

FILED
APR 22 2009

IN THE CIRCUIT COURT OF CLINTON COUNTY, MISSOURI

MOLLY LIVINGSTON
CLERK OF CIRCUIT COURT

WILLIAM KEMPER)
1213 Aerie Lane)
Cameron MO 64429)

and)

JANET LASHER)
2192 State Hwy. 13)
Gallatin, MO 64640)

Plaintiffs,)

v.)

Case No. 09CN-CV00333

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

and)

PRIME TANNING CO., INC.)
Serve: Robert Moore, Jr., President)
20 Sullivan Street)
Berwick, ME 03901)

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.)

PETITION FOR DAMAGES

Plaintiffs William Kemper and Janet Lasher, for their Petition for Damages against Defendants states as follows:

Parties

1. Plaintiff William Kemper is a resident of Cameron, Clinton County, Missouri.
At all times relevant hereto, William Kemper was married to decedent Karen Kemper.
2. Decedent Karen Kemper was a citizen and resident of Cameron, Clinton County, Missouri prior to May of 2008 when she died at age 44 due to complications from a brain tumor. Karen Kemper leaves as survivors her husband William Kemper and children Courtney and Carley Kemper.
3. Plaintiff Janet Lasher is a resident of Gallatin, Daviess County, Missouri.
4. 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.
5. Defendant Prime Tanning Co., Inc. is a Maine corporation with its principal place of business in Berwick, Maine.
6. Defendant National Beef Leathers, LLC is a Delaware LLC with its principal place of business in St. Joseph, Missouri.
7. Defendant Rick Ream is a resident of St. Joseph, Buchanan County, Missouri.

Jurisdiction and Venue

8. 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.

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

Facts

10. 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.

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

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

13. 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.

14. From early 2009 to the present, National Beef has continued the process of utilizing hexavalent chromium to remove hair from its hides in the tanning process. The waste product from this process is collected as "sludge" that contains hexavalent chromium.

15. 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.

16. 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.

17. 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.

18. In May of 2008, decedent Karen Kemper died as a direct and proximate result of complications from a brain tumor. Decedent Karen Kemper 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.

19. As a direct and proximate result of decedent Karen Kemper's exposure to the hexavalent chromium in the Prime sludge, Karen Kemper contracted a brain tumor and died.

20. As a direct and proximate result of defendants' negligence and strict liability, Karen Kemper suffered and died and her surviving spouse and children were injured and damaged in that they have incurred funeral expenses and pecuniary damages and have lost the services, consortium, companionship, comfort, instruction, guidance, counsel, training and support of Karen Kemper.

21. In February of 2009 Janet Lasher was diagnosed with lung cancer that has spread to her brain. Janet Lasher has worked in Cameron, Missouri, since 1996 and 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 work place.

22. As a direct and proximate result of defendants' negligence and strict liability, Janet Lasher has contracted cancer and has and will suffer permanent injury and damages, including past and future medical bills, pain and suffering, and wage loss.

23. Defendants' actions in applying sludge containing hexavalent chromium to Missouri farm fields constitute complete indifference to or conscious disregard for the safety of Karen Kemper, Janet Lasher and others, and punitive damages and aggravating circumstance damages are therefore warranted.

COUNT I
(Negligence)

24. Plaintiffs incorporate by reference the foregoing allegations.

25. 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.

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

WHEREFORE, plaintiffs William Kemper and Janet Lasher 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)

27. Plaintiffs incorporate by reference the foregoing allegations.

28. 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 decedent Karen Kemper and Janet Lasher were exposed.

29. The sludge products were put to a foreseeable, reasonably anticipated, and intended use by farmers who used the sludge on land near decedent Karen Kemper and Janet Lasher.

30. 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.

31. Karen Kemper's development of a brain tumor was a foreseeable result of exposure to defendants' sludge that contained hexavalent chromium.

32. Janet Lasher's development of lung cancer and brain cancer was a foreseeable result and exposure to defendants' sludge that contained hexavalent chromium.

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

WHEREFORE, plaintiffs William Kemper and Janet Lasher 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.

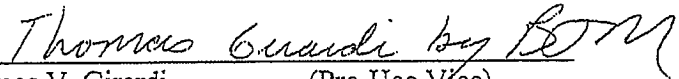
Respectfully submitted,

WAGSTAFF & CARTMELL LLP



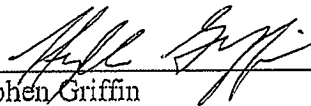
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