

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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NICOLINA SIRECI, as Executrix of the	:	
Estate of JOSEPH E. SIRECI, Deceased,	:	
Plaintiff,	:	
- against -	:	Index No. 13411/83
CHEMCO, INC., ROMAN HASS, INC.	:	DEFENDANT UNION
MONSANTO, INC., UNION CARBIDE, INC.,	:	CARBIDE CORPORATION'S
and AMERICAN CYANAMID INC.,	:	RESPONSE TO
AMERICAN CYANAMID and MONSANTO, INC.,	:	PLAINTIFF'S FIRST SET
Defendants.	:	<u>OF INTERROGATORIES</u>

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Pursuant to Rule 3134 of the Civil Practice Law and Rules, defendant Union Carbide Corporation ("UCC") sets forth herein its response to plaintiff's First Set of Interrogatories dated July 20, 1984.

RESPONSES TO INTERROGATORIES

The responses set forth herein are based on information presently available, and UCC reserves its rights to supplement, amend or correct these responses.

The objections noted below are incorporated into UCC's response to each specific interrogatory whether or not specific reference is made to such objection in the response to a particular interrogatory.

UCC reserves all objections to the admissibility at trial of any information or documents produced. The

identification or production of any document or the supplying of any information does not constitute an admission that the document or information is relevant to the pending litigation. Accordingly, UCC reserves the right to object to further inquiry with respect to any subject matter.

All information provided in response to these interrogatories is provided or produced for use in this litigation only and for no other purpose and any furnishing of information deemed confidential by UCC shall be done so subject to a stipulation of confidentiality.

GENERAL OBJECTIONS

1. UCC objects to these interrogatories insofar as they call for the disclosure of privileged information which was developed for or in anticipation of litigation, or which constitutes attorney work product or confidential attorney - client communications.

2. UCC objects to these interrogatories insofar as they seek information which is not in UCC's control.

3. UCC objects to these interrogatories insofar as they seek information which is neither relevant nor calculated to lead to the discovery of admissible evidence in this action.

4. UCC objects to these interrogatories insofar as they seek information for an unlimited period of time due to plaintiff's failure to specify the particular period regarding which information is sought. Therefore, pursuant to an Order

of the Court dated October 24, 1984, where appropriate, UCC will restrict its responses to particular interrogatories to the period of time relevant to this action.

5. UCC objects to these interrogatories insofar as they are vague and unclear and cannot be answered accurately in the form in which they are posed.

6. UCC objects to these interrogatories insofar as they call for the disclosure of confidential corporate information of a commercially competitive and/or compensable nature.

7. UCC objects to these interrogatories insofar as they are overly broad and sweeping, and to the extent that responding to them would constitute a burdensome and unnecessary undertaking.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1

Do "you" agree to supplement "your" answers upon discovery of new or different or additional or supplementary information as specified in the Instructions, above?

RESPONSE TO INTERROGATORY NO. 1

The responses set forth herein are based on information presently available and UCC reserves its rights, at anytime, to supplement, amend or correct these responses.

INTERROGATORY NO. 2

"Identify" each "person" answering these Interrogatories on behalf of UNION CARBIDE, INC.

RESPONSE TO INTERROGATORY NO. 2

Mr. R. N. Wheeler, Assistant Director of Corporate Product Safety for UCC, assisted counsel for UCC in preparing these answers.

INTERROGATORY NO. 3

"Identify" the "persons" assisting in the answering of these Interrogatories and indicate each separate Interrogatory on which each such "person" assisted.

RESPONSE TO INTERROGATORY NO. 3

See response to Interrogatory No. 2.

INTERROGATORY NO. 4

"Identify" "writings" utilized by or used by or referred to or in anyway consulted by "persons" to answer or to assist in answering or to provide information for answering these Interrogatories.

RESPONSE TO INTERROGATORY NO. 4

UCC objects to this interrogatory on the ground set forth in General Objections Nos. 1, 6 and 7. However, subject to objection and where pertinent in response to a particular interrogatory, UCC will identify relevant documents.

INTERROGATORY NO. 5

Is the correct name of the manufacturer of Poly Vinyl Chloride (Resins) UNION CARBIDE CORPORATION. If not, please "identify" the "person" who manufactures Poy Vinyl Chloride (Resins).

RESPONSE TO INTERROGATORY NO. 5

UCC is not the manufacturer of PVC resins. However, the following divisions of UCC have, from time to time, manufactured and sold PVC resins: the Bakelite Division, the

Plastics Division, and the Chemical and Plastics Division
(hereinafter referred to collectively as "UCC").

INTERROGATORY NO. 6

Did "you" manufacture Poly Vinyl Chloride (Resins)?

RESPONSE TO INTERROGATORY NO. 6

See response to Interrogatory No. 5.

INTERROGATORY NO. 7

Did "you" sell or distribute Poly Vinyl Chloride (Resins) to Elm Coated Fabrics, A Division of W.R. Grace & Co., Inc.; Emanuel Mittman; Hatco, Kalex Chemical Products, Inc.; W.R. Grace & Co., Inc.; or any of their subsidiaries or divisions? If you sold or distributed such Poly Vinyl Chloride (Resins) to a subsidiary or division, "identify" such "person".

RESPONSE TO INTERROGATORY NO. 7

UCC sold PVC resins to Elm Coated Fabrics or Kalex from time to time between 1968 and August, 1977.

INTERROGATORY NO. 8

"Identify" all "writings" which show the name of said Poly Vinyl Chloride (Resins) to those designated in paragraph "7" above.

