CO-6924

MRS. GLADYS FACIANE

VERSUS

THE TRAVELERS INSURANCE COMPANY

NUMBER 77,604 DIVISION "C"
19TH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

SUPPLEMENTAL AND AMENDED PETITION

NOW INTO COURT comes Mrs. Gladys Faciane, plaintiff in the above entitled and numbered cause and with respect shows that she desires to supplement and amend her original petition filed herein in the following particulars, to-wit:

1.

Your petitioner shows that of the marriage existing between petitioner and decedent, the following children were born, namely:

Clarence A. Faciane, born July 30, 1933;
Tommy Paul Faciane, born September 1, 1938;
Gary Phillip Faciane, born August 9, 1939;
Linda Marie Faciane Soter, born January 10, 1941;
Catherine Joan Faciane, born March 8, 1942; and
Ronald Rachal Faciane, born June 16, 1943.

and at the time of the death of the said Clarence A. Faciane, the minors, Catherine Joan Faciane and Ronald Rachal Faciane were wholly dependent upon their father for maintenance and support.

2.

That petitioner is the duly qualified and acting natural tutrix of the minors, Catherine Joan Faciane and Ronald Rachal Faciane.

3.

That Gary Phillip Faciane, at the time of the death of the said Clarence A. Faciane, was a minor, who is now a major and comes herein to be made a party plaintiff.

4.

Your petitioner now shows that Aber Company, Inc., is a corporation organized and existing under the laws of the State of Louisiana, being domiciled at 5575 Airline Avenue, Baton Rouge,

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Louisiana with Charles E. Bunker, Jr., Sumter D. Marks, Louis B. Claverie and Ashton Phelps, 420 Hibernia Building, New Orleans, Louisiana, as its agents for service of process.

5.

That H. W. Kellogg & Company is a corporation organized and existing under the laws of the State of Delaware, domiciled at Dover therein, authorized to do business in the State of Louisiana by having filed the proper credentials with the Secretary of State and having appointed H. Payne Breazeale, Victor A. Sachse and Maurice J. Wilson as its agents for service of process.

6.

That B & B Engineering & Supply Company is a corporation organized and existing under the laws of the State of Texas, domiciled at Houston therein, authorized to do business in the State of Louisiana by having filed the proper credentials with the Secretary of State and having appointed the C. T. Corporation System, 420 Hibernia Building, New Orleans, Louisiana, as its agents for service of process.

7.

That Johns-Manville Sales Corporation is a corporation organized and existing under the laws of the State of New York, domiciled in New York City therein, authorized to do business in the State of Louisiana by having filed the proper credentials with the Secretary of State and having appointed H. M. Robinson of New Orleans, Louisiana, as its agent for service of process.

8.

That Johns-Manville Products Corporation is a corporation organized and existing under the laws of the State of New York, domiciled in New York City therein, authorized to do business in the State of Louisiana by having filed the proper credentials with the Secretary of State and having appointed H. M. Robinson

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of New Orleans, Louisiana, as its agent for service of process.

9.

That Owens Corning Fiberglass Corporation is a corporation organized and existing under the laws of the State of New York, being domiciled at 717 Fifth Avenue in New York City therein, actually doing business in the State of Louisiana but having failed to appoint an agent for service of process.

10.

That The Ruberoid Company is a corporation organized and existing under the laws of the State of New York, being domiciled at 302 Fifth Avenue, New York City therein, actually doing business in the State of Louisiana, but having failed to appoint an agent for service of process.

11.

That U. S. Rubber Company is a corporation organized and existing under the laws of the State of New York, domiciled at New York City therein, authorized to do business in the State of Louisiana by having filed the proper credentials with the Secretary of State and having appointed H. H. Robinson of New Orleans, Louisiana, as its agent for service of process.

12.

That Philip Carey Manufacturing Company is a corporation organized and existing under the laws of the State of Ohio, domiciled at Cincinnati therein, authorized to do business in the State of Louisiana by having filed the proper credentials with the Secretary of State and having appointed C. T. Corporation System of New Orleans, Louisiana, as its agent for service of process.

13.

