

1 Your Honor. We would make a very short
2 offer from the deposition of Robert Kaley,
3 an employee of Monsanto whom Monsanto did
4 not call in their case.

5 THE COURT: All right.

6 MR. LACEY: Beginning at Page 3, line
7 22.

8

9 (Reading from video deposition)

10 Q Will you state your full name for the
11 record, please?

12 A Robert George Kaley, II.

13 (End of reading)

14

15 MR. LACEY: Going to Page 4, line 3.

16

17 (Reading from video deposition)

18 Q How are you employed?

19 A I'm employed by Monsanto Company.

20 (End of reading)

21

22 MR. LACEY: Going to Page 10, line 18.

23

24 (Reading from video deposition)

25 Q The only thing that you are qualified to do

1 is to describe specifically what you know about
2 furan contamination of PCBs and what you know
3 about combustion of products; is that correct?

4 A That's correct.

5 (End of reading)

6
7 MR. LACEY: Going to Page 13, line 4.

8
9 (Reading from video deposition)

10 Q The actual circumstances of use in a
11 capacitor manufacturing plant that might result
12 in the addition of heat with or without oxygen
13 that might result in a burning process or
14 explosive process with PCBs is beyond the scope
15 of your knowledge?

16 A I have no specific knowledge of that.

17 (End of reading)

18
19 MR. LACEY: Going to Page 44, line 3.

20
21 (Reading from video deposition)

22 Q What are the regulations that relate to the
23 existing plants of Monsanto and what they have
24 got to do with regard to their own electrical
25 equipment?

1 A Well, there are a whole litany on them.

2 (End of reading)

3

4 MR. LACEY: Going to line 17.

5

6 (Reading from video deposition)

7 Q Can you tell me how they are disposed of or
8 do you know?

9 A The materials which are essentially graded
10 in 500 parts per million PCBs are incinerated in
11 an EPA approved PCB incinerator.

12 Q 500 parts per million?

13 A Or greater.

14 Q What percent is that?

15 A .05 percent.

16 Q .05. So, it's not half of 1 percent but --

17 A One hundredth of 1 percent.

18 Q Okay.

19 A Excuse me, five hundredths of 1 percent.

20 (End of reading)

21

22 MR. LACEY: Going to Page 65, line 11.

23

24 (Reading from video deposition)

25 Q Are you familiar with the Binghamton, New

1 York office fire?

2 A Yes, I am.

3 Q That fire involved a building served by a
4 PCB transformer, did it not?

5 A Yes, it is.

6 (End of reading)

7

8 MR. LACEY: Going to Page 66, line 11.

9

10 (Reading from video deposition)

11 Q Have you followed the literature that has
12 discussed the effects or changes that occurred to
13 PCBs as part of that situation?

14 A Yes.

15 Q There were studies made of that office
16 building after the fire, were there not?

17 A Yes, there were.

18 (End of reading)

19

20 MR. LACEY: Going to Page 67, line 16.

21

22 (Reading from video deposition)

23 Q Now, measurements were made in that building
24 of the products of that fire, were they not?

25 A Yes, they were.

1 Q And there were products found in that
2 building that are furans, correct?

3 A There were chlorinated dibenzofurans found
4 in the soot of that fire, yes.

5 Q There were also chlorinated dibenzodioxins
6 found in the soot of that fire, were there not?

7 A Yes.

8 (End of reading)

9

10 MR. LACEY: Going to Page 71.

11

12 (Reading from video deposition)

13 Q Now, it is your opinion that some of the
14 dibenzofurans found in that office building after
15 the transformer fire were generated by the
16 heating of PCBs in the presence of oxygen; is
17 that correct?

18 A Yes.

19 (End of reading)

20

21 MR. LACEY: Going to Page 72, line 12.

22

23 (Reading from video deposition)

24 Q Now, there was also dibenzodioxin present as
25 a result of that fire, was there not?

1 A That's correct.

2 (End of reading)

3

4 MR. LACEY: Going to Page 74, line 24.

5

6 (Reading from video deposition)

7 Q If if I heat PCBs to the correct temperature
8 in the presence of oxygen, it's highly likely
9 that it will create some dibenzofurans, isn't it?

