IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

NEVADA POWER COMPANY, et al.,	)	
	)	
	)	
Plaintiff,	)	
-vs-	)	
	)	CV-S-89-555-LDG (LRL)
	)	
MONSANTO COMPANY, etc., et al.,	)	
	)	
Defendants.	)	

DEPOSITION OF GEORGE J. LEVINSKAS

On the part of the Plaintiff

July 14, 1993

Concannon & Jaeger
General Court Reporters
705 Olive Street, Suite 604
St. Louis, Missouri 63101
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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NEVADA POWER COMPANY, etc.,
Plaintiff,
-vs-
MONSANTO COMPANY, etc., et al.,
Defendants.

CV-S-89-555-LDG (LRL)

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GEORGE J. LEVINSKAS

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NEVADA POWER COMPANY, etc.,)
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Plaintiff ,)
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-vs-)# CV-S-89-555-LDG (LRL)
)
)
MONSANTO COMPANY, etc., et al.,)
)
Defendants.)

DISCOVERY DEPOSITION OF WITNESS, to be used in an action pending in the District Court of the United States, for the District of Nevada, wherein NEVADA POWER COMPANY, etc., is Plaintiff, and MONSANTO COMPANY, etc., et al. are Defendants, pursuant to Notice, under the provisions of Rule 26 of the Rules of Civil Procedure, taken on July 14, 1992, at the law offices of Messrs. Husch & Eppenberger, 100 North Broadway, St. Louis, Missouri, before John T. Concannon, a Notary Public within and for the State of Missouri.

A P P E A R A N C E S

The Plaintiff was represented by Mr. Ralph A. Bradley, of the law firm of Bradley & Merrell, 700 Bank of America Plaza, 300 South Fourth Street, Las Vegas, Nevada, 89101.

The Defendant, Monsanto Company, was represented by Mr. Scott Bauer, of the law firm of Kirkland & Ellis, 1999 Broadway, Denver, Colorado, 80202.

The Defendant, Westinghouse Electric Corporation, was represented by Mr. Robert P. Morgan, Westinghouse Electric Corporation, Gateway Center, Pittsburg, Pennsylvania 15222.

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GEORGE J. LEVINSKAS,

of lawful age, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, deposes and says on behalf of the Plaintiff, as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. BRADLEY:

Q. Would you please state your name and spell it for me, please?

A. George J. Levinskas, L-e-v-i-n-s-k-a-s.

Q. And it's Dr. Levinskas?

A. Yes.

Q. Doctor, would you give me your residential address please?

A. 526 Fairways Circle, Creve Coeur.

Q. How do you spell that?

A. C-r-e-v-e, another word, C-o-e-u-r, Missouri 63141.

Q. And what is your residential phone number?

A. Area code (314) 432-1608.

Q. You're here today represented by an attorney?

A. Yes.

Q. Have you had a chance to speak with your attorney about the purposes of a deposition?

A. Yes.

Q. Have you had your deposition taken on prior

occasions?

A. Yes.

Q. If I ask a question that you don't understand, will you tell me?

A. I will.

Q. And if you give an answer to one of my questions, I'm going to assume you understood my question. Fair enough?

A. Good enough.

Q. And if at any time you want to take a break for any reason, you just let us know and we'll accommodate you, all right?

A. Okay.

Q. During your prior depositions, did you give testimony about PCBs?

A. Yes.

Q. I want you to list for me, if you would, please, starting with the most recent, those depositions that you gave regarding PCBs?

A. I'm afraid I could not recall them. The most recent one was towards the last part of last year. I take it back. That was not on PCBs per se. The last one on PCBs was probably a year, a year-and-a-half ago, although I can't recall specifically.

Q. And where did you give the deposition?

A. At the Monsanto corporate headquarters.

Q. Do you recall the name of the case in which you gave testimony?

A. I do not recall it.

Q. And do you recall generally the subject matter of your deposition testimony?

A. In general, it dealt with the toxic effects of the chemical mixtures known as PCBs.

Q. Covering what period of time?

A. It would cover the interval from '71 until the present, or until I retired from Monsanto, but I joined Monsanto in 1971.

Q. Are you presently retired?

A. Yes, I am.

Q. When did you retire?

A. 30th of September, 1991.

Q. Are you employed in any other position since your retirement from Monsanto?

A. No.

Q. Did you sign the deposition that was taken of you a year to a year-and-a-half ago on PCBs?

A. I believe I did, yes.

Q. Do you have a copy of that at your residence, or any business address you may have?

A. I may have a copy at home. I do not know.

Q. Do you recall who the lawyers were who took your deposition?

A. I regret to say, I do not recall.

Q. Do you recall which state the action arose in which you gave testimony?

A. I do not.

Q. Do you recall which attorney represented you?

A. I believe it was people from David Moore's office.

Q. And is David Moore an attorney in St. Louis?

A. No. He's in West Virginia, I believe. I don't know.

Q. All right. How many depositions have you given, would you estimate, on the topic of PCBs?

A. Several would be a general term. Perhaps six to ten. Six to nine or ten.

Q. Generally, have you given that deposition testimony on any subject area, other than the toxic effects of PCBs from 1971 to present?

A. No.

Q. In any of those depositions, were you asked questions about Industrial BIO-TEST Laboratories?

A. Yes.

Q. Would that be true for all of the depositions that you've given, as best you can remember?

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A. I don't think it was involved in all the depositions but I can't recall specifically.

Q. Have you given depositions in any court proceedings, other than depositions on the subject matter of PCBs or Industrial BIO-TEST Laboratories?

THE WITNESS: Would you clarify the question?

MR. BRADLEY: Yes.

Q. (By Mr. Bradley) Have you appeared in court and given testimony, either to a jury or to a grand jury, on the subject matter of PCBs or Industrial BIO-TEST Laboratories or any of their employees?

A. I have not testified in court.

Q. Have you testified in any criminal proceedings involving Industrial BIO-TEST Laboratories or its employees?

A. I have not.

Q. Did you provide any written documents involving the criminal charges brought against any employee of Industrial BIO-TEST Laboratories?

A. I am not aware that I was asked to, or that I did provide such documents.

Q. Did you provide any information at all in response to any request for information regarding criminal charges brought against employees of Industrial BIO-TEST Laboratory?

A. I do not recall being asked specifically to provide information for criminal charges. In my position at Monsanto, I have received many requests for information, which I have attempted to provide.

Q. You don't recall talking with a government lawyer involved in prosecuting Paul Wright, who was a former employee at Industrial BIO-TEST Laboratories?

A. I did talk to a government lawyer during that interval. My recollection of the conversation is that it was a discussion about myself and my functions at Monsanto.

Q. Do you recall the name of the attorney you spoke to?

A. He was in the Chicago office. His name I do not recall.

Q. Did you receive any written communication from him?

A. No.

Q. Have you sent him any written communication?

A. No.

Q. Did you speak with him in person or on the telephone?

A. In person.

Q. And was that at Monsanto's headquarters?

A. It was in Chicago.

Q. You went to his office in Chicago?

A. Yes.

Q. Did he request that you travel to Chicago to speak with him?

A. An attorney in Chicago arranged a meeting and I was invited to attend and I did attend.

Q. Who else was present, if anyone?

A. The one individual I recall was an attorney from Kirkland and Ellis.

Q. All right. Were there any people at that meeting, other than you and attorneys?

A. There may have been three - in total, four or five people. Whether they're all attorneys or not, I do not know.

Q. Do you recall when you spoke with the attorney in his office in Chicago, whether the conversation was recorded?

A. I do not know that.

Q. When you met with the attorney in Chicago, were you shown any documents?

A. I do not believe there were any documents that were produced or discussed at the meeting with the Federal attorneys.

Q. Tell me what you remember of your conversation with the attorneys in Chicago, what they told you and what you told them, as best you can recall.

A. The general topic was a brief recitation of my history with Monsanto, my responsibilities, what my functions in the company were, the scope of my activities and functions in very general terms, such as -- I do not recall very many specific questions.

Q. Do you know whether, when you had that discussion with the attorney in Chicago, that you were a suspect in a criminal proceeding?

MR. BAUER: Objection. Assumes facts not in evidence. You can answer, Dr. Levinskas.

A. I was never informed or indicated to me that I was a suspect.

MR. BRADLEY: Okay.

Q. (By Mr. Bradley) Prior to your meeting with the attorney in Chicago, did you review any documents?

A. Yes.

Q. Tell me what documents you reviewed as best you can recall.

A. That was many years ago and I'm afraid to attempt to even indicate, except in most general terms.

Q. Why don't you tell me in general terms then what you reviewed?

A. A variety of documents, memos, correspondence, reports, trip reports. I mean a variety of things that had been written years earlier, that I had written that I have

no recollection of at this specific moment and I do not recall now.

Q. All right. As part of your review, did you review test results performed by IBT for Monsanto?

A. I do not recall specifically looking at reports and reviewing test results, as such.

Q. Do you recall reviewing any raw data that was prepared by IBT or Monsanto regarding tests conducted by IBT for Monsanto, prior to your meeting in Chicago?

A. I do not recall looking at any raw data at that time.

Q. Did you look at raw data subsequent to your meeting in Chicago regarding tests performed by IBT for Monsanto?

A. Yes.

Q. What was the purpose in making that review?

A. We had received a letter - I'm not sure if it was addressed to me or Monsanto in general. I think it was probably Monsanto in general. It was brought to my attention - in which the FDA had a list of study report numbers that they felt Monsanto had submitted to them for regulatory action and we were asked to identify the topics, the products which those numbers were associated and any identifying petition, registration numbers or so forth that we had been seeking from the Government.

Q. Did you review any documents to prepare for today's deposition?

A. Yes, I did.

Q. What documents did you review?

A. I was shown several documents by attorneys. Mostly, they were memos and correspondence.

Q. I want you, as best you can recall, to tell me specifically which documents you reviewed.

A. I don't think I could identify specific documents. There was correspondence between myself and IBT; correspondence between IBT and Monsanto; some internal Monsanto memos, and I did ask to glance at a few reports to refresh my memory on one or two specific points.

Q. Which points were those?

A. It was just to refresh my memory as to the content of some reports which were issued years ago.

Q. And the -- In particular, what contents were you looking for in your request to examine those reports?

A. The two year feeding studies that IBT had done. I wanted to look at the specific designations of the lesions in the pathology sections.

Q. Have you now told us the documents you recall reviewing in preparation for today's deposition?

A. There are also two reports that I put together: one is summarizing the results of the IBT

studies, two year rat feeding studies, and a general review that I wrote on the health effects, or the animal test results of PCBs.

Q. You met with your attorney prior to today's deposition regarding today's deposition?

A. Yes.

Q. How many times did you meet with your attorney in preparation for today's deposition?

A. On three occasions.

Q. Tell me about your educational background, beginning with your graduation from college.

A. I have an A.B. degree from Wesleyan University in Middletown, Connecticut; I have a Ph.D. from the University of Rochester.

Q. What is an A.B. degree?

A. It's a Bachelor of Arts.

Q. What was your area of study when you received your Bachelor's degree?

A. Chemistry.

Q. In what field did you receive your Ph.D.?

A. Pharmacology.

Q. Did you write a Ph.D. dissertation?

A. Yes.

Q. What was the topic?

A. Solubility studies of synthetic hydroxy

aptitude
~~appetite.~~

Q. When did you receive your Ph.D.?

A. 1953.

Q. What did you do for employment once you'd received your Ph.D.?

A. I was teaching at the Graduate School of Public Health at the University of Pittsburgh.

Q. What was your rank at the university?

A. I started as a research associate and lecturer, and I got to be an assistant professor.

Q. How long did you teach at the University of Pittsburgh?

A. 1953 to 1958.

Q. What were the subject matters of the courses you taught while you were at the University of Pittsburgh?

A. Primary course was my own, which was a course in applied toxicology. I lectured in several other courses ranging from public health to environmental effects of chemicals.

Q. Were you ever licensed in any state at any time as a toxicologist?

A. I'm not aware of any licensing for toxicology, industrial toxicology, as I would call it, and I am not licensed.

Q. Did you receive any educational degrees in the

field of toxicology?

A. No.

Q. What did you do when you left the University of Pittsburgh?

A. I went to the American Cyanamid Company.

Q. Would you spell that for me?

THE WITNESS: American?

MR. BRADLEY: I can spell that.

A. C-y-a-n-a-m-i-d.

Q. C-y-a-n-a-m-i-d. Where was that company located?

A. I joined them at their laboratory in Stamford, Connecticut.

Q. And why did you join them?

A. I was invited to direct their toxicology laboratory and for personal reasons, I wanted to get back to my home state of Connecticut, so I joined them.

Q. What work did you do for them in directing their toxicology section?

A. After some few months there, they combined it with a preexisting industrial hygiene laboratory and renamed it an environmental health laboratory. I was the director of that combined laboratory and I had full responsibility for determining the need for and scheduling, overseeing the performance and evaluating the results of

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toxicity tests that were done on Cyanamid products.

Q. Did any of the products that you were in charge of as director, or head of the environmental health lab, involve chlorinated hydrocarbons?

A. Some of the formulations may have contained chlorinated hydrocarbon solvents, but in terms of testing the chlorinated hydrocarbons as such, no they were not involved in Cyanamid's product line.

Q. Do you recall there being any tests done while you were director of this environmental health lab to determine the presence of chlorinated hydrocarbons?

A. I am not aware of such tests.

Q. How long were you at this particular company?

A. Until 1971.

Q. During the time you were there, did your job title or responsibilities change?

A. They got progressively greater as the laboratory expanded but for essentially all the time there, I was - my specific title was Chief Industrial Toxicologist and a secondary title was Director of the Environmental Health Laboratory.

Q. And I take it, then, that the job responsibilities you identified as Director of the Environmental Health Lab remained the same during the entirety of your employment with that company?

A. Yes.

Q. And that you had no other job responsibilities, other than what you've already indicated?

A. After a few years, I was a member, I became a member of a corporate labeling committee, so I was involved in labeling of Cyanamid products.

Q. What, if anything, did you do before becoming a member of that committee to familiarize yourself with labeling?

A. I was in frequent contact with the secretary of the committee. He and I would get together and review available toxicity data, and we would make recommendations for labeling, which we submitted to the committee.

Q. What, if anything, did you do to inform yourself about labeling before you submitted those recommendations to the secretary?

A. We would check whatever sources we could think of or we could locate to determine what information was available on toxicity of the related chemicals.

Q Did you have any other job responsibilities during your employment with that company?

A. I did many things but I fit them all under those general headings.

Q. During the time you were employed by that company, did you make contact with anyone at Industrial

BIO-TEST Laboratory?

A. I met several people from Industrial BIO-TEST Laboratories at scientific meetings and elsewhere. I did not have any contact with them in the sense of a - placing tests with them.

Q. Do you recall which -- Instead of referring to Industrial BIO-TEST Laboratories, I'm going to refer to them as IBT. Is that satisfactory to you?

A. Yes.

Q. Have you referred to Industrial BIO-TEST Laboratories in the past as IBT?

A. Yes.

Q. Do you recall which employees with IBT you met when you were employed with the American Cyanamid, or whatever it is, Company?

MR. BAUER: Cyanamid.

MR. BRADLEY: Cyanamid.

