STATE OF ILLINOIS)
) ss.
COUNTY OF L A K E)

IN THE CIRCUIT COURT OF LAKE COUNTY

WILLIAM NORWOOD, Plaintiff)
)
vs.) No. 34733
)
JOHNS-MANVILLE, Inc.,)
a corporation, Defendant)

COMPLAINT AT LAW

The plaintiff for cause of action against the defendant, states:

1. That on and prior to the 15th day of March A. D. 1934, the defendant owned, possessed, operated and controlled a certain business, and as a part of said business, owned, operated, managed and controlled a certain large factory and workshop in the City of Waukegan, County of Lake and State of Illinois, and in said factory and workshop, defendant was engaged in the operation of manufacturing shingles, roofing paper and other products; that in the manufacture of said shingles, roofing paper and other products, soap-stone, mica, diamond dust, tar and other articles and ingredients the exact nature of which is unknown to plaintiff, are used, and that in said process the use of said soap-stone, mica, diamond dust, tar and other ingredients, creates a dust, gases and fumes which are thrown into and caused to permeate in and about the air in the rooms of said factory where the said manufacturing processes were carried on by the defendant.

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2. And at said time and place referred to and for a long time prior thereto, to-wit: since the year 1927, the plaintiff was employed by the defendant as a laborer in the various parts of the defendant's factory and workshop; that during said time and while plaintiff was employed by the defendant as a laborer, as aforesaid, plaintiff was exposed to the action of said fumes, gases and dusts referred to as aforesaid, and that the plaintiff did continuosly inhale said fumes, gases and dusts referred to as aforesaid; that plaintiff frequently had to sweep up the dust in the rooms where said process of making and manufacturing said shingles, roofing and other products was carried on, and had to shovel up said dust in said rooms, and to remove same therefrom, and also had to shovel said dust and remove same from a silo connected with said factory and rooms and used in connection therewith, in the manufacture of shingles, roofing and other products, and in the process of so sweeping up and removing said dust, large quantities of noxious dust were caused to be thrown off and to permeate the air and atmosphere of the room or rooms and in said silo in which plaintiff was then and there required to work, and that he did continuously inhale the aforesaid dusts and fumes as aforesaid.

3. That said work and processes referred to aforesaid, were work and processes which might produce illness and diseases peculiar to the work and processes so carried on, and the said work and processes subjected the employees of the defendant to the danger of illness and diseases incident to such work and processes to which employees in other lines of employment are not ordinarily exposed, namely, to-wit: that the said work and processes of making shingles, roofing and other products as

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aforesaid, were likely to produce illness and diseases peculiar to the work or processes so carried on; and the work and processes so carried on subjected the employees of the defendant including the plaintiff, to the danger of illness and diseases incident to such work or processes to which employees in other lines of employment are not ordinarily exposed, to-wit: illness and diseases caused by the action of the aforesaid dangerous fumes, gases and dusts, as referred to aforesaid; that such diseases are known as to-wit: siderosis, pneumonoconiosis, pulmonary tuberculosis and various other pulmonary and bronchial complications.

4. That at the said time and place there was in full force and effect in the State of Illinois, a certain Statute, reading in words and figures as follows:

> "Be it enacted by the People of the State of Illinois, represented in the General Assembly; that every employer of labor in this State, engaged in carrying on any work or process which may produce any illness or disease peculiar to the work or processes carried on, or which subjects the employees to the danger of illness or disease incident to such work or process, to which employees are not ordinarily exposed in other lines of employment shall, for the protection of all employees engaged in such work or process, adopt and provide reasonable and approved devices, means or methods for the prevention of such Industrial or Occupational Diseases as are incident to such work, or process."

5. And it was and became the duty of the defendant to accept reasonable and approved devices, means or methods for the prevention of such industrial or occupational diseases as were incident to the work or processes carried on in defendant's factory, to-wit: for the prevention of siderosis, pneumonoconiosis, pulmonary tuberculosis and various other pulmonary and bronchial complications; yet, notwithstanding its duty in said regard, the defendant did on the said 19th of March A. D. 1934 and for a long

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time prior thereto, wrongfully, willfully and unlawfully failed and neglected to adopt and maintain adequate, reasonable and approved devides, means or methods for the prevention of such industrial or occupational diseases as are incident to such work or processes so carried on in said factory, and that the defendant willfully violated, and failed to comply with the provisions of the statute referred to aforesaid, namely, the defendant willfully and wrongfully and in violation of said statute, failed to adopt and provide or maintain any adequate, reasonable and approved means for the removing of such dusts, gases and fumes and for the prevention of said industrial or occupational diseases incident to such work and processes carried on in said factory, to-wit: siderosis, pneumonoconiosis, pulmonary tuberculosis and various other pulmonary and bronchial complications.

