July 5, 1929, I served the within summons and complaint upon Johns-Manvil Corporation, a Corporation of the State of New York, by serving Archibald Hughes, its Superintendant personally, at Manville, N. J.

Ira E. Brokaw, Sheriff,

Fees $3.78 By Ellsworth Brokaw, Under Sher

SUPREME COURT
SOMERSET COUNTY
- - - - - - - - - - -

Michael Perone,

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.

FILED
Jul 8 1929
Fred L. Bloodgood
Clerk

CRMC-Motley1000-Subj-003790

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NEW JERSEY SUPREME COURT
SOMERSET COUNTY

MICHAEL PERONE,

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, July 16, 1929, at 1.45 o'clock in the afternoon, we shall present to his Honor, Clarence E. Case, 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 immediately thereafter we shall file said petition and bond; all according to the Act of Congress in such case made and provided.

DATED: July 11,1929.

Respectfully,

HUBANT & HUBARD

Attorneys for Defendant
appearing specially.

James E. Nowack

CRMC-Motley1000-Subj-003791

NEW JERSEY SUPREME COURT.
SOMERSET COUNTY.

MICHAEL PERONE,

Plaintiff,

-Vs-

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

Defendant

Action at Law.
NOTICE OF REMOVAL.

Hobart & Minard
Attys.for Dcft.
appearing specially,
24 Branford Pl.,
Newark, N.J.

Filed July 18, 1929
Fred L. Bloodgood, Clerk.

Service Admitted
July 11, 1929
Atty. of Plaintiff
Samuel Greenstone

Filed July 16, 1929
Clarence E. Case
J. S. C.

CRMC-Motley1000-Subj-003792

4. [illegible] originally [illegible] requisite [illegible]

NEW JERSEY SUPREME COURT
SOMERSET COUNTY

5. [illegible] MICHAEL PERONE, [illegible] your petitioner on July 3, 1929, by [illegible] Plaintiff [illegible] the [illegible] Action at Law
JOHNS-MANVILLE CORPORATION, [illegible] PETITION FOR REMOVAL
a Corporation of the State of New York, [illegible] Defendant [illegible]

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 [illegible] conditioned as required by the Act [illegible]. 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 incontroversy 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., the amount demanded by the [illegible] plaintiff in said suit as damages from your petitioner, the defendant therein.

James E. Nowack

CRMC-Motley1000-Subj-003793

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 5,1929, by leaving a copy thereof with the Registered Agent of the petitioner in the State of New Jersey at Manville, N. J., that the time within which the petitioner is required to answer said complaint has not expired but will expire on July 25, 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, but desires to remove said cause to this Court.

6. Your petitioner has made and files herewith a said 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 $000., 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, etc.

JOHNS-MANVILLE CORPORATION
By E. H. Markley

Attest:
Clarence L. Snyder
Asst. Secy.

Attorneys of Petitioner, appearing specially, etc.

James E. Nowack

CRMC-Motley1000-Subj-003794

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

C. M. Vanlee 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.

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

C M Vanlee

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

(Seal) Pauline Gadsen
Notary Public
New York County Clerk's No. 18
New York County Register's No. 1A262
Comm. Expires Mar. 30, 1931.

James E. Howard

CRMC-Motley1000-Subj-003795

MICHAEL PERONE,

Plaintiff,

-vs-

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

Defendant.

PETITION FOR REMOVAL

Hobart & Minard
Attys. for Deft.
appearing specially
24 Branford Pl.,
Newark, N.J.

Filed July 16-1929
Clarence E. Case
J.S.C.

Filed July 18 1929
Fred L. Bloodgood
Clerk

CRMC-Motley1000-Subj-003796

NEW JERSEY SUPREME COURT
SOMERSET COUNTY

MICHAEL PERONE,

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 MICHAEL PERONE, residing in the Township of Scotch Plains, in the County of Union and State of New Jersey, in the penal sum of Five Hundred Dollars, lawful money of the United States, to be paid to the said MICHAEL PERONE, 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 Twenty-Fifth day of July, 1929.

