

STATE OF LOUISIANA :
 : SS.
PARISH OF EAST BATON :
ROUGE

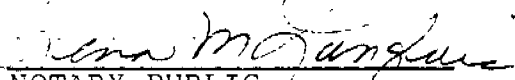
AFFIDAVIT

The undersigned, David C. Bach, Esquire, being duly sworn according to law, hereby deposes and says that he is Assistant Counsel of Ethyl Corporation, a defendant in the within action, that as such he is authorized to execute this affidavit on its behalf, that he has read the attached answers to interrogatories and that same are true and correct to the best of his knowledge, information and belief.



DAVID C. BACH, ESQUIRE

Sworn to and subscribed
before me this 26th
day of January, 1989



NOTARY PUBLIC

LENA M. LANGLOIS
NOTARY PUBLIC
EAST BATON ROUGE PARISH, LA.
MY COMMISSION IS FOR LIFE.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has this date caused a true and correct copy of the attached document to be served on counsel of record for all parties by forwarding same first-class mail, postage prepaid, addressed as follows:

Martin K. Brigham, Esquire
Galfand, Berger, Lurie & March
Suite 1200
1737 Chestnut Street
Philadelphia, PA 19103

Frank P. Tuplin, Esquire
Atkinson & Archie
2101 Pine Street
Philadelphia, PA 19103


RICHARD C. BIEDRZYCKI

Dated: February 6, 1989

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ESTATE OF JOSEPH GILL,	:	CIVIL ACTION
STELLA GILL, Adm., and	:	
STELLA GILL, in her own right,	:	NO. 88-8807
	:	
Plaintiffs	:	
	:	
v.	:	
	:	
BORDEN, INC., et al.,	:	
	:	
Defendants	:	<u>JURY TRIAL DEMANDED</u>

SUPPLEMENTAL ANSWERS AND OBJECTIONS TO PLAINTIFF'S
FIRST SET OF INTERROGATORIES ADDRESSED TO DEFENDANT
SHELL OIL COMPANY

Without waiving its previously served objections, defendant Shell Oil Company supplements its previous answers and objections to plaintiff's interrogatories, subject to said objections, as follows:

9.15

GALFAND, BERGER, LURIE & MARCH

BY MARTIN K. BRIGHAM

Identification No. 33717

Suite 1200

1737 Chestnut Street

Philadelphia, PA 19103

(215) 665-1600

Attorney For Plaintiff

ESTATE OF JOSEPH A. GILL BY
STELLA S. GILL, Administratrix and
STELLA S. GILL, In her own right

vs.

BORDEN INC.,
DOW CHEMICAL COMPANY,
SHELL OIL COMPANY,
VISTA CHEMICAL COMPANY,
THE BF GOODRICH COMPANY,
ETHYL CORPORATION

:
: COUNTY OF PHILADELPHIA
:
: COURT OF COMMON PLEAS
: CIVIL TRIAL DIVISION
:
: AUGUST TERM, 1988
:
: NO. 5850
:

SUPPLEMENTAL ANSWERS AND OBJECTIONS TO
PLAINTIFF'S FIRST SET OF INTERROGATORIES
ADDRESSED TO DEFENDANT SHELL OIL COMPANY

Pursuant to the Pennsylvania Rules of Civil Procedure, you
ar required to file full and complete Answers, under oath, to these
Interrogatories within thirty (30) days from the service hereof.

DEFINITIONS:

As used in this set of Interrogatories, the following terms
mean:

A. The words "you," or "your company" mean the corporate
defendant separately answering these Interrogatories, its parent(s) its
merged, consolidated, or acquired predecessor, divisions, subsidiaries,
and/or affiliates, including present and former officers, directors,
agents, employees, and all other persons acting or purporting to act on
behalf of the corporate defendant or its predecessors, subsidiaries
and/or affiliates; "Predecessor(s)" mean any business firm, whether or
not incorporated, which had all or some of its assets purchased by you
or came to be acquired by you whether by merger, consolidation, or
otherwise; "Successor(s)" means any business firm, whether or not

incorporated, which purchased all or some of your assets or which acquired you or any of your predecessors, whether by merger, consolidation or otherwise.

