

Scott Trial Testimony

September 1, 1987

1 THE COURT: All right. You may step
2 down.

3 Who do you have next?

4 MR. LACEY: Your Honor, next we have
5 the deposition of Jack Garrett, another
6 Monsanto employee. It also is on videotape.
7 I guess with can have a little bit of that
8 and let the jury see him and then go to the
9 question and answer, if the Court desires.

10 THE COURT: All right. Turn the lights
11 out.

12

13

14 (WHEREUPON THE FOLLOWING PORTIONS OF THE VIDEO
15 DEPOSITION WERE SHOWN TO THE JURY.)

16

17 Q State your full name for the record, please.

18 A Jack T. Garrett.

19 Q From what company are you retired?

20 A Monsanto.

21 Q With regard to industrial hygiene, what type
22 of assignment did you have?

23 A To study the Monsanto manufacturing plants
24 worldwide and to study the handling techniques
25 and procedures with the plants to protect the

1 workers.

2 Q And did you retain those types of duties
3 throughout your career with Monsanto?

4 A Yes.

5 (End of video portion)

6

7 THE COURT: Turn lights back on.

8 You may proceed anytime.

9 MR. LACEY: We are beginning on Page 9,
10 line 11, with Monsanto's offer.

11

12 (Reading from video deposition)

13 Q What title did you hold from the time that
14 you joined the medical department until your
15 retirement?

16 (End of reading)

17

18 MR. LACEY: Line 13.

19 MR. MUSSLEWHITE: Did you say Page 11?

20 MR. LACEY: Page 9.

21

22 (Reading from video deposition)

23 A Manager -- industrial hygienist; manager,
24 pollution control; manager, industrial hygiene;
25 manager, industrial hygiene and pollution

1 control; industrial hygiene director; and
2 industrial hygiene and information services
3 director.

4 (End of reading)

5
6 MR. LACEY: Going to Page 12, line 1,
7 continuing with Monsanto's offer.

8
9 (Reading from video deposition)

10 Q I want to focus my attention primarily on
11 the area of industrial hygiene, if we could.
12 Tell me what industrial hygiene is.

13 A It's the interdisciplinary science of
14 investigating and correcting workplace hazards.

15 (End of reading)

16
17 MR. LACEY: Continuing on line 23.

18
19 (Reading from video deposition)

20 Q Is there any type of group that tests
21 industrial hygienists, certifies industrial
22 hygienists, registers industrial hygienists --

23 A Yes.

24 Q -- or the like?

25 A Yes.

1 Q What group is that?

2 A That's the American Board of Industrial
3 Hygiene.

4 Q And are you a member of that group?

5 A No. I'm a member of the American Academy of
6 Industrial Hygiene.

7 Q Does the American Academy of Industrial
8 Hygiene test?

9 A Well, it would take some explanation. The
10 American Board establishes the criteria and the
11 questions and the circumstances and the times for
12 testing or for running the certification tests,
13 of which there are two. When you -- if you pass,
14 you are automatically a member of the American
15 Academy of Industrial Hygiene.

16 Q Is that the only way you can become a member
17 of that academy?

18 A That's correct.

19 Q And you took the test and passed?

20 A I did.

21 Q When did you become a member of that
22 academy, approximately?

23 A Early '60's, when it was organized.

24 Q Did you take the test, or were you
25 grandfathered in?

1 A I took the test.

2 (End of reading)

3

4 MR. LACEY: Going to line 16,
5 continuing with Monsanto's offer.

6

7 (Reading from video deposition)

8 Q When you came to the Monsanto medical
9 department in 1953, who were the other
10 professional members in the department?

11 A The director was Dr. R. Emmet Kelly. The
12 assistant director and my immediate superior was
13 Mr. Elmer P. Wheeler. There was a one-half time
14 physician, Dr. R. E. Mezera, M-e-z-e-r-a; a
15 technician, medical technician; and one
16 secretary.

17 Q Did Mr. Wheeler have any particular area of
18 specialization?

19 A Industrial hygiene.

20 (End of reading)

21

22 MR. LACEY: Going to line 12,
23 continuing with Monsanto's offer.

24

25 (Reading from video deposition)

1 Q What other areas had industrial hygienists
2 in Monsanto?

3 A The industrial hygiene responsibility lie
4 with the safety departments of the individual
5 plants.

6 Q Did they have industrial hygienists on their
7 staff?

8 A Some of them had people doing that
9 particular -- particular parts of that particular
10 professional job, who later became certified
11 industrial hygienists.

12 Q Okay. So, there were some people who got
13 on-the-job training, so to speak, like yourself?

14 A That's correct.

15 Q What was the function of the industrial
16 hygienists who were assigned to the corporate
17 medical department?

18 A It was to maintain liaison with the
19 corporate medical structure with the plants and
20 to check the plants thoroughly and make
21 recommendations for change in connection with
22 hazards noted.

23 Q Did that mean that you spent a fair amount
24 of time visiting Monsanto plants?

25 A Yes, indeed.

1 (End of reading)

2
3 MR. LACEY: Going go Page 18, line 9,
4 with the plaintiffs' offer.

5
6 (Reading from video deposition)

7 Q Did you ever have assigned to you the
8 responsibility of visiting plants of companies in
9 which Monsanto did not own an interest?

10 A Yes.

11 Q Explain that to me.

12 A In the handling of parathion and methyl
13 parathion, we visited all blending plants or they
14 did not receive our product.

15 Q When you say "blending plants," are you
16 talking about companies to whom Monsanto sold the
17 chemical?

18 A That's correct.

19 (End of reading) -

20
21 MR. LACEY: Going to Page 19, line ten,
22 continuing with the plaintiffs' offer.

23
24 (Reading from video deposition)

25 Q Is that the only occasion where you were

1 ever assigned as a part of your job duties with
2 Monsanto the responsibility to visit a plant
3 belonging to a Monsanto customer?

4 A That is a difficult question to answer
5 because you leave the word out, quote, "if you
6 were not requested to do so," end quote. And you
7 must put that word in to get it answered.

8 Q Well, I'm not sure I understand. Were you
9 requested to visit these parathion customers?

10 A No.

11 Q Were there any other customers' plants who
12 you were assigned to visit or Monsanto would not
13 sell them the chemical unless you visited the
14 plant?

15 A Yes.

16 Q What else?

17 A There were two incidences where we visited a
18 processing operation and discussed the use of one
19 of our products.

20 Q What was that?

21 A PCB, or Aroclor in this case.

22 Q And who was that that you visited to discuss
23 the use of Aroclor, or PCB?

24 A I don't -- I can't recall the name of the
25 companies. I even remember the town one of them

1 was in. It was Newark, Ohio.

2 Q Newark?

3 A Ohio.

4 Q Ohio.

5 A And it was one of the fiberglass companies.

6 Q Do you remember anything about the other

7 one?

8 A It was a floor tile company.

9 Q Do you remember where it was located?

10 A No. I just -- I have just -- don't recall.

11 Q In the floor tile, the PCBs were used as a
12 plasticizer?

13 A That was the request. We turned them down.

14 Q So, they sought to become a customer of
15 Monsanto for PCBs to put into floor tile?

16 A That is correct.

17 Q And before you would sell it to them, you
18 went and you inspected their facility?

19 A Yes.

20 Q And after inspection you concluded it would
21 be wisest not to sell it to them?

22 A That is correct.

23 (End of reading)

24

25

MR. LACEY: Going to line 16.

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(Reading from video deposition)

Q What about the fiberglass company? What
 were they going to use the PCBs for?

A As a component of an adhesive to make
 preformed insulation, pipe insulation.

(End of reading)

MR. LACEY: Going to Page 22, line 9.

(Reading from video deposition)

Q Did you sell them the PCBs for that use?

A No.

(End of reading)

MR. LACEY: Going to line 15, with
Monsanto's offer.

(Reading from video deposition)

Q Why was it that you chose Monsanto -- I
 mean, chose to inspect the fiberglass company
 plant in Newark, Ohio, before considering selling
 them PCBs?

