June 10, 1992

COPY

VIA HAND-DELIVERY

Hon. Thomas B. Mannion, J.S.C.
Middlesex County Court House
One Kennedy Square
New Brunswick, NJ 08903-0964

Re: Perth Amboy v. Witco v. Monsanto, *et al.*
Docket No. L-073370-86

Dear Judge Mannion:

This letter is submitted on behalf of third-party defendant Monsanto Company ("Monsanto") in response to the letter dated June 4, 1992 sent to Your Honor by Alfred Constants, Esq., counsel for third-party plaintiff Witco Corporation ("Witco"). Witco argues that it has properly requested and is entitled to the production of a "computer index" from Monsanto. Witco's presentation of this demand by letter to the Court violates at least two of Your Honor's prior rulings on this subject, and also directly conflicts with Witco's affirmative obligation under Rule 1:6-4(c) to attempt to resolve any discovery disputes by conferring with opposing counsel prior to making application to the Court. As set forth below, Monsanto has repeatedly offered to meet with Witco to

address any open discovery issues (including the question of the so-called "computer index"), but Witco has declined on all occasions to speak with Monsanto's counsel.

As Witco has admitted to Your Honor in the past, Monsanto has fully complied with all of Witco's discovery requests, as modified by Court Orders and numerous agreements among counsel. To this day, Witco acknowledges that the adequacy of Monsanto's discovery responses is not at issue. (*See* letter from John Bain, Esq., dated June 8, 1992, annexed as Exhibit "A"). Nevertheless, Witco continues to demand (with the first demand occurring at the December 20, 1991 Case Management Conference) that Monsanto produced a "computer index to PCB related documents."[1] (*See* letter from John Bain, Esq., dated May 15, 1992, annexed as Exhibit "B").

COPY

As Your Honor will recall, Monsanto objected to the production of attorney work-product and suggested that if Witco

---

[1]Witco inaptly uses the term "computer index" in its June 4, 1992 letter to the Court to characterize the materials which are the subject of its demand. Monsanto utilizes a computerized litigation support system created and administered by Monsanto's attorneys in connection with the defense of pending and anticipated litigation. Monsanto's attorneys created and maintain a taxonomy, or list of fields and classifications, which is used by Monsanto's counsel to retrieve documents for purposes of litigation. It is the fundamental equivalent of a lawyer's notes of his mental impressions, conclusions, opinions and legal theories used to classify and retrieve documents for litigation purposes.

believes that the pursuit of supplemental discovery from Monsanto is necessary at this time, it should formulate appropriate, specific requests for documents to which Monsanto could then respond. If the requests were proper, Monsanto would produce responsive documents in the ordinary course; if not, a specific and clearly framed discovery dispute could then be presented if necessary to the Court.

COPY

Your Honor agreed with Monsanto's position. At the December 20, 1991 Case Management Conference, Your Honor directed Witco to serve a "request for documents" upon Monsanto. However, Witco never complied with this directive. In fact, Witco abandoned the entire issue until it hand-delivered a letter dated April 30, 1992 and an accompanying stack of documents on the morning of the last Case Management Conference. When Mr. Constants attempted to raise this matter at the Conference on May 1, 1992, Your Honor concluded that Witco had violated the Court's established procedures and refused to consider Witco's demand for a "computer index" at that time.

Inexplicably, Witco now argues that Monsanto was directed at the May 1 Conference "to respond to Witco's request for production of Monsanto's index of documents relating to PCBs." (*See* letter from John Bain dated June 4, 1992, annexed as Exhibit "C"). However, as I advised Mr. Bain by letter dated June 8, 1992

(annexed as Exhibit "D"), Witco's position is flatly inconsistent with what occurred at the Case Management Conference (where Witco's counsel was chastised for springing this issue upon Monsanto and the Court without notice, after four months of inaction). Witco's position is also directly contradicted by the May 15, 1992 Case Management Order. That Order embodies no directive to Monsanto to respond to a non-existent request for documents from Witco; indeed, Witco's counter-proposed form of Order (which Your Honor rejected) is also silent on the subject of "Witco's request for production of Monsanto's index."

