FILE NAME: Early Asbestos Damage Suits (EADS)

DATE: 1935-1936

DOC#: EADS027

DOCUMENT DESCRIPTION: Documents from Case of William Norwood

AND AFTERWARDS TO-WIT: On the 4th day of April A. D. 1935 the said Defendant by Heth & Lister its Attorneys filed in said Court its SPECIAL APPEARANCE, which said SPECIAL APPEARANCE is in the words and figures as follows, to-wit:

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

IN THE CIRCUIT COURT OF LAKE COUNTY

WILLIAM NORWOOD	)	
vs	)	No. 34733
JOHNS MANVILLE Inc., a	)	
corporation	)	

A P P E A R A N C E

We hereby enter the special appearance of JOHNS-MANVILLE, INC., a corporation, and ourselves as its attorneys, for the sole purpose of having the above entitled cause transferred and removed from the Circuit Court of Lake County to the United States District Court for the Northern District of Illinois, Eastern Division.

Heth & Lister
Attorneys for Defendant

Endorsed:

"Filed Apr. 4'35

"L. J. Wilmot, Clerk"

AND ON THE SAME DAY TO-WIT: On the 23rd day of March A. D. 1935 the said Plaintiff by A. V. Smith his Attorney filed in said Court MOTION and AFFIDAVITS in support thereof, which said MOTION and AFFIDAVITS are in the words and figures as follows, to-wit:

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

IN THE CIRCUIT COURT OF LAKE COUNTY

WILLIAM NORWOOD	)	
vs	)	No. 34733
JOHNS-MANVILLE Inc., a	)	
corporation	)	

M O T I O N

Now comes A. V. Smith, Attorney for the plaintiff herein, and moves the court for leave to file said bill without payment of advanced costs, including clerk's and Sheriff's fees, on the grounds that the plaintiff herein is a poor person within the meaning of the statute.

A. V. Smith
Attorney for plaintiff.

STATE OF ILLINOIS)
)SS
COUNTY OF LAKE)

IN THE CIRCUIT COURT OF LAKE COUNTY

WILLIAM NORWOOD	)	
vs	)	No.
JOHNS-MANVILLE Inc., a	)	
corporation	)	

STATE OF ILLINOIS)
)SS
COUNTY OF LAKE)

A. V. Smith, being first duly sworn, deposes and says he is the attorney for the plaintiff in the above entitled cause and that he will not accept any fees for compensation for his services in this suit until all accrued costs due from the plaintiff have been paid, and that he will use his best efforts to see that the plaintiff carries out his undertaking entered into by him, to pay the costs herein from any sum which he may recover by compromise, settlement or judgment.

A. V. Smith

Subscribed and sworn to before me this 22nd day of March, A.D. 1935.

Mary L. Weygant
Notary Public

(Notarial Seal)

STATE OF ILLINOIS)
)SS
COUNTY OF LAKE)

IN THE CIRCUIT COURT OF LAKE COUNTY

WILLIAM NORWOOD	)	
vs	)	No.
JOHNS-MANVILLE Inc., a	)	
corporation	)	

STATE OF ILLINOIS)
)SS
COUNTY OF LAKE)

William Norwood, being first duly sworn, deposes and says he is the plaintiff in the above entitled cause and that he is a poor person within the meaning of the statute; that he has a meritorious cause of action for damages resulting from contracting a lung desease from enhaling dust and fumes while in the employ of said company; that his pecuniary circumstances are such that he is unable to pay the costs of suit; that he is out of work at the present time and is dependent for his subsistence upon such work as he may be able to get at different times, and upon charity; that his income during the last year immediately preceding the filing of this suit was practically nothing.

That out of any moneys or properties received as a result of compromise of his demand or in satisfaction in whole or in part of any judgment or decree in this case, he hereby agrees that he will immediately upon receipt thereof, pay to the Clerk of the court the amount of all accrued costs due from him as said plaintiff, and further affiant sayeth not.

William Norwood

Subscribed and sworn to before me this 9th day of March, A.D. 1935.

Mary L. Weygant
Notary Public

(Notarial Seal)

Endorsed:
"Filed Mar. 23'35
"L. J. Wilmot, Clerk"

T R A N S C R I P T

William Norwood

vs.

Johns-Manville, Inc., a corporation

Gen. No. [illegible]

UNITED STATES OF AMERICA.

STATE OF ILLINOIS) IN CIRCUIT COURT
ss.
LAKE COUNTY) MARCH TERM A. D. 1935.

PLEAS before the Honorable RALPH J. DADY one of the Judges of the Seventeenth Judicial Circuit of the State of Illinois, and sole presiding Judge of the Circuit Court of Lake County, in the State aforesaid, and at a term thereof begun and held at the Court House in the City of Waukegan, in said County on the Fourth day (being the first Monday) of March in the year of our Lord One Thousand Nine Hundred and Thirty-Five (A.D. 1935) and of the Independence of the said United States the One Hundred and Fifty-ninth.

PRESENT; Honorable RALPH J. DADY Judge of the Seventeenth Judicial Circuit of the State of Illinois.
L. J. WILMOT, Clerk
Charles E. Mason, State's Attorney
L. A. Doolittle Sheriff

ATTEST: L. J. WILMOT, Clerk.

