

(21) A I'M SORRY, WHICH PARAGRAPH?
 (22) **Q THE ONE AT THE BOTTOM OF THE PAGE THAT**
 (23) **BEGINS "ONCE THIS FACT HAD BEEN ESTABLISHED."**
 (24) **IT DOES DIS -**
 (25) THE COURT: IS THIS EXHIBIT NUMBER 36,
 (26) MR. ZIMMER?
 (27) MR. ZIMMER: YES, YOUR HONOR, THE SECOND PAGE
 (28) OF THE PRESS RELEASE DISCUSSING THE RUNNING OF

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(1) SAMPLES THROUGH THE CHROMATOGRAPH AND THE
 MASS
 (2) SPECTROMETER.
 (3) THE WITNESS: THE MAIN REASON FOR MY CONTINUED
 (4) CONFUSION WAS THAT WHEN THEY RAN SAMPLES AND
 GOT
 (5) CLOSELY LOCATED PEAKS TO THAT WHICH THEY HAD SEEN
 IN
 (6) THE ENVIRONMENT, IT STILL DID NOT SATISFACTORILY
 (7) EXPLAIN THE TRANSPORT OF HOW PCB'S, WHICH WERE AN
 (8) INDUSTRIAL PRODUCT, WERE FINDING THEIR WAY AT THE
 (9) CHLORINATION LEVELS THAT WERE BEING REPORTED INTO
 THE
 (10) ENVIRONMENT.
 (11) **Q DO YOU KNOW, SIR, HOW MR. JENSEN OR ANY**
 (12) **MEMBERS OF HIS FAMILY CAME INTO CONTACT WITH**
HIGHLY
 (13) **CHLORINATED MOLECULES?**
 (14) A NO, I DON'T.
 (15) **Q DID YOU EVER LEARN THAT MR. JENSEN OR ANY**
 (16) **MEMBERS OF HIS FAMILY SUFFERED ANY ADVERSE**
HEALTH
 (17) **EFFECTS DUE TO THE TRACE AMOUNTS OF BIPHENOL OR**
 (18) **BIPHENYL THAT WERE APPARENTLY FOUND IN THEIR**
HAIR?
 (19) A NO, THEY DID NOT.
 (20) MR. ZIMMER: THANK YOU, SIR.
 (21)
 (22) FURTHER REDIRECT EXAMINATION
 (23) BY MR. TALLON:
 (24) **Q SO WHAT YOU ARE SAYING IS YOU DIDN'T KNOW**
 (25) **HOW IT GOT THERE BUT YOU KNEW THAT WHAT WAS**
BEING
 (26) **FOUND WITH THAT LKB MACHINE WAS PCB, RIGHT?**
 (27) A I KNEW WHAT WAS BEING FOUND WAS BEING
 (28) DESCRIBED AS PCB.

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(1) THE QUESTION ON WHETHER THAT WAS A
 (2) BIPHENYL OR BIPHENOL REMAINED A QUESTION, IN MY
 MIND,
 (3) FOR SOME TIME.
 (4) **Q OKAY. SO WHY DIDN'T YOU BRING THEM A**
 (5) **SAMPLE OF ONE OF YOUR LUBRICATING OILS AND SAY**
"TEST
 (6) **THIS"?**
 (7) A BECAUSE THAT WOULD NOT NECESSARILY HAVE
 (8) CONFIRMED EITHER WAY THAT - THAT WOULD NOT HAVE
 (9) HELPED, NECESSARILY.
 (10) MR. TALLON: NOTHING FURTHER.
 (11) THE COURT: MAY THIS WITNESS NOW BE EXCUSED,
 (12) MR. TALLON?
 (13) MR. TALLON: YES, YOUR HONOR.
 (14) THE COURT: AND MR. ZIMMER?
 (15) MR. ZIMMER: YES.
 (16) THE COURT: THANK YOU, MR. WOOD, FOR YOUR
 (17) ATTENDANCE AT THIS TRIAL.
 (18) YOU ARE EXCUSED FROM FURTHER ATTENDANCE.
 (19) THE COURT: MR. TALLON, WE ARE GOING TO HEAR
 (20) READING FROM A DEPOSITION?
 (21) MR. TALLON: YES, YOUR HONOR.
 (22) THE COURT: LADIES AND GENTLEMEN, BECAUSE OF
 (23) SOME OTHER WORK THAT I NEED TO DO WITH THE
 LAWYERS
 (24) THIS AFTERNOON, I WILL ALTER OUR SCHEDULE A LITTLE
 (25) BIT.
 (26) WE WILL GO NOW UNTIL 10 MINUTES BEFORE
 (27) THREE, AND WE WILL STOP WITH THE JURORS AT THAT

(28) POINT, MR. TALLON.

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(1) MR. TALLON: OKAY.
 (2) THANK YOU, YOUR HONOR.
 (3) YOUR HONOR, WE WILL NOW BE READING FROM
 (4) THE DEPOSITION OF R. EMMET KELLY, M.D., VOLUME ONE,
 (5) APRIL 30, 1992.
 (6) THE COURT: GO AHEAD.
 (7) **Q PLEASE STATE YOUR NAME AND**
 (8) **ADDRESS FOR THE RECORD.**
 (9) A ROBERT EMMET, E-M-M-E-T, KELLY,
 (10) K-E-L-L-Y.
 (11) **Q WHAT IS YOUR ADDRESS?**
 (12) A 665 SOUTH SKINKER, S-K-I-N-K-E-R,
 (13) ST. LOUIS, MISSOURI.
 (14) **Q DOCTOR, YOU ARE RETIRED AS A**
 (15) **MEDICAL DIRECTOR FROM MONSANTO**
 (16) **COMPANY?**
 (17) A YES, SIR.
 (18) **Q YOU RETIRED IN 1974?**
 (19) A NOVEMBER 30TH, 1974.
 (20) **Q WHEN DID YOU BEGIN YOUR CAREER**
 (21) **WITH MONSANTO?**
 (22) A JANUARY 15, 1936.
 (23) **Q WHEN DID YOU ASSUME THE POSITION**
 (24) **AS MEDICAL DIRECTOR?**
 (25) A SOMETIME IN MARCH OF 1945.
 (26) **Q AND BEFORE MARCH OF 1945 WHAT**
 (27) **POSITION OR POSITIONS DID YOU**
 (28) **HOLD?**

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(1) A WELL, I STARTED WITH THE COMPANY
 (2) AS A PLANT PHYSICIAN AT THEIR
 (3) LARGE PLANT IN ST. LOUIS.
 (4) I STAYED THERE UNTIL I WENT INTO
 (5) THE SERVICE IN 1942.
 (6) ALONG ABOUT THE END OF 1937 OR
 (7) 1938 I HAD OTHER RESPONSIBILITIES
 (8) AT THE REST OF THEIR PLANTS.
 (9) I WAS SORT OF A MEDICAL DIRECTOR
 (10) WITHOUT PORTFOLIO, AS IT WERE.
 (11) AND THEN I WAS IN THE SERVICE
 (12) FROM, AS I SAID, FROM 1942 TO
 (13) 1945.
 (14) AND I DON'T KNOW WHETHER IT WAS
 (15) '45 OR '46.
 (16) '46, I THINK.
 (17) ANYWAY SO WE ORGANIZED A NEW
 (18) STAFF DEPARTMENT CALLED A CENTRAL
 (19) MEDICAL DEPARTMENT AND I WAS MADE
 (20) MEDICAL DIRECTOR AND I REMAINED
 (21) IN THAT POSITION UNTIL I RETIRED.
 (22) **Q ARE YOU A LICENSED PHYSICIAN?**
 (23) A YES.
 (24) **Q AND WERE YOU A LICENSED PHYSICIAN**
 (25) **THROUGHOUT THE PERIOD THAT YOU**
 (26) **WERE EMPLOYED BY MONSANTO?**
 (27) A YES, SIR.
 (28) **Q AND IN HOW MANY INSTANCES HAVE**

