COPY

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO
CIVIL DIVISION

JAN 1 6 1989

Harvey Tigner
837 Hart Rd.
Columbus, OH 43223,

Plaintiff,

v.

Celanese Corporation, or its successor in interest
c/o C.T. Corporation System
815 Superior Avenue, N.E.
Cleveland, OH 44114,

and

Monsanto Company
800 North Lindbergh Boulevard
St. Louis, MO 63167,

and

B. F. Goodrich Company
500 South Main Street
Akron, OH 44318,

and

Union Carbide Corporation
Old Ridgebury Road, Section C-2
Danbury, CT 06817,

and

Uniroyal, Inc.
World Headquarters
Middlebury, CT 06749,

and

Dow Chemical Company, Inc.
c/o C.T. Corporation System
815 Superior Avenue, N.E.
Cleveland, OH 44114,

and

88CV-12-8806

Case No. _____

Judge Cain

JURY DEMAND ENDORSED HEREON

mc # 890007

FILED
DEC 22 PM 3:38
CLERK OF COURTS

RECEIVED
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RSV 0005088

E. I. duPont deNemours & Company
c/o C.T. Corporation System
815 Superior Avenue, N.E.
Cleveland, OH 44114,

and

Chevron, U.S.A.
c/o C.T. Corporation System
815 Superior Avenue, N.E.
Cleveland, OH 44114,

and

Eastman Chemical Products, Inc.
c/o C.T. Corporation System
815 Superior Avenue, N.E.
Cleveland, OH 44114,

and

Shell Chemical Company
c/o C.T. Corporation System
815 Superior Avenue, N.E.
Cleveland, OH 44114,

and

Comprese, Inc.
Polyvinyl chloride resin manufacturer, current address unknown,

and

John Doe I
Polyvinyl chloride resin manufacturer, current address unknown,

and

John Doe II
Polyvinyl chloride resin manufacturer, current address unknown,

and

RSV 0005089

John Doe III
Polyvinyl chloride resin manufacturer, current address unknown,

and

John Doe IV
Polyvinyl chloride resin manufacturer, current address unknown,

and

John Doe, Inc. I
Polyvinyl chloride resin manufacturer, current address unknown,

and

John Doe, Inc. II
Polyvinyl chloride resin manufacturer, current address unknown,

and

John Doe, Inc. III
Polyvinyl chloride resin manufacturer, current address unknown,

and

John Doe, Inc. IV
Polyvinyl chloride resin manufacturer, current address unknown,

and

John Doe Company I
Polyvinyl chloride resin manufacturer, current address unknown,

and

RSV 0005090

John Doe Company II
Polyvinyl chloride resin manufacturer, current address unknown,

and

John Doe Company III
Polyvinyl chloride resin manufacturer, current address unknown,

and

John Doe Company IV
Polyvinyl chloride resin manufacturer, current address unknown,

and

John Doe Corporation I
Polyvinyl chloride resin manufacturer, current address unknown,

and

John Doe Corporation II
Polyvinyl chloride resin manufacturer, current address unknown,

and

John Doe Corporation III
Polyvinyl chloride resin manufacturer, current address unknown,

and

John Doe Corporation IV
Polyvinyl chloride resin manufacturer, current address unknown,

and

Defendants.

COMPLAINT

This is a refiled complaint in accordance with Ohio Revised Code §2305.19, having been previously filed in this Court under Case No. 85CV-04-2279 and dismissed without prejudice on the 24th day of December, 1987.

FIRST CAUSE OF ACTION:

1. The Plaintiff, Harvey Tigner, at all times pertinent hereto, was a resident of the State of Ohio.

2. The Defendant, Celanese Corporation or its successor in interest (hereinafter "Celanese"), is a corporation incorporated in the State of Delaware and licensed to do business in the State of Ohio; at all times pertinent hereto, it has transacted business and maintained operations in Hilliard, Franklin County, Ohio, at the plant known as the Hilliard facility, that gave rise to the activities and claims set forth herein.

3. The Plaintiff was employed at the Hilliard facility of Celanese at all times pertinent hereto.

4. The Defendants, Celanese Corporation or its successor in interest, Monsanto Company, B. F. Goodrich Company, Union Carbide Corporation, Uniroyal, Inc., Dow Chemical Company, Inc., E. I. DuPont deNemours & Company, Chevron, U.S.A.,

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Eastman Chemical Products, Inc., Shell Chemical Company, Comprese, Inc., John Doe I, John Doe II, John Doe III, John Doe IV, John Doe, Inc. I, John Doe, Inc. II, John Doe, Inc. III, John Doe, Inc. IV, John Doe Company I, John Doe Company II, John Doe Company III, John Doe Company IV, John Doe Corporation I, John Doe Corporation II, John Doe Corporation III, and John Doe Corporation IV, whose current addresses Plaintiff, with due diligence, has not been able to uncover (hereinafter collectively referred to as the "PVC resin manufacturers") are corporations, companies and/or individuals with a principal place of business in the State of Ohio, a foreign state, or a foreign country, which, at all times pertinent hereto, have been in the business of manufacturing, producing and selling to the Hilliard facility of Celanese products containing polyvinyl chloride ("PVC") resin, a substance containing the vinyl chloride monomer (hereinafter "VCM"), a toxic chemical and known carcinogen.

