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4/20
SUPERIOR COURT OF N.J.
FILED

APR 28 1986

R-17
JOHN M. MAYSON
CLERK

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

Plaintiffs,

vs.

PPG INDUSTRIES, INC., et al.,

Defendants.

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

Civil Action

ANSWER, CROSSCLAIMS, AND
REQUEST FOR STATEMENT OF
DAMAGES

Monsanto Company, a corporation of the State of Delaware, authorized to do business in the State of New Jersey and having its principal place of business located in St. Louis, Missouri, by way of answer to the Second Amended Complaint filed herein, insofar as that Second Amended Complaint refers to it, says that:

ANSWER TO FIRST COUNT

1. It has no knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1.

2. Answering paragraph 2, it admits that plaintiff Lottie Memice brings this suit individually. Except as herein specifically admitted, it is without knowledge or information sufficient to form a belief as to the truth of the allegations thereof.

3. Paragraphs 3 through 30, inclusive, thereof make no reference to this defendant, and it therefore interposes no response thereto.

4. Answering paragraph 31, it admits that it conducts business within the State of New Jersey. Except as herein specifically admitted, it denies the allegations of paragraph 31 thereof.

5. Paragraphs 32 and 33 make no reference to this defendant, and it therefore interposes no response thereto.

6. It has no knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 34.

7. It denies paragraphs 35 through 39, inclusive, thereof.

8. It has no knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs 40 through 42, inclusive, thereof.

9. It has no knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of paragraph 43 thereof. Except as herein specifically admitted, it denies the allegations of paragraph 43.

ANSWER TO SECOND COUNT

10. Answering paragraph 1 thereof, it repeats paragraphs 1 through 9, inclusive, hereof.

11. It denies paragraphs 2 through 6, inclusive, thereof.

ANSWER TO THIRD COUNT

12. Answering paragraph 1 thereof, it repeats paragraphs 1 through 11, inclusive, hereof.

13. It has no knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs 2, 3 and 4 thereof.

14. It denies paragraphs 5, 6 and 7 thereof.

ANSWER TO FOURTH COUNT

15. Answering paragraph 1 thereof, it repeats paragraphs 1 through 14, inclusive, hereof.

16. It denies paragraphs 2 and 3 thereof.

ANSWER TO FIFTH COUNT

17. Answering paragraph 1 thereof, it repeats paragraphs 1 through 16, inclusive, hereof.

18. It has no knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2 thereof.

19. It denies paragraph 3 thereof.

FIRST SEPARATE DEFENSE

20. Plaintiff's Second Amended Complaint fails to state a claim or cause of action against this defendant upon which relief can be granted.

SECOND SEPARATE DEFENSE

21. Plaintiff's damages were the result of the negligence, strict liability and/or breach of warranties by third persons over whom this defendant had no administration, supervision or control.

THIRD SEPARATE DEFENSE

22. While denying any negligence or fault with respect to the subject matter of the Second Amended Complaint, this defendant states that insofar as negligence or fault is found, it was not a proximate cause of any injury sustained by Joseph Memice.

FOURTH SEPARATE DEFENSE

23. While denying all allegations of the Second Amended Complaint regarding injury and damages allegedly sustained by Joseph Memice, this defendant states that if plaintiff Lottie Memice proves said injuries and damages, they were caused by the superseding and intervening acts, negligence or fault of other

parties over whom this defendant had no control, nor right of control and for whose actions this defendant is not liable.

FIFTH SEPARATE DEFENSE

24. Joseph Memice was contributorily negligent in that he voluntarily and unreasonably proceeded to encounter a known danger, and such negligence was the proximate, efficient and contributing cause of his injuries and damages.

SIXTH SEPARATE DEFENSE

25. Any claim which plaintiff may have against this defendant is barred, or alternatively, must be reduced by virtue of the doctrine of comparative negligence and the Comparative Negligence Act, N.J.S.A. 2A:15-5.1, et seq.

SEVENTH SEPARATE DEFENSE

26. Plaintiff's claims are barred by the statutes of limitations applicable thereto.

CROSSCLAIM FOR CONTRIBUTION

Defendant Monsanto Company, by way of crossclaim against all defendants now or hereinafter named, demands contribution pursuant to the provisions of the New Jersey Comparative Negligence Act, N.J.S.A. 2A:15-5.1, et seq. and the provisions of the New Jersey Joint Tortfeasors Contribution Law, N.J.S.A. 2A:53A-1, et seq.

REQUEST FOR STATEMENT OF
AMOUNT OF DAMAGES CLAIMED

Take notice, that in accordance with R.4:5-1, the undersigned requests that within five days of service hereof upon them, the plaintiff furnish a written statement of the amount of damages claimed in each Count of the Second Amended Complaint filed by her in this action.

STRYKER, TAMS & DILL

By *Edith K. Payne*
Edith K. Payne
Attorneys for Defendant
Monsanto Company

DATED: April 25, 1986.

CERTIFICATION OF FILING AND SERVICE

I hereby certify that the original and two copies of the within pleading were filed with the Clerk of the Superior Court of New Jersey, Hughes Justice Complex, Trenton, NJ 08625, within the time prescribed by the Rules of Court.

I also certify that a copy of the within pleading was served by certified mail, return receipt requested upon the following on April 25, , 1986:

MARCUS & LEVY
VALLEY NATIONAL BANK BLDG.
80 Broadway
Elmwood Park, New Jersey 07407

STRYKER, TAMS & DILL
WASHINGTON STREET, NEWARK, N.J. 07102

and upon the attorneys listed on the attached schedule by first-class mail on , 1986.

STRYKER, TAMS & DILL

By Edith K. Payne
Edith K. Payne
Attorneys for Defendant
Monsanto Company

DATED: April 25, 1986.

CERTIFICATION PURSUANT TO R.4:5-1

I hereby further certify that the matter in controversy is not the subject of any other action or arbitration proceeding, now or contemplated, and that no other party should be joined in this action.

STRYKER, TAMS & DILL

By Edith K. Payne
Edith K. Payne
Attorneys for Defendant
Monsanto Company

DATED: April 25, 1986.