BE IT REMEMBERED THAT HERETOFORE TO-WIT: On the 23rd day of March A. D. 1935 William Norwood Plaintiff by A. V. Smith his Attorney filed in said Court his COMPLAINT at LAW, upon which said Complaint Summons issued pursuant to the Statute which said Complaint and Summons are in the words and figures as follows, to-wit:

JUDGE BARNES
CALENDAR NO. 1

FILED
MAY 31 1935
AT 3 O'CLOCK M.
HENRY W. FREEMAN
CLERK

STATE OF ILLINOIS)
COUNTY OF L A K E) ss.

IN THE CIRCUIT COURT OF LAKE COUNTY

WILLIAM NORWOOD, Plaintiff vs. JOHNS-MANVILLE, Inc., a corporation, Defendant	No. 34733

COMPLAINT AT LAW

The plaintiff for cause of action against the defendant, states:

1. That on and prior to the 15th day of March A. D. 1934, the defendant owned, possessed, operated and controlled a certain business, and as a part of said business, owned, operated, managed and controlled a certain large factory and workshop in the City of [redacted] County of Lake and State of Illinois, and in said factory and workshop, defendant was engaged in the operation of [redacted] facturing shingles, roofing paper and other products; that in the manufacture of said shingles, roofing paper and other products, soap-stone, mica, diamond dust, tar and other articles and ingredients the exact nature of which is unknown to plaintiff, are used, and that in said process the use of said soap-stone, mica, diamond dust, tar and other ingredients, creates a dust, gases and fumes which are thrown into and caused to permeate in and about the air in the rooms of said factory where the said manufacturing processes were carried on by the defendant.

2. And at said time and place referred to and for a long time prior thereto, to-wit: since the year 1927, the plaintiff was employed by the defendant as a laborer in the various parts of the defendant's factory and workshop; that during said time and while plaintiff was employed by the defendant as a laborer, as aforesaid, plaintiff was exposed to the action of said fumes, gases and dusts referred to as aforesaid, and that the plaintiff did continuosly inhale said fumes, gases and dusts referred to as aforesaid; that plaintiff frequently had to sweep up the dust in the rooms where said process of making and manufacturing said shingles, roofing and other products was carried on; and had to shovel up said dust in said rooms, and to remove same therefrom, and also had to shovel said dust and remove same from a silo connected with said factory and rooms and used in connection therewith, in the manufacture of shingles, roofing and other products, and in the process of so sweeping up and removing said dust, large quantities of noxious dust were caused to be thrown off and to permeate the air and atmosphere of the room or rooms and in said silo in which plaintiff was then and there required to work, and that he did continuously inhale the aforesaid dusts and fumes as aforesaid.

3. That said work and processes referred to aforesaid, were work and processes which might produce illness and diseases peculiar to the work and processes so carried on, and the said work and processes subjected the employees of the defendant to the danger of illness and diseases incident to such work and processes to which employees in other lines of employment are not ordinarily exposed, namely, to-wit: that the said work and processes of making shingles, roofing and other products as

aforesaid, were likely to produce illness and diseases peculiar to the work or processes so carried on, and the work and processes so carried on subjected the employees of the defendant including the plaintiff, to the danger of illness and diseases incident to such work or processes to which employees in other lines of employment are not ordinarily exposed, to-wit: illness and diseases caused by the action of the aforesaid dangerous fumes, gases and dusts, as referred to aforesaid; that such diseases are known as to-wit: siderosis, pneumonoconiosis, pulmonary tuberculosis and various other pulmonary and bronchial complications.

4. That at the said time and place there was in full force and effect in the State of Illinois, a certain Statute, reading in words and figures as follows:

> "Be it enacted by the People of the State of Illinois, represented in the General Assembly; that every employer of labor in this State, engaged in carrying on any work or process which may produce any illness or disease peculiar to the work or processes carried on, or which subjects the employees to the danger of illness or disease incident to such work or process, to which employees are not ordinarily exposed in other lines of employment shall, for the protection of all employees engaged in such work or process, adopt and provide reasonable and approved devices, means or methods for the prevention of such Industrial or Occupational Diseases as are incident to such work, or process."

5. And it was and became the duty of the defendant to adopt reasonable and approved devices, means or methods for the prevention of such industrial or occupational diseases as were incident to the work or processes carried on in defendant's factory, to-wit: for the prevention of siderosis, pneumonoconiosis, pulmonary tuberculosis and various other pulmonary and bronchial complications; yet, notwithstanding its duty in said regard, the defendant did on the said 15th of March A. D. 1934 and for a long

time prior thereto, wrongfully, willfully and unlawfully failed and neglected to adopt and maintain adequate, reasonable and approved devides, means or methods for the prevention of such industrial or occupational diseases as are incident to such work or processes so carried on in said factory, and that the defendant willfully violated, and failed to comply with the provisions of the statute referred to aforesaid, namely, the defendant willfully and wrongfully and in violation of said statute, failed to adopt and provide or maintain any adequate, reasonable and approved means for the removing of such dusts, gases and fumes and for the prevention of said industrial or occupational diseases incident to such work and processes carried on in said factory, to-wit: sicerosis, pneumonoconiosis, pulmonary tuberculosis and various other pulmonary and bronchial complications.

