

Page 1 1 STATE OF ALABAMA IN THE CIRCUIT COURT FOR ETOWAH COUNTY 2 (Transferred from Calhoun County, Alabama) 3 SABRINA ABERNATHY, et al., 4 Plaintiffs, 5 CIVIL ACTION NO. versus CV-2001-832 6 (Consolidated) MONSANTO COMPANY, et al., 7 Defendants. 8 _____/ 9 DEPOSITION OF ALAN MCCARTY 10 The deposition of ALAN MCCARTY, was 11 taken before Deborah Salers Garrett, Certified 12 Shorthand Reporter, Registered Professional 13 Reporter, as Commissioner, commencing at 10:55 14 a.m. on December 27, 2001, by the Plaintiffs, 15 at the law offices of Fite & Miller, Suite 16 400, SouthTrust Bank Building, Anniston, 17 Alabama, pursuant to the stipulations set 18 forth herein. 19 20 Regional Reporting Service, Inc. 21 755 Walnut Street Gadsden, Alabama 35901-0755 22 23	Page 3 1 S T I P U L A T I O N S 2 IT IS STIPULATED AND AGREED by the 3 parties, through their respective counsel, 4 that the deposition of ALAN MCCARTY may be 5 taken before Deborah Salers Garrett, CSR, RPR, 6 as Commissioner and Notary Public, Alabama at 7 Large, at Anniston, Alabama, on December 27, 8 2001, at 10:55 a.m. 9 IT IS STIPULATED AND AGREED that the 10 signature to and reading of the deposition by 11 the witness is waived, the deposition to have 12 the same force and effect as if full 13 compliance were had with all laws and rules of 14 Court relating to the taking of depositions. 15 IT IS STIPULATED AND AGREED that it 16 shall not be necessary for any objections to 17 be made by counsel to any questions except as 18 to form or leading questions and that counsel 19 may make objections and assign grounds at the 20 time of trial or at the time said deposition 21 is offered in evidence or prior thereto. 22 IT IS STIPULATED AND AGREED that notice 23 of filing by the Commissioner is waived.
Page 2 1 A P P E A R A N C E S 2 For the Plaintiffs: 3 HOWARD BRESSLER, Esq. HARRISON COLEMAN, Esq. 4 KASOWITZ, BENSON, TORRES & FRIEDMAN, LLP 1633 Broadway New York, New York 10019 5 For the Defendants: 6 EDWARD M. NEWSOM, Esq. 7 LAWRENCE J. MYERS, Esq. SMITH, HELMS, MULLIS & MOORE 8 Suite 750, 1355 Peachtree Street, NE Atlanta, Georgia 30309 9 10 I N D E X 11 Page 12 Stipulations 3 13 Reporter's Certificate 114 14 E X A M I N A T I O N S 15 Witness: ALAN MCCARTY Page 16 By Mr. Bressler 4 17 E X H I B I T S 18 19 Plaintiffs' Marked Offered 20 One 6 21 Two 75 22 No other exhibits were marked for 23 identification, offered or attached as exhibits hereto.	Page 4 1 STATE OF ALABAMA, ANNISTON, DECEMBER 27, 2001 2 3 ALAN MCCARTY, 4 after having been first duly sworn, was 5 examined and testified as follows: 6 7 EXAMINATION 8 BY MR. BRESSLER 9 Q. Good morning, Mr. McCarty. My name is 10 Howard Bressler. I'm with Kasowitz, 11 Benson, Torres, and Friedman in New 12 York. We are attorneys for the 13 plaintiffs in this case. First of all, 14 what's your first name? 15 A. Alan, A-l-a-n, G. McCarty. 16 Q. Mr. McCarty, have you ever been deposed 17 before? 18 A. One time, yes. 19 Q. What case? 20 A. A previous case involving this same 21 issue. 22 Q. Would that have been the Owens case? 23 MR. NEWSOM: Do you know if it was

Page 5 1 the Owens Adams case? 2 THE WITNESS: I don't know. 3 MR. NEWSOM: It was. 4 Q. Let me just go through a few of the 5 ground rules for depositions. You have 6 done it before. It is easy to forget 7 some of this stuff. I forget them 8 myself sometimes. 9 I'll be asking you a series of 10 questions. You are under oath, as this 11 young lady just swore you in, just as 12 you would be in a court of law. So 13 obviously you are obligated to tell the 14 truth, and I have no doubt you will do 15 that. 16 I'll ask that your answers be 17 spoken, be enunciated, because the court 18 reporter cannot record how you shake 19 your head or if you say uh-huh or uh-uh. 20 That is the kind of stuff that can 21 become confused in the record. I'll 22 also ask that you wait until I finish 23 asking a question and I'll wait for you	Page 7 1 we have marked as Exhibit One to your 2 deposition and ask if you have ever seen 3 this document before. 4 A. No, I have not. 5 MR. BRESSLER: Before we continue, 6 I assume we have the normal 7 stipulations, is that right, 8 all objections reserved 9 except as to form? 10 MR. NEWSOM: Yes. I made that 11 assumption too. 12 Q. By the way, Mr. McCarty, are you on any 13 kind of medication today? 14 A. I take two medications, yes. 15 Q. What do you take? 16 A. I take Altace, A-l-t-a-c-e, and I take 17 Zocor. 18 Q. Zocol? 19 A. Zocor, Z-o-c-o-r. 20 Q. What are those medications for? 21 A. Altace is a heart medication, and Zocor 22 is a cholesterol medication. 23 Q. How long have you been taking those
Page 6 1 to finish your answer. That way the 2 court reporter doesn't have to record 3 both of us speaking at the same time. 4 If you don't understand a 5 question, just let me know. I will try 6 to rephrase it for you. If you answer a 7 question, I'm going to assume you 8 understood what I was asking. If you 9 need to take a break at any time for any 10 reason, just let me know. 11 I never ask objectionable 12 questions, but one of your attorneys 13 might object. And unless they instruct 14 you not to answer, let them finish what 15 they are going to do and then you can go 16 ahead and answer. 17 MR. BRESSLER: First of all, can 18 we have this marked as an 19 exhibit. 20 (Plaintiffs' Exhibit Number 21 One was marked for 22 identification.) 23 Q. Mr. McCarty, I'm going to show you what	Page 8 1 medications, sir? 2 A. I have been taking those medications 3 approximately two months. 4 Q. Do those medications have any side 5 effects on you? 6 A. No. 7 Q. So none of that would interfere with 8 your ability to testify today? 9 A. No. 10 Q. That's fine. Thank you. Going back to 11 the document we just marked, you 12 testified you hadn't seen it yet, right? 13 A. No, I have not. 14 Q. Can you go to page four, please? There 15 are -- Well, did you discuss this 16 deposition notice with anybody before 17 coming in? 18 A. Not this notice, no. 19 Q. Did anyone tell you -- ask that you 20 bring any documents with you today? 21 A. No. 22 Q. Take a look at the first -- where it 23 says requested documents on the bottom

Page 9 1 of page four. It says there in 2 paragraph one all documents including 3 but not limited to correspondence, 4 notes, records and/or memoranda that 5 refer or relate in any way to Monsanto 6 generally and Monsanto's Anniston plant 7 specifically and/or PCBs. 8 Do you have any documents in your 9 possession at home, Mr. McCarty, that 10 are responsive to that request, any 11 documents that relate or refer in any 12 way to Monsanto generally or the 13 Monsanto Anniston plant or PCBs? 14 A. Yes. I have some documents at home that 15 refer to Monsanto generally, not to 16 PCBs. 17 Q. What about with regard to the Monsanto 18 Anniston plant? 19 A. Monsanto Anniston plant, yes. 20 MR. BRESSLER: We are going to 21 request that those documents 22 be produced. They should 23 have been produced today.	Page 11 1 don't know. I'm guessing if 2 you ask him you will find out 3 they are not. 4 Q. Well, perhaps what we can do just to 5 sort of speed up the process and not 6 have to go through all the documents on 7 the record, Mr. McCarty, if you would 8 produce those documents to Mr. Newsom, 9 then I guess we can have discussion as 10 to what is there. That will save us 11 some time. 12 Just look at number two, all 13 material safety data sheets and/or 14 training materials given to you 15 concerning the Anniston plant and/or 16 PCBs and/or any PCB remediation work at 17 the Anniston plant. Do you have any 18 documents in your possession at home or 19 elsewhere that are -- Do you know what a 20 material safety data sheet is? 21 A. Oh, yes. 22 Q. Do you have any of those in your home? 23 A. I have some that -- Let me take that
Page 10 1 MR. NEWSOM: Well, I don't agree 2 with that at all. If you 3 will look on the -- First of 4 all, we have ample time to 5 object. If you will notice, 6 it was served in some fashion 7 on the 22nd of December. So 8 I don't agree with that. 9 That having been said, 10 we will certainly find out 11 what he has. Or you may want 12 to ask him what he has. I 13 expect what he has relates to 14 pensions and other 15 information that is totally 16 irrelevant to the litigation. 17 We will certainly find out 18 what he has. You may want to 19 ask him at your pleasure. 20 But I don't agree 21 either that we have to 22 produce anything or that he 23 has anything relevant. I	Page 12 1 back. I may have some. I'm not sure. 2 Q. That's fair enough. What about any 3 training materials? 4 A. Training materials, I have some. 5 Q. Again, I would ask that you produce that 6 to your -- Let me ask. Is Mr. Newsom 7 your counsel? Have you retained him? 8 A. Yes. 9 Q. I'll ask that you produce those to your 10 counsel. 11 MR. NEWSOM: Let me just be 12 accurate. You say you have 13 retained him. Monsanto and 14 Solutia have retained us to 15 represent them, and he has 16 made the election to avail 17 himself to that. 18 MR. BRESSLER: I kind of assumed 19 that. That's fine. 20 Q. Please look at number three, please, on 21 the next page, all medical reports that 22 relate to you concerning PCBs and/or 23 any PCB remediation work at the

