

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X
JENNIFER GERMAN and WELLINGTON GERMAN,)
Infants by their Mother and Natural)
Guardian ANA MARITZA GERMAN, and)
ANA MARITZA GERMAN, Individually,)
and on behalf of all persons)
similarly situated, et al.,)

Plaintiffs,)

NAIYA THOMAS and NAQUAN THOMAS, Infants)
by their Mother and Next Friend,)
KAIH HENRY, Individually, and on behalf)
of all persons similarly situated,)

Intervening Plaintiffs,)

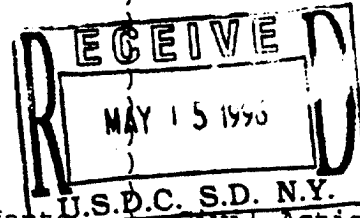
v.)

FEDERAL HOME LOAN MORTGAGE CORP.,)
PROPERTY SERVICES COMPANY, CAISI)
MANAGEMENT COMPANY, INC., 1710 MONTGOMERY)
REALTY ASSOC., L.P., and JEROME DEUTSCH,)
CITY OF NEW YORK, and HAROLD BECK d/b/a)
TEBEC MANAGEMENT CO., and)

NEW YORK CITY HOUSING AUTHORITY, and)

O. RAGOO REALTY CORPORATION, OUDHURAM)
RAGOO, LEAD INDUSTRIES ASSOCIATION,)
INC., NL INDUSTRIES, INC., EAGLE-PICHER)
INDUSTRIES, INC., ATLANTIC RICHFIELD)
COMPANY, THE SHERWIN-WILLIAMS COMPANY,)
SCM CORPORATION, THE GLIDDEN COMPANY,)
FULLER-O'BRIEN CORPORATION, AMERICAN)
CYANAMID COMPANY, MacGREGOR LEAD COMPANY,)

Defendants.)
-----X



Civil Action No.
93 Civ. 6941 (RWS)

ANSWER OF DEFENDANT
AMERICAN CYANAMID
COMPANY TO THE
INTERVENOR COMPLAINT
OF KAIH HENRY,
NAQUAN THOMAS AND
NAIYA THOMAS

Defendant American Cyanamid Company ("Cyanamid"),
by its attorneys Donovan Leisure Newton & Irvine, hereby
responds to the Intervenor Complaint of Kaii Henry, Naquan

Thomas, and Naiya Thomas (the "Intervenor Complaint") as follows:

Response to Allegations as to
"INTRODUCTION"

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 1 through 9. Footnotes 1 through 3 in paragraphs 3, 4 and 8, respectively, set forth definitions as to which no responsive pleading is required.

2. Admits that the Intervenor Complaint purports to assert allegations pursuant to the statutes and common laws cited in paragraph 10, but denies that plaintiffs have any claims against Cyanamid.

3. Paragraph 11 sets forth a characterization of the relief sought by plaintiffs, as to which no responsive pleading is required.

4. Admits that the Intervenor Complaint purports to assert claims against the parties identified in paragraph 12, but denies that plaintiffs have any claims against Cyanamid. Admits that footnote 4 in paragraph 12 purports to characterize the statute cited therein, and refers the Court to the text of that statute for a complete and accurate statement thereof.

5. Denies the allegations in paragraph 13 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 to the extent they are directed against other defendants. Footnote 5 in paragraph 13 sets forth a definition as to which no responsive pleading is required.

Response to Allegations as to
"JURISDICTION"

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 14.

7. Admits that in paragraph 15 plaintiffs purport to assert that this Court has jurisdiction over the subject matter of this action pursuant to the statutes cited therein, but denies that this Court has subject matter jurisdiction over the claims asserted by plaintiffs against Cyanamid, and denies that plaintiffs have any claims against Cyanamid.

Response to Allegations as to
"PARTIES"

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 16 through 30.

9. Admits, in response to the allegations in paragraph 31, that Cyanamid is a Maine corporation with its principal place of business in the State of New Jersey, denies that Cyanamid is the "successor-in-interest" to MacGregor Lead Company, and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 31.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 32.

11. Admits the allegations in paragraph 33 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 33 to the extent they are directed against other defendants.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 34.

Response to Allegations as to
"LEAD"

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 35, and avers that to the extent the allegations in paragraph 35 set forth a characterization of the nature of plaintiffs' case, no responsive pleading is required.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 36 through 42.

15. Admits that the allegations in paragraphs 43 through 46 purport to characterize the documents and statutes cited therein, and refers the Court to the text of those documents and statutes for a complete and accurate statement thereof.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 47.

Response to Allegations as to
"LEAD PIGMENTS"

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 48 through 50.

18. Denies the allegations in paragraph 51 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 51 to the extent they are directed against other defendants.

19. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 52 and 53.

