

PITNEY, HARDIN, KIPP & SZUCH

(MAIL TO) P O BOX 1945, MORRISTOWN, N J 07962-1945

(DELIVERY TO) 200 CAMPUS DRIVE, FLORHAM PARK, N J 07932-0950

(201) 966-6300

ATTORNEYS FOR Third-Party Defendant
Monsanto Company

CITY OF PERTH AMBOY,
a Municipal Corporation,

Plaintiff/Counter-
claim Defendant,

V.

WITCO CORPORATION,

Defendant/Counter-
claimant/Third-Party
Plaintiff,

V.

MONSANTO COMPANY, et al.,

Third-Party
Defendants.

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: MIDDLESEX COUNTY
: DOCKET NO. L-073370-87

: Civil Action

: AFFIDAVIT OF
: JOSEPH G. NASSIF

STATE OF MISSOURI)
) SS.:
COUNTY OF ST. LOUIS)

JOSEPH G. NASSIF, being duly sworn according to law,
upon his oath, deposes and says:

HARTOLDMON0044360

1. I have been licensed to practice law in the State of Missouri since 1974. From 1974 until May 1986 I was employed by the defendant Monsanto as an attorney in their law department. Beginning in November 1981 until my departure, I was a litigation attorney in Monsanto's law department. I am currently representing Monsanto in a number of matters, as a partner in the law firm of Coburn, Croft, & Putzell in St. Louis, Missouri. The statements in this affidavit are based on my personal knowledge, unless otherwise noted.

2. During the period from November 1981 until January 1985, I was responsible for the management of lawsuits related to the manufacture and sale of polychlorinated biphenyls ("PCBs") by Monsanto. During that time I developed, with Monsanto's outside counsel, Monsanto's PCB litigation defense strategies in pending and anticipated cases.

3. Shortly after assuming the management of Monsanto's PCB litigation defense I organized the identification and collection of all documents in the possession of the company that related in any way to the sale and manufacture of PCBs. Upon completion of this work the documents were maintained under the control of the law department. This collection of documents contained both discoverable and nondiscoverable (privileged) documents.

4. Following the collection, review, and consolidation of the documents, I decided that they required substantial

organization in order to marshal the documents and facts which in my judgment were relevant and significant from those which were not. Also, it was necessary to organize the documents and facts in a manner which, in my opinion, would be most useful in the defense of pending and anticipated litigation. At my request, David M. Moore assisted me in these tasks.

5. Before commencing the review of the documents, Mr. Moore and I had extensive discussions regarding those documents which we felt would be particularly important in the defense of current and anticipated PCB litigation. During the course of our review of the documents, we decided whether or not particular documents were in fact significant enough to be included within the collection of documents selected for organization and categorization for use in ongoing and future litigation. Those documents which we determined to be relevant and significant were included in the litigation resource library. Documents not selected for this library were retained by Monsanto and remained available for appropriate litigation discovery.

6. Beginning in late 1982 I assessed the available computerized retrieval systems for litigation support. I then selected a retrieval software system which, based on my judgment, most closely met our needs in the approximately 34 PCB lawsuits then pending, as well as our anticipated litigation support needs in future cases.

7. As part of the PCB document data base system design, Mr. Moore and I prepared a classification system to be used for creating and organizing coded summaries of documents considered in our judgment to be of importance in the litigation defense of Monsanto's PCB products. This data base contains my legal opinions and theories concerning the defense of Monsanto in then existing and anticipated litigation relating to PCBs, as well as the legal opinions and theories of Mr. Moore.

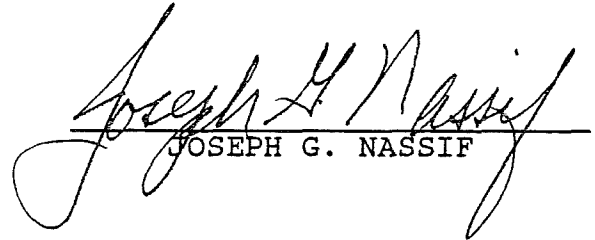
8. Following the preparation of the classification system for the data base, Mr. Moore and I personally trained a small number of document reviewers employed by Monsanto for the purpose of classifying and summarizing the documents pursuant to our instructions. Those instructions were designed to allow prompt retrieval of the information Mr. Moore and I considered to be significant within the context of Monsanto's overall litigation strategy. Mr. Moore and I supervised and spot-checked this classification and summarization work to assure ourselves that the completed data base would meet our litigation objectives.

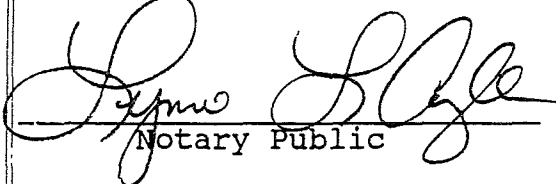
9. Following completion of the PCB litigation data base, and until my responsibilities were assumed by Mr. Bistline in January 1985, the data base was used exclusively in support of Monsanto's law department and outside counsel in their defense of PCB lawsuits brought against the company. All aspects of the development and use of the system were controlled and conducted by counsel for Monsanto. At all times all counsel for Monsanto and

their representatives were required to maintain and have, based on my information and belief, maintained strict confidentiality with regards to all aspects of the system.