That Mundet Cork Corporation is a corporation organized and existing under the laws of the State of New Jersey, domiciled

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at N. Bergen therein, authorized to do business in the State of Louisiana by having filed the proper credentials with the Secretary of State and having appointed Charles E. Dunbar, Jr., Sumter B. Marks, Louis B. Claverie and Ashton Phelps as its registered agents for service of process.

14.

That Nicolet Industries, Inc. is a corporation organized and existing under the laws of the State of New Jersey, being domiciled at 1 Nicolet Avenue, Fleetham Park thereon, actually doing business in the State of Louisiana but having failed to appoint an agent for service of process.

15.

That Glass Fibers, Inc. is a corporation organized and existing under the laws of the State of Ohio, domiciled at 1808 Madison Avenue, Toledo thereon, actually doing business in the State of Louisiana but having failed to appoint an agent for service of process.

16.

That Keasby & Mattison Company is a corporation organized and existing under the laws of the State of Pennsylvania, domiciled at 1900 Butler Avenue, Ambler, Pennsylvania, actually doing business in the State of Louisiana but having failed to appoint an agent for service of process.

17.

That Baldwin-Hunt-Hill, Inc. is a corporation organized and existing under the laws of the State of New Jersey, domiciled at 1125 Brunig, Trenton, New Jersey, actually doing business in the State of Louisiana but having failed to appoint an agent for service of process.

18.

That Eagle Picher Company, Inc. is a corporation organized and existing under the laws of the State of Ohio, domiciled

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at Cincinnati therein, authorized to do business in the State of Louisiana by having filed the proper credentials with the Secretary of State and having appointed Charles B. Dunbar, Jr. Sumter D. Marks, Jr., Louis B. Claverie and Ashton Phelps as its registered agents for service of process.

19.

That Armstrong Products, Inc. is a corporation organized and existing under the laws of the State of California, being domiciled at 2348 Carey Street, Long Beach, California, actually doing business in the State of Louisiana but having failed to appoint an agent for service of process.

20.

That H. K. Thompson Fiber Glass Company is a corporation organized and existing under the laws of the State of California, being domiciled at Cardova and Budlong, Los Angeles, California, actually doing business in the State of Louisiana but having failed to appoint an agent for service of process.

21.

That Pittsburg Corning Corporation is a corporation organized and existing under the laws of the State of Pennsylvania, domiciled at Pittsburg therein, authorized to do business in the State of Louisiana by having filed the proper credentials with the Secretary of State and having appointed C. T. Corporation System as its agent for service of process.

22.

That Armstrong Contracting & Supply Corporation is a foreign corporation organized and existing under the laws of the State of Delaware, domiciled at Wilmington therein, authorized to do business in the State of Louisiana by having filed the proper credentials with the Secretary of State and having appointed C. T. Corporation System of New Orleans, Louisiana, as it agent for

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service of process.

23.

That R. J. Reynolds Tobacco Company is a foreign corporation organized and existing under the laws of the State of New Jersey, domiciled at Jersey City therein, authorized to do business in the State of Louisiana by having filed the proper credentials with the Secretary of State and having appointed Harry McCall and Leonard Sarpy of New Orleans, Louisiana, as its agents for service of process.

24.

That P. Lorillard Company is a corporation organized and existing under the laws of the State of New Jersey domiciled at Jersey City therein, authorized to do business in the State of Louisiana by having filed the proper credentials with the Secretary of State and having appointed C. T. Corporation System of New Orleans, Louisiana, as its agent for service of process.

25.

Your petitioner now shows that during the years 1954 and 1955, the decedent, Clarence A. Faciane, was employed by defendant, Aber Insulation Company as an insulator.

26.

That during the said period of time, the Aber Insulation Company contracted for an installed insulation on the American Cyanamid Company Project in Orleans Parish, Louisiana, on which job foam glass, fiberglass and unibestos were used, and the said Clarence A. Faciane was required to install said insulation without the benefit of respirators or inhalators or other protective devices.

27.

That during the year 1956, the decedent was employed by McCarthy & Brunton as an insulator on the State Welfare Building Project in Baton Rouge, Louisiana, on which job vegetable cork, Fiberglass and Foam Glass were used and the

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said Clarence A. Faciane was required to install such insulation without the benefit of respirators or other protective devices.

