

22710
L.T. Brooks Court Papers

MUTUAL COVENANT NOT TO SUE

This MUTUAL COVENANT NOT TO SUE executed this ____ day of _____, 1989 by Joyce M. Brooks, as Administratrix of the Estate of Paul Lynn Martin, Deceased ("Brooks") and this ____ day of _____, 1989 by Union Carbide Corporation, now known as Union Carbide Chemicals & Plastics Company Inc. ("UCC");

W I T N E S S E T H :

WHEREAS, Brooks is Plaintiff and UCC is Defendant in an action pending in the Fountain Circuit Court, County of Fountain, Indiana, as Cause No. 23C01-8907-CT-00183 ("Lawsuit"), wherein Brooks seeks damages arising out of the death of Paul Lynn Martin ("Martin") by his exposure to Polyvinyl Chloride ("PVC") allegedly sold by UCC, including damages for loss of filial care and attention, loss of parental guidance, medical expenses, funeral and burial expenses, support and other pecuniary damages as alleged in Brooks' Complaint of May 9, 1989 ("Complaint");

WHEREAS, Martin became ill and died on or about September 25, 1987;

WHEREAS, Brooks was appointed Administratrix of the Estate of Paul Lynn Martin by the Benton Circuit Court of Benton County, Indiana, in an action therein pending styled "In the Matter of the Estate of Paul Lynn Martin, Deceased," Cause No. 04C01-88-22-ES62;

WHEREAS, Brooks and UCC admit that UCC made no sales of PVC to Essex Wire or Essex Group, Martin's employer, during the time Martin was employed by Essex;

WHEREAS, Brooks and UCC desire to compromise all of their claims which they have asserted or could have asserted in the Lawsuit or otherwise;

WHEREAS, Brooks is executing this Agreement pursuant to authority from the Benton Circuit Court;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, Brooks and UCC agree as follows:

1. Brooks (as Administratrix and for herself and for her heirs, successors and assigns) FOREVER COVENANTS NOT TO SUE directly or indirectly, at law or in equity, UCC (and its officers, directors, employees, parents, subsidiaries, affiliates, agents, successors and assigns) or to cause or in any way participate in any claim, action or cause of action to be made, filed or asserted against UCC (and its officers, directors, employees, parents, subsidiaries, affiliates, agents, successors and assigns) on account of or arising out of the following facts, transactions or conduct:

a. The death of Paul Lynn Martin;

b. The exposure by Paul Lynn Martin to any chemical or other product manufactured and sold by UCC up to and including the date of his death;

c. Any and all matters which were alleged or which could have been alleged in the Complaint or the Lawsuit;

d. Any and all injuries, losses or damages to Brooks, including both those which are now known or anticipated and those which are not now known or anticipated but which may

later result or be discovered. Brooks expressly recognizes that there may arise in the future, losses or damages which are not now known or anticipated, which possible future losses or damages, all of which are covered by this Covenant;

e. Any and all medical, hospital, funeral, burial or other expenses, loss of income, earnings or wages, loss of love or support, or other loss, damage or expense which has been incurred in the past or which may be incurred in the future;

f. Any claims under I.C. §34-1-1-2; and

g. All matters, transactions or things occurring on or before the date hereof.

2. Brooks agrees to dismiss with prejudice her Complaint for Damages pending in the Fountain Circuit Court, Cause No. 23C01-8907-CT-00183.

3. UCC (and its officers, directors, employees, parents, subsidiaries, affiliates, agents, successors and assigns) FOREVER COVENANTS NOT TO SUE directly or indirectly, at law or in equity, Brooks (and her heirs, successors and assigns) or to cause or in any way participate in any claim, action or cause of action to be made, filed or asserted against Brooks (and her heirs, successors and assigns) on account of or arising out of the following facts, transactions or conduct:

a. The Lawsuit;

b. Any matters which were or could have been asserted in the Lawsuit; and

c. Any claims, actions or causes of actions which it may have for civil abuse of process, malicious prosecution or violation of Rule 11 arising out of the Lawsuit or Complaint.

UCC 086385

4. It is further understood that the consideration for this Mutual Covenant Not to Sue does not constitute total recovery for the actual losses or damages suffered by the Estate of Paul Lynn Martin, Deceased, and that Brooks desires to commence legal action against other persons or entities.

Joyce M. Brooks, Administratrix of
the Estate of Paul Lynn Martin,
Deceased

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for such County and State, personally appeared Joyce M. Brooks, who, after having been duly sworn, stated that she was the duly appointed, qualified and acting Administratrix of the Estate of Paul Lynn Martin, Deceased, stated that she had read and understood the foregoing Mutual Covenant Not to Sue, and acknowledged the execution thereof.

WITNESS my hand and Notarial Seal this _____ day
of _____, 1990.

Notary Public

My Commission Expires: _____

My County of Residence is: _____

UCC 086386

EXAMINED AND APPROVED IN OPEN COURT THIS _____ DAY
OF _____, 1989.

Judge, Benton Circuit Court

UNION CARBIDE CHEMICALS & PLASTIC
COMPANY INC. formerly known as
UNION CARBIDE CORPORATION

By: _____
Its: _____

STATE OF CONNECTICUTT)
) SS:
COUNTY OF _____)

Personally appeared before me _____, who after
having been duly sworn, stated that he had read and understood
the foregoing Mutual Covenant Not To Sue, that he was
authorized by Union Carbide Chemicals & Plastic Company Inc.
formerly known as Union Carbide Corporation to enter into the
foregoing Mutual Covenant Not To Sue on its behalf, and
acknowledged the execution thereof.

Subscribed and sworn to before me, a Notary Public, in and
for such County and State, this _____ day of _____,
1989.

UCC 086387

(_____) Notary Public