

MISSOURI CIRCUIT COURT
 TWENTY-FIRST JUDICIAL CIRCUIT
 ST. LOUIS COUNTY

EDWARD COLELLA,)
 Plaintiff,)
 vs.) Cause No. 09SL-CC01972
 MONSANTO CO., ET AL.,) Division No. 7
 Defendants.) NOTICE OF DEPOSITION

MISSOURI CIRCUIT COURT
 TWENTY-FIRST JUDICIAL CIRCUIT
 ST. LOUIS COUNTY

LIVINGSTON HAMPTON, MAGGIE)
 MOOYMAN, and RUSSELL ABBEY,)
 Plaintiffs,)
 vs.) Cause No. 10SL-CC03428
 MONSANTO CO., ET AL.,) Division 17
 Defendants.)

MISSOURI CIRCUIT COURT
 TWENTY-FIRST JUDICIAL CIRCUIT
 ST. LOUIS COUNTY

NISHIDA, NICHOLAS WHITE,)
 INDIVIDUALLY AND AS SURVIVOR)
 OF MARK WHITE, DECEASED,)
 AND ALISON TUCKER,)
 Plaintiffs,)
 vs.) Cause No. 09SL-CC01964
 MONSANTO CO., ET AL.,) Division No. 13
 Defendants.) NOTICE OF DEPOSITION

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 16 Certain Chlorinated Hydrocarbons

17
 18 The original Plaintiffs' Exhibits 32 and 33 were
 19 retained by the court reporter to be attached to
 Mr. Stewart's transcript.

20
 21 The original Defendants' Exhibit 34 was retained by
 22 the court reporter to be attached to Mr. Miller's
 transcript.

23
 24
 25

IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF MISSOURI

LIVINGSTON HAMPTON, MAGGIE)
 MOOYMAN, and RUSSELL ABBEY,)
 Plaintiffs,)
 vs.) Cause No. 4-11-CV-01662
 MONSANTO CO., SOLUTIA, INC.,)
 PHARMACIA CORP., AND PFIZER,)
 INC.,)
 Defendants.)

THE VIDEOTAPED DEPOSITION OF DR. ROBERT KALEY
 CORPORATE REPRESENTATIVE OF MONSANTO COMPANY
 VOLUME II

Taken on behalf of Plaintiffs
 November 18, 2011

Dawn M. Bloemker, CSR, CCR, RPR
 CSR License No. 084-004554
 CCR License No. 1039

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7

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5 Plaintiffs,)

6 vs.) Cause No. 4-11-CV-01662

7 MONSANTO CO., SOLUTIA, INC.,)
8 PHARMACIA CORP., AND PFIZER,)
9 INC.,)

10 Defendants.)

11 THE VIDEOTAPED DEPOSITION OF DR. ROBERT
12 KALEY, VOLUME II, produced, sworn, and examined on
13 behalf of the Plaintiffs, November 18, 2011, between
14 the hours of 9:00 a.m. and 10:20 a.m. on that day, at
15 the law offices of Husch Blackwell, LLP,
16 190 Carondelet Plaza, Suite 600, St. Louis, Missouri
17 63105, before Dawn M. Bloemker, Illinois Certified
18 Shorthand Reporter, Missouri Certified Court Reporter,
19 and Registered Professional Reporter.

14 APPEARANCES

15 The Plaintiffs, Edward Colella, et al., were
16 represented by Mr. Allen M. Stewart of the law firm of
17 Allen Stewart, P.C., 325 N. St. Paul Street,
18 Suite 2750, Dallas, Texas 75201.

19 The Defendants, were represented by Mr. Adam
20 E. Miller of the law firm of Husch Blackwell, LLP,
21 190 Carondelet Plaza, Suite 600, St. Louis, Missouri
22 63105.

23 The Defendants were also represented by
24 Ms. Carol A. Rutter of the law firm of Husch
25 Blackwell, LLP, 190 Carondelet Plaza, Suite 600,
St. Louis, Missouri 63105.

Also Present: Mr. Mike Tisa, Videographer
representing U.S. Legal Support, Inc., 5910 N. Central
Expressway, Suite 100, Dallas, Texas 75206.

6

8

1 IT IS STIPULATED AND AGREED by and between
2 counsel for the Plaintiffs and counsel for the
3 Defendants that the deposition of DR. ROBERT KALEY may
4 be taken in shorthand by Dawn M. Bloemker, a Certified
5 Court Reporter, and afterwards transcribed into
6 typewriting, and the signature of the witness is
7 reserved by agreement of counsel and the witness.

8 * * * * *

9 THE VIDEOGRAPHER: We are on the record at
10 9:00 a.m. This is the videotaped deposition,
11 Volume II, of Robert Kaley in the matter of Edward
12 Colella vs. Monsanto Company, Nishida White vs.
13 Monsanto Company, et al., and Livingston Hampton, et
14 al., vs. Monsanto Company. The Cause Nos.
15 09SL-CC01972, 09SL-CC01964, and 10SL-CC03428.

16 This deposition is being held at Husch,
17 Blackwell, Sanders in St. Louis, Missouri.

18 Will counsel please state their name for the
19 record.

20 MR. STEWART: Al Stewart for the plaintiffs.

21 MR. MILLER: Adam Miller on behalf of
22 defendants.

23 MS. RUTTER: Carol Rutter on behalf of
24 defendants.

25 THE VIDEOGRAPHER: And will the court

1 reporter please remind the witness he is still under
2 oath.

3 * * * * *

4 DR. ROBERT KALEY,

5 of lawful age, being produced, sworn, and examined on
6 the part of the Plaintiffs, and after responding "Yes"
7 to the oath administered by the court reporter,
8 deposes and says:

9 * * *

10 EXAMINATION

11 BY MR. STEWART

12 Q. Sir, when you retired from Monsanto in the
13 year 2003, how much were you making a month?

14 A. I don't recall.

15 Q. Can you give us your best estimate?

16 MR. MILLER: I'm sorry. Did you say
17 Monsanto or Solutia?

18 THE WITNESS: Oh.

19 MR. STEWART: I said Monsanto.

20 A. Oh, I didn't retire from Monsanto.

21 Q. (By Mr. Stewart) Okay. When you retired
22 from a Monsanto-related entity, Solutia, in the
23 year 2003, how much were you making approximately from
24 them?

25 A. Probably, I would say 13 or \$14,000 a month.

1 Q. And when you worked for that
2 Monsanto-related entity in the year 2003, were you
3 working full time?

4 A. Yes.

5 Q. And what did that mean in terms of hours per
6 week?

7 A. Typically, 40 or more.

8 Q. And so when you became a consultant
9 immediately after retiring from Monsanto-related
10 entity on Monsanto-related matters, you essentially
11 kept making the same amount of money; true?

12 A. Approximately, yes.

13 Q. And yet you worked half as much; right?

14 A. Sometimes. Sometimes more.

15 Q. Hmm. I thought you told me that on average
16 you worked 20 to 25 hours a week?

17 A. Roughly. Yes.

18 Q. Isn't that roughly half of what you used to
19 work?

20 A. Or more. 25 is more than half.

21 Q. Hmm. So isn't it true, sir, that by
22 becoming a consultant for Monsanto-related entities,
23 you essentially got to make the same amount of money
24 or more and work a lot less?

25 A. I assume that's true, yes.

9

11

1 Q. Now, in connection with a couple of the
2 exhibits we looked at previously, Kaley Exhibit 5 and
3 Kaley Exhibit 10, there were some charts that you had
4 referenced in those documents, and they were a little
5 difficult to read. Have you brought us now those
6 charts that are more refined, easier to read?

7 **A. I have.**

8 Q. Okay. Let's mark those as the next
9 exhibits.

10 (Plaintiffs Exhibits 32 and 33 were
11 marked for identification.)

