

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY

NOVEMBER TERM, 1933.

BERNARD DUGAN,

Plaintiff,

vs. No._____

R. V. AYCOCK COMPANY,
AYCOCK CORPORATION, and
R. V. AYCOCK,

Defendants.

PETITION FOR DAMAGES.

Plaintiff states that defendant corporations are corporations organized and existing according to law, and at all times herein mentioned owned, operated and controlled an extensive retail, wholesale, asbestos construction and repair business in Kansas City, Missouri.

That defendant R. V. Aycock was at all times herein mentioned in direct charge of the repair and construction business of said companies, and inaugurated and directed their system and method of work as hereinafter mentioned, and plaintiff worked under his supervision and control.

That during the month of October, 1931, and for a long time prior thereto plaintiff was in the employ of defendants as a common laborer, assigned to repair and construction work, which included the mixing of asbestos with water to have it ready for use; that in the mixing process, fumes and particles of said asbestos would become detached and saturate the air adjacent to where plaintiff and other workmen would be employed, and through breathing said fumes and detached particles found lodgment in the lungs of plaintiff to such an extent as to cause damage and injury to his lungs; that the dangerous nature and character of asbestos fumes and particles was known to the defendants through their superior knowledge and long operation of said business, or in the

M-802

CRMC-Motley1000-Subj-004249

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exercise of ordinary care would have been known to them, but was unknown to the plaintiff.

Plaintiff further states that because of breathing in fumes and particles of asbestos in the conduct of his work, his lungs became surcharged therewith, causing him to become diseased and sick and permanently disabled from work.

Plaintiff further states that his injuries were directly caused by defendants, and each of them, in that R. V. Aycock, personally and as superintendent for his co-defendants, carelessly and negligently operated said work upon a negligent and dangerous method, in that they directed and required plaintiff, and other employees, to mix asbestos with water by placing his hands therein, requiring plaintiff to bend over a container in a stooping position, so that his nostrils and mouth were in close proximity to said asbestos fumes and particles, all of which made it reasonably likely that plaintiff's lungs would become surcharged with said asbestos particles and fumes to his damage and injury, all of which defendants knew, or by the exercise of ordinary care would have known.

Defendants and each of them were further negligent causing plaintiff's disability, injury and damage in that though defendants and each of them knew that said asbestos fumes and particles were likely to be breathed into plaintiff's lungs and to injure him as aforesaid, yet R. V. Aycock personally and as superintendent for his co-defendants negligently failed to warn plaintiff of the dangers thereof.

Defendants and each of them were further negligent causing plaintiff's disability in that though they knew of the danger of breathing particles and fumes of asbestos into the lungs, yet they carelessly and negligently failed to furnish any instrument, or device for the mixing of said ingredients with safety to plaintiff and other employees, or any mask, or device, or other protection to be used over his nostrils and mouth while said mixing process was going on, all of which made it reasonably likely that plaintiff

(2)

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would breath said fumes and particles and be injured thereby, all of which defendant knew, or by the exercise of ordinary care would have known.

Plaintiff states that his injuries as aforesaid do not fall within the terms of the Workmen's Compensation Act.

Plaintiff states that the aforesaid acts of negligence on the part of the defendants, and each of them, operated directly and concurrently to cause plaintiff's injuries, and that he has suffered injuries as follows:

His lungs fail to properly perform their natural and ordinary functions, all of which causes a general breaking down of plaintiff's physical system and rendering his respiratory, circulatory and assimilative functions to be greatly impaired, so that he is rendered permanently sick and disabled from performing labor; that all of said conditions render plaintiff extremely nervous, irritable and restless, unable to sleep, to get proper nourishment, causing him to feel stupid, with extreme lassitude, and causing him great mental anguish; that all of said conditions are permanent in their nature and character.

Plaintiff further states that because of said injuries he has been prevented and in the future will be prevented from earning money from his usual labor and occupation; that he has paid out, and will in the future pay and become liable to pay out large sums of money for medicine and medical attention, all to his damage in the sum of Fifty Thousand ($50,000.00) Dollars, for which sum with costs he prays judgment.

Kennard & Graham.
Attorneys for Plaintiff.

CRMC-Motley1000-Subj-004251

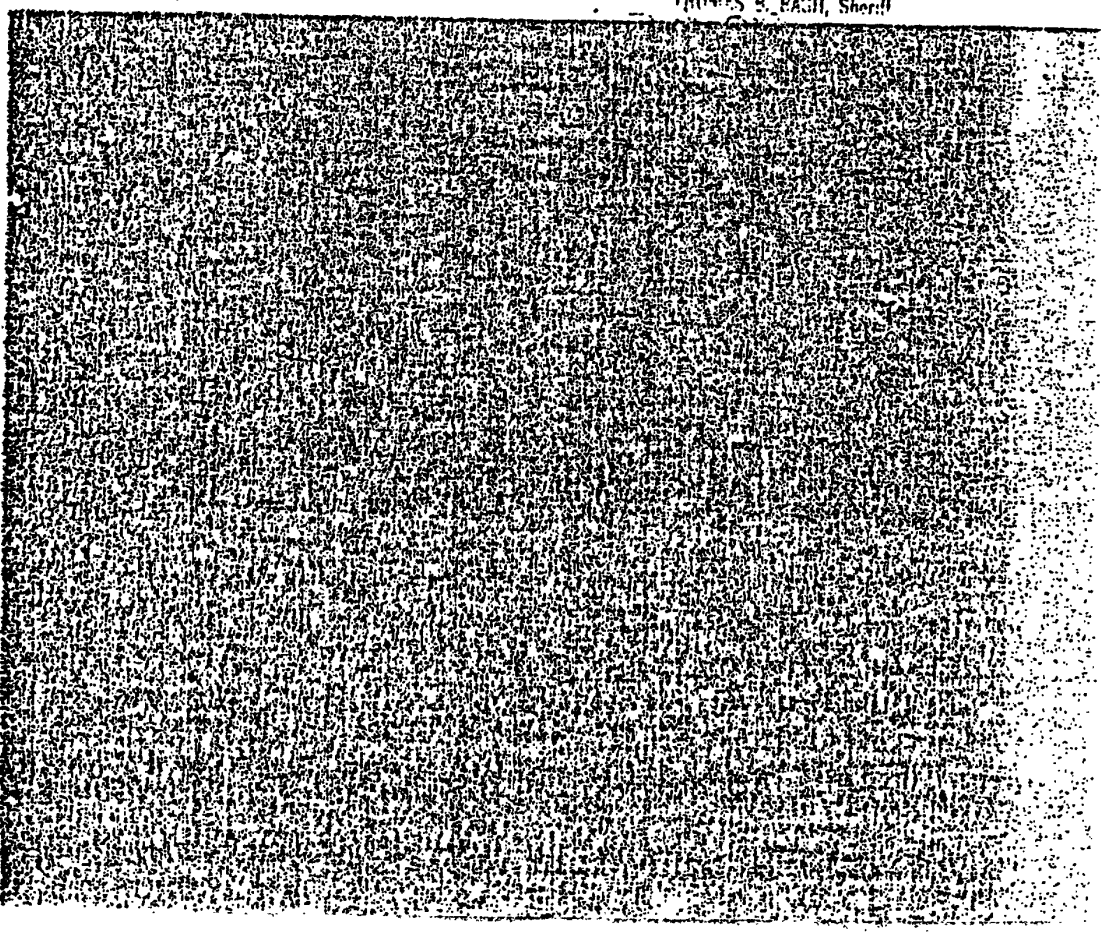
Executed this writ in Jackson County, Missouri, on the 28 day of October 1933, by leaving a copy of this writ, together with a copy of the petition as furnished by the Clerk, at a business office of the within named defendant corporation, R. V. Aycock Corporation

with D. V. Drew as Office Manager of the said defendant corporation, and person in charge of the said business office. The president or other chief officer of the said defendant corporation could not be found in Jackson County, Missouri, at the time of service.

Executed this writ in Jackson County, Missouri, on the 28 day of October 1933, by leaving a copy of this writ at a business office of the within named defendant corporation R. V. Aycock Company with D. V. Drew as Office Manager of the said defendant corporation, and person in charge of the said business office. The president or other chief officer of the said defendant corporation could not be found in Jackson County, Missouri, at the time of service.

Executed this writ in Jackson County, Missouri, on the 31 day of October 1933, by delivering a copy of this writ to the within named defendant R. V. Aycock

THOMAS B. BACH, Sheriff



CRMC-Motley1000-Subj-004252

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY.

BERNARD DUGAN,

Plaintiff,

vs.

No. 425,211.

R. V. AYCOCK COMPANY, AYCOCK CORPORATION, and R. V. AYCOCK,

Defendants.

SEPARATE ANSWER OF R. V. AYCOCK COMPANY AND R. V. AYCOCK.

Now come R. V. Aycock Company, a corporation, and R. V. Aycock, and for their separate answer to plaintiff's petition deny each and every allegation in said petition contained.

WHEREFORE, having fully answered, said defendants pray to be discharged with judgment for their costs.

WATSON, ESS, GRONER, BARNETT & WHITTAKER

By Earl E. Duggan

Attorneys for R. V. Aycock Company and R. V. Aycock.

CRMC-Motley1000-Subj-004253

A MEETING OF THE BOARD OF DIRECTORS OF JOHNS-MANVILLE CORPORATION was held at the offices of the Corporation, No. 292 Madison Avenue, New York, N. Y., on Monday, the 27th day of June, 1932 at 4:30 o'clock in the afternoon.

The following Directors were present, constituting a quorum:

Messrs. Walter H. Aldridge
Lewis H. Brown
W. R. Seigle.

Mr. W. R. Seigle, Chairman of the Board, acted as Chairman of the meeting and presided thereat and Mr. E. M. Voorhees, Secretary of the Corporation, acted as Secretary of the meeting and kept the minutes thereof.

A notice of the meeting and affidavit of mailing was presented and, on motion, duly made, seconded and unanimously carried, was ordered filed with the records of the meeting.

The minutes of the meeting of the Board of Directors held on June 1, 1932 and of the meeting of the Executive Committee held on June 14, 1932 were read to the meeting and on motion, duly made, seconded and unanimously carried, were ratified and approved as recorded.

Statements were submitted to the meeting covering major projects, cash position and forecast, sales during the month of May and June sales to the latest date that figures were available.

The Chairman suggested that the regular meeting of the Board of Directors which would ordinarily be held on the last Monday in July be omitted; that the regular August meeting be held at the usual time and that the regular meeting for September be held on October 3rd rather than on September 26th.

Thereupon, on motion, duly made and seconded, the following resolution was unanimously adopted:

RESOLVED that the Board of Directors omit the regular July meeting; that the regular August meeting be held on the usual date, namely, August 29th and that the regular September meeting be held on October 3rd rather than on September 26th.

The President discussed briefly the possibility of our selling asbestos fibre to Nicolet Asbestos Mines, Limited

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He stated that it was contrary to the policy of the Corporation to sell asbestos fibre but that the Nicolet mine was closed and would probably remain closed for some time and that if we should be able to make long term arrangements with them for furnishing them limited quantities of asbestos fibre, it might be well to depart from our policy in this regard.