B. Investigation. This term shall include any and all inspections, examinations or tests of (a) the product, (b) the incident, and (c) the scene of its occurrence - no matter when conducted or by whom conducted and geography, beginning at the time and place at which it was first assembled or manufactured as a completed product or a finished product and ending at the present date and place of its location.

C. Study, Studies. Either or these words is intended to refer to any study made by or on behalf of the defendant or a study made by some other person, firm or corporation to which the defendant referred in selecting the design that was adopted by the defendant for said product (or any subsequent change thereto) or in the course of the investigation of "said incident." The word study includes marketing analysis, "predictive analysis," "tests," engineering analysis of "hazards" and "benefits," "cost/benefits" analysis, "quality assurance" analysis, documentation of or summaries of analysis of "other similar incidents."

D. Test(s). This word is intended to refer to any test made by or on behalf of the defendant or tests made by some other person, firm or corporation to which the defendant referred in selecting the design that was adopted by the defendant for said product (or any subsequent change thereto), or in the course of the investigation of said incident. The word test(s) includes static and dynamic tests, whether involving models or full size components; the word test(s) includes computer-simulated dynamic and static testing.

E. As used herein, the words "person" or "persons" include natural persons, firms, partnerships, associations, joint ventures, corporations and any other form of business organization or arrangement.

F. "Identify" when referring to a person or business means to list the full name, address and phone number; "identify", when referring to a document means to state its title, date, subject matter and substance, its author and each addressee, its present location, and its present custodian.

G. The term "said products" or "products" as used hereinafter in these Interrogatories shall mean vinyl chloride and vinyl chloride containing resins.

H. "Plaintiff's employer" is defined as Firestone Tire and Rubber Company and its successor Occidental Chemical Corporation, Armand Hammer Boulevard, Pottstown, PA.

I. "Alleged period of exposure" refers to the period of time from 1947 to May, 1987 during which Plaintiffs have alleged that Plaintiff was exposed to said product.

J. These Interrogatories are deemed to be continuing and the Defendant is to supply such information and/or documents as they become aware of and/or as such becomes available.

INSTRUCTIONS:

K. If the Interrogatory asked for information which could have at some time been answered by consulting documents which are no longer in existence, then in answer to such Interrogatory:

- (a) Identify what information was maintained;
- (b) Identify all the type(s) of documents which contained such information;
- (c) State the time period during which such documents were maintained;
- (d) State the circumstances under which such documents ceased to exist;
- (e) State the date when such documents ceased to exist;
- (f) Identify all persons having knowledge of the circumstances under which such documents ceased to exist; and
- (g) Identify all persons who have knowledge or had knowledge of the documents and the contents thereof.

L. If Defendant exercised its option to produce business records in lieu of responding to any Interrogatory, the following procedure is to be followed:

- 1. In response to such Interrogatory, Defendant shall state:
 - (a) The identity of the records containing the answer;
 - (b) Whether other copies of each record are presently in existence, and if so, identify (1) the location of other copies by stating the name(s) of the file(s) in which they are kept and (2) the person(s) who received copies thereof;
 - (c) Whether other copies of each record were at any time in existence and if so, for each record, identify (1) each file in which a copy was manifested, (2) the dates during which such record was in existence, (3) the circumstances under which such record ceased to exist; (4) all persons having knowledge of the circumstances under which such record ceased to exist; and (5) all persons receiving copies of such records; and

(d) The identity of all persons reviewing such documents.

2. In producing such records, Defendant will produce such records separately and will designate the Interrogatory or Interrogatories to which such record responds, as well as the identification of the file(s) from which the documents were segregated.

M. If you object to any Interrogatory based upon an assertion that the Interrogatory is too broad or over inclusive, then state the objection and answer the Interrogatory subject to the limitations you prescribe.

N. If you object to any Interrogatory based upon privilege, either the attorney client privilege or attorney work product doctrine, then state the objection and identify any documents, by title, which contain the information to which is being objected.

