

STATE OF ALABAMA

IN THE CIRCUIT COURT OF CALHOUN COUNTY

MOORE & MISSIONARY
CHURCH, et al.,

Plaintiffs, CIVIL ACTION NUMBER

versus CV-96-243

MONSANTO COMPANY, et al.,

Defendants.

DEPOSITION OF PAUL GEORGE BENIGNUS

The deposition of Paul George Benignus, was

taken before Misty Perry, as Commissioner,

commencing at 10:20 a.m., on April 22nd, 1998, by

the Plaintiffs, at Fisher's Restaurant, 2110 Main

Street, Belleville, Illinois, pursuant to the

stipulations set forth herein.

Regional Reporting Service, Inc.
755 Walnut Street
Gadsden, Alabama 35901-0755

2 Witness: Paul George -

3 BY MR. ATKIN

4 BY MR. DAVIDSON

5

6

7 Plaintiffs'

8 Benignus

9 Exhibit One

10 Exhibit Two

11 Exhibit Three

12 Exhibit Four

13 Exhibit Five

14 Exhibit Six

15 Exhibit Seven

16 Exhibit Eight

17 Exhibit Nine

18 Exhibit Ten

19 Exhibit Eleven

20 Exhibit Twelve

21

22 No other exhibits were marked for identification,

23 offered, or attached as exhibits hereto.

REGIONAL REPORTING SERVICE, INC.

APPEARANCES

3 For the Plaintiffs:

JACK ATKIN, Esq.
KASOWITZ, BENSON, TORRES & FRIEDMAN, L.L.P.
1301 Avenue of the Americas
New York, New York 10019-6022DONALD W. STEWART, Esq.
STEWART, COOT & SMITH
1131 Leighton Avenue
Anniston, Alabama 36202

10 For the Defendants:

GERARD H. DAVIDSON, JR., Esq.
SMITH, HELMS, MULLISS & MOORE, L.L.P.
300 North Greene Street
Greensboro, North Carolina 27401WILLIAM S. COX, III, Esq.
LIGHTFOOT, FRANKLIN & WHITE, L.L.C.
300 Financial Center
505 20th Street North
Birmingham, Alabama 35203

INDEX

Page
419 Stipulations
20 Power of Attorney Certificate

198

REGIONAL REPORTING SERVICE, INC.

STIPULATIONS

2 IT IS STIPULATED AND AGREED, by and

3 between the parties, through their respective

4 counsel, that the deposition of Paul George

5 Benignus, may be taken before Misty Perry, as

6 Commissioner and Notary Public, Alabama at Large,

7 at Belleville, Illinois, on April 22nd, 1998,

8 commencing at 10:20 a.m.

9 IT IS STIPULATED AND AGREED that notice

10 of filing by the Commissioner is waived.

REGIONAL REPORTING SERVICE, INC.

STATE OF ILLINOIS, CITY OF BELLEVILLE

APRIL 22, 1998

PAUL GEORGE BENIGNUS,

5 having been first duly sworn, was

6 examined and testified as follows:

THE COURT REPORTER: Usual

stipulations?

MR. DAVIDSON: Yes, it will be

the usual stipulations with

the exception that the

witness will read and sign.

THE COURT REPORTER: Okay.

MR. STEWART: Well, now, this

is for use -- Are y'all

going to make him available

at the trial?

MR. CUI: We know it's for

trial, but he still has the

right to read and sign.

MR. STEWART: Oh, I understand

that. But when you say the

REGIONAL REPORTING SERVICE, INC.

purposes. And under those

circumstances, if we don't

have the right to call him

to trial, I would prefer to

make sure that --

MR. DAVIDSON: The record is

clear.

MR. ATKIN: All right.

MR. STEWART: -- the record is

as clear as it can be. But

if you want to make an

objection, you make it now

because if there's some way

that Jack wants to rephrase

the question or y'all don't

want something in, I think

it's only fair to both

sides to do it as if you're

going to trial.

MR. DAVIDSON: Okay. That's

fine.

MR. ATKIN: That's fine.

MR. STEWART: Then we won't use

REGIONAL REPORTING SERVICE, INC.

usual stipulations, and of

course, that would mean

that you would object to

leading questions.

Well, if it's going to

be used for trial, I don't

want us to be stuck with

the situation where we've

got a video tape, and y'all

are talking later on about

the fact that it can't be

introduced because -- Now,

do you understand what I'm

talking about?

MR. DAVIDSON: So that means

you want us to make all the

objections and not have the

usual stipulations?

MR. STEWART: I would think

that would be the better

part of valor because

we've got a stipulation

that it can be used for all

REGIONAL REPORTING SERVICE, INC.

the usual stipulations.

EXAMINATION

4 BY MR. ATKIN:

5 Q. Mr. Benignus -- Is it Benignus?

6 A. Benignus.

7 Q. Benignus.

8 A. Or if you were a Bellevillian -- or it

9 was predominantly German. It was

10 Benignus.

11 Q. How do you prefer?

12 A. I guess we'll go with Benignus.

13 Q. Okay. It's easier for me. Thank you.

14 Good morning to you, sir.

15 A. Good morning to you.

16 Q. Can you state your full name, please,

17 for the record?

18 A. Paul George Benignus.

19 Q. And where do you live, Mr. Benignus?

20 A. 47 Metcalf, M-e-t-c-a-l-f, Drive.

21 Q. In Belleville?

22 A. Belleville, Illinois, 62223.

23 Q. Okay. Can you tell us, please, sir,

REGIONAL REPORTING SERVICE, INC.

9

1 what your educational background is?
2 A. I have a bachelor of science degree in
3 chemistry and a master of science
degree in chemistry.
5 Q. Okay. Do you recall when you obtained
6 those degrees?
7 A. In '33 and '34.
8 Q. Okay. And where did you get the
9 degrees?
10 A. The bachelor's was at Illinois College.
11 The master's was at Washington
12 University at St. Louis.
13 Q. Okay. Can you tell us a little bit
14 about your employment history?
15 A. I started at Monsanto in September of
16 '34, and I retired in '74.
17 Q. You began in 1934 -- I'm sorry.
18 A. I started in '34.
19 Q. '34. So you worked for Monsanto for
20 forty years?
21 A. Right.
22 Q. Okay. Can you tell us what positions
23 you held at Monsanto?

REGIONAL REPORTING SERVICE, INC.

10

1 A. Well, in '34, as was the case with all
2 new chemists, I spent two years in the
3 analytical laboratory doing routine
4 analytical work, testing the quality
5 and the products that were manufactured
6 at the organic chemical division plant
7 on South Second Street.
8 After that, I spent about a year
9 in special analytical work. And that
10 takes us up to, say, 1939, when I was
11 sent to research -- to specifically the
12 application research laboratory and
13 I --
14 Q. Where was that located? I'm sorry.
15 A. Also on South Second Street.
16 Q. Okay.
17 A. We didn't leave South Second Street
18 until 1957, when we moved to Creve
19 Coure.
20 Q. Okay. What did you do? What type of
special analytical work did you do?
22 A. Well, I don't remember the details. If
23 it wasn't the routine analytical work,

REGIONAL REPORTING SERVICE, INC.

11

1 whatever came along. It's no big deal.
2 And I also spent some time as a chemist
3 in the plant -- in a plant laboratory,
4 all in the manufacturing department.
5 Q. Which plant laboratory are you
6 referring to?
7 A. This is all on South Second Street,
8 organic division.
9 Q. In St. Louis?
10 A. In St. Louis.
11 Q. Okay. What did you do as a chemist in
12 the plant lab?
13 A. It was plant control analysis and the
14 process.
15 Q. I'm sorry. I didn't catch the end of
16 that. You have to speak up loud so
17 that we --
18 A. I'm sorry. I'm sort of hoarse.
19 Q. Okay. No problem.
20 A. But it was plant control laboratory or
21 whatever process I was associated with
22 at a given time.
23 Q. What do you mean by plant control?

REGIONAL REPORTING SERVICE, INC.

12

1 A. Well, when you make a chemical, you
2 have to control the process, and there
3 is analytical work to be done to pursue
4 and monitor the process.
5 Q. Okay. When you talk about the process,
6 what do you mean? The manufacturing
7 process?
8 A. Yes, manufacturing of chemicals.
9 Q. Okay. And when you say controlling the
10 manufacturing process, what do you mean
11 by that?
12 A. Well, when you make something, you have
13 to have it under control. It's -- You
14 follow the process. It's a reaction --
15 You control their reaction, is probably
16 the way to put it.
17 Q. Okay. When you worked -- first began
18 working and did analytical work and
19 then when you subsequently did special
20 analytical work, did any of that work
21 involve PCBs?
22 A. No.
23 Q. Okay. How about the work you did when

REGIONAL REPORTING SERVICE, INC.

13

1 you were working as a chemist in the
2 plant control laboratory? Did any of
3 that work involve PCBs?
No.
5 Q. Okay. What did you do after that?
6 A. After that, we already went to research
7 -- that was in 1939 -- the application
8 research laboratory.
9 Q. And did you do research?
10 A. Yeah, that's what you'd call it.
11 Q. Okay. Then what type of research did
12 you do?
13 A. Well, there were the two main areas
14 that we addressed ourselves to. One
15 was wood preservation, using
16 pentachlorophenol. Do you know how to
17 spell these words? Okay.
18 Q. If you can do that, then --
19 A. P-e-n-t-a- -- chloro -- c-h-l-o-r-o- --
20 phenol -- p-h-e-n-o-l,
21 pentachlorophenol.
22 Q. Thank you.
23 A. Which was a wood preserver against
REGIONAL REPORTING SERVICE, INC.

14

1 termites and fungus, blue mold, rotter
2 organisms, superficial mold. The other
3 area of activity there was on
4 plasticizers.
5 Q. What do you mean by plasticizers?
6 A. Well, if you have a resin -- as to pick
7 one, like polyvinyl chloride, which is
8 very common -- that's a solid. And to
9 make it into a film, you have to add a
10 plasticizer to make this solid pliable
11 and flexible like a piece of paper or
12 vinyl plastic.
13 Q. Okay.
14 A. A plasticizer softens a resin.
15 Q. How long did you work in the
16 research -- in the research --
17 application research area?
18 A. I worked there until -- I would say
19 until the end of 1941 or --
20 Q. Okay.
-- 1942.
22 Q. Did any of the work that you did in
23 applications research involve PCBs?
REGIONAL REPORTING SERVICE, INC.

15

1 A. Not PCB, but PC tree -- three. You're
2 familiar with what I'm saying?
3 Aroclor -- that was our trade
4 name -- A-r-o-c-l-o-r. The product was
5 5460. That identified it. It's a
6 solid. It's a resin. The fifty-four
7 hundred identifies it as a derivative
8 terphenyl, t-e-r-p-h-e-n-y-l. And the
9 sixty percent is chlorination by
10 weight, and the four -- the second
11 four -- indicates that it is a
12 distilled material. Or this is a
13 resin, and the answer to your question,
14 I employed that on a wood-treating
15 formulation to -- specifically to treat
16 window frames and sash, where the
17 active ingredient was the pentane,
18 which we already spoke of.
19 Q. Okay. After your work in applications
20 research, what did you next do with
21 Monsanto?
22 A. From there -- I believe it was 1942,
23 perhaps even in '41 -- I was asked to
REGIONAL REPORTING SERVICE, INC.

16

1 join and work for Mr. Lynn Watt, the
2 head of the development department of
3 the organic chemicals division, all of
4 this on South Second Street.
5 Q. What were you asked to do for Mr. Watt?
6 A. I had a -- my own laboratory, and I
7 performed the laboratory work for the
8 organic chemical division's
9 requirements.
10 Q. When you say you performed laboratory
11 work, what would you do?
12 A. I would do any lab work that's
13 required.
14 Q. Okay.
15 A. Application, analytical.
16 Q. And did you report directly to
17 Mr. Watt?
18 A. Yes.
19 Q. Okay. And did any of the work that you
20 did -- the laboratory work that you did
21 in that capacity involve PCBs?
22 A. Yes, to a slight degree.
23 Q. Can you explain what you mean?
REGIONAL REPORTING SERVICE, INC.

17

1 A. On behalf of Anniston, I was asked to
 2 do some routine analytical work,
 3 checking certain physical constants of
 4 several Aroclor, A-r-o-c-l-o-r,
 5 products.
 6 MR. ATKIN: Okay. You know what,
 7 we're going to just --
 8 Yeah, we're going to go off
 9 the record for a second.
 10 (Discussion held off the
 11 record.)
 12 MR. ATKIN: Okay. We're back
 13 on the record. I'm sorry.
 14 Q. You were telling us about the work that
 15 you did on behalf of Anniston?
 16 A. Yes. It didn't amount to much. I
 17 checked several physical constants on
 18 Aroclor products. I don't recall the
 19 exact ones.
 20 Q. Okay. What do you --
 21 A. But I remember it was done for
 22 Anniston.
 23 Q. What do you mean by checked the
 REGIONAL REPORTING SERVICE, INC.

19

1 A. Yes.
 2 Q. Okay.
 3 A. Watt provided the money and the
 4 wherewithal for having toxicological
 5 work done on behalf of Anniston. And I
 6 think by then, Krummrich was
 7 producing -- not in 1935, I don't
 8 think -- but in the war period,
 9 Krummrich was established to have two
 10 independent sources of supply.
 11 Q. Okay. Do you know approximately when
 12 this toxicological work began, in so
 13 far as it relates to Anniston because I
 14 know that you were thinking that
 15 Krummrich didn't come on board until
 16 later. But --
 17 A. I think that's right.
 18 Q. Okay. When did the toxicological work
 19 regarding --
 20 A. Well, my estimation of this -- I wasn't
 21 connected with it, but I heard about
 22 it. I heard about Kettering, Keyhole
 23 labs, and so on and so forth.
 REGIONAL REPORTING SERVICE, INC.

18

1 physical constants?
 2 A. Determined them, measured them.
 3 Q. Do you recall what types of physical
 4 constants you checked and determined?
 5 A. Density and -- Well, certain routine
 6 things. I don't remember what they all
 7 were.
 8 Q. Did you do any work at that time as
 9 part of your laboratory work regarding
 10 the toxicity of PCBs?
 11 A. I did not, but that's a good question.
 12 Q. Thank you.
 13 A. For this reason: Mr. Watt, my boss,
 14 hired Dr. Kelly, who I believe came in
 15 1935. I'm not sure of that.
 16 Q. What was Dr. Kelly's first name?
 17 A. Emmet.
 18 Q. Okay.
 19 A. And he was the medical director. And
 20 later on, an early assistant was Elmer
 21 Wheeler, who was an industrial
 22 hygienist reporting to Dr. Kelly.
 23 Q. And did Dr. Kelly report to Mr. Watt?
 REGIONAL REPORTING SERVICE, INC.

20

1 Q. Okay.
 2 A. And when I heard that -- I would say it
 3 was around 1943, and that's as close as
 4 I can estimate it.
 5 Q. Okay. Do you know what type of work
 6 was done?
 7 A. Yeah.
 8 Q. Can you tell us about that?
 9 A. Well, it was toxicological work. It
 10 started the toxicity, the vapor. They
 11 exposed animals, rabbits, rats, and
 12 dogs -- I think some monkeys -- to the
 13 vapors of PCBs emitted at elevated
 14 temperatures. You don't have any --
 15 much vapor pressure of PCBs at room
 16 temperature, and they did some skin
 17 toxicity tests.
 18 Q. On the animals?
 19 A. Yes, and also on -- on humans -- No,
 20 wait a minute. Yeah, on humans too.
 21 Q. Where was that done?
 22 A. That was done, as I recall, at the
 23 Barnard Free Skin and Cancer Hospital
 REGIONAL REPORTING SERVICE, INC.

21

1 in St. Louis.
2 Q. Do you know when that was done?
3 A. Well, approximately -- This time, it
went on for a number of years. This
5 was various -- long-time testing.
6 Q. Do you know what the results were of
7 the skin toxicity tests that were done?
8 A. Yeah, I know the result that was. The
9 result was that the Aroclor 1254,
10 fifty-four percent chlorination, was
11 neither a skin irritant nor a skin
12 sensitizer in accordance with a
13 standard skin-testing procedure.
14 Q. And who made that determination?
15 A. As I already indicated, the Barnard
16 Free Skin and Cancer Hospital.
17 Q. Can you -- Is Barnard, B-a-r-n-a-r-d?
18 A. Right.
19 Q. Okay. Free Cancer and Skin?
20 A. Free Cancer and Skin, right. It was a
21 free hospital. People who had cancer
22 could be treated there free of charge.
23 Q. This is in St. Louis?

REGIONAL REPORTING SERVICE, INC.

22

1 A. Yes. It was very competent -- a very
2 fine hospital on cancer.
3 Q. Is it still in existence? Do you know?
4 A. Yeah, I think so.
5 Q. Okay. Do you re -- Do you know the
6 names of the physicians at the Barnard
7 Free Cancer who were involved in
8 this -- in this study?
9 A. I -- I'm not sure because I wasn't
10 there. I don't know which doctors did
11 this.
12 Q. Okay.
13 A. They had a research laboratory. It
14 wasn't all medical. It was some
15 research work. I know that.
16 Q. Do you recall the names of anyone at
17 Barnard Free Cancer and Skin Hospital
18 who was involved in this study?
19 A. Well, you keep saying who was involved.
20 I can't answer that because I don't
know specifically.
22 Q. Okay. That's fine. You said that
23 there was toxicological work done also

REGIONAL REPORTING SERVICE, INC.

23

1 regarding studying the vapor and the
2 effects of the vapor on rats and
3 rabbits. This is back in the 1940s,
4 correct?
5 A. That's my estimation of it, yes,
6 because I'm estimating this from the
7 standpoint as to where I was at that
8 time, not that I was involved in this.
9 Q. Right. You weren't personally involved
10 in this?
11 A. I was not personally involved, so it's
12 hearsay on my part. But as best I can
13 answer your question, it is -- I said,
14 I think, '43. It would be in that time
15 frame.
16 Q. Okay. Did you ever learn what the
17 results were of the toxicological
18 testing that was being done on the rats
19 and rabbits at that time?
20 A. Well, this isn't expressed in terms of
21 LD-50s. Is that clear in your mind?
22 It's not in mine -- in my mind.
23 Q. Well, why don't you tell us what your

REGIONAL REPORTING SERVICE, INC.

24

1 best understanding of what the LD-50
2 means?
3 A. Well, that was an expression of -- They
4 had an expression, LD-50. I'm sorry.
5 I don't really know what it is.
6 Q. Okay. That's fine. As far as you
7 know, though, was the determination of
8 the LD-50, was that the essence or the
9 purpose of the testing that was done --
10 toxicity testing done at that time?
11 A. That was an expression that meant
12 something to the people in connection
13 with this work. It was an expression
14 that dealt with the amount required to
15 cause a threshold exposure or something
16 like that.
17 Q. Caused a certain number of deaths in
18 the study animals?
19 MR. DAVIDSON: Objection.
20 A. I don't know. I wasn't in that.
21 Q. Okay.
22 A. I merely answered your question. I am
23 not a toxicologist.

REGIONAL REPORTING SERVICE, INC.

25

1 Q. I understand.
2 A. Okay.
3 Q. And I also understand that you did
not -- you were not personally involved
5 in any toxicological work that was
6 done --
7 A. That's correct.
8 Q. -- on PCBs; is that right?
9 A. That's correct.
10 Q. Okay. Other than the tests that were
11 done on the rats and rabbits and -- to
12 determine the LD-50 and the skin
13 toxicity tests that you told us about,
14 were there any other tests being done
15 in the 1940s at Monsanto with regard to
16 PCBs?
17 A. Well, this test wasn't done at
18 Monsanto. As I told you, it was done
19 in toxicological laboratories.
20 Q. Right. But was it a test that was
21 being done on behalf of Monsanto?
22 A. Yes.
23 Q. Okay.

REGIONAL REPORTING SERVICE, INC.

