

**STATE OF MICHIGAN
IN THE COURT OF APPEALS**

GARY & KATHY HENRY, et al.
Plaintiffs-Appellees,
vs.
THE DOW CHEMICAL COMPANY,
a Delaware corporation,
Defendant-Appellant.

Court of Appeals No. _____

Saginaw County Circuit Court,
Case No. 03-47775- NZ
Hon. Leopold P. Borrello

JAN P. HELDER, JR
STUEVE HELDER SIEGEL LLP
330 W. 47th Street, Suite 250
Kansas City, MO 64112
(816) 714-7100
Lead Counsel for Plaintiffs-Appellees

CARL H. HELMSTETTER
MICHAEL F. SAUNDERS
SPENCER FANE BRITT
& BROWNE LLP
1000 Walnut, Suite 1400
Kansas City, MO 64106
(816) 474-8100
Counsel for Plaintiffs-Appellees

BRUCE F. TROGAN
TROGAN & TROGAN, P.C.
(P26612)
7628 Gratiot Road
Saginaw, MI 48609
(989) 781-2060
Local Counsel for Plaintiffs-Appellees

KATHLEEN A. LANG
MICHAEL G. VARTANIAN
DICKINSON WRIGHT PLLC
500 Woodward Avenue, Suite 4000
Detroit, MI 48226
(313) 223-3500
Trial Counsel for Defendant-Appellant

JOHN A. DECKER
BRAUN KENDRICK FINKBEINER,
PLC
4301 Fashion Square Boulevard
Saginaw, MI 48603
(989) 498-2100
Counsel for Defendant-Appellant

JOHN S. GUTTMAN
BEVERIDGE & DIAMOND, PC
1350 I Street, NW, Suite 700
Washington, DC 20005
(202) 789-6020
Co-Counsel for Defendant

BARBARA H. ERARD
CHRISTINE A. CHABOT
DICKINSON WRIGHT PLLC
500 Woodward Avenue, Suite 4000
Detroit, MI 48226
(313) 223-3500
Appellate Counsel for Defendant-Appellant

DOUGLAS KURTENBACH
KIRKLAND & ELLIS
200 E. Randolph Drive
Chicago, IL 60601
(312) 861-2000
Co-Counsel for Defendant

**RESPONSE TO DEFENDANT-APPELLANT THE DOW CHEMICAL COMPANY'S
EMERGENCY MOTION FOR A STAY OF ALL PROCEEDINGS RELATING TO
PLAINTIFFS' MEDICAL MONITORING CLAIMS**

Plaintiffs-Appellees respond to Dow's motion for a stay as follows:

1. In an effort to avoid unnecessary repetition, Plaintiffs incorporate their Answer to Dow's Emergency Application for Leave to Appeal and Brief in Support of Motion for Peremptory Reversal by this reference. Simply put, this interlocutory appeal is premature and

unnecessary. A complete record should be established before this Court addresses the important public policy issues posed in this case.

2. The consequence of the stay Dow seeks would be to bifurcate this case and create unnecessary duplication of work in the discovery process. The health consequences of dioxin pollution are very much in issue in this case, the hazardous nature of dioxin directly bears on Plaintiffs' property damage claims. The Plaintiffs should be permitted complete discovery on all claims against Dow.

WHEREFORE, Plaintiffs respectfully request that this Court deny Dow's motion for a stay.

Dated: _____

Respectfully submitted,

TROGAN AND TROGAN P.C.

Bruce F. Trogan
7628 Gratiot Road
Saginaw, Michigan
Telephone: (989) 781-2060
Facsimile: (989) 781-2293
LOCAL COUNSEL FOR PLAINTIFFS

STUEVE HELDER SIEGEL LLP
Jan P. Helder, Jr.
330 W. 47th Street, Suite 250
Kansas City, Missouri 64112
Telephone: (816) 714-7100
Facsimile: (816) 714-7101
LEAD COUNSEL FOR PLAINTIFFS

SPENCER FANE BRITT & BROWNE LLP
Carl H. Helmstetter
Michael F. Saunders
1000 Walnut, Suite 1400
Kansas City, MO 64106
Telephone: (816) 474-8100
Facsimile: (816) 474-3216
COUNSEL FOR PLAINTIFFS