

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

CAROLYN SUE STEVENS,
Administratrix of the Estate
of Ernest Lee Stevens, Deceased;
and CAROLYN SUE STEVENS,
individually,

Plaintiff,

vs.

CIVIL ACTION NO. CA-82-3821

UNION CARBIDE CORPORATION, ,
a corporation; and FMC
CORPORATION, a
corporation,

Defendants.

AMENDED COMPLAINT

The plaintiff alleges as follows:

1. At all times mentioned herein, the decedent, Ernest Lee Stevens, was a resident and citizen of the County of Kanawha in the State of West Virginia.

2. That at all times mentioned herein, the defendants were engaged in the manufacturing of chemicals and chemical products and each had plants located in South Charleston, Kanawha County, West Virginia.

3. That each of the defendants' plants were located in close proximity to a residential section of Charleston known as "North Charleston."

4. That at all times mentioned herein, and for at least ten years prior to the day of this complaint, the decedent,

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Ernest Lee Stevens, was a resident of "North Charleston" residing at 311 32nd Street.

5. That the defendant, Union Carbide Corporation, also had a tank car loading facility located adjacent to the residential area known as "North Charleston."

6. For the entire time that the decedent was a resident of "North Charleston," the defendant emitted dangerous chemicals and the residue of said chemicals into the air.

7. At all times mentioned herein, the defendants knew or should have known of the dangerous qualities of those emissions and that those chemicals and residues were hazardous to the health of those residents living in close proximity to their plants and tank facilities, including but not limited to the residents of "North Charleston."

8. That at all times mentioned herein, the said emissions constituted a nuisance.

9. That at all times mentioned herein, the defendants' acts were wilful, wanton, malicious, and in reckless disregard of the decedent's rights and the rights of others.

10. That at all times mentioned herein, the emissions were a direct and proximate result of the negligence of the defendants, which was joint, several and concurrent.

11. As a direct and proximate result of the emissions of chemicals and residues of said chemicals, the decedent, Ernest Lee Stevens, contracted cancer and subsequently died from that disease on February 11, 1984.

12. That as a further consequence of the acts of the defendants as hereinabove described, the said decedent, Ernest Lee Stevens, sustained:

- (a) Pain and suffering; and
- (b) Medical expenses.

13. That the plaintiff, Carolyn Sue Stevens, is the wife of the decedent, Ernest Lee Stevens, and that the plaintiff, Carolyn Sue Stevens, in said capacity, has, as a result of the acts of the defendants, sustained great and irreparable loss in that she will be deprived for the remainder of her life of the society, companionship, consortium and services of her husband.

14. That the plaintiff, Carolyn Sue Stevens, has been duly appointed as the Administratrix of the Estate of Ernest Lee Stevens, the decedent, by the County Commission of Kanawha County, on the 22nd day of February, 1984, and is now acting in said capacity.

15. That the decedent, Ernest Lee Stevens, is survived by the following as his sole heirs of law:

- (a) Carolyn Sue Stevens, wife;
- (b) Ernest Stevens, son.

16. That the said areas of loss and suffering are as follows:

- (a) Loss of support and earnings;
- (b) Sorrow, mental anguish, and solace;
- (c) Companionship, comfort, guidance, kindly offices, and advice of the decedent;
- (d) Reasonable funeral expenses.

WHEREFORE, the plaintiff, Carolyn Sue Stevens, Administratrix of the Estate of Ernest Lee Stevens, demands judgment against the defendants for compensatory damages in the sum of Two Million Dollars (\$2,000,000.00), and for punitive damages in the sum of Two Million Dollars (\$2,000,000.00).

WHEREFORE, the plaintiff, Carolyn Sue Stevens, individually demands judgment against the defendants for compensatory damages in the sum of Five Hundred Thousand Dollars (\$500,000.00), and punitive damages in the sum of Five Hundred Thousand Dollars (\$500,000.00).

Plaintiff demands a trial by jury.

CAROLYN SUE STEVENS
By Counsel

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