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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DORIS EIRVEN, Individually §
and as Representative of the §
ESTATE OF ROBERT H. EIRVEN, §
Deceased, ROBERT EIRVEN, JR. §
AND SHEILA EIRVEN §
Plaintiffs §

VS. §

UNION CARBIDE CHEMICAL §
AND PLASTICS COMPANY, INC., §
Defendant §

C.A. No. H-94-1103

PLAINTIFF'S RESPONSES TO DEFENDANT'S
SUPPLEMENTAL REQUESTS FOR PRODUCTION

The undersigned, DORIS EIRVEN, Individually and as Representative of the Estate of Robert H. Eirven, Deceased, Plaintiffs herein, submit the attached Responses to Defendant, Union Carbide's, Supplemental Set of Requests for Production of Documents.

Respectfully submitted,

WILLIAMS, BAILEY & WESNER, L.L.P.

BY:

Catherine Baen

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ATTORNEYS FOR PLAINTIFFS

UCC 073615

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document was sent to all counsel of record on this ~~8th~~ ^{9th} day of October, 1994 by Certified Mail, Return Receipt Requested and/or by Facsimile and/or by Hand Delivery.


Catherine Baen

UCC 073616

PLAINTIFF'S RESPONSES TO DEFENDANT'S
SUPPLEMENTAL REQUESTS FOR PRODUCTION

GENERAL OBJECTION

Plaintiff objects to the "Instructions" portion of Defendant Union Carbide Company's Request for Production. Plaintiff will answer Request for Production in accordance with the appropriate Rules of Civil Procedure.

1. Please produce all documents pertaining to or in connection with:

"Plaintiff's allege that the Defendant, Union Carbide Chemical and Plastics Company, Inc. knew or should have known that the chemical vinyl chloride or products containing vinyl chloride which it prepared and/or processed and/or used and/or handled were deleterious, carcinogenic, and highly harmful to the health and body of decedent, Robert E. Eirven, and that the decedent would not have known of such dangerous propensities: notwithstanding which, said defendant failed to warn its employees, such as the decedent, of such dangerous propensities; material compiled by experts pertaining to the safe and/or dangerous nature of the chemical vinyl chloride or products containing vinyl chloride and to act accordingly to render its use and handling by its employees, such as the decedent, go as not to expose them to said dangerous propensities; and furthermore, failed to provide its employees, such as the decedent, with sufficient information to warn them of the hazardous and dangerous propensities of the chemical vinyl chloride and products containing vinyl chloride; and further failed to provide its employees, including the decedent, with appropriate personal protective equipment so as to eliminate and/or reduce said individuals' exposures to the chemical vinyl chloride or products containing vinyl chloride."

RESPONSE:

Objection, this Request for Production is invasive of the attorney work product and attorney-client privilege. Subject to and without waiving same, discovery is in its early stages and ongoing, Plaintiff will supplement at a later date.

2. Please produce all documents pertaining to or in connection with:

"Furthermore, and without waiving the above, Plaintiffs would show that the aforementioned Defendant, individually, or

collectively with industry, entered into a conspiracy to withhold medical and scientific information from its employees, such as Robert H. Eirven, deceased, who worked with an/or around and/or handled the chemical vinyl chloride or products containing vinyl chloride when it had such knowledge from available scientific and medical literature."

RESPONSE:

Objection, Plaintiff specifically objects to the use of the terms "pertaining to or in connection with" as vague and overly broad as it does not describe things with reasonable particularity. Furthermore this Request for Production is invasive of the attorney work product, attorney-client and consulting expert privileges. Subject to and without waiving same, discovery is in its early stages and is ongoing, therefore Plaintiff will supplement at a later date.

3. Please produce all documents pertaining to or in connection with:

"That Defendant knew or should have known that the aforementioned chemical, vinyl chloride, that it manufactured and/or sold and/or distributed and/or placed in the stream of commerce was deleterious, poisonous, carcinogenic, and highly harmful to the body and health of decedent, Robert H. Eirven, and that the decedent, Robert H. Eirven, would not have known of such dangerous propensities; notwithstanding which, Defendant negligently failed to take any reasonable precautions or to warn the decedent of the danger and harm to which he was exposed while he was handling the Defendant's chemical, vinyl chloride."

