

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CIVIL ACTION NO.

JOAN MAERTIN, Executrix of
the ESTATE OF LOTHAR MAERTIN,
JOAN MAERTIN, individually and
in her own right, et al,

95-CV02849 (JBS)
COPY

Plaintiffs, ORAL DEPOSITION OF

vs. JAMES WRIGHT

ARMSTRONG WORLD INDUSTRIES, INC.,

Defendant/Third-Party
Plaintiff,

vs.

MONSANTO COMPANY and AMERICAN
MINERAL SPIRITS COMPANY,

Third-Party
Defendants.

* * * * *
Monday, April 19, 1999
* * * * *

Transcript in the above matter taken
at the offices of Latham & Watkins, Esquires,
One Newark Center, 16th Floor, Newark, New
Jersey, commencing at 10:00 a.m.

A P P E A R A N C E S:

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A P P E A R A N C E S: (Continued)

LATHAM & WATKINS, ESQUIRES
BY: JOSEPH E. HOPKINS, ESQUIRE
ATTORNEYS FOR THE THIRD-PARTY
DEFENDANT MONSANTO COMPANY

WILSON, ELSE, MOSKOWITZ, EDELMAN
& DICKER, ESQUIRES
BY: CAROLYN F. O'CONNOR, ESQUIRE
ATTORNEYS FOR THE THIRD-PARTY DEFENDANT
AMERICAN MINERAL SPIRITS COMPANY

W I T N E S S I N D E X

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E X H I B I T S

EXHIBIT INDEX
Appears at the Conclusion of the Transcript

1 (JAMES WRIGHT, having been duly sworn, was
2 examined and testified as follows:)

3 (EXAMINATION OF MR. WRIGHT BY MR. TAYLOR:)

4 Q. Mr. Wright, how are you? My name's Matt
5 Taylor. We met in Olympia, Washington if you
6 remember --

7 A. Yes.

8 Q. -- this past summer at your deposition.
9 Do you understand the purpose for which you've
10 been produced today?

11 A. I really -- I really don't because I felt
12 that we had -- had a pretty in-depth deposition
13 at the time but...

14 Q. Do you understand that you've been
15 produced as a corporate designee --

16 A. Yes.

17 Q. -- on the relationship between Monsanto
18 and AMSCO?

19 A. Yes.

20 Q. And what's your understanding of that --
21 what's your understanding of that designation?

22 A. Well, obviously I must be the -- the key
23 person in the relationships with AMSCO and
24 Monsanto in the distributor relationship only.

25 Q. Why do you say obviously you must be?

1 A. Well, I just assumed that that must be the
2 reason why I'm being deposed.

3 Q. Okay. And what did you do, sir, in
4 preparation for this deposition today?

5 A. Just reviewed my deposition of last -- the
6 last -- last July.

7 Q. And just a deposition transcript?

8 A. Yes.

9 Q. Did you review the exhibits that were
10 attached?

11 A. And also reviewed the exhibits.

12 Q. If you remember, and this is not -- by no
13 way a criticism, the court reporter can only
14 take down my question and then your answer. So
15 if you could, just wait. You may anticipate
16 what my question is going to be. If you could
17 just wait for me to finish my question --

18 A. Okay.

19 Q. -- and then answer, that would be a big
20 help.

21 Besides reviewing the deposition
22 transcript and the exhibits attached to it, did
23 you review any other documents?

24 A. No.

25 Q. Did you conduct any interviews of any

1 people at Monsanto, whether current employees
2 or former employees?

3 A. No.

4 Q. And upon review of your deposition
5 transcript, did you find that your testimony
6 was taken down accurately?

7 A. Yes.

8 Q. And did you agree -- strike that.

9 Do you want to make any revisions or
10 modifications or changes to that testimony?

11 A. No.

12 Q. Did you review a notice of deposition for
13 this 30(b)(6) designation?

14 MR. TAYLOR: I'm going to mark it
15 anyway. I'll show it to you. You can look at
16 your notes.

17 (Exhibit Wright-1, Notice, is marked
18 for identification.)

19 BY MR. TAYLOR:

20 Q. Before I show you what's been marked as
21 Wright-1 with today's date, there are other
22 Wright documents with the July date. So we'll
23 make sure today's dates are on -- today's date
24 is on these designated exhibits. You were just
25 looking at something. What was that? May I

1 see that?

2 MR. HOPKINS: Of course.

3 MR. TAYLOR: I just don't know if
4 there's any notes.

5 MR. HOPKINS: Just so the record's
6 clear, Mr. Wright handed Mr. Taylor a document
7 which is a Notice to Produce -- Notice to Take
8 Deposition and Produce Documents pursuant to
9 Federal Rule 30(b)(6) of Monsanto Company,
10 relationship between Monsanto and AMSCO. It's
11 a dep notice from Armstrong. This one's dated
12 March 5th, '98.

13 MR. TAYLOR: I'm going to show you
14 what's been marked as Wright-1, which is a
15 notice of 30(b)(6) deposition of Monsanto
16 Company regarding the relationship between
17 Monsanto and AMSCO and this was -- this notice
18 is dated April 6th, 1999. For the record, it
19 just was change of the venue of the deposition,
20 things like that. The contents are the same.

21 MR. HOPKINS: We had compared it.
22 It's identical to the other one except for the
23 date.

24 MR. TAYLOR: Fine.

25 BY MR. TAYLOR:

1 Q. If you can take a look at that, sir,
2 Wright-1.

3 (Witness reviews document.)

4 BY MR. TAYLOR:

5 Q. Mr. Wright, do you understand that you've
6 been designated by Monsanto to speak on behalf
7 of the company?

8 A. Yes.

9 Q. And that your designation relates to the
10 relationship between Monsanto and American
11 Mineral Spirits Company between 1960 and 1978?
12 Do you know that?

13 A. Yes.

14 Q. And it goes on to say as that relationship
15 related to manufacture, sale, distribution or
16 marketing of PCBs or PCB-containing products.
17 Are you aware of that?

18 A. Yes.

19 Q. And do you feel that you are able to speak
20 to those topics within that time frame, 1960 to
21 1978?

22 A. Through the distribution of the products
23 through AMSCO.

24 Q. Well, how about the relationship -- how
25 about the manufacture?

1 A. I'm not aware of how they manufactured the
2 product.

3 Q. How about the sale?

4 A. The sales of them, yes.

5 Q. How about the marketing?

6 A. And the marketing.

7 Q. Okay. And it goes on to say the scope of
8 this deposition is intended to include but not
9 limited to the following. And if you can just
10 follow along with me, if you would, on
11 Wright-1, and I don't have to read all of them,
12 you'll see one through three. Do you see that?

13 A. Oh, yes.

14 Q. Are you able to speak to number one,
15 beginning with the terms of any agreements?

16 A. To the best of my recollection.

17 Q. Well, do you have knowledge regarding the
18 subject matter of paragraph number one?

19 A. I don't understand. I don't understand
20 your question.

21 Q. If you can just read number one?

22 A. Yes.

23 Q. I just want to know if you feel that you
24 are capable of answering questions regarding
25 what's in paragraph number one?

1 A. And I answered that, to the best of my
2 recollection.

3 Q. How about number two, beginning with any
4 meeting or communications?

5 A. And that would be the same, to the best of
6 my recollection.

7 Q. Do you have information regarding that?

8 A. Not only -- only that has been supplied to
9 me through my past deposition.

10 Q. And the exhibits?

11 A. And the exhibits.

12 Q. Okay. And number three, beginning with
13 the identities of all individuals known?

14 MR. HOPKINS: You know what? I'm
15 noticing I think he's referring to different
16 numbers than you are. You're referring to the
17 subparagraph before the deposition -- before
18 the document request portion, right?

19 MR. TAYLOR: Yes, I am.

20 MR. HOPKINS: Are you referring to
21 the bottom here, sir? He's referring to these
22 three up here.

23 THE WITNESS: I was referring to the
24 bottom.

25 MR. HOPKINS: Why don't we begin

1 again. He's referring to these one through as
2 opposed to the document request at the bottom.
3 So take a look at the top.

4 MR. TAYLOR: Thanks, Joe.

5 THE WITNESS: Okay.

6 MR. HOPKINS: If you want to pose
7 your question again maybe.

8 MR. TAYLOR: Okay.

9 BY MR. TAYLOR:

10 Q. Well, do you -- are you confident that you
11 have information regarding number one,
12 beginning with the terms of any agreement?

13 MR. HOPKINS: Object to the form.
14 You may answer.

15 THE WITNESS: I'm not so sure that I
16 understand your question again.

17 BY MR. TAYLOR:

18 Q. Let's go back to your -- you understand
19 that you've been designated as the person
20 within Monsanto --

21 A. Yes.

22 Q. -- to address these topics?

23 A. Yes.

24 MR. HOPKINS: Object to the form.

25 BY MR. TAYLOR:

1 Q. Do you understand that?

2 A. Yes.

3 Q. I just want to know whether you are
4 confident that you can address those -- do you
5 have information to address the topic in number
6 one?

7 A. To the best of my recollection.

8 Q. Can you think of anyone else that is
9 better suited to address number one than you?

10 A. Not at this time.

11 Q. And the same question -- well, how about
12 the information in number two? Are you capable
13 of talking about the information in number two?

14 A. Yes.

15 Q. And then number three?

16 A. Yes, and to the best of my recollection.

17 Q. Okay. When you say to the best of your
18 recollection, have you -- besides looking at
19 your transcript and the documents that you --
20 that were attached to those -- that transcript,
21 did you -- were you supplied -- did you ask for
22 any additional information to review to prepare
23 for this deposition?

24 A. No.

25 Q. Was it suggested to you that you look at

1 additional documentation?