6. Plaintiff states that there was in full force and effect in the State of Illinois a certain Statute, reading in words and figures as follows:

> "All factories, mercantile establishments, mills or workshops shall be kept free from gas or effluvia arising from any sewer, drain, privy or other nuisance on the premises. All poisonous or noxious fumes or gases arising from any process, and all dust of a character injurious to the health of the persons employed which is created in the course of a manufacturing process, within such factory, mill or workshop, shall be removed, as far as practicable, by either ventilating or exhaust devices."

and it was and became the duty of the defendant, by virtue of the terms of said Statute, to remove all the noxious and dangerous fumes and dusts and gases arising from any of the processes carried on in said factory, and to remove all dust of the character injurious to the health of the plaintiff so created in the processes carried on in said factory, so far as practicable by

either ventilating or exhaust devices, but the defendant did on the said day, to-wit: the 15th day of March, A. D. 1934, and for a long time prior thereto, willfully violate the terms and provisions of said Statute, in failing to provide and maintain adequate ventilating or exhaust devices to remove as far as practicable the said injurious dusts, noxious fumes, gases, etc., referred to as aforesaid, and failed to provide any masks to protect the said plaintiff and others from the effect of said dusts.

7. That as a direct consequence of the said breach of duty of the said defendant in so violating the Statute referred to aforesaid, plaintiff was exposed to the harmful and injurious dusts, fumes, gases, etc, while said plaintiff was in the exercise of due care and caution for his own safety, so that as a direct consequence of the willful and wrongful violation of said Statute, by the said defendant, the plaintiff contracted a disease, to-wit: siderosis, pneumonoconiosis, pulmonary tuberculosis, and various other pulmonary and bronchial complications.

8. That it was and became the duty of the defendant to adopt reasonable and approved devices, means or methods for the prevention of such Industrial or Occupational Diseases as were incident to the work or processes carried on in the defendant's factory, to-wit: for the prevention of siderosis, pneumonoconiosis, pulmonary tuberculosis, and various other pulmonary and bronchial complications, yet notwithstanding its duty in said regard, the defendant did on the said day, the 15th day of March, A. D. 1934, and for a long time prior thereto, wrongfully, willfully and unlawfully fail and neglect to adopt, provide and maintain adequate, reasonable and approved devices, means or methods for the prevention of such work or process so carried on in said factory or workshop,

namely, to-wit: the defendant willfully and wrongfully failed to furnish the said plaintiff with a mask or respirator to prevent the plaintiff from breathing the said dangerous dusts, fumes, gases, etc, and to prevent the Occupational Diseases referred to aforesaid.

9. That as a direct consequence of the said breach of duty of said defendant, plaintiff has become sick, sore, lame and disordered and will so remain during his life, and has become greatly emaciated, ill, and suffers great pain and is stricken with an incurable ailment, to-wit: siderosis, pneumonoconiosis, pulmonary tuberculosis, and various other pulmonary and bronchial comolications and will so remain during his life; that plaintiff has paid out and incurred the obligation to pay out divers large sums of money in endeavoring to be cured of said disease, and has lost and will hereafter lose divers great gains and profits; which he otherwise would have made, because of said injury and on account of said disease, and plaintiff has lost and will in the future lose divers great gains and profits in becoming incapacitated and unable to go about his daily labor.

Wherefore the plaintiff demands judgment against the defendant in the sum of $25,000.00 and costs of this suit.

WILLIAM NORWOOD

By A. V. SMITH
His Attorney

A. V. SMITH
Attorney for Plaintiff
4 S. Genesee St.
Waukegan, Illinois

Endorsed:
"Filed Mar. 23, '35
"L.J. Wilmot, Clerk."

STATE OF ILLINOIS }
COUNTY OF L A K E } ss.

IN THE CIRCUIT COURT OF LAKE COUNTY

WILLIAM NORWOOD, Plaintiff vs. JOHNS-MANVILLE, INC., a corporation, Defendant	No. 34733

P E T I T I O N

The petition of JOHNS-MANVILLE PRODUCTS CORPORATION, a corporation, defendant in the above entitled cause, respectfully represents unto the Court.

1. That the above entitled suit is brought by the plaintiff, WILLIAM NORWOOD, to recover of the defendant named therein the sum of Twenty Five Thousand ($25,000) Dollars for alleged injuries in the nature of occupational illnesses or diseases to the plaintiff, and is wholly of a civil nature; that the matter and amount in dispute in said suit exceeds, exclusive of interest and costs, the sum of Three Thousand ($3,000) Dollars, all of which will more fully appear by the complaint filed in said suit, which is hereby referred to and made a part hereof; that there is a controversy in said suit which is wholly between citizens of different States; that the defendant, JOHNS MANVILLE PRODUCTS CORPORATION, a corporation, is a foreign corporation, and was, at the time of the commencement of said suit, and still is a corporation duly formed, created, and organized under and by virtue of the laws of the State of Delaware; and was then and still is a citizen of the

State of Delaware; that WILLIAM NORWOOD, plaintiff, was, at the time of the commencement of this suit, and still is a citizen and resident of the State of Illinois.

