

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has this date caused a true and correct copy of the attached document to be served on counsel of record for all parties by forwarding same first-class mail, postage prepaid, addressed as follows:

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Dated: January 17, 1989

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ESTATE OF JOSEPH GILL,	:	CIVIL ACTION
STELLA GILL, Adm., and	:	
STELLA GILL, in her own right,	:	NO. 88-8807
	:	
Plaintiffs	:	
	:	
v.	:	
	:	
BORDEN, INC., et al.,	:	
	:	
Defendants	:	<u>JURY TRIAL DEMANDED</u>

ANSWERS AND OBJECTIONS TO PLAINTIFF'S
INTERROGATORIES ADDRESSED TO DEFENDANTS
DOW CHEMICAL COMPANY, SHELL OIL COMPANY,
VISTA CHEMICAL COMPANY, THE BF GOODRICH COMPANY
AND ETHYL CORPORATION

PREFATORY STATEMENT

To the extent applicable to plaintiff's interrogatories, answering defendants hereby object to same for the following reasons:

1. Answering defendants object to plaintiff's interrogatories insofar as they seek information as to any product other than vinyl chloride monomer ("VCM"), the only product of defendants referred to in plaintiff's complaint to which plaintiff's decedent could arguably have been exposed during the course of his employment as a tank farm attendant. The insufficiency of plaintiff's identification of other products to which decedent may have been exposed is among the matters addressed in answering defendants' motion for a more specific complaint presently awaiting disposition by the court. Accordingly, plaintiff's interrogatories as to such other products are premature.

2. Plaintiff's interrogatories seeking information as to particular products of answering defendants are premature and hence improper in that they seek information about a product or products allegedly manufactured, produced, sold or supplied by answering defendants which have not been shown to either have been purchased by plaintiff's decedent's employer and/or used by decedent. Until such products have been reasonably shown to have been purchased by decedent's employer and used by decedent, these interrogatories are premature and seek information which is irrelevant to the subject matter of this lawsuit and are not reasonably calculated to lead to the discovery of admissible evidence. In order to avoid the inordinate time and expense incident to gathering and furnishing the information sought, answering defendants submit that discovery should be limited initially to establishing that decedent's employer purchased particular identifiable products manufactured, produced, sold or supplied by answering defendants and that decedent used these products as a prerequisite to the discovery sought herein.

3. Answering defendants object to these interrogatories on the ground that the information sought is not limited to the period of plaintiff's decedent's employment nor limited to information concerning products, information, documents or materials during the period in which answering defendants had sales of the products to decedent's employer. To the extent plaintiff's interrogatories seek information concerning products, events, documents or other materials relative to other periods of

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time, these interrogatories are overbroad, burdensome, onerous, irrelevant, vexatious and not reasonably calculated to lead to the discovery of material and admissible evidence.

4. Answering defendants object to these interrogatories on the additional grounds that to the extent the interrogatories seek to discover "all" documents and other materials, names of individuals and/or other information, the interrogatories are overbroad, unduly burdensome, onerous, vexatious, unreasonably cumulative and duplicative, not susceptible to reasonable limitation and unduly vague and ambiguous.

5. Answering defendants object to these interrogatories to the extent they seek the disclosure of proprietary information, trade secrets and/or commercially sensitive materials which should be governed by a protective order or agreement of the parties limiting the scope and use thereof before any information of this nature is furnished.

6. Answering defendants object to plaintiff's definition of "you" and "your company" as improper, since under the Rules of Civil Procedure answering defendants are the only parties to this lawsuit and are the only parties required to respond to plaintiff's interrogatories. Accordingly, any answers provided in response to these interrogatories are those of, and pertain to, answering defendants only and not those of any other persons or entities and do not include any "predecessors" or "successors" as defined by plaintiff. Any answers to be provided will be based on information or documents in the possession or

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control of and reasonably available to answering defendants only. Furthermore, there is no allegation in plaintiff's complaint that decedent's alleged illness was caused, in whole or in part, by any act, omission or defective product of any party other than the parties named as defendants in plaintiff's complaint and there are no allegations that answering defendants are liable for any acts, omissions or defective products as successors to any liabilities of any other persons or parties.