RESPONSE TO INTERROGATORY NO. 8

UCC objects to this interrogatory on the grounds set forth in General Objections Nos. 2, 3, 4, 5 and 7, and, further, on the grounds that the interrogatory is so vague and unclear as to be unanswerable in its present form.

INTERROGATORY NO. 9

State:

- (a) The date said Poly Vinyl Chloride (Resins) began being manufactured;

- (b) The location of the plant or plants in which said Poly Vinyl Chloride (Resins) was manufactured;
- (c) The dates said Poly Vinyl Chloride (Resins) were sold to those enumerated in paragraph "7";
- (d) The manner in which said Poly Vinyl Chloride (Resins) was delivered;
- (e) The dates of delivery.

RESPONSE TO INTERROGATORY NO. 9

- (a) UCC first manufactured PVC resin in or about 1940.
- (b) South Charlestown, West Virginia, and Texas City, Texas;
- (c) UCC sold PVC resins to Elm Coated or Kalex during the period of time from 1968 to August, 1977.
- (d) PVC resins were delivered to Elm Coated or Kalex by railroad and truck.
- (e) UCC has retained copies of sales records related to sales by UCC of PVC resins to Elm Coated or Kalex. These records indicate that the last sale of PVC resins or products containing PVC resins by UCC to Elm Coated or Kalex took place in August, 1977.

INTERROGATORY NO. 10

Did "CARBIDE" design the Poly Vinyl Chloride (Resins)?

RESPONSE TO INTERROGATORY NO. 10

UCC objects to this interrogatory on the grounds set forth in General Objections 4, 5, 6, and 7, and, further, on the grounds that the interrogatory is vague and unclear. Subject to

and without waiver of the aforementioned objections, the following information is provided with respect to the type of PVC resin sold to Elm Coated or Kalex: In or about 1937, UCC developed the basic technology for PVC nonsolvent resin and based upon this technology, UCC manufactured PVC nonsolvent resin. The basic technology for PVC dispersion resin was generally known in the industry, and was also known to UCC. In or about 1943, based upon this technology, UCC manufactured its own brand of PVC dispersion resin. In or about 1955, UCC purchased the basic technology needed to manufacture PVC suspension resins from Wacker-Chemie GMBH, Werk Burghausen, 8263 Burghausen/OBB, Federal Republic of Germany. Based upon this technology, UCC manufactured its own brand of PVC suspension resin.

INTERROGATORY NO. 11

Was the above mentioned Poly Vinyl Chloride (Resins) designed solely by "CARBIDE"?

RESPONSE TO INTERROGATORY NO. 11

See response to Interrogatory No. 10.

INTERROGATORY NO. 12

"Identify" "persons" who participated in the design and discovery of said Poly Vinyl Chloride (Resins).

RESPONSE TO INTERROGATORY NO. 12

See response to Interrogatory No. 10.

INTERROGATORY NO. 13

"Identify" "persons" having custody of all "writings" regarding the design and manufacture of said Poly Vinyl Chloride (Resins).

RESPONSE TO INTERROGATORY NO. 13

UCC objects to this interrogatory on the grounds set forth in General Objections 2, 3, 4, 5 and 7, and, further, on the grounds that the interrogatory is vague and unclear. Subject to and without waiver of the aforementioned objections, the following information is provided: UCC ceased the manufacture and sale of PVC resins in 1977. UCC has not been able to locate any documents specifically regarding the design and manufacture of the types of PVC resins sold to Elm Coated and Kalex.

INTERROGATORY NO. 14

Was said Poly Vinyl Chloride (Resins) designed or manufactured by "CARBIDE" to meet specifications set by Elm Coated Fabrics, A Division of W.R. Grace & Co., Inc.; Emanuel Mittman; Hatco, Kalex Chemical Products, Inc.; W.R. Grace & Co., Inc.?

RESPONSE TO INTERROGATORY NO. 14

No.

INTERROGATORY NO. 15

Describe in full detail all such specifications and "identify" any "writings" relating to such specifications.

RESPONSE TO INTERROGATORY NO. 15

Not applicable.

INTERROGATORY NO. 16

Was the Poly Vinyl Chloride (Resins) in question designed and developed jointly by "CARBIDE" and CHEMCO, INC., ROHM AND HASS CO. [sic], MONSANTO, INC., AMERICAN CYNAMID INC., and AMERICAN CYNAMID [sic], MONSANTO, INC. (or any of their divisions or "persons" retained by them in the design and development of said Poly Vinyl Chloride (Resins)?

RESPONSE TO INTERROGATORY NO. 16

No.

INTERROGATORY NO. 17

"Identify" the "person" who specified the Poly Vinyl Chloride (Resins) to be used by Elm Coated Fabrics, A Division of W.R. Grace & Co., Inc.; Emanuel Mittman; Hatco, Kalex Chemical Products, Inc.; W.R. Grace & Co., Inc.

RESPONSE TO INTERROGATORY NO. 17

Unknown.

INTERROGATORY NO. 18

In the course of specifications of the Poly Vinyl Chloride (Resins) for industry use, what tests were run?

RESPONSE TO INTERROGATORY NO. 18

While UCC objects to this interrogatory as being unclear, during the production process of the PVC resins sold by UCC to Elm Coated or Kalex the resins were tested for, inter alia, appearance, specific gravity, heating loss, inherent viscosity, Brookfield viscosity, Severs viscosity, particular size distribution, medium particular size, apparent density, resin dry flow and Hegman fitness.