INTERROGATORIES

1. Prior to answering these Interrogatories, have you made due and diligent search of all books, records, and papers of the Defendant and due and diligent inquiry of all agents employees of the Defendant with a view to eliciting all information available in this action?
2. Please identify each person who has supplied information used in answering these Interrogatories and specify the Interrogatories for which he is responsible.
3. Identify each person who was questioned or consulted in order to answer these Interrogatories.
4. Identify each document that was examined, reviewed, and/or used in answering each Interrogatory and specify the Interrogatory.

5. State your correct name and address as of the following dates:

a. May, 1967;

Shell Oil Company
50 West 50th Street
New York, NY 10112

b. May, 1987;

Shell Oil Company; One Shell Plaza,
Houston, Texas 77001

c. The present date;

See answer to no. 5(b)

6. With respect to Plaintiffs' pleadings filed in this civil action, has your name been correctly spelled and stated?

Yes

If not, then state how you might be properly designated in an action at law on each of the following dates:

a. May, 1967;

(a-c) Not applicable.

b. May, 1987;

c. The present date.

7. If you are a partnership, please state:

- a. The names and addresses of each and every partner, both on the date of May, 1987 and on the present date;

(a-c) Not applicable.

- b. The date on which your partnership was formed, and business address at time of formation;

- c. Whether you are a general or limited partnership.

8. If you are a corporation, then state:

- a. Date and place of your incorporation;

a. 2/8/22; Delaware

- b. The address of your principal place of business;

b. See answer to no. 5(b).

- c. The correct name, designation of business entity, and details of your relationship with any parent, subsidiary, or affiliate corporation, conglomerate, cartel, partnership, etc.

9. If you are either a successor or a predecessor to some other legal entity, then state:

- a. The date on which the transaction by which you became a successor or predecessor was completed;

- b. The correct name, designation of legal entity, and details of your relationship with any successor or predecessor corporation, partnership, person, cartel, conglomerate, etc.

10. a. List all shipments of the product, (see definition G) which you and/or someone on your behalf supplied, distributed, sold, merchandised or delivered either directly or indirectly to Plaintiff's employer during the period during Plaintiff's alleged period of exposure (see definition I).

- a. Based on currently available records, Shell's sales to the Pottstown facility began in 1973. Shell's records as to pre-1973 sales are incomplete. Shell had no VCM sales prior to 1971. See computer generated year end sales runs for 1973 through 1987 being produced in response to request for production.
- b. For each shipment listed in 10(a) provide the date and amount, in volume and monetary value, of each transaction; identify all documents regarding these transactions.
- b. See answer to no. 10(a). Invoices for sales to Pottstown facility can be obtained, if relevant and necessary.

11. What was and is the intended use of the product, (see definition G), shipped to Plaintiff's employer?

12. For each shipment identified in Paragraph 10(a) state:

- a. The generic name;
vinyl chloride monomer
- b. The brand name;
Not applicable.

- c. The chemical composition of each shipment, including the amount of each ingredient by weight and/or by volume;

See MSDS sheets being produced in response to request for production.

- d. The year of manufacture;

Manufacture closely preceded date of sale. See answer to no. 10(b).

- e. The address of each plant or facility which produced each of the aforesaid shipments;

VCM delivered to the Pottstown facility would have been produced at the following facilities during the following time periods:

1973-6/12/87: Deer Park, Texas

1973-1980 (approx.): Norco, Louisiana.

- f. If you did not manufacture the product, identify who did;

Not applicable.

13. For each and every shipment listed in answer to question 10:

- a. Describe how the product was packaged when the product left your possession; include type of container, color, and all external markings;

VCM was shipped by Shell in bulk quantities, and therefore, was not packaged in containers for shipment. Methods of shipping bulk quantities could have been by railroad tank car, by tank truck or by barge. Contracts for sale of VCM to the Pottstown facility which could be found and which are produced in response to Request No. 14 of plaintiff's requests for production of documents anticipate that shipments of the VCM were to be made by railroad tank car.

- b. If there was/is any writing on the outside of the container: please attach either a copy of the writing or label or state the complete wording of any writing (include type, size and color);

Investigation is continuing.