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(1) **YOU GIVEN DEPOSITION TESTIMONY AS**
 (2) **AN EXPERT FOR MONSANTO?**
 (3) A WELL, IT WASN'T ONLY MONSANTO.
 (4) YOU WERE ASKING JUST ABOUT
 (5) MONSANTO?
 (6) I HAVE GIVEN THEM FOR OTHER
 (7) COMPANIES, ALSO.
 (8) **Q I'M ASKING JUST ABOUT MONSANTO**
 (9) **RIGHT NOW.**
 (10) A I THINK IT'S GOING TO BE A GUESS
 (11) ON THAT, PROBABLY 20.
 (12) **Q IN THE CASES WHERE YOU GAVE**
 (13) **DEPOSITION TESTIMONY AS AN EXPERT**
 (14) **WHERE YOUR CLIENT WAS MONSANTO,**
 (15) **WERE YOU COMPENSATED?**
 (16) A YES.

(17) Q AND DID YOU ESTABLISH A REGULAR
 (18) RATE OF COMPENSATION?
 (19) A YES, I DID.
 (20) Q WHAT WAS THAT?
 (21) A IT VARIED, OBVIOUSLY, OVER THE
 (22) YEARS.
 (23) IT WAS \$2,000 A DAY OR \$200 AN
 (24) HOUR.
 (25) Q DOES THAT FIGURE COVER
 (26) PREPARATION TIME AS WELL AS
 (27) DEPOSITION TIME?
 (28) A IF THERE WERE PREPARATION TIME

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(1) WITH A LAWYER, IT DOES NOT COVER
 (2) IT.
 (3) IT WAS PREPARATION BY MYSELF,
 (4) READING THE RECORDS, IT DID COVER
 (5) IT.
 (6) Q CAN YOU ESTIMATE THE AMOUNT OF
 (7) MONEY THAT YOU HAVE EARNED AS AN
 (8) EXPERT GIVING DEPOSITION
 (9) TESTIMONY FOR MONSANTO?
 (10) A WELL, I WILL TELL YOU IN 1992 IT
 (11) WAS \$1,000.
 (12) Q ARE YOU BEING COMPENSATED FOR
 (13) YOUR APPEARANCE HERE TODAY?
 (14) A I WILL BE, I HOPE.
 (15) Q DO YOU ANTICIPATE RECEIVING
 (16) COMPENSATION?
 (17) A YES.
 (18) Q FOR THE PREPARATION TIME AND FOR
 (19) THE DEPOSITION TIME?
 (20) A THAT'S CORRECT.
 (21) Q AND AT WHAT RATE DO YOU
 (22) ANTICIPATE BEING COMPENSATED?
 (23) A THE EXPERT WITNESS RATE OF \$200
 (24) AN HOUR.
 (25) Q JUST FOR A POINT OF
 (26) CLARIFICATION, DOCTOR, WHEN YOU
 (27) HAVE APPEARED AS AN EXPERT
 (28) WITNESS, WHAT HAS BEEN YOUR AREA

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(1) OF EXPERTISE, IF IT'S BEEN ONE
 (2) AREA OR IS IT MORE THAN ONE AREA?
 (3) A WELL, IT'S OCCUPATIONAL
 (4) ILLNESSES.
 (5) Q ALL RIGHT. DOCTOR, YOU SERVED AS
 (6) MEDICAL DIRECTOR OF MONSANTO FOR
 (7) A NUMBER OF YEARS.
 (8) I'M INTERESTED IN LEARNING FROM
 (9) YOU YOUR RESPONSIBILITIES WHILE
 (10) YOU HELD THAT POSITION.
 (11) AND I UNDERSTAND THAT THE
 (12) POSITION COVERED A SIGNIFICANT
 (13) NUMBER OF YEARS.
 (14) BUT COULD YOU DESCRIBE FOR ME
 (15) YOUR RESPONSIBILITIES AS MEDICAL
 (16) DIRECTOR DURING THE PERIOD YOU
 (17) HELD THAT JOB?
 (18) A YES.
 (19) THE PRIMARY DUTY WAS TO SEE THAT
 (20) OUR PLANTS WERE OPERATED IN SUCH
 (21) A MANNER THAT NO ILLNESSES,
 (22) OCCUPATIONAL ILLNESSES, WOULD
 (23) OCCUR IN OUR WORK FORCE.
 (24) NUMBER TWO, I HAD THE
 (25) RESPONSIBILITY OF ASCERTAINING
 (26) TOXICOLOGICAL INFORMATION ON OUR
 (27) RAW MATERIALS AND FINISHED
 (28) PRODUCTS.

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(1) THREE, I WAS RESPONSIBLE FOR
 (2) SETTING UP AN INDUSTRIAL HYGIENE
 (3) PROGRAM IN OUR PLANTS.
 (4) FOUR, I WAS RESPONSIBLE FOR THE
 (5) SAFE HANDLING DATA, TOXICOLOGICAL

(6) DATA, THAT WOULD BE LISTED IN OUR
 (7) BULLETINS OR LABELS.
 (8) FIVE, I WAS RESPONSIBLE FOR
 (9) ANSWERING ANY QUESTIONS THAT CAME
 (10) TO MONSANTO CONCERNING THE HEALTH
 (11) EFFECTS OF ANY OF OUR CHEMICALS,
 (12) WHETHER THESE WERE FROM A WORKER,
 (13) OTHER COMPANY OR A PRIVATE
 (14) PHYSICIAN.
 (15) Q YOU MENTIONED, DR. KELLY, THAT
 (16) ONE OF YOUR RESPONSIBILITIES AS
 (17) MEDICAL DIRECTOR WAS TO HAVE
 (18) RESPONSIBILITY FOR A
 (19) TOXICOLOGICAL INFORMATION ON RAW
 (20) MATERIALS AND FINISHED PRODUCTS.
 (21) COULD YOU EXPLAIN, PLEASE, HOW
 (22) YOU DISCHARGED THAT
 (23) RESPONSIBILITY?
 (24) A YES.
 (25) LET'S START WITH RAW MATERIALS.
 (26) OBVIOUSLY WE WOULD ASK THE
 (27) SUPPLIER WHAT HE KNEW ABOUT IT.
 (28) IF HE DIDN'T HAVE IT, WE WOULD