5. At all times since the commencement of his employment at the Hilliard facility of Celanese, Plaintiff ingested and/or absorbed into his body quantities of toxic and carcinogenic substances including PVC and VCM as a direct and proximate result of the activities he was required to perform in the scope and course of his employment at the Hilliard facility of Celanese.

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6. The levels of toxic and carcinogenic substances including PVC resin and VCM to which the Plaintiff was exposed were above safe levels, above permissible exposure limits, and threshold limit values.

7. Plaintiff's continuous and repeated exposure to toxic and carcinogenic substances including PVC and VCM has:

(a) Caused Plaintiff serious permanent physical injuries;

(b) Inflicted upon Plaintiff severe, continuing physical and mental pain and suffering and extreme emotional distress;

(c) Rendered Plaintiff physically disabled so that he is unable to be employed at his maximum earning capacity;

(d) Repeatedly required Plaintiff to obtain necessary hospital and medical care and will require him to obtain hospital and medical care in the future;

(e) Increased the likelihood that Plaintiff will contract cancer; and

(f) Shortened Plaintiff's life expectancy.

8. At all times since the Plaintiff's date of hiring, Celanese knew or should have known that the work performed by the Plaintiff at the Hilliard facility gave rise to the inhalation, ingestion, and/or absorption into his body of quantities of toxic and carcinogenic substances including PVC resin and VCM, the dangerous propensities of which were known to or should have been known by Celanese.

9. Celanese intentionally exposed the Plaintiff to toxic and carcinogenic substances, including PVC resin and VCM, at unsafe levels during the course of Plaintiff's employment at the Hilliard facility of Celanese, as a condition of contiued employment as a result of which Plaintiff sustained the aforesaid injuries and losses.

10. During the course of Plaintiff's employment with Celanese, Celanese intentionally withheld and/or concealed from the Plaintiff material information and warnings concerning the toxic and carcinogenic substances to which Plaintiff was continuously and repeatedly exposed, including PVC resin and VCM, specifically including information as to the dangerous propensities of such substances, the effects on human health of overexposure to such substances, signs and symptoms of overexposure, and the precautions to take to avoid overexposure; Celanese knew or should have known of the material nature of the information described herein, information concerning which Plaintiff was unaware and unknowledgeable.

11. Celanese knew or should have known of the serious health hazards to Plaintiff which would result from continuous, repeated exposure to the toxic and carcinogenic substances, including PVC resin and VCM, to which the Plaintiff was exposed at Celanese--health hazards which could have been prevented had Celanese fulfilled its duties and obligations enumerated herein.

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12. Celanese, by its intentional conduct, failed to provide Plaintiff with a safe place to work.

13. Celanese, by its conduct, acted in willful and wanton disregard for the life, health and safety of Plaintiff.

14. As a direct and proximate result of the intentional conduct of Celanese, Plaintiff sustained the injuries and losses aforesaid.

SECOND CAUSE OF ACTION:

15. Plaintiff realleges paragraphs 1 through 14 of this Complaint and incorporates them herein by reference thereto as though fully set forth herein.

16. The PVC resin manufacturers negligently failed to take proper steps to instruct and warn Plaintiff of the dangers of overexposure to PVC resin and VCM; failed to provide Plaintiff with information on the dangerous carcinogenic propensities of PVC resin and VCM; neglected to inform Plaintiff of the effects on human health of overexposure to PVC resin and VCM; failed to instruct or warn Plaintiff concerning the signs and symptoms of overexposure to PVC resin and VCM; and failed to provide information to Plaintiff as to precautions to prevent overexposure to PVC resin and VCM.

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17. PVC resin and VCM are inherently dangerous products as to which the PVC resin manufacturers are strictly liable; PVC resin and VCM were sold by the PVC resin manufacturers in a defective condition unreasonably dangerous to Plaintiff; said PVC and VCM reached Plaintiff without substantial change from the condition in which they were sold.

18. The aforesaid acts and omissions of the PVC resin manufacturers were in willful and wanton disregard of the life, health and safety of the ultimate users of their product, including Plaintiff.

19. As a direct and proximate result of the acts and omissions of the PVC resin manufacturers, Plaintiff sustained the injuries and losses aforesaid.

THIRD CAUSE OF ACTION:

20. Plaintiff realleges paragraphs 1 through 19 of this Complaint and incorporates them herein by reference thereto as though fully set forth herein.

21. Defendants, jointly and/or severally, have been unjustly enriched as a result of their aforementioned actions at the expense of the Plaintiff.

FOURTH CAUSE OF ACTION:

22. Plaintiff realleges paragraphs 1 through 21 of this Complaint and incorporates them herein by reference thereto as though fully set forth herein.

23. The Defendants, jointly and/or severally, have negligently and/or intentionally inflicted emotional distress on the Plaintiff.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly and/or severally in the amount of Five Million Dollars ($5,000,000.00) as and for compensatory damages, and the amount of Seven Million Dollars ($7,000,000.00) as and for punitive damages, and attorney fees, expenses, and such other relief as the Court may grant.

Terry D. Van Horn (VAN05)
595 East Rich Street
Columbus, OH 43215
614/463-9444
Attorney for Plaintiff

JURY DEMAND

Plaintiff demands a trial by jury of ~~all~~ issues triable in this matter.

Terry D. Van Horn (VAN05)
Attorney for Plaintiff

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