

PITNEY, HARDIN, RIPP & SZUCH  
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CN 1945  
Morristown, New Jersey 07960-1945  
(201) 267-3333  
Attorneys for Plaintiff

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DIAMOND SHAMROCK CHEMICALS COMPANY,  
Plaintiff,

-against-

THE AETNA CASUALTY AND SURETY COMPANY,  
ACCIDENT AND CASUALTY INSURANCE  
COMPANY OF WINTERTHUR (Successor  
to Accident and Casualty Company),  
AIU INSURANCE COMPANY,  
ALBA GENERAL INSURANCE COMPANY LIMITED,  
ALLIANZ INTERNATIONAL INSURANCE  
COMPANY LIMITED,  
AMERICAN CENTENNIAL INSURANCE COMPANY,  
AMERICAN EXCESS INSURANCE COMPANY,  
AMERICAN HOME ASSURANCE COMPANY,  
AMERICAN RE-INSURANCE COMPANY,  
ANDREW WEIR INSURANCE COMPANY LIMITED,  
ANGLO FRENCH INSURANCE COMPANY LIMITED,  
ANGLO SAXON INSURANCE ASSOCIATION LTD.,  
ARGONAUT - NORTHWEST INSURANCE  
COMPANY LTD.,  
ARROW LIFE INSURANCE COMPANY  
(Successor to Slater Walker  
Insurance Company),  
ASSICURAZIONI GENERALI,  
ASSICURAZIONI GENERALI S.p.A.,  
ASSICURAZIONI GENERALI di TRIESTE  
e VENEZIA S.p.A.,  
ATLANTA INTERNATIONAL INSURANCE  
COMPANY,  
AVIATION GENERAL INSURANCE COMPANY  
LIMITED,  
BELLEFONTE REINSURANCE COMPANY  
(Successor to Bellefonte Insurance  
Company),  
BELLEFONTE INSURANCE COMPANY  
(U.K. BRANCH),  
THE BERMUDA FIRE AND MARINE INSURANCE

SUPERIOR COURT  
OF NEW JERSEY  
CHANCERY DIVISION,  
MORRIS COUNTY

DOCKET NO.  
C-3939-84

SECOND AMENDED AND  
SUPPLEMENTED CIVIL  
ACTION COMPLAINT

COMPANY LIMITED, :  
BRITISH AVIATION INSURANCE COMPANY :  
LTD., :  
BRITISH MERCHANTS INSURANCE COMPANY :  
LTD., :  
BRITISH NATIONAL INSURANCE LIMITED :  
(Successor to British National :  
Life Insurance Society Limited), :  
BRITTANY INSURANCE COMPANY LTD., :  
BRYANSTON INSURANCE COMPANY LTD., :  
CALIFORNIA UNION INSURANCE COMPANY :  
CITY GENERAL INSURANCE COMPANY :  
LTD., :  
CNA REINSURANCE OF LONDON LIMITED, :  
COMMERCIAL UNION INSURANCE COMPANY :  
(Successor to Employers Liability :  
Assurance Corporation Ltd.), :  
COMPANIA AGRICOLA de SEGUROS, S.A. :  
(Columbia), :  
COMPAGNIE D'ASSURANCES MARITIMES :  
ARIENNES ET TERRESTRES, :  
COMPAGNIE EUROPEENNE D'ASSURANCES :  
INDUSTRIELLES S.A., :  
DART AND KRAFT INSURANCE COMPANY :  
LIMITED, :  
DART INSURANCE COMPANY LTD., :  
THE DOMINION INSURANCE COMPANY LTD., :  
DRAKE INSURANCE COMPANY LTD., :  
EL PASO INSURANCE COMPANY LTD., :  
EMPLOYERS MUTUAL CASUALTY COMPANY, :  
ENGLISH & AMERICAN INSURANCE COMPANY, :  
LTD., :  
EVANSTON INSURANCE COMPANY, :  
EXCESS INSURANCE COMPANY LIMITED, :  
FIREMAN'S FUND INSURANCE COMPANY, :  
FIDELIDADA, :  
FIRST STATE INSURANCE COMPANY, :  
FOLKSAM INTERNATIONAL INSURANCE :  
COMPANY (U.K.) LTD., :  
FRIENDS PROVIDENT LIFE OFFICE (Suc- :  
cessor to Southern Insurance Company), :  
GENERAL REINSURANCE CORPORATION, :  
GENERALI, :  
GIBRALTAR CASUALTY COMPANY, :  
GRANITE STATE INSURANCE COMPANY, :  
GREAT SOUTHWEST FIRE INSURANCE :  
COMPANY, :  
HARTFORD ACCIDENT AND INDEMNITY :  
COMPANY, :

