THE STATE OF NEW JERSEY: TO JOHNS-MANVILLE CORPORATION, a corporation of the State of New York:

(L.S.)

You are summoned to answer the annexed complaint of Frank Bartus in an Action-at-Law in the New Jersey Supreme Court.

And take notice that unless you file your answer to said complaint with the Clerk of the New Jersey Supreme Court, at Trenton, New Jersey, within twenty days after the service upon you of this writ and the annexed complaint, the plaintiff may proceed in the suit and judgment may be entered against you.

WITNESS, Honorable William S. Gummere, Chief Justice of the Supreme Court, At Trenton, New Jersey, this 17th day of July, 1929.

Samuel Greenstone
Attorney

Fred L. Bloodgood
Clerk

CRMC-Motley1000-Subj-003375

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NEW JERSEY SUPREME COURT

SOMERSET COUNTY

FRANK BARTUS, :

Plaintiff, :

-vs- : ACTION AT LAW

JOHNS-MANVILLE CORP., a Corporation of the State of New York. : C O M P L A I N T

Defendant :

- - - - - - - - - - - - - -X

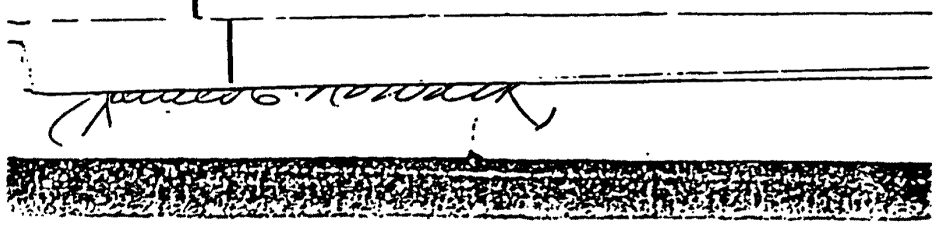
The plaintiff, residing at Weston, New Jersey, complains of the above named defendant, a foreign corporation, as follows:

1. The plaintiff was in the employ of the defendant corporation, at its plant in Manville, New Jersey, in the month of November, 1927, and for several years prior thereto.

2. The defendant corporation at the time herein set forth was engaged in the manufacture of asbestos products for commercial purposes.

3. The said defendant employed the plaintiff at the time and place above set forth in its manufacture of said asbestos products, and the said defendant not only knew, but should have known, that the said asbestos products contained certain dangerous, insidious and harmful agencies composed of asbestos fibers and other particles that were destructive to life and health in the human body when brought into close contact with the same.

4. The defendant not only knew, but should have known, the dangerous nature of said asbestos fibers and particles and failed to keep the same in control, but was negligent in allowing the said dangerous fibers and particles to escape and to come into close proximity of the plaintiff's



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person and exposed the plaintiff so that he came into contact with, and inhaled, the said dangerous fibers and particles to the extent that his bronchial tubes, lungs and body became infected with the same.

5. Plaintiff was not informed or warned by the defendant, and had no knowledge of the nature of the said dangerous asbestos fibers and particles with which he was brought into close proximity by the defendant's negligence.

6. The negligence of the defendant complained of is as follows;-

(a) In failing to use reasonable care to provide the plaintiff with a reasonably safe place of work.

(b) In failing to use reasonable care to provi the plaintiff with proper masks or other appliances or saf guards in said work.

(c) In failing to use reasonable care to provi a proper ventilating system at its plant.

(d) In failing to use reasonable care to give proper warning, information and knowledge about the dangerous character of its work with the said asbestos fibers and particles to the said plaintiff at the time and place above mentioned.

7. The said asbestos fibers and particles were introduced into the plaintiff's body at the time and place aforesaid, so that the plaintiff was permanently injured externally and internally in and about his head, body and limbs causing the plaintiff great pain and suffering, both mental and physical, greatly lowered his resistance to disease, and he became a victim of tuberculosis and so seriously cut off the span and duration of life of this plaintiff and that by reason of the loss of the major part

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July 18, 1929. I served the within summons and complaint upon Johns-Manville Corp., a corporation of the State of New York, by serving Archibald Hughes, its Superintendant, personally, at Manville, N. J.

Fees. $3.78

Ira J. Brokaw Sheriff.

Marvin Sheets Under Sheriff.

NEW JERSEY SUPREME COURT
SOMERSET COUNTY

FRANK BARTUS,

Plaintiff

-vs-

JOHNS-MANVILLE CORP., a Corporation of the State of New York,

Defendant

SUMMONS AND COMPLAINT

Samuel Greenstone
Attorney for Plaintiff
972 Broad Street,
Newark, N.J.

Filed July 23, 1929.
Fred L. Bloodgood, Clerk.

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NEW JERSEY SUPREME COURT.
SOMERSET COUNTY.

FRANK BARTUS,

Plaintiff,

vs.

JOHNS-MANVILLE CORPORATION, a corporation of the State of New York,

Defendant,

Actica at Law.

NOTICE OF REMOVAL

TO - SAMUEL GRUNSTONE, ESQ.

Attorney for Plaintiff.

PLEASE TAKE NOTICE that on Saturday, July 27th, 1929, at 10:00 o'clock in the forenoon (daylight Savings Time), at the Court House in Newark, New Jersey, we shall present to his Honor, William S. Gummere, Chief Justice of the Supreme Court, a petition of JOHNS-MANVILLE CORPORATION, the defendant named in the above suit, for the removal of said suit to the District Court of the United States, for the District of New Jersey; and shall also then and there present the bond mentioned in the said petition and shall apply for the removal of the said suit to the District Court of the United States, for the District of New Jersey; and immediately thereafter we shall file said petition and bond; all according to the Act of Congress in such case made and provided.

