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**From:** YOUNG, GLYNN [AG/1000] [/O=MONSANTO/OU=NA-1000-01/CN=RECIPIENTS/CN=645017]  
**Sent:** 7/30/2008 9:53:07 PM  
**To:** PEIRCE, BOB [AG/1000] [bob.peirce@monsanto.com]; MITCHELL, BRADLEY C [AG/1000] [bradley.c.mitchell@monsanto.com]  
**Subject:** Poisoned Profits  
**Attachments:** Untitled Attachment

Here's the original article from the Star. My quote is highlighted in yellow. Glynn

Anniston Star

## Plaintiffs still feel lost in the shuffle associated with PCB cases

By Jessica Centers  
Star Staff Writer  
09-26-2004



**The Rev. Thomas Long of Anniston protests PCB problems in Anniston Saturday. Photo: Stephen Gross/The Anniston Star**

In the mind of one Anniston woman, it was never about money.

It was about four women who lived all their lives at North Marshall and North Ledbetter streets in Anniston. It was about moving away from Calhoun County for eight years and coming back to find those women sick, half their neighbors dead.

It was about seeing neat and tidy yards become overshadowed by broken-down cars and weeds and rat-infested, burned-out houses.

It was about officials' refusal to clean an area they once had protected.

"They don't care what happens there. They don't care. They don't care that it's all run down," said Faye Hanner, whose mother is a plaintiff in the federal Tolbert PCBs case. "I look at those four ladies, and I say, if I wasn't here and their kids weren't here, who would take care of them?"

For others, it was about too many mothers and fathers, sisters and brothers dying too young – too many sick friends. It was about vindication, answers, and, perhaps, a ticket out.

It was about the children and grandchildren, about stopping unseen monsters from creeping into their veins, about giving them a chance at a healthy life.

It was about justice. Not money.

For the people of Anniston who let their hopes ride on the Tolbert PCBs lawsuit, it's hard now to remember that. They waited a year or more for settlement awards they say are so low they ache like a punch to the gut. Plaintiffs in the Tolbert case – and, more recently, some plaintiffs in the state Abernathy lawsuit – say they don't know whom to trust, and their skepticism stretches to everyone from attorneys to judges to fellow victims in the city's environmental struggle.

The things that were supposed to be the icing on their cake – a health clinic, cleanup and research to answer questions about the poisons in their bodies – have bred resentment. And the plaintiffs who say they don't feel the standards of justice were met are at odds with those who do.

Community leaders hoped there would be healing and revitalization in the aftermath of the \$600 million global settlement that resolved both Tolbert and Abernathy. Instead, controversy and accusations continue. The source of all the trouble now seems to be as elusive as the chemicals that caused it.

Anniston's PCBs history started in the 1920s, when Swann Chemical manufactured PCBs in its plant overlooking West Anniston.

Monsanto continued manufacturing the product from the 1930s to the 1970s. Thirty years later, litigation uncovered decades of chemical exposure and awoke the suspicions of thousands of area residents who wanted to know what in their town might be making them sick.

The phrase "environmental justice" is thrown around by the Environmental Protection Agency, foundations and community organizations. But when every step toward "environmental justice" feels tied to litigation, those who say their settlement smells worse than the Monsanto plant of decades past are left wondering if such a thing as justice even exists.

The situation is a Catch 22, says David Baker of Community Against Pollution. The litigation's outcome may have turned some people against any benefit they see tied to the lawsuits.

At the same time, the cleanup, the health study, the Tolbert clinic — those things wouldn't have happened without litigation, he said.

"Look at the history of Monsanto in the last 60 years," Baker, an Abernathy claimant, said. "Only in 1993 they started to recognize that we were even contaminated. It takes a lawsuit to get some kind of restitution."

Still, Baker said, "justice" may be an impossible goal for Anniston.

"The people's lives that were lost, those that are sick now, how much justice can you get from that? How much money would one life cost?"

### **An elusive dream**

David Carpenter, a professor at the University of Albany and expert witness in the PCBs cases, said the situation in Anniston is outrageous.

The \$3.2 million PCBs study the Agency for Toxic Substances and Disease Registry is funding, and for which he is a researcher, should have been done 20 or 30 years ago, when exposures were highest, he said.

State and federal politics played a role in the regulatory agencies' ignoring that a problem existed in Anniston, Carpenter said.

"These people could not have been oblivious to the fact people were being exposed there," he said.

Had it not been for lawyers that filed suit, Carpenter said, there might not be any action in Anniston.

It's a sad statement of the way things are, but often litigation has to come before government does anything, Carpenter said.

Donald Stewart, lead attorney in the Abernathy case, said there's no question that the cleanup and research would not have come had he not pursued the litigation.

