

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 DAVID M. MOORE, II

DAVID M. MOORE, II, having first been duly sworn, upon his oath deposes and says as follows:

1. My name is David M. Moore, II. 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. I am an attorney licensed to practice in North Carolina and admitted to practice before the Courts of the State of North Carolina and before the United States District Court for the Middle District of North Carolina and the United States Court of Appeals, Fourth Circuit. I am a partner in the law firm of Smith, Helm, Mullis & Moore, in Greensboro, North Carolina.

3. Since 1971 I have represented Monsanto Company as an attorney in connection with various litigation, including litigation involving manufacture and sale by Monsanto Company of polychlorinated biphenyls.

4. As a result of my knowledge and experience about litigation involving polychlorinated biphenyls, I was asked by Mr. Joseph G. Nassif, then a litigation attorney in Monsanto

Company's Law Department, to assist during 1982 and 1983 in the review, analysis, organization, and categorization of documents for purposes of litigation support in connection with pending and anticipated polychlorinated biphenyls litigation.

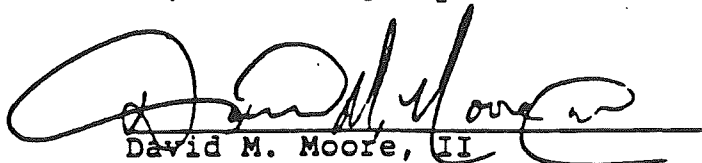
5. Mr. Nassif and I personally reviewed large numbers of documents that had been gathered under Mr. Nassif's supervision and, based upon our knowledge and experience gained in the representation of Monsanto Company in polychlorinated biphenyl litigation, selected documents to be organized and classified for use in both pending and anticipated polychlorinated biphenyls litigation.

6. Upon completion of the process of selecting documents as described above and following discussion of various legal and fact issues, Mr. Nassif and I prepared a list of characteristics and classifications to be used in organization and retrieval of the documents which had been selected by us. That list was based upon our perception of potential factual and legal issues which, in our judgment as attorneys representing Monsanto Company, might arise in pending or anticipated polychlorinated biphenyls litigation.

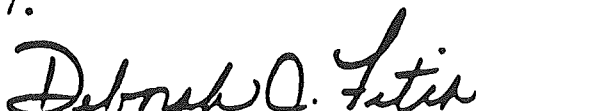
7. After the classification list had been substantially completed, representatives trained by Mr. Nassif and me, and working under our supervision, classified according to the list and our instructions each of the documents which we had selected.

8. In my opinion, the Monsanto litigation support system involves and reflects in all of its aspects my mental impressions,

conclusions, opinions, legal theories, and thought processes formed in my representation of Monsanto in connection with the polychlorinated biphenyls litigation, as well as those of Mr. Nassif. The selection of documents for the system and the documentation pertaining to the system, including the list of critical characteristics and classifications, reflect my mental impressions, conclusions, opinions, legal theories, and thought processes, and is in my opinion attorney work product. Neither documentation pertaining to the system nor any aspect of the system itself, including the list of critical characteristics and classifications, can be produced or otherwise made available to counsel for plaintiffs without revealing those mental impressions, conclusions, opinions, legal theories, and thought processes.

  
David M. Moore, II

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority,  
on this 20<sup>th</sup> day of Feb., 1987.

  
Notary Public in and for  
The State of Oklahoma

My commission expires:

Nov. 7, 1988

Deborah J. Fitch  
(print name)

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