FILE NAME: Early Asbestos Damage Suits (EADS)

DATE: 1961

DOC#: EADS004

DOCUMENT DESCRIPTION: Documents from the Case of Fred Wenham

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CIVIL NO.

FRED C. WENHAM, by BESSIE VINA, Administratrix Ad Prosequendum,	:	
Plaintiff,	:	
vs.	:	COMPLAINT AND
JOHNS MANVILLE PRODUCTS CORPORATION, A Corporation of the State of Delaware,	:	DEMAND FOR JURY TRIAL
Defendant.	:	

Plaintiff, residing at 10 Erie Road, London, England, by way of complaint says:

FIRST COUNT

1. Plaintiff, FRED C. WENHAM, was a resident and citizen of New Jersey.

2. Defendant, JOHNS MANVILLE PRODUCTS CORPORATION, is a corporation of the State of Delaware.

3. The amount in controversy exceeds the sum of $3,000.00, exclusive of interest and costs.

4. This Court has jurisdiction under Title 28, U.S. Code, §1332.

5. Plaintiff, FRED C. WENHAM, had been employed for some time and until February 24, 1959, as an insulation materials applicator and mechanic.

6. By reason of plaintiff's employment as aforesaid, plaintiff was required to handle, work with and utilize various and sundry products manufactured by the defendant, such products containing asbestos and other fibers, dust and particles.

7. The said products of the defendant were of a

ing serious and crippling diseases, including but not limited to pulmonary asbestosis, fibrosis and pneumoconiosis.

8. Defendant knew or should have known of the dangerous and toxic qualities of its products and of the likelihood of said serious diseases resulting from prolonged exposure to and handling of the said products.

9. Defendant was negligent in failing to conduct or properly to conduct research concerning the contents, make-up and toxic effect of its products, and was further negligent in the manufacture, make-up, packaging and labeling of such dangerous and toxic products and was further negligent in failing to provide any or adequate warnings or instructions as to the use and handling of same. By reason of the defendant's negligence as aforesaid, plaintiff and others have been exposed to and have contracted the aforesaid serious and crippling diseases.

10. By reason of the foregoing, plaintiff contracted a serious and crippling disease effecting his lungs and other parts of his body, and by reason of the same incurred considerable medical and hospital expenses, and expended large sums of money on drugs and medicines, was subjected to great pain and suffering, and was compelled to terminate his employment and became permanently incapacitated for the rest of his life, until May 31st, 1960, on which date plaintiff died as a result of the occupational disease contracted in his employment.

WHEREFORE, plaintiff demands judgment against the defendant in the sum of $100,000.00 and costs of suit upon the First Count.

SECOND COUNT

3. Plaintiff as one of the class of persons whom the defendant intended to, and knew or should have known, would use said products was entitled to the benefits of the aforesaid warranty.

4. The said products were not in fact reasonably fit and safe for the uses to which they were to be put in the respects set forth in Paragraphs 7 and 8 above and further in that they contained no, nor adequate warnings or instructions as to their use and handling.

5. Plaintiff repeats the allegations of Paragraph 10 above.

WHEREFORE, plaintiff demands judgment against the defendant in the sum of $100,000.00, and costs of suit, upon the Second Count.

THIRD COUNT

1. Fred C. Wenham died on May 31st, 1960.

2. On June 30th, 1960, Bessie Vina, the daughter of Fred C. Wenham, was appointed Administratrix Ad Prosequendum, by the Essex County Surrogate's Court on behalf of Fred C. Wenham, who died intestate, authorizing and empowering her to prosecute an action for damages by reason of the wrongful death of FRED C. WENHAM.

3. Plaintiff repeats the allegations of the First and Second Counts and makes the same a part hereof.

4. Defendant, JOHNS MANVILLE PRODUCTS CORPORATION, by its wrongful act, default or neglect, as set forth in the First and Second Counts of this complaint, caused the wrongful death of FRED C. WENHAM.

within two years of the date of death of FRED C. WENHAM.

WHEREFORE, plaintiff demands judgment against the defendant in the sum of $100,000.00, and costs of suit, upon the Third Count.

/s/ Franklin Swersky
Franklin Swersky, Esq.
Attorney for Plaintiff

Plaintiff hereby demands a trial by jury of all issues in the within action.

