File Litigation Savannah Georgia

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R. F. WOLFF

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Served 8/12/83

IN THE STATE COURT OF CHATHAM COUNTY
Room 308, Chatham County Courthouse
Savannah, Chatham County, Georgia

JAMES H. PARTAIN

Plaintiff

83-883
CASE NO

VS

NORTH BROS. CO., DIVISION OF NATIONAL SERVICE INDUSTRIES, INC., SHOOK & FLETCHER INSULATION COMPANY, THE CELOTEX CORPORATION, OWENS-CORNING FIBERGLASS CORP., FIBREBOARD CORP., GAF CORPORATION, ARMSTRONG WORLD INDUSTRIES, INC., RAYMARK INDUSTRIES, INC., NICOLET INDUSTRIES, INC., FORTY-EIGHT INSULATIONS, INC., EAGLE-PICHER INDUSTRIES, INC., KEENE CORPORATION, PITTSBURGH-CORNING CORPORATION, COMBUSTION ENGINEERING, INC., GARLOCK, INC., CAREY CANADA, INC., STANDARD INSULATIONS, INC., AC&S, INC., U. S. MINERAL PRODUCTS CO., NATIONAL GYPSUM CO., GRANT WILSON, INCORPORATED, THE BABCOCK & WILCOX COMPANY, UNION CARBIDE CORPORATION

Defendant(s)

CAUSE OF ACTION

SUMMONS

To the above named defendant(s) See attached service list being a resident of Chatham County, Georgia,

You are hereby summoned and required to file with the Clerk of said court and serve upon Richard H. Middleton, Jr. Plaintiff's Attorney, whose address is P. O. Box 10006, Savannah, Georgia 31412 and answer to the complaint which is herewith served upon you within thirty (30) days after service of this summons upon you, exclusive of the day of service. If you fail to do so judgment by default will be taken against you for the relief demanded in the complaint.

Filed in Office this 9th day of August, 1983

Jeff F. Dickey, CLERK, STATE COURT OF CHATHAM COUNTY

C. R. Dees

By: Deputy Clerk, State Court of Chatham County

Chatham County, Georgia

I have this day served the Defendant

Personally with a true copy of the within petition and summons.

This ____ day of _____ 19___

Dep. Sheriff, S.C. of C.C.

Chatham County, Georgia

I have this day served the Defendant

with a true copy of the within petition and summons by leaving same at _____ his most notorious place of abode.

This ____ day of _____ 19___

Dep. Sheriff, S.C. of C.C.

Chatham County, Georgia

I have this day served the Defendar

a corporation, with a true copy of the withi petition and summons by handing same person to _____ an officer of said Corp.

This ____ day of _____ 19___

Dep. Sheriff, S.C. of C.C.

_____ VS _____

Plaintiff Defendant

There being no issuable defense filed on oath in this case, Judgment is rendered by the Court for t Plaintiff against the Defendant for

_____ ($_____)

Principal, and _____ ($_____), As Interest, a

_____ ($_____), As Attorney Fe

and the cost of this suit.

In Open Court, This _____ day of _____, 19____.

Judge, State Court of Chatham County, Georgi

A25003

PLAINTIFF'S EXHIBIT
tabbies
UC-1411

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THE STATE COURT FOR THE COUNTY OF CHATHAM