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(1) LOOK IT UP OURSELVES IN THE
 (2) VARIOUS PUBLICATIONS THAT MAY OR
 (3) MAY NOT LIST THE MATERIAL.
 (4) IF THAT PROVED NEGATIVE, IF WE
 (5) DIDN'T FIND ANYTHING OUT, I WOULD
 (6) TALK TO THE CONFRERES THAT I KNEW
 (7) IN THE CHEMICAL BUSINESS AND ASK
 (8) THEM WHAT THEY KNOW ABOUT IT, IF
 (9) THEY HAVE BEEN USING IT AND WHAT
 (10) THEY KNOW ABOUT IT.
 (11) AND THEN FINALLY, IN A FEW RARE
 (12) CASES, WE MAY DO SOME
 (13) TOXICOLOGICAL WORK OF OUR OWN ON
 (14) IT, NOT VERY OFTEN.
 (15) MOST OF THE TIME WE DID IT ON OUR
 (16) OWN PRODUCTS, RATHER THAN
 (17) PRODUCTS FROM THE SUPPLIER.
 (18) AS FAR AS THE FINISHED
 (19) INFORMATION IS CONCERNED,
 (20) INFORMATION ON THE FINISHED
 (21) GOODS, IT DEPENDS ON THE PRODUCT.
 (22) IF THE PRODUCT WERE A ME-TOO
 (23) PRODUCT, IN OTHER WORDS IT WAS
 (24) MADE BY DUPONT FOR FIVE YEARS AND
 (25) WE STARTED MAKING THE SAME
 (26) PRODUCT, I WOULD FIRST SEE IF
 (27) THERE WERE ANY INFORMATION IN THE
 (28) PUBLISHED LITERATURE, WHETHER THE

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(1) GOVERNMENT KNEW ANYTHING ABOUT
 (2) IT.
 (3) THEN I WOULD CALL THE MEDICAL
 (4) DIRECTOR OF DUPONT AND
 (5) SAY, 'GEORGE, WE ARE GOING TO
 (6) MAKE THIS. WHAT DO YOU KNOW
 (7) ABOUT IT?
 (8) 'HAVE YOU HAD ANY TROUBLE WITH
 (9) IT?'
 (10) HE WOULD - THAT FLOW OF
 (11) INFORMATION WAS QUITE FREE.
 (12) THERE WAS NO COMPETITION AS FAR
 (13) AS THE HEALTH ASPECTS OF MATERIAL
 (14) WAS CONCERNED.
 (15) BECAUSE IF THE SITUATION WERE
 (16) REVERSED AND HE WAS GOING TO -
 (17) IF DUPONT WAS GOING TO MAKE A
 (18) PRODUCT THAT MONSANTO HAD MADE
 (19) FOR FIVE YEARS, AND HE WOULD CALL
 (20) ME, I WOULD TELL HIM WHAT I KNEW
 (21) ABOUT IT.
 (22) IF THERE WERE NO INFORMATION
 (23) OBTAINED BY THOSE ROUTES, WE

(24) WOULD RETURN AN AMOUNT OF
 (25) TOXICOLOGICAL INFORMATION. THAT
 (26) VARIED IN EXTENT, DEPENDING ON
 (27) THE USE OF THE PRODUCT TO WHICH
 (28) IT COULD BE PUT.

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(1) Q CAN YOU EXPLAIN, DOCTOR, HOW THE
 (2) USE TO WHICH A PRODUCT WAS TO BE
 (3) PUT WAS A VARIABLE IN
 (4) ASCERTAINING TOXICOLOGICAL
 (5) INFORMATION?
 (6) A SURE.
 (7) IF IT WERE GOING TO BE A FOOD
 (8) PRODUCT OR AN INGREDIENT OF A
 (9) FOOD WRAPPER, YOU HAD TO DO QUITE
 (10) CONSIDERABLE WORK.
 (11) IF THE MATERIAL WERE AN
 (12) INDUSTRIAL CHEMICAL THAT WE WERE
 (13) GOING TO BE USING, SAY, IN A
 (14) PAINT, YOU WOULD ONLY HAVE TO
 (15) HAVE A MINIMAL AMOUNT OF
 (16) INFORMATION ON IT BECAUSE THE
 (17) PAINT IS NOT SUPPOSED TO BE USED
 (18) AT AN ELEVATED TEMPERATURE.
 (19) IT'S NOT SUPPOSED TO BE INGESTED.
 (20) IF THE MATERIAL WERE A PRODUCT TO
 (21) BE USED AT ELEVATED TEMPERATURE
 (22) AND THERE IS A CHANCE THAT A
 (23) WORKER WOULD OR A CUSTOMER'S
 (24) WORKER WOULD INHALE THE FUMES AT
 (25) ELEVATED TEMPERATURES, WE WOULD
 (26) RUN TESTS ON VENTILATION TESTS ON
 (27) THE MATERIAL AT ELEVATED
 (28) TEMPERATURES.

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(1) Q IN THE PAST COUPLE OF ANSWERS YOU
 (2) HAVE USED TERMS LIKE THE ONE YOU
 (3) JUST USED NOW, "WE WOULD RUN
 (4) TESTS."
 (5) ARE YOU DESCRIBING A SITUATION
 (6) WHERE MONSANTO DOES TOXICOLOGICAL
 (7) TESTING AT ITS OWN LABORATORIES?
 (8) A THEY DO NOW.
 (9) BUT THAT LABORATORY STARTED ABOUT
 (10) 1975.
 (11) AND I'M NOT SURE HOW MUCH TESTING
 (12) THEY DO THERE.
 (13) WE USE TWO LOCAL LABORATORIES FOR
 (14) THE ROUTINE TESTING OF THE
 (15) MATERIAL, NON-EXTENSIVE TESTING.
 (16) WE USED OUTSIDE LABORATORIES,
 (17) SOME UNIVERSITY LABORATORIES AND
 (18) SOME INDUSTRIAL LABORATORIES FOR
 (19) THE MORE ADVANCED TESTS.
 (20) WE DID NOT HAVE OUR OWN TESTING
 (21) LABORATORY.
 (22) Q BEFORE 1975 TOXICOLOGICAL TESTING
 (23) WAS DONE BY VENDORS TO MONSANTO,
 (24) INDEPENDENT LABS?
 (25) A VENDORS?
 (26) I DON'T -
 (27) Q INDEPENDENT LABS?
 (28) A YES.

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(1) Q WERE YOU PERSONALLY RESPONSIBLE
 (2) FOR ORDERING TOXICOLOGICAL
 (3) STUDIES OR REPORTS ON EITHER RAW
 (4) MATERIALS OR FINISHED PRODUCT AT
 (5) MONSANTO?
 (6) A YES.
 (7) Q AND UNDER WHAT CIRCUMSTANCES
 (8) WOULD YOU ORDER SUCH A STUDY?
 (9) A WELL, IF I SAW THE NEED FOR IT -
 (10) WHAT WE TRIED TO DO WAS HAVE A
 (11) MINIMUM OF TOXICOLOGY WORK
 (12) CARRIED OUT ON EVERY PRODUCT THAT

(13) WE ADVERTISED OR MENTIONED IN A
 (14) DEVELOPMENT BULLETIN.
 (15) WE MIGHT SAY WE HAVE PRODUCT X
 (16) HERE. THESE ARE ITS PHYSICAL AND
 (17) CHEMICAL CHARACTERISTICS. MAYBE
 (18) YOU CAN USE IT IN YOUR BUSINESS.
 (19) I MEAN, I'M SIMPLIFYING THE
 (20) FOUR-PAGE BULLETIN.
 (21) THEN WE WOULD RUN A MINIMUM OF
 (22) TOXICOLOGY ON THAT AND THAT WOULD
 (23) INCLUDE EYE IRRITATION TO SEE IF
 (24) IT COULD BE ABSORBED THROUGH THE
 (25) SKIN, THE MINIMUM LETHAL LD 50,
 (26) WHICH IS A STANDARD TEST FOR ORAL
 (27) TOXICITY AND THEN INHALATION OF
 (28) MATERIAL AT SATURATED ROOM