7. Answering defendants object to the direction that plaintiff's interrogatories are deemed continuing so as to require the filing of prompt supplemental answers if answering defendants obtain further information prior to trial in that said directions exceed the scope of the answering defendants' obligation to supplement their discovery responses as required by the Rules of Civil Procedure.

8. Answering defendants object to plaintiff's instructions "K" and "L" as being unduly burdensome and onerous, overly broad and all-encompassing and would require answering defendants to make an unreasonable investigation.

9. Plaintiff's interrogatories are premature in that the plaintiff's complaint is subject to answering defendants' pending motion to dismiss, to strike and for a more specific pleading.

ANSWERS AND OBJECTIONS

1. Answering defendants' responses to plaintiff's interrogatories were and are being prepared by counsel after a review by answering defendants and their counsel and other representatives of relevant documents and/or after consultation with representatives of answering defendants, and thus this interrogatory is improper in that it seeks the disclosure of privileged communications and work-product of counsel. Without waiving their objections, responses are and will be provided by answering defendants in accordance with the requirements of the applicable Rules of Civil Procedure.

2. See objection to no. 1.

3. See objection to no. 1.

4. See objection to no. 1. Furthermore, this interrogatory is unduly burdensome and onerous and improperly requests answering defendants to prepare and produce summaries of documents not presently in existence.

5.(a-c) Objection. This interrogatory improperly seeks disclosure of legal conclusions of counsel.

6.(a-c) Objection. This interrogatory improperly seeks disclosure of legal conclusions of counsel.

7.(a-c) Not applicable.

8.(c) Objection. In addition to being overly broad and burdensome, this interrogatory seeks information which is irrelevant to the subject matter of this litigation and is not

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reasonably calculated to lead to the discovery of admissible evidence.

9.(a-b) Objection. See prefatory statement no. 6. Furthermore, this interrogatory seeks the discovery of information which is irrelevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, this interrogatory is overbroad in that it is not limited in scope to any predecessors which may have sold products to decedent's employer to which decedent was allegedly exposed and which caused his alleged illness.

10.(a-b) See prefatory statement nos. 1, 2, 3 and 6. Without waiving their objections, answering defendants will respond with respect to their deliveries, if any, of VCM to decedent's employer's Pottstown, Pennsylvania facility during decedent's alleged period of exposure to the extent that answering defendants have records or other information reasonably available to them to enable them to prepare answers hereto. Such information will be provided in cumulative summary form in the event an itemization of all shipments to decedent's employer appears to be unduly burdensome. Answering defendants further object to plaintiff's interrogatory seeking the "monetary value" of answering defendants' products as seeking information which is confidential in nature and which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

11. Objection. As there are many potential uses for

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the subject product, the information requested would not be within answering defendants' reasonable control or knowledge and would be best answered by decedent's employer.

12.(a-b) Objection. See objection to no. 10.

12.(c) Objection. See prefatory statement no. 5 and objection to no. 10. Furthermore, insofar as this interrogatory does not seek information relative to the particular product or ingredients thereof which allegedly caused or contributed to decedent's alleged illness, said interrogatory seeks information which is irrelevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence.

12.(d) Objection. See objection to no. 10. This interrogatory is misleading to the extent that it assumes that answering defendants manufactured the subject product. To the extent that answering defendants may in fact have "manufactured" the subject product, they will respond to this interrogatory to the extent that records or other information are reasonably available to them to enable them to so respond.

12.(e) See objection to nos. 10 and 12(d).

12.(f) Objection. See objection to nos. 10 and 17(b).

13.(a-c) Objection. See objection to no. 10.

14.(a) Objection. See objection to no. 10.

Furthermore, this request is overbroad and seeks information not relevant to the subject matter of this litigation in that it is

not reasonably limited to tests, studies, inspections or examinations as to any conditions, things or circumstances which may have caused or contributed to decedent's alleged illness.

14.(b) See objection to no. 14(a).

14.(c) See objection to no. 14(a). Furthermore, this interrogatory is unduly burdensome and onerous, would require answering defendants to make an unreasonable investigation and improperly requests answering defendants to prepare a summary of documents not presently in existence.

