

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA
 DEPARTMENT OF GENERAL SERVICES,
 PENNSYLVANIA DEPARTMENT OF
 TRANSPORTATION, PENNSYLVANIA
 PUBLIC UTILITY COMMISSION,
 PENNSYLVANIA EMERGENCY MANAGEMENT
 AGENCY, and PENNSYLVANIA DEPARTMENT
 OF STATE,

Plaintiffs

v.

UNITED STATES MINERAL PRODUCTS
 COMPANY, CERTAINTIED CORPORATION,
 COURTAULDS AEROSPACE, INC.,
 CHEMREX, INC., PHILIPS ELECTRONICS
 NORTH AMERICA CORPORATION, ADVANCE
 TRANSFORMER COMPANY, and
 MONSANTO COMPANY,

Defendants

No. 284 M.D. 1990

**DEFENDANT MONSANTO COMPANY'S RESPONSES TO PLAINTIFFS'
 FIRST INTERROGATORIES AND FIRST REQUEST FOR PRODUCTION OF
 DOCUMENTS RELATING TO THE ISSUE OF PRODUCT IDENTIFICATION**

COMES NOW the defendant Monsanto Company (hereinafter "Monsanto"), in accord with the Court's Order of June 12, 1997, and responds to "Plaintiffs' First Interrogatories to Defendant Monsanto Company" and "Plaintiffs' First Request for Production of Documents to Defendant Monsanto Company," as such discovery requests relate to the issue of product identification.

GENERAL LIMITATION

Consistent with the allegations contained in the plaintiffs' February 1997 Amended Complaint, Monsanto has produced information and/or documents relating to polychlorinated



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biphenyls and/or products containing polychlorinated biphenyls which would have been manufactured or sold by Monsanto during relevant time periods. Paragraph 17 of plaintiffs' Amended Complaint states that the Transportation and Safety Building "was built between 1965 and 1967." Plaintiffs allege that various building products which were manufactured, marketed, or sold by Monsanto's co-defendants were installed in the Transportation and Safety Building during its construction. See Amended Complaint, Paragraphs 25-3 .

Therefore, for these entities, Monsanto will produce information responsive to sales, if any, through the end of 1967. Regarding Chemrex and Sonneborn Building Products Division, Paragraph 28 of plaintiffs' Amended Complaint states that their products were "used during the construction of and/or during renovations to the Transportation and Safety Building in the 1980's." Therefore, for these two entities, Monsanto will produce information responsive to sales, if any, through the 1980's. Regarding Philips Electronics and Advance Transformer Company, Paragraph 29 of plaintiffs' Amended Complaint states that their products "were incorporated in light fixtures which were installed in the Transportation and Safety Building." Therefore, for these two entities, Monsanto will produce information responsive to sales, if any, through the end of 1996.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

Please identify each person with whom you had any communication concerning answering these Interrogatories or who provided information used in answering these interrogatories on behalf of Defendant, indicating the number of the Interrogatory and its subpart as to each such person.

RESPONSE:

These responses constitute the corporate response of the defendant Monsanto Company. The information contained in these responses has been compiled from sales records and related documents which were kept in the ordinary course of Monsanto's business with respect to its manufacture and sale of polychlorinated biphenyls. Such records and documents were identified, gathered, and reviewed by Monsanto counsel, legal assistants, and support staff. These responses were prepared by Monsanto counsel, based upon the information contained in the documents produced by Monsanto in this action on June 9, 1997.

INTERROGATORY NO. 2:

Please identify all documents used, related to, or referred to in connection with the preparation of or answers to these Interrogatories, and state the number of the Interrogatory and its subpart as to each such document.

RESPONSE:

See documents produced by Monsanto on June 9, 1997, pursuant to Paragraph 3(2) of the Court's May 27, 1997 Scheduling Order, consisting of copies of all available sales records and related documents concerning Monsanto's sale or distribution, if any, of polychlorinated biphenyls and fluids containing polychlorinated biphenyls to Monsanto's co-defendants. See also, Monsanto's responses to Interrogatory No. 9, Interrogatory No. 10, and Request for Production No. 44, *infra*.

INTERROGATORY NO. 9:

For the years 1960 until 1994 inclusive, did you sell or supply PCBs or PCB-containing products to any of the following entities?

- A. Certaineed Corporation;
- B. Gustin Bacon Manufacturing Company;
- C. Courtaulds Aerospace, Inc.;
- D. Products Research and Chemical Company;
- E. Products Research Corp.;
- F. Chemrex, Inc.;
- G. Sonneborn Building Products Division;
- H. Philips Electronics North America Corporation; and
- I. Advance Transformer Company.

RESPONSE:

On June 9, 1997, pursuant to Paragraph 3(2) of the Court's May 27, 1997 Scheduling Order, Monsanto produced copies of all available sales records and related documents concerning Monsanto's sale or distribution, if any, of polychlorinated biphenyls and fluids containing polychlorinated biphenyls to Monsanto's co-defendants. These records and documents indicate that Monsanto sold the following polychlorinated biphenyls and fluids containing polychlorinated biphenyls to the following entities during the years indicated.

Gustin Bacon Manufacturing Co.

Monsanto made the following sales to Gustin Bacon Manufacturing Co., Kansas City, Missouri, between 1958 and 1967. These products were shipped to 3031 Fiberglass Road, Kansas City, Kansas.