Page 13 1 Anniston plant. Do you have any medical 2 reports or records that relate to you 3 concerning PCBs or any PCB exposure or 4 remediation -- 5 A. No, I do not. 6 Q. The last one, all documents that refer 7 or relate to results of all medical 8 tests done on you which involve any PCB 9 remediation work. I'm assuming based on 10 your previous response -- Do you have 11 any documents that are responsive to 12 that? 13 A. No, I don't. 14 Q. With regard to the documents that are 15 responsive to the first one, again, if 16 you will make them available to your 17 counsel. 18 MR. NEWSOM: He is going to make 19 them available to me. We 20 don't know yet whether they 21 are responsive. 22 MR. BRESSLER: I understand that. 23 You and I can argue about	Page 15 1 Drive? 2 A. I lived at 911 Pecanwood Drive. 3 Q. Pecanwood Drive? 4 A. Pecanwood Drive, yes. 5 Q. Where is that in relation to the 6 Anniston plant? 7 A. It is about five miles east. 8 Q. When did you live there, sir? 9 A. I lived there from 1974 until 1989. 10 Q. And was there any other address at which 11 you lived in Anniston before the 12 Pecanwood -- 13 A. Yes. I lived at 724 Blue Ridge Drive. 14 Q. Blue Ridge Lane? 15 A. Blue Ridge Drive. 16 Q. Where is that in relation to the plant? 17 A. That is about three miles northeast. 18 Q. How long did you live on Blue Ridge 19 Drive? 20 A. I lived there from 1962 until 1974. 21 Q. Were you born in Anniston, sir? 22 A. No, I was not. 23 Q. Where were you born?
Page 14 1 that later. 2 MR. NEWSOM: Hopefully we won't. 3 But we will talk about it 4 later. 5 Q. Mr. McCarty, where do you live? 6 A. I live in Anniston, Alabama, at 708 7 Fairway Drive. 8 Q. How long have you been at that address, 9 sir? 10 A. I have been at that address 11 approximately ten years. 12 Q. And where is that in relation to 13 Monsanto's plant? 14 A. It is about three miles east. 15 Q. And where did you live before you lived 16 on Fairway Drive? 17 A. I was a resident of another state. I 18 had lived in Texas and California. 19 Q. The address on Fairway Drive, is that 20 your first address in Anniston? 21 A. No. 22 Q. What was your previous address in 23 Anniston before you lived at Fairway	Page 16 1 A. I was born in Dallas, Texas. 2 Q. When did you first come to Anniston? 3 A. In 1961. 4 Q. And why did you come to Anniston? 5 A. I was transferred by Monsanto from 6 Luling, Louisiana. 7 Q. Are you married, sir? 8 A. Yes, I am. 9 Q. How many years have you been married? 10 A. I've been married approximately -- Let 11 me think. Close to forty-seven years in 12 June. 13 Q. Good for you. 14 A. That's a long time. 15 Q. Nowadays that's a real credit. Do you 16 have children, sir? 17 A. I have five children. 18 Q. Good for you again. And how old are 19 your children? What is the age range on 20 them? 21 A. They range in age from forty-five to 22 thirty-seven. 23 Q. Men or women?

Page 17 1 A. Three girls and two boys. 2 Q. Do you have grandchildren? 3 A. I have five grandchildren. 4 Q. And what are their ages? 5 A. Their ages are from two to twenty. 6 Q. Now, your children and grandchildren, do 7 they live in Anniston? 8 A. One child lives in Anniston. 9 Q. Which child is that? 10 A. His name is Charles. He's thirty-seven. 11 Q. That's your baby? 12 A. He is the baby. 13 Q. Does he have children? 14 A. No. He is not married. 15 Q. Now, how old are you, Mr. McCarty? 16 A. I am sixty-nine. 17 Q. And where were you born, sir? 18 A. Dallas, Texas. 19 Q. Mr. McCarty, what is your understanding 20 as to what your role as a witness is in 21 this case? 22 MR. NEWSOM: Object to the form. 23 Q. You may answer.	Page 19 1 protective equipment to its employees in 2 one location working with a product but 3 does not give it to employees in another 4 location working with the same product. 5 What would you think about that company? 6 MR. NEWSOM: Object to the form of 7 the question. One, he has 8 not been designated as an 9 expert witness to whom such a 10 hypothetical would be put. 11 Two, the question is vague 12 and ambiguous, fails to 13 include enough information 14 for the witness to reasonably 15 answer the question. 16 Subject to that you may 17 try to answer, Mr. McCarty, 18 if you understand it. 19 A. In general I would expect for the same 20 product that the company would provide 21 the proper equipment in all locations. 22 Q. Here is another hypothetical that your 23 counsel is going to object to in a
Page 18 1 A. My understanding is that since I was 2 involved with the Anniston plant that 3 I'm to answer to the best of my 4 knowledge any questions that might come 5 my way that my counsel doesn't object 6 to. 7 Q. But in terms of the questions, what is 8 your anticipation as to the subject on 9 which you would be asked to testify? 10 MR. NEWSOM: Object to the form. 11 Go ahead. You may go 12 ahead and answer. 13 A. I would expect it would have to do with 14 products made at the Anniston plant, how 15 they were made, what different 16 procedures were employed. That's about 17 it. 18 Q. Mr. McCarty, I want to ask you a couple 19 of hypothetical questions. Assuming 20 hypothetically, sir, that there is a 21 company that produces certain product, 22 does it in several different locations, 23 and that company gives warnings and	Page 20 1 second. If a company produces a product 2 -- I withdraw that. 3 If a company hires a consultant, 4 sir, and that consultant advises it to 5 cease discharging a certain waste stream 6 into the local environment because of 7 potential dangers to the residents 8 around that location and instead of 9 ceasing that operation, that company 10 increases its production, what would you 11 say about that company? 12 MR. NEWSOM: Again, object to the 13 form on the same grounds, and 14 also it is vague and 15 ambiguous by virtue of its 16 failure to include enough 17 information for the witness 18 to answer. 19 Subject to that you may 20 answer if you understand it. 21 A. I'm not sure I understand it completely. 22 Q. That's fine. Let me try to rephrase it. 23 Let's say hypothetically you have a

Page 21 1 company. They make a certain product, 2 and that produce creates a waste stream 3 and they discharge that waste stream in 4 a manner that allows it to escape into 5 the environment around their plant, 6 their location. And a consultant that 7 they hire advised them to cease 8 discharging into the environment because 9 there is a danger to the local 10 population, that it poses a risk to the 11 people who live in that area. But 12 instead of ceasing their production, 13 ceasing their discharge of waste, they 14 actually increase production. What 15 would you think about a company like 16 that? 17 MR. NEWSOM: Same objection. Can 18 I just have a continuing 19 objection? 20 And subject to that, 21 you may answer. 22 A. Well, let me answer it this way: First 23 of all an increase in production doesn't	Page 23 1 hopelessly vague. And in 2 fairness, Howard, you have 3 not told him in the question 4 is this a release that is 5 known about, not known about? 6 There are so many variables. 7 I'd add those objections to 8 the form of the question. 9 MR. BRESSLER: I think the 10 question presupposed that the 11 company was advised by a 12 consultant to limit or reduce 13 its waste stream because of 14 toxicity. That would imply 15 some knowledge on their part. 16 Q. I'm asking you, sir, what would be your 17 opinion, your personal opinion, as to 18 the propriety of that conduct, the 19 ethicality of that conduct? 20 MR. NEWSOM: Same objection. 21 A. My personal opinion would be that the 22 company should reduce the discharge of 23 any toxic waste stream.
Page 22 1 necessarily coincide with an increase in 2 waste discharge. 3 Q. That's a good point, sir. Let's assume 4 in my hypothetical that their increase 5 in production does create an increase in 6 the waste discharge. 7 A. Hypothetically, then, if they have been 8 advised to cease or reduce their waste 9 discharge and if they were to increase 10 their waste discharge, I would say that 11 at least they weren't respecting the 12 opinion of the consultant. 13 Q. That they were what? I'm sorry? 14 A. They were not paying attention to the 15 opinion of the consultant if they did 16 that. 17 Q. Assuming that waste stream did in fact 18 pose a risk to the people around the 19 location and they increased that waste 20 stream, would you consider that to be 21 proper conduct? 22 MR. NEWSOM: Same objection. Also 23 I think pose a risk is so	Page 24 1 Q. I have a couple of more hypotheticals, 2 and then we will get to some stuff that 3 is not so hypothetical. 4 What is your opinion, sir, of a 5 company that discharges substantial 6 amounts of toxic waste in a manner that 7 allows its release into a residential 8 community? 9 MR. NEWSOM: Same objection. It 10 is hopelessly vague, not 11 enough information to answer. 12 And it is unclear whether 13 your hypothetical is 14 addressing this case or a 15 hypothetical case. I guess 16 by virtue of the fact it is 17 hypothetical, it doesn't 18 address this case. But it is 19 unclear in the way you ask 20 your question. 21 Q. Can you answer, sir? 22 A. Well, again, a company that would 23 deliberately discharge toxic waste into

Page 25 1 the local -- into the atmosphere or 2 whatever type of effluent would be 3 acting irresponsibly. 4 Q. Do you think a company that would do 5 that ought to be punished for it? 6 MR. NEWSOM: Object to form. 7 A. I think if they were out of compliance 8 with regulations or laws governing it, 9 they should be subject to whatever the 10 courts might decide. 11 Q. Now, if that same company that 12 discharges toxic waste in a manner that 13 allows it to be released into a 14 residential community, if a company does 15 that, do you think it ought to tell the 16 residents of that community that the 17 stuff is being released? 18 MR. NEWSOM: Same objection. 19 A. I'm having a little difficulty with the 20 idea of releasing now. I'm familiar 21 with accidental releases. 22 Q. Let me change the hypothetical and make 23 it easier for you.	Page 27 1 school, and then I returned to the 2 Luling plant approximately two years 3 later. 4 Q. So you worked there from '55 to about 5 '57, your first run? 6 A. Yes. 7 Q. Then you say you went to school for two 8 years? 9 A. I returned in the fall of '58. 10 Q. And how long did you continue to work at 11 Luling after that? 12 A. I worked until the spring of '61. 13 Q. And what were your responsibilities 14 during your time at Luling? 15 A. I was a staff engineer, maintenance 16 engineer, laboratory supervisor. 17 Q. I should have asked you this before. 18 But what is your educational background, 19 sir? 20 A. I have a degree in chemical engineering. 21 Q. And where is that degree from? 22 A. That is from Texas A&M University. 23 Q. What year did you get that degree?
Page 26 1 MR. NEWSOM: Well, you can finish 2 your answer. 3 Q. That's fine. 4 A. In that case it would be difficult to 5 tell somebody beforehand. But if there 6 is a deliberate and continuing release 7 of dangerous materials, I think people 8 ought to know about it. 9 Q. Now, Mr. McCarty, you worked for 10 Monsanto, right? 11 A. Yes. 12 Q. When did you start working for Monsanto? 13 A. I started in 1955, September. 14 Q. And where were you working at that time? 15 A. Luling, Louisiana. 16 Q. Where is that? 17 A. Luling, L-u-l-i-n-g. 18 Q. You have to excuse me. I'm a 19 northeasterner. I don't know how to 20 spell these places. How long did you 21 work at Luling? 22 A. I worked at Luling approximately a year 23 and a half. At that point I returned to	Page 28 1 A. In 1953. 2 Q. Excuse me. So when you went back to 3 school in 1957, what did you go back to 4 school for? 5 A. I went back to attempt to go to work in 6 the masters courses in chemical 7 engineering. It just didn't work out 8 for me. I changed to business 9 administration. 10 Q. So what degree do you have in chemical 11 engineering? Is that a BS? 12 A. BS. 13 Q. And did you not get your masters then in 14 chemical engineering? 15 A. No. 16 Q. Do you have any postgraduate degrees? 17 A. No. I have another undergraduate degree 18 in economics, and that is from the 19 University of Alabama in Birmingham. 20 Q. And when did you get that degree, sir? 21 A. I got that in 1971. 22 Q. When you were working at the Luling 23 facility, what does the Luling facility

