

LIT
Warren, Alice

UNION CARBIDE CHEMICALS AND PLASTICS COMPANY INC.

Law Department
203/794-5531

39 Old Ridgebury Road
Danbury, CT 06817-0001

April 11, 1991

Susan L. Parsons, Esq.
Nutter, McClennen & Fish
One International Place
Boston, MA 02110-2699

Re: Alice L. Warren

Dear Susan:

Attached please find complete sets of the documents
you requested. I am sorry for the inconvenience; those front
and back pages gets you every time.

If I can be of further assistance please let me know.

Very truly yours,

D. vonEhrenberg
Dottie vonEhrenberg

PRIVILEGED AND
"CONFIDENTIAL MATERIAL
SUBJECT TO PROTECTIVE
ORDER"

UCC 080865

20 57 217
NUTTER, McCLENNEN & FISH

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TELEPHONE: 617 439-2000 FACSIMILE: 617 973-9748

DIRECT DIAL NUMBER:
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April 11, 1991
18371-1

John R. Downey, Esquire
Union Carbide Chemicals and
Plastics Company, Inc.
39 Old Ridgebury Road
Danbury, CT 06817-6269

Judith Elledge, Esquire
Conoco Inc.
600 North Derry Ashford
Post Office Box 2197
Houston, TX 77252-2197

Mary Sundt, Esquire
The Dow Chemical Company
D30 Willard H. Dow Center
Midland, MI 48674

PRIVILEGED AND
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ORDER"

Re: Alice L. Warren, Administratrix v. The Dow
Chemical Company, Union Carbide, et al.;
Your File No. D-16183

Dear Counsel:

On April 9, 1991, I attended the deposition of Carlton Rehm ("Rehm") at his home in Holyoke, Mass. He has been confined to his home for the most part due to severe emphysema. He is permanently hooked to an oxygen tank, and he cannot leave the house for more than four hours at a time. The following is a brief summary of the salient points of his deposition testimony.

Rehm is a 65 year old retired Monsanto employee. He was employed by Monsanto at Indian Orchard between 1956 and 1982. Between 1956 and 1972, he worked as a foreman in the PVC production area. Specifically, he was a shift foreman and a day foreman in the PVC polymerization buildings 84, 88 and 92.

John Warren worked on the "B" crew in building 92, and Rehm was his direct supervisor between 1956 and 1960. As a shift

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HYANNIS, MASSACHUSETTS
COUNSEL: AMSTERDAM • LONDON • TOKYO

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J. R. DOWNEY

April 11, 1991

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foreman, Rehm would shift between various crews. He was assigned to the "B" crew for the above-mentioned four years and he also worked for the "D" and "C" crews. During the four years he supervised Warren, he estimated that he spent approximately two hours in direct contact with Warren during each eight hour shift. The two hours were not, however, consecutive. The PVC operation at Monsanto occurred 24 hours a day, seven days a week. Rehm believed that buildings 84, 88 and 92 were built early in 1956, and the PVC production process took place in all three buildings until 1972 when building 92 was converted for production of another product. After 1972, Rehm had no position involving PVC or VCM.

Warren worked primarily in building 92, and he was the lead kettle operator on that floor. Rehm described the layout of building 92 as containing eight reactors in the kettle area and four holding tanks ("slurries"), which were used for holding the product after the polymerization process. The tank farm was approximately 500 yards away and the VCM was stored in six tanks. The VCM would be channeled to building 92 or to the other two buildings through various pipes.

Rehm described the PVC polymerization process in detail. Basically, there were three common ways a worker was exposed to VCM during the polymerization process. The first instance was after the reaction process was complete, and the manholes to the kettles were opened. When this occurred, there was still residual VCM in the reactor. When the kettle was opened, monomer fumes escaped and typically the worker could smell it. Moreover, the worker could see what appeared to be "waves" of fumes (monomer) coming out of the manhole. The manhole covers themselves would remain open for approximately two hours because it took this long to dump the kettles. Rehm stated that he saw Warren exposed to VCM repeatedly in this manner.