A. I met Dr. Joseph Calandra, who was the president of the laboratory; Dr. Otis ~~Thatcher~~ Fancher, who was mainly responsible, I think, for the operations in Chicago; ~~Maureen~~ Moreno Keplinger, Dr. Keplinger. I regret to say I don't recall their names now but there were two individuals who were there and then left to create their own laboratories and then subsequently one of them died. I do not recall. Those would be the -- Later, I met I Dr. ~~Kenishita~~ Tanaka. Those

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would be the ones I would have met while I was with Cyanamid.

Q. While you were at Cyanamid, did you submit any Cyanamid products to IBT for testing?

A. No.

Q. While you were at Cyanamid, do you know whether Cyanamid had any business relationship with IBT that caused Cyanamid to pay money to IBT?

A. I'm not aware of any.

Q. You joined Monsanto in 1971?

A. Yes.

Q. What caused you to join Monsanto?

A. For various reasons, Cyanamid decided to close down their environmental health laboratory. Since the operation was shrinking, I was asked to go, and the opportunity came up to join Monsanto while I was job hunting, so I joined them.

Q. What was your job title when you began your work at Monsanto?

A. Initially, it was something like Manager of Product Safety. I don't recall the precise name, but it was something like Manager of Product Safety.

Q. Do you recall who it was at Monsanto that you spoke with before - excuse me - as part of the hiring process, before you began your employment with Monsanto?

A. It was rather circuitous. One of the personnel people at Monsanto called the personnel manager at Cyanamid. The latter knew that I was, had been recently terminated and suggested if I was still looking for employment, I might contact Monsanto, which I did.

Q. Do you recall who you spoke with, if anyone, at Monsanto before you began your employment with them?

A. The first person I recall speaking with was Paul Youngblood, the personnel man.

Q. Who else, if anyone, at Monsanto did you speak with before you began your employment with them?

A. Subsequently, it would have been Elmer Wheeler.

Q. Anyone else?

A. Before I came -- Before I joined the company, I came to St. Louis and at that time, I spoke, not only with Elmer Wheeler but with Dr. Kelly, with Jack Garrett and I spoke with several senior management people at Monsanto, all of whom by now have retired.

Q. Do you recall the senior management people that you spoke to before you began your employment with Monsanto?

A. The most prominent one was John Eck, E-c-k, who was Senior Executive Vice-President. I did speak to a couple of research directors, a Dr. John Speziale, Dr.

Byron - or Bill as they call him - Williams, who was Director of the Central Research Division. There may have been one or two other people I spoke to.

Q. During the period of time when you were speaking with Monsanto employees before you began your employment with Monsanto, were you aware that Monsanto manufactured polychlorinated biphenyls?

A. I do not recall that I was aware of it.

Q. Do you recall whether, during these meetings, any of the Monsanto people that you spoke to informed you that they manufactured polychlorinated biphenyls, which I'm going to refer to as PCBs?

A. I do not recall that we talked about specific items that Monsanto manufactured.

Q. Do you also refer to polychlorinated biphenyls as PCBs?

A. I do.

Q. Is polychlorinated biphenyl essentially the same thing as polychlorinated diphenyl?

MR. BAUER: Object to the form.

A. In a chemical sense, one could refer to them as polychlorinated biphenyls or you can substitute "di" for "bi." They would be essentially interchangeable.

Q. (By Mr. Bradley) All right. When you became Manager of Product Safety, what products were you managing?

A. The position for which I was hired at Monsanto was to pull together and centralize their efforts to look at environmental effects of chemicals. So my initial responsibilities were to look at new chemicals or new uses of existing chemicals to try to anticipate the kind of questions or issues that might be raised by those chemicals, to outline or define the kind of testing, particularly toxicity testing, that should be done so that we have a basis for assessing whether it would be feasible or practical to market such products.

Q. To whom did you report as Manager of Product Safety?

A. My immediate supervisor was Mr. Elmer Wheeler.

Q. What division or group or entity were you a part of as Manager of Product Safety?

A. Part of the medical department.

Q. In your work as Manager of Product Safety, did you do any testing or evaluating of products or chemicals containing PCBs?

MR. BAUER: Object to the form of the question. Use of the word "you," in terms of whether you mean did Dr. Levinskas specifically do tests versus ordering tests, but if you understand the question, Dr. Levinskas, you can answer.

MR. BRADLEY: I mean -- Let me rephrase then.

Q. (By Mr. Bradley) In your work as Manager of Product Safety, did you have employees?

A. Not initially.

Q. At some point, did you have employees when you were the Manager of Product Safety?

A. About a year later, over a year later, I did have another employee but my title then changed to Manager of Environmental Assessment and Toxicology.

Q. So as Manager of Product Safety, under that job title, it was just you?

A. Yes.

Q. When you were Manager of Product Safety, did you do any testing or evaluating of products or chemicals containing PCBs?

A. I do not recall that I did.

Q. What was your next job title?

A. I indicated it was Manager of Environmental Assessment and Toxicology.

Q. When you had that job title, were you still part of Monsanto's medical department?

A. Yes.

Q. Was Elmer Wheeler still your immediate supervisor?

A. Yes.

Q. What job responsibilities did you have as

Manager of Environmental Assessment and Toxicology?

A. Initially, they were the same as I had as Manager of Product Safety, except for the change in title.

Q. And I take it, at some point your job responsibilities changed while you still had that title?

A. Yes.

Q. What additional or different job responsibilities did you end up having as Manager of Environmental Assessment and Toxicology?

A. Initially, I had virtually no involvement in toxicology testing on existing products. A little over a year after I joined the company, Dr. William Hunt, who was a toxicologist, unfortunately died. I was told that I would now also assume responsibility for toxicity testing.

Q. And Dr. Hunt had been responsible for toxicity testing prior to your having that job responsibility?

A. He had a major portion of it. Others were involved to some extent.

Q. And when you assumed responsibility for toxicity testing, would that have been for existing Monsanto products?

A. Yes.

Q. Including PCBs?

A. Yes.

Q. What, if anything, did you do to prepare for

the job responsibility of toxicity testing for existing Monsanto products?

A. Since it was thrust on me, I really had no preparation, other than my prior experience in this area.

Q. Okay. Did you do anything subsequent to your being given those additional job responsibilities to prepare you for toxicity testing of Monsanto products?

A. I did not do anything.

Q. I assume you reviewed files of toxicity data that was then in existence regarding Monsanto products?

A. If you're referring to my going back and poring over the files, the answer would be no. Because of the shear volume of material, it would be impossible to do. I began to get progressively more involved with ongoing studies and with setting up and starting newer studies.

Q. Did you assume any further job responsibilities as Manager of Environmental Assessment and Toxicology?

A. I indicated that my purpose in joining the company was to centralize and coordinate Monsanto's activities in the environmental assessment area. We proceeded to expand this. We began to expand the medical department's involvement in toxicity testing, so we began adding staff, training staff, to increase the overall tempo, scope, of our activities. The volume of activities

was increased but the function, there were no substantial differences or directions in which we were going.

Q. What kind of training were you giving employees in your effort to centralize?

A. Virtually all of our toxicologist were recent graduates. While they had academic qualifications and we considered them the pick of the crop, their practical day in and day out experience in the laboratory was limited, the nuances of interpreting test data, the pitfalls that could occur, the variations that they may expect to see. Things don't always come out as neat as what we'd like. To try, from past examples of my own or information received from others, to get them to be more sophisticated technically in objectively assessing and interpreting data they would encounter.

Q. And were you responsible for that training?

A. To a large extent, yes.

Q. Who else participated in that training?

A. Well, they talked to other people outside the company, other toxicologists. They talked to other people in the medical department. I would assume that they would attempt the same way to learn from watching their elders and prior people as to what they should do or how not to do it.

Q. What I'm interested in knowing is whether

there was any formalized type training, or whether it was the sort of verbal interchange that would take place between supervisor and employee.

A. It was not formal course work. It was more in the nature of tutorials.

Q. What other job responsibilities, if any, did you have as manager of environmental assessment and toxicology?

A. Again, there were a variety of activities that developed which I would lump under, or group under those same general headings. This would involve summarizing Monsanto data; on occasion making presentations to regulatory agencies in Washington; answering customer queries, or just general queries; providing information to members of Monsanto if they requested guidance, opinions, judgements.

Q. Were you involved in any committee or group within Monsanto while you were Manager of Environmental Assessment and Toxicology that dealt with the labeling of Monsanto products?

A. No, I was not a member of such a group. There were people involved in labeling and they frequently requested information that they could use for labeling of products.

Q. Relative to the labeling of products within

Monsanto while you were Manager of Environmental Assessment and Toxicology, was the business group within Monsanto responsible for the labels that were attached to Monsanto products?

MR. BAUER: Objection. Vague use of the term "business group." You can answer if you're able.

A. My major contact - the most frequent contact, when I say "major" - was a fellow named Seto, Bob ~~Seto~~, who I think was in the corporate department. It may have been the transportation department. It was the corporate department. To what extent operating groups or business group may have participated with ~~Seto~~, I do not know.

Q. (By Mr. Bradley) Was the term "business group" a term that was used at Monsanto?

A. Yes.

Q. So when I refer to "business group," you know what I'm referring to?

A. I would say in general, yes.

Q. Do you know what corporate department Bob ~~Seto~~ was a member of when you had this contact with him that you've described?

A. I think I -- I think it was the transportation department.

Q. The medical department at Monsanto while you were a Monsanto employee was never responsible for

developing the final labels that went on Monsanto products; is that correct?

A. I could not speak for never, the medical department was never responsible, because I don't know. I don't know what -- When I joined the company, I don't know what procedures were in place or the involvement of people, obviously, when I joined the company. Today I'm not instantly aware of everything that's happening at that company.

Q. I understand that. Subject to that caveat, you're not aware at any time that the medical department ever assumed responsibility for the labels that went onto Monsanto products. That's true?

A. I am not aware that the medical department assumed responsibility for labeling of products.

Q. As I understand the way it happened, occasionally the medical department would be asked for information from those people responsible for putting labels on Monsanto products; is that correct?

MR. BAUER: Object to the form of the question. It's irrelevant what your understanding is. The witness already said the word "frequently." You may answer the question.

A. I would answer that my experience with labeling is I was approached and asked for information on a

material, which would be used for labeling.

Q. And for the most part, Mr. Seto contacted you for information regarding a Monsanto product that might be useful for labeling; is that correct?

A. Yes.

Q. Do you recall at that point whether Mr. Seto had any background in toxicology?

A. No, I do not know.

Q. He was essentially a businessman within Monsanto; is that correct?

A. I do not know his background.

Q. You know that he was not a medical doctor, though, don't you?

A. I do know that.

Q. You also know he had no medical background?

A. I do not know his background.

Q. Have we now covered the job responsibilities that you have had as Manager of Environmental Assessment and Toxicology at Monsanto?

A. I believe we have.

Q. How long -- Excuse me. Over what period of time were you the Manager of Environmental Assessment and Toxicology?

A. It was probably about 1972, end of '72, to probably '77, '78. Latter '70s.

Q. What was your next job title at Monsanto?

A. It was Director of Environmental Assessment and Toxicology.

Q. And that would have begun in '77, '78, or late '70s?

A. Toward the latter '70s, as I recall.

Q. Going back for a moment to the time when you were Manager of Environmental Assessment and Toxicology. During that period of time, was there a Director of Environmental Assessment and Toxicology?

A. No.

Q. And you indicated, I believe, that during -- Let me ask it this way. To whom did you report between 1972 when you became Manager of Environmental Assessment and Toxicology, and when you stopped having that job title in the latter '70s?

A. About 1974, '75, Dr. George Roush joined Monsanto as the Medical Director to replace Dr. Kelly, who was retiring. Somewhat after that, I reported directly to Dr. Roush and I may still have been manager at the time I reported to him, and I -- Definitely I was reporting to him after I became director.

Q. So during the time you were Manager of Environmental Assessment and Toxicology, you reported first to Elmer Wheeler and later to Dr. Roush?

A. That's correct.
Q. And to nobody else?
A. That's correct.
Q. When did you cease being Director of Environmental Assessment and Toxicology?
A. 1986.
Q. What job responsibilities did you have as Director of Environmental Assessment and Toxicology?
A. I would say they were very comparable to what I had as Manager, except the scope, size, of the operation increased markedly.
Q. How many employees, if any, did you have when you were Manager of Environmental Assessment and Toxicology? By that, I mean how many did you supervise.
A. I started with one and a secretary, that would have been two, and I probably got to something like eight or ten doctorates with two or three secretaries when I was named director. By the time I stopped being director, I probably had something like twenty-two, twenty-four people, of whom about fourteen or sixteen had doctorates, one or two each had masters and bachelors and about four secretaries.
Q. What was your next job title, if any, at Monsanto?
A. It was Senior Toxicology Consultant.

Q. Who did you report to as Senior Toxicology Consultant?

A. Dr. Rouse until he retired and the last few years to Dr. Barry Friedlander, who is the current medical director.

Q Over what period of time did you have the job title of Senior Toxicology Consultant?

A. Until I retired in 1991.

Q. So you had that from 1988 to 1991?

A. Yes.

Q. What job responsibilities did you have as Senior Toxicology Consultant?

A. At that time, in a decentralization move, the toxicology group I had been managing was split into two. One was assigned to the agricultural company and the other remained with the chemical company. My function subsequent to that was to attempt to maintain liaison between these two groups so that they acted reasonably consistently, to assist them, based on my greater experience, in issues and act as consul to them on issues as they arose; to be available for people within Monsanto to consult on issues, toxicology questions, and to a limited extent, participate in extracurricular, or extramural activities on various trade associations, working parties, groups of this nature.

Q. Do you know whether you intend to be a witness

in the lawsuit in which you are presently giving this deposition?

A. It's been indicated I may be one but I didn't know if I will be or not.

Q Were you aware of PCBs before you began your employment with Monsanto?

A. Yes, I was aware of them.

Q. How did you first become aware of PCBs?

A. I don't think I could point to a specific time I became aware of them. They are listed in the so-called Threshold Limited Values put out by the American Conference of Governmental Industrial Hygienist. Some of the early work was done by the late Dr. Trion, whom I knew quite well, and we may have talked about them. I mean, they were known materials and somewhere along the line, I became aware of them.

Q. Dr. Trion's work with PCBs dated back to the 1950s; is that correct?

A. Yes.

Q. Were you aware of PCBs in the 1950s?

A. Probably not because I was -- Well, probably not, but I may have read about them in graduate school. I can't say for sure.

Q. Do you recall the first time you had any discussion with any Monsanto employee, while you were a

Monsanto employee, regarding PCBs?

MR. BAUER: Could I hear the question back?

(Whereupon, the reporter propounded the previous question.)

A. About the time I joined Monsanto, PCBs were being recognized as environmental contaminants and Elmer Wheeler was involved in some of those issues and I suspect that somewhere along the line, either at lunch or somewhere, that he may well have been the first person I talked to about them but I don't recall, again, a specific episode in which I suddenly became aware of Monsanto's involvement with PCBs.

Q. (By Mr. Bradley) At some point, did you, as a Monsanto employee, undertake any job responsibilities with respect to Monsanto products containing PCBs?

A. I've indicated that my initial responsibilities were to look at new products, new uses of existing products. PCBs were an existing product and as such, they basically fell out of my purview. I undoubtedly may have been asked, may have been involved in discussions with PCBs but I can't recall specifics.

Q. In your first job with Monsanto, you were, you indicated that you were responsible for examining new uses of existing products, correct?