20. Denies the allegations in paragraphs 54 through 56 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 54 through 56 to the extent they are directed against other defendants.

21. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 57 through 74.

Response to Allegations as to
"LEAD COMPANIES"

22. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 75 through 112.

23. Denies the allegations in paragraphs 113 through 117 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 113 through 117 to the extent they are directed against other defendants.

Response to Allegations as to
"LEAD INDUSTRIES ASSOCIATION"

24. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 118 through 132.

25. Denies the allegations in paragraphs 133 and 134 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 133 and 134 to the extent they are directed against other defendants.

Response to Allegations as to
"OPERATIVE FACTS"

26. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 135 through 137.

27. Denies the allegations in paragraph 138 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 138 to the extent they are directed against other defendants.

28. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 139 through 161.

Response to Allegations as to
"NEED FOR INJUNCTIVE RELIEF"

29. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence in paragraph 162. Denies the allegations in the second sentence in paragraph 162 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence in paragraph 162 to the extent they are directed against other defendants.

30. Denies the allegations in paragraphs 163 and 164 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 163 and 164 to the extent they are directed against other defendants.

31. The allegations in paragraph 165 set forth a characterization of the relief sought by plaintiffs as to which no responsive pleading is required.

Response to Allegations as to
"CLASS ACTION ALLEGATIONS"

32. Admits that plaintiffs purport to bring this action on their own behalf and as representatives of the class and sub-classes set forth in paragraph 166, but denies that plaintiffs or any member of the purported class or sub-classes has any claim against Cyanamid. Footnote 6 in

paragraph 166 sets forth a definition as to which no responsive pleading is required.

33. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 167, and avers that to the extent the allegations in paragraph 167 are conclusions of law, no responsive pleading is required.

34. Denies knowledge or information sufficient to form a belief as to the truth of allegations in paragraph 168, except denies that plaintiffs have any claims against Cyanamid, and avers that to the extent the allegations in paragraph 168 are conclusions of law, no responsive pleading is required.

35. Denies the allegations in paragraphs 169 and 170 and avers that they are conclusions of law as to which no responsive pleading is required.

36. Denies the allegations in paragraphs 171 and 172 to the extent they are directed against Cyanamid, denies that plaintiffs have any claims against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 171 and 172 to the extent they are directed against other defendants.

Response to
"FIRST CAUSE OF ACTION"

37. Repeats and realleges, in response to paragraph 173, the answers to paragraphs 1 through 172 as if fully set forth herein.

38. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 174 through 177.

39. Admits, in response to the allegations in paragraph 178, that plaintiffs request the relief set forth in the Prayer for Relief, denies that plaintiffs are entitled to any relief against Cyanamid, and avers that the remaining allegations in paragraph 178 are conclusions of law as to which no responsive pleading is required.

Response to
"SECOND CAUSE OF ACTION"

40. Repeats and realleges, in response to paragraph 179, the answers to paragraphs 1 through 178 as if fully set forth herein.

41. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 180 and 181.

42. Admits, in response to the allegations in paragraph 182, that plaintiffs request the relief set forth in the Prayer for Relief, denies that plaintiffs are entitled

to any relief against Cyanamid, and avers that the remaining allegations in paragraph 182 are conclusions of law as to which no responsive pleading is required.

Response to
"THIRD CAUSE OF ACTION"

43. Repeats and realleges, in response to paragraph 183, the answers to paragraphs 1 through 182 as if fully set forth herein.

44. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 184 and the two paragraphs on page 39 of the Intervenor Complaint bearing the number 185.

45. Admits, in response to the allegations in paragraph 186, that plaintiffs request the relief set forth in the Prayer for Relief, denies that plaintiffs are entitled to any relief against Cyanamid, and avers that the remaining allegations in paragraph 186 are conclusions of law as to which no responsive pleading is required.

Response to
"FOURTH CAUSE OF ACTION"

46. Repeats and realleges, in response to paragraph 187, the answers to paragraphs 1 through 186 as if fully set forth herein.

47. Admits that the allegations in paragraphs 188 through 190, including the allegations in footnote 7 in paragraph 190, purport to characterize the statutes cited therein, and refers the Court to the text of those statutes for a complete and accurate statement thereof.

48. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 191 through 193.

49. Admits that the allegations in paragraphs 194 through 196 purport to characterize the statutes cited therein, and refers the Court to the text of those statutes for a complete and accurate statement thereof.

50. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 197.

51. Admits that the allegations in paragraphs 198 and 199 purport to characterize the statutes cited therein, and refers the Court to the text of those statutes for a complete and accurate statement thereof.

52. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 200.

53. Admits that the allegations in paragraphs 201 through 203 purport to characterize the statutes cited

therein, and refers the Court to the text of those statutes for a complete and accurate statement thereof.

54. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 204, and avers that to the extent the allegations in the second sentence in paragraph 204 are conclusions of law, no responsive pleading is required.

55. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 205.

56. Admits, in response to the allegations in paragraph 206, that plaintiffs request the relief set forth in the Prayer for Relief, denies that plaintiffs are entitled to any relief against Cyanamid, and avers that the remaining allegations in paragraph 206 are conclusions of law as to which no responsive pleading is required.

Response to
"FIFTH CAUSE OF ACTION"

57. Repeats and realleges, in response to paragraph 207, the answers to paragraphs 1 through 206 as if fully set forth herein.

58. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 208.

59. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 209, and avers that they are conclusions of law as to which no responsive pleading is required.

60. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 210.

61. Admits that the allegations in paragraphs 211 through 217, including the allegations in footnote 8 in paragraph 211, purport to characterize the statutes cited therein, and refers the Court to the text of those statutes for a complete and accurate statement thereof.

62. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 218 through 221.

63. Admits that the allegations in paragraphs 222 through 228 purport to characterize the statutes cited therein, and refers the Court to the text of those statutes for a complete and accurate statement thereof.

64. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 229.

65. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph

230, and avers that to the extent they are conclusions of law, no responsive pleading is required.

66. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 231.

67. Admits, in response to the allegations in paragraph 232, that plaintiffs request the relief set forth in the Prayer for Relief, denies that plaintiffs are entitled to any relief against Cyanamid, and avers that the remaining allegations in paragraph 232 are conclusions of law as to which no responsive pleading is required.

Response to
"SIXTH CAUSE OF ACTION"

68. Repeats and realleges, in response to paragraph 233, the answers to paragraphs 1 through 232 as if fully set forth herein.

69. Denies the allegations in paragraphs 234 through 239 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 234 through 239 to the extent they are directed against other defendants.

70. Admits, in response to the allegations in paragraph 240, that plaintiffs request the relief set forth

in the Prayer for Relief, denies that plaintiffs are entitled to any relief against Cyanamid, and avers that the remaining allegations in paragraph 240 are conclusions of law as to which no responsive pleading is required.

Response to
"SEVENTH CAUSE OF ACTION"

71. Repeats and realleges, in response to paragraph 241, the answers to paragraphs 1 through 240 as if fully set forth herein.

72. Denies the allegations in paragraphs 242 through 244 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 242 through 244 to the extent they are directed against other defendants.

73. Admits, in response to the allegations in paragraph 245, that plaintiffs request the relief set forth in the Prayer for Relief, denies that plaintiffs are entitled to any relief against Cyanamid, and avers that the remaining allegations in paragraph 245 are conclusions of law as to which no responsive pleading is required.

Response to
"EIGHTH CAUSE OF ACTION"

74. Repeats and realleges, in response to paragraph 246, the answers to paragraphs 1 through 245 as if fully set forth herein.

75. Denies the allegations in paragraphs 247 through 255 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 247 through 255 to the extent they are directed against other defendants.

76. Admits, in response to the allegations in paragraph 256, that plaintiffs request the relief set forth in the Prayer for Relief, denies that plaintiffs are entitled to any relief against Cyanamid, and avers that the remaining allegations in paragraph 256 are conclusions of law as to which no responsive pleading is required.

Response to
"NINTH CAUSE OF ACTION"

77. Repeats and realleges, in response to paragraph 257, the answers to paragraphs 1 through 256 as if fully set forth herein.

78. Denies the allegations in paragraphs 258 through 264 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a

belief as to the truth of the allegations in paragraphs 258 through 264 to the extent they are directed against other defendants.

79. Admits, in response to the allegations in paragraph 265, that plaintiffs request the relief set forth in the Prayer for Relief, denies that plaintiffs are entitled to any relief against Cyanamid, and avers that the remaining allegations in paragraph 265 are conclusions of law as to which no responsive pleading is required.

Response to
"TENTH CAUSE OF ACTION"

80. Repeats and realleges, in response to paragraph 266, the answers to paragraphs 1 through 265 as if fully set forth herein.

81. Denies the allegations in paragraphs 267 through 269 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 267 through 269 to the extent they are directed against other defendants.

82. Admits, in response to the allegations in paragraph 270, that plaintiffs request the relief set forth in the Prayer for Relief, denies that plaintiffs are entitled to any relief against Cyanamid, and avers that the remaining

allegations in paragraph 270 are conclusions of law as to which no responsive pleading is required.

Response to
"ELEVENTH CAUSE OF ACTION"

83. Repeats and realleges, in response to paragraph 271, the answers to paragraphs 1 through 270 as if fully set forth herein.

84. Denies the allegations in paragraphs 272 through 275 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 272 through 275 to the extent they are directed against other defendants.

