

FILED DATE: 1/4/2021 2:38 PM 2021L000061

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

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IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL
2021L000061

LINDA WANTUCH and FIRST MIDWEST)
BANK, as Co- Independent Executors for the)
Estate of RONALD WANTUCH,)
)
Plaintiff,)
)
v.)
)
BURLING BUILDERS, INC., an Illinois)
Corporation;)
)
Defendant.)

Case No.:

COMPLAINT AT LAW

NOW COMES the Plaintiffs, LINDA WANTUCH and FIRST MIDWEST BANK, as Co-Independent Executors for the Estate of RONALD WANTUCH, Deceased (D.O.D. 5/9/2020), by and through their attorneys, MDR LAW LLC, and complaining of the Defendant, BURLING BUILDERS, INC. (hereinafter “BURLING BUILDERS”), an Illinois Corporation, and alleges and states as follows:

GENERAL ALLEGATIONS COMMON TO ALL COUNTS

Onset of the Covid-19 Pandemic

1. SARS-CoV2 (hereinafter referred to as “COVID-19”) is a highly contagious disease that causes acute respiratory symptoms that often leads to life-threatening complications and death.
2. COVID-19 reached the United States in January 2020, with the first known deaths in the U.S. occurring in February 2020.
3. By the end of March 2020 and contemporaneous with the declaration of a national emergency, COVID-19 cases had been reported in all 50 U.S. states, the District of Columbia, and

all inhabited U.S. territories with the exception of American Samoa.

4. At present, the U.S. has the highest level of active cases and deaths in the world, with a death rate of 482 per one million people. As of filing, nearly 19.2 million Americans have been afflicted and over 333,000 have died of COVID-19 related complications.

5. Illinois ranks among the hardest-hit states for COVID-19 cases, with over 940,000 cases and more than 17,500 deaths.

6. Cook County is the epicenter of the COVID-19 outbreak in Illinois, with more than 385,000 cases and a reported infection rate that is ten times higher than any other Illinois county. To place this number in context, if Cook County were an independent country, it would be within the top twenty nations with the highest infection rate.

7. The contagious nature of COVID-19 is linked to the small infectious dose a person can be exposed to for successful transmission to occur.

8. Medical experts have opined that exposure to as few as 1000 SARS-CoV2 infectious viral particles could trigger infection, such that transmission may occur from an infectious dose received by merely inhaling or rubbing one's eye in an environment where viral sufficient particles are present.

9. Competent modes of transmission include a single cough, which releases at least 3,000 droplets that travel at 40 miles per hour; a single sneeze, which releases at least 30,000 droplets that travel at up to 200 miles per hour; or a single breath, which can expel between 50 to 5000 droplets.

10. While it is estimated that as many as 44% of all COVID-19 infections present with little to no symptoms, the droplets in a single cough or sneeze may contain as many as 200,000,000 virus particles which are immediately discharged into the surrounding environment and can rapidly

infiltrate every corner of an average-sized room or elevator.

11. A person may also shed COVID-19 for days prior to becoming symptomatic, with average viral loads reaching their highest level just prior to symptom onset.

12. What has emerged is an ominous reality that the safety of workers in a workplace is gravely compromised whenever a finite amount of space within a given environment is shared by several individuals gathered together for any appreciable length of time.

13. That on March 9, 2020 Illinois Governor Jay Pritzker issued a Gubernatorial Disaster Proclamation.

14. That on April 1, 2020 said proclamation was updated to emphasize the need for community preparedness and prevention measures.

15. That by April 1, 2020 the highly transmissible nature of COVID-19 was known to defendant herein.

16. On April 3, 2020, the CDC recommended that all Americans wear face covering in public to prevent asymptomatic spread of COVID-19.

- COUNT I -
NEGLIGENCE AGAINST BURLING BUILDERS, INC.
(Wrongful Death)

1-16. Plaintiffs, LINDA WANTUCH and FIRST MIDWEST BANK, as Co-Independent Executors for the Estate of RONALD WANTUCH, repeats and alleges, and incorporates by reference, paragraphs one (1) through sixteen (16) of this Complaint, as paragraphs one (1) through sixteen (16) of Count I, as if fully set forth herein.

17. That on April 10, 2020, and for a long time prior thereto, the Defendant, BURLING BUILDERS, owned and/or was in charge of the construction and remodeling of an expansion of a certain building or other structure under construction at or near 7400 N. Oak Park Ave., in the

Village of Niles, County of Cook, State of Illinois.

18. That said building was occupied at all times relevant herein by Great Lakes Coca-Cola Distribution, LLC d/b/a Great Lakes Coca Cola Bottling and its employees.

19. That at all relevant times herein, the Plaintiff's Decedent, RONALD WANTUCH, was an employee of Great Lakes Coca Cola Bottling (hereinafter referred to as "Great Lakes") at the aforementioned building or other structure under construction.

20. That at all relevant times herein, BURLING BUILDERS' employees were ordered to perform construction work at the aforementioned building and other structure during the onset of the pandemic. These employees did not quarantine and were not tested for COVID-19 or required to have their temperatures checked before entering the Great Lakes facility.