28.

That during the year 1957, the decedent was employed by M. W. Kellogg & Company on a construction project at Esso Standard Oil Company in Baton Rouge, Louisiana, on which project the said Clarence A. Faciane was required to install asbestos, foam glass and fiberglass without the benefit of respirators or other protective devices.

29.

That during the year 1958, the decedent was employed by defendant, Armstrong Contracting & Supply Corporation on the construction of Fidelity National Bank in Baton Rouge, Louisiana the Library Building in Baton Rouge, Louisiana and during 1959, on the Grace Chemical Company Project in East Baton Rouge Parish, Louisiana, on each of which jobs the said decedent was required to install foam glass, fiberglass, asbestos and asbestos mud, without the benefit of respirators or other protective devices.

30.

That on and prior to the year 1931, the decedent smoked Camel Cigarettes, manufactured by defendant, R. J. Reynolds Tobacco Company, and continued to smoke said Camel Cigarettes continuously until on or about 1955.

31.

That from about the year 1955 until the time of his death, on or about March 20, 1960, the decedent smoked Kent Cigarettes manufactured by defendant, P. Lorillard & Company.

32.

That the decedent switched to Kent Cigarettes because of advertisements and assurances of safety and warranties that that product was wholesome and was safer and less harmful than the non-filter tip cigarettes.

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33.

That the decedent became a confirmed tobacco addict and was unable to stop smoking.

34.

Your petitioner now shows that the decedent, Clarence A. Faciane, during 1955, became ill because of damage to his lungs and internal organs and that his condition grew progressively worse until his death on or about March 20, 1960.

35.

Your petitioners now show that the doctrine of res ipsa loquitur is applicable to the facts herein.

36.

Your petitioner now shows that the death of the said Clarence A. Faciane was caused by the negligence of the defendants, Aber Company, Inc., H. W. Kellogg & Company, B & B Engineering & Supply Company and Armstrong Contracting & Supply Corporation in failing to warn the said Clarence A. Faciane of the danger inherent in using the insulating material; in failing to supply and furnish safeguards for the use of the decedent; in failing to furnish the decedent with a safe place to work; in giving assurances of safety, to the decedent and in failing to make a full disclosure of the dangers inherent in such operations.

37.

Your petitioners now show that the death of the said Clarence A. Faciane was further caused by the negligence of the defendants, Johns-Manville Sales Corporation, Johns-Manville Products Corporation, Owens Corning Fiberglass Corporation, Ruberoid Company, U. S. Rubber Company, Philip Carey Manufacturing Company, Standard Cork Corporation, Nicolet Industries, Inc., Glass Fibers, Inc., Keasby & Mattison Company, Baldwin-Ehret-Hill, Inc., Eagle Picher Company, Inc., Armstrong Products, Inc.,

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M. I. Thompson Fiber Glass Company and Pittsburg Corning Corporation in failing to warn the decedent of the dangers inherent in the products manufactured by them and used on the jobs by the decedent; in assuring the said Clarence A. Faciane that there were no dangers inherent in said products; in manufacturing the said products with the use of dangerous and defective materials and in warranting the said products were without defects or vices.

38.

That the death of the said Clarence A. Faciane was further caused by the negligence of the defendants, R. J. Reynolds Tobacco Company and P. Lorillard & Company in advertising, distributing and selling its tobacco and cigarettes without warnings; in giving assurances of safety in the selling, advertising and distributing its tobacco and cigarettes; and in manufacturing, processing, mixing and using the ingredients and tobaccos which decedent smoked and in warranting that its products were wholesome, harmless and without defects or vices.

39.

That as a result of the negligence of the defendants, their agents and employees, acting in the course and scope of their employment, said Clarence A. Faciane received severe and fatal injuries consisting of damage to his lungs, which caused abrasions thereto, resulting in his death.

40.