INTERROGATORY NO. 19

In the course of specification of the Poly Vinyl Chloride (Resins) what problems were noted?

RESPONSE TO INTERROGATORY NO. 19

UCC objects to this interrogatory on the grounds set forth in General Objection 2, 3, 4, 5 and 7.

INTERROGATORY NO. 20

Did "CARBIDE" have any restriction against using Poly Vinyl Chloride (Resins)?

RESPONSE TO INTERROGATORY NO. 20

UCC objects to this interrogatory on the grounds set forth in General Objections 3, 4 and 5. Subject to and without waiver of the aforementioned objections, UCC states that PVC resin labels, packaging and literature contained the legend "For Industrial Use Only", and contained instructions and restrictions as to handling, storage and safety.

INTERROGATORY NO. 21

"Identify" "writings", "warnings", "instructions" or directions by "CARBIDE" or any division of "CARBIDE" regarding the use of Poly Vinyl Chloride (Resins)?

RESPONSE TO INTERROGATORY NO. 21

UCC objects to this interrogatory on the grounds set forth in General Objection 3, 4, 5 and 7. Subject to and without waiver of the aforementioned objections, UCC responds to this interrogatory by identifying for plaintiff the following documents: UCC Product Standards for PVC resins; UCC Material Safety Data Sheets for PVC resin, copies of UCC labels and packaging (if available) for PVC resins; a UCC publication entitled "Monitoring the Concentration of Vinyl Chloride in the Work Place or Ambient Air", and copies of Product Bulletins for UCC PVC resins.

INTERROGATORY NO. 22

"Identify" "persons" who have done scientific studies on the ability of Poly Vinyl Chloride (Resins) to being used without deliterious or harmful effects on users thereof.

RESPONSE TO INTERROGATORY NO. 22

UCC objects to interrogatory on the grounds set forth in General Objections 2, 3, 4, 5 and 7. To answer this interrogatory in its present form would impose an onerous burden upon UCC. Scientific literature exists concerning possible hazardous health effects of PVC resins written by people, the vast majority of whom are neither employed by nor related to UCC in any capacity. This literature is available to plaintiff as readily as to UCC.

INTERROGATORY NO. 23

"Identify" "writings" regarding the various quality control checks on the Poly Vinyl Chloride (Resins).

RESPONSE TO INTERROGATORY NO. 23

UCC objects to this interrogatory on the grounds set forth in General Objectives 2, 4, 5, 6 and 7. Subject to and without waiver of the aforementioned objections, UCC identifies the following documents for plaintiff: (1) copies of UCC's Product Standards for PVC resins; and (2) Product Bulletin for UCC's PVC resins.

INTERROGATORY NO. 24

"Identify" "writings" regarding complaints on Poly Vinyl Chloride (Resins) and also describe and identify each such complaint made.

RESPONSE TO INTERROGATORY NO. 24

UCC objects to this interrogatory on the grounds set forth in General Objectives 3, 4, 5 and 7, and, further, on the grounds that the interrogatory is so vague and unclear as to be unanswerable. The word "complaints" could mean quality control complaints, complaints from customers about deliveries, health effects complaints, price complaints, etc. In its present form, this interrogatory is plainly improper and unanswerable.

INTERROGATORY NO. 25

State verbatim each and every warranty which was given to any purchaser of the Poly Vinyl Chloride (Resins) and attach copies hereto.

RESPONSE TO INTERROGATORY NO. 25

UCC objects to this interrogatory on the grounds set forth in General Objections 3, 4 and 5, and, further, on the grounds that the word "warranty" renders the interrogatory vague and unclear, and requires UCC to make legal conclusions in order to respond. Subject to and without waiver of the aforementioned objections, UCC states that it provided no written warranties for its products.

INTERROGATORY NO. 26

"Identify" "writings" and instructions by "CARBIDE" regarding use of Poly Vinyl Chloride (Resins).

RESPONSE TO INTERROGATORY NO. 26

See response to Interrogatory No. 21.

INTERROGATORY NO. 27

"Identify" "writings" and instructions by "CARBIDE" regarding any safeguards in the use of Poly Vinyl Chloride (Resins).

RESPONSE TO INTERROGATORY NO. 27

See response to Interrogatory No. 21.

INTERROGATORY NO. 28

Has Poly Vinyl Chloride (Resins) been examined, tested, inspected or analyzed by "CARBIDE" in-house experts?

RESPONSE TO INTERROGATORY NO. 28

UCC objects to this interrogatory on the grounds set forth in General Objections 4, 5, 6 and 7. Subject to and without waiver of the aforementioned objections UCC states that from time to time as a matter of course during the production of PVC resins UCC did examine, test, inspect and analyze its products.

INTERROGATORY NO. 29

If the answer to Interrogatory 28 is affirmative, then "identify" such in-house expert or experts.

RESPONSE TO INTERROGATORY NO. 29

UCC objects to this interrogatory on the grounds set forth in General Objections 3, 4, 5 and 7. UCC has employed hundreds of persons over the years to examine, test, inspect and analyze its products during the production process. To attempt to provide the identities of all of these people would impose an onerous burden upon UCC.

INTERROGATORY NO. 30

If the answer to Interrogatory 28 is affirmative, then for each examination, test, inspection or analysis, state:

- (a) Its nature, or the method used to make it;
- (b) The name, address, telephone number, qualifications and capacity of each "person" who made it;
- (c) Its subject matter;
- (d) The date and time it was begun and completed and the number of working hours spent in making it;
- (e) The place it was made;
- (f) The name, address and telephone number of each "person" for whom it was made or to whom it was directed and;
- (g) Whether, in making it, any "person" was interviewed or examined, and, if so, the name, address, and job title of each "person".

