CT System

The Corporation Trust Company
C T Corporation System
and Associated Companies

SERVICE OF PROCESS TRANSMITTAL FORM

ST. LOUIS (City) MISSOURI (State)

FEBRUARY 27, 1964 (Date)

(X) VIA CERTIFIED MAIL
( ) VIA CERTIFIED AIR MAIL
( ) VIA MESSENGER

TO: Mr. E. J. Putzell, Jr.
c/o Monsanto Chemical Company
800 N. Lindbergh
St. Louis 66, Missouri

RE: **PROCESS SERVED IN THE STATE OF** MISSOURI

FOR MONSANTO CHEMICAL COMPANY (Name of Company) Delaware (Home State)

Enclosed are copies of legal process served upon the statutory agent of the above company as follows:

1. Title of Action: DOROTHY BERRY vs. B. F. DRAKENFELD AND COMPANY and MONSANTO CHEMICAL COMPANY
2. Document(s) Served: Summons and Petition
3. Court: Circuit Court, Div.1, St. Louis, Missouri, No.62120 E
4. Nature of Action: Plaintiff prays judgment against defendants and each of them in the sum of $25,000.00 and costs for alleged injuries caused by using 24-018 enamel in 487 oil as supplied by defendants while employed with International Bent Glass Company, Inc., at St. Louis, Missouri
5. On Whom Process was Served: C T CORPORATION SYSTEM, St. Louis, Missouri
6. Date and Hour of Service: February 27, 1964 at 11:00 a.m.
7. Appearance or Answer Due: 30 days after service, exclusive of day of service
8. Plaintiff's Attorney(s): Guilfoil, Caruthers, Symington, Montrey & Daniel
434 Paul Brown Building
St. Louis, Missouri
9. Remarks:

KINDLY ACKNOWLEDGE RECEIPT BY SIGNING AND RETURNING TO US THE ENCLOSED CARBON COPY OF THIS TRANSMITTAL FORM.

Signed C T CORPORATION SYSTEM

Per

Address 314 North Broadway

St. Louis, Missouri

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STATE OF MISSOURI)
: ss
CITY OF ST. LOUIS)

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS

STATE OF MISSOURI

DOROTHY BERRY,

Plaintiff,

-vs-

B.F. DRAKENFELD AND COMPANY,
a corporation,
45 Park Place,
New York 7, New York
Serve: Secretary of State,
Jefferson City, Missouri,

-and-

MONSANTO CHEMICAL COMPANY,
a corporation,
Serve: C.T. Corporation Service,
314 North Broadway
Saint Louis 2, Missouri,

Defendants.

Cause No.

Division No. One

PETITION

COUNT I

Plaintiff, for his cause of action in Count I of [illegible] petition, states:

1. Defendant, B. F. Drakenfeld and Company, (hereinafter called "Drakenfeld") is and at all times hereinafter mentioned was a foreign corporation duly organized and existing under the law.

2. Defendant, Monsanto Chemical Company, (hereinafter called "Monsanto") is and at all times hereinafter mentioned,

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was a corporation organized and existing under the laws of the State of Delaware, having a registered agent and office in the City of St. Louis, State of Missouri, and having its principal place of business in the State of Missouri.

3. Defendant Drakenfeld is engaged in the business of manufacturing, preparing and distributing into the channels of trade paints and enamels, and among the various products so distributed by said defendant is an enamel known as 24-018 enamel in 487 oil.

4. Defendant Monsanto is engaged in the business of manufacturing and preparing chemicals, chemical products, oils and thinners and distributing said products into the channels of trade, and among the various products so manufactured and distributed by said defendant is the product known as Aroclor 4465.

5. Defendant Drakenfeld prepares the aforesaid product 24-018 enamel in 487 oil by combining various other materials with Monsanto's product Aroclor 4465,

[illegible] herein and know and intend that said products would be used by the consuming public and would be handled, dealt with, touched and fumes thereof would be inhaled by the public, and both defendants placed said products in the channels of trade with such knowledge and intention.

