



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN RE ASBESTOS LITIGATION:)
)
STEVEN P. SCHULTZ and)
KIMBERLY S. SCHULTZ,) C.A. No.
)
Plaintiffs,) ASBESTOS
)
v.) JURY TRIAL DEMANDED
)
COLGATE-PALMOLIVE)
COMPANY;)
)
COTY, INC.;)
)
CYPRUS AMAX MINERALS)
COMPANY (sued individually and)
as successor to SIERRA TALC)
COMPANY and UNITED TALC)
COMPANY);)
)
METROPOLITAN LIFE)
INSURANCE COMPANY;)
)
PFIZER INC.;)
)
WHITTAKER CLARK &)
DANIELS, INC.;)
)
Defendants.)

COMPLAINT

COMMON ALLEGATIONS



1. Plaintiffs STEVEN P. SCHULTZ and KIMBERLY S. SCHULTZ residents of the State of Wisconsin.

2. COLGATE-PALMOLIVE COMPANY is a Delaware corporation whose registered agent for service of process is: The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

3. COTY, INC. is a Delaware corporation whose registered agent for service of process is: Corporation Service Company, 2711 Centerville Rd., Wilmington, DE 19808.

4. CYPRUS AMAX MINERALS COMPANY (sued individually and as successor to SIERRA TALC COMPANY and UNITED TALC COMPANY) is a Delaware corporation whose registered agent for service of process is: Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808.

5. METROPOLITAN LIFE INSURANCE COMPANY is a foreign corporation doing business in the State of Delaware whose registered agent for service of process is: The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

6. PFIZER INC. is a Delaware corporation whose registered agent for service of process is: The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.



7. WHITTAKER CLARK & DANIELS, INC. is a foreign corporation doing business in the State of Delaware whose registered agent for service of process is: Joe Cobuzio c/o Tompkins, McGuire, Wacenfeld, et al., 3 Becker Farm Road, 4th Floor, Roseland, NJ 07068.

COUNT I

8. Plaintiffs re-allege Paragraphs 1 through 7 of this Complaint and incorporate them herein by reference.

9. Plaintiff STEVEN P. SCHULTZ was wrongfully exposed to asbestos, an inherently dangerous toxic substance, as described below:

(a) Plaintiff STEVEN P. SCHULTZ experienced exposure to asbestos through his mother's daily use of asbestos-containing Cashmere Bouquet Talcum Powder products from approximately 1967 through the 1970's, and Coty Airspun Face Powder from approximately 1967 through the 1980's. During this time, he was also exposed to asbestos-containing talc supplied by Cyprus Amax Minerals Company (sued individually and as successor to Sierra Talc Company and United Talc Company), Pfizer Inc., and Whittaker Clark & Daniels, Inc.

The substantive state law(s) which should apply to this case is WISCONSIN, to the extent there is no conflict with the public policy of Delaware.



As a result of the Defendants' wrongful conduct, Plaintiff STEVEN SCHULTZ developed the following asbestos-related diseases and health problems:

Mesothelioma;

and other asbestos-related injuries and diseases.

10. As a result of Defendants' wrongful conduct which caused Plaintiff STEVEN P. SCHULTZ's asbestos-related diseases and health problems, Plaintiffs STEVEN P. SCHULTZ and KIMBERLY S. SCHULTZ have suffered and will suffer extensive mental anguish, pain and suffering, medical bills, physical impairment, permanent disability, loss of earning capacity and loss of enjoyment of life, all of which are recoverable under applicable law. In addition, Plaintiff KIMBERLY S. SCHULTZ has suffered extensive mental anguish and has been and will continue to be deprived of pecuniary benefits, contributions of support and household services, all of which are recoverable under applicable law.

11. The above injuries have resulted or will in the future result in a decrease of past or future earnings and various other past and future expenses Plaintiffs would not have otherwise incurred.

