SEP 13 1977

SUMMONS IN A CIVIL ACTIO

CIV. 1a (2-64)
(Formerly D.C. Form No.45a Rev. (6-49))

United States District Court

FOR THE

Northern District of Ohio, Western Division

C 77-472

CIVIL ACTION FILE NO. _____

JUDGE NICHOLAS J. WALINSKI

E. BURKE JONES and
ROGER E. BARNES

Plaintiff

v.

MONSANTO INDUSTRIAL
CHEMICAL CO.

Defendant

SUMMONS

To the above named Defendant :

You are hereby summoned and required to serve upon

M. DONALD CARMIN, ESQ.

plaintiff's attorney , whose address

708 UNITED SAVINGS BLDG.
2410 HURON ST.
TOLEDO, OHIO 43604

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Mark Schlachet, Clerk
Clerk of Court.

M. W. Antalek
Deputy Clerk.

Date: SEP 1 1977

[Seal of Court]

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

HARTOLDMON0095940

FILED
'77 SEP -7 PM 4:05
U.S. DISTRICT COURT
NORTHERN DISTRICT
TOLEDO, OHIO
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

E. BURKE JONES and
ROGER E. BARNES
110 1/2 E. Franklin St.
Kenton, Ohio 43326

Plaintiffs,

vs.

MONSANTO INDUSTRIAL CHEMICALS CO.
800 North Lindbergh Blvd.
St. Louis, Missouri 63141,

Defendant.

No. C 77-472

JUDGE NICHOLAS J. WALINSKI

COMPLAINT and JURY DEMAND

M. Donald Carmin (1215)
700 United Savings Bldg.
Toledo, OH 43604
Phone: 419/241-6152

1. Plaintiffs say they are residents of the State of Ohio; that defendant is a corporation organized and existing by virtue of the laws of the State of Missouri with its primary place of business in the State of Missouri; that this case is predicated on diversity of citizenship and the amount of controversy exceeds the sum of Ten Thousand Dollars ($10,000.00) exclusive of interest.

2. Plaintiffs say that they are engaged in the dairy farm business in Hardin County, Ohio; that defendant Monsanto Industrial Chemicals Company is engaged in the manufacture of chemical products and in particular a product believed to be known by the trade name of "Cumar" but in any event containing a chemical known as "Aroclor 1254" used for the purpose of coating the inside surfaces of silos.

3. Plaintiffs say that prior to May of 1976 they engaged the Michigan Silo Company, a dissolved corporation, to coat the interior surfaces of their silos and that said Michigan Silo Company used the chemical "Aroclor 1254", manufactured by defendant, for this purpose.

3. Plaintiffs say that the coating containing "Aroclor 1254" contained toxic substance which flaked off and permeated the stored silage and was consumed by plaintiffs' livestock, resulting in said livestock absorbing the toxic residues transferring the toxic substances to the milk produced by the cows of the herd.

HARTOLDMON0095941

4. Plaintiffs say that defendant is strictly liable in damages to plaintiffs for placing a toxic substance into the stream of commerce without adequate testing and failing to warn plaintiffs that the aforesaid chemical substance was dangerous and would cause damage to plaintiffs' cows, making them unsuitable for their intended uses and purposes.

5. Plaintiffs further say defendant has breached express and implied warranties of fitness for purpose for the use in silos.

6. Plaintiffs say that as a direct and proximate result of the breach of warranties, strict liability, failure to warn of dangerous toxics and placing of toxic substances in the stream of commerce plaintiffs were deprived of the use of their cattle; required to dispose of the toxic milk; and were deprived of the use of their silos and feed contained therein and loss of present and future earnings, all to their damage in the amount of Fifty Thousand Dollars ($50,000.00).

WHEREFORE, plaintiffs demand judgment against defendant in the amount of Fifty Thousand Dollars ($50,000.00) with interest thereon and costs of court.

EASTMAN, STICHTER, SMITH & BERGMAN

M. Donald Carmin
700 United Savings Building
Toledo, Ohio 43604
Telephone: 419/241-6152

Attorneys for Plaintiffs

JURY DEMAND

Plaintiffs demand trial by Jury.

HARTOLDMON0095942