A It was a new use.

Q And what did that have to do with the issue

1 of inspecting it?

2 A In a new use of a product that required
3 special handling, we wanted the manufacturer to
4 show us how he would handle it.

5 A Indeed, they did.

6 Q What was the proposed handling method at
7 this fiberglass company plant?

8 A The material was in a liquid adhesive
9 applied to fiberglass bats. The bats were then
10 put on molds or frames and baked. It was our
11 opinion that the baking process produced, for the
12 oven operators, excessive fumes.

13 Q So, your conclusion was that the way in
14 which it would be used would present an
15 occupational health hazard to employees of a
16 proposed customer?

17 A That was the only reason I was there.
18 (End of reading)

19
20 MR. LACEY: Going to Page 25, line 21,
21 continuing with the plaintiffs' offer.

22 Q Now, what was the proposed use at the floor
23 tile company?

24 A I can't recall that fully. That was -- it
25 was -- it just is one of those things that I

1 can't recall well. I don't recall that one.
2 Q Whatever it was, it was one that you decided
3 should not result in a sale of PCBs to that
4 customer, correct?

5 A That is correct.

6 Q And was the reason for that that you were
7 concerned that the way in which the customer
8 proposed to use it might present a hazard to
9 its own workers as they worked with the
10 product?

11 A That's correct.

12 Q Do you recall the nature of the hazard that
13 you thought would exist for the employees of
14 the floor tile company in the way they
15 proposed to use PCBs?

16 A No, I really don't.

17 Q Do you recall whether it involved elevated
18 temperatures or not?

19 A No.

20 Q Who assigned you to go and inspect these two
21 proposed customers?

22 A I was told by my immediate superior -- in
23 this case, E. P. Wheeler -- to do it.

24 Q That's Elmer Wheeler?

25 A That's right.

1 (End of reading)

2

3 MR. LACEY: Continue at line 23 with
4 Monsanto's offer.

5

6 (Reading from video deposition)

7 Q Did Monsanto have an express policy which
8 required that an industrial hygienist examine the
9 plant of any proposed customer prior to selling
10 them PCBs?

11 A On a policy base for new uses, apparently
12 they did. But I'm not privy to that information.

13 (End of reading)

14

15 MR. LACEY: Going line 10 with the
16 plaintiffs' offer.

17

18 (Reading from video deposition)

19 Q What was the policy of the department in
20 which you worked about visiting a facility of a
21 proposed PCB customer before authorizing the sale
22 to them?

23 A I really don't know, other than the fact
24 that if I were told to do that by my superior and
25 who I was to accompany, I went.

1 Q Okay. Who went with you on this visit to
2 the Newark, Ohio, plant -- if any one?

3 A Somebody was with me, yes. It was Paul
4 Benignus.

5 Q Why did Mr. Benignus go with you?

6 A I haven't the vaguest.

7 Q Did he have any expertise to lend with
8 regard to industrial hygiene?

9 A No.

10 Q What did he do while you were examining the
11 proposed customer's facility there in Newark,
12 Ohio?

13 A I really don't recall.

14 (End of reading)

15

16 MR. LACEY: Going to line 19,
17 continuing with the plaintiffs' offer.

18

19 (Reading from video deposition)

20 Q With the exception of the parathion and the
21 PCBs, were you ever assigned by Monsanto to visit
22 any other customers' facilities where they had
23 not requested that you come in and inspect them?

24 A Not to my recollection.

25 Q So, the only chemicals that you are aware of

1 that Monsanto required that a company industrial
2 hygienist perform an inspection of a proposed new
3 plant use were PCBs and parathion, correct?

4 A That I knew about, yes.

5 Q Was your area of practice as industrial
6 hygienist restricted to any particular chemical
7 production that Monsanto made, or did it cover
8 all chemical products that Monsanto made?

9 A It covered the Monsanto plants, all
10 Monsanto's plants.

11 Q And --

12 A Consequently, all Monsanto products.

13 Q So, you weren't limited to just working with
14 chemicals like parathion and PCBs?

15 A No.

16 (End of reading)

17
18 MR. LACEY: Going to Page 73, line
19 22 -- and Your Honor, this discusses a
20 document. I would like to provide the jury
21 a copy of the document that is going to be
22 discussed.

23 THE COURT: All right. You say Page
24 33?

25 MR. LACEY: 73. We skipped all the way

1 over to there.

2

3 (Reading from video deposition)

4 Q Let me show you a memo dated November 14th,
5 1955, Document 38968, and ask if that is a memo
6 that you authorized.

7 A Yes, I wrote it.

8 Q Is that your signature on it?

9 A It is, indeed; yes, it is.

10 Q Was that a memo that you had stamped
11 "confidential"? I note this one is stamped
12 "confidential."

13 A I didn't stamp it "confidential." I have no
14 idea who did.

15 Q In this memo signed by you, it talks about
16 the opinion of the medical department. Is that
17 the way that you customarily wrote memos that had
18 to do with matters of worker safety, to say it
19 was the medical --

20 A If it was, in fact, the opinion of the
21 medical department more than just myself.

22 Q If it were --

23 A If it was just me, I would say, "in my
24 opinion."

25 Q Okay. So, this particular memo was more

1 than just your opinion; it was the opinion of
2 others in the medical department --

3 A That is correct.

4 Q -- as well?

5 A That is correct.

6 (End of reading)

7

8 MR. LACEY: Going to line 22.

9

10 (Reading from video deposition)

11 Q The recommendation of this memo is that
12 eating of lunches should not be allowed in
13 Aroclor department of the Krummrich plant; is
14 that correct?

15 A Yes.

16 Q What was the customary practice there at the
17 Krummrich plant with regard to workmen eating
18 their lunches?

19 A Eating in the control room.

20 Q In the plant?

21 A In the processing plant, yes.

22 (End of reading)

23

24 MR. LACEY: Going to line 15.

25

1 (Reading from video deposition)

2 Q Where were people to eat if they didn't eat
3 in the control room of the unit where were they
4 worked?

5 A They had -- the Krummrich plant had a
6 full-sized cafeteria.

7 Q And the thrust of this memo then is that
8 while it may be okay in certain departments to
9 eat in the control room -- and that's not what
10 you recommended prohibiting -- you do
11 specifically recommend prohibiting eating in the
12 control room of the Aroclor department.

13 A Yes.

14 Q That --

15 A I also later on said, "It's long been the
16 opinion of the department that eating in process
17 departments is a potentially hazardous procedure
18 that can lead to serious difficulties." My
19 personal opinion is that it was bad practice.

20 Q Generally?

21 A In any processing place, yes.

22 Q This memo, however, specifically addressed
23 itself to the Aroclor department, correct?

24 A That's true.

25 Q Now, was this a directive that would be

1 enforced? Or is this just a recommendation which
2 could be accepted or rejected by the plant people
3 as they saw fit?

4 A We directed this to the medical -- the
5 safety director, with a copy to the plant
6 manager.

7 Q Well, did you-all have the authority to
8 enforce that or not? Or did --

9 A Dr. Kelly did --

10 Q Okay.

11 A -- if he wanted to.

12 (End of reading)

13

14 MR. LACEY: Going to Page 78, line 22.

15

16 (Reading from video deposition)

17 Q And you set forth three reasons. You say
18 there are a number of reasons, but you
19 specifically set forth three reasons why you
20 think it would be a good idea not to eat in the
21 control room, correct?

22 A Uh-huh.

23 Q And if I understand correctly, the first
24 reason is that the food that would be eaten could
25 become contaminated by the Aroclor vapors,

1 correct?

2 A Could become contaminated by Aroclor vapors,
3 yes.

4 Q And what you're talking about there is as
5 the lunch sack or whatever it -- the lunch
6 bucket -- sits there in the control room from the
7 time the fellow comes on the shift until he eats
8 it, the vapors in the process can seep in and
9 actually cause amounts of PCBs to be deposited on
10 the food products that would subsequently then be
11 eaten, correct?