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(1) TEMPERATURE.
 (2) THAT WAS A MINIMUM.
 (3) Q AND WHAT DOES THE TERM "LD 50"
 (4) SIGNIFY?
 (5) A YOU GIVE THE MATERIAL ORALLY TO
 (6) TWO SPECIES OF - ONE OR TWO
 (7) SPECIES OF RODENTS, ONE A RODENT,
 (8) USUALLY, AND THE OTHER A RABBIT,
 (9) AND CALCULATE WHAT DOSE KILLS
 (10) HALF OF THEM.
 (11) THAT IS THE LETHAL DOSE FOR 50
 (12) PERCENT OF THE ANIMALS.
 (13) Q AND WHAT FACTORS DID YOU USE TO
 (14) DETERMINE WHETHER A MINIMUM OF
 (15) THE TOXICOLOGICAL WORK SHOULD BE
 (16) DONE ON A NEW PRODUCT?
 (17) A THE USE TO WHICH IT WAS GOING TO
 (18) BE PUT AS WELL AS THE POTENTIAL
 (19) EXPOSURE TO COMMERCIAL CUSTOMER'S
 (20) WORKERS.
 (21) IF IT WERE GOING TO BE USED IN A
 (22) CLOSED SYSTEM WHERE THE ONLY
 (23) EXPOSURE WOULD BE IF THERE WERE
 (24) LEAKS OR HOLES, THAT WAS A LOT
 (25) DIFFERENT THAN THE OPEN
 (26) OPERATION.
 (27) Q IN ORDER TO - FOR YOU TO MAKE A
 (28) JUDGMENT AS TO WHETHER OR NOT TO

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(1) CONDUCT MINIMUM TOXICOLOGICAL
 (2) WORK OR MORE THAN MINIMUM
 (3) TOXICOLOGICAL WORK, DID YOU
 (4) SOLICIT AN EXPLANATION FROM
 (5) BUSINESSMEN AT MONSANTO AS TO THE
 (6) PROPOSED USE OF A PRODUCT?
 (7) A OH, YES.
 (8) Q WAS THERE A FORMAL SYSTEM FOR
 (9) SOLICITING THAT INFORMATION IN
 (10) PLACE DURING YOUR SERVICE?
 (11) A YES.
 (12) IT WENT IN PLACE FORMALLY, I
 (13) GUESS, SOMETIME IN THE LATE 50'S
 (14) OR EARLY 1960'S.
 (15) BEFORE THAT IT WAS SORT OF
 (16) INFORMAL, I GUESS INFORMAL BASIS.
 (17) BUT WE WERE VERY - WE WERE ON
 (18) THE SAME CAMPUS AS OUR RESEARCH
 (19) DEPARTMENT. AND AS OUR
 (20) DEVELOPMENT PEOPLE.
 (21) WE SAW THESE PEOPLE ALL THE
 (22) TIME.
 (23) WE WERE ON TOP OF IT PRETTY
 (24) MUCH.
 (25) I DON'T THINK ANY WENT BY IN THE
 (26) INFORMAL SYSTEM - WENT BY
 (27) UNNOTICED.
 (28) Q WHEN THE FORMAL SYSTEM WAS

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(1) ESTABLISHED IN EITHER THE LATE

(2) 50'S OR EARLY 60'S, WERE ANY
(3) PROTOCOLS OR GUIDELINES WRITTEN
(4) IN ORDER TO DESCRIBE THE SYSTEM?
(5) A WELL, WE HAD WHAT WE CALLED A
(6) FORM 201 AND 202.
(7) AND THAT REALLY DESCRIBED WHAT WE
(8) NEEDED TO GET FROM THE - THAT
(9) WAS DISTRIBUTED WHEN WE PUT THAT
(10) IN.
(11) AND I DON'T AT PRESENT REMEMBER
(12) WHAT THE DIFFERENCE BETWEEN 201
(13) AND 202 WAS.
(14) WHEN WE PUT THAT IN, WE SENT IT
(15) AROUND TO ALL THE RESEARCH
(16) LABORATORIES, ALL THE LAB
(17) DEVELOPMENT GROUPS IN THE COMPANY
(18) AND SAID, "THIS IS WHAT WE ARE
(19) DOING."
(20) Q AND WHAT, IN GENERAL, DID FORM
(21) 201 AND 202 DO WITHOUT REGARD TO
(22) ANY DISTINCTION BETWEEN THOSE TWO
(23) FORMS?
(24) A YOU MEAN WHAT DID IT DO? WHAT
(25) DID IT ASK FOR?
(26) Q WHAT WERE THOSE FORMS INTENDED TO
(27) ACCOMPLISH?
(28) A WHAT THEY WERE INTENDED TO

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(1) ACCOMPLISH WERE TO GIVE US THE
(2) PHYSICAL CHARACTERISTICS OF THE
(3) MATERIAL, WHAT THE ESTIMATE OF
(4) POTENTIAL USE WAS AND THE MANNER
(5) IN WHICH THE MATERIAL SHOULD BE
(6) USED, COULD BE USED, WHAT THEY
(7) KNEW ABOUT IT.
(8) Q WAS IT COMPLETED, FORM 201 OR
(9) 202, TO BE RETURNED TO THE
(10) MEDICAL DEPARTMENT?
(11) A WELL, THEY COMPLETED THE FIRST
(12) PART.
(13) IN OTHER WORDS, WE WOULD SEND
(14) THEM THE BLANK 201 AND 202.
(15) THEY WOULD FILL IN THE STUFF THEY
(16) WERE SUPPOSED TO PUT IN, PHYSICAL
(17) CHARACTERISTICS, SOLID,
(18) TEMPERATURE, VOLATILITY, VAPOR
(19) PRESSURE, ALL OF THAT STUFF.
(20) THERE WAS A SPACE FOR POTENTIAL
(21) OR ESTIMATED USE.
(22) THEN WE WOULD HAVE A SECTION ON
(23) TOXICOLOGY THAT AFTER WE RAN IT
(24) WE WOULD SEND IT BACK TO THEM FOR
(25) INCLUSION IN ANY BULLETIN THAT
(26) MIGHT - THAT THEY MIGHT BE
(27) WRITING.
(28) Q WAS THE COMPLETED FORM 201 OR 202

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(1) REQUIRED ON ANY PRODUCT THAT
(2) APPEARED IN THE DEVELOPMENT
(3) BULLETIN?
(4) A YES.
(5) Q WAS A COMPLETED FORM 201 OR 202
(6) REQUIRED ON ANY OTHER PRODUCT?
(7) A WELL, WE MAY - YES, I THINK IT
(8) WAS.
(9) I MEAN, IF WE STARTED
(10) MANUFACTURING A PRODUCT THAT
(11) SOMEBODY ELSE HAD MADE BUT WAS
(12) NEW TO MONSANTO, AND IT WASN'T
(13) GOING TO BE IN A DEVELOPMENT
(14) BULLETIN, GO RIGHT INTO A SALES
(15) BULLETIN, A 201 AND 202 WOULD
(16) HAVE TO BE FILLED OUT ON THAT
(17) ONE.
(18) Q IS THIS CATEGORY OF PRODUCTS YOU
(19) JUST DESCRIBED, WHICH YOU EARLIER

(20) REFERRED TO AS A "ME-TO PRODUCT"?
(21) A THE ONE MANUFACTURED BY SOMEBODY
(22) ELSE BEFORE? YES.
(23) Q YES.
(24) WAS THE COMPLETION OF A FORM 201
(25) OR 202 REQUIRED FOR ANY MONSANTO
(26) PRODUCT, OTHER THAN ONE APPEARING
(27) IN THE DEVELOPMENT BULLETIN OR A
(28) ME-TOO PRODUCT?

