

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

11/1/93

ROSE MARIE KUPFER, Individually
and as Administratrix of the Estate
of WILLIAM J. KUPFER, Deceased,

Plaintiffs,

vs.

THE DOW CHEMICAL COMPANY;
PPG INDUSTRIES, INC.; and,
SHELL CHEMICAL COMPANY, a
division of Shell Oil Company,

Defendants.

Civil Action No.
92-CV-0594S

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SHELL OIL COMPANY,

Defendant and
Third-Party Plaintiff,

vs.

THE GOODYEAR TIRE & RUBBER COMPANY,

Third-Party Defendant.

DEFENDANT SHELL OIL COMPANY'S RESPONSE TO
PLAINTIFF'S INITIAL INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil
Procedure, Defendant Shell Oil Company ("Shell") answers and
objects to plaintiff's first set of interrogatories upon
information and belief as follows:

GENERAL OBJECTIONS AND LIMITATIONS

1. Shell objects to the "Definitions" set forth by
plaintiff to the extent that they seek to alter the obligations

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placed on Shell by the Federal Rules of Civil Procedure, applicable law, or the rules of court.

2. Shell objects to providing information relating to "Defendant's predecessor" or "Defendant's subsidiary companies" as being overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Answers will be provided for Shell only and will be based upon information known and available to Shell.

3. Shell objects to any interrogatories to the extent that they seek privileged communications or attorney work product which is protected from disclosure.

4. Shell objects to any interrogatories to the extent that they seek confidential, financial, trade secret, or commercially sensitive business information.

5. Shell objects to any interrogatories to the extent that they seek information already known to plaintiff, or to the extent that they are related to or require the production or identification of documents, writings, records, or publications in the public domain since such information is equally available to the plaintiff.

6. Shell objects to plaintiff's interrogatories as overly broad and unduly burdensome insofar as they seek information from 1955 through 1978. Shell did not begin the manufacture of Vinyl Chloride Monomer ("VCM") until approximately 1971. Furthermore, Shell's sales records show sales of VCM to

plaintiff's decedent's place of employment, The Goodyear Tire & Rubber Company ("Goodyear") in Niagara Falls, New York, for only one year--1973--during the requested time period.

7. In providing the following responses to plaintiff's initial interrogatories, Shell has undertaken a reasonable effort to locate records and to provide the information requested. The following responses are based upon such information as is reasonably available to Shell and susceptible to retrieval through reasonable efforts.

ANSWERS TO INTERROGATORIES

1. Please state name, address and job title of each person who has supplied information used in answering these interrogatories.

ANSWER: These discovery responses constitute the corporate response of defendant Shell. See the attached verification which has been signed on behalf of Shell. In addition, information used in answering these interrogatories was provided by:

J.F. Key (for Chemical Marketing information only)
Manager Operations - Sales and Business Services
Chemical Marketing

J.C. Willett - Manager PS&C
Health Safety and Environment

D.E. Stevenson, Manager Toxicology, PS&C
Health Safety and Environment

J.J. Conklin - Technologist, PS&C
Health Safety and Environment.

2. Did Defendant, Defendant's predecessor or Defendant's subsidiary companies sell or distribute vinyl chloride to the Goodyear Tire & Rubber Company in Niagara Falls, New York during the period of 1955 through 1978?

ANSWER: Shell objects to this interrogatory for the reasons set forth in Paragraphs 2 and 6 of defendant's General Objections. Subject to and without waiving the foregoing objections, yes.

3. If the answer to Interrogatory No. 2 is in the affirmative, state:

(a) the entity which sold or distributed the vinyl chloride;

(b) the dates of such sale or distribution;

(c) the amount of each sale or delivery to the Goodyear Tire & Rubber Company plant in Niagara Falls, New York;

(d) the type of container used to deliver the vinyl chloride to Goodyear's plant (i.e., tank car, etc.); and,

(e) any printed material, warnings, trademarks, company identifications, or logos that appeared on or with the containers of the vinyl chloride.

ANSWER: Shell reiterates its objections stated in its answer to Interrogatory No. 2 above. Subject to and without waiving the foregoing objections:

(a) Shell Chemical Company, a division of Shell Oil Company.

(b) 1973

(c) Shell did not begin to manufacture VCM until 1971 and had no VCM sales prior to August, 1971. The only year with sales to Goodyear, Niagara Falls during the period of 1955 to

1978 was 1973. The total amount sold to this location in 1973 was 435,516 pounds.

(d) VCM was shipped in bulk quantities, and therefore was not packaged in containers for shipment. Methods of shipping bulk quantities could have been by railroad tank car, by tank truck or by barge. Investigation is continuing to determine the method of shipment.