Dated: July 25th, 1929,

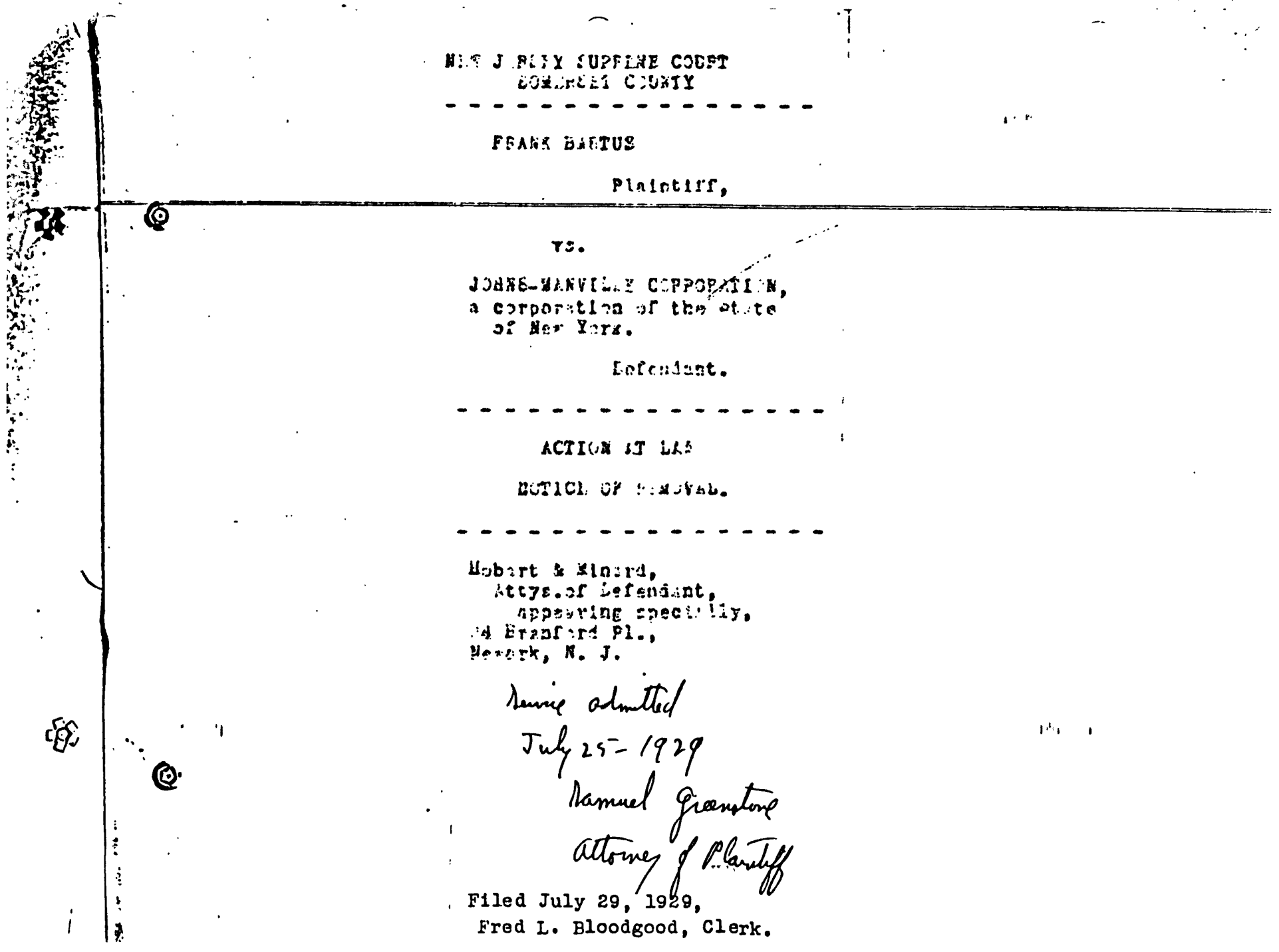
Respectfully,

HOBART & HINARD,

Attorneys for Defendant,
appearing specially.

CRMC-Motley1000-Subj-003379

Bartus v. Johns-Manville, Pleadings and Worker's Statement Withdrawing the Suit (1929)
ACL Doc 23897 · Page 6 of 42



N[illegible] J [illegible] SUPREME COURT
BURLINGTON COUNTY

FRANK BARTUS

Plaintiff,

vs.

JOHNS-MANVILLE CORPORATION,
a corporation of the state
of New York.

Defendant.

ACTION AT LAW

NOTICE OF REMOVAL.

Hobart & Minard,
Attys. of Defendant,
appearing specially,
[illegible] Bradford Pl.,
Newark, N. J.

Service admitted
July 29 - 1929
Samuel Greenstone
Attorney for Plaintiff

Filed July 29, 1929,
Fred L. Bloodgood, Clerk.

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NEW JERSEY SUPREME COURT
SOMERSET COUNTY

FRANK BARTUS,

Plaintiff,

-vs-

JOHNS-MANVILLE CORPORATION, a Corporation of the State of New York,

Defendant.

Action at Law

PETITION FOR REMOVAL.

TO THE HONORABLE, SUPREME COURT OF THE STATE OF NEW JERSEY:

The petition of JOHNS-MANVILLE CORPORATION, a corporation of the State of New York, the above named defendant, appearing herein specially and for the purpose of presenting its petition to this Honorable Court for the removal of this suit to the District Court of the United States, for the District of New Jersey, respectfully shows that:

1. The plaintiff is the only plaintiff in the above suit and at the time of the commencement thereof was and still is a resident and citizen of the State of New Jersey.

2. Your petitioner is the defendant in said suit and was at the time of the commencement thereof and still is a corporation existing under and by virtue of the laws of the State of New York, and is a resident and citizen of said State of New York, and the controversy in said suit is wholly between citizens of different states.