12 Q. (By Mr. Stewart) So these charts have been
13 marked Kaley 32 and Kaley 33 to this deposition, and
14 these are the same charts that are taken out of
15 Exhibit 5 and Exhibit 10; is that true?

16 **A. That's true.**

17 Q. Okay. Previously when we broke, we were
18 talking about Monsanto's internal standards of
19 conduct; correct?

20 **A. As I recall, that's correct. Yes, sir.**

21 Q. And I want to know, sir, does Monsanto
22 agree -- strike that.

23 During the 1930s, the 1940s, the 1950s, the
24 1960s, did Monsanto agree that chemical products must
25 be tested thoroughly, marketed responsibly, and

1 MR. MILLER: Object to the form.

2 **A. I don't -- would you define what you mean by**
3 **"ultimate"?**

4 Q. (By Mr. Stewart) Sure. During the 1930s,
5 the 1940s, the 1950s, the 1960s, and the 1970s, did
6 Monsanto agree that a chemical maker must take primary
7 responsibility for the products they sell, whatever
8 those products do, and wherever those products end up?

9 MR. MILLER: Object to the form.

10 **A. I'm not sure that was a concept that was**
11 **understood or considered during the earlier parts of**
12 **those time frames.**

13 Q. (By Mr. Stewart) What do you mean by the
14 earlier parts of those time frames?

15 **A. Probably before the 1960s.**

16 Q. Hmm. So are you telling me that Monsanto in
17 the 1960s did not agree that a chemical maker must
18 take primary responsibility for the products it sold?

19 MR. MILLER: Object to the form of the
20 question. Calls for potentially a legal conclusion
21 with respect to the term "responsibility."

22 Subject to that, you can answer, Doctor.

23 **A. I think they began to develop those kinds of**
24 **understandings around all of their products during**
25 **that time frame depending on the use patterns and what**

10

12

1 applied discriminately?

2 **A. I believe that would be an applicable**
3 **concept, yes. Within the constraints of what was**
4 **acceptable and considered appropriate at the time.**

5 Q. And did Monsanto agree in the 1930s, the
6 1940s, the 1950s, the 1960s, and the 1970s that
7 Monsanto's PCBs should have been tested thoroughly
8 before they were sold to the public?

9 **A. I'd say I believe they were tested in a**
10 **manner -- they should be tested in manners appropriate**
11 **for the understanding of appropriate testing during**
12 **those time frames, yes.**

13 Q. And did Monsanto agree that during the
14 entire time Monsanto made PCBs that those PCBs should
15 have been marketed in such a way that the PCBs would
16 be applied discriminately?

17 **A. Yes. I believe they believed that within**
18 **the constraints and the understandings of those time**
19 **periods.**

20 Q. And did Monsanto agree that a chemical maker
21 during that period of time, the 1930s, the '40s, the
22 '50s, the '60s, the '70s, did Monsanto agree that a
23 chemical maker must take ultimate responsibility for
24 the products it sells, whatever those products do and
25 wherever those products end up?

1 **they understood about the products and their potential**
2 **ultimate dispensation and after -- during and after**
3 **use.**

4 Q. (By Mr. Stewart) You would agree with me
5 that in the 1930s Monsanto was the sole producer of
6 PCBs in the United States; true?

7 **A. Yes.**

8 Q. And in the 1940s, Monsanto was the sole
9 producer of PCBs in the United States; true?

10 **A. Yes. As far as I know.**

11 Q. And in the 1950s, Monsanto was the sole
12 producer of PCBs in the United States; correct?

13 **A. Yes.**

14 Q. And in the 1970s, Monsanto was the sole
15 producer of PCBs in the United States; correct?

16 **A. In the '70s? I'm sorry. No.**

17 Q. In the 1970s, that's not true?

18 **A. That's my understanding.**

19 Q. Who else produced PCBs in the United States
20 in the 1970s?

21 **A. My understanding was there was a small**
22 **producer in Texas that tried to pick up some of the**
23 **slack after Monsanto announced it was going out of**
24 **business.**

25 Q. Who was that?

13

15

1 **A. I believe the name was Jimmy Vandustries**
2 **(phonetic).**

3 Q. Does Monsanto agree with the statement that
4 99 percent of all the PCBs used in the United States
5 were Monsanto's PCBs?

6 MR. MILLER: Object to the form of the
7 question. It's outside the scope of your notice.

8 Subject to that, if you know, you can
9 answer.

10 **A. I don't know.**

11 Q. (By Mr. Stewart) So you don't know if
12 Monsanto agrees with that or not?

13 **A. That's correct.**

14 Q. So are you here to tell us that in the 1930s
15 Monsanto did not agree that it should take primary
16 responsibility for the PCBs it sold?

17 MR. MILLER: Object to the form. Same
18 objections.

19 **A. Within the constructs or the constraints of**
20 **the understanding of industrial chemicals in that time**
21 **frame, yes, I think they understood that.**

22 Q. (By Mr. Stewart) And in the 1940s, did
23 Monsanto agree that it should take primary
24 responsibility for the PCBs it sold?

25 MR. MILLER: Object to the form of the

1 MR. MILLER: Object to the form of the
2 question.

3 **A. Within the constraints of what was**
4 **understood by primary responsibility or whatever,**
5 **however you're interpreting it now, I believe they did**
6 **believe that, yes --**

7 Q. (By Mr. Miller) All right.

8 **A. -- within the constraints of the time frame.**

9 Q. And in the 1940s, should Monsanto have taken
10 primary responsibility for the PCBs that it sold?

11 MR. MILLER: Object to the form of the
12 question.

13 **A. Within the constraints of the understandings**
14 **during that time frame, yes. I believe they should**
15 **have.**

16 Q. (By Mr. Stewart) And in the 1950s, should
17 Monsanto have taken primary responsibility for the
18 products it sold?

19 MR. MILLER: I'm going to object to the form
20 of the question. When you say take responsibility for
21 the product, can you define what that means because I
22 don't understand it, and I think all of these
23 questions are vague.

24 But subject to that, if you understand it,
25 Dr. Kaley, go ahead and answer it.

14

16

1 question.

2 **A. In the constraints of the understanding of**
3 **whatever would have been that, by primary**
4 **responsibility in the 1940s, I think they understood**
5 **that, yes.**

6 Q. (By Mr. Stewart) Why do you keep putting
7 that proviso in there, "within the time constraints
8 of," and then you give a little speech?

9 **A. Because a lot of what is considered today is**
10 **what I would assume, and I really don't know what you**
11 **mean by primary responsibility or concepts that have**
12 **developed in the 1970s and the 1980s and the 1990s.**

13 Q. Negligence laws existed in the 1930s, didn't
14 they?

15 **A. I don't -- I have no idea.**

16 MR. MILLER: Object to the form of the
17 question. Exceeds the scope of the deposition notice,
18 and it calls for a legal conclusion. It calls for
19 speculation, and there's no foundation of this
20 witness.

21 Q. (By Mr. Stewart) Sir, as part of Monsanto's
22 standards of conduct in the 1930s, would you agree
23 with me that Monsanto should have been taking primary
24 responsibility for the PCBs it sold in the 1930s?

25 **A. Within the --**

1 Q. (By Mr. Stewart) Is it confusing you,
2 Dr. Kaley?

3 **A. Well, I'm trying to make it clear that I do**
4 **not necessarily understand what you mean by "primary**
5 **responsibility" or what was understood by the "term**
6 **primary responsibility" in those time frames, but I**
7 **believe that Monsanto during those time frames**
8 **undertook to be a responsible corporation within the**
9 **understanding of how responsible corporations behaved**
10 **during those time frames.**

11 Q. Hmm. Did Monsanto test its PCBs in the
12 1930s to see if they could cause cancer in animals?

13 **A. I'm not aware that they did.**

14 Q. Isn't it true that they could have?

15 MR. MILLER: Object to the form. It could
16 have -- could have caused cancer in animals or
17 Monsanto was capable of doing the testing or the
18 testing was capable of finding cancers? I'm not sure
19 I understand your question. I object to it as vague.

