THE COURT: Mr. Carney, you may proceed.

Q. (By Mr. Carney) Mr. Papageorge, let me hand you a group exhibit, and I'm going to try to handle these by grouping. There are lots of letters here, and I'll read the exhibit numbers into the record, and I think if I can handle them as a group, it will save a whole lot of time, Your Honor. And I have several of these groupings just to try to cut down on ones that were (inaudible). This is the group. Did I ask you over the last few days to look at this group exhibit so that you'd be familiar with it and wouldn't have to spend the time with the jury in going through each document?

A. Yes, you did.

Q. And can you just generally describe what's in that notebook of exhibits?

A. It's a group of letters from Monsanto individuals to Westinghouse individuals on the subject of PCBs.

Q. And over what time period do these letters take place?

A. Oh, 1970 through about '76.

Q. Okay. Let me read off the exhibit numbers just so we have them in the record. This book -- And I've handed a copy to the Court and Mr. Kotoske as well. In this notebook are Exhibits D-26 -- These are all



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defendants exhibits. I won't repeat the D. Exhibits 26, 26-D, 27.

MR. KOTOSKE: Not too fast. Go ahead.

Q. (By Mr. Carþ ney) 31-D, 40-A.

MR. KOTOSKE: (inaudible).

Q. (By Mr. Carney) 43, 43-A, 46, 47, 47-A.

MR. KOTOSKE: Just a minute. 47-A, I think, counsel, is just an index. It's an index.

MR. CARNEY: Yes. That's right, your Honor. That's an index to the dates in which Westinghouse received the letters that precede it in the notebook.

Q. (By Mr. Carney) 81-A, 49, 50-B, 92.

þ MR. KOTOSKE: Fifty is already in evidence.

MR. CARNEY: Okay. I think that's right.

Q. (By Mr. Carney) 92, 94, 112-A, and 112-B and, finally --

MR. KOTOSKE: Wait a minute. Wait a minute. 112-A, B, yes.

Q. (By Mr. Carney) And, finally, 121. Now, except for 47-A, Mr. Papageorge, are those all letters that went from Monsanto to Westinghouse on the subject of PCBs during the period 1970 until late 1970's?

A. Yes.

Q. And are these representative examples of letters that Monsanto sent to Westinghouse during that



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period of time on the subject of PCBs?

A. Yes.

Q. What was the purpose in sending these letters to Westinghouse during this period of time, letters on PCBs?

A. In general, to either inþ form Westinghouse of some new information Westinghouse had on PCBs, but most often to review information regarding PCBs.

Q. And all of these documents that are in exhibit -- in this notebook, the exhibits that I read, are documents prepared by Monsanto?

A. Yes.

Q. And the authors of these exhibits are various employees of Monsanto?

A. Yes.

Q. And I won't go þ through them here. There's a whole bunch of names, including Wheeler, yourself and others. Did you know all the individuals that authored these documents? Maybe I --

A. I believe I noticed a compilation of dates. I don't know who prepared them; otherwise, the names I noticed, I do remember all of those.

MR. CARNEY: Your Honor, at this time I would like to offer these letters from Monsanto to Westinghþ ouse into evidence.



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THE COURT: Any objection?

MR. KOTOSKE: Well, Judge, can I take a few minutes and look at (inaudible)?

THE COURT: (inaudible).

MR. KOTOSKE: I'll tell you what I'm going to do -- I'll tell you what I'm going to do, put them all into evidence. Put them all into evidence.

MR. CARNEY: I'll be glad to give him tþ ime to look at them.

MR. KOTOSKE: Put them all into evidence.

THE COURT: Except for 47-A, what you're talking about (inaudible).

MR. KOTOSKE: Put 47-A in, too.

THE COURT: It's all in.

MR. CARNEY: Good.

THE COURT: All of the numbers from D-26 to 121 that you referred to are admitted into evidence.

Q. (By Mr. Carney)þ I'm not going to go through each letter. I want to take just a couple of examples (inaudible). Take a look at Exhibits 40-A and 49.

THE REPORTER: 48?

MR. CARNEY: 40-A.

MR. KOTOSKE: Well, you're going to have to at least give me a chance to find the exhibit. I have 40.

Q. (By Mr. Carney) Is that a letter -- This is



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a letter from Mr. Benignus to Donaþ ld McClain at the Bloomington, Indiana, plant?

A. Yes, sir.

Q. So this is a Monsanto letter to Mr. McClain at the Bloomington plant?

A. Yes.

Q. And 49 would be -- Could we just identify that for the record?

A. Forty-nine is a Monsanto letter dated February 18, 1971, authored by Mr. Benignus, and the subject is capacitor Aroclor 1242 versus MCS 1016.

þ Q. Now, let me ask you, what is just the general subject matter of these two letters?

MR. KOTOSKE: Well, objection. They speak for themselves. I haven't had a chance to read them, but that's the general rule of evidence that the letter speaks for itself.

THE COURT: Short of having to read the entire letter (inaudible) to accurately summarize the letter, do you want a chance first to loþ ok at it, Mr. Kotoske?

MR. KOTOSKE: Yeah, that's the general --

MR. CARNEY: I would be glad to have him read the letter, but I think it would be a lot quicker. I just want to -- in fact, I can just ask him the question.



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Obviously, he doesn't have to get into a whole summary.

THE COURT: Sure.

Q. (By Mr. Carney) Do these letters, these Monsantoþ letters discuss this new product of 1016 that was to replace the 1242 being sent to Bloomington?

A. Yes.

MR. KOTOSKE: Is that what these letters are about?

MR. CARNEY: That is what they are about.

MR. KOTOSKE: All of them?

MR. CARNEY: These two letters.

Q. (By Mr. Carney) And were these letters asking Westinghouse if they would look at thisþ new 1016 that Monsanto developed to see if it would be -- that it could be used as a substitute for 1242 that the Bloomington plant had been using?

A. Yes.

Q. Did the Westinghouse Bloomington plant indicate at some point in time that the 1016 was suitable for their capacitors and that they would now use the 1016 in place of the 1242?

A. They did.

Q. And by July of 19þ 71 had the Bloomington plant switched over from using 1242 to 1016?

A. Yes.



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Q. And was 1016 a good (inaudible) for capacitors, just like 1242?

A. Yes, excellent (inaudible).

Q. And did it have a feature the 1242 didn't have, and that is it was less -- it was more biodegradable?

A. Yes.

Q. So it would have a better impact -- itþ would have less harm to the environment than 1242?

A. Yes.

Q. And was that the reason the 1016 was developed by Monsanto?

A. Yes.

Q. Now, during your examination by Mr. Kotoske, and I think let's look at D-91 -- Oh, I'm going -- I'm going back to the -- Get that other notebook out. This is a letter that Mr. Kotoske went over with you. And just to refresh everybody'þ s recollection, this is a letter from the Westinghouse employee in the South Boston distribution division in Virginia?

A. Yes, it is.

Q. And that was a letter where this guy from the distribution division of Westinghouse, the South Boston, Virginia, plant asked you some questions?

A. Yes.



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Q. And you answered them?

A. Yes.

Q. Tþ his Don Albert who's the person from the distribution center from the South Boston, Virginia, was he a new employee at Westinghouse at the time?

A. Yes. I understood that he was new, yes.

Q. Let's next go to Exhibit 2-A. Can you identify that letter?

A. This is a --

MR. KOTOSKE: Excuse me, Judge. This is not a Monsanto letter, as I understand it. It's a Westinghouse letþ ter. Now, how is this witness going to identify a Westinghouse letter?

THE COURT: What's your response?

MR. CARNEY: Yes, Your Honor. This has been authenticated with an affidavit from Westinghouse.

THE COURT: But beyond that (inaudible).

MR. CARNEY: I'm just going to ask him to identify it as a letter from Westinghouse, and then I'm going to offer it in evidence.

þ THE COURT: Well, I'll hold off for now. You may proceed.

A. This is a Westinghouse letter dated September 15, 1947, headquarters medical department, addressed to Mr. J. W. Wigert, W-i-g-e-r-t, of the Cleveland Works,



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authored by Mr. E. C. Barnes, industrial hygiene engineer.

MR. KOTOSKE: Excuse me.

THE COURT: Let him finish the question. Finish yourþ next question.

Q. (By Mr. Carney) Mr. Barnes was the industrial hygiene engineer for Westinghouse?

A. Yes, sir.

THE COURT: What is your objection?

MR. KOTOSKE: My objection is this man never worked at Westinghouse. He never wrote the letter. It's a letter written by Westinghouse to somebody else. Now, I know Mr. Papageorge thinks he knows a lot of things, but he caþ n't authenticate letters.

THE COURT: Well, if the foundation is authenticated, but the (inaudible) further admissability, I still think there is a question.

MR. CARNEY: Your Honor, on the same basis that the letter from Westinghouse that was identified that went to the U.S. Navy goes to the knowledge of Westinghouse about (inaudible).

THE COURT: You want a cautionary instructþ ion?

MR. KOTOSKE: Absolutely.

THE COURT: It will be admitted. That which he refers to will be admitted into evidence. And, again,



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ladies and gentlemen, this answer will go not towards the truth of the matters, but to any knowledge Monsanto had at the time.

MR. CARNEY: Or Westinghouse's knowledge at the time.

THE COURT: That's right.

MR. CARNEY: And we have a business records foundation for the affidavit.

THE COURT: All right. It's admitted as far as that goes.

Q. (By Mr. Carney) Okay. I'm going to ask you to read from this. This letter is dated 1947; isn't that correct?

A. That is correct.

Q. And that was --

MR. KOTOSKE: We better have a cautionary instrucþ tion again if he's going to start putting something in front of the jury and the whole business.

