

QUEEN'S BENCH DIVISION

(Writ issued the day of 1988)

B E T W E E N :

BETTY CONSTANCE KEMP
(Widow and Administratrix
of the Estate of Maurice
Geoffrey Kemp deceased)

Plaintiff

and

WIGGINS TEAPE (UK) PLC First Defendants

and

REED INTERNATIONAL PLC Second Defendants

STATEMENT OF CLAIM

1. The Plaintiff is the widow and administratrix of the Estate of Maurice Geoffrey Kemp deceased and she brings this action for the benefit of herself as a dependant of the deceased pursuant to the Fatal Accidents Act 1976 as amended and for the benefit of the estate of the deceased pursuant to the Law Reform (Miscellaneous Provisions) Act 1934. Letters of Administration were granted to the Plaintiff out of the District Probate Registry at Oxford on 14th September 1987.

2. Between about 1967 and 1984 the deceased was employed by the First Defendants at premises which they occupied and were known as the Daily Telegraph Mills to which said premises the Factories Act 1961 applied.

3. During the course of his said employment the deceased operated a guillotine on which the brakes were made of asbestos. During the operation of the machine dust was

PLAINTIFF'S
EXHIBIT

7/822.00

SC-UK-MS-001743

generated. Further, various pipes and boilers in the plant were lagged with asbestos and part of the plant was demolished and old asbestos removed. As a result the deceased during the course of his said employment with the First Defendants was exposed to asbestos and asbestos dust.

4. Between about 1949 and 1967 the deceased was employed by the Second Defendants at premises which they occupied and were known as the London Paper Mills at Dartford in the County of Kent to which said premises the Factories Acts 1937 - 1961 applied.

5. During the course of his said employment with the Second Defendants the deceased came into contact with asbestos and asbestos dust. At the mills products called Cotton Asbestos Dry Felts were manufactured. They were used to prevent fire as paper was dried over high pressure steam filled chambers. The felts ran over revolving cylinders and the dust was generated by the movement. Dust collected in the machinery and was cleared out weekly using a hand brush and the deceased engaged in this task frequently. He worked mainly as a Callender man and later as a guillotine operator. The brakes of the guillotine were lined with asbestos. Whilst he was working at the said Mills an old building was demolished while machinery within it was still working and asbestos dust was generated. Pipes in the plant were lagged with asbestos which was in poor condition in that it flaked and released dust.

6. As a result of exposure to asbestos as aforesaid the deceased who was born on 25th December 1921 suffered injuries, loss and damage during his lifetime. As a result of his said injuries he died on 4th August 1986, the cause of death being mesothelioma due to exposure to asbestos.

PARTICULARS OF INJURIES

In about August 1984 the deceased complained to his General Practitioner of shortness of breath. X-rays showed a right pleural diffusion. Aspiration of the right pleural diffusion was carried out on several occasions during 1984. A pleural biopsy showed appearances compatible with mesothelioma. The deceased in 1986 was treated with oxygen at home. He was depressed and breathless. He could not carry out his gardening. His illness progressed until he died at home on 4th August 1986.

PARTICULARS OF LOSS DURING THE LIFETIME OF THE DECEASED

Details will be provide on Discovery.

£

7. The said injuries and loss and the death of the deceased were caused by the negligence and/or breach of statutory duty of the First and/or Second Defendants.

PARTICULARS OF BREACH OF STATUTORY DUTY OF THE FIRST DEFENDANTS

- (a) Failed to make effective and suitable provision for securing and maintaining by the circulation of fresh air in each work room the adequate ventilation of the room and for rendering harmless so far as practicable all dust

generated in the course of the processes or work carried on in the said factory, negligently and contrary to Section 4 of the Factories Act 1961;

(b) Failed to make and keep safe the deceased's place of work in that he was exposed to asbestos dust therein, negligently and contrary to Section 29 (1) of the Factories Act 1961;

(c) Failed to take all practicable measures to protect the deceased against inhalation of asbestos dust or to prevent it accumulating in any work room and/or failed to provide or maintain exhaust appliances as near as possible to the point of origin of the asbestos dust so as to prevent it entering the air of any work room, negligently and contrary to Section 63 (1) of the Factories Act 1961;

PARTICULARS OF BREACH OF STATUTORY
DUTY OF THE SECOND DEFENDANTS

(d) The Plaintiff repeats against these Defendants the allegations hereinbefore made of breach of statutory duty against the First Defendants. She further says that the Second defendants were in breach of Sections 4 and 47 of the Factories Act 1937 and Section 5 of the Factories Act 1959.

PARTICULARS OF NEGLIGENCE OF BOTH
DEFENDANTS

(e) The Plaintiff repeats against both Defendants the allegations of breach of statutory duty hereinbefore made;

- (f) Failed to provide suitable masks and/or Respirators and/or protective clothing and/or other means to prevent the deceased inhaling dust;
- (g) Operated an unsafe system of work in that the deceased was liable to and did come into contact with asbestos dust;
- (h) Failed adequately or at all to warn the deceased of suffering injury from the inhalation of dust;
- (i) Caused or permitted the asbestos dust to accumulate and remain in the said premises.
- (j) Failed to remove asbestos from the said premises.
- (k) Failed to supervise the work in the said premises so as to ensure that there was not exposure to and inhalation of asbestos dust;
- (l) In the premises failed to have any or any adequate regard for the safety of the deceased and exposed him unnecessarily to the risk of injury.

8. Particulars pursuant to the Fatal Accidents Act 1978 as amended are as follows:

- (a) The person for whose benefit this action is brought is the Plaintiff Betty Constance Kemp the widow of the deceased who is now aged 63.
- (b) The nature of the claim is as follows:-
 - (i) The Plaintiff claims damages for bereavement;

(ii) Funeral expenses £1,000.

(iii) Loss of dependency, the Plaintiff and the deceased pooled their income. Full particulars of dependency will be given in due course. When he was fit the deceased carried out gardening and other household work the benefit of which has been lost to the Plaintiff by his illness and death.

AND the Plaintiff claims:-

- (1) DAMAGES for herself as a dependant of the deceased pursuant to the Fatal Accidents Act 1976;
- (2) DAMAGES for the benefit of the estate of the deceased pursuant to the Law Reform (Miscellaneous Provisions) Act 1934;
- (3) Interest on the aforesaid damages pursuant to Section 35A of the Supreme Court Act 1981.

JOHN FOY

SERVED the day 27th of July 1988 by ROBIN THOMPSON & PARTNERS of Wentworth House, Eastern Avenue, Gants Hill, Ilford, Essex. IG2 6NH. Solicitor for the Plaintiff.