A. Yes.

Q. Did you examine -- Excuse me. In your first

job at Monsanto, did you examine any new uses of PCBs?

A. I don't know, recall anything being brought to my attention.

Q. Did you ever assume any responsibility for Monsanto products containing PCBs?

A. As we went through the chronological growth within the toxicology group, yes, we gradually assumed responsibility for all new and ongoing testing of the products. Along the line, PCBs would have come in.

Q. That would have been in 1972 when you became Manager of Environmental Assessment and Toxicology?

A. In 1972 -- I gave a general description of my job function in 1972. That would have been, if you will, the opening, the beginning of the time when we began encompassing more responsibility for corporate testing. Somewhere along the line, we picked up the responsibility for PCBs, but there is no formal handing over of a responsibility of anything that I can recall.

Q. Whether there was a formal or informal passing of responsibility on PCBs, can you give me your best estimate of the date that you, in fact, assumed responsibility for testing of PCBs?

A. Probably the closest to, or at least the one that would stick in my memory I would say - would be more or less an assumption - was probably the end of '74, when

Dr. Kimbrough came to Monsanto to inform us she had conducted some studies in female rats with a highly chlorinated PCB and that she found liver tumors in those rats.

MR. BRADLEY: Would this be an acceptable time to take a short break?

MR. BAUER: Certainly.

(Whereupon, a fifteen minute recess was taken.)

Q. (By Mr. Bradley) Prior to your assumption of responsibility for testing of PCBs, was there anyone within Monsanto who had prior responsibility for the testing of PCBs?

A. Insofar as I could tell, it was Elmer Wheeler.

Q. Do you know whether, at any time prior to 1974, Monsanto conducted its own tests regarding the toxicity of PCBs?

A. As I learned subsequently, there were a series of extended tests conducted, many of which have been completed and most of which were being completed about the time I joined Monsanto.

Q. And were those tests being conducted in-house or by outside laboratories?

A. By outside laboratories.

Q. During the time you were employed at Monsanto, were you ever aware of any in-house tests conducted by

Monsanto on PCBs prior to 1974?

A. With respect --

MR. BAUER: Object to the form. You say in-house tests, you're now again talking about toxicology tests?

MR. BRADLEY: That's correct.

A. I was going to say, with respect to toxicity tests, I'm not aware that Monsanto did any in-house.

Q. (By Mr. Bradley) All right. Are you aware of chlorinated naphthalenes?

A. I have some knowledge of them.

Q. Are you aware of a study done by Dr. Cecil Drinker in 1937 regarding chlorinated naphthalenes?

A. I think I have read that paper sometime back.

Q. Okay. Do you know whether, at any time, Monsanto conducted any in-house or outside tests to determine whether any adverse health effects were caused by exposure to chlorinated naphthalenes?

A. I have no knowledge of such.

Q. Do you recall whether the 1937 Drinker study valuated the toxicity, in part, of a combination of chlorinated naphthalene and PCB?

A. I don't recall that study well enough to comment but the early literature in this area indicates that, or at least raised a question that some of the early

work attributing effects to PCBs may actually be the result of chlorinated naphthalenes, with which the PCBs at that time apparently were used. The two were used together.

Q. Are you aware of any tests or studies done by Monsanto, in-house or outside, to determine whether the adverse health effects were caused by the chlorinated naphthalene or the PCBs relative to the early literature that described adverse health effects from a combination of those two?

A. I do not know whether Monsanto made such efforts. I do not recall seeing anything in the way of results of Monsanto efforts.

Q. Did you ever question Elmer Wheeler, Dr. Roush, or anyone within Monsanto why Monsanto did not undertake any tests to determine whether the adverse health effects reported to be associated with a combination of chlorinated naphthalene and PCBs were caused by either the chlorinated naphthalene or by the PCB?

MR. BAUER: Object to the form of the question. Assumes a fact not in evidence.

A. I think I've indicated that there's confusion in the early literature, or people have raised questions as to whether the results -- Since these compounds are used in mixtures, combinations of chlorinated naphthalenes and chlorinated biphenyls, that some people have raised

questions about the reliability of some of the early literature in attributing effects to one or the other compound. It's my impression that, my feeling, that when that was known and people stopped using them in mixtures and they were used in essentially a pure compound, that the test results then were considered applicable to the materials under test, and there would be no apparent reason to make that determination if the use of the mixtures had been discontinued.

Q. (By Mr. Bradley) Can you indicate for me your understanding of when the use of the mixtures was discontinued?

A. As I say, as I read through the older literature and read through, listening to the old-timers, people older than I, that have been in the business longer than I, talking to them at meetings, scientific meetings, and general discussions, that when it was recognized the mixtures created problems, they separated the two and they have not had that sort of problem since, but I can't pinpoint the time.

Q. All right. You wouldn't know if it was the 1930s, '40s or '50's or any other period of time?

A. I don't know for sure, but I would think it was probably, the practice ceased before World War II.

Q. Are you familiar with any studies done on a

compound called Halowax.

A. I think Halowax, I believe, is a tradename for chlorinated paraffin.

Q. Chlorinated what?

A. Chlorinated paraffin.

Q. Do you know whether chlorinated paraffin contained chlorinated naphthalene?

A. I do not know the specific composition, no.

Q. Do you know -- Well, do you know whether the 1937 Drinker report addressed the compound known as Halowax?

A. I do not recall at this time.

Q. Was Paul Wright ever an employee whom you supervised?

A. Yes.

Q. When was he an employee that you supervised?

A. The latter part of 1972. Probably September or October.

Q. What work was he doing for you when you supervised him?

A. Paul Wright was hired to assist me in the environmental assessment program, which I've indicated earlier. Between the time an offer was made to hire him and the time he reported for work, Dr. Hunt, I mentioned earlier, had died. So the question came up as to a

latter part of 1972, did you have any discussions with Dr. Wright while he was an employee at IBT regarding testing of Monsanto products?

A. I did not meet Dr. Wright until after I came to Monsanto. I did make a few trips to IBT after I joined Monsanto, in part to look at their facility, and there may have been one or two occasions when I may have talked with some of their people about toxicity testing. Paul Wright may have participated in some of those discussions, but I do not have a specific topic or recollection of specific items that we would have discussed.

Q. What was your purpose in making a trip to IBT to look at their facility?

A. That was a contract laboratory that we were dealing with and it was part of my general orientation at Monsanto.

Q. Were there other contract laboratories that you visited during that period of time?

A. Not in the same sense as an orientation visit that Monsanto was dealing with. There were other laboratories that I visited but they would have been in connection with scientific meetings or some other events.

Q. So I take it, part of your purpose for going to IBT was to examine what they were doing as part of their testing for Monsanto products?

A. I indicated it was more to familiarize myself with their facilities, get some idea of what was available, what was being done.

Q. And did somebody within IBT take you around their facility then so that you could becoming familiar with it?

A. Yes.

Q. Who was that?

A. I mentioned several people. Could have been any of them. I don't recall specifically who accompanied me on those tours.

Q. And on your tour of the IBT facility, were you taken into the areas where the animals were housed that were being used to test Monsanto products?

A. I was taken to areas that they had animals on test. I do not recall them pointing out specifically that these were Monsanto products on test.

Q. During your visits to the IBT lab, did you notice anything unusual?

A. It appeared to be comparable to many other laboratories I had seen.

Q. Did you visit any area where there appeared to be water on the floor?

A. I do not recall water on the floor.

Q. Do you recall visiting any area where the

animals were housed in cages in numbers that you thought was not appropriate?

A. I did not look enough, close enough, at the identification of the cages to comment on it.

Q. Did you notice any smell in any of the rooms that seemed unusual to you for a contract laboratory?

A. No.

Q. Did you notice whether any of the animals had their limbs chewed off?

A. No.

MR. BAUER: Objection. Assumes facts not in evidence.

MR. BRADLEY: Well, I can tell you that Manuel Reyna testified here, when your attorney was not present, and he described cages where animals had their limbs chewed off. Now, whether that's what the deposition shows or not, we'll find out, but your attorney wasn't here during that deposition.

MR. BAUER: Move the strike from the deposition transcript the recitation of what happened in a prior deposition.

Q. (By Mr. Bradley) Do you recall during your visit to IBT seeing any animals running loose in any of the rooms that housed test animals?

A. I do not.

Q. Do you recall visiting a room that anyone referred to as the swamp?

A. I did not hear that term used.

Q. During your visit to IBT, did anyone indicate to you that IBT employees participated in a hunt for test animals that had escaped from cages or for wild animals that had entered the rooms housing the test animals?

A. I saw no evidence of such thing.

Q. You indicated you made a few trips to IBT. How many do you recall making?

A. I really can't put a precise number. Might have been four or five in total.

Q. Out of the trips that you made to IBT, do you remember on how many occasions you visited any of the rooms that housed test animals?

A. Certainly not every time I made a trip. I would say perhaps two or three times, at most.

Q. Okay. Did you tour the entire IBT facility?

A. I would say probably not. I don't think I went through every room in every building.

Q. But you probably went through all of the rooms that housed test animals that were being used to assess Monsanto products?

MR. BAUER: Object to the form.

A. I've indicated I don't know what products were

under test. The areas that I looked at, portions that I visited, I think I've indicated at the outset, were comparable to my own laboratory at Cyanamid, to laboratories I have seen at other companies and to laboratories I visited at universities, and I saw nothing I would consider untoward.

Q. I'm interesting, though, to your understanding of what rooms you visited when you toured the IBT facility. Did you request to review -- Excuse me. Did you request to visit the rooms that housed animals that were being used to test Monsanto products?

A. In at least one of their buildings, they had relatively large animals which housed several studies concurrently. I did not ask them are any of these - or which of these might be Monsanto, any more than I would ask which other companies might be involved here. So I cannot answer the question. I can say that I looked at their facility and what I saw, I did not consider untoward.

Q. Was it your understanding that you visited most, if not all, of the rooms at IBT that housed test animals when you made these four or five trips to the IBT labs?

A. I think it's reasonable to say that I probably visited the majority of the facility, yes.

Q. And included in the majority of the facility,

was it your understanding that you visited most, if not all, of the rooms that housed test animals?

A. My statement about majority of the facility was aimed at the test animal housing, yes.

Q. By majority, do you mean more than half or do you mean nearly all of them, if not all of them?

MR. BAUER: Objection. Lack of foundation.

A. I saw the dog facilities; I saw rabbit facilities; I saw mouse facilities; I saw rat facilities. I don't recall whether I saw primates at that time but having seen representative animals that were housed, that's what I based my comments on.

Q. (By Mr. Bradley) Was it your understanding that you saw all of the rat facilities?

A. I have indicated I don't know that I have seen them all.

Q. All right.

A. I can't say that I did.

Q. Over what period of time did you supervise Paul Wright?

A. Probably into latter '70s. I don't recall a specific date.

Q. What were Mr. Wright's -- Excuse me. What were Dr. Wright's job responsibilities during the time that you supervised him?

A. Major effort of his was to pick up the loose ends left behind by Dr. Wright's - I'm sorry - by Dr. Hunt's death, and since I was still focusing largely on environmental assessment of new products and existing products, he was taking on an increasing responsibility for ongoing tests, tests on other products that were going on, and we were also actively recruiting additional toxicologists.

Q. Do you know whether, or when Dr. Wright was a prior employee of Monsanto, whether he was working in the field of toxicology?

A. It's my understanding that his background was in nutrition, that Monsanto had a nutrition program in an agricultural division at that time, that the program had been closed out and that is why Paul Wright left.

Q. All right.

A. So he was familiar with animal testing, yes.

Q. Do you know over what period of time Dr. Wright was an employee at IBT?

A. No, I do not.

Q. While Dr. Wright was an employee at IBT, do you know whether he had any job responsibilities relating to the testing of any Monsanto products?

A. I do not know that.

Q. Did you ever become aware of whether Dr.

Wright, while he was an IBT employee, ever had any job responsibilities relative to the testing of PCBs?

A. Dr. Wright was an IBT employee when I came to Monsanto. I'm sure that correspondence went through him or back and forth between him and Monsanto. I do not recall details of that correspondence.

Q. My question, though, was whether you knew during the course of his employment at IBT whether he had any job responsibilities relative to the testing of PCBs?

A. I'm trying to indicate he may well have been involved in testing PCBs. I do not recall specifically, nor do I, at this time, have any particular recollection that he was. His name may appear on memos and such, but I don't know what his involvement may have been in terms of while he was at IBT, whether he was involved in it.

Q. When Dr. Wright began his second round of employment at Monsanto in the latter part of 1972 under your supervision, did he have any job responsibilities relative to the testing of PCBs?

THE WITNESS: You mean at -- When he came to Monsanto, did he have any responsibilities?

MR. BRADLEY: In the latter part of '72, yes. Under your supervision.

A. I don't recall that Monsanto was doing any testing of PCBs at that time, and based on that failure to

recall any tests ongoing, the answer would be no, he did not have responsibility for testing of PCBs.

Q. I didn't limit my question to in-house testing. I included contract lab testing. Is your answer still the same?

A. My answer is still the same.

Q. After Dr. Wright began his re-employment with Monsanto under your supervision in the latter part of 1972, did he have any job responsibility relative to reports that were being developed or generated by outside labs regarding PCBs?

A. He would have -- He could well have reviewed reports written by outside labs, yes.

Q. Is that a job responsibility that you assigned to Dr. Wright?

A. Since there were two of us, if reports came in, depending on the urgency with which they needed review, he or I might take them. There was no prescribed procedure.

Q. How about reports from IBT? Since Dr. Wright was a prior IBT employee, did you assign him any job responsibilities for working with the development of reports from IBT regarding testing of PCBs?

MR. BAUER: Objection. It assumes a fact not in evidence. We're talking 1972 and the witness just said

he didn't recall there were any ongoing studies with regard to PCBs, but you can answer if you're able.

MR. BRADLEY: Would you read the question back?

(Whereupon, the reporter propounded the previous question.)

MR. BAUER: Same objection. It assumes there was such work occurring at the time, which is contrary to the witness' testimony. You can answer.

MR. BRADLEY: I move to strike counsel's colloquy. Go ahead and answer the question.

A. I think there are at least two parts to that question. One is that no, he was not assigned to the development of reports with contract laboratories. We have never developed reports with contract laboratories. We do review the reports from contract laboratories, we may take technical issues up with the writer of the report, but we do not develop reports with contract laboratories. So that portion of the question, I think, is a definitive no. Now, with respect to reviewing reports. Back to my earlier answer, is that without regard to where the report came from or without regard to the fact that Dr. Wright had or had not been at IBT earlier, there are many items that come and go and depending on the urgency, depending on other assignments of people, to some extent, depending on the background of the individual, his expertise, either one of

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us might have looked at any different given report from anywhere at any time without a specific assignment.

Q. After Dr. Wright began his work under your supervision in the latter part of 1972, was IBT still developing reports regarding testing they had conducted of PCBs?

A. They probably were. I can't recall specifically but they may well have been.

Q. Did you ever direct any person within IBT to change any of the reports that they generated regarding their testing of PCBs?

A. If I may, my interpretation, I indicated earlier we may go back for technical discussions, we may go back and critique their reports. I have never directed anybody, nor have I done, nor am I aware that anybody has done, is go back and ask them to change the data base, factual material that is presented in the report but yes, as a professional scientist, I feel it is part of my responsibility to critique that report, as I would any other article or report presented to me, and if I have a technical basis for discussion, I will discuss it with the contract laboratory.

