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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 89-30201-F

ALICE L. WARREN,
ADMINISTRATRIX OF THE ESTATE
OF JOHN H. WARREN, DECEASED,
Plaintiff

VS.

THE DOW CHEMICAL COMPANY
THE B. F. GOODRICH COMPANY,
UNION CARBIDE COMPANY and
CONTINENTAL OIL COMPANY,
Defendants

2/22/91

**DEFENDANT THE DOW CHEMICAL COMPANY'S RESPONSES
TO PLAINTIFF'S SECOND SET OF INTERROGATORIES**

Defendant The Dow Chemical Company ("Dow"), pursuant to Rule 33 of the Federal Rules of Civil Procedure, hereby responds to plaintiff's second set of interrogatories as follows:

INTERROGATORY NO. 1.

Please identify yourself, giving your full name, residence, business address and occupation, and the office or title that you hold with the defendant.

RESPONSE NO. 1

Lois J. Hoerlien, Assistant Secretary, The Dow Chemical Company, 2030 Willard H. Dow Center, Midland, Michigan 48674.

UCC 077364

INTERROGATORY NO. 2.

Identify any and all persons including, but not limited to, employees of Dow Chemical Company who have any knowledge concerning the ten-year contract between Dow Chemical Company and Monsanto referred to in Dow Chemical Company's Answer to Interrogatory No. 3(c) of Plaintiff's First Set of Interrogatories, stating, for each such person, his or her name, residence address, business address, date of birth, telephone number, and the area of his or her knowledge. The persons identified shall include but not be limited to persons with knowledge as to the following areas:

- (a) negotiation of the contract;
- (b) the execution of the contract;
- (c) any amendments, modifications, or superseding agreements;
- (d) performance of the contract by Dow Chemical Company or Monsanto, including any purchases or shipments made pursuant to the contract;
- (e) the identities of any individuals who were so involved on behalf of Monsanto; and
- (f) the termination of the agreement.

RESPONSE NO. 2.

Dow objects to this interrogatory as duplicative of the information requested in plaintiff's first interrogatory No.

14. Subject to and without waiving said objection, see Dow's response to plaintiff's first interrogatory No. 14 and the individuals identified therein. Dow has no further information responsive to this interrogatory.

INTERROGATORY NO. 3.

For each of the following individuals, please state whether he is a current employee of Dow Chemical Company, and if so, his business address, his position or title, his residence address and home telephone number. If the person is not a current employee of Dow Chemical Company, please state his last date of employment, the last position or title that he held while employed with Dow Chemical Company, last known business

address, last known residence address, and last known business and residence telephone numbers:

- (a) R. J. Minbiole;
- (b) G. J. Williams;
- (c) V. K. Ballman.

RESPONSE NO. 3.

- (a) Deceased
- (b) Retired - 13 Snowfield Court, Midland, MI 48640
- (c) There is no current or former Dow employee known as V.K. Ballman. Assuming that plaintiff is referring to D.K. Ballman, Mr. Ballman is deceased.

INTERROGATORY NO. 4.

Describe in detail Dow Chemical Company's policies and procedures from 1966 to the present regarding the retention, maintenance, storage and destruction of documents and records of the same type as the ten-year contract between Dow Chemical Company and Monsanto referred to in Dow Chemical Company's Answer to Interrogatory No. 3(c) of Plaintiff's First Set of Interrogatories. Include in your answer the following information:

- (a) the length of time such documents are to be retained;
- (b) the form in which such documents are to be retained;
- (c) the locations(s) in which such documents are to be stored;
- (d) the person(s) responsible for the retention and maintenance of such document; and
- (e) procedures for destroying such documents.

RESPONSE NO. 4.

