UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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

Plaintiffs,

vs.

ARMSTRONG WORLD INDUSTRIES, INC.,

Defendant/Third-Party Plaintiff,

vs.

MONSANTO COMPANY and AMERICAN MINERAL SPIRITS COMPANY,

Third-Party Defendants.

CIVIL ACTION NO. 95-CV02849(JBS)

ORAL DEPOSITION OF

THOMAS BISTLINE

Demo Copy

* * * * *

Thursday, February 11, 1999

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Transcript in the above matter taken at the offices of Duane, Morris & Heckscher, Esquires, One Liberty Place, Philadelphia, Pennsylvania, commencing at 11:00 a.m.

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

GARY D. GINSBERG, ESQUIRE
BY: BRIAN P. O'CONNOR, ESQUIRE
ATTORNEYS FOR THE PLAINTIFFS

CERTIFIED SHORTHAND REPORTING SERVICES
ARRANGED THROUGH
ALAN L. LESKY & ASSOCIATES
185 TUCKERTON ROAD
MEDFORD, NEW JERSEY 08055
(609) 983-3282

FROM LATHAM & WATKINS NEWARK (TUE) 2. 16' 99 12:25/ST. 12:24/NO. 4861372478 P 2

TOWOLDMON0051234

APPEARANCES: (Continued)

DUANE, MORRIS & HECKSCHER, ESQUIRES
BY: CRAIG F. TURET, ESQUIRE
- and -
NOLAN N. ATKINSON, JR., ESQUIRE
ATTORNEYS FOR THE DEFENDANT
ARMSTRONG WORLD INDUSTRIES

LATHAM & WATKINS, ESQUIRES
BY: JAMES E. TYRRELL, JR., ESQUIRE
ATTORNEYS FOR THE THIRD-PARTY
DEFENDANT MONSANTO COMPANY

WILSON, ELSER, MOSKOWITZ, EDELMAN
& DICKER, ESQUIRES
BY: CAROLYN F. O'CONNOR, ESQUIRE
- and -
SUSAN KARLOVICH, ESQUIRE
(Telephonic Appearance)
ATTORNEYS FOR THE THIRD-PARTY DEFENDANT
AMERICAN MINERAL SPIRITS COMPANY

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Appears at the Conclusion of the Transcript

(THOMAS BISTLINE, having been duly sworn, was examined and testified as follows:)
(EXAMINATION OF MR. BISTLINE BY MR. TURET:)

MR. TYRRELL: Craig, I'd like to put a preliminary statement on the record so that the record clearly reflects why Mr. Bistline is here today to testify.

I think it should reflect that Mr. Bistline's deposition or a 30(b)(6) deposition notice covering the Monsanto legal department was issued on February 13, 1998. As all of the parties are aware, the production of a 30(b)(6) witness from a legal department was opposed on a variety of grounds. These issues went before Judge Rosen. He made a determination.

It is our understanding that we would be obligated to produce a 30(b)(6) witness from the legal department, that we would of course retain the right to assert such privilege claims as we deemed appropriate, and consequently it is pursuant to the Court's directions that Mr. Bistline appears here today as a 30(b)(6) witness to address the items listed as number one, two and three in the February 13, 1998 notice of deposition.

MR. TURET: Fair enough. In fact, why don't we go ahead and mark this.

(Exhibit Bistline-1, ^, is marked for identification.)

(EXAMINTION OF MR. BISTLINE BY MR. TURET:)

Q. Good morning, Mr. Bistline. We met before today on at least one occasion. I'm Craig Turet. I'm here representing Armstrong World Industries, which as you know is a defendant in this case. You're an attorney yourself, Mr. Bistline, correct?

A. That's correct.

Q. I know you're familiar with this whole procedure. Just, you know, a couple of brief points. As you know, transcript is being taken of your testimony today. I'll be asking you is a series of questions directed to Monsanto Company. You've been designated as a corporate representative for certain limited purposes. If I ask a question, you don't understand it, by all means, let me know. I try to rephrase the it. If you don't hear, obviously let me know. I'll be happy to repeat it but if you do answer a question the representative of Monsanto Company, you will be deemed to have

both heard and understood the question. Is that acceptable?

A. Yes, that's fine.

Q. And just to clarify some confusion up front, you as of today are an employee of Solutia Inc., correct?

A. That's correct.

Q. Okay. Just for purposes of simplicity, I'm likely to refer to Monsanto throughout the deposition today and as I understand it, Solutia came into being within the past couple of years, correct?

A. That's correct.

Q. Okay. My questions only will go up through 1986, I believe, was the time limit in the notice of deposition so when I'm referring to Monsanto obviously I'm referring to its chemical operations as well, whatever name they may be known by now. Okay?

A. All right.

Q. Also, you know, when I refer to Armstrong, you'll understand that I'm referring to Armstrong World Industries, Inc., the named defendant in this case?

A. That's fine.

Q. And you understand what PCBs are, I take it?

A. Yes.

Q. Also, by way of clarification, I am going to ask questions about the legal department and I understand there may be more than one legal department as of today. I'm referring to the legal department of Monsanto Company that would have existed in or before 1986.

A. All right.

Q. Okay. Okay. Mr. Bistline, I'd like to show you a document that's just been marked as exhibit Bistline one, which is the notice of deposition addressed to Monsanto Company, which Mr. Tyrrell referred to a moment ago.

A. Yes.

Q. Have you seen it before today?

A. Yes.

Q. Okay. And you understand your testimony today is as a corporate representative in response to this notice, correct?

A. That's what Mr. Tyrrell explained at the outset, yes.

Q. Now, what did you do, Mr. Bistline, to prepare for the deposition today?

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A. Met briefly yesterday with Mr. Tyrrell.
Q. Okay. Have you reviewed any documents in preparation for today's deposition?
A. I read the deposition of Phocian Park and I looked briefly at the privilege law that has been submitted in this case on behalf of Monsanto.
Q. Okay. And did you review any of the roughly 60 thousand pages of documents that have been produced in the case in response to discovery?
MR. TYRRELL: At what time.
MR. TURET: In preparation for today's deposition.
MR. TYRRELL: As distinct from the past.
MR. TURET: Correct.
THE WITNESS: No.
BY MR. TURET:
Q. Had you reviewed those documents previously in connection with discover receive in this case?
A. In this case and other cases, yes.
Q. All right. Now, did you speak with any current or former employees of Monsanto in

preparation for the deposition today?
A. No.
Q. Okay. Have you spoken with Phocian Park personally in preparation for the deposition?
A. No.
Q. Now, you mentioned that you met with Mr. Tyrrell earlier today or yesterday in preparation for today. Were there other preparation sessions with attorneys from Monsanto in preparation for today's deposition?
A. No.
Q. Okay. Now, just by way of background, Mr. Bistline, how long have you been employed by Monsanto or Solutia?
A. Since February 1st, 1982.
Q. And have you been in the legal department of Monsanto or Solutia ever since 1982?
A. That's correct.
Q. Now, back in 1982, was there one legal department within Monsanto that covered all of its divisions and facilities within the United States?
A. There was an a law department and a patent law department and the two operated relatively independently of each other.

Q. Okay. And other than the intellectual property area were all the other legal functions concentrated in the other law department?
A. In the -- well, there were several locations where Monsanto had lawyers back in 1982 but they were all under the authority of the general counsel. It was in St. Louis. They were all part of the Monsanto law department.
Q. Okay. And he was large was the law department as a whole excluding the patent lawyers as of 1982?
A. You mean the number of lawyers?
Q. Yes.
A. There were probably 60 lawyers at that time.
Q. 60 or 16?
A. Six zero, 60.
Q. 60. And did the law department also have responsibility for Monsanto operations broad?
A. Yes.
Q. Again as of 1982?
A. Correct.
Q. Now, are you familiar with the law

department as it goes back in time before you were with the law department?
A. I have some familiarity with it.
Q. Okay. As we go back to the time period that's primarily at issue in this case, its 1969-1970 period, was there a single law department based in St. Louis?
A. There was a corporate law department in St. Louis, yes, and I believe at that time also there were lawyers in other locations in the United States and Europe but again all under the authority of the general counsel in St. Louis.
Q. Okay. And was the entity which I've seen referred to as Monsanto chemical limited governed by the same law department?
A. The lawyers for that corporate entity reported to the general counsel, as well as to the subsidiary's management.
Q. Okay. The the general counsel being the one in St. Louis?
A. Correct.
Q. And if you know, how large was the law department again exclusive of intellectual property, back in the 1969-1970 time frame?

A. I don't know the precise number of lawyers.
Q. Do you have a ballpark notion of how large it was?
A. There were between 20 and 30 lawyers I believe.
Q. And when you say that there were attorneys based in places other than St. Louis, where else were locations where lawyers were based for Monsanto?
A. There were lawyers in -- what time period are we talking about? I should clarify that first.
Q. 1969-1970.
A. I'm not sure. I know that there were lawyers in Europe for Monsanto's European operations. I'm not sure if they had lawyers at other locations a broad at that time. I believe they also had lawyers in Massachusetts and perhaps in Florida.
Q. Were the lawyers based a broad in Brussels?
A. They would have been some in Brussels, some in the UK. I think those are probably the two locations back in that time period.

Q. And when you said that the lawyers based a broad reported to the general counsel domestically back in the 1969-70 time frame was there a formal reporting mechanism, as far as you know?
A. I'm not sure exactly what the lines of authority were, Mr. Turet. I know that typically the head of the business unit of the foreign subsidiary would want to have some say in the operation of his law function but overall organizationally it was the general counsel that was in charge of the legal function.
Q. Well, focusing on the time when you were in the legal department, let's say 1982 to 1986, since that will be the cut off period for this notice, what was the function of the law department that you knew based in St. Louis?
A. Several. The law department was, of course, responsible for providing corporate law services, securities law, the general counsel had at that time and we still do a much smaller group but the ability to do in-house mergers and acquisitions, all of the securities law work that's required to keep a major company in

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compliance with security laws. We had in addition a group of commercial lawyers whose function was to support the business people in various activities, drafting contracts, negotiating deals, taking up and assisting the business people in commercial disputes. When I joined the law department in '82 we had an environmental law function. We had several lawyers there who did the substantive environmental law work for the company, permits and compliance with environmental laws. We had a lawyer, two lawyers in antitrust, two lawyers, perhaps three lawyers based in St. Louis who were international law specialists. We had employment law, two lawyers in employment law. And litigation. Those were the -- the main functional areas of the law department.

Q. And how many people handled civil litigation within the Monsanto law department? And again in this 1982 to '86 time frame.

A. There were -- there were four of us I believe when I joined. Let me just think for a minute. Yeah, there were four of us then.

Q. And who was the client of the law

department?

A. Monsanto Company.

Q. Did the responsibilities of the law department include advising senior management of Monsanto on legal issues pertinent to the business?

A. Yes.

Q. Now, all right, you've described the different functions and responsibilities in 1982 to '86. How about back in 1969 to '70, how did those functions differ?

A. I think the law department was smaller back at that time. I'm not sure at that point that there was an environmental law function. There probably was no litigation group as such. The other areas probably had fewer people but covered the same territory, international law, antitrust, labor and employment, securities, commercial. Those are pretty standard areas.

Q. Now, between 1970 and 1982, when roughly did the litigation group come into being within the law department?

A. As a group? Probably not until 1978 or so. Prior to that there were lawyers who handled litigation but they were not part of a

defined litigation group.

Q. And would that have been true even back to 1969-70? Was there somebody within the law department who was responsible for at least monitoring outside counsel's handling of litigation for Monsanto?

A. There was no one person clamped with that responsibility. Whatever litigation the company had that point would have been handled by a lawyer who handled the legal of affairs for either that business unit or that, in the subject matter area that was the focus of the litigation.

Q. Okay. So if it was a product liability claim, that would fall under the auspices of a lawyer who handled what?

A. Whatever unit the product was manufactured by.

Q. I see. So an in-house lawyer would be assigned to a particular division or product line?

A. Depending upon the area of law you're talking about, I'm thinking primarily the commercial lawyers who up until the mid-1970's were the ones that monitored litigation,

whatever litigation there was and there wasn't much at that time period.

Q. Now, how about before 1969 and 1970, if one was to go back into the, you know, the earlier part of the 1960s would you find the same situation, namely that one of the in-house lawyers would be responsible for overseeing litigation against the company if there was any?

A. Yeah. Well, any litigation that the company was involved in would have an in-house lawyer assigned to supervise the activities of outside counsel to assure of what was being done was appropriate for the case and things that needed to be done were getting done.

Q. And that's true even earlier in the 1950s as well?

A. I assume so. I have no specific knowledge on that point.

Q. Okay. Now, to your knowledge, was there somebody based over in -- based abroad affiliated with Monsanto chemical limited who was responsible in the 19691970 time period for the PCB issues specifically?

A. Posted a broad responsible for that? A

lawyer? Not to my knowledge, no.

Q. Okay. Who was the person in St. Louis or people within the law department who had responsibility for the PCB issues?

A. I'm not quite sure what you mean by responsible for the PCB issues. There were a number of lawyers who from time to time would be involved with various issues as they came up that may or may not have been involved with PCBs. To my knowledge there was no person, single person at the law department who had responsibility for its PCB issues as a defined unit.

