

1 A It is.

2 Q Now, and what they said there with regard to
3 this, Mr. Hudnall, isn't this true, sir, what they said
4 there, "Mr. Hudnall complained vigorously about a
5 multiplicity of symptoms which included pains in the lower
6 extremities and hips, fatigue, loss of his teeth, which he
7 claimed was due to chloracne, poor appetite following work,
8 and a persistent cutaneous eruption. He talked continuously
9 throughout the examination and it was the unanimous
10 impression of the examining team that some of the
11 descriptions of symptoms were well-seasoned with
12 exaggeration." Isn't that what you all said at that time
13 with regard to Mr. Hudnall?

14 A That was a discreet way of putting it, sir.

15 Q Would you answer my question, please?

16 A Yes.

17 Q And Mr. Hudnall at that time was 63 years of age
18 and he had indeed developed severe eruption of his face,
19 trunk, and extremities, had he not, sir? On Page 12, Dr.
20 Suskind, isn't that the way his problems are described, his
21 eruption?

22 A That's how he described it, sir.

23 Q Isn't that, well, that's how your examining team
24 describes the complaints that he gave or the description that
25 he gave of his--

1 A Those are the complaints, sir, yes, sir.

2 Q And he was sent to a dermatologist and continued
3 under dermatologic therapy until February, 1953, did he not,
4 sir?

5 A That's true, sir.

6 Q But the fact this dermatologist thought that he
7 should be treated, would that support his complaints that he
8 had a severe eruption in '49, that he was being treated with
9 therapy until February of '53?

10 A Not necessarily, sir, no.

11 Q Doctor, would the fact, if the dermatologist was
12 treating it, he must have seen something there to treat or
13 else he would be taking money under false pretences.

14 A He was sent to the dermatologist because of his
15 chloracne, sir. It could have been mild, it could have been
16 moderate, it could have been severe.

17 Q Doctor, if he had a condition that existed and
18 required him getting therapy from a dermatologist for a
19 period of four years, you couldn't very well call that mild,
20 could you, sir?

21 A I hadn't seen him, so I can't tell you, sir.

22 Q Doctor, my question is, if he had required and
23 was being treated by a dermatologist with therapy for a
24 period of four years following the outbreak of his condition,
25 you couldn't very well call that mild, could you, sir?

1 A I don't know, sir.

2 Q Doctor, do you understand what I am asking you?

3 A Yes, I do indeed.

4 Q And Doctor, a dermatologist would not treat

5 something for four years if it were a mild eruption in 1949.

6 A Yes, they might.

7 Q They might?

8 A Sure.

9 Q A mild eruption could take four years to treat,

10 sir?

11 A Chloracne is not very responsive to treatment,

12 wasn't responsive to treatment in those years, sir, as I

13 pointed out in this report.

14 Q And Doctor, do you have any indication at all

15 that he exaggerated when he said it was a severe eruption on

16 his face that required this treatment for four years?

17 A On Page 13, there is a statement, some of the

18 descriptions of symptoms were well-seasoned with

19 exaggeration. Now, whether or not that pertained to his

20 acne, I don't have any idea.

21 Q Well, they could have been pertaining to the

22 complaint about the loss of teeth, couldn't it, Doctor?

23 A It could have.

24 Q Yes. And it could be that like the others who

25 got the pain in the lower extremities and hips and fatigue on

1 exertion, he could indeed have had those problems, couldn't
2 he, sir?

3 A He could have.

4 Q It would be consistent with what these others
5 had, wouldn't it, sir?

6 A It might be.

7 Q And if he had pains in his extremities and hips,
8 that would be consistent with what the others had as well in
9 1953, wouldn't it, sir?

10 A It could be.

11 Q Well, it could be. We have twenty-three--

12 A But it also could not be.

13 Q Excuse me, Dr. Suskind, if you let me finish the
14 question, please. He was one of the twenty-three that had
15 these complaints of pain in the hips and extremities, wasn't
16 he, sir?

17 A On your chart, I believe he is listed.

18 Q He is one of the twenty-three that you said had
19 these complaints of pain, that you interpret the record as
20 having pain.

21 A That's true, sir.

22 Q Sir?

23 A Yes.

24 Q Yes. And Doctor, your next one, Harold Young, is
25 he an exaggerater in your judgment, Doctor?

1 A No, sir.

2 Q According to the record here?

3 A His history, I believe, was accurate.

4 Q My question is, was he an exaggerater?

5 A No, sir, he was not an exaggerater.

6 Q J.A. Hurley, was he an exaggerater in your
7 judgment?

8 A No.

9 Q Now, Mr. Harold Young at the time, four years
10 after this exposure, he had aching in his legs and feet,
11 didn't he, sir?

12 A He did.

13 Q And that is an indication of nerve damage, isn't
14 it, sir?

15 A It might be.

16 Q Mr. J.A. Hurley also had pains in the hips and
17 thighs and involuntary twitching of muscles, the arms and
18 legs, this is again some four years after the exposure, that
19 would be an indication of nerve damage as well, could it not,
20 sir?

21 A Yes, but not only from the exposure, sir.

22 MR. CARR: Your Honor, would you instruct the
23 Jury to disregard that last statement?

24 THE COURT: The Jury is so instructed.

25 Q Doctor, is there anything in the report that you

1 have here that would suggest these findings were associated
2 with anything other than the exposure to these chemicals?

3 A Yes, sir.

4 Q What is that, sir?

5 A His age.

6 Q His age?

7 A Um hmm.

8 Q Doctor, you took a nerve biopsy of this man and
9 found that his nerve was destroyed?

10 A Um hmm.

11 Q Does nerve destruction come in a man that's sixty
12 years of age? Is that a part of the process of aging, the
13 myelin sheath and the nerve fibers are destroyed?

14 A If he had a disc--

15 Q Any indication that he had a disc here?

16 A We didn't examine him for that, sir.

17 Q Where do you find the nerve destruction if one
18 has a disc?

19 A Where do you find it?

20 Q Yes, where do you find the nerve destroyed?

21 A The peripheral nerve might be destroyed, might be
22 damaged.

23 Q Where is the site of destruction with a disc
24 problem of the nerve?

25 A The site of destruction is the peripheral nerve.

1 Q Where on the peripheral nerve is it destroyed,
2 Doctor?
3 A It could be the full length of the nerve.
4 Q Oh, Doctor, that's if it atrophies and goes away.
5 We are talking about nerve destruction that comes with a
6 ruptured disc. A ruptured disc, if it damages the nerve,
7 damages the nerve where the disc ruptures, does it not, sir?
8 A Not necessarily. It could impinge on the--
9 Q And, Doctor, that's where the nerve gets
10 destroyed, isn't it, sir?
11 A And osteoarthritis might do the same thing.
12 Q But again, it is osteoarthritis at the point of
13 impingement--
14 A And it could be bilateral.
15 Q And the nerve destruction takes place at the place
16 where the disc presses upon the nerve, rubs it, makes scars,
17 destroys it, isn't that correct, sir?
18 A That is true, sir.
19 Q It doesn't destroy the nerve down in the leg,
20 sir?
21 A Oh, yes, it does, sir.
22 Q By rubbing and destroying?
23 A Yes, sir.
24 Q Oh, Doctor, how can it rub and destroy the nerve
25 down in the leg--Doctor, let me finish my question, please,

1 sir.

