

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ALICE L. WARREN,
ADMINISTRATRIX OF THE
ESTATE OF JOHN H. WARREN,
DECEASED,

Plaintiff,

v.

THE DOW CHEMICAL COMPANY
THE B.F. GOODRICH COMPANY,
UNION CARBIDE COMPANY and
CONTINENTAL OIL COMPANY,

Defendants.

CIVIL ACTION NO. 89-30201-F

BBO #064415

RESPONSES OF DEFENDANT
THE DOW CHEMICAL COMPANY TO
PLAINTIFF'S INTERROGATORIES

Defendant The Dow Chemical Company ("Dow") pursuant to Rule 33 of the Federal Rules of Civil Procedure, hereby responds to plaintiff's interrogatories and makes the following objections to each and every interrogatory as if fully set forth at length in the specific responses thereto.

GENERAL OBJECTIONS

1. Dow objects to plaintiff's designation of "the product" as "vinyl chloride monomer" ("VCM") and "polyvinyl chloride" ("PVC") and its "related compounds" on the basis that plaintiff's complaint makes no allegation that Dow manufactured and/or

supplied PVC which caused or contributed to the decedent's illness and subsequent death. Moreover, VCM and PVC are separate and distinct products; they are not interchangeable. Accordingly, plaintiff's definition of "the product" is overly broad and Dow objects to providing any information regarding PVC. Furthermore, plaintiff does not define and Dow does not know what plaintiff means by the vague and ambiguous term "related compounds," nor does plaintiff allege that Dow manufactured and/or supplied such "related compounds" which caused or contributed to the decedent's illness and subsequent death. Therefore, Dow objects to providing any information regarding "related compounds." Accordingly, for the foregoing reasons, Dow objects to each and every interrogatory requesting information about "the product" and will respond as to VCM only.

2. Dow objects to the "Definitions" section of plaintiff's interrogatories because it imposes upon Dow the duty to provide information which is not required by the Federal Rules of Civil Procedure. In addition, Dow objects to plaintiff's definitions to the extent that they alter the common sense and usual meaning of the words or phrases stated therein. Further, Dow objects to plaintiff's definition of "defendant" because it is extremely broad and because it inappropriately includes numerous individuals who clearly cannot be construed in any manner as "the defendant." Accordingly, Dow will respond only on its own behalf.

3. Dow objects to plaintiff's interrogatories to the extent that they seek information which is protected by the attorney-client privilege, attorney work product (the mental impressions, conclusions, opinions or legal theories of an attorney or other representative of a party concerning the litigation) or other trial preparation materials protected from discovery under the Federal Rules of Civil Procedure.

4. Dow objects to plaintiff's interrogatories to the extent that they seek disclosure of confidential, proprietary or commercially sensitive trade secret information.

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

(a) Publicly available scientific or medical journals, books, treatises, textbooks and other compilations;

(b) Publicly available records or files maintained by governmental offices or agencies; and

(c) Documents or records within the plaintiff's possession or control.

6. Dow objects to plaintiff's interrogatories insofar as they seek information from 1947 to the present (or to the late 1970's) which is outside the time period during which the decedent was allegedly exposed to the product (1948-1974) and outside the time period during which Dow supplied VCM to Monsanto Chemical Company (1969-1972) (see Dow's response to plaintiff's interrogatory No. 3). Such an interrogatory is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Moreover, Dow objects to the overall burdensome nature of plaintiff's interrogatories. Because of the passage of time, it would be extremely burdensome and costly for defendant to compile information which spans over a time period of 40 years.

RESPONSES

Subject to and without waiving the foregoing objections, Dow responds to plaintiff's interrogatories as follows:

Interrogatory No. 1

Please identify yourself, giving your full name, residence, business address and occupation and the office or title you hold with the defendant.

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Response No. 1

Ronald L. Davis, Manager, Litigation Section, Legal Department, The Dow Chemical Company, 2030 Willard H. Dow Center, Midland, Michigan 48674, is authorized to sign interrogatories on behalf of Dow.

Interrogatory No. 2

Did the defendant, or any agent or employee of the defendant, design, manufacture, assemble, package, sell, distribute, advertise, process, test, or in any way handle the product?