THE COURT: The same thing. All the items in this letter are not admissable for their truth, but only on the issue of what Westinghouse knew on its part.

MR. KOTOSKE: Thank you.

THE COURT: Proceed.

Q. (By Mr. Carney) This is a letter that's dated ten years before the Bloomington þ plant opened; isn't



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that correct?

A. That is correct.

Q. And if you would -- Can you read this in the back row? Can you see it? Let me read from the letter paragraph two of the letter, and you can follow along. And I'll read this to the jury. With regard to the subject of breathing, do you see that on the letter?

A. I do.

Q. And the letter says -- And tþ his doesn't go to truth, but it goes to Westinghouse's knowledge. "Chronic poisoning may occur where there are repeated, recurring exposures to a sufficient concentration of Inerteen vapor over a period of months or years. Such exposure may produce internal bodily injury which may be disabling or could be fatal." Is that what it says?

A. It does.

Q. Now, Mr. Kotoske had you go over the 1975 letþ ter from the new employee at Westinghouse, the South Boston facility, and you answered the question about whether PCBs, if you got enough of it and drank it in enough quantities, you could die from it?

A. I remember that.

Q. But Westinghouse had this information back in 1947.

MR. KOTOSKE: Oh, Judge, please. There is no



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(inaudible). The plant in Bloomington wasn't even bþ uilt in the 1940's.

THE COURT: Not (inaudible).

MR. CARNEY: I'll withdraw it.

THE COURT: It's withdrawn. Proceed.

Q. (By Mr. Carney) The Westinghouse letter in 1947 goes on to talk about skin irritation. Do you see that?

A. I do.

Q. And it says, "It is absorbed through the skin and can produce toxic reactions internally. It may alsoþ produce after exposure of months or years a skin condition known as chloracne. This condition is very difficult to heal." Did I read that right?

A. You did.

MR. KOTOSKE: What section are you on?

MR. CARNEY: I'm reading from --

THE COURT: Page 2.

MR. KOTOSKE: I have it. I have it.

Q. (By Mr. Carney) And then there is another parþ t of the letter, Westinghouse letter, 1947 that talks about precautions, and there it says, "Care must be taken to prevent any appreciable contact with this material with the skin, especially when these contacts are repeated. The maximum allowable concentrations of vapor previously



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specified should not be exceeded under normal working conditions. This can be accomplished either by using a totally enclosed system oþ r by providing adequate ventilation. Where this is not practical, respirators may be used." Did I read that part right?

A. You did.

Q. And this was signed by Mr. Barnes, the industrial hygiene engineer of Westinghouse. This was a letter of Mr. Barnes, the industrial hygiene engineer of Westinghouse?

A. That is correct.

Q. Take a look next at Exhibit D-5. This is an þ exhibit that Dr. Kelly testified about on Friday. This is a letter from an Elmer Wheeler of Monsanto to a Mr. Speicher of the industrial hygiene department at Westinghouse, dated July 25, 1956; is that correct?

A. That is correct.

Q. That would have been -- this letter would have been written by Monsanto and received by Mr. Speicher at Westinghouse a year before the Bloomington plant opened?

þ A. Correct.

Q. In the next to the last paragraph on page 2 of this letter, Monsanto's telling Westinghouse that "We recommend that repeated and prolonged skin contact with



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any of the Aroclors be avoided."

A. It does.

Q. It also goes on to state in the next paragraph, "As with many chlorinated hydrocarbons, exposure to sufficient quantities over a long enough þ period of time could conceivably result in chloracne."

A. It does.

Q. It finally says, "To our knowledge, there has never been any cases of chloracne in the electrical industry's use of these products."

A. It does.

Q. Now, that's what Monsanto told Westinghouse a year before the Bloomington plant opened?

A. That is correct.

Q. Now, take a look. Does this lþ etter also talk about the Treon studies, the studies that Dr. Treon did on establishing levels for air in the work place?

A. It does.

Q. Were those Treon studies sent -- Those Treon studies were studies done by Monsanto?

A. Yes.

Q. They were animal studies?

A. Yes.

Q. And what is your understanding of what those studies demonstrate?



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A. They demonstrated the level of PCBs in the breathing air in the work area for an employee and the breathing air for the animals, the amount of PCBs that could be breathed for a full eight-hour period without causing any harmful effect.

Q. Even the throat irritation or -- even that kind of irritation?

A. Yes.

Q. Let's take a look at those studies real briefly. I think they are Exhibits 198 and 199.

MR. KOTOSKE: I suppose you want me to stand up and cross-examine this guy, Judge. I've just been handed about 6,000 pages.

MR. CARNEY: Well, these copies have all been provided to Mr. Kotoske long before the trial started. And we are for the matter of convenience handing copies to Mr. Kotoske.

THE COURT: I appreciate it.

MR. CARNEY: And we are doing the same for the Court, but I don't want the jury to think this is the first time we are handing Mr. Kotoske copies.

Q. (By Mr. Carney) Are Exhibits D-198 and D-199 those Treon toxicity reports that we just talked about?

A. Yes.

MR. CARNEY: Your Honor, I'd like to offer



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into evidence those two reports.

MR. KOTOSKE: Well, I'd lþ ike to take a look at them.

THE COURT: How much time do you need? I mean (inaudible) withhold ruling on it for now.

MR. CARNEY: If you need more time, let's hold off on it.

THE COURT: Because you might go into it?

MR. CARNEY: I'm not sure I'm going to go into any detail. I just want him to describe them to the jury.

Q. (By Mr. Carney) Do tþ hese Treon reports that Monsanto sent Westinghouse discuss certain effects of PCBs on the livers of experimental animals after exposure to heated PCB vapors?

A. They do.

MR. KOTOSKE: You know, Your Honor, I can save a lot of time. This is 1254. These are Aroclors 1254. I see one is 1242. Both are 1242 and 1254. I can read fast, but --

THE COURT: However you want to handle itþ , I guess, or maybe Mr. Carney can let Mr. Kotoske know very briefly what (inaudible).

MR. KOTOSKE: A (inaudible) of what exhibits they are going to try to use here.



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THE COURT: We are on these exhibits.

MR. KOTOSKE: It might be helpful.

MR. CARNEY: Let me just say for the record that Mr. Kotoske's co-counsel, Mr. McCrea, got these in June of 1990.

MR. KOTOSKE: Look, there's a thousand exhibits marked by this company in this case. I can't read and have available (inaudible).

MR. CARNEY: I can shorten it. I'm going to refer to a couple of sentences in here, and I'll give Mr. Kotoske a chance to look at them before I have them read.

THE COURT: I appreciate it.

MR. CARNEY: If that's okay, I'd like to do that.

THE COURT: Proceed.

MR. CARNEY: I can get through this in about three or four minutes.

THE COURT: That's fine.

Q. (By Mr. Carney) Let's look at 198, Exhibit 198, the top of page 3. What I'd like to do is start at the very bottom of page 2, and it goes into the top of page 3. The information there I'd like to discuss.

THE COURT: All right. Do you have any comment on this segment, Mr. Kotoske?



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MR. KOTOSKE: Well, I tell you, Your Honor, I don't know if I do or not. In the (inaudible), whatever you rule, you rule.

THE COURT: Let's proceed.

Q. (By Mr. Carney) Starting at the very bottom sentence of page 2 and going over to the sentence on page 3, I'd like to just read a couple sentences to youþ out of this Treon report that was sent to Westinghouse. "The average weights of the livers and kidneys (relative to body weights) of the animals exposed to Aroclor 1242 did not differ significantly from those of the unexposed group." Now, that's the 1242. That's the stuff that's sent to Bloomington?

A. Yes.

Q. "But the livers of the rats that were exposed to Aroclor 1254 were enlarged." Did Iþ read that right?

A. You did. That's correct.

Q. Let's go to Exhibit 199, page 2. And by the way, both of these Treon studies -- Treon animal studies were Aroclor 1242 and Aroclor 1254?

A. They were.

Q. And both of these studies were done in the year 1955?

A. They were.

Q. One or two years -- two years before the



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Bloomingtonþ plant opened?

A. Yes.

Q. And, by the way, were these Treon studies, were they given to the United States government as well?

A. Yes.

Q. In fact, they were cited in the task force study that we reviewed this morning?

A. Yes.

Q. And on page 2 was there also a discussion of the effects of PCBs by these animals breathing the PCB fumes on the liver?

1þ 2 A. I'm having difficulty finding --

Q. I was having -- but I think I found it. Let me read it. It says -- I'll just read from the middle of the page. "No relevant gross pathological changes were observed in the animals, but microscopic lesions of a mild, nonspecific, toxic type were found in the livers of some of the guinea pigs and mice and all of the rabbits and (inaudible)." Do you see that?

þ A. I see that, yes.

Q. And then it goes on to say, "Although microscopic abnormalities of this type are often found in the tissues of normal animals, those observed in certain of the control animals were not as severe as they were found to be in the corresponding species of animals that



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had been exposed to Aroclor 1254," correct?

A. Correct.

Q. "The conclusion seemsþ to be warranted, therefore, that prolonged respiratory exposure to Aroclor 1254 is capable of causing some injury to the tissues of susceptible animals under conditions in which the atmospheric concentrations of the material is of the order of 0.11 parts per million."

A. That's correct.

Q. Let's take a look at Defendant's Exhibit 7. This is a letter from Elmer Wheeler of Monsanto -- I'm sorry. Tþ his is a letter from Monsanto's Mr. Wheeler to Westinghouse's Mr. Speicher who's the administrator of industrial hygiene, Westinghouse?

