

United States District CourtFOR THE
DISTRICT OF NEW JERSEYCIVIL ACTION FILE NO. 86-770

(455)

LOTTIE MEMICE, Individually and LOTTIE
MEMICE, as Executrix of the ESTATE OF JOSEPH
MEMICE, Deceased,

Plaintiff

v.

SUMMONS

PPG INDUSTRIES, INC.; PPG INDUSTRIES, INC.
CHEMICALS GROUP INDUSTRIAL CHEMICAL DIVISION;
BORDEN, INC.; BORDEN INC. BORDEN CHEMICAL
DIVISION; BORDEN INC. PETROCHEMICALS DIVISION;
BORDEN CHEMICAL INC.; GEORGIA GULF CORPORATION;
UNIROYAL CHEMICAL CO., INC.; SHINTECH, INC.;
SHELL CHEMICAL, INC.; SHELL OIL COMPANY, INC.;
et als, Defendant

To the above named Defendant : UNIROYAL CHEMICAL CO., INC.

You are hereby summoned and required to serve upon
MARCUS & LEVY

plaintiff's attorney, whose address

is Valley National Bank Bldg., 80 Broadway, Elmwood Park, New Jersey
07407an answer to the complaint which is herewith served upon you, within 20 days after service of this
summons 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.**ALLYN Z. LITE**Willie L. Lite Clerk of Court.

Deputy Clerk.

Date: February 24, 1986

[Seal of Court]

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

URL 12743

ORIGINAL FILED

FEB 24 1986

ALLYN Z. LITE, CLERK

MARCUS & LEVY
Valley National Bank Bldg.
80 Broadway
Elmwood Park, NJ 07407
(201) 791-8500
Attorneys for Plaintiffs

LOTTIE MEMICE, Individually and
LOTTIE MEMICE, as Executrix of the
ESTATE OF JOSEPH MEMICE, Deceased,

Plaintiffs,

PPG INDUSTRIES, INC.,; PPG INDUS-
TRIES, INC. CHEMICALS GROUP INDUS-
TRIAL CHEMICAL DIVISION; BORDEN,
INC.; BORDEN INC. BORDEN CHEMICAL
DIVISION; BORDEN INC. PETROCHEMI-
CALS DIVISION; BORDEN CHEMICAL
INC.; GEORGIA GULF CORPORATION;
UNIROYAL CHEMICAL CO., INC.;
SHINTECH, INC.; SHELL CHEMICAL,
INC.; SHELL OIL COMPANY, INC.; DOW
CHEMICAL U.S.A.; E.I. du PONT de
NEMOURS & COMPANY, INC.; E.I. du
PONT de NEMOURS & COMPANY, INC.
CONOCO INC., subsidiary, E.I. du
PONT de NEMOURS, INC., CONOCO CHEM-
ICALS CO. DIVISION; FORMOSA PLAS-
TICS CORPORATION; GEORGIA-PACIFIC
CORPORATION; GEORGIA-PACIFIC CORPO-
RATION CHEMICAL DIVISION; THE BF
GOODRICH COMPANY; BF GOODRICH COM-
PANY BF GOODRICH CHEMICAL GROUP;
UNION CARBIDE CORPORATION; ALLIED
CHEMICAL CORPORATION INDUSTRIAL
CHEMICALS DIVISION; CONTINENTAL OIL)

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CIVIL ACTION NO.

86-740

Civil Action

COMPLAINT AND
JURY DEMAND

URL 12744

COMPANY CONOCO CHEMICALS DIVISION;)
 ETHYL CORPORATION; MONOCHEM, INC.;)
 STAUFFER CHEMICAL COMPANY)
 (DELAWARE) PLASTICS DIVISION; "A")
 CORPORATION; "B" CORPORATION; "C")
 CORPORATION; "D" CORPORATION; "E")
 CORPORATION; "F" CORPORATION; "G")
 CORPORATION; "H" CORPORATION; "I")
 CORPORATION; "J" CORPORATION; "K")
 CORPORATION; "L" CORPORATION; "M")
 CORPORATION; "N" CORPORATION; "O")
 CORPORATION; "P" CORPORATION; "Q")
 CORPORATION; "R" CORPORATION; "S")
 CORPORATION; "T" CORPORATION; said)
 names being fictitious but intended)
 to be corporations or other persons)
 or entities that manufactured vinyl)
 chloride monomer (VCM); "1" CORPO-)
 RATION; "2" CORPORATION; "3" CORPO-)
 RATION; "4" CORPORATION; "5" CORPO-)
 RATION; "6" CORPORATION; "7" CORPO-)
 RATION; "8" CORPORATION; "9" CORPO-)
 RATION; "10" CORPORATION; "11" COR-)
 PORATION; "12" CORPORATION; "13")
 CORPORATION; "14" CORPORATION; "15")
 CORPORATION; "16" CORPORATION; "17")
 CORPORATION; "18" CORPORATION; "19")
 CORPORATION; "20" CORPORATION; said)
 names being fictitious but intended)
 to be the corporations or other)
 persons or entities distributing)
 vinyl chloride monomer (VCM),)
)
 Defendants.)

