

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS

3 ALICE L. WARREN, ADMINISTRATRIX
4 OF THE ESTATE OF JOHN H. WARREN,
5 DECEASED,

6 Plaintiff,

7 v.

Civil Action
No. 89-30201-F

8 THE DOW CHEMICAL COMPANY,
9 THE B.F. GOODRICH COMPANY,
UNION CARBIDE COMPANY, AND
CONTINENTAL OIL COMPANY,

10 Defendants.

11
12 DEPOSITION OF ANNA M. CLARK
13 TAKEN BY KEITH A. MINOFF
14 ON BEHALF OF THE PLAINTIFF
MAY 23, 1991

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19 REPORTED BY LAURA LYNN MURPHY
20 REGISTERED PROFESSIONAL REPORTER - CERTIFICATE OF MERIT
21 CERTIFIED SHORTHAND REPORTER

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ALICE L. WARREN, ADMINISTRATRIX)
OF THE ESTATE OF JOHN H. WARREN,)
DECEASED,)

Plaintiff,)

v.)

THE DOW CHEMICAL COMPANY,)
THE B.F. GOODRICH COMPANY,)
UNION CARBIDE COMPANY, AND)
CONTINENTAL OIL COMPANY,)

Defendants.)

Civil Action
No. 89-30201-F

DEPOSITION OF ANNA M. CLARK, produced, sworn and
examined on behalf of the Plaintiff on the 23d day of May,
1991, between the hours of 8 o'clock in the forenoon and 6
o'clock in the afternoon of that day at the offices of
MONSANTO CHEMICAL COMPANY, 800 N. Lindbergh Boulevard in the
County of St. Louis, State of Missouri, before Laura Lynn
Murphy, a Registered Professional Reporter - Certificate of
Merit, a Certified Shorthand Reporter and a Notary Public
within and for the State of Missouri, in a cause pending
wherein Alice L. Warren is the Plaintiff and The Dow
Chemical Company, The B.F. Goodrich Company, Union Carbide
Company and Continental Oil Company are the Defendants.

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A P P E A R A N C E S

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Chemical Company
& Conoco

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The B.F. Goodrich
Company

I N D E X

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E X H I B I T S

PLAINTIFF'S DEPOSITION NO.

3	Document Attorney Work Product dated 910517	15 *
1	Document Attorney Work Product dated 910517 with highlighted areas	15
* marked in a prior deposition		

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S T I P U L A T I O N

IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the parties that this deposition may be taken in shorthand by Laura Lynn Murphy, RPR-CM, CSR, and afterwards transcribed into print and signature by the witness is waived.

ANNA M. CLARK,
of lawful age, being first duly sworn to tell the truth, the whole truth and nothing but the truth, deposes and says in behalf of the Plaintiff, as follows:

MS. PARSONS: Before we begin, I just want to note that I have a general objection to this deposition going forward on the basis that it has not been noticed and I have not had an opportunity to prepare for this deposition or to talk to my client about the matters that have arisen. However, subject to that objection, I think I will not object to specific area of questioning by Mr. Minoff unless, of course, the question is asked in a way that it raises an objection.

However, the areas that we have agreed on are as follows, and correct me if I'm wrong here: That would be we will be discussing one document which has been marked Exhibit 3 at Mr. Pratte's deposition. The topic areas will be as follows; the means by which the computer printout was generated, the destruction of the contract to which the

1 computer printout refers, the interpretation of the codes in
2 the computer printout, the search that was conducted by Miss
3 Clark on the computer to locate the document, Miss Clark's
4 conversation with Mr. Pratte when he asked her to locate
5 this information. Am I missing anything, Keith?

6 MR. MINOFF: The destruction of the document,
7 did you mention that?

8 MS. PARSONS: Yeah, I did.

9 MR. MINOFF: It sounds complete to me.

10 MS. PARSONS: Okay.

11 MR. MINOFF: If I stray, let me know. Again
12 I'm not sure exactly what she's going to say in answer to
13 some of these questions so we may get into some gray areas
14 but we'll just handle those as they happen.

15 MR. RENDINI: Let me state for the record I
16 join in Miss Parsons' general objection and agree to the
17 general deposition of Miss Clark on the same terms as Miss
18 Parsons has stated.