After discussion, on motion, duly made and seconded, the following resolution was unanimously adopted:

> RESOLVED that the proper officers of the Corporation be, and they hereby are, authorized to negotiate with Nicolet Asbestos Mines, Limited for the sale to said Company of asbestos fibre in limited quantities, with authority to enter into such contract with said Nicolet Asbestos Mines, Limited as said officers, in the exercise of their sound discretion and upon advice of counsel, shall deem most desirable and for the best interests of the Corporation.

It was requested that the President cover this with the Executive Committee before proceeding.

The Treasurer stated that progress was being made toward consummating the proposed deal with R. V. Aycock Company which had been approved by the Executive Committee at its last meeting and that it looked as if a favorable transaction would be worked out at the expenditure of not more than $35,000 for good-will.

The meeting discussed certain pending negotiations with the Richardson Company and the American Sugar Company in regard to the purchase by those companies from the Corporation of diatomaceous earth products.

The Treasurer explained to the meeting a proposition being considered as a sales promotion project and in connection with the Corporation's Deferred Payment Plan which, if consummated, would result in the Corporation investing approximately $50,000 over a period of two or three years in selected second mortgages upon residential properties given as security for notes of the home owners endorsed, in each case, by high-class lumber dealers.

After discussion, on motion, duly made and seconded, the following resolution was unanimously adopted:

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RESOLVED that the proper officers of the Corporation be, and they hereby are, authorized during the next three (3) years to invest such of the funds of the Corporation as they shall deem advisable, but not in excess of $50,000, in selected second mortgages upon residential properties given as security for promissory notes drawn by the owners of such properties and endorsed in each case by the lumber dealer from whom such home owner shall have purchased the materials going into the construction of his house.

It was requested that the President cover this with the Executive Committee before proceeding.

Various other matters of business were discussed. Whereupon, on motion duly made, seconded and unanimously carried, the meeting adjourned.

E. M. Motley
Secretary

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Dugan v Aycock

A MEETING OF THE BOARD OF DIRECTORS OF JOHNS-MANVILLE CORPORATION was held at the offices of the Corporation, No. 292 Madison Avenue, New York, N. Y., on Monday, the 29th day of August, 1932 at 4:30 o'clock in the afternoon.

The following Directors were present, constituting a quorum:

Messrs. Walter H. Aldridge
Lewis H. Brown
W. R. Seigle
George Whitney
Clarence H. Woolley.

Mr. W. R. Seigle, Chairman of the Board, acted as Chairman of the meeting and presided thereat and Mr. E. H. Voorhees, Secretary of the Corporation, acted as Secretary of the meeting and kept the minutes thereof.

A notice of the meeting and affidavit of mailing was presented and, on motion, duly made, seconded and unanimously carried, was ordered filed with the records of the meeting.

The minutes of the meeting of the Board of Directors held on the 27th day of June, 1932 were read to the meeting and on motion, duly made, seconded and unanimously carried, were ratified and approved as recorded.

Statements were submitted to the meeting covering major projects, cash position and cash forecast to April 1, 1933, sales and net profit for July, 1932 and August sales to the latest date figures were available.

The meeting was advised that the purchase of certain assets of R. V. Aycock Company had been completed and final payment made therefor; that these assets had been transferred to two new subsidiaries of the Sales Corporation, namely, Aycock Corporation and Aycock Corporation of Texas which were now in operation.

The Russian asbestos fibre situation was discussed with particular reference to a further hearing before the Tariff Commission scheduled for September 26, 1932.

On motion, duly made and seconded, the following resolution was unanimously adopted:

RESOLVED that the resolution adopted at the meeting of the Board of Directors held on June 27, 1932 by the terms of which the officers of

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the Corporation were authorized to invest the funds of the Corporation not in excess of $50,000 in selected second mortgages, be, and said resolution hereby is, repealed and rescinded.

Thereupon, on motion, duly made and seconded, the following resolutions were unanimously adopted:

RESOLVED that a quarterly dividend of $1.75 per share be, and it hereby is, declared upon all of the 75,000 shares of the 7% Cumulative Preferred Stock of the Corporation now outstanding, said dividend to be payable October 1, 1932 to holders of said stock of record at the close of business on September 16, 1932; and

RESOLVED that the proper officers of the Corporation be, and they hereby are, authorized and directed to mail and deliver, or cause to be mailed and delivered, to the holders of record at the close of business on September 16, 1932 of Preferred Stock of the Corporation checks for the amount of dividends to which said stockholders are entitled in accordance with the foregoing resolution, and that said officers be, and they hereby are, authorized to do all other acts necessary or proper to carry out the intent and purpose of said resolution.

No action was taken in regard to a dividend on the Common Stock of the Corporation.

After discussion, on motion, duly made and seconded, the following resolutions were unanimously adopted:

RESOLVED that the President or the Treasurer of the Corporation be, and each of them hereby is, authorized and empowered, in the name and on behalf of the Corporation, to guarantee First Bancredit Corporation and/or Commercial Investment Trust against loss upon notes, made by customers of Rehabilitation Corporation to cover the contract cost (including both labor and material) of work performed for said customers, when such

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notes are discounted by said Rehabilitation Corporation with said First Bancredit Corporation or with said Commercial Investment Trust, any such guarantee to be given only when materials of the Corporation or of its subsidiaries are purchased by such customers of Rehabilitation Corporation and in no case to exceed the applied or installed price of said materials; and

RESOLVED that any and all action heretofore taken in conformity with the foregoing resolution be, and the same hereby is, approved, authorized, ratified, confirmed and adopted.

After discussion, on motion, duly made and seconded, the following resolutions were unanimously adopted:

RESOLVED that the hereinafter designated officers and employees of the Corporation be, and they hereby are, authorized and empowered to accept, on behalf of the Corporation and in connection with purchases made by the Corporation, that type of negotiable instrument known as a "trade acceptance";

Amended 3-29-37

RESOLVED that the acceptance of such instruments by the Corporation shall be evidenced, in each case, by the signature of the General Auditor, the Chief Accountant or the Assistant Chief Accountant together with the counter-signature of the President, any Vice-President, the Secretary, the Treasurer or any Assistant Secretary or Assistant Treasurer;

Amended 6-17-36

RESOLVED that the hereinafter designated officers and employees of the Corporation be, and they hereby are, authorized and empowered, on behalf of the Corporation and in connection with sales made by the Corporation, to make or draw that type of negotiable instrument known as a "trade acceptance" for acceptance by the customers to whom such sales shall have been made, and to endorse and discount the same after acceptance with any bank, banker or trust company;

RESOLVED that the making, drawing or endorsing and discounting of said trade acceptances on

CRMC-Motley1000-Subj-004259

behalf of the Corporation shall be evidenced, in each case, by the signature of the President, any Vice-President, the Secretary, the Treasurer or any Assistant Secretary or Assistant Treasurer of the Corporation;

RESOLVED that any of the aforementioned officers or employees of the Corporation be, and they hereby are, authorized to purchase said trade acceptances from any subsidiary company of the Corporation; and

RESOLVED that any and all action heretofore taken in conformity with the foregoing resolutions be, and the same hereby is, approved, authorized, ratified, confirmed and adopted.

Other matters of business were discussed. Whereupon, on motion duly made, seconded and unanimously carried, the meeting adjourned.

Secretary

CRMC-Motley1000-Subj-004260

No. 425211

Division No.

Jackson County Circuit Court
AT
KANSAS CITY

Dugan
VS.
R. V. Aycock

Date 12/21, 193 4

Received of Circuit Clerk, the following papers in the above entitled cause, and I agree to return same within three days.

To take out any original paper you must have the O. K. of the Court.

All Papers.
Copy of Petition.
Copy of Answer.
Copy of Reply.
Copy of Demurrer.
Copy of Motion to Sue as P. P.
Copy of Motion to Make More D. and C.
Copy of Amended Petition.
Copy of Amended Answer.
Copy of Motion for Security for Cost.
Copy of Answer to Cross Bill.
Copy of Stipulation
Mechanic's Lien.
Copy of Motion to be made Party Deft.
Copy of Motion to Strike Out.
Depositions.
Bill of Exceptions.
Copy of Motion for New Trial and Arrest of Judgment.
Copy of Affidavit.

Carl E. Engoe
Attorney for Deft

Eagle Print

? Missing from file.

CRMC-Motley1000-Subj-004261

The State of Missouri,

To the Sheriff of Jackson County, Missouri, Greeting:

You are hereby commanded to summon

R. V. Aycock Company,

Aycock Corporation,

and

R. V. Aycock,

to appear in the Circuit Court of Jackson County, Missouri, at the County Court House in Kansas City, on the Second Monday in NOVEMBER next, and unless you, the said parties...so summoned, file your Answer within three days thereafter to the petition of

Bernard Dugan,

the same will be taken as confessed. And that you then and there have this writ, and that you certify how you execute the same.

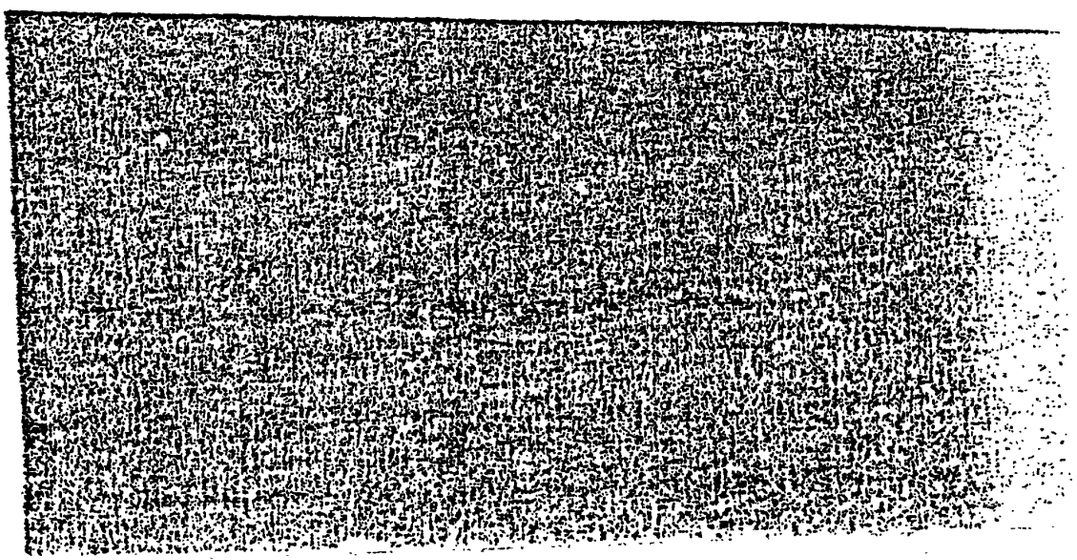
Witness, LYNN G. BUFORD, Clerk of the Circuit Court with the seal thereof affixed, at office in Kansas City, Missouri, this...27th day of...October,...A. D. 1933...

(Seal)

LYNN G. BUFORD, Clerk.

By M. Shaughnessy Deputy Clerk.

Eagle 40067



CRMC-Motley1000-Subj-004262

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY

NOVEMBER TERM, 1933.

BERNARD DUGAN,

Plaintiff,

vs. No._____

R. V. AYCOCK COMPANY,
AYCOCK CORPORATION, and
R. V. AYCOCK,

Defendants.