2. That at the time within which the said defendant is required by the laws of the State of Illinois and the rules and practice of this Court to answer or plead in said suit has not yet expired.

3. That the defendant makes and files herewith a bond in the sum of FIVE HUNDRED ($500.00) DOLLARS with good and sufficient surety for its entering in the District Court of the United States for the Northern District of Illinois, Eastern Division, within thirty days from the date of filing of this petition, a certified copy of the record in this suit and for paying all costs that may be awarded by said District Court if it shall hold that this suit was wrongfully or improperly removed thereto.

WHEREFORE, defendant, JOHNS MANVILLE PRODUCTS CORPORATION, a corporation, prays that this Court proceed no further herein except to make an order of removal as required by law and to accept the bond presented herewith and direct a transcript of the record herein to be made for said District Court of the United States for the Northern District of Illinois, Eastern Division, as provided by law.

JOHNS MANVILLE PRODUCTS CORPORATION,
a corporation.

By John J. Flynn
Its duly authorized agent

STATE OF ILLINOIS)
COUNTY OF C O O K) ss.

JOHN J. FLYNN, being first duly sworn, on oath deposes and says that he is a member of the firm of Heth & Lister, and is one of the attorneys of record of and for the defendant, JOHNS-MANVILLE PRODUCTS CORPORATION, a corporation, in the above entitled cause, the petitioner named in the foregoing petition; that he has read the same and believes the same to be true; and affiant further says that said petitioner is absent from and is a non-resident of the County of Lake, State of Illinois, in which said suit is brought, and that there are no officers of defendant within the State of Illinois to make this verification, and that affiant makes this affidavit for the reason that the defendant and its officers are absent from and non-residents of the County of Lake, State of Illinois, in which said suit is brought.

John J. Flynn

Subscribed and sworn to before me
this 3rd day of May, A. D. 1935.

Evangeline Sherwell
(Notary Public.)
(Seal)

Endorsed:
"Filed May 4. '35
"L. J. Wilmot
"Clerk."

STATE OF ILLINOIS }
COUNTY OF L A K E } ss.

IN THE CIRCUIT COURT OF LAKE COUNTY

WILLIAM NORWOOD, Plaintiff vs. JOHNS-MANVILLE, Inc., a corporation, Defendant	No. 34733

BOND

KNOW ALL MEN BY THESE PRESENTS, That we, JOHNS MANVILLE PRODUCTS CORPORATION, a corporation, as principal, and ROYAL INDEMNITY COMPANY, as surety, are held and firmly bound unto WILLIAM NORWOOD, plaintiff, in the penal sum of FIVE HUNDRED ($500.00) DOLLARS, lawful money of the United States, to be paid to said plaintiff, his executors, administrators, or assigns, for which payment well and truly to be made, we bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

SEALED with our seals and dated the 9th day of May, A. D. 1935.

WHEREAS, the said JOHNS MANVILLE PRODUCTS CORPORATION, a corporation, has applied by petition to the Circuit Court of Lake County, Illinois, for the removal of a certain cause therein pending, wherein WILLIAM NORWOOD is plaintiff, and JOHNS MANVILLE PRODUCTS CORPORATION, a corporation, is defendant, to the District Court of the United States for the Northern District of Illinois, Eastern

Division, for further proceedings on grounds in said petition set forth, and that all further proceedings in said action in said Circuit Court of Lake County be stayed.

NOW, THEREFORE, if the said JOHNS-MANVILLE PRODUCTS CORPORATION, a corporation, shall enter in the District Court of the United States for the Northern District of Illinois, Eastern Division, within thirty days from the date of filing said petition, a certified copy of the record in said suit, and shall well and truly pay, or cause to be paid, all costs that may be awarded therein by said District Court of the United States, if said Court shall hold that said suit was wrongfully or improperly removed thereto, then this obligation shall be void, otherwise it shall remain in full force and virtue.

(Corporate) (Seal)

JOHNS-MANVILLE PRODUCTS CORPORATION,
a corporation.

BY Candyce Brown
Secretary

ROYAL INDEMNITY COMPANY,
a corporation.

(Corporate) (Seal)

BY John F Daley
John F. Daley Attorney-in-Fact

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss

Before me, Paulita Andrews a Notary Public in and for the county and state aforesaid, personally appeared Andrew Brown to me known to be the Secretary of JOHNS MANVILLE PRODUCTS CORPORATION, a corporation, and then and there acknowledged that he executed the foregoing instrument as his free and voluntary act as such officer of said corporation, and as the free and voluntary act of said corporation.

GIVEN under my hand and notarial seal this 25th day of April, A. D. 1935.

Paulita Andrews (notarial Seal)
Notary Public.

New York County Clerk's No. 115
New York County Register's No. 7A201.
Commission Expires March 30-1937

Entered on: "Filed May 4 1935
"L.J. [illegible], Clerk."