- c. If any of the forgoing changed during Plaintiff's alleged period of exposure, please indicate the dates of usage for each container type and the writing on each container.

Investigation is continuing.

14. With respect to each and every shipment listed in answer to question 10, did you conduct any test, study, inspection, or quality control examination of the product prior to it leaving your control?

If your answer is in the affirmative, then:

- a. Identify all individuals who participated in any tests, studies or inspections;

(a-d) Objection. There is no allegation that VCM was defectively produced or manufactured by this defendant.

- b. State the date(s) of all tests, studies or inspections and all locations where tests, studies or inspections were conducted;

c. Identify each and every document or writing, by whatever name called, that related to or reflected the conduct of or the conclusion of any such investigation, study or test, specifically including, but not limited to photographs or statements;

d. State the results of each test, study or inspection.

15. At anytime have you manufactured, blended, marketed, supplied or distributed the product as defined at definition G?

If yes, then state:

a. The inclusive dates which you have manufactured, blended, packaged, marketed, supplied or distributed the product;

Manufacture and sale: 9/71-6/12/87.

b. For each year, the annual volume of sales.

For sales to Pottstown facility, see year end sales runs.

6. Do you own, or have you been granted the license to use, any patent or patent right with respect to the product, the component ingredients of said product, and/or the manufacturing process used to make said product?

If yes, then identify:

- a. The title of each patent;
- b. The number of each patent;
- c. The holder of each patent.

17. With respect to Plaintiffs' alleged period of exposure, for each and every chemical ingredient which you purchased in order to make the product, identify:

- a. The name of the chemical, both generic and brand name;
- b. The name of the chemical supplier;

c. The years during which the supplier provided the product;

d. Each and every document provided to you regarding any potential health hazard or risk of injury caused by potential exposure to the chemical ingredient, including but not limited to material safety data sheets.

18. Have any tests been conducted by you or on your behalf on the product in order to determine potential health hazards involved in the use, handling or exposure to the product or the materials contained therein?

If yes, state for each product:

a. The identity of each individual or firm who conducted such tests;

Investigation is continuing.

b. The date, purpose and result of each such test;

- c. Identify and produce all documents relating to such tests.

19. Have you made any changes in your product(s), the component ingredients selected to be used in said product, the packaging of said product and/or any warnings or instructions accompanying said product as a result of such test?

If so, state:

- a. The product change(s);

(a-d) See MSDS sheets produced in response to request for production.

- b. The nature of the change(s) made;

- c. The purpose(s) of the change(s);

d. The date of such change(s);

e. The identity of each person or firm responsible for making the change(s).

20. Is it now, or has it ever been the policy of your company to take every reasonable step to reduce or eliminate the risk of injury or disease which might be associated with the use of, handling of, and/or exposure to your product?

21. List each and every potential injury or illness which may be caused by or contributed to as the result of use of, handling of, storage of and/or exposure to your product in light of its foreseeable uses and misuses.

Objection. This interrogatory requires defendant to draw a legal conclusion as to which uses may have been "foreseeable." See MSDS sheets being produced in response to request for production. Scientific studies and other literature are publicly available.

22. Have you or your predecessors or successors ever recalled said product during the past ten years?

If yes:

a. The date of such recall;

Not to the best of defendant's present awareness.
Investigation is continuing.

b. The reason for such recall;

c. The specific product recalled;

d. The method of recall.

23. During the period of time of Plaintiffs' alleged period of exposure, has any written material of any kind been prepared or used by you indicating how the product should be used, stored, applied or handled by purchasers; and/or has any written material or instruction of any kind, been prepared or used by you indicating the type of personal protective equipment to be worn while working with and/or in the area of use of the product?

If so, please state:

- a. Identify each person or firm who prepared same;
- (a-d) See MSDS Sheets, Vinyl Chloride Monomer Safety Notice and relevant portions of Shell Chemical Safety Guide, copies of which are being produced in response to plaintiff's request for production. Additional MSDS sheets, in particular nos. 645-2, -4 and -6, were prepared by Shell. Copies of same have not been located by Shell to date. Investigation is continuing.
- b. Identify each person or firm who presently has possession of same;
- c. The date(s) and manner in which said material was distributed to purchasers or users of your products(s);
- d. Identify, produce and attach all such documents to these answers.
- e. Identify all documents provided to Plaintiff's employer and the date, and manner provided.
- e. See mailing report and copies of correspondence, copies of which are being produced in response to plaintiff's request for production. Additional documents may have been provided at various times. Investigation is continuing. Further, this information should be in the possession of decedent's employer.