12 A It's -- lunches which normally were brought
13 to the plant were normally brought in the metal
14 boxes.

15 Q Right.

16 A The old black box. Individual operators
17 would store them near their worksite.

18 (End of reading)

19

20 MR. LACEY: Continue with Monsanto's
21 offer.

22

23 (Reading from video deposition)

24 Q Right.

25 A There are some worksites in -- in most

1 producing departments -- that would not be an
2 intelligent place to do that. That is what we're
3 really saying.

4 (End of reading)

5
6 MR. LACEY: I'm sorry. It's
7 "purchasing" departments, I believe.

8 MR. MUSSLEWHITE: There's a correction
9 here that says "producing."

10 MS. OLESEN: I don't believe that's
11 Monsanto's offer.

12 MR. LACEY: That's how it's designated
13 here. Did you wish to delete it?

14 MS. OLESEN: It's not on my list. I
15 don't think it has ever been on my list.

16 MR. LACEY: Fine. Then we will just
17 skip over that section.

18 Going to Page 80, line 20, with the
19 plaintiffs' offer.
20

21 (Reading from video deposition)

22 Q And it would not be a good idea for a
23 workman to eat a lunch that had had some of those
24 vapors deposit some of the Aroclors on it,
25 correct?

1 A No, it would not.

2 Q And that's one of the reasons, therefore,
3 that you recommend that they not be allowed to
4 eat lunches in the department?

5 A That's correct.

6 Q The second reason you point out is that
7 there is also the possibility of contaminating
8 the hands with PCBs or Aroclor material and then
9 contaminating the food, correct?

10 A That is correct.

11 Q And what you are talking about there is a
12 fellow is working with PCBs and they get on his
13 hand; he picks up his sandwich; they get on the
14 sandwich; and he eats it and ingests some of the
15 PCBs, correct?

16 A It's possible. Not probable -- possible.

17 Q Well, actually you say it's a definite
18 possibility. Isn't that the words you used?

19 A For it to get there. But he's not going to
20 eat much of it.

21 Q Why is that?

22 A Oh, it don't taste good.

23 Q You didn't want to rely, however, on the
24 fact that he would --

25 A No.

1 Q -- recognize by the bad taste --

2 A No.

3 Q -- that he shouldn't eat anymore?

4 A No. We did not want to rely on that.

5 Q You were concerned that even in the small
6 quantities that might escape his taste buds that
7 it could present a problem?

8 A We were more concerned about the general
9 principle of eating in a process control room in
10 an area that handled hazardous materials, in our
11 view, through the Queeney -- the Krummrich plant.
12 And if you'll read the last paragraph, you will
13 see this is the thin end of a much larger wedge.
14 We finally got the wedge drive through. They do
15 not eat in the process units anymore.

16 Q Sure. Now, in the third area you have
17 already talked about fact that you didn't like
18 people eating in the process units at all, which
19 is the third reason you cite. You state in the
20 second sentence regarding your own experience on
21 the hazards of Aroclor, correct? And talking
22 about your own experience, you're talking about
23 Monsanto's experience; is that correct?

24 A It's a potentially hazardous procedure, it
25 says here clearly. In all of my 35 years I never

1 heard of or saw an Aroclor case; so, I don't
2 know.

3 Q Okay. What I'm trying to find out about is
4 in a sentence which says, quote, "While the
5 Aroclors are not particularly hazardous from our
6 own experience," close quote -- that's the first
7 clause in the sentence, that's talking about
8 Monsanto's experience of not having anybody make
9 any claims about being hurt from Aroclors,
10 correct? --

11 A You're talking about the third paragraph
12 now?

13 Q The third paragraph, that second sentence.
14 It says, quote, "While Aroclors are not
15 particularly," close quote -- I can't read upside
16 down from this distance very well.

17 A It says, "While the Aroclors are not
18 particularly hazardous from our own
19 experience" --

20 Q Right.

21 A -- "this is a difficult problem to define
22 because early literature work work claimed that
23 chlorinated diphenyls are quite toxic materials
24 by ingestion or inhalation."

25 (End of reading)

1
2 MR. LACEY: Going to Page 84 --
3 actually going to Page 84, line 10,
4 Monsanto's offer.
5

6 (Reading from video deposition)

7 Q And does that mean that you have had people
8 who have been exposed to significant amount of
9 Aroclors without an ill effect? Or does that
10 mean that because of your protective procedures
11 you have been able to substantially minimize any
12 exposure to Aroclor?

13 A I would hope that this was the latter, but I
14 can't say that. But keep in mind that this memo
15 is written with -- you can easily see the hook in
16 it. It isn't very -- very well hidden. We
17 wanted them to quit allowing people to eat in the
18 processing departments in the Krummrich plant.
19 It was a plant that handled a great number of
20 hazardous materials. We did not want them eating
21 there. We wanted them to eat -- either eat in
22 the -- in the provided facilities in provided
23 eating rooms.

24 Q Did you write a similar memo to this one to
25 every other section of the plant at the same time

1 you wrote this one?

2 A If you looked at enough memos, you probably
3 saw intimations to every plant, every processing
4 department in the plant.

5 (End of reading)

6

7 MR. LACEY: Going to line 14,
8 continuing with Monsanto's offer.

9

10 (Reading from video deposition)

11 Q Okay. And one of the things that you
12 thought was appropriate from an industrial
13 hygiene standpoint was to separate the eating of
14 food from the area in the plant where Aroclors
15 were being manufactured.

16 A And many other products, yes.

17 (End of reading)

18

19 MR. LACEY: Page 87, line 15, with the
20 plaintiffs' offer.

21

22 (Reading from video deposition)

23 Q Did you go back and look at the files on
24 literature predating 1953 after you came on board
25 in the medical department?

1 A Yes.

2 Q And that's how you would know about what
3 literature before 1953 had to say about the
4 hazards of Aroclors?

5 A I would presume that.

6 Q Okay. The last sentence says, quote, "In
7 any case where workmen claim physical harm from
8 any contaminated food" -- and you're talking
9 there about food contaminated with Aroclors,
10 correct?

11 A Considering the previous sentence, yes.

12 Q You said that, quote, "In any case where
13 workmen claimed physical harm from any
14 contaminated food, it would be extremely
15 difficult on the basis of past literature reports
16 to counter such claims," close quote.

17 Was that a true statement when you made it?

18 A Probably so.

19 Q Okay. And you believe --

20 A To the best of my knowledge, it's true, yes.

21 (End of reading)

22

23 MR. LACEY: Going to Page 109, line 14,
24 with Monsanto's offer.

25

1 (Reading from video deposition)

2 Q They are just more cautiously oriented than
3 here, correct?

4 A It would be unfair -- because I have have
5 many fine colleagues in Europe -- but they're
6 very --

7 (End of reading)

8
9 MS. OLESEN: I don't believe that's our
10 offer. Our next offer doesn't begin until
11 Page 115.

12 MR. LACEY: Okay. Fine. I had it
13 marked here as an offer that you were
14 making.

15 MS. OLESEN: I believe the next offer
16 is at 115, according to the directions I
17 just got.

8 No, it's 11 through 25 on 114 --

9 MR. LACEY: Okay. Going with a
20 Monsanto offer, then, at Page 114 line 11.

21

22 (Reading from video deposition)

23 Q So, what you're telling me is that Monsanto
24 people Aroclor is toxic by mouth, then the rest
25 of this stuff they should have figured out on

1 their own?

2 A No. We told them more than that. We told
3 them that this a product that "This is a
4 polychlorinated ar" -- "aromatic chlorinated
5 hydrocarbon; and as such, it is toxic.

6 "You should not inhale the vapors, you
7 should not put in contact with the skin and you
8 should not get it in contact with the mouth so
9 that it is ingested."

