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UNITED STATES OF AMERICA)
) ss.
STATE OF ILLINOIS)

IN THE DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ESTELLE HACKER)
)
vs.) No. 44473
)
JOHNS-MANVILLE CORP.,)

MOTION TO DISMISS

Now comes JOHNS-MANVILLE CORPORATION, a corporation, by Heth & Lister, its attorneys, and moves the Court that the above entitled cause be dismissed, and as grounds for said motion defendant shows unto the Court that plaintiff's amended complaint is substantially insufficient in law in the following particulars:

1. That the amended complaint purports to state cause or causes of action by setting forth duties alleged to be imposed by the common law on the defendant, as employer of the plaintiff; violations of such alleged duties by the defendant; and injury to the plaintiff by alleged occupational disease or diseases arising out of the employment.

(a) In the absence of valid statutory provisions the case, and during the times in plaintiff's amended complaint stated were, no duty or duties imposed by law in the State of Illinois on the defendant, as employer of the

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plaintiff, regarding alleged occupational diseases contracted by plaintiff.

(b) In the absence of valid statutory provisions there was and is, in the State of Illinois, no right of action at law by an employee against his employer for injury due to occupational disease or diseases arising out of the employment.

2. That had there been, prior to the effective date of the Workmen's Compensation Act, a right of action under the Common Law for the matters and grievances alleged in said amended complaint, such right of action was and is barred by Section 6 and 11 of the Workmen's Compensation Act. (Pars. 143 and 148, Chapter 48, Smith Hurd Revised Statute.)

WHEREFORE, defendant JOHNS-MANVILLE CORPORATION, a corporation, moves that plaintiff's action may be dismissed as to it; that plaintiff take nothing by her suit, and that this defendant go hence without day.

H, H, & Lister

Attorneys for Defendant
JOHNS-MANVILLE CORPORATION,
a corporation.

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STATE OF ILLINOIS }
COUNTY OF C O O K } ss.

JOHN J. FLYNN does hereby certify that he is one of the attorneys of record for the defendant JOHNS-MANVILLE CORPORATION, a corporation; that in his opinion the foregoing motion is well founded in point of law and that it is not interposed for the purpose of delay.

John J. Flynn

Subscribed and sworn to before me this 28th day of June, 1935.

Notary Public.

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