2 A I thought you finished, sir.

3 Q The disc is in the back, is it not, sir?

4 A Again--

5 Q The disc is in the back?

6 A The disc is in the spine, sir.

7 Q Yes, which is part of the back, is it not, sir?

8 A Part of the spine and the nerve goes out through
9 the orifice.

10 Q Doctor, if you don't mind answering my questions,
11 please, sir, and wait until I ask them before you answer
12 them. The disc is between the vertebrae in the spine, part
13 of the back, isn't that correct, sir?

14 A That's true.

15 Q And when the disc ruptures, it protrudes out and
16 presses against the nerve?

17 A Right.

18 Q Presses against the nerve roots adjoining the
19 disc, isn't that correct, sir?

20 A True.

21 Q And it presses on that and sometimes if it is a
22 severe rupture, it will press and cause scarring on that
23 nerve root, won't it, sir?

24 A It will even cause atrophy.

25 Q Excuse me, Doctor. Could you answer that

1 question, please, sir?

2 A It causes scarring, among other things, yes.

3 Q And, Doctor, if it is there long enough that it
4 deprives that nerve of its functioning ability, it can indeed
5 cause an atrophy of that nerve which in fact will cause an
6 atrophy of the muscles indeed, isn't that correct, sir?

7 A That could be so.

8 Q Was there any evidence of any atrophy of the
9 nerve and the muscles on the part of Mr. Hurley to suggest a
10 disc disease?

11 A I don't believe that he had a--

12 Q Excuse me, could you answer that question,
13 please?

14 A The answer is no, but you don't have to have
15 atrophy of the muscle.

16 Q You have to have atrophy of the nerve, do you
17 not, sir?

18 A Any neurologist or orthopedic surgeon knows that
19 you do not have to have atrophy of the muscle.

20 Q Don't tell me what any orthopedist knows, because
21 I have examined many, many orthopedists. Please confine your
22 answers to your opinion and not what you think somebody else
23 might tell you. Now, Doctor, in this case, if you don't
24 mind, was there any mention--he was examined by a competent
25 neurologist, was he not, sir?

1 A He was.

2 Q Did the neurologist make any statement that he

3 had a ruptured disc?

4 A I don't believe that there is a neuropathology

5 statement in this report, but the report of the neurologists,

6 I believe, is not included here.

7 Q Doctor, we have the report of the

8 neuropathologist, and it is in evidence in the 1949,

9 connected with the 1949 examination, isn't it, sir?

10 A Right.

11 Q And he was seen by a neurologist and by

12 neuropathologists at that time, wasn't he, sir?

13 A The sections were read by a neuropathologist.

14 Q Excuse me, sir, could you answer my question,

15 please, sir?

16 A He was seen by a neurologist, but not by the

17 neuropathologist.

18 Q The neuropathologist examined his nerve tissue.

19 A I believe so, right.

20 Q Now, did the neurologist make any statement at

21 any time in 1949 or thereafter that his, the destruction of

22 this nerve tissue and of the myelin sheath was caused by a

23 disc problem?

24 A The neuropathologist didn't concern himself with

25 that, sir.

1 Q Doctor, my question was the neurologist--did the
2 neurologist make any statement anywhere in the report that the
3 destruction of the nerve fibers and the myelin sheath was
4 caused by a disc problem?

5 A There is no statement by the neurologist at all,
6 sir.

7 Q Then is the answer to my question that the
8 neurologist did not make any such finding?

9 A Well, the neurologist didn't report in here.

10 Q Now, Doctor, the neurologist did report based
11 upon his examination of Mr. Hurley, he found the things that
12 he discovered, did he not, sir? We have gone through this
13 before. He found the deep tendon reflexes were hyperactive
14 in both lower extremities; that he had a diminution to all
15 modalities, did he not, sir?

16 A He did.

17 Q And, Doctor, did he report at that time or any
18 other time that Mr. Hurley's problems were associated with a
19 ruptured disc or any other disc pathology?

20 A He did not so state, sir.

21 Q Did the neuropathologist make a report that he
22 found an atrophied nerve?

23 A He did.

24 Q Where did he make such a report, Doctor? Do you
25 have the exhibit with you, Doctor?

1 A What the neuropathologist said here, is that--
2 Q And, excuse me, Dootor, what I want you to do is
3 first find the report.
4 A I have the report in my hand, sir.
5 Q And where in the report, point it out to me,
6 please, sir, where he says the nerve is atrophied, direct me
7 to the paragraph.
8 A The loss of neurofibers as seen in some bundles
9 is atrophied, sir.
10 Q Did you read the word "atrophied" in there?
11 Where is the word "atrophy"? Point that out to me, would you
12 please, sir?
13 A It is a reflection of that--
14 Q Point out the word "atrophy" to me, Dr. Suskind.
15 A No, it doesn't say atrophy.
16 Q You read that in there?
17 A No, sir, that's what it means, sir. I am
18 answering as a physician who knows something about this. I'm
19 answering correctly, sir.
20 Q Did I ask you to tell me what it meant?
21 A I am telling you what it meant.
22 Q I know you are. But did I ask you to do that?
23 A That's my responsibility, sir.
24 Q Doctor, your responsibility is to answer the
25 questions that counsel give you and to follow the

1 instructions of the Court, it is not to tell me what
2 questions I should ask you. Now, what I asked you, Doctor?

3 A The word "atrophy" is not in here, sir.

4 Q No, Doctor. Now, point out to me, sir, the
5 section that you say means atrophy of the nerve. Could you
6 point it out to me, please, sir?

7 A "There appears to be a--"

8 Q Point it out to me, sir.

9 A I will read it, sir.

10 Q I want you to point it out to me.

11 A It is on the fourth line and below that.

12 Q It is the last sentence in the first paragraph,
13 is that right, sir?

14 A That is.

15 Q And Doctor, what it says is, "There appears to be
16 a diffuse loss of neurofibrils in many of the nerves and
17 those remaining show in many cases distortion, tortuosity,
18 and localized swelling," isn't that correct, sir?

19 A That's true, sir.

20 Q Now, Doctor, if a nerve atrophies, it diminishes
21 in size--

22 A It also--

23 Q Excuse me, could you answer that question,
24 please, sir? If a nerve atrophies, it diminishes in size,
25 doesn't it, sir?

1 A The fibrils are destroyed, sir.

2 Q Doctor, would you answer my question, please?

3 MR. CARR: Would you read the question to him

4 again?

5 (Previous question, "Now, Doctor, if

6 a nerve atrophies, it diminishes in

7 size, doesn't it, sir?" was read-

8 by the reporter.)

9 A Atrophy may mean diminished in size.

10 Q Now, Doctor, atrophy does mean, among other

11 things, diminishment in size, diminution in size?

12 A Yes.

13 Q There is no question that if something is

14 atrophied, it is also reduced in size?

15 A As you state it--

16 Q Could you answer that question?

17 A Yes, sir.

18 Q It is always reduced in size, isn't it, sir, if

19 it atrophied?

20 A The fibrils are reduced in size.

21 Q But they're there, aren't they, sir?

22 A They might not be.

23 Q No, they are there, but smaller, aren't they,

24 sir?