26

1 A. My boss paid for it.
2 Q. Okay. Were there any other types of
3 toxicity testing being done in the
4 1940s regarding Aroclors?
5 A. Not to my knowledge.
6 Q. Okay.
7 A. I think that's correct.
8 Q. Okay. How long were you involved in
9 the position -- in the laboratory work
10 that you did for the organic chemicals
11 department?
12 A. The development department.
13 Q. Thank you.
14 A. I was involved there until 1947,
15 October.
16 Q. What did you do then?
17 A. I left the organic chemicals division,
18 and I was asked -- I was invited by the
19 inorganic chemicals division to join
20 them. I knew them very well. They
were in St. Louis in the same
22 building, and these were people from
23 Anniston --

REGIONAL REPORTING SERVICE, INC.

27

1 Q. Okay.
2 A. -- originally.
3 Q. Who were they?
4 A. Well, I'll mention names. Harold Bible
5 was one. They were the officers of
6 Anniston. You're aware that Mr. Queeny
7 bought Anniston, and they moved these
8 people, the management, from Anniston
9 to St. Louis in 1935. So it was
10 management people and technical people
11 and marketing people -- very fine
12 people.
13 Q. Okay. What did you -- What did you do
14 for the inorganic chemicals division?
15 A. Pardon?
16 Q. I'm sorry. What did you do for the
17 inorganic chemicals division?
18 A. Oh. My specific assignment -- and this
19 was quite specific -- was to work on
20 PCBs for nonelectrical uses. I'm
21 differentiating here as versus
22 dielectric applications and uses.
23 Q. Okay. What work did you actually do?

REGIONAL REPORTING SERVICE, INC.

28

1 A. I did not do any lab work. I didn't
2 have a lab then anymore. I had an
3 office.
4 Q. And what did you do? Were you involved
5 in administration?
6 A. No, I was a technical person.
7 Q. Okay.
8 A. And that pertains until I retired.
9 Q. So let me see if I have this straight.
10 From the time you started working for
11 the inorganic chemicals division, in or
12 about October 1947 --
13 A. Yeah.
14 Q. -- until the time that you retired in
15 or about 1974, right?
16 A. No. I don't want to confuse you here,
17 but I see I am. But it's not
18 confusing --
19 Q. Okay. Perhaps we --
20 A. -- if we can go slowly through this.
21 Q. Sure.
22 A. All right. We got to 1947.
23 Q. Right.

REGIONAL REPORTING SERVICE, INC.

29

1 A. And we're up where I started with the
2 organic chemicals division --
3 Q. Okay.
-- which was the old Swann Chemical, if
5 you will. And I was
6 there -- to go ahead and clarify
7 this -- until, I would say 1951. Then,
8 I was moved back -- At the behest of a
9 new president, I was moved back to the
10 organic chemicals division. And
11 PCBs -- I merely went along. PCBs were
12 moved from the inorganic division, and
13 they came under the organic division
14 now. And I was asked to go along, so
15 that clarifies this.
16 Q. Okay.
17 A. And then I was again with the organic
18 division until I retired in 1974.
19 Q. Okay.
20 A. So that gives you the whole
21 perspective.
22 Q. Okay. But from the time that you began
23 working on PCBs, did the work that you
REGIONAL REPORTING SERVICE, INC.

31

1 division --
2 A. Yes.
3 Q. And you did work on nonelectrical uses
4 of PCBs?
5 A. You've got it correct.
6 Q. What did you do?
7 A. What did I do? I reported to Paul
8 Long, who was the -- His title was
9 Director of Development. And at one
10 time, I found what my title was. I did
11 have one, Assistant Director of
12 Development. Mr. Long handled the
13 inorganic chemicals of the inorganic
14 chemical division. I was assigned to
15 handle the Aroclor-PCB interest.
16 Q. Okay. When you say -- And were you
17 involved in development --
18 A. Excuse me. I called it the development
19 department because that was what it was
20 called. To be more factual, we really
21 didn't develop anything.
22 Q. That's what I'm trying to understand.
23 What did you do?
REGIONAL REPORTING SERVICE, INC.

30

1 did on PCBs involve nonelectrical uses?
2 A. Yes.
3 Q. And that's from 1947 until the time
4 that you retired?
5 A. No.
6 Q. Okay.
7 A. It was 1947 until I left the inorganic
8 division and was moved with the
9 products into the organic division.
10 Q. Okay. And did that work in the organic
11 division -- Did you continue to do work
12 regarding PCBs in connection with when
13 you were transferred back to the
14 organics division?
15 A. Yes.
16 Q. Okay. What did you do?
17 A. Well, now we are up to -- I think we
18 got to 1951, didn't we?
19 Q. Okay. I'm sorry, but before -- I don't
20 mean to interrupt. Before 1951 -- From
1947 until --
22 A. Okay.
23 Q. -- 1951 when you were in the inorganics
REGIONAL REPORTING SERVICE, INC.

32

1 A. We did not develop anything that I can
2 think of.
3 What I did, to better answer your
4 question, I pursued the applications
5 that came to be as a result of
6 development and uses by people in
7 industry. They would find a use for
8 the material, and I would acquaint
9 myself with it as I could -- to the
10 best of my ability and as it might be
11 of interest to us to follow this. I'm
12 telling you that these applications and
13 uses were developed outside of us. We
14 didn't develop these things.
15 Q. Okay.
16 A. But we pursued them by way of getting
17 acquainted.
18 Q. Okay. And these are for nonelectrical
19 uses?
20 A. Nonelectrical uses.
21 Q. What is the difference between organic
22 chemicals and inorganic chemicals?
23 A. Organic chemicals are organic.
REGIONAL REPORTING SERVICE, INC.

33

1 Q. What do you mean by that?

2 A. They're not inorganic. Okay. We are

3 organic. We burn, don't we? That's

4 one simple way of saying it. Inorganic

5 are salts. They don't burn. Calcium

6 phosphate -- Well, sodium phosphate,

7 calcium phosphate, and these inorganic

8 chemicals made by the inorganic

9 chemical division of Anniston, they do

10 not burn. They're water. Well, some

11 are, and some aren't. Organic things

12 are -- a simple expression, wood is

13 organic. Now you have the difference.

14 I don't know that we need to go on into

15 that.

16 Q. We don't need to. We don't need to.

17 A. There's organic, and there's aliphatic.

18 Q. Okay.

19 A. Do you know the difference? The

20 organic are a ring structure. The

21 aliphatic is a chain structure of

22 carbon atoms.

23 Q. Okay. Thank you. From 1951 until the

REGIONAL REPORTING SERVICE, INC.

34

1 time that you retired, you were back

2 doing work under the organics

3 department, correct?

4 A. Yes.

5 Q. Okay. And is it the same type of work

6 that you just described to us, in other

7 words, regarding product development?

8 A. I told you, we didn't develop anything.

9 Q. Right, right. But, I mean, it's the

10 same type of work, in other words,

11 where customers would come up with

12 applications --

13 A. Yes.

14 Q. -- or ideas for the product?

15 A. Yes, yes. You understand it.

16 Q. Then you would evaluate or assess that;

17 is that right?

18 A. Yes.

19 Q. Okay. Did Monsanto have a --

20 MR. DAVIDSON: Excuse me, Jack.

I'm a little confused about

22 what time you were asking

23 about then. Are you still

REGIONAL REPORTING SERVICE, INC.

35

1 on the '47 to '51 --

2 MR. ATKIN: No, I think we're

3 from '51 to --

4 MR. STEWART: We're past that.

5 MR. DAVIDSON: Post '51?

6 MR. STEWART: Post '51.

7 THE WITNESS: We're past -- We

8 hit '51 when I left the --

9 MR. ATKIN: We're on a roll.

10 Q. I guess my question is -- The question

11 I have now is: Was there anyone at

12 Monsanto or a department at Monsanto

13 that was responsible for doing its own

14 product development regarding PCBs

15 specifically?

16 A. I'm inclined -- Well, I will say yes

17 affirmatively. Yes, the organic

18 division had departments, development

19 and marketing, and so on and so forth.

20 And should I go on from there now?

21 Q. Well, maybe I can help you.

22 MR. DAVIDSON: Let him ask the

23 question.

REGIONAL REPORTING SERVICE, INC.

36

1 Q. When you say developments, was there a

2 specific area within the organics

3 division that was responsible for

4 developing products containing PCBs?

5 A. No, they had laboratories. There was a

6 plasticizer laboratory where they

7 tested plasticizers in which PCBs in

8 various ways functioned as a

9 plasticizer and --

10 Q. What did they test them for?

11 A. What?

12 Q. What did they test them for?

13 A. The plasticizers?

14 Q. The PCBs, specifically?

15 A. Oh, the PCBs.

16 MR. DAVIDSON: If you know.

17 A. I don't know specifically, but I

18 answered the question in a general way

19 by saying PCBs are known plasticizers

20 for various resins, so that's a general

21 response.

22 Q. Okay. Other than testing of

23 plasticizers, was there anyone in the

REGIONAL REPORTING SERVICE, INC.

37

1 organic division or a department within
2 the organic division that was
3 specifically charged with or had
4 responsibility for developing products
5 that would contain PCBs?

6 A. I would say yes. Not products that
7 Monsanto sold, but probing the use of
8 plasticizers of interest to Monsanto,
9 which Monsanto made, to see their
10 applicability in the plastics industry.
11 They probed us. We didn't sell
12 plastics.

13 Q. Okay.

14 A. Monsanto had a plastic division at
15 Springfield and so forth. This was a
16 plasticizer laboratory.

17 Q. Did that -- that area or that
18 department within that organic division
19 that was responsible for probing the
20 use of plasticizers --

21 A. Yes.

22 Q. Was that -- Did it have a specific
23 name, that department?

REGIONAL REPORTING SERVICE, INC.

38

1 A. It was known to me as the plasticizer
2 laboratory.

3 Q. Okay. Who headed that laboratory in
4 1951? And actually, can you tell us,
5 if you could, who headed it from 1951
6 until -- Was it still in existence in
7 1974 when you left?

8 A. I would think so.

9 Q. Okay. Can you tell us who headed that
10 plast --

11 A. Well, Joe Darby.

12 Q. Joel?

13 A. Joe.

14 Q. Joe. Joe Darby?

15 A. Darby, yeah.

16 Q. Was he in charge of that plasticizer
17 laboratory in 1951?

18 A. He was connected with it. I don't know
19 if he was in charge of it.

20 Q. Okay. Do you know --
21 Joe Darby and his -- No, wait a minute.
22 Joe Darby and his college of
23 plasticizer knowledge.

REGIONAL REPORTING SERVICE, INC.

39

1 Q. Is that the way he was known? Was that
2 his reputation?

3 A. You heard it.

4 Q. I heard it from you just now. Okay.

5 Mr. Darby, at some point in time, was
6 the head of the plasticizer laboratory;
7 is that right?

8 A. Yeah, that was what he did.

9 Q. Okay. Do you know from when to when?

10 A. No, I didn't -- I think you just now
11 said that you thought 1951. I was not
12 associated with this anymore.

13 Q. Okay.

14 A. Other people can answer that
15 specifically.

16 Q. Do you know the names, other than

17 Mr. Darby, the names of anyone else who
18 headed the plasticize -- plasticizer
19 laboratory from 1951 to 1974, the time
20 you retired?

21 A. Who headed it? I think Darby.

22 Q. Just Darby?

23 A. I think.

REGIONAL REPORTING SERVICE, INC.

40

1 Q. Okay.

2 A. I think he --

3 Q. Well -- I'm sorry. I --

4 A. I think he's still alive, as I am.

5 Q. Okay. Do you know where he lives?

6 A. Last I knew, he lived in St. Louis.

7 I don't know.

8 Q. Okay. From 1951 until the time that
9 you retired, what type of work were you
10 doing, you specifically?

11 A. From -- I would say 1951, when PCBs
12 were moved back to the organic
13 division, I did go along.

14 Q. Right.

15 A. I could have stayed with the southern
16 gentlemen from Anniston. I was invited
17 to, but I went to the organic division.

18 Q. Okay. What did you do there?

19 A. And a change had occurred.

20 Dr. Jenkins, Russell Jenkins, in
21 Anniston, the Director of Research, had
22 handled the dielectric technology with
23 the inventors and the owners of the use

REGIONAL REPORTING SERVICE, INC.

41

1 patents for the dielectric technology,
2 specifically, the dielectric food and
3 capacitors and transformers. Now, this
4 work and communication between Jenkins
5 and Frank Clark, the inventor -- Frank
6 Clark was a GE at Litchfield.

7 Now, when Aroclor was moved out
8 of the inorganic division to the
9 organic division, Dr. Jenkins was moved
10 from Anniston, where he was Director of
11 Research. He was moved into the
12 research department under Dr. Krydis,
13 K-r-y-d- -- I think, i-s -- Krydis.

14 Q. Okay.

15 A. And that left a void. And what
16 happened, I was asked to meet Frank
17 Clark and his people from General
18 Electric Company. And their request
19 was that I should join the American
20 Society for Testing and Materials where
21 they were active and also become active
22 in the International Electrotechnical
23 Commission, which is work of interests

REGIONAL REPORTING SERVICE, INC.

42

1 along these lines worldwide, and also
2 participate the various degree in the I
3 triple E, the Institute of Electrical
4 and Electronic Engineers. Well, I got
5 the message, and that's what I did as a
6 technical person.

7 Q. Did that work specifically involve
8 PCBs?

9 A. Sure, that's what it was.

10 Q. Okay.

11 A. Askarel is the generic name.

12 Q. And did ASTM have -- Withdrawn.

13 What was ASTM's interest in
14 askarel?

15 A. Well, I'll tell you what ASTM did.

16 Q. Okay. Before you do that -- I'm sorry.

17 Can you tell us what ASTM is?

18 A. American Society for Testing and
19 Materials.

20 Q. Okay.

21 I emphasized testing to answer your
22 question. That means they were
23 responsible for developing and

REGIONAL REPORTING SERVICE, INC.

43

1 documenting the test procedures
2 specifically, in great detail, every I
3 dotted, every T crossed, the test
4 procedure specified officially, that
5 shall be used to characterize the
6 materials part. And the materials part
7 was the synthetic dielectrics of the
8 askarel class. That is what ASTM did.

9 Q. Okay. And why were you asked to get
10 involved with that?

11 A. Because that was what I was supposed to
12 help do on behalf of the electrical
13 industry and our own interests as
14 manufacturers. We didn't make
15 capacitors or transformers, but we made
16 askarel.

17 Q. Okay. And was there representation at
18 ASTM on behalf of other companies in
19 the electrical -- of companies in the
20 electrical industry, among GE and --

21 A. Oh, yes, that's what it was all about.

22 Q. Okay.

23 A. This was the electrical industry --

REGIONAL REPORTING SERVICE, INC.

44

1 committee and subcommittee B of section
2 D-7, I think was the official name.

3 Q. Okay. And that's what you did until
4 you retired?

5 A. Essentially, yes.

6 Q. Okay. You told us a little bit earlier
7 about your knowledge of certain
8 toxicity testing that was done on PCBs
9 in the 1940s. Do you remember that?

10 A. Yes.

11 Q. Okay. Do you recall whether toxicity
12 testing on PCBs was done at Monsanto
13 during the 1950s?

14 A. I don't believe so because what I'm
15 thinking of should have been completed
16 by then. Maybe it wasn't. I don't
17 know. I wasn't in that area.

18 Q. Okay.

19 A. I've been close to the medical
20 department earlier, but at this stage,
21 I was in there connected with the
22 electrical business.

23 Q. Okay.

REGIONAL REPORTING SERVICE, INC.

45

1 A. And incidently, when you asked about
2 this, we already said the work wasn't
3 done at Monsanto. It was done on
4 behalf of Monsanto by toxicological
5 laboratories. What I wish to say now
6 is that this was on behalf of the
7 electrical industry also. And they
8 knew the results and the findings,
9 etcetera.

10 Q. Okay. And that's because the results
11 and the findings were shared with them;
12 is that right?

13 A. Yes.

14 MR. DAVIDSON: Objection.

15 THE WITNESS: Huh?

16 MR. DAVIDSON: I just entered an
17 objection to a leading
18 question.

19 THE WITNESS: Oh.

20 MR. ATKIN: Well, okay. That's
21 all right.

22 A. Excuse me. What I wanted to say is
23 that they were aware of this as well as

REGIONAL REPORTING SERVICE, INC.

46

1 Monsanto. Monsanto was not alone in
2 this.

3 Q. Okay. After leaving Monsanto, did you
4 work for anybody else?

5 A. Are you kidding?

6 Q. Is that a no?

7 A. Yes.

8 Q. Yes, it's a no?

9 A. Yes, it's a no.

10 Q. Okay. Why did you leave Monsanto?

11 Just to retire?

12 A. Retire -- mandatory retirement. It was
13 the law of the land, out at sixty-five.

14 Q. Okay. And you're not presently
15 employed, are you?

16 A. No.

17 Q. Okay. After leaving Monsanto, did you
18 ever do any consulting work for them?

19 A. I did some consulting work, yes.

20 Q. When was that?

From 1974 for six months, I think it
22 was. It took them six months to retire
23 me. By this time, I was employee

REGIONAL REPORTING SERVICE, INC.

47

1 emeritus.

2 THE WITNESS: You don't have to
3 put that down.

4 Q. Okay. What did you do as a consultant
5 during that six-month period?

6 A. I did next to nothing.

7 Q. Okay.

8 A. I was -- I gave you an answer. I
9 wasn't being so facetious when I told
10 you.

11 Q. I understand.

12 A. You understand?

13 Q. I do. And did you receive a regular --
14 your regular salary during that time
15 period?

16 A. Yes.

17 Q. Okay. Do you know how much it was at
18 that time?

19 A. No.

20 Q. Okay. You've given -- Well, before I
21 ask the next question, let me just tell
22 you, if you need to take a break at any
23 point in time, just let me know, okay?

REGIONAL REPORTING SERVICE, INC.

48

1 A. All right.

2 Q. That's no problem. And are you on any
3 medications today?

4 A. I take some inhalants. I take --
5 doctor -- I am on Atrovent. Are you
6 familiar with that?

7 Q. A little.

8 A. A little. Do you know what it is?

9 Q. Well, it's an inhaler, right?

10 A. Yes, Atrovent, and another thing,
11 Beclovent, which expands the tube going
12 into the lung.

13 Q. Okay.

14 A. It facilitates breathing.

15 Q. Do either of those medications
16 interfere with your ability to
17 understand any of my questions here
18 today?

19 A. No. Good Heavens.

20 Q. They have no effect on --

21 A. They don't interfere with anything.

22 Q. Okay. Good. So if I ask you a
23 question, and you answer it, I'm going

REGIONAL REPORTING SERVICE, INC.

49

1 to assume that you understood my
2 question. Okay?
3 A. Well, if I don't, I'll try to ask you
to repeat it.
5 Q. Excellent. Thank you. Have you ever
6 testified before?
7 A. Yes.
8 Q. Okay. At depositions?
9 A. Yes, like this.
10 Q. Like this here today. Have you also
11 testified at trial?
12 A. No.
13 Q. Okay. How many depositions did you
14 testify in?
15 A. My guess is perhaps six or seven,
16 something like that.
17 Q. And was all the testimony that you gave
18 in those six or seven cases -- Was that
19 in connection with PCB litigation?
20 A. Yes.
21 Q. Okay. And was all of the testimony
22 that you gave subsequent to the time
23 that you retired from Monsanto?

REGIONAL REPORTING SERVICE, INC.

50

1 A. Yes.
2 Q. Okay. When was the last time you
3 testified in a deposition in connection
4 with the PCB case?
5 A. I think about two years ago.
6 Q. Okay. And do you recall where that
7 case was venued?
8 MR. DAVIDSON: That may be -- not
9 be a term he's familiar
10 with.
11 Q. Okay. Do you recall where that case
12 was, you know, where the court --
13 A. Well, I know where I was deposed --
14 here.
15 Q. Here at this restaurant?
16 A. Yeah.
17 Q. Do you know where the court was where
18 that case was being heard?
19 A. No.
20 Q. Okay. Do you recall the name of the
case?
22 A. Now we're getting with it. It had to
23 do with a pipeline. Transwestern, I

REGIONAL REPORTING SERVICE, INC.

