

12/9

PITNEY, HARDIN, KIPP & SZUCH
163 MADISON AVENUE
CN 1945
MORRISTOWN, N. J. 07960-1945
(201) 267-3333

ATTORNEYS FOR Defendant
Vista Chemical Company

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION-PASSAIC COUNTY
DOCKET NO. L-020509-86

LOTTIE MEMICE, Individually
and LOTTIE MEMICE, as Execu-
trix of the ESTATE OF JOSEPH
MEMICE, Deceased,

Plaintiffs,

vs.

PPG INDUSTRIES, INC., et al.,

Defendants.

)
) Civil Action
) ANSWER TO SECOND AMENDED
COMPLAINT AND DEMAND
) FOR STATEMENT OF
DAMAGES ON BEHALF OF
) DEFENDANT VISTA
CHEMICAL COMPANY
)

URL 13114

Defendant, Vista Chemical Company, a corporation of the State of Delaware, with its principal place of business at 15990 North Barker's Landing Road, Houston, Texas, by way of answer to the Second Amended Complaint filed herein, says:

FIRST COUNT

1. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1.

2. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2.

3. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3.

4. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4.

5. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5.

6. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6.

7. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.

8. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8.

9. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9.

10. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10.

11. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11.

12. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12.

13. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13.

14. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14.

15. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15.

16. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16.

17. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17.

18. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18.

19. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19.

20. It denies the allegations contained in paragraph 20, but states that commencing from and after July 20, 1984, it has conducted business in New Jersey from time to time.

21. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 21.

22. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22.

23. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23.

24. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24.

25. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25.

26. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 26.

27. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27.

28. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28.

29. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29.

30. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 30.

31. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 31.

32. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 32.

33. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 33.

34. It denies the allegations contained in paragraph 34 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

35. It denies the allegations contained in paragraph 35 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

36. It denies the allegations contained in paragraph 36 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

37. It denies the allegations contained in paragraph 37, including subparts (a) through (f) inclusive, which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

38. It denies the allegations contained in paragraph 38 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

39. It denies the allegations contained in paragraph 39 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

40. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 40, except it admits that N.J.S.A. 2A:15-3 is entitled "Actions which survive; torts to decedent."

41. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 41, except it admits that N.J.S.A. 2A:31-1 et seq. is entitled "Death by Wrongful Act."

42. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 42.

43. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of paragraph 43 and it denies the allegations contained in the second sentence of paragraph 43.

SECOND COUNT

1. Defendant Vista Chemical Company repeats and makes a part hereof its responses to the allegations contained in paragraphs 1 through 43 of the First Count.

2. It denies the allegations contained in paragraph 2 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

3. It denies the allegations contained in paragraph 3 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

4. It denies the allegations contained in paragraph 4 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

5. It denies the allegations contained in paragraph 5 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

6. It denies the allegations contained in paragraph 6 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

THIRD COUNT

1. Defendant Vista Chemical Company repeats and makes a part hereof its responses to the allegations contained in paragraphs 1 through 43 of the First Count.

2. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2.

3. It denies the allegations contained in paragraph 3 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

4. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4.

5. It denies the allegations contained in paragraph 5 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

6. It denies the allegations contained in paragraph 6 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

7. It denies the allegations contained in paragraph 7 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

FOURTH COUNT

1. Defendant Vista Chemical Company repeats and makes a part hereof its responses to the allegations contained in paragraphs 1 through 43 of the First Count.

2. It denies the allegations contained in paragraph 2 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

3. It denies the allegations contained in paragraph 3 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

FIFTH COUNT

1. Defendant Vista Chemical Company repeats and makes a part hereof its responses to the allegations contained in the First, Second, Third and Fourth Counts.

2. It is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2.

3. It denies the allegations contained in paragraph 3 which pertain to it and it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations therein.

FIRST SEPARATE DEFENSE

The Second Amended Complaint fails to state a claim upon which relief may be granted.

SECOND SEPARATE DEFENSE

The defendant Vista Chemical Company did not manufacture, produce, purchase or sell vinyl chloride monomer, polyvinyl chloride or any other product until July 20, 1984. Therefore, this defendant has no liability for the claims presented by the plaintiff in the Second Amended Complaint, which claims are based entirely upon or arise from injuries allegedly sustained by the plaintiff's decedent on or before June 29, 1984.

THIRD SEPARATE DEFENSE

The Second Amended Complaint fails to state a claim which would entitle the plaintiff to a recovery of punitive damages.

FOURTH SEPARATE DEFENSE

The claims presented by the plaintiff in the Second Amended Complaint are barred by the applicable statute of limitations.

FIFTH SEPARATE DEFENSE

The plaintiff's decedent, Joseph Memice, failed to exercise the degree of care and caution which he should have exercised under the circumstances existing at the time and place referred to in the Second Amended Complaint and the claims presented by the plaintiff are barred or diminished by the contributory or comparative negligence of the decedent Joseph Memice.

SIXTH SEPARATE DEFENSE

Any damage, loss or injury suffered by the plaintiff was caused by the acts or omissions of other persons over whom defendant Vista Chemical Company had no control and with whom it had no contractual relationships.

WHEREFORE, defendant Vista Chemical Company demands judgment dismissing the Second Amended Complaint filed against it in this action, together with interest and costs of suit.

DEMAND FOR STATEMENT OF DAMAGES

PLEASE TAKE NOTICE that defendant Vista Chemical hereby demands that plaintiff furnish it with a written statement of the amount of damages sought in each and every count of the Second Amended Complaint.

PITNEY, HARDIN, KIPP & SZUCH
Attorneys for Defendant
Vista Chemical Company

By Robert L. Hollingshead
ROBERT L. HOLLINGSHEAD
A Member of the Firm

Dated: June 9, 1986

URL 13125

CERTIFICATION

I hereby certify that the within Answer to Second Amended Complaint and Demand for Statement of Damages was served within the time period prescribed by R.4:6, as extended by Stipulation between counsel.


BARBARA A. MOORE

CERTIFICATE OF SERVICE

I hereby certify that on this date a true copy of the within Answer to Second Amended Complaint and Demand for Statement of Damages was served upon all counsel of record by mailing the same, first-class mail, postage-prepaid, at Morristown, New Jersey, addressed to their respective offices.


BARBARA A. MOORE

Dated: June 9, 1986

CERTIFICATION PURSUANT TO R. 4:5-1

I hereby certify, pursuant to R. 4:5-1, that, upon information and belief, this matter is not the subject of any other action pending in any court or arbitration proceeding and that there are no additional parties who should be joined in this action.


BARBARA A. MOORE

Dated: June 9, 1986

URL 13126