

**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

FILED
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COUNTY CLERK
BY DEPUTY CLERK

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**PLAINTIFFS' ANSWERS AND OBJECTIONS TO DEFENDANT'S
INTERROGATORIES**

1. State your full name (and any other names that you have been known by), address, date of birth, place of birth, social security number, and driver's license number and issuing state (if other than Michigan).

RESPONSE: Objection. Dow's request for the social security and driver's license numbers of the plaintiffs is overbroad, not reasonably calculated to lead to the discovery of admissible evidence, harassment and an invasion of privacy.

2. EMPLOYERS. Identify, in chronological order (by month and year), each employer for whom you work or have worked and, for each employer listed, provide your job title(s) and describe your job duties.

RESPONSE: No objection. This information will be provided when it can be reasonably made available.

3. RESIDENCES. State, in chronological order (by month and year), the address of each location where you have lived and identify each person who resides or has resided with you at each location.

RESPONSE: No objection. This information will be provided when it can be reasonably made available.

4. CLAIMS. If you have ever filed, or had filed on your behalf, a lawsuit, arbitration claim, insurance claim, workers' compensation claim, or any other kind of claim in which you have sought to recover monetary damages or other relief for alleged any injury or damage to you or your property, describe each claim, when it was filed, and by whom.

RESPONSE: Objection. Overbroad and not reasonably calculated to lead to the discovery

of admissible evidence.

5. DAMAGES. Describe all Alleged Property Damage relating to or resulting from alleged dioxin contamination.

RESPONSE: No objection. Plaintiffs respond to this interrogatory collectively. Plaintiffs' properties have been polluted with dioxin from Dow's Midland facilities. The existence of the dioxin in and around plaintiffs' properties has rendered ordinary use of those properties unsafe. The existence of the dioxin in and around plaintiffs' properties has made them impossible to sell and/or have damaged the property value to the point of making their properties worthless.

6. For each category of Alleged Property Damage, state the dollar value of the Alleged Property Damage and the basis for your estimate. If there is any Alleged Property Damage for which you contend you require additional information in order to estimate its dollar value, provide your best estimate of its value based on information currently known to you and specify what additional information you require in order to finalize your estimate.

RESPONSE: Objection to the extent the question calls for speculation and is a matter for expert testimony. Subject to the objection, plaintiffs state that their property damage is an amount equal to what the fair market value of their property would have been but for Dow's pollution of their properties. Plaintiffs reserve the right to supplement this answer as discovery in the case develops and when they offer expert and other testimony on damages.

7. Identify all persons with personal knowledge of your Alleged Property Damage.

RESPONSE: No objection. Plaintiffs shall supplement this interrogatory when the information requested is known and available.

8. INJURIES. Describe all Health Conditions that you have or have had.

RESPONSE: Objection. Overbroad, not reasonably calculated to lead to the discovery of admissible evidence, harassment, and invasion of privacy. 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.

9. Identify all Health Care Providers and for each state every time you have visited the Health Care Provider and describe the treatment provided and/or discussed.

RESPONSE: Objection. Overbroad, not reasonably calculated to lead to the discovery of admissible evidence, invasion of the physician-patient privilege, harassment, and invasion of privacy. 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.

10. Identify each Health Care Provider who has diagnosed you as having or possibly having any Health Condition relating to or resulting from alleged exposure to dioxin. For each person so identified, state what the diagnosis or possible diagnosis was and when it was provided.

RESPONSE: Objection. Overbroad, not reasonably calculated to lead to the discovery of admissible evidence, invasion of the physician-patient privilege, harassment, and invasion of privacy. 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.

11. If you contend that you are at a substantially greater risk of suffering various diseases and conditions as a result of alleged dioxin exposure or contamination, state the disease or condition for which are you are at a substantially greater risk, the basis for your contention that you are at substantially greater risk of that disease or condition, and the specific medical tests (if any) that could detect the disease or condition early enough for health care providers to ameliorate its severity.

RESPONSE: Objection to the extent this interrogatory seeks expert opinions from the

plaintiffs. Subject to this objection, plaintiffs refer defendant to the Complaint, which alleges specifically which adverse health conditions are associated with dioxin exposure. Plaintiffs reserve the right to supplement their response to this interrogatory as and when the expert opinion testimony in this case is developed.

12. If you contend that you were exposed to hazardous levels of chemicals as a result of alleged dioxin exposure or contamination, identify each such chemical (on an individual congener basis), the duration of your exposure, and the level of your exposure. If you do not know the level of your exposure, state the basis for your contention that the level was hazardous.

