

Page 1 1 IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY 2 3 JOAN MAERTIN, Executrix of) the Estate of Lothar Maertin,) 4 JOAN MAERTIN, individually) and in her own right, et al.) 5) Civil Action L-95-cv vs.) 6) 02849 (JBS) ARMSTRONG WORLD INDUSTRIES,) 7 INC.) 8 vs.)) 9 MONSANTO COMPANY and AMERICAN) MINERAL SPIRITS COMPANY) 10 11 12 TELEPHONIC DEPOSITION OF 13 WALTER F. WAYCHOFF 14 15 March 24, 1998 16 11:25 a.m. 17 18 90 Wagon Yard Plaza Carrollton, Georgia 19 20 Kara K. Lucas, CCR-B-1496 21 22 BROWN REPORTING, INC. 23 90 WAGON YARD PLAZA 24 CARROLLTON, GEORGIA 30117 25 (770) 830-0900	Page 3 1 WALTER F. WAYCHOFF, 2 having been first duly sworn, was examined and 3 testified as follows: 4 CROSS-EXAMINATION 5 BY MR. TAYLOR: 6 Q. Mr. Waychoff, can you state your full 7 name for the record, please? 8 A. Walter Frederick Waychoff. 9 Q. And spell that. 10 A. Frederick, F-r-e-d-e-r-i-c-k, Waychoff, 11 W-a-y-c-h-o-f-f. 12 Q. Sir, my name is Matt Taylor; and I 13 represent Armstrong World Industries, and you may 14 note it as Armstrong Cork or some other variation of 15 Armstrong. But I'm representing that company in a 16 matter pending in the District Court for the 17 District of New Jersey, United States District Court 18 for the District of New Jersey. 19 Are you aware of the lawsuit? 20 A. I found out about it about two months 21 ago. 22 Q. Okay. I'll get back to that. Sir, 23 what's your address? 24 A. 155 Dixie Meadow Lane, Carrollton, 25 C-a-r-r-o-l-l-t-o-n, Georgia, 30117.
Page 2 1 APPEARANCES OF COUNSEL 2 On behalf of the Plaintiffs: 3 ADAM RADITZ, Esq. (By Telephone) 4 Law Offices of Gary Ginsberg 3000 Atrium Way 5 Suite 101 Mt. Laurel, New Jersey 08054 6 7 On behalf of the Defendant Armstrong World Industries, Inc.: 8 MATTHEW A. TAYLOR, Esq. 9 Duane, Morris & Heckscher One Liberty Place 10 Philadelphia, Pennsylvania 19103-7396 11 12 On behalf of the Defendant Monsanto Company: 13 CHRISTOPHER M. DIMURO, Esq. Latham & Watkins 14 One Newark Center Newark, New Jersey 07101-3174 15 16 On behalf of the Defendant American Mineral Spirits Company: 17 CAROLYN F. O'CONNOR, Esq. (By Telephone) 18 Wilson, Elser, Moskowitz, Edelman & Dicker Two Gateway Center 19 Newark, New Jersey 07102-5311 20 21 --- 22 23 24 25	Page 4 1 Q. And how long have you lived there, sir? 2 A. Since June of '90. 3 Q. Prior to living in Carrollton, where did 4 you live? 5 A. Houston, Texas. 9430 Leader, 6 L-e-a-d-e-r, Houston, Texas, 77030. 7 Q. How long did you live there? 8 A. Since 1970. 9 Q. And prior to that where did you live? 10 A. Prior to that I lived at Crestwood, 11 Missouri; but I can't remember the address. 12 Q. And how long did you live in Missouri? 13 A. I lived in Missouri from 1950 to 1970. 14 Q. Sir, why don't you give me an idea of 15 your educational background; and I'll follow up with 16 some questions. 17 A. Okay. High school in Norway, Iowa; 18 college degree from Cornell College, bachelor of 19 arts; and various sundry training courses through 20 the years. 21 Q. Why don't you give me some idea of the 22 training -- 23 A. Training courses? 24 Q. Yes. And who sponsored them. 25 A. And who sponsored it?

Page 5 1 Q. Yes. 2 A. Most of them were sponsored by Monsanto 3 Company. There was a sensitivity training course. 4 And I can't remember the other ones. 5 Q. Any technical training? 6 A. No. No technical training. 7 Q. When you say a B.A., did you say liberal 8 arts? 9 A. Liberal arts, majored in chemistry and 10 math. 11 Q. Did you have a minor or another 12 concentration? 13 A. I guess it was a major in chemistry and a 14 minor in math. 15 Q. Okay. And what year did you graduate 16 from Cornell? 17 A. 1949. 18 Q. Have you ever had your deposition taken 19 before? 20 A. Once. 21 Q. And when was that? 22 A. The deposition was taken the day that 23 John F. Kennedy was slain. 24 Q. And what contents was that? What type of 25 case was that?	Page 7 1 had any discussions about this lawsuit or your 2 testimony today with any Monsanto employee? 3 A. No, sir. 4 Q. When was the last time you had any 5 contact irrespective of counsel from someone at 6 Monsanto? 7 A. Approximately 1986 or '87. 8 Q. And who was that? 9 A. I just went back to visit the campus at 10 Monsanto in St. Louis and just look and see who was 11 there. Strictly a social visit. 12 Q. I just want to understand. Besides the 13 deposition you took in 1963 in that trade 14 secret/employee type action, you've never given any 15 testimony either at trial or deposition on behalf of 16 Monsanto? 17 A. Yes, I have. Another case was in 18 Houston, Texas involving the use of a product called 19 Mod-Epoxy; and that was in 19 -- I guess that was the 20 mid-1960s. 21 Q. And was that in a deposition or at trial? 22 A. That was at trial. 23 Q. And what were the details of that case? 24 A. Monsanto made a product called Mod-Epoxy. 25 It was also called -- it's got another name,
Page 6 1 A. This was a deposition on employees' 2 confidential secrets or trade secrets, that 3 supposedly one Monsanto man transferred something 4 from one customer to another; and I was asked 5 questions about that. 6 Q. Okay. Well, it's been a while since 7 you've had your deposition. Just some general 8 ground rules. 9 This court reporter can only take down 10 verbal responses. So sometimes it's -- we're all 11 prone to just nod or shake our head. She can't take 12 that down. So try to verbalize your answers to me. 13 If I speak too quickly or you don't 14 understand any of my questions, just stop me, say I 15 didn't understand what you just said; and I'll 16 repeat the question. 17 You can take a break at anytime for any 18 reason as long as a question is not pending and I'm 19 waiting for an answer. Other than that, you can 20 take a break at anytime. 21 Are you on any medication today that 22 would prevent you from understanding any of my 23 questions and giving responsive answers? 24 A. I don't think so. 25 Q. Okay. Now, outside of counsel, have you	Page 8 1 chemical name, phosphate ester. And it was used in 2 epoxy resins to give them a little more 3 flexibility. 4 And the details were that the customer 5 needed some Mod-Epoxy in a hurry. The salesman down 6 there knew it had another name. He went to another 7 company and borrowed some of it, the triphenyl 8 phosphate, and delivered it to the customer. 9 Unfortunately there was water in the 10 product and the water in the product caused their 11 epoxy paint to gel; and they painted the Texas 12 stadium with paint that wouldn't cure. 13 Q. Sir, I'm going to mark with today's date 14 Waychoff Exhibit 1 and ask you to review this 15 document. 16 (Document was marked for identification 17 as Defendant's Waychoff Exhibit No. 1.) 18 Q. (By Mr. Taylor) Just for the record, 19 this is a notice to take deposition and produce 20 documents directed to Walter F. Waychoff dated 21 December 17th, 1997. 22 Have you seen this document before? 23 A. No, sir. 24 Q. Were you asked to review any files you 25 have for any Monsanto documents?

Page 9 1 A. No, sir. 2 Q. Do you have any documents at all from 3 your time at Monsanto? 4 A. I might have a catalog or two at home 5 someplace. 6 Q. A catalog? 7 A. Yeah. 8 Q. Do you have any correspondence or diaries 9 or calendars, anything like that? 10 A. No, sir. 11 MS. O'CONNOR: Excuse me. Matt, is 12 there construction going on where you are? 13 MR. TAYLOR: There is. 14 MS. O'CONNOR: Okay. Thanks. 15 MR. TAYLOR: Right next to us. 16 MS. O'CONNOR: Okay. 17 THE WITNESS: And I've got to get back 18 to work too. 19 Q. (By Mr. Taylor) Sir, after you graduated 20 from Cornell, when did you first -- where were you 21 first employed? 22 A. EI DuPont DeNemours. 23 Q. And was that in 1949? 24 A. 1949. 25 Q. And where was that?	Page 11 1 180. It was based upon a German product. And my 2 job was to try to establish commercial feasibility 3 of the product. 4 Q. And where did you work? Where were you 5 located? 6 A. I worked at St. Louis, Missouri in the 7 eight-story office building that was Monsanto's 8 worldwide headquarters at that time. 9 Q. And who was your supervisor at the time? 10 Do you remember? 11 A. Mr. Ken Craver. 12 Q. Who else did you work with? Do you 13 remember any other people you worked with on that 14 project? 15 A. George Litsinger, Howard Bergen, and Bill 16 Smythe. 17 Q. Mr. Waychoff, what types of applications 18 were you researching for that Santicizer 180? 19 A. It was a plasticizer for PVC, and we were 20 just trying to get it established in the marketplace 21 and try to decide if we were going to produce the 22 product commercially. 23 Q. And what were the benefits that you saw 24 in your research of that product? 25 A. It was a good plasticizer, sort of like
Page 10 1 A. Fairfield, Connecticut. 2 Q. And what was your job for DuPont? 3 A. Research chemist. 4 Q. How long were you employed at DuPont? 5 A. I was with DuPont from January of '49 to 6 June of '50. 7 Q. What were your responsibilities as a 8 research chemist at DuPont? 9 A. Compounding formulations made with 10 chlorosulfonated polyethylene and applying them to 11 fabric. 12 Q. Your next job? 13 A. My next job was with Monsanto Company. 14 Q. In June of 1950? 15 A. I think I started in August of '50, sir. 16 Q. And tell me about your first job at 17 Monsanto. 18 A. I was in the commercial development 19 department. I was in the organic chemicals 20 division. 21 Q. And what was your title? 22 A. Commercial development. 23 Q. And tell me what your job function was 24 beginning in August of 1950. 25 A. They had a product called Santicizer	Page 12 1 dioctyl phthalate, although not quite as effective 2 on low-temperature flexibility. 3 Q. And what types of applications or uses 4 did that santicizer apply to? 5 A. It was tested in PVC applications for 6 coated fabric, for garden hose, for electrical 7 cable, and any other PVC application that was there. 8 Q. Okay. Sir, how long did you continue in 9 that function, in the chemical organic -- 10 A. Commercial development, that was from 11 19 -- I was there until I went to commercial 12 technical service, and I believe that was about five 13 years. 14 Q. Roughly 1955? 15 A. 1955. No. Wait a minute now. Whoa just 16 a second. I started there in June of '50, and I 17 worked in commercial development for a period of 18 time. I was in on a special project for the U.S. 19 Government for three years, and then in 1960 I 20 joined the commercial technical service for 21 plasticizers. 22 Q. Okay. I just want to get an idea of the 23 transition from the commercial development to the 24 special project for the U.S. Government. 25 When did that special project --

Page 13 1 reassignment in that special project for the U.S. 2 Government begin? 3 A. I honestly can't remember the exact 4 date. 5 Q. Can you estimate for me? 6 A. Well, this was brought on because of the 7 Korean War; and I was about two and a half years in 8 it. I would say it was up to about 1954. 9 Q. Okay. And how long did you work on this 10 special project? 11 A. About two and a half years. 12 Q. Up until I believe you said 1960 you 13 began another assignment? 14 A. '55 roughly, '55 roughly. Then I was 15 back in commercial development. 16 Q. Oh, okay. 17 A. And then in 1960 I transferred to the 18 technical sales department of Monsanto's organic 19 division for plasticizers. 20 Q. Okay. On that special project for the 21 U.S. Government for about two and a half years I 22 believe you said, give me an idea -- describe what 23 that project was and what your responsibilities 24 were. 25 A. Myself and another gentleman from	Page 15 1 and any research lab that was actively engaged in 2 solid propellant research. 3 Q. Now, after the project was over and you 4 went back to the chemical -- the commercial 5 development for Monsanto, did your function change 6 from that Santicizer 180 product or did you go back 7 to that product? 8 A. Basically went back to that project and a 9 couple of other projects that were minor that I 10 honestly don't recall what they were. 11 Q. Now, did your title change in any way as 12 far as the seniority between -- 13 A. No. 14 Q. Okay. And give me an idea of what your 15 level was, if you can describe that for me, 16 between -- in the commercial development for the 17 organic chemicals division. Was there a title that 18 you were given other than just a researcher? 19 A. Development man. Development man is all 20 the title I had. 21 Q. Okay. And then that brings us to 1960? 22 A. Right. 23 Q. And you went to the organic chemicals 24 division, plasticizers? 25 A. Plasticizers for technical service.
Page 14 1 Monsanto were assigned to make a chemical 2 engineering survey of the solid propellant industry 3 for the U.S. Navy. 4 Q. Dealing with what types of chemicals or 5 what types of products? 6 A. This was any product that would burn 7 rapidly that would propel a rocket. So we had 8 nitrocellulose. We had -- several companies were 9 each promoting their scheme to the government; 10 however, some were using only raw material cost and 11 others were putting the finished propellant in a 12 rocket. 13 And our job was to go in and try to break 14 them all down and put them on the same basis so that 15 the Navy could make sense out of what they had. 16 Q. And did you have a supervisor on that 17 project -- 18 A. No. 19 Q. -- from Monsanto? 20 A. No, did not. Just two of us just worked 21 alone and then we submitted to the Navy. 22 Q. And where did you conduct that project? 23 In St. Louis? 24 A. All over the country. We conducted it in 25 any plant that made propellants during World War II	Page 16 1 Q. Okay. Now, did that bring with it any 2 kind of change in status or level? 3 A. There were pay raises. Are you talking 4 about pay raises or what, your title? 5 Q. Title, not necessarily pay raises. 6 A. No. Just technical serviceman. 7 Q. Okay. And describe for me your -- well, 8 first of all, who was your supervisor when you made 9 the switch to the plasticizer group? 10 A. Howard Bergen was my manager. 11 Q. And did he report to anyone on that 12 project or in that function? 13 A. Yes. He reported to a director of sales, 14 but I don't recall who that was at this time. 15 Q. And who else do you remember working 16 with? 17 A. I worked with -- at that time we had 18 three technical servicemen: Dave Bechtold, Peter 19 Spank, and myself. 20 Q. And what functions were you performing? 21 A. Our job was to go out and make customer 22 calls with salesmen and try to give them technical 23 assistance in utilizing Monsanto products in several 24 applications. 25 Q. And give me some examples of those

1 applications.

2 A. Manufacture of wire and cable, floor
3 tile, wall coverings, garden hose, etc., etc.

4 Q. When you would make these customer calls,
5 were you there by yourself or would you be
6 accompanied by a salesman?

7 A. A salesman would take us in.

8 Q. And give me an idea of how those meetings
9 would run.

10 A. Well, we'd call the salesman, say we
11 wanted to make calls in his territory; and we'd give
12 him an idea of any customers that we wanted to see
13 specifically to give assistance to and ask him to
14 set up any other appointments he wanted for us to
15 see.

16 We would then go and visit the customer
17 and ask them if they had any problems. If we had
18 anything to present to them, we would present it.
19 If they had problems, we would discuss it with them.

20 Q. Do you remember any of the customers that
21 you went to visit in that time frame around 1960?

22 A. Oh, boy. Anybody that was in PVC at that
23 time we visited.

24 Q. Do you remember visiting Armstrong?

25 A. At that time, no, because we had --

1 Armstrong was not one of my responsibilities at that
2 time. We divided the area where you gave technical
3 service to in three ways -- Bechtold, Spank, and
4 Waychoff -- and we were assigned certain sales
5 districts to give technical backup to. And
6 Armstrong Cork was not one of mine here. Now,
7 Armstrong Cork in Jackson, Mississippi was one of
8 mine.

9 Q. Okay. Well, first of all, tell me what
10 your territory was at that time.

11 A. I made calls in our Atlanta region, in
12 our Houston region, in our New York region,
13 Cleveland region, Chicago region. I think that was
14 it.

15 Q. Now, in 1960 when you went to the
16 plasticizer group, were you still stationed or based
17 in St. Louis?

18 A. Yes, sir.

19 Q. And you would just go on the road from
20 there?

21 A. Go on the road about one or two weeks a
22 month.

23 Q. Okay. And what types of products were
24 the customers that you were calling on or providing
25 technical services to using the plasticizers for?

1 A. What were they using them for?

2 Q. Yes. Give me some examples of some of
3 the applications or uses.

4 A. Floor tile, wire and cable, garden hose,
5 wall coverings, upholstery material. Just in
6 general that type of -- anything vinyl was used for.

7 Q. Was Aroclor one of the plasticizers that
8 would be covered in that group?

9 A. No. At that time we were not talking
10 about Aroclor. We were primarily talking about
11 Santicizer 160 or DOP or phosphate ester or
12 something like that.

13 We did a great deal of our technical
14 service on telling what problems you have and let's
15 see if we can come up with a way to solve the
16 problem.

17 Q. Okay. Now, at what time did -- did your
18 function change at all within that group, the
19 plasticizer group, and when did that change? If you
20 started in 1960, how long did you maintain it or did
21 you conduct --

22 A. Through '65 I was in technical sales. In
23 1962 I was assigned to take some trips overseas, and
24 I went to Europe several times.

25 Q. And what were your duties over there?

1 A. Same as they were in the United States
2 except working with agents of Monsanto overseas.

3 Q. At anytime between 1960 and 1965 in
4 technical services, did you deal at all with the
5 Aroclor plasticizers?

6 A. Not too much, to my knowledge.

7 Q. When you say not too much, what do you
8 mean?

9 A. I don't recall working with them very
10 much at all.

11 Q. Well, when you did work with them, in
12 what way would you work with them?

13 A. Worked with them as secondary
14 plasticizers for PVC. Secondary plasticizers, do
15 you need the definition of that?

16 Q. If you would, please.

17 (A discussion ensued off the record.)

18 Q. (By Mr. Taylor) If you would, I believe
19 you were going to define that term for me.

20 A. Primary plasticizer is one that can be
21 used by itself as an ingredient in PVC materials.
22 By secondary plasticizers, one, that if you used it
23 by itself, it would not stay in the PVC.

