

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

JO ANN M. CHARLES, ET AL

CIVIL ACTION NO. 94-278-B-2

VERSUS

JUDGE POLOZOLA

RAMSAY, SCARLETT & CO.,
INC., ET AL

MAGISTRATE NOLAND

VERSUS

THE DOW CHEMICAL COMPANY, ET AL

**THE DOW CHEMICAL COMPANY'S RESPONSES TO
MINNESOTA MINING AND MANUFACTURING COMPANY'S
REQUEST FOR PRODUCTION OF DOCUMENTS**

Third party defendant, The Dow Chemical Company, responds to Minnesota Mining and Manufacturing Company's Request for Production of Documents as follows:

GENERAL STATEMENT

Dow is a large corporation with numerous departments and divisions and many employees at numerous locations throughout the world. These departments, divisions and employees have changed over the years; employees have died, retired and moved. In answering these interrogatories, Dow has made efforts to research documents and data regarding the subject matter of the present lawsuit, but obviously, each and every employee has not been contacted and questioned concerning the times included in this set of interrogatories.

These answers are based upon information presently available to Dow and its attorneys and specifically known to the individuals who are preparing these answers. It is possible that

future discovery and independent investigation may supply additional facts or information, add meaning to known facts, and may establish entirely new factual conclusions and contentions, all of which may lead to substantial additions through changes in and variations from the answers set forth.

The following answers are made without prejudice to the right of Dow to provide additional evidence at the time of trial.

GENERAL OBJECTIONS

1. The Dow Chemical Company ("Dow") objects to this discovery on the grounds that it is inherently vague, ambiguous, overly broad and unduly burdensome as to time frame and location. Dow has been operating as a viable enterprise for almost a century and currently employs approximately 39,500 employees in various locations around the world. As a result, Dow considers objectionable any interrogatory which seeks information that is either not specific to or is otherwise outside the alleged time frame or location in which it stored asbestos at Ramsay, Scarlett's Port Allen warehouse.

Records produced by Ramsay, Scarlett and records produced in response to this discovery indicate that Dow stored asbestos at the Ramsay, Scarlett warehouse from November, 1977 through August, 1986. Thus, requests for information prior to November, 1977 and after August 1986 and with regard to Dow locations other than the Plaquemine facility are not relevant, not reasonably calculated to lead to the discovery of admissible evidence and Dow's responses will be limited accordingly.

2. Dow objects to this discovery, including any definitions or instructions, to the extent they alter, exceed or deviate from the discovery rules or law of Louisiana.
3. Dow objects to any request which seeks confidential and/or proprietary business information of Dow.

4. Dow objects to any request which seeks information regarding products other than asbestos-containing insulation.
5. Dow objects to any request which implies that Dow was the entity responsible for storing asbestos. Pursuant to the contract between Ramsay, Scarlett and Dow, Ramsay, Scarlett was, at all times relevant to this lawsuit, solely responsible for storing asbestos owned by Dow.
6. Dow incorporates these general objections into each and every response below. Any responses which may be given to the following interrogatories are made subject to and without waiving these objections

REQUEST FOR PRODUCTION NO. 1:

Please produce all purchase orders, invoices, delivery receipts, dray receipts or any other record that identifies the masks, respirators or other respiratory protective devices used by, furnished to or made available to Mr. Charles as a protective measure against the inhalation of asbestos dust or any other contaminant.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

Dow objects to this request on the basis that it implies that Dow had a duty to provide Mr. Charles with respirators and/or a safe place to work. At all times relevant to this litigation, Ramsay, Scarlett was solely responsible for providing Mr. Charles with a safe place to work. However, subject to and without waiving the foregoing objection, Dow states that it no longer has purchase order invoices and/or receipts that identify respirators which may have been provided to Mr. Charles because the requested documents have been discarded pursuant to Dow's record retention policy. Dow has located information obtained from 3M regarding the 3M 8710 respirator, and that information is attached hereto as Exhibit "B."