Q. As I understand your answer, you've never directed anybody to change the factual material, meaning the data, of any studies done on PCBs?

A. That's correct.

Q. Have you ever directed anybody to change the conclusions based upon the factual material regarding the testing of PCBs?

A. I have suggested alternate language. I made recommendations for alternate language which might emphasize a particular point. In some cases, that has been accepted and in some cases, it has been rejected.

Q. My question, though - and I appreciate your answer, but my question is whether you've ever directed anyone to make any changes regarding conclusions that they drew from the factual material, the raw data, on tests done on PCBs?

A. I have not --

MR. BAUER: Objection. First of all, your previous question was not limited to PCBs, so you're not repeating the same question. Second of all, with respect to all products is the question you just answered. There's apparently some misunderstanding between the two of you about what "any changes" means, but he answered that specific question. But you can answer it again.

A. Well, I have not -- I don't recall, and I'm quite willing to state I have not asked anybody to change a conclusion if, in their technical judgement, the data supported their conclusion. I will accept that. But there

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may be times when I may ask them to reconsider an issue in light of some new information, or I may ask them in my judgement, to make the response more specific in terms of terminology, but it is not to change the conclusion. In other words, to deny something which was there, as it were, in that sense, or to turn around, I think I want to say unequivocally. I have not asked people to change conclusions. I may have suggested alternate wording, I may have asked for greater clarification of a conclusion, but it is my view, and it's what I have done, I encourage my own people. It's part of the tutorial I mentioned earlier. The individual doing the study is responsible for the conclusions. Now, you can argue with them and you can try to understand what they're doing, but ultimately, it's his decision what's in that report.

Q. (By Mr. Bradley) Do you know whether Dr. Wright, while he was under your supervision, ever directed any employee at IBT to make any changes in the reports that they were generating regarding their testing of PCBs?

A. I am not aware that he has done so.

Q. You knew that Dr. Wright was charged with a crime regarding the work that he did at IBT; is that correct?

A. That was several years later, yes.

Q. And you knew that part of the allegations

against Dr. Wright were that he falsified some reports regarding the testing of PCBs?

MR. BAUER: Object to the form. You say that "he," Dr. Levinskas, knew and that's indefinite as to time as to when he had the knowledge. You can answer, Doctor.

A. I do not recall that PCBs were a topic of discussion in the so-called IBT case. I do not recall that PCBs were a topic of discussion.

Q. (By Mr. Bradley) Well, let me ask this. When did you become aware that Dr. Wright was being charged with a crime relative to his work at IBT?

A. I guess I would be aware of it when the newspapers announced they had been indicted.

Q. And what year was that?

A. I regret to say, I -- Those were very busy years from a technical/professional standpoint, and I just cannot recall. My general recollection, it would be in the latter part of the '70s, but it's a benchmark figure.

Q. Was Dr. Wright still an employee under your supervision when the media reported that he had been indicted?

A. He was still an employee. I do not think he was under my supervision at that time.

Q. And under whose supervision was he when you became aware of the media reports that he had been

indicted?

A. He may have been -- First off, I'm not absolutely positive. He may still have been under my supervision, but my general impression is he was not. He either reported to Dr. Edward Paget or Dr. Roush at that time.

Q. And at that time, if he was not under your supervision, do you know what job title he had?

A. He might have been the director of our newly built environmental health laboratory. I'm not positive. He may have been in that position.

Q. Was any study undertaken by Monsanto following the indictment of Paul Wright to determine whether any of the testing done at IBT labs on PCBs was valid and reliable?

MR. BAUER: Objection. Lacks foundation that this witness would know what all Monsanto did, but you may answer.

A. I indicated earlier that we had a letter from FDA, which wanted to know about studies that had been submitted to a regulatory agency. It's my recollection PCBs were not on that list. At the time of the indictment, I believe Monsanto had also ceased manufacture of PCBs. So that from a Monsanto prospective, that was no longer an active or existing product. Several years later, I

undertook to review available information from all sources that I could locate that would deal with the carcinogenicity of PCBs. At that time, we went back and took a look at the original IBT studies. We had been requested by the agencies to validate data submitted to them for regulatory action. Validation would require the availability of records. We made an effort to locate the three studies done on rats, three rat lifetime ~~treating~~ feeding studies on Aroclor products done by IBT. IBT was essentially under Government control at that time, it was not a functioning laboratory. We were unable to obtain all of the records. So no formal attempt was made to validate those studies. I did have available to me a limited amount of records that I felt would substantiate the fact that animals were put on, that they were fed PCBs and since, at that time, the basic question was the carcinogenicity, I had enough of the records from the autopsies and microscopic examinations to confirm, or to substantiate to some degree that the work had been done on those liver sections, and I wrote a limited report, based on that limited or selected audit of the available data, which led me to conclude that the IBT studies were reasonable, reasonably valid, and they contained useful information: and I might add, their results were consistent with results others had published on similar materials.

MR. BRADLEY: Would you read the answer back for me, please.

(Whereupon, the reporter propounded the previous answer.)

Q. (By Mr. Bradley) Did you ever become aware that part of the criminal allegations involving Dr. Wright were the falsification of data while he was an IBT employee?

A. I have no direct knowledge except for whatever was in the newspapers. I believe the charges were they had submitted false information to the Government and each carried the same charge they used the mails or the wires to defraud. Beyond that, I have no knowledge of the specifics.

Q. And during the period of time in which he was alleged to have done these things, you knew that Dr. Wright was an IBT employee and that IBT was doing tests on Monsanto products, true?

MR. BAUER: Object to the form of the question.

MR. BRADLEY: What's wrong with the form of the question?

MR. BAUER: Well, you say at that time, and there was three or four different times specified in the question, so it's indefinite as to when you're talking about.

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Q. (By Mr. Bradley) All right --

MR. BAUER: It's vague in the use of the words "at that time," as to when Dr. Levinskas knew a certain fact or whether the facts were occurring at that time.

MR. BRADLEY: Would you read the question back?

(Whereupon, the reporter propounded the previous question.)

Q. (By Mr. Bradley) Go ahead and answer the question.

MR. BAUER: It's still vague.

MR. BRADLEY: I understand your objection.

A. I guess the answer would be that after Paul Wright was indicted, thinking back on it, it would have occurred to me that at the time of the alleged incidents in the indictments, he had been at IBT and he could well have been working on Monsanto products.

Q. (By Mr. Bradley) Fine. And did Monsanto, then, after Dr. Wright was indicted, check the information that was being used against Dr. Wright to determine whether there was a problem with any of the testing of any Monsanto product?

MR. BAUER: Objection. Lacks foundation.

A. I'd like the question reread because I think I need -- It's sufficiently broad, I think have some difficulty in responding to it.

MR. BRADLEY: Let me begin by saying, Dr. Levinskas, that I know that you can only tell me what you personally know and so when I'm asking you questions, I'm only asking you what you personally know.

Q. (By Mr. Bradley) My question is, after Dr. Wright was indicted, did anyone at Monsanto that you're aware of examine the evidence that was being gathered against Dr. Wright to determine whether he had falsified any information regarding the testing of PCBs?

A. I think I've indicated earlier, I'm not aware that PCBs were a subject of the indictment. If they looked at everything that IBT did at the time that Paul Wright was there, and I suspect one could say well, he was there while the PCBs were there, but the items that were, he was being indicted for did not include PCBs. I did not do anything about it until a later date, as I mentioned, when we went back and looked at those rat studies. I'm not aware of anybody else doing anything.

Q. Are you aware whether anyone within Monsanto following Dr. Wright's indictment, examined any of the evidence generated against Dr. Wright to determine whether he might have falsified any information regarding the testing of Monsanto products?

A. I guess I would answer by turning it back to an earlier comment. We had this letter from FDA, which

raised, which presented us with a series of report numbers and they wanted to know whether we had done anything, or identification of the studies, and whether those studies had been submitted as part of a petition or a registration request to any regulatory agency. Working from that list, we determined that every study - except for some short term ones where we could repeat the studies more quickly than we could audit them, and if the results were comparable to what we had earlier, we would take that as validation - but for the studies that were submitted to an agency, we attempted to see whether we could validate those studies because if we sent it to an agency with a request that they take certain action, we wanted some assurance that we had provided them with reliable information they had acted on, and if the information we had supplied to them was not reliable, we wanted to be in a position to tell them so.

MR. BRADLEY: I move to strike the answer as nonresponsive.

Q. (By Mr. Bradley) My question was a rather a narrow one, and my question was whether, after Dr. Wright was indicted, whether you are aware of anyone within Monsanto examining the evidence that was developed against Dr. Wright to determine whether he may have falsified any information relating to Monsanto products?

A. I guess I would have to go back to my somewhat

extended comment. The products that Paul Wright may or may not have worked on, the IBT generated tests, the results, the tests themselves, if the results of the tests had been submitted to a regulatory agency, those items, we went back and made a serious effort to recover the records and to see whether we could substantiate the information presented on them.

Q. Let me ask this. Are you aware, after Dr. Wright was indicted, whether anyone within Monsanto examined transcripts of depositions or testimony in any form of people who were claiming Dr. Wright falsified information to determine whether he falsified any information regarding Monsanto products?

A. I did not read any transcripts or hear any testimony. I do not know whether anybody at Monsanto did.

Q. Do you know whether it's ever been alleged that Dr. Wright went to IBT and directed changes -- Let me -- I'm going to start this question all over again. Do you know whether, as part of the criminal investigation involving Dr. Wright, that it was alleged that after Dr. Wright resumed employment with Monsanto in late '72, he went to IBT and directed that changes be made in reports developed by IBT regarding PCBs?

A. I do not know any details of the indictment of Dr. Wright.

Q. And by that answer, are you saying that you aren't aware of -- Let me begin again. Would you read back my question, please?

(Whereupon, the reporter propounded the previous question.)

Q. (By Mr. Bradley) And is your answer to that no?

MR. BAUER: Objection. Asked and answered.

A. The only thing I would do is I would -- You said indictment. I would substitute criminal investigation. I do not know the details of the criminal investigation.

MR. BRADLEY: That was the confusing part for me.

A. I apologize. That's the point I was trying to make. I don't know the details, or have any knowledge of it.

Q. All right. Do you know whether Dr. Wright was ever given an award at Monsanto, in whole or in part as a reward for stalling Government action relating to the regulation or banning of PCBs?

A. Yes, he was.

Q. And at whose recommendation was he given that a award?

A. Mine.

MR. BAUER: Dr. Levinskas, I saw you glance at

your watch. Do you need another comfort break?

THE WITNESS: No.

Q. (By Mr. Bradley) Did IBT submit to Monsanto the raw data regarding their testing of PCBs before final reports were issued?

A. Not that I know of.

Q. You indicated that there are occasions when you may have reviewed some reports from contract labs to make suggestions regarding the reports?

A. Yes.

Q. Did IBT send to Monsanto any information that Monsanto commented on regarding the testing of PCBs?

MR. BAUER: Objection as indefinite in time and may lack foundation depending on the time period, but you may answer, Doctor.

A. In my recollection, my experience, I would say that I would request the draft report that I could review and critique and in the sense they may have sent draft reports that we looked at, or I looked at or critiqued or commented on, then the answer is I looked at, if you want to call it data, in that sense of the word.

Q. Okay.

A. I do not know what IBT might have done with others in the medical department before I came here, how they operate. I can't comment on it.

Q. (By Mr. Bradley) All right. And did IBT send you draft reports of the studies they were doing on PCBs?

A. I don't recall that they were sent to me. They may have. I don't recall.

Q. Do you recall seeing any draft reports prepared by IBT regarding the testing of PCBs?

A. I don't recall seeing a draft report on PCBs.

Q. Do you recall seeing any information at all from IBT before they submitted final reports regarding their testing of PCBs?

A. No, I do not recall such.

MR. BRADLEY: I need a brief comfort break.

MR. BAUER: All right.

Q. (By Mr. Bradley) Before I take one, and if you're going to remain in the room, I'm going to show you Plaintiff's Exhibit 352 and ask you to review that.

(Whereupon, a fifteen minute recess was taken.)

Q. (By Mr. Bradley) Dr. Levinskas, you have Plaintiff's Exhibit 352 in front of you?

A. Yes.

Q. What is that?

A. This is a copy of a memo that I wrote to Dr. Calandra, IBT.

Q. And you wrote this on or about July 18, 1975?

A. Yes.

Q. At least, that's the date listed on the letter?

A. Yes.

Q. And when you wrote the letter, do you know what position Dr. Calandra had at IBT?

A. He was the president of the laboratory.

Q. And was this written following a review of some reports that IBT had developed regarding its testing of PCBs?

A. Yes. This was an expansion of work that they had done earlier.

Q. And does the copy that you have show that you signed the letter?

A. It's virtually illegible. No. It's illegible but there's a slash. It was probably signed by my secretary.

Q. All right. Do you know whether this is a true and accurate copy of the letter that you sent to Dr. Calandra on July 18, 1975?

MR. BAUER: For the record, I take it you mean that without the fax information on the bottom?

MR. BRADLEY: Yes.

MR. BAUER: That's obviously been added to the document.

MR. BRADLEY: Yes. I apologize for that. Other than the fax reference.

A. I'll take responsibility for the text on these papers. Is that all right?

Q. (By Mr. Bradley) It's a true and accurate copy of the text on those pages?

A. Yes.

Q. All right. And had IBT sent you -- Excuse me. Had IBT sent to you or to Monsanto revised Aroclor reports that you reviewed as indicated in this letter?

A. I think in my earlier comments, I said this is an extension of work they had done earlier. This is a review of liver sections from all the rats on three two-year rat feeding studies that IBT had done earlier. In the earlier studies, they had looked at a select number, a limited number of rat livers. We asked them to go back and examine every available rat liver from their studies. So this is an extension of work they had done earlier.

Q. How did you know that the earlier study only involved a select number of rat livers?

A. Because that was reported in the tables.

Q. In the tables that you received from IBT, were there any listings indicating TBD?

A. With respect to these reports that are the subject of this memorandum, they were reports that had the

findings, microscopic observations, made on livers made on rats from the study and they were a listing of numbers, animal number, rat number, and the observations. I do not recall -- I do not believe they included animal numbers with the designation that you gave, TB --

Q. TBD.

A. TBD.

Q. Did you ever review any documents prepared by IBT that had the initials TBD?

A. I have seen it in some of the records, the data, backup data, of course, study that was done at IBT.

Q. Did IBT send you backup data in 1972, '73 or '74 regarding tests that they had performed on PCBs?

A. Not that I know of.

Q. Do you recall seeing the designation TBD on any backup data given to you by IBT in regards to studies they were conducting on PCBs?

A. I do not recall seeing it. Before we started -- Let's go back. We were not requesting, nor were we looking at data, the backup data, from IBT. So I had no knowledge of the existence of that notation until a much later date when we were collecting records to see if we could validate, audit the studies that had been submitted to regulatory agencies.

Q. And when you undertook that effort, you

located backup data that had been previously sent to you or to Monsanto by IBT that had the designation TBD on it?

A. Their records had a series of abbreviations, which we contacted IBT personnel to try to put a term onto the acronyms and abbreviations. Among those was the term TBD.

Q. And when you conducted this review, were you able to determine when Monsanto received any backup data from IBT regarding testing of PCBs that had the acronym TBD?