19 MS. PARSONS: I just wanted to note my
20 objection.

21 MR. POWERS: The only other point that I would
22 like to make with respect to the areas of inquiry is that
23 there are other documents in the vault that involve vinyl
24 chloride monomer. They do not have anything to do with the
25 purchase or sale of the supply of vinyl chloride monomer and

1 to the extent th t you ask qu stions about those other
2 documents, I'll -- I'm going to direct her not to answer.

3 MR. MINOFF: Okay. So you will represent that
4 these other vinyl chloride documents deal only with vinyl
5 chloride that was manufactured by Monsanto. Is that a fair
6 statement?

7 MR. POWERS: You can make inquiry of her as to
8 whether or not there any other documents in the vault
9 pertaining to the sale, supply of vinyl chloride monomer at
10 Indian Orchard. But beyond that, there are documents in the
11 vault that contain proprietary information. I'm making you
12 aware that they exist. You can ask her if there are any
13 documents that pertain to the supply. But beyond that, I
14 mean if you start getting into the nature of these other
15 documents, I'm going to direct her not to answer.

16 DIRECT EXAMINATION

17 BY MR. MINOFF:

18 Q. Why don't we start, Miss Clark, by telling us your
19 full name?

20 A. Anna Marie Clark.

21 MR. MINOFF: Same stipulations as far as
22 objections being reserved for trial and motions to strike.
23 And also the reading and signing of the deposition, is that
24 going to be waived or reserved?

25 MR. POWERS: That's fine.

1 MS. PARSONS: Same stipulations in Mr.
2 Pratte's deposition.

3 MR. RENDINI: Same stipulations.

4 Q. (BY MR. MINOFF) What is your home address, Miss
5 Clark?

6 A. 207 River Bend Drive.

7 Q. And what's your date of birth?

8 A. Chesterfield, 7/14/35.

9 Q. I'm sorry, what town did you live there?

10 A. Chesterfield.

11 Q. Chesterfield?

12 A. Missouri.

13 Q. Missouri. And where do you presently work?

14 A. I work for Monsanto Company.

15 Q. In St. Louis?

16 A. In St. Louis.

17 Q. And what is your job title with them?

18 A. I'm an archive librarian for the law department.

19 Q. And how long have you been so employed?

20 A. I have been involved with this job for four years.

21 I have been a permanent Monsanto employee for a year.

22 Q. Can you explain to me how that worked?

23 A. I was a contract employee through another agency
24 for three years on this job before I was given a permanent
25 position.

1 Q. Okay. And was that the first time that you ever
2 worked for Monsanto as an independent contractor or an
3 employee?

4 A. I had worked for three years prior to that on other
5 projects as a temporary employee.

6 Q. Such as what?

7 A. Such as I had a clerk position,

8 Q. Is that also in the legal department?

9 A. Yes.

10 Q. And did that position have anything to do with
11 managing records or other documents contained in the
12 archives?

13 A. No, I did not deal with -- I dealt with documents,
14 I did not manage the archive.

15 Q. And is that what you do now, you manage the
16 archives?

17 A. Yes.

18 Q. And does anybody do that with you or are you the
19 only person who does that?

20 A. I do it by myself.

21 Q. And you do that for the legal department of
22 Monsanto?

23 A. Yes.

24 Q. And these archives that you manage, are they
25 specific to the legal department or do they also encompass

1 archives involving other parts of Monsanto?

2 A. They encompass the law department and other parts
3 of Monsanto. Basically they're documents that have been
4 sent there to be kept, original documents.

5 Q. Are there other archives that you don't have
6 anything to do with?

7 A. I personally don't know of archives.

8 Q. You don't know of any other archives other than
9 those that you manage?

10 A. That's right.

11 Q. And what types of things are contained in these
12 archives, just the broad categories of things?

13 A. There are corporate documents, there are contracts,
14 agreements, confidentiality agreements, real estate
15 agreements.

16 Q. Personnel records or is that kept somewhere else?

17 A. Those are kept somewhere, very few. There might be
18 a confidentiality agreement with a person but basically we
19 don't -- I don't have those agreements there.

20 Q. What about shipping documents, purchase orders and
21 invoices, that kind of thing?

22 A. There might be specific purchase orders for a
23 specific -- a product but that's not normally what is sent
24 there. I have very few purchase orders. If it's purchase
25 order, it's for something maybe -- maybe large, not a gallon

1 of paint or --

2 Q. And where are these archives physically located?

3 A. They're physically located in the north wing of C
4 building on the first floor.

5 Q. And where do you work?

6 A. I work in the vault.

7 Q. In the vault, itself?

8 A. Right.

9 Q. And by vault, you're not talking to me about like a
10 bank vault, what we would picture a vault to be. But it's a
11 locked, secured area?