(e) Investigation is continuing to determine what kinds of warning documents would have accompanied bulk shipments. Typically bulk shipments would be accompanied by Chem-Cards (tank trucks) or Cargo Information Cards (barges). Investigation is continuing as to warning documents that accompanied railroad tank cars.

4. Does Defendant, Defendant's predecessor or Defendant's subsidiary companies have any records indicating that any vinyl chloride was sold or distributed to the Goodyear Tire & Rubber Company in Niagara Falls, New York during the period of 1955 through 1978?

ANSWER: Shell objects to this interrogatory for the reasons set forth in Paragraphs 2 and 6 of defendant's General Objections. Subject to and without waiving the foregoing objections, in conformance with Shell's Record Retention Schedule, Shell has no sales records for the period of 1955 through 1966. Shell does possess sales records for 1967 through 1978. However, as set forth above, Shell did not begin to manufacture and sell VCM prior to August, 1971 and the sales records for the requested time period show VCM sales to Goodyear's Niagara Falls plant only for the year 1973.

5. If the answer to Interrogatory No. 4 is in the affirmative, state:

(a) the identity and current address of each individual who currently has possession of those records and the present location of such records; and,

(b) the title or description of such records.

ANSWER: Shell reiterates its objections stated in its answer to Interrogatory No. 4 above. Subject to and without waiving the foregoing objections:

(a) J.F. Key, P.O. Box 2463, 900 Louisiana Street, One Shell Plaza, Houston, TX 77252;

(b) "Customer by Product," Houston Based Divisions Chemical Sales Organization, Year-end sales records.

6. At any time, has Defendant, Defendant's predecessor or any of Defendant's subsidiary companies published and/or distributed any brochures, pamphlets, packagings, labels, material safety data sheets or other written materials of any kind or character that contain any warnings, warranties, cautions, caveats, or directions for use with respect to the possibility of injury resulting from the use of its vinyl chloride?

ANSWER: Shell objects to this interrogatory for the reasons set forth in Paragraph 2 of defendant's General Objections. Shell further objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, unlimited in time, irrelevant to the issues in this suit and not reasonably calculated to lead to the discovery of relevant or admissible evidence. Shell further objects on the ground that the term "injury" is vague and ambiguous in that it is not defined. Subject to and without waiving the foregoing objections, yes.

7. If the answer to Interrogatory No. 6 is in the affirmative, please state:

- (a) the exact wording of such printed material;
- (b) the type of such printed material (i.e., label, material safety data sheet, etc.);
- (c) the method used to distribute the printed material to customers or persons who were likely to use the vinyl chloride;
- (d) the date each such printed material was published or distributed;
- (e) the identity of each person who presently has possession of the above-described documents and their location(s); and,
- (f) the names, current addresses, and titles of the authors of such printed material.

ANSWER: Shell reiterates its objections stated in its answer to Interrogatory No. 6 above. Subject to and without waiving the foregoing objections:

(a) Please refer to the documents being supplied pursuant to plaintiff's request for production.

(b) (i) Material Safety Data Sheets for VCM MSDS-645-1, 645-3, 645-5, and 645-7. Investigation is continuing to determine if copies of MSDS 645-2, 645-4 and/or 645-6 are still available in Shell's records. To date Shell has been unable to locate these items.

(ii) A letter was sent to all VCM customers in or about August 15, 1973 informing them of Shell establishing a company exposure level of 50 ppm (8-hour, time weighted average) maximum exposure to VCM concentrations in the air. The letter

attached MCA Safety Data Sheet 50-56 (1972 version) for vinyl chloride.

A letter dated March 6, 1974 was sent to all Shell VCM customers. The letter included a copy of the statement presented by Shell at an OSHA hearing on VCM manufacture and use on February 15, 1974. The letter also included a revised safety data sheet on vinyl chloride. Specific reference was made to cancer development and that exposure to VCM may be implicated in the development of liver cancer in some polyvinyl chloride workers.

On or about March 25, 1974, letters were sent to all Shell VCM customers providing them with an analytical method describing procedures for taking average samples of ambient air in a worker's breathing zone.

(iii) Chem-Card (tank trucks) or Cargo Information card (barges).

(c) MSDSs are routinely mailed to bulk/industrial purchasers of VCM. MSDS would also be sent as requested by a customer.

Other safety and technical literature would be routinely sent to customers. Shell also sent warning letters to its customers with instructions for safe use. These letters were sent to all Shell VCM customers.

(d) Each MSDS and letter bears the date it was "published".

(e) The custodian of these records is H.V. Hough.

