UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ROBERT MARSHALL, administrator ad prosequendum of HELEN MARSHALL, deceased,

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's intestate was in its employ at its plant in Manville, N. J., from December 28, 1926, to October, 1928.

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's intestate from December 28,1926 to October, 1928.

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 her employment assumed by the plaintiff's intestate as part of the terms of her contract of employment.

THIRD DEFENSE

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

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

FOURTH DEFENSE

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

FIFTH DEFENSE

The injury and the disease alleged in the complaint were caused by contributory negligence on the part of the plaintiff's intestate in that the plaintiff's intestate failed to exercise reasonable care to protect herself against the alleged dangers of her 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's intestate, in failing to warn and instruct the plaintiff's intestate to use the mask and other appliances provided by the defendant for the purpose of protecting the plaintiff's intestate against the alleged dangers of her employment.

Holland & Minard
Attorneys for Defendant.

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UNITED STATES DISTRICT COURT F
THE DISTRICT OF NEW JERSEY.

ROBERT MARSHALL, administrator ad prosequendum of HELEN MARSHALL, deceased,	:	
Plaintiff,	:	
-vs-	:	ACTION AT LAW
JOHNS-MANVILLE CORPORATION, a Corporation of the State of New York,	:	R E P L Y
Defendant.	:	

Plaintiff, Robert Marshall, administrator ad prosequendum, of Helen Marshall, deceased, for reply to the answer of the defendant, Johns-Manville Corporation, says that:-

1. He denies all the affirmative defenses as set forth in the answer of the defendant, Johns-Manville Corporation

Samuel Greenstone
ATTORNEY FOR PLAINTIFF.

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ROBERT MARSHALL, Administrator ad Prosequendum of Helen Marshall, deceased,

Plaintiff,

-vs-

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

Defendant.

Action at Law

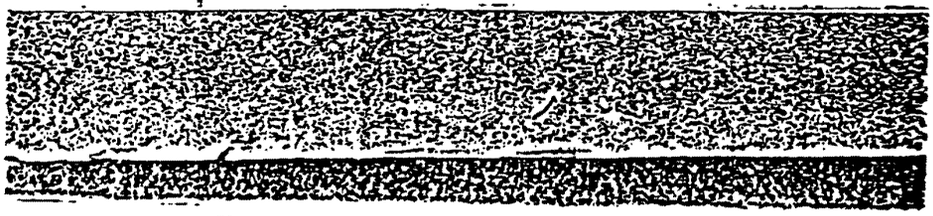
AFFIDAVIT OF EMIL RAMER

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

EMIL RAMER, being duly sworn according to law on his oath says that:

I reside at #2805 Fourth Avenue, Astoria, Long Island, New York.

I arranged for an interview with Mr. Robert Marshall at the office of Mr. Archibald Hughes, General Manager of the Manville, N. J., plant of the Johns-Manville Corporation, which interview was conducted on December 5, 1929 in the presence of Mr. Archibald Hughes and Miss Charlotte Wolf. I obtained by question and answer information from Mr. Marshall which I reduced to narrative form, dictating the same to Miss Wolf. As I dictated the matter to Miss Wolf I directed that Mr. Marshall correct me if my dictation did not accurately state the facts which he had given to me and which he did give to me during the time that the statement was being dictated. When the dictation was completed Miss Wolf left the room and a short time thereafter returned with three typewritten pages, which pages I delivered to Mr. Marshall requesting that he read them over and determine if they accurately reported the interview. After Mr. Marshall had stated that



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the interview was accurately recorded I then read the pages to him, interpreting them in the Polish language and he again told me in Polish that the interview was accurately reported. I thereupon requested that he sign his name at the bottom of the first two pages and immediately at the end of the typewritten matter on the third page above the dotted line which had been placed there by Miss Wolf. After Mr. Marshall had signed the three pages I signed my signature on the third page and immediately below my signature I wrote in the date.

I have today examined the three typewritten pages and they are in the same condition as when finally executed by Mr. Marshall and myself on December 5, 1929.