A. It is.

Q. Dated October 23, 1959?

A. This is.

Q. That would be about a year or so after the Bloomington plant opened?

A. Yes.

Q. And in the last paragraph on page 1, does Monsanto again tell Westinghouse that exþ cessive exposure to PCBs might result in chloracne?

MR. KOTOSKE: Cautionary instruction, Your Honor.



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THE COURT: All right. This is admissable not for its truth, but only for issue of notice to Westinghouse by Monsanto at this time. You may answer.

A. Yes.

Q. (By Mr. Carney) Mr. Kotoske asked you a lot of questions about why you didn't put the faþ ct that PCBs might cause chloracne on the labels that went on the drums. Why didn't you put the fact that PCBs could cause chloracne on the labels that went on the drums?

A. We believed that the best way to communicate to a worker is as short a sentence as possible. Therefore, we sincerely believe that mentioning avoiding skin contact and prolonged and repeated breathing was much more effective in preventing health þ problems because just mentioning you might get chloracne doesn't tell the worker what he should do to prevent that chloracne.

MR. KOTOSKE: Could I have that read back?

THE COURT: The question?

MR. KOTOSKE: Yeah, and the answer. I want to know what he just said.

THE COURT: Sure.

MR. CARNEY: I don't think he finished his answer, but let's read it baþ ck.

(The reporter read back the question and answer.)

Q. (By Mr. Carney) But Monsanto did tell



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Westinghouse's medical department about what PCBs could do if you didn't avoid prolonged skin contact?

A. Yes.

Q. Why did you tell the medical department at Westinghouse and not put it on the label?

A. Primarily because the people in the medical departmenþ t would have a better understanding of what was meant by chloracne, and, again, we believe that the medical department in Westinghouse was in the best position --

MR. KOTOSKE: Cautionary instruction, Judge.

MR. CARNEY: Let him finish his answer.

THE COURT: If he's referring to what Westinghouse was thinking, then I'll give the jury the instruction as (inaudible) not to its truth, but tþ o its claim of knowledge. You may continue.

A. Once the medical individuals in Westinghouse, that included not only the medical doctors, but the nurses and industrial hygienists and the like, had this information, they were in the best position to pass this on to the worker so it fit the circumstances or the conditions that the worker found himself in at Westinghouse locations, and each of the locations was þ different.

Q. I think we mentioned before Westinghouse had



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five different plants that used PCBs in different ways?

A. That is correct.

Q. And if Westinghouse followed the safe handling procedures that were on the labels of the PCBs that Monsanto shipped, would any worker get chloracne?

MR. KOTOSKE: Oh, my goodness. Speculation. That's --

þ THE COURT: (inaudible) the form of the question.

Q. (By Mr. Carney) Well, let me put it this way. If you avoid prolonged skin contact and avoid prolonged breathing of fumes, will you get chloracne from PCBs?

A. You will not.

Q. Will you get liver damage?

A. You will not. And that's been demonstrated through 40 years of experience.

MR. KOTOSKE: Wellþ , that's fine, Mr. Papageorge, but, Your Honor there is a lack of foundation. He just gave an opinion here, a medical opinion. This guy's a chemist.

THE COURT: Well, (inaudible) the last part was not responsive. As I indicated before, I know he is not a medical doctor, but he can give his opinion based upon what he's read about the area. Again, it doesn't



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count to the medical diagnosis. þ It goes to the weight of the evidence, not the admissability. Proceed.

Q. (By Mr. Carney) Did Monsanto have meetings with Westinghouse?

A. Yes, many times.

Q. Yesterday Mr. Kotoske referred to a memo by Mr. Benignus at Monsanto where the word "sloppy" was used in relation to the Bloomington plant.

A. I remember that.

Q. And the date of that memo was September of 1967. In fact, I'll get the exact date if I can. Oh, okay. I've got it here. The date of the memo, I'll just show it to you, you can confirm, is September 21, 1967?

A. It is.

MR. KOTOSKE: Your Honor, I have no objections if they'd like to offer that into evidence.

THE COURT: What is the exhibit number?

MR. CARNEY: It's -- This is one where it wasn't a marked exhibþ it.

MR. KOTOSKE: I'd be happy to mark it as Plaintiff's 1.

MR. CARNEY: I don't have any problem. We can mark it later.

THE COURT: We'll call it Plaintiff's 1.

MR. CARNEY: Well, as long as there is not



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another Plaintiff's 1.

MR. KOTOSKE: There isn't.

THE COURT: There was before, but no longer. Plaintiffþ 's 1 is admitted into evidence.

Q. (By Mr. Carney) We'll refer to that as Plaintiff's 1. We'll mark it right here. Now, in that memo Mr. Benignus was describing a conversation he had with somebody from Westinghouse?

A. Yes.

Q. And somebody apparently from Westinghouse indicated to Mr. Benignus that there was some sloppy conditions at Bloomington?

A. Yes.

Q. þ Did Mr. Benignus ever personally observe those sloppy conditions to your knowledge?

A. Not to my knowledge.

Q. When Monsanto heard about that sloppiness or sloppy conditions at the Bloomington plant did you just shrug your shoulders and (inaudible) to do nothing about it?

A. Oh, certainly not.

Q. What did you do?

A. We were very willing to have the Westinghouse
24þ people come by our plant and we'd show them what we did
25 and compare notes with them.



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Q. Did you wait months before you did that?

A. No, sir.

Q. How long after that letter came in did the people from Bloomington plant come down to Anniston, Alabama, and visit your plant?

A. A couple weeks.

Q. Do you remember who came to visit?

A. þ Yes, I do.

Q. By the way, when the Bloomington people came down to the Anniston plant, did you spruce it all up for them so it would look like it was spic and span?

A. No.

Q. Did Monsanto have to coax or persuade the Westinghouse Bloomington people to come down and see the plant?

A. No, no. They -- There is no persuasion. They asked to come by, and we said, "Certainly. When dþ o you want to come by, and we'll be here."

Q. Let's take a look at Exhibit D -- Defendant's Exhibit 15 -- 15-D.

A. I have it.

Q. And, actually, this is the second page of what we just already admitted into evidence, I think, which is with Plaintiff's Exhibit 1 attached here.

A. Yes. That's right.



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MR. KOTOSKE: I've lost it. This is the
þ second page of the document that's in evidence?
MR. CARNEY: Yeah. We've marked.
MR. KOTOSKE: What is the document that this is attached to?
MR. CARNEY: Plaintiff's Exhibit 1 that we just put into evidence.
MR. KOTOSKE: Got it.
Q. (By Mr. Carney) So Exhibit 15-D, I think what I'm going to do is rather than get it confusing, I'm going to say, looþ k at the second page of Plaintiff's Exhibit 1. Can you identify that for the jury?
A. This is a Monsanto memorandum prepared by J. G. Rhime of Monsanto addressed to individual Monsanto people at the Anniston, Alabama, plant, informing them of the visit by two Westinghouse representatives, and it includes the program for the day, what will be discussed at what time. And does it say who from the Bloomington plant of þ Westinghouse is coming to visit the Monsanto Anniston, Alabama, PCB plant?
A. It does.
Q. Who is that?
A. Mr. Harvey Pickett and Mr. Jim McNally.
Q. Mr. Pickett is going to testify by video deposition later in the trial. So within two weeks of



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hearing about some sloppy conditions, the Bloomington people come and visit the Anniston, Alabama, Monsanto PCB pþ lant?

A. Yes.

Q. Were you there when they made the visit?

A. Yes.

Q. The agenda, which is attached -- there is an agenda that's attached to Plaintiff's Exhibit 1. It says what general topics are going to be discussed and has times for each.

A. It does.

Q. The meeting started at 8:30 in the morning?

A. Yes, sir.

Q. Andþ there was a wrap-up discussion that was held at 2:00 in the afternoon?

A. It started at 2:00, uh-huh.

Q. The wrap-up discussion started at 2:00?

A. Yes.

Q. Was the meeting all day?

A. I'm sorry?

Q. Did these discussions and meetings with Westinghouse Bloomington people go all day?

A. Yes.

Q. The agenda shows that Monsanto plannþ ed to discuss Inerteen handling with the Westinghouse



WATER_PCB-SD0000015574

Bloomington people between 8:45 a.m. and 9:15 a.m.

A. That was the scheduled time, yes, sir.

Q. Did the discussion of safe handling of PCBs occur at that meeting?

A. Yes.

Q. How long did that discussion actually last?

A. Oh, almost an hour.

Q. So it went over the scheduled time?

A. Yes, it did.

Q. Can you tell me what was said during that meeting? Was there an exchange of information (inaudible)?

A. Of course, I don't recall the exact words, but there was an exchange. The industrial hygienist, Mr. Ward, reviewed the conditions that could be observed under different kinds of exposure and the things that we talked about, the reddening of the skin, the harshness of the breathing and the soreness, the possibility of chloracne and liver damage, of course the burning of the eyes, all of these things were discussed as conditions that could happen unless the material was properly handled. I recall we had a table in the conference room on which we had displayed the equipment and gear that was available for Monsanto's workers. We had a sample of the booties we talked about, the gloves, types of gloves



WATER_PCB-SD0000015575

available, the rubber rain jacket and the rubber overpants, hand creams that were available, and what else?

Q. Let me ask you this. Was Mr. Pickett and Mr. McNally, the two Westinghouse Bloomington employees, they were supervisors of Bloomington?

A. Yes, sir.

Q. Were they in the room when this discussion occurred about the chloracne and the skin conditions and þ all the equipment that Monsanto used?