RESPONSE:

Objection, Plaintiff specifically objects to the use of the terms "pertaining to or in connection with" as vague and overly broad as it does not describe things with reasonable particularity. Furthermore this Request for Production is invasive of the attorney work product, attorney-client and consulting expert privileges. Subject to and without waiving same, discovery is in its early stages and is ongoing, therefore Plaintiff will supplement at a later date.

RESPONSE:

Objection, Plaintiff specifically objects to the use of the terms "pertaining to or in connection with" as vague and overly broad as it does not describe things with reasonable particularity. Furthermore this Request for Production is invasive of the

attorney work product, attorney-client and consulting expert privileges. Subject to and without waiving same, discovery is in its early stages and is ongoing, therefore Plaintiff will supplement at a later date.

4. Please produce all documents pertaining to or in connection with.

"That Defendant knew or should have known that the chemical vinyl chloride that it manufactured and/or sold and/or distributed and/or placed in the stream of commerce was deleterious, poisonous, carcinogenic and highly harmful to the body and health of decedent, Robert H. Eirven, and that the decedent, Robert H. Eirven, would not have known of such dangerous propensities; notwithstanding which, said Defendant negligently failed and omitted to impart knowledge and information to said decedent as to what would be sufficient work apparel or protective equipment and appliances to protect him from being poisoned and/or disabled by exposure to the chemical vinyl chloride."

RESPONSE:

Objection, Plaintiff specifically objects to the use of the terms "pertaining to or in connection with" as vague and overly broad as it does not describe things with reasonable particularity. Furthermore this Request for Production is invasive of the attorney work product, attorney-client and consulting expert privileges. Subject to and without waiving same, discovery is in its early stages and is ongoing, therefore Plaintiff will supplement at a later date.

5. Please produce all documents pertaining to or in connection with:

"That Defendant knew or should have known that the chemical vinyl chloride that it manufactured and/or sold and/or distributed and/or placed in the stream of commerce was deleterious poisonous, carcinogenic and highly harmful to the body and health of decedent, Robert H. Eirven, and that the decedent, Robert H. Eirven, would not have known of such dangerous propensities; notwithstanding which, said Defendant negligently failed to take any reasonable precautions or to exercise care by placing any health warnings or precautions on the container or containing devices of said chemical vinyl chloride to adequately and sufficiently warn the handlers thereof, such as the decedent of the dangers to their health in coming in contact with said chemical."

RESPONSE:

Objection, Plaintiff specifically objects to the use of the terms "pertaining to or in connection with" as vague and overly broad as it does not describe things with reasonable particularity. Furthermore this Request for Production is invasive of the attorney work product, attorney-client and consulting expert privileges. Subject to and without waiving same, discovery is in its early stages and is ongoing, therefore Plaintiff will supplement at a later date.

6. Please produce all documents pertaining to or in connection with:

"Defendant know or should have known that the chemical vinyl chloride that it manufactured and/or sold and/or distributed and/or placed in the stream of Commerce was deleterious, poisonous, carcinogenic, and highly harmful to the body and health of decedent, Robert H. Eirven, and that the decedent, Robert H. Eirven, would not have known of the dangerous propensities; notwithstanding which; said Defendant negligently failed to take reasonable care to warn the decedent; Robert H. Eirven, of such danger and/or instruct the decedent in the proper handling of such chemical, and furthermore failed to take any reasonable precautions, or exercise any reasonable care to protect the decedent, Robert H. Eirven, from harm, and further negligently failed to adopt and enforce a reasonably safe plan and method of handling said chemical."

RESPONSE:

Objection, Plaintiff specifically objects to the use of the terms "pertaining to or in connection with" as vague and overly broad as it does not describe things with reasonable particularity. Furthermore this Request for Production is invasive of the attorney work product, attorney-client and consulting expert privileges. Subject to and without waiving same, discovery is in its early stages and is ongoing, therefore Plaintiff will supplement at a later date.