PA2432

HELVETIA ACCIDENT SWISS INSURANCE  
COMPANY, :  
HIGHLANDS INSURANCE COMPANY, :  
THE HOME INSURANCE COMPANY, :  
IMPERIO COMPANHIA de SEGUROS, :  
INSCO LIMITED :  
XINSURANCE COMPANY OF :  
NORTH AMERICA (Successor to :  
Indemnity Insurance Company :  
of North America) :  
INTEGRITY INSURANCE COMPANY, :  
LA ROYALE BELGE I.R. S.A. :  
D'ASSURANCES, :  
LATINO AMERICANA de REASEGUROS, S.A. :  
("LARSA"), :  
LEXINGTON INSURANCE COMPANY, :  
LONDON AND EDINBURGH GENERAL :  
INSURANCE COMPANY LTD., :  
LONDON GUARANTEE AND ACCIDENT COMPANY :  
OF NEW YORK, :  
LOUISVILLE INSURANCE COMPANY LTD., :  
LUDGATE INSURANCE COMPANY LIMITED, :  
MIDLAND INSURANCE COMPANY, :  
MINSTER INSURANCE COMPANY :  
MUTUAL REINSURANCE COMPANY LTD., :  
NATIONAL CASUALTY COMPANY, :  
NATIONAL CASUALTY OF AMERICA LTD., :  
NATIONAL UNION FIRE INSURANCE :  
COMPANY OF PITTSBURGH, PA., :  
NORTH ATLANTIC INSURANCE COMPANY :  
LIMITED, :  
NORTH STAR REINSURANCE CORPORATION, :  
ORION INSURANCE COMPANY :  
LTD., :  
PACIFIC AND GENERAL INSURANCE :  
COMPANY LTD., :  
PACIFIC EMPLOYERS INSURANCE COMPANY, :  
PRUDENTIAL ASSURANCE COMPANY :  
LTD. :  
PRUDENTIAL REINSURANCE COMPANY, :  
RANGER INSURANCE COMPANY, :  
REPUBLIC INSURANCE COMPANY, :  
RIVER THAMES INSURANCE :  
COMPANY LTD., :  
XROYAL INDEMNITY COMPANY, :  
ROYAL SCOTTISH INSURANCE :  
COMPANY LTD., :  
XSECURITY INSURANCE COMPANY OF :  
HARTFORD (Successor to :

PA2433

New Amsterdam Casualty :  
Company), :  
SOVEREIGN MARINE & GENERAL :  
INSURANCE COMPANY LTD., :  
SOVEREIGN MARINE & GENERAL INSURANCE :  
COMPANY LTD. 'C' ACCOUNT, :  
SOVEREIGN MARINE & GENERAL INSURANCE :  
COMPANY LTD. H.D.N. ACCOUNT, :  
SPHERE INSURANCE COMPANY :  
LTD., :  
ST. KATHERINE INSURANCE COMPANY LTD., :  
ST. KATHERINE INSURANCE COMPANY LTD. :  
(NO. 2 ACCOUNT), :  
ST. KATHERINE INSURANCE COMPANY LTD. :  
(X ACCOUNT), :  
STOREBRAND INSURANCE COMPANY :  
(U.K.) LTD., :  
STRONGHOLD INSURANCE COMPANY LIMITED, :  
THE SUMITOMO MARINE & FIRE :  
INSURANCE COMPANY LTD., :  
SUMITOMO MARINE AND FIRE INSURANCE :  
COMPANY (EUROPE) LTD. :  
SUMITOMO MARINE AND FIRE INSURANCE :  
COMPANY LTD. (TOKYO), :  
SWISS NATIONAL INSURANCE COMPANY :  
LIMITED (BASLE), :  
SWISS UNION GENERAL INSURANCE :  
COMPANY LTD., :  
THE TAISHO MARINE AND FIRE :  
INSURANCE COMPANY (U.K.) LIMITED, :  
TERRA NOVA INSURANCE COMPANY LTD., :  
THE TOKIO MARINE AND FIRE INSURANCE :  
COMPANY (U.K.) LTD., :  
THREADNEEDLE INSURANCE :  
COMPANY LTD., :  
TRANSIT CASUALTY COMPANY, :  
TRENT INSURANCE COMPANY :  
LIMITED, :  
TUREGUM INSURANCE COMPANY, :  
TUREGUM INSURANCE COMPANY LTD., :  
TUREGUM INSURANCE COMPANY LTD. :  
(NO. 5 ACCOUNT), :  
TWIN CITY FIRE INSURANCE COMPANY, :  
UNITED STANDARD INSURANCE COMPANY :  
LTD., :  
UNITED STATES FIRE INSURANCE COMPANY, :  
UNDERWRITERS AT LLOYD'S LONDON IN :  
THE SYNDICATES LISTED ON EXHIBIT B :  
HERETO, :