25 A No, sir.

1 Q Oh, Doctor, you just got through saying they're
2 reduced in size.

3 A Atrophy may mean disappearance of.

4 Q Doctor, you just got through saying reduced in
5 size, didn't you, sir?

6 A Among other things you said, and I agreed with
7 you.

8 Q No, you are the one that says reduced in size,
9 Doctor. Now, atrophy, the thing is there. In this case, the
10 neurofibrils were destroyed. There was a loss of
11 neurofibrils, wasn't there, sir?

12 A That is--

13 Q It doesn't say a loss in size, does it, sir?

14 A That is part of atrophy, sir.

15 Q Could you answer my question, please?

16 A Yes, sir, I am happy to do that.

17 Q It doesn't say the neurofibrils diminished in
18 size, it says there was a loss of neurofibrils.

19 A Which is characteristic of atrophy, yes.

20 MR. CARR: Your Honor, would you ask the witness
21 to answer my question and ask the Jury to disregard the
22 statement he made?

23 THE COURT: Please answer the question, and the
24 last remark, the Jury is ordered to disregard it.

25 A I am doing the best I can to answer it.

1 THE COURT: Doctor, answer it. The question is
2 clearly stated. Answer it.

3 Q Would you answer the question, please, sir?

4 A Would you repeat the question, sir?

5 (Previous question, "It doesn't say
6 neurofibrils diminished in size, it
7 says there was a loss of neurofibrils,"
8 was read by the reporter.)

9 A That is true, sir.

10 Q Yes, and Doctor, it goes on to say that those
11 remaining after discussing, after mentioning there was a
12 diffuse loss of neurofibrils, it goes on to say that those
13 remaining show in many cases distortion, does it not, sir?

14 A Yes.

15 Q Tortuosity?

16 A Yes.

17 Q And localized swelling, doesn't it, sir?

18 A Yes, sir.

19 Q Now, the nerve swells, it increases in size,
20 doesn't it, sir?

21 A Yes.

22 Q And if a nerve is atrophied, I think you said
23 earlier that it always is diminished in size, didn't you,
24 sir?

25 A Not always, sir.

1 Q Oh, Doctor, but I insist that you did say if it
2 is atrophied it is always diminished in size.

3 MR. HEINEMAN: Objection, your Honor, the record
4 speaks for itself.

5 MR. CARR: Indeed, it does.

6 THE COURT: The objection is overruled.

7 Q Did you not say that, sir?

8 A Atrophied means diminished in size.

9 Q Yes, Doctor, and a nerve, a neurofibril that is
10 swollen is not diminished in size.

11 Q Yes, Doctor, and a nerve, a neurofibril that is
12 swollen is not diminished in size, it is increased in size,
13 isn't it, sir?

14 A Yes.

15 Q Yes. Now, Doctor, have you stated anywhere that
16 this nerve destruction was a result of a disc injury?

17 A We have not, sir.

18 Q Have you ever said it even orally any place?

19 A We have considered it.

20 Q My question is, have you ever said it even orally
21 any place?

22 A You mean in public?

23 Q That this man's nerve destruction, myelin sheath
24 destruction was a result of disc injury.

25 A I don't believe so.

1 Q As a matter of fact, you have published in a
2 number of cases that it is the result of exposure to dioxin,
3 haven't you, sir?

4 A Yes, sir. No--okay, yes.

5 Q And you have told the world that the myelin
6 degeneration problem that he had and the nerve destruction
7 that he had was one of the human health effects of exposure
8 to TCDD, haven't you, sir?

9 A It might be, sir.

10 Q Now, Doctor, that's what you said, did you not,
11 in Monsanto's exhibit right here and in other exhibits?

12 A All that indicates--

13 Q Excuse me, Doctor, isn't that what you said in
14 exhibit--

15 A All it indicates is what is reported--

16 MR. CARR: Would you direct the witness to wait
17 until I've finished the question?

18 THE COURT: Doctor, I've asked you four times
19 this afternoon, you are supposed to wait until the attorneys
20 finish the question before you answer.

21 THE WITNESS: Yes, sir.

22 Q Doctor, isn't it stated in Monsanto's Exhibit
23 1629B that human health effects from TCDD, whether it is
24 subacute or subchronic on a laboratory finding, you will find
25 a myelin degeneration on biopsy?

1 A In one case, sir.

2 MR. CARR: Your Honor, would you direct the

3 witness to answer my question?

4 THE COURT: Doctor, that was not responsive.

5 A Yes.

6 THE COURT: I'm sorry, I didn't hear your answer.

7 A Yes.

8 Q And, Doctor, the case in question we are talking

9 about, Mr. Hurley, isn't it, sir?

10 A It is indeed.

11 Q And you didn't say that one of the findings on

12 TCDD exposure would be a ruptured disc, did you, sir?

13 A No, sir.

14 Q And you didn't say that this nerve was atrophied

15 any place, did you, sir?

16 A I don't believe so.

17 Q All right. Now, Doctor, the problems of Mr.

18 Hurley are indeed problems that you believed then and that

19 you believe now are associated with the dioxin exposure,

20 isn't that correct, sir?

21 A Yes.

22 Q And, Doctor--

23 A We didn't believe it then because we didn't know

24 it was, sir.

25 Q You knew he was exposed to something, you

1 couldn't identify what it was at that time. We went through
2 that.

3 A That is correct, sir.

4 Q But you believe that the loss of his nerve, the
5 problems that he had were associated with whatever he was
6 exposed to, did you not, sir?

7 A At that time, we believed it, yes, sir.

8 Q And you still believe that today?

9 A I'm not sure, sir.

10 Q Doctor, have you ever stated anywhere except
11 perhaps in this Court for the first time that it could be
12 caused by anything else other than the TCDD exposure?

13 A In our record, I think, of Mr. Hurley in 1979,
14 there is a statement about his having osteoarthritis, sir.

15 Q Doctor, in 1979, the man would surely have
16 osteoarthritis, would he not, sir?

17 A But he had the same symptoms, sir.

18 Q Doctor, did you find in 1953 that he had
19 osteoarthritis?

20 A We did not examine an x-ray of the spine, sir.

21 Q You looked at x-rays, did you not?

22 A Not of the spine, sir.

23 Q Doctor, did you make any statement at all in 1953
24 that this might be caused by osteoarthritis?

25 A We did not.

1 Q And Doctor, the osteoarthritis that he would have
2 in the spine would not cause this destruction of nerve tissue
3 in the leg, would it, sir?

4 A Yes, sir.

5 Q And Doctor, if it did, it would have had to
6 destroy the nerve tissue the entire length of the leg,
7 wouldn't it, sir? It would have to be the atrophy that we
8 just went through.

9 A Not all the fibrils, sir. It depends upon the
10 pressure.

11 Q Doctor, did you ever have any evidence of
12 pressure upon any nerve by osteoarthritis at any time?

13 A In this man?

14 Q In this man.

15 A We only discovered it in 1979.

16 Q Excuse me, Doctor. My question is did you ever
17 have any evidence in 1979 or any other time that his
18 arthritic condition was causing nerve destruction or pressure
19 on a nerve?

20 A No, but it could be associated with it.

21 MR. CARR: Your Honor, would you ask the Jury to
22 disregard the last statement of the witness?

23 THE COURT: The Jury is so instructed. It was
24 not responsive to the question. Doctor, I'm asking you again
25 to keep your responses limited to the questions.