/s/ Franklin Swersky
Franklin Swersky, Esq.
Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FRED C. WENHAM by BESSIE VINA, Administratrix ad Prosequendum,

Plaintiff,

-vs-

JOHNS MANVILLE PRODUCTS CORPORATION, a corporation of the State of Delaware,

Defendant.

CIVIL No. 125-61
NOTICE OF DEMAND FOR SECURITY FOR COSTS

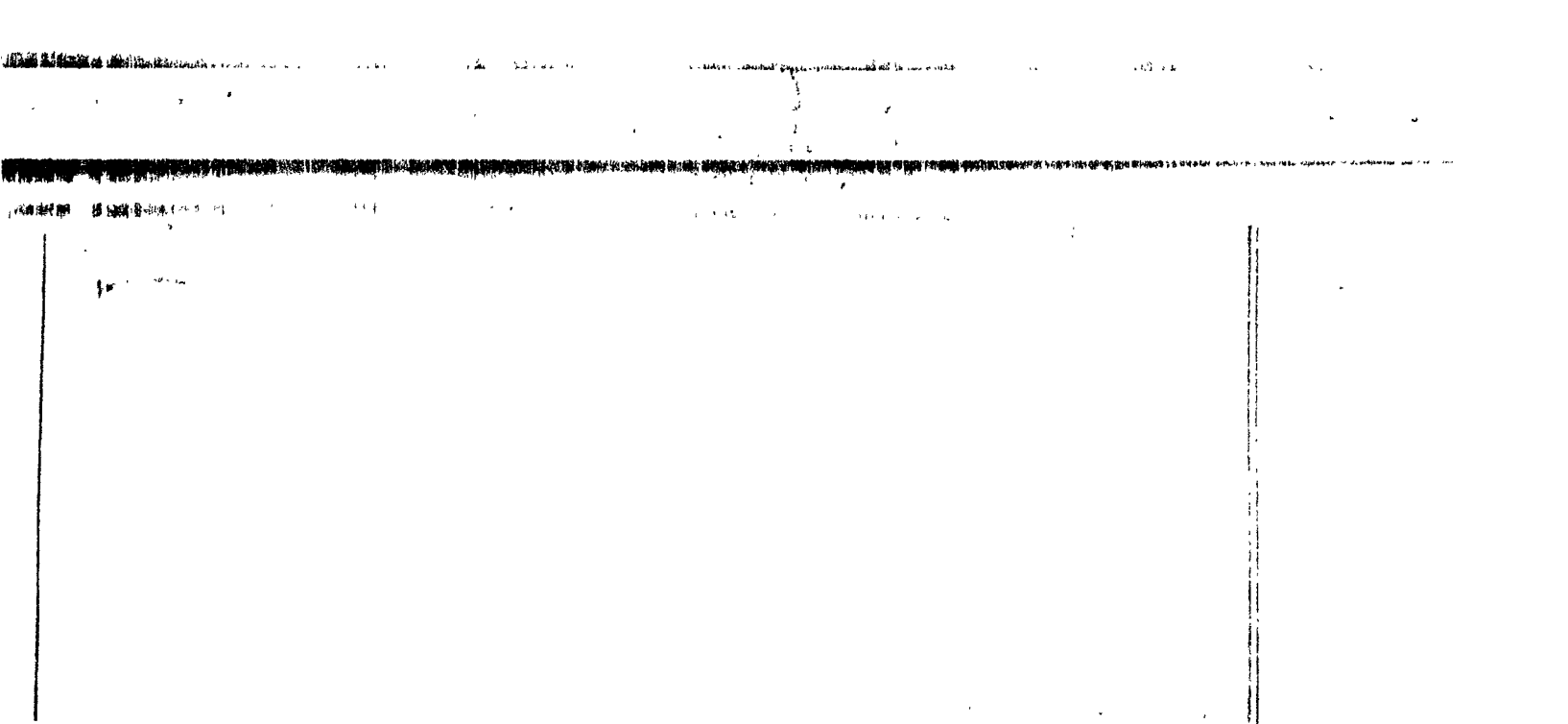
TO: FRED C. WENHAM by BESSIE VINA, Plaintiff, and
FRANKLIN SWERSKY, ESQ.
Attorney for Plaintiff
744 Broad Street
Newark 2, New Jersey

PLEASE TAKE NOTICE that the defendant demands that the plaintiff deposit security for costs pursuant to Rule 13 of the Federal Rules of Civil Procedure of the United States District Court for the District of New Jersey.