Subscribed and sworn to :
before me this eleventh :
day of February, 1930 :

Emil Ramer

Geo A Hobart
Notary Public of NJ

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ROBERT MARSHALL, Administrator ad Prosequendum of Helen Marshall, deceased,

Plaintiff,

-vs-

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

Defendant.

Action at Law

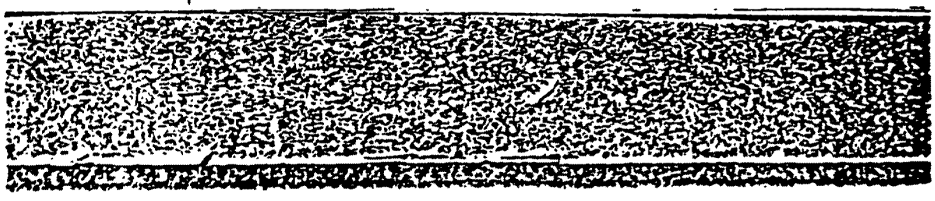
AFFIDAVIT OF CHARLOTTE WOLF

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

CHARLOTTE WOLF, being duly sworn according to law on her oath says that:

I reside at #105 East Main Street, Bound Brook, N. J. and am employed by the Johns-Manville Corporation at its plant in Manville, N. J., as a stenographer.

On December 5, 1929, at the request of Mr. Archibald Hughes, General Manager of the Manville, N. J. plant, I was present at an interview between Mr. Ramer and Mr. Robert Marshall, which interview was conducted in the office of Mr. Hughes at the Manville plant in the presence of Mr. Archibald Hughes. Mr. Ramer directed me to prepare a typewritten statement to be signed by Mr. Marshall, which statement he dictated to me, having first obtained from Mr. Marshall the facts necessary in the preparation of the statement. Mr. Ramer would dictate one complete thought and then inquire of Mr. Marshall whether or not it was accurately stated and upon being informed that it was accurately stated he would propound certain questions and obtain certain other information and then dictate another complete thought based upon the information so communicated to him by Mr. Marshall.



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When the interview was concluded I retired to another room and transcribed my shorthand notes to three pages of typewritten matter, which three pages I delivered to Mr. Ramer in the presence of Mr. Marshall and Mr. Hughes. I saw Mr. Marshall sign his name at the bottom of the first two pages of the typewritten statement and immediat ly at the end of the typewritten matter on the third page above the dotted line which I had placed there for that purpose. Mr. Ramer thereupon signed his name below the signature of Mr. Marshall and wrote beneath his signature the date, to wit, 12/5/29.

I have today examined the three pages of type-written matter attached to this affidavit and they are in the same condition as when executed by Mr. Marshall and Mr. Ramer on December 5, 1929.

Subscribed and sworn to :
before me this eleventh :
day of February, 1930 :

Charlotte Motley

Geo. A. Hobart
Notary Public of N.J.

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My name is Robert Marshall. In Polish, it is Boleslaw Marszalek. I am married and I have a wife and six living children. I live in Manville and my Post Office box is 277. I am a citizen of the United States and I speak English and Polish. I am working at the present time for the Johns-Manville Company for the last six years and have been working for three years for this company about(10) ten years ago. I have a son, Benedict, working for this company.

On the 24th of December, 1928, my daughter, Helen, who was about 19 or 20 years old, died in the Borough of Manville. She was buried in a Somerville, New Jersey Cemetery. Helen was working for the Johns-Manville Co. for about three or four years, something like that. She carried a policy with the Polish Union of Wilkes-Barre, Penna. and the policy ready for One thousand dollars. I paid the funeral expenses out of the one thousand dollars. My daughter was troubled with bronchitis and she was treated by Dr. Flynn of Somerville, N. J. and by another doctor, whose name I do not remember at this time. About ten years ago, my daughter took sick with the Spanish Influenza and she came back to health, but she was troubled all the time with Bronchitis, but she never in her life suffered with lung trouble. After my daughter died, I did not come to the bosses of the Johns-Manville Co. to ask them for money or charity or something of that sort on account of the death of my daughter, because I felt and knew that the company for which my daughter was working had nothing to do with her death.

