

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENNETH GRIMM, Personal
Representative of the Estate
of Helen Grimm, Deceased,

Plaintiff,

Civil Action
No. 84 CV 0734 DT

-vs-

Hon. Anna Diggs Taylor

FORD MOTOR COMPANY, a
foreign corporation;
UNION CARBIDE CORPORATION,
a foreign corporation;
DIAMOND SHAMROCK CHEMICAL
CORPORATION, a foreign
corporation;
STAUFFER CHEMICAL COMPANY,
a foreign corporation;
TENNECO, INC., a foreign
corporation;
TENNECO CHEMICALS, n/k/a
TENNECO RESIN, INC., a
foreign corporation;
UNIROYAL, INC., a
foreign corporation;
ALLIED CHEMICAL CORPORATION, a
foreign corporation;
HOOKER CHEMICALS & PLASTICS, n/k/a
OCCIDENTAL CHEMICAL CORPORATION,
a foreign corporation;
FIRESTONE TIRE & RUBBER COMPANY,
a foreign corporation;
B. F. GOODRICH
COMPANY, a foreign corporation;
GOODYEAR TIRE & RUBBER COMPANY,
a foreign corporation, jointly and
severally,

Defendants.

PROOF OF SERVICE

STATE OF MICHIGAN)
)ss
COUNTY OF WAYNE)

DEBRA C. BEEBE, being first duly sworn, deposes
and says that on the 26th day of March, 1984, she did serve a

copy of Occidental Chemical Corporation's Answer and Affirmative
Defenses to Amended Complaint, Allied Chemical Corporation's
Answer and Affirmative Defenses to Amended Complaint, Union
Carbide Corporation's Answer and Affirmative Defenses to
Amended Complaint, Tenneco's Answer and Affirmative Defenses to
Amended Complaint, Uniroyal, Inc.'s Answer and Affirmative
Defenses to Amended Complaint, Defendants' First Set of
Interrogatories and Request for Production to Plaintiff, and a
Proof of Service upon:

Francis P. Hughes, Esquire
Bebout, Potere, Cox & Hughes, P.C.
1000 West University Drive
Suite 314
Rochester, MI 48063

W. Gerald Warren, Esquire
Dickinson, Wright, Moon, Van Dusen
& Freeman
800 First National Bldg.
Detroit, MI 48226

Ralph W. Barbier, Jr., Esquire
Barbier, Goulet, Petersmarck,
Tolleson & Mead
34820 Harper Avenue
Mt. Clemens, MI 48043

Ralph R. Safford, Esquire
Meyer and Kirk
100 West Long Lake Road
Suite 100
Bloomfield Hills, MI 48013

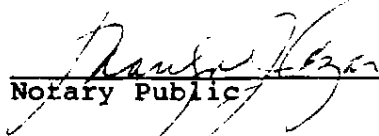
John J. Lynch, Esquire
Vandever, Garzia, Tonkin & Kerr
333 West Fort Street
Suite 1600
Detroit, MI 48226

by placing a copy of said pleadings in envelopes addressed as

above with proper postage affixed and depositing same in the
United States Mail.


DEBRA C. BEEBE

Subscribed and sworn to before me
this 26th day of March, 1984.


Notary Public
MARILYN JOAN WARD
Notary Public - State of Michigan, MI
My Commission Expires Sept. 10, 1990

DYKEMA, GOSSETT, SPENCER, GODDOW & TRIGG • 35TH FLOOR • 400 RENAISSANCE CENTER • DETROIT, MICHIGAN 48243

URL 09316

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENNETH GRIMM, Personal
Representative of the Estate
of Helen Grimm, Deceased,

Plaintiff,

Civil Action
No. 84 CV 0734 DT

-vs-

Hon. Anna Diggs Taylor

FORD MOTOR COMPANY, a
foreign corporation;
UNION CARBIDE CORPORATION,
a foreign corporation;
DIAMOND SHAMROCK CHEMICAL
CORPORATION, a foreign
corporation; STAUFFER CHEMICAL
COMPANY, a foreign corporation;
TENNECO, INC., a foreign
corporation; TENNECO CHEMICALS,
n/k/a TENNECO RESIN, INC., a
foreign corporation; UNIROYAL,
INC., a foreign corporation;
ALLIED CHEMICAL CORPORATION, a
foreign corporation; HOOKER
CHEMICALS & PLASTICS, n/k/a
OCCIDENTAL CHEMICAL CORPORATION,
a foreign corporation;
FIRESTONE TIRE & RUBBER COMPANY,
a foreign corporation; B.F. GOODRICH
COMPANY, a foreign corporation;
GOODYEAR TIRE & RUBBER COMPANY, a
foreign corporation, jointly and
severally,

Defendants.