RESPONSE: Objection. Calls for speculation. Subject to the objection, plaintiffs state that they currently or once resided in homes along the Tittabawassee River flood plain and have been exposed to the soils there that are contaminated with hazardous levels of dioxin. The Michigan Department of Environmental Quality has determined, based upon its testing, that the entire Tittabawassee River flood plain is contaminated with hazardous levels of dioxin and that Dow is the source of that dioxin.

13. For each chemical identified in response to Interrogatory No. 12, identify the minimum level or amount of each chemical (again, on an individual congener basis) that plaintiffs claim a purported class member must have been exposed to, and the duration of the exposure, in order to trigger a need for medical monitoring as alleged in the First Amended Complaint.

RESPONSE: Same objection. Subject to the objection, plaintiffs claim that because Dow has polluted their properties with dioxin in excess of 90 ppt DEQ and subjected them to exposure to such a dangerous substance, the plaintiffs need medical monitoring to diagnose early any diseases, illnesses or conditions that dioxin increases the risk of affliction.

14. Identify any other chemicals that you have been exposed to during your lifetime, the duration of your exposure, and the level of your exposure.

RESPONSE: Objection. Overbroad, vague and ambiguous. Not only is the interrogatory ridiculous on its face, plaintiffs have been exposed to a variety of chemicals by virtue of their proximity to the Dow Midland facility. Only recently, Dow has released dangerous airborne pollutants. Dow is in a much better position to know the contents of these releases.

15. Identify any property you own or possess in Saginaw County, Michigan, including the current address, when it was purchased, who sold it to you, who the real estate agents were, the purchase price, the asking price, and if any disclosures or disclaimers were made about the property at the time it was sold to you.

RESPONSE: No objection. Plaintiffs are in the processing of gathering this information and will supply it to defendants as soon as it is reasonably available, whether via answers to this interrogatory or documents that contain the requested information.

16. With respect to the property identified in paragraph 15, identify all occasions on which the property has been appraised by anyone, who performed this appraisal, why the appraisal was performed, the results of the appraisal. Also identify any attempts to list or sell the identified property, including the time period for which the property was listed, the asking price(s), any offers, the real estate agents involved, and whether any disclosures or disclaimers were made about the property when it was listed or sold. Describe all offers received for your property, including the identity of all persons making offers.

RESPONSE: See response to Interrogatory No. 15.

17. If you seek to recover damages for injury to real or personal property as a result of alleged dioxin contamination, identify the property that you contend was damaged, how you have determined the extent of that damage, what testing has been performed on the property, the nature of the damage, and the nature of your interest in that property, and whether you own or rent, and if you own, who else (if anyone) owns the property with you.

RESPONSE: No objection. Plaintiffs will provide the requested information as soon as it is reasonably available. With respect to that part of the interrogatory seeking “how you have determined the extent of that damage,” this aspect of the question will be addressed via expert testimony.

18. Identify any tests that have been conducted of your real or personal property for dioxin or for other contamination or problems (e.g. radon, mercury, etc.), the individual or entity conducting the test, and the results of the testing.

RESPONSE: No objection.

19. If you contend that dioxin contamination on your property has diminished the value of any real property that you own, state the amount of diminution and the basis for your contention that the value was diminished.

RESPONSE: 100% diminution; there is no market for property within the Tittabawassee flood plain because of Dow's pollution of the flood plain with Dioxin when the existence of the contamination, together with the notices sent to residences by the MDEQ, are disclosed to prospective buyers.

20. List the names, addresses (home and work), and telephone numbers (home and work) of all witnesses, both expert and lay, that plaintiffs intend to rely upon for testimony or statements in connection with any hearings or other proceedings regarding class certification. Please therefor) on which such witnesses are expected to testify or give statements.

RESPONSE: Objection. Plaintiffs will disclose witnesses as and when ordered to do so by the Court.

21. Identify all information that you have received regarding dioxin, alleged dioxin contamination, and other matters alleged in the complaint, including articles, meetings, websites,

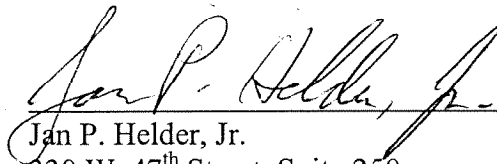
when you received each piece of information, what action you took (if any) upon receiving the information, and whether you discussed and/or provided the information with or to anyone else.

RESPONSE: Objection. Overbroad and not reasonably calculated to lead to the discovery of admissible evidence.

Dated: October 3, 2003

Respectfully submitted,

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