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November 18, 1974

Nathaniel Fensterstock, Esq.
Staff Counsel
United States Court of Appeals
for the Second Circuit
Room 1804
United States Courthouse
Foley Square
New York, New York 10007

Re: Vinyl Chloride Case Nos. 74-2284,
74-2308, 74-2450, 74-2449 and 74-2286

Dear Mr. Fensterstock:

I have discussed the question of how much time is required for oral argument in the vinyl chloride cases with counsel for each of the petitioners who have filed briefs with the Court, as well as with counsel for respondents.

On the basis of these discussions, I can advise the Court that it is the joint request of all of the petitioners who have filed briefs that the Court schedule a total of 2-1/2 hours for oral argument in all of the vinyl chloride cases during the week of December 16, 1974. In addition, counsel for petitioners suggests that this 2-1/2 hours be divided in the following manner: (1) 75 minutes for petitioners, to be divided equally among the petitioners who filed briefs, i.e., 25 minutes for SPI, 25 minutes for Tenneco, Air Products and Hooker, and 25 minutes for Union Carbide and Firestone; and (2) 75 minutes to be divided between counsel for respondents, who would have 50 minutes, and counsel for the intervenor unions, who would have 25 minutes. It would be understood that to the extent that counsel for petitioners wanted time for rebuttal, they would be required to reserve time from their initial arguments. Also, counsel for petitioners would meet prior to the oral argument and attempt to prepare their arguments in a manner which would avoid unnecessary duplication for the Court.

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Counsel for respondents does not concur in the suggested 2-1/2 hour oral argument schedule outlined above. Counsel for respondents believes that the schedule outlined above makes available more time than is required for oral argument, and counsel for respondents suggests that the total amount of time for the oral argument be set at 1-1/2 hours, with 45 minutes to be divided equally among the petitioners and the additional 45 minutes to be divided between respondents and the intervenor unions.

Petitioners believe that 45 minutes would not be adequate to permit petitioners to present their arguments in view of the complexity of the many issues which are raised by the petitioners' briefs and the enormous significance of this case. In addition, while certain arguments are made in all three petitioners' briefs, other arguments are made in one brief but not in other briefs. The opposition to the respondents' motion to consolidate all of the cases which was filed by petitioners in Nos. 74-2450, 74-2449 and 74-2286 delineates some of those differences in arguments (a copy of that pleading is attached hereto).

We understand that counsel for respondents will submit a letter to the Court, in response to this letter, setting forth its views on the amount of time for oral argument.

Sincerely,

Allan J. Topol

Allan J. Topol
Counsel for petitioners
in Nos. 74-2450, 74-2449
and 74-2286.

ck
Enclosure

cc: Stephen F. Eilperin, Esq. (OSHA)
J. Albert Woll, Esq. (AFL-CIO)
George H. Cohen, Esq. (Industrial Union Dept., AFL-CIO)
Jerome H. Heckman, Esq. (SPI)
Martin I. Shelton, Esq. (SPI)
John J. Cassidy, Jr., Esq. (Union Carbide and Firestone)
Donald L. Morgan, Esq. (Chemical Fabrics and Film Ass'n)
Patrick F. McCartan, Esq. (Goodrich)
Marshall Miller, Esq. (Diamond Shamrock)
Dale R. Martin, Esq. (Goodyear)
Donna Roberts, Esq. (Dow Chemical)
John T. Ronan, III, Esq. (Stauffer)

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

THE SOCIETY OF THE PLASTICS INDUSTRY, INC.,)
)
Petitioner,)

v.)

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION,)
UNITED STATES DEPARTMENT OF LABOR, ET AL.,)

Respondents,)

FIRESTONE PLASTICS COMPANY, a Division of)
THE FIRESTONE TIRE & RUBBER COMPANY,)

and)

INDUSTRIAL UNION DEPARTMENT, AFL-CIO,)

and)

AMERICAN FEDERATION OF LABOR AND CONGRESS)
OF INDUSTRIAL ORGANIZATIONS,)

Intervenors in)
No. 74-2284.)

TENNECO CHEMICALS, INC.,)

and)

AIR PRODUCTS AND CHEMICALS, INC.)

and)

HOOVER CHEMICALS & PLASTICS CORP.,)

Petitioners,)

v.)

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION,)
UNITED STATES DEPARTMENT OF LABOR, ET AL.,)

Respondents,)

No. 74-2284

Nos. 74-2450,
74-2449 and
74-2286

FIRESTONE PLASTICS COMPANY, a Division
of THE FIRESTONE TIRE & RUBBER COMPANY,

and

INDUSTRIAL UNION DEPARTMENT, AFL-CIO,

and

AMERICAN FEDERATION OF LABOR AND CONGRESS
OF INDUSTRIAL ORGANIZATIONS,

Intervenors in
No. 74-2286.

FIRESTONE PLASTICS COMPANY, a Division
of THE FIRESTONE TIRE & RUBBER COMPANY,

Petitioner-Intervenor,

and

UNION CARBIDE CORPORATION,

Petitioner,

v.

UNITED STATES DEPARTMENT OF LABOR, ET AL.,

Respondents.

No. 74-2308

OPPOSITION OF PETITIONER THE SOCIETY OF
THE PLASTICS INDUSTRY, INC., TO RESPONDENTS
MOTION TO CONSOLIDATE VINYL CHLORIDE CASES
FOR PURPOSES OF ORAL ARGUMENT

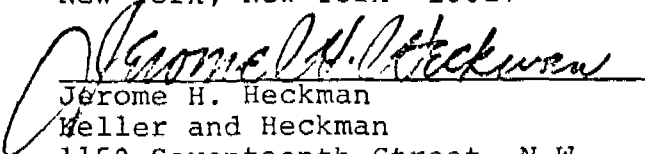
On November 14, 1974 respondent, the Occupational
Safety and Health Administration, United States Department
of Labor, Peter J. Brennan, Secretary, Department of Labor,
and John Stender, Assistant Secretary for Occupational

Safety and Health, moved through their attorney to consolidate all of the above-captioned cases petitioning for review of the Vinyl Chloride Standard for purposes of oral argument. The basis for this motion was an alleged identity of issues in the Briefs submitted by the petitioners.

In reply to the respondent's Motion to consolidate petitioner, The Society of the Plastics Industry, Inc. hereinafter the Society, states that the issues presented in the Briefs submitted are clearly not identical although there is unanimous agreement among petitioners that the Secretary ignored the record evidence on feasibility and promulgated a Standard without substantial evidence to justify his conclusions. The Society further states that the November 19, 1974 response of petitioners Tenneco Chemicals, Inc., Air Products and Chemicals, Inc. and Hooker Chemicals & Plastics Corp., in opposition to the Motion to consolidate has been examined and the Society concurs in and adopts their response in full, including the suggested Oral Argument schedule set out in the attached letter of November 18, 1974.

Respectfully submitted,

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