Response No. 2

Dow objects to plaintiff's use of the term "product" for the reasons set forth in paragraph 1 of defendant's General Objections. Dow further objects to this interrogatory because it seeks information concerning any "agent" or "employee" of defendant. See Dow's objection to plaintiff's definition of "defendant." Moreover, the interrogatory is overly broad and unduly burdensome in that it is not limited to any reasonable time period. Subject to and without waiving the foregoing objections, Dow does manufacture VCM.

Interrogatory No. 3

If the answer to the preceding interrogatory is in the affirmative, please state:

- a. the dates between which the product was manufactured, assembled, packaged sold, distributed, advertised, processed or in any way handled;
- b. the location of the plant or plants where the product was manufactured and assembled;

c. all dates on which the product was sold, shipped or otherwise furnished to Monsanto Chemical Company, identifying any documents reflecting such sales and shipments.

Response No. 3

Objection. See Dow's response to plaintiff's Interrogatory No. 2. Subject to and without waiving said objections, Dow states as follows:

(a) 1948-present

(b) Dow has manufactured VCM during various times since 1948 at plants in Midland, MI; Freeport, TX; Worcester, TX; and Plaquemine, LA.

(c) Dow can confirm that it did supply VCM to The Monsanto Company pursuant to a ten-year contract negotiated with Monsanto in 1969. However, based on Dow's current investigation and information, Dow did not ship the VCM to Monsanto; instead, Monsanto took delivery of the VCM at Dow plant sites using Monsanto's own railroad cars and/or tank trucks. Consequently, Dow cannot identify which Monsanto plant or plants, if any, used Dow's VCM. In addition, Dow has been unable to identify the dates that Monsanto took any particular deliveries of Dow VCM at Dow sites. Monsanto ceased taking delivery of VCM from Dow at Dow plant sites in approximately 1972. There are no documents in Dow's

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possession, custody or control which reflect the sales or deliveries.

Interrogatory No. 4

If the defendant at any time between 1947 to date has tested and/or investigated the potential health effects posed by the use of or exposure to the product, please state:

- a. the nature of each such test and/or investigation done by the defendant;
- b. the date or dates on which such testing and/or investigation were performed;
- c. the name or names of every person in the defendant's employment or acting in behalf of the defendant, who performed or was otherwise involved in such tests and/or investigations and the nature of his or her involvement;
- d. all observations made as to the dangers or hazards involved in the use of or exposure to the product;
- e. a description of all records in the defendant's possession relating to such testing and investigation.

Response No. 4

Dow objects to plaintiff's use of the term "product" for the reasons set forth in paragraph 1 of defendant's General Objections. Dow further objects to this interrogatory on the grounds that it is designed to harass answering defendant and is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is not limited by any reasonable time period and, at the very least, it seeks information for time periods beyond the decedent's alleged exposure (1948-1974) and beyond the time period during which Dow supplied VCM to Monsanto Chemical Company (1969-1972). Moreover, the interrogatory is not limited to

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testing and/or investigation concerning the alleged health effects resulting from exposure as applicable to this case and is therefore overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Dow further objects to this interrogatory as seeking disclosure of proprietary and commercially sensitive trade secret information.

Subject to and without waiving the foregoing objections, and limiting this response to published studies regarding VCM during the decedent's alleged exposure period (1948-1974), Dow states as follows:

(a-e) Various testing of VCM has been conducted by Dow over the years. However, due to the passage of time and unavailability of records, it is impossible to name each individual who may have been involved in the testing or the date or dates when such testing took place. Some of the Dow employees who participated in the testing of VCM are indicated in the studies attached as Exhibit "A" to the Request for Production of Documents. As for the results and observations made, the attached studies speak for themselves.

Interrogatory No. 5

As to all safety equipment or special tools recommended by defendant to be used in the use of the product, please give:

- a. a description of any and all such safety equipment or special tools as recommended by defendant;

b. the danger or dangers from which such safety equipment or special tools are supposed to protect any person or persons; and

c. where and in what manner was such safety equipment or special tools recommended by the defendant to Monsanto Chemical Company and John Warren.