PETITION FOR DAMAGES.

Plaintiff states that defendant corporations are corporations organized and existing according to law, and at all times herein mentioned owned, operated and controlled an extensive retail, wholesale, asbestos construction and repair business in Kansas City, Missouri.

That defendant R. V. Aycock was at all times herein mentioned in direct charge of the repair and construction business of said companies, and inaugurated and directed their system and method of work as hereinafter mentioned, and plaintiff worked under his supervision and control.

That during the month of October, 1931, and for a long time prior thereto plaintiff was in the employ of defendants as a common laborer, assigned to repair and construction work, which included the mixing of asbestos with water to have it ready for use; that in the mixing process, fumes and particles of said asbestos would become detached and saturate the air adjacent to where plaintiff and other workmen would be employed, and through breathing said fumes and detached particles found lodgment in the lungs of plaintiff to such an extent as to cause damage and injury to his lungs; that the dangerous nature and character of asbestos fumes and particles was known to the defendants through their superior knowledge and long operation of said business, or in the

CRMC-Motley1000-Subj-004263

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would breath said fumes and particles and be injured thereby, all of which defendant knew, or by the exercise of ordinary care would have known.

Plaintiff states that his injuries as aforesaid do not fall within the terms of the Workmen's Compensation Act.

Plaintiff states that the aforesaid acts of negligence on the part of the defendants, and each of them, operated directly and concurrently to cause plaintiff's injuries, and that he has suffered injuries as follows:

His lungs fail to properly perform their natural and ordinary functions, all of which causes a general breaking down of plaintiff's physical system and rendering his respiratory, circulatory and assimilative functions to be greatly impaired, so that he is rendered permanently sick and disabled from performing labor; that all of said conditions render plaintiff extremely nervous, irritable and restless, unable to sleep, to get proper nourishment, causing him to feel stupid, with extreme lassitude, and causing him great mental anguish; that all of said conditions are permanent in their nature and character.

Plaintiff further states that because of said injuries he has been prevented and in the future will be prevented from earning money from his usual labor and occupation; that he has paid out, and will in the future pay and become liable to pay out large sums of money for medicine and medical attention, all to his damage in the sum of Fifty Thousand ($50,000.00) Dollars, for which sum with costs he prays judgment.

Attorneys for Plaintiff.

CRMC-Motley1000-Subj-004264

exercise of ordinary care would have been known to them, but was unknown to the plaintiff.

Plaintiff further states that because of breathing in fumes and particles of asbestos in the conduct of his work, his lungs became surcharged therewith, causing him to become diseased and sick and permanently disabled from work.

Plaintiff further states that his injuries were directly caused by defendants, and each of them, in that R. V. Aycock, personally and as superintendent for his co-defendants, carelessly and negligently operated said work upon a negligent and dangerous method, in that they directed and required plaintiff, and other employees, to mix asbestos with water by placing his hands therein, requiring plaintiff to bend over a container in a stooping position, so that his nostrils and mouth were in close proximity to said asbestos fumes and particles, all of which made it reasonably likely that plaintiff's lungs would become surcharged with said asbestos particles and fumes to his damage and injury, all of which defendants knew, or by the exercise of ordinary care would have known.

Defendants and each of them were further negligent causing plaintiff's disability, injury and damage in that though defendants and each of them knew that said asbestos fumes and particles were likely to be breathed into plaintiff's lungs and to injure him as aforesaid, yet R. V. Aycock personally and as superintendent for his co-defendants negligently failed to warn plaintiff of the dangers thereof.

Defendants and each of them were further negligent causing plaintiff's disability in that though they knew of the danger of breathing particles and fumes of asbestos into the lungs, yet they carelessly and negligently failed to furnish any instrument, or device for the mixing of said ingredients with safety to plaintiff and other employees, or any mask, or device, or other protection to be used over his nostrils and mouth while said mixing process was going on, all of which made it reasonably likely that plaintiff

(2)

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42211

No. _____

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY.

NOVEMBER TERM, 1933.

BERNARD DUGAN,

Plaintiff,

vs.

R. V. AYCOCK COMPANY,
AYCOCK CORPORATION, and
R. V. AYCOCK,

Defendants.

1522 Grand

* * * * *

PETITION FOR DAMAGES.

FILED

By _____ Deputy

EBERHARD & GRESHAM,
Attorneys for Plaintiff,
723 Rialto Bldg.,
Kansas City, Mo.,
Victor 7861.

10-27 1933
THOMAS J. BASH
By _____

Del Hutt to Pettibone to O. Treen Office Sign for Aycock Corp at 1522 Grand on 10-28-33 from 12 St Floor

Del Hutt to 102 Treen office Sign for Aycock Corp 1522 Grand on 10-28-33 from 12th from 7:30 Cam

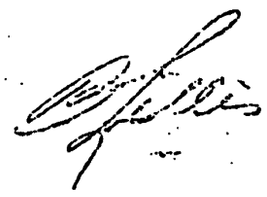
Del Hutt to 102 Treen from at 1522 Grand on 10-28-33 from 10:25 AM 7:30 Cam

CRMC-Motley1000-Subj-004266

BERNARD DUGAN -- Plaintiff,

vs.

R. V. AYCOCK COMPANY, AYCOCK CORPORATION, and R. V. AYCOCK, -- Defendants.



SEPARATE ANSWER OF R.V.AYCOCK COMPANY AND R. V. AYCOCK.

(original)

WATSON, ESS, GRONER, BARNETT & WHITTAKER
ATTORNEYS AND COUNSELLORS AT LAW
KANSAS CITY, MO.

CRMC-Motley1000-Subj-004267

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CIT

BERNARD DUGAN,

Plaintiff,

vs.

R. V. AYCOCK COMPANY, AYCOCK CORPORATION, and R. V. AYCOCK,

Defendants.

No. 425,211.

SEPARATE ANSWER OF R. V. AYCOCK COMPANY AND R. V. AYCOCK.

Now come R. V. Aycock Company, a corporation, and R. V. Aycock, and for their separate answer to plaintiff's petition deny each and every allegation in said petition contained.

WHEREFORE, having fully answered, said defendants pray to be discharged with judgment for their costs.

WATSON, ESS, GRONER, BARNETT & WHITTAKER

By Earl E. Swagar

Attorneys for R. V. Aycock Company and R. V. Aycock.

CRMC-Motley1000-Subj-004268

The State of Missouri,

To the Sheriff of Jackson County, Missouri, Greeting:

You are hereby commanded to summon

Vaughan Investment Company,

to appear in the Circuit Court of Jackson County, Missouri, at the County Court House in Kansas City, on the Second Monday in MARCH next, and unless you, the the said part...y.....so summoned, file your Answer within three days thereafter to the petition of

Bernard Dugan,

the same will be taken as confessed. And that you then and there have this writ, and that you certify how you execute the same.

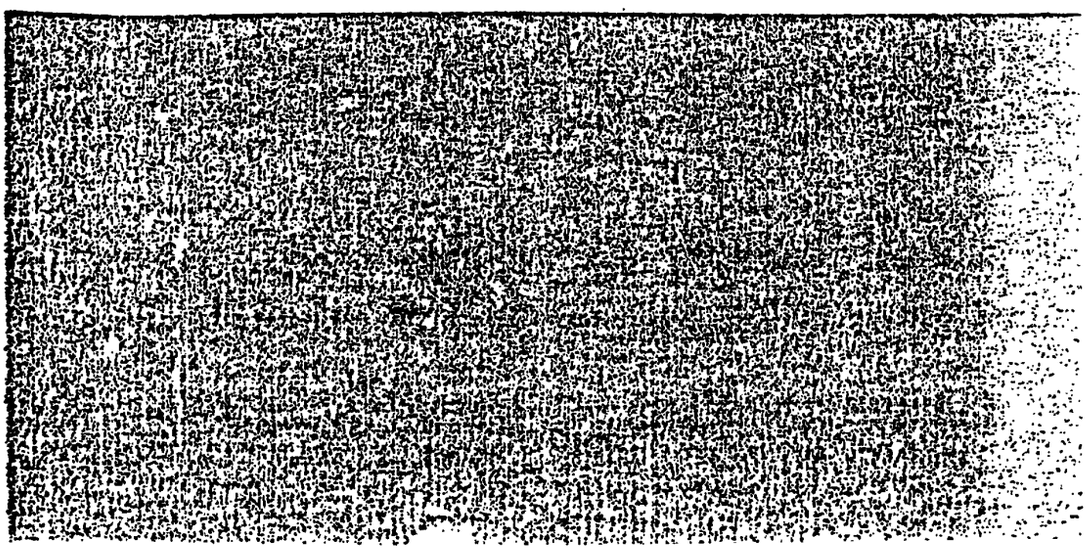
Witness, LYNN G. BUFORD, Clerk of the Circuit Court with the seal thereof affixed, at office in Kansas City, Missouri, this...21st day of.....February.....A. D. 193..4....

(Seal)

LYNN G. BUFORD, Clerk.

Eagle Seal

By M. E. Shaughnessy Deputy Clerk.



CRMC-Motley1000-Subj-004269

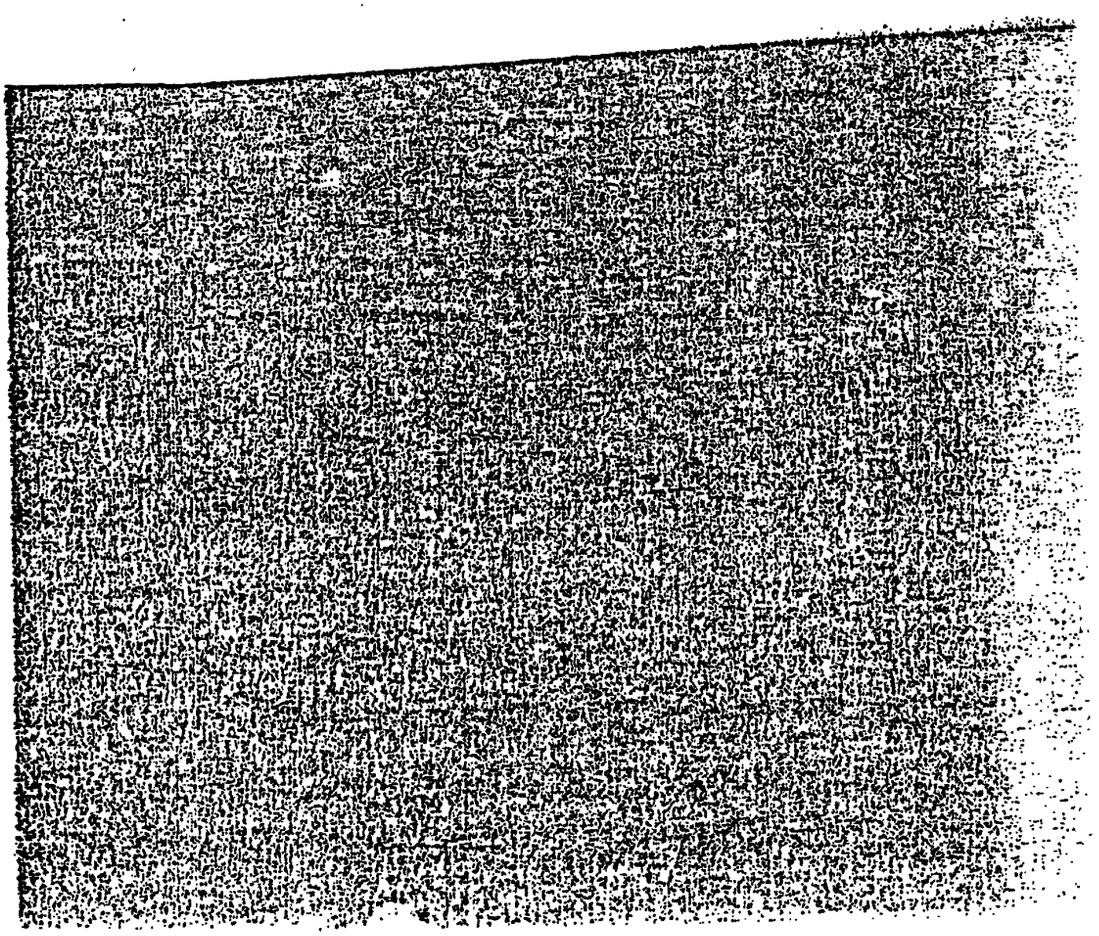
Executed this writ in Jackson County, Missouri, on the 20th day of January 1933 by delivering a copy of this writ, together with a copy of the petition as furnished by the Clerk to [illegible]

as president and chief officer of the within named defendant corporation [illegible]

1421 / 0c

THOMAS B. BASH, Sheriff

By [illegible] Deputy



CRMC-Motley1000-Subj-004270

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY

JANUARY TERM, 1934.