The research, he said, came about partly as a result of his efforts with a Washington, D.C., group called the Environmental Working Group, to which he provided data on the Anniston site, as well as his effort contacting the congressional delegation and encouraging them to get the funding.

"This has been a successful case," Stewart said of the Abernathy lawsuit. "We've got good results for our people. The vast majority of our clients are pleased with what they got."

Some people have complained about how Stewart has distributed settlement money. Some protesters picket outside his office. Stewart said the people who have complained signed settlement statements and releases. Most of the protesters outside his office are not even involved in his lawsuit, he said. He said a couple of the group's leaders are angry because he wouldn't give them additional money. To do so would have taken money from other clients, he said.

Stewart said all his clients have received documentation of how the money was distributed, and the same complaints made to the Alabama Bar Association were rejected.

Glynn Young, director of environmental communications for Monsanto, visited Anniston recently.

Whether or not you label it "environmental justice," Young said the cleanup Solutia is doing (and Monsanto is paying for) in Anniston is fixing a problem and trying to help the community move forward.

Young believes the purpose of things such as the education trust fund in the Consent Decree and the clinic funded in the Tolbert settlement get at the concept of trying to make the community whole.

He said no data ever has confirmed a connection between PCBs and disease or harm, but he added that if it were his family, he'd be upset too.

"Residents definitely believe they were harmed," he said. "You do have to deal with that perception, because that's what's real to people, and you have to be responsive to it."

Young said the company has heard fewer complaints since residential cleanup picked back up, but he doesn't know how complaints plaintiffs have about their lawyers and the case's administration are going to be resolved.

Jeanette Champion, an Abernathy plaintiff, says she is furious at the people who are acting as though Monsanto is the good guy and her attorney, Stewart, is the villain.

"We were not done wrong," she said. "We were not cheated."

"This attorney backed us up for eight years after what Monsanto did to us for decades. Don't degrade the man that found the stuff they were doing and put it to the public."

Champion believes the majority of people protesting outside Stewart's office are not his plaintiffs. She said she does sympathize with the claimants of the Tolbert lawsuit who are sick and who have to wait for their \$300

million award to be split 18,000 ways.

Champion said the \$31,000 she received was exactly what she was supposed to get – not a penny more or less. On the day the settlement was announced she cried, she said, because it meant the company finally was admitting guilt for what it had done to her and her family.

Charity Richey-Bentley, executive director of the West Anniston Foundation, said environmental justice is a goal communities work toward, and the process doesn't begin until after litigation. It occurs when the community starts to pull together to look at its access to health care and education and engage in efforts to make sure the situation is never repeated.

That can't come from one agency or community-based organization, she said. It has to come from the affected community coming together.

"The exposure took a long time," she said. "You can't get past that in a few days. I think the Anniston community right now is more cohesive than I've seen it since being here, and I think agencies and community leaders and residents are figuring out we have to work together to make this happen."

David Baker thinks Anniston already has set an important tone for the rest of the country – that an industry that targets and contaminates low-income and minority areas is going to have to compensate those people, clean up its mess and set up health clinics.

Monsanto was not the only industry guilty in Anniston, he said, and others should step up to the plate.

### **'People are watching'**

Tolbert plaintiff Rose Munford says she's fighting because the people of Anniston have received neither justice nor hope for better health.

To her, justice is a simple concept not measured in settlement dollars. With the stink she's raising, she said, she doubts she'll ever see a penny.

What she wants now – what she says the people deserve – is a federal investigation into how the global settlement of both cases and the distribution of money were handled.

When asked what she'd expected out of the settlement that she didn't get, what would have prevented her from expending so much time and energy fighting the court and attorneys, Munford came back to justice.

"I just wanted the truth to be told," she said. "For Monsanto to say 'yes, for many years we contaminated and we are big enough to stand up and say that we did hurt the community and we want to correct the injustice that has been done.'"

As she rallied a meeting of disillusioned PCBs plaintiffs in both the state and federal cases to protest with her last week, Munford said Monsanto always has settled out of court. It never has been found guilty of causing physical harm.

Anniston's PCBs cases, she said, could have proved physical harm if the Tolbert attorneys had stood their ground and gone to trial instead of settling when Solutia threatened bankruptcy.

The attorneys have said they might have gotten nothing if they didn't settle, because Solutia did, in fact, file for bankruptcy.

"People are watching us," Munford said. "They are waiting to see what happens behind this situation."

Maybe, if plaintiffs don't get anything else out of this, she said, they could let the world know what happened in Anniston and change how environmental lawsuits are handled.

Disgruntled plaintiffs in the federal and state PCBs cases are not only trying to draw attention to the settlement. They're boycotting, and encouraging others to boycott, the health study and the cleanup.

Plaintiffs in mass legal actions never are happy with the outcome, some observers say.

