

"Montague" - off any employee or official thereof.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

WILLIAM R. GAFFEY,

Plaintiff,

vs.

PETER MONTAGUE, et al

Defendants.

CAUSE No. 91-1938-C-7/JCH

DEFENDANTS' NOVEMBER 4, 1993 DISCOVERY REQUEST

This discovery request combines requests for admissions, interrogatories, and requests for inspection of documents and other things.

DEFINITIONS AND INSTRUCTIONS

Please interpret each of the following discovery requests in accordance with the following special definitions and instructions, as supplemented by the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and jurisprudence thereunder:

@. Where words or terms are not defined, they shall be given their common and accustomed meaning within the context stated.

@. The words "dioxin" or "dioxins" mean any or all of the congeners, homologues, or isomers of the mono- through polychlorinated classes of dibenzo-p-dioxins or dibenzofurans.

@. The phrase "Zack/Gaffey study" shall encompass not only the final published report of the purported study exhibited

hereto as EXHIBIT 2, but also all underlying records thereof.

@. The phrase "Zack/Suskind study" shall encompass not only the final published report of the purported study exhibited hereto as EXHIBIT 3, but also all underlying records thereof.

@. The phrase "Suskind/Hertzberg study" shall encompass not only the final published report of the purported study exhibited hereto as EXHIBIT 4, but also all underlying records thereof.

@. The phrase "Nitro worker studies" shall encompass not only the Zack/Gaffey study, the Zack Suskind study, and the Suskind/Hertzberg study, but also any or all studies, investigations, examinations, or other means of acquiring information at any time regarding the health of the same groups of workers discussed in EXHIBITS 2 through 4 inclusive or any member or members of those groups or regarding possible association of health effects among those workers with chemicals in their workplace.

REQUESTS TO ADMIT

Defendants Peter Montague and Environmental Research Foundation request plaintiff William Gaffey, within 30 days after service of this request to make the following admissions for the purpose of this action only and subject to all pertinent objections to admissibility that may be interposed at the trial:

A. That each of the following documents, exhibited with this request, is: [i] authentic under Rule 901 or Rule 902 of the

Federal Rules of evidence; [ii] is genuine under Rule 1003 of the Federal Rules of Evidence; and [iii] is not subject to objection as hearsay under Rule 802 of the Federal Rules of Evidence;

<u>Exhibit</u>	<u>Description</u>
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1	Peter's article
2	Zack/Gaffey study
3	Zack/Suskind study
4	Suskind/Hertzberg study

B. That each of the following statements is true.

@. Your mother wears Army boots.

@. Your wife does, too.

INTERROGATORIES

Defendants Peter Montague and Environmental Research Foundation request plaintiff William Gaffey within 30 days after service of this discovery request to respond in writing under oath to the following interrogatories:

@.

@.

REQUESTS FOR INSPECTION AND COPYING

Defendants Peter Montague and Environmental Research Foundation request plaintiff William Gaffey to respond within 30 days from service of this discovery request to the following requests:

A. That plaintiff produce and permit defendant to inspect and to copy each of the following documents or other things:

@.

@.

DISCOVERY REQUEST

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B. That plaintiff allow the requested inspection and copying to take place at the offices of
*_____, *Address, at the hour of
*___ o'clock on December *___, 1993.

Document requests:

Copies of any and all transcripts or audio/videotape deposition and testimony, including exhibits, of:

- A. Judith Zack (co-author, Zack/Gaffey study)
- B. Raymond Suskind (co-author, Zack/Suskind study, named in Monsanto press release, 1980, as author of Zack/Gaffey study)
- C. William Gaffey (plaintiff, co-author Zack/Gaffey study)
- D. Alistair Hay (critic of Zack/Gaffey study)
- E. Ellen Silbergeld (critic of Zack/Gaffey study)
- F. George Roush (Monsanto Medical Director)
- G. Mary Gaffey (William Gaffey's wife; librarian of Monsanto's medical library until 1989)
- H. Marcie Strauss (Monsanto, author of verbatim & critique of Zack Gaffey study prepared in defense, see p. 329, CVS/PEM Greenpeace report)
- I. Jan Yung (Monsanto clerk who assembled data for Zack/Suskind report; possibly for Zack/Gaffey report as well)

2. All communications between Monsanto and Michael Gough discussing or referring in any way to any or all of the Nitro studies. (Gough defended the Zack/Gaffey study in a letter

published in Nature responding to Hay & Silbergeld's letter, and in his book, "Dioxin/Agent Orange: the Facts," in both places revealing information -- without attribution -- that he could have obtained only from Monsanto.)