A. Yes.

MR. KOTOSKE: Who was there besides Harvey Pickett from Westinghouse?

THE COURT: McNally.

MR. CARNEY: Jim McNally.

Q. (By Mr. Carney) Did Mr. Pickett or Mr. McNally say anything about chloracne at the meeting?

MR. KOTOSKE: Cautionary instruction.

THE COURT: Whatever was said is þ not for the truth, but only to show any knowledge of Monsanto at the time.

A. They were aware of the possibility for chloracne to be a problem. They were aware of severe liver problems. They acknowledged all this. They did mention reddening of skin and compared our gloves with -- They described the gloves they were using, and some of



WATER_PCB-SD0000015576

them were similar. They mentioned the use of aprons which we didn't have and discussed the relative differences as to whether a rubber suit might work better. They didn't reach any conclusions. It's just sort of an open discussion. I recall specifically their interest in booties.

Q. What was their interest in botties that you recall?

A. Because they apparently had a lot of troubles with shoes lasting too long in their plant.

Q. Lasþ ting too long or not long enough?

A. I'm sorry. Their shoes did not last long enough. They were deteriorating too rapidly. They were interested in the booties, and I recall Mr. Ward went to his office and got a catalog where these kinds of equipment are listed as to the supplier's name and cost and so on, and gave them a copy of that booklet to take with them.

Q. So they could order booties if they desirþ ed?

A. If they felt that they were proper for their operation, yes.

Q. Did they indicate that they had any problems with chloracne or liver damage at the Bloomington plant when they were down there on September 27, 1967?

MR. KOTOSKE: Cautionary instruction. I



WATER_PCB-SD0000015577

think it's appropriate you repeat it at this time.

THE COURT: It will be repeated. Any iþ nformation that's admissable is not for its truth, but only to acknowledge what Monsanto knew (inaudible) at the time. You may answer.

A. They did not indicate that either of those problems were present at their plant.

Q. (By Mr. Carney) Did the representatives from the Westinghouse Bloomington plant tell you whether they had discussed PCB toxicity with the Westinghouse medical department?

þ MR. KOTOSKE: I hate to (inaudible) this. Are we talking about the Westinghouse medical department in Pennsylvania or the medical department in Bloomington?

MR. CARNEY: Well, I'm not sure what the answer's going to be. I'll ask him which it is.

THE COURT: All right.

A. They mentioned they were getting advice from a medical person. I do not know where that medical person was locatþ ed.

Q. (By Mr. Carney) Was there any discussion about respirators?

A. Certainly.

Q. Try to recall and tell the jury what that discussion was about.



WATER_PCB-SD0000015578

A. Well, there was a discussion as to what was the proper type of respirator. They were very interested that we had respirators issued to each person and sized for that person. And we mentioned the fact thatþ we had a service where the respirators would be sent back to the storeroom for cleansing and sanitation and re-issue back to the worker. We emphasized that each respirator should be assigned to a specific person. It's not a case of some respirator hanging in the locker room and anybody having access to it. We also suggested that the respirator they picked must be the kind that is suitable for all the chemicals in their opeþ ration, which were very likely different from all the chemicals in our operation. It had to be sort of an all-purpose respirator, but they had to be very careful which type of all-purpose they would select.

Q. Was there any discussion at the meeting about the medical and scientific literature about PCBs?

MR. KOTOSKE: I think a cautionary instruction -- And I think this is the last time, Your þ Honor, because when he gets into these other topics, I think the jury should be warned that this is not offered for the truth of the matter.

THE COURT: I'm willing to make a blanket cautionary instruction.



WATER_PCB-SD0000015579

MR. CARNEY: And I will stipulate it's not for that purpose, but only for the purpose of what the knowledge was of Westinghouse at that time.

MR. KOTOSKE: That'sþ the problem, the (inaudible) before you state it. This evidence (inaudible).

THE COURT: Let's go over.

(A bench conference was held.)

(Ms. Pape replaced Ms. Carter.)



WATER_PCB-SD0000015580

THE COURT: Why don't you state the question again and I'll give the cautionary instruction.

MR. CARNEY: My questþ ion is about discussions at this meeting with Bloomington Westinghouse people about the literature about PCBs, and I want to break it down in two categories because, one, I want to ask him what he said or what the Monsanto people said to Westinghouse, which is part of--which is not--would not need a cautionary instruction, but then what they said back, we'll get the cautionary instruction.

BY MR. CARNEY:

þ Q. Do you recall--I'm gonna try to break it down so it's easier for the judge to give cautions where they're needed. Do you recall what you or Monsanto people said to Westinghouse about the PCB literature in this meeting with Westinghouse?

THE COURT: Again, the answer where applicable is (inaudible).

MR. CARNEY: No, Your Honor, this is what Papageorge said to them.

THE þ COURT: To them. All right. It's his prior statement.

MR. CARNEY: Yes. So--that's why I'm breaking it down, so you don't need to give a cautionary--

THE COURT: Go ahead. You may answer.



WATER_PCB-SD0000015581

A. We reviewed the--briefly with these two Westinghouse people the background leading up to our understanding of what PCBs can do to human beings under the wrong conditions. We mþ entioned the early work that--that told us about the possibility for chloracne. This is what we call the Drinker studies--the real early work back in the '30s. We reported to them Monsanto's experience--not Mon--Swann Chemical Company's experience with some bad (inaudible) which made bad PCB, and a chloracne situation occurred then.

Q. That is before Monsanto bought the Swann plant?

A. þ Correct.

Q. Which is the Anniston plant?

A. Correct. We also reviewed with them the Treon studies and how that work was used by the American Industrial Health Association to come up with acceptable levels that could be in the working place breathing air--this half a part milligram per cubic meter, and then one milligram per cubic meter. We also reviewed with them--and I use the word review becþ ause they--this did not strike me as being new to them.

MR. KOTOSKE: A cautionary instruction.

THE COURT: I'll sustain as to that part as far as nonresponsive and getting into what was in their mind. You may continue.



WATER_PCB-SD0000015582

Q. Okay. Go ahead with what you reviewed and told (inaudible)?

A. And we reviewed with them the pocket book that the American Conference oþ f Governmental Industrial Hygienists issue on many, many chemicals and we pointed out a page in there that referred to the two PCBs that are listed in that book.

Q. Do you recall what the two PCBs were?

A. The 42 percent, which is Aroclor 1242, and the 54 percent, which is the Aroclor 1254. I believe I've covered it all. We did cover the chloracne and the possible liver damage and the--

þ Q. Okay.

A. That's about it.

Q. Did you tell the Westinghouse representatives in your September meeting in 1967 about your monthly safety meetings that you held at the Anniston plant?

A. Yes. We talked about the safety meeting that a new employee gets and the fact that PCBs, along with any other chemicals, are covered at those safety meetings. Once he gets into the departþ ment there are review sessions of safety regarding PCBs during the regular monthly safety meetings. Now, I'm not saying that the subject was discussed each month, but about every three months we concentrated on PCBs. So about four times a year they had a review safety



WATER_PCB-SD0000015583

discussion.

Q. Did you tell the Westinghouse Bloomington supervisors at this 1967 meeting whether you had any problems þ at the Anniston PCB plant in following these procedures?

A. No, we informed them that in our plant things seemed to be working wonderfully well. We had no health problems that we could--we could associate with PCBs, so we were quite pleased with our program.

Q. And this was where the cautionary instruction needs to come in. Did these two Westinghouse Bloomington employees tell you that they had any probleþ ms with PCBs--health problems in the Bloomington plant?

THE COURT: Again, this information comes in, not for its truth but relative to any knowledge that Westinghouse or Monsanto had. You may answer.

A. As best I remember, they mentioned that they had some complaints from some of their employees. And the complaints that I remember really all boiled down to rashes--skin reddening. And that's all þ I recall of--from that discussion.

Q. Did you give Mr. McNally and Mr. Pickett, the two Westinghouse Bloomington employees, a tour of your plant?

A. Yes.

Q. Were they able to see anything they wanted to see?



WATER_PCB-SD0000015584

A. Anything they wanted to see. The place was open to them. They could talk to anybody, look into--look at anything.

Q. And PCBs, based on your experience, will cause a problem with leather-soled shoes?

A. Yes.

Q. Are PCBs the only industrial chemical that will ruin leather shoes?

A. No. It seems to be just about every chemical we handle will ruin good leather-soled shoes.

Q. Now, I'd like to switch to something--talk about another trip of Westinghouse people. Did Westinghouse people come to St. Louis around April of 1970?

MR. KOTOSKE: Which Westinghouse people?

MR. CARNEY: I'll get to the names. I'll have a memo.

THE COURT: Do you want plants or you want people?

MR. KOTOSKE: I want to know generally what plant. We've got five plants out there that are using these chemicals.

THE COURT: Can you specify the plant?

MR. CARNEY: There were a bunch of Westinghouse people. I think that my understanding was that somebody from the Bloomington plant was invited. And I don't think that person made it, but I'm not sure.



WATER_PCB-SD0000015585

MR. KOTOSKE: I'll stipulate that the Bloomington plant was not represented at this meeting. I know about this meeting. I can tell you--

MR. CARNEY: And that's my understanding, too, Your Honor.

THE COURT: All right.

MR. CARNEY: I don't know if I got an answer to my--

THE COURT: I don't think there was a question.

MR. CARNEY: Did I--maybe I didn't have a question on the table (inaudible).

