

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

GRACE OVERSTREET,
INDIVIDUALLY AND AS
REPRESENTATIVE OF THE
ESTATE OF CECIL OVERSTREET,
and SCOTT OVERSTREET

VS.

DOW CHEMICAL COMPANY and
UNION CARBIDE CORPORATION

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C.A. NO. G-94-790

THE DOW CHEMICAL COMPANY'S RESPONSES
TO PLAINTIFFS' FIRST REQUEST FOR PRODUCTION

TO: Plaintiffs, Grace Overstreet, individually and as representative of the estate of Cecil Overstreet, and Scott Overstreet by and through their attorney of record, W. Mark Lanier, Lanier & Wilson, 1331 Lamar, Suite 675, Houston, Texas 77010.

Defendant The Dow Chemical Company makes these responses to plaintiffs'

First Request for Production.

I. GENERAL OBJECTIONS

1. Defendant generally objects to the purported definitions and instructions in plaintiffs' requests for production of documents. The applicable rules governing definitions and instructions are set out in the Federal Rules of Civil Procedure. Applicable law does not confer upon any litigant the authority to impose additional instructions or rules upon an adversary. Defendant will respond to plaintiffs' requests to the extent and in the manner required by the Rules.

2. Defendant objects to the requests for production to the extent that they purport to impose upon defendant the obligation to create documents for production to

plaintiffs. Such a request would be outside the scope of permissible discovery under the Rules.

3. Defendant objects to the requests for production to the extent they seek to impose upon defendant obligations beyond those contained in the Rules. Among other grounds, defendant objects to all interrogatories as premature under Rule 26, F.R.C.P., and exceeding twenty-five in number as prohibited by Rule 33, F.R.C.P.

4. Defendant objects to each request for production to the extent that it is vague, ambiguous, overly broad, unduly burdensome and not reasonably calculated to lead to admissible evidence. For these reasons, defendant specifically objects to any request for production of documents relating to "products containing vinyl chloride" or of interim work or documents leading toward, but pre-dating, published studies, research or technical reports.

5. Defendant objects to each request for production. Many of these discovery requests would require defendant to disclose the results of counsel and client investigations occurring after this lawsuit was filed and, in effect, ask defendant to prepare plaintiffs' case. Disclosure of this information is beyond the scope of discovery allowed by the Rules.

6. Defendant objects to the requests for production to the extent they seek proprietary and confidential business information.

7. Defendant objects to the requests for production to the extent they seek production of documents and information that is in the public domain and as easily accessible to plaintiffs as to defendant.

8. Defendant reserves:

(a) All objections as to the competency, relevancy, materiality, privilege, and admissibility as evidence for any purpose of the information or documentation referred to or responses given, or the subject matter thereof, in any subsequent proceeding in, or the trial of, this action or any other action or proceeding;

(b) The right to object to other discovery procedures involving or relating to the subject matter of these interrogatories; and

(c) The right at any time to revise, correct, add to, or clarify any of these responses, after reasonable inquiry or documentation.

9. Defendant objects to the production of any privileged document. The inadvertent production of any privileged document or information shall not be deemed a waiver of any applicable privilege with respect to such document or information or any other document or information.

II. RESPONSES TO REQUEST FOR PRODUCTION

1. Please produce copies of any and all documents, records, lab notes, and other writings in your possession, or subject to your control, concerning studies, tests, testing efforts, chemical analysis, laboratory tests, experimental tests, toxicological tests of vinyl chloride, and products containing vinyl chloride, and its effects on laboratory animals and/or humans.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. Plaintiffs' answers to defendant's interrogatories failed to disclose what period of time Mr. Overstreet worked for defendant. Consequently, defendant will produce only epidemiological and toxicological studies published between 1980 to the present that relate to the relationship between vinyl chloride and brain cancer. Any further production in the absence of knowledge of when Mr. Overstreet worked at defendant's facility would be unduly burdensome and oppressive. Defendant specifically objects to the production of laboratory notes as being unduly burdensome and oppressive to that category of documents and any others called for herein which

might call for the production of proprietary and confidential information. Defendant will supplement this information once plaintiffs provide the requisite information.

