



# Master Complaint No. 12



ASBESTOS DOCKET

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

\*, Personal  
Representative of the Estate  
of \*, Deceased,

Plaintiff,

Case No. -NP

vs.

Hon. Robert J. Colombo, Jr.

Defendants.

\_\_\_\_\_  
\*Plaintiff Attorney  
\_\_\_\_\_

ASBESTOS MASTER COMPLAINT -- DECEASED PLAINTIFF

STANDARD COMPLAINT NO. 12

NOW COMES Plaintiff(s) by and through his/her respective  
counsel and pursuant to Order No. 14 (Case Management Order) of  
November 21, 2003 state for his/her Complaint as follows:

VENUE

1. That all or part of this cause of action arose in the  
County of Wayne, State of Michigan.

2. That venue is proper in Wayne County because at least one  
Defendant resides or has a place of business, or conducts business  
in said county or has a registered office in said county, or  
pursuant to other facts and circumstances satisfies the  
requirements of MCLA §600.1621, 600.1627, and 600.1629.

JURISDICTION

3. That all Defendants are subject to the jurisdiction of



the State of Michigan by virtue of their activities within this State.

4. The amount in controversy exceeds Ten Thousand (\$10,000.00) Dollars exclusive of costs, interest and attorneys fees.

5. Plaintiff, as the duly acting and appointed Personal Representative of the Estate of Plaintiff's Decedent as specified in a separate pleading entitled "NOTICE OF COMPLAINT, COMPLAINT AND JURY DEMAND", consent to jurisdiction in the State of Michigan.

COUNT I

NEGLIGENCE

6. Plaintiff hereby incorporates and adopts by reference all allegations in all Counts of this Complaint as if set out in full.

7. At all times and places mentioned herein, Defendants were miners, millers, manufacturers, distributors, processors, importers, convertors, compounders, merchants and promoters of asbestos and asbestos-containing products.

8. Plaintiff's Decedent was exposed to asbestos-containing products of Defendants, which Plaintiff's Decedent inhaled or otherwise ingested.

9. Plaintiff's Decedent's exposures were foreseeable by Defendants.

10. At all times material hereto, Defendants, jointly and severally, owed a duty to Plaintiff's Decedent and to all others similarly situated, to design, manufacture, formulate, develop

standards, prepare, process, inspect, test, market, advertise, package and label the above-mentioned products in a manner reasonably calculated to permit said asbestos products to be used without endangering the health and safety of persons such as the Plaintiff in the use of such products. Furthermore, Defendants owed a duty to warn and instruct regarding the use of such products.

11. Defendants, jointly and severally, breached their duty to Plaintiff's Decedent in the following particulars:

a. failed to adequately warn Plaintiff's Decedent of the dangerous characteristics of asbestos and asbestos-containing products;

b. failed to provide Plaintiff's Decedent with information as to what would be reasonably safe and sufficient wearing apparel and proper protective equipment and appliances, to protect Plaintiff's Decedent from being harmed and disabled by exposure to asbestos and asbestos containing materials;

c. failed to place adequate warnings on containers of said asbestos and asbestos-containing materials to warn of the health hazards associated with coming into contact with said asbestos and asbestos-containing materials;

d. failed to take reasonable precaution or exercise reasonable care to publish, adopt and enforce safety plans and/or a safe method of handling and installing asbestos and asbestos-containing materials;

e. failed to adopt and utilize a substitute material to





eliminate asbestos fibers in the products produced;

f. failed to test asbestos and asbestos-containing materials to determine their disease causing propensities prior to releasing these products for sale and, if in fact any Defendant tested these products, then said Defendants were negligent in concealing the results from the public;

g. failed to properly design and manufacture the products;

h. failed to formulate the products so as to minimize or eliminate their toxic effects upon their users;

i. failed to properly prepare, inspect and process said products so that they would not be transferred from the manufacturers' possession in a defective state and that said products would be reasonably fit for the particular purpose intended and of merchantable quality;

j. failed to properly prepare, process and manufacture the products;

k. failed to properly package the products;

l. failed to adequately label and give adequate warnings and instructions regarding the composition and use of the products and their possible toxic affects upon their users;

m. failed to properly market and advertise said products;

n. failed to advise and warn of the scientifically recognized synergism between exposure to asbestos in conjunction with smoking, alcohol and other agents;



o. failed to act in a reasonable and prudent manner.