A few months after I buried my daughter, a man came to see me and he told me that his name is Lawyer Samuel Greenstone, a lawyer from Newark on Broad Street. He was in company with Joe Lewandowski, who is working for the Johns-Manville Co. Joe Lewandowski works in "A" Building. I recognized Mr. Greenstone immediately because a few years ago I was taken to his office in Newark by a man Mitchell about starting a lawsuit for the death of my other daughters, Nellie and Anna. From the time I saw Mr. Greenstone in his office in Newark about my two daughters until the time he came to my house, two or three years went by. Greenstone shook hands with me in my house and started to talk to me about the death of my two daughters. He told me that nothing could be done on their cases, but he advised me that since my daughter Helen died, he would try to get me some money from

Robert Marshall

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the JohnsManville Co. and whatever he is going to get he will split with me fifty-fifty. Greenstone said to me that the reason he will try to get money for the death of my daughter, Helen, is because she was working for the Johns-Manville Co. and that this company ought to pay money for her death and that he will try to get it. I never knew anything about law, and I don't understand what law is, but I thought that as long as he can get money and I can get something out of it, let him go ahead and try. He told me it will not cost me one cent and he said that he will find out everything from the doctors what the trouble was that my daughter died so young. I told Mr. Greenstone very plainly that I am afraid to both or the company with law-suits and I don't want to fight the company in courts and I told him I don't care to and I would not stand for it to bother the Johns-Manville Co. for the death of my daughter, Helen; and Lawyer Greenstone said "Don't be afraid, nothing will happen to you and I will fix this". He said that I would not have to go to court - maybe once, but I would not need to be afraid and that he would fix it.

About a week later, the same lawyer, Mr. Samuel Greenstone, came to my house and took me and my wife, Agnes, to Somerville, where I signed a paper and he told me that I have got to sign a paper in order to get some money from the Johns-Manville Co. I did not understand the paper which I was signing. It was too hard English and Samuel Greenstone, the lawyer, had no interpreter for me. I can speak English and I understand it all right, but hard words I don't understand. I understand every day English.

I realize that I got into this law-suit against my own will and I did not want to sue the Johns-Manville Co. for the death of my daughter, Helen, and I do not want to sue now. Samuel Greenstone was the man who put this idea in my head. I never sent for him and I never asked him to sue the Johns-Manville Co. in court for the death of my daughter, Helen. I am willing to sign papers at any time to withdraw my case pending in the courts against the Johns-Manville Co. because I feel that the Johns-Manville Co. had nothing to do with the death of my daughter, Helen. I am making this statement on my own free will. I was not threatened to do so by my

Robert Marshall

foreman, Richard Smith, or by Mr. Hughes, or by anybody else connected with the Johns-Manville Company. I was not told that I will get a better job if I would drop my case against the Johns-Manville Co. I was not promised any money for signing this statement.

This statement was read to me in Polish language and the same is true and correct, and it contains all I know about my case.

Robert Marshall

.....

witness

E. Kramer

11/5/29

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ROBERT MARSHALL, administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL, deceased, 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

L 20 / 7

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 7th day of 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.

FURTHERMORE 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: March 7th 1930.

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

U.S.D.J.

[redacted]

CRMC-Motley1000-Subj-003590

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ROBERT MARSHALL, Administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL, deceased,

Plaintiff,

vs.

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

Defendant.

On motion to quash summons and to dismiss complaint.

AFFIDAVIT OF SERVICE

STATE OF NEW JERSEY :
: ss
COUNTY OF ESSEX :

JOHN MURRAY, being duly sworn, according to law on his oath, says:

I am employed as a clerk in the office of Hobart & Minard, attorneys of defendant. On Tuesday, March 11, 1930, at 2.30 p.m., I served upon Samuel Greenstone, attorney of record of the plaintiff, a copy of the rule to show cause herein, dated March 7, 1930, duly certified as a true copy by Hobart & Minard, attorneys of defendant, and on the same day I served upon said Samuel Greenstone a copy of the affidavits filed herein by the defendant, duly certified as true copies by Hobart & Minard, attorneys of defendant.

Said service was made by leaving said copies of said rule to show cause and said affidavits at the office of said Samuel Greenstone No. 972 Broad St., in the City of Newark, N.J., with the person in charge of said office at said time.