2. Please produce copies of any and all Documents/Records submitted to and/or received from the applicable United States Governmental Agencies concerning the registration of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. Defendant objects on the ground that this request is irrelevant and will not lead to the discovery of admissible evidence. Defendant also objects on the ground that it seeks the production of documents that are as readily and easily accessible to plaintiffs as defendant. Subject of the foregoing objections, this defendant does not believe that vinyl chloride monomer is a registered material.

3. Please produce copies of any and all Documents, Records, articles, and other writings generated by Dr. Theodore Torkelson concerning vinyl chloride and products containing vinyl chloride. Please include all lab notes generated by Dr. Torkelson, as well as lab notes that have Dr. Torkelson's name on them.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. Plaintiffs' answers to defendant's interrogatories failed to disclose what period of time Mr. Overstreet worked at defendant's facility. Consequently, defendant will produce only the epidemiological and toxicological studies published between 1980 to the present that relate to any research done by Dr. Torkelson concerning a relationship between vinyl chloride and brain cancer, if any. Any further production in the absence of knowledge of when Mr. Overstreet worked at defendant's facility would be unduly burdensome and oppressive. Defendant will supplement this information once plaintiffs provide the requisite information.

4. Please produce copies of any and all correspondence to or by Dr. Theodore Torkelson concerning vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. Plaintiffs' answers to defendant's interrogatories failed to disclose what period of time Mr. Overstreet worked at defendant's facility. Consequently, defendant will produce only the epidemiological and toxicological studies published between 1980 to the present that relate to

research done by Dr. Torkelson concerning a relationship between vinyl chloride and brain cancer, if any. Any further production in the absence of knowledge of when Mr. Overstreet worked at defendant's facility would be unduly burdensome and oppressive. Defendant will supplement this information once plaintiffs provide the requisite information.

5. Please produce copies of any and all Documents, Records, articles, and other writings generated by V. K. Rowe concerning vinyl chloride and products containing vinyl chloride. Please include all lab notes generated by V. K. Rowe, as well as lab notes that have Dr. Rowe's name on them.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. Plaintiffs' answers to defendant's interrogatories failed to disclose what period of time Mr. Overstreet worked at defendant's facility. Consequently, defendant will produce only the epidemiological and toxicological studies published between 1980 to the present that relate to Dr. Rowe's research concerning a relationship between vinyl chloride and brain cancer, if any. Any further production in the absence of knowledge of when Mr. Overstreet worked at defendant's facility would be unduly burdensome and oppressive. Defendant specifically objects to the production of laboratory notes as being unduly burdensome and oppressive to that category of documents and any others called for herein which might call for the production of proprietary and confidential information. Defendant will supplement this information once plaintiffs provide the requisite information.

6. Please produce copies of any and all correspondence to or by V. K. Rowe concerning vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome, and irrelevant to any issue in this case. Plaintiffs' answers to defendant's interrogatories failed to disclose what period of time Mr. Overstreet worked at defendant's facility. Consequently, defendant will produce only the epidemiological and toxicological studies published between 1980 to the present that relate to research done by Dr. Rowe concerning a relationship between vinyl chloride and brain cancer, if any. Any further production in the absence of knowledge of when Mr. Overstreet worked at defendant's facility would be unduly burdensome and oppressive. Defendant will supplement this information once plaintiffs provide the requisite information.

7. Please produce copies of any and all Documents, Records, articles, and other writings generated by K. J. Olson concerning vinyl chloride and products containing vinyl

chloride. Please include all lab notes generated by K. J. Olson, as well as lab notes that have Mr. Olson's name on them.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. Plaintiffs' answers to defendant's interrogatories failed to disclose what period of time Mr. Overstreet worked at defendant's facility. Consequently, defendant will produce only the epidemiological and toxicological studies published between 1980 to the present that relate to Mr. Olson's research concerning a relationship between vinyl chloride and brain cancer, if any. Any further production in the absence of knowledge of when Mr. Overstreet worked at defendant's facility would be unduly burdensome and oppressive. Defendant specifically objects to the production of laboratory notes as being unduly burdensome and oppressive to that category of documents and any others called for herein which might call for the production of proprietary and confidential information. Defendant will supplement this information once plaintiffs provide the requisite information. Subject to the foregoing objections, this defendant states that to date it has not located any documents generated by or from K. J. Olson relating to inhaled VCM toxicology studies.