24 Q. Okay.

25 A. It would exude out, make it all sticky

Page 21 1 and icky looking. 2 Q. And what types of applications were 3 appropriate for this use of the Aroclor as a 4 secondary plasticizer? 5 MR. DIMURO: Object to the form. You 6 can answer the question. 7 Q. (By Mr. Taylor) Or applications, use or 8 applications. 9 A. You could use them in most any 10 application that PVC was normally used for; but you 11 just had to be careful how much you used, because 12 otherwise the plastic would become sticky and gooey. 13 Q. Okay. In 1965 you said there was a 14 change in your responsibilities. Why don't you tell 15 me about that? 16 A. I became product manager for plasticizers 17 worldwide and had reporting to me the other 18 technical service people where I used to be. 19 Q. Now, did you have a supervisor in that 20 function? 21 A. Yes. My supervisor then was Don Mariner. 22 Q. And what was his title? 23 A. Director of sales. 24 Q. And as projects manager for plasticizers, 25 why don't you tell me what your responsibilities	Page 23 1 MR. TAYLOR: We're going to take a 2 break right now. 3 (A recess was taken.) 4 Q. (By Mr. Taylor) Sir, just for the 5 record, what year were you born? 6 A. 1924. 7 Q. 1925? 8 A. '24. 9 Q. '24, I'm sorry. 10 (A discussion ensued off the record.) 11 Q. (By Mr. Taylor) Okay. Who were some of 12 the individuals that you supervised as product 13 manager between '65 and '70? 14 A. David Press, Gene Wild, Cumming Paton, 15 John Orem. 16 Q. You were supervising them? 17 A. I was supervising them, yes, sir. 18 Q. Sir, what was the reason that you 19 resigned from Monsanto in 1970? 20 A. I got unhappy because I felt I was passed 21 over on a promotion and I went to look for another 22 job. 23 Q. Who received the promotion that you felt 24 you -- 25 A. Walter Schalk.
Page 22 1 were? 2 A. Product manager. 3 Q. Product manager, okay. 4 A. My responsibility was to supervise the 5 technical service people that were working for me 6 and communicate to our salesmen the direction we 7 wanted to take business-wise and to review call 8 reports that might be submitted to me. 9 Q. And what products were you responsible 10 for? 11 A. All products in Monsanto's plasticizer 12 line which was approximately 85. 13 Q. Including the Aroclor? 14 A. Including the Aroclor, sir. 15 Q. And how long were you in that position? 16 A. I was in that position until I resigned 17 from Monsanto in November of 1970. 18 MS. O'CONNOR: I'm having trouble 19 hearing the witness a little bit. His voice 20 is trailing off. 21 Is there any way you can move the phone 22 closer or maybe keep his voice up, please? 23 THE WITNESS: Sure. I'll keep trying 24 to talk louder to you after I take a break. 25 MS. O'CONNOR: Thank you.	Page 24 1 Q. Walter Schalk. And what position was 2 that? 3 A. That was director of sales. 4 Q. Nationwide director of sales? 5 A. Yes, uh-huh. 6 Q. And were you ever given a reason why he 7 received that position and you didn't? 8 A. No, sir. 9 Q. Did you ask? 10 A. No, sir. 11 Q. After your employment with Monsanto, 12 where did you go to work? 13 A. I went to work for Signal Chemical 14 Company in Houston, Texas. 15 Q. And what did you do for them? 16 A. I was director of marketing and vice 17 president of Signal Chemical. 18 Q. In any specific division or department? 19 A. Signal Chemical is part of Signal 20 Companies and it had a separate entity of Signal 21 Companies. 22 Q. What types of products were you involved 23 in with them? 24 A. Hydroquinone and by-products in the 25 manufacturing product, line rather.

Page 25 1 Q. And how long did you maintain that 2 position? 3 A. I stayed there until Signal Companies 4 decided to close Signal Chemical in 1972. 5 Q. Thereafter where did you go? 6 A. Thereafter I went to work for a company 7 in the real estate business in Houston, Texas; and 8 honestly I can't remember the name of the company. 9 From there I went to Allstate Insurance Company. 10 Q. What year was that? 11 A. That was 1973 I believe. 12 Q. And what did you do for Allstate? 13 A. I was an account agent in the retail 14 store in the Greenspoint Mall in Houston, Texas. 15 Q. Were you selling general lines of 16 insurance? 17 A. General lines of personal insurance. 18 Q. And how long were you with Allstate? 19 A. I left Allstate when I retired December 20 31st, 1989. 21 Q. Since your retirement date, have you done 22 any kind of consulting or any employment at all? 23 A. No, sir. 24 Q. And that's when you moved to Carrollton? 25 A. Yes. We moved to Carrollton in June of	Page 27 1 counsel. 2 You can continue. 3 A. Okay. They asked me if I was going to be 4 willing to give an affidavit, and I said sure. So 5 they called me on the telephone and asked me the 6 questions and I gave them the answers. 7 Q. Okay. If you can, look at Paragraph 1, 8 sir. Have you reviewed Paragraph No. 1? 9 A. Uh-huh, yes, I have. 10 Q. You state that in 1966 to -- sometime in 11 1966 to 1968, Monsanto salesmen made a five-minute 12 general presentation to all of its customers. Is 13 that correct? 14 A. That's correct, sir. 15 Q. And that included Armstrong? 16 A. Yes, sir. 17 Q. And that was concerning the line of 18 Aroclor products? 19 A. That is correct, sir. 20 Q. But it was not specific to any Aroclor 21 product? 22 A. No, sir. 23 Q. Just the general line of Aroclors? 24 A. Yes, sir. 25 Q. Where was that meeting and tell me a
Page 26 1 '90. 2 Q. Okay. Sir, I'm going to mark with 3 today's date Waychoff 2 and ask for you to review 4 this exhibit. 5 (Document was marked for identification 6 as Defendant's Waychoff Exhibit No. 2.) 7 Q. (By Mr. Taylor) If you can, just briefly 8 review that document, sir. 9 A. I'm familiar with this document, yes, 10 sir. 11 Q. How did it come about that you signed 12 this document? 13 A. I received a request from Gerald 14 Davidson. 15 MR. DIMURO: Gerard Davidson. 16 THE WITNESS: Gerard Davidson. 17 MR. DIMURO: Who's an attorney at 18 Smith, Helms. 19 So to be safe, if you had any 20 conversations with Mr. Davidson, I would 21 considered them privileged. 22 MR. TAYLOR: I'm not interested -- 23 MR. DIMURO: Okay. 24 Q. (By Mr. Taylor) And I'm not asking for 25 the substance of any conversation you had with any	Page 28 1 little bit about what you remember about it. 2 A. I'm not sure when the meeting occurred at 3 Armstrong Cork. Our director of marketing for the 4 organic division just decreed that all Monsanto 5 salesmen would carry a sample -- a kit in that 6 showed all the Aroclor products and they would make 7 a five-minute presentation to all customers 8 extolling the virtues of Aroclor and just saying is 9 there any place that you could use these in your 10 line of products. 11 I was not alone on any of the 12 presentations to individual customers. 13 Q. So what you're referring to here as the 14 five-minute general presentation was not made to a 15 group of customers? 16 A. Individual customer at a time. 17 Q. And there was five minutes that you told 18 your salesmen to allot on the Aroclor products? 19 A. Yes, sir. 20 Q. And is that part of a longer or a more 21 detailed presentation on other products? 22 A. No, sir. 23 Q. So the sole purpose -- I just want to 24 understand. Is the sole purpose for a Monsanto 25 salesman just to go in to a customer for five

Page 29 1 minutes and leave? 2 A. No. He had other things to accomplish 3 while he was in the customer's office. 4 Q. That's what I'm getting at. 5 A. Yes. 6 Q. What was the general function of those 7 meetings? 8 A. It was a routine sales call on customers 9 to talk about the products we sold, any products 10 they had under development at the time with 11 Monsanto; and then as a side thing, they would draw 12 out the Aroclor bugle as we called it and sit it on 13 the purchasing agent's desk and say these are 14 Aroclors, they're nonoxidizing, they're -- just give 15 a general pitch on the properties of the products. 16 Q. And how many minutes were allotted to 17 other products? 18 A. I don't know. It depended upon the 19 customer. And I wasn't involved with that. It was 20 just saying take approximately five minutes to cover 21 the Aroclors. Some salesmen did it, some salesmen 22 did not. 23 Q. Describe that to me. What do you mean 24 some did, some did not? 25 A. Some would just take it in there and pull	Page 31 1 offices of the customer? 2 A. Yes, sir. 3 Q. Were they ever held at Monsanto? 4 A. No, sir, not that I know of. 5 Q. Okay. Do you specifically remember 6 whether Armstrong was the recipient of one of these 7 presentations by a salesman? 8 A. I'm sure they were, because the 9 instructions were they were to be shown to all 10 customers of the organic division; but I have no 11 specific knowledge as to when they were presented to 12 Armstrong Cork. 13 Q. It would have been approximately, 14 according to your affidavit, between 1966 and 1968? 15 A. That is correct, sir. 16 Q. At a time when you were product manager? 17 A. Yes, sir. 18 Q. In relation to whether it was a small 19 customer or a large customer, where did Armstrong 20 fit in on that scale? 21 A. They were an extremely large customer. 22 Q. For what products? 23 A. Santicizer 160 which they used in their 24 floor coverings. 25 Q. Well, what did you understand -- what was
Page 30 1 it out and say these are Aroclors, period. 2 Q. Would any salesmen give Aroclors more 3 than five minutes in a presentation? 4 A. I have no idea, sir. 5 Q. And were they instructed for any specific 6 reason just to devote five minutes to Aroclors as 7 opposed to a longer time or shorter time? 8 A. It was just thought if it took longer 9 they would lose the customer's interest. So it was 10 just a spattering of saying hey, this is our new TV, 11 it's this type of thing. It was just general 12 knowledge that they were imparting. 13 Q. Generally how or for a general matter how 14 long were these customer calls supposed to be in 15 length? 16 A. It varied, sir, depending upon the 17 customer. 18 Q. Why don't you give me an example of what 19 may make one longer or shorter? 20 A. Small customer, they didn't have much 21 going for the salesmen, it would be a short call. 22 If it was a rather involved customer, then it would 23 take longer. If it was a big major customer, it 24 would take longer. 25 Q. And these presentations were held at the	Page 32 1 your understanding of the types of products that 2 Armstrong manufactured? 3 MR. DIMURO: At which time? At what 4 time? 5 Q. (By Mr. Taylor) During the time when you 6 were product manager or at anytime, but I'll start 7 with at anytime. 8 MR. DIMURO: Well, after 1970 it 9 wouldn't be relevant, would it? 10 Q. (By Mr. Taylor) Okay. Your time as an 11 employee at Monsanto. 12 A. I'm aware that they manufactured floor 13 coverings, vinyl asbestos tile, also vinyl sheet 14 goods; and I was aware from seeing the products in 15 store that they had acoustical tile that they made. 16 Q. Well, but explain what was your 17 understanding of that product. 18 A. Right up there (indicating). 19 Q. Ceiling tiles? 20 A. Ceiling tiles, yes. 21 Q. And when did you obtain that 22 understanding? 23 A. When I saw the product at Central 24 Hardware in St. Louis, Missouri. 25 Q. When was that?

Page 33 1 A. I don't remember, sir. It was before I 2 left Monsanto. 3 Q. So sometime between 1960 and 1970? 4 A. Yes, sir. I was not aware that there was 5 a coating on the products though. 6 Q. Well, were you aware that they were using 7 Aroclor products on the ceiling tiles? 8 A. No, sir. 9 Q. When did you first become aware that they 10 did use Aroclor products? 11 A. When I got a call from Mr. Davidson and I 12 asked him what it was about. 13 Q. Just for the record, I meant Aroclor 14 products on ceiling tiles. 15 A. Mr. Davidson told me that when he called 16 me. 17 Q. Well, can you state for me what uses of 18 the Aroclor products that you're aware that Monsanto 19 put to use? 20 A. At Armstrong? 21 Q. I'm sorry. That Armstrong used. 22 A. I had no idea what they were using. I 23 knew they purchased a small amount from American 24 Mineral Spirits. 25 (A discussion ensued off the record.)	Page 35 1 for ceiling tile. 2 Q. (By Mr. Taylor) I appreciate that. The 3 question is can you think of any reason why they 4 should not have been? 5 MR. DIMURO: Are you talking about any 6 plastisol coating for any ceiling tile no 7 matter what the base is? 8 I object to the form of the question. 9 MR. TAYLOR: That's what I'm asking. 10 MR. DIMURO: You can answer it, if you 11 can. 12 THE WITNESS: Well, no. I could not 13 think of any reason why it should not be 14 used. 15 Q. (By Mr. Taylor) And as product manager, 16 was it part of your job to understand what your 17 customers were manufacturing and what possible needs 18 they would have for the applications of the Aroclor 19 products? 20 A. Yes, I think it would be, sir. 21 Q. If you could, look at Paragraph 7 of your 22 affidavit and just read that, please. 23 A. I have read it. 24 Q. Do you remember those -- you say one or 25 two visits to Pennsylvania, Armstrong's plant in
Page 34 1 (The record was read by the reporter.) 2 Q. (By Mr. Taylor) Sir, when you say you 3 had no idea of what they were using, did it occur to 4 you from seeing the ceiling tiles in a hardware 5 store in St. Louis that they may be using it for 6 applications to the ceiling tile? 7 A. No, sir. For that tile, can you tell me 8 what's in that coating, if there is a coating, and 9 what's in it? All I saw was ceiling tile. 10 Q. But you were aware that Armstrong was 11 manufacturing ceiling tiles? 12 A. I was aware because it had Armstrong 13 Cork's name on it at Central Hardware. 14 Q. And are you aware of any reasons why 15 Aroclors or specifically Aroclor 1254 should not be 16 used in a plastisol formulation to be applied to 17 ceiling tiles? 18 MR. DIMURO: I object to the form. 19 THE WITNESS: Would you repeat the 20 question, please? 21 MR. TAYLOR: Can you read that question 22 back for him? 23 (The record was read by the reporter.) 24 THE WITNESS: I didn't even realize 25 that they were using Aroclor in plastisols	Page 36 1 Pennsylvania. Do you have recollection of those 2 visits? 3 A. I know I was there. 4 Q. And for what purpose were you there? 5 A. As product manager for plasticizers to 6 discuss their plasticizer purchases from Monsanto 7 and to see if there was anything we could do to help 8 them. 9 Q. And this was in your function as 10 technical support or as product manager? 11 A. As product manager. 12 Q. And who would be with you on those 13 visits? 14 A. The salesmen working out of the Monsanto 15 Wilmington office, either a Mr. Robert Brell or 16 James -- there was a Jim somebody. I forget his 17 name. He was a little short guy. 18 Q. And who else? 19 A. And occasionally Mr. Sullivan who was 20 district manager for Wilmington. 21 Q. On any of those visits were any of the 22 people that you were supervising -- either David 23 Press or Cumming Paton, any of those people, would 24 they go with you to those visits? 25 A. No.

Page 37 1 Q. Now, why would that be? Why would you go 2 as the boss as opposed to one of the field 3 employees? 4 A. Because I was not discussing the 5 technical aspects of the product. I was discussing 6 the customer relations with the product customer. 7 Q. Could you give me some of the substances 8 of those discussions with the people at Armstrong? 9 A. Armstrong Cork was always looking for 10 lower costs. They were always threatening to 11 replace Santicizer 160 which would have been a major 12 loss to Monsanto. And we were just trying to 13 fortify their use of Santicizer 160 in their floor 14 tile. 15 Q. Did you speak with them about any of the 16 Aroclor products during those one or two visits? 17 A. No, sir. Not to my knowledge anyhow. 18 Q. Okay. Who at Armstrong did you deal 19 with? 20 A. The director of purchasing. 21 Q. Do you remember his name or her name? 22 A. No. It was a male, but I do not remember 23 the name. 24 Q. Do you remember any of the names of 25 anyone at Armstrong that you dealt with?	Page 39 1 were using a product. 2 Q. Well, did you know where they were 3 manufacturing their ceiling tiles, in what plant? 4 A. No, sir, I did not. 5 Q. What Armstrong plants were you aware of 6 that were out there that would have made the ceiling 7 tiles? 8 MR. DIMURO: Objection to the form. 9 THE WITNESS: Go ahead and answer? 10 MR. DIMURO: You can answer. 11 THE WITNESS: I know of no ceiling tile 12 plants that they had, sir. 13 Q. (By Mr. Taylor) But when you saw the 14 ceiling tiles in a hardware store, where did you 15 think they came from? 16 A. They came from Armstrong, an Armstrong 17 plant someplace; but I did not look to see where 18 they were manufactured, sir. 19 Q. Okay. But as part of your function as 20 product manager, were you curious to find out where 21 they were manufacturing the ceiling tiles? 22 A. Not particularly, no, sir, because I 23 didn't think we had any products that were being 24 used in the ceiling tile. 25 Q. Did any of your salesmen or any of the
Page 38 1 A. No, sir. 2 Q. Besides the director of purchasing, did 3 you speak with any other person that you could 4 identify by title? 5 A. No, sir, not that I can recall. 6 Q. Well, how much Aroclor 1254 was Armstrong 7 purchasing from Monsanto or American Mineral Spirits 8 between say 1964 and 1970? 9 MR. DIMURO: Object to the form. 10 MS. O'CONNOR: Object to the form. 11 MR. DIMURO: You can answer the 12 question. 13 THE WITNESS: I honestly don't know. I 14 remember there was a couple of -- I remember 15 looking through the books, and it might have 16 shown 1,000 pounds once or twice. 17 Q. (By Mr. Taylor) Well, when you would 18 look through those books and you saw that -- I 19 believe you testified 1,000 pounds once or twice, 20 what did you think Armstrong was using it for? 21 A. I had not the slightest idea, sir. They 22 were very closed-mouth about their applications. 23 Q. What do you mean by they were very 24 closed-mouth? 25 A. They wouldn't tell you where or why they	Page 40 1 people that you were supervising, any of the 2 technicians, advise you that Armstrong was 3 manufacturing ceiling tiles in a specific plant? 4 A. No, sir. 5 Q. Have you obtained any understanding 6 subsequent from the time that you were product 7 manager of where Armstrong manufactured ceiling 8 tiles? 9 A. No, sir. 10 Q. If you look at Paragraph 8 of your 11 affidavit -- if you would, just look at that for a 12 minute. 13 A. Okay. 14 Q. And then read Paragraph 9. When you're 15 finished, just let me know. 16 A. Go ahead. 17 Q. Upon your review of the sales records, 18 you state that it indicated that Armstrong 19 purchased -- and I'm quoting from the affidavit -- a 20 very small quantity of Aroclor 1254. Is that right? 21 A. That is correct. 22 Q. And in Paragraph 8 you state that I had 23 no knowledge or information at anytime as to whether 24 or not Armstrong had used or proposed to use any 25 Aroclor PCB product.

