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SUPERIOR COURT OF N. J.
FILED

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R-21
JOHN M. MAYSON
CLERK

TOMPKINS, MCGUIRE & WACHENFELD

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NEWARK, N. J. 07102
(201) 622-3000
ATTORNEYS FOR

Defendant, Stauffer Chemical Company

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
PASSAIC COUNTY
DOCKET NO. L-20509-86

LOTTIE MEMICE, Individually
and LOTTIE MEMICE, as
Executrix of the ESTATE OF
JOSEPH MEMICE, Deceased,

Plaintiffs,

v.

PPG INDUSTRIES, INC.,; PPG
INDUSTRIES, INC. CHEMICALS
GROUP INDUSTRIAL CHEMICAL
DIVISION; BORDEN, INC.; BORDEN
INC. BORDEN CHEMICAL DIVISION;
BORDEN INC. PETROCHEMICALS
DIVISION; BORDEN CHEMICAL INC.;
GEORGIA GULF CORPORATION;
UNIROYAL CHEMICAL CO., INC.;
SHINTECH, INC.; SHELL CHEMICAL,
INC.; SHELL OIL COMPANY, INC.;
DOW CHEMICAL U.S.A.; E.I. du PONT
de NEMOURS & COMPANY, INC. CONOCO
INC., subsidiary, E.I. du PONT
de NEMOURS, INC., CONOCO CHEMICALS
CO. DIVISION; FORMOSA PLASTICS
CORPORATION; GEORGIA-PACIFIC
CORPORATION; GEORGIA-PACIFIC
CORPORATION CHEMICAL DIVISION;
THE BF GOODRICH COMPANY; BF
GOODRICH COMPANY BF GOODRICH

CIVIL ACTION:
ANSWER TO SECOND
AMENDED COMPLAINT ON
BEHALF OF DEFENDANT,
STAUFFER CHEMICAL
COMPANY

URL 13105

CHEMICAL GROUP; UNION CARBIDE CORPORATION; ALLIED CHEMICAL CORPORATION INDUSTRIAL CHEMICALS DIVISION; CONTINENTAL OIL COMPANY CONOCO CHEMICALS DIVISION; ETHYL CORPORATION; MONOCHEM, INC.; STAUFFER CHEMICAL COMPANY (Delaware) PLASTICS DIVISION; VISTA CHEMICAL CO.; CONOCO INC.; DIAMOND SHAMROCK CORP.; DIAMOND SHAMROCK CORP. INDUSTRIAL CHEMICALS AND PLASTICS UNIT PLASTICS DIVISION; ICI AMERICAS INC.; ICI AMERICAS INC. PETROCHEMICALS DIVISION; TENNECO INC.; TENNECO CHEMICALS, INC. ORGANICS AND POLYMERS DIVISION; AMERICAN CHEMICAL CORP.; AIRCO CHEMICALS & PLASTICS; AIR PRODUCTS AND CHEMICALS, INC. SPECIALTY GAS DEPARTMENT; DIAMOND ALKALI COMPANY; FINE ORGANICS, INC.; GOODYEAR TIRE AND RUBBER COMPANY CHEMICALS DIVISION; MONSANTO COMPANY; "A" CORPORATION; "B" CORPORATION; "C" CORPORATION; "D" CORPORATION; "E" CORPORATION; "F" CORPORATION; "G" CORPORATION; "H" CORPORATION; "I" CORPORATION; "J" CORPORATION; "K" CORPORATION; "L" CORPORATION; "M" CORPORATION; "N" CORPORATION; "O" CORPORATION; "P" CORPORATION; "Q" CORPORATION; "R" CORPORATION; "S" CORPORATION; "T" CORPORATION; said names being fictitious but intended to be corporations or other persons or entities that manufactured vinyl chloride monomer (VCM); "1" CORPORATION; "2" CORPORATION; "3" CORPORATION; "4" CORPORATION; "5" CORPORATION; "6" CORPORATION; "7" CORPORATION; "8" CORPORATION; "9" CORPORATION; "10" CORPORATION; "11" CORPORATION; "12" CORPORATION; "13" CORPORATION; "14" CORPORATION; "16" CORPORATION; "16" CORPORATION; "17" CORPORATION; "18" CORPORATION; "19" CORPORATION; "20" CORPORATION; said names being fictitious but intended to be corporations or other persons or entities distributing vinyl chloride monomer (VCM);.

Defendants.

Defendant, Stauffer Chemical Company, improperly sued and designated as "Stauffer Chemical Company (Delaware) Plastics Division," having its principal place of business at Westport, Connecticut, by way of answer to the Second Amended Complaint alleges and says:

FIRST COUNT

1. This defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraphs 1 through 18 of the First Count of the Second Amended Complaint, and leaves plaintiff to her proofs in that regard.

2. Defendant, Stauffer Chemical Company, admits that it is a corporation and that it has at various times manufactured and sold vinyl chloride monomer. It denies all other allegations set forth in paragraph 19 of the First Count of the Second Amended Complaint.

3. This defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraphs 20 through 34 of the Second Amended Complaint and leaves plaintiff to her proofs in those regards.

4. This defendant denies the allegations set forth in paragraphs 35, 36, 37, 38 and 39 of the First Count of the Second Amended Complaint.

URL 13107

5. This defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraphs 40, 41, 42 and 43 of the First Count of the Second Amended Complaint, and leaves plaintiff to her proofs in those regards.

