UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

BENJAMIN SZYMANSKI,

Plaintiff,

-vs-

JOHNS-MANVILLE CORPORATION, a corporation of New York authorized to do business in New Jersey,

Defendant.

Action at Law

A N S W E R

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:

1. Defendant admits that the plaintiff was employed by the defendant for approximately the time stated in the complaint.

2. It admits Paragraph 2.

3. It admits Paragraph 3.

4. It denies Paragraph 4.

5. It denies Paragraph 5.

6. It denies Paragraph 6.

7. It denies Paragraph 7.

8. It denies Paragraph 8.

9. As to the allegations of Paragraph 9, the defendant has no knowledge or information sufficient to form a belief, and leaves the plaintiff to his proofs.

FIRST SEPARATE DEFENSE

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

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SECOND SEPARATE DEFENSE

The injury and disease, if any, as alleged in the complaint, were due to one of the risks of his employment assumed by the plaintiff as part of the terms of his contract of employment in that the plaintiff knew, or by the exercise of reasonable care on his part should have known, the alleged dangers of his employment, if any there were.

THIRD SEPARATE DEFENSE

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

FOURTH SEPARATE DEFENSE

The injury and the disease, if any, as alleged in the complaint, were caused by contributory negligence on the part of the plaintiff in that he failed to exercise reasonable care to protect himself against the alleged dangers of his employment.

FIFTH SEPARATE DEFENSE

The injury and disease, if any, as alleged in the complaint, were due to negligence on the part of a fellow servant of the plaintiff in failing to warn and instruct the plaintiff as to the rules of the company promulgated for the purpose of protecting the plaintiff against the alleged dangers of his employment, if any.

SIXTH SEPARATE DEFENSE

The injury and disease alleged in the complaint were not due to any acts of negligence of the defendant.

Hobart, Minard & Cooper
By Ralph E. Cooper,
Attorneys for Defendant.

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

BENJAMIN SZYMANSKI, Plaintiff, -vs- JOHNS-MANVILLE CORPORATION, a corporation of New York authorized to do business in New Jersey, Defendant.	:	Action at Law ANSWERS TO INTERROGATORIES

To: Hobart, Minard & Cooper, Esqs.
Attorneys for Defendant
1180 Raymond Boulevard
Newark, N. J.

Please take notice that the plaintiff makes the following answers to the interrogatories under oath:

1. I was born February 10th, 1888 in Poland.

2. Mother and father died during World War I, both at approximately 85 years of age. Don't know the particulars regarding death and cause of death of my grandparents.

3. Information as to plaintiff's employment to the best of my recollection is as follows:

1914-1915 with Penn Coal and Coke Company, Pennsylvania. Business of anthracite coal mining operation. Nature of my work - coal miner.

1915-1916 with Standard Oil Company, Bayonne, N.J. Business of manufacturing. Nature of my work - laborer.

1916-1917 with Wilcox Babcox Company, Bayonne, N. J. Business of manufacturing. Nature of my work - laborer.

1917-1923 self-employed as butcher and grocer, Bayonne, N. J.

1923-1924 self-employed as farmer, South Somerville, N. J.

1924-1925 with Johns-Manville Co.

1925-1927 self-employed as grocer and butcher in Manville, N. J.

1928 up to and including April 4, 1944 employed by the defendant.

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4. 5. & 6. To the best of plaintiff's recollection, plaintiff has been ill during the following periods:

1940 - Dr. George A. Greenberg, Sommerville, N. J. Ill a number of weeks.

1941 - Dr. George A. Greenberg, Somerville, N. J. Ill a number of weeks.

1942 - Dr. George A. Greenberg, Somerville, N. J. Ill a number of weeks.

1943 - Dr. Nicholas P. Reale, Manville, N. J. Ill a number of weeks.

1944 - Dr. Nicholas P. Reale, Manville, N. J. Practically confined to home and/or bed for approximately a total of 8 or 9 months.

1945 - Treated by Dr. L. A. M. Feher, New Brunswick, N. J. from October, 1945, to February, 1946. Practically confined to home and/or bed for approximately 12 months.

1946 - Treated by Dr. George A. Greenberg, Somerville, N. J. Practically confined to home and/or bed for approximately the entire period up to the present time.

Plaintiff was admitted to Somerset Hospital, Somerville, N. J. on March 11, 1946 and was discharged March 28, 1946.

7. & 8. The following are the losses, damages and expenses claimed in connection with this suit to date:

Somerset Hospital, Somerville, N. J.	$177.55
Dr. George A. Greenberg	125.00
Dr. Nicholas P. Reale	290.00
Dr. L. A. M. Feher	60.00
Dr. William Klein, New Brunswick, N. J. (X-rays)	112.00
Drugs	125.00
No nurse.	

9. To the best of plaintiff's recollection the following X-rays were taken:

June 6, 1946	by Dr. George A. Greenberg Somerville, N. J.
March 15, 1946	Somerset ~~County~~ Hospital Somerville, N. J.