85. Admits, in response to the allegations in paragraph 276, that plaintiffs request the relief set forth in the Prayer for Relief, denies that plaintiffs are entitled to any relief against Cyanamid, and avers that the remaining allegations in paragraph 276 are conclusions of law as to which no responsive pleading is required.

Response to
"TWELVETH[sic] CAUSE OF ACTION"

86. Repeats and realleges, in response to paragraph 277, the answers to paragraphs 1 through 276 as if fully set forth herein.

87. Denies the allegations in paragraphs 278 through 280 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 278 through 280 to the extent they are directed against other defendants.

88. Admits, in response to the allegations in paragraph 281, that plaintiffs request the relief set forth in the Prayer for Relief, denies that plaintiffs are entitled to any relief against Cyanamid, and avers that the remaining allegations in paragraph 281 are conclusions of law as to which no responsive pleading is required.

Response to
"THIRTEENTH CAUSE OF ACTION"

89. Repeats and realleges, in response to paragraph 282, the answers to paragraphs 1 through 281 as if fully set forth herein.

90. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 283.

91. Denies the allegations in paragraphs 284 through 287 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 284

through 287 to the extent they are directed against other defendants.

92. Admits, in response to the allegations in paragraph 288, that plaintiffs request the relief set forth in the Prayer for Relief, denies that plaintiffs are entitled to any relief against Cyanamid, and avers that the remaining allegations in paragraph 288 are conclusions of law as to which no responsive pleading is required.

Response to
"FOURTEENTH CAUSE OF ACTION"

93. Repeats and realleges, in response to paragraph 289, the answers to paragraphs 1 through 288 as if fully set forth herein.

94. Denies the allegations in paragraphs 290 through 292 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 290 through 292 to the extent they are directed against other defendants.

95. Admits, in response to the allegations in paragraph 293, that plaintiffs request the relief set forth in the Prayer for Relief, denies that plaintiffs are entitled to any relief against Cyanamid, and avers that the remaining

allegations in paragraph 293 are conclusions of law as to which no responsive pleading is required.

Response to
"FIFTEENTH CAUSE OF ACTION"

96. Repeats and realleges, in response to paragraph 294, the answers to paragraphs 1 through 293 as if fully set forth herein.

97. Denies the allegations in paragraphs 295 through 297 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 295 through 297 to the extent they are directed against other defendants.

98. Admits, in response to the allegations in paragraph 298, that plaintiffs request the relief set forth in the Prayer for Relief, denies that plaintiffs are entitled to any relief against Cyanamid, and avers that the remaining allegations in paragraph 298 are conclusions of law as to which no responsive pleading is required.

Response to
"SIXTEENTH CAUSE OF ACTION"

99. Repeats and realleges, in response to paragraph 299, the answers to paragraphs 1 through 298 as if fully set forth herein.

100. Denies the allegations in paragraphs 300 and 301 to the extent they are directed against Cyanamid, and denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 300 and 301 to the extent they are directed against other defendants.

101. Admits, in response to the allegations in paragraph 302, that plaintiffs request the relief set forth in the Prayer for Relief, denies that plaintiffs are entitled to any relief against Cyanamid, and avers that the remaining allegations in paragraph 302 are conclusions of law as to which no responsive pleading is required.

AS AND FOR A FIRST
AFFIRMATIVE DEFENSE

102. The Intervenor Complaint fails to state a claim against Cyanamid upon which relief may be granted.

AS AND FOR A SECOND
AFFIRMATIVE DEFENSE

103. The Court lacks subject matter jurisdiction over the claims sought to be asserted against Cyanamid in the Intervenor Complaint.

AS AND FOR A THIRD
AFFIRMATIVE DEFENSE

104. Defendant Cyanamid is not a proper party to some or all of the claims asserted in the Intervenor Complaint.

AS AND FOR A FOURTH
AFFIRMATIVE DEFENSE

105. Some or all of plaintiffs' claims are barred by the applicable statutes of limitations to the extent they are directed against Cyanamid.

AS AND FOR A FIFTH
AFFIRMATIVE DEFENSE

106. Plaintiffs' injuries or risk of injury, if any, were caused by the acts or omissions of third parties over whom or which Cyanamid had no control.

AS AND FOR A SIXTH
AFFIRMATIVE DEFENSE

107. Plaintiffs have failed to join parties indispensable to a just adjudication of this lawsuit.

AS AND FOR A SEVENTH
AFFIRMATIVE DEFENSE

108. Plaintiffs assumed the risk of some or all of the conditions, injuries and risk of injury alleged in the Intervenor Complaint.

AS AND FOR AN EIGHTH
AFFIRMATIVE DEFENSE

109. Some or all of plaintiffs' claims seek to impose liability for conduct that is protected from liability by the First Amendment to the United States Constitution and by Article 1, § 8 of the Constitution of the State of New York.

