

6/18/83
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ROSE MARIE KUPFER, Individually
and as Administratrix of the Estate
of WILLIAM J. KUPFER, Deceased,

Plaintiffs,

vs.

THE DOW CHEMICAL COMPANY;
PPG INDUSTRIES, INC.; and,
SHELL CHEMICAL COMPANY, a
division of Shell Oil Company,

Defendants.

Civil Action No.
92-CV-0594S

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SHELL OIL COMPANY,

Defendant and
Third-Party Plaintiff,

vs.

THE GOODYEAR TIRE & RUBBER COMPANY,

Third-Party Defendant.

**RESPONSE OF THE DOW CHEMICAL COMPANY TO
PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, defendant The Dow Chemical Company ("Dow") responds and objects to plaintiff's first request for production of documents upon information and belief as follows:

GENERAL OBJECTIONS

1. Dow objects to the "Definitions and Instructions" set forth by plaintiff as overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Dow will respond consistent with its obligations pursuant to the Federal Rules of Civil Procedure.

2. Dow objects to any request that seeks information which is protected by the attorney-client privilege and/or the attorney work product doctrine (the mental impressions, conclusions, opinions or legal theories of an attorney or other representative or a party concerning the litigation) or other trial preparation material protected from discovery under the Federal Rules of Civil Procedure.

3. Dow objects to any request seeking information relating to "Defendant's predecessor" or "Defendant's subsidiary companies" as being overly broad, unduly burdensome and not reasonably calculated to lead to the the discovery of admissible evidence. Accordingly, Dow will respond only on its own behalf.

4. Dow objects to any request that seeks information already known to plaintiff, or available to plaintiff from sources other than Dow on the grounds that such requests are overly broad and unduly burdensome. Specifically, and without limiting the foregoing, Dow objects to plaintiff's interrogatories to the extent that such requests seek information contained in:

- a. Publicly available scientific or medical journals, books, treaties, textbooks and other compilations;
- b. Publicly available records or files maintained by governmental offices or agencies;
- c. Documents or records within the plaintiff's possession or control; and
- d. Documents maintained by entities unrelated to Dow.

5. Dow objects to each and every request for production because there is no evidence that William Kupfer ever used or was exposed to Vinyl Chloride Monomer ("VCM") manufactured by Dow. Moreover, there is no evidence that the Goodyear Tire & Rubber Company ("Goodyear") in Niagara Falls, NY purchased and/or used VCM manufactured by Dow during the time period relevant to this lawsuit. Absent such evidence, Dow is not a proper party to this action, and each and every request seeks information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

6. Dow objects to any request seeking the disclosure of confidential, proprietary or commercially sensitive and trade secret information.

RESPONSE TO PLAINTIFF'S FIRST REQUEST FOR PRODUCTION

- 1. All written reports, notes, written statements, and written memoranda of any kind relating to any investigation conducted by defendant, its agents, representatives or employees

into the plaintiff's claim against the defendant, including any documents received from The Goodyear Tire & Rubber Company, or its attorneys.

RESPONSE: Other than discovery conducted in connection with this action, the only investigation conducted by Dow has been done by, or at the direction of, Dow's attorneys subsequent to service of the summons and complaint. Accordingly, Dow objects to this request because it seeks documents which are protected attorney work product.

2. Produce all documents identified in response to plaintiff's interrogatory number 3.

RESPONSE: Dow has no such documents.

3. Produce all documents identified in response to plaintiff's interrogatory number 5.

RESPONSE: Dow has no such documents.

4. Produce all documents identified in response to plaintiff's interrogatory number 7.

RESPONSE: Dow incorporates by reference its general objections. Subject to and without waiving the foregoing objections, and limiting this response to the time period alleged to be at issue, please see the product brochures, Material Safety Data Sheets, and labels attached as Exhibits "A" and "F."

