

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

GARY & KATHY HENRY, et al.

Plaintiffs,

vs.

THE DOW CHEMICAL COMPANY,  
a Delaware corporation,

Defendant.

Case No. 03-47775- NZ  
Hon. Leopold P. Borrello

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Susan Kaltenbach, Clerk

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COUNTY CLERK  
BY DEPUTY

**PLAINTIFFS' RESPONSES AND OBJECTIONS TO DEFENDANT'S FIRST REQUESTS  
FOR PRODUCTION**

### General Objections

1. Plaintiffs object to these requests to the extent they seek any documents or other information protected from disclosure by the attorney-client privilege, the joint-prosecutorial privilege, and/or the work product immunity.

2. Plaintiffs object to defendant's requirement to produce documents at the offices of defense counsel. When documents are produced, plaintiffs intend to make them available at plaintiffs' counsel's office unless otherwise agreed.

### Responses

1. All documents on which you rely to support your claims, including, but not limited to, all documents that support your contention that you suffered damages, or are entitled to any other relief, as a result of alleged dioxin contamination in the Tittabawassee River or its floodplain, and all documents that establish or relate to the dollar value of your damages.

**RESPONSE: Objection. Overbroad. Subject to this objection, plaintiffs will produce all documents relating to the value of their properties and the damage to that value resulting from the dioxin contamination.**

2. Documents sufficient to establish your ownership of, or other interest in, any property for which you claim damage.

**RESPONSE: No objection.**

3. All Health Care Records. [In addition to answering this Request, also fill out, sign and return the attached Medical Information Authorization.]

**RESPONSE: Objection. Overbroad, not reasonably calculated to lead to the discovery of**

admissible evidence, harassment, and invasion of privacy. Moreover, this request constitutes an invasion of the physician-patient privilege. Plaintiffs have not made claims for personal injuries; their health condition is irrelevant to their claim for medical monitoring of their health *in the future for potential* illnesses, the risks for which have been increased by their exposure to the dioxin Dow released into the Tittabawassee River and flood plain. Because plaintiffs have not put their medical condition in issue in this case, Dow has no basis within which to invade the physician-patient privilege.

Plaintiffs also object to providing Dow any authorization to contact their health care professionals directly or to speak with them directly, as doing so would breach the physician-patient privilege and plaintiffs have not placed their medical condition in issue in this case. Plaintiffs also object to the form of the release insofar as it has no limits whatsoever, seeking counseling records wholly unrelated to any conceivable issue in the case (like marital counseling, etc.), and purports to allow Dow directly to speak with any medical professional any plaintiff has ever consulted, including psychologists. Permitting Dow to do this would serve no purpose but to permit Dow to intimidate and harass the plaintiffs.

4. All Insurance Records. [In addition to answering this Request, also fill out, sign and return the attached Insurance Information Authorization.]

**RESPONSE: Objection. Overbroad, not reasonably calculated to lead to the discovery of admissible evidence, harassment, and invasion of privacy. Plaintiffs incorporate by this reference their objections to Request No. 4. Plaintiffs also object to providing any form of authorization to Dow to obtain insurance records directly from their insurers or to speak to their insurers directly with regard to plaintiffs' records or other confidential information.**

5. All Employment Records. [In addition to answering this Request, also fill out, sign and return the attached Authorization for Release of Employment Records and Information with your Response.]

**RESPONSE: Objection. Overbroad, not reasonably calculated to lead to the discovery of admissible evidence, harassment, and invasion of privacy. Plaintiffs' employment record is not an issue in this case.**

Plaintiffs also object to providing Dow any authorization to obtain records directly from their employers or to speak with them directly. Any efforts by Dow to deal or speak directly with plaintiffs' employers would serve only to harass and intimidate the plaintiffs and their employers, some of whom may have business dealings directly or indirectly with Dow.

6. All documents relating to communications between you and any other person regarding flooding, dioxin, and all actual or potential dioxin contamination of your property or in the Tittabawassee River or its floodplain.