3. Said suit is of a civil nature, at law, and the matter in controversy in said suit exceeds, exclusive of interest and costs, the sum or value of $3,000., to wit, the sum or value of $100,000.00, the amount demanded by

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the plaintiff in said suit as damages from your petitioner, the defendant therein.

4. No special bail was originally or is requisite in said suit.

5. Said suit was commenced by service of summons and complaint upon your petitioner on July 18th, 1929, by leaving a copy thereof with the Registered Agent of the petitioner in the State of New Jersey at Manville, N.J.; the time within which the petitioner is required to answer said complaint has not expired but will expire on August 7, 1929, unless further time to answer is allowed. The petitioner has not filed its answer to said complaint or in any way appeared in said action.

6. Your petitioner has made and files herewith a bond with good and sufficient surety for its entering in the District Court of the United States, for the District of New Jersey, within thirty days from the filing of this petition, a certified copy of the record in said suit, and for paying all costs that may be awarded by said District Court, if said District Court shall hold that said suit was wrongfully or improperly removed thereto, said bond being in the penal sum of $500., conditioned as required by the Act of Congress in such case made and provided.

Your petitioner prays this Honorable Court to proceed no further in said suit except to accept this

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petition and bond, make the order of removal required by law and cause the record in said suit to be removed into said District Court of the United States, for the District of New Jersey, pursuant to the Act of Congress in such case made and provided.

And your petitioner will ever pray, etc.

JOHNS-MANVILLE CORPORATION
By

E. M. Voorhees
Treasurer

(45)

Hobart F. Howard
Attorneys of Petitioner,
appearing specially, etc.

Attest:

Clarence L. Jagels
Assistant Secretary

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STATE OF NEW YORK :
: ss.
COUNTY OF NEW YORK :

E. M. Voorhees of full age,

being duly sworn, according to law, on his oath, says that he is Treasurer of Johns-Manville Corporation, a corporation of the State of New York, the defendant in within mentioned suit and the petitioner named in the foregoing petition; that he has read said petition and knows the contents thereof and that the matters stated therein are true; that the matter in controversy in said suit exceeds, exclusive of interest and costs, the sum or value of $3,000; said suit is of a civil nature, at law, and is between citizens of different states, as appears from the complaint of the plaintiff therein, and he is informed and believes that the District Court of the United States has original jurisdiction thereof; and that the controversy in said suit can be fully determined as between the plaintiff and the defendant.

E. M. Voorhees

Subscribed and sworn to at New York, N.Y. this 23rd day of July, 1929, before me

duly commissioned and sworn, as witness my hand and official seal.

Paulita Andrews

L S Notary Public
New York County Clk's No. 193
New York County Reg's No. 1A 262
Commiss Expires March 30, 1931

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NEW JERSEY SUPREME COURT
SOMERSET COUNTY

FRANK BARTUS

Plaintiff,

vs.

JOHNS-MANVILLE CORPORATION,
a corporation of the State
of New York.

Defendant.

ACTION AT LAW.

PETITION FOR REMOVAL.

Hobart & Minard,
Attys. of Defendant,
appearing specially,
24 Branford Place,
Newark, N. J.

Filed July 29, 1929,
Fred L. Bloodgood, Clerk.

NEW JERSEY SUPREME COURT
SOMERSET COUNTY

CRMC-Motley1000-Subj-003385

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NEW JERSEY SUPREME COURT
SOMERSET COUNTY

FRANK BARTUS,

Plaintiff,

vs.

JOHNS-MANVILLE CORPORATION, a Corporation of the State of New York,

Defendant.

Action at Law

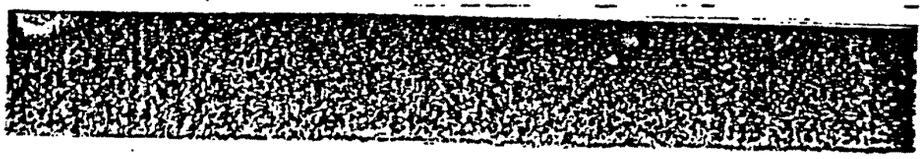
BOND ON REMOVAL.

KNOW ALL MEN BY THESE PRESENTS: That we, JOHNS-MANVILLE Corporation, a corporation of the state of New York, as principal, and AMERICAN INDEMNITY COMPANY, a corporation of the state of New York, as surety, are held and firmly bound unto FRANK BARTUS, of Weston, New Jersey, in the penal sum of Five hundred dollars, lawful money of the United States, to be paid to the said FRANK BARTUS, his heirs, executors, administrators and assigns, to which payment well and truly to be made, we bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated the 23 day of July 1929.

WHEREAS, the above named FRANK BARTUS, has heretofore brought a suit of a civil nature, at law, in the New Jersey Supreme Court, against said JOHNS-MANVILLE CORPORATION, a corporation of the state of New York; and

WHEREAS, said JOHNS-MANVILLE CORPORATION, simultaneously with the filing of this bond, intends to file its petition in said suit in said New Jersey Supreme Court, to remove said suit into the District Court of the United States, in the District where said suit is pending, to wit,



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the District Court of the United States in and for the District of New Jersey, according to the provisions of the Act of Congress in such case made and provided, now, therefore,

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the petitioner, JOHNS-MANVILLE CORPORATION, shall enter in the District Court of the United States, for the District of New Jersey, within thirty days from the date of filing said petition in said New Jersey Supreme Court, a certified copy of the record in said suit, and shall well and truly pay all costs that may be awarded by the said District Court, if said District Court shall hold that said suit was wrongfully or improperly removed thereto, and shall also appear and enter special bail in said suit, if special bail was originally requisite therein, then this obligation shall be void; otherwise to remain in full force and effect.

