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AREA CODE 215
925-9005

January 24, 1980

Referee Jerold G. Klevit
1509 State Office Bldg.
Philadelphia, Pa. 19130

Re: Hassey vs. Masland Duraleather, Inc.
WCOD Claim 166-22-6901

Dear Referee Klevit:

I am enclosing copy of petitioner, Harry R. Hassey's amended petition which is essentially the same, except that since the previous filing of the petition I have discovered that, contrary to the statements in ¶12 that Masland Duraleather, Inc. was a division of Uniroyal, it, in fact, was and still is a separate existing corporation. Masland Duraleather, Inc. was the primary employer of the petitioner.

In addition, in the heading of the petition, the defendant-employer is named as Uniroyal, Inc. and the insurance carrier states "self-insured". In fact, as noted above, Masland Duraleather, Inc. was the employer and the insurer was Uniroyal, Inc.

It is my understanding that Uniroyal, Inc. is the holder of all the outstanding shares of stock of Masland Duraleather, Inc.

Masland Duraleather, Inc. was served with notice of this claim simultaneously with the notice to Uniroyal, Inc. (copy enclosed).

Respectfully,

ANDREW F. MINNAUGH

AFM/ak
encl.
cc: Spencer A. Manthorpe, Esq.

URL 12648

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

HARRY R. HASSEY and
CATHERINE HASSEY, h/w

: CIVIL ACTION

vs.

UNIROYAL, INC.
OXFORD MANAGEMENT & RESEARCH CENTER
MIDDLEBURY, CONNETICUT 06749

: NO. 80-0043

C O M P L A I N T

PARTIES

1. Plaintiffs, Harry R. Hassey and Catherine Hassey, are individuals residing at 3230 "A" Street, Philadelphia, Pennsylvania.
2. Defendant, Uniroyal, Inc. (hereinafter "Uniroyal"), is a New Jersey corporation (formerly known as U. S. Rubber Company), with a principal office located in Middlebury, Conneticut, and at all times relevant to the Complaint doing business within the Commonwealth of Pennsylvania.

JURISDICTION

3. Plaintiffs are citizens of the Commonwealth of Pennsylvania and defendant is a corporation of the State of New Jersey, having its principal place of business in a state other than the Commonwealth of Pennsylvania.

The amount in controversy exceeds, exclusive of interest and costs, the sum of \$10,000 and is in excess of \$50,000.00.

BACKGROUND

4. Plaintiff, Harry R. Hassey, commenced working at the Masland Duraleather Company plant (hereinafter "plant") at Collins and Allegheny Avenues, Philadelphia, Pennsylvania on or about September of 1951, and was continuously employed at this plant until August, 1978.

5. Masland Duraleather Company was a manufacturer and fabricator of vinyl upholstery at the plant.

6. In or about the year 1962, defendant Uniroyal acquired Masland and thereafter continued the above manufacturing operations of Masland as a division of Uniroyal up to and including September of 1978, at which time it closed out operations.

7. During the period 1951 through 1978 the manufacturing operations at the plant included the purchase and processing (hereinafter "process") of certain chemicals under heat and pressure for the purpose of producing a material known as poly-vinyl chloride (hereinafter "PVC") used in the production of vinyl upholstery.

8. At various times material to this Complaint, Uniroyal was a supplier of chemicals used in the preparation of the PVC at this plant.

9. Commencing in 1951 and continuing through 1967, Harry R. Hassey's direct duties of employment engaged his constant presence in the calendar room of the plant. From the year 1967 through 1978 inclusive, Harry R. Hassey's duties were plant maintenance which required his presence in various departments of the plant involved in the process.

10. The properties of the chemicals supplied, and the nature of the process involved in producing PVC compounds in a molten state created a working environment which included the presence of PVC in a finely dispersed and vaporous state which was inhaled and otherwise ingested into the plaintiff's body systems.

COUNT I - TRESPASS

11. Plaintiff incorporates herein by reference all allegations of paragraphs 1 through 10 as though fully set forth herein.

