FILE NAME: Early Asbestos Damage Suits (EADS)

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7-23-29

NEW JERSEY SUPREME COURT

SOMERSET COUNTY

FRANK BARTUS,

Plaintiff,

-vs-

JOHNS-MANVILLE CORP., a Corporation of the State of New York.

Defendant

ACTION AT LAW

C O M P L A I N T

- - - - - - - - - - - - - - -X

The plaintiff, residing at Weston, New Jersey, complains of the above named defendant, a foreign corporation, as follows:

1. The plaintiff was in the employ of the defendant corporation, at its plant in Manville, New Jersey, in the month of November, 1927, and for several years prior thereto.

2. The defendant corporation at the time herein set forth was engaged in the manufacture of asbestos products for commercial purposes.

3. The said defendant employed the plaintiff at the time and place above set forth in its manufacture of said asbestos products, and the said defendant not only knew, but should have known, that the said asbestos products contained certain dangerous, insidious and harmful agencies composed of asbestos fibers and other particles that were destructive to life and health in the human body when brought into

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERS

FRANK BARTUS,

Plaintiff,

-vs-

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

Defendant.

Action at Law

A N S W E R

The defendant, JOHNS-MANVILLE CORPORATION, a corporation of the State of New York, having its principal office in New Jersey, at Manville, Somerset County, says that:

FIRST DEFENSE

1. It denies paragraph 1, except that it says that the plaintiff was in its employ at its plant in Manville, N. J., from December 28, 1926, to the month of November, 19

2. It denies paragraph 2, except that it says that it was and has been engaged in the manufacture of asbestos products for commercial purposes from December 28,1926, to the present time.

3. It denies paragraph 3, except that it says that it employed the plaintiff from December 28,1926, to the month of November,1927.

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

SECOND DEFENSE

The injury and the disease alleged in the complaint

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

FOURTH DEFENSE

The injury and the disease alleged in the complaint were caused by contributory negligence on the part of the plaintiff.

FIFTH DEFENSE

The injury and the disease alleged in the complaint were caused by contributory negligence on the part of the plaintiff in that the plaintiff failed to exercise reasonable care to protect himself against the alleged dangers his employment by using the mask and other appliances provided by the defendant for that purpose.

SIXTH DEFENSE

The injury and the disease alleged in the complaint were due to negligence on the part of a fellow-servant of the plaintiff, in failing to warn and instruct the plaintiff to use the mask and other appliances provided by the defendant for the purpose of protecting the plaintiff against the alleged dangers of his employment.

SEVENTH DEFENSE

Plaintiff's action is barred because it was not commenced and instituted within two years next after the alleged cause of action accrued.

Hobart & Mowry
Attorneys for Defendant.

My name is Frank Bartus. I am 25 years old, was born April 27. 1904 at Woodbridge N.J. My fathers name was George who died at Woodbridge 4 years ago and who died from Tuberculosis. He was foreman for Maurer and Company at Maurer Woodbridge N.J. My mother Julia is dead since about 1910. I ~~am~~ was married in New Brunswick November 15 1925 and my wife's name is Emma and I have two children. Joe 2½ years and Julia is 11½ weeks old. I live at Manville and am working for John Maurer at least 4½ years. I worked for Henry Maurer at Claybanks in Woodbridge N.J. I drove a team of horses for Patterson of Woodbridge; altogether I put straight six years at Woodbridge for Maurers I am earning wages to do and am getting 48 cents an hour, the same rate as any other workmen along side me in the same gang. I am working in "A" Building and am warping since April 1928. I am handling daily

asbestos yarn, since April 1918; I did whapping during the wintey months in 1926, and practically all year in 1927. On November 18th 1918 I was taken by a Nurse to Glen Gardner Sanitorium I left the Sanitorium April 1918 and was told by Dr Slavin who examined me to go home as I am fit to work. Beginning May 1918 I applied for a job, it was given to me and I am working since From time to time I am being examined by Dr Dorn at the Plant. Dr Dorn is a Specialist hired by the State of New Jersey for Tuberculosis Cases. I never had anything in my mind or head ever to sue Johns Manville Company for any money whatsoever on account of my sickness. I never sent for any living person, any Agent or lawyer from this State or any other State to start an action against the Company I am working for. I sincerely believe that Johns Manville