21. That Defendant BURLING BUILDERS did not mandate or enforce the wearing of appropriate personal protective equipment (PPE) by its employees, such as face masks and gloves while inside the premises at Great Lakes, when it knew, or in the exercise of reasonable care, should have known, that the wearing of PPE was required for the safety of its employees and employees of Great Lakes.

22. That for some time prior to April 10, 2020, RONALD WANTUCH, in the course of his work at Great Lakes, was in direct contact and close proximity with workers employed by the Defendant, BURLING BUILDERS, as well as share common areas at the Great Lakes Coca Cola Facility, including but not limited to, ingress, egress, hallways, warehouse, break rooms, and washroom facilities.

23. On or about Friday, April 10, 2020, plaintiff's decedent RONALD WANTUCH went home from work feeling ill, and subsequently died on Saturday, May 9, 2020 due to complications of COVID-19.

24. That between March 9, 2020 and April 10, 2020 plaintiff's decedent RONALD WANTUCH remained in his home except to travel to and from his employment at Great Lakes.

25. That RONALD WANTUCH contracted COVID-19 at the aforementioned Great Lakes Coca Cola facility.

26. That at all times material to this Complaint, the Defendant, BURLING BUILDERS, owed plaintiff's decedent a duty to exercise reasonable care in keeping the worksite in a safe and healthy environment and, in particular, to protect their employees and employees of Great Lakes within the facility from contracting COVID-19 when it knew or should have known that individuals at the Great Lakes Coca Cola facility were at a very high risk of infection and exposure due to the high volume of individuals present at and circulating throughout the Great Lake Coca Cola facility and construction work areas on a daily basis.

27. Notwithstanding its duty, at said time and place, the Defendant, BURLING BUILDERS, by and through its agents, servants and employees, were then and there guilty of one or more of the following careless and negligent acts and/or omissions:

- (a) Failed to cleanse and sterilize the Great Lakes Coca Cola facility and work areas in order to prevent infection of COVID-19;
- (b) Failed to implement, promote and enforce social distancing guidelines promulgated by the governments of the United States of America and the State of Illinois;
- (c) Failed to provide the plaintiff's decedent, as well as its own employees, and other individuals with personal protective equipment such as masks, latex gloves, cleaning supplies and other devices/materials designed to prevent the transmission and infection of COVID-19;
- (d) Failed to follow the recommendations and descriptions of mandatory safety and health standards promulgated by the United States Department of Labor and the Occupational Health and Safety Administration as set out in *Guidance on Preparing Workplaces for COVID-19*;
- (e) Failed to follow the guidelines promulgated by the Center for Disease Control and Prevention ("CDC") to keep all work areas in a safe and healthy condition and to

- prevent employees, employees of Great Lakes Coca Cola, and other individuals within the facility and/or work areas from contracting COVID-19;
- (f) Failed to prepare or implement basic infection prevention measures as is recommended by the CDC;
 - (g) Failed to conduct periodic inspections of the condition and cleanliness of the Great Lakes Coca Cola facility and work areas to prevent and/or minimize the risk of their employees, employees of Great Lakes Coca Cola, and other individuals from contracting COVID-19 as recommended by the CDC;
 - (h) Failed to provide its employees, employees of Great Lakes Coca Cola, and other individuals in the facility and work areas with antibacterial soaps, antibacterial wipes and other cleaning agents as is recommended by the CDC;
 - (i) Failed to properly train its personnel, employees of Great Lakes Coca Cola, and other individuals to implement and follow procedures to minimize the risk of contracting COVID-19;
 - (j) Failed to periodically interview and/or evaluate its employees, employees of Great Lakes Coca Cola, and other individuals for signs and symptoms of COVID-19;
 - (k) Failed to prohibit its employees, employees of Great Lakes Coca Cola, or other individuals who were exhibiting signs and symptoms of COVID-19 from working in the work area or otherwise entering the work area;
 - (l) Failed to enforce its personnel to follow the guidelines promulgated by the CDC when it knew or should have known that its personnel were not wearing masks or social distancing; and/or
 - (m) Failed to implement and maintain engineering controls designed to prevent COVID-19 infection including, but not limited to, installing high-efficiency air filters, increasing ventilation rates in the work environment and installing physical barriers such as clear plastic sneeze guards as is recommended by the CDC.

28. That as a direct and proximate result of one or more of the aforesaid careless and negligent acts and/or omissions and unreasonably dangerous conditions of the facility and/or work areas, Plaintiff's Decedent, RONALD WANTUCH, was caused to contract COVID-19, thereby sustaining fatal injuries to his person.

29. That at all relevant times herein, there was in full force and effect from the State of Illinois, a certain Act, commonly known as the Wrongful Death Act, 740 ILCS 180/1-2, which provides in pertinent in part as follows:

“Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages in respect thereof, then and in every such case the person who or company or corporation which would have been liable if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony.”