Dated: April 14, 1961

STRYKER, TAMS & DILL

By John J. Monigan, Jr.
John J. Monigan, Jr.
Attorneys for Defendant
744 Broad Street
Newark 2, New Jersey



UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CIVIL NO.

FRED C. WENHAM, by
BESSIE VINA, Administratrix
Ad Prosequendum,

Plaintiff,

vs.

JOHNS MANVILL PRODUCTS
CORPORATION, A Corporation
of the State of Delaware,

Defendant.

COMPLAINT AND
DEMAND FOR JURY TRIAL

FRANKLIN SWERSKY, ESQ.
Attorney for Plaintiff
744 BROAD STREET
NEWARK 2, NEW JERSEY

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FRED C. WENHAM by BESSIE VINA,
Administratrix ad Prosequendum,

Plaintiff,

-vs-

JOHNS MANVILLE PRODUCTS CORPORATION, a corporation of the State of Delaware,

Defendant.

Civil No. 125-61
NOTICE OF DEMAND FOR SECURITY FOR COSTS

STRYKER, TAMS & DILL
744 Broad Street
Newark 2, New Jersey
Attorneys for Defendant

Service of a copy of the within notice of demand for security for costs is hereby acknowledged this 14th day of April, 1961.

/s/ Franklin Swersky

Franklin Swersky
Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FRED C. WENHAM by BESSIE VINA, Administratrix ad Prosequendum,

Plaintiff,

-vs-

JOHNS MANVILLE PRODUCTS CORPORATION, a corporation of the State of Delaware,

Defendant,

Civil No. 125-61
ANSWER

The defendant, Johns Manville Products Corporation, a corporation of the State of Delaware, duly licensed to transact business in the State of New Jersey, having an office therein in the Borough of Manville, County of Somerset, answering the complaint filed herein says that:

FIRST DEFENSE TO FIRST COUNT

1. It has no knowledge sufficient to form a belief as to the allegations of paragraph 1.

2. It admits paragraph 2.

3. It has no knowledge sufficient to form a belief as to the allegations of paragraphs 3, 4, 5 and 6.

4. It denies paragraphs 7 and 8.

5. It denies paragraph 9.

6. It denies paragraph 10.

SECOND DEFENSE TO FIRST COUNT

7. It alleges that any danger to which Fred C. Wenham was exposed in the use of the products manufactured by the defendant was as open, obvious and apparent to him as to

degree of care and caution which a reasonably prudent person would have exercised in his use of the products which the defendant manufactured.

FOURTH DEFENSE TO FIRST COUNT

9. It alleges that any claim for personal injuries resulting from the alleged negligence of the defendant is barred by the applicable provisions of the New Jersey Statute of Limitations (N.J.S. 2A:14-2).

FIRST DEFENSE TO SECOND COUNT

10. Answering paragraph 1, it repeats paragraphs 1, 2, 3 and 4 hereof.

11. Answering paragraph 2, it admits that in the sale of its products it made such implied warranties as it was obliged by law to make, but it alleges that no warranties, express or implied, were made to Fred C. Wenham.

12. It denies paragraphs 3 and 4.

13. Answering paragraph 5, it repeats paragraph 6 hereof.

SECOND DEFENSE TO SECOND COUNT

14. It alleges that the Second Count fails to state facts upon which a claim for relief can be based.

FIRST DEFENSE TO THIRD COUNT

15. It has no knowledge sufficient to form a belief as to the allegations of paragraphs 1 and 2.

16. Answering paragraph 3, it repeats paragraphs 1, 2, 3, 4, 5, 6, 10, 11, 12 and 13 hereof.

17. It denies paragraph 4.

SECOND DEFENSE TO THIRD COUNT

19. It repeats paragraph 7 hereof.

THIRD DEFENSE TO THIRD COUNT

20. It repeats paragraph 8 hereof.

STRYKER, TAMS & DILL

By John J. Monigan, Jr.
John J. Monigan, Jr.
Attorneys for Defendant
744 Broad Street
Newark 2, New Jersey

Service of a copy of the within answer is hereby acknowledged this day of April, 1961.