10 (End of reading)

11

12 MR. LACEY: How far does your offer
13 continue? It's not marked at all on mine

14

15 (Reading from video deposition)

16 Q Now, that's what you told people in the
17 United States?

18 A That is right, that is right.

19 Now, if a person that received this
20 information in setting up a safety or health
21 program didn't have -- didn't know how to carry
22 that out in detail, it would be unnecessary to
23 have that detailed section is what I'm really
24 saying. I'm not criticizing the British.

25 Q Did you ever encounter any experiences where

1 you had some people who didn't appear to be able
2 to follow the simple instructions, "If it's toxic
3 by mouth, by skin and by inhalation,"
4 sufficiently to take the appropriate detailed
5 steps?

6 A Not after we got through with them.

7 Q I see. Well, how would you find out about
8 that?

9 A The supervisor to the foreman, we knew.

10 Q Well, no, I'm sorry. I'm talking about
11 customers. I'm talking about the people that you
12 gave these warnings to.

13 A The customer has the same responsibility we
14 had. We can't reach into his plant and say,
15 "This man is illiterate. We must take him out
16 and give him a Braille lesson," or something like
17 that. We can't do that.

18 We expect that any prudent person that is
19 trained in the field of occupational medicine,
20 hygiene, toxicology would do that. We did it in
21 our plants.

22 We -- and if they asked us, "Do you have
23 an" -- and we were asked at times -- "Do you have
24 detailed instructions?"

25 Well, our argument -- we went back through

1 essentially that laundry list that's on the
2 British document. That laundry list goes -- it's
3 in every document it's on every product that is
4 handled that is hazardous. It is the standard
5 handling procedure for a material that is toxic
6 by inhalation, by absorption and by ingestion.
7 (End of reading)

8
9 MR. LACEY: Going to Page 121, line 10,
10 continuing with Monsanto's offer.

11
12 (Reading from video deposition)

13 Q You never, in all of your years with
14 Monsanto, heard of a single customer that misused
15 PCB products, correct?

16 A They had -- that result in a toxicological
17 manifestation that was demonstrated.

18 Q Okay. So, if I understand your testimony
19 correctly, you never heard of a single customer
20 of Monsanto for Aroclors that ever had a --

21 A Ah, we are talking about polychlorinated
22 biphenyls, right?

23 Q We certainly are.

24 A All right, then.

25 Q Is there some problem with that?

1 A No.

2 Q You never heard of a single customer of
3 Monsanto --

4 A To my recollection.

5 Q -- that used Monsanto's Aroclors --

6 A Or --

7 Q -- that had a single --

8 A Or in Monsanto.

9 Q I'm asking about customers.

10 Let me ask my question because I want to
11 make sure I'm clear on what your testimony is.

12 A Uh-huh.

13 Q In your years of experience as an industrial
14 hygienist with Monsanto, you don't know of a
15 single situation where a single customer of
16 Monsanto's Aroclor products had even one employee
17 that demonstrated any toxicological problems from
18 exposures to Aroclors, correct?

19 A That were verified as from these materials.

20 Q I see. Well, did you have some where the
21 customer thought they were related to the
22 materials but you couldn't verify it to your
23 satisfaction?

24 A Maybe one.

25 Q What was --

1 A In 35 years.

2 Q What?

3 A Maybe two.

4 Q What were those?

5 A I don't recall.

6 Q Did you in all of the medical department
7 discuss with each other information you got about
8 customer problems with --

9 A If we felt it was germane, yes.

10 (End of reading)

11

12 MR. LACEY: Continuing with the
13 plaintiffs' offer.

14

15 (Reading from video deposition)

16 Q In your experience with the medical
17 department, did you ever hear of a circumstance
18 where a customer was not using PCBs with the
19 precautions that you thought were necessary but
20 it had not yet result in what you considered a
21 verifiable injury to a workman?

22 A I don't know. How far do you want to
23 stretch the rubber band?

24 I -- we heard of what we considered misuse,
25 and we stopped it.

1 Q What did you do about it. That's my --

2 A We stopped it.

3 Q How did you stop it?

4 A We stopped selling it to them.

5 Q Okay. So, if Monsanto heard of a customer
6 misusing PCBs in a way that could be hazardous to
7 the customer's workmen, it was Monsanto's policy
8 to stop selling PCBs to that customer?

9 A That's correct.

10 (End of reading)

11

12 MR. LACEY: Mr. Crawford injects: "Be
13 sure you are talking about something you
14 know about, and don't speculate."

15

16 (Reading from video deposition)

17 A In the -- I'm talking about an incident I
18 know about.

19 (End of reading)

20

21 MR. LACEY: Mr. Crawford: "One
22 incident, though."

23 (Reading from video deposition)

24 A That's true.

25 (End of reading)

1
2 MR. CRAWFORD: I don't believe he needs
3 to put in the objections of the attorney, if
4 we can hear the testimony. He has been
5 (inaudible) that in all of the other
6 depositions and certainly didn't.

7 MR. LACEY: They are not objections.
8 They are questions to which the witness
9 responds and gives questions.

10 THE COURT: The objection will be
11 overruled, if it is an objection.

12 Let's proceed. Where are you now?

13 MR. LACEY: I'm on Page 124, at the
14 question that starts on line 6.

15 THE COURT: All right.

16 MR. LACEY: Mr. Crawford's question:

17 "Well, that's one incident" --

18 (Reading from video deposition)

19
20 A I can't say that as a general -- in my
21 opinion and in my own -- of my own free
22 knowledge, that's --

23 (End of reading)

24
25 MR. LACEY: Mr. Crawford interjects,

1 "Well, then, let's don't give him a general
2 answer like --

3
4 (Reading from video deposition)

5 A Well, I'm sorry. If it was too general,
6 it -- it is too general. It is my own view.

7 (End of reading)

8
9 MR. LACEY: Keep on. The answer
10 continues.

11
12 (Reading from video deposition)

13 A You realize that you're asking me for my own
14 view and my own knowledge and that's -- I'm
15 giving you an answer. And to my knowledge --

16 (End of reading)

17
18 MR. LACEY: Mr. Crawford: "Well, let's
19 listing to the questioning."

20
21 (Reading from video deposition)

22 A Okay.

23 (End of reading)

24

25 MR. LACEY: "And answer it specifically

1 and we will move right along."

2 Next question.

3

4 (Reading from video deposition)

5 Q Tell me about the circumstance where
6 Monsanto learned of a customer misusing its PCB
7 products and stopped selling them to them.

8 A I don't know the details of them. These
9 things occurred so many years ago, I can't recall
10 those details.

11 Q You just remember there was such a customer?

12 A Yes, I do.

13 Q And Monsanto stopped selling to them?

14 A Yes, that's correct.

15 Q Were they a big customer or a small
16 customer?

17 A I don't know.

18 Q Would it have made any difference from your
19 standpoint how big a customer they were?

20 A No.

21 Q And if it were the biggest customer you had,
22 the appropriate course would still be to stop
23 selling to them --

24 (End of reading)

25

1 THE COURT: That's not necessary.

2 MR. LACEY: Okay, Your Honor.

3 I'm now going to Page 126, line 15.

4

5 (Reading from video deposition)

6 Q I'm not asking you to testify for somebody
7 else. I'm asking for your opinions here.

8 A My opinion doesn't mean -- isn't worth a
9 nickle. But what my recall -- and so forth is
10 has to do with what I know of my own true -- own
11 recall and -- and my own knowledge.

12 Q Well, you were the manager for industrial
13 hygiene for Monsanto for a number of years.

14 A That's correct.

15 (End of reading)

16

17 MR. LACEY: Going to Page 128, line 17.

18

19 (Reading from video deposition)

20 Q Do you remember having a discussion with a
21 Wilbur Speicher of Westinghouse Electric Company
22 with regard to the toxicity of chlorinated
23 naphthalenes?

24 A No.

25 Q Let me show you a letter dated February

1 23rd, 1973, from Elmer Wheeler to Wilbur
2 Speicher, Document 25134 through 25136. Let me
3 ask you to review that letter.