2 A. No.

3 Q. Or conduct any interviews?

4 A. No.

5 Q. Sir, did Monsanto sell PCB-containing
6 plasticizers to AMSCO?

7 A. Yes.

8 Q. And unless I limit the time question, it's
9 in the -- in the time frame set forth in the
10 notice of deposition, that being 19 --

11 MR. HOPKINS: '60 to '78.

12 BY MR. TAYLOR:

13 Q. '60 to 1978. Okay? Was AMSCO authorized
14 by Monsanto to sell PCB-containing plasticizers
15 to Armstrong Cork?

16 A. I don't -- I don't have any record of
17 that. The -- I don't recall anything specific.
18 We did not designate accounts to AMSCO.

19 Q. Do you have any reason -- strike that.

20 I believe just -- were they authorized
21 to --

22 A. Yes.

23 Q. -- sell PCBs to Armstrong?

24 MS. O'CONNOR: Objection to form.

25 THE WITNESS: They were authorized to

1 sell PCBs to their accounts. If it was
2 Armstrong, then that's -- that was their
3 volition.

4 BY MR. TAYLOR:

5 Q. And did, in fact, AMSCO sell
6 PCB-containing plasticizers to Armstrong?

7 A. Yes.

8 Q. And what's the basis for that answer? For
9 that answer?

10 A. I think we show records that they have
11 shipped to Armstrong PCB plasticizers.

12 Q. And what records are you referring to?

13 A. Well, they must be back in here someplace.

14 Q. Okay. If you could just take your time
15 and when you get to it, let me know. You know
16 what might be easier? I'll give you a version
17 of the transcript that has the tabs on it and
18 it will be helpful, too, the actual exhibit
19 tabs. Do you have it?

20 A. This is a letter from Beightol to American
21 Mineral Spirits concerning discontinuation of
22 PCB Aroclors.

23 Q. Can you tell me the exhibit number that
24 you're referring to?

25 A. 26.

1 Q. 26 of your deposition transcript in July?

2 A. Yes.

3 Q. Okay. Can you tell me where in this
4 letter confirms that AMSCO sold PCBs to
5 Armstrong Cork?

6 A. It doesn't there.

7 Q. Okay. Can you tell me why you referred to
8 -- referred me to Exhibit 26?

9 A. I just happened to flip the page and there
10 it was.

11 Q. Okay. Well, the question is if you could
12 locate the document which you referred to
13 regarding AMSCO's sales of PCBs to Armstrong.

14 A. I don't see it in anything in there that
15 indicates that we sold Aroclors to --

16 Q. That's not the question. I want regarding
17 whether AMSCO sold PCBs or Aroclors, the
18 Aroclors which contained PCBs to Armstrong.

19 A. I don't have any record of that. It's not
20 here.

21 Q. You had seen something that indicated
22 that?

23 A. I can't answer that 'cause I don't know.

24 Q. Do you have any reason to believe, whether
25 through a document or through understanding

1 orally, whether in preparation for this
2 deposition or at your -- at the time when you
3 were at Monsanto in the late sixties and
4 seventies that AMSCO sold PCBs, products
5 containing PCBs to Armstrong?

6 A. I don't have any recollection of that.

7 Q. On behalf of Monsanto, does Monsanto have
8 a position on where Armstrong purchased the
9 PCBs which were contained in the ceiling tiles
10 that it manufactured that were ultimately
11 placed at the Burlington County College,
12 Community College?

13 MR. HOPKINS: I'll object to the form
14 and note on one hand it calls for a legal
15 conclusion; on the other hand it goes beyond
16 the scope of his deposition, talking about the
17 relationship with AMSCO, but I'll allow him to
18 answer the question if he knows within his own
19 personal knowledge.

20 MR. TAYLOR: He's here on behalf of
21 Monsanto.

22 MR. HOPKINS: That's not an
23 appropriate notice for 30(b)(6) designation.

24 MR. TAYLOR: I just want to know
25 factually whether Monsanto knows whether PCBs

1 were sold by AMSCO to Armstrong.

2 MR. HOPKINS: Okay. That wasn't your
3 question. If that's your question, then go
4 ahead.

5 MS. O'CONNOR: That's a different
6 question.

7 MR. TAYLOR: And specifically --
8 well, strike that. We'll start with that.

9 MS. O'CONNOR: Put my objection to
10 the question.

11 MR. TAYLOR: You can answer.

12 MS. O'CONNOR: Go ahead.

13 MR. HOPKINS: Go ahead, if you
14 remember the question.

15 THE WITNESS: I have no knowledge of
16 Aroclors being sold by AMSCO to Armstrong Cork.
17 That would be information, if available, would
18 be through our district offices and the Product
19 Group.

20 BY MR. TAYLOR:

21 Q. Do you know where Armstrong would have
22 purchased the PCBs that it used to manufacture
23 the ceiling tiles?

24 MR. HOPKINS: Object to the form.
25 Again it goes beyond his designation. If you

1 know factually, go ahead.

2 THE WITNESS: The only address that I
3 knew of Armstrong Cork was Conshohocken,
4 Pennsylvania.

5 BY MR. TAYLOR:

6 Q. For Armstrong Cork?

7 A. Armstrong Cork.

8 Q. Or do you mean AMSCO?

9 A. That's not what you asked.

10 MR. TAYLOR: Can you repeat the
11 question?

12 (Designated question is read.)

13 THE WITNESS: No.

14 BY MR. TAYLOR:

15 Q. Is it Armstrong's position that -- strike
16 that.

17 Is it Monsanto's position that Armstrong
18 purchased the PCBs from AMSCO?

19 MR. HOPKINS: Object to the form. It
20 goes beyond his designation. You can testify
21 for yourself if you know factually. Go ahead.
22 You can answer if you know.

23 THE WITNESS: I don't know.

24 BY MR. TAYLOR:

25 Q. Okay. I'm going to show you what was

1 marked as Wright Exhibit No. 9 in your
2 deposition. Here you go.

3 MR. HOPKINS: I should have it here.

4 MS. O'CONNOR: I have one. Thank
5 you.

6 BY MR. TAYLOR:

7 Q. Do you recognize that document?

8 A. Yes. Yes.

9 Q. And is this the only distributor contract
10 between Monsanto and AMSCO?

11 A. To the best of my knowledge, yes.

12 Q. And was this contract in full force and
13 effect during the years 1961 through 1978?

14 A. Yes.

15 Q. Was there ever a time in between those,
16 that time period when this distributor contract
17 was not in full force and effect?

18 A. Not to my knowledge. I don't believe it
19 was ever changed.

20 MR. HOPKINS: Do you want to take a
21 moment and look through it? Feel free.

22 MS. O'CONNOR: Can you read back not
23 the last question but the question before the
24 last question?

25 (Designated testimony is read.)

1 MR. TAYLOR: Do you want him to
2 review that some more, Joe?

3 MR. HOPKINS: If you would. Just
4 take a look through that.

5 (Witness reviews document.)

6 THE WITNESS: Will you state your
7 question again?

8 MR. TAYLOR: There's not one pending.
9 Counsel just wanted you to review that.

10 BY MR. TAYLOR:

11 Q. If you can turn to Exhibit A to the
12 agreement, it's towards the end?

13 A. First page?

14 Q. No, Exhibit A.

15 A. Okay.

16 Q. The second page of Exhibit A you'll see a
17 paragraph 23. Do you see that?

18 A. Yes.

19 Q. Strike that. Before we get to that, the
20 AMSCO individuals, the salesmen were trained by
21 Monsanto regarding the plasticizer products; is
22 that correct?

23 MR. HOPKINS: Object to the form.

24 THE WITNESS: Yes.

25 BY MR. TAYLOR:

1 Q. And that training took place in AMSCO's
2 offices?

3 A. Yes.

4 Q. And did that training include what types
5 of warnings should go to customers utilizing
6 the PCB-containing plasticizers?

7 MR. HOPKINS: Object to the form.

8 THE WITNESS: Yes.

9 BY MR. TAYLOR:

10 Q. And can you give me the details regarding
11 the training regarding warnings that should be
12 given to customers?

13 A. AMSCO was given all of our technical
14 bulletins on our products, including the
15 Aroclors, which completely describe the
16 potential hazards and problems of a product and
17 its use.

18 Q. And was it AMSCO's -- strike that.

19 Did AMSCO just provide the technical
20 bulletins to their customers or were they
21 authorized to give training of their own
22 regarding the warnings?

23 MR. HOPKINS: Object to the form.

24 MS. O'CONNOR: Sure.

25 MR. HOPKINS: Plus beyond the

1 designation. You may answer it.

2 BY MR. TAYLOR:

3 Q. Go ahead.

4 A. If it was AMSCO's policy to train the
5 customer, that was their -- that was their
6 position. I'm not aware that there was anymore
7 definition of the products, other than in the
8 technical bulletins that we provided AMSCO.

9 Q. Well, during the training courses, was
10 AMSCO instructed to simply give the customer
11 the technical bulletins and that was it?

12 MR. HOPKINS: Object to the form.

13 BY MR. TAYLOR:

14 Q. Go ahead.

15 A. The training generally applied to where
16 the products could be used and how they could
17 be incorporated in different resins and
18 applications.

19 Q. Okay. Well, let's take, for example, the
20 warnings on toxicity in connection with the
21 Aroclors --

22 A. Yes.

23 Q. -- line of products. If a customer of
24 AMSCO's had a question regarding the toxicity,
25 were the AMSCO salesmen authorized to --

1 authorized by Monsanto to advise the customer
2 regarding that issue or were they supposed to
3 refer the customer to Monsanto?

4 MR. HOPKINS: Object to the form.
5 You can answer.

6 THE WITNESS: Generally the practice
7 of any real technical questions were referred
8 to our Technical Product Group.

9 BY MR. TAYLOR:

10 Q. When you say real technical issues, what
11 do you mean by that? Toxicity?

12 A. Formulations and how to use it and things
13 of this nature.

14 Q. I don't mean that. I mean regarding
15 toxicity. I'm asking that specifically. What
16 was Monsanto's position if an AMSCO customer
17 had a question regarding toxicity? How were
18 the AMSCO personnel instructed to handle such a
19 question?