51

1 believe.
2 Q. Okay. And how long did your deposition
3 last?
4 A. A day, not over a day.
5 Q. Okay. And do you recall when --
6 Withdrawn.
7 Do you recall the names of any
8 other cases that you gave testimony in?
9 A. Well, I'll do my best. I don't catalog
10 these things in my mind. I'll do my
11 best.
12 Q. Thank you.
13 A. One was a Cecil Scott case. That dealt
14 with Westinghouse.
15 Q. Okay. Any others that you can recall?
16 A. Yeah, there was a Gerard Hopkins case
17 on the west coast.
18 Q. Do you recall when you gave testimony
19 in the Cecil Scott case?
20 A. That was some years ago.
21 Q. When you say some years, can you give
22 us a -- just your ballpark?
23 A. I'll do my best. '98 -- Gee, time

REGIONAL REPORTING SERVICE, INC.

52

1 flies. I would say, perhaps, '93.
2 Q. Okay. What about the Hopkins case? Do
3 you know when that was?
4 A. That was later.
5 Q. Okay. How much later?
6 A. Call it two years later.
7 Q. Perhaps 1995?
8 A. Perhaps.
9 Q. Okay. Do you recall the names of any
10 of the other cases? You told us about
11 three cases so far.
12 A. There was a case about a -- It involved
13 an insurance company. It involved a
14 building in Jacksonville, Florida.
15 Q. Was that a PCB case?
16 A. Yeah.
17 Q. Okay.
18 A. That's what they called it.
19 Q. Okay. Do you remember the name of that
20 case?
21 A. No, I don't. But I know what it was
22 about.
23 Q. What was it about?

REGIONAL REPORTING SERVICE, INC.

53

1 A. Somebody took it upon himself to
2 replace the askarel transformers that
3 were running in splendid condition.
They replaced those transformers with
5 non-PCB transformers, and then they
6 wanted somebody to pay for this.
7 Q. Was Monsanto a defendant in that case,
8 to your knowledge?
9 A. Well, I was called. I was deposed, so
10 I suppose. I don't know what happened.
11 Q. Okay. That's fine. You told us about
12 Smith, Scott, Hopkins, and the
13 insurance company case. Do you recall
14 the others that you gave testimony in?
15 A. There was some others. There was one
16 in Ida -- Nevada.
17 Q. Was that a Nevada Power case?
18 A. Yeah, yes, sir.
19 Q. Okay. Any others?
20 A. Well, I don't think we got up to six or
21 seven. I'm not sure.
22 Q. Okay. That's fine. Let me ask you
23 this: In connection with the testimony

REGIONAL REPORTING SERVICE, INC.

54

1 that you gave in those cases, the
2 depositions, did you receive any kind
3 of compensation from Monsanto?
4 A. No.
5 Q. Okay. Are you receiving any type of
6 compensation for -- in connection with
7 today's appearance?
8 A. No, sir.
9 Q. Okay. Did you meet with anyone to
10 prepare for your testimony here today?
11 A. Yes.
12 Q. Who did you meet with?
13 A. The two gentlemen here.
14 Q. Okay. And when did you meet with them?
15 A. Yesterday.
16 Q. Okay. Who are you referring to, by the
17 way?
18 A. Buddy Cox --
19 Q. Okay.
20 A. -- and Gerard Davidson.
Okay. And you met with them yesterday?
22 A. Yes.
23 Q. How long did you meet for?

REGIONAL REPORTING SERVICE, INC.

55

1 A. In the morning, it was.
2 Q. Okay. Just in the morning?
3 A. They didn't take me to lunch, so --
4 MR. STEWART: They're cheap.
5 MR. ATKIN: We'll keep that off
6 the record.
7 A. So it went through twelve o'clock,
8 should I say, when they left shortly
9 after twelve o'clock.
10 MR. DAVIDSON: We were afraid
11 y'all would blame us for
12 taking --
13 Q. Okay. Did you review any documents
14 with them when you met yesterday?
15 A. They showed me some documents.
16 Q. Okay. Do you recall which ones?
17 A. No, I have no way to recall the
18 documents.
19 Q. Okay. And so when we go through some
20 of the documents, I'll show you -- I'll
21 ask you about them and whether you
22 actually looked at them yesterday.
23 Okay?

REGIONAL REPORTING SERVICE, INC.

56

1 A. Fine.
2 Q. Okay. Do you receive a pension from
3 Monsanto?
4 A. Yes.
5 Q. Okay. Is it from Monsanto, or is it
6 from Solutia?
7 A. You're right. It's Solutia. Excuse
8 me.
9 Q. Okay. How much is your pension?
10 MR. DAVIDSON: Objection.
11 Q. All right. Do you receive any other
12 types of benefits from Monsanto other
13 than besides your pension?
14 A. No, no.
15 Q. Okay. What about health benefits?
16 A. Oh, yes. I have the insurance you get.
17 Q. Okay. If you get hungry and you want
18 to take a break, you let me know, okay?
19 A. I'm not hungry.
20 Q. Okay. If you get tired, you let me
21 know, and we'll take a break. Okay?
22 A. All right.
23 MR. ATKIN: Okay. I'm going to

REGIONAL REPORTING SERVICE, INC.

57

1 mark this for
2 identification purposes as
3 Benignus One. This is a
4 December 5th, 1969 memo
5 from Mr. Benignus to D. A.
6 Olson. And it bears Bate's
7 Number 1002562570.

8 (Benignus Exhibit Number
9 One was marked for
10 identification.)

11 Q. I would ask you to just take your time
12 and review it, if you could?

13 MR. ATKIN: Am I boring you,
14 Donald?

15 A. Okay.

16 Q. Okay. Mr. Benignus, do you recall this
17 letter?

18 A. Yes.

19 Q. Okay. Did you see that letter
20 yesterday when you met with the --

21 A. Yes.

22 Q. -- attorneys. Okay. Who is Mr. D. A.
23 Olson?

REGIONAL REPORTING SERVICE, INC.

58

1 A. D. A. Olson is in the marketing
2 department.

3 Q. Okay. What was his title in the
4 marketing department? Do you know?

5 A. He was an assistant to the -- to
6 Bergen, who is the manager.

7 Q. I'm sorry. I didn't catch that -- the
8 end of that.

9 A. Bergen, Howard Bergen. He's on head
10 distribution. H. S. B-e-r-g-e-n.

11 Q. Okay. Mr. Olson worked under
12 Mr. Bergen; is that right?

13 A. Yeah, that's correct.

14 Q. Okay. Why don't you tell us about who
15 the other people are in this letter?

16 Who's Mr. Kun?

17 A. Kuhn was --

18 Q. Or is it Kuhn?

19 A. He's an engineer.

20 Q. Okay.

Wait a minute. Kountz was an engineer.

22 Q. Okay. Who is Kuhn?

23 A. Kuhn -- I'm trying to read what's after

REGIONAL REPORTING SERVICE, INC.

59

1 his name. Oh, that says his initials.

2 Okay. Kountz was an engineer. Kuhn --

3 Kuhn, I imagine he was -- I'm not sure.

4 Q. Okay.

5 A. Munch -- that's Dr. Ralf Munch. He was

6 in the research department. Richard --

7 Bill Richard, he was the director of

8 the research department.

9 Q. Okay.

10 A. Jim Bryant was in the marketing

11 department.

12 Q. Okay. Why -- Withdrawn.

13 As part of your job at this time

14 in 1969, did you have interactions with

15 the marketing department?

16 A. I was in it.

17 Q. You were part of the marketing

18 department at that time?

19 A. Yes, that's how one would call it. I

20 was a technical person in the marketing

21 department. Although I was the --

22 designated as a marketing manager, I

23 was a technical person.

REGIONAL REPORTING SERVICE, INC.

60

1 Q. Okay. What do you mean by a technical
2 person?

3 A. Exactly what it says. I'm not a
4 salesman.

5 Q. Okay. Now, you state in the first
6 paragraph of this letter --

7 A. Yes.

8 Q. Over six months ago, we pointed out

9 impending need for Monsanto to provide

10 an incinerator either on Monsanto

11 property or elsewhere to effectively

12 dispose of scrap Aroclor.

13 A. That's correct.

14 Q. Okay. Why was there an impending need

15 at that time for Monsanto to have an

16 incinerator to properly dispose of

17 PCBs?

18 A. Because at this time frame, 1969, scrap

19 Aroclor was scheduled, let me say, to

20 arrive from industry at Monsanto --

21 Q. Where --

22 A. -- to get rid of it.

23 Q. Where at Monsanto?

REGIONAL REPORTING SERVICE, INC.

61

1 A. This would have been directed to the
2 Krummrich plant.
3 Q. Okay.
4 I'm saying that in deference to
5 Anniston. It wouldn't have gone to
6 Anniston.
7 Q. Okay. And so, if I understand you
8 correctly, because scrap Aroclor was
9 scheduled to arrive at the Krummrich
10 plant --
11 A. Anticipated, yes.
12 Q. -- anticipated to arrive; therefore,
13 you felt a need that there should be an
14 incinerator to take care of that --
15 A. Exactly.
16 Q. -- scrap PCB? Okay.
17 At this time, when you wrote this
18 letter, December 5th, 1969, had any
19 customers already begun shipping scrap
20 Aroclor to Monsanto's Krummrich
21 facility?
22 A. I doubt it.
23 Q. Okay. Did that subsequently take place
REGIONAL REPORTING SERVICE, INC.

63

1 best way to do it. Yes, incinerate it.
2 Q. Okay. In the -- In the next paragraph,
3 the second paragraph --
4 A. Uh-huh (indicating yes).
5 Q. -- you say: We were surprised to learn
6 at a meeting last Wednesday that this
7 request has not received support.
8 First of all, when you say that
9 we were surprised, who are you
10 referring to?
11 A. We. I was one.
12 Q. Anybody else?
13 A. Well, I guess -- Yes, the people around
14 there that would be interested in this.
15 I don't know exactly who to nominate
16 here. Munch and the people of
17 distribution. Those are the we's.
18 Q. Okay.
19 A. Yep.
20 Q. What was Munch's title?
21 A. Director -- Munch was a technologist --
22 Dr. Munch was a technologist in
23 research under Dr. Richard.
REGIONAL REPORTING SERVICE, INC.

62

1 at some point in time?
2 A. Yes.
3 Q. Okay. And when did that start?
4 A. Well, Monsanto went out of the
5 offering, supplying nonelectrical use,
6 PCBs in 1970. So you see, December 5,
7 '69, that's pretty close.
8 Q. Uh-huh (indicating yes).
9 A. And that is what the tenor -- the
10 situation was when I passed this
11 information along.
12 Q. Okay. Now, when you -- When you
13 discussed the fact that the impending
14 need for Monsanto to provide an
15 incinerator to dispose of the scrap
16 Aroclor, was that because you believed
17 that incineration was the best method
18 for disposing of PCBs?
19 MR. DAVIDSON: Objection.
20 Q. You can answer.
21 I can answer?
22 Q. Yeah.
23 A. I would say that would have been the
REGIONAL REPORTING SERVICE, INC.

64

1 Q. So when you say we were surprised, you
2 are referring to yourself and
3 Dr. Munch?
4 A. And Richard -- Dr. Richard, Jim Bryant.
5 Q. And what kind of doctor was
6 Dr. Richard?
7 A. Chemistry, I think.
8 Q. Okay.
9 A. Bergen, who was the director of the
10 department.
11 Q. Okay. Why did you write this letter to
12 Olson?
13 A. He was -- His job, as I already said,
14 was in marketing. A -- I think he was
15 an assistant to Bergen at that time.
16 Yeah, he was -- Well, he was the
17 assistant to Howard Bergen. He was the
18 man best to address it to.
19 There's only one person in the
20 whole thing here who should do and is
21 going to have to do something, and
22 that's the engineer, Kountz. I
23 couldn't build an incinerator.
REGIONAL REPORTING SERVICE, INC.

65

1 Q. Why didn't you -- I guess what I'm
2 trying to get at is: Why didn't you
3 address the letter to Kountz as opposed
to Mr. Olson?
5 A. Oh, it is addressed to Kountz. Yes,
6 sir. It's a polite way. That's why
7 he's on here.
8 Q. Okay.
9 A. It was sort of a boost, as one would
10 say, politely done.
11 Q. Okay.
12 A. Get that incinerator going.
13 Q. All right. In the third paragraph, you
14 say -- You refer to the fact that you
15 anticipated that Monsanto would have to
16 dispose of a million pounds of askarels
17 a year.
18 A. That is Bryant's estimate from -- He
19 was a salesman, a specialty --
20 specialized salesman, I should say. He
21 was calling on electrical industry, and
22 this is his estimated -- Obviously, it
23 comes from the electrical industry.
REGIONAL REPORTING SERVICE, INC.

66

1 Q. All right, okay. And then, apparently,
2 of that million pounds, in the fourth
3 paragraph, you say three hundred
4 thousand pounds needs to be
5 incinerated.
6 A. Yeah, that's what I say.
7 Q. Okay. Now, why would Monsanto only
8 have to incinerate three hundred
9 thousand pounds if in the previous
10 paragraph, you stated that it had to
11 dispose of a million pounds?
12 A. The answer to that is another
13 estimation, and the estimation is that
14 the incinerator would destroy three
15 hundred thousand pounds.
16 Q. Okay.
17 A. And the -- Then it goes on to speak
18 about the remainder.
19 Q. Okay. And you say the remainder can be
20 returned -- hopefully can be returned
to Monsanto's plants and distilled,
22 correct?
23 A. Yes, that's what it says.
REGIONAL REPORTING SERVICE, INC.

67

1 Q. What do you mean by distillation of PCB
2 scrap?
3 A. Well, distill -- Excuse me. Is your
4 question: What is distill?
5 Q. No. My question is: What -- When you
6 said that a certain amount, apparently
7 seven hundred thousand pounds, would
8 hopefully be incinerated and distilled,
9 what did you mean by that?
10 A. Oh, I didn't say that. That would
11 be --
12 Q. Oh, I'm sorry. Withdrawn.
13 You're absolutely right.
14 A. Yeah, yeah. I understand. Okay.
15 You're all right.
16 Q. Yeah, okay. Right. When you say that
17 seven hundred thousand pounds --
18 A. Yeah, okay.
19 Q. -- would be returned to the plants and
20 distilled, what did you mean by it?
21 What did you mean by that?
22 A. That is basically taking this, in
23 quote, scrap -- Now, the scrap here
REGIONAL REPORTING SERVICE, INC.

68

1 implies scrap relative to the
2 electrical industry, I would say, which
3 has to be of a very high degree of
4 refinement, impurity. We can go into
5 depth into this if you want to.
6 Now, what is being implied here
7 is that three hundred thousand pounds
8 will be destroyed. It's gone. The
9 remainder, as you say, seven hundred
10 thousand pounds, would be run through a
11 still to brush it up, to clean it up.
12 Q. We're talking liquid PCBs?
13 A. Yes, we're talking strictly liquid.
14 Q. Okay.
15 A. Yes, you're right.
16 Q. Okay. Now, once the process got
17 underway and Monsanto, in fact, started
18 to take back scrap from its customers,
19 was the remaining, approximately seven
20 hundred thousand pounds a year,
21 distilled? Was it, in fact, distilled?
22 A. I don't know the answer to that.
23 Q. Okay.
REGIONAL REPORTING SERVICE, INC.

69

1 A. I was not in the plant.
2 Q. Okay. Do you know what effect, if any,
3 the distillation process has on PCB
scrap waste?
5 A. Well, it would -- The term they used,
6 it's one way of cleaning it up.
7 Q. Cleaning it up. What do you mean by
8 that?
9 A. Purifying it.
10 Q. Purifying it from what?
11 A. Well, that's a good question. From
12 contaminants, whatever they might be.
13 Q. Do you know what contaminants might be
14 in existence in PCBs?
15 A. Not -- You're going to have to ask
16 specifically. Where did it come from?
17 I don't know where this scrap came
18 from.
19 Q. But, in general, are you aware of the
20 possibility that contaminants could
21 exist in P -- in manufactured PCBs?
22 A. In manufactured PCBs?
23 Q. In PCBs?

REGIONAL REPORTING SERVICE, INC.

70

1 A. That we supply?
2 Q. Yes.
3 A. No, there are no impurities in what we
4 supplied. It was all made to the
5 electrical grade specification, which
6 we already discussed in terms of ASTM
7 and requirements, which are very
8 exacted. Everything was manufactured
9 to those specifications, so any
10 contamination that occurred didn't
11 occur at Monsanto. It occurred
12 somewhere in the industry.
13 Q. Okay.
14 A. And what this contamination was, you
15 would have to probe these things,
16 which, of course, I don't do. I didn't
17 know where this stuff came from.
18 Q. Okay. And after the PCB scrap was
19 distilled, or a portion of it was
20 distilled, what happened to -- What
happened to it?
22 A. It didn't go in the electrical
23 industry. What it was used for was

REGIONAL REPORTING SERVICE, INC.

71

1 decisions by the people in the organic
2 division and the nonelectrical area.
3 Q. Have you ever heard of the possibility
4 of the existence of dibenzofurans --
5 A. Yes.
6 Q. -- and dibenzodioxins in PCBs?
7 MR. DAVIDSON: Let me object.
8 A. Di- what?
9 Q. Dioxins.
10 MR. DAVIDSON: Wait a minute.
11 Just let me object to the
12 question.
13 MR. ATKIN: Okay. You may
14 answer.
15 A. May I?
16 Q. Yes.
17 A. There is no evidence that -- You're
18 talking about damaged PCB as a result
19 of overheating and partial pyrolysis.
20 Under those very high temperature
21 conditions -- I'll answer your
22 question. Yes, that can lead to the
23 formation of chlorobenzofurans,

REGIONAL REPORTING SERVICE, INC.

72

1 correct. There is no evidence of any
2 dioxin ever occurring as a result of
3 this.
4 Q. Okay. Is there evidence of the
5 development or formation of furans?
6 A. Yes.
7 Q. Okay.
8 A. Under these very high temperature
9 conditions that are destructive to the
10 PCB.
11 Q. Okay. Do you know if any testing was
12 done at Monsanto's facilities and
13 Krummrich in Anniston to determine
14 whether or not furans were being
15 created during the manufacture of PCBs?
16 A. During the manufacture? No, it wasn't
17 created there.
18 Q. Okay. Do you know if any -- Do you
19 know whether PCBs -- Withdrawn.
20 Do you know whether Monsanto ever
21 did any testing to determine whether or
22 not furans were ever released from any
23 of the scrap PCB that Monsanto took

REGIONAL REPORTING SERVICE, INC.

73

1 back from customers?
2 A. I don't know the answer to that
3 question but --
MR. DAVIDSON: Don't speculate.
5 A. I can't answer. No, I don't know the
6 answer.
7 Q. Do you know whether or not Monsanto
8 ever tested -- did any testing to
9 determine whether any furans were
10 created during the manufacture of PCBs?
11 A. Not to my knowledge.
12 Q. Okay. If, in fact, that did take
13 place, do you think you would be aware
14 of it?
15 MR. DAVIDSON: Objection.
16 Q. You can answer.
17 A. Whether -- Are you talking about
18 manufacture at --
19 Q. Yes.
20 A. -- Monsanto?
21 Q. Yes.
22 A. Because the furan, as far as I'm
23 concerned, arises not from damaging the
REGIONAL REPORTING SERVICE, INC.

74

1 fluid at Monsanto, but from damaging it
2 in the industry. One example would be
3 a heat exchanger.
4 Q. What do you mean by that? What do you
5 mean by a heat exchanger?
6 A. A boiler, if you will.
7 Q. Okay.
8 A. Heat transfer.
9 Q. And that would be one example where the
10 possibility would exist for the
11 creation of --
12 A. When it's overheated.
13 Q. No. Let me just finish the question.
14 That would be one possibility
15 where -- for the creation of furans
16 during the -- from PCBs, correct?
17 MR. DAVIDSON: Objection.
18 A. Yes. That's one way it could, in my
19 opinion, occur.
20 Q. Okay.
But that has nothing to do with
22 Monsanto.
23 Q. Okay.
REGIONAL REPORTING SERVICE, INC.