Subscribed and sworn to at Newark, N.J. this 12th day of March, 1930, before me [illegible]

John Murray

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ROBERT MARSHALL, administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL, deceased,

Plaintiff,

-vs-

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

Defendant.

On motion to quash summons and dismiss complaint

AFFIDAVIT OF SERVICE

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 17th day of March, 1930, before me

Archibald Hughes

A Notary Public of New Jersey

CRMC-Motley1000-Subj-003592

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ROBERT MARSHALL, Administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL, deceased, Plaintiff, vs. JOHNS-MANVILLE CORPORATION, a corporation of the State of New York, Defendant.	On motion to quash summons and to dismiss complaint. ORDER FOR DISCONTINUANCE.

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 & Minard Attorneys of Defendant.

George L. Fake
U. S. D. J.

CRMC-Motley1000-Subj-003593

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 Robert Marshall, administrator ad prosequendum of the estate of Helen Marshall, deceased, 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.

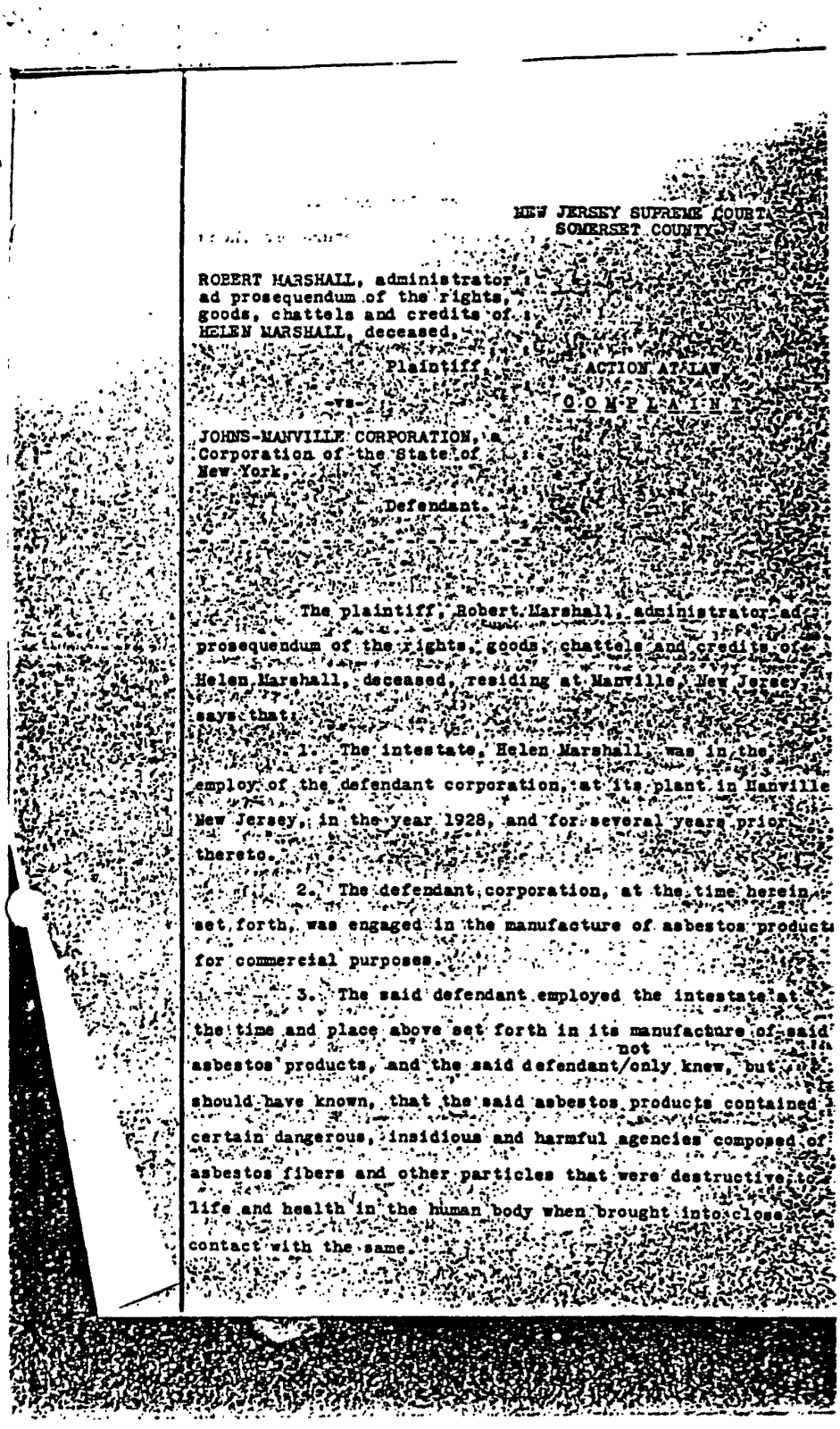
WITNESS, Honorable William S. Gummere, Chief Justice of the Supreme Court, at Trenton, New Jersey, this 21st day of September, 1929.

