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December 28, 1990
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D30 Willard H. Dow Center
Midland, MI 48674

DEC 28 1990

J. R. DOWNEY

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

Dear Counsel:

On December 11, 1990, Sharon Burger and I met with Mark Granger and Joe Rendini, the attorneys for B.F. Goodrich. The following is a brief report on the results of the meeting.

Mark Granger first raised the issue of settlement. He was very concerned that we would communicate directly with the plaintiff in an effort to settle without any input from B.F. Goodrich. Granger requested that we not go to Jim Tourtelotte with a settlement offer until B.F. Goodrich had been given an opportunity to consider contributing to a "global" settlement package involving all defendants. To that end, Granger suggested that a meeting take place between defendants' in-house counsel in an effort to put together an initial settlement offer.

In response to Granger's suggestion, we advised that we would discuss his proposal with each of you and he advised that he would get back to us with regard to a proposed time and place for

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COUNSEL: AMSTERDAM • LONDON • TOKYO

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the meeting. Granger indicated that his client may be willing to contribute an equal amount to the settlement as the other defendants. He stated that settlement strategy and specifics could be explored further during the in-house counsel meeting.

We then discussed with Granger and Rendini the need for a meeting with Monsanto's in-house counsel. The purpose of the meeting would be to obtain certain information from Monsanto on an informal basis. We recognized, however, that a meeting with Monsanto would not really be designated as a joint defense meeting and we discussed the potential confidentiality ramifications of same. Nevertheless, we agreed that an informal meeting with Monsanto's counsel would be a better approach than deposing Monsanto in the first instance. We then developed the following list of information to be requested from Monsanto's counsel:

1. Safety Logs - located in Lab No. 10 (dated 1967 and for several years thereafter).
2. Data Sheets - from the East Control Lab (then Building 10).
3. Access to employees who worked with the decedent and the identity and addresses of his co-workers.

We are particularly interested in the following individuals:

- a. Tierney;
 - b. Bourgette; and
 - c. Carl Rehm.
4. Plaintiff's work experiences and job descriptions during his exposure period.
 5. Information about Monsanto's own product safety, including any warnings, MSDSs, safety equipment, etc.
 6. Air sampling or other atmospheric testing of VCM, including all protocols and/or testing procedures.
 7. Records and minutes of safety meetings.
 8. Monsanto's knowledge about KOSHA.

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9. Other chemicals the decedent was exposed to.
10. All other information and studies Monsanto had regarding the health risks of VCM.
11. Whether Monsanto has any evidence of other angiosarcoma cases at Monsanto in their Springfield facility.
12. All records of defendants' supply or exchange of VCM with Monsanto's Springfield facility.

We agreed to contact Monsanto's counsel and ask for a meeting with him before our clients met directly. Rendini agreed to forward a summary of the list of items that we intend to discuss with Monsanto's counsel. We have not yet received this list from Rendini, but Sharon will make the initial contact with Monsanto's counsel upon her return from vacation after the first of January.

Rendini continued to press his medical causation theory. He intends to explore the fact that the decedent's other family members were diagnosed with other types of cancer. He believes that the decedent's medical records do not support a definitive diagnosis of angiosarcoma. He feels strongly about exploring whether any other workers at Monsanto had angiosarcoma of the liver. He reasoned that if no workers at Monsanto had angiosarcoma of the liver, this weakened plaintiff's case. We explained our disagreement with his approach and it was clear that he did not intend to change his course of action on this issue.

It should also be noted that, as the meeting progressed, it became increasingly apparent that Granger and Rendini did not see eye-to-eye in their approach to this case. Granger had a much more practical view toward the case and took into account defense costs and the realities of taking this case to trial, whereas Rendini had an almost vindictive "try this case regardless of the consequences" approach. It appeared that Rendini had some sort of personal axe to grind with plaintiff's counsel. Rendini also seemed extremely hostile to Granger and it was obvious that there was some friction between them.

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Additionally, we have enclosed our proposed objections to plaintiff's interrogatories and document requests for your review and approval. If you have any questions regarding same, please feel free to give me or Sharon a call.

Very truly yours,


Susan L. Parsons

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Enclosures

cc: Ms. Yolanda Jackson, Fireman's Fund

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