

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

JO ANN M. CHARLES, ET AL

CIVIL ACTION NO. 94-278-B-2

VERSUS

JUDGE POLOZOLA

RAMSAY, SCARLETT & CO.,
INC., ET AL

MAGISTRATE NOLAND

VERSUS

THE DOW CHEMICAL COMPANY, ET AL

PLAINTIFF'S EXHIBIT

DOW-1046

THE DOW CHEMICAL COMPANY'S RESPONSES TO
INTERROGATORIES PROPOUNDED BY
MINNESOTA MINING AND MANUFACTURING COMPANY

Third party defendant, The Dow Chemical Company ("Dow") responds to Minnesota Mining and Manufacturing Company's ("3M") Interrogatories as follows:

GENERAL STATEMENT

Dow is a large corporation with numerous departments and divisions and many employees at numerous locations throughout the world. These departments, divisions and employees have changed over the years; employees have died, retired and moved. In answering these interrogatories, Dow has made efforts to research documents and data regarding the subject matter of the present lawsuit, but obviously, each and every employee has not been contacted and questioned concerning the times included in this set of interrogatories.

These answers are based upon information presently available to Dow and its attorneys and specifically known to the individuals who are preparing these answers. It is possible that future

discovery and independent investigation may supply additional facts or information, add meaning to known facts, and may establish entirely new factual conclusions and contentions, all of which may lead to substantial additions through changes in and variations from the answers set forth.

The following answers are made without prejudice to the right of Dow to provide additional evidence at the time of trial.

GENERAL OBJECTIONS

1. The Dow Chemical Company ("Dow") objects to this discovery on the grounds that it is inherently vague, ambiguous, overly broad and unduly burdensome as to time frame and location. Dow has been operating as a viable enterprise for almost a century and currently employs approximately 39,500 employees in various locations around the world. As a result, Dow considers objectionable any interrogatory which seeks information that is either not specific to or is otherwise outside the alleged time frame or location in which it stored asbestos at Ramsay, Scarlett's Port Allen warehouse.

Records produced by Ramsay, Scarlett and records produced in response to this discovery indicate that Dow stored asbestos at the Ramsay, Scarlett warehouse from November, 1977 through August, 1986. Thus, requests for information prior to November, 1977 and after August 1986 and with regard to Dow locations other than the Plaquemine facility are not relevant, not reasonably calculated to lead to the discovery of admissible evidence and Dow's responses will be limited accordingly.

2. Dow objects to this set of interrogatories, including any definitions or instructions, to the extent they alter, exceed or deviate from the discovery rules or law of Louisiana.
3. Dow objects to any interrogatory which seeks confidential and/or proprietary business information of Dow.
4. Dow objects to any interrogatory which seeks information regarding products other than asbestos-containing insulation.

5. Dow objects to any interrogatory which implies that Dow was the entity responsible for storing asbestos. Pursuant to the contract between Ramsay, Scarlett and Dow, Ramsay, Scarlett was, at all times relevant to this lawsuit, solely responsible for storing asbestos owned by Dow.
6. Dow incorporates these general objections into each and every response below. Any responses which may be given to the following interrogatories are made subject to and without waiving these objections

INTERROGATORY NO. 1:

Please list the names, addresses, telephone numbers and position of each individual employed by Dow Chemical Company who worked at the Ramsay, Scarlett warehouse in Port Allen during the period of Mr. Charles' employment.

RESPONSE TO INTERROGATORY NO. 1:

None of Dow's employees worked at the Ramsay, Scarlett facility. However, several Dow employees communicated with the Ramsay, Scarlett foremen and supervisors regarding the contract between Ramsay, Scarlett and Dow. These employees are identified in documents attached to 3M's request for production of documents.

INTERROGATORY NO. 2:

Please identify the name and address of each company that sold, distributed or supplied the asbestos fiber and/or asbestos-containing products that were stored by the Dow Chemical Company at the Ramsay, Scarlett warehouse during the period of Mr. Charles's employment.

RESPONSE TO INTERROGATORY NO. 2:

Dow states that the Hooker #1, Hooker #2, and 7M asbestos which was stored by Ramsay, Scarlett was sold by the Vermont Asbestos Group, Inc. located in Morrisville, Vermont (hereinafter "V.A.G."). Upon information and belief, the import agency for the 713 blue asbestos was Brakegate, Limited, South African Branch, 31 Sturdes Avenue, Rosebank, 2196, P.O. Box 784521, Sandton, 2148.