4 (End of reading)

5
6 MR. LACEY: And Your Honor, I would
7 like to provide a copy of that to the jury
8 as well.

9 THE COURT: You may do so.

10
11 MR. LACEY: The answer is on the next
12 page, 129? Page 129, line 1.

13
14 (Reading from video deposition)

15 A What do you want to know about it?

16 (End of reading)

17
18 MR. LACEY: Line 10.

19
20 (Reading from video deposition)

21 Q That letter was written by Mr. Wheeler to
22 Mr. Speicher to summarize a conversation that
23 you, Mr. Wheeler, and Mr. Speicher had, correct?

24 A I don't know.

25 Q I see.

1 A I don't recall what the occasion was at all.
2 I really don't.
3 (End of reading)

4

5 MR. LACEY: Line 18.

6

7 (Reading from video deposition)

8 Q Mr. Wheeler says in his first two sentences,
9 first paragraph, "Jack Garrett and I." Is
10 that -- are you the Jack Garrett he is talking
11 about?

12 A Yes, I am indeed.
13 (End of reading)

14

15 MR. LACEY: Going to Page 130, line 9.

16

17 (Reading from video deposition)

18 Q Did you ever tell anyone that Askarel-type
19 fluids were under continuing surveillance and
20 study by a number of U.S. agencies, including the
21 Food and Drug Administration, the Council of
22 Environmental Quality, the Office of Science and
23 Technology of the President, the National Bureau
24 of Standards and several subagencies of
25 Environmental Protection Agency?

1 A I don't know that I ever did. I don't think
2 I was given that laundry list of agencies, but
3 I -- it -- it's true in the day, but I don't
4 recall that. I don't recall that letter, and I
5 don't recall that specific comment.

6 Q I see. Would you have ever told anybody
7 it's no secret that a number of individuals
8 within these agencies have proposed a complete
9 ban on the use of PCBs including the use in
10 transformers and capacitors?

11 A I knew that was the case through -- but I --
12 but I don't know what year I knew that. And I
13 don't know how to connected up with that year.

14 Q I see. Would you have ever told anybody the
15 continued the use of these applications is
16 currently allowed under restrictions based
17 primarily on action by Monsanto to prove that the
18 current quality PCBs manufactured in the United
19 States could be used with appropriate precautions
20 without serious industrial hazards and with
21 complete protection of the environment?

22 A Most assuredly.

23 (End of reading)

24

25

MR. LACEY: Going to line 16.

1

2 (Reading from video deposition)

3

Q Monsanto was the leader in trying to
4 convince people that PCBs could be used safely
5 for electrical applications, were they not?

6

A We were the only manufacturer in this
7 hemisphere. If anybody led it, it was we and the
8 large users.

9

Q Okay. And this letter was written to a
10 large user, was it not; Westinghouse?

11

A A large user.

12

Q Was it your view that even as between
13 Monsanto and the large users, it was Monsanto
14 that was the person person who had the primary
15 position in proving that PCBs could be used
16 safely in transformers and capacitors?

17

A No. And I don't know -- because I don't
18 know whether that had anything to do with that
19 letter or not.

20

(End of reading)

21

22

MR. LACEY: Going to line 21.

23

24

(Reading from video deposition)

25

Q Was it your opinion that the most important

1 data which has led the government agencies to
2 permit the continued but restricted use of
3 polychlorinated biphenyls are the extensive
4 animal toxicity studies which have been,
5 "completed in last two years," saying that those
6 studies have cost Monsanto something more than
7 half a million dollars?

8 A I don't know that that would -- was germane
9 and I don't even know what it means. I don't
10 know that I would have known the cost, in any
11 case. That the letter was written by Mr.
12 Wheeler.

13 Q I see. And it doesn't, to your knowledge,
14 then, really summarize what you told Mr.
15 Speicher?

16 A I don't recall.

17 (End of reading)

18
19 MR. LACEY: Your Honor, we come to a
20 section of the deposition that has questions
21 by Mr. Jones; and I understand they would
22 like to read those questions.

23 THE COURT: All right. You may
24 proceed.

25 MS. OLESEN: Beginning on Page 141,

1 line 18.

2

3 (Reading from video deposition)

4 Q Mr. Garrett, let me show you the document
5 that was Bates-stamped or whatever this number
6 is, 038968. And do you remember that document
7 and testifying about it?

8 A Yes. I saw it a few minutes ago.

9 Q And --

10 A Mr. Lacey showed it.

11 Q And what is that document about?

12 A It's about eating in process departments.

13 Q Okay. And it particularly talks about the
14 Aroclor process; is that correct?

15 A Precisely.

16 Q And that's precisely the thing that I want
17 to make clear. That wasn't the type of memo that
18 was just limited to the Aroclor process?

19 A No.

20 Q And that would have been in -- and that
21 would have been in -- that would have been true
22 of all of the processes there are the Krummrich
23 plant?

24 (End of reading)

25

1 MR. HUNT: You want to read Mr. Lacey's
2 part?

3 MS. OLESEN: Just the answer.

4 MR. HUNT: Oh, I see, he's objecting.
5

6 (Reading from video deposition)

7 A That is correct. The memo was directed at
8 the practice of eating in the process building.

9 Q Now, also you'll see there in Paragraph No.
10 3 -- and let me read it, if I may. Mr. Lacey
11 talked to you a little bit about that.

12 It says, "While the Aroclors are not
13 particularly hazardous from our own experience."
14 Now, does that mean own experience in the
15 Monsanto plants, or does that also include the
16 experiences that you may have learned through
17 your customers?

18 A That would include both.

19 Q Okay. It's not limited just --

20 A No.

21 Q -- to the Monsanto plant?

22 A No.

23 Q It's the --

24 A No.

25 Q -- entire body of knowledge that Monsanto

1 may have acquired?

2 A That's correct.

3 (End of reading).

4

5 MS. OLESEN: Turning to Page 148, line

6 8.

7

8 (Reading from video deposition)

9 Q What experience have you had in connection
10 with dissemination of information concerning the
11 health and safe-handling aspects of Aroclors
12 concerning maybe the length of the information
13 that you're trying to communicate?

14 In other words, would you -- if a document
15 was too long, what effect would that have on the
16 reader?

17 A It would depend. I think it would depend on
18 who the audience was supposed to be. If the
19 audience was supposed to be professional
20 technical people, the length was dictated by the
21 data that was available and needed.

22 If the -- if the document was placed in the
23 hands -- was -- was for the use of something
24 else, it would be -- it would have to have that
25 as its main affair.

1 In our case, in the case of the medical
2 department, our principal aim was to prepare
3 information that could be used by our plants and
4 customer plants.

5 Q So, in other words, it would depend on the
6 audience, then, that you were trying to
7 communicate with?

8 A That's absolutely correct.

9 Q And in some instances, if a document was too
10 long, it's your experience that perhaps the
11 reader may not read it?

12 A That's my opinion, yes.

13 Q And in such a case, then, the message
14 wouldn't get across that you were trying to
15 convey?

16 A That's probably correct.

17 Q You also testified, if I understood you
18 earlier and correct me if I am wrong, that
19 Monsanto, if it learned of any misuse of any of
20 its Aroclor products, that it would automatically
21 stop selling those products to that particular
22 customer?

23 A I did not mean that. If I said it, I'm --
24 I'm sorry. I'm incorrect.

25 Q All right, sir. Then tell me what you meant

1 to say.

2 A I mean to say that if Monsanto determined
3 there was a gross misuse of a product that was
4 hazarding the life of workers in their immediate
5 life, then Monsanto would make every effort to
6 stop that circumstance and at -- to the point of
7 removing it from sale.

8 Q Did you ever know of any such situation?

9 A One.

10 Q And what did that involve?

11 A It was an occurrence where our -- where a
12 product was used, an Aroclor product was used
13 misused, as a mold release agent in brass
14 founding because it became -- it was a good mold
15 release agent.

