

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Individually and
as Next Friend of STEVEN BEASLEY
BRIAN BEASLEY, DERRICK BEASLEY
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors, /

Plaintiffs,

VS

No. 74 002312 NO

THE CITY OF DETROIT, a Municipal
corporation and N. L. INDUSTRIES, INC.,
a New Jersey Corporation, jointly and
severally,

Defendants.

NOW COMES the City of Detroit, a municipal corporation by
and through its attorneys, Kermit Bailer, Corporation Counsel,
Thomas J. O'Dowd and Alvin R. Davidson, Assistants Corporation
Counsel, and amends its answer to the complaint of the plaintiffs
as follows:

that section of the answer incorrectly labelled Affirmative
Defenses is hereby amended to read AFFIRMATIVE
PLEADINGS. The ten paragraphs comprising said
AFFIRMATIVE PLEADINGS remain the same as those
included under the incorrect Affirmative Defenses.

WHEREFORE, it is prayed that this action be dismissed
against the defendant, City of Detroit, and that the Honorable
Court grant such other relief as it deems necessary and equitable.

by

Alvin R. Davidson
Assistant Corporation Counsel
City of Detroit
1010 City-County Building
Detroit, Michigan 48226
(313) 224-6943

Alvin R. Davidson
224-4516

Thomas J. O'Dowd
224-4516

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Individually and
as Next Friend of STEVEN BEASLEY
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs,

VS

No. 74 002312 NO

THE CITY OF DETROIT, a Municipal
corporation and N. L. INDUSTRIES, INC.,
a New Jersey Corporation, jointly and
severally,

Defendants.

ROBERT H. GOLDEN (P 14108)
Of Counsel attorney for Plaintiffs

G. CAMERON BUCHANAN (P 11340)
Attorney for Defendant, N. L. Industries, Inc.

ALVIN R. DAVIDSON, (P 12567)
Attorney for Defendant, City of Detroit

AMENDED ANSWER OF DEFENDANT

CITY OF DETROIT

Kermit Bailer
Corporation Counsel
Thomas J. O'Dowd
Alvin R. Davidson
Assistants Corporation Counsel
Attorneys for Defendant
City of Detroit
1010 City-County Building
Detroit, Michigan 48226
(313) 224-6943

NL 000039231

N 26060.01

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

JUDGE WILLIAM LEO CAHALAN, P-11509

Civil Action No. 74-002-312 NO

Plaintiffs,

v.

THE CITY OF DETROIT, a Municipal
corporation, and N. L. INDUSTRIES,
INC., a New Jersey Corporation,
jointly and severally,

Defendants.

BARRAN and Knoppow
By: Ronald M. Barron, P-10493
Attorneys for Plaintiff

GARAN, LUCOW, MILLER, LEHMAN, et al
By: Milton Lucow, P-16344
Attorneys for Defendant, CITY OF DETROIT

MORBACH, CHEATHAM & MacARTHUR
By: Charles C. Cheatham, P-11615
Attorneys for Defendant, N. L. INDUSTRIES

ANSWER TO PLAINTIFF'S AMENDED COMPLAINT BY
DEFENDANT, CITY OF DETROIT

Now comes the defendant, CITY OF DETROIT, a Municipal corporation,
ONLY, by and through its attorneys, GARAN, LUCOW, MILLER, LEHMAN, SEWARD
& COOPER, P.C., and in answer to plaintiff's Amended Complaint, admits,
denies and alleges as follows:

GENERAL JURISDICTIONAL AVERMENTS

1. This defendant incorporates herein by reference and makes a
part hereof its answer to plaintiff's original complaint pertaining to
jurisdictional averments.

COUNT I

1. This defendant incorporates by reference the complete original
answer to the original complaint and supplements the same with specific

NL 000039232

reference to paragraphs set forth in the Amended Complaint.

COUNT II

1. This defendant incorporates herein by reference and makes a part hereof its original answer.

COUNT III

1. This defendant incorporates herein by reference and makes a part hereof its answer to Count III of plaintiff's original complaint.

COUNT IV

1. This defendant incorporates herein by reference and makes a part hereof its answer to Count IV of plaintiff's original complaint.

COUNT V

1. This defendant incorporates herein by reference and makes a part hereof its answer to Count V of plaintiff's original complaint.

COUNT VI

1. This defendant incorporates herein by reference and makes a part hereof its answer to Count VI of plaintiff's original complaint.

2. Further answering the new matter therein alleged, this defendant neither admits nor denies the same, not having sufficient information to form a belief and leaves the plaintiff to her proofs.

COUNT VII

1. This defendant incorporates herein by reference and makes a part hereof its answer to Count VII of plaintiff's original complaint.

COUNT VIII

1. This defendant adopts and incorporates herein by reference its answer to the original complaint.

COUNT IX

1. This defendant adopts and incorporates herein by reference its answer to the original complaint.

COUNT X

1. This defendant adopts and incorporates herein by reference its answer to the original complaint.

COUNT XI

1. This defendant adopts and incorporates herein by reference its answer to the original complaint.

WHEREFORE, this defendant prays that plainiff's complaint and amended complaint be dismissed as to this defendant, with costs so wrongfully sustained to this defendant.

NOTICE OF AFFIRMATIVE DEFENSE

Now comes the above named defendant, CITY OF MILWAUKEE, a Municipal Corporation, ONLY, by and through its attorneys, GAGAN, LUCOW, MILLER, LEHMAN, SEWARD & COOPER, P.C., and gives notice that the following will constitute its affirmative defense in the above cause:

1. This defendant incorporates herein by reference and takes a part hereof its affirmative defenses as alleged in their original answer and in their amended answer.

2. This defendant pleads the Statute of Limitations in barring this action.

3. This defendant affirmatively states that this action should be dismissed as to this defendant because of governmental immunity afforded to this defendant.

WHEREFORE, this defendant prays that plaintiff's complaint and amended complaint be dismissed as to this defendant, with costs so wrongfully sustained to this defendant.

GARAN, LUCOW, MILLER, LEHMAN,
SEWARD & COOPER, P.C.

By /s/ Milton Lucow
Milton Lucow
Attorneys for Defendant, CITY OF
DETROIT, ONLY
561 East Jefferson Avenue
Detroit, Michigan, 48226
962-5180

DATED: June 7, 1977
Detroit, Michigan

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, et al,

Plaintiffs

-vs-

Case No. 74-002-312 NO

CITY OF DETROIT, a municipal
corporation and N.L. INDUSTRIES, INC.,
a New Jersey Corp., jointly and severally,

Defendants

SECOND STIPULATION FOR ADJOURNMENT OF PRE-TRIAL

IT IS HEREBY STIPULATED and agreed by and between the parties,
through their respective counsel, that the discovery deadline
date should be ninety days from the date hereof and that a
Pre-Trial should be set up as soon as possible by the court after
said ninety days have elapsed.

BARRON AND KNOPPOW

By: Ronald M. Barron
Attorneys for Plaintiffs
3001 W. Big Beaver Suite 326
Troy, Michigan 48064
649-2828

Milton Lucow
Att. For Def. City of Detroit
561 East Jefferson
Detroit, Michigan

Charles B. Cheatham
Att. for Def. N.L. Industries
2450 Buhl Building
Detroit, Michigan

ORDER

At a session of said court held in the City
of Detroit, County of Wayne, State of Michigan,
on _____

PRESENT: HONORABLE WILLIAM LEO CAHALAN
Circuit Court Judge

On reading the attached Stipulation and the Court being
fully advised in the premises;

NL 000039236

N 26060.02

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064, (313) 649-2828

IT IS HEREBY ORDERED that the discovery deadline date should be ninety days from the date hereof and that a Pre-Trial should be set up as soon as possible by the court after said ninety days have elapsed.

WILLIAM LEO CAHALAN

Circuit Court Judge

A TRUE COPY
JAMES R. KILLEEN
CLERK

BY

[Signature]
DEPUTY CLERK

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064, (313) 549-2926

NL 000039237

JUN 1 1977
1628

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

Gladys Beasley, individually and
as Next Friend of Steven Beasley,
Wendell Beasley and Monique
Beasley, all minors,

Plaintiffs,

vs.

Civil Action
No. 74-002-312-NO.

The City of Detroit, a municipal
corporation, and N. L. Industries, Inc.,
a New Jersey Corporation, jointly and
severally,

Defendants.

PRE-TRIAL ORDER TO ANSWER AMENDED
COMPLAINT AND INTERROGATORIES

Ronald M. Barron
3001 W. Big Beaver - Suite 326
Troy, Michigan 48084
Attorney for Plaintiff.

Roy E. Costello
561 E. Jefferson Avenue
Detroit, Michigan 48226
Attorney for City of Detroit.

Charles C. Cheatham
2450 Buhl Building
Detroit, Michigan 48226
Attorney for N. L. Industries.

NL 000039238

N 26060.03

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

Gladys Beasley, individually and
as Next Friend of Steven Beasley,
Wendell Beasley and Monique
Beasley, all minors,

Plaintiffs,

vs.

Civil Action
No. 74-002-312-NO

The City of Detroit, a municipal
corporation, and N. L. Industries, Inc.,
a New Jersey Corporation, jointly and
severally,

Defendants.

PRE-TRIAL ORDER

At a session of said court held in the
City of Detroit, County of Wayne, State
of Michigan, on MAY 31 1977

PRESENT: HONORABLE WILLIAM LEO CAHALAN
Circuit Court Judge

Parties having appeared for Pre-Trial Conference on
May 24, 1977, it appears that the following must be accom-
plished prior to the formal Pre-Trial Conference,

IT IS HEREBY ORDERED that Defendant City of Detroit
will file an answer to the amended complaint and to
additional interrogatories of the plaintiff within two
weeks. Defendant N. L. Industries will file answers to
plaintiff's interrogatories within 30 days.

A TRUE COPY
JAMES R. KILLEEN
CLERK

BY [Signature]
DEPUTY CLERK

[Signature]
Circuit Court Judge

WILLIAM LEO CAHALAN

NL 000039239

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, et al,

Plaintiffs,

Hon. William Cahalan (Pl1509)

-vs-

No. 74-002-312 NO

CITY OF DETROIT and N. L.
INDUSTRIES, INC.,

Defendants.

SUBSTITUTION OF ATTORNEYS

TO: THE CLERK OF THE COURT
-and-
ALL ATTORNEYS OF RECORD

PLEASE TAKE NOTICE that the undersigned has this day
been substituted as attorney for the defendant N. L. INDUSTRIES,
INC., only, in the above-entitled cause in the place and stead of
BUCHANAN, OGNE and JINKS.

MORBACH, CHEATHAM and MacARTHUR

BY: CHARLES C. CHEATHAM (Pl1815)
Attorneys for Defendant N.L. Industries
2450 Buhl Building
Detroit, Michigan 48226
964-1146

DATED: APRIL _____, 1977

I HEREBY CONSENT TO THE ABOVE SUBSTITUTION
AND WITHDRAW MY APPEARANCE.

BUCHANAN, OGNE & JINKS

BY: G. CAMERON BUCHANAN

LAW OFFICES
MORBACH, CHEATHAM
& MACARTHUR
2450 BUHL BUILDING
DETROIT, MICHIGAN 48226
(313) 964-1146

NL 000039240

N 26060.04

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs,

-vs-

No. 74-002312 NO

THE CITY OF DETROIT, a Municipal
Corporation and N.L. INDUSTRIES, INC.,
a New Jersey Corporation, jointly and
severally,

Defendants.

ROBERT H. GOLDEN (P14108)
Of Counsel Attorney for Plaintiffs

ALVIN R. DAVIDSON (P12567)
Attorney for Defendant:

ANSWER

NOW COMES the City of Detroit, a municipal corporation, by and through
its attorneys, Robert Reese, Corporation Counsel, Thomas J. O'Dowd and
Alvin R. Davidson, Assistants Corporation Counsel, and answers the complaint of
the plaintiffs as follows:

GENERAL JURISDICTIONAL AVERMENTS

1. Paragraph 1 is affirmed.
2. Paragraph 2 is affirmed.
3. Paragraph 3 is neither affirmed nor denied by the defendant herein for
lack of proofs on which to form an opinion.
4. Paragraph 4 is affirmed.

COUNT 1

1. Paragraph 1 is affirmed to the extent that plaintiffs occupied same, but
defendants' records show initial occupancy on November 6, 1969. Defendant
denies any express or implied warranties inure to the monthly lease.

2. Paragraph 2 is affirmed.
3. Paragraph 3 is affirmed.
4. Paragraph 4 is affirmed.
5. Paragraph 5 is affirmed to the extent that the business of the co-defendant causes an increase in the amount of lead particles in the air surrounding said co-defendant's business, but the remaining allegations must be denied for lack of knowledge thereof, leaving plaintiffs to their proofs.
6. Paragraph 6 is neither affirmed nor denied, leaving plaintiffs to their proofs.
7. Paragraph 7 is neither affirmed nor denied, leaving plaintiffs to their proofs.
8. Paragraph 8 is neither affirmed nor denied, leaving plaintiffs to their proofs.
9. Paragraph 9 is neither affirmed nor denied, leaving plaintiffs to their proofs.
10. Paragraph 10 is neither affirmed nor denied, leaving plaintiffs to their proofs.
11. Paragraph 11 is denied to the extent the defendant herein is alleged to have contributed to the pollution of the air and atmosphere, but is neither affirmed nor denied relative to the balance of the paragraph, leaving plaintiffs to their proofs.

COUNT II

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is denied specifically, as defendant was neither negligent nor in breach of any warranty, express or implied. Defendant answers the subsections of this paragraph as follows:
 - A. Subsection A is affirmed, but only to the extent of the exterior of the dwellings.
 - B. Subsection B is affirmed to the extent that the air throughout the City of Detroit is infiltrated by lead and other chemicals from automobile exhausts. Any other meaning implied by the plaintiffs is left to their proofs.

- C. Subsection C is neither affirmed nor denied, leaving plaintiffs to their proofs.

COUNT III

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is denied. Defendant answers the subsections of this paragraph as follows:
 - A. Subsection A is affirmed, but only to the extent of the exterior of the dwellings.
 - B. Subsection B is neither affirmed nor denied, plaintiffs being left to their proofs.
 - C. Subsection C is neither affirmed nor denied, plaintiffs being left to their proofs.
 - D. Subsection D is denied. Defendant City of Detroit lacked the knowledge, capability and jurisdiction to effect the air in and around plaintiffs' dwelling.

COUNT IV

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical damage.

COUNT V

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.

COUNT VI

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical harm.

COUNT VII

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical harm.

COUNT VIII

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical harm.

AFFIRMATIVE DEFENSES

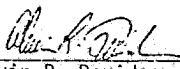
The defendant herein, the City of Detroit, sets forth the following affirmative defenses to the plaintiffs' Complaint:

1. The elevated blood-lead levels of the plaintiffs' in this cause are variables which constitute ambiguous measurements, and are not evidence, per se, of lead poisoning, but of a condition which lends itself to treatment by chelation therapy.
2. That the elevated blood-lead levels of the plaintiffs in this cause were not proximately caused by any negligent actions of the City of Detroit, but by the actions of National Lead Industries, Inc.
3. That the numerous paintings of the structures known as public housing by the City of Detroit was an attempt to make and maintain those structures in a manner consistent with what is generally known as decent.
4. That the state of the technology of paint production open to both the City of Detroit and consumers generally was so primitive until the 1960's that most of the paint sold and purchased exceeded the generally recognized 'safe' limits of lead compounds insisted upon today by Federal regulations.
5. That to hold the City of Detroit liable for the use of such paints when the dangers in those paints of lead base were virtually unknown would be analogous to strict liability.
6. That the condition of children eating paint chips or chewing paint from some painted surface in public housing was not foreseeable and was not consistent with the purposes for which the paint was used by the defendant, City of Detroit.
7. That prior to the plaintiffs moving into the building at 4803 E. Nevada, that unit was painted throughout with non-lead or low-lead based paint.
8. That plaintiff, Gladys Beasley, never complained to the building manager about the condition of any painted surface in her home, but the City of Detroit, through an enforcement program initiated by the Department of Health, scraped and removed questionable chipping paint from the interior and exterior of plaintiffs' dwelling beginning in February, 1973.
9. That the plaintiff, Gladys Beasley, knows and knew of her children's, plaintiffs, propensity to put non-food items into their mouths by virtue of her close supervision of said children, but in not stopping said conduct, was negligent by her inaction. The children, in ingesting non-food items were contributing factors to their own illnesses, and thus, contributorily negligent.

10. That the detection and enforcement of clean air laws is the duty of the Wayne County Pollution Control Center by statute, Act 306 of P.A. of 1927 (MCLA 327.205 and 206); and that those antipollution laws may be enforced by any citizen of the State of Michigan, Act 127 of P.A. of 1970 (MCLA 691.1202).

WHEREFORE, it is prayed that this action be dismissed against the defendant, City of Detroit, and that this Honorable Court grant such other relief as it deems necessary and equitable.

by


Alvin R. Davidson
Assistant Corporation Counsel
City of Detroit
1010 City-County Building
Detroit, Michigan 48226
(313) 224-6943; 224-3423

DATED: March 6, 1974

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs,

-VS-

No. 74-002312 NO

THE CITY OF DETROIT, a Municipal
Corporation and N. L. INDUSTRIES, INC.,
a New Jersey Corporation, jointly and
severally,

Defendants.

ROBERT H. GOLDEN (P14108)
Of Counsel Attorney for Plaintiffs

ALVIN R. DAVIDSON (P12567)
Attorney for Defendant

ANSWER

ROBERT REESE,
Corporation Counsel
THOMAS J. O'DOWD,
ALVIN R. DAVIDSON,
Assistants Corporation Counsel
Attorneys for Defendant
1010 City-County Building
Detroit, Michigan 48226
(313) 224-6943; 224-3423

NL 000039247

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONTOUE
BEASLEY, all minors,

Plaintiffs,

-vs-

No: 74 002312 NO

THE CITY OF DETROIT, a Municipal
Corporation; and NL INDUSTRIES, INC.,
a New Jersey Corporation, jointly
and severally,

Defendants.

ANSWER TO PLAINTIFFS' AMENDED COMPLAINT

Now comes the Defendant, NL INDUSTRIES, INC., a New
Jersey Corporation, by BUCHANAN, OGNE AND JINKS P.C., its
Attorneys, and in answer to the Plaintiffs' pleading captioned
Amended Complaint says:

GENERAL JURISDICTIONAL AVERMENTS

1. Defendant adopts and incorporates by reference
the Answer filed to the original Complaint pertaining to
Jurisdictional Averments.

ADOPTION AND INCORPORATION BY
REFERENCE OF ORIGINAL ANSWER

1. Defendant, NL INDUSTRIES, INC., adopts and
incorporates by reference the complete original answer to the
original Complaint and supplements the same with specific
reference to paragraphs set forth in the Amended Complaint

4. Answering paragraph #4 of Count I of the Amended
Complaint, Defendant denies that in the conduct of its

business it acted in a willful, wanton or negligent manner; denies that it violated any duties owing to the public or the plaintiffs; denies any duties to the plaintiffs in relation to the allegations of their complaint.

COUNT II

Defendant adopts and incorporates by reference the complete original answer to the original Complaint and supplements the same with specific reference to paragraphs set forth in the Amended Complaint.

COUNT III

Defendant adopts and incorporates by reference the complete original answer to the original Complaint and supplements the same with specific reference to paragraphs set forth in the Amended Complaint.

COUNT IV.

1. Defendant adopts and incorporates by reference answer to paragraphs one through eleven of Count I of the original Complaint and supplements the same with specific reference to paragraphs set forth in the Amended Complaint.

2. Answering paragraph 2 of Count IV, Defendant denies the allegations in said paragraph contained, avers that the said allegations are conclusion of the pleader, are surplusage and that the allegations of the complaint are insufficient to constitute a claim of nuisance and on the trial of this cause this Defendant will move to strike the allegation from the Amended Complaint.

COUNT V.

1. Defendant adopts and incorporates by reference answer to paragraphs one through eleven of Count I of the

original Complaint and supplements the same with specific reference to paragraphs set forth in the Amended Complaint.

2. Answering paragraph 2 of Count V, Defendant denies the allegations in said paragraph contained, avers that said allegations are not, in fact, true, and in further answer avers that other allegations of the Complaints do not support the language which simply constitutes a conclusion of the pleader, is surplusage and Defendant will move to strike the allegations from the Complaint at the time of trial.

COUNT VI.

1. Defendant adopts and incorporates by reference answer to paragraphs one through eleven of Count I of the original Complaint and supplements the same with specific reference to paragraphs set forth in the Amended Complaint.

2. Defendant denies the allegations in said paragraph contained, avers that the allegations are not, in fact true and in further answer avers that the allegations do not state a cause of action cognizable under the law of the State of Michigan.

3. Answering paragraph 3, Defendant denies the allegations in said paragraph contained, avers that the theory of a right of recovery under strict liability is not recognized in the State of Michigan.

COUNT VII.

1. Defendant has heretofore set forth and adopts and incorporates by reference the answers to the original Complaint.

COUNT VIII.

1. Defendant as heretofore set forth, adopts and

incorporates by reference the answers to the original Complaint.

COUNT IX.

1. Defendant as heretofore set forth, adopts and incorporates by reference the answers to the original Complaint.

COUNT X.

1. Defendant as heretofore set forth, adopts and incorporates by reference the answers to the original Complaint.

COUNT XI.

1. Defendant as heretofore set forth, adopts and incorporates by reference the answers to the original Complaint.

WHEREFORE, Defendant asks Judgment of no cause of action together with costs so wrongfully incurred.

BUCHANAN, OGNE AND JINKS P.C.

BY:
G. Cameron Buchanan P11340
Attorney for NL Industries, Inc.
Suite 1707, 755 West Big Beaver Road
Troy, Michigan, 48084
362 3707

Dated: March 8, 1977

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Civil Action No. 74 002 312 NO

Gladys Beasley Plaintiff

Ronald M. Barron Attorney

VS.

NL Industries, Inc. et al

Defendant

G. Cameron Buchanan P11340

Attorney

Indicate that which applies:

Auto Negligence _____

Other General Civil _____

Date of Service _____

(THIS SPACE FOR USE OF CLERK ONLY)

JURY _____ NON-JURY _____

Assigned to JUDGE _____

Notices Mailed _____ DATE _____

Assigned to Pre-Trial _____ DATE _____

Adj. to _____

Adj. to _____

Adj. to _____

AT ISSUE PRAECIPE
IN CIVIL ACTIONS

Civil Action No. 74 002312 NO

Pracipe No. _____

GLADYS BEASLEY ET AL Plaintiff

VS.