Page 29 1 do? 2 A. At that time they made agricultural 3 chemicals, principally plant foods. 4 Q. What types of chemicals did they 5 produce? 6 A. At that time they produced ammonia, 7 nitric acid, ammonium nitrate. 8 Q. And these chemicals were being used to 9 create plant food, you say? 10 A. Yes. 11 Q. Any other purposes? 12 A. The ammonium nitrate was used as an 13 ingredient in explosives for mining. 14 Q. You mentioned you were a staff engineer 15 there. 16 A. Yes. 17 Q. What did you do as a staff engineer, 18 sir? 19 A. I was assigned different projects, 20 primarily in an office situation where I 21 worked on engineering problems 22 associated with the projects. 23 Q. When you say engineering problems, can	Page 31 1 Q. Did you get a new job title? 2 A. Yes, I did. I was -- it is hard to 3 remember -- technical production 4 supervisor. 5 Q. Now, what did that job entail, sir? 6 A. That job entailed assisting with 7 operations involving technical problems 8 that developed as a result of the 9 operations and consisted of working on 10 projects and procedures to improve 11 efficiency. 12 Q. Now, in your role as the technical 13 products supervisor, did you work at all 14 with PCBs, sir? 15 A. No, I did not. 16 Q. Did you supervise others who were 17 working with PCBs? 18 A. No, I did not. 19 Q. Who were your supervisors, or who did 20 you report to? 21 A. I reported to Arthur Leisy, L-e-i-s-y. 22 Q. I'm sorry. What was the spelling? 23 A. L-e-i-s-y.
Page 30 1 you tell me what you mean by that? 2 A. Well, it could be investigation and 3 analysis, design. 4 Q. Of plant operation? 5 A. Plant operation, uh-huh (indicating 6 yes). 7 Q. Then you said you were a lab supervisor? 8 A. I was a lab supervisor. I supervised 9 one shift of laboratory technicians. 10 Q. What was being done in that lab that you 11 were supervising? 12 A. It was a quality control laboratory. 13 Q. Was that quality control for the plant? 14 A. For the plant. 15 Q. Now, you said earlier you got 16 transferred over to Anniston? 17 A. I was transferred to the Anniston plant 18 in 1961, in March. 19 Q. How did that transfer come about? 20 A. There was a job opening at the Anniston 21 plant which in this particular case 22 would be a promotion for me, and I 23 accepted the offer to transfer.	Page 32 1 Q. What was his title? 2 A. His title was superintendent. 3 Q. He was the plant superintendent? 4 A. He was one of two plant superintendents. 5 He was agricultural chemical 6 superintendent. 7 Q. How long were you the technical products 8 supervisor? 9 A. I was that for approximately two years. 10 Q. Then what happened? 11 A. I was transferred to the technical 12 services department. 13 Q. Did your title change in that position? 14 A. Yes, to a senior engineer. 15 Q. I'm sorry? 16 A. To senior engineer. 17 Q. And what was your role as senior 18 engineer? 19 A. The role was essentially the same, but 20 it was more in an engineering office 21 environment. It was not so much in the 22 field. It had to do with engineering 23 studies, plant design.

1 Q. Why don't you just run through, so I
 2 don't have to ask separately, what the
 3 various positions were you held in the
 4 Anniston plant over the years and just
 5 give me a rough estimate as you recall
 6 of the years.
 7 A. You need times?
 8 Q. Yes. Or if you can't recall specific
 9 dates, just give me estimates.
 10 A. Okay. After that particular job I was
 11 manufacturing supervisor.
 12 Q. Do you recall when you started as
 13 manufacturing supervisor?
 14 A. In January of 1964.
 15 Q. And after that?
 16 A. After that I was manufacturing
 17 representative for major projects.
 18 Q. And when did that begin?
 19 A. That began in December of 1966, and that
 20 lasted until about November of 1968. At
 21 that point I became engineering
 22 supervisor.
 23 Q. And how long did you do that?

1 A. That lasted until January of 1972, and
 2 at that point I became plant accountant
 3 and purchasing supervisor.
 4 Q. Did you say plant accountant?
 5 A. Yes.
 6 Q. And purchasing supervisor?
 7 A. Right.
 8 Q. And that is January '72?
 9 A. Yes, until March of '75.
 10 Q. And then, sir?
 11 A. Then I became manufacturing
 12 representative again for major projects.
 13 Q. And how long were you in that position?
 14 A. That lasted until March of 1978.
 15 Q. And then what?
 16 A. Then I was production supervisor for
 17 agricultural operations.
 18 Q. For how long?
 19 A. That was until September of 1980. Then
 20 I became manufacturing specialist.
 21 Q. For how long?
 22 A. That lasted until September of 1986. At
 23 that point I retired from Monsanto.

1 Q. You wore a lot of hats?
 2 A. I wore a lot of hats, yeah.
 3 Q. Do you still do any work with Monsanto?
 4 A. I did do work until 19 -- Well, until
 5 the year 2000. I haven't worked in over
 6 a year.
 7 Q. And what was your involvement with
 8 Monsanto up until the year 2000?
 9 A. Contract engineer.
 10 Q. How did that work? Was it on a
 11 consultant basis? Did they call you in
 12 for specific projects?
 13 A. No. I actually worked for a firm that
 14 provides technical personnel for
 15 Monsanto, for Solutia.
 16 Q. Was this a Monsanto company, or you
 17 worked for another company that --
 18 A. I worked for another company that
 19 contracted people out.
 20 Q. And were you paid by that company or
 21 paid by Monsanto?
 22 A. I was paid by that company.
 23 Q. And are you now fully retired, sir?

1 A. I still have -- I do some consulting --
 2 I have this year -- for an agricultural
 3 chemical company located in Mexico.
 4 Q. Mexico?
 5 A. Uh-huh (indicating yes).
 6 Q. I just want to jump back, Mr. McCarty.
 7 You started in Anniston in 1961 and were
 8 there until '86.
 9 A. Right.
 10 Q. From 1961, from the time you got there
 11 until say 1972, when you became the
 12 plant accountant, what products were
 13 manufactured at the Anniston plant?
 14 A. They manufactured of course the PCBs,
 15 and they manufactured chlorine. And
 16 they manufactured a family of
 17 agricultural pesticides called
 18 parathions, and they manufactured P2S5.
 19 Q. I'm sorry. What is that?
 20 A. P2S5, phosphorus pentasulphide.
 21 Q. That is phosphorus pentasulphide?
 22 A. That's an intermediate for the
 23 agricultural pesticides. And they

Page 37 1 manufactured para-nitrolphenol, a 2 product also. They manufactured 3 hydrogenated polyphenyl. There may have 4 been some other minor products. Those 5 are the major. 6 Q. Those are the major ones? 7 A. Yes. 8 Q. Now, you testified that you became the 9 manufacturing supervisor in 1964? 10 A. Of the agricultural chemicals. 11 Q. And what did your responsibilities 12 include as the manufacturing supervisor? 13 A. They involved supervision of personnel, 14 responsible for production schedules, 15 quality, safety. 16 Q. I'm sorry. When you are talking about 17 these things, you are talking about only 18 for the employees who worked with the 19 agricultural products? 20 A. Yes. 21 Q. And what did those agricultural products 22 include? 23 A. The final products were ethyl parathion	Page 39 1 was the manufacturing cost budget. 2 Q. Do you have an accounting degree? 3 A. I have an economics degree. 4 Q. Do you know who Elmer Wheeler was? 5 A. I've heard the name, but I can't recall 6 who Elmer Wheeler might have been. 7 Q. What about William Papageorge? 8 A. Yes. He was plant manager for a time at 9 Anniston. 10 Q. Did you have any kind of working 11 relationship with Mr. Papageorge? 12 A. I was a couple of levels below 13 Mr. Papageorge. I didn't have direct 14 working relations with Mr. Papageorge. 15 Q. Did you report to him at any time? 16 A. No, I did not. 17 Q. Did you report to anybody in between you 18 and him? 19 A. Yes. I reported to Mr. Leisy that I 20 referred to before, and I reported to 21 Mr. Larkin. 22 Q. Larkin? 23 A. Larkin, L-a-r-k-i-n.
Page 38 1 and methyl parathion. 2 Q. And then you went on to work as the 3 manufacturing rep for major projects? 4 A. Major projects, which did involve the 5 agricultural products. 6 Q. Did it involve beyond the agricultural 7 products? 8 A. No, it did not. Let me correct that. 9 It involved agricultural products and 10 intermediates. Several of the list I 11 gave you are intermediate products that 12 are made, and some may be sold but most 13 are used in finished goods. 14 Q. So those are kind of raw materials that 15 go into the agricultural products that 16 are sold? 17 A. They are call intermediates. Raw 18 materials go to intermediates, and 19 intermediates go to products sold. 20 Q. They are essentially ingredients, then? 21 A. Ingredients. 22 Q. Okay. 23 A. Another responsibility I didn't mention	Page 40 1 Q. And these people would have reported to 2 Mr. Papageorge? 3 A. Mr. Leisy would have. I think 4 Mr. Larkin may have been transferred 5 before Mr. Papageorge arrived. 6 Q. What about Emmet Kelly? Do you know who 7 Emmet Kelly was? 8 A. Emmet? 9 Q. Kelly. 10 A. I've heard the name, again. Was he a 11 physician or somebody in industrial 12 medicine? 13 Q. I have seen him referred to as an M.D. 14 I'm asking what your recollection is. 15 A. I don't know that I have ever met him, 16 but I'm familiar with the name as a 17 physician. 18 Q. Now, during your tenure at the Anniston 19 plant, sir, during the years that PCBs 20 were being manufactured there, do you 21 have any knowledge as to what percentage 22 of the product being produced in 23 Anniston was PCBs versus other product?