FRED. L. BLOODGOOD
CLERK.

SAMUEL GREENSTONE
Attorney for Plaintiff



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NEW JERSEY SUPREME COURT
SOMERSET COUNTY

ROBERT MARSHALL, administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL, deceased,

Plaintiff,

-vs-

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

Defendant.

ACTION AT LAW

C O M P L A I N T

The plaintiff, Robert Marshall, administrator ad prosequendum of the rights, goods, chattels and credits of Helen Marshall, deceased, residing at Manville, New Jersey, says that:

1. The intestate, Helen Marshall, was in the employ of the defendant corporation, at its plant in Manville New Jersey, in the year 1928, 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 intestate 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.

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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 toescape and to come into close proximity of the intestate's person and exposed the intestate so that she came into contact with, and inhaled, the said dangerous fibers and particles to the extent that her bronchial tubes, lungs and body became infected with the same.

5. Intestate 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 she 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 intestate with a reasonably safe place of work.

(b) In failing to use reasonable care to provide the intestate with proper masks or other appliances or safeguards in said work.

(c) In failing to use reasonable care to provide 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 intestate, at the time and place above mentioned.

7. The said asbestos fibers and particles were introduced into the intestate's body at the time and place aforesaid, so that the intestate was caused to suffer serious

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injuries, externally and internally, in and about her head, body and limbs, and her resistance power was lowered, and she died, as a result thereof, on December 23, 1928.

8. On the 7th day of May, 1929, the plaintiff, Robert Marshall, was duly appointed, by the Surrogate of Somerset County, administrator ad prosequendum of Helen Marshall, to prosecute the action for damages, for the death of his intestate, for the benefit of next of kin of Helen Marshall, deceased, and now proffers his letters of administration.

9. The said Helen Marshall left surviving her, ~~her~~ father her, Robert Marshall; her mother, Agnes Marshall; and her brothers, John Marshall; Enoch Marshall; Benjamin Marshall; Edward Marshall; Henry Marshall; and her sister Rose Marshall; all dependent upon the said intestate for support.

10. Plaintiff, as administrator, as aforesaid, for the benefit of said next of kin, is vested by virtue of the statute, in such cases, made and provided with a cause of action against the defendant for negligently causing the death of his intestate, and brings this action within two years after the death of said intestate.

11. The said next of kin suffered pecuniary losses, by reason of the death of the said Helen Marshall, in the sum of $40,000.00.

Plaintiff demands the sum of $40,000.00 as damages from the defen ant.

Samuel Greenstone
Attorney for Plaintiff

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Sept. 25, 1929, I served the within summons and complaint upon Johns-Manville Corporation, a corporation of the State of New York, by serving Archibald Hughes its Superintendant, personally at Manville, N.J.

Fees $3.78

Ira L. Brokaw Sheriff.

Marvin Sheets Under Sheriff.

NEW JERSEY SUPREME COURT
SOMERSET COUNTY

Robert Marshall, administrator ad prosequendum of the rights, goods, chattels and credits of Helen Marshall, deceased,

Plaintiff,

-vs-

Johns-Manville Corporation, a Corporation of the State of New York,

Defendant.

ACTION AT LAW

SUMMONS AND COMPLAINT

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

F I L E D

Sep 25 1929

Fred L. Bloodgood
Clerk

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NEW JERSEY SUPREME COURT
SOMERSET COUNTY

ROBERT MARSHALL, administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL, deceased,

Plaintiff,

-vs-

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

Defendant.