NL INDUSTRIES, INC. ET AL

Defendant

To
Clerk of Wayne County
201 City-County Bldg.
Detroit, Michigan, 48226

This action is at issue as to all the parties and has
been assigned to JUDGE William Cahalan

Dated 3/8/77 P11509 244 7001 Telephone 19

Ronald M. Barron P10493
3001 W. Big Beaver Atty. for Plt.
Road, Troy, Mich. Suite 326

649 2828 Address

Sylvester Delaney ma. l. h. a. n. e. r Telephone
City of Detroit P23690
1010 City County Bldg Atty. for Def.
Detroit, Mich. (Crown Bureau, Miller)

224-6943 Address

Buchanan, Ogne & Jinks Telephone

BY:

NL Industries, Inc. Atty.
Suite 1707, 755 W. Big Beaver Rd.
Troy, Mich Address
362-3707

Telephone

Fill all blanks. In case of appearance in pro per the
address of the party or parties must be given. If
more space is needed, attach rider.

NL 000039252

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 325, TROY, MICHIGAN 48064, (313) 648-2828

2. In the second line of Paragraph six, Count I, of the original Complaint, Plaintiffs delete the words "three years" and in its place and stead place the words "several years". As to the remaining allegations in Paragraph six, Count I, of the original Complaint, Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained therein as if fully stated herein.

3. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs seven through eleven of Count I in the original Complaint as if fully stated herein.

4. That the aforesaid willful, wanton and negligent acts of the Defendant, N. L. Industries, Inc., violated duties owing to the general public and more particularly, the Plaintiffs herein.

COUNT II

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one and two of Count II in the original Complaint as if fully stated herein.

COUNT III

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one and two of Count III in the original Complaint as if fully stated herein.

COUNT IV

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one through eleven of Count I of the Amended Complaint as if fully stated herein.

2. That the aforesaid actions and/or emissions of the Defendant, N. L. INDUSTRIES, INC. created a nuisance in fact and in law by causing substantial inconvenience, interference and damages to the Plaintiffs in their pursuit of the lawful enjoyments of their property and related rights.

COUNT V

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one through eleven of Count I of the Amended Complaint as if fully stated herein.

2. That the aforesaid acts of the Defendant, N. L. INDUSTRIES, INC. constituted a trespass by emitting fouled and lead burdened air containing contaminated particles onto Plaintiffs' property thereby invading Plaintiffs' rights to exclusive possession without the consent of the Plaintiffs.

COUNT VI

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one through eleven of Count I of the Amended Complaint as if fully stated herein.

2. That the aforesaid manufacturing process which Defendant, N. L. INDUSTRIES, INC. carried on in its factory is an ultra-

hazardous activity in that it produces noxious lead burdened and fouled air; such noxious material escaping in the air in sufficient quantities endangering the life and health of persons breathing the air. That the Plaintiffs are within the class of persons that Defendant's officers, agents and employees recognized or should have recognized as likely to be harmed by such emissions.

3. Therefore Defendant, N. L. INDUSTRIES, INC. is strictly liable to Plaintiffs for injuries inflicted on them by Defendant's dangerous instrumentality, namely its factory, operated in furtherance of Defendant's ultrahazardous activity.

COUNT VII

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one through three of Count IV of the original Complaint as if fully stated herein with one exception, to-wit: In the second line of paragraph two, the word "since" shall be deleted and in its place and stead the words "subsequent to" shall be added.

COUNT VIII

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one through three of Count V of the original Complaint as if fully stated herein with one exception, to-wit: In the second line of paragraph two, the word "since" shall be deleted and in its place and stead the words "subsequent to" shall be added.

COUNT IX

1. Plaintiffs reiterate word for word and paragraph for

paragraph all the allegations contained in Paragraphs one through three of Count VI of the original Complaint as if fully stated herein with one exception, to-wit: In the second line of paragraph two, the word "since" shall be deleted and in its place and stead the words "subsequent to" shall be added.

COUNT X

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one through three of Count VII of the original Complaint as if fully stated herein with one exception, to-wit: In the second line of paragraph two, the word "since" shall be deleted and in its place and stead the words "subsequent to" shall be added.

COUNT XI

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one through three of Count VIII of the original Complaint as if fully stated herein with one exception, to-wit: In the second line of paragraph two, the word "since" shall be deleted and in its place and stead the words "subsequent to" shall be added.

WHEREFORE, Plaintiff, GLADYS BEASLEY, prays judgment for Plaintiff and against Defendants, jointly and severally, in the sum of Five Million Dollars (\$5,000,000.00) as compensatory and exemplary damages, or in such other sums as a court or jury upon a trial of this cause, shall deem just, fair and equitable, plus costs, interest and attorney fees.

WHEREFORE, your Plaintiff, GLADYS BEASLEY, as next friend of the minor Plaintiffs herein, prays judgment for said minor Plaintiffs in the sum of Five Million Dollars (\$5,000,000.00) each, as compensatory and exemplary damages, or in such other sum as a court or jury shall deem just, fair and equitable, plus costs, interest and attorney fees.

BARRON AND KNOPPOW

By:

Ronald M. Barron
Attorneys for Plaintiffs
3001 W. Big Beaver Road Suite 326
Troy, Michigan 48064
649-2828

Dated: November 8, 1976

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064, (313) 649-2828

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs

-vs-

No. 74 002 312 NO

THE CITY OF DETROIT, a municipal
corporation, and N. L. INDUSTRIES, INC.
a New Jersey Corporation, jointly and
severally,

Defendants

ORDER TO AMEND COMPLAINT

At a session of said court held in the City
of Detroit, County of Wayne, State of Michigan,
on 12/6

PRESENT: HONORABLE JOSEPH C. RASHID
Circuit Court Judge

This matter having come on to be heard, all parties being
represented by counsel, and the Court being fully advised in the
premises;

IT IS HEREBY ORDERED that Plaintiffs' Complaint be amended
so as to add counts for Strict Liability, Nuisance and Trespass.

JOSEPH C. RASHID

Circuit Court Judge

Approved:

Syl Delaney
Syl Delaney, Att. for City of Det.

G. Cameron Buchanan
G. Cameron Buchanan, Att. for
N. L. Industries

A TRUE COPY
JAMES R. KILL
CLERK

NL 000039259

N 26060.08

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs

-vs-

No. 74 002 312 NO

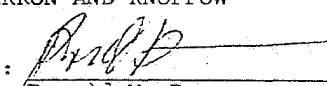
THE CITY OF DETROIT, a municipal
corporation, and J. L. INDUSTRIES, INC.
a New Jersey Corporation, jointly and
severally,

Defendants

MOTION TO AMEND COMPLAINT

NOW COMES the Plaintiffs, GLADYS BEASLEY, individually and
as Next Friend of STEVEN BEASLEY, BRIAN BEASLEY, DERRICK
BEASLEY, WENDELL BEASLEY and MONIQUE BEASLEY, all minors,
by and through their counsel, BARRON AND KNOPPOW, and hereby
moves this Honorable Court for leave to amend the Complaint so
as to add a count for strict liability, nuisance and trespass
for the reasons stated in the attached Affidavit and Brief
In Support thereof.

BARRON AND KNOPPOW

By: 
Ronald M. Barron
Attorneys for Plaintiffs
3001 W. Big Beaver Suite 326
Troy, Michigan 48084
649-2828

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48084, (313) 649-2828

NL 000039260

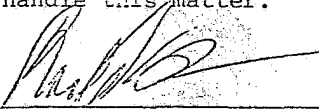
N 26060.09

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064. (313) 649-2828

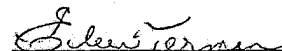
11. That granting the requested motion would avoid a multiplicity of protracted litigation and would be in the interest of the convenient administration of justice to allow the filing of the Amended Complaint.

12. That attorney for N. L. Industries was contacted by telephone to see if he would acquiesce to the relief prayed for, however, as of this date, he has not returned the phone call.

13. That attorney for City of Detroit was unable to be contacted due to the fact that the attorney of record no longer is employed for said City of Detroit and no one at said City of Detroit knew who was going to handle this matter.


Ronald M. Barron

Subscribed and sworn to before
me this 18th day of October, 1976


Eileen Terman - Oakland County
My Commission Expires: 10-11-77

BRIEF IN SUPPORT OF MOTION TO AMEND COMPLAINT

Since the Defendants will not be substantially "prejudiced" by the proposed Amendments, justice requires that leave be given in the instant case.

General Court Rule Section 118.1 holds that leave to appeal should be "freely given when justice so requires." It has been held that the court rule "incorporate a policy in favor of allowing amendments when justice would be served." Jones v. Causey, 43 Mich. App. 271, (1973). While the trial court has the discretion to deny a motion to amend, it may only do so if the court specifically finds that justice would not be served by the amendment Doan v. Chesapeake Ohio Railroad, 18 Mich. App. 271, 171 NW2d 27 (1969).

In order to find that justice would not be served by the amendment, the court must find that the opposing party would be "prejudiced" by the amendment, Ben P. Fyke & Sons, Inc. vs. Gunter Co., 390 Mich 649, 213 NW2d 134 (1973). The prejudice that it referred to in Fyke is the time the amendment is offered, not the subject matter. If due to the lapse of time from the initial complaint until the amendment, the opposing party would be prevented from maintaining a defense, only then should leave be denied. From the facts of this case (See Affidavit and Brief in Support of Motion attached hereto), it is clear that Defendants would not be so prejudiced by the delay in this case.

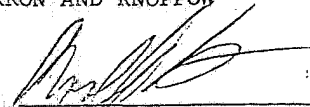
The court in Fyke went on to hold that the discretion given a judge to disallow the amendment is not boundless, the trial

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 325, TROY, MICHIGAN 48064; (313) 549-2829

NL 000039263

judge in order to disallow leave must find that justice would not be served i.e. that the opposing party would be unduly prejudiced. That not being the instant case, leave should be granted.

BARRON AND KNOPPOW

By: 

Ronald M. Barron
Attorneys for Plaintiffs
3001 W. Big Beaver Suite 326
Troy, Michigan 48084
649-2828

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064, (313) 649-2828

NL 000039264

STATE OF MICHIGAN
CIRCUIT COURT FOR THE COUNTY OF WAYNE

Individually and
STEVEN BEASLEY,
TRICK BEASLEY,

B-18

FILE WITH ASSIGNMENT CLERK ONLY

PRAECIPE FOR MOTION

Gladys Beasley et al

plaintiff

VS

City of Detroit et al

defendant

STATE OF MICHIGAN

The Circuit Court for the County of Wayne

74 002312 NO

Civil Action No. _____

Criminal No. _____

AT ISSUE PRAECIPE No. (if any) _____

To the Assignment Clerk: Please place a motion for (state nature of motion in brief form)

Motion To Amend Complaint

on the motion calendar for (date) October 29, 1976

This action has been assigned to JUDGE Rashid

_____ 19____

Adjourned to _____

Adjourned to _____

Adjourned to _____

Disposition _____

Attorney Ronald M. Barron Plaintiff
Telephone No. 649-2828

Attorney G. Cameron Buchanan
N. L. Industries - Defendant

Telephone No. _____

Attorney _____

Telephone No. _____

(list additional attorneys on other side)

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064, (313) 649-2928

AFFIDAVIT OF RONALD M. BARRON
IN SUPPORT OF MOTION

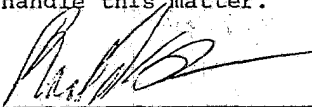
RONALD M. BARRON, after having been duly sworn, deposes and says:

1. That he is the attorney of record for the Plaintiffs herein.
2. That the above entitled action was originally commenced on January 24, 1974, and was drafted by a previous attorney.
3. That the instant case is very complicated in both law and fact.
4. The deponent was substituted as attorney for the Plaintiffs on March 3, 1976.
5. That the instant law suit originally plead causes of action in negligence and breach of warranty in that the Defendants had polluted the air and residence thereby causing brain damage to the Plaintiff's children.
6. That the above entitled action deals with a new body of law popularly referred to as "environmental law."
7. Deponent, after reviewing the limited Michigan law as well as the vast body of national law, believes the aforesaid added counts are supported by law.
8. That the pre-trial is scheduled for February 1, 1977, therefore, discovery has not been completed.
9. That the statute of limitations on the added counts has not expired.
10. That preparation and work done to date by attorney for Defendants are applicable to the new theories.

11. That granting the requested motion would avoid a multiplicity of protracted litigation and would be in the interest of the convenient administration of justice to allow the filing of the Amended Complaint.

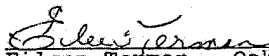
12. That attorney for N. L. Industries was contacted by telephone to see if he would acquiesce to the relief prayed for, however, as of this date, he has not returned the phone call.

13. That attorney for City of Detroit was unable to be contacted due to the fact that the attorney of record no longer is employed for said City of Detroit and no one at said City of Detroit knew who was going to handle this matter.



Ronald M. Barron

Subscribed and sworn to before
me this 18th day of October, 1976



Eileen Terman - Oakland County
My Commission Expires: 10-11-77

LAW OFFICES BARRON AND KNORR, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064, (313) 645-2828

NL 000039267

BRIEF IN SUPPORT OF MOTION TO AMEND COMPLAINT

Since the Defendants will not be substantially "prejudiced" by the proposed Amendments, justice requires that leave be given in the instant case.

General Court Rule Section 118.1 holds that leave to appeal should be "freely given when justice so requires." It has been held that the court rule "incorporate a policy in favor of allowing amendments when justice would be served." Jones v. Causey, 43 Mich. App. 271, (1973). While the trial court has the discretion to deny a motion to amend, it may only do so if the court specifically finds that justice would not be served by the amendment Doan v. Chesapeake Ohio Railroad, 18 Mich. App. 271, 171 NW2d 27 (1969).

In order to find that justice would not be served by the amendment, the court must find that the opposing party would be "prejudiced" by the amendment, Ben P. Fyke & Sons, Inc. vs. Gunter Co., 390 Mich 649, 213 NW2d 134 (1973). The prejudice that it referred to in Fyke is the time the amendment is offered, not the subject matter. If due to the lapse of time from the initial complaint until the amendment, the opposing party would be prevented from maintaining a defense, only then should leave be denied. From the facts of this case (See Affidavit and Brief in Support of Motion attached hereto), it is clear that Defendants would not be so prejudiced by the delay in this case.

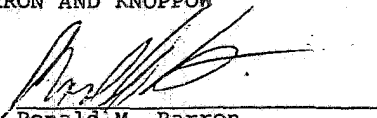
The court in Fyke went on to hold that the discretion given a judge to disallow the amendment is not boundless, the trial

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG-BE AVER ROAD, SUITE 226, TROY, MICHIGAN 48064, (313) 642-2828

NL 000039268

judge in order to disallow leave must find that justice would not be served i.e. that the opposing party would be unduly prejudiced. That not being the instant case, leave should be granted.

BARRON AND KNOPPOW

By: 

Ronald M. Barron
Attorneys for Plaintiffs
3001 W. Big Beaver Suite 326
Troy, Michigan 48064
649-2828

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064, (313) 649-2828

NL 000039269

LAW OFFICES BARRON AND KNOPFOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064, (313) 849-2929

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Et al,
Plaintiffs

-vs-

No. 74-002-312 NO

THE CITY OF DETROIT, Et al,
Defendants

ORDER ADJOURNING PRE-TRIAL

At a session of said court held in the
City of Detroit, County of Wayne, State
of Michigan, on

AUG 10 1976

PRESENT: HONORABLE WILLIAM LEO CAHALAN
Circuit Court Judge

On reading the attached Stipulation and the court being
fully advised in the premises,

IT IS HEREBY ORDERED that the pre-trial in the above cause be
adjourned from August 31, 1976, to a date to be set by the
court, said date to be a minimum of six months subsequent to
August 31, 1976. *See trial on Feb 1, 1977 at 2:15 PM*

WILLIAM LEO CAHALAN

Circuit Court Judge

A TRUE COPY
JAMES D. KILLEEN
BY *[Signature]*
JAMES D. KILLEEN

NL 000039270

N 26060.1

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Et al,
Plaintiffs

-vs-

No. 74-002-312 NO

THE CITY OF DETROIT, Et al,
Defendants

STIPULATION ADJOURNING PRE-TRIAL

IT IS HEREBY STIPULATED by and between the parties, through their respective counsel, that the pre-trial in the above cause be adjourned from August 31, 1976, to a date to be set by the court, said date to be a minimum of six months subsequent to August 31, 1976.

BARRON AND KNOPPOW

By: /s/ Ronald M. Barron
Ronald M. Barron
Attorneys for Plaintiffs
3001 W. Big Beaver #326
Troy, Michigan 48084
649-2828

/s/ Alvin Davidson
Alvin Davidson
Attorney for Defendant,
CITY OF DETROIT
1010 City-County Building
Detroit, Michigan 48226
224-6943

/s/ G. Cameron Buchanan
G. Cameron Buchanan
Attorney for Defendant,
N.L. Industries, Inc.
755 West Big Beaver #1707
Troy, Michigan 48084
362-3707

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064, (313) 649-2828

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

Peter Dozorc, Robert H. Golden ATTORNEY FOR PLAINTIFF

Alvin R. Davidson
G. Cameron Buchanan ATTORNEY FOR DEFENDANT

Gladys Beasley, et al PLAINTIFF
City of Detroit & N.L. Industries, Inc. DEFENDANT

ACTION NO. 74 002 312 NO PRAECIPE NO. _____

NOTICE TO ATTORNEYS: NO LATER THAN 10 DAYS AFTER RECEIPT OF THE
PRE-TRIAL NOTICE, COUNSEL MUST SERVE A COPY OF THIS
FORM COMPLETELY FILLED OUT, ON ALL ATTORNEYS OF
RECORD.

THIS ACTION HAS BEEN SET FOR A PRE-TRIAL HEARING BEFORE THE HONORABLE

Judge William Cahalan ON July 27, 1976 AT 2:15 p.m.

ATTORNEYS MUST PRESENT THIS FORM, COMPLETELY FILLED OUT TO THE CLERK OF THE
PRE-TRIAL JUDGE ON OR BEFORE THE DATE OF HEARING AND THEY MUST BE PREPARED TO
COMPLY WITH ALL OF THE PROVISIONS OF MICHIGAN COURT RULE 301.

G. Cameron Buchanan WILL BE THE ATTORNEY PRESENTING THIS
STATEMENT AND ATTENDING THE CONFERENCE AND WHO WILL REPRESENT
N L Industries, Inc.

1. FACTUAL STATEMENT OF PLAINTIFF'S CLAIMS OR DEFENDANT'S CLAIMS, INCLUDING
COUNTER CLAIMS, CROSS CLAIMS AND AFFIRMATIVE DEFENSES. (If space on this form is
insufficient, counsel may prepare additional sheets and attach to this form.) The statement of your
claim should be stated in language which the trial court may utilize to succinctly relate to the jury your
claim or theory of your case. NL Industries, Inc. will disclose that there is no

relationship between the operation of Defendant's business and the alleged
lead poisoning of the plaintiffs. Further, that the causes of the existing
lead level in a number of the plaintiffs was within normal limits and increased
to abnormal limits after the family moved from the area of defendant's
business operation. The cause of the lead in the blood of the various
plaintiffs is very well known to the plaintiff, well-documented in the medical
records and clearly established to have been related to and caused by the
conduct of the children with reference to paint in the households wherein they
resided.

2. WHAT, BRIEFLY, ARE THE FACTUAL AND LEGAL ISSUES TO BE LITIGATED?

Relationship of alleged lead poisoning of plaintiffs to manufacturing
operations of NL Industries, Inc.

NL 000039272

3. IF PLEADINGS ARE NOT SATISFACTORY AT THIS TIME, WHAT FORMAL AMENDMENTS WILL YOU REQUEST AT PRE-TRIAL?

Pleadings are satisfactory.

4. WHY IS SUCH AMENDMENT NECESSARY?

5. WHY WAS IT NOT SOUGHT PRIOR TO PRE-TRIAL?

INJURIES AND DAMAGES:

6. GIVE NAMES AND AGES OF INJURED PERSONS, AND IN DEATH CASES, NAMES, RELATIONSHIP AND AGES OF PERSONS ALLEGING PECUNIARY LOSS.

7. LIST ALL INJURIES AND STATE WHETHER PERMANENT.

- 7a. IF PERMANENT, WHO WILL TESTIFY TO THIS?

8. LENGTH OF TIME INCAPACITATED, TIME IN HOSPITAL AND AT HOME.

9. ITEMIZE AND TOTAL:

- a. Hospital Bills
- b. Doctor Bills and
- c. Any other items or expenses incurred or loss suffered.

10. IF WAGES ARE LOST, GIVE PLACE AND TYPE OF EMPLOYMENT, DATES LOST, WAGES EARNED AT TIME OF ACCIDENT AND TOTAL AMOUNT OF WAGES LOST.

12. HAVE YOU FURNISHED THE OPPOSITE PARTY WITH YOUR DOCTOR'S DIAGNOSIS AND PROGNOSIS?

Defendant desires plaintiffs' doctor's diagnosis

ADMISSIONS AND WAIVERS:

15. ORDINANCES PLEADED:

None

That the cause of lead in above level of plaintiffs was due entirely to the conduct of plaintiff's children in consumption of paper, paint
EXHIBITS: Matches, and various other objects covered by paint.

Records of Children's Hospital and records of Detroit Board of Education

MEDICAL EXAMINATION:

19. JURY OR NON-JURY _____ Jury

20. ESTIMATED TIME OF TRIAL 5 days

NL 000039274

22. DEFENDANT OFFERS Nothing

23. IS THIS CASE ONE FOR MEDIATION WITHIN MEANING OF WAYNE CIRCUIT COURT RULE #21? no

24. ATTACH A LIST OF ALL WITNESSES YOU PLAN TO CALL AT THE TRIAL. List of witnesses will be complied and furnished within 30 days

25. HAVE YOU READ PARAGRAPHS A-H (Pink Sheet) ATTACHED TO THIS FORM? Yes

26. IF THERE IS ANY DEFENDANT WHO HAS BEEN SERVED AND HAS NOT FILED AN ANSWER, PRESENT THE NECESSARY PLEADINGS TO MAKE A MOTION FOR DEFAULT JUDGMENT, AS TO THAT PARTY, AT THE PRE-TRIAL CONFERENCE. IF THERE IS ANY DEFENDANT WHO HAS NOT BEEN SERVED, THE ACTION SHALL BE DISMISSED AS TO THAT PARTY, UNDER THE PROVISIONS OF THE SIX-MONTH RULE (MGCR 102.5).

BUCHANAN, OGNE AND JINKS P.C.

BY:

SIGNATURE OF TRIAL ATTORNEY

G. Cameron Buchanan P11340

NOTE: YOU MUST SEND A COPY OF THIS FORM COMPLETELY FILLED OUT TO THE OPPOSITE PARTY OR PARTIES OF THE PRE-TRIAL NOTICE NO LATER THAN 10 DAYS AFTER RECEIPT.