UPL 12745

Plaintiff, LOTTIE MEMICE, Individually and as Executrix of the ESTATE OF JOSEPH MEMICE, residing at 54 Rutgers Place, in the City of Passaic, County of Passaic and State of New Jersey, complaining of the Defendants, says:

NATURE OF ACTION, JURISDICTION AND VENUE

1. Plaintiff brings this wrongful death action to recover for injuries alleged to be caused by exposure to the Defendants' products.

2. Jurisdiction is premised on the pendent jurisdiction of this Court under 28 U.S.C. Sec. 1331, and on 28 U.S.C. Sec. 1332(a) in that the matter in controversy exceeds the sum or value of \$10,000.00, exclusive of interest and costs, and is between a citizen and corporate Defendants of different states.

3. Venue in this judicial district is proper because the Plaintiff resides in this district, and because the Defendants conducted business within this district.

FIRST COUNT

1. Plaintiff, Lottie Memice, is the widow of the late Joseph Memice (hereinafter known as decedent), late of the City of Passaic, County of Passaic, State of New Jersey, who was born on June 27, 1918 and died on June 29, 1984.

2. Plaintiff, Lottie Memice, brings this suit individually and in her capacity as executrix of decedent's estate.

3. Defendants, PPG Industries, Inc. and PPG Industries Inc. Chemicals Group Industrial Chemical Division, are incorporated under the laws of the State of Pennsylvania. Defendants conduct business within the State of New Jersey and have established necessary and minimum contacts. Defendants, "PPG", manufacture, process, import, convert, compound, distribute and trade vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendant, PPG, introduced vinyl chlorides into the stream of commerce.

4. Defendants, Borden Chemical Inc., Borden Inc. Borden Chemical Division and Borden Inc. Petrochemicals Division conduct business within the State of New Jersey and have established

necessary and minimum contacts. Defendants, "Borden", manufacture, process, import, convert, compound, distribute and trade vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendants, "Borden", introduced vinyl chlorides into the stream of commerce.

5. Defendant, Georgia Gulf Corporation, is incorporated under the laws of the State of Delaware. Defendant conducts business within the State of New Jersey and has established necessary and minimum contacts. Defendant, Georgia Gulf Corporation, is a manufacturer, processor, importer, converter, compounder, distributor and merchant of vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendant, Georgia Gulf, introduced vinyl chlorides into the stream of commerce.

6. Defendant, Uniroyal Chemical Co., Inc., is incorporated under the laws of the State of New Jersey. Defendant conducts business within the State of New Jersey and has established necessary and minimum contacts. Defendant, Uniroyal Chemical, is a manufacturer, processor, importer, converter, compounder, distributor and merchant of vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendant, Uniroyal Chemical, introduced vinyl chlorides into the stream of commerce.

7. Defendant, Shintech, Inc., conducts business within the State of New Jersey and has established necessary and minimum contacts. Defendant, Shintech, Inc., is a manufacturer, processor, importer, converter, compounder, distributor and merchant of vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendant, Shintech, Inc., introduced vinyl chlorides into the stream of commerce.

8. Defendant, Shell Chemical, Inc. and Shell Oil Company, Inc., is incorporated under the laws of the State of New Jersey. Defendants conduct business within the State of New Jersey and have established necessary and minimum contacts. Defendant, Shell Chemical, Inc. and Shell Oil Company, Inc., manufacture, process, import, convert, compound, distribute and trade vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendants, "Shell", introduced vinyl chlorides into the stream of commerce.

9. Defendant, Dow Chemical U.S.A., is incorporated under the laws of the State of Delaware. Defendant conducts business within the State of New Jersey and has established necessary and minimum contacts. Defendant, Dow Chemical U.S.A., is a manufacturer, processor, importer, converter, compounder, distributor and merchant of vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendant, Dow Chemical U.S.A, introduced vinyl chlorides into the stream of commerce.