VANGUARD INSURANCE COMPANY  
 LIMITED, :  
 WALBROOK INSURANCE COMPANY LTD., :  
 "WINTERTHUR" SWISS INSURANCE COMPANY, :  
 WORLD AUXILIARY INSURANCE CORPORATION :  
 LTD., :  
 WORLD MARINE AND GENERAL INSURANCE :  
 COMPANY LTD., :  
 YASUDA FIRE & MARINE INSURANCE :  
 CO., (U.K.) LTD., and :  
 DOES 1-200, :

Defendants, :

and :

THE CONTINENTAL INSURANCE COMPANY, :  
 THE FIDELITY AND CASUALTY COMPANY :  
 OF NEW YORK, :  
 INSURANCE COMPANY OF THE STATE OF :  
 PENNSYLVANIA, and :  
 ST. PAUL MERCURY INSURANCE COMPANY, :

Added Defendants. :

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Plaintiff Diamond Shamrock Chemicals Company ("Diamond"), for its complaint against the defendants (the "Insurers" and "Foreign Risk Insurers"), and each of them, alleges:

The Parties

1. Diamond is a Delaware corporation with its principal place of business at 351 Phelps Court, Irving, Texas 75038. Diamond is authorized to do business in the State of New Jersey and operates an administration, sales and research

facility in Morris Township, New Jersey and three Chemical manufacturing plants in Carlstadt, Harrison and Jersey City, New Jersey. Diamond (originally named Diamond Alkali Company) was named Diamond Shamrock Corporation until 1983, when it was renamed Diamond Shamrock Chemicals Company and became a wholly-owned subsidiary of a newly-formed corporation named Diamond Shamrock Corporation.

2. The Insurers comprise the underwriters and insurance companies, and their successors and assigns, subscribing to primary and excess policies of liability indemnity insurance (other than the Foreign Risk Policies, as defined below) issued to or for the benefit of Diamond (the "Policies"). The Insurers and the Policies are identified in Exhibits A through E and G hereto. The principal Insurer providing Diamond's primary liability indemnification insurance has been defendant The Aetna Casualty and Surety Company ("Aetna"), a Connecticut corporation with its principal place of business in Hartford, Connecticut. Each of the Insurers is a corporation, partnership, syndicate, unincorporated business association or other business entity existing under the laws of one or more of the United States or another sovereign power or is an individual underwriting member of and is represented by a Lloyds syndicate. "Does 1-200" are the underwriters at Lloyds' London and companies subscribing to the slips listed on Exhibit G hereto.

PA2436

The Nature of the Action

3. Until 1971 Diamond was the owner of a tract of land and industrial buildings thereon located at 80 Lister Avenue, Newark, New Jersey (the "Newark Plant"). The Newark Plant was purchased by Diamond when it acquired Kolker Chemical Works, Inc. ("Kolker") on or about September 18, 1951. Prior to said purchase the Newark Plant had been insured by Kolker, which insurance continued in effect after said purchase, in whole or in part, at least until January 1, 1955. Until August 1969, Diamond produced certain herbicides at the Newark Plant including 2,4,5-trichlorophenoxyacetic acid ("2,4,5-T"). Diamond used 2,4,5-T in the production of other herbicides and also sold 2,4,5-T for use as a herbicide. Beginning in 1961, Diamond sold 2,4,5-T to the United States Government as a principal component of herbicides referred to as Agent Pink, Agent Purple and Agent Orange (collectively "Agent Orange Herbicides"). All of the Agent Orange Herbicides sold by Diamond to the United States Government were manufactured at the Newark Plant.