7. During the years 1955,1956,1957,1958,1959,1960 & 1961, and until the month of May, 1962, defendant Drakenfeld continuously supplied 24-018 enamel in 487 oil containing defendant Monsanto's Arclor 4465 to the International Bent Glass Company.

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Inc., in St. Louis, Missouri, and said product was used daily by said latter company in the process of making its products. At all times during which 24-018 enamel in 487 oil was so used in the manufacturing processes of International Bent Glass Company, Inc., both defendants herein did impliedly warrant and represent that the products 24-018 enamel in 487 oil and Aroclor 4465 were fit and safe for such use by the public, but both defendants and each defendant knew that such products contained chlorinated biphenyls and chlorinated triphenyls, with a high amount of chlorination; said defendants, and each of them, knew that said products would from time to time be heated or baked in ovens, and that use by the public of said products was likely to cause liver damage, skin eruptions, rashed acne, cysts and dermatitis of various kinds.

8. Plaintiff, beginning in the year 1955 and continuing until the month of May, 1962, made use of 24-018 enamel in 487 oil, as supplied by defendants in his employment with International Bent Glass Company, Inc., at St. Louis, Missouri, and, in connection therewith, handled said product, touched same, and inhaled the fumes thereof, all in reliance on the skill and judgment and aforesaid warranty of both defendants, being wholly unaware of the toxic and dangerous qualities of such products.

9. During the year 1955, after a period of use of said product, plaintiff began to suffer eruptions of plaintiff's skin over and about plaintiff's neck, shoulders, chest, back, buttocks, face, ears and eyelids; said areas became covered with *comedones*, cysts, acne, infectious lesions, papules

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and a condition known as chloracne; plaintiff's eyelids and periorbital skin became erythematous, edematous and scaly; plaintiff's liver became injured, damaged and diseased. Plaintiff continued to suffer these aforesaid conditions through the period of time during which he used 24-018 enamel in 487 oil, still suffers the residual effects of the same, and will suffer said residual effects permanently.

10. At various times throughout the period of time heretofore mentioned, diligent attempts were made by plaintiff, his employer, International Bent Glass Company, Inc., its representatives, and other employees similarly injured, and their representatives, to determine, discover and ascertain the nature, extent and cause of his disease and injury through the use of various skilled medical experts and specialists, but said medical experts and specialists were unable to determine, discover or ascertain the same. During the month of May, 1962, The Occupational Health Research and Training Facility , Division of Occupational Health, Public Health Service, United States Department of Health, Education and Welfare, as a result of an investigation conducted by its representatives in March, 1962, determined, discovered and ascertained for the first time that the direct and proximate cause of plaintiff's condition, as heretofore alleged, was the use of defendant Drakenfeld's 24-018 enamel in 487 oil, containing defendant Monsanto's Aroclor 4465, and communicated its finding to plaintiff in the month of May, 1962, thus constituting plaintiff's first knowledge of the direct and proximate cause of his condition, as heretofore alleged.

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11. As a result of the aforesaid actions of defendant Drakenfeld, said defendant has engaged in a continuous course of tortious conduct commencing in and not terminating until May, 1962, and thus defendant Drakenfeld has committed a tort in whole or in part against the person of the plaintiff in the City of St. Louis, State of Missouri, after the effective date of V.A.M.S. 1949, Section 351.630, to-wit, October 13, 1961, and has thereby agreed that the Secretary of State of Missouri shall be its agent for the service of process, all as is provided in said V.A.M.S. 1949, Section 351.630.

12. Plaintiff has become obligated for large sums of money for medical attention for the aforesaid conditions and will become obligated for additional such sums in the future in an amount not now ascertainable.

WHEREFORE, the premises considered, plaintiff prays judgment against the defendants and each of them, on this Count I of the petition for Twenty-Five Thousand Dollars ($25,000.00) and for her costs.