AS AND FOR A NINTH
AFFIRMATIVE DEFENSE

110. Plaintiffs are barred from recovery for some or all of the claims asserted against Cyanamid because plaintiffs' own fault or negligence caused or contributed to the alleged injury or risk of injury.

AS AND FOR A TENTH
AFFIRMATIVE DEFENSE

111. Some or all of the claims asserted against Cyanamid by plaintiffs are precluded because plaintiffs have failed to mitigate damages.

AS AND FOR AN ELEVENTH
AFFIRMATIVE DEFENSE

112. Plaintiffs are barred from recovery for some or all of the claims asserted against Cyanamid to the extent that the products that allegedly caused them injury or risk of injury complied with applicable federal, New York State and/or local specifications.

AS AND FOR A TWELFTH
AFFIRMATIVE DEFENSE

113. Plaintiffs' claims against Cyanamid should be dismissed because Cyanamid did not owe or breach any legal duty to plaintiffs.

AS AND FOR A THIRTEENTH
AFFIRMATIVE DEFENSE

114. Plaintiffs' claims against Cyanamid should be dismissed because of misuse of the product in question and because pigment was not intended or sold for ingestion.

AS AND FOR A FOURTEENTH
AFFIRMATIVE DEFENSE

115. Plaintiffs' alleged injuries and risk of injury were caused in whole or in part by the unforeseeable misuse of lead paint by persons or entities other than Cyanamid.

AS AND FOR A FIFTEENTH
AFFIRMATIVE DEFENSE

116. Based on the state of scientific and technological knowledge at the time lead pigment was marketed, such pigment was reasonably safe for its normal and foreseeable use.

AS AND FOR A SIXTEENTH
AFFIRMATIVE DEFENSE

117. Plaintiffs' claims are barred in whole or in part because of the lack of a defect in lead pigment.

AS AND FOR A SEVENTEENTH
AFFIRMATIVE DEFENSE

118. Plaintiffs' claims are barred by their inability to identify Cyanamid, or its alleged predecessor in interest, as the particular manufacturer of the products that allegedly caused their injury.

WHEREFORE, Cyanamid denies that plaintiffs are entitled to judgment against it awarding individual relief, class relief, attorneys' fees, costs or expenses. Cyanamid respectfully demands judgment dismissing the Intervenor Complaint with prejudice as against Cyanamid and awarding Cyanamid its costs, disbursements and reasonable attorneys'

fees, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
May 15, 1996

DONOVAN LEISURE NEWTON & IRVINE

By Alison S. Berger
Alison S. Berger
AB-3669

30 Rockefeller Plaza
New York, New York 10112
(212) 632-3000

Attorneys for Defendant
American Cyanamid Company

JENNIFER GERMAN, et al.,

Plaintiffs, :

Civil Action No.
93 Civ. 6941 (RWS)

Defendants. :

Defendants.

ANSWER AND
CROSS-CLAIM OF
DEFENDANT AMERICAN
CYANAMID COMPANY
TO THE CROSS-CLAIM
OF DEFENDANT
CITY OF NEW YORK

Response to
"CROSS-CLAIM"

U.S. DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

directed against other defendants, and avers that to the extent the allegations in paragraph 109 are conclusions of law, no responsive pleading is required.

110. Denies the allegations in paragraph 110 to the extent they are directed against Cyanamid, denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 110 to the extent they are directed against other defendants, and avers that to the extent the allegations in paragraph 110 are conclusions of law, no responsive pleading is required.

111. Denies the allegations in paragraph 111 to the extent they are directed against Cyanamid, denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 111 to the extent they are directed against other defendants, and avers that to the extent the allegations in paragraph 111 are conclusions of law, no responsive pleading is required.

**AS AND FOR A FIRST
AFFIRMATIVE DEFENSE**

1. Cyanamid denies that intervenor plaintiffs Kail Henry, Naquan Thomas and Naiya Thomas (the "intervenor plaintiffs") are entitled to judgment against Cyanamid awarding individual relief, class relief, attorneys' fees, costs or expenses and repeats and realleges, as if fully set forth herein, each of the affirmative defenses asserted in

Cyanamid's answer, dated May 15, 1996, to the Intervenor Complaint of Kaii Henry, Naquan Thomas, and Naiya Thomas (the "Intervenor Complaint").

AS AND FOR A SECOND
AFFIRMATIVE DEFENSE

2. The City's cross-claim fails to state a claim against Cyanamid upon which relief may be granted.

AS AND FOR A THIRD
AFFIRMATIVE DEFENSE

3. Cyanamid is not a proper party to the City's cross-claim.

AS AND FOR A FOURTH
AFFIRMATIVE DEFENSE

4. The City is barred from recovery on the cross-claim asserted against Cyanamid because the City's own fault or negligence caused or contributed to the intervenor plaintiffs' alleged injury or risk of injury.