SECOND COUNT

1. This defendant repeats its answer to the First Count of the Second Amended Complaint as though set forth at length herein and makes the same a part hereof.

2. This defendant denies the allegations set forth in paragraphs 2, 3, 4, 5, and 6 of the Second Count of the Second Amended Complaint.

THIRD COUNT

1. This defendant repeats its answer to the First and Second Counts of the Second Amended Complaint as though set forth at length herein and makes the same a part hereof.

2. This defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraphs 2, 3, and 4 of the Third Count of the Second Amended Complaint, and leaves plaintiff to her proofs in those regards.

3. This defendant denies the allegations set forth in paragraphs 5, 6, and 7 of the Third Count of the Second Amended Complaint.

URL 13108

FOURTH COUNT

1. This defendant repeats its answer to the First through Third Counts of the Second Amended Complaint as though set forth at length herein and makes the same a part hereof.

2. This defendant admits that it acts independently of all other defendants, and denies all other allegations set forth in paragraph 2 of the Fourth Count of the Second Amended Complaint insofar as they apply to this defendant.

3. This defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 of the Fourth Count of the Second Amended Complaint, and leaves plaintiff to her proofs in those regards.

FIFTH COUNT

1. This defendant repeats its answer to the First through Fourth Counts of the Second Amended Complaint as though set forth at length herein and makes the same a part hereof.

2. This defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 2 of the Fifth Count of the Second Amended Complaint and leaves plaintiff to her proofs in that regard.

3. This defendant denies the allegations set forth in paragraph 3 of the Fifth Count of the Second Amended Complaint.

FIRST SEPARATE DEFENSE

The Second Amended Complaint fails to state a cause of action upon which relief may be granted.

SECOND SEPARATE DEFENSE

Plaintiff's claims are barred by the applicable statute of limitations.

THIRD SEPARATE DEFENSE

Plaintiff's claims are barred or, at the very least, the damages to which she is entitled are reduced by virtue of the doctrine of comparative negligence and the Comparative Negligence Act, N.J.S.A. 2A:15-5.1 et seq.

FOURTH SEPARATE DEFENSE

The claims of the plaintiff are barred by the doctrine of assumption of the risk.

FIFTH SEPARATE DEFENSE

The alleged occurrences were caused by third persons over whom this defendant had no control.

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SIXTH SEPARATE DEFENSE

The present action is barred, or alternatively, any claims which plaintiff may have against this defendant must be reduced by virtue of plaintiff's or plaintiff's decedent's recoveries under the Workers' Compensation Act.

SEVENTH SEPARATE DEFENSE

Plaintiff's decedent was contributorily negligent in that he voluntarily and unreasonably proceeded to encounter a known danger, and such negligence was the proximate, efficient and contributing cause of his injuries and damages.

EIGHTH SEPARATE DEFENSE

Plaintiff's decedent's injuries and damages, if any, were caused by misuse of the product or equipment involved.

NINTH SEPARATE DEFENSE

Plaintiff's decedent's injuries and damages, if any, were caused by his continued use of the product after notice of the defects alleged.

TENTH SEPARATE DEFENSE

This defendant made no warranties, express or implied, to plaintiff or plaintiff's decedent and owed no legal duty to plaintiff or plaintiff's decedent.

URL 13111

ELEVENTH SEPARATE DEFENSE

This defendant breached no warranties, either expressed or implied.

TWELFTH SEPARATE DEFENSE

Plaintiff's claim is barred by the failure to give timely notice of the alleged breaches of warranty.

THIRTEENTH SEPARATE DEFENSE

While denying any liability to the plaintiff, this defendant states that if it is found to be so liable, it is absolved from Judgment therefore by virtue of the superseding/intervening actions of others.

FOURTEENTH SEPARATE DEFENSE

Plaintiff has waived the relief requested.

FIFTEENTH SEPARATE DEFENSE

Plaintiff is estopped from seeking the relief requested.

DEMAND FOR SPECIFICATION OF MONEY DAMAGES

We hereby demand that you serve upon us within five days from the date of service hereof upon you a written specification of the amount of money damages claimed, pursuant to R.4:52.

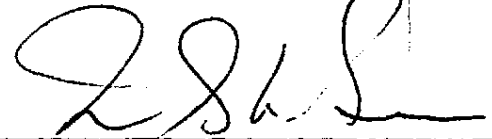
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JURY DEMAND

This defendant demands a trial by jury as to all issues.

TOMPKINS, McGUIRE & WACHENFELD
Attorneys for Defendant,
Stauffer Chemical Company

By:



William B. McGuire

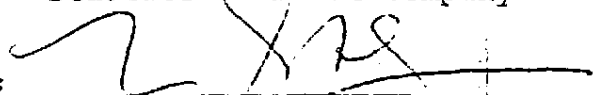
CERTIFICATION

We hereby certify that the within pleading was filed and served in accordance with R.4:6 et seq.

We hereby certify, pursuant to R.4:5-1, that, upon information and belief, this matter is not the subject of any other action pending in any Court or arbitration proceeding and no such action or arbitration proceeding is contemplated.

TOMPKINS, McGUIRE & WACHENFELD
Attorneys for Defendant,
Stauffer Chemical Company

By:



William B. McGuire

Dated: June 9, 1986

URL 13113