WHEREAS, the above named MICHAEL PERONE, 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, the District

..... duly commissioned and sworn.

James E. Novack

CRMC-Motley1000-Subj-003797

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 said 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 the 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 C. M. Voorhees

Treasurer

Attest: Clarence L. Degelman

Asst. Secy.

(L.S.)

NEW YORK INDEMNITY COMPANY

By John L. Gallagher

Attorney-in-Fact

(L.S.)

Attest: Mildred A. Brady

Witness as to Surety

James E. Nowack

CRMC-Motley1000-Subj-003798

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 any and all bonds and/or undertakings in any amount not exceeding One Hundred Thousand Dollars ($100,000) and any and all bonds, recognizances and undertakings exceeding the amount herein specified when specifically authorized by letter or telegram signed "New York Indemnity Company" by the home office, the original of such letter or telegram together with copy of this power of attorney to be attached to each and every bond, recognizance or undertaking, 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-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 2. 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, 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 3. 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 24th day of July A.D.1928.

SEAL
Attest T.J.Flynn,
Assistant Secretary.

NEW YORK INDEMNITY COMPANY
By Bartlett Greene
Vice President.

[redacted] my commission and Penna.

James E. Novack

[redacted]

CRMC-Motley1000-Subj-003799

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

On this 24th day of July, A.D. 1928, before me personally came Bartlett Greene to me known, who, being by me duly sworn, did depose and say, that he resides in the Margate City, N.J. 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.

William Dunn
Notary Public

(Seal)

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 10th day of May A.D. 1929.

T. J. Flynn
Assistant Secretary

NEW YORK INDEMNITY COMPANY SEAL

duly commissioned and sworn.

James E. Novack

CRMC-Motley1000-Subj-003800

State of New Jersey,
County of ESSEX } ss.:
City of NEWARK

On this Tenth day of July, 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; 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* 10th *day of* July *A. D.* 1929 *before me, a* NOTARY PUBLIC *duly commissioned and sworn.*

James E. Nowack

John C. Gallagher

CRMC-Motley1000-Subj-003801

[illegible] 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.

Notary's Seal

George C. Kaiser

NOTARY PUBLIC
Bronx Co. No. 9, Register's No. 3004-A
Certificate filed in New York Co. No. [illegible]
Register's No. 8-316
Commission Expires March 30, 1930

New York County Clerk's No. 193
New York County Register's No. 1A 262
Commission Expires March 30, 1931

[illegible] Clerk.

CRMC-Motley1000-Subj-003802

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

BE IT REMEMBERED, That on this tenth 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. Hagey 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 10th day of July, 1929, before me: duly commissioned and sworn as witness my hand and official seal.

Clarence L. Hagey.

Paulita Andrews

(LS)

Notary Public
New York County Clerk's No. 193
New York County Register's No. 1 A 262
Commission Expires March 30, 1931

Clerk.

CRMC-Motley1000-Subj-003803

New Jersey Supreme Court
Somerset County

MICHAEL PERONE,

Plaintiff,

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

Defendant.

BOND ON REMOVAL

Hobart & Hinard
Attys. for Dfts.,
appearing specially
24 Branford Pl.,
Newark, N.J.

FILED
Jul 18 1929
Fred L. Woodgood
Clerk

CRMC-Motley1000-Subj-003804

NEW JERSEY SUPREME COURT
SOMERSET COUNTY

MICHAEL PERONE,

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 sixteenth day of July, 1929, on motion of Hobart & Minard, attorneys for the defendant therein;

ORDERED 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 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 July 18th 1929
On motion of
HOBART & MINARD
Attorneys of Defendant,
appearing specially.

Clarence E Case
J S C

Clerk.