COUNT II

12. Plaintiffs re-allege Paragraphs 1 through 11 of this Complaint and incorporate them herein by reference.

COLGATE-PALMOLIVE COMPANY;



COTY, INC.;

CYPRUS AMAX MINERALS COMPANY (sued individually and as successor to SIERRA TALC COMPANY and UNITED TALC COMPANY);

METROPOLITAN LIFE INSURANCE COMPANY;

PFIZER INC.;

WHITTAKER CLARK & DANIELS, INC.;

were at all times pertinent directly or indirectly engaged in the mining, manufacturing, distribution, sales, licensing, leasing, installation, removal and/or use of asbestos, asbestos-containing products and/or equipment designed for use with asbestos or asbestos-containing products. They were also engaged in the development, manufacture, distribution, sales, licensing or leasing of equipment, procedures and/or technology necessary to mine, manufacture, sell, distribute, install, remove and use asbestos and asbestos-containing products.

13. As a direct and proximate result of the above wrongful activities of the Defendants, Plaintiff STEVEN P. SCHULTZ was exposed to asbestos and subsequently developed the asbestos-related disease discussed and sustained the injuries described herein.

COUNT III

14. Plaintiffs re-allege Paragraphs 1 through 13 of this Complaint and



incorporate them herein by reference.

15. The Defendants were negligent in conducting the above activities in that despite the fact that the Defendants knew or should have known that asbestos exposure could result in serious injury, disease and/or death, Defendants:

- a) Failed to substitute, suggest, promote or require the substitution of materials other than asbestos;
- b) Failed to adequately warn all the potential victims of asbestos, including Plaintiff STEVEN P. SCHULTZ as well as other users, bystanders, household members and members of the general public of the risks of asbestos;
- c) Failed to adequately test, research, or investigate asbestos and/or its effects prior to the sale, use, and/or exposure of Plaintiff STEVEN P. SCHULTZ and others similarly situated;
- d) Failed to adequately package, distribute and/or use asbestos in a manner which would minimize the escape of asbestos fibers therefore adding to the exposure of Plaintiff STEVEN P. SCHULTZ and others similarly situated; and
- e) Failed to take adequate steps to remedy the above failures including, but not limited to, recall of asbestos, abatement of asbestos on their property, recall of asbestos products, conduct research as to how to



cure or minimize asbestos injuries, and distribute asbestos so as to render it safe or safely remove the asbestos now in place.

16. As a direct and proximate result of the above actions and omissions of Defendants, Plaintiff STEVEN P. SCHULTZ was injured as described herein.

COUNT IV

17. Plaintiffs re-allege Paragraphs 1 through 16 of this Complaint and incorporate them herein by reference.

18. The Defendants willfully and wantonly for their own economic gain and with reckless indifference to the health and safety of Plaintiff STEVEN P. SCHULTZ and others similarly situated:

- a) Failed to substitute, suggest, promote or require the substitution of materials other than asbestos;
- b) Failed to adequately warn all the potential victims of asbestos, including Plaintiff STEVEN P. SCHULTZ as well as other users, bystanders, household members and members of the general public of the risks of asbestos exposure;
- c) Failed to adequately test, research and investigate asbestos and/or its effects prior to the sale, use, and/or exposure of Plaintiff STEVEN P. SCHULTZ and others similarly situated;



- d) Failed to adequately package, distribute and use asbestos in a manner which would minimize the escape of asbestos fibers therefore adding to the exposure of Plaintiff STEVEN P. SCHULTZ and others similarly situated; and
- e) Failed to take adequate steps to remedy the above failures including, but not limited to, recall asbestos and asbestos products, to abate asbestos on their property, to conduct research as to how to cure or minimize asbestos injuries, and to distribute asbestos so as to render it safe or safely remove the asbestos now in place.

19. As a direct and proximate result of the above actions and omissions of Defendants, Plaintiff STEVEN P. SCHULTZ was injured as described herein.

COUNT V

20. Plaintiffs re-allege Paragraphs 1 through 19 of this Complaint and incorporate them herein by reference.

21. Asbestos and asbestos-containing products are inherently dangerous, and as such, Defendants who made or sold asbestos or the equipment, processes, or other things necessary for its use are strictly liable to Plaintiff STEVEN P. SCHULTZ for all injuries and damages which were contracted thereby.

22. Defendants who assisted, directly or indirectly, in the leasing or licensing of asbestos and all equipment necessary for its use are strictly liable to



Plaintiff STEVEN P. SCHULTZ for all the injuries and damages which v contracted thereby.

