UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

CECIL SCOTT, ET AL	§	
	§	
VS.	§	CIVIL ACTION NO.
	§	
MONSANTO COMPANY	§	B-84-1103-CA

AFFIDAVIT OF JOSEPH G. NASSIF

JOSEPH G. NASSIF, having first been duly sworn, upon his oath deposes and says as follows:

1. My name is Joseph G. Nassif. I am over 21 years of age and am fully competent to make this affidavit. Each statement made herein is upon my personal knowledge unless otherwise stated.

2. Since 1974 I have been an attorney licensed to practice in the State of Missouri. I am currently a partner in the law firm of Coburn, Croft, & Putzell in St. Louis, Missouri.

3. From 1974 until May, 1986 I was employed by the defendant Monsanto Company as an attorney in their Law Department. Beginning in November, 1981 until my departure, I was a litigation attorney in Monsanto's Law Department. I am currently representing Monsanto Company in a number of matters.

4. During the period November, 1981 until January, 1985 in the course of my duties for Monsanto I was principally responsible for the management and supervision of all day-to-day litigation matters related to the manufacture and sale of polychlorinated biphenyls by Monsanto Company. As part of that responsibility I developed, with various outside counsel, Monsanto's strategy in

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resolving litigation matters. This responsibility included inter alia supervising the preparation and filing of responses to requests for discovery in polychlorinated biphenyls litigation and the production of documents in response to proper requests.

5. In the performance of my duties for Monsanto Company, including the development of litigation strategy and the coordination of litigation matters, I instructed my representatives within the Law Department to assist me in the consolidation and collection of all documents that could be then identified relating in any way to the sale and manufacture of polychlorinated biphenyls. After significant effort, all documents were collected pursuant to my instructions and placed under the administration of the Law Department with principal responsibility resting in me. This collection of documents contained both discoverable and nondiscoverable (privileged) documents.

6. Following the collection, review, and consolidation of the documents, I decided that they required substantial organization in order to marshall the documents and facts which in my judgment were relevant and significant from those which were not. Also, it was necessary to organize the documents and facts in a manner which, in my opinion, would be most useful in the defense of pending and anticipated litigation. At my request, David M. Moore, II assisted me in a review and categorization of the documents that had been collected.

7. Before commencing the review of the document library, Mr. Moore and I had extensive discussions regarding those

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documents which we felt would be particularly significant and useful in current and anticipated polychlorinated biphenyls litigation. During the course of our review of the documents, we were required on many occasions to determine whether or not particular documents were in fact significant enough to be included within the collection of documents selected for organization and categorization for use in ongoing and future litigation. Those documents which we determined to be relevant and significant were included in the litigation resource library. Documents not selected for this library have been retained by Monsanto.

8. Beginning in late 1982 I conducted an investigation into the use of various automated retrieval systems for litigation support. A retrieval software system was selected which, based on my judgment, most closely met our then existing and anticipated litigation support needs.

9. As part of the system design, Mr. Moore and I prepared a list of critical characteristics and classifications of documents for purposes of organizing the litigation resource library to meet existing and anticipated litigation needs. This listing contains and continues to reflect my mental impressions, conclusions, opinions and legal theories concerning the defense of Monsanto Company in then existing and anticipated litigation relating to polychlorinated biphenyls, as well as those of Mr. Moore.

10. Following the preparation of the list of critical characteristics and classifications, Mr. Moore and I personally

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trained individuals as our representatives to work under our supervision for purposes of completing the classification of the documents pursuant to the characteristics and classifications established by Mr. Moore and myself. The full text of the selected documents was not placed on the automated retrieval system.

11. Following completion of the classification of the documents in the polychlorinated biphenyls litigation resource library, and until my responsibilities for this litigation were transferred to Mr. Bistline in January, 1985, the litigation support system was used exclusively in support of Monsanto's litigation needs. All aspects of the development and use of the system were controlled and conducted by counsel for Monsanto Company. At all times all counsel for Monsanto and their representatives were required to maintain strict confidentiality with regards to all aspects of the system and, in particular, the list of critical characteristics and classifications. At no time while I was responsible for the polychlorinated biphenyls litigation was the list of characteristics and classifications produced or otherwise made available in any litigation to any person other than counsel for Monsanto or their direct representatives. Upon transfer of my responsibilities I turned my only copy of the list over to my successor, Mr. Bistline.

12. At the time the preparation of the litigation support system was accomplished, lawsuits were pending in Indiana wherein Leo Haganman, Leon Mullis and possibly others who are plaintiffs

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in the above captioned case, asserted claims that appear to be the same as the claims alleged on their behalf in this lawsuit.

13. The selection of documents for inclusion in the litigation resource library, and the list of critical characteristics and classifications are my opinion attorney work product. Their disclosure would certainly reveal my mental impressions, conclusions, opinions and legal theories as an attorney representing Monsanto Company in litigation relating to the manufacture and sale of polychlorinated biphenyls by Monsanto Company. Neither documentation relating to the system nor any aspect of the system itself, including the list of critical characteristics and classifications, can be made available to counsel for plaintiffs without revealing those mental impressions, conclusions, opinions, legal theories and thought processes.

Joseph G. Nassif

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority, on this 25th day of February, 1987.

Judith E. Gonzalez
Notary Public in and for
The State of Missouri

My commission expires:

JUDITH E. GONZALEZ
NOTARY PUBLIC, STATE OF MISSOURI
MY COMMISSION EXPIRES 9/3/88
CITY OF ST. LOUIS

JUDITH E. GONZALEZ
(print name)

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