

UNION CARBIDE CORPORATION 39 OLD RIDGEBURY ROAD, DANBURY, CT 06817-0001
LAW DEPARTMENT

*Litigation of
W. Cox
Georgia Gulf
UCC*

June 13, 1988

Donald A. Cockrill, Esq.
Ogletree, Deakins, Nash, Smoak
and Stewart
One Thousand East North Street
P.O. Box 2757
Greenville, South Carolina 29601

Re: Wanda Cox v. Georgia Gulf v. Union Carbide et al.

Dear Mr. Cockrill:

As we discussed last week, you indicated that you would consider the following issues as applicable to the Cox case under South Carolina law:

Whether the suppliers of PVC resins had a duty to warn Stauffer, the employer, and/or the individual worker, Mr. Cox. Since Stauffer was in the PVC business, Stauffer, of course, knew before 1978 of the potential cancer hazard of PVC.

Since the government, OSHA, specified the cancer warning for PVC/VCM, is plaintiff pre-empted from claiming that the warning was inadequate?

Since plaintiff apparently might have been exposed to PVC resins from 1978-1982 and in 1985 and 1986, do general latency/incubation principles preclude a claim that PVC/VCM exposure caused Mr. Cox's alleged ASL? Union Carbide sales records indicate that we had no PVC resin sales to the Stauffer plant from 1978 through 1982, but that we did supply in 1985 and 1986. Attached is a copy of our sales records print-out.

Although you indicated that Stauffer is protected by the worker's compensation defense even against claims by co-defendant PVC suppliers, can we claim against Stauffer based on a "dual capacity" theory if Stauffer also supplied its plant with PVC resins? Can there be some pro rata allocation of liability and damages, if any, with Stauffer if Stauffer supplied PVC resins to the plant?

I look forward to hearing from you soon concerning your meeting with plaintiff's attorney.

Best regards.

Sincerely,

Peter F. Davy
Peter F. Davy

PRIVILEGED AND
"CONFIDENTIAL MATERIAL
SUBJECT TO PROTECTIVE
ORDER"

PFD/ ls
nclosure

UCC 079629