

file

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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

Plaintiff,

v.

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

Defendants.

CIVIL ACTION NO. 89-30201-F

BBO #064415

RESPONSES OF DEFENDANT
UNION CARBIDE CHEMICALS AND PLASTICS COMPANY, INC. TO
PLAINTIFF'S INTERROGATORIES

Defendant Union Carbide Chemicals and Plastics Company, Inc. ("Union Carbide") pursuant to Rule 33 of the Federal Rules of Civil Procedure, hereby responds to plaintiff's interrogatories and makes the following objections to each and every interrogatory as if fully set forth at length in the specific responses thereto.

GENERAL OBJECTIONS

1. Union Carbide objects to plaintiff's designation of "the product" as "vinyl chloride monomer" ("VCM") and "polyvinyl chloride" ("PVC") and its "related compounds" on the basis that

plaintiff's complaint makes no allegation that Union Carbide manufactured and/or supplied PVC which caused or contributed to the decedent's illness and subsequent death. Moreover, VCM and PVC are separate and distinct products; they are not interchangeable. Accordingly, plaintiff's definition of "the product" is overly broad and Union Carbide objects to providing any information regarding PVC. Furthermore, plaintiff does not define and Union Carbide does not know what plaintiff means by the vague and ambiguous term "related compounds," nor does plaintiff allege that Union Carbide manufactured and/or supplied such "related compounds" which caused or contributed to the decedent's illness and subsequent death. Therefore, Union Carbide objects to providing any information regarding "related compounds." Accordingly, for the foregoing reasons, Union Carbide objects to each and every interrogatory requesting information about "the product" and will respond as to VCM only.

2. Union Carbide objects to the "Definitions" section of plaintiff's interrogatories because it imposes upon Union Carbide the duty to provide information which is not required by the Federal Rules of Civil Procedure. In addition, Union Carbide objects to plaintiff's definitions to the extent that they alter the common sense and usual meaning of the words or phrases stated therein. Further, Union Carbide objects to plaintiff's definition of "defendant" because it is extremely broad and because it inappropriately includes numerous individuals who clearly cannot

be construed in any manner as "the defendant." Accordingly, Union Carbide will respond only on its own behalf.

3. Union Carbide objects to plaintiff's interrogatories to the extent that they seek information which is protected by the attorney-client privilege, attorney work product (the mental impressions, conclusions, opinions or legal theories of an attorney or other representative of a party concerning the litigation) or other trial preparation materials protected from discovery under the Federal Rules of Civil Procedure.

4. Union Carbide objects to plaintiff's interrogatories to the extent that they seek information already known to plaintiff, or available to plaintiff from sources other than Union Carbide on the grounds that such interrogatories are overly broad and unduly burdensome. Specifically, and without limiting the foregoing, Union Carbide objects to plaintiff's interrogatories to the extent that such interrogatories call for information contained in:

(a) Publicly available scientific or medical journals, books, treatises, textbooks and other compilations;

(b) Publicly available records or files maintained by governmental offices or agencies; and

(c) Documents or records within the plaintiff's possession or control.

5. Union Carbide objects to plaintiff's interrogatories insofar as they seek information from 1947 to the present (or to the late 1970's) which is outside the time period during which the decedent was allegedly exposed to the product (1948-1974) and outside the time period during which exchanges of VCM with Monsanto Chemical Company, Springfield, MA could possibly have taken place (1967). (See Union Carbide's response to plaintiff's interrogatory nos. 3 and 13.) Such an interrogatory is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Moreover, Union Carbide objects to the overall burdensome nature of plaintiff's interrogatories. Because of the passage of time, it would be extremely burdensome and costly for defendant to compile information which spans over a time period of 40 years.

RESPONSES

Subject to and without waiving the foregoing objections, Union Carbide responds to plaintiff's interrogatories as follows:

Interrogatory No. 1

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

RS158847

Response No. 1

John MacDonald, Secretary to Union Carbide Chemicals and
Plastics Company, Inc., 39 Old Ridgebury Road, Danbury, CT
06817-0001.

Interrogatory No. 2

Did the defendant, or any agent or employee of the defendant,
design, manufacture, assemble, package, sell, distribute,
advertise, process, test, or in any way handle the product?