10. Defendant, E.I. du Pont de Nemours & Company, Inc., E.I. du Pont de Nemours & Company, Inc. Conoco Inc. subsidiary and E.I. du Pont de Nemours & Company, Inc. Conoco Chemicals Co. Division are incorporated under the laws of the State of Delaware. Defendant conducts business within the State of New Jersey and have established necessary and minimum contacts. Defendants, "E.I. du Pont", manufacture, process, import, convert, compound, distribute and trade vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendants, " E.I. du Pont", introduced vinyl chlorides into the stream of commerce.

11. Defendant, Formosa Plastics Corporation, is incorporated under the laws of the State of Delaware. Defendant conducts business within the State of New Jersey and has established necessary and minimum contacts. Defendant, Formosa Plastics Corporation, is a manufacturer, processor, importer, converter, compounder, distributor and merchant of vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendant, Formosa Plastics Corporation, introduced vinyl chlorides into the stream of commerce.

12. Defendants, Georgia-Pacific Corporation and Georgia-Pacific Corporation Chemical Division, are incorporated under the laws of the State of Georgia. Defendants conduct business within the State of New Jersey and have established necessary and minimum contacts. Defendants, "Georgia-Pacific", manufacture, process, import, convert, compound, distribute and trade vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendants, "Georgia-Pacific", introduced vinyl chlorides into the stream of commerce.

13. Defendants, The BF Goodrich Company, BF Goodrich Company, BF Goodrich Chemical Group, are incorporated under the laws of the State of New York. Defendants conduct business within the State of New Jersey and have established necessary and minimum contacts. Defendants, "BF Goodrich Company", manufacture,

URL 12749

process, import, convert, compound, distribute and trade vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendants, "BF Goodrich Company", introduced vinyl chlorides into the stream of commerce.

14. Defendant, Union Carbide Corporation, is incorporated under the laws of the State of New York. Defendant conducts business within the State of New Jersey and has established necessary and minimum contacts. Defendant, Union Carbide Corporation, is a manufacturer, processor, importer, converter, compounder, distributor and merchant of vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendant, Union Carbide Corporation, introduced vinyl chlorides into the stream of commerce.

15. Defendant, Allied Chemical Corporation Industrial Chemicals Division, is incorporated under the laws of the State of Delaware. Defendant conducts business within the State of New Jersey and has established necessary and minimum contacts. Defendant, Allied Chemical Corporation Industrial Chemicals Division, is a manufacturer, processor, importer, converter, compounder, distributor and merchant of vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendant, Allied Chemical Corporation Industrial Chemicals Division, introduced vinyl chlorides into the stream of commerce.

16. Defendant, Continental Oil Company Conoco Chemicals Division, is incorporated under the laws of the State of Delaware. Defendant conducts business within the State of New Jersey and has established necessary and minimum contacts. Defendant, Continental Oil Company Conoco Chemicals Division, is a manufacturer, processor, importer, converter, compounder, distributor and merchant of vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendant, Continental Oil Company Conoco Chemicals Division, introduced vinyl chlorides into the stream of commerce.

17. Defendant, Ethyl Corporation, is incorporated under the laws of the State of Virginia. Defendant conducts business within the State of New Jersey and has established necessary and minimum contacts. Defendant, Ethyl Corporation, is a manufacturer, processor, importer, converter, compounder, distributor and merchant of vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendant, Ethyl Corporation, introduced vinyl chlorides into the stream of commerce.

18. Defendant, Monochem, Inc., conducts business within the State of New Jersey and has established necessary and minimum contacts. Defendant, Monochem, Inc., is a manufacturer, processor, importer, converter, compounder, distributor and merchant of vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendant, Monochem, Inc., introduced vinyl chlorides into the stream of commerce.

19. Defendant, Stauffer Chemical Company (Delaware) Plastics Division, is incorporated under the laws of the State of Delaware. Defendant conducts business within the State of New Jersey and has established necessary and minimum contacts. Defendant, Stauffer Chemical Company (Delaware) Plastics Division, is a manufacturer, processor, importer, converter, compounder, distributor and merchant of vinyl chlorides. Acting through its agents, servants, employees or representatives, Defendant, Stauffer Chemical Company (Delaware) Plastics Division, introduced vinyl chlorides into the stream of commerce.

20. "A" Corporation, "B" Corporation, "C" Corporation, "D" Corporation, "E" Corporation, "F" Corporation, "G" Corporation, "H" Corporation, "I" Corporation, "J" Corporation, "K" Corporation, "L" Corporation, "M" Corporation, "N" Corporation, "O" Corporation, "P" Corporation, "Q" Corporation, "R" Corporation, "S" Corporation and "T" Corporation, names being fictitious but intended to be corporations or other persons or entities that manufactured vinyl chloride monomer (VCM) and introduced same into the stream of commerce.