10 A Small amount, yes.

11 (End of reading)

12

13 MR. LACEY: Going to Page 86, line 11.

14

15 (Reading from video deposition)

16 Q That fire happened a number of years ago,
17 did it not?

18 A Yes, it did.

19 Q That building still hasn't been
20 satisfactorily cleaned up to allow people to
21 re-occupy it, has it?

22 A The last firm knowledge I have of that is as
23 of last summer; and as of last summer, that is
24 correct.

25 Q That is what? 25-story office building?

1 A It's a tall office building.

2 (End of reading)

3

4 MR. LACEY: Going to Page 87, line 1.

5

6 (Reading from video deposition)

7 Q I mean, the building didn't burn down, did
8 it?

9 A No.

10 Q The fire was all contained right in the
11 transformer vault, wasn't it?

12 A That's correct.

13 (End of reading)

14

15 MR. LACEY: Line 18.

16

17 (Reading from video deposition)

18 Q Are you aware of any other fires similar to
19 the one at Binghamton, New York, that have
20 occurred where there has been a product of the
21 combustion of PCB-containing fluids?

22 A Yes.

23 Q Tell me about the others you are aware of.

24 A There was a fire in San Francisco,
25 California.

1 (End of reading)

2

3

MR. LACEY: Going to Page 90, line 12.

4

5

(Reading from video deposition)

6

Q Are you aware of any other similar
circumstances to Binghamton, New York, or 1
Market Square in San Francisco?

8

9

A There has also been, I think, one or
probably two fire in Tulsa, Oklahoma.

10

11

(End of reading)

12

13

MR. LACEY: Going to Page 91, line 25.

14

15

(Reading from video deposition)

16

Q Are you aware of any other similar
situations besides Binghamton, New York,
situation; the 1 Market Square in San Francisco;
and the two Tulsa, Oklahoma, situations?

18

19

20

A Okay. There have been reported fires
involving PCB transformers in Chicago and Miami,
and I have no information about those other than
I know that they have been reported.

21

22

23

24

(End of reading)

25

MR. LACEY: Going to Page 97, line 17.

(Reading from video deposition)

Q Now, what relationship, if any, did you ever have from a professional standpoint with evaluating contamination in Monsanto's PCB products?

A I did some analyses related to that.

Q When did you do that analysis?

A I would guess in the mid-70's -- '75-'65 time frame.

Q And when was the material that you analyzed produced?

A I don't really know the answer to that question.

(End of reading)

MR. LACEY: Going to line 7.

(Reading from video deposition)

Q Is there some way that that answer can be determined?

A I guess if the analyses can be retrieved and the lot numbers are on the analyses, somebody could make that determination.

1 (End of reading)

2
3 MR. LACEY: Going to Page 101, line 8.

4
5 (Reading from video deposition)

6 Q After the law department got through, did
7 you have any documents that had anything to do
8 with PCBs, left in your hands?

9 A Not from actual research type documents, no.

10 (End of reading)

11
12 MR. LACEY: Then after the deposition
13 was read and signed, the witness changed his
14 answer or added to his answer, "Subsequent
15 to this deposition, I located a file in my
16 records which did contain certain research
17 reports containing information on PCDF
18 levels in PCBs."

19
20 Going to Page 103, line 24.

21
22 (Reading from video deposition)

23 Q Did it occur to you that it might be
24 worthwhile for you to review the reports that
25 you did before you rendered an opinion you are

1 giving in this case?

2 A No. My opinion is based on an accurate
3 recollection of the general theories. You know,
4 my opinion is that there are low levels
5 dibenzofurans in PCBs. And that is my accurate
6 recollection of the work I did.

7 Q How many parts per million?

8 A They were in the 2 part per million total
9 dibenzofurans.

10 Q Okay. On the specific lots that you
11 reviewed?

12 A That's correct.

13 (End of reading)

14

15 MR. LACEY: Going to line 20.

16

17 (Reading from video deposition)

18 Q Which Aroclor products did you review?

19 A As I recall, probably 1242 and 1254 and
20 1016.

21 (End of reading)

22

23 MR. LACEY: Going to Page 106, line 5.

24

25 (Reading from video deposition)

1 Q How sure are you about the percentages of
2 concentration of dibenzofurans in 1242?

3 A I'm sure that they were within a part per
4 million or so of 2 parts per million.

5 Q How sure are you of the levels of
6 contamination within 1254?

7 A Same.

8 (End of reading)

9

10 MR. LACEY: Then when the witness
11 signed his deposition, he made this addition
12 to his answer: "Data in the above mentioned
13 file showed analyses of Aroclor 1254 done by
14 me. The results were 10 ppm and 12 ppm
15 total PCDFs. Other data take not generated
16 by me showed average levels of PCDFs in
17 Aroclor 1254 to be 16 to 17 ppm."

