IN THE DISTRICT COURT OF THE UNITED STATES
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

INDEPENDENT LIFE & ACCIDENT INSURANCE COMPANY, a Florida Corporation,	)	
Plaintiff,	)	
-vs-	)	Case No. 83-613-CIV-J-12
GENERAL ELECTRIC COMPANY, a foreign corporation,	)	
Defendant.	)	

DEPOSITION OF PAUL GEORGE BENIGNUS
TAKEN ON BEHALF OF THE PLAINTIFF.

April 10, 1986

Richard E. Schroeder
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GENERAL ELECTRIC COMPANY, a foreign corporation,	)	
Defendant.	)	

DEPOSITION OF WITNESS taken to be used in an action pending in the United States District Court, Middle District of Florida, Jacksonville Division, wherein Independent Life & Accident Insurance Company, a Florida corporation is Plaintiff, and General Electric Company, a foreign corporation is Defendant, pursuant to notice between counsel, under the provisions of Rule 26(a) of the Rules of Civil Procedure, taken on the 10th day of April, A.D., 1986, at the law offices of Peper, Martin, Jensen, Maichel & Hetlage, 720 Olive Street, in the City of St. Louis, State of Missouri, before Christine M. Hale, R.P.R. and Notary Public within and for the County of St. Louis, State of Missouri.

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

Gallagher, Baumer, Mikals, Bradford,
Cannon & Walters,
by: Thomas M. Baumer, Esq.,
and
Lawrence J. Hamilton, II, Esq., . For the Plaintiff.

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Thomas M. Burke, Esq., ... For the Defendant.

George Derryberry, Esq., ... For the Witness.

PAUL GEORGE BENIGNUS,

of lawful age, produced, sworn and examined on behalf of the Plaintiff, deposes and says:

DIRECT EXAMINATION

BY MR. BAUMER:

Q. Would you state your full name, please?

A. Paul George Benignus.

Q. And Mr. Benignus, where do you reside?

A. Belleville, Illinois.

Q. And what is your address?

A. 47 Metcalfe Drive.

Q. And are you employed at this time, Mr. Benignus?

A. No, sir.

Q. By whom were you last employed?

A. Monsanto.

Q. And how long were you employed by Monsanto?

A. I started there in 1934 and I retired from there in 1974, and I continued on a while after that as

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a consultant.

Q. How long -- you've been retired then since 1974?

A. Right.

Q. And how long were you active as a consultant?

A. Officially I was active for Monsanto as a consultant for six months or three-quarters of a year, thereabouts.

Q. Have you done any consulting work for Monsanto after that six-month period?

A. Yes.

Q. What type of -- what area were you consulting in?

A. Well, I've been active all through the years at American Society for Testing and Materials. I was Chairman on Askarels and on some International Committees, the International Electrotechnical Commission and Monsanto asked me to continue my work and representation there on behalf of Monsanto and the industry.

Q. Which committee was that?

A. In this country -- Well, various committees that I was associated with was American Society for Testing and Materials. And I was Chairman of the section there on Synthetic Dielectrics and mainly it was on Askarels or, as you call, PCB's. The name is Pyranol, et cetera. Now that was here in the United States. That's where the American Standards were set on these dielectrics.

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Now this was carried worldwide at the International Electrotechnical Commission. And there I was Chairman of the Committee there on that. And the same thing, and that represented the countries all around the world, international. The Japanese, the British, the French, Italians, the Germans, the South American, India, what have you.

Q What industries were members or had members on that Committee?

A Well, particularly the Electrical Industry and Askarel, as you may know, or electrical use of PCB's was as a dielectric for capacitors and transformers so that people of prime representation were the manufacturers of capacitors and transformers plus the users.

It was -- these Committees were well represented by the utilities and industrial organizations, oil companies and other users.

Q Did General Electric have members on the National Society --

A Yes, sir.

Q -- for testing and materials?

A Surely. They were very active, as was Westinghouse and down the line.

Q Now when did you first become a member of that Committee?

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A. Oh, this goes way back now how I got involved there. I would say around 19 -- the late 1940's when Frank Clark of General Electric, who was the inventor and the discoverer of Askarel dielectrics back in the early 1930's, he invited me and suggested that I become active at the ASTM because Monsanto was the supplier of these dielectric fluids which were the property of General Electric Company.

We manufactured it in accordance with their specifications and what the work of these Committees essentially was, was establishing the specifications and the properties of the dielectric fluids and their characteristics and also to document and establish the procedures and technology of the stuff.

Q. You were with the Committee commencing in 1940's?

A. Not 1940, no. Not 1940. It was after that.

Q. When did you become involved with that Committee on an active basis?

A. Well, by attending the meetings, I think you are active, and I was active as I told you, but I think it was around 1949 or thereabouts. Excuse me --

Q. 1949?

A. '49 to '50, thereabouts.

Q. When did you become Chairman?

A. I don't know this exactly. It was sometime after I had been active as a member.

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Q How long were you Chairman?

A Well, I was Chairman until I retired and that was in '74 and certainly I would say sometime in the sixties, 1960's. Sixties, mid-sixties. Monsanto is the one that said a tremendous amount of information into these technical organizations and this isn't the only place.

There is IEEE, the Institute of Electrical and Electronic Engineers. This is a transformer end of things and then there was NEMA national manufacturers.

Q I understand.

A And so on and so forth.

Q Were you Chairman of the American Society for Testing and Materials with respect to Askarel for ten to fourteen years?

A Oh, I would say probably ten years.

Q And you were Chairman, I think you said, when you retired in 1974?

A This is correct.

Q Now let's focus for a minute, if we could, Mr. Benignus, on, say the period 1968 through -- to 1974. Can you tell me who in that period from General Electric was active in the American Society for Testing and Materials with respect to Askarel?

A Well, from early on, and certainly in this period, very active, the active representative of GE there, I have

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to say, is Ed Raab, was at Pittsfield. That's the GE Transformer Division and there were also from time to time people from the Capacitor Division.

Q. Do you remember anybody from the Capacitor Group? Do you know a Dr. Pozefsky?

A. Oh, sure.

Q. Was Dr. Pozefsky active in this Committee?

A. Yes. And by -- I don't know what you mean by active, but they were certainly in receipt of all information in what was going on. They didn't necessarily have to attend every meeting, but yes, indeed. Not only Al Pozefsky, but others. They'd been very active.

Q. Did you ever know a Dr. Simon?

A. Yeah. Not well.

Q. Was Dr. Simon involved at all with this Committee in which you were Chairman?

A. I don't recall. Who is Dr. Simon? I don't quite --

Q. You don't recall Dr. Simon?

A. It seems to me as though I do, but he wasn't one of my active associates.

Q. All right, sir. Now how often would this Committee meet? Say, in the period '68 through '74.

A. In those days I think we were meeting certainly three times a year. At the spring, the fall, and the winter

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meeting. And they met at different parts of the country to accommodate -- now this meeting, you understand, was not only on PCB's. That was a synthetic fluid part of this. The mineral oil which was used at this point in time in transformers, you had representatives of the Transformer Committees on the transformer section of this.

Q Was Mr. Raab a co-chairman of any committee or subcommittee?

A Oh, sure. He was, yeah, sure. He was one of the head people there, and he was the Secretariat when I was Chairman of IEC.

Q What is IEC?

A International Electrotechnical Commission.

Q Now at these meetings that you were telling us of, of the American Society for Testing and Materials, and specifically with respect to Askarels and PCB's, were there discussions of potential environmental problems with the use of PCB's during the time period '68 through '74?

A Well, sure. This was discussed.

Q What was the nature of those discussions, Mr. Benignus?

A Well, you are talking about what, 19 --

Q 1968 to 1974.

A All right. What do you want me to do? Why don't

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you ask specific questions?

Q. I want you to tell me, if you can -- all right. Let me see if I can help out this way. When was the first time you can recall that there were discussions commenced at this Committee concerning potential environmental concerns over the use of Askarels containing PCB's?

A. Well, since you put it in those terms, not until the later years of this time period. You are saying "active concerns". Now let me maybe clarify this to help you understand what I'm driving at.

If you are asking when was PCB's -- was there a concern about finding PCB's in the environment, you'd go back to maybe a little earlier than 1968. Go back probably to 1966 when I think they found it in the waters and seagulls of Sweden.

Q. Dr. Jensen?

A. Yes. This sort of thing. Now obviously, ourselves and other people, Raab and other people, are interested and wondering what is this all about. It got a lot of publicity, but that was not of any active concern to us at that time.

Q. Let me ask this then. Were there discussions in which you participated along with Mr. Raab of the Jensen papers?

A. Informal, yeah, sure, we would talk about that.

Q. And were there discussions about other incidents

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or papers or scientific pronouncements with respect to the environment and PCB's in 1968, '69?

A. Well, I would say that anything I knew about -- And you are asking about these other folks, particularly Ed Raab, and I would assume Dr. Sloder at Westinghouse and some others that were active here, they would have acted just as I would have when it was published.

Q. Were there discussions -- Did you ever have any discussions with Mr. Raab or anyone else at GE with respect to Dr. Risebrough's experiments and studies?

A. Not to any pronounced -- I personally, not to any pronounced extent other than -- sure, we at Monsanto, our medical people were informed about this.

And I heard of it as had Raab, too. We were aware of it and, sure, we would have mentioned this.

Q. Was Dr. Risebrough's findings discussed at these meetings of the American Society for Testing and Materials?

A. I wouldn't say formally. This was not a formal function of ours at that time, but we were aware of this. There wasn't anything for us to do in regards this. As later -- in later periods there was discussion of more active concern.

Q. By later period, what do you mean?

A. Well, by later period, I'm thinking in terms of years. Let me put it this way. Oh, say, 1972, '3, on.

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Pretty close to the end when formal steps were taken about all of this as far as handling the PCB's.

Q All right. I'll come back to that in a minute. Let's go back for a moment and let you tell us, if you would, please, what your educational background is.

A I graduated from Illinois College with a Bachelors. Majored in Chemistry. And then went to grad school at Washington University in St. Louis and had a Masters in Organic Chemistry.

Q And you went to work for Monsanto in 1934?

A Right.

Q And what were your duties when you first commenced work for Monsanto?

A Well, they were the same as all college people who just started working. Started in the Analytical Lab to get acquainted. That was the general procedure. From there I went to Plant Control Labs and then I got involved in some specialized analytical laboratory work and then I went into application laboratories in the Research Department. And that was followed by -- I was in the Development Department in the Organic Chemicals Division.

Then in the Sales Development Department, Organic Chemicals Division, and then in 1947 I left the Organic Chemicals Division and went with the Inorganic

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Division. And that's where the Askarels, the PCB's were-- they resided in that division. And I was a hundred percent involved with PCB's. My specific assignment starting in 1947 -- Let me go back a little bit.

When I was in a laboratory there in the Development Department in the Organic Division, I was assigned running various physical properties and physical constants on PCB's on behalf of the Inorganic Division.

What I'm saying is this. I had experience with -- An acquaintance with PCB's and their properties before I was given the assignment of one hundred percent active work -- this was now in the Marketing, Marketing Department of the Inorganic Division of Monsanto.

Q When would that have been?