12 A. Yes, it has a combination lock.

13 Q. Okay. And are the materials in the archives
14 organized in some way that they can be retrieved in an
15 efficient manner?

16 A. Yes.

17 Q. Okay. Are they computerized?

18 A. Yes.

19 Q. Okay. And do you happen to know what kind of
20 software is used in that system?

21 A. It's Basis.

22 Q. It's called Basis?

23 A. It's Basis.

24 Q. Is that a system that anyone can buy on the street
25 or is that something that Monsanto developed on its own?

1 A. I can't tell you that, I don't know.

2 Q. And when a document comes to the archives to be put
3 in the archives, what kind of process takes place to enter
4 that document into the computer system?

5 A. I read -- I read the document at the present time.
6 Documents coming to the vault, new documents coming to the
7 vault, come with a transmittal sheet and I -- they're --
8 they ask for specific information which I then enter on into
9 a file which is then loaded onto the data base.

10 Q. And would this be coming from someone in the legal
11 department necessarily?

12 A. Most of them come -- originate in an -- from an
13 attorney's office.

14 Q. What about contracts, those are -- some of the
15 documents that you handle are contracts, correct?

16 A. Right.

17 Q. Would those always come from the legal department?

18 A. Most of the time they come from the responsible
19 attorney.

20 Q. Okay. And you said there was a transmittal sheet
21 that was normally attached to the document.

22 A. That's for new documents that are coming in now.

23 Q. Okay. And would those sheets contain a narrative
24 describing what the document was so you could input the
25 information on the system?

1 A. Yes.

2 Q. Okay. So you wouldn't have to, in other words,
3 review the document yourself or look at the title of the
4 document to determine what had to be input?

5 A. I do look at the document myself. Most of the time
6 I expound on the narrative. I look for specific information
7 that I think is important and should be included.

8 Q. When the document is a contract or agreement, what
9 kind of information is important to you as far as inputting
10 into the system?

11 A. Important for my purposes, the important
12 information would be the -- the companies, the date of the
13 agreement, what the contract was for, the term of the
14 agreement, any special provisions that someone might be
15 interested in if they were to look on the data base without
16 going to the contract, itself.

17 Q. Miss Clark, last week you had a conversation with a
18 gentleman named Charles Pratte.

19 A. Yes.

20 Q. Is that right? And what was said during the course
21 of that conversation?

22 A. I had a request that he wanted to know if there
23 were any contracts in the vault for the supply of vinyl
24 chloride to Monsanto. I don't remember exactly how it was
25 worded, whether he asked if there was any company besides

1 Dow that supplied but I told him that I would look.

2 Q. Did he restrict his request to a specific time
3 period as during certain period of years?

4 A. I believe he said it was -- it was in the late '60s
5 was the -- was the time when there was -- probably was the
6 date that there would be a contract.

7 Q. Do you recall if he said he was looking
8 specifically for a Dow contract as opposed to, say, any
9 contract that might exist regarding vinyl chloride?

10 A. That I don't --

11 MR. RENDINI: Objection.

12 MS. FARSONS: Objection.

13 Q. (BY MR. MINOFF) Did you have just one conversation
14 with Mr. Pratte?

15 A. The first conversation was actually he was standing
16 next to a secretary who was relating his questions to me.
17 When I -- so I really only had one conversation with him
18 when I talked specifically to him and that was after I had
19 done the search.

20 Q. And what did you do to do the search?

21 A. The first -- probably the first thing I did was
22 look in the product field. There are codes for products
23 that we made up.

24 Q. So what fields did you search?

25 A. I searched the product field.

1 Q. For what product?
2 A. For vinyl chloride.
3 Q. Did you use any other word to describe vinyl
4 chloride --
5 A. No.
6 Q. -- such as the abbreviation VC?
7 A. That's how I searched the data base. I had to
8 search on the code in the product field. I also did a
9 search in the narrative field.
10 Q. And how do you do that?
11 A. I had a search on two words, vinyl and chloride,
12 and combined the two.
13 Q. And is that all you did to do the search? Is that
14 all the information that you put into the computer, that is
15 product field and narrative field looking for vinyl
16 chloride?
17 A. That was my initial -- that was the search.
18 Q. Okay. And how many documents did you come up with
19 on that initial search?
20 A. I don't remember an exact number but it was -- I
21 would say it was under 20.
22 Q. Did you print out the information about those
23 documents?
24 A. I looked at them on my screen.
25 Q. Okay. Did you then speak to Mr. Pratte about what

1 you had found?