Response No. 5

Dow objects to plaintiff's use of the term "product" for the reasons set forth in paragraph 1 of defendant's General Objections. Dow further objects to this interrogatory on the grounds that it is designed to harass answering defendant and is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is not limited by any reasonable time period and, at the very least, it seeks information concerning time periods subsequent to the decedent's alleged exposure (1948-1974) and outside the time period during which Dow supplied VCM to Monsanto Chemical Company (1969-1972). Furthermore, due to the passage of time, records are no longer available covering the alleged exposure period. Subject to and without waiving the foregoing objections, and limiting this response to the time period ending 1972, when VCM supply by Dow to Monsanto Chemical Company ended, Dow states as follows:

(a-c) In the normal course of business, Material Safety Data Sheets and product brochures are furnished to customers at the time of purchase and thereafter upon request. Please refer

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to the Material Safety Data Sheets and product brochures attached as part of Exhibit "B" to the Request For Production of Documents which contain the information sought in this interrogatory. Said product information dated during the time period Dow supplied VCM to Monsanto Chemical Company (1969-1972) would have been made available to Monsanto.

By way of further answer, Monsanto Chemical Company was a major producer of VCM with the same access to VCM toxicity information as Dow. Moreover, to the best of Dow's knowledge, Dow had no contact with Mr. Warren. Monsanto, as Warren's employer, was responsible for providing safety recommendations and training to him directly. See also Dow's response to plaintiff's interrogatory Nos. 6 and 7.

Interrogatory No. 6

If the defendant was ever aware of any danger or hazard or defect in the use of the product, please state:

- a. when the defendant became aware of such danger or hazard in the use of the product;
- b. what was the nature of such danger or hazardous condition;
- c. whether the defendant at any time informed any purchasers or users of the product of such condition, described in subsection (b);
- d. state the method by which the defendant informed Monsanto Chemical Company or John Warren of such danger or hazardous condition, including the substance and contents of all written notification; and
- e. the date or dates on which the defendant notified Monsanto Chemical Company or John Warren of such condition.

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Response No. 6

Dow objects to plaintiff's use of the term "product" for the reasons set forth in paragraph 1 of defendant's General Objections. Dow further objects to this interrogatory on the grounds that it is designed to harass answering defendant and is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is not limited by any reasonable time period and, at the very least, it is not limited to the decedent's alleged exposure (1948-1974) and seeks information outside the time period during which Dow supplied VCM to Monsanto Chemical Company (1969-1972). Moreover, it seeks information concerning any alleged danger or hazard associated with the product and it is therefore overly broad in that it is not limited to the dangers or hazards alleged in this case (angiosarcoma of the liver). Dow further objects on the ground that the phrase "any danger or hazard or defect" is vague and ambiguous in that it is not defined. Subject to and without waiving said objections, and limiting this interrogatory response to information regarding VCM during plaintiff's alleged exposure period (1948-1974), and further limiting this response to angiosarcoma of the liver, Dow states as follows:

- (a) Please refer to the Manufacturing Chemists Association Vinyl Chloride Chronology attached as Exhibit "C" to the Request for Production of Documents which is self-explanatory and Dow's responses to interrogatory Nos. 5 and 7.

(b) See Dow's response to 6(a), above.

(c)-(e) Monsanto, as a major producer of VCM and an active participant in Manufacturing Chemists Association ("MCA") and other meetings on the subject of VCM toxicity, was well aware of the available VCM studies, and would have received all pertinent governmental and industry association information and data related to VCM. Thus, there was no need to communicate these findings to Monsanto Chemical Company. Moreover, as John Warren's employer, it was Monsanto Chemical Company's responsibility to provide training, instructions, warnings, and other safety recommendations to him directly. Additionally, the carcinogenic effects of VCM in humans did not become known to the industry until after the time period when Dow supplied VCM to Monsanto Chemical Company (1969-1972). Thus, no information as to carcinogenic hazards would have been supplied to Monsanto Chemical Company. See also the documents produced in response to plaintiff's interrogatory No. 5.

By way of further answer, with regard to exposure to VCM in general, Dow states that it always has acted to eliminate or reduce any known danger or hazard from using VCM. In particular, Dow began recommending to its industrial customers in 1961 that they control the VCM exposure of their

workers to a level below 50 ppm. Dow's recommendation was communicated both through Dr. Theodore Torkelson's published article specifically recommending the 50 ppm level and, more importantly, through repeated subsequent communications by Dow representatives, including in particular Dr. Torkelson, at committee meetings of the MCA and the Society of Plastics Industries.