12. As a direct and proximate result of Defendants' aforementioned tortious acts, Plaintiff's Decedent sustained serious, incurable and progressive asbestos related disease and subsequent death.

13. Plaintiff's Decedent contracted an asbestos related disease and suffered other bodily injuries including great pain of mind and body, shock, disgrace, outrage, humiliation and indignity.

14. Plaintiff's Decedent incurred medical bills and other expenses.

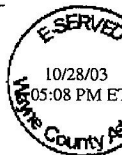
15. Plaintiff's Decedent sustained wage losses, which amount will be demonstrated at trial.

16. Plaintiff's Decedent suffered such other injuries and damages as specified in a separate pleading entitled "NOTICE OF COMPLAINT, COMPLAINT AND JURY DEMAND".

17. Plaintiff's Decedent left surviving such persons as are specified in a separate pleading entitled "NOTICE OF COMPLAINT, COMPLAINT AND JURY DEMAND".

18. By reason of Plaintiff's Decedent's death, said persons have been deprived of Decedent's support, comfort, society, protection, advice, guidance, counsel, services, companionship and, in the case of Decedent's spouse, consortium, to be rendered in the future, to their damage and pecuniary loss.

19. Plaintiff's Decedent's Estate became and is liable for funeral and burial expenses reasonably incurred as a result of said death and is likewise entitled to damage for pain and suffering



undergone by Plaintiff's Decedent.

20. Defendants are jointly and severally liable to Plaintiff for injuries and damages sustained by Plaintiff's Decedent.

WHEREFORE, Plaintiff(s) pray(s) for a judgment against Defendants of actual, consequential, and exemplary damages in whatever amount in excess of Ten Thousand (\$10,000.00) Dollars Plaintiff(s) is (are) deemed to be entitled by this Honorable Court and/or Jury, together with costs, interest and attorneys fees.

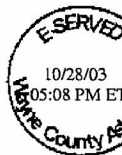
COUNT II

CONCERT OF ACTION

21. Plaintiff hereby incorporates and adopts by reference all allegations in all Counts of this Complaint as if set out in full.

22. That at all times herein mentioned one, several or all of the Defendants named above, their officers, directors, employees, agents or servants acting on their behalf, engaged in concerted activities, namely express or implied agreements regarding the mining, milling, manufacturing, designing, engineering, licensing, producing, assembling, marketing, supplying, installing, delivering, promoting, and/or retarding the development of industry wide standards relating to the use of asbestos and asbestos-containing products which Defendants knew, or in the exercise of reasonable care, should have known, were deleterious, poisonous, and highly harmful to Plaintiff's Decedent.

23. Plaintiff may not be able to identify all of the asbestos containing products of the various Defendants due to the generic



similarity of such products as produced as promoted by these Defendants.

24. That as a result of the said concerted activities in which Defendants engaged, the Plaintiff's Decedent was injured though the use and/or exposure to asbestos or asbestos-containing products of Defendants.

25. That due to the concert of action among each of the various Defendants, each is liable to the Plaintiff's Decedent for injuries sustained even if there was no direct exposure to, and use of, products produced by a particular Defendant.

26. Defendants are jointly and severally liable to the Plaintiff for the injuries and damages sustained by Plaintiff's Decedent.

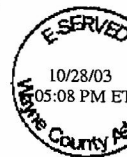
27. As a direct and proximate result of Defendants aforementioned tortious acts, Plaintiff's Decedent sustained and suffered such injuries and damages as hereinabove set forth.