24. a. With respect to the last ten years, identify the person or persons who were in charge of safety, product review, industrial hygiene or their functional equivalent for the Defendant.
- b. With respect to the last ten years, identify the person or persons who were in charge of preparing material safety data sheets, product labels, injury prevention systems, and written material regarding potential health hazards for the Defendant.
25. During the Plaintiff's alleged period of exposure, list the wording (verbatim) of the complete labeling affixed to any and all containers of the product and/or accompanying all shipments containing the product which you marketed and/or distributed to Plaintiff's employer.

VCM was sold and shipped to the Pottstown facility in bulk quantities (most likely in railroad tank cars). Therefore, there were no containers used in shipments to which labels could be attached or affixed. Investigation is continuing to determine what kinds of warning documents would normally accompany bulk shipments of VCM during the relevant period and whether or not it can be determined what documents actually accompanied shipments of VCM to the Pottstown facility during such relevant period.

6. During the Plaintiff's alleged period of exposure, identify each and every document, if any provided to Plaintiff's employer which advised or warned of any potential health hazards of the use, handling and storage on Defendant's product.

See answers to no. 23(a-e).

- a. For each such document, describe how each document was provided to Plaintiff's employer.

Mail, to the best of defendant's current information and belief.

27. Have you at any time published and/or distributed to anyone any document containing any warnings, advice and/or discussion concerning the possibility of illness, disease, or injury resulting from the use of or exposure to said products?

If so, please state:

- a. The wording of each such warning;

See answer to no. 23(a-d).

- b. A description of each such document, including size, color and type of print;

See answer to no. 23(a-d). Original MSDS is yellow. Original VCM Safety Notice has white cover with red letters and yellow markings. Cover of Chemical Safety Guide is green with a red cross and black lettering.

- c. The method used to distribute the warnings to persons who are likely to use, handle or be exposed to your products(s);

See answer to no. 26(a).

- d. The date(s) such warning was issued;

See MSDS sheets. VCM Safety Guide issued in 1980;
Chemical Safety Guide issued in 1979.

- e. Identify each person who presently has possession of the above-described documents;

Vern Haugh, Manager, Health and Environment
Administrative Services.

- f. Identify and list all documents mentioned in parts (a) through (e) of this question;

See answer to no. 23(a-d).

- g. In particular, was any warning ever given, either in writing or in any other way concerning the possibility of pulmonary, neurologic, carcinogenic or immunological damage caused by physical exposure to the product?

See answer to no. 23(a-d). Said documents speak for themselves.

- h. If any recommendations were made to limit the possibility of these health hazards either through production design or personal protective equipment, please list those recommendations.

See answer to no. 23(a-d).

- i. List and identify all warnings provided to Plaintiff or Plaintiff's employer.

See answer to no. 23(a-e). Said documents speak for themselves.

- j. List and describe any testing, performed by you or on your behalf, to determine if any warning sign, label, or placard was effective in advising foreseeable uses as to any potential risk or hazard.

Not applicable due to bulk sales to sophisticated purchaser/user to whom defendant supplied warnings.

28. Have you either specifically forbidden, warned against or suggest d any kind of restriction or limitation of the use of said product?

If so, please state:

- a. The name, address and relationship of the person or persons who determined said restriction or limitation;

b. The name, address and relationship to you of the person who wrote the document restricting or limiting the use of said product;

c. The identity and description of any document or publication in which any and each such restriction or limitation on the use of said product was published.

29. Have you ever given any warnings to your employees as to the potential risk of illness, injury and/or disease by reason of their use of, handling of, or exposure to these products or their component ingredients?