JOHNS-MANVILLE CORPORATION
by E. M. Voorhees (L.S.)
Treasurer

Attest:
Nathaniel L. Hayes
Assistant Secretary

(LS)

NEW YORK INDEMNITY COMPANY
by
John C. Gallagher (L.S.)
Attorney-in-fact

Attest:
Witness
Mildred A. Brinks
Asst Secretary

(LS)

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NEW YORK INDEMNITY COMPANY

KNOW ALL MEN BY THESE PRESENTS, that the NEW YORK INDEMNITY COMPANY, a corporation duly organized and existing under the laws of the State of New York, and having its principal offices in the City of New York, hath made, constituted and appointed, and does by these presents, make, constitute and appoint John C. Gallagher, individually, of Newark and State of New Jersey, its true and lawful Attorney, with full power and authority hereby conferred in its name, place and stead, to sign, execute and acknowledge with the exception of Bail bonds any and all bonds and/or undertakings in any amount not exceeding One Hundred Thousand Dollars ($100,000)., and to bind the NEW YORK INDEMNITY COMPANY thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the common seal of the Company, and duly attested by its Secretary, hereby ratifying and confirming all the acts of said Attorney pursuant to the power herein given. This Power of Attorney is made and executed pursuant to and by authority of the following By-Law adopted by the Board of Directors of the NEW YORK INDEMNITY COMPANY at a meeting duly called and held on the twenty-fifty day of July, 1923:

"ARTICLE XII. Resident Officers and Attorneys-in-Fact.

"Section 1. The Chairman, Vice-Chairman, President, First Vice-President or any other Vice-President may from time to time appoint Resident Vice-Presidents, Resident Assistant Secretaries and Attorneys in Fact to represent and act for, and on behalf of the Company, and either the Chairman, Vice-Chairman, President, First Vice-President or any other Vice-President, the Board of Directors, or the Executive Committee, may at any time remove any such Resident, Vice-President, Resident Assistant Secretary or any Attorney-in-Fact, and revoke the power and authority given him.

"Section 4. Attorneys-in-Fact--Attorneys-in-Fact may be given full power and authority to execute for and in the name of and on behalf of, the company, and any and all bonds, recognizances, contracts of indemnity and other writings obligatory in the nature of a bond, recognizance or conditional undertaking, and any such instrument executed by any such Attorney-in-fact shall be binding upon the Company as if signed by the President and sealed and attested by the Secretary.

"Section 6. Attorneys-in-Fact--Attorneys-in-Fact are hereby authorized to verify any affidavits required to be attached to bonds, recognizances, or contracts of indemnity, policies of insurance, and all other writings obligatory in the nature thereof, and also authorized and empowered to certify to a copy of any By-Laws contained in Articles VI, XII, and XIII of the By-Laws of the Company."

IN WITNESS WHEREOF, the NEW YORK INDEMNITY COMPANY has caused these presents to be signed by its Vice-President and its corporate seal to be hereto affixed, duly attested by its Assistant Secretary, this 12th day of July, A. D. 1929.

NEW YORK INDEMNITY COMPANY

(Seal)

By W. C. Billings,
Vice-President,

Attest: T. J. Flynn,
Assistant Secretary.

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

On this 12th day of July A.D. 1929, before me personally came W. C. Billings to me known, who, being by me duly sworn, did depose and say, that he resides in the City of New York; that he is the Vice-President of the NEW YORK INDEMNITY COMPANY, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

(Seal)

William Dunn
Notary Public

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

I, T. J. Flynn Assistant Secretary of the NEW YORK INDEMNITY COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a power of attorney, executed by said NEW YORK INDEMNITY COMPANY, which is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Company, at the City of New York, this 12th day of July A. D. 1929.

T. J. Flynn
Assistant Secretary.

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County of ESSEX } ss.:
City of NEWARK }

On this Twenty-third day of July, 192 3, before me, the subscriber, a NOTARY PUBLIC duly commissioned and sworn, personally came JOHN C. GALLAGHER who, being by me duly sworn, on his oath, saith: That he is the ATTORNEY-IN-FACT of the NEW YORK INDEMNITY COMPANY of the State of New York, and that he resides in the City of NEWARK; and that he knows the corporate seal of the said Company; that the seal affixed to the foregoing instrument is such corporate seal; and it was affixed by the said JOHN C. GALLAGHER and the said Instrument signed by the said JOHN C. GALLAGHER as ATTORNEY-IN-FACT of said Company, by order of the Board of Directors of said Company in deponent's presence as the voluntary act and deed of said Company; that said Company has duly complied with all the requirements of Chapter 134 of the Laws of the State of New Jersey of the year 1902; that the good available assets of the Company exceed its liabilities, as such liabilities are ascertained in the manner provided in said Chapter; that the NEW YORK INDEMNITY COMPANY is duly incorporated under the laws of the State of New York, and is authorized by the laws of that State and under its charter to become surety on bonds and obligations such as are mentioned in said Chapter; and has on deposit with the Superintendent of Insurance of the State of New York, good securities worth at par and at market value at least Two Hundred Thousand Dollars ($200,000) held for the security of its obligations and has a fully paid up, safely invested, and unimpaired capital of One Million Dollars, and said Company has appointed the Commissioner of Banking and Insurance of New Jersey and his successor in office as its true and lawful Attorney in the State of New Jersey, upon whom process of law can be served, and has filed in the office of the Commissioner of Banking and Insurance, a written instrument duly signed and sealed, certifying such appointment, together with the residence and office of such Attorney, within the State of New Jersey; and that the following is a true copy of a By-Law duly adopted by the Board of Directors of the said NEW YORK INDEMNITY COMPANY on the 25th day of July, 1923, at a regular meeting, to wit:

ARTICLE XIII.