COUNT II

Plaintiff for his cause of action in Count II of the petition, states:

1. Plaintiff restates and realleges each and every allegation in Paragraphs 1, 2, 3, 4, 5 and 6 of Count I of this petition.

2. During the years 1955, 1956, 1957, 1958, 1959, 1960 & 1961, and until the month of May, 1962, defendant Drakenfeld contin-

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uously supplied 24-018 enamel in 487 oil containing defendant Monsanto's Aroclor 4465 to the International Bent Glass Company, Inc., in St. Louis, Missouri, and said product was used daily by said latter company in the process of making its products.

3. Both defendants and each of them knew, or in the exercise of ordinary care should have known that said products, containing highly clorinated biphenyls and triphenyls, are, and for many years have been, known to be of a toxic and dangerous nature in that they were reasonably likely to cause abnormal reactions, skin eruptions, rashes, liver damage, dermatitis and diseases, and defendants and each of them were under a duty to give an adequate warning of such dangers and risks to the public who used such products, but both defendants and each of them negligently breached said duty by failing and omitting to give an adequate warning of such dangers and risks.

4. Plaintiff restates and realleges each and every allegation of Paragraphs 8, 9 and 10 of Count I of this Petition.

5. Plaintiff was injured in the particulars alleged hereinabove in Count I, Paragraph 9, and as herein realleged in Para[illegible] this Count, as a direct and proximate result [illegible] negligence as heretofore alleged.

6. Plaintiff restates and realleges each and every allegation of Paragraphs 11 and 12, Count I of this petition.

WHEREFORE, the premises considered, plaintiff prays judgment on this Count II of this petition against the defen-

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dants, and each of them, in the sum of Twenty-Five Thousand Dollars ($25,000.00) and for her costs.

GUILFOIL, CARUTHERS, SYMINGTON
MONTREY & DANIEL

By Rexford H. Caruthers
Rexford H. Caruthers

By J. Paul Allred, Jr.
J. Paul Allred, Jr.
434 Paul Brown Building
Saint Louis 1, Missouri
CHestnut 1-6890
ATTORNEYS FOR PLAINTIFF

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Form No. 75

Circuit Court for the City of St. Louis

State of Missouri

Dorothy Berry

Plaintiff

vs.

B.F. Drakenfeld and Company, a corporation et al

Defendant

No. 62120 E

Div. 1

SUMMONS

The State of Missouri to Defendant Monsanto Chemical Company, a corporation

You are hereby summoned to appear before the above-named court and to file your pleading to the petition, copy of which is attached hereto, and to serve a copy of your pleading upon

Guilfoil, Caruthers, Symington, Montroy & Daniel attorney S for plaintiff,

whose address is 424 Paul Brown Bldg.

all within 30 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 petition.

Dated Feb uary 26th, 19 64

PHELIM O'TOOLE
Circuit Clerk.

By C. Jurnove
Deputy Clerk.

(Seal of Circuit Court)

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RETURN ON SERVICE OF SUMMONS

I hereby certify that I have served the within summons:

(1) By delivering on the.....day of....., 19.....

a copy of the summons and a copy of the petition to each of the within-named defendants.....

.....

.....

.....

(2) By leaving on the.....day of....., 19.....

for each of the within-named defendants.....

.....

.....

a copy of the summons and a copy of the petition at the respective dwelling place or usual place of abode of said defendants with some person of his or her family over the age of 15 years;

(3) By.....

.....

.....

.....

.....

All done in.....County, Missouri.

Sheriff's fees:

Summons.....$ Sheriff of.....

Non est.....$

Mileage.....$

Total.....$ By.....

Deputy Sheriff.

DIRECTIONS TO SHERIFF

A copy of the summons and a copy of the petition must be served on each defendant. For methods of service in all classes of suits see Sec. 27 Civil Code.

No. 62120 2

Div. 1

SUMMONS

Civil Code, Form No. 1

In the Case of

Plaintiff

vs.

Monsanto Chemical Co. et al

Defendant

In the Circuit Court of the City of St. Louis STATE OF MISSOURI

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