

COPY

1 IN THE DISTRICT COURT OF THE UNITED STATES
2 FOR THE EASTERN DISTRICT OF TEXAS
3 BEAUMONT DIVISION

4 -----
5 CECIL SCOTT, ET AL :

6 V. :

C.A. NO. B-84-1103-CA

7 MONSANTO COMPANY :
8 -----

9
10 VIDEOTAPED DEPOSITION OF
11 ROBERT EUGENE SHIRLEY

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16
17 June 29th, 1987
18 Bruntrager, Bruntrager & Billings
19 1015 Locust, Suite 1140
20 St. Louis, Missouri

21
22
23 Cheryll K. LeFevers
24 Texas CSR No. 1690/Notary Public
25 Nell McCallum & Associates
2900 Smith, Suite 104
Houston, Texas 77006

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APPEARANCES:

For the Plaintiffs:

MICHAEL A. POHL
ERIC NIELSEN
Gilpin, Pohl & Bennett
1300 Post Oak Boulevard, 24th Floor
Houston, Texas 77056

For the Defendant:

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Woodard, Hall & Primm
4700 Texas Commerce Tower
Houston, Texas 77002

The Videographer:

JAMES HEIRONIMUS
Executive Services Group
P.O. Box 890306
Houston, Texas 77289-0306
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Videotaped deposition of ROBERT EUGENE
SHERLEY, a witness called by the Plaintiffs, on June
29th, 1987, at the offices of Bruntrager, Bruntrager
& Billings, 1015 Locust Street, Suite 1140, St.
Louis, Missouri, commencing at 9:15 a.m., before
Cheryll K. LeFevers, CSR No. 1690 and Notary Public
in and for the State of Texas, pursuant to Notice
and Subpoena and the Federal Rules of Civil
Procedure.

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I N D E X

WITNESS: ROBERT EUGENE SHIRLEY

EXAMINATION BY: PAGE

Mr. Pohl 7

Mr. Shoebbotham 71

RE-EXAMINATION BY:

Mr. Pohl 76

Mr. Shoebbotham 81

EXHIBITS

EXHIBIT NO. PAGE

1 - "Plaintiffs' Notice of
Intention to Take Videotaped
Oral Deposition and Subpoena
Duces Tecum," for
June 29, 1987 4

2 - Ltr dtd June 19, 1987, from
Mr. Pohl to Mr. Shoebbotham 4

3 - Monsanto achievement award
approved July, 1978 25

4 - Request for employment data
dtd 3-7-84 47

P R O C E E D I N G S

(Bishop and Shirley Exhibit No. 1
and 2 marked for identification)

THE REPORTER: Do you-all want
signature?

MR. SHOEBOOTHAM: Yes, we would.

THE REPORTER: What about objections?

MR. POHL: The same as all the others.

MR. SHOEBOOTHAM: I'm holding here
Shirley and Bishop Exhibits No. 1 and No. 2.

Mr. Shirley has been produced here this morning --
was lined up to be produced in response to your --
Mr. Pohl, you're June 11th, 1987, letter. We
received the deposition Notice that's been marked as
Exhibit 1 on, I believe, Thursday afternoon, June
25th.

In reviewing the categories under
"Personnel Department" on the second page of the
Notice, I see that Mr. Shirley is the most
knowledgeable current employee of Monsanto to
discuss the management and/or direction of
Monsanto's personnel department during the late
Seventies and early Eighties and specifically one
particular area of the personnel department, which
Mr. Shirley can tell you about, that he's had

1 specific responsibilities concerning.

2 He would be responsive to Categories b
3 and c under "Personnel Department."

4 MR. POHL: Okay. Fine.

5 MR. SHORBOTHAM: With regard to the
6 document request, the documents which have been
7 produced here today, which we can reference by
8 number at some point -- maybe before Mr. Bishop's
9 deposition -- were gathered in response to your June
10 11, 1987, correspondence.

11 The June 19, 1987, correspondence,
12 which has been marked as Exhibit 2, and the subpoena
13 duces tecum, which has been marked as a portion of
14 Exhibit 1, were received -- I guess the June 19th
15 letter was received on June -- by me on June 20 and
16 the subpoena duces tecum was received on June 25th.

17 These documents that I have produced
18 today may or may not be responsive to categories
19 contained in the letter and the subpoena duces
20 tecum. We simply have not had an opportunity to
21 formulate a response to the June 19, 1987,
22 correspondence and the subpoena duces tecum.

23 To the extent that a response will be
24 required at this time, we would object that we have
25 not had sufficient time to formulate a response.

1 MR. POHL: Sure. I understand. If
2 you -- if you find -- I think, based upon what you
3 and I have already talked about, John, none of
4 that's a problem, because all I was trying to do was
5 just get all the documents pertaining to these
6 subject matters and tried to detail as much of that
7 as I could in the June 19 letter, which I think is
8 consistent with the subpoena.

9 And if you find that you overlooked
10 any documents that would have fallen in -- inside
11 the scope of that, just give them to me at a later
12 date, in the next couple weeks, and that will be
13 fine.

14 MR. SHOEROTHAM: Okay. I appreciate
15 that.

16 (Discussion off the Record)

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1 ROBERT EUGENE SHIRLEY,
2 having been first duly sworn, testified as follows:

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4 EXAMINATION BY MR. POHL:

5 Q. Mr. Shirley, my name is Mike Pohl. And we
6 were introduced for the first time this morning; is
7 that correct?

8 A. That's correct.

9 Q. Would you state on the record your full
10 name?

11 A. My name is Robert Eugene Shirley.

12 Q. Mr. Shirley, you understand that you're the
13 designated representative of Monsanto here today to
14 talk about the matters pertinent to Monsanto's
15 personnel department, as noted in our subpoena?

16 A. Yes, I do.

17 Q. Okay. And I'd like to have a few
18 agreements with you, if we could, before we get into
19 the substance of your deposition.

20 First, if at any time you don't
21 understand my question because there's a distraction
22 in the room, because I speak too fast, or because I
23 speak too softly, or because the question is
24 confusing, I'd like you to stop me and ask me to
25 clarify the question or to repeat the question so

1 that we can be absolutely sure that you understand
2 every question to which you give an answer. Can we
3 have that agreement?

4 A. Yes.

5 Q. Also, I'd like you to answer audibly to
6 each question. That makes it easier for the court
7 reporter to record your testimony. That is, don't
8 answer by nod of the head or a shrug of the
9 shoulders.

10 Can we have that agreement?

11 A. Yes.

12 Q. Okay. If at any time you want to take a
13 break, visit with counsel, get a cup of coffee, if
14 you'll let me know, we'll stop at your convenience.
15 Okay?

16 A. That's fine.

17 Q. Also, please allow me to finish each
18 question before you start your answer. And I will
19 do likewise; that is, I'll let you finish your
20 answer before I start my next question.

21 Can we have that agreement?

22 A. Yes.

23 Q. Okay. Have you ever been deposed before?

24 A. No, I have not.

25 Q. Okay. Have you had a chance -- has your

1 lawyer explained to you how this deposition may be
2 used at trial and that your deposition is under
3 oath?

4 A. Yes, he has.

5 Q. And today we're in the library of a law
6 firm in St. Louis. And even though these are rather
7 informal surroundings, you understand that some or
8 all of your deposition may be read or shown to the
9 Court and jury?

10 A. Yes, I do.

11 Q. And you understand that the oath that
12 you've been given today by the court reporter is the
13 same oath that would be administered to you if you
14 were present on the witness stand at the time of
15 trial?

16 A. Yes, I do.

17 Q. Okay. In preparation for the deposition,
18 have you read any other depositions or excerpts or
19 summaries from other depositions given in this case?

20 A. Yes, I have.

21 Q. Which ones?

22 A. I read a portion that referred to me by
23 name.

24 Q. Is that from Dr. Roush?

25 A. Dr. Roush.

1 Q. Uh-huh.

2 A. That's all I recall.

3 Q. Okay. I've got that same portion with me
4 today. Have you read any others?

5 A. No, I have not.

6 Q. Okay. And I take it that you've brought a
7 box of documents with you today. And Mr. Nielsen is
8 looking through those. But generally are they the
9 documents that your Counsel described that were in
10 response to my requests for Monsanto to produce
11 various documents pertaining to the personnel
12 department?

13 A. Our Counsel brought the box. I'm not sure
14 what is contained in the box.

15 Q. Okay. You've not looked through the box,
16 and you don't know what's in it?

17 A. No, I have not.

18 Q. Okay. I want to know just a little bit
19 about your background. And I don't mean to pry; so,
20 I'm just going to ask you very general questions.

21 First, do you live in St. Louis?

22 A. I live in the unincorporated county of
23 St. Louis. It's a suburb. Chesterfield by address.

24 Q. So, you live in a suburb of St. Louis and
25 inside the State of Missouri?

1 A. Yes, I do.

2 Q. Okay. And is St. Louis the corporate
3 headquarters of Monsanto?

4 A. Yes, it is.

5 Q. Okay. How long have you been a Monsanto
6 employee?

7 A. Twenty-two years this August.

8 Q. Okay. Tell me very briefly what your
9 educational background is from high school on.

10 A. Okay.

11 Q. After high school.

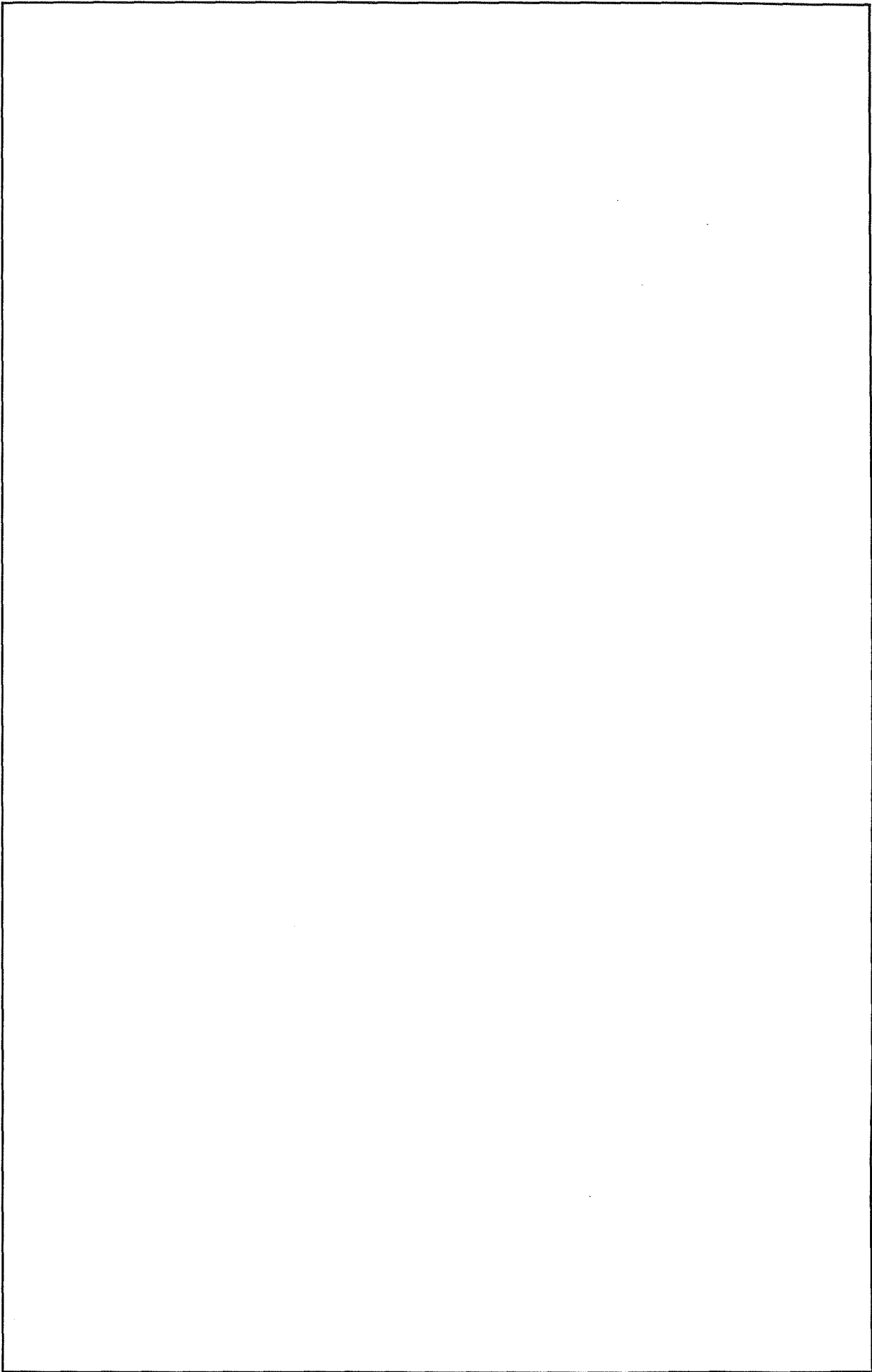
12 A. After high school, I attended Georgia Tech
13 for only a semester; transferred to North Georgia
14 Military College for two years; went in military
15 service. Upon coming out of service, I completed my
16 degree requirements at Georgia State University in
17 Atlanta, Georgia, with a BA in insurance. It's a
18 business degree.