A. 1947. And then I was at that point a hundred percent on the assignment of developing and pursuing market uses for PCB's non-electrical.

Q What's non-electrical mean?

A. Non-electrical?

Q Yes.

A. For non-electrical applications. Now your electrical applications essentially were for use in capacitors and in transformers. That was the electrical end of the business.

Q What would the non-electrical end of the business

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be?

A. The non-electrical end of the business, I might well start this out by saying that this family of -- When we talk about PCB's, we are not talking about one thing. We're talking about a whole family of compounds.

These are thin liquids like water, the biscus liquids, to solid materials. We have this whole gamut of physical properties, all right? Because of the salient features, mainly to say briefly, unless you want to go into more detail, these materials were known for their very high order of stability. Thermal stability, chemical stability. Their inertness and so on and so forth.

We can go into that more, if you want to later. They also had plasticizing qualities. So this led to non-electrical uses that were broader and wider in varied applications than any other family of compounds that I ever heard of.

Q. Can you tell us the trade names of the products that contained PCB's that were involved in the non-electrical side?

A. Well, you don't get into specific trade names like you did have in the electrical industry where GE would call it Pyranol. Westinghouse and so forth, and the general term was Askarel. I would say in the non-electrical area anybody buying or using PCB's would simply call it by

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Monsanto's trade name, Aroclor, but there was no product on the market called Aroclor.

That was our trade name for PCB. Then this would be formulated. For instance, one of the earlier applications was in nitrocellulose lacquers, it was a plasticizer for nitrocellulose.

I'm going back to the early thirties when this thing was first made. Probably the first production was in 1929, but certainly by 1930 or '31 there was some sales. One of the early sales was nitrocellulose lacquer.

This was for -- one application comes to mind, hat bands in straw hats. The Aroclor was a good plasticizer for nitrocellulose. It didn't hydrolize. It was stable. It wasn't water soluable, and a sweat band in a hat, of course, a straw hat, people get warm and it wouldn't discolor and decompose, so it was a nice application for it.

That was one of the early applications. And then in lacquers, of course, are used for finishing wood and metal surfaces which gets into all kinds of things.

Q Let's go back for a moment, Mr. Benignus. How long were you one hundred percent involved with PCB's after 1947?

A Till '74. If you want a more specific breakdown on this --

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Q Let me -- let's go backwards, okay. Let's start in 1974 and back up and tell me what your duties were in 1974 with respect to PCB's.

A Well, I was called World Marketing Manager.

Q World Marketing --

A Manager.

Q Manger for what, for Askarels?

A Askarels, electrical. That's why I wanted to break this down for you to make it simpler. From '74, going back, I would say, well, I started one hundred percent in 1947.

As I told you on non-electrical, strictly non-electrical, and that continued on that basis until, oh, about 1953. Something like that. We're out specifically non-electrical.

Q What happened in 1953?

A In 1953 it was changed and I was then entirely electrical.

Q Transformers and capacitors?

A Right. And I specialized over those years in the electrical end of this thing.

Q All right. What were your -- what was your job duties, though, with respect to PCB's in 1974?

A Well, as I told you, the title was World Marketing Manager.

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Q What did you do in that job?

A All right. I personally, as I view this, what I was doing was primarily in the technical end of it, working with people, GE, Westinghouse and others in the technical areas, establishing test procedures. First there was procedures that ASTM had on stabilities of Askarels and so on and so forth, plus the handling of all the many specifications and so on and so forth, and --

Q How long -- what period of time were you in that function where you were involved with test procedures and working with GE and the technical area?

A '53 on.

Q '53 on?

A Yes, I would say that.

Q Were you involved in establishing test procedures to determine the biodegradability of PCB's?

A That was not my direct function, no. But Monsanto did a great deal of work on determining biodegradability and then disseminated this information to these technical -- particularly also to government agencies. You see, on this-- now you are getting into the area where the government agencies, the EPA and so on and so forth came into this picture and we did -- got into the biological end of this thing.

Also determined the migration of -- in the soil

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and so on and so forth.

Q When did you first begin to be involved in the biological end of PCB's?

A I, myself?

Q Yes.

A It wasn't my responsibility.

Q All right.

A It, this came in the research area and people in the research end of it were over the bio-lab there and they handled this.

Q Was it your job to communicate their findings to customers of Monsanto?

A Well, other than people that were directly involved like GE, it wasn't my job -- did you say did I personally to communicate?

Q Yes.

A No.

Q You or people working with you.

A Well, I was associated with everybody so that would include the people that were doing this work. Well, that was compiled in our Research Department and that was transmitted to wherever it was supposed to go and, as I told you, at this point in time it involved government agencies and everybody was involved with this. GE, Westinghouse and everybody became involved in it.

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Q. Was this in the period 1968 to 1974?

A. It was within that period, it was, yes.

Q. You mentioned a Mr. Clark a moment ago. Let me show you --

A. Frank Clark.

Q. -- yes, sir. Is his middle name "M"?

A. Yes.

Q. All right. Would you look at Exhibit 317.

A. It's Russell Jenkins, he was Director of Research and Phosphate.

Q. Do you remember Mr. Jenkins?

A. Very well.

Q. He was a Monsanto employee?

A. Well, sure.

Q. And --

A. (Unintelligible)

Q. Now F.M. Clark, who wrote this letter, is that, to your knowledge, the Mr. Clark you referred to earlier?

A. This is correct.

Q. Have you seen this letter at any time before?

A. This particular letter?

Q. Yes, sir.

A. No.

Q. Do you recognize the people who received copies?

A. I sure do.

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Q. Tell us who those people were.

A. Metzner was a Research Chemist in Organic Division. Dr. Hitchens, I reported to him, he was in the -- he did some of the specialized analytical work I told you. I worked under Dr. Hitchens at one time. Howerton was the Plant Superintendent.

Q. Where?

A. Howerton was in the Organic Division at St. Louis, and Bill Krummrich, he's the one that the plant is named after. That's Monsanto, Illinois. PCB's were produced at Anniston, Alabama, and Monsanto, Illinois.

Q. All right, sir.

A. And Hosmer, he was also in the plant. And I think Gerber -- I didn't know Gerber too well, but the others I knew very well.

And Russell Jenkins, I knew very well. And Clark and Jenkins were the ones that handled the electrical applications. And then I took over in later years from Jenkins.

Q. Did you ever review the article that's referred to in this letter, Exhibit 317?

A. I'm certainly aware of it. I've read things along these lines. It wasn't my direct handling. It was in the Medical Department. I guess you've met Dr. Kelly, haven't you?

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Q Not yet.

A Oh.

Q Not yet.

A Well, he was the Medical Director in Industrial Hygiene. He headed the section of Industrial Hygiene. So I'm aware of Dr. Drinker. See, that was work that was sponsored by Monsanto and to develop toxicity information on PCB's.

There were papers and articles published on this.

Q All right. But this Mr. Clark that we referred to, he's the man who invented --

A This is correct. Frank Clark.

Q He invented PC -- polychlorinated biphenyls; is that correct?

A Well, as used for a dielectric, in capacitors and transformers.

Q And he was employed by General Electric?

A Yes. In Pittsfield, and since you are speaking of him, to put Ed Raab in proper perspective, he was in the laboratory with Frank Clark as an assistant, and the other important assistant was Ralph Rusetta.

Now Ed Raab went up the road into the Transformer areas. Ralph Rusetta, who was also a very good friend of mine, went up the road into the Capacitor Section.

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Q. Was Mr. Raab a scientist or researcher?

A. He was an outstanding -- yes, yes, indeed.

Q. And he was in the lab working under Dr. Clark, to your knowledge?

A. I think you got some of them wrong here. Are you talking about Clark or who?

Q. You were trying to put Mr. Raab in perspective.

A. Yes.

Q. Where in that perspective does Dr. Clark fit in with respect to Raab?

A. He was Raab's boss.

Q. All right. So --

A. Raab was an assistant to Frank Clark.

Q. Frank Clark?

A. Right.

Q. And he then moved in, to your knowledge, into the Transformer side?

A. Yes, at Pittsfield.

Q. But he worked, as you know it, that is Mr. Raab worked, as you know it, with Dr. Clark?

A. Oh, yes.

Q. For how many years did he work with Dr. Clark?

A. As long as Dr. Clark lived.

Q. How long did Dr. -- When did Dr. Clark die?

A. I don't know exactly. That was quite a shock to

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all of us. Oh, the late -- mid, late fifties. I'm just guessing now. I knew him so well.

Q Did you know -- did you meet Mr. Raab through Dr. Clark?

A Essentially, yes. Yes, met them together. They would attend ASTM meetings together.

In fact, Frank Clark was the Chairman there. And later Raab was. I just followed along the line.

Q Was Raab the Chairman before you?

A Yes, he was. And the only reason I was Chairman was because Monsanto Laboratories, Dr. Jenkins and other people in Research, developed all the methods and so on and so forth and did the active work, which I was in a position then to carry to the American Society for Testing and Materials to set up as our American Standards. That was my function, really.

Q What standards was that group attempting to establish?

A Everything of interest.

Q In relation to PCB's and Askarel?

A This is correct.

Q Was it --

A Haven't you seen the specifications on this? Maybe if you had that, I can go through that.

Q No. Unfortunately I don't have that.

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A. Well, I wrote a book one time almost this thick (indicating) on this whole subject.

Q. Do you have a copy of that book with you at home?

A. I don't have -- yes, I have a copy of it.

Q. Was it published?

A. Very widely, yes.

Q. And it dealt with Askarels?

A. Entirely.

Q. And their use in dielectric fluids?

A. Yes. Specifically for that. It had nothing to do with non-electrical uses. And it didn't only deal with these specifications per se in the physical constants and so forth and their dielectrical characteristics.

I'm talking now about the publication. This was -- I first wrote this in 1954 or '5 and then the last edition was in 1960. This book also served the industry, our customers spoke of how the material is packaged. Gave the specifications to the drums, the sizes and so on and so forth and the tank cars, how you unload a tank car and so on and so forth. And you probably have that.

Q. All right. Let me ask you, Mr. Benignus, to take a look at Exhibit 305.

A. Yes.

Q. Are you the author of that document, the first page of it?

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A. I remember this, certainly I do.

Q. You wrote this memorandum?

A. I signed it. That's my signature.

Q. Is that your signature?

A. Yes, it is.

Q. Did you have a discussion with Mr. Raab that preceded this memorandum?

A. I saw a great deal of Ed Raab. I assume it was mentioned. I assume so, and this is merely -- Again, I'm serving in sort of a liaison function here calling this to the attention of our Medical Director, Emmett Kelly, and urging -- they were, Bergen was Director of Marketing. Richard was in Research.

THE REPORTER: I can't hear.

THE WITNESS: Oh, excuse me. Bill Richard was in Research. Wheeler was the Industrial Hygienist under Emmett Kelly. Raab at General Electric. Bergen was Director of Marketing of this department at this time, 1969.

Olson was an Assistant in Marketing. I was there. What I've been trying to get across to you, I was more of -- I was in Marketing but concerned with the technical aspects more than going out and selling stuff.

Q. (by Mr. Baumer) Did you report to Mr. Bergen?

A. Pardon?

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Q. Did you report to Mr. Bergen?