Franklin Swersky
Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FRED C. WENHAM by BESSIE VINA, Administratrix ad Prosequendum,

Plaintiff,

-vs-

JOHNS MANVILLE PRODUCTS CORPORATION, a corporation of the State of Delaware,

Defendant.

Civil No. 125-61

ANSWER

STRYKER, TAMS & DILL
744 Broad Street
Newark 2, New Jersey
Attorneys for Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FRED C. WENHAM by BESSIE VINA, Administratrix ad Prosequendum, Plaintiff, -vs- JOHNS MANVILLE PRODUCTS CORPORATION, a corporation of the State of Delaware, Defendant.	Civil No. 125-61 INTERROGATORIES

TO: BESSIE VINA, Plaintiff, and
FRANKLIN SWERSKY, ESQ.
744 Broad Street
Newark 2, New Jersey

PLEASE TAKE NOTICE that the defendant requires that within the time required by the Federal Rules of Civil Procedure you answer the following interrogatories under oath:

1. State specifically each of the products manufactured by the defendant which plaintiff claims have toxic or dangerous qualities.

2. State specifically the names of all the substances or properties in the products referred to in No. 1 which the plaintiff claims are dangerous and toxic, listing the toxic or dangerous substances or properties found in each product.

3. State in what manner each of the materials, substances and properties referred to in Nos. 1 and 2 are claimed to be toxic and dangerous.

4. State in what manner the plaintiff alleges that

5. Specify what warnings and instructions it is claimed this defendant should have issued with respect to the use and handling of its products.

6. State specifically in what manner or by reason of what facts the plaintiff claims this defendant knew or should have known of the alleged toxic and dangerous qualities of its products and state further to which products this knowledge applied.

7. If it is claimed that this defendant was negligent in the packaging of its products state in detail all facts upon which said claim is based.

8. State the names and addresses of all persons alleged by the plaintiff to have contracted the serious and crippling diseases referred to in the complaint and specify which disease or diseases each one contracted.

9. State with particularity what parts of the deceased's body are alleged to have been affected by the diseases referred to in the complaint.

10. State in detail all facts upon which the plaintiff claims the defendant was negligent in the manufacture of the products referred to in the complaint.

11. State in detail all facts upon which the plaintiff bases her claim that this defendant was negligent in the make up of the products referred to in the complaint.

12. State in detail all facts upon which plaintiff bases her claim that the defendant was negligent in labeling

sanatoriums, or rest homes to which the decedent was admitted as a result of alleged exposure to the products referred to in the complaint, and give the dates of admission to and discharge from each.

15. State the full name and date of birth of the decendent Fred C. Wenham and his full address on the date of his death.

16. State the name and address of every employer of the decedent who used any product manufactured by the defendant and state the name of the product used by each

17. State the date upon which the decedent began to work for each such employer as contemplated in No. 16 and state the last date he performed work for each.

18. State chronalogically all positions held by the decedent as an employee of each of the employers listed in the answer to interrogatory #17 during the time set forth in No. 17, give the dates during which he was employed in each capacity, and describe in detail each and every duty which he was required to perform in each position or capacity.

19. State specifically to which of the products alleged to be toxic and dangerous the decedent was exposed during his employment with each such employer, indicating particularly which position required contact or exposure to which of the products alleged to be toxic or dangerous.

20. State whether it is claimed that the decedent purchased from the defendant any of the products manufactured by it which it is claimed caused the disabilities referred

and place of purchase, and the name, address, and position with the defendant of the person from whom it was purchased, the purpose for which it was purchased and the use to which it was put.

22. State the medical name of the disease or diseases which it is alleged the decedent contracted by reason of his handling, working with and utilization of the products manufactured by the defendant.

23. State the date upon which the diagnosis of such disease or diseases was first made and give the full name and address of the physician or physicians by whom such diagnosis was made.

24. Give the names and addresses of all physicians who have rendered treatment to the plaintiff for the disabilities referred to in the complaint and state the dates on which each physician so treated the deceased.

25. State the names and addresses of all physicians who have examined the deceased or been consulted by him in connection with the disabilities alleged in the complaint and state the date upon which each examination or consultation took place.