1 Q Doctor, is there anything in the report dealing
2 with Mr. Hurley to suggest that his problems in 1953 so far
3 as you are concerned was caused by anything other than the
4 dioxin association?

5 A We didn't know about dioxin at the time, sir.
6 But, no, we thought it was due to the exposure.

7 Q And Doctor, was he considered--did you answer my
8 question, did you consider--you did not consider him an
9 exaggerater, did you, sir?

10 A I don't believe so.

11 Q Doctor, D. Meadows, was he an exaggerater in 1953
12 to your judgment, sir?

13 A No.

14 Q Mr. Donald Stover--Doctor, if you don't mind, we
15 will never get finished if you continue to volunteer
16 something beyond the question that I have asked you. Donald
17 Stover, was he an exaggerater, sir?

18 A No.

19 Q Charles Arthur, was he an exaggerater, sir?

20 A No.

21 Q William Workman, was he an exaggerater, sir?

22 A I don't believe so.

23 Q H.O. Young, was he an exaggerater, sir?

24 A No.

25 Q William H. Smith, was he an exaggerater, sir?

1 A No.

2 Q Mr. E.W. Beckman, was he an exaggerater, sir?

3 A No.

4 Q Mr. Willard Forbes, was he an exaggerater, sir?

5 A No.

6 Q You believe that he had those pains, did you not,
7 sir, and they persisted?

8 A Yes.

9 Q Mr. Charles Farley, was he an exaggerater, sir?

10 A Yes.

11 Q And what in his statement in the report makes you
12 conclude that he was an exaggerater, sir?

13 A His answers about his symptoms were glib and he
14 seemed anxious to impress the examiner with his symptoms.

15 Q Doctor, we discussed Mr. Farley before, and the
16 fact that a man is glib by itself or may appear to be glib
17 doesn't mean that he exaggerates, does it, sir?

18 A Not necessarily.

19 Q And the fact that he is anxious to impress the
20 examiner with his symptoms, that doesn't mean he exaggerates
21 either, does it?

22 A That's right, sir.

23 Q And this man told you, did he not, sir, that he
24 has lost no time from work because of the problem?

25 A Yes.

1 Q And Doctor, then what in this report is there
2 that indicates to you that Mr. Farley was an exaggerater?

3 A That he seemed to--he wanted to impress the
4 examiner with his symptoms.

5 Q And Doctor, because somebody wants to impress the
6 man with his symptoms, that means he exaggerates them?

7 A He might, yes.

8 Q He might, again, Doctor, you are speculating.

9 A In our judgment, that means exaggeration, sir.

10 Q In our judgment, that means exaggeration? Did
11 you put that in there about Mr. Farley that he may be
12 exaggerating his symptoms?

13 A No, but I think one can--

14 Q Excuse me, did you put in the record that he was
15 exaggerating his symptoms?

16 A What you said is the same thing.

17 Q Would you answer my question, sir?

18 A No, I did not.

19 Q You did put in your report on the earlier
20 individual, Mr. Hudnall, I believe, that you thought his
21 statements were well-seasoned with exaggeration, didn't you,
22 sir?

23 A Yes, sir.

24 Q But you didn't say that about Mr. Farley?

25 A No, I did not.

1 Q Maxwell Galloway, is he an exaggerater?
2 A I don't believe so.
3 Q Basil Hoffman, is he an exaggerater?
4 A No.
5 A Emmett Null, was he an exaggerater, sir?
6 A No.
7 Q Millard McClanahan, was he an exaggerater, sir?
8 A No.
9 Q William Simmons, was he an exaggerater, sir?
10 A No.
11 Q Ervin G. Bailey, was he an exaggerater, sir?
12 A No.
13 Q Earl Harris, was he an exaggerater, Dr. Suskind?
14 A No.
15 Q George Farrell, was he an exaggerater, sir?
16 A No.
17 Q Roy Wright, was he an exaggerater, sir?
18 A No.
19 Q William Saxton, was he an exaggerater?
20 A No.
21 Q Donald Payne, was he an exaggerater?
22 A No.
23 Q Harold--Ron Jones, rather, was he an exaggerater?
24 A No.
25 Q Harold McClanahan, was he an exaggerater?

1 A No.

2 Q Was Harold Newcomer an exaggerater?

3 A No.

4 Q James Kyle, was he an exaggerater?

5 A Yes, sir.

6 Q And, Doctor, what in the report tells you that he

7 was an exaggerater?

8 A In the report we regarded him as a--

9 Q Doctor, what in the report--

10 A As a complainer.

11 Q Doctor, what in the report?

12 A May I finish, sir?

13 Q No, you may not, unless you respond to my

14 question.

15 A I'm going to respond, Page 39, sir.

16 Q Thank you, sir. And on Page 39, there is a--in

17 the column under abnormal clinical findings, April, 1953,

18 there is the word complainer, question mark, is there not,

19 sir?

20 A Yes.

21 Q Now, Doctor, if one is a complainer, does that

22 lead you to the conclusion that he is an exaggerater?

23 A Could be, yes.

24 Q Simply because he complains?

25 A Yes.

1 Q Now, Doctor, anybody could be, but my question
2 is because someone complains, does that mean he exaggerates?

3 A Exaggerated complaining is what I am talking
4 about.

5 Q But, Doctor, you didn't say the complaints were
6 exaggerated, did you, sir?

7 A When we have "complainer", it means exaggerated
8 complaints.

9 Q My question is, you didn't say that he
10 exaggerated his complaints, did you, sir?

11 A No, he did not.

12 Q You said he was a complainer, didn't you, sir?

13 A Right.

14 Q And Doctor, there are a lot of people that are
15 complainers in this world, aren't there, sir? It is the
16 nature of some people to be a complainer, isn't it, sir?
17 Just like some people are stoic and never complain about
18 anything, some people complain, don't they, sir?

19 A That's true, sir.

20 Q And what you found in this instance that this
21 gentleman was one of those persons categorized as a
22 complainer, questionably so, is that right, sir?

23 A Yes, sir.

24 Q Now, Doctor, was Mr. Asbury an exaggerater?

25 A No.

1 Q And Mr. Dent, was he, sir?
2 A No.
3 Q Now, we have gone through all thirty-six, haven't
4 we, Doctor?
5 A Indeed.
6 Q And Doctor, of those thirty-six, you have
7 described three, possibly four people as exaggeraters, have
8 you not, sir?
9 A I have.
10 Q And, Doctor, that means that thirty-three of the
11 thirty-six you did not consider to be exaggeraters or thirty-
12 two to thirty-three, isn't that correct, sir?
13 A That's true, sir.
14 Q Doctor, do you now believe that many of these
15 workers were exaggeraters or lied about their complaints of
16 pain?
17 A Some of them did, sir.
18 Q Some of them, Doctor? I agree with you that some
19 of them did exaggerate according to your record, although I
20 wouldn't agree with the conclusion, but you did report that
21 some of them complained, didn't you, sir?
22 A Yes.
23 Q But you told us, told this Jury that many of them
24 complained, were exaggeraters, didn't you, sir?
25 A I said some of them.

1 Q No, Doctor, what you said was in your expansive
2 answer was that many of these workers exaggerated their
3 complaints and didn't tell the truth about them, isn't that
4 right, sir?