3. All records discussing or referring in any way to Monsanto's 1980 press release on the Zack/Suskind and Zack/Gaffey studies (identifying Suskind, not Gaffey, as the co-author of the Zack/Gaffey study).

A. All drafts, communications, news clippings, etc. of this press release.

B. All materials assembled for preparation of the press release

4. All drafts of the Zack/Gaffey study, whether Gaffey is named as author or not.

5. All drafts of protocols, study plans, rationales, and proposals for the Zack/Gaffey study.

6. All communications among Suskind, Zack, Gaffey, and Mary Gaffey discussing or referring in any way to the study, or underlying research, that was published as the Zack/Gaffey study.

7. All records discussing or referring in any way to the Zack/Gaffey study.

8. All records discussing or referring in any way to the decision to name Gaffey as co-author of the Zack/Gaffey study instead of Suskind.

9. All communications between William Gaffey and Marcie

Strauss (pp. 329-344) discussing or referring in any way to the Zack/Gaffey study and/or Strauss's "Verbatim & Critique".

10. All communications between Marcie Strauss and each addressee and cc recipient of her "Verbatim & Critique" (pp. 329-344)

11. All drafts of Strauss's "Verbatim & Critique," including all reference materials used in its preparation.

12. All records in Monsanto's possession discussing or referring in any way to Strauss's "Verbatim & Critique."

13. All records discussing or referring in any way to the table and handwritten notes titled, "Table 9 Observed and Expected Number of Deaths during 1955-1977 by Cause and 2,4,5-T Exposure Category Showing Proportional Mortality Ratios (PMRs) (Not Including Deaths from TCP Incident)" [See attachment A]

14. All records of communications between Monsanto and NIOSH discussing or referring in any way to the Zack/Gaffey study [See attachment A: if, as the handwritten notes on this table suggest, NIOSH pointed out the misclassification errors before the study was published, and Gaffey/Monsanto went ahead and published without correcting the errors, your fraud is established.]

all records
15. All records discussing or referring in any way to EPA dioxin sampling at the Nitro plant (pp. 326-28)

16. All records discussing or referring in any way to Monsanto destruction of EPA samples from Nitro [p. 327]

17. All records of communications between Monsanto and EPA discussing or relating in any way to dioxin sampling at Nitro conducted by EPA, Monsanto, or any other entity.

18. All records discussing or referring in any way to Monsanto sampling and analyses for dioxin at the Nitro plant, including but not limited to sample plans, protocols, sampling records, chain-of-custody records, analytical methodology, raw analytical data, and analytical results.

19. All communications between ^{and among} Mary Gaffey and William Gaffey, Raymond Suskind, Judith Zack, Marcie Strauss, Jan Yung, George Roush, etc.* discussing or referring in any way to the Zack/Gaffey study.

20. All records discussing or relating in any way to the decision not to use chloracne as a surrogate for exposure in the Zack/Gaffey study.

21. All records -- including but not limited to drafts, protocols, and communications -- discussing or relating in any way to the study described in Zack/Suskind [cite] as "An analysis of the chloracne cases and exposures not associated with this accident but rather with the normal TCP/2,4,5-T production processes will be the subject of a future paper." (p. 12, Zack/Suskind)

22. All records discussing or relating in any way to the decision not to use chloracne as a surrogate for exposure in the Zack/Gaffey study.

23. All records discussing or relating in any way to the decision to substitute Gaffey for Suskind as co-author of the published Zack/Gaffey study.

24. All records of communication between Monsanto and NIOSH discussing or referring in any way to the Zack/Gaffey study.

25. All records discussing or referring in any way to allegations of fraud in the Nitro studies.

26. All records revealing, discussing, or referring in any way to Gaffey's role and/or actions in any or all of the Nitro studies.

27. All records discussing or referring in any way to the presentation of the Zack/Gaffey study at the 1981 International Dioxin Symposium.

28. All records of communications with the U.S. Air Force (e.g. Wolfe) discussing or referring in any way to the Nitro studies.

29. All communications between Monsanto and the U.S. EPA discussing or referring in any way to the Nitro studies.

30. All communications between Monsanto and the American Medical Association discussing or referring in any way to the Nitro studies.

DATED: *, 1993

Respectfully submitted,
LEWIS, RICE & FINGERSCH

By _____

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ATTORNEYS FOR DEFENDANTS

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CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing was on this day mailed to attorney for Plaintiff, John A. Micheher, Evans & Dixon, 1200 Saint Louis Place, 200 North Broadway, St. Louis, Missouri, 63102-2749.