75

1 MR. STEWART: Can we take a short
2 break?
3 MR. ATKIN: Sure, absolutely.
4 (A short break was
5 taken.)
6 MR. ATKIN: Okay. We're back on
7 the record.
8 Q. Mr. Benignus, in the last paragraph in
9 this memorandum, you state: At the
10 present time, our only means for
11 disposal is to a landfill. We are
12 warned that this will no longer be
13 acceptable.
14 And what I want to ask you is:
15 When you say we are warned, who was
16 warned?
17 A. Excuse me. What did you -- I didn't
18 get the question.
19 Q. Okay. It says: We are warned that
20 this will no longer be acceptable.
21 A. Oh.
22 Q. So I'm asking you: Who was warned?
23 A. Who was warned?
REGIONAL REPORTING SERVICE, INC.

76

1 Q. Yeah.
2 A. I don't know. Generically --
3 Q. Are you referring --
4 A. -- Monsanto.
5 Q. -- generically to Monsanto?
6 A. Yes.
7 Q. Okay. When you say we are warned, who
8 was doing the warning?
9 A. I would say that was from the EPA
10 people.
11 Q. Okay. And then in the last paragraph,
12 you indicate in the last sentence:
13 Accordingly, Mr. Kountz will now
14 explore incineration, and Mr. Kuhn will
15 explore distillation at our plants.
16 Correct?
17 A. Oh, yes.
18 Q. Okay. Did doc -- Is it Dr. Kountz or
19 Mr. Kountz?
20 A. Mister.
21 Q. Did Mr. Kountz ever explore
22 incineration options?
23 A. Well, he was the guy that was told to
REGIONAL REPORTING SERVICE, INC.

77

1 build an incinerator.
 2 Q. Okay. And was an incinerator, in fact,
 3 built?
 Yes.
 5 Q. In Krummrich?
 6 A. Yes.
 7 Q. There was never an incinerator built in
 8 Anniston, correct?
 9 A. That's correct.
 10 Q. Okay. Did Doctor -- Is it Dr. Kuhn or
 11 Mr. Kuhn?
 12 A. I think Mr. Kuhn. I really don't know.
 13 See, he's in the plant.
 14 Q. Okay. Did he ever explore
 15 distillation -- the distillation issue?
 16 A. I don't know.
 17 Q. Okay, okay. Let's go on to the next
 18 document.
 19 MR. ATKIN: I'm going to mark
 20 this as Benignus Two for
 21 identification purposes at
 22 this deposition. This is a
 23 December 8th, 1969
 REGIONAL REPORTING SERVICE, INC.

79

1 Q. Mr. Benignus, have you had a chance to
 2 look at this memorandum?
 3 A. Yes, I'm reading it.
 4 Q. Okay. Well, take your time.
 5 A. Uh-huh (indicating yes).
 6 Q. Okay. You've had a chance to review
 7 that document?
 8 A. Yes.
 9 Q. Okay. Did you review that document
 10 yesterday when you met with Monsanto's
 11 lawyers?
 12 A. I believe so.
 13 Q. Okay.
 14 A. I'm not sure, but I would think so.
 15 Q. Okay. The -- do you -- Do you recall
 16 receiving this document?
 17 A. Yes.
 18 Q. Okay. And the author of this document
 19 is Mr. Kountz that you referred to --
 20 A. Yes.
 21 Q. -- earlier?
 22 A. An engineer.
 23 Q. Right. Who was N. T. Johnson?
 REGIONAL REPORTING SERVICE, INC.

78

1 memorandum from Mr. Kountz
 2 to various people,
 3 including Mr. Benignus. It
 4 bears a Bate's Number --
 5 several different sets of
 6 Bate's Numbers. I'll use
 7 one of them. It's 100257
 8 and 100258, a two-page
 9 document.
 10 (Benignus Exhibit Number
 11 Two was marked for
 12 identification.)
 13 MR. DAVIDSON: Excuse me. Is
 14 this the mark?
 15 THE COURT REPORTER: Uh-huh
 16 (indicating yes).
 17 MR. ATKIN: Okay. Let's go
 18 off the record for a
 19 second.
 20 (Discussion held off the
 21 record.)
 22 MR. ATKIN: Okay. We're back
 23 on the record.
 REGIONAL REPORTING SERVICE, INC.

80

1 A. He was sales manager for the districts.
 2 He was in charge of the district
 3 offices.
 4 Q. Okay. And who was R. -- J. R. Fallon?
 5 A. He was in the product group as versus
 6 the district.
 7 Q. Okay.
 8 A. He was in the product group.
 9 Q. Now, in the first paragraph of this
 10 memorandum, Mr. Kountz says: And there
 11 is a strong feeling in some parts of
 12 our business group that incineration
 13 facilities are needed for disposal of
 14 contaminated Aroclor. A serious
 15 question and doubt do exist as to
 16 whether landfill is the proper disposal
 17 method. Do you see that?
 18 A. I read it.
 19 Q. Okay. Which parts of the business
 20 group had a strong feeling that
 21 incineration facilities were need for
 22 scrap PCBs?
 23 MR. DAVIDSON: Objection.
 REGIONAL REPORTING SERVICE, INC.

81

1 A. I don't know.

2 Q. Okay. Do you know what it was about
3 landfilling that raised a, in quote,
4 serious question in doubt, end quotes,
5 as to whether it was the proper
6 disposal method for PCBs?

7 MR. DAVIDSON: Objection.

8 A. I do not know.

9 Q. Okay. Do you know who at Monsanto had
10 a serious question in doubt regarding
11 landfills as a proper disposal method
12 for PCBs?

13 MR. DAVIDSON: Objection.

14 A. I really don't know.

15 Q. Okay. Do you recall any discussions at
16 Monsanto on that -- on that -- on that
17 topic?

18 MR. DAVIDSON: Objection.

19 A. I had none.

20 Q. Okay. Now, on the next page, in the
21 first -- in the first full sentence,
22 after the paragraph that's labeled D,
23 it says: Interest has been generated

REGIONAL REPORTING SERVICE, INC.

82

1 again in incineration, and we have
2 started tracing our own original steps.

3 Okay. What original steps were
4 being traced here with regard to the
5 incineration of --

6 MR. DAVIDSON: Objection.

7 A. I can't answer that. I don't know. It
8 reflects a state of flux. It's not
9 established, and this was not an easy
10 thing to address. And this is an
11 interim situation that is being
12 reported here.

13 Q. Were you involved at all in the
14 decision-making process with regard to
15 incineration versus landfilling for PCB
16 scrap?

17 A. By now, I believe you have concluded I
18 was not.

19 Q. Okay. I just wanted to clarify that.

20 A. Yeah.

21 Okay. And that's all I have on that
22 one.

23 MR. ATKIN: Do you have Three?

REGIONAL REPORTING SERVICE, INC.

83

1 Let's mark Three. For the
2 record, Benignus Three is a
3 memorandum dated September
4 27th, 1974, to D. Wood from
5 J. G. Bryant. It is a
6 one-, two-, three-, four-,
7 five-page memorandum. It
8 bears Monsanto Bate's -- It
9 bears the Bate's Number
10 MONS 029193 through 029197.

11 MR. DAVIDSON: Could you
12 repeat Bate's Numbers?

13 MR. ATKIN: Certainly. 029193
14 through 029197.

15 (Benignus Exhibit Number
16 Three was marked for
17 identification.)

18 Q. If it'll expedite things a little bit,
19 I should --

20 A. Yeah.

21 Q. -- tell you I'm only going to ask you
22 questions about the contents of -- some
23 of the contents on page two.

REGIONAL REPORTING SERVICE, INC.

84

1 A. On page two. Okay.

2 Q. But if you would like to read the whole
3 document, you know, that's fine.

4 A. No, let's go ahead.

5 Q. Okay.

6 MR. DAVIDSON: No, I want you to
7 read it.

8 MR. STEWART: Let's go off the
9 record.

10 (Discussion held off the
11 record.)

12 MR. ATKIN: Okay. We're back
13 on the record now.

14 Q. Who was -- Do you recognize this
15 document?

16 A. Yes.

17 Q. Okay. How do you recognize it?

18 A. By the people that are listed here.

19 Q. Okay. Did you --

20 A. I don't think I got a copy of this.

21 Q. Okay.

22 A. Can you see the date up there,

23 December -- September?

REGIONAL REPORTING SERVICE, INC.

85

1 Q. September 27th, 1974, correct?

2 A. And I think we said when I was retired.

3 Q. Right. So you were no longer there.
Is that what you're saying?

5 A. Well, I guess I was sitting there
6 somewhere.

7 Q. Okay. Well, let me ask you this: Did
8 you review this document yesterday with
9 the -- Monsanto's attorneys?

10 A. I'm not actually sure, but I understand
11 the document.

12 Q. Okay. But you're not sure whether you
13 looked at this document yesterday?

14 A. I'm not sure.

15 Q. Okay.

16 A. I guess if it was of interest to the
17 attorney, I did.

18 Q. Okay. This document mentions a meeting
19 that was held to discuss the minutes of
20 safe handling of PCB fluids and
21 materials for disposal of waste fluids
22 and industrial benefits of
23 polychlorinated biphenyl dielectric

REGIONAL REPORTING SERVICE, INC.

87

1 held?

2 A. Well, the subject indicates why it was
3 held.

4 Q. Okay. Do you know who attended?

5 MR. DAVIDSON: Objection.

6 A. Some people on here did not attend, I
7 would say, and some did. Some weren't
8 even with Monsanto. There were people
9 from the industry, etcetera.

10 Q. And customers?

11 A. Yes.

12 Q. Okay.

13 A. One there from Canada and outside
14 people. This reflects, see, the 17th
15 of May -- i.e. -- see, wasn't it Raab
16 Pittsfield?

17 Q. Okay. On page two of the document --
18 I'm going to be true to my word and ask
19 you about page two. If you see the
20 first full paragraph --

21 A. Yeah.

22 Q. The last two sentences say as follows:
23 Wheeler also reviewed the requirements

REGIONAL REPORTING SERVICE, INC.

86

1 fluids. Did you participate in that --
2 in that meeting?

3 A. Where are you reading this?

4 Q. That's the -- that's the heading of
5 that document.

6 A. Oh, oh, oh, I'm sorry. I would think
7 yes.

8 Q. Okay.

9 A. I would think, although it was very
10 close to my retirement.

11 Q. Okay. Do you know who organized the
12 meeting? Who arranged it?

13 A. I -- It's so close to my retirement, I
14 hesitate that I did, but I didn't get a
15 copy of it that I saw.

16 Q. Okay. But and just -- If you can just
17 focus in on my question. I asked you:
18 Who -- Do you know who organized the
19 meeting? And if you don't know --

20 A. I'm not going to answer that because I
don't know.

22 Q. That's fine. That's fine. And do you
23 know what the -- why that meeting was

REGIONAL REPORTING SERVICE, INC.

88

1 necessary within Monsanto to produce
2 new products. He expressed the intent
3 of these requirements is to prevent a
4 reoccurrence of the PCB-type situation.

5 Do you see that?

6 A. Yes.

7 Q. Okay. Who is Wheeler?

8 A. Wheeler was the industrial hygienist
9 who reported to the director of -- the
10 medical director, Dr. Emmet Kelly.

11 Q. Okay. Do you know what Mr. Bryant
12 meant when he said that -- when he said
13 that Mr. Wheeler was intending that the
14 requirements would prevent the
15 reoccurrence of the-PCB type situation?

16 MR. DAVIDSON: Objection as to
17 what Mr. Bryant would
18 think.

19 Q. Okay. Do you know -- Do you know what
20 Mr. Bryant is referring to when he says
21 that Mr. Wheeler wanted to prevent a
22 reoccurrence of the PCB-type situation?

23 A. It would be conjecture.

REGIONAL REPORTING SERVICE, INC.

89

1 MR. DAVIDSON: I don't want you
2 to guess or conjecture. I
3 just want you to answer if
you know.
5 A. Yeah, I don't want to guess it. I'd be
6 guessing what's in somebody else's
7 mind.
8 Q. Well, were you at -- You were at the
9 meeting, right?
10 A. At the meeting?
11 Q. Yes. Were you at this meeting?
12 A. I believe not because I didn't even get
13 a copy.
14 Q. Okay.
15 A. That's September 27, and I retired in
16 October.
17 Q. Okay. Perhaps I misunderstood. I
18 thought you had testified earlier that
19 you believed that you did attend this
20 meeting.
21 A. This meeting?
22 Q. Yes.
23 A. I doubt it very much.

REGIONAL REPORTING SERVICE, INC.

90

1 Q. Okay.
2 A. My answer would be no.
3 Q. Okay. Do you -- Do you recall any
4 discussions at Monsanto about new
5 product production requirements,
6 preventing a reoccurrence of the
7 PCB-type situation?
8 A. No.
9 Q. You weren't privied any such
10 discussions?
11 MR. DAVIDSON: Asked and
12 answered. I'll object.
13 THE WITNESS: What?
14 MR. DAVIDSON: I'm objecting.
15 He's already -- It's just
16 the question he just asked.
17 He just asked it in a
18 different way.
19 A. I don't really understand your
20 question.
21 Were you a participant in any
22 discussions at Monsanto about
23 preventing a reoccurrence of the

REGIONAL REPORTING SERVICE, INC.

91

1 PCB-type situation?
2 MR. DAVIDSON: Objection.
3 A. No.
4 Q. Okay. Were you aware of -- Did you
5 ever learn of the fact that there were
6 discussions taking place at Monsanto
7 about preventing the reoccurrence of
8 the PCB-type situation?
9 MR. DAVIDSON: Objection. You
10 may answer.
11 Q. You can answer.
12 A. I can? Well, nobody wanted the
13 reoccurrence of this, obviously.
14 Q. When you say a reoccurrence of this,
15 what are you referring to?
16 A. Well, maybe I shouldn't have said it
17 that way. I don't understand this
18 statement here in the report. Am I
19 allowed to ask a question? No?
20 Q. No, you're here to testify.
21 A. Pardon?
22 Q. You're here to give answers, unless you
23 don't understand my question.

REGIONAL REPORTING SERVICE, INC.

92

1 A. No, I don't. I'm trying to understand
2 the question. I'm trying my best to
3 understand it, and I'm not getting it.
4 Q. Okay. I think my question was -- was
5 a --
6 A. As written here.
7 Q. Right. What did that -- What did he
8 mean by that?
9 MR. DAVIDSON: Objection.
10 A. I don't know.
11 Q. Did -- Actually, my question was: Were
12 you aware of any discussions taking
13 place at Monsanto regarding preventing
14 the reoccurrence of the PCB-type
15 situation?
16 MR. DAVIDSON: I'll object. It's
17 asked and answered about
18 three or four different
19 ways now.
20 MR. ATKIN: All right.
21 THE WITNESS: What?
22 MR. ATKIN: Well, I think the
23 characterization of his

REGIONAL REPORTING SERVICE, INC.

93

1 answer -- It's

2 inappropriate.

3 THE WITNESS: I'm lost. I'm
4 sorry.

5 MR. ATKIN: Okay. That's fine.

6 Q. On -- Further down on that page --

7 A. Yes.

8 Q. It says -- It discusses a question by

9 Ernie Bergenstein of Ferranti

10 Packard --

11 A. Yeah.

12 Q. Is that a customer?

13 A. Yes, in Canada.

14 Q. Okay. And one of the -- The second --

15 question that Mr. Bergenstein poses is:

16 Can Monsanto make some distribution to

17 the public on the fact that the askarel

18 does not disperse?

19 Do you see that?

20 A. Yes.

21 Q. Okay. Did Monsanto ever make any

22 distribution to the public to the

23 affect that askarel does not disperse?

REGIONAL REPORTING SERVICE, INC.

94

1 MR. DAVIDSON: Objection.

2 A. Monsanto certainly informed who

3 Monsanto possibly could inform of this

4 dispersing business, which really is

5 saying biodegrade.

6 Q. Okay.

7 A. I believe.

8 Q. Why don't we use that term, then?

9 A. Okay.

10 Q. Did Monsanto ever make any distribution

11 to the public to the affect that

12 askarels do not biodegrade --

13 MR. DAVIDSON: Objection.

14 Q. -- or with regard to the

15 biodegradability of PCBs?

16 MR. DAVIDSON: Objection.

17 A. That was general knowledge.

18 Q. Okay. Sir, do you know if anyone at

19 Monsanto ever told the residents of

20 Anniston, Alabama that PCBs do not

21 disperse?

22 MR. DAVIDSON: Objection.

23 A. I have no idea.

REGIONAL REPORTING SERVICE, INC.

95

1 Q. Okay. Do you know if PCBs disperse if

2 they are discharged or leached into a

3 water supply?

4 A. Yes. Biodegrade is the word.

5 Q. Okay.

6 A. Okay. Do they biodegrade?

7 Q. Yep. If they are discharged or leached

8 into a body of water?

9 A. It's got nothing to do with it.

10 Q. So it wouldn't affect their

11 biodegradability? Is that what you're

12 saying?

13 A. It doesn't affect the biode -- not to

14 any extent.

15 Q. Okay. In the next -- In the next line,

16 there's an answer given to that

17 question. It says: W. B. Papageorge

18 replied that Monsanto plans to publish

19 the data on the soil studies. Do you

20 know what data Mr. Bryant is referring

21 to here?

22 MR. DAVIDSON: Objection.

23 A. Yeah.

REGIONAL REPORTING SERVICE, INC.

96

1 Q. Okay. What data is he referring to?

2 A. Our laboratory on biodegradability

3 question did run some soil stability

4 tests to try to get a better

5 understanding and reading about

6 biodegradability. Monsanto did work on

7 this, as did others.

8 Q. Okay.

9 A. We're not the only ones that did that

10 work, and I would assume -- or I would

11 say this is what Papageorge refers to.

12 Q. Who was Papa -- Who was Papageorge?

13 A. Papageorge, he had been plant manager

14 in Anniston. And by now, September,

15 1974, Papageorge was at St. Louis.

16 Q. Okay. And Monsanto did soil studies on

17 PCBs?

18 A. In the laboratory, yes.

19 Q. When did -- When did Monsanto first

20 start doing that?

21 MR. DAVIDSON: If you know.

22 A. I don't know.

23 MR. ATKIN: Obviously, he can't

REGIONAL REPORTING SERVICE, INC.

97

1 testify about things he
2 doesn't know.
3 MR. DAVIDSON: You don't put
4 anything in a date frame
5 for him so --
6 MR. STEWART: That doesn't have
7 anything to do with a date
8 frame. That's just --
9 MR. DAVIDSON: Certainly it
10 does.
11 MR. ATKIN: It's okay. Okay.
12 I asked him if he knows
13 when Monsanto first did
14 soil studies on PCBs.
15 A. Before I retired.
16 Q. Okay. Was it shortly before you
17 retired?
18 MR. DAVIDSON: Objection.
19 Leading.
20 Q. Do you know if it was in the 1970s?
21 A. Yeah, I would -- It would be in the
22 1970s.
23 Q. Okay. Are you aware --
REGIONAL REPORTING SERVICE, INC.

98

1 A. That is my best estimate.
2 Q. Okay. Fine. Do you know -- do you
3 know -- Have you ever heard that
4 Monsanto did soil studies on PCBs prior
5 to the 1970s?
6 A. I can't pin it. That was done in a
7 laboratory under the auspices of the
8 research department.
9 Q. Who was in charge of the research
10 department at that time?
11 A. Dr. Richard.
12 Q. Okay. Do you know specifically who
13 worked on these studies -- on the soil
14 studies of PCBs?
15 A. That's what I'm trying to think, and I
16 can't think about his name. I see
17 his -- I see him, but I can't --
18 Q. Okay. Do you know what the results
19 were of the soil studies that were
20 conducted by Monsanto on PCBs in the
21 1970s?
22 A. No.
23 Q. Okay. Do you know if Monsanto ever
REGIONAL REPORTING SERVICE, INC.

99

1 published its soil studies on PCBs?
2 A. Specifically on soil study, not to my
3 knowledge. I don't know if we did.
4 Q. That's fine. Which moves us on to --
5 MR. ATKIN: How much time do
6 we have left?
7 THE VIDEOGRAPHER: About five
8 minutes.
9 MR. ATKIN: Okay. Let's see if
10 we can --
11 MR. STEWART: Why don't you
12 wait about that, and let's
13 put something on the
14 record.
15 You've objected to
16 leading the witness. We
17 would be calling
18 Mr. Benignus and, frankly,
19 Mr. Lavinskus too, and
20 anybody who was a former
21 employee of Monsanto under
22 Rule 43(b). And we reserve
23 the right of that Rule in
REGIONAL REPORTING SERVICE, INC.