SECTION 1. *Signatures required.*—All bonds, recognizances, or contracts of indemnity, policies of insurance, and all other writings obligatory in the nature thereof, shall be signed by the President, a Vice-President, a Resident Vice-President, or Attorney-in-Fact, and shall have the seal of the Company affixed thereto, duly attested by the Secretary, an Assistant Secretary, or Resident Assistant Secretary. All Vice-Presidents and Resident Vice-Presidents shall each have authority to sign such instruments, whether the President be absent or incapacitated, or not, and the Assistant Secretaries and Resident Assistant Secretaries shall each have authority to seal and attest such instruments, whether the Secretary be absent or incapacitated, or not; and the Attorneys-in-Fact shall each have authority, in the discretion of such Attorneys-in-Fact, to affix to such instruments an impression of the Company's seal, whether the Secretary be absent or incapacitated, or not, or to attach the individual seal of the Attorneys-in-Fact thereto, or to use the scroll of the Attorneys-in-Fact, or a wafer, wax, or other similar adhesive substance affixed thereto, or a seal of paper or other similar substance affixed thereto by mucilage, or other adhesive substance, or use the word "SEAL" or the letters "L. S." opposite the signature of such Attorneys-in-Fact, as the case may be.

Sworn and subscribed in the City of Newark in the County of Essex and State of New Jersey this 23rd day of July A. D. 1923 before me, a NOTARY PUBLIC duly commissioned and sworn.

John C. Gallagher

James C. Nowack

[redacted]

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New York Indemnity Company

New York

FINANCIAL STATEMENT, DECEMBER 31st, 1928

SPENCER WELTON, President. HUBERT J. H[illegible], Secretary

ASSETS

Stocks and Bonds at Market	$3,562,908.00
Collateral Loans	700,000.00
Cash	359,243.55
Unpaid Premiums (Less than 90 Days old)	1,505,145.19
Accounts Receivable and Accrued Interest	440,368.91
Total	$8,567,665.65

LIABILITIES

Reserve for Unearned Premiums	$3,045,008.20
Reserve for Contingent Claims Less Reinsurance	3,141,888.49
Reserve for Taxes and Commissions	459,174.43
Accounts Payable	240,995.36
Reinsurance in Companies Not Entered in New York	65,732.96
Capital	1,000,000.00
Surplus	614,066.21
Total	$8,567,665.65

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.

I, T. J. Flynn, Assistant Secretary of the New York Indemnity Company, do hereby certify that the above is a true statement of the assets and liabilities of said Company as of December 31st, 1928, to the best of my knowledge and belief.

Company's Seal

Thomas J. Flynn

STATE OF NEW YORK, }
COUNTY OF NEW YORK } ss.

Subscribed and sworn to before me, a Notary Public of the State of New York, in the City of New York, this 4th day of February A. D. 1929.

George C. Kaiser

Notary's Seal

NOTARY PUBLIC
Bronx Co. No. 9, Register's No. 3004-A
Certificate filed in New York Co. No. 688,
Register's No. 8 [illegible]
Commission Expires March 30, 1930



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STATE OF NEW YORK :
: ss.
COUNTY OF NEW YORK :

BE IT REMEMBERED, That on this 23rd day of July, in the year of our Lord, One thousand nine hundred and twenty-nine, before me, the subscriber, Paulita Andrews personally appeared, Clarence L. Boyer who being by me duly sworn, doth depose and make proof to my satisfaction that he is Assistant Secretary and that he well knows the common seal of JOHNS-MANVILLE CORPORATION, the obligor named in the foregoing bond, that the seal thereto affixed is the proper common seal of the said corporation, and that the same was so affixed thereto, and the said bond signed and delivered by C. M. Voorhees who was at the date and execution thereof Treasurer of said corporation, as the voluntary act and deed of the said corporation, in the presence of said deponent, and that the said deponent subscribed the same as witness to the execution thereof.

Clarence L. Boyer

Subscribed and sworn to at New York, N.Y. this 23rd day of July 1929, before me

duly commissioned and sworn as witness my hand and official seal.

Paulita Andrews

(LS) Notary Public
New York County Clerk's #193
New York County Register's #1262
Commission Expires March 30, 1931

CRMC-Motley1000-Subj-003392

NEW JERSEY SUPREME COURT
ESSEX COUNTY
- - - - - - - - - - - - - -
FRANK BARTUS,
Plaintiff,
vs.
JOHNS-MANVILLE CORPORATION,
a Corporation of the State
of New York,
Defendant.
- - - - - - - - - - - - - -
Action at Law
BOND ON REMOVAL.
- - - - - - - - - - - - - -
Hobart & Minard,
Attys. of Defendant,
Special and specially,
24 Branford pl.,
Newark, N. J.

Filed July 29, 1929,
Fred L. Bloodgood, Clerk.

CRMC-Motley1000-Subj-003393

NEW JERSEY SUPREME COURT
SOMERSET COUNTY.

BERSAMERTUS,

Plaintiff,

vs. : Action at Law.

JOHNS-MANVILLE CORPORATION, a Corporation of the State of New York,

Defendant. : ORDER FOR REMOVAL.

On due notice to the attorney for plaintiff in the above entitled cause, it is on this 29th day of July 1929, on motion of Hobart & Minard, attorneys for the defendant therein;

O R D E R E D that the petition of said defendant for the removal of said cause to the District Court of the United States, for the District of New Jersey, be and the same is hereby accepted and that the bond presented with said petition be and it hereby is accepted and approved and that said petition and bond be filed.

~~Let the foregoing order be entered.~~
Let this rule be entered
nunc pro tunc
Wm. I. Gummere
J.S. C.

Entered July 29, 1929,
on Motion of
Hobart - Minard
Attorneys of defendant,
appearing specially.

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NEW JERSEY SUPREME COURT
ESSEX COUNTY

Frank Bartus,

Plaintiff,

vs.

JOHNS-MANVILLE CORPORATION,
a corporation of the State
of New York

Defendant.