REQUEST FOR PRODUCTION NO. 2:

Please produce for photographing and inspection all masks, respirators or other respiratory protective devices that you claim that the decedent wore or that you claim are similar to those worn by the decedent while exposed to substances allegedly harmful to his respiratory system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

Dow does not know what, if any, respiratory protective device the decedent wore because Dow was not responsible for assuring that Mr. Charles wore protective devices. However, respirators that are believed to be similar to the respirators provided to Ramsay Scarlett's foremen and/or supervisors are available for inspection at the office of the undersigned counsel.

REQUEST FOR PRODUCTION NO. 3:

Please produce a photograph of each mask, respirator or other respiratory protective device that you claim that the decedent wore or that you claim was similar to those worn by the decedent while exposed to substances allegedly harmful to his respiratory system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

Dow incorporates and adopts by reference its response to Request for Production No. 2.

REQUEST FOR PRODUCTION NO. 4:

Please produce all literature, advertisements, instructional materials, video tapes, packaging, dispensers or any other information in your possession or reasonably made available to you that provides information on the masks, respirators or other respiratory protective devices that you claim that the decedent wore while exposed to substances allegedly harmful to his respiratory system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

Dow does not know what, if any, respiratory protective device the decedent wore because Dow was not responsible for

assuring that Mr. Charles wore protective devices. Dow incorporates and adopts by reference its response and objections to Interrogatory No. 9 and Interrogatory No. 10. Further, Dow specifically denies that Mr. Charles was exposed to sufficient quantities of asbestos for sufficient time periods to cause harm to his respiratory system. However, subject to and without waiving the foregoing objections, Dow refers 3M to Exhibit "B."

REQUEST FOR PRODUCTION NO. 5:

Please produce all letters, memoranda or any other form of written communication that provided you with information on the types of respirators to select for protection against the inhalation of asbestos dust.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

Dow objects to this request to the extent that it implies that Dow had a duty to provide Ramsay, Scarlett's employees with protective equipment or a safe place to work. At all times relevant to this litigation, Ramsay, Scarlett was solely responsible for providing its employees with a safe place to work. However, subject to and without waiving the foregoing objections, Dow states that it relied upon government regulations as well as information from the manufacturers regarding the appropriate uses of respirators. The information which Dow has located from the manufacturers is attached as Exhibit "B."

REQUEST FOR PRODUCTION NO. 6:

Please produce a list of the names, addresses and telephone numbers of each individual employed by the Dow Chemical Company who worked with Mr. Charles the period of his employment with Ramsay, Scarlett.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

Dow objects to this request on the basis that it is an improper attempt to circumvent the Court's order limiting the number of interrogatories which can be propounded by each party. However, subject to and without waiving the foregoing objection, Dow refers 3M to its response and objections to Interrogatory No. 1, which is adopted and incorporated herein by reference.

REQUEST FOR PRODUCTION NO. 7:

Please produce a list of the names, addresses and telephone numbers of each individual employed by the Dow Chemical Company who held the position of foreman or other supervisory position who was present in Mr. Charles's immediate work area and who was responsible for the promulgation and enforcement of safety regulations during the period of Mr. Charles's employment.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

Dow objects to this request on the basis that it is an improper attempt to circumvent the Court's order limiting the number of interrogatories which can be propounded by each party. However, subject to and without waiving the foregoing objection, Dow states that it was not responsible for nor did it ever supervise, direct, or control the work of the Ramsay, Scarlett employees. Dow also states that it was not responsible for the promulgation and enforcement of safety regulations which pertained to Mr. Charles.

REQUEST FOR PRODUCTION NO. 8:

Please produce a list of the names, addresses and telephone numbers of each individual employed by the Dow Chemical Company who was responsible for selecting, purchasing, storing and/or issuing masks, respirators or any other respiratory-protective devices used by, furnished to or made available to Mr. Charles during the period of his employment.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

Dow objects to this request on the basis that it is an improper attempt to circumvent the Court's order limiting the number of interrogatories which can be propounded by each party and on the basis that it is duplicative of Interrogatory No. 8.