MR. BAUER: Well, object. Assumes facts not in evidence. Your previous question related to all IBT data and there has been no testimony that TBD is related to stuff that Dr. Levinskas saw through PCB studies, but you can answer the question.

A. I have indicated, which is the first recognition of the term TBD, or the acronym, at this time I do not recall whether it was or was not on the record of the IBT studies that I reviewed and which I referred to earlier, in 1981. I have not looked at that report to see whether I made a notation of it. I don't recall whether it was there occasionally. In which case I might not have noted it. If it were a frequent occurrence, I would have certainly made some reference to it.

Q. (By Mr. Bradley) Do you recall ever learning

when Monsanto received backup data, if they ever did, on the tests performed at IBT regarding PCBs?

A. I think I've indicated earlier, when I undertook a review of PCBs in general, we made a request of IBT, or whoever was caretaking IBT at that time, for all available records on the Aroclor rat feeding studies. There was a relatively small amount of information that was available. Complete documentation was not available. On the basis of what I had, I felt reasonably confident that animals had been put on test. I could follow their progress. The diets had been fed to them and microscopic examinations had been done on the livers, which was at that time the focus of interest. I do not recall that an appreciable number of those animals, those autopsy records, had the notation TBD. I just don't recall that.

Q. Do you recall whether -- My question, and maybe your answer is clear to you. It's not yet clear to me and so I'm going to pursue it a little bit further. When you made the request for this additional information in 1981 and you located some backup data, did you locate it from IBT or did you locate it from files within Monsanto that had IBT data in it?

A. Prior to the request from FDA that we substantiate information, or identify information sent to them, we did not receive information, in terms of the

backup data, from IBT. So any requests made of IBT for such information would have been subsequent to the latter part, mid or latter part of the '70s. I'm not sure when that letter from FDA came.

MR. BRADLEY: Let's wait just a moment so we can answer the phone.

(Whereupon, a luncheon recess was taken.)

Q. (By Mr. Bradley) All right. You have before you Plaintiff's Exhibit 352, correct?

A. Yes.

Q. The first sentence indicates that a table was attached which summarized a comparison of three revised Aroclor reports for 1242, 1254 and 1260; is that correct?

A. Yes.

Q. Did IBT send to Monsanto prior to July 18, 1972, revised Aroclor reports referred to in the first sentence of this Exhibit?

A. At this time, I do not recall how the reports came to Monsanto. Looking at the table though, one version of the report is marked "Supplemental Report Number One" has a parentheses of "(mailed)" I assumed it may have been mailed to Monsanto. The second, the last column, between the Supplemental Report Number Two is "JCC delivered." I assume that was brought to Monsanto. I don't recall at this time how this report came to Monsanto.

Q. The JCC, as you understand it, refers to Dr. Calandra, the head of IBT?

A. Yes. That would be my recollection.

Q. And it appears that Dr. Calandra hand delivered to Monsanto the supplemental report that's referred to on the attachment of this exhibit.

A. Yes.

Q. In the second paragraph it says, "In two instances, the previous conclusion of 'slightly tumorogenic' was changed to 'does not appear to be carcinogenic," and it says, "The latter phrase is preferable." Who was it that concluded the latter phrase was preferable?

A. That would have been my conclusion.

Q. Okay. And why would that phrase, why was that phrase preferable?

A. I've indicated earlier that these reports were an extension of earlier work that IBT had done from the time the original reports were submitted until these amended reports were issued. The specific question --

(Whereupon, a discussion was held between Counsel and the witness, off the record.)

A. The specific question raised about the three Aroclor products is whether they were carcinogenic. The phrase "does not appear carcinogenic" would be a direct

question to that question which had arisen in the interim and that preference then would be to address the specific question as directly as possible.

Q. And as far as Monsanto was concerned relative to the reporting of test results on its products, it was certainly preferable to Monsanto that tests indicate that the product did not appear to be carcinogenic as opposed to a test report that indicated it was slightly tumorigenic; is that fair to say?

A. I would amend it to say that we had a specific question we were trying to address, and to make the answer as precise as possible to the question. To that extent, yes, it was to Monsanto's advantage to have the statement "it does not appear carcinogenic."

Q. Certainly would have drawn less regulatory attention to Monsanto's product if the conclusion of the testers was that it did not appear to be carcinogenic versus a conclusion that the material was slightly tumorgenic; is that fair to say?

MR. BAUER: Objection. Lack of foundation. Namely, what other people might read between the two phrases, but you can answer.

Q. (By Mr. Bradley) You certainly thought that was true, didn't you, Dr. Levinskas, that the regulatory agencies would pay less attention, regulatory attention, to

Monsanto's product if the tester concluded that the material did not appear to be carcinogenic versus a conclusion that it was slightly tumorgenic?

A. No. I would stick by my earlier comment. There was a specific question on the table, and that a more specific, precise answer would be it was not carcinogenic. With respect to conclusions that others may draw, we're talking about wording in a summary which was going to be superimposed on tabular data and anyone who would take a regulatory action based on somebody else's summary without examining underlying data, I would have serious doubts about the reliability or the validity of such decisions.

Q. Up until the latter part of the '70s, wasn't it common to report only summary reports to the Government as part of the reporting responsibilities regarding chemicals, as opposed to providing raw data to the Government?

MR. BAUER: Objection. Lack of foundation.

A. I think we need some semantic distinctions here. The raw data or underlying data, which is the basis from which the reports are written, is one thing. A technical laboratory report contains information which is collected in a variety of forms as the so-called raw data. So it's the data -- There is data in the report. When we talk of validation, we talk about reassuring ourselves that

records exist from which that numerical or tabular data in the report existed. Now, a report may have a summary which highlights, or picks out or tries to summarize in a brief fashion the report. I'm not aware that I have ever sent, or that Monsanto has ever sent merely a summary to an agency, with or without a request for regulatory action, without attaching the report. And so there is a summary which would be accompanied by tabular data and anyone could read the report, look at the tabular data and they could choose between the words. In my professional judgement, since we are talking about carcinogenicity, to make the answer as specific as possible and since they presented me with two versions, they had presented two versions of similar findings, I opted to pick the one that I thought was most specific in response to the question on the table.

MR. BRADLEY: I move to strike the answer as nonresponsive. Would you read the question back to me, please?

(Whereupon, the reporter propounded the previous question.)

MR. BAUER: Have you answered that question to the best of your ability?

MR. BRADLEY: No. It's not your question.

Q. (By Mr. Bradley) My question to you is prior to the late '70s, did the regulatory agencies of the United States Government only require summary reports to be

submitted to them regarding Monsanto products?

MR. BAUER: Objection.

MR. BRADLEY: If you know.

MR. BAUER: Objection. Lacks foundation and it's asked and answered.

A. I guess -- First off, I do not know what was customary with the agencies. I have indicated when I sent information to an agency, it was a report which contained a summary and I was attempting to define three types of information: one is a summary, or a brief statement which talks - summarizes in the ordinary sense of the word; a second one is a technical report which contains details of how the data were developed and presents the actual data; and then the so-called backup data, or raw data, which is the information in the form in which it's collected during the study, which is condensed and formatted to present in the report. So I don't know what the agency's customary practice was. I can only attest to the fact that when I sent information, it was a summary and the report. The report, in turn, contained details on what was done, what was found and our judgement as to the conclusions which can be drawn from the information.

Q. Did the reports -- Did you submit reports to Federal regulatory agencies in the 1970s regarding PCBs?

A. I did not but Monsanto did.

Q. Okay. Did those reports contain summaries?

A. There was a summary of a report, as I recall, in each report sent in, yes.

Q. Did the report also contain the raw data that was collected during the testing?

A. I guess we go back to semantics. We're talking raw data. The worksheets on which the records and the data were notated, the answer is no, I'm not aware of anybody that was sending such information to anybody at that time.

Q. Okay.

A. That raw data, however, had been transcribed into tabular form and that tabular data did appear in the report.

Q. And who transcribed the raw data into tabular form?

A. The people conducting the study.

Q. And was it reviewed by Monsanto before Monsanto submitted reports to Federal regulatory agencies?

A. I have indicated more than once that we would not look at the raw data. I'm not aware of anybody that looked at raw data from studies done on their behalf by others.

Q. Did Monsanto request that IBT submit draft reports of tests of Monsanto products to Monsanto before

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submitting or before preparing final reports?

MR. BAUER: Objection. Asked and answered.

A. Again, I don't know what Monsanto's practice was. It was my practice, and what I started doing when I came to Monsanto, I indicated that I wanted to see a draft report, yes, from my ~~prospective.~~ perspective

Q. (By Mr. Bradley) And do you know, as a result of your July 18, 1975 letter to Dr. Calandra suggesting a change in the conclusions, whether IBT, in fact, made those changes?

A. I don't think the conclusions were changed. I think the phrasing of the report was changed, yes.

Q. All right. You don't think it's a change -- Well, look for a moment at the second paragraph of Plaintiff's Exhibit 352. In fact, the sentence asked, or indicates that a conclusion of slightly tumorigenic was changed to "Does not appear to be carcinogenic." Isn't that what it indicates?

A. I'm talking in that section about the two sets of reports that IBT had prepared. As I compared one to the other, they had made changes. In some instances, it's "slightly tumorogenic." Subsequently, they changed that slightly tumorogenic phrase to "does not appear carcinogenic" in two instances, not in a third, and I said "If you had a justification to make the change from one to

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the other in two instances, since the results were very similar and comparable in all three studies, you ought to be consistent and make a change in all three instances."

Q. A chance in the conclusion?

A. In the wording of the conclusion.

Q. Fine. And is it your testimony here, today, that the change in the wording of the conclusion did not alter the conclusion?

A. That's correct.

Q. And then why would you suggest a change in the wording, Doctor, if it didn't change the conclusion?

MR. BAUER: Objection. Asked and answered. He already explained why. Go ahead and explain it again.

A. I said I think since the specific question on the table is whether the compound or materials, substances, are carcinogenic, that's a more specific answer to it. Tumorigenic includes abnormal growths which may or may not be carcinogenic and is, therefore, much less specific with respect to the question we were trying to address.

Q. (By Mr. Bradley) All right. Did Monsanto suggest any other changes in the wordings of conclusions regarding IBT tests and reports on PCBs, other than what's indicated in Plaintiff's Exhibit 352?

A. I can't recall. We may or may not have. I do not recall.

Q Now, I'm going to show you Plaintiff's Exhibit 354, which is an August 4th, 1975 letter from Dr. Calandra, president of IBT, to you and ask you to review that for me, please.

MR. MORGAN: Do you have a copy, Ralph?

MR. BRADLEY: Not with me, but we've given you all of them before. I'm sure of that.

Q. (By Mr. Bradley) Have you completed your review of that Exhibit?

A. Yes.

Q. Is that a letter to you by, from Dr. Calandra in part responding to your July 18th, 1975 letter which is Plaintiff's Exhibit 352?

A. This is basically a non-letterhead piece of paper which opens up, dated after my July 18th letter, dated August 4, has my name as manager and is signed, or has typed but no signature, "J.C. Calandra." I presume it's a copy of a letter that was sent to me.

Q. All right. And does it address, in part, the July 18, 1975 letter that you had sent to Dr. Calandra, which is Plaintiff's Exhibit 352?

A. Yes.

Q. And did you, in fact, receive that letter from Dr. Calandra?

A. The best of my recollection, I did.

Q. And except for any conceivably missing letterhead on it, is it a true and accurate copy of the letter that you received from Dr. Calandra?

MR. BAUER: Objection. It's not signed and presumably a copy that was sent would be signed.

MR. BRADLEY: Let me rephrase it.

Q. (By Mr. Bradley) Is the text contained in that Exhibit a true and accurate copy of the text of the letter that was sent to you by Dr. Calandra on August 4th, 1975?

A. I would say that the text, as I recall it in general, is responsive to my earlier letter. Whether it's true and accurate in every detail, I could not say.

Q. Does it appear in any way to be inaccurate to you? To be something other than the letter that Dr. Calandra sent to you on August 4th, 1975?

A. I think I indicated that the text, the content, is responsive to my letter, my earlier letter, but whether this is an actual, true copy, I cannot say. I can't say for every detail.

MR. BAUER: Can we go off the record a second?

(Whereupon, the reporter marked Plaintiff's Deposition Exhibit 354-A, for identification.)

Q. (By Mr. Bradley) Dr. Levinskas, you now have before you Exhibit 354-A, which was provided to me by your

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attorney. Does that appear to be a true and accurate copy of the August 4, 1975 letter you received from Dr. Calandra?

A. It does appear to be so.

Q. And under item number one, Dr. Calandra indicated to you that IBT will amend its statement as you requested, so that the last paragraph on page two of the Aroclor 1254 report would read, "Does not appear to be carcinogenic" in place of "slightly tumorgenic." Is that correct?

A. That's correct.

Q. Now, under item one of 354-A, Dr. Calandra is not indicating that he will amend a statement in a summary, but he indicates that he's amending a statement in the last paragraph on page two of the Aroclor 1254 report. Do you know whether, as a result of your letter which is Plaintiff's Exhibit 352, a change was made in the actual report, as opposed to the summary report?

A. My recollection is that when he says "...in the last paragraph on page two..." that's the second page of the summary of that report, and as near as I can recall at this time, that's where the change was made, was in the summary on top of the data in the report.

Q. And do you know whether the report, itself, had conclusions that mirrored the conclusions in the

summary regarding whether an item did not appear to be carcinogenic or that it appeared to be slightly tumorgenic?

A. I'm sorry. I don't think the question is clear to me.

Q. Well, my question is, did the report that was issued on Aroclor 1254 contain the same conclusions that were listed in the summary report about whether Aroclor 1254 does not appear to be carcinogenic or that Aroclor 1254 appears to be slightly tumorgenic?

MR. BAUER: Objection. Vague.

MR. BRADLEY: Still don't understand my question?

THE WITNESS: Can I have the question back? Maybe I'm --

MR. BRADLEY: Let me try it again. I'll try to make it simpler.

THE WITNESS I guess -- Let me have the question.

Q. (By Mr. Bradley) It's my understanding of summary reports that they report the conclusions that are reached in reports, and no matter what my understanding is, my question to you is did the Aroclor 1254 report contain the same conclusions regarding Aroclor 1254s carcinogenicity that was contained in the summary?

A. I'm having semantic difficulty here. Nothing

in either of these memos is -- Let's forget the original two-year feeding study reports because they are not, essentially not a part of this discussion. So nothing has been changed in those two-year reports. These, as I've indicated, these three reports were based on extension of the work which had been done earlier and reported in those two-year studies. This was a summary. This was a tabulation of all of the liver section observations that were made. Now, we're talking about a report which essentially says we went back and looked at a whole bunch of liver sections and here's what we saw, and the summary then summarizes what's in the reports. You talk summary report. I don't -- A summary is a part of a report. I don't think of a summary report, as such. I think that's the difference.

Q. Well, relative to Exhibit 354-A, did you submit a report to any Federal regulatory agency that contained the changes that are referenced in 354-A?

A. The changes were sent to an agency, but the summary is part of a report. The summary, and the report to which the summary referred, and the information with respect to specific liver descriptions were sent as a package to the agency.

Q. And my question to you is, did the report regarding the carcinogenicity of Aroclor 1254 that's

referenced in Exhibit 354-A contain the same language, the same wording, in the conclusions as the language that appeared in the summary report which you've indicated was changed as indicated in Exhibit 354A?

MR. BAUER: Object to the form.