20 MR. STEWART: So why don't you just object
21 as vague as opposed to giving that long speech?

22 MR. MILLER: I'm not going to debate my --
23 my objections.

24 MR. STEWART: That's your way of coaching
25 the witness; right?

17

19

1 MR. MILLER: No, it's not. It's my way of
2 maybe helping you define what it is that you want to
3 ask in a way that results in an answer that is
4 responsive as opposed to a question that's vague and
5 ambiguous in response that no one can discern what
6 it's responding to.

7 MR. STEWART: Oh, okay.

8 Q. (By Mr. Stewart) It's true, isn't it, sir,
9 that in 1930s Monsanto could have tested to see if
10 PCBs cause cancer in animals; right?

11 MR. MILLER: Object to the form. It exceeds
12 the scope of your deposition notice.

13 **A. There were tests available, primitive kinds**
14 **of tests available, that were used to test chemicals**
15 **that had been shown to cause cancer in ani- -- in**
16 **humans -- excuse me -- in humans, and those tests were**
17 **available. But they were triggered by the fact that**
18 **those chemicals that were being tested were, in fact,**
19 **causing cancer in humans.**

20 Q. (By Mr. Stewart) So you're saying that in
21 the 1930s, the only chemicals that were tested to see
22 if they cause cancer in animals were chemicals that
23 had already been shown to cause cancer in people?

24 **A. Either that or already closely related**
25 **chemicals is my understanding, yes.**

18

20

1 Q. Where did you get that understanding?

2 **A. Reading. Looking at available literature on**
3 **what kinds of tests were done during that time frame.**

4 Q. Hmm. So Monsanto could have tested PCBs to
5 determine whether they cause cancer in animals in the
6 1930s; true?

7 **A. If they would have had reason to believe**
8 **that they should do those tests, yes, they could have.**

9 Q. Well, they could have done it even if they
10 didn't have reason to believe it; right?

11 MR. MILLER: Object to the form.

12 **A. I -- I suppose that's true, but why would --**
13 **I don't understand why Monsanto or any other company**
14 **would test something if it didn't have a reason.**

15 Q. (By Mr. Stewart) Well, in the 1930s,
16 Monsanto knew that PCBs were toxic; correct?

17 MR. MILLER: Object to the form.

18 **A. They knew there was potential toxicity**
19 **associated with PCBs, yes.**

20 Q. (By Mr. Stewart) And in the 1930s, Monsanto
21 knew that PCBs could harm people; correct?

22 **A. There were indications that PCBs and/or**
23 **related chemicals during that time frame were having**
24 **affects on humans, yes.**

25 Q. Okay. And so with Monsanto knowing that

1 PCBs were toxic to people and could harm them in the
2 1930s, Monsanto could have tested PCBs to see if they
3 cause cancer in animals; true?

4 MR. MILLER: Object to the form.

5 **A. The kinds of toxicities that were being**
6 **observed were not related to cancer in that time**
7 **frame.**

8 MR. STEWART: I'll object to the
9 responsiveness of the answer.

10 Q. (By Mr. Stewart) I asked you, sir, Monsanto
11 could have tested PCBs to determine if they were
12 cancerous in animals in the 1930s; correct?

13 MR. MILLER: Object to the form. Asked and
14 answered.

15 **A. I believe I already answered that that is**
16 **correct assuming they would have had a reason to do**
17 **those tests.**

18 Q. (By Mr. Stewart) Well, Monsanto chose not to
19 do those tests in the 1930s; correct?

20 MR. MILLER: Object to the form.

21 **A. I don't believe it was a conscious decision**
22 **not to do those tests. I believe there was no**
23 **indication that they should do those tests.**

24 Q. (By Mr. Stewart) What was the indication
25 that they shouldn't do those tests, sir?

1 MR. MILLER: Object to the form.

2 **A. I didn't say there was an indication that**
3 **they shouldn't. I said there was no indication that**
4 **they should.**

5 Q. (By Mr. Stewart) Well, a responsible
6 chemical company in the 1930s could test its chemicals
7 to determine whether they cause cancer in animals;
8 correct?

9 MR. MILLER: Object to the form.

10 **A. I've already answered that those tests were**
11 **available in some form or another during the 1930s,**
12 **yes.**

13 Q. (By Mr. Stewart) Okay. So the answer is
14 "yes"; right?

15 MR. MILLER: Object to the form.

16 **A. The answer is, yes, those tests existed.**

17 Q. (By Mr. Stewart) And Monsanto didn't do them
18 with respect to PCBs in the 1930s; correct?

19 **A. That's correct.**

20 Q. And in the 1940s, Monsanto did not test its
21 PCBs to determine whether it caused cancer in animals;
22 correct?

23 **A. That's correct.**

24 Q. And in the 1950s, Monsanto didn't test its
25 PCBs to determine if it caused cancer in animals;

21

23

1 correct?

2 **A. That's correct.**

3 Q. In the 1960s, Monsanto did not test its
4 chem- -- its PCBs to determine whether they caused
5 cancer in animals; correct?

6 **A. No.**

7 Q. Okay. When in the 1960s did Monsanto first
8 test its chemicals to determine whether they caused
9 cancer in animals?

10 **A. Well, I believe the consideration or the**
11 **instigator or the institution of those tests began**
12 **around 1968.**

13 Q. Hmm. And is this before or after other
14 people had tested Monsanto's PCBs to determine whether
15 they cause cancer in animals?

16 **A. Before.**

17 Q. It was before?

18 **A. Yes.**

19 Q. So Monsanto was the first entity that you're
20 aware of that tested its PCBs to determine whether
21 they cause cancer in animals; is that right?

22 **A. Yes.**

23 Q. Who conducted those tests?

24 **A. A laboratory in Chicago.**

25 Q. Who was that?

22

24

1 **A. Industrial Bio-Test Laboratories.**

2 Q. Hmm. Who ran that laboratory?

3 **A. I believe the gentleman's name was Joseph**
4 **Calandra.**

5 Q. Didn't Joseph Calandra go to prison?

6 **A. Yes.**

7 Q. What did he go to prison for, sir?

8 MR. MILLER: Object to the form.

9 **A. I believe the charge was illegal use of the**
10 **U.S. Mails.**

11 Q. (By Mr. Stewart) Hmm.

12 **A. In fact, I don't think Joseph Calandra**
13 **actually went to prison.**

14 Q. You don't?

15 **A. I don't think so. My recollection is that**
16 **he did not.**

17 Q. Hmm. Wasn't he convicted of falsifying test
18 results?

19 **A. No. He was convicted of improper use of the**
20 **U.S. Mail or something similar to that.**

21 Q. Oh. Because he was putting false
22 information in test reports in the mail; right?

23 MR. MILLER: Let me object to the form of
24 the questions. It exceeds the scope of your notice
25 and may call for Dr. Kaley to speculate as to the

1 legal nature of Mr. -- Dr. Calandra's troubles.

2 But subject to that, you can answer, if you
3 can answer, Dr. Kaley.

4 Q. (By Mr. Stewart) Go ahead.

5 **A. He was convicted of something along those**
6 **lines, yes.**

7 Q. Well, you know for a fact, sir, that -- that
8 the federal government found or the federal government
9 accused Dr. Calandra of falsifying test reports for
10 corporations and that he was convicted of putting
11 false information about tests that he did for
12 corporations in the mails; right?