100

1 the State of Alabama to ask
2 him leading questions.
3 He's quite a
4 gentleman. I assume the
5 other gentlemen are too.
6 But we would presume that
7 they would be -- In the
8 nature of a witness, it
9 would be rather hostile to
10 our case. And so, as a
11 consequence of that, we
12 call upon that Rule.
13 MR. DAVIDSON: Well, I think
14 under the Rule, you have to
15 demonstrate that they're
16 hostile. And it has to be
17 ruled upon that you will be
18 able to call them that way,
19 and you're the one who told
20 me that I have to make all
21 of the objections. So
22 that's the reason for the
23 objections.
REGIONAL REPORTING SERVICE, INC.

101

1 MR. STEWART: I understand
2 that.
3 MR. ATKIN: Okay.
4 MR. STEWART: The only
5 objection I was referring
6 to was the leading
7 objection, and I think the
8 Rule would be exactly what
9 I said it would be. But
10 that's up to you.

11 MR. DAVIDSON: Well, we beg to
12 differ and --

13 MR. ATKIN: Right. That's
14 fine.

15 MR. DAVIDSON: -- we need to
16 clear the record.

17 MR. ATKIN: Sure. Absolutely,
18 absolutely.

19 MR. STEWART: Absolutely.

20 MR. ATKIN: Okay. Let's take a
21 break for lunch.

22 (A lunch break was
23 taken.)

REGIONAL REPORTING SERVICE, INC.

102

1 MR. ATKIN: Okay. We're back
2 on the record after a lunch
3 break.

4 And we're going to
5 mark for identification
6 Benignus Four, I believe,
7 which is a document bearing
8 a whole bunch of different
9 designations. But I'm
10 going to go with the one
11 that starts STR 002310.
12 And it's a one-, two-,
13 three-, four-page document,
14 through STR 00231 -- It
15 looks like it says 316. I
16 don't know why that would
17 be. 314, 311 -- Well,
18 that's -- actually, it --
19 The first document, which
20 is a pollution letter,
21 dated February 16th, 1970,
22 from N.T. Johnson, St.
23 Louis, to a whole bunch of

REGIONAL REPORTING SERVICE, INC.

103

1 folks, including
2 Mr. Benigus -- Benignus.
3 The second has attached
4 to it -- Let me do it that
5 way for clarification. The
6 first document, the
7 pollution letter, has
8 Bate's Numbers STR 002310
9 and 002311. The second
10 document, which is an
11 attachment to the first
12 one, has Bate's Numbers STR
13 002314 and 002315, it looks
14 like.

15 MR. DAVIDSON: I'm going to
16 enter an objection to this
17 document as being
18 incomplete. If, in fact --

19 MR. ATKIN: Well, you know --

20 MR. DAVIDSON: -- 2314 dash 15
21 is an attachment to the
22 other document, then there
23 would appear to be two

REGIONAL REPORTING SERVICE, INC.

104

1 pages in between them
2 missing.

3 I don't have any --

4 MR. ATKIN: Sure.

5 MR. DAVIDSON: -- problem with
6 you going ahead and asking
7 questions about it, but I'm
8 not sure it's a complete
9 document.

10 MR. ATKIN: Okay.

11 (Benignus Exhibit Number
12 Four was marked for
13 identification.)

14 Q. Mr. Benignus, do you recognize this
15 document?

16 A. Yes, I recognize it.

17 Q. Okay. And you were copied on this
18 document, right?

19 A. Yes.

20 Q. Okay. This is a February 16th, 1970
21 pollution letter from N. T. Johnson to
22 a whole bunch of folks --

23 A. Yeah.

REGIONAL REPORTING SERVICE, INC.

105

1 Q. -- including yourself, correct?

2 A. Right.

3 Q. Okay. In the first paragraph of this memorandum, Mr. Johnson writes --

5 Withdrawn.

6 Who is N. T. Johnson?

7 A. That was Norman Johnson. He was the

8 man in charge of the district sales

9 offices --

10 Q. Okay.

11 A. The district sales managers reported to

12 Johnson.

13 Q. Okay. And the folks that this was sent

14 to, were these folks all in the

15 marketing department?

16 A. Well, some of them in Brussels.

17 Q. Well, I guess what I meant -- the folks

18 that --

19 A. Yeah, yeah, okay. I think you've got

20 it right. They're connected with

21 marketing, these people are.

22 Q. Okay, okay.

23 A. Yes.

REGIONAL REPORTING SERVICE, INC.

106

1 Q. All right. Do you know who drafted

2 this document, the first two pages?

3 A. Yeah -- Well, that was Norman Johnson.

4 Q. Okay.

5 A. He signed it.

6 Q. Okay, all right. Now, in the first

7 paragraph in this -- of this

8 document --

9 A. Uh-huh (indicating yes).

10 Q. -- the memorandum. This is the -- Mr.

11 Johnson's states: Attached is a list

12 of questions and answers, which may be

13 asked of you by customers receiving our

14 Aroclor-PCB letter. You can give

15 verbal answers; no answers should be

16 given in writing.

17 Let me ask you first: When he --

18 Mr. Johnson mentions customers

19 receiving the Aroclor-PCB letter, is

20 that letter what's referred to? And is

21 that letter attached as the -- the

22 attachment to this memorandum?

23 A. Yes. Yeah, I was -- yeah.

REGIONAL REPORTING SERVICE, INC.

107

1 Q. Okay.

2 A. February 18, and this is February the

3 16th.

4 Q. Right.

5 A. Yes, correct.

6 Q. Okay. Why didn't Mr. Johnson want any

7 other recipients of this memorandum to

8 give answers to customers' proposed

9 questions in writing?

10 MR. DAVIDSON: Objection.

11 A. I don't know.

12 Q. Okay.

13 MR. DAVIDSON: I withdraw my

14 objection.

15 Q. Okay. Now, in the next paragraph,

16 Mr. Johnson writes -- Withdrawn.

17 Let me just ask you a little bit

18 more about that. Do you remember any

19 discussions at all with anyone about

20 the fact that Mr. Johnson was

21 requesting the people who receive this

22 letter not to answer customers'

23 proposed questions orally, but only in

REGIONAL REPORTING SERVICE, INC.

108

1 writing?

2 A. I have no idea.

3 Q. Okay. In the next paragraph,

4 Mr. Johnson writes: We want to avoid

5 any situation where a customer wants to

6 return fluid.

7 Do you see that?

8 A. Yes.

9 Q. And then he goes on and concludes that

10 paragraph by stating: We don't want to

11 take fluid back. Sell him the

12 replacement. Right?

13 A. Right.

14 Q. Okay. And "We don't want to take fluid

15 back" is underlined, correct?

16 A. Yes.

17 Q. Okay. And did Monsanto anticipate that

18 its customers would want to return

19 PCB-containing products?

20 A. I'm not qualified to answer this

21 because this has nothing to do with me.

22 I'm in the electrical industry and this

23 -- The reason I was reading this

REGIONAL REPORTING SERVICE, INC.

109

1 through carefully was when I was
2 reading Pydraul -- Pydraul --
3 Pydraul -- and somewhere Therminol --
Well, that's not dielectrics. That's
5 not my business. I really had -- I was
6 copied in on this, but it has nothing
7 to do with me.

8 Q. Okay. I understand that, but --
9 A. Oh.

10 Q. But my question is: Whether you
11 know -- Do you know whether or not
12 Monsanto anticipated that its customers
13 would want to return PCB-containing
14 products?

15 A. That's why I just said what I did.
16 You're asking me about the hydraulics
17 fluid area where I wasn't so I --

18 Q. So you don't know?

19 A. I don't know.

20 Q. Okay. Well, what about in your area?
21 Did Monsanto anticipate that customers
22 would want to return PCB-containing
23 products?

REGIONAL REPORTING SERVICE, INC.

111

1 paragraph --

2 A. Yeah.

3 Q. It says as follows: Take the
4 offense -- off fence, I guess. Don't
5 let a customer or competitor intimidate
6 you. I doubt if our competitors know
7 whether their product could present a
8 problem to our environment.

9 A. Okay, yeah. Well, again --

10 Q. Okay. Well, allow me ask the question,
11 if I could.

12 A. Yes, sir.

13 Q. Do you know which competitors

14 Mr. Bryant was referring to?

15 MR. DAVIDSON: Objection.

16 A. Well, it mentions here in the memo,
17 Houghton, Scauffer, Carbine. Those are
18 people that -- That's the reason I
19 mentioned that.

20 Q. Okay. When he -- When he refers to
21 their products, do you know which
22 products he was referring to?

23 A. Their products.

REGIONAL REPORTING SERVICE, INC.

110

1 A. Well, here we are in 1970. That is
2 February, early '70. Somewhere in '70,
3 you see, the nonelectrical was shut
4 down. That didn't pertain in the
5 electrical industry. Nothing changed
6 there that I know of.

7 Q. Right.

8 A. That's why I'm saying to you -- This
9 doesn't pertain to where I was.

10 Q. Okay. Did you have a sense at all why
11 Monsanto did not want to take back PCB
12 fluids from its customers?

13 MR. DAVIDSON: Objection.

14 A. I don't know.

15 Q. Okay. Do you know what replacement
16 Monsanto was looking into to sell to
17 its customers?

18 A. See, here again, you're talking about
19 hydraulics fluids, and I don't know.

20 Q. Okay. On page two of this
memorandum --

22 A. Yeah -- oh, that one.

23 Q. Towards the end of the first

REGIONAL REPORTING SERVICE, INC.

112

1 Q. Do you know which specific products?

2 A. No, I do not.

3 Q. Okay. And in the beginning of the next
4 paragraph, Mr. Johnson says: We should
5 also recognize, in parentheses, point
6 this out to your customer, close
7 parens. We must clean up, period.

8 Do you see that?

9 A. Yes.

10 Q. Okay. Was Mr. Johnson referring to
11 cleaning up PCB-containing wastes or
12 materials?

13 MR. DAVIDSON: Objection.

14 A. Well, I wasn't in the area. I don't
15 know what he's talking about.

16 Q. Okay. Well, when you received the
17 memorandum, did you read it?

18 A. To be honest, I suppose, but I don't
19 know whether I did. It's not my area.

20 Q. Okay.

21 A. It's not in the electrical business.

22 Q. Okay. Did you review this document
23 yesterday with -- with Monsanto's

REGIONAL REPORTING SERVICE, INC.

113

1 lawyers?
 2 A. I don't know that, either.
 3 Q. Okay.
 I'm sorry.
 5 Q. That's all right.
 6 Do you know if Monsanto ever told
 7 its customers that they had to clean up
 8 PCB wastes or materials?
 9 A. I don't know. It's in an area where I
 10 wasn't.
 11 Q. Okay. Did Monsanto itself undertake
 12 clean-up of PCB-containing wastes or
 13 materials in 1970?
 14 A. At our plant?
 15 Q. Yeah.
 16 A. I don't know that we had at that time.
 17 I don't know the situation.
 18 Q. Okay.
 19 A. This is nonelectrical.
 20 Q. Do you know if Monsanto ever undertook
 21 any clean-up efforts at its Anniston,
 22 Alabama facility?
 23 MR. DAVIDSON: Objection.
 REGIONAL REPORTING SERVICE, INC.

115

1 I'm not asking questions.
 2 Q. Right. But that's --
 3 A. I believe they did, as far as I know.
 4 Q. Okay. But my question asked: Do you
 5 know whether -- Do you know, either
 6 from your personal knowledge, or did
 7 you hear from anyone else, whether or
 8 not Monsanto ever undertook any efforts
 9 to clean up PCBs in the soil, the
 10 water, or the air in Anniston?
 11 MR. DAVIDSON: Objection.
 12 A. Well, I wasn't at the plant. I had no
 13 contact with them. I don't think I'm
 14 in a position to know an answer to
 15 that. I don't know.
 16 Q. That's fine. You don't know?
 17 A. I really don't know.
 18 Q. That's fine.
 19 Did Monsanto ever tell its
 20 customers about dangers or precautions
 21 in the manufacturing or handling of
 22 Aroclors?
 23 A. Can you say this again, please?
 REGIONAL REPORTING SERVICE, INC.

114

1 A. I'm trying to think. I don't know. I
 2 wasn't at the plant.
 3 Q. Okay. Specifically, do you know --
 4 were you ever told -- Did you ever hear
 5 that Monsanto ever undertook any
 6 efforts to clean up PCBs in the soil,
 7 air, or bodies of water in the Anniston
 8 Community?
 9 MR. DAVIDSON: Objection.
 10 A. Well, at what time? And what -- What
 11 are you talking about?
 12 Q. Okay. How about in 1970?
 13 A. Well, 1970 --
 14 MR. DAVIDSON: Objection.
 15 A. I should answer?
 16 Q. Yes, sir.
 17 MR. DAVIDSON: Yes.
 18 A. Well, February of '70? February of
 19 '70?
 20 Q. Any time in 1970?
 Any time in 1970? I thought -- I'm not
 22 sure, but I -- I believe Anniston shut
 23 down about this time. Didn't we -- Oh,
 REGIONAL REPORTING SERVICE, INC.

116

1 MR. ATKIN: I -- Can you
 2 read it back, please?
 3 (Record read.)
 4 A. My customers didn't manufacture
 5 Aroclors. That's why -- Did I miss
 6 you?
 7 Q. No, no. That's -- that's --
 8 A. Pardon?
 9 Q. No, no. You're right. In the
 10 manufacture of products containing
 11 Aroclors --
 12 A. Oh, oh.
 13 Q. -- or in the handling of Aroclors to
 14 put into products manufactured by such
 15 customers?
 16 MR. DAVIDSON: Objection.
 17 A. Yes, yes.
 18 Q. Is the answer yes?
 19 A. Yes.
 20 Q. Okay. What -- What did Monsanto tell
 21 them?
 22 A. I know what I told --
 23 Q. What did you tell --
 REGIONAL REPORTING SERVICE, INC.

117

1 A. -- the area where I was.
2 Q. Okay. I'm sorry. I didn't mean to
3 interrupt you. What did you tell them?
Well, I wrote a booklet.
5 Q. And what was the booklet called? Did
6 it have a name?
7 A. Yes.
8 Q. What was it called?
9 A. The Proper Handling of PC -- of
10 Aroclors in the Electrical Industry.
11 Q. Did you put that booklet together
12 yourself?
13 A. Yes, sir.
14 Q. Okay. Was all the information
15 contained in that booklet based on your
16 own personal knowledge?
17 A. Yes.
18 Q. Okay. Do you recall generally what
19 types of information you gave to
20 customers in that bulletin regarding
21 the handling and precautions, if any,
22 that should be taken when using PCBs?
23 A. What this -- The focal point of this
REGIONAL REPORTING SERVICE, INC.

118

1 publication was to inform the users of
2 PCB dielectrics, whether for capacitors
3 or whether for transformers, how to
4 handle this, how to purify it -- very
5 critical material -- and how to avoid
6 contaminating -- contaminating the fluids.
7 It explains how to unload a
8 tankcar they received. But this is top
9 unloading with dry nitrogen to protect
10 it from moisture. And it goes in great
11 depth of presenting the test procedures
12 used by ASTM characterizing these
13 fluids for use in the electrical
14 industry.
15 It presents all of that data.
16 And it -- That's the purpose of proper
17 handling of it.
18 Q. Okay. Was there anything in that
19 booklet about health hazards associated
20 with PCBs?
Yes.
22 Q. Well, what do you recall about that?
23 A. Well, I'm sure if I wrote it, it's got
REGIONAL REPORTING SERVICE, INC.

119

1 a short chapter of my understanding of
2 it, yes.
3 Q. Did you consult with anyone else from
4 Monsanto about what kind of information
5 you should put into the health hazard
6 section of the booklet?
7 A. Yes, it was passed through the medical
8 department. I wouldn't put this out
9 myself.
10 Q. When you say the med -- passed through
11 the medical department, do you know who
12 specifically looked at the material?
13 A. I would say Elmer Wheeler, but with the
14 knowledge of Dr. Kelly.
15 Q. Okay. Do you recall what types of
16 health risks or health hazards you
17 discussed in that booklet?
18 A. Yes.
19 Q. Okay. What did you discuss?
20 A. The pertinent thing I said as clearly
21 and briefly as possible so anyone
22 reading it can understand it -- should
23 be able to -- Do not breathe the vapors
REGIONAL REPORTING SERVICE, INC.

120

1 or the fumes emitted from PCBs at
2 elevated temperature.
3 Q. Okay. Anything else?
4 A. Yes, avoid prolonged contact or
5 exposure to the skin. There's no big
6 problem here. But in reasonable time,
7 wash it off with soap and water. And
8 then, you know, don't wait on it -- If
9 your clothes get a spill on them or
10 saturated, change your clothes.
11 Q. Now, in the second to last paragraph on
12 page two --
13 A. Yes.
14 Q. It says: We can't afford to lose one
15 dollar of business.
16 Was Monsanto concerned that it
17 was going to lose business, PCB
18 business?
19 A. Where I was, no.
20 Q. I'm not asking you about where you
21 were. I'm asking about Monsanto in
22 general?
23 A. I can't answer this in general.
REGIONAL REPORTING SERVICE, INC.

121

1 Q. Okay. You don't know? Is that what
2 you're saying?
3 A. I know from where I was.
4 But I'm not asking you about from where
5 you were. I'm asking you about whether
6 you know about Monsanto in general. Do
7 you know if Monsanto in general was
8 concerned about losing PCB business?
9 A. No.
10 Q. No, you don't know?
11 A. No, I don't know.
12 Q. Okay. Did Monsanto ever refuse to take
13 back PCBs because it did not want to
14 lose one dollar of business?
15 A. I don't know the answer to that.
16 Q. Okay. Did Monsanto continue to sell
17 Aroclor 1254 and Aroclor 1260 because
18 it did not want to lose one dollar of
19 business?
20 A. I can't answer that. Okay. That's all
21 I have on that document.
22 MR. ATKIN: Now, the next
23 document, which we will
REGIONAL REPORTING SERVICE, INC.

122

1 mark as Benignus -- What
2 number are we up to,
3 Donald?
4 MR. STEWART: About Five.
5 MR. ATKIN: Thank you.
6 Benignus Five is a
7 document with an
8 attachment. The first two
9 pages are the same exact
10 document as the first two
11 pages of Exhibit Four, and
12 attached to it are
13 another -- one, two, three,
14 four, five, six, seven,
15 eight, nine, ten, eleven --
16 twelve pages bearing Bate's
17 Numbers FGL 0011062 through
18 FGL 0011073.
19 We're going to mark
20 this for identification as
21 Benignus Five. The
22 documents bearing Bate's
23 Numbers FGL 0011062
REGIONAL REPORTING SERVICE, INC.

123

1 through 0011073 are a
2 document called "Possible
3 Customer Questions on
4 PCBs."
5 (Benignus Exhibit Number
6 Five was marked for
7 identification.)
8 MR. ATKIN: Yeah, we've got to
9 get a -- Yeah, I'm sorry.
10 Thank you.
11 THE WITNESS: Oh, I'm sorry.
12 MR. ATKIN: Not your fault.
13 THE VIDEOGRAPHER: I just went
14 off.
15 MR. ATKIN: Oh, you just went
16 off? Okay, good. That's
17 fine.
18 (Discussion held off the
19 record.)
20 MR. DAVIDSON: I would like to
21 note an objection on this
22 document as well based
23 upon its completeness -- or
REGIONAL REPORTING SERVICE, INC.

124

1 lack of completeness -- and
2 that it's very difficult to
3 bear a copy and difficult
4 to read. I would like to
5 point out that Mr. Atkin
6 has directed the witness --
7 this was off the record --
8 has directed the witness'
9 attention to certain
10 questions and answers that
11 he has read. And he has
12 not, therefore, read the
13 entire document.
14 MR. ATKIN: That's fine. Okay.
15 MR. STEWART: When you say he
16 has not read the entire
17 document, you mean
18 Mister --
19 MR. ATKIN: Mr. Benignus.
20 MR. DAVIDSON: Yes, Benignus.
21 MR. ATKIN: I don't think he's
22 making any assumptions as
23 to whether I've read the
REGIONAL REPORTING SERVICE, INC.