BERNARD DUGAN,

Plaintiff,

vs. No. 425,211

R. V. AYCOCK COMPANY and VAUGHN INVESTMENT COMPANY, corporations, and R. V. AYCOCK,

Defendants.

FIRST AMENDED PETITION FOR DAMAGES.

Comes now plaintiff and by leave of court files this his first amended petition for damages and bring Vaughn Investment Company as new party defendant, and for cause of action states that during the month of October, 1931, and prior thereto defendant, R. V. Aycock Company, was a corporation organized and existing according to law, and engaged in the asbestos sales, repair and construction business in Kansas City, Missouri, and that plaintiff was at all the times herein complained of in the employ of said defendant as a common laborer; that since October, 1931, defendant Vaughn Investment Company has been duly organized according to law as a corporation and has taken over the assets, liabilities and business of R. V. Aycock Company, its co-defendant, and has been carrying on the same general line of business.

That defendant, R. V. Aycock, was at all times herein mentioned in direct charge of the repair and construction business of defendant, R. V. Aycock Company, and inaugurated and directed the system and method of work as herein mentioned, and plaintiff at all times worked under his direct supervision and control.

That during the month of October, 1931, and for a long time prior thereto plaintiff was in the employ of R. V. Aycock Company as a common laborer assigned to repair and construction work, whic

CRMC-Motley1000-Subj-004271

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also included the mixing of asbestos with water to have it ready for use; that in the performance of said work, fumes and particles of said asbestos would become detached and saturate the air where plaintiff and other workmen would be employed, and by breathing said fumes, detached particles and fibers found lodgment in the bronchial tubes and lungs of plaintiff to such an extent as to cause him damage and injury.

That said asbestos was a compound of fine silk-like asbestos fibers consisting of silica, magnesia, sodium, potassium and other elements and ingredients unknown to plaintiff, but that all of said compound was poisonous and injurious to the mucous membranes of the bronchial tubes, lungs and the human body when breathed in excessive quantities; that all of said facts were known to defendants through their long use and experience in the handling of said compound, or by the exercise of ordinary care would have been known to them. That plaintiff was unacquainted with the constituent elements and the danger and nature of said compound.

Plaintiff further states that because of breathing in fumes and particles of said asbestos compound in the conduct of his work, his lungs became surcharged therewith, causing him to become diseased and sick and permanently disabled from work.

Plaintiff further states that his injuries were directly caused by the negligence of defendants, and each of them, in that R. V. Aycock, personally and as superintendent for his co-defendants, carelessly and negligently operated said work in a negligent and dangerous manner, in that they directed and required plaintiff, with other employees, to mix said compound with water by placing their hands therein, thus requiring plaintiff to bend over a container in a stooping position, so that his nostrils and mouth were in close proximity to said fumes and particles, all of which made it reasonably likely that plaintiff would breath in said

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and his lungs would become surcharged therewith to his damage and injury, all of which defendants knew, or by the exercise of ordinary care would have known.

Defendants and each of them were further negligent causing plaintiff's disability, injury and damage in that though defendants and each of them knew that said asbestos fumes and particles were likely to be breathed into plaintiff's lungs and to injure him as aforesaid, yet R. V. Aycock, personally and as superintendent for his co-defendants, negligently ordered plaintiff to perform said work in said manner and negligently failed to warn plaintiff of the dangers thereof.

Defendants and each of them were further negligent causing plaintiff's disability in that though they knew of the danger of breathing particles and fumes of asbestos compound into the lungs, yet they carelessly and negligently failed to furnish any instrument, or device for the mixing of said ingredients with safety to plaintiff and other employees, or any mask, or device, or other protection to be used over his nostrils and mouth while working near said compound and while said mixing process was going on, all of which made it reasonably likely that plaintiff would breath said fumes and particles and be injured thereby, all of which defendants knew, or by the exercise of ordinary care would have known.

Plaintiff states that his injuries as aforesaid do not fall within the terms of the Workmen's Compensation Act.

Plaintiff states that the aforesaid acts of negligence on the part of the defendants, and each of them, operated directly and concurrently to cause plaintiff's injuries, and that he has suffered injuries as follows:

Plaintiff states that his lungs became filled with particles of said asbestos compound, causing a condition of silicosis and fibrosis in the tubes, cells and lobes of his lungs and bronchial tubes with inflammation and congestion therein; greatly impairing

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plaintiff's respiratory, circulatory and assimilative functions, rendering plaintiff permanently sick and disabled from performing labor; causing him to be extremely nervous, irritable and restless; causing him to feel stupid with extreme lassitude; causing him great suffering and mental anguish, and will ever after so cause him to suffer, that all of said conditions are permanent in their nature and character.

Plaintiff further states that because of said injuries he has been prevented and in the future will be prevented from earning money from his usual labor and occupation; that he has paid out, and will in the future pay and become liable to pay out large sums of money for medicine and medical attention, all to his damage in the sum of Fifty Thousand ($50,000.00) Dollars, for which sum with costs he prays judgment.

Attorneys for Plaintiff.

CRMC-Motley1000-Subj-004274

No. 425,211

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY

JANUARY TERM, 1934.

BERNARD DUGAN,

Plaintiff,

vs.

R. V. AYCOCK COMPANY and VAUGHN INVESTMENT COMPANY corporations, and R. V. AYCOCK,

Defendants.

RECEIVED
FEB 23 1934
THOMAS B. BASH, Sheriff
by ... Deputy

H. Edelto
R.V. Aycock, Pres
Vaughn Invest. Co
2/24/34
Maxwell Shipmire

FIRST AMENDED PETITION FOR DAMAGES.

FILED
FEB 24 1934
...
...
Deputy

KENYARD & GRESHAM,
Attorneys for Plaintiff,
723 Rialto Bldg.,
Kansas City, Mo.,
Victor 7661.

Rhp

CRMC-Motley1000-Subj-004275

IN THE CIRCUIT COURT OF [illegible] COUNTY, MISSOURI, AT KANSAS CITY.

[illegible], 1933.

[illegible],)
.....Plaintiff,)
vs.) No. 405,811.
[illegible])
[illegible],)
.....Defendant.)

Come now the defendants and for answer to plaintiff's first amended petition deny each and every allegation in said petition contained.

WHEREFORE, having fully answered said defendants pray to be dismissed and with judgment for their costs herein expended.

[illegible]
Attorneys for Defendants.

CRMC-Motley1000-Subj-004276

BERNARD DUGAN,

Plaintiff

vs. No. 425,211

R. V. AYCOCK COMPANY,
AYCOCK CORPORATION and
R. V. AYCOCK,

Defendant

PETITION FOR REMOVAL TO THE UNITED STATES DISTRICT COURT OF THE WESTERN DIVISION OF THE WESTERN DISTRICT OF MISSOURI, ON BEHALF OF DEFENDANT, AYCOCK CORPORATION

Comes now the defendant, Aycock Corporation, a corporation, duly organized and existing according to the Laws of the State of Delaware, your petitioner herein, and appearing especially for the purpose of this application and for no other purpose and not intending by this application to waive or confer jurisdiction over this defendant and respectfully represents and shows that it is one of the defendants in the above entitled cause; that said cause was commenced and instituted in the Circuit Court of Jackson County, Missouri, at Kansas City, on the 27th day of October, 1933 by the filing of a petition in the Office of the Clerk of the said Circuit Court of Jackson County, Missouri, at Kansas City; that summons was thereafter issued and service obtained on this defendant, said summons being returnable to the November, 1933 Term of the said Circuit Court not later than November 15, 1933.

That said defendant, Aycock Corporation, a corporation, was at the time of the filing of this suit and still is a corporation organized and existing under and by virtue of the laws of the State of Delaware and was and is a citizen of such state; that the said defendant, Aycock Corporation, a corporation, is a non-resident of the State of Missouri.

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Your petitioner further represents and shows to the Court that at the time of the institution of this action, that plaintiff was and ever since has been and still is at this time a resident and citizen of the State of Missouri.

That a diversity of citizenship exists between this plaintiff and this defendant.

That there is in this suit a controversy which is wholly between citizens of different States and which can be fully determined as between them, to-wit: A controversy between plaintiff, Bernard Dugan, and your petitioner, Aycock Corporation; that the plaintiff was at the time of the commencement of this suit and still is a citizen of the State of Missouri and is a resident of said State and that your petitioner, Aycock Corporation, a corporation, is a citizen and resident of the State of Delaware, and was at the time of the commencement of this suit and still is at this time.

That this said controversy is of the following nature, to-wit: That plaintiff alleges that on or about October, 1931 and for a long time prior thereto he was in the employee of the named defendants including your petitioner and that the defendant, R. V. Aycock, at said times was acting as the foreman on behalf of your petitioner, the Aycock Corporation and as such foreman was directing and supervising the work and working conditions of the plaintiff. Plaintiff further states in his petition that as a result of the negligent failure on behalf of the defendant, R. V. Aycock and the other named defendants including your petitioner herein, to furnish him with a reasonably safe place in which to work that he was caused to sustain certain injuries of which he complained.

CRMC-Motley1000-Subj-004278

Your petitioner further states that in truth and in fact the Aycock Corporation, your petitioner herein, was not at the time complained of by the plaintiff in his petition, to-wit: October, 1931, in existence and that at said time the said defendant, R. V. Aycock, was not acting as the foreman or agent of the said Aycock Corporation and that at said times complained of the said plaintiff was not in the employ of the said Aycock Corporation, your petitioner.