Response No. 2

Union Carbide objects to plaintiff's use of the term
"product" for the reasons set forth in paragraph 1 of defendant's
General Objections. Union Carbide further objects to this
interrogatory because it seeks information concerning any "agent"
or "employee" of defendant. See Union Carbide's objection to
plaintiff's definition of "defendant." Moreover, the
interrogatory is overly broad and unduly burdensome in that it is
not limited to any reasonable time period. Subject to and
without waiving the foregoing objections, and limiting this
interrogatory response to VCM, Union Carbide answers that it
produced, sold, and distributed VCM.

Interrogatory No. 3

If the answer to the preceding interrogatory is in the
affirmative, please state:

P8S158848

- a. the dates between which the product was manufactured, assembled, packaged sold, distributed, advertised, processed or in any way handled;
- b. the location of the plant or plants where the product was manufactured and assembled;
- c. all dates on which the product was sold, shipped or otherwise furnished to Monsanto Chemical Company, identifying any documents reflecting such sales and shipments.

Response No. 3

Objection. See Union Carbide's response to plaintiff's Interrogatory No. 2. Subject to and without waiving said objections, Union Carbide states as follows with respect to VCM:

(a-c) Union Carbide began commercial production of VCM at its South Charleston, West Virginia facility in 1933, and at its Texas City, Texas facility in 1946. VCM production at South Charleston was discontinued in 1967, and VCM production at Texas City was discontinued in 1969. Union Carbide had no VCM production facilities after 1969. Based on current information and belief, there are no records or other sources of information which provide the date or dates upon which VCM produced by Union Carbide was sold, shipped or otherwise furnished to Monsanto Chemical Company. However, upon information and belief, there were exchanges of VCM between Union Carbide and Monsanto Chemical Company, but the date or dates of any such exchanges are unknown. Nevertheless, it is believed that any exchanges of VCM to Monsanto Chemical Company in Springfield, MA would have ended

PLS158849

by, at the latest, 1967 when the South Charleston facility ceased VCM production. See also Union Carbide's response to plaintiff's interrogatory No. 13.

Interrogatory No. 4

If the defendant at any time between 1947 to date has tested and/or investigated the potential health effects posed by the use of or exposure to the product, please state:

- a. the nature of each such test and/or investigation done by the defendant;
- b. the date or dates on which such testing and/or investigation were performed;
- c. the name or names of every person in the defendant's employment or acting in behalf of the defendant, who performed or was otherwise involved in such tests and/or investigations and the nature of his or her involvement;
- d. all observations made as to the dangers or hazards involved in the use of or exposure to the product;
- e. a description of all records in the defendant's possession relating to such testing and investigation.

Response No. 4

Union Carbide objects to plaintiff's use of the term "product" for the reasons set forth in paragraph 1 of defendant's General Objections. Union Carbide further objects to this interrogatory on the grounds that it is designed to harass answering defendant and is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is not limited by any reasonable time period and, at the very least, it seeks information for time periods beyond the decedent's alleged exposure (1948 through

PA5158850

1974) and beyond the time period that any exchanges of VCM to Monsanto Chemical Company in Springfield, MA could possibly have taken place (1967). Moreover, the interrogatory is not limited to testing and/or investigation concerning the alleged health effects resulting from exposure to VCM as 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, and limiting this response to studies regarding VCM during the decedent's alleged exposure period (1948-1974), Union Carbide answers that it conducted no chronic toxicity studies of VCM within its organization. However, Union Carbide did co-sponsor research (along with Monsanto Chemical Company and other industry participants) regarding the effects of VCM on the human body through the Manufacturing Chemists Association, The Society of the Plastics Industry, and/or the Organization Resource Counsellors, Inc.

Pursuant to Fed. R. Civ. P. 33(c), and subject to the time period limitations stated above, studies currently in the possession of Union Carbide will be made available to plaintiff for inspection and copying at a mutually convenient time at the offices of Nutter, McClennen & Fish.

