

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 89-30201-F

ALICE L. WARREN,
ADMINISTRATRIX OF THE ESTATE
OF JOHN H. WARREN, DECEASED,
Plaintiff

VS.

THE DOW CHEMICAL COMPANY,
THE B.F. GOODRICH COMPANY,
UNION CARBIDE COMPANY and
CONTINENTAL OIL COMPANY,
DefendantsPLAINTIFFIN REPLT CONFERENCE

The plaintiff, by her attorneys, hereby moves to continue the settlement conference, now scheduled for September 27, 1991 at 11:00 a.m., for a period of thirty days. In support of her motion, the plaintiff states as follows:

1. A settlement conference is currently scheduled for September 27, 1991 at 11:00 a.m.

2. At the last conference held on June 25, 1991, one of the issues raised was the voluntary dismissal by the plaintiff of defendants, Conoco and Union Carbide. In an effort to resolve the underlying issues regarding the potential liability of Conoco and Union Carbide and reach an agreement with counsel regarding their dismissal, plaintiff noted the deposition of R.H. Burnett, a former Monsanto employee, now retired. According to plaintiff's sources, Mr. Burnett is the person who would be most knowledgeable regarding Monsanto's acquisition of vinyl chloride from other companies during the relevant time period. Plaintiff noted Mr. Burnett's deposition

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for September 24, 1991 in St. Louis in an effort to obtain Mr. Burnett's testimony prior to the scheduled settlement conference. Plaintiff's attorneys learned on September 18, 1991 that Mr. Burnett will be in Virginia until approximately October 15, 1991, and will not be available for a deposition until the latter half of October.

3. In July, plaintiff furnished the defendants with a detailed counterdemand quantifying her damages. To date, plaintiff has not had any response from the defendants. In late August, Attorney Burger, who represents Dow Chemical Company, Union Carbide and Conoco, indicated that her clients would not be able to respond to the counterdemand until the issue of the dismissal of Conoco and Union Carbide was resolved. The plaintiff will not be able to resolve this issue until the deposition of Mr. Burnett is obtained. In the event that Mr. Burnett's testimony does not implicate Conoco or Union Carbide, plaintiff will agree to enter into a stipulation dismissing its claims against these two defendants without prejudice as defendants' counsel has proposed.

4. Given the current status of this case, the plaintiff does not feel that it would be productive to go forward with the settlement conference as scheduled. It is for this reason that plaintiff requests that the conference be continued for a period of thirty days to allow the plaintiff to take Mr. Burnett's deposition and thereby remove what has become a substantial impediment to meaningful settlement discussions.

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5. Joseph Randini, Esq., attorney for B.F. Goodrich Company, has indicated that he will assent to the allowance of this Motion.

THE PLAINTIFF
ALICE L. WARREN, ADMINISTRATRIX OF
THE ESTATE OF JOHN H. WARREN,
DECEASED

By James H. Tourtelotte *KAH*
James H. Tourtelotte, Esq., and

By Keith A. Minoff
Keith A. Minoff, Esq., both of
Robinson Donovan Madden
& Barry, P.C.
1500 Main Street - Suite 1400
Springfield, Massachusetts 01115
(413) 732-2301
BBO NO. 500800

ASSENTED TO
THE DEFENDANT
B.F. GOODRICH COMPANY

By Joseph R. Randini *KAH*
Joseph R. Randini, Esq., of
Morrison, Mahoney and Miller
250 Summer Street
Boston, MA 02210
(617) 439-7500
BBO NO. 206920

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of
the above document was served upon the
attorney of record for each party by mail/business

Date: 9/24/91 *KAH*

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