DISCOVERY MUST BE COMPLETED BEFORE THE PRE-TRIAL CONFERENCE.

PLEASE NOTIFY THE ASSIGNMENT CLERK IMMEDIATELY OF ANY ATTORNEYS OF RECORD WHOSE NAMES DO NOT APPEAR ON THIS NOTICE.

864

NL 000039275

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

BARRON and KNOPPOW

ATTORNEY FOR PLAINTIFF

GARAN, LUCOW, MILLER, LEHMAN, SEWARD & COOPER, P.C.
BUCHANAN, OGNE and JINKS, P.C.

ATTORNEY FOR DEFENDANT

Gladys Beasley, et al

PLAINTIFF

City of Detroit and N. L. Industries, Inc.

DEFENDANT

ACTION NO. 74-002-312 NO

PRAECIPE NO.

NOTICE TO ATTORNEYS:

NO LATER THAN 10 DAYS AFTER RECEIPT OF THE
PRE-TRIAL NOTICE, COUNSEL MUST SERVE A COPY OF THIS
FORM COMPLETELY FILLED OUT, ON ALL ATTORNEYS OF
RECORD.

THIS ACTION HAS BEEN SET FOR A PRE-TRIAL HEARING BEFORE THE HONORABLE

JUDGE WILLIAM CAHALAN

ON April 26, 1977 AT 2:15 P.M.

ATTORNEYS MUST PRESENT THIS FORM, COMPLETELY FILLED OUT TO THE CLERK OF THE
PRE-TRIAL JUDGE ON OR BEFORE THE DATE OF HEARING AND THEY MUST BE PREPARED TO
COMPLY WITH ALL OF THE PROVISIONS OF MICHIGAN COURT RULE 301.

MILTON LUCOW

WILL BE THE ATTORNEY PRESENTING THIS
STATEMENT AND ATTENDING THE CONFERENCE AND WHO WILL REPRESENT

THE CITY OF DETROIT

1. FACTUAL STATEMENT OF PLAINTIFF'S CLAIMS OR DEFENDANT'S CLAIMS, INCLUDING
COUNTER CLAIMS, CROSS CLAIMS AND AFFIRMATIVE DEFENSES. (If space on this form is
insufficient, counsel may prepare additional sheets and attach to this form.) The statement of your
claim should be stated in language which the trial court may utilize to succinctly relate to the jury your
claim or theory of your case.

The defendant, CITY OF DETROIT, denies that it was guilty of any actionable negligence
whatsoever and further denies that it was guilty of breaching any implied warranties;
further, although this defendant vehemently denies the allegations of the plaintiff,
in the event that same are found to be true, then the plaintiffs herein are guilty of
negligence of an equal degree which was a proximate cause of the alleged injuries and
damages. WHEREFORE, this defendant demands a judgment of no cause for action.

THIS DEFENDANT ALSO PLEADS THE STATUTE OF LIMITATIONS.

2. WHAT, BRIEFLY, ARE THE FACTUAL AND LEGAL ISSUES TO BE LITIGATED?

LIABILITY AND DAMAGES

3. IF PLEADINGS ARE NOT SATISFACTORY AT THIS TIME, WHAT FORMAL AMENDMENTS WILL YOU REQUEST AT PRE-TRIAL?

4. WHY IS SUCH AMENDMENT NECESSARY?

5. WHY WAS IT NOT SOUGHT PRIOR TO PRE-TRIAL?

INJURIES AND DAMAGES:

6. GIVE NAMES AND AGES OF INJURED PERSONS, AND IN DEATH CASES, NAMES, RELATIONSHIP AND AGES OF PERSONS ALLEGING PECUNIARY LOSS.

7. LIST ALL INJURIES AND STATE WHETHER PERMANENT.

7a. IF PERMANENT, WHO WILL TESTIFY TO THIS?

8. LENGTH OF TIME INCAPACITATED, TIME IN HOSPITAL AND AT HOME.

9. ITEMIZE AND TOTAL:

- a. Hospital Bills
- b. Doctor Bills and
- c. Any other items or expenses incurred or loss suffered.

10. IF WAGES ARE LOST, GIVE PLACE AND TYPE OF EMPLOYMENT, DATES LOST, WAGES EARNED AT TIME OF ACCIDENT AND TOTAL AMOUNT OF WAGES LOST.

NL 000039277

11. IN DEATH CASES, STATE AMOUNT OF PECUNIARY LOSS AND TOTAL AMOUNT EACH CLAIMANT -- PLAINTIFF CLAIMS. (If space on this form is insufficient, counsel may prepare additional sheets and attach to this form.)

12. HAVE YOU FURNISHED THE OPPOSITE PARTY WITH YOUR DOCTOR'S DIAGNOSIS AND PROGNOSIS?

13. IF NOT, PLEASE EXPLAIN WHY.

14. IF DIAGNOSIS AND PROGNOSIS WILL NOT BE FURNISHED BY PRE-TRIAL CONFERENCE PLEASE EXPLAIN WHY.

ADMISSIONS AND WAIVERS:

OWNERSHIP AND OPERATION: ORDINANCES PLEADED: REASONABLENESS AND CAUSA:
CONNECTION OF DOCTOR & HOSPITAL BILLS AND OTHER ITEMS OF DAMAGE, ETC.

15. ORDINANCES PLEADED:

16. (A) WHAT ADMISSIONS OF FACT ARE YOU PREPARED TO MAKE?

(B) WHAT ADMISSIONS OF FACT DO YOU DEMAND FROM OPPOSITE PARTY?

EXHIBITS:

17. LIST AND BRING WITH YOU ALL EXHIBITS AND ANY OTHER EVIDENTIARY INFORMATION RELATING TO CASE.

MEDICAL EXAMINATION:

18. IS A FURTHER MEDICAL EXAMINATION NECESSARY? (If so, steps should be taken to complete examination before the Pre-Trial Conference.)

19. JURY OR NON-JURY JURY THIS DEFENDANT RESERVES THE RIGHT TO A MEDICAL EXAMINATION.

IF JURY, DEPOSIT OF THE JURY FEE MUST BE MADE BY THE CLOSE OF THE PRE-TRIAL CONFERENCE OR JURY IS WAIVED. IF JURY, CONSIDER SEPARATION OF ISSUES AND THE ORDER OF TRIAL WHEN SOME ISSUES ARE TO BE TRIED BY A JURY AND SOME BY THE COURT

20. ESTIMATED TIME OF TRIAL 5 days

21. PLAINTIFF OFFERS TO TAKE _____ IN FULL SETTLEMENT OF HIS CASE.

22. DEFENDANT OFFER: _____

23. IS THIS CASE ONE FOR MEDIATION WITHIN MEANING OF WAYNE CIRCUIT COURT RULE #21? NOT A PROBABLE LIABILITY CASE.

24. ATTACH A LIST OF ALL WITNESSES YOU PLAN TO CALL AT THE TRIAL.

25. HAVE YOU READ PARAGRAPHS A-H (Pink Sheet) ATTACHED TO THIS FORM? YES

GARAN, LUCOW, MILLER, LEHMAN, SEWARD & COOPER, P.C.

By: _____

SIGNATURE OF TRIAL ATTORNEY

Milton Lucow
Attorneys for Defendant, CITY OF DETROIT, ONLY
561 East Jefferson Avenue
Detroit, Michigan, 48226
962-5180

NOTE: YOU MUST SEND A COPY OF THIS FORM COMPLETELY FILLED OUT TO THE OPPOSITE PARTY OR PARTIES OF THE PRE-TRIAL NOTICE NO LATER THAN 10 DAYS AFTER RECEIPT.

DISCOVERY MUST BE COMPLETED BEFORE THE PRE-TRIAL CONFERENCE.

PLEASE NOTIFY THE ASSIGNMENT CLERK IMMEDIATELY OF ANY ATTORNEYS OF RECORD WHOSE NAMES DO NOT APPEAR ON THIS NOTICE.

864

AT THE TIME OF TRIAL, THIS DEFENDANT MAY CALL THE FOLLOWING WITNESSES:

1. Theodore Spencer
2. Verne Hunt
3. Lee D. Scott
4. Michigan Painting Company
5. A & B Painting Company
6. Sam Gibbs
7. Wayne County Pollution Control Center
8. State of Michigan, Department of Health
9. Detroit Board of Education Records
10. Dr. Neal Levi
11. Roland Evans
12. Free Clinic Records
13. Comprehensive Health Services
14. Plaintiffs' treating physicians, past and present
15. Plaintiffs' medical and hospital records, past and present.
16. This defendant reserves the right to call any and all additional witnesses made necessary to rebut the proofs of the plaintiffs.

T-632

ATTENTION: DUE TO THE SIZE OF THE NEW PRE-TRIAL NOTICE AND STATEMENT FORM, WE WILL NO LONGER MAIL BLANK FORMS WITH THE NOTICE.

RECEIVED

JUN 10 1976

Alexander, Buchanan & Savitt

ATTORNEYS ARE NOW REQUIRED TO PICK UP BLANK FORMS IN THE CIRCUIT COURT ASSIGNMENT CLERK'S OFFICE.

6335 @

IMPORTANT

RECEIVED JUN 11 1976

PLEASE NOTE NEW RULES PERTAINING TO PRE-TRIAL AND TRIAL:

- A. The fact that trial counsel is elsewhere engaged or unable to attend will not be grounds for a continuance of the pre-trial or trial (G.C.R. 114.4). It is imperative, therefore, that backup counsel be available to substitute for regular trial counsel, in the event of a conflict.
- B. No Discovery proceedings will be permitted after the Pre-Trial conference, except that a physical examination before trial may be ordered in the pre-trial conference summary statement. (G.C.R. 301.7).
- C. Pre-Trial may not be waived. (G.C.R. 301.8).
- D. Within 10 days after receipt of notice of pre-trial conference, counsel shall exchange lists of all witnesses to be called at trial (G.C.R. 301.10) No witnesses may be called at trial unless listed, except by leave granted upon a showing of good cause.
- E. No cause will be adjourned because of inability of an expert witness to be present (G.C.R. 302.7). Therefore, all expert witnesses should be deposed prior to trial--and within the rules provided--to insure the availability of expert testimony at the trial.
- F. Interrogatories addressed to the existence of, the address of, or identity of witnesses are deemed continuing interrogatories (G.C.R. 309.2). In brief, once a party has been asked to disclose his witnesses, he must disclose all known witnesses and thereafter disclose any new witness to the opposite party as soon as that witness is known.
- G. After the Pre-Trial conference counsel for a party may withdraw only with Court approval--and not at all within the 30 day period preceding trial. (G.C.R. 532).
- H. Pre-Trials may be adjourned only by the Judge--and then only for good cause shown. (Local Court Rule 8.4).

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE
GLADYS BEASLEY ET AL

Plaintiffs,

-vs-

No: 74 002312 NO

THE CITY OF DETROIT, a Municipal
Corp. and N L INDUSTRIES, INC., a
New Jersey Corporation, jointly and
severally,

Judge Joseph G. Rashid
P 19236

Defendants.

SUBSTITUTION OF ATTORNEYS

TO THE CLERK OF SAID COURT:

Please enter our appearance as Attorneys for the Defendant, N L INDUSTRIES, INC., a New Jersey Corp., in the place and stead of Alexander, Buchanan & Seavitt.

BUCHANAN, OGNE AND JINKS P.C.

BY:

G. Cameron Buchanan P11340
Attorney for N L Industries, Inc.
Suite 1707, 710 West Big Beaver Road
Troy, Michigan, 48063 362-3707

April 29, 1976

TO:

BARRON AND KROPPEN ^{Random}
Attorneys for Plaintiffs ¹⁹⁷⁶
Suite 325, 3301 West Big Beaver
Troy, Michigan, 48064

JAMES DANIEL ²³⁷⁷
Attorney for City of
Detroit
1010 City County Building
Detroit, Michigan, 48226

PLEASE TAKE NOTICE that we have this day entered our
appearance for the above named Defendant in the place and stead
of Alexander, Buchanan & Seavitt

BUCHANAN, OGNE AND JINKS, P.C.

BY:

G. Cameron Buchanan P11340

CONSENT TO SUBSTITUTION

We hereby consent to the substitution of Buchanan, Ogne,
and Jinks, P.C. for the Defendant, N L Industries, Inc., a New
Jersey Corporation in our place and stead.

ALEXANDER, BUCHANAN & SEAVITT

April 29, 1976

NL 000039281

N 26060.11

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

Notice of no progress

Case No. N-002312-CX	Case Title BEASLEY ET AL V City of DET ET AL	Date Mailed 05-29-75	Dismissal Date 06-09-75
Attorney for N.L. INDUSTRIES, INC.		This case has been assigned to Judge Joseph G. Rashid	

Please take notice that the above entitled cause shall be dismissed on the above dismissal date by order of the judge to whom the case is assigned unless by such time:

- (A) In no contest actions default with praecipe is filed and a motion for judgment is filed, or
- (B) The action is brought to issue and a trial praecipe is filed, or
- (C) The judge extends the time on a showing of good cause. Any such extension shall be for a fixed period of time.

NOTICE: If any of the steps listed in Rule 17.3 have been taken prior to the time of the calling of said "No Progress Calendar", the clerk of the Judge shall be notified thereof. In the absence of such notification, an order dismissing the action for "No Progress" shall be entered by the assigned judge without regard for any progress in fact made.

JAMES R. KILLEEN
WAYNE COUNTY CLERK

G. CAMERON BUCHANAN, Esq.
2217 1ST NATIONAL Bldg.
DETROIT, MICHIGAN 48226

NL 000039282

N 26060.12

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs,

-vs-

No. 74-002312 NO

THE CITY OF DETROIT, a Municipal
Corporation and N.L. INDUSTRIES, INC.,
a New Jersey Corporation, jointly and
severally,

Defendants.

ROBERT H. GOLDEN (P14108)
Of Counsel Attorney for Plaintiffs

ALVIN R. DAVIDSON (P12567)
Attorney for Defendant

ANSWER

NOW COMES the City of Detroit, a municipal corporation, by and through
its attorneys, Robert Reese, Corporation Counsel, Thomas J. O'Dowd and
Alvin R. Davidson, Assistants Corporation Counsel, and answers the complaint of
the plaintiffs as follows:

GENERAL JURISDICTIONAL AVERMENTS

1. Paragraph 1 is affirmed.
2. Paragraph 2 is affirmed.
3. Paragraph 3 is neither affirmed nor denied by the defendant herein for
lack of proofs on which to form an opinion.
4. Paragraph 4 is affirmed.

COUNT 1

1. Paragraph 1 is affirmed to the extent that plaintiffs occupied same, but
defendants' records show initial occupancy on November 6, 1969. Defendant
denies any express or implied warranties inure to the monthly lease.

2. Paragraph 2 is affirmed.
3. Paragraph 3 is affirmed.
4. Paragraph 4 is affirmed.
5. Paragraph 5 is affirmed to the extent that the business of the co-defendant causes an increase in the amount of lead particles in the air surrounding said co-defendant's business, but the remaining allegations must be denied for lack of knowledge thereof, leaving plaintiffs to their proofs.
6. Paragraph 6 is neither affirmed nor denied, leaving plaintiffs to their proofs.
7. Paragraph 7 is neither affirmed nor denied, leaving plaintiffs to their proofs.
8. Paragraph 8 is neither affirmed nor denied, leaving plaintiffs to their proofs.
9. Paragraph 9 is neither affirmed nor denied, leaving plaintiffs to their proofs.
10. Paragraph 10 is neither affirmed nor denied, leaving plaintiffs to their proofs.
11. Paragraph 11 is denied to the extent the defendant herein is alleged to have contributed to the pollution of the air and atmosphere, but is neither affirmed nor denied relative to the balance of the paragraph, leaving plaintiffs to their proofs.

COUNT II

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is denied specifically, as defendant was neither negligent nor in breach of any warranty, express or implied. Defendant answers the subsections of this paragraph as follows:
 - A. Subsection A is affirmed, but only to the extent of the exterior of the dwellings.
 - B. Subsection B is affirmed to the extent that the air throughout the City of Detroit is infiltrated by lead and other chemicals from automobile exhausts. Any other meaning implied by the plaintiffs is left to their proofs.

- C. Subsection C is neither affirmed nor denied, leaving plaintiffs to their proofs.

COUNT III

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is denied. Defendant answers the subsections of this paragraph as follows:
 - A. Subsection A is affirmed, but only to the extent of the exterior of the dwellings.
 - B. Subsection B is neither affirmed nor denied, plaintiffs being left to their proofs.
 - C. Subsection C is neither affirmed nor denied, plaintiffs being left to their proofs.
 - D. Subsection D is denied. Defendant City of Detroit lacked the knowledge, capability and jurisdiction to effect the air in and around plaintiffs' dwelling.

COUNT IV

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical damage.

COUNT V

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.

COUNT VI

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical harm.

COUNT VII

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical harm.

COUNT VIII

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical harm.

AFFIRMATIVE DEFENSES

The defendant herein, the City of Detroit, sets forth the following affirmative defenses to the plaintiffs' Complaint:

1. The elevated blood-lead levels of the plaintiffs' in this cause are variables which constitute ambiguous measurements, and are not evidence, per se, of lead poisoning, but of a condition which lends itself to treatment by chelation therapy.
2. That the elevated blood-lead levels of the plaintiffs in this cause were not proximately caused by any negligent actions of the City of Detroit, but by the actions of National Lead Industries, Inc.
3. That the numerous paintings of the structures known as public housing by the City of Detroit was an attempt to make and maintain those structures in a manner consistent with what is generally known as decent.
4. That the state of the technology of paint production open to both the City of Detroit and consumers generally was so primitive until the 1960's that most of the paint sold and purchased exceeded the generally recognized 'safe' limits of lead compounds insisted upon today by Federal regulations.
5. That to hold the City of Detroit liable for the use of such paints when the dangers in those paints of lead base were virtually unknown would be analogous to strict liability.
6. That the condition of children eating paint chips or chewing paint from some painted surface in public housing was not foreseeable and was not consistent with the purposes for which the paint was used by the defendant, City of Detroit.
7. That prior to the plaintiffs moving into the building at 4803 E. Nevada, that unit was painted throughout with non-lead or low-lead based paint.
8. That plaintiff, Gladys Beasley, never complained to the building manager about the condition of any painted surface in her home, but the City of Detroit, through an enforcement program initiated by the Department of Health, scraped and removed questionable chipping paint from the interior and exterior of plaintiffs' dwelling beginning in February, 1973.
9. That the plaintiff, Gladys Beasley, knows and knew of her children's, plaintiffs, propensity to put non-food items into their mouths by virtue of her close supervision of said children, but in not stopping said conduct, was negligent by her inaction. The children, in ingesting non-food items were contributing factors to their own illnesses, and thus, contributorily negligent.

10. That the detection and enforcement of clean air laws is the duty of the Wayne County Pollution Control Center by statute, Act 306 of P.A. of 1927 (MCLA 327.205 and 206); and that those antipollution laws may be enforced by any citizen of the State of Michigan, Act 127 of P.A. of 1970 (MCLA 691.1202).

WHEREFORE, it is prayed that this action be dismissed against the defendant, City of Detroit, and that this Honorable Court grant such other relief as it deems necessary and equitable.

by Alvin R. Davidson
Alvin R. Davidson
Assistant Corporation Counsel
City of Detroit
1010 City-County Building
Detroit, Michigan 48226
(313) 224-6943; 224-3423

DATED: March 6, 1974

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs,

-vs-

No: 74 002312 NO

THE CITY OF DETROIT, a Municipal
Corporation and N. L. INDUSTRIES, INC.,
a New Jersey Corporation, jointly and
severally,

Defendants.

----- /
ANSWER TO THE COMPLAINT ON
BEHALF OF N. L. INDUSTRIES, INC.,
A NEW JERSEY CORPORATION.

Now comes N. L. INDUSTRIES, INC., a New Jersey
Corporation by ALEXANDER, BUCHANAN & SEAVITT, its Attorneys
and in answer to Plaintiffs' Complaint says:

GENERAL JURISDICTIONAL AVERMENTS

1. Defendant is without sufficient information to
form an answer or belief to the allegations of said paragraph
contained.
2. Defendant admits the same on information and
belief.
3. Admitted.
4. Defendant is without sufficient information to
form an answer or belief and in further answer avers that it
does not know if Plaintiffs have a cause of action

COUNT I.

1. Defendant is without sufficient information to
form an answer or belief.
2. Defendant is without sufficient information to
form an answer or belief.

3. Defendant admits that it operates its Master Metal Division at 4700 E. Nevada, Detroit, Michigan, but is without sufficient information to admit or deny the remaining allegations in said paragraph contained.

4. Defendant admits that at the Nevada location its conducts a smelter for the recovery of lead and/or the smelting, burning process of materials containing lead but neither admits nor denies the remaining allegations in said paragraph contained for want of sufficient information to answer because of the broad general statements incorporated in the allegations.

5. Defendant denies the allegations in said paragraph contained, avers that said allegations are not, in fact, true, and that tests made periodically will disclose the verification of defendant's answer. In further answer Defendant avers that there are in the area where the Plaintiffs allegedly reside other secondary smelters of scrap lead being Sitkin Midland, Inc. N. R. Lavin & Sons, Inc. which may be the source or the bases of Plaintiffs' complaints.

6. Defendant is without sufficient information to form an answer or belief to the allegations with reference to the residence of the Plaintiffs but denies the remaining allegations in said paragraph contained and avers that said allegations are not, in fact, true.

7. Defendant is without sufficient information to form an answer or belief to the allegations with reference to residence of the Plaintiffs but denies the remaining allegations in said paragraph contained and avers that said allegations are not, in fact, true.

8. Defendant denies the allegations in said paragraph contained as applicable to the claims of the Plaintiffs with reference to lead, avers that said allegations are not, in fact, true; admits that complaints have been made and corrected with reference to sulphur content of emissions.

9. Defendant is without sufficient knowledge or information to form an answer or belief to the allegations pertaining to the physical conditions of the Plaintiff, Gladys Beasley but denies that any condition such as alleged was the result of the manufacturing process of this defendant, and avers that tests made by Health authorities and Defendant will substantiate this allegation.

10. Defendant is without knowledge or information sufficient to form an answer or belief to the allegations in said paragraph contained and leaves the Plaintiffs to their proofs.

11. Defendant is without knowledge or information sufficient to form an answer or belief to the allegations in said paragraph contained and leaves the Plaintiffs to their proofs.