4. This action seeks a declaration pursuant to N.J.S.A. 2A:16-50 et seq. of the rights and duties of Diamond and its Insurers under the Policies in respect of claims against Diamond for bodily injury and property damage allegedly

caused by a family of compounds referred to as dibenzo-paradioxins ("dioxin") allegedly created in the manufacture of 2,4,5-T and other chemicals at Diamond's Newark Plant. This action also seeks the rescission of an agreement between Diamond and Aetna pertaining to the costs of defense against certain of these claims and imposition of a constructive trust and restoration to Diamond of the amounts paid by Diamond to Aetna thereunder with interest. This action further seeks a temporary and permanent injunction against the prosecution by Aetna or any other Insurer in any forum of a proceeding for a declaration with respect to the rights and duties of Diamond and of Aetna or any other Insurer under any of the Policies such as is sought by Diamond herein. This action also seeks an award to Diamond of its attorneys fees in this action against the Insurers or Aetna pursuant to R. 4:42-9(a)(6).

First Count

5. Diamond repeats and realleges each of the allegations of paragraphs 1 through 4 hereof.

Product Liability Dioxin Claims

6. Claims have been asserted and actions filed in federal and state courts including the Superior Court of New Jersey against Diamond and other former manufacturers of Agent



Orange Herbicides alleging that dioxin had been created in the manufacture of Agent Orange Herbicides and that its presence in Agent Orange Herbicides sold by Diamond allegedly caused bodily injury to individuals who had served in Vietnam, to their spouses, to their children (born, unborn or as yet not conceived) and to others (such claims asserted or that might be asserted are referred to collectively as the "Product Liability Dioxin Claims").

7. The United States District Court for the Eastern District of New York (the "Eastern District Court") certified a plaintiff class in In re "Agent Orange" Product Liability Litigation, Ryan, et al. v. Dow Chemical Company, et al., MDL No. 381 ("Product Liability Litigation") defined as "those persons who were in the United States, New Zealand or Australian Armed Forces at any time from 1961 to 1972 who were injured while in or near Vietnam by exposure to Agent Orange or other phenoxy herbicides, including those composed in whole or in part of 2,4,5-trichlorophenoxyacetic acid or containing some amount of 2,3,7,8-tetrachlorodibenzo- p-dioxin. The class also includes spouses, parents, and children of the veterans born before January 1, 1984, directly or derivatively injured as a result of the exposure."

8. In May, 1984, the parties to the Product Liability Litigation agreed to a settlement, subject to court approval, of the claims of the members of the defined plaintiff class (the "Settlement Agreement"). Under the terms of the Settlement Agreement, Diamond is obliged to pay the amount set forth in a sealed agreement submitted to the Eastern District Court.

9. Aetna has contested the amount for which it is liable in respect of the Product Liability Dioxin Claims, and the other Insurers have purported to reserve the right to deny, for such reasons as they have asserted, or have refused to admit their coverage of Diamond in respect of the Product Liability Dioxin Claims. As is alleged in the Second Count, Aetna also has failed to pay for the defense of Diamond against the Product Liability Dioxin Claims as required by the primary Policies issued by Aetna. In its complaint in a declaratory judgment action brought by it in Hartford, Connecticut on August 30, 1984, as is alleged in the Third Count, Aetna for itself and its subsidiary American Re-Insurance Company, one of the excess Insurers, admitted coverage of the Product Liability Dioxin Claims subject to the Settlement Agreement but put forward an interpretation that limits their obligation and that of the other insurers to indemnify Diamond to substantially less than half of Diamond's obligation under the Settlement Agreement.

Newark Dioxin Claims

10. In 1983, the New Jersey Department of Environmental Protection and the United States Environmental Protection Agency stated that soil at the Newark Plant contained dioxin at high levels and that detectable levels of dioxin had been found in nearby areas.

11. Claims have been asserted and actions filed by residents, property owners, employees and others in the vicinity of the Newark Plant and relief has been sought by the environmental authorities based on alleged bodily injury and property damage assertedly resulting from dioxin allegedly created in the manufacture of herbicides at the Newark Plant (the "Newark Dioxin Claims").

12. Aetna initially undertook to defend Diamond in respect of the Newark Dioxin Claims but then wrongfully insisted that such defense be provided pursuant to policies subsequent to 1980, while admitting that the dates of loss on these cases cannot be determined with absolute precision, and billed Diamond for reimbursement of defense costs under deductible plans for post-1980 policies. When Diamond responded that it was entitled to defense from Aetna under policies from the 1960's and/or 1970's under which no reimbursement would be due under deductible or retrospective premium plans, Aetna

initially wrongfully refused to continue the defense of the Newark Dioxin Claims. While Aetna has recently resumed the defense of the Newark Dioxin Claims, it has done so only under the purported reservation of rights described below.