AS AND FOR A FIFTH
AFFIRMATIVE DEFENSE

5. The cross-claim asserted against Cyanamid by the City is precluded because the City failed to mitigate damages.

AS AND FOR A SIXTH
AFFIRMATIVE DEFENSE

6. The City's cross-claim against Cyanamid should be dismissed because Cyanamid did not owe or breach any legal duty either to the City or to the intervenor plaintiffs.

AS AND FOR A SEVENTH
AFFIRMATIVE DEFENSE

7. The City's cross-claim against Cyanamid should be dismissed because of misuse of the product in question and because pigment was not intended or sold for ingestion.

AS AND FOR AN EIGHTH
AFFIRMATIVE DEFENSE

8. The City's cross-claim is barred in whole or in part by the City's inability to identify Cyanamid, or its alleged predecessor in interest, as the particular manufacturer of the products that allegedly caused the intervenor plaintiffs' injury.

AS AND FOR A NINTH
AFFIRMATIVE DEFENSE

9. The City's cross-claim is barred to the extent that the products that allegedly caused the intervenor plaintiffs' injury or risk of injury complied with applicable federal, New York State and/or local specifications.

AS AND FOR A TENTH
AFFIRMATIVE DEFENSE

10. The City's cross-claim is barred by the equitable doctrine of unclean hands.

CROSS-CLAIM

11. If Cyanamid is held liable for any of the relief sought in the Intervenor Complaint, such liability is the result either wholly or in part of the negligence, acts and omissions of the City.

12. The City is obligated to indemnify Cyanamid, or, alternatively, Cyanamid is entitled to contribution from the City in whole or in part for sums which Cyanamid is compelled to pay, including attorneys' fees, if Cyanamid is held liable for any of the relief sought in the Intervenor Complaint.

RELIEF AGAINST THE CITY

WHEREFORE, Cyanamid prays for the following relief against the City:

- a. for judgment dismissing the cross-claim asserted by the City as against Cyanamid with prejudice;
- b. for a declaration that Cyanamid is entitled to indemnification by the City for any monetary or other relief that may be imposed on Cyanamid herein;

c. for a declaration that Cyanamid is entitled to contribution from the City for any monetary or other relief that may be imposed on Cyanamid herein;

d. for judgment awarding Cyanamid damages, according to proof at the time of trial;

e. for judgment awarding Cyanamid such reasonable costs and attorneys' fees incurred by Cyanamid in this action; and

f. for such other relief as the Court may deem appropriate.

Dated: New York, New York
July 19, 1996

DONOVAN LEISURE NEWTON & IRVINE

By Alison S. Berger
Alison S. Berger
AB-3669

30 Rockefeller Plaza
New York, New York 10112
(212) 632-3000

Attorneys for Defendant
American Cyanamid Company

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X
JENNIFER GERMAN, et al.,

Plaintiffs,

v.

FEDERAL HOME LOAN MORTGAGE
CORPORATION, et al.,

Defendants.

Civil Action No.
93 Civ. 6941 (RWS)

-----X
NAIYA THOMAS, et al.,

Intervening Plaintiffs,

v.

CITY OF NEW YORK, et al.,

Defendants.

ANSWER AND
CROSS-CLAIM OF
DEFENDANT AMERICAN
CYANAMID COMPANY
TO THE CROSS-CLAIM
OF DEFENDANT
NEW YORK CITY
HOUSING AUTHORITY

Defendant American Cyanamid Company ("Cyanamid"),
by its attorneys Donovan Leisure Newton & Irvine, hereby
responds to the cross-claim of defendant New York City
Housing Authority ("NYCHA"), according to the numbered
paragraphs thereof, as follows:

Response to
"CROSS-CLAIM"

309. Denies the allegations in paragraph 309 to the
extent they are directed against Cyanamid, denies knowledge
of information sufficient to form a belief as to the truth of
the allegations in paragraph 309 to the extent they are

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directed against other defendants, and avers that to the extent the allegations in paragraph 309 are conclusions of law, no responsive pleading is required.

310. Denies the allegations in paragraph 310 to the extent they are directed against Cyanamid, denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 310 to the extent they are directed against other defendants, and avers that to the extent the allegations in paragraph 310 are conclusions of law, no responsive pleading is required.

AS AND FOR A FIRST
AFFIRMATIVE DEFENSE

1. Cyanamid denies that intervenor plaintiffs Kaii Henry, Naquan Thomas and Naiya Thomas (the "intervenor plaintiffs") are entitled to judgment against Cyanamid awarding individual relief, class relief, attorneys' fees, costs or expenses and repeats and realleges, as if fully set forth herein, each of the affirmative defenses asserted in Cyanamid's answer, dated May 15, 1996, to the Intervenor Complaint of Kaii Henry, Naquan Thomas, and Naiya Thomas (the "Intervenor Complaint").