8. Please produce copies of any and all correspondence to or by K. J. Olson concerning vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome, and irrelevant to any issue in this case. Plaintiffs' answers to defendant's interrogatories failed to disclose what period of time Mr. Overstreet worked at defendant's facility. Consequently, defendant will produce only the epidemiological and toxicological studies published between 1980 to the present that relate to research done by K. J. Olson concerning a relationship between vinyl chloride and brain cancer, if any. Any further production in the absence of knowledge of when Mr. Overstreet worked at defendant's facility would be unduly burdensome and oppressive. Defendant will supplement this information once plaintiffs provide the requisite information. Subject to the foregoing objections, this defendant states that to date it has not located any documents generated by or from K. J. Olson relating to inhaled VCM toxicology studies.

9. Please produce copies of any and all Dow Chemical Company Material Safety Data Sheets related to vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. Only those Material Safety Data Sheets used during the period in which plaintiffs alleged that Mr. Overstreet was exposed to vinyl chloride are relevant or likely to lead to the discovery of admissible evidence. Plaintiffs' answers to defendant's interrogatories failed to disclose what period of time Mr. Overstreet worked at defendant's facility. Consequently, defendant will produce Material Safety Data Sheets for vinyl chloride issued between 1980 to present. Any further production in the absence of knowledge of when Mr. Overstreet worked at defendant's facility would be unduly burdensome and oppressive. Defendant will supplement this information once plaintiffs provide the requisite information.

10. Please produce copies of any and all Dow Medical Information Sheets and Medical Treatment Cards that pertain to vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. Defendant also specifically objects to this request as vague and ambiguous as it does not recognize the category of documents specifically named herein. If this request seeks production of medical information relating to other Dow employees, then this defendant specifically objects to the production of such documents as being confidential and proprietary medical information related to other of its employees. Finally, production of any documents in response to this request in the absence of knowledge of when Mr. Overstreet worked at defendant's facility would be unduly burdensome and oppressive.

11. Please produce copies of any and all Documents/Records of Patent Applications before the United States Patent Office that pertain to vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. The documents requested are wholly irrelevant to a personal injury suit and will not lead to the discovery of admissible evidence. Furthermore, they are as accessible to plaintiffs as to this defendant.

12. Please produce copies of any and all Documents/Records submitted by defendant Dow Chemical Company to the United States Patent Office concerning vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. The documents requested are wholly irrelevant to a personal injury suit and will not lead to the discovery of admissible evidence. Furthermore, they are as accessible to plaintiffs as to this defendant.

13. Please produce copies of any and all Documents/Records involving licensing and/or cross-licensing agreements and/or arrangements pertaining to vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. The documents requested are wholly irrelevant to a personal injury suit and will not lead to the discovery of admissible evidence. Any agreements with companies other than plaintiff's employer have no relevancy to any issues in this case.

14. Please produce copies of any and all Documents/Records of all patents held by the defendant concerning vinyl chloride and products containing vinyl chloride's technology.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. The documents requested are wholly irrelevant to a personal injury suit and will not lead to the discovery of admissible evidence. Defendant also objects on the ground that plaintiffs seek the production of documents that are as readily and easily accessible to plaintiffs as defendant.

15. Please produce copies of any and all Documents/Records of all communications with the United States Patent Office concerning vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. The documents requested are wholly irrelevant to a personal injury suit and will not lead to the discovery of admissible evidence. Furthermore, they are as accessible to plaintiffs as to this defendant.

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16. Please produce copies of any and all Documents/Records evidencing testing of vinyl chloride and products containing vinyl chloride to the "No Effect" threshold.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. Plaintiffs' answers to defendant's interrogatories failed to disclose what period of time Mr. Overstreet worked at defendant's facility. Consequently, defendant will produce only epidemiological and toxicological studies published between 1980 to the present that relate to vinyl chloride and a "no effect" threshold. Any further production in the absence of knowledge of when Mr. Overstreet worked at defendant's facility would be unduly burdensome and oppressive. Defendant will supplement this information once plaintiffs provide the requisite information.

