

FOSHEE & TURNER COURT REPORTERS

1 IN THE UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF ALABAMA

3 EASTERN DIVISION

4
5 WALTER OWENS, et al.,)

6 Plaintiffs,)

7)

8 vs.) CIVIL ACTION NO.

9) CV-P-440-E

10 MONSANTO COMPANY,)

11 Defendant.)

12
13 DEPOSITION OF: JIM PINKSTON

14
15 In accordance with Rule 5 (d) of The

16 Alabama Rules of Civil Procedure, as Amended,

17 effective May 15, 1988, I, TAMMY JENNINGS

18 GREGORY, am hereby delivering to MR. LARRY WRIGHT

19 the original transcript of the oral testimony

20 taken on the 1st day of December, 1999, along

21 with exhibits.

22 Please be advised that this is the same and

23 not retained by the court reporter, nor filed

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1 with the Court.

2 The deposition of Jim Pinkston was taken
3 before Tammy R. Jennings Gregory, commencing at
4 1:10 P.M. on the 1st day of December, 1999, by
5 the Plaintiffs, at the law offices of Fite &
6 Miller, Anniston, Alabama pursuant to the
7 stipulations set forth herein.

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1 A P P E A R A N C E S

2

3 Appearing For The Plaintiffs:

4 MITHOFF & JACKS, LLP

5 By: Larry Wright, Esquire

6 111 Congress Avenue, Suite 1010

7 Austin, Texas 78701

8

9 Appearing For The Defendant:

10 SMITH, HELMS, MULLISS & MOORE

11 By: Michael E. Kelly Esquire

12 300 North Greene Street

13 Suite 1400

14 Greensboro, North Carolina 27401

15

16 Also Present:

17 Russell Wills, Videographer

18

19 Court Reporter:

20 Tammy R. Jennings Gregory

21

22

23

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1 I N D E X

2

3 Witness: Jim Pinkston

4 Stipulations.....page 5

5 Examination by Mr. Wright.....page 7

6 Reporter's Certificate.....page 22

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11 E X H I B I T S

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13 (No exhibit were marked for identification,

14 admitted, or attached as exhibits hereto.)

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1 S T I P U L A T I O N S

2

3 IT IS STIPULATED AND AGREED by and
4 between the parties through their respective
5 counsel that the deposition of Jim Pinkston may
6 be taken before Tammy R. Jennings Gregory, at the
7 law offices of Fite & Miller, Anniston, Alabama
8 on the 1st day of December, 1999.

9

10

11 IT IS FURTHER STIPULATED AND AGREED that
12 the signature to and the reading of the
13 deposition by the witness is waived, the
14 deposition to have the same force and effect as
15 if full compliance had been had with all laws and

16 rules of court relating to the taking of
17 depositions.

18

19

20 IT IS FURTHER STIPULATED AND AGREED that
21 it shall not be necessary for any objections to
22 be made by counsel to any questions, except as to
23 form or leading questions, and that counsel for

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1 the parties may make objections and assign
2 grounds at the time of trial or at the time said
3 deposition is offered in evidence or prior
4 thereto.

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7 IT IS FURTHER STIPULATED AND AGREED that
8 the notice of filing of the deposition is waived.

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1 STATE OF ALABAMA, CITY OF ANNISTON,
2 DECEMBER 1, 1999,
3 1:10 P.M.,

4

5 JIM PINKSTON,

6 having been first duly sworn, was examined and
7 testified as follows:

8

9 COURT REPORTER: Usual stipulations

10 okay?

11 MR. WRIGHT: Usual stipulations.

12 MR. KELLY: Yes.

13

14 EXAMINATION BY MR. WRIGHT:

15 Q. Good afternoon, Mr. Pinkston. Thank you for
16 coming down.

17 My understanding is you've never
18 given a deposition?

19 A. No.

20 Q. You did have an opportunity to talk with Mr.
21 Kelly briefly before the deposition, I
22 assume?

23 A. Right.

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1 Q. Okay. You understand that we're taking
2 testimony that can be used in a case that's
3 pending by some residents of Anniston against
4 Monsanto?

5 A. Yes.

6 Q. Okay. And do you understand that the
7 testimony you're giving today carries the
8 same force and effect as if you were sitting
9 in front of the judge and jury at the

10 courthouse?

11 A. Yes.

12 Q. Let me just get two agreements from you, if I

13 can. One is: Is that if I ask you a

14 question that you don't understand, you stop

15 me and ask me to rephrase it, and I'll be

16 glad to do that. Okay?

17 A. Okay.

18 Q. And the second thing is: If you would,

19 answer out loud verbally so that she can

20 write the answers down. Okay?

21 A. Okay.

22 Q. Now, if you forget, like everybody does, if

23 you forget to answer out loud, I might go

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1 like this (indicating) and point at our court

2 reporter, and that's a signal to you that you

3 didn't answer out loud and you need to make a

4 verbal response. Okay?

5 A. Okay.

6 Q. When did you go to work for Monsanto?

7 A. March the 1st, '65.

8 Q. And what was your first job?
9 A. I started out in the PNP department.
10 Q. What were you doing there? What was your job
11 there?
12 A. Well, just as an operator.
13 Q. Okay. And how long did you stay in the PNP
14 department?
15 A. I stayed through the summer of '65.
16 Q. Okay. Then where did you go?
17 A. I went to the aroclor department in the fall,
18 sometime in the fall of '65.
19 Q. As an operator?
20 A. As an operator.
21 Q. And how long did you stay in the aroclor
22 department?
23 A. I stayed until it shut down, and I believe in

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1 '72. They announced it in '71, the latter
2 part. But sometime in '72 it shut down.
3 Q. That's what the documents seem to indicate is
4 maybe May of '72; does that sound about
5 right?