The VCM industry is comprised of a relatively small number of large, sophisticated member companies, most of which, including Monsanto, were actively represented on committees of the MCA and the Society of Plastics Industries that addressed VCM. The members of those committees were company employees who were at the level of decisional responsibility necessary to adopt and implement a 50 ppm exposure level. Dow's 50 ppm recommendation, and the controversy within the industry surrounding it, constituted some part of every MCA and Society of Plastic Industry's committee meetings from 1961 through 1974.

Monsanto was actively involved in these committee debates, and was well aware of Dow's advocacy of the 50 ppm standard and the reasons therefor. Thus, Dow persistently communicated its 50 ppm recommendation for thirteen years to those Monsanto employees who were at the level of decisional responsibility necessary to adopt and implement a 50 ppm

standard. However, Dow is unaware of what actions, if any, Monsanto took as a result of Dow's 50 ppm recommendation. In addition to recommending persistently to its industrial customers that a 50 ppm exposure level be adopted, Dow in fact implemented a 50 ppm exposure level in its own industrial plants during the early 1960's. In conjunction with implementing this lower exposure level, Dow also instituted many VCM safety procedures, including improved plant design, production and engineering controls, air monitoring, and multiphasic health screening.

Interrogatory No. 7

If there were any notations of danger or warning instructions as to the use of the product furnished with the product or printed on the product's packaging or container, please state:

- a. the location of all said notations, warnings or instructions;
- b. the substance and contents of any and all said warnings and instructions; and
- c. the size and color of the printings of said warnings and instructions.

Response No. 7

Dow objects to plaintiff's use of the term "product" for the reasons set forth in paragraph 1 of its General Objections. Dow further objects to this interrogatory on the grounds that it is designed to harass answering defendant and is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is not limited by any reasonable time period and, at the very least, it

is not limited to the alleged exposure period in this case (1948-1974), and seeks information outside the time period Dow supplied VCM to Monsanto Chemical Company (1969-1972). Dow further objects on the ground that this interrogatory is vague and ambiguous as written, irrelevant to the issues in this litigation and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving said objections, and limiting this response to instructions regarding VCM made available to Dow's customers up until the time when VCM supply by Dow to Monsanto Chemical Company ended (1972), Dow states as follows:

(a-c) In the normal course of business, Material Safety Data Sheets and product brochures are provided to customers at the time of sale and thereafter upon request. All product is properly labeled prior to leaving Dow's manufacturing site. Dow is presently uncertain whether, prior to 1973, it provided sophisticated users such as Monsanto with additional warnings above and beyond the warnings contained on Dow's labels and the warnings contained on its then current Material Safety Data Sheets. Please refer to the labels attached as part of Exhibit "B" to the Request for Production of Documents which are self-explanatory. See also Dow's response to plaintiff's interrogatory No. 5.

Interrogatory No. 8

If there has been any litigation initiated against the

defendant concerning in any way the handling or use of the product, please:

- a. give the date and title of each such action, the court in which it was filed and the docket number;
- b. outline the contents of the complaint filed in such action;
- c. state the name and address of the attorney for the plaintiff in each such action; and
- d. state and explain the disposition of each such action.

Response No. 8

Dow objects to plaintiff's use of the term "product" for the reasons set forth in paragraph 1 of its General Objections. Dow further objects to this interrogatory on the grounds that it is designed to harass answering defendant and is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. At present, the interrogatory constitutes an enormous fishing expedition into every litigation file of Dow, regardless of its subject matter (not, for example, even limited to personal injury as opposed to commercial matters), and is not limited to litigation initiated against Dow during the decedent's alleged exposure period (1948-1974) or litigation initiated up until the last date VCM was supplied by Dow to Monsanto Chemical Company (1972). Furthermore, due to the passage of time, documents are no longer available.

Subject to and without waiving said objections, and limiting this response to personal injury lawsuits filed against Dow

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during the decedent's alleged exposure period (1948-1974), alleging that plaintiff suffered from angiosarcoma of the liver as a result of exposure to VCM, there has been no such litigation.

Interrogatory No. 9

If the defendant has ever received any complaints or other notices of injury or illness similar to that alleged by the plaintiff, please state for each such complaint or notice:

- a. its date;
- b. its substance, including a description of the factual circumstances; and
- c. the name and address of the person making the complaint.