RESPONSE TO INTERROGATORY NO. 30

UCC objects to this interrogatory on the grounds set forth in General Objections 3, 4, 5 and 7. Over the years, UCC has conducted numerous examinations, tests, inspections and analyses of its products for various purposes as a matter of course during the production of those products. It is not possible for UCC to identify each of these examinations, tests, inspections or analyses and to attempt to do so would impose an onerous burden upon UCC.

INTERROGATORY NO. 31

"Identify" "writings" compiled or prepared as a result of the examinations, tests, analyses or inspections by said in-house expert(s).

RESPONSE TO INTERROGATORY NO. 31

See response to Interrogatory No. 30.

INTERROGATORY NO. 32

What information developed by any investigation, inspection, tests, analysis, and examination inquired about in these Interrogatories do "you" believe support the denial that the Poly Vinyl Chloride (Resins) in question was deliterious to the health of users of Poly Vinyl Chloride (Resins).

RESPONSE TO INTERROGATORY NO. 32

UCC objects to this interrogatory on the grounds set forth in General Objections 4, 5 and 7. Subject to and without waiver of the aforementioned objections, UCC responds to this interrogatory by referring plaintiff to the following documents: scientific literature dealing with the possible effects of exposure to PVC resins and copies of scientific reports and studies generated by or on behalf of UCC dealing with the possible effects upon health of exposure to PVC resins.

INTERROGATORY NO. 33

"Identify" "persons" who developed or have such information requested in Interrogatory No. 32.

RESPONSE TO INTERROGATORY NO. 33

See response to Interrogatory No. 32.

INTERROGATORY NO. 34

"Identify" "writings" regarding the information requested in Interrogatory No. 32.

RESPONSE TO INTERROGATORY NO. 34

See response to Interrogatory No. 32.

INTERROGATORY NO. 35

Has "CARBIDE" received notice of or information about claims or allegation by "persons" other than Plaintiff regarding Poly Vinyl Chloride (Resins)?

RESPONSE TO INTERROGATORY NO. 35

UCC objects to this interrogatory on the grounds set forth in General Objections 3, 4, 5 and 7. Subject to and without waiver of the aforementioned objections UCC states that it has received notice of allegations of possible deleterious health effects of PVC exposure by persons other than Plaintiff in the following matters: Edith E. Bumbarger v. Union Carbide Corp., Case No. 019656 (Ct. Common Pleas, Cuyahoga Cty., OH); Catherine Hassey v. Uniroyal, Inc., et al., Civ. No. 80-43 (E.D.PA.); Priscilla Lee v. Union Carbide Corporation, et al., No. 84-2398 (E.D. MICH); Stanley Mikyska v. Union Carbide Corp., et al., No. C-79-503, (Circuit Ct., Noble Cty., IN); Helen v. Arthur v. B.F. Goodrich, et al., No. 976623 (Ct. Common Pleas, Cuyahoga Cty., OH); Kenneth Grimm v. Ford Motor Co., et al., No. 83-2872-NO, (Circuit Ct., Macomb Cty., MICH); Eugene Maliko v. Monsanto Co., et al., Docket No. L-41276 (N.J. Super., Law Div., Middlesex County); Carol A. Stillo v. Rubbermaid, et al., No. 52270, (Ct. Common Pleas, Cuyahoga Cty., OH); and Edna Arellano v. Macklin Co., et al., Docket No. C-216-915 (Cal. Super., Los Angeles Cty.) UCC further states

that it has no knowledge or records of other complaints regarding the health effects of exposure to PVC manufactured by UCC.

INTERROGATORY NO. 36

If the answer to Interrogatory No. 35 is affirmative, then state:

(a) Name and address of the "person" making such claim or allegation;

(b) The date of receipt of notice or information by "CARBIDE".

(c) A description of injuries sustained, if any;

(d) The name and address of the injured party;

(e) In regard to each claim, whether or not legal action was instituted on behalf of the claimant and where such action was instituted. If legal action was instituted, who were the parties' attorneys?

RESPONSE TO INTERROGATORY NO. 36

UCC objects to this interrogatory on the grounds set forth in General Objections 1, 3, 4, 5 and 7, and, further, on the grounds that the interrogatory is vague, unclear and calls for the production of privileged or confidential information. Subject to and without waiver of the aforementioned objections, UCC states that the information sought by plaintiff with respect to the matters set forth in response to Interrogatory No. 35 is set forth in documents remaining on file in the courts previously named and is available to plaintiff from those courts as a matter of public record.

INTERROGATORY NO. 37

Has "CARBIDE" received notice of or information about claims or allegations by "persons" other than Plaintiff regarding a problem with Poly Vinyl Chloride (Resins)?

RESPONSE TO INTERROGATORY NO. 37

See response to Interrogatory No. 35.

INTERROGATORY NO. 38

If the answer to Interrogatory No. 37 is affirmative, then state:

- (a) Name and address of the party making such claim or allegation;
- (b) The date of the notice received by "CARBIDE";
- (c) A description of injuries sustained, if any;
- (d) The name and address of the injured party;
- (e) In regard to each claim whether or not legal action was instituted on behalf of the claimant and where such action was instituted. If so, who were the parties' attorneys?

RESPONSE INTERROGATORY NO. 38

See response to Interrogatory No. 36.