7. Please produce all documents pertaining to or in connection with:

"That Defendant know or should have known that the chemical vinyl chloride that it manufactured and/or sold and/or distributed and/or placed in the stream of commerce was deleterious, poisonous, carcinogenic, and highly harmful to the body and health of decedent, Robert H. Eirven, in that the decedent, Robert H. Eirven would not have known of such dangerous propensities; notwithstanding which, said Defendant negligently and carelessly manufactured said chemical, thereby subjecting

users, such as the decedent, to an unreasonable risk to said chemical when sufficient research and/or experimentation would have disclosed that said chemical was deleterious, poisonous, carcinogenic, and highly harmful to the body and health of those exposed, including the decedent, in the ordinary course of handling the chemical."

RESPONSE:

Objection, Plaintiff specifically objects to the use of the terms "pertaining to or in connection with" as vague and overly broad as it does not describe things with reasonable particularity. Furthermore this Request for Production is invasive of the attorney work product, attorney-client and consulting expert privileges. Subject to and without waiving same, discovery is in its early stages and is ongoing, therefore Plaintiff will supplement at a later date.

8. Please produce all documents pertaining to or in connection with:

"Said Defendant was at a material times engaged in the business of manufacturing and/or selling and/or distributing and/or placing in the stream of commerce the chemical vinyl chloride. The chemical was placed in the stream of commerce by said Defendant, acting through its agents, servants, employees, and/or representatives."

RESPONSE:

Objection, Plaintiff specifically objects to the use of the terms "pertaining to or in connection with" as vague and overly broad as it does not describe things with reasonable particularity. Furthermore this Request for Production is invasive of the attorney work product, attorney-client and consulting expert privileges. Subject to and without waiving same, discovery is in its early stages and is ongoing, therefore Plaintiff will supplement at a later date.

9. Please produce all documents pertaining to or in connection with:

"Said chemical, vinyl chloride, was expected to reach and in fact did reach the decedent without substantial change in its condition. Said chemical, vinyl chloride, was in a defective condition and unreasonably dangerous when sold by Defendant. Said defective, unreasonably dangerous condition of said chemical, vinyl chloride, was a producing cause of the injuries made the basis of this lawsuit. The chemical vinyl chloride is

unreasonably dangerous in that the risks to the health of people exposed to it, such as the decedent, greatly outweigh any benefits, if any. Furthermore, there was no warning given to the ultimate users of said chemical, such as the decedent, of the dangers of being exposed to said chemical."

RESPONSE:

Objection, Plaintiff specifically objects to the use of the terms "pertaining to or in connection with" as vague and overly broad as it does not describe things with reasonable particularity. Furthermore this Request for Production is invasive of the attorney work product, attorney-client and consulting expert privileges. Subject to and without waiving same, discovery is in its early stages and is ongoing, therefore Plaintiff will supplement at a later date.

10. Please produce all documents pertaining to or in connection with:

"Defendant, Union Carbide Chemical and Plastic Company, Inc., is also and further liable to Plaintiffs for breach of warranty and under the law of warranties, expressed in the Uniform Commercial Code. Said Defendant expressly and impliedly warranted that, as sold, said chemical, vinyl chloride . . . was for the ordinary purposes for which an item is used, to-wit, for the production of polyvinyl chloride resins. it was also expressly and impliedly warranted that said chemical, vinyl chloride, in question was so made, designed, and sold that it was safe and would not expose the decedent, Robert E. Birven, to risk of harm."

RESPONSE:

Objection, Plaintiff specifically objects to the use of the terms "pertaining to or in connection with" as vague and overly broad as it does not describe things with reasonable particularity. Furthermore this Request for Production is invasive of the attorney work product, attorney-client and consulting expert privileges. Subject to and without waiving same, discovery is in its early stages and is ongoing, therefore Plaintiff will supplement at a later date.