125

1 document, Donald.

2 Q. Okay. Let's start by asking you about

3 question four on page FGL 001067.

4 The question reads -- question

5 four: You must have quite a control

6 problem at your plants. I would think

7 Monsanto's Aroclor plants are the major

8 polluters. How are you handling

9 control? And the answer given is: The

10 Aroclor products we make to sell at a

11 profit, so economics dictates maximum

12 housekeeping, minimum losses. The

13 Aroclor process is a dry process or a

14 closed system.

15 Did you -- Now, before I ask you

16 about that specific question on that, I

17 want to ask you: Did you look at this

18 document yesterday with Monsanto's

19 attorneys?

20 A. I didn't -- I didn't -- No.

21 Q. No?

22 A. That's the best I can say.

23 Q. Okay. Then we -- We would like your

REGIONAL REPORTING SERVICE, INC.

126

1 best answer.

2 A. Yeah.

3 Q. Okay. Do you know whether Monsanto had

4 maximum housekeeping at its Anniston

5 plant?

6 A. I can't answer that.

7 Q. Okay. The next question asks --

8 Question five: How does Monsanto think

9 Aroclors can get into the environment

10 and cause so much pollution? And the

11 answer is: Disposal, leakage from

12 systems using it, spills, etcetera.

13 Do you know -- I'm sorry. Do you

14 see that?

15 A. Yes.

16 Q. Mr. Benignus, do you know if Monsanto

17 disposed of PCB wastes into the bodies

18 of water surrounding the Anniston

19 Community?

20 A. I don't know that.

21 Okay. Do you know, sir, if Monsanto

22 ever spilled PCBs that ended up in the

23 bodies of water surrounding the

REGIONAL REPORTING SERVICE, INC.

127

1 Anniston Community?

2 A. Not that I know of.

3 Q. Okay. Do you know, sir, whether

4 Monsanto disposed of PCB wastes in a

5 manner that resulted in the

6 contamination of the air, the soil, and

7 the bodies of water in and around the

8 Anniston Community?

9 A. (Witness shakes head negatively.)

10 MR. DAVIDSON: You'll have to

11 answer out loud.

12 MR. ATKIN: Thank you.

13 A. Oh, excuse me. No.

14 Q. You don't know?

15 A. I don't know.

16 Q. Okay.

17 A. I want to make one comment so --

18 MR. DAVIDSON: No, you've

19 answered the question.

20 Q. Is there something you would like to

21 add to your answer?

22 A. Yes.

23 Q. Well, what is it?

REGIONAL REPORTING SERVICE, INC.

128

1 A. Are you aware that the tankcars, to

2 avoid spoilage and to retain purity of

3 the dielectrics -- I'm talking about --

4 were top-unloading? You couldn't open

5 the bottom. You can't spill it out of

6 the bottom --

7 Q. Okay.

8 A. -- to avoid spillage. I wanted to say

9 that.

10 Q. Okay. Thank you.

11 MR. ATKIN: Let's go off the

12 record for one second, just

13 one second.

14 (Discussion held off the

15 record.)

16 Q. Okay. The last sentence in the answer

17 to question number six says: There is

18 a method available for sampling air.

19 Do you see that?

20 MR. DAVIDSON: Excuse me. We are

21 lost.

22 Q. Oh, I'm sorry. Back on -- On question

23 six, on page FGL 0011067.

REGIONAL REPORTING SERVICE, INC.

129

1 A. Yeah, six.
 2 Q. Right. See the last sentence in --
 3 A. Yes.
 -- second sentence in the answer?
 5 A. Yes.
 6 Q. There is a method available for
 7 sampling air?
 8 A. Yes.
 9 Q. Okay. Do you know if Monsanto ever
 10 took any air samples from the Anniston
 11 Community?
 12 A. From the community?
 13 Q. Yes.
 14 A. Not to my knowledge.
 15 Q. Okay. Now, question number seven says
 16 -- It states in part: What precautions
 17 can I take to prevent (a) employee
 18 problems and (b) escape of vapors into
 19 the atmosphere?
 20 Do you see that?
 21 A. Yes.
 22 Q. Okay. And the answer says: Articles
 23 on PCB interference with pesticides
 REGIONAL REPORTING SERVICE, INC.

130

1 analysis have mentioned the possibility
 2 of loss through the atmosphere from
 3 vaporization when Aroclors are heated.
 4 We find this hard to believe, and it
 5 warrants considerable investigation.
 6 Do you see that?
 7 A. Yes.
 8 Q. Okay. Did Monsanto find it hard to
 9 believe that there might be losses to
 10 the atmosphere when PCBs are heated?
 11 MR. DAVIDSON: Objection.
 12 A. When you heat Aroclor to high
 13 temperatures, there are fumes; whereas,
 14 at ambient temperatures, normal
 15 temperatures, there are no fumes.
 16 Now, I don't know what the man
 17 who wrote this specifically has in
 18 mind. I can address your answer by
 19 saying: If you heat Aroclor, PCBs, to
 20 high temperatures, yes, there will be
 fumes.
 22 Q. Okay. Did Monsanto ever undertake a
 23 considerable investigation of this
 REGIONAL REPORTING SERVICE, INC.

131

1 issue?
 2 MR. DAVIDSON: Objection.
 3 A. Not that I know.
 4 Q. Okay. In the next session called
 5 Toxicity --
 6 A. Uh-huh (indicating yes).
 7 Q. -- question one states -- this conceals
 8 with this -- This concerns, rather, if
 9 PCB is a danger to fish and birds, how
 10 about humans? And the answer says:
 11 The amounts being found in the
 12 environment are not considered a danger
 13 to humans or fish. The whole question
 14 on chlorinated pesticides relates to
 15 birds.
 16 Do you know if that was a true
 17 statement at the time that it was made?
 18 A. Let me read it. I wasn't there when it
 19 was made.
 20 Q. Okay. Please do.
 21 A. The amounts being found in the
 22 environment are not considered a danger
 23 to humans or fish. It's not considered
 REGIONAL REPORTING SERVICE, INC.

132

1 a danger to humans. I'm answering that
 2 now, today.
 3 Q. Okay. But I'm not asking you about
 4 today. I'm asking whether this
 5 statement was true when it was made.
 6 A. I would think the part to humans is
 7 true.
 8 Q. Okay.
 9 A. Now, about the fish, I'm not sure at
 10 that time whether it was known. Is it,
 11 or isn't it? See, this is early on.
 12 This is in 1970.
 13 Q. Uh-huh (indicating yes).
 14 A. I don't know to what extent there was
 15 any danger to fish.
 16 Q. Okay.
 17 A. I know it was found to some extent in
 18 fish.
 19 Q. Okay.
 20 A. But I don't know -- Evidently, it
 21 hadn't -- Here it says they're not
 22 considered a danger. Well, I have to
 23 accept what -- their statement. They
 REGIONAL REPORTING SERVICE, INC.

133

1 didn't consider it, to their knowledge,
 2 a danger in fish.
 3 Q. Do you know, sir, whether at the time
 4 that this was written, fish that were
 5 contaminated with PCBs were dying in
 6 the bodies of water surrounding the
 7 Anniston Community?
 8 A. No, I don't know anything about that.
 9 Q. Okay, okay. That's all I have on that
 10 document.
 11 MR. ATKIN: Oh, I'm sorry. Where
 12 did this come from? That
 13 goes there. This goes
 14 there.
 15 Okay. Let's mark for
 16 identification as Benignus
 17 Six -- Benignus Six --
 18 THE WITNESS: Benignus.
 19 MR. ATKIN: I apologize.
 20 THE WITNESS: It's all right.
 21 MR. ATKIN: -- a three-page
 22 document bearing Bate's
 23 Numbers MONS 097709 through
 REGIONAL REPORTING SERVICE, INC.

135

1 so --
 2 MR. DAVIDSON: Can I note --
 3 MR. ATKIN: Oh, yeah. We -- I
 4 think you should note,
 5 though, that there's
 6 certain high- -- Why don't
 7 we note that there's
 8 certain high-lighting on
 9 it. And I'll represent
 10 that the high-lighting was
 11 done by our firm.
 12 And that's Benignus Six
 13 for identification.
 14 MR. STEWART: Is this Six?
 15 MR. ATKIN: That is Six.
 16 (Benignus Exhibit Number
 17 Six was marked for
 18 identification.)
 19 THE VIDEOGRAPHER: Okay. I
 20 went off.
 21 MR. DAVIDSON: Let's take a
 22 break.
 23 MR. ATKIN: Okay, sure.
 REGIONAL REPORTING SERVICE, INC.

134

1 097711. This is a
 2 memorandum to file from
 3 W. R. Richard of the
 4 Research Center, dated
 5 March 10th, 1969.
 6 MR. STEWART: We've got two
 7 page ones.
 8 MR. ATKIN: You've got two page
 9 ones? Take one of them
 10 off. Are you missing --
 11 You know what, though? I'm
 12 sorry. It looks like
 13 you're missing page two.
 14 Great.
 15 THE COURT REPORTER: Are we off
 16 or on?
 17 MR. ATKIN: No, that's all
 18 right. We can stay on.
 19 That's okay. I'll give
 20 you -- I'll give you the
 21 original. We'll mark the
 22 original. I have questions
 23 about page three anyway
 REGIONAL REPORTING SERVICE, INC.

136

1 (A break was taken.)
 2 Q. Okay. This is a March 10th, 1969
 3 memorandum from Mr. Richard, correct?
 4 A. Yes, Dr. Richard.
 5 Q. Dr. Richard. What was his -- What was
 6 his position again?
 7 A. Director of Research.
 8 Q. Okay. What type of research?
 9 A. All for this -- for this product group.
 10 Q. Okay. Including PCBs?
 11 A. Yes.
 12 Q. Okay. And this is the -- The subject
 13 is: Notes On Meeting; dated 3-6-69,
 14 Industrial Bio-Test Laboratories, Inc.;
 15 Reference, Aroclor - Wildlife.
 16 And you were one of the people
 17 who received a copy of this memorandum,
 18 correct?
 19 A. Right.
 20 Q. And do you remember receiving it?
 21 A. No.
 22 Q. Okay. Did you look at this document
 23 yesterday with Monsanto's lawyers when
 REGIONAL REPORTING SERVICE, INC.

137

1 you prepared for this deposition?
 2 A. I don't think so.
 3 O. Okay.
 I don't recall.
 5 Q. Okay. On the second page in this
 6 document, in the middle of the page, it
 7 says that E. Wheeler will report on
 8 program to date. And it lists what
 9 appears to be several studies that were
 10 being undertaken or that were going to
 11 be undertaken. Is that an accurate
 12 description?
 13 A. Yes.
 14 Q. Okay. Now, Roman numeral number one
 15 under there --
 16 A. Yes.
 17 Q. -- discusses a rat tissue residue study
 18 and acute levels for Aroclor 1242, 1244
 19 -- 1254, rather -- sorry -- 1260, and
 20 5460.
 21 Okay. Do you know if that --
 22 those studies were ever undertaken?
 23 A. I don't know but --
 REGIONAL REPORTING SERVICE, INC.

138

1 Q. Okay.
 2 A. I wasn't told. I didn't --
 3 Q. Were you ever told about the results of
 4 any --
 5 A. No.
 6 Q. -- studies, rat tissue studies?
 7 A. No.
 8 Q. Okay. Roman numeral number two talks
 9 about chicken tissue residue study and
 10 acute levels. Do you know if that
 11 study was ever undertaken?
 12 A. Not specifically, no.
 13 Q. Meaning you don't know?
 14 A. I don't know.
 15 Q. Okay. And you don't know anything
 16 about the results?
 17 A. No, I don't.
 18 Q. Okay. Same question for number three,
 19 Fish toxicity TLM. Firstly, do you
 20 know what TLM stands for?
 You say it referring to number what?
 22 Q. Number three.
 23 A. Oh.

REGIONAL REPORTING SERVICE, INC.

139

1 Q. Roman numeral three, Fish toxicity --
 2 A. The TLM? No, I don't.
 3 Q. Okay. Do you know if any fish toxicity
 4 studies were undertaken by Monsanto
 5 relating to --
 6 A. I --
 7 Q. -- relating to PCBs? I'm sorry.
 8 A. I don't think they were. I never saw a
 9 fish.
 10 Q. Okay. And you don't know the results
 11 of any studies, fish --
 12 A. No.
 13 Q. -- toxicity studies?
 14 A. No.
 15 Q. Okay. Roman numeral number four talks
 16 about chicken toxicity. Do you see
 17 that?
 18 A. Yes.
 19 Q. Reproductive egg and meat residue --
 20 A. Yeah.
 21 Q. And it says: To go ahead with the
 22 study, but add enzyme and hormone
 23 experiments plus calcium metabolism
 REGIONAL REPORTING SERVICE, INC.

140

1 studies and egg shell thickness.
 2 Correct?
 3 A. Yes.
 4 Q. Do you know if that study was ever
 5 undertaken?
 6 A. No, I don't.
 7 Q. Okay. And you don't know anything
 8 about the results?
 9 A. No.
 10 Q. Okay. Roman numeral number five talks
 11 about Mallard Duck -- Aquatic Bird --
 12 A. Uh-huh (indicating yes).
 13 Q. -- Same type study as for chickens.
 14 Do you know if that study was
 15 ever undertaken?
 16 A. No, I don't.
 17 Q. Okay. You don't know the results, do
 18 you?
 19 A. No.
 20 Q. Okay. Number seven -- I'm sorry.
 21 Number six discusses three generation
 22 reproduction study in rats, eighteen
 23 months. Start now.

REGIONAL REPORTING SERVICE, INC.

141

1 Do you know if that was ever
2 undertaken?
3 A. No.
4 Okay. And you don't know anything
5 about the results?
6 A. No.
7 Q. Number seven discusses a two-year study
8 in rats, twenty-six months. Start now.
9 Do you know if that was ever
10 undertaken?
11 A. No, I don't.
12 Q. Do you know anything about the results?
13 A. No.
14 Q. Okay. I -- Well, it's just two more --
15 three more. Number eight discusses a
16 two-year study in dogs, twenty-six
17 months.
18 Do you know if that was ever
19 undertaken?
20 A. No.
21 Q. And you don't know anything about the
22 results, do you?
23 A. No.

REGIONAL REPORTING SERVICE, INC.

142

1 Q. Okay. Well, how about number nine:
2 Subacute Fish Study. Start
3 immediately. Consider possibility of
4 reproductive cycle.
5 Do you know if that study was
6 ever undertaken?
7 A. No.
8 Q. Okay. And the last one discusses
9 metabolic studies. Do you know what
10 types of metabolic studies were being
11 contemplated by Monsanto regarding PCB
12 toxicity?
13 MR. DAVIDSON: Objection.
14 A. No, I don't.
15 Q. Okay. And you don't know anything
16 about any -- whether any such studies
17 were conducted --
18 A. No, I don't.
19 Q. -- or what the results were?
20 A. No.
21 Okay. Now, on the last page of this
22 document, there is a heading called
23 "Defense seems to have these elements."

REGIONAL REPORTING SERVICE, INC.

143

1 Do you see that?
2 A. Yes.
3 Q. And Roman numeral three states:
4 Atmosphere and streams around our
5 manufacturing plants and major
6 customers. Need to establish a norm
7 and an acceptable standard.
8 Do you see that?
9 A. Yes.
10 Q. Okay. Did Monsanto ever establish a
11 norm and an acceptable standard for
12 PCB levels in the atmosphere and
13 streams around its manufacturing
14 plants?
15 A. Not that I know of.
16 Q. Okay. Do you know if Monsanto ever
17 conducted any tests to determine
18 whether the PCB levels in the air and
19 streams around its Anniston facility
20 exceeded or were within certain levels?
21 A. I do not.
22 Q. Okay. Now, since I don't have the
23 document in front of me -- Can I just

REGIONAL REPORTING SERVICE, INC.

144

1 see that for a second? Thank you.
2 Yeah, the first full paragraph.
3 I would like you to read that, if you
4 could. And then I'll ask you some -- a
5 question about it.
6 MR. DAVIDSON: You're referring
7 to the first full paragraph
8 above the statement:
9 Defense seems --
10 THE WITNESS: Okay.
11 MR. ATKIN: No, I'm referring
12 to this paragraph:
13 Discussed requirements --
14 THE WITNESS: Oh, Discussed --
15 MR. ATKIN: Wait, wait, wait.
16 I take that back. I'm
17 sorry. Can I see that for
18 a second? I apologize.
19 Yeah -- Well, I'll give
20 it to you. But why don't I
21 just read it into the
22 record, and then I'll give
23 it to you to look at.

REGIONAL REPORTING SERVICE, INC.

145

THE WITNESS: All right.

2 Q. It says: Discussed requirements of
3 sampling fish and water in San
4 Francisco Bay, location of a lot of
5 Risebrough's accusations versus PCB and
6 possible site of very low Aroclor
7 usage. L. Beer indicated forty
8 thousand dollars for this kind of job.
9 Wheeler and Richard said four thousand
10 dollars plus a rowboat.

11 A. Uh-huh (indicating yes).

12 Q. Do you remember any discussions about
13 that?

14 A. I had none -- No.

15 Q. Okay. I didn't ask you whether you had
16 any --

17 A. Oh, no.

18 Q. Do you recall any discussions at
19 Monsanto about that?

20 A. No.

21 Q. Okay. No. Okay. Does it seem odd to
22 you that in response to an estimate for
23 sampling fish and water for PCBs, Mr.

REGIONAL REPORTING SERVICE, INC.

146

1 Wheeler and Mr. Richard would suggest
2 that they would only be willing to
3 spend one-tenth of that amount?

4 MR. DAVIDSON: Objection.

5 A. I don't know.

6 Q. Okay. Now, Roman numeral five states:
7 Not discussed but possibly obvious.
8 Can we find out whether product
9 degrades in nature so that it does not
10 accumulate? Only real way out long
11 term.

12 Do you see that?

13 A. Yes.

14 Q. Okay. And Monsanto -- Did Monsanto
15 undertake studies to determine whether
16 PCBs degrade in nature?

17 A. They did laboratory tests that I saw --

18 Q. Okay.

19 A. -- to try to measure degrading.

20 Q. Okay. And what were the results?
21 It doesn't degrade rapidly.

22 Q. Okay. In fact, PCBs persist in the
23 environment, don't they?

REGIONAL REPORTING SERVICE, INC.

147

1 A. Yeah, they do.

2 MR. DAVIDSON: Objection.

3 A. Oh.

4 Q. Do you know what Dr. Richard meant when
5 he said that this was the only way out
6 long term?

7 MR. DAVIDSON: Objection.

8 A. I don't.

9 Q. Okay. Do you recall any discussions
10 about that?

11 MR. DAVIDSON: Objection.

12 A. No.

13 Q. Okay. Do you recall whether there were
14 any discussions about Monsanto --
15 Monsanto's only way out long term --
16 Withdrawn.

17 Do you know whether he was
18 referring to Monsanto avoiding
19 liability or responsibility for
20 cleaning up PCBs?

21 MR. DAVIDSON: Objection.

22 A. I have no idea.

23 Q. Okay. You can put that document away.

REGIONAL REPORTING SERVICE, INC.

148

1 MR. ATKIN: This is now Six.

2 Okay. Let's move on to
3 Number Seven. Do you have
4 a copy of it? No?
5 Yeah, Thank you. For
6 identification purposes,
7 Benignus Seven is a
8 document dated October
9 1st, 1970. It's a letter
10 from Mr. Papageorge,
11 Manager, Environmental
12 Control, to Mr. F. R.
13 Viland, Senior Buyer,
14 Purchasing Department,
15 Transformer Division of
16 Westinghouse Corporation.

17 MR. DAVIDSON: The Bate's
18 Number?

19 MR. ATKIN: Oh, I'm sorry.
20 Thank you. The Bate's
21 Number is 703133 and
22 703134. It also bears
23 Bate's Numbers NEV 003895

REGIONAL REPORTING SERVICE, INC.

