

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW

GARY & KATHY HENRY, et al,)	Case No. 03-47775-NZ
)	Honorable Leopold P. Borrello
Plaintiffs,)	
)	
vs.)	
)	
THE DOW CHEMICAL COMPANY,)	
a Delaware Corporation,)	
)	
Defendant.)	
)	
)	
)	

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PLAINTIFFS' EMERGENCY MOTION FOR PROTECTIVE ORDER

NOW COMES Plaintiffs, by their attorneys, and hereby move this Court for a Protective Order pursuant to MCR 2.302 (C) for the following reasons:

1. That the Defendant has scheduled 174 depositions of named Plaintiffs scheduled to begin on December 29, 2003, and to conclude on January 23, 2004 (See Exhibit 1, Amended Notice of Discovery Depositions).
2. That MCR 2.302 (C) provides that this Court may enter a Protective Order to protect a party from annoyance, oppression, undue burden or expense.
3. That the scheduling of 172 named Plaintiffs is totally unnecessary for the issues that will be presented to this Court on February 24, 2004, at the hearing for class certification.
4. That a more realistic number of depositions for class certification purposes would be between 10 and 40.
5. That further, it is unrealistic to schedule depositions on December 29, 2003 and December 30, 2003, due to the unavailability of counsel and witnesses.

WHEREFORE, Plaintiffs respectfully pray that this Court enter a Protective Order limiting the number of depositions of named Plaintiffs for class certification purposes and to not allow commencement of depositions until January 5, 2004.

DATED: December 17, 2003

Respectfully submitted,

/s/ Jan P. Helder, Jr.
JAN P HELDER, JR.
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CHERYL M. THOMAS hereby certifies that on the 17th day of December, 2003, she did serve a copy of **Plaintiffs' Emergency Motion for Protective Order and this Proof of Service** upon:

Ms. Kathleen A. Lang
Dickinson Wright, PLC
500 Woodward Avenue, Suite 4000
Detroit, Michigan 48226

Mr. John H. Decker (via fax & regular mail)
Braun Kendrick Finkbeiner, PLC
4301 Fashion Square Blvd.
Saginaw, Michigan 48603

Mr. Douglas Kurtenbach
Kirkland & Ellis
200 E. Randolph Drive
Chicago, IL 60601

Mr. John S. Guttman
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Mr. Carl H. Helmstetter
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Mr. Jan P. Helder, Jr.
STUEVE HELDER SIEGEL, LLP
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Kansas City, MO 64112

by placing a copy of said documents in an envelope, with first class postage fully pre-paid thereon, and depositing same into a U.S. Mail receptacle located in the City of Saginaw, County of Saginaw, State of Michigan.

 /s/ Cheryl M. Thomas
CHERYL M. THOMAS

Subscribed and sworn to before me this
17th day of December, 2003.

VICTORIA L. POISSON, Notary Public
Saginaw County, Michigan
My Commission Expires: 10/12/05

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NOTICE OF HEARING

TO: CLERK OF THE COURT AND ALL COUNSEL OF RECORD

PLEASE TAKE NOTICE that **Plaintiffs' Emergency Motion for Protective Order** shall be brought on in said Court and cause on **Monday, December 22, 2003, at 1:30 p.m.**, or as soon thereafter as counsel shall be heard.

DATED: December 17, 2003

Respectfully submitted,

/s/ Jan P. Helder, Jr.

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