STATE OF GEORGIA

JAMES H. PARTAIN, Plaintiff vs. NORTH BROS. CO., DIVISION OF NATIONAL SERVICE INDUSTRIES, INC., (V) A Georgia Corporation SHOOK AND FLETCHER INSULATION CO. (FF) An Alabama Corporation THE CELOTEX CORPORATION, (A) Successor in Interest to Philip Carey Manufacturing Co., Philip Carey Corp., Briggs Manufacturing Co., and Panacon Corp. A Delaware Corporation OWENS-CORNING FIBERGLASS CORP. (B) A Delaware Corporation FIBREBOARD CORP. (D) A Delaware Corporation GAF CORPORATION (F) A Delaware Corporation ARMSTRONG WORLD INDUSTRIES, INC. (G) A Pennsylvania Corporation RAYMARK INDUSTRIES, INC., Successor in Interest to Raybestos-Manhattan, Inc. (H) A Connecticut Corporation NICOLET INDUSTRIES, INC. (I) A Pennsylvania Corporation FORTY-EIGHT INSULATIONS, INC. An Illinois Corporation (J) EAGLE-PICHER INDUSTRIES, INC. An Ohio Corporation (K) KEENE CORPORATION (L) A New Jersey Corporation PITTSBURGH-CORNING CORPORATION (DD) A Pennsylvania Corporation COMBUSTION ENGINEERING, INC. A Delaware Corporation (X)	CIVIL ACTION NO. 83-883 AMENDED COMPLAINT Plaintiff demands a jury trial

MIDDLETON AND ANDERSON, P.C.
P.O. BOX [illegible]
SAVANNAH, GEORGIA 31402
(912) 236-1133

A25864

GARLOCK, INC. (Z)
A New York Corporation

CAREY CANADA, INC. (O)
A Foreign Corporation

STANDARD INSULATIONS, INC.
A Missouri Corporation (C)

AC&S, INC. (R)
A Pennsylvania Corporation

U. S. MINERAL PRODUCTS CO.
A New Jersey Corporation (T)

NATIONAL GYPSUM CO. (BB)
A Delaware Corporation

GRANT WILSON, INCORPORATED
An Illinois Corporation

THE BABCOCK & WILCOX COMPANY
A Delaware Corporation

UNION CARBIDE CORPORATION
A New York Corporation

Defendants

NOW COMES the Plaintiff, JAMES H. PARTAIN, a citizen and resident of the State of Georgia, and sues the Defendants and alleges as follows:

I.

Defendant, North Brothers Co., a Division of National Service Industries, is a corporation registered to do business in the State of Georgia, and which maintains a principal place of business at Telfair Road, Savannah, Chatham County, Georgia, and is subject to the jurisdiction of this Court.

II.

The Defendants are foreign corporations who are amenable to jurisdiction in the Courts of Georgia and/or their respective conduct of substantial and/or systematic business in Chatham County, Georgia which subject them to the jurisdiction of this Court. Each foreign corporation mines, manufactures, processes, imports, converts, compounds and/or retains substantial amounts of asbestos and asbestos

A25605

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related materials which are sold, distributed and used in Chatham County, Georgia.

FOR A FIRST CAUSE OF ACTION

III.

Defendants, and each of them, are, or at times relevant hereto were, miners, manufacturers, processors, importers, converters, compounders and/or retailers of asbestos, asbestos related insulation materials, and other asbestos-containing products.

IV.

The Defendants, acting through their agents, servants and/or employees cause and have caused in the past certain asbestos and asbestos related insulation materials and other asbestos-containing products to be placed in the stream of interstate commerce with the result that said asbestos and asbestos related materials came into use by the Plaintiff, James H. Partain.

V.

Plaintiff is an insulator who, for a long period of time worked with and was exposed to the asbestos and asbestos related insulation materials and other asbestos-containing products mined, manufactured, processed, imported, converted, compounded and/or sold by the Defendants, some of the exposure being within the State of Georgia.

VI.

During the course and scope of his employment, Plaintiff was exposed to Defendants' asbestos and asbestos related insulation materials and other asbestos-containing products, which exposure directly and proximately caused him to develop an illness known and designated as asbestosis and other related diseases.

A25606

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VII.

The illness and disability of the Plaintiff are the direct and proximate result of the negligence, recklessness and willfulness of the Defendants, jointly and severally, in that they produced, sold and otherwise put into the stream of interstate commerce, asbestos and asbestos related insulation materials and other asbestos-containing products which the Defendants, and each of them, knew, or in the exercise of ordinary care, should have known were deleterious, poisonous and highly harmful to Plaintiff's body, lungs, respiratory system, skin and health.

VIII.