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March 11, 1946	Dr. George A. Greenberg Somerville, N. J.
February 14, 1946	by Somerset County Tuberculosis and Health Association, Inc. Somerville, N. J.
August 30, 1945	by Somerset County Tuberculosis and Health Association Inc. Somerville, N. J.
August 25, 1945	Dr. William Klein New Brunswick, N. J.
December 14, 1944	Somerset County Tuberculosis and Health Association Inc.
June 26, 1944	Somerset County Tuberculosis and Health Association Inc.
May 18, 1944	Dr. William Klein New Brunswick, N. J.
January 20, 1944	Somerset County Tuberculosis and Health Association Inc.

X-rays were also taken by the defendant from on or about 1939 or 1940 and thereafter.

10. & 11. Other substances included those other chemicals and minerals used in the manufacture of defendant's products. Various other dusts and particles of matter included silicate dioxide dust, silicate trioxide dust, asbestos dust as well as those other dusts and particles which arise in connection with the manufacture of defendant's products.

12. & 13. Other parts of plaintiff's body included coughs, pains in body, weakness, loss of strength, loss of appetite, loss of weight, inability to do work of any sort, pains in abdominal region, edema of ankles, anemia. The injury to the lungs cover all of both lungs.

14,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31 &32. Defendant was negligent in not providing a safe place to work in because the place where the plaintiff worked lacked the adequate safety devices or measures which would prevent injuries to the plaintiff. The ventilating system was inadequate, the accumulated dust or the dust accumulating or the dust which was in suspension in the air was not collected or inadequately collected, if at all. The pipe was not strong enough to collect the

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dust or the machinery used in the ventilating equipment was not powerful enough to collect a sufficient amount of dust. The defendant provided poorly ventilated places in that it failed to carry off the accumulated or accumulating dust so as to leave the air clear of the substances which caused injury to the plaintiff. During the winter seasons, the defendant kept the windows closed keeping out the fresh air. The defendant was negligent in not taking proper precautions for the safety of the plaintiff in that it negligently made it unavoidable for plaintiff to breath harmful dusts by failing to provide for adequate and sufficient ventilation, failing to furnish an adequate and practical hat and mask, failure to provide an adequate, proper and practical respirator, failing to rotate the plaintiff's employment so that he would not be continually exposed to the said injurious conditions. Defendant required plaintiff to work for periods so excessive in time that he thereby received injuries to his health. At times plaintiff was required to work overtime for periods of 1 to 2 hours.

Defendant was negligent in not advising or warning plaintiff of the danger of his work in the places assigned to him by the defendant in that plaintiff was never informed that it was dangerous and detrimental to one's health to perform such work under the harmful conditions which existed.

The defendant was negligent in failing to provide proper supervision and precautions for the health of plaintiff so that defendant could determine when the working conditions of plaintiff became so dangerous as to cause an injury in order that he could warn plaintiff of the dangers.

Defendant failed to provide proper medical examinations and such examinations as there may have been failed to apprise or disclose to plaintiff the danger he was undergoing or that he had contracted a disease or illness due to his working condition.

Defendant negligently failed to take the necessary precautions to preserve plaintiff's health by the failure to

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maintain healthy atmospheric conditions at plaintiff's post of employment.

The conditions under which plaintiff worked as to which defendant failed to adviseplaintiff consisted of the atmospheric conditions which were injurious to plaintiff's health, the fact of the length of his employment under harmful working conditions, the overtime periods of work, the lack of rotation of his employment, the inadequate medical examinations. The negligence of the defendant corporation, its agents and servants, consisted of not providing plaintiff with a safe place to work in; providing poorly ventilated places for plaintiff to work in; not taking proper precau ons for the safety of plaintiff; not advising or warning plaintiff of the dangers of his work in the places assigned to him by defendant; and under the circumstances under which defendant required him to work; not using proper safety measures or precautions for the safety of plaintiff and for the preservation of the health of plaintiff; requiring plaintiff to work in poorly ventilated places for excessive periods of time; not rotating plaintiff and not having plaintiff do work under conditions which were not detrimental to his health; not using the proper safety devices and measures for the protection of the plaintiff and preservation of his health; compelling plaintiff to work under adverse conditions as described above for undue length of time; not taking proper safety and health measures; not taking the proper precautions for plaintiff's health; not maintaining proper equipment to remove the dust and particles of matter from the air; not furnishing the plaintiff with safety devices and not furnishing plaintiff with sufficient safety devices; not providing the proper supervision and precautions for the plaintiff and for the preservation of his health; not providing the proper blowers and ventilator systems and respirators which were necessary for the proper protection of plaintiff's health; not providing proper periodical medical examinations of plaintiff and not taking the necessary precautions to preserve his health; not providing

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proper periodical medical examinations for plaintiff and not advising plaintiff that his health was in danger by reason of the conditions under which he was working.

15. Plaintiff cannot recollect all the departments and buildings in which he worked during his employment by the defendant.

33. In the future plaintiff will be obliged to incur additional medical expenses in the form of doctor's treatments, drugs and medicines, X-rays, and possibly hospitalization.

34. Plaintiff has sustained losses of salary in the past amounting to approximately $5800.00 and losses in the future due to his total incapacitation at an average of $50.00 per week besides medical care and attention.

MYRON L. LEVY
Attorney for Plaintiff

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