CRMC-Motley1000-Subj-003805

NEW JERSEY SUPREME COURT
SOMERSET COUNTY

MICHAEL PERONE,

Plaintiff,

-vs-

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

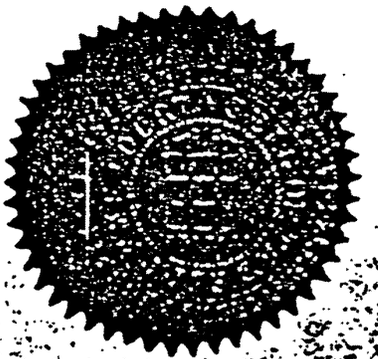
Defendant

ORDER FOR REMOVAL

Hobart & Minard
Attys.for Deft.,
appearing specially
24 Branford Pl.,
Newark, N.J.

CRMC-Motley1000-Subj-003806

I, the undersigned, 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 twenty-thir day of July A. D. nineteen hundred and twenty-nine.

Fred L. Bloodgood
Clerk.

CRMC-Motley1000-Subj-003807

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CONCETTA PERONE, administratrix of the estate of MICHAEL PERONE, deceased, and CONCETTA PERONE, administratrix ad prosequendum of MICHAEL PERONE, deceased,

Plaintiff,

-vs-

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

Defendant.

Action at Law

ANSWER TO AMENDED AND SUPPLEMENTAL COMPLAINT

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 TO FIRST COUNT

1. It denies Paragraph 1, except that it says that the plaintiff's intestate was in its employ at its plant at Manville, New Jersey, from December 28, 1926, to the month of August, 1927.

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 the month of August, 1927.

4. It denies Paragraph 4.

5. It denies Paragraph 5.

6. It denies Paragraph 6.

7. It denies Paragraph 7.

8. It has no knowledge or information sufficient to form a belief as to the allegations of Paragraph 8.

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SECOND DEFENSE TO FIRST COUNT

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

THIRD DEFENSE TO FIRST COUNT

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

FOURTH DEFENSE TO FIRST COUNT

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

FIFTH DEFENSE TO FIRST COUNT

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 himself against the alleged dangers of his employment by using the mask and other appliances provided by the defendant for this purpose.

SIXTH DEFENSE TO FIRST COUNT

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 his employment.

SEVENTH DEFENSE TO FIRST COUNT

The action of the plaintiff was barred at the time of the death of the plaintiff's intestate because

CRMC-Motley1000-Subj-003809

the original action, when commenced and instituted by the plaintiff's intestate during his lifetime, had not been commenced and instituted within two years next after the alleged cause of action accrued, and by reason of the premises the present action of the plaintiff is barred.

FIRST DEFENSE TO SECOND COUNT

1. It repeats the allegations of Paragraphs 1, 2, 3, 4, 5, 6 and 7 of the First Defense to First Count.

2. It has no knowledge or information sufficient to form a belief as to the allegations of Paragraph 2.

3. It has no knowledge or information sufficient to form a belief as to the allegations of Paragraph 3.

4. It denies the allegations of Paragraph 4 except that it has been informed and believes that this action was brought within two years after the death of the plaintiff's intestate.

5. It has no knowledge or information sufficient to form a belief as to the allegations of Paragraph 5.

SECOND DEFENSE TO SECOND COUNT

It repeats the allegations of the Second Defense to First Count.

THIRD DEFENSE TO SECOND COUNT

It repeats the allegations of the Third Defense to First Count.

FOURTH DEFENSE TO SECOND COUNT

It repeats the allegations of the Fourth Defense to First Count.

FIFTH DEFENSE TO SECOND COUNT

It repeats the allegations of the Fifth Defense to First Count.

CRMC-Motley1000-Subj-003810

SIXTH DEFENSE TO SECOND COUNT

It repeats the allegations of the Sixth Defense to First Count.