Response No. 9

Dow objects to this interrogatory on the grounds that it is designed to harass answering defendant and is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is not limited to VCM or to complaints or other notices of injury or illness received by Dow during the decedent's alleged exposure period (1948-1974) or received by Dow up to the time supply by Dow of VCM to Monsanto Chemical Company ended (1972). Further, Dow objects to the phrases "complaints or other notice of injury or illness" and "similar" in this context as vague and ambiguous in that they are not defined. Subject to and without waiving said objections, and limiting this response to notices of instances of angiosarcoma of the liver related to VCM exposure received by Dow during the decedent's alleged exposure period

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(1948-1974), Dow is presently unaware of such complaints or notices of said illness received by it. Please refer to Dow's response to Interrogatory No. 8, above.

Interrogatory No. 10

If it is the contention of the defendant that the alleged injury suffered by John Warren was caused by or contributed to by some act or omission of John Warren, Monsanto Chemical Company or other persons, please state in detail each act or omission which it is contended caused or contributed to the alleged injury.

Response No. 10

Assuming for the purposes of this interrogatory answer only that John Warren had angiosarcoma of the liver, and further assuming that it was caused by his exposure to VCM, Dow answers that Monsanto (a large and sophisticated corporation) was engaged in the manufacture and sale of chemicals, and was a major producer of VCM which primarily supplied itself with VCM for use at its Springfield, MA facility, and an active participant in MCA and other meetings on the subject of VCM toxicity. Accordingly, Monsanto was -- to the same extent, at least, as Dow -- aware of the potential health hazards to humans associated with VCM exposure during the period of John Warren's exposure (1948-1974). It was Monsanto Chemical Company's duty, as John Warren's employer and the primary supplier to itself of VCM, to warn John Warren about the known potential health hazards to humans associated with VCM exposure. Monsanto had used VCM in its operations for numerous years before ever purchasing Dow's product. Discovery is continuing, and Dow is unable to answer this interrogatory further at present.

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Interrogatory No. 11

If there is any person that you expect to call as an expert witness (including expert medical witnesses) at the time of trial please state in detail as to each such person:

- a. the person's identity, giving name, profession or occupation and address;
- b. the subject matter on which the person is expected to testify;
- c. the substance of the facts and opinions to which the person is expected to testify; and
- d. a summary of the grounds for each opinion.

Response No. 11

Dow has not determined who, if anyone, will be called upon as an expert witness to testify at the time of trial. If, or when, a determination is made, the response to this interrogatory will be amended seasonably.

Interrogatory No. 12

If you have retained or specially employed any person (including physicians) relating to the alleged occurrence in anticipation of litigation or for trial preparation purposes whom you do not expect to call as an expert witness at the time of trial, please identify each person by name, address and occupation.

Response No. 12

Dow objects to this request to the extent that it requests expert discovery which is beyond the scope of Rule 26(b)(4) of the Federal Rules of Civil Procedure. Plaintiff is simply not entitled to expert discovery related to an expert who has been retained or specially employed by answering defendant in

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anticipation of litigation or for trial preparation purposes and who is not expected to be called as a witness at trial.

Interrogatory No. 13

For all products as defined above sold or otherwise supplied by the defendant to Monsanto Chemical Company between the years 1947 and 1979, please state:

- a. trade name;
- b. the name and address of the plant to which the product or material was shipped; and
- c. the dates on which the product was shipped to each plant.

Response No. 13

Dow objects to this interrogatory to the extent that is is overly broad, unduly burdensome, not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is not limited by any reasonable time period and, at the very least, it is not limited to the alleged exposure period of the decedent in this case (1948- 1974). Moreover, Dow objects to plaintiff's use of the term "products" for the reasons set forth in paragraph 1 of defendant's General Objections. Subject to and without waiving said objections, Dow responds, with respect to VCM only, as follows:

(a-c) Please see Dow's response to Interrogatory No. 3 above.

Interrogatory No. 14

For each individual in your employ at any time subsequent to 1947 who has knowledge of the sales or supply by the defendant of the product to Monsanto Chemical Company between the years 1947 and 1979, please state:

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- a. the individual's name;
- b. his or her present or last known address and telephone number;
- c. his or her present employment and job classification if still in your employ; and
- d. his or her job title or job classification during the time that he or she had such knowledge with the dates for each title.