AS AND FOR A SECOND
AFFIRMATIVE DEFENSE

2. NYCHA's cross-claim fails to state a claim against Cyanamid upon which relief may be granted.

AS AND FOR A THIRD
AFFIRMATIVE DEFENSE

3. Cyanamid is not a proper party to NYCHA's cross-claim.

AS AND FOR A FOURTH
AFFIRMATIVE DEFENSE

4. NYCHA is barred from recovery on the cross-claim asserted against Cyanamid because NYCHA's own fault or negligence caused or contributed to the intervenor plaintiffs' alleged injury or risk of injury.

AS AND FOR A FIFTH
AFFIRMATIVE DEFENSE

5. The cross-claim asserted against Cyanamid by NYCHA is precluded because NYCHA failed to mitigate damages.

AS AND FOR A SIXTH
AFFIRMATIVE DEFENSE

6. NYCHA's cross-claim against Cyanamid should be dismissed because Cyanamid did not owe or breach any legal duty either to NYCHA or to the intervenor plaintiffs.

AS AND FOR A SEVENTH
AFFIRMATIVE DEFENSE

7. NYCHA's cross-claim against Cyanamid should be dismissed because of misuse of the product in question and because pigment was not intended or sold for ingestion.

AS AND FOR AN EIGHTH
AFFIRMATIVE DEFENSE

8. NYCHA's cross-claim is barred in whole or in part by NYCHA's inability to identify Cyanamid, or its alleged predecessor in interest, as the particular manufacturer of the products that allegedly caused the intervenor plaintiffs' injury.

AS AND FOR A NINTH
AFFIRMATIVE DEFENSE

9. NYCHA's cross-claim is barred to the extent that the products that allegedly caused the intervenor plaintiffs' injury or risk of injury complied with applicable federal, New York State and/or local specifications.

AS AND FOR A TENTH
AFFIRMATIVE DEFENSE

10. NYCHA's cross-claim is barred by the equitable doctrine of unclean hands.

CROSS-CLAIM

11. If Cyanamid is held liable for any of the relief sought in the Intervenor Complaint, such liability is the result either wholly or in part of the negligence, acts and omissions of NYCHA.

12. NYCHA is obligated to indemnify Cyanamid, or, alternatively, Cyanamid is entitled to contribution from NYCHA in whole or in part for sums which Cyanamid is compelled to pay, including attorneys' fees, if Cyanamid is held liable for any of the relief sought in the Intervenor Complaint.

RELIEF AGAINST NYCHA

WHEREFORE, Cyanamid prays for the following relief against NYCHA:

a. for judgment dismissing the cross-claim asserted by NYCHA as against Cyanamid with prejudice;

b. for a declaration that Cyanamid is entitled to indemnification by NYCHA for any monetary or other relief that may be imposed on Cyanamid herein;

c. for a declaration that Cyanamid is entitled to contribution from NYCHA for any monetary or other relief that may be imposed on Cyanamid herein;

d. for judgment awarding Cyanamid damages, according to proof at the time of trial;

e. for judgment awarding Cyanamid such reasonable costs and attorneys' fees incurred by Cyanamid in this action; and

f. for such other relief as the Court may deem appropriate.

Dated: New York, New York
July 19, 1996

DONOVAN LEISURE NEWTON & IRVINE

By Alison S. Berger
Alison S. Berger
AB-3669

30 Rockefeller Plaza
New York, New York 10112
(212) 632-3000

Attorneys for Defendant
American Cyanamid Company

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X
JENNIFER GERMAN, et al.,
:
Plaintiffs,
:
v.
:
Civil Action No.
93 Civ. 6941 (RWS)
FEDERAL HOME LOAN MORTGAGE
CORPORATION, et al.,
:
Defendants.
:
-----X
NAIYA THOMAS, et al.,
:
Intervening Plaintiffs,
:
v.
:
CITY OF NEW YORK, et al.,
:
Defendants.
:
-----X
ANSWER AND
CROSS-CLAIM OF
DEFENDANT AMERICAN
CYANAMID COMPANY
TO THE CROSS-CLAIM
OF DEFENDANTS
O. RAGOO REALTY
CORPORATION AND
UDHURAM RAGOO

Defendant American Cyanamid Company ("Cyanamid"),
by its attorneys Donovan Leisure Newton & Irvine, hereby
responds to the cross-claim of defendants O. Ragoo Realty
Corporation and Oudhram Ragoo (collectively, the "Ragoo
Defendants"), according to the numbered paragraphs thereof,
as follows:

Response to
"CROSS-CLAIM"

56. Denies the allegations in paragraph 56 to the
extent they are directed against Cyanamid, denies knowledge
or information sufficient to form a belief as to the truth of

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the allegations in paragraph 56 to the extent they are directed against other defendants, avers that to the extent the allegations in paragraph 56 are conclusions of law, no responsive pleading is required; and repeats and realleges, in response to the allegations in paragraph 56, its answers, dated May 15, 1996, to the allegations of the Intervenor Complaint of Kaii Henry, Naquan Thomas, and Naiya Thomas (the "Intervenor Complaint") as if fully set forth herein.