Action at Law.

NOTICE OF REMOVAL

TO - SAMUEL GREENSTONE, ESq.,

Attorney for Plaintiff.

PLEASE TAKE NOTICE that on Tuesday, October 8, 1929, at 10.30 o'clock in the forenoon, or as soon thereafter as we may be heard, at the Court House in Morristown, N. J., we shall present to his Honor, Charles W. Parker, one of the justices of the Supreme Court, a petition of Johns-Manville Corporation, the defendant named in the above entitled suit, for the removal of the said suit to the District Court of the United States, for the District of New Jersey; and shall also then and there present to the said justice the bond mentioned in the said petition and shall also apply for the removal of the said cause to the District Court of the United States, for the District of New Jersey; and imediately thereafter we shall file said petition and bond; all according to the Act of Congress in such case made and provided.

DATED: October 2, 1929.

Respectfully,

HOBART & HEARD

Attorneys for Defendant, appearing specially.

Russell E. Nowack

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Marshall v. Johns-Manville, Wrongful Death Suit for Helen Marshall (1929)
ACL Doc 23919 · Page 22 of 37

SOMERSET COUNTY

ROBERT MARSHALL, administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL' deceased,

Plaintiff,

-v-s-

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

Defendant.

NOTICE OF REMOVAL

HOBART & HINARD
Attys. for Defendant
appearing specially,
24 Branford Place,
Newark, N.J.

Service admitted this 3rd day of October, 1929.

Samuel Greenstein
Attorney for Plaintiff

F I L E D

Oct 10 1929

Fred L. Bloodgood
Clerk

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NEW JERSEY SUPREME COURT
SOMERSET COUNTY

ROBERT MARSHALL, administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL, deceased,

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 sole 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 $40,000.00, the amount demanded by the

CRMC-Motley1000-Subj-003601

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 September 23, 1929, by leaving a copy thereof with petitioner at Lanville, N.J.; the time within which the petitioner is required to answer said complaint has not yet expired but will expire on October 13, 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 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, &c.

JOHNS-MANVILLE CORPORATION
by C. M. Van Leer (Seal)
Vice-President

Attest:
Clarence L. Seger
Assistant Secretary

HOWARD A. MINARD
Attorneys of Petitioner,
appearing specially, &c.

James E. Nowacki

CRMC-Motley1000-Subj-003602

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

C. M. Warren, 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 $3,000.00; 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.

Subscribed and sworn to at New York, N.Y., this 30th day of September, 1929, before me

T. C. Bremer, Jr.

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

C. M. Warren

T. C. Bremer, Jr.
Notary Public
N. Y. County
#753

(Seal)

James E. Howard

NEW JERSEY SUPREME COURT
SOMERSET COUNTY

ROBERT MARSHALL, administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL, deceased,

Plaintiff,

-vs-

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

Defendant.

Action at Law
PETITION FOR REMOVAL

Hobart A. Minard, Esqs.,
Attorneys of Petitioner,
appearing specially,
24 Branford Place,
Newark, N. J.

F I L E D

Oct 10 1929

Fred L. Bloodgood
Clerk

CRMC-Motley1000-Subj-003604

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NEW JERSEY SUPREME COURT: Law-
SOMERSET COUNTY

ROBERT MARSHALL, administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL, deceased,

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 NEW YORK INDEMNITY COMPANY, a corporation of the State of New York, as surety, are held and firmly bound unto ROBERT MARSHALL, administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL, deceased, residing at Manville, New Jersey, in the penal sum of Five Hundred Dollars, lawful money of the United States, to be paid to the said ROBERT MARSHALL, administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL, deceased, his successors 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 30th day of September, 1929.