From the foregoing facts and from the plaintiff's petition said plaintiff relies upon his allegation that R. V. Aycock was acting as the agent and superintendent for your petitioner, the Aycock Corporation herein, at the times complained in his petition; in order to confer or attempt to give the Circuit Court of Jackson County, Missouri, at Kansas City jurisdiction over your petitioner, the Aycock Corporation, and to prevent your petitioner from removing this cause to the United States District Court as herein prayed for. Now in truth and in fact at the times complained of by the plaintiff in his petition, R. V. Aycock was not in any way acting for or in behalf of or as the agent or superintendent of your petitioner, the Aycock Corporation, nor was the said plaintiff, Bernard Dugan, in the employ of the said Aycock Corporation at the times complained of by him in his petition, nor was the said R. V. Aycock Company, co-defendant herein acting as the agent of your petitioner, Aycock Corporation, at the times complained of in the plaintiff's petition.

That a complete determination of said controversy can be had without the presence of the other defendants, R. V. Aycock or the R. V. Aycock Company named in said action and that said other defendants are neither an indispensable or a necessary party to the

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complete determination of said controversy as between the plaintiff and your petitioner; that the petition filed by the plaintiff herein shows under the facts as hereinabove set forth that there can be no joint cause of action against the said defendant and your petitioner and that there is a separable controversy as between the said defendants and your petitioner herein.

Your petitioner controverts all of the foregoing allegations made from the plaintiff's petition and all other matters contained in said plaintiff's petition.

Your petitioner further that as hereinabove more fully shown, the joining of the defendant, R. V. Aycock and the R. V. Aycock Company with your petitioner, the Aycock Corporation, is done on behalf of the plaintiff to attempt to fraudulently prevent your petitioner from removing this cause to the United States District Court as hereinafter set forth; that said defendant, R. V. Aycock is improperly and fraudulently joined as a defendant in this cause by reason of the fact that he is an individual resident and citizen of Jackson County, Missouri and is joined for the sole and only purpose of attempting to defeat or prevent a removal of this cause by your petitioner to the said United States District Court of the Western Division of the Western District of Missouri, at Kansas City; that as will more fully appear from an inspection of the pleadings of said plaintiff in this cause, and from the facts as set forth by your petitioner herein, said defendant, R. V. Aycock, and the R. V. Aycock Company, are not now and were not a necessary or proper party defendant in this cause as to the controversy existing between the plaintiff, Bernard Dugan, and your petitioner, Aycock Corporation;

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that said Plaintiff in his petition has fraudulently joined the said R. V. Aycock, an individual, and has fraudulently alleged that said R. V. Aycock, an individual, was at the time complained of in the Plaintiff's Petition, to-wit: October, 1931, acting as the Superintendent and Agent of your Petitioner herein, when, as hereinabove set forth, our said Petitioner, Aycock Corporation, was not in existence at the time complained of by the plaintiff; that in view of these facts the petition shows upon its face that the said joinder of this defendant, your Petitioner, Aycock Corporation, with the other named defendants, or of the other named defendants with your petitioner, the Aycock Corporation, was fraudulent and intended solely to prevent the removal of this cause as hereinabove set forth.

Your Petitioner further presents and shows to the Court that said suit is a suit of a civil nature and that the matter and amount now in controversy therein exceeds, exclusive of interest and costs, the sum of THREE THOUSAND and no/100 ($3,000.00) DOLLARS. That is to say, the amount in controversy in this cause is FIFTY THOUSAND and no/100 ($50,000.00) DOLLARS.

Your petitioner further represents and shows to the court that on the 16th day of November, 1933 and before the filing of this petition and bond for Removal herein, your petitioner caused a written notice of the filing of this Petition for removal and also the bond for Removal, hereinafter referred to, to be given to the Plaintiff or his Attorney of Record.

Your petitioner further alleges that the time has not elapsed wherein your petitioner is allowed under the Practice and under the Laws of the State of Missouri and the rules of the said Circuit Court of Jackson County, Missouri, at Kansas City, to Appear, Plead,

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Demur, or Answer said Petition.

Your petitioner presents herewith and offers bond with good and sufficient surety for the entering by it in the United States District Court for the Western Division of the Western District of Missouri, at Kansas City, within 30 days of the filing of the petition and bond for removal herein, a certified copy of the record in this cause and for paying all costs that may be awarded against the defendant by the said United States District Court, if said court shall hold that this cause is wrongfully or improperly removed thereto.

WHEREFORE, your petitioner prays that the court proceed no further herein except to make the Order of Removal thereon to the said United States District Court for the Western Division of the Western District of Missouri, at Kansas City as prayed for and as required by law and to approve said bond which is herewith filed and cause the records herein to be removed within 30 days from the filing of this petition into the United States District Court for the Western Division of the Western District of Missouri, at Kansas City.

Attorney for Defendant,
Aycock Corporation

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STATE OF MISSOURI)
) SS
COUNTY OF JACKSON)

I, Geo. L. Gordon, being first duly sworn on my oath, do state that I am attorney and agent for the Aycock Corporation, a corporation, one of the defendants in the above entitled cause; that I am authorized to and do make this Affidavit for and on behalf of this defendant; that I have read the foregoing petition and know the contents thereof, and that statements contained therein are true as I verily believe.

Geo. L. Gordon

Subscribed and sworn to before me this 15th day of November, 1935.

Notary Public

My commission expires

CRMC-Motley1000-Subj-004283

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY.

MARCH TERM, 1935.

BERNARD DUGAN,	)	
Plaintiff	)	
vs	)	No. 425011.
R. V. Aycock Company, and Van Lillevoort Company, Corporations and R. V. Aycock,	)	
Defendants	)	

MOTION TO DISMISS

Come now the defendants and state to the court that a suggestion of death of plaintiff was filed in the above entitled cause on May 5, 1934 and that three terms of court have gone by and said cause has not been revived.

WHEREFORE defendants pray that the above entitled action be dismissed at the cost of plaintiff.

[illegible], [illegible], CROUCH, WALKER & TIETJENS

By [signature]
Attorneys for Defendants.

00086

CRMC-Motley1000-Subj-004284

No. [illegible]

IN THE CIRCUIT COURT OF JACKSON
COUNTY, MISSOURI, AT KANSAS CITY,
MARCH TERM, 1934.

BERNARD DUGAN,

...Plaintiff

vs.

R. V. AYCOCK COMPANY and
VAUGHN INVESTMENT COMPANY,
corporations, AND R. V. AYCOCK,

...Defendants

SUGGESTION OF DEATH

FILED

[illegible]

WATSON, ESS, GROVER, KANETE & WALKER
ATTORNEYS AND COUNSELLORS AT LAW
KANSAS CITY, MO.

CRMC-Motley1000-Subj-004285

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY.

MARCH TERM, 1935.

BERNARD DUGAN, Plaintiff

vs

No. 42,[illegible]

R. V. AYCOCK COMPANY and
VAUGHN BROTHERHOOD COMPANY,
Corporations, and
R. V. AYCOCK,

Defendants

NOTICE

To the above named plaintiff or Kennard & Gresham, his attorneys of record:

You are hereby notified that defendants will, on Thursday, May 9th, 1935, at nine o'clock in the forenoon or as soon thereafter as counsel may be heard, call up for hearing defendants Motion To Dismiss.

WATSON, ESS, GROVER, DARNETT & PUTNEY

By _____
Attorneys for Defendants

Received copy of foregoing Notice and copy of Motion To Dismiss this 6th day of May, 1935.

_____
Attorneys for Plaintiff

CRMC-Motley1000-Subj-004286

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY

JANUARY TERM, 1934.

BERNARD DUGAN,

Plaintiff,

vs. No. 425,211

R. V. AYCOCK COMPANY and VAUGHN INVESTMENT COMPANY, corporations, and R. V. AYCOCK,

Defendants.

FIRST AMENDED PETITION FOR DAMAGES.

Comes now plaintiff and by leave of court files this his first amended petition for damages and bring Vaughn Investment Company as new party defendant, and for cause of action states that during the month of October, 1931, and prior thereto defendant, R. V. Aycock Company, was a corporation organized and existing according to law, and engaged in the asbestos sales, repair and construction business in Kansas City, Missouri, and that plaintiff was at all the times herein complained of in the employ of said defendant as a common laborer; that since October, 1931, defendant Vaughn Investment Company has been duly organized according to law as a corporation and has taken over the assets, liabilities and business of R. V. Aycock Company, its co-defendant, and has been carrying on the same general line of business.

That defendant, R. V. Aycock, was at all times herein mentioned in direct charge of the repair and construction business of defendant, R. V. Aycock Company, and inaugurated and directed the system and method of work as herein mentioned, and plaintiff at all times worked under his direct supervision and control.

That during the month of October, 1931, and for a long time prior thereto plaintiff was in the employ of R. V. Aycock Company as a common laborer assigned to repair and construction work, which

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also included the mixing of asbestos with water to have it ready for use; that in the performance of said work, fumes and particles of said asbestos would become detached and saturate the air where plaintiff and other workmen would be employed, and by breathing, said fumes, detached particles and fibers found lodgment in the bronchial tubes and lungs of plaintiff to such an extent as to cause him damage and injury.

That said asbestos was a compound of fine silk-like asbestos fibers consisting of silica, magnesia, sodium, potassium and other elements and ingredients unknown to plaintiff, but that all of said compound was poisonous and injurious to the mucous membranes of the bronchial tubes, lungs and the human body when breathed in excessive quantities; that all of said facts were known to defendants through their long use and experience in the handling of said compound, or by the exercise of ordinary care would have been known to them. That plaintiff was unacquainted with the constituent elements and the danger and nature of said compound.

Plaintiff further states that because of breathing in fumes and particles of said asbestos compound in the conduct of his work, his lungs became surcharged therewith, causing him to become diseased and sick and permanently disabled from work.

Plaintiff further states that his injuries were directly caused by the negligence of defendants, and each of them, in that R. V. Aycock, personally and as superintendent for his co-defendants, carelessly and negligently operated said work in a negligent and dangerous manner, in that they directed and required plaintiff, with other employees, to mix said compound with water by placing their hands therein, thus requiring plaintiff to bend over a container in a stooping position, so that his nostrils and mouth were in close proximity to said fumes and particles, all of which made it reasonably likely that plaintiff would breath in said

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and his lungs would become surcharged therewith to his damage and injury, all of which defendants knew, or by the exercise of ordinary care would have known.

Defendants and each of them were further negligent causing plaintiff's disability, injury and damage in that though defendants and each of them knew that said asbestos fumes and particles were likely to be breathed into plaintiff's lungs and to injure him as aforesaid, yet R. V. Aycock, personally and as superintendent for his co-defendants, negligently ordered plaintiff to perform said work in said manner and negligently failed to warn plaintiff of the dangers thereof.

Defendants and each of them were further negligent causing plaintiff's disability in that though they knew of the danger of breathing particles and fumes of asbestos compound into the lungs, yet they carelessly and negligently failed to furnish any instrument, or device for the mixing of said ingredients with safety to plaintiff and other employees, or any mask, or device, or other protection to be used over his nostrils and mouth while working near said compound and while said mixing process was going on, all of which made it reasonably likely that plaintiff would breath said fumes and particles and be injured thereby, all of which defendants knew, or by the exercise of ordinary care would have known.

Plaintiff states that his injuries as aforesaid do not fall within the terms of the Workmen's Compensation Act..