19 Q. Any postgraduate work?

20 A. No.

21 Q. Give me a brief, thumbnail sketch of your
22 employment background from the time that you got out
23 of the military service.

24 A. Well, duri



NELL MC CALLUM & ASSOCIATES, INC.

1 MR. POHL: Sure. I understand. If
2 you -- if you find -- I think, based upon what you
3 and I have already talked about, I don't see any of that's
4 a problem, because all I was trying to do was just
5 get all the documents pertaining to these subject
6 matters and tried to detail as much of that as I
7 could in the June 19 letter, which I think is
8 consistent with the subpoena.

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10 any documents that would have fallen in -- inside
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16 (Discussion off the Record)

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6 employee?

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9 educational background is from high school on.

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12 A. After high school, I attended Georgia Tech
13 for only a semester; transferred to North Georgia
14 Military College for two years; went in military
15 service. Upon coming out of service, I completed my
16 degree requirements at Georgia State University in
17 Atlanta, Georgia, with a BA in insurance. It's a
18 business degree.

19 Q. Any postgraduate work?

20 A. No.

21 Q. Give me a brief, thumbnail sketch of your
22 employment background from the time that you got out
23 of the military service.

24 A. Well, during the time that I was a student
25 at Georgia State in Atlanta, I worked for Retail

1 Credit for about two years. I worked for Kemper
2 Insurance for two years. I then worked for Genuine
3 Parts Company, which was my first entry into
4 personnel work, for four years before joining
5 Monsanto in 1965 in Decatur, Alabama.

6 I spent two years -- two and a half
7 years, really, in Decatur Alabama; transferred to
8 Gaffney, South Carolina, where Monsanto has a
9 plant -- or had a plant at the time. Following that
10 about 20 months, I transferred in 1979 -- I'm
11 sorry -- 1969 to St. Louis, where I was personnel
12 superintendent at Monsanto's Chesterfield location.

13 Following that, I had assignments in
14 Monsanto's Krummrich plant, which is here in this
15 metropolitan area. Following that, I was labor
16 relations manager and subsequently superintendent of
17 personnel in Monsanto's J. F. Queeny plant on this
18 side of the river in Missouri.

19 At that point in time, 1977, I
20 transferred to world headquarters, where I was
21 manager of compensation and benefits in the plastics
22 and resins division; spent four years there,
23 transferring to corporate research in 19 -- December
24 of 1980. Since that time, I have had
25 responsibilities in corporate research and

1 development area, also covering the medical
2 department, patent, environmental.

3 Q. Are you -- are you head of the personnel
4 department?

5 A. I'm head of the -- I was head of the
6 personnel department for that division of Monsanto
7 Company.

8 Q. Okay. And you said in 1977 you transferred
9 to the world headquarters?

10 A. Yes.

11 Q. And where are the world headquarters?

12 A. That's a facility at Olive and Lindbergh.

13 Q. Here in St. Louis?

14 A. That's our corporate headquarters.

15 Q. Okay. So, the corporate headquarters here
16 in St. Louis are sometimes referred to as the "world
17 headquarters"?

18 A. Yes.

19 Q. Okay. Now, as part of your function as
20 head of the personnel department at Monsanto, you
21 became involved in -- with a particular employee
22 named Dr. Paul L. Wright; is that correct?

23 MR. SHORBOTHAM: Let me make one
24 correction.

25 Mr. Shirley is head of the personnel

1 department for a specific division of Monsanto.

2 MR. POHL: Okay.

3 Q. (By Mr. Pohl) Is there a particular title
4 that I should use in referring to your position?

5 A. Manager of personnel, technical staff.

6 Q. Okay. Manager of personnel, technical
7 staff?

8 A. Right.

9 Q. Is there an overall personnel manager for
10 all of Monsanto?

11 A. Yes, there is. The reporting
12 relationships -- I report to the director of
13 personnel for technical staff --

14 Q. Uh-huh.

15 A. -- who, in turn, reports to the
16 vice-president -- senior vice-president of personnel
17 and administration. His name is Robert Berra.

18 Q. Can you spell his last name?

19 A. B E R R A.

20 Q. Okay. Who is the director of personnel for
21 the technical staff?

22 A. William Campbell. He, however, was not
23 director of personnel in 1980 at the point I
24 transferred back -- or into the CRDS operation.

25 Q. Now, what is the technical staff?

1 A. Technical staff is made up of corporate
2 research and development, environmental policy
3 staff, department of medicine and environmental
4 health, and currently also includes world
5 headquarters administration.

6 Q. Now, as manager of personnel for the
7 technical staff, what is your job function?

8 A. My job function is to give direct personnel
9 support to the environmental policy staff,
10 department of medicine environmental health, the
11 patent department, as well as the corporate research
12 function.

13 Q. And does that include things like making
14 decisions as to who to hire and who to fire?

15 A. Yes, it does.

16 Q. Okay. And there was a program in the
17 1970's with regard to merit awards to employees. Do
18 you recall that program?

19 A. Yes. That program still exists.

20 Q. Still exists. Okay. And would you have an
21 involvement in that program?

22 A. Yes, I do.

23 Q. What is that role?

24 A. That role is to advise the directors and
25 managers of people as to the amount of budget they

1 have for such awards, the rules for dispersing those
2 monies, and then the processing of the
3 recommendations that they might make.

4 Q. Are the criteria for receiving a Monsanto
5 merit award the same now as they were in the 1970's?

6 A. Yes, they are.

7 Q. Okay. Tell the Court and jury what the
8 criteria are at Monsanto for receiving a merit
9 award.

10 A. I'm going to confine my answer to the merit
11 budget that is appropriate to the level of the
12 individual that we are talking about --

13 Q. Sure.

14 A. -- if that's your intent.

15 Q. And let's -- for purposes of this question,
16 let's assume it's somebody at the level of Paul
17 Wright in the 1970's.

18 A. Dr. Paul Wright was a member of select
19 management within Monsanto. Approximately one-third
20 of the managers in select management each year would
21 receive an award that might be as little as \$1,000
22 or as much as six weeks' pay for an event that is
23 clearly above and beyond expected performance. This
24 might be unusually good results; it might be
25 something that has saved the company money.

1 Q. Okay. Can you give us some typical
2 examples of things that, as personnel -- as manager
3 of personnel and technical staff, you think would be
4 good examples of the type of conduct that would
5 justify a Monsanto merit award in the 1970's?

6 A. Well, yes. A good example might be a
7 director or manager who, by installing some new
8 equipment, might be able to operate his department
9 at a lower cost by having lesser people. It might
10 be a person -- this goes all across the company. It
11 might be a salesperson who achieved particularly
12 good sales results. It might be a scientist who has
13 made a discovery that is noteworthy, is patentable,
14 and is going to mean income for Monsanto.

15 Q. Okay.

16 A. It's a form of instant recognition.

17 Q. Okay. And the goal, then, of the merit
18 award is to reward someone who does something that
19 is particularly good for the company?

20 A. Certainly.

21 Q. And that is to encourage that person and
22 others to do more things that are good for the
23 company?

24 A. Well, yes.

25 Q. Okay. Now, are there -- are there

1 procedures established whereby there are -- there's
2 a system of checks and balances, to review, to make
3 sure that merit awards are properly given; that is,
4 that it's not just because someone happens to be
5 favored by another person in his department or
6 because of some crony relationship, but to assure
7 that Monsanto gives merit awards to only the people
8 that -- that are truly entitled to them?

9 A. Well, yes. That is going to depend on the
10 level of the manager that might make the
11 recommendation. If that manager is a very entry
12 level manager, then his proposal, recommendation,
13 write-up will be processed up the line to the
14 managing director; in some units, the
15 vice-president's level. Depends on their
16 organizational structure.

17 Q. Okay. In the case of Paul Wright, for
18 example, in the 1970's, how many different levels of
19 review were there at Monsanto to make sure that Paul
20 Wright was really entitled to one or more merit
21 awards?

22 A. In Paul Wright's case, only one level for
23 technical evaluation would have been necessary.
24 Personnel department processes the paper work and
25 would only comment if the amount were

1 inappropriate: too little, too much.

2 Q. Okay. In Dr. Wright's case, did the
3 personnel department make any comment that the
4 amount Dr. Wright was receiving for merit awards in
5 the 1970's was either too little or too much?

6 A. That's difficult to answer as I'm not
7 holding those forms that you're referring to.

8 Q. I recall that, for example, in 1976 he
9 received a merit award in a \$1,000 cash bonus for
10 forestalling precipitous action by the EPA to ban
11 the discharge of PCB's.

12 Do you recall if that was an amount
13 that your department agreed with?

14 A. I was not in the corporate research,
15 environmental area in 1976. That does, however, fit
16 the general guidelines established by policy.

17 Q. Did you have a chance, in preparing for
18 your deposition, to look over the merit awards for
19 Dr. Wright?

20 A. Yes, I did. I believe there are three such
21 awards in the file.

22 Q. Okay.

23 A. I briefly scanned those -- those awards. I
24 do not recall a personnel signature was on the
25 bottom, but that's not necessary.

1 Q. I referred a moment ago to one that
2 pertained to PCB's, or Aroclors. A copy of that
3 document that was produced by Monsanto has been
4 identified by one of your fellow employees, George
5 Levinskas, as Exhibit 38 to your deposition. Let me
6 pass to you Levinskas Exhibit 38.

7 Is that the document that you recall
8 that pertains to Dr. Wright's merit award relating
9 to Monsanto's Aroclor products?

10 A. Let me take a moment here to see.

11 Q. Sure. Take all the time you need.

12 A. Item --

13 Yes, I do note Aroclors are a part of
14 this award.

15 Q. Okay. And you mentioned a few moments ago
16 that, in preparing for your deposition, you reviewed
17 some documents from Dr. Wright's personnel file,
18 which included his merit awards?

19 A. Yes.

20 Q. Was Levinskas Exhibit 38 one of the
21 documents you reviewed?

22 A. Yes, it was.

23 Q. Okay. Now -- may I see that back?

24 A. (Witness complies)

25 Q. Where on your form for a Monsanto merit

1 award is there a space for approval by the personnel
2 department?

3 A. There's no such place on the form for --
4 for an approval. I quite often sign just on the
5 bottom line so that the clerk who reports to me
6 knows that it's -- she's authorized to put it into
7 the system and cause a check to be created.

8 Q. Okay. What would happen if you or someone
9 in your department received the document marked
10 Levinskas Exhibit 38, recommending Paul Wright for a
11 merit award with regard to Aroclor products and you
12 disagreed with it, you thought it was inappropriate
13 or that the amount was too high? What would you do?

14 A. In the event I thought the award amount
15 might be too high, my normal thing to do would be go
16 visit with the director of that department and point
17 out the possible inequity, discuss the amount of his
18 remaining budget, perhaps, that kind of counsel.

19 Q. Okay. So, if -- if the amount of the merit
20 award, as in the case of Dr. Wright, were in
21 question, you would visit directly with the manager
22 of Dr. Wright's department?

23 A. In this -- in this case here, Dr. Levinskas
24 reports to Dr. Roush. I would have visited with
25 Dr. Roush. It would have come to me from Dr. Roush.

1 Q. And let's assume that you disagreed with
2 the recommendation of the merit award because you
3 didn't agree with the substance of it. What actions
4 would you take?

5 A. That's not my concern there. I don't
6 evaluate the content of the write-up.

7 Q. Does anyone in your department?

8 A. Not in personnel, no.

9 Q. Okay.

10 A. These are primarily technical write-ups,
11 and we aren't qualified to pass on that.

12 Q. Okay. So, no one outside of the medical
13 department would have reviewed the substance of the
14 recommendation of Dr. Wright for a merit award; is
15 that correct?

16 A. Not necessarily. Now, it's certainly
17 Dr. Roush's prerogative to have discussed an award
18 like that with his vice-president on environmental,
19 who at the time was Monty Throdahl. There's no
20 indication that that took place. It could have.

21 Q. It notes on Levinskas Exhibit 38, which
22 you've just had a chance to review, that Dr. Wright
23 played a prominent role in forestalling EPA's
24 promulgation of unrealistic regulations to limit the
25 discharge of polychlorinated biphenyls.

1 Did anyone else in Monsanto receive a
2 merit award for forestalling unrealistic regulations
3 by the EPA to limit the discharge of PCB's?