14.(d) Objection. See objection to no. 14(a).

15.(a) Objection. See objection to no. 10.

15.(b) Objection. See objection to no. 10.

Furthermore, this interrogatory seeks information which is irrelevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks information regarding sales of answering defendants' alleged products to any entity other than decedent's employer and delivery at said employer's Pottstown facility.

16.(a-c) Objection. This interrogatory seeks information which is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence.

17.(a) Objection. See objection to no. 10.

Furthermore, this interrogatory is overbroad insofar as it is not limited to the particular products sold to decedent's employer at its Pottstown facility during the alleged period of exposure.

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17.(b) Objection. See objection to no. 17(a).

Furthermore, this interrogatory would require answering defendants to make an unreasonable investigation and search of its records to determine the identification of each and every possible supplier of the chemical ingredients of any products which may have been purchased by answering defendants and subsequently supplied to decedent's employer. Without waiving its objections, with respect to particular suppliers of the product to answering defendants, see answering defendants' responses to no. 12(f). This interrogatory is further objectionable insofar as it seeks the discovery of information which is irrelevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence.

17.(c) Objection. See objection to nos. 17(a-b).

17.(d) Objection. See objection to nos. 17(a-b).

Furthermore, this interrogatory is overbroad in seeking information relative to potential hazards of the contraction of any illness other than that allegedly contracted by decedent.

18.(a) Objection. See objections to nos. 14(a) and 17(d).

18.(b-c) Objection. See objection to no. 18(a).

19.(a-e) Objection. See objections to nos. 14(a), 17(a-d) and 18(a-c).

20. Objection. This interrogatory is overly broad in that it is not limited to the period of time during which answering defendants may have sold any alleged product to dece-

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dent's employer nor to the period of decedent's alleged exposure. Furthermore, this interrogatory is unduly vague and ambiguous and answering defendant can only guess as to the meaning of "every reasonable step" and improperly requests answering defendants to make and/or to provide plaintiff with legal conclusions of defendants.

21. Objection. This interrogatory is overly broad and unduly vague and seeks information not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to seeking information relating to the particular illness allegedly contracted by decedent, to the time period during which answering defendants sold said products to decedent's employer, to the period of decedent's exposure or to illnesses substantially similar to that of decedent arising from exposures of the nature and extent experienced by the decedent. This interrogatory is further improper as seeking a medical opinion and expert discovery exceeding the scope of allowable expert and non-expert discovery. This interrogatory is unduly burdensome and onerous due to the impossibility of stating every potential injury or disease. Furthermore, this interrogatory is unduly vague and ambiguous in that answering defendant can only guess as to the definition and scope of information sought by plaintiff in the use of the phrase "foreseeable uses and misuses."

22. Objection. This interrogatory is overbroad in that it is not limited to the period of time during which answering

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defendants may have sold their products to decedent's employer nor to the period of decedent's alleged exposure to answering defendants' products. Furthermore, this interrogatory is overbroad in that it is not limited to recalls for reasons relating to hazards or risk of contraction of the type of illness allegedly contracted by decedent arising from exposures of the nature and extent experienced by decedent.

23.(a-e) Objection. This interrogatory is overbroad insofar as it seeks information not limited to the period of time during which answering defendants had sales of the products to decedent's employer nor to written materials or information supplied to decedent's employer concerning any potential hazards of the contraction of the particular illness allegedly suffered by decedent. Without waiving its objection, answering defendants will attempt to respond to this interrogatory limited to materials provided to decedent's employer during the period in which they made sales to decedent's employer and during the period of decedent's alleged exposure and to the extent that information or documents are in answering defendants' possession and are reasonably available to them to enable them to respond to this interrogatory.

24.(a) Objection. This interrogatory is overbroad insofar as it is not limited to the period of time during which answering defendants had sales of the product to decedent's employer and to the period of plaintiff's alleged exposure and insofar as it is not limited to answering defendants' personnel

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involved with the specific product allegedly involved in this case. Furthermore, this interrogatory is unduly vague and ambiguous and answering defendants can only guess as to the meaning of the terms "safety product review, industrial hygiene or their functional equivalent."