INTERROGATORY NO. 3:

Please list the dates that the Dow Chemical Company stored asbestos fiber and/or asbestos-containing products at the Ramsay, Scarlett warehouse in Port Allen.

RESPONSE TO INTERROGATORY NO. 3:

Upon information and belief, Dow's asbestos was stored at the Ramsay, Scarlett warehouse in Port Allen from November, 1977 through August, 1986.

INTERROGATORY NO. 4:

Please identify the locations where the asbestos fiber and/or asbestos-containing products were packaged, described how it was packaged, identify who packaged it, indicate where it was shipped and describe the purpose or purposes for which it was used.

RESPONSE TO INTERROGATORY NO. 4:

All asbestos stored at the Ramsay, Scarlett warehouse was pre-packaged prior to shipping to Ramsay, Scarlett. Dow does not know who packaged the asbestos. However, the asbestos was contained in 50 lb or 100 lb polymeric, dust proof woven bags. The remainder of interrogatory No. 4 is objected to on the basis that it seeks information that is not admissible nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 5:

Please describe the bags or any other packaging that contained the asbestos fiber and/or asbestos-containing products that were stored for the Dow Chemical Company at the Ramsay, Scarlett warehouse in Port Allen during the period of Mr. Charles's employment, please include in your description the materials used to construct the packaging, all written information printed on the packaging and the approximate size and weight of the packaging when it contained the asbestos fiber or asbestos-containing product.

RESPONSE TO INTERROGATORY NO. 5:

Please see Dow's response to Interrogatory No. 4.

INTERROGATORY NO. 6:

Please identify the model number and manufacturer of each mask, respirator or any other respiratory protective device used by, furnished to or made available to Mr. Charles at the Ramsay, Scarlett warehouse as a protective measure against the inhalation of asbestos dust or any other contaminant during the period of Mr. Charles's employment and for each such respiratory protective device identified by you, please indicate who furnished them and when they were furnished.

RESPONSE TO INTERROGATORY NO. 6:

Dow objects to this interrogatory on the basis that it implies that Dow had a duty to provide Mr. Charles with respiratory protective equipment and/or a safe place to work. At all times relevant to this litigation, Ramsay, Scarlett was solely responsible for providing Mr. Charles with protective equipment and a safe place to work. In addition, to the extent that this interrogatory seeks information relating to "any other contaminant" it is objected to on the basis that it is vague and ambiguous and on the basis that the requested information is not admissible nor reasonably calculated to lead to the discovery of admissible evidence. However, subject to and without waiving the foregoing objections, Dow states that it provided NIOSH-approved respirators identified as "3M-8710" to Ramsay, Scarlett. To the best of Dow's knowledge, Wes Constantine or Mike Fleniken obtained the respirators from Dow's industrial hygiene department or Dow's cell service department and delivered the respirators to the Ramsay, Scarlett warehouse when requested to do so by Ramsay, Scarlett's foremen and/or supervisors.

INTERROGATORY NO. 7:

Please list the name, address and telephone number of each individual employed by the Dow Chemical Company who held the position of safety director or safety supervisor or who was responsible for the safe handling of the asbestos fiber and/or asbestos-containing products at the Ramsay, Scarlett warehouse during the period of Mr. Charles's employment.

RESPONSE TO INTERROGATORY NO. 7:

Dow objects to this interrogatory on the basis that it implies that Dow had a duty to provide Ramsay, Scarlett's employees with a safe place to work and with safe procedures for handling asbestos. At all times relevant to this litigation, Ramsay, Scarlett had the sole responsibility to provide its employees with a safe place to work and with safe procedures for handling asbestos. However, subject to and without waiving the foregoing objection, Dow states that its industrial hygiene department performed area and personnel monitoring at the Ramsay, Scarlett warehouse. The persons involved in these monitoring activities are listed in documents produced to Ramsay, Scarlett as Exhibit "A."

INTERROGATORY NO. 8:

Please list the name, address, telephone number and position of each individual employed by the Dow Chemical Company who was responsible for selecting, purchasing, storing and issuing the masks, respirators or any other respiratory protective device used by, furnished to or made available to Mr. Charles as a protective measure against the inhalation of asbestos dust or any other contaminant.