A. Indirectly, yes.

Q. Was he the first level that you would report to?

A. Yes.

Q. There's a chain -- What I'm trying to get at is the chain of command and see where you fit in with respect to Mr. Bergen.

A. Well (laughing) here's a chain of command in the organization. Here I am (indicating). Now you get the idea?

Q. You were sitting out there somewhere on the side?

A. I was somewhere, yes. I was a technical man in the Marketing Department called Worldwide Marketing Manager.

Q. And you dealt with Askarels and PCB's?

A. Yes, specifically.

Q. Now let's go back to this memorandum that you wrote. In 1969, the date of the memo, I take it from reading this that there was -- there had been reports of -- biological report pertaining to Askarel found in wildlife; is that correct?

A. Yes, I would say so.

Q. Do you recall which reports you referred to are the author of those reports?

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A. Well, do you want me to look back here?

Q. I don't think you'll find it attached here.

A. Oh.

Q. Okay.

A. Well, offhand let me just answer this in general. The subject is biological reports pertaining to Aroclor found in wildlife. Let me give you an example of this. You've already referred to this thing over there in Sweden.

Q. Sweden.

A. Yes, that would be one kind of a thing.

Q. Dr. Risebrough, would that be another?

A. Yes. Certainly this kind of thing and finding it in, as I told you, I think Paragon Falcon that Wheeler was talking about.

Q. How about seals, were there --

A. All right, put them in there. Seals, yes. This kind of thing.

Q. And that's what you meant when you referred to the biological reports?

A. This is correct.

Q. And that was information, I take it, that Monsanto had or had received at the time you wrote this memo?

A. Well, certainly.

Q. Had you discussed that information, those

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biological reports with people at General Electric on or before May, 1969?

A. Only incidental. It wasn't really my job to do this. See, I'm trying --

Q. Why was Mr. Raab telling you about this particular lab in Denver with respect to doing studies concerning the biological reports pertaining to Aroclors found in wildlife?

A. Because he wanted me to relay it, as I did here, to the Director of, our Medical Director, and also our hygiene people, which was Dr. Emmett Kelly and Elmer Wheeler.

He was trying to get me to bring this to their attention. That's the purpose of this thing.

Q. So Mr. Raab,he indicated to you that he had acquaintances at the Denver Research Institution -- Institute that could perform studies with regard --

A. Yes.

Q. -- to the biologic reports of Aroclors in wildlife?

A. I would say so.

Q. And you then wrote this memo; is that correct?

A. Yes.

Q. Did you contact the Denver Research Institute?

A. No, I didn't. No, I didn't.

Q. All right. Would you look at the next three pages

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of this exhibit? Do you recall receiving the letter dated May -- 2 May 1969 from Mr. John A. Young at the Denver Research Institute?

A Well, I must have received it. It's addressed to me. Yeah, this -- I'm just glancing over this in a hurry here. Yeah, this was trying to present the competency of the validity of these people and credentials, which I merely passed along to whoever --

Q When you received this letter, did you pass it along to Dr. Kelly or Dr. Richard?

A Oh, I would have passed it along to Kelly. That's what was done here. Not to Richard. He was copied in. My job would have been to send this along to Emmett Kelly.

Q Did you ever have any direct contact other than this letter with the Denver Research Institute?

A No, no.

Q Look at the first sentence of this letter. It says "I have recently learned from Mr. Edward L. Raab that Monsanto is becoming concerned about possible harmful effects of Aroclors in wildlife." Is that an accurate statement? From the standpoint of what Monsanto is becoming concerned with?

A Well, I think that's of interest to -- certainly it's a matter of interest. I don't know if it didn't shake me up at this point in time, but it would certainly

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be a matter of interest to anybody where a producer of Aroclor -- It certainly would. I don't know how you interpret the word "concern" but maybe we should "interested". "Concerned" may be a little bit severe at this point.

Q Monsanto was interested, though?

A Oh, certainly, certainly.

Q In the possible harmful effects?

A Certainly, certainly.

Q And did you discuss -- had you at this time, '69, discussed those possible harmful effects with Mr. Raab at some occasions?

A I would say informally, but the official and the prime discussion of this is up to our Medical Director.

Q All right, sir. Are you aware that -- Strike that. Let me rephrase it. Did Monsanto, in 1970, withdraw a large segment of its Aroclors from the market?

A You are saying 1970?

Q Yes, sir.

A Well, I think I know what you are talking about here, yes. The answer to this is yes. And this was the non-electrical, yes.

Q And by the way, who was the Medical Chief Director at General Electric, if there was one, to your knowledge?

A Oh, sure. I didn't know him but again, my information along this line would start with Ed Raab and

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then his boss was Osthoff and I think we had some correspondence with Osthoff and it's not exactly clear to me.

Q. In 1969 was General Electric the largest user of Aroclors in dielectrics?

A. Always have been. Westinghouse was second.

Q. Look at the last page of Exhibit 305.

A. You mean with the facilities?

Q. No. One more page.

A. Oh, I'm sorry.

Q. That's a letter.

A. Oh.

Q. From Mr. Wheeler.

A. To Mike Scoville.

Q. Do you know Dr. Scoville?

A. Very well. It's not Doctor. It's Mr. Scoville.

Q. Okay. Someone here in this letter --

A. People get to be doctors.

Q. Well, Mr. Scoville held what job in 1969 at General Electric?

A. Mike Scoville, who also had been in the early days, and he was one of the more matured men at this point in time, in the early days at Pittsfield, all right -- He was in the capacitor end. That had moved out of Pittsfield over to Hudson Falls and Fort Edward, New York,

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and Mike Scoville was in the capacitor area.

And I always thought of Mike sort of in a way as myself. Here's the organization and here is Mike over here.

Q Did he deal with polychlorinated biphenyls?

A Certainly. He was one of the early people in this thing, in the manufacturing end of it. More than in the lab end. He was very knowledgeable, yes.

Q Of PCB's?

A Oh, yes.

Q And their uses across the board in whatever form?

A Well, not non-electrical, but electrical.

Q Electrical?

A Yes, certainly.

Q Capacitors, transformers?

A And transformers, yes, sir.

Q Now Dr. Wheeler, of course, was at Monsanto?

A Right.

Q Have you ever seen this letter before today?

A No. I don't remember seeing this specific -- this specific letter. But I sure understand it.

Q Was it -- was that your understanding at the time?

A (Nodding head). Yeah, there had been publications concerning this.

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Q Were you aware of the articles that appeared in the San Francisco Chronicle?

A Oh, not specifically, no, no.

Q You may have known the information --

A Yeah.

Q -- but not the source?

A Yeah. This is right. I may well have known. Probably didn't know the general tenor and information, but I wasn't handling this so it was a matter again of interest and I don't think the word "concern", but certainly of interest to me.

Q Did you know whether Dr. Wheeler did travel to Great Britain, Sweden and the Netherlands as indicated in his letter?

A Well, he said several of us are going, and I don't know why he would not have gone.

Q Do you know whether he went?

A I really don't know.

Q Do you know whether Dr. Richard went with him?

A Well, I'm just guessing here.

Q Don't guess, don't guess. If you don't know, you don't know.

A I don't know.

Q Okay.

A And whether Wheeler went or not, I don't know,

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but he said he went or was going. They didn't check with me, you know.

Q Let me ask you, Mr. Benignus, to please take a look at Exhibit 301.

A Uhuh.

Q Do you recall receiving a copy of that letter as indicated?

A Oh, I'm sure I did.

Q Why was it, Mr. Benignus, that you were receiving copies of letters such as Exhibit 301?

A That's a good question. May I express a degree of humbleness when I answer this thing?

Q Certainly, certainly.

A Well, I was in this and, incidentally, Bryant was reporting to me. He got a copy, too. He was out in the field. Now this deals with some -- Nelson at Schenectady, GE at Schenectady, and I've heard of Nelson. I never met him. I was very well known and I acted as the liaison man in all kinds of ways. Not only domestic but around the world.

People would think about Paul Benignus, you know, and so I'd get this stuff coming in, you know, and it wasn't really my prime responsibility to handle it, but I didn't know where to go with it. I think that answers your question.

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Q. Were you known, as you say --

A. Mr. Aroclor, let's get with it.

Q. You were Mr. Aroclor?

A. Yeah. Affectionately.

Q. Will you please be kind enough to look at the pages of Exhibit 301 that commence with the heading "Possible Customers' Questions on PCB's".

A. What's the date of this? Oh, well, just to put this in a time frame, what are we talking, 1963? Or what are we talking about?

Q. Let's look at it. It refers to some New York or San Francisco Chronicle article of '69. I don't believe this is dated.

A. Well, it says U.S. Articles in the Chronicle. It refers to February, 1969?

Q. Yes, sir.

A. The San Francisco Examiner,the Hartford Times. I'm merely --

THE REPORTER: I can't hear you.

THE WITNESS: I'm merely reading to myself what this letter is saying.

Q. (by Mr. Baumer) Are you familiar with this document?

A. I'm certainly familiar with what they're talking about, yes, indeed.

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Q Were you aware that Monsanto was developing documents such as this which would answer possible customer questions on PCB's?

A We did everything we could to answer anybody's questions on PCB's. So the answer is yes. And what -- I haven't read this. You are talking about PCB's. They said produced peaks on a gas chromatograph similar to peaks produced by DDT. Well, this is the subject now. The environmentalists were looking at the situation of insecticides, DDT around the world, you see.

Now incidentally, on vapor phase chromatographs, a fellow that I worked with very closely through the years at Monsanto developed this method of analysis of vapor phase chromatography and then these people analyzing for this, and I think the man in Sweden, this talks about Hartford and an article in Hartford Times, but -- and Wisconsin-- Well, going back to the early probe and analysis of DDT in the environment, they were finding by this methodology of vapor phase chromatographic procedure were looking at DDT. They were finding this -- it says here "Produced peaks similar to peaks produced by DDT". And this was disrupting the analysis and confusing people and they wanted inside, into this thing.

And Monsanto here investigated this thing and now we're talking about the fact that PCB is a very complex

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thing. For instance, Aroclor 1242 was sold as one material. Why it consists of something like forty-two different isomers and if you have ever seen a vapor phase chromatic diagram of this, it's one set of peaks and so on and so forth, and people were looking for help to handle this strange peak that they were running into when they were analyzing for DDT.

And that led to a great deal of work at Monsanto to develop the methods for determining a PCB which is what allowed all of these people to continue their work all over the world, searching for PCB's.

We developed all that technology and this is the start of it. You are referring to 1969, you see in this thing. And that's where it all started.

Q. Let me ask you to take a look at Exhibit 303.

A. Wheeler, -- it's Dr. Pozefsky, all right.

Q. You received a copy of this letter? And the letter indicates that you had asked Dr. Wheeler to send certain information.

A. Uhuh.

Q. Relative to Aroclor 1242.

A. Yes.

Q. To Dr. Pozefsky.

A. Right.

Q. Do you have any recollection of that?

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A Yes.

Q Why had you done that?

A Because they wanted information and I was in a position to supply information relative to Aroclor 1242, which is Pyranol 1499. That was their trade name for it.

Q It contained PCB's?