Interrogatory No. 5

As to all safety equipment or special tools recommended by defendant to be used in the use of the product, please give:

- a. a description of any and all such safety equipment or special tools as recommended by defendant;
- b. the danger or dangers from which such safety equipment or special tools are supposed to protect any person or persons; and
- c. where and in what manner was such safety equipment or special tools recommended by the defendant to Monsanto Chemical Company and John Warren.

Response No. 5

Union Carbide objects to plaintiff's use of the term "product" for the reasons set forth in paragraph 1 of defendant's General Objections. Union Carbide further objects to this interrogatory on the grounds that it is designed to harass answering defendant and is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is not limited by any reasonable time period and, at the very least, it seeks information concerning time periods beyond the decedent's alleged exposure (1948-1974) and beyond the time period that any exchange of VCM to Monsanto Chemical Company in Springfield, MA could possibly have taken place (1967). Subject to and without waiving the foregoing objections, and limiting this interrogatory response to information regarding VCM during the plaintiff's alleged exposure period (1948-1974), Union Carbide states as follows:

P&S158852

(a)-(c) In the normal course of business, Union Carbide provided its customers with Chemical Safety Data Sheets, Material Safety Data Sheets and technical bulletins. As a major producer of VCM, Monsanto Chemical Company also would have received all pertinent governmental, industry association and published scientific information and data related to VCM.

Further, in 1974, Union Carbide provided a technical bulletin entitled Monitoring the Concentration of Vinyl Chloride in the Work Place or Ambient Air, which contained detailed instructions regarding regulations, monitoring equipment, procedures and methods of analysis.

Pursuant to Fed. R. Civ. P. 33(c), the above-referenced documents, as well as other documents responsive to this interrogatory, will be made available to plaintiff at the offices of Nutter, McClennen & Fish at a mutually convenient time. The safety data sheets and technical bulletins speak for themselves as to the safety equipment and safety measures recommended during the time period in question.

By way of further answer, although VCM production by Union Carbide ended in 1969, Union Carbide continued to supply the above-referenced product information to internal users, resin customers, VCM customers, and to customers who used VCM for

R&SI58853

scientific and laboratory purposes. As to its VCM customers, Union Carbide would, on occasion, sell excess VCM to others. That is, after 1969, Union Carbide continued to receive VCM from other suppliers, and when Union Carbide would have excess VCM, it would sell it on the open market. As such, the above-referenced post-1969 product information would customarily have been made available to Union Carbide customers. However, upon information and belief, no such sales of Union Carbide's excess VCM were made to Monsanto Chemical Company.

By way of further answer, the above-referenced safety data sheets and technical bulletins were provided to Union Carbide's customers and it was the customer's responsibility to instruct and train their employees accordingly. Monsanto Chemical Company was a major producer of VCM with the same access to VCM toxicity information as Union Carbide, and it was Monsanto Chemical Company's responsibility, as John Warren's employer, to provide safety recommendations and training to him directly. See also Union Carbide's response to plaintiff's Interrogatory Nos. 6 and 7.

Interrogatory No. 6

If the defendant was ever aware of any danger or hazard or defect in the use of the product, please state:

- a. when the defendant became aware of such danger or hazard in the use of the product;
- b. what was the nature of such danger or hazardous condition;

- c. whether the defendant at any time informed any purchasers or users of the product of such condition, described in subsection (b);
- d. state the method by which the defendant informed Monsanto Chemical Company or John Warren of such danger or hazardous condition, including the substance and contents of all written notification; and
- e. the date or dates on which the defendant notified Monsanto Chemical Company or John Warren of such condition.

Response No. 6

Union Carbide objects to plaintiff's use of the term "product" for the reasons set forth in paragraph 1 of defendant's General Objections. Union Carbide further objects to this interrogatory on the grounds that it is designed to harass answering defendant and is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is not limited by any reasonable time period and, at the very least, it seeks information concerning time periods beyond the decedent's alleged exposure (1948-1974), and beyond the time period that any exchange of VCM to Monsanto Chemical Company in Springfield, MA could possibly have taken place (1967). Moreover, it seeks information concerning any alleged danger or hazard associated with the product and it is therefore overly broad in that it is not limited to the dangers or hazards alleged in this case (angiosarcoma of the liver). Union Carbide further objects on the ground that the phrase "any danger or hazard or defect" is

vague and ambiguous in that it is not defined. Subject to and without waiving said objections, and limiting this interrogatory response to information regarding VCM during plaintiff's alleged exposure period (1948-1974), and further limiting this interrogatory response to angiosarcoma of the liver, Union Carbide states as follows:

(a) Union Carbide and Monsanto, as well as the entire industry and governmental regulatory agencies, were made aware of the carcinogenic properties of VCM in humans on January 23, 1974 when B. F. Goodrich reported that five employees had died of hepatic angiosarcoma.

