

BUSINESS VS. THE ENVIRONMENT

their exposed group, while a study by Zack and Gaffey placed those same workers in an unexposed control group. These four workers died of cancer; Zack-Gaffey study failed to note that they were actually exposed to high levels of dioxin in the 1949 accident. Placing the workers in the unexposed group, the brief claims, led to a conclusion that dioxin is less toxic than it actually is. Gaffey's suit claims that the substance of this charge is inaccurate and that Montague quoted it with malicious intent.

While Montague was sued for citing allegations made in *Kemner*, an article in the *Journal of Pesticide Reform* by Carol Van Strum and environmental attorney Paul Merrill attributes an almost identical allegation to a Monsanto official. They write, "Dr. George Roush, medical director of Monsanto, admitted under extensive cross examination (in *Kemner*) that the conclusions of both the 1983 (the Zack-Gaffey study) and 1984 studies were 'incorrect,' confirming that Zack and Gaffey ... had knowingly omitted five deaths from the exposed study group and had further reclassified four exposed workers as unexposed, in order to equalize the death rates in the exposed and unexposed workers. The exposed workers, Dr. Roush admitted, had 18 cancer deaths instead of the 9 deaths reported by Monsanto, an over-all cancer death rate 65 percent higher than the normal population rate."

Merrill says, "either the [Zack-Gaffey] study is fraudulent or the guy is absolutely incompetent as an epidemiologist."

"I never compared the people in the two studies," Gaffey concedes. "There are two different ways of looking at [dioxin] exposure," he says. "One view is to say that [a] high-level, short, acute burst of exposure is a different phenomena than a long-term, low-level exposure. If you believe that, then you would try to study the two separately."

"Another view is that exposure is exposure no matter what, in which case you would say that a person is exposed whether he is exposed acutely or chronically or both." Gaffey says that the Monsanto studies incorporated the first view, while those criticizing the studies take the second view. "There's no reason why somebody taking the second view of exposure couldn't do a different analysis entirely," he adds.

Montague, supported by other critics of the Monsanto studies, contends that the Gaffey's libel suit is designed to quiet dioxin critics. "It's a clear attempt to intimidate me and deny [me] my First Amendment rights," he says. But Gaffey's attorney, Neil Stout, states, "a republisher of a false and libelous statement is responsible for his own libel, even though he got the statement somewhere else."

Yet regardless of how the free speech issue is resolved, Rex Carr, the attorney whose court document Montague quoted, believes that Montague can prove

the allegedly libelous statements are in fact true.

Gaffey and Stout deny that the suit is an attempt to undercut criticism of the Monsanto studies and the implication that Gaffey is serving larger, corporate interests by bringing the suit. Interestingly, however, Gaffey is being represented by Stout and Joseph G. Nassif, both of whom work for Coburn, Croft & Putzell, a St. Louis law firm which represents Monsanto. Moreover, Nassif is defending Monsanto in the *Kemner* case.

Fighting the power

Much is at stake in the battle over dioxin, with the outcome likely to affect the environmental and safety regulatory regime in the United States.

In addition to escaping from potentially massive dioxin-related liabilities, industry hopes that success in its campaign to weaken dioxin regulations will spark a reassessment of the risks posed by a wide range of chemicals and substances currently viewed as hazardous. "Certainly, there are implications for a number of different chemicals in what the EPA is doing," says Joe Walker of The Chlorine Institute. Michael Gough, the author of the National Chamber Foundation report, concludes that a change in dioxin safety standards will be a "harbinger" of future regulatory upheavals. He told National Public Radio that "if dioxin changes, then the whole risk assessment structure in this country, I think, is going to have a little shudder because if you can change it for dioxin, you should consider changing it for other things."

Meanwhile, environmentalists are calling for an end to manufacturing processes which create dioxin. They say enough scientific evidence has accumulated to merit far-reaching action. Greenpeace has petitioned the EPA to implement a strategy to phase-out manufacturing processes using organochlorines, which produced dioxin, PCBs, furans, ozone-eating chlorofluorocarbons and thousands of other toxic chemicals. "Enough is known about the persistence and toxicity of organochlorines as a class to justify an outright ban," a recent Greenpeace report contends.

But the media's failure to report on developments that contradict industry's dioxin message while giving so much attention to Houk and others' questionable beliefs indicates the power of the forces confronting environmentalists and their allies. Zumwalt says the paucity of press attention given his and Jenkins' affidavits is explained by the "expenditure in lobbying and in media booking on the part of the chemical companies that must outweigh the volunteer effort of those of us on the other side by 10,000 times." He says, "We are up against an awesome case of money and power. It takes a long time when you have key people in government and business working against you." ■

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