The illness and disability of the Plaintiff are the direct and proximate result of the negligence, recklessness and willfulness of the Defendants, jointly and severally, in that, even though the Defendants knew, or, in the exercise of ordinary care, should have known, that the asbestos and asbestos related insulation materials and other asbestos-containing products were deleterious, poisonous and highly harmful to the Plaintiff's body, lungs, respiratory system, skin and health, and the Defendants nonetheless:

(a) Failed to advise the Plaintiff of the dangerous characteristics of their asbestos and asbestos related insulation products, and other asbestos-containing products;

(b) Failed or omitted to provide the Plaintiff with the knowledge as to what would be reasonably safe and sufficient wearing apparel and proper protective equipment and appliances if, in truth, they were in any way able to protect him from being poisoned and disabled as he was by exposure to such deleterious and harmful asbestos related

A25607

MIDDLETON AND ANDERSON, P.C.
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SAVANNAH, GEORGIA 31412
(912) 236-1133

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insulation materials, and other asbestos-containing products;

(c) Failed and omitted to place any warnings or sufficient warnings on their containers of said asbestos and asbestos insulation materials to warn the handlers thereof of the dangers to health in coming in contact with said asbestos and asbestos insulation materials and other asbestos-containing products;

(d) Failed and omitted to take reasonable precautions or to exercise reasonable care to publish, adopt and enforce a safety plan and a safe method of handling and installing said asbestos and asbestos insulation materials and other asbestos-containing products;

(e) Inadequately warned, if, in fact, they warned at all, persons such as the Plaintiff of the dangers to their health in coming in contact with and breathing said asbestos and asbestos related materials, and other asbestos-containing products;

(f) Did not recommend methods to improve the work environment;

(g) Did not test its products or develop alternative products;

(h) Continued to use a known cancer-causing product, to-wit: asbestos;

(i) That the Defendant, Owens-Illinois, failed to advise purchasers of their product Kaylo of the results of experiments in 1948 that Kaylo caused asbestosis in animals and that Owens-Illinois failed to advise Owens-Corning Fiberglass, a distributor of Kaylo and purchaser of the Kaylo Division of this fact;

(j) That the Defendants, Owens-Corning Fiberglass, Fibreboard, Eagle-Picher Industries and Armstrong Cork, failed to make inquiry of Owens-Illinois or

A25008

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(912) 236-1133

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read published literature establishing that Kaylo caused asbestosis in experimental animals and did not communicate that fact to users of such product.

As a result of the negligence, recklessness and willfulness, the Plaintiff has been damaged severely as is set forth below.

FOR A SECOND CAUSE OF ACTION

IX.

Plaintiff regards the allegations of the First Cause of Action where relevant.

Plaintiff and others in his position are insulators working in close proximity to the asbestos and asbestos related insulation materials and other asbestos-containing products of the Defendants, and each of them, and Plaintiff's presence, as well as others in his position, was known, or, in the exercise of reasonable care, should have been anticipated by the Defendants, and each of them.

X.

The Defendants, and each of them, have been possessed since 1929 of medical and scientific data which clearly indicates that the product, asbestos and asbestos related insulation products, were hazardous to the health and safety of the Plaintiff and others in the Plaintiff's position, and prompted by pecuniary motives, the Defendants, and each of them, individually and collectively, ignored and failed to act upon said medical and scientific data and conspired to deprive the public, and particularly the users, of said medical and scientific data, depriving them, therefore, of the opportunity of free choice as to whether or not to expose themselves to the asbestos products of said Defendants. As a result, the Plaintiff has been severely damaged as is set forth below.

A25009

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(912) 236-0133

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FOR A THIRD CAUSE OF ACTION

XI.