But Shirley Baker, a leader of Community Against Pollution and a Tolbert plaintiff, says there's more than that to the situation in Anniston.

She doesn't think people had unrealistic expectations for the Tolbert lawsuit. They expected it to make their lives a little better, she says, but it ended up making them worse.

If the money had been distributed differently and people had been given the opportunity to pay their own debts, they wouldn't be so upset, she said.

### **Skepticism grows**

Lanell Lloyd is 63 years old and is trying to wait patiently for her payment from Tolbert.

She's anxious because, she said, there are some things she would very much like to do if she had the money.

She wants to use some of it to help her grandchildren, whose mother died of cancer a few years ago. She wants to put some away in case she gets sick.

And if there's enough, she'd like to fix up her home.

"It would be well spent, because I don't believe in throwing money away," Lloyd said.

Research and a health clinic are the last things on her mind.

"I don't care if they get a clinic or not," she said. "They say one thing and they do another. I wonder who it will benefit if it does come here."

Lloyd signed up for the PCBs Health Study's registry when she first heard about it. She since has asked to be dropped.

"They did us so bad and misled us so bad, I just stopped," she said.

Munford has gone to every length she can think of — including writing the president of the United States — to protest the Tolbert settlement. She worked with Hanner to gather more than 2,000 signatures on a petition.

The women object to almost every aspect of the settlement and everyone involved. They say the attorneys shouldn't have settled without consulting their clients. They say Judge U.W. Clemon couldn't have had the interests of the people in mind when he approved the settlement.

They say it was unfair to award \$300 million to 18,000 Tolbert plaintiffs in the same breath as \$300 million to 3,500 plaintiffs in the Abernathy case.

After they get through their list of complaints about the Tolbert case's administration — from payments for "special services," to unnecessary settlements with Medicare and Medicaid, to how administrative costs are paid— the clinic seems insignificant to them.

"No one wants a clinic," Hanner said. "We would rather see this \$25 million go toward free medicine."

### **The fight grows**

Although the PCBs health study is separate from the litigation, Munford and Hanner don't trust it. The

connections between the scientists who are over the PCBs health study and who also were advisers or expert witnesses in the lawsuit are too much for them.

They've decided to boycott.

"Trust and credibility have been destroyed," Munford said. "Everybody involved is interconnected. Trust and credibility is gone."

Hanner says it wouldn't take much for her to change her mind.

"All they have to do is prove to me it's for the people and we'll do something for people to get them involved," said Hanner, whose mother is a Tolbert plaintiff. "I'd walk door to door if I honestly thought the people were going to benefit from it. I want it done for the right reasons, not the money reasons."

Douglas Virden, an Abernathy plaintiff and president of Equal Justice for All, questions the distribution of money and Solutia's PCBs cleanup.

On a camcorder, Virden has recorded video of the cleanup of his daughter's property. The camera scanned over the yard where dirt had been dug out, over equipment left over the weekend, and showed his granddaughter outside in the background. He also had footage of contaminated dirt being moved from a home to the Miller property on 10th Street, where Solutia intends to cap it and develop a commercial or industrial property on top.

Solutia remedial projects manager Craig Branchfield said the purpose of moving the dirt to the Miller property is to provide some economic development benefit back to Anniston, which is what people said they wanted. The plan was approved by the EPA, and had a public comment period. It is under constant dust and air monitoring and has erosion control measures in place to prevent runoff.

CAP also had a professor from the Georgia Institute of Technology look over the plan as an independent reviewer.

Still, Virden doesn't agree with having the dirt moved instead of removed from Anniston. He doesn't think Anniston can be cleaned up. He says the people should be moved out. Monsanto should come in and buy everybody's homes.

Munford says all the PCB-contaminated soil and property should be moved out of Anniston, so it can be looked on as a clean city, "because Anniston is a good community."

David Baker said it's a slow process, but he believes the residential cleanup is being done right.

The only issue he has with the cleanup is the landfill on Alabama 202, especially because people still live in the closest areas – Clydesdale, Lincoln Park and near Woody's Tire Factory.

He says either the people or the landfill need to go.

"The community cannot perceive a true cleanup until they do something about that landfill over there," Shirley Baker said. "To be honest with you, we want it moved. That is what the community has always said."

Branchfield said Solutia spent \$30 million in the 1990s installing cap and cover systems on the landfills, and the company's monitoring data suggests no contaminants are escaping. The EPA will draw its own conclusions, and regardless of the agency's determination, Solutia must continue monitoring the landfills.

"We think once people have a chance to see all that information they'll draw some larger conclusions that the landfills are safe and they don't have to worry about being exposed to anything in those landfills," he said.

## **About Jessica Centers**

Jessica Centers, a University of Missouri graduate, covers business for The Anniston Star.