Page 41 1 MR. NEWSOM: Let me just object. 2 Are you talking about taking 3 those years in the aggregate 4 or any particular year? 5 MR. BRESSLER: On average in the 6 aggregate. 7 Q. You were there from '61 to the early 8 '70s, right, when Monsanto ceased 9 producing PCBs at some point? 10 A. Yes, they did. They ceased in the early 11 '70s. I would say during that time that 12 the PCB operations were some slight 13 percentage greater than the agricultural 14 products. And this would be on an 15 annual tonnage-wise. 16 Q. Were the PCBs and the agricultural 17 products most of what was produced in 18 Anniston during your tenure there, those 19 two things together? 20 A. Yes. 21 Q. What if anything do you know about PCBs, 22 sir? 23 A. I never worked directly with PCBs during	Page 43 1 A. One superintendent was Robert Moody. 2 Q. Robert what? I'm sorry. 3 A. Moody. Another superintendent was Hill 4 Williams, Hill Williams, H-i-I-I. 5 Q. Hill, first name Hill? 6 A. Yes, Williams. There might have been 7 one or two others, but those are the two 8 that were there most of the time. 9 Q. Now, during the time that you worked at 10 the Anniston facility, did you have an 11 opportunity to be exposed to PCBs? 12 MR. NEWSOM: Object to the form. 13 If you understand it, 14 you may answer. 15 A. I did not work directly with PCBs. I 16 did not work in the PCB area. I would 17 say I was not exposed to PCBs in that 18 sense. 19 Q. In that sense meaning you didn't have 20 direct bodily contact with them? 21 A. No. 22 Q. Explain to me, sir, the manufacturing -- 23 I call it divisions of the plants. You
Page 42 1 those years. I know what their raw 2 materials are. I know vaguely what the 3 processes are. But I never actually 4 worked in the PCB area. 5 Q. When you say you know what the processes 6 are, what do you mean by that? 7 A. I know that it starts with the reforming 8 of biphenyl and that there are some 9 separation type operations that occur 10 and purification of biphenyl. There 11 is -- then there is a chlorination that 12 follows that. 13 Q. Was there a separate person who was in 14 charge of the PCB manufacturing process? 15 A. Yes. 16 Q. Who was that during your tenure there? 17 A. There were several different people over 18 the years. 19 MR. NEWSOM: Are you talking the 20 '61 to '72 time frame? 21 MR. BRESSLER: I'm saying during 22 the time PCBs were being 23 manufactured there.	Page 44 1 said there was an agricultural products 2 and a separate area of PCBs. How was 3 the interior of the plant laid out? Did 4 you have separate areas for different 5 production? 6 A. Yes. 7 Q. How would they be separated? How would 8 the agricultural products be separated 9 from the PCB area? 10 A. Physically separated by maybe a thousand 11 feet. One area of the plant -- You have 12 to understand there were two Monsanto 13 divisions operating in the plant. You 14 may know this. There was an 15 agricultural division and an organic 16 division. The plant was managed by a 17 person from the organic division. My 18 boss for many years, Mr. Leisy, was 19 called actually a guest superintendent, 20 because the ag division was a guest 21 operation in the organic division of the 22 plant. That is how the separation 23 occurred. I was in the agricultural

Page 45 1 division. The organic division was in 2 more of the southeast area of the plant, 3 and the ag products were in more the 4 northwest area of the plant. 5 Q. Were there -- You have to excuse me. I 6 have never been inside the plant. Were 7 there physical barriers in one area or 8 the other or just a big room? 9 A. No, no fences separating the areas. It 10 was just a physical separation. There 11 was some distance. 12 Q. Let me ask you this: If your folks were 13 cooking up agricultural products in your 14 area and some others folks were cooking 15 up PCBs in their area, could you smell 16 from one place to other one what was 17 going on? Could you smell the vapor and 18 stuff in those areas? 19 MR. NEWSOM: Object to the form. 20 A. To my knowledge I never smelled any PCB 21 vapors. I don't think you can smell PCB 22 vapors as such. The agricultural 23 products, due to their nature, had a few	Page 47 1 even non-smellable fumes -- 2 is anything to prevent those 3 fumes from just circulating 4 around the factory. 5 MR. NEWSOM: Object to the form 6 without laying a foundation 7 that they did permeate around 8 the factory. Smell or no 9 smell seems irrelevant to 10 that. 11 You may answer if you 12 understand it. 13 A. Let me say again, I never recall 14 smelling any PCB odors or vapors. I'm 15 not familiar with exactly what fume 16 collection type equipment existed in the 17 PCB area or what was done to alleviate 18 any possible fumes. 19 Q. Would you know anything about the 20 ventilation in the area where the PCBs 21 were produced? 22 A. No, I wouldn't. 23 Q. I think that you testified earlier --
Page 46 1 more smelly chemicals, so you probably 2 smell more agricultural products than 3 PCBs. 4 Q. But even assuming argumentatively that 5 the vapors from fumes of PCBs was 6 something you could smell, was there 7 anything to prevent those fumes from 8 going throughout the plant? 9 MR. NEWSOM: Let me object to the 10 form. He has just testified 11 he doesn't recall smelling, 12 so I don't see how he can 13 answer that question. You 14 are asking him to assume 15 something that he believes 16 not to be so, so it is not 17 even hypothetical. 18 MR. BRESSLER: No. What I asked 19 him was -- He said you 20 couldn't smell them as far as 21 he knew. I said assuming you 22 cannot smell them -- okay -- 23 is there anything to prevent	Page 48 1 and correct me if I'm wrong -- that you 2 had some responsibility for employee 3 safety. 4 A. In the agricultural operations when I 5 was supervisor, that is one of the 6 responsibilities of a supervisor. 7 Q. And what did those responsibilities 8 include? 9 A. They included making certain that 10 employees were trained in safety, that 11 they understood safe operations, that 12 they did operate safely, that they did 13 wear the proper protective equipment. 14 Q. What kinds of protective equipment were 15 the agricultural workers given? 16 MR. NEWSOM: Object to the form. 17 Can we establish a time? 18 Q. You were in charge of safety during what 19 period? 20 A. Safety was one of my responsibilities, 21 and it was the times I was an active 22 supervisor. It was 1964 through 1965 23 and again 1978 through 1980.

Page 49 1 Q. And besides 1964 and '65 and '78 to '80, 2 did you have any input or responsibility 3 for safety while you were in your other 4 positions? 5 A. I did in connection with being a 6 manufacturing representative. This is a 7 position that involves representing 8 manufacturing operations for major 9 projects. And the responsibility was 10 training the operators in the projects 11 and products, and safety was an aspect 12 of that. 13 Q. Now, specifically back in '64 and '65, 14 were the agricultural workers given 15 protective equipment? 16 A. Yes. 17 Q. What kind of protective equipment would 18 they get? 19 A. They were required to wear a hard hat, 20 safety glasses, safety overshoes. They 21 wore standard issue plant clothing, 22 which included long sleeves. They were 23 provided access to gas masks.	Page 51 1 A. I think that covers the basic safety 2 equipment. 3 Q. What about goggles? 4 A. They were given goggles. They were not 5 required to wear goggles except in 6 taking samples or if they had something 7 that might have had to have been opened 8 up. 9 Q. Now, these safety gear that you were 10 just describing, did Monsanto have a set 11 policy as to the safety gear to be given 12 to all its employees, or was that just 13 for the agricultural people? 14 A. No. The other areas of the plant did 15 not use the same gear. So the list I 16 gave you was just for the agricultural 17 people. 18 Q. And what would determine what kind of 19 safety equipment people got? 20 A. Well, let me explain. Everyone in the 21 plant was required to wear a hard hat. 22 Everyone was required to wear safety 23 goggles. Everyone was required to wear
Page 50 1 Q. When you say provided access, were they 2 required to wear them? 3 A. In those years they were not required to 4 wear them. 5 Q. When you say gas masks, would that be 6 like you might see in old war movies 7 where somebody has a canister with a 8 rubber mask? 9 A. Yes. 10 Q. Under what circumstances would they be 11 required to wear a gas mask? 12 A. It would be an emergency situation. 13 They were also supplied with a 14 self-contained breathing apparatus, 15 which would mean a tank of air on their 16 back. 17 Q. Was that something that was given to 18 them on a regular basis, or was that 19 just available for use? 20 A. It was available primarily for 21 emergencies. 22 Q. Any other equipment they were given for 23 safety?	Page 52 1 long sleeves or whatever protective 2 covering of the skin. I know that every 3 department was furnished with gas masks 4 and with self-contained breathing 5 apparatus. The unique item to the 6 agricultural operations is probably the 7 rubber overshoes. 8 Q. And why is that? 9 A. Because the products, if they were to 10 get out, say, on the floor or something 11 like that, they could be absorbed in 12 leather and could come in contact with a 13 person's foot for instance. It was a 14 protective measure, just a required 15 item. 16 Q. What if any kinds of effects might the 17 chemicals have had if they got on 18 someone's skin or got into their shoes? 19 MR. NEWSOM: Object to the form. 20 A. This was a pesticide known as parathion. 21 It was used -- It was a restricted use 22 pesticide. For instance, it could only 23 be used for agricultural purposes. It

Page 53 1 was used primarily on crops like cotton, 2 and it was toxic to warm-blooded mammals 3 and so forth. 4 Q. Toxic in what way? 5 A. Well, let me say that it is of the same 6 family that the nerve gasses are members 7 of. It is not near as toxic as they 8 would be, but it is of the same family, 9 have the same effect if sufficient 10 exposure occurred. 11 Q. It would have neurotoxic effects? 12 A. Yes. 13 Q. How would that manifest itself in 14 someone? 15 MR. NEWSOM: Object to the form. 16 A. The symptoms? The symptoms would be 17 lack of control of bodily functions. 18 You would have no control over your 19 movements, for instance. What would 20 typically result in a fatality would be 21 lack of being able to breathe, which 22 never occurred in the plant. 23 Q. What did Monsanto tell the agricultural	Page 55 1 agricultural workers to see if there had 2 been any effects of exposure? 3 A. Oh, yes. I'm not familiar with any 4 study, but I remember studies being 5 done. 6 Q. How often would those studies be done? 7 A. They were not done on any particular 8 frequency. Excuse me. I think the 9 effects of the exposure were well known. 10 Q. Were the employees given MSDSs? 11 A. At that time there were not MSDSs. 12 There was different safety 13 documentation, and this was posted. It 14 was in the operating instructions, and 15 they were indoctrinated in everything 16 that was available that would give them 17 information regarding the pesticides. 18 Q. Now, back during that same period, were 19 there published studies of the effects 20 of these kinds of chemicals say on 21 animals and humans? 22 A. Oh, yes. There was quite a bit in the 23 literature.
Page 54 1 employees about the chemicals with which 2 they were working? 3 MR. NEWSOM: When, the same time 4 frame? 5 MR. BRESSLER: Same time frame. 6 A. This was part of the training. They 7 were indoctrinated strongly as to the 8 effects of the chemicals, how to avoid 9 any exposure, what to do in case of 10 exposure. They were periodically tested 11 for an enzyme in the blood called 12 cholinesterase. 13 Q. Why were they tested for that? 14 A. A level was established on each 15 individual, and as they were tested if 16 this level were exceeded by some extent, 17 they were carefully watched because it 18 could indicate there had possibly been 19 an exposure. There were other things 20 that could cause an elevated 21 cholinesterase level, but exposure to 22 neurotoxic pesticides like that could. 23 Q. Did Monsanto ever run any studies on the	Page 56 1 Q. Were the employees informed of the 2 results of those studies? 3 A. I know they were aware of the effects, 4 but I don't know that they had 5 information dealing with particular 6 studies. 7 Q. What kind of ventilation did you have in 8 the agricultural department area? 9 A. It was an open area. All the operations 10 were carried on outside. There was a 11 control room, and operators would spend 12 probably two-thirds of their time 13 outside and make one-third of their time 14 in the control room. It was essentially 15 an open area. 16 Q. Was the manufacturing process actually 17 conducted outdoors? 18 A. Yes. 19 Q. Do you know if the PCB manufacturing 20 process was conducted outdoors? 21 A. Some was indoors, and some of the 22 operations were conducted outdoors. 23 Q. And in the indoor areas of the