Holt & Kinnard
Attorneys of Defendant

CRMC-Motley1000-Subj-003811

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UNITED STATES DISTRICT COURT.
FOR THE DISTRICT OF NEW JERSEY.

CONCETTA PERONE, administratrix of the estate of MICHAEL PERONE, deceased, and CONCETTA PERONE, administratrix ad prosequendum of MICHAELPERONE, deceased,

Plaintiff,

-vs-

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

Defendant.

ACTION AT LAW

REPLY

The plaintiff, Concetta Perone, for reply to the defendant's answer to the Amended and Supplemental Complaint says that:-

1. She denies all the affirmative defenses alleged in the answer of the defendant, Johns-Manville Corporation.

Samuel Greenstone
Attorney for Plaintiff.

CRMC-Motley1000-Subj-003812

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NOTICE OF TRIAL — ALL LAW COURTS.—3

Karkus Brothers, Inc., Law Blank Publishers
South Amboy, N. J.

UNITED STATES DISTRICT Court.
FOR THE DISTRICT OF NEW JERSEY.

CONCETTA PERONE, administratrix of the estate of MICHAEL PERONE, deceased, and CONCETTA PERONE, administratrix ad prosequendum of MICHAEL PERONE,
vs.
Plaintiff,

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

Action at law

Notice of Trial.

SIR :—PLEASE TO TAKE NOTICE, that the trial of the issue joined in this cause will be moved before said Court, in the presence of such Judge or Justice thereof, as shall then be holding said Court, on the First *Tuesday of* November *A. D. 19* 30 *, at the Court House in* Newark *in and for the* District *County of* New Jersey *at ten o'clock in the forenoon, or as soon thereafter as the said Court can attend to the same.*

24 Commerce St.

Dated July 8th *A. D. 19* 30

Samuel Greenstone
Attorney of Plaintiff.

To Hobart & Minard *Esqs.,*
Attorneys of Defendant

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UNITED STATES DISTRICT COURT

DISTRICT OF NEWJERSEY

Concetta Perone, Admx. &c.

VS. : No. L-1955

Johns-Manville Corp

NOTICE OF FIXING PLACE FOR TRIAL.

Pursuant to Rule 12 I have fixed the place for the trial of the above case at Newark, N. J.

The next term of this court to be held at Newark, N. J. will commence the First Tuesday in April next and this case having been noticed for trial pursuant to said rule will be placed on the calendar. No notice of trial for subsequent terms will be necessary.

George T. Cranmer,
Clerk

By Charles S. Chevrier,
Deputy.

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Notice of Trial—All Law Courts

Korbee Brothers, Inc. Law Publishers, Perth Amboy, N. J.

UNITED STATES DISTRICT Court.
FOR THE DISTRICT OF NEW JERSEY.

CONCETTA PERONE, administratrix of the estate of MICHAEL PERONE, deceased, and CONCETTA PERONE, administratrix ad prosequentum of MICHAEL PERONE, deceased,
Plaintiff,
-vs-
JOHNS-MANVILLE CORPORATION, a corporation of the State of New York,
Defendant.

Action at law

Notice of Trial.

SIR :—PLEASE TO TAKE NOTICE, that the trial of the issue joined in this cause will be moved before said Court, in the presence of such Judge or Justice thereof, as shall then be holding said Court, on the First *Tuesday of* April *A. D. 1931, at the* Mercourte Bldg., Newark *in and for the* District *of* New Jersey *at ten o'clock in the forenoon, or as soon thereafter as the said Court can attend to the same.*

Dated January 17th *A. D., 1931.*

Samuel Greenstone
Attorney of Plaintiff.

To Hobart & Linard *Esq*
Attorney of Defendant.

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UNITED STATES DISTRICT Court
FOR THE DISTRICT OF NEW JERSEY

CONCETTA PERONE, administratrix of the estate of MICHAEL PERONE, deceased, and CONCETTA PERONE, administratrix ad prosequendum of MICHAEL PERONE, deceased,

Plaintiff

vs.