(f) MSDS for all products sold by Shell are developed by the Products Safety and Compliance (PS&C) staff of Shell's Houston Head Office Health, Safety and Environment organization. These sheets are/were reviewed and edited by Safety and Industrial Hygiene, Corporate Medical, Toxicology and others as appropriate, prior to release. The person with supervisory responsibility for PS&C at the time of issuance of a MSDS is generally shown on each particular MSDS.

8. Did you provide any of the printed material that was identified in your answer to Interrogatory No. 7 to the Goodyear Tire & Rubber Company? If so, identify:

- (a) the printed material provided to Goodyear;
- (b) its exact wording;
- (c) the person(s) who provided the material to Goodyear;
- (d) the date(s) it was provided to Goodyear; and,
- (e) the person(s) at Goodyear to whom the material was addressed, provided, or to whom it was intended.

ANSWER: Shell objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, unlimited in time, irrelevant to the issues in the suit and not reasonably calculated to lead to the discovery of relevant or admissible evidence. Subject to and without waiving the foregoing objections:

- (a) See MSDS and copies of correspondence being produced in response to plaintiff's request for production.

Additional documents may have been provided at various times. Investigation is continuing. Further, this information should also be in the possession of decedent's employer. See also Shell's answer to Interrogatory No. 44.

(b) See documents described in Shell's answer to Interrogatory 7(b).

(c) The MSDS sheets bear the name of the department and/or party with supervisory responsibility for its preparation. Any correspondence produced should bear the name of its author.

(d) Investigation is continuing to determine if Shell has any records of the dates the materials were "provided" to Goodyear. It is assumed the documents described in 7(b) above were mailed to Goodyear on or about the date they bear.

(e) Investigation is continuing to determine if any records exist of "the person(s) at Goodyear to whom the material was addressed, provided, or to whom it was intended."

9. Do you possess any written memoranda, specifications, drafts or other written materials of any kind or character which relate to the design and preparation of the labeling, warnings, and instructions for use which are listed in your answer to Interrogatory No. 7?

ANSWER: Shell objects to this interrogatory on the grounds that it is overly broad, unduly burdensome and seeks information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Shell further objects to this interrogatory because it is vague and ambiguous

as phrased, particularly with respect to the word "specifications" for labeling or warning. Without waiving these objections, yes.

10. If the answer to Interrogatory No. 9 is in the affirmative, please:

(a) identify each such written material or document, their author(s) and current address;

(b) identify the person or persons presently in possession of each such document; and,

(c) state where each such document is located.

ANSWER: See response to Interrogatory No. 9 above and documents being produced in response to plaintiff's request for production.

11. At any time prior to December 31, 1978, did Defendant, Defendant's predecessor, or any of Defendant's subsidiary companies, conduct any tests, or perform or sponsor any research or studies, to determine if there were any potential hazards to human health from exposure to vinyl chloride?

ANSWER: Shell objects to this interrogatory for the reasons set forth in Paragraph 2 of defendant's General Objections. Shell further objects to this interrogatory on the grounds that it is overly broad and unduly burdensome as a reasonable time frame has not been established. Furthermore, Shell objects to this interrogatory on the grounds that it is not limited to testing or research concerning the alleged health effects resulting from exposure situations applicable to this case and is, therefore, overly broad, irrelevant and not reasonably calculated to lead to the discovery of relevant or

admissible evidence. Subject to and without waiving the foregoing objections, see Shell's answers to Interrogatory Nos. 15 and 16.

12. If the answer to Interrogatory No. 11 is in the affirmative, please state:

(a) the identity of each individual or organization which conducted such tests, or performed or sponsored such research or studies and their current addresses;

(b) the nature, manner and method of each test and any research or studies in detail;

(c) the results of such tests, research, or studies;

(d) whether the results of such tests, research or studies were reduced to writing; and,

(e) if the answer to subpart (d) is in the affirmative, please:

(1) identify each such written material or document;

(2) identify each person who presently has possession of each such document or written material and their current address; and

(3) state where each such document is located.

ANSWER: See Shell's response to Interrogatory No. 11 above.

13. Were any changes in labeling, warnings, or instructions for use made as a result of such tests, research, or studies identified in your answer to Interrogatory No. 12 above?

ANSWER: Shell objects to this interrogatory on the grounds that it is overly broad and unduly burdensome as a reasonable time frame has not been established. Subject to and without waiving the foregoing objections, changes are

periodically made to MSDS sheets as well as to other labels, warnings or instructions as relevant and material information becomes known. The MSDS sheets clearly show that changes were made and the dates would be that which the MSDS sheets bear. See Shell's response to Interrogatory No. 7.

14. If the answer to Interrogatory No. 13 is in the affirmative, please state:

- (a) the nature and text of the change made;
- (b) the date of each change;
- (c) the purpose of each such change; and

(d) the name, current address, and title of each person in charge of making each such change.