RESPONSE TO INTERROGATORY NO. 8:

Dow incorporates and adopts by reference its response and objections to Interrogatory No. 6. However, subject to and without waiving these objections, Dow states that respiratory protective devices were selected by Dow's Industrial Hygiene department.

Harold Hoyle and Charlie Halphen worked in the industrial hygiene department at the relevant time period. At times, respirators were purchased by Dow's cell service department. Clay Weber, a former Dow employee, worked in cell service during the relevant time period. The respirators were usually provided to Ramsay, Scarlett's foremen and/or supervisors by Wes Constantine or Mike Fleniken. Any contact with the above referenced individuals should be made through Dow's undersigned counsel of record.

INTERROGATORY NO. 9:

Please identify all literature, advertisements, instructional materials, video tapes, packaging, dispensers or any other information in the possession of or reasonably made available to the Dow Chemical Company that provided information on the respiratory protective devices used by, furnished to or made available to Mr. Charles at the Ramsay, Scarlett warehouse in Port Allen.

RESPONSE TO INTERROGATORY NO. 9:

Dow objects to this interrogatory on the basis that it is overly broad, unduly burdensome, and on the basis that it requests information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Dow also objects to this interrogatory on the basis that it implies that Dow had a duty to provide Mr. Charles with safe work procedures. However, subject to and without waiving the foregoing objections, Dow refers 3M to the documents attached as Exhibit "B." Dow also states that information regarding the respiratory protective devices which were sent to Ramsay, Scarlett was contained on and in the packaging containing the respirators.

INTERROGATORY NO. 10:

Please identify all written material distributed to the employees who worked at the Ramsay, Scarlett warehouse in Port Allen that contained information on the selection, use, limitations or fitting of masks, respirators or any other respiratory protective device used by, furnished to or made available to Mr. Charles including, but not limited to, all written respirator programs and safety manuals that were in effect during the period that Mr. Charles worked at the warehouse.

RESPONSE TO INTERROGATORY NO. 10:

Dow objects to this interrogatory on the basis that it implies that Dow had a duty to instruct Ramsay, Scarlett's employees on the use of respiratory devices. At all times relevant to this litigation, Ramsay, Scarlett was solely responsible for training and instructing its employees. However, subject to and without waiving this objection, Dow states that it provided boxes of respirators to Ramsay, Scarlett's foremen and/or supervisors. Dow does not know if the boxes or instructional material contained therein was distributed to Ramsay Scarlett's employees. Additional material may also have been provided to the Ramsay, Scarlett supervisors.

INTERROGATORY NO. 11:

If any warnings were posted at the Ramsay, Scarlett warehouse in Port Allen, please state the substance of the warning and the locations where the warnings were placed.

RESPONSE TO INTERROGATORY NO. 11:

Dow objects to this interrogatory on the basis that it implies that Dow had a duty to warn Ramsay, Scarlett's employees about the dangers of asbestos. At all times relevant to this litigation, Ramsay, Scarlett was solely responsible for providing its employees with a safe place to work. However, subject to and without waiving

this objection, Dow states that the designated area in the Ramsay, Scarlett warehouse contained a caution sign as prescribed in 29 CFR 1910.1001.

INTERROGATORY NO. 12:

Please identify each distributor who supplied the masks, respirators or any other respiratory protective device used by, furnished to, or made available to Mr. Charles at the Ramsay, Scarlett warehouse in Port Allen and for each such distributor, please identify what respirators it supplied, who it supplied the respirators to and when it supplied them.

RESPONSE TO INTERROGATORY NO. 12:

Despite a diligent search, Dow is unable to identify the distributor of the respirators used by Dow and provided to Ramsay, Scarlett at the relevant time periods. Further, Dow does not know what respirators were provided to Mr. Charles by Ramsay, Scarlett.

INTERROGATORY NO. 13:

Please state whether the Dow Chemical Company, Ramsay, Scarlett or any other company monitored the air to measure the concentration of asbestos dust at the Ramsay, Scarlett warehouse in Port Allen and, if so, please state the results of each such measurement.

RESPONSE TO INTERROGATORY NO. 13:

Dow performed area and personnel monitoring at the Ramsay, Scarlett warehouse in Port Allen. The monitoring results are attached as Exhibit "A."

INTERROGATORY NO. 14:

As to each individual who you expect to call as an expert at the trial of this matter, please state his name and business address, his field or profession, the subject matter on which he is expected to testify, the substance of the facts which he is expected to testify, the substance of the opinions to which he is expected to testify, and a summary of the grounds for each such opinion.