740 ILCS 180/1

“Every such action shall be brought by and in the names of the personal representatives of such deceased person, and, except as otherwise hereinafter provided, the amount recovered in every such action shall be for the exclusive benefit of the surviving spouse and next of kin of such deceased person. In every such action the jury may give damages as they shall deem a fair and just compensation with reference to the pecuniary injuries resulting from such death, including damages for grief, sorrow, and mental suffering, to the surviving spouse and next of kin of such deceased person.”

740 ILCS 180/2

30. That pursuant to the Order of the Circuit Court of Cook County, LINDA WANTUCH (wife) and FIRST MIDWEST BANK were duly appointed on December 28, 2020, as Co-Independent Executors for the Estate of RONALD WANTUCH, Deceased (D.O.D. 5/9/2020), for the purpose of prosecuting this cause of action. *See* December 28, 2020 Letters of Office, attached hereto as Exhibit “A.”

31. That the Plaintiffs, LINDA WANTUCH and FIRST MIDWEST BANK, as Co-Independent Executors for the Estate of RONALD WANTUCH, Deceased, bring this action on behalf of: Linda Wantuch (Wife) and Adeline Wantuch (daughter) (D.O.B.: 6/1/2001), who are living and have sustained pecuniary loss, loss of society, and companionship and damages as a

result of the death of Plaintiff's Decedent, RONALD WANTUCH.

WHEREFORE, the Plaintiffs, LIND LINDA WANTUCH and FIRST MIDWEST BANK, as Co-Independent Executors of the Estate of RONALD WANTUCH, Deceased, demands judgment against the Defendant, BURLING BUILDERS, INC., in a dollar amount to satisfy the jurisdictional limits of this Court, and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.

- COUNT II -
NEGLIGENCE AGAINST BURLING BUILDERS, INC.
(Survival)

1-31. Plaintiffs, LINDA WANTUCH and FIRST MIDWEST BANK, as Co-Independent Executors for the Estate of RONALD WANTUCH, Deceased, repeats and alleges, and incorporates by reference, paragraphs one (1) through thirty-one (31) of Count I, as paragraphs one (1) through thirty-one (31) of Count II, as if fully set forth herein.

32. That during the period of time, starting from when Plaintiff's Decedent, RONALD WANTUCH, contracted COVID-19, on or about Friday, April 10, 2020, and continuing through his hospitalization before his death, commencing on Thursday, April 16, 2020, and ending on May 9, 2020, he consciously suffered great physical pain and mental anguish, alone and without family, requiring intubation with mechanical ventilation.

33. That on Thursday, April 16, 2020, through May 9, 2020, Plaintiff's Decedent, RONALD WANTUCH, was admitted to the ICU department at NorthShore Glenbrook Hospital, at which time he was alone, without family and friends, and underwent a variety of treatment for the COVID-19, ultimately requiring being intubated with mechanical ventilator, and subsequently dying.


34. That pursuant to the Order of the Circuit Court of Cook County, LINDA WANTUCH (wife) and FIRST MIDWEST BANK were duly appointed on December 28, 2020, as Co-Independent Executors for the Estate of RONALD WANTUCH, Deceased (D.O.D. 5/9/2020), for the purpose of prosecuting this cause of action. *See* December 28, 2020 Letters of Office, attached hereto as Exhibit "A."

35. That the Plaintiffs, LINDA WANTUCH and FIRST MIDWEST BANK, as Co-Independent Executors for the Estate of RONALD WANTUCH, Deceased, bring this action to recover damages resulting from injuries to the person of RONALD WANTUCH, Deceased, pursuant to the Illinois Survival Statute, 735 ILCS 5/27-6.

WHEREFORE, the Plaintiffs, LINDA WANTUCH and FIRST MIDWEST BANK, as Co-Independent Executors of the Estate of RONALD WANTUCH, Deceased, demands judgment against the Defendant, BURLING BUILDERS, INC., in a dollar amount to satisfy the jurisdictional limits of this Court, and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.

Respectfully submitted,

MDR LAW LLC

By: 
One of the Attorneys for the Plaintiffs, Linda Wantuch and First Midwest Bank, as Co- Independent Executors of the Estate of Ronald Wantuch, Deceased

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)
Defendant.)

Case No.:

AFFIDAVIT

I, Scott H. Rudin, being first duly sworn on oath, deposes and states that if I were called upon to testify, I would do so as follows:

1. That I am an attorney at law licensed to practice in the State of Illinois.
2. That I am an Attorney with the law firm of MDR LAW LLC, attorneys of record for the Plaintiff, LINDA WANTUCH, and FIRST MIDWEST BANK, as Co-Independent Executors for the Estate of RONALD WANTUCH.
3. That based upon the information available to me at the present time, the total amount of money damages sought in this matter exceeds \$50,000.00.
4. That this Affidavit is submitted in compliance with Illinois Supreme Court Rule 222(b).

FURTHER YOUR AFFIANT SAYETH NAUGHT.



Scott H. Rudin, Esq.

SUBSCRIBED AND SWORN TO
before this 4th day of January, 2021.



NOTARY PUBLIC

