

MEMORANDUM

TO: John Kim
FROM: Deborah Mailander
RE: Monsanto 30(b)(6) depositions
DATE: August 5, 1993

On July 23, 1993 Magistrate Judge Leavitt granted Monsanto's verbal motion to compel 30(b)(6) depositions. I have spoken with Sue Fogelboch of Nevada Power regarding potential Nevada Power witnesses on the noticed subjects (see attached August 2, 1993 memo). One deposition will cover property damage and the defendants' economic loss defense. The second deposition will cover representations made by Monsanto to Nevada Power and Nevada Power's reliance on those representations. The second deposition is warrants close discussion with Nevada Power personnel because Monsanto will try to show that it can not be held liable because there was little or no direct contact between Nevada Power and Monsanto. However, our theory depends on Monsanto's fraud on third parties (including Westinghouse and General Electric), government agencies, and the public as a whole. It is this campaign of misinformation on which Nevada Power relied.

Sue has suggested that it would be worthwhile to meet with Nevada Personnel to select an appropriate deponent and to discuss the depositions with those who will be testifying. I understand that Denise from your office has decided not to appeal the July 23rd order, so presumably these depositions will go forward within the next week or two.

MEMORANDUM - Confidential and privileged

TO: Paul Merrell
CC: John Kim
FROM: Deborah Mailander
RE: Designation of Deponents for Monsanto's 30(b)(6) Notices
DATE: August 2, 1993

I just spoke with Sue Fogelboch regarding Nevada Power's selection of deponents for Monsanto's 30(b)(6) depositions. For the economic loss/property value deposition they will designate Nancy Donner. Property damage relates to volumes C, F, and possibly one or two more of the damages. She will testify to property damages to pole yards, soil, gloves, etc. . . Most of the documentation, ie work orders, have already been provided to defendants. Sue will find out the range of bates numbers so that Nancy can provide that information.

As to the designation regarding representations made by Monsanto to Nevada Power and reliance thereon, we need to do some brain-storming. Sue referred me to her July 22, 1993 letter to you. Gordon Smith and Steven Claeys and Wally Henson had contact with Westinghouse and/or GE. However, Sue spoke with these guys and they had no knowledge or interest in who manufactured the fluid or what Monsanto's involvement was. Gordon Smith is unavailable until after august 9, 1993. Sue suggested we meet with Gordon and Steve to seek what we can come up with to counterbalance Monsanto's position that there was no communications. There may be some facts consistent with the third party fraud that can be worked into responses.

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MESSAGE FROM XEROX 7024: (702) 385-1655

DATE: 8-5-93

TO: John H. Kim, Esq.

FAX #: (713) 654-5070

PHONE #: (713) 654-4433

FROM: Paul E. Merrell

CLIENT/MATTER: Nevada Power v. Monsanto

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION:

For Bair deposition; memos re: Monsanto depositions

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