

DONALD FLICK, ET UX : 14TH JUDICIAL DISTRICT COURT
VS. NO. 91-5400 : PARISH OF CALCASIEU
SOUTHERN PACIFIC : STATE OF LOUISIANA
TRANSPORTATION COMPANY,
ET AL
FILED: _____ : _____
DEPUTY CLERK OF COURT

**RESPONSE TO PLAINTIFFS' SECOND SUPPLEMENTAL REQUEST FOR
PRODUCTION**

TO: PLAINTIFFS,
Through their attorney of record,
Mr. William B. Baggett
Baggett., McCall & Burgess
Post Office Drawer 7820
Lake Charles, LA 70606-7820

NOW INTO COURT, through undersigned counsel, comes Conoco Inc., who responds to
plaintiffs' Second Supplemental Request for Production as follows:

OBJECTIONS TO DEFINITIONS:

Conoco Inc. objects to the **definitions** section of the production requests as being overly
broad, vague, unduly burdensome, and outside the scope of discovery allowed by the Louisiana Code
of Civil Procedure to the extent said definitions call upon Conoco Inc. or Conoco Inc.'s attorneys
to reveal information which is protected as being privileged or attorney-work product. In addition,
Conoco Inc. objects to the **definitions** section to the extent same calls upon Conoco Inc. to respond
on behalf of "related entities" who are not parties to this litigation.

Subject to said objections and with full reservation of all rights, Conoco Inc. responds as
follows:

REQUEST FOR PRODUCTION NO. 1:

Please produce all documents concerning repairs, modifications, or replacement of items on
any tank car used to transport products or chemicals.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

Defendant objects. The terms "items", "products", and "chemicals" are vague and make the
request over broad and unduly burdensome. Subject to the aforementioned objections, please see
the attached documents and the attached index of documents which refers to the bates numbers of

documents previously provided to plaintiffs in this case.

REQUEST FOR PRODUCTION NO. 2:

Please produce all documents showing the ownership, purchase, or control of tank cars that were used to transport products or chemicals in and out of the facilities that are issue in this litigation.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

To the extent that Request No. 2 calls for documents related to facilities other than those owned by Conoco Inc., Defendant objects. Defendant further objects to the terms "products" and "chemicals" as being vague. Defendant further objects insofar as this interrogatory calls for documents showing the ownership, purchase, or control of "tank cars" not owned, purchased, or under the control of Conoco Inc. However, subject to the aforementioned objections, please see the attached documents and the attached index to the bates numbers of documents previously provided to plaintiffs in this case.

REQUEST FOR PRODUCTION NO. 3:

Please produce all documents showing the responsibility for repairs, modification, or replacement of tank cars used to transport chemicals or products to or from the facilities at issue in this litigation.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

Defendant objects to this interrogatory for the reasons stated in objection to requests 1 and 2. Subject to those objections, please see the attached documents and the attached index of bates numbers to documents previously produced to plaintiffs in this case.

REQUEST FOR PRODUCTION NO. 4:

Please produce all documents concerning replacement of tank cars or the need for improved tank cars that were in any way used to transport chemicals or products to or from the facilities at issue in this litigation.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

Defendant objects to this interrogatory for the reasons stated in objection to requests 1 and 2. However, subject to those objections please see the attached documents and index of bates numbers to documents previously provided to plaintiffs in this case.

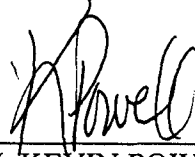
Thus done and signed in Lake Charles, Louisiana on this 24th day July, 1998.

Respectfully submitted,

By its attorneys,

SWIFT, SPEARS & HARPER, L.L.P.

1135 Lakeshore Drive, 4th Floor
Post Office Box 1810
Lake Charles, LA 70602
(318) 433-0707



M. KEVIN POWELL (Bar #23063)
KENNETH R. SPEARS (Bar #12322)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response to Interrogatories has this day been forwarded to all known counsel of record by mailing through the United States Postal Service, properly addressed and with sufficient postage affixed.

Lake Charles, Louisiana on this 24th day of July, 1998.