A Oh, Aroclor 1242 is PCB. Pyranol 1499 is the same thing as our Aroclor 1242. Pyranol 1499 is merely the GE trade name or designation for our Aroclor 1242.

Q Back in 1956, there had even been published some studies relative to the toxicity of vapors of Aroclor 1242 and 1254.

A Correct. And that's when -- See now, you are getting into the period where I published that myself in the -- in the handling booklet. I spoke about the vapors. And Monsanto had had work done at Kettering Laboratory and so forth on this subject, and GE evidently wanted information along this line.

Q This was transmitting this information?

A Yes. That's what this was doing.

Q All right, sir. Let me ask you to please take a look at Exhibit 311.

A This is addressed to me.

Q Yes, sir. It's written by Mr. Raab.

A Oh, yeah.

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Q How many years have you known Mr. Raab?

A Well, I still know him.

Q Or have you known --

A I have known him since -- Well, I would say from the early 1950's on.

Q Okay. Do you recall a visit, as is indicated in the first sentence of Exhibit 311?

A This is dated 1970.

Q Yes, sir. January 8th, I believe.

A Yeah. The possible effect on costs of GE should Monsanto curtail its marketing of Aroclors for certain non-electrical application, yeah, we --

Q Let me ask the question, though. Was there a meeting as is reflected in the first sentence?

A Well, I would say definitely.

Q And the subject of that meeting was chlorinated biphenyls?

A Right.

Q And was one aspect of that meeting the ecological problems with Aroclors?

A I would certainly say so. I wasn't there.

Q You weren't at the meeting?

A I wasn't at the meeting.

Q Why were you not at the meeting?

A I was doing other things.

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Q Why were you receiving this letter if you weren't going to be at the meeting?

A Well, you have a hang-up with this. I think I answered that question already. There was a tendency to send things -- I knew Raab very well. He's the one that wrote it, is it? Yeah.

Q Yes, sir.

A And this was a convenient way for him to open the doorway and so on and so forth and say what was wanted and then I would pass it to the right people, and that was really what I was doing here.

Q You had had a conversation with Mr. Raab, though, prior to this letter about the projected visit?

A I would say so, and this letter merely formalizes this, what he seeks.

Q And what he wished to discuss?

A He wished to have a meeting and discuss these things. He didn't say he wants to discuss them with me per se.

Q He wanted to discuss them with Monsanto people?

A With Monsanto people. The appropriate people in Monsanto.

Q And who would that have been? In January of 1970 with respect to certain things as outlined in this letter.

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A Well, this letter covers a great deal of things. So now there are going to be all kinds of people here and this is one reason why he sent it to me. For this very reason that we're talking about now. In what area would you like to have the question answered?

Q All right. Let's look at Item No. 2.

A 2.

Q It says they would like to discuss with appropriate Monsanto people all aspects of the possible ecological problems with Aroclors including published data--

A Yes.

Q -- reliability of analytical data shown --

A Right.

Q -- and conclusions drawn.

A Yes.

Q Monsanto's in-house studies, the biodegradable and non-biodegradable aspects of the various Aroclors, including the question of tri and tetra chlorabenzines.

A Correct.

Q Now who would he have discussions with of that subject matter?

A At this point in time, I would have certainly nominated the fellow in Research, Bill Richard. Dr. Richard.

Q How about Mr. Papageorge, would he have been involved in that type of discussion?

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A. In 1970? Bill had, I think, arrived about this time. And if he was there, this is January, I don't know the exact date Bill Papageorge arrived. Did he tell you when?

Q. Unfortunately I can't answer your questions.

A. (Witness laughing)

Q. Mr. Benignus. You are just going to have to call on your recollection.

A. Well, I don't know if Bill was there. I certainly would have had him sit in on this because this was the area he was called in and would be following, so yes. And so we have research and since their analytical data here, I would have called in Dr. Muensch, who's expert on this and reports to Richard. Now let me see.

Q. Looking at the next page, who would have been there to discuss -- is there any knowledge of impending restrictive legislation?

A. Well,I'd start off here with the Director of our Department, Howard Bergen, and this then could fall over into certainly our Legal people, certainly.

Q. How about Mr. Papageorge then?

A. Well, yes. January of 1970, if he's there and is going to be following this thing down the line, he should sit in on this. Maybe he was in a position -- had a lot of input at this point in time. I just don't

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know.

Maybe Bill was there. If this is 1970? It's not clear to me just exactly when Bill did come. I think he was there before 1970. I don't know.

Q Okay. Let me ask you to take a look at Exhibit 328.

A See, it does ask for appropriate Monsanto people.

Q Right.

A What I'm looking for is whether the Medical people -- Wheeler, I know, should be in there.

Q Okay. Look at Exhibit 328. Do you recall receipt of that letter?

A Yes. This thing did come in.

Q Who was -- Did you ever meet Mr. Edward Dobbins, the author of the letter?

A No, I didn't.

Q What did you do with this letter when it came in?

A I see he's Counsel-Power Distribution Division. Well, the first page doesn't tell me --

Q What would you have done with this letter?

A Read it and I haven't yet.

Q You want to read it?

A Yes, I'd like to read it. Now this is a letter that --

Q The letter I want you to read is this first

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letter right here.

A. All right. It's to me and Raab's asking -- I'm sending an advanced copy of a letter we propose to send to GE customers pursuant to your letters of February 18 and April 1. Any comments you may wish to make can be made directly to Mr. Raab. Well?

Q. Do you recall making any comments to Mr. Raab about the letter?

A. If I could read this letter, I could tell you.

Q. Read the letter.

A. I'll read the letter. Oh, yes, I certainly do recall it. I don't have to read the whole thing. I recall this.

Q. Did you make any comment to Mr. Raab about that letter?

A. I don't know that I wrote to him, but I certainly would have talked to him about this because this talks about shipping stuff back to Monsanto and in enclosed drums and this is with reference to GE customers and Westinghouse customers, Allis-Chalmers customers and so on and so forth.

It really is much broader than just GE, and send that to the Krummrich Plant to the Attention of Supervisor-Department 246. We had, on behalf -- to help the whole industry, we built incineration facilities and

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offered to take back scrap at three cents a pound. I remember that very well. We lost our shirt on it.

Q Do you have any recollection of discussing the letter with Mr. Raab?

A I would say yes. Why shouldn't I have? This is merely a follow-up to what was going on.

Q Had you earlier written Mr. Raab in February 18 and April 1st of 1970?

A Well, this says that I did and I assume I did.

Q Do you have any recollection of what you wrote to Mr. Raab on February 18 and April 1st?

A Well, the subject matter here is the collection of scrap Pyranol and scrap, whatever else there, and sending it back to Monsanto, so certainly we informed GE.

Q Did you advise GE in the letter of February 18 and April 1st that they should inform their customers of the matters that are contained --

A Yes, sir.

Q -- in this letter?

A Yes, sir, because we were trying to be helpful.

Q Thank you.

A That's right. May I make a comment on this?

Q No, unfortunately no. You'll have to wait for a question.

A Okay.

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Q Otherwise we'd never get through this thing.

A I appreciate this.

Q Take a look at Exhibit 283.

A Crowe, yes, I know him. He's at Rome, Georgia.

Q You knew him personally?

A Yes. He was a Purchasing Agent.

Q You received a copy of this letter dated December 29, 1970 from the Records Exhibit 283?

A I received, yes.

Q Did you get a copy of this letter because you were Mr. Aroclor?

A Probably, no doubt.

Q Would you take a look at the letter and let me know if you know any other reason why you might have received a copy of the letter?

A Who wrote the letter? Randall Graham, he was a salesman.

Q Do you know him?

A Well, sure. He was -- he specialized, says Senior Fluid Specialist. He was out in the field specializing in this.

Q In what?

A In the electrical end of things.

Q Both capacitors and transformers?

A Yes. Both capacitors and transformers, and he

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was calling in in this area of the country so he wrote this. Yes.

Q Do you know or did you know Frank McCann?

A No. No, I don't know Frank McCann, but I think I may have heard of him.

Q Have you heard of his name?

A Yes, yes, yes.

Q Was he a General Electric employee?

A Yes, yes. It seems to me I knew Frank McCann to be at General Electric at Rome, Georgia, yes. He was supposed to be in the same office with Larry Krull, yes.

Q Let me please ask you to take a look at Exhibit 258. You were the author of this letter; correct?

A Yeah, I signed it, yeah.

Q Who was Dr. Anderson?

A Dr. Anderson, who I heard of from time to time, as I recall was in Schenectady at GE Schenectady.

Q In 1971, January, was there a PCB pollution problem?

A Well, I don't know the specific reference to PCB pollution problem, but you know, the general PCB could get into the environment and biodegrade, I suppose.

Q This says "With reference to your January 19 meeting with Dr. Anderson from Schenectady, about PCB pollution, and Monsanto's hope for a testimonial article

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written by yourself, we thought the enclosed would be of interest." What type of testimonial article were you asking Mr. Raab to author?

A. This refers to the Department of Ag's investigation in mercurial pesticides. Portrays the offer and privilege for people interested in the mercurial pesticides to submit their views with respect to uses.

And attached is a copy of such response by Wood Treating Chemical Company, a subsidiary of Monsanto. You are fully aware that we seek a similar type of response about Askarels from you. This -- no, I can't give you much on that. I don't know.

Q. What were you asking General Electric to --

A. Write some sort of testimonial.

Q. Some kind of testimonial about a PCB pollution problem?

A. That's what the thing says here, sir, yes, sir.

Q. All right, sir. Please take a look at Exhibit No. 259.

A. Katayama, he's over in Japan. I know him very well.

Q. You were the author of this letter or memo?

A. GE -- (Witness reading slightly outloud to himself) Yeah, yeah, yeah, yeah, sure. Yeah, this was with reference to this Yusho thing.

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Q. The Yusho incident?

A. Yes.

Q. You're aware of the Yusho incident then in October, 1971?

A. Yes, yeah.

Q. And do you recall when the Yusho incident occurred?

A. That's just what I'm trying to think specifically. The thought that occurred to me was that it happened sometime before 1971. Obviously it did. This is October. Now this -- wait a minute. "Obtain the document: "An Epidemiologic Study on Yusho". This was sometime after the incident. I would say it happened probably sometime in 1969.

Q. All right, sir. But this memo is indicating that General Electric and Monsanto were seeking facts?

A. Correct.

Q. And you sent a copy of this memorandum to Dr. Pozefsky?

A. Pozefsky, correct.

Q. Had Dr. Pozefsky asked you to assist in obtaining a copy of the information requested?

A. He should have, if he didn't.

Q. Well, look at the second paragraph. What does it say?

A. Dr. Pozefsky asks that you please visit S. Noda,

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General Manager at Capacitor Division at Nissan. Yes. As this man can give a factual accounting in general terms.

Q. And Dr. Pozefsky asked you to pass this information along?

A. I would say yes, yes.

Q. Please now look at Exhibit No. 283. Mr. Papageorge offered this letter, but I believe you received a copy. Did you not?

A. Does it show I got a copy?

Q. (Attorney showing witness.)

A. Well, yes, I would have gotten a copy, right.

Q. Was it your understanding in November, 1971, Mr. Benignus, that higher chlorinated isomers of chlorinated biphenyls were not biodegradable?