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(1) A GOSH, I DON'T KNOW HOW.
(2) WELL, CERTAINLY IF WE WERE MAKING
(3) AN INSECTICIDE IT WOULDN'T BE OR
(4) A HERBICIDE, HERBICIDE, IT WOULD
(5) NOT BE IN A DEVELOPMENT BULLETIN
(6) UNTIL WE HAD ALL THE INFORMATION
(7) ABOUT IT.
(8) I MEAN, WE WOULD KNOW HOW GOOD IT
(9) WAS AS AN INSECTICIDE, WHAT CROPS
(10) IT SHOULD BE USED ON.
(11) AND NONE OF THAT WAS PUT IN A
(12) DEVELOPMENT BULLETIN BECAUSE WE
(13) KNEW THE MARKETING TIME FOR THAT
(14) MIGHT BE ONE OR TWO YEARS DOWN
(15) THE ROAD OR EVEN LONGER THAN
(16) THAT.
(17) SO IT WOULD BE REQUIRED ON THAT.
(18) THAT WOULD NOT BE IN A
(19) DEVELOPMENT BULLETIN.
(20) THERE MAY BE OTHER ONES, BUT I'M
(21) NOT SURE.
(22) Q DO YOU KNOW, DR. KELLY, WHETHER
(23) THERE WAS ANY INSTRUCTIONS
(24) ACCOMPANYING THE FORM 201 OR 202
(25) AS TO THEIR USE?
(26) A WELL, SURE.
(27) I MEAN, I THINK WE HAD A LETTER
(28) THAT EXPLAINED THE USE OF IT.

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(1) WE JUST WOULDN'T PUT ONE IN THE
(2) MAIL AND SEND IT OUT TO THIS
(3) DEVELOPMENT MAN.
(4) WE WOULD TELL THEM WHAT THE
(5) PURPOSE OF IT WAS AND HOW HE
(6) SHOULD FILL IT OUT AND TO WHOM HE
(7) SHOULD SEND IT BACK AND WHEN HE
(8) COULD EXPECT AN ANSWER.
(9) I'M SURE THERE WAS A LETTER OF
(10) THAT TYPE.
(11) Q DO YOU KNOW, DR. KELLY, WHETHER
(12) THERE WERE ANY INTERNAL
(13) GUIDELINES OR PROTOCOLS WITHIN
(14) THE MEDICAL DEPARTMENT TO ASSIST
(15) IN EVALUATION OF A FORM 201 OR
(16) 202 COMPLETED BY A DEVELOPMENT
(17) EMPLOYEE OF MONSANTO?
(18) A NO.
(19) EITHER OUR TOXICOLOGIST OR MYSELF
(20) LOOKED AT THE FORM.
(21) IT WASN'T STRUCTURED ANY MORE
(22) THAN THAT.
(23) Q ARE YOU AWARE THAT MONSANTO SOLD
(24) A PRODUCT KNOWN AS TURBINOL-153?
(25) A YES.
(26) Q DO YOU RECALL HAVING EVER SEEN A
(27) COMPLETED FORM 201 OR 202 THAT
(28) RELATED TO TURBINOL-153?

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(1) A NO, I DO NOT RECALL.
(2) Q DO YOU RECALL HAVING EVER SEEN
(3) EITHER OF THOSE TWO FORMS
(4) COMPLETED FOR A PRODUCT KNOWN AS
(5) OS-81?
(6) A I KNOW WE HAD TOXICOLOGICAL
(7) INFORMATION ON OS-81 BUT I DO NOT
(8) RECALL AT THIS TIME WHETHER WE

(9) HAD A FORM.
(10) I DON'T KNOW WHETHER OS-81 WAS
(11) DEVELOPED BEFORE OUR 201, 202
(12) PROGRAM STARTED.
(13) Q DO YOU RECOLLECT, DR. KELLY, EVER
(14) HAVING SEEN A FORM 201 OR 202
(15) COMPLETED WITH RESPECT TO A
(16) PRODUCT KNOWN AS MCS-153?
(17) A I DON'T KNOW.
(18) Q DR. KELLY, IF A FORM 201 OR FORM
(19) 202 HAD BEEN COMPLETED WITH
(20) RESPECT TO A PRODUCT, THE NAME OF
(21) WHICH LATER CHANGED, WOULD AN
(22) ADDITIONAL FORM 201 OR 202 BE
(23) REQUIRED?
(24) A NO.
(25) IF THE ONLY CHANGE WAS THE NAME,
(26) NO.
(27) Q WITHIN THE FIRST YEAR OF YOUR
(28) SERVICE AT MONSANTO, DID YOU

Page 1606

(1) BECOME AWARE OF ANY TOXICOLOGICAL
(2) STUDIES IN EXISTENCE AT THAT TIME
(3) THAT RELATED TO PCB-BASED
(4) PRODUCTS?
(5) A AT SOME TIME TOXICOLOGICAL
(6) STUDIES WERE CARRIED OUT AT
(7) HARVARD UNIVERSITY, BUT I DO NOT
(8) KNOW IF THAT WAS IN THE FIRST
(9) YEAR OR NOT.
(10) I THOUGHT THAT WAS IN 1937 OR
(11) 1938.
(12) SO I DO NOT BELIEVE THOSE STUDIES
(13) WERE CARRIED OUT BY JANUARY OF
(14) 1937, WHICH WOULD BE THE YEAR
(15) FOLLOWING MY ARRIVAL AT MONSANTO.
(16) Q BY THE TIME YOU BECAME THE
(17) MEDICAL DIRECTOR OF MONSANTO, DID
(18) YOU BECOME AWARE OF ANY
(19) TOXICOLOGICAL STUDIES ADDRESSING
(20) PCB-BASED PRODUCTS?
(21) A YES.
(22) Q WHICH?
(23) A WHICH STUDIES?
(24) Q YES.
(25) A HARVARD STUDIES.
(26) Q ANY OTHERS?
(27) A I DON'T RECALL.
(28) THERE MAY HAVE BEEN SOME ACUTE