5 A Well, I'm not sure I said that, sir, and I'd like
6 to see it in--

7 Q Well, that's the reason for the entire
8 examination here is that you made the statement that many of
9 these workers were exaggeraters.

10 A I'd like to see that.

11 Q You may like to see it, but you can see it on
12 your own time, Dr. Suskind, because that's the reason for
13 this examination, and in point of fact, there weren't many
14 that were exaggeraters, were there?

15 A There were some.

16 Q There were some, relatively few, isn't that
17 correct, sir?

18 A There were some.

19 Q My question is, sir, there were relatively few,
20 weren't there, sir?

21 A Yes.

22 Q Yes. Now, Doctor, back to your meeting at the
23 Kettering Laboratory with the Monsanto people where you
24 recorded before we got diverted down this path, the statement
25 that you are reputed to have said there that there was no

1 sign of such disorder, that is evidence of nerve damage in
2 any of those people, isn't that what is reported there, sir?
3 The bottom of Page 2, Dr. Suskind, it is what we were reading
4 when we got waylaid on this trip down--through the woods?

5 A And I indicated that was incomplete.

6 Q Doctor, if you don't mind, sir, have you found
7 the place?

8 A I have.

9 Q And it was stated there at this meeting by the
10 recorder of the minutes of the meeting that Dr. Suskind
11 stated there was no sign of nerve damage in these people that
12 he examined in 1953, isn't that correct, sir?

13 A That's what he wrote, sir, yes.

14 Q But in point of fact, there were signs of nerve
15 damage in twenty-three of these people, wasn't there, sir?

16 A No, sir.

17 Q How many were there, sir?

18 A Well, as I look at my record, and I have done
19 this, because you've asked me to, there is a significant--

20 Q Doctor, what I asked you was how many people had
21 signed--Doctor, if you don't mind, please let me finish my
22 question.

23 MR. HEINEMAN: Objection, the question
24 interrupted the answer, your Honor.

25 THE COURT: Objection is overruled.

1 Q How many people--how many people had signs of
2 nerve damage in 1953?

3 A I count ten.

4 Q Now, Doctor, we went through it and what you said
5 earlier was that ten had significant signs of nerve damage,
6 did you not, sir?

7 A Significant complaints, sir.

8 Q And those were significant signs of nerve damage,
9 weren't they, sir?

10 A They might be.

11 Q All right. Now, Doctor, what we also went
12 through, though, is that aches and pains are also signs of
13 nerve damage, aren't they, sir?

14 A They are not, no, no.

15 Q Didn't you agree earlier that pains were, in legs
16 and arms and neck and back, were signs of nerve damage?

17 A I did not, sir.

18 Q You did not? You didn't do that?

19 A No, I said it might be.

20 Q Sir?

21 A It might be.

22 Q All right, Doctor, I will accept that it might
23 be.

24 A It might be, and it is a big might, sir.

25 Q And these pains, that these men had in these arms

1 and legs and backs and shoulders might be evidence of nerve
2 damage?

3 A It might be.

4 Q But it was said here that there was no sign of
5 such disorder, wasn't there, sir?

6 A That's an inaccurate statement, sir.

7 Q That is indeed, isn't it, sir?

8 A Yes, it is, and it is not mine.

9 Q Because you did find significant signs in ten and
10 other signs that might be in another thirteen, didn't you,
11 sir?

12 A No.

13 Q Didn't we go through that, Doctor? Didn't we
14 just say that these complaints of pain, if they were real and
15 existed, might be evidence of nerve damage, didn't you just
16 say that ten seconds ago?

17 A I did indeed.

18 Q And Doctor, you went on to report there, you went
19 on to urge strongly according to this reporter that there
20 should be publication of all these results, did you not, sir?

21 A Not these results, sir. I was talking about
22 laboratory studies.

23 Q Excuse me, doesn't it say there that Dr. Suskind
24 strongly urged that consideration be given to publication of
25 all experimental results?

1 A These are not experimental results, sir.
2 Q May I finish my question, Doctor?
3 A Sure, please.
4 Q Does it not say in this III, which is discussing
5 these claims of damage, sir, in the very next sentence does
6 it not say, "Dr. Suskind strongly urged that consideration be
7 given to publication of all the experimental results obtained
8 to date so that it could be used most effectively in
9 defending Monsanto's position"? Doesn't it say that, sir?
10 A That's what it says.
11 Q All right. Now, Doctor, you did, in fact, urge
12 that publication be made of all experimental results?
13 A I said consideration should be given.
14 Q My question is, did you strongly urge that
15 consideration be given to publication of experimental results
16 obtained to date?
17 A The experimental results, yes.
18 Q Is the answer to my question that you did
19 strongly urge it?
20 A Yes, for the experimental results.
21 Q And did you urge it so that it could be used most
22 effectively in defending Monsanto's position?
23 A No, that's Weger's view, not mine.
24 Q That was what was reported that you said, wasn't
25 it, sir?

1 A He reported it that way.

2 Q And Doctor, it was reported--

3 A But I'm not sure that I attributed that part to

4 me. It doesn't say that he attributed that part to me, sir.

5 Q Doctor, the sentence says, "Dr. Suskind strongly

6 urged it so that it could be used most effectively in

7 defending Monsanto's position," isn't that right, sir?

8 A That's what it says, sir.

9 Q And in counter to that, it was pointed out that

10 none of the group present, that is from Monsanto, could, are

11 in a position to give approval for such publication, isn't

12 that right, sir?

13 A Correct, but that's inaccurate, too, sir.

14 Q Doctor, I wonder if you would just try to

15 restrain yourself. Everything in this report may be

16 inaccurate. All I have to go on, however, is this report.

17 A Yes, sir.

18 Q All this Jury has to go on is this report. It is

19 the only report in existence. So my question to you, sir,

20 doesn't it say that?

21 A It says that, sir.

22 Q And Doctor, is it your judgment that you did not

23 urge it so that it could be used most effectively in

24 defending Monsanto's position?

25 A I don't know.

1 Q Do you have any memory at all, sir?
2 A No, sir, but I know--
3 Q Is your answer that you have no memory, sir?
4 A I know how I would have answered it, sir.
5 Q Dr. Suskind, did you hear the question that I
6 asked you?
7 A Yes, sir.
8 Q I asked you whether or not you had a memory, and
9 you have no memory, do you, sir?
10 A It is my best recollection, sir.
11 Q Dr. Suskind, do you have a memory or not?
12 A I have a memory of what I might have done, sir.
13 Q You have a memory of what you might have done.
14 Doctor, my question is do you have a memory of what was said
15 and what was urged by you or not urged by you, or what was
16 said by you in this meeting that took place on June 22, 1956,
17 nearly thirty years ago?
18 A I cannot recall it accurately, sir. It is
19 thirty-three years ago.
20 Q Doctor, didn't you tell us earlier that you have
21 no recollection of this meeting whatsoever and challenged me
22 to find a record of it? Didn't you do that, sir?
23 A I wasn't sure what meeting we were talking about,
24 sir.
25 Q Excuse me. Didn't you do that, sir?