18

19 Next question at line 12.

20

21 (Reading from video deposition)

22 Q A part per million one way either side of 2
23 parts per million?

24 A 2 parts per million, one part per million
25 either side of 2 parts per million or so.

1 (End of reading)

2
3 MR. LACEY: Going to Page 189,

4 line 21.

5
6 (Reading from video deposition)

7 Q You have not measured the transformer fluids
8 sold by Monsanto that were a combination of PCBs,
9 trichlorobenzene, and scavengers to determine
10 whether or not you could measure dioxin
11 contamination in that fluid; is that correct?

12 A To best of my knowledge, I have not done
13 that measurement, correct.

14 Q So, there may or may not be dioxins
15 contained in that transformer fluid that Monsanto
16 sold?

17 A I can't say that's impossible.

18 (End of reading)

19
20 MR. LACEY: Going to line 20.

21
22 (Reading from video deposition)

23 Q And Monsanto has never, to your knowledge,
24 tested a single one of its
25 trichlorobenzene-containing transformer fluids to

1 determine whether or not there is any dioxin
2 contamination, correct?

3 A To my knowledge, Monsanto has not tested any
4 such transformer fluids, correct.

5 Q And Monsanto has never tested any
6 trichlorobenzene-containing transformer fluid to
7 determine whether or not the furan level of
8 contamination in the overall product is greater
9 than the contamination in the PCB component; is
10 that correct?

11 A I would say that's correct.

12 Q So, you cannot offer any opinion today
13 concerning the overall furan contamination of
14 transformer fluid sold by Monsanto that contain
15 trichlorobenzene?

16 A That's correct.

17 Q And you cannot offer any opinion today
18 concerning the dioxin contamination, if any, in
19 the trichlorobenzene-containing transformer fluid
20 sold by Monsanto?

21 A That's correct.

22 (End of reading)

23

24 MR. LACEY: That concludes the
25 plaintiffs' offer from the deposition of Dr.

1 Kaley.

2 THE COURT: You wish to offer some
3 portion of it?

4 MR. FREEMAN: We have a brief summary
5 we would like to read to the Court, Your
6 Honor.

7 In the interest of time, we would like
8 to just read a brief narrative summary
9 instead of a question and answer format.

10 THE COURT: You may make the offer.

11

12 MR. FREEMAN: (Reading) "It is highly
13 unlikely that a dioxin molecule will be
14 created from PCB, although it is
15 theoretically possible. The
16 carbon-to-carbon bond of the PCB is very
17 stable and not likely to be broken and thus,
18 not likely to form dioxin. Dibenzofurans
19 can be formed from the heating of PCBs at
20 very specific temperatures, but the yield or
21 quantity would be extremely low. United
22 States published research indicates that
23 optimum conditions for formation of furans
24 from PCBs takes place at about 625 degrees
25 Centigrade, with destruction of the furans

1 occurring rapidly at about 675 to 700
2 degrees Centigrade. Various investigators
3 have attempted in the laboratory to convert
4 PCBs to dibenzodioxins, and they have
5 failed. There has been no scientific work
6 to establish that PCBs can be converted into
7 dibenzodioxins through combustion
8 situations.

9 "Based on the laboratory work I
10 personally performed, dibenzofurans were
11 found in Aroclor 1242 in the range of 2
12 parts per million. No furans were found in
13 Aroclor 1016."

14
15 MR. FREEMAN: Thank you, Your Honor.

16 We would offer Defendant's Exhibit
17 3314.

18 THE COURT: It will be accepted in
19 evidence.

20 Who is next?

21 MR. POHL: Your Honor, we would call
22 Frank Parker.

23 THE COURT: Mr. Parker, if you will
24 come forward, please. Come and stand in
25 front of the bench. Raise your right hand.