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# KOHN, KLEIN, NAST & GRAF, P.C.

2400 One Reading Center, 1101 Market Street

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## TRANSMITTAL FORM

TO: Michael Malin

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NOTES:

DATE: 2/28/92

FROM: Martin J. D'Urso

TIME: _____

TRANSMITTED BY: Joan Burt

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February 28, 1992
By Telecopier and 1st Class Mail

Michael H. Malin, Esquire
White & Williams
One Liberty Place, Ste. 1800
1650 Market Street
Philadelphia, PA 19103-7301

Re: Paoli Railyard PCB Litigation

Dear Mr. Malin:

I write to confirm the contents of our just completed telephone conversation.

You have just informed me that you deem Dr. George Rousch, whose deposition was noticed to take place on March 2, 1992, to have been a managing agent of the Monsanto Company. Accordingly, it is your position that plaintiffs are not permitted to make ex parte contacts with Dr. Rousch despite his retirement from Monsanto. While you assert that Dr. Rousch was in the management "control" group for purposes of ethical considerations, you also apprised me that Dr. Rousch is not in Monsanto's "control" for purposes of scheduling his deposition. Accordingly, it shall be necessary for plaintiffs to subpoena him. In this regard, you have agreed to provide us with his last known address at your first opportunity.

You also have just informed me that there may be no successor to Dr. Elmer Wheeler (deceased). Plaintiffs had noticed the deposition of the successor to take place on March 3, 1992. You have agreed to determine what person or persons, if anyone, has or have succeeded Dr. Wheeler, and to provide me with their address and identification as soon as possible.

Finally, please expect a letter from John Innelli, Esquire, by 3:00 this afternoon setting forth plaintiffs' bases for continuing his deposition.

Sincerely,

Martin J. D'Urso

Martin J. D'Urso

MJD:jmb

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