Q. So when William Papageorge wanted to get the legal department's income on a particular piece of correspondence or memorandum, there was no one person within the law department to whom he would turn?

A. Depending upon when that occurred there might be one person who had responsibility to work with Bill or he might have gone to a lawyer who he knew had expertise in whatever particular issue he was dealing with at that point.

Q. Okay. From your knowledge of the legal

department and what you've seen in your present capacity, who were the lawyers who were involved in the different issues associated with phasing out PCBs as a plasticizer product from the market?

A. Phasing out PCBs as a plasticizer product? I'm not sure that any lawyer was involved specifically in that, with that issue.

Q. To your knowledge was Phocian Park involved in the PCB -- I'm going to call it PCB issues because I recognize there were many of them that led into the withdrawal. But was Phocian Park one of the attorneys who was involved in those PCB issues from the law department?

A. I believe so, yes.

Q. Okay. And what was that his area?

A. Mr. Park was basically an engineering-type lawyer. He had a background of working with the plants on engineering issues, legal issues. He was involved as environmental issues came up in the late sixties and early seventies because of his engineering background he became more involved with those issues and was consulted, as I recall, from time to time by Mr.

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Papageorge and others in management on a variety of issues relating to PCBs. I'm not sure I can be more specific than that for you because there were a lot of -- a lot of issues and he may not have been the only person who was -- in fact, I know he was not the only lawyer who was involved in matters relating to PCBs back in that time period.
Q. Was Dwight Miller in the legal department, law department back then?
A. I'm not familiar with that name.
Q. Okay. How about Wayne Withers?
A. Mr. Withers was part of the law department, then.
Q. And what was Wayne Withers' overall area of responsibility?
A. Mr. Withers at that time was a commercial lawyer. At that time probably had more responsibility in the ago products area, agricultural products area than the chemicals side of the company. He had some responsibility for litigation from time to time. I believe he at one point had some responsibilities for PCB litigation for a brief period.

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Q. Have you seen the name Dwight miller before on any documents from Monsanto?
A. I have seen it. I am told that he was in the law department in some capacity. I just don't know --
Q. Okay.
A. -- what.
Q. Now, you may have addressed this already but was the law department also involved in the development of workplace practices for the facilities in Monsanto?
A. I wouldn't think so. To the extent that -- again, if you're talking about the late sixties, early seventies time period, there were a lot less or a lot fewer regulations in place, for example, OSHA was really just getting started in that time period. Monsanto had internal policies relating to work place practices but those were driven by the occupational medicine department, industrial hygiene department and, you know, to an extent to the state of the art of engineering at the time. You know, how you put the equipment together would determine what kind of work practices you had.

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Q. All right. So if one takes as -- I understand what you're saying. If one takes 1970 as a benchmark, moving back from 1970 through into the 1960s, you would not expect that workplace practices that would be developed by occupational medicine group would have been run by the legal department as well?
A. That's correct.
Q. Now, how about with regard to the development of warning labels to go on chemical products manufactured by Monsanto?
A. And your question about them is?
Q. What would the law department's responsibilities have been, if any, for the development of those warning labels?
A. I think the law department would have been consulted from time to time on the precise wording of the warning, the content of the warning would be determined by the substantive knowledge of other products toxicology and whatever hazards were attended to its use, that's more medical/industrial hygiene matter. A lawyer would be consulted to say this is how we think this label should read from a lawyer's perspective, what do you think and advice would

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be given on that basis.
Q. So the lawyer's comments about the proposed labels would be more in the nature of a recommendation as opposed to having the authority to dictate the language of that label?
A. Well, it would be legal advice and all lawyers are consultants, very few of us make substantive divisions decisions and certainly I don't think any lawyer there I know would try to make a substantive division on a health related matter when health professionals are involved.
Q. And are you referring to the time period even before 1969-1970 when you talk about the role of the legal department as reviewing a label and making recommendations as to language?
A. That's correct.
Q. Now, did the legal department have any responsibility in connection with the drafting of technical bulletins related to Monsanto sea chemical products?
A. I don't know the answer to that.
Q. Specifically, do you know if they -- if

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the legal department was typically consulted as to the section of technical bulletins that related to save handling practices?
A. I wouldn't think that they would be consulted on that. That would again be a matter for occupational medicine or industrial hygiene.
Q. Okay. And I know I haven't focused on a particular time frame but if I was to ask about 1970 specifically and changes that were put into technical bulletins relating to chemical products at Monsanto, would the legal department then have been involved in reviewing, editing technical bulletins?
A. There may have been some involvement at that period of time. I know that the lawyers were consulted about the content or the wording of instructions for safe handling that were put on product labels. Those instructions usually were incorporated in some fashion into the technical bulletins. So that, you know, typically the section in the technical bulletin dealing with health and safe handling was a lot more detailed, was a lot longer than you do on a product label. I would be surprised if a

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lawyer were not asked to just review for wording and clarity that part of the technical bulletin but I don't know specifically that they were and I don't know who would have done that. That would only be a guess.
Q. And would the lawyers in the legal department have been consulted with regard to, you know, uses that were recommended versus uses that were not for a particular chemical product?
A. I would not think so. Again that, you know, recommended use would be one that would be dictated by the product's characteristics and that's -- that's typically not a legal matter.
Q. How about the editorial language that was used to describe the uses of the product?
A. Again, I doubt that the lawyer would have been in general terms involved in that.
Q. Now, how about, what was the legal department's role, if any, in drafting communications that went out to customers of Monsanto as to safe handling or toxicity of Monsanto chemical products?
A. In general?

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Q. In general.
A. Probably very little. Normally the way inquiries about safety and health matters were dealt with was they would go to the medical director who at that time was Doctor Kelly and Doctor Kelly would either decide to respond himself or he would ask a member of his department to draft a response and provide it. I would think only in rare circumstances would a lawyer be called into that discussion.
Q. Do you know of any rare circumstances in which lawyers were called into those discussions?
A. Not specifically, no.
Q. Now, once PCBs became the focus of concern as a potential environmental pollutant in the late sixties, was that a point at which the legal department became more involved in drafting or commenting upon communications that went to customers?
A. I think that's -- that's fair to say, yes.
Q. Was there any one person or group of people within the legal department that you're aware of who had responsibility for commenting upon those customer communications?

A. Not specifically necessarily commenting on customer communications but there were several lawyers who were from time to time involved with various aspects of our handling of the PCB issue during that time frame. Whether any anyone specifically sat down and thought about it a specific communication I just couldn't tell you.
Q. Now, we've talked about Phocian Park and Wayne Withers. Were there any other lawyers that you remember specifically that were involved in, you know, the PCB issues?
A. Certainly. Certainly.
Q. And which ones were those?
A. Mr. Rodney Harris, who was probably at that time the number two man in the law department; Mr. Richard store, S T OH R, he was primarily commercial lawyer at that time. Mr. John staple ton, again another commercial lawyer, had John's expertise was in drafting so he probably would have been someone who was consulted if it were dealt a need to have a lawyer look at something. (Felt need) those are the only ones that come to mind at the moment.

Q. Is there anyone in the legal department with the last name Kuhn, K-U-H-N, to your knowledge?
A. I don't know.
Q. Now, what was the legal department's role as to the drafting of press releases or materials that were intended for press publication that related to Monsanto chemical products?
A. In general? Probably very little, unless the matter were known to be involved in litigation or some sort of interaction with the government and it was felt that it would be wise to have a lawyer just look at it, make sure there was no problem with it.
Q. And what type of problems would they be looking for?
A. That would depend upon the issue that was at hand.
Q. Okay.
A. In general -- in general the lawyers didn't get involved in that. We had a public affairs group that worked in that area and only rarely would a lawyer be called upon to vet a statement like that.

Q. Now, I assume we're talking about PCBs now and press releases relating to PCBs. At what point in time did the legal department begin to get involved in at least reviewing press releases that went out from Monsanto?
A. I'm not sure that they looked at every press release that went out from Monsanto on PCBs but I know that from time to time beginning probably in about '68-'69 time frame some lawyers did look at external communications kind of as a whole unit there, just to be advised of what was going on and to make certain that what was being communicated comported with what we knew to be fact.
Q. So when you talk about external communications, you're talking about press releases or customer communications?
A. Or contacts with government or, you know, any of the host academics, you know, there was a lot going on back then and not every communication necessarily was passed in front of a lawyer but I'm sure some were.
Q. And from among the people that you mentioned within the law department, were there any in particular that were focused on the

external communications area as relating to PCBs?
A. As I said earlier, I don't think there was anyone who was given the detail of, you know, watching the PCB issue. It would depend upon the time period, you know, who was doing the communicating and probably the subject of the communication.
Q. Now, in those instances where there was a Monsanto chemical product that was alleged to have caused a personal injury, and a lawsuit was resulted, how was it determined who would assume responsibility in the law department for that -- the handling of that lawsuit?
A. And we're talking about the time period?
Q. Let's start with 1969-1970.
A. In that time period the person in the law department would have been the individual who worked with the business unit.
Q. And if it was a plasticizer product, is that a narrow enough business unit?
A. I can't tell you from memory who that might have been at that time.
Q. Is that the type of business unit you're referring to or are you thinking of something

narrower still?
A. I'm not sure plasticizers as a group were assigned a lawyer. They were part of a larger business unit who probably had two or three lawyers working on various aspects but it would be from that group of lawyers who worked with business people who make the product that the litigation supervisor would be drawn.
Q. Now, did that -- withdraw the question.
Was that type of an assignment system the same even before 1969 within the law department?
A. Yes.
Q. Okay. And how about, I know you mentioned that there was more of a concentrated litigation group starting in 1978 but between 1970 and 1978 did that system of assigning responsibility for individual lawsuits change at all?
A. I think it evolved over time so that by, you know, the 75 to '77 time period there was a lawyer who probably had responsibility for most of the litigation and there wasn't much litigation back at that time, who had responsibility to ride herd on most of the

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litigation.
Q. Okay. Was there one lawyer within Monsanto who was responsible for the holly farms PCB litigation?
A. Yes.
Q. And which one was that?
A. That was Mr. Richard store.
Q. And do you remember when that litigation first came to Monsanto?
A. I believe that litigation was filed in the late 1971.
Q. Now, once you got into 1978, what was the system for assigning responsibility to particular lawsuits after that within the law department?
A. In 1978 my former boss, Bob Berendt, B-E-R-E-N-D-T, was hired by Monsanto and he assumed the title of litigation counsel and all litigation that involved Monsanto was given to him either to supervise personally or to assign to a different member of the law department, again depending on what the litigation was.
Q. Now, before 1969, when a lawsuit would come in that involved alleged personal injury from a Monsanto chemical product, what was the

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legal department's role in answering discovery?
A. It would depend upon the kind of question obviously but if the question was, you know, what are the -- what does the company no about the properties or the toxicity of a product, the role of the law department and it may not even have been a lawyer, it may have been a paralegal at that point, would be to go and find out where the -- that information was kept and provide it to outside counsel.
Q. And would it be the role of the paralegal as well to look for documents that would be responsive to discovery requests?
A. Either the paralegal or someone who had knowledge of area who would work with the law department in semi-blink that information.
Q. Now, was there an established practice in '69 or '70 as to whether the interviews with current or former employees of Monsanto were handled by lawyers in the law department as opposed to outside counsel?
A. I don't think there was any hard and fast practice on that, no.
Q. Okay. Was there an approach that was most common in handling that issue at the time?

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A. I think it would depend on the specific circumstances of a case, Mr. Turet. If we had outside counsel, I would expect that outside counsel would be present at and conducting most of that kind of an interview of a Monsanto person. There undoubtedly were situations in which we either did not have counsel or for some other reason Monsanto attorney would conduct an interview but in-house counsel and outside counsel both conducted interviews.
Q. But was there any practice as to whether a member of the law department needed to be present or participating in the interviews with current or former employees of Monsanto?
A. Again, it depends on the circumstances. I would think in most cases and just from my own experience that our folks, our employees like to have the company lawyer there if it's possible.
Q. Was there any practice as to whether written discovery responses on behalf of Monsanto had to be reviewed and/or approved by the law department before going out?
A. Again, time period?
Q. '69 to '70.

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A. I don't know the answer to that. Either be very surprised if the in-house lawyer was not involved in drafting the discovery responses. So again, I think it's more than likely that an in-house lawyer was involved but on a specific instance, you know, I can't go to that depth of detail.
Q. How about 1975, once you started getting more focused on litigation within the law department?
A. Again depending on the circumstances. I think that it's likely that a Monsanto lawyer or the Monsanto lawyer charged with a responsibility for supervising the case would have had a role in discovery.
Q. Was there any practice as to whether a member of the law department needed to be present when a current or former employee of Monsanto was being deposed?
A. There was no hard or fast policy or practice that I'm aware of. Again it would depend on the circumstances.
Q. Was there a practice that was most common in handling litigation that involved chemical products of Monsanto with regard to

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depositions?
A. Again, I'm not wear of anything that would be the most common practice. I think it's going to depend on, you know, the type of case, the individual involved, the issues involved. Again, I'm not aware of any hard and fast rule in that regard.
Q. Was the legal department involved at all as we go back to the 1960 to 1970 time frame (1969) in the decision as to what types of toxicity testing would be done on a Monsanto chemical product?
A. I'd be very surprised if a lawyer tried to involve himself or herself in those kinds of substantive decisions. It would seem to me that the appropriate role at that time would have been to see if there were any regulatory requirements and just assure that if a regulation said you need to do this kind of a test, that our medical and tox people were aware of it.
Q. Now, with regard to PCBs in particular, I mean as internally there was a decision reached sometime in 1969 to start toxicity testing.
A. That's correct.