AFFIRMATIVE DEFENSES

TO: GLADYS BEASLEY
Plaintiff

PETER DOZORC and ROBERT H GOLDEN
Attorneys for Plaintiffs

PLEASE TAKE NOTICE that the Defendant will rely upon and prove that the alleged cause of action of the Plaintiffs or any injuries or damages occurring after November 1, 1973 are barred by the Statute of Limitations and Defendant at the appropriate time and place will move to dismiss or strike from the Complaint allegations pertaining to all damages within the said period pursuant to the Michigan General Court Rules.

WHEREFORE, Defendant asks Judgment of No Cause of Action together with costs so wrongfully incurred.

COUNT II

1. Defendant adopts and incorporates by reference

answers to the allegations of Count I and the Affirmative Defenses incorporated therein.

2. Defendant is without sufficient information to form an answer or belief to the allegations in said paragraph contained and in further answer avers that the allegations are not applicable to this Defendant.

COUNT III

1. Defendant adopts and incorporates by reference the answers to Counts I and II of Plaintiffs' Complaint.

2. Defendant is without sufficient information to form an answer or belief to the allegations of said paragraph contained and in further answer avers that the allegations are not applicable to this Defendant.

COUNT IV.

1. Defendant adopts and incorporates by reference in full, answers to Counts I, II and III of Plaintiffs' Complaint.

2. Defendant denies air pollution by lead from its activity and avers that the allegations in said paragraph have no application to this Defendant.

3. Defendant denies that it was guilty of any acts of negligence or breach of duties for the reasons hereinbefore set forth but neither admits nor denies the remaining allegations for want of sufficient information to form an answer.

COUNT V.

1. Defendant adopts and incorporates by reference the answers to Counts I, II, III and IV in their entirety.

2. Defendant denies that the air in the community in which the Plaintiff allegedly resides was polluted or infiltrated by lead from this Defendant's business activities, avers that the tests of the Health authorities and this Defendant substantiate the bases of this denial but neither admits nor denies the remaining allegations in said paragraph contained for want of sufficient information to form an answer or belief and are not applicable.

3. Defendant is without sufficient information to form an answer or belief to the allegations of the physical condition of the Plaintiff or other allegations pertaining to injuries and denies that any condition of the Plaintiff resulted from negligence or wilful actions, or any breach of duty of this Defendant for the reasons hereinbefore set forth.

COUNT VI

1. Defendant adopts and incorporates by reference all of the answers to Counts I, II, III, IV, and V in their entirety.

2. Defendant denies the allegations with reference to the air being polluted by lead from Defendant's smelter and business activity; neither admits nor denies the remaining allegations in said paragraph contained for want of sufficient information to form an answer or belief except as to those allegations which are not applicable to this Defendant.

3. Defendant has no information sufficient in nature to form an answer or belief as to the allegations pertaining to injuries but denies that said injuries resulted from any negligence or wilful actions or failures to act of this Defendant or breach of duty of this Defendant for the reasons hereinbefore set forth.

COUNT VII

1. Defendant adopts and incorporates by reference

the answers to Counts I through VI as fully set forth therein.

2. Defendant denies the allegations with reference to the air being polluted by lead from Defendant's smelter and business activity; neither admits nor denies the remaining allegations in said paragraph contained for want of sufficient information to form an answer or belief except as to those allegations which are not applicable to this Defendant.

3. Defendant has no information sufficient in nature to form an answer or belief to the allegations pertaining to injuries but denies that said injuries resulted from any negligence or wilful actions or failure to act of this Defendant or breach of duty of this Defendant for the reasons hereinbefore set forth.

COUNT VIII

1. Defendant adopts and incorporates by reference the answer to Counts I through VII as fully set forth therein.

2. Defendant denies the allegations with reference to the air being polluted by lead from Defendant's smelter and business activity; neither admits nor denies the remaining allegations in said paragraph contained for want of sufficient information to form an answer or belief except as to those allegations which are not applicable to this Defendant.

3. Defendant has no information sufficient in nature to form an answer or belief as to the allegations pertaining to injuries but denies that said injuries resulted from any negligence or wilful actions or failures to act of this Defendant or breach of duty of this Defendant for the reasons hereinbefore set forth.

WHEREFORE, Defendant denying Plaintiffs claim of setting forth allegations with reference to exemplary damages

respectfully represents to the Court that it is without negligence or fault in this cause and asks Judgment of No Cause of Action together with costs so wrongfully incurred in each of the claims of the respective Plaintiffs.

ALEXANDER, BUCHANAN & SEAVITT

BY:
G. Cameron Buchanan P11340
Attorney for N. L. Industries, Inc.
2217 First National Building
Detroit, Michigan, 48226
965-2310

May 20, 1974

STATE OF MICHIGAN

CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Indiv. & next friend
of Seven Beasley, Brian Beasley, et al.

Plaintiff

Civil Action # 74-602312 NO

CITY OF DETROIT, a Municipal corp., &
N. L. INDUSTRIES, INC., a New Jersey
corp., j/s

Defendant

RECEIVED
JAN 24 1974
JUDGE

SUMMONS

IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN:

To the above named defendant(s): CITY OF DETROIT: City County Building, Detroit

(Name of Defendant(s))

N. L. INDUSTRIES, INC.: c/o Corporation Co., Dime Building, Detroit

You Are Hereby Notified that a civil action has been commenced against you, and that if you desire to defend the same, you are required to answer or take such action as may be permitted by law with regard to the complaint herewith served upon you, within 20 days after service of this summons and complaint upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Date:

Peter Dozorc,
ROBERT H. GOLDEN, Of Counsel

(Attorney for Plaintiff)

Signature of Attorney for Plaintiff
17220 W. 12 Mi., Sfld., Mich.

(Business address)

557-7210

(Phone No.)

JOSEPH B. SULLIVAN, Clerk of the Circuit Court

Deputy Clerk

Seal of the Court

STATE OF MICHIGAN } ss
COUNTY OF WAYNE }

I _____ hereby certify and return
(Deputy Sheriff)

that on the _____ day of _____, 19____, at _____
(place of service)

_____ in the County of _____

I served a Summons and a copy of the Complaint and _____

In this action upon _____

(Name of Defendant(s))

known to be (one of) the defendant(s) named therein, by then and there delivering to (each of) said defendant(s) said summons and copy of above named documents.

Dated _____ 19____

SHERIFF

Deputy Sheriff

STATE OF MICHIGAN } ss
COUNTY OF WAYNE }

_____ being duly sworn, deposes and
(Deponent)

says that he is a person of suitable age and discretion to serve process, and that on the _____ day of _____, 19____

at _____ in the County of _____

(place of service)

he served a Summons and a copy of the Complaint and _____

In this action upon _____

(Name of Defendant(s))

known to be (one of) the defendant(s) named therein, by then and there delivering to (each of) said defendant(s) said summons and copy of above named documents.

Subscribed and sworn to before me

this _____ day of _____, 19____

Deponent

Notary Public, Wayne County, Michigan

My Commission expires _____

NL 000039297

N 26060.15

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs,

-vs-

No. 74-002312 NO

THE CITY OF DETROIT, a Municipal
corporation and N. L. INDUSTRIES, INC.,
a New Jersey Corporation, jointly and
severally,

Defendants.

SPECIAL DOCKET

ROBERT H. GOLDEN (P 14108)
Of Counsel Attorney for Plaintiffs

COMPLAINT

Now come the above named plaintiffs by their attorney, PETER
DOZORC, ROBERT H. GOLDEN, of counsel and complain of the CITY OF
DETROIT, a Municipal corporation and N. L. INDUSTRIES, INC., a New Jersey
corporation, jointly and severally and for their cause of action, say:

GENERAL JURISDICTIONAL AVERMENTS

1. That all of your plaintiffs are residents of the City of Detroit,
County of Wayne, State of Michigan.
2. That the defendant, City of Detroit, is a Municipal corporation
located within the County of Wayne, State of Michigan.
3. That the defendant, N. L. INDUSTRIES, INC., is a New Jersey
corporation, admitted and authorized to do business in the State of Michigan and
established within the County of Wayne, State of Michigan.
4. That this cause of action accrued to your plaintiffs within the
County of Wayne, State of Michigan.

PETER DOZORC, P.O., ATTORNEY AT LAW

18000 WEST NINE MILE ROAD - SOUTHFIELD, MICHIGAN 48075 - 353-4600

NL 000039298

N 26060.16

C
O
P
Y

COUNT I

1. That on or about November 1, 1970, your plaintiff rented, or otherwise occupied premises known as 4803 Nevada, located in the City of Detroit, County of Wayne, State of Michigan, from the defendant, and owner of said property, the CITY OF DETROIT, Paying a monthly rental therefore to the said CITY OF DETROIT, which premises by agreement and design were for use by plaintiff and her family as a dwelling place and residence and impliedly warranted by the said defendant as safe for such use.

2. That plaintiff's family on November 1, 1970 and thereafter consisted of her children, the minor plaintiffs herein, which minor plaintiffs born and thereafter born resided in the aforesaid premises from November 1, 1970 or their date of birth, to the present time.

3. That the defendant, N. L. INDUSTRIES, INC., a New Jersey corporation operated a division of its business known as Master Metal Division at 4700 E. Nevada, Detroit, Michigan, which location is approximately 400 feet south west of the residence and dwelling place of all of your plaintiffs, as heretofore described.

4. That defendant, N. L. INDUSTRIES, INC., at its location aforesaid, conducts a smelter for the recovery of lead and or the smelting, burning and processing of ores, materials and goods, which contain lead, including but not limited to the burning or smelting of battery casings for recovery of their lead content.

5. That the process of burning battery casings and cases and the other smelting, burning and processing done by defendant, N. L. INDUSTRIES, INC., caused, causes and continues to cause the atmosphere in and around 4800 E. Nevada, to become burdened with an increased and abnormal amount of lead, specifically let into the air in the neighborhood of defendant's plant, by the plant operations of the defendants and its business operations, which air envelopes plaintiff's residence.

6. That your plaintiff's have lived in and around and within 400 feet of defendant's plant for in excess of three years, breathing the air placed there by

PETER DOZORC, P.C., ATTORNEY AT LAW

16000 WEST NINE MILE ROAD - SOUTHFIELD, MICHIGAN 48075 - 353-4900

NL 000039299

nature in its pure state free of lead particles or chemicals and fouled by defendant's manufacturing processes so as to contain lead in amounts greatly increased from what amounts if lead could or would be expected to be contained within the air in its natural and unaltered state in the absence of defendant's manufacturing process, and have been injured thereby as more fully set out herein.

7. That not only has this defendant caused the air in and out of its plant and in and around plaintiff's residence to be fouled and lead burdened, but has continually and repeatedly refused or neglected to so refine its manufacturing process to eliminate the danger to residents in the area and of persons including plaintiff's breathing air containing various chemicals, and metals including lead, and, fully realizing the dangers of their business enterprise to inhabitants of the area, have continued their smelting and burning and pollution of the atmosphere and breathable air in and around plaintiff's residence.

8. That on several occasions defendant has been cited or complained against, notified or requested to alter, change amend, safeguard or discontinue its operations in order to prevent the pollution of the air around its plant and to prevent pollution of the air plaintiff's breath, which complaints, requests orders, etc. have gone largely ignored and without remedy, further endangering the life of plaintiffs and continuing to foul and contaminate the air breathed now, in the past, and during the pendency of this action, by plaintiffs and others to their damage and injury.

9. That your plaintiff, GLADYS BEASLEY, has for several months endured the pain, suffering, vomiting, diarrhea and general irritability of her children, the minor plaintiffs herein, the above symptoms the result of lead poisoning, caused by and or contributed to by the pollution of the air in and about their home, as a result of the manufacturing and smelting process of the defendant, N. L. INDUSTRIES, INC.

10. That your plaintiff, GLADYS BEASLEY, has been compelled to seek medical attention for all of her children, the minor plaintiffs herein, and

PETER DOZORC, P.C., ATTORNEY AT LAW

18000 WEST NINE MILE ROAD - SOUTHFIELD, MICHIGAN 48075 - 353-4800

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has been compelled, is being compelled and will be compelled for the rest of her life, and/or the lives of her children, to pay and incur great sums of money in and about the treatment, care, and alleviation of the complaints of her children, the minor plaintiffs herein.

11. That your plaintiff has witnessed and endured the suffering of her children and will be called upon in the future to witness their continued pain, suffering, and debilitation, lessening of intelligent quotient and in general will bear witness to the inability of her children to attain a normal mental and physical ability and life pattern and style, all taken from them by the actions and failures of these defendants in their pollution of the atmosphere and virtual injection of the atmosphere in and about her home with lead and lead derivatives and lead bearing chemicals.

COUNT II

1. That your plaintiff, GLADYS BEASLEY, incorporates by reference thereto, all of the allegations heretofore appearing in this Complaint as though fully set out herein.

2. That the defendant, CITY OF DETROIT, has negligently provided the plaintiffs with an unsafe, defective and dangerous building in which to live, for a payment of rent, and further that the said defendant, CITY OF DETROIT, knew or should have known of the defective and unsafe condition of the residence provided by it to these plaintiffs, for example:

- A. That the building and premises and/or surrounding buildings and/or premises also owned by this defendant had covering them several coats of lead based paint.
- B. That the air in and around the premises was infiltrated with lead and other chemicals.
- C. That all surfaces, interior and exterior were covered and continued to be covered with lead particles settled and settling out of the air.

And that the existence of lead and in and upon the interior and exterior building,

PETER DOZORC, P.C., ATTORNEY AT LAW

14000 WEST NINE MILE ROAD - SOUTHFIELD, MICHIGAN 48075 - 323-4600

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walls, surface and breathable air constituted a lethal health hazard to plaintiff and the minor children plaintiffs, which danger this defendant failed to in any way point out, warn of, or reduce, inhibit, discontinue or abate, the existence of which and which failure and negligent acts were a breach of said defendant's implied warranty of a safe premises in which to live, resulting in the acute lead poisoning of the minor plaintiffs and the pain, anguish, disappointment and expense of their mother and to plaintiff.

COUNT III

1. That all of your plaintiffs incorporate by reference thereto all of the allegations herein, appearing in this complaint as though fully set out herein.

2. That in renting the aforesaid premises, to your plaintiff and her children, the minor plaintiffs herein, the defendant, CITY OF DETROIT, did impliedly warrant that the premises were safe to be inhabited as a residence and that residing there would not cause, in itself, injury to the plaintiffs, which warranties the defendant CITY OF DETROIT, did breach in that your plaintiff, relying upon the safety of said premises did reside there with her family, all of which children did contract acute lead poisoning as a direct result of their having resided in said premises, defendant breaching its warranty, for example:

- A. That the building and premises and/or surrounding buildings and/or premises also owned by this defendant had covering them several coats of lead based paint.
- B. That the air in and around the premises was infiltrated with lead and other chemicals.
- C. That all surfaces, interior and exterior were covered and continued to be covered with lead particles settled and settling out of the air.
- D. That the defendant, knew or should have known of the dangers of lead poisoning attendant in residing as tenants of defendant and yet the said defendant, CITY OF DETROIT, failed in any way to clean up the air in and around said

PETER DOZORC, P.C., ATTORNEY AT LAW

16000 WEST NINE MILE ROAD - SOUTHFIELD, MICHIGAN 48075 - 353-4600

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premises, or to fill said premises of lead and lead dust.

COUNT IV

1. That co-plaintiff, GLADYS BEASLEY, as next friend of the minor plaintiff BRIAN BEASLEY, incorporates by reference thereto all of the allegations heretofore appearing in this complaint as though fully set out herein.

2. That BRIAN BEASLEY, was born on May 26, 1968, and has resided since November 1, 1970 at the aforesaid residence owned by the defendant, CITY OF DETROIT, and in, around, upon and on which air polluted by lead, infiltrated from defendant's smelter and business activity, was deposited, did on November 1, 1970 have a normal life expectancy pursuant to M. C. L. A. §500.834 of 66.90 years, which life expectancy and quality of life has been materially altered and impaired as a result of acute lead poisoning, contracted as a result of the negligence, actions, and failures to act of the defendants herein, jointly and severally, as well as by breach of warranties of the defendant, CITY OF DETROIT.

3. That your plaintiff has further suffered extreme distress, including head ache pain, pain, vomiting, stomach cramps, acute blood lead levels, lead deposition in his bones and tissues, irritability, diminished responsiveness and intelligent quotient and will continue to suffer such symptoms and such poisoning for the rest of his life, being in constant need of medical and other care, all as a result of the negligent and wilful actions of the defendants herein, and breaches of duty of said defendant.

COUNT V

1. That co-plaintiff, GLADYS BEASLEY, as next friend of the minor plaintiff, DERRICK BEASLEY, incorporates by reference thereto, all of the allegations heretofore appearing in this complaint as though fully set out herein.

2. That DERRICK BEASLEY, was born July 13, 1965, and has resided since November 1, 1970, at the aforesaid residence owned by the defendant, CITY OF DETROIT, and in, around, upon and on which air polluted by lead, infiltrated from defendant's smelter and business activity, was deposited, did on

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November 1, 1970, have a normal life expectancy pursuant to M.C.L.A. §500.334 of 54.19 years, which life expectancy and quality of life has been materially altered and impaired as a result of acute lead poisoning, contracted as a result of the negligence, actions and failures to act of the defendants herein, jointly and severally, as well as by breach of warranties of the defendant, CITY OF DETROIT.

3. That your plaintiff has further suffered extreme distress, including head ache, pain, vomiting, stomach cramps, acute blood lead levels, lead deposition in his bones and tissues, irritability, diminished responsiveness and intelligent quotient and will continue to suffer such symptoms and such poisoning for the rest of his life, being in constant need of medical and other care, all as a result of the negligent and wilful actions of the defendants herein, and breaches of duty of said defendants.

COUNT VI

1. That co-plaintiff, GLADYS BEASLEY, as next friend of the minor plaintiff, WENDELL BEASLEY, incorporates by reference thereto, all of the allegations heretofore appearing in this complaint as though fully set out herein.

2. That WENDELL BEASLEY, was born September 27, 1960, and has resided since November 1, 1970, at the aforesaid residence owned by the defendant, CITY OF DETROIT, and in, around, upon and on which air polluted by lead, infiltrated from defendant's smelter and business activity, was deposited, did on November 1, 1970, have a normal life expectancy pursuant to M.C.L.A. §500.834 of 59.53 years, which life expectancy and quality of life has been materially altered and impaired as a result of acute lead poisoning, contracted as a result of the negligence, actions and failures to act of the defendants herein, jointly and severally, as well as by breach of warranties of the defendant, CITY OF DETROIT.

3. That your plaintiff has further suffered extreme distress, including head ache, pain, vomiting, stomach cramps, acute blood lead levels, lead deposition in his bones and tissues, irritability, diminished responsiveness and intelligent quotient and will continue to suffer such symptoms and such

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poisoning for the rest of his life, being in constant need of medical and other care, all as a result of the negligent and wilful actions of the defendants herein, and breaches of duty of said defendants.

COUNT VII

1. That co-plaintiff, GLADYS BEASLEY, as next friend of the minor plaintiff, MONIQUE BEASLEY, incorporates by reference thereto, all of the allegations heretofore appearing in this complaint as though fully set out herein.

2. That MONIQUE BEASLEY, was born February 1, 1971, and has resided since February 1, 1971, at the aforesaid residence owned by the defendant, CITY OF DETROIT, and in, upon, around, and on which air polluted by lead, infiltrated from defendant's smelter and business activity, was deposited, did on February 1, 1971, have a normal life expectancy pursuant to M. C. L. A. §500.834 of 88.30 years, which life expectancy and quality of life has been materially altered and impaired as a result of acute lead poisoning, contracted as a result of the negligence, actions and failures to act of the defendants herein, jointly and severally, as well as by breach of warranties of the defendant, CITY OF DETROIT.

3. That your plaintiff has further suffered extreme distress, including head ache, pain, vomiting, stomach cramps, acute blood lead levels, lead deposition in her bones and tissues, irritability, diminished responsiveness and intelligent quotient and will continue to suffer such symptoms and such poisoning for the rest of her life, being in constant need of medical and other care, all as a result of the negligent and wilful actions of the defendants herein, and breaches of duty of said defendants.

COUNT VIII

1. That your co-plaintiff, GLADYS BEASLEY, as next friend of the minor plaintiff, STEVEN BEASLEY, incorporates by reference thereto all of the allegations heretofore appearing in this complaint as though fully set out herein.

2. That STEVEN BEASLEY, was born June 22, 1963, and has

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resided since November 1, 1970, at the aforesaid residence owned by the defendant, CITY OF DETROIT, and in, upon, around, and on which air polluted by lead, infiltrated from defendant's smelter and business activity was deposited, did on November 1, 1970 have a normal life expectancy pursuant to M. C. L. A. 3500.834 of 32.35 years, which life expectancy and quality of life has been materially altered and impaired as a result of acute lead poisoning, contracted as a result of the negligence, actions and failures of action of the defendants herein, jointly and severally, as well as by breach of warranties of the defendant, CITY OF DETROIT.

3. That your plaintiff has further suffered extreme distress, including head ache, pain, vomiting, stomach cramps, acute blood lead levels, lead deposition in his bones and tissues, irritability, diminished responsiveness and intelligent quotient and will continue to suffer such symptoms and such poisoning for the rest of his life, being in constant need of medical and other care, all as a result of the negligent and wilful actions of the defendants herein, and breaches of duty of said defendants.

WHEREFORE plaintiff, GLADYS BEASLYE, prays judgment for plaintiff and against defendants, jointly and severally, in the sum of Five Million and No/100 (\$5,000,000.00) Dollars, as compensatory and exemplary damages, or in such other sums as a court or jury upon a trial of this cause, shall deem just, fair and equitable, plus costs, interest and attorneys fees.

WHEREFORE your plaintiff, GLADYS BEASLEY, as next friend of the minor plaintiffs herein, prays judgment for said minor plaintiffs in the sum of Five Million and No/100 (\$5,000,000.00) Dollars, as compensatory and exemplary damages, each, or in such other sum as a court or jury shall deem just, fair and equitable, plus costs, interest and attorneys fees.

ROBERT H. GYLDEN
Of Counsel Attorney for Plaintiffs
17220 W. 12 Mile Road, Suite 103
Southfield, Michigan 48075
537-7210

PETER DOZORC, P.C., ATTORNEY AT LAW
16000 WEST NINE MILE ROAD - SOUTHFIELD, MICHIGAN 48075 - 353-4800

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DEMAND FOR TRIAL BY JURY

Now come the above entitled plaintiffs, by their Of Counsel Attorney, ROBERT H. GOLDEN, and hereby demand a trial by jury of all matters and things contained herein.

ROBERT H. GOLDEN
Of Counsel Attorney for Plaintiffs
17220 West 12 Mile Road, Suite 103
Southfield, Michigan 48075
557-7210

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PETER DOZORC, P.C., ATTORNEY AT LAW

16000 WEST NINE MILE ROAD - SOUTHFIELD, MICHIGAN 48075 - 555-4800

NL 000039307

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Individually and
as Next Friend of STEVEN BEASLEY
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs,

VS

No. 74 002312 NO

THE CITY OF DETROIT, a Municipal
corporation and N. L. INDUSTRIES, INC.,
a New Jersey Corporation, jointly and
severally,

Defendants.