2 A. I spoke to him and told him what I had, yes, I did.

3 Q. And what did he say to you?

4 A. He -- I think it confirmed what he knew -- what he
5 said he knew that -- that that was what would be -- that
6 that was the supplier Dow. I told him I had -- that the
7 documents had been destroyed. I said I could send him a
8 printout of what had been in the vault and he asked me to do
9 that. He said that would be helpful and that is this.

10 Q. That is the document that I've put in front of you?

11 A. Right, that's this, this is the printout.

12 Q. The same document that we've already marked as
13 Exhibit No. 3 to Mr. Pratte's deposition earlier today?

14 A. Yes, yes. The markings on this are my markings.

15 Q. You highlighted certain things that I can't see --

16 A. Yes, I highlighted.

17 Q. -- on this copy but maybe we should mark this as a
18 separate exhibit so we can talk about those a little bit.

19 (Plaintiff's Exhibit No. 1 is marked.)

20 Q. Okay. Miss Clark, I'm showing you this again.
21 This is Clark Exhibit No. 1 and this is the printout that
22 you gave to Mr. Pratte, correct?

23 A. That's right.

24 Q. And this printout describes four documents,
25 correct?

1 A. That's right.

2 MS. PARSONS: Objection.

3 Q. (BY MR. MINOFF) And you said earlier that when you
4 did your first search, you came up with about 20 documents,
5 is that right, you saw 20 documents on your screen?

6 A. That was in --

7 MR. RENDINI: Objection.

8 MS. PARSONS: Objection.

9 Q. (BY MR. MINOFF) Go ahead, you can answer.

10 A. That was in my -- in response to my search for
11 vinyl chloride in the product field and in the narrativ
12 field.

13 Q. Okay. Why did you print out these four items as
14 opposed to any of the other items that you found in your
15 initial search?

16 A. The request to me was to locate documents that had
17 to do with the purchase of vinyl chloride by Monsanto.
18 These were the only four documents that answered that
19 question.

20 Q. Okay. Without going into any detail about the
21 content of the documents that you chose not to list here,
22 what was it about those documents that -- start over with
23 the same preamble but what did those documents deal with?

24 A. They didn't deal with the sale and purchase and I
25 eliminated them.

1 Q. They dealt with vinyl chloride but not the sale and
2 purchase?

3 A. That's right.

4 Q. Did they deal in any way with the acquisition
5 whether by some other means other than purchase by Monsanto
6 of vinyl chloride?

7 A. No.

8 Q. Okay. Now, I just need some explanation as to some
9 of these codes.

10 A. Sure.

11 Q. Look at Item No. 1. It says effective date and
12 then we have a series of eight Nos., 19660913. Does that
13 correspond to a date of September 13, 1966?

14 A. That's right.

15 Q. So then, for example, the expiration date would be
16 December 31, 1978?

17 A. That's right.

18 MS. PARSONS: Objection.

19 MR. RENDINI: Objection.

20 Q. (BY MR. MINOFF) In each case where there's a date,
21 the first four numbers would indicate a year; is that right?

22 A. That's right.

23 Q. And the next four -- did I say numbers or letters?
24 The next four numbers would indicate the month and day of
25 the month?

1 A. That's right.

2 Q. With respect to Item No. 1, is there any indication

3 there as to when this information was input into the system?

4 A. There isn't any indication on this printout.

5 Q. Okay. Do you know when it was input?

6 A. I would say it was probably input in 1987.

7 Q. And why do you say that?

8 A. Based on the number of the document.

9 Q. The number being the 0058587

10 A. That's right.

11 Q. And what is it about that number that leads you to

12 believe it was entered in 1987?

13 A. We numbered documents sequentially as we were

14 working on them and -- and I would say that in 1987, we were

15 probably inputting documents in the 5,000s.

16 Q. Do you keep some kind of log in the archives which

17 would reflect the document number and when that document was

18 first entered into the system?

19 A. I could get you that information.

20 Q. That would be on the computer, would it not?

21 A. That's right.

22 Q. Is it fair to say, ma'am, that these four documents

23 were all input into the system one right after another?