20 MR. HOPKINS: Object to the form.

21 THE WITNESS: I don't know.

22 BY MR. TAYLOR:

23 Q. Were they instructed to refer the question
24 regarding toxicity to Monsanto?

25 MR. HOPKINS: Object. You can

1 answer. Go ahead.

2 THE WITNESS: In -- in -- in my
3 opinion, I believe that generally the AMSCO
4 salesmen, when they got into real technical
5 problems of this nature, would refer them to
6 our salespeople who would then refer them to
7 our technical group.

8 BY MR. TAYLOR:

9 Q. And when you say this nature, you mean
10 questions regarding toxicity?

11 A. Yes.

12 Q. Okay. Okay. If you can refer to that
13 paragraph 23 in Exhibit A, I'd appreciate it.

14 Have you read paragraph 23?

15 A. Yes, I have.

16 Q. And explain to me, if you would, this
17 Exhibit A. Were these terms, if you look at 19
18 through 24, were these terms that were added on
19 by Monsanto to the main body of the contract?

20 A. That was the -- part of the main body. If
21 we had to have exhibits in order to show the
22 products that were available.

23 Q. Well, no, if you look at Exhibit A --

24 A. Yes.

25 Q. Okay. And you see it's in different

1 typeset than the main body of the contract, is
2 it not?

3 A. That's right.

4 Q. Okay. And were these special provisions
5 that Monsanto wanted in the contract?

6 MR. HOPKINS: Object to the form.

7 THE WITNESS: Yes.

8 BY MR. TAYLOR:

9 Q. Okay. And did Monsanto track where AMSCO
10 sold Monsanto's products?

11 A. AMSCO would not reveal all of their
12 customers to us. We sold the product to them
13 and then they purchased it and then resold it.

14 Q. Okay. When you say they would not reveal,
15 why not?

16 A. That was their proprietary information and
17 they were in competition with other
18 distributors and suppliers.

19 Q. Did they reveal some of their customers to
20 Monsanto?

21 A. Possibly.

22 Q. Well, do you remember them doing that?

23 A. I'm not aware of -- of that because that
24 would be done through the district office of
25 Monsanto, as well as the district office of

1 AMSCO.

2 Q. Okay. You're here for Monsanto.

3 A. Yeah.

4 Q. Were you aware that AMSCO did provide
5 Monsanto with some of their customers that they
6 were selling, for example, the plasticizer
7 products?

8 A. It was something that I did not track all
9 the time and it was not necessarily available
10 to me.

11 Q. Who was it available to?

12 A. Possibly the Product Group or the district
13 manager of Monsanto in managing his business.

14 Q. Well, pursuant -- well, strike that.

15 Isn't it true that AMSCO was obligated
16 pursuant to the distributor agreement to
17 provide Monsanto with the information of where
18 they were selling the products?

19 MR. HOPKINS: Object to the form.

20 THE WITNESS: I don't see this in any
21 part of our contract that they had to provide
22 us information.

23 BY MR. TAYLOR:

24 Q. If you can review paragraph 23 --

25 A. Okay.

1 Q. -- and see if that refreshes your
2 recollection regarding their obligation to,
3 meaning AMSCO's obligation to provide Monsanto
4 with information as to where they were selling
5 their proprietary products?

6 A. Yes.

7 Q. Does that refresh your recollection?

8 A. Yes.

9 Q. And do you want to change your answer?

10 MS. O'CONNOR: Maybe you should state
11 your question again.

12 MR. HOPKINS: If you could -- I'd
13 like that question read back and I'd also like
14 to instruct Mr. Wright to review the paragraph
15 carefully.

16 MR. TAYLOR: Okay.

17 (Designated question is read.)

18 MS. O'CONNOR: Objection to form.

19 MR. HOPKINS: Having heard the
20 question and reviewed the paragraph, you can go
21 ahead.

22 THE WITNESS: We refer to this in the
23 paragraph of 23 of proprietary products.

24 BY MR. TAYLOR:

25 Q. And that Aroclor was a proprietary

1 product, correct?

2 A. Yes.

3 Q. So that pursuant to the agreement, AMSCO
4 was obligated to provide Monsanto with that
5 information when it was selling proprietary
6 products, correct?

7 A. If asked by the district manager, yes.

8 Q. And was that done on a routine basis by
9 Monsanto? Strike that.

10 Did Monsanto on a routine basis obtain
11 from AMSCO the information as to where they
12 were selling Monsanto's proprietary products?

13 MR. HOPKINS: Objection. Go ahead.

14 THE WITNESS: Not on a routine basis.

15 BY MR. TAYLOR:

16 Q. Well, tell me on what basis they did it.

17 A. Whenever the district manager would visit
18 with the AMSCO managers and/or the Product
19 Group made a specific inquiry.

20 Q. And did that happen?

21 A. I assume from time to time.

22 Q. Well, do you know?

23 A. No.

24 Q. And earlier you testified that AMSCO
25 themselves, I believe your testimony was,

1 considered their customer list as proprietary,
2 correct?

3 A. Yes.

4 Q. Was there ever any dispute or -- for lack
5 of a better word I'll use dispute between
6 Monsanto and AMSCO regarding the disclosure of
7 the information?

8 MR. HOPKINS: Object --

9 BY MR. TAYLOR:

10 Q. That being where AMSCO was selling
11 Monsanto's proprietary products?

12 MR. HOPKINS: Object to the form.

13 MS. O'CONNOR: Join.

14 MR. HOPKINS: You may answer.

15 THE WITNESS: I'm not aware of any.

16 BY MR. TAYLOR:

17 Q. Are you aware of any situation where
18 Monsanto asked AMSCO where they were selling
19 the proprietary products of Monsanto and AMSCO
20 refused to tell them?

21 A. I'm not aware of that.

22 Q. Was Monsanto ever forced or was it ever
23 required by Monsanto to enforce this provision
24 through any judicial means?

25 A. No.

1 Q. And I mean paragraph 23.

2 And why was this provision put into the
3 contract?

4 A. Monsanto had a group of proprietary
5 plasticizers that it was very important for
6 them in the long range of research and market
7 study to determine how the products were being
8 used or what customers are being used, things
9 of this nature. That was the primary reason
10 for this.

11 Q. And as time went on, after the execution
12 of this agreement, was this provision,
13 paragraph 23 of the agreement, was this
14 provision complied with?

15 MR. HOPKINS: Object to form.

16 BY MR. TAYLOR:

17 Q. By AMSCO?

18 A. That would have been the responsibility of
19 the district managers of Monsanto in meeting
20 with the district managers of AMSCO.

21 Q. Were you aware -- are you aware -- strike
22 that.

23 Is Monsanto aware that the district
24 managers, in fact, of both AMSCO and Monsanto
25 followed provision number 23?

1 MR. HOPKINS: Object to form. You
2 can answer.

3 THE WITNESS: I don't know.

4 BY MR. TAYLOR:

5 Q. Okay. Let me show you what was marked --
6 strike that. Let me just look at my notes.
7 I'm sorry.

8 Was it ever a concern on the part of
9 Monsanto that it did not have enough
10 information from AMSCO as to where AMSCO was
11 selling Monsanto's products?

12 MR. HOPKINS: Objection to form.

13 MS. O'CONNOR: Objection to form.

14 THE WITNESS: I don't recall. No.

15 BY MR. TAYLOR:

16 Q. And who was the person in Monsanto that
17 oversaw the relationship between AMSCO and
18 Monsanto?

19 MS. O'CONNOR: Objection to form.

20 MR. HOPKINS: Object to the form.

21 THE WITNESS: The overall
22 relationship was my responsibility.

23 BY MR. TAYLOR:

24 Q. And did you delegate any of that
25 responsibility to others?

1 A. The Product Group had product
2 responsibility. The district managers had
3 district manager market responsibility. My
4 responsibility was to see that the relationship
5 between Greater AMSCO and Monsanto was
6 maintained.

7 Q. Okay. And as part of that responsibility,
8 did that include the compliance with the
9 distribution agreement?

10 A. Yes.

11 Q. And as part of that responsibility -- as
12 part of that responsibility, did you endeavor
13 to find out or have someone else endeavor to
14 find out where AMSCO was selling the
15 proprietary products of Monsanto?

16 A. Where AMSCO was selling the products was
17 the responsibilities of our district managers
18 and the Product Group.

19 Q. Okay. So you delegated that to them?

20 A. It's difficult to explain our
21 organization.

22 Q. Just do the best you can.

23 A. I didn't -- I didn't delegate it. That
24 was their responsibility.

25 Q. Okay. And did they comply with that

1 responsibility?

2 A. To the best of my knowledge.

3 Q. And tell me about that knowledge. What
4 did they do to find out where AMSCO was selling
5 Monsanto's proprietary information?

6 A. Probably in a more casual relationship
7 between the salesmen responsible for working
8 with the AMSCO people in that particular
9 district.

10 Q. Did you finish? I think I just cut you
11 off. Are you finished your answer?

12 A. That's it.

13 Q. And did they, in fact, determine where
14 AMSCO was selling Monsanto's proprietary
15 information?

16 MR. HOPKINS: Object to the form.

17 MS. O'CONNOR: Objection to form.

18 MR. HOPKINS: Asked and answered. Go
19 ahead.

20 MS. O'CONNOR: I think the word is
21 product.

22 MR. TAYLOR: What did I say?

23 MS. O'CONNOR: Information.

24 BY MR. TAYLOR:

25 Q. Proprietary products?

1 A. Yes, I assume so.

2 Q. But you have no information about that?

3 A. No.

4 Q. I'm going to show you what was marked at
5 your July 30th, 1998 deposition as Wright No.
6 10. It's the Monsanto Chemical Company Agency
7 Agreement.

