

cc: B-L White

Lit.
Cox
Corresp.

LAW OFFICES

OGLETREE, DEAKINS, NASH, SMOAK AND STEWART

A PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS AND PROFESSIONAL CORPORATIONS

ONE THOUSAND EAST NORTH
POST OFFICE BOX 2757
GREENVILLE, SOUTH CAROLINA 29602
(803) 242-1410

November 17, 1988

OTHER OFFICES
ATLANTA, GEORGIA
WASHINGTON, D. C.
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SCHENECTADY, NEW YORK

Richard J. Lorenz, Esquire (Tenneco Oil)
Beverly V. Gholson, Esquire (Georgia Gulf)
James V. O'Gara, Esquire (Union Carbide)
Marina K. Pita, Esquire (Conoco)
John Endicott, Esquire (Maxus Energy)
Woodrow W. Ban, Esquire (B.F. Goodrich)
Robert D. Luss, Esquire (Occidental)

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Re: Cox v. Georgia Gulf, et al.
C.A. Nos. 8:88-1399-3 and 8:88-1400-3

Ladies and Gentlemen:

Enclosed is a copy of our motion for summary judgment and supporting brief filed in the above-captioned matter. We also filed the enclosed motion for summary judgment on behalf of Tenneco Oil Company and Tenneco, Inc. on the basis that they never manufactured or sold PVC resin. The plaintiff's attorney has 15 days or until the end of the month to respond to our motion for summary judgment.

Bob Ariail, the plaintiff's attorney, has told us that he intends to file an amended complaint, adding Tenneco Polymers, Inc. as a proper defendant, and dropping the improper Tenneco defendants. Mr. Ariail will also bring in Formosa Delaware, Inc. and drop Formosa U.S.A., who never manufactured or sold PVC resin. The filing of the amended complaint will probably continue the trial of this matter until the February term.

We have been informed that a co-defendant, Sumitomo, has offered the plaintiff's attorney \$25,000 to settle out individually. Danny White, attorney for Formosa, has indicated to us that he will recommend to his client that they attempt to settle out for \$30,000.

Plaintiff's attorney, in his response to our motion, will attempt to raise an issue of fact as to whether Stauffer was a sophisticated user. Mr. Ariail claims to have an affidavit in which the Stauffer plant manager states that he was unaware that there was ever any cancer danger to Mr. Cox because of the low levels of residual VCM in the suppliers' resin, and that he relied on the manufacturers to supply him with warnings. However, we detect some concern on Mr. Ariail's part that the court will grant our motion for summary judgment. It therefore appears that he may be inclined to accept a reasonable settlement

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offer prior to the court's ruling on our motion. Therefore, if a decision is made to extend an offer along the lines suggested by Richard Lorenz, it should be done within the next two weeks.

Both Don Cockrill and I will be available to discuss the matter.

Very truly yours,

OGLETREE, DEAKINS, NASH,
SMOAK AND STEWART



Mary Lou Hill

MLH:agd
Enclosures

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