M. KEVIN POWELL

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**CONOCO INC.'S RESPONSES TO PLAINTIFFS'
SUPPLEMENTAL REQUEST FOR PRODUCTION**

TO: PLAINTIFFS,
through their attorney of record,
Mr. William B. Baggett
Baggett., McCall & Burgess
Post Office Drawer 7820
Lake Charles, LA 70606-7820

NOW INTO COURT, through undersigned counsel, comes Conoco Inc., who responds to
plaintiffs' supplemental request for production of documents as follows:

GENERAL OBJECTIONS

Defendant objects to several of plaintiffs' "definitions" as set forth below. Defendant
incorporates by reference each of these objections to plaintiffs' definitions in its responses to any of
plaintiffs' discovery requests in which such words or phrases are used:

1. Defendant objects to the definitions of "you", "your", "yours", and "defendant" to
the extent they are defined to include entities other than Conoco Inc. and to the extent
they seek to impose a duty on Conoco Inc. to respond on behalf of entities or persons
over whom Conoco Inc. has no control or right of control. As such, the following
responses are made on behalf of Conoco Inc. and not on behalf of any other entities
or persons. Conoco Inc. further objects to these definitions to the extent that they
seek documents or information generated by persons or entities other than Conoco
Inc. which have come into the possession of its counsel during the course of
discovery and trial preparation or through other litigation.
2. Defendant objects to plaintiffs' definitions of the terms "specified chemicals" and
"these specified chemicals" on grounds that they are overly broad, burdensome, and
not reasonable calculated to lead to the discovery of relevant or admissible evidence.

Defendant objects to the phrase “chemicals generically that could in any way be construed to encompass or relate to the specified chemicals” as used by plaintiffs in their definition section as being vague, overly broad, and ambiguous.

3. Defendant objects to plaintiffs’ definitions of the terms “identify”, “identification”, and “identity” as they relate both to individuals and to documents on grounds that they are overly broad, burdensome, and not reasonably calculated to lead to the discovery of relevant or admissible evidence and to the extent that they seek to impose on Conoco Inc. obligations different from or beyond those set forth in the applicable rules of civil procedure relating to discovery.
4. Defendant objects to that portion of plaintiffs’ definition of the term “vinyl chloride” as including “any substance containing greater than .1% vinyl chloride monomer,” on grounds that it is vague, ambiguous, overly broad, burdensome, and not reasonably calculated to lead to the discovery of admissible or relevant evidence.
5. Defendant objects to plaintiffs’ instructions 1 through 3 to the extent they seek to impose on Conoco Inc. obligations different from or beyond those set forth in the applicable rules of discovery or to the extent they seek to expand the scope of discovery allowed under such rules.

Defendant further objects to plaintiffs’ document request as being overly broad and burdensome, as being objectionable in scope to the extent that they are not limited either to the injuries allegedly suffered by decedent or to the conditions of exposures alleged by plaintiffs and to the extent they seek information and documents on topics and issues other than those reasonably raised by plaintiffs in their petition and which, therefore, will never be at issue in this litigation.

Defendant further objects to plaintiffs’ document requests as being overly broad and burdensome and as being objectionable in scope to the extent they seek documents outside the period 1957 through 1989, during which period it is alleged that decedent, on occasion, was present in defendant’s facilities.

Defendant further objects to each and every discovery request to the extent it seeks information protected from disclosure by the attorney-client privilege and/or the work product doctrine. More specifically, the rules of procedure do not require disclosure of privileged communications or work product through discovery. Any specific objection stated below on grounds on attorney-client privilege and/or work product in no way limits the generality of this objection.

Nothing contained in the following responses and objections is intended to be nor should be considered a waiver of any attorney-client privilege, work product doctrine, confidentiality, or any other applicable privilege to documents. To the extent that any discovery requests may be construed as calling for disclosure of information or documents protected by such privileges or doctrines, a continuing objection as to each and every such request is hereby made.

Defendant further objects to plaintiffs' document requests to the extent that they are vague, overly broad, unduly burdensome, ambiguous, confusing, unclear, or to the extent they are subject to more than one interpretation. Each of defendant's responses is provided subject to the aforementioned objections.

REQUEST FOR PRODUCTION NO. 1:

Please produce a copy of all documents shown to or reviewed by experts or fact witnesses in connection with this case or any similar case involving vinyl chloride exposure.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

Defendant objects to this request to the extent it seeks documents which are protected from disclosure by the attorney-client privilege and/or the attorney work product doctrine. Defendant further objects to this request on grounds that it is overly broad, burdensome, and not reasonably calculated to lead to the discovery of relevant or admissible evidence to the extent it seeks production of documents shown to or reviewed by expert or fact witnesses in "any other similar case involving vinyl chloride exposure."

REQUEST FOR PRODUCTION NO. 2:

Please produce a copy of all previous testimony given by any fact or expert witness named in this litigation. Please include only sworn testimony that relates to the allegations of this case in any way or to the person's employment with any defendant or to any other case involving safety in the work place.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

Defendant objects to this interrogatory as it is vague and over broad. The phrase "any fact or expert witness named in this litigation" is over broad and burdensome in light of the plaintiffs' forty-eight page witness list.