8 MR. TAYLOR: Do you have a copy?

9 MS. O'CONNOR: Yes, thank you.

10 BY MR. TAYLOR:

11 Q. And if you need time to review that,
12 please take it. Let me know when you're ready.

13 (Witness reviews document.)

14 (Off-the-record discussion.)

15 THE WITNESS: Okay.

16 BY MR. TAYLOR:

17 Q. If you could, in your own words, tell me
18 the distinction between AMSCO as a distributor
19 and AMSCO as an agent under the agency
20 agreement.

21 A. It was our -- my recollection that the
22 legal department felt that it was important to
23 have an agency agreement for our proprietary
24 plasticizers and a distributor -- and a
25 distribution agreement for our commodity

1 plasticizers, which were available from more
2 than one supplier. Generally the proprietary
3 plasticizers were our Santicizer products and
4 the Aroclors as listed here.

5 Q. Okay. Isn't it true that AMSCO, both as a
6 distributor and as an agent, could sell the
7 proprietary --

8 A. Yes.

9 Q. -- products?

10 A. Yes.

11 Q. I'm just unclear just as to the
12 distinctions. Did they have to do it in
13 quantity sold?

14 A. No. It was the fact that our proprietary
15 plasticizers were proprietary to Monsanto and
16 Monsanto felt that it was important that these
17 be covered by an agency agreement rather than
18 our commodity plasticizers.

19 Q. Okay. But the distributor contract also
20 covered the proprietary products, correct?

21 A. Yes.

22 Q. So why did you need both? Why did
23 Monsanto need both, both the distributor
24 agreement and the agency agreement?

25 A. At the time the contract was written in

1 1962, '61, this was a major change in the
2 philosophy of marketing Monsanto products and
3 our proprietary plasticizers were very close
4 and dear to the corporation and that was I'm
5 sure the reason for trying to determine a
6 better method of -- of knowledge and control on
7 the products, the proprietary products.

8 Q. Okay.

9 A. Through an agency agreement versus a
10 distributor.

11 Q. I'm still not clear as to the distinction
12 between the distributor agreement and the
13 agency agreement if AMSCO was allowed to sell
14 the proprietary products pursuant to both.

15 A. In -- in the agency agreement with
16 Monsanto, we turned over a great number of
17 accounts directly to AMSCO for their servicing.

18 Q. And were they considered the bulk
19 accounts?

20 A. No.

21 Q. Okay.

22 A. Generally at that time, no. They were the
23 drum accounts.

24 Q. Pursuant to the agency agreement or the
25 distributor agreement?

1 A. I don't follow you on that.

2 Q. Okay. Were the bulk accounts to be sold
3 -- I'm sorry, were the drum accounts to be sold
4 by AMSCO pursuant to the distributor agreement
5 or the agency agreement?

6 A. These are both at the same time that we
7 entered into the distributor and agency
8 agreement.

9 Q. Okay. And what was Monsanto's position?
10 Were they still going to sell to certain
11 customers both bulk, more than, you know, a
12 truckload and also less than truckload amounts
13 of the proprietary products or were they going
14 to turn all these accounts over to AMSCO?

15 MS. O'CONNOR: Objection to form.

16 MR. HOPKINS: Objection to form.

17 THE WITNESS: It was an attempt to
18 turn over a great number of our LTL, less than
19 truckload, drum accounts to AMSCO of which they
20 requested and wanted.

21 BY MR. TAYLOR:

22 Q. Okay. Was there any restriction on AMSCO
23 to sell to any particular customer either a
24 truckload or a less than truckload?

25 A. No.

1 Q. There was no restriction?

2 A. No.

3 Q. And there was no restrictions as -- there
4 was no restrictions on AMSCO as a distributor
5 or as an agent?

6 MR. HOPKINS: Object to the form.

7 MS. O'CONNOR: I'll join.

8 THE WITNESS: The agency agreement
9 referred to our proprietary plasticizers. We
10 also had a distributor agreement with the
11 Santicizer -- the other proprietary
12 plasticizers as were -- as in the -- in the --
13 in the -- in our distributor contract. The
14 agency agreement provided AMSCO as an agent to
15 represent our product and service the accounts
16 that we turned over to them. We were trying to
17 clearly define Monsanto accounts that were
18 being turned over to AMSCO.

19 BY MR. TAYLOR:

20 Q. Was Armstrong Cork one of the accounts
21 that was turned over to AMSCO?

22 A. I don't know. I have no record of that.

23 MR. TAYLOR: Okay. Let's mark this
24 as Wright No. 2.

25 (Exhibit Wright-2, 12-27-61

ALAN L. LESKY & ASSOCIATES

1 Memorandum, is marked for identification.)

2 BY MR. TAYLOR:

3 Q. Sir, I'm going to show you what's been
4 marked as Wright No. 2 with today's date. It's
5 a December 27, 1961 memorandum on which you are
6 a recipient and it bears Bates MAE 060751
7 through 754. If you could take a moment to
8 review that. Before that, have you seen this
9 document before?

10 A. I don't recall seeing this before today
11 but my name is on it so I assume that I was on
12 that list somewhere.

13 Q. Was this document shown to you in
14 preparation for this deposition?

15 A. No.

16 Q. Okay. And do you see up top where it says
17 Plasticizer Distributor Program, American
18 Mineral Spirits Company?

19 A. Yes.

20 Q. And can you tell who was the author of
21 this document?

22 A. I can't tell who is the author of this
23 document and I have no knowledge of that.

24 Q. Who were the recipients besides yourself?

25 A. Anwey was in the district office. Shorey

1 was in the district office in Everett.

2 Sullivan in Wilmington and Wright in New York.

3 Q. That's you?

4 A. That's me. Murphy was the regional
5 manager, the district manager in New York.

6 Tupper was in Chicago. Lawler was our
7 assistant, one of our assistant general
8 managers. Posten I don't remember.

9 Q. Okay. And do you remember this
10 memorandum?

11 A. I'm trying to refresh my memory right now.

12 MR. HOPKINS: If we can give him a
13 few minutes to read it.

14 MR. TAYLOR: Take your time. It's
15 not the best copy. We received it from your
16 counsel and it's just a little bit of a rough
17 copy but just take your time. I think you'll
18 get used to the haze and you'll be able to read
19 it.

20 (Witness reviews document.)

21 MR. TAYLOR: It might take you a
22 minute or two.

23 (Witness reviews document.)

24 THE WITNESS: Okay.

25 BY MR. TAYLOR:

1 Q. Okay.

2 MR. HOPKINS: Let me just note the
3 memo refers to Exhibit A, a letter of November
4 27, '61 from Jim Wright to John Capizano. Are
5 you going to refer to that separately? I know
6 this is not attached.

7 MR. TAYLOR: You didn't produce it.

8 MR. HOPKINS: Okay.

9 BY MR. TAYLOR:

10 Q. Okay. Having read the memorandum, do you
11 remember receiving and reading this memorandum
12 at any time?

13 A. It's been a long time but this refreshes
14 my memory.

15 Q. About?

16 A. About the details of our arrangement.

17 Q. If you can go down to the bottom of the
18 second page where it refers to paragraph 23.

19 A. Yes.

20 Q. And if you need to, the distributor
21 agreement is right here.

22 A. Yes.

23 Q. You can refer to paragraph 23. It says
24 this review is essential and we would like a
25 specific report from each of you on this

1 meeting and pertinent documents. Do you see
2 that? Pertinent comments, rather.

3 A. Comments, yes.

4 Q. Do you remember ever conducting such a
5 meeting with AMSCO and giving comments on that
6 meeting to the home office?

7 A. I'm sure I was involved at that time with
8 the home office of AMSCO.

9 Q. I'm specifically referring to paragraph 23
10 of the addendum to the distributor agreement
11 and the instruction here in this memorandum, if
12 you remember issuing any kind of a report
13 regarding your meetings with AMSCO.

14 MR. HOPKINS: Object to the form.
15 You can answer.

16 THE WITNESS: I can't -- give me that
17 question again, please.

18 MR. HOPKINS: Have it read back.

19 MR. TAYLOR: I'll rephrase it.

20 MR. HOPKINS: Okay.

21 BY MR. TAYLOR:

22 Q. In your function as the overseer of the
23 relationship with AMSCO --

24 A. Yes.

25 Q. -- or as a salesman out of the New York

1 office, did you ever hold a meeting and issue a
2 report as set forth in this reference in
3 paragraph 23 of this memorandum?

4 A. I don't recall.

5 Q. Do you ever remember seeing any report
6 from any of the other district offices
7 regarding such a meeting with AMSCO?

8 A. I don't remember.

9 Q. And do you see this where it says, the
10 second sentence in this memorandum under that
11 paragraph 23, this also serves to acquaint you
12 with their customer list on Monsanto
13 proprietary products in order to insure that we
14 are kept abreast of new uses, et cetera,
15 period. Do you see that?

16 A. Yes. Yes.

17 Q. Do you ever remember seeing a customer
18 list of AMSCO?

19 A. Don't recall.

20 Q. If you can go down towards the bottom of
21 the third page, beginning with as agent of
22 Monsanto?

23 A. Yes, I see it.

24 Q. They were viewed as part of your sales
25 force, as much as any Monsanto employee. Do

1 you see that?

2 A. Yes. Yes.

3 Q. Is that referring to AMSCO, the AMSCO
4 people?

5 A. Yes.

6 Q. And was it Monsanto's --

7 A. As an agent of Monsanto.

8 Q. As an agent. And that -- is that to be
9 distinguished from some other capacity?

10 A. Apparently our legal department felt that
11 there was a difference between agency and
12 distributor arrangements.

13 Q. What makes you say that?

14 A. Because they were proprietary plasticizers
15 and these were held differently at this time of
16 the negotiation with AMSCO and something that
17 we had not had previously at any of our
18 marketing programs.