4 A. I don't know.

5 Q. Okay. Do you have a general recollection
6 one way or the other whether anyone else received
7 any kind of merit award for taking actions to
8 forestall limiting the discharge of PCB's into the
9 environment?

10 A. I really don't know.

11 Q. Okay. When you -- when your department
12 receives a document, like Levinskas Exhibit 38,
13 recommending someone like Paul Wright for a merit
14 award, do you read the text of the document?

15 A. Not usually.

16 Q. Okay. What do you look at on the document?

17 A. I look at the individual's current salary,
18 compare that to the amount requested. Since these
19 all process across my desk, I have a good feel for
20 whether the amount is appropriate. If it is, I pass
21 it through for payroll action.

22 Q. Okay. In the particular instance of
23 Dr. Wright's merit award for forestalling EPA's
24 promulgation of unrealistic regulations to limit the
25 discharge of PCB's into the environment, was it

1 important that both Dr. Levinskas and Dr. Roush had
2 affixed their signatures to the bottom of the
3 document?

4 A. Yes, it was. I would have only received
5 that document from Dr. Roush. It is his budget.
6 Once I've notified him what his budget is, it's his
7 business as to how he spends it, within the
8 guidelines that I mentioned earlier.

9 Q. Do you know what Dr. Roush's budget was for
10 merit awards in 1976?

11 A. Not specifically. It's based upon the
12 number of people within his unit, their monthly
13 salaries totaled and a percentage applied to that.
14 It's a rather small budget.

15 Q. And did anyone else in Dr. Roush's
16 department receive a merit award in 1976 besides
17 Dr. Wright, that you can recall?

18 A. From specific knowledge, I can't answer
19 that; but I can tell you that he had a budget
20 adequate to reward about one-third of his people in
21 that employment classification. It would be most
22 unusual for him to have not spent some other
23 dollars.

24 Q. Is the merit award the type of an award
25 that's given once a year, or is it given at some

1 other -- in some other time interval?

2 A. It's preferable that it be given close to
3 the time that is being recognized. So, it's
4 throughout the year.

5 Q. So that someone, theoretically, could
6 receive more than one merit award within the same
7 12-month period?

8 A. That's exactly right.

9 MR. POHL: Let me mark Levinskas
10 Exhibit 38 as a deposition to -- as an exhibit to
11 this deposition, as well.

12 (Shirley Exhibit No. 3 marked
13 for identification)

14 MR. SHOEROTHAM: Just so the record is
15 clear, Mike, is that -- is that your highlighting on
16 the exhibit that we've just marked as Exhibit 3?

17 MR. POHL: It is.

18 MR. SHOEROTHAM: Okay.

19 MR. POHL: And this is the actual -- I
20 think the original exhibit to the deposition of
21 Dr. Levinskas. And I'm just going to have -- if
22 it's okay with you, I'll just have her make a xerox
23 of this for this deposition --

24 MR. SHOEROTHAM: Sure.

25 MR. POHL: -- and then I'll put the

1 original back with the Levinskas exhibits.

2 MR. SHOEBOOTHAM: That will be fine.

3 Q. (By Mr. Pohl) And, Mr. Shirley, Dr. Wright
4 also received a merit award for forestalling
5 precipitous action against a product, maleic
6 anhydride, by the FDA; is that correct?

7 A. Yes. I saw that document.

8 Q. Is the document that you're referring to
9 Levinskas Exhibit 37?

10 A. I'm sorry -- yes. I see on the bottom, in
11 the stamped area, "Levinskas-37."

12 Q. And what is the date of that merit award?

13 A. It's processed in 1975. Looks like 11
14 September. I'm not certain of the -- of the writing
15 there.

16 Q. There's another date at the top right-hand
17 corner, isn't there?

18 A. Well, there's a date of his last
19 performance appraisal, February of '75.

20 Q. Okay. How can we tell when these merit
21 awards were given? What date should we look at?

22 I'm showing you now Levinskas 37 and
23 Levinskas 38.

24 A. The form calls for a date by the signature
25 of the person making the recommendation. That would

1 appear to me to be 16 September, 1975.

2 Q. Okay. That's on Levinskas 37?

3 A. Yes, on 37.

4 Q. And what about Levinskas 38?

5 A. 16 July, 1976.

6 Q. And what is the time period between the two
7 merit awards?

8 A. Well, from November till July, about nine
9 or ten months.

10 Q. Okay. And during that same nine or
11 month -- during that same approximately nine-month
12 period, did Dr. Wright also receive a pay increase,
13 as reflected by these two documents?

14 A. Let's see. The 1975 document indicates a
15 salary of 28,980; and the later document, 31,800.
16 So, yes, he would have received a merit increase
17 during that period of time.

18 Q. Okay. So, during less than one year,
19 Dr. Wright received two merit awards and a pay
20 raise; is that correct?

21 A. He received two merit -- two merit awards
22 covered by these documents. And during that same
23 period of time, he received a merit award, which may
24 or may not have been on a 12-month basis. It may
25 have been more or less than a 12-month basis.

1 Q. Okay. So, during that same 12-month
2 period -- I may be confused -- did he receive yet
3 another merit award or did he receive just his --
4 just a pay increase?

5 A. It's a normal merit increase. Normally
6 most Monsanto employees are reviewed on an annual
7 basis and might receive a merit increase between 11,
8 12, 13 months, perhaps longer. And that will be
9 determined by their goals document and the results
10 review that's performed once a year.

11 Now, the results reviews do take place
12 in February, March of each year.

13 Q. Okay. So, in the context of Levinskas
14 Exhibit 37 and 38, during that approximately
15 nine-month period, Dr. Wright received two merit
16 awards with cash supplements plus --

17 A. That's correct.

18 Q. -- a pay raise?

19 A. That is correct.

20 Q. Okay. And the first of these two merit
21 awards was for forestalling actions by the FDA with
22 regard to a Monsanto product known as maleic
23 anhydride?

24 A. I'll need to read dates again.

25 Okay. Now, maleic anhydride was the

1 subject of the award that took place in September of
2 1975. So, it was first.

3 Q. Okay. And what was it specifically that
4 Dr. Wright did that resulted in his receiving the
5 1975 Monsanto merit award?

6 A. Well, we're dealing with a full-page
7 write-up here. It talks about a considerable amount
8 of -- of detail that Dr. Wright was responsible
9 for.

10 Without taking time to read the whole
11 thing, it would be hard for me to tell the specific
12 item or weigh the importance of the -- of the items.

13 Q. Did you -- but did you have a chance to
14 read the document before your deposition?

15 A. Yes, I did.

16 Q. Okay. So, you're generally familiar with
17 it?

18 A. Yes, I am.

19 Q. Okay. What is your general understanding,
20 then, of why Dr. Wright received the 1975 merit
21 award?

22 A. It was a -- it was a technical award for a
23 technical achievement.

24 I'm sorry. I really, not being a
25 technical person, have a difficult time answering

1 that.

2 Q. Okay. When did you first learn the fact
3 that Dr. Wright had been indicted?

4 A. I would have read that in the newspapers,
5 probably '80 -- '80, '81, '82. I'm not certain.

6 Q. What were the procedures in the personnel
7 departments to accommodate a fact such as one of
8 your employees being criminally indicted?

9 A. Would you like for me to speak generally to
10 that question?

11 Q. Sure.

12 A. Generally, if an employee is accused of a
13 crime, we look into it; but we do not normally take
14 action until the person has been proven guilty of --
15 of whatever.

16 Q. What is the standard procedure of Monsanto
17 for paying for the criminal attorneys' fees of the
18 attorney retained to represent your employee in
19 connection with a -- with the employee's criminal
20 indictment?

21 A. I'm sorry. I'm not familiar with that.

22 Q. Are you familiar with whether or not there
23 is a procedure?

24 A. No, I'm not.

25 Q. Okay. There's none that you know of?

1 A. There's none that I know of.

2 Q. Okay. Are you aware that Monsanto paid for
3 Dr. Wright's attorneys' fees?

4 A. Yes.

5 Q. Okay. Are you familiar with the amount
6 that Monsanto paid for Dr. Wright's criminal
7 lawyers?

8 A. No, I'm not.

9 Q. Okay. Do you know of any other incident,
10 since you've been employed by Monsanto, where
11 Monsanto has paid the attorneys' fees, or the
12 criminal lawyer hired to represent an individual?

13 A. I'm not, personally.

14 Q. Okay. No other incident that you can
15 recall?

16 A. That I recall.

17 Q. Okay. What about -- with regard to the
18 amount of the attorney's fees that were paid to the
19 lawyer who represented Dr. Wright, would that have
20 come through your department?

21 A. No, it would not.

22 Q. Would the fact that a lawyer was retained
23 to represent Dr. Wright have been a fact that was
24 communicated to your department?

25 A. Not at the time.

1 Q. At any time?

2 A. I've only recently heard that that was the
3 case.

4 Q. When did you first learn that Monsanto had
5 actually hired or paid for the lawyers that
6 represented Dr. Wright in his criminal trial?

7 A. Direct information that I can swear to?

8 Q. Yes.

9 A. I don't know it, yet.

10 Q. Okay. When did you first learn about it
11 indirectly?

12 A. In the -- in the last week or so.

13 Q. Okay. So, you learned that Dr. Wright was
14 criminally indicted in approximately 1981?

15 A. I'll have to hedge a little on the time.
16 I'm sorry. I don't -- I don't have that committed
17 to memory.

18 Q. Okay.

19 A. But it was in the early Eighties that all
20 of this started and I was aware that Dr. Wright had
21 a problem, but I don't know specific dates.

22 Q. So, even though you don't know the specific
23 date, you gained knowledge that Dr. Wright was
24 criminally indicted in the early 1980's?

25 A. Yes.

1 Q. Possibly 1981?

2 A. Yes.

3 Q. And you learned for the first time that
4 Monsanto had paid for Dr. Wright's criminal defense
5 sometime during the month of June, 1987?

6 A. Yes.

7 Q. Within the last week or so before your
8 deposition here today?

9 A. That's correct.

10 Q. Okay. And did anybody tell you the amount
11 that Monsanto had spent to criminally defend
12 Dr. Wright?

13 A. No, they did not.

14 Q. Do you know whether or not Dr. Wright was
15 on a paid leave of absence from Monsanto subsequent
16 to his indictment and through the -- through the
17 conclusion of his criminal trial?

18 A. Dr. Wright was on a paid leave of absence
19 during a period of time, but certainly not the
20 entire time. It was a period of weeks or possibly
21 months that he was on -- on leave.

22 Q. Okay. Well, was he on leave for the entire
23 length of his criminal trial?

24 A. I don't know when that started and when it
25 stopped, but my recollection is he was not on a paid

1 leave more than a few months.

2 Q. Okay. And how many months is "a few"?

3 A. Few months, four, six months perhaps.

4 Q. Okay. And was that -- why was Dr. Wright
5 on a paid leave of absence in connection with these
6 criminal proceedings?

7 A. I was not involved in that decision to
8 place him on leave. I know that the demands of
9 the -- time demands of the trial made it difficult
10 for him to perform.

11 He was on a special assignment for a
12 period of time, where he was doing clerical type
13 work, technical nature. And at some point your
14 absences become a problem.

15 Q. Who had made the decision to put Dr. Wright
16 on a paid leave of absence in connection with his
17 criminal trial?

18 A. I don't know.

19 Q. Well, who communicated that fact to you?

20 A. My director.

21 Q. Who was that?

22 A. Bill Campbell.

23 Q. Okay. And what did he tell you?

24 A. Simply that he was going to be on a -- on a
25 leave of absence until the trial was concluded --

1 Q. Okay.

2 A. -- and that, following the trial, until
3 sentencing.

4 Q. Did Bill Campbell tell you that he had made
5 that decision or somebody else had made the decision
6 and communicated it to him?

7 A. He did not tell me that.

8 Q. Okay. Has there ever been another
9 situation that you're familiar with at Monsanto
10 where an employee was given a paid leave of absence
11 for a period of months in connection with a criminal
12 trial?

13 A. For a period of time, yes.

14 Q. How long?

15 A. Weeks, possibly into months. This was
16 probably a longer one.

17 Q. Okay. Did anybody tell that you
18 Dr. Wright's criminal trial itself took seven
19 months?

20 A. No.

21 Q. Okay. And are you certain that he was only
22 on paid leave of absence for a period of months, or
23 could he actually have been on leave of absence for
24 much longer than that?

25 A. No. I'm certain that it was a period of

1 months.

2 Q. Okay. And how did you obtain that
3 knowledge?

4 A. Just being the personnel person responsible
5 for that department, I knew when he was there and
6 when he was not there.

7 Q. Okay. What documents can we look at that
8 would tell us how long Dr. Wright was on a paid
9 leave of absence?

10 A. Well, in looking through the file, there
11 was an indication at the time the trial concluded --
12 or when he was found guilty, actually, from that
13 point forward is documented in the file. Prior to
14 that time, I -- I didn't personally note dates that
15 you might look at.