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Q. Would the input from the legal department have been solicited in reaching that decision?
A. In whether to test or what decision are we talking about?
Q. Whether to test and what testing to undertake.
A. Certainly there was no lawyer involved in determining which kinds of tests should be performed on PCB products. Whether a lawyer was consulted on the issue of to test or not, I'm not sure. I would be surprised if a lawyer were not involved in the general deliberations about how to respond to issues that were evolving at that time.
Q. And in that over -- in the overall context of that discussion an action plan would be developed including testing is that what you suggest?
A. Correct.
Q. Now, I know I've been talking in generalities in terms of practices within the legal department. As we focus on PCBs in particular, to what extent was the legal department involved in the fact investigation about what was known about PCBs and when. for

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example?
A. I'm not sure I understand your question.
Q. Okay. Going back into, I mean again let's start with 1969.
A. Okay.
Q. As more information was needed about PCBs, as more information was surfacing about potential environmental pollution, was the legal department involved in the effort to compile information about PCBs and about what reports were in the United States and a broad?
A. Not that I'm aware of. Again, as I said before, and maybe I haven't said this exactly this way, the company's response to the PCB issue as it involved in that time frame was handled by a small group of people. They from time to time did consult with members of the law department on specific issues. To my knowledge there was not a lawyer who sat as a member of that group whenever it met to make decisions about what needed to be done.
Q. So they were consulted in an ad hoc way or lack of a better term but not on a systematic routine way?
A. I don't think that's entirely accurate. I

think that they no doubt were sensitive to this group I'm talking about was no doubt sensitive to the legal implications of what was going on and would consult with a lawyer as they felt it appropriate. In addition, senior members of the law department were aware in general of the PCB issue as it was developing and would assure that the company's actions were appropriate from a legal perspective.
Q. I asked about toxicity testing before. Was the legal department involved in any decisions as to whether environmental testing should be done to determine the presence of PCBs, again in or prior to 1969?
A. Not that I'm aware of on that -- on that specific narrow issue.
Q. All right. Now, going back in time -- going back into the mid fifties when toxicity studies were conducted by outside labs, labs other than -- outside of Monsanto, was the legal department routinely copied on the results of studies? Again relating to PCB products of Monsanto.
A. Not that I'm aware of back in that time period.

Q. If the results of studies showed that there was any kind of an adverse health effect to an animal, was that something that automatically would involve the legal department?
A. Automatically? Not -- again not that I'm aware of.
Q. Okay. Do you know specifically as to the studies undertaken by that the Kettering labs whether the results of those studies were forwarded to the legal department?
A. I don't know.
Q. Do you know whether the legal department was asked to comment on what should be done, if anything, based on the result of the Kettering studies?
A. I don't know whether they were or not.
Q. Do you know whether the legal department was involved in any consideration about what uses for Aroclor PCB products should be permitted following the results of the Kettering lab studies?
A. Would you just run that one by me again. I think I lost it in the middle.
Q. No problem. Was the legal department

involved in any decision as to whether certain uses for the Aroclor PCB product should know longer be permitted following the results the results of the studies from the Kettering Labs?
A. I'm not aware that there was a law department role then, no.
Q. Are you aware whether that same issue was considered within the medical department back in the mid fifties?
A. I'm sure it was.
Q. Was the law department involved in any decisions as to whether the results of the Kettering study should be disclosed to any customers of Monsanto?
A. I'm not aware of any involvement there. I just don't know.
Q. Did the medical department to your knowledge seek input from the legal department back in the mid fifties as to the advisability of using Aroclor 1254 in surface coatings for household uses?
A. Have no idea.
Q. Have you seen any documents that relate specifically to the issue of the legal implications of using Aroclor 1254 in surface

coatings for household uses back in the fifties?
A. I don't recall seeing any, no.
Q. To your knowledge did the medical department at Monsanto consult the legal department back in the mid fifties when considering safe workplace procedures for department two 46 where the Aroclor products were manufactured?
A. To my knowledge, no.
MR. TURET: Can I take a brief break?
(Recess.)
MR. TURET: Okay. We're back on the record.
BY MR. TURET:
Q. Mr. Bistline, was the legal department at Monsanto ever informed that the use of Aroclor PCB products in paint when applied to chicken coops would lead to chick edema?
MR. TYRRELL: At this point I need to begin to object. If what you are asking is did any Monsanto employee seek legal advice on that subject from the legal department, I'm concerned about privilege. If you are asking the question to exclude what a Monsanto

employee may have sought by way of legal advice and you're asking did the legal department to knowledge learn from any source including outside sources complaints or anything else, I do not object. So as we get into the issues here, I need to be sure that you understand that and the witness understands that we consider privilege to extend not only to what advice the legal department may have provided to its clients but what advice was sought from its clients. So I'd ask you to try to frame your questions in a way or have an understanding that you are excluding when you ask that information what advice may have been sought by the legal department's clients.
MR. TURET: For whatever it's worth for the record I have no intention of asking him what legal advice was rendered by the legal department. I do intend to ask what, you know, what information was made known to them. I do not intend to ask from whom or anything of that sort. So that may not be an issue. I think the way I asked the question was, you know, was the legal department of Monsanto ever informed and I'm not intending to suggest what the

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source was.
BY MR. TURET:
Q. Did you need the question repeated?
A. If you wouldn't mind, please.
Q. Sure. Was the legal department ever informed that the use of a PCB containing Aroclor product in paint when applied to chicken coops was believed to have caused chick edema?
A. I believe we -- the law department became aware of that at some point, yes.
Q. Okay. Do you remember when generally?
A. Specifically, no. In general, probably sometime in the -- in the mid to late sixties.
Q. All right. And to the extent that information came from an outside source, as distinguished from inside Monsanto, do you know what the source was for that information?
A. No, I don't.
Q. Okay. Do you know of any instance where the USFDA reported to Monsanto that it was investigating the extent to which the use of Aroclor in paint could lead to chick edema?
A. Again, specifically I -- I don't know whether the communication was from the FDA or

from another source.
Q. Okay. Do you know of any investigation outside of Monsanto that was conducted into the extent to which an Aroclor product could cause chick edema?
A. I don't know.
Q. Okay. To the best of your knowledge, what is the earliest instance in which Monsanto was sued by a person who alleged that they were injured personally as a result of exposure to a PCB product?
A. Probably early to mid-1970's.
Q. Okay. And was that the holly farms lawsuit or something different?
A. It would have been something different. Holly farms to my knowledge did not involve question of personal injury.
Q. Are you familiar with a case, Mr. Bistline, from back in 1963 in which there was an allegation that exposure to PCBs led to a legal claim of three hundred fifty thousand dollars for personal injuries?
A. There may have been, Mr. Turet. I don't recall it as I sit here, no.
Q. Mr. Bistline, when is the earliest that

you're aware that the legal department learned that PCBs had been reportedly discovered in the environment in Sweden?
A. Sometime in early 1967.
Q. And excluding a request for legal advice, is there any action that the legal department took upon learning of the results of the so-called Jensen study?
A. Action of the that the law department specifically took?
Q. Yes.
A. As opposed to the company has a whole? None that I'm aware of, no.
Q. Now, I'm --
MR. TURET: Mark this as exhibit Bistline-2.
(Exhibit Bistline-2, ^, is marked for identification.)
BY MR. TURET:
Q. Mr. Bistline, I'm going to show you a document that is a December 1st, 1966 letter with an attachment. It's been Bates numbered a couple of different ways but one of them is STR 017390 through 393.
MR. O'CONNOR: Can I just ask if this

document has been produced before in this litigation?
MR. TURET: That's a good question. I know it --
MR. O'CONNOR: I don't see a Bates stamped on here that would indicate that it was either produced by Armstrong or Monsanto unless I'm mistaken.
MR. TURET: I believe that at least part of this documents was produced in this litigation and it already has been the subject of requests for admissions as well in the case.
MR. O'CONNOR: What portion of the document has been produced?
MR. TURET: I believe that there is an MAE Bates numbered version of either the cover letter or the attachment but not the two of them together. That's my recollection.
MR. O'CONNOR: Okay.
BY MR. TURET:
Q. Mr. Bistline, have you seen this letter and attachment before?
A. I probably have, Mr. Turet. I've seen most of our PCB documents at one time or another.

Q. Okay. And you'll notice on the cover page the cover letter is from D Wood. Was he a Monsanto employee back in December of 1966, to your knowledge?
A. Yes, I believe he was.
Q. And G. Buchanan in St. Louis to whom it's directed, is that also a Monsanto employee?
A. I've seen that name before, yes.
Q. Okay. Now, there's a request from Mr. Wood in the first paragraph that the cover letter and the attachment be considered by the appropriate departments in St. Louis. Do you know if this letter was passed along as information about what was going on in Sweden to the law department in St. Louis?
A. I don't know specifically.
Q. Do you know, you'll see the attachment is a letter from rising and strand. Do you know what that is?
A. They were an agent of Monsanto in that part of the world. I'm not sure whether they were a law firm or were some other -- some other sort of a firm.
Q. Now, the gentleman who wrote the letter on behalf of rising and strand says in the closing

paragraph that we probably will have to have Aroclor registered with the Swedish board of poisonous substances and the industry will have to be particularly careful in handling the material. To your knowledge was the Monsanto law department involved in registering its Aroclor products with the board of poisonous substances in Sweden?
A. I don't know.
Q. I don't have any other questions about that document.
MR. TURET: Mark this as Bistline-3, please
(Exhibit Bistline-3, ^, is marked for identification.)
BY MR. TURET:
Q. Okay. Mr. Bistline, I'm going to show you a document that's been marked as Bistline-3, which is a January 26th, 1967 memorandum from David Wood, which has been Bates numbered in this case MAE 053933 through 35. Just so you know, I'll direct you to any portions that I have specific questions but most of them are pretty general ones. Have you seen this document before today, sir?

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A. Yes, I've seen this document before.
Q. Okay. As part of the records of Monsanto?
A. That's correct.
Q. Okay. Now, there is a reference here to a meeting with capacitor manufacturers in Europe and I'm just trying to find it. Oh, page two, the very top under effect in Sweden. This matter was raised with us by every capacity tore manufacturer in what was den that we visited. To your knowledge was the law department involved in visits to capacitor manufacturers in Europe?
A. Not that I'm aware of.
Q. To your knowledge, was the legal department involved in communications with workers associated with PCBs for non-electric uses who had expressed worries to professor Jensen according to this letter about health effects from PCBs?
MR. TYRRELL: Objection to the form of the question.
THE WITNESS: To my knowledge, no.
BY MR. TURET:
Q. Okay. Have you seen in the documents that you've reviewed from Monsanto any written

communications between Monsanto and any worker associated with PCBs for non-electrical uses who had concerns about health effects from PCBs?
MR. TYRRELL: This is not just now limited to the law department, right?
MR. TURET: I'm asking whether he has seen those documents. That's correct, not limited to the law department.
THE WITNESS: I -- I can't tell you whether I have or haven't. I don't recall any at the moment but that isn't to say that there aren't any.
BY MR. TURET:
Q. Now, there's a comment by Mr. Wood that down at the bottom of that second page, it says quote we do not want, personally at Monsanto to get too involved in this question. Again referring to the PCB issues here. I mean was the legal department involved in reaching the conclusion of Mr. Wood that Monsanto did not want to get too involved in PCBs in Sweden?
MR. TYRRELL: Objection to the form of the question.
THE WITNESS: I'm not sure that that

particular passage from this memo represents anything more than Mr. Wood's recommendation to people in St. Louis as to the appropriate will role of the company.
BY MR. TURET:
Q. Okay. Do you know one way or the other whether there were deliberations which the legal department participated which led to a conclusion that Monsanto did not want to get involved in the issue of PCBs being found in Sweden?
MR. TYRRELL: Well, now I need to object again. If you're asking did the legal department form a recommendation to give to the corporation as legal advice, I'm concerned if that's the question.
MR. TURET: I'll withdraw that question.
BY MR. TURET:
Q. I have no further questions about this particular document.
Mr. Bistline, are you aware that there came a point in time at which a Professor Reisbrough out in California claimed to have found PCBs in the environment out there?

A. I'm aware of that, yes.
Q. Do you know the general time frame in which that occurred?
A. Probably '67, '68, '69 time frame.
Q. Okay. And to the best of your knowledge, what was the source from which the legal department learned about Professor Reisbrough's findings if it was outside the company?
A. I'm not sure it was outside the company.
Q. Do you know one way or the other whether Professor Reisbrough provided to Monsanto a pre publication report of his findings?
A. I'm not sure. I don't believe we had a pre publication finding. I know that I've seen documents referring to meetings with Professor Reisbrough but I'm not -- I'm not positive that we had a pre publication copy of his articles.
Q. You're talking about meetings involving Monsanto and Professor Reisbrough?
A. That's correct.
Q. Now, was the legal department specifically called upon to do anything upon learning of the Reisbrough findings, excluding providing legal advice, was there anything that it was called upon to do?