Response No. 14

Objection. See Dow's response to plaintiff's interrogatory No. 13. Subject to and without waiving said objections, Dow states as follows:

- 1.
 - (a) Larry L. Rice
 - (b) 1300 Harwood Court, Midland, MI 48640
 - (c) Mr. Rice is retired
 - (d) Product Manager, 1969-1973; Field Sales, 1973-1979
Director of Marketing, Inorganic Chemicals,
1979-1985
- 2.
 - (a) Theodore Richardson
 - (b) Bay City, Michigan
 - (c) Mr. Richardson is retired
 - (d) Product Sales Manager
- 3.
 - (a) Robert Jones
 - (b)-(d) This response will be amended seasonably if
further information is obtained.
- 4.
 - (a) Fred Quigley
 - (b) 11014 Palmeros Dr., Sun City, AZ 95351
 - (c) Mr. Quigley is retired.
 - (d) This response will be amended seasonably if further
information is obtained.

Also, please refer to the response to Interrogatory No. 3(c) above.

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Interrogatory No. 15

For each individual in your employ at any time subsequent to 1947 who participated in hearings held by OSHA and/or National Institute for Occupational Health and Safety and/or Department of Labor regarding regulating the use of the product, please:

- a. the individual's name;
- b. his or her present or last known address and telephone number;
- c. his or her present employment and job classification if still in your employ; and
- d. his or her job title or job classification during the time that he or she had such knowledge with the dates for each job title.

Response No. 15

(a-d) Dow objects to plaintiff's use of the term "product" for the reasons set forth in paragraph 1 of defendant's General Objections. Dow further objects to this interrogatory to the extent that it is designed to harass answering defendant and is overly broad, unduly burdensome, not relevant and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is not limited to any reasonable time period and, at the very least, it is not limited to the alleged exposure period in this case (1948-1974) and it seeks information outside the time period Dow supplied VCM to Monsanto Chemical Company (1969-1972). Further, it would be impossible to determine since 1947 which employees attended hearings held by OSHA and/or the National Institute for Occupational Health and Safety and/or Department of Labor hearings. To the extent that those agencies have records listing those who attended the

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hearings, it would be less burdensome and costly for plaintiff to obtain the information directly from those agencies. Indeed, plaintiff and Dow have equal access to that information.

Subject to and without waiving said objections, and limiting this response to those individuals who attended said hearings during the decedent's alleged exposure period (1948-1974), Dow believes that the following Dow employees were present at the following hearings:

I February 1, 1974 OSHA hearing:

- 1 (a) V. K. Rowe
 (b) 9605 Sandstone Drive
 Sun City, AZ 85351
 (c) (Retired)
 (d) Researcher

II June 1974 OSHA hearing:

- 2 (a) V. K. Rowe
 (b) 9605 Sandstone Drive
 Sun City, AZ 85351
 (c) (Retired)
 (d) Researcher
- 3 (a) R. L. Daniel
 (b) The Dow Chemical Company
 Freeport, TX 77541
 (c) Specialty Products Department
 (d) This response will be amended seasonably if
 further information is obtained.
- 4 (a) K. H. Oelfke
 (b) 110 Begonia
 Lake Jackson, TX 77566
 (c) (Retired)
 (d) This response will be amended seasonably if
 further information is obtained.

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- 5 (a) R. R. Cook
(b) The Dow Chemical Company
Midland, MI 48654
(c) Epidemiologist
(d) Epidemiologist
- 6 (a) B. B. Holder
(b) 224 Madrid Blvd
Punta Gorda, FL 33950
(c) (Retired)
(d) Physician

and

- 7 (a) P. J. Gehring
(b) Dow Elanco
Indianapolis, IN 46268
(c) Research and Development
(d) Research and Development

Due to the passage of time and unavailability of records, Dow is presently uncertain whether any of its employees attended additional hearings or whether additional employees attended the indicated hearings.

Interrogatory No. 16

Please state the present or last known address of Dr. V.K. Rowe and what position he held with the defendant in 1973.

Response No. 16

Dr. Rowe was a researcher for Dow. He resides at 9605 Sandstone Drive, Sun City, AZ.

Interrogatory No. 17

Please identify by name, present or last known address and job title all persons who participated in Manufacturing Chemists Association meetings between the years 1947 and 1979 at which the product was discussed.