WHEREAS, the above named ROBERT MARSHALL, administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL, deceased, has heretofore brough 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

James E. Nowack

CRMC-Motley1000-Subj-003605

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, 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 Distri of New Jersey, within thirty days from the date of filing said petition in said New Jersey Supreme Court, a certifie 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 wa wrongfully or improperly removed thereto, and shall also appear and enter special bail in said suit, if special bai was originally requisite therein, then this obligation shall be void; otherwise to remain in full force and effec

JOHNS-MANVILLE CORPORATION

By E. M. Voorhees
Vice-President

(Seal)

Attest:
Clarence L. Sage
Assistant Secretary

NEW YORK INDEMNITY COMPANY

By John L. Gallagher
Attorney-in-Fact

(Seal)

~~Attest~~
Witness
Mildred A. Finch
Co to surety

James E. Nowacki

CRMC-Motley1000-Subj-003606

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

BE IT REMEMBERED, That on this 30th day of September, in the year of our Lord, One thousand nine hundred and twenty-nine, before me, the subscriber, T. L. Brena, Jr personally appeared Clarence L. Sayer 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 E. 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.

Subscribed and sworn to at New York, N.Y., this 30th day of September, 1929, before me
T. L. Brena, Jr
duly commissioned and sworn as witness my hand and official seal.
T. L. Brena, Jr
(Seal)
#753

Clarence L. Sayer

James E. Howard

CRMC-Motley1000-Subj-003607

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 office in the City of New York, hath made, constituted and appointed, and does by these presents make, constitute and appoint John C. Gallagher 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 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 CO. at a meeting duly called and held on the twenty-fifth 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 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 as 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 affidavit 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 29th day of August, A.D.1929.

(Seal) T. J. Flynn, Assistant Secretary.

James E. Howard

CRMC-Motley1000-Subj-003608

State of New Jersey,

County of ESSEX } ss.:

City of NEWARK

On this 30th day of September, 1929, 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; that said Company has appointed the Commissioner of Banking and Insurance of New Jersey and his successors in office 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* [illegible] *day of* [illegible] *A. D.* 1929 *before me, a* NOTARY PUBLIC *duly commissioned and sworn.*

John C. Gallagher

James E. Howard,

CRMC-Motley1000-Subj-003609

New York Indemnity Company

New York

FINANCIAL STATEMENT, DECEMBER 31st, 1928

SPENCER WELTON, President. HUBERT J. HEWITT, Secretary

ASSETS

Stocks and Bonds at Market	$5,562,908.00
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	$3,045,808 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

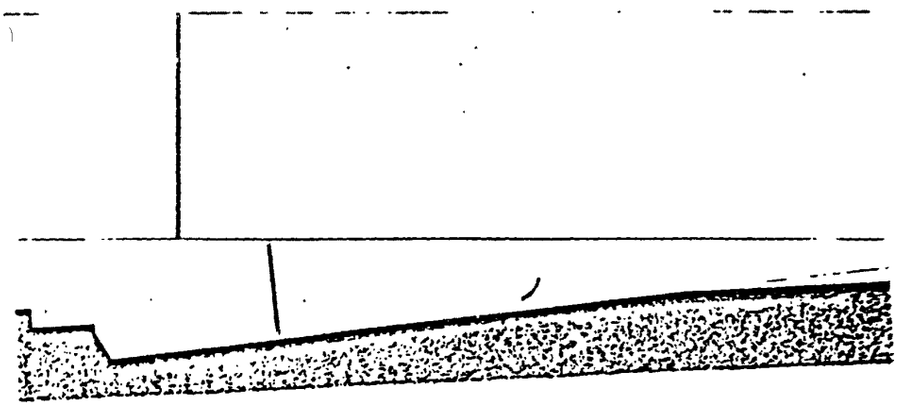
STATE OF NEW YORK, }
COUNTY OF NEW YORK } ss.

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.