A. I guess I'm --

MR. BRADLEY: Let me ask it this way.

Q. (By Mr. Bradley) There's a summary -- You sent a summary report and a report relative to Aroclor 1254 to a Federal regulatory agency?

A. No. No. I think that's where the difference comes in.

Q. All right.

A. Or the confusion. When you say we sent a summary report, I'm not aware, or cognizant that Monsanto sent a summary report. We sent a document which we call a report. As part of that document, the same way there is an introduction, a method, a conclusion, there is another part of that report which is entitled summary.

Q. Okay.

A. So the summary is a part of the report and there is no such thing, that I'm aware of, that I'd call a summary report.

Q. All right. Thank you for explaining that.

A. I think that's part of the difficulty, or my

difficulty in trying to grasp the question.

Q. Then relative to the report that was sent on Aroclor 1254 that had a summary with it and as part of it, you've indicated that the summary conclusions were changed in accordance with Exhibit 352 and 354-A; is that correct?

A. That's correct.

Q. In addition, in the body of the report were there conclusions that mirrored the conclusions that were in portions of the report called Summary?

A. I have not looked at the records in some time and I cannot answer that question. I do know that the statements and the word changings were from the summary of the report, the text of the report. The data contained in the report were not -- No discussion was had about any changes in that, in those portions of the record.

MR. BRADLEY: Would you read the answer back, please?

(Whereupon, the reporter propounded the previous answer.)

Q. Was there a conclusions section to the report on Aroclor 1254?

A. If we're talking about the reports, the subjects of Exhibit 352 and 354, I do not recall. As I indicated, I do not recall the body, the content, in terms of specific wording of the body of the report or the tabular data in the report. I was looking at, comparing

the three summaries attached to each of these reports and that's where my - so I don't know what was said in the body of the report, and I certainly did not ask for any changes in that.

Q. Let me ask it this way, Dr. Levinskas. If the summary section of the report indicated that 1254 does not appear to be carcinogenic, you'd certainly expect that same language to be used in the body of the report, if there were a conclusions section, is that true?

MR. BAUER: Object to the form. Calls for speculation.

THE WITNESS: If you're asking in my judgement, or what I would do?

MR. BRADLEY: I'm asking you what you would expect.

MR. BAUER: Same objections.

A. I would expect people to do what I would do, obviously.

MR. BRADLEY: All right.

A. I think a summary is not a verbatim recitation of what's in the report. That's the purpose of the report. The summary is to provide a condensation, an easily readable condensation, of what's in the report.

Q. (By Mr. Bradley) Dr. Levinskas, you have never, ever, in your life, I would imagine, read a report

that had a conclusion section that indicated a product was slightly tumorgenic and had a summary that indicated only that the material did not appear to be carcinogenic? That's never happened to you in all of your working as a toxicologist, has it?

A. I could not answer that question because over the years, I have read many reports. I mean, I would not see anything inconsistent. I might have well written something like that myself at that time.

Q. All right.

A. Not in those words but something analogous to it.

Q. All right. Fair enough. Do you know if there was ever a problem with the survivability of the rodents on any of Monsanto's Aroclor studies conducted by IBT?

A. Many years later, I had some questions about the survivability, yes.

Q. And when did you first have some concerns about the survivability?

A. I indicated we became aware of it. I don't think I expressed concerns.

Q. When did you become aware of it?

A. Probably about the time I was reviewing the three two-year studies for the report that I made reference to earlier. '80, '81.

Q. I take it, then, you had no concerns about the survivability?

A. I had no basis for being concerned and I was not necessarily concerned. That's your term.

Q. Did you ever have concerns that any of the raw data with regard to any of Monsanto's Aroclor studies were falsified or fabricated?

A. I have no basis for expressing concern in that respect.

Q. Did you ever become aware that the raw data with regard to Monsanto's Aroclor studies were either falsified or fabricated?

A. I have no indication that they were falsified or fabricated.

Q. Did you ever review the necrose -- Did you ever review any necrosis logs regarding studies of PCBs conducted by IBT?

A. I cannot specifically recall whether those were among records I reviewed when I did the three two-year study reviews or not. I do not recall at this time what records, specifically which records were available.

Q. What is a necrosis log?

A. I don't know what they mean by necrosis, or whether it's a necropsy log. It would be a record of animals that came to autopsy, necropsy.

Q. Is that a piece of information that a contract laboratory would, you would expect them to maintain as part of their files regarding the studies that they undertake?

A. I think it's a variable practice. Some might copy a separate necropsy log, some might put the necropsy notations on the sheet, the records for the individuals animals. I think there are different ways of doing it.

Q. But in any event, you'd expect there to be necropsy results in somebody's file in a contract lab performing the study?

A. There should be indication, yes.

Q. And you don't recall - -- Do you recall -- Let me ask this question. Do you recall every viewing a document entitled Histopathologic -- Excuse me. Histopathogistic Sheet regarding PCBs tested at IBT?

A. I have looked at endless pages of IBT documents. I cannot recall specifically which ones I looked at.

Q. Do you know whether the necropsy information regarding any of the PCB tests done at IBT showed that as much as seventy percent of the test animals did not survive the test?

A. I have no indication.

MR. BAUER: Objection to the form of the question.

A. I have no indication that there was seventy percent nonsurvivors.

Q. (By Mr. Bradley) Do you have any information that there were greater than fifty percent nonsurvivors for any of the IBT PCB tests?

A. I'm not aware of such information.

Q. Did you seek out that information?

A. I have indicated that I requested information for the review I was doing. I do not know at this time, do not recall, what other PCB information, or what other studies or what we may have requested of IBT.

Q. You and I spoke earlier this morning about the acronym TBD. Why don't you now tell us what you believe that acronym means?

A. My recollection is it means Too Badly Decomposed.

Q. What did that mean to you, Dr. Levinskas, when you saw that acronym on whatever documents you reviewed regarding IBT's testing of PCBs?

A. I can make a generalization on that statement, first, which I think --

MR. BRADLEY: Actually, what I want you to do is answer my question. If you're about to answer my question, that's fine.

A. It would mean the same on a PCB study or any

other study.

Q. (By Mr. Bradley) Which is what?

A. Animals have their own attitudes about dying quick. Frequently, they will die on a long weekend or overnight, and when they're noticed the following morning by an attendant, they may be too badly decomposed for a meaningful autopsy. It happens on many studies in many laboratories.

Q. And if you saw an indication that, let's say up to fifty percent of the test animals relative to any particular product had TBD written next to some form of necropsy results, would that suggest anything to you, Dr. Levinskas?

MR. BAUER: Object to the form of the question.

A. If I saw a notation like TBD on anything approaching fifty percent of a study, I would waste no more time looking at that study.

Q. (By Mr. Bradley) And why is that?

A. Because I don't think there's enough meaningful information left to draw any conclusions.

Q. Do you know whether -- Have you ever heard of a gentleman by the name of Phillip S. Smith.

A. I can't say it rings a bell. Smith is a common name and I don't specifically recall a Phillip

Smith.

Q. Do you recall a person named Phillip S. Smith who worked at IBT Laboratory between 1971 and 1977, or thereabouts?

A. I may have met him at IBT but I don't recall that I had any particular association or frequent contact with him.

Q. Have you ever read anything or heard anything that would indicate to you that doctor - or excuse me, Mr. Smith reported that approximately seventy percent or more of the animals that died during the Monsanto Aroclor study were reported in the histopath log sheet as too badly decomposed?

MR. BAUER: Object to the form of the question.

A. I think I've indicated that I have no indication that that sort of thing happened. If I saw notations, as I indicated earlier, as much as approaching fifty percent, I would not waste my time looking further in that study.

Q. (By Mr. Bradley) In your review of the Aroclor studies -- Aroclor is another word for PCB; is that correct?

A. That's correct.

Q. In your review of the Aroclor studies in

'80/'81, Doctor, did you make any effort to determine the survivability of the animals that were part of those studies?

A. I can't recall specific steps that I took but yes, I did make an effort to see what number of animals had been started and how many came to the term of the study.

Q. And as you sit here today, can you tell us what you learned about the survivability rate of the animals that were part of your '80/'81 review?

A. I could not give you anything in terms of specific numbers without looking at the reports. My recollection is that I tried to footnote in several tables, and I did, which animals I indicated had been on test less than two years, those for which I could not have a liver section or something. So I would indicate the extent of the available data and the gaps or holes that existed in the data from the records I had to work with.

Q. In addition to your visiting the IBT labs, do you know whether Dr. Hunt visited those labs?

A. My recollection is that he went up there about once a month in the time that I was with, both he and I were at Monsanto.

Q. And do you know whether Dr. Sharph visited the IBT labs?

A. That would be Dr. Sharph. Lou Sharph was in

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our, at that time, I think detergent phosphates division. He was not in my group. I met him somewhat after I came to Monsanto. I would have no knowledge of his visits to IBT. I have no knowledge.

Q. How about Dr. Elmer Wheeler? Do you know whether he ever visited the IBT labs?

A. Elmer Wheeler, as I indicated earlier, was my immediate supervisor when I first came to Monsanto and yes, he was there with me perhaps one or two times I went and I'm sure he was there on other occasions.

Q. Did any of those people that I've indicated to you ever express any concerns to you regarding the conditions at the IBT labs?

A. No.

Q. Did any of them ever comment to you regarding the smell in the rooms?

A. No.

Q. Did anyone ever comment to you any concern regarding the cleanliness of the rooms?

A. No.

Q. Do you know whether your request to review draft reports from IBT resulted in your receiving special treatment, different from other customers of IBT?

A. I have no knowledge.

Q. Did you provide testimony in the, in any

proceeding that you validated the IBT Aroclor studies and found them to be proper and valid?

MR. BAUER: Object to the form of the question.

A. First, I think I've indicated, I have never testified with respect to the IBT studies. I don't think I called them proper and valid. I said I felt they were adequate and they contained useful information.

Q. (By Mr. Bradley) Did you ever provide testimony regarding the IBT Aroclor studies?

A. No. Not that I recall having testified. I don't recall having testified on the Aroclor IBT studies.

Q. And did you write a report validating the IBT Aroclor studies?

A. I wrote a report summarizing the IBT Aroclor studies. Prior to writing that report, as I have indicated earlier, I attempted to reassure myself, based on the limited records available, that rats had been placed on study, that they had been fed diets containing Aroclor, that they had spent reasonable approximations of time on the study and that there were records describing the observed liver pathology.

Q. In the work that you did in '80 and '81, was your attempt to either validate or invalidate the IBT Aroclor studies, is that what you were doing?

A. That was not a primary purpose, no. Not even a secondary purpose. That was not the purpose.

Q. And you view your work that you did in '80/'81 as having validated the IBT Aroclor study?

A. No. I never claimed to validate the IBT studies. I was writing a review article, trying to review all available information on the carcinogenicity of PCBs. Monsanto had three rather lengthy reports, two year rat feeding studies on three different Aroclor products. We had the subsequent additional liver sections which had been reviewed by various people. There was no -- It was information that I wanted to look at to see whether it might be useful or meaningful. So to have a convenient means of referring to it without the numerous documents involved, I wrote essentially a summary of liver effects of those three PCB studies. Prior to writing that summary that I could reference then as a ~~similar~~ single document, I wanted to have some assurance that if I were going to quote those data, that there was some reliability to them. So I undertook a limited verification of the data. Not what I would consider a validation of all aspects of the study. Primarily because we did not have adequate records to go through every facet that would constitute what I term a validation such as we were doing for regulatory agencies.

Q. What records were you missing that were

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necessary for you to have conducted an adequate validation of those IBT studies?

A. At this stage, I can't recall.

Q. And as part of your limited verification, did you conduct any investigation as to the housing of the rodents that were part of those studies?

A. The answer would be no, because IBT was no longer an existing laboratory. All I could do is work with the paper trail, the documentation I had available.

Q. Dr. Levinskas, couldn't you have called up some of the former employees and simply asked them about those conditions?

A. Insofar as possible, I called former employees and asked them if they knew of records, or where we might find them. Now, if you're going to raise questions about the credibility or reliability or validity of things that IBT people were doing, then I don't see that asking them for their opinions is really helping me any. Unless I have documentation that I can rely on, I don't think that verbal responses are useful in a situation such as this.

Q. Do you contact -- Or excuse me. Did you make any investigation regarding the feeding of the rodents as part of your limited verification of the IBT PCB studies?

A. I think I tried to summarize in the report the extent of the records I looked at, and I, without having

refreshed my memory and looked at that, I believe there were records indicating that diets had been prepared, and the records of concentrations, and I had records of food consumption by these animals. That's my general recollection, but I have not looked at the material that was involved, but I did make a reference to the nature and scope of material that I was relying on.

Q. As far as you know, does Monsanto Company still have the file that it obtained, or you obtained, when you conducted your limited verification of the IBT PCB studies in '80 or '81?

A. Shortly after the questions on IBT began, we formed a Quality Assurance Unit. They are the custodians. They were the primary interface for getting information from IBT, and they are still functioning today because under today's criteria, particularly good laboratory practice we are now doing, everybody is doing much more extensive checking of laboratories. Whether or not such records exist, one would have to check with the Quality Assurance Division. I do not have any knowledge of it, nor do I have copies of those records in my possession.

Q. As part of your limited verification in '80 -- Well, let me start all over again. Are you aware that any IBT employee, former IBT employee, has claimed under oath in court proceedings that the raw data for the IBT PCB

studies were sent to Monsanto?

MR. BAUER: Object to the form of the question.

A. Well, I know we obtained some data we have been talking about, that I used in an attempt to check on the IBT two-year rat feeding studies. Now, that statement is not inconsistent with it, but I have no knowledge of the statement, I have no knowledge of who made it, nor do I have any idea when it was made or even whether it relates to the information that we obtained from IBT.

Q. And have you ever received any information that a former IBT employee indicated that raw data was sent to Monsanto showing that seventy percent of the rats in at least one IBT PCB study did not survive, that they received the TBD acronym?

MR. BAUER: Object to the form of the question.

A. I'm not aware of that statement or that Monsanto received such information.

Q. I'm going to now show you Plaintiff's Exhibit 715 and ask you to review that for me, please.

A. Okay. Yes. This appears to be a copy of the report that I prepared in 1981 after reviewing the three Aroclor studies.

Q. Does that appear the be a true and accurate

copy that you prepared?

A. Yes.

Q. Is this a report that you prepared on or about the time you completed your studies?

A. Yes.

Q. Was it your practice the maintain that kind of information as part of your work at Monsanto?

A. When you say --

Q. The report. Maintain it in a file?

A. It would have been in the medical department file. I would not have kept a copy.

Q. And did Monsanto maintain that report as part of its regularly conducted business, as far as you know?

A. I do not know what they did.

Q. But --

A. It was available. I just don't know what use was made of it but it was available, yes.

Q. All right. I'm now going to show you Plaintiff's Exhibit 704 and ask you to review that document.

A. This, Plaintiff's Exhibit 704, is a copy of the report that I put together reviewing the available carcinogenic studies in rodents on PCBs.

Q. And is it a true and accurate copy of the report you prepared?

A. I presume it is.

Q. And did you prepare the report at or about the time you completed your review?

A. It was for this report that I did the IBT studies.

Q. You prepared Plaintiff's Exhibit 704 at or about the time that you gathered the information that's contained in that?

A. Yes. Somewhat after I gathered the information.

Q. And did you maintain -- Excuse me. Did the medical department maintain a copy of this in its files?

A. Yes.

Q. And it was the regular practice of Monsanto to maintain these kinds of reviews in the medical department files; isn't that true?