A. Not that I'm aware of.
MR. TURET: Okay. Mark both these just to save some time.
(Exhibit Bistline-4, ^, is marked for identification.)
(Exhibit Bistline-5, ^, is marked for identification.)
BY MR. TURET:
Q. Mr. Bistline, let me show you first a document that's been marked as Bistline-5 and it has been Bates numbered in this case MAE 053552 through 554. It says statement from Monsanto Company dated March 3rd, 1969. Have you seen that document before today, sir?
A. Yes, I have.
Q. And to the best of your knowledge, was that drafted by the legal department at Monsanto?
A. No.
Q. Okay. To the best of your knowledge, who did author it?
A. To the best of my knowledge, it was a collaborative effort from several people who were involved with the PCB issue at that point. I believe these people were primarily in the

medical group, medical department.
Q. And would that have included Elmer Wheeler?
A. Mr. Wheeler was a member of the medical department, yes.
Q. Now, was the legal department called upon to review this statement before it was issued? By review I mean review and make edits or recommendations.
A. I don't know. I don't know.
Q. Okay. Have you seen any drafts of this document within the legal department's documents that have not been produced in this case?
MR. TYRRELL: May I hear that question?
(Designated question is read.)
THE WITNESS: No.
BY MR. TURET:
Q. I'm going to show you another document, Mr. Bistline, that's been mark as Bistline-5, which Bates numbered 1130 through 32. It's a March 3rd, 1969 letter with Elmer Wheeler appearing on the signature line and ask if you've seen this document before today?

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MR. TYRRELL: Can I just ask, this document 1130, that's not a Monsanto production number in this case, is it?
MR. TURET: No, I believe that this is one of the ones that was attached as an exhibit to one of the deposition transcripts that was produced and it's been listed on the request for admissions in this case but I do not -- my recollection is it was not produced with an MAE number. I could be wrong on that part.
MR. TYRRELL: Okay. And we don't know what the confidential subject protective order designation on it says.
MR. TURET: That's correct. Can I have the question again.
BY MR. TURET:
Q. The question was just have you seen this document before today, Mr. Bistline?
A. Yes.
Q. Okay. And to your knowledge, was this document drafted by Elmer Wheeler?
A. He had a land in drafting it. As I said before, this is most likely the result of a -- of the efforts of several people who were

working on the PCB issue at that time.
Q. Okay. And to your knowledge was anyone from the legal department involved as part of that collaborative effort?
A. As I said before, a member of the law department would have been consulted from time to time but I'm not aware of a lawyer who had the assignment to sit on that committee or work specifically with that group.
Q. Okay.
MR. TURET: Mark this as Bistline-6.
(Exhibit Bistline-6, ^, is marked for identification.)
BY MR. TURET:
Q. Okay. Mr. Bistline, I'm going to show you a document that has been marked as Bistline-6 and its Bates numbered MAE 053006 through 08. It's a March 6, 1969 memorandum and ask whether you've seen it before today?
A. Yes, I've seen this documents before.
Q. Okay. And now I see up at the top that P. Park presumably Phocian Park is listed as a recipient of it. Are any of the other people that are listed up on the recipient list members of the legal department, to your

knowledge?
A. Paul Hodges may have been at that time working with the law department. I know that he did from time to time work in kind of a paralegal capacity for the law department on PCB issues. Whether he was doing that at this point, I don't know, but otherwise Mr. Park is the only law department member that -- that's included in this group.
Q. And why would Mr. Park have been the one from the law department to whom this would have been directed?
A. Why would he? I can only speculate on that.
Q. Now, this is a memorandum from Mr. Richard or Doctor Richard?
A. Doctor Richard.
Q. And Doctor Richard was one of that group who collaborated on PCB issues back in 1969?
A. That's correct.
Q. Okay. Now, Doctor Richard refers in the middle of the first page to some legal proceedings that have been instituted by the Environmental Defense Fund and specifically they appear to relate to proposal to expand the

definition of a pollutant. Was Monsanto involved in that litigation in any way directly or indirectly?
A. Not to my knowledge, no.
Q. On page two, Mr. Richard states in the third paragraph from the bottom that we can't easily control hydraulic fluid losses in small plants and this is dated March 6, 1969. To your knowledge, was that a conclusion that had already been -- been reached within Monsanto by consensus as of March 6, 1969?
MR. TYRRELL: Objection to the form of the question. Are you asking him if this was knowledge in the legal department?
MR. TURET: Yes.
BY MR. TURET:
Q. Was that a fact that was known to the legal department before this memo of March 6th was directed to the legal department?
A. I don't know.
Q. But I take it after the memo was sent to Mr. Park, and to the other recipients there, there was a conclusion that was shared throughout those who were collaborating on the PCB issues correct?

MR. TYRRELL: Objection to the form of the question. That it was a conclusion that was shared. Do you mean read? Or believed in by those who received it in the legal department?
MR. TURET: You can answer the question if you understand.
MR. TYRRELL: Object to the form of the question.
THE WITNESS: What I can tell just from looking at this, Mr. Turet, is that Doctor Richard had that opinion. Whether Mr. Park did, I don't know.
BY MR. TURET:
Q. Do you know if others within Monsanto who were involved in the PCB issue back in March of 1969 also shared the opinion that it was not possible to easily control hydraulic fluid losses from small plants?
A. Whether that was a conclusion that was generally shared at that time, I don't know. It certainly was a conclusion that was generally accepted in the company shortly thereafter.
Q. And what is the reference point which

you're referring to as shortly thereafter?
A. Well, by 1970, early 1970 a plan had been submitted to the Monsanto senior administrative committee to restrict sales of PCB-containing products so as to exclude in particular hydraulic fluid.
Q. And plasticizers as well?
A. And plasticizers as well, that's correct.
Q. Now, Doctor Richard also states that it will be still more difficult to control other end uses such as cutting oils, adhesives, plastics and NCR paper. To the best of your knowledge was that a conclusion that was shared by others who were collaborating on the PCB issue in March of '69?
MR. TYRRELL: Within the legal department.
MR. TURET: Within Monsanto.
MR. TYRRELL: Within the legal department?
MR. TURET: Within Monsanto generally.
MR. TYRRELL: So the question is did the legal department at that time know that this was a conclusion that was held by others

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within Monsanto generally?
MR. TURET: Yes.
THE WITNESS: I don't know the answer to that. All I can tell you is that it certainly something that Doctor Richard asserted here. It would have been read by Mr. Park at the time. Whether others on that group concurred with Doctor Richard at that point, I don't know.
BY MR. TURET:
Q. And based on what you've seen in the legal department subsequently it also proved to be true, correct?
MR. TYRRELL: Objection to the form of the question.
THE WITNESS: It's not just what I've seen in the law department, Mr. Turet. Its what I've seen generally in the documents that would reflect that action plan by Monsanto to restrict sales to those end uses or away from those end uses.
BY MR. TURET:
Q. Now, Mr. -- I'm sorry, Doctor Richard then says that -- withdraw that question.
In the second to last paragraph there

Doctor Richards then says that either his, referring to professor Reisbrough's position is attacked and discounted or we will eventually have to withdraw product from end uses which have exposure problems. To the best of your knowledge in March of 1969 was the legal department aware of whether others in Monsanto shared that same view?
MR. TYRRELL: Objection to the form.
THE WITNESS: I think my answer is going to be pretty much along the same lines as previous questions you've asked in this area. Doctor Richard wrote this memorandum, certainly others in that group read it, including Mr. Park. Whether that was a firm conclusion at that point, I don't know but it was shortly thereafter.
BY MR. TURET:
Q. Now, what, if anything, did the legal department do in or after March of 1969 to attack or discount the findings of Professor Reisbrough?
A. I'm not sure that that's what that reference indicates.
Q. It says either his position is attacked or

discounted or we will have to eventually withdraw the product from end uses and I'm asking about the first part of that question. What, if anything, did the law department do to attack or discount what Professor Reisbrough will reported?
A. Nothing. We were not asked to as far as I know attack or discount. It was a scientific, not a legal matter.
Q. Now, at the end of that paragraph Doctor Richards says that I guess it's the following sentence that since Reisbrough's paper had just been published it is timely, perhaps imperative, that this paper and its implications be discussed with certain customers. To your knowledge, was the legal department involved in deciding which of the certain customers the Reisbrough paper should be discussed with and which should not?
A. Not that I'm aware of. Again, that was a group of individuals who were working on this issue and they did from time to time consult with a lawyer. Whether a member of the law department was specifically asked for ideas on that point, I don't know.

Q. And just to confirm, going back to the cover of this memo, the recipients, you've referred to a number of times to the people who were collaborating on PCB issues.
A. That's correct.
Q. Is that pretty much the list of them there?
A. There are some of those people there, yes, that's correct.
Q. When you say there's some of those people there, I mean are there any people on that list who were not involved in addressing the PCB issue as of March of 1969?
A. These were people who were involved with PCBs in one way or another. The small group that had the charge specifically to focus on what the company should do in response to this developing issue didn't include all of these people, no.
Q. Which were the people, if you know, that were charged with that responsibility as of March of '69?
A. Doctor Richard, Mr. Wheeler, Doctor Keller, who's referred as R. Keller there, I think those are the only individuals from that

group that I'm aware of at that time. Mr. Tucker, Doctor Tucker was involved in it. Whether he was on the -- on the committee of senior people who were trying to grapple with this issue, I don't know.
Q. Okay. And at the very end of Doctor Richard's memorandum, the bottom of page two, he indicates that in his view well prepared discussions with Industrial Bio Test, Monsanto biochemists, the medical and legal departments must take place now. To your knowledge, did such discussions take place including each of those entities, Industrial Bio Test, biochemists, medical and legal departments at Monsanto?
A. All of the players or the groups identified there were involved at some point in shaping the company's response to the PCB issue, yes.
Q. Did it happen? ? Doctor Richards calls for it now meaning March of 1969. To the best of your knowledge were all of those individuals involved that discussions of what to do about PCBs take in March of '69?
A. Whether they were involved in March of

'69, I don't know. I can't say that.
(Exhibit Bistline-7, ^, is marked for Identification.)
BY MR. TURET:
Q. All right. Mr. Bistline, I'm going to show you a document that's been marked as Bistline-7, which says at the top chlorinated biphenyls, chronological events and its Bates numbered P R R zero two one eight eight nine through eight nine two and since I'm anticipating the question is coming, this was not produced in this case but it was presented to Doctor Keller during the deposition and he authenticated it. I'm going to ask you first, Mr. Bistline, if you've seen it before today?
A. Yes, I've seen this document.
Q. Okay. And is it your understanding that this is a chronology that Doctor Keller had put together?
A. I don't know whether Doctor Keller himself put it together.
Q. I think you'll agree as you skim through it without going line by line. Mr. Bistline, that there are references to a number of different study results in here through the

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period starting in 1966 and going through 1969. To your knowledge were the results of these environmental studies from around the world provided to the legal department of Monsanto?

MR. TYRRELL: When?

MR. TURET: On a relative of contemporaneous basis. I mean through 1967, '68 and '69.

THE WITNESS: I don't know.

BY MR. TURET:

Q. Down at the bottom of the third page, it's the entry that says December 30th, 1968, there's a reference Richard to Kuhn dash legal problems. What does that refer to, if you know?

A. I don't know.

MR. TYRRELL: Can you tell me where that is.

MR. TURET: Third page, second from the bottom.

MR. TYRRELL: Thank you.

BY MR. TURET:

Q. Do you know who Kuhn is, K U H N?

A. No, I don't.

Q. Do you know what the legal problems are

that are referred to?

A. I believe I already said I don't know.

Q. Okay. I have no further questions on that one.

Mr. Bistline, do you know whether in early 1969 there was a meeting between representatives of Monsanto and Industrial Bio Test to discuss how to proceed, given the disclosures about PCBs in the environment?

A. I'm not sure that there was a meeting precisely then on precisely that topic but there were meetings frequently between Monsanto scientists and Industrial Bio Test scientists on the issue of toxicity testing for PCBs.

Q. Okay. Are you aware of one that covered a broader range of topics, including legal implications, public relations implications, as well as toxicity testing?

A. As I sit here I'm not aware of that, no.

Q. And if I was to represent to you that in meeting minutes from a meeting with Industrial Bio Test if there were references to public relations, legal and scientific findings on Aroclor products, do you have any independent knowledge from the legal department as to what

that refers to?

MR. TYRRELL: Are you asking him if based on your representation his recollection is refreshed?

MR. TURET: Turet Mr. Bistline, if you don't understand my question, you're free to say so and I'll be happy to try to rephrase it.

MR. TYRRELL: Objection to the form of the question.

THE WITNESS: I'm not aware of – of my own personal knowledge of any such meeting.

BY MR. TURET:

Q. And if I was to represent to you that there are meeting minutes relating to a meeting with Industrial Bio Test from March of 1969 in which there was a reference to consideration of the Aroclor problem and its connection to legal actions, do you have any independent knowledge of what legal actions were referred to in March of 1969?

MR. TYRRELL: Same objection.

THE WITNESS: No.