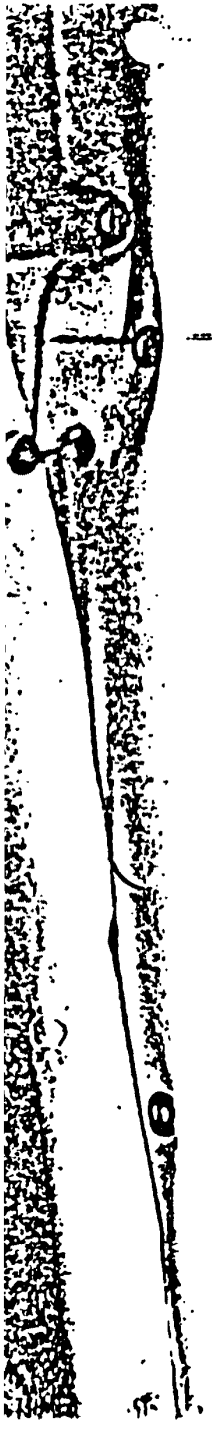
George Kaiser

NOTARY PUBLIC
Bronx Co. No. 9, Register's No. 3004-A
Certificate filed in New York Co. No. 655,
Register's No. 8-126
Commission Expires March 30, 1930

Notary's Seal



CRMC-Motley1000-Subj-003610



NEW JERSEY SUPREME COURT
SOMERSET COUNTY

ROBERT MARSHALL, administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL, deceased,

Plaintiff,

-vs-

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

Defendant.

Action at Law
BOND ON APPEAL

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

FILED

Oct 10 1929

Fred L. Bloodgood
Clerk

CRMC-Motley1000-Subj-003611

Marshall v. Johns-Manville, Wrongful Death Suit for Helen Marshall (1929)
ACL Doc 23919 · Page 33 of 37
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NEW JERSEY SUPREME COURT
SOMERSET COUNTY

ROBERT MARSHALL, administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL, deceased,

Plaintiff,

-vs-

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

Defendant.

Action at Law.

ORDER FOR REMOVAL

On due notice to the attorney for plaintiff in the above entitled cause, it is on this Eighth day of October, 1929, on motion of Hobart & Minard, attorneys for the defendant therein:

ORDERED that the petition of said defendan for the removal of said cause to the District Court of the United States, for the District of New Jersey be, and the same hereby is 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.

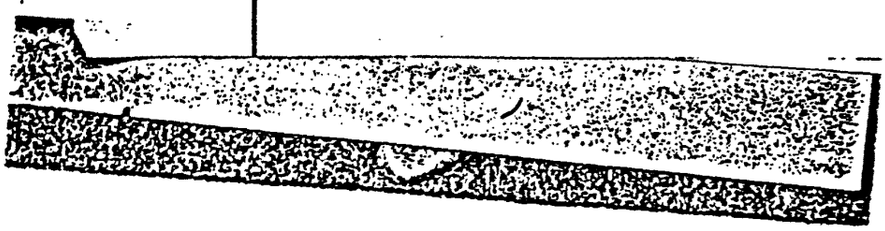
Let the foregoing order be entered.

Entered Oct. 8th, 1929
on motion of

HOBART & MINARD

Attorneys of Defendant,
appearing specially.

J. S. C.



SOMERSET COUNTY

ROBERT MARSHALL, administrator ad prosequendum of the rights, goods, chattels and credits of HELEN MARSHALL, deceased,

Plaintiff,

-vs-

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

Defendant.

ORDER FOR REMOVAL

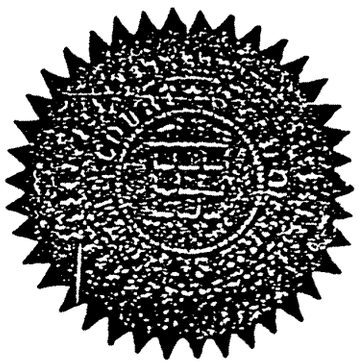
Hobart & Minard
Attys. for Defendant,
appearing specially,
24 Branford Place,
Newark, N. J.

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Fred L. Bloodgood,

I, ~~Edward J. Kelleher~~, 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 Fifteenth day of October A. D. nineteen hundred and twenty-nine.

Fred L. Bloodgood
Clerk.

CRMC-Motley1000-Subj-003614

LAW & 87

New Jersey Supreme Court

Somerset County.

Robert Marshall, administrator
ad prosequendum of the rights
goods, chattels and credits
of Helen Marshall, deceased,

Plaintiff,

vs.

Johns-Manville Corporation,
a Corporation of the State
of New York,

Defendant.

COPY OF PROCEEDINGS

Samuel Greenstone,
Attorney for Plaintiff.

FILED

CRMC-Motley1000-Subj-003615

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