13 MR. MILLER: Object to the form.

14 **A. That sounds about right, but it had nothing**
15 **to do with PCBs.**

16 Q. (By Mr. Stewart) So you're saying he was
17 honest about PCBs and dishonest about other things?

18 MR. MILLER: Object to the form of the
19 question.

20 **A. I don't have any reason to know that one way**
21 **or the other. I've never seen any indication that the**
22 **tests of PCBs were not honest, no.**

23 Q. (By Mr. Stewart) Hmm. So he was dishonest
24 with some companies but not dishonest with Monsanto?

25 MR. MILLER: Object to the form of the

1 question.

2 You can answer if you know.

3 **A. I don't know.**

4 Q. (By Mr. Stewart) How do you know he wasn't
5 dishonest with Monsanto's data?

6 MR. MILLER: Object to the --

7 **A. I don't.**

8 MR. MILLER: Listen, I'll object to the form
9 of the question.

10 Q. (By Mr. Stewart) And a Dr. Paul Wright, he
11 was also convicted of falsifying information at that
12 IBT Laboratory; true?

13 **A. Correct.**

14 Q. Uh-huh. And he was a former Monsanto
15 employee; right?

16 **A. That's correct.**

17 Q. Matter of fact, when he was convicted, he
18 was a Monsanto employee; right?

19 **A. That's correct.**

20 Q. Uh-huh.

21 MR. MILLER: Is that "uh-huh" another
22 question or just a statement you're making for the
23 record? Are you agreeing with the testimony or -- I'm
24 confused about what the "uh-huh" is.

25 MR. STEWART: Why are you doing that?

25

27

1 MR. MILLER: Because you're including in the
2 record things that are not questions. So I don't
3 think it's appropriate.
4 MR. STEWART: Are you done?
5 MR. MILLER: Yeah.
6 MR. STEWART: Okay. Good.
7 Q. (By Mr. Stewart) So Dr. Paul Wright was a
8 Monsanto employee that left Monsanto to work at IBT;
9 correct?
10 **A. Yes.**
11 Q. When he worked at IBT, he falsified
12 information; correct?
13 MR. MILLER: Object to the form. Calls for
14 speculation.
15 **A. I don't know.**
16 Q. (By Mr. Stewart) You think he was wrongfully
17 convicted?
18 MR. MILLER: Object to the form of question.
19 Calls for speculation.
20 **A. I don't know --**
21 MR. MILLER: And there's no foundation.
22 Go ahead.
23 **A. I don't know the details of the charges or**
24 **the basis of the conviction.**
25 Q. (By Mr. Stewart) So he was indicted for

26

1 falsifying tests at IBT; correct?
2 MR. MILLER: Object to the form. No
3 foundation. Lack of -- well, lack of foundation.
4 Calls for speculation.
5 **A. Well, I think it goes back to the Calandra**
6 **discussion. I think he was indicted for improper use**
7 **of the U.S. Mails.**
8 Q. (By Mr. Stewart) And when he was indicted,
9 he was back at Monsanto doing research for Monsanto;
10 true?
11 **A. I don't know what his duties were at that**
12 **time.**
13 Q. He was back at Monsanto as a Monsanto
14 employee as a scientist; true?
15 **A. Yes. As a toxicologist.**
16 Q. And Monsanto paid for his criminal defense;
17 true?
18 **A. To my understanding.**
19 Q. And he was convicted by a federal jury;
20 correct?
21 **A. It's my understanding.**
22 Q. And he went to prison; right?
23 **A. Yes.**
24 Q. And while he was at -- he was at IBT during
25 the same period of time that Monsanto had hired IBT to

1 determine whether or not PCBs cause cancer in animals;
2 true?
3 **A. I believe that's correct. I don't know the**
4 **exact time frame, but I believe he was there during**
5 **part of the time at least.**
6 Q. Has Monsanto ever found that PCBs cause
7 cancer in animals?
8 **A. By their own tests?**
9 Q. Yes.
10 **A. Not that I'm aware of.**
11 Q. Other people have found that PCBs cause
12 cancer in animals; correct?
13 **A. Yes.**
14 Q. So other people have looked and found that
15 PCBs cause cancer in animals; true?
16 **A. Yes.**
17 Q. When Monsanto looked to determine whether
18 PCBs cause cancer in animals, they didn't find that;
19 correct?
20 **A. That's true. Along with other -- other**
21 **people outside of Monsanto that looked to see whether**
22 **PCBs caused cancer in animals and found that they did**
23 **not cause cancer in animals.**
24 Q. Who are those other people?
25 **A. There have been a number of studies done**

28

1 **testing various PCBs that have reported negative**
2 **results.**
3 Q. Hmm. Isn't it true, sir, that every
4 governmental agency that has looked at PCBs and
5 whether they cause cancer in animals has concluded
6 that PCBs cause cancer in animals?
7 MR. MILLER: Object to the form.
8 **A. As far as I know, that's correct.**
9 Q. (By Mr. Stewart) So let's turn to the topic
10 of "The Key to Departmental Codes Listed for Monsanto
11 Personnel on Internal Monsanto Documents."
12 **A. Okay.**
13 Q. You know of what I am referring; yes?
14 **A. I do.**
15 Q. Okay. So there is a code that appears on
16 some Monsanto documents, internal documents that
17 includes alphabetical letters and numbers. Can you
18 explain that code to me, please?
19 **A. I can.**
20 Q. Please do.
21 **A. The Monsanto world headquarters buildings**
22 **was a complex of a number of buildings. Each of those**
23 **buildings had a letter name assigned to it. So that's**
24 **the letter, the first letter, A, B, C, whatever it**
25 **might be.**

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1 The second digit or place in those codes is
2 a number, a numeric number. That is the floor in that
3 particular building, and the last either one or two
4 letters in the name designate the mail drop in that
5 floor. So NE would be the northeast mail -- mail
6 drop. The NW would be northwest. C would be center.
7 So it was basically where the -- a code for where the
8 mailing department should deliver the mail.

9 Q. How far back does that code go?

10 A. As far as I know, Monsanto moved into World
11 Headquarters -- part of Monsanto moved into World
12 Headquarters in the mid 1950s. I don't know for sure,
13 but I assume that's when that code was developed.

14 Q. Based on all the testing that has done --
15 been done on PCBs causing cancer in animals, is
16 Monsanto's position that PCBs don't cause cancer of
17 any type in animals?

18 MR. MILLER: I'm going to object to the form
19 of the question. It exceeds the scope of your notice.

20 Subject to that, Dr. Kaley, you can answer
21 if you know.

22 A. No.

23 Q. (By Mr. Stewart) "No," what?

24 A. "No" in answer to your question.

25 Q. Okay. Let me try it again. Based on all of

30

1 the studies that have been done studying whether PCBs
2 cause cancer in animals, does Monsanto believe that
3 PCBs cause cancer of any type in any animal?

4 MR. MILLER: Object to the form. Same
5 objections.

6 Go ahead.

7 A. Well, that's the reverse of the question you
8 asked, but -- so the answer to that question is "yes."

9 Q. (By Mr. Stewart) What types of cancer does
10 Monsanto believe that PCBs cause in animals?

11 MR. MILLER: Same objection.

12 A. The primary cancer reported in the studies
13 that have found cancer in animals is typically liver
14 cancer. There have been other types of, I believe, of
15 throat cancers or some others. I don't have them all
16 memorized. There are a number that have been reported
17 in this study or that study.

18 Q. (By Mr. Stewart) And Monsanto --

19 A. But it's primarily, liver cancer.

20 Q. I'm sorry.

21 And Monsanto believes the content of those
22 studies and that they are an accurate reflection of
23 what PCBs can do to animals; correct?

24 MR. MILLER: Object to the form. Exceeds
25 the scope of the notice.

1 Subject to that, you can answer.

2 A. Under the conditions of those tests,
3 Monsanto has no reason to believe that those results
4 aren't as reported.

5 Q. (By Mr. Stewart) All right. Well, my
6 question was, does Monsanto believe that the PCBs
7 cause cancer in those animals?