OCCIDENTAL CHEMICAL CORPORATION'S ANSWER AND
AFFIRMATIVE DEFENSES TO AMENDED COMPLAINT

Defendant Occidental Chemical Corporation, for Hooker
Chemicals & Plastics and Firestone Tire & Rubber Company,
answers plaintiff's Amended Complaint as follows:

DYKEMA, GOSSETT, SPENCER, GOODNOW & TRIGG • 35TH FLOOR • 400 RENAISSANCE CENTER • DETROIT, MICHIGAN 48243

URL 09317

COUNT I

1. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1.

2. Defendant denies as untrue the allegations of paragraph 2 to the extent they relate to this defendant, and is without knowledge or information sufficient to form a belief as to the truth of those allegations to the extent they relate to other defendants.

3. Defendant denies as untrue the allegations of paragraph 3 to the extent they relate to this defendant, and is without knowledge or information sufficient to form a belief as to the truth of those allegations to the extent they relate to other defendants.

4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4.

5. Defendant denies as untrue the allegations of paragraph 5 to the extent they relate to this defendant, and is without knowledge or information sufficient to form a belief as to the truth of those allegations to the extent they relate to other defendants.

6. Defendant denies as untrue the allegations of paragraph 6 to the extent they relate to this defendant, and is without knowledge or information sufficient to form a belief as to the truth of those allegations to the extent they relate to other defendants.

7. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7.

8-17. Defendant at this stage of the litigation has not been able to verify the allegations even to the extent they relate to this defendant, and therefore is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs 8 through 17.

18. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18.

19. Defendant denies as untrue the allegations of paragraph 19 and its sub-paragraphs.

20. Defendant denies as untrue the allegations of paragraph 20.

21. Defendant denies as untrue the allegations regarding entitlement to money damages, but otherwise is

without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21.

22. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 22.

23. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 23.

24. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 24.

25. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 25.

COUNT II

26. Defendant reasserts its answers to the allegations of the paragraphs in Count I.

27. The allegations of paragraph 27 constitute legal conclusions which defendant denies to the extent they are inconsistent with the applicable law.

28. Defendant denies as untrue the allegations of paragraph 28.

29. Defendant denies as untrue the allegations of paragraph 29.

30. Defendant denies as untrue the allegations of paragraph 30.

AFFIRMATIVE DEFENSES

I

Failure To State A Claim

Each count of plaintiff's Amended Complaint fails to state a claim upon which relief can be granted.

II

Statute Of Limitations

Plaintiff's claims are barred by the applicable statute of limitations.

III

Comparative Negligence

The damages allegedly sustained by plaintiff were caused by the negligence and contributory negligence of plaintiff and plaintiff's decedent, and must be diminished in proportion to the amount of negligence attributable to them.

IV

Sole Negligence Of Others; Intervening And Superseding Cause

All of the damages, if any, allegedly suffered by plaintiff were caused by the acts and conduct of other parties,

which intervened between defendant's acts and conduct and plaintiff's alleged damages, thereby barring plaintiff from any recovery from defendant.

V

Abuse, Misuse And Alteration Of Product

All of the damages, if any, allegedly suffered by plaintiff was caused by the abuse, misuse and alteration of defendant's product, thereby barring plaintiff from any recovery from defendant.

VI

Sophisticated Vendee

Ford Motor Company is a sophisticated vendee of the product at issue, and was aware both of any risks associated with that product and the proper use of that product.

VII

No Proximate Cause

There exists no proximate causation between any alleged acts or omissions or any alleged breach of duty or warranty by defendant and plaintiff's alleged damages; all of plaintiff's alleged damages were the result of the conduct, product or causes attributable to persons other than defendant, and defendant's product was not a substantial factor in causing plaintiff's damages.

VIII
Assumption Of Risk

Plaintiff's claims are barred to the extent that plaintiff or plaintiff's decedent assumed the risk of knowingly exposing themselves to discharges from the Ford Vinyl Plant without proper precautions.

IX
Absence Of Duty

Defendant had no duty and made no warranty to plaintiff or plaintiff's decedent in connection with the product at issue.

X
No Benefit Of Presumption

Plaintiff must prove this case without the benefit of any presumption to the extent he seeks to recover damages caused by products 10 or more years old.

XI
Reservation Of Right

Defendant reserves the right upon completion of its investigation and discovery to file such amended answer and such additional defenses as may be appropriate.

WHEREFORE, defendant requests this Court to enter a judgment of no cause for action, together with an assessment of costs and attorney's fees against plaintiff.

DYKEMA, GOSSETT, SPENCER, GOODNOW & TRIGG

By:

Dennis M. Haffey
Dennis M. Haffey (P26378)
Attorneys for defendant
35th Floor - 400 Renaissance Center
Detroit, Michigan 48243
(313) 568-6704

DEMAND FOR JURY TRIAL

Defendant hereby demands a jury trial of all issues in this case.

DYKEMA, GOSSETT, SPENCER, GOODNOW & TRIGG

By:

Dennis M. Haffey
Dennis M. Haffey (P26378)
Attorneys for defendant
35th Floor - 400 Renaissance Center
Detroit, Michigan 48243
(313) 568-6704

DATED: March 26, 1984