16 Q. Okay. For how long was Dr. Wright being
17 paid to do clerical duties prior to the time that he
18 went on a full paid leave of absence?

19 A. Probably for -- probably for a period of a
20 year. Now, this is not strictly clerical. It's
21 just a technical desk job.

22 Q. Okay. What did he do in this clerical desk
23 job?

24 A. He was preparing MSDS reports. And I'm
25 sorry. I can't tell you what those initials stand

1 for.

2 Q. Okay. Is it a report that used his
3 scientific --

4 A. Yes.

5 Q. -- education, or is it --

6 A. It's a technical safety report.

7 Q. On --

8 A. A product report.

9 Q. Okay. He did a -- while he was doing
10 clerical/technical work for a year or so, he dealt
11 with the preparation of documents pertaining to the
12 safety of a Monsanto product?

13 A. Various products. Many products.

14 Q. Okay.

15 A. It's a job normally done by a technical
16 person. Immediately prior to Dr. Wright's doing
17 this, there was a woman Ph.D. who was doing this
18 work --

19 Q. Okay. And what is -- what -- what is the
20 function --

21 A. -- in toxicology.

22 Q. What is the function of the reports or
23 forms that Dr. Wright would be doing in this
24 capacity?

25 A. What is the function?

1 Q. Yeah. What's their service?

2 A. They're required by law; but when I say
3 that, I've said about all I know about that.

4 Q. Okay. Is the subject matter of those forms
5 the possible environmental or -- or human health
6 effects of exposure to products manufactured by
7 Monsanto?

8 A. I'm sorry. I don't know that. But MSDS is
9 an identifiable technical term that can easily be
10 found.

11 Q. Okay. And while Dr. Wright was performing
12 the function of preparing the MSDS forms, was he
13 paid his normal salary?

14 A. Yes, he was.

15 Q. Okay. And did he work full time at
16 Monsanto preparing MSDS forms during the time
17 immediately preceding the commencement of his
18 criminal trial?

19 A. Yes. To the best of my knowledge, he did.
20 He worked directly for Dr. Levinskas and was only a
21 few feet away from his office. He could testify to
22 that better than I could.

23 Q. Dr. Levinskas could?

24 A. Yes.

25 Q. Okay. Who made the decision to have Paul

1 Wright perform clerical/technical functions during
2 the time between -- or was it during the time
3 between his criminal indictment and the start of the
4 trial?

5 A. Between the criminal indictment and the
6 start of the trial?

7 To my knowledge, that is the period of
8 time we're talking about, yes.

9 Q. Okay. And who made the decision to have
10 Dr. Wright perform clerical/technical functions
11 during that time?

12 A. He would have been instructed by
13 Dr. Levinskas and Dr. Roush. I'm not sure if I've
14 answered your question there --

15 Q. Okay.

16 A. -- because beyond that, I don't know.

17 Q. Someone other than a -- than a member of
18 the personnel department?

19 A. Certainly. Right.

20 Q. Okay. Did the personnel department have to
21 concur in the decisions to reassign Dr. Wright to a
22 different job function, to put him on leave of
23 absence, to hire and pay for criminal attorneys?

24 A. No.

25 Q. Okay.

1 A. I did not have to do that.

2 Q. And, to your knowledge, no one else in your
3 department?

4 A. To my knowledge.

5 Q. Okay. To your knowledge, what efforts were
6 made by Monsanto to monitor the progress of
7 Dr. Wright's criminal indictment and his subsequent
8 criminal trial?

9 A. I have no knowledge there.

10 Q. Did you play any role in that?

11 A. No, I did not.

12 Q. All right. You've read Dr. Roush's
13 testimony, haven't you?

14 A. Yes, I have.

15 Q. Okay. You know that Dr. Roush testified
16 that you told him not to investigate or anything
17 about what was going on with Dr. Wright?

18 A. Right. Yes, I did read that.

19 Q. Okay. Did you instruct or tell Dr. Roush
20 not to inquire about the criminal matters pertaining
21 to Dr. Wright?

22 A. No, I did not.

23 Q. Okay. To your knowledge, did anyone in the
24 personnel department instruct Dr. Roush not to
25 inquire about the criminal matters pertaining to

1 Dr. Wright?

2 A. Not to my knowledge.

3 Q. Okay. Have you had a chance to talk to

4 Roush -- talk to Dr. Roush about this difference in

5 your testimonies?

6 A. No, I have not.

7 Q. Okay. Did you talk to Dr. Roush at any

8 time since he gave his deposition in this case?

9 A. No, I have not.

10 Q. Okay. Did you have any curiosity yourself

11 or inquiries as to what the nature of

12 Dr. Wright's criminal indictment was?

13 A. During that period of time, there were a

14 couple of newspaper articles; beyond that, only

15 lunchroom conversations.

16 Q. Did you ever ask anyone's permission to

17 inquire as to what the particular nature of the

18 criminal indictment was?

19 A. No, I did not.

20 Q. Okay. Did you ever attempt to observe any

21 of the trial in progress?

22 A. No, I did not.

23 Q. Was the preparation of the MSDS forms an

24 important task at Monsanto?

25 A. Yes. It is -- it is a necessary and

1 ongoing requirement --

2 Q. Okay.

3 A. -- of our company and other like companies.

4 Q. Would it be fair to say that any task that
5 pertains to the safety of Monsanto's products is an
6 important task?

7 A. Certainly.

8 Q. Okay. And from the lunchroom talk that you
9 participated in and from the articles which you read
10 in the press and the magazines, did you understand
11 that Dr. Wright was criminally indicted for
12 falsifying test data?

13 A. I understood that Dr. Wright had a prior
14 involvement with another company prior to coming
15 back to Monsanto and that the whole matter was being
16 investigated and it had to do with animal testing
17 and product information. That's really all I know
18 about that.

19 Q. Did you understand, though, that the guts
20 of the charge against Dr. Wright with regard to the
21 animal testing was that he participated in the
22 falsifying of test data?

23 A. No, I did not.

24 Q. Would that have been important or would
25 that have been a consideration to Monsanto in

1 assigning Dr. Wright the task of completing the MSDS
2 forms which pertained to product safety?

3 MR. SHOEBOOTHAM: I think Mr. Shirley
4 told you that he was not involved in the decision to
5 assign Mr. Wright to that task.

6 MR. POHL: I understand that. I'm
7 asking about the company's policy.

8 A. The company policy in dealing with
9 employees who might have been accused of -- of a
10 crime is that we will await the outcome of that
11 proceeding before making harsh decisions as to
12 whether the employee is continuing to work or what
13 he's to work with.

14 Q. (By Mr. Pohl) But at least in Dr. Wright's
15 case the decision was made that he shouldn't
16 continue in his prior employment; there should be a
17 change in his job function to a -- what you've
18 described as a clerical/technical function?

19 A. My opinion is: That was more an
20 accommodation because of his demands on his time
21 than anything else.

22 Q. But, nevertheless, a change was made in his
23 job function?

24 A. Change was made, yes.

25 Q. As a consequence of his criminal

1 indictment?

2 A. I'm sorry. I can't really answer that
3 direct. If you'll rephrase it, I'll try.

4 Q. Sure. The decision to reassign Dr. Wright
5 was made prior to the time that he was convicted?

6 A. Yes.

7 Q. And after he was convicted, he was
8 terminated?

9 A. That's true.

10 Q. Okay. And you signed the little form that
11 terminated Dr. Wright's employment, correct?

12 A. I sent Dr. Wright a letter indicating his
13 termination, indicating his rights and so forth.
14 You have that as a document.

15 Q. And I'll talk to you about that in just a
16 moment because I want to ask you about the form that
17 bears your signature.

18 A. (Witness nods head)

19 Q. You indicated to me just a moment ago that
20 there was another incident that you recall where
21 Monsanto put somebody on a paid leave of absence for
22 a period, you thought, of weeks?

23 A. Weeks. At least weeks.

24 Q. Okay. What was the nature of that criminal
25 matter?

1 A. Without violating the employee's privacy, I
2 can just comment that an employee had been accused
3 of some drug dealings of some sort and had been
4 arrested but had been immediately released; during
5 the period of weeks, was on a leave pending the
6 outcome of the trial.

7 Q. Okay. So, that employee was on leave of
8 absence during the pendency of his criminal trial?

9 A. Yes.

10 Q. Was he paid during that time?

11 A. Yes, to my knowledge.

12 Q. Okay. And that leave of absence was
13 limited to the duration of the actual criminal
14 trial; is that correct?

15 A. In that case, as I recall, after the trial
16 and he was found guilty, between then and
17 sentencing, was an unpaid leave of absence.

18 Q. Okay. So, that employee was found guilty
19 in connection with the drug trial?

20 A. Yes.

21 Q. Was that employee terminated by Monsanto?

22 A. Has not been.

23 Q. Okay. When was the drug trial completed?

24 A. Last year.

25 Q. Okay. So, the employee is still on your

1 payroll?

2 A. No. Is still -- is still an employee on an
3 unpaid leave of absence.

4 Q. Okay. And does that employee have a job
5 with Monsanto when he finishes serving his time?

6 A. The employee is appealing the charge.

7 Q. It's on appeal?

8 A. Yes.

9 Q. Okay. Dr. Wright's case went up on appeal,
10 too, right?

11 A. I was not aware of that.

12 Q. You didn't know that Dr. Wright took an
13 appeal?

14 A. No, I did not.

15 Q. Okay. And --

16 A. In fact, I didn't think that he did. I was
17 not aware of that.

18 Q. In any event, Dr. Wright was terminated
19 upon the conclusion of his criminal trial and his
20 sentencing; is that correct?

21 A. Sentencing.

22 Q. Okay. And who made the decision to
23 terminate Dr. Wright?

24 A. I believe you have a document in the file
25 that speaks to that, do you not?

1 Q. Is the company paying this other employee's
2 attorneys' fees in connection with his drug trial?

3 A. I'm not aware.

4 Q. You're not aware that the company is?

5 A. Yes. I'm not aware just whether it is or
6 not, but I would -- I would not think so.

7 Q. Okay. Can you think of any incidents with
8 any other employee where Monsanto paid the criminal
9 lawyers to represent the Monsanto employee, other
10 than the incident involving Dr. Wright?

11 A. Not my personal knowledge.

12 MR. POHL: Would you mark this as the
13 next numbered exhibit?

14 Jon, what I've given the court
15 reporter is the second page of Levinskas Exhibit 39.

16 MR. SHORRBOOTHAM: Okay.

17 (Shirley Exhibit No. 4 marked
18 for identification)

19 Q. (By Mr. Pohl) Mr. Shirley, let me show you
20 the document which has been marked as Exhibit 4 to
21 your deposition and ask if you recognize this
22 document.

23 A. Yes, I do.

24 Q. Okay. Does it bear your signature at the
25 bottom?

1 A. Yes.

2 Q. Do you recognize your signature?

3 A. Yes, that is my signature.

4 Q. Okay. What was the purpose of this
5 document?

6 A. This was in response to a request for
7 employment data. I believe the cover letter
8 indicates the court agency that had requested a
9 probation office or something like that.

10 Q. (Indicating)

11 A. Authorization to release information, which
12 we would have had to have before responding. United
13 States Probation Office had requested this
14 information be furnished.

15 Q. Okay. Then your office completed the
16 document that's been marked Exhibit 4 to your
17 deposition?

18 A. That's correct.

19 Q. Okay. And you see the handwritten notation
20 in approximately the middle of that document, which
21 states the reason for terminating the employment?

22 A. Yes.

23 Q. Okay. Who filled in that blank?

24 A. That's not my writing. As I recall, a
25 clerk who has since retired in the -- in the

1 department had filled that in.

2 Q. Okay. And what did Monsanto state were the
3 reasons for terminating Dr. Wright's employment, if
4 you would read that portion?

5 A. "Engaging in activities detrimental to
6 Monsanto's interests."

7 Q. Okay. What were the interests of Monsanto
8 that Dr. Wright's activities harmed?

9 A. Well, Dr. Wright had been found guilty of a
10 criminal offense. Employees found guilty of such
11 offenses are normally terminated.

12 Q. Well --

13 A. It's considered detrimental to our -- to
14 our best interest.

15 Q. Well, what type of criminal offense results
16 in an employee's termination at Monsanto?

17 A. Are you looking for examples or --

18 Q. Sure.

19 A. -- or what?

20 Any serious charge an employee might
21 have. Forget traffic offenses and that sort of
22 thing. If an employee is found guilty of a crime
23 serious enough to result in serving time, generally
24 that would be reason for discharge.