16 Q And was that the situation that you referred
17 to earlier which -- where you - was that Ohio
18 firm, I believe that you were talking about?

19 A No. It was Michigan -- it was a Pontiac,
20 Michigan firm, I think. I'm not sure. But it
21 was gross misuse of the product.

22 The product that was -- at the time was a
23 hydraulic fluid, and this was being -- was being
24 used as -- as a mold release agent in brass
25 founding. And it was causing the material to

1 pyrolize and the fumes were -- they were
2 immediately harmful to the workers and we stopped
3 it.

4 Q So, in other words, that was a use for which
5 the product was not designed?

6 A That's correct. It was simply not designed
7 for that use.

8 Q And that would be a gross misuse in your
9 mind?

10 A That is gross misuse, yes.

11 Q And that's the only instance that you have
12 heard of or have any recollection of --

13 A That's correct.

14 Q -- where Monsanto quite selling the
15 Aroclors?

16 A That's correct.

17 Q So, what you're telling us, then, it would
18 certainly depend on the circumstances of the
19 misuse before something like that would take
20 place?

21 A If it was grossly misused, it would depend
22 on where would you get the information, how would
23 you know it was true, and how you would verify
24 it.

25 In this case, this was a new use and we

1 could -- we could study it. But I represent, in
2 my 35 years, I never saw a case resulting from
3 Aroclor exposure. I'm sorry, but I did not.

4 Q Now, during the years that you worked with
5 Monsanto in their industrial hygiene area, the
6 medical department, did anyone at Monsanto ever
7 tell you or restrict you in any way as to what
8 you could say to Monsanto's customers about what
9 Monsanto knew about the product, the health and
10 safety effects, or the proper handling of the
11 Aroclor product?

12 A Absolutely not.

13 Q So, that type of information was freely
14 given by you in connection with your duties as an
15 industrial hygienist?

16 A That is correct.

17 Q And how did you convey such information?

18 A By every means that was available. We
19 talked to them by phone, we sent out bulletins to
20 them, we made talks, as at -- at plants, our own
21 plants. We were rarely invited into a
22 competitor's plant.

23 I mean, let's be -- be perfectly honest with
24 ourselves. We gave speeches at various meetings,
25 we had conferences and with -- with people at

1 various meetings. We talked in the halls to
2 people that were associated in the business. We
3 talked to our own sales peoples connected with
4 their distribution of the materials.

5 There was never any restriction on what we
6 could say in connection with what we knew about
7 the products, its toxicology and handling.

8 Q And was that information given, not only to
9 customers, but other groups also?

10 A Gave it to the government. We gave it to
11 universities. We gave it to -- we gave it to
12 anybody who asked for it.

13 Q What are material safety data sheets?

14 A Material safety data sheets are data sheets
15 prepared specifically on an individual material.
16 A material safety data sheet is the safety data
17 connected with the material entitled.

18 Q What would you do with such a material
19 safety data sheet?

20 A Distribute them.

21 Q Whom would you distribute it to?

22 A We would distribute them to anybody who
23 wanted them, and we would automatically
24 distribute them to all of our plants and our --
25 and our sales offices for the purposes of

1 answering questions that came to the sale office
2 from local areas, particularly fire departments.

3 Plants, customers, small customers would
4 call the local sales office and they had copies
5 of the material safety data sheets to distribute.

13 Q Did you ever send any of those material
6 safety data sheets to the customers themselves?

7 A The -- the primary purpose for them was to
8 give them to customers.

9 Q What is a toxicity information sheet?

10 A Because it was difficult to -- to -- to give
11 all the toxicity information out in bits and
12 pieces, the stuff that was published in journals
13 and so forth, a summary of the toxicity of an
14 individual product was made by a professional
15 toxicologist after they joined our staff. And
16 those toxicity information sheets covered a
17 summary by a professional toxicologist on the
18 toxicology that we had or knew about that came
19 from the literature from our own files and
20 reports.

21 Q Now, you had material safety data sheets on
22 the Aroclors; is that correct?

23 A From the time there were material safety
24 data sheets -- actually as a -- as an issue.
25

1 There were many different ways material data
2 sheets were -- were framed and distributed.

3 Q Okay. But they also involved Aroclors?

4 A Yes.

5 Q And is that also true with the toxicity
6 information sheets?

7 A The toxicity information sheets were largely
8 given to professionals because they were in
9 toxicology language. The material safety data
10 sheets originally, the original ones were largely
11 in language -- in common everyday language.

12 Q Okay. But now, my question was, though:
13 Were these toxicity information sheets also
14 prepared in connection with Aroclors?

15 A Yes.

16 Q And I believe you said they were sent to
17 professionals?

18 A That's correct.

19 Q Do you mean the professionals such as
20 yourself, industrial hygienists?

21 A Physicians, toxicologists, epidemiologists
22 in the field.

23 Q And it would be those types of individuals
24 which worked for your customers?

25 A Yes.

1 (End of reading)

2
3 MS. OLESEN: That's ending at Page 155,
4 line 18 and beginning at Page 156, line 1.
5

6 (Reading from deposition)

7 Q On how many occasions would you have a
8 request for information from your customers
9 concerning Aroclors and how to properly handle
10 them or what the healthy effects were?

11 A That would be difficult to say. It would --
12 it would number into the -- I don't know. In my
13 recall, recollection, it had to number well over
14 100, probably in the hundreds.

15 Q I would like to show you a couple of
16 documents and just ask you if you can identify
17 them for me.

18 The first one is No. 024743, which is a
19 document which you had prepared and sent to a
20 Robert Ransier, date September 20th, 1961; is
21 that correct?

22 A Uh-huh.

23 Q What is that letter? What are you writing
24 about?

25 A This is the -- a letter to a gentlemen from

1 the Marquardt Corporation in Van Nuys,
2 California. He says, "In accordance with our
3 telephone conversation," I see -- "yesterday I
4 have enclosed a copy of my Monsanto's most recent
5 bulletin on Aroclor 1248" -- and that was one of
6 our bulletins -- "as well as our own toxicity
7 information concerning this product."

8 Now, that would -- that would be an -- that
9 would be an extension of what was in the bulletin
10 because this would be the toxicity information in
11 toxicology terms.

12 "Also enclosed is a reprint entitled 'The
13 Toxicity of Vapors of Aroclor 1248 and 1254
14 Reported Monsanto-Sponsored work."

15 That's the Kettering work done on
16 decomposition products of Aroclor 1242 and 1254
17 done by Dr. Treon at Kettering in 1958.

18 Q So, again, this is an attempt where a
19 customer was requesting information concerning
20 the toxicity or health and safety effects
21 concerning Aroclors?

22 A And we gave them everything that we had.

23 Q And you gave him the information?

24 A Generally, yes.

25 Q I would like for you to look at Document

1 029391 and ask you if that -- first of all, to
2 identify that and tell me if that is also a
3 similar instance where that --

4 A Yes.

5 Q -- the same thing happened?

6 A Yes.

7 Q Can you identify the document for me?

8 A The document is March 1st, '63. It's to a
9 Mr. D.M. Griffiths, purchasing department,
10 Delco-Remy Division, General Motors in Anderson,
11 Indiana. And it was material we sent to them at
12 their request.

13 Q And what specific material did you sent send
14 them?

15 A As you -- let me see. "Our bulletin
16 covering this compound will appear in the
17 questions 1232 passed" -- "passed in your
18 mimeograph form, with the exception of the No. 1
19 question concerning the toxicity rating. As you
20 know, Aroclor 1232 is a chlorinated biphenyl,
21 chlorinated to 32 percent by weight," and so
22 forth. It is a great deal of toxicity
23 information I gave to Mr. Griffiths.

24 Q Okay. I would like for you to identify
25 several other documents here, and then let you

1 tell me if it's a similar instance where you were
2 trying to communicate information concerning the
3 Aroclors that Monsanto manufactured to various
4 customers that it had.