ANSWER: See Shell's answer to Interrogatory No. 13 above.

15. Does Defendant or any of Defendant's subsidiary companies possess any written report, article, memoranda, or study, whether published or unpublished, or other written material of any kind or character, which relate in any manner to any potential health hazards from exposure to vinyl chloride?

ANSWER: Shell objects to this interrogatory for the reasons set forth in Paragraph 2 of defendant's General Objections. Shell further objects to this interrogatory on the grounds that it is overly broad and unduly burdensome; that a reasonable time frame has not been established; that it is vague and ambiguous as written; and that it is oppressive and harassing. Moreover, this interrogatory is not limited to the alleged health effects resulting from exposure situations

applicable to this case and is, therefore, overly broad and not reasonably calculated to lead to the discovery of relevant or admissible evidence. Shell further objects to this interrogatory to the extent it seeks, or could be construed to seek, disclosure of confidential, proprietary, or trade secret information for which there has been no showing of relevance or need. Subject to and without waiving the foregoing objections, see the abstracts of studies on potential hazards to human health from exposure to VCM supplied in response to plaintiff's request for production. (Complete through 1981).

16. If the answer to Interrogatory No. 15 is in the affirmative, please:

(a) identify each such written material or document by title, author(s), journal (if applicable), and date when written or published;

(b) identify each person by name, title, and employer who presently has possession of each such document;

(c) state where each such document is located; and

(d) the date when each such document was first received by Defendant, Defendant's predecessor or Defendant's subsidiary companies.

ANSWER: (a)-(d) Shell incorporates herein by reference its objections stated in its answer to Interrogatory No. 15 above. Subject to the foregoing objections, see the abstracts of studies on potential hazards to human health from exposure to VCM supplied in response to plaintiff's request for production. (Complete through 1981).

17. Identify any physicians, toxicologists, epidemiologists, industrial hygienists, or other scientists or researchers who were employed between 1955 and 1974 by Defendant, Defendant's predecessor or any of Defendant's subsidiary companies who had responsibility for determining or investigating any potential hazards to human health from exposure to chemicals, including, but not limited to, vinyl chloride.

ANSWER: Shell objects to this interrogatory for the reasons set forth in Paragraphs 2 and 6 of defendant's General Objections. Shell further objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, vague, ambiguous, seeks irrelevant information, and is not reasonably calculated to lead to the discovery of relevant or admissible evidence. Subject to and without waiving the foregoing objections, Shell states that it did not begin to manufacture VCM until 1971. The documents submitted in response to plaintiff's notice to produce provide that numerous "scientists or researchers", as well as industrial hygienists, doctors and others were involved with issues associated with vinyl chloride. To list them all would be onerous and burdensome. Upon plaintiff's review of the documents, Shell will be happy to comply with reasonable requests of plaintiff to determine the current (if still alive) location of relevant persons.

18. For any person identified in your answer to Interrogatory No. 17, state:

(a) their name, and current address and employer; and,

(b) their title(s) and dates when employed by Defendant, Defendant's predecessor or any of Defendant's subsidiary companies.

ANSWER: See Shell's answer to Interrogatory No. 17 above.

19. Between 1955 and 1974, did Defendant, Defendant's predecessor or any of Defendant's subsidiary companies maintain, operate, own, or sponsor an laboratory or research facility which studied any potential hazards to human health from exposure to chemicals manufactured or used by the Defendant, Defendant's predecessor or any of Defendant's subsidiary companies?

ANSWER: Shell objects to this interrogatory for the reasons set forth in Paragraphs 2 and 6 of defendant's General Objections. Shell further objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, vague and ambiguous, irrelevant to the issues in this suit and not reasonably calculated to lead to the discovery of relevant or admissible evidence. Subject to and without waiving the foregoing objections, investigation is continuing.

20. If the answer to Interrogatory No. 19 is in the affirmative, identify:

(a) the name and location of the facility;

(b) the name and current address of the director(s) or other person(s) in charge of the facility between the years 1955 and 1974, and the dates of such directorship; and,

(c) the period of time when such facility was operated, owned, or sponsored by Defendant, Defendant's predecessor or any of Defendant's subsidiary companies.

ANSWER: See Shell's answer to Interrogatory No. 19 above.

21. With respect to the period of 1955 through 1978, did Defendant, Defendant's predecessor, or Defendant's subsidiary companies ever conducted [sic] any tests or studies in the field where vinyl chloride was being used, (including, but not limited to, The Goodyear Tire & Rubber Company) to determine 1) the nature and extent of exposure to workers from vinyl chloride, or 2) the nature and extent of any adverse effects on human health from exposure to vinyl chloride?