Page 1607

(1) ORAL STUDIES BY SOME LABORATORY
(2) OR OTHER.
(3) I'M SURE WE ALSO DID SOME ACUTE
(4) ORAL STUDIES, ACUTE TOXICITY
(5) STUDIES, ON THE TERM DURING THE
(6) LATE 30'S, THE FIRST COUPLE OF
(7) YEARS OF THE 40'S.
(8) Q IN GENERAL TERMS, DOCTOR, WHAT IS
(9) AN ACUTE ORAL STUDY DESIGNED TO
(10) TELL YOU?
(11) A TO GIVE YOU SORT OF A BENCHMARK
(12) OF THE TOXICITY OF MATERIAL.
(13) WELL, THIS IS AN ACUTE POISON,
(14) WHAT IF YOU ACCIDENTALLY SWALLOW,
(15) YOU KNOW, A WHISKEY JIGGER OF THE
(16) MATERIAL, WHAT HARM ARE YOU
(17) LIABLE TO GET?
(18) IT ISN'T A COMPLETE EVALUATION OF
(19) IT BUT IT IS A BENCHMARK AND
(20) HELPS TO DEFINE IT IN
(21) RELATIONSHIP TO OTHER COMPOUNDS.
(22) Q DO YOU RECOLLECT THE RESULTS OF
(23) ANY STUDIES IN EXISTENCE BY THE
(24) TIME YOU BECAME MEDICAL DIRECTOR
(25) OF MONSANTO THAT WERE ACUTE ORAL
(26) STUDIES OF TOXICITY FOR PCB-BASED

(27) PRODUCTS?
(28) A WELL, AS I SAID, HARVARD -

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(1) DRINKER AT HARVARD DID SOME WORK
(2) ON A COUPLE OF PCB'S.
(3) HE ALSO DID SOME WORK ON A
(4) COMPOUND THAT WAS MISLABELED.
(5) IT WAS CHLORINATED BIPHENYL
(6) BENZENE.
(7) HE DID SOME WORK ON, I THINK,
(8) 1254.
(9) Q ARE THERE ANY OTHER STUDIES OF
(10) WHICH YOU ARE AWARE THAT EXISTED
(11) BY THE TIME YOU BECAME MEDICAL
(12) DIRECTOR OF MONSANTO?
(13) A I DON'T RECALL THEM.
(14) I MEAN, THERE MAY HAVE BEEN, BUT
(15) I DON'T RECALL THEM.
(16) Q WHEN YOU REFERRED A MOMENT AGO TO
(17) WORK DONE BY PROFESSOR DRINKER ON
(18) 1254, WERE YOU REFERRING TO
(19) AROCLOR 1254?
(20) A YES.
(21) Q IS THAT A TRADE NAME USED BY
(22) MONSANTO TO DESCRIBE A PARTICULAR
(23) TYPE OF PRODUCT?
(24) A YES, IT IS.
(25) Q AND DOES THAT 54 IN THE
(26) NOMENCLATURE 1254 INDICATE THAT
(27) THE PRODUCT IS CHLORINATED TO THE
(28) EXTENT OF 54 PERCENT BY WEIGHT?

Page 1609

(1) A THAT IS THE AVERAGE CHLORINATION.
(2) IT MAY BE CHLORINATED.
(3) THEY HAVE ISOMERS THAT ARE
(4) HIGHER, SOME LOWER, BUT THE
(5) AVERAGE CHLORINATION IS 54
(6) PERCENT.
(7) Q I WANT TO REFER BACK TO AN ANSWER
(8) YOU GAVE A FEW MOMENTS AGO,
(9) DR. KELLY.
(10) YOU HAVE USED THE TERM "CLOSED
(11) SYSTEM" IN RESPONDING TO ONE OF
(12) MY QUESTIONS.
(13) WOULD YOU PLEASE STATE FOR THE
(14) RECORD WHAT YOU MEAN WHEN YOU USE
(15) THE TERM "CLOSED SYSTEM"?
(16) A YES.
(17) THE INGREDIENTS OR THE CHEMICALS
(18) ARE INSIDE PIPES, INSIDE
(19) REACTORS, INSIDE KETTLES, AND
(20) THAT THERE WAS SUPPOSED TO BE NO
(21) CONTACT WITH THE OUTSIDE
(22) ENVIRONMENT FROM THE TIME THE RAW
(23) MATERIALS ARE PUT IN UNTIL THE
(24) FINISHED PRODUCT IS PUT INTO
(25) DRUMS, TANK CARS OR WHATEVER TYPE
(26) OF CONTAINER THEY ARE GOING TO
(27) USE FOR ULTIMATE DELIVERY TO THE
(28) CUSTOMER.

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(1) Q IN YOUR ANSWER YOU USED THE TERM
(2) THAT THERE WAS SUPPOSED TO BE NO
(3) CONTACT.
(4) ARE YOU INDICATING THAT THERE
(5) WERE CIRCUMSTANCES UNDER WHICH
(6) CONTACT WITH THE CHEMICALS COULD
(7) OCCUR?
(8) A WELL, THERE IS ALSO THE POTENTIAL
(9) FOR LEAKS IN A SYSTEM.
(10) IF YOU HAVE A PUMP, THE PACK
(11) COULD LEAK WHETHER YOU ARE
(12) FILLING THE MATERIAL OR DRANK THE
(13) MATERIAL, IT COULD LEAK, YOU
(14) COULD SPILL OVER.
(15) YOU HAVE CERTAIN CLEAN-UP

(16) OPERATIONS IN WHICH YOU TAKE THE
(17) SYSTEM OUT OF OPERATION AND CLEAN
(18) IT UP.
(19) SO THERE ARE POSSIBILITIES, YES.
(20) Q WAS THE TERM "CLOSED SYSTEM" IN
(21) USE AT MONSANTO DURING THE PERIOD
(22) YOU WERE MEDICAL DIRECTOR?
(23) A OH, YES.
(24) Q YOU ALSO, IN AN ANSWER THAT YOU
(25) GAVE EARLIER, REFERRED TO AN OPEN
(26) SYSTEM.
(27) COULD YOU DESCRIBE WHAT YOU MEANT
(28) WHEN YOU USED THE TERM "OPEN

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(1) SYSTEM"?
(2) A WELL, AN OPEN SYSTEM REFERS TO AN
(3) OPERATION NOT CARRIED OUT
(4) ENTIRELY WITHIN KETTLES OR PIPES.
(5) YOU MAY HAVE TRACE.
(6) YOU MAY HAVE FILTERING
(7) OPERATIONS.
(8) YOU MAY HAVE DRYING OPERATIONS.
(9) AND IN ANOTHER SENSE IT REFERS TO
(10) THE USE OF THE PRODUCT.
(11) AND I DIDN'T MENTION THE USE WHEN
(12) IT TALKED ABOUT CLOSED SYSTEM.
(13) I ONLY TALKED ABOUT
(14) MANUFACTURING.
(15) IF YOU HAVE A TRANSFORMER THAT IS
(16) FILLED WITH PCB, THAT IS A CLOSED
(17) SYSTEM.
(18) IF YOU HAVE A CAPACITOR FILLED
(19) WITH PCB'S, THAT IS A CLOSED
(20) SYSTEM.
(21) NOW, ON THE CONTRARY IF YOU HAVE
(22) A PLASTICIZER PAINT THAT HAS PCB
(23) IN IT, WHEN THAT IS INCORPORATED
(24) IN A PLASTIC DURING THE OPERATION
(25) IT IS OPEN.
(26) IT MAY BE IN BALL MILLS. IT MAY
(27) BE IN ROLLERS. IT MAY BE IN
(28) SHEETING OR RAILINGS.

