

At a Special Term, Part I of
the Supreme Court of the
State of New York, held in
and for the County of New
York, at the Courthouse
located at 60 Centre Street,
New York, New York, on
the 21st day of November,
1985.

P R E S E N T :

Hon. Amos E. Bowman,
Justice

NOV 25 1985

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NICOLINA SIRECI, as Executrix of the :
Estate of JOSEPH E. SIRECI, Deceased, :

ORDER

Plaintiff, :

Index No. 13411/83

- against - :

CHEMCO, INC., ROMAN HASS, INC., :
MONSANTO, INC., UNION CARBIDE, INC., :
AMERICAN CYANAMIC, INC., AMERICAN :
CYANAMID, MONSANTO, INC., :

Defendants. :

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ROHM & HAAS COMPANY s/h/a ROMAN HAAS :
INC., :

Defendant and Third-Party
Plaintiff :

- against - :

ELM COATED FABRICS, INC., A Division :
of KALEX CHEMICAL, INC., :

Third-Party Defendant. :

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MONSANTO COMPANY, INC., :

Third-Party Plaintiff, :

- against - :

ELM COATED FABRICS, INC., ELM COATED :
 FABRICS, INC. d/b/a ELM COATED :
 FABRICS DIV. OF KALEX CHEMICAL :
 PRODUCTS, INC., ELM COATED FABRICS :
 DIV. OF KALEX CHEMICAL PRODUCTS, :
 INC., and KALEX CHEMICAL PRODUCTS, :
 INC., :

Third-Party Defendants. :

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Defendant, Union Carbide Corporation, sued herein as Union Carbide, Inc. ("Union Carbide"), having moved this Court for an Order dismissing the complaint on the ground that plaintiff's complaint is time-barred by the statute of limitations, and defendant Monsanto Company, Inc., sued herein as Monsanto, Inc. ("Monsanto"), having cross-moved for an Order dismissing the complaint on the ground that plaintiff's complaint is time-barred by the statute of limitations, and plaintiff having cross-moved for an Order striking the answers of the defendants for failure to comply with plaintiff's demand for discovery, and said motion and cross-motions having come on to be heard before this Court on the 14th day of August, 1985;

NOW, upon defendant, Union Carbide's notice of motion dated May 14, 1985, and upon the affidavits of R.N. Wheeler, Jr., sworn to on May 10, 1985, and of James V. O'Gara, Esq., sworn to on May 14, 1985, and the exhibits annexed thereto, all submitted in support thereof; and upon plaintiff's notice of

cross-motion, dated June 24, 1985, and upon the affirmation of Frank P. Mangiatordi, Esq., dated June 24, 1985, and the exhibits annexed thereto, all submitted in support thereof; and upon the affidavit of James V. O'Gara, Esq., sworn to on July 5, 1985, and the exhibits annexed thereto, submitted in opposition to the plaintiff's cross-motion; and upon defendant Monsanto's notice of cross-motion, dated July 8, 1985, and the affidavits of Irvin DeFrates, sworn to on June 27, 1985, and Mark S. Landman, Esq., sworn to on July 8, 1985, and the exhibits annexed thereto, all submitted in support thereof; and upon the affidavit of Mark S. Landman, Esq., sworn to July 15, 1985, submitted in opposition to plaintiff's cross-motion; and upon the affirmation of Frank P. Mangiatordi, Esq., dated July 18, 1985, submitted in opposition to Monsanto's cross-motion; and upon the affirmation of Frank P. Mangiatordi, Esq., dated July 19, 1985, submitted in reply to Monsanto's opposition to plaintiff's cross-motion; and upon the affirmation of Alexander V. Sansone, Esq., dated July 22, 1985, and upon the affidavit of Stanley Mandel, sworn to on July 29, 1985, all submitted in support of Union Carbide's motion and Monsanto's cross-motion; and upon the affidavit of Mark S. Landman, Esq., sworn to on August 8, 1985, and the exhibits annexed thereto, submitted in reply to plaintiff's opposition to Monsanto's cross-motion; and upon the affirmation of Frank P. Mangiatordi, Esq., dated August 9, 1985, and the exhibits annexed thereto, submitted in reply to Union Carbide's opposition to plaintiff's

cross-motion; and upon the affidavit of James V. O'Gara, Esq.,

sworn to on August 13, 1985, and the exhibits annexed thereto, ~~And the Affirmation of James O'Gara Dated July 22, 1985 and the Exhibits Annexed Thereto~~ submitted in reply to plaintiff's opposition to Union Carbide's

motion, and all of the foregoing having been submitted to the Court on August 14, 1985, and due deliberation having been had, and upon the memorandum decision of this Court dated October 23, 1985, it is

ORDERED, that defendant Union Carbide's motion and defendant Monsanto's cross-motion for summary judgment ~~and the action is severed and dismissed~~ dismissing the plaintiff's complaint is granted ^{as to these} defendants only, and plaintiff's cross-motion is denied in its entirety, and it is further

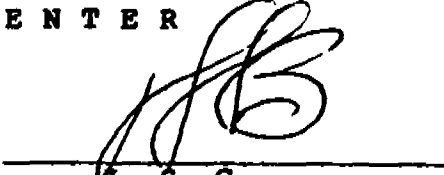
ORDERED, that a copy of this Order with notice of entry be served upon the Clerk of this Court and that the Clerk ~~is directed to enter judgment.~~ ~~shall cause the same to be entered.~~

E N T E R

FILED

DEC - 8 1985

COUNTY CLERK'S OFFICE
NEW YORK


D. S. C.