19 Q. And because they were proprietary
20 plasticizers, are you saying that they had to
21 be an agent?

22 A. Yes.

23 Q. Okay. If you go back to the distributor
24 agreement, which is there, and I just want to
25 make sure I understand this, if you go to the

1 first page of the distributor agreement, was
2 AMSCO distributing proprietary products of
3 Monsanto?

4 A. They were performing a service of serving
5 accounts that were using proprietary
6 plasticizers under this agreement, as well as
7 the agency agreement.

8 Q. Okay. If you -- under the paragraph that
9 I just referred you to in the 1961 memorandum,
10 December 27, 1961 memorandum, the next
11 paragraph beginning with Jim Wright's letter
12 dated November 27, do you see that?

13 A. Yes.

14 Q. Have you seen that letter in preparation
15 for this deposition?

16 A. No.

17 Q. If you can just read that paragraph and
18 tell me what that means. I may follow up with
19 some questions but tell me what your -- what is
20 being said there.

21 MR. HOPKINS: Object to the form.

22 MS. O'CONNOR: Do you want him to
23 read it out loud?

24 MR. TAYLOR: No. I mean read it and
25 then tell me what was stated in your, if you

1 remember, in your November 27 letter.

2 THE WITNESS: Are you talking to me?

3 BY MR. TAYLOR:

4 Q. I am.

5 A. What's your question?

6 Q. Do you remember your November 27 letter
7 that's being referred to in this memorandum?

8 A. No.

9 Q. Okay. And when it goes on to say towards
10 the end of that paragraph that AMSCO is not to
11 solicit those amounts of proprietary
12 plasticizers, what does that mean?

13 MR. HOPKINS: I believe it's
14 accounts.

15 MS. O'CONNOR: Objection to form.

16 MR. TAYLOR: Is it accounts?

17 BY MR. TAYLOR:

18 Q. Okay. What does that mean?

19 A. It's -- it's very clear that's where the
20 agency agreement comes into play is that we had
21 proprietary bulk plasticizer accounts which we
22 felt were very important to us from a total
23 volume business and growth and that AMSCO is
24 not to solicit these accounts for proprietary
25 plasticizers. Very, very clear.

1 Q. It's not clear to me. Tell me what you
2 mean by that. What's so clear?

3 A. Well, they're not to solicit these
4 accounts for proprietary plasticizers such as
5 Santicizer 160 or any of our other products
6 because we were talking about bulk accounts.
7 These are accounts -- these are accounts that
8 take plasticizers in tank truck or tank car
9 volume. Obviously there is no restriction on
10 non-proprietary plasticizers. These were the
11 general commodity plasticizers that we also
12 made as well as other companies made.

13 Q. And the Aroclors were restricted accounts?
14 In other words, they were the proprietary
15 accounts?

16 A. Yes.

17 Q. Okay. Do you know if Monsanto was --
18 withdraw.

19 Was Armstrong Cork a restricted account
20 that AMSCO was to refrain or was restricted
21 from soliciting?

22 A. I don't know that.

23 Q. It goes on to say there is no restriction
24 on, is that Table 2?

25 A. On Table 2, accounts for non-proprietary

1 plasticizers, which would be our general
2 commodity plasticizers.

3 Q. Can you give me some examples of those?

4 A. Dioctyl phthalate, tricresyl phosphate,
5 biformaloctyldectyl phthalate and things of
6 that nature that were generally available in
7 broad usage in the vinyl business.

8 Q. Okay. Just give me a moment. Do you
9 remember a Mr. Beightol, Beightol?

10 A. Beightol.

11 Q. He was asked a question and I want to --
12 he was asked a question as follows: As a
13 former sales representative to Armstrong, do
14 you know whether AMSCO's sales territory or
15 distribution territory included Armstrong?

16 And his answer was if it did at the time,
17 I think I would have been very upset.

18 He went and he was asked and was it your
19 understanding from the relationship that AMSCO
20 was not to call on direct customers of yours?

21 Answer, no. Just that it was one of our
22 largest corporate accounts and I would be very
23 surprised if they were calling on Armstrong
24 Cork.

25 Question, for Aroclor products?

1 Answer, for any product that I handled.

2 Do you agree with that?

3 A. If he says that that's -- that's in the
4 testimony.

5 Q. Well, were you aware of any -- whether it
6 was formal or informal arrangement or agreement
7 that AMSCO was not to call on a large account
8 like Armstrong?

9 A. No.

10 Q. And are you aware of anything, whether in
11 writing or an oral agreement, where AMSCO
12 agreed not to call on large accounts like
13 Armstrong?

14 A. No.

15 Q. Are you aware of anything in the
16 relationship, whether in writing or an oral
17 agreement, which would have prevented AMSCO
18 from selling Aroclor products to Armstrong?

19 A. No.

20 Q. Okay. By the way, if you want to take a
21 break --

22 A. Yeah.

23 Q. I should have told you that. Don't wait
24 on me. If you want to take a break, any time
25 you want.

1 (Recess.)

2 BY MR. TAYLOR:

3 Q. I'm going to show you what was marked as
4 Wright Exhibit No. 6 at the July 30th, 1998
5 deposition. You can take that. And ask you to
6 turn to the last page where there is an AMSCO
7 logo with a list of its various outlets across
8 the country. Do you see that?

9 A. Yes.

10 Q. Did Monsanto authorize AMSCO to place its
11 logo or insignia on Monsanto's sales or
12 technical bulletins?

13 MR. HOPKINS: Objection, asked and
14 answered.

15 MS. O'CONNOR: Objection to form.

16 MR. TAYLOR: Asked and answered?

17 MR. HOPKINS: Asked and answered.

18 MR. TAYLOR: When?

19 MR. HOPKINS: In the prior
20 deposition.

21 MR. TAYLOR: This is a 30(b)(6)
22 designee.

23 MR. HOPKINS: And I think if you
24 review the February 5th letter I would probably
25 suggest this portion of his testimony from his

ALAN L. LESKY & ASSOCIATES

1 prior deposition was already designated as
2 testimony but you can go ahead.

3 MR. TAYLOR: If it is, then...

4 BY MR. TAYLOR:

5 Q. You can answer. Do you want the question
6 read back?

7 A. No, I understand your question.

8 Q. Okay.

9 MR. HOPKINS: Do you want some more
10 time to look at the document? Take as much
11 time as you need.

12 THE WITNESS: I'm trying to remember
13 if we authorized this or not, which is the
14 question.

15 MS. O'CONNOR: I have an objection to
16 form regarding a foundation issue.

17 THE WITNESS: Monsanto did not in my
18 knowledge supply Union AMSCO with a -- one of
19 our bulletins that -- indicating American
20 Mineral Spirits as a distributor as shown here
21 on this page.

22 BY MR. TAYLOR:

23 Q. Okay. Well, were they authorized to put
24 their insignia on -- strike that.

25 Is this Wright Exhibit No. 6, is this a

1 Monsanto publication?

2 A. It is a Monsanto publication.

3 Q. Okay. And was AMSCO authorized to place
4 -- well, strike that.

5 Did Monsanto place AMSCO's insignia and
6 list of outlets on this publication?

7 A. No.

8 MR. HOPKINS: Object to form. You
9 mean AMSCO's insignia?

10 MR. TAYLOR: I'm sorry, AMSCO's
11 insignia.

12 THE WITNESS: No.

13 BY MR. TAYLOR:

14 Q. Did Monsanto create this document and
15 place AMSCO's insignia on it?

16 A. No.

17 Q. Can you explain why the AMSCO insignia and
18 list of its outlets are at the end of this
19 document?

20 MR. HOPKINS: Just note my continuing
21 objection as asked and answered but you may go
22 ahead and answer the question.

23 MR. TAYLOR: Just for the record I
24 don't think that question was asked but you can
25 answer.

1 BY MR. TAYLOR:

2 Q. Can you explain?

3 A. Monsanto's line of plasticizers was well
4 recognized in the industry and especially their
5 plasticizer, all of their plasticizers,
6 including their proprietary items. I'm sure
7 that AMSCO, if they apparently wanted to be
8 recognized as an authorized distributor and
9 agent for Monsanto plasticizers --

10 Q. I'm just asking, is that your explanation
11 as to why it's in here?

12 A. I'm sure that must be the reason why.

13 Q. Did they do this without Monsanto's
14 authorization?

15 MR. HOPKINS: Object to form. You
16 can answer.

17 THE WITNESS: I don't recall ever
18 authorizing AMSCO to print their name on our
19 literature.

20 BY MR. TAYLOR:

21 Q. Okay. Did they do it without your
22 authorization?

23 MR. HOPKINS: Object to form.

24 BY MR. TAYLOR:

25 Q. Without Monsanto's authorization?

1 A. To my knowledge, they must have.

2 Q. Did Monsanto -- during 1970, the year 1970
3 did Monsanto instruct AMSCO on how to notify
4 its direct customers, that's AMSCO's direct
5 customers, regarding the withdrawal of PCBs
6 from the market?

7 A. I -- I believe I've testified that we did
8 advise AMSCO to notify their customers.

9 Q. I believe you're right. My question is
10 did you instruct them on how to carry that out?
11 Did Monsanto? When I say you, I mean Monsanto
12 instruct AMSCO on how to carry that assignment
13 out?

14 A. I'm sure that the directives that we
15 received in the field were carried out in
16 direct compliance with the Plasticizer Group's
17 responsibility and to -- to AMSCO.