RESPONSE TO INTERROGATORY NO. 14:

Dow has not identified any experts who may testify at trial at this time. Dow will identify any expert who may testify at trial in accordance with this Court's expert discovery deadlines.

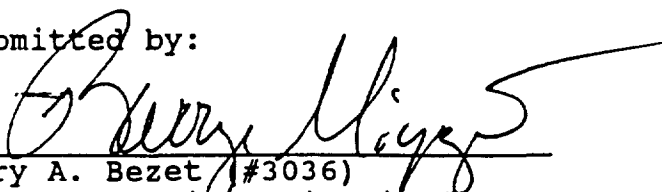
INTERROGATORY NO. 15:

If you or anyone acting on your behalf has caused any respirator, mask, hood or other safety device used by you, or of a type used by you to be tested, inspected or evaluated, please state for each such test, inspection or evaluation, the date it was made, the name of the manufacturer of the device, the model number and the name of the device, a description of the test, etc., that is complete enough to allow someone to reconduct it, the place where such test, etc., was performed, the name, address, job title and employer of each person participating in and/or conducting such test, etc., the results, and if the results have been committed to writing, the name, address, job title and employer of each and every person known to have a copy of such report.

RESPONSE TO INTERROGATORY NO. 15:

Dow objects to this interrogatory on the basis that it implies that Dow had a duty to test respirators which 3M placed on the market. At all times relevant to this litigation, Dow relied upon the representations made by 3M in regard to the 3M-8710. Dow also objects to this interrogatory on the basis that it is overly broad and on the basis that it requests information that is not admissible nor reasonably calculated to lead to the discovery of admissible evidence. However, subject to and without waiving the foregoing objections, Dow states that it has not tested or caused any respirator, mask, hood or other safety device to be tested.

Submitted by:


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing
Request for Admissions has this day been mailed postage prepaid to
the following counsel of record:

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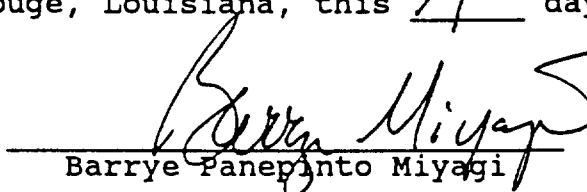
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General Services Administration
through its agent and representative:
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Baton Rouge, Louisiana, this 14th day of March, 1996.


Barrye Panepinto Miyagi

GUGLIELMO, LOPEZ, TUTTLE, HUNTER & JARRELL, L.L.P.

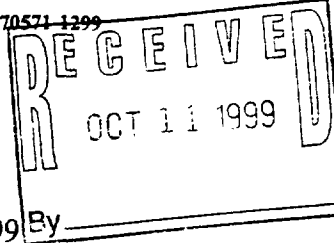
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October 8, 1999 By _____

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RE: Ramsay, Scarlett & Co., Inc.
Charley Carter, Jr., et ux vs. Anco Insulations, Inc., et al

Dear Brian:

Pursuant to your request, I have reviewed the files involving the Sam Charles case and have located documents produced by Dow which deal with the storage of asbestos by Ramsay, Scarlett. Accordingly, I am enclosing copies of Dow's responses to the interrogatories of 3-M as well as Dow's responses to the request for production of documents.

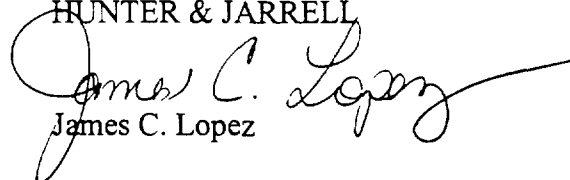
Mr. Ernest Levering has verified to me that he has had clerical personnel at both the Port Allen and Baltimore offices of Ramsay, Scarlett searched to determine that there are no other documents which would be responsive to your subpoena.

I also spoke with Evan Plauche who verified to me that, according to his best recollection as his file is in storage, all of the material relating to Dow was furnished by the discovery pleadings we have furnished.

I trust that this will satisfy your request, but if not, please feel free to get in touch with me and we can discuss further.

Very truly yours,

GUGLIELMO, LOPEZ, TUTTLE,
HUNTER & JARRELL


James C. Lopez

JCL:ktm
Enclosure