5. Produce all documents identified in response to plaintiff's interrogatory number 8.

RESPONSE: Dow incorporates by reference its general objections. Subject to and without waiving the foregoing

objections, and limiting this response to the time period alleged to be at issue, please refer to the response to Interrogatory No. 8 and Exhibits "A" and "F."

6. Produce all documents identified in response to plaintiff's interrogatory number 10.

RESPONSE: Dow objects to this request because it is vague and ambiguous as phrased. Dow further objects to this request because it is overly broad and unduly burdensome in that a reasonable time frame has not been established. Subject to and without waiving this objection, and as Dow understands this request, it has no such documents.

7. Produce all documents identified in response to plaintiff's interrogatory number 12.

RESPONSE: Dow incorporates by reference its general objections. Subject to and without waiving the foregoing objections, please see the Dow-published studies attached as Exhibit "B."

8. Produce all documents identified in response to plaintiff's interrogatory number 16.

RESPONSE: Dow incorporates by reference its general objections and the objections set forth in response to Interrogatory Nos. 15 and 16. Subject to and without waiving the foregoing objections, and limiting this response to the time period alleged to be at issue, please see Exhibits "A" and "B" attached.

9. Produce all documents identified in response to plaintiff's interrogatory number 22.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request because it is vague and ambiguous as phrased. Dow also objects to this request to the extent it seeks, or could be construed to seek, documents containing proprietary, confidential and/or trade secret information for which there has been no showing of relevance or need. Subject to and without waiving the foregoing objections, please see Exhibits "B" and "C" attached.

10. Produce all documents identified in response to plaintiff's interrogatory number 23.

RESPONSE: Dow incorporates by reference its general objections. Subject to and without waiving the foregoing objections, please see Exhibit "D" attached, which is a chronology regarding the discovery that chronic exposures to VCM at sufficient dose could cause angiosarcoma of the liver in humans.

11. Produce all documents identified in response to plaintiff's interrogatory number 25.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that the documents sought are irrelevant to the issues in this suit and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections, see the 1961 Torkelson and the 1972 Kramer articles produced as part of Exhibit "B" attached.

12. Produce all documents identified in response to plaintiff's interrogatory number 28.

RESPONSE: Dow incorporates by reference its general objections. Subject to and without waiving the foregoing objections, please refer to the responses to Interrogatory Nos. 27 and 28.

13. Produce all documents identified in response to plaintiff's interrogatory number 32.

RESPONSE: Dow incorporates by reference its general objections. Subject to and without waiving the foregoing objections, other than any documents which may have been produced by other parties to this litigation, Dow has located no such documents. Please refer to the responses to Interrogatory Nos. 31 and 32.

14. Produce all documents identified in response to plaintiff's interrogatory number 34.

RESPONSE: Dow incorporates by reference its general objections. Subject to and without waiving the foregoing objections, other than any documents which may have been produced by other parties to this litigation, Dow has located no such documents. Please refer to the responses to Interrogatory Nos. 33 and 34.

15. Produce all documents identified in response to plaintiff's interrogatory number 36.

RESPONSE: Dow objects to this request for the reasons set forth in paragraph 4 of defendant's general objections. Dow

further objects because the documents sought in this request are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Finally, Dow objects because this request is overly broad and unduly burdensome in that it is not limited to the time period at issue.

16. Produce all documents identified in response to plaintiff's interrogatory number 37.

RESPONSE: Dow incorporates by reference its general objections. Subject to and without waiving the foregoing objections, see the response to Interrogatory No. 37.

17. Produce all documents identified in response to plaintiff's interrogatory number 38.

RESPONSE: Dow incorporates by reference its general objections and the objections set forth in response to Interrogatory No. 38. Subject to and without waiving the foregoing objections, to date, no such documents exist.

18. Produce all documents identified in response to plaintiff's interrogatory number 45.

RESPONSE: Dow objects to this request because it is overly broad and unduly burdensome in that it is not limited to the time period alleged to be at issue in this action. Dow further objects to the extent this request, by inference, suggests that Dow had a duty to warn Goodyear, because there is no foundation for such an inference. Subject to and without waiving these objections, please see the documents attached as Exhibits "B", "C," and "D."

