STATE OF NEW YORK

SUPREME COURT, COUNTY OF GENESEE

MARY BOGDAN, individually and as Administratrix of the Estate of Eli Bogdan, deceased,

Plaintiff,

-vs-

UNITED STATES GYPSUM COMPANY and DAVID W. DANIEL,

Defendants.

To the above named Defendants:

You are Hereby Summoned to answer the complaint in this action, and to serve a copy of your answer, or if the complaint is not served with this summons to serve a notice of appearance, on the plaintiff's attorney within twenty days after the service of this Summons exclusive of the day of service. In case of your failure to appear or answer, Judgment will be taken against you by default for the relief demanded in the complaint.

Trial to be held in the County of Genesee.

Dated this 3rd day of December, 1937

WILLIAM L. CLAY Plaintiff's Attorney

Office 510 Powers Building

P. O. Address Rochester, N. Y.

STATE OF NEW YORK

SUPREME COURT COUNTY OF GENESEE

Mary Bogdan, individually and as Administratrix of the Estate of Eli Bogdan, deceased,

Plaintiff,

-vs-

United States Gypsum Company and David W. Daniel,

Defendants.

Plaintiff for her complaint herein, respectfully alleges and shows to the Court; upon information and belief:

First: That the defendant, United States Gypsum Company, now is and at all times hereinafter mentioned, was a foreign corporation organized and existing by virtue of the Laws of the State of Illinois and engaged in the mining of gypsum and the manufacture of gypsum products in the Village of Oakfield, County of Genesee, State of New York, and with a place of business in the said village, and that the defendant David W. Daniels is, and at all times was, a resident of the County of Genesee and State of New York.

Second: That the plaintiff is, and at all times hereinafter mentioned was a resident of the County of New York, State of New York.

Third: That on or about the 18th day of April, 1935, the said Eli Bogdan, who was a resident of the Village of Oakfield, County of Genesee, New York, died intestate and that thereafter and on the 31st day of March, 1937, Limited Letters of Administration upon the Estate of Eli Bogdan were duly issued to the plaintiff by the Surrogate's Court of the County of Genesee, New York; that she duly qualified as such administrator and that the said Limited Letters of Administration are still in full force and effect.

Fourth: That for a period of time prior to July 14, 1934, the deceased, Eli Bogdan, was employed by the defendant the United States Gypsum Company, which employment resulted in the inhalation of dangerous dust which caused injuries, including injuries to the lungs and cardiac system of the deceased, as a result of which he died on the 12th day of April, 1935.

Fifth: That at the time of the aforesaid injuries and death the said Eli Bogdan was married and resided with this plaintiff who was his wife upon whom the legal duty and rights of burying her said husband devolved.

Sixth: That after the death of the said Eli Bogdan, and about April 14, 1935, the defendant, United States Gypsum Company, did cause and direct one of its employees, to wit: the defendant, David W. Daniel, and the defendant, United States Gypsum Company, did cause and direct unlawful dissection of the body of the deceased, and defendants did unlawfully dissect the remains of the said Eli Bogdan, taking from the body the lungs and the heart and wrongfully and unlawfully removed the same to either Saranac Lake, New York, or Chicago, Illinois, and the said portions of the body so unlawfully removed have been kept away from the plaintiff ever since the dissection, and upon information and belief are at Saranac Lake, New York.

Seventh: That the aforesaid acts of the defendants in dissecting the body of the said deceased in the manner in which it was so dissected, and in taking therefrom the heart and spleen of said body, was without the knowledge, consent or authority of this plaintiff and against her wishes; that the said dissection and autopsy did occur and was performed with the cognizance and approval of both of the defendants and at their direction.

Eighth: That the defendants, without plaintiff's knowledge or consent, procured, assisted, aided and abetted in performing an unlawful and improper autopsy on the body of plaintiff's husband in that no authority was given for the removal of the heart and lungs from the said body and that said dissection and removal of the parts of the body was done and performed without any authority of law and was wilfully done by cutting open and otherwise abusing and maltreating the dead body.

Ninth: That the aforesaid acts of the defendants were deliberate and wilful and a gross outrage of plaintiff's rights and sensibilities, an indignity put upon her and an interference with, and a prevention of her right to receive the body of the said Eli Bogdan in the condition in which it was at the time of his decease; and an interference with and a prevention of her right of decent burial; greatly wounded her feelings and caused her great mental distress, anguish and suffering, and which greatly injured her feelings, her love and devotion to her husband, all of which was occasioned directly by the unlawful mutilation, and unlawfully and without authority withholding portions of the deceased's body from the plaintiff, which is in violation of Sections 2211 and 2213 of the Penal Law of the State of New York. That by reason of the premises and the defendants misconduct aforesaid, this plaintiff has suffered damages in the sum of Twenty-Five Thousand Dollars ($25,000.00).

WHEREFORE, plaintiff demands judgment against the defendants, jointly and severally, in the sum of Twenty-Five Thousand Dollars ($25,000.00), together with the costs and disbursements of this action.

WILLIAM L. CLAY
Attorney for Plaintiff
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