18 Q. I'm sorry, I didn't understand your
19 answer.

20 A. Well, it was AMSCO's responsibility to
21 advise their customers of our withdrawal.

22 Q. What's the basis for that statement, that
23 it was their responsibility?

24 A. I didn't say no responsibility.

25 Q. I believe your testimony was it was

1 AMSCO's responsibility to contact their
2 customers.

3 A. That's right.

4 Q. What's the basis of your statement that it
5 was AMSCO's responsibility?

6 A. I think we have some testimony to that
7 effect, that we asked our regional managers to
8 advise AMSCO.

9 Q. That's not my question. My question is
10 you stated that it was AMSCO's responsibility
11 and I just want to know what's the basis for
12 that statement, that it was their
13 responsibility to contact their customers?

14 A. That's right. Yes.

15 Q. What's the basis of that statement that it
16 was their responsibility?

17 A. Because they were their customers and this
18 was a proprietary plasticizer that we were
19 withdrawing from the marketplace and we felt
20 that that was the responsibility that they
21 would take -- take -- take on.

22 Q. Okay. Who made that decision?

23 A. Plasticizer Group and the management of
24 Monsanto.

25 Q. Were you involved in making that decision?

1 A. No.

2 Q. Who was involved in that decision? You
3 said just generally the Plasticizer Group. Do
4 you remember any names?

5 A. Whoever was their manager of plasticizers
6 at the time and it looks like that Willis Clark
7 was -- was one because he's on a memo here from
8 Jim Beightol in exhibit -- Wright Exhibit 18.

9 Q. Okay. Did you -- did Monsanto review the
10 letters that were issued by AMSCO before they
11 went out to AMSCO's customers regarding the
12 withdrawal of PCBs?

13 A. I don't recall.

14 Q. If you can -- I'm sorry. I want to show
15 you what was marked at your deposition as
16 Wright No. 8 on July 30th, 1998. And just take
17 a moment to read that letter from Willis Clark
18 and let me know when you're finished.

19 (Witness reviews document.)

20 THE WITNESS: Okay.

21 BY MR. TAYLOR:

22 Q. Okay. On the second page there's some --
23 there's a top paragraph and then there's one to
24 seven and then there's a number eight under the
25 third page. And in number one beginning with

1 contact AMSCO and Central Solvents, do you see
2 that?

3 A. Yes.

4 Q. And it says this was completed in early
5 May on a confidential basis. The regional
6 offices should not have been contacted by the
7 Central Solvents. Do you know what that means?

8 A. No.

9 Q. Do you know why regarding the second par
10 -- sentence of that paragraph that they were
11 contacted, meaning AMSCO was contacted in early
12 May on a confidential basis?

13 A. No.

14 Q. Were you involved in that contact?

15 A. Possibly but I don't recall.

16 Q. And you've read number one?

17 A. Yes.

18 Q. If you can read number five, where it says
19 contact all distributors?

20 A. Yes.

21 Q. Is that in addition to AMSCO and Central
22 Solvents or would that also include AMSCO and
23 Central Solvents?

24 A. That would include AMSCO and Central
25 Solvents.

1 Q. Besides AMSCO and Central Solvents, were
2 there other distributors distributing or
3 selling PCB-containing products?

4 MR. HOPKINS: Monsanto products?

5 MR. TAYLOR: I'm sorry, Monsanto
6 PCB-containing products. Thank you.

7 THE WITNESS: I don't recall. We had
8 several other small distributors selling
9 plasticizers but I don't recall specifically
10 Aroclor products.

11 BY MR. TAYLOR:

12 Q. Was AMSCO the largest customer for
13 Monsanto -- strike that.

14 Was AMSCO considered a customer when it
15 would purchase proprietary products?

16 A. We considered them our distributor and
17 agent.

18 Q. Was there any customer that purchased more
19 proprietary products from you than AMSCO, any
20 direct customer?

21 A. Yes.

22 Q. Who is that?

23 A. These were large bulk customers --

24 Q. Can you give me an example?

25 MR. HOPKINS: I'll object to form and

1 go ahead if you want to put your question
2 again. I'm not sure what question is pending.

3 BY MR. TAYLOR:

4 Q. Well, let's take DuPont, for example.
5 That would be considered a direct customer,
6 correct?

7 A. Generally.

8 Q. In connection with Aroclor products,
9 PCB-containing Aroclors, was -- did AMSCO
10 purchase more -- strike that.

11 Was there any direct customer that
12 purchased more Aroclor-containing PCBs than
13 AMSCO that you remember?

14 A. I don't know.

15 Q. Okay. As the overseer, I believe that's
16 the word you used, if you want to use another
17 word, of the relationship between AMSCO and
18 Monsanto, are you aware of any policy regarding
19 the stockpiling of PCBs by any customer, any
20 AMSCO customer during the withdrawal -- during
21 the period of time from February of 1970 to
22 August, the end of August of 1970?

23 MR. HOPKINS: Object to the form.

24 THE WITNESS: I had no recollection
25 of customer stockpiling because my dealings

1 were mainly with AMSCO and Central Solvents and
2 other distributors.

3 BY MR. TAYLOR:

4 Q. Was Monsanto aware that some of AMSCO's
5 customers were either stockpiling or requesting
6 purchases to enable them to stockpile
7 PCB-containing products of Monsanto?

8 MR. HOPKINS: Objection to form.

9 MS. O'CONNOR: Objection to form.

10 MR. HOPKINS: He just answered that.

11 THE WITNESS: Well, you would have to
12 define stockpiling. I'm sure that Aroclors
13 were so unique in their properties that some
14 customers would purchase drums of Aroclor to
15 carry them over during this transition period
16 that they would have to go through.

17 BY MR. TAYLOR:

18 Q. And did Monsanto have a position regarding
19 that practice?

20 A. We had a --

21 MR. HOPKINS: Object to the form.

22 BY MR. TAYLOR:

23 Q. When I say position, a policy or a
24 position regarding that practice?

25 MR. HOPKINS: I'll note it goes

1 beyond the designation.

2 THE WITNESS: Our position was as
3 outlined in this letter, to stop all shipments
4 on August the 30th.

5 BY MR. TAYLOR:

6 Q. But prior to August the 30th, if Monsanto
7 became aware that one of AMSCO's customers
8 wanted to stockpile or purchase a large amount
9 to get them past the cut-off date of August the
10 30th, 1970, whether that would be allowed or
11 not by that customer?

12 MR. HOPKINS: Object to the form.

13 MS. O'CONNOR: Join.

14 MR. HOPKINS: And the scope is beyond
15 his designation. You may answer.

16 THE WITNESS: This was the
17 responsibility of the Product Group to monitor
18 the sales of their product. So I had no
19 knowledge as to whether there was AMSCO's
20 customers stockpiling.

21 BY MR. TAYLOR:

22 Q. Okay.

23 A. Does that answer your question?

24 Q. It does not. I want to know whether
25 Monsanto had a policy on whether a customer

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1 would be allowed to stockpile PCBs.

2 A. Not beyond August the 30th.

3 MR. HOPKINS: Same objection.

4 BY MR. TAYLOR:

5 Q. Well, if prior to August the 30th it was
6 communicated to AMSCO -- withdraw.

7 Communicated to Monsanto that a customer
8 expressed a desire to stockpile PCB-containing
9 products, would they be allowed to fill that
10 order?

11 MR. HOPKINS: Same objection.

12 THE WITNESS: That would be a Product
13 Group responsibility to control that product
14 shipments at that time.

15 BY MR. TAYLOR:

16 Q. The question is would they be allowed to
17 fill that order?

18 MR. HOPKINS: Same objection.

19 THE WITNESS: I -- I'm not aware of
20 it. I can't answer that question.

21 BY MR. TAYLOR:

22 Q. You're not aware of what?

23 A. If they would be allowed to stockpile.

24 Q. Are you aware of any policy which would
25 disallow them to stockpile?

1 MR. HOPKINS: Same objection.

2 THE WITNESS: We had a very specific
3 cut-off date on the shipments of Aroclors.

4 BY MR. TAYLOR:

5 Q. I understand the cut-off date was the end
6 of August, 1970.

7 A. That's right.

8 Q. Was there any policy prior to that date
9 that would prohibit an AMSCO customer from
10 stockpiling up on Monsanto's PCBs?

11 MR. HOPKINS: Same objection.

12 THE WITNESS: I'm not aware of any
13 policy like that.

14 BY MR. TAYLOR:

15 Q. Let me show you --

16 MR. TAYLOR: Let's mark this as
17 number three.

18 (Exhibit Wright-3, 7-14-70 Press
19 Query, is marked for identification.)

20 BY MR. TAYLOR:

21 Q. Mr. Wright, I've marked as Wright No. 3
22 with today's date a July 14, 1970 press query
23 from the Public Relations Department and just
24 ask you to take a moment to read this document.
25 It bears Bates MAE 059961 to 62.

1 (Witness reviews document.)

2 MR. HOPKINS: He's not copied on
3 this, right?

4 MR. TAYLOR: I don't know. I don't
5 see his name on it.

6 THE WITNESS: Okay.

7 BY MR. TAYLOR:

8 Q. Have you seen this document before?

9 A. No.

10 Q. Turn to the second page. On the second
11 question from the top it says could it be that
12 you don't know some of the end uses of PCBs?
13 And the answer is at one time this was probably
14 true, since some of the product was sold
15 through distributors, et cetera. It goes on to
16 say now, however, we have very good control
17 over use of the product and better knowledge of
18 its uses, of its end uses. Do you see that?

19 A. Yes.

20 Q. Did Monsanto perceive that there was a
21 problem that they did not know where its
22 products were being used after it was in the
23 hands of the distributors?

24 MR. HOPKINS: Note my objection to
25 this question.

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1 MR. TAYLOR: Okay.

2 MR. HOPKINS: As -- you may answer.

3 MS. O'CONNOR: I'll object to the
4 form. Go ahead.

5 THE WITNESS: I was listening to the
6 dialogue going back and forth.

7 MR. TAYLOR: Let me rephrase it.

8 BY MR. TAYLOR:

9 Q. You've read that question and answer --

10 A. Yes.

11 Q. -- I referred you to? And the question
12 is did Monsanto feel that there was a problem
13 in its level of knowledge as to where its
14 products were being used because of the fact
15 that they were being sold through distributors?