A. They biodegrade slowly and more slowly than the lower chlorinated isomers, correct.

Q. They were resistant to biodegradibility, were they not?

A. The whole thing resisted.

REPORTER: I'm sorry.

MR. BAUMER: He said the whole thing --

A. The whole thing resisted, relatively speaking, PCB's biodegrade slowly and the higher isomers, which was asked of me, yes, they were the slowest to biodegrade.

Q. Please look at Exhibit 327.

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A. Yeah, I remember this, this point in time very well.

Q. You remember this memorandum?

A. Yes.

Q. What was your job on the ANSI working group on capacitors?

A. My assignment for ANSI -- as you see, A.M. Salazar was listed. He was the Director of ANSI in this area. My function, and this was dated 1971, December, which is almost in 1972, and this was in my latter years there at Monsanto. This was preparatory to taking this entire subject matter up at ANSI. American National Standards Institute.

Q. What entire subject matter?

A. My function -- you asked what was my function. I was asked to be Chairman of the Nominating Committee, you might say. That organizes this program. I was Chairman of the Steering Committee. Now what we did, and what my job was, was to pick people that would work here with ANSI and had the proper background to, number one, to be chairman of the working committees.

And then active participants and members of those committees, throughout the entire industry, including government agencies, EPA and who have you. The whole thing. This was the --

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Q Did you choose Mr. Raab --

A Oh, sure.

Q -- to be Chairman?

A I didn't have to ask him.

Q You didn't have to ask him?

A That was automatic.

Q What was it automatic?

A Well, he was the logical one. Ed Raab, yes, and --

Q Why was --

A And Dr. Slugg. These were the people who, through the years, at ASTM and IEEE and this is putting this thing up now, to ANSI.

It's a finaly summarization of the whole thing. By this time you are talking about 1971 environmental water -- People from the water and who have you, everybody was invited to this. And certainly the EPA and everybody we could think of.

Q This was -- by this whole thing, you mean the PCB potential problems?

A Yes.

Q In the environment?

A Everything, yes.

Q Everything regarding PCB's?

A Yes.

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Q. Look at the second and third page of Exhibit 327.

A. Oh, this is the first page, yeah.

Q. Okay. This refers to a subject matter of ANSI Working Group on transformers.

A. Yes.

Q. And you received a copy of this memo?

A. Yes.

Q. From Mr. Raab?

A. Yes.

Q. Why did you receive a copy of this memo?

A. Well --

Q. Was it for the same reason you told us?

A. Same reason I told you.

Q. Were you on either of these working group sub-committees, either the capacitor or the transformer?

A. I walked from room to room to see what was going on, and as I told you, I was the Chairman of the -- of the arrangement in setting up the committee in the organization.

I participated, yes. I helped everywhere I could.

Q. Look at the last page. You have it there in front of you?

A. Okay.

Q. Did Mr. Raab, to your knowledge, ever furnish to ANSI the information relative to an estimate of the

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production failure rate of transformers?

A. Sure.

Q. And was that done in the official capacitor formal capacity?

A. An estimate of the production failure rate. Let me read this memo. I've done this myself. I missed something. Number two I've done myself. An estimate of the production failure rate.

This was fuzzy. Estimate of the production failure rate. That means when they are making the transformers this is my interpretation of it. That by the transformer manufacture, I didn't know they had failures.

Q. Look at 4.

A. Yeah. Now that is -- yes, all right. An estimate of the failure rate of transformers in service. Yes, indeed.

Q. Who was Mr. Reinhart?

A. Oh, Reinhart was -- I don't know him so well. Here, yeah, he was here at St. Louis, Moloney Electric who made Askarel transformers and they were located right here in St. Louis.

Q. You --

A. Reinhart, Bill Reinhart.

Q. You said while you were reading this you indicated, I think, that you had performed the task under No. 1, your-

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self?

A. Yeah.

Q. Do you recall any of the numbers with respect to the transformers, Askarel transformers made each year at any time?

A. Well, I made such estimates and you'd have to tell me what type transformer you are talking about. Within the overall category of these things, and I don't have those numbers here. I've got them maybe in the back of my head, if you wish to pursue it, I'd try to help you.

Q. Do you have them written down anywhere?

A. I may have them in notes.

Q. Notes that you have in your personal files or notes at Monsanto?

A. I guess my personal notebooks or something I may have had.

Q. Thank you. Let me ask you to look at Exhibit 316, a letter from McFarland to Mr. Bergen.

A. Yeah.

Q. The handwriting there, are you PGB?

A. Yes.

Q. Do you recall receiving a copy of this letter?

A. Well, I'm sure I received a copy. My initials are here. No reason why it wouldn't have reached me, but I guess it's no import to me.

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Q Okay. Now please take a look at Exhibit 306. What is Exhibit 306, the first page, do you recognize that?

A By the people that got copies of this, I guess without reading it, I think, yeah. It refers to the guideline for the capacitor group on Askarel disposal. Now this Pozefsky, he's capacitor at GE at Hudson Falls and these people are capacitor people, although Raab is mentioned, but this deals with capacitor people and again in 1972, that's when this thing was being finalized at ANSI on behalf of the entire industry and their customers.

Q Why were -- was ANSI, and this ANSI Committee, concerned with the disposal of Askarel?

A To prevent its introduction into the environment and to get rid of it so people wouldn't take it and just throw it down the sewer, et cetera. And we were trying to avoid -- we were offering to take the material back. By this time we had set up an incinerator and so forth, and this ANSI guide, of course, one of the purposes was to discuss this and that's all in that ANSI guide that you have there.

Q Look at the other pages of Exhibit 306. Is that the information that was promulgated by the ANSI Committee with respect to the disposal?

A Yeah.

Q Of Askarel?

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A. This was all pursuant to this, yes.

Q. Look at the page numbered 4.

A. Okay.

Q. This page here.

A. Yes.

Q. Are you familiar with the information that's contained in paragraph A under Vapors?

A. Sure, I'm familiar with that.

Q. Is that the information that was available to the Committee at or prior to the preparation of the memorandum?

A. This was available in, I'd say, the first handling manual I ever wrote. This goes back to those days, this information here.

Q. Okay, thank you.

A. Where do you people get your water?

Q. Would you like some water?

A. I'd appreciate it. Thank you.

Q. Any time you want to stop, you want to take a little break, why don't we just take a break right now. We've been going for an hour and forty-five minutes.

A. I can go on. I know you want to get this over with. It's up to you.

Q. If you want to break, we'll break.

A. No. I won't call the break.

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Q. Okay, all right.

A. I'm glad to have the water.

Q. Take a look, please, at Exhibit 256.

A. Hadda, yes, he's Director of Materials at Hudson Falls.

Q. What proposed meeting agenda were you referring to?

A. Well --

Q. Maybe I can help you. Let me ask you to look at Exhibit 257. Would that help you?

A. Yes, yes. Well, first of all, this is going to General Electric, Hudson Falls, New York. Through the years, we met with those people a number of times every year. Just this was the thing to do and you always did. Now you come into the period of 1972. This whole PCB thing here and Monsanto had produced Aroclor 1016. I'll answer any questions you want to ask, if you want to.

Q. Well, was Aroclor 1016 biodegradable?

A. All right. It was more biodegradable than the things that had been in use. Aroclor 1016 is the same thing as Aroclor 1242, but with the proportion of higher chlorinated biphenyls removed from it, because the consensus was that the higher chlorinated ones were the slowest to biodegrade.

We made a great effort to remove -- therefore,

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what amount could be removed of the higher biodegradable things, leaving this Aroclor 1016. So this is an effort, it was a very large effort, but it was an effort in the right direction to get more biodegrability.

Q. Was there such a meeting?

A. Yes.

Q. Referred to?

A. Oh, yes.

Q. Did you attend?

A. I would think so, yes.

Q. Dr. Pozefsky, was he at that meeting?

A. Yes, I would think so.

Q. Thank you. Look at Exhibit 239.

A. Well, here's what I was talking about, the Steering Committee Chairman of ANSI. That confirms what I told you.

Q. Are you -- Look at the first paragraph.

A. Correct.

Q. Are you familiar with that incident?

A. Yeah, I think so.

Q. Was it in Tennessee?

A. Yes.

Q. Did Monsanto take any action with respect to directives to General Electric concerning transportation of transformers filled with Askarel after that incident?

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A. Oh, I'm sure the subject was discussed, sure.

Q. Were there other incidents that you know of where there were spills of transformer or spills of fluids containing Askarel -- Strike that.

Where there were spills of Askarel that contained PCB's while transformers were in transit?

A. In transit, no. This was a rather unusual situation here. Do you know the background? I'm not supposed to ask you questions.

Q. That's right.

A. I'll tell you if you want to know.

Q. I think we've been told. We don't need to be told again.

A. Don't need to be told again, all right. No, that was quite unusual. No excuse for it.

Q. Please look at Exhibit 308. Do you recall receiving that letter?

A. Oh no, he would object to this, and he should.

Q. Do you recall that letter?

A. Yeah, I recall this situation.

Q. You recall receiving the letter?

A. Yeah.

Q. All right, sir, thank you.

A. It's unfortunate. Shouldn't have called it carcinogenic.

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Q. Let me show you Exhibit 255. Did you write that letter?

A. Yeah, I think so. I think I do remember this. I was still at Monsanto, this is March, 1974.

Q. Yes, sir. Who is Dr. Osthoff?

A. Dr. Osthoff was the man to whom Ed Raab reported.

Q. Did you write -- did you write any other letters concerning this subject matter of this letter, that is, the notice that had come to your attention that GE had issued to its field people?

A. I don't think I wrote any other letters, but I'm sure this would have come to my attention from somebody that was with us out in the field under the front end of this thing.

Q. What problems did you have, Mr. Benignus, with the content of the notice issued by GE to its field people?

A. I just object to it.

Q. You just object to it?

A. I don't think it ever happened. I don't know. That's weirdo to me.

Q. All right, sir.

A. I think somebody made a slight error in that one.

Q. Please look at Exhibit 124.

A. Yeah.

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Q Take a look, if you would, please, sir, at the letter that's contained in this exhibit dated August 6, 1970. This letter.

A Oh, yeah. MCS 1016, yes.

Q Are you the author of this letter?

A No -- yeah, I signed it. I didn't read it yet, but I think I probably would have been -- let me look at it. Yeah, this is what I just got through saying about Aroclor 1016, correct.

Q Was it true, Mr. Benignus, in August of 1970, that Monsanto accepted the environmental probes for PCB's as they reflected the presence of more highly chlorinated biphenyl compounds in the environment?

A I think I heard what you said, but would you mind repeating it?

Q Look at the first sentence.

A All right.

Q Now the first phrase says "Since environmental probes for PCB reflect the presence of the more highly chlorinated biphenyl compounds --"

A Yeah.

Q Was that the position of Monsanto in August, 1970?

A Yeah, yeah.

Q All right, sir.

A Yes.

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Q Look at the last page of the doc -- of that letter. The second page.

A The second page? "In any event--"

Q Yes. Look at the last paragraph.

A Right. Yes, correct.

Q What was the PCB pollution problem that you referred to?

A The PCB pollution problem was a finding that said in the early -- the PCB -- now here in 1970, the methodology and vapor phase technology was established and people, environmentalists, were able to use this technology to probe in the environment for the PCB and they were finding PCB.