17. Please produce copies of any and all Documents/Records of all testing, testing efforts, laboratory tests, analysis, studies, experiments, etc., conducted on rats, rabbits, guinea pigs, monkeys, etc., and/or human beings concerning the health effects of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. Plaintiffs' answers to defendant's interrogatories failed to disclose what period of time Mr. Overstreet worked at defendant's facility. Consequently, defendant will only produce epidemiological and toxicological studies published between 1980 to the present that relate to the relationship between vinyl chloride and cancer, if any. Any further production in the absence of knowledge of when Mr. Overstreet worked at defendant's facility would be unduly burdensome and oppressive. Defendant will supplement this information once plaintiffs provide the requisite information.

18. Please produce all correspondence in the possession of Dow that pertains to or mentions vinyl chloride and products containing vinyl chloride to or from Dr. H. Charles Scharnweber.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. Plaintiffs' answers to defendant's interrogatories failed to disclose what period of time Mr. Overstreet worked at defendant's facility. Consequently, defendant will only produce epidemiological and toxicological studies published between 1980 to the present that relate to the relationship between vinyl chloride and cancer, if any. Any further production in the absence of knowledge of when Mr. Overstreet worked at defendant's facility would be unduly burdensome and

oppressive. Defendant will supplement this information once plaintiffs provide the requisite information.

19. Please produce copies of any and all Documents/Records including all efforts, tests, and reports, which address the feasibility and/or practicability of protective clothing, protective apparatus, and/or other protective measures in the use of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. Defendant's Material Safety Data Sheets and any other product literature distributed to customers contain protective measures and safety recommendations. Because plaintiffs' answers to defendant's interrogatories failed to disclose what period of time Mr. Overstreet worked at defendant's facility, however, defendant will only produce the Material Safety Data sheets concerning vinyl chloride which defendant released between 1980 and the present and the current published product literature. Any further production in the absence of knowledge of when Mr. Overstreet worked at defendant's facility would be unduly burdensome and oppressive. Defendant will supplement this information once plaintiffs provide the requisite information.

20. Please produce all documents that discuss the consequences of overexposure to vinyl chloride and products containing vinyl chloride whether internal memoranda or labels, letters, or other writings to persons or entities outside Dow Chemical Company.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. For further answer concerning documents relating to overexposure to vinyl chloride, see answer to no. 19.

21. Please produce copies of any and all Documents/Records pertaining to vinyl chloride and products containing vinyl chloride exchanged between the Defendant, Dow Chemical Company, and any other manufacturer of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case.

22. Please produce copies of any and all Documents/Records evidencing tests, efforts, potential effects, analysis, results, and/or dangers associated with vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. See answers to nos. 1 and 16.

23. Please produce copies of any and all Documents/Records evidencing tests, efforts, potential effects, analysis, results, and/or dangers associated with vinyl chloride and products containing vinyl chloride and workers exposed to vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. See answers to nos. 1, 16, 19, and 20.

24. Please produce copies of any and all Documents/Records evidencing tests, efforts, potential effects, analysis, results, and/or dangers associated with vinyl chloride and products containing vinyl chloride and the environment.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. This suit alleges worker injury, not environmental damage.

25. Please produce copies of any and all Documents/Records of any and all contracts, agreements, arrangements, and/or negotiations for the purchase, sale, distribution, of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case. Plaintiffs' answers to defendant's interrogatories failed to disclose what period of time Mr. Overstreet worked at defendant's facility. Consequently, defendant will produce its sales records of vinyl chloride to plaintiff's employer during the period plaintiff worked there when plaintiff reveals that information.

26. Please produce all written agreements between Dow and any other manufacturer or formulator of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case. See answer to no. 25.

27. Please produce copies of any and all Documents/Records of safety manuals, safety materials, safety warnings, warnings, safety instructions, instructions on use, instructions, safety equipment, etc., in every language sent and/or accompanying the distribution of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome, and irrelevant to any issue in this case. See answers to nos. 19 and 20. Defendant also objects to the request to the extent that it asks for documents in any language other than English. Such a request is overly broad and not calculated to lead to the discovery of admissible evidence.

28. Please produce copies of any and all Documents/Records of tests, efforts, testing efforts, analysis, data compilations, etc., concerning workers exposed to vinyl chloride and products containing vinyl chloride and the effects of exposure, including the levels of exposure, to vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case. This defendant specifically objects to this request as being vague and ambiguous. If this request seeks VCM monitoring or testing information with regard to other of this defendant's employees, then exposure levels of workers to vinyl chloride at a place other than where plaintiff worked is immaterial to any exposure Mr. Overstreet may have had at his place of employment. Relevant epidemiology studies are being produced. See answer to request no. 1. This defendant specifically objects to production of any underlying testing documents or data compilations involving other Dow employees involved in any such studies upon the grounds of proprietary and confidential information. By way of example, epidemiology studies often involve the collection of death certificates relating to other individuals. In many cases, these can be collected only by a researcher from a state by giving assurances of confidentiality and non-disclosure.

