

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ERIE

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TROY SHANE SMITH and ALLYSON JANE SMITH,

Index No.: 814633/2023

Plaintiff(s),

**DEFENDANT MANNINGTON  
MILLS INC.'S VERIFIED  
ANSWER TO PLAINTIFFS'  
VERIFIED COMPLAINT,  
AFFIRMATIVE DEFENSES  
AND CROSS-CLAIMS**

-against-

ADSCO MANUFACTURING CORP., et al.,

Defendants.

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Defendant, MANNINGTON MILLS, INC. (hereinafter "Mannington" or  
"Defendant"), by its attorneys, Hawkins Parnell & Young LLP, for its Answer to Plaintiffs'

Verified Complaint, alleges the following upon information and belief:

1. Denies all material allegations in Plaintiffs' Verified Complaint as they pertain to Mannington.
2. Denies knowledge or information sufficient to form a belief as to the truth of each and every other allegation contained in Plaintiffs' Verified Complaint.

WHEREFORE, Defendant MANNINGTON MILLS, INC. demands dismissal of the Verified Complaint and any and all Cross-Claims with prejudice.

**AFFIRMATIVE DEFENSES**

In the following defenses, the use of the term "Plaintiffs" shall be considered to include both the singular and the plural, the masculine as well as the feminine, and, where appropriate,

the Plaintiffs' Decedent. Also, references to the "Complaint" shall, where applicable, include any amendments thereto.

**AS AND FOR A FIRST SEPARATE AND COMPLETE DEFENSE**

1. The Verified Complaint fails to state a cause of action against Defendant.

**AS AND FOR A SECOND SEPARATE AND COMPLETE DEFENSE**

2. This Court lacks jurisdiction over the subject matter of this action.

**AS AND FOR A THIRD SEPARATE AND COMPLETE DEFENSE**

3. This Court lacks personal jurisdiction over Defendant.

**AS AND FOR A FOURTH SEPARATE AND COMPLETE DEFENSE**

4. This Court is not the proper venue for this matter.

**AS AND FOR A FIFTH SEPARATE AND COMPLETE DEFENSE**

5. The lawsuit was not commenced by Plaintiffs within the time prescribed by law and the Plaintiffs, therefore, are barred from recovery pursuant to applicable statutes of limitations.

**AS AND FOR A SIXTH SEPARATE AND COMPLETE DEFENSE**

6. Plaintiffs' claims are barred by the doctrine of laches.

**AS AND FOR A SEVENTH SEPARATE AND COMPLETE DEFENSE**

7. This action cannot be maintained, as there is another action pending for the same relief.

**AS AND FOR AN EIGHTH SEPARATE AND COMPLETE DEFENSE**

8. To the extent that any injury relating to Plaintiffs occurred in the context of an employer-employee relationship, claims for said injuries are preempted by the Workers' Compensation Act.

**AS AND FOR A NINTH SEPARATE AND COMPLETE DEFENSE**

9. There is no justiciable issue or controversy.

**AS AND FOR A TENTH SEPARATE AND COMPLETE DEFENSE**

10. The claims for damages have not accrued, are purely speculative, uncertain, and contingent.

**AS AND FOR AN ELEVENTH SEPARATE AND COMPLETE DEFENSE**

11. Plaintiffs' claims are barred under applicable state and federal law.

**AS AND FOR A TWELFTH SEPARATE AND COMPLETE DEFENSE**

12. To the extent Plaintiffs seek to maintain a claim for relief on behalf of any decedent, said Plaintiffs lack capacity and/or standing to maintain such claim for relief against Defendant.

**AS AND FOR A THIRTEENTH SEPARATE AND COMPLETE DEFENSE**

13. Plaintiffs lack the necessary standing to maintain this action.

**AS AND FOR A FOURTEENTH SEPARATE AND COMPLETE DEFENSE**

14. To the extent Plaintiffs bring suit in a representative capacity, Plaintiffs have failed to allege sufficient facts to demonstrate legal capacity to sue pursuant to New York Estate Powers and Trusts Law §5-1.1 to 5-4.6.

**AS AND FOR A FIFTEENTH SEPARATE AND COMPLETE DEFENSE**

15. Plaintiffs' injury was not foreseeable.

**AS AND FOR A SIXTEENTH SEPARATE AND COMPLETE DEFENSE**

16. Plaintiffs' claims are barred under applicable law pursuant to public policy, since social utility and benefit of asbestos-containing products outweighed the risk at the time of Plaintiffs' alleged exposure.

**AS AND FOR A SEVENTEENTH SEPARATE AND COMPLETE DEFENSE**

17. Plaintiffs' claims are barred because of Plaintiffs' failure to join necessary and indispensable parties.

**AS AND FOR AN EIGHTEENTH SEPARATE AND COMPLETE DEFENSE**

18. Plaintiffs may not bring this action as Plaintiffs have failed to exhaust all of their administrative remedies.

**AS AND FOR A NINETEENTH SEPARATE AND COMPLETE DEFENSE**

19. At all times relevant to this litigation, Defendant complied with all applicable law, regulations and standards.

**AS AND FOR A TWENTIETH SEPARATE AND COMPLETE DEFENSE**

20. Relief is barred by virtue of the doctrines of estoppel, collateral estoppel, and waiver.

**AS AND FOR A TWENTY-FIRST SEPARATE AND COMPLETE DEFENSE**

21. Upon information and belief, some or all of the causes of action may not be maintained because of *res judicata*.

**AS AND FOR A TWENTY-SECOND SEPARATE AND COMPLETE DEFENSE**

22. Plaintiffs' action is barred by the doctrine of preclusion.

**AS AND FOR A TWENTY-THIRD SEPARATE AND COMPLETE DEFENSE**

23. Upon information and belief, some or all of the causes of action may not be maintained because of arbitration and award.

**AS AND FOR A TWENTY-FOURTH SEPARATE AND COMPLETE DEFENSE**

24. Upon information and belief, some or all of the causes of action may not be maintained because of discharge in bankruptcy.

**AS AND FOR A TWENTY-FIFTH SEPARATE AND COMPLETE DEFENSE**

25. Upon information and belief, some or all of the causes of action may not be maintained because of payment.

**AS AND FOR A TWENTY-SIXTH SEPARATE AND COMPLETE DEFENSE**

26. Upon information and belief, some or all of the causes of action may not be maintained because of release.

**AS AND FOR A TWENTY-SEVENTH SEPARATE AND COMPLETE DEFENSE**

27. Upon information and belief, Plaintiffs have made claims concerning Plaintiffs' alleged injuries in other matters, including but not limited to claims submitted to various trusts, which claims foreclose Plaintiffs' claims against Defendant.

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