BY MR. CARNEY:

Q. Was there a trip of various Westinghouse people where they came to St. Louis to visit Monsanto in the spring of 1970?

A. Yes, sir.

Q. Let's go to Exhibit D-29.

A. I found it.

Q. And this is a memo--a Monsanto memo dated April 17, 1970?

A. It is.

Q. And were there a number of Westinghouse people that attended the meeting?

A. There were a number that were expected to attend the meeting.



WATER_PCB-SD0000015586

Q. Who werþ e the people that were expected to attend the meeting?

A. Dr. T. K. Sloat from Sharon, Pennsylvania; Mr. Lou Shoaff from Bloomington, Indiana; Mr. Gary Wilburn and Mr. Deke Kaiser from South Boston; Mr. Tandem from London, Ontario.

Q. Again, a Westinghouse plant up there?

A. Yes.

Q. And this memo--and, by the way, so we can clear the air here so there's no confusioþ n, did Mr. Shoaff from Westinghouse, the Bloomington plant, actually show up at the meeting?

A. He did not.

Q. And did Monsanto send Mr. Shoaff of the Bloomington plant a letter outlining some of the things that were discussed at the meeting since he did--wasn't able to make it?

A. They did.

Q. And is that Exhibit D-31 or Defendant's Exhibit 31-B?

þ A. Yes.

MR. KOTOSKE: I got 31-B. Do you have that marked that way, Mr. Carney?

Q. That's a--it's 31-B, a letter from Mr. Bryant?

A. Yes.



WATER_PCB-SD0000015587

Q. Was he a Monsanto person?

A. He is.

Q. And it's addressed to Mr. Lou Shoaff, Westinghouse, Bloomington, Indiana?

A. It is.

Q. And it's þ dated April 24, 1970?

A. That is correct.

MR. KOTOSKE: Your Honor, I have no objection to both of these exhibits going into evidence.

MR. CARNEY: I'll offer them.

THE COURT: So admitted as to 29 and 31--31-B as in boy.

Q. And in the letter to Mr. Shoaff of Bloomington, Monsanto, under the topic E. Wheeler--well, first of all, let me read just the first paragþ raph. It says, "Dear Lou, as related to you on the phone, we were in deep sorrow you could not attend the meeting here in St. Louis. We were happy to have the other Westinghouse representatives. They felt the situation sufficiently critical to involve corporate Westinghouse. The meeting proceeded as follows." And then there's a discussion--just a summary of what happened at the meeting.

A. Yes.

þ Q. In fact, somebody at the very beginning of this letter had questioned why wasn't Bloomington



WATER_PCB-SD0000015588

represented, and they were informed that Mr. Shoaff had called to say he could not attend; is that in the letter?

A. That's in the letter.

Q. And then under Mr. Wheeler's name, the letter goes on to say, "Wheeler spoke covering the medical aspects." Now, were you at this meetinþ g?

A. Yes.

MR. KOTOSKE: Why don't you read the whole paragraph, Counsel.

THE COURT: Well, it's up to (inaudible).

MR. KOTOSKE: Well, (inaudible).

MR. CARNEY: I'm going to finish it.

BY MR. CARNEY:

Q. "He provided"--Wheeler--"provided a booklet eight inches by eleven inches, about two inches thick, which related to articles on PCB pollutioþ n. Attached are copies of the most recent related articles." Is that what that paragraph says?

A. It does.

Q. How long did this meeting last with the Westinghouse people from the various plants that we've covered?

A. A full working day.

Q. What was Westinghouse's--and this, I think you'll need a cautionary instruction. What was



WATER_PCB-SD0000015589

Wþ estinghouse's response regarding the--well, first of all, let me ask a preliminary question. Was the primary focus of this meeting on the PCB environmental issue?

THE COURT: Are you asking for--Mr. Kotoske--

MR. KOTOSKE: No, that's what this meeting was all about. This meeting was an environmental meeting that he set up.

MR. CARNEY: That's what I'm asking.

MR. KOTOSKE: It has nþ othing to do with the toxic consequences and the hazards to the workers in the work place.

MR. CARNEY: Well, I'll agree that this environmental issue doesn't have anything to do with the plaintiffs' work at Bloomington that Mr. Kotoske spent a lot of time on.

THE COURT: Okay. Let's get to the question. You may answer it if you remember.

A. The primary purpose was to bring an uþ pdate on the new evolving environmental issue.

THE REPORTER: The new what?

A. The new evolving or changing environmental issue.

Q. And what was Westinghouse's response regarding this PCB environmental issue? And the jury can be cautioned the same.



WATER_PCB-SD0000015590

MR. KOTOSKE: I want (inaudible) on the environmental issue.

THE COURT: No reqþ uest?

MR. KOTOSKE: I'm not gonna request that. That's fine.

THE COURT: Whenever you request it, I'll do it. If I don't hear a request, I won't.

MR. KOTOSKE: Thank you, Your Honor.

THE COURT: You may answer, sir.

A. The response from the Westinghouse people was one of--I would describe it great interest, concerns that the fact that PCBs were in the environmþ ent might be causing some problems for their product. They wanted to know what Monsanto was doing to keep the PCBs from getting into the environment, and we shared some thoughts with them on that. They wanted to know Monsanto's planning regarding continued sales or restricted sales, and we shared our thoughts that we had in April which were, as you recall, just evolving. We were getting ready to go to the corporate executive cþ ommittee to share it with them. They were very interested in our studies on biodegradation and were anxious to--to test the new material that they hoped we would develop to see if it worked as well in their capacitors as the older 1242 was. All in all, it was quite favorable.

Q. Was Westinghouse--did they indicate that they



WATER_PCB-SD0000015591

were gonna do their own independent analysis of the PCB envirþ onmental issue?

A. They were gonna do some parts of it. They weren't proposing to do a worldwide study, no.

Q. Let's take a look at Exhibits 54 and 55, starting with 54.

THE COURT: You want to pick an area to take our midafternoon break? Is this a good time?

MR. CARNEY: It's as good as any.

THE COURT: Okay. Let's take our break at this time, folks. Ten-mþ inute break. Do not discuss the case among yourselves or with others.

(A recess was taken, after which the following proceedings were had.)

Q. If you would leave that book over there for a minute. (Inaudible.) I want to go to another meeting that--

MR. KOTOSKE: I'd like to offer Exhibit--Defendant's Exhibits 54 and 55 into evidence.

MR. CARNEY: þ Oh, great. Then that saves--

THE COURT: Thank you.

MR. CARNEY: I was gonna do it. I thought I'd save some time. But there is one thing I may want to discuss.

THE COURT: Okay. 54 and 55 are admitted into evidence.

BY MR. CARNEY:



WATER_PCB-SD0000015592

Q. Let's go to the time that you visited the Bloomington plant. You made one trip and visited the plant?

A. I did.

Q. And that was approximately when?

A. July, 1970.

Q. Were you invited there or did you just go on your own?

A. No, I was invited.

Q. What was the purpose of your visit to the Westinghouse Bloomington plant?

A. It was to serve two purposes, really. One was to share with the Westinghouse people at the plant the latest information Monsanto had on PCBs and the environment. And the second purpose was to have me make a quick tour through their plant and share with them my observations regarding control of the PCBs so they didn't escape to the environment.

Q. Did you also on this trip visit other transformer and capacitor plants?

A. Yes.

Q. In the United States?

A. Yes.

Q. Tell the jury some of the other plants you visited?

A. Oh, I recall the capacitor plants up at New Bedford up in Massachusetts. It's the Cornell, Dubier,



WATER_PCB-SD0000015593

Aerovaux & Spray Companies. There's a company in Bennington, Vermont--Jard Company. General Electric's transformer plant in Pittsfield, Massachusetts.

THE REPORTER: What? Litchfield?

Q. Pittsfield.

A. Pittsfield. P-i-t-t-s field. The General Electric capacitor plants at Hudson Falls and Fort Edwards.

Q. Are those in New York?

A. New York. The Rome, Georgia, General Electric transformer plant. The Sharon, Pennsylvania, and South Boston, Virginia, Westinghouse transformer plants. There was a 'Sawmer' Electric plant in South Carolina. The P. R. Mallory plant in Tennessee. Of course, the Blþ oomington plant in Indiana.

Q. That's enough. I think--I want to give the jury an idea that it wasn't just going to Bloomington.

A. That's right.

Q. Was your purpose the same with regard to all your visits--to share the information on the environmental issue of PCBs?

A. Yes.

Q. And let's take a look at Exhibit D-39. Is this a trip report thaþ t was prepared by the Monsanto employee that went--went with you on this trip?

A. Yes.



WATER_PCB-SD0000015594

Q. And this is a particular report on your visit to Bloomington, Indiana?

A. It is.

Q. In 1970?

A. It is.

MR. CARNEY: Your Honor, I would like to offer in evidence Exhibit 39.

THE COURT: Any objection?

þ MR. KOTOSKE: Can I read it?

THE COURT: Sure.

MR. KOTOSKE: No objection.

THE COURT: So admitted as to 39.

Q. Could you read--or let me read the fourth paragraph and you follow along and make sure I read it accurately.

MR. KOTOSKE: Well, I'll follow along, Mr. Carney, to see that you read it accurately.

MR. CARNEY: Well, I appreciate two peopleþ (inaudible).

THE COURT: Can't lose.

MR. CARNEY: And, Judge, you can follow along, too, to make sure that I don't (inaudible).

BY MR. CARNEY:

Q. And before I start reading it--because I want to read it accurately--it starts with a Mr. McClain, and this



WATER_PCB-SD0000015595

is the Mr. McClain that worked at the Bloomington plant?