(b) See Union Carbide's response to 6(a), above.

(c) - (e) Monsanto, as a major producer of VCM and an active participant in Manufacturing Chemists Association ("MCA") and other meetings on the subject of VCM toxicity, was well aware of the available VCM studies, and would have received all pertinent governmental and industry association information and data related to VCM. Thus, there was no need to communicate these findings to Monsanto Chemical Company. Moreover, as John Warren's employer, it was Monsanto Chemical Company's responsibility to provide training, instruction, warnings, and other safety recommendations to him directly. Additionally, the carcinogenic effects of VCM in humans did not become known to the

industry until well after the time period when Union Carbide could possibly have exchanged VCM to Monsanto Chemical Company in Springfield, MA (1967). Thus, no information as to carcinogenic hazards would have been supplied by Union Carbide to Monsanto Chemical Company. Pursuant to Fed. R. Civ. P. 33(c), see also the documents produced in response to plaintiff's Interrogatory Nos. 4, 5 and 7, as well as the responses stated therein.

Interrogatory No. 7

If there were any notations of danger or warning instructions as to the use of the product furnished with the product or printed on the product's packaging or container, please state:

- a. the location of all said notations, warnings or instructions;
- b. the substance and contents of any and all said warnings and instructions; and
- c. the size and color of the printings of said warnings and instructions.

Response No. 7

Union Carbide objects to plaintiff's use of the term "product" for the reasons set forth in paragraph 1 of its General Objections. Union Carbide further objects to this interrogatory on the grounds that it is designed to harass answering defendant and is vague, ambiguous, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is not limited by any reasonable time period and, at the very least, it is not limited to the alleged exposure period in this case (1948-1974) or the time when

Union Carbide could possibly have exchanged VCM to Monsanto Chemical Company in Springfield, MA (1967). Subject to and without waiving said objections, and limiting this interrogatory response to instructions regarding VCM during the decedent's alleged exposure period (1948-1974), Union Carbide states as follows:

See the documents produced in response to plaintiff's Interrogatory Nos. 5 and 6. Warnings were provided by Union Carbide in accordance with the MCA Vinyl Chloride Chemical Safety Data Sheets, which will be made available to plaintiff for copying and inspection pursuant to Fed. R. Civ. P. 33(c). No actual Union Carbide labels are available but Union Carbide generally followed the MCA Data Sheet format. Moreover, Union Carbide complied with all applicable ICC regulations in labeling and handling its tank cars.

Interrogatory No. 8

If there has been any litigation initiated against the defendant concerning in any way the handling or use of the product, please:

- a. give the date and title of each such action, the court in which it was filed and the docket number;
- b. outline the contents of the complaint filed in such action;
- c. state the name and address of the attorney for the plaintiff in each such action; and
- d. state and explain the disposition of each such action.

Response No. 8

Union Carbide objects to plaintiff's use of the term "product" for the reasons set forth in paragraph 1 of its General Objections. Union Carbide further objects to this interrogatory on the grounds that it is designed to harass answering defendant and is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. At present, the interrogatory constitutes an enormous fishing expedition into every litigation file of Union Carbide, regardless of its subject matter (not, for example, even limited to personal injury actions as opposed to commercial disputes), and is not limited to litigation initiated against Union Carbide during the decedent's alleged exposure period (1948-1974) or litigation initiated up until the time possible exchanges of VCM to Monsanto Chemical Company in Springfield, MA could have taken place (1967).

Subject to and without waiving said objections, and limiting this interrogatory response to personal injury lawsuits filed during the decedent's alleged exposure period (1948-1974), alleging that plaintiff suffered from angiosarcoma of the liver as a result of exposure to VCM, there has been no such litigation.