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

Defendant

Action at Law.
ORDER FOR DISCONTINUANCE.

1955

The above entitled cause having been settled between the parties thereto;

It is ORDERED, that the same be, and it is hereby discontinued, without costs either party as against the other.

George T. Cranmer
Clerk
By Edward S. Cahn
Deputy

Entered June 13, 1934

On motion of
Hobart & Minard
Attorneys of defendant

Consent is hereby given to the making and entering of the above order.

Arnold Greenstone
Attorney for Plaintiff

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY.

CONCETTA PERONE, administratrix of the estate of MICHAEL PERONE, deceased, and CONCETTA PERONE, administratrix ad prosequendum of MICHAEL PERONE, deceased,

Plaintiff,

-vs-

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

Defendant.

ACTION AT LAW

AMENDED AND SUPPLEMENTAL COMPLAINT.

FIRST COUNT.

The plaintiff, Concetta Perone, administratrix of the estate of Michael Perone, deceased, residing at Bound Brook, Somerset County, State of New Jersey, says that:-

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

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

3. The said defendant employed the intestate at the time and place aforesaid in its manufacture of said asbestos products and the said defendant not only knew, but should have known, that the said asbestos product 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 the said asbestos fibers and particles, but failed to keep the same in control and was



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negligent in allowing the said dangerous fibers and particles to escape and to come into close proximity of the intestate's person and exposed the intestate 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 permeated and infected with the same.

5. The 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 he was brought into close proximity by reason of the negligence of the defendant.

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 reasonabb 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 injuries externally and internally, in and about his head, body and limbs, causing him great pain and suffering both mental and physical, greatly lowering his resistance to disease so that he became a victim of pulmonary troubles, and died as a result thereof on September 17, 1929, and

by reason of the loss of the major part of his lifetime, of his physical and mental well being, of his wage earnings, and also the considerable amount of medical expense involved in his effort to retard the suffering from his disease, and mend the wrecking of his body, he was cursed to suffer losses and damages to the extent of $50,000.00.

6. On the 14th day of June, 1930, the plaintiff, Concetta Perone, was duly appointed by the surrogate of Somerset County administratrix of the goods and chattels, rights and credits which were of Michael Perone deceased, and here and now proffers her said letters of administration.

WHEREFORE, the administratrix as aforesaid, demands the sum of $50,000.00 under this first count for losses sustained to the estate of Michael Perone deceased, from the defendant.

SECOND COUNT.

The plaintiff, Concetta Perone, administratrix ad prosequendum of Michael Perone, residing at Bound Brook, Somerset County, State of New Jersey, says that:-

1. She repeats the allegations of paragraphs one, two, three, four, five, six, and seven of the first count.

2. On the 14th day of June, 1930, the plaintiff, Concetta Perone was duly appointed by the surrogate of Somerset County, administratrix ad prosequendum of Michael Perone, deceased, to prosecute the action for damages for the death of her intestate for the benefit of the next of kin of Michael Perone, deceased, and here and now proffers her said letters of administration.

3. The said Michael Perone left surviving him his mother, Concetta Perone, and his brothers and sisters,

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John Perone, Mary Perone, Dominick Perone, Ralph Perone, Charles Perone, Nicholas Perone, and BenjaminPerone, Jr., all dependent upon the said intestate for support.

4. The plaintiff as administratrix as aforesaid, for the benefit of the said next of kin, is vested by virtue of the statute in such case made and provided with a cause of action against the defendant for negligently causing the death of her intestate, and brings this action within two years after the death of the said intestate.

5. The said next of kin suffered pecuniary losses by reason of the death of the said Michael Perone in the sum of $50,000.00.

WHEREFORE, the administratrix as aforesaid, demands the sum of $50,000.00 under this second count for losses sustained to the estate of Michael Perone deceased, from the defendant.

Samuel Greenstone
Attorney for Plaintiff.

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