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Dear Counsel:

Enclosed are discovery requests addressed to a single document. I look forward to your answers.

Sincerely yours,

MCCREA & MCCREA



David S. McCrea

DSMC:cms
enc.

cc: Mr. and Mrs. John W. Baker

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JOHN W. BAKER and NORMA J. BAKER,)
husband and wife; DOUGLAS BAKER)
and JENNIFER BAKER, emancipated)
children of JOHN W. BAKER and)
NORMA J. BAKER,)

Plaintiffs,)

vs.)

WESTINGHOUSE ELECTRIC CORPORATION,)

Defendant.)

No. IP 902036L

Hon. Larry J. McKinney

PLAINTIFFS' REQUEST FOR DISCOVERY TO
WESTINGHOUSE ELECTRIC CORPORATION

The following discovery requests: I. Interrogatories, II. Request for Production of Documents, and III. Request for Admissions are directed to a Westinghouse Proprietary Class 1 memorandum dated December 28, 1971 authored by G. W. Wiener, Research Director - Power Systems, Westinghouse Electric Corporation, Pittsburgh, Pennsylvania. The Wiener memorandum is Bates numbered 00028591 through 00028594. The four-page memorandum was distributed to S.W. Herwald, W.E. Shoupp, D. Berg, J.C.R. Kelly, E.V. Somers, G.C. Gainer, T.O. Munson, L. Mandelcorn and S. Jordon. The memorandum is attached to these discovery requests and marked Exhibit A.

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David S. McCrea, #9460-53

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I. Interrogatories

The plaintiffs request that the defendant, Westinghouse Electric Corporation, by an employee, officer or agent, answer under oath, in accordance with the Federal Rules of Civil Procedure, the following interrogatories within thirty (30) days after service of said interrogatories on said defendant:

1. Who made the decision to mark Exhibit A "Proprietary Class 1"?

ANSWER:

2. On December 28, 1971, what was the job title of each of the following individuals who received Exhibit A, namely:

- a. S.W. Herwald
- b. W.E. Shoupp
- c. D. Berg
- d. J.C.R. Kelly
- e. E.V. Somers
- f. G.C. Gainer
- g. T.O. Munson
- h. L. Mandelcorn
- i. S. Jordon

ANSWER:

a.

b.

c.

d.

e.

f.

g.

h.

i.

3. Where are each of the following individuals who received Exhibit A currently employed, namely:

- a. S.W. Herwald
- b. W.E. Shoupp
- c. D. Berg
- d. J.C.R. Kelly
- e. E.V. Somers
- f. G.C. Gainer
- g. T.O. Munson
- h. L. Mandelcorn
- i. S. Jordon

ANSWER:

- a.
- b.
- c.
- d.
- e.
- f.
- g.
- h.
- i.

4. What are the current business or residential addresses of each of the following individuals who received Exhibit A, namely:

- a. S.W. Herwald
- b. W.E. Shoupp
- c. D. Berg
- d. J.C.R. Kelly
- e. E.V. Somers
- f. G.C. Gainer
- g. T.O. Munson
- h. L. Mandelcorn
- i. S. Jordon

ANSWER:

- a.
- b.

c.

d.

e.

f.

g.

h.

i.

5. Describe the specific reasons Exhibit A was marked "Proprietary Class 1"

ANSWER:

6. Regarding the information in Exhibit A on page 1 that: "...the biological activity of pcbs was at best poorly defined" describe the following:

- a. What information was obtained by Westinghouse?
- b. When was this information obtained by Westinghouse?

ANSWER:

a.

b.

7. Regarding the information in Exhibit A on page 1 that: "The higher chlorinated biphenyls appear to concentrate in the fatty tissue and in the liver of fish, birds, and some animals" describe the following:

- a. What information was obtained by Westinghouse?
- b. When was this information obtained by Westinghouse?
- c. To whom was this information provided at Westinghouse?
- d. How was this information obtained by Westinghouse?

ANSWER:

a.

b.

c.

d.

8. Regarding the information in Exhibit A on page 1 that: "The toxicity of pcbs in any absolute terms cannot be expressed, but there is some indication that the lower chlorinated biphenyls (3 or less) appear to be more toxic than the higher chlorinated biphenyls" describe the following:

- a. What information was obtained by Westinghouse?
- b. When was this information obtained by Westinghouse?
- c. To whom was this information provided at Westinghouse?
- d. How was this information obtained by Westinghouse?

ANSWER:

a.

b.

c.

d.

9. Regarding the information in Exhibit A on page 2 that: "With respect to birds and, in particular, leghorn chickens, the reproductive cycle is adversely affected by the presence of pcbs. Specifically, the hatchability of the eggs is reduced" describe the following:

- a. What information was obtained by Westinghouse?
- b. When was this information obtained by Westinghouse?
- c. To whom was this information provided at Westinghouse?
- d. How was this information obtained by Westinghouse?

ANSWER:

a.

b.

c.

d.

10. On December 28, 1971, what was the biological significance of the point that "With respect to birds and, in particular, leghorn chickens, the reproductive cycle is adversely affected by the presence of pcbs. Specifically, the hatchability of the eggs is reduced."