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(1) WHEN IT IS USED, IT IS NOT - BY
(2) THE CUSTOMER, HERE IS A PRODUCT
(3) THAT IS OUT IN THE OPEN. THAT'S
(4) AN OPEN OPERATION.
(5) IT MAY BE OPEN - CLOSED OPERATION
(6) MIGHT BE THE BETTER TERM FOR THE
(7) USE OF IT. BUT THAT IS WHAT I
(8) MEAN BY AN OPEN SYSTEM.
(9) Q YOU MENTIONED THAT ONE OF THE
(10) RESPONSIBILITIES YOU HAD AS A
(11) MEDICAL DIRECTOR WAS TO ESTABLISH
(12) AN INDUSTRIAL HYGIENE PROGRAM?
(13) A THAT IS CORRECT.
(14) Q WOULD YOU BRIEFLY DESCRIBE WHAT
(15) YOU DID TO INSTITUTE THAT PROGRAM
(16) AT MONSANTO?
(17) A I HIRED. AND I HIRED AN
(18) INDUSTRIAL HYGIENE ENGINEER IN
(19) 1947. AND I HIRED THREE MORE
(20) BEFORE I LEFT IN '74.
(21) Q YOU INDICATED THAT ANOTHER
(22) RESPONSIBILITY YOU HAD,
(23) DR. KELLY, WAS TO BE RESPONSIBLE
(24) FOR SAFE HANDLING DATA AND
(25) TOXICOLOGICAL DATA ON LABELS.
(26) TO WHAT DO YOU REFER BY THE TERM
(27) "SAFE HANDLING DATA"?
(28) A FIRST, I WOULD LIKE TO ANSWER

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(1) THAT - I WANT TO CLARIFY THAT WE
(2) DID NOT PUT TOXICOLOGICAL DATA ON
(3) A LABEL.
(4) Q OKAY.

(5) A I THINK I CLARIFIED THAT BY
(6) SAYING IT WAS IN BULLETINS.
(7) BUT "SAFE HANDLING" MEANS THE
(8) MINIMUM AMOUNT OF INFORMATION YOU
(9) COULD PUT ON A LABEL TO PROTECT
(10) THE MAN OR THE USER FROM GETTING
(11) ANY HARM FROM THE CHEMICAL.
(12) YOU TELL THEM WHAT THE PROPER -
(13) WHAT THE PROPER WAY IS TO AVOID
(14) ANY ILL EFFECTS FROM USING THE
(15) CHEMICALS.
(16) THAT IS THE SAFE HANDLING DATA.
(17) Q WHEN DID YOU ASSUME THAT
(18) RESPONSIBILITY WITH RESPECT TO
(19) SAFE HANDLING DATA?
(20) A I WOULD SAY IT WAS INFORMAL
(21) AROUND 1938.
(22) IT WAS CERTAINLY FORMAL WHEN I
(23) CAME BACK FROM THE SERVICE.
(24) Q 1945?
(25) A THAT'S CORRECT.
(26) Q WHAT RESPONSIBILITY DID YOU HAVE
(27) WITH RESPECT TO TOXICOLOGICAL
(28) DATA IN BULLETINS?

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(1) A ANY TOXICOLOGICAL DATA WOULD BE
(2) OBTAINED THAT WOULD GO INTO
(3) THE - ANY BULLETINS OR ANY PRINT
(4) MATERIAL FROM MONSANTO, WOULD BE
(5) THE RESPONSIBILITY OF THE MEDICAL
(6) DEPARTMENT.
(7) THEY HAD TO PUT IT IN OR THEY HAD
(8) TO APPROVE - MAYBE NOT THE
(9) EDITORIAL WRITING OF IT, BUT THEY
(10) HAD TO APPROVE THE FACTS.
(11) Q YOU MENTIONED, DR. KELLY, THAT
(12) ONE OF YOUR RESPONSIBILITIES WAS
(13) ANSWERING QUESTIONS THAT CAME TO
(14) MONSANTO REGARDING PRODUCTS; IS
(15) THAT CORRECT?
(16) A THAT'S CORRECT.
(17) Q WAS THERE A FORMAL SYSTEM FOR
(18) ROUTING OF INQUIRIES TO YOU WHEN
(19) YOU ASSUMED YOUR POSITION AS
(20) MEDICAL DIRECTOR?
(21) A YES.
(22) Q CAN YOU DESCRIBE THE FORMAL
(23) SYSTEM?
(24) A THE FORMAL SYSTEM WAS THAT ANY
(25) INQUIRY BY LETTER OR TELEPHONE OR
(26) PERSON TO - MONSANTO PRODUCT
(27) MADE TO ANYBODY IN MONSANTO WOULD
(28) BE REFERRED TO THE MEDICAL

Page 1615

(1) DEPARTMENT FOR ANSWERING.
(2) Q WAS THAT POLICY MEMORIALIZED IN A
(3) WRITING, IF YOU RECALL?
(4) A YES, IT WAS.
(5) Q I WILL ASK YOU, THOUGH, WHETHER
(6) YOU ARE FAMILIAR WITH A CUSTOMER
(7) INCIDENT DATING TO 1950 INVOLVING
(8) A CUSTOMER LOCATED IN BRAZIL,
(9) INDIANA.
(10) A I'M FAMILIAR WITH THE INCIDENT,
(11) YES.
(12) Q AND WOULD YOU PLEASE DESCRIBE
(13) WHAT YOU RECALL ABOUT THE
(14) INCIDENT TO WHICH I HAVE
(15) REFERRED?
(16) A YES.
(17) I RECALL THAT I RECEIVED A LETTER
(18) OR A TELEPHONE CALL, I DON'T KNOW
(19) WHICH, BY DR. SPOLYER WHO WAS AN
(20) OFFICIAL OF THE STATE OF INDIANA
(21) SAYING HE HAD A GERRYRIGGED -
(22) SOMEBODY HAD GERRYRIGGED A HEAT

(23) TRANSFER UNIT THAT WAS LEAKING
 (24) AND WORKERS HAD WORKED IN IT FOR
 (25) ABOUT THREE DAYS, INHALING THE
 (26) MATERIAL AND HAD SOME
 (27) GASTROINTESTINAL COMPLAINTS.
 (28) I TALKED TO DR. SPOLYER ABOUT IT.

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(1) I SAID, WELL, WATCH THEM FOR THE
 (2) POSSIBILITY OF LIVER DAMAGE.
 (3) TO THE BEST OF MY RECOLLECTION,
 (4) DR. SPOLYER WROTE A PAPER ON IT,
 (5) BUT THEY HAVE SEEN IT. BUT I WAS
 (6) UNABLE TO FIND IT SEVERAL YEARS
 (7) AGO.
 (8) THE PEOPLE GOT WELL.
 (9) THERE WERE TWO OR THREE PEOPLE
 (10) INVOLVED.

(11) **Q WHEN YOU USED THE TERM**
 (12) **"GERRYRIGGED," HEAT TRANSFER**
 (13) **UNIT, WHAT ARE YOU REFERRING TO?**

(14) A YES.
 (15) A TEMPORARY TYPE OF - THOSE ARE
 (16) THE WORDS HE USED.

(17) I DIDN'T SEE THE INSTALLATION,
 (18) BUT A TEMPORARY TYPE OF HEAT
 (19) TRANSFER SYSTEM.