19. Produce all documents identified in response to plaintiff's interrogatory number 49.

RESPONSE: Dow incorporates by reference its general objections and the objections set forth in response to Interrogatory No. 49. Subject to and without waiving the foregoing objections, please see Exhibit "D."

20. Produce all documents identified in response to plaintiff's interrogatory number 50.

RESPONSE: Dow incorporates by reference its general objections. Subject to and without waiving the foregoing objections, and limiting this response to the time period alleged to be at issue, please see Exhibits "A" and "B."

21. All written memoranda, specifications or other written material of any kind relating to the design and preparation of labelling, warnings, material safety data sheets, and instructions for use of Defendant's, Defendant's predecessor's, or Defendant's subsidiary companies' vinyl chloride.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad and unduly burdensome as a reasonable time frame has not been established. Furthermore, this request is vague and ambiguous, and the information sought in this request is irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence. Finally, labelling standards applicable to the relevant time frame are publically available and are easily accessible to plaintiff. Subject to and without waiving these

objections, and as Dow understands this request, no such documents for the relevant time period exist.

22. All written memoranda, specifications or other written material relating to the testing of vinyl chloride for potential health hazards.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad, unduly burdensome, and a reasonable time frame has not been established. In addition, this request is vague and ambiguous as phrased. Furthermore, the information sought in this request is irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections, and as Dow understands this request, and limiting this response to the time period alleged to be at issue, see Exhibits "B" and "C."

23. All written memoranda, specifications, recommendations, publications, reports, scientific literature, medical literature or other written material relating to the potential health hazards of vinyl chloride, including, but not limited to, experimental animal studies, case reports, or epidemiological studies.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad, unduly burdensome as a reasonable time frame has not been established. In addition, this request is vague and ambiguous as phrased. Furthermore, the information sought in this request is irrelevant to the issues in this action

and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections, and as Dow understands this request, and limiting this response to the time period alleged to be at issue, see Exhibits "B" and "C."

24. All brochures, pamphlets, packaging, labelling, instructions, material safety data sheets or other written materials that contain any warnings, warranties, cautions, caveats, or directions concerning the possibility of injury from the use of vinyl chloride that have ever been issued by Defendant, Defendant's predecessor, or Defendant's subsidiary companies.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad, unduly burdensome, and a reasonable time frame has not been established. Subject to and without waiving the foregoing objections, and limiting this response to the time period alleged to be at issue, please refer to Exhibits "A," "B," and "F."

25. Any written statements, reports, memoranda, or transcripts of oral statements that were allegedly made by any individuals who have knowledge of relevant facts about this case.

RESPONSE: Dow incorporates by reference its general objections. Further, Dow objects to this request on the grounds that it is vague, overly broad and unduly burdensome. Subject to and without waiving the foregoing objections, Dow has no such documents.

26. Any written reports of field testing for potential exposure to vinyl chloride where vinyl chloride was being used.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad, unduly burdensome, and a reasonable time frame has not been established. Furthermore, the information sought in this request is irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence. Finally, Dow objects to this request because it is vague and ambiguous in that Dow does not understand what plaintiff means by the phrase "field testing for potential exposure." Subject to and without waiving these objections, and as Dow understands this request, and limiting this response to the time period alleged to be at issue, Dow has no record of having done any testing at Goodyear's Niagara Falls facility.

27. Any written reports of studies undertaken to determine the nature and extent of any adverse effects on human health from exposure to vinyl chloride, including, but not limited to, any studies conducted or sponsored by Defendant, Defendant's predecessor, or Defendant's subsidiary companies to determine any incidence of cancer.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad, unduly burdensome, and a reasonable time frame has not been established. Subject to and without waiving the foregoing objections, please see the Dow-published studies attached as Exhibit "C."