WHEREFORE, Plaintiff(s) pray(s) for a judgment against Defendants of actual, consequential, and exemplary damages in whatever amount in excess of Ten Thousand (\$10,000.00) Dollars Plaintiff(s) is (are) deemed to be entitled by this Honorable Court and/or Jury, together with costs, interest and attorneys fees.

COUNT III

CONSPIRACY

28. Plaintiff hereby incorporates and adopts by reference all allegations in all Counts of this Complaint as if set out in full.



29. The Defendants did conspire by willfully and wantonly placing into the stream of commerce instrumentalities which they knew or reasonably should have known would cause unlawful, serious and permanent bodily injury or death to Plaintiff's Decedent or others similarly situated.

30. Many decades ago the Defendants became aware that asbestos would cause serious, debilitating, life shortening and life ending health problems.

31. Notwithstanding said knowledge in the possession of the Defendants they knowingly, maliciously, wantonly and for mercenary reasons, entered into an agreement tacit or otherwise, to conceal said knowledge and further, did agree to continue on as vendors of asbestos and asbestos-containing products thereby furthering the ends of their conspiracy.

32. That this agreement and course of conduct on the part of the several Defendants originated in the period of 1930, or earlier, and has continued to the present.

33. That each Defendant at some time relevant to Plaintiff's cause of action, acted in furtherance of said conspiracy.

34. Pursuant to the conspiracy between the several Defendants, they retained control of the existing and developing markets, retarded the development of industry wide standards and through products which they knew were hazardous, feloniously caused great bodily harm and/or death.

35. As a direct and proximate result of Defendants' aforementioned tortious and illegal acts, Plaintiff's Decedent



sustained and suffered such injuries and damages as hereinabove set forth.

36. Defendants are jointly and severally liable to Plaintiff for injuries and damages sustained by Plaintiff's Decedent.

WHEREFORE, Plaintiff(s) pray(s) for a judgment against Defendants of actual, consequential, and exemplary damages in whatever amount in excess of Ten Thousand (\$10,000.00) Dollars Plaintiff(s) is (are) deemed to be entitled by this Honorable Court and/or Jury, together with costs, interest and attorneys fees.

COUNT IV

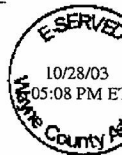
ALTERNATIVE LIABILITY

37. Plaintiff hereby incorporates and adopts by reference all allegations in all Counts of this Complaint as if set out in full.

38. Defendants, acting independently have concurrently breached a duty owed to Plaintiff's Decedent in their manufacture, design, selection, assembly, marketing, distribution, sale, supply, delivery and promotion of asbestos-containing products which were generically similar and fungible in nature.

39. Defendants, acting independently and concurrently each breached the same duty to Plaintiff's Decedent by contributing to the placement of asbestos-containing products into the stream of interstate commerce, which products were independently the direct and proximate cause of the injuries and damages sustained by Plaintiff's Decedent.

40. Plaintiff is unable to identify the specific Defendant



responsible for placing specific asbestos or asbestos-containing products into the stream of commerce.

41. Defendants were each in a position to mitigate and alleviate the danger to Plaintiff's Decedent from exposure to the asbestos-containing products produced and promoted by each of them, but each Defendant, independently and concurrently failed to so mitigate that risk.

42. Defendants are jointly and severally liable to Plaintiff, for the injuries and damages sustained by Plaintiff's Decedent.

43. As a direct and proximate result of aforementioned tortious acts, Plaintiff has sustained and suffered such injuries and damages as hereinabove set forth.

WHEREFORE, Plaintiff(s) pray(s) for a judgment against Defendants of actual, consequential, and exemplary damages in whatever amount in excess of Ten Thousand (\$10,000.00) Dollars Plaintiff(s) is (are) deemed to be entitled by this Honorable Court and/or Jury, together with costs, interest and attorneys fees.

COUNT V

ENTERPRISE LIABILITY

44. Plaintiff hereby incorporates and adopts by reference all allegations in all Counts of this Complaint as if set out in full.