16 MR. HOPKINS: Object to the form.

17 THE WITNESS: No.

18 BY MR. TAYLOR:

19 Q. No?

20 A. No.

21 Q. Can you explain this answer, question and
22 answer then in connection with the
23 distributors?

24 MR. HOPKINS: Note my objection. It
25 goes beyond his designation. You can answer if

1 you know.

2 THE WITNESS: No.

3 BY MR. TAYLOR:

4 Q. Well, do you agree that at one time
5 Monsanto did not know -- strike that.

6 Do you agree -- would you agree that when
7 Monsanto used distributors, including AMSCO,
8 that it did not know where its product was
9 ending up?

10 A. In the early stages, yes.

11 Q. When did that change or did that change?

12 A. I believe over the period of time the
13 relationship between our salesmen and AMSCO
14 salesmen and regional managers was better on a
15 -- especially in proprietary plasticizers.

16 Q. Tell me when understanding became
17 improved.

18 A. I can't tell you specific time.

19 Q. Was it before the withdrawal of PCBs from
20 the market in 1970?

21 A. I think we had a very good relationship
22 with AMSCO.

23 Q. I'm not asking you about whether you had a
24 good relationship or not. I just want to know
25 whether Monsanto felt that it had adequate

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1 knowledge as to where its products were being
2 sold through the distributors.

3 MR. HOPKINS: Objection to form.

4 BY MR. TAYLOR:

5 Q. And whether they felt that they had
6 adequate knowledge prior to the withdrawal of
7 PCBs from the market.

8 MR. HOPKINS: Objection to form.

9 THE WITNESS: That was a
10 responsibility of the Product Group. That Will
11 Clark was the manager of the Product Group at
12 that particular time.

13 BY MR. TAYLOR:

14 Q. That was part of Monsanto, correct?

15 A. Yes.

16 Q. I'm asking you as a designee of Monsanto
17 whether it felt that it had adequate knowledge
18 regarding where its products were ultimately
19 being used through sales to its distributor,
20 namely AMSCO?

21 MR. HOPKINS: Object to the form.

22 BY MR. TAYLOR:

23 Q. Prior to the withdrawal of PCBs from the
24 market?

25 MR. HOPKINS: Also object as beyond

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1 the scope. You can answer.

2 THE WITNESS: I believe I answered
3 that question. The Product Group would have
4 the knowledge of where the products were being
5 sold and what customers were being sold in
6 relationship to our district managers and
7 district salesmen at the time.

8 BY MR. TAYLOR:

9 Q. Is it your testimony then that Monsanto
10 felt that it did have adequate information as
11 to where its distributors or where -- how its
12 distributors' customers were utilizing the PCB
13 product?

14 MR. HOPKINS: Same objection.

15 THE WITNESS: As well as our salesmen
16 would report into the Product Group.

17 BY MR. TAYLOR:

18 Q. And did -- is it your testimony that
19 Monsanto did not perceive this as a problem?

20 MR. HOPKINS: Same objection.

21 THE WITNESS: No.

22 BY MR. TAYLOR:

23 Q. No what?

24 A. I don't think that they perceived that as
25 a problem because of the relationship that we

1 had with AMSCO.

2 Q. Okay. Well, in answer to this question on
3 this press query, it says could it be that you
4 didn't know some of the end uses of PCBs?

5 A. Very possibly.

6 Q. And very possibly what?

7 A. Yes.

8 Q. That you did not know, meaning Monsanto?

9 A. I did not know.

10 Q. That Monsanto did not know?

11 MR. HOPKINS: Objection as beyond the
12 scope.

13 THE WITNESS: I can't speak for the
14 Public Relations Department.

15 BY MR. TAYLOR:

16 Q. I'm not asking. I'm asking regarding your
17 knowledge as the overseer of the relationship
18 with AMSCO.

19 MR. HOPKINS: Objection to form.

20 THE WITNESS: Would you state your
21 question again, please?

22 BY MR. TAYLOR:

23 Q. I'll rephrase it.

24 If you read the question and the answer --

25 A. Yes.

1 Q. -- and you've done that, correct?

2 A. Yes.

3 Q. Did Monsanto perceive there to be a
4 problem regarding its level of information or
5 knowledge as to where or how its distributors'
6 customers were utilizing the PCB products?

7 MR. HOPKINS: Objection to form and
8 beyond the scope. You may answer.

9 THE WITNESS: When?

10 BY MR. TAYLOR:

11 Q. Prior to the withdrawal of PCBs from the
12 market.

13 A. I don't know.

14 Q. Okay. How about after the withdrawal of
15 PCBs from the market?

16 A. I'm sure yes.

17 Q. When you say you're sure yes, why are you
18 sure yes?

19 A. This was a problem product that we were
20 trying to withdrawal from the market. We had
21 to know where it was and whether the customers
22 were notified properly or not.

23 Q. And if you -- the first phrase of the
24 answer it says at one time this was probably
25 true since some of the product was sold through

1 distributors. It says now, however, we have
2 very good control over uses of the product. As
3 of June -- as of July 14th, 1970 when it says
4 now, however, did Monsanto stop utilizing
5 distributors and particularly AMSCO for the
6 sale of PCBs?

7 MR. HOPKINS: Object to the form.
8 You can answer.

9 THE WITNESS: We stopped selling
10 Aroclors to Union AMSCO when the Product Group
11 decreed that the last shipments would be in
12 August.

13 BY MR. TAYLOR:

14 Q. Okay. So it's inaccurate when it says
15 since some of the product was sold through
16 distributors as of July 14th, 1970?

17 MR. HOPKINS: Objection to form,
18 foundation.

19 THE WITNESS: I don't understand what
20 staff at a Public Relations Department has
21 anything in this relationship for the control
22 of sale of plasticizers.

23 BY MR. TAYLOR:

24 Q. You would agree with me though that as of
25 July 14th, 1970 that AMSCO was still authorized

1 to sell PCBs for Monsanto, correct?

2 A. I don't recall specific dates. It must be
3 in the record somewhere but I'm sure that we
4 discontinued selling to AMSCO as -- as stated
5 by the Product Group.

6 Q. And that was August 30th, 1970?

7 A. Whatever was the cut-off date.

8 Q. August 30th, 1970?

9 A. Yes.

10 Q. Prior to the withdrawal of PCBs, was there
11 one person or a group of people at Monsanto
12 that had the -- that had responsibility to
13 manage the relationship with AMSCO or any other
14 distributor?

15 A. I worked with the headquarters offices of
16 both Central Solvents and AMSCO. The regional
17 managers of Monsanto worked with the district
18 managers of AMSCO. That was the primary
19 responsibility of their relationship.

20 Q. So it would have been you, along with the
21 regional managers --

22 A. Yes.

23 Q. -- that had that responsibility to manage
24 the relationship with AMSCO?

25 A. Yes.

1 Q. Did that change, meaning the structure of
2 the management of the relationship with AMSCO
3 or any other distributor after the withdrawal
4 of PCBs from the market?

5 A. No.

6 Q. Did your job -- was there a job title
7 created after the withdrawal of PCBs from the
8 market for the management of the distribution
9 relationships?

10 A. No.

11 Q. Okay. Was the Wilmington office of
12 Monsanto aware that AMSCO was selling PCBs to
13 Armstrong Cork?

14 MS. O'CONNOR: Objection to form.

15 THE WITNESS: I don't know.

16 BY MR. TAYLOR:

17 Q. In 1972 did you -- were you designated as
18 the sales manager for distributors of the
19 Plasticizer Division?

20 A. You have a record of my employment and I
21 believe -- I believe that's right.

22 Q. In 19 -- according to Wright No. 1, in
23 July of 1998 at your deposition you had a
24 handwritten note that said that in 1972 you
25 were Sales Manager Distributor Plasticizers?

1 A. Yes.

2 Q. Did that -- did your responsibilities
3 change in connection with the relationship of
4 the AMSCO -- well, in connection with AMSCO?

5 A. No.

6 Q. Just the name, the title changed?

7 A. Yes.

8 Q. Okay. But your job function did not
9 change in connection with management of that --
10 of the relationship with AMSCO?

11 A. You see the next assignment that I had for
12 all of the distributors within the corporate
13 Monsanto, Manager, Distributor Sales, Monsanto
14 Industrial Chemical Companies from '74 to '78
15 and I covered all products of the -- of the
16 division at that time.

17 Q. And that was in '74 to '78?

18 A. Yes.

19 Q. But in '72 you took on the title of Sales
20 Manager, Distributors for the Plasticizer
21 Division, correct?

22 A. Yes.

23 Q. Did your -- did your management of the
24 relationship with AMSCO change?

25 A. No.

1 Q. You still dealt with the central offices
2 of AMSCO and the -- or the regional managers
3 dealt with the AMSCO regional managers?

4 A. Yes.

5 Q. Okay. Did Monsanto have a policy in
6 connection with AMSCO after August 30th, 1970
7 on whether AMSCO could continue the sale of
8 product that it had already purchased from
9 Monsanto?

10 MS. O'CONNOR: Any product?

11 MR. TAYLOR: PCBs.

12 BY MR. TAYLOR:

13 Q. PCB-containing products.

14 A. If AMSCO wished to sell their product in
15 an inventory but we offered to take back the
16 product and encouraged that.

17 Q. But AMSCO, after August 30th, was, at
18 least according to Monsanto, authorized to
19 continue the sale of PCBs after -- that were in
20 its inventory after August 30th, 1970?