BY MR. TURET:

Q. Do you know whether the collaborative

effort that you've described before in early 1969 involved developing a defense to the allegations that PCBs had been found in the environment?

A. I'm not sure what you mean by a defense.

Q. I mean a defense, developing a line of defense to the allegations that PCBs were found.

MR. TYRRELL: Objection to the form of the question.

THE WITNESS: I guess, Mr. Turet, I'm struggling with your use of the term defense. I'm not quite sure how to respond to it except to say that back in that period of time there was a lot of debate over the implications of PCBs being found in the environment and a lot of debate about what the appropriate course of conduct should be for Monsanto in those circumstances. Whether that would constitute a defense in the way you're using the term, I don't know.

MR. TURET: Would you mark this as Bistline-8?

(Exhibit Bistline-8, ^, is marked for identification.)

BY MR. TURET:

Q. Mr. Bistline, I'm handing you a document that's been mark as Bistline-8. It's a March 27, 1969 letter from Howard Bergen to Mr. Fred Dierker, D-I-E-R-K-E-R. It's been Bates numbered MAE 049882 through 85. Ask if you've seen it before today.

A. Yes, I've seen this document.

Q. Okay. And did the legal department draft this letter, Mr. Bistline?

A. I don't know.

Q. Do you know whether the legal department reviewed and offered comment on this letter before it went out to the State of California resources agency?

A. I'm sure – I'm sure it was passed before a lawyer before it was sent out.

Q. And given that this copy if you look at the bcc list has an arrow pointing to Phocian Park yet again I take it Phocian Park would have been the one to review it and comment upon it?

A. I would suspect that's accurate.

MR. TURET: I actually have no further questions on that. Mark this as

Bistline-9, please.

(Exhibit Bistline-9, ^, is marked for identification.)

BY MR. TURET:

Q. Mr. Bistline, I'm going to hand you a document that has been marked as Bistline-9, which is a – an October 2nd, 1969 report of Aroclor ad hoc committee. This has been Bates numbered MONS 0367020 through 732 and I'll make the same representation, this was received as an exhibit to a deposition transcript and has already been I believe requested as a request for admission. Can I ask, have you seen this document before, Mr. Bistline?

A. Yes, I believe I have.

Q. Okay. Can you just tell me first what was the ad hoc committee?

A. It's the group that I had referenced to earlier of individuals who were given the general assignment of making a recommendation as to what the company – what the company's course of conduct should be in response to the developing PCB issue.

Q. Now, was there somebody – I know right on the cover there's a listing of five

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individuals, Doctor if he rare, Mr. Hodges, Mr. John, Doctor Richard and Mr. Wheeler. Was that the composition of the Ad Hoc Committee?
A. I believe Doctor Keller was involved in it from time to time as well but those individuals are the ones who were most active.
Q. Okay. Now, was there a point person selected from the legal department to whom questions should be directed from the ad hoc committee?
A. Not to my knowledge, no.
Q. Was Mr. Park specifically involved to the best of your knowledge in the formulation of the Ad Hoc Committee report?
A. Not to my knowledge.
Q. Did the legal department have input into the development of a finite set of objectives for the ad hock committee?
A. A set of objectives for the ad hock committee, I don't believe so.
Q. Did the legal department have any input into the conclusions of the Ad Hoc Commitee?
A. Did we have input? I'm not sure -- I'm not precisely certain what role any of the members of the law department at that point had

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in arriving at the conclusions. I know that lawyers were consulted from time to time on specific issues but whether they had a say in the conclusion, I don't believe so.
Q. Let me direct you just briefly to the page that's listed as page three up at the top, which is the page that says recommendations. And the very first one says in view of legal and moral considerations, notify all Aroclor 1254 and 1260 customers of environmental contamination problem and there's a handwritten notation and advising customers.
A. Right. I see that.
Q. To the best of your knowledge, what are the legal considerations that are referred to as understood by the legal department?
A. I'm not sure what the reference is there. I can give you what my impression would be they might have been at that time.
Q. Okay. What is your impression?
A. That we probably should advise our customers of the knowledge that we had of -- that the scientific basis for the PCB environmental issue and, in fact, that was done.

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Q. And that is as a legal consideration that you're referring to?
A. That would be my surmise of what the import of that particular reference would be.
Q. Okay. I have no further questions on that one.
MR. TYRRELL: Off the record for a second.
(Off-the-record discussion.)
(Recess.)
MR. TURET: Okay. Mark this as Bistline-10.
(Exhibit Bistline-10, ^, is marked for identification.)
BY MR. TURET:
Q. Okay. Mr. Bistline, I'm going to show you a document that's been marked as Bistline-10, which has been Bates numbered in this case MAE 023703 through 742. It's a November 10, 1969 rough draft of an Outline for PCB Environmental Pollution Abatement Plan. Ask you first if you've seen it before today?
A. Yes, I've seen this document.
Q. Okay. And what is your understanding of what this is?

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A. Well, as it says, it's a rough draft of a proposed plan to be submitted to Monsanto's management to respond to the PCB issue as it was developing at that time.
Q. And who was it that put together this PCB environmental pollution abatement plan, if you know?
A. This is more or less the result of the deliberations of the Ad Hoc Committee. I believe, yeah, the Ad Hoc Committee.
Q. Okay. So this would be the outline of the issues to be addressed with Monsanto management or the issues that would be the recommendations of the Ad Hoc Committee?
A. This would have been a rough draft of the recommendation of the Ad Hoc Committee.
Q. Okay. To whom?
A. To Monsanto management.
Q. Okay. If you flip ahead to the page that's marked page five at the top?
A. Yes.
Q. Under the section that's Roman numeral five, effect on Monsanto, letter A is legal liability and it says direct lawsuits are possible. What was the contemplation of the

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legal department as of November of 1969 as to what direct lawsuits were possible against the company?
MR. TYRRELL: I need to object. If what we're saying -- if the question implies what was the advice of the legal department to management, obviously that would be privilege. If the question is what did lawyers in the legal department thing were possible categories of lawsuits, I don't mind him answering.
MR. TURET: Well, I'm asking him to explain a document that's already been produced in this litigation so I'm sure you're not saying there's privilege as to the document. So I'm just asking him from the legal department perspective what this means.
MR. TYRRELL: I'm not sure that the question you asked is specifically related to the document but if your question now is does -- what is meant by paragraph A on page five, if he knows from the perspective of the legal department, I don't object.
MR. TURET: Okay.
THE WITNESS: Is that the question?
MR. TURET: Sure. Let's start with

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that.
THE WITNESS: Okay. It seems to me that product liability lawsuits are possible and that seems to me anyhow to be the implication of that sentence.
BY MR. TURET:
Q. And based on exposures to PCBs?
A. That's one possibility, yes.
Q. Okay. And also there are references to the materials already being present in nature as having done their alleged damage. Is that a reference to lawsuits involving alleged environmental or property damage?
A. That -- that could be an implication from that, yes.
Q. Okay. And then the next sentence refers to all customers using these products have not been officially notified about known effects, nor do our labels carry this information, was that a fact that was known to the legal department back in November of 1969?
A. At that point that's true.
Q. Okay. And then it says these are only a few of the possibility legal implications which would best be covered by the legal department.

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What other legal implications were there at the time as known to the legal department?
A. These are the significant ones that I'm aware of.
Q. Okay. Now, did the legal department actually draft this section on legal liability?
A. I don't believe so, no.
Q. Okay. Did the legal department have input into this section as it is presented as a rough draft?
A. It would seem to me likely that a lawyer had perhaps provided some of the ideas for this.
Q. And who, if you had to choose from among the roster back in the legal department in 1969, who would have been the product liability or environmental pollution expert from among the names you've mentioned?
A. I don't think any of the lawyers back then were product liability or environmental pollution specialists at that point.
Q. If someone was referred to the legal department to find out what the other possible legal implications were, who would they be contacting within the legal department?

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A. I'm not sure who was their specific contact at this point.
Q. Mr. Bistline, do you know whether the legal department became aware at some point in time that the, you know, that Connecticut state department of agriculture had found PCBs in the environment in Connecticut?
A. No, I don't know.
Q. Okay. Do you know whether the PCBs had been found in milk in Georgia and Maryland and that fact had been reported to the legal department?
A. I don't know whether that specific fact had been reported to the legal department -- excuse me, the law department or not. I didn't mean to adopt your term.
Q. You understand when I'm using legal department I'm referring to law department?
A. Right.
Q. Where are the locations, to the best of your knowledge, where PCBs were detected in the environment in the United States before 1970?
A. To my knowledge before 1970?
Q. Yes. Your knowledge obviously as representing the knowledge of the legal

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department.
A. By 1970 it had been fairly well established that PCBs were widely disbursed in the environment at low part per million levels. I'm not aware of, you know, more specific instances of the type you've said PCBs in milk in Maryland and Georgia, there may have been other circumstances like that but in general the analytical testing that had been done to that point found them in several types of environmental situations.
Q. And they found them out in California as per Professor Reisbrough, right?
A. That's correct.
Q. And they also turned up in Iscambia Bay down in Florida?
A. At some point, yes.
Q. Okay. Do you remember when it was reported to the legal department that the Iscambia Bay was found to be contaminated with PCBs below the manufacturing facility of Monsanto?
A. I don't recall whether that was '68 or '69 but it was in that time period I believe.
Q. And did that come about in connection with

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a legal action by a governmental entity?
A. I'm not sure whether there was a governmental entity that brought a legal action or whether the plant discovered the leak on its own and reported it to the Florida authorities.
Q. Do you know if it was the authorities in Michigan or Georgia or Maryland or Connecticut that brought the PCB contamination to the attention of Monsanto or whether it was some other source?
A. Some of those may have been as the result of testing needed by the FDA or by state authorities and some of it may have been by private researchers.
Q. What was the Corporate Development Committee back in November of 1969?
A. That was the -- the Corporate Development Committee was the senior management committee that met from time to time to make decisions that senior management's make.
Q. Is it the equivalent of a board of directors?
A. No, no, this is internal management.
Q. Okay. Internal to which entity?
A. To Monsanto Company.

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MR. TURET: Okay. Mark that as Bistline-11.
(Exhibit Bistline-11, ^, is marked for identification.)
BY MR. TURET:
Q. Okay. Mr. Bistline, I'm going to show you a document that's now been marked as Bistline-11. It's Bates numbered MAE 058593 through 595. It's November 17th, 1969 Minutes of Meeting of the Corporate Development Committee. Have you seen this document before?
A. Yes, I've seen this document.
Q. Okay. And I take it have you seen the original meeting minutes as opposed to the one that this appears to be an abbreviated form?
A. I'm not sure that I've seen the original document, no.
Q. Now, the heading an Organic Division, Law and Medical Departments-Report on Polychlorinated Biphenyls. From among those who were present, which ones were members of the legal department at the time?
A. If you're referring to the list at the top of the page?
Q. No, actually I'm looking down towards the

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bottom of the page below the heading.
A. Okay. Rodney Harris, Junior.
Q. Was he the one you referred to earlier as being number two in the law department?
A. Yes, that's correct. And I surmise from just looking at this document that D.W. Miller was also a member of the law department although as I've said before I don't recall -- don't recall his name.
Q. Presumably as we look ahead to page two there's a section entitled legal aspects and it says dash D.W. Miller and I take it that the fact that Rodney Harris was there, it was a presentation that was approved by the legal department?
A. Yes, that's what I would assume.
Q. Okay. Now, was it part of the responsibility of the legal department back in November of 1969 to summarize the state of product liability law for senior management if called upon to do so?
A. If asked, yes.
Q. Now, there's the statement that I guess recommendations from the legal standpoint, number two, provide adequate warnings to

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customers and users including advice as to disposal methods. Was that it the position of the legal department as of November of 1969 that adequate warnings had not yet been provided to customers?
A. I'm not sure that you can get that from this statement. I think the – it's a recommendation that any lawyer would give this client and that is to provide adequate warnings.
Q. Presumably a recommendation is to take some action that hasn't been taken previously, correct?
MR. TYRRELL: Objection to the form of the question.
THE WITNESS: Possibly.
BY MR. TURET:
Q. I'm puzzled by your response. Is it your position that the legal department is making a recommendation to provide adequate warnings to customers that already had been given?
A. I don't take it from this recommendation that a judgement had been made that the warnings that had been given to that point were necessarily inadequate.

Q. So you're saying they could be recommending to just stay the course?
A. I think it's possible based on this that an evaluation should be made of the warnings to determine whether they were adequate or not if and if they're not to make them so.
Q. And do you read this to say that an evaluation should also be made of the recommendations made to users if they weren't adequate yet?
A. I'm not sure I follow you. I don't understand that question.
Q. This says a recommendation from the legal department to provide adequate warnings to customers and users. My question is is it your position also that – is it your interpretation that the recommendation was to evaluate the warnings that had been given to users of PCB products?
MR. TYRRELL: Object to the form of the question.
THE WITNESS: I – I can't interpret that for you. I don't understand the distinction between customers and users in this context.