If so, state:

a. The date of each such warning;

b. How such warnings were given;

c. If such warnings were written, state:

1. The date(s) of such warning(s);
2. The present location of such warning(s);
3. The names and addresses of individuals who prepared such warning(s);
4. Where and/or how such warnings(s) were posted;
5. The reasons for such warning(s);

d. Describe in detail what personal protective equipment you provide and/or recommend to your employees who work with the product or work in an area where there is a potential of exposure to said product.

Defendant no longer produces VCM.

30. To your knowledge, does any governmental or private agency, or other entity, issue guidelines suggesting (a) personal protective equipment to be worn while working with or in the area of the product and/or (b) safe industrial hygiene practices to be followed while working with or in the area of the product?

If so:

- a. Identify the agency or entity issuing the guideline;

OSHA and ACGIH.

- b. State the content of the guideline(s) verbatim;

This information is publicly available.

- c. State the date issued and the date you first knew the purpose of the guideline(s).

This information is publicly available.

31. Please describe in complete detail the substance and contents of all claims or representations made by you, to Plaintiff and/or to Plaintiff's employer either orally or in writing, as to the

quality, safety, or fitness of the products during the ten year period immediately preceding Plaintiffs' last day of alleged exposure.

None to the best of defendant's information and awareness.
Investigation is continuing.

32. Have you, at any time, been a member of any "trade association" or association composed of other manufacturers, suppliers, distributors, producers, processors, compounders, converters, sellers, merchandisers, and/or anyone otherwise placing in the stream of commerce the product as defined in definition G?

Yes.

If so, state:

- a. Identify each such association or organization;

Defendant is currently a member of the Chemical Manufacturer's Association and the American Petroleum Institute. Investigation is continuing.

- b. The dates during which you were a member;

See answer to no. 32(a).

- c. The names of any publication published by or written by such association or organization;

(c-g) This information should be acquired from the respective associations.

- d. The dates and addresses of all other members;
- e. What meetings you attended and identify who attended;
- f. Who spoke at such meetings;
- g. Were transcripts or summaries or minutes or notes made of such meetings.

If so, identify the above, tell specifically what was made and give the name, title and address of the person or persons who have custody of the transcripts and/or summaries and or minutes and/or notes mentioned above and state when and where counsel for the Plaintiff may examine and copy these documents.

33. Have you been contact d by or learned of any person(s) who alleg s that or questions whether s/he has suffered any adverse health effect as the result of the use, handling, storage and/or exposure to your product?

If yes, then state:

- a. The name of such person(s);
- b. The date you first learned of their allegation or inquiry;
- c. The name of your product identified by the person;
- d. The types of symptoms allegedly suffered by the person;
- e. Any investigation performed by you or on your behalf regarding said allegation or inquiry.

34. Has a suit of law or equity even been instituted against you where it has been alleged that physical injury or death has resulted from use of and/or exposure to the products?

If yes, then state with complete detail:

- a. The date of this alleged injury;
- b. The name and address of the party so injured;
- c. The caption of said lawsuit, including the parties name and the court term and number;
- d. The name, location, and address of the court where the claim or suit was filed;
- e. The name and address of Plaintiff's legal counsel;

f. The type of injury allegedly suffered;

g. The name of your product which is the subject of said suit;

h. If the matter has been resolved through judgment, settlement or release, please indicate outcome.

36. Does the Defendant have a safety or industrial hygiene department or employees whose jobs or functions include availability for consultation in, and/or the making of recommendations regarding the design, manufacture, marketing, labeling or packaging of the product and/or product literature?

If so, then state:

a. The name, address, job titles, and division and/or department of any such person or persons;

- b. Which of these persons were consulted during the design, manufacture, labeling, packaging, or information provided regarding the products?

37. Do you contend that the Plaintiff either was using the product, or was exposed to a use of said product, in a manner which was not intended, not recommended or was outside the scope of the uses for which you anticipated said product?

If so, then:

- a. Describe in detail how or in what specific manner said product was being misused;

- b. Describe and identify each and every writing or oral statement regarding the proper intended use of said product which you say were violated by the use of said product on the occasion of said incident.