8 MR. MILLER: Object to the form. Exceeds
9 the scope.

10 A. Yes. I think that's a fair judgment, yes.

11 Q. (By Mr. Stewart) Are you aware -- is
12 Monsanto aware of public statements that it has made
13 regarding whether PCBs can cause cancer of any type in
14 people?

15 A. I believe there's such statements have been
16 made.

17 Q. All right. Can you tell me what you believe
18 those statements have been?

19 A. Well, the one that springs clearest to mind
20 is a paper presented and then eventually published in
21 a book or reviewed by a Monsanto epidemiologist about
22 1980 that reviewed the status of the understanding
23 of -- it was later than that. Had to be later than
24 that -- maybe 1983 that looked at the status of PCB,
25 both toxicology and epidemiology at that time.

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1 Q. Okay. And what's the title of that book?

2 A. As I sit here, I don't remember.

3 Q. Who is the author of that book?

4 A. I don't remember. It was a proceeding -- it
5 was a book that reported the proceedings of the
6 conference, as I recall.

7 Q. What was the name of the conference?

8 A. It was something about PCBs in the Great
9 Lakes or something similar to that.

10 Q. Are there any other public statements that
11 have been made by Monsanto with regard to whether PCBs
12 are capable of causing cancer of any type in people?

13 A. In people?

14 Q. Yes.

15 A. I suspect there are statements of one sort
16 or another in press releases or possibly quotes from
17 newspapers where Monsanto has expressed their view of
18 the carcinogenicity of PCBs in people, yes.

19 Q. And Monsanto's view is PCBs don't cause
20 cancer in people; right?

21 MR. MILLER: Object to the form of the
22 question. It exceeds the scope of your notice.

23 A. I think that's an oversimplification of the
24 statement, but I think that's basically correct, yes.

25 Q. (By Mr. Stewart) Okay. Well, when you say

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1 it's an oversimplification of it, why don't you tell
2 me what Monsanto's position is on whether or not PCBs
3 cause cancer in people.

4 MR. MILLER: Same objection.

5 **A. I would -- and these are more my words than**
6 **Monsanto's -- but I would say that under the**
7 **conditions in which PCBs have -- conditions in which**
8 **people have been exposed to PCBs, the study of those**
9 **people has not produced any consistent or convincing**
10 **evidence that PCBs cause cancer in humans.**

11 Q. (By Mr. Stewart) Has Monsanto made any
12 public statements with regard to whether PCBs are
13 capable of causing non-Hodgkin's lymphoma?

14 **A. Not that I'm aware of.**

15 Q. Are you aware of Monsanto's position as to
16 whether PCBs are capable of causing non-Hodgkin's
17 lymphoma?

18 MR. MILLER: Object to the form. It exceeds
19 the scope of your notice.

20 Subject to that, if you have an opinion,
21 express it.

22 **A. As -- as what Monsanto believes today? I**
23 **don't really -- I mean, I believe they believe what I**
24 **just said about cancer in general, that there's no**
25 **clear and convincing evidence that PCBs cause**

1 Q. How about the 1940s? Did the Environmental
2 Protection Agency exist?

3 **A. No.**

4 Q. The 1950s, did the Environmental Protection
5 Agency exist?

6 **A. No.**

7 Q. In the 1960s, did the Environmental
8 Protection Agency exist?

9 **A. No.**

10 Q. So during the entire time that Monsanto made
11 PCBs in the '30s, the '40s, the '50s, and the '60s,
12 there was no Environmental Protection Agency; correct?

13 **A. During those decades, that's correct.**

14 Q. Uh-huh. And during the '30s, the '40s, the
15 '50s, and the '60s, were there any state environmental
16 agencies in either Illinois or Alabama?

17 **A. I don't know.**

18 Q. You're not aware of there being state
19 regulatory agencies that regulated the environment in
20 the 1930s, the '40s, the '50s, or the '60s in either
21 Illinois or Alabama; correct?

22 MR. MILLER: Object to the form. It exceeds
23 the scope of your notice.

24 **A. I agree with that.**

25 Q. (By Mr. Stewart) And you're not aware in the

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1 **non-Hodgkin's lymphoma on any of the available**
2 **literature.**

3 Q. (By Mr. Stewart) Okay. Well, do they
4 believe there is evidence that shows more likely than
5 not that PCBs cause non-Hodgkin's lymphoma?

6 **A. No.**

7 MR. MILLER: I'm going to object --

8 THE WITNESS: Sorry.

9 MR. MILLER: -- object to the form. Exceeds
10 the scope of the notice.

11 **A. No.**

12 Q. (By Mr. Stewart) Okay. Sir, back to the
13 topic of Monsanto's standards of conduct. Does
14 Monsanto believe it bears some responsibility for the
15 fact that PCBs have contaminated the environment?

16 MR. MILLER: Object to the form of the
17 question. That exceeds the scope of the notice.

18 **A. I don't know.**

19 Q. (By Mr. Stewart) I want to turn to the topic
20 of "The History of Legal and Regulatory Standards
21 Governing Monsanto's Conduct in the Production and
22 Marketing of PCBs."

23 Now, in the 1930s when Monsanto began making
24 PCBs, did the Environmental Protection Agency exist?

25 **A. No.**

1 '30s, the '40s, the '50s, the '60s of any
2 environmental regulatory agency monitoring what
3 Monsanto was doing at either its Anniston, Alabama,
4 plant or its Sauget, Illinois, plant; true?

5 MR. MILLER: Object to the form. Are you
6 just talking about with respect to environmental
7 discharges or any aspect of the plant?

8 Q. (By Mr. Stewart) You can answer my question.

9 MR. MILLER: I'll object as vague and
10 ambiguous.

11 **A. Well, I think you said environmental. To**
12 **the extent that that's what you said, yes, I think**
13 **that's true, as far as I know.**

14 Q. (By Mr. Stewart) And you would agree that
15 there was no one in the '30s, the '40s, the '50s, or
16 the '60s in the state of Illinois government who knew
17 more about PCBs and what they could do than the folks
18 at Monsanto; right?

19 **A. I don't know.**

20 MR. MILLER: Object to the form of the
21 question. It exceeds the scope of your notice. Calls
22 for speculation.

23 **A. I don't know.**

24 Q. (By Mr. Stewart) Were you aware of any
25 governmental or regulatory agency that knew more about

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1 PCBs than Monsanto in the 1930s?
 2 **A. I'm not aware of any.**
 3 Q. How could there be any?
 4 MR. MILLER: Object to the form. Calls for
 5 speculation. There's no foundation. Exceeds the
 6 scope of your notice.
 7 Subject to that.
 8 **A. I lost the train of your question. I'm**
 9 **sorry.**
 10 Q. (By Mr. Stewart) How could there be any?
 11 Was anyone else making PCBs in the 1930s?
 12 MR. MILLER: That's two different questions.
 13 Object to the form.
 14 Q. (By Mr. Stewart) Go ahead.
 15 **A. I'd like -- if it's all right with you, I'd**
 16 **like to go back to the, like, the two previous**
 17 **questions where this started.**
 18 Q. We can do that.
 19 **A. I don't remember what your original question**
 20 **was that started this.**
 21 Q. Sure. We can do that.
 22 Is Monsanto aware -- I'll just reask it.
 23 **A. Okay.**
 24 Q. Is Monsanto aware of anyone in the 1930s who
 25 was involved in regulations or governmental agencies