That at various times from 1929 to the filing of this law suit, Defendants had actual knowledge of the dangers to Plaintiff of asbestos exposure, nevertheless, Defendants deliberately, intentionally and purposefully withheld such information from Plaintiff, thus denying Plaintiff the knowledge with which to take necessary safety precautions such as periodic x-rays and medical examinations and avoiding further dust exposure, the specifics of Defendants' intentional acts being as follows:

(a) Failing to warn prior users of the need for monitoring due to prior asbestos exposure;

(b) Never issued recall type letters or notices to prior users;

(c) Frustrated the publication of articles on the asbestos health hazards in the literature;

(d) Top management officials of Defendants rejected advice of other corporate officials to warn of the hazards of their asbestos products, such rejection by top management officials being motivated by the possibility of adverse effects on profits;

(e) Intentional inadequacy and delay of warnings on asbestos products;

(f) Failed to advise Plaintiff of medical findings known to Defendants concerning the dangers of asbestos exposure;

(g) Suppressed the dissemination of information to Plaintiff concerning the hazards of asbestos exposure.

XII.

The foregoing deliberate, intentional and purposeful acts of the Defendants were the direct and

MIDDLETON AND ANDERSON, P.C.
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(912) 236-1133

A250/C

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Served 8/17/83

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Amended Complaint

IN THE STATE COURT OF CHATHAM COUNTY
Room 308, Chatham County Courthouse
Savannah, Chatham County, Georgia

LEON E. COOPER

Plaintiff

VS

NORTH BROS. CO., DIVISION OF NATIONAL SERVICE INDUSTRIES, INC., THE CELOTEX CORPORATION, OWENS-CORNING FIBERGLASS CORP., FIBREBOARD CORP., GAF CORPORATION, ARMSTRONG WORLD INDUSTRIES, INC., RAYMARK INDUSTRIES, INC., NICOLET INDUSTRIES, INC., ~~FORTY-EIGHT INSULATIONS, INC.~~, EAGLE-PICHER INDUSTRIES, INC., KEENE CORPORATION, PITTSBURGH-CORNING CORPORATION, COMBUSTION ENGINEERING, INC., GARLOCK, INC., CAREY CANADA, INC., STANDARD INSULATIONS, INC., AC&S, INC., U. S. MINERAL PRODUCTS CO., NATIONAL GYPSUM CO., GRANT WILSON, INCORPORATED, THE BABCOCK & WILCOX COMPANY, UNION CARBIDE CORPORATION

83-1676
CASE NO

To the above named defendant(s) See attached service list being a resident of Chatham County, Georgia,

You are hereby summoned and required to file with the Clerk of said court and serve upon Richard H. Middleton, Jr. Savannah, Georgia 31412 Plaintiff's Attorney, whose address is P. O. Box 10006, and answer to the complaint which is herewith served upon you within thirty (30) days after service of this summons upon you, exclusive of the day of service. If you fail to do so judgment by default will be taken against you for the relief demanded in the complaint.

Filed in Office this 16 day of August, 1983

Jeff F. Dickey, CLERK, STATE COURT OF CHATHAM COUNTY

By: Deputy Clerk, State Court of Chatham County

Chatham County, Georgia

I have this day served the Defendant

Personally with a true copy of the within petition and summons.

This ____ day of _____ 19___

Dep. Sheriff, S.C. of C.C.

Chatham County, Georgia

I have this day served the Defendant

with a true copy of the within petition and summons by leaving same at _____ his most notorious place of abode.

This ____ day of _____ 19___

Dep. Sheriff, S.C. of C.C.

Chatham County, Georgia

I have this day served the Defendant

a corporation, with a true copy of the within petition and summons by handing same in person to _____ an officer of said Corp.

This ____ day of _____ 19___

Dep. Sheriff, S.C. of C.C.

_____ Plaintiff VS _____ Defendant

There being no issuable defense filed on oath in this case, Judgment is rendered by the Court for th Plaintiff against the Defendant for

_____ ($_____)

Principal, and _____ ($_____), As Interest, an

_____ ($_____), As Attorney Fee and the cost of this suit.

In Open Court, This _____ day of _____, 19____.