24 MS. PARSONS: Objection.

25 MR. RENDINI: Objection.

1 Q. (BY MR. MINOFF) Is that right?
2 MS. PARSONS: Objection.
3 WITNESS: That's right.
4 Q. (BY MR. MINOFF) Because of the document numbers?
5 MS. PARSONS: Objection.
6 WITNESS: That's right.
7 Q. (BY MR. MINOFF) And that all would have taken
8 place as best you can determine in 1987?
9 MS. PARSONS: Objection.
10 Q. (BY MR. MINOFF) Is that right?
11 A. That's right.
12 Q. Now, were you working in the archives in 1987?
13 A. Yes.
14 Q. And did you do the inputting of documents?
15 A. Yes.
16 Q. Do you know whether it was you that input the
17 information contained on Exhibit No. 17
18 A. In all probability it was -- I was the one that did
19 it.
20 Q. Okay. And I noticed on each of these, it says
21 reviewing attorney and there's a name there. Is it Samford,
22 S-a-m-f-o-r-d, DA? Who is that, do you know?
23 A. That he's the responsible attorney for Monsanto
24 purchasing contracts and -- well, he's the responsible
25 attorney for Monsanto purchasing contracts. And I sent him

1 these documents. I sent him a printout of these documents
2 to review.

3 Q. Shortly after you got them?

4 A. No, in December of 1990.

5 Q. When they were destroyed or when they were about to
6 be destroyed?

7 A. I don't make the decision to destroy documents.

8 Q. Sure.

9 A. I sent printouts to attorneys based on several
10 things but one of them in this case would be the date of the
11 contract, the original date of the contract, which was 1966
12 which suggests that unless it's evergreen contract, that it
13 could be reviewed for either -- that it could be reviewed.

14 Q. Is that because it's 25 years old or is there some
15 amount of time by which certain documents are normally
16 destroyed?

17 A. Yes.

18 MS. PARSONS: Objection.

19 Q. (BY MR. MINOFF) And this -- these agreements, does
20 Monsanto have a policy as to how many years those are kept
21 before they are destroyed?

22 A. Yes, there's a record retention schedule I believe.

23 Q. And do you know how many years these documents are
24 to be kept according to that schedule?

25 MS. PARSONS: Objection.

1 WITNESS: I can't tell you for sure how many
2 -- how many years they should be kept after they're -- after
3 they have expired. It would depend on what the contract was
4 for and I believe what the dollar amount is for. But I
5 would have no way of knowing which -- which parameters this
6 contract met. I did not make decisions on destroying them.

7 Q. (BY MR. MINOFF) But you sent information about
8 these four documents to Mr. Samford in December of 1990?

9 A. Yes.

10 Q. And what prompted you to do that?

11 A. Part of my job is to see that records are reviewed
12 on a regular basis. And I do searches based on years, how
13 long a document has been there. It's -- I need to make the
14 decisions as to what will be reviewed and I set up my own
15 parameters on -- on what's going to be reviewed when.

16 Q. And this is something that you do on a periodic
17 basis?

18 A. It's an ongoing process.

19 Q. Is it something that you do everyday?

20 A. Everyday.

21 Q. And were there other documents that aren't on this
22 sheet that you also sent to Mr. Samford around the same time
23 or at the same time if you remember?

24 A. It was -- these were four documents out of -- well,
25 there were more documents on there but they all had to do --

1 they were all involved with Mr. Samford's area and I believe
2 they were all from the same time frame.

3 Q. Okay. And did you send them to him with a request
4 or a question can these be destroyed or should they be
5 retained?

6 A. There is a form that goes out with it.

7 Q. So he just checks the box, so to speak, as to
8 whether or not he wants to retain them or destroy them?

9 A. Yes.

10 Q. And in this case, he ordered that as to these four
11 documents that they be destroyed?

12 MS. PARSONS: Objection.

13 WITNESS: That's right.

14 Q. (BY MR. MINOFF) Okay. And you got the form back
15 from him --

16 MS. PARSONS: Objection.

17 Q. (BY MR. MINOFF) -- with that indication on it?

18 MS. PARSONS: Objection.

19 WITNESS: That's right.

20 Q. (BY MR. MINOFF) And what did you do to see that
21 those documents were destroyed?

22 A. I, first of all, did the computer work.

23 Q. What kind of computer work?

24 A. What you see on there, the reviewing attorney, DA
25 Samford, this -- the storage information which is two

1 subfields, the date that it was destroyed and what and the
2 word destroyed.