**RESPONSE: Objection to the extent the request seeks communications between the plaintiffs or between the plaintiffs and counsel as those communications are privileged. Otherwise, no objection.**

7. All documents that relate to your responses to Dow's First Set of Interrogatories on Class Certification Issues, including but not limited to all documents that you relied on in answering those interrogatories or that relate to the information sought by those interrogatories.

**RESPONSE: Objection to providing all documents "that relate" to plaintiffs' interrogatory responses because the request is overbroad, vague and ambiguous. No objection to producing any documents "relied on in answering" the interrogatories.**

8. All documents relating to any testing, studies, sampling or other investigation for contamination conducted on you or your real or personal property, including but not limited to testing or sampling of the blood, soil, sediment, water, dust, air, vegetation, food, biota, fish, or animals. Included in this request are copies of all test results and reports, and any actual samples taken.

**RESPONSE: No objection to the extent such documents are within the custody or control of the plaintiffs.**

9. All photographs, motion pictures, slides, video tapes relating to, or taken as a result of, flooding or alleged dioxin contamination in the Tittabawassee River or its floodplain.

**RESPONSE: No objection to the extent such documents are within the custody or control of the plaintiffs.**

10. All documents, including but not limited to bills, invoices, receipts, canceled checks and correspondence, reflecting monetary or other loss you suffered as a result of alleged dioxin contamination on your property or in the Tittabawassee River or its floodplain.

**RESPONSE: No objection.**

11. All statements, written or in other form, that you have made, given, signed or obtained with respect to alleged dioxin contamination on your property or in the Tittabawassee River or its floodplain and any damages you allege you have sustained, including but not limited to copies of any surveys or questionnaires you have completed relating to the alleged dioxin contamination.

**RESPONSE: No objection.**

12. All documents evidencing or relating to each lawsuit, claim, or other action for damages or other relief that you have asserted or to which you have been a party.

**RESPONSE: Objection. Overbroad; not reasonably calculated to lead to the discovery of admissible evidence. Subject to this objection, plaintiffs will produce any pleadings for any lawsuit involving damage or contamination to any of the property within the Tittabawassee flood plain and in issue in this case.**

13. All diaries, logs, notes or other records that you have maintained regarding dioxin, alleged dioxin contamination, exposure to dioxin, effects on your health or property, and any other issues that are relevant to the claims alleged in the complaint.

**RESPONSE: Objection to the clause “any other issues that are relevant to the claims alleged in the complaint” as vague and ambiguous; otherwise, no objection.**

14. Copies of all articles, notices, letters, advisories and other documents that you have received or reviewed regarding dioxin, alleged dioxin contamination, exposure to dioxin, effects on health or property, the Tittabawassee River and its floodplain, and any other issues that are relevant to the claims alleged in the complaint.

**RESPONSE: Objection to the clause “any other issues that are relevant to the claims alleged in the complaint,” as vague and ambiguous. Otherwise, no objection.**

15. All documents relating to flooding.

**RESPONSE: No objection.**

16. All Documents you have sent to or received from any federal, state or local agency, including but not limited to the U.S. Environmental Protection Agency, state agencies, such as the Michigan Department of Environmental Quality, local, county or state boards of health, police departments or fire departments, or other federal, state, county or local government entities

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concerning Dow, dioxin, alleged dioxin contamination, or any other matter raised in your complaint.

**RESPONSE: No objection.**

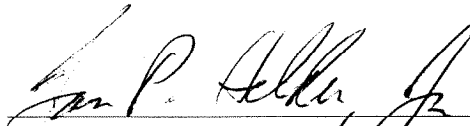
17. All reports, notes, memoranda, statements, or materials of any type prepared by, relied upon, or relating to the factual observations, tests, supporting data, calculations, photographs, reports and/or opinions of all expert witnesses whom you may call at trial or in connection with your request for class certification.

**RESPONSE: These documents will be provided as ordered by the Court for any expert designated by the plaintiffs to testify at trial or any other proceeding before the Court.**

Dated: October 3, 2003

Respectfully submitted,

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