Page 57 1 agricultural unit, were there 2 ventilation systems there as well? 3 A. The indoor area consisted of control 4 room and -- As I remember, the control 5 room had forced air heating and air 6 conditioning. 7 Q. How about any exhaust fans? 8 A. Not per se in the control room. The 9 control room was essentially -- except 10 for people going in and out of doors, it 11 was essentially operated on a little 12 higher pressure than the surrounding 13 area to keep anything from coming in the 14 control room. But there were no things 15 like air locks or anything like that. 16 Q. Mr. McCarty, do you know anything about 17 the potential health effects of PCB 18 exposure? 19 MR. NEWSOM: Object to the form. 20 Are we talking now or -- 21 MR. BRESSLER: The first question 22 is does he know anything 23 right now.	Page 59 1 carcinoma. I know that the effects on 2 certain birds or bird life had to do 3 with a decrease in the strength of 4 eggshells. I think that's essentially 5 all the effects I'm aware of. 6 Q. You just mentioned one about eggshell 7 strength. Do you have any recollection 8 of where you would have heard that? 9 A. That came out quite early in the '60s, 10 and it had to do -- because the 11 compounds were similar in some respects 12 to DDT, which was known to have this 13 characteristic. 14 Q. And do you recall how you found that out 15 about the eggshell? 16 A. It was in the press. It was widely 17 reported. It was in Rachel Carlson's 18 book, and I think hers pertained 19 primarily to DDT, but there were certain 20 similarities in the compounds. 21 Q. Are you aware of any epidemiological 22 studies showing association between PCBs 23 and cancer?
Page 58 1 MR. NEWSOM: Now, in the present. 2 A. I'd say what I know is what I have 3 essentially read in MSDS sheets and 4 maybe published reports, maybe 5 newspapers. That would be the limit of 6 my knowledge. 7 Q. What is that knowledge, though? What is 8 your understanding of the potential 9 health effects of PCBs? 10 MR. NEWSOM: Let me just object 11 without some information as 12 to the level of exposure, 13 dose, et cetera. But it is a 14 general proposition. I guess 15 he is asking you generally. 16 A. Potential health effects, again, has to 17 do with the degree of exposure. I know 18 that gross contamination on the skin can 19 cause a condition called chloracne. I 20 know that there were animal studies 21 performed where possibly with the 22 dosages used in the study there might 23 have been evidence of some type of	Page 60 1 MR. NEWSOM: Object to the form. 2 A. I've never read such a study. 3 Q. Are you aware of whether any such 4 studies exist? 5 A. I'm sure the studies exist, but I'm not 6 aware of it, no. 7 Q. Has anyone ever told you that 8 epidemiological studies on PCBs have 9 demonstrated cancer? 10 MR. NEWSOM: Object to the form, 11 vague, ambiguous. 12 A. I don't know that I have ever been told 13 that directly, no. 14 Q. Now, Mr. McCarty, you testified earlier 15 that with regard to the agricultural 16 division employees, that it was your 17 practice to keep them informed as to the 18 relevant health risks. 19 A. Yes. 20 Q. And is it your opinion in general that 21 that is an appropriate course of 22 conduct, to keep the employees fully 23 informed as to health risks?

Page 61 1 A. Absolutely. 2 MR. BRESSLER: Off the record. 3 (Discussion held off record.) 4 Q. Mr. McCarty, I want to ask you a hygiene 5 question, not a personal hygiene 6 question, an industrial hygiene 7 question. During the period that you 8 worked in Anniston, was eating allowed 9 in the production areas? 10 A. In the production area that I was 11 associated with, we did have a 12 lunchroom. 13 Q. So there was a separate room in the 14 agricultural product division? 15 A. Yes. 16 Q. Was that in place when you arrived in 17 Anniston? 18 A. Yes, uh-huh. It was modified and 19 located in a -- It was associated -- I 20 think next door to the control room or 21 located in one isolated area in the 22 control room. It was a separate eating 23 area.	Page 63 1 employees' foods being contaminated by 2 the chemicals they were working with? 3 A. I never heard that directly. It was 4 just not allowed. I'm sure that could 5 have been a concern. 6 By the way, in terms of personal 7 protection equipment, I did forget to 8 tell you that employees, at least in the 9 agricultural area, did wear rubber 10 gloves in the field operations. 11 Q. Sir, forgive me. Where did you say you 12 are living now? 13 A. I live at -- 14 Q. Fairway? 15 A. 708 Fairway Drive in Anniston. 16 Q. We were talking a little bit before 17 about what you know or have heard about 18 the potential effects of PCB exposure. 19 Are you aware of a fish advisory in 20 place in Calhoun County with regard -- 21 A. Yes. 22 Q. -- to PCBs? 23 A. Yes.
Page 62 1 Q. Was it a closed room or just a separate 2 area? 3 A. Initially it was a separate area. It 4 became a closed room. 5 Q. But were employees allowed to eat in the 6 production area itself? 7 A. No. Or not in the actual control area 8 of the control room. 9 Q. Why was that? 10 A. Just as a matter of hygiene, didn't mix 11 your eating with the operations. 12 Q. When you say as a matter of hygiene, why 13 would you not want to mix your eating 14 with the operations? 15 A. Well, there were various chemicals that 16 were used, and it wouldn't be the normal 17 thing to have any kind of direct 18 exposure to the chemicals. It was just 19 never allowed. You just do not eat in 20 the control room rather than the field 21 area. 22 Q. But I'm asking you did Monsanto not 23 allow that because it had concerns about	Page 64 1 Q. You are doing a real good job, by the 2 way, of letting me finish, but try to 3 make sure I finish my question. You are 4 doing a good job so far, better than 5 many witnesses that I've had in 6 depositions. 7 Do you recall when that fish 8 advisory went into effect? 9 A. Not the exact year. No, I do not recall 10 exactly when. 11 Q. Do you eat any locally caught fish? 12 A. No, I don't. I'm not a fisherman, and I 13 don't eat much fish. 14 Q. Do you sometimes eat fish? 15 A. Oh, yes. 16 MR. NEWSOM: Straight from Winn 17 Dixie? 18 THE WITNESS: Top o' the River. 19 Q. On those occasions when you go eat fish, 20 would you eat fish that were caught 21 locally here in Anniston? 22 A. I would tend not to eat fish that were 23 caught where an advisory existed and

Page 65 1 advise you not the eat the fish. 2 Q. Why would you not eat the fish if there 3 is an advisory? 4 A. I would treat that as any other health 5 advisory, just wouldn't participate. 6 Q. Why do you think there is a fish 7 advisory in place in Calhoun County? 8 MR. NEWSOM: Object to the form 9 unless there is some 10 foundation established that 11 he knows why somebody else 12 established an advisory. He 13 may know. There has been no 14 foundation made. 15 A. What I know is principally what I have 16 read, that there were found to be 17 elevated levels of PCBs in some fish in 18 Choccolocco Creek and in the Coosa 19 River. 20 Q. Now, you've lived in Anniston for a 21 while. In your experience -- Well, let 22 me ask you this: Do you know people in 23 Anniston who back when you arrived in	Page 67 1 streams, consisted of neutralization, 2 and it consisted of aerobic destruction 3 of the waste products. 4 Q. Did you say aerobic or anaerobic? 5 A. Aerobic. 6 Q. Was waste from the agricultural products 7 division ever discharged off the plant 8 property? 9 MR. NEWSOM: Let me just object to 10 the form. It is vague as to 11 drummed and taken elsewhere 12 or left -- Object to the form 13 as vague and ambiguous as 14 asked. 15 Q. Let me rephrase the question. Was waste 16 from the agricultural product disposed 17 of in any form off the plant property? 18 A. Some waste was collected and sent to the 19 plant landfill, which I understand was 20 plant property. Other liquid waste -- 21 Let me back up. Primarily any solid 22 waste material went to the landfill. My 23 understanding is all liquid waste went
Page 66 1 Anniston fished and ate fish they caught 2 in Choccolocco Creek and those areas? 3 A. I know people who ate fish they caught 4 in the Coosa River. 5 Q. Let's go back to the plant for a minute. 6 Are you familiar with the waste 7 disposing practices that Monsanto 8 employed during your tenure there? 9 A. I'm familiar with the waste disposing 10 practices that existed in the 11 agricultural area. 12 Q. How would waste products in the 13 agricultural area be disposed of? 14 A. The agricultural products area had its 15 own waste treatment facility. There was 16 primarily a tertiary treatment. 17 Q. I'm sorry. What? 18 A. Tertiary, similar to a municipal waste 19 treatment operation. 20 Q. What did that treatment entail? 21 A. The treatment entailed collection of -- 22 This happened to be liquid waste. It 23 was collection of all liquid waste	Page 68 1 to the treatment plant. 2 Q. What would happen to that liquid waste 3 after it had been treated? 4 A. After it had been treated in the 5 Anniston waste treatment plant, it 6 entered the City of Anniston waste 7 system and was sent to the City of 8 Anniston waste treatment facility and 9 went through their operation. 10 Q. You mentioned that solid waste was 11 landfilled. How would that solid waste 12 be landfilled? Was it collected in 13 something? 14 A. Collected in containers of some sort and 15 taken to the plant landfill. 16 Q. What kind of containers was it collected 17 in? 18 A. Either fiber drums or metal drums. 19 Q. Did you say fiber drums? 20 A. Fiber drums. 21 Q. What is a fiber drum? 22 A. Just a large container that is made out 23 of a heavy cardboard-type material.