I am doing had nothing to do with me having Tuberculosis. I know for fact that Tuberculosis runs in my family and it is inherited. Just about the time I started planting my garden in 1929 a lawyer came to my house accompanied by two local men. One was Chesler who runs an Ice Cream Parlor in Manville, the other man was Chesler's Father in-law, a tall slim fellow who is in the milk business. I do not know his name. The lawyer introduced himself as Mr Greenstone from Newark and Jersey City. I did not send for him neither did I send for the other two men. Prior to that time Chesler was never since I remember in my house, the Milkman delivers milk, but I never had any Conversation with him since I live in Manville prior to the visit with Lawyer Mr.

Newark and Jersey City. When Green came in to my house he gave me his Card which I am still keeping His first name is Samuel, his second name Greenstone.— He told me that it would be a good idea on my part to sue the Johns Manville Company he told me, that he has more cases in town which are brought in Court against the Company. He asked me whether I got any money for the time I was gone from the plant, I told him no. He told me that he would stand for expenses, and that we would split half and half for any amount he could get in Court by suing for me the Johns Manville. I told this lawyer, that I don't want to sue the Johns Manville, and anyhow I am working in the plant. He told me that he has a good

point or case against the Company on account of Reservation. I told Freestone at that time that my Tubercular's is tuberculed, and that my father died from T.B. He then left, and said, that he would send somebody up or he himself would see me very shortly again. That day I told him not to bother me about suing the Company. About a week or so after this Conversation, while going home from work I passed Chesters store, and a stranger stopped me, introduced himself as Freestone man, and Chester introduced him to me as Freestones partner. This man started to talk to me called me in to the Ice Cream Parlor ran by Chester, and told me to sign papers, which will enable me to get money from the

Company. I was in a hurry to
get home, so I did not read the
paper which he gave me to sign.
I am however frank to say to
day that I signed the papers
believing that I would get some
easy money, and I regret a
great deal that I did sign
for Greenstones man the paper,
and I wish I would get the
paper back which I signed
because I am sorry about it.
I never swore to any document,
I never read the paper which
I signed, I don't know what's
in this paper which I signed
for Greenstones man, it was
a medium sized paper which
I signed, white paper, and
one paper only. I never saw
Greenstone, or his man since
that time. Nobody ever —

I signed the paper in the Ice Cream Parlor. Today is the first time, since the day I signed the paper in Chekes store, that this case is being discussed again. I am making this statement on my own free will without being promised any money, any better job, or anything else. I am willing to drop my law suit against the Johns Manville Co, and I don't want any law suits against the Johns Manville Co. This statement was dictated by me, and the same is true and correct, and that case I told about my case contains the truth and nothing else. I speak Hungarian and English. I am born in U.S.A. at Woodbridge New Jersey

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FRANK BARTUS,

Plaintiff,

-vs-

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

Defendant.

On motion to quash summons and to dismiss complaint

ORDER FOR DISCONTINUANCE

This matter coming on to be heard in the presence of the attorneys of the parties (Samuel Greenstone appearing for the plaintiff and Hobart & Minard appearing for the defendant) on the return of the rule to show cause allowed herein on March 7, 1930, why the summons should not be quashed and the complaint dismissed on the grounds stated in said rule, and it appearing that a copy of said rule was duly served upon the plaintiff, and the plaintiff's attorney, within the time and in the manner required by sai rule; and the attorney of the plaintiff having stated in open court that although he had been properly retained and authorized to commence the above action, he did not desire to continue it against the present wishes of his client and would therefore consent to a discontinuance of the same;

ORDERED, that said action be and the same is hereby discontinued without costs.

DATED: April 14 1930.

Rule entered this 15
day of April, 1930,
on motion of

U. S. D. J.