COPY

Witco's latest reformulation of the Court's directives at the May 1, 1992 Case Management Conference is that Your Honor purportedly "directed that if Witco and Monsanto could not agree with respect to the production of Monsanto's computer index, the matter should be presented to the Court." (*See* Exhibit "C"). In fact, Your Honor's clear and repeated mandate has been for Witco to serve a supplemental request for documents on Monsanto and to give Monsanto a fair opportunity to respond. Witco has steadfastly failed and refused to embark on this reasonable course -- which is mandated not only by the Court Rules but by the express Orders of this Court. It is simply inappropriate for a party to off-handedly demand its adversary's attorney work-product without so much as

serving an underlying discovery request or making an attempt to satisfy its discovery needs through non-privileged sources.

Contrary to its representations to the Court, Witco has not tried in good faith to resolve this issue with Monsanto. By letters dated May 29, 1992 and June 8, 1992 (annexed as Exhibits "E" and "D," respectively), I invited Mr. Bain and/or Mr. Constants to meet with me to discuss Monsanto's discovery responses to Witco. Witco's counsel refuses even to meet to discuss this matter. Witco's counsel evidently has no intention of complying with the express mandate of Rule 1:6-2(c) -- nor is Witco willing to abide by the Rules for propounding discovery and for seeking relief of Court by motion.

COPY

Finally, Witco's tactic of raising this issue without proper notice to Monsanto must stop. This Court has expressly condemned such conduct on several occasions in this case. In particular, I object to Witco's direct communications in writing and orally to the Court without promptly notifying this office. I did not receive Mr. Constants' June 4th letter to the Court (apparently received by the Court on June 5) until June 8, 1992. Yet, numerous other letters from Carella, Byrne were telecopied to this office last week.

For all these reasons, if Witco persists in believing that it needs further document discovery from Monsanto, I request that the Court direct Witco (again) to comply with the January 13, 1992 Order requiring Witco to serve a supplemental request for documents upon Monsanto. There is nothing before this Court to justify compelling Monsanto to produce attorney work-product, particularly where Witco has conceded that Monsanto has properly responded to all previously served discovery requests. Should your Honor decide nevertheless that this issue is ripe for consideration, Monsanto is prepared to demonstrate through formal briefing that Witco is not entitled to the production of any information regarding its computerized litigation support system. Your Honor and Witco should be aware that three Courts (the Southern District of Indiana, the Eastern District of Texas, and the State of Wisconsin Circuit Court -- Milwaukee County) have considered and upheld Monsanto's claim of work-product protection for this system.

COPY

Thank you for your consideration of Monsanto's position on this matter.

Respectfully submitted,

JAMES E. TYRRELL, JR.

Enclosures
cc: John N. Bain, Esq. (via telecopy and hand-delivery)
bcc: Thomas M. Bistline, Esq.
Michael E. Kelly, Esq

A

CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI & STEWART

CHARLES C CARELLA
BRENDAN T BYRNE
JOHN N BAIN
JOHN G GILFILLAN III
JAMES C CECCHI
HERBERT M RINALDI
PETER G STEWART
ELLIOT M OLSTEIN
ARTHUR T VANDERBILT II
JAN ALAN BRODY
JOHN M AGNELLO
JAMES T BYERS
ALFRED C CONSTANTS III
DONALD F MICELI
JUDITH A HEIM
A RICHARD ROSS
KENNETH L WINTERS

GEORGE J MINISH
BARBARA A CURRAN
CARL R WOODWARD III
JEFFREY A COOPER
GEORGE J GROCHALA
OF COUNSEL

A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW
6 BECKER FARM ROAD
ROSELAND, N J. 07068-1739
(201) 994-1700
TELECOPIER (201) 994-1744

37 PARK AVENUE
LYNDHURST, N J 07071-1795
(201) 935-6900

CABLE ADDRESS
TECHLAW-ROND
TELEX NO
139318

RAYMOND J LILLIE
MARILYN D LUDWIG
DAVID R COSGROVE
JOHN F MALONE
WALTER G LLOGR
SUSAN J FLYNN-HOLLANCER
E. ZABETH E CROISSER
JOHN C KALEMANN +
ROBERT C TYMS
CHARLES M CARELLA
JEAN S LIDDY
ROSEMAR E SHERMAN
PAUL E STEVENSON
THOMAS D FORRESTER
SUSAN A CAPELLO*
NICHOLAS A CONCIL O III

+MEMBER D C & N M BARS ONLY
*MEMBER N Y BAR ONLY

PLEASE REPLY TO

June 8, 1992

VIA TELECOPIER

James E. Tyrrell, Jr., Esq.
Pitney, Hardin, Kipp & Szuch
Park Avenue at Morris County
P.O Box 1945
Morristown, New Jersey 07962

Re: City of Perth Amboy v. Witco v. Monsanto, et al.
Docket No. L-073370-86
Our File No. 757000-6

Dear Mr. Tyrrell:

Your letter of June 8, 1992 does not move the matter along.