Your petitioner, Mrs. Gladys Faciane, now itemizes her damages as follows, to-wit:

Medical expenses incurred:

Our Lady of Lake Hospital	$ 2,007.41
Dr. Richard Selser	410.00
Dr. Charles A. Bodkin	265.00
Dr. Albert Hoquoum	150.00

Funeral Expenses	$ 2,000.00
Mental pain and anguish of deceased	50,000.00
Mental pain and anguish of petitioner	50,000.00
Loss of support	50,000.00
Loss of love, affection and companionship	50,000.00

or a total of $204,832.41.

41.

Petitioner, Mrs. Gladys Faciane, on behalf of the minor, Catherine Joan Faciane, itemizes her damages as follows:

Mental pain and anguish of deceased	$15,000.00
Mental pain and anguish of minor	15,000.00
Loss of support (3 years)	6,000.00
Loss of love, companionship and guidance	15,000.00

or a total of $51,000.00.

42.

Petitioner, Mrs. Gladys Faciane, on behalf of the minor, Ronald Martel Faciane, itemizes his damages as follows:

Mental pain and anguish of deceased	$15,000.00
Mental pain and anguish of petitioner	15,000.00
Loss of love, companionship and guidance	15,000.00

or a total of $45,000.00

43.

In the alternative and in the event that petitioners are not entitled to damages for the wrongful death of the said Clarence A. Faciane, then and in that event, they are entitled

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to Workmen's Compensation Benefits under the laws of the State of Louisiana.

45.

That defendants, Armstrong Contracting & Supply Corporation, Aber Company, H. W. Kellogg & Company and B & B Engineering & Supply Company were each engaged in the construction business, a hazardous business within the meaning and intent of the Workmen's Compensation Laws of the State of Louisiana.

46.

That the decedent was employed by each of the said defendants as an insulator, a hazardous occupation at an average weekly wage in excess of $100.00.

47.

Petitioners now show that they reiterate each and every allegation of the original petition filed herein except as herein amended.

WHEREFORE, petitioners pray that this supplemental and amended petition be filed and allowed and that there be service and citation according to law and after all legal delays and due proceedings had, that there be judgment herein in favor of petitioner, Mrs. Gladys Faciane and against the defendants, Aber Company, Inc., H. W. Kellog & Company, B & B Engineering & Supply Company, Armstrong Contracting & Supply Corporation, Travelers Insurance Company, Johns-Manville Sales Corporation, Johns-Manville Products Corporation, Owens Corning Fiberglass Corporation, Ruberoid Company, U. S. Rubber Company, Philip Carey Manufacturing Company, Mundet Cork Corporation, Nicolet Industries, Inc., Glass Fibers, Inc., Keasly & Mattison Company, Baldwin-Ehret Hill, Inc., Eagle Picher Company, Inc., Arrowhead Products, Inc., H. I. Thompson

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Fiberglass Company, Pittsburg Corning Corporation, R. J. Reynolds Tobacco Company and P. Lorillard & Company, in solido, in the full sum of $304,032.41, and in favor of petitoner, Mrs. Gladys Faciane, on behalf of the minor, Catherine Joan Faciane and against the defendants, in solido, in the full sum of $51,000.00; and in favor of petitoner, Gary Phillip Faciane, and against defendants, in solido, in the full sum of $85,000.00, together with legal interest on each of said amounts from judicial demand until paid.

In the alternative, and in the event that petitioners are not entitled to damages as herein prayed for, then and in that event, petitioner, Mrs. Gladys Faciane, Individually and for the use and benefit of the minors, Catherine Joan Faciane and Ronald Marcel Faciane, prays that there be judgment herein in her favor and against the defendants, Aber Company, Inc., H. W. Kellogg & Company, B & B Engineering & Supply Company, Armstrong Contracting & Supply Corporation, and Travelers Insurance Company, in solido, for Workmen's Compensation Benefits at the rate of $35.00 per week beginning March 29, 1960 and continuing weekly thereafter for a period of 400 weeks, together with legal interest on each past due installment from its maturity date until paid, and for funeral expenses in the sum of $600.00, together with legal interest thereon from judicial demand until paid.

Petitioners further pray for all costs, all necessary orders, general and equitable relief.

By Attorneys:

[redacted]

[redacted]

By: [redacted]
Baton Rouge, Louisiana