Page 41 1 What was your understanding of why they 2 were purchasing the 1254 and to what application 3 they were applying it? 4 A. I had no knowledge of what application. 5 They would purchase it from -- primarily through 6 American Mineral Spirits which is a distributor for 7 Monsanto. 8 Q. Did you take any steps through your sales 9 force or technical people to find out why they were 10 purchasing 1254? 11 A. No, sir, I did not. 12 Q. And, if you can, define for me what a 13 very small quantity of Aroclor 1254 is. 14 A. About 1,000 pounds at a time. 15 Q. At a time or over a course of a year? 16 A. 1,000 pounds at a time maybe once or 17 twice a year. 18 Q. Okay. So over a course of a year, what 19 in your mind would fit the definition of a very 20 small quantity of Aroclor 1254? 21 A. Anything less than 10,000 pounds. 22 Q. Anything less than ten would be very 23 small? 24 A. Yes, sir. 25 (A discussion ensued off the record.)	Page 43 1 seen this document. 2 Q. (By Mr. Taylor) Have you ever seen this 3 document before? 4 A. No, sir. 5 Q. Just for the record, this document was 6 produced by your counsel in the course of this 7 litigation. 8 And, if you would, turn to the second 9 page bearing Bates stamp MAE 000002; and 10 specifically the entry for 1968, do you see that, 11 sir? 12 A. Yes, sir, I do. 13 Q. That entry for 1968 which states Aroclor 14 Distilled 1254, 11,400 pounds, is that consistent 15 with your recollection of the amount of 1254 16 purchased by Armstrong? 17 A. I would say that's insignificant, 11,400 18 pounds. Very small quantity. 19 Q. And do you have any reason to believe 20 whether this document is accurate or inaccurate? 21 A. I would have to accept it as accurate. I 22 have no way of checking it out, sir. 23 Q. What, sir, would fit your definition of a 24 large quantity of Aroclor 1254? 25 A. I would think 100,000 pounds a year or
Page 42 1 MR. TAYLOR: I'm going to mark the next 2 document, with today's date, Waychoff 3. I'm 3 just going to identify the document and then 4 I'll wait for Mr. DiMuro to get back. 5 But Waychoff 3 bearing today's date is 6 titled sales summary, all PCB-containing 7 products, 1954 - 1977. 8 (Document was marked for identification 9 as Defendant's Waychoff Exhibit No. 3.) 10 (A discussion ensued off the record.) 11 Q. (By Mr. Taylor) Sir, you have before you 12 Waychoff 3 with today's date. Can you identify that 13 document for me? 14 A. It looks like it's a record of Monsanto's 15 sales to Armstrong Cork of Pydrauls, Aroclors, and 16 Therminols by year. 17 Q. Sir, if you look at 1968, does that 18 refresh your recollection of whether Armstrong 19 purchased a very small quantity of Aroclor 1254? 20 MR. DIMURO: Objection to the form. 21 Matt, I think he testified from the records 22 he saw. 23 MR. TAYLOR: Okay. That's why I'm 24 asking -- 25 MR. DIMURO: I don't know if he's ever	Page 44 1 greater. 2 Q. Can you think of any customer that had 3 purchased that quantity of Aroclor 1254? 4 A. That was 27 years ago, sir; and I really 5 can't remember that accurately. 6 Q. Sir, in your function as product manager, 7 did you have any responsibilities, any 8 administrative responsibilities, in connection with 9 formulating a business plan for any of the products? 10 A. Yes, we did. 11 Q. And why don't you give me some details 12 regarding those responsibilities? 13 A. In the late '60s it became the vogue 14 within Monsanto to develop a five-year business plan 15 on each product line, which plasticizers is a 16 product line, where you would discuss such things as 17 objectives, strategies, etc., for the product line. 18 Q. And did you do that, for example, with 19 Aroclor 1254? 20 A. Not specifically for Aroclor 1254. We 21 would just talk about Aroclors as a class, but I 22 don't believe there was ever a five-year plan 23 prepared for Aroclor. 24 Q. And why was that? 25 A. They were such a small part of the total

Page 45 1 plasticizer picture. 2 Q. Well, were there customers, for example 3 during your tenure as product manager, that did 4 purchase over 100,000 pounds of Aroclor 1254 per 5 year? 6 A. I'm sure there were; but I cannot recall 7 them, sir. 8 Q. I know you can't recall the names. Can 9 you give me the amount or the number of companies -- 10 let me finish -- number of companies that may have 11 purchased that high a quantity? 12 A. No. I really cannot, sir. I don't 13 recall that number. 14 Q. And why don't you give me -- put it in 15 perspective and compare the Aroclor 1254 product 16 with another one of the plasticizers and the 17 quantity that may be sold to a customer? 18 A. Well, let's take a look at Armstrong 19 Cork. 20 Q. Okay. 21 A. 15 million pounds of Santicizer 160 in a 22 year. So it was a much larger business situation 23 than a thousand pounds or a couple of thousand 24 pounds of Aroclor 1254. 25 Q. Now, were there any customers that you're	Page 47 1 marketing intelligence? We would just say 2 how we were going to handle a customer, what 3 our plans were to make sure that customer did 4 not leave us. 5 Q. (By Mr. Taylor) When I'm using the word 6 marketing intelligence, I mean to find out what a 7 specific customer might be planning to manufacture 8 or a new product line that they were going to 9 manufacture. 10 Did you try to stay on top of what your 11 customers were manufacturing in order to service 12 them with whatever plasticizer might fit that 13 product? 14 MR. DIMURO: This is in connection with 15 the business plan? 16 MR. TAYLOR: That's correct. 17 THE WITNESS: We really didn't do that 18 much along the intelligence -- 19 (A discussion ensued off the record.) 20 (The record was read by the reporter.) 21 (Document was marked for identification 22 as Defendant's Waychoff Exhibit No. 4.) 23 Q. (By Mr. Taylor) Sir, before you is a 24 document marked as Waychoff 4 with today's date. 25 Do you recognize that document and can
Page 46 1 aware of that purchased in the neighborhood of 15 2 million pounds of any of the Aroclor products? 3 A. No, sir. 4 Q. What might be the largest quantity of 5 Aroclor products purchased in a given year by a 6 customer that you can remember? 7 A. I really cannot recall that figure, sir. 8 Q. Was there any customer that approached 9 maybe a million pounds of any of the Aroclors? 10 A. Not for plasticizer use. I'm sure there 11 were some that approached that for fluid uses. 12 Q. I'm asking about plasticizers. 13 A. Not that I know of, sir. 14 Q. As part of this five-year business plan, 15 did that include marketing intelligence and things 16 like marketing aspects of the business plan? 17 A. Yes, it did. I cannot recall any of the 18 details of those business plans which are 27 years 19 ago, 28 years ago now. 20 Q. I understand. But what types of 21 marketing intelligence would be conducted by 22 Monsanto with regard to any of the customers? 23 MR. DIMURO: I'll object to the form. 24 You can answer that question. 25 THE WITNESS: We would just --	Page 48 1 you identify it? 2 A. It's my signature, but I do not recognize 3 the document. 4 Q. And it purports to be a September 23, 5 1970 letter to a customer, doesn't it? 6 A. Yes, sir. 7 Q. And have you had a chance to read that 8 document? 9 A. Yes, I have. 10 Q. And that is your signature? 11 A. That is my signature. 12 Q. Do you remember drafting or putting 13 together this letter? 14 A. No, I do not. It was probably put 15 together by somebody else. And I just -- they put 16 my name down there and I signed it, sir. 17 Q. Who would have prepared this document for 18 you? 19 A. Probably our legal department I would 20 think. 21 Q. And why would that be? 22 A. Because we were withdrawing the Aroclors, 23 some of the Aroclors, from sales items. Pardon me. 24 And they wanted to make sure that the letter was 25 legally correct.

Page 49 1 Q. What do you mean by legally correct? 2 A. That it explained fully as to why we were 3 doing it. 4 Q. Well, what was your understanding of why 5 Monsanto was pulling the Aroclor products from the 6 market? 7 A. Because they had found Aroclors were 8 contaminants in the worldwide environment and they 9 felt that we should no longer be offering those and 10 so they got out of the business. 11 Q. When you say they felt we should no 12 longer be offering them, who is they? 13 A. The management of the organic chemicals 14 division of Monsanto. 15 Q. Would you consider yourself part of 16 management? 17 A. Very low-level management. 18 Q. Okay. Who were some of the people in 19 high-level management that you're referring to that 20 made that decision? 21 A. That would be the general manager of the 22 division at that time, and I do not recall his name. 23 Q. Can you give me some of the other names 24 of people above you? 25 A. Walter Schalk.	Page 51 1 I was sort of in limbo from that period of time on. 2 Q. Well, leading up to say the date of this 3 letter which is September 23rd, were you dealing 4 with customers either in person or through 5 correspondence or over the phone regarding the 6 anticipated withdrawal of the Aroclor products from 7 the market? 8 A. I really don't remember, sir. I really 9 don't. 10 Q. Well, did you have any conversations with 11 any customers that were seeking replacement products 12 knowing that the Aroclors were soon to be pulled 13 from the market? 14 A. If I answered, it would just be a guess, 15 sir; and I won't guess. 16 Q. Okay. I appreciate that. Do you 17 remember any conversations or contact in any way 18 with Armstrong in relation to the decision of 19 Monsanto to pull Aroclors from the market? 20 MR. DIMURO: Object to the form. You 21 can answer. 22 THE WITNESS: No. I have no 23 recollection of any contact with them. 24 Q. (By Mr. Taylor) Can you explain why this 25 letter would be under your signature as opposed to
Page 50 1 Q. Okay. 2 A. Don Mariner, Howard Bergen. 3 Q. And what were their titles, sir? As you 4 give me a name, if you can back it up with a title, 5 I'd appreciate it. 6 A. Walter Schalk was the marketing manager 7 for all plasticizers. Who were the other names I 8 gave you? Howard Bergen, he was marketing manager 9 for Therminol fluids. And there was one other one I 10 gave you. 11 MR. DIMURO: Don Mariner. 12 THE WITNESS: Don Mariner, he was 13 marketing manager for plasticizers. 14 Q. (By Mr. Taylor) And the title marketing 15 manager, was that considered to be a higher level 16 than your position as product manager? 17 A. Yes, it was. Yes, it was. 18 Q. Okay. Well, what was your function in 19 dealing with the customers during this time when it 20 was being pulled from the market? 21 A. Basically at this time I just stopped 22 because it was in September. I went out and 23 accepted another job from a firm in California, 24 Signal Chemical. And I more or less withdrew, 25 because at the end of November I left Monsanto; and	Page 52 1 either a sales manager or a marketing manager, why 2 it would come from you? 3 A. Because we were the ones that were 4 encouraging to find replacements for the Aroclors. 5 Q. Encouraging who? 6 A. Monsanto management. 7 Q. Okay. Tell me a little bit about that. 8 When you say encouraging, can you give me some 9 details in relation to that? 10 A. My immediate supervisor at that time was 11 Walter Schalk and his supervisor was Jim 12 Springgate. Cumming Paton and I both felt that we 13 needed to find replacements because of the 14 widespread publicity on the PCBs, and we knew we 15 were going to have a problem in the near future if 16 we did not find replacement products. 17 Q. When did you start sensing that because 18 of the publicity that you were going to have some 19 problems? 20 A. It was either '69 or early '70. 21 Q. And tell me a little bit about that. 22 What was the climate out in the marketplace? 23 A. The climate? What do you mean by 24 climate? 25 Q. Well, what was being stated in the

Page 53 1 marketplace about the concerns over PCBs? 2 A. There were articles in newspapers about 3 discovery of PCBs in the world environment. And we 4 could -- Cumming Paton and I could just see this 5 thing getting bigger and bigger. 6 Q. When I say marketplace, I mean what was 7 the scuttlebutt with the customers and your sales 8 force in relation to your efforts to supply them 9 with Aroclors? 10 A. I don't know what it -- if there was any 11 repercussions with the customers at that time, sir. 12 Q. My question is were the customers 13 contacting either you or anyone in your sales force 14 about their concerns over the Aroclor products? 15 A. No, sir. 16 Q. When you say that you and Cumming Paton 17 could see that there was a problem, what do you mean 18 by that? 19 A. We could visualize the publicity being 20 raised a great deal, the scuttlebutt or publicity 21 about the Aroclors in the environment. 22 Q. And did you see any effect to the bottom 23 line on the sales because of that publicity between 24 say 1968 and 1969 and up until the time it was 25 withdrawn from the market?	Page 55 1 late '60s? 2 A. I don't recall the ad hoc committees. I 3 know there were meetings taking place about what 4 Monsanto should do, but I do not recall the name of 5 an ad hoc committee or anything like that. 6 (A discussion ensued off the record.) 7 (A recess was taken.) 8 (Whereupon, Mr. Raditz attends 9 deposition by telephone.) 10 (The record was read by the reporter.) 11 Q. (By Mr. Taylor) Okay. What do you 12 remember about the meetings that you referred to, 13 that you were aware of? 14 A. Sir, that was 27 years ago; and I really 15 don't recall anything specific about those meetings. 16 Q. Well, how about generally? 17 A. Generally just that there were some 18 discussions as to what we should do; and that's all 19 I remember, sir. 20 Q. Well, were you part of those discussions? 21 A. I honestly don't remember whether I was 22 or not, sir. 23 Q. Well, you do remember discussions? 24 A. I do remember there were discussions, 25 yes, sir.
Page 54 1 A. No. We really didn't see any effect on 2 the sales at that time because Monsanto is the one 3 that caused the effect on the sales because they 4 withdrew the products from the market. 5 Q. In relation to the decision, was there a 6 period of time prior to say September of 1970 that 7 the customers were advised that the Aroclor products 8 were going to be phased out? 9 A. Not that I know of, sir. 10 Q. Were you involved in any way, whether an 11 official committee at Monsanto, in that process 12 leading up to the decision to withdraw Aroclors from 13 the market? 14 A. No, I was not. 15 Q. Were you aware that there were committees 16 formed within Monsanto to study the publicity that 17 came out in the late '60s on the PCBs and how 18 Monsanto was going to react to that publicity? 19 MR. DIMURO: Object to the form. You 20 can answer it. 21 THE WITNESS: I really don't recall, 22 sir. I really don't. 23 Q. (By Mr. Taylor) Do you remember what was 24 called an ad hoc committee made up of Monsanto 25 employees that was dealing with the PCB issue in the	Page 56 1 Q. And what did those discussions generally 2 cover? 3 A. I don't remember, sir. 4 Q. You do know that they generally covered 5 the removal of Aroclors from the market, correct? 6 A. That is correct, yes, sir. 7 Q. And who was leading those discussions? 8 Who at Monsanto was leading those discussions? 9 A. I don't remember the name of the person 10 that was leading those discussions. At that time I 11 would suspect that it was Jim Springgate and Howard 12 Bergen. 13 Q. Okay. And were you privy to any -- 14 whether it was a formal meeting or otherwise -- to 15 any of those discussions about the withdrawal of the 16 Aroclors? 17 A. Would you state that again, please? 18 Q. Were you privy to any of those 19 discussions, whether it was in a formal meeting or 20 otherwise, in connection with the withdrawal of the 21 Aroclors from the market? 22 A. I know I was not privy to what was 23 discussed and what was decided. I'm looking at the 24 September 23rd letter which has my signature on it, 25 and I'm looking at a price sheet dated the same date

Page 57 1 with the name Willis Clark on it; and I have no idea 2 who Willis Clark is even. 3 Q. Okay. Just so the record is clear, 4 Waychoff Exhibit 4 has a second page which is a 5 price list with a signature of Willis S. Clark at 6 the bottom; and that bears the date also of 7 September 23, 1970. 8 Was anyone in your department, in the 9 products department, asked to participate in any of 10 these meetings in connection with the withdrawal of 11 the Aroclors from the market? 12 A. Not that I know of, sir. Or I don't 13 recall I should say. 14 Q. Did you have any opinion as to whether 15 the Aroclors should have been withdrawn from the 16 market or not? 17 A. I had an opinion; and I said yes, we 18 should take them out of the market. 19 Q. And when did you form that opinion? 20 A. Probably in 1969. 21 Q. And what caused you to form that opinion? 22 A. The worldwide publicity of finding 23 Aroclors in the environment in the world. 24 Q. And was there give and take? Were there 25 others at Monsanto who did not share your opinion?	Page 59 1 memorandum regarding Congoleum, Inc., which you were 2 copied; and it's to a Mr. Lonsberg from Mr. Elmer 3 Wheeler. 4 If you can, take a look at that. 5 A. (Witness complies with request of 6 counsel.) 7 Q. Do you remember that document? 8 A. I recognize the document, yes, sir. I do 9 not recall the specific memo, but I can recall the 10 document and what he was referring to. 11 Q. And why don't you just give me your 12 general recollection of what he was referring to and 13 the circumstances behind this memorandum? 14 A. There was a company in St. Louis that 15 used Aroclor to make decals on soda bottles, like 16 when you see the word Pepsi on a soda bottle or 17 something like that. And they were using Aroclor in 18 an ink to make the printing. They then passed it 19 through an oven at high temperatures. They did not 20 vent the oven to the outdoors. It was just in the 21 room. And the Aroclor fumes and other fumes were 22 vented out into the work area. And some of the 23 employees developed chloracne. 24 Q. And your client -- am I pronouncing it 25 right? Congoleum?
Page 58 1 A. Yes, sir. Others thought I was making a 2 mountain out of a molehill. 3 Q. And can you tell me who held that 4 opinion? 5 A. Mr. Schalk and Mr. Springgate. 6 Q. What about Cumming Paton? 7 A. Cumming Paton agreed with me. 8 (A discussion ensued off the record.) 9 Q. (By Mr. Taylor) Did you yourself, sir, 10 take any investigative steps regarding some of the 11 publicity and studies that were coming out in the 12 1960s? 13 A. No, I did not. 14 Q. Were you asked to participate in any of 15 the studies that were being conducted by Monsanto? 16 A. Participate in any studies? We were just 17 asked for suggestions on what could be used as 18 replacements for the Aroclors. 19 MR. TAYLOR: I'm going to just mark a 20 document with the next number which is 21 Waychoff 5 with today's date. 22 (Document was marked for identification 23 as Defendant's Waychoff Exhibit No. 5.) 24 Q. (By Mr. Taylor) Sir, I'm going to hand 25 you what purports to be an August 27, 1962	Page 60 1 A. Congoleum. 2 Q. Congoleum, I'm sorry. And what other 3 uses did Congoleum use the Aroclor products besides 4 this paint for the -- 5 A. Congoleum is not the customer I'm 6 referring to when I say they use it in a paint for 7 bottles. 8 Q. Let me just clarify that. Tell me what 9 you mean, what you meant there. 10 A. Dr. Wheeler here I believe is referring 11 to a customer in St. Louis that was using the paint 12 for a decal on bottles. 13 Q. Right. 14 A. And they vented it into the atmosphere 15 and their employees developed chloracne. 16 Q. Then why is there a reference to -- 17 A. Congoleum-Nairn? 18 Q. Right. 19 A. I do not know unless Congoleum-Nairn had 20 another application that they were referring to. 21 Q. Okay. 22 A. I do not know, sir. 23 Q. Fine. And what applications were you 24 aware of of Congoleum, what they used the Aroclors 25 for?

Page 61 1 A. I do not know, sir. 2 Q. Was it a plasticizer formulation? 3 A. I do not know, sir. 4 Q. And do you remember the details of the 5 referenced lawsuit that is referenced in this 6 memorandum? 7 A. I remember reading a memorandum about 8 this lawsuit; and that's all I can recall, sir. 9 Q. What do you remember about that 10 memorandum? 11 A. That several employees developed 12 chloracne of the -- customers developed chloracne 13 which is face broke out and arms broke out and they 14 had what looked like pimples all over their face. 15 Q. Would that issue generally, chloracne, be 16 considered under the topic of toxicity of Aroclors, 17 the effects of Aroclors? 18 MR. DIMURO: Object to the form. You 19 can answer it. 20 THE WITNESS: It certainly is not -- I 21 guess you'd have to say it was connected with 22 the toxicity of the Aroclors because it 23 develops a rash. However, they were exposed 24 to high concentrations of hot vapors in an 25 enclosed area; and that's the reason they	Page 63 1 I do not know who T. Hollings is. I know who J.D. 2 Wright is but not T. Hollings. 3 Q. Who is J.D. Wright? 4 A. J.D. Wright was in charge of the salesmen 5 of plasticizers in the New York City area, and he 6 reported to -- Mr. Lonsberg reported to Mr. Wright. 7 Q. Okay. And why is it that you would get 8 involved in an issue regarding the health effects or 9 the toxicity of the Aroclors? 10 A. As product manager, Mr. Wheeler copied me 11 in. 12 Q. Just FYI type -- 13 A. Yes, sir. 14 Q. -- situation? And what was your 15 understanding of the toxicity of the Aroclor 16 products? 17 MR. DIMURO: I object to the form. You 18 can answer it. 19 THE WITNESS: The Aroclors, as far as I 20 was concerned, were not very toxic. I mean 21 I've seen people with their clothes saturated 22 with Therminol fluids from transformers. 23 My brother-in-law who works for OSHA, I 24 told him I was going to have to give a 25 deposition on Aroclors; and he said my God,
Page 62 1 developed the chloracne. 2 Q. (By Mr. Taylor) Was part of your 3 function as a product manager or before that as a 4 technician to advise customers on the toxicity of 5 Aroclors or any of the other plasticizers? 6 A. Generally that was written in the back of 7 product bulletins in the information we had on 8 toxicity which was cleared with the medical 9 department. 10 Q. Do you have any expertise regarding 11 toxicity of Aroclors? 12 A. No, sir, I do not. 13 Q. So that was not part of any of your 14 training? 15 A. No, sir. The medical department would 16 tell us what was acceptable and what was not. 17 Q. Okay. That was my next question. What 18 department at Monsanto would deal with the toxicity 19 issue? 20 A. The medical department of which Elmer 21 Wheeler was a member of the medical department, 22 Dr. Emmet Kelly. 23 Q. Okay. And there's a reference here to a 24 T. Hollings. Who is T. Hollings? 25 A. T. Hollings? Oh, Hollings in New York.	Page 64 1 he said, my brother was cleaning out 2 Therminol fluids out of transformers for 3 years and his clothes were always saturated 4 with it. And he didn't -- because it is 5 very, very toxic. 6 Q. (By Mr. Taylor) I take it that gentleman 7 had no ill effects from that -- 8 A. No, no. 9 Q. Now, as product manager and before that 10 in your technical role before you became product 11 manager, were you involved in the formulation of the 12 wording for the safe handling of the Aroclor 13 products? 14 A. No, I was not. 15 Q. And whose function at Monsanto was that? 16 A. That was primarily the medical 17 department's. 18 Q. In conjunction with any other department? 19 A. Maybe one of the people that worked for 20 me would work with them in developing the writing 21 for the precautionary measures. 22 Q. That's what I mean. Did you ever get 23 involved in that kind of -- 24 A. Myself, I did not get involved directly, 25 no, sir.