The adequacy of discovery is not an issue at this time. The issue is the production by Monsanto of its computer index. Since you have refused to discuss this issue, the intervention of the court is required.

Very truly yours,

CARELLA, BYRNE, BAIN, GILFILLAN,
CECCHI & STEWART

John N. Bain

JNB/sb

HARTOLDMON0044349

3

CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI & STEWART

CHARLES C CARELLA
BRENDAN T BYRNE
JOHN N BAIN
JOHN G GILFILLAN III
JAMES D CECCHI
HERBERT M RINALDI
PETER G STEWART
ELLIOT M OLSTEIN
ARTHUR T VANDERBILT II
JAN ALAN BRODY
[illegible] M AGNELLO
[illegible] BYERS
[illegible] CONSTANTS III
DONALD F MICELI
[illegible]ITH A HEIM
A RICHARD ROSS
KENNETH L WINTERS

GEORGE J MINISH
BARBARA A CURRAN
CARL R WOODWARD III
JEFFREY A COOPER
OF COUNSEL

A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW
6 BECKER FARM ROAD
ROSELAND N J 07068-1739
(201) 994-1700
TELECOPIER (201) 994-1744

37 PARK AVENUE
LYNDHURST N J 07071-1795
(201) 935-6900

CABLE ADDRESS
TECHLAW RCND
TELEX NO
139318

RAYMOND J [illegible]LE
MARILYN D LUDWIG
DAVID R COSGROVE
JOHN F MALONE
WALTER G LUGER
SUSAN J FLYNN-HOLLANDER
ELIZABETH E GROSSER
JOHN D KAUFMANN +
ROBERT C [illegible]MS
CHARLES M CARELLA
JEAN S LOON
ROSEMAR E SHERMAN
PAUL E STEVENSON
THOMAS D FORRESTER
SUSAN A CAPELLO*
NICHOLAS A CONCILIO

+MEMBER D C & N M BARS ONLY
*MEMBER N Y BAR ONLY

PLEASE REPLY TO

May 15, 1992

VIA TELECOPIER

James Tyrrell, Esq.
Pitney, Hardin, Kipp & Szuch
P.O. Box 1945
Morristown, New Jersey 07962-1945

Re: Perth Amboy v. Witco Corp. v. Monsanto
Our File No. 7570000-6

Dear Mr. Tyrrell:

At the Case Management Conference of December 20, 1991, I requested and Judge Mannion initially directed that Monsanto produce its computer index to PCB related documents, which you informed the Court was in existence.

You requested and Judge Mannion directed that I make a formal request of you in writing, which I did, under date of April 30, 1992. At the last Case Management Conference, Judge Mannion directed that you respond to such written request. The response which I expect must include two elements; Monsanto's response to Witco's request for a copy of the above-referenced computer index and Monsanto's response to Witco's assertion that Monsanto has failed to produce documents earlier requested.

The above two elements are in the disjunctive. Witco's demand for the index is not dependent upon any dispute relating to Monsanto's failure to produce documents.

Very truly yours,

CARELLA, BYRNE, BAIN, GILFILLAN,
CECCHI & STEWART

John N. Bain

John N. Bain

JNB/sb

HARTOLDMON0044351

CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI & STEWART

A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW
6 BECKER FARM ROAD
ROSELAND, N.J. 07068-1739
(201) 994-1700
TELECOPIER (201) 994-1744

37 PARK AVENUE
LYNDHURST, N.J. 07071-1795
(201) 935-6900

CABLE ADDRESS:
TECHLAW-ROND
TELEX NO.
[illegible]