Plaintiff states that the aforesaid acts of negligence on the part of the defendants, and each of them, operated directly and concurrently to cause plaintiff's injuries, and that he has suffered injuries as follows:

Plaintiff states that his lungs became filled with particles of said asbestos compound, causing a condition of silicosis and fibrosis in the tubes, cells and lobes of his lungs and bronchial tubes with inflammation and congestion therein; greatly impairing

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plaintiff's respiratory, circulatory and assimilative functions, rendering plaintiff permanently sick and disabled from performing labor; causing him to be extremely nervous, irritable and restless; causing him to feel stupid with extreme lassitude; causing him great suffering and mental anguish, and will ever after so cause him to suffer, that all of said conditions are permanent in their nature and character.

Plaintiff further states that because of said injuries he has been prevented and in the future will be prevented from earning money from his usual labor and occupation; that he has paid out, and will in the future pay and become liable to pay out large sums of money for medicine and medical attention, all to his damage in the sum of Fifty Thousand ($50,000.00) Dollars, for which sum with costs he prays judgment.

Kennard & Graham
Attorneys for Plaintiff.

CRMC-Motley1000-Subj-004290

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY,
MARCH TERM, 1934.

BERNARD DUGAN,)

.... Plaintiff)

vs.

No. 425,211

R. V. AYCOCK COMPANY and)
VAUGHN INVESTMENT COMPANY,
corporations, AND R. V. AYCOCK,)

..... Defendants)

SUGGESTION OF DEATH

COME NOW the defendants and suggest the death of plaintiff and state that the plaintiff departed this life while residing in Jackson County, Missouri, upon the 20th day of March, 1934.

Of Watson, Ess, Groner, Barrett & Whittaker
Attorney for defendants.

Dated this 3rd day of May, 1934.

CRMC-Motley1000-Subj-004291

IN THE CIRCUIT COURT OF
JACKSON COUNTY, MISSOURI, AT
KANSAS CITY.

BERNARD DUGAN,

Plaintiff

vs.

R. V. AYCOCK Company, and
VAUGHN INVESTMENT COMPANY,
Corporations, and R. V.
AYCOCK,

Defendants

FILED

JOHN D. [illegible]

By _____ Deputy

MOTION TO DISMISS.

CRMC-Motley1000-Subj-004292

CRMC-Motley1000-Subj-004293

IN THE CIRCUIT COURT OF JACKSON
COUNTY, MISSOURI, AT KANSAS CITY.

[illegible] TERM, 1933.

BERNARD DUGAN,

Plaintiff,

vs.

R. V. AYCOCK COMPANY and
TAUSCH ENGINEERING COMPANY,
corporations, and R. V. AYCOCK,

Defendants.

A N S W E R.

FILED
MAR 13 1933
[illegible]

CRMC-Motley1000-Subj-004294

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY

JANUARY TERM, 1934.

BERNARD DUGAN,

Plaintiff,

vs. No. 425,211

R. V. AYCOCK COMPANY and VAUGHN INVESTMENT COMPANY, corporations, and R. V. AYCOCK,

Defendants.

FIRST AMENDED PETITION FOR DAMAGES.

Comes now plaintiff and by leave of court files this his first amended petition for damages and brings Vaughn Investment Company as new party defendant, and for cause of action states that during the month of October, 1931, and prior thereto defendant, R. V. Aycock Company, was a corporation organized and existing according to law, and engaged in the asbestos sales, repair and construction business in Kansas City, Missouri, and that plaintiff was at all the times herein complained of in the employ of said defendant as a common laborer; that since October, 1931, defendant Vaughn Investment Company has been duly organized according to law as a corporation and has taken over the assets, liabilities and business of R. V. Aycock Company, its co-defendant, and has been carrying on the same general line of business.

That defendant, R. V. Aycock, was at all times herein mentioned in direct charge of the repair and construction business of defendant, R. V. Aycock Company, and inaugurated and directed the system and method of work as herein mentioned, and plaintiff at all times worked under his direct supervision and control.

That during the month of October, 1931, and for a long time prior thereto plaintiff was in the employ of R. V. Aycock Company as a common laborer assigned to known and recognizable work, which

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also included the mixing of asbestos with water to have it ready for use; that in the performance of said work, fumes and particles of said asbestos would become detached and saturate the air where plaintiff and other workmen would be employed, and by breathing, said fumes, detached particles and fibers found lodgment in the bronchial tubes and lungs of plaintiff to such an extent as to cause him damage and injury.

That said asbestos was a compound of fine silk-like asbestos fibers consisting of silica, magnesia, sodium, potassium and other elements and ingredients unknown to plaintiff, but that all of said compound was poisonous and injurious to the mucous membranes of the bronchial tubes, lungs and the human body when breathed in excessive quantities; that all of said facts were known to defendants through their long use and experience in the handling of said compound, or by the exercise of ordinary care would have been known to them. That plaintiff was unacquainted with the constituent elements and the danger and nature of said compound.

Plaintiff further states that because of breathing in fumes and particles of said asbestos compound in the conduct of his work, his lungs became surcharged therewith, causing him to become diseased and sick and permanently disabled from work.

Plaintiff further states that his injuries were directly caused by the negligence of defendants, and each of them, in that R. V. Aycock, personally and as superintendent for his co-defendants, carelessly and negligently exerted said work in a negligent and dangerous manner, in that they directed and required plaintiff, with other employees, to mix said compound with water by placing their hands therein, thus requiring plaintiff to bend over a container in a stooping position, so that his nostrils and mouth were in close proximity to said fumes and particles, all of which made it reasonably likely that plaintiff would breath in said

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and his lungs would become encumbered therewith to his damage and injury, all of which defendants knew, or by the exercise of ordinary care would have known.

Defendants and each of them were further negligent causing plaintiff's disability, injury and damage in that though defendants and each of them knew that said asbestos fumes and particles were likely to be breathed into plaintiff's lungs and to injure him as aforesaid, yet R. V. Aycock, personally and as superintendent for his co-defendants, negligently ordered plaintiff to perform said work in said manner and negligently failed to warn plaintiff of the dangers thereof.

Defendants and each of them were further negligent causing plaintiff's disability in that though they knew of the danger of breathing particles and fumes of asbestos compound into the lungs, yet they carelessly and negligently failed to furnish any instrument, or device for the mixing of said ingredients with safety to plaintiff and other employees, or any mask, or device, or other protection to be used over his nostrils and mouth while working near said compound and while said mixing process was going on, all of which made it reasonably likely that plaintiff would breath said fumes and particles and be injured thereby, all of which defendants knew, or by the exercise of ordinary care would have known.

Plaintiff states that his injuries as aforesaid do not fall within the terms of the Workmen's Compensation Act.

Plaintiff states that the aforesaid acts of negligence on the part of the defendants, and each of them, operated directly and concurrently to cause plaintiff's injuries, and that he has suffered injuries as follows:

Plaintiff states that his lungs became filled with particles of said asbestos compound, causing a condition of silicosis and fibrosis in the tubes, cells and lobes of his lungs and bronchial tubes, with [illegible] congestion thereof, thereby [illegible]

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[illegible] respiratory, circulatory and assimilative functions, rendering plaintiff permanently sick and disabled from performing labor; causing him to be extremely nervous, irritable and restless; causing him to feel stupid with extreme lassitude; causing him great suffering and mental anguish, and will ever after so cause him to suffer, that all of said conditions are permanent in their nature and character.

Plaintiff further states that because of said injuries he has been prevented and in the future will be prevented from earning money from his usual labor and occupation; that he has paid out, and will in the future pay and become liable to pay out large sums of money for medicine and medical attention, all to his damage in the sum of Fifty Thousand ($50,000.00) Dollars, for which sum with costs he prays judgment.

Kenyon & Kenyon
Attorneys for Plaintiff.

CRMC-Motley1000-Subj-004298

No. 425,211

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY

JANUARY TERM, 1934.

BERNARD DUGAN,

Plaintiff,

vs.

R. V. AYCOCK COMPANY and VAUGHN INVESTMENT COMPANY, corporations, and R. V. AYCOCK,

Defendants.

FIRST AMENDED PETITION FOR DAMAGES.

(COPY)

FILED
FEB 21 1934
LYNN G. BUFORD, Clerk
By _____ DEPUTY

BERNARD & GREENE,
Attorneys for Plaintiff,
723 Rialto Bldg.,
Kansas City, Mo.,
Victor 7861.

CRMC-Motley1000-Subj-004299

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CIRCUIT COURT—Summons

The State of Missouri,

To the Sheriff of Jackson County, Missouri, Greeting:

You are hereby commanded to summon

Vaughn Investment Company,

to appear in the Circuit Court of Jackson County, Missouri, at the County Court House in Kansas City, on the Second Monday in MARCH next, and unless you, the the said part...y....so summoned, file your Answer within three days thereafter to the petition of

Bernard Dugan,

the same will be taken as confessed. And that you then and there have this writ. and that you certify how you execute the same.

Witness, LYNN C. BUFORD, Clerk of the Circuit Court with the seal thereof affixed, at office in Kansas City, Missouri, this 21st day of February A. D. 193.4

(Seal)

LYNN C. BUFORD, Clerk.

By [signature] Deputy Clerk.

CRMC-Motley1000-Subj-004300

Executed this writ in Jackson County, Missouri, on the 24 day of January, 1933, by delivering a copy of this writ, together with a copy of the petition as furnished by the Clerk to

R. V. Aycock

its president and chief officer of the within named defendant corporation.

A. Hunsinger Superintendent Employment

1.00

THOMAS B. BASH, Sheriff,
By Lloyd Allen Beard Deputy

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1-24

[illegible],

Plaintiff 4/25/11

vs.

R. V. [illegible], [illegible], and R. [illegible],

Defendants

ORDER

Now on this 18 day of [illegible], [illegible] Motion to Remand in the above entitled cause coming on to be heard and the Court being fully advised in the premises and in all other respects pertaining thereto;

It is Hereby Ordered, Adjudged and Decreed that said Motion to Remand shall be and the same is hereby sustained and this cause remanded to the Circuit Court of Jackson County, Missouri, at Kansas City.

Attest: A true copy.
A. A. ARNOLD, Clerk.
By [illegible], Deputy.

Judge

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[illegible],

Plaintiff

vs. No. 4[illegible]

[illegible],

Defendant

PETITION FOR REMOVAL TO THE UNITED STATES DISTRICT COURT OF THE [illegible] DIVISION OF THE WESTERN DISTRICT OF MISSOURI, ON BEHALF OF R. V. AYCOCK CORPORATION

Comes now the defendant, Aycock Corporation, a corporation, [illegible] organized and existing according to the Laws of the State of Delaware, your petitioner herein, and appearing especially for the [illegible] of this application and for no other purpose and not in- [illegible] by this application to waive or confer jurisdiction over [illegible] defendants and respectfully represents and shows that it is [illegible] of the defendants in the above entitled cause; that said cause was commenced and instituted in the Circuit Court of Jackson County, Missouri, at Kansas City, on the 27th day of October, 1933 by the filing of a petition in the Office of the Clerk of the said Circuit Court of Jackson County, Missouri, at Kansas City; that summons was thereafter issued and service obtained on this defendant, said summons being returnable to the November, 1933 Term of the said Circuit Court not later than November 18, 1933.