26. If the deceased ever suffered prior injury, disease, or disability affecting any part of his body which the plaintiff now claims to have been affected by the products of the defendant, state:

(a) the date such injury, disease or disability was suffered

(d) the names and addresses of all persons to whom and organizations to which any claim was made by reason of such injury

(e) a detailed statement of the nature of the claim.

27. State the name and address of each person now known to the plaintiff who has knowledge of any facts pertaining to the claims for relief asserted in the complaint.

28. State the name and address of any expert (and state the field in which he is specifically qualified) now known to the plaintiff who is familiar with any of the allegations contained in the complaint.

29. Itemize the sums which it is alleged in paragraph 9 of the First Count of the Complaint that the deceased has paid or was obligated to pay for medicines and drugs, and medical and hospital care and treatment, setting forth the name and address of each person or entity to whom an obligation was incurred and the items for which each was so incurred.

30. State which of the obligations listed in the foregoing interrogatory have been paid.

31. State the date on which the plaintiff claims the deceased became permanently disabled.

32. State the date upon which the plaintiff alleges the deceased was compelled to terminate the employment referred to in paragraph 10 of the First Count.

33. State the date, place and time of the deceased's

death, the dates he worked for each employer, and the wages or salary received from each.

35. State whether the deceased ever worked as steam fitter, or pipe coverer. If so, state:

(a) the period during which he so worked

(b) the name and address of his employer.

36. Specify precisely in what aspects and pursuant to what duties of his employment the decedent was required to work with, handle and utilize the products alleged in the complaint to be toxic and dangerous.

37. State whether the decedent received any Workman's Compensation benefits for the disability alleged in paragraph 10 of the First Count of the Complaint. If so, state:

(a) the period, giving dates, during which the decedent received any compensation

(b) the nature and extent of permanent disability which he received, specifying the percentage loss of each portion of his body for which such benefits were paid, and the total amount of such benefits actually received.

38. State in what manner plaintiff alleges that defendant warranted its products to be reasonably fit and safe for the uses to which they were to be put.

39. Specify what class or classes of persons it is alleged in paragraph 3 of the Second Count that this defendant intended to be the beneficiaries of the warranty alleged in the Complaint.

41. Specify in detail:

(a) in what manner the plaintiff contends the defendant's products were unfit and unsafe for the uses to which they were to be put

(b) what products the plaintiff alleges were unfit and unsafe

(c) what uses the plaintiff contends the products referred to in (b) were to be put.

42. Specify in detail what manner the plaintiff contends this defendant caused the death of Fred C. Wenham,

43. State the date and place of the decedent's marriage to Annie Florence Wenham.

44. State whether an autopsy was performed upon the body of the deceased, Fred C. Wenham.

45. If the answer to No. 44 is "Yes", state:

(a) the time and place where the same was performed

(b) the name and address of the physician performing the said autopsy

(c) the names and addresses of all persons who assisted at the same

(d) whether any report of the autopsy has been made.

46. If the answer to No. 45 (d) is affirmative, state the name and address of the present custodian of such report and attach a copy of the same hereto.

Fred C. Wenham, and state the name and address of the present custodian of the original report.

48. If the deceased Fred C. Wenham left surviving him any next of kin, state the name and address of each next of kin.

49. With respect to each person named in interrogatory No. 48, state:

(a) his or her relationship to the decedent

(b) his or her age on the date of the decedent's death

(c) his or her address on the date of decedent's death

(d) the names and addresses of each of his or her employers for the ten years immediately prior to the date of Fred C. Wenham's death, and the salary or wages received by each such person from each employer specified

(e) all sources of his or her income other than those specified in answer to interrogatory No. 49 (d) herein for five years immediately preceding the date of the decedent's death and the amount received each year from each source so specified

(f) the marital status of each, giving the date of marriage.

50. State in detail and exactness how it is claimed

(b) suffered pecuniary loss from and by reason of the death of Fred C. Wenham.

51. State the decedent's:

(a) gross income, and

(b) take home pay for each year commencing with January 1, 1955, until the date of his death.

52. State all sources of income which the decedent received within the five years immediately preceding his death other than those referred to in No. 51, and state the amount received each year by the decedent from each source so specified.

