

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

CECIL SCOTT, ET AL

VS.

MONSANTO COMPANY

*
*
*
* CIVIL ACTION
* NO. B-84-1103-CA
*
*

SEPTEMBER 3, 1987
VOLUME XIV

BEFORE THE HONORABLE JOE J. FISHER
UNITED STATES DISTRICT JUDGE, AND A JURY

REPORTED BY:

C. FRANK MCMILLAN
FEDERAL COURT REPORTING CO.
P. O. BOX 2664
BEAUMONT, TEXAS 77006
(409) 839-2518

A P P E A R A N C E S

ATTORNEYS FOR PLAINTIFFS:

MR. DAVID M. LACEY
MR. MICHAEL A. POHL
MS. SUSAN BAKER
GILPIN, POHL & BENNETT
1300 POST OAK BOULEVARD
HOUSTON, TEXAS 77056

MR. THOMAS HENDERSON
MR. ANTONIO PYLE
HENDERSON & GOLDBERG
1030 FIFTH AVENUE
PITTSBURGH, PENNSYLVANIA 15219

MR. BENTON MUSSLEWHITE
609 FANNIN, SUITE 517
HOUSTON, TEXAS 77002

ATTORNEYS FOR DEFENDANT:

MR. ROBERT A. HALL
MR. ROBERT A. JONES
MR. JONATHAN SHOEBOOTHAM
WOODARD, HALL & PRIMM
4700 TEXAS COMMERCE TOWER
HOUSTON, TEXAS 77002

MR. TANNER T. HUNT, JR.
MS. CHERYL D. OLESEN
MR. WALTER CRAWFORD
MR. MARK FREEMAN
WELLS, PEYTON, BEARD, GREENBERG,
HUNT & CRAWFORD
P. O. BOX 3708
BEAUMONT, TEXAS 77056

ALSO PRESENT:

MR. WILLIAM PAPAGEORGE, CORPORATE
REPRESENTATIVE FOR THE MONSANTO
CHEMICAL COMPANY.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

WITNESS: DR. PAUL WRIGHT

READING FROM DEPOSITION

PAGE
2176

1 still true today, is it not?

2 A Yes, as much as it can be, you know, living
3 900 miles apart.

4

5 MR. CRAWFORD: Thank you. Your Honor,
6 we have a few exhibits to offer if we could.

7 We have got 2811C, which are the
8 records of Dr. Spencer. We have got 2821A,
9 which are the Bloomington Hospital records.
10 We have got 2827A, which is a report from
11 the National Jewish Hospital on April 13th
12 and then we would also offer these three
13 exhibits which we have just made reference
14 to and that's 2397A, B and C.

15 THE COURT: All right. Any further
16 questions?

17 MR. CRAWFORD: Thank you.

18 MR. POHL: No, Your Honor.

19 THE COURT: All right. Mr. Toon, you
20 may stand down.

21 Ladies and gentlemen, the Court is
22 going to instruct the jury in regard to the
23 testimony by video depositions and
24 depositions of Dr. Wright, Dr. Paul Wright.

25 The Court made a ruling yesterday after

1 the plaintiffs had attempted to offer the
2 deposition of Dr. Paul Wright over the
3 objections of the defendant that it would be
4 admitted.

5 Then during the offering of the
6 deposition it appeared that Dr. Wright was
7 taking what is known as the Fifth Amendment,
8 that he refused to give testimony.

9 So, the Court could not see any purpose
10 in continuing that deposition after
11 inquiring of counsel if his answer to all of
12 the questions that they had asked, which was
13 some six or seven or eight questions, I
14 don't remember how many it was, maybe less
15 than that, but several questions.

16 The Court then reversed his ruling and
17 said that we would sustain the defendant's
18 objections to the offering of this testimony
19 by Dr. Wright and would grant their request
20 to suppress the deposition.

21 Out of an abundance of fairness, the
22 Court has been advised that there was some
23 testimony given by the witness to which he
24 did not assert a Fifth Amendment right and
25 gave some testimony.

1 The Court feels that although the
2 deposition may not be of too much
3 significance, that the jury should be able
4 to weigh and consider the deposition for
5 whatever it might be worth in regard to this
6 case.

7 And the deposition as the Court
8 understands offered by the plaintiffs over
9 the objections of the defendant for the
10 purpose of showing Dr. Wright's relationship
11 to Monsanto and the knowledge that Monsanto
12 had as to the test work which Dr. Wright had
13 done.

14 So, we are going to permit the
15 plaintiffs to reoffer or offer such
16 deposition testimony of Dr. Wright by video
17 or question and answer as they wish to
18 offer.

19 And we will also permit counsel to
20 state the number of questions that they have
21 asked Dr. Wright and the questions.

22 You may read the questions to which he
23 asserted his constitutional right of not
24 answering.

25 All right. You may proceed.

1 The record will reflect that the
2 defendant has made objections to this
3 testimony and they have a running objection.
4 All right.

5 MR. MUSSLEWHITE: Your Honor, to save
6 time, I'm simply going to say that we will
7 not rerun the video portion that we ran
8 yesterday. The jury has already seen it
9 about his background, when he went with
10 Monsanto then went with IBT and then back
11 with Monsanto.