21. "1" Corporation, "2" Corporation, "3" Corporation, "4" Corporation, "5" Corporation, "6" Corporation, "7" Corporation, "8" Corporation, "9" Corporation, "10" Corporation, "11" Corporation, "12" Corporation, "13" Corporation, "14" Corporation, "15" Corporation, "16" Corporation, "17" Corporation, "18" Corporation, "19" Corporation and "20" Corporation, names being fictitious but intended to be the corporations or other persons or entities distributing vinyl chloride monomer (VCM) and introduced same into the stream of commerce.

22. Plaintiff's deceased husband, Joseph Memice, was employed by Pantasote, a corporation organized and existing under the laws of the State of Delaware. As an employee of Pantasote, the deceased worked around, came into contact with and was otherwise exposed to vinyl chlorides which were manufactured, processed, imported, compounded, converted or sold by the Defendants to fabricators such as Pantasote.

23. The damaging effects of said contact and exposure directly and proximately caused Plaintiff's deceased husband to develop a cancer known as angiosarcoma of the liver, which illness resulted in the deceased experiencing great pain and suffering, mental anxiety, weight loss and eventual death.

24. Defendants knew, or with the exercise of ordinary care, should have known that the vinyl chloride materials were injurious, poisonous, and harmful to the deceased's health. Defendants knew or should have known that the deceased would not know of such dangers to his health.

25. The illness and eventual death of the deceased was a proximate and direct result of the negligence of the Defendants in that they:

(a) failed to advise the Plaintiff's husband of the dangerous characteristics of vinyl chloride;

(b) failed to provide the deceased with safe and sufficient wearing apparel or proper protective equipment and appliances if, in truth, there were any, to protect the deceased from being injured, as he was, by exposure and contact with said vinyl chlorides;

(c) failed to place any warnings on the containers of said vinyl chlorides of the dangers of exposure, or contact with said vinyl chlorides;

(d) failed to make reasonable precautions or exercise reasonable care to publish, adopt and enforce a safety plan or a safe method of loading and unloading, handling, venting and using said vinyl chlorides;

(e) failed to provide adequate directions for the handlers of its products, such as the employees of Pantasote, so as to avoid physical harm to such persons or those in the immediate vicinity of such persons, and to avoid subjecting such persons to risks which the Defendants knew or should have known existed, which risks were not known to or reasonably discoverable by persons handling the products;

(f) in any other respects not presently ascertainable.

26. The death of the Plaintiff's husband was directly and proximately caused by the gross negligence, omission, conscious indifferences, or utter disregard for the welfare of the deceased on the part of the Defendants herein, their agents, servants, employees, managers, superintendents, supervisors, and officers in that they ignored scientific data made known and available to them, which data stated specifically that its vinyl chloride materials were harmful and deadly to the workers who came in contact with said materials.

27. Defendants are and have been possessed of medical and scientific data which clearly indicated that the product vinyl chloride is hazardous to health, and, prompted by pecuniary motives, the Defendants willfully and wantonly ignored and failed to act upon said medical and scientific data. Defendants conspired to deprive the public, particularly the users and workers who had to work in close proximity to said products, of said medical and scientific data, depriving them of the opportunity of free choice as to whether or not to expose themselves to the vinyl chloride products of the Defendants.

28. There is and was at the time of the death set forth above a survival action known and designated as N.J.S.A. 2A:15-3 et seq. Plaintiff, as Executrix of the Estate of Joseph Memice, brings this action pursuant to the provisions thereof for the benefit of the Estate of Joseph Memice.

29. There is and was at the time of the accident set forth above a wrongful death statute, known and designated as N.J.S.A. 2A:31-1-6; Plaintiff, as Executrix brings this action pursuant to the provisions thereof for the benefit of the next of kin of the decedent.

30. The estate of the decedent was liable for and in fact paid for hospital, medical and funeral burial expenses and charges of the decedent.

31. The decedent, Joseph Memice, left surviving him a wife, Lottie Memice. By reason of the wrongful death of the Plaintiff's decedent, his survivor has suffered pecuniary losses

including the loss of the care, comfort, attention, support, income, companionship, household and other services and society of the Decedent.

WHEREFORE, Plaintiff demands judgment on this First Count against the Defendants joint tortfeasors herein, jointly and/or severally, for damages, interest, costs of suit and punitive damages.

SECOND COUNT

1. Plaintiff adopts all of the allegations in Paragraphs 1 through 31 of the First Count hereof as if they were alleged in full herein.