Judge, State Court of Chatham County, Georgia

A25611

THE STATE COURT FOR THE COUNTY OF CHATHAM

STATE OF GEORGIA

LEON E. COOPER, Plaintiff vs. NORTH BROS. CO., DIVISION OF NATIONAL SERVICE INDUSTRIES, INC., (V) A Georgia Corporation THE CELOTEX CORPORATION, (A) Successor in Interest to Philip Carey Manufacturing Co., Philip Carey Corp., Briggs Manufacturing Co., and Panacon Corp. A Delaware Corporation OWENS-CORNING FIBERGLASS CORP. (B) A Delaware Corporation FIBREBOARD CORP. (D) A Delaware Corporation GAF CORPORATION (F) A Delaware Corporation ARMSTRONG WORLD INDUSTRIES, INC. (G) A Pennsylvania Corporation RAYMARK INDUSTRIES, INC., Successor in Interest to Raybestos-Manhattan, Inc. (H) A Connecticut Corporation NICOLET INDUSTRIES, INC. (I) A Pennsylvania Corporation FORTY-EIGHT INSULATIONS, INC. An Illinois Corporation (J) EAGLE-PICHER INDUSTRIES, INC. An Ohio Corporation (K) KEENE CORPORATION (L) A New Jersey Corporation PITTSBURGH-CORNING CORPORATION (DD) A Pennsylvania Corporation COMBUSTION ENGINEERING, INC. A Delaware Corporation (X) GARLOCK, INC. (Z) A New York Corporation	CIVIL ACTION NO. 83-1676 AMENDED COMPLAINT Plaintiff demands a jury trial

A25612

MIDDLETON AND ANDERSON, P.C.
P.O. BOX 10086
SAVANNAH, GEORGIA 31412
(912) 236-1133

CAREY CANADA, INC. (O)
A Foreign Corporation

STANDARD INSULATIONS, INC.
A Missouri Corporation

AC&S, INC. (R)
A Pennsylvania Corporation

U. S. MINERAL PRODUCTS CO.
A New Jersey Corporation (T)

NATIONAL GYPSUM CO. (BB)
A Delaware Corporation

GRANT WILSON, INCORPORATED
An Illinois Corporation

THE BABCOCK & WILCOX COMPANY
A Delaware Corporation

UNION CARBIDE CORPORATION
A New York Corporation

Defendants

NOW COMES the Plaintiff, LEON E. COOPER, a citizen and resident of the State of Georgia, and sues the Defendants and alleges as follows:

I.

Defendant, North Brothers Co., a Division of National Service Industries, is a corporation registered to do business in the State of Georgia, and which maintains a principal place of business at Telfair Road, Savannah, Chatham County, Georgia, and is subject to the jurisdiction of this Court.

II.

The Defendants are foreign corporations who are amenable to jurisdiction in the Courts of Georgia and/or their respective conduct of substantial and/or systematic business in Chatham County, Georgia which subject them to the jurisdiction of this Court. Each foreign corporation mines, manufactures, processes, imports, converts, compounds and/or retains substantial amounts of asbestos and asbestos related materials which are sold, distributed and used in Chatham County, Georgia.

A25613

MIDDLETON AND ANDERSON, P.C.
P.O. BOX [illegible]
SAVANNAH, GEORGIA 31412
(912) 236-1133

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FOR A FIRST CAUSE OF ACTION

III.

Defendants, and each of them, are, or at times relevant hereto were, miners, manufacturers, processors, importers, converters, compounders and/or retailers of asbestos, asbestos related insulation materials, and other asbestos-containing products.

IV.

The Defendants, acting through their agents, servants and/or employees cause and have caused in the past certain asbestos and asbestos related insulation materials and other asbestos-containing products to be placed in the stream of interstate commerce with the result that said asbestos and asbestos related materials came into use by the Plaintiff, Leon E. Cooper.

V.

Plaintiff is a plant worker who, for a long period of time worked with and was exposed to the asbestos and asbestos related insulation materials and other asbestos-containing products mined, manufactured, processed, imported, converted, compounded and/or sold by the Defendants, some of the exposure being within the State of Georgia.

VI.

During the course and scope of his employment, Plaintiff was exposed to Defendants' asbestos and asbestos related insulation materials and other asbestos-containing products, which exposure directly and proximately caused him to develop an illness known and designated as asbestosis and other related diseases.

VII.