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Response No. 17

Objection. See Dow's response to plaintiff's interrogatory No. 15. Subject to and without waiving said objections, Dow states that, as reflected in the Manufacturing Chemists Association Vinyl Chloride Chronology attached to Dow's responses to plaintiff's document requests as Exhibit "C," Dow employee(s) attended a July 17, 1973 NIOSH meeting concerning the alleged health effects of VCM exposure, as representatives of the Manufacturing Chemists Association. See also the documents attached as Exhibit "F" to plaintiff's document request No. 14. However, due to the passage of time and unavailability of records, Dow is presently uncertain as to which Dow employees attended any other meetings.

Interrogatory No. 18

Please identify by name, present or last known address and job title all persons who participated in Society of the Plastics Industry, Inc. meetings between the years 1947 and 1979 at which the product was discussed.

Response No. 18

Objection. See Dow's response to plaintiff's interrogatory No. 15. Dow further objects to this interrogatory on the grounds that it is vague, overly broad, unduly burdensome and because it seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving said objections, Dow states that due to the passage of time, it no longer has records from the relevant time period. However, Dow has ascertained that Dr.

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Theodore Torkelson, 4200 Berkshire Rd., Midland, MI 48640, a former Dow employee, did participate in some such meetings.

Interrogatory No. 19

Identify any and all records, reports, statements or data compilations prepared by any federal, state or local governmental entity as the result of all investigations related to the product.

Response No. 19

Objection. See Dow's response to plaintiff's interrogatory No. 15. Dow further objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, vague, unlimited in time, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving said objections, and limiting this response to documents generated within the decedent's alleged exposure period (1948-1974), see Exhibit "D" attached to Dow's response to plaintiff's document request. Due to the passage of time and unavailability of records, Dow is unable to respond to this interrogatory further. Should further information be discovered, Dow will seasonably supplement its answer to this interrogatory.

Interrogatory No. 20

For each such document:

- (a) identify the person or persons having possession, custody or control of the document;
- (b) set forth, in detail, the factual findings contained in the document as well as the opinions or conclusions set forth in the document;
- (c) state whether the document or any of the matters contained therein was prepared pursuant to a duty imposed by law and, if so, identify the statute, regulation or other legal authority imposing the requirement;

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- (d) identify all person(s) who conducted or assisted in the investigation or in the preparation of the document;
- (e) describe in detail when, where and in what manner the investigation was conducted.

Response No. 20

Objection. See Dow's response to plaintiff's interrogatory Nos. 15 and 19.

Interrogatory No. 21

Please state the name(s) and address(es) of all person(s), business(es) and entities hired by the defendant to transport, ship and/or deliver the product between the years 1947 and 1979.

Response No. 21

Dow objects to plaintiff's use of the term "product" for the reasons set forth in paragraph 1 of defendant's General Objections. Dow further objects to this interrogatory to the extent that it is overly broad, unduly burdensome, vague, ambiguous and irrelevant to the issues in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving said objections, and to the extent this interrogatory pertains to VCM supplied to Monsanto, please refer to Dow's response to Interrogatory No. 3(c) above.

Interrogatory No. 22

Please state the name, present or last known address, telephone number and position they hold with the above defendant, if applicable, of all persons having knowledge of discoverable facts.

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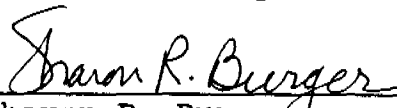
Response No. 22

Dow objects to this interrogatory as it seeks information which is protected from discovery by the attorney-client privilege and/or the work product doctrine. Dow objects further because this interrogatory is overly broad, vague and ambiguous in its use of the phrase "discoverable facts." This interrogatory unfairly requires defendant to know or fathom all facts even nominally relevant to this litigation before attempting to answer.

THE DOW CHEMICAL COMPANY

As to Objections

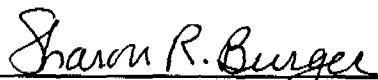
By its attorney,



Sharon R. Burger
NUTTER, MCCLENNEN & FISH
One International Place
Boston, Massachusetts 02110-2699
(617) 439-2000

CERTIFICATE OF SERVICE

I, Sharon R. Burger, hereby certify that a true and correct copy of the foregoing document has been served on all counsel of record by mail on this date.



Sharon R. Burger

Dated: February 13, 1991

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