12. At all times material to this Complaint, Uniroyal introduced certain chemical and hydrocarbon compounds (hereinafter "formula") at its various plant locations which it sold, distributed and supplied in commerce for use in the manufacture of PVC.

13. For the period 1962 through 1978, after Uniroyal acquired Masland Duraleather, it engaged directly in the manufacture of PVC using its chemicals at the Masland Duraleather plant.

14. At all times material to this Complaint, Uniroyal knew, should have known, or could have reasonably determined that the chemicals which it manufactured, distributed, supplied, sold and otherwise placed in commerce for use in the production of PVC, and which it used directly on its own account in the production of PVC was dangerous, deleterious, harmful, potentially deadly and otherwise inherently destructive to the human body systems and functions.

15. At all times material to this Complaint, Uniroyal knew, should have known, or could have reasonably determined that the chemicals which it manufactured and supplied, and which it used in the production of PVC, would in the ordinary and foreseeable use and handling thereof be ingested into the workers' body systems, by inhalation or otherwise.

16. Notwithstanding its knowledge and awareness of the above set forth factual circumstances, Uniroyal, in breach of its duties to use reasonable care for the protection, avoidance of harm and prevention of injury to plaintiff by:

(a) Failure and omission to adopt monitoring and testing procedures disclosing the necessity of further action to be taken.

(b) Failure and omission to initiate or conduct research or utilize available information which would disclose the necessity of further action to be taken.

(c) Failure and omission to provide a working environment which contained or excluded the presence of the injurious agent.

(d) Failure and omission to utilize a manufacturing process which would contain or exclude the injurious agent.

(e) Failure and omission to provide, or advise as to sufficient safeguards, special equipment or wearing apparel as would contain, exclude or prevent contact with the injurious agents

(f) Failure to provide sufficient warning or advice such as would bring notice of the fact of danger by the presence of the injurious agent.

COUNT II - ASSUMPSIT

17. Plaintiffs incorporate by reference all the allegations of paragraphs 1 through 16 as though fully set forth herein.

18. At the time Uniroyal sold and supplied the chemicals used in the manufacturing process at the Masland Duraleather plant, it knew or had reason to know the particular purpose for which its goods were required.

19. At the time Uniroyal acquired Masland Duraleather plant for the purpose (among others) of providing a captive customer for the sale and supply of the chemicals used in the manufacturing process, it knew or had reason to know the particular purpose for which its goods were required.

20. Uniroyal knew that Masland Duraleather was relying on Uniroyal's skill or judgment to select or furnish suitable goods.

21. In fact, the goods sold and supplied to Masland, both as an independent and captive entity, were defective and unfit for its intended purpose, causing grave and serious injury to the users thereof.

COUNT III - TRESPASS

22. Plaintiffs incorporate by reference all the allegations of paragraphs 1 through 21 as though fully set forth herein.

23. Uniroyal, Inc. at all times material to this Complaint, was the supplier of the PVC.

24. Uniroyal, Inc. knew, or from facts known should have realized, that the PVC was or was likely to be dangerous for

UPL 12652

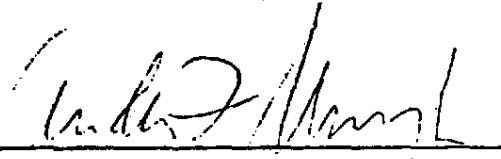
the use for which it was supplied.

25. Uniroyal had no reason to believe that those who would be in contact with the PVC as it was used would realize its dangerous condition.

26. Uniroyal failed to exercise reasonable care either to inform the users of such conditions or facts which made the product likely to be dangerous.

WHEREFORE, plaintiffs demand judgment against defendant in an amount in excess of \$50,000.00 (FIFTY THOUSAND DOLLARS) together with interest and costs and together with such other relief as the Court may find warranted.

CLARY, MIMNAUGH & MCGONIGLE, P.C.

BY: 

ANDREW F. MIMNUAGH
Attorney for Plaintiffs

URL 12653