

IN THE CIRCUIT COURT OF CLINTON COUNTY, MISSOURI

BEVERLY LONG
611 Cameron Villa Drive
Cameron, MO 64429

and

CYNTHIA MCQUEEN
404 E. D Street
Trenton, NE 69044

Plaintiffs,

v.

PRIME TANNING CORP.
Serve: CSC Lawyers Inc. Svc. Co.
221 Bolivar Street
Jefferson City MO 65101

and

PRIME TANNING CO., INC.
Serve: Benjamin E. Marcus
84 Marginal Way, Suite 600
Portland, ME 04101

and

NATIONAL BEEF LEATHERS CO., LLC
Serve: CT Corporation System
120 South Central Ave.
Clayton MO 63105

and

RICK REAM
Serve: Rick Ream
4914 Briarwood Lane
St. Joseph MO 64506

Defendants.

FILED
MAY 20 2009

MOLLY LIVINGSTON
Clerk of Clinton Co. Circuit Court

Case No. 09CN-CV00422

PETITION FOR DAMAGES

Plaintiffs Beverly Long and Cynthia McQueen for their Petition for Damages against Defendants state as follows:

Parties

1. Plaintiff Beverly Long is a resident of Cameron, Clinton County, Missouri. From 1991 through 1998, Ms. Long lived on a farm near Osborne, Missouri in Clinton County, Missouri. From 1983 through 2003, Ms. Long lived on a farm near Clinton, Missouri in DeKalb County, Missouri. From 2003 to the present, Ms. Long has lived in Cameron, Missouri in Clinton County, Missouri.

2. Decedent Norma Bingham was a citizen and resident of Cameron, Clinton County, Missouri prior to June of 2006 when she died due to complications from amyloidosis. Norma Bingham leaves her daughter Cynthia McQueen as a survivor.

3. Defendant Prime Tanning Corp. is a Missouri corporation with its principal place of business in St. Joseph, Buchanan County, Missouri. Prime Tanning Corp. is a wholly owned subsidiary of Prime Tanning Co., Inc.

4. Defendant Prime Tanning Co., Inc. is a Maine corporation with its principal place of business in Berwick, Maine.

5. Defendant National Beef Leathers, LLC is a Delaware LLC with its principal place of business in St. Joseph, Missouri.

6. Defendant Rick Ream is a resident of St. Joseph, Buchanan County, Missouri.

Jurisdiction and Venue

7. Venue in this Court is proper pursuant to Mo. Rev. Stat. Section 508.010 because plaintiffs were exposed to hazardous chemicals by defendants in Clinton County, Missouri.

8. Jurisdiction is proper in this Court pursuant to Mo. Rev. Stat. Section 478.070.

Facts

9. Prime Tanning Corp., a wholly owned subsidiary of Prime Tanning Co., Inc., and Prime Tanning Co., Inc. (hereinafter referred to collectively as "Prime") owned and operated a leather tanning facility at 205 Florence Road in St. Joseph, Missouri until the first quarter of 2009, when defendant National Beef Leathers LLC (National Beef) purchased assets (including the tanning facility in St. Joseph) and liabilities from Prime.

10. Upon information and belief, National Beef is a legal successor in interest to Prime with regard to the tanning operations in St. Joseph, Missouri.

11. Hexavalent chromium is a toxic chemical and is classified as a known human cancer causing agent.

12. From at least 1983 through early 2009, Prime utilized hexavalent chromium to remove hair from its hides in the tanning process. The waste product from this process was collected as "sludge" that contains hexavalent chromium.

13. Rick Ream was an agent or employee of Prime who oversaw the land application activities of Prime wherein sludge containing hexavalent chromium was transported from Prime and spread upon Missouri farms. Prime represented to the State of Missouri that the Prime sludge did not contain hexavalent chromium when in fact such sludge did contain hexavalent chromium.

14. From at least 1983 through early 2009, Prime hauled thousands of tons of sludge containing hexavalent chromium to Missouri farms, including farms in Andrew, Buchanan, DeKalb and Clinton counties, and applied thousands of tons of sludge containing hexavalent chromium to such farms with a spreader. The sludge was applied free of charge to farmers as fertilizer so that Prime could avoid the costs of landfilling the sludge.

15. The sludge applied to fields in Missouri contains hazardous levels of hexavalent chromium that is above acceptable limits of human exposure. Portions of the sludge become airborne in the application process.

16. In June of 2004, Beverly Long (a non-smoker) was diagnosed with lung cancer which necessitated the removal of her left lung. Ms. Long was exposed to the hexavalent chromium in the Prime sludge in air due to her proximity to the application of such sludge on farms near her residence.