53. Itemize with exactness the amount of any salary mentioned in answer to No. 51 and the amount of any other income mentioned in answer to No. 52, which the decedent paid over to any person mentioned in answer to No. 49, stating the name of the person to whom paid and the purpose of each payment.

54. Furnish an itemization of the amount spent by the decedent's household during the year 1960 for the major items of expense including the following:

(a) Income Taxes

(b) Real Estate Taxes

(c) Social Security and Unemployment Taxes

(d) Mortgage Interest

(e) Mortgage Amortization

(f) Home maintenance and repair, including

Service of a copy of the within Interrogatories is hereby acknowledged this 7th day of September, 1961.

Franklin Swersky
Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FRED C. WENHAM by BESSIE VINA,
Administratrix ad Prosequendum,

Plaintiff,

-vs-

JOHNS MANVILLE PRODUCTS CORPORATION, a corporation of the State of Delaware,

Defendant.

Civil No. 125-61

INTERROGATORIES

STRYKER, TAMS & DILL
Attorneys for Defendant
744 Broad Street
Newark 2, New Jersey

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
Civil No. 125-61

FILED

FRED C. WENHAM by BESSIE VINA, Administratrix ad Prosequendum,

Plaintiff,

vs.

JOHNS-MANVILLE PRODUCTS CORPORATION, a corporation of the State of Delaware,

Defendant.

MAR 1 1962
AT 10:30 A.M.
MICHAEL KELLER, JR.
CLERK

Civil Action

STIPULATION OF DISMISSAL

It is hereby stipulated and agreed by and between the attorneys for the respective parties hereto that the above matter be dismissed with prejudice but without costs to either party.

Franklin Swersky, Esq.
Attorney for Plaintiff

STRYKER, TAMS & DILL, ESQS.
Attorneys for Defendant

By: John J. Lonigan, Jr., Esq.

It is so ordered. 3/1/62

USDJ

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CIVIL NO. 126-61

FILED

FEB 23 1961

AT 8:30 A M
MICHAEL ROLLER, CLERK

FRED C. WENHAM, by BESSIE VINA, Administratrix Ad Prosequendum,	:	
Plaintiff,	:	
vs.	:	COMPLAINT AND
JOHNS MANVILLE PRODUCTS CORPORATION, A Corporation of the State of Delaware,	:	DEMAND FOR JURY TRIAL
Defendant.	:	

Plaintiff, residing at 10 Eric Road, London, Engla by way of complaint says:

FIRST COUNT

1. Plaintiff, FRED C. WENHAM, was a resident and citizen of New Jersey.

2. Defendant, JOHNS MANVILLE PRODUCTS CORPORATIO is a corporation of the State of Delaware.

3. The amount in controversy exceeds the sum of $3,000.00, exclusive of interest and costs.

4. This Court has jurisdiction under Title 28, U.S. Code, §1332.

5. Plaintiff, FRED C. WENHAM, had been employe for some time and until February 24, 1959, as an insulation materials applicator and mechanic.

6. By reason of plaintiff's employment as afo said, plaintiff was required to handle, work with and utiliz various and sundry products manufactured by the defendant, products containing asbestos and other fibers, dust and vap ... products of the defendant were o

ing serious and crippling diseases, including but not limited to pulmonary asbestosis, fibrosis and pneumoconiosis.

8. Defendant knew or should have known of the dangerous and toxic qualities of its products and of the likelihood of said serious diseases resulting from prolonged exposure to and handling of the said products.

9. Defendant was negligent in failing to conduct or properly to conduct research concerning the contents, make-up and toxic effect of its products, and was further negligent in the manufacture, make-up, packaging and labeling of such dangerous and toxic products and was further negligent in failing to provide any or adequate warnings or instructions as to the use and handling of same. By reason of the defendant's negligence as aforesaid, plaintiff and others have been exposed to and have contracted the aforesaid serious and crippling diseases.

10. By reason of the foregoing, plaintiff contracted a serious and crippling disease effecting his lungs and other parts of his body, and by reason of the same incurred considerable medical and hospital expenses, and expended large sums of money on drugs and medicines, was subjected to great pain and suffering, and was compelled to terminate his employment and became permanently incapacitated for the rest of his life, until May 31st, 1960, on which date plaintiff died as a result of the occupational disease contracted in his employment.

WHEREFORE, plaintiff demands judgment against the defendant in the sum of $100,000.00 and costs of suit upon the First Count.