Page 65 1 Q. Do you remember any of the people that 2 worked underneath you that may have gotten involved 3 in the wording and any of the technical bulletins or 4 any of the other literature -- 5 A. I would think Cumming Paton may have. 6 Q. Do you have a specific memory that he 7 did? 8 A. No, sir, I do not. 9 Q. And why would you think Cumming Paton 10 would have? 11 A. Because I assigned him to be in charge of 12 the non-PVC plasticizers. And although Aroclors 13 were used with PVC, they were used primarily with 14 other resins. 15 Q. You said Aroclors were not used with 16 PVCs? 17 A. Were not primarily used with PVCs. They 18 were used with other resins to make rubberized 19 coatings, etc. 20 Q. Can you think of any application where 21 Aroclors were used with PVCs? 22 A. They were used in some plastisols. I 23 know that. 24 Q. Can you give me an example of them? 25 A. You gave me the example here with	Page 67 1 MR. TAYLOR: There is. 2 MR. RADITZ: Okay. 3 MR. TAYLOR: It's Waychoff No. 6; and 4 it is a technical bulletin, No. P-115, 5 entitled Aroclors, or The Aroclors. It bears 6 Bates stamp on the cover MAE 040077, and the 7 document ends at Bates stamp MAE 040103. 8 MR. RADITZ: Okay. I don't want to be 9 too much trouble; but I'm having a very, very 10 difficult time hearing. I was just wondering 11 if we could maybe try to get the connection 12 again. 13 Carolyn, are you hearing everything 14 okay? 15 MS. O'CONNOR: Well, I've had trouble 16 all morning; but, you know, I can basically 17 make it out, yes. I can hear okay. 18 MR. RADITZ: I'm barely making anything 19 out. 20 MS. O'CONNOR: Okay. 21 MR. RADITZ: I'm really struggling. 22 MS. O'CONNOR: That's not really fair 23 to you. 24 (A discussion ensued off the record.) 25 Q. (By Mr. Taylor) Okay. We just marked
Page 66 1 Armstrong Cork. 2 Q. What example was that? 3 A. You said a coating for ceiling tile. 4 Q. Right. Okay. Are you aware of any 5 other? 6 A. No, I do not, sir, that I can remember. 7 If you asked me 27 years ago, I could probably have 8 told you; but now I can't remember, sir. 9 Q. But there were other applications -- let 10 me finish. There were other applications of 11 Aroclors using -- in plastisols involving PVCs? 12 A. Yes, there were. 13 Q. And that was an acceptable use? 14 A. It was to the best of our knowledge, yes, 15 sir. 16 MR. TAYLOR: Okay, okay. I'm going to 17 mark another -- the next document as Waychoff 18 No. 6. And, if you could, hand that to the 19 witness. 20 (Document was marked for identification 21 as Defendant's Waychoff Exhibit No. 6.) 22 MR. RADITZ: Hello? 23 MR. TAYLOR: Yes, we're here. 24 MR. RADITZ: Is there a document being 25 marked?	Page 68 1 Waychoff No. 6 with today's date; and it's an 2 application data bulletin, No. P-115. 3 What were the purposes of these 4 bulletins? 5 MR. DIMURO: I'm going to object to the 6 form. My copy says that this is dated 7 somewhere in 1954 and 1953. I don't know if 8 this is the only copy of this particular 9 bulletin. 10 MR. TAYLOR: I don't know either. 11 MR. DIMURO: You might want to ask him 12 if he's seen it. 13 MR. TAYLOR: Oh, I will. 14 MR. DIMURO: That's just a suggestion. 15 THE WITNESS: This bulletin, may I 16 comment on it? 17 MR. TAYLOR: Sure. 18 MR. DIMURO: Sure. 19 THE WITNESS: This is the phosphate 20 division when it was -- before it became the 21 organic division's bulletin, and it says 22 Bulletin No. 115. It says here it was 23 obsolete 5/5/54. 24 And I have an idea this was written by 25 Paul Beniginas and Charlie Williams.

Page 69 1 Q. (By Mr. Taylor) Can you say that first 2 name? 3 A. Paul Beniginas. 4 Q. Do you ever remember seeing this 5 document? 6 A. I remember seeing this document, but it 7 was obsolete when I saw it. 8 Q. And what was obsolete about it? 9 A. Newer bulletins came out. 10 Q. Okay. If you can, just actually turn to 11 Page 3 of the bulletin under general properties. 12 A. (Witness complies with request of 13 counsel.) 14 Q. And the statement the excellent 15 electrical properties, fire resistance and inertness 16 of the Aroclors make them useful in many 17 applications, is that a true statement? 18 A. That is a true statement. 19 Q. And as a general proposition, were these 20 bulletins to be used to encourage customers to find 21 other applications or uses for your products? 22 A. I would say they were, although I was not 23 involved with Aroclors at the time this bulletin was 24 written. 25 Q. I understand that. But as a general --	Page 71 1 good enough to identify the document with exhibit 2 stamp Waychoff 7 with today's date? 3 A. This is a letter, a memo, to me from Jack 4 Bonavoglia, whoever he is, concerning a complaint 5 that Allied Chemical had people that were -- 6 evidently had some toxicity from Aroclor 1254. 7 Q. Do you remember, sir, the application or 8 use that Allied Chemical & Dye Corporation was 9 putting the Aroclor 1254 in this situation? 10 A. No, I am not, sir. 11 Q. How about generally as a customer? Do 12 you remember how they used or how they applied 13 Aroclor 1254? 14 A. No, I do not, sir. 15 Q. Why don't you take a look at No. 8, 16 Exhibit No. 8, and identify that document? 17 MR. DIMURO: Do you have another copy? 18 MR. TAYLOR: I do. I'm sorry. 19 MR. DIMURO: Thank you. 20 THE WITNESS: That is a letter to Jack 21 Bonavoglia in New York from Dr. Emmet Kelly, 22 the medical director of Monsanto Company. It 23 discusses Aroclor 1254 and it talks about the 24 inhalation of the fumes of Aroclor 1254 and 25 says if the Aroclor is heated the vapors must
Page 70 1 I'm going to show you some other technical bulletins 2 that I think were around during your tenure as 3 product manager. 4 A. They were written to encourage people to 5 try to find uses for the Aroclors. 6 MR. TAYLOR: Okay, okay. I'm going to 7 mark the next two documents. The first, 8 Waychoff 7, is a February 4, 1960 9 memorandum. 10 If you'll mark that as No. 7. 11 MR. RADITZ: What was that? February 12 4th, 1960? 13 MR. TAYLOR: February 4, 1960. 14 MR. RADITZ: Okay. '60. 15 MR. TAYLOR: It's a Monsanto Chemical 16 Company memorandum. 17 (Document was marked for identification 18 as Defendant's Waychoff Exhibit No. 7.) 19 MR. TAYLOR: And it bears the Bates 20 stamp MAE 053785. And the next document, 21 Waychoff 8, which is a February 8th, 1960 22 memorandum bearing Bates MAE 053784. 23 (Document was marked for identification 24 as Defendant's Waychoff Exhibit No. 8.) 25 Q. (By Mr. Taylor) Sir, if you would be	Page 72 1 be exhausted. 2 Q. (By Mr. Taylor) Sir, in your capacity as 3 a technical adviser, did you make recommendations to 4 customers as to the limit or the maximum temperature 5 which the Aroclors could be heated? 6 A. No, I did not, sir. 7 Q. Do you have an understanding as to what 8 the maximum temperature Fahrenheit an Aroclor 1254 9 product is recommended to be heated? 10 A. No, I do not, sir. 11 Q. Was there any maximum? 12 A. I have no knowledge of that, sir. I 13 would have to go back and review all my notes from 14 27 years -- 28 years ago to see if I could find it. 15 I do not recall. 16 Q. Do you ever remember the issue of any 17 maximum temperature being discussed generally for 18 Aroclor 1254? 19 A. No, I do not, sir. 20 Q. If you look at No. 7 -- 21 A. Yes, sir. 22 Q. -- Exhibit No. 7, it starts Dear 23 Dr. Kelly in the bottom of the memorandum. 24 Is that your handwriting? 25 A. That's my handwriting.

Page 73 1 Q. And is that your initials at the bottom? 2 A. That's me. 3 Q. Can you read that for the record? 4 A. Dr. Kelly, it sounds as though we may 5 have a problem. About a month ago I had a wire from 6 New York on these people saying their workmen were 7 getting headaches from heating Aroclor. I wired 8 saying avoid fumes, they are toxic. Use 9 ventilation -- I don't know what the next word is -- 10 hoods. 11 MR. DIMURO: Fans and hoods maybe. 12 THE WITNESS: Ventilation fans and 13 hoods. 14 Q. (By Mr. Taylor) And was that 15 recommendation to use ventilation fans and hoods 16 communicated as a matter of course to all customers 17 that were purchasing the Aroclor 1254 product? 18 A. No, it was not, because most of them were 19 not heating it. 20 Q. Well, what customers were heating it? 21 A. I don't have the slightest idea; but 22 there's a man that had a problem, and so we 23 responded to it, sir. 24 Q. Can you think of any reason why a 25 customer would heat the Aroclors for any of their	Page 75 1 department get involved at all in authorizing the 2 language used in any kind of a response to a 3 customer? 4 A. I do not know because I think the medical 5 department usually took that up with the legal 6 department if they felt it was required. 7 Q. And are you aware of situations where 8 that did happen, where the medical department would 9 discuss a specific complaint with the legal 10 department? 11 A. No, I'm not, sir. 12 Q. I'm not asking you if you remember a 13 specific situation, but generally are you aware that 14 that occurred? 15 A. I believe that was the correct procedure, 16 sir. 17 Q. And you're aware that that did occur? 18 A. It has occurred. I know that. But I do 19 not recall the specific interest it occurred. 20 MS. O'CONNOR: Excuse me. Your voices 21 are trailing off on my end. 22 MR. RADITZ: Yes. Same here. 23 MR. TAYLOR: We'll keep our voices up. 24 THE WITNESS: We've got our heads too 25 close together.
Page 74 1 applications? 2 A. No, I cannot, sir; but evidently Allied 3 Chemical was for some reason. 4 Q. Was it prohibited to heat the Aroclors? 5 A. No, it was not. 6 MR. TAYLOR: I'm going to mark a 7 document with today's date Waychoff No. 9 8 which is a July 31, 1968 memorandum entitled 9 a "New Chemical Hazard" from Cumming Paton, 10 or authored by Cumming Paton. 11 If you could, mark that, please. 12 (Document was marked for identification 13 as Defendant's Waychoff Exhibit No. 9.) 14 Q. (By Mr. Taylor) Actually before I do 15 that -- I'm sorry, Mr. Waychoff. I have just one 16 follow-up, two follow-up questions relating to 17 Exhibit No. 7 and No. 8. 18 When a complaint came in like the one 19 that you're discussing with Dr. Kelly in Waychoff 20 No. 7, what was the process within Monsanto to 21 handle a complaint like that? 22 A. We would try to get it over to the 23 medical division to help us formulate a response for 24 the customer. 25 Q. And in that process did the legal	Page 76 1 Q. (By Mr. Taylor) Sir, if you can now turn 2 your attention to Exhibit 9, Waychoff 9, with 3 today's date and identify that document for the 4 record. 5 A. This is a memorandum to Dr. W. Richard, 6 Dr. R. Keller, and Dr. R.E. Kelly and Elmer Wheeler 7 from Cumming Paton regarding an article in New 8 Scientist dated the 15th of December, 1996. 9 Q. Were you copied on this memorandum? 10 A. Yes, sir, I was copied. 11 Q. And, sir, generally what is being 12 discussed in this memorandum? 13 A. It talks about an article that appears in 14 an English periodical given over to Popular Science. 15 Q. Did you read this article that's being 16 referred to in this memorandum? 17 A. I do not recall it, sir. 18 Q. Do you generally recall the subject 19 matter of the article? 20 A. Yes. It was about the toxicity of 21 Aroclors or PCBs. 22 Q. Now, Cumming Paton was one of the people 23 that you supervised, correct? 24 A. That's correct, sir. 25 Q. And he states in the second paragraph of

Page 77 1 this memorandum, quote: Their article on PCB is the 2 most opinionated we have seen so far on Aroclor 3 toxicity, and I am sure their omission of the word 4 Aroclor has prevented even greater repercussions, 5 end of quote. 6 Do you know what Mr. Cumming was 7 referring to by prevented even greater 8 repercussions? 9 A. No, I do not, except publicity is what 10 he's talking about I'm sure. 11 Q. Negative publicity for Monsanto? 12 A. Negative publicity, yes, sir. 13 Q. And he states, quote: I only hope Rachel 14 Carson never subscribed to the New Scientist and 15 that Ralph Nader doesn't decide to! 16 Do you know Rachel Carson? 17 A. Yes. She's the author of Silent Spring. 18 Q. Did you read that? 19 A. No, I never did. I have read articles on 20 it though. 21 Q. Okay. And what is he referring to there, 22 that he hopes Rachel Carson never subscribed to it? 23 Do you have an understanding of what he meant by 24 that? 25 MR. DIMURO: Objection. You can	Page 79 1 discussions start? 2 A. I don't remember the exact date. I would 3 guess -- I would estimate that it was approximately 4 early 1970 however. 5 Q. Did any of your customers have any 6 comment about the article referred to by Mr. Paton 7 in this memorandum? 8 A. No, sir, not that I know of. 9 Q. Did you experience any repercussions from 10 your customers in relation to this negative 11 publicity? 12 A. No, sir, not that I know of. 13 Q. Did you or anybody in the sales force 14 bring to your customers' attention this article? 15 A. No, sir, not that I know of. 16 MR. TAYLOR: We're going to mark the 17 next document Waychoff No. 10. 18 (Document was marked for identification 19 as Defendant's Waychoff Exhibit No. 10.) 20 Q. (By Mr. Taylor) For the record, can you 21 identify this document? 22 A. It says it's Monsanto Products 1961. 23 Q. Well, for the record, it's a two-page 24 document bearing Bates stamps 059907, 059908. 25 And, sir, if you would look -- before I
Page 78 1 answer. 2 THE WITNESS: I can answer it? 3 MR. DIMURO: If you know. 4 THE WITNESS: What? 5 MR. DIMURO: If you know. 6 THE WITNESS: I have no idea what he 7 was referring to except, if you know Cumming 8 Paton, he is a very interesting individual. 9 Q. (By Mr. Taylor) Well, I don't know 10 Mr. Paton; and I take it you do. 11 A. Yes. 12 Q. And what do you think he meant by that? 13 A. That we'd have more unfavorable publicity 14 if she read the article. 15 Q. Now, at this time, on or about July 31, 16 1968 when this memorandum was issued, was there 17 discussions at that time within Monsanto to possibly 18 phase out or -- phase out Aroclors from the market? 19 A. I don't believe there was at that time, 20 sir. 21 MR. RADITZ: What time are we talking 22 about? 23 MR. DIMURO: July 31st, 1968. 24 MR. RADITZ: Okay. Thank you. 25 Q. (By Mr. Taylor) When did those	Page 80 1 ask you, do you recognize this publication? 2 A. No, sir, I do not. Reading it, however, 3 it would appear this was put out by the functional 4 fluid people since they talk about dielectrics for 5 condensers and capacitors and without any reference 6 to plasticizers here. 7 Q. Well, if you look -- it looks to be on 8 the second page. It says in the left-hand corner 9 Page 50. Do you see that down in the lower 10 left-hand corner? 11 A. Yes. 12 Q. So I don't know what's in Pages 1 to 49. 13 Do you have any recollection of what might be 14 contained in Pages 1 to 49? 15 A. No, I do not, sir. 16 Q. Okay. Well, if you will, look under 17 Aroclor in the lower left-hand column. 18 A. Okay. 19 Q. Okay. And it goes on to the top 20 right-hand corner of that page. Second paragraph, 21 it says uses. Do you see that? 22 A. Yes, sir. 23 Q. And about five lines down, in the middle 24 of that line, it says: Aroclors are used as 25 plasticizers and resins in lacquers including

Page 81 1 nitrocellulose. And then it goes on with ethyl 2 cellulose and cellulose actate. 3 MR. DIMURO: Acetate. 4 Q. (By Mr. Taylor) Acetate. What are being 5 referred to there, if you know? 6 A. What are they referring to? 7 Q. Yes. 8 A. They're referring to the use -- the 9 addition of Aroclors to these products to make them 10 more flexible. 11 Q. So that is an Aroclor -- 12 A. Plasticizer use, yes, sir. 13 (A discussion ensued off the record.) 14 Q. (By Mr. Taylor) Now, is this Products 15 1961 a bulletin that was regularly put out every 16 year by Monsanto? 17 A. I have no idea, sir. 18 Q. You don't remember seeing, for example -- 19 A. I don't remember seeing it, no, sir. 20 Q. -- for example, Products 1962 or Products 21 1963? 22 A. No, I do not, sir. 23 Q. Okay. And as product manager, is it safe 24 to assume that if such a publication was introduced 25 by Monsanto you would have known about it?	Page 83 1 top-quality plasticizers. I fail to see the 2 date this was printed though. 3 Q. (By Mr. Taylor) On the right-hand 4 corner, there's a handwritten indication that's 5 11/66. 6 A. 11/66, okay. 7 Q. And it states on the cover that no matter 8 what the application or performance specification, 9 one or a combination of the plasticizers offered 10 here will do the job. 11 Is that what it states? 12 A. That's what it says. 13 Q. And in your position as product manager, 14 do you have any reason to believe that that was not 15 true? 16 A. No. I think that was probably a true 17 statement. 18 Q. Well, are you aware of a situation where 19 the job could not be done with an application of any 20 of your plasticizers for a specific application? 21 MR. DIMURO: Object to the form. 22 THE WITNESS: Do you want me to answer 23 it? 24 MR. DIMURO: You can answer it, sure. 25 Q. (By Mr. Taylor) I'm referring to the
Page 82 1 MR. DIMURO: I object to the form. You 2 can answer it. 3 THE WITNESS: I should have been able 4 to review anything that appears on 5 plasticizer uses here. 6 Q. (By Mr. Taylor) That's my question. Is 7 it safe to assume that if there were other years, 8 for example, Products -- 9 A. That I should -- 10 Q. -- 1965 or above, that you would have 11 known about it? 12 A. Yes, I should have, sir. 13 Q. Okay. And you don't remember any such 14 document? 15 A. No, sir. 16 MR. TAYLOR: Okay. The next document 17 is Waychoff No. 11. 18 (Document was marked for identification 19 as Defendant's Waychoff Exhibit No. 11.) 20 Q. (By Mr. Taylor) Can you identify that 21 document for the record, sir? 22 A. It looks like it's a -- 23 (A discussion ensued off the record.) 24 THE WITNESS: This looks like it's part 25 of a technical bulletin on Monsanto	Page 84 1 front page, this statement that no matter what the 2 application, it will do the job. 3 The question is are you aware of any 4 situation where there was an application where the 5 job could not be done? 6 MR. DIMURO: I'll object to the form. 7 MR. RADITZ: I'm sorry. I'm having 8 trouble hearing. 9 MR. TAYLOR: He just said object to the 10 form. 11 MR. DIMURO: I object to the form. 12 MR. RADITZ: I'm not sure what the 13 question was. If I could hear the question? 14 MR. DIMURO: All right. Do you want to 15 repeat it? 16 MR. TAYLOR: Why don't you read the 17 question? 18 (A discussion ensued off the record.) 19 (The record was read by the reporter.) 20 THE WITNESS: I don't know of anything 21 that was ever said to this. I'm sure there's 22 some salesman's puffery in a technical 23 bulletin, but I'm not sure of any application 24 where it could not solve most of the 25 problems.