That said defendant, Aycock Corporation, a corporation, was at the time of the filing of this suit and still is a corporation organized and existing under and by virtue of the laws of the State of Delaware and was and is a citizen of such State; that the said defendant, Aycock Corporation, a corporation, is a non-resident [illegible] the State of Missouri.

CRMC-Motley1000-Subj-004303

Your petitioner further represents and shows to the Court that at the time of the institution of this action, said plaintiff was and ever since has been and still is at this time a resident and citizen of the State of Missouri.

That a diversity of citizenship exists between this plaintiff and said defendant.

That there is in this suit a controversy which is wholly between citizens of different States and which can be fully determined as between them, to-wit: A controversy between plaintiff, Bernard Dugan, and your petitioner, Aycock Corporation; that the plaintiff was at the time of the commencement of this suit and still is a citizen of the State of Missouri and is a resident of said State and that your petitioner, Aycock Corporation, a corporation, is a citizen and resident of the State of Delaware, and was at the time of the commencement of this suit and still is at this time.

That this said controversy is of the following nature, to-wit: That plaintiff alleges that on or about October, 1931 and for a long time prior thereto he was in the employee of the named defendants including your petitioner and that the defendant, R. V. Aycock, at said times was acting as the foreman on behalf of your petitioner, [illegible] Aycock Corporation and as such foreman was directing and supervising the [illegible] working conditions of the plaintiff. Plaintiff further states in his petition that as a result of the negligent [illegible] on behalf of the defendant, R. V. Aycock and the other named [illegible] your petitioner herein, to furnish him with a [illegible] place in which to work that he was caused to sustain [illegible] of which he complained.

CRMC-Motley1000-Subj-004304

Your petitioner further states that in truth and in fact the Aycock Corporation, your petitioner herein, was not at the time complained of by the plaintiff in his petition, to-wit: October, 1931, in existence and that at said time the said defendant, R. V. Aycock, was not acting as the foreman or agent of the said Aycock Corporation and that at said times complained of the said plaintiff was not in the employ of the said Aycock Corporation, your petitioner.

From the foregoing facts and from the plaintiff's petition said plaintiff relies upon his allegation that R. V. Aycock was acting as the agent and superintendent for your petitioner, the Aycock Corporation herein, at the times complained in his petition; in order to confer or attempt to give the Circuit Court of Jackson County, Missouri, at Kansas City jurisdiction over your petitioner, the Aycock Corporation, and to prevent your petitioner from removing this cause to the United States District Court as herein prayed for. That in truth and in fact at the times complained of by the plaintiff in his petition, R. V. Aycock was not in any way acting for or in behalf of or as the agent or superintendent of your petitioner, the Aycock Corporation, nor was the said plaintiff, Bernard Dugan, in the employ of the said Aycock Corporation at the times complained of by him in his petition, nor was the said R. V. Aycock Company, co-defendant herein acting as the agent of your petitioner, Aycock Corporation, at the times complained of in the plaintiff's petition.

That a complete determination of said controversy can be had between the residue of the other defendants, R. V. Aycock or the R. V. Aycock Company named in this petition and your said co-parties are neither an indispensable or a necessary party to a

CRMC-Motley1000-Subj-004305

that said plaintiff in his petition has fraudulently joined the said R. V. Aycock, an individual, and has fraudulently alleged that said R. V. Aycock, an individual, was at the time complained of in the plaintiff's petition, to-wit: October, 1931, acting as the Superintendent and Agent of your petitioner herein, when, as hereinabove set forth your said petitioner, Aycock Corporation, was not in existence at the time complained of by the plaintiff; that in view of these facts the petition shows upon its face that the said joinder of this defendant, your petitioner, Aycock Corporation, with the other named defendants, or of the other named defendants with your petitioner, the Aycock Corporation, was fraudulent and intended solely to prevent the removal of this case as hereinabove set forth.

Your petitioner further presents and shows to the Court that said suit is a suit of a civil nature and that the matter and amount now in controversy therein exceeds, exclusive of interest and costs, the sum of THREE THOUSAND and no/100 ($3,000.00) DOLLARS. That is to say, the amount in controversy in this cause is FIFTY THOUSAND and no/100 ($50,000.00) DOLLARS.

Your petitioner further represents and shows to the court that on the 10th day of November, 1933 and before the filing of this petition and bond for removal herein, your petitioner caused a written notice of the filing of this petition for removal and also of the bond for removal, hereinafter referred to, to be given to the plaintiff's attorney of record.

Your petitioner further alleges that the time has not elapsed in which petitioner is allowed under the practice and under the laws of Missouri and the rules of the said Circuit Court, Jackson County, Missouri, at Kansas City, to answer, plead

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complete determination of said controversy between the [illegible]
the [illegible] and the petition filed by the [illegible]
should under the facts as herein above set forth [illegible]
[illegible] cause of action against the [illegible]
said [illegible] and that there is a separable controversy between the
said defendants and your petitioner herein.

Your petitioner controverts all of the foregoing allegations
quoted from the plaintiff's petition and all other matters contained
in said plaintiff's petition.

Your petitioner further that as hereinabove more fully shown,
the joining of the defendant, R. V. Aycock and the R. V. Aycock
Company with your petitioner, the Aycock Corporation, is done on
behalf of the plaintiff to attempt to fraudulently prevent your
petitioner from removing this cause to the United States District
Court as hereinafter set forth; that said defendant, R. V. Aycock
is improperly and fraudulently joined as a defendant in this cause
by reason of the fact that he is an individual resident and citizen
of Jackson County, Missouri and is joined for the sole and only
purpose of attempting to defeat or prevent a removal of this cause
by your petitioner to the said United States District Court of the
Western Division of the Western District of Missouri, at Kansas City;
as will more fully appear upon an inspection of the pleadings
herein and the affidavit in this cause, and from the facts as set forth
in this petitioner herein, said defendant, R. V. Aycock, and the R. V.
Aycock Company, are now and were [illegible] necessary or proper
parties to this cause as to said controversy existing between
the plaintiff herein, and your petitioner, Aycock Corporation

CRMC-Motley1000-Subj-004307

STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

I, Geo. L. Gordon, being first duly sworn on my oath, do state that I am attorney and agent for the Aycock Corporation, a corporation, one of the defendants in the above entitled cause; that I am authorized to and do make this Affidavit for and on behalf of this defendant; that I have read the foregoing petition and know the contents thereof, and that statements contained therein are true as I verily believe.

Geo. L. Gordon

Subscribed and sworn to before me this 15th day of November, [illegible].

Notary Public

My commission expires My Commission Expires Nov. 27, 1937

CRMC-Motley1000-Subj-004308

Defendant, to Answer said petition.

Your petitioner presents herewith and offers bond with good and sufficient surety for the entering by it in the United States District Court for the Western Division of the Western District of Missouri, at Kansas City, within 30 days of the filing of the petition and bond for Removal herein, a certified copy of the record in this cause and for paying all costs that may be awarded against this defendant by the said United States District Court, if said court shall hold that this cause is wrongfully or improperly removed thereto.

WHEREFORE, your petitioner prays that the court proceed no further herein except to make the Order of Removal thereon to the said United States District Court for the Western Division of the Western District of Missouri, at Kansas City as prayed for and as required by law and to approve said bond which is herewith filed and cause the records herein to be removed within 30 days from the filing of this petition into the United States District Court for the Western Division of the Western District of Missouri, at Kansas City.

Attorney for Defendant,
Aycock Corporation

CRMC-Motley1000-Subj-004309

CRMC-Motley1000-Subj-004310

IN CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY.

BERNARD DUGAN,

Plaintiff,

vs.

R. V. AYCOCK COMPANY, AYCOCK CORPORATION, and R. V. AYCOCK,

Defendants.

No. 425,211.

SEPARATE ANSWER OF R. V. AYCOCK COMPANY AND R. V. AYCOCK.

Now come R. V. Aycock Company, a corporation, and R. V. Aycock, and for their separate answer to plaintiff's petition deny each and every allegation in said petition contained.

WHEREFORE, having fully answered, said defendants pray to be discharged with judgment for their costs.

WATSON, ESS, GRONER, BARNETT & WHITTAKER

By _____

Attorneys for R. V. Aycock Company and R. V. Aycock.

CRMC-Motley1000-Subj-004311

No. [illegible]

IN THE [illegible] COURT OF JACKSON
COUNTY, [illegible] AT [illegible] CITY.

BERNARD DUGAN --- Plaintiff,

vs.

R. V. AYCOCK COMPANY, A CLOSE
CORPORATION, and R. V. AYCOCK, --- Defendants.

FILED
NOV 28 [illegible]
[illegible]

STRANGER ANSWER OF R. V. AYCOCK
COMPANY AND R. V. AYCOCK.

(original)

WATSON, ESS, GROVER, BURNETT & WHITTAKER
ATTORNEYS AND COUNSELLORS AT LAW
KANSAS CITY, MO.

CRMC-Motley1000-Subj-004312

[illegible] Dugan,

Plaintiff

vs.

R. V. Aycock Company,
[illegible], and
R. V. Aycock,

Defendants

N O T I C E

TO THE ABOVE NAMED PLAINTIFF, or KENNARD & CRESHAM, his Attorneys of Record:

You are hereby notified that defendant, Aycock Corporation, a corporation, will, on the 15th day of November, 1935, file a petition and bond for Removal in the above entitled cause to the United States District Court for the Western Division of the Western District of Missouri, at Kansas City.

Geo. L. Gordon
Attorney for Defendant,
Aycock Corporation

Received copy of the above Notice, together with copy of the Petition and Bond for Removal in the above mentioned cause this 15 day of November, 1935.

Attorney for Plaintiff

CRMC-Motley1000-Subj-004313

CIRCUIT COURT—Summons

The State of Missouri,

To the Sheriff of Jackson County, Missouri, Greeting:

You are hereby commanded to summon

R. V. Aycock Company,
Aycock Corporation,
and
R. V. Aycock,

to appear in the Circuit Court of Jackson County, Missouri, at the County Court House in Kansas City, on the Second Monday in NOVEMBER next, and unless you, the said parties...so summoned, file your Answer within three days thereafter to the petition of

Bernard Dugan,

the same will be taken as confessed. And that you then and there have this writ, and that you certify how you execute the same.

Witness, LYNN G. BUFORD, Clerk of the Circuit Court with the seal thereof affixed, at office in Kansas City, Missouri, this 27th day of October, A. D. 1933

(Seal)

LYNN G. BUFORD, Clerk.

By Ella Shaughnessy Deputy Clerk.

CRMC-Motley1000-Subj-004314

... County, Missouri, on the 28 ... day of ... copy of this writ, together with a copy of ... by the Clerk, at a business office of the within named ... Aycock Company ... D. V. Shaw ... as Office Manager of the said ... corporation, and person in charge of the said business office. The ... or other chief officer of the said defendant corporation could not be ... Jackson County, Missouri, at the time of service.

Executed this writ in Jackson County, Missouri, on the 28 day of October 1933, by leaving a copy of this writ at a business office of the within named defendant corporation R. V. Aycock Company with D. V. Shaw as Office Manager of the said defendant corporation, and person in charge of the said business office. The president or other chief officer of the said defendant corporation could not be found in Jackson County, Missouri, at the time of service.