ANSWER: Shell objects to this interrogatory for the reasons set forth in Paragraphs 2 and 6 of defendant's General Objections. Shell also objects because this interrogatory is vague and ambiguous as written, particularly the phrase "tests or studies in the field," which is undefined. Furthermore, this interrogatory is not limited to tests or studies at Goodyear's Niagara Falls plant, nor is it limited to tests or studies regarding the alleged health effects resulting from exposure situations applicable to this case and is, therefore, overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Shell has no knowledge of any field tests or studies being conducted at Goodyear's Niagara Falls plant during the requested time period. As to tests or studies at Shell facilities, OSHA rules adopted in 1974 required a variety of actions to be taken. Shell complied with all such promulgated rules or standards. These rules required monitoring of exposure for VCM and for medical surveillance of potentially exposed workers. These requirements are publicly available to plaintiff. Because Shell did not begin to manufacture VCM prior to 8/71, no field studies could have been performed before that time.

22. If the answer to Interrogatory No. 21 is in the affirmative, please identify:

(a) the date, place and nature of each and every test or study;

(b) the results of each test or study;

(c) the amount of vinyl chloride in parts per million or milligrams per cubic meter found in the air at each site;

(d) the nature, manner and method of testing;

(e) the person(s) who performed such tests or studies or the author(s) of any reports or studies; and,

(f) the name and location of all persons who currently have possession of the written results of any such tests or studies.

ANSWER: Shell reiterates its objections stated in its answer to Interrogatory No. 21 above. Subject to and without waiving the foregoing objections:

(a) VCM workers at Shell's Norco and Deer Park refineries were involved in a medical surveillance program. Some of the dates, places and nature can be determined from the documents submitted in Shell's response to plaintiff's notice to produce. Investigation is continuing.

(b) See documents submitted in Shell's response to plaintiff's notice to produce.

(c) See the documents submitted in Shell's response to plaintiff's notice to produce. Investigation continues to determine if additional documents exist.

(d)-(e) See documents submitted in Shell's response to plaintiff's notice to produce.

(f) The custodian of such records is Corporate Medical Director, One Shell Plaza, Houston, TX 77002.

23. With respect to any knowledge received by Defendant, Defendant's predecessor, or any of Defendant's subsidiary companies that vinyl chloride might be capable of producing malignant tumors in experimental test animals, identify:

(a) all dates, including the first date, when defendant, Defendant's predecessor, or any of Defendant's subsidiary companies received such information;

(b) the manner in which that information was received;

(c) the source of the information;

(d) the person(s) who received the information;

(e) any written material or document which provided such information and each person and their address who presently has possession of each such document and its location;

(f) any tests or studies conducted by Defendant, Defendant's predecessor, or any of Defendant's subsidiary companies relating to an association between vinyl chloride and cancer, and identify each person who presently has possession of each such document, their address, and the location of the document; and

(g) any actions that were taken by Defendant, Defendant's predecessor, or any of Defendant's subsidiary companies (including the dates when take) to notify its customers or users about any potential association between exposure to vinyl chloride and the development of cancer.

ANSWER: Shell objects to this interrogatory for the reasons set forth in Paragraph 2 of defendant's General Objections. Shell further objects on the grounds that this interrogatory is overly broad, vague and ambiguous, irrelevant and is not reasonably calculated to lead to the discovery of relevant or admissible evidence. Subject to and without waiving

the foregoing objections, Shell first became concerned with the health effects of VCM in 1969 when consideration was given to the construction of the VCM Facility at the Deer Park Manufacturing Complex. Shell became aware of "cancer" associated with vinyl chloride exposure at the same time as it generally became aware in the scientific community.

24. At any time, did any physician, medical officer, industrial hygienist, toxicologist or medical consultant ever make any recommendations and/or suggestions to the Defendant, Defendant's predecessor, or Defendant's subsidiary companies concerning the risks or hazards to the health of person involved in the manufacture or use of vinyl chloride?

ANSWER: Shell objects to this interrogatory for the reasons set forth in Paragraph 2 of defendant's General Objections. Shell further objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, unlimited in time, vague and ambiguous, irrelevant to the issues in this suit and not reasonably calculated to lead to the discovery of relevant or admissible evidence. Subject to the foregoing objections, Shell consistently reviewed applicable literature, participated in trade associations and other activities to become aware of any "risks or hazards" of VCM. The documents submitted in Shell's response to plaintiff's notice to produce indicate Shell's activities and "recommendations".