29. Please produce copies of any and all Documents/Records and/or Reports of the Occupational Safety and Health Administration, "OSHA," concerning vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it seeks the discovery of documents that are as readily and easily accessible to plaintiffs as defendants. Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case.

30. Please produce copies of any and all Documents/Records and/or Reports from the Federal Register concerning vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it seeks the discovery of documents that are as readily and easily accessible to plaintiffs as defendants. Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case.

31. Please produce copies of any and all Documents/Records of "OSHA," the EPA, and/or Federal Register concerning restrictions, prohibitions, reductions in sales and/or distribution related to the use of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it seeks the discovery of documents that are as readily and easily accessible to plaintiffs as defendants. Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case.

32. Please produce copies of any and all Documents/Records that the Defendant sent to consumers/purchasers informing them of the prohibitions, restrictions, and reductions concerning the use of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. See answers to nos. 19, 20 and 27. Defendant also objects to the request to the extent that it asks for documents in any language other than English. Such a request is irrelevant and not calculated to lead to the discovery of admissible evidence.

33. Please produce copies of any and all Documents/Records concerning the sale of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case. Plaintiffs' answers to defendant's interrogatories failed to disclose what period of time Mr. Overstreet worked at defendant's facility. Consequently, defendant will produce the pertinent documents/records concerning any sales of vinyl chloride to plaintiff's employer once plaintiff identifies his employer and when he allegedly worked with vinyl chloride. To the extent this request asks for customer lists or sales of Dow products to persons other than plaintiff's employer, this defendant objects on the grounds of confidentiality and propriety of that information.

34. Please produce copies of any and all Documents/Records concerning the manufacture of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case. This defendant specifically objects to this request as seeking business confidential and proprietary information.

35. Please produce copies of any and all Documents/Records concerning the marketing of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case. See answers to nos. 19, 20, and 33. This defendant specifically objects to this request as seeking business confidential and proprietary information.

36. Please produce copies of any and all Documents/Records concerning the distribution of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case. See answer to no. 33. This defendant specifically objects to this request as seeking business confidential and proprietary information.

37. Please produce copies of any and all Documents/Records of all hearings, committee meetings, forum meetings, and/or planning meetings, whether private or public, and in whatever setting, concerning the dangers, hazards, health problems, safe use,

chemical makeup, design, manufacture, and/or marketing of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. Published material is as available to plaintiffs as to this defendant. For dangers, hazards, health problems, safe use, and chemical makeup see answer to no. 19. For marketing, see answer to no. 33.

38. Please produce copies of any and all Documents/Records evidencing indemnity agreements and/or agreements of any type whereby the liability of an entity involved in the sale, manufacture, design, marketing, and/or distribution of vinyl chloride and products containing vinyl chloride, is limited, reduced, and/or otherwise affected by such agreement.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. Defendant will produce any indemnity agreement or other agreement between Dow and the plaintiff's employer during the interval that plaintiff worked there, whereby Dow's liability is limited or reduced and/or otherwise affected by such agreement to the extent such an agreement exists as soon as plaintiff identifies the name of his employer where and the period of time when he allegedly worked with or around vinyl chloride.

39. Please produce all indemnity agreements entered into by Dow and any other person or entity concerning the sale or formulation of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. See response to no. 38.

40. Please produce copies of any and all Documents/Records from any entity concerning and/or prohibiting the sale, design, manufacture, marketing, distribution, and/or use of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case. Defendant will produce such records as it may have about the sale or distribution of vinyl chloride to the employer

of the plaintiff during the years of the plaintiff's employment once the plaintiff identifies those facts. Defendant will also produce such records as it may have, if any, concerning the use of vinyl chloride by that employer at the location where the plaintiff worked during the period of time of his work there.

41. Please produce copies of any and all Documents/Records linking cancer and/or any other health problems to vinyl chloride and products containing vinyl chloride exposure/use.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. See answers to nos. 1, 16, and 17.