28. Any written reports of studies conducted at the Goodyear Tire & Rubber Company to determine potential exposure to vinyl chloride.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad and unduly burdensome as a reasonable time frame has not been established. Subject to and without waiving the foregoing objections, and as Dow understands this request, a search of our records revealed no studies conducted by Dow at Goodyear's Niagara Falls facility.

29. Any written reports of studies conducted at the Goodyear Tire & Rubber Company to determine any incidence of liver cancer.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad, unduly burdensome, and a reasonable time frame has not been established. Subject to and without waiving the foregoing objections, a search of our records revealed no studies conducted by Dow of individuals employed at Goodyear's Niagara Falls facility.

30. Any written reports or records relating to any case of liver cancer or angiosarcoma of the liver among past or present employees of Defendant, Defendant's predecessor, or Defendant's subsidiary companies where vinyl chloride was manufactured, used, or otherwise handled.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad, unduly burdensome and a reasonable time

frame has not been established. Furthermore, information pertaining to employees of Dow is irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence. Finally, to the extent this request seeks medical records of Dow employees, Dow objects to production of such documents because they are privileged. Dow will not produce those records without an appropriate authorization. Subject to and without waiving these objections, an limiting this response to the time period alleged to be at issue, see the studies attached as Exhibit "C."

31. Any workers compensation claims for liver cancer or angiosarcoma of the liver made by or on behalf of past or present employees of Defendant, Defendant's predecessor, or Defendant's subsidiary companies where vinyl chloride was manufactured, used, or otherwise handled.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad and unduly burdensome as a reasonable time frame has not been established. Furthermore, information pertaining to employees of Dow is irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence. Finally, to the extent this request seeks medical records of Dow employees, Dow objects to the production of such documents because they are privileged. Dow will not produce those records without an appropriate authorization. Subject to and without waiving these objections, and limiting this response to the time period alleged to be at

issue, Dow has no record of any employee making a workers' compensation claim for angiosarcoma of the liver or liver cancer related to VCM exposure.

32. Any written reports or correspondence with the National Institute for Occupational Safety and Health (NIOSH) concerning exposure to vinyl chloride or incidence of liver cancer or angiosarcoma of the liver.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that is overly broad, unduly burdensome, and a reasonable time frame has not been established. Subject to and without waiving the foregoing objections, the information sought is as easily accessible to plaintiff as it is to this defendant through publicly available records.

33. Any written reports or correspondence with the Occupational Safety and Health Administration (OSHA) concerning exposure to vinyl chloride or incidence of liver cancer or angiosarcoma of the liver.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad, unduly burdensome and a reasonable time frame has not been established. Subject to and without waiving the foregoing objections, the information sought in this request is contained in publicly available records easily accessible to plaintiff.

34. Any written reports of, correspondence with, or citations from the Occupational Safety and Health Administration (OSHA) concerning any investigation into exposure to vinyl chloride or incidence of liver cancer or angiosarcoma of the liver at any facilities of Defendant, Defendant's predecessor, or Defendant's subsidiary companies where vinyl chloride has been manufactured, used or otherwise handled.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad, unduly burdensome and a reasonable time frame has not been established. Subject to and without waiving the foregoing objections, the information sought in this request is contained in publicly available records easily accessible to plaintiff.

35. Any sales material used for the purposes of marketing or advertising vinyl chloride.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad and unduly burdensome, unlimited in time, vague and ambiguous, irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, and as Dow understands this request, and limiting this response to the time period alleged to be at issue, please refer to the product brochures attached as part of Exhibit "A."

36. Any written materials concerning the manner in which vinyl chloride should be used.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad, unduly burdensome and a reasonable time frame has not been established. Subject to and without waiving the foregoing objections, and limiting this response to the time period alleged to be at issue, please refer to Exhibits "A" and "F."