Page 69 1 Q. Does that type of material decompose in 2 the environment, sir? 3 A. I think it would. It might take some 4 time, but I'm sure it would. 5 Q. And how was -- How were these containers 6 actually taken out to the landfill? Let 7 me -- Which landfill are you talking 8 about? 9 A. I'm talking about a landfill that 10 existed south of the plant, across what 11 is now Highway 202. 12 MR. NEWSOM: West was closed in 13 '59. 14 A. To my knowledge, we never sent anything 15 to the west landfill. 16 Q. I'm sorry. How would it actually be 17 transported out there? 18 A. It would be transported by truck. 19 Q. And then these containers were brought 20 out there by truck, how were they 21 actually placed in the landfill? 22 A. That I'm not sure because that was a 23 different department that was in charge	Page 71 1 you would any health advisory. But what 2 does the fact there is a health advisory 3 warning people not to eat certain kinds 4 of fish -- what does that tell you about 5 the potentials involved in eating those 6 fish? 7 MR. NEWSOM: Object to the form. 8 What is its meaning to him, 9 or what is the meaning to be 10 conveyed by it? 11 MR. BRESSLER: What it means to 12 him. 13 A. The meaning to me would be there is 14 possibly some danger to the health. I 15 would not eat fish where there was a 16 mercury advisory, for instance. 17 Q. So does the fact that ADEM issued that 18 health advisory indicate to you that 19 ADEM considers the consumption of fish 20 contaminated by PCBs to be potentially 21 dangerous to human health? 22 MR. NEWSOM: Object to the form. 23 You are asking for
Page 70 1 of the landfill. 2 Q. So you don't have any knowledge of 3 whether or not employees would pick up 4 the drums and put them in the landfill 5 rather than the truck would just dump 6 them out there? 7 A. No, I don't. 8 Q. I'm a little bit all over the place 9 today, but let's go back for a second. 10 We were talking about the fish advisory 11 and that you would not eat fish from an 12 area that was subject to the advisory. 13 A. Any kind of advisory. 14 Q. Would you let your children eat those 15 fish? 16 A. No, I would not. 17 Q. Do you have grandchildren, sir? 18 A. Yes. 19 Q. Would you let the grandchildren eat 20 those fish? 21 A. No, not while the advisory was in 22 effect. 23 Q. Again, you said you would treat it as	Page 72 1 speculation as to what 2 somebody else thought, or 3 either you are asking him -- 4 You are asking for 5 speculation as phrased. 6 A. Again, I don't know the background of 7 the levels that were established, but 8 I'm certain that certain levels, for 9 instance, of PCBs would not be 10 considered harmful, but above certain 11 levels it would be. Whether it is 12 harmful or not or how they establish 13 that fact, I don't know any of that 14 background. But just as a matter of 15 course, to answer your first question 16 about this, I would not partake in 17 eating of anything where, you know -- 18 whether I believed it or not, so to 19 speak, where there was some kind of 20 advisory in effect. There are plenty of 21 other things you can eat that do not 22 have an advisory. I know also primarily 23 just from reading that the levels in the

Page 73 1 environment and in the fish and so forth 2 are declining and eventually the 3 advisory will probably be removed. 4 Q. But currently it is still in effect? 5 A. As far as I know. 6 Q. And knowing what you know about the 7 PCBs, from wherever you learned it from 8 -- We discussed a little about what you 9 know of the potential health effects of 10 PCBs. Would you eat meat that was 11 contaminated by PCBs? 12 MR. NEWSOM: Object to the form. 13 Contaminated to what degree? 14 Object to the form, ambiguous 15 as phrased. 16 A. I'll say again, if there was some 17 advisory not to eat it, I wouldn't eat 18 it. 19 Q. Let's say it this way. Let's say for 20 the sake of argument that the Food and 21 Drug Administration sets maximum levels 22 of what they consider to be allowed in 23 any certain food product. Would you eat	Page 75 1 (Discussion held off record.) 2 (Plaintiffs' Exhibit Number 3 Two was marked for 4 identification.) 5 Q. Mr. McCarty, I ask you to take a look at 6 the document that has been marked as 7 Number Two to your deposition and ask if 8 you have ever seen that document before. 9 MR. NEWSOM: Take your time and 10 look through it. 11 A. No, I have not seen it. 12 MR. NEWSOM: He may certainly want 13 to read it all if you want to 14 ask him questions, but I 15 think your question was has 16 he seen it. 17 A. No, not this particular document. 18 Q. Mr. McCarty, I have handed you 19 Plaintiff's Exhibit Two to your 20 deposition, which is labeled on the 21 front page "Aroclors, Toxicity." I 22 would ask you to flip to what is the 23 third page of this stapled document. It
Page 74 1 food that was contaminated with PCBs in 2 excess of those established governmental 3 guidelines? 4 A. No, not if I knew it. 5 Q. I'm sorry? 6 A. No, not if I was aware of it. 7 Q. And would you consider it important to 8 be aware of that? 9 A. Yes. 10 Q. So if a food source was contaminated, 11 that is something you would want to 12 know? 13 A. Yes. 14 MR. NEWSOM: Object to the form. 15 Contaminated as you earlier 16 described it, above a 17 governmental level? 18 MR. BRESSLER: Yes. I would limit 19 the question to that. 20 MR. NEWSOM: Okay. 21 MR. BRESSLER: Thank you. Let's 22 go off the record for a 23 minute.	Page 76 1 is actually I believe page four of the 2 -- the number is hard to read in the top 3 right, but the previous page is three, 4 and the next one is five. Under the 5 heading that says health and safety. 6 A. Uh-huh (indicating yes). 7 Q. Have you read that section? 8 A. Yes. 9 Q. This document indicates in that first 10 paragraph under health and safety that 11 at Anniston no special protective 12 clothing is provided for the diphenyl 13 and Aroclor operators. A daily change 14 of clothing was provided in the past, 15 but this practice had ceased before the 16 war. Gauntlet leather gloves and face 17 shields are of course available as 18 required on the plant. 19 You testified earlier with regard 20 to the protective equipment that was 21 provided to the agricultural workers. 22 A. Yes. 23 Q. And I believe you testified -- and

Page 77 1 please correct me if I'm wrong -- that 2 there was certain safety equipment that 3 you believed was provided regardless of 4 the department in which people worked. 5 A. Uh-huh (indicating yes). 6 Q. Does this paragraph, at least as of the 7 time this document was written, affect 8 your opinion that Monsanto provided 9 certain types of safety equipment 10 regardless of the production areas in 11 which people worked? 12 MR. NEWSOM: Object to the form. 13 Obviously the document is 14 dated 1951, ten years before 15 he got there. And your 16 questions were clearly about 17 the '61 to '72 time period. 18 Unless he has some knowledge 19 of prior practice -- 20 Q. I'll withdraw the question and ask this 21 question. Does this indicate to you 22 that Monsanto's practice in terms of 23 providing safety equipment to its	Page 79 1 clothing was provided. 2 Q. I'd like you to skip down after that 3 first paragraph. Skip down two more 4 paragraphs to the paragraph that begins 5 "At St. Louis, Plant B, the Aroclors 6 building is rated a toxic department. 7 Each operator is provided a complete set 8 of clothing, comprising hat, coat, 9 trousers, combination underclothes, 10 socks, and rubber shoes. A clean change 11 of clothing, except shoes, is placed in 12 the operator's locker in time for the 13 following shift. Men working extra 14 shifts are given a clean set of 15 clothing. Canvas gloves and goggles are 16 provided and ply hand barrier cream is 17 available for use when necessary." 18 Then the next paragraph, "Twenty 19 minutes' paid time is allotted for 20 bathing at the end of the shift, but, 21 again, no record is kept that baths are 22 actually taken. Theoretically, food is 23 not allowed to be eaten within the
Page 78 1 workers might not have been true before 2 you arrived at the plant? 3 MR. NEWSOM: Object to the form. 4 The document speaks for 5 itself. 6 Q. You can answer. 7 MR. NEWSOM: If you know. He is 8 not asking you what the 9 document says. He is asking 10 you what you know. 11 A. Again, I can't speak for anything before 12 the time I arrived at the plant. At 13 that time to my knowledge protection -- 14 not necessarily protective clothing, but 15 a work uniform was provided to everyone 16 in the plant. 17 Q. At that time when are you talking about? 18 A. '61. 19 Q. When you started at the plant? 20 A. Yes. I don't know of any operation that 21 would not have -- Laundry was provided. 22 And I guess no one really checked to see 23 if everyone changed every day, but	Page 80 1 Aroclors building. Instructions are 2 issued that hands and face should be 3 washed well before eating." 4 "Employees in toxic departments 5 are given an annual medical examination 6 and a lung x-ray every three years." 7 Did I read that correctly, sir? 8 A. Yes. 9 Q. You testified earlier that you would 10 expect a company to treat employees 11 working with the same product but in 12 different locations in the same manner. 13 Do you recall that testimony? 14 A. Yes. 15 MR. NEWSOM: I object. The 16 testimony speaks for itself. 17 Q. Included in that equal treatment, in 18 your opinion should an employer provide 19 the same kind of safety equipment for 20 workers working in one plant with a 21 chemical as it does for workers working 22 in another plant with that chemical? 23 MR. NEWSOM: Again, object to the

Page 81 1 form of the question on two 2 bases. One, you are asking 3 him about ten years before 4 his employment. Two, there 5 is absolutely nothing from 6 the document other than what 7 it says that establishes like 8 practices or what practices 9 are referred to. 10 Subject to that, you 11 may answer if you have a 12 basis to. 13 A. My earlier answer stands. I would 14 expect for the same product for a 15 company to provide the same equipment. 16 Q. And, Mr. McCarty, you were in charge of 17 safety in a different area for a while? 18 A. Safety was a part of my 19 responsibilities. 20 Q. I understand. Do you think based on 21 your own experience in dealing with 22 certain safety issues that it is 23 appropriate for a company to provide	Page 83 1 until you lay a foundation 2 that he knows the practices 3 at Krummrich versus the 4 practices in Anniston ten 5 years before he arrived. 6 MR. BRESSLER: I'm limiting my 7 question to what is reflected 8 in this document. 9 Q. So based on what is written in this 10 document, if in fact Monsanto provided 11 protective equipment or special 12 protective equipment to its Krummrich 13 PCB employees that it did not provide to 14 its Anniston PCB employees, would you 15 consider that to be improper? 16 MR. NEWSOM: Objection. That 17 mischaracterizes what the 18 memo says. 19 MR. BRESSLER: I'm just asking 20 what he thinks. 21 A. First of all, I don't know why the 22 difference between the plants. I notice 23 that face shields and gauntlets are
Page 82 1 protective equipment in one place and 2 not give it to its employers working 3 with the same chemical in another place? 4 MR. NEWSOM: Object to the form. 5 A. My personal opinion, it would be 6 appropriate to provide it to all 7 locations working with the similar 8 chemical. 9 Q. By virtue of that answer, sir, then, 10 assuming that Monsanto provided 11 protective equipment to its PCBs 12 employees at the Krummrich plant and did 13 not provide it to its PCBs employees at 14 the Anniston plant, would you consider 15 that to be irresponsible? 16 MR. NEWSOM: Object to the form. 17 Now your question does not 18 meet even the exhibit that 19 references no special 20 protective clothing. It 21 doesn't say no protective 22 clothing. So I object again, 23 comparing apples and oranges,	Page 84 1 provided for Anniston. 2 Q. I believe it says they are available. 3 A. Are available. It would be available in 4 the control room. 5 Q. Just available, by the way, doesn't mean 6 that the employees are actually required 7 to use them, right? 8 A. You would never be required ordinarily 9 to use a face shield in all 10 circumstances. You might be required to 11 use it when taking samples or opening a 12 valve or something like that. 13 Q. So just the fact that a safety equipment 14 or safety clothing is available doesn't 15 necessarily mean it is mandated to be 16 used? 17 A. It would be mandated for certain uses, 18 yes. 19 Q. Let's get back to the question I was 20 asking. If -- Well, can you answer the 21 question I was asking, or do you need it 22 repeated? 23 A. Repeat it for me.