BY MR. TURET:
Q. To the best of your knowledge, were there – was there advice already given by Monsanto to customers and users as to the appropriate disposal methods for PCBs?
A. At that date I'm not aware that any advice had been given as to disposal methods. Certainly not on a broad scale basis.
Q. Now, under number three, would you agree that the legal department is making the recommendation that there should be a determination made as to the possible escape of PCBs from plasticizers?
A. That's certainly what the words say.
Q. And certainly you have no reason to believe that it's other than what the words say?
A. The only gloss I would put on it would be again as with number two that I don't take from that the necessary implication that testing in that regard had not yet been done because there was quite a bit of testing activity going on.
Q. Okay. Do you know of any information within the legal department suggesting that there had already been a determination as to

the escape of PCBs from plasticizers?
A. I'm not aware of any.
Q. Okay. So all you know is that this is what the words say? You don't know of any additional information beyond what it says the legal recommendation was, legal department recommendation was?
A. Information, in what regard?
Q. If the legal department is making the recommendation to determine the possible escape of PCBs from plasticizers –
A. Establishing a testing program to determine.
Q. Okay. Do you have any information or have you seen any information to suggest that a testing program already existed to determine the escape of PCBs from plasticizers?
A. I don't know whether that could be taken from testing which had already resulted at that point or whether a new round of tests needed to be done. I think the lawyers' recommendation was if it hasn't been done, do it.
Q. That's your interpretation of what's being said here?
A. Yes.

Q. Okay. I have no further questions on this one.
(Exhibit Bistline-12, is marked for identification.)
BY MR. TURET:
Q. By the way, Mr. Bistline, that last set of meeting minutes, who within Monsanto is responsible for taking minutes on the Corporate Development Committee?
A. Who was responsible, the identification here is J M /AEUL letters.
Q. And J N /AEUL letters by position would be?
A. He was a member of the law department.
Q. Okay. Mr. Bistline, I'm going to show you a document marked as Bistline-12, which is Bates numbered MAE 003475 through 484 and it says Presentation to Field Sales, Personal and Confidential. Is this a document you've seen before, Mr. Bistline?
A. Yes, I've seen this.
Q. Okay. What is your understanding of what it is?
A. As it says, it's the text of a presentation to Monsanto sales personnel.

Q. And does this document come from the archives within the legal department?
A. I don't believe this came from the archives in the law department, no. These – this came from documents relating to PCBs that are in the custody of the law department now.
Q. How many documents are in the custody of the law department that relate to PCBs? How many pages?
A. More than a million.
Q. And of that million, how many relate to alleged health effects or toxicity or personal injury?
A. I don't know.
Q. Is it more than 60 thousand out of the million?
A. I don't know that. There are a lot of sales records in there.
Q. Out of the million, how many pages would you believe relate to sales records?
A. Maybe as many as a hundred thousand.
Q. So there's still nine hundred thousand other pages of documents?
A. That would be good math, yeah.
Q. And only 60 thousand of those which are

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the documents produced in this case relate to toxicity or alleged health effects or alleged personal injuries that could be caused by PCB exposure?
A. I don't know that.
Q. You've never had to go through them and figure out which ones are responsive to discovery requests in a personal injury case?
A. Yes.
Q. And how many documents, how many pages of documents has the law department produced in response to discovery in a routine personal injury case relating to alleged exposure to PCBs?
MR. TYRRELL: I need to object at this point. As Counsel obviously knows, document production is in response to the four corners of the request that's asked. I don't think there is a routine personal injury case. Each personal injury case is treated separately and full and adequate discovery is produced based on what is asked for and what the Court orders if there is a dispute. So I'm not sure where you're going, if you're suggesting that somehow there was an inadequate production,

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either Monsanto hasn't produced all that it is required to produce both under your discovery requirements and the Court order.
MR. TURET: My distinct recollection here was that there was a pre-packaged set of health and safety documents which were dropped here even before we got to the issue of, you know, should discovery be broadened beyond it but that there was a set of documents and, granted, there's been maybe another box since then but the entire universe in this case is 60 thousand pages which is pretty small in a universe of nine hundred thousand pages of documents, in my own humble opinion. So I'm just asking Mr. Bistline based on his extensive experience within the law department and as the repository of the documents pertaining to PCBs --
MR. TYRRELL: You're now asking Mr. Bistline questions that may or may not be appropriate for a custodian of records. Mr. Bistline is here today pursuant to a 30(b)(6) notice on the three topics that you identified in your discovery demand and none of those topics call for testimony by a custodian of

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records.
MR. TURET: I am asking him about issues that relate to knowledge as to PCB. First of all, it fits into all those three corners but am I understanding you're telling him not to answer or are you similar --
MR. TYRRELL: I'm objecting to the scope of your question.
MR. TURET: Okay. Was the last question answered or is it pending?
(Designated question is read.)
THE WITNESS: That's your question?
BY MR. TURET:
Q. Yes.
A. There is no routine personal injury PCB exposure case.
Q. How do you go about deciding in a PCB personal injury case how many documents relate to alleged toxicity and health and safety effects versus, say, environmental issues?
A. It depends upon the demand, Mr. Turet. If you want to frame a demand right now and ask me how many documents, I couldn't tell you. We'd have to go back and look.
Q. Do I understand you to say that the law

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department goes through nine hundred thousand pages of documents every time there's a discovery request in a PCB related case?
A. I don't think I need to tell you how we go about determining what documents to produce. I would consider that to be privileged.
Q. Goes to the methods of -- I'm asking you what the universe of documents that's responsive. I don't see how it goes beyond the bounds of that to ask you how you decided what was responsive and what was not.
MR. TYRRELL: The witness has said that there's more than a million documents --
THE WITNESS: Pages of documents.
MR. TYRRELL: Pages of documents under the custody of the law department. Monsanto has very good in-house lawyers, whatever may be the quality of its outside counsel, that look at discovery demands when propounded and respond to them by reviewing what is appropriate within the universe of documents that are there. Now, I'm not directing the witness not to answer at this point but this is not what we're here for. You're here for the three topics that are on

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your 30(b)(6) list. None of them has to do with the process followed by Monsanto in producing discovery in this case. So if you want to place a few more questions of record, that's fine, but at some point I'm going to recommend to the witness, I'm not going to direct him, that he need not answer these questions because they are beyond the scope of your 30(b)(6) notice.
MR. TURET: I understand the tenor of your comments. The bottom line is I am simply asking how one decides that -- looked at all the documents and decided -- we're here to talk about the knowledge of the legal department which consists of the documents in the legal department and any other information that may be there and I am trying to exhaust the universe of what that knowledge is. It's clearly as to the toxicity because that's what I'm asking and that's one of the three areas and it's also as to withdrawal from the market and, you know, I -- I am still waiting for the answer on the question as to how do you decide from nine hundred thousand pages of documents whether you have gotten all the information?

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There have been a lot of things you said I don't know to today and I'm still waiting for an answer to the question as to how you've gotten there from nine hundred thousand pages. Has someone physically gone through all nine hundred thousand pages to determine they've -- the responsive ones have been produced?
MR. TYRRELL: Objection. You may answer.
THE WITNESS: If you're asking did we go through all nine hundred thousand pages specifically in response to your document demand? Is that your question?
BY MR. TURET:
Q. That's part of the question, yes.
A. Well, what is the whole question so I know the whole question so I can answer it?
Q. I think I've said it several times. The issue is how did you decide what information was possessed by the legal department to determine knowledge about toxicity, knowledge about withdrawal from the market and so forth. You have a large repository of documents. Somehow you got to the conclusion that you produced a small portion of them and that was

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the entirety of the information. How did you get there?
A. I think you've made a lot of assumptions. I'm not -- and I can't even tell you how many assumptions you've made because your question is very confusing to me. We review documents in response to document demand based on the tenor of the document demand and any instruction from the Court and we do -- we conduct a thorough review and appropriate documents are produced.
Q. And you're here today as a corporate designee speaking about the information available and known to the legal department.
A. Well, that's different from the universe of documents that we might have in our possession. You've been asking me historical questions about what lawyers may have known about specific topics in pretty remote time periods. That's an entirely different question, Mr. Turet, from comprehensive knowledge today about a document archive that contains some nine hundred thousand to a million pages. They're two different questions.

Q. Okay. So what's the answer as to the universe of the nine hundred thousand pages?
MR. TYRRELL: What's the question about it?
MR. TURET: Could you read back the question?
(Designated question is read.)
THE WITNESS: As I commented before, you're mixing apples and oranges there.
BY MR. TURET:
Q. So tell me how you decided today what the entirety of the information on toxicity was. You've gone through all of the documents in the repository of the legal department to exhaust all the information on toxicity of PCBs and the other issues in the 30(b)(6) notice.
A. Well, I didn't --
MR. TYRRELL: Can I raise just an objection?
THE WITNESS: This is --
MR. TYRRELL: I'm now puzzled because the three things that are the subject matter of this deposition are knowledge of Monsanto legal department about allegations that exposures to PCBs or PCB-containing products were capable of

causing injury, participation of the legal department in investigations, et cetera, participation of the legal department in assessments or recommendations concerning the warning or instructions. Nothing here asks information about toxicity. Nothing here asks information about how Monsanto collected, gathered, reviewed and produced its documents.
MR. TURET: That is a means to an end. That is not -- I'm not going to set forth, you know, as a single item, you know, every person you've interviewed to prepare for your deposition, every document you've looked at to prepare for your deposition. The issue is looking at, number one, knowledge by the Monsanto legal department of allegations that exposure to PCBs or PCB-containing products were capable of causing injury or illness to human or animals. How does one decide from the nine hundred thousand pages in the possession of the legal department which ones relate to that issue?
MR. TYRRELL: Well, I just -- I need to raise another objection. Obviously the way documents were produced were in response to a

document request that you submitted that was then objected to in part, that was then ruled upon by the Court. Documents were then produced by lawyers from my firm in conjunction with in-house people at Monsanto, paralegals and others, based upon our understanding of the demands and the Court's directions. Okay. I don't know what more we can tell you than that. We reviewed the universe of what was there and we produced what we thought was responsive. This witness, who's here to testify about action, about knowledge of legal department concerning allegations and participation of the legal department in two sets of activities is not here today to testify about how I conducted a document production.
MR. TURET: In the interest of expediency, why don't we move on. We'll go back to the document and if I have questions I'll come back to it at the end.
BY MR. TURET:
Q. We were to the presentation to field sales document. Do you still have that in front of you?
A. Yes.

Q. Okay. Is this a document that the legal department prepared?
A. I don't believe so, no.
Q. To the best of your knowledge, did the legal department, you know, review it and edit it or make recommendations as to the contents of this document?
A. A lawyer may have reviewed it. I'm not aware of seeing any indication that it was edited or commented upon by a lawyer.
Q. Let me direct you to the page that's marked seven at the top. Where it says number one, A List of Do's and Don't's for Regional Managers, and number two, A List of Likely Customer Questions Together With Answers Approved by Jim Springgate and Our Legal Department. Now, Jim Springgate was who at the time?
A. Mr. Springgate was a senior manager.
Q. And was he in charge of the plasticizer division at the time?
A. I think he may have been in charge of the business unit that plasticizers were part of.
Q. And given that this was approved by the legal department, I take it these answers --

questions and answers were at least offered up to the legal department for their review before being published here?
A. That's correct.
Q. Now, can you flip back to page three for a moment?
A. Yes.
Q. There are references here to a letter that's to go out in February. Is that the first -- the customer notification letters about PCBs and the environment?
A. I don't know if that was the first one. It was certainly one of the --
Q. But I'm looking for the reference specifically. Here it is, page two at the bottom it says the letters will be mailed from St. Louis about the end of February.
A. Yep.
Q. Is that a reference to the letter that went out to the customers, purchasers of Aroclors from Monsanto in late February?
A. Of 1970, I believe, yes.
Q. Okay. Now, number one on page three says its primary function is to alert customers to a potential environmental pollution problem. Was

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that the conclusion concurred in by the legal department at the time?
A. I believe so, yes.
Q. Okay. And then it says confidentially, our legal department believes this will minimize and hopefully eliminate claims made against us for environmental pollution damage. Is that an accurate statement?
A. Well, I see the words. I have to say I think that's a little optimistic but, you know, it is what is written there.
Q. And is that representative of the legal department's conclusion at the time?
A. I think if you focus on minimize, I would say that that's probably reflecting the thinking of the law department.
Q. The law department still thought there could be lawsuits, they just would be lessened by sending a letter out?
A. I think the import here is that lawsuits are possible but providing information to our customer helps reduce that possibility.
Q. Was it the practice of the legal department back in February of 1970 to participate in drafting proposed questions and

answers to be distributed to salespeople and within Monsanto?
A. It depends upon the circumstances.
Q. Okay. On the PCB issue, did the legal department participate in drafting questions and answers?
A. In some circumstances, yes.
Q. Now, was the legal department aware back in February of 1970 that certain of the customers of Monsanto would stock up on Aroclor PCB products and live off inventory until a suitability alternative could be found?
A. I think everyone was aware of that possibility.
MR. TURET: Okay. I have no further questions on that one. Mark this as number 13.
(Exhibit Bistline-13, ^, is marked for identification.)
BY MR. TURET:
Q. Mr. Bistline, I'm going to show you a document that's been marked as Bistline-13. It's document number MAE 0034803 through 814 and it's entitled Possible Customer Questions on PCBs, Publicity. Have you seen this document before, Mr. Bistline?