1 A Yes, but I wasn't sure what you were talking
2 about.
3 Q And Doctor, are you now saying that you do now
4 have a memory of what went on at this meeting, of what you
5 said?
6 A In my best recollection--
7 Q Doctor, my question is do you now have a memory of
8 what went on at this meeting?
9 A I know what I might have said, sir.
10 Q Doctor, my question is, do you now have a
11 memory of what went on at this meeting?
12 A I'm giving you my best answer, sir.
13 Q You can say yes, you do have a memory or you can
14 say no, you don't have a memory.
15 A Yes, I do have a memory.
16 Q All right. Now, Doctor, when did that memory come
17 back to you, sir?
18 A In reading the thing that you gave me, sir.
19 Q All right. And you can now recall that you did
20 not urge that it could be used most effectively in Monsanto's
21 position?
22 A No, I didn't say that.
23 Q Sir?
24 A I didn't say that.
25 Q Well, then, do you recall whether you did or did

1 not urge the use of these experimental results in defending
2 Monsanto's position?

3 A I don't recall saying that, sir.

4 Q Then what you are saying is that you could have
5 said it, is that right?

6 A No, it would have been unlike me to say it,
7 sir.

8 Q Well, now, Doctor, it may have been unlike you,
9 but we do things that are unlikely. You told this Jury to
10 start with that you did not testify on behalf of Monsanto
11 this afternoon.

12 A I did, indeed.

13 Q And you told this Jury a number of other things,
14 and you are saying it is unlikely, Doctor. But in this
15 instance, these gentlemen recorded what you said, didn't
16 they, sir? What they perceive that you said?

17 A That is the perception of Mr. Weger, which is
18 consistent with my character, sir.

19 Q Doctor, since we don't associate with you and
20 have not associated with you, we have only the written record
21 to judge your character, isn't that right, sir?

22 A Yes, sir.

23 Q And really, whether or not you would or would not
24 effectively defend Monsanto's position for that purpose is
25 not a character trait, is it, sir?

1 A It might be, certainly.

2 Q That you would be employed by or used by

3 Monsanto at the compensation hearing of published data, sir?

4 A Yes, sir, as an independent investigator I would

5 not put myself in that position.

6 Q That's right, sir. As an independent

7 investigator you should not put yourself in that position.

8 A Which I am, sir.

9 Q Which you say you are, Dr. Suskind.

10 A I say I am, sir.

11 Q Doctor, we do know that you signed a contract in

12 1979 to testify for Monsanto about your results in the '79

13 study for five years, we know that, don't we, sir?

14 A Yes.

15 Q Now, Doctor, do you conceive that being under a

16 contract to Monsanto to do this means that you are

17 independent?

18 A I am independent to defend my studies.

19 Q Doctor, do you understand that if you are under

20 contract, you believe that being under contract is the

21 equivalent to saying that you are independent?

22 A Yes, the way the contract is written, I am.

23 Q Then it is your judgment that a person, a

24 contractor is free to disregard the terms of the contract and

25 do as he willfully wants to?

1 A No, sir.

2 Q But you do know that the contract diminishes your
3 independence, it requires you to do certain things if you
4 live up to the contract.

5 A Not necessarily, sir, no.

6 Q That's what contracts are for, sir.

7 A No, sir.

8 Q You don't understand that contracts are made for
9 the purpose of requiring people to perform certain actions?

10 A Which we did.

11 Q You know that?

12 A We performed a study, sir.

13 Q My question is relating to your position as a
14 contractee. You are bound by contractor Monsanto with regard
15 to the morbidity study, aren't you, sir, for a period of five
16 years you are bound?

17 A We received support from Monsanto.

18 Q Doctor, could you answer my question? You are
19 bound by this contract, aren't you, sir?

20 A To do what, sir?

21 Q To do whatever the contract calls for you to do.

22 A That's true, sir.

23 Q Yes. And Doctor, with regard to this meeting at
24 the Kettering Institute, you were being paid by Monsanto to
25 examine these men, to perform your experiments, weren't you,

1 sir?

2 A Those were the experiments, sir.

3 Q Excuse me, Doctor, you did perform experiments on

4 human volunteers, did you not, sir?

5 A We did.

6 Q Which you did under contract with Monsanto, did

7 you not, sir?

8 A No, sir, no, sir, there was no contract for that,

9 sir.

10 Q Oh, there was not, sir?

11 A No, sir.

12 Q Didn't Monsanto pay you for doing that work, sir?

13 A They gave us a grant, sir, a grant is different

14 than a contract.

15 Q A grant is a contract, Doctor, by the terms of a

16 grant, you agree to do certain things under that grant, a

17 grant in this instance is just another word for a contract.

18 A No, sir.

19 Q Oh, Doctor, do you believe under a grant from

20 Monsanto that you can spend that money any way that you want

21 to spend it?

22 A Yes, sir, according to what we believe we want to

23 do, and that's how it was constructed.

24 Q You apply for the grant, you tell them what you

25 want to do with that money and if they agree they want that

1 done, they give you the money to perform that, don't they,
2 sir?

3 A No, sir.

4 Q Oh, they don't? How do you get your grant, Dr.
5 Suskind?

6 A By proposing studies--

7 Q Yes.

8 A And may I finish, sir?

9 Q Sure.

10 A As a principal investigator, I propose a study to
11 determine the aonegenic properties of some of their
12 trichlorophenols, and that was the nature of the study, and
13 they thought it was a good idea.

14 Q Yes. And so they paid you to do it, did they
15 not?

16 A And when we did the study, they paid for the
17 costs such as it was.

18 Q Yes.

19 A Of these studies.

20 Q Right, it is like somebody comes to my house and
21 says, "Look, you need a paint job. I'll paint your house for
22 a thousand dollars." I say that's a deal, he paints my house
23 and I give them a thousand dollars. Now, Doctor, that's what
24 you did with Monsanto, you went to Monsanto and said, "I've
25 got this study to do. It will benefit you, it will show

1 whether or not your 2,4,5-T is going to cause chloracne. I
2 can do it for X amount of dollars." They say, "That's fine.
3 Go ahead and do it. Here is X amount of dollars." Isn't
4 that correct, sir?

5 A No.

6 Q Isn't that correct?

7 A No.

8 Q Isn't that what happened, sir?

9 A No.

10 Q Did you give them a proposal, sir?

11 A Yes.

12 Q And did that proposal outline the work that you
13 were going to do on these human volunteers to discover
14 whether or not Monsanto's product caused chloracne?

15 A No.

16 Q You didn't do that, sir?

17 A No.

18 Q What did you propose then if you didn't propose
19 that you were going to study among other things Monsanto's
20 products?

21 A We proposed to determine the carcinogenic properties
22 of three different trichlorophenols.

23 Q One of which was Monsanto's 2,4,5-T, wasn't it,
24 sir?

25 A Trichlorophenols, sir, not 2,4,5-T.

1 Q Doctor, you took 2,4,5-T at that same time, did
2 you not, sir?

3 A That was another experiment, sir.

4 Q Oh, another grant from Monsanto?

5 A It was another, it was a previous experiment
6 in 1953. There were several sets of studies, sir.

7 Q No, the only inaccuracy then in my statement to
8 you is that it was Monsanto's TCP that you proposed to study
9 rather than Monsanto's 2,4,5-T, is that correct, sir?