Page 85 1 Q. (By Mr. Taylor) Okay. And if you can, 2 look in the table contained in this publication; and 3 the table is on the page Bates stamped MAE 059458, 4 059459. And I just have a couple of questions. 5 If you look -- the resins, as I 6 understand, are listed on the left-hand column, 7 correct? 8 A. Yes, sir. 9 Q. And the specific plasticizer is listed 10 across the top in columns, correct? 11 A. That's correct. 12 Q. Now, down at the bottom of that first 13 page that I referred to, there's an I that equals 14 incompatible? 15 A. Right. 16 Q. And it says next to that figures - 17 compatibility, PHR. What does PHR stand for? 18 A. Per hundred of resin. 19 Q. Per hundred of resin? 20 A. (Witness nods head affirmatively.) 21 Q. Okay. Now, if you'll look, sir, at the 22 top of the column under vinyl type up here -- 23 A. Yes, sir. 24 Q. -- you'll see polyvinyl chloride? 25 A. Yes, sir.	Page 87 1 PVC. 2 Q. I understand. Thank you. Are you aware 3 of any of the component ingredients in the Armstrong 4 ceiling tiles? 5 A. No, sir, I am not. 6 Q. Are you aware of any of the substances 7 which made up the ceiling tiles? 8 A. No, sir. 9 Q. Do you have any information that the 10 Aroclor 1254 product was incompatible with the 11 ceiling tiles of Armstrong? 12 A. I have no information on that. 13 Q. Are you aware of any technical bulletin 14 or other literature issued by Monsanto which advised 15 customers that Aroclor 1254 was incompatible with 16 certain materials? 17 A. In other bulletins that said they were 18 incompatible with certain materials? 19 MR. DIMURO: Object to the form. 20 Q. (By Mr. Taylor) That come to mind, that 21 you can give me an example of. 22 A. I cannot give you an example of any that 23 come to mind, sir. Can you hear me? 24 Q. Notwithstanding any of the technical 25 bulletins, you personally, are you personally aware
Page 86 1 Q. And is that what's known as PVC? 2 A. Yes, sir. 3 Q. And if you go over to the next page, all 4 the way across along the top listing the 5 plasticizers, you'll see Aroclor? 6 A. Yes, sir. 7 Q. And is that column, Aroclor, generally 8 all types of Aroclors? 9 A. I would assume it is, sir, yes, sir. 10 Q. Okay. And how many types of Aroclors 11 were there? 12 A. Oh, boy. 21, 32. There must have been 13 at least a dozen, but I don't know exactly how many 14 there were without going back. 15 Q. Okay. I don't need an exact number. And 16 it states underneath Aroclors the number 35. Do you 17 see that? 18 A. Yes, sir. 19 Q. Explain the significance of 35 to the PHR 20 as to PVCs. 21 A. If you use more than 35 pounds of Aroclor 22 to 100 pounds of PVC, you would get a sticky, gooey 23 mess coming out. So you have -- because Aroclor was 24 a secondary plasticizer that had to be mixed with a 25 primary plasticizer to make it fully compatible with	Page 88 1 of any materials with which Aroclor 1254 was 2 incompatible and should not be used for any reason? 3 MR. DIMURO: Object to the form of the 4 question. 5 MR. RADITZ: I join the objection. 6 THE WITNESS: What was that? 7 MR. TAYLOR: He just joined in the 8 objection. 9 THE WITNESS: Okay. What was the 10 question again? I get listening to the side 11 talk and -- 12 MR. TAYLOR: I understand. She can 13 read it back for you. 14 (A discussion ensued off the record.) 15 (The record was read by the reporter.) 16 THE WITNESS: If I understand the 17 question correctly, it's asking me if I know 18 of any applications where Aroclor 1254 was 19 incompatible with the resin and should not be 20 used. 21 The technical bulletin describes -- 22 gives several examples where it was not 23 compatible and should not be used. 24 Q. (By Mr. Taylor) Can you tell me what 25 some of those applications are?

Page 89 1 A. It was just with various resins. For 2 example, if you look at the table, it says they're 3 incompatible with such things as polyesters, epoxy 4 resins, cellulose acetate butyrate, and melamine. 5 So you would not use the Aroclor with 6 those resins. 7 Q. Okay. I just have a question or two 8 regarding what we're going to mark as Waychoff 9 No. 12 which is a December 6th, 1968 memorandum to 10 the file from L.D. Press, P-r-e-s-s. 11 I'll give you -- if you could mark that, 12 please. 13 (Document was marked for identification 14 as Defendant's Waychoff Exhibit No. 12.) 15 Q. (By Mr. Taylor) If you can, just take a 16 minute to review that, sir; and then let me know 17 when you're finished. 18 Are you all still able to hear us? 19 MS. O'CONNOR: I'm able to hear. 20 MR. RADITZ: Yes. 21 MR. TAYLOR: Okay. The witness is just 22 reviewing a document. 23 MR. DIMURO: Do you want to direct his 24 attention to a particular point? 25 MR. TAYLOR: Yes.	Page 91 1 Monsanto or by Kimberly-Clark? 2 A. I do not know, but I would assume from 3 reading the memorandum it was Kimberly-Clark who 4 made the decision. 5 Q. Okay. If you turn to the last page, Page 6 3 of the memorandum, you'll see under the heading 7 forward plans, the second paragraph, it talks about 8 a secret additive. 9 If you could, read that and tell me what 10 your understanding of what the secret additive is 11 referring to. 12 A. I have no idea, sir. Mr. Press might be 13 able to give you an answer to that one. 14 Q. The next document, sir, we're going to 15 mark as Waychoff No. 13; and it is a April 22, 1970 16 call report - organic division. 17 MR. DIMURO: '72? 18 MR. TAYLOR: '72. I've got another 19 copy for you. 20 MR. DIMURO: You know he wasn't there 21 anymore, right? 22 MR. TAYLOR: I'm sorry. April 22, 23 1970. 24 MR. DIMURO: Okay. 25 ///
Page 90 1 MR. DIMURO: If he needs to read it, 2 let us know. 3 MR. TAYLOR: Okay. Exactly. If I ask 4 him a question and you want him to read the 5 memorandum more, that's fine. 6 Q. (By Mr. Taylor) In the first paragraph 7 under the heading summary, you'll see that it refers 8 to the trial at Balfour of the 75/25; and then it 9 goes on. 10 What is that referring to, sir? 11 A. When I read this memorandum, it says 75 12 parts of DOP to 25 parts of Aroclor 1254 blended 13 together and used in some sort of an application at 14 Kimberly-Clark and they had to be suspended because 15 the vapors system -- the exhaust was not able to 16 take care of the fumes of the Aroclor. 17 Q. Okay. Do you know, sir, what application 18 Kimberly-Clark was either utilizing or attempting to 19 utilize this mixture of the Aroclor with the DOP? 20 A. No, I do not. 21 Q. Are you aware of any of the applications 22 utilized by Kimberly-Clark generally? 23 A. No, I am not. 24 Q. And when it says the use of Aroclor 1254 25 is temporarily abandoned, was that decision made by	Page 92 1 (Document was marked for identification 2 as Defendant's Waychoff Exhibit No. 13.) 3 Q. (By Mr. Taylor) If you could, take a 4 look at that document and review it and identify 5 it. Let me know when you're finished. 6 A. I'm finished. 7 Q. Okay. Who was the author of this call 8 report? 9 A. Somebody by the name of L. Berlik, 10 whoever he is. 11 Q. You don't remember that individual? 12 A. I do not know that individual, and this 13 does not look like a Monsanto call report. 14 Q. I'm sorry. Say that again. 15 A. It does not look like a Monsanto call 16 report. 17 Q. And tell me why. 18 A. The form was different on Monsanto. This 19 looks like it might be a distributor making a call. 20 Q. If you look in the top left-hand corner, 21 it says Monsanto in bold print. 22 A. Yes, sir. 23 Q. Does that indicate that that would be a 24 Monsanto form? 25 A. That would indicate it, but I do not

Page 93 1 recognize the form that is used as far as call 2 report information. 3 Q. Okay. What form do you remember and how 4 did it differ to this? 5 A. Well, this has a whole series of customer 6 name. It has customer mailing list changes and 7 several other things. And then it just doesn't look 8 right to me. 9 Q. Okay. Can you describe to me the form 10 that you remember and what information would be 11 contained on the form call report that you have a 12 recollection of? 13 A. Some of the results down here would be 14 reported; but the form that I remember is a form 15 that would give the name of the customer, the 16 address of the customer, the date of call, the 17 person that called upon. 18 Q. Okay. It says in the objectives 19 paragraph, No. 2, identify reasons for below budget 20 purchases of Aroclors. And below budget is 21 emphasized by it being underlined. 22 What is the salesman referring to there? 23 A. He's just saying that they had planned on 24 selling more Aroclor and they aren't selling as much 25 as they thought they were, should.	Page 95 1 A. To the best of my knowledge, they were 2 not at that time. 3 Q. So as far as they knew, the sales force 4 was to be under all-systems-are-go and sell as much 5 product as possible? 6 A. Yes, sir. 7 MR. TAYLOR: We'll mark the next 8 document with the next number which I believe 9 is 14. If you could, mark that with today's 10 date. 11 And, Mr. Waychoff, if you could, review 12 the document and let me know when you're 13 finished after it's marked. 14 (Document was marked for identification 15 as Defendant's Waychoff Exhibit No. 14.) 16 MR. DIMURO: Is there a date for this 17 document? 18 MR. TAYLOR: I was going to ask him. 19 It was produced in this fashion. 20 MR. DIMURO: Okay. 21 MR. TAYLOR: That was one of the issues 22 we raised in one of our letters to see if 23 that was part of a larger document. 24 MR. DIMURO: I don't think we could 25 tell.
Page 94 1 Q. Who was planning to sell more Aroclor? 2 A. The salesman, Mr. Berlik. 3 Q. Well, in this time in April of 1970, was 4 Monsanto in the process of phasing out Aroclors from 5 the market? 6 A. I don't believe they were in the process 7 of phasing them out at that time. There was 8 discussion about it; but they had not notified any 9 customers yet, to the best of my knowledge. 10 Q. And what were the salesmen or the sales 11 force being told about that process leading up to 12 the eventual withdrawal of the Aroclors from the 13 market? 14 MR. DIMURO: Object to the form of the 15 question. Go ahead. 16 THE WITNESS: I don't believe they were 17 told anything at that stage of the game, sir. 18 Q. (By Mr. Taylor) You mean the sales force 19 would not -- 20 A. Sales force was not informed of that at 21 that time. The final decision had not been made 22 yet. 23 Q. Okay. The sales force was not instructed 24 or informed that possibly the product was going to 25 be pulled?	Page 96 1 MR. TAYLOR: Right. 2 MR. RADITZ: What's the ID of this 3 document? 4 MR. DIMURO: It's MAE 059968 through 5 73. 6 MR. RADITZ: Thank you. 7 Q. (By Mr. Taylor) Why don't you identify 8 this document, if you can? Can you identify this 9 document? 10 A. No. I never saw this document, because 11 this looks like it was all written after I left 12 Monsanto. 13 Q. And what makes you think that? 14 A. It says we discontinued all sales of PCBs 15 to domestic U.S. customers for plasticizer 16 applications one year ago. And when I left 17 Monsanto, they were still selling them, sir. 18 Q. It states on the page number bearing 19 Bates MAE 059971 -- if you can, turn to that page. 20 A. (Witness complies with request of 21 counsel.) 22 Q. It states Monsanto's Aroclor Plasticizer 23 Bulletin O/PL-306 may appear to the layman to 24 indicate that PCB found its way deliberately into 25 almost every product produced in the nation.

Page 97 1 Do you read that? 2 A. Yeah, I read that. 3 Q. And do you agree with that statement, 4 that the Technical Bulletin 306 to a layman may 5 portray that message? 6 A. I'd have to read the bulletin. 7 MR. DIMURO: I object to the form. 8 THE WITNESS: I don't know what the 9 bulletin says. 10 Q. (By Mr. Taylor) Okay. Sir, in the 11 second paragraph it says that in 1969 an exhaustive 12 survey of our PCB customers was made to determine 13 exactly where these products were being used. 14 Did you participate in that survey? 15 A. No. I believe Cumming Paton headed that 16 up. 17 Q. And did anyone else work on that survey 18 with Cumming Paton? 19 A. I do not know, sir. 20 Q. Well, you do remember that Cumming Paton 21 was involved? 22 A. Cumming Paton was involved, yes, sir. 23 Q. And did Mr. Paton give you any report on 24 that survey? 25 A. I'm certain he did; but I don't recall	Page 99 1 stored? 2 A. I don't have the slightest idea, sir. 3 Q. Do you ever remember seeing the forms? 4 A. I do not recall seeing the forms. 5 Q. Do you ever remember seeing a summary of 6 the forms by way of a report or an overall synopsis 7 of the survey? 8 A. Only on Page 71 of this MAE. 9 Q. And we'll get to that, but do you have a 10 recollection of seeing those results? 11 A. No, I have no recollection, sir. 12 Q. I thought you said other than what's on 13 Page 71 of this document. What do you mean by that? 14 A. That's the only results I've seen of that 15 survey. 16 Q. Sitting here today? 17 A. Sitting here today, that I recall. 18 Q. Well, do you remember having an 19 impression from the survey as to where the majority 20 of the Aroclor products were being used or in what 21 types of applications? 22 A. Not from that survey. Only from what I 23 see on Page 71 here. 24 Q. Okay. We'll get to that. Now, the 25 survey, according to this document, on the bottom of
Page 98 1 it, sir. 2 Q. Were you ever supplied with the results 3 of that survey? 4 A. I'm sure I was; but I do not recall the 5 results of that survey, sir. 6 Q. Do you have any general understanding of 7 what that survey indicated as far as the uses of the 8 PCBs? 9 A. No, I do not, sir. 10 Q. Were the results filed within your 11 department? 12 A. They probably were; but I don't recall 13 them, sir. 14 Q. And was it a type of a -- a handout type 15 form that was given to each customer to fill out and 16 then returned or was it more of an interview type 17 process? 18 A. I believe it was more of an interview 19 type process with the salesmen asking the questions. 20 Q. And then the salesmen taking down the 21 answers -- 22 A. Yes, sir. 23 Q. -- on a form of some sort? 24 A. Yes, sir. 25 Q. And do you know where those forms were	Page 100 1 Page 059971 states that 57 percent of the customers 2 use the Aroclors in surface coatings. Is that 3 correct? 4 A. That's what it says here, yes, sir. 5 Q. What do you consider surface coatings? 6 A. Paints, that type of thing. 7 Q. What type of thing? I'm sorry. 8 A. Where the Aroclor would be used in 9 something that would be applied as a coating to a 10 substratum. 11 Q. And you said paints. Any other examples? 12 A. Lacquers would be an example, but I can't 13 think of Aroclors being used in lacquers. 14 Q. And I believe you said paints as a 15 subsurface. Is that what you said? 16 A. Paint would be applied to a subsurface, 17 to a surface. 18 Q. Okay. And for the record, in your mind, 19 differentiate between what is considered a surface 20 coating and a sealant for the purposes of, you know, 21 what's considered a use of an Aroclor product. 22 A. Sealant would be something like a 23 caulking compound, and a surface coating would be a 24 paint. 25 Q. A decorative paint or some other kind of

1 paint?
 2 A. Any kind of paint would be considered a
 3 surface coating.
 4 Q. Would you have considered, sir, the
 5 coating on a ceiling tile to be a surface coating?
 6 A. I would consider that to be a surface
 7 coating, yes, sir.
 8 Q. Okay. And it says adhesives, 17
 9 percent. Describe to me the types of uses that
 10 would be considered adhesives.
 11 A. Mixed with polyvinyl acetate emulsions to
 12 make Elmer's Glue, that would be an adhesive. There
 13 are other adhesives that might be used in the
 14 automotive industry to adhere insulation, or sound
 15 deadening material to panels would be adhesive.
 16 Q. Tapes, electrical tapes, things like
 17 that, would that be considered adhesives?
 18 A. I don't know how you'd classify that,
 19 sir.
 20 Q. Could that possibly be classified in the
 21 miscellaneous column?
 22 A. I would think that would be more in the
 23 miscellaneous column, sir.
 24 Q. And that's 6 percent. What other uses
 25 would be considered -- that you can think of that

1 may fall under the miscellaneous column?
 2 A. I haven't the slightest idea. It's too
 3 long ago.
 4 Q. Okay. Sir, were you on the Monsanto
 5 plasticizer council?
 6 A. I guess I was, yes, sir.
 7 MR. DIMURO: Well, I don't want you to
 8 guess.
 9 THE WITNESS: Not guess? I can't
 10 remember the plasticizer council hardly at
 11 all, sir.
 12 Q. (By Mr. Taylor) Well, you were aware of
 13 a body by the name of the plasticizer council?
 14 A. That was a salesman's dream I think.
 15 Q. Tell me what you mean by that.
 16 A. I think you just try to gussy it up and
 17 make it sound big.
 18 Q. And what was your recollection of what
 19 function the plasticizer council played within
 20 Monsanto or for its customers?
 21 A. If a customer had a problem, they would
 22 bring it to us and we would try to get together and
 23 come up with a solution to the problem.
 24 Q. Now, is that part of the plasticizer
 25 council's function?

1 A. I would say yes, sir.
 2 Q. I guess I want to understand what you say
 3 was a dream. Did it exist or did it not exist?
 4 A. It existed but not in a formalized way.
 5 Q. Okay. It was just given a name kind of
 6 to market that name that you had such a council
 7 within the company?
 8 A. Yes, sir.
 9 Q. And whether it was formal or informal,
 10 did you ever sit as a member on the council?
 11 A. I'm sure I did, sir.
 12 Q. What makes you sure you did?
 13 A. Because I was a worldwide product manager
 14 for the products.
 15 Q. And give me an example of a situation
 16 that the council would get involved in.
 17 MR. DIMURO: Object to the form.
 18 THE WITNESS: I can't think of an
 19 example, sir.
 20 Q. (By Mr. Taylor) Well, for example, if a
 21 customer didn't know what to do with 1254, would
 22 that be something that the council would advise that
 23 customer on?
 24 A. No. A better example would be a guy that
 25 was making something for the automotive industry and

1 could not meet the tensile strength requirements of
 2 a piece of injection molding. The council might
 3 meet and say hey, if you take out X parts of DOP and
 4 replace it with X parts of Santicizer 160 your
 5 tensile strength would be increased by 200 pounds
 6 per square inch.
 7 MR. TAYLOR: The next document will be
 8 Waychoff 15.
 9 (Document was marked for identification
 10 as Defendant's Waychoff Exhibit No. 15.)
 11 (A recess was taken.)
 12 Q. (By Mr. Taylor) Mr. Waychoff, you have
 13 before you what's been marked as Waychoff 15 with
 14 today's date.
 15 MS. O'CONNOR: Is Adam on the line?
 16 MR. RADITZ: Yes, I am.
 17 MS. O'CONNOR: Oh, sorry. Okay.
 18 Q. (By Mr. Taylor) Can you identify that
 19 document?
 20 A. It's a personal and confidential
 21 memorandum to all the market managers in the United
 22 States concerning Aroclor Bulletin O/PL-306.
 23 Q. Okay. Sir, it says in that first
 24 paragraph it has been out of print for some time.
 25 And this memo is dated April 3, 1970.