10. The identity of the documents selected for inclusion in the data base and the classification system used to organize it are in my opinion attorney work product. Their disclosure would certainly reveal my legal opinions and theories as an attorney representing Monsanto in litigation relating to the manufacture and sale of PCBs by Monsanto. Neither documentation relating to the system nor any aspect of the system itself, including the classification system, can be made available to counsel for the Witco Corporation without revealing my legal opinions and litigation strategy.

SWORN TO AND SUBSCRIBED
before me this *9th* day
of July, 1992.


JOSEPH G. NASSIF


Notary Public

My commission expires:

LYNNE L. ANGLE
NOTARY PUBLIC STATE OF MISSOURI
JEFFERSON COUNTY
MY COMMISSION EXP OCT 18, 1993

PITNEY, HARDIN, KIPP & SZUCH

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STATE OF MISSOURI)

) SS.:

COUNTY OF ST. LOUIS)

Civil Action

AFFIDAVIT OF
THOMAS M. BISTLINE

THOMAS M. BISTLINE, being duly sworn according to law,
upon his oath, deposes and says:

1. I am licensed to practice law in the State of New York. I am an attorney in Monsanto's litigation department with responsibility, among other things, for the management of lawsuits pertaining to the manufacture of sale of polychlorinated biphenyls ("PCBs") by Monsanto. I am the successor to Mr. Joseph G. Nassif in this position. I have personal knowledge of the statements made in this affidavit.

2. In performing my law department responsibilities, I have become familiar with the computerized PCB document data base assembled by Messrs. Nassif and Moore. Under my direct supervision, this system has been used solely in connection with the defense of pending and anticipated PCB litigation.

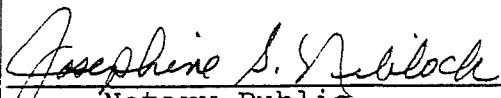
3. The computerized document data base system, including the document classification system originally prepared by Messrs. Nassif and Moore, has been maintained in strict confidence by counsel for Monsanto. The system has never been produced in any litigation or to any person other than counsel for Monsanto or their direct representatives. The system reflects, in its original design and in its current configuration, the legal opinions of Monsanto's attorneys concerning the identity of factual subject matters important to the defense of Monsanto's PCB cases, the interrelationships between those matters, and summaries of the significant documents relating to those subjects.

4. Access to Monsanto's computerized data base system is in no way necessary for the Witco Corporation ("Witco") to

obtain full discovery in this case. Monsanto has produced and will continue to produce all documents in its possession, including documents inside and outside of the data base, that are responsive to Witco's requests, subject only to objections made pursuant to the New Jersey Rules of Civil Procedure. I know of no reason why counsel for Witco cannot formulate their discovery requests without relying on the work product of Monsanto's lawyers.


THOMAS M. BISTLINE

SWORN TO AND SUBSCRIBED AND
before me this 9th day
of July, 1992.


Notary Public

My commission expires:

JOSEPHINE S. NIBLOCK
NOTARY PUBLIC STATE OF MISSOURI
ST LOUIS COUNTY
MY COMMISSION EXP. JAN. 15, 1995

1. I am licensed to practice law in North Carolina, and am a partner in the law firm of Smith Helms Mulliss & Moore, in Greensboro, North Carolina. Since 1971 I have represented Monsanto as an attorney in litigation involving the manufacture and sale by Monsanto of polychlorinated biphenyls ("PCBs"). I have personal knowledge of the statements made in this affidavit, unless otherwise noted.

2. Because of my prior experience in representing Monsanto in PCB litigation, I was asked by Joseph G. Nassif, then a litigation attorney in Monsanto's law department, to assist him during 1982 and 1983 in collecting and organizing the company's PCB-related documents in connection with pending and anticipated PCB litigation.

3. After selecting what we considered to be the significant documents for pending and anticipated PCB-related litigation, Mr. Nassif and I drafted a subject matter classification system to be used in the organization and retrieval of the selected documents. That system was based upon our professional assessment of factual and legal issues we considered to be important for pending cases and that we projected would arise in future PCB litigation. A major purpose of the classification system was to enable Monsanto's attorneys to assemble the significant documentary evidence in our possession in support of our defense strategies, and as a result the system does contain and would disclose our legal opinions as to which subject areas are important, how the subject areas relate to

one another, which documents should be classified in each subject, and which documents are appropriate to be included in the computerized data base.

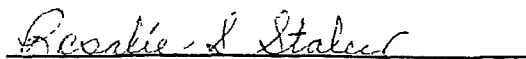
4. After the classification system had been substantially completed, representatives trained by Mr. Nassif and me, and working under our instructions and supervision, classified and summarized each of the documents which we had selected for inclusion in the computerized data base.

5. The documents Mr. Nassif and I decided not to include in the computerized data base were retained by Monsanto, and based on my information and belief have been produced when responsive to discovery requests served on Monsanto.

6. Any disclosure of the contents of the PCB data base or of the classification system used in its organization would necessarily disclose Mr. Nassif's and my own legal opinions and litigation strategy.


DAVID M. MOORE, II

SWORN TO AND SUBSCRIBED
before me this 9th day
of July, 1992.


Notary Public

My commission expires: 6-4-96