INTERROGATORY NO. 39

"Identify" "writings" regarding the information requested in Interrogatories Nos. 35, 36, 37 and 38.

RESPONSE TO INTERROGATORY NO. 39

UCC objects to this interrogatory in the grounds set forth in General Objections 1, 3, 4, 5, and 7, and further, on the grounds that the interrogatory is vague and unclear. Subject

to and without waiver of the aforementioned objections, UCC refers plaintiff to its responses to Interrogatories Nos. 36 and 38.

INTERROGATORY NO. 40

Did "CARBIDE" ever advertise Poly Vinyl Chloride (Resins) in newspapers, periodicals, magazines or mass communication media such as radio or television?

RESPONSE TO INTERROGATORY NO. 40

UCC objects to this interrogatory on the grounds set forth in General Objections 4 and 5. Subject to and without waiver of the aforementioned objections, UCC states that it advertised its PVC resins in various trade and industry periodicals, including but not limited to "Modern Plastics". UCC, however, has been unable to locate any copies of said advertisements.

INTERROGATORY NO. 41

If so, with reference to each and every advertisement in New York of Poly Vinyl Chloride (Resins) for production years, supply the following information:

- (a) The media used in disseminating the advertisements to the general public;
- (b) The name and principal place of business of the newspaper, magazine, radio or television media used for such advertisements;
- (c) The dates of publication or dissemination of such advertisements through the media mentioned in (b) above;
- (d) The contents of all such representative advertisements mentioned in (c) above;
- (e) The trade name under which advertised.

RESPONSE TO INTERROGATORY NO. 41

See response to Interrogatory No. 40.

INTERROGATORY NO. 42

"Identify" all "writings" regarding any policies of insurance that will or may cover, or are designed to cover, any potential recovery by Plaintiff herein. Attach a copy of said policy or policies hereto.

RESPONSE TO INTERROGATORY NO. 42

UCC objects to this interrogatory on the grounds set forth in General Objections 1, 3 and 7. Subject to and without waiver of the aforementioned objections UCC states that for the period of time relevant to this action it was insured by American Motorists Insurance Company (policy nos. OZM 578 450 and 05B 010 120.)

INTERROGATORY NO. 43

"Identify" "persons" not heretofore identified in these Interrogatories having knowledge of any discoverable matter.

RESPONSE TO INTERROGATORY NO. 43

UCC objects to this interrogatory on the grounds set forth in General Objections 3 and 7, and, further, on the grounds that the interrogatory in its present form is vague, unclear and inordinately burdensome.

INTERROGATORY NO. 44

State when "CARBIDE" has been engaged from time to time in the manufacture and distribution of Poly Vinyl Chloride (Resins) as set forth in paragraph enumerated No. 14 in its answer to Plaintiff's complaint.

RESPONSE TO INTERROGATORY NO. 44

See response to Interrogatory No. 9.

INTERROGATORY NO. 45

Set forth copies of all product literature published by "CARBIDE" by way of literature or otherwise as to the representations for the product made, manufactured, sold or distributed by "CARBIDE" as set forth in paragraph enumerated No. 34 in its answer to Plaintiff's complaint.

RESPONSE TO INTERROGATORY NO. 45

UCC objects to this interrogatory on the grounds set forth in General Objections 3, 4, 5 and 7. Subject to and without waiver of the aforementioned objections, UCC responds to this interrogatory by referring plaintiffs to documents listed in responses to Interrogatories Nos. 21 and 23.

INTERROGATORY NO. 46

Did "CARBIDE" pool information concerning Poly Vinyl Chloride (Resins) with any other manufacturer, formulator, developer, packager or distributor.

RESPONSE TO INTERROGATORY NO. 46

UCC objects to this interrogatory on the grounds set forth in General Objections 3, 4, 5 and 7, and, further, on the grounds that the phrase "pool information" renders the interrogatory vague and unclear. Subject to and without waiver of the aforementioned objections, the following information is provided: from time to time UCC has ^{sponsored} engaged in scientific research efforts concerning the possible effects upon health of exposure to PVC resins, as a participant in industry safety associations such as the Society of Plastics Industries VC-PVC Producers Association, the Manufacturing Chemists Association (f.k.a. Chemical Manufacturer's Association) and Organization

*UCC had
no control -
put up \$
no reference
to UCC
or trade
assoc.
results of
research
never publicized.*

Resources Counselors. UCC has also participated in scientific research efforts concerning the possible effects upon health of exposure to PVC resins under the coordination of OSHA and the EPA. Other than this scientific research which related to the possible effects upon health of exposure to and the safety of PVC resins, UCC never shared any other information concerning its manufacturing protocol for any of the PVC resins which it manufactured nor did any other manufacturer share any information concerning its manufacturing potocol for any of the PVC resins which it manufactured with UCC.

INTERROGATORY NO. 47

"Identify" the "person" who participated in the pooling of said information.

RESPONSE TO INTERROGATORY NO. 47

Not applicable.

INTERROGATORY NO. 48

"Identify" "persons" having custody of all writings regarding the pooling of information.

RESPONSE TO INTERROGATORY NO. 48

Not applicable.

INTERROGATORY NO. 49

Did "CARBIDE" enter into any agreements whether orally or in "writing" with any other manufacturer, formulator, developer, packager or distributor of Poly Vinyl Chloride (Resins) as to its basic chemical formula.