42. Please produce copies of any and all Documents/Records of all entities affiliated with the Defendant involved in the sale, design, patent application process, licensing, cross-licensing, distribution, marketing, manufacture, processing, and/or use of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. See answers to nos. 11-15 and 25.

43. Please produce copies of any and all Documents/Records of labeling, warnings, instruction, and/or other written materials concerning vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. See answer to no. 19.

44. Please produce copies of any and all Documents/Records of the complete qualitative and quantitative chemical formula for vinyl chloride and products containing vinyl chloride manufactured, sold, distributed, marketed, designed, used, and/or processed by the Defendant and/or any entity affiliated with the Defendant.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case. The composition of vinyl chloride is set forth in the Material Safety Data Sheets and other product literature

distributed by defendant to its customers (see answer to no. 19) and in published reference works available to plaintiff.

45. Please produce copies of any and all Documents/Records surrounding the alteration, chemically and/or otherwise, of vinyl chloride and products containing vinyl chloride, once inside animals and/or humans.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. Plaintiffs' answers to defendant's interrogatories failed to disclose what period of time Mr. Overstreet worked at defendant's facility. Consequently, defendant will produce epidemiological and toxicological studies published between 1980 to the present that relate to the mechanism, if any, of causation by vinyl chloride of brain cancer.

46. Please produce copies of any and all Documents/Records concerning changes in the design and/or formula of vinyl chloride and products containing vinyl chloride products as a result of or relating to testing of said products.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. The documents requested are wholly irrelevant to a personal injury suit and will not lead to the discovery of admissible evidence. See answer to no. 44.

47. Please produce copies of any and all Documents/Records concerning the action taken by the Defendant and/or entities affiliated with the Defendant as a result of and/or in connection with the analysis of exposure level counts to vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. The documents requested are wholly irrelevant to a personal injury suit and will not lead to the discovery of admissible evidence. In addition, the request is incomprehensible as written. This request seems to include an infinite number of locations, at any point in history, with an array of products which might contain any minute level of vinyl chloride which would have absolutely no relationship to what the plaintiff worked with, where he worked or what he did. It further assumes that this defendant had the authority or capability to take some action with regard to this potential array of events.

48. Please produce copies of any and all Documents/Records concerning any and all "rebuttable presumptions against registration" of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. The documents requested are wholly irrelevant to a personal injury suit and will not lead to the discovery of admissible evidence.

49. Please produce copies of any and all Documents/Records concerning lawsuits, and/or settlements for injuries related to use/exposure of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. The documents requested are wholly irrelevant to a personal injury suit and will not lead to the discovery of admissible evidence. Defendant will produce any judgment or any settlement, unless sealed as confidential, for any vinyl chloride induced brain cancer arising from the work force at the plant where the plaintiff worked once that is identified by plaintiff.

50. Please produce all letters inquiring about the health effects of exposure to vinyl chloride and products containing vinyl chloride received by Dow.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case. See answers to nos. 1, 16, 17, 19, and 20.

51. Please produce copies of any and all Documents/Records mentioning vinyl chloride and products containing vinyl chloride that were sent to or received from:

- a. Any governmental agency;
- b. National Cancer Institute;
- c. National Institute of Health.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case. Published documents and governmental documents in the public domain are as accessible to the plaintiffs as to this defendant.

52. Please produce copies of any and all Documents/Records related to workers' compensation claims that mention vinyl chloride and products containing vinyl chloride injuries or disease filed by Dow employees.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case. Defendant will produce any workers' compensation claims in this defendant's possession for any vinyl chloride induced brain cancer arising among the work force at the plant where the plaintiff worked once that is identified by plaintiff. Claims for injuries or diseases other than brain cancer are not related to this lawsuit. Defendant has no workers' compensation claims filed by its employees alleging vinyl chloride exposure caused them brain cancer.

53. Please produce copies of any and all Documents/Records of medical examination programs concerning exposure and/or use of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case. If plaintiff will identify his place of employment, defendant will produce any documents/records of medical examination programs at that place of employment which defendant may have in its possession concerning exposure and/or use of vinyl chloride for the period that the plaintiff worked there. Records of medical examination programs at places where the plaintiff did not work have no relationship to this lawsuit.