149

1 003896.
 2 (Benignus Exhibit Number
 3 Seven was marked for
 4 identification.)
 5 (Discussion held off the
 6 record.)
 7 Q. Okay. We're back on the record. This
 8 is an October 1st, 1970 letter from
 9 Papageorge to Mr. Viland. And you were
 10 copied on this, correct?
 11 A. Right.
 12 Q. Okay. Do you recall receiving this
 13 letter?
 14 A. Yes.
 15 Q. Okay. Do you recall reading it when
 16 you received it?
 17 A. Yes.
 18 Q. Do you recall any discussions about it?
 19 A. I recall when the test was done by
 20 Hatfield in 1938. I was there.
 21 Q. Okay. Tell me a little bit about that.
 22 A. May I speak now?
 23 Q. Sure.

REGIONAL REPORTING SERVICE, INC.

150

1 A. Okay.
 2 Q. As opposed to -- As opposed to what you
 3 were doing before?
 4 A. Yeah.
 5 Q. Okay.
 6 A. This was done, going back -- I told you
 7 19 -- Now, wait a min -- '39. In '39,
 8 I went -- Okay. In 1939, as I told
 9 you, I went into the applications
 10 research section of the organic
 11 division.
 12 Now, this is dated -- This test
 13 was started in '38. I told you I got
 14 there in '39. Well, mas o menos -- six
 15 months. It's not important. What I
 16 tell you, I know it was Aroclor 1242,
 17 as it says trichloro -- Aroclor.
 18 Ira Hatfield -- I spoke to you
 19 about doing more upon wood
 20 preservation. He was the man heading
 21 that up, and he had been to
 22 Gainesville, Florida. I knew that, and
 23 he put in this test exactly as it says

REGIONAL REPORTING SERVICE, INC.

151

1 here. This is correct the way it was
 2 done. Usually the wood is treated.
 3 Here, the soil was treated with a
 4 sterilant, proposed sterilant,
 5 assumed -- expected to be sterilant,
 6 soil sterilant.
 7 Q. Okay.
 8 A. Well, and the -- an untreated stake --
 9 I suppose a two-by-four would have been
 10 the logical thing -- was put in the
 11 center where this hole was dug out and
 12 treated at different layers with PCB as
 13 indicated. This is a correct
 14 indication of what happened.
 15 Q. Okay.
 16 A. Now, it gives the results here and --
 17 Q. Well, before you -- we talk about the
 18 results, what was the purpose of this
 19 study?
 20 A. The purpose of the study was to find
 21 out whether Aroclor 1242, which was
 22 different from pentachlorophenol, which
 23 is an active chlorophenolic group. It

REGIONAL REPORTING SERVICE, INC.

152

1 is an active fungicide. Aroclor 1242
 2 does not have any active, reactive
 3 group. It is very stable. Okay? So
 4 this is why the 1242 was put into the
 5 soil --
 6 Q. Uh-huh (indicating yes).
 7 A. -- rather than into the wood, being
 8 impregnated with an active fungistat or
 9 fungicide to see whether the termites
 10 would eat an unpreserved piece of wood
 11 in that kind of soil. And that's about
 12 the way it came out.
 13 Q. Okay. Did Monsanto suspect in 1938
 14 that PCBs are not biodegradable?
 15 A. I have no idea. In 1938 --
 16 Q. At the time that this study was done?
 17 A. Well, I don't know what was in
 18 Hatfield's mind, and I didn't -- I was
 19 not asked this question. I don't know.
 20 Q. Okay. Who was Hatfield?
 21 A. Ira Hatfield was the fellow who was the
 22 head of the biological little group
 23 that existed there at this time. He

REGIONAL REPORTING SERVICE, INC.

153

1 reported to Mr. Watt.
 2 Q. Okay. Do you know who directed that
 3 this study be done? Was it
 Mr. Hatfield or --
 5 A. Yes, he did that.
 6 Q. Was it his idea?
 7 A. Yeah.
 8 Q. And the results of the study confirmed
 9 that PCBs do not degrade much --
 10 MR. DAVIDSON: Objection.
 11 Q. -- because the PCBs that had been
 12 deposited in the soil by Monsanto in
 13 1938 were still there more than thirty
 14 years later, right?
 15 MR. DAVIDSON: Objection.
 16 A. That's what the report says.
 17 Q. Okay. Now, in this letter, a
 18 Mr. Papageorge is discussing his
 19 attempt to persuade a Dr. Loughry of
 20 the Pennsylvania agency to allow
 21 Westinghouse to get -- to get rid of
 22 its PCBs and landfills in Pennsylvania.
 23 MR. DAVIDSON: Objection.
 REGIONAL REPORTING SERVICE, INC.

154

1 Q. Correct?
 2 MR. DAVIDSON: Objection.
 3 A. Well, it says so.
 4 Q. Okay. Do you recall any discussions
 5 about this at Monsanto?
 6 A. No, I was not in that.
 7 Q. Okay. Why were you -- Why were you
 8 given a copy -- sent a copy of this?
 9 Do you know?
 10 MR. DAVIDSON: Objection.
 11 A. I think because of what we already
 12 covered. The test by Hatfield, who was
 13 in the group I was in in 1938, that's
 14 what this document refers to. And
 15 that's the reason.
 16 Q. Okay, all right. That's all I have on
 17 that document.
 18 MR. ATKIN: Let us mark for
 19 identification as Benignus
 20 Seven, a one-page --
 MR. COX: Eight.
 22 MR. ATKIN: Oh, I'm sorry.
 23 Thank you. Benignus Eight,
 REGIONAL REPORTING SERVICE, INC.

155

1 a one-page memorandum
 2 written by Mr. Benignus,
 3 subject, General -- dated
 4 October 26, 1971; subject,
 5 General Electric Capacitor
 6 Department; St. Louis
 7 visit, October 25, 26.
 8 MR. DAVIDSON: Bate's?
 9 MR. ATKIN: Oh, I'm sorry.
 10 Thank you. Bate's
 11 Number -- bearing Bate's
 12 Number MONS 098309.
 13 (Benignus Exhibit Number
 14 Eight was marked for
 15 identification.)
 16 (Discussion held off the
 17 record.)
 18 Q. Okay. Do you recall this document,
 19 sir?
 20 A. Yes.
 21 Q. Okay. Do you recall writing it?
 22 A. Yes.
 23 Q. Okay. Did you review this document
 REGIONAL REPORTING SERVICE, INC.

156

1 yesterday with Monsanto's attorneys?
 2 A. I think so.
 3 Q. Okay. Now, in the last paragraph of
 4 the memo, number five, you state: The
 5 time is rapidly approaching when we, in
 6 parentheses, the speaker may be
 7 Dr. Pozefsky of GE, close parens --
 8 A. Uh-huh (indicating yes).
 9 Q. -- will have to stand up before ANSI
 10 and give understandable and convincing
 11 evidence about this regarding Aroclor
 12 1016.
 13 I would like to ask you first:
 14 What is ANSI?
 15 A. ANSI is American National Standards
 16 Institute.
 17 Q. What does it do?
 18 A. This is a committee that is very
 19 similar to ASTM, which we defined ASTM
 20 as being a development of test methods
 21 and standards. ANSI doesn't develop
 22 the official test methods, but both of
 23 these organizations, if you will --
 REGIONAL REPORTING SERVICE, INC.

157

1 Above them would come the Bureau of
2 Standards, who didn't do any work. The
3 work was done with ASTM and ANSI, but
that's just the way it was then.

5 Bureau of Standards reports to
6 Congress, which is the law of the land.
7 So ANSI is a very important and
8 influential committee representing the
9 interests of the electrical industry.
10 And in this instance, a capacitor's
11 section and a transformer's section,
12 which led to ANSI C-17 or C-117.

13 Q. Okay. When you said that the time is
14 rapidly approaching when you will have
15 to -- when we will have to stand up
16 before ANSI and give understandable and
17 convincing evidence about this
18 regarding Aroclor 1016, what is the
19 "this" referring to? What will you
20 have to stand up before ANSI and give
21 understandable and convincing evidence
22 about?

23 A. This is where -- Paragraph five answers
REGIONAL REPORTING SERVICE, INC.

158

1 this, your question.

2 Q. Okay.

3 A. It's about the migration and how
4 biodegradable is Aroclor 16 --

5 Q. 1016, correct?

6 A. Yes. In terms of realistic conditions
7 of organisms and time and also
8 knowledge about what is formed after
9 biodegradation.

10 Q. Okay. So that's what -- That's the
11 issue that you have to stand -- that
12 you said the time was rapidly
13 approaching when we would have to stand
14 up before ANSI?

15 A. Meaning, you know, Dr. Al Pozefsky of
16 GE.

17 Q. Okay. And then you go on to say: His
18 only source of the essential data and
19 information is our group at Monsanto.

20 Was that true?
I would say so.

22 Q. Okay. And then you -- Okay. The last
23 sentence states: The information

REGIONAL REPORTING SERVICE, INC.

159

1 available at this time is not
2 sufficient and lacks conviction
3 required for us to present our case at
4 ANSI, barely even on an interim basis.
5 What do you mean by that?

6 A. What I said.

7 Q. Can you elaborate a little bit?

8 MR. DAVIDSON: Objection.

9 A. We need more information.

10 Q. About what?

11 A. About biodegradability of Aroclor 1016.

12 Q. Okay. Was Monsanto required to give
13 information on biodegradability of
14 PCBs -- of Aroclor 1016 to ANSI?

15 A. Nobody stood over us with a club. We
16 had sought to present this and
17 determine it.

18 Q. Was ANSI looking for Monsanto -- for
19 answers from Monsanto on that issue?

20 A. It says here our group here at
21 Monsanto -- if I read this right, and I
22 wrote it -- is the source of such
23 information at this point in time --

REGIONAL REPORTING SERVICE, INC.

160

1 certainly.

2 Q. Okay. Did Monsanto ever appear before
3 ANSI regarding this issue?

4 A. Sure.

5 Q. Okay. When?

6 A. 1971, the nonelectrical business was
7 shut down.

8 Q. Right.

9 A. The electrical business continued by
10 approval from Congress, and it shut
11 down in 1977. So, in that time frame,
12 ANSI C-17 -- I guess is the number if I
13 remember, or 117 -- was active. Now,
14 this calls for -- This portrays
15 activity at ANSI.

16 Now, how fast this came about, I
17 can't exactly say. It was in action,
18 involved, for several years. It took
19 several years to compile the report at
20 ANSI. There was a lot of work done
21 there. So to answer your question
22 specifically, I can tell you this: It
23 was before I retired in '74.

REGIONAL REPORTING SERVICE, INC.

161

1 Q. Okay.

2 A. And here we were at '71. Well, pick an

3 answer about half way.

4 Did Monsanto present information to

5 ANSI along the lines of what -- of what

6 you discussed in this memorandum?

7 A. Yes, sir.

8 Q. Okay. Who made that presentation?

9 A. I don't know who presented it.

10 Q. Okay. Do you know what the substance

11 was of the -- of the presentation?

12 A. Of the biodegrade --

13 Q. In other words, do you know what

14 specifically was told to ANSI by

15 Monsanto?

16 A. Yes. What was told and conveyed to

17 ANSI and elsewhere was the findings,

18 the results, of the laboratory

19 biodegradable -- biodegradation tests

20 that we spoke of.

21 Q. The ones that were begun in 1938?

22 A. Oh, no.

23 Q. Okay.

REGIONAL REPORTING SERVICE, INC.

162

1 A. That was -- Excuse me. That thing in

2 1938 never went anywhere. It never

3 went commercial. It wasn't used. It

4 was just a little test blot in Florida

5 by Hatfield. It's got nothing to do

6 with this.

7 Q. Okay.

8 A. Although, I was knowledgeable of this.

9 Q. Okay.

10 A. No. This is the lab work that we

11 discussed with Monsanto.

12 Q. Okay, okay. And do you recall

13 specifically any of the results of the

14 lab work that were conveyed or

15 discussed with ANSI by Monsanto?

16 A. Well to explain this, I was chairman of

17 the steering committee -- so you'll

18 understand.

19 Q. Okay. What was the steering committee?

20 A. The steering committee in my job was to

21 select and point out people who I knew

22 would be qualified from the electrical

23 industry to carry out the goals and the

REGIONAL REPORTING SERVICE, INC.

163

1 work at ANSI. I knew the people on the

2 one hand in the capacitor's section

3 from -- I always forget the initials --

4 E -- EEIA. Yeah, electrical -- that

5 was the capacitors section.

6 Q. Okay.

7 A. They addressed the problems or whatever

8 in the capacitor business. Here, under

9 our ANSI committee, is the transformer

10 section, people who make transformers.

11 I knew who was knowledgeable and could

12 serve.

13 Now, I didn't do any of the work.

14 Papageorge was on deck in '71. Yeah.

15 See, he has a copy. He had moved from

16 Anniston to St. Louis by then to work

17 on this. He was elected chairman of

18 ANSI committee. And underneath is Al

19 Pozefsky of GE -- Hudson Falls --

20 headed up the capacitor's section. And

21 I think it was T.K. Slought or Ed Raab,

22 T. K. Slought being Westinghouse,

23 headed up the -- I'm pretty sure it was

REGIONAL REPORTING SERVICE, INC.

164

1 Slought -- headed up the transformer's

2 section.

3 And those were the working

4 committees, and they did the work.

5 They received this information that you

6 were asking about.

7 Q. Right.

8 A. And it was given to them, the people at

9 ANSI. And it was handled, and it was

10 reported and published.

11 Q. And did ANSI publish the data that had

12 been given them by --

13 A. Oh, yes. There's an ANSI publication.

14 Q. Okay. Did it discuss specifically or

15 deal specifically with the issue of

16 biodegradability of Aroclor 1016?

17 A. Well, it discussed a lot of things. It

18 wasn't written for that.

19 Q. Okay. Was there anything issued or

20 written by ANSI after the presentation

21 that was made to ANSI by Monsanto

22 regarding the biodegradability of

23 Aroclor 1016?

REGIONAL REPORTING SERVICE, INC.

165

1 A. I don't know for sure.
2 Q. Okay.
3 A. But this was no secret information. It was dissemination.
5 Q. Okay.
6 A. That's why we had the ANSI committee to disseminate the state of the art and the information of the industry.
9 Q. Okay. Thank you. I'm done with that.
10 THE WITNESS: Can you go off the record a minute?
12 MR. DAVIDSON: Let's take a break.
14 MR. ATKIN: Sure. I'm --
15 (A break was taken.)
16 MR. ATKIN: Let us mark for identification as Benignus
17 Nine a two-page document,
18 which is a cover page,
19 followed by a second page
20 entitled "Index." The
21 cover page is entitled "The
22 Proper Handling of Aroclors
23 REGIONAL REPORTING SERVICE, INC.

166

1 and Their Mixtures in the
2 Electrical Industry;"
3 Monsanto Chemical Company;
4 P. G. Benignus; 12-1-54.
5 That -- These two documents
6 bear Bate's Numbers ADM
7 001811 and ADM 0011812.
8 (Benignus Exhibit Number
9 Nine was marked for
10 identification.)
11 Q. Mr. Benignus, you testified earlier
12 about a document called "The Proper
13 Handling of Aroclors" that you had -- a
14 booklet that you had put together.
15 A. Right.
16 Q. Okay. Is this the booklet that you
17 were referring to?
18 A. Yes.
19 Q. Is this -- These two pages are just the
20 cover and the first page, the index of
21 that document, correct?
22 A. Right.
23 Q. Okay. And chapter nine of the booklet
REGIONAL REPORTING SERVICE, INC.

167

1 dealt with dermatology and toxicology;
2 is that right?
3 A. Yeah, right.
4 Q. Okay. Now, this is dated 12-1-54.
5 A. Yes.
6 Q. Is that the first time that you put
7 together such a booklet on the proper
8 handling of Aroclors and their
9 mixtures?
10 A. I think so.
11 Q. Okay. To your knowledge, did
12 Monsanto -- Did anyone from Monsanto
13 ever put together a booklet on the
14 proper handling of Aroclors and their
15 mixtures in the electrical industry
16 prior to December 1st, 1954?
17 A. No.
18 Q. Okay.
19 MR. ATKIN: Let me -- Let's mark
20 as --
21 MR. DAVIDSON: I will -- Just
22 for the record, I will note
23 an objection to the last
REGIONAL REPORTING SERVICE, INC.

168

1 exhibit, Number Nine, as
2 being incomplete.
3 MR. ATKIN: Okay.
4 Unintentionally.
5 MR. ATKIN: Okay. Exhibit
6 Number Ten that we will
7 mark for identification is
8 a one-, two-, three- --
9 all right, four pages.
10 The first two pages -- The
11 first page is bearing
12 Bate's Number ADM 001268,
13 dated May 1st, 1956;
14 Monsanto Chemical Company,
15 and then it says P.G.
16 Benignus on the bottom,
17 entitled "The Proper
18 Handling of Aroclors and
19 Their Mixtures in the
20 Electrical Industry." The
21 second page, ADM 001267, is
22 the index to that
23 publication. The third and
REGIONAL REPORTING SERVICE, INC.

169

fourth pages of this
exhibit bear Bate's Numbers
ADM 001343 and ADM 001344.

They are entitled
"Chapter Nine,"
"Dermatology and
Toxicology."

(Benignus Exhibit Number
Ten was marked for
identification.)

Yeah. All I really would like you to
do is just to identify this, if you
could.

MR. DAVIDSON: Okay. I -- Let
me put an objection on the
record as to it not being a
complete document. The
numbers are not in
sequence, and it's not
clear that the second two
pages --

MR. ATKIN: Right.

MR. DAVIDSON: -- that pages
REGIONAL REPORTING SERVICE, INC.

171

1956?

2 A. They needed more copies.

3 Q. Okay. Was it exactly the same, to the
4 best of your knowledge?

5 A. Yeah.

6 Q. Okay. Now, Chapter Nine here refers
7 to -- The last two pages refer to
8 dermatology and toxicology?

9 A. Yes.

10 Q. Okay. Did you draft that chapter?

11 A. Yes.

12 Q. By yourself?

13 A. By myself, but with approval from
14 medical.

15 Q. With approval from whom? I'm sorry.

16 A. Medical.

17 Q. The medical. Okay. Mr. Wheeler?

18 A. Yes.

19 Q. And when you say you drafted it, where
20 did you get the information that went
21 into this chapter?

22 A. We discussed earlier skin patch tests.

23 This is what is spoken about here in
REGIONAL REPORTING SERVICE, INC.

170

three and four are actually
the chapter reference.

MR. ATKIN: Right, Right.

That's what I would like to
ask him, actually.

MR. DAVIDSON: Okay.

Okay. Let me ask you first about
the -- the first two pages.

MR. STEWART: Now, is this
Exhibit Ten?

MR. ATKIN: Yes, this is
Exhibit Ten for
identification.

Let me ask you about the first two
pages. Is this a booklet that you put
together in 1956 on the proper handling
of Aroclors and their mixtures?

Yes.

Okay. How does -- Do you recall how,
if at all, it differs from the one that
you put out in 1954?

Same thing.

Okay. Why did you issue a new one in

REGIONAL REPORTING SERVICE, INC.

172

the skin patch test.

2 Q. All right. And it also discusses
3 experimental work on animals --

4 A. Yes.

5 Q. -- regarding safe concentrations of
6 vapors in workrooms, correct?

7 A. Yes.

8 Q. And where did you get that information
9 from?

10 A. From what we discussed earlier, which
11 was the work done at Kettering,

12 Keyhole, Drinkard --

13 Q. Okay. Other laboratories?

14 A. Yes.

15 Q. Okay.

16 A. On toxicology.

17 Q. When you say Drinkard, you're referring
18 to the Drinkard Study?

19 A. Yes.

20 Q. And when was that done?

21 A. Well, again, during that time frame

22 when I was at -- in the organic

23 chemicals development department

REGIONAL REPORTING SERVICE, INC.

173

1 prior -- I'd say prior to 1947.
2 Q. Do you know what the Drinkard Study
3 found?
No, I can't differentiate at this
5 time --
6 Q. All right.
7 A. -- from the other.
8 Q. Okay.
9 A. As I told you, I happened to be in the
10 area. I was not assigned to anything
11 in this work.
12 Q. Did you ever hear that PCBs can be --
13 can cause damage to the liver?
14 A. Yes.
15 Q. Did you ever hear that PCBs can cause
16 systemic injury?
17 A. Really not, but if you say so.
18 MR. ATKIN: Okay. Let's mark for
19 identification Benignus --
20 MR. COX: Eleven.
21 MR. ATKIN: -- Eleven. Thank
22 you. A two-page -- two
23 pages, bearing Bate's
REGIONAL REPORTING SERVICE, INC.

