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NUTTER, McCLENNEN & FISH

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November 1, 1990
18371-1

VIA FEDERAL EXPRESS

John R. Downey, Esquire
Union Carbide Chemicals and
Plastics Company, Inc.
39 Old Ridgebury Road
Danbury, CT 06817-6269

Judith Elledge, Esquire
Conoco Inc.
600 North Derry Ashford
Post Office Box 2197
Houston, TX 77252-2197

Mary Sundt, Esquire
The Dow Chemical Company
D30 Willard H. Dow Center
Midland, MI 48674

Re: Alice L. Warren, Administratrix v. The Dow
Chemical Company, Union Carbide, et al.;
Your File No. D-16183

Dear Counsel:

I recently joined Nutter, McClennen & Fish as a fifth year associate, and Sharon Burger has asked me to assist her with this case. Sharon will be out of the office until November 2, 1990, and she has asked that I forward to you plaintiff's interrogatories and document requests propounded to Union Carbide, Dow and Conoco. Service was made on October 26, 1990, and responses are therefore due on or before November 28, 1990 (the 30-day period is extended for three days because service was made by mail).

Also enclosed is plaintiff's response to B.F. Goodrich's first request for production of documents. Please note that plaintiff raised numerous objections to B.F. Goodrich's requests. Also, documents were not attached to the responses because plaintiff's counsel has insisted that we appear at his office to inspect and copy same. With your permission, we will make arrangements to do so.

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HYANNIS, MASSACHUSETTS
COUNSEL: AMSTERDAM • LONDON • TOKYO

UCC 082105

John R. Downey, Esquire
Judith Elledge, Esquire
Mary Sundt, Esquire
November 1, 1990
Page Two

After you have had a chance to review the materials, Sharon has asked that you call her to discuss proposed responses and objections.

Finally, we have not received answers to the interrogatories propounded to plaintiff by B.F. Goodrich. We are following up with B.F. Goodrich's counsel to determine whether or not plaintiff has filed timely responses. We will let you know as soon as we hear from them.

Very truly yours,


Susan L. Parsons

SLP:ccn
8444i

Enclosures

cc: Ms. Yolanda Jackson, Fireman's Fund

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UCC 082106



Corporate Claims Division
Environmental Claims
One Continental Drive
Cranbury, NJ 08570-2109

October 11, 1990

Mr. Ed Deloughy - Risk Manager
Union Carbide Corporation
39 Old Ridgebury Road
Danbury, CT 06817

RE: Claimant: Alice L. Warren, Administrator of the Estate of
John H. Warren, Deceased, v. Dow Chemical, et al
including Union Carbide Corporation
Location Code: 67-234

Dear Mr. Deloughy:

Continental Insurance Company acknowledges receipt of the above captioned matter subject to all terms and conditions of the policies of insurance and under a full reservation of rights.

The Continental Insurance Company issued the following claims-made general liability policy under which coverage is being sought:

1/1/89-90 SRL 3642351 (GL) 5 Mil CSL, 5 Mil Deduct/occ

With a Retroactive Date of 1/1/86.

The complaint, which was served on Union Carbide, seeks recovery for injuries allegedly resulting from the plaintiff's decedent employed as a reproduction worker by the Monsanto Company from 1947 to 1987 and was exposed to various plastics and chemicals.

The insuring agreement of the Continental policies, Section 1.a., states: "We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies.. this insurance does not apply to "bodily injury" or "property damage" which occurred before the retroactive date, if any, shown in the Declarations or which occurs after the policy period. The "bodily injury" or "property damage" must be caused by an "occurrence". Section 1.b. states: "This insurance applies to "bodily injury" and "property damage" only if a claim for damages because of the "bodily injury" or "property damage" is first made against the insured during the policy period.

The policy states in Section IV 4. Conditions that:

"If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

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a. Primary Insurance

This insurance is primary except when b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

- (1) That is effective prior to the beginning of the policy period shown in the Declarations of this insurance and applies to "bodily injury" or "property damage" on other than a claims-made basis, if:

- (a) No Retroactive Date is shown in the Declarations of this insurance; or
- (b) The other insurance has a policy period which continues after the Retroactive Date shown in the Declarations of this insurance."

The policies define the following pertinent terms as:

"Bodily injury" means body injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

"Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property:
or
- b. Loss of use of tangible property that is not physically injured.

"Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

Continental will agree to participate in the defense and indemnity of Union Carbide Corporation and assume the related defense costs in the proportion that policy bears to total exposure period of the plaintiff, and with your other

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UCC 082108

Mr. Ed Deloughy

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October 11, 1990

insurance carriers on the risk. Continental will only pay defense and indemnity expenses as they relate to the Deductible Endorsement, which states that you shall be responsible for such expenses which do not exceed the deductible amount.

We expressly reserve our rights to disclaim coverage and withdraw our defense should further investigation or discovery reveal that an occurrence did not take place during the policy period, that circumstances leading to this claim were due to acts on your part of an intentional nature, or that any other policy provision or exclusions which deny coverage may be applicable. Furthermore, in the event the court awards punitive or exemplary damages, then such damages will fully be the responsibility of Union Carbide Corporation since intentional acts are excluded by Section I.2.a. of the above cited policy.

If you have any questions or comments, please feel free to contact me directly at (609) 395-4834.

Respectfully,

Kathy Coyle
Environmental Claims Analyst

KC:jc548

cc: Susan DeSibio
Continental Insurance Company
180 Maiden Lane - 28th Floor
New York, NY 10038

Phelan Henry
Sr. Risk Planner
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180 Maiden Lane - 28th Floor
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