25 Q. And in the case of Dr. Paul Wright, who

1 made the decision that the particular offense of
2 which he was found guilty was serious enough that he
3 should be terminated as an employee of Monsanto?

4 A. Specifically the person who made the
5 decision, I do not know.

6 Q. Okay. What department made the decision
7 that Dr. Wright's offense was serious enough that he
8 had to be terminated as an employee of Monsanto?

9 A. Since we're dealing with facts, I'll have
10 to say I do not know that.

11 Q. Okay. What's your best information?

12 A. From the file information, I see an
13 indication that he was found guilty; he was going to
14 be discharged; and it was signed by the man that I
15 report to, Bill Campbell.

16 Q. Is Mr. Campbell still employed by Monsanto?

17 A. Yes, he is.

18 Q. Okay. Have you talked to Mr. Campbell
19 about Dr. Wright's personnel file in order to
20 prepare for this deposition?

21 A. Not in any depth. Friday I told him that I
22 was going to be testifying on this, and he had no
23 comments.

24 Q. He didn't give you any --

25 A. Nor did we discuss it. I was standing in

1 his doorway at the time. I indicated where I was
2 going to be today. He did not give me any advice,
3 counsel, or comments.

4 Q. Excuse me.

5 So, the interest of Monsanto that's
6 being referred to in the text of Shirley Exhibit
7 No. 4, is what?

8 A. That's a rather broad statement. My
9 interpretation of "the interest of Monsanto" is that
10 as a -- as a good-citizen company, it's not our
11 intent to employ convicted criminals.

12 Q. Now, what activities did Dr. Wright engage
13 in that were detrimental to Monsanto's interests?

14 A. That would have been evidence of the trial,
15 borne out by the documents there. Specifically, I
16 do not know.

17 Q. Okay. And who at Monsanto would have had
18 knowledge of what evidence was borne out at the
19 criminal trial?

20 A. Certainly our law department would.

21 Q. Okay. Did you or Mr. Campbell consult with
22 the law department in connection with the decision
23 to terminate Dr. Wright's employment?

24 A. I did not.

25 Q. Do you know if he did?

1 A. No, I do not.

2 Q. And the first word of the reason for
3 terminating the employment of Dr. Wright was
4 "engaging," "engaging in activities." Did you
5 understand or did you have any understanding of the
6 time period during which Dr. Wright would have
7 engaged in these activities?

8 A. No. I'm sorry. I did not know that.

9 Q. Okay. And with regard to telling
10 Dr. Wright that his employment at Monsanto was
11 terminated, who performed that task?

12 A. The letter that you would have in the file,
13 that I took to him, indicating the date of his
14 termination was, in effect, his notice. I'm sure
15 that he was aware that his job was on the line,
16 depending on the outcome of the case. But,
17 specifically, I handled the letter.

18 Q. And did he raise any questions to you about
19 why he was being terminated or couldn't he go on an
20 unpaid leave of absence while he appealed the case
21 or questions of that sort?

22 A. No, he did not. He did not respond to my
23 letter at all.

24 Q. Okay. And the actual decision to terminate
25 Dr. Wright was made at a level of the company that

1 was higher than your level; is that correct?

2 A. That's correct.

3 Q. Even though you were the manager of
4 personnel for the technical staff?

5 A. Yes.

6 Q. Okay. And the other employee that you've
7 identified to us that was subjected to a criminal
8 trial and lost, was he a technical staff employee?

9 A. In the overall umbrella of it, yes. He's a
10 plant employee; and this particular case is a -- a
11 much, much lower level salaried employee.

12 Q. And with regard to this other employee who
13 lost a drug-related trial, did you make the decision
14 to put him on an unpaid leave of absence while he
15 appealed?

16 A. The recommendation was made to me as to
17 doing -- taking that action; and I supported it,
18 yes.

19 Q. Okay. Would that recommendation have been
20 approved if you had objected to it or vetoed it?

21 A. Yes. I could have vetoed it, yes.

22 Q. Okay. Could you have vetoed the decision
23 to put Dr. Paul Wright on a paid leave of absence
24 during his criminal case?

25 A. That's a theoretical question, in that I

1 was not asked.

2 Q. Okay. Nobody -- in the case of Dr. Wright,
3 nobody asked for your approval one way or the other?

4 A. No.

5 Q. And would it be fair to say that what
6 happened with regard to hiring a criminal lawyer for
7 Dr. Wright -- paying \$1,400,000 in connection with
8 Dr. Wright's criminal defense; putting Dr. Wright on
9 a paid leave of absence -- all those were decisions
10 that you either didn't know about or weren't asked
11 about?

12 A. Totally.

13 Q. Is that correct?

14 A. That is correct.

15 Q. Okay. And with regard to some of those
16 matters, you didn't find out about it until about a
17 week before your deposition?

18 A. Part of what you just said I found out now.

19 Q. All right. You didn't know, for example,
20 until I just told you that your company had paid
21 \$1,400,000 to help sustain Dr. Wright's defense
22 fund?

23 A. That's correct.

24 Q. Okay. Do you know of any other incidents
25 where your company has paid over a million dollars

1 in attorneys' fees to represent a Monsanto employee
2 who was criminally indicted?

3 A. I have no firsthand knowledge of anything
4 like that.

5 Q. And have you heard of anything like that,
6 ever?

7 A. No.

8 Q. Okay. If you had been asked in the 1970's
9 or in the 1980's as to whether or not Monsanto
10 should pay \$1,400,000 to help defend Dr. Wright in
11 his criminal proceedings, would you have approved
12 that action or would you have disapproved that
13 action?

14 A. I would have had no authority for approving
15 or disapproving such a -- such an action.

16 Q. Okay. And whoever made those decisions in
17 the company did them at a -- at a level that was
18 higher in the company than you were at the time?

19 A. Certainly.

20 Q. We overlapped.

21 A. I'm sorry.

22 Q. Let me ask it again --

23 A. All right.

24 Q. -- because we were talking at the same
25 time, and that's a problem.

1 Whoever made the decisions with regard
2 to Dr. Wright's paid leave of absence, employing
3 criminal counsel, paying the criminal counsel, did
4 so at a level that was higher than your level at
5 Monsanto during those times?

6 A. That is correct.

7 Q. Okay. Now, when those people at higher
8 levels than you would make these kind of decisions,
9 would those decisions find their way into
10 Dr. Wright's personnel file?

11 A. Not necessarily.

12 Q. Okay. Well, how was it that the personnel
13 department was kept apprised of what was happening
14 with regard to Dr. Wright's situation?

15 A. Actually, that would have been rather
16 infrequently, just a status report, and then finally
17 the document that you see that indicates at this
18 point in time we're going to await the sentencing in
19 making the final decision.

20 That was my knowledge that this was --
21 that a discharge was pending.

22 Q. Okay. And just so we can be clear about
23 this and not be confused, matters pertaining to
24 whether or not an employee is reassigned in his job,
25 whether or not an employee is on a leave of absence,

1 whether it's paid or not, those are matters that
2 pertain to personnel functions, aren't they?

3 A. That's normally true.

4 Q. Okay. And in the case of Paul Wright, even
5 though those matters generally or normally pertained
6 to personnel functions, you weren't apprised of the
7 specific actions which were being taken with regard
8 to Dr. Wright's situation?

9 A. That's correct.

10 Q. Okay.

11 MR. POHL: Let's take a break because
12 I want to look at these documents; and I'm getting
13 near the end, anyway.

14 And, Jon, you might call Mr. Bishop
15 up.

16 Have you gone through most of those,
17 Eric?

18 MR. NIELSEN: There's so much stuff
19 here, I don't know why these weren't produced
20 earlier.

21 MR. POHL: Let's do this: Let's take
22 about a 15-minute break and just go through them.
23 And if we've got any more later this afternoon --

24 Are you going to be here?

25 THE VIDEOGRAPHER: We're off the

1 record.

2 (Short Recess)

3 THE VIDEOGRAPHER: We've been off the
4 record for a short break. We're now back on the
5 record. The time is 10:49 a.m.

6 Q. (By Mr. Pohl) Mr. Shirley, subsequent to
7 the time that you communicated to Dr. Wright the
8 fact that his employment with Monsanto was
9 terminated, have you had any other conversations or
10 meetings with him?

11 A. No, I have not.

12 Q. Okay. To your knowledge, after Dr. Wright
13 was terminated by Monsanto, has he ever sought
14 reemployment by Monsanto?

15 A. Not to my knowledge, no, he has not.

16 Q. Okay. Are situations where employees are
17 reprimanded by their supervisors in their -- in
18 their departments documented in that employee's
19 personnel file?

20 A. That would depend on the severity of the
21 reprimand.

22 Q. Okay. What is Monsanto's procedure in that
23 regard?

24 A. In the event there's a performance problem,
25 the normal procedure would be to discuss that

1 performance problem with the employee, seeking a
2 change of action or improvement of performance or --
3 or whatever. If that fails to yield results, a
4 written document containing the problems and
5 solutions and discussions and expectations would be
6 created, which might or might not initially go to
7 the employee's file.

8 Q. If an employee, for example, commits an act
9 of theft of company property, is that the kind of
10 thing that's usually documented in the employee's
11 personnel file?

12 A. Normally, yes.

13 Q. Okay. And the punishment that comes when
14 an employee is caught misappropriating property of
15 the company, is that left to the director of the
16 employee's department?

17 A. Not entirely. We would be somewhat
18 concerned about precedent setting, but his --
19 certainly his recommendation carries good weight.

20 Q. Okay. For example, have you reviewed all
21 of Dr. Wright's file before -- personnel file before
22 giving your deposition?

23 A. Yes, I have.

24 Q. There's a document in there -- it's a
25 handwritten note, and somewhere in these documents

1 I've got it -- but it refers to him having --
2 according to his department, having been accused and
3 found to have stolen a microwave oven and some
4 animal feeds and stuff like that. Do you recall
5 that incident?

6 A. I saw the documentation that you're
7 referring to, yes.

8 Q. What was the result of -- or what action
9 was taken by Monsanto as a consequence of Dr. Wright
10 having misappropriated a microwave oven and some
11 other small things?

12 A. Well, that period of time that's documented
13 in that notation is prior to my coming into the unit
14 and having a responsibility. I noted in reading the
15 file that he was moved from his job of heading up
16 the laboratory to a new manager's -- manager of
17 special studies position.

18 Q. When Dr. Wright was rehired by Monsanto, he
19 came in as manager of toxicology. Even though that
20 was prior to the time that you were manager of
21 personnel, who would be the decisionmakers that
22 would decide at what level an employee is rehired?

23 A. In Monsanto, each professional job is
24 specifically evaluated. We use a four --
25 four-factor point system to determine appropriate

1 grade for it. And that's -- that would be the grade
2 of the job. That's a personnel function. The
3 write-up would primarily be done by the line
4 management, though.

5 Q. Okay. When Dr. Wright was to be rehired by
6 Monsanto, would the personnel department have to
7 approve the rehiring?

8 A. They would have to approve the grade
9 level. The line -- in this case, the appropriate
10 person to have made the hire decision would have
11 been Dr. Roush. I can't, without looking back in
12 the file, tell you whether he was on that spot. I
13 believe he was at the time.

14 Q. Would the personnel department have
15 conducted an interview of Dr. Wright in connection
16 with his rehiring?

17 A. Yes. They would have probably arranged the
18 panel that would have interviewed Dr. Wright, which
19 would have consisted of several technical people.

20 Q. What are the type of things that you ask
21 someone, generally, when you consider hiring or
22 rehiring them?

23 A. Well, we're looking for the experience that
24 would be applicable to the job that we had in mind.
25 We would look into their educational

1 qualifications. We'd look into their experiences.
2 We would normally expect to get a reference that
3 would substantiate that. That would be the
4 personnel department's side of that.

5 That's not always done, however.

6 Q. Okay. Was it done in Dr. Wright's case?

7 A. I have no knowledge.

8 Q. With regard to the experiences, would that
9 include the person's immediately preceding job?

10 A. Yes. Except it becomes delicate if the
11 person is still working for an employer. Quite
12 often we can't inquire into the quality of the work
13 there without jeopardizing the position.

14 Q. Could you inquire of the employee as to
15 what he had done, what his job responsibilities were
16 at his then current employment?

17 A. Yes, that's correct.

18 Q. So, in the case of Dr. Wright, for example,
19 if he was employed at IRT and Monsanto were seeking
20 to rehire him, then it would have been part of
21 Monsanto's normal procedures to inquire of
22 Dr. Wright about the nature and function of his job
23 at IRT?

24 A. Certainly.

25 Q. Okay. And one of the things Monsanto would

1 want to know is: What have you been doing for the
2 last year or two? What kind of assignments have you
3 had? How much have you been paid? Who did you
4 report to?