Executed this writ in Jackson County, Missouri, on the 31 day of October 1933, by delivering a copy of this writ to the within named defendant R. V. Aycock

THOMAS B. EASH, Sheriff
By J. O. B. ... Deputy

CRMC-Motley1000-Subj-004315

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY

NOVEMBER TERM, 1933.

BERNARD DUGAN,

Plaintiff,

vs. No._____

R. V. AYCOCK COMPANY,
AYCOCK CORPORATION, and
R. V. AYCOCK,

Defendants.

PETITION FOR DAMAGES.

Plaintiff states that defendant corporations are corporations organized and existing according to law, and at all times herein mentioned owned, operated and controlled an extensive retail, wholesale, asbestos construction and repair business in Kansas City, Missouri.

That defendant R. V. Aycock was at all times herein mentioned in direct charge of the repair and construction business of said companies, and inaugurated and directed their plan and method of work as hereinafter mentioned, and plaintiff worked under his supervision and control.

That during the month of October, 1931, and for a long time prior thereto plaintiff was in the employ of defendants as a laborer, assigned to repair and construction work, which included the mixing of asbestos with water to have it ready for use; that in the mixing process, fumes and particles of said asbestos would become detached and saturate the air adjacent to where plaintiff and other workmen would be employed, and through breathing said fumes and detached particles found lodgment in the lungs of plaintiff to such an extent as to cause disease and injury to lungs; that the dangerous nature and character of asbestos fumes and particles was known to the defendants through their actual knowledge and long operation of said business, or in the

(1)

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exercise of ordinary care would have been known to them, but was unknown to the plaintiff.

Plaintiff further states that because of breathing in fumes and particles of asbestos in the conduct of his work, his lungs became surcharged therewith, causing him to become diseased and sick and permanently disabled from work.

Plaintiff further states that his injuries were directly caused by defendants, and each of them, in that R. V. Aycock, personally and as superintendent for his co-defendants, carelessly and negligently operated said work upon a negligent and dangerous method, in that they directed and required plaintiff, and other employees, to mix asbestos with water by placing his hands therein, requiring plaintiff to bend over a container in a stooping position, so that his nostrils and mouth were in close proximity to said asbestos fumes and particles, all of which made it reasonably likely that plaintiff's lungs would become surcharged with said asbestos particles and fumes to his damage and injury, all of which defendants knew, or by the exercise of ordinary care would have known.

Defendants and each of them were further negligent causing plaintiff's disability, injury and damage in that though defendants and each of them knew that said asbestos fumes and particles were likely to be breathed into plaintiff's lungs and to injure him as aforesaid, yet R. V. Aycock personally and as superintendent for his co-defendants negligently failed to warn plaintiff of the dangers thereof.

Defendants and each of them were further negligent causing plaintiff's disability in that though they knew of the danger of breathing particles and fumes of asbestos into the lungs, yet they carelessly and negligently failed to furnish any instrument, or device for the mixing of said ingredients with safety to plaintiff and other employees, or any trunk, or device, or other protection to be used over [illegible] nostrils and mouth while said mixing process was [illegible] all of which knew it was reasonably likely that plaintiff

(3)

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... and ... and ... and be injured thereby, all ... defendant knew, or by the exercise of ordinary care would ... known.

Plaintiff states that his injuries as aforesaid do not fall within the terms of the Workmen's Compensation Act.

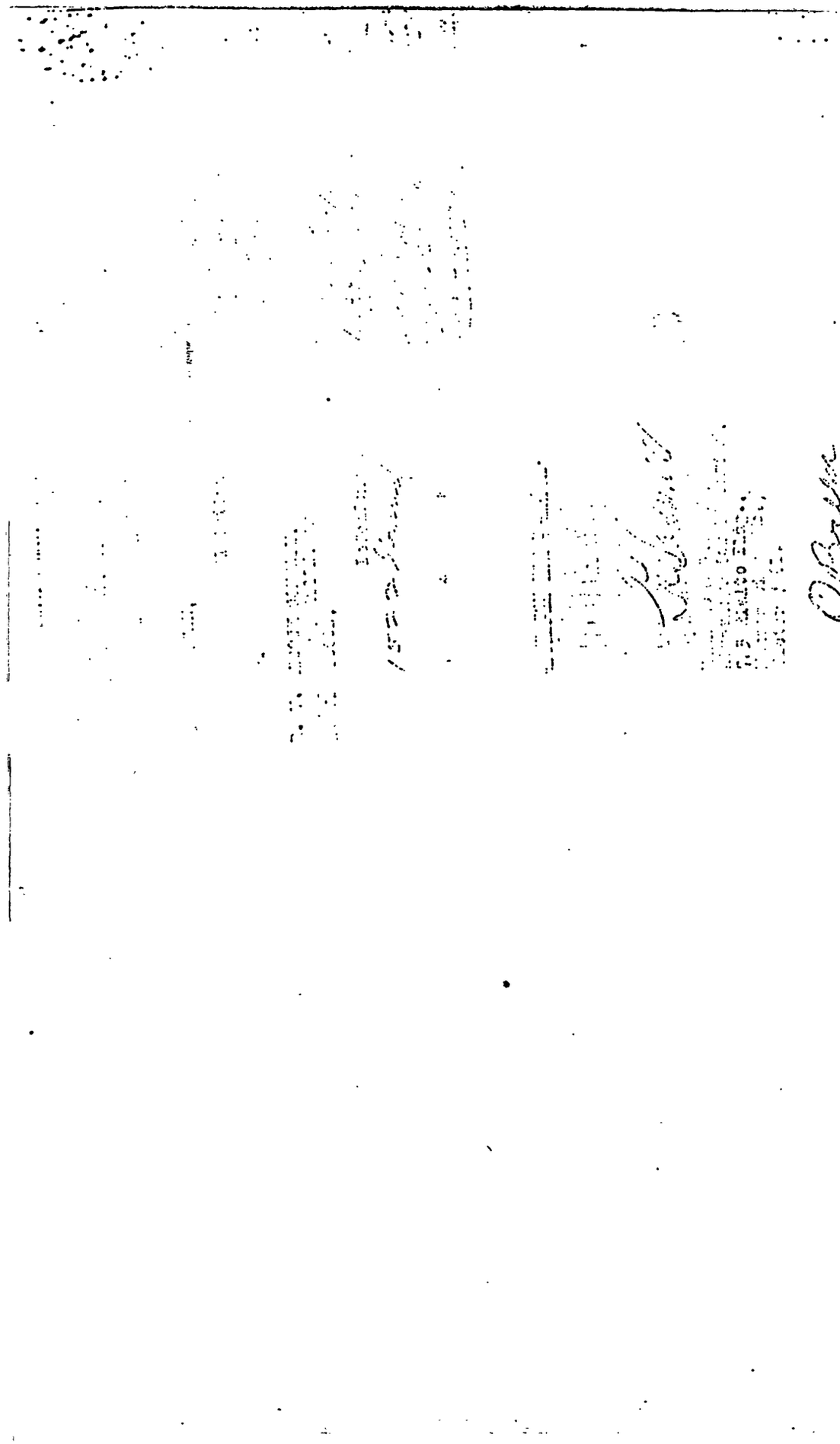
Plaintiff states that the aforesaid acts of negligence on the part of the defendants, and each of them, operated directly and concurrently to cause plaintiff's injuries, and that he has suffered injuries as follows:

His lungs fail to properly perform their natural and ordinary functions, all of which causes a general breaking down of plaintiff's physical system and rendering his respiratory, circulatory and assimilative functions to be greatly impaired, so that he is rendered permanently sick and disabled from performing labor; that all of said conditions render plaintiff extremely nervous, irritable and restless, unable to sleep, to get proper nourishment, causing him to feel stupid, with extreme lassitude, and causing him great mental anguish; that all of said conditions are permanent in their nature and character.

Plaintiff further states that because of said injuries he has been prevented and in the future will be prevented from earning money from his usual labor and occupation; that he has paid out, and will in the future pay and become liable to pay out large sums of money for medicine and medical attention, all to his damage in the sum of Fifty Thousand ($50,000.00) Dollars, for which sum with costs he prays judgment.

Attorneys for Plaintiff.

CRMC-Motley1000-Subj-004318



CRMC-Motley1000-Subj-004319

STATE OF MISSOURI, } ss.
COUNTY OF JACKSON, }

I, AUSTIN E. VAN BUSKIRK, Court Administrator for the Circuit Court of Jackson County, Missouri and custodian of the records and papers thereof, do hereby certify that the foregoing is a full, true and complete copy of the

SEPATE ANSWER, PETION FOR DAMAGES, FIRST AMENDED PETION FOR DAMAGES, ANSWER, MOTION TO DISMISS, AND SUGGESTION OF DEATH

as the same appears in my office in Case No. 425211, entitled

BERNARD DUGAN
R.
R. V. AYCOCK COMPANY, AYCCCK CORPORATION, AND R. V. AYCOCK

Witness my hand and the seal of said Court on APRIL 25, 19 79

AUSTIN E. VAN BUSKIRK
COURT ADMINISTRATOR
CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

By Bonnie L. Hamsey
Deputy

CRMC-Motley1000-Subj-004363

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY.

MARCH TERM, 1934.

BERNARD DUGAN,)
.....Plaintiff,)
vs.) No. 425,211.
R. V. AYCOCK COMPANY and VAUGHN INVESTMENT COMPANY, corporations, and R. V. AYCOCK,)
.....Defendants.)

A N S W E R.

Come now the defendants and for answer to plaintiff's first amended petition deny each and every allegation in said petition contained.

WHEREFORE, having fully answered said defendants pray to be discharged and with judgment for their costs herein expended.

Earl D. Douglas

of Watson, Ess, Groner, Barnett & Whittaker,
Attorneys for Defendants.

CRMC-Motley1000-Subj-004364

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY.

MARCH TERM, 1935.

BERNARD DUGAN,

Plaintiff

vs

No. 425211.

R. V. Aycock Company, and
Vaughn Investment Company,
Corporations and R. V. Aycock,

Defendants

MOTION TO DISMISS

Come now the defendants and state to the court that a suggestion of death of plaintiff was filed in the above captioned case on May 5, 1934 and that three terms of court have gone by and said cause has not been revived.

WHEREFORE defendants pray that the above entitled action be dismissed at the cost of plaintiff.

WATSON, ESS, GRONER, BARNETT & WE[illegible]

By [signature]
Attorneys for Defendants.

CRMC-Motley1000-Subj-004365

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI, AT KANSAS CITY,
MARCH TERM, 1934.

BERNARD DUGAN,)

.... Plaintiff)

vs.

No. 425,211

R. V. AYCOCK COMPANY and)
VAUGHN INVESTMENT COMPANY,
corporations, AND R. V. AYCOCK,

..... Defendants)

SUGGESTION OF DEATH

COME NOW the defendants and suggest the death of plaintiff and state that the plaintiff departed this life while residing in Jackson County, Missouri, upon the 26th day of March, 1934.

Of Watson, Ess, Groner, Barnett & Whittaker
Attorney for defendants.

Dated this 3rd day of May, 1934.

CRMC-Motley1000-Subj-004366