FILE NAME: Early Asbestos Damage Suits (EADS)

DATE: 1934

DOC#: EADS010

DOCUMENT DESCRIPTION: Documents from Case of Helen Zackwiejz

NEW JERSEY SUPREME COURT

SOMERSET COUNTY

HELEN ZACKWIEJZ, by next friend, her mother, MARY ZACKWIEJA, :

Plaintiff, :

vs. : ACTION AT LAW

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

Defendant. : C O M P L A I N T

-X

The plaintiff, residing at Manville, 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 May, 1929, 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. Said asbestos

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 close contact with the same, and

4. The defendant not only knew, but should have

person and exposed the plaintiff so that she came into contact with, and inhaled, the said dangerous fibers and particles to the extent that her bronchial tubes, lungs and body became infected with the same. [illegible] of her body, she was. Plaintiff was not informed or warned by the defendant, and had no knowledge of the nature of the said dangerous asbestos fibers and particles with which she was brought into close proximity by the defendant's negligence.

6. The negligence of the defendant complained of is as follows:

(a) In failing to use reasonable care to provide the plaintiff with a reasonably safe place of work.

(b) In failing to use reasonable care to provide the plaintiff with proper masks other appliances or safe guards in said work.

(c) In failing to use reasonable care to provide a proper ventilating system at its plant.

(d) In failing to use reasonable care to give proper warning, information and knowledge about the dangerous character of its work with the said asbestos fibers and particles to the said plantiff at the time and place above mentioned.

7. The said asbestos fibers and particles were introduced into the plaintiff's body at the time and place aforesaid, so that the plaintiff was permanently injured externally and internally, in and about her head, body and limbs causing the plaintiff great pain and suffering, both mental and physical, greatly lowered her resistance to disease and she became a victim of tuberculosis and so seriously cut off the span and duration of life of this youthful

her wage earnings and also the considerable amount of medical expense involved in her effort to retard the suffering from the disease and mend the wrecking of her body, she will be caused to suffer losses, expenses and damages to the extent of $100,000.00.

The plaintiff demands the sum of $100,000.00 as damages from the defendant.

7-25-29

Samuel Greenstone
Attorney for Plaintiff.

HELEN ZACKWIEJZ, by next friend, her mother, MARY ZACKWIEJZ,

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 May, 1929.

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 tha it employed the plaintiff from December 28,1926, to the month of May, 1929.

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

SECOND DEFENSE

The injury and the disease alleged in the complaint were due to one of the risks of her employment assumed by the plaintiff as part of the terms of her contract of employment.

THIRD DEFENSE

The injury and the disease alleged in the complain

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

EIGHTH DEFENSE

Plaintiff's action is barred because it was not commenced and instituted within two years after the plaintiff's coming to or being of full age.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

HELEN ZACKWIEJZ, by next friend, her mother, MARY ZACKWIEJZ, Plaintiff, -vs- JOHNS-MANVILLE CORPORATION, a corporation of the State of New York, Defendant.	ON MOTION TO QUASH SUMMONS AND DISMISS COMPLAINT. ORDER.

This matter coming on to be heard before me, 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 7th day of March, 1930, why the summons should not be quashed and the complaint dismissed on the grounds stated in said fule, and the court having taken the testimony of the parties in open court, and it appearing that the attorney for the plaintiff was properly retained and authorized to commence the above action; and the attorneys for the defendant having consented in open court to dismissal of the said rule;

It is, on this 15 day of April, 1930,

ORDERED, that the said rule to show cause be and the same is hereby dismissed without costs.

Samuel Greenstone
Attorney for Plaintiff.

Lewis Y. Baker
United States District Court
Judge.

UNITED STATES DISTRICT Court
FOR THE DISTRICT OF NEW JERSEY

HELEN ZACKWIEJZ, by next friend, her mother, MARY ZACKWIEJZ

Plaintiff

vs.

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

Defendant

Action at Law.

ORDER FOR DISCONTINUANCE.

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The above entitled cause having been settled between the parties thereto;

It is ORDERED, that the same be, and it is hereby discontinued, without cost to either party as against the other.

George T. Cammer
Clerk
By Charles S. Clemmer
Deputy

Entered June 13, 1934

On motion of
Hobart & Menard
Attorneys of defendant

Consent is hereby given to the making and entering of the above order.

Samuel Pelcusta
Attorney of Plaintiff