A. We would have kept a copy in the medical department files because it originated in the medical department.

Q. All right.

A. Its availability would be made known to others in the company.

Q. All right. Now, I'm going to show you Plaintiff's Exhibit 664 and ask you to review that.

MR. BAUER: What's the number?

MR. BRADLEY: 664.

A. This appears to be a report prepared by Dr. Parvis Pour, who, at that time was at the Eppley Institute for Cancer Research in Omaha, Nebraska. Had been retained by Monsanto at the suggestion of a renowned cancer researcher, Dr. Phillip Schubeck, to review all of the liver slides from Monsanto's three studies on Aroclors and a study done on female rats by Dr. Kimbrough from the Centers for Disease Control.

Q. And have you seen that document before today?

A. Yes.

Q. Does that appear to be a true and accurate copy of the report that that doctor prepared?

A. Yes.

Q. And is -- Do you know whether that was, that report was prepared on or about the time that the author of it obtained the information that's contained in the report?

MR. BAUER: Object to the form of the question.

A. The report is based on Dr. Pour's going down to the Centers for Disease Control and looking at the slides that Dr. Kimbrough had prepared from her study.

Q. (By Mr. Bradley) All right.

A. I presume it was done reasonably close to the time he looked at the slides. I regret to note at this

time, it is not dated and I don't recall specifically what time it was, in terms of calendar time, but it probably was in the '75 interval. Somewhat along the time that we're talking about, the time frame of Exhibits 352, 354.

Q. And would Monsanto's medical department have maintained a copy of this in its file as part of its regularly conducted business activity?

A. Yes.

Q. Okay. I'm now going to show you Plaintiff's Exhibit 517 and ask you to review that.

A. This appears to be a copy of a document entitled "Polychlorinated Biphenyls, PCBs," and in the lower right-hand corner has the word "Monsanto." It appears to be a copy of a booklet that Monsanto prepared dealing with PCBs in general.

Q. Have you seen that document before today's date?

A. Yes.

Q. Does that appear to be a true and accurate copy of the document you've reviewed before?

A. It appears to be.

MR. MORGAN: What's the number?

Q. (By Mr. Bradley) Do you know why that document was prepared?

A. No.

Q. Do you know roughly when it was prepared?
A. No.
Q. Do you know if it was prepared based upon the state of information that was then available regarding the topic that's discussed in the document?
A. I could assume it was on the available information. I don't know when it was prepared, who prepared it or what the rational was for it.
Q. And was this document kept within Monsanto's medical department as part of its regularly conducted business?
A. After I became aware of a document, we had a copy in the medical department. I can say that.
Q. All right. I'm now going to show you Plaintiff's Exhibit 516 and ask you to review that.
A. A quick checking would suggest that this, Plaintiff's Exhibit 516, is comparable, if not actually a copy, of the Exhibit 517.
Q. All right. Would you now examine Plaintiff's Exhibit 2735 for me.
A. I do not recall having seen your Exhibit 2735 before.
Q. All right.
A. If you wish, I will read it but it is rather extensive, but I have -- This is my first knowledge of

this document.

Q. Then I'd ask you to review Plaintiff's Exhibit 2794.

A. 2794 appears to be a copy of a report prepared by Dr. Parvis Pour - P-a-r-v-i-s, P-o-u-r, Parvis Pour - who, at that time, was at the ~~Eckland~~ Eppley Institute of Cancer and is essentially a parallel report to Plaintiff's Exhibit 664. 664 is Dr. Pour's description of his observations on the tissues from Dr. Kimbrough's ~~studio~~ study on Aroclor 1260. Exhibit 2794 is Dr. Pour's review of the liver sections that were the subject of Exhibits 352 and 354, the liver sections in those reports, his review of those sections.

Q. Does that appear to be a true and accurate -- Well, have you seen that document before today's date?

A. Yes.

Q. Does Exhibit 2794 appear to be a true and accurate copy of the document that you reviewed on a prior occasion?

A. Yes.

Q. And was this document maintained in Monsanto's medical department files as part of its regularly conducted business?

A. Yes. Along with the other documents.

Q. I'm now showing you plaintiff's Exhibit 1218 and ask you to review that. Have you seen that document

before today's date?

A. Yes.

Q. Is that -- What is the document?

A. Well, it's several typewritten pages which, towards the end is the typed signature of "J.C. Calandra, Ph.D., M.D." and is dated June 27, '75.

Q. Have you seen that document before today's date?

A. Yes.

Q. Does it appear to be a true and accurate copy of the document you saw before today's date?

A. So far as I can recall on a quick reading, I'd say yes.

Q. And do you know whether Dr. Calandra prepared this report on or about the time that he received the information that is contained in the report?

A. I don't know when it was prepared. I would have no knowledge.

Q. All right. Do you recall when it was that you received this report?

A. I do not. I'm not sure it was addressed to me. It's not addressed to anyone.

Q. Is this a document that was maintained in Monsanto's medical department record as part of Monsanto's regularly conducted business?

A. I saw copies of it through Monsanto people but I don't know whether it's in the medical department files or not.

Q. All right. I'm now going to show you Plaintiff's Exhibit 324 and ask you to review that. Have you finished your review that have document?

A. Yes.

Q. Have you seen that document before today's date?

A. This is a letter addressed to me on Environmental Protection Agency stationery, a Dr. Renate Kimbrough, and yes, I did receive that.

Q. Is that Exhibit a true and accurate copy of the letter with its attachment that you received from Dr. Kimbrough?

A. Except for the added stamps and numbering on it, it appears to be the original, copy of the original.

Q. Did you maintain a copy of that letter and its attachment within the files of Monsanto as part of Monsanto's regularly conducted business?

A. Right-hand corner has the pencilled letters "PCBs," which I would acknowledge is mine, and it is my intent that this be put in the PCB file. I assume it was done so.

Q. And does that letter appear to have been

written at or about the time that Dr. Renate Kimbrough received the attachment to that letter?

A. Well, she is sending me a letter, attached to which is a literature report dated 1966. Now, I do not know whether she had this in her files for five years or whether she just got it and sent it to me. I cannot answer that.

Q. May I see the Exhibit? Okay. I'm now going to show you Plaintiff's Exhibit 418 and ask you to review that.

MR. BAUER: Do you have a question?

MR. BRADLEY: I'm sorry.

Q. (By Mr. Bradley) Have you completed your review of that?

A. I've looked at it.

Q. Have you seen that document before today's date?

A. Not that I recall.

Q. All right.

A. I might add that it's dated February 16th, 1970, which predates my joining Monsanto. I do not recall having seen this before.

Q. All right. I'm now going to show you Plaintiff's Exhibit 656 and ask if this is the report that was prepared and referenced in Plaintiff's Exhibit 352 and

354-A?

MR. MORGAN: What was the number on that?

MR. BRADLEY: 656.

MR. MORGAN: Thank you.

MR. BAUER: Object to the form because the Exhibit also has three reports. I take it you're talking about one of the three reports? You said "the report" in your question.

MR. BRADLEY: Let me rephrase it then.

Q. (By Mr. Bradley) Does plaintiff's 656 have any relevance at all to Plaintiff's Exhibit 354-A?

A. It is one of the three reports discussed in Exhibit 352.

Q. All right. Is it the report that contains the recommended change that is contained in 352?

A. This is one of the reports that IBT made the change, "Does not appear carcinogenic." It is not the report I requested the change.

Q. How can you tell that?

A. Because the changes they made were, leaving out the question I had about the numbering system, cover pages on the reports, they had indicated that Aroclors 1242 and 1260 had the conclusion "did not appear carcinogenic." Aroclor 1242 and 1260 is where I raised the question that the cover pages may have been interchanged. In any event,

this is Aroclor 1260. So whether it was correct or interchanged, it was one of the two subjects, the two studies, that they had used the phraseology "Does not appear carcinogenic." Whichever one it was, it was one of those two.

MR. BAUER: Mr. Bradley, if you're finished with this document, I need to make a telephone call, one to Mr. Featherstone, that relates to our 30(b)(6) deposition.

MR. BRADLEY: All right.

MR. BAUER: I hate to do this but can you guys go while we make the call?

MR. BRADLEY: Sure.

MR. BAUER: I still need a copy of the notice for me to participate in the call.

MR. BRADLEY: Let's see. What did I do with it?

(Whereupon, a fifteen minute recess was taken.)

Q. (By Mr. Bradley) Doctor, I've handed you two exhibits. Let's start with Exhibit 673. Have you seen that document before?

A. I may have. I do not specifically recall at this time, but I may have.

Q. You don't recall ever seeing that before?

A. I said I may have looked at it. It does not strike me as to when or where, but I assume I may have seen

it.

Q. Would you then look at Exhibit 681 for me, please? Have you seen that document before today?

A. I would give the same answer. I probably did in the past. I don't specifically recall.

Q. All right. And I'm going the hand you Plaintiff's Exhibit 1137 and ask you to review this document. Have you seen that document before today?

A. Exhibit 1137, or a copy of it, yes, I have seen before today.

Q. All right. And is that a copy of a -- Well, actually, let's do it this way. Tell me what it is.

A. It's a recommendation that Dr. Wright be given an achievement award.

Q. And except for the fact information at the very top of that Exhibit, is the Exhibit a true and accurate copy of the document you saw - or excuse me, of the achievement award data sheet for Dr. Paul Wright?

A. I think I've said, except for the additional numbers, numbering system, it appears to be a copy of the achievement award that I prepared for Dr. Wright.

Q. Is that your signature at the bottom of the Exhibit?

A. Yes.

Q. May I see the Exhibit for a moment? I'm going

to ask you about part of the basis of the award, and in the second paragraph of it, it indicates "Dr. Wright's professional and personal characteristics have contributed significantly to Monsanto's image at EPA. He has shown unusual perseverance and dedication, frequently involving his own time, to review and interpret large volumes of data which he subsequently organized for presentation to EPA officials. Particularly noteworthy were his efforts on polychlorinated biphenyl (Aroclors) and chlorinated isocyanurates (ACL products). In the former instance, his excellent analysis and synthesis of widely scattered observations played a prominent role in forestalling EPA's promulgation of unrealistic regulations to limit discharges of polychlorinated biphenyls," and then it goes further, and I won't read it all. If your attorney wants to read the remainder of it into the record, he'll do so. I read that correctly, didn't I?

A. Yes.

Q. And this is dated -- Well, the date's difficult to read. Can you tell me the date there?

A. Mine's dated the 16th of July, 1976.

Q. And the award to Dr. Wright was a hundred dollars for the accomplishments that are listed in this particular exhibit?

A. I don't recall the amount.

Q. Would you review it and see if that refreshes your recollection? In the bottom right-hand corner.

A. I hate to read that into the record. That is the signature of Dr. Roush of our medical department and I still cannot decipher the numbers.

Q. All right.

A. I always have trouble deciphering his handwriting.

Q. Are you the person who created the text of 1137?

A. I believe I did. I certainly had a major hand in it.

Q. And in particular, what did this award reward Mr. Wright for regarding his prominent role in forestalling EPA's promulgation of unrealistic regulations to limit discharges of polychlorinated biphenyls?

A. As you know, in the legislative process, an agency proposes a regulation or action they wish to take, it's published in the Federal Register; it's open for comment, for people to submit remarks, information, objections, support, whatever they wish. Over the years, Monsanto had made available information at the request of regulatory agencies, information it had on polychlorinated biphenyls. It had been sent at different times to different parts, or different individuals within agencies,

and EPA was a relatively new agency. Information had been sent to it but no one was quite sure where it was. There was some concern that if the restrictions on PCB discharges were too great, it would be detrimental to the electric power industry, as well as to the country in general. So Dr. Wright took the effort to pull together information which we had, bundle it up, as it were, and send it to EPA. Now, I don't know exactly what he sent at this time. I don't recall. I dare say there probably was nothing much different, or significantly different from what had already been sent to the agencies, except that it was packaged in one location, so we'd be sure it would get to one set of hands for purposes of this regulation. Many other individuals, companies, I'm sure submitted comments, as well.

Q. I'm sorry. Were you finished?

A. "...by forestalling" means that no precipitous action - that he gave the agency information along with others that the agency could ~~debate~~ deliberate so when they came up with a promulgated regulation or rules, they would be on the basis of having considered all available information instead of a somewhat capricious action.

Q. And by forestalling regulation, it, in part, enabled Monsanto to maintain some profit with its Aroclor products?

MR. BAUER: Object to the form of the question. It doesn't say forestalling regulations. It talks about forestalling unrealistic regulations, but you can answer.

A. When I say "forestalling," that there was no precipitous action was taken by the agency.

MR. BRADLEY: I understand what you mean by "forestalling."

Q. (By Mr. Bradley) But the result of Dr. Wright's actions for which he got an award resulted in continued profits for Monsanto relative to their Aroclor products?

MR. BAUER: Objection. Lacks foundation.

A. I guess an objective answer would be that I doubt Dr. Wright's efforts alone resulted in that. There were undoubtedly many people commenting on PCBs. What I was acknowledging was Dr. Wright made an effort on behalf of Monsanto to project - as I have indicated, I said, "At a recent meeting in Creve Coeur, Glenn Schweitzer, head of the Office of Toxic Substances of EPA offered some interesting comments. He observed that Monsanto's toxicologists were held in high regard at EPA." In part, that regard was based on the fact that Schweitzer had visited us at Monsanto several times when he was appointed to that position as head of the Office of Toxic Substances.

We told him what we were doing, we told him about our efforts to deal with the environmental issues and the types of testing and concerns about the potential of products. We offered to cooperate with him in any way that he felt we could, and that is part of Schweitzer's impression of Monsanto toxicologists. Among the things involved in that was that when he or people from his office had inquiries, even though they may not be Monsanto related products, we made an effort to see if we could provide them with the information they requested. Now, I was involved, other people on my staff were involved and Dr. Wright was involved, and as you read into the report, his professional and personal characteristics, attempts to work with the regulatory agencies, is what gave us regard at the EPA and it's that composite that I was recognizing Paul, for his professionalism, his dedication in the field of toxicology. If there were secondary effects, those were not particularly considered by me and I would regard them as bonuses, if you will, but this was recognition of Paul as an individual.

MR. BRADLEY: Would you read my question back?

(Whereupon, the reporter propounded the previous question.)

MR. BRADLEY: I move to strike the answer as nonresponsive.

Q. (By Mr. Bradley) One of the many results of

Dr. Wright's ability to forestall unrealistic regulations, or regulations, was that Monsanto was still able to sell its Aroclor products; is that correct?

A. I do not know that. It may be, but I have no knowledge. I could make inferences but I have no knowledge of that.

Q. And in the first paragraph of the Exhibit, it indicates that Monsanto's -- Excuse me. "Glenn Schweitzer, head of the Office Of Toxic Substances of EPA, observed that Monsanto's toxicologists were held in high regard at EPA." Did you -- Was it your understanding that that high regard included Dr. Paul Wright?

A. Since all of my staff in toxicology at the time of Schweitzer's visits met with him and they, in one connection or another, virtually all of them had contact with Schweitzer or his office subsequently, I would say it included everybody on my staff and at that time, Paul Wright was on my staff, so yes.

Q. And that's the same Paul Wright who was subsequently indicted and convicted of fraud and falsifying information that he generated as part of his work at Industrial BIO-TEST Laboratories?