21 MR. HOPKINS: Object to form. You
22 can answer.

23 THE WITNESS: I don't know. I can't
24 answer that question.

25 BY MR. TAYLOR:

1 Q. Were they -- well, you can't answer what
2 question?

3 A. I can't answer the question whether they
4 were authorized or not.

5 Q. Well, were they -- did Monsanto have a
6 policy --

7 A. Don't know.

8 Q. -- on whether the distributor was --
9 AMSCO was allowed to do that?

10 A. I don't recall.

11 MR. TAYLOR: Let me just check my
12 notes. I think that's all I have. That's all
13 I have for now.

14 (EXAMINATION OF MR. WRIGHT BY MS. O'CONNOR:)

15 Q. Mr. Wright, my name is Carolyn O'Connor
16 and I represent AMSCO in this litigation. I
17 have a few questions for you. You need a break
18 for anything?

19 A. No, I'm fine.

20 Q. Okay. Okay. In January of 1962 Monsanto
21 and AMSCO entered an agreement wherein Monsanto
22 appointed AMSCO as a non-exclusive distributor
23 of car or truckloads of drums for certain
24 proprietary products and that included
25 Monsanto's Aroclor line. Is that true?

1 A. Yes.

2 Q. Okay. And that contract continued
3 year-to-year unless terminated by either party
4 with six months' prior written notice. Is that
5 true as well?

6 A. Yes.

7 Q. Okay. And Monsanto agreed to maintain an
8 advertising and sales promotion program and to
9 furnish AMSCO was current technical literature
10 regarding those products. Is that also true?

11 A. Yes. Yes.

12 Q. Let me finish my question so she can keep
13 up with us.

14 Okay. To your knowledge, AMSCO did not
15 author, print or distribute its own product
16 literature or technical bulletins for any
17 Monsanto product. Is that also true?

18 A. Yes.

19 Q. Okay. Monsanto provided technical support
20 to AMSCO customers if requested. Is that also
21 true?

22 A. Yes.

23 Q. To your knowledge, AMSCO did not alter the
24 Aroclor 1254 it distributed or acted as an
25 agent with in any way. Is that also true?

1 A. Yes.

2 Q. Okay. Can you just take a minute and look
3 at -- in the distributorship agreement, the
4 second page, paragraph nine. Let me help you
5 out here. It was Wright No. 9 in your earlier
6 transcript.

7 A. I have it here.

8 MR. HOPKINS: Here it is.

9 MS. O'CONNOR: Thanks.

10 BY MS. O'CONNOR:

11 Q. Second page, why don't you take a moment
12 and read paragraph number nine.

13 (Witness reviews document.)

14 THE WITNESS: Yes, I'm ready.

15 BY MS. O'CONNOR:

16 Q. Okay. Okay. Do you know the origin of
17 that language, where it came from?

18 A. From our legal department.

19 Q. Okay. Had you ever seen this language
20 used in any Monsanto agreement prior to the
21 execution of Wright No. 9? Have you ever seen
22 this language used before by Monsanto?

23 A. No.

24 Q. Okay. So this was new language to you in
25 the distributorship agreement --

1 A. Yes.

2 Q. -- as it relates to paragraph number nine?

3 A. Yes.

4 Q. Okay. Did you ever discuss with anyone
5 the import of paragraph number nine, other than
6 your attorney?

7 MR. HOPKINS: Objection to form.

8 MS. O'CONNOR: Let me rephrase the
9 question.

10 BY MS. O'CONNOR:

11 Q. Did you ever discuss the import of
12 paragraph number nine with anyone at AMSCO?

13 MR. HOPKINS: Objection to form.

14 THE WITNESS: At the time of our
15 contract negotiations all of these paragraphs
16 were discussed.

17 BY MS. O'CONNOR:

18 Q. Okay. Do you recall the subject or the
19 content of your discussion regarding paragraph
20 number nine?

21 A. No.

22 Q. Okay. Let me read to you and into the
23 record the -- what appears to be the second
24 full line of paragraph number nine. It starts
25 about four lines, sir, do you see in the middle

1 it says Monsanto shall not be liable? Do you
2 see that?

3 A. Yes.

4 Q. Monsanto shall not be liable for and
5 distributor assumes responsibility for risk of
6 loss or damage resulting from the handling,
7 possession or use of the products, whether
8 alone or in combination with other substances.
9 What's your understanding of that language?

10 MR. HOPKINS: Objection in that it
11 calls for a legal conclusion.

12 MR. TAYLOR: I join the objection.

13 MS. O'CONNOR: Okay. Can he answer
14 the question?

15 MR. HOPKINS: You can answer if you
16 can.

17 THE WITNESS: Okay.

18 BY MS. O'CONNOR:

19 Q. Tell me what that means to you.

20 A. Monsanto -- the distributor is responsible
21 for his sale and service of the account using
22 our products and if, for example, they had
23 damage in handling and had loss of the product,
24 that would be their responsibility.

25 Q. So they were not to go back to Monsanto in

1 case a product got lost or damaged in transit
2 in supplying their customer?

3 A. That's right, yes.

4 Q. Okay. Had that particular line ever been
5 invoked in your relationship with Monsanto and
6 AMSCO, to your knowledge?

7 A. I don't recall.

8 Q. Okay. Does it help you to -- let me go on
9 and read the next line immediately below that.
10 It says claims on account of weight, quality,
11 loss of or damage to a product shall be made in
12 writing as promptly as possible. That line
13 relates to the line above it, does it not, Mr.
14 Wright?

15 A. Yes.

16 MR. HOPKINS: Objection.

17 MR. TAYLOR: Objection to form.

18 BY MS. O'CONNOR:

19 Q. In fact, that line further supports your
20 understanding that these are claims based on
21 weight or quality or loss of the product
22 itself, correct?

23 MR. HOPKINS: Objection to form,
24 mischaracterization.

25 THE WITNESS: Yes.

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1 MR. TAYLOR: Objection.

2 MS. O'CONNOR: What was
3 mischaracterizing about that?

4 MR. HOPKINS: I don't think he said
5 that -- that that related, those words that
6 were provided to you. I also think he gave you
7 an example of something he thought would be
8 covered by the prior sentence, not necessarily
9 the full and complete extent of what the prior
10 sentence could have talked about.

11 MS. O'CONNOR: Okay. His testimony
12 stands. Okay.

13 BY MS. O'CONNOR:

14 Q. Okay. Then I want to go on, one more
15 sentence, Mr. Wright, Monsanto's liability for
16 losses or damages from all causes shall in no
17 event exceed the purchase price of the
18 particular delivery with respect to which such
19 losses or damages are claimed, plus any
20 transactional -- excuse me, transportation
21 charges paid by distributor. What's your
22 understanding of that sentence?

23 MR. HOPKINS: Objection.

24 THE WITNESS: That distributor is
25 fully responsible for handling his product,

1 servicing the customer, transportation,
2 delivery.

3 BY MS. O'CONNOR:

4 Q. Mr. Wright, are you familiar with any
5 situation in which the language I've read to
6 you from paragraph nine, all three sentences or
7 any portion of paragraph nine, have been used
8 as a method of requesting that AMSCO pay for
9 losses to third parties?

10 MR. HOPKINS: Objection to form.

11 BY MS. O'CONNOR:

12 Q. Do you understand my question?

13 A. I'm not aware of any.

14 Q. You're not aware of any. One second.

15 Do you know who in the legal department at
16 Monsanto provided you with the language that
17 appears in paragraph number nine?

18 A. I don't recall.

19 Q. Who was working in the legal department at
20 the time that this agreement was drafted, do
21 you recall that?

22 A. No.

23 Q. Okay. But you do recall that it was
24 something done in-house as opposed to by
25 outside counsel?

1 A. In-house.

2 Q. One other issue. Earlier you were asked
3 about whether or not this is the only contract
4 between Monsanto and AMSCO regarding
5 distributorship in effect between 1961 and
6 1978. The effective date of the agreement you
7 have before you, Mr. Wright, number nine, is in
8 fact January 1st, 1962, is it not? Let me
9 direct your attention, help you out here.
10 That's not supposed to be a trick question.

11 Let me direct your attention to paragraph
12 number five on the first page. So is it, in
13 fact, true that the effective date of this
14 agreement is January 1st, 1962 and that it was
15 not in effect in 1961?

16 MR. TAYLOR: Objection.

17 THE WITNESS: Yes.

18 MS. O'CONNOR: Thank you. I don't
19 have any other questions. Thanks a lot, Mr.
20 Wright, for traveling out here.

21 THE WITNESS: Thank you very much.

22 MR. HOPKINS: No questions.

23 MR. TAYLOR: Thanks, Mr. Wright.

24 (Adjourned.)

25

C E R T I F I C A T E

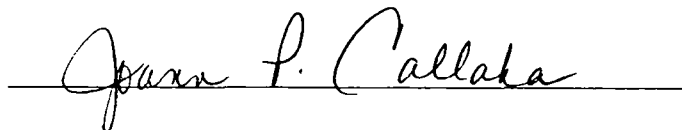
I, Joann P. Callahan, a Notary Public and
Certified Shorthand Reporter of the State of
New Jersey, do hereby certify that prior to the
commencement of the examination,

JAMES WRIGHT

was duly sworn by me to testify to the truth,
the whole truth and nothing but the truth.

I do further certify that the
foregoing is a true and accurate transcript of
the testimony as taken stenographically by and
before me at the time, place and on the date
hereinbefore set forth.

I do further certify that I am
neither a relative nor employee nor attorney
nor counsel of any of the parties to this
action, and that I am neither a relative nor
employee of such attorney or counsel and that I
am not financially interested in this action.



JOANN P. CALLAHAN, C.S.R.
Notary Public, State of New Jersey
My Commission Expires 4-22-03
Certificate No. XI00964
Date: June 1, 1999

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E X H I B I T S

(Exhibit Wright-1, Notice, is marked for
identification.) 6:17

(Exhibit Wright-2, 12-27-61 Memorandum, is
marked for identification.) 38:25

(Exhibit Wright-3, 7-14-70 Press Query, is
marked for identification.) 63:20