54. Please produce copies of any and all Documents/Records involving the Defendant, the other Defendant in this lawsuit, and/or other entities, organizations, associations and governmental agencies relating to the standardization of specifications, warnings, caution labels, instructions, information dissemination, safety equipment, protective clothing, protective equipment and/or medical programs concerning vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant specifically objects to this request as being vague and ambiguous. Defendant also objects the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case. Defendant will produce Material Safety Data Sheets concerning vinyl chloride issued between 1980 to present and any other current, relevant product literature distributed to customers which contain specifications, warnings, caution labels, instructions, warnings, safety equipment, protective clothing and protective equipment recommendations.

55. Please produce copies of any and all Documents/Records of all appearances and/or testimony by the Defendant before any governmental body, state or federal, regarding the possible harmful effects of vinyl chloride and products containing vinyl chloride use/exposure.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. Defendant will produce copies of any statements or testimony by this defendant, in its possession, or list the location of those statements or testimony, before any governmental body, state or federal, regarding the potentiality, if any, of vinyl chloride to cause brain cancer.

56. Please produce copies of any and all Documents/Records concerning criticisms, reprimands, penalties, and/or any legal action taken against the Defendant, or entities associated with the Defendant, by any public official, agency, and/or body because of alleged violations of any federal, state, and/or local statute/regulation with regard to the sale, manufacture, marketing, distribution, processing, dumping, dissemination, advertising, warning, instructions, and/or design of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case. Public records are as accessible to plaintiff as to this defendant.

57. Please produce copies of any and all Documents/Records concerning group meetings of all or any of the Defendants in this lawsuit, or entities associated with any of the defendants in this lawsuit wherein the subject matter of the meeting was in whole or in part of the possible, potential, and/or known adverse health effects associated with exposure to vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad, unduly burdensome and irrelevant to any issue in this case.

58. Please produce copies of any and all Documents/Records submitted to Dow, or received by Dow, from the consumers/purchasers of vinyl chloride and products containing vinyl chloride related to the use, application, methods of application, distribution, processing, and/or dissemination of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome and irrelevant to any issue in this case. Defendant will produce copies of any documents/records submitted to it, or received by it, from the company for whom plaintiff worked and after the time he began to work there, concerning vinyl chloride use, application, methods of application, distribution or processing.

59. Please produce copies of any and all Documents/Records prepared for, submitted to, transmitted, to and/or generated by one or more of the following persons which mentions or concerns vinyl chloride and products containing vinyl chloride:
- a. the Board of Directors of Dow Chemical Company;
 - b. any committee of the Board of Directors of Dow Chemical Company;
 - c. the president of Dow Chemical Company;
 - d. any vice president of Dow Chemical Company;
 - e. the director of Dow Chemical Company's medical department;
 - f. the chief executive officer in charge of administering Dow Chemical Company's business in the United States.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. The documents requested are wholly irrelevant to a personal injury suit and will not lead to the discovery of admissible evidence. Defendant also objects to this request to the extent it would require the production of documents protected by the attorney-client privilege, the attorney work product privilege, the party communication privilege, consulting expert privilege, the joint defense privilege, the investigation privilege, or any other privilege available under state law.

60. Please produce copies of any and all Documents/Records prepared for, submitted by, transmitted by, and/or generated by one or more of the following persons which mentions or concerns the capacity (or lack thereof) of vinyl chloride and products containing vinyl chloride to cause cancer:
- a. the Board of Directors of Dow Chemical Company;
 - b. any committee of the Board of Directors of Dow Chemical Company;
 - c. the president of Dow Chemical Company;
 - d. any vice president of Dow Chemical Company;
 - e. the director of Dow Chemical Company's medical department; and/or
 - f. the chief executive officer in charge of administering Dow Chemical Company's business in the United States.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. The documents requested are wholly irrelevant to a personal injury suit and will not lead to the discovery of admissible evidence. Defendant also objects to this request to the extent it would require the production of documents protected by the attorney-client privilege, the attorney work product privilege, the party communication privilege, consulting expert privilege, the joint defense privilege, the investigation privilege, or any other privilege available under state law.

61. Please produce copies of any and all Documents/Records regarding any and all descriptions of, and claims as to, the potential use or application of vinyl chloride and products containing vinyl chloride and/or the components thereof.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. The documents requested are wholly irrelevant to a personal injury suit and will not lead to the discovery of admissible evidence. Defendant will produce current product literature concerning vinyl chloride.