REQUEST FOR PRODUCTION NO. 9:

Please produce a list of the names, addresses and telephone numbers of each individual who provided training, advice or other instructions on the use, limitations and fitting of masks, respirators or other respiratory device used by, furnished to or made available to Mr. Charles during the period of his employment.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

Dow objects to this request on the basis that it is an improper attempt to circumvent the Court's order limiting the number of interrogatories which can be propounded by each party. Dow also objects to this request on the basis that it implies that Dow had a duty to train Ramsay, Scarlett's employees. At all times relevant to this litigation, Ramsay, Scarlett was solely responsible for instructing and supervising its employees. Dow adopts and incorporates by reference its objections and response to Interrogatory No. 9 and Interrogatory No. 10.

REQUEST FOR PRODUCTION NO. 10:

Please produce all documents in your possession or reasonably made available to you that provided instructions on the selection, use, limitations and fitting of masks, respirators or other respiratory protective devices used by, furnished to or made available to Mr. Charles, including, but not limited to, all written respirator programs and safety manuals that were in effect during the period of his employment.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

Dow objects to this request on the basis that it implies that Dow had a duty to provide Mr. Charles with a safe place to work and safe work procedures. At all times relevant to this litigation, Ramsay, Scarlett stored the asbestos, had custody of it, and was solely responsible for providing its employees with a safe place to work and safe work procedures. However, subject to and without waiving the foregoing objection, Dow incorporates and adopts by reference its response to Interrogatory No. 9 and Interrogatory No. 10.

REQUEST FOR PRODUCTION NO. 11:

Please produce all brochures, pamphlets or any other written information that was disseminated to the employees of Ramsay, Scarlett that provided information on the selection, use, limitations or fitting of respiratory protective equipment used by, furnished to or made available to Mr. Charles during the period of his employment.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

Dow adopts and incorporates by reference its objections and response to Interrogatory No. 9. and Interrogatory No. 10.

REQUEST FOR PRODUCTION NO. 12:

Please produce all documents that contain information on the measurements of the concentration of asbestos dust or any other contaminants at any location where Mr. Charles worked.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

Dow objects to this request on the basis that it is vague and ambiguous, overly broad in that it is not limited in time nor place and on the basis that it requests information which is not admissible nor reasonably calculated to lead to the discovery of

admissible evidence. However, subject to and without waiving the foregoing objections, Dow refers ~~TM~~ to Exhibit "A."

REQUEST FOR PRODUCTION NO. 13:

Please produce a list of the names, addresses and telephone numbers of each individual employed by the Dow Chemical Company who occupied the position of safety director or safety supervisor or of the individual who had the responsibility for matters relating to safety during the period of Mr. Charles's employment.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Dow objects to this request on the basis that it is an improper attempt to circumvent the Court's order limiting the number of interrogatories which can be propounded by each party. However, subject to and without waiving this objection, Dow incorporates and adopts by reference its objection to and response to Interrogatory No. 7.

REQUEST FOR PRODUCTION NO. 14:

Please produce all records of safety meetings that were held at the Ramsay, Scarlett warehouse in Port Allen during the period of Mr. Charles's employment.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

Dow objects to this request on the basis that it implies that Dow had a duty to hold safety meetings with Ramsay, Scarlett's employees. At all times relevant to this litigation, Ramsay, Scarlett was solely responsible for providing its employees with a safe place to work and safe work procedures. However, subject to and without waiving the foregoing objection, Dow states that it did not hold safety meetings at the Ramsay, Scarlett warehouse and, thus, does not have documents responsive to this request.