Now out of this it came to light that the higher chlorinated isomers were the ones that seemed to persist in the environment more than some of the lower chlorinated. So this MCS 1016, my response to this, to be helpful, we took out of our manufacturing process the more highly chlorinated isomers so that they wouldn't get out in the environment to begin with. And therefore we felt MCS 1016 to be an improvement.

Q All right, sir, thank you.

VIDEO TECHNICIAN: Excuse me, I have to make a tape change.

MR. BURKE: Let's take five minutes.

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[Whereupon, a brief recess was taken in the proceedings.]

Q. (By Mr. Baumer) Mr. Benignus, let me now show you Exhibit 163.

A. Must have been a great meeting announcing a price increase. This is written by Gossage.

Q. Do you recall this letter?

A. Yes.

Q. You received a copy of it at the time it was written?

A. I was well aware of what's being said, yes.

Q. Were you aware that certain of the more highly chlorinated PCB's, polychlorinated biphenyls, have been found to persist in the environment and may be harmful and sensitive to marine, birds and species?

A. Yeah, okay.

Q. And were you aware that due to this PCB environmental pollution problem, Monsanto has withdrawn certain Aroclors from certain non-electrical applications?

A. From non-electrical, yes. Monsanto went out of the non-electrical business, right.

Q. And they did that, did they not, because of the environmental pollution problem (indicating to witness)?

A. Yeah.

Q. Is that true?

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A. Well, yes.

Q. Thank you. Let me ask you now to look at Exhibit 137, and particularly the second and third page. Are you the author of this letter?

A. I would say so, yeah. I sure signed it. Yeah, I would say so. This deals with me, this is my activity, right.

Q. Do you recall writing this letter?

A. Right.

Q. Thank you. Look at Exhibit 156. Do you recall receiving a copy of that document at or about the time it was written?

A. Yes, yeah.

Q. Were you aware of the activities by Monsanto to develop a facility for the proper disposal of solid waste contaminated with polychlorinated biphenyls?

A. Yes, very much.

Q. And had you, on occasion, had an opportunity to discuss such a project with Mr. Raab?

A. Right.

Q. Look at Exhibit 129, please.

A. Yeah, Bob Estes, yes.

Q. Do you know Bob Estes?

A. Well, I know of him. He was pretty high up the line.

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Q At General Electric?

A Right. Vice President, General Counsel and Secretary of General Electric Company, right.

Q Do you recall the letter that's attached there?

A Right.

Q Were you part --

A This wasn't only the GE.

Q It went to every customer of --

A Right.

Q Monsanto who were receiving products containing PCB's?

A For the electrical industry.

Q For the electrical industry?

A This must have been -- what's the date on this?

Q There is no date on that one. Do you recall -- Look in the body of it in the second paragraph.

A Here? Oh, effective January, 1972. All right. We will sell and deliver only -- right.

Q Does that refresh your recollection that this letter was sent out?

A Yes.

Q On or about that time?

A Yes, right.

Q And what was the purpose of this letter, to your knowledge?

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A. Well, let me read it a little bit. I know the purpose, but let me read it.

Q. Let me rephrase my question. Were you part, or did you participate in any discussions or meetings with respect to -- which led to the development of this particular letter?

A. Oh, I would say yes.

Q. What was the policy that was established by Monsanto in 1971 or early 1972 with respect to the sale of PCB's as used in dielectric fluids in transformers and capacitors?

A. By this time, Monsanto had discontinued selling to anyone PCB for non-electrical. At the pleading from the electrical industry who said they do not have a substitute replacement for PCB in capacitors or transformers, Monsanto responded to this and this wasn't only a plea by GE.

It was the whole industry, by saying we will continue therefore to supply only to the electrical industry and only under very restricted arrangements, and that is what this letter is saying.

Q. Was one of those arrangements that any purchaser of the product containing PCB's would have to sign a hold harmless agreement with Monsanto?

A. Yes, yes.

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Q. And Monsanto did not sell to anyone who did not sign a hold harmless, did they?

A. This is correct. Now this was to restrict this material's outlet to the electrical industry. There wasn't any harm that was coming.

Q. Would you look at Exhibit 2. Have you ever seen that before?

MR. DERRYBERRY: What's the number?

MR. BAUMER: Two.

A. This seems to be a form letter, doesn't it?

Q. Have you ever seen that particular document before?

A. I would say so. I think this was -- although this has a name, General Electric Company, and it's underlined, but I think that space was available to write in anybody's name with this same, who would be applicable to, yeah.

Q. Have you seen that one there that was executed by General Electric?

A. Oh, wait a minute. Oh, I didn't -- Signatures, I couldn't read, but that's Monsanto. Yeah, General Electric. I can't say that I saw particularly this one, but I sure have seen similar ones to other people as well.

Q. Were there companies that refused to sign the special undertaking and were then not sold any dielectric

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material containing PCB's?

A. Let me answer this quickly by saying no one of any significance. Now there could have been some insignificant users that didn't want to, you know, go whole hog with this stuff that was diddley-do one way or another to him.

I can't -- you asked a question. Was there anyone --

Q. Yes.

A. Who didn't go along. Maybe there was, but if there was, it wasn't worth bothering about.

Q. You mean it wasn't any significant purchaser?

A. That's right. And a significant purchaser, significant user. Any significant user certainly signed. No problem.

Q. Do you know whether or not that indemnity has ever been called on?

A. Never.

Q. By Monsanto?

A. Never, never.

Q. It's never been called on, to your knowledge?

A. Now what do you mean called on?

Q. Has Monsanto ever been asked and requested that a party who signed this special undertaking comply with its terms and defend and hold Monsanto harmless from

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any claim that was made against Monsanto?

A. Well, it did that by signing it, didn't they?

Q. What I'm asking you is, has there been any time when this has become --

A. Effective?

Q. Effective.

A. No.

Q. And needed?

A. To my knowledge, no. I don't know of a single case.

Q. Let me show you Exhibit 67. Did you sign that exhibit?

A. This is a sales information. I haven't looked -- I sure could have, I would think. Did I sign it?

Q. Look at the second page of it, if you would.

A. Yeah, I signed this, sure. This tells the composition of and purpose of and work of American National Standards Institute to cover this whole subject on behalf of the entire electrical industry.

The manufacturers of the capacitors and transformers and the users. And the Environmental Protection Agency people. The Department of Agriculture, the Department of Army, ETA and everybody that they could get there, yes. And this was sent out as an information bulletin to our marketing people, so they would be

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informed, and this must have gone on -- well, in this case, the composition of the committees, IEEE, NEMA, the Government, Army, EPA, AG, Tennessee Valley, Department of the Army.

Q. This was advising that Monsanto sales force --

A. Yes.

Q. -- of the activities of ANSI Committee C-107?

A. This is correct. And this, of course, gives them the privilege of discussing this with anyone they wish to, out in the field. It was for the purpose of informing our marketing people.

Q. Please look at Exhibit 76. Are you the author of that document?

A. Yes. Yeah, 1016, transformers.

Q. This document refers to Aroclor 1016 as replacement for Aroclor 1242.

A. In capacitors.

Q. Is this the same Aroclor 1242 and its replacement that we discussed a few moments ago?

A. Right, correct.

Q. Look at Exhibit 69.

A. Excuse me. What's being said here was for capacitors. It wasn't used on transformers.

Q. I understand.

A. All right. You used -- this tells how to handle

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that, informing the marketing people.

Q Look at the last page.

A Yeah.

Q Of this document.

A Yes.

Q Do you recall that type of label?

A Yes, I do.

Q What was the purpose or use of that label?

A The purpose of the whole thing here to begin with in sending it out was to avoid leakage and spillage, et cetera, et cetera. Now so a customer gets this stuff and he uses it and he's got some scrap. Is he going to think that when you return this scrap for disposal that it should or shouldn't be spilled?

This is a return label that's telling this fellow how to send this back so that it will not be spilled, et cetera.

Q Was this label to be placed on the drum?

A Yes.

Q That contained the material?

A Yeah.

Q And --

A Yes. See, this is a drum that would be placed, shipped to -- this is our plant, Sauget, Illinois. The man would fill the material with his scrap and fill out

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this label and ship it back to Monsanto.

Q. And we're talking about material that had been contaminated with PCB's?

A. No. This would be PCB -- Well, this would be PCB's, yeah. Maybe the PCB's you could say were contaminated with some impurity contamination.

Q. Well, let me --

A. Extraneous material, let me say.

Q. Let me see if I understand. Someone who had some material for either disposal -- disposal or to return --

A. Right.

Q. -- that contained polychlorinated biphenyls?

A. Right.

Q. Would put it in a drum and attach this label to it?

A. Right.

Q. And return it to Monsanto in Sauget, Illinois?

A. Yes. That warns not to spill it, and there were instructions, too, don't be sending it back in old leaky drums.

Q. Did that occur on occasion?

A. Yes, it sure did.

Q. Did it occur from Monsanto -- Excuse me, from General Electric sites?

A. Oh, I don't know. These transformers got all

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over the country. And I don't know whether it would be a GE site or -- well, no, it would be some user perhaps of the material.

Q Did General Electric return drums that contain materials that contain polychlorinated biphenyls, either for reclamation or for disposal?

A I think so.

Q Did you observe any of those drums when they were being returned?

A No.

Q Were you aware that the drums had the appropriate labels on them?

A Well, I didn't observe them, but I would assume that they would have, because GE was very careful in this.

Q The labels that GE would put on it would have this information that's contained on the third page of Exhibit 69?

A On, excuse me, what --

Q (Attorney showing to witness.) Would the drums that were returned by GE contain a label that had this information on it?

A Oh, this. I would think so. Anyone returning it, this is the idea. Some people put it in drums -- incidentally, by the time the drum got back to us, it was empty. Now that is not GE that I'm talking about.

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Q That leaked out?

A Yeah.

Q That was transformer fluid; right?

A Could have been.

Q Could have been? Look at Exhibit 74. Are you the author of that Exhibit?

A Yes, I signed it, so I'm sure I authored it, yeah, yeah, right.

Q Do you recall the information as set forth in the first paragraph?

A Correct.

Q Discontinuance of direct sales?

A Right.

Q If someone wanted to buy Askarel after -- not Askarel, but fluids containing Aroclors after February, 1972, did Monsanto refer them to either General Electric or Westinghouse?

A Or their licensees or whoever made the transformer was the objective of this, yes. That's -- (Witness mumbling) -- refer to the transformer maker.

Q Look at Exhibit 75 in the first paragraph, please. Excuse me, let me ask you generally, did you -- are you the author of this document?

A Yes, yeah.

Q Is the first paragraph an accurate statement?

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A. Right.