Action at Law

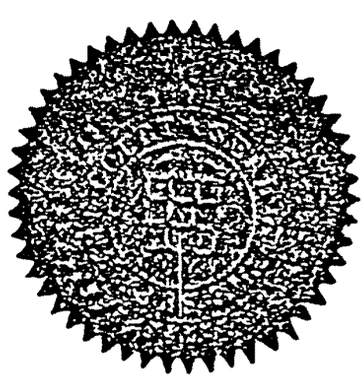
ORDER FOR REMOVAL.

Hobart & Minard,
Attorneys for Defendant,
[illegible]
[illegible]
Newark, N. J.

CRMC-Motley1000-Subj-003395

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I, Fred L. Bloodgood, Clerk of the Supreme Court of the State of New Jersey, do certify that the foregoing is a true copy of the entire proceedings in the above stated cause as the same remain on file and of record in my office.



In testimony whereof I have set my hand and the seal of said Court at Trenton, this Thirtieth, day of July, A. D. nineteen hundred and Twenty-nine.

Fred L. Bloodgood Clerk.

CRMC-Motley1000-Subj-003396

New Jersey Supreme Court

SOMERSET COUNTY.

FRANK BARTUS,

Plaintiff,

vs.

JOHNS-MANVILLE CORP., a Corporation of the State of New York,

Defendant.

COPY OF PROCEEDINGS

Samuel Greenstone,
Attorney for Plaintiff.

FILED

AUG 1 4 1929

GEORGE T. CRANMER, Clerk.

CLERK'S OFFICE, TRENTON

CRMC-Motley1000-Subj-003397

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY.

FRANK BARTUS,	:	
Plaintiff,	:	
-vs-	:	ACTION AT LAW
JOHNS-MANVILLE CORPORATION, a Corporation of the State of New York,	:	R E P L Y
Defendant.	:	

- - - - - - - - - - - - - - - - -X

Plaintiff, FRANK BARTUS, for reply to the Answer of the defendant, Johns- Manville, Corporation, says that:

He denies all the affirmative defenses as set forth in the Answer of the defendant.

Attorney for Plaintiff

M-740

CRMC-Motley1000-Subj-003398

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FRANK BARTUS,

Plaintiff,

vs.

JOHNS-MANVILLE CORPORATION, a corporation of the State of New York,

Defendant.

On motion to Quash Summons and Dismiss Complaint.

RULE TO SHOW CAUSE

1957

On reading and filing the affidavits presented in behalf of the defendant,

O R D E R E D that the plaintiff and the plaintiff's attorney show cause before this Court on the thirty first day of ~~February~~ March, 1930, at 10.30 o'clock A.M., at the court room in the Chamber of Commerce Building, 24 Branford Place, Newark, New Jersey, why the summons herein should not be quashed and the complaint dismissed on the ground that the summons was issued and the complaint filed without the authority of the plaintiff.

FURTHER ORDERED that a copy of this rule and of said affidavits (certified as true copies by the attorneys of the defendant) be served within four days from the date hereof, upon the plaintiff either personally or by leaving same at plaintiff's residence and upon the attorney of the plaintiff either personally or by leaving same at his office in the City of Newark.

FURTHERED ORDERED that on the return day of this rule the parties have leave to take testimony in open court in support thereof and in opposition thereto.

DATED: ~~February~~ March 7th 1930.

Rule entered this 11th day of ~~February~~ March, 1930, on motion of HOBART & MINARD, Attorneys of Defendant.

U.S.D.J.

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FRANK BARTUS, :

Plaintiff, :

-vs- : On motion to quash summons and dismiss complaint

JOHNS-MANVILLE CORPORATION, a corporation of the State of New York, : AFFIDAVIT OF SERVICE

Defendant. :

STATE OF NEW JERSEY :
: ss.
COUNTY OF SOMERSET :

ARCHIBALD HUGHES, being duly sworn, according to law, on his oath, says:

I am employed by the defendant at its factory in Manville, N. J. On Tuesday, March. 11, 1930, I served upon the plaintiff a copy of the rule to show cause herein dated March 7, 1930, and copies of the affidavits filed herein by the defendant, said copies of said rule and affidavits being duly certified as true copies by Hobart & Minard, attorneys of defendant.

Said service was made by leaving said copies personally with the plaintiff at the Manville plant of the defendant.

Subscribed and sworn to at Manville, N.J. this 12th day of March, 1930, before me

Archibald Hughes

A Notary Public of New Jersey

CRMC-Motley1000-Subj-003400

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERS

FRANK BARTUS,

Plaintiff,

-vs-

JOHNS-MANVILLE CORPORATION, a Corporation of the State of New York,

Defendant.

Action at Law

A N S W E R

The defendant, JOHNS-MANVILLE CORPORATION, a corporation of the State of New York, having its principal office in New Jersey, at Manville, Somerset County, says that:

FIRST DEFENSE

1. It denies paragraph 1, except that it says that the plaintiff was in its employ at its plant in Manville, N. J., from December 28, 1926, to the month of November,192

2. It denies paragraph 2, except that it says that it was and has been engaged in the manufacture of asbestos products for commercial purposes from December 28,1926, to the present time.

3. It denies paragraph 3, except that it says that it employed the plaintiff from December 28,1926, to the month of November,1927.

4. It denies paragraphs 4, 5, 6, and 7.

SECOND DEFENSE

The injury and the disease alleged in the complaint were due to one of the risks of his employment assumed by the plaintiff as part of the terms of his contract of employment.

THIRD DEFENSE

The injury and the disease alleged in the complaint were due to one of the risks of his employment assumed by

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the plaintiff as part of the terms of his contract of employment in that the plaintiff knew, or by the exercise of reasonable care on his part should have known, the alleged dangers of his employment.

FOURTH DEFENSE

The injury and the disease alleged in the complaint were caused by contributory negligence on the part of the plaintiff.

FIFTH DEFENSE

The injury and the disease alleged in the complaint were caused by contributory negligence on the part of the plaintiff in that the plaintiff failed to exercise reasonable care to protect himself against the alleged dangers of his employment by using the mask and other appliances provided by the defendant for that purpose.