SECOND COUNT

3. Plaintiff as one of the class of persons whom the defendant intended to, and knew or should have known, would use said products was entitled to the benefits of the aforesaid warranty.

4. The said products were not in fact reasonably fit and safe for the uses to which they were to be put in the respects set forth in Paragraphs 7 and 8 above and further in that they contained no, nor adequate warnings or instructions as to their use and handling.

5. Plaintiff repeats the allegations of Paragraph 10 above.

WHEREFORE, plaintiff demands judgment against the defendant in the sum of $100,000.00, and costs of suit, upon the Second Count.

THIRD COUNT

1. Fred C. Wenham died on May 31st, 1960.

2. On June 30th, 1960, Bessie Vina, the daughter of Fred C. Wenham, was appointed Administratrix Ad Prosequendum, by the Essex County Surrogate's Court on behalf of Fred C. Wenham, who died intestate, authorizing and empowering her to prosecute an action for damages by reason of the wrongful death of FRED C. WENHAM.

3. Plaintiff repeats the allegations of the First and Second Counts and makes the same a part hereof.

4. Defendant, JOHNS MANVILLE PRODUCTS CORPORATION, by its wrongful act, default or neglect, as set forth in the First and Second Counts of this complaint, caused the wrongful death of FRED C. WENHAM.

5. FRED C. WENHAM left him surviving his wife

within two years of the date of death of FRED C. WENHAM.

WHEREFORE, plaintiff demands judgment against the defendant in the sum of $100,000.00, and costs of suit, upon the Third Count.

Franklin Swersky, Esq.
Attorney for Plaintiff

Plaintiff hereby demands a trial by jury of all issues in the within action.

Franklin Swersky, Esq.
Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FRED C. WENHAM by BESSIE VINA, Administratrix ad Prosequendum, Plaintiff, -vs- JOHNS MANVILLE PRODUCTS CORPORATION, a corporation of the State of Delaware, Defendant.	Civil No. 125-61 ANSWER

The defendant, Johns Manville Products Corporation, a corporation of the State of Delaware, duly licensed to transact business in the State of New Jersey, having an office therein in the Borough of Manville, County of Somerset, answering the complaint filed herein says that:

FIRST DEFENSE TO FIRST COUNT

1. It has no knowledge sufficient to form a belief as to the allegations of paragraph 1.

2. It admits paragraph 2.

3. It has no knowledge sufficient to form a belief as to the allegations of paragraphs 3, 4, 5 and 6.

4. It denies paragraphs 7 and 8.

5. It denies paragraph 9.

6. It denies paragraph 10.

SECOND DEFENSE TO FIRST COUNT

7. It alleges that any danger to which Fred C. Wenham was exposed in the use of the products manufactured by the defendant was as open, obvious and apparent to him as to the defendant, and he assumed any and all risk incident to the

degree of care and caution which a reasonably prudent person would have exercised in his use of the products which the defendant manufactured.

FOURTH DEFENSE TO FIRST COUNT

9. It alleges that any claim for personal injuries resulting from the alleged negligence of the defendant is barred by the applicable provisions of the New Jersey Statute of Limitations (N.J.S. 2A:14-2).

FIRST DEFENSE TO SECOND COUNT

10. Answering paragraph 1, it repeats paragraphs 1, 2, 3 and 4 hereof.

11. Answering paragraph 2, it admits that in the sale of its products it made such implied warranties as it was obliged by law to make, but it alleges that no warranties, express or implied, were made to Fred C. Wenham.