RESPONSE TO INTERROGATORY NO. 49

UCC objects to this interrogatory on the grounds set forth in General Objections 3, 4 and 5, and, further, on the

grounds that the phrase "its basic chemical formula" renders the interrogatory vague and unclear. Subject to and without waiver of the aforementioned objections, the following information is provided: the basic chemical formula for polyvinyl chloride is a matter of common knowledge. UCC's recipe and manufacturing protocol for the PVC resins it manufactured are proprietary and confidential formulae which have never been the subject of any agreement between UCC and any other party. See also responses to Interrogatory No. 46.

INTERROGATORY NO. 50

"Identify" "persons" who participated in any such agreement.

RESPONSE TO INTERROGATORY NO. 50

Not applicable.

INTERROGATORY NO. 51

"Identify" "persons" having custody of all "writings" respecting such agreements.

RESPONSE TO INTERROGATORY NO. 51

Not applicable.

INTERROGATORY NO. 52

Did "CARBIDE" adopt or cause to be adopted by other manufacturers, formulators, developers, packagers or distributors any literature, brochure, advertisement, packaging inserts, criteria, information for submission and use by and to any user of Poly Vinyl Chloride (Resins) or to any governmental agency.

RESPONSE TO INTERROGATORY NO. 52

52. UCC objects to this interrogatory on the grounds set forth in General Objections 2, 3, 4 and 5, and, further, on

the grounds that the interrogatory is vague and unclear. Subject to and without waiver of the aforementioned objections, the following information is provided: UCC provided its customers with copies of the publication "Monitoring the Concentration of Vinyl Chloride in the Work Place or Ambient Air", which contained OSHA safety and health standards related to vinyl chloride, after said publication became available. UCC also provided its customers and its plant personnel with copies of the publications of the Department of Labor, the EPA and NIOSH.

INTERROGATORY NO. 53

"Identify" "persons" who participated in any such adoption or cause to be adopted.

RESPONSE TO INTERROGATORY NO. 53

53. UCC objects to this interrogatory on the grounds set forth in the General objections 2, 3, 4, 5, and 7, and, further, on the grounds that the interrogatory is so vague and unclear as to be unanswerable in its present form.

INTERROGATORY NO. 54

"Identify" "persons" having custody of all "writings" of such adoption or cause to be adopted.

RESPONSE TO INTERROGATORY NO. 54

54. UCC objects to this interrogatory on the grounds set forth in General Objections 2, 3, 4, 5, and 7, and, further, on the grounds that the interrogatory is so vague and unclear as to be unanswerable in its present form.

INTERROGATORY NO. 55

Did "CARBIDE" participate in the distribution, marketing and sale of Poly Vinyl Chloride (Resins).

RESPONSE TO INTERROGATORY NO. 55

55. UCC objects to this interrogatory on the grounds set forth in General Objections 4 and 5. Subject to and without waiver of the aforementioned objection, UCC states that, from time to time, it marketed, distributed and sold PVC resins prior to August, 1977.

INTERROGATORY NO. 56

Set forth in detail the percentage of the marketing and sale of Poly Vinyl Chloride (Resins) by "CARBIDE" in the state of New York and any other statistics or records indicating the distribution, marketing and sale by any other distributor, marketer or seller of Poly Vinyl Chloride (Resins).

RESPONSE TO INTERROGATORY NO. 56

56. UCC objects to this interrogatory on the grounds set forth in General Objections 2, 3, 4, and 5. Subject to and without waiver of the aforementioned objections, UCC states that it has no such information or records.

INTERROGATORY NO. 57

Did "CARBIDE" purchase ingredients from a third party in the manufacture of Poly Vinyl Chloride (Resins), if so, "Identify":

- (a) generic and trade name;
- (b) from whom purchased or procured;
- (c) purity tests performed pre-purchases or procurement;
- (d) custodian or records relating to (b) and (c) above.

RESPONSE TO INTERROGATORY NO. 57

UCC objects to this interrogatory on the grounds set forth in General Objections 2, 3, 4 and 5, and, further, on the grounds that "ingredients" and "manufacture" render the interrogatory vague, unclear and overbroad. Subject to and without waiver of the aforementioned objections, UCC states that it purchased the following two "ingredients" which it employed in its "recipe" for PVC resins:

Vinyl Chloride Monomer

- (a) "Vinyl Chloride Monomer" is a generic name. There is no brand name;
- (b) Dow Chemical Corporation and B.F. Goodrich, Inc.;
- (c) Dow's vinyl chloride monomer was tested for impurities and water content. Upon information and belief B.F. Goodrich may also have conducted similar quality testing.
- (d) UCC has not been able to locate any invoices or purchasing records related to these suppliers for this product;

Suspending Aid

- (a) "Methyl Cellulose" is the generic name and "Methocel" is the brand name;
- (b) Dow Chemical Corporation;
- (c) Unknown;
- (d) UCC has not been able to locate any invoices or purchasing records related to this supplier for this product.

INTERROGATORY NO. 58 "Identify" the characteristics of Poly Vinyl Chloride (Resins):

- a. Its qualitative and quantitative formula;
- b. The intended purpose of each active ingredient;
- c. any alterations or changes made in the original formulation, [sic].

RESPONSE TO INTERROGATORY NO. 58

Union Carbide objects to this interrogatory on the grounds set forth in General Objections 4, 5, 6 and 7, and, further, on the grounds that the interrogatory is vague and unclear. Subject to and without waiver of the aforementioned objections, UCC states:

a. PVC dispersion and suspension resins are essentially 100% polyvinyl chloride. PVC nonsolvent resin is 96% vinyl chloride and 4% vinyl acetate polymerized into macro molecules.

b. PVC resins are essentially inert and contain no active ingredients.

c. No significant changes were made by UCC to the basic chemical formulae for these three types of PVC resins.