ROBERT H. GOLDEN (P 14108)
Of Counsel attorney for Plaintiffs

G. CAMERON BUCHANAN (P 11340)
Attorney for Defendant, N. L. Industries, Inc.

ALVIN R. DAVIDSON, (P 12567)
Attorney for Defendant, City of Detroit

AMENDED ANSWER OF DEFENDANT

CITY OF DETROIT

Kermit Bailer
Corporation Counsel
Thomas J. O'Dowd
Alvin R. Davidson
Assistants Corporation Counsel
Attorneys for Defendant
City of Detroit
1010 City-County Building
Detroit, Michigan 48226
(313) 224-6943

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

JUDGE WILLIAM LEO CAHALAN, P-11509

Civil Action No. 74-002-312 NO

Plaintiffs,

v.

THE CITY OF DETROIT, a Municipal
corporation, and H. L. INDUSTRIES,
INC., a New Jersey Corporation,
jointly and severally,

Defendants.

BARRAN and Knoppow
By: Ronald M. Barron, P-10493
Attorneys for Plaintiff

GARAN, LUCOW, MILLER, LEHMAN, et al
By: Milton Lucow, P-16244
Attorneys for Defendant, CITY OF DETROIT

MORBACH, CHEATHAM & MacARTHUR
By: Charles C. Cheatham, P-11815
Attorneys for Defendant, H. L. INDUSTRIES

ANSWER TO PLAINTIFF'S AMENDED COMPLAINT BY
DEFENDANT, CITY OF DETROIT

Now comes the defendant, CITY OF DETROIT, a Municipal corporation,
ONLY, by and through its attorneys, GARAN, LUCOW, MILLER, LEHMAN, SEWARD
& COOPER, P.C., and in answer to plaintiff's Amended Complaint, admits,
denies and alleges as follows:

GENERAL JURISDICTIONAL AVERMENTS

1. This defendant incorporates herein by reference and makes a
part hereof its answer to plaintiff's original complaint pertaining to
jurisdictional averments.

COUNT I

1. This defendant incorporates by reference the complete original
answer to the original complaint and supplements the same with specific

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reference to paragraphs set forth in the Amended Complaint.

COUNT II

1. This defendant incorporates herein by reference and makes a part hereof its original answer.

COUNT III

1. This defendant incorporates herein by reference and makes a part hereof its answer to Count III of plaintiff's original complaint.

COUNT IV

1. This defendant incorporates herein by reference and makes a part hereof its answer to Count IV of plaintiff's original complaint.

COUNT V

1. This defendant incorporates herein by reference and makes a part hereof its answer to Count V of plaintiff's original complaint.

COUNT VI

1. This defendant incorporates herein by reference and makes a part hereof its answer to Count VI of plaintiff's original complaint.

2. Further answering the new matter therein alleged, this defendant neither admits nor denies the same, not having sufficient information to form a belief and leaves the plaintiff to her proofs.

COUNT VII

1. This defendant incorporates herein by reference and makes a part hereof its answer to Count VII of plaintiff's original complaint.

COUNT VIII

1. This defendant adopts and incorporates herein by reference its answer to the original complaint.

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COUNT IX

1. This defendant adopts and incorporates herein by reference its answer to the original complaint.

COUNT X

1. This defendant adopts and incorporates herein by reference its answer to the original complaint.

COUNT XI

1. This defendant adopts and incorporates herein by reference its answer to the original complaint.

WHEREFORE, this defendant prays that plain'iff's complaint and amended complaint be dismissed as to this defendant, with costs so wrongfully sustained to this defendant.

NOTICE OF AFFIRMATIVE DEFENSE

Now comes the above named defendant, CITY OF MILWAUKEE, a Municipal Corporation, ONLY, by and through its attorneys, GABAN, LUCOW, MILLER, LEHMAN, SEWARD & COOPER, P.C., and gives notice that the following will constitute its affirmative defense in the above cause:

1. This defendant incorporates herein by reference and takes a part hereof its affirmative defenses as alleged in their original answer and in their amended answer.
2. This defendant pleads the Statute of Limitations in barring this action.
3. This defendant affirmatively states that this action should be dismissed as to this defendant because of governmental immunity afforded to this defendant.

WHEREFORE, this defendant prays that plaintiff's complaint and amended complaint be dismissed as to this defendant, with costs so wrongfully sustained to this defendant.

GARAN, LUCOW, MILLER, LEHMAN,
SEWARD & COOPER, P.C.

By /s/ Milton Lucow
Milton Lucow
Attorneys for Defendant, CITY OF
DETROIT, ONLY
561 East Jefferson Avenue
Detroit, Michigan, 48226
962-5180

DATED: June 7, 1977
Detroit, Michigan

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, et al,

Plaintiffs

-vs-

Case No. 74-002-312 NO

CITY OF DETROIT, a municipal
corporation and N.L. INDUSTRIES, INC.,
a New Jersey Corp., jointly and severally,

Defendants

SECOND STIPULATION FOR ADJOURNMENT OF PRE-TRIAL

IT IS HEREBY STIPULATED and agreed by and between the parties,
through their respective counsel, that the discovery deadline
date should be ninety days from the date hereof and that a
Pre-Trial should be set up as soon as possible by the court after
said ninety days have elapsed.

BARRON AND KNOPPOW

By: Ronald M. Barron
Attorneys for Plaintiffs
3001 W. Big Beaver Suite 326
Troy, Michigan 48084
649-2828

Milton Lucow
Att. For Def. City of Detroit
561 East Jefferson
Detroit, Michigan

Charles B. Cheatham
Att. for Def. N.L. Industries
2450 Buhl Building
Detroit, Michigan

O R D E R

At a session of said court held in the City
of Detroit, County of Wayne, State of Michigan,
on _____

PRESENT: HONORABLE

WILLIAM LEO CAHALAN
Circuit Court Judge

On reading the attached Stipulation and the Court being
fully advised in the premises;

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LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064, (313) 649-2828

IT IS HEREBY ORDERED that the discovery deadline date should be ninety days from the date hereof and that a Pre-Trial should be set up as soon as possible by the court after said ninety days have elapsed.

WILLIAM LEO CAHALAN

Circuit Court Judge

A TRUE COPY
JAMES R. KILLEEN
CLERK

BY

DEPUTY CLERK

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064, (313) 649-2828

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

Gladys Beasley, individually and
as Next Friend of Steven Beasley,
Wendell Beasley and Monique
Beasley, all minors,

Plaintiffs,

vs.

Civil Action
No. 74-002-312-NO.

The City of Detroit, a municipal
corporation, and N. L. Industries, Inc.,
a New Jersey Corporation, jointly and
severally,

Defendants.

PRE-TRIAL ORDER TO ANSWER AMENDED
COMPLAINT AND INTERROGATORIES

Ronald M. Barron
3001 W. Big Beaver - Suite 326
Troy, Michigan 48084
Attorney for Plaintiff.

Roy E. Costello
561 E. Jefferson Avenue
Detroit, Michigan 48226
Attorney for City of Detroit.

Charles C. Cheatham
2450 Buhl Building
Detroit, Michigan 48226
Attorney for N. L. Industries.

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N 26060.03

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

Gladys Beasley, individually and
as Next Friend of Steven Beasley,
Wendell Beasley and Monique
Beasley, all minors,

Plaintiffs,

vs.

Civil Action
No. 74-002-312-NO

The City of Detroit, a municipal
corporation, and N. L. Industries, Inc.,
a New Jersey Corporation, jointly and
severally,

Defendants.

PRE-TRIAL ORDER

At a session of said court held in the
City of Detroit, County of Wayne, State
of Michigan, on MAY 31 1977

PRESENT: HONORABLE WILLIAM LEO CAHALAN
Circuit Court Judge

Parties having appeared for Pre-Trial Conference on
May 24, 1977, it appears that the following must be accom-
plished prior to the formal Pre-Trial Conference,

IT IS HEREBY ORDERED that Defendant City of Detroit
will file an answer to the amended complaint and to
additional interrogatories of the plaintiff within two
weeks. Defendant N. L. Industries will file answers to
plaintiff's interrogatories within 30 days.

A TRUE COPY
JAMES R. KILLEEN
CLERK

BY

DEPUTY CLERK

Circuit Court Judge

WILLIAM LEO CAHALAN

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, et al,

Plaintiffs,

Hon. William Cahalan (P11509)

-vs-

No. 74-002-312 NO

CITY OF DETROIT and N. L.
INDUSTRIES, INC.,

Defendants.

SUBSTITUTION OF ATTORNEYS

TO: THE CLERK OF THE COURT
-and-
ALL ATTORNEYS OF RECORD

PLEASE TAKE NOTICE that the undersigned has this day
been substituted as attorney for the defendant N. L. INDUSTRIES,
INC., only, in the above-entitled cause in the place and stead of
BUCHANAN, OGNE and JINKS.

MORBACH, CHEATHAM and MacARTHUR

BY: CHARLES C. CHEATHAM (P11815)
Attorneys for Defendant N.L. Industries
2450 Buhl Building
Detroit, Michigan 48226
964-1146

DATED: APRIL _____, 1977

I HEREBY CONSENT TO THE ABOVE SUBSTITUTION
AND WITHDRAW MY APPEARANCE.

BUCHANAN, OGNE & JINKS

BY: G. CAMERON BUCHANAN

LAW OFFICES
MORBACH, CHEATHAM
& MACARTHUR
2450 BUHL BUILDING
DETROIT, MICHIGAN 48226
(313) 964-1146

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs,

-vs-

No. 74-002312 NO

THE CITY OF DETROIT, a Municipal
Corporation and N.L. INDUSTRIES, INC.,
a New Jersey Corporation, jointly and
severally,

Defendants.

ROBERT H. GOLDEN (P14108)
Of Counsel Attorney for Plaintiffs

ALVIN R. DAVIDSON (P12567)
Attorney for Defendant:

ANSWER

NOW COMES the City of Detroit, a municipal corporation, by and through
its attorneys, Robert Reese, Corporation Counsel, Thomas J. O'Dowd and
Alvin R. Davidson, Assistants Corporation Counsel, and answers the complaint of
the plaintiffs as follows:

GENERAL JURISDICTIONAL AVERMENTS

1. Paragraph 1 is affirmed.
2. Paragraph 2 is affirmed.
3. Paragraph 3 is neither affirmed nor denied by the defendant herein for
lack of proofs on which to form an opinion.
4. Paragraph 4 is affirmed.

COUNT 1

1. Paragraph 1 is affirmed to the extent that plaintiffs occupied same, but
defendants' records show initial occupancy on November 6, 1969. Defendant
denies any express or implied warranties inure to the monthly lease.

2. Paragraph 2 is affirmed.
3. Paragraph 3 is affirmed.
4. Paragraph 4 is affirmed.
5. Paragraph 5 is affirmed to the extent that the business of the co-defendant causes an increase in the amount of lead particles in the air surrounding said co-defendant's business, but the remaining allegations must be denied for lack of knowledge thereof, leaving plaintiffs to their proofs.
6. Paragraph 6 is neither affirmed nor denied, leaving plaintiffs to their proofs.
7. Paragraph 7 is neither affirmed nor denied, leaving plaintiffs to their proofs.
8. Paragraph 8 is neither affirmed nor denied, leaving plaintiffs to their proofs.
9. Paragraph 9 is neither affirmed nor denied, leaving plaintiffs to their proofs.
10. Paragraph 10 is neither affirmed nor denied, leaving plaintiffs to their proofs.
11. Paragraph 11 is denied to the extent the defendant herein is alleged to have contributed to the pollution of the air and atmosphere, but is neither affirmed nor denied relative to the balance of the paragraph, leaving plaintiffs to their proofs.

COUNT II

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is denied specifically, as defendant was neither negligent nor in breach of any warranty, express or implied. Defendant answers the subsections of this paragraph as follows:
 - A. Subsection A is affirmed, but only to the extent of the exterior of the dwellings.
 - B. Subsection B is affirmed to the extent that the air throughout the City of Detroit is infiltrated by lead and other chemicals from automobile exhausts. Any other meaning implied by the plaintiffs is left to their proofs.

- C. Subsection C is neither affirmed nor denied, leaving plaintiffs to their proofs.

COUNT III

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is denied. Defendant answers the subsections of this paragraph as follows:
 - A. Subsection A is affirmed, but only to the extent of the exterior of the dwellings.
 - B. Subsection B is neither affirmed nor denied, plaintiffs being left to their proofs.
 - C. Subsection C is neither affirmed nor denied, plaintiffs being left to their proofs.
 - D. Subsection D is denied. Defendant City of Detroit lacked the knowledge, capability and jurisdiction to effect the air in and around plaintiffs' dwelling.

COUNT IV

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical damage.

COUNT V

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.

COUNT VI

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical harm.

COUNT VII

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical harm.

COUNT VIII

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical harm.

AFFIRMATIVE DEFENSES

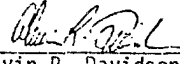
The defendant herein, the City of Detroit, sets forth the following affirmative defenses to the plaintiffs' Complaint:

1. The elevated blood-lead levels of the plaintiffs' in this cause are variables which constitute ambiguous measurements, and are not evidence, per se, of lead poisoning, but of a condition which lends itself to treatment by chelation therapy.
2. That the elevated blood-lead levels of the plaintiffs in this cause were not proximately caused by any negligent actions of the City of Detroit, but by the actions of National Lead Industries, Inc.
3. That the numerous paintings of the structures known as public housing by the City of Detroit was an attempt to make and maintain those structures in a manner consistent with what is generally known as decent.
4. That the state of the technology of paint production open to both the City of Detroit and consumers generally was so primitive until the 1960's that most of the paint sold and purchased exceeded the generally recognized 'safe' limits of lead compounds insisted upon today by Federal regulations.
5. That to hold the City of Detroit liable for the use of such paints when the dangers in those paints of lead base were virtually unknown would be analogous to strict liability.
6. That the condition of children eating paint chips or chewing paint from some painted surface in public housing was not foreseeable and was not consistent with the purposes for which the paint was used by the defendant, City of Detroit.
7. That prior to the plaintiffs moving into the building at 4803 E. Nevada, that unit was painted throughout with non-lead or low-lead based paint.
8. That plaintiff, Gladys Beasley, never complained to the building manager about the condition of any painted surface in her home, but the City of Detroit, through an enforcement program initiated by the Department of Health, scraped and removed questionable chipping paint from the interior and exterior of plaintiffs' dwelling beginning in February, 1973.
9. That the plaintiff, Gladys Beasley, knows and knew of her children's, plaintiffs, propensity to put non-food items into their mouths by virtue of her close supervision of said children, but in not stopping said conduct, was negligent by her inaction. The children, in ingesting non-food items were contributing factors to their own illnesses, and thus, contributorily negligent.

10. That the detection and enforcement of clean air laws is the duty of the Wayne County Pollution Control Center by statute, Act 306 of P.A. of 1927 (MCLA 327.205 and 206); and that those antipollution laws may be enforced by any citizen of the State of Michigan, Act 127 of P.A. of 1970 (MCLA 691.1202).

WHEREFORE, it is prayed that this action be dismissed against the defendant, City of Detroit, and that this Honorable Court grant such other relief as it deems necessary and equitable.

by


Alvin R. Davidson
Assistant Corporation Counsel
City of Detroit
1010 City-County Building
Detroit, Michigan 48226
(313) 224-6943; 224-3423

DATED: March 6, 1974

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs,

-vs-

No. 74-002312 NO

THE CITY OF DETROIT, a Municipal
Corporation and N. L. INDUSTRIES, INC.,
a New Jersey Corporation, jointly and
severally,

Defendants.

ROBERT H. GOLDEN (P14108)
Of Counsel Attorney for Plaintiffs

ALVIN R. DAVIDSON (P12567)
Attorney for Defendant

ANSWER

ROBERT REESE,
Corporation Counsel
THOMAS J. O'DOWD,
ALVIN R. DAVIDSON,
Assistants Corporation Counsel
Attorneys for Defendant
1010 City-County Building
Detroit, Michigan 48226
(313) 224-6943; 224-3423

NL 000039247

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs,

-vs-

No: 74 002312 NO

THE CITY OF DETROIT, a Municipal
Corporation; and NL INDUSTRIES, INC.,
a New Jersey Corporation, jointly
and severally,

Defendants.

ANSWER TO PLAINTIFFS' AMENDED COMPLAINT

Now comes the Defendant, NL INDUSTRIES, INC., a New
Jersey Corporation, by BUCHANAN, OGNE AND JINKS P.C., its
Attorneys, and in answer to the Plaintiffs' pleading captioned
Amended Complaint says:

GENERAL JURISDICTIONAL AVERMENTS

1. Defendant adopts and incorporates by reference
the Answer filed to the original Complaint pertaining to
Jurisdictional Averments.

ADOPTION AND INCORPORATION BY
REFERENCE OF ORIGINAL ANSWER

1. Defendant, NL INDUSTRIES, INC., adopts and
incorporates by reference the complete original answer to the
original Complaint and supplements the same with specific
reference to paragraphs set forth in the Amended Complaint

4. Answering paragraph 14 of Count I of the Amended
Complaint, Defendant denies that in the conduct of its

business it acted in a willful, wanton or negligent manner; denies that it violated any duties owing to the public or the plaintiffs; denies any duties to the plaintiffs in relation to the allegations of their complaint.

COUNT II

Defendant adopts and incorporates by reference the complete original answer to the original Complaint and supplements the same with specific reference to paragraphs set forth in the Amended Complaint.

COUNT III

Defendant adopts and incorporates by reference the complete original answer to the original Complaint and supplements the same with specific reference to paragraphs set forth in the Amended Complaint.

COUNT IV.

1. Defendant adopts and incorporates by reference answer to paragraphs one through eleven of Count I of the original Complaint and supplements the same with specific reference to paragraphs set forth in the Amended Complaint.

2. Answering paragraph 2 of Count IV, Defendant denies the allegations in said paragraph contained, avers that the said allegations are conclusion of the pleader, are surplusage and that the allegations of the complaint are insufficient to constitute a claim of nuisance and on the trial of this cause this Defendant will move to strike the allegation from the Amended Complaint.

COUNT V.

1. Defendant adopts and incorporates by reference answer to paragraphs one through eleven of Count I of the

original Complaint and supplements the same with specific reference to paragraphs set forth in the Amended Complaint.

2. Answering paragraph 2 of Count V, Defendant denies the allegations in said paragraph contained, avers that said allegations are not, in fact, true, and in further answer avers that other allegations of the Complaints do not support the language which simply constitutes a conclusion of the pleader, is surplusage and Defendant will move to strike the allegations from the Complaint at the time of trial.

COUNT VI.

1. Defendant adopts and incorporates by reference answer to paragraphs one through eleven of Count I of the original Complaint and supplements the same with specific reference to paragraphs set forth in the Amended Complaint.

2. Defendant denies the allegations in said paragraph contained, avers that the allegations are not, in fact true and in further answer avers that the allegations do not state a cause of action cognizable under the law of the State of Michigan.

3. Answering paragraph 3, Defendant denies the allegations in said paragraph contained, avers that the theory of a right of recovery under strict liability is not recognized in the State of Michigan.

COUNT VII.

1. Defendant has heretofore set forth and adopts and incorporates by reference the answers to the original Complaint.

COUNT VIII.

1. Defendant as heretofore set forth, adopts and

incorporates by reference the answers to the original Complaint.

COUNT IX.

1. Defendant as heretofore set forth, adopts and incorporates by reference the answers to the original Complaint.

COUNT X.

1. Defendant as heretofore set forth, adopts and incorporates by reference the answers to the original Complaint.

COUNT XI.

1. Defendant as heretofore set forth, adopts and incorporates by reference the answers to the original Complaint.

WHEREFORE, Defendant asks Judgment of no cause of action together with costs so wrongfully incurred.

BUCHANAN, OGNE AND JINKS P.C.

BY:
G. Cameron Buchanan P11340
Attorney for NL Industries, Inc.
Suite 1707, 755 West Big Beaver Road
Troy, Michigan, 48084
362 3707

Dated: March 8, 1977

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Civil Action No. 74 002 312 NO

Gladys Beasley

Plaintiff

Ronald M. Barron

Attorney

VS.

NL Industries, Inc. et al

Defendant

G. Cameron Buchanan P11340

Attorney

Indicate that which applies:

Auto Negligence _____

Other General Civil _____

Date of Service _____

(THIS SPACE FOR USE OF CLERK ONLY)

JURY _____ NON-JURY _____

Assigned to JUDGE _____

Notices Mailed _____ DATE _____

Assigned to Pre-Trial _____ DATE _____

Adj. to _____

Adj. to _____

Adj. to _____

AT ISSUE PRAECIPE
IN CIVIL ACTIONS

Civil Action No. 74 002312 NO

Praecipe No. _____

GLADYS BEASLEY ET AL

Plaintiff

VS.

NL INDUSTRIES, INC. ET AL

Defendant

To
Clerk of Wayne County
201 City-County Bldg.
Detroit, Michigan, 48226

This action is at issue as to all the parties and has
been assigned to JUDGE William Cahalan.

Dated 3/8/77 P11509 244 7001 Telephone
19

Ronald M. Barron P10493
3001 W. Big Beaver Atty. for Plt.
Road, Troy, Mich. Suite 326

649 2828 Address

Sylvester Delaney m. l. n. Telephone
City of Detroit P23690
1010 City County Bldg Atty. for Delt.
Detroit, Mich. (Ann. Bureau, Miller)

224-6943 Address

Buchanan, Ogne & Jinks Telephone

BY:

NL Industries, Inc. Atty.
Suite 1707, 755 W. Big Beaver Rd.
Troy, Mich Address
362-3707

Telephone

Fill all blanks. In case of appearance in pro per the
address of the party or parties must be given. If
more space is needed, attach rider.

NL 000039252

2. In the second line of Paragraph six, Count I, of the original Complaint, Plaintiffs delete the words "three years" and in its place and stead place the words "several years". As to the remaining allegations in Paragraph six, Count I, of the original Complaint, Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained therein as if fully stated herein.

3. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs seven through eleven of Count I in the original Complaint as if fully stated herein.

4. That the aforesaid willful, wanton and negligent acts of the Defendant, N. L. Industries, Inc., violated duties owing to the general public and more particularly, the Plaintiffs herein.

COUNT II

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one and two of Count II in the original Complaint as if fully stated herein.

COUNT III

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one and two of Count III in the original Complaint as if fully stated herein.

COUNT IV

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one through eleven of Count I of the Amended Complaint as if fully stated herein.