REQUEST FOR PRODUCTION NO. 15:

Please produce all written information disseminated to the employees of Ramsay, Scarlett that contains information on the potential health hazards associated with exposure to asbestos dust during the period of Mr. Charles's employment.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

Dow incorporates and adopts by reference its response and objections to Interrogatory No. 10. However, subject to and without waiving the objections contained in Interrogatory No. 10, Dow refers 3M to correspondence from Dow to Ramsay, Scarlett dated November 12, 1980 and April 10, 1986 (Exhibit "A"). In addition, upon information and belief, material safety data sheets were provided to Ramsay, Scarlett for all products stored at the Ramsay, Scarlett warehouse. Dow does not know if Ramsay, Scarlett provided its employees with these material safety data sheets. Further, warning signs that complied with 29 CFR 1910 were also posted in all designated areas. Dow no longer has the material safety data sheets or the warning signs.

REQUEST FOR PRODUCTION NO. 16:

Please produce all purchase orders, invoices, delivery receipts, dray receipts or any other records that identify the asbestos fiber or any asbestos-containing products that were handled by the employees of Ramsay, Scarlett during the period of Mr. Charles's employment.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16:

With the exception of Exhibits "A" and "C," Dow no longer has documents which identify the asbestos stored at the Ramsay, Scarlett warehouse as these documents have been discarded pursuant to Dow's record retention policy. However, Dow refers Minnesota

Mining to plaintiffs' exhibit 68 which is also attached to Earl LeBlanc's recent deposition.

REQUEST FOR PRODUCTION NO. 17:

Please produce all documents that describe the duties and responsibilities of each individual employed by the Dow Chemical Company who supervised the work of Mr. Charles during the period of his employment.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17:

At all times relevant to this lawsuit, Ramsay, Scarlett was solely responsible for supervising the work of its employees. Dow did not supervise the work of the Ramsay, Scarlett employees.

REQUEST FOR PRODUCTION NO. 18:

Please produce all documents that refers to or summarizes the training provided to employees of Ramsay, Scarlett on the selection, use, limitations and fitting of respiratory protective equipment.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18:

At all times relevant to this lawsuit, Ramsay, Scarlett was solely responsible for training its employees. Dow did not train Ramsay, Scarlett's employees.

REQUEST FOR PRODUCTION NO. 19:

Please produce all documents that identify the individual or individuals employed by the Dow Chemical Company who were responsible for determining whether asbestos dust was a health hazard at the Ramsay, Scarlett warehouse in Port Allen.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19:

Dow objects to this request on the basis that it implies that Dow had a duty to provide Ramsay, Scarlett's employees with a safe place to work. At all times relevant to this litigation, Ramsay, Scarlett was solely responsible for providing its employees

with a safe place to work. However, subject to and without waiving the foregoing objection, Dow refers 3M to Exhibit "A."

REQUEST FOR PRODUCTION NO. 20:

Please produce all documents that identify the companies that sold, distributed or supplied asbestos fiber or any asbestos-containing product stored by the Dow Chemical Company at the Ramsay, Scarlett warehouse in Port Allen.

RESPONSE TO REQUEST FOR PRODUCTION NO. 20:

Dow objects to this request on the basis that it implies that Dow was the entity responsible for storing asbestos. Pursuant to the contract between Dow and Ramsay, Scarlett, Ramsay, Scarlett was, at all times relevant to this litigation, responsible for storing the asbestos owned by Dow. However, subject to and without waiving the foregoing objection, Dow refers 3M to Exhibit "C."

REQUEST FOR PRODUCTION NO. 21:

Please produce a copy of all warnings posted in any area of the Ramsay, Scarlett warehouse in Port Allen.

RESPONSE TO REQUEST FOR PRODUCTION NO. 21:

Dow objects to this response on the basis that it implies that Dow had a duty to warn Ramsay, Scarlett's employees about the dangers of asbestos. At all times relevant to this litigation, Ramsay, Scarlett was solely responsible for providing its employees with a safe place to work. However, subject to and without waiving this objection, Dow states that it no longer has the warning signs that were posted in the Ramsay, Scarlett warehouse.