25. If the answer to Interrogatory No. 24 is in the affirmative, state:

(a) the identity and current address of the person who made the recommendation and/or suggestions;

(b) the identity and current address of the person(s) to whom the recommendations and/or suggestions were made;

(c) the date(s) when such recommendations and/or suggestions were made;

(d) the substance of the recommendations and/or suggestions; and,

(e) whether a written report regarding the recommendations and/or suggestions was made, and if so, identify each person who presently has possession of each such document and its location.

ANSWER: See Shell's response to Interrogatory No. 24 above.

26. Does Defendant agree that vinyl chloride can cause angiosarcoma of the liver?

ANSWER: Shell objects to this interrogatory as calling for expert opinion. Shell has not yet identified its expert witness(es) at this time. Subject to and without waiving the foregoing objections, Shell acknowledges that there is scientific data indicating that human exposures to VCM at sufficient exposure levels for sufficient periods of time are capable of causing angiosarcoma of the liver. Shell does not agree, however, that there is a causal connection between VCM and every case of angiosarcoma of the liver.

27. Has Defendant undertaken to investigate the occurrences alleged in Plaintiff's complaint, including any communication with Plaintiff's decedent's employer, The Goodyear Tire & Rubber Company?

ANSWER: Shell objects to this interrogatory to the extent it seeks, or could be construed to seek, protected

attorney work product or material prepared for litigation. Subject to and without waiving this objection, the only investigation of the allegations in plaintiff's complaint has been done by, or at the direction of, Shell's lawyers. By way of further response, Shell has received no documents from Goodyear other than those Goodyear has made available in response to discovery served in this action.

28. If the answer to Interrogatory No. 27 is in the affirmative, please:

(a) state the name, address, and job title of the persons participating in each such investigation;

(b) list each written record pertaining to such investigation and its location and custodian;

(c) identify any documents received from the Goodyear Tire & Rubber Company;

(d) state whether defendant obtained statements from any witnesses; and,

(e) If so, please list each witness who has given a statement and the name, address, and job title of each person having custody of any such statement.

ANSWER: See Shell's response to Interrogatory No. 27 above.

29. Does Defendant agree that William J. Kupfer had a malignant angiosarcoma of the liver?

ANSWER: Shell objects to this interrogatory because it seeks medical opinions Shell is not qualified to give. Shell further objects to this interrogatory to the extent it seeks or could be construed to seek, protected attorney work product or

material prepared for litigation. Subject to the foregoing objections, Shell states that discovery is ongoing and the response to this interrogatory will be supplemented if information developed in discovery provides sufficient basis for Shell to respond.

30. What does Defendant contend was the cause of William J. Kupfer's malignant angiosarcoma of the liver?

ANSWER: See Shell's response to Interrogatory No. 29 above.

31. Does Defendant contend that William J. Kupfer improperly used its vinyl chloride?

ANSWER: Shell objects to this interrogatory because it assumes that decedent William J. Kupfer used VCM manufactured by Shell and therefore lacks a proper foundation. Shell currently lacks sufficient information concerning whether or how decedent used "its vinyl chloride." Discovery is continuing with plaintiff and plaintiff's decedent's employer to ascertain such information.

32. If the answer to Interrogatory No. 31 is in the affirmative, please set out in detail in what respects said vinyl chloride was improperly used by William J. Kupfer, identify all persons with knowledge of these facts and their current addresses, and identify all pertinent documents.

ANSWER: See Shell's response to Interrogatory No. 31 above.

33. Does Defendant contend that The Goodyear Tire & Rubber Company, or its employees, improperly used Defendant's vinyl chloride?

ANSWER: See Shell's answer to Interrogatory No. 31 above.

34. If the answer to Interrogatory No. 33 is in the affirmative, please set out in detail in what respects said vinyl chloride was improperly used, identify all persons with knowledge of these facts and their current addresses, and identify all pertinent documents.

ANSWER: See Shell's answer to Interrogatory No. 33 above.

35. State whether Defendant, Defendant's predecessor or Defendant's subsidiary companies at any time testified in a court of law, in a deposition, before a hearing officer, or before any body of local, state, or federal government, or made written submissions to any body of local, state or federal government, where the potential danger to human health from exposure to vinyl chloride was an issue or where a claim for injury due to exposure to vinyl chloride had been made.

ANSWER: Shell objects to this interrogatory for the reasons set forth in Paragraph 2 of defendant's General Objections. Shell further objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, vague and ambiguous as written, unlimited in time, not limited to the alleged health effects resulting from exposure situations applicable to this case, and is not reasonably calculated to lead to the discovery of relevant or admissible evidence. Subject to and without waiving the foregoing objections, Shell has made numerous submissions, written and oral, including the U.S. EPA, U.S. OSHA, NIOSH, Cal-OSHA, Texas Air Control Board, and the U.S. Coast Guard related to various regulatory functions.