45. That all Defendants herein agreed to or independently adhered to an industry wide practice or custom not to warn of the dangers of asbestos.

46. Plaintiff cannot identify the specific Defendant



responsible for the asbestos products to which he was exposed.

47. Plaintiff's Decedent's injuries and damages complained of were directly and proximately caused by exposure to asbestos-containing products produced and/or promoted by the several Defendants under and in adherence to said insufficient and inadequate industry wide standards.

48. The several Defendants, controlled various shares of the asbestos industry market within the geographical region in which Plaintiff's Decedent was employed.

49. Defendants are jointly liable to Plaintiff for injuries and damages sustained by Plaintiff's Decedent.

50. As a direct and proximate result of the aforementioned tortious acts, Plaintiff's Decedent sustained and suffered such injuries and damages as hereinabove set forth.

WHEREFORE, Plaintiff(s) pray(s) for a judgment against Defendants of actual, consequential, and exemplary damages in whatever amount in excess of Ten Thousand (\$10,000.00) Dollars Plaintiff(s) is (are) deemed to be entitled by this Honorable Court and/or Jury, together with costs, interest and attorneys fees.

COUNT VI

STRICT LIABILITY

51. Plaintiff hereby incorporates and adopts by reference all allegations in all Counts of this Complaint as if set out in full.

52. At all times and places mentioned herein, Defendants collectively and individually were engaged in the asbestos





industry.

53. The asbestos and asbestos-containing products manufactured, designed, assembled, maintained for sale, marketed, distributed, sold, supplied, delivered and promoted by Defendants wa used by Plaintiff's Decedent and those similarly situated in a foreseeable manner.

54. At all times pertinent hereto, the said asbestos products were unreasonably dangerous and in a defective condition.

55. Defendants' unreasonably dangerous and defective products were a direct and proximate cause of the injuries sustained by Plaintiff's Decedent.

56. Defendants are jointly and severally strictly liable to the Plaintiff for injuries and damages sustained by Plaintiff's Decedent.

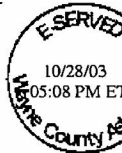
57. As a direct and proximate result of aforementioned tortious acts, Plaintiff's Decedent sustained and suffered such injuries and damages as hereinabove set forth.

WHEREFORE, Plaintiff(s) pray(s) for a judgment against Defendants of actual, consequential, and exemplary damages in whatever amount in excess of Ten Thousand (\$10,000.00) Dollars Plaintiff(s) is (are) deemed to be entitled by this Honorable Court and/or Jury, together with costs, interest and attorneys fees.

COUNT VII

WARRANTY

58. Plaintiff hereby incorporates and adopts by reference all



allegations in all Counts of This Complaint as if set out in full.

59. The Defendants herein, jointly and severally owe the Plaintiff's Decedent a contractual duty to dispense a product which comported with the implied or express warranties attached to said product. The warranties which were attached to Defendant's products at the time of manufacture, design, distribution, sale, supply, delivery, marketing and promotion of asbestos-containing products, were that said products are:

- a. of good and merchantable quality;
- b. properly designed and manufactured;
- c. fit for the ordinary purposes for which such goods are/were used;
- d. adequately contained;
- e. adequately packaged;
- f. adequately labeled;
- g. conformed to the promises or affirmation of fact made on the container, labeling, advertising, product specification data or informational literature;
- h. fit for the particular and intended purpose for which the goods are required, the buyer having relied upon Defendants' judgment in selecting and furnishing suitable goods.

60. That notwithstanding said duty the Defendants, jointly and severally, did violate same in that their products:

- a. were not of good and merchantable quality;
- b. were not properly designed and manufactured;
- c. were not fit for the ordinary purposes for which



such goods are/were used;

d. were not adequately contained;

e. were not adequately packaged;

f. were not adequately labeled;

g. did not conform to the promises or affirmations of fact made on the container, labeling, advertising, product specification data or informational literature;

h. were not fit for the particular and intended purpose for which the goods are required, the buyer having relied upon Defendants' judgment in selecting and furnishing suitable goods.;

i. failed to warn of the dangers of asbestos and asbestos-containing products;

j. failed to instruct as to the use of asbestos and asbestos-containing products;

k. had not been adequately tested so as to ascertain the dangers thereof;

l. failed to adequately warn and instruct those who foreseeable would come into contact with Defendants' products as to the dangers existing and precautions necessary;

m. were defectively designed;

n. were defectively tested;

o. were improperly packaged, unfit products.