5 Could you please identify Document 025349?

6 A It's to a Mr. Fleming of Industrial Hygiene
7 and Occupational Health Branch, Tennessee Valley
8 Authority, in connection with a specific
9 hydraulic.

10 Q And I would like to also show you Document
11 025350 and ask you to identify that. And we will
12 keep all of these, all in a stack for you.

13 A It's a discussion, obviously, from something
14 Mr. Fleming asked in connection with their
15 problems in compression using Pydraul 625.

16 Q I would like to also show you Document
17 016391 and ask you to identify it. Give me the
18 date and the name of the person that you wrote it
19 to.

20 A This is November 1, 1967; and I wrote it to
21 Wilbur Speicher.

22 Q Who does he work for?

23 A He works for Westinghouse Electric
24 Corporation.

25 Q I would like to show you Document No. 29460

1 and please identify that.

2 A John Hogan, safety director, General Tire
3 and Rubbert Company, Textileather Division, P. O.
4 Box so-and-so, Toledo, Ohio.

5 Q All right.

6 A We transmitted to him information in
7 connection with the handling and toxicity of
8 these products.

9 Q I would like to show you Document 029461 and
10 ask you to identify that.

11 A That is to Mr. -- this was a -- this is Dr.
12 Alexander E. Earle, plant physician, FMC, the
13 American Viscose Division, Front Roayl, Virginia.
14 This letter was composed for information
15 connected with the material itself and it was
16 dated May 19, 1970 --

17 Q Okay.

18 A -- to FMC.

19 Q Okay. Identify Document No. 026061.

20 A It a letter, "I'm enclosing a copy of your
21 filled-out material safety data sheet covering
22 our product, Thermanol FR Low-Temp. I'm sorry
23 the tardy reply for your letter is" so-and-so.

24 And it is to Mr. C.S. Boettger, purchasing
25 agent, Sun Shipbuilding and Drydock Corporation,

1 Chester, Pennsylvania.

2 Q Finally I would like to show you Document
3 025317. Please identify the date and who the
4 information was directed to.

5 A The date January 18, 1987, Acute Toxicity
6 Aroclors request from Ford Motor Company. It is
7 to Keith Lee, industrial hygiene section, central
8 medical service at Ford Motor Company.

9 Q Okay.

10 (End of reading)

11

12 MS. OLESEN: Okay. And then continuing
13 at line 2 on Page 161.

14

15 (Reading from deposition)

16 Q Now, what I have got, I have assembled all
17 of those documents that you have just identified
18 and I have them in that pile right there that is
19 before you. Are those all inquiries, then, about
20 -- or responses to inquiries of customers
21 concerning the health and safety effects and
22 proper handling of the Aroclor products?

23 A That is true.

24 Q And those are your attempts to convey the
25 information concerning those health and safety

1 effects and proper handling of the Aroclors?

2 A That's correct.

3 Q And did you ensure that those were sent and
4 received by those customers?

5 A Yes.

6 Q How did you do that?

7 A We -- we had them typed. I ultimately
8 signed them, put them in an envelope; and they
9 were mailed.

10 Q And your secretary mailed them?

11 A She mailed them; that's correct.

12 Q Did any of those ever come back?

13 A You mean as nondeliverable, anything like
14 that?

15 Q Yes, sir.

16 A No.

17 Q Now, those are just a sample of the types of
18 inquiries your customers were asking you about?

19 (End of reading).

20

21 MS. OLESEN: And the answer is at 162,
22 line 8 -- oh.

23

24 (Reading from video deposition)

25 Q Please answer the question.

1 A There were many hundreds of calls and
2 correspondence to customers who used the
3 product, asking for information or further
4 information.

5 Q And so --

6 A And we gave it to them.

7 Q And so, based upon your knowledge and
8 experience then, that pile of documents that I
9 have in front of you is just not --

10 A Is not the only ones.

11 Q Is not the only ones?

12 A No.

13 Q Would there be several hundred more or --

14 A There should be but much of it was handled
15 by phone and by the simple mailing of the
16 documents.

17 Q Okay. I'd like to also show you a document
18 that is marked 024940. Can you identify that?

19 A That's an American Industrial Hygiene
20 Association Hygienic Guide to Chlorodiphenyls
21 containing 52 -- rather 42 and 54 percent
22 chlorine.

23 Q Now, you I said "diphenyl." Is that same
24 thing as biphenyl?

25 A That's correct. Diphenyl is simply the IUC

1 correct way of saying it.

2 Q Did you prepare that document?

3 A Mr. Wheeler and I prepared part of it and
4 were the advisers on the document itself, yes.

5 Q And was that document which was published in
6 the public records?

7 A It was published in the journal of the
8 American Industrial Hygiene Association and was
9 printed as a separate document and was sold by
10 them as an individual document or in a book of
11 documents containing as many hygienic guides as
12 you wanted, or the whole set, if you wished.

13 Q What is the American Industrial Hygiene
14 Association?

15 A It is the primary industrial hygiene
16 association in the world.

17 Q And how widely are their publications
18 disseminated?

19 A Worldwide.

20 Q In industry?

21 A Worldwide.

22 Q And in addition to having those articles
23 published, what did Monsanto or people like
24 yourself do with an article like that?

25 A Well, we collected -- we bought them from

1 the AIHA and sent them as a set to all of our
2 plants, all of the foreign plants, and to all of
3 the major sales offices, for a source of
4 information for them.

5 Q Have you ever heard of a Chemical Safety
6 Data Questionnaire?

7 A Some of the -- the letters you have just
8 asked for in connection with providing
9 information for those.

10 Q Well, let me show you a document which is
11 marked 025338 through 025341. Can you identify
12 that?

13 A It's a request for Ford Motor Company for us
14 to supply them with information on our hazard
15 data form or their chemical safety data form.
16 And we transmitted the data we had in our files
17 and from our own form onto the Ford form. We did
18 this to -- I don't -- dozens of companies. And
19 where the form was adequately put together, we
20 would do that. If it were -- if it -- if it was
21 not possible to do that, then we would send them
22 a collection of our toxicity data -- and did that
23 in many cases. Ford happened to be -- happened
24 to give out a decent form. There were -- there
25 were some though on cards that just simply were

1 not appropriate. So, we would send the card back
2 and a whole pile of information or bulletins and
3 so forth and say, quote, "Here is the
4 information, and here is a summary of the
5 toxicity," using the toxicity summary, and let
6 them try to put it on their little card.

7 (End of reading)

8
9 MS. OLESEN: Stopping at Page 165, line
10 18, and skipping to Page 166, line 6.

11 THE COURT: How much more of this do
12 you have?

13 MS. OLESEN: We just have a few more
14 pages, Your Honor.

15 THE COURT: All right.

16
17 (Reading from video deposition)

18 Q So, these chemical safety data questionnaires
19 were then forms which the customer sent to you
20 which they requested that you fill out?

21 A Right.

22 Q And what were the purposes of those forms?

23 A Presumably it's for their information on
24 their sheets. Now, these are predicates to the
25 current computer system era where they wanted

1 these so they could key sort them, or something
2 like that. That's why they had specific forms
3 because we could have given them a copy of the
4 AIHA guide, which gives them a lot of the same
5 data. But they wanted it in their way so they
6 could use it in their own -- in their systems.
7 Many of these things went on key sort files.

8 Q Mr. Garrett, I'd also like to show you a
9 document which is marked as 032231. Could you
10 please identify whether you wrote that, when you
11 wrote it, if you did, and who you sent it to.

12 A It's to an official in the Los Angeles
13 County Air Pollution Control District. And we
14 provided them with some information that they
15 asked for.