13. Aetna initially undertook to defend Diamond in respect of Newark Dioxin Claims, but did so only under a purported reservation of rights and has raised what it asserted are "serious questions concerning possible insurance coverage" in respect thereof. Aetna's position creates uncertainty and insecurity not only under its primary Policies but also under the excess Policies of the other Insurers. The interests of the excess Insurers under the Policies would be affected by a declaration of the rights and duties of Diamond and Aetna under the primary Policies.

Declaratory Relief

14. Diamond is entitled to a declaration of the rights and duties of Diamond and the Insurers under the Policies concerning defense and indemnification of Diamond in respect of the Product Liability Dioxin Claims and the Newark Dioxin Claims.

Second Count

15. Diamond repeats and realleges each of the allegations of paragraphs 1 through 14 hereof.

16. Aetna was and is obliged under the primary Policies issued by it to defend and indemnify Diamond against the Product Liability Dioxin Claims and the Newark Dioxin Claims and owed and owes Diamond a duty to act in the utmost good faith as Diamond's insurer and in the interpretation of the policies issued by Aetna to Diamond.

17. In 1980 Aetna refused to pay the total defense costs of the Product Liability Dioxin Claims as required by its primary Policies unless Diamond would accept Aetna's attribution of the costs of defense of any and all of the Product Liability Dioxin Claims solely to policy years commencing February 1974 and represented that this refusal and attribution was based upon a uniform, reasoned and good faith interpretation of its Policies as required by the duty owed Diamond by Aetna as Diamond's insurer. The attribution required by Aetna would have forced Diamond to incur the risk that all defense costs paid by Aetna would have been charged against the high deductibles applicable to the post-February 1974 period so that all defense costs would have been borne by Diamond.

18. Diamond was induced by Aetna's said representation to assent in January 1981 to an agreement (the "Herbicide Defense Cost Agreement") with Aetna (extended through December 1984) whereby Diamond would pay Aetna, in derogation of Aetna's obligation under its primary Policies to pay for the defense of Diamond, fifty percent of the costs of defense of the Product Liability Dioxin Claims. Under the Herbicide Defense Cost Agreement, Diamond has paid to Aetna in excess of \$4.7 million and expects that by the end of 1984 Diamond will have paid to Aetna well in excess of \$5 million for such costs of defense which absent such agreement Aetna was obliged to pay under its primary Policies.

19. Aetna's said representation that said refusal and attribution was based upon a uniform, reasoned and good faith interpretation of its Policies was materially false in violation of the duty of utmost good faith owed Diamond by Aetna, as Aetna, after having received the bulk of the benefit of the Herbicide Defense Cost Agreement, has admitted since the Settlement Agreement was entered into on May 7, 1984. Aetna so admitted, first, in stating its readiness to adjust its portion of the Product Liability Dioxin Claims loss for \$10.8 million on the basis that only policy years prior to 1974 are pertinent to the Product Liability Dioxin Claims and, second, after its proposed adjustment was rejected by Diamond, in taking the

position in the Hartford Action (as defined in the Third Count) that policy years from 1965 to 1983 are pertinent and claiming (despite its earlier proposed adjustment) that it owes Diamond only \$7.87 million of such loss (with interest as provided in the Settlement Agreement). Each of these positions of Aetna was directly contrary to Aetna's earlier unequivocal position and representation that only policy years since 1974 would be considered by it as applicable to the Product Liability Dioxin Claims.

20. Aetna has engaged in a pattern and practice of changing interpretations of its Policies, the purpose and effect of which has been to deny Diamond the insurance protection for which Diamond contracted in violation of Aetna's obligation to act towards Diamond in the utmost good faith.

21. Diamond is entitled to rescission of the Herbicide Defense Cost Agreement and to imposition of construction trust over and restoration of the payments made pursuant thereto by Diamond with interest thereon.

#### Third Count

22. Diamond repeats and realleges each of the allegations of paragraphs 1 through 21 hereof.

23. While purporting to be engaged in the proces of adjusting the amount of its indemnification of Diamond in respect of the Product Liability Dioxin Claims loss and having stated its readiness to adjust its share of the loss at \$10.8 million, Aetna instituted on August 30, 1984 an action (the "Hartford Action") in the United States District Court for the District of Connecticut sitting in Hartford, Connecticut against Diamond Shamrock Corporation, which, as alleged in paragraph 1 above, was incorporated in 1983 and is the parent company of Diamond.