[illegible] to-wit: On the 4th day of May A.D. 1935 being [illegible] of said term of said Court the following among other proceedings [illegible] entered of record in said Court, to-wit:

~~STATE OF ILLINOIS~~)
) ss.
~~COUNTY OF L A K E~~)

~~IN THE CIRCUIT COURT OF LAKE COUNTY~~

WILLIAM NORWOOD, Plaintiff)
34733 vs.) ~~No. 34733~~
JOHNS-MANVILLE, Inc., a corporation, Defendant)

ORDER

This cause coming on for hearing upon the petition and bond of the defendant herein for an order transferring this cause to the United States District Court for the Northern District of Illinois, Eastern Division, and it appearing to the Court that the defendant has filed its petition for such removal in due form of law, and that the defendant has filed its bond, duly conditioned, with good and sufficient sureties as provided by law, and that defendant has given plaintiff due and legal notice thereof; and it appearing to the Court that this is a proper cause for removal to said District Court:

IT IS, THEREFORE, ORDERED, ADJUDGED and DECREED that said petition and bond are hereby accepted and that this cause be and it is hereby removed to the United States District Court for the Northern District of Illinois, Eastern Division, and the Clerk is hereby directed to make up the record in said cause for transmission to said Court forthwith.

~~ENTER: _____ Judge.~~

State of Illinois
Lake County } ss.

I, L. J. WILMOT, Clerk of the Circuit Court in and for said County in the State aforesaid, and keeper of the Records and Seal thereof, Do Hereby Certify the foregoing to be a true, perfect and complete TRANSCRIPT of the Files and Records of my Office of a certain Cause lately pending in said Court on the Common Law Side thereof wherein William Norwood was Plaintiff and Johns-Manville Inc., a Corporation was Defendant, General No. 34733

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the Seal of said Court, at my office in Waukegan, in said County this 20th day of May A. D. 1935.

L J Wilmot
Clerk.

UNITED STATES OF AMERICA
STATE OF ILLINOIS } ss.

IN THE DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WILLIAM NORWOOD	}	
vs.	}	No. 44474
JOHNS-MANVILLE, INC., a corporation.	}	

MOTION TO DISMISS

Now comes JOHNS-MANVILLE PRODUCTS CORPORATION, a corporation, by Heth & Lister, its attorneys, and moves the Court that the above entitled cause be dismissed, and as grounds for said motion, defendant shows unto the Court that plaintiff's complaint is substantially insufficient in law in the following particulars:

1. That Section 1 of said Occupational Diseases Act and Sections 12 and 13 of the Health, Safety and Comfort Act of the State of Illinois are in violation of the Fourteenth Amendment to the Constitution of the United States and Section 2 of Article II and Article III of the Constitution of the State of Illinois.

WHEREFORE, defendant, JOHNS-MANVILLE PRODUCTS CORPORATION, a corporation, moves that plaintiff's action may be dismissed as to it; that plaintiff take nothing by his suit, and that this defendant go hence without day.

Heth & Lister
Attorneys for Johns-Manville Products Corporation, a corp.

STATE OF ILLINOIS }
COUNTY OF C O O K } ss.

JOHN J. FLYNN does hereby certify that he is one of the attorneys of record for the defendant, JOHNS-MANVILLE PRODUCTS CORPORATION, a corporation; that in his opinion the foregoing motion is well founded in point of law and that it is not interposed for the purpose of delay.

John J. Flynn

Subscribed and sworn to before me this 1st day of June, 1935.

Evangeline Aldrwood
Notary Public.

NOTICE TO DEFENDANT

FILED

JUN 29 1935

A.D. 11 o'CLOCK am

HENRY W. FREEMAN
CLERK

Hark

LAW OFFICES
SMITH & LISTER

UNITED STATES OF AMERICA
STATE OF ILLINOIS } ss.

IN THE DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WILLIAM NORWOOD
vs. } No. 44474
JOHNS-MANVILLE, INC.

NOTICE

TO: A. V. Smith
Waukegan, Illinois

PLEASE TAKE NOTICE That we have filed in the office of the Clerk of the United States District Court, for the Northern District of Illinois, Eastern Division, a Memorandum of Points and Authorities, in support of defendant's motion to dismiss, copy of which memorandum is attached.

Hurd + Lister
Attorneys for Defendant.

STATE OF ILLINOIS }
COUNTY OF C O O K } ss.

FLORENCE SCOTT, being first duly sworn, on oath deposes and says that she is an employee of the law firm of Heth & Lister, attorneys for defendant in the above entitled cause; that she caused a copy of the foregoing notice, together with copy of Memorandum of Points and Authorities on Defendant's Motion to Dismiss, to be served upon the following by depositing a copy thereof in the United States Mail, in the mail chute in the One La Salle Building, at 1 North La Salle Street, Chicago, Illinois, postage prepaid, at the hour of 5:15 o'clock, P. M., on July 2nd, 1935, in an envelope addressed as follows:

Mr. A. V. Smith
Waukegan
Illinois

Florence Scott

Subscribed and sworn to before me this 2nd day of July, 1935.

Evangeline Dletwood
Notary Public.