23. The handling of asbestos packages, installation, removal and use of asbestos is an ultra-hazardous activity and Defendants who assisted directly or indirectly in this are strictly liable for Plaintiff STEVEN P. SCHULTZ's injuries which were caused thereby.

24. The Defendants as manufacturers and suppliers warranted the asbestos products for their intended purpose and use. Defendants violated this warranty as their products were neither packaged nor provided in a method proper for their intended use and are strictly liable to Plaintiff STEVEN P. SCHULTZ for all injuries caused thereby.

25. As a direct and proximate result of the above actions and omissions of Defendants, Plaintiff STEVEN P. SCHULTZ was injured as described herein.

COUNT VI

26. Plaintiffs re-allege Paragraphs 1 through 25 of this Complaint and incorporate them herein by reference.

27. The Defendants knowing of significant risks of health hazards resulting from exposure to asbestos did willfully, wantonly, recklessly and/or intentionally:

- a) Conceal the existence, nature and extent of that risk; and



- b) Fail to disclose the existence, nature and extent of that risk to Plaintiff STEVEN P. SCHULTZ and those similarly situated.

28. The Defendants had reason to expect that Plaintiff STEVEN P. SCHULTZ, whose injuries were caused by his exposure, was within the class of persons whose actions or inactions would be materially affected by the aforementioned concealment and nondisclosure.

29. As a direct and proximate result of the above actions and omissions of Defendants, Plaintiff STEVEN P. SCHULTZ was injured as described herein.

COUNT VII

30. Plaintiffs re-allege Paragraphs 1 through 29 of this Complaint and incorporate them herein by reference.

31. The Defendants directly and indirectly materially misrepresented that asbestos was not hazardous and/or could be used safely when they:

- a) Had no adequate basis for such representations;
- b) Knew that a significant health hazard to human life existed from asbestos.

32. Defendants had reason to expect that as a result of such representation, Plaintiff STEVEN P. SCHULTZ and others similarly situated would be exposed to asbestos.



33. As a result of this wrongful representation, Plaintiff STEVEN SCHULTZ was exposed to asbestos and suffered the injuries referred to herein.

COUNT VIII

34. Plaintiffs re-allege Paragraphs 1 through 33 of this Complaint and incorporate them herein by reference.

35. The Defendants knowingly and willfully conspired to perpetuate the actions and omissions referred to herein as well as aided and abetted other manufacturers of asbestos products in keeping Plaintiff STEVEN P. SCHULTZ and others similarly situated ignorant of the risks they faced when exposed to asbestos and asbestos-containing products.

36. As a result of this conspiracy, Plaintiff STEVEN P. SCHULTZ was exposed to asbestos and suffered the injuries complained of herein.

COUNT IX

37. Plaintiffs re-allege Paragraphs 1 through 36 of this Complaint and incorporate them herein by reference.

38. Even after the dangers of asbestos finally began to be known to Plaintiff STEVEN P. SCHULTZ or others similarly situated, Defendants continued to act wrongfully both individually and in a conspiracy to mislead and misrepresent the extent of the past wrongful actions and omissions and to destroy



records and hide witnesses and other evidence and to such other wrongful unnecessary action so as to:

- a) Prevent and delay Plaintiff STEVEN P. SCHULTZ and others similarly situated from filing legal action to recover for these injuries and/or;
- b) Defeat and/or delay such legal actions and the final collection of any judgment.

39. Similarly, Defendants aided and abetted the manufacturers, miners, suppliers, and users of asbestos and asbestos products in keeping the true dangers of asbestos exposure secret and/or misrepresented.

40. As a result of this wrongful representation, Plaintiff STEVEN P. SCHULTZ was exposed to asbestos and suffered the injuries referred to herein.

WHEREFORE, Plaintiffs demand judgment against each of the Defendants jointly and severally for such sums including, but not limited to, prejudgment and post-judgment interest, as would be necessary to compensate the Plaintiffs for the injuries they have and will suffer. Plaintiffs further demand judgment against each of the Defendants for punitive damages. Plaintiffs further demand payment by each of the Defendants jointly and severally of the costs and attorney fees of this action. Plaintiffs further demand payment by each Defendant jointly and severally of interest on the above and such other relief as the Court deems just.



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