61. As a direct and proximate result of Defendants' aforementioned tortious acts, Plaintiff's Decedent sustained and suffered such injuries and damages as hereinabove set forth.

62. Defendants are jointly and severally liable to Plaintiff

for injuries and damages sustained by Plaintiff's Decedent.

WHEREFORE, Plaintiff(s) pray(s) for a judgment against Defendants of actual, consequential, and exemplary damages in whatever amount in excess of Ten Thousand (\$10,000.00) Dollars Plaintiff(s) is (are) deemed to be entitled by this Honorable Court and/or Jury, together with costs, interest and attorneys fees.

COUNT VIII

WILLFUL AND WANTON MISCONDUCT/INTENTIONAL TORT

63. Plaintiff hereby incorporates and adopts by reference all allegations in all counts of this Complaint as if set out in full.

64. At all times and places mentioned herein, Defendants, were miners, millers, manufacturers, distributors, processors, importers, convertors, compounders, merchants and promoters of asbestos and asbestos-containing products.

65. Plaintiff has been exposed to asbestos-containing products of Defendants, which Plaintiff inhaled or otherwise ingested.

66. The Defendants had knowledge of the health dangers of asbestos fiber inhalation.

67. Plaintiff's exposures were foreseeable by Defendants.

68. At all times material hereto, Defendants, jointly and severally, owed a duty to Plaintiff's Decedent and to all others similarly situated, to design, manufacture, formulate, develop standards, prepare, process, inspect, test, market, advertise, package and label the above-mentioned products in a manner



reasonably calculated to permit said asbestos products to be used without endangering the health and safety of persons such as the Plaintiff in the use of such products. Furthermore, Defendants owed a duty to warn and instruct regarding the use of such products.

69. That Defendants had the ability to avoid the resulting harm to Plaintiff's Decedent by ordinary care and diligence in the use of the means at hand.

70. Defendants, jointly and severally, breached their duty to Plaintiff's Decedent in the following particulars:

a. Committed intentional and/or willful and wanton or reckless acts and misconduct all in disregard for the rights of Plaintiffs.

b. Omitted the use of ordinary care and diligence to avert the threatened danger when, to the ordinary mind, it must have been apparent that the result was likely to prove disastrous to another such as Plaintiff.

71. As a direct and proximate result of Defendants' aforementioned intentional and willful, wanton and reckless tortious acts, Plaintiff has sustained serious, incurable and progressive asbestos related disease and subsequent death.

72. Plaintiff's Decedent contracted an asbestos related disease and suffered other bodily injuries including great pain of mind and body, shock, disgrace, outrage, humiliation and indignity.

73. Plaintiff's Decedent incurred medical bills and other expenses.



74. Plaintiff's Decedent sustained wage losses which amount will be demonstrated at trial.

75. As a direct and proximate result of Defendants' aforementioned intentional, willful, wanton, reckless, tortious acts, Plaintiff's Decedent sustained and suffered such injuries and damages as hereinabove set forth.

WHEREFORE, Plaintiffs pray for a judgment against Defendants, jointly and severally, of actual, compensatory, as well as exemplary (enhanced) damages, for incremental injury to feelings due to outrage caused by Defendants malice, in whatever amount in excess of Ten Thousand (\$10,000.00) Dollars Plaintiff is deemed to be entitled by this Honorable Court and/or Jury, together with costs, interest and attorneys fees.

A TRIAL BY JURY IS HEREBY DEMANDED ON ALL ISSUES.

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\*Plaintiffs Attorney

Dated: \_\_\_\_\_