ANSWER:

11. On December 28, 1971, what was the medical relevance to

human beings of the point that "With respect to birds and, in particular, leghorn chickens, the reproductive cycle is adversely affected by the presence of pcbs. Specifically, the hatchability of the eggs is reduced."

ANSWER:

12. Regarding the information in Exhibit A on page 2 that: "Monsanto claims that pcbs manufactured by European chemical companies contain about 15 to 20 ppm of the chlorinated dibenzo furane" describe the following:

- a. What information was obtained by Westinghouse?
- b. When was this information obtained by Westinghouse?
- c. To whom was this information provided at Westinghouse?
- d. How was this information obtained by Westinghouse?

ANSWER:

a.

b.

c.

d.

13. Regarding the information in Exhibit A on page 2, give the date that a "relatively straightforward analytical procedure" described by Mandelcorn and Gainer was instituted by Westinghouse to determine if the impurity called "chlorinated dibenzo furane" was in the pcbs used by Westinghouse.

- a. Describe the analytical procedure
- b. Describe the results of all tests for chlorinated dibenzo furanes conducted by or for Westinghouse
- c. Name the individual or individuals who did the analytical procedures for Westinghouse
- d. Where is the data filed?

ANSWER:

a.

b.

c.

d.

14. Regarding the information in Exhibit A on page 2 that: "Monsanto claims that the product made in this Country is essentially free from this impurity" describe the following:

- a. What information was obtained by Westinghouse?
- b. When was this information obtained by Westinghouse?

ANSWER:

a.

b.

15. Regarding the information in Exhibit A on page 2 that: "The concentration of pcbs in the environment appears to be about 1 ppm" describe the following:

- a. What information was obtained by Westinghouse?
- b. When was this information obtained by Westinghouse?
- c. To whom was this information provided at Westinghouse?
- d. How was this information obtained by Westinghouse?

ANSWER:

a.

b.

c.

d.

16. Regarding the information in Exhibit A on page 2 that: "However, when certain species of animal life are analyzed, it is observed that there is a very significant concentration factor of the pcbs from the 1 ppm generally distributed to many times that in the various tissues and organs of the fish or animal species" describe the following:

- a. What information was obtained by Westinghouse?
- b. When was this information obtained by Westinghouse?
- c. To whom was this information provided at Westinghouse?
- d. How was this information obtained by Westinghouse?

ANSWER:

a.

b.

c.

d.

17. Regarding the information in Exhibit A on page 3 that: "It was generally concluded that although the biological information has yet to be systematized, there is sufficient evidence that pcbs can be deleterious to the health of animal and human life and that the risks of ignoring the evidence that does exist was inappropriate for Westinghouse Electric Corporation" describe the following:

- a. What information was obtained by Westinghouse?
- b. When was this information obtained by Westinghouse?
- c. To whom was this information provided at Westinghouse?
- d. How was this information obtained by Westinghouse?

ANSWER:

a.

b.

c.

d.

18. Regarding the information in Exhibit A on page 3 that: "There is now so much pcb in dumps, in the ground, in the river and ocean beds, that unless steps are taken to reduce the source of pcb contamination, the burden in the environment will have no chance of decreasing" describe the following:

- a. What information was obtained by Westinghouse?
- b. When was this information obtained by Westinghouse?
- c. To whom was this information provided at Westinghouse?
- d. How was this information obtained by Westinghouse?

ANSWER:

a.

b.

c.

d.

19. Reference Exhibit A, page 3, after December 28, 1971, describe how Westinghouse notified all its customers about the nature of PCBs, the hazards associated with them and instructions for disposal of units containing these materials.

- a. What did Westinghouse communicate to its customers?
- b. When did Westinghouse notify its customers about the nature of pcbs?
- c. When did Westinghouse notify its customers about the hazards associated with pcbs?
- d. When did Westinghouse provide instructions to its customers for the disposal of units containing pcbs?
- e. When did Westinghouse notify its employees who worked with pcbs about the nature of pcbs?

(1) What did Westinghouse communicate to its employees

- f. When did Westinghouse notify its employees who worked with pcbs about the hazards associated with pcbs?

(1) What did Westinghouse communicate to its employees

- g. When did Westinghouse provide instructions to its employees who worked with pcbs about the proper disposal of units containing pcbs?

(1) What did Westinghouse communicate to its employees

ANSWER:

a.

b.

c.

d.

e.

(1)

f.

(1)

g.

(1)

20. Reference Exhibit A, page 3, after December 28, 1971, name the individual at Westinghouse who set up rigid specifications for the pcbs it purchased specifying the amount of toxic impurities allowable such as chlorinated dibenzo furane.

- a. What were the rigid specifications?
- b. How were the rigid specifications enforced for the manufacture of units containing pcbs?
- c. How were the rigid specifications enforced for the repair of units containing pcbs?
- d. What information did Westinghouse communicate to its customers about the specifications for allowable toxic impurities such as chlorinated dibenzo furane?

