

NUTTER, McCLENNEN & FISH

ONE INTERNATIONAL PLACE
BOSTON, MASSACHUSETTS 02110-2699

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

DIRECT DIAL NUMBER:

(617) 439-2460

November 27, 1990
18371-1

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

Judith Elledge, Esq.
Conoco Inc.
600 North Derry Ashford
P.O. Box 2197
Houston, Texas 77252-2197

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

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

Dear John, Judy and Mary:

I enclose a copy of a memorandum of law which my associate, Lori Shapiro, prepared in response to a discussion we all had recently about the plaintiff's burden of proof in cases of exposure to vinyl chloride. Rather than summarize Lori's conclusions, I thought you would find the entire memorandum interesting. Based upon this up-to-date research, it appears that Jim Tourtelotte has his work cut out for him. He should have to prove more than that any defendant's product was at the Monsanto workplace in Springfield. He should also have to prove that John Warren was exposed to that product with some "frequency, regularity and proximity."

PRIVILEGED AND
"CONFIDENTIAL MATERIAL
SUBJECT TO PROTECTIVE
ORDER"

NUTTER, McLENNEN & FISH

John R. Downey, Esq.
Judith Elledge, Esq.
Mary Sundt, Esq.
November 27, 1990
Page 2

We plan to develop a set of interrogatories addressed to plaintiff which will focus on issues of product identification, including when each of defendant's VC was present at the facility and specifically when and where (i.e., which building, which kettle, which job, etc.) John Warren came in contact with it.

Please call if you wish to discuss this.

Very truly yours,


Sharon R. Burger

SRB/jlf
enclosures

cc: Ms. Yolanda Jackson (File No. H105L-76-034969)

5178i/9

PRIVILEGED AND
"CONFIDENTIAL MATERIAL
SUBJECT TO PROTECTIVE
ORDER"

UCC 082063