A. It is.

Q. Okaþ y. Now, I'm gonna read the paragraph, I hope, accurately. "The utility industry, according to Mr. McClain is 'living from hand to mouth' regarding capacity. Capacitors are the key. Thus, if Monsanto should cut off the Aroclor supply, the industry would need a long lead time to phase in some other 'impregnate.' Otherwise, there would be a snowball effect on the shortage of electrical generation capacity, which could lead to sþ erious blackout problems." Did I read that correctly?

A. Yes.

MR. KOTOSKE: Yeah, I sure wish you would read the next one, though.

THE COURT: It's up to you, Mr. Carney.

MR. KOTOSKE: Because I'm gonna read it if you don't.

MR. CARNEY: Okay. I'll read it. I haven't read it before, but--.

THE COURT: Kind of like having a back-seat driveþ r. And a front-seat driver as well. That's--go ahead.

MR. CARNEY: I (inaudible) back-seat driver when he was reading some paragraphs (inaudible).

THE COURT: (Inaudible.) Go ahead.

BY MR. CARNEY:



WATER_PCB-SD0000015596

Q. "McClain"--and this is McClain from Bloomington--"feels that we need a forum on PCBs. He suggests that there is a need for the industry to sit down and discuþ ss so that we present a united front on this matter. He feels we should do this first with manufacturers, and then afterwards might get together with utilities through the Edison Electric Institute"--I guess. It's I-n-s-t period. And I don't--the rest of it I don't even understand it myself, so I'm not gonna read it unless somebody asks me to. This was a memo by Mr. Graham; is that right?

A. That is right.

Q. And he's a Monsanto employee and he was--he prepared this trip report about what was said at the meeting?

A. Yes.

Q. Was there also discussions at this meeting about how to keep PCBs out of the environment?

A. Yes, there were.

Q. I read the memo about what Mr. McClain said about blackouts if PCBs were stopped--if you didn't make PCBs. Do you recall Mr. McClaiþ n of the Bloomington plant saying that there would be blackouts if Monsanto stopped making PCBs?

A. Yes, I did.

Q. Were you then given a tour of the Bloomington plant?



WATER_PCB-SD0000015597

A. Parts of it.

Q. Now, there's been a suggestion in this court that somebody from Monsanto said this plant was spick-and-span, was the best plant, looked like a hospital þ surgery room. Is that the way it looked to you?

A. I wouldn't describe it like a--what I understand a hospital surgery room should look like. I--it was a better than average capacitor plant of all those that I was able to visit.

Q. You mentioned a whole bunch of plants that you went to. This would be better than average?

A. Yes.

Q. On a scale of one to ten, one being þ a formidable mess, a terrible plant, the worst you've ever seen, and a ten being a perfect plant, can you rate the Bloomington plant?

A. I would suggest that it fell closer to an eight. It wasn't perfect, but it was better than average.

Q. Can you tell me what you saw that you were--that would make it less than a perfect plant? I'd like to point those things out.

A. Well, Iþ saw the room in which the conveyor was located--the rotor conveyor--on the floor oil stains that reminded me of the stains in my garage floor due to the oil dripping from my car, which told me that there had been some



WATER_PCB-SD0000015598

spillage there sometime in the past. I don't know when. I also saw where they unloaded the tank cars--the crushed rock between the railroad tracks--I saw some stains that reminded me of an oþ il stain that I, without having seen it actually done, I assume that was a PCB leakage of some kind. Those were the two areas that kind of led me to think that there were some spilling going on and there might be better ways to control that.

Q. Now, I think two of the plaintiffs, maybe more--I think two of the plaintiffs testified that when a plant--a visitor came to visit the plant, they really hustled to þ make it as clean as they could. Did anybody from Westinghouse tell you that they had spent the day before or time to make the plant cleaner than it would ordinarily be?

MR. KOTOSKE: Well, I'll stipulate that they didn't.

MR. CARNEY: Okay. I would stipulate to it, too. I think that's (inaudible).

Q. Did you visit--when you visited the other Westinghouse plants--let's take the Sharon, Viþ rginia, Westinghouse plant. On the same scale of one to ten, how would you rate that plant--Westinghouse plant?

A. About the same as the Bloomington plant. About a seven, eight--somewhere in there.

Q. Did you make any suggestions to the



WATER_PCB-SD0000015599

Bloomington plant people that gave you the tour about the oil stains on the outside and the oil that looked like garage stains where a car hþ ad been in the plant?

A. Well, I--I couldn't really make any--what I would call a--the kind of suggestion a consulting engineer would make on exactly what to do, but I shared with them the success we had with just a simple matter of putting concrete curbing around the work area such that if any spills did take place, they wouldn't get away from us or wouldn't get into the sewer. I also suggested that their reliance on þ sawdust might be reviewed. I didn't have any bright ideas, but my concern there was there's an awful lot of sawdust with PCBs going to some landfill. We ought to reduce that amount as much as we can. I also suggested that out at the unloading spot that we had installed a--a concrete--we call it a floor underneath the rail with a sump underneath that such that if there was a spill of a tank car, that big bathtub would catch it, and it provided for better control. It wouldn't get away from you entirely.

Q. Wouldn't get into the environment?

A. Into the environment. The same thing--

speaking of the so-called bathtub or sump, I suggested that at our plant we had installed such a sump underneath this curbed area such that when we had to hose down and clean the area out, all of that wash water and the PCB would get into



WATER_PCB-SD0000015600

that sump and then we could separate the water from the PCBs there and manage it better so it didn't get into the sewer out of control.

Q. Did you see Inerteen or PCBs running free on the floor while you were at the Bloomington plant?

A. No, I saw no free material.

Q. Did you see soaked--PCB-soaked sawdust?

A. I saw some soaked. I wouldn't call it soaked to the point where it was dripping. There was some of the sawdust had oil stains on it.

Q. Did you see when you were taking this plant--a tour of these plants--not only Westinghouse but General Electric and other plants--did you see some plants that you would grade lower than a seven or eight?

A. Oh, yes.

Q. On a scale of--or my scale of one to ten?

A. I did, yes.

Q. Could you give me an example of what you rated some of--a plant--say the lowest one you saw?

A. The lowest one? I would suggest that some of 'em deserved a rating of about a two to three, maybe. The scale is hard.

Q. Well, just approximately. Were those Westinghouse plants?

A. No.



WATER_PCB-SD0000015601

Q. Would those two housekeeping problems you sþ aw where you saw some oil where PCBs were being pumped into the plant and you saw some stains inside, were those the types of housekeeping problems that would cause you to be concerned about worker safety in the plant?

A. Not under normal conditions, but I can see the--what I call very unusual situation where somebody would just walk right through a spill without any respect for it. But, normally, those kinþ ds of spills should not result in a worker exposure.

Q. Let's talk about this committee--this ANSI committee which is American National Standards Institute Committee C107. You talked about it a little bit when you were answering questions of Mr. Kotoske. Take a look at Exhibit 58.

MR. CARNEY: Judge, I've got it.

Q. Have you located Exhibit 58--

A. I have.

þ Q. --Mr. Papageorge?

A. I have.

Q. And this is a memo from Mr. McClain--Robert B. McClain of Bloomington Westinghouse?

A. Yes, sir.

Q. And the letter is dated June 14, 1972?

A. Yes.



WATER_PCB-SD0000015602

Q. And this letter is going to General Electric, and copies went to Mr. Sloat at the Sharon Westinghouse plant and went to Monsþ anto and actually went to you?

A. Yes.

Q. And enclosed in that letter is Mr. McClain's draft of a document titled, Capacitor Plant Housekeeping and Employee Safety?

A. It is.

MR. CARNEY: Your Honor, I would offer in evidence Exhibit 58.

MR. KOTOSKE: No objection.

THE COURT: So admitted as to 58.

Q. Did Mr. McClain have the rþ esponsibility to prepare the first draft for this committee that you chaired on how to handle PCBs in the work place?

A. To be very specific, he had that assignment for the capacitor working committee.

Q. Good. And what is the date of the prepared draft?

A. 1972, January.

Q. And does this draft that Mr. McClain of the Bloomington Westinghouse plant prepared contaiþ n information on the safe handling of PCBs in a capacitor plant?

A. It does.

Q. What I'm going to do is ask you to read--if I



WATER_PCB-SD0000015603

can find the--page 2. Would you read what it says on handling during manufacturing operations.

A. You want the whole paragraph--the whole section?

Q. Read--yeah, why don't you keep reading until you get to the words, sþ hall be made.

A. All right. "It is generally accepted that exposure to capacitor PCB is not hazardous provided simple precautions are taken. A. Vapors. Maximum atmospheric concentration limit (eight hours) recommended one milligram of capacitor PCB per cubic meter of air. Breathing vapor or fume from heated PCBs should be avoided. Provision of adequate ventilation and regulation of manufacturing operatiþ ons to avoid open exposure of hot PCB (75 degrees C. or higher) shall be made."

Q. Now, drop down to subparagraph B where it says fluid.

A. "Fluid. Unlike insulating oil, there is virtually no fire hazard in handling PCB. A limited solvent action (similar to that for paint thinner) on the fats and oils of the skin with prolonged contact may lead to drying and chapping of the skin. As with insulþ ating oil, some people are allergic to PCB and continued exposure may result in skin irritation."

Q. Okay. Now, go to the part about--let me just



WATER_PCB-SD0000015604

read the rest of the part. Does it go on to say, "Contaminated clothing must be changed or laundered"?

A. Yes.

Q. And then it says, "Persons developing a skin irritation or respiratory tract irritation apparently due toþ contact with PCBs should be placed under the supervision of a physician"?

A. That is correct.

MR. KOTOSKE: You know, Your Honor, I wouldn't mind having this--well, we've got the underlying document in evidence, right?

THE COURT: Yes.