REQUEST FOR PRODUCTION NO. 22:

Please produce all written procedures that were established by the Dow Chemical Company for the installation of ventilation or engineering controls in any area that contained asbestos dust.

RESPONSE TO REQUEST FOR PRODUCTION NO. 22:

Dow objects to this request on the basis that it is overly broad and on the basis that it seeks information which is not admissible nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 23:

Please produce all documents that list the policies and procedures established by the Dow Chemical Company for the handling, storage or transportation of asbestos fiber and/or asbestos-containing products.

RESPONSE TO REQUEST FOR PRODUCTION NO. 23:

Dow objects to this request on the basis that it is overly broad and on the basis that it seeks information which is not admissible nor reasonably calculated to lead to the discovery of admissible evidence. However, subject to and without waiving the foregoing objections, Dow refers 3M to Exhibit "A," which includes Dow's policies and procedures for handling and storing asbestos at the time periods relevant to this litigation.

REQUEST FOR PRODUCTION NO. 24:

Please produce all documents that contain any information on the measurements of the concentration of asbestos dust or any other contaminants at Ramsay, Scarlett warehouse in Port Allen.

RESPONSE TO REQUEST FOR PRODUCTION NO. 24:

Dow objects to this request on the basis that it is a duplication of Request for Production No. 12. However, subject to and without waiving the foregoing objection, Dow adopts and incorporates by reference, its response to Request for Production No. 12.

REQUEST FOR PRODUCTION NO. 25:

Please produce all letters, memoranda or any other form of communication directed by the Dow Chemical Company to any governmental agency or received by the Dow Chemical Company from any governmental agency that provided information on the selection, use, limitations and fitting of respiratory protective devices and the potential health hazards associated with exposure to asbestos dust.

RESPONSE TO REQUEST FOR PRODUCTION NO. 25:

Dow objects to this request on the basis that it is overly broad and on the basis that it seeks information which is not admissible nor reasonably calculated to lead to the discovery of admissible evidence. However, subject to and without waiving the foregoing objections, Dow states that aside from the provisions of 29 CFR 1910, it has not located any documents responsive to this request.

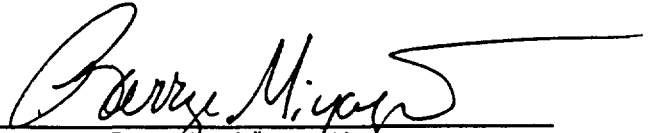
REQUEST FOR PRODUCTION NO. 26:

Please produce all material safety data sheets that were provided to you or reasonably made available to you for the asbestos fiber and products that contained asbestos that were stored at Ramsay, Scarlett warehouse in Port Allen during the period that Mr. Charles worked there.

RESPONSE TO REQUEST FOR PRODUCTION NO. 26:

Despite a diligent effort, Dow has been unable to locate documents responsive to this request.

Respectfully submitted:



Gary A. Bezet (#3036)
Barrye Panepinto Miyagi (#21794)
KEAN, MILLER, HAWTHORNE, D'ARMOND,
McCOWAN & JARMAN
P.O. BOX 3513
Baton Rouge, Louisiana 70821
Telephone (504) 387-0999

Attorneys for The Dow Chemical
Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Request for Admissions has this day been mailed postage prepaid to the following counsel of record:

Defendants, Ramsay, Scarlett & Co., Inc.;
Richard C. Daniel and Gerald Chutz,
through their attorneys of record:
W. Evan Plauche,
Hailey, McNamara, Hall, Larmann & Papale
One Galleria, Boulevard, Suite 1400
P.O. Box 8288
Metairie, Louisiana 70011-8288

Mr. James. C. Lopez
Guglielmo, Lopez, Tuttle, Hunter & Jarrell
Post Office Drawer 52828
Lafayette, Louisiana 70505