The second manner in which a worker was exposed to VCM was when the operator cleaned the kettle. Again, residual VCM remained in the kettle, and no protective clothing was worn. The kettles were cleaned approximately every tenth batch. Rehm confirmed, however, that Warren was not responsible for cleaning the kettles as this was accomplished by a separate cleaning crew.

The third manner in which workers were exposed to VCM was when there was a spill or an accident of some kind (which was rare). Rehm cited two instances of Warren's involvement in such an accident. The first instance was when Warren attempt d to rescue another worker who fell into a kettle. Warren pass d

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April 11, 1991

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out from the fumes. Rehm confirmed that he was not present when this occurred and that he only heard of the occurrence through other people.

The second instance was when the "sight glass" shattered. This sight glass was used in building 92 so that the workers could see the VCM going through the pipes into the reactors. Apparently, the gasket fractured and this resulted in VCM escaping into the building. Rehm and Warren had to valve off each part of the sight glass and let the VCM "bleed out." The entire process from start to finish took approximately an hour.

There were six fans in the building for ventilation. There were four normal vent fans and two emergency vent fans. The emergency vent fans could change the air in the buildings in three minutes. Rehm did not know how quickly the air could circulate with the normal vent fans. There were also windows on three of the four sides of the building -- although they typically remained closed most of the time because it was easier to vent the air using the fans with the windows closed.

No protective clothing was worn by the workers in building 92 or the other buildings. Coveralls and gloves were available, and workers occasionally wore the gloves when they were in the process of "dogging" the kettles down (locking the manhole covers on the kettles). This was done to protect them from cuts and scratches and had nothing to do with protecting them from VCM exposure.

Monsanto provided Scot Airpacks to the employees, and the employees were taught how to use them. Rehm maintained that the employees were not, however, required to use them. Monsanto only recommended the use of such Airpacks in the event of a spill. Rehm admitted that it was a violation of safety procedure not to use the Scot Airpacks during the sight glass incident.

Monsanto had safety meetings every month at which different topics were discussed. Rehm could not recall specific discussions about VCM. All employees were required to attend safety meetings. There were also safety manuals provided in the buildings themselves. Rehm admitted that workers were encouraged to read those manuals although he did not know specifically what the manuals contained and did not know whether Warren read the manuals himself.

Rehm knew that he could be "anesthetized" from VCM fumes and that the fumes could cause him to feel "woozy." He knew in

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those circumstances that the best thing to do was to get out of the "bad air" area. He also was aware of the explosive potentials of VCM and that exposure to VCM in liquid form could cause "frostbite". Rehm had never heard of MSDSSs. He was not aware of any other hazards of VCM. Rehm stated that he never witnessed any other workers experiencing adverse symptoms, and he stated that Warren never complained to him about feeling ill.

Rehm stated that building 92 only smelled at certain times. The traditional "sweet smell" of VCM occurred primarily when the kettle was being dumped. Typically, five kettles were dumped every shift. Rehm estimated that approximately 1,450 gallons of VCM was needed for every 10,000 pounds of PVC.

Rehm was aware that Monsanto produced its own VCM. He also mentioned Union Carbide's and Dow's VCM, but he confirmed on direct examination that he only knew that Union Carbide and Dow were suppliers through "scuttlebutt" and bits and pieces he heard from other people. He stated that once in a while the technical man would mention that "they were on Union Carbide's vinyl chloride now" or "they were on Dow vinyl chloride now." On cross-examination he confirmed that anything he knew about Union Carbide and Dow came solely from what others had told him and that he had no personal knowledge of same. He confirmed that there was no way of telling during the PVC production process whose vinyl chloride was being used; that he had no need to know whose VCM was being used; and that there was no way of telling whose VCM workers were being exposed to. He further confirmed that he could not ascertain the particular suppliers when VCM was being drawn from the tank cars themselves.

Rehm also stated that he never heard Conoco being mentioned as a possible supplier. He also stated that he never heard of Goodrich being mentioned as a possible supplier.

