

Environmental Research Foundation
231 Nassau Street
P.O. Box 3541
Princeton, NJ 08543-3541

(609) 683-0707

August 8, 1990

Mr. Monnye R. Gross
P.O. Box 11835
Clayton, MO 63105

Dear Mr. Gross,

Thank you for your letter of July 31, 1990.

Please re-read my letter to you dated July 18, 1990. In that letter I certainly did not agree to print a retraction.

Since you refuse to provide me with a clarification of the exact phrase or phrases that Mr. Gaffey finds objectionable, I must refer back to his letter to me dated April 23, 1990, in which he said he wanted me to retract two items: (1) an "allegation" about "fraud" and (2) "false statements about what Zack and I did." I do not know what "false statements" Mr. Gaffey is referring to, so I will have to ignore that portion of Mr. Gaffey's April 23 letter until I receive further clarification from you or from Mr. Gaffey.

Here I will deal only with the allegation of fraud.

The allegation of "fraud" that Mr. Gaffey cites in his letter appeared in a quotation that I printed and attributed (100% accurately) to attorney Rex Carr.

Mr. Carr made two claims regarding what Zack/Gaffey did in their study entitled, "A Mortality Study of Workers Employed at the Monsanto Company Plant in Nitro, West Virginia":

(a) Mr. Carr claimed that Zack/Gaffey deliberately and knowingly omitted five deaths from the exposed group;

(b) Mr. Carr claimed that Zack/Gaffey deliberately and knowingly took four workers who had been exposed and put these workers in the unexposed group, serving to decrease the death rate in the exposed group and increase the death rate in the unexposed group.

Mr. Carr concludes that these actions by Zack/Gaffey constitute "fraud."

000196

My dictionary says that fraud is "something said or done to deceive...." and the same dictionary says that "to deceive" means "to make (a person) believe what is not true, to mislead."

So the question is, did Mr. Gaffey knowingly and deliberately do something to make (a person) believe something that is not true in either of the matters Mr. Carr cites? If the answer is "yes" in either case, then I must conclude that Mr. Carr is justified in saying what he said, in which case I feel I owe Mr. Gaffey neither an apology nor a retraction.

Regarding Mr. Carr's first point, I believe Zack/Gaffey did omit five deaths from the exposed group but I am not yet sure in my own mind whether this omission was justified or not. I am continuing to gather material about this matter and will reach a conclusion when more information becomes available to me. (More on this below.)

Regarding Mr. Carr's second point, I believe Mr. Carr is correct in stating that 4 individuals who were labeled "not exposed to 2,4,5-T" by Zack/Gaffey had, in fact, been heavily exposed to 2,4,5-T during the 1949 accident at the Nitro plant. I believe Zack/Gaffey knew these individuals had been heavily exposed because they used the term "TCDD exposure" to describe the condition of these four individuals (and others who lived through the accident): "The workers involved in that incident had presumed TCDD exposure as evidenced by chloracne." (pg. 590) Furthermore, according to published information, Ms. Zack has admitted in a court of law that the four workers listed in the two different studies are the same four workers.¹

Zack/Gaffey did not mention anywhere in their published article that they were including four workers with "presumed TCDD exposure" (pg. 590) in Table 11, which is a table labeled "not exposed to 2,4,5-T" (pg. 589).

I therefore conclude that Zack/Gaffey deliberately and knowingly took four workers who had been heavily exposed and put these workers in the "unexposed" group, serving to decrease the death rate in the exposed group and increase the death rate in the unexposed group, which is precisely what Mr. Carr accused them of doing in the sentences I quoted in #171. I believe Zack/Gaffey had every opportunity to tell their readers that they had done this, and to include whatever justification they might have offered for doing this, but instead they chose to remain silent on the matter and thus they chose to allow their readers to form the impression that

Zack/Gaffey had no reason to believe anyone in Table 11 had suffered substantial exposure to 2,4,5-T. This causes me to believe firmly that Zack/Gaffey tried to make their readers believe that something was true when it was actually untrue and they knew it was untrue; in short, I believe they willfully tried to deceive and mislead their readers, constituting a fraud.