5 Those type of things?

6 A. Yes.

7 Q. Okay. And if the employer were ultimately
8 informed that the employee was leaving, would
9 Monsanto call the prior employer -- in this case,
10 IBT -- and ask them how the employee, such as
11 Dr. Wright, had -- had performed while an employee
12 of IBT?

13 A. The privacy laws normally prohibit us from
14 doing that. With a written release from the
15 prospective employee, we might do that after the
16 fact. But it's certainly not done on all cases.

17 Q. Okay. So, it's done in some cases, but not
18 all cases?

19 A. That's true.

20 Q. Okay. From the perspective of the
21 personnel department, would it be a fair statement
22 that you would want to find out as much as you could
23 about the Monsanto prospective employee's prior
24 employment so you could have as many facts as
25 possible upon which you would base your decision to

1 hire or not to hire?

2 A. That's always a good decision. That's
3 always a good procedure to follow.

4 Q. And if Dr. Wright had been willing, there's
5 no reason why Monsanto couldn't have contacted IBT
6 and asked how he had performed at IBT?

7 A. That's correct.

8 Q. There's been an indication in the
9 depositions that we have taken that nobody asked
10 Dr. Wright any questions whatsoever about his
11 employment at IBT.

12 A. Uh-huh.

13 Q. Do you know or have any knowledge as to why
14 no one at Monsanto would have asked Dr. Wright
15 anything about IBT in connection with his
16 reemployment by Monsanto?

17 A. A short answer is "no." However, I would
18 comment to you that he was a prior employee and was
19 a proven asset when he left on his good accord. He
20 was seeking to come back. We tend to be less
21 investigative on rehires than we do on original
22 hires.

23 Q. Okay. Well, would it still be a true
24 statement that -- that from the perspective of the
25 personnel department, you would have wanted to know

1 as much as possible about what Dr. Wright had done
2 while he was off, employed by somebody else?

3 A. That would be the basis for rehiring him.

4 Q. Sure. And if Dr. Wright had done a real
5 bad job at IHT or had had a lot of unexcused
6 absences, had gotten into criminal problems,
7 whatever, those might -- those facts might have
8 affected your decision in the personnel department
9 as to whether or not you would concur in his
10 rehiring; is that correct?

11 MR. SHOEBOTHAM: I object to the form
12 of the question. The question is multifarious.
13 It's complicated. It also ignores Mr. Shirley's
14 testimony that on a rehire the type of investigation
15 that would be done would be different.

16 Q. (By Mr. Pohl) Let me break it down because
17 Jon is probably right. It may have been a little
18 long.

19 In a rehire situation, where someone,
20 such as Dr. Wright, had previously been employed by
21 Monsanto, would the company still want to know, from
22 the perspective of the personnel department, the
23 type of job performance that your former employee
24 had achieved while employed by another company?

25 A. That would be good information to have, but

1 I'm personally aware of many situations where we
2 have called an ex-employee who is off working for
3 another company and said, "Hey, we have a spot here
4 that looks great for you. If you're interested,
5 come on down. Let's talk about it." And we have
6 rehired with a minimum amount of investigation.

7 Q. Have you ever rehired with absolutely no
8 investigation?

9 A. Yes.

10 Q. Other than in the case of Paul Wright?

11 A. Yes.

12 Q. Okay. So, that's acceptable procedure at
13 Monsanto?

14 A. The shorter the time -- the shorter time a
15 person might be away from Monsanto employment, the
16 more likely we are to handle that rather cavalier.

17 Q. Well, 18 months is not that short a period
18 of time, is it?

19 A. It's relative. Yes, I think so.

20 Q. Okay. Well, I think you've answered the
21 question.

22 Monsanto also hired another employee
23 who had previously been hired by IBT; isn't that
24 correct?

25 A. I'm not aware of that.

1 Q. You don't?

2 A. Uh-uh.

3 Q. Okay. Do you know a person name Manual
4 Reyna?

5 A. Manual Rainer?

6 Q. Reyna, R E Y N A.

7 A. No. I've heard that last name before, and
8 I -- I remember hearing the name "Manny."

9 Q. That's it, Manny Reyna.

10 A. And it might -- that might be it, but it's
11 just a name I've heard.

12 Q. Okay. You don't recall anything about the
13 procedures for his hiring by Monsanto?

14 A. Not at all, no.

15 Q. Okay. Do you know if Dr. Levinskas has
16 ever received any merit awards by Monsanto?

17 A. To clarify terminology, our normal
18 increases at Monsanto are called "merit" -- "merit
19 pay increases."

20 Q. Okay. I'm talking about the special merit
21 award.

22 A. An achievement award, a bonus, a special
23 payment, yes, he has.

24 Q. Okay. Have any of those pertained to his
25 actions with regard to PCB's?

1 A. Dr. Levinskas is in a different
2 classification than Dr. Wright, and his bonus
3 program pays off based on the company's
4 performance.

5 He is a member of key management. He
6 normally gets a bonus annually. It's not written
7 up.

8 Q. All right. So, Dr. Levinskas' merit bonus
9 would not be based on a particularly good job by
10 him, but on how well the company performed in terms
11 of making a profit?

12 A. That's true. Or -- or against its goals,
13 not necessarily a profit.

14 Q. So, then, if Dr. Wright were successful in
15 forestalling the EPA's promulgation of unrealistic
16 regulations that would have barred the discharge of
17 PCB's into the environment, which would have
18 resulted in a loss of sales to Monsanto, then
19 Monsanto's retention of those sales and the profits
20 thereon would indirectly accrue to Dr. Levinskas'
21 benefit?

22 MR. SHOEBOOTHAM: I object to the form
23 of the question. Mr. Shirley has told you
24 previously that the award that you're referring to
25 was a technical award awarded by technical people,

1 and I think you're indirectly trying to get him to
2 comment on that.

3 Q. (By Mr. Pohl) Well, in terms of procedure,
4 Mr. Shirley, if an employee, such as Dr. Wright,
5 were to take actions and to do things that would
6 increase the bottom-line profits of Monsanto, would
7 that, as a matter of company policy, accrue to the
8 benefit of people who were in key management, such
9 as Dr. Levinskas?

10 A. The overall profitability of the company
11 against the goals that are set each year are
12 influenced by many factors. That could certainly be
13 a factor.

14 Q. Okay.

15 A. But it would just be one of many.

16 Q. It would be a factor?

17 A. Certainly.

18 Q. And you talk -- you say -- in terms of the
19 goals set by the company, does that mean it's
20 performance vis-a-vis the budget of the company?

21 A. Well, it will be a bonus that is set at our
22 highest levels -- by our president, chairman of
23 board, the board of directors -- that would be used
24 to measure whether or not the performance had been
25 adequate to pay the key managers a bonus and, if so,

1 what level of bonus.

2 Q. And is that with regard to the company as
3 it pertains to its American operations or its
4 worldwide operations?

5 A. I'm not aware of the connection -- I only
6 know domestically. I can't comment on that.

7 Q. So, Dr. Levinskas, then, being a member of
8 key management, would receive a bonus based upon
9 the -- at least the performance of Monsanto
10 nationwide?

11 A. Well, yes, that's true.

12 Q. And if an employee was successful in
13 preventing action which would have precluded the use
14 of a particular material by one of Monsanto's
15 customers, then that is the type of action that
16 would indirectly or could indirectly accrue to the
17 benefit of a key manager of the company?

18 MR. SHOEBOOTHAM: I object again. In
19 addition to my previous objection that it's an
20 indirect attempt to get Mr. Shirley to comment on
21 the substance of the Paul Wright merit bonus, that
22 question is also vague and ambiguous.

23 Q. (By Mr. Pohl) You can answer.

24 A. I would be drawing a conclusion in
25 answering that question that I don't feel qualified

1 to do.

2 MR. POHL: I'll pass the witness.

3 MR. SHOEBOTHAM: Could we take a quick
4 break?

5 MR. POHL: Sure.

6 THE VIDEOGRAPHER: We're off the
7 record.

8 (Short Recess)

9 THE VIDEOGRAPHER: We've been off the
10 record for a short break. We're now back on the
11 record. The time is 11:15 a.m.

12

13

14 EXAMINATION BY MR. SHOEBOTHAM:

15 Q. Mr. Shirley, my name is Jon Shoebbotham.

16 I'm a lawyer from Houston, Texas. And, as you know,
17 I represent Monsanto Company here today.

18 I have just a few questions to follow
19 up some of the things that Mr. Pohl asked you.

20 First of all, in the area of the merit
21 raise and the bonuses that Dr. Wright received, that
22 you discussed with Mr. Pohl, with regard to the
23 bonuses, the two bonuses, that Dr. Wright received,
24 would that be unusual for an employee of
25 Dr. Wright's level to receive bonuses of that type?

1 A. No, it is not. I mentioned earlier
2 approximately one-third of our managers of that
3 level would receive a bonus at any time that he
4 might have done something deserving.

5 Q. Would that be true during the 1975 to 1976
6 time frame?

7 A. Yes. That was the program that was in
8 effect at that time.

9 Q. Okay. So, between '75 and '76, about
10 one-third of the managers at Monsanto who would be
11 at Dr. Wright's level would have received a bonus of
12 that type?

13 A. That's true.

14 Q. Have you yourself received bonuses of that
15 type while you've been employed at Monsanto?

16 A. Yes, I have. Over a period of years, I've
17 received a half a dozen such bonuses.

18 Q. Is there anything unusual about Dr. Wright
19 receiving a raise during that same time frame?

20 A. The two programs are independent. The
21 Monsanto employees, professional and the
22 nontechnical, are normally reviewed annually. That
23 timing may go longer than a year; it may go less
24 than a year. Most employees receive a 12-month
25 increase, and they do that on a calendar basis. In

1 other words, if -- ideally, we would have as many
2 people getting a raise in January as December.

3 Q. So, all of the employees at Dr. Wright's
4 level would have been at least reviewed for a raise
5 during the '75 to '76 time frame?

6 A. Yes, that's true.

7 Q. Let me ask you about the practice at
8 Monsanto concerning an employee who might be
9 convicted of a crime. You recall answering some
10 questions of that type for Mr. Pohl?

11 A. Yes, I do.

12 Q. What is the practice at Monsanto in the
13 event that an employee should be convicted of a
14 crime that's serious enough that that employee might
15 have to go to jail?

16 A. Normally that employee is going to be
17 terminated at that point.

18 Q. Is that the usual practice at Monsanto, is
19 that the employee will be terminated at such time
20 that he is convicted?

21 A. Yes, it is.

22 Q. You told Mr. Pohl about one case in which
23 an employee of Monsanto was placed on an unpaid
24 leave at the time of conviction. Do you recall that
25 testimony?

1 A. Yes, I do.

2 Q. Was there anything unusual or unique about
3 that particular case?

4 A. Yes, in that this was an employee of our
5 Miamisburg, Ohio, operation, which we operate for
6 the Federal Government. All of our employees there
7 have Q clearances, which is a top-secret atomic
8 clearance.

9 Being accused of a major crime will
10 cause the Department of Energy to pull a clearance.
11 But there are procedures involved that the employee
12 has a year to appeal that decision to pull the
13 clearance, during which time we cannot normally
14 discharge that employee.

15 Q. Is that employee's salary reimbursed by the
16 Department of Energy?

17 A. Yes. All the -- the operating expenses of
18 the Miamisburg location are -- are totally
19 reimbursable with -- with very few exceptions.

20 And on top of the cost-plus, we are
21 given a bonus or a -- an award on an annual basis
22 for operating the facility.

23 Q. So, in the instance of that particular
24 employee that you told Mr. Pohl about, because of
25 the employee's relationship with the Department of

1 Energy, Monsanto is not in a position to terminate
2 him?

3 A. That's true.

4 Q. Let me ask you some questions, Mr. Shirley,
5 about the key management bonus program that you told
6 Mr. Pohl about. Do you recall your testimony that
7 Dr. Levinskas was on the key management bonus
8 program?

9 A. Yes.

10 Q. When was the key management bonus program
11 placed into effect?

12 A. As I recall, both the key and the select
13 program came into being in 1978.

14 Q. So, the program by which Dr. Levinskas'
15 bonuses had some relationship to the performance of
16 the company was not in place until 1978?

17 A. That's to the best of my memory.

18 Q. Thank you, Mr. Shirley.

19 MR. SHOEBOOTHAM: I'll pass the
20 witness.

21

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1 RE-EXAMINATION BY MR. POHL:

2 Q. Just a few questions, Mr. Shirley.

3 You indicated you received
4 approximately a half a dozen merit bonuses while you
5 were employed by Monsanto?

6 A. Yes, I have.

7 Q. And for how long have you been employed?

8 A. Twenty-two years.

9 Q. Twenty-two years. So, over 22 years, you
10 received approximately six merit bonuses?

11 A. Yes, I have.

12 Q. Okay. And, so, when you indicate that a
13 third of the managers receive merit bonuses, that's
14 not to imply in any way that you -- that a third
15 receive it -- receive a merit bonus every year; is
16 that correct?