2. That the aforesaid actions and/or emissions of the Defendant, N. L. INDUSTRIES, INC. created a nuisance in fact and in law by causing substantial inconvenience, interference and damages to the Plaintiffs in their pursuit of the lawful enjoyments of their property and related rights.

COUNT V

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one through eleven of Count I of the Amended Complaint as if fully stated herein.

2. That the aforesaid acts of the Defendant, N. L. INDUSTRIES, INC. constituted a trespass by emitting fouled and lead burdened air containing contaminated particles onto Plaintiffs' property thereby invading Plaintiffs' rights to exclusive possession without the consent of the Plaintiffs.

COUNT VI

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one through eleven of Count I of the Amended Complaint as if fully stated herein.

2. That the aforesaid manufacturing process which Defendant, N. L. INDUSTRIES, INC. carried on in its factory is an ultra-

hazardous activity in that it produces noxious lead burdened and fouled air; such noxious material escaping in the air in sufficient quantities endangering the life and health of persons breathing the air. That the Plaintiffs are within the class of persons that Defendant's officers, agents and employees recognized or should have recognized as likely to be harmed by such emissions.

3. Therefore Defendant, N. L. INDUSTRIES, INC. is strictly liable to Plaintiffs for injuries inflicted on them by Defendant's dangerous instrumentality, namely its factory, operated in furtherance of Defendant's ultrahazardous activity.

COUNT VII

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one through three of Count IV of the original Complaint as if fully stated herein with one exception, to-wit: In the second line of paragraph two, the word "since" shall be deleted and in its place and stead the words "subsequent to" shall be added.

COUNT VIII

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one through three of Count V of the original Complaint as if fully stated herein with one exception, to-wit: In the second line of paragraph two, the word "since" shall be deleted and in its place and stead the words "subsequent to" shall be added.

COUNT IX

1. Plaintiffs reiterate word for word and paragraph for

paragraph all the allegations contained in Paragraphs one through three of Count VI of the original Complaint as if fully stated herein with one exception, to-wit: In the second line of paragraph two, the word "since" shall be deleted and in its place and stead the words "subsequent to" shall be added.

COUNT X

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one through three of Count VII of the original Complaint as if fully stated herein with one exception, to-wit: In the second line of paragraph two, the word "since" shall be deleted and in its place and stead the words "subsequent to" shall be added.

COUNT XI

1. Plaintiffs reiterate word for word and paragraph for paragraph all the allegations contained in Paragraphs one through three of Count VIII of the original Complaint as if fully stated herein with one exception, to-wit: In the second line of paragraph two, the word "since" shall be deleted and in its place and stead the words "subsequent to" shall be added.

WHEREFORE, Plaintiff, GLADYS BEASLEY, prays judgment for Plaintiff and against Defendants, jointly and severally, in the sum of Five Million Dollars (\$5,000,000.00) as compensatory and exemplary damages, or in such other sums as a court or jury upon a trial of this cause, shall deem just, fair and equitable, plus costs, interest and attorney fees.

WHEREFORE, your Plaintiff, GLADYS BEASLEY, as next friend of the minor Plaintiffs herein, prays judgment for said minor Plaintiffs in the sum of Five Million Dollars (\$5,000,000.00) each, as compensatory and exemplary damages, or in such other sum as a court or jury shall deem just, fair and equitable, plus costs, interest and attorney fees.

BARRON AND KNOPPOW

By: _____

Ronald M. Barron
Attorneys for Plaintiffs
3001 W. Big Beaver Suite 326
Troy, Michigan 48084
649-2828

Dated: November 8, 1976

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48084. (313) 649-2828

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs

-vs-

No. 74 002 312 NO

THE CITY OF DETROIT, a municipal
corporation, and N. L. INDUSTRIES, INC.
a New Jersey Corporation, Jointly and
Severally,

Defendants

ORDER TO AMEND COMPLAINT

At a session of said court held in the City
of Detroit, County of Wayne, State of Michigan,
on 12/0

PRESENT: HONORABLE JOSEPH C. RASHID
Circuit Court Judge

This matter having come on to be heard, all parties being
represented by counsel, and the Court being fully advised in the
premises;

IT IS HEREBY ORDERED that Plaintiffs' Complaint be amended
so as to add counts for Strict Liability, Nuisance and Trespass.

JOSEPH C. RASHID

Circuit Court Judge

Approved:

Syl Delaney
Syl Delaney, Att. for City of Det.

G. Cameron Buchanan
G. Cameron Buchanan, Att. for
N. L. Industries

JAMES R. KILL
CLERK

NL 000039259

N 26060.08

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs

-vs-

No. 74 002 312 NO

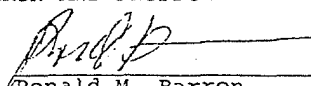
THE CITY OF DETROIT, a municipal
corporation, and J. L. INDUSTRIES, INC.
a New Jersey Corporation, jointly and
severally,

Defendants

MOTION TO AMEND COMPLAINT

NOW COMES the Plaintiffs, GLADYS BEASLEY, individually and
as Next Friend of STEVEN BEASLEY, BRIAN BEASLEY, DERRICK
BEASLEY, WENDELL BEASLEY and MONIQUE BEASLEY, all minors,
by and through their counsel, BARRON AND KNOPPOW, and hereby
moves this Honorable Court for leave to amend the Complaint so
as to add a count for strict liability, nuisance and trespass
for the reasons stated in the attached Affidavit and Brief
In Support thereof.

BARRON AND KNOPPOW

By: 
Ronald M. Barron
Attorneys for Plaintiffs
3001 W. Big Beaver Suite 326
Troy, Michigan 48084
649-2828

NL 000039260

N 26060.09

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48084, (313) 649-2828

STATE OF MICHIGAN)
)SS
COUNTY OF OAKLAND)

AFFIDAVIT OF RONALD M. BARRON
IN SUPPORT OF MOTION

RONALD M. BARRON, after having been duly sworn, deposes and says:

1. That he is the attorney of record for the Plaintiffs herein.
2. That the above entitled action was originally commenced on January 24, 1974, and was drafted by a previous attorney.
3. That the instant case is very complicated in both law and fact.
4. The deponent was substituted as attorney for the Plaintiffs on March 3, 1976.
5. That the instant law suit originally plead causes of action in negligence and breach of warranty in that the Defendants had polluted the air and residence thereby causing brain damage to the Plaintiff's children.
6. That the above entitled action deals with a new body of law popularly referred to as "environmental law."
7. Deponent, after reviewing the limited Michigan law as well as the vast body of national law, believes the aforesaid added counts are supported by law.
8. That the pre-trial is scheduled for February 1, 1977, therefore, discovery has not been completed.
9. That the statute of limitations on the added counts has not expired.
10. That preparation and work done to date by attorney for Defendants are applicable to the new theories.

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 325, TROY, MICHIGAN 48064 (313) 649-2828

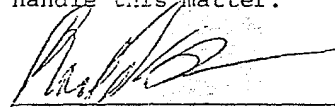
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LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064, (313) 649-2828

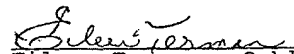
11. That granting the requested motion would avoid a multiplicity of protracted litigation and would be in the interest of the convenient administration of justice to allow the filing of the Amended Complaint.

12. That attorney for N. L. Industries was contacted by telephone to see if he would acquiesce to the relief prayed for, however, as of this date, he has not returned the phone call.

13. That attorney for City of Detroit was unable to be contacted due to the fact that the attorney of record no longer is employed for said City of Detroit and no one at said City of Detroit knew who was going to handle this matter.


Ronald M. Barron

Subscribed and sworn to before
me this 18th day of October, 1976


Eileen Terman - Oakland County
My Commission Expires: 10-11-77

BRIEF IN SUPPORT OF MOTION TO AMEND COMPLAINT

Since the Defendants will not be substantially "prejudiced" by the proposed Amendments, justice requires that leave be given in the instant case.

General Court Rule Section 118.1 holds that leave to appeal should be "freely given when justice so requires." It has been held that the court rule "incorporate a policy in favor of allowing amendments when justice would be served." Jones v. Causey, 43 Mich. App. 271, (1973). While the trial court has the discretion to deny a motion to amend, it may only do so if the court specifically finds that justice would not be served by the amendment Doan v. Chesapeake Ohio Railroad, 18 Mich. App. 271, 171 NW2d 27 (1969).

In order to find that justice would not be served by the amendment, the court must find that the opposing party would be "prejudiced" by the amendment, Ben P. Fyke & Sons, Inc. vs. Gunter Co., 390 Mich 649, 213 NW2d 134 (1973). The prejudice that it referred to in Fyke is the time the amendment is offered, not the subject matter. If due to the lapse of time from the initial complaint until the amendment, the opposing party would be prevented from maintaining a defense, only then should leave be denied. From the facts of this case (See Affidavit and Brief in Support of Motion attached hereto), it is clear that Defendants would not be so prejudiced by the delay in this case.

The court in Fyke went on to hold that the discretion given a judge to disallow the amendment is not boundless, the trial

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 325, TROY, MICHIGAN 48064, (313) 648-2828

NL 000039263

judge in order to disallow leave must find that justice would not be served i.e. that the opposing party would be unduly prejudiced. That not being the instant case, leave should be granted.

BARRON AND KNOPPOW

By: 

Ronald M. Barron
Attorneys for Plaintiffs
3001 W. Big Beaver Suite 326
Troy, Michigan 48084
649-2828

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48084, (313) 649-2828

NL 000039264

STATE OF MICHIGAN
CIRCUIT COURT FOR THE COUNTY OF WAYNE

Individually and
STEVEN BEASLEY,
ERICK BEASLEY,

B-18

FILE WITH ASSIGNMENT CLERK ONLY
PRAECIPE FOR MOTION

Gladys Beasley et al

plaintiff

VS

City of Detroit et al

defendant

STATE OF MICHIGAN
The Circuit Court for the County of Wayne

Civil Action No. 74 002312 NO

Criminal No. _____

AT ISSUE PRAECIPE No. (if any) _____

To the Assignment Clerk: Please place a motion for (state nature of motion in brief form)

Motion To Amend Complaint

on the motion calendar for (date) October 29, 1976

This action has been assigned to JUDGE Rashid

_____ 19____

Adjourned to _____

Adjourned to _____

Adjourned to _____

Disposition _____

Attorney Ronald M. Barron Plaintiff
649-2828

Attorney G. Cameron Buchanan
N. L. Industries - Defendant

Telephone No. _____

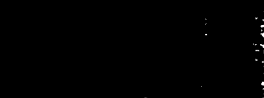
Attorney _____

Telephone No. _____

(list additional attorneys on other side)

NL 000039264.01

AW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064, (313) 649-2828



10. That preparation and work done to date by attorney for Defendants are applicable to the new theories.

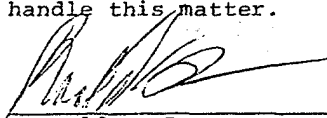
NL 000039266

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064, (313) 649-2626

11. That granting the requested motion would avoid a multiplicity of protracted litigation and would be in the interest of the convenient administration of justice to allow the filing of the Amended Complaint.

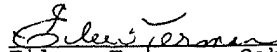
12. That attorney for N. L. Industries was contacted by telephone to see if he would acquiesce to the relief prayed for, however, as of this date, he has not returned the phone call.

13. That attorney for City of Detroit was unable to be contacted due to the fact that the attorney of record no longer is employed for said City of Detroit and no one at said City of Detroit knew who was going to handle this matter.



Ronald M. Barron

Subscribed and sworn to before
me this 18th day of October, 1976



Eileen Terman - Oakland County

My Commission Expires: 10-11-77

NL 000039267

BRIEF IN SUPPORT OF MOTION TO AMEND COMPLAINT

Since the Defendants will not be substantially "prejudiced" by the proposed Amendments, justice requires that leave be given in the instant case.

General Court Rule Section 118.1 holds that leave to appeal should be "freely given when justice so requires." It has been held that the court rule "incorporate a policy in favor of allowing amendments when justice would be served." Jones v. Causey, 43 Mich. App. 271, (1973). While the trial court has the discretion to deny a motion to amend, it may only do so if the court specifically finds that justice would not be served by the amendment Doan v. Chesapeake Ohio Railroad, 18 Mich. App. 271, 171 NW2d 27 (1969).

In order to find that justice would not be served by the amendment, the court must find that the opposing party would be "prejudiced" by the amendment, Ben P. Fyke & Sons, Inc. vs. Gunter Co., 390 Mich 649, 213 NW2d 134 (1973). The prejudice that it referred to in Fyke is the time the amendment is offered, not the subject matter. If due to the lapse of time from the initial complaint until the amendment, the opposing party would be prevented from maintaining a defense, only then should leave be denied. From the facts of this case (See Affidavit and Brief in Support of Motion attached hereto), it is clear that Defendants would not be so prejudiced by the delay in this case.

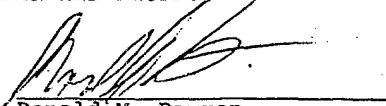
The court in Fyke went on to hold that the discretion given a judge to disallow the amendment is not boundless, the trial

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 328, TROY, MICHIGAN 48064, (313) 649-2828

NL 000039268

judge in order to disallow leave must find that justice would not be served i.e. that the opposing party would be unduly prejudiced. That not being the instant case, leave should be granted.

BARRON AND KNOPPOW

By: 

Ronald M. Barron
Attorneys for Plaintiffs
3001 W. Big Beaver Suite 326
Troy, Michigan 48084
649-2828

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48084, (313) 649-2828

NL 000039269

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48064, (313) 649-2020

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Et al,

Plaintiffs

-vs-

No. 74-002-312 NO

THE CITY OF DETROIT, Et al,

Defendants

ORDER ADJOURNING PRE-TRIAL

At a session of said court held in the
City of Detroit, County of Wayne, State
of Michigan, on

AUG 10 1976

PRESENT: HONORABLE

WILLIAM LEO CAHALAN
Circuit Court Judge

On reading the attached Stipulation and the court being
fully advised in the premises,

IT IS HEREBY ORDERED that the pre-trial in the above cause be
adjourned from August 31, 1976, to a date to be set by the
court, said date to be a minimum of six months subsequent to
August 31, 1976. *Pre trial re Feb 1, 1977 at 2:15 PM*

WILLIAM LEO CAHALAN

Circuit Court Judge

A TRUE COPY
JAMES B. KILLEEN
BY *[Signature]*
JAMES B. KILLEEN

NL 000039270

N 26060.1

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Et al,
Plaintiffs

-vs-

No. 74-002-312 NO

THE CITY OF DETROIT, Et al,
Defendants

STIPULATION ADJOURNING PRE-TRIAL

IT IS HEREBY STIPULATED by and between the parties, through their respective counsel, that the pre-trial in the above cause be adjourned from August 31, 1976, to a date to be set by the court, said date to be a minimum of six months subsequent to August 31, 1976.

BARRON AND KNOPPOW

By: /s/ Ronald M. Barron
Ronald M. Barron
Attorneys for Plaintiffs
3001 W. Big Beaver #326
Troy, Michigan 48084
649-2828

/s/ Alvin Davidson
Alvin Davidson
Attorney for Defendant,
CITY OF DETROIT
1010 City-County Building
Detroit, Michigan 48226
224-6943

/s/ G. Cameron Buchanan
G. Cameron Buchanan
Attorney for Defendant,
N.L. Industries, Inc.
755 West Big Beaver #1707
Troy, Michigan 48084
362-3707

LAW OFFICES BARRON AND KNOPPOW, 3001 WEST BIG BEAVER ROAD, SUITE 326, TROY, MICHIGAN 48084, (313) 649-2828

NL 000039271

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

Peter Dozorc, Robert H. Golden ATTORNEY FOR PLAINTIFF

Alvin R. Davidson
G. Cameron Buchanan ATTORNEY FOR DEFENDANT

Gladys Beasley, et al PLAINTIFF
City of Detroit & N.L. Industries, Inc. DEFENDANT

ACTION NO. 74 002 312 NO PRAECIPE NO. _____

NOTICE TO ATTORNEYS: NO LATER THAN 10 DAYS AFTER RECEIPT OF THE
PRE-TRIAL NOTICE, COUNSEL MUST SERVE A COPY OF THIS
FORM COMPLETELY FILLED OUT, ON ALL ATTORNEYS OF
RECORD.

THIS ACTION HAS BEEN SET FOR A PRE-TRIAL HEARING BEFORE THE HONORABLE

Judge William Cahalan ON July 27, 1976 AT 2:15 p.m.

ATTORNEYS MUST PRESENT THIS FORM, COMPLETELY FILLED OUT TO THE CLERK OF THE
PRE-TRIAL JUDGE ON OR BEFORE THE DATE OF HEARING AND THEY MUST BE PREPARED TO
COMPLY WITH ALL OF THE PROVISIONS OF MICHIGAN COURT RULE 301.

G. Cameron Buchanan WILL BE THE ATTORNEY PRESENTING THIS
STATEMENT AND ATTENDING THE CONFERENCE AND WHO WILL REPRESENT
N L Industries, Inc.

1. FACTUAL STATEMENT OF PLAINTIFF'S CLAIMS OR DEFENDANT'S CLAIMS, INCLUDING
COUNTER CLAIMS, CROSS CLAIMS AND AFFIRMATIVE DEFENSES. (If space on this form is
insufficient, counsel may prepare additional sheets and attach to this form.) The statement of your
claim should be stated in language which the trial court may utilize to succinctly relate to the jury your
claim or theory of your case. NL Industries, Inc. will disclose that there is no

relationship between the operation of Defendant's business and the alleged
lead poisoning of the plaintiffs. Further, that the causes of the existing
lead level in a number of the plaintiffs was within normal limits and increased
to abnormal limits after the family moved from the area of defendant's
business operation. The cause of the lead in the blood of the various
plaintiffs is very well known to the plaintiff, well-documented in the medical
records and clearly established to have been related to and caused by the
conduct of the children with reference to paint in the households wherein they
resided.

2. WHAT, BRIEFLY, ARE THE FACTUAL AND LEGAL ISSUES TO BE LITIGATED?

Relationship of allged lead poisoning of plaintiffs to manufacturing
operations of NL Industries, Inc.

NL 000039272

3. IF PLEADINGS ARE NOT SATISFACTORY AT THIS TIME, WHAT FORMAL AMENDMENTS WILL YOU REQUEST AT PRE-TRIAL?

Pleadings are satisfactory.

4. WHY IS SUCH AMENDMENT NECESSARY?

5. WHY WAS IT NOT SOUGHT PRIOR TO PRE-TRIAL?

INJURIES AND DAMAGES:

6. GIVE NAMES AND AGES OF INJURED PERSONS, AND IN DEATH CASES, NAMES, RELATIONSHIP AND AGES OF PERSONS ALLEGING PECUNIARY LOSS.

7. LIST ALL INJURIES AND STATE WHETHER PERMANENT.

- 7a. IF PERMANENT, WHO WILL TESTIFY TO THIS?

8. LENGTH OF TIME INCAPACITATED, TIME IN HOSPITAL AND AT HOME.

9. ITEMIZE AND TOTAL:

- a. Hospital Bills
- b. Doctor Bills and
- c. Any other items or expenses incurred or loss suffered.

10. IF WAGES ARE LOST, GIVE PLACE AND TYPE OF EMPLOYMENT, DATES LOST, WAGES EARNED AT TIME OF ACCIDENT AND TOTAL AMOUNT OF WAGES LOST.

11. IN DEATH CASES, STATE AMOUNT OF PECUNIARY LOSS AND TOTAL AMOUNT EACH CLAIMANT - PLAINTIFF CLAIMS. (If space on this form is insufficient, counsel may prepare additional sheets and attach to this form.)

12. HAVE YOU FURNISHED THE OPPOSITE PARTY WITH YOUR DOCTOR'S DIAGNOSIS AND PROGNOSIS?

13. IF NOT, PLEASE EXPLAIN WHY.

Defendant desires plaintiffs' doctor's diagnosis

14. IF DIAGNOSIS AND PROGNOSIS WILL NOT BE FURNISHED BY PRE-TRIAL CONFERENCE PLEASE EXPLAIN WHY.

ADMISSIONS AND WAIVERS:

OWNERSHIP AND OPERATION: ORDINANCES PLEADED: REASONABLENESS AND CAUSAL CONNECTION OF DOCTOR & HOSPITAL BILLS AND OTHER ITEMS OF DAMAGE, ETC.

15. ORDINANCES PLEADED:

16. (A) WHAT ADMISSIONS OF FACT ARE YOU PREPARED TO MAKE?

None

(B) WHAT ADMISSIONS OF FACT DO YOU DEMAND FROM OPPOSITE PARTY?

That the cause of lead in above level of plaintiffs was due entirely to the conduct of plaintiff's children in consumption of paper, paint
EXHIBITS: Matches, and various other objects covered by paint.

17. LIST AND BRING WITH YOU ALL EXHIBITS AND ANY OTHER EVIDENTIARY INFORMATION RELATING TO CASE.

Records of Children's Hospital and records of Detroit Board of Education

MEDICAL EXAMINATION:

18. IS A FURTHER MEDICAL EXAMINATION NECESSARY? (If so, steps should be taken to complete examination before the Pre-Trial Conference.)

19. JURY OR NON-JURY Jury

IF JURY, DEPOSIT OF THE JURY FEE MUST BE MADE BY THE CLOSE OF THE PRE-TRIAL CONFERENCE OR JURY IS WAIVED. IF JURY, CONSIDER SEPARATION OF ISSUES AND THE ORDER OF TRIAL WHEN SOME ISSUES ARE TO BE TRIED BY A JURY AND SOME BY THE COURT

20. ESTIMATED TIME OF TRIAL 5 days

21. PLAINTIFF OFFERS TO TAKE _____ IN FULL SETTLEMENT OF HIS CASE.

22. DEFENDANT OFFERS F hing

23. IS THIS CASE ONE FOR MEDIATION WITHIN MEANING OF WAYNE CIRCUIT COURT RULE #21? no

24. ATTACH A LIST OF ALL WITNESSES YOU PLAN TO CALL AT THE TRIAL. List of witnesses will be complied and furnished within 30 days

25. HAVE YOU READ PARAGRAPHS A-H (Pink Sheet) ATTACHED TO THIS FORM? Yes

26. IF THERE IS ANY DEFENDANT WHO HAS BEEN SERVED AND HAS NOT FILED AN ANSWER, PRESENT THE NECESSARY PLEADINGS TO MAKE A MOTION FOR DEFAULT JUDGMENT, AS TO THAT PARTY, AT THE PRE-TRIAL CONFERENCE. IF THERE IS ANY DEFENDANT WHO HAS NOT BEEN SERVED, THE ACTION SHALL BE DISMISSED AS TO THAT PARTY, UNDER THE PROVISIONS OF THE SIX-MONTH RULE (MGCR 102.5).