36. If the answer to Interrogatory No. 35 is in the affirmative, state:

- (a) the identity of each person testifying or making a submission;
- (b) the date(s) on which that person testified or made a submission;
- (c) the purpose of the testimony or submission;
- (d) the substance of the testimony or submission;
- (e) whether the testimony was transcribed or reduced to writing; and,
- (f) the identity of the person and his location who currently has custody of the testimony or the submission.

ANSWER: (a)-(f) Shell incorporates by reference herein its objections stated in its answer to Interrogatory No. 35 above. Subject to and without waiving the foregoing objections, the documents involved are too numerous to summarize. We refer plaintiffs to the documents produced by Shell in response to plaintiff's notice to produce.

37. For each separate defense, state the facts upon which you rely, identify any persons knowledgeable of such facts, their current address and job title, and identify any documents that relate to such facts.

ANSWER: Shell objects to this interrogatory on the grounds that it calls for the production of material prepared for litigation and attorney work product, seeks discovery beyond that which is required by the Federal Rules of Civil Procedure and because it is overly broad and fails to identify items to be produced with reasonable particularity. Subject to and without waiving the foregoing objections, see facts, information and

documentation produced in Shell's response to plaintiff's interrogatories and requests for production of documents. Further, Shell states that discovery is ongoing and that the response to this interrogatory will be supplemented, to the extent required by the Federal Rules of Civil Procedure and subject to the foregoing objections, if further information developed in discovery provides a sufficient basis for Shell to respond.

38. Identify all persons that the Defendant expects to call as expert witnesses at trial, and as to each, state:

- (a) field of expertise;
- (b) educational background and nature of degree(s) obtained;
- (c) publications, including title of article, name of journal, and date of publication and/or title of book and the date of publication;
- (d) awards and memberships in professional associations;
- (e) training;
- (f) licenses;
- (g) teaching positions;
- (h) all cases by style, docket number and jurisdiction in which the proposed expert witness has testified either at depositions or at trial; and,
- (i) all reports or submissions rendered by each expert in connection with this case.

ANSWER: Shell objects to this interrogatory to the extent it seeks information beyond the scope of FRCP 26(b)(4). Subject to and without waiving the foregoing objections,

discovery has only just begun and Shell has not yet determined whether or whom it may call as an expert witness at the trial of this case.

39. For each person whom Defendant expects to call as an expert witness at trial, state:

(a) the subject matter on which each proposed expert witness is expected to testify;

(b) the substance of the facts and opinions to which each proposed expert witness is expected to testify; and,

(c) a summary of the grounds for each opinion to which each proposed expert witness is expected to testify.

ANSWER: (a)-(c) See Shell's response to Interrogatory No. 38 above.

40. Does Defendant admit that service of process was properly had on Defendant in this case?

ANSWER: Yes.

41. If the answer to Interrogatory No. 40 is negative, please explain the reasons for such answer.

ANSWER: Not applicable.

42. Does Defendant have policies of insurance that might cover the claims that have been made by the plaintiff herein?

ANSWER: Yes, there are policies of insurance that might cover plaintiff's claims.

43. If the answer to Interrogatory No. 42 is in the affirmative, list the name of each insurance carrier who may have coverage, the amount of such coverage, and the dates of each such policy.

ANSWER:

<u>DATES</u>	<u>PRIMARY CARRIERS</u>	<u>POLICIES</u>	<u>LIMITS</u>
4/48-4/51	The Travelers	RSLG 2551506/8	\$200M PD \$25M/\$50M BI
4/51-4/54	The Travelers	RSLG 1488661/2	\$200M PD \$25M/\$50M BI
4/54-4/57	The Travelers	RSLG 3641005/6	\$200M PD \$25M/\$50M BI
4/1/57-4/1/60	The Travelers	RSLG-6700584(5)	\$10M PD \$25M/\$50M BI
4/1/60-5/1/61	The Travelers	RSLG-8663538(9)	\$10M PD \$25M/\$50M BI
4/1/61-11/1/69	The Travelers	RSLG-8663538(9) RKSKG-830335(6) REX-2991081 RKSLG-3004805 T-RKSLGO 928935-69	\$1.0MM
11/1/69-7/1/75	The Travelers	T-RKSLGO 928935-69 TRLK-SLG-968636-72	\$5.0MM
7/1/75-8/1/75	The Travelers	TRLK-SLG-968636-72	\$250M
8/1/75-7/1/77	Aetna Casualty & Surety	61 AL 197387 SRA	\$1.0MM
7/1/77-7/1/78	Aetna Casualty & Surety	61 AL 197387 SRA	\$5.0MM

44. Does Defendant contend that it warned Goodyear Tire & Rubber Company that exposure to vinyl chloride could cause angiosarcoma of the liver?