MR. CARNEY: It's in.

Q. Was there anyone other--anyone else from Westinghouse other than Mr. McClain who was a Bloþ omington employee that was on this ANSI committee?

A. I don't recall any.

Q. Let me see if I can jog your memory. Do you remember Mr. Sloat being on this committee?

A. Yes, sir. But he wasn't from Bloomington.

Q. No, I didn't mean to say from Bloomington. But he was also a Westinghouse employee?

A. Correct.

Q. Were there any representativesþ of the United States Government that were on the ANSI committee?



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A. Yes, there were.

Q. Including somebody from the Environmental Protection Agency?

A. Yes.

Q. Was there a representative from the Department of the United States Army on the transformer committee?

A. Yes.

Q. Were the employees' safety guidelines that Þ Mr. McClain suggested in his draft report substantially similar to those that were eventually adopted by the ANSI committee that you chaired?

A. They are.

Q. Let's take a look at Exhibit 277. Is Exhibit 277 a NEMA publication which contains employee safe handling guidelines that were modeled on the guidelines that Mr. McClain suggested in his draft?

A. Yes.

MRÞ . CARNEY: I'd like to offer into evidence Exhibit 277.

MR. KOTOSKE: No objection.

THE COURT: So admitted.

Q. Now, let's go to Exhibit 286.

MR. KOTOSKE: No objection to 286.

MR. CARNEY: Okay. I would like to offer it.

THE COURT: So admitted.



WATER_PCB-SD0000015606

Q. And is it--just briefly, is Exhibit 286 the ANSI publication which contþ ains the employees' safe handling guidelines that were modeled after the McClain draft suggestions?

MR. KOTOSKE: Stipulate that it was.

MR. CARNEY: Okay.

THE COURT: Accepted.

MR. KOTOSKE: Is that in evidence, Judge--286?

THE COURT: It has been admitted.

MR. KOTOSKE: Thank you.

Q. After your visit to the Bloomington plant in Juþ ly of 1970, did you ever return to the plant?

A. I didn't make it, no.

Q. Did somebody that--did Mr. Graham who went with you the first time--did he or his boss, Mr. Gossage, ever go back?

A. They both went back.

Q. What was the purpose of their visit--to see how the Bloomington plant was doing, in part?

A. That was--that was the primary person.

þ Q. And let me refer you to Defendant's Exhibit 46. Can you identify Defendant's Exhibit 46 for the jury?

A. It's a Monsanto letter addressed to Mr. Keith Kelly, manager of purchasing, Westinghouse Electric Corporation, Bloomington, Indiana. It's dated November 30,



WATER_PCB-SD0000015607

1970, and written by Mr. T. L. Gossage of Monsanto.

Q. So this is a Monsanto letter to an employee at Bloomington Westiþ nghouse plant dated November 30, 1970?

A. That is.

Q. And I'd like you to read to the jury--or let me read it. It's the last paragraph and I'll just read it quickly.

MR. KOTOSKE: Well, you better offer it first.

MR. CARNEY: Oh, I'm sorry. I do mean to offer it.

THE COURT: Any objection?

MR. KOTOSKE: None.

THE COURT: So admitted as to 4þ 6.

Q. Now, I'd like to read the--starting with the last paragraph. "Keith"--Keith is the Westinghouse employee. "Keith, I was quite impressed with your plan of operations and the work that has been done to assure proper handling of these products." Is that what that letter says?

A. It does.

Q. And this was a letter after a trip that followed up the meeting where you notified Westinghþ ouse that there were some problems you thought that they could correct?

A. Yes.

Q. And have those problems been corrected?

A. To a great degree. They're still working on it.



WATER_PCB-SD0000015608

Q. Well, they--Westinghouse was 'sold'. You said they're still working on it. What I'm talking about is the Bloomington plant--problems with the oil on the floor and thþ at kind of thing.

A. Yes, they had corrected them to a great degree. But they hadn't given up. They were still doing other things.

Q. Okay. Now, there's a final or a--finally, another meeting in St. Louis where Westinghouse people came to St. Louis and met with you; is that correct?

A. That is correct.

Q. Take a look at Exhibit 51-A.

A. I have it.

Q. Is this a memo--a Monsanto memo dated December 3, 1971, that lists the Westinghouse people that were at the meeting? Or at least lists the people that were supposed to attend the meeting at Monsanto?

A. That is--that is correct.

Q. Okay. And I'm gonna run through quickly the Westinghouse people who were supposed to come and ask you if they, in fact, did come. A Mr. Don Sauter from Bloþ omington, Indiana?

A. He came.

Q. Okay. A Gary Wilburn from South Boston, Virginia?



WATER_PCB-SD0000015609

A. Mr. Wilburn could not make it.

Q. Mr. Brittain from Bloomington, Indiana?

A. He couldn't make it.

Q. A Don McClain, capacity--Capacitor Engineer, Bloomington, Indiana?

A. He was present.

Q. Aþ Tom--a Dr. Tom Dakin, Research at Churchillboro (sp.)?

A. He was present.

Q. What's Churchillboro? Do you know?

A. A suburb of Pittsburg.

Q. Is that the Westinghouse headquarters?

A. It's the research center.

Q. Okay. And a Dr. Mandelkorn from the research center, the Pittsburg suburb?

A. He was present.

Q. þ And Dr. Kelly?

A. He was present.

Q. And that's another Dr. Kelly, not the Monsanto Dr. Kelly?

A. No, this is a chemist.

Q. From Baltimore?

A. Yes.

Q. And he's a Westinghouse employee?

A. Yes.



WATER_PCB-SD0000015610

Q. And a Dr. Munson from Baltimore?

A. He was present.

Q. And waþ s Dr. Dinger (sp.), an organic chemist from Pittsburg, Pennsylvania--was he there?

A. Yes.

Q. He was a Westinghouse employee?

A. Yes.

Q. And then listed on this memo are the prime reasons why the Westinghouse people were visiting St. Louis?

A. Yes.

Q. One of the things was to seek to learn--

MR. CARNEY: Do I have the--did I offer thiþ s in evidence?

MR. KOTOSKE: Not yet.

MR. CARNEY: I'd like to offer it--Exhibit 51.

MR. KOTOSKE: No objection.

THE COURT: So admitted as to 51-A.

MR. CARNEY: 51-A.

BY MR. CARNEY:

Q. One of the things, and the first thing that is listed, the reasons they were visiting, was to seek our results in interpretation of the biological studies made þ with PCBs, especially Aroclor 1016?

A. That's true.

Q. And then attached to it was the suggested



WATER_PCB-SD0000015611

agenda for the meeting?

A. Yes.

Q. And that's Exhibit 52-A?

A. Yes.

MR. CARNEY: I'd like to offer the agenda--Exhibit 52-A.

THE COURT: Any objection?

MR. KOTOSKE: Just give me a second þ to look at it. No objection.

THE COURT: So admitted as to Exhibit 52-A.

Q. Just briefly--I don't want to go through the entire meeting. Just briefly, if you can in a couple minutes, summarize what was discussed at that meeting.

A. We shared with the Westinghouse representatives the latest information we had on the degradation studies of PCBs which are referred to in these doþ cuments as biological studies. In other words, determine which of the PCBs would degrade in the environment. We also shared with them methods that we had used in our own plants on how to control PCBs in the work place so they don't get into the environment, up in the air or down in the sewer--that kind of control.

Q. So it was basically a discussion about environmental issues related to PCBs?

A. þ Yes. Yes.



WATER_PCB-SD0000015612

Q. And just the last paragraph of Exhibit 51-A--I'd like to read that. It says, "Please note that our people"--that's Monsanto's people--"are being listed as moderators and not as speakers, because under each heading we will seek the input from our various people as well as from the Westinghouse visitors."

A. That is--

Q. Is that fair--did you, in factþ , seek input from the Westinghouse people as well at that meeting?

A. Yes. This was a round-table discussion. There was no stand-up speaker with a podium or anything like that. Just exchange of ideas.

Q. Now, I'd like to switch the subject, talk about Yusho for a minute. Did you ever have any discussions with Westinghouse employees about Yusho--about the incident where the Japanese ate the PCBþ s?

A. Yes.

Q. (Inaudible) can you tell me when that occurred --when that discussion occurred, approximately?

A. Well, at the April, 1970, meeting when the Westinghouse people came to St. Louis, I brought up the information I had at the time. The meetings I made to the Westinghouse sites--the research center and their three plants--I also brought up the subject and shared with them what little I knew at the time. At this meeting--even the



WATER_PCB-SD0000015613

last one we just discussed--I again reviewed with them what I knew up to that point.

Q. Now, initially in the 1970-'71 time period, it was thought that PCBs had caused the problems in Yusho; isn't that what the literature indicated?

A. That's what the initial belief was, yes.

Q. Did you follow the literature abþ out Yusho as it developed?

A. As closely as I could, yes, sir.

Q. And did you share that information with Westinghouse?

A. Yes.

Q. And then did it become known in the 1975 time period that it was the furans that were causing the health problems of those Yusho victims?

A. That was the conclusion of the scientists studying that--that incident.

þ 18 Q. And did Westinghouse ask Monsanto at that time about PCBs and whether Monsanto's PCBs contained furans in 1975?

A. Yes, they did.

Q. And did you relay the information you had from Dr. Boss (sp.) in Europe where they compared Monsanto's PCBs with the European PCBs and found no PCBs in Monsanto--no furans in the Monsanto PCBs?



WATER_PCB-SD0000015614

A. I related thaþ t back in the '70s when I visited the sites.

Q. Take a look at Exhibit D-55 which I think Mr. Kotoske stipulated could go into evidence. That's going back about ten exhibits in your book.