2. In connection with the mining, manufacturing, processing, importing, converting, compounding, distribution and sale of vinyl chlorides, the Defendants expressly and impliedly warranted to the general public and to this Plaintiff's deceased husband in particular that said vinyl chlorides were safe, merchantable, and fit for the use for which they were intended and that they did not contain any undisclosed latent defects.

3. Said vinyl chlorides breached the Defendants' warranty to Plaintiff's deceased in that said products were unsafe, not of merchantable quality and unfit for the purpose and use for which they were intended.

4. Plaintiff's deceased husband relied on the warranties made by the Defendants and was caused to suffer serious and permanent disabilities and death as a direct and proximate result of his reliance on said warranties and as the direct and proximate result of the breach of said warranties by the Defendants.

5. As a direct and proximate result of the breach of warranties by the Defendants as heretofore set forth, Plaintiff's deceased sustained the losses and damages more particularly set forth in the First Count hereof, which is adopted as more particularly set forth therein.

6. Plaintiff alleges that all her deceased husband's injuries, death and damages heretofore alleged were due to the breaches of warranties on the part of the Defendants.

WHEREFORE, Plaintiff demands judgment on this Second Count against the Defendants joint tortfeasors herein, jointly and/or severally, for damages, interest, costs of suit and punitive damages.

THIRD COUNT

1. The Plaintiff adopts all the allegations in Paragraphs 1 through 31 of the First Count and realleges same as if more fully repeated herein.

2. The Plaintiff's deceased husband was an employee of Pantasote, which was involved, among other things, in the fabrication of vinyl chloride products.

3. In the Course of his employment with Pantasote, the deceased was constantly subjected to the inhalation of vinyl chlorides at any time the Defendants' products were loaded, stored, compressed, condensed, sampled, vented or combined in the fabrication process and otherwise permeated the premises.

4. In or about the month of March, 1984, the deceased developed a serious and painful illness, a cancer known as angiosarcoma of the liver and at that time was so informed by his physicians.

5. Said vinyl chlorides manufactured or otherwise introduced into the stream of commerce by the Defendants were defective and dangerous at the time they were sold to the deceased's employer, Pantasote. These products contained a defect and were harmful, poisonous and deleterious when introduced into the atmosphere where the deceased carried on his duties.

6. The Defendants, selling their vinyl chlorides in a defective condition and dangerous to the users thereof, such as the deceased, are liable to the Plaintiff for his death resulting from said defective products.

7. As a direct and proximate result of the sale by the Defendants to Plaintiff's deceased husband's employer of said defective and unreasonably dangerous products, the deceased sustained serious and permanent injuries as more particularly set forth in the First Count which is adopted herein.

WHEREFORE, Plaintiff demands judgment on this Third Count against the Defendants joint tortfeasors herein, or any one of them, jointly and/or severally, for punitive and compensatory damages, interest and costs of suit.

JRL 12758

FOURTH COUNT

1. Plaintiff adopts all the allegations in Paragraphs 1 through 31 of the First Count hereof as if they were alleged in full herein.

2. Defendants acted independently of each other in committing the same wrongful act, but although acting independently, their acts had the effect of substantially encouraging or assisting wrongful conduct of the other.

3. Defendants comprise all the Defendants who may be liable for Plaintiff's damages and Plaintiff brings this action pursuant to the legal theories known as res ipsa loquitur, alternative liability, concert of action and enterprise liability.

WHEREFORE, Plaintiff demands judgment against the Defendants herein on this Fourth Count, jointly and/or severally, for damages, interest, costs of suit and punitive damages.

FIFTH COUNT

1. Plaintiff, Lottie Memice, repeats, reiterates and realleges each and every allegation contained in the First, Second, Third and Fourth Counts hereof as though recited herein at length.

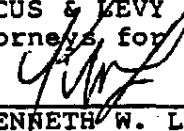
2. At all times herein mentioned, the Plaintiff, Lottie Memice, was the wife of Joseph Memice, deceased.

3. As a result of the acts of the Defendants herein, the Plaintiff, Lottie Memice, was deprived of the services, society and consortium of Joseph Memice, deceased, all to her great loss and detriment.

WHEREFORE, Plaintiff, Lottie Memice, demands judgment against the Defendants herein, on this Fifth Count, for damages, interest thereon and costs of suit.

MARCUS & LEVY
Attorneys for Plaintiff

DATED: FEBRUARY 24, 1986

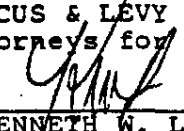
By 
KENNETH W. LEVY

JURY DEMAND

PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY ON ALL COUNTS.

MARCUS & LEVY
Attorneys for Plaintiff

DATED: FEBRUARY 24, 1986

By 
KENNETH W. LEVY

URL 12760