CHARLES C. CARELLA
BRENDAN T. BYRNE
JOHN N. BAIN
JOHN G. GILFILLAN, III
JAMES G. CECCHI
HERBERT M. RINALDI
PETER G. STEWART
ELLIOT M. OLSTEIN
ARTHUR T. VANDERBILT II
JAN ALAN BRODY
JOHN M. AGNELLO
JAMES T. BYERS
ALFRED C. CONSTANTS, III
DONALD F. MICELI
JUDITH A. HEIM
A. RICHARD ROSS
KENNETH L. WINTERS

GEORGE J. MINIEN
BARBARA A. CURRAN
CARL R. WOODWARD, III
JEFFREY A. COOPER
GEORGE J. GROCHALA
OF COUNSEL

RAYMOND J. LILLIE
MARILYN D. LUDWIG
DAVID R. COSGROVE
JOHN F. MALONE
WALTER G. LUGER
SUSAN J. FLYNN-HOLLANDER
ELIZABETH E. GROISSER
JOHN D. KAUFMANN +
ROBERT C. TYMS
CHARLES M. CARELLA
JEAN S. LIDON
ROSEMARIE SHERMAN
PAUL E. STEVENSON
THOMAS D. FORRESTER
SUSAN A. CAPELLO*
NICHOLAS A. CONCILIO II

+ MEMBER D.C. & N.M. BARS ONLY
* MEMBER N.Y. BAR ONLY

PLEASE REPLY TO:

June 4, 1992

Via Telecopier and Regular Mail

James E. Tyrrell, Jr., Esq.
Pitney, Hardin, Kipp & Szuch
P.O. Box 1945
Morristown, New Jersey 07962-1945

Re: Perth Amboy v. Witco Corp. v. Monsanto
Docket No. L-073370-86
Our File No. 757000-6

Dear Mr. Tyrrell:

This is in response to your letter of May 29, 1992.

After inquiry of Mr. Constants, who was present at the Case Management Conference of May 1, 1992, I find that you were to respond to Witco's request for production of Monsanto's index of documents relating to PCB's.

Your letter of May 29, 1992 does not appear to make an intelligible response except, in substance, to refuse to produce such index. Moreover, your letter of May 29, 1992 is unnecessarily prolix and filled with misstatements of fact, innuendo and self-serving declarations. I do not intend to be drawn into a lengthy debate with respect to those statements.

It is further my understanding from Mr. Constants that Judge Mannion directed that if Witco and Monsanto could not agree with respect to the production of Monsanto's computer index, the matter should be presented to the court. I intend to do just that.

Lastly, at no time, did Judge Mannion instruct that Witco identify in detail what it was looking for in the way of documents since the request was for the computer index not documents. Therefore, the suggestion in the second full paragraph of page two of your letter of May 29, 1992, appears to be incomprehensible or an effort to obfuscate the issue.

The issue in dispute is very simple: Witco has requested that Monsanto produce its computer index to documents, which Monsanto admittedly removed from a number of different locations and sources and consolidated them in a central location for which the computer index was created. The computer index is clearly not subject to the attorney-client privilege.

Additionally, you have made no effort to demonstrate to me, let alone the court, that the work product rule applies to the index. For instance, no attempt has been made to demonstrate to either me or the court that the index discloses opinions for the mental thinking of attorneys for Monsanto. Moreover, the work product rule is not a privilege.

Respecting your comments that documents obtained by us from the Stroh case are somehow not relevant because it dealt with a PCB based hydraulic fluid, rather than a PCB based heat exchange media is both preposterous and frivolous on its face. The issue before the court is not narrowly constrained to heat exchange fluids, but rather the toxicity of the PCB's generally and the knowledge of Monsanto with respect to that toxicity.

Accordingly, unless I hear from you immediately to the contrary, I will assume your letter of May 29, 1992, represents your final refusal to produce, even under a protective order, Monsanto's computer index relating to PCB documents.

Very truly yours,

CARELLA, BYRNE, BAIN, GILFILLAN,
CECCHI & STEWART

John M. Bain

JNB/sb

HARTOLDMON0044353

June 8, 1992

VIA FACSIMILE AND REGULAR MAIL

John N. Bain, Esq.
Carella, Byrne, Bain, Gilfillan,
Cecchi & Stewart
6 Becker Farm Road
Roseland, New Jersey 07068

Re: City of Perth Amboy v. Witco v. Monsanto, *et al.*
Docket No. L-073370-86

Dear Mr. Bain:

I have reviewed your letter of June 4, 1992. I fundamentally disagree with your opinion that Judge Mannion directed Monsanto "to respond to Witco's request for production of Monsanto's index of documents relating to PCBs." As you know, no such directive was embodied in the Case Management Order; in fact, Witco's counterproposed form of Order (which was rejected by Judge Mannion) did not even mention the subject of "Witco's request for production of Monsanto's index."