Page 105 1 Do you know when that bulletin went out 2 of print? 3 A. No, I do not, sir. 4 Q. Can you estimate the time frame? 5 A. I would only be guessing, and I'd prefer 6 not to guess. 7 Q. Well, was it during your tenure as 8 product manager between 1960 and 1970? 9 A. Yes, it was. 10 Q. Would it be closer to 1970 than 1965 that 11 it went out of print? 12 A. I don't know, sir. 13 Q. Okay. Do you know why it went out of 14 print? 15 A. Because we started to get information -- 16 I mean a lot of the technical bulletins were revised 17 during that period of time. Some of those became 18 massive jobs. And then we started to write this 19 one. When we started to look at this one, we 20 realized that whoops, we were going to have to do a 21 lot of changes. 22 Q. When you say whoops, we had to do a lot 23 of changes, what do you mean by that? 24 A. There was information coming to light on 25 the Aroclor problem and so we had to do some	Page 107 1 Q. Okay. So the sales director or the 2 marketing directors would not have been involved in 3 that decision -- 4 A. No. 5 Q. -- to keep out of print or -- 6 A. Cumming Paton was probably the man who 7 was involved, although I cannot swear to that. 8 Q. Okay. And would it have been within his 9 authority to make the decision that we are not going 10 to distribute any more copies of Technical Bulletin 11 306? 12 A. If he knew it was incorrect, he could 13 make that decision, yes, sir. 14 Q. Okay. And just so I'm clear, the main 15 reason that it was not distributed or that it 16 stopped being distributed was because of the 17 publicity that was being put out in the media 18 regarding PCBs? 19 MR. DIMURO: Object to the form. You 20 can answer it. 21 THE WITNESS: To the best of my 22 knowledge, that would be correct. 23 Q. (By Mr. Taylor) Are you aware of any 24 other technical reason that it was not distributed 25 any longer?
Page 106 1 changing. 2 Q. And the company -- well, whose decision 3 was it to pull it from print or to take it out of 4 print? 5 A. It was nobody's decision that was made. 6 They just printed up so many copies; and when we 7 distributed them all, then it was out of print. 8 Q. I understand. But was there a conscious 9 decision not to put it back on the copier? 10 A. No, not that I know of. We realized it 11 had to be revised. 12 Q. Right. 13 A. And so we decided we were not going to 14 send out any more until we revised it. 15 Q. Okay. That's what I'm saying. Who was 16 involved in that decision to decide that you weren't 17 going to send out any more? 18 A. I do not know, sir. 19 Q. Were you involved in that? 20 A. I probably was, but I cannot say for 21 sure. 22 Q. Would it have been something decided at 23 your level or above you? 24 A. It would probably be my level or below 25 me.	Page 108 1 A. No, sir. 2 Q. Okay. And the date of this memorandum, 3 April 3, 1970, was during the time that the company 4 was in the process of making a decision to withdraw 5 PCB products from the market, correct? 6 A. That is correct. 7 Q. Just give me a moment. What was meant by 8 for your information only, that phrase? Do you have 9 an understanding of that? 10 MR. DIMURO: In this document? 11 Q. (By Mr. Taylor) In this document. It 12 says -- there's a caption -- for your information 13 only. Do you see that? 14 A. Yes, I do. 15 Q. Do you know what Mr. Paton was referring 16 to there? 17 A. He was just saying -- no, I don't know 18 specifically what he's referring to, sir. 19 Q. Okay. Well, if you look at the 20 recipients of this memorandum, is there any reason 21 to believe that the intendant recipient was only a 22 specific -- or a specific group of people within 23 Monsanto, to be kept from other departments or 24 anything like that? 25 MR. DIMURO: Object to the form. You

Page 109 1 can answer it, if you know. 2 THE WITNESS: I don't know why he said 3 that. 4 Q. (By Mr. Taylor) Why don't you just take 5 a look at the recipients? There's a large list of 6 them. 7 A. Those are all managers of sales in the 8 retail markets in Europe, Africa, Europe, Hong Kong, 9 Canada, Europe, and the United States. 10 Q. Okay. What I'm trying to find out is, 11 the statement for your information only, did that 12 mean that the recipients should not share this with 13 customers or as opposed to other people within 14 Monsanto? 15 MR. DIMURO: Object again to the form. 16 You can answer it. 17 THE WITNESS: I would say from reading 18 the memorandum he is saying hey, we're going 19 to have solutions to this problem, just bear 20 with us a little bit. 21 Q. (By Mr. Taylor) And is the reason -- 22 were these technical bulletins heavily sought after 23 by customers that would say why can't I get a copy 24 of it? Was there that kind of pressure going on? 25 A. No. I think we just told the customers	Page 111 1 A. Where we would develop substitutes for 2 the Aroclors for specific applications. 3 Q. Okay. And those substitutes included 4 some of the santicizer products and things like 5 that? 6 A. Yes, sir. 7 Q. And was the research and development 8 department of Monsanto underway in those efforts to 9 come up with a replacement product? 10 A. Yes, they were, sir. 11 Q. And how were they faring? 12 A. Pretty good. They came across several of 13 them. 14 Q. And what were some of those replacement 15 products? 16 A. I can't recall specifically what products 17 they developed; but if they were trying to make a 18 plastisol, they would come up with a different 19 formulation for the plastisol. 20 Q. Okay. Now, sir, at this time in April of 21 1970, about five months or so before you wrote the 22 letter in September 1970, had you made your mind up 23 that Aroclor should be pulled from the market? 24 A. Yes. We were convinced of that. 25 Q. By April of 1970?
Page 110 1 that they were out of print at this time and going 2 to be revised. 3 Q. And you were telling customers that they 4 were going to be revised? 5 A. Yes, sir. 6 Q. And in the first sentence underneath that 7 heading, it says that 306 must be drastically 8 revised in the light of the letter on PCBs that we 9 have sent to Aroclor customers in the U.S. and plan 10 to send to U.K. and Canadian customers. 11 What letter is he referring to? 12 A. I don't know, but did you show me a copy 13 of a letter -- 14 Q. I did. 15 A. -- previously? 16 Q. I showed you a letter that you authored 17 in September of 1970. This is April of 1970. 18 Was there an earlier letter to customers 19 relating to the Aroclor products and problems 20 relating to it? 21 A. I don't know, sir. 22 Q. And he goes on to say as you know, we 23 have programs underway to solve the problems the PCB 24 situation poses for our Aroclor business. 25 What programs is he referring to?	Page 112 1 A. Mr. Paton and I were convinced of that. 2 Q. That you should pull it from the market? 3 A. Yes, sir. 4 Q. And you were convinced of that as early 5 as April of 1970? 6 A. I believe that is correct, sir. 7 Q. Okay. Now, he goes on to say that it 8 would appear inconsistent from an image standpoint 9 that at the time we are promising support to 10 scientists/agencies we publish a new bulletin 11 promoting PCBs. 12 What did he mean by that? 13 MR. DIMURO: Again, I object to the 14 form. 15 THE WITNESS: I don't know what he 16 meant by that. 17 Q. (By Mr. Taylor) Well, he says -- and I 18 skipped over the parenthetical that he said in all 19 sincerity let me emphasize. 20 What did he mean by in all sincerity let 21 me emphasize? Do you know? 22 MR. DIMURO: I object to the form. 23 THE WITNESS: I don't know what he 24 meant. 25 Q. (By Mr. Taylor) Is it a fair reading

Page 113 1 that he meant that Monsanto was sincerely working 2 with the scientists in the various agencies to solve 3 the PCB problem? 4 A. I don't know what he meant, sir. 5 Q. Okay. Well, he goes on to say in the 6 sentence right after that that the lack of O/PL-306 7 should not -- and he underlines the word not -- 8 inhibit your sales or your efforts. 9 Do you see where he says that? 10 A. Uh-huh. 11 Q. Sir, in your mind, did you support that 12 statement that Mr. Paton made? 13 MR. DIMURO: I object again. 14 MR. TAYLOR: I'll rephrase. 15 Q. (By Mr. Taylor) Do you support that 16 statement that the salesmen should not have their 17 efforts inhibited at that time? 18 A. Yes. I agree with that statement, only 19 because we were developing replacement products and 20 we wanted to keep the customer receptive to our 21 ideas. 22 Q. By saying that the lack of O/PL-306 23 should not inhibit your sales efforts, Mr. Paton was 24 referring to the sales of Aroclors, correct? 25 A. That's correct.	Page 115 1 (The record was read by the reporter.) 2 Q. (By Mr. Taylor) Sir, if you skip down to 3 the last sentence on that page, Mr. Paton says we 4 plan to issue a much-condensed bulletin giving the 5 physical properties of the various Aroclors without 6 reference to applications. 7 Why, sir, were the applications to be 8 removed from the technical bulletin? 9 A. I have no idea, sir. 10 Q. Would you be willing to speculate as to 11 why the applications would be -- 12 MR. DIMURO: Objection. 13 MS. O'CONNOR: Objection. 14 MR. DIMURO: I'm not going to have him 15 speculate. 16 MR. TAYLOR: Let me finish the 17 question, if I can; and then you can put your 18 objections on the record. 19 Q. (By Mr. Taylor) The question is can 20 you -- are you willing to speculate as to why the 21 references to applications were to be removed by -- 22 removed in the replacement technical bulletin? 23 MR. DIMURO: I'm going to object to the 24 form of that question. I advise the witness 25 not to speculate. If he has any
Page 114 1 Q. And isn't that inconsistent with the 2 position that you believed, that at the time that 3 the products should be pulled from the market? 4 A. We were developing replacement products 5 for them, sir. You know, if the customer developed 6 a use, we would come out with a replacement product, 7 say hey, use this instead of Aroclor X, Y, Z. 8 Q. But in the interim, you were still 9 telling the salesmen that they should not be 10 inhibited in the sale of their Aroclor products? 11 MR. DIMURO: I'll object. That's not 12 what he said. This is Cumming Paton's 13 letter. 14 MR. TAYLOR: I'm just asking him what 15 his understanding was. 16 THE WITNESS: I felt that we had to 17 keep promoting our image with the customers. 18 Q. (By Mr. Taylor) And part of that image 19 was to be able to supply them with products that 20 they needed including Aroclors? 21 A. At least let them do the research with 22 the Aroclor products. How far they would get 23 towards going commercial is another question. 24 MR. RADITZ: Can you read back that 25 last response?	Page 116 1 recollection, he can answer. 2 THE WITNESS: I do not have any 3 recollection, sir. 4 Q. (By Mr. Taylor) Well, do you remember if 5 there was, in fact, a replacement technical bulletin 6 issued? 7 A. I can't recall that, sir. 8 Q. Did you reply in any way to this 9 memorandum to Mr. Paton? 10 A. Not that I know of, sir. 11 Q. Do you remember discussing this 12 memorandum with Mr. Paton? 13 A. I do not recall, sir. 14 Q. Did you discuss this memorandum with 15 anyone else within Monsanto? 16 A. I do not recall sir. 17 Q. Do you remember seeing any kind of 18 correspondence or memoranda that were issued in 19 response by any of the people to Mr. Paton's 20 memorandum? 21 A. No, sir, I do not. 22 (A discussion ensued off the record.) 23 Q. (By Mr. Taylor) Sir, did you have any 24 involvement with AMSCO? 25 A. That was a distributor set up to handle

Page 117 1 small volumes, and I had very little involvement 2 with AMSCO. 3 Q. Well, why don't you tell me what 4 involvement you did have with AMSCO? 5 A. I cannot recall that I really had any 6 except to make sure they had our technical 7 literature, and they then went from there to calling 8 on their own customers trying to promote the 9 Monsanto product line. 10 MS. O'CONNOR: I can't hear the 11 witness. He needs to move closer to the 12 phone, please. 13 MR. DIMURO: If it was any closer, it 14 would be in his lap, Carolyn. I could have 15 him repeat -- you want him to repeat the 16 answer? 17 MS. O'CONNOR: Yes, please. 18 THE WITNESS: I do not recall having 19 much contact with Amoco or AMSCO, whatever 20 the name of the place is, American Mineral 21 Spirits. 22 We supplied them with technical 23 bulletins and they went and did their own 24 thing with customers. 25 Q. (By Mr. Taylor) Well, who at AMSCO did	Page 119 1 distributorship situation? 2 A. A memorandum? 3 Q. No. An agreement, written agreement. 4 A. I'm sure there was a written agreement; 5 but I do not recall seeing it, sir. 6 Q. You had no involvement with the terms of 7 that agreement? 8 A. No. That was Mr. Schalk and Mr. Wright 9 primarily. 10 Q. Okay. Do you remember any name from 11 anyone at AMSCO over the years that you dealt with? 12 A. No, I do not, sir. 13 Q. And when you would deal with them, would 14 they come to Monsanto's offices? 15 A. No. If I ever saw anybody from AMSCO, it 16 was while I was making a call in the area and the 17 salesman would say let's drop in and say hi to them. 18 Q. Okay. Now I'm going to mark -- I'm going 19 to refer to what has previously been marked in the 20 deposition of Mr. Orem as Exhibit No. 3, and it is 21 Aroclor Plasticizers Technical Bulletin 306. 22 If you can, review this document. Just 23 take a look at it and let me know when you're 24 finished. 25 Just for the record, it bears Bates stamp
Page 118 1 you deal with? 2 A. I do not recall the name of anybody. 3 Q. How often would you have interaction with 4 anyone at AMSCO in any given year? 5 A. I can't recall when AMSCO was -- when 6 they were appointed distributors for Monsanto 7 products, but I would say it would just be just very 8 slight contact with AMSCO. 9 Q. Was there anyone else within Monsanto 10 that had more involvement with AMSCO than yourself? 11 A. Jim Wright and Walter Schalk. 12 Q. Again? I'm sorry. Who was -- 13 MS. O'CONNOR: What was the second 14 name? 15 MR. DIMURO: Walter Schalk. 16 Q. (By Mr. Taylor) And if I remember, 17 Walter Schalk was a sales -- 18 A. Manager. 19 Q. Manager. And Mr. Wright, what was his 20 position? 21 A. Also a sales manager, and he was in 22 charge of distributors for a period of time. 23 Q. Okay. Was there some sort of an 24 agreement between AMSCO and Monsanto that 25 memorialized this distribution agreement,	Page 120 1 MAE 040881 on the cover page; and it goes through 2 040934. 3 MR. DIMURO: Do you have a specific 4 question? 5 MR. TAYLOR: Yes. 6 Q. (By Mr. Taylor) Obviously you're not 7 going to read the whole thing. I just wanted you to 8 get a feel for it. 9 A. Okay. 10 Q. Do you recognize that document? 11 A. I think I do, yes, sir. 12 Q. Well, was this a document that was 13 produced during your tenure either as a technical 14 consultant or as product manager at Monsanto? 15 A. I do not remember, sir. 16 Q. Who put together the technical bulletin 17 at Monsanto? 18 A. Normally you worked with an ad person. 19 Q. You said normally you worked with. Who 20 is you? 21 A. Normally the person that was writing the 22 bulletin worked with an ad person to put it 23 together. 24 Q. A hired consultant? 25 A. Not hired. Just a member of Monsanto's

1 advertising department.
 2 Q. Okay. Now, what department would be
 3 charged with the responsibility to put the technical
 4 bulletin together?
 5 A. That would be our advertising department.
 6 Q. In conjunction with whom?
 7 A. In conjunction with the person in charge
 8 of the product that they were writing the bulletin
 9 on.
 10 Q. So that would be you?
 11 A. Yes. If it was written during the time I
 12 was product manager, yes.
 13 Q. That's my question. During your time as
 14 product manager, did you have involvement in the
 15 production of this Technical Bulletin 306?
 16 A. I don't recall the date of this manual;
 17 and since I wrote many technical bulletins, I do not
 18 recall whether I wrote this bulletin or not, sir.
 19 Q. Okay. Maybe you can take a look and
 20 determine somehow when this document was produced.
 21 A. That's what I was looking for in here,
 22 see if there was a date anyplace.
 23 Q. Okay. If you look -- and, again, on the
 24 second to the last page towards the -- almost to the
 25 bottom, very bottom right-hand corner. See if that

1 helps you out any. It looks to me like it says
 2 1/2/68.
 3 MS. O'CONNOR: I can't hear you.
 4 MR. TAYLOR: I said it looks to me that
 5 it says 1/2/68.
 6 Q. (By Mr. Taylor) Do you see that?
 7 A. I see it, yes, sir.
 8 Q. Does that help you any in determining
 9 when this particular bulletin was produced?
 10 A. It was probably in 1968, but I cannot
 11 guarantee that.
 12 Q. Okay. But in your experience in dealing
 13 with the technical bulletins, is that date which I'm
 14 referring to consistent with where they would be
 15 placed on a technical bulletin?
 16 A. I would think it would be on the front
 17 page, not the back page.
 18 Q. Okay. But irregardless, do you have any
 19 recollection of an involvement with this technical
 20 bulletin in its production or any revisions of it?
 21 A. I'm sure I did; but I cannot recall it,
 22 sir.
 23 Q. Okay. You can hold on to that. I've got
 24 a couple of follow-up questions.
 25 A. Okay.

1 Q. On Page 4 of the document which bears
 2 Bates stamp MAE 040885, in the middle under the
 3 introduction paragraph -- when you get there, let me
 4 know.
 5 A. Okay.
 6 Q. Okay. The paragraph beginning with this
 7 bulletin describes, in the second sentence it says
 8 examination of their physical properties, also given
 9 in considerable detail, may suggest scores of new
 10 uses that would not be performed by any other known
 11 material.
 12 Do you read that?
 13 MR. DIMURO: Could not be performed.
 14 MR. TAYLOR: I'm sorry. You're right.
 15 Q. (By Mr. Taylor) Could not be performed
 16 by any other known material, do you see that?
 17 A. Yes, sir.
 18 Q. What is meant by that, could not be
 19 performed by any other known material?
 20 A. They're just saying here -- you're saying
 21 here that these things are versatile, they have
 22 unique properties, and look at them and see if
 23 they're suitable in your applications.
 24 Q. And from a technical point of view, was
 25 the technical bulletin produced to give the

1 customers ideas on possible uses and -- was it used
 2 to give customers ideas for other possible uses?
 3 MR. DIMURO: Are you talking about this
 4 bulletin?
 5 MR. TAYLOR: This bulletin, 306.
 6 THE WITNESS: I would say yes, it was
 7 produced in order to try to stimulate
 8 consideration of Aroclors and other uses.
 9 Q. (By Mr. Taylor) Okay. And I may have
 10 misunderstood your testimony earlier. I thought you
 11 said that the Aroclor plasticizers were not
 12 compatible with PVCs, polyvinyl chloride?
 13 A. No. I said they had limited
 14 compatibility. They were considered secondary
 15 plasticizers having to be used with a primary
 16 plasticizer with PVC.
 17 Q. Okay. Then explain to me on Page 5 -- if
 18 you turn to page -- under compatibility. There's a
 19 heading, compatibility.
 20 A. Uh-huh.
 21 Q. And it says -- well, you can read it. Is
 22 that consistent with your last answer, that it
 23 needed to be I believe a coplasticizer --
 24 A. Used with a primary plasticizer.
 25 Q. Primary?