ANSWER: Yes, however, Defendant Shell Oil Company had no duty to warn Goodyear. Goodyear was a bulk purchaser and a sophisticated user/purchaser to whom defendant Shell nonetheless did supply adequate warnings. Also, upon information and belief, Goodyear was a participant in the MCA "Ad Hoc Planning Group on

Vinyl Chloride Research" from at least December, 1971.

C.A. Johnson, M.D. of Goodyear's Medical Department was its representative.

45. If the answer to Interrogatory No., 44 is in the affirmative, please state:

(a) the date when such a warning was first provided to Goodyear Tire & Rubber Company;

(b) all subsequent dates when such a warning was provided to Goodyear Tire & Rubber Company;

(c) the text of each such warning; and,

(d) the method used to transmit each such warning to Goodyear Tire & Rubber Company and the person at Goodyear to whom the warning was addressed.

ANSWER: (a)-(d) See Shell's answers to Interrogatory Nos. 6, 7 and 8.

46. When did Defendant, Defendant's predecessor or Defendant's subsidiary companies begin manufacturing or distributing vinyl chloride?

ANSWER: Shell first began the manufacture of VCM in or about August 1971.

47. For each year, beginning with 1955 and ending with 1978, state the total amount of vinyl chloride manufactured or distributed by Defendant, Defendant's predecessor or Defendant's subsidiary companies.

ANSWER: Shell objects to this interrogatory for the reasons set forth in Paragraphs 2 and 6 of defendant's General Objections. Shell further objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, irrelevant to the issues in this suit and not reasonably calculated to lead to

the discovery of relevant or admissible evidence. Subject to and without waiving the foregoing objections, Shell has not been able to locate any records to establish the amount of VCM manufactured by defendant in the requested time period. Design production capacity was about 1200 tons VCM per day at the Deer Park, TX location and 1000 tons VCM per day at the Norco, LA location. Actual operating capacity may have been lower and varied from time to time.

48. Identify and provide the dates of any meetings, committees, studies, or other projects or activities of the Manufacturing Chemists Association (now called the Chemical Manufacturers Association) in which Defendant, Defendant's predecessor or Defendant's subsidiary companies were involved which related to the potential hazards to human health from exposure to vinyl chloride.

ANSWER: Shell objects to this interrogatory for the reasons set forth in Paragraphs 2 and 5 of defendant's General Objections. Shell further objects to this interrogatory because it is overly broad, unduly burdensome, and not limited to a reasonable and relevant time frame. Subject to and without waiving the foregoing objections, Shell states that it does not have records which would reflect the dates of all meetings, committees, etc., in which a Shell employee may have participated or which would reflect whether the potential hazards of exposure to toxic amounts of VCM were discussed. Subject to and without waiving the foregoing objections, please see the documents submitted by Shell in its response to plaintiff's notice to produce.

49. Identify any documents in possession of Defendant, Defendant's predecessor or Defendant's subsidiary companies which relate to the projects or activities of Manufacturing Chemists Association which are identified in your answer to Interrogatory No. 48, and identify the person(s) and his location who currently has custody of such documents.

ANSWER: See Shell's response to Interrogatory No. 48 above.

50. Identify any recommendations, warnings, or instructions for use that were made to customers or users of vinyl chloride by Defendant, Defendant's predecessor or Defendant's subsidiary companies which stated that the time weighted average exposure for vinyl chloride should not exceed 50 parts per million as recommended by R. R. Torkelson, F. Oyen, and V. K. Rowe in "The Toxicity of Vinyl Chloride as Determined by Repeated Exposure of Laboratory Animals," that was published in the American Industrial Hygiene Association Journal, Volume 22, pages 354-361, in October, 1961.

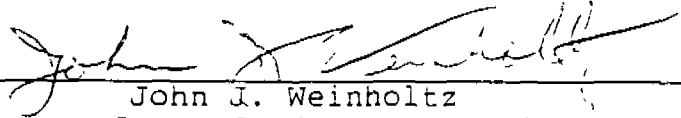
ANSWER: Shell objects to this interrogatory for the reasons set forth in Paragraph 2 of defendant's General Objections. Shell further objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Shell did not begin the manufacture of VCM until August, 1971. By that time, additional information was available relating to the effects of VCM on workers. Shell

adopted a 50 ppm standard in early 1973 based on later studies and findings.

DATED: June 18, 1993
Buffalo, New York

PHILLIPS, LYTLE, HITCHCOCK, BLAINE & HUBER

By



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