24.(b) Objection. See objections to nos. 17(d) and 24(a). Furthermore, this interrogatory is unduly vague and ambiguous and answering defendants can only guess as to the meaning of the terms "injury prevention systems, and written material regarding potential health hazards."

25. Objection. See objection to nos. 10(a-b) and 23(a-e).

26. Objection. See objection to nos. 10(a-b), 17(d) and 23(a-e).

27.(a-f) Objection. See objection to nos. 10(a-b), 17(d) and 23(a-e). Without waiving its objections, answering defendants will attempt to respond to this interrogatory to the extent information or documents are in their possession and are reasonably available to them to enable them to respond to this interrogatory limited to relevant time periods.

27.(g-h) Objection. See objection to nos. 27(a-f). Furthermore, these interrogatories are overbroad in that they seek information which is wholly irrelevant to the subject matter of this litigation and are not reasonably calculated to lead to the discovery of admissible evidence to the extent that they seek information regarding warnings as to any potential risk of

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the contraction of any illness other than that allegedly suffered by decedent.

27.(i) Objection. See objection to nos. 27(a-h). Furthermore, inquiries regarding warnings which may have been provided by decedent's employer should be directed to said employer.

27.(j) Objection. See objection to nos. 14(a) and 27(a-h). Furthermore, this interrogatory is unduly vague and ambiguous and answering defendants can only guess as to the meaning of the phrase "effective in advising foreseeable uses" and as to the scope of the information sought by plaintiff.

28.(a-c) Objection. See objection to no. 23(a-e). Furthermore, this interrogatory is unduly vague and ambiguous in that answering defendants can only guess as to the nature and scope of the information sought by plaintiff's request for information regarding "any kind of restriction or limitation of the use" of the alleged product.

29.(a-d) Objection. This interrogatory seeks information which is irrelevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence in that decedent was not employed by answering defendants and plaintiff does not claim that decedent's illness was caused by exposure during the manufacture or production by answering defendants of their products nor by any exposures substantially similar to those of answering defendants' employees.

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30.(a-c) Objection. This interrogatory improperly seeks the disclosure of attorney work product and of the mental impressions, conclusions, opinions or theories of answering defendants' attorneys. Furthermore, this interrogatory is unduly burdensome and requires answering defendants to make an unreasonable investigation. The information requested by plaintiff is equally available to plaintiff from other sources and can be readily obtained by plaintiff from a source that is more convenient, less burdensome and/or less expensive. Furthermore, this interrogatory is objected to as seeking information which is irrelevant to the subject matter of this litigation to the extent that it seeks information regarding exposures by decedent to answering defendants' products during any time period other than the period of sales by answering defendants to decedent's employer and other than during decedent's alleged period of exposure and insofar as said guidelines are not applicable to workplace exposures similar to that experienced by decedent.

31. Objection. See objection to no. 23(a-e). Furthermore, this interrogatory is ambiguous and answering defendants can only guess as to the meaning of the phrase "claims or representations". Furthermore, this interrogatory is overbroad insofar as it is not limited to information regarding any hazards of the contraction of the particular illness allegedly suffered by decedent from exposure substantially similar to that experienced by the decedent.

32.(a-g) Objection. This interrogatory is overbroad

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to the extent that it seeks information concerning answering defendants' membership in any associations during any period of time other than the period of sales of answering defendants to decedent's employer and other than during the period of decedent's alleged exposure to answering defendants' products. Furthermore, this interrogatory is overly broad in that it is not limited to any associations the purpose of whose existence was to monitor any hazards or risks of the contraction of the particular illness allegedly contracted by decedent resulting from exposures to answering defendants' products substantially similar to decedent's alleged exposure.

32.(e-g) Objection. See objection to no. 32(a-g). Furthermore, this interrogatory is overbroad and unduly burdensome and seeks the discovery of information which is irrelevant to the subject matter of this litigation and it is not reasonably calculated to lead to the discovery of admissible evidence.