37. Any written reports or other written materials regarding any recommendations and/or suggestions concerning the risks or hazards to persons involved in the manufacture or use of vinyl chloride by any physicians, medical officers, toxicologists, epidemiologists, industrial hygienists, medical consultants, or other scientists or researchers employed by Defendant, Defendant's predecessor, or Defendant's subsidiary companies.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad and unduly burdensome, unlimited in time, vague and ambiguous as written, irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence. Finally, assuming such documents ever existed, recommendations and suggestions other than formal reports of research results would no longer exist pursuant to Dow's record retention program. Subject to and without waiving the foregoing objections, and as Dow understands this request, and limiting this response to the time period alleged to be at issue, please refer to Exhibits "A" and "B."

38. Any minutes of meetings, any correspondence between members of any trade organization or association, or any correspondence between Defendant, Defendant's predecessor, or Defendant's subsidiary companies and any other manufacturers of vinyl chloride regarding the potential hazards of exposure to vinyl chloride.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad and unduly burdensome, unlimited in time, vague and ambiguous as written, irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence.

39. Any written testimony or submissions by Defendant, Defendant's predecessor, or Defendant's subsidiary companies to any court of law, hearing officer, local, state or federal government where the potential danger to human health from exposure to vinyl chloride was an issue.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad, unduly burdensome, unlimited in time, harassing, vague and ambiguous as written, irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections, and limiting this response to the relevant time period, the information sought is easily accessible to plaintiff as it is to this defendant through publicly available records.

40. Any written testimony, submissions or correspondence by Defendant, Defendant's predecessor, or Defendant's subsidiary companies to the Occupational Safety and Health Administration (OSHA) or the National Institute for Occupational Safety and Health (NIOSH) concerning any rulemaking or standard setting where occupational exposure to vinyl chloride was an issue.

RESPONSE: Dow incorporates, by reference, its general objections. Dow further objects to this request on the grounds that it is overly broad and unduly burdensome, unlimited in time, vague and ambiguous as written, irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, and limiting this response to the relevant time period, the information sought is as easily accessible to plaintiff as it is to this defendant through publicly available records.

41. Any testimony by Defendant, Defendant's predecessor, or Defendant's subsidiary companies to any court of law, or in a deposition, where a claim for injury due to exposure to vinyl chloride had been made.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad, unduly burdensome, unlimited in time, vague and ambiguous as written, irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections, Dow has no such testimony from any lawsuit in which the plaintiff claimed that chronic exposure to VCM caused angiosarcoma of the liver.

42. All invoices, bills of sale, or other documents which set forth the sale, shipment or distribution by Defendant, Defendant's predecessor, or Defendant's subsidiary companies of vinyl chloride to The Goodyear Tire & Rubber Company in Niagara Falls, New York during the period of 1955 through 1978.

RESPONSE: No such documents exist. Please refer to the response to Interrogatory No. 2.

43. Any written reports from or correspondence with any proposed expert witness.

RESPONSE: No such documents exist. Please refer to the response to Interrogatory No. 38.

44. The latest curriculum vitae of any proposed expert witness.

RESPONSE: No such documents exist. Please refer to the response to Interrogatory No. 38.

45. Any insurance policies pertaining to your coverage for this claim.

RESPONSE: Dow objects to producing "insurance policies" as being extremely burdensome. However, please refer to Exhibit "E" which is a summary of Dow's insurance coverage in effect during plaintiff's alleged exposure period.

46. Any correspondence, or documents that refer or relate to communications, either oral or written, between Defendant, Defendant's predecessor, or Defendant's subsidiary companies and The Goodyear Tire & Rubber Company concerning any potential health hazards of exposure to vinyl chloride, including, but not limited to, labels, material safety data sheets, instructions for use, or reports of adverse health effects.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad and unduly burdensome, as a reasonable time frame has not been established. Subject to and without waiving the foregoing objections, and responding to the time period of plaintiff's alleged exposure, due to Dow's record retention schedule, the correspondence and/or communications sought in this request, if there were any, are no longer available. Also, please refer to Dow's responses to Interrogatory No. 8 and paragraph No. 5 of plaintiff's First Request for Production of Documents.