38. Do you contend that the condition of the products sold was changed or altered in any way that would affect your liability after said product left your possession, control, or custody and before Plaintiff's exposure occurred as alleged by Plaintiff? If so, then:

- a. Summarize the substance of your contention in this regard;

- b. Describe in detail what you contend was changed, altered or modified;
- c. State when said change, alteration, or modification occurred and where said product was when it occurred;
- d. State who you say caused or permitted any change or alteration or modification;
- e. State the facts and evidence upon which this contention is based;

- f. State the name and address of the person who has in custody any note, record, or other document or thing that would reflect or relate to any such change, alteration, or modification.

39. Specify with particularity every precaution which you allege that the Plaintiff or Plaintiff's employer could have and or should have taken in order to reduce or eliminate the risk of injury or diseases which Plaintiff alleges that Plaintiff suffers from.

See MSDS sheets, Safety Notice, OSHA regulations, ACGIH guidelines.

40. Do you contend that the Plaintiff assumed the risk of Plaintiff's injury? If so, state:

a. Each and every fact which you allege supports that contention;

b. The name and address of each and every witness whom you reserve the right to call as a witness to support that contention at the time of trial;

41. Do you contend that the Plaintiff was negligent and/or contributorily negligent?

If yes, then state:

- a. Each and every aspect of Plaintiff's conduct that was either negligent or contributorily negligent.
- b. The name of each person who has personal knowledge regarding the conduct of the Plaintiff which the Defendant contends was negligent or contributorily negligent.

42. Do you contend that the Plaintiff's injuries were caused by person(s) over whom the Defendant had no control or relationship?

If yes, then state:

- a. The identity of such person(s);
- b. How and in what manner such other person or persons caused or contributed to Plaintiff's injuries.

43. Was the use, storage, or application of the product demonstrated by you to Plaintiff's employer?

If so, state:

a. The dates on which such demonstrations took place and the places at which such demonstrations were held;

b. The name and title of the representatives who so demonstrated;

c. The name, address and position held with Plaintiff's employer of the persons for whom the use and operation was demonstrated;

44. Have you or any representatives ever visited the work facility of Plaintiff's employer?

If yes, please state:

a. The dates on which such visits took place;

b. Name and title of the representatives;

c. Subject matter of visit.

45. List each and every action taken by you or on your behalf to ensure that Plaintiff was advised as to the potential health hazards of your product.

See MSDS sheets and Safety Notice; sales to sophisticated purchaser/user with knowledge of hazards and protective measures required.

46. a. List each and every action taken by you prior to the filing of this lawsuit to determine if the Plaintiff's employer had advised Plaintiff of the potential health hazards of the product.

Defendant had no control over decedent's employer's activities and communications with its employees. Employers were sophisticated purchasers/users.

- b. List each and every action taken by you prior to the filing of this lawsuit to determine if the Plaintiff's employer had provided Plaintiff with

a safe place in which to use, handle, and be exposed to your product.

See answer to no. 46(a).

47. Have you provided in the past ten years any type of training for your dealers or distributors of your products?

If yes, then state:

- a. The type of training provided;
- b. The length of training provided;
- c. The place of training;
- d. The subject matter of training;
- e. Whether said training involved or included instruction regarding the safe use, storage and/or handling of Defendant's products;

f. Whether said training involved instructions as to the proper safety devices which should be used with Defendant's products;

g. Whether said training included the recognition of hazards and/or risks of injury or disease associated with the use of Defendant's products;

h. The name of Defendant's employee(s) in charge of said training program(s).

48. Did you provide any type of training to Plaintiff's employer on the product in question?

If yes, then state:

a. The type of training provided;

(a-g) Decedent's employer was a sophisticated purchaser/user. See MSDS sheets and Safety Notice.

- b. The length of training provided;
- c. The place of training;
- d. The subject matter of training;
- e. Whether said training involved or included information regarding the safe use, storage, and/or handling of Defendant's products;
- f. Whether said training involved instructions as to the proper safety devices which should be used with Defendant's products;
- g. Whether said training included the recognition of hazards and/or risks of injury associated with the use of Defendant's products;

49. Have you conducted or had conducted for you or do you plan to conduct or have conducted for you any investigation for the purpose of this lawsuit; that is, either to provide direct evidence or for the purpose of providing information upon which other witnesses would testify?