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1 in the 1930s that knew as much about PCBs as Monsanto
 2 did?
 3 MR. MILLER: Object to the form. Exceeds --
 4 exceeds the scope of your notice and calls for
 5 speculation.
 6 **A. I'm not aware that Monsanto knew of anyone**
 7 **that -- such as you described.**
 8 Q. (By Mr. Stewart) I'm asking, is Monsanto
 9 aware of anyone -- let me -- let me strike that.
 10 It's true, isn't it, sir, that in the 1930s
 11 no one knew more in the United States about how to
 12 make PCBs and what they could do than Monsanto; right?
 13 MR. MILLER: Object to the form. Exceeds
 14 the scope. It's vague and ambiguous.
 15 **A. I don't know.**
 16 Q. (By Mr. Stewart) Monsanto doesn't know if
 17 there was anyone in the United States who knew more
 18 than them about making PCBs in the 1930s?
 19 **A. I would say that's correct. There may very**
 20 **well have been.**
 21 Q. You think it's more likely true than not
 22 that there may very well have been someone who knew
 23 more about making PCBs than the only maker of PCBs in
 24 the United States?
 25 **A. I don't know that it's more likely than not,**

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1 **but that wasn't your question.**
 2 Q. Okay. So now my question is, more likely
 3 than not, isn't it true that there was no one in the
 4 1930s who knew more about PCBs and what they could do
 5 than Monsanto?
 6 MR. MILLER: Object to the form. What do
 7 you mean by "what they could do"?
 8 Q. (By Mr. Stewart) You can answer.
 9 **A. Well, with regard to the manufacturing, I**
 10 **would agree with that. With regard to what they could**
 11 **do, I don't know the answer to that. There were other**
 12 **people that were using PCBs during that time frame.**
 13 **They may very well have known more about what PCBs**
 14 **could do and whatever you mean by what they could do.**
 15 I mean, those companies were using them as
 16 functional fluids for various reasons, so they knew
 17 what they could do.
 18 Q. So now let's go back to officials in the
 19 state of Illinois and officials in the state of
 20 Alabama, the two states that Monsanto was making PCBs
 21 in. Is Monsanto aware of any officials in the state
 22 of Illinois, the state of Alabama that knew as much or
 23 more than Monsanto about PCBs in any way?
 24 **A. No.**
 25 MR. MILLER: Object. I'll just show an

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1 objection to form. Exceeds the scope of the
 2 deposition notice. There's no foundation.
 3 Q. (By Mr. Stewart) What is the name of the
 4 first governmental entity that attempted to regulate
 5 PCBs?
 6 **A. I'm hesitating because my initial answer**
 7 **would be the FDA, but actually, the U.S. Department of**
 8 **Transportation probably had regulations governing the**
 9 **shipment of PCBs prior to that.**
 10 Q. And when do you believe that occurred?
 11 MR. MILLER: Object to the form. It's
 12 outside the scope.
 13 **A. I -- I don't know. It's with regard to**
 14 **the -- I'm sorry. With regard to the Department of**
 15 **Transportation, I don't know. If that was your**
 16 **question.**
 17 Q. (By Mr. Stewart) So you don't know when it
 18 was that they started doing that?
 19 **A. No, I don't.**
 20 Q. Can you give me a decade?
 21 **A. I really can't.**
 22 Q. Then why did you pick them?
 23 **A. Because I know that there were labels that**
 24 **required for shipment of materials prior to when I**
 25 **believe the FDA first instituted regulations or**

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1 **recommendations with regard to PCBs.**

2 Q. And when did the FDA first step in with
3 respect to PCBs.

4 **A. That would have been 1973.**

5 Q. So prior to 1973, you're not aware of any
6 other governmental entity that was attempting to
7 regulate PCBs; correct?

8 MR. MILLER: Object to the form with respect
9 to "attempting to regulate." It's beyond the scope of
10 the notice.

11 Go ahead.

12 **A. Okay. And then as I sit here, OSHA was**
13 **created about 1971, I believe; and upon the creation**
14 **of OSHA, they adopted the ACGIH threshold limit values**
15 **for occupational exposure to a whole variety of**
16 **chemicals among which was PCBs, so that would predate**
17 **even the FDA.**

18 Q. (By Mr. Stewart) So now if I understand you,
19 the first entity that you're aware of that attempted
20 to regulate PCBs was OSHA in 1971?

21 **A. Yes. With the proviso that the U.S.**
22 **Department of Transportation may have had shipping**
23 **regulations prior to that.**

24 Q. But you don't know when?

25 **A. I don't know when, as I sit here, no.**

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1 Q. Now, in 1971, how old of an institution was
2 OSHA?

3 **A. It was newly created.**

4 Q. Right. OSHA didn't exist in the '30s or the
5 '40s or the '50s or the '60s; correct?

6 **A. That's correct.**

7 Q. In the 1930s, the state of Illinois didn't
8 know more about PCBs than Monsanto; true?

9 MR. MILLER: Object to the form. Exceeds
10 the scope of the notice. There's no foundation.
11 Calls for speculation.

12 **A. I don't know.**

13 Q. (By Mr. Stewart) Do you think it's possible,
14 more likely than not, that the State of Illinois knew
15 more about PCBs in the 1930s than Monsanto?

16 MR. MILLER: Object to the form. Same
17 objections.

18 **A. I don't think it's more likely than not, no.**

19 Q. (By Mr. Stewart) Okay. Well, the questions
20 I'm asking you today are based on what's more likely
21 true than not true; okay?

22 **A. I'd prefer not to assume that. If that's**
23 **the question, I think, frankly, I would prefer that**
24 **you state that in the question so I know what I'm**
25 **answering.**

1 Q. So are you telling me that throughout this
2 deposition you have answered questions that might not
3 have been more likely true than not --

4 MR. MILLER: Object to the form.

5 Q. (By Mr. Stewart) -- when you said them, your
6 answers?

7 MR. MILLER: It's overly broad.

8 Q. (By Mr. Stewart) Let me rephrase the
9 question. Have you given me answers during this
10 deposition that were not more likely true than not?

11 MR. MILLER: Object to the form. That's
12 overly broad. Is there something that you can refer
13 to?

14 Q. (By Mr. Stewart) You can answer.

15 **A. Well, I think all of the questions I've**
16 **answered were more -- the answers were more likely**
17 **true than not. That's because they were true.**

18 Q. Okay. And so now I'm asking you, sir, with
19 respect to the State of Illinois, isn't it true, more
20 likely than not --

21 **A. Thank you.**

22 Q. You're welcome. -- that the State of
23 Illinois did not know nearly as much about PCBs as
24 Monsanto did in the 1930s?

25 MR. MILLER: Object to the form. It's

1 outside the scope of the notice. Calls for
2 speculation. There's no foundation.

3 **A. I would say that's probably true, yes.**

4 Q. (By Mr. Stewart) Yes. And in the 1930s,
5 isn't it true, more likely than not, that the State of
6 Missouri didn't know nearly as much about PCBs as
7 Monsanto; true?

8 MR. MILLER: Objection. Same objections.

9 **A. I would agree with that.**

10 Q. (By Mr. Stewart) And isn't it true that in
11 the 1930s the State of Alabama didn't know nearly as
12 much about PCBs as Monsanto; true?

13 MR. MILLER: Same objections.

14 **A. I would agree with that.**

15 Q. (By Mr. Stewart) Isn't it true that in the
16 1930s the State of California or the State of New York
17 or any state in the United States didn't know nearly
18 as much about PCBs as Monsanto did?

19 MR. MILLER: I'll object to the form of the
20 question. Same objections.

21 **A. I would agree with that.**

22 Q. (By Mr. Stewart) Uh-huh. And that would be
23 true for the 1940s and the 1950s and the 1960s;
24 correct? And when I say that, I'm saying that there
25 was no state in the union who knew more or -- strike

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1 that.

2 It would be true, more likely than not, that
3 in the 1930s, the '40s, the '50s, the '60s that there
4 was no state in the union that knew nearly as much
5 about PCBs as Monsanto; correct?

6 MR. MILLER: Object to the form of the
7 question.

8 **A. As far as I know, that's true.**

9 Q. (By Mr. Stewart) Has Monsanto ever tried to
10 determine when it was manufacturing and selling DDT
11 which of its employees made DDT? Ever try and
12 identify those employees?