Clearly, the Court did not and could not direct Monsanto to respond to a discovery request which was never served. You should know that Judge Mannion refused even to consider the issue of supplemental discovery against Monsanto at the May 1, 1992 Case Management Conference since Witco failed to follow proper procedures and completely ignored the January 13, 1992 Order.

Under the circumstances, I believe it would be appropriate to accept my offer to confer in good faith to resolve whatever disagreements we have on the adequacy of discovery from

SIDNEY HARDIN & PORTER

Monsanto. I trust that you will decide to abide by Rule 1:6-2(c) and will meet with me at a mutually agreed time.

Very truly yours,

JAMES E. TYRRELL, JR.

JET:mp

COPY

E

C O P Y

May 29, 1992

John N. Bain, Esq.
Carella, Byrne, Bain, Gilfillan,
Cecchi & Stewart
6 Becker Farm Road
Roseland, NJ 07068-1739

Re: City of Perth Amboy v. Witco v. Monsanto

Dear John:

I am writing in response to your letter of May 15, 1992. Your letter contains a number of inaccuracies which require correction.

First, a number of points need to be made with regard to Witco's request that "Monsanto produce the computer index to PCB related documents." As you know, the first time that Witco raised this subject was during the Case Management Conference on December 20, 1991. Witco gave Monsanto no prior notice of its intention to demand access to this work-product privileged material. By surprising Monsanto with this issue at the Conference, Witco violated the Court's Order of August 9, 1988, which explicitly required that all matters to be addressed at Case Management Conferences be disclosed to opposing counsel at least three days in advance of the Conference date.

You are correct in saying that "Judge Mannion directed that [you] make a formal request . . . in writing." Significantly, while you first raised this issue before the Court on December 20, 1991, you did nothing to comply with the Court's direction until April 30, 1992, the day before the next scheduled Case Management Conference. I received your April 30 letter and attached documents on the morning of May 1 as I was about to leave for Court. When Mr. Constants attempted to raise this matter before Judge Mannion

at the Case Management Conference, the Court properly concluded that Monsanto had not been given a fair opportunity to read, let alone frame a response to, your April 30 letter and attached documents.

Your next communication on this subject was your letter of May 15, 1992, which states that your April 30, 1992 letter somehow constituted the "formal request" that you admit Judge Mannion directed you to make on December 20, 1991. I had understood Judge Mannion's December 20, 1991 direction to require Witco to serve appropriate interrogatories or document requests clearly specifying the information Witco sought. Under the Court Rules, Monsanto would have then had an opportunity to evaluate Witco's requests, to respond, and, if any dispute existed, to confer with you on the subject as required by Rule 1:6-2 before either side could make appropriate motions to the Court. Witco's decision to serve Monsanto with a letter on the day of the May 1 Case Management Conference requesting a "computer index to PCB-related documents" circumvented both the Court Rules and Judge Mannion's December 20, 1991 direction to Witco to make a "formal request for documents." Judge Mannion agreed with Monsanto's position that Witco had failed to follow established procedures when he refused to consider Witco's demand at the May 1 Conference.

COPY

My expectation is that you will decide to comply with Judge Mannion's instruction and set forth with specificity exactly what Witco is looking for, as your generalized letter request is not particularly helpful in identifying what Witco believes it really needs and what categories of documents it thinks are properly the subject of supplemental discovery. However, if you are not willing to follow the reasonable procedures established by the Court to focus and limit discovery in this case, I am willing to meet with you or Mr. Constants to attempt in good faith to resolve this issue.

Second, in addition to the issue concerning a computer index, your May 15 letter requests "Monsanto's response to Witco's assertion that Monsanto has failed to produce documents earlier requested." The short answer to your assertion is that Monsanto has made a good faith effort to search for and produce all documents responsive to Witco's discovery requests, as modified by Court Orders and agreements of counsel.