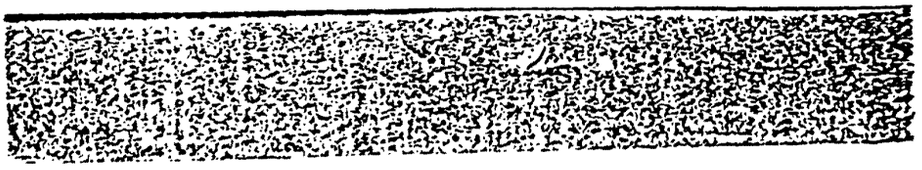
SIXTH DEFENSE

The injury and the disease alleged in the complaint were due to negligence on the part of a fellow-servant of the plaintiff, in failing to warn and instruct the plaintiff to use the mask and other appliances provided by the defendant for the purpose of protecting the plaintiff against the alleged dangers of his employment.

SEVENTH DEFENSE

Plaintiff's action is barred because it was not commenced and instituted within two years next after the alleged cause of action accrued.

Hebert & Allmond
Attorneys for Defendant.



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FRANK BARTUS,

Plaintiff,

-vs-

JOHNS-MANVILLE CORPORATION, a Corporation of the State of New York,

Defendant.

Action at Law

ANSWER

Hobart & Minard,
Attorneys for Defendant,
24 Branford Place,
Newark, N. J.

FILED

SEP 13 1929

AT 8 O'CLOCK A. M.

GEORGE T. CRANMER, Clerk.

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FRANK BARTUS,

Plaintiff,

-vs-

JOHNS-MANVILLE CORPORATION, a corporation of the State of New York,

Defendant.

AFFIDAVIT OF ARCHIBALD HUGHES

STATE OF NEW JERSEY :
: ss.
COUNTY OF ESSEX :

ARCHIBALD HUGHES, being duly sworn, according to law, on his oath, deposes and says:

I reside at 143 Eastern Avenue, Somerville, N. J. and I am employed by the Johns-Manville Corporation as General Manager, located at Manville, N. J.

On November 8, 1929, I was present at an interview between Mr. Emil Ramer and Mr. Frank Bartus, which was conducted in my office at the Manville plant. Mr. Ramer explained to Mr. Bartus that he desired information as to the manner in which the suit was started by Mr. Bartus against the Johns-Manville Corporation by summons dated July 17,1929, and Mr. Bartus expressed his willingness to tell all he knew about it.

Mr. Ramer then elicited facts from Mr. Bartus by questions, the answers being freely given, and immediately upon the answers being given Mr. Ramer reduced the same to narrative form, recording the interview in ink upon seven sheets of yellow paper. When the interview was concluded Mr. Ramer delivered the seven sheets to Mr. Bartus and requested him to read the same to determine whether the information therein set forth was accurately stated.

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Mr. Bartus then read the seven sheets of paper and upon stating to Mr. Ramer that the conversation was accurately recorded, Mr. Ramer requested that Mr. Bartus sign his name on the first six sheets and wrote on the bottom of Mr. Ramer's writing upon the seventh sheet, the following:

"I have read 7 pages wich I dictated
and the same is true and correct.
Frank Bartus
11-8-29"

I have examined the seven sheets of yellow paper attached hereto and they are in the same condition as when signed by Mr. Bartus and witnessed by Mr. Ramer on November 3, 1929.

Subscribed and sworn to :
at Newark,N.J. this :
11th day of Feb.1930, :
before me. :
Wm A Holland
a Notary Public N.J.

Archibald Hughes.

CRMC-Motley1000-Subj-003405

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FRANK BARTUS,

Plaintiff,

-vs-

JOHNS-MANVILLE CORPORATION, a corporation of the State of New York,

Defendant.

AFFIDAVIT OF EMIL RAIER

STATE OF NEW JERSEY :
: ss.
COUNTY OF ESSEX :

EMIL RAIER, being duly sworn, according to law, on his oath, deposes and says:

I reside at 2305 Fourth Avenue, Astoria, L. I.

On the eighth day of November, 1929, I arranged a conference with Frank Bartus at the office of Mr. Archibald Hughes, General Manager of the Manville, N. J. plant, at Manville, N. J. At that conference there were present, in addition to Mr. Bartus and myself, Mr. Archibald Hughes. I explained to Mr. Bartus that I desired information as to the starting of the suit by him against the Johns-Manville Corporation by summons dated July 17, 1929, and he told me that he was perfectly willing to tell us all he knew about the suit.

I then further explained to him that I intended writing out a statement which I would request him to si and that as I elicited the information from him by questions I would reduce it to writing and he expressed his willingness to give such a statement.

CRMC-Motley1000-Subj-003406

As I elicited information from Mr. Bartus I reduced the facts to narrative form and recorded the interview in ink upon seven sheets of yellow paper. When the statement was completed I gave it to Mr. Bartus and requested that he read it to determine that the facts were accurately recorded and when he had finished reading it he advised me that the statement was correct. I thereupon requested that he sign his name at the bottom of the first six sheets of the statement and that he writ at the bottom of the seventh sheet the following:

"I have read 7 pages wich I dictated
and the same is true and correct
Frank Bartus
11-8-29"

Mr. Bartus did thereupon sign his name at the bottom of the first six pages and wrote as requested upo the bottom of the seventh sheet.

I thereupon signed my name as a witness.

I have examined the seven sheets of yellow stateme attached hereto and they are in the same condition as wh signed by Mr. Bartus and myself on November 8, 1929.