17 A. Approximately a third will receive a bonus
18 each year, yes. Quite often it will be some of the
19 same ones, who will continue to get increases,
20 because they perform in that manner. But hopefully
21 there's a good mix, that new people will roll in.

22 The money is there. The managers are
23 encouraged to spend that money. It's a motivational
24 tool.

25 Q. Okay. And do you consider yourself to be a

1 good employee of Monsanto?

2 A. Yes, I do.

3 Q. And in your particular case, you've
4 received six merit bonuses over 22 years?

5 A. Yes.

6 Q. Okay. And have you ever received two merit
7 bonuses within less than 12 months?

8 A. I have received -- on 12-month
9 anniversaries, I have, on three occasions; but not
10 within the 12 months.

11 Q. Okay. You've never received -- ignoring
12 pay raises now. Okay?

13 A. Yes.

14 Q. You've never received merit awards or merit
15 bonuses, over and above pay raises, in as close a
16 frequency as those which we've talked about today
17 for Paul Wright?

18 A. Yes, I have, because as I -- as I pointed
19 out earlier, the programs are independent of each
20 other. As all Monsanto professional employees --
21 just to stay with that group of people -- are going
22 to get an annual review for salary increase. That's
23 independent of any bonus actions.

24 Q. Sure. And I want to ignore that for a
25 moment. Ignore the yearly salary increases --

1 A. All right.

2 Q. -- or salary bonuses.

3 A. All right.

4 Q. I'm talking about just the special merit
5 bonuses --

6 A. Right.

7 Q. -- for the bonus program --

8 A. Extra. Right.

9 Q. -- for work above and beyond the call of
10 duty.

11 A. Right.

12 Q. Okay?

13 A. Right.

14 Q. Have you ever received those type of merit
15 bonuses for activities above and beyond the call of
16 duty in as close a frequency as Paul Wright did?

17 A. I have not personally.

18 Q. Okay. Now, with regard to the one-third of
19 the managers who would normally receive merit
20 bonuses, those are people who would be -- the
21 managers would be -- all managers would be eligible
22 for merit bonuses --

23 A. That's true.

24 Q. -- correct?

25 A. Yes.

1 Q. And from that group, the department heads
2 would select from among them those that they would
3 recommend to receive this merit award?

4 A. Right.

5 Q. And they would also suggest an amount of
6 money that might accompany the merit award?

7 A. That's right. They're given some general
8 guidelines. They know what they can expect that
9 would be approved as it goes up the line for
10 approval.

11 Q. Is a merit award, for example, in the
12 amount of \$2500, would that be a large or a small
13 merit award in the mid 1970's?

14 A. In the mid Seventies? It would -- the best
15 answer to that probably would be to determine what
16 percentage of pay that was at the time. The award
17 well might be in a 10 to 20 percent range. If it
18 were more or less than that, we might question it.

19 Q. Okay. You indicated, I believe, in
20 response to your attorney's questions that it's the
21 usual practice of your company to terminate an
22 employee who was convicted of a crime?

23 A. Convicted of a crime, yes, that's true.

24 Q. All right. And that's not all crimes, as
25 we established earlier; is that correct?

1 A. That's correct.

2 Q. It has to be a somewhat serious crime
3 before Monsanto will terminate the employee upon
4 conviction; is that correct?

5 A. Well, we get into a matter of definition,
6 but --

7 Q. Generally speaking.

8 A. Generally speaking we're not -- we're not
9 violating folks normally for traffic conviction,
10 although that's certainly not entirely out of the
11 question either.

12 Q. Okay. But it's not the usual practice of
13 Monsanto, so far as you know, to hire the suspected
14 criminal's attorney; is that correct?

15 A. I'm not aware of other cases.

16 Q. You're not aware that that's the accepted
17 practice or usual practice at Monsanto, are you?

18 A. No, I'm not aware of that.

19 Q. Okay.

20 MR. POHL: Pass the witness.

21 - - - - -

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1 RE-EXAMINATION BY MR. SHOEBOTHAM:

2 Q. Mr. Shirley, just a couple of more
3 questions.

4 Are you -- with regard to the merit
5 bonuses, have other employees at Monsanto received
6 two merit bonuses within a one-year period of time?

7 A. Yes, they have. I can recall instances
8 where employees received two bonuses within a
9 quarter.

10 Q. Okay. So, that's not unusual and would not
11 have been unusual back in the mid Seventies, for an
12 employee to receive two merit bonuses within a
13 one-year period of time?

14 A. That's true.

15 MR. SHOEBOTHAM: No further questions.

16 Thank you.

17 MR. POHL: That's all I have. Thank
18 you so much.

19 THE VIDEOGRAPHER: This concludes
20 Mr. Shirley's deposition. The time is now 11:25
21 a.m. We're off the record.

22 (The Deposition was Concluded)

23 * * * * *

SIGNATURE OF WITNESS

I, ROBERT EUGENE SHIRLEY, solemnly swear or affirm, under the pains and penalties of perjury, that the foregoing 81 pages contain a true and correct transcript of the testimony given by me at the time and place stated, with the corrections, if any, and the reasons therefor noted on a separate sheet of paper and attached hereto; and that I am signing this before a Notary Public.

ROBERT EUGENE SHIRLEY

THE STATE OF TEXAS:

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, by the witness, ROBERT EUGENE SHIRLEY, on this the _____ day of _____, 1987.

Notary Public in and for
The State of Texas

My commission expires:

1 THE STATE OF TEXAS:

2 I, Cheryll K. LeFevers, a Certified
3 Shorthand Reporter, hereby certify that the
4 foregoing testimony was given before me after the
5 Witness had been first duly sworn.

6 I further certify that I prepared this
7 transcript and that the foregoing pages constitute a
8 complete and correct copy of the transcript of the
9 proceedings.

10 I further certify that I am neither
11 attorney for, related to, nor employed by any of the
12 parties to the lawsuit in which this deposition was
13 taken; further, I am neither related to nor employed
14 by any attorney of record in this cause, nor do I
15 have a financial interest in the matter.

16
17 GIVEN UNDER MY HAND AND SEAL OF OFFICE
18 in Houston, Texas, on this the 7th day of July,
19 1987.

20
21 
22 Cheryll K. LeFevers, CSR, CP, CM

23 Certification Number: 1690
24 Date of Expiration: December 31, 1988
25 Address: 2900 Smith Street, Suite 104
Houston, Texas 77006
Phone: 713/523-3767

Page Line

[illegible]

EXHIBIT #

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

CECIL SCOTT, et al

Plaintiffs

V.

C. A. NO. B-84-1103-CA

MONSANTO COMPANY

Defendant

PLAINTIFFS' NOTICE OF INTENTION
TO TAKE VIDEOTAPED ORAL DEPOSITION
AND SUBPOENA DUCES TECUM

TO: Defendant, MONSANTO COMPANY, by and through its counsel of record, Mr. Jonathan B. Shoebottom and Mr. Robert A. Hall, Woodard, Hall & Primm, 4700 Texas Commerce Tower, Houston, Texas 77002

Mr. Walter J. Crawford, Jr., Wells, Peyton, Beard, Greenberg, Hunt & Crawford, 624 Petroleum Bldg., P. O. Box 3708, Beaumont, Texas 77704

Mr. John M. Johnson, Mr. Warren B. Lightfoot, Bradley, Arant, Rose & White, 1400 Park Place Tower, Birmingham, Alabama 35203

Mr. Michael R. Fruewald, Mr. Michael Rosiello, Ms. Anne C. McGown, Barnes & Thornburg, 1313 Merchants Bank Bldg. 11 South Meridian Street, Indianapolis, Indiana 46204

Pursuant to the provisions of Rule 30(b)(6) of the Federal Rules of Civil Procedure, the Plaintiffs in this cause hereby give notice to the Defendant that the videotaped oral deposition of the representative(s) of Monsanto Company will be taken on the date and time and at the place hereinafter stated. Specifically, the Plaintiffs intend to take the videotaped oral deposition of the

Shirley & Bishop Et al #1
CK 6-29-87 00001

representative(s) designated by Defendant pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure and charged with the responsibility for maintaining custody of the documents listed below and such designated representative(s) shall testify as to matters known or reasonably available to the Defendant as well as the custody of the herein designated records and their maintenance by Defendant:

I. Public Relations

- a. The person most knowledgeable about the management and/or direction of Monsanto's public relations department during the 1970's; and,
- b. The person most knowledgeable about any and all press releases involving Dr. Parvis Pour, the work of Dr. Renata Kimbrough, IBT and the environmental or human health effects of PCBs.

II. Personnel Department

- a. The person most knowledgeable about the management and/or direction of Monsanto's personnel department during the 1970's;
- b. The person most knowledgeable about the raises, promotions and merit awards of Dr. Paul L. Wright; and,
- c. The person most knowledgeable about any and all documents prepared and executed in connection with the termination of the employment of Dr. Paul L. Wright.

The deposition will be taken at the offices of Bruntrager, Bruntrager & Billings, 1015 Locust, Suite 1140, St. Louis, Missouri 63101 beginning at 9:00 a.m. on Monday, June 29, 1987, and shall continue until completed.

This oral deposition will be taken before a certified court reporter. The testimony given during this oral deposition will be used as evidence in this matter, together with the documents produced at this deposition. You are invited to attend and cross-examine.

Pursuant to Rules 30(b)(5) and 34 of the Federal Rules of Civil Procedure, certain documents shall be produced by the designated representative(s) or custodian(s) of Monsanto Company (referred to herein as "Monsanto") at the commencement of the oral deposition or prior thereto by agreement of counsel. The originals and all drafts of the requested documents named in Exhibit "A" shall be produced.

Unless otherwise specified herein, the documents to be produced include all documents in the possession of Monsanto from the date of the first production or manufacture of PCBs in any form by Monsanto to the present time.

As used in this notice, the term "documents" means any printed, typewritten or handwritten matter, or reproduction thereof, of whatever character, in the possession, custody or control of a witness or his agents, representatives or employees, including without limitation, correspondence, contracts, memoranda, agreements, letters, brochures, reports, handwritten or typewritten notes, sound recordings or transcriptions thereof, computer print-outs, inter-company and intra-company communications, work papers, diaries, calendar pads, appointment books, ledgers,

financial statements, checks, bank drafts and writings of whatever kind and character, whether originals or reproductions, and whether in draft or final form, including copies bearing different markings or notations.

By: Michael A. Pohl
MICHAEL A. POHL

OF COUNSEL:

David M. Lacey
GILPIN, POHL & BENNETT
1300 Post Oak Blvd.
Allied Bank Tower, 23rd Floor
Houston, Texas 77056
(713) 623-8800

Joseph C. Blanks
REAUD, MORGAN & QUINN
909 Laurel Avenue
Beaumont, Texas 77701
(409) 838-9941

Thomas Henderson
HENDERSON & GOLDBERG
1030 Fifth Avenue
Pittsburgh, Pennsylvania 15219

Benton Musslewhite
LAW OFFICES OF BENTON MUSSLEWHITE
609 Fannin, Suite 517
Houston, Texas 77002
(713) 222-2288

David S. McCrea
McCREA & McCREA
119 S. Walnut Street
Bloomington, Indiana 47402
(812) 336-4840

ATTORNEYS FOR PLAINTIFFS,
CECIL SCOTT, ET AL.