Rehm discussed the various job responsibilities of the employees in building 92. Basically, there was the control operator (John Warren), two kettle operators and an assistant operator. The assistant operator's limited responsibilities were dumping and charging the kettle (loading it with VCM), weighing out raw materials, assisting in dogging down the kettle's manhole (closing it and clamping it), dumping the kettles, and bringing up raw materials from the warehouse. The kettle operator was able to do everything the assistant operator could do. His primary responsibility was charging the kettle, and he would also check and control the instruments for

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April 11, 1991

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pressure and temperature. The responsibility of the control operator was to oversee the operations of the kettle operators and assistant operators. The control operator was the most experienced operator and he was able to do all phases of the polymerization process.

Rehm recalled that there was some testing for air quality done at Monsanto but he did not recall the exact date. He also stated that all employees were required to have periodic health checkups and these records were kept at the Indian Orchard infirmary. He specifically remembered that he was given chest x-rays. He did not know the purpose for the health checkups.

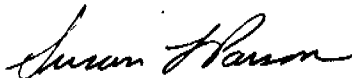
Overall, it was clear that Warren certainly was exposed to VCM on many occasions while in building 92. Nevertheless, it was equally as clear that Rehm could not state whose VCM Warren was exposed to during the entire time period.

Once the transcript is received, it will be forwarded to you for your review.

Please also note that Sharon and I had interviewed Mr. Rehm by telephone the day before his deposition, and his deposition testimony was fairly consistent with what he stated to us in the interview. Plaintiff's counsel did not ask Rehm whether he spoke to us prior to his deposition.

As always, we will continue to keep you advised of further developments as they occur.

Very truly yours,


Susan L. Parsons

SLP:ncg
1202i

cc: Ms. Yolanda Jackson (File No. H105L-76-034969)
Ms. Kelly Tubman (File No. 808 ERBY 225 33J)

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April 10, 1991
18371-1

John R. Downey, Esq.
Union Carbide Chemicals and Plastics Company, Inc.
Law Department
39 Old Ridgebury Road
Danbury, CT 06817-0001

Mary Sundt, Esq.
The Dow Chemical Company
D30 Willard H. Dow Center
Midland, Michigan 48674

PRIVILEGED AND
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Re: Alice L. Warren, Administratrix
v. The Dow Chemical Company, Union Carbide, et al

Dear John and Mary:

I enclose a copy of Plaintiff's Motion to Vacate Protective Order for Conoco, Inc. I have communicated separately with Judy Elledge about this, and intend to oppose it on behalf of Conoco. The opposition will raise some of the issues relating to product identification, about which we have all spoken.

Please call if you have any questions.

Best regards.

Very truly yours,

Sharon R. Burger
Sharon R. Burger

SRB/jlf
enclosure

cc: Judith Elledge, Esq.
Ms. Yolanda Jackson (File No. H105L-76-034969) J R Downey
Ms. Kelly Tubman (File No. #808 ERBY 225 33J)

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April 8, 1991
18371-1

BY FEDERAL EXPRESS

Clerk, Civil
United States District Court
District of Massachusetts
Western Section
Federal Building and Courthouse
1550 Main Street
Springfield, MA 01103-1422

Re: Alice L. Warren, Administratrix v. The Dow
Chemical Company, Union Carbide, et al.;
Your File No. D-16183

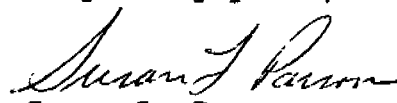
Dear Sir/Madam:

Enclosed for filing is an original and one copy of Assented
to Motion to Admit Susan L. Parsons to Appear As Counsel Pro
Hac Vice in the above-captioned case. filed CP
4/8/91

Please time stamp the copy of the Assented to Motion and
return to this office in the enclosed, self-addressed stamped
envelope.

Thank you for your attention to this matter.