A. I have it.

Q. Okay. Go to page 2 of that exhibit. By the way, this is a Westinghouse memo, is it not?

MR. KOTOSKE: It's already been identified. We don't need to go through þ all that.

THE COURT: No, that (inaudible) with the jury. That's fine.

MR. CARNEY: (Inaudible) stipulate to admission.

Q. This is a Westinghouse document?

A. It is.

Q. Dated December 28, 1971?

A. It is.

Q. And it was prepared by Mr. Miner (sp.), a research director at Westinghouse?

A. Yes.

Q. þ At their research laboratory in Pittsburg?

A. Yes.

Q. And on page 2 in the fourth numbered paragraph, I'd like to read where it starts, "There is much controversy."



WATER_PCB-SD0000015615

A. I see it.

Q. Let me just read this from this Westinghouse memo. "There is much controversy as to whether the conditions brought on in the Japanese exposure were due to the PCþ Bs or to an impurity called chlorinated dibenzofuran. Monsanto claims that PCBs manufactured by Europe and their chemical companies contain about 15 to 20 parts per million of the chlorinated dibenzofurans. There is no known analytical data reported as to whether the PCBs ingested by the Japanese did or did not contain these furans." Now, that was in '71. And later, then, the scientists determined that, in fact, there were 1,þ 000 times, or something like that, more furans in the Japanese PCBs than in the European PCBs, right?

A. That is--that is correct.

(Ms. Pape was replaced by Ms. Wann.)



WATER_PCB-SD0000015616

Q. Going on with this Westinghouse memo, "Monsanto claims that a product made in this country is essentially free from this 'infuran', however we have no analytical data eitþ her from Monsanto or put -- or our own which confirm or deny existence of this 'infuran' in the product we use. 'Manuel Carn and Gaynor' -- These are the research people from Westinghouse --

A. Yes.

Q. (continuing) -- "were of the opinion that it would be a relatively straightforward analytical procedure to determine if material which we use contains this chemical."

Is that what it sþ ays?

A. That's what it says.

Q. And did Westinghouse ever indicate to you that the PCBs that Monsanto sent to the Bloomington plant in Bloomington, Indiana ever contained any furans?

A. They did not.

Q. Now I'd like to go to another group exhibit, because I think handled by a group it could be quicker.

That's your copy.

I'm going to read off the exhibiþ ts that are in this group first. And they're Exhibits D16, 18, 52, 60, 62, 63, 64, 65 through 69 (inaudible), 72 through 80 (inaudible), 82 through 90.



WATER_PCB-SD0000015617

MR. KOTOSKE: (Inaudible.)

THE COURT: Proceed, Mr. Carney. If you have an objection, make your objection.

MR. KOTOSKE: (Inaudible.) I'm looking at probably 2,000 pieces of paper the first time I know he's þ going to have these exhibits in this case with this witness.

THE COURT: This is what we'll do.

MR. CARNEY: It's now quarter to 4:00.

THE COURT: This is what we'll do. You run through the numbers of what you plan to refer to, and we'll take a short break.

MR. CARNEY: That's fine.

THE COURT: Continue.

MR. CARNEY: I think I've read tþ hrough 82 --

THE COURT: You stopped at 90.

MR. CARNEY: Through 90. 95, 96, 97, 98, 99, and 100 through 104, 105, 114 and 115. Those were all Defendant's exhibits that are in this group.

THE COURT: All right. And you intend to --

MR. CARNEY: What I'd like to do is just ask him the preliminary question about them and I'm not going to get into any details. I can do this þ now or I can do it after the break, but I don't think -- it might help clarify what Mr. Kotoske (inaudible).



WATER_PCB-SD0000015618

THE COURT: Go ahead.

MR. CARNEY: Because I'm not going to -- I can tell Mr. Kotoske it will shorten things which at a later time I'll specifically go into.

THE COURT: Okay. Well, we'll take a break anyway if that's what you prefer out of fairness to you.

þ 7 MR. KOTOSKE: Well, look in fairness to my client, I have got a stack of documents now --

THE COURT: I know that. You've already stated that. If you want to take a short break in fairness to your clients --

MR. KOTOSKE: Well, I don't know what a short break is going to do, but I will be --

THE COURT: You do your best.

MR. CARNEY: If you need to do þ it overnight, I can do it that way. I don't want to --

THE COURT: Ask your preliminary question, then we'll take a break.

Q. (By Mr. Carney) I asked to you look at all these exhibits in the last couple of days that are in that book; didn't I?

A. You did.

Q. And so that we wouldn't have to take time to go through and identify each one individually. Are these allþ Monsanto letters to government -- to the government,



WATER_PCB-SD0000015619

to scientists relating to PCBs?

A. Yes.

Q. Are these all of the letters that Monsanto sent to the government or to scientists relating to PCBs?

A. No, this is just a -- a sample.

Q. These letters are in date order, and I believe the first letter is February 15, 1968 and the last letter is April 13, 1977. Is thatþ correct?

A. It is.

MR. CARNEY: Your Honor --

THE COURT: All right. We'll stop now and take a temporary recess.

MR. CARNEY: I'm not going to take much time. I'll take three or four minutes with this witness, but --

THE COURT: We'll do it this way. Ladies and gentlemen, we'll take a temporary recess. Don't discuss the case among yourselves or others.þ

(Recess was taken at this time.)

(The following proceedings were had in open court out of the presence of the jury.)

THE COURT: For the record we're in court, and it is proposed that there be an offer of Defendant's Exhibits '1618', 52 and 115, and it's been agreed to that except for those exhibits we'll dispense with further testimony on the others till tomorrow. We'll allow Mr.



WATER_PCB-SD0000015620

Kotoske further time to look at them. Do you have an objection --

MR. KOTOSKE: I can't make a record on objections. I haven't had time to make meaningful (inaudible) of these thousand pages that have just been dropped on me. This amount I am incapable of making an objection.

THE COURT: Then I will allow you overnight for the record to take a look at those four, and as wþ ell as all of them, and we'll deal with any objections if you have any tomorrow morning let's say at 9:15.

And then (inaudible) we'll proceed so can you move on with a different topic, Mr. Carney?

MR. CARNEY: Okay. I will move to (inaudible).

THE COURT: Bring them down, Felicia.

How much longer are you going to be you think? Understanding that we're not going toþ get into those letters?

MR. CARNEY: Yeah, you --

THE COURT: This is off the record.

(Discussion was held off the record.)

(Court proceedings began in the presence of the jurors.)

THE COURT: All right. We'll proceed to a



WATER_PCB-SD0000015621

different area for now.

You may continue, Mr. Carney.

Q. (By Mr. Carney) What were the -- what was the color of the 55-gallon steel drums the PCBs were kept in?

A. From the beginning until about 1973 that was a black enameled drum with white tops and bottoms.

Q. And then what color were the drums after 1973?

A. They were a bright yellow.

Q. And in what different sized drums did Monsanto manufacture PCBs?

A. We had the 55-gallon and the 32-gallon and also the 5-gallon pail or the bucket.

Q. Did you understand that at Monsanto that capacitor and transformer workers, at least most of them, would not see any labels on the tank cars that were delivered to the plants?

A. Yes, that's my understanding.

Q. And was it your understanding that the normal way that PCBs were delivered (inaudible) transformer plants was by tank car?

A. Yes.

Q. And the PCBs would be pumped into the plant?

A. Yes.



WATER_PCB-SD0000015622

Q. So the trucks would never be seen by the majority of workers inside the plant?

A. You mean the tank car?

Q. The tank car.

A. That is true.

Q. And is that why you sent these technical bulletins and brochures to companies like Westinghouþ se who use PCBs?

A. Certainly.

MR. CARNEY: Your Honor, I next have another group exhibit, which I'd like to suggest this has to do with labels and they're in a book and there's about 20 exhibits. I might suggest that I -- I would be willing to give Mr. Kotoske now that book so that he can look at all those he might --

THE COURT: All right.

MR. CARNEY: We þ have supplied these documents beforehand.

THE COURT: That's right.

MR. CARNEY: I would be willing to do it and move the case along.

MR. KOTOSKE: We don't need speeches. My objection is, he should have told us before today. That was the order.

MR. CARNEY: No, it wasn't. Mr. Kotoske



WATER_PCB-SD0000015623

didn't show any exhibits to me before he examined any witness.

THE COURT: I don't think the jury wants to hear any speeches. Now, let's proceed. I think what you're proposing is, we'll just hold off on this like we did on the other matters; is that right? Is that what you're proposing, Mr. Carney?

MR. CARNEY: You know, (inaudible) outline really, I have two more group -- I think two more group exhibits. I've got (inaudible) and labels.

THE COURT: Why don't you do --

MR. CARNEY: And what I'm proposing is -- that's basically what the rest of my --

THE COURT: Testimony?

MR. CARNEY: Testimony. I would propose to just give Mr. Kotoske --

THE COURT: All right.

MR. CARNEY: -- every exhibit I plan to use, and he can have it overnight.

MR. KOTOSKE: I apprþ eciate it.

THE COURT: All right. Why don't you come on over?

(Bench discussion.)

THE COURT: All right. Ladies and gentlemen, we're going to stop as far as you're concerned at this



WATER_PCB-SD0000015624

time so that we can straighten this situation out.

Sir, you can step down. Thank you. You can step down. Thank you.

Again tonight do not discuss tM he case among yourselves or with others. Don't review or listen to anything about this trial from any source. Have a nice evening. We'll see all 16 of you back here at 9:30 tomorrow morning, and no costumes please.



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