

TOMPKINS, MCGUIRE & WACHENFELD
550 BROAD STREET
NEWARK, N. J. 07102
(201) 622-3000
ATTORNEYS FOR

Defendants Listed on Schedule A

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
PASSAIC COUNTY
DOCKET NO. L-20509-86

LOTTIE MEMICE, Individually
and LOTTIE MEMICE, as Executrix
of the Estate of Joseph Memice,
deceased,

Plaintiff,

v.

PPG INDUSTRIES, INC., et al.,

Defendants.

CIVIL ACTION -(REPLY CERTIFICATION OF COUNSEL
DATED OCTOBER 21, 1986)

CLAIRE T. FARILE does certify as follows:

1. I am an attorney at law of the State of New Jersey, and a member of the firm of Tompkins, McGuire & Wachenfeld, counsel for a number of defendants in the above-entitled action. I am one of the attorneys responsible for

URL 12865

the defense of this matter. I make this Certification based upon personal knowledge.

2. Plaintiff's counsel has filed a Notice of Cross-Motion in response to the Notice of Motion filed by defendant, Monsanto Company, for dismissal for failure to provide answers to Interrogatories.

3. Although couched in terms of a cross-motion, to Monsanto, plaintiff's application is actually one directed to the defendants represented by this office, and to the other defendants in this matter, since it seeks a Protective Order limiting plaintiff's obligation to provide discovery, and it seeks specifically an extension of time to answer the Interrogatories served by this office. Forty-five (45) days from the date of entry of an Order is sought. Objection is hereby made to that request and to that relief.

4. As is fully set forth in the Affidavit of Edith K. Payne filed in support of Monsanto's motion, plaintiff's counsel attempted to secure the relief he now requests by way of Protective Order at the Court conference before Judge Samuel Doan on September 23, 1986. Judge Doan directed that all Interrogatories which had been served must be answered, and that all counsel should take the appropriate action with regard to delinquent answers to Interrogatories.

5. The Interrogatories served by this office were served on June 26, 1986. At the Court conference on September 23, 1986, I advised plaintiff's counsel that I

UPL 12866

would make the appropriate application to the court unless answers were received within thirty (30) days. Although that thirty (30) day period has not yet expired, it is clear that answers will not be provided as plaintiff's counsel now seeks an additional forty-five (45) days within which to answer these Interrogatories.

6. The Interrogatories served by this office were served on behalf of 13 defendants represented by this office. Two defendants represented by other counsel, namely Union Carbide and B.F. Goodrich, have agreed to accept answers to these Interrogatories. Monsanto has also agreed to accept answers to these Interrogatories, and seeks answers to only those questions in its Interrogatories which are not duplicative of our questions. It is submitted that the defendants have been more than accommodating to the plaintiff, but that counsel is now seeking to extend discovery deadlines well beyond acceptable limits.

7. Thus far, no Interrogatories have been answered by plaintiff's counsel, and no discovery has been provided. In addition to outstanding Interrogatories, a medical authorization forwarded to plaintiff's counsel on June 11, 1986 has yet to be executed; and a Notice to Produce Documents served on June 11, 1986 has received no response.

8. An application by defendants Borden and Monochem to compel answers to their joint set of Interrogatories

UAL 12867

resulted in an Order recently entered, permitting plaintiff fourteen (14) days within which to answer these Interrogatories.

9. It is respectfully submitted that a period of fourteen (14) days is quite appropriate as a time period within which plaintiff must answer the Interrogatories served by this office, in which defendants Union Carbide, B.F. Goodrich, and Monsanto have now joined.

10. It is respectfully submitted that plaintiff's counsel should not be permitted to defer until a point in mid-December the obligation to respond to Interrogatories served almost six months ago. All defendants are prejudiced by the delay, as information as to the basis for plaintiff's claim is essential to the defense of this matter.

11. Should any Protective Order be entered, it is respectfully requested that provision be made for the plaintiff to be compelled to provide medical authorizations, production of documents, and other discovery sought and outstanding.

12. Finally, plaintiff's counsel has recently served Interrogatories on defendants in this matter. Should any Protective Order be entered, it is respectfully requested that defendants be permitted 60 days from receipt of plaintiff's answers for them to provide answers to those Interrogatories.

JRL 12868

13. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment for contempt of court.

Claire T. Barile
Claire T. Barile

DATED: October 21, 1986

UPL 12869