(To Sheriff of Cuyahoga County, Ohio)
In the Court of Common Pleas (Fees Deposited)

Stark County, Ohio

SUMMONS

Rule 4(5) 1970 Ohio Rules of Civil Procedure

Case No. 114693

Doc. 242 *Page*

Name	*Address*
Franklin Humphrey and	
Marilyn Humphrey	FED, East Rochester, Ohio

Plaintiff

vs.

Name	*Address*
The Monsanto Co.	800 N. Lindberg Blvd.
	St. Louis, Mo.
Serve Wm. J. Workman, Statutory Agent	
	% C.T. Corporation System
	Union Commerce Bldg.
	Cleveland, Ohio

Defendant

SUMMONS ON COMPLAINT

To the above named defendant.....:

You are hereby summoned that a complaint (a copy of which is hereto attached and made a part hereof) has been filed against you in this court by the plaintiff..... named herein.

You are required to serve upon the plaintiff.... attorney, or upon the plaintiff.... if ...it... has... no attorney of record, a copy of your answer to the complaint within 28 days after service of this summons upon you, exclusive of the day of service. Said answer must be filed with this court within three days after service on Plaintiff's Attorney. Harry W. Schmuck, First Natl. Bldg., Canton, Ohio 44702

The name and address of the plaintiff..... attorney is as follows: Attorney for Plaintiff

If you fail to appear and defend, default will be taken against you for the relief demanded in the complaint.

Myron Van Nostran
Clerk

Date 7/8/70

By [signature]

A TRUE COPY
[illegible]

0055215

[signature]

HARTOLDMON0095925

STATE OF OHIO
SS:
STARK COUNTY

IN THE COURT OF COMMON PLEAS
Case No. 114695

FRANKLIN HUMPHREY
R.FD.
East Rochester, Ohio,

MARILYN HUMPHREY
R.F.D.
East Rochester, Ohio,

Plaintiffs,

vs.

COMPLAINT AND DEMAND FOR JURY TRIAL

MICHIGAN SILO CO.
901 Cherry N. W.
Massillon, Ohio,

THE MONSANTO CO.
800 North Lindbergh Boulevard
St. Louis, Missouri,

Defendants.

1. Plaintiffs state that the Michigan Silo Co. is a corporation located in Massillon, Ohio, engaged in the business of building, repairing and maintaining silos which are used by the agricultural society for the storage of feed to be consumed by livestock; that such was the conditions of the matters referred to herein, to-wit: during the year 1967; that the defendant, The Monsanto Co., of St. Louis, Missouri, is a corporation engaged in the manufacture and sale of certain plastics and in the year 1967 supplied materials to the defendant, Michigan Silo Co., to be used in the treatment and coating of silos to preserve the silo from excessive deterioration and to preserve the contents stored therein from spoiling.

2. Plaintiffs say that they are the owners and operators of a farm in Columbiana County, Ohio, wherein the plaintiffs operate a large dairy farm producing approximately 2500 to 3000 pounds of milk per day; that, heretofore, the plaintiffs purchased

HARTOLDMON0095926

from the defendant, Michigan Silo Co., a certain silo used for the storage of corn and other livestock food products. Plaintiffs further state that, during the fall of 1967, the exact date of which is not within plaintiffs' knowledge, plaintiffs did engage the defendant, Michigan Silo Co., Inc., to supply labor and material to coat the interior of certain silos located on the plaintiffs' farm and that said recoating of said silos was performed by agents and employees of the defendant, Michigan Silo Co., and that 18 gallons of silo coating were applied to the silos of the plaintiffs as referred to herein.

3. Plaintiffs further state that the Michigan Silo Co. did coat the interior of said silos with a product known as "Cumar" which contains Aroclor, which is a product manufactured and distributed by The Monsanto Co., defendant herein.

4. Plaintiffs further state that the defendants represented that the "Cumar" product referred to herein was fit for the use it was intended, to-wit: coating of silos to protect the erosion of the same.

5. Plaintiffs further state that the food and drug administration of the federal government has tested and issued regulations providing that milk containing a content of more than 2/tenths parts per million of Aroclor is not fit for human consumption; that the residue is toxic and combines with human fat and may be detrimental to human welfare.

6. Plaintiffs further state that, sometime prior to February 27, 1970, tests were made of the milk products produced on plaintiffs' farm, which tests revealed that substantial amounts of Aroclor were found in the milk produced on plaintiffs' farm,

0055217

HARTOLDMON0095927

to-wit: in ecoss of 2 parts per million and that, as a result, the State of Ohio, Department of Agriculture, prohibited the sale of milk from plaintiffs' herd for distribution for human consumption or for related uses and by-products.

7. As a result of the orders heretofore issued by the State of Ohio, Department of Agriculture, the plaintiffs have been required to dump from 2500 to 3000 pounds of milk per day in areas where the same will not contaminate the streams, livestock or other animal or vegetable life, causing a loss to the plaintiffs of approximately $180.00 per day.

8. Plaintiffs further state that the Aroclor product was derived from the coating placed upon the silos by the Michigan Silo Co., which coating the plaintiffs have been informed, and do believe, was provided by The Monsanto Co. to the Michigan Silo Co. for said purpose; that the coating known as Cumar permeated the silos and flaked off into the feed or evaporated and attached itself to the feed which, thereafter, was fed to the livestock herd of the plaintiffs. As a result, the livestock absorbed the toxic residues, which, in turn, was transferred to the milk produced by said livestock.

9. Plaintiffs further state that they will be required to purchase and erect new silos for the storage of feed for said livestock; that they have incurred expense in securing chemical examinations and analyses of milk from private laboratories; that they have made numerous trips to Columbus and other areas to investigate the cause and cure for the matters herein referred to; that they have been deprived of income from February 27, 1970, until the date of the filing of this petition and that they are

0055218

HARTOLDMON0095928

informed and do believe that they will continue to be deprived of income for a considerable period of time; that their livestock herd has become infested with Aroclor as a result of the Cumar sold by the defendant, Michigan Silo Co., which contained Aroclor supplied by the Monsanto Company and applied to the silos owned by these plaintiffs; and, as a result, their livestock herd has been caused to depreciate in the sum of $300,000.00.

WHEREFORE, plaintiffs pray judgment against the defendants in the sum of $500,000.00 and costs of suit.

Counsel for Plaintiffs

HARTOLDMON0095929

STATE OF OHIO
SS:
STARK COUNTY

FRANKLIN HUMPHREY and MARILYN HUMPHREY, being first duly sworn, say that they are the plaintiffs in the within action; that the facts stated and allegations contained in the foregoing patition are true as they verily believe.

_____

_____

SWORN to before me and subscribed in my presance this _____day of June, 1970.

_____
Notary Public

NOTE: The Statutory Agent for Monsanto Co. is :

Mr. William J. Workman
c/o C. T. Corporation System
Union Commerce Building
Cleveland, Ohio

HARTOLDMON0095930