

ECB

MEMORANDUM

To: Keith, Ellen & file
From: Jim Tourtelotte
Date: December 14, 1909
Re: Warren/Dow

I spoke at some length to Dr. J. Enfante. He was responding to my telephone query as to whether the materials we received via Mrs. Warren concerning Monsanto's warnings about vinyl chloride were likely to provide any defenses to Dow and the others. His bottom line was that he didn't see any particular defenses except that Monsanto did refer to the material as toxic, although it treated it as toxic in the sense of asphyxiation rather than causing cancer. He also mentioned that there was a reference which he wondered might have applied to VC and was somewhat more damaging to us. The bottom line is that I don't see anything in the documents that Mrs. Warren gave us which would make them damaging to our case if released to the defendants.

In regard to latency period, he has found several cases in which latency was as short as 11 or 12 years. He thinks there's one as short as 8. He thinks there's some as long as 25. Essentially, they're all over the lot. I think when we receive the material which he is going to send us, we can go to Sharon Burger with a modified demand and see if we can get settlement negotiations boiling along again. He also is going to check and see if NIOSH has

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any reference to a Monsanto study concerning cancer deaths, especially angiosarcoma deaths, at Monsanto. He said he'd be surprised if there weren't liver cancer/hemoangiosarcoma deaths in the past. He feels the liability against these companies is very good.

I think our biggest single problem in this case is whether an organization which had no reason to know that it was exposing someone to a hazardous material can be liable for producing and exposing the person to it.

See me after you have read the Memo, please.

JHT/sw

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