REQUEST FOR PRODUCTION NO. 3:

Please produce all documents which in any way reflect your policies toward contract workers.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

Defendant objects to this request on grounds that the phrase "contract worker" and the term "policies," as used in this request are undefined, vague, and ambiguous in relation to Donald Flick's

employment with Southern Pacific Railroad. Defendant further objects to this request as it is irrelevant to this case.

REQUEST FOR PRODUCTION NO. 4:

Please produce all documents which in any way relate to studies of vinyl chloride workers, including updates to those studies. This would include any present ongoing studies or any studies that have been done in the past. It also would include any correspondence, payments, or any other document relating to these studies.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

This request is over broad and outside the scope of discovery allowed by the Louisiana Code of Civil Procedure. It also requests documents that are privileged and/or protected from discovery by the work product doctrine and doctrines of research privilege. As for those documents that fall within the scope of discovery allowed, this request is duplicative in that plaintiff has already been provided with such documents in this case and in similar vinyl chloride cases. Defendant reserves the right to supplement this response in the event any such documents falling within the scope of discovery come to light in the future.

REQUEST FOR PRODUCTION NO. 5:

Please produce your completed audited financial statements, including the notes to the financial statements and auditors' opinions for the past three years. Financial statements mean balance sheet, income statement, statement of cash flows, and statement of stock holders' equity. This information should be included in the 10-Ks and/or annual reports for the last five years, which are also requested.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

Defendant objects to this request as it is irrelevant, over broad, and not reasonably calculated to lead to the discovery of relevant or admissible evidence. Plaintiffs are not entitled to the documents called for by this request as they fall outside the scope of discovery allowed by the Louisiana Code of Civil Procedure.

REQUEST FOR PRODUCTION NO. 6:

Please produce any documents written or received by, or sworn testimony given by, any of the plaintiffs' experts.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

Defendant does not know what documents have been written or received by or what sworn testimony has been given by any of the plaintiffs' experts. Further, the documents sought by this request are available to plaintiffs through their own experts.

REQUEST FOR PRODUCTION NO. 7:

Please produce any documents that show that this case was not filed timely.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

Defendant is not at this time aware of any such documents. However, defendant reserves the right to supplement this response if any such documents are found relating to the issue of prescription.

REQUEST FOR PRODUCTION NO. 8:

Please produce a copy of all materials upon which your expert witnesses will rely in formulating their opinions in this case.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

This request is pre-mature and incapable of response at this time since “all materials” that may be relied upon by defendant’s testifying expert witnesses have not been identified.

REQUEST FOR PRODUCTION NO. 9:

Please produce all writings, publications, or other documents authored by experts listed in this case that in any way relate to the allegations in this case or to knowledge in the subject matter in which the expert is being tendered.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

Defendant objects on grounds that this request is over broad and burdensome to the extent it seeks documents of all experts in this case “that in any way relate to ... knowledge in the subject matter in which the expert is being tendered.” It is also over broad in so far as it calls for privileged documents.

REQUEST FOR PRODUCTION NO. 10:

Please produce all materials that any expert witnesses or fact witnesses will use in aid of their testimony at trial.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

This request is premature and incapable of response at this time since “all materials” that may be relied upon by “any expert witnesses or fact witnesses testifying at trial” have not yet been identified. Further, defendant can not be expected to know what documents witnesses will need to refresh their memory prior to trial. Defendant further objects to this request as it is over broad and unduly burdensome.

REQUEST FOR PRODUCTION NO. 11:

Please produce all documents reflecting payments to fact witnesses for their work or testimony in any vinyl chloride related litigation.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

Defendant objects to this request in that it is over broad, vague, unduly burdensome, and not

reasonably calculated to lead to the discovery of relevant or admissible evidence to the extent it relates to "any vinyl chloride related litigation." This request calls for discovery of information not within the knowledge of defendant. However insofar as this request seeks information concerning payments to fact witnesses who will testify at the trial of this matter, this defendant has not made any such payments.

REQUEST FOR PRODUCTION NO. 12:

Please produce all documents authored or received by fact witnesses listed in this case.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

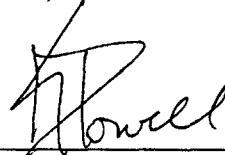
Defendant objects to this request on grounds that it is over broad, unduly burdensome, and not reasonably calculated to lead to the discovery of relevant or admissible evidence in that it calls for "all documents authored or received" by any "fact witness" at any time and on any topic.

Thus done and signed in Lake Charles, Louisiana on this 24th day July, 1998.

Respectfully submitted,

By its attorneys,

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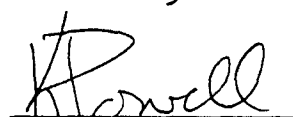


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