A. That's correct.

MR. BRADLEY: Let's go off the record for a moment.

(Whereupon, a five minute recess was taken.)

Q. (By Mr. Bradley) Is it true that you did the review of the Aroclor studies in '80/'81 because the Government required all of IBT's clients to audit and verify the validity of - excuse me, that it required Monsanto to audit and verify the validity of the Aroclr tests?

A. Insofar as I know, we never received a request from any agency to audit or validate PCB studies.

Q. And do you know whether the Government required Monsanto to obtain the raw data for the PCB studies conducted at IBT and to resubmit information regarding the subject matter of those tests to the Government?

A. The Government was sent some of the sections, the liver microscope slides. I don't know -- It may have been at the Government's request, I don't know exactly. Insofar as I know, we have never received -- And those slides were sent to the Government, the liver slides, as well as possibly other slides of other tissues. As far as I know, we have never had a comment from the Government on what they thought of those slides. We have never had a request from the Government with respect to additional work on PCBs, nor have we had any request that we attempt to audit or resubmit raw data or anything else with respect to

the PCB studies.

Q. To your knowledge, was Monsanto ever under investigation by the United States Government for committing a crime relative to work performed by Industrial BIO-TEST Laboratories?

A. I have no knowledge whether Monsanto was or was not under investigation.

Q. Do you have any knowledge whether the Government spoke with anyone at Monsanto regarding, or excuse me, as part of the criminal investigation of Dr. Wright, Dr. Calandra and Dr. Keplinger, regarding the PCB studies conducted at IBT?

A. I have no knowledge of whether the Government did or did not speak to people at Monsanto. I did indicate earlier that I did talk to a Federal attorney in Chicago. That's the only knowledge I have.

Q. On the data that you reviewed as part of your work in '80 and '81, do you recall whether you reviewed initial and final body weights of animals?

A. I to not recall the specific nature. In the review, I did indicate, I think I put a footnote indicating the scope of my review and what I had available to work with. I don't recall specifically what I looked at at this time.

Q. In preparing for today's deposition, did you

review any documents written by any toxicologists - let me narrow it - written by anyone at Monsanto to anyone at IBT where Monsanto requested wording changes in any portions of reports regarding IBT tests on PCBs?

A. We looked at memos we have discussed, I made such requests. I do not recall looking at requests made by other people addressed to IBT.

Q. Did you make more than one request that's contained in the one exhibit that we've examined here, today?

A. I may have made other requests of IBT. I'm not sure they were specific to PCBs, but I have done it more than once.

Q. And Dr. Paul Wright also made requests to IBT to change the wording of some of their test results - or excuse me - change the wording of some of their reports regarding the products they were testing for Monsanto; isn't that true?

A. He may --

MR. BAUER: Objection. Asked and answered.

THE WITNESS: Beg your pardon?

MR. BAUER: I said objection, asked and answered. Go ahead and answer.

A. He may have. I can't recall specifically.

Q. (By Mr. Bradley) Do you know whether any

other toxicologist at Monsanto requested any wording changes in any of the reports prepared by IBT regarding Monsanto products?

A. I think I've indicated earlier that as part of the training of the younger toxicologists that we hired, my tutorials with them, I would point out to them if they see a statement that they don't feel is properly supported by the data, or if they have altered explanations or information that bears on the point, that they should feel free - not only feel free, but they are obligated as professionals - to raise that point for discussion with IBT. So indoctrinating, if you will, my junior staff to be skeptical and raise questions, I would be surprise if there were not instances of their questioning the reports.

Q. I understand they were trained to question results. My question was, are you aware of any other toxicologist who made specific requests for wording changes in reports regarding IBT testing of Monsanto products?

A. I can't answer the question because I cannot recall specific instances.

Q. Okay. Were you ever aware of -- I'll withdraw the question. Are you familiar with a study of PCBs referred to as Study Number B-7298?

A. I couldn't identify it by that number.

MR. BRADLEY: Okay. Off the record.

(Whereupon, a conversation was held between Counsel, off the record.)

Q. (By Mr. Bradley) When you requested data for files regarding the IBT studies on PCBs that resulted in your '80/'81 review, to whom did you make a request to provide you with documents involved in those studies?

A. At this time I can't recall specifically. My recollection is there was a Miss Bonnahume, something similar to that, who was our contact and who had custody or had access to the IBT records in Chicago and I believe it was to her that the inquiry was made.

Q. Would you spell her name?

A. I was afraid of that. Probably B-o-n-n-a-h-u-m-e. I'm sure -- It may be in our files or it would be in the Quality Assurance record.

Q. And was this person, when you made the request to her, a Monsanto employee?

A. No.

Q. Was she an IBT employee?

A. I assumed she had been an IBT employee.

Q. At the time you made the request -- I'm sorry. Were you done?

A. No. I was going to try to put a picture around it.

Q. Okay.

A. Following the letter that I made reference to, FDA asking ~~for~~ identify studies, somewhere about that time we began requesting raw data from IBT for specific studies that we wanted to validate. Other clients from other companies and whatnot were apparently making similar requests, so IBT indicated that it could not field all of these requests as rapidly as they wanted to, so we would then make written requests instead of just telephone requests and come up -- Initially, we called up and they produced documents and we copied them ourselves and brought them back to St. Louis. So then they got a little more increased tempo, and then I think FDA basically sealed the records and everything was off and that's when we started dealing then with the specific individuals like Miss Bonnahume, and I believe she was a former IBT employee who had familiarity with the information, but she was our contact and we did not make any visits. We did not go up or make requests as we had done before.

Q. All right. At the time you made the request to Miss Bonnahume, do you know whether any of the IBT files were in the possession of the United States Government as part of their criminal investigation of Paul Wright and others?

A. I've given you a summary of my understanding. I do not know whether she was a Government employee. I

didn't think she was a Government employee. I didn't know what the situation was at IBT or who had custody of those records or how it was being conducted.

Q. And if you were going to try and find Miss. Bonnahume, how would you go about it?

THE WITNESS: You mean today?

MR. BRADLEY: Yes.

A. Well, I would check the records to be sure I got her name straight, and I'm not sure. I would contact Mr. Kean and trace through missing persons or something. I have no idea how to pursue that.

Q. Did Dr. Wright ever indicate to you that he falsified data while he was an IBT employee?

A. No.

Q. Did you ever hear anyone indicate that Paul Wright had told them that Paul Wright had falsified data while at IBT?

A. No one has said that to me.

Q. Has anyone indicated to you that Paul Wright told them that Paul Wright falsified any information - whether it's data, conclusions, whatever - regarding IBT studies of PCBs?

A. No one has ever said anything to me about Paul Wright being involved in falsification of data.

Q. When you visited the IBT facilities on those

four or five occasions, did you ever see any animals loose and not in cages?

A. No.

Q. Did you ever see cages with what you considered to be too many animals in them?

A. I do not recall having seen such.

Q. Did you ever see cages where animals were oozing through the bottom?

A. No.

Q. Was there ever an occasion when you felt that the temperature in the rooms housing the animals was not appropriate?

A. No such thoughts occurred do me. I had no impression of that.

Q. Was there ever an occasion when you felt that the humidity in the rooms housing the animals was not appropriate?

A. No.

Q. Why did Monsanto hire IBT to conduct tests on PCB products, if you know?

A. I do not know why they did.

Q. Did Monsanto ever learn that there were inaccuracies in any reports of the tests conducted by IBT on PCBs?

A. I don't know what, quote, Monsanto knew. I

can only go back to say that when I looked, attempted to look at the documentation on PCB studies, the extent of the information I had to look at and the findings from that review are annotated or footnoted in the review I wrote in 1981. That's the only knowledge I have. Where I saw some differences between what was in the reports and what might be in the records, between the records and the reports from IBT, are noted in that report that I put together.

Q. Let's locate the report that you wrote and the footnote you're referring to. Would you do that for me, please?

A. One of the footnotes on the report

MR. BAUER: You need to identify the Exhibit Number first.

A. Exhibit Number 710.

Q. (By Mr. Bradley) You don't need to read it. Just point out to me which of the notes it is.

A. Footnote Six.

Q. Would you hand that to me, please? This footnote indicates that you reviewed necropsy reports. Are those the same -- Well, let me rephrase it. Would the necropsy reports that you referenced in footnote six to Plaintiff's Exhibit 710 have indicated the date and cause of death of the test animals?

A. They -- I'm presuming at this time. I've not

looked at them since then. I would answer yes, it would have animal number and a date of death and a date of autopsy.

Q. And if the animals had been too badly decomposed, you would expect that to have been notated on the necropsy report?

MR. BAUER: Object to the form of the question.

A. I'm trying to think back a dozen years and I really can't. Since I've looked at many records, I really can't be very specific in my recollection. I would have to go back and look at some of those records to see what they were. Looking at note 9, "As a result of examination described in footnote six, new animals were reassigned to other dose levels on the basis of assigned numbers." So I tried to summarize the information that I had, and where I found what appeared to be discrepancies, differences, I noted those so that when I summarized the information for another reviewer, I would have presented the blemishes, if you will, on the study along with the information that was there.

Q. You indicate in footnote six that the review, I'm looking at the third sentence, I believe, "The review showed the data bases, including a lack of protocol, were insufficient for a complete validation of the study."

Correct?

A. Yes.

Q. What data bases were insufficient, other than the lack of a protocol, that made a complete validation of the study impossible?

MR. BAUER: Objection. Asked and answered. You may answer again, Dr. Levinskas.

A. I guess for one thing, in the request for validation of data submitted to agencies, they wanted to know a protocol and a fairly consistent finding, and it was consistent with practice - I did it and others do it - people would not write specific protocols for a study before it started. They will say "We will do it like the last study of this nature." So many of these studies were lacking protocol and therefore, I make the specific reference to protocol. I think it's probably easier to answer the question by taking the opposite side and saying that with the exception of what I say I looked at, there wasn't much else that was available. So that when you ask what was missing for validation, I would say substantially most of the things, such as the clinical chemistry that might have been done on the animals, the hematology, all of which would have little, if any, bearing on the question of the carcinogenicity of the compounds.

Q. Okay. Help me for a moment. I asked you when

Monsanto first gained knowledge of inaccuracies in the reports of the tests conducted by IBT on PCBs, and you indicated that you couldn't speak for Monsanto but that you became aware of what's indicated in footnote six when you did your review in '80/'81; is that correct?

A. When I did the review in '80/'81 is the first time we went back and looked at the raw data that's been used and as I have said, the inaccuracy which I have noted in the numbering systems and so forth. That is the first knowledge I had of differences between what had been said and what we are talking about.

Q. Up through 1976, were any documents generated that you are aware of within Monsanto that were critical of the conditions at IBT?

A. I am not aware of any documents Monsanto has generated criticizing IBT.

Q. Are you aware of any documents created by others than Monsanto criticizing the conditions at IBT prior to 1977?

A. Insofar as I could tell, many other companies -- Several of the Federal regulatory agencies were using IBT as a contract laboratory. I have no basis, no reason to question them, and I did not hear any criticism of their ability or capability or integrity.

Q. Did you have any discussions of proposed

experiments and experiments actually conducted by IBT concerning PCB compounds with any IBT employees, other than what you've already testified to?

MR. BAUER: Can I hear that back?

(Whereupon, the reporter propounded the previous question.)

MR. BAUER: Okay.

A. I would say no, I'm not aware of any. We may have discussed it, the same subject, more than once but I don't recall any other particular discussions.

Q. (By Mr. Bradley) Was there ever a time following completion of your review in 1980/'81 of the prior IBT studies on PCBs where you wrote a document intended for review by a Governmental agency that did not indicate the information contained in footnote six of Plaintiff's Exhibit 710?

A. Footnote Six is my footnote. I do not recall preparing a summary in addition to these reports that I was aware was intended to be included in a Government submission.

Q. Other than a summary, did you prepare any document intended for review by a Governmental agency regarding the subject matter of the toxicity of PCBs that did not indicate that you had discovered inaccuracies in the prior IBT PCB studies?

A. I think it's a rather cognitive question. I

think my answer is after I wrote the 1981 review, I do not recall writing anything on PCBs that was intended for submission to a Government agency.

MR. BRADLEY: I have nothing further.

MR. BAUER: Sign.

George J. Levinskas

GEORGE J. LEVINSKAS

Subscribed and sworn to before me this 25th day of February, A.D., 1994.

Josephine S. Niblock

Notary Public

Notary Public within and for the State of Missouri.

MY COMMISSION EXPIRES THE 15th DAY OF January, A.D., 1995.

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

STLCOPCB4028022

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

I, John T. Concannon, a Notary Public within and for the State of Missouri, duly commissioned, qualified and authorized to administer oaths and to take and certify to depositions, do hereby certify that pursuant to Notice in the civil cause now pending and undetermined in the District Court of the United States, within and for the District of Nevada, entitled NEVADA POWER COMPANY, Plaintiff, -vs- MONSANTO COMPANY, etc., et al., Defendants, to be used in the trial of said cause in said Court, I was attended at the law offices of Messrs. Husch & Eppenberger, 100 North Broadway, in the City of St. Louis, State of Missouri, by Ralph A. Bradley, attorney for the Plaintiff; by Scott Bauer, attorney for the Defendant, Monsanto,; by Robert P. Morgan, attorney for the Defendant, Westinghouse; and by GEORGE J. LEVINSKAS, the witness, in said office on July 14, 1993.

The said witness, GEORGE J. LEVINSKAS, being of sound mind and being by me first carefully examined and duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in the case aforesaid, thereupon testified as is shown in the foregoing transcript, said testimony being by me reported in shorthand and caused to be transcribed into typewriting,

and that the foregoing pages correctly set out the testimony of the aforementioned witness, GEORGE J. LEVINSKAS, together with the questions propounded by counsel and the remarks and objections of counsel thereto, and is in all respects a full, true and complete transcript of the questions propounded to and the answers given by said witness; and that said testimony, so transcribed, was subscribed to by the witness on the _____ day of _____, A. D., 1993.

I FURTHER CERTIFY that I am not of counsel nor attorney for any of the parties to said suit, nor related, nor interested in any of the parties or their attorneys.

I FURTHER CERTIFY that Plaintiff Deposition Exhibits marked for identification are the identical exhibits referred to and identified by the witness in the foregoing deposition.

WITNESS MY HAND and Notarial Seal, given this 23rd day of September, A. D., 1993, at St. Louis, Missouri.

MY COMMISSION EXPIRES SEPTEMBER 12, 1994

_____

JOHN T. CONCANNON,
Notary Public, within and
for the State of Missouri

September 24, 1993

Dr. George J. Levinskas
526 Fairways Circle
Creve Coeur, Missouri 63141

Re: Nevada Power -v-
Monsanto, et al.

Dear Dr. Levinskas:

This letter, incorporated as the last page of your deposition, taken on July 14, 1993, will serve as notice to you that your testimony is now ready for your reading and signing of same. You will recall your attorney, Mr. Bauer, indicated a preference for you reading your deposition, rather than waiving signature.

Mr. Bauer or his office will be in contact with you in the near future to read and sign you deposition. If you have any questions, please contact him at his office.

Thank you for your cooperation in this regard.

Sincerely,

JOHN T. CONCANNON
Shorthand Reporter

Concannon & Jaeger
General Court Reporters
705 Olive Street - Ste. 604
St. Louis, Missouri 63101

JTC:md