Very truly yours,


Susan L. Parsons

SLP:ncg
1148i

Enclosures

cc: James H. Tourtelotte, Esq.
Joseph E. Rendini, Esq.

bcc: John R. Downey, Esq.
Judith Elledge, Esq.
Mary Sundt, Esq.
Ms. Yolanda Jackson (File No. H105L-76-034969)
Ms. Kelly Tubman (File No. 808 ERBY 225 33J)

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J. R. DOWNEY

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Warren v KC

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DIRECT DIAL NUMBER:
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April 5, 1991
18371-1

VIA FEDERAL EXPRESS

Office of the Civil Clerk
United States District Court
Federal Building and Courthouse
1550 Main Street
Springfield, Massachusetts 01103-1422

Re: Alice L. Warren, Administratrix v. The Dow
Chemical Company, Union Carbide, et al.;
Your File No. D-16183

Dear Sir/Madam:

Enclosed for filing are an original and one copy of each of
the following documents in the above case:

- Filed
CPS
4/5/91
1. Answer of Defendant Conoco, Inc. to Second Amended Complaint.
 2. Answer of Defendant The Dow Chemical Company to Second Amended Complaint.
 3. Answer of Defendant Union Carbide Chemicals and Plastics Company, Inc. to Second Amended Complaint.

Please time stamp a copy of each answer and return same to
this office in the enclosed, self-addressed stamped envelope.

HYANNIS, MASSACHUSETTS
COUNSEL: AMSTERDAM • LONDON • TOKYO

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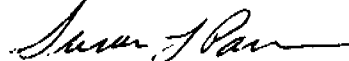
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NUTTER, McCLENNEN & FISH

April 5, 1991
Page Two

Thank you for your attention to this matter.

Very truly yours,


Susan L. Parsons

SLP:ncg
1087i

Enclosures

cc: James H. Tourtelotte, Esq.
Joseph E. Rendini, Esq.

bcc: ~~John R. Downey, Esq.~~
Judith Elledge, esq.
Mary Sundt, Esq.
Ms. Yolanda Jackson (File No. H105L-76-034969)
Ms. Kelly Tubman (File No. 808 ERBY 225 33J)

UCC 080874

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TELEPHONE: 617 439-2000 FACSIMILE: 617 973-9748

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CORR
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April 5, 1991
18371-1

R. Nicholas Wheeler, Jr.
1912 Shady Branch Trail
Richmond, VA 23233

Re: Alice L. Warren, Administratrix v. The Dow
Chemical Company, Union Carbide, et al.;
Your File No. D-16183

Dear Nick:

I enclose a document which you provided to us in response to plaintiff's request for production of documents. I am at a loss as to what this document is. Thus, if you could review same and give me a call, I would very much appreciate it.

Very truly yours,


Susan L. Parsons

SLP:ncg
0995i

Enclosure

cc: John R. Downey, Esq. (enclosure)

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COUNSEL: AMSTERDAM • LONDON • TOKYO

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ANALYSIS NUMBER			
SAMPLE OF	<i>Acceptance</i>		
SAMPLE FROM	<i>414.1031 of E-38 Motorcade After washed Mon hole cap on Dispensing Machine BH 190</i>		
SAMPLED BY	<i>Tracy & Barker</i>		
HOUR	<i>2 PM</i>		
DATE	<i>4-3-73</i>		
<i>Border Division is</i>		<i>66.5</i>	
<i>Attraction</i>		<i>32</i>	
<i>Border divisions</i>		<i>212.9</i>	
<i>W. / 1 ppm</i>		<i>17.3</i>	
<i>Chloride ppm</i>		<i>123</i>	
ANALYSIS BY	<i>Barker</i>		
DATE	<i>4-3-73</i>		

Sampled on the 8 Floor
Approx 4 Ft. East of 7-35 Building
Nitric oxide wash & Nitrate - open
on top.

Tarpaulin enclosed area.

REF:

APR 05 1973

R. N. WHEELER, JR.

Recorder Divisions	66.5
Attraction	32
Total Recorder Divisions	212.5
Div. 11 ppm	17.3
Unyl Chloride ppm	123