BUCHANAN, OGNE AND JINKS P.C.

BY:

SIGNATURE OF TRIAL ATTORNEY

G. Cameron Buchanan P11340

NOTE: YOU MUST SEND A COPY OF THIS FORM COMPLETELY FILLED OUT TO THE OPPOSITE PARTY OR PARTIES OF THE PRE-TRIAL NOTICE NO LATER THAN 10 DAYS AFTER RECEIPT.

DISCOVERY MUST BE COMPLETED BEFORE THE PRE-TRIAL CONFERENCE.

PLEASE NOTIFY THE ASSIGNMENT CLERK IMMEDIATELY OF ANY ATTORNEYS OF RECORD WHOSE NAMES DO NOT APPEAR ON THIS NOTICE.

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NL 000039275

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

BARRON and KNOPPOW

ATTORNEY FOR PLAINTIFF

GARAN, LUCOW, MILLER, LEHMAN, SEWARD & COOPER, P.C.
BUCHANAN, OGNE and JINKS, P.C.

ATTORNEY FOR DEFENDANT

Gladys Beasley, et al

PLAINTIFF

City of Detroit and N. L. Industries, Inc.

DEFENDANT

ACTION NO. 74-002-312 NO

PRAECIPE NO.

NOTICE TO ATTORNEYS:

NO LATER THAN 10 DAYS AFTER RECEIPT OF THE
PRE-TRIAL NOTICE, COUNSEL MUST SERVE A COPY OF THIS
FORM COMPLETELY FILLED OUT, ON ALL ATTORNEYS OF
RECORD.

THIS ACTION HAS BEEN SET FOR A PRE-TRIAL HEARING BEFORE THE HONORABLE

JUDGE WILLIAM CAHALAN

ON April 26, 1977 AT 2:15 P.M.

ATTORNEYS MUST PRESENT THIS FORM, COMPLETELY FILLED OUT TO THE CLERK OF THE
PRE-TRIAL JUDGE ON OR BEFORE THE DATE OF HEARING AND THEY MUST BE PREPARED TO
COMPLY WITH ALL OF THE PROVISIONS OF MICHIGAN COURT RULE 301.

MILTON LUCOW WILL BE THE ATTORNEY PRESENTING THIS
STATEMENT AND ATTENDING THE CONFERENCE AND WHO WILL REPRESENT

THE CITY OF DETROIT

1. FACTUAL STATEMENT OF PLAINTIFF'S CLAIMS OR DEFENDANT'S CLAIMS, INCLUDING
COUNTER CLAIMS, CROSS CLAIMS AND AFFIRMATIVE DEFENSES. (If space on this form is
insufficient, counsel may prepare additional sheets and attach to this form.) The statement of your
claim should be stated in language which the trial court may utilize to succinctly relate to the jury your
claim or theory of your case.

The defendant, CITY OF DETROIT, denies that it was guilty of any actionable negligence
whatsoever and further denies that it was guilty of breaching any implied warranties;
further, although this defendant vehemently denies the allegations of the plaintiff,
in the event that same are found to be true, then the plaintiffs herein are guilty of
negligence of an equal degree which was a proximate cause of the alleged injuries and
damages. WHEREFORE, this defendant demands a judgment of no cause for action.

THIS DEFENDANT ALSO PLEADS THE STATUTE OF LIMITATIONS.

2. WHAT, BRIEFLY, ARE THE FACTUAL AND LEGAL ISSUES TO BE LITIGATED?

LIABILITY AND DAMAGES

3. IF PLEADINGS ARE NOT SATISFACTORY AT THIS TIME, WHAT FORMAL AMENDMENTS WILL YOU REQUEST AT PRE-TRIAL?

4. WHY IS SUCH AMENDMENT NECESSARY?

5. WHY WAS IT NOT SOUGHT PRIOR TO PRE-TRIAL?

INJURIES AND DAMAGES:

6. GIVE NAMES AND AGES OF INJURED PERSONS, AND IN DEATH CASES, NAMES, RELATIONSHIP AND AGES OF PERSONS ALLEGING PECUNIARY LOSS.

7. LIST ALL INJURIES AND STATE WHETHER PERMANENT.

7a. IF PERMANENT, WHO WILL TESTIFY TO THIS?

8. LENGTH OF TIME INCAPACITATED, TIME IN HOSPITAL AND AT HOME.

9. ITEMIZE AND TOTAL:

- a. Hospital Bills
- b. Doctor Bills and
- c. Any other items or expenses incurred or loss suffered.

10. IF WAGES ARE LOST, GIVE PLACE AND TYPE OF EMPLOYMENT, DATES LOST, WAGES EARNED AT TIME OF ACCIDENT AND TOTAL AMOUNT OF WAGES LOST.

11. IN DEATH CASES, STATE AMOUNT OF PECUNIARY LOSS AND TOTAL AMOUNT EACH CLAIMANT -- PLAINTIFF CLAIMS. (If space on this form is insufficient, counsel may prepare additional sheets and attach to this form.)

12. HAVE YOU FURNISHED THE OPPOSITE PARTY WITH YOUR DOCTOR'S DIAGNOSIS AND PROGNOSIS?

13. IF NOT, PLEASE EXPLAIN WHY.

14. IF DIAGNOSIS AND PROGNOSIS WILL NOT BE FURNISHED BY PRE-TRIAL CONFERENCE PLEASE EXPLAIN WHY.

ADMISSIONS AND WAIVERS:

OWNERSHIP AND OPERATION: ORDINANCES PLEADED: REASONABLENESS AND CAUSAL CONNECTION OF DOCTOR & HOSPITAL BILLS AND OTHER ITEMS OF DAMAGE, ETC.

15. ORDINANCES PLEADED:

16. (A) WHAT ADMISSIONS OF FACT ARE YOU PREPARED TO MAKE?

(B) WHAT ADMISSIONS OF FACT DO YOU DEMAND FROM OPPOSITE PARTY?

EXHIBITS:

17. LIST AND BRING WITH YOU ALL EXHIBITS AND ANY OTHER EVIDENTIARY INFORMATION RELATING TO CASE.

MEDICAL EXAMINATION:

18. IS A FURTHER MEDICAL EXAMINATION NECESSARY? (If so, steps should be taken to complete examination before the Pre-Trial Conference.) THIS DEFENDANT RESERVES THE RIGHT TO

19. JURY OR NON-JURY JURY A MEDICAL EXAMINATION.

IF JURY, DEPOSIT OF THE JURY FEE MUST BE MADE BY THE CLOSE OF THE PRE-TRIAL CONFERENCE OR JURY IS WAIVED. IF JURY, CONSIDER SEPARATION OF ISSUES AND THE ORDER OF TRIAL WHEN SOME ISSUES ARE TO BE TRIED BY A JURY AND SOME BY THE COURT

20. ESTIMATED TIME OF TRIAL 5 days

21. PLAINTIFF OFFERS TO TAKE _____ IN FULL SETTLEMENT OF HIS CASE.

22. DEFENDANT OFFER: _____

23. IS THIS CASE ONE FOR MEDIATION WITHIN MEANING OF WAYNE CIRCUIT COURT RULE #21? NOT A PROBABLE LIABILITY CASE.

24. ATTACH A LIST OF ALL WITNESSES YOU PLAN TO CALL AT THE TRIAL.

25. HAVE YOU READ PARAGRAPHS A-II (Pink Sheet) ATTACHED TO THIS FORM? YES

GARAN, LUCOW, MILLER, LEHMAN, SEWARD & COOPER, P.C.

By: _____

SIGNATURE OF TRIAL ATTORNEY

Milton Lucow
Attorneys for Defendant, CITY OF DETROIT, ONLY
561 East Jefferson Avenue
Detroit, Michigan, 48226
962-5180

NOTE: YOU MUST SEND A COPY OF THIS FORM COMPLETELY FILLED OUT TO THE OPPOSITE PARTY OR PARTIES OF THE PRE-TRIAL NOTICE NO LATER THAN 10 DAYS AFTER RECEIPT.

DISCOVERY MUST BE COMPLETED BEFORE THE PRE-TRIAL CONFERENCE.

PLEASE NOTIFY THE ASSIGNMENT CLERK IMMEDIATELY OF ANY ATTORNEYS OF RECORD WHOSE NAMES DO NOT APPEAR ON THIS NOTICE.

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AT THE TIME OF TRIAL, THIS DEFENDANT MAY CALL THE FOLLOWING WITNESSES:

1. Theodore Spencer
2. Verne Hunt
3. Lee D. Scott
4. Michigan Painting Company
5. A & B Painting Company
6. Sam Gibbs
7. Wayne County Pollution Control Center
8. State of Michigan, Department of Health
9. Detroit Board of Education Records
10. Dr. Neal Levi
11. Roland Evans
12. Free Clinic Records
13. Comprehensive Health Services
14. Plaintiffs' treating physicians, past and present
15. Plaintiffs' medical and hospital records, past and present.
16. This defendant reserves the right to call any and all additional witnesses made necessary to rebut the proofs of the plaintiffs.

NL 000039279

T-632

ATTENTION: DUE TO THE SIZE OF THE NEW PRE-TRIAL NOTICE AND STATEMENT FORM, WE WILL NO LONGER MAIL BLANK FORMS WITH THE NOTICE.

RECEIVED
JUN 10 1976

Alexander, Buchanan & Schwartz

ATTORNEYS ARE NOW REQUIRED TO PICK UP BLANK FORMS THE CIRCUIT COURT ASSIGNMENT CLERK'S OFFICE.

63350

IMPORTANT

RECEIVED JUN 11 1976

PLEASE NOTE NEW RULES PERTAINING TO PRE-TRIAL AND TRIAL:

- A. The fact that trial counsel is elsewhere engaged or unable to attend will not be grounds for a continuance of the pre-trial or trial (G.C.R. 114.4). It is imperative, therefore, that backup counsel be available to substitute for regular trial counsel, in the event of a conflict.
- B. No Discovery proceedings will be permitted after the Pre-Trial conference, except that a physical examination before trial may be ordered in the pre-trial conference summary statement. (G.C.R. 301.7).
- C. Pre-Trial may not be waived. (G.C.R. 301.8).
- D. Within 10 days after receipt of notice of pre-trial conference, counsel shall exchange lists of all witnesses to be called at trial (G.C.R. 301.10) No witnesses may be called at trial unless listed, except by leave granted upon a showing of good cause.
- E. No cause will be adjourned because of inability of an expert witness to be present (G.C.R. 302.7). Therefore, all expert witnesses should be deposed prior to trial--and within the rules provided--to insure the availability of expert testimony at the trial.
- F. Interrogatories addressed to the existence of, the address of, or identity of witnesses are deemed continuing interrogatories (G.C.R. 309.2). In brief, once a party has been asked to disclose his witnesses, he must disclose all known witnesses and thereafter disclose any new witness to the opposite party as soon as that witness is known.
- G. After the Pre-Trial conference counsel for a party may withdraw only with Court approval--and not at all within the 30 day period preceding trial. (G.C.R. 532).
- H. Pre-Trials may be adjourned only by the Judge--and then only for good cause shown. (Local Court Rule 8.4).

NL 000039280

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE
GLADYS BEASLEY ET AL

Plaintiffs,

-vs-

No: 74 002312 NO

THE CITY OF DETROIT, a Municipal
Corp. and N L INDUSTRIES, INC., a
New Jersey Corporation, jointly and
severally,

Judge Joseph G. Rashid
P 19236

Defendants.

SUBSTITUTION OF ATTORNEYS

TO THE CLERK OF SAID COURT:

Please enter our appearance as Attorneys for the Defendant, N L INDUSTRIES, INC., a New Jersey Corp., in the place and stead of Alexander, Buchanan & Seavitt.

BUCHANAN, OGNE AND JINKS P.C.

BY:

G. Cameron Buchanan P11340
Attorney for N L Industries, Inc.
Suite 1707, 750 West Big Beaver Road
Troy, Michigan, 48063 362-3707

April 29, 1976

TO:

BARRON AND KROPP, ^{Law} ¹⁹⁷⁶
Attorneys for Plaintiffs
Suite 326, 3001 West Big Beaver
Troy, Michigan, 48064

JAMES¹ DANIEL ¹⁹⁷⁶
Attorney for City of
Detroit
1010 City County Building
Detroit, Michigan, 48226

PLEASE TAKE NOTICE that we have this day entered our appearance for the above named Defendant in the place and stead of Alexander, Buchanan & Seavitt

BUCHANAN, OGNE AND JINKS, P.C.

BY:

G. Cameron Buchanan P11340

CONSENT TO SUBSTITUTION

We hereby consent to the substitution of Buchanan, Ogne, and Jinks, P.C. for the Defendant, N L Industries, Inc., a New Jersey Corporation in our place and stead.

ALEXANDER, BUCHANAN & SEAVITT

April 29, 1976

NL 000039281

N 26060.11

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

Notice of no progress

Case No. 14-002312-CX	Case Title BEASLEY ET AL V City of DET ET AL	Date Mailed 05-29-75	Dismissal Date 06-09-75
Attorney for N.L. INDUSTRIES, INC.		This case has been assigned to Judge Joseph G. Rashid	

Please take notice that the above entitled cause shall be dismissed on the above dismissal date by order of the judge to whom the case is assigned unless by such time:

- (A) In no contest actions default with praecipe is filed and a motion for judgment is filed, or
- (B) The action is brought to issue and a trial praecipe is filed, or
- (C) The judge extends the time on a showing of good cause. Any such extension shall be for a fixed period of time.

NOTICE: If any of the steps listed in Rule 17.3 have been taken prior to the time of the calling of said "No Progress Calendar", the clerk of the Judge shall be notified thereof. In the absence of such notification, an order dismissing the action for "No Progress" shall be entered by the assigned judge without regard for any progress in fact made.

JAMES R. KILLEEN
WAYNE COUNTY CLERK

G. CAMERON BUCHANAN, Esq.
2217 1st NATIONAL Bldg.
DETROIT, MICHIGAN 48226

NL 000039282

N 26060.12

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs,

-vs-

No. 74-002312 NO

THE CITY OF DETROIT, a Municipal
Corporation and N.L. INDUSTRIES, INC.,
a New Jersey Corporation, jointly and
severally,

Defendants.

ROBERT H. GOLDEN (P14108)
Of Counsel Attorney for Plaintiffs

ALVIN R. DAVIDSON (P12567)
Attorney for Defendant

ANSWER

NOW COMES the City of Detroit, a municipal corporation, by and through
its attorneys, Robert Reese, Corporation Counsel, Thomas J. O'Dowd and
Alvin R. Davidson, Assistants Corporation Counsel, and answers the complaint of
the plaintiffs as follows:

GENERAL JURISDICTIONAL AVERMENTS

1. Paragraph 1 is affirmed.
2. Paragraph 2 is affirmed.
3. Paragraph 3 is neither affirmed nor denied by the defendant herein for
lack of proofs on which to form an opinion.
4. Paragraph 4 is affirmed.

COUNT 1

1. Paragraph 1 is affirmed to the extent that plaintiffs occupied same, but
defendants' records show initial occupancy on November 6, 1969. Defendant
denies any express or implied warranties inure to the monthly lease.

2. Paragraph 2 is affirmed.
3. Paragraph 3 is affirmed.
4. Paragraph 4 is affirmed.
5. Paragraph 5 is affirmed to the extent that the business of the co-defendant causes an increase in the amount of lead particles in the air surrounding said co-defendant's business, but the remaining allegations must be denied for lack of knowledge thereof, leaving plaintiffs to their proofs.
6. Paragraph 6 is neither affirmed nor denied, leaving plaintiffs to their proofs.
7. Paragraph 7 is neither affirmed nor denied, leaving plaintiffs to their proofs.
8. Paragraph 8 is neither affirmed nor denied, leaving plaintiffs to their proofs.
9. Paragraph 9 is neither affirmed nor denied, leaving plaintiffs to their proofs.
10. Paragraph 10 is neither affirmed nor denied, leaving plaintiffs to their proofs.
11. Paragraph 11 is denied to the extent the defendant herein is alleged to have contributed to the pollution of the air and atmosphere, but is neither affirmed nor denied relative to the balance of the paragraph, leaving plaintiffs to their proofs.

COUNT II

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is denied specifically, as defendant was neither negligent nor in breach of any warranty, express or implied. Defendant answers the subsections of this paragraph as follows:
 - A. Subsection A is affirmed, but only to the extent of the exterior of the dwellings.
 - B. Subsection B is affirmed to the extent that the air throughout the City of Detroit is infiltrated by lead and other chemicals from automobile exhausts. Any other meaning implied by the plaintiffs is left to their proofs.

- C. Subsection C is neither affirmed nor denied, leaving plaintiffs to their proofs.

COUNT III

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is denied. Defendant answers the subsections of this paragraph as follows:
 - A. Subsection A is affirmed, but only to the extent of the exterior of the dwellings.
 - B. Subsection B is neither affirmed nor denied, plaintiffs being left to their proofs.
 - C. Subsection C is neither affirmed nor denied, plaintiffs being left to their proofs.
 - D. Subsection D is denied. Defendant City of Detroit lacked the knowledge, capability and jurisdiction to effect the air in and around plaintiffs' dwelling.

COUNT IV

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical damage.

COUNT V

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.

COUNT VI

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical harm.

COUNT VII

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical harm.

COUNT VIII

1. The defendant, City of Detroit, incorporates by reference thereto, all of the answers heretofore appearing in this Answer as though fully set out herein.
2. Paragraph 2 is affirmed as to the plaintiff's date of birth, life expectancy and domicile, but the remaining allegations set out therein are denied.
3. Defendant neither affirms nor denies the symptomatology set out in paragraph 3, but denies the allegations of permanent physiological or physical harm.

AFFIRMATIVE DEFENSES

The defendant herein, the City of Detroit, sets forth the following affirmative defenses to the plaintiffs' Complaint:

1. The elevated blood-lead levels of the plaintiffs' in this cause are variables which constitute ambiguous measurements, and are not evidence, per se, of lead poisoning, but of a condition which lends itself to treatment by chelation therapy.
2. That the elevated blood-lead levels of the plaintiffs in this cause were not proximately caused by any negligent actions of the City of Detroit, but by the actions of National Lead Industries, Inc.
3. That the numerous paintings of the structures known as public housing by the City of Detroit was an attempt to make and maintain those structures in a manner consistent with what is generally known as decent.
4. That the state of the technology of paint production open to both the City of Detroit and consumers generally was so primitive until the 1960's that most of the paint sold and purchased exceeded the generally recognized 'safe' limits of lead compounds insisted upon today by Federal regulations.
5. That to hold the City of Detroit liable for the use of such paints when the dangers in those paints of lead base were virtually unknown would be analogous to strict liability.
6. That the condition of children eating paint chips or chewing paint from some painted surface in public housing was not foreseeable and was not consistent with the purposes for which the paint was used by the defendant, City of Detroit.
7. That prior to the plaintiffs moving into the building at 4803 E. Nevada, that unit was painted throughout with non-lead or low-lead based paint.
8. That plaintiff, Gladys Beasley, never complained to the building manager about the condition of any painted surface in her home, but the City of Detroit, through an enforcement program initiated by the Department of Health, scraped and removed questionable chipping paint from the interior and exterior of plaintiffs' dwelling beginning in February, 1973.
9. That the plaintiff, Gladys Beasley, knows and knew of her children's, plaintiffs, propensity to put non-food items into their mouths by virtue of her close supervision of said children, but in not stopping said conduct, was negligent by her inaction. The children, in ingesting non-food items were contributing factors to their own illnesses, and thus, contributorily negligent.

10. That the detection and enforcement of clean air laws is the duty of the Wayne County Pollution Control Center by statute, Act 306 of P.A. of 1927 (MCLA 327.205 and 206); and that those antipollution laws may be enforced by any citizen of the State of Michigan, Act 127 of P.A. of 1970 (MCLA 691.1202).

WHEREFORE, it is prayed that this action be dismissed against the defendant, City of Detroit, and that this Honorable Court grant such other relief as it deems necessary and equitable.

by 
Alvin R. Davidson
Assistant Corporation Counsel
City of Detroit
1010 City-County Building
Detroit, Michigan 48226
(313) 224-6943; 224-3423

DATED: March 6, 1974

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs,

-vs-

No: 74 002312 NO

THE CITY OF DETROIT, a Municipal
Corporation and N. L. INDUSTRIES, INC.,
a New Jersey Corporation, jointly and
severally,

Defendants.

----- /

ANSWER TO THE COMPLAINT ON
BEHALF OF N. L. INDUSTRIES, INC.,
A NEW JERSEY CORPORATION.

Now comes N. L. INDUSTRIES, INC., a New Jersey
Corporation by ALEXANDER, BUCHANAN & SEAVITT, its Attorneys
and in answer to Plaintiffs' Complaint says:

GENERAL JURISDICTIONAL AVERMENTS

1. Defendant is without sufficient information to
form an answer or belief to the allegations of said paragraph
contained.
2. Defendant admits the same on information and
belief.
3. Admitted.
4. Defendant is without sufficient information to
form an answer or belief and in further answer avers that it
does not know if Plaintiffs have a cause of action

COUNT I.

1. Defendant is without sufficient information to
form an answer or belief.
2. Defendant is without sufficient information to
form an answer or belief.

3. Defendant admits that it operates its Master Metal Division at 4700 E. Nevada, Detroit, Michigan, but is without sufficient information to admit or deny the remaining allegations in said paragraph contained.

4. Defendant admits that at the Nevada location its conducts a smelter for the recovery of lead and/or the smelting, burning process of materials containing lead but neither admits nor denies the remaining allegations in said paragraph contained for want of sufficient information to answer because of the broad general statements incorporated in the allegations.

5. Defendant denies the allegations in said paragraph contained, avers that said allegations are not, in fact, true, and that tests made periodically will disclose the verification of defendant's answer. In further answer Defendant avers that there are in the area where the Plaintiffs allegedly reside other secondary smelters of scrap lead being Sitkin Midland, Inc. N. R. Lavin & Sons, Inc. which may be the source or the bases of Plaintiffs' complaints.

6. Defendant is without sufficient information to form an answer or belief to the allegations with reference to the residence of the Plaintiffs but denies the remaining allegations in said paragraph contained and avers that said allegations are not, in fact, true.

7. Defendant is without sufficient information to form an answer or belief to the allegations with reference to residence of the Plaintiffs but denies the remaining allegations in said paragraph contained and avers that said allegations are not, in fact, true.

8. Defendant denies the allegations in said paragraph contained as applicable to the claims of the Plaintiffs with reference to lead, avers that said allegations are not, in fact, true; admits that complaints have been made and corrected with reference to sulphur content of emissions.