33.(a-e) Objection. This interrogatory is overbroad and unduly burdensome and seeks the discovery of information that is irrelevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to allegations of the contraction of the illness allegedly contracted by plaintiff's decedent from exposure to answering defendants' products which are alleged to have caused plaintiff's decedent's illness nor limited to such illnesses allegedly arising from exposures substantially similar to that of plaintiff's decedent. Furthermore, this interrogatory

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is overbroad insofar as it seeks the discovery of information concerning claims made subsequent to the last date of plaintiff's decedent's alleged exposure to answering defendants' products.

34.(a-h) Objection. See objection to no. 33.

36.(a-b) Objection. This interrogatory is overbroad in that it is not limited to answering defendants' departments or employees with relevant information during the period of time prior to decedent's last exposure to answering defendants' products. Furthermore, this interrogatory is overbroad in that it seeks information which is irrelevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence to the extent that it is not limited to the discovery of information concerning warnings of the contraction of the particular illness allegedly suffered by decedent from exposures to answering defendants' products substantially similar to the exposures experienced by decedent.

37.(a-b) Objection. Insofar as this interrogatory seeks the disclosure by answering defendants of their contentions in this case, said interrogatory seeks the disclosure of attorney work product and/or of the mental impressions, conclusions, strategy, opinions or legal theories of answering defendants' counsel or other representatives of answering defendants concerning this lawsuit which is privileged and protected from discovery. Without waiving its objections, discovery and investigation are ongoing and answering defendants do not have information sufficient to prepare a response to this interrogatory.

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38.(a-f) Objection. See objection to no. 37.

39. Objection. See objection to no. 37.

40.(a-b) Objection. See objection to no. 37.

41.(a-b) Objection. See objection to no. 37.

42.(a-b) Objection. See objection to no. 37.

43.(a-c) Objection. This interrogatory is overbroad insofar as it is not limited to the period of time during which answering defendants had sales of the product to decedent's employer and is not limited to the period of decedent's alleged exposure. Furthermore, this interrogatory is unduly vague and overbroad in that answering defendants can only guess as to the meaning of the phrase "use, storage, or application" of the product.

44.(a-c) Objection. This interrogatory is overly broad in that it is not limited to representatives of answering defendants nor limited to the period of time during which answering defendants sold any alleged product to decedent's employer nor to the period of decedent's alleged exposure. Without waiving their objections, answering defendants will attempt to respond to this interrogatory, limited to the relevant time periods, to the extent that information or documents necessary to respond hereto is within answering defendants' possession and control and is reasonably available to them.

45. Objection. See objection to nos. 17(d), 23, 29 and 31.

46.(a-b) Objection. See objection to nos. 17(d), 23,

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29 and 31. Without waiving their objections, answering defendants had no information or knowledge as to any use by decedent of answering defendants' products and, therefore, could not have made such a determination. Therefore, it would be the responsibility of the employer to see that any such information is passed on to and understood by its employees such as decedent.

47.(a-h) Objection. This interrogatory is overbroad in that there is no allegation that plaintiff's decedent was exposed to any product of answering defendants supplied to decedent's employer by dealers or distributors of answering defendants' products and, in any event, absent an identification by plaintiff of any such dealers or distributors, this interrogatory is unduly burdensome and would require answering defendants to make an unreasonable investigation. Furthermore, this interrogatory is overbroad in that it is not limited to the period of sales to decedent's employer nor to the period of exposure by decedent to answering defendants' products. Furthermore, this interrogatory is overbroad and seeks information which is irrelevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to training regarding the prevention or limitation of potential risks of the contraction of illnesses such as that incurred by decedent from exposures substantially similar to that experienced by decedent.

48.(a-g) Objection. See objections to nos. 46-47.

49.(a-i) Objection. This interrogatory improperly

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seeks the discovery of attorney work product and/or discovery of the mental impressions, conclusions, opinions or legal theories of answering defendants' counsel or other representatives of answering defendants concerning this lawsuit and/or materials prepared in anticipation of litigation or for trial by or for answering defendants or their representatives and hence such information is privileged and protected from discovery.