MINNESOTA MINING AND MANUFACTURING COMPANY,
3M Corporation
through its agent for service of process:
Mr. Charles Hanemann
HENDERSON, HANEMANN & MORRIS
300 Lafayette St.
Houma, LA 70360

PLAINTIFFS, JoAnn M. Charles, et al,
through their attorney of record,
David H. Hanchey
Taylor, Porter, Brooks & Phillips
451 Florida Street, Suite 800
P.O. Box 2471
Baton Rouge, Louisiana 70821

FIREMAN'S FUND INSURANCE COMPANY,
through its attorney of record,
Ben L. Mayeaux
LaBorde & Neuner
P. O. Drawer 52828
Lafayette, Louisiana 70505

Ms. Julia M. Core
Ms. Eileen Miller
Caron, Greenberg & Fitzgerald
1999 Bryan St.
1215 Olympia & York Tower
Dallas, TX 75201

Mr. Frank J. Achary
Mullen, Clement & Achary
110 Veterans Blvd., Suite 350
Metairie, LA 70005

THE GENERAL SERVICES ADMINISTRATION,
through:

The United States Attorney
for the Middle District of Louisiana:
Mr. John J. Gaupp
U. S. ATTORNEY'S OFFICE
7777 Florida St., Suite 208
Baton Rouge, LA 70801

Mr. Mark Duffy
7 P Regional Counsel
819 Taylor St.
Fort Worth, TX 76102

Ms. Stephanie A. Jirard
U. S. DEPARTMENT OF JUSTICE
P. O. Box 340
Ben Franklin Station
Washington, DC 20044

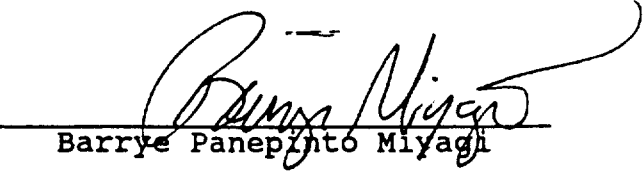
LIBERTY MUTUAL INSURANCE COMPANY,
through its attorney of record:
Mr. J. Warren Gardner, Jr.
CHRISTOVICH & KEARNEY
2300 Pan American Life Center
601 Poydras St.
New Orleans, LA 70130-6078

Ms. Cynthia Helenek
Mr. Louis Torres
MINTZ, LEVIN
One Financial Center
Boston, Massachusetts 02111

LOUISIANA INSURANCE GUARANTY ASSOCIATION,
through its attorney of record:
Thomas S. Morse
Suite 2490, 601 Poydras Street
New Orleans, LA 70130

THE DEPARTMENT OF DEFENSE,
National Stockpile Center
as successor in interest to the
General Services Administration
through its agent and representative:
Ms. Essie Schloss
1745 Jefferson Davis Hwy., Suite 100
Arlington, VA 22202

Baton Rouge, Louisiana, this 14 day of March, 1996.


Barrye Panepinto Miyagi

VERIFICATION

STATE OF LOUISIANA

PARISH OF IBERVILLE

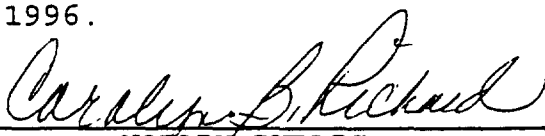
BEFORE ME, the undersigned authority, personally came and appeared:

KAREN DUGAS

who did depose and state that she is an Attorney for The Dow Chemical Company; that she has read The Dow Chemical Company's responses to Minnesota Mining & Manufacturing Company's interrogatories and request for production of documents, and the facts contained therein are true and correct to the best of her knowledge, information, and belief.


KAREN DUGAS

SWORN TO AND SUBSCRIBED BEFORE ME, NOTARY, THIS 13th DAY
OF March, 1996.



NOTARY PUBLIC
My commission expires upon death

CAROLYN B. RICHARD
NOTARY PUBLIC, IBERVILLE PARISH, LA
(MY COMMISSION EXPIRES UPON DEATH)