10 A We had already studied 2,4,5-T.

11 Q Excuse me, is that correct, sir?

12 A Among other things, yes.

13 Q You proposed to Monsanto for X amount of dollars
14 you would study their sodium TCP, wouldn't you, sir?

15 A Yes.

16 Q And they said all right, we will do it. Here is
17 the money to do it, isn't that right, sir?

18 A Frankly, I can't recall how the physical
19 arrangements were made, because I didn't make them, sir.

20 Q Doctor, they paid you the money that you said it
21 would cost?

22 A They didn't pay me, sir.

23 Q They paid Kettering the money, didn't they, sir?

24 A They paid Kettering on a cost basis, yes, that's
25 the way the university would--

1 Q And that's what Monsanto paid for, didn't they,
2 sir?

3 A They did.

4 Q And you then did this work under payment from
5 Monsanto, didn't you, sir?

6 A They supported this grant, sir.

7 Q Is the answer to my question you did this work
8 with money supplied by Monsanto?

9 A Yes, sir.

10 Q And that's the same thing as the painter painting
11 the house with the money that I have proposed, that he
12 proposed to me he could do it for, isn't that right, sir?

13 A No, sir.

14 Q How is it different, Dr. Suskind?

15 A It differs, because a scientific experiment is
16 not synonymous with painting a house.

17 Q Doctor, you don't mean to say that you can't
18 contract to do a scientific experiment just like you can
19 contract to paint a house, do you, sir? You each can be the
20 subject of a contract, can't it, sir?

21 A It might be.

22 Q It can be, can it not, sir?

23 A This was a grant, sir, not a contract.

24 Q It can be the subject of a contract, a scientific
25 experiment or to paint a house?

1 A It might be.

2 Q It is not that it might be, it can be, can't it?

3 Isn't that right, sir?

4 A I said it could be.

5 Q Doctor, every grant that a university gets is in

6 fact a contract that they have entered into with the person or

7 agency or government that he is giving the grant, isn't that

8 right, sir?

9 A Yes, sir.

10 Q And what you do, the grant then is just another

11 name for a contract, isn't it, sir?

12 A No, sir.

13 Q Doctor, don't you agree in the grant to do

14 certain things with the money given?

15 A Yes.

16 Q And if you don't spend that money under the terms

17 of the grant, you are obligated to give it back, aren't you,

18 sir?

19 A Not necessarily, it all depends upon the grant.

20 Q It all depends upon the terms of the contract,

21 doesn't it, sir?

22 A Yes, sir.

23 Q Yes. And if you should spend that money under

24 that, for some purpose not specified in that grant or not

25 allowed by that grant or prohibited by that grant, you would

1 be obligated to return it, wouldn't you, sir?

2 A It might be, it depends upon the grant.

3 Q These grants that you received from Monsanto,
4 there were certain terms associated with them, weren't there,
5 sir?

6 A Yes.

7 Q And you did as best as you could to live up to
8 those terms, didn't you, sir?

9 A The terms were the protocol of the grant.

10 Q You did your best to live up to those terms,
11 didn't you, sir?

12 A Yes, sir.

13 Q And you reported to Monsanto the results of your
14 experiments, didn't you, sir?

15 A We did indeed.

16 Q And now in this instance, you are urging that
17 these results be published, aren't you, sir?

18 A According to Mr. Weger's memorandum.

19 Q And you have no memory to the contrary, do you,
20 sir?

21 A No, sir.

22 Q All right. And Doctor, in point of fact, it was
23 following this meeting on June 22, 1956 that you did testify
24 in front of a workmen's compensation commission on the
25 results of your experiment with the 2,4,5-T, isn't that

1 correct, sir?

2 A Yes, sir.

3 Q And it was at that time that you told the

4 workmen's compensation commission that the 2,4,5-T that you

5 experimented with from Monsanto did not cause chloracne,

6 didn't you, sir?

7 A Yes, we did, sir.

8 Q And of course, that was a--not the 2,4,5-T that

9 the workers were exposed to, it was a purified 2,4,5-T with

10 the contaminants removed as we have established before?

11 A We also used the 2,4,5-T from the wringer cake,

12 sir.

13 Q But you didn't tell the workmen's compensation

14 people that it could cause chloracne, did you, sir?

15 A Because it didn't.

16 Q Oh, it did not?

17 A No, the wringer cake did not cause chloracne.

18 Q Where does that say that, Doctor?

19 A Well, it is in the report.

20 Q What report is it in that 2,4,5-T from Monsanto

21 not purified did not cause chloracne, sir?

22 A It is in the report that I submitted to Monsanto.

23 Q And when did you submit that report, sir?

24 A July 1, 1954, sir.

25 Q And it was 2,4,5-T that you said did not produce

1 it?

2 A That's true.

3 Q In 1954, sir, two years before you testified

4 before the Commission and you told the Commission that

5 Monsanto's 2,4,5-T would not cause it?

6 A That's right, sir.

7 Q And Doctor, you knew that these men got chloracne

8 from working with the 2,4,5-T, don't you, sir?

9 A The experiment that we did did not.

10 Q Excuse me, Doctor, you knew that these men got it

11 from the 2,4,5-T that they hauled and worked with, isn't that

12 right?

13 A The 2,4,5-T process, sir, not the wringer cake.

14 Q The wringer cake?

15 A The wringer cake is crude 2,4,5-T.

16 Q It is not 2,4,5-T, it is something that you take

17 before you turn it in to 2,4,5-T, isn't that correct, sir?

18 It is not even TCP at that time, it is in no way 2,4,5-T, is

19 it, sir?

20 A I'm not sure I understand the question, sir.

21 Q Doctor, your work with the wringer cake was not

22 2,4,5-T, was it, sir?

23 A Yes, sir, it was.

24 Q I thought you just said it was crude 2,4,5-T?

25 A Well, that's 2,4,5-T as it comes out of the

1 plant.

2 Q That's what is sold to the public?

3 A Yes, sir.

4 Q That is what comes out is called 2,4,5-T?

5 A Yes.

6 Q Is crude 2,4,5-T?

7 A And then the final product is used as a weed

8 killer, the 2,4,5-T acid, 2,4,5-T is trichloro--

9 Q I know that, Doctor.

10 A --acetic acid, trichlorophenoxyacetic acid, and
11 that's wringer cake.

12 Q And the wringer cake, however, is turned into
13 2,4,5-T, isn't it?

14 A No, the wringer cake is turned into the esters of
15 2,4,5-T.

16 Q Yes, and then what happens?

17 A And then it is sold on the market.

18 Q As from the esters of 2,4,5-T?

19 A Esters of 2,4,5-T.

20 Q And it is not wringer cake that is sold, is it,
21 sir?

22 A The wringer cake is usually not sold as the acid.

23 Q No, it is the esters that is sold.

24 A But this is the material that workers are exposed
25 to, wringer cake, 2,4,5-T is the material that workers are

1 exposed to.

2 Q Doctor, the workers are exposed to everything
3 from the beginning to the end.

4 A True.

5 Q Aren't they, sir?

6 A Some of them are.

7 Q And some of them, and you did not report to the
8 Commission, did you, sir, that 2,4,5-T that the workers were
9 exposed to caused acne in your experiments, isn't that right?

10 A Because it didn't.

11 Q Sir?

12 A Because it didn't.

13 Q Well, Doctor, don't you recall the report that
14 you made, sir, relating to your experiments, Doctor,
15 that we have gone through before?