62. Please produce all documents regarding any and all trade or industry standards, or any and all state, local, or federal regulations, that define or regulate the quality of vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. The documents requested are wholly irrelevant to a personal injury suit and will not lead to the discovery of admissible evidence. Defendant also objects on the ground that the requested documents are as readily accessible to plaintiffs as defendant.

63. Please produce each and every law, rule, regulation, standard, statute, ordinance or other requirement or recommendation established by any local, state, or federal governmental body or office, whether legislative, executive or administrative in character, which deals with, defines, limits or specifies any aspect of the design, manufacture, composition, distribution, or use of vinyl chloride and products containing vinyl chloride and/or the components thereof.

RESPONSE:

Defendant objects to this request on the ground that it seeks the discovery of documents that are as readily and easily accessible to plaintiffs as defendants.

64. Please produce each and every law, rule, regulation, standard, statute, ordinance, or other requirement or recommendation which deals with, defines, limits, or specifies any aspect of the design, manufacture, composition, distribution or use of vinyl chloride and products containing vinyl chloride and/or the components thereof and which was established, published, or promulgated by any professional association, trade association, industry association, or private group.

RESPONSE:

Defendant objects to this request on the ground that it seeks the discovery of documents that are as readily and easily accessible to plaintiffs as defendants.

65. Please produce all Documents/Records that address the question of whether vinyl chloride and products containing vinyl chloride are or may be a cause of cancer.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. See answers to nos. 1, 16, and 17.

66. For each expert witness designated by Dow Chemical Company, please produce the following:
- a. all documents and tangible things, including all tangible reports, physical models, compilations of data and other material prepared by or for an expert in anticipation of the expert's trial and deposition testimony;
 - b. a curriculum vitae or resume;
 - c. any and all documents that in any way reflect, refer, or otherwise related to source material, textbooks, or other reference material which has been and/or will be relief upon in support of his opinions in this matter;
 - d. any and all documents which comprise the complete file of each of the individual experts named relating to any and all of his activities in connection with the investigation of the accident made the basis of this lawsuit, including, but not limited to, any and all billing records related to this lawsuit;
 - e. a list of all publications published by each of the individual experts named; and
 - f. a copy of any and all information that Dow Chemical Company or their attorneys or any other consultant or expert in this matter has furnished to each of the designated experts.

RESPONSE:

Defendant objects to the extent that this request is premature. Defendant has not determined who it will designate as experts in this case. Defendant will produce such documents as are required by the Federal Rules of Civil Procedure at such time experts are designated and relevant reports are formulated.

67. Please produce all quarterly, semi-annual, and annual reports to Dow Shareholders that mention vinyl chloride and products containing vinyl chloride.

RESPONSE:

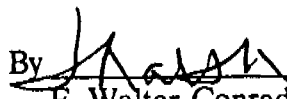
Defendant objects to this request on the ground that it is overly broad and unduly burdensome. Defendant will produce any relevant, requested documents which discuss a potential association between vinyl chloride and brain cancer.

68. Please produce all Form 10-K submissions by defendant that mention vinyl chloride and products containing vinyl chloride.

RESPONSE:

Defendant objects to this request on the ground that it is overly broad and unduly burdensome. Defendant will produce any relevant, requested documents which discuss a potential association between vinyl chloride and brain cancer.

Respectfully submitted,

By 
F. Walter Conrad
Federal I.D. No. 0714
State Bar No. 04709000
3000 One Shell Plaza
910 Louisiana Street
Houston, Texas 77002
(713) 229-1230
(713) 229-1522 (FAX)

Attorney-in-charge for Defendant
The Dow Chemical Company

OF COUNSEL:

BAKER & BOTTS, LLP.

Maria Wykoff Boyce

Federal I.D. No. 10442

State Bar No. 22095050

James Grace, Jr.

State Bar No. 00784157

3000 One Shell Plaza

910 Louisiana Street

Houston, Texas 77002

(713) 229-1234

(713) 229-1522 (Fax)

Certificate of Service

I hereby certify that on this 10th day of March, 1995, I mailed, postage prepaid, certified return receipt requested, a true and correct copy of the above and foregoing pleading to all counsel of record.


E. Walter Conrad