9. Defendant is without sufficient knowledge or information to form an answer or belief to the allegations pertaining to the physical conditions of the Plaintiff, Gladys Beasley but denies that any condition such as alleged was the result of the manufacturing process of this defendant, and avers that tests made by Health authorities and Defendant will substantiate this allegation.

10. Defendant is without knowledge or information sufficient to form an answer or belief to the allegations in said paragraph contained and leaves the Plaintiffs to their proofs.

11. Defendant is without knowledge or information sufficient to form an answer or belief to the allegations in said paragraph contained and leaves the Plaintiffs to their proofs.

AFFIRMATIVE DEFENSES

TO: GLADYS BEASLEY
Plaintiff

PETER DOZORC and ROBERT H GOLDEN
Attorneys for Plaintiffs

PLEASE TAKE NOTICE that the Defendant will rely upon and prove that the alleged cause of action of the Plaintiffs or any injuries or damages occurring after November 1, 1973 are barred by the Statute of Limitations and Defendant at the appropriate time and place will move to dismiss or strike from the Complaint allegations pertaining to all damages within the said period pursuant to the Michigan General Court Rules.

WHEREFORE, Defendant asks Judgment of No Cause of Action together with costs so wrongfully incurred.

COUNT II

1. Defendant adopts and incorporates by reference

answers to the allegations of Count I and the Affirmative Defenses incorporated therein.

2. Defendant is without sufficient information to form an answer or belief to the allegations in said paragraph contained and in further answer avers that the allegations are not applicable to this Defendant.

COUNT III

1. Defendant adopts and incorporates by reference the answers to Counts I and II of Plaintiffs' Complaint.

2. Defendant is without sufficient information to form an answer or belief to the allegations of said paragraph contained and in further answer avers that the allegations are not applicable to this Defendant.

COUNT IV.

1. Defendant adopts and incorporates by reference in full, answers to Counts I, II and III of Plaintiffs' Complaint.

2. Defendant denies air pollution by lead from its activity and avers that the allegations in said paragraph have no application to this Defendant.

3. Defendant denies that it was guilty of any acts of negligence or breach of duties for the reasons hereinbefore set forth but neither admits nor denies the remaining allegations for want of sufficient information to form an answer.

COUNT V.

1. Defendant adopts and incorporates by reference the answers to Counts I, II, III and IV in their entirety.

2. Defendant denies that the air in the community in which the Plaintiff allegedly resides was polluted or infiltrated by lead from this Defendant's business activities, avers that the tests of the Health authorities and this Defendant substantiate the bases of this denial but neither admits nor denies the remaining allegations in said paragraph contained for want of sufficient information to form an answer or belief and are not applicable.

3. Defendant is without sufficient information to form an answer or belief to the allegations of the physical condition of the Plaintiff or other allegations pertaining to injuries and denies that any condition of the Plaintiff resulted from negligence or wilful actions, or any breach of duty of this Defendant for the reasons hereinbefore set forth.

COUNT VI

1. Defendant adopts and incorporates by reference all of the answers to Counts I, II, III, IV, and V in their entirety.

2. Defendant denies the allegations with reference to the air being polluted by lead from Defendant's smelter and business activity; neither admits nor denies the remaining allegations in said paragraph contained for want of sufficient information to form an answer or belief except as to those allegations which are not applicable to this Defendant.

3. Defendant has no information sufficient in nature to form an answer or belief as to the allegations pertaining to injuries but denies that said injuries resulted from any negligence or wilful actions or failures to act of this Defendant or breach of duty of this Defendant for the reasons hereinbefore set forth.

COUNT VII

1. Defendant adopts and incorporates by reference

the answers to Counts I through VI as fully set forth therein.

2. Defendant denies the allegations with reference to the air being polluted by lead from Defendant's smelter and business activity; neither admits nor denies the remaining allegations in said paragraph contained for want of sufficient information to form an answer or belief except as to those allegations which are not applicable to this Defendant.

3. Defendant has no information sufficient in nature to form an answer or belief to the allegations pertaining to injuries but denies that said injuries resulted from any negligence or wilful actions or failure to act of this Defendant or breach of duty of this Defendant for the reasons hereinbefore set forth.

COUNT VIII

1. Defendant adopts and incorporates by reference the answer to Counts I through VII as fully set forth therein.

2. Defendant denies the allegations with reference to the air being polluted by lead from Defendant's smelter and business activity; neither admits nor denies the remaining allegations in said paragraph contained for want of sufficient information to form an answer or belief except as to those allegations which are not applicable to this Defendant.

3. Defendant has no information sufficient in nature to form an answer or belief as to the allegations pertaining to injuries but denies that said injuries resulted from any negligence or wilful actions or failures to act of this Defendant or breach of duty of this Defendant for the reasons hereinbefore set forth.

WHEREFORE, Defendant denying Plaintiffs claim of setting forth allegations with reference to exemplary damages

respectfully represents to the Court that it is without negligence or fault in this cause and asks Judgment of No Cause of Action together with costs so wrongfully incurred in each of the claims of the respective Plaintiffs.

ALEXANDER, BUCHANAN & SEAVITT

BY: _____
G. Cameron Buchanan P11340
Attorney for N. L. Industries, Inc.
2217 First National Building
Detroit, Michigan, 48226
965-2310

May 20, 1974

STATE OF MICHIGAN

CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Indiv. & next friend
of Seven Beasley, Brian Beasley, et al.

Plaintiff

Civil Action # 74-602312 NO

CITY OF DETROIT, a Municipal corp., &
N. L. INDUSTRIES, INC., a New Jersey
corp., j/s

Defendant

ROBERT B. DASHED
Judge 1974

SUMMONS

IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN:

To the above named defendant(s): CITY OF DETROIT: City County Building, Detroit

(Name of Defendant(s))

N. L. INDUSTRIES, INC.: c/o Corporation Co., Dime Building, Detroit

You Are Hereby Notified that a civil action has been commenced against you, and that if you desire to defend the same, you are required to answer or take such action as may be permitted by law with regard to the complaint herewith served upon you, within 20 days after service of this summons and complaint upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Date: JAN 24 1974

JOSEPH B. SULLIVAN, Clerk of the Circuit Court

Peter Dazorc,
ROBERT H. GOLDEN, Of Counsel

(Attorney for Plaintiff)

Deputy Clerk

17220 W. 12 Mi., Sfld., Mich.

(Business address)

557-7210

(Phone No.)

Seal of the Court

STATE OF MICHIGAN } ss
COUNTY OF WAYNE }

I _____ hereby certify and return
(Deputy Sheriff)

that on the _____ day of _____ 19____, at _____
(place of service)

_____ in the County of _____

I served a Summons and a copy of the Complaint and _____

In this action upon _____

(Name of Defendant(s))

known to be (one of) the defendant(s) named therein, by then and there delivering to (each of) said defendant(s) said summons and copy of above named documents.

Dated _____ 19____

SHERIFF

Deputy Sheriff

STATE OF MICHIGAN } ss
COUNTY OF WAYNE }

_____ being duly sworn, deposes and
(Deponent)

says that he is a person of suitable age and discretion to serve process, and that on the _____ day of _____ 19____

at _____ in the County of _____
(place of service)

he served a Summons and a copy of the Complaint and _____

in this action upon _____

(Name of Defendant(s))

known to be (one of) the defendant(s) named therein, by then and there delivering to (each of) said defendant(s) said summons and copy of above named documents.

Subscribed and sworn to before me

this _____ day of _____ 19____

Deponent

Notary Public, Wayne County, Michigan

My Commission expires _____

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GLADYS BEASLEY, Individually and
as Next Friend of STEVEN BEASLEY,
BRIAN BEASLEY, DERRICK BEASLEY,
WENDELL BEASLEY and MONIQUE
BEASLEY, all minors,

Plaintiffs,

-vs-

No. 74-002312 NO

THE CITY OF DETROIT, a Municipal
corporation and N. L. INDUSTRIES, INC.,
a New Jersey Corporation, jointly and
severally,

Defendants.

SPECIAL DOCKET

ROBERT H. GOLDEN (P 14108)
Of Counsel Attorney for Plaintiffs

COMPLAINT

Now come the above named plaintiffs by their attorney, PETER
DOZORC, ROBERT H. GOLDEN, of counsel and complain of the CITY OF
DETROIT, a Municipal corporation and N. L. INDUSTRIES, INC., a New Jersey
corporation, jointly and severally and for their cause of action, say:

GENERAL JURISDICTIONAL AVERMENTS

1. That all of your plaintiffs are residents of the City of Detroit,
County of Wayne, State of Michigan.
2. That the defendant, City of Detroit, is a Municipal corporation
located within the County of Wayne, State of Michigan.
3. That the defendant, N. L. INDUSTRIES, INC., is a New Jersey
corporation, admitted and authorized to do business in the State of Michigan and
established within the County of Wayne, State of Michigan.
4. That this cause of action accrued to your plaintiffs within the
County of Wayne, State of Michigan.

PETER DOZORC, P.O., ATTORNEY AT LAW

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COUNT I

1. That on or about November 1, 1970, your plaintiff rented, or otherwise occupied premises known as 4803 Nevada, located in the City of Detroit, County of Wayne, State of Michigan, from the defendant, and owner of said property, the CITY OF DETROIT, Paying a monthly rental therefore to the said CITY OF DETROIT, which premises by agreement and design were for use by plaintiff and her family as a dwelling place and residence and impliedly warranted by the said defendant as safe for such use.

2. That plaintiff's family on November 1, 1970 and thereafter consisted of her children, the minor plaintiffs herein, which minor plaintiffs born and thereafter born resided in the aforesaid premises from November 1, 1970 or their date of birth, to the present time.

3. That the defendant, N. L. INDUSTRIES, INC., a New Jersey corporation operated a division of its business known as Master Metal Division at 4700 E. Nevada, Detroit, Michigan, which location is approximately 400 feet south west of the residence and dwelling place of all of your plaintiffs, as heretofore described.

4. That defendant, N. L. INDUSTRIES, INC., at its location aforesaid, conducts a smelter for the recovery of lead and or the smelting, burning and processing of ores, materials and goods, which contain lead, including but not limited to the burning or smelting of battery casings for recovery of their lead content.

5. That the process of burning battery casings and cases and the other smelting, burning and processing done by defendant, N. L. INDUSTRIES, INC., caused, causes and continues to cause the atmosphere in and around 4800 E. Nevada, to become burdened with an increased and abnormal amount of lead, specifically let into the air in the neighborhood of defendant's plant, by the plant operations of the defendants and its business operations, which air envelopes plaintiff's residence.

6. That your plaintiff's have lived in and around and within 400 feet of defendant's plant for in excess of three years, breathing the air placed there by

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nature in its pure state free of lead particles or chemicals and fouled by defendant's manufacturing processes so as to contain lead in amounts greatly increased from what amounts if lead could or would be expected to be contained within the air in its natural and unaltered state in the absence of defendant's manufacturing process, and have been injured thereby as more fully set out herein.

7. That not only has this defendant caused the air in and out of its plant and in and around plaintiff's residence to be fouled and lead burdened, but has continually and repeatedly refused or neglected to so refine its manufacturing process to eliminate the danger to residents in the area and of persons including plaintiff's breathing air containing various chemicals, and metals including lead, and, fully realizing the dangers of their business enterprise to inhabitants of the area, have continued their smelting and burning and pollution of the atmosphere and breathable air in and around plaintiff's residence.

8. That on several occasions defendant has been cited or complained against, notified or requested to alter, change amend, safeguard or discontinue its operations in order to prevent the pollution of the air around its plant and to prevent pollution of the air plaintiff's breath, which complaints, requests orders, etc. have gone largely ignored and without remedy, further endangering the life of plaintiffs and continuing to foul and contaminate the air breathed now, in the past, and during the pendency of this action, by plaintiffs and others to their damage and injury.

9. That your plaintiff, GLADYS BEASLEY, has for several months endured the pain, suffering, vomiting, diarrhea and general irritability of her children, the minor plaintiffs herein, the above symptoms the result of lead poisoning, caused by and or contributed to by the pollution of the air in and about their home, as a result of the manufacturing and smelting process of the defendant, N. L. INDUSTRIES, INC.

10. That your plaintiff, GLADYS BEASLEY, has been compelled to seek medical attention for all of her children, the minor plaintiffs herein, and

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has been compelled, is being compelled and will be compelled for the rest of her life, and/or the lives of her children, to pay and incur great sums of money in and about the treatment, care, and alleviation of the complaints of her children, the minor plaintiffs herein.

11. That your plaintiff has witnessed and endured the suffering of her children and will be called upon in the future to witness their continued pain, suffering, and debilitation, lessening of intelligent quotient and in general will bear witness to the inability of her children to attain a normal mental and physical ability and life pattern and style, all taken from them by the actions and failures of these defendants in their pollution of the atmosphere and virtual injection of the atmosphere in and about her home with lead and lead derivatives and lead bearing chemicals.

COUNT II

1. That your plaintiff, GLADYS BEASLEY, incorporates by reference thereto, all of the allegations heretofore appearing in this Complaint as though fully set out herein.

2. That the defendant, CITY OF DETROIT, has negligently provided the plaintiffs with an unsafe, defective and dangerous building in which to live, for a payment of rent, and further that the said defendant, CITY OF DETROIT, knew or should have known of the defective and unsafe condition of the residence provided by it to these plaintiffs, for example:

- A. That the building and premises and/or surrounding buildings and/or premises also owned by this defendant had covering them several coats of lead based paint.
- B. That the air in and around the premises was infiltrated with lead and other chemicals.
- C. That all surfaces, interior and exterior were covered and continued to be covered with lead particles settled and settling out of the air.

And that the existence of lead and in and upon the interior and exterior building,

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walls, surface and breathable air constituted a lethal health hazard to plaintiff and the minor children plaintiffs, which danger this defendant failed to in any way point out, warn of, or reduce, inhibit, discontinue or abate, the existence of which and which failure and negligent acts were a breach of said defendant's implied warranty of a safe premises in which to live, resulting in the acute lead poisoning of the minor plaintiffs and the pain, anguish, disappointment and expense of their mother and to plaintiff.

COUNT III

1. That all of your plaintiffs incorporate by reference thereto all of the allegations herein, appearing in this complaint as though fully set out herein.

2. That in renting the aforesaid premises, to your plaintiff and her children, the minor plaintiffs herein, the defendant, CITY OF DETROIT, did impliedly warrant that the premises were safe to be inhabited as a residence and that residing there would not cause, in itself, injury to the plaintiffs, which warranties the defendant CITY OF DETROIT, did breach in that your plaintiff, relying upon the safety of said premises did reside there with her family, all of which children did contract acute lead poisoning as a direct result of their having resided in said premises, defendant breaching its warranty, for example:

- A. That the building and premises and/or surrounding buildings and/or premises also owned by this defendant had covering them several coats of lead based paint.
- B. That the air in and around the premises was infiltrated with lead and other chemicals.
- C. That all surfaces, interior and exterior were covered and continued to be covered with lead particles settled and settling out of the air.
- D. That the defendant, knew or should have known of the dangers of lead poisoning attendant in residing as tenants of defendant and yet the said defendant, CITY OF DETROIT, failed in any way to clean up the air in and around said

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premises, or to fill said premises of lead and lead dust.

COUNT IV

1. That co-plaintiff, GLADYS BEASLEY, as next friend of the minor plaintiff BRIAN BEASLEY, incorporates by reference thereto all of the allegations heretofore appearing in this complaint as though fully set out herein.

2. That BRIAN BEASLEY, was born on May 26, 1938, and has resided since November 1, 1970 at the aforesaid residence owned by the defendant, CITY OF DETROIT, and in, around, upon and on which air polluted by lead, infiltrated from defendant's smelter and business activity, was deposited, did on November 1, 1970 have a normal life expectancy pursuant to M. C. L. A. §500.834 of 66.90 years, which life expectancy and quality of life has been materially altered and impaired as a result of acute lead poisoning, contracted as a result of the negligence, actions, and failures to act of the defendants herein, jointly and severally, as well as by breach of warranties of the defendant, CITY OF DETROIT.

3. That your plaintiff has further suffered extreme distress, including head ache pain, pain, vomiting, stomach cramps, acute blood lead levels, lead deposition in his bones and tissues, irritability, dimenished responsiveness and intelligent quotient and will continue to suffer such symptoms and such poisoning for the rest of his life, being in constant need of medical and other care, all as a result of the negligent and wilful actions of the defendants herein, and breaches of duty of said defendant.

COUNT V

1. That co-plaintiff, GLADYS BEASLEY, as next friend of the minor plaintiff, DERRICK BEASLEY, incorporates by reference thereto, all of the allegations heretofore appearing in this complaint as though fully set out herein.

2. That DERRICK BEASLEY, was born July 13, 1955, and has resided since November 1, 1970, at the aforesaid residence owned by the defendant, CITY OF DETROIT, and in, around, upon and on which air polluted by lead, infiltrated from defendant's smelter and business activity, was deposited, did on

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November 1, 1970, have a normal life expectancy pursuant to M.C.L.A. §500.334 of 54.19 years, which life expectancy and quality of life has been materially altered and impaired as a result of acute lead poisoning, contracted as a result of the negligence, actions and failures to act of the defendants herein, jointly and severally, as well as by breach of warranties of the defendant, CITY OF DETROIT.

3. That your plaintiff has further suffered extreme distress, including head ache, pain, vomiting stomach cramps, acute blood lead levels, lead deposition in his bones and tissues, irritability, diminished responsiveness and intelligent quotient and will continue to suffer such symptoms and such poisoning for the rest of his life, being in constant need of medical and other care, all as a result of the negligent and wilful actions of the defendants herein, and breaches of duty of said defendants.

COUNT VI

1. That co-plaintiff, GLADYS BEASLEY, as next friend of the minor plaintiff, WENDELL BEASLEY, incorporates by reference thereto, all of the allegations heretofore appearing in this complaint as though fully set out herein.

2. That WENDELL BEASLEY, was born September 27, 1960, and has resided since November 1, 1970, at the aforesaid residence owned by the defendant, CITY OF DETROIT, and in, around, upon and on which air polluted by lead, infiltrated from defendant's smelter and business activity, was deposited, did on November 1, 1970, have a normal life expectancy pursuant to M.C.L.A. §500.834 of 59.53 years, which life expectancy and quality of life has been materially altered and impaired as a result of acute lead poisoning, contracted as a result of the negligence, actions and failures to act of the defendants herein, jointly and severally, as well as by breach of warranties of the defendant, CITY OF DETROIT.

3. That your plaintiff has further suffered extreme distress, including head ache, pain, vomiting, stomach cramps, acute blood lead levels, lead deposition in his bones and tissues, irritability, diminished responsiveness and intelligent quotient and will continue to suffer such symptoms and such

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poisoning for the rest of his life, being in constant need of medical and other care, all as a result of the negligent and wilful actions of the defendants herein, and breaches of duty of said defendants.

COUNT VII

1. That co-plaintiff, GLADYS BEASLEY, as next friend of the minor plaintiff, MONIQUE BEASLEY, incorporates by reference thereto, all of the allegations heretofore appearing in this complaint as though fully set out herein.

2. That MONIQUE BEASLEY, was born February 1, 1971, and has resided since February 1, 1971, at the aforesaid residence owned by the defendant, CITY OF DETROIT, and in, upon, around, and on which air polluted by lead, infiltrated from defendant's smelter and business activity, was deposited, did on February 1, 1971, have a normal life expectancy pursuant to M.C.L.A. §500.834 of 88.39 years, which life expectancy and quality of life has been materially altered and impaired as a result of acute lead poisoning, contracted as a result of the negligence, actions and failures to act of the defendants herein, jointly and severally, as well as by breach of warranties of the defendant, CITY OF DETROIT.

3. That your plaintiff has further suffered extreme distress, including head ache, pain, vomiting, stomach cramps, acute blood lead levels, lead deposition in her bones and tissues, irritability, diminished responsiveness and intelligent quotient and will continue to suffer such symptoms and such poisoning for the rest of her life, being in constant need of medical and other care, all as a result of the negligent and wilful actions of the defendants herein, and breaches of duty of said defendants.

COUNT VIII

1. That your co-plaintiff, GLADYS BEASLEY, as next friend of the minor plaintiff, STEVEN BEASLEY, incorporates by reference thereto all of the allegations heretofore appearing in this complaint as though fully set out herein.

2. That STEVEN BEASLEY, was born June 22, 1983, and has

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resided since November 1, 1970, at the aforesaid residence owned by the defendant, CITY OF DETROIT, and in, upon, around, and on which air polluted by lead, infiltrated from defendant's smelter and business activity was deposited, did on November 1, 1970 have a normal life expectancy pursuant to M. C. L. A. §500.834 of 32.35 years, which life expectancy and quality of life has been materially altered and impaired as a result of acute lead poisoning, contracted as a result of the negligence, actions and failures of action of the defendants herein, jointly and severally, as well as by breach of warranties of the defendant, CITY OF DETROIT.

3. That your plaintiff has further suffered extreme distress, including head ache, pain, vomiting, stomach cramps, acute blood lead levels, lead deposition in his bones and tissues, irritability, diminished responsiveness and intelligent quotient and will continue to suffer such symptoms and such poisoning for the rest of his life, being in constant need of medical and other care, all as a result of the negligent and wilful actions of the defendants herein, and breaches of duty of said defendants.

WHEREFORE plaintiff, GLADYS BEASLYE, prays judgment for plaintiff and against defendants, jointly and severally, in the sum of Five Million and No/100 (\$5,000,000.00) Dollars, as compensatory and exemplary damages, or in such other sums as a court or jury upon a trial of this cause, shall deem just, fair and equitable, plus costs, interest and attorneys fees.

WHEREFORE your plaintiff, GLADYS BEASLEY, as next friend of the minor plaintiffs herein, prays judgment for said minor plaintiffs in the sum of Five Million and No/100 (\$5,000,000.00) Dollars, as compensatory and exemplary damages, each, or in such other sum as a court or jury shall deem just, fair and equitable, plus costs, interest and attorneys fees.

ROBERT H. GOLDEN
Of Counsel Attorney for Plaintiffs
17220 W. 12 Mile Road, Suite 103
Southfield, Michigan 48075
337-7210

PETER DOZORC, P.C., ATTORNEY AT LAW
16000 WEST NINE MILE ROAD - SOUTHFIELD, MICHIGAN 48075 - 353-4600

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DEMAND FOR TRIAL BY JURY

Now come the above entitled plaintiffs, by their Of Counsel
Attorney, ROBERT H. GOLDEN, and hereby demand a trial by jury of all matters
and things contained herein.

ROBERT H. GOLDEN
Of Counsel Attorney for Plaintiffs
17220 West 12 Mile Road, Suite 103
Southfield, Michigan 48075
557-7210

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PETER DOZORO, P.C., ATTORNEY AT LAW

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