3 Q. Okay. So you just add that information to what's
4 already in the computer regarding the document?

5 A. That's right.

6 Q. Okay. And then what did you do to carry out the
7 order?

8 A. Then I physically removed the files from the file
9 cabinets and then I removed the documents and anything else
10 that might have been in there like a -- the original
11 forwarding sheet and I tore them up usually into four
12 pieces.

13 Q. And you threw them in the wastebasket?

14 A. And I threw them in the -- oh, no, I threw them in
15 the -- there is a black box, what we call the black box, and
16 I threw them in there. And then that material is -- there
17 is a bag inside and that material is taken out and I don't
18 know what happened.

19 Q. That's the last you see of it?

20 A. That's right, but I do tear documents up. I don't
21 throw anything in whole.

22 Q. When you pulled the documents out, did you look at
23 them in order to confirm that they were, in fact, the
24 documents that Mr. Samford had ordered you to destroy?

25 A. Yes.

1 Q. And they were?

2 A. Yes.

3 Q. When you pulled those documents out, did you recall
4 having seen those when they came into the archives several
5 years before?

6 A. I wasn't there when they came in. They probably
7 came in back in 1966.

8 Q. Okay. Well, when they were first entered into the
9 computer, you were there?

10 A. Yes, yes, I probably --

11 Q. I think you said you probably did the entries.

12 A. Yes, I probably did the entry. Based on the
13 number, I probably did the entry.

14 Q. Okay. When you did the entry, did you actually
15 have to handle the document in any way?

16 A. Yes, you -- you know, you look at it because you
17 need to -- in order to fill out the fields, you need to look
18 at the documents and to see what they say.

19 Q. Okay. These documents, are they -- are copies of
20 them kept anywhere else in the company or are these the only
21 copies that the company has?

22 A. Most of what I handle are original documents. I
23 have no knowledge of other copies.

24 Q. And the archives doesn't keep more than that in its
25 file, that is just there are no copies kept along with the

1 original documents in the archives as a general rule?

2 A. As a general rule, that's right.

3 Q. And as to these documents, all you found was the
4 original document?

5 A. That's right.

6 MR. MINOFF: Okay. I don't think I have any
7 further questions.

8 WITNESS: Okay.

9 MR. MINOFF: Thank you.

10 CROSS-EXAMINATION

11 BY MS. PARSONS:

12 Q. I have a couple. Is it Mrs., Ms.?

13 A. Miss.

14 Q. Miss Clark, my name is Sue Parsons and I represent
15 Dow and Union Carbide and Conoco in this case and I just
16 have a couple questions for you. I think you referred
17 earlier that the procedure involved in the transmittal sheet
18 was a new procedure.

19 A. That's right.

20 Q. When did that procedure go into effect?

21 A. 1987.

22 Q. Do you know -- I know you were estimating as to
23 when this document was inputted. Do you know whether the
24 transmittal sheet was in effect when this computer printout
25 sheet was entered in the system?

1 A. The computer sheet was in effect but this document
2 would not have come with a transmittal sheet because it was
3 sent to the vault, I would say, back in 1966.

4 Q. Why do you say that?

5 A. Because it's a 1966 document. These --

6 Q. Okay. Go ahead, you can finish.

7 A. This vault is a storage place for Monsanto
8 documents and my job was to computerize the files that were
9 there already --

10 Q. Okay.

11 A. -- plus new documents coming in.

12 Q. There were other people in 1987 who entered this
13 information onto the computer, isn't that correct, besides
14 you?

15 A. It started out as two people but for the year 1987,
16 I probably entered the bulk of the documents that were on
17 there.

18 Q. Can you testify today with certainty that you were
19 the person who entered this computer information regarding
20 this contract, Dow contract?

21 A. Now, as far as I can remember I probably am.

22 Q. But you don't -- I guess what I'm asking, you don't
23 have any specific recollection of entering this contract
24 into the computer system; isn't that correct?

25 A. No, not specifically.

1 Q. And there is a possibility that it could have been
2 done by somebody else; isn't that true?

3 A. That's true. Based on the narrative, I would say I
4 was the one that did it.

5 Q. Why is that?

6 A. Just from the style of the writing and the fact
7 that seller and buyer are in parentheses, just by the way
8 it's written I think I did it.