17. As a direct and proximate result of decedent Beverly Long's exposure to the hexavalent chromium in the Prime sludge, Beverly Long contracted lung cancer.

18. As a direct and proximate result of defendants' negligence and strict liability, Beverly Long was injured and damaged in that she will incur wage loss, medical bills, pain and suffering, permanent disability and mental anguish.

19. In June of 2006, decedent Norma Bingham died as a direct and proximate result of complications from amyloidosis. Decedent Norma Bingham was exposed to hexavalent chromium in the Prime sludge in the air due to her proximity to the application of such sludge on farms near her residence.

20. As a direct and proximate result of decedent Norma Bingham's exposure to hexavalent chromium in the Prime sludge, Norma Bingham contracted amyloidosis and died.

21. As a direct and proximate result of defendants' negligence and strict liability, Norma Bingham suffered and died and her survivors were injured and damaged in that they have incurred funeral expenses and pecuniary damages and have lost the services, consortium, companionship, comfort, guidance, counsel, training and support of Norma Bingham.

22. Defendants' actions in applying sludge containing hexavalent chromium to Missouri farm fields constitute complete indifference to or conscious disregard for the safety of

Beverly Long, Norma Bingham and others, and punitive damages and aggravating circumstance damages are therefore warranted.

COUNT I
(Negligence)

23. Plaintiffs incorporate by reference the foregoing allegations.

24. The Prime defendants, acting by and through their agents and employees including but not limited to Rick Ream, and Rick Ream individually, were negligent in the following respects:

- a. In spreading hazardous waste containing hexavalent chromium on farm land wherein the surrounding population was exposed to hexavalent chromium;
- b. In failing to warn farmers and the public that high levels of hexavalent chromium were contained in sludge being applied to Missouri farm fields nearby;
- c. In misrepresenting to regulatory authorities for the State of Missouri that the sludge applied to Missouri farms was free of high levels of hexavalent chromium;
- d. In failing to abide by the terms of the land application permit that allowed Prime to spread sludge on Missouri farm fields by applying sludge on snow-covered fields;
- e. In failing to report test results to the State of Missouri indicating high levels of hexavalent chromium in sludge applied to Missouri farm fields; and
- f. In failing to adequately test the sludge applied to Missouri farm fields for high levels of hexavalent chromium.

25. As a direct and proximate result of defendants' negligence, plaintiffs were injured and damaged.

WHEREFORE, plaintiffs Beverly Long and Cynthia McQueen pray judgment against defendants in an amount exceeding \$25,000, for punitive damages, aggravating circumstances

damages, for costs, prejudgment and post-judgment interest, and such further relief as the Court deems just and proper.

COUNT II
(Strict Liability)

26. Plaintiffs incorporate by reference the foregoing allegations.

27. At all times relevant hereto, defendants distributed into the stream of commerce and environment sludge products that contained dangerously high levels of hexavalent chromium to which plaintiff Beverly Long and Norma Bingham were exposed.

28. The sludge products were put to a foreseeable, reasonably anticipated, and intended use by farmers who used the sludge on land near plaintiffs Beverly Long and decedent Norma Bingham.

29. The sludge products containing high levels of hexavalent chromium were in a defective condition and unreasonably dangerous when put to a reasonably anticipated use for reasons including but not limited to:

- a. There were either no warnings or inadequate warnings that defendants' sludge could cause cancer and/or tumors;
- b. There were inadequate instructions from defendants to farmers as to the safe use of the sludge;
- c. The sludge was inherently dangerous and ultrahazardous because it contains high levels of hexavalent chromium; and
- d. Defendants failed to manufacture or design their sludge for delivery to farmers without high levels of hexavalent chromium.

30. Beverly Long's development of lung cancer was a foreseeable result of exposure to defendants' sludge that contained hexavalent chromium.

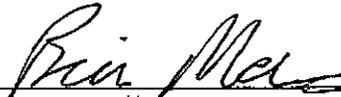
31. Norma Bingham's development of amyloidosis was a foreseeable result of exposure to defendants' sludge that contained hexavalent chromium.

32. As a direct and proximate result of the foregoing defects in defendants' sludge products, plaintiffs were damaged.

WHEREFORE, plaintiffs Beverly Long and Cynthia McQueen pray judgment against defendants in an amount exceeding \$25,000, for punitive damages, for aggravating circumstances damages, and for costs, prejudgment and post-judgment interest, and further relief as the Court deems just and proper.

Respectfully submitted,

WAGSTAFF & CARTMELL LLP



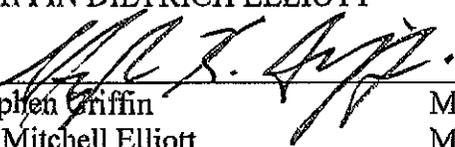
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