13 MR. MILLER: Object to the form.

14 **A. I believe other than to the extent that**
15 **those people may be named on the standard operating**
16 **procedures, but I'm not aware of any effort to**
17 **identify those people.**

18 Q. (By Mr. Stewart) Explain that to me. How
19 would that -- how would that work where they would be
20 named on the standard operating procedures?

21 **A. Well, they would probably have been authors**
22 **of them. I can't recall, as I sit here, what those**
23 **operating procedures say, but in my rec- -- my**
24 **recollection would be that usually people involved in**
25 **the manufacture of or the process of manufacturing**

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1 particular chemical, whether it was DDT or anything
2 else, were the authors of those standard operating
3 procedures, so their names would be on those as
4 authors.

5 Q. Have you seen Monsanto's standard operating
6 procedure for the manufacturer of DDT?

7 **A. Yes. It's one of the references, I believe,**
8 **to the exhibit. I don't remember the exhibit number**
9 **but the exhibit for Question 1. May have been**
10 **Exhibit 4. I don't know.**

11 Q. So you're talking about the six references
12 that are found in Exhibit 4?

13 **A. Yes. Other than -- well, there's probably**
14 **no reference that had a piece of paper that actually**
15 **corresponds with Reference 4.**

16 Q. Understood.

17 **A. But other than that, yes. Those process**
18 **descriptions or reports, my understanding, as I sit**
19 **here today, would be that they were written by people**
20 **familiar with the process.**

21 MR. STEWART: Let's take a break.

22 THE VIDEOGRAPHER: Going off the record at
23 9:53 a.m.

24 (A short break was taken.)

25 THE VIDEOGRAPHER: Back on the record at

1 10:09.

2 Q. (By Mr. Stewart) Sir, those are all the
3 questions I have for you at this time.
4 (Defendants Exhibit 34 was marked for
5 identification.)

6 EXAMINATION

7 BY MR. MILLER

8 Q. Dr. Kaley, good morning.

9 **A. Good morning.**

10 Q. I'm going to hand you what we've marked as
11 Exhibit No. 34. Dr. Kaley, you're certainly familiar
12 with this article, are you not?

13 **A. Yes, I am.**

14 Q. Can you read the title of the article?

15 **A. The title of the article is "The Problem of**
16 **Systemic -- I'm sorry. "The Problem of Possible**
17 **Systemic Effects From Certain Chlorinated**
18 **Hydrocarbons."**

19 Q. And where was this article published?

20 **A. It was published in the Journal of**
21 **Industrial Hygiene and Toxicology.**

22 Q. And what was the date of its publication,
23 Doctor?

24 **A. September 1937.**

25 Q. Who is Dr. Cecil Drinker?

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1 **A. He was a physician on the staff at Harvard**
2 **Medical School -- or School of Public Health, I'm**
3 **sorry.**

4 Q. Was the article that we've marked as
5 Exhibit No. 4 [sic] prepared by Dr. Drinker and others
6 at the Harvard School of Public Health?

7 **A. Yes, it was.**

8 Q. And Dr. Kaley, are you familiar with this
9 article?

10 **A. Yes, I am.**

11 Q. The article includes not only the findings
12 of Dr. Drinker with respect to certain animal toxicity
13 studies that he ran, but it also includes the summary
14 of proceedings that were held at a conference in which
15 these findings were presented; is that correct?

16 **A. That is correct.**

17 Q. And you were asked some questions this
18 morning regarding governmental agencies or
19 organizations through time that knew certain things
20 about PCBs. And I wanted to go through with you the
21 list of some of the folks who are identified as having
22 attended these proceedings. Is that all right with
23 you?

24 **A. Yes.**

25 Q. If you turn to page 300.

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1 **A. Yes.**
 2 Q. What we've marked as Exhibit No. 34. Are
 3 some of the attendees at the conference and
 4 proceedings identified?
 5 **A. Yes, they are.**
 6 Q. Is a Dr. W.F. von Oettingen identified?
 7 **A. Yes.**
 8 Q. Who is Dr. von Oettingen?
 9 **A. He was, as it says here, the director of the**
 10 **Haskell Laboratory of Industrial Toxicology in**
 11 **Delaware. That was the toxicology laboratory of**
 12 **DuPont Corporation.**
 13 Q. Was Dr. von Oettingen attending the
 14 proceedings as a delegate of DuPont?
 15 **A. I presume that would be. I don't know for**
 16 **sure.**
 17 Q. Okay. Who was Dr. R.R. Sayers?
 18 **A. As it says, he's the chief of the Division**
 19 **of Industrial Hygiene from the National Institute of**
 20 **Health, the U.S. Public Health Service.**
 21 Q. And was -- is there any question in your
 22 mind as to whether Dr. Sayers attended the proceedings
 23 in his capacity as chief of the Division of Industrial
 24 Hygiene, National Institute of Health, U.S. Public
 25 Health Service, Washington, D.C.

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1 **A. No. I'm sure he did.**
 2 Q. Was an Albert S. Gray also in attendance at
 3 these proceedings?
 4 **A. Yes.**
 5 Q. And who was Dr. Albert S. Gray?
 6 **A. He is identified as the director, Bureau of**
 7 **Occupational Diseases from the state of Connecticut.**
 8 Q. Were there industries in Connecticut that
 9 were using PCBs during this time period?
 10 **A. Judging from his comments, yes. There must**
 11 **have been.**
 12 Q. Okay. And was Dr. Gray in attendance at
 13 these proceedings in this capacity as the director of
 14 the Bureau of Occupational Diseases, State of
 15 Connecticut Department of Health?
 16 **A. Yes.**
 17 Q. And who was Mr. Manfred Bowditch,
 18 B-O-W-D-I-T-C-H?
 19 **A. He was director of Divisional Occupational**
 20 **Hygiene, the Massachusetts Department of Labor and**
 21 **Industries.**
 22 Q. And was Mr. Bowditch in attendance at
 23 Dr. Drinker's proceeding in his official capacity as
 24 director of the Division of Occupational Hygiene,
 25 Department of Labor and Industries of Massachusetts?

1 **A. Yes.**
 2 Q. Were there industries using polychlorinated
 3 biphenyls in industry in Massachusetts during this
 4 time period?
 5 **A. Yes.**
 6 Q. Who is Mr. F.R. Kaimer, K-A-I-M-E-R?
 7 **A. He was apparently, as it says here, an**
 8 **assistant to the manager of the York Wireworks,**
 9 **Division of General Electric Company.**
 10 Q. Is it your understanding that Mr. Kaimer was
 11 attending the proceedings of Dr. Drinker as a
 12 representative of the General Electric Company?
 13 **A. Yes.**
 14 Q. Was General Electric Company using
 15 polychlorinated biphenyls in its industry during the
 16 time period in which the proceedings were held,
 17 convened?
 18 **A. They were either using PCBs or**
 19 **polychlorinated naphthalenes or a mixture of those**
 20 **materials. It's not clear from his comments which**
 21 **specifically they were using.**
 22 Q. In any event, you understand, Dr. Kaley,
 23 that General Electric became a substantial customer of
 24 Monsanto's PCBs sometime in the -- after the 1930s?
 25 **A. During the -- yeah. Certainly, during the**