9 Q. Nobody else uses terms in that manner?

10 A. At that time I don't believe so.

11 Q. Who were the other persons who would have -- who
12 could possibly have generated this document? What are their
13 names?

14 A. I -- because the time frame, I couldn't give you
15 the specific names. If I could -- if I knew when the date
16 that the document was entered on the data base, I could
17 probably tell you for sure.

18 Q. Okay. And back then, I mean thousands of documents
19 had been entered into the system; isn't that correct? You
20 were in the process of entering thousands of documents in
21 that time period?

22 A. That's right.

23 Q. And you were doing this everyday; isn't that true?

24 A. That's right.

25 Q. And it was done by you and possibly one other

1 person at the time; isn't that correct?

2 A. That's right.

3 Q. And it isn't unlikely that a mistake could have
4 been made, is it, in terms of the numbers that you entered
5 into that computer based on what you were reading?

6 MR. MINOFF: Objection. What kind of mistake?

7 Q. (BY MS. PARSONS) In other words, you could hav --
8 it's possible, is it not, that when typing in, for instance,
9 1966, that could have been a mistake in terms of what the
10 contract said?

11 A. That's true.

12 Q. And -- I'm sorry, I'll let you finish.

13 MR. MINOFF: Go ahead.

14 WITNESS: But if you look at the computer
15 printout, and I'm going to digress just because of what I do
16 -- is that all right? You probably would kick me if it's
17 wrong.

18 MR. MINOFF: That always makes lawyers nervous
19 but go ahead.

20 WITNESS: Just to give you specific
21 information, if you look at the effective date of that first
22 contract and then you look at period, there seems to be a --
23 like a 2 1/2-year discrepancy. But then if you look at the
24 second document, it's also dated 1966 and you're still
25 talking about the same time period so that is a correct

1 dat .

2 Q. (BY MS. PARSONS) All right. Let's talk about the
3 narrative a little bit under Item 1.

4 A. All right.

5 Q. Okay. The way I read this, and correct me if I'm
6 wrong, is that from what you're saying is the agreement,
7 itself, was made in 1966; is that correct?

8 MR. RENDINI: Objection.

9 Q. (BY MS. PARSONS) You can answer that.

10 A. Based on what you've told us today, is that your
11 interpretation of --

12 A. That's right.

13 Q. Okay. But according to the narrative, it says that
14 the option to purchase would begin in 1/1/69; is that
15 correct? That would be January 1, 1969?

16 A. My understanding --

17 MR. RENDINI: Objection.

18 WITNESS: My understanding of an option is
19 that that's why this is an option agreement.

20 Q. (BY MS. PARSONS) Why is that?

21 A. Because they have the choice, they have this option
22 that beginning in 1969 for that 10-period they can purchase.

23 Q. But getting back to my original question, I mean I
24 understand what you just said but it's not impossible that a
25 mistake could have been made in the transcription of what

1 the contract said and what is entered into it; in other
2 words, the date 1966 could be incorrect and we have no way
3 of checking that today, do we?

4 A. No. But if you look at the third contract, all
5 right, it's possible but highly improbable that three dates
6 would be wrong.

7 Q. These four different items refer to four different
8 documents; is that correct?

9 A. That's true.

10 MS. PARSONS: That's all I have.

11 MR. RENDINI: No questions.

12 (The deposition was concluded, the exhibit was
13 retained by counsel and the signature was waived.)
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1 STATE OF MISSOURI)
2 CITY OF ST. LOUIS) SS

3 I, Laura Lynn Murphy, Registered Professional
4 Reporter - Certificate of Merit, Certified Shorthand
5 Reporter, Notary Public within and for the State of
6 Missouri, DO HEREBY CERTIFY that pursuant to agreement
7 between the parties the aforementioned witness came before
8 me at the time and place hereinbefore mentioned, who was by
9 me first duly sworn to tell the whole truth of her knowledge
10 touching the matter in controversy aforesaid; that she was
11 examined on the day, between the hours and at the place in
12 that behalf aforesaid; and her examination was taken in
13 shorthand and later reduced to print; that signature by the
14 witness is waived and said deposition is herewith returned
15 and filed with the court.

16 IN WITNESS WHEREOF, I have hereunto subscribed my
17 name and affixed my Notarial Seal this _____ day
18 of _____, 1991.

19 My Commission Expires July 10, 1993.
20
21
22

23 _____
24 Laura Lynn Murphy, RPR-CM, CSR
25