Furthermore, this interrogatory is improper in seeking information as to what answering defendants plan to do but have not done as premature and exceeding the scope of answering defendants' obligations under the Rules of Civil Procedure to supplement its discovery responses.

50. Objection. Answering defendants object to plaintiff's request for the identity of every person who "might have knowledge of discoverable matter relevant to the issues" insofar as said inquiry is overbroad and unduly vague and improperly seeks the disclosure of the mental impressions, conclusions, opinions or legal theories of answering defendants' attorneys or other representatives of answering defendants concerning this lawsuit. Furthermore, this interrogatory is overbroad in that it fails to specifically set forth the particular "discoverable matter" to which information is sought by plaintiff and hence is unduly vague and ambiguous in that answering defendants can only guess as to the information sought by plaintiff. Without waiving its objections, the identity of such persons are unknown to answering defendants at this time. Investigation and discovery

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are ongoing.

51.(a-b) Objection. See objection to no. 50

52.(a-e) Objection. See objection to no. 50.

Furthermore, this interrogatory is unduly vague and overbroad and defendants are unable to identify the persons whose identities are sought by plaintiff in that plaintiff fails to set forth the particular "facts or information" and the "issues" information as to which the persons whose identity plaintiff seeks purportedly possess, and thus answering defendants would be required to conduct an unreasonable investigation. Furthermore, answering defendants object to the production of any such statements of witnesses or the contents thereof to the extent to which such statements are outside the scope of permissible discovery of statements under the Rules of Civil Procedure. Furthermore, answering defendants object to this interrogatory to the extent that it seeks the disclosure of attorney work product or communications by or to answering defendants' counsel which are privileged and protected from discovery.

53.(a-c) Objection. See objection to no. 50.

Furthermore, this interrogatory is overbroad, unduly burdensome and onerous and improperly seeks the disclosure of privileged communications and/or the mental impressions, conclusions, opinions or legal theories of answering defendants' counsel or other representatives of answering defendant concerning this lawsuit which are privileged and protected from discovery. Furthermore, insofar as this interrogatory seeks the discovery of materials pre-

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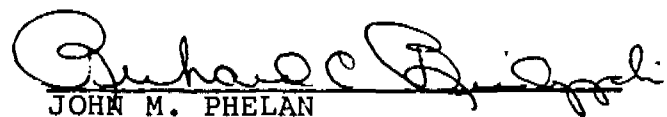
pared in anticipation of litigation or for trial by or for answering defendants or their representatives, said information is privileged and protected from discovery. Furthermore, this interrogatory is unduly vague and ambiguous and answering defendants are unable to determine what plaintiff considers a document or thing which "constitutes evidence or which may relate to discoverable matter".

54.(a-d) Objection. To the extent this interrogatory seeks the discovery of information comprising work product of counsel or information and materials prepared or acquired in anticipation of litigation or for trial by or for answering defendants or their representatives, said information is privileged and protected from discovery. Furthermore, this interrogatory is overbroad and unduly vague in that it seeks information and materials pertaining to the "site of the accident" whereas no accident is alleged in plaintiff's complaint to have occurred. This interrogatory is further overbroad and seeks the discovery of information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to the period of time during which answering defendants had sales of the product to decedent's employer nor to the period of decedent's alleged exposure nor to the containers in which any product was delivered to decedent's employer during said time periods. Furthermore, this interrogatory is overbroad, unduly vague and ambiguous in that plaintiff has failed to describe with particularity the "other subject matter involved in this action".

55.(a-c) Objection. See objection to no. 37. This interrogatory improperly seeks the disclosure of the mental impressions, conclusions, strategy, opinions and legal theories of answering defendants' counsel or other representatives of answering defendants concerning this lawsuit which is privileged and protected from discovery.

56. Objection. See objection to no. 55(a-c). Also, this interrogatory improperly seeks the discovery of information of experts outside the scope of permissible expert discovery under the Rules of Civil Procedure.

57.(a-e) Objection. This interrogatory seeks information which is irrelevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, this interrogatory seeks the disclosure of information which is proprietary in nature and should be disclosed, if at all, only pursuant to a protective order to protect the proprietary nature of the information sought.



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