Page 85 1 Q. Let's see if I can do that. If in fact 2 Monsanto provided protective equipment 3 or special protective equipment to its 4 Krummrich PCB workers but did not 5 provide the same protective equipment to 6 its Anniston PCB workers, would you 7 consider that to be improper? 8 MR. NEWSOM: Again, object to the 9 form without some foundation 10 laid as to the practices at 11 each of the plants, asking a 12 witness ten years before he 13 arrived at this plant. I'd 14 expect -- 15 MR. BRESSLER: You objected to the 16 form. And I'm just going to 17 object to the speaking 18 objections. If you want to 19 object to the form, that is 20 fine. If you want to object 21 in a way that is either going 22 to suggest an answer or be a 23 speaking objection, I'd ask	Page 87 1 plant, I did not work in it. It could 2 be possible that different plants would 3 have different requirements. I don't 4 see that much difference in the 5 requirements here. I know that at least 6 when I got there, clothing was provided, 7 and shower facilities were provided. 8 Q. You say it was provided. Are you 9 talking about in the agricultural 10 division? 11 A. No. I'm talking about plant-wide. At 12 the time I got there everybody wore the 13 same clothing. I don't know what 14 happened before that. 15 Q. I'm asking -- 16 A. Except for the rubber overshoes and 17 possibly the rubber gloves -- those were 18 the only items for parathion or 19 agricultural operations that did not 20 pertain to the PCB operations. Again, 21 it could be possible that different 22 plants would have different 23 requirements. This would not be
Page 86 1 you not to do it. 2 MR. NEWSOM: Well, as I said 3 earlier, I think I have to 4 give some basis, or I think I 5 waive it. 6 MR. BRESSLER: If you object to 7 the form I don't think it is 8 waived. And if the witness 9 doesn't indicate he is having 10 a problem understanding it or 11 if he doesn't tell me it is 12 vague, I'm assuming he 13 understands it and he can 14 answer. 15 MR. NEWSOM: I will still object 16 that it is vague. 17 Q. Mr. McCarty, you can answer the 18 question. 19 A. Let me back up and say in different 20 plants -- I have never been in the PCB 21 department in the Krummrich plant, then 22 or later. Other than to possibly walk 23 through the PCB department at Anniston	Page 88 1 unusual. 2 Q. Well, you testified earlier that you 3 would expect that different plants in 4 which people worked with the kinds of 5 chemicals, that those employees would in 6 fact be given the same kind of 7 protective equipment. Do you recall 8 that testimony? 9 A. I would expect that, yes. But I don't 10 see that much difference in the 11 equipment provided here. 12 Q. Let's just take a look at what the 13 document says. The first paragraph 14 under health and safety says, "At 15 Anniston no special protective is 16 provided for the diphenyl and Aroclors 17 operators. A daily change of clothing 18 was provided in the past but this 19 practice ceased before the war. 20 Gauntlet leather gloves and face shields 21 are available." 22 You testified earlier that 23 available doesn't mean they have to use

Page 89 1 them, correct? 2 MR. NEWSOM: I object. Are you 3 asking what he believes 4 available means or what the 5 author means by that? 6 MR. BRESSLER: No. That I asked 7 him earlier, and I think he 8 testified that he understands 9 that just because they are 10 available doesn't mean they 11 would be worn. 12 A. At certain times they are mandated to be 13 worn for certain operations. 14 Q. It would depend on the process? 15 A. Yes. 16 Q. This first paragraph clearly says at 17 Anniston no special protective clothing 18 is provided for the Aroclor operators. 19 Is that correct? Does it say that? 20 A. It says that. 21 Q. Then three paragraphs down, Mr. McCarty, 22 it went through a list of things that 23 were provided to the St. Louis Aroclor	Page 91 1 thought he was still 2 answering. 3 Q. That's fine. I don't mean the cut you 4 off. Are you finished with your answer, 5 sir? 6 A. Yes. I'm going to say again I don't see 7 a great deal of difference by what would 8 be worn by operators in Anniston 9 compared to what was provided here. I 10 know no one would show up, for instance, 11 in a tee shirt or something like that to 12 do operating work in the department. 13 Q. Let me ask you this: You said you 14 wouldn't expect the clothing to be 15 different. But you testified earlier 16 that you don't know what went on in this 17 plant in terms of clothing or safety 18 devices provided before you got there. 19 Is that correct? 20 A. Yes. 21 Q. So you are just making an assumption as 22 to what people might wear or not wear? 23 A. I understand here it says face shields
Page 90 1 operators; isn't that correct? 2 MR. NEWSOM: Well, the document 3 speaks for itself. 4 MR. BRESSLER: Wait just a second. 5 The documents says what it 6 says. Mr. McCarty said he 7 didn't see any difference in 8 what its says in Anniston 9 versus Krummrich. 10 MR. NEWSOM: I think he said a 11 significant difference. 12 Q. Mr. McCarty, you can go ahead. 13 A. I would say the type of clothing 14 provided at the St. Louis plant would be 15 essentially similar to the type of 16 clothing that was worn by the people at 17 Anniston. And this would be work 18 clothing and would involve completely 19 covering the body, including the arms. 20 Q. You testified earlier you -- 21 MR. NEWSOM: Wait, wait, wait. 22 Were you finished? I don't 23 mean to interrupt you, but I	Page 92 1 and gauntlet gloves were provided. I'm 2 sure were worn. But I think in essence 3 except for the rubber shoes that the 4 personnel operating in Anniston would 5 have essentially the same type of 6 protective equipment as persons anywhere 7 else. 8 Again, I know a difference between 9 plants, but I would expect at least in 10 more modern times, at least in the time 11 I got there, I think the -- Again, I 12 don't know this. But I have an idea 13 what was provided was common to both 14 plants. 15 Q. But as of before you got there, you 16 don't know if what was provided was the 17 same in both plants? 18 A. No. Just going by what the document 19 says, but -- This is my own personal 20 opinion. But I believe the protection 21 was essentially the same. Now, whether 22 they were provided work clothes or not, 23 you know -- The only way I would have to

Page 93 1 know would be I have seen photographs of 2 operations back in those days, and 3 people wore overalls and long sleeve 4 work shirts and cotton caps. Now, what 5 kind of cap was provided at the St. 6 Louis plant B, I don't know. It just 7 says hats. 8 Q. Did the photographs you looked at 9 indicate what departments they were 10 taken of? 11 A. Yes. 12 Q. Let me ask you this: Looking down at 13 that fourth paragraph that begins "At 14 St. Louis" -- We talked about the first 15 paragraph saying what they had done in 16 Anniston, correct? 17 A. Yes. 18 Q. In St. Louis it goes through a litany of 19 things they did for the St. Louis 20 Aroclor operators, right? They were 21 given a complete set of clothing with a 22 hat, coat, trousers, underclothes, socks 23 rubber shoes, a clean change of clothing	Page 95 1 given paid time to shower. 2 MR. NEWSOM: The document speaks 3 for itself. There is no 4 indication they were or were 5 not. Again, the problem 6 here, Howard, you are going 7 back ten years before he was 8 even there. On one hand you 9 want him to speculate as to 10 what it means. It is unfair 11 to begin with if you don't 12 just want to rely on the 13 document or you don't ask him 14 about his time period. Then 15 if you ask him to speculate, 16 he is going to give you his 17 opinion, which he has done. 18 Q. Let me just go back to the general 19 question. I think we can just leave it 20 at that. Just to restate your previous 21 answer, as a general proposition, you 22 believe that workers working with the 23 same chemical in different plants should
Page 94 1 if they were going to work another 2 shift, canvas gloves and goggles 3 provided, got paid time to take a 4 shower, that they couldn't eat in the 5 Aroclors building. They got annual 6 medical examinations and lung x-rays 7 every three years. 8 Just on what is in this document, 9 sir, doesn't that indicate to you that 10 the workers at Anniston and the workers 11 at Krummrich dealing with PCBs were 12 treated differently? 13 MR. NEWSOM: Object to the form. 14 A. No. Not that different because 15 facilities were made available and 16 physical examinations were made 17 available. It says some protective 18 ointment was available. I'm sure as to 19 when you took a bath was something 20 negotiated in the management-union 21 contract. 22 Q. But there is no indication in this 23 document that Anniston workers were	Page 96 1 be given the same type of protective 2 equipment; is that correct? 3 MR. NEWSOM: Object to the form 4 unless there is some 5 foundation laid of like 6 practices, et cetera. If it 7 is very general, maybe that 8 is a fair question. 9 Q. In general. 10 A. I would say in general for a company 11 that had different locations making the 12 same product, proven that certain types 13 of equipment were necessary, each 14 facility should have the same type of 15 equipment. 16 Q. And just remind me. I think you did 17 testify to this, but if I'm wrong, 18 please correct me. The purpose of 19 having protective equipment -- what 20 would you say is the purpose of giving 21 employees protective equipment? 22 A. Protective equipment would be some type 23 of equipment worn on the job to reduce

Page 97 1 the possibility of someone being injured 2 as a result of any type of accident. 3 Again, the list of protective equipment 4 in this case is -- for the operations 5 that I was associated with was not 6 completely exhaustive. For instance, 7 people did not wear closed suits like 8 they would wear in nuclear operations or 9 something like that. They wore what was 10 considered appropriate clothing for the 11 operations. 12 Q. But the purpose in general of protective 13 clothing is to protect employees from 14 injury or hazards? 15 A. Right. Face shields or goggles, to 16 protective you from spattering toward 17 the eyes, particularly with sampling. 18 Long sleeves are to protect your skin 19 from any exposure to any type of 20 chemical that might occur as a result 21 of a line failure or a leak or 22 something. 23 From what I see here, these people	Page 99 1 which case it could be different. 2 Q. In your experience would -- How did the 3 employees work? Were they parts of 4 unions? 5 A. I know that the Anniston plant was part 6 of the union. I'm reasonably sure that 7 the St. Louis plant was part of the 8 union. 9 Q. So by the previous answer, are you 10 suggesting that the protective equipment 11 that was provided to the workers could 12 have been a result simply of union 13 contractual negotiations? 14 A. It is quite possible. 15 Q. And that perhaps the union in Anniston 16 just wasn't as savvy as the union in 17 Krummrich? 18 MR. NEWSOM: Object to the form. 19 A. May have been more savvy. 20 Q. Assuming, Mr. McCarty, all things being 21 equal, same manufacturing procedures, 22 substantially the same environmental 23 conditions in the plant, same product
Page 98 1 were protected adequately in both 2 situations. For instance, we never 3 required, to my knowledge, PCB operators 4 to wear rubber shoes as they did at 5 Krummrich. We did require the 6 agricultural people to wear rubber 7 shoes. It may have been that they were 8 required here, but I don't recall that. 9 Q. So based on what you said about the 10 reason why protective equipment might be 11 provided to a worker, if in fact 12 Monsanto provided a series of protective 13 equipment type things to its Krummrich 14 employees, would that indicate to you 15 that Monsanto believed those to be 16 necessary to protect the health and 17 safety of those workers? 18 MR. NEWSOM: Object to the form, 19 asks for speculation. 20 A. I don't really know how the criteria was 21 developed for which plant. It may have 22 been, again, as a result of contract 23 negotiation or something like that, in	Page 100 1 being manufactured, would you consider 2 it responsible for a company to provide 3 safety equipment to workers in one area 4 but not to provide that same safety 5 equipment to workers in another area? 6 A. I think I probably have answered that 7 several times. My personal feeling is 8 that, yes, the safety equipment should 9 be provided according to what is needed 10 in that particular area. All similar 11 areas within a company should have that 12 same protective equipment. 13 Q. We spoke a little bit before about 14 eating in the plant areas. Do you know 15 whether or not food was allowed to be 16 eaten in the Aroclor department in 17 Anniston? 18 MR. NEWSOM: What time frame? We 19 were back to '51 -- 20 MR. BRESSLER: No, no, no. We are 21 finished with that document. 22 Q. During your tenure and while PCBs were 23 being manufactured in Anniston, do you