Emil Ramer

Subscribed and sworn to :
before me this 11th day :
of Feb. 1930. :
Geo. A Hobart
A Notary Public of Ky

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My name is Frank Bartus. I am 25 years old, was born April 27. 1904 at Woodbridge N.J. My fathers name was George who died at Woodbridge 4 years ago and who died from Tuberculosis. He was fireman for Manvil and Company, at Manvil Woodbridge N.J. My mother Julia is dead since about 1910. I was married in New Brunswick November 15. 1925 and my wife's name is Emma and I have two children. Joe 2½ years and Julia is 11½ weeks old. I live at Manville and am working for Johns Manv. at least 4½ years. I worked for Henry Manvil at Claybanks in Woodbridge N.J. I drove a team of horses for Pat Trainor of Woodbridge; altogether I put straight six years at Woodbridge for Manvils I am earning wages to do and am getting 48 cents an hour, the same rate as my other workmen alongside of me in the same group. I am working in A" Building and am working since April 1928.- I am handling daily.-

Frank Bartus - 11-5-29

asbestos yarn, since April 1918; I did sharping during the winter months in 1926, and practically all year in 1927. On November 18th 1927 I was sent by a Nurse to Glen Gardner Sanitorium I left the Sanitorium April 1928 and was told by Dr Glavin who examined to go home as I am fit to work. Begin 3 May 1928 I applied for a job, it was given to me and I am working since From time to time I am being examined by Dr Dorn at the Plant. Dr Dorn is a Specialist hired by the State of New Jersey for Tubercular Cases. I never had anything in my mind or head ever to sue Johns Man Company for any money whatsoever on account of my sickness. I never sent for any living person, any Agent or Lawyer from this State or any other State to start an action against the Company I am working for. I firmly believe that Johns Manville Factory, and the nature of the work

Frank Bartus 11-5-29

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I am doing had nothing to do with me having Tuberculosis. I know for fact that Tuberculosis runs in my family and it is inherited that about the time I started planting my garden in 1929 a lawyer came to my house accompanied by two local men. One was Chesler who runs an Ice Cream Parlor at Manville, the other man was Chesler's brother in-law, a tall slim fellow who is in the milk business. I do not know his name. The lawyer introduced himself as Mr Greenstone from Newark and Jersey City. I did not send for him neither did I send for the other two men. Prior to that time Chesler was never since I remember in my house, the Milkman delivers milk, but I never had any Conversations with him since I live in Manville prior to the visit with Lawyer Greenstone from

Frank Bartus 11-5-29

CRMC-Motley1000-Subj-003410

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Newark and Jersey City. When Green came in to my house he gave me his Card which I am still keeps His first name is Samuel, his second name Greenstone. He told me that it would be a good idea on my part to sue the Johns Manville Company, he told me, that he has more cases in town which are brought in Court against the Company. He asked me whether I got any money. For the time I was gone from the plant, I told him no. He told me that he would stand for expenses, and that we would split half and half. For any amount he could get in Court by suing for me the Johns Manville. I told this lawyer, that I don't want to sue the Johns Manville, and anyhow I am working in the plant. He told me, that he has a good

Frank Bartus 11-5-29

CRMC-Motley1000-Subj-003411

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point or case against the Company on account of poor ventilation. I told Greenstone at that time that my Tuberculosis is inherited, and that my father died from T.B. - He then left, and said, that he would send somebody up or he himself would see me very shortly again. - That day I told him not to bother me about suing the Company. - About a week or so after this conversation, while going home from work I passed Chesters store, and a stranger stopped me, introduced himself as Greenstone man, and Chester introduced him to me as Greenstones partner. - This man started to talk to me. Called me in to the Ice Cream Parlor ran by Chester, and told me to sign papers, which will enable me to get money from the

Frank Bartus 11-5-29

CRMC-Motley1000-Subj-003412

Company. I was in a hurry to get home, so I did not read the paper which he gave me to sign. I am however frank to say to-day that I signed the papers believing that I would get some easy money, and I regret a great deal that I did sign for Greenstones man the paper, and I wish I would get the paper back which I signed because I am sorry about it. I never swore to any document, I never read the paper which I signed, I don't know what is in this paper which I signed for Greenstones man, it was a medium sized paper which I signed, white paper, and one paper only. I never saw Greenstone, or his man since that time. Nobody ever discussed this case since.

Frank Bartus 11-8-39

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I signed the paper in the Ice Cream Parlor. To day is the first time since the day I signed the paper in Chesterton, that this case is being discussed again. I am making this statement on my own free will without being promised any money, any better job, or anything else. I am willing to drop my law suit against the Johns Manville Co, and I don't want any law suits against the Johns Manville Co. This statement was dictated by me, and the same is true and correct, and that ever I told about my case contains the truth and nothing else, I speak Hungarian and English. I am born in U.S.A. at Woodbridge New Jersey

witness
Elkanes
11/6/29.

I have ~~not~~ read 7 pages which I dictated and the same is true and correct Frank Bartus 11.6.29

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FRANK BARTUS,	:	
Plaintiff,	:	
-vs-	:	On motion to quash summons and to dismiss complaint
JOHNS-MANVILLE CORPORATION, a corporation of the State of New York,	:	ORDER FOR DISCONTINUANCE
Defendant.	:	
	:	

This matter coming on to be heard in the presence of the attorneys of the parties (Samuel Greenstone appearing for the plaintiff and Hobart & Minard appearing for the defendant) on the return of the rule to show cause allowed herein on March 7, 1930, why the summons should not be quashed and the complaint dismissed on the grounds stated in said rule, and it appearing that a copy of said rule was duly served upon the plaintiff, and the plaintiff's attorney, within the time and in the manner required by said rule; and the attorney of the plaintiff having stated in open court that although he had been properly retained and authorized to commence the above action, he did not desire to continue it against the present wishes of his client and would therefore consent to a discontinuance of the same;

ORDERED, that said action be and the same is hereby discontinued without costs.

DATED: April 14 1930.

Rule entered this 15 day of April, 1930, on motion of Hobart Hellmuth
Attorneys of Defendant.

George S. Baker
U. S. D. J.

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