(1) When was this information communicated to the customers of Westinghouse?

(2) Was this information that was communicated to the customers of Westinghouse also communicated to the employees of Westinghouse who worked with the PCBs?

(3) Was this information communicated to John W. Baker?

ANSWER:

a.

b.

c.

d.

(1)

(2)

(3)

21. Reference Exhibit A, page 3, after December 28, 1971, describe how Westinghouse provided facilities for disposing of solid waste material, such as paper, film, and other insulation, containing pcbs.

- a. How was this program implemented at the Westinghouse transformer-manufacturing and repair plant in Muncie, Indiana?
- b. Who implemented the program at the Westinghouse transformer-manufacturing and repair plant in Muncie, Indiana?
- c. When was the program implemented at the Westinghouse transformer-manufacturing and repair plant in Muncie, Indiana?
- d. Why was the program implemented at the Westinghouse transformer-manufacturing and repair plant in Muncie, Indiana?

ANSWER:

a.

b.

c.

d.

22. Reference Exhibit A, page 4, after December 28, 1971, describe how Westinghouse instructed its customers to return failed or non-serviceable units to Westinghouse so that the pcb in the unit could be disposed of adequately.

- a. What instructions were given to the customers of Westinghouse?
- b. When were the instructions given to the customers of Westinghouse?

ANSWER:

a.

b.

23. Reference Exhibit A, page 4, after December 28, 1971, describe how Westinghouse participated in an industry and government program to establish the proper use and handling of pcb material.

- a. Describe all appropriate safeguards that Westinghouse recognized were necessary for the proper use and handling of pcb material.

ANSWER:

a.

24. Reference Exhibit A, page 4, after December 28, 1971, describe all biological information developed by Westinghouse from its studies on pcbs.

ANSWER:

25. Reference Exhibit A, page 4, after December 28, 1971, describe how Westinghouse obtained records of the field performance of Westinghouse units containing pcb materials:

a. Where is this data filed?

ANSWER:

a.

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II. Request for Production of Documents

Plaintiffs hereby request, pursuant to the Federal Rules of Civil Procedure, that the defendant, Westinghouse Electric Corporation, produce and permit plaintiffs to inspect and to copy each of the following documents within thirty (30) days after service of the Request for Production of Documents on said defendant:

1. All documents used to produce the information which was presented at the December 28, 1971 meeting described in Exhibit A.

RESPONSE:

2. The index of Westinghouse Electric Corporation for all of its "Proprietary Class 1" documents on the subject of pcbs.

RESPONSE:

3. All written communications from January 1, 1957 to December 31, 1969 on the subject of pcbs which were distributed internally at Westinghouse Electric Corporation authored or co-authored by the following individuals identified on Exhibit A, namely:

- a. S.W. Herwald
- b. W.E. Shoupp
- c. D. Berg
- d. J.C.R. Kelly
- e. E.V. Somers
- f. G.C. Gainer
- g. T.O. Munson
- h. L. Mandelcorn
- i. S. Jordon
- j. G.W. Wiener, Research Director - Power Systems

RESPONSE:

4. All written communications from January 1, 1970 to December 31, 1972 on the subject of pcbs which were distributed internally at Westinghouse Electric Corporation authored or co-authored by the following individuals identified on Exhibit A, namely:

- a. S.W. Herwald
- b. W.E. Shoupp
- c. D. Berg
- d. J.C.R. Kelly
- e. E.V. Somers
- f. G.C. Gainer
- g. T.O. Munson
- h. L. Mandelcorn
- i. S. Jordon
- j. G.W. Wiener, Research Director - Power Systems

RESPONSE:

5. All written communications from January 1, 1973 to present on the subject of pcbs which were distributed internally at Westinghouse Electric Corporation authored or co-authored by the following individuals identified on Exhibit A; namely:

- a. S.W. Herwald
- b. W.E. Shoupp
- c. D. Berg
- d. J.C.R. Kelly
- e. E.V. Somers
- f. G.C. Gainer
- g. T.O. Munson
- h. L. Mandelcorn
- i. S. Jordon
- j. G.W. Wiener, Research Director - Power Systems

RESPONSE:

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III. Request for Admissions

Plaintiffs request defendant, Westinghouse Electric Corporation, within thirty (30) days after service of this request to make the following admissions for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at the trial:

1. That Exhibit A is genuine.

ANSWER:

2. That Exhibit A is authentic.

ANSWER:

3. That Exhibit A was authored by G.W. Wiener, Research Director - Power Systems.

ANSWER:

4. That Exhibit A was distributed to the following individuals:

- a. S.W. Herwald
- b. W.E. Shoupp
- c. D. Berg
- d. J.C.R. Kelly
- e. E.V. Somers
- f. G.C. Gainer
- g. T.O. Munson
- h. L. Mandelcorn
- i. S. Jordon

ANSWER:

5. That the original document used red letters for the stamp "Proprietary Class 1".

ANSWER:

6. That all of the information in Exhibit A is a correct description of the information presented at the December 29, 1971 meeting attended by the addressees listed on the exhibit.

ANSWER:

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