A. Yes, I believe I have.
Q. And is it your understanding that this set of questions and answers were prepared by the legal department?
A. I'm not sure if -- I can say that they were prepared by the legal department, no, by the law department. I would imagine -- excuse me I would imagine that a member of the public affairs staff had a major land in it.
Q. Is it your understanding that the law department had an opportunity to review and comment upon these questions and answers before they were published?
A. Certainly.
Q. Now, referring to the section on -- towards the end, looks like pages 11 and 12, last two pages, the section on applications, did the legal department draft that portion?
A. I don't know whether we -- whether a lawyer drafted these or not.
Q. Do you know whether a lawyer drafted any portion of this?
A. All I can tell you, Mr. Turet, is that I'm certain that a member of the law department had an opportunity to review and make suggestions.

MR. TURET: Okay. Mark that as Bistline-14.
(Exhibit Bistline-14, ^, is marked for identification.)
BY MR. TURET:
Q. Mr. Bistline, I'm going to show you a letter that's been marked as Bistline-14. It's marked MAE 054452 through three three and ask you if you've seen this document before?
A. Yes, I've seen this document.
Q. Is that the letter that went out in late February of 1970 from Monsanto to its customers who purchased Aroclor products?
A. I think there's a handwritten note here that says February 17th, 1970 mailing.
Q. Actually my copy looks like February 27th.
A. Well, it may be two seven but it could be a one seven but whenever it was, in February of 1970.
Q. Okay. Did the legal department draft this letter to customers?
A. I doubt that a lawyer drafted it.
Q. The legal department have an opportunity to review it and make revisions if appropriate?
A. I'm sure someone did, yes.

Q. That's all I have on that one.
(Exhibit Bistline-15, ^, is marked for identification.)
BY MR. TURET:
Q. I'm going to show you is a letter that's marked Bistline-15 and Bates numbered MAE 053948, which is a February 16th, 1970 letter from D.S. Cameron?
MR. TYRRELL: Do you have an extra copy of that one?
MR. TURET: Yeah. Just take that.
MR. TYRRELL: Thank you.
BY MR. TURET:
Q. Have you seen this document before, Mr. Bistline?
A. I probably have. I don't have a specific recollection of it.
Q. Who is D.S. Cameron or who was he?
A. I'm not sure.
Q. Okay. It says up at the top D.S. Cameron, Brussels?
A. Correct.
Q. Was that a location of another of Monsanto's facilities back in February of 1970?
A. We had an office in Brussels.

Q. How about H N Dolstrum up at the top, do you know who he is?
A. I do not, no.
Q. And of course William Papageorge was an employee of Monsanto based in St. Louis at the time?
A. Correct.
Q. Now, was the legal department involved in drafting this letter to your knowledge?
A. This memo?
Q. This memo, yes.
A. I have -- no idea whether they were or not.
Q. Was the legal department in St. Louis involved in drafting letters that went to customers of Monsanto a broad?
A. I would assume that lawyers in the countries in which the letters were being sent, if we had lawyers in those countries or our European lawyers would look at them, yes.
Q. How about your lawyers in St. Louis, did they also look at customer notification letters that were going to customers in Europe?
A. They may have.
Q. To your knowledge, were the customer

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notification letters being sent out in Europe different than the ones that were going to customers in the United States?
A. There may be nuances that are different in the two letters that would be appropriate for the circumstances in different countries but essentially the same information is being given.
Q. What are the nuances, if you know of them?
A. I'd have to look at the letters and see if I could discern them.
Q. Well, this memo from Mr. Cameron -- by the way up in the corner it's a little bit wrinkled. Can you tell if that's a Monsanto reference? This is the only copy we were given.
A. DSC/EC, is that what you're looking at?
Q. No, I was looking D /ST-FPLT Cameron dash Brussels. There's an O which would appear to be --
A. Yeah --
Q. Is this a Monsanto memo?
A. This is a copy of what appears to be the standard Monsanto interoffice memorandum form and that form had in the top left-hand corner

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Monsanto and then whatever location it was coming from.
Q. Okay.
A. So I would imagine what you can't see here says Monsanto Brussels location or something like that.
Q. Okay. Now, Mr. Cameron says in this memo that in view of the present situation in the UK, we thought our letter should be somewhat more detailed than the one that you mailed in the U.S. Do you know what he was referring to in that regard?
A. No, sir, I don't.
Q. Now, he specifically mentions in the next sentence that, for example, we did not think we should omit all reference to Aroclor 1242. What is he referring to in terms of omitting it from the United States version?
A. Well, I'm not certain what he's referring to either because we did mention Aroclor 1242 in our letters to customers.
Q. Did Monsanto cease selling Aroclor 1242 to all customers at the same time it ceased selling 1254?
A. I believe Aroclor 1242 was discontinued, I

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want to say in the -- in the -- maybe in the '71-72 time frame. Maybe a little later than other sales restrictions.
Q. Actually can you look back at the exhibit that's Bistline-14?
A. 14, yes.
Q. The February, 1970 letter. I'm seeing reference to 1254 and 1260. I don't see a reference to 1242 but perhaps I'm missing it.
A. The message in this letter is that PCBs with chlorine content less than 54 to 60 percent haven't been found in the environment and then it identified perhaps that's the reference to omitting 1242. I don't know. But I am aware that back in this time period, back in the early 1970s the analytical techniques available at that time showed only PCBs with chlorine content '54 to 60 percent or higher.
Q. Okay. Now, farther along in the letter there's --
A. Which one are we looking at?
Q. I'm sorry, back to the memo from D.S. Cameron.
A. Okay.
Q. Bistline-15. Mr. Cameron says that H N

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Dolstrum is coming to St. Louis and he specifically says to William Papageorge that one of the items high on his list of priorities will be clearance of the text of our draft letter with the business groups involved and he goes on to ask Mr. Papageorge to initiate clearance with them and with the law department. Have you seen documents that refer to seeking the law department's input on the European version of the customer notification letter?
A. Other than this reference, I don't recall any, no, but it doesn't surprise me that they would want a lawyer to look at it.
Q. What was the autumn Irish sea incident that's referred to in the last sentence?
A. Have no idea.
Q. Okay. And one last thing on that before we leave it, the other thing that Mr. Cameron suggests to Mr. Papageorge as a difference between is the United States version of the customer notification letter and the proposed European version was that we have tried to give constructive guidance on the precautions to observe to minimize the pollution risk. What

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does that mean? Do you see at the end of the first paragraph?
A. I see the words. I'm not sure what the reference is to.
Q. Do you know one way or another whether the European version contained more specific guidance on minimizing pollution risk than did the American version?
A. To my knowledge, the two sets of guidance or suggestions were -- were quite similar.
Q. Have you seen the draft that was submitted to the American law department as opposed to the final version that went out?
A. I don't believe I have, no.
MR. TURET: Bistline-16.
(Exhibit Bistline-16, ^, is marked for identification.)
BY MR. TURET:
Q. Mr. Bistline, I'm showing you a document that's been marked as Bistline-16, which is a March 30th, 1970 letter retyped for legibility from Doctor Kelly. I guess it's a memo from Doctor Kelly to Mr. Papageorge.
A. Yes.
Q. Have you seen this document before?

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A. Yes, I have.
Q. And what is it?
A. It's a memo from Doctor Kelly to Mr. Papageorge.
Q. Okay. Did this come from the law department? Other than in its document repository had it been in the law department originally to the best of your knowledge?
A. No, Doctor Kelly was the medical director.
Q. Now, who retyped this for legibility, if you know?
A. I think that that was probably done either -- well, it was done by out of our outside counsel to assist use of this document in a case several years ago.
Q. And the second page of it is the original --
A. That's correct.
Q. -- in Monsanto's files previously?
A. That's correct.
Q. Now, down in the last paragraph, Doctor Kelly says when are we going to tell our customers not to use Aroclor in any paint formulation that contacts food, feed or water or animals or humans? Was that the legal

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department concern in March 30th of 1970 as well as Doctor Kelly's concern?
A. Well, Doctor Kelly was mistaken when he wrote that because he assumed that it hadn't been done when, in fact, it had.
Q. And where had that advice or instruction or guidance been given?
A. In -- in the several letters that were sent out to Aroclor customers.
Q. As of March 30th, 1970.
A. As of March 30th, 1970, yes, and I believe there was also -- I think it's primarily the letters I think that other -- other events relating to silage had yet to unfold.
Q. Now, Doctor Kelly also notes a little farther down that it mate be that some of the customers will assure themselves on the basis of non-extract ability that a particular formulation might be safe but I think we should make a blanket recommendation against these uses. Is it your position that the blanket recommendation already had been given as of March 30th, 1970?
A. It's my understanding that we were recommending to our customers not to use in any

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application that had contact with animal or human food or feed.
Q. As of March 30th, 1970?
A. Yes, sir.
MR. TURET: Bistline-17.
(Exhibit Bistline-17, ^, is marked for identification.)
BY MR. TURET:
Q. Have you seen this document before?
A. Yes.
Q. I notice up at the top, Phocian Park is again cc'd here. Are there any other members of the legal department listed up above?
A. No one that I recognize as a -- as a member of the law department.
Q. Now, Phocian Park was also cc'd on the last note from Doctor Kelly, among a universe of only four people, and his name keeps coming up. Is there any reason why Mr. Park's name seems to be the one from the legal department that keeps showing up on the recipient list of these PCB documents?
A. I -- I believe that that's because Mr. Park had been a lawyer that people in the medical department had been used to contacting

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on various matters. He was probably at that point the lawyer with the most scientific training. He had an engineering background so he probably by default rather than the other reason was the lawyer that they would turn to with questions.
Q. By the way, I skipped over, I have not handed you Bistline-17. I handed you a copy. Bistline-17 is a document marked MAE 059946-47 and it's an April 3rd, 1970 memo. That's the one you already indicated you'd seen before --
A. Yes.
Q. -- Mr. Bistline?
A. Yes.
Q. To your knowledge, was the legal department -- let me withdraw the question.
Did the legal department have a position as of April of 1970 as to whether a new technical bulletin should come out on the Aroclor PCB products?
A. I'm not sure that that was a legal question.
Q. Well, given the events that were going on domestically and a broad with regard to PCBs and given that this was sent to Mr. Park in

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particular on behalf of the legal department, certainly there were legal department issues associated with PCBs at the time, correct?
A. Certainly.
Q. And so the question is with the February 9th or February 27th letter already having been sent out, did the legal department have input on the issue of whether there should be a revised technical bulletin that related to sales of PCB products?
A. As I said before, I'm not sure that was the legal question but certainly if there was a lot law department concern, this memo would have -- would have raised it but again I'm not aware that that was a legal concern per se.
Q. Do you know whether the legal department had a concern about promoting PCB sales at a time when those products already were under fire as an environmental pollutant and being considered for withdrawal from the market?
A. Did we have a legal concern about that?
Q. Yes.
A. I'm not aware of any.
Q. No legal concern at all as of April of -- April 3rd of 1970 about continuing to market

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PCB plasticizer products?
A. That's a different question.
MR. TYRRELL: Can I hear what the question is?
(Designated question is read.)
THE WITNESS: I'm sure that there were legal concerns, not just with PCB plasticizer products but with all the PCB products which were very controversial, beginning to be very controversial at that point.
MR. TURET: Perhaps I misunderstood the question the answer that came before it. Can you go back to the question before that, the question and answer that were given?
THE WITNESS: I thought you were talking about the technical bulletin and trying to figure out why there would be a legal problem with the technical bulletin.
MR. TURET: Okay.
BY MR. TURET:
Q. Is it your understanding that a technical bulletin is one form of marketing material?
A. It can be used in that capacity, yes.
Q. Was there a legal department concern about

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the publication of new marketing materials directed towards the sales of PCB plasticizer products in April of '70?
A. There may have been.
Q. Were there?
A. Were there for a fact? I don't know.
Q. Have you had occasion to see within the legal department's records a letter that was sent out by Monsanto to Congressman Ryan?
A. I've -- I'm generally familiar with that exchange, yeah.
Q. Okay.
A. I don't think it's -- I don't think it's confined to law department files. I mean that document is in our PCB archive.
Q. All right. Understood. In the interest of keeping the number of exhibits down, do you know one way or the other whether the legal department drafted that letter to Congressman Ryan?
A. Again I don't believe a lawyer drafted it but there was a lawyer involved in the procession of sending that correspondence to him.
Q. Okay. And the June 1, 1970 customer

FROM LATHAM & WATKINS NEWARK (TUE) 2. 16' 99 12:37/ST. 12:24/NO. 4861372478 P 22

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notification letter, I can mark it as an exhibit if you wish --
A. I'm generally familiar with the letter.
Q. Was that a letter that was drafted by the legal department?
A. Probably not.
Q. Was it drafted with an opportunity for the law department to review it?
A. Yes.
Q. And change it in any way if needed?
A. Make comments or changes that they thought were appropriate, yes.
Q. And the August 14th, 1970 customer notification, are you generally familiar with that one as well?
A. In general.
Q. Okay. Do you know whether that one was drafted by the legal department as opposed to somebody else?
A. Again, it was probably the same, same manner. It was not drafted by a lawyer but a lawyer was involved in the review process.
Q. Now, have you had occasion to see technical bulletin 306A?
A. I don't have in mind what type of bulletin

306A is.
Q. I've not planned on marking it as an exhibit. 306A -- are you aware of there having been a revised technical bulletin that related to Aroclor plasticizers during 1970?
A. I don't know one way or the other.
Q. Do you know -- if I represent to you that there was a technical bulletin 306A published by Monsanto during 1970, which was a revision of the technical bulletin 306, do you know one way or the other whether the legal department revised the technical bulletin en route that publishing 306A?
A. I don't know as I sit here, Mr. Turet, no.
MR. O'CONNOR: Can we take a short break?
(Recess.)
MR. TURET: Mark this as Bistline-18.
(Exhibit Bistline-18, ^, is marked for identification.)
BY MR. TURET:
Q. Mr. Bistline, I'm going to show you a press query that's been marked as Bistline-18 marked MAE 032866-67 and ask if you've seen it before today?

