

Union Carbide Statement:

2nd Circuit Court of Appeals Upholds Dismissal Of Remaining Claims For Property Damages, Remediation in Bhopal Case

Aug. 10, 2006

The Second Circuit Court of Appeals in New York today upheld the dismissal of the remaining claims in the case of *Bano vs. Union Carbide Corporation*, thereby denying plaintiffs' motions for class certification, claims for property damages and remediation of the Bhopal plant site by Union Carbide.

"This ruling reaffirms our long-held positions and finally puts to rest -- both procedurally and substantively -- the issues raised in the class action complaint first filed against Union Carbide in 1999 by Haseena Bi and several organizations representing the residents of Bhopal, India," said Tom F. Sprick, spokesman for Union Carbide.

In its Aug 10, 2006, summary order, the Second Circuit Court of Appeals said the District Court:

- "...Dismissal of Bi's claims for property damages was proper...the record reflects that Bi resides illegally on government-owned ground. She, therefore, cannot sustain claims for trespass or private nuisance...."
- "Did not abuse its discretion in refusing to reinstate Bi's claims for remediation of the chemical plant site and the groundwater beneath it...because of the impracticality of a court-supervised clean-up project on land owned by a foreign sovereign. The Consul General of India submitted a letter stating that the Madhya Pradesh state government and the Union of India welcome any relief for remediation of the chemical plant site, but that letter does not obviate any of the sensitive and severe difficulties identified by the District Court and by this court regarding the administration of remediation of land owned by a foreign sovereign in its own country [that is, a U.S. court ordered remediation by the defendants would be ineffectual as they have no means or authority to carry it out. . . . The U.S. court would have no control over any remediation process ordered.]...."
- "Properly denied the motion for class certification because the only relief sought by the class related to the claims for relief that had been dismissed as impracticable..."

Judge John F. Keenan of the Southern District of New York issued the U.S. District Court ruling on Oct. 5, 2005.