

LAW OFFICES
WILLIAMS & CONNOLLY

725 TWELFTH STREET, N.W.

WASHINGTON, D. C. 20005

ROBERT J. SHAUGHNESSY

(202) 434-5584

(202) 434-5000

FAX (202) 434-5029

EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

TELECOPY

Paul Merrell

TO:

~~ROBERT J. SHAUGHNESSY~~ ESQUIRE

FIRM:

385-1655

TELECOPY NUMBER:

(702) ~~434-5000~~

FROM:

ROBERT SHAUGHNESSY

TELEPHONE:

(202) 434-5564

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FAX (202) 434-5029

July 19, 1993

BY FACSIMILE

Paul E. Merrell, Esq.
Bradley & Merrell
c/o Jones, Jones, Close & Brown
700 Valley Bank Plaza
300 South Fourth Street, Suite 700
Las Vegas, Nevada 89101-6206

Re: Nevada Power Litigation

Dear Paul:

This responds to your letter of July 16.

For what it's worth, I note preliminarily that Dr. Brown's deposition was continued at the request of both Nevada Power and GE. It was clear that the deposition would not have been completed on the 16th even if Dr. Brown could have stayed past normal business hours. We offered you three dates during the upcoming week to continue the deposition, but you stated that those dates were not acceptable. In any event, you correctly state that GE has offered to produce Dr. Brown on a date after July 23. That deposition will take place in the Schenectady/Albany area of New York.

You have requested to re-take the 30(b)(6) deposition on warnings because of "lack of witness preparation." Although Mr. Biernacki testified about the various warnings GE delivered to Nevada Power (specifically, instruction booklets and information letters), you object, as I understand it, because Mr. Biernacki was not able to testify about warnings that Nevada Power received from third parties such as trade associations. Here it seems that we have a fundamental disagreement about the purpose of a 30(b)(6) deposition. The rule itself requires that the corporate designee be prepared to address only those matters "known or reasonably

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Paul E. Merrell, Esq.
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available to the organization." The rule does not require the corporation, through the designee, to obtain and assemble information that is in the hands of third parties or the adverse party. Perhaps to belabor the obvious, what warnings Nevada Power received from parties other than GE is a matter that will be proven at trial not through current GE employees but through current and former employees of Nevada Power and various third parties. We have given you dozens of pages of answers to interrogatories about what and when we contend Nevada Power knew or should have known about the alleged hazards of PCBs from sources other than GE. (Moreover, to that extent that the issue is what "notice" Nevada Power had, that is a largely legal, not factual, matter.) In short, Rule 30(b)(6) does not require GE to "prepare" a witness to testify about the warnings Nevada Power received from sources other than GE.

You have also requested to re-take the two 30(b)(6) depositions because of "tardy provision of documents." As I stated in our telephone conversation on Friday, we believe you were provided with the relevant documents in a reasonable and timely fashion. The suggestion that the documents produced on the 13th and 14th might have changed the course of the examination is undercut by that fact that in the deposition on warnings Mr. Biernacki was not shown a single warning-related document -- even though Nevada Power has had GE's various Pyranol instruction booklets for many months. Nevertheless, in the interest of avoiding motions practice, we are willing to produce Mr. Biernacki for a continuation of his two 30(b)(6) appearances, provided that the examinations are limited to matters contained in documents that were provided to Nevada Power for the first time after July 12, 1993. Nevada Power does not have any right to examine, or re-examine, the witness on matters not reflected in documents or on documents (such as the instruction booklets) that it has had for months. Given the schedule, we are agreeable to continuing the 30(b)(6) depositions after July 23. It obviously would make sense to combine these sessions with the continuation of Dr. Brown's deposition.

We believe the foregoing proposal is a reasonable attempt to resolve our disagreements. Please call me when you have had a chance to review this letter.

Sincerely yours,



Robert J. Shaughnessy

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Paul E. Merrell, Esq.
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cc: Arvin Maskin
J. Bruce Alverson
John L. Thorndal
Bruce A. Featherstone