INTERROGATORY NO. 59. Describe "CARBIDE'S" role vis-a-vis the Poly Vinyl Chloride (Resins):

- (a) formulation, design, development
- (b) manufacture
- (c) testing
- (d) packaging
- (e) advertising
- (f) selling
- (g) distributing
- (h) warehousing
- (i) demonstrating

RESPONSE TO INTERROGATORY NO. 59

UCC objects this interrogatory on the grounds set forth in General Objective 7, and, further, on the grounds that UCC has already provided the information requested in its responses to previous interrogatories. Subject to and without waiver of the aforementioned objections, the following additional information is provided: UCC maintained a warehouse and packaging facility for its PVC resins in Perth Amboy, New Jersey, as well as maintaining warehouses adjacent to its plants in South Charleston, West Virginia, and Texas City, Texas.

INTERROGATORY NO. 60

60. If "CARBIDE" formulated, designed or developed the Poly Vinyl Chloride (Resins) similar [sic] products, state:

(a) When Poly Vinyl Chloride (Resins) or similar product was first marketed by "CARBIDE":

(b) identities of those in "CARBIDE'S" employ who designed, formulated or developed such products;

(c) identities of any consultants used

RESPONSE TO INTERROGATORY NO. 60

UCC objects to this interrogatory on the grounds set forth in General Objections 3, 4, 5 and 7. UCC has employed numerous people over the years to develop PVC resins. To attempt to provide the identities of all of these people would impose an onerous burden upon UCC. Subject to and without waiver of the aforementioned objections the following information is provided: UCC first marketed PVC resin in or

about 1937. The PVC resins sold by UCC to Elm Coated or Kalex were primary products which were not mixed, formulated, extruded or otherwise prepared with other materials to produce "similar" products to be sold to Elm Coated or Kalex.

INTERROGATORY NO. 61

61. If "CARBIDE" did not design, formulate or develop the Poly Vinyl Chloride (Resins) or similar products, state:

- (a) who did
- (b) relationship between "CARBIDE" and such person
- (c) how "CARBIDE" acquired rights to such product

RESPONSE TO INTERROGATORY NO. 61

UCC objects to this interrogatory on the grounds set forth in General Objections 2, 3, 4, 5 and 7, and, further, on the grounds that the interrogatory is vague, unclear and overbroad. Subject to and without waiver of the aforementioned objections, UCC responds to this interrogatory by referring plaintiff to its response to Interrogatory No. 60.

INTERROGATORY NO. 62

Describe all writings relating to design, formulation and development of the Poly Vinyl Chloride (Resins) and similar products, stating:

- (a) identity of author of writing
 - (1) name
 - (2) address
 - (3) relation to "CARBIDE"
- (b) date of writing
- (c) substance of writing
- (d) purpose of writing
- (e) who now has writing
- (f) how writing can be examined by Plaintiff's int stat

RESPONSE TO INTERROGATORY NO. 62

See responses to Interrogatories 21, 23, 32, 52, 60 and 61.

INTERROGATORY NO. 63

Chemical composition of Poly Vinyl Chloride (Resins)

- (a) trade name of each ingredient
- (b) generic name of each ingredient
- (c) percentage by weight of each ingredient
- (d) purpose of each active ingredient

RESPONSE TO INTERROGATORY NO. 63

See responses to Interrogatories Nos. 57 and 58.

INTERROGATORY NO. 64

Changes in formula of Poly Vinyl Chloride (Resins) or similar products since first developed

- (a) date of change
- (b) reasons of change
- (c) ingredients eliminated
 - (1) trade name
 - (2) generic name
 - (3) weight
- (d) ingredients added
 - (1) trade name
 - (2) generic name
 - (3) weight
- (e) who authorized change
- (f) who has custody of records regarding change

RESPONSE TO INTERROGATORY NO. 64

See response to Interrogatory No. 58.

INTERROGATORY NO. 65

List standards pertaining to pre-marketing testing and safety of Poly Vinyl Chloride (Resins) and similar products, including

- (a) governmentally promulgated standards
- (b) standards by private groups

RESPONSE TO INTERROGATORY NO. 65

UCC objects to this interrogatory on the grounds set forth in General Objections 4, 5 and 7, and, further, on the grounds that the interrogatory is vague and unclear. Subject to and without waiver of the aforementioned objections, UCC

responds to this interrogatory by identifying for plaintiff the following documents: UCC Product Standards for PVC resins; UCC Product Bulletins for PVC resins; UCC Material Safety Data Sheets for PVC resins; the UCC publication "Monitoring the Concentration of Vinyl Chloride in the Work Place or Ambient Air"; and copies of Department of Labor, EPA, and NIOSH safety standards for vinyl chloride.

INTERROGATORY NO. 66

For each standard in paragraph No. 65 from which "CARBIDE" deviated at all, state

- (a) full text of standard
- (b) how "CARBIDE" deviated
- (c) why "CARBIDE" deviated

RESPONSE TO INTERROGATORY NO. 66

Not Applicable.