Page 125 1 A. Yes, sir. 2 Q. Is that consistent with this 3 compatibility table which identifies PVCs as a resin 4 that the Aroclors are compatible with? And it 5 doesn't mention there, as I see it, anything about a 6 mixture or that has to be mixed with some other 7 plasticizer. Maybe you can correct me if I'm 8 wrong. 9 MR. DIMURO: You're asking him if what 10 he just said is now inconsistent with what's 11 in this table? 12 MR. TAYLOR: Yes. 13 THE WITNESS: To understand the 14 plasticizer business, you must understand 15 that secondary plasticizers are compatible to 16 vinyl to a limited degree. 17 Once you exceed their compatibility 18 limit, then they will exude; and it must be 19 used with a primary plasticizer if you're 20 going to use higher concentrations of the 21 secondary plasticizer. 22 Q. (By Mr. Taylor) That's what I'm trying 23 to get at. According to this table, there are uses 24 of Aroclors with PVCs where the Aroclor is the 25 primary plasticizer, correct?	Page 127 1 compatibility test. One of the most severe used -- 2 and that may be the word several, but it looks like 3 severe used by the industry. 4 Can you describe to me what that test 5 is? 6 A. Yes, sir. 7 Q. Well, first of all, tell me what is meant 8 by no exudation. Is that gooeyness? 9 A. Stickiness, yes, sir. 10 Q. Okay. Then if you can tell me -- 11 A. Loop compatibility test is where you take 12 a piece of PVC and you bend it over in a sharp angle 13 and let it sit like that. When you open it up, 14 right where the crease is there is exudation where 15 the plasticizer comes out. And that's just saying 16 that if you use up to 25 percent and you run that 17 test it will be compatible. 18 Q. And that's the loop just like turning it, 19 bending it over? 20 A. On itself, yes, sir. 21 Q. Got you. Okay. In the back of the 22 bulletin -- and we've talked about this earlier and 23 I said I'd get to it -- they have a statement on 24 toxicity and also safe handling. 25 MR. DIMURO: What page is that on?
Page 126 1 A. Yes, if you use a small amount of them. 2 Q. Okay. 3 A. If you look over at the bottom of Page 4 7 -- 5 Q. Okay. That's where I was going to go 6 next. 7 A. The bottom of the page there, that's 8 where it covers plasticizer compatibility. 9 Q. And it says about 25 percent? 10 A. Right. 11 Q. Are compatible with -- as a primary 12 plasticizer with PVCs? 13 MR. DIMURO: Where are you reading 14 from? The bottom? 15 MR. TAYLOR: No. I'm just asking a 16 question. I'm not reading. 17 MR. DIMURO: I didn't know that was a 18 question. Go ahead. 19 THE WITNESS: It says they're 20 compatible about 25 percent of the total 21 plasticizer with PVC in the loop 22 compatibility test. 23 Q. (By Mr. Taylor) Okay. Let me stop you 24 there. I'm going to ask you that. It states at 25 these levels no exudation occurs in the loop	Page 128 1 MR. TAYLOR: Page 50 of the bulletin 2 which is Bates stamped MAE 040931, and it 3 goes on to the next page. 4 MR. RADITZ: I'm sorry. I'm losing -- 5 MR. TAYLOR: Okay. I'll speak up. 6 Adam, I dropped my voice off. I'm referring 7 him to Page 50 of the Technical Bulletin 306 8 which bears Bates stamp 040931. 9 MR. RADITZ: Bulletin 306? 10 MR. TAYLOR: That's right. 11 MR. RADITZ: Okay. 12 MR. TAYLOR: Okay? 13 MR. RADITZ: Thank you. 14 MR. TAYLOR: Sure. 15 Q. (By Mr. Taylor) Have you reviewed that? 16 A. I am right now. Thank you. 17 Q. Okay. Just let me know when you're 18 finished. 19 A. Okay. Go ahead. 20 Q. Okay. Who at Monsanto created that 21 statement? 22 A. I don't know for sure, but I would 23 suspect that this came from the medical department. 24 Q. And was there a medical committee that 25 would draft this type of language or would it have

Page 129 1 been one specific doctor? 2 A. Probably one specific doctor consulting 3 with the other doctors. I believe the name of the 4 man was E.M. Wheeler. 5 Q. And do you know if either Dr. Wheeler or 6 any of the other doctors or any person from the 7 medical department consulted with the legal 8 department in finalizing and approving that 9 statement? 10 A. I do not know definitely if they 11 consulted with them. 12 Q. When you say definitely, do you have some 13 sort of qualification on that answer? 14 A. I just do not know. 15 Q. Did they seek your advice at all in 16 preparing that statement? 17 A. No, sir. 18 MR. TAYLOR: Okay. We are going to 19 have to mark the next document. That 20 document we don't need to put on the record. 21 MR. DIMURO: It's already marked. 22 MR. TAYLOR: It's already marked. 23 We'll have to mark and make part of the 24 record the next document which is No. 16. 25 / / /	Page 131 1 time? 2 A. Yes, sir. 3 Q. And is this the replacement bulletin 4 referred to in Mr. Paton's memorandum we referred to 5 earlier that was being worked on? 6 A. I don't believe it is. What was that 7 number of the replacement bulletin, the bulletin 8 they talked about there? 9 Q. Well, the document was Waychoff No. 15; 10 and it says underneath the caption for your 11 information only O/PL-306 must be drastically 12 revised. 13 And I'm wondering if this is the 14 revision. I'm wondering is 306A the revision 15 referred to by Mr. Paton? 16 MR. RADITZ: I'm losing you. 17 MR. TAYLOR: Okay. I asked him if 306A 18 was the revision referred to by Mr. Paton in 19 Waychoff No. 15. 20 MR. RADITZ: Okay. 21 THE WITNESS: I do not know, sir. 22 Q. (By Mr. Taylor) Having reviewed this 23 document, do you recognize the document? 24 A. Not really, I do not. This one here is 25 dated April 3rd. 15 is dated April 3rd, 1970.
Page 130 1 (Document was marked for identification 2 as Defendant's Waychoff Exhibit No. 16.) 3 Q. (By Mr. Taylor) Do you recognize that 4 document? 5 A. I'm not into it far enough to see whether 6 I recognize it or not. 7 MR. TAYLOR: Okay. For the record, I 8 have placed before the witness Technical 9 Bulletin Aroclor Plasticizers O/PL-306A. 10 Q. (By Mr. Taylor) As you're going through 11 it, I just would ask you to look to see if you can 12 tell from this document when it was produced? 13 A. It's an organic division bulletin, so it 14 was produced after the Aroclors were transferred to 15 the organic division from the inorganic division or 16 from the old phosphate division; and that would have 17 been sometime after 1955 I think. 18 Q. Okay. Well, sir, if you look on the last 19 page of that document which bears Bates stamp 20 040949, there appears to me to be a 3/70. 21 A. Yes, sir. It sure does. 22 Q. Does that refresh your memory as to when 23 this document was produced? 24 A. I would say that was March of '70, sir. 25 Q. And you were still at Monsanto at the	Page 132 1 Q. Correct. 2 A. And the one you're handing me, 306A, is 3 referred to as a March of '70 bulletin. 4 Q. Correct. 5 A. So I would assume that this is not the 6 replacement of 306. 7 Q. Okay. Well, sir, if you would, turn to 8 Page 12 of 306A bearing Bates stamp MAE 040946, 9 going over to the next page, 040947. And if you 10 would be kind enough to review the statement 11 toxicity and safe handling and then on the next page 12 environmental hazards, and just tell me if you 13 remember seeing those statements before. 14 MR. DIMURO: I'm not clear. Didn't he 15 just testify he doesn't recall the document? 16 MR. TAYLOR: I asked him if he saw the 17 statements before. 18 MR. DIMURO: Okay. Outside of the 19 document? 20 MR. TAYLOR: Wherever. 21 THE WITNESS: I do not specifically 22 recall reading these statements before, sir. 23 Q. (By Mr. Taylor) Would you agree, sir, 24 that those statements differ from the statements 25 contained in Technical Bulletin 306?

Page 133 1 MR. RADITZ: I can't hear. I'm sorry. 2 MR. TAYLOR: I'm sorry. I asked him if 3 he would agree with me that the statements on 4 safe handling and toxicity differ from the 5 statements contained in Technical Bulletin 6 306. 7 MR. RADITZ: Okay. Thank you. 8 MR. DIMURO: You can ask him until the 9 cows come home, but isn't it a matter of 10 record that they differ? I mean do you need 11 this witness to tell you that? 12 If you want to read the two and look at 13 the two statements -- I think Mr. Taylor 14 wants you to look at both of these statements 15 and he's asking you whether they're 16 different, the one in Bulletin 306 and the 17 one in Bulletin 306A. 18 Do you want him to compare every word? 19 MR. TAYLOR: No, I don't. 20 MR. DIMURO: I mean, if you want, I'll 21 stipulate that they're different. 22 MR. TAYLOR: I'll move on. 23 MR. DIMURO: Okay. 24 Q. (By Mr. Taylor) The statement on 25 environmental hazards, sir, is in Technical Bulletin	Page 135 1 MR. DIMURO: I object to the form. 2 THE WITNESS: I do not know if he was 3 or not, sir. I would assume he was. 4 You're asking questions that -- 27 5 years ago is a long time. 6 MR. TAYLOR: Okay. I just have a 7 question about the Monsanto Corporate Fire 8 Group. I'm going to mark a bulletin entitled 9 Monsanto Corporate Fire Group, Fire Retardant 10 Chemicals and Products. 11 And, if you would, give that Waychoff 12 17 with today's date. 13 (Document was marked for identification 14 as Defendant's Waychoff Exhibit No. 17.) 15 Q. (By Mr. Taylor) Was this fire group part 16 of your products group at Monsanto? 17 A. No, it was not, sir. 18 Q. Do you remember the fire group? 19 A. No, sir, I do not, sir. 20 Q. Do you remember ever seeing this 21 bulletin? 22 A. I do not recall seeing this bulletin. 23 Q. Can you tell by reviewing the bulletin 24 when it may have been produced? 25 A. It looks like it was -- from some of the
Page 134 1 306A and is not contained in Technical Bulletin 306, 2 correct? 3 MR. DIMURO: It's not here. 4 THE WITNESS: Not there, yeah. 5 Q. (By Mr. Taylor) How did it come about 6 that the environmental hazards statement was placed 7 into the Technical Bulletin 306A? 8 A. I do not know, sir. 9 Q. Okay. 10 A. All I can -- well, I'm assuming again. 11 Q. Were you involved at all in that process 12 that placed the environmental hazards statement in 13 the technical bulletin? 14 A. No, I was not, sir. That would be 15 Cumming Paton who put that in. 16 Q. Well, Cumming Paton, you were his 17 supervisor? 18 A. I was his supervisor, yes, sir. 19 Q. And did he run that by you at all before 20 he placed it in there? 21 A. Not that I recall, sir. 22 Q. Do you remember who he was dealing with 23 or if he was dealing with anyone else from other 24 Monsanto departments in drafting and finalizing the 25 environmental hazards statement?	Page 136 1 stamps, it looks like '71. 2 Q. What are you referring to? I'm sorry. 3 A. The stamps on MAE O59467, '71 and '72. 4 It's an inorganic chemicals division bulletin. 5 Q. Inorganic? 6 A. Inorganic. 7 Q. And that was not part of your function? 8 A. No, sir. 9 Q. And you don't remember such a group when 10 you were product manager for the plasticizer group? 11 A. No. I departed Monsanto in November of 12 1970. 13 Q. Prior to that time, you knew of no such 14 corporate fire group? 15 A. No, sir. 16 Q. Okay. Thanks. 17 (A discussion ensued off the record.) 18 (Document was marked for identification 19 as Defendant's Waychoff Exhibit No. 18.) 20 MR. DIMURO: I take it you don't want 21 him to read it cover to cover? 22 MR. TAYLOR: Right. I certainly 23 don't. 24 MR. DIMURO: Is there a specific 25 section?

Page 137 1 MR. TAYLOR: Yes. 2 Q. (By Mr. Taylor) I just want you to just 3 review it briefly just to familiarize yourself with 4 the document. 5 Can you identify the document, which is 6 before you, marked as Waychoff No. 18? 7 A. It just says it's a technical bulletin on 8 Monsanto plasticizers. 9 Q. Do you ever remember seeing this document 10 before? 11 A. I'm trying to identify it by looking and 12 seeing what pictures it might be showing. 13 Q. Okay. You can take the rubber band off. 14 Just for the record, it bears Bates MAE 059239 all 15 the way through 059448. 16 MR. RADITZ: What's the date of that 17 bulletin? 18 MR. DIMURO: I don't know if there is a 19 date. 20 Q. (By Mr. Taylor) Mr. Waychoff, can you 21 tell from this -- does this document indicate a date 22 on it? 23 MR. RADITZ: Okay. Thanks. 24 THE WITNESS: I cannot find a date on 25 it.	Page 139 1 And in the third paragraph under the heading largest 2 selection of plasticizers from one source, beginning 3 with confronted with multiplicity of end-use 4 requirements, do you see that paragraph? 5 A. Yes, sir. 6 Q. It states even the most experienced 7 formulator is bewildered by the maze of 8 possibilities of from which to select the one best 9 system for his particular application. 10 Do you see that? 11 A. Yes, sir. 12 Q. Were you involved at all in the 13 production of this document? 14 A. If this is a plasticizer blue book, I 15 was, yes, sir. 16 Q. And when they use the term even the most 17 experienced formulator, who is being referred to by 18 even the most experienced formulator? 19 A. That would refer to a chemist working at 20 a customer's plant. 21 Q. And it goes on to say is bewildered by 22 the maze of possibilities. 23 A. Yes, sir. 24 Q. What was meant by bewildered by the maze 25 of possibilities?
Page 138 1 Q. (By Mr. Taylor) If you'd just for a 2 second, Mr. Waychoff, turn your attention back to 3 the fire group document. 4 Generally as product manager, were you 5 aware -- well, did you keep abreast of some of the 6 building codes and fire codes that were coming -- 7 that were being passed throughout the country? 8 A. No, I did not, sir. 9 Q. Okay. Back to No. 18. Do you recognize 10 this document? 11 A. I should but I don't. 12 Q. Why do you say you should? 13 A. Because it covers all of the santicizers 14 in here, but I don't know whether this was part of a 15 catalog we published on plasticizers or what. 16 Q. Okay. Well, have you ever heard of the 17 term plasticizer blue book? 18 A. Yes. Okay. Is this the blue book? 19 Q. I'm asking you. Is this a plasticizer 20 blue book? 21 A. I'm looking for something that would 22 identify it as a plasticizer blue book, but I cannot 23 tell. 24 Q. Well, in any event, if you can, turn to 25 the second page which is Bates stamped MAE 059240.	Page 140 1 A. There are many ways to skin a cat, and 2 all it's saying here is that of all those ways to 3 skin a cat he doesn't know what the best way is; and 4 this book is supposed to be designed to help him 5 skin the cat the best way. 6 Q. Okay. If you turn, sir, there is a guide 7 to plasticizer table towards the back of the book; 8 and I'll find it for you. I'll get you the 9 reference. I just want you to refer to one thing, 10 and I just want to walk you through it. 11 Towards the end, you'll see Bates stamp 12 MAE 059396. 13 A. Okay. 14 Q. Okay. Actually go to the page before 15 that, and it says guide to plasticizer performance 16 in protective coatings. 17 A. Okay. 18 Q. And earlier you had said that a ceiling 19 tile -- 20 MR. DIMURO: Well, it says for metal, 21 wood, fabric, paper. 22 MR. TAYLOR: Okay. 23 MR. DIMURO: Okay. 24 Q. (By Mr. Taylor) And that ceiling tile 25 may be considered a protective coating; or a

Page 141 1 plasticizer put on ceiling tile may be considered a 2 coating, correct? 3 A. No. It would be a formulation. With a 4 plasticizer put on it, it could be considered a 5 protective coating. 6 Q. That's what I meant. 7 A. Yes, sir. 8 Q. Now, if you go on to the next page, it 9 says lift flap for chart. Before you lift the flap, 10 can you explain the instructions given below that? 11 And specifically it says when the same plasticizer 12 appears under two or more of the properties desired 13 in the finishing coating - that plasticizer 14 definitely merits evaluation. 15 Do you remember that type of instruction? 16 A. I'm reading it again and saying yes, 17 okay, it sounds correct. 18 Q. Okay. Well, it says two or more of the 19 properties desired in the finishing coating. What 20 is significant about the fact that there may be two 21 desired properties in any given -- for example, say 22 resin. What's the significance of the fact that 23 there was two desired applications? 24 A. If you'll turn over to Page 397 -- 25 Q. Okay.	Page 143 1 my notes and just take a two-minute break. 2 (A recess was taken.) 3 Q. (By Mr. Taylor) And, sir, in 4 consideration of all of the plasticizers, how would 5 you grade the Aroclor products as a fire retardant? 6 A. Compared to what? 7 Q. Compared to -- 8 A. Other plasticizers? 9 Q. Other plasticizers. 10 MR. DIMURO: I'll object to the form. 11 You can answer. 12 MR. RADITZ: Same objection. 13 THE WITNESS: I can answer? 14 MR. DIMURO: If you can, sure. 15 THE WITNESS: Yeah. Well, the Aroclors 16 compared to other plasticizers, some of the 17 other plasticizers, you light a match to them 18 they'll burn. The Aroclors would not. 19 Q. (By Mr. Taylor) So it was a good fire 20 retardant plasticizer? 21 A. Fire resistant or fire retardant, yes, 22 sir. 23 Q. And the term punking, what does that mean 24 to you? 25 A. It doesn't mean a thing to me.
Page 142 1 A. -- perhaps I can give you an example. 2 Q. Great. 3 A. It says tensile strength, elongation, and 4 adhesion at the top under the resin. If you go down 5 to PVC, you will see that Santicizer 160 is 6 considered in all three categories for that 7 performance. 8 Q. Okay. I see. I'm with you. So 9 utilizing PVC, just as you gave me that example, for 10 example under adhesion Aroclor is present, correct? 11 A. Aroclor is present, yes, sir. 12 Q. Okay. And if you go to the next page, 13 under hardness for PVC -- you kind of have to match 14 it up here, but go across -- 15 A. Right. 16 Q. Aroclor is mentioned there under 17 hardness, correct? 18 A. Yes, sir. 19 Q. Okay. So that's how you would match 20 up -- if you would find two or more, then that may 21 be a plasticizer that you would want to consider for 22 that resin? 23 A. Yes, sir. 24 MR. TAYLOR: Okay. I understand. I 25 think that's all I have. Let me just check	Page 144 1 Q. Okay. 2 (A discussion ensued off the record.) 3 Q. (By Mr. Taylor) In the blue book at 4 Bates MAE 05932 -- no. 5 MR. DIMURO: No. That can't be it. 6 MR. TAYLOR: That can't be. 7 MR. DIMURO: Does it end in 392? 8 MR. TAYLOR: Yes. It may end in 392 9 I'm sure. I'll find it. Here it is. I'm 10 sorry. The reference is MAE 059382 and then 11 059383. 12 Q. (By Mr. Taylor) If you'd turn to 059383, 13 you'll see a box that has Aroclor plasticizers. 14 That's 059383. You'll see there that it says that 15 the Aroclors are particularly effective in reducing 16 flameout time and the glow termed punking. That's 17 all. That's what I was referring to. 18 A. Yeah. 19 Q. Does that mean anything to you? 20 A. The term punking would be like if you 21 have a punk to light firecrackers when I was a kid. 22 That's what it means to me. 23 MR. TAYLOR: I just wanted to know what 24 your understanding of that was. 25 That's all I have. Thanks.

Page 145 1 THE WITNESS: Is that it? 2 MR. TAYLOR: Thank you very much. 3 MR. DIMURO: The lady and the gentleman 4 on the phone get to ask you some more 5 questions. 6 Adam? 7 MR. RADITZ: Okay. Can you just place 8 the phone by Mr. Waychoff so I can hear him 9 better, please? 10 MR. DIMURO: Right on top of him. 11 MS. O'CONNOR: Is there a question on 12 whether the volume is up or not, Chris? 13 MR. RADITZ: Yeah. It seems to get 14 very low. 15 MS. O'CONNOR: I know it's like 3:30 16 and everybody's voice is trailing off. 17 THE WITNESS: I was sitting back too. 18 MR. DIMURO: The volume is all the way 19 up on the phone. 20 MS. O'CONNOR: Okay. 21 THE WITNESS: Is that any better? 22 MR. RADITZ: Okay. Ready to begin? 23 THE WITNESS: Ready to begin. 24 /// 25 ///	Page 147 1 repetitive. I just have a few general questions. 2 In terms of your educational background, 3 do you have training in chemistry? 4 A. Yes, sir. 5 Q. A master's in chemistry? 6 A. A what? 7 Q. Do you have a master's degree in 8 chemistry? 9 A. No, sir. Just a bachelor of arts. 10 Q. Okay. Have you ever personally conducted 11 any research on PCBs? 12 A. Very limited. 13 Q. Limited to what, if you remember, sir? 14 A. Using them as plasticizers in polyvinyl 15 acetate adhesives. 16 Q. Okay. At anytime have you ever 17 personally looked into or researched the potential 18 health effects associated or caused by PCBs? 19 A. No, sir. 20 Q. You mentioned you have evaluated PCBs for 21 use as a plasticizer? 22 A. In polyvinyl acetate adhesives, yes, sir. 23 Q. Okay. And you do not have a medical 24 background at all; is that correct? 25 A. That is correct.
Page 146 1 CROSS-EXAMINATION 2 BY MR. RADITZ: 3 Q. Okay. Mr. Waychoff, my name is -- I'm 4 sorry. Is it Mr. or Dr.? 5 A. Mr. 6 Q. Okay. Mr. Waychoff, my name is Adam 7 Raditz. I'm an attorney for the Law Offices of Gary 8 Ginsberg, and we represent a group of plaintiffs who 9 have brought an action against Armstrong World 10 Industries for exposure to PCBs at the workplace. 11 A. Yes, sir. 12 Q. The allegation is that PCBs were in the 13 ceiling tiles at a college which existed for 14 approximately 14 or 15 years, and these ceiling 15 tiles were coated with PCBs. 16 Is that your understanding of the basis 17 of this lawsuit? 18 MR. TAYLOR: Objection to the form. 19 MR. DIMURO: You can answer. 20 MR. TAYLOR: You can answer. 21 THE WITNESS: That's what I was told, 22 yes, explained to me by the lawyers here. 23 Q. (By Mr. Raditz) Okay. Now, 24 unfortunately I wasn't present for the beginning 25 part of your dep; so I'm going to try to not be	Page 148 1 Q. Okay. We talked a little bit or there 2 was discussion today about literature generated by 3 Monsanto. 4 My question to you is, to your knowledge, 5 did Monsanto through any of these publications ever 6 suggest that Aroclor 1254 could be used as a 7 plasticizer for use on ceiling tiles? 8 A. Not that I know of, sir. 9 Q. Did Monsanto at anytime ever advertise 10 Aroclor 1254 for the purposes of being a plasticizer 11 for application on ceiling tiles? 12 A. Not that I know of, sir. 13 Q. Okay. Just within the last five minutes, 14 you mentioned that it was your understanding that 15 Aroclor 1254 had the quality of being a fire 16 retardant; is that correct? 17 A. That is correct, sir. 18 Q. Okay. During the 1960s, were there any 19 other plasticizers manufactured by Monsanto that 20 also had the quality of being a fire retardant? 21 A. Yes, sir, such things as the phosphate 22 esters. 23 Q. Okay. Anything else, to your knowledge? 24 A. Let me think a minute. The Aroclors. 25 That was basically it.