Interrogatory No. 9

If the defendant has ever received any complaints or other notices of injury or illness similar to that alleged by the plaintiff, please state for each such complaint or notice:

- a. its date;
- b. its substance, including a description of the factual circumstances; and
- c. the name and address of the person making the complaint.

Response No. 9

Union Carbide objects to this interrogatory on the grounds that it is designed to harass answering defendant and is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is not limited to VCM or to "complaints or other notices of injury or illness" received by Union Carbide during the decedent's alleged exposure period (1948-1974) or received by Union Carbide up to the time possible exchanges of VCM to Monsanto Chemical Company in Springfield, MA could have taken place (1967). Further, Union Carbide objects to the phrases "complaints or other notices of injury or illness" and "similar" in this context as vague and ambiguous in that they are not defined.

Subject to and without waiving said objections, and limiting this interrogatory response solely to notice of instances of angiosarcoma of the liver related to VCM exposure received by Union Carbide during the decedent's alleged exposure period (1948-1974), Union Carbide answers that two employee deaths occurred, apparently as a result of hepatic angiosarcoma, at Union Carbide's South Charleston, West Virginia facility. The

two individuals who died were Charlie Smart (March 23, 1968) and Edward Clendenin (July 4, 1974). Upon information and belief, the occurrence of Mr. Smart's death as it related to angiosarcoma of the liver and his exposure to VCM did not become known to Union Carbide until after B.F. Goodrich reported that five employees had died of hepatic angiosarcoma on January 23, 1974 (well after the date Union Carbide could possibly have exchanged VCM to Monsanto Chemical Company in Springfield, MA.). Further, the occurrence of Mr. Clendenin's death as it related to angiosarcoma of the liver and his exposure to VCM did not become known to Union Carbide until approximately one month after Mr. Clendenin's death in July 4, 1974.

Interrogatory No. 10

If it is the contention of the defendant that the alleged injury suffered by John Warren was caused by or contributed to by some act or omission of John Warren, Monsanto Chemical Company or other persons, please state in detail each act or omission which it is contended caused or contributed to the alleged injury.

Response No. 10

Assuming for purposes of this interrogatory answer only that John Warren had angiosarcoma of the liver, and further assuming that it was caused by his exposure to VCM, Union Carbide answers that Monsanto Chemical Company, as a major producer of VCM which primarily supplied itself with VCM for use at its Springfield, Massachusetts facility, and an active participant in MCA and other meetings on the subject of VCM toxicity, was -- to the same

extent, at least, as Union Carbide -- aware of the potential health hazards to humans associated with VCM exposure during the period of John Warren's exposure (1948-1974). It was Monsanto Chemical Company's duty, as John Warren's employer and the primary supplier to itself of VCM, to warn John Warren about the known potential health hazards to humans associated with VCM exposure. Discovery is continuing and Union Carbide is unable to answer this interrogatory further at present.

Interrogatory No. 11

If there is any person that you expect to call as an expert witness (including expert medical witnesses) at the time of trial please state in detail as to each such person:

- a. the person's identity, giving name, profession or occupation and address;
- b. the subject matter on which the person is expected to testify;
- c. the substance of the facts and opinions to which the person is expected to testify; and
- d. a summary of the grounds for each opinion.

Response No. 11

Union Carbide has not determined who, if anyone, it intends to call as an expert witness at the time of trial. If, or when, a determination is made, the response to this interrogatory will be amended seasonably.

Interrogatory No. 12

If you have retained or specially employed any person (including physicians) relating to the alleged occurrence in anticipation of litigation or for trial preparation purposes whom

you do not expect to call as an expert witness at the time of trial, please identify each person by name, address and occupation.

Response No. 12

Union Carbide objects to this request to the extent that it requests expert discovery which is beyond the scope of Rule 26(b)(4) of the Federal Rules of Civil Procedure. Plaintiff is simply not entitled to expert discovery related to an expert who has been retained or specially employed by answering defendant in anticipation of litigation or for trial preparation purposes and who is not expected to be called as a witness at trial.

