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 she was brought into close proximity by the defendant's negligence.

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

(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 other appliances or safe guards 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 her head, body and limbs causing the plaintiff great pain and suffering, both mental and physical, greatly lowered her resistance to disease and she became a victim of tuberculosis and so seriously cut off the span and duration of life of this youthful

her wage earnings and also the considerable amount of medical expense involved in her effort to retard the suffering from the disease and mend the wrecking of her body, she will be caused to suffer losses, expenses and damages to the extent of \$100,000.00.

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

7-28-29
Samuel Greenstone
Attorney for Plaintiff.

HELEN ZACKWIEJZ, by next friend,
her mother, MARY ZACKWIEJZ,

Plaintiff,

-vs-

Action at Law

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

A N S W E R

Defendant.

The 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,
N. J., from December 28, 1926, to the month of May, 1929.

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 tha
it employed the plaintiff from December 28, 1926, to the
month of May, 1929.

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

SECOND DEFENSE

The injury and the disease alleged in the complain
were due to one of the risks of her employment assumed by
the plaintiff as part of the terms of her contract of
employment.

THIRD DEFENSE

The injury and the disease alleged in the complain

the plaintiff as part of the terms of her contract of employment in that the plaintiff knew, or by the exercise of reasonable care on her part should have known, the alleged dangers of her 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 herself against the alleged dangers of her 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 her 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.

EIGHTH DEFENSE

Plaintiff's action is barred because it was not commenced and instituted within two years after the plaintiff's coming to or being of full age.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

HELEN ZACKWIEJZ, by next friend,
her mother, MARY ZACKWIEJZ,

Plaintiff,

-vs-

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

Defendant.

ON MOTION TO QUASH
SUMMONS AND DISMISS
COMPLAINT.

ORDER.

This matter coming on to be heard before me,
in the presence of the attorneys of the parties (Samuel
Greenstone appearing for the plaintiff and Hobart & Minard
appearing for the defendant), on the return of the rule to
show cause allowed herein on 7th day of *March*, 1930,
why the summons should not be quashed and the complaint
dismissed on the grounds stated in said rule, and the court
having taken the testimony of the parties in open court,
and it appearing that the attorney for the plaintiff was
properly retained and authorized to commence the above
action; and the attorneys for the defendant having consented
in open court to dismissal of the said rule;

It is, on this 15th day of April, 1930,

ORDERED, that the said rule to show cause be
and the same is hereby dismissed without costs.

Samuel Greenstone
Attorney for Plaintiff.

Spencer Lake
United States District Court
Judge.

UNITED STATES DISTRICT Court
FOR THE DISTRICT OF NEW JERSEY

HELEN ZACKWIEJZ, by next friend,
her mother, MARY ZACKWIEJZ

Plaintiff

vs.

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

Defendant

Action at Law.

ORDER FOR DISCONTINUANCE.

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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

Clerk

by Charles S. Chevrier,

Deputy

Entered June 13, 1934

On motion of

Robert H. Menard

Attorneys of defendant

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

Samuel P. Pincus
Attorney of Plaintiff