Aroclor 1254	386,600 lbs.
Aroclor 1262	6,000 lbs.
Aroclor 1262 10% TOL	222,000 lbs.
Pydraul 150	3,054 lbs.

See Monsanto production documents contained in Production Folder No. 2.

Certain-Teed Saint Gobain Insulation Corp.

Monsanto made the following sales to Certain-Teed Saint Gobain Insulation Corp., Kansas City, Kansas, during 1967. These products were shipped to 3031 Fiberglass Road, Kansas City, Kansas.

Aroclor 1254	600 lbs.
Aroclor 1262 10% TOL	96,000 lbs.

See Monsanto production documents contained in Production Folder No. 1.

Products Research and Chemical Corp.

Monsanto made the following sales to Products Research and Chemical Corp. between 1958 and 1960, shipped to an unidentified address.

Aroclor 1254	22,000 lbs.
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Monsanto made the following sales to Products Research and Chemical Corp. between 1958 and 1967, shipped to Burbank, California.

Aroclor 1242	404,750 lbs.
Aroclor 1248	6,055 lbs.
Aroclor 1254	1,854,400 lbs.
Aroclor 1262	460,900 lbs.

See Monsanto production documents contained in Production Folder No. 3.

Sonneborn Building Products, Inc.

Monsanto made the following sales to Sonneborn Building Products, Inc., Hancox Avenue, Belleville, New Jersey, between 1963 and 1970.

Aroclor 1242	43,000 lbs.
Aroclor 1248	1,800 lbs.
Aroclor 1254	2,255,000 lbs.
Aroclor 1260	182,800 lbs.
Aroclor 1262	2,160 lbs.
Aroclor 1268	220,000 lbs.

See Monsanto production documents contained in Production Folder No. 4.

Monsanto's sales records and related documents do not indicate the sale of any polychlorinated biphenyls or fluids containing polychlorinated biphenyls during the relevant time periods to any of the other entities identified by plaintiffs in Interrogatory No. 9.

INTERROGATORY NO. 10:

If your answer to any of the subparts in the previous interrogatory is affirmative, identify:

- A. The product(s) in which your PCBs or PCB containing products were incorporated or used;
- B. The number of units of PCBs or PCB-containing products sold to these entities and the amount of the sale for each year sold;
- C. All documents of any kind or description that indicate the purchase, acquisition, receipt and composition of the PCBs or PCB-containing materials sold to the entities identified in the previous interrogatory including purchase orders, invoices, inventory

records, shipment records, material safety data sheets, records of receipt, accounts payable and receivable, and/or invoices.

RESPONSE:

See response to Interrogatory No. 9, *supra*, and the documents produced on June 9, 1997 contained in Production Folder Nos. 1-4.

RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 44:

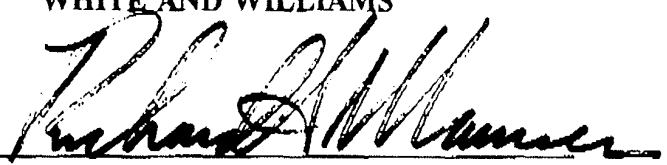
All documents indicating the sale of PCBs or PCB-containing products to any of the entities identified in Interrogatory No. 9.

RESPONSE:

See documents contained in Production Folders Nos. 1-4 which were produced on June 9, 1997 pursuant to Paragraph 3(2) of the Court's May 27, 1997 Scheduling Order.

Respectfully submitted,

WHITE AND WILLIAMS

By: 

Thomas M. Goutman
Richard H. Maurer
Counsel for Defendant,
Monsanto Company

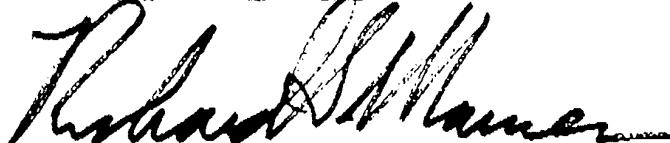
Dated: July 16, 1997

VERIFICATION

I, Richard H. Maurer, hereby state that I am an attorney for Monsanto Company, a defendant in this action, and that I am authorized to take this verification pursuant to Rule 1024 (c) (2), in light of the fact that defendant is outside the jurisdiction of the Court and the verification of its representative cannot be obtained within the time allowed by the Court for filing the preceding Responses to plaintiffs' First Interrogatories and First Request for Production of Documents Relating to the Issue of Product Identification.

I have reviewed the foregoing Responses, and state that the facts contained therein are true and correct to the best of my knowledge, information, and belief. I understand that the statements made herein are subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities. The original verification of Monsanto's authorized representative shall be substituted upon receipt by the undersigned.

WHITE AND WILLIAMS

By: 

Richard H. Maurer
Counsel for Defendant,
Monsanto Company

Dated: July 16, 1997

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NORTH AMERICA CORPORATION, ADVANCE
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MONSANTO COMPANY,

Defendants

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CERTIFICATE OF SERVICE

Richard H. Maurer hereby certifies that a true and correct copy of Defendant Monsanto Company's Responses to Plaintiffs' First Interrogatories and First Request for Production of Documents Relating to the Issue of Product Identification was served this date on the following individuals by first class mail, postage prepaid:

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WHITE AND WILLIAMS

By: 

Richard H. Maurer
Counsel for Defendant,
Monsanto Company

Dated: July 16, 1997

I hereby certify that on this ____ day of _____, 1997, I caused to be served a true and correct copy of the foregoing upon all counsel of record as listed below via first-class United States mail, postage prepaid:

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