174

1 Numbers ADM 00221 and ADM
2 002218. I suspect that the
3 first page might have been
4 cut off, but I can't tell
5 the Bate's Number.
6 (Benignus Exhibit Number
7 Eleven was marked for
8 identification.)
9 (Discussion held off the
10 record.)
11 Q. Okay. Let me ask you first about the
12 first document.
13 A. All right.
14 Q. Do you know what this is?
15 A. Yes, I would think so.
16 Q. Okay. What is it?
17 A. It looks like a label for a drum --
18 Q. On -- On a drum? Is that what you
19 said?
20 A. Serving industry which serves mankind.
Aroclor. Caution. (Reading.) That
22 would be a place to put it --
23 Q. Okay.
REGIONAL REPORTING SERVICE, INC.

175

1 A. -- on a drum.
2 Q. Okay. So as far as you know, this is
3 a --
4 A. Label.
5 Q. -- a label that was put on Aroclor 1254
6 drums; is that right?
7 A. Yes.
8 Q. Okay. When they were sent to
9 customers?
10 A. Yes.
11 Q. Okay. Do you know when Monsanto
12 started putting these labels on drums
13 -- on Aroclor 1254 drums?
14 A. I don't know when it was first started,
15 but as far as I'm concerned, I knew
16 about this in 19 -- I would say around
17 mid 1940.
18 Q. Okay.
19 A. That's my estimate.
20 Q. Okay. Do you have any involvement in
21 the drafting of this label?
22 A. No. But it uses what you just read in
23 my publication, but the publication was
REGIONAL REPORTING SERVICE, INC.

176

1 later than this statement.
2 Q. Did you look at the labels in coming up
3 with the publication? Did you take --
4 A. I didn't look at them, no. But I knew
5 what was supposed to be on the label.
6 Q. Okay. How did you know that?
7 A. Because of what it says here, by
8 prolonged and repeated contact with the
9 skin and prolonged breathing of vapor
10 and dust. 1254 wasn't dusty. It was a
11 liquid, but that's beside the point.
12 Q. Okay. Do you know who drafted this --
13 this warning label?
14 A. I would say the label department. They
15 had a labeling department.
16 Q. A labeling department. Within which
17 group?
18 A. The organic chemicals division.
19 Q. Okay. And who headed up that
20 department at the time you worked for
21 Monsanto?
22 A. I know who was in it. He's dead. And
23 now, who headed it up, I can't remember
REGIONAL REPORTING SERVICE, INC.

177

1 it at the moment. I see the guy, but I
2 can't remember.
3 Q. Okay. Do you know when this label
was -- was drafted?
5 A. I would say --
6 MR. DAVIDSON: You don't have to
7 guess if you don't know.
8 A. I don't know exactly when.
9 Q. Do you know approximately when?
10 A. The materials had to be labeled as to
11 what's in the drum, you know. So just
12 when this statement, if that's what
13 you're getting at --
14 Q. Yep.
15 A. -- was put on -- I don't know when that
16 was first put on. But the way it
17 reads, this particular statement, I
18 would say, as I already said, somewhere
19 in -- around 1940 -- Wait a minute. It
20 was '40 -- mid 1940s, I guess.
21 Q. Okay.
22 A. I think.
23 Q. The -- If you could, turn to the second
REGIONAL REPORTING SERVICE, INC.

178

1 page --
2 A. Uh-huh (indicating yes).
3 Q. -- of --
4 MR. COX: It's Eleven.
5 Q. B Eleven.
6 Okay. I just want to ask you
7 just -- if you know when -- are
8 these -- Are these other labels that
9 were used on PCBs?
10 A. This was a statement that should appear
11 on the drum package.
12 Q. Okay. Did this appear on the drum
13 package -- Do you know when this type
14 of statement appeared on the drum
15 packages of PCBs?
16 A. It had appeared before I wrote my --
17 Well, this --
18 Q. Okay.
19 A. -- which was written in '54.
20 Q. I'm sorry. When you testified earlier
21 that -- that the first page is a label
22 of a drum that was used -- label that
23 was used on the drum of -- drums of
REGIONAL REPORTING SERVICE, INC.

179

1 Aroclor 1254 in the 1940s, do you know
2 if this label, the first label that
3 appears on the second page, on ADM
4 002218 -- whether that label was put on
5 the drums in addition to the first
6 label that's on page ADM 00221 or
7 whether this is a subsequent label?
8 A. This -- Okay. This is subsequent.
9 This identifies 1254, a product.
10 Q. Right.
11 A. And then it has the caution label. I
12 tried to tell you to the best of my
13 ability when that was invoked. What
14 does it say? What does this say here?
15 Q. It bears a date, but I cannot read it.
16 It might just be a form number. I
17 don't know.
18 A. 19 --
19 Q. '39? Is that possible? No, I don't
20 want to --
21 A. -- '46, is it? Does anyone have a
22 magnifying -- Well, not you. You're
23 too young.
REGIONAL REPORTING SERVICE, INC.

180

1 Q. Well, I can't see. Just to the best of
2 your -- to the best of your ability.
3 You were trying to -- You were going to
4 explain what the --
5 A. Yes.
6 Q. -- difference -- What I would like to
7 know is what the sequence is of these
8 different labels.
9 A. This was first.
10 Q. Okay.
11 A. And I think we pinpointed that one.
12 Now, you'll see here: Caution --
13 Q. I'm sorry when you say "this," you're
14 referring to the label --
15 A. First label.
16 Q. -- first label that we looked at, which
17 was on ADM --
18 A. Correct.
19 Q. -- 00221?
20 A. Right.
21 Q. Okay.
22 A. Now, you will notice here, it's
23 different. Caution. Contains
REGIONAL REPORTING SERVICE, INC.

181

1 chlorinated hydrocarbons. Right?

2 Q. Yes.

3 A. It's not specific for one of the
Aroclors, as the first one is.

5 Q. Okay.

6 A. I believe that this second -- And I
7 don't know what the difference is
8 between that one and the one below it.
9 It both says: Contains chlorinated
10 hydrocarbons. I believe the answer to
11 this is that this came after -- to
12 answer your question.

13 Q. Uh-huh (indicating yes).

14 A. And I would say this was with
15 reference, not to a specific PCB, but
16 to a blend of PCB with Chlorobenzenes
17 tritetrachlorobenzenes. So we have a
18 mixture of chlorinated hydrocarbons,
19 you see, which is correct in that these
20 labels would have gone onto drum
21 packages that were sent to the
22 transformer users.

23 Q. Okay. Do you know approximately what
REGIONAL REPORTING SERVICE, INC.

182

1 time frame these labels -- this -- the
2 labels that appear on the second page,
3 on ADM 002218, when these labels were
4 used -- when they began to be used?

5 A. No, I don't, other than it was after
6 such a specific label.

7 Q. Okay. Did you know if there were any
8 subsequent labels that were used for
9 the Aroclor products?

10 A. Such as this?

11 Q. Yes -- No, not subsequent to the one on
12 the first page, but subsequent to the
13 ones on the second page.

14 A. To the ones on the second page?

15 Q. Yeah. Do you know if there were any
16 further labels?

17 A. I don't think so.

18 Q. As far as we know, then, these labels
19 that you see on the second page were --
20 were labels that were put on drums.
21 And these labels did not change during
22 the time, you know, until the time that
23 you left Monsanto --
REGIONAL REPORTING SERVICE, INC.

183

1 MR. DAVIDSON: Objection.

2 Q. Is that right?

3 A. To my knowledge, they didn't. And to
4 further -- maybe help -- You see, this
5 is the caution statement. The product
6 name is not shown. Okay. This would
7 apply to transformer blends made by
8 Monsanto and shipped by Monsanto, but
9 it would also apply to transformer
10 blends using the General Electric
11 Company trade name, rather than
12 Monsanto's -- No, these -- Okay.

13 These caution statements would
14 have been put on the drums headed for
15 the transformer users and GE and
16 Westinghouse with their given trade
17 names, not Aroclor. That's not on
18 here. But Pyrenal, that was a trade
19 name of GE; or it could be Inerteen,
20 the trade name of Westinghouse; or
21 Allis-Chalmers, they use chlorexol.

22 See, these users had their own
23 trade names, and they may order
REGIONAL REPORTING SERVICE, INC.

184

1 Monsanto to send a certain transformer
2 askarel to some service shop somewhere.
3 And to identify that they're getting
4 the right thing, the label would
5 indicate that, but it would also have
6 this warning statement on it.

7 Q. Okay. You can -- I'm done with that
8 one.

9 MR. ATKIN: Let me hand you
10 what's going to be marked
11 for identification as
12 Papageorge -- I'm sorry --
13 as Benignus Twelve. And
14 this is a document with --
15 a ten-page document
16 entitled "The PCB-Pollution
17 Problem," January 21st and
18 22nd, 1970; St. Louis
19 Meeting with General
20 Electric Company, bearing
21 Bate's Numbers SCM 037621
22 through SCM 037630.
23 (Benignus Exhibit Number
REGIONAL REPORTING SERVICE, INC.

185

1 Twelve was marked for
2 identification.)
3 (Discussion held off the
record.)

5 MR. DAVIDSON: Let me comment,
6 I suppose, with respect to
7 B Twelve and on the
8 representation of
9 Mr. Atkin. This is a
10 rather lengthy document,
11 and Mr. Benignus has not
12 written -- read the entire
13 document, but has read the
14 paragraph that you have
15 directed him to.

16 MR. ATKIN: Okay. Thank you.

17 Q. Mr. Benignus, the document reports on a
18 PCB-pollution problem meeting that took
19 place in January of 1970, correct?

20 A. Yes.

21 Q. Okay. Do you recall that meeting?

22 A. Yes.

23 Q. Do you recall being present at that

REGIONAL REPORTING SERVICE, INC.

186

1 meeting?

2 A. I recall arranging for that meeting to
3 be held --

4 Q. Okay.

5 A. -- in St. Louis -- yeah. Okay. I
6 arranged for the meeting.

7 Q. Who asked you to arrange for the
8 meeting?

9 A. I don't know it specifically. It
10 didn't matter.

11 Q. Okay. But you recall that you arranged
12 it?

13 A. Yeah, because I knew the people.

14 Q. Okay. What was the purpose of the
15 meeting?

16 A. The purpose of the meeting was to
17 discuss with General Electric -- and
18 their representatives were from
19 Pittsfield. He and I arranged a
20 meeting. Mr. Gerad -- Gerade, GE
toxicological consultant, I really
21 didn't know him. Dr. Murphy, GE, New
22 York, Environmental, I didn't know, but

REGIONAL REPORTING SERVICE, INC.

187

1 Wheeler knew him.

2 Q. Okay.

3 A. The purpose was to discuss what was
4 known about the PCB problem.

5 Q. Okay. I'd like you to turn to page
6 two, if you could, to this section
7 that --

8 A. Okay.

9 Q. -- that you just read, section D, which
10 is entitled "Status of Aroclor Studies
11 At Industrial Bio-Test. Table 2."

12 A. Uh-huh (indicating yes).

13 Q. Okay. Now, this -- This goes on to
14 say: In essence, results reported by
15 Mr. Wheeler on chronic animal toxicity
16 tests and animal reproducibility tests
17 underway are not as favorable as we
18 hoped or anticipated.

19 Do you recall, Mr. Benignus, what
20 toxicity tests in animal
21 reproducibility studies were not as
22 favorable as Monsanto had hoped for
23 that are being referred to here?

REGIONAL REPORTING SERVICE, INC.

188

1 A. I don't recall specifically.

2 Q. Do you recall generally?

3 A. Generally, yes.

4 Q. And what do you recall generally?

5 A. Well, what it says. Evidence -- maybe
6 I shouldn't of said alarming

7 evidence -- of the effect of
8 hatchability and production of thin egg
9 shells regards white leghorn chickens.

10 Q. Okay. This is the -- you're referring
11 to the next sentence, which saying --
12 which says, in quotes: Particularly
13 alarming is evidence of the effect on
14 hatchability and production of thin egg
15 shells regards white leghorn chickens.
16 The studies involved Aroclor 1242,
17 1254, and 1260.

18 So are those the -- Those are the
19 studies that you're referring to?

20 A. Yes.

21 Q. Okay. Did you draft this mem -- this
22 memo?

23 A. Well, who signed it?

REGIONAL REPORTING SERVICE, INC.

189

1 Q. I believe you -- Well, it has -- I
2 don't want to -- I believe you did.
3 Take a look at page ten, the last page.
4 Oh, January 26, 1970 -- Yeah, I drafted
5 it.
6 Q. Okay. And what was particularly,
7 alarming, if you recall, about the
8 evidence of the effect on hatchability
9 and production of thin egg shells of
10 white leghorn chickens?
11 A. Well, as much as I said just a moment
12 ago, to me, it wasn't all that alarming
13 but --
14 Q. Well, why did you use that terminology?
15 A. Yeah, why did I use it? Because I
16 think someone else felt that way, and I
17 picked that terminology up.
18 Q. Do you recall what about those studies
19 specifically, about hatchability and
20 production of thin egg shells regarding
21 white leghorn chickens was disturbing?
22 A. Well, the chicken has thin egg shells,
23 which all chickens tend to have in the

REGIONAL REPORTING SERVICE, INC.

190

1 spring of the year. This is why if
2 you're raising chickens, it's a good
3 idea to feed them some oyster shells,
4 some calcium. You know about this.
5 Now --
6 MR. STEWART: He doesn't, but I
7 do.
8 MR. ATKIN: He's right.
9 A. Now, your question: What is
10 detrimental? If the egg shell is too
11 thin, the chicken, when it bumps into
12 it, it breaks too easily. And that was
13 a complaint about DDT and the
14 environment, and PCB was included in
15 bird egg shells.
16 It seemed they reduced the
17 population, they thought, of certain
18 species of sea gulls or whatnot, so
19 it's an undesirable thing. Because
20 these chickens, as I said, they tend to
21 have thin egg shells in the spring of
22 the year. I know this firsthand.
23 That's why you buy oyster -- cracked

REGIONAL REPORTING SERVICE, INC.

191

1 oyster shells and feed them calcium.
2 So this exacerbated that. So it's not
3 desirable.
4 Q. Okay.
5 A. And that was the basis for it.
6 Q. Uh-huh (indicating yes). The -- The
7 last sentence there says: Some of the
8 studies will be repeated to arrive at
9 better conclusions.
10 Do you see that?
11 A. Yes.
12 Q. Were the studies repeated?
13 A. I don't know.
14 Q. Do you know if Monsanto ever had
15 testing done regarding hatchability and
16 production of eggs which arrived at
17 better conclusions than the original
18 studies that are being referred to
19 here?
20 A. I do not know -- No.
21 Q. Okay, okay. Do you know who was doing
22 the tests on white leghorn chickens?
23 A. No.

REGIONAL REPORTING SERVICE, INC.

192

1 Q. Okay. Was it somebody from IBT, from
2 Industrial Bio-Tests?
3 A. I don't know.
4 Q. Okay.
5 A. What I did here --
6 MR. DAVIDSON: That's okay. He
7 didn't ask you a question.
8 Q. Is there something you wanted to add?
9 A. I was going to say -- By in large, what
10 I did here was compile what information
11 of the progress report that was at hand
12 at this point in time, and I didn't do
13 this work.
14 Q. Okay.
15 A. So that it could be discussed with the
16 people from GE.
17 Q. Do you recall any discussions regarding
18 what you wrote in this sentence, that
19 the studies should be repeated to get
20 better conclusions? Do you recall any
21 discussions about that?
22 A. No. Somebody must have injected this
23 into this, and I carried it on.

REGIONAL REPORTING SERVICE, INC.

193

1 Q. Do you remember who it was?

2 A. No, I don't remember. I don't know

3 unless you pick it up out of here. Was

4 it Wheeler or --

5 Q. Okay. You don't know?

6 A. I don't know.

7 Q. Okay. Do you know, sir, whether

8 Monsanto had a practice in general to

9 repeat toxicity studies that they found

10 were not favorable?

11 A. No.

12 MR. DAVIDSON: Objection.

13 Q. You don't know?

14 A. No.

15 MR. ATKIN: Give me one minute.

16 All right. Thank you very

17 much, Mr. Benignus. We're

18 done.

19 THE WITNESS: Okay, Jack.

20 MR. DAVIDSON: I want to go off

21 the record.

22 (Discussion held off the

23 record.)

REGIONAL REPORTING SERVICE, INC.

194

1

2 EXAMINATION

3 BY MR. DAVIDSON:

4 Q. Mr. Benignus, I'm Gerard Davidson, and

5 as you know, I've been representing you

6 today. And I have just a couple of

7 follow-up questions.

8 Let me ask you your current age?

9 A. Eighty-eight.

10 Q. And when will you -- When is your

11 birthday?

12 A. August 30th.

13 Q. All right, sir. And you testified

14 earlier in your deposition that in

15 doing laboratory work early on, you did

16 lab work on PCBs; is that correct?

17 A. Yes.

18 Q. You also testified earlier that you

19 were taking some inhalants for

20 assisting your breathing?

21 Yes.

22 Q. Is that the only medication you're on

23 now?

REGIONAL REPORTING SERVICE, INC.

195

1 A. Yes.

2 Q. Are you in -- generally in good health?

3 A. Yes.

4 Q. And you play golf regularly?

5 A. Yes.

6 Q. And you play tennis regularly?

7 A. Yes.

8 Q. All right, sir. In the course of your

9 employment with Monsanto, were you ever

10 personally exposed to PCBs?

11 A. Yes.

12 Q. Did you ever get them on your skin?

13 A. Yes.

14 Q. Did you ever have occasion to breathe

15 the vapors from the PCBs?

16 A. Yes.

17 Q. Do you have any concern at this time

18 for the fact that you were exposed to

19 PCBs during your career?

20 MR. STEWART: Note an objection.

21 MR. ATKIN: Objection.

22 MR. STEWART: We'll object to the

23 improper --

REGIONAL REPORTING SERVICE, INC.

196

1 MR. DAVIDSON: I didn't get

2 finished with the question.

3 MR. STEWART: Well, we want to

4 let the witness know that

5 we may have objections --

6 MR. DAVIDSON: Okay.

7 MR. STEWART: Self-serving.

8 MR. DAVIDSON: If you will give

9 them -- This not --

10 cross-examination. I think

11 if you're going to call him

12 as your witness, as an

13 adverse witness -- Give

14 them an opportunity --

15 MR. STEWART: An adverse

16 witness would -- direct

17 examination.

18 MR. DAVIDSON: Give them an

19 opportunity to object,

20 which I'm sure they want to

21 do.

22 THE WITNESS: Uh-huh

23 (indicating yes).

REGIONAL REPORTING SERVICE, INC.

197

1 Q. Do you currently have any concern about
2 your own health, based upon the fact
3 that you had exposure to PCBs during
your --

5 A. No.

6 Q. -- career at Monsanto?

7 A. No.

8 MR. ATKIN: Note my objection.

9 MR. DAVIDSON: That's all I have.

10 (AND FURTHER DEPONENT SAITH NOT.)

23 REGIONAL REPORTING SERVICE, INC.

198

1 I do hereby certify that the witness whose
2 attached deposition was taken before me was by me
3 first duly cautioned and sworn to tell nothing but
4 the truth in the cause aforesaid; that the
5 testimony contained herein was by me reduced to
6 writing in the presence of said witnesses by means
7 of stenography and afterwards transcribed by means
8 of computer aided transcription. The foregoing is
9 a true and accurate transcript of the whole of the
10 testimony given by said witness, as aforesaid.

11 I do further certify that I am not
12 connected by blood or marriage with any of the
13 parties or their attorneys or agents and that
14 I am not an employee of any of them, nor
15 interested in the matter of controversy.

16 IN WITNESS WHEREOF, I have hereunto
17 set my hand and affixed my notarial seal at
18 Gadsden, Alabama, County of Stowah, this 8th of
19 May, 1998.

20
21
22 Misty Perry
Notary Public, Alabama-at-Large
23 My Commission Expires: 11-12-2001
REGIONAL REPORTING SERVICE, INC.