47. All labelling or other similar documents for any containers of vinyl chloride, including tank cars.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad and unduly burdensome, unlimited in time, vague and ambiguous in that the phrase "similar document" is not defined, irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, please refer to the labels attached as Exhibit "F."

48. Any work rules, safety rules, work practices or other documents, including, but not limited to, any documents setting forth your personal protective equipment program regarding respirators, protective clothing, or other protective equipment, pertaining to your employees who produce or handle vinyl chloride or who are often exposed to vinyl chloride.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad and unduly burdensome, as a reasonable time frame has not been established. Furthermore, Dow objects to this request on the grounds that information relating to employees of Dow is irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence. Moreover, pursuant to Dow's record retention schedule, some documents for the relevant time period sought in this request are no longer available. Subject to and without waiving the foregoing objections, please refer to Exhibit "A."

49. All industry standards concerning the manufacture, production, distribution, use and labelling of vinyl chloride.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad and unduly burdensome, unlimited in time, vague and ambiguous as written, irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, the information sought is as easily accessible to plaintiff as it is to this defendant through publicly available records.

50. The latest annual report to the stockholders of your company.

RESPONSE: Dow objects to this request on the grounds that it is irrelevant to the issues in this action and not

reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, please refer to the Annual Report attached as Exhibit "G."

51. All documents which set forth any physical complaints, injuries, diseases, or other symptoms that in any way relate to vinyl chloride from any company or person to whom Defendant, Defendant's predecessor, or Defendant's subsidiary companies had distributed vinyl chloride.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad, unduly burdensome, vague and ambiguous as written, unlimited in time, harassing, irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence.

52. Any information, warnings, or instructions issued to your employees concerning any possible health hazards from exposure to vinyl chloride.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is overly broad, unduly burdensome, unlimited in time and harassing. Furthermore, information pertaining to Dow employees is irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence. Finally, due to Dow's records retention schedule, some documents from the relevant time period, if there were any, no longer exist. Subject to and without waiving the foregoing objections,

please refer to the documents attached as Exhibit "A," which were routinely made available to Dow's employees.

53. Documents that refer or relate to Defendant's, Defendant's predecessor's, or Defendant's subsidiary companies' membership, involvement, or participation in any group or committee of the Manufacturing Chemists Association (now called the Chemical Manufacturers Association) that dealt with vinyl chloride and potential hazards to human health, including, but not limited to, any Chemical Safety Data Sheets or meetings with OSHA or NIOSH officials or scientists or researchers.

RESPONSE: Dow incorporates by reference its general objections. Dow further objects to this request on the grounds that it is vague and ambiguous as written, overly broad, unduly burdensome, unlimited in time, irrelevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence. Finally, some or all of the information sought is easily accessible to plaintiff through publicly available records. Subject to and without waiving these objections, please refer to Exhibit "D."

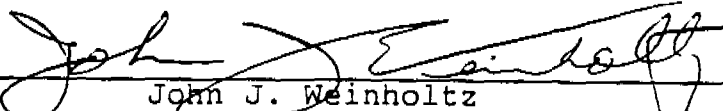
54. If not already requested above, any documents, any real or physical evidence, or any demonstrative evidence, including graphs, photographs, maps, models, charts, diagrams, drawings, films, video tapes, or other graphic representations of any kind which Defendant contends are relevant to this case.

RESPONSE: Dow incorporates by reference its general objections. Furthermore, Dow objects to this request to the extent it seeks discovery beyond that which is required by the Federal Rules of Civil Procedure. Subject to and without waiving the foregoing objections, Dow cannot determine at this stage of this litigation what documents might be relevant to this case,

and Dow makes no contentions in this regard at this time. If plaintiff can establish that William Kupfer ever used or was exposed to toxic amounts of Vinyl Chloride Monomer manufactured by Dow, then Dow will supplement this response after discovery has progressed to the point that the issues in this case have been defined.

DATED: June 18, 1993
Buffalo, New York

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