

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PRISCILLA LEE, Personal
Representative of the Estate
of JERRY LEE, Deceased,

Plaintiff,

Civil Action
No. 84 CV 2398DT

-vs-

Hon. Julian Abele Cook

UNION CARBIDE CORPORATION,
a foreign corporation;
DIAMOND SHAMROCK CORPORATION,
a foreign corporation;
STAUFFER CHEMICAL COMPANY, a
foreign corporation; TENNECO
RESINS, INC., a foreign
corporation; UNIROYAL, INC.,
a foreign corporation; ALLIED
CHEMICAL CORPORATION, a foreign
corporation; OCCIDENTAL CHEMICAL
CORPORATION, a foreign corpora-
tion; THE FIRESTONE TIRE &
RUBBER COMPANY, a foreign
corporation, THE B. F. GOODRICH
COMPANY, a foreign corporation;
THE GOODYEAR TIRE & RUBBER
COMPANY, a foreign corporation,

Defendants.

UNIROYAL, INC.'S ANSWER AND
AFFIRMATIVE DEFENSES TO COMPLAINT

Defendant Uniroyal, Inc. answers plaintiff's Complaint
as follows:

COUNT I

1. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1.

2. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2.

3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3.

4. Defendant admits the allegations of paragraph 4.

5. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5.

6. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6, as they relate to all defendants, but this defendant acknowledges its jurisdictional contacts with Michigan.

7. Defendant admits that in the past it has sold polyvinyl chloride resin, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7.

8. Defendant admits that in the past it has sold polyvinyl chloride resin, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8.

9. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9.

10. The allegations of paragraph 10 constitute legal conclusions which defendant denies to the extent they are inconsistent with the applicable law.

11. Defendant denies as untrue the allegations of paragraph 11 and its sub-paragraphs.

12. Defendant denies as untrue the allegations of paragraph 12.

13. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13.

14. Defendant denies as untrue the allegations regarding entitlement to recovery, but otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14.

WHEREFORE, defendant requests this Court to enter a judgment of no cause for action, together with an assessment of costs and attorney's fees against plaintiff.

COUNT II

15. Defendant reasserts its answers to the allegations of the paragraphs in Count I.

16. Defendant denies as untrue the allegations of paragraph 16.

17. Defendant denies as untrue the allegations of paragraph 17.

WHEREFORE, defendant requests this Court to enter a judgment of no cause for action, together with an assessment of costs and attorney's fees against plaintiff.

COUNT III

18. Defendant reasserts its answers to the allegations of the paragraphs in Count I and Count II.

19. Defendant denies as untrue the allegations of paragraph 19.

20. Defendant denies as untrue the allegations of paragraph 20.

DYKEMA, GOSSETT, SPENCER, GOODNOW & TRIGG • 35TH FLOOR • 400 RENAISSANCE CENTER • DETROIT, MICHIGAN 48243

21. Defendant denies as untrue the allegations of paragraph 21.

WHEREFORE, defendant requests this Court to enter a judgment of no cause for action, together with an assessment of costs and attorney's fees against plaintiff.

AFFIRMATIVE DEFENSES

I
Failure To State A Claim

Each count of plaintiff's Complaint fails to state a claim upon which relief can be granted.

II
Statute Of Limitations

Plaintiff's claims are barred by the applicable statute of limitations.

III
Comparative Negligence

The damages allegedly sustained by plaintiff were caused by the negligence and contributory negligence of plaintiff and plaintiff's decedent, and must be diminished in proportion to the amount of negligence attributable to them.

URL 11231

IV
Sole Negligence Of Others;
Intervening And Superseding Cause

All of the damages, if any, allegedly suffered by plaintiff were caused by the acts and conduct of other parties, which intervened between defendant's acts and conduct and plaintiff's alleged damages, thereby barring plaintiff from any recovery from defendant.

V
Abuse, Misuse And Alteration Of Product

All of the damages, if any, allegedly suffered by plaintiff were caused by the abuse, misuse and alteration of defendant's product, thereby barring plaintiff from any recovery from defendant.

VI
Sophisticated Vendee

Ford Motor Company is a sophisticated vendee of the product at issue, and was aware both of any risks associated with that product and the proper use of that product.

VII
No Proximate Cause

There exists no proximate causation between any alleged acts or omissions or any alleged breach of duty or warranty by defendant and plaintiff's alleged damages; all of

plaintiff's alleged damages were the result of the conduct, product or causes attributable to persons other than defendant, and defendant's product was not a substantial factor in causing plaintiff's damages.

VIII
Assumption Of Risk

Plaintiff's claims are barred to the extent that plaintiff or plaintiff's decedent assumed the risk of knowingly exposing themselves to materials at the Ford Vinyl Plant without proper precautions.

IX
Absence Of Duty

Defendant had no duty and made no warranty to plaintiff or plaintiff's decedent in connection with the product at issue.

X
No Benefit Of Presumption

Plaintiff must prove this case without the benefit of any presumption to the extent she seeks to recover damages caused by products 10 or more years old.

URL 11239

XI
Reservation Of Right

Defendant reserves the right upon completion of its investigation and discovery to file such amended answer and such additional defenses as may be appropriate.

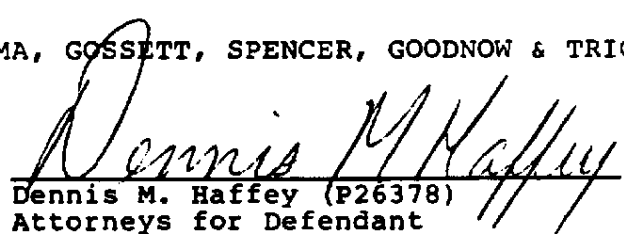
WHEREFORE, defendant requests this Court to enter a judgment of no cause for action, together with an assessment of costs and attorney's fees against plaintiff.

DEMAND FOR JURY TRIAL

Defendant hereby demands a jury trial of all issues in this case.

DYKEMA, GOSSETT, SPENCER, GOODNOW & TRIGG

By:


Dennis M. Haffey (P26378)
Attorneys for Defendant
35th Floor - 400 Renaissance Center
Detroit, Michigan 48243
(313) 568-6704

Dated: June 15, 1984