6. Plaintiff states that there was in full force and effect in the State of Illinois a certain Statute, reading in words and figures as follows:

> "All factories, mercantile establishments, mills or workshops shall be kept free from gas or effluvia arising from any sewer, drain, privy or other nuisance on the premises. All poisonous or noxious fumes or gases arising from any process, and all dust of a character injurious to the health of the persons employed which is created in the course of a manufacturing process, within such factory, mill or workshop, shall be removed, as far as practicable, by either ventilating or exhaust devices."

and it was and became the duty of the defendant, by virtue of the terms of said Statute, to remove all the noxious and dangerous fumes and dusts and gases arising from any of the processes carried on in said factory, and to remove all dust of the character injurious to the health of the plaintiff so created in the processes carried on in said factory, so far as practicable by

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either ventilating or exhaust devices, but the defendant did on the said day, to-wit: the 15th day of March, A. D. 1934, and for a long time prior thereto, willfully violate the terms and provisions of said Statute, in failing to provide and maintain adequate ventilating or exhaust devices to remove as far as practicable the said injurious dusts, noxious fumes, gases, etc., referred to as aforesaid, and failed to provide any masks to protect the said plaintiff and others from the effect of said dusts.

7. That as a direct consequence of the said breach of duty of the said defendant in so violating the Statute referred to aforesaid, plaintiff was exposed to the harmful and injurious dusts, fumes, gases, etc, while said plaintiff was in the exercise of due care and caution for his own safety, so that as a direct consequence of the willful and wrongful violation of said Statute, by the said defendant, the plaintiff contracted a disease, to-wit: siderosis, pneumonoconiosis, pulmonary tuberculosis, and various other pulmonary and bronchial complications.

8. That it was and became the duty of the defendant to adopt reasonable and approved devices, means or methods for the prevention of such Industrial or Occupational Diseases as were incident to the work or processes carried on in the defendant's factory, to-wit: for the prevention of siderosis, pneumonoconiosis, pulmonary tuberculosis, and various other pulmonary and bronchial complications, yet notwithstanding its duty in said regard, the defendant did on the said day, the 15th day of March, A. D. 1934, and for a long time prior thereto, wrongfully, willfully and unlawfully fail and neglect to adopt, provide and maintain adequate, reasonable and approved devices, means or methods for the prevention of such work or process so carried on in said factory or workshop,

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namely, to-wit: the defendant willfully and wrongfully failed to furnish the said plaintiff with a mask or respirator to prevent the plaintiff from breathing the said dangerous dusts, fumes, gases, etc, and to prevent the Occupational Diseases referred to aforesaid.

9. That as a direct consequence of the said breach of duty of said defendant, plaintiff has become sick, sore, lame and disordered and will so remain during his life, and has become greatly emaciated, ill, and suffers great pain and is stricken with an incurable ailment, to-wit: siderosis, pneumonoconiosis, pulmonary tuberculosis, and various other pulmonary and bronchial complications and will so remain during his life; that plaintiff has paid out and incurred the obligation to pay out divers large sums of money in endeavoring to be cured of said disease; and has lost and will hereafter lose divers great gains and profits; which he otherwise would have made, because of said injury and on account of said disease, and plaintiff has lost and will in the future lose divers great gains and profits in becoming incapacitated and unable to go about his daily labor.

Wherefore the plaintiff demands judgment against the defendant in the sum of $25,000.00 and costs of this suit.

WILLIAM NORWOOD

By A. V. SMITH
His Attorney

A. V. SMITH
Attorney for Plaintiff
4 S. Genesee St.
Waukegan, Illinois

Endorsed:
"Filed Mar. 23, '35
"L.J. Wilrot, Clerk."

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UNITED STATES OF AMERICA)
STATE OF ILLINOIS) ss.

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

WILLIAM NORWOOD

vs. No. 44474

JOHNS-MANVILLE, INC.,
a corporation.

MOTION TO DISMISS

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

1. That Section 1 of said Occupational Diseases Act and Sections 12 and 13 of the Health, Safety and Comfort Act of the State of Illinois are in violation of the Fourteenth Amendment to the Constitution of the United States and Section 2 of Article II and Article III of the Constitution of the State of Illinois.

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

Heth & Lisle
Attorneys for Johns-Manville
Products Corporation, a corp.

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

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

John J. Flynn

Subscribed and sworn to before me this 14th day of June, 1935.

Evangeline A. Letwood
Notary Public.

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