[illegible]

[illegible]

WILLIAM [illegible]

vs.

[illegible]

NOTICE

FILED

JUL -3 1935

AT ..... O'CLOCK.....
HENRY W. FREEMAN
CLERK

LAW OFFICES
HETH & LISTER
SUITE 4100
ONE NORTH LA SALLE STREET
CHICAGO
TELEPHONE FRANKLIN 3600

UNITED STATES OF AMERICA
STATE OF ILLINOIS } ss

IN THE DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WILLIAM NORWOOD
-vs-
JOHNS-MANVILLE, INC.,
a corporation.

No. 44474

N O T I C E

TO:

A. V. SMITH
WAUKEGAN, ILLINOIS

PAUL DOOLEN
4 SOUTH GENESEE STREET
WAUKEGAN, ILLINOIS

PLEASE TAKE NOTICE that on Monday, June 5, A. D. 1936, at the hour of 10:00 A. M., we shall appear before His Honor JUDGE JOHN P. BARNES, in the courtroom usually occupied by him in the Federal Building, Chicago, Illinois, and then and there move that the motion heretofore filed to dismiss the above-entitled cause be granted, at which time and place you may be present, if you see fit.

Attorneys for Johns-Manville
Products Corporation, a corporation

STATE OF ILLINOIS }
COUNTY OF C O O K } ss

FLORENCE SCOTT, being first duly sworn, on oath deposes and says that she is an employee of the law firm of Heth & Lister, attorneys for the defendant in the above-entitled cause; that she caused a copy of the foregoing notice to be served upon the following by depositing a copy thereof in the United States Mail, in the mail chute in the One LaSalle Street Building, at 1 North LaSalle Street, Chicago, Illinois, postage prepaid, at the hour of 5:30 o'clock, P. M., on June 3, 1936, in an envelope addressed as follow to:

Mr. A. V. Smith
Waukegan, Illinois

and to:

Mr. Paul Doolen
4 South Genesee Street
Waukegan, Illinois

Florence Scott

Subscribed and sworn to before me this 3rd day of June, A. D. 1936.

Evangeline Deltrand

FILED

JUN 3 - 1938

AT....O'CLOCK....

HENRY W. FREEMAN

CLERK

LAW OFFICES

HETH & LISTER

[illegible]

[illegible] NORTH LASALLE STREET

CHICAGO

.5 No. 24758

uit Court, Lake County, Illinois.

LIAM HORWOOD

Plaintiff,

vs.

NS-MANVILLE INC., a corp.

Defendants.

UMMONS

SHERIFF'S FEES FOR SERVICE

. . . . .	1.00
miles traveled . . .	.80
mailing copies . . .	
. . . . .	.25
. . . . .	1.55

orsed: Sheriff of Lake County.

led Mar 28 '35

J. Wilmot, Clerk"

V. Smith

Probability Attorney.

Waukegan Washington, Ill.

Endorsed:

"STATE OF ILLINOIS)
"COUNTY OF LAKE)SS

" I have duly served the within named Johns-Manville
"Inc., a corporation by reading the same to Edward J. Hampson,
"Personnel Officer of the within named Johns-Manville Inc., a
"corporation, and at the same time delivered to the said Edward
"J. Hampson, Personnel Officer of the within named Johns Manville
"Inc., a corporation, a true copy thereof this 28th day of March,
"1935. The President, Vice President, Secretary or Treasurer of the
"within named Johns-Manville Inc., a corporation, not found in my
"County, this 28th day of March, 1935.

" Lawrence A. Doolittle, Sheriff
" By S. M. Christian, Deputy."

AND ON THE SAME DAY TO-WIT: On the 23rd day of March A. D. 1935 the said Plaintiff by A. V. Smith his Attorney filed in said Court MOTION and AFFIDAVITS in support thereof, which said MOTION and AFFIDAVITS are in the words and figures as follows, to-wit:

STATE OF ILLINOIS)
COUNTY OF LAKE) SS

IN THE CIRCUIT COURT OF LAKE COUNTY

WILLIAM NORWOOD	)	
vs	)	No. 34733
JOHNS-MANVILLE Inc., a	)	
corporation	)	

M O T I O N

Now comes A. V. Smith, Attorney for the plaintiff herein, and moves the court for leave to file said bill without payment of advanced costs, including clerk's and Sheriff's fees, on the grounds that the plaintiff herein is a poor person within the meaning of the statute.

A. V. Smith
Attorney for plaintiff.

STATE OF ILLINOIS)
COUNTY OF LAKE) SS

IN THE CIRCUIT COURT OF LAKE COUNTY

WILLIAM NORWOOD)
vs) No.
JOHNS-MANVILLE Inc., a)
corporation)

STATE OF ILLINOIS)
COUNTY OF LAKE) SS

A. V. Smith, being first duly sworn, deposes and says he is the attorney for the plaintiff in the above entitled cause and that he will not accept any fees for compensation for his services in this suit until all accrued costs due from the plaintiff have been paid, and that he will use his best efforts to see that the plaintiff carries out his undertaking entered into by him, to pay the costs herein from any sum which he may recover by compromise, settlement or judgment.