Q. And the no harm agreement?

A. To the best of our knowledge, this is what it pertained --

Q. The no harm agreement is that document we talked about earlier?

A. Yes.

Q. The indemnity portion?

A. Right, right.

Q. Would you look at Exhibit 68. Are you likewise the author of the first two pages of that document?

A. Yes, I was.

Q. Are you familiar with the Inter-Departmental Task Force?

A. Yes, I am.

Q. On information on polychlorinated biphenyls and the environment?

A. Yes, that was the EPA in Washington.

Q. Did you attend these meetings?

A. No, I didn't attend these meetings.

Q. Look at Exhibit No. 82, if you would, please.

A. Oh, excuse me, right. We went to a heavier drum.

Q. Why was that?

A. Well, the drum package is standard fifty-five gallon drum, which would hold fifty-five gallons, more than

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a forty gallon. This had something like six hundred pounds of this fluid in it. That's a pretty heavy package. Overall package runs six hundred seventy-five pounds.

And we went to a heavier gauge steel just to be more certain that the drum wasn't going to split or anything happen to it because some of these drums got some very rough handling.

Q. Did you change the color of the drums?

A. Yes, I think so.

Q. To yellow?

A. Yes, I think so.

Q. Did yellow -- was yellow then adopted as the color that was used with respect to PCB's?

A. I think it was.

Q. Were the labels yellow?

A. I think it did have a yellow label at times.

Q. Look at Exhibit 61.

A. I was not -- yeah, yellow drum, okay.

Q. Does that depict the drum that was used?

A. Yes, correct.

Q. About 1972?

A. I would say so, yes.

Q. Does that depict the warning?

A. I remember talking about the yellow drum and it had this in seven languages, I remember that.

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Q. The warning statement was in seven languages; right?

A. Yeah.

Q. And that was on the drum that Monsanto used to deliver this product?

A. Yes.

Q. To its customer?

A. Correct.

Q. I think Exhibit No. 82 refers to the warning and precautions on PCB handling in seven languages.

A. Yes.

Q. And that was then on the new drums or on the drums that transported the fluid?

A. Right, because we shipped worldwide. Not just into this country.

Q. Look at the third page of Exhibit 71. Does that represent, or is that the label and information that was contained on the label?

A. Correct.

Q. And that's what was in seven languages?

A. I would think so, yes, yes.

Q. Just to make sure -- I'm not sure I indicated, would you look at No. 82 again. That's your signature that appears on 82?

A. Yes, it is.

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Q. And the circulation of sales information like this went to whom?

A. Sales information like this would, number one, it would go out to the district offices to the managers in the district offices. It would also be distributed to the salesman in the field reporting to these district managers, and a lot of these things would go out in bulletin form available for wherever the salesmen wished to leave this with a customer, a user, or whoever might be interested.

These are for dissemination and information and distribution to inform people, advise people.

Q. People such as General Electric?

A. Everybody.

Q. Customers like General Electric?

A. Customers, yeah.

Q. General Electric was the largest customer for Aroclor product; right?

A. Yes.

Q. Look at --

A. They invented, discovered -- it was their material.

Q. Look at Exhibit No. 72.

A. Yeah, here specifically for customer and external use. Yes, these are the -- this is Salazar, Secretary of the Transformer Section of the National Electrical

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Manufacturers' Association.

They had this printed in mass and offered its distribution rather widely because, as you can see, all kinds of people, not just transformer makers and users, but government agencies and so forth, environmentalists and all kinds of people had become interested in this, and this was drawn up for them. Both in this country and around the world.

Q. All right. Look at -- You authored this document, this sales information bulletin No. 111. Front page. This (indicating).

A. This here?

Q. Is this your signature?

A. That's my signature.

Q. All right. On Exhibit 72 --

A. Oh, sales information bulletin No. 111.

Q. All right.

A. Yeah.

Q. Exhibit No. 72, you authored this document?

A. Yes.

Q. Okay. Look for a moment at the second page, please. The order form.

A. Yes.

Q. And what was that purpose of that order form?

A. Well, this would be a order form that would be

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sent to NEMA and requesting please send me so and so many copies of the NEMA official standards proposed for handling and disposal and then whoever wanted this would sign his name and address and there was a charge for this evidently.

Q. Look at the next page, if you would, please.

A. Yes.

Q. This is a news release?

A. Yes.

Q. Do you recall this news release being issued in March 1973?

A. Oh, I don't know that I specifically remember this specific news release, but I sure know what it's about.

Q. Do you recall the information as contained in this as having been information that was available to all members of Committee C-107?

A. Oh, yes.

Q. In August -- Or excuse me, in March, 1973?

A. Yeah. It will receive worldwide attention through ANSI, run sixty-five thousand engineers, buyers, executives, libraries, universities, professional societies, national standards organizations. Oh, yes, but I don't remember the specific New York News Release.

Q. But you remember the information that's contained in it?

A. Oh, sure, oh, sure.

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Q Being made available to members of the ANSI Committee C-107?

A Yes.

Q And Mr. Raab was the member of that Committee?

A Oh, sure.

Q Look at Exhibit 17, if you would, please. Do you recall that memorandum?

A Sure, yes, sir.

Q Did you receive a copy of it on or about the time it was written?

A Oh, I would say so, yes. I'm copied in on this, 1969. And this is the work that was going on, I believe, that we discussed here a while ago.

Q That was the scientific work that was going on; correct?

A In the biological areas, yes.

Q And was that the information that was obtained from the work that was ongoing, was that shared by Monsanto with General Electric?

A Well, let me say this. There is no reason why it wouldn't be.

Q You just didn't do it yourself?

A No. I wasn't -- No, I wasn't in that end of it, but that was to gather knowledge and understanding and information for whoever was interested.

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Q. It was certainly shared with the members of Committee C-107, was it not?

A. Eventually, certainly.

Q. Look at Exhibit 27, if you would, please. Do you recall whether or not you received or have seen a copy of that document?

A. Well, I don't think I received a copy of this, but Dr. Scott Tucker, he was there doing this work here in the lab. I knew him and I knew what was going on and in general, but I wasn't in on this actively on this end at all. But I was -- I knew what Scott Tucker was doing.

Q. All right. Look at Exhibit No. 50. Can you -- Strike that. Have you seen that document before?

A. Wrote it.

Q. You wrote it?

A. Yeah.

Q. When did you write this one?

A. Well, I'm looking for the date on this one. Give me the date and I'll give you the history of this.

Q. We've had a hard time finding the date on this one.

A. Yes, I did too. And these kind of things should always have a date on them. Here, wait a minute. The scope objective and composition of this committee are ANSI Committee C-107. Now I can -- if you would like a

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rundown on the history of this document, I'll give it to you on this basis. This document, I originally wrote in conjunction with Jim Ford, Manager of Engineering-Manufacturing at Westinghouse.

Who, after he retired from Westinghouse, worked with me as a consultant, and up to this point I've been -- we've been talking about literature and specifications by and large on the Askarels, PCB's per se as fluids.

Now this document, when first published, which was probably in the mid-1960's, somewhere in there, dealt not only with the fluid but also with the apparatus. Now Monsanto doesn't make the apparatus.

Q. You mean the transformer?

A. The transformer, yeah. So this will discuss, it says Askarel inspection and maintenance guide transformers. Now this deals with the inspection and maintenance for the fluid in operating transformers.

So it goes beyond just the liquid per se. And it tells about -- well, you've read this. It goes into like here on this particular page, the kind of sealing and so on and so forth.

Q. Can you tell us whether or not this particular document you have, the form of the Askarel inspection and maintenance guide, that's before you as Exhibit 50, was written in 1970, '71 period?

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A. Oh, sure. It was in existence then. Now this thing here, referring to ANSI C-107, encompasses additionally comments that were generated from this work now at a later point in time than the mid-1960's. That was being generated by the Committee at ANSI.

So this is more complete in that regard than was the original document. But the original document is essentially the same thing that I compiled and wrote back in the mid-sixties.

Q. Who would receive copies of this document?

A. Everybody.

Q. Customers of Monsanto?

A. Customers of Monsanto, customers of the transformer makers. Whoever wanted it. Received wide distribution.

Q. Was the -- did Monsanto supply it to its customers so that it could be passed on?

A. Yes, it did.

Q. To customers who purchased transformers?

A. Correct. Some of our customers who made the transformers, actually used this maintenance guide as their brochure. We furnished those things.

Q. The ultimate person to receive this guide was the purchaser of a transformer?

A. Not only that, the person to receive this guide

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was also the maker of the transformer.

Q. All right. So the maker got one and then the maker would pass it on to --

A. His customer. Utility, for example, or automotive industry.

Q. How about office building, who purchased it?

A. Sure.

Q. Look at the next to the last page which is Page No. 25 of the document.

A. This page?

Q. Yes, sir. You see the appendix K?

A. Yes.

Q. Caution label?

A. Yes.

Q. Did Monsanto recommend that caution label be placed on all transformers that contained polychlorinated biphenyls?

A. Well, we concur with this. This is what we say here.

Q. It's in your brochure, right?

A. Sure.

Q. And you recommended that it be affixed to all transformers?

A. This was one thing that evolved from the work at ANSI. That's what I'm talking about.

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Q. Can you give me a yes or no?

A. Yes.

Q. You recommended that it be attached?

A. Yes, yes.

Q. Did you write the language that appears in the caution label?

A. No. No, but I -- I concur with it. Without seeing it, looking at it, I agree with it. I didn't write it.

Q. This is a similar language, is it not, Mr. Benignus, that is included in the labels on the drums?

A. Right.

Q. On the invoices?

A. Right.

Q. On sales contracts?

A. Right.

Q. And was so included back in 1970, '71?

A. Yeah. We offered the labels. Sometime I'd like to tell you why I wrote the booklet to begin with.

Q. Did you have anything to do or any participation with the preparation of what's been called at Monsanto the White Paper concerning PCB's?

A. The White Paper?

Q. Yeah, do you know that term?

A. I never called anything a white paper, myself.

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Q. All right. Let me show --

A. I think I know what you are getting -- Show me what you want to show me.

Q. All right. I want to show you Exhibit No. 1. If you don't call that the White Paper, then you tell me what it is you call it, first of all.

A. It's a report of uses, environmental and health effects and disposal.

Q. Did you have anything to do with the preparation of that document?

A. I -- No, no.

Q. That was prepared after you had left Monsanto?

A. I don't know.

Q. Do you know anything about the preparation of that document?

A. Oh, now that you use the term "White Paper", I believe I've heard it, yes.

Q. Have you heard of the term White Paper?

A. I believe I heard that term somewhere. I don't know what it means, but it's all right.

Q. You weren't around when this was prepared?

A. Was I not? I don't know the date of it. Do you?

Q. Unfortunately it's not dated.

A. Either.

Q. Either.

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A. Well, maybe I could --

Q. I believe it's after 1974. And if that was, you would have been gone?

A. Yeah, all right.

Q. Is that true if it's after '74?

A. After '74, I would not have written that, no.

Q. Look at Exhibit 84. Are you the author of Exhibit 84?

A. Yeah, I would say so, yes.

Q. There is a word on there Inerteen, and Pyranol.

A. Yeah.

Q. What was the purpose of circulation of this document?

A. Well, this was to give guidance to whoever wished to return PCB's, or other materials that contained some PCB's, and that's to say the whole thing was scrap or disposal, and who to contact at Monsanto. It gives the names here. We did everything possible to make it easy for people to carry out this return of scrap stuff.

Q. You even provided --

A. But they're also telling people don't be sending this back in a damn leaky drum. Now there is a great tendency when you've got scrap stuff to go to the junkyard and get a drum, and the idea is to put it in a new drum if you are not sure. So that's what this was.