12 There's no reason to repeat that and we
13 are just going to ask two questions and read
14 the answers and that's it, Your Honor.

15 THE COURT: All right.

16
17 MR. MUSSLEWHITE: "QUESTION: You knew
18 at the time you were a manager of toxicology
19 at Monsanto that Monsanto was continuing to
20 use the IBT test results that pertained to
21 Monsanto's Aroclor products in an effort by
22 Monsanto to forestall various government
23 regulations designed to limit the discharge
24 of PCBs into the environment?

25 "ANSWER: On my attorney's advice, I

1 hereby invoke the rights secured to me by
2 the Fifth and Fourteenth Amendments to the
3 U.S. Constitution and respectfully refuse to
4 answer that question on the grounds that any
5 information I give in response may tend to
6 incriminate me.

7 "QUESTION: Dr. Wright, when you had an
8 interchange with the EPA about causing them
9 to forestall their regulations limiting the
10 discharge of PCBs into the environment, you
11 knew at that time that the IBT Aroclor
12 studies both understated and misrepresented
13 the toxic effects of PCBs on rodents; isn't
14 that true?

15 "ANSWER: On my attorney's advice, I
16 hereby invoke the rights secured to me by
17 the Fifth and Fourteenth Amendments to the
18 U.S. Constitution and respectfully refuse to
19 answer that question on the grounds that any
20 information I give in response may tend to
21 incriminate me."

22
23 MR. MUSSLEWHITE: That concludes it,
24 Your Honor.

25 THE COURT: All right. What else do

1 you have? Do you have something to add?

2 MR. JONES: Yes, sir, Your Honor.

3 THE COURT: All right, Mr. Jones.

4 MR. JONES: Your Honor, in light of the
5 Court's ruling, I would like to read at
6 least a small portion of Paul Wright's
7 deposition.

8 That portion which begins on Page 18,
9 line 20. And this was an objection that I
10 made as counsel for Monsanto, prior to,
11 right after the first invocation of the
12 Fifth Amendment by Paul Wright.

13 MR. MUSSLEWHITE: Excuse me, Your
14 Honor. May I interpose this? He's about to
15 read an objection, not a question. And we
16 object to him reading his objections. I
17 don't mind him making the objection to His
18 Honor; but to read it from the deposition
19 seems superfluous.

20 THE COURT: I think that's appropriate.
21 No need of you reading your objection.

22 MR. JONES: Your Honor, the only thing
23 that I was going to state in connection with
24 that deposition was that I as counsel for
25 Monsanto requested Dr. Wright to truthfully

1 and honestly and completely answer all
2 questions that Mr. Pohl or I may ask at the
3 deposition because so far as Monsanto was
4 aware, there was --

5 THE COURT: The Court will accept that
6 statement.

7 MR. JONES: Okay. Thank you, Your
8 Honor.

9 Your Honor, I would like to read one
10 other additional portion and that's on Page
11 63 where I asked the question: Page 63,
12 line 10.

13
14 "QUESTION: Dr. Wright, for the past
15 hour and a half, you have been asserting
16 your Fifth Amendment privilege against
17 self-incrimination in the Constitution of
18 the United States.

19 "Do you intend to continue to assert
20 your Fifth Amendment privilege to the
21 questions that I may ask concerning the
22 subject matter of this lawsuit?"

23
24 MR. JONES: Wherein Mr. Wright's
25 counsel said: "Assuming that your questions

1 intend to ask Dr. Wright that as to each and
2 every question you pose that would touch
3 upon the same subject matter as Mr. Pohl's
4 questions to which Dr. Wright has invoked
5 his constitutional rights on behalf of Dr.
6 Wright, I would state that, yes, he intends
7 to invoke the same rights he invoked all
8 along during Mr. Pohl's questions."

9 At that point, I did not ask any
10 further questions and pass the witness.

11
12 THE COURT: All right. What do you
13 have next?

14 MR. POHL: We call Phil Smith as our
15 next witness.

16 THE COURT: Have a seat in the witness
17 chair. You may proceed.
18
19
20
21
22
23
24
25

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF TEXAS
3 OFFICIAL REPORTER'S CERTIFICATE
4
5

6 I, FRANK MCMILLAN, OFFICIAL COURT REPORTER FOR
7 THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN
8 DISTRICT OF TEXAS, DO HEREBY CERTIFY THAT THE ABOVE AND
9 FOREGOING PAGES CONSTITUTE A TRUE, CORRECT AND COMPLETE
10 TRANSCRIPT OF THE PROCEEDINGS IN THE ABOVE STYLED AND
11 NUMBERED CAUSE.

12 WITNESS MY OFFICIAL SIGNATURE IN THE CITY OF
13 BEAUMONT, TEXAS, ON THE 8th DAY OF October 1987.
14
15
16

17 C. Frank McMillan
18 C. FRANK MCMILLAN
19 OFFICIAL COURT REPORTER
20 UNITED STATES DISTRICT COURT
21 EASTERN DISTRICT OF TEXAS
22
23
24
25