The illness and disability of the Plaintiff are

A25614

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the direct and proximate result of the negligence, recklessness and willfulness of the Defendants, jointly and severally, in that they produced, sold and otherwise put into the stream of interstate commerce, asbestos and asbestos related insulation materials and other asbestos-containing products which the Defendants, and each of them, knew, or in the exercise of ordinary care, should have known were deleterious, poisonous and highly harmful to Plaintiff's body, lungs, respiratory system, skin and health.

VIII.

The illness and disability of the Plaintiff are the direct and proximate result of the negligence, recklessness and willfulness of the Defendants, jointly and severally, in that, even though the Defendants knew, or, in the exercise of ordinary care, should have known, that the asbestos and asbestos related insulation materials and other asbestos-containing products were deleterious, poisonous and highly harmful to the Plaintiff's body, lungs, respiratory system, skin and health, and the Defendants nonetheless:

(a) Failed to advise the Plaintiff of the dangerous characteristics of their asbestos and asbestos related insulation products, and other asbestos-containing products;

(b) Failed or omitted to provide the Plaintiff with the knowledge as to what would be reasonably safe and sufficient wearing apparel and proper protective equipment and appliances if, in truth, they were in any way able to protect him from being poisoned and disabled as he was by exposure to such deleterious and harmful asbestos related insulation materials, and other asbestos-containing products;

425615

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(c) Failed and omitted to place any warnings or sufficient warnings on their containers of said asbestos and asbestos insulation materials to warn the handlers thereof of the dangers to health in coming in contact with said asbestos and asbestos insulation materials and other asbestos-containing products;

(d) Failed and omitted to take reasonable precautions or to exercise reasonable care to publish, adopt and enforce a safety plan and a safe method of handling and installing said asbestos and asbestos insulation materials and other asbestos-containing products;

(e) Inadequately warned, if, in fact, they warned at all, persons such as the Plaintiff of the dangers to their health in coming in contact with and breathing said asbestos and asbestos related materials, and other asbestos-containing products;

(f) Did not recommend methods to improve the work environment;

(g) Did not test its products or develop alternative products;

(h) Continued to use a known cancer-causing product, to-wit: asbestos;

(i) That the Defendant, Owens-Illinois, failed to advise purchasers of their product Kaylo of the results of experiments in 1948 that Kaylo caused asbestosis in animals and that Owens-Illinois failed to advise Owens-Corning Fiberglass, a distributor of Kaylo and purchaser of the Kaylo Division of this fact;

(j) That the Defendants, Owens-Corning Fiberglass, Fibreboard, Eagle-Picher Industries and Armstrong Cork, failed to make inquiry of Owens-Illinois or read published literature establishing that Kaylo caused

A256:6

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asbestosis in experimental animals and did not communicate that fact to users of such product.

As a result of the negligence, recklessness and willfulness, the Plaintiff has been damaged severely as is set forth below.

FOR A SECOND CAUSE OF ACTION

IX.

Plaintiff regards the allegations of the First Cause of Action where relevant.

Plaintiff and others in his position are plant workers working in close proximity to the asbestos and asbestos related insulation materials and other asbestos-containing products of the Defendants, and each of them, and Plaintiff's presence, as well as others in his position, was known, or, in the exercise of reasonable care, should have been anticipated by the Defendants, and each of them.

X.

The Defendants, and each of them, have been possessed since 1929 of medical and scientific data which clearly indicates that the product, asbestos and asbestos related insulation products, were hazardous to the health and safety of the Plaintiff and others in the Plaintiff's position, and prompted by pecuniary motives, the Defendants, and each of them, individually and collectively, ignored and failed to act upon said medical and scientific data and conspired to deprive the public, and particularly the users, of said medical and scientific data, depriving them, therefore, of the opportunity of free choice as to whether or not to expose themselves to the asbestos products of said Defendants. As a result, the Plaintiff has been severely damaged as is set forth below.

A25617

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FOR A THIRD CAUSE OF ACTION

XI.