16 Q Well, just answer my question though. When
17 was it written?

18 A March 24, 1969.

19 Q And did you, in fact, write that?

20 A Yes.

21 Q I would like to also show you a document
22 which is marked 029459 --

23 A Uh-huh.

24 Q -- and please do the same thing: just
25 identify it, the date, who wrote the letter --

1 A It's from --

2 Q -- and who was it to.

3 A That's from Lynn Shaw, who's a -- who's an
4 occupational -- who's the industrial hygiene --
5 at that time, chief of the industrial hygiene
6 staff of the Department of Health of the State of
7 New Jersey. And it was the same thing. It was
8 an -- information they wanted.

9 Q Would you also please identify 032240.

10 A That's the Michigan Water Resources
11 Commission people, asking for concerning Aroclors
12 as far as its toxicity to -- to their purviews --
13 fish and wildlife.

14 Q Now, let's just identify now.

15 A It was to Mr. W. G. Turney, Michigan Water
16 Resources Commission in Lansing, Michigan. And
17 this gentleman asked for some information, and we
18 provided the information to him.

19 Q And what is the date of that?

20 A November 11, 1969.

21 Q Now, I would like to also show you a
22 document which marked 032246. Can you identify
23 that.

24 A This is dated January 26th, 1970. It's to
25 Mr. C. Gough, G-o-u-g-h, in the Indiana State

1 Department of Health. And they asked for some
2 information, and we provided it to them.

3 Q Okay. Now, all of those documents that we
4 have just been discussing and that you have
5 before you there in the pile in front of you,
6 those are all documents that have been written by
7 you?

8 A Yes.

9 Q And they were in response to information
10 requested by various governmental agencies?

11 A That's correct.

12 Q And it was information concerning the health
13 effects of Aroclors and safe handling of
14 Aroclors?

15 A And its effect on fish and wildlife.

16 Q And you supplied the information by those
17 letters?

18 A Yes. Back to them and answered their
19 questions.

20 A Yes.

21 Q And would that be the only inquiries that
22 you received during the time that you worked with
23 Monsanto, from governmental agencies?

24 A No.

25 Q About how many would you receive?

1 A That would be difficult to say -- a number
2 of them a year. As you know, I was involved in
3 the pollution control business and was an
4 official at one time in the water pollution
5 control federation. And I would be approached in
6 the area of fishery and water pollution from that
7 side of my duties at that time.

8 Q So, this is only, then, a representative
9 sample of the several --

10 A That's correct.

11 Q -- inquiries that you received?

12 A That's correct.

13 Q And several of those were even on the
14 telephone; is that correct?

15 A Yes. With a slip-in affair with an envelope
16 with the bulletins or something. I would slip it
17 to them.

18 (End of reading)

19
20 MS. OLESEN: Your Honor, at this point
21 we come back to plaintiffs' redirect, and
22 Mr. Lacey is going to take the microphone.
23 come back plaintiffs redirect Mr. Lacey
24 going to take the microphone.

25 I would also like to offer into

1 evidence the documents that were just
2 referred to. And that's 486, 863 through
3 867, and several documents which are all
4 included under one exhibit number, 1829.

5 THE COURT: They will be accepted.

6 All right. Let's proceed, Mr. Lacey.

7 MR. LACEY: Continuing at Page 175,
8 line 2, with additional Monsanto offers.
9

10 (Reading from video deposition)

11 Q Did you, at the same time you wrote that
12 memorandum about not eating lunches in the
13 Aroclor department, write a similar memorandum
14 regarding each other department in the Krummrich
15 plant?

16 A I have no idea.

17 Q Okay. In fact, are you aware of writing a
18 similar memo regarding any other department in
19 the Krummrich plant at that time?

20 A On many occasions.

21 Q At that time?

22 A In this general time area --

23 Q I see.

24 A -- time space.

25 Q Okay. Why did you pick the Aroclor

1 department to write this particular member
2 regarding?

3 A It obviously resulted from a question on
4 Aroclor and eating.

5 Q When you say "it obviously resulted," what
6 tells you that?

7 A It said, "It is the opinion of the medical
8 department that eating lunches should not be
9 allowed in this department."

10 Q Well, what tells you that there was any
11 question that came in that that's responding to?

12 A At the time -- at the time and through the
13 early part of my career in Monsanto, the medical
14 department -- and that included Dr. Kelly and the
15 rest of us -- felt that eating in the processing
16 areas was improper. We used every possible
17 chance to say, "Do not do it." So, this letter
18 contains a double message: Aroclor in specifics,
19 and the whole practice of eating in the process
20 units.

21 (End of reading)

22
23 MR. LACEY: Going to Page 178, line 16,
24 the plaintiffs' offer.
25

1 (Reading from video deposition)

2 Q You made no effort to determine whether or
3 not your customers were having toxicological
4 problems with your PCBs, did you?

5 A I -- I don't see that that's germane. No.
6 But we didn't also make any effort to see if
7 they all wore mustaches or not. I mean --

8 Q I understand.

9 A I don't see that it makes any difference.

10 Q Well, I think it makes some difference if
11 you say, "Well, we didn't know about any problems
12 with our customers." It's a difference -- there
13 is a difference between whether you looked --

14 A There is.

15 Q -- to find out if there are any or just none
16 of them came to your attention?

17 A There is little doubt they would have asked.

18 Q I see. And it's your testimony that you're
19 not aware of circumstances where people brought
20 those problems to the medical department,
21 correct?

22 A We had many, many, many requests from many,
23 many, many places about information.

24 Q No, I'm not saying about information. I'm
25 saying, brought to the Monsanto medical

1 department, problems resulting from exposure of
2 workmen to PCBs.

3 A No.

4 (End of reading)

5

6 MR. LACEY: Going to Page 181, line 24.

7

8 (Reading from video deposition)

9 Q You only sent out the the Hygienic Guide
10 series on PCBs when a request came in to
11 Monsanto, correct?

12 A No.

13 Q When else did they go out?

14 A We sent -- are you talking about this
15 series?

16 Q Yes. The Hygienic Guide.

17 A We sent it out when we were asked; you're
18 right.

19 Q Okay.

20 A When we were requested.

21 (End of reading)

22

23 MR. LACEY: Continuing at page -- I'm
24 sorry. Going to Page 187, line 9,
25 Monsanto's offer.

1

2

(Reading from video deposition)

3

Q Now, you indicated that it was in cases of gross misuse that Monsanto would stop selling PCB products to customers.

4

5

6

(End of reading)

7

8

MS. OLESEN: Mr. Lacey, excuse me.

9

That's not our offer. We have no more offer from that deposition.

10

11

MR. LACEY: Okay. You must have changed your designation.

12

13

MS. OLESEN: No.

14

MR. LACEY: Going to Page 190, line 21, with the plaintiffs' offer.

15

16

17

(Reading from video deposition)

18

Q Let me ask you a question, a very specific -- assume that Monsanto learned that General Motors was using a hydraulic fluid that contained PCBs in such a way that in its foundries molten metal was being dropped into pools of the fluid and vapors were coming up from it where the workmen were working. Would that be a gross misuse?

19

20

21

22

23

24

25

1 A I would -- I don't -- your -- your point is
2 well-made. It -- it might be a gross misuse, but
3 you'd have to know a hell of a lot more
4 circumstances than that.

5 Q It wouldn't be sufficient just to say, "I've
6 heard that" and not investigate it further. That
7 would require further investigation?

8 A That's correct.

9 Q Okay. And if -- and if that were the
10 circumstance after you investigated, then it
11 would warrant cutting off the sales?

12 A It would warrant this -- the -- the --
13 the -- the position that we could take in
14 connection with it, yes.

15 (End of reading)

16

17 MR. LACEY: That concludes the offers
18 from the deposition of Mr. Garrett, Your
19 Honor. .

20 THE COURT: All right.

21 I believe, due to the time now, rather
22 than start another witness we will stand
23 recess until 9:00 o'clock tomorrow morning.
24 I will excuse you until that time.

25

(WHEREUPON AT 4:40 P.M. COURT WAS IN RECESS UNTIL
SEPTEMBER 1, 1987, AT 9:00 A.M., AT WHICH TIME
THE FOLLOWING PROCEEDINGS WERE HAD AND DONE.)