A. Yes, I've seen this.
Q. Okay. Can you tell me as you look up and down the list of recipients, is there a member of the legal department on that list?
A. Wayne Withers is a lawyer. He is the only one that -- that I am aware on that list that's a member of the law department.
Q. Now, by September of 1976 was Mr. Withers sort of point person on PCB issue within the law department?
A. It's possible he may have had some involvement. I'm not sure he was the point -- I'm not sure that there was a point person in the law department on PCB issues.
Q. Now, this is being -- it says handled by D.R. Bishop. Because Mr. Bishop on that a public relations person within Monsanto?
A. Yes.
Q. Now, was this a document that was prepared by the public relations or marketing department or was it prepared by the legal department?
A. This document was prepared by Mr. Bishop.
Q. Was it reviewed and/or approved in advance by the legal department?
A. I would certainly not think so.

Q. Okay. Now, there are references at the end to a position summarized by George Rouche. He was the medical director at the time?
A. That's correct.
Q. And it says that, you know, quote, we have seen nothing in the evidence to date that would suggest a link between PCBs and cancer. As of September of 1976, was that the Monsanto position on the issue of PCBs and cancer?
A. Yes.
Q. Okay. Was the legal department involved in developing that position?
A. That's a scientific matter.
Q. So the legal department's input wasn't invited on that conclusion?
A. To my knowledge the law department is not in the business of giving scientific advice.
Q. Is it involved in shaping scientific advice based on lawsuits or other legal matters that are out in the public?
MR. TYRRELL: Objection to the form of the question.
BY MR. TURET:
Q. I'm sorry?
A. We don't affect the substance of

scientific studies or advice.
Q. Okay.
MR. TURET: Bistline-19.
(Exhibit Bistline-19, ^, is marked for identification.)
BY MR. TURET:
Q. Okay. Mr. Bistline, I'm going to show you a document that's been marked as Bistline-19, which is Bates numbered MAE 006686-87, September 11th, 1980 note to editors and ask if you've seen this one before?
A. Yes, I've seen this.
Q. Okay. And is it your understanding that this document also is one that's produced by the public relations department?
A. The Public Affairs Department, yes.
Q. Public Affairs Department. On page two at the end of the first paragraph with reference to PCBs it says they are considered only mildly toxic on an acute basis when ingested humans, about on the same order as common table salt. That's a common phrase that seems to appear in public relations materials from Monsanto. Did the legal department have any input as to whether that was an appropriate message to send

out to customers or to the media?
A. Not to my knowledge, no. I mean it's accurate scientifically.
Q. It's still accurate today?
A. As far as I understand from scientists who are familiar with this, yes.
MR. TURET: I have no further questions at this time.
(EXAMINATION OF MR. BISTLINE BY MR. O'CONNOR:)
Q. I just have a couple.
Mr. Bistline, prior to your deposition here today, you stated that you did review Mr. Park's deposition transcript?
A. That's correct.
Q. Did you review any documents that were subject to the attorney client or work product privilege?
A. No.
Q. Were you shown a redaction log with reference to the documents that had been produced in this particular case?
A. I was shown a privilege log.
Q. Privilege log.
A. Yes, I did see that.
Q. What did you do with the privilege log?

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TOWOLDMON0051255

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A. I looked at it.
Q. Okay. And did you look at any documents that were contained on the privilege log?
A. No, sir.
Q. Do you know why you were shown the privilege log?
A. Just so I would be aware of -- of -- you know, have fresh in my mind what documents had been withheld on the basis of privilege.
Q. And the documents that were withheld on the basis of privilege, were you familiar with those documents?
A. I was -- yeah, I could recall some of them from memory. Others I would have to -- would have had to look at to recall what they were.
Q. Were some of those documents to the best of your knowledge produced in other litigations involving PCBs?
A. To my knowledge, no, we've tried to be very consistent about this and be on top of documents that are privileged so that we have those segregated and not being produced identified, not segregated.
Q. The documents that you recall on the privilege log that -- on the privilege log that

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was shown to you, have you -- had you reviewed that privilege log in reference to other litigations on prior occasions?
A. I have reviewed privilege logs from other cases. I did not review any from other cases in connection with this deposition.
Q. Mr. Turet had asked you a series of questions about what the legal department new or didn't know at various time periods.
A. That's correct.
Q. Late sixties and early seventies, correct?
A. Correct.
Q. We've gone over some documents that indicates that perhaps in October of 1969 it was suggested that customers who are purchasing certain Aroclors be notified of the potential environmental polluting effects that PCBs had.
A. Environmental concerns, yes.
Q. We've also seen a letter on Monsanto letterhead that I believe was dated February 27th, in or around February 27th of 1970, warning customers of Aroclors of potential environmental concerns or effects, correct?
MR. TURET: Objection.
THE WITNESS: Correct.

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BY MR. O'CONNOR:
Q. Do you know when it was that Monsanto stopped selling Aroclors?
A. Altogether?
Q. Yes.
A. 1977.
Q. Was there a time in 1970 where Aroclor 1254 was no longer available for so-called open uses?
A. Beginning in either late or 1971, that's correct.
Q. If I told you August of 1970, would that refresh your recollection at all?
A. That would probably be about right.
Q. Okay. Do you know if the legal department had any input into the decision between August of '69 and -- or rather October of '69 and August of 1970 to continue to sell Aroclors during that time period?
A. I'm not sure I understand. Are you asking me if a member of the law department advised the company to continue selling during that period of time?
Q. I'm not asking specifically for advice from the legal department. That may be viewed

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as privileged. My question is is that Monsanto made a corporate decision to continue to sell the Aroclor line at least from October of '69 through August of 1970. Is that your understanding?
MR. TYRRELL: I need to object because I think the reference to Aroclor line is confusing. Certain things were discontinued at different times.
MR. O'CONNOR: Sure. Okay.
BY MR. O'CONNOR:
Q. Let's stick to Aroclor 1254 then.
A. Okay.
Q. Would you agree with me that Monsanto made a decision to continue to sell Aroclor 1254 at least between October of 1969 and August of 1970?
A. Yes.
Q. Do you know whether or not the legal department had any input into the corporate -- the corporation or the company's decision to continue to sell that, despite the warning letters that had been sent out?
MR. TURET: Objection to form.
THE WITNESS: I'm not sure I

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necessarily agree with the way that the question is posed.
BY MR. O'CONNOR:
Q. Okay. What is it you don't agree with? Perhaps you could ask it better.
A. Well, let me just explain what I understand to be the context there.
Q. Sure.
A. Which was between 1969 -- October of '69 and into 1970 there was an attempt to come to some decision about what should be done with respect to the environmental issues that were developing, what would be the appropriate response of the company. At -- early in 1970 and as it developed through 1970 the decision was to stop selling to certain open uses. There wasn't a decision to keep selling until August. It was a decision to stop selling and as soon as that could be done in an orderly fashion.
Q. Well, when you say in an orderly fashion, what do you mean by that?
A. Well, we had customers who particularly in the instance of hydraulic fluid but in other areas, too, who demanded for safety reasons on

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the continued availability of that product. We felt it would be irresponsible, the company felt it would be irresponsible to stop selling something that was providing a large margin of safety in that industry certainly until we were assured that there were commercially available alternatives.
Q. When you say we, did the legal department have any input into that decision as far as you know?
A. As we with other questions like that Mr. Turet asked, I don't know of specific input or specific meetings but there were lawyers involved in the process being consulted by the scientific and business people who were making the decisions.
Q. The documents that you reviewed -- well, not the documents that you reviewed. The privilege log that you reviewed were there any documents that would perhaps provide information on that particular issue as to whether or not the legal document -- the legal department provided any input into the company on the decision to stop selling Aroclor 1254 for specific uses?

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A. I'm -- I'm not aware of any document that would reflect that.
Q. Do you recall in March of 1970 a new label being devised for Aroclor 1254?
A. I recall that there was a new label. If you're saying it was March of 1970, okay.
Q. Does that sound right?
A. That would be about when labels containing environmental warnings were -- were applied to product.
Q. Earlier you made reference to warnings pertaining to Aroclor 1254 not being used for uses that would put it in contact with --
A. Food and feed.
Q. Food and feed and human contact, correct?
A. Correct.
Q. Do you recall reviewing any documentation involving Mr. Papageorge with regard to devising a new label for Aroclor 1254 in or around March of 1970?
A. I don't think it was necessarily specific to Aroclor 1254. I think this was something that was generally applicable to all of the PCB products.
Q. Well, the silo cases that was discussed in

one of the documents that's been marked here today, there was litigation I believe in Ohio, correct? Or Michigan?
A. There was litigation in both states.
Q. Okay. Regarding PCBs that had got into feed?
A. Correct.
Q. Correct? If I'm recalling Mr. Papageorge's testimony correctly, he stated in and around March of 1970, after being -- becoming aware of that litigation, he revised a label to be affixed to all shipments of Aroclor 1254. Do you recall reviewing any documentation prior to today that related to that revision of that warning, that label?
A. I had seen and not any time recently but I have seen documentation relating to the revision of the Aroclor product label that occurred in that early 1970 time frame and Mr. Papageorge of course was central to that whole process right then, effective in January of 1970 he was the focal person for all of the company's efforts on PCBs. So he would necessarily have been involved in that effort.
Q. The privilege log that was reviewed, was

there any specific correspondence between Mr. Papageorge and the legal department that you can recollect when you reviewed this privilege log?
A. I'd have to look at the log again. I don't recall as I sit here.
Q. Do you know the number of pages as pertains to the documents that were listed on that privilege log? Can you give me an idea?
A. How many pages of documents were withheld?
Q. Right.
A. I really don't know. There were I guess about four or five pages's worth on the list. I don't know how long each of those documents is.
Q. When you were contacted by Mr. Tyrrell and it was discussed as to whether or not you would be produced as a 30(b)(6) witness, did you go back and do an independent search of any of the million or so documents that are maintained by Monsanto's legal department with reference to PCBs?
A. No.
Q. The documents that you reviewed or rather strike that.

The privilege log was provided to you by Mr. Tyrrell?
A. That's correct.
Q. Who provided you with Mr. Park's deposition transcript?
A. That also came from Mr. Tyrrell's office.
Q. And why was it that you reviewed Mr. Park's deposition transcript?
A. Because he's the only other member of the Monsanto law department that I'm aware of who was deposed in this case.
Q. Have you had any discussions with him at all about this case?
A. No, sir.
MR. O'CONNOR: All right. I don't have anything further. Thank you.
MR. TURET: I have no further questions. Thank you.
MS. KARLOVICH: We don't have any questions. Thank you.
MR. TURET: The record is closed.
(Adjourned.)

CERTIFICATE

I, Joann P. Callahan, a Notary Public and Certified Shorthand Reporter of the State of New Jersey, do hereby certify that prior to the commencement of the examination,
THOMAS BISTLINE
was duly sworn by me to testify to the truth, the whole truth and nothing but the truth.
I do further certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.
I do further certify that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel and that I am not financially interested in this action.

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

EXHIBITS

(Exhibit Bistline-1, ^, is marked for identification.) 5:3
(Exhibit Bistline-2, ^, is marked for identification.) 46:17
(Exhibit Bistline-3, ^, is marked for identification.) 49:14
(Exhibit Bistline-4, ^, is marked for identification.) 54:4
(Exhibit Bistline-5, ^, is marked for identification.) 54:6
(Exhibit Bistline-6, ^, is marked for identification.) 57:12
(Exhibit Bistline-7, ^, is marked for identification.) 67:2
(Exhibit Bistline-8, ^, is marked for identification.) 71:24
(Exhibit Bistline-9, ^, is marked for identification.) 73:2
(Exhibit Bistline-10, ^, is marked for identification.) 76:13
(Exhibit Bistline-11, ^, is marked for identification.) 84:3
(Exhibit Bistline-12, ^, is marked for identification.) 90:3
(Exhibit Bistline-13, ^, is marked for identification.) 105:17
(Exhibit Bistline-14, ^, is marked for identification.) 107:3
(Exhibit Bistline-15, ^, is marked for identification.) 108:2

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(Exhibit Bistline-16, ^, is marked for identification.) 114:16
(Exhibit Bistline-17, ^, is marked for identification.) 117:6
(Exhibit Bistline-18, ^, is marked for identification.) 123:19
(Exhibit Bistline-19, ^, is marked for identification.) 126:4

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