

NUTTER, McCLENNEN & FISH

ONE INTERNATIONAL PLACE
BOSTON, MASSACHUSETTS 02110-2699

TELEPHONE 617-439-2000 FACSIMILE 617-973-9748

DIRECT DIAL NUMBER

(617) 439-2382

April 29, 1992
18371-1

VIA FEDERAL EXPRESS

Keith Minoff, Esq.
Robinson, Donovan, Madden & Barry, P.C.
1500 Main Street - Suite 1400
Springfield, MA 01115

Re: Alice L. Warren, Administratrix v. The Dow Chemical
Company, Union Carbide, et al., C.A. No. 89-30201F

Dear Keith:

Enclosed are the following:

1. Memorandum of Settlement (which contains the revisions we discussed yesterday);
2. Five copies of the Settlement Agreement to be executed by your client and returned to me; and
3. Five copies of the Release to be executed by your client and four copies of which are to be returned to me.

Please note that I will return to you a fully executed copy of the Settlement Agreement once our clients have executed same.

Very truly yours,


Susan P. Ritter

SPR:ncg
0103c

Enclosures
cc: Joseph E. Rendini, Esq.

bcc: John R. Downey, Esq.
Judith Elledge, Esq.
Mary Sundt, Esq.
Ms. Jacqui A. Miraglia (File No. ERBY 808 225 33J)

UCC 080734

NUTTER, McCLENNEN & FISH

ONE INTERNATIONAL PLACE
BOSTON, MASSACHUSETTS 02110-2699

TELEPHONE 617 439 2000 FACSIMILE 617 973-9748

DIRECT DIAL NUMBER

(617) 439-2382

April 8, 1992
18371-1

Joseph E. Rendini, Esq.
Morrison, Mahoney & Miller
250 Summer Street
Boston, MA 02210

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

Dear Joe:

Enclosed is plaintiff's Memorandum of Settlement. Please
execute same and return to plaintiff's counsel.

Very truly yours,


Susan P. Ritter

SPR:ncg
9887c

Enclosure
cc: Keith Minoff, Esq.

bcc: John R. Downey, Esq. ✓
Judith Elledge, Esq.
Mary Sundt, Esq.
Ms. Jacqui A. Miraglia (File No. ERBY 808 225 33J)

UCC 080747

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,)
)
Defendants)

MEMORANDUM OF SETTLEMENT

WHEREAS, the plaintiff, Alice L. Warren, the Administratrix and widow of John H. Warren who died on January 29, 1988 after having incurred a fatal disease in the course of his employment for Monsanto Chemical Company which was insured under the provisions of M.G.L. c. 152 by Travelers Insurance; and

WHEREAS, Travelers Insurance has paid to Alice L. Warren as the widow of John H. Warren a sum of \$192,500. as a lump sum settlement in accordance with the provisions of M.G.L. c. 152; and

UCC 080748

WHEREAS, the plaintiff, Alice L. Warren, brought an action as Administratrix of the Estate of John N. Warren against the defendants seeking to recover damages resulting from her loss of consortium, his pain and suffering and his wrongful death alleging negligence and breach of warranty on the part of the defendants, which negligence and breach of warranty the defendants deny; and

WHEREAS, the parties to this action have agreed to resolve Alice L. Warren's claim by a compromise settlement; and

WHEREAS, M.G.L. c. 152, § 15, establishes a technical requirement for approval of tort actions begun by injured employees against third parties such as the defendants in this action; and

WHEREAS, M.G.L. c. 152, § 1, requires "any reference to an employee who has been injured shall when the employee is dead also include his legal representatives," it is hereby agreed as follows:

1. The parties have agreed to a settlement of all claims in the amount recommended by the Court at the settlement conference held on January 21, 1992.

2. The attorneys' fee as per agreement between Alice L. Warren and Robinson Donovan Madden & Barry, P.C., her attorneys, is one-third of the settlement amount. The costs incurred by Alice L. Warren and paid by her attorneys, Robinson Donovan Madden & Barry, P.C., and to be reimbursed to Robinson Donovan Madden & Barry, P.C. are \$4,935.35.

3. Alice L. Warren, Administratrix, will receive a draft or drafts from the defendants, or their representative or representatives, in an amount equal to two-thirds of the settlement amount, less \$4,935.

4. Robinson Donovan Madden & Barry, P.C. will receive a separate check for its attorney's fees and costs.

5. M.G.L. c. 152, § 15, requires court approval as set forth above. The purposes of § 15 are to avoid employee improvidence and disproportionate payments to either the worker's compensation insurer or the employee. In this case the settlement amount was suggested by the Court and has been thoroughly argued and negotiated to the benefit of the defendants and the plaintiff. Therefore, no improvidence obtains. Neither the worker's compensation insurer, the Travelers, nor Alice L. Warren can be disproportionately treated in the circumstances of this case because Travelers Insurance Company settled Alice L. Warren's compensation claim against it as set forth above and as part of that settlement

waived any right to any recovery against any legally liable person. M.G.L. c. 152, § 15. A copy of said waiver is attached hereto on document entitled "Agreement For Redeeming Liability By Lump Sum Under G.L. c. 152, section 48."

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this day of , 1992.

Alice L. Warren, Administratrix

James H. Tourtelotte, Esq., of
Robinson Donovan Madden
& Barry, P.C.
Attorneys for Alice L. Warren,
Administratrix
1500 Main Street - Suite 1400
Springfield, MA 01115
(413) 732-2301
BBO NO. 500800

THE DOW CHEMICAL COMPANY

By Sharon R. Burger
Its Attorney, Sharon R. Burger
Nutter, McClennen & Fish
One International Place
Boston, MA 02110-2699
(617) 439-2000 BBO NO. 064415

CONTINENTAL OIL COMPANY (CONOCO)

By Sharon R. Burger
Its Attorney, Sharon R. Burger
Nutter, McClennen & Fish
One International Place
Boston, MA 02110-2699
(617) 439-2000 BBO NO. 064415

UNION CARBIDE CHEMICAL AND
PLASTICS COMPANY, INC.

By Sharon R. Burger
Its Attorney, Sharon R. Burger
Nutter, McClennen & Fish
One International Place
Boston, MA 02110-2699
(617) 439-2000 BBO NO. 064415

THE B.F. GOODRICH COMPANY

By _____
Its Attorney, Mark S. Granger
Morrison, Mahoney & Miller
250 Summer Street
Boston, MA 02210
(617) 439-7500

In accordance with the provisions of M.G.L. c. 152, § 15,
as amended, the foregoing Memorandum of Settlement Agreement is
hereby approved this day of , 1992.

Michael A. Ponsor,
U.S. Magistrate

5762L

UCC 080752