57. Denies the allegations in paragraph 57 to the extent they are directed against Cyanamid, denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 57 to the extent they are directed against other defendants, and avers that to the extent the allegations in paragraph 57 are conclusions of law, no responsive pleading is required.

**AS AND FOR A FIRST
AFFIRMATIVE DEFENSE**

1. Cyanamid denies that intervenor plaintiffs Kaii Henry, Naquan Thomas, and Naiya Thomas (the "intervenor plaintiffs") are entitled to judgment against Cyanamid awarding individual relief, class relief, attorneys' fees, costs or expenses and repeats and realleges, as if fully set forth herein, each of the affirmative defenses asserted in Cyanamid's answer, dated May 15, 1996, to the Intervenor Complaint.

AS AND FOR A SECOND
AFFIRMATIVE DEFENSE

2. The Ragoo Defendants' cross-claim fails to state a claim against Cyanamid upon which relief may be granted.

AS AND FOR A THIRD
AFFIRMATIVE DEFENSE

3. Cyanamid is not a proper party to the Ragoo Defendants' cross-claim.

AS AND FOR A FOURTH
AFFIRMATIVE DEFENSE

4. The Ragoo Defendants are barred from recovery on the cross-claim asserted against Cyanamid because the Ragoo Defendants' own fault or negligence caused or contributed to the intervenor plaintiffs' alleged injury or risk of injury.

AS AND FOR A FIFTH
AFFIRMATIVE DEFENSE

5. The cross-claim asserted against Cyanamid by the Ragoo Defendants is precluded because the Ragoo Defendants failed to mitigate damages.

AS AND FOR A SIXTH
AFFIRMATIVE DEFENSE

6. The Ragoo Defendants' cross-claim against Cyanamid should be dismissed because Cyanamid did not owe or

breach any legal duty either to the Ragoo Defendants or to the intervenor plaintiffs.

AS AND FOR A SEVENTH
AFFIRMATIVE DEFENSE

7. The Ragoo Defendants' cross-claim against Cyanamid should be dismissed because of misuse of the product in question and because pigment was not intended or sold for ingestion.

AS AND FOR AN EIGHTH
AFFIRMATIVE DEFENSE

8. The Ragoo Defendants' cross-claim is barred in whole or in part by the Ragoo Defendants' inability to identify Cyanamid, or its alleged predecessor in interest, as the particular manufacturer of the products that allegedly caused the intervenor plaintiffs' injury.

AS AND FOR A NINTH
AFFIRMATIVE DEFENSE

9. The Ragoo Defendants' cross-claim is barred to the extent that the products that allegedly caused the intervenor plaintiffs' injury or risk of injury complied with applicable federal, New York State and/or local specifications.

AS AND FOR A TENTH
AFFIRMATIVE DEFENSE

10. The Ragoo Defendants' cross-claim is barred by the equitable doctrine of unclean hands.

CROSS-CLAIM

11. If Cyanamid is held liable for any of the relief sought in the Intervenor Complaint, such liability is the result either wholly or in part of the negligence, acts and omissions of the Ragoo Defendants.

12. The Ragoo Defendants are obligated to indemnify Cyanamid, or, alternatively, Cyanamid is entitled to contribution from the Ragoo Defendants in whole or in part for sums which Cyanamid is compelled to pay, including attorneys' fees, if Cyanamid is held liable for any of the relief sought in the Intervenor Complaint.

RELIEF AGAINST THE RAGOO DEFENDANTS

WHEREFORE, Cyanamid prays for the following relief against the Ragoo Defendants:

a. for judgment dismissing the cross-claim asserted by the Ragoo Defendants as against Cyanamid with prejudice;

b. for a declaration that Cyanamid is entitled to indemnification by the Ragoo Defendants for any monetary or other relief that may be imposed on Cyanamid herein;

c. for a declaration that Cyanamid is entitled to contribution from the Ragoo Defendants for any monetary or other relief that may be imposed on Cyanamid herein;

d. for judgment awarding Cyanamid damages, according to proof at the time of trial;

e. for judgment awarding Cyanamid such reasonable costs and attorneys' fees incurred by Cyanamid in this action; and

f. for such other relief as the Court may deem appropriate.

Dated: New York, New York
July 19, 1996

DONOVAN LEISURE NEWTON & IRVINE

By Alison S. Berger
Alison S. Berger
AB-3669

30 Rockefeller Plaza
New York, New York 10112
(212) 632-3000

Attorneys for Defendant
American Cyanamid Company