

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FILED IN CLERK'S  
OFFICE

AUG 26 10 17 AM '86

U.S. DISTRICT COURT  
THE DISTRICT OF  
MASSACHUSETTS

.....  
ANNE ANDERSON, et al.,

Plaintiffs,

v.

W. R. GRACE & CO., et al.,

Defendants.  
.....

CIVIL ACTION  
NO. 82-1672-S

W. R. GRACE & CO.'S MOTION TO DISMISS ALL CLAIMS

Based upon the jury's answers to the special questions in Phase I, defendant W. R. Grace & Co. ("Grace") moves the Court to dismiss all claims based on exposure to tetrachloroethylene and trichloroethylene.

As grounds for its motion, Grace states that the jury's "ND" answers to special question 2 establish that plaintiffs have failed to carry their burden of showing that tetrachloroethylene or trichloroethylene from Grace reached wells G and H before any of the plaintiffs was injured. As to trichloroethylene, the jury's "September 1973" answer to question 4(a) determines only the time when Grace first engaged in negligent conduct which may have caused later contamination of the wells. Plaintiffs failed to prove an arrival time for either chemical. Since plaintiffs have failed to prove an essential predicate to the causation element of their case, all claims, whether based on negligence or strict liability, should be dismissed.

486

Further grounds for Grace's motion are more particularly set forth in its accompanying Memorandum In Support Of Motions Re Phase I.

W. R. Grace & Co.  
by its attorneys

Michael B. Keating  
Michael B. Keating  
William J. Cheeseman  
Sandra L. Lynch  
Marc K. Temin  
Foley, Hoag & Eliot  
One Post Office Square  
Boston, Massachusetts 02109  
(617) 482-1390

CERTIFICATE OF SERVICE

I, Joseph Halpern, hereby certify that I this day served W. R. Grace & Co.'s Motion To Dismiss All Claims upon all of the other parties to the above-entitled action, by causing copies thereof to be delivered by hand to the office of their counsel of record as set forth below.

Jan Richard Schlichtmann, Esq.  
Schlichtmann, Conway & Crowley  
171 Milk Street  
Boston, MA 02109

Joseph Halpern  
Joseph Halpern

Dated: Aug. 25, 1986