That at various times from 1929 to the filing of this law suit, Defendants had actual knowledge of the dangers to Plaintiff of asbestos exposure, nevertheless, Defendants deliberately, intentionally and purposefully withheld such information from Plaintiff, thus denying Plaintiff the knowledge with which to take necessary safety precautions such as periodic x-rays and medical examinations and avoiding further dust exposure, the specifics of Defendants' intentional acts being as follows:

(a) Failing to warn prior users of the need for monitoring due to prior asbestos exposure;

(b) Never issued recall type letters or notices to prior users;

(c) Frustrated the publication of articles on the asbestos health hazards in the literature;

(d) Top management officials of Defendants rejected advice of other corporate officials to warn of the hazards of their asbestos products, such rejection by top management officials being motivated by the possibility of adverse effects on profits;

(e) Intentional inadequacy and delay of warnings on asbestos products;

(f) Failed to advise Plaintiff of medical findings known to Defendants concerning the dangers of asbestos exposure;

(g) Suppressed the dissemination of information to Plaintiff concerning the hazards of asbestos exposure.

XII.

The foregoing deliberate, intentional and purposeful acts of the Defendants were the direct and

A25618

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(912) 236-1133

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proximate cause of Plaintiff's injuries and damages hereinafter described.

FOR A FOURTH CAUSE OF ACTION

XIII.

Plaintiff repeats and realleges the portions of the above paragraphs where relevant.

XIV.

That during, before and after Plaintiff's exposure to asbestos products manufactured by Defendant, the Defendants falsely represented the dangers of asbestos exposure to Plaintiff in the particulars alleged in Paragraph XII above, while Defendants each had actual knowledge of said dangers of asbestos exposure to persons such as Plaintiff.

XV.

The foregoing representations were material conditions precedent to Plaintiff's continued exposure to asbestos-containing products and Defendants each intended that Plaintiff act upon the representations by continuing his exposure to the asbestos products. Plaintiff was ignorant of the falsity of Defendants' representations and rightfully relied upon the representation.

XVI.

As a direct and proximate result of Plaintiff's reliance upon Defendants' false representations, Plaintiff has suffered injury and damages hereinafter described.

FOR A FIFTH CAUSE OF ACTION

XVII.

Plaintiff repeats the allegations of the First, Second, Third and Fourth Causes of Action where relevant.

XVIII.

Plaintiff further alleges that at the time the

A256:3

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P.O. BOX [illegible]
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(912) 236-1133

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Defendants, and each of them, sold and/or delivered the aforesaid asbestos and asbestos related products and at the time said products were used by Plaintiff in the manner and environment intended, they were in a defective condition and were unreasonably dangerous and unfit for their intended use in that they were deleterious, poisonous and highly harmful to Plaintiff's body.

The above was the proximate cause of the severe damages sustained by the Plaintiff as hereinafter set forth.

XIX.

As a result of the development of asbestos related diseases, Plaintiff has suffered and sustained very serious injuries to his person requiring medical treatment.

Plaintiff has further suffered great pain, extreme nervousness and mental anguish as a direct result of the aforesaid injuries.

Plaintiff verily believes that his injuries and illnesses are permanent in nature and that he will be forced to suffer same for the remainder of his life, that his enjoyment of life has been greatly impaired and, further, that his expected life span has been greatly shortened.

Plaintiff alleges that as a result of the aforesaid illnesses, he has been forced to incur large amounts of medical expenses by way of doctor and drug bills and verily believes that he will be forced to incur additional expenses in an effort to treat his illness as aforesaid.

XX.

Plaintiff was gainfully employed at the time he developed the illnesses as aforesaid, and, as a result of the aforesaid illness, his ability to earn an income has been, is now, and will continue to be impaired and he has

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suffered damages by way of lost wages, all to the total damage in an amount to be determined by the trier of facts.

WHEREFORE, Plaintiff prays for judgment, joint and several, against the Defendants for compensatory and punitive damages and costs in the amount of Two Million ($2,000,000.00) Dollars.

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DEFENDANTS AND SERVICE ADDRESSES

Union Carbide Corporation, ZC. T. Corp. Systems, First National Bank Tower, Atlanta, GA

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