Interrogatory No. 13

For all products as defined above sold or otherwise supplied by the defendant to Monsanto Chemical Company between the years 1947 and 1979, please state:

- a. trade name;
- b. the name and address of the plant to which the product or material was shipped; and
- c. the dates on which the product was shipped to each plant.

Response No. 13

Union Carbide objects to this interrogatory to the extent that is overly broad, unduly burdensome, not relevant and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is not limited by any reasonable

time period and, at the very least, it is not limited to the alleged exposure period in this case (1948-1974). Moreover, Union Carbide objects to plaintiff's use of the term "products" for the reasons set forth in paragraph 1 of defendant's General Objections. Subject to and without waiving said objections, Union Carbide responds, with respect to VCM only, as follows:

Upon information and belief, there were exchanges of VCM with Monsanto Chemical Company. On occasion, Union Carbide would receive VCM from Monsanto at Monsanto's Texas City, TX facility and would provide VCM to Monsanto from Union Carbide's South Charleston, West Virginia facility for Monsanto to use, it is believed, at Monsanto's Springfield, MA facility. However, the amounts or dates of exchanges are unknown as no records exist. In any event, it is believed that any such exchanges of VCM to Monsanto for use at its Springfield, MA facility would have ended by 1967, at the latest, when Union Carbide's South Charleston facility stopped producing VCM. See Union Carbide's response to plaintiff's Interrogatory Nos. 2 and 3.

Interrogatory No. 14

For each individual in your employ at any time subsequent to 1947 who has knowledge of the sales or supply by the defendant of the product to Monsanto Chemical Company between the years 1947 and 1979, please state:

- a. the individual's name;
- b. his or her present or last known address and telephone number;

- c. his or her present employment and job classification if still in your employ; and
- d. his or her job title or job classification during the time that he or she had such knowledge with the dates for each title.

Response No. 14

Objection. See Union Carbide's response to plaintiff's Interrogatory No. 13. Subject to and without waiving said objections, Union Carbide states as follows:

- 1. (a) R.N. Wheeler, Jr.
(b) 1912 Shady Branch Trail
Richmond, Virginia 23233
(c) Retired
(d) Among other positions he held, Mr. Wheeler was formerly the Technical Superintendent for Vinyl Resins.

Discovery is continuing, and if other persons with knowledge of such sales become known to Union Carbide, this response will be amended seasonably.

Interrogatory No. 15

For each individual in your employ at any time subsequent to 1947 who participated in hearings held by OSHA and/or National Institute for Occupational Health and Safety and/or Department of Labor regarding regulating the use of the product, please:

- a. the individual's name;
- b. his or her present or last known address and telephone number;
- c. his or her present employment and job classification if still in your employ; and

- d. his or her job title or job classification during the time that he or she had such knowledge with the dates for each job title.

Response No. 15

Union Carbide objects to plaintiff's use of the term "product" for the reasons set forth in paragraph 1 of defendant's General Objections. Union Carbide further objects to this interrogatory to the extent that it is designed to harass answering defendant and is overly broad, unduly burdensome, not relevant and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is not limited to any reasonable time period and, at the very least, it is not limited to the alleged exposure period in this case (1948-1974) or to the time when VCM could possibly have been exchanged to Monsanto in Springfield, MA (1967). Further, it would be impossible to determine since 1947 which employees attended hearings held by OSHA and/or the National Institute for Occupational Health and Safety and/or Department of Labor hearings. To the extent that those agencies have records listing those who attended the hearings, it would be less burdensome and costly for plaintiff to obtain the information directly from those agencies. Indeed, plaintiff and Union Carbide have equal access to that information. Subject to and without waiving said objections, Union Carbide answers that, based on current information and belief, individuals who participated in OSHA, NIOSH or Dept. of Labor hearings on vinyl chloride were:

RS158866

1. Dr. A.B. Steel
(Deceased)
Operations Manager
2. R.N. Wheeler, Jr.
1912 Shady Branch Trail
Richmond, Virginia 21233
Technical Superintendent for Vinyl Resins
3. Dr. Q. Hull
(Deceased)
Associate Medical Director

Discovery is continuing as to other individuals who may have participated in such hearings and, if necessary, this response will be amended seasonably.

Interrogatory No. 16

Please state the present or last known address of Mr. R.N. Wheeler, Jr. and what position he held with the defendant in 1973.