INTERROGATORY NO. 67

If any ingredient of Poly Vinyl Chloride (Resins) or similar products known [sic] or potential poisons if ingested or if concentrated fumes breathed, state

- (a) generic name of ingredient
- (b) brand name of ingredient
- (c) why such ingredient necessary
- (d) all steps taken by "CARBIDE" to reduce risk of cancer
- (e) amounts of Poly Vinyl Chloride (Resins) and similar products that must be ingested by adults to cause harm
- (f) amounts and concentrations of fumes from such Poly Vinyl Chloride (Resins) that must be inhaled by adults to cause harm

RESPONSE TO INTERROGATORY NO. 67

UCC objects to this interrogatory on the grounds set forth in General Objections 4 and 7, and, further, on the

UCC 087533

grounds that the interrogatory is vague and unclear. Subject to and without waiver of the aforementioned objections, the following information is provided:

- a. Vinyl chloride monomer.
- b. None.
- c. Vinyl chloride is one of the basic elements of PVC resins.

d. UCC objects to this subpart of this interrogatory upon the grounds set forth in General Objections 5 and 7.

Subject to or without waiver of the aforementioned objections, UCC states that it took the following steps to reduce the risk of any potential health hazard:

(1) UCC supported research concerning the possible effects upon health of exposure to vinyl chloride.

See response to Interrogatory No. 46;

(2) UCC complied with OSHA, NIOSH and EPA standards for exposure to Vinyl Chloride;

(3) UCC complied with the EPA's National Emission Standard for Hazardous Air Pollutants - Vinyl Chloride;

(4) UCC labeled packages of PVC resins as required by OSHA;

(5) UCC issued to its customers a publication entitled "Monitoring the Concentration of Vinyl Chloride in the Workplace or Ambient Air" calling attention to the OSHA Standard and suggesting monitoring procedures;

(6) UCC conducted studies of its PVC resins plants to determine the nature and extent of any possible effects upon health of exposure to vinyl chloride, and took steps to minimize the possibility of excess exposure.

e. The exact amount of Vinyl Chloride monomer, if any, which must be "ingested" by adults to cause "harm" is not known.

f. Levels of vinyl chloride monomer on the order of 6,000 ppm for five minutes exposure have produced minimal symptoms resembling mild alcohol intoxication in humans. Levels of approximately 16,000 ppm for the same length of time can produce varying degrees of intoxication, with lightheadedness, some nausea and a dulling of visual and auditory responses in humans. Higher levels may produce unconsciousness.

INTERROGATORY NO. 68

Does "CARBIDE" consider Poly Vinyl Chloride (Resins) to be inherently dangerous.

RESPONSE TO INTERROGATORY NO. 68

UCC objects to this interrogatory on the grounds set forth in General Objections 4, 5 and 7, and, further, on the grounds that the interrogatory is vague and unclear. Subject to and without waiver of the aforementioned objections UCC states that the possible emission of unconverted vinyl chloride monomer from PVC resins during the course of handling, storage

or fabrication should be mentioned due to the suspected toxicological properties of high levels of vinyl chloride monomer.

INTERROGATORY NO. 69

69. Regarding any label or tag on container of Poly Vinyl Chloride (Resins) or similar products state

- (a) purpose
- (b) content
- (c) who has custody of records regarding the content
- (d) how can Plaintiff examine records

RESPONSE TO INTERROGATORY NO. 69

UCC objects to this interrogatory on the grounds set forth in General Objections 4, 5 and 7, and, further, on the grounds that the interrogatory is vague and unclear. Subject to and without waiver of the aforementioned objections, the following information is provided:

a. Label purpose is to identify the contents, identify the manufacturer, to show amount of product contained, to provide storage, handling and safety instructions.

UCC responds to subparts b, c and d of this interrogatory by referring plaintiff to the following documents: specimen labels and packaging (if available) for UCC PVC resins purchased by Elm Coated Fabrics or Kalex.

INTERROGATORY NO. 70

Warranty

- (a) substance
- (b) manner communicated
- (c) if "CARBIDE" claims no or limited warranty, state
 - (1) in what manner not warranted
 - (2) why such warranty disclaimed

(3) how disclaimer made
(4) how Plaintiff's intestate made aware of
disclaimer

RESPONSE TO INTERROGATORY NO. 70

UCC objects to this interrogatory on the grounds set forth in General Objections 3, 4, 5 and 7, and, further, on the grounds that the interrogatory is vague, unclear, and requires UCC to make legal conclusions in order to respond. Subject to and without waiver of the aforementioned objections, UCC responds to this interrogatory by stating that no written warranties were made with respect to the PVC resins purchased by Elm Coated Fabrics or Kalex.

INTERROGATORY NO. 71

If "CARBIDE" contends Plaintiff's intestate was contributorily negligent, give basis.

RESPONSE TO INTERROGATORY NO. 71

UCC objects to this interrogatory in the grounds set forth in General Objections 1, 4, 5 and 7, and, further, on the grounds that the interrogatory is vague, unclear, and requires UCC to make legal conclusions in order to respond. Subject to and without waiver of the aforementioned objections, UCC states upon information and belief that the plaintiff's intestate smoked for all or a significant portion of the period from 1951 to 1981. Smoking is a well-known cause of lung cancer and lung disease. UCC specifically reserves the right to supplement or amend its response to this interrogatory as required by the discovery of new information.

UCC 087537

INTERROGATORY NO. 72

If "CARBIDE" contends Plaintiff's intestate assumed risk of injury resulting from use of product, state

- (a) basis for contention
- (b) what risks assumed

RESPONSE TO INTERROGATORY NO. 72

UCC objects to this interrogatory on the grounds set forth in General Objections 1, 4, 5 and 7, and, further, on the grounds that the interrogatory is vague, unclear, and requires UCC to make legal conclusions in order to respond.

Dated: New York, New York
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