Page 101 1 know whether it was allowable to eat in 2 the PCB department? 3 A. I do not know in that particular 4 context. I do know that every 5 department I'm familiar with had a 6 discrete area for eating. No food was 7 allowed to be consumed in any other 8 area. 9 Q. Do you recall specifically if there was 10 a separate room for the Aroclor 11 department? 12 A. I do not recall. 13 Q. This document, I'm not going to go 14 through it. I just want to ask you a 15 general question. But you mentioned 16 something about medical exams being 17 available. Were the workers at the 18 Anniston plant subjected to annual 19 medical exams? 20 A. Annual exams. 21 Q. Do you know whether that exam was the 22 same for workers regardless of what 23 department they were in?	Page 103 1 additionally to the extent it 2 calls for a legal conclusion. 3 It is hard to know whether it 4 does or doesn't, but we would 5 object on that basis. It is 6 vague as to toxic effect, a 7 dose level that would have a 8 meaningful physical effect or 9 just exposed to it. So it is 10 vague and ambiguous and 11 incomplete. 12 MR. BRESSLER: Again, I understand 13 you want to make your 14 objections. You are giving 15 speaking objections in a 16 manner that could be 17 construed as coaching the 18 witness. So I ask that you 19 refrain from speaking 20 objections. If you want, 21 object to the form. If you 22 want me to rephrase it, if 23 the witness wants me to
Page 102 1 A. The people in the agricultural 2 department received the cholinesterase 3 level tests I mentioned earlier. The 4 people in other departments did not 5 receive that. I don't know what other 6 specific tests might have been done in 7 other departments. 8 Q. So Monsanto ran that special test on the 9 agricultural workers because of a 10 specific toxic return with regard to the 11 pesticide ingredients? 12 A. Yes. This was a test to indicate the 13 possible exposure to pesticide 14 ingredients. It could be the result of 15 other things, but this was an indicator. 16 Q. Going back to a hypothetical. 17 Hypothetically speaking, sir, if a 18 company knows or has reason to believe 19 that a chemical that it produces can 20 have toxic effects on humans, is that 21 something that you share with the 22 public? 23 MR. NEWSOM: Object to the form,	Page 104 1 rephrase it, I will be happy 2 to do that. I would ask you 3 to refrain from making 4 speaking objections. 5 MR. NEWSOM: I will try to comply 6 with what I need to do and be 7 mindful of what you are 8 saying. But I don't need to 9 coach this witness, for 10 starters, and that is not 11 what I think I'm doing. But 12 I'm certainly here. 13 Q. Can you answer the question, sir? 14 A. My personal feeling is that the public 15 should have access to any and all 16 information concerning any and all 17 chemicals or any and all other type 18 products. 19 Q. And if that -- any and all information 20 you are referring to, if that 21 information is within the possession of 22 the greater knowledge of a company, 23 should the company share that

Page 105 1 information with the public? 2 MR. NEWSOM: Object to the form. 3 A. I realize that some information 4 regarding processes, operations, product 5 is confidential to a company. I don't 6 think that should be shared. But any 7 safety and health type information 8 should be shared. 9 Q. Do you know, Mr. McCarty, whether or not 10 during your tenure at the Anniston plant 11 PCB waste was ever released from the 12 plant property into the surrounding 13 environment? 14 MR. NEWSOM: Object to the form. 15 I mean, could you tell him 16 with what you mean by -- 17 intentionally or physically? 18 It is unclear to me. Maybe 19 it's clear to him. 20 Q. Well, intentionally or not, whether it 21 actually escaped from the property. 22 A. Again, I'm not that familiar with the 23 PCB manufacturing area. I know there	Page 107 1 area where there was a surface drainage 2 ditch that at least partially emanated 3 from the Monsanto property, and there 4 was a concern that the hogs might have 5 ingested something that might have been 6 in the ditch. 7 Q. So it is your understanding that 8 Monsanto bought those hogs from those 9 people because the hogs might possibly 10 have consumed PCBs? 11 A. I don't know if they considered the hogs 12 to be consuming. But I understand the 13 hogs had been purchased. 14 Q. Sir, do you know what your personal PCB 15 blood level is? 16 A. No, I do not. 17 Q. If you were to find out that your PCB 18 blood level is higher than the 19 background level for people in the 20 United States, would that cause you any 21 concern? 22 MR. NEWSOM: Object to the form 23 unless you define "higher"
Page 106 1 was certain treatments provided. To my 2 knowledge no waste was deliberately 3 emitted. No plant stream was emitted 4 that did not go through the treatment 5 facility. 6 MR. BRESSLER: Let's go off the 7 record for a minute. 8 (Discussion held off record.) 9 Q. Mr. McCarty, do you recall an incident 10 in which Monsanto purchased some hogs 11 from some of the people around the 12 plant? 13 A. Yes. I was not -- I do recall that 14 incident. 15 Q. What do you recall about that incident? 16 A. I recall that an area adjacent to the 17 plant, there was concern that possibly 18 some hogs might have been exposed to 19 some PCBs and that the hogs were 20 purchased. I don't know what happened 21 to the hogs. 22 Q. But it is -- 23 A. I understand that the hogs were in an	Page 108 1 for him. 2 A. Again, I don't know exactly what higher 3 would be. If it were a little elevated 4 above the background level, I don't 5 think I would be too concerned. 6 Q. What if it were three times or four 7 times higher? 8 A. I might be concerned. 9 Q. What about if your children's levels 10 were three or four times higher than the 11 background level? 12 MR. NEWSOM: Same objection unless 13 there is some kind of 14 foundation laid as to whether 15 that level has any health 16 implications. 17 A. Same answer. Yes. If they were many 18 times higher than the general background 19 level, yes. 20 Q. Now, it wouldn't be too far for me to 21 assume you have those same concerns for 22 your grandchildren as well? 23 A. Yes.

Page 109 1 Q. Have you ever been treated for cancer? 2 A. Only skin cancer. 3 Q. Is that a current treatment or something 4 that is finished? 5 A. No, it is ongoing. It is due to 6 exposure to the sun. 7 Q. Is that a melanoma? 8 A. No. It is a basal cell carcinoma. 9 Q. Has anyone else in your family, 10 immediate family, been treated for 11 cancer? 12 A. Of the same type, yes. Grandparents on 13 both sides, parent on one side, and some 14 of my children. 15 Q. Just to jump back for a second, we were 16 talking about what you knew about 17 disposal in the landfills or the plant. 18 Was there ever an incinerator at the 19 Anniston plant during your time? 20 A. In the department I worked in 21 agricultural products did have an 22 incinerator. 23 Q. What was incinerated there?	Page 111 1 Q. Did you review any documents before your 2 deposition today? 3 A. No. 4 Q. Had you reviewed documents before your 5 deposition in the Owens case? 6 A. No. 7 Q. Did you meet with anybody to prepare for 8 your deposition? 9 A. Just briefly before the deposition. 10 Q. Just briefly meaning today? 11 A. Before the other deposition, also. 12 Q. I may not be understanding. Did you 13 meet with someone to prepare both times, 14 in the Owens case and then for the 15 deposition today? 16 A. Briefly out in the hall in both cases. 17 Q. With whom did you meet? 18 A. I met with this gentleman today 19 (indicating). And was it Mike involved 20 -- I assume it was Mike Kelly I met with 21 previously. 22 Q. And your meeting today was just for a 23 few minutes?
Page 110 1 A. Oh, what was incinerated was a substance 2 that we call still residue that was a 3 mixture of various chemicals that were 4 in the bottoms when the product was 5 distilled overhead. 6 Q. Was it liquid? 7 A. It was liquid and solid. It was a 8 slurry. 9 Q. Was that only used for the agricultural 10 division? 11 A. Yes. 12 Q. Do you know if there were any other 13 incinerators at the plant or on the 14 landfills? 15 A. I think for a brief period there was a 16 very unique incinerator at the landfill. 17 I was aware of that. I don't think I 18 ever saw it. I certainly never operated 19 it. 20 Q. I'm assuming by your answer that you 21 wouldn't know -- or would you know -- 22 what was incinerated in that? 23 A. No.	Page 112 1 A. Yes. 2 MR. NEWSOM: Four and a half to be 3 exact. 4 Q. Do you get a pension from Monsanto, sir? 5 A. Yes, I do. 6 Q. When did you start receiving that 7 pension? 8 A. I started receiving the pension in 9 probably September of 1986. 10 Q. And do you still get benefits from 11 Monsanto, like medical benefits? 12 A. I get medical benefits from Solutia. 13 Q. Do any of your family or friends work 14 for Monsanto or Solutia? 15 A. I have friends who work for Solutia. 16 And I don't know anyone specifically now 17 that works for Monsanto. 18 Q. Are those -- Are any of those 19 individuals in an executive or 20 managerial position? 21 A. Not above plant level. 22 Q. Sir? 23 A. Not above a plant level, like plant

1 manager or superintendent.

2 Q. Who are some those people that work for
3 Solutia?

4 A. Jerry Brown, a friend; Conrad Gambel.

5 Q. I'm sorry. What was the last name?

6 A. Gambel, G-a-m-b-e-l. These are people
7 at the Anniston plant.

8 Q. Are these social friends?

9 A. No. They are acquaintances and business
10 friends.

11 Q. One last question for you, and I mean
12 you no offense by this. But have you
13 ever been convicted of a crime, sir?

14 A. Other than a few traffic violations.

15 Q. Have you ever been arrested for one?

16 A. No.

17 MR. BRESSLER: Thank you,
18 Mr. McCarty. That's all I
19 have for you.

20

21 (The deposition concluded at
22 1:10 p.m.)
23

1 I do hereby certify that the witness
2 whose attached deposition was taken before me
3 was by me first duly cautioned and sworn to
4 tell nothing but the truth in the cause
5 aforesaid; that the testimony contained herein
6 was by me reduced to writing in the presence
7 of said witnesses by means of stenography and
8 afterwards transcribed by means of computer
9 aided transcription. The foregoing is a true
10 and accurate transcript of the whole of the
11 testimony given by said witness, as aforesaid.

12 I do further certify that I am not
13 connected by blood or marriage with any of the
14 parties or their attorneys or agents and that
15 I am not an employee of any of them, nor
16 interested in the matter of controversy.

17 IN WITNESS WHEREOF, I have hereunto set
18 my hand and affixed my notarial seal at
19 Gadsden, Alabama, County of Etowah, this 6th
20 day of January 2002.

21

22 Deborah Salers Garrett
23 Certified Shorthand Reporter
Registered Professional Reporter
Notary Public, Alabama-at-Large
My Commission expires: 3-6-05

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