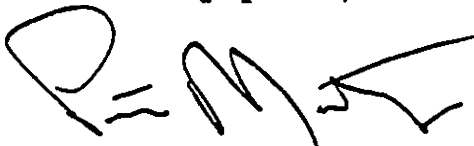
I therefore believe Mr. Carr had adequate justification for writing what he wrote. As a journalist, I have both a right and an obligation to report such matters. I am also aware that other journalists have quoted Mr. Carr's use of the term "fraud" in describing the Zack/Gaffey study.² Furthermore, I notice that other scientists have called for a complete reevaluation of the Monsanto data because they noted that the four workers were termed "not exposed" in one Monsanto study (Zack/Gaffey) but were listed as "exposed" in the Zack/Suskind study; these scientists further allege that Zack/Gaffey omitted 19 individuals who died of circulatory disease or of cancer while in the employ of Monsanto "and who met the criteria for inclusion in the exposed group" but were, for some unexplained reason, omitted entirely by Zack/Gaffey.¹ As I try to learn more about these 19 individuals, I intend also to learn more about the five individuals mentioned by Mr. Carr in the quotation that I printed in #171.

Mr. Gaffey may challenge my right of free speech if he so chooses, but such a challenge would clearly be nothing more than harassment, since Mr. Gaffey knows that I have excellent reasons for believing that Mr. Carr was justified in saying what he said. Furthermore, both you and Mr. Gaffey surely understand that I have a fundamental Constitutional right to reprint a quotation from Mr. Carr's legal brief. Given these facts, your initiation of a lawsuit could not serve any purpose other than harassment.

Naturally, I intend to defend myself with great vigor. I will not take Mr. Gaffey's harassment lightly, and I will respond to it in every way the law provides. This is clearly an unwarranted attempt to restrict my first amendment rights, and to frighten me away from pursuing my obligation as a journalist to print allegations of scientific fraud. I am not easily frightened. I believe the exposure of fraud in science is an important service that journalists must provide their readers, since the public health consequences of scientific fraud can be very great indeed (and, in this particular case, appear to be extraordinarily so, since U.S. Environmental Protection Agency says it has relied upon the Zack/Gaffey study to establish standards for human exposures to dioxin).

It goes without saying that I have no intention of paying Mr. Gaffey, or you, any money, so you can stop suggesting that I do so. Further, I request that you advise Mr. Gaffey that he should stop harassing me. It is he who will find litigation costly and embarrassing, if he chooses to initiate it, not me. Mr. Gaffey should know that the American Civil Liberties Union has agreed to defend me if Mr. Gaffey initiates a lawsuit because they have reviewed this matter in detail and have concluded that I acted properly, and entirely within my Constitutional rights, in printing what I printed; their representation will cost me nothing. As for embarrassing me, Mr. Gaffey will be disappointed on that count as well; far from being embarrassed, I am proud of the small part I have played in bringing this matter to light. My readers, and my journalistic and scientific colleagues across the country, will follow the proceedings with abiding interest if Mr. Gaffey initiates a lawsuit, and I will take pains to keep them all apprised. After all, it is Mr. Gaffey who has invented a new meaning ("not exposed") for a common English word ("exposed"); I am not embarrassed to label this invention a fraud. My advice to you, as Mr. Gaffey's attorney, is that you should learn more about Mr. Gaffey's past before you suggest that he has been libeled in my newspaper. It is evident from the information about Mr. Gaffey's work that has appeared in print elsewhere, and that resides in the Kemner trial transcript, that I merely scratched the surface in #171. Before you initiate a lawsuit against me on behalf of Mr. Gaffey, ask yourself why Mr. Gaffey was not called as a witness by Monsanto in Kemner.

Sincerely yours,



Peter Montague, Ph.D.

Attachments: Photocopies of the two articles cited below.

¹ Alastair Hay and Ellen Silbergeld, "Assessing the Risk of Dioxin Exposure," *Nature* Vol. 315 (May, 1985), pgs. 102-103.

² Carol Van Strum and Paul Merrell, "Dioxin Human Health Damage: Damaged Data?" *Journal of Pesticide Reform* Vol. 10 No. 1 (Spring, 1990), pgs. 8-12. I suggest you read the footnotes carefully, and bear in mind that Mr. Merrell is an attorney.

000139