If your Answer to this Interrogatory is in the affirmative, then state:

- a. The purpose of each such test, study, calculation, or inspection;
- b. The results of each test, study, calculation, or inspection;
- c. The name and address of the person who has in his custody or control any document or thing relating to any such test, study, calculation or inspection.
- d. State the name and addresses and relationship to you of each and every person who participated in each such investigation;

- e. State the dates on which or during which each and every such investigation took place;
- f. State the address (corresponding with the dates you have just given) of the places or locations at which each such investigation took place;
- g. Describe fully and in detail each and every finding or observation made in the course of each and every such investigation.
- h. Summarize the recommendations, if any, of each and every such investigation.

- i. Describe and identify each and every document or writing by whatever name called that relates to or reflects the conduct of or the conclusions of any such investigation (specifically including, but not limited to photographs and statements).

50. State the name and present address of each and every person you know or have reason to believe might have knowledge of discoverable matter relevant to the issues (whether claims or defenses) presented in the present cause.

51. Do you have knowledge of, or the description of, any other person(s) who may possess knowledge or information related to any of the issues presented by the pleadings in the above-styled cause in addition to or other than the names of the witnesses actually known to you and listed above?

If so, then:

- a. State the number of such other persons;

- b. Describe any identifying circumstances which give you cause to suspect there may be other, as yet unidentified witnesses.

52. Has any person who may have facts or information relative to any of the issues, whether claims or defenses, in the present proceedings, given any statement, whether written or oral, whether now in your possession or not?

If so, then state:

- a. The names and addresses of each and every such person;

- b. Which of these persons gave statements that are not now in your possession or control;

- c. The name and address and relationship to you of the person or persons who have in their control or custody copies of any and all statements;

d. The name, address, and relationship to you of any person who took any such statement, when it was taken, and where it was taken.

e. The verbatim content of said statement.

53. With regard to a document or other tangible thing which either in itself contains or constitutes evidence or which may relate to or lead to discoverable matter, please state:

a. The description of each such item;

b. Its present location;

- c. Th name and address and relationship to this defendant of the person or persons who have custody of each such item.

54. Do you or anyone acting on your behalf know of the existence of any photographs, motion pictures, video recordings, maps, diagrams or models of the site of the accident, the parties, Defendant's product, Defendant's product containers, or any other subject matter involved in this action?

If the Answer is in the affirmative, identify:

- a. The date or dates when they were made and what they are;

- b. The name and addresses of the person making them;

- c. The subject that each represents or portrays;

- d. The name and address of the person who presently has custody of said items.

55. For each and every witness you intend to call at trial, state:

- a. Name, age, business and home address;
- b. The subject(s) on which he/she is expected to testify;
- c. Summary of the fact(s) to which he/she will testify.

56. Identify fully all documents intended to be offered at the trial for any use including, but not limited to medical and scientific text to be relied upon and business records of the Defendant.

57. Are you covered by any type of insurance for the injuries alleged in Plaintiff's Complaint, including any excess or umbrella insurance, in connection with this accident?

If the Answer is affirmative, state the following with respect to each policy:

- a. The name of the insurance carrier which issued each policy of insurance;
- b. The named insured under each policy and the policy number;
- c. The type of each policy and the effective dates;
- d. The amount of coverage provided for injury to each person, for each occurrence, and in the aggregate for each policy;

- e. If the policy has an aggregate limit, list:
- i. The aggregate for each policy;
 - ii. The number of claims, and the amount of money for each claim, which has been paid under the aggregate;
 - iii. The number of claims, and the amount of money reserved for each claim which has been made but not paid under the aggregate.
- e. Each exclusion, if any, in the policy which is applicable to any claim thereunder and the reasons why you or the company claims the exclusion is applicable.

GALFAND, BERGER, LURIE & MARCH

By:

Martin K. Brigham
MARTIN K. BRIGHAM
Attorney for Plaintiffs

OCT. 18 1988

Served on Defendant
Sun Company, Inc.