Dow objects to this interrogatory as overly broad and unduly burdensome in that it seeks information over a twenty-five year time period. Further, given Dow's response to plaintiff's

first interrogatory No. 3, and the information relating to said contract revealed in discovery to date, the information requested in this interrogatory is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Finally, Dow does not understand plaintiff's reference to "documents and records of the same type" and the interrogatory is therefore objected to as vague. However, subject to and without waiving said objection, due to the passage of time and its own retention policies, other than its current policy, Dow has no records of its retention policy dating back to 1966. With regard to Dow's current records retention policy, please refer to the Record Retention Schedule taken from Dow's current Records Retention Manual. In further response to this interrogatory, Dow states as follows:

- (a) Four years after expiration
- (b) This interrogatory is vague as Dow does not understand plaintiff's use of the term "form."
- (c) Dow's Records Center in Midland, Michigan
- (d) Harold E. Soper, Manager, Records Center
- (e) Incineration

INTERROGATORY NO. 5.

As to each of the following documents, please provide the following information:

- (a) whether such document is currently in the possession, custody or control of Dow Chemical Company;
- (b) if so, the exact location(s) where the document is currently kept and in what form;

- (c) if not, whether Dow Chemical Company maintains any records which would indicate that the document did once exist and if so, the date when the document was destroyed, the persons involved in its destruction, and the reasons for the destruction of the document.

DOCUMENTS

1. An agreement between Dow Chemical Company and Monsanto Chemical Company, approximate date of execution, September 13, 1966, under which Monsanto was granted an option to purchase vinyl chloride monomer from Dow Chemical Company.
2. A letter agreement, approximate date of execution, September 14, 1966, which amends the contract, listed in item no. 1, above.
3. A letter from Dow Chemical Company to Monsanto Chemical Company, approximate date November 10, 1967, referring to price adjustment calculations for the contract listed in item no. 1 above.
4. An agreement between Dow Chemical Company and Monsanto Chemical Company, approximate date of execution, October 10, 1969, which grants Monsanto an option to purchase vinyl chloride monomer from Dow Chemical Company.

RESPONSE NO. 5.

Dow objects to this interrogatory as duplicative. As stated in response to plaintiff's second request for production of documents, due to Dow's records retention policy, the documents referred to in this interrogatory no longer exist. Dow does not know the exact dates upon which the records were destroyed, but they would have been destroyed in the ordinary course

pursuant to the records retention policy applicable during the relevant time period.

THE DOW CHEMICAL COMPANY

By its attorneys,



Sharon R. Burger (EBC#064415)
NUTTER, MCCLENNEN & FISH
One International Place
Boston, MA 02110-2699
(617) 439-2000

CERTIFICATE OF SERVICE

I, Sharon R. Burger, Esq., hereby certify that on this 23rd day of July, 1991, I served a copy of the above upon the parties in the action by mailing, postage prepaid, to counsel, Keith A. Minoff, Esq., of Robinson Donovan Madden & Barry, 1500 Main Street, Suite 400, Springfield, MA; and Mark S. Granger, Esq., of Morrison, Mahoney & Miller, 250 Summer Street, Boston, MA 02210.



Sharon R. Burger

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STATE OF MICHIGAN)
) SS
COUNTY OF MIDLAND)

LOIS J. HOERLEIN, being first duly sworn, deposes and says that she is the Assistant Secretary of The Dow Chemical Company, and while she does not have personal knowledge of all the facts recited in the answers of The Dow Chemical Company to Plaintiff's Second Set of Interrogatories, the information contained in said answers has been collected and made available to her by others and said answers are true to the best of her knowledge and belief based upon the information made available to her, and that, therefore, the answers are verified on behalf of The Dow Chemical Company in this litigation.

mk *Lois J. Hoerlein*
Lois J. Hoerlein
Assistant Secretary
The Dow Chemical Company

SUBSCRIBED AND SWORN to before me, the Undersigned
Notary Public on this 22nd day of July, 1991.

Nicholas M. Moya
Notary Public

MICHAEL M. MOYER
Notary Public, Oakland County, MI
My Commission Expires October 24, 1994

UCC 077370