16 A Which one, sir?

17 Q That's a good question, because I--let me see
18 where my file is on that. Your reports on the various
19 reports that you made on chloracne and associated problems,
20 one of which is Plaintiff's 1728, sir. Do you have that with
21 you, sir?

22 A Yes, sir.

23 Q And in the--in that exhibit, you report, do you
24 not, that you use the sodium 2,4,5-T trichlorophenate, one
25 from the plant process itself, don't you, sir?

1 A Right, that was one of the substances we use.

2 Q And you report that that was the most acnegenic of
3 the three trichlorophenates, was that which came from the
4 involved plant, isn't that correct?

5 A Yes, sir, we did indeed.

6 Q Now, you didn't tell the Commission that, did
7 you, sir?

8 A Oh, I believe I did.

9 Q We have been through this, Doctor. If you would
10 point out the page where you told the Commission that, I
11 would appreciate it, because we have gone through this, if
12 you will recall earlier.

13 A Well, I believe if you look through the--if you
14 look through the section in which I discuss that study on
15 humans, you will see that we have--

16 Q If you would turn to the page you responded
17 before, Doctor, to Page 52 and 53, you will find that you did
18 not. On Page 52, Doctor, did you not say to the Commission,
19 "Now, in the laboratory we have applied 2,4,5-T to animal
20 skin and we have applied it to human skin and we have not
21 been able to produce acne with it," isn't that what you said?

22 A In that first experiment we did, but if you will
23 turn, sir, to Page 33, 34, and 35, you will see that we
24 describe the human experiment in which we demonstrate or show
25 that the trichlorophenate from the plant was acnegenic.

1 Q And would you describe that to me, please, sir?
2 Would you tell me on what place, sir?

3 A It is--

4 Q Page 33.

5 A Well, it starts with 33 at the very bottom, sir.

6 Q Page 33 that I have at the very bottom says, "We
7 mixed Halowax or the 2,4,5-T in a suitable, this happened to
8 be a petroleum plastic, it was called--" and on and on and
9 on, and you said, "We examined them weekly to detect any
10 possible systemic manifestations, and after twelve weeks we
11 discontinued," and you don't say there, sir, do you, that you
12 had any problems of chloracne? If you did, I sure can't read
13 it, because if you look on Page 33, you said, "We have not
14 been able to induce acne in humans with 2,4,5-T."

15 A That was true, that's so, sir.

16 Q Now, Doctor, I want you to point out to me where
17 you told this workmen's compensation--

18 A Trichlorophenate, I'm talking about
19 trichlorophenate.

20 Q Doctor, what you said was, "We have not been able
21 to induce acne in humans with 2,4,5-T," now, where did you
22 tell the Commission that you did induce acne with 2,4,5-T?
23 Would you find that for me, please, sir?

24 A I say on Page 33, "We have not been able to
25 induce acne in humans with 2,4,5-T."

1 Q Yes. Now where did you tell them that you could
2 induce it with 2,4,5-T, sir?

3 A We didn't. We didn't induce it with 2,4,5-T, we
4 induced it with trichlorophenate.

5 Q And where do you say that, sir? That you induced
6 it with trichlorophenate?

7 A Yes, during the whole study of our subject--

8 Q What page, Doctor?

9 A I'm sorry, sir, Page 36.

10 Q Where on Page 36?

11 A All right, "During this whole study," may I read?

12 Q Direct me to the line first, sir.

13 A It is, "Except that the induced--"

14 Q What line, what part on Page 36, whereabouts?

15 A It is the sixth line, sir.

16 Q Yeah, go ahead. And where do you say that that
17 you induced chloracne?

18 A There were no, "Except the induced skin changes
19 in the case of Halowax and this trichlorophenate."

20 Q I'm sorry, on Page 36, sir?

21 A Right, 36.

22 Q Six lines down?

23 A I'm sorry, it starts with, "During the whole
24 study, all of our subjects," and this is probably a
25 transcription--

1 Q Doctor, I can't find the--excuse me, Doctor, we
2 so we can get together here, where on Page 36 did it say,
3 "During the whole study"?

4 A Page 36, yeah, I am talking about--

5 Q Mine is such a bad misprint, I am reading 35
6 instead of 36.

7 A It is the hearing report, sir, the hearing
8 report.

9 Q Yes.

10 A And it starts with, "During this whole study, all
11 of our subjects," and we were very grateful for it, "remained
12 asymptomatic, this is the Halowax trichlorophenate study.
13 There were no physical or laboratory findings except the
14 induced skin changes in the case of the Halowax, chloracne,
15 and this sodium trichlorophenate. There are no alterations
16 in liver function tests which were done, as I indicated." So
17 we did report that we found skin changes with the Monsanto's
18 trichlorophenate, but we didn't find it by applying 2,4,5-T,
19 pure 2,4,5-T, to human skin or wringer cake, which is crude
20 2,4,5-T.

21 Q Now, Doctor, you did apply 2,4,5-T to human
22 volunteers and you did induce chloracne?

23 A No, sir.

24 Q Well, Doctor, I'll see where--

25 A Well, I would like to see that, sir, because I

1 can't recall that.

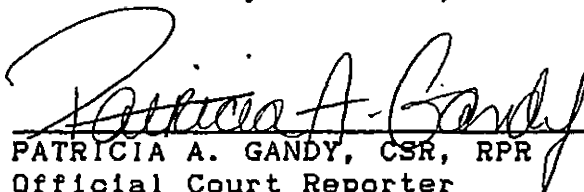
2 THE COURT: Wait a second, Doctor. Just a
3 minute, I think we're out of time for today. Ladies and
4 gentlemen, we will break for the day, and as I told you
5 earlier, we are not going to have Court tomorrow. We will
6 come back Thursday at 9:30. I would remind you as I do for
7 any overnight breaks that you are not to discuss this matter
8 among yourselves or with anyone outside the jury panel, you
9 are not to read, listen to, or watch anything about this case
10 in particular or the subject matter in general in any of the
11 media. Thank you for your attention and cooperation. Court
12 is adjourned.

13 (At this time, Court was
14 adjourned for the day.)
15
16
17
18
19
20
21
22
23
24
25

1 STATE OF ILLINOIS)
2 COUNTY OF ST. CLAIR) S.S.

3
4
5
6
7 I, Patricia A. Gandy, CSR, RPR, Official Court
8 Reporter in and for the Twentieth Judicial Circuit, and the
9 Official Court Reporter who transcribed the above-styled
10 cause had on March 4, 1986, do hereby certify that the
11 foregoing transcript of proceedings is a true, correct and
12 complete transcript of the proceedings had on said date.

13 DATED this 12th day of March, 1986.

14 
15 PATRICIA A. GANDY, CSR, RPR
16 Official Court Reporter
17
18
19
20
21
22
23
24
25

1 STATE OF ILLINOIS)
2 COUNTY OF ST. CLAIR) SS.

3
4
5
6 I, RICHARD P. GOLDENHERSH, Circuit Judge in
7 and for the Twentieth Judicial Circuit, hereby certify that
8 the above is a true and correct transcript of the proceedings
9 had in the case captioned: FRANCES E. KEMNER, et al., v.
10 MONSANTO COMPANY, 80-L-970, heard on March 4, 1986.

11 DATED this 12th day of March, 1986.

12
13 ENTER:

14
15
16 RICHARD P. GOLDENHERSH, Circuit Judge
17
18
19
20
21
22
23
24
25