Page 149 1 Q. Okay. And the phosphate plasticizers 2 that you just mentioned, they were readily available 3 to customers, is that correct, during the 1960s time 4 period? 5 MR. TAYLOR: Objection to the form. 6 MR. DIMURO: You can answer it. 7 THE WITNESS: Yes, they were. 8 Q. (By Mr. Raditz) At anytime did Monsanto 9 withdraw phosphate plasticizers from the market 10 during the 1960s? 11 A. No, sir. 12 Q. Okay. Mr. Waychoff, at some point in 13 time Monsanto did make a final decision to cease 14 manufacturing and distributing products that 15 contained PCBs for open uses; is that correct? 16 A. Could you repeat the question, please? 17 Q. Okay. Let me withdraw that question. Is 18 it your understanding that at some point in time 19 Monsanto made a final decision to cease 20 manufacturing and distributing products which 21 contained PCBs? 22 MR. DIMURO: Objection to form. You 23 can answer it. 24 THE WITNESS: That was after I departed 25 Monsanto, sir.	Page 151 1 Q. Okay. Were you aware of that back in 2 late 1970 when you left Monsanto? 3 A. They were not withdrawn at that time, 4 sir. 5 Q. What is your understanding of when 6 Monsanto did withdraw PCB-containing products? 7 A. I honestly don't know, sir. 8 Q. Okay. 9 A. It was after I departed. 10 Q. And after you departed Monsanto, did you 11 ever deal with any PCB-containing product 12 thereafter? 13 A. No, sir. 14 Q. I'm sorry. I didn't hear the answer. 15 MR. DIMURO: He said no. 16 THE WITNESS: No. 17 Q. (By Mr. Raditz) Okay. I believe you 18 testified that during the 1970 period there was 19 discussions among employees of Monsanto concerning 20 the possibility of the decision to discontinue the 21 use of Aroclor-containing products; is that correct? 22 THE WITNESS: Did I say that? 23 MR. DIMURO: I'll object to the form. 24 Q. (By Mr. Raditz) Well, let me ask you 25 this. Were there discussions during 1970 that you
Page 150 1 Q. (By Mr. Raditz) Okay. And just to 2 confirm, it's my understanding you departed Monsanto 3 in November of 1970? 4 A. That's correct, sir. 5 Q. Prior to you leaving Monsanto, did 6 Monsanto withdraw PCB-containing products for open 7 application? 8 A. For what applications? 9 Q. Open applications. What I mean by open 10 applications, there was reference to surface 11 coatings. 12 A. Not that I'm aware of, sir. 13 Q. All right. As you sit here today, do you 14 have an understanding as to whether Monsanto 15 withdrew PCB-containing products for open 16 applications at a time that was different than 17 Monsanto withdrawing PCB-containing products for 18 closed applications? 19 A. I'm not aware of any. 20 Q. When was the first time that you were 21 aware that -- well, let me ask you this. Are you 22 aware sitting here today that Monsanto stopped 23 manufacturing and distributing PCB-containing 24 products? 25 A. Yes. I am aware of it today.	Page 152 1 were aware of concerning the possibility of a 2 decision by Monsanto to discontinue the use of 3 Aroclor-containing products or PCB-containing 4 products? 5 A. I believe there may have been some 6 discussions within Monsanto, but I don't know who 7 was discussing it then. 8 Q. Okay. You were not involved in any of 9 those discussions? 10 A. No, sir. 11 Q. Okay. And back in 1970, did you have any 12 understanding of why Monsanto would possibly 13 consider withdrawing PCB-containing products from 14 the market? 15 A. My understanding at that time, there was 16 a lot of worldwide publicity as new scientific 17 equipment was developed that found PCBs pretty much 18 all over the world as a contaminant. And it was 19 getting a lot of publicity, negative publicity, for 20 Monsanto; and that is the reason they would consider 21 it. 22 Q. So that publicity involved environmental 23 concerns; is that correct? 24 A. That is correct. 25 Q. Did it involve the potential of PCBs as a

Page 153 1 toxic chemical? Was that a concern back in 1970? 2 A. Not at that time, sir. 3 Q. Okay. Were there any studies or 4 literature back in the 1970 time period that 5 concerned whether PCBs could be a potential 6 contaminant for wildlife or fish? 7 A. There were some studies that indicated 8 they had found it as a contaminant in the 9 environment, yes, sir. 10 Q. Okay. During the 1970 time period, 11 obviously before you left Monsanto, did Monsanto 12 ever engage in correspondence or conversations with 13 its customers concerning replacement products for 14 its Aroclor PCB-containing products? 15 A. We had a program to develop replacement 16 products, but I don't believe prior to my departure 17 of the company that we actually came up with any 18 solutions or practical solutions. 19 Q. Okay. Did you have an understanding back 20 in the 1970 time period of whether your customers 21 were aware of the potential environmental concerns 22 associated with PCBs? 23 A. Would you repeat the question, please, 24 sir? 25 Q. Yes. During the 1970 time period, did	Page 155 1 one or two follow-ups after Carolyn goes, if 2 she is going to go. 3 MS. O'CONNOR: Yes, I am. 4 MR. RADITZ: Okay. 5 CROSS-EXAMINATION 6 BY MS. O'CONNOR: 7 Q. Mr. Waychoff, my name is Carolyn 8 O'Connor; and I represent American Mineral Spirits 9 Company in this litigation. 10 You have identified American Mineral 11 Spirits Company as a distributor for Monsanto; is 12 that correct? 13 A. That is correct, ma'am. 14 Q. Okay. And how is it that you know that 15 AMSCO was a distributor for Monsanto? 16 A. Because I was a product manager for 17 Monsanto when they signed up AMSCO as a distributor. 18 Q. Okay. Did you actually have contact with 19 AMSCO in that position? 20 A. No. I really did not have much contact 21 with AMSCO. They had appointed a man to be in 22 charge of distributors, and his name was J.D. 23 Wright. 24 Q. Okay. Did you ever see a list of 25 distributors for Monsanto products?
Page 154 1 you have an understanding of whether customers of 2 Monsanto's PCB-containing products were aware of the 3 environmental concerns associated with PCBs? 4 A. Some of them were. 5 Q. Do you recall which ones, if any, were 6 concerned? 7 A. No, I do not, sir. 8 Q. Do you recall in general any customers 9 contacting you with respect to concerns regarding 10 PCB-containing products and their potentially 11 adverse effect on the environment? 12 A. There might have been one or two; but I 13 do not recall who they were, sir. 14 Q. Okay, okay. Have you ever heard of PCBs 15 being used in a plastisol coating formulation for 16 application on ceiling tiles other than Armstrong's 17 use in this case? 18 A. No, I had not. 19 Q. Okay. To your knowledge, did any of 20 Monsanto's application research involve the use of 21 PCB-coated -- a PCB containing Aroclors for 22 application in ceiling tiles? 23 A. No, sir. 24 MR. RADITZ: Okay. That's all the 25 questions I have at this time. I might have	Page 156 1 A. Yes. I was aware of the people that were 2 distributing. 3 Q. Okay. And the listing you saw, is that 4 something that you have seen recently or is that 5 something you recall seeing when you were at 6 Monsanto? 7 A. I recall seeing it at Monsanto. 8 Q. Okay. You indicated that you would give 9 technical -- or that Monsanto would give technical 10 bulletins to their distributors, correct? 11 A. That's correct, ma'am. 12 Q. Okay. Would all technical bulletins go 13 to all distributors? 14 A. Yes, ma'am. 15 Q. Okay. So every technical bulletin issued 16 by Monsanto would go to every distributor regardless 17 of the product line that they distributed? 18 A. Try that one more time. 19 Q. Okay. I'm asking you whether or not all 20 technical bulletins would go to all distributors 21 regardless of the product line that they were 22 distributing. 23 I assume some technical bulletins would 24 not pertain to some products that would be 25 distributed by AMSCO for example, correct?

Page 157 1 A. They would receive all technical 2 bulletins on plasticizers, ma'am. 3 Q. Okay. So you can only speak to all 4 technical bulletins on plasticizers? 5 A. That's correct, ma'am. 6 Q. Okay. Now, was there some sort of 7 mailing list maintained by Monsanto that you're 8 aware of for circulation of those technical 9 bulletins? 10 A. There was; but I'm not aware of it, 11 ma'am. 12 Q. Okay. Were you involved in any way in 13 compiling that mailing list? 14 A. Yes, ma'am. 15 Q. You were, okay. Do you know for a fact 16 that AMSCO was on that mailing list? 17 A. I cannot swear to it, but they should 18 have been. 19 Q. Okay, okay. Hold on a second. Let me 20 get back on my computer here. You indicated that 21 you understand that Armstrong World Industries 22 purchased a small amount of Aroclor 1254 from 23 American Mineral Spirits. 24 Do you remember that testimony? 25 A. Yes, ma'am.	Page 159 1 Q. Okay. Who would be faster? 2 A. AMSCO. 3 Q. Okay. Why is that? 4 A. Because they stocked it locally. 5 Q. Okay. Do you know what plant's or 6 location's distribution for American Mineral Spirits 7 would have serviced Armstrong World Industries' 8 Beaver Falls plant? 9 A. No, I do not, ma'am. 10 Q. Okay. Do you have any idea for the 11 record that you did review which indicated that a 12 small amount of Aroclor 1254 was purchased from 13 American Mineral Spirits by Armstrong World 14 Industries, what facility that purchase was 15 facilitated through? 16 A. No, I do not, ma'am. 17 Q. You indicated that you assume there is a 18 written distributor contract between AMSCO and 19 Monsanto, correct? 20 A. Yes, ma'am. 21 Q. Have you ever seen one? 22 A. No, ma'am. 23 Q. What makes you think there is a written 24 agreement? 25 A. That was Mr. J.D. Wright's
Page 158 1 Q. Okay. How is it that you came to know 2 that Armstrong purchased a small amount from AMSCO? 3 A. Because I looked at some records prior to 4 leaving Monsanto and prior to making a call on 5 American -- on Armstrong Cork, and I saw where they 6 had sold small amounts to Armstrong Cork. 7 Q. Okay. Now, these records that you're 8 looking at, they would have been Monsanto records? 9 A. Yes, ma'am. 10 Q. Okay. And they would have reflected that 11 American Mineral Spirits sold to Armstrong? 12 A. They were sales to Armstrong Cork of the 13 products here. Now, the source of the data, I don't 14 know whether it came directly from Monsanto, 15 American Mineral Spirits, or where it was. 16 Q. Okay. So you don't know if the actual 17 documentation you were looking at was an American 18 Mineral Spirits document or a Monsanto document, 19 correct? 20 A. That is correct. 21 Q. Okay. Do you know why Armstrong would 22 purchase Aroclor 1254 from American Mineral Spirits 23 Corporation as a distributor rather than going 24 directly to Monsanto? 25 A. Yes. Speed of delivery.	Page 160 1 responsibility. 2 Q. Okay. But what makes you think there was 3 one? Because that was part of -- in other words, 4 part of his job description was to ensure that there 5 would be a written agreement? 6 A. Yes, ma'am. 7 Q. Okay. Have you ever seen one of these 8 agreements before regardless if it was between AMSCO 9 and Monsanto? Have you ever seen a general 10 distribution agreement? 11 A. No, I have not. 12 Q. Okay. Do you happen to know whether or 13 not these agreements were annual agreements or 14 whether or not they were set for life? 15 A. I do not know, ma'am. 16 Q. And I guess Mr. Wright would know that? 17 A. Yes, ma'am. 18 Q. Where is Mr. Wright today? 19 A. I don't know. I haven't seen him in 27 20 years. 21 Q. Okay. 22 A. 27 years from now I'm going to ask all 23 these lawyers where in the heck they were on the 24 23rd of March, 1998. 25 (A discussion ensued off the record.)

Page 161 1 Q. (By Ms. O'Connor) All right. Let's 2 see. One second. You indicated that you did not 3 know a contact person at AMSCO, correct? 4 A. That's correct. 5 Q. Okay. So therefore you never went to 6 Armstrong World Industries with any representative 7 from AMSCO within your company, correct? 8 A. I did not, ma'am. 9 Q. Do you have any idea whether or not AMSCO 10 as a distributor would in any way alter the product, 11 Monsanto's product, before distributing it to 12 Armstrong World Industries? 13 A. They should not alter it, no, ma'am. 14 Q. Okay. And why do you say they should 15 not? Is that part of the agreement? 16 A. Because they were selling a product by 17 the given name; and if they altered it, it would no 18 longer be the product. 19 Q. Okay. So, in other words, in order to 20 maintain the Aroclor 1254 name, AMSCO was not to 21 change the product? 22 A. That's correct. 23 Q. Was it also true that AMSCO was to 24 forward the technical bulletins to the customers? 25 A. They should present them to the	Page 163 1 World Industries, information from Monsanto 2 regarding Aroclor 1254? 3 A. Today I saw a bulletin that had AMSCO's 4 name on it and it was Monsanto literature. 5 Q. Okay. Anything besides what you saw 6 today? 7 A. No, ma'am. 8 Q. I'm sorry. I'm losing you due to some 9 clicking going on on the phone here. 10 MR. DIMURO: The answer was no. 11 MS. O'CONNOR: Thank you. 12 Q. (By Ms. O'Connor) Do you know whether or 13 not when a distributor from Monsanto would take an 14 order for a Monsanto product whether or not they 15 would use a Monsanto order form? 16 A. I do not know, ma'am. 17 Q. Do you know whether or not Monsanto 18 provided forms for the purchase of Monsanto products 19 to its distributors? 20 A. I do not know, ma'am. 21 MS. O'CONNOR: Okay. I don't have any 22 other questions. Thank you. 23 MR. RADITZ: I just have one follow-up 24 question. I was just going to clarify one 25 thing in my mind.
Page 162 1 customers, yes, ma'am. 2 Q. Okay. Do you know whether or not that's 3 part of the agreement? 4 A. No, I do not, ma'am. 5 Q. Okay. Do you know if the distributor is 6 to provide any other form of information besides the 7 technical bulletins to its customers on behalf of 8 Monsanto? 9 A. No, I do not, ma'am. Listening to the 10 question, I got a little confused on the question. 11 Q. Okay. I'll do it again. That's okay. 12 Do you know whether or not a distributor is supposed 13 to provide any written materials outside of 14 technical bulletins to its customers on behalf of 15 Monsanto in distributing a Monsanto product? 16 A. They should be providing information on 17 where they store the product. 18 Q. Okay. What form does that information 19 take? 20 A. Just a letter or something like that to 21 the customer. 22 Q. Okay. Anything else? 23 A. That's all I can think of, ma'am. 24 Q. Okay. Have you ever been shown any 25 documentation which AMSCO forwarded to Armstrong	Page 164 1 RECROSS-EXAMINATION 2 BY MR. RADITZ: 3 Q. Mr. Waychoff, prior to November of 1970 4 when you left Monsanto, did you ever see any 5 correspondence drafted by an employee of Monsanto 6 that was sent to a customer concerning the 7 withdrawal of PCB-containing-Aroclor products from 8 the market? 9 A. No. 10 MR. RADITZ: Okay. I have nothing 11 further. 12 MR. DIMURO: Okay. 13 MR. RADITZ: Thank you very much. 14 THE WITNESS: You're welcome. 15 (Deposition concluded at 4:00 p.m.) 16 17 18 19 20 21 22 23 24 25

Page 165 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 TO EXAMINATIONS Examination Page Cross-Examination by Mr. Taylor Cross-Examination by Mr. Raditz Cross-Examination by Ms. O'Connor Recross-Examination by Mr. Raditz --- 3 146 155 164	Page 167 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 STATE OF GEORGIA: COUNTY OF HARALSON: I hereby certify that the foregoing transcript was reported, as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction; that the foregoing pages 1 through 166 represent a true, complete, and correct transcript of the evidence given upon said hearing, and I further certify that I am not of kin or counsel to the parties in the case; am not in the employ of counsel for any of said parties; nor am I in anywise interested in the result of said case. Disclosure Pursuant to O.C.G.A. 9-11-28(d): The party taking this deposition will receive the original and one copy based on our standard and customary per page charges. Copies to other parties will be furnished based on our standard and customary per page charges. Incidental direct expenses of production may be added to either party where applicable. Our customary appearance fee will be charged to the party taking this deposition. This, the 14th day of April, 1998. KARA K. LUCAS, CCR-B-1496 CERTIFIED COURT REPORTER
Page 166 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 TO EXHIBITS Defendant's Exhibit Description Page 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 Notice To Take Deposition Affidavit Sales Summary Letter Dated 9/23/70 Memorandum Dated 8/27/62 Application Data Bulletin No. P-115 Memorandum Dated 2/4/60 Memorandum Dated 2/8/60 Memorandum Dated 7/31/68 Products - 1961 Top-Quality Plasticizers Memorandum Dated 12/6/68 Call Report Document Memorandum Dated 4/3/70 Technical Bulletin O/PL-306A Monsanto Corporate Fire Group Monsanto Plasticizers (Original Exhibits 1 through 18 have been attached to the original transcript.) 8 26 42 47 58 66 70 70 74 79 82 89 92 95 104 130 135 136	Page 168 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 DEPOSITION OF WALTER F. WAYCHOFF/KKL I do hereby certify that I have read all questions propounded to me and all answers given by me on the 24th day of March, 1998, taken before Kara K. Lucas, and that: 1) There are no changes noted. 2) The following changes are noted: Pursuant to Rule 30(e) of the Federal Rules of Civil Procedure and/or the Official Code of Georgia Annotated 9-11-30(e), both of which read in part: Any changes in form or substance which you desire to make shall be entered upon the deposition...with a statement of the reasons given...for making them. Accordingly, to assist you in effecting corrections, please use the form below: Page No. Line No. should read: And the reason for the change is: Page No. Line No. should read: And the reason for the change is: Page No. Line No. should read: And the reason for the change is: Page No. Line No. should read: And the reason for the change is:

Page 169 1 DEPOSITION OF WALTER F. WAYCHOFF/KKL 2 Page No. Line No. should read: 3 And the reason for the change is: 4 5 Page No. Line No. should read: 6 And the reason for the change is: 7 8 Page No. Line No. should read: 9 And the reason for the change is: 10 11 Page No. Line No. should read: 12 And the reason for the change is: 13 14 Page No. Line No. should read: 15 And the reason for the change is: 16 17 Page No. Line No. should read: 18 And the reason for the change is: 19 20 Page No. Line No. should read: 21 And the reason for the change is: 22 23 Page No. Line No. should read: 24 And the reason for the change is: 25	Page 171 1 DEPOSITION OF WALTER F. WAYCHOFF/KKL 2 Page No. Line No. should read: 3 And the reason for the change is: 4 5 Page No. Line No. should read: 6 And the reason for the change is: 7 8 Page No. Line No. should read: 9 And the reason for the change is: 10 11 Page No. Line No. should read: 12 And the reason for the change is: 13 14 Page No. Line No. should read: 15 And the reason for the change is: 16 17 If supplemental or additional pages are necessary, please furnish same in typewriting annexed to this 18 deposition. 19 20 WALTER F. WAYCHOFF 21 Sworn to and subscribed before me, this the day of , 1998. 22 23 Notary Public My commission expires: 24 25
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