A. V. Smith.

Subscribed and sworn to before me this 22nd day of March, A.D. 1935.

Mary L. Neygant
Notary Public

(Notarial Seal)

STATE OF ILLINOIS)
)SS
COUNTY OF LAKE)

IN THE CIRCUIT COURT OF LAKE COUNTY

WILLIAM NORWOOD	)
vs	) No.
JOHNS-MANVILLE Inc., a	)
corporation	)

STATE OF ILLINOIS)
)SS
COUNTY OF LAKE)

William Norwood, being first duly sworn, deposes and says he is the plaintiff in the above entitled cause and that he is a poor person within the meaning of the statute; that he has a meritorious cause of action for damages resulting from contracting a lung desease from enhaling dust and fumes while in the employ of said company; that his pecuniary circumstances are such that he is unable to pay the costs of suit; that he is out of work at the present time and is dependent for his subsistence upon such work as he may be able to get at different times, and upon charity; that his income during the last year immediately preceding the filing of this suit was practically nothing.

That out of any moneys or properties received as a result of compromise of his demand or in satisfaction in whole or in part of any judgment or decree in this case, he hereby agrees that he will immediately upon receipt thereof, pay to the Clerk of the court the amount of all accrued costs due from him as said plaintiff, and further affiant sayeth not.

William Norwood

Subscribed and sworn to before me this 9th day of March, A.D. 1935.

Mary L. Weygant
Notary Public

(Notarial Seal)

Endorsed:
"Filed Mar. 23'35
"L. J. Wilmot, Clerk"

AND ON THE SAME DAY, to-wit: On the 23rd day of March A.D. 1935 being one of the days of said term of said Court the following among other proceedings were had and entered of record in said Court, to-wit:

WILLIAM NORWOOD	)
34733 vs	)
JOHNS MANVILLE Inc.	)
a corporation	)

O R D E R

This matter having come on to be heard upon the affidavit of William Norwood that he is a poor person, and the affidavit of A. V. Smith, his solicitor, and the court being fully advised in the matter, it is ordered, adjudged and decreed that the said William Norwood be allowed to commence his above entitled suit without paying the advanced costs of filing same, and the sheriff's fees for service of summons therein.

STATE OF ILLINOIS)
COUNTY OF LAKE) ss.

IN THE CIRCUIT COURT OF LAKE COUNTY

WILLIAM NORWOOD, Plaintiff.
v.
JOHNS-MANVILLE, INC., a corporation, Defendant.

No. 34733

NOTICE

To: A. V. Smith
Waukegan, Illinois

PLEASE TAKE NOTICE That on Saturday, the 4th day of May, A. D. 1935, at the hour of 9:20 A.M., or as soon thereafter as counsel can be heard, we shall appear before his Honor, Judge Ralph J. Dady, in the room in the County Building at Waukegan, usually occupied by him as a Court Room, or in his absence before such other Judge as may be sitting in his stead, and shall then and there move the Court to enter an order removing the above entitled cause to the District Court of the United States for the Northern District of Illinois, Eastern Division, and in support of such motion shall present a petition and bond, as per copies attached hereto, at which time and place you may appear if you so are fit.

Hoth & Lester
Attorneys for defendant.

Received a copy of the foregoing notice, together with copies of petition, bond and order this _____ day of _____, 1935, before 4 P.M.

_____
Attorneys for Plaintiff.

STATE OF ILLINOIS }
COUNTY OF C O O K } ss.

FLORENCE SCOTT, being first duly sworn, on oath deposes and says that she is an employee of the law firm of Heth & Lister, attorneys for the defendant in the above entitled cause; that she caused a copy of the foregoing notice, together with copies of petition, bond and order to be served upon the following in the mail chute in the One LaSalle Building, at 1 North LaSalle Street, Chicago Illinois, postage prepaid, at the hour of 2 o'clock P.M., on May 2, 1935, in the envelope addressed as follows:

Mr. A. V. Smith
Waukegan, Illinois

Florence Scott

Subscribed and sworn to before me this 2d day of May, 1935.

Betty L. Hartel
(notarial seal) Notary Public.

Endorsed:
"Filed May 4-'35
"L. J. Wilmot
"Clerk."

Circuit Court Record, Common Law. MARCH Term, 19 35 . March 23rd, 19 35.

Saturday the 23rd day of March in the year of our Lord One Thousand Nine Hundred and Thirty-Five (A.D. 1935). Court met pursuant to adjournment.

Present: Honorable Ralph J. Dady, Presiding Judge,
L.J. Wilmot, Clerk
Charles E. Mason, State's Attorney,
L.A. Doolittle, Sheriff,

Attest: L.J. Wilmot, Clerk.

	William Horwood	)
34733	vs.	)
	Johns-Manville Inc., a	)
	Corporation	)

ORDER

This matter having come on to be heard upon the affidavit of William Horwood that he is a poor person, and the affidavit of A.V. Smith, his solicitor, and the Court being fully advised in the matter, it is ordered, adjudged and decreed that the said William Horwood be allowed to commence his above entitled suit without paying the advanced costs of filing same, and the sheriff's fees for service of summons therein.