As you are well aware, the documents Witco "earlier requested" were so overbroad and burdensome that the Court was required to make numerous rulings on the proper scope of discovery. Witco's attempt to force Monsanto to produce all PCB-related documents and documents relating to other chlorinated hydrocarbons

was categorically rejected by the Court after extensive briefing and days of oral argument. In addition, many of the restrictions on the scope of discovery in this case were established with the express agreement of counsel for Witco, and were memorialized in Consent Orders approved by your office. Therefore, what Monsanto produced was not what Witco had "earlier requested" but what Judge Mannion directed be produced and what Witco agreed to accept.

Witco's apparent strategy of casting aspersions on Monsanto's document production, in order to deflect attention at Case Management Conferences from Witco's failures to abide by Judge Mannion's rulings and deadlines, is self-evident. The entire basis for Witco's false accusation that Monsanto has intentionally withheld documents is that Witco has obtained materials from one or more other lawsuits in which Monsanto was involved and which Witco suggests were not produced here. I would suggest that Witco has been all too quick to charge that these materials were "intentionally withheld" by Monsanto's counsel. Witco's eagerness to advance this baseless accusation of willful obstruction is particularly ironic in light of the fact that Witco continues to sporadically produce relevant documents that Monsanto's attorneys have been able to identify only through depositions of Witco's current and former employees. Many of these documents were located in the files of key environmental and safety personnel, whose records should have been searched years ago consistent with Witco's obligation to make a good faith effort to produce documents responsive to Monsanto's discovery requests. In addition, Witco has repeatedly resisted the production of these and other relevant documents until such time as the Court directs that sanctions be imposed for continuing violations of its discovery orders.

COPY

I am still in the process of attempting to determine the identity and source of the documents that you sent to me under cover of your April 30, 1992 letter, many of which will require better identification by Witco to facilitate a meaningful review. I will be prepared in the near future to meet with you or Al Constants to discuss these documents individually. I can tell you now, however, that your assertion that these documents were covered by Judge Mannion's Order and were intentionally withheld from Witco is demonstrably false. It appears that some of the documents were in fact produced to Witco. I cannot explain why Witco's document control system for this case failed to find them, except to suggest that you have not endeavored to review the Monsanto production set or have lost many of the documents that were produced.

Others of the documents appear to be trial exhibits created by counsel involved in other litigations. Trial exhibits from other cases (particularly those prepared by opposing counsel

and/or their experts) certainly do not constitute producible documents in this case, as they are clearly not part of Monsanto's corporate records. In addition, many of the exhibits are scientific articles and other materials in the public domain, which were not authored or published by Monsanto. Surely, Witco cannot suggest that Monsanto deliberately sought to obtain a tactical advantage in this case by withholding documents that are readily accessible to Witco by means of a search of public literature.

It appears that many of the documents transmitted with your April 30, 1992 letter were obtained from the *Stroh* case in Wisconsin. As you know, that case involved Monsanto's sale of Pydraul *hydraulic fluids* to the plaintiff. This case, by contrast, involved Witco's purchase from Monsanto of PCB-containing Therminol *heat transfer fluids*. It should not be surprising that not all PCB-related documents are produced in every PCB case. Indeed, Judge Mannion explicitly ruled on the scope of PCB documents to be produced in this Therminol *heat transfer fluids* case, and, that ruling did not require the production of documents relating to Pydraul *hydraulic fluids*.

The time has come for Witco to stop posturing before the Court about allegedly withheld documents that the Court's Orders make clear were not within the scope of what Monsanto was required to produce. I stand ready to meet with you or Al Constants to demonstrate why the documents attached to your April 30, 1992 letter were not produced -- if, in fact, that is the case. If you are not satisfied with my explanations after our meeting, you may, of course, seek whatever relief you wish from the Court. You should be advised, however, that Monsanto does not tolerate lightly accusations that it has intentionally withheld documents and reserves the right to seek sanctions in this regard.

Please advise me at your earliest opportunity: (1) whether or not Witco intends to serve Monsanto with formal discovery requests in accordance with the Court's directive at the December 20, 1991 Conference; and (2) whether Witco is willing to meet to discuss the issues raised in your April 30 letter, including the individual documents attached to your letter which Witco asserts Monsanto has intentionally withheld.

Sincerely,

JAMES E. TYRRELL, JR.

cc: Alfred C. Constants III, Esq.
bcc: Thomas M. Bistline, Esq.
Michael E. Kelly, Esq.

COPY