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of June, 1987, a duplicate original of the foregoing Plaintiffs' Notice of Intention to Take Oral Deposition was filed with the Clerk of the Court for the Eastern District of Texas, Beaumont Division. I also certify that a true and correct copy of this Notice was served upon counsel of record on the 26th day of June, 1987, by messenger delivery and/or by placing same in the United States mail, certified mail, return receipt requested, postage prepaid and addressed as follows:

Mr. Robert A. Hall
Mr. Jonathan B. Shoebottom
Woodard, Hall & Primm
4700 Texas Commerce Tower
Houston, Texas 77002

Mr. Walter J. Crawford, Jr.
Wells, Peyton, Beard, Greenberg,
Hunt & Crawford
P. O. Box 3708
Beaumont, Texas 77704

Mr. John M. Johnson
Mr. Warren B. Lightfoot
Bradley, Arant, Rose & White
1400 Park Place Tower
Birmingham, Alabama 35203

Mr. Michael R. Fruewald
Mr. Michael Rosiello
Ms. Anne C. McGown
Barnes & Thornburg
1313 Merchants Bank Bldg.
11 South Meridian Street
Indianapolis, Indiana 46204



MICHAEL A. POHL

MAP:jar/scottmon/054

EXHIBIT "A"

SUBPOENA DUCES TECUM

1. All documents identified in the letter from Mike Pohl to Jon Shoebotham dated June 19, 1987;
2. A document stating the total amounts spent by Monsanto with IBT during each year that Monsanto utilized the services of IBT and, to the extent a separate breakout exists, the amount spent by Monsanto with IBT in connection with PCB related studies for each year that such studies were conducted;
3. Any manual, pamphlet, corporate policy document or memorandum of Monsanto stating or referring to Monsanto's standards from 1965 to date for the conducting of Monsanto or Monsanto sponsored toxicological studies;
4. Any investigative or background file pertaining to or referring to Dr. Renata Kimbrough, Dr. Parvis Pour, Dr. Ward Richter, Dr. Donovan Gordon and/or Dr. Paul L. Wright;
5. All correspondence to or from Dr. William Rivelin and any reports prepared by him which pertain to PCBs;
6. Any document pertaining to meetings between Monsanto and any employee or agency of the United States government in the fall of 1975 regarding PCBs including trip reports, correspondence to or from IBT, memorandums, hand-written notes, photographs, expense reimbursement requests, travel itineraries, etc.;
7. Any document pertaining to any trip by a Monsanto employee to Europe with any employee of IBT;
8. All Electrical Power Research Institute reports, articles, papers, etc. pertaining or relating to PCBs or excerpts therefrom which were shown or otherwise made available to Monsanto's expert witnesses; and,
9. Any correspondence by or between Monsanto and Nalco regarding Monsanto sponsored IBT Aroclor studies, PCBs, the employment of Dr. Paul L. Wright or changes or alterations in connection with any IBT Aroclor report or the backdating of any documents by IBT for or in collaboration with Monsanto.

MAP:jar/scottmon/087

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EXHIBIT

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GILPIN, POHL & BENNETT

ATTORNEYS AT LAW

ALLIED BANK TOWER, 13RD FLOOR

1300 POST OAK BOULEVARD

HOUSTON, TEXAS 77058

713 823-8800

TWX 910 881-7773 3PM HOUSTEX

June 19, 1987

Mr. Jonathan Shoebbotham
Woodard, Hall & Primm
4700 Texas Commerce Tower
Houston, Texas 77002

HAND DELIVERY

RE: C. A. No. B-84-1103CA; Cecil Scott, et al v.
Monsanto Company; In the United States District
Court for the Southern District of Texas; Beaumont
Division

Dear Jon:

In connection with the depositions of Dan Bishop and
Robert Shirley, I would like for Monsanto to produce the
following documents:

1. All documents to or from any agency of the United
States government regarding Dr. Paul L. Wright
(probation report, employment information, etc.);
2. All documents submitted by Dr. Wright to any
agency of the United States government in
connection with Dr. Wright's successful effort to
forestall unrealistic government regulations as
they pertain to the discharge of PCBs (See SCM
058795);
3. All communications between Monsanto and Dow
Chemical with regard to (a) the possible adverse
health effects of Maleic Anhydride and/or (b) Dr.
Paul Wright's efforts to forestall action by Dow
Chemical in regard to Dow Chemical's product
stewardship problem (See SCM 058799);
4. All documents pertaining to the termination of the
employment of Dr. Paul L. Wright which have not
heretofore been produced;
5. All those policies, standards or procedures of
Monsanto with regard to the use or employment of
independent toxicological testing laboratories
applicable to the period 1965 through 1977;

Shirley & Bishop Ex #2
CKX 6-29-87

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6. Any and all documents pertaining to primate studies conducted by or for Monsanto with regard to Monsanto's PCB products;
7. All internal documents authored by Monsanto with regard to PCB primate studies conducted by or for Monsanto;
8. Any and all documents regarding potential hamster studies by or for or regarding Monsanto's PCB products;
9. Any document pertaining to conversations between Robert Shirley and any other employee of Monsanto with regard to (a) the IBT criminal investigation, (b) the criminal indictment of Dr. Paul L. Wright, and/or (c) the United States v. Calandra criminal trial;
10. Any document whatsoever pertaining to conversations between Mr. Shirley and Dr. Rousch regarding the involvement of Dr. Rousch and/or employees of Monsanto's medical department in connection with (a) the criminal indictment of Dr. Paul L. Wright, (b) the trial of United States v. Calandra, and/or (c) the relationship between Monsanto and IBT;
11. All communications between Monsanto and the Eppley Institute or Dr. P. Pour pertaining to PCBs, IBT and/or Dr. Ranada Kimbrough;
12. Any document pertaining to Monsanto's retention of the Eppley Institute and/or Dr. P. Pour in regard to any PCB related matter;
13. All invoices from Dr. Pour and/or the Eppley Institute in connection with those services pertaining in any way to PCBs;
14. A document which would evidence the total amount paid to the Eppley Institute and/or Dr. P. Pour (including expenses) in connection with PCB related matters or alternatively, all cancelled checks;
15. All documents commenting or discussing or mentioning the report(s) of (a) Dr. P. Pour and/or (b) Dr. R. Kimbrough;

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16. All actual or proposed press releases regarding the PCB related report of Dr. Pour, other than SCM 058058, SCM 058337 and SCM 058338-340;
17. All documents pertaining to the 1976 PCB position paper prepared or authored by Dan R. Bishop;
18. Any and all documents gathered or produced by the Monsanto task force ("Monsanto IBT Task Force") (See e.g., SCM 068317) formed to undertake the validation or investigation of matters pertaining to Industrial Bio-Test Laboratories, Inc. ("IBT") and/or the studies performed by IBT for Monsanto;
19. All report(s) of the Monsanto IBT Task Force to the management and/or Board of Directors of Monsanto;
20. All documents created or compiled by the Monsanto IBT Task Force;
21. The entire contents of the files of the Monsanto IBT Task Force;
22. All records generated by, received by or under the direction or control of Monsanto with regard to the activities of Booz, Allen and Hamilton as such activities relate or pertain to IBT and/or Monsanto products tested by IBT;
23. Any document containing or referring to any assertion to the government, the news media, any customer or others that Monsanto (a) did not misrepresent to the government the hazards of PCBs, (b) did not conceal from the government or Monsanto's customers vital information with regard to the hazards of PCBs, (c) did not act unethically or illegally in its dealings with IBT, or (d) did not request or direct any changes in the test reports of IBT with regard to Monsanto products;
24. All documents recording expenses or fees paid by Monsanto in connection with United States v. Calandra, et al including expert witness fees, travel expenses, witness fees, out of pocket trial expenses, local counsel fees, joint defense costs, etc. other than those documents attached as exhibits to the deposition of Mr. Duesenberg;

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25. The complete files of F. C. Richfeld, R. T. Berendt, M. C. Throdahl, P. J. Arnold and Dan R. Bishop regarding United States v. Calandra; Dr. Paul Wright; the termination of Dr. Wright's employment by Monsanto; Dr. Wright's job performance at Monsanto; and/or, Monsanto's dealings with IBT other than those documents attached as exhibits to the deposition of Mr. Duesenberg; and,
26. The complete contents of the file(s) of D. R. Bishop and his department as such file(s) pertain to (a) Monsanto's manufacturing and/or sale of PCBs, (b) the governmental ban on the manufacturing and/or use of PCBs, (c) incidents of human exposure to PCBs, (d) the health effects of exposure to PCBs, (e) United States v. Calandra, et al, (f) Dr. Paul L. Wright, (g) litigation against Monsanto which litigations pertain(ed) in any way to PCBs, (h) the work performed by Dr. Paruis Pour for Monsanto in connection with Monsanto's PCB products, and/or (i) the contaminants and by-products of PCBs including furans and dioxins.

I would appreciate Monsanto producing all of these documents, whether heretofore produced or not, unless otherwise stated above, at Friday's depositions. If possible, I would like for you to produce these documents sometime Wednesday because I plan to leave on Thursday afternoon to go to St. Louis.

Very truly yours,

/s/

Michael A. Pohl

MAP:jar/scottmon/022

cc: ✓ Mr. Thomas Henderson
Mr. Joseph C. Blanks
Mr. David M. Lacey

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EXHIBIT
#3

Monsanto

ACHIEVEMENT AWARD DATA SHEET

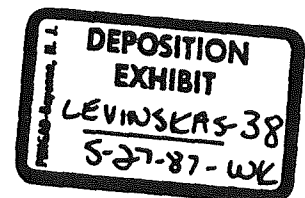
Name of Nominee Paul L. Wright			Location Creve Coeur		
Company Unit or Staff Dept. Med. & Env. Hlth.		Division	Business Group	Department	
Position Title Toxicology Manager		Salary Grade 19	Annual Salary \$14,000	Date of Last Increase 2/1/76	
Performance		Growth	Date Last Employee Review		
Type of Award (Select the award category from the opposite side of this sheet which most appropriately describes the award and enter the category and code below.)					
Award Category Technical - Accomplishment of significant results					Category Code Number 106

Describe the achievement and its significance to Monsanto below:

At a recent meeting in Creve Coeur, Glenn Schweitzer, head of the Office of Toxic Substances of EPA, offered some interesting comments. He observed that Monsanto's toxicologists were held in high regard at EPA. However, since it lacked an in-house toxicology facility, Monsanto as a company was not as highly regarded overall as duPont, Carbide, or Dow.

Dr. Wright's professional and personal characteristics have contributed significantly to Monsanto's image at EPA. He has shown unusual perseverance and dedication, frequently involving his own time, to review and interpret large volumes of data which he subsequently organized for presentation to EPA officials. Particularly noteworthy were his efforts on polychlorinated biphenyls (Aroclors) and chlorinated isocyanurates (ACL products). In the former instance, his excellent analysis and synthesis of widely scattered observations played a prominent role in forestalling EPA's promulgation of unrealistic regulations to limit discharges of polychlorinated biphenyls. EPA's proposed regulations would have precluded the use of these materials -- Monsanto's customers. With respect to chlorinated isocyanurates, Dr. Wright has had several contacts with individual scientists at EPA to answer specific questions that they had raised or to inform them of the status of additional studies which had been undertaken.

Overall, by virtue of the qualities of leadership which Dr. Wright has displayed, he has made an important contribution to Monsanto's image at EPA. That favorable image will become increasingly important to Monsanto as the areas of interaction with EPA multiply.



Recommended By:	Date	Award Amount Recommended:	Approved By:	Date	Award amount approved for payment:
<i>[Signature]</i>	16 July '78		<i>[Signature]</i>	7/4/78	<i>[Signature]</i>

CC: [unclear] (K. [unclear])

Shirley E. #3
OK 6-29-87

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SCM 058795

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EXHIBIT

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PROB 14D
(3/84)

UNITED STATES DISTRICT COURT
FEDERAL PROBATION SYSTEM

REQUEST FOR EMPLOYMENT DATA

ADDRESS OF PROBATION OFFICE

111 U.S. Court & Custom House
1114 Market Street
St. Louis, MO 63101-2071

Personnel Department
Monsanto Company
800 North Lindbergh Blvd.
St. Louis, MO 63141

Dear Sir:

The person identified below is under investigation by this office. The information requested is needed to complete this investigation. Your cooperation will be greatly appreciated.

Please return this form within three days in the enclosed envelope. Postage is necessary.

Patricia A. Pickett

SIGNATURE OF PROBATION OFFICER

NAME OF PERSON BEING INVESTIGATED (Last - First - Middle)

WRIGHT, Paul Lee

ADDRESS OF PERSON BEING INVESTIGATED

2001 North Geyer Rd.
St. Louis, MO 63131

DATE OF BIRTH

1/24/35

PLACE OF BIRTH

South Bend, Indiana

SEX

M

RACE

White

ALSO KNOWN AS

SOCIAL SECURITY NUMBER

308-34-3416

States employed from Nov., 1972, to Feb. 29, 1984, as manager of special projects in Dept. of Medical & Environmental Health earning \$55,000 per year. Please INFORMATION DESIRED verify.

WAS THIS PERSON EVER IN YOUR EMPLOY?

☒ YES

☐ NO

IF "YES" GIVE DATE STARTED

11/1/72

DATE LEFT

2/29/84

SALARY OR WAGE

\$55,000

POSITIONS HELD

Mgr. Special Studies
Environmental Policy Staff

REASON FOR TERMINATING EMPLOYMENT

Engaging in activities detrimental to Monsanto's interest.

WAS THIS PERSON'S SALARY ATTACHED?

☐ YES

☐ NO

WOULD YOU CONSIDER REEMPLOYING THIS PERSON?

☐ YES

☒ NO

REMARKS (Concerning this person's attendance, ability, industry, reliability, and different times employed by your organization.)

AUTHORIZATION TO RELEASE CONFIDENTIAL INFORMATION form attached.

SIGNATURE OF EMPLOYER

Shirley E. #4

TITLE

Mgr. Personnel

DATE

3/19/84

FPI-MAR-8-23-78-78N-0081

PAP:rc1

IF ADDITIONAL SPACE IS REQUIRED, USE REVERSE SIDE

SCM 058742

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