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Q. The products that were being referred to, were Aroclor dielectric grades, Inerteen and Pyranol.

A. Inerteens.

Q. Excuse me. Inerteens.

A. And Pyranol. Also Flerexstall -- Oh, gosh, there were other trade names.

Q. Did those other trade names relate to Aroclor dielectric grades?

A. Yeah, sure.

Q. Monsanto even supplied the labels that were to go on the drums, did they not?

A. Yes, that's what I just mentioned.

Q. What we went through earlier?

A. Yeah.

Q. Did you ever have any problems or were you ever advised that General Electric was improperly returning chlorinated biphenyls?

A. No. I don't think they would have improperly returned. They were pursuing this just as we were.

Q. Let me show you Exhibit 291, and that's dated in 1975 after you left.

A. Yes, after I left.

Q. But are you aware of any conduct that is reflected in that document that existed prior to the time you left?

A. Well, this is signed by Bill Slaten, who was the

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Sales Manager in the New York area. Yeah, this is what we were just talking about. Some people were trying to send this back in inadequate containers.

Q. Who was the recipient of that letter?

A. It went to Dr. Osthoff.

Q. Where?

A. GE.

Q. Okay.

A. But that doesn't mean that he was doing this.

Q. Well, what does the letter say?

A. Some recent returns had been incompletely unsuitable drums which had been severely corroded and unsealed. Some drums have been overfilled so that expansion in transit has not been contained. Loose storage in trucks is resultant in movement of the load in transit. But that doesn't say this is from GE.

Q. All right. You -- I asked you whether or not that condition existed, to your knowledge, prior to the time you left.

A. Yes.

Q. And do you recall whether it came, drums came from GE in that condition?

A. I don't know of any. No, I don't know of any.

Q. Look at Exhibit 87, please, sir. Are you the author of that bulletin?

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A Yes, sir, yeah. That identifies the transformer packages.

Q And who was this memo directed to?

A That was directed to our marketing people.

Q Look at the second page.

A Because it says please mark your price sheet, this was directed to the salesmen, the marketing people.

Q Were they authorized to communicate the information to their customers?

A I don't see why not. Now just a minute.

Q Look at the second page.

MR. DERRYBERRY: Second page.

Q (by Mr. Baumer) Look at the second page.

A Oh, Page 2.

Q No, the second page of the document, that one.

A This one?

Q No. Back one more. This one right here.

A Oh, I'm sorry, yeah.

Q Are you familiar with the sales bulletin?

A Yes.

Q Can you help me out, what is the product that's identified down here, showing as D50P508S-1. Do you know?

A I think I know, but where is it listed?

Q Right here.

A Oh, okay. Can't be that.

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Q Can't mark on it.

A I'm sorry. Okay. That is a product number designation identification used by General Electric Company at Rome, Georgia.

Q Do you know, is it Askarel?

A Yes.

Q Does it contain PCB's?

A It is PCB's.

Q It is PCB's?

A Yeah.

Q Do you know, Mr. Benignus, whether or not in 1972 there was information that the Federal Government was considering making the voluntary ban on the use of PCB's permanent?

A I would be inclined to think, yeah. I would be inclined to think so.

Q And was that information known by the members of, and discussed by the members of ANSI Committee C-107 at various meetings?

A Sure, it would have been. Your question -- Tell me the question.

Q That the government was considering making the Monsanto voluntary ban on the use of PCB's a permanent one?

A Well, Monsanto had discontinued the non-electrical. Is this what you are referring to?

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Q Yes, sir.

A Oh, sure.

Q How about the use of PCB's as dielectrics, was the government considering in 1972 --

A No.

Q -- making a permanent ban on this?

A No, no, no, no. In fact, the recommendation was continued to use it in the transformers and production wasn't stopped until 1977.

Q But you believe there was discussion that the government was going to make it a permanent ban on the use of it in non-dielectrics?

A I don't know why they wouldn't be, because we already did it. They weren't going to tell us to go back and do it.

Q Please look at Exhibit 88.

A Right.

Q Do you recognize that as the proposal?

A Yes, this is 1973 by NEMA.

Q And that was the Committee on which you were associated?

A Right.

Q C-107 Committee?

A Correct. And that was the work at ANSI. That's where I was Chairman of the Steering Committee.

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Q That was produced --

A Produced all of this.

Q Look at Exhibit 89. Is that the final --

A Yes.

Q -- product?

A Yes. This is NEMA and National Electric Manufacturers' Association is really reports to -- or is under American National Standards Institute. That is the connection here. So they're the same thing.

Q This is the product of ANSI C-107; is that correct?

A Correct.

Q And this is the final version which is Exhibit 89?

A Yes.

Q And you were Chairman of the Steering Committee?

A Steering Committee, right.

MR. BURKE: What was the effective date of that, if you would, Mr. Benignus? Down in the lower left-hand corner.

A This one?

MR. BURKE: No, sir. No. 89.

A 89? I guess this is the date. C-107, that's the Committee. 1/1974? Would that be the date?

MR. BURKE: Sir, over there on the second page, what's the date that ANSI approved that document?

A It's approved January 9, 1974.

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MR. BURKE: Thank you.

Q (by Mr. Baumer) What was the date ANSI started working on the studies that led to the document, Mr. Benignus?

A We tried to get this thing through as fast as possible. I remember that very well.

Q Was it worked on for two years or longer?

A I don't know. I can't answer that specifically.

Q All right.

A The effort was to get this through as promptly as possible and here it's approved in 1974, January.

Q When was the proposed draft issued, No. 88? Look at the second page. What's the date year?

A 1973?

Q What's the date in the upper right-hand corner at the first page?

A January 25, 1973.

Q Thank you.

A It looks like a year. We didn't fool around.

Q Let me show you a document that has not yet been marked. Let's see whether or not you can --

A Yeah.

Q We will ask that the Court Reporter mark this Exhibit 330 for the Plaintiff.

A This is IEEE.

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Q Let me have her mark this.

[Whereupon, Reporter marked Plaintiff's Deposition Exhibit No. 330 for identification.]

Q (by Mr. Baumer) Are you familiar with that document?

A Yes.

Q Was it published by the Institute of Electrical and Electronics Engineers, Inc.?

A Correct, right.

Q Were you a member of any committee?

A Yes, I attended their committee on the Askarel transformers.

Q And what time frame did this Committee of the IEEE Power Engineering Society, the Transformer Committee, work on the information that's contained in here?

A Well, this is a revision of the IEEE Standard dated 1958. Now I wasn't active that far back. And this date of this guide that we have here is 1974.

So what this guide here is, is a revision of this earlier guide in 1958. And it puts into it some information that wasn't available in the earlier guide.

Q Were drafts of this document circulated to the Committee members before it was finalized?

A Oh, sure. Always.

Q And over what time frame did that drafting

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process go through?

A. Well, this is the time frame is a long time.

Q. Over a year?

A. Oh, well, sure.

Q. Who was the Chairman of the Committee?

A. Of this?

Q. Of the Transformer Committee.

A. Now here you are talking about the Askarel Transformer Committee?

Q. Yes. The one that produced this document.

A. Yeah, Ed Raab.

Q. He's the man?

A. These were the members.

Q. Mr. Raab is the same man?

A. Right.

Q. That's General Electric we've been talking about all day?

A. Right.

Q. Is that correct?

A. That's correct.

Q. You were on this Committee?

A. Right.

Q. Anyone else from General Electric on the Committee that you recognize?

A. GE Canada.

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Q. Who's that one?

A. Vern Mulhall and Dr. Sloat, Westinghouse. Vernon Mulhall, M-u-l-h-a-l-l.

Q. Thank you. Mr. Benignus, did you ever have the opportunity to visit Mr. Raab in his office in Pittsfield?

A. Yes.

Q. And did you have that opportunity in 1970, 1971?

A. I would assume so.

Q. When you were there, would you discuss with him PCB's and the reports of their existence in the environment?

A. I would informally, yes. I wouldn't go there. I never went there specifically to do that, specifically to do that.

Q. What would be the reason for your going to Mr. Raab's office other than to discuss Askarels and PCB's since you were Mr. Askarel?

A. What other reason would I have?

Q. Yes.

A. For going?

Q. Yes, sir.

A. None other than our Committee work and so forth.

Q. The Committee work on ANSI C-107?

A. All these committees, ANSI, NEMA, ASTM, Seegree, IEC.

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Q Have they all evolved around PCB's; is that correct?

A Yes.

Q Were you visiting General Electric and people at General Electric up until even perhaps the last day or so of your employment with Monsanto?

A It could be, but as I was really approaching retirement, I was spending more and more of my time on this Committee work in international, international things around the world, rather than domestic. Foreign countries.

Q That's all I have. Thank you.

THE WITNESS: Okay.

MR. BAUMER: May I suggest that we break for lunch before --

MR. BURKE: I don't have any questions.

MR. BAUMER: Let's break permanently. Mr. Benignus, you have the right to read this deposition once it's been typed up, and if you will give this young lady your telephone number, she'll call you and you can come down to her office and do that.

Or if you wish, you can waive that right and say you don't want to read it. That's up to you.

A Well, I don't want to waive it but I don't want to read it either.

MR. BAUMER: It's one of those things. Well,

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you can just not do it if you choose, but I'd rather, so the record would be complete, tell us that you don't choose to read it or that you would like to read it, and she will make it available to you.

A. Well, I'm sort of curious, okay. If you want to send it to me.

Q. Well, she can't -- she can send you a copy.

A. Yeah, a copy.

Q. And the original signature page and then you can read the copy and she'll send you what's called an errata sheet so if there is something in the deposition you don't think is the way you said it, then you can make a note on the errata sheet. Not on anything else, but the errata sheet, and return that together with the signature page back to the Court Reporter and she will attach those to the original. Is that all right?

A. That's all right.

MR. BAUMER: Is that all right, Mr. Burke?

MR. BURKE: Fine with me.

_____

Signature of Witness.

Subscribed to and sworn to before me on this _____ day of _____,A.D., 1986.

My commission will expire _____

_____

Notary Public.

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STATE OF MISSOURI)
) SS
COUNTY OF ST. LOUIS)

I, Christine M. Hale, R.P.R. and Notary Public duly commissioned and qualified in and for the County of St. Louis, which adjoins the City of St. Louis, State of Missouri, do hereby certify that pursuant to notice there came before me on the 10th day of April, A.D., 1986, between the hours of eight o'clock in the forenoon and six o'clock in the afternoon, at the law offices of Peper, Martin, Jensen, Maichel & Hetlage, 720 Olive Street, in the City of St. Louis, State of Missouri, the following named person, PAUL GEORGE BENIGNUS, who was by me duly sworn to testify to the truth, and nothing but the truth of his knowledge touching and concerning the matters in controversy in this cause; that he was thereupon carefully examined upon his oath and his examination reduced to writing under my supervision; that the deposition is a true record of the testimony given by the witness; and that the deposition was read and signed by the witness.

I FURTHER CERTIFY THAT I am neither attorney nor counsel for, nor related to, nor employed by any of the parties to the action in which this deposition was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or

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financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on this _____day of May, A.D., 1986.

My commission will expire August 1, 1988.

_____
Notary Public.

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