Response No. 16

See Union Carbide's response to plaintiff's interrogatory No. 15. In 1973, Mr. Wheeler was the Technical Superintendent for Vinyl Resins at Union Carbide.

Interrogatory No. 17

Please identify by name, present or last known address and job title all persons who participated in Manufacturing Chemists Association meetings between the years 1947 and 1979 at which the product was discussed.

Response No. 17

Objection. See Union Carbide's response to plaintiff's Interrogatory No. 15, as well as the documents produced in response to plaintiffs document request No. 14.

Interrogatory No. 18

Please identify by name, present or last known address and job title all persons who participated in Society of the Plastics Industry, Inc. meetings between the years 1947 and 1979 at which the product was discussed.

Response No. 18

Objection. See Union Carbide's response to plaintiff's interrogatory No. 15. Subject to and without waiving said objections, R.N. Wheeler, Jr. participated in said hearings. Discovery is continuing as to other individuals who may have participated in such hearings and, if necessary, this response will be amended seasonably.

Interrogatory No. 19

Identify any and all records, reports, statements or data compilations prepared by any federal, state or local governmental entity as the result of all investigations related to the product.

Response No. 19

Objection. See Union Carbide's response to plaintiff's interrogatory No. 15. Union Carbide further objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, vague, unlimited in time, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving said objections, and limiting this response to documents generated within the decedent's alleged exposure period (1948-1974), pursuant to Fed.

R&SI 58868

R. Civ. P. 33(c), documents in Union Carbide's possession responsive to this interrogatory will be made available to plaintiff for inspection and copying at the offices of Nutter, McClennen & Fish at a mutually convenient time.

Interrogatory No. 20

For each such document:

- (a) identify the person or persons having possession, custody or control of the document;
- (b) set forth, in detail, the factual findings contained in the document as well as the opinions or conclusions set forth in the document;
- (c) state whether the document or any of the matters contained therein was prepared pursuant to a duty imposed by law and, if so, identify the statute, regulation or other legal authority imposing the requirement;
- (d) identify all person(s) who conducted or assisted in the investigation or in the preparation of the document;
- (e) describe in detail when, where and in what manner the investigation was conducted.

Response No. 20

Objection. See Union Carbide's response to plaintiff's interrogatory Nos. 15 and 19.

Interrogatory No. 21

Please state the name(s) and address(es) of all person(s), business(es) and entities hired by the defendant to transport, ship and/or deliver the product between the years 1947 and 1979.

R&S158869

Response No. 21

Union Carbide objects to plaintiff's use of the term "product" for the reasons set forth in paragraph 1 of defendant's General Objections. Union Carbide further objects to this interrogatory to the extent that it is overly broad, unduly burdensome, vague, ambiguous and irrelevant to the issues in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving said objections, and limiting this response to VCM furnished to Monsanto Chemical Company and to the last date any exchange of VCM to Monsanto for use at its Springfield, MA facility could possibly have occurred (1967), Union Carbide answers that it has no records of names and addresses of all persons, businesses and entities hired by the defendant to transport, ship and/or deliver the product between the years of 1947 and 1967. See Union Carbide's response to plaintiff's interrogatory Nos. 2, 3 and 13.

Interrogatory No. 22

Please state the name, present or last known address, telephone number and position they hold with the above defendant, if applicable, of all persons having knowledge of discoverable facts.

Response No. 22

Union Carbide objects to this interrogatory as it seeks information which is protected from discovery by the attorney-client privilege and/or the work product doctrine.

Union Carbide objects further because this interrogatory is overly broad, vague and ambiguous in its use of the phrase "discoverable facts." This interrogatory unfairly requires defendant to know or fathom all facts even nominally relevant to this litigation before attempting to answer.

UNION CARBIDE CHEMICALS AND PLASTICS
COMPANY, INC.

Signed as to objections

By its attorney,



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

CERTIFICATE OF SERVICE

I, Sharon R. Burger, hereby certify that a true and correct copy of the foregoing document has been served on all counsel of record by mail on this date.



Sharon R. Burger

Dated: February 8, 1991

8916i

R&S158871