24. Aetna's complaint in the Hartford Action admits that the Product Liability Dioxin Claims subject to the Settlement Agreement are covered by the primary Policies issued by Aetna and excess policies issued by its subsidiary American Re-Insurance Company ("American Re-Insurance"), but puts forward an interpretation of the Policies that would determine the extent of the obligation of all of Diamond Shamrock's insurers combined as \$8.52 million (with interest as provided in the Settlement Agreement).

25. Although Aetna's interpretation of the Policies recognizes an indemnification obligation under excess Policies, no excess Insurers are made party to the Hartford Action and certain of the excess Insurers, including American



Re-Insurance, could not be made party to the Hartford Action because federal diversity jurisdiction is absent.

26. The Hartford Action does not provide for the resolution of other issues under the Policies of Aetna and the other Insurers with respect to Product Liability Dioxin Claims that are not subject to the Settlement Agreement. The Hartford Action also does not provide for the resolution of issues under the Policies of Aetna and the other Insurers with respect to the Newark Dioxin Claims.

27. In contrast to the Hartford Action, the instant action seeks the resolution among Diamond and all its Insurers of all issues relating to the Product Liability Dioxin Claims and the Newark Dioxin Claims. Diamond would be irreparably injured and would have no adequate remedy at law if Aetna or any other Insurer prosecutes piecemeal resolution of the issues under the Policies with respect to the Product Liability Dioxin Claims or the Newark Dioxin Claims.

28. Contemporaneously with the filing of the instant action Diamond is moving to dismiss the Hartford Action for want of personal jurisdiction or for a stay of the Hartford Action pending determination of the instant action. Even if such relief is granted, Aetna and the other Insurers should be enjoined by this Court from prosecuting in any forum any

proceeding for a declaration with respect to the rights and duties of Diamond and Aetna or any other Insurer under the Policies such as is sought by Diamond herein.

Fourth Count

29. Diamond repeats and realleges each of the allegations of paragraphs 1 through 28 hereof.

30. Diamond is entitled to the benefits of its Policies, but has been compelled to institute this action to obtain these benefits.

31. Diamond is therefore entitled under R. 4:42-9(a)(6) to recover from the Insurers or from Aetna Diamond's attorneys fees in this action.

Fifth Count

32. Diamond repeats and realleges each of the allegations of paragraphs 1 through 9 hereof.

33. The Foreign Risk Insurers comprise the insurance companies, and their successors and assigns, identified in Exhibit F hereto subscribing to primary policies of liability indemnity insurance issued to or for the benefit of Diamond identified in Exhibit F hereto (the "Foreign Risk Policies"). Each of the foreign risk insurers is a corporation or other

business entity existing under the laws of one or more of the United States.

34. Pursuant to the Order of the Court entered pursuant to the hearing on January 18, 1985, Diamond joins the Foreign Risk Insurers in this action for a declaration of the rights and duties of Diamond, the Insurers and the Foreign Risk Insurers as among one another concerning the defense and indemnification of Diamond in respect of the Product Liability Dioxin Claims.

WHEREFORE, Diamond respectfully requests judgment as follows:

1. With respect to the First Count, declaring the rights and duties of Diamond and the Insurers under the Policies in respect of the Product Liability Dioxin Claims and the Newark Dioxin Claims;
2. With respect to the Second Count, rescinding the Herbicide Defense Cost Agreement between Diamond and Aetna and decreeing the imposition of a constructive trust over and restoration to Diamond of the amounts paid by it pursuant thereto with interest;
3. With respect to the Third Count, issuing a temporary and permanent injunction against the prosecution by

Aetna or any other Insurer in any forum of a proceeding for a declaration of the rights and duties of Diamond and Aetna or any other Insurer under the Policies such as is sought by Diamond herein;

4. With respect to the Fourth Count, awarding Diamond its attorneys fees in this action;

5. With respect to the Fifth Count, declaring the rights and duties of Diamond, the Insurers and the Foreign Risk Insurers under the Policies and the Foreign Risk Policies in respect of the Product Liability Dioxin Claims;

6. Awarding Diamond the costs of this action; and

7. Granting Diamond such other and further relief as the Court may determine is necessary or proper.

Dated: August 25, 1987

PA2450

PITNEY, HARDIN, KIPP & SZUCH

By

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and  
Dennis R. LaFiura

Members of the Firm

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PA2451