12. It denies paragraphs 3 and 4.

13. Answering paragraph 5, it repeats paragraph 6 hereof.

SECOND DEFENSE TO SECOND COUNT

14. It alleges that the Second Count fails to state facts upon which a claim for relief can be based.

FIRST DEFENSE TO THIRD COUNT

15. It has no knowledge sufficient to form a belief as to the allegations of paragraphs 1 and 2.

16. Answering paragraph 3, it repeats paragraphs 1, 2, 3, 4, 5, 6, 10, 11, 12 and 13 hereof.

17. It denies paragraph 4.

18. It has no knowledge sufficient to form a belief

SECOND DEFENSE TO THIRD COUNT

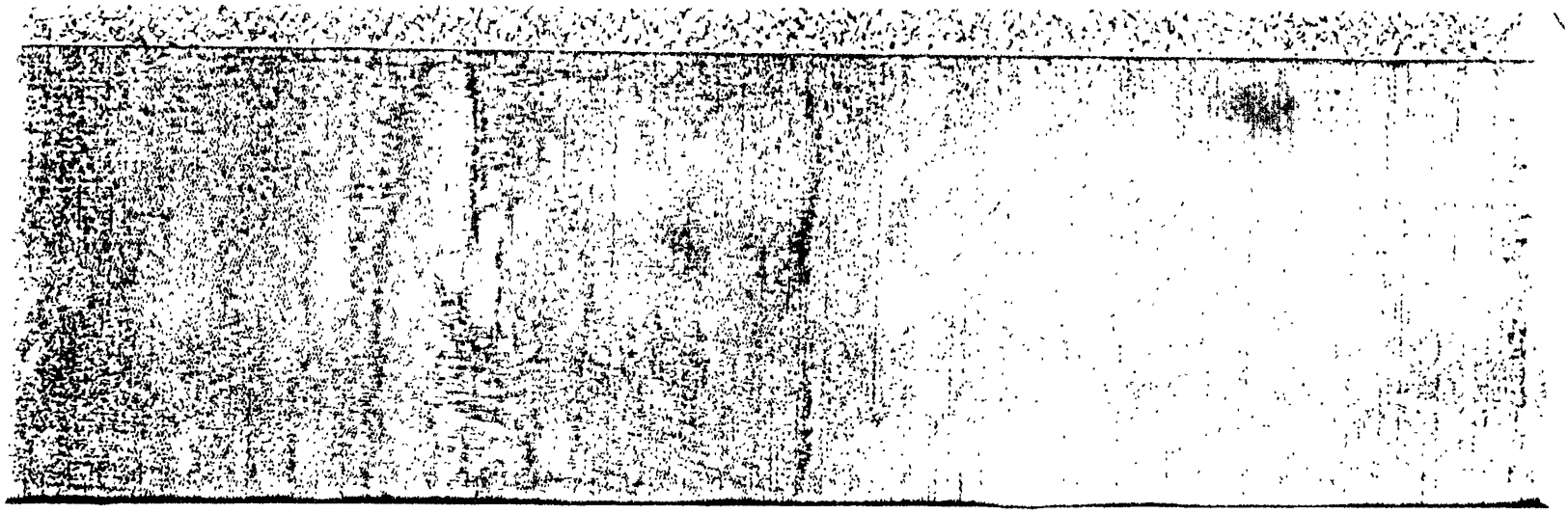
19. It repeats paragraph 7 hereof.

THIRD DEFENSE TO THIRD COUNT

20. It repeats paragraph 8 hereof.

STRYKER, TAMS & DILL

By John J Monigan Jr
John J. Monigan, Jr.
Attorneys for Defendant
744 Broad Street
Newark 2, New Jersey



125 - 61

FRED C. WEAVER BY
BESSIE VIOLA, ALLIED BROS. V. JM
SUMMONS + COMP. FILED 2 - 23-61

STIP. + AGR. BET PARTIES
DISMISSING COMPLAINT W/PREJ. 3-1-62

PRODS. COMP. ASBESTOS + OTHER
FIBERS, DUST, + PARTICLES
PART. BUT N. L. TO .....

DOES NOT
INCLUDING
REFER N. L. TO ASBESTOSIS, FIBROSIS, +
PNEUMONOCONIOSIS

(h) Food

(i) Furniture

(j) Clothing for each member of household

(k) Medical Expenses

(l) Automobile, including maintenance and operation

(m) Travel

(n) Entertainment

(o) Savings

(p) Educational expenses

(q) Premiums for insurance covering the life or health of each member of the household

55. State the date upon which the symptoms of the conditions alleged in the complaint to be serious and crippling first manifested themselves upon the deceased.

56. Set forth in detail the nature of the symptoms referred to in No. 55, and state the names and addresses of all physicians consulted by the decedent with reference to the said symptoms and give the dates of all consultations or examination arising therefrom.

STRYKER, TAMS & DILL

By John J. Monigan, Jr.
John J. Monigan, Jr.
Attorneys for Defendant