(20) **Q WAS THE MONSANTO PRODUCT BEING**
 (21) **USED IN THAT HEAT TRANSFER**
 (22) **SYSTEM, TO YOUR KNOWLEDGE?**

(23) A THAT IS WHAT HE TOLD ME, IT WAS.

(24) **Q DID YOU IDENTIFY FROM HIM THE**
 (25) **PRODUCT OR THE NATURE OF THE**
 (26) **PRODUCT?**

(27) A I DID AT THE TIME.

(28) AND IT SAYS HERE AROCLOR 1248.

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(1) I DON'T KNOW IF THAT IS WHAT HE
 (2) TOLD ME, BUT HE TOLD HE IT WAS A
 (3) MONSANTO PRODUCT.

(4) **Q DO YOU RECOLLECT THAT AN AROCLOR**
 (5) **WAS INVOLVED IN THAT PARTICULAR**
 (6) **DISCUSSION BETWEEN YOU AND**
 (7) **DR. SPOLYER?**

(8) A YES, IT WAS.

(9) **Q YOU DON'T REMEMBER ONE WAY OR THE**
 (10) **OTHER AS TO WHETHER IT WAS 1248**
 (11) **OR A DIFFERENT AROCLOR?**

(12) A NO, I DON'T.

(13) **Q YOU INDICATED IN YOUR RESPONSE OF**
 (14) **A MOMENT AGO - EXCUSE ME.**

(15) **YOU INDICATED IN YOUR RESPONSE OF**
 (16) **A MOMENT AGO THAT THE EMPLOYEES**

(17) **INVOLVED IN THIS INCIDENT HAD**
 (18) **SOME - OR AT LEAST DR. SPOLYER**

(19) **INDICATED TO YOU THAT THE**

(20) **EMPLOYEES HAD SOME**

(21) **GASTROINTESTINAL COMPLAINTS.**

(22) **I'M NOT SURE I GOT YOUR ANSWER**
 (23) **CORRECTLY.**

(24) **DID YOU TELL HIM TO WATCH FOR**
 (25) **LIVER DAMAGE OR DID HE SAY THAT**
 (26) **HE WAS WATCHING FOR LIVER DAMAGE?**

(27) A I THINK I TOLD HIM.

(28) **Q AND CAN YOU STATE THE REASON WHY**

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(1) **YOU TOLD HIM?**

(2) A YES.

(3) OUR TOXICOLOGICAL WORK SHOWED
 (4) THAT THE LIVER IS THE TARGET

(5) ORGAN IN ACUTE EXPOSURES.

(6) THE COURT: MR. TALLON, WE WILL TAKE THE
 (7) AFTERNOON AND THE WEEKEND BREAK AT THIS POINT.

(8) LADIES AND GENTLEMEN, LET ME REMIND YOU

(9) NOT TO FORM ANY IMPRESSION IN YOUR OWN MIND, NOT
 TO

(10) THINK ABOUT THE CASE, NOT TO SAY ANYTHING TO

ANYBODY

(11) ELSE ABOUT ANYTHING HAVING TO DO WITH THE CASE
 AND

(12) HAVE A NICE WEEKEND.

(13) WE WILL RESUME ON MONDAY MORNING, 9:30.

(14) PLEASE RETURN JUST BEFORE THEN SO WE CAN
 COMMENCE AT

(15) THAT TIME.

(16) WE ARE IN RECESS SO FAR AS YOU ARE

(17) CONCERNED.

(18) (THE PROCEEDINGS WERE RESUMED IN OPEN

(19) COURT OUTSIDE THE PRESENCE OF THE JURY.)

(20)

(21) THE COURT: I WAS GOING TO GO AHEAD WITH OUR
 (22) 402 UNLESS THERE IS SOMETHING ELSE TO PROCEED
 WITH.

(23) THEN WITH THE JURORS HAVING BEEN EXCUSED,

(24) THIS IS THE OPPORTUNITY TO HEAR TRANSWESTERN'S

(25) EVIDENCE IN CONNECTION WITH THE SIMILARITY OF

(26) COMPRESSORS USED IN THE COLUMBIA GULF
 TRANSMISSION

(27) SYSTEM AND THAT USED AT CORONA, NEW MEXICO. IS
 THAT

(28) **YOUR UNDERSTANDING OF WHAT WE ARE ABOUT TO DO?**

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(1) MR. TALLON: THAT IS MY UNDERSTANDING OF WHAT
 (2) WE ARE ABOUT TO START.

(3) WE INTENDED THIS TO OFFER THE TESTIMONY

(4) OF FRANKLIN PARKER WHO YOU HAVE ALREADY HEARD
 FROM

(5) THIS AFTERNOON AND MR. GILMORE, HE WILL HAVE

(6) ADDITIONAL TESTIMONY, BUT THIS IS AT LEAST ONE

(7) WITNESS.

(8) THE COURT: AND WHEN CAN I ANTICIPATE HEARING

(9) THE MONSANTO EVIDENCE OF SIMILARITY?

(10) MR. PREUSS: WELL, YOUR HONOR, I THOUGHT WE

(11) WERE GOING TO DO IT A WEEK FROM MONDAY WHEN

(12) MR. GILMORE WAS SLATED.

(13) WE JUST GOT THE SCHEDULE THIS MORNING.

(14) NOW THEY HAVE MOVED HIM TO FRIDAY.

(15) I MADE MY PLANS TO HAVE MY EXPERT HERE

(16) THAT MONDAY.

(17) NOW THEY HAVE CHANGED THE SCHEDULE TO

(18) HAVE HIM BACK ON THE FRIDAY PREVIOUS.

(19) THE COURT: LET'S LOOK AT SCHEDULING AS THE

(20) LAST THING WE DO TODAY.

(21) BUT YOU ANTICIPATE THAT NOT BEFORE THE

(22) END OF NEXT WEEK AT LEAST?

(23) MR. PREUSS: THAT'S CORRECT.

(24) THE COURT: I JUST WANT TO KNOW - I WANT TO

(25) KNOW WHAT PACKAGE OF MY BRAIN I SHOULD FILE THIS
 AWAY

(26) UNDER SO IT WILL COME BACK AT A CERTAIN POINT IN THE

(27) FUTURE.

(28) MR. PREUSS: MR. BAYLEY IS ONE OF OUR FIRST AND

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(1) MR. GILMORE ONE OF THE LAST.

(2) THE COURT: KNOWING THE 402 FOUNDATIONAL

(3) CONCERN IS BEING PASSED OUT WITH DIFFERENT

WITNESSES

(4) AT DIFFERENT TIMES, WE WILL HEAR NOW THE TESTIMONY
 OF

(5) MR. PARKER.

(6) MR. TALLON: THANK YOU.

(7) WE WOULD LIKE TO CALL MR. PARKER.

(8)

(9) ROBERT FRANKLIN PARKER,

(10) CALLED AS A WITNESS BY THE PLAINTIFF, TRANSWESTERN,

(11) HAVING BEEN PREVIOUSLY SWORN TESTIFIED AS

FOLLOWS:

(12)

(13) THE COURT: MR. PARKER, YOU HAVE PREVIOUSLY

(14) SWORN TO TELL THE TRUTH IN CONNECTION WITH THIS

(15) ACTION.

(16) YOU ARE STILL UNDER THAT OATH.

(17) WOULD YOU STATE YOUR NAME AGAIN.