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1 **1930s, they were one of the original customers.**
 2 Q. And who was Mr. Warren A. Cook? He appears
 3 on page 305 of Exhibit -- that we've marked as
 4 Exhibit 34?
 5 **A. I'm sorry. He's identified as the chief of**
 6 **Industrial Hygienist from the Bureau of Occupational**
 7 **Diseases in the state of Connecticut.**
 8 Q. Was Mr. Warren, to your understanding,
 9 attending the proceedings on behalf of the Bureau of
 10 Occupational Diseases, State of Connecticut Department
 11 of Health?
 12 **A. Yes.**
 13 Q. And if you turn to page 306 of what we've
 14 marked as Exhibit 34, Dr. Kaley, there appears to be a
 15 reference to a Mr. Hervey B. Elkins?
 16 **A. Yes.**
 17 Q. And would you tell us with whom Mr. Elkins
 18 was employed at the time?
 19 **A. He was with the Division of Occupational**
 20 **Hygiene in the state of Massachusetts.**
 21 Q. And were there industries within the state
 22 of Massachusetts that were using PCBs in its industry
 23 at that time?
 24 **A. Yes. General Electric had a facility there.**
 25 Q. And of course, Dr. Emmett Kelly was in

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1 attendance?
 2 **A. That is correct.**
 3 Q. And if you turn to page 308, Dr. Kaley,
 4 there's a reference to a Louis Schwartz?
 5 **A. Yes.**
 6 Q. Who is Dr. Schwartz?
 7 **A. I believe he was -- he's not identified on**
 8 **that page. Let me see if he's identified earlier in**
 9 **the discussion. I believe he was an occupational**
 10 **physician, as I recall, but --**
 11 Q. And is it true that he had consulted with
 12 both Monsanto and Swann?
 13 **A. Yes. That is true, yes. He had done some**
 14 **of the early testing.**
 15 Q. And if you also look on page 308, there's a
 16 reference to a Dr. Royal Meeker?
 17 **A. Yes.**
 18 Q. And with whom was Dr. Meeker employed at the
 19 time?
 20 **A. The State of Connecticut Department of**
 21 **Labor.**
 22 Q. And do you have any doubt in your mind that
 23 Dr. Meeker was attending the proceedings on behalf of
 24 the State of Connecticut?
 25 **A. No. I'm sure that's why he was there.**

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1 Q. And if you turn to page 310, there's
 2 reference to a Dr. Emery R. Hayhurst. Do you see
 3 that?
 4 **A. Yes, I do.**
 5 Q. Does this reference indicate that a
 6 Dr. Emery Hayhurst, a consultant in industrial
 7 medicine for the State Department of Health in
 8 Columbus, Ohio, was in attendance of Dr. Drinker's
 9 proceedings?
 10 **A. Yes, he was.**
 11 Q. If you also look on page 310, would you
 12 identify Dr. B.L. Vosburgh for us?
 13 **A. Yes. He was -- he's identified as the**
 14 **medical director of General Electric Company.**
 15 Q. Would the individuals who we've just
 16 identified have received the information that
 17 Dr. Drinker imparted to them at these proceedings?
 18 **A. Certainly. They were present during those**
 19 **presentations.**
 20 Q. And the Journal of Industrial Hygiene and
 21 Toxicology is the journal in which these proceedings
 22 were published; is that correct?
 23 **A. Yes.**
 24 Q. Was that a widely disseminated journal of
 25 industrial hygiene during the 1930s?

1 **A. Yes, it was.**
 2 Q. Was it, to your knowledge, Dr. Kaley, one of
 3 the premiere journals of industrial hygiene at the
 4 time?
 5 **A. I couldn't say whether it was the premiere**
 6 **or not.**
 7 Q. Would the individuals that we have listed
 8 from the various governmental agencies have a
 9 substantial amount of information about the acute
 10 health effects of exposures to PCBs in industrial
 11 settings provided by Dr. Drinker?
 12 **A. Yes. I believe they would have.**
 13 Q. All right. And anyone who had access to the
 14 Journal of Industrial Hygiene would have received that
 15 same information, would they not?
 16 **A. That's correct.**
 17 Q. For now, those are all the questions I have.
 18 MR. STEWART: I don't have any further
 19 questions.
 20 THE WITNESS: All right.
 21 MR. MILLER: Dr. Kaley will read and sign.
 22 THE VIDEOGRAPHER: That concludes the
 23 deposition. Going off the record at 10:20 a.m.
 24 (Whereupon signature was reserved, and
 25 the witness was excused.)

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1 COMES NOW THE WITNESS, DR. ROBERT KALEY, and
 2 having read the foregoing transcript of the deposition
 3 taken on November 18, 2011, acknowledges by signature
 4 hereto that it is a true and accurate transcript of
 5 the testimony given on the date hereinabove mentioned.

8 _____
 9 (Dr. Robert Kaley)

12 Subscribed to before me this _____ day of
 13 _____, 2011.

15 _____
 16 Notary Public

17 My commission expires: _____.

19 EDWARD COLELLA, ET AL.

20 vs.

21 MONSANTO CO., ET AL.

22 Reporter: Dawn M. Bloemker, CSR, RPR, CCR

23 Date Taken: November 18, 2011

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REPORTER CERTIFICATE

I, Dawn M. Bloemker, Certified Shorthand Reporter, Registered Professional Reporter, and Certified Court Reporter, do hereby certify that there came before me at the law offices of Husch Blackwell, LLP, 190 Carondelet Plaza, Suite 600, St. Louis, Missouri 63105

DR. ROBERT KALEY

who was by me first duly sworn; that the witness was carefully examined; that said examination was reported by myself, translated and proofread using computer-aided transcription; and the above transcript of proceedings is a true and accurate transcript of my notes as taken at the time of the examination of this witness.

I further certify that I am neither attorney nor counsel for nor related nor employed by any of the parties to the action in which this examination is taken; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in this action.

Dated November 25, 2011.

Dawn M. Bloemker, CSR, RPR, CCR

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

LIVINGSTON HAMPTON, MAGGIE)
MOOYMAN, and RUSSELL ABBEY,)

Plaintiffs,)

vs.) Cause No. 4-11-CV-01662

MONSANTO CO., SOLUTIA, INC.,)
PHARMACIA CORP., AND PFIZER,)
INC.,)

Defendants.)

I, Dawn M. Bloemker, hereby certify
that the original deposition of DR. ROBERT KALEY,
taken on November 18, 2011, is in the custody of Allen
Stewart, P.C., 325 N. St. Paul Street, Suite 2750,
Dallas, Texas 75201.

TAXED IN FAVOR OF PLAINTIFFS

Total: \$

FOR: Allen Stewart, P.C., 325 N. St. Paul
Street, Suite 2750, Dallas, Texas 75201.

TAXED IN FAVOR OF DEFENDANTS

Total: \$

FOR: Husch Blackwell, LLP, 190 Carondelet Plaza,
Suite 600, St. Louis, Missouri 63105.

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CERTIFICATE OF REPORTER
AND STATEMENT OF DEPOSITION COSTS

EDWARD COLELLA,)

Plaintiff,)

vs.) Cause No. 09SL-CC01972

) Division No. 7

MONSANTO CO., ET AL.,) NOTICE OF DEPOSITION

Defendants.)

MISSOURI CIRCUIT COURT
TWENTY-FIRST JUDICIAL CIRCUIT
ST. LOUIS COUNTY

LIVINGSTON HAMPTON, MAGGIE)

MOOYMAN, and RUSSELL ABBEY,)

Plaintiffs,)

vs.) Cause No. 10SL-CC03428

) Division 17

MONSANTO CO., ET AL.,)

Defendants.)

MISSOURI CIRCUIT COURT
TWENTY-FIRST JUDICIAL CIRCUIT
ST. LOUIS COUNTY

NISHIDA, NICHOLAS WHITE,)
INDIVIDUALLY AND AS SURVIVOR)
OF MARK WHITE, DECEASED,)
AND ALISON TUCKER,)

Plaintiffs,)

vs.) Cause No. 09SL-CC01964

) Division No. 13

MONSANTO CO., ET AL.,)

) NOTICE OF DEPOSITION

Defendants.)

Upon delivery of transcript, the above charges had not
been paid. It is anticipated that all charges will be
paid in the normal course of business.

I have hereunto set my signature on
November 25, 2011.

Dawn M. Bloemker, CSR, RPR, CCR

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