	William Horwood, Plaintiff	)
34733	vs.	)
	Johns-Manville, Inc., a	)
	Corporation, Defendant	)

ORDER

This cause coming on for hearing upon the petition and bond of the defendant herein for an order transferring this cause to the United States District Court for the Northern District of Illinois, Eastern Division, and it appearing to the Court that the defendant has filed its petition for such removal in due form of law, and that the defendant has filed its bond, duly conditioned, with good and sufficient sureties as provided by law, and has tendered the plaintiff fees and legal costs thereon; and it appearing to the Court that the time for removal in said Superior Court [illegible]

[illegible] and to be hereby directed to the United States District Court for the Northern District of Illinois, Eastern Division, and the Clerk is hereby directed to make up the record in said cause for transmission to said Court forthwith.

STATE OF ILLINOIS)
)
COUNTY OF L A K E) SS

I, SALLY D. COFFELT, Clerk of the Circuit Court of the NINETEENTH JUDICIAL CIRCUIT, LAKE COUNTY, in and for the State of Illinois, and the keeper of the records, files and seals thereof, do hereby certify the above and foregoing to be a true, perfect and complete copy of a certain ORDER, General Number 34733 filed in my office on March 23rd 1985 in a certain cause lately pending in said Court, wherein WILLIAM NORWOOD Plaintiff and JOHNS-MANVILLE INC. Defendant.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the seal of said Court, at Waukegan, Illinois

February 24th 1982

Sally D. Coffelt
SALLY D. COFFELT
Clerk of the Circuit Court

BY: Patty Schellenberger
Deputy Clerk.

Certified Copy

from

Circuit Court of THE NINETEENTH JUDICIAL CIRCUIT,

Lake County, Illinois

UNITED STATES OF AMERICA }
STATE OF ILLINOIS } ss.

IN THE DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WILLIAM NORWOOD }
vs. } No. 44[illegible]
JOHNS-MANVILLE INC. }

MEMORANDUM OF POINTS AND AUTHORITIES ON
DEFENDANT'S MOTION TO DISMISS

Section 1 of the Occupational Diseases Act and Sections 12 and 13 of the Health, Safety and Comfort Act of the State of Illinois are unconstitutional and void.

Parks v. Libbey-Owens-Ford Glass Co.,
Supreme Court of Illinois No. 22699.

Navarro v. Illinois Steel Co.,
Supreme Court of Illinois No. 22[illegible].

Boshuizen v. Thompson & Taylor Co.,
Supreme Court of Illinois No. 22922.

Herb & Linter
Attorneys for Defendant.

poor person

.5 No. 24733

uit Court, Lake County, Illinois.

LLIAM MOFFOOD

Plaintiffs.

vs.

NS-MANVILLE INC., a corp.

Defendants.

UMMONS

HERIFF'S FEES FOR SERVICE

copies	$ 1.00
Miles traveled	$ .30
mailing copies	$
	$ .25
	$ 1.55

orsed: Sheriff of Lake County.

eg Mar 28'35

J. Wilmot, Clerk"

V. Smith

Plaintiff's Attorney.

Waukegan Washington, Ill.

Endorsed:

"STATE OF ILLINOIS)
" } SS
"COUNTY OF LAKE)

" I have duly served the within named Johns-Manville
"Inc., a corporation by reading the same to Edward J. Hampson,
"Personnel Officer of the within named Johns-Manville Inc., a
"corporation, and at the same time delivered to the said Edward
"J. Hampson, Personnel Officer of the within named Johns Manville
"Inc., a corporation, a true copy thereof this 28th day of March,
"1935. The President, Vice President, Secretary or Treasurer of the
"within named Johns-Manville Inc., a corporation, not found in my
"County, this 28th day of March, 1935.

" Lawrence A. Doolittle, Sheriff
" By S. M. Christian, Deputy."

United States District Court, Northern District of Illinois

Cause No. 44474 Date June 8, 1936

Title of Cause WILLIAM NORWOOD

-vs-

JOHNS-MANVILLE, INC., a corporation

Brief Statement of Motion: Motion of plaintiff to dismiss suit

Name of moving Counsel: Heth & Lister

Representing: Johns-Manville, Inc., a corporation

Name of opposing Counsel (if any): A. V. Smith and Paul Doolen

Waukegan, Illinois

Mo of dft to dismiss cause granted and cause dismissed at plaintiffs costs.

Hand this memorandum to the Clerk.

Counsel will not rise to address the Court until motion has been called.

State of Illinois
Lake County } ss.

I, L. J. WILMOT, Clerk of the Circuit Court in and for said County in the State aforesaid, and keeper of the Records and Seal thereof, Do Hereby Certify the foregoing to be a true, perfect and complete TRANSCRIPT of the Files and Records of my Office of a certain Cause lately pending in said Court on the Common Law Side thereof wherein William Norwood was Plaintiff and Johns-Manville Inc., a Corporation was Defendant, General No. 34733

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the Seal of said Court, at my office in Waukegan, in said County this 20th day of May A. D. 1935.

L J Wilmot
Clerk.