6 A. Probably.

7 Q. And then where did you go?

8 A. I went back to the PNP department.

9 Q. And did you stay there until you retired?

10 A. No, I stayed there probably '77. I went to

11 shipping for two years.

12 Q. And how long were you there?

13 A. For about two years in shipping. Went back

14 to PNP for about a year.

15 Q. Then where did you go?

16 A. Then I went to maintenance for four or five

17 year, and about '85, I came back to PNP and

18 stayed until I retired.

19 Q. PNP was your home away from home?

20 A. Home away from home.

21 Q. When did you retire?

22 A. December the 1st of '94.

23 Q. When you went to work in the aroclor

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1 department, who was your supervisor?

2 A. Tom Lackey was my foreman and -- Tom Lackey

3 and Mr. Williams was the foremans, and I

4 believe Bernard Stevens was the supervisor.

5 Q. What do you remember hearing about why the

6 aroclor plant was going to shut down?

7 A. Vaguely all I remember about it was something

8 about bird eggs wouldn't hatch or something

9 that they --

10 Q. Okay. When do you think you heard that?

11 A. Well, it was probably in the latter part of

12 '71.

13 Q. Very shortly before the shutdown was

14 announced?

15 A. Right.

16 Q. Do you remember how the shutdown was

17 announced?

18 A. I sure don't. All I remember is I'd just

19 bought a new car, and they announced they

20 were going to shut it down.

21 Q. And that made you nervous?

22 A. Made me nervous.

23 Q. Do you remember when y'all quit making liquid

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1 aroclors?

2 A. I guess we made it right on up until about
3 the time of the shutdown.

4 Q. Okay. You don't remember there being a
5 cutoff for one very much before you cut off
6 the solid?

7 A. I don't remember.

8 Q. What sources of spills and leaks do you
9 remember from your time in the aroclor
10 department?

11 A. Well, it was a couple times a spill would be
12 a tank that run over pumping from one to the
13 other.

14 Q. Okay. What else?

15 A. Of course, you had pumps with seals around
16 them, but we had drip pans plus a bucket
17 under that. Very little got out, you know,
18 very little spill from the pumps, but I do
19 recall a couple times a tank getting run
20 over.

21 Q. Okay. What other leaks besides the pumps do
22 you recall?

23 A. Well, around the drumming station, sometimes

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1 when they'd be drumming out a drum,
2 occasionally a drum might get overfilled for
3 some reason.

4 Q. Okay. What else do you remember?

5 A. I guess that would be about all would be your
6 pumps and maybe a tank occasionally get run
7 over around the drumming area.

8 Q. What about flanges?

9 A. Well, if a flange ever -- if maintenance ever
10 worked on a line, we always blowed them out
11 and pretty well had them -- for safety
12 reasons, you know, no liquid in them.

13 Q. Right. But the flange -- I mean, if it went
14 bad, it would leak before they fixed it
15 presumably?

16 A. Well, you didn't have too much of that.
17 Yeah, I guess it would drip. But most of
18 that stuff, if you had a leak at a flange, it
19 would just be a drip.

20 The stuff set up about the time it
21 got cold, most of it, especially on the
22 solids.

23 Q. Now, do you remember any changes in the

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1 operation between '65 and '72, or did it stay

2 pretty much the same?

3 A. Stayed pretty much the same as I recall.

4 Q. Can you think of any changes that were

5 instituted between '65 and '72?

6 A. No, not really.

7 Q. Now, the limestone pits down there, did you

8 ever go down to the limestone pits?

9 A. No, I can't say I did.

10 Q. Did you ever go to the chlorine plant?

11 A. I might have walked through it when I first

12 went to work there, but I never worked in it.

13 Q. Did you ever hear any of the -- I'm going to

14 say the older guys -- talking about the

15 project for the Chemical Core or the Army --

16 A. No.

17 Q. -- over there?

18 A. No.

19 Q. Did you ever take samples from the ditches

20 around the plant? I know you took samples of

21 aroclor, but I'm talking about water samples

22 or soil samples from around the plant.

23 A. Not in that period of time.

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1 Q. Okay. Not during the aroclor period?

2 A. Not during the aroclor.

3 Q. When did you take samples?

4 A. Well, it was probably after '86 when I went

5 back to PNP. We kind of had to -- PNP run

6 waste treatment then and then we, you know,

7 we took samples of the water that went to it.

8 Q. When's the first time you heard about PCBs

9 being found off of Monsanto property?

10 A. I really can't say. I don't know.

11 Q. Was it before the aroclor plant shut down?

12 A. No, I'm sure I didn't hear it then.

13 Q. There's -- I've seen a couple documents that

14 talk about seeing globules of aroclor in the

15 water going to the limestone pits and coming

16 out of the limestone pits. Do you remember

17 seeing aroclor globules in the water?

18 A. No.

19 Q. Do you remember seeing them sample the air

20 for PCBs around the plant?

21 A. No.

22 Q. Were you there when they had the meeting

23 about PCBs and health? Do you remember

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1 anything like that?

2 A. No.

3 Q. Do you remember Monsanto -- anybody from

4 Monsanto -- ever saying anything about PCBs

5 and health?

6 A. Not in that time frame.

7 Q. What time frame did you hear about it?

8 A. Well, I'll say after about '85 or '86, they

9 got real particular with the biphenyl, which

10 they still make, and our benzene, and all

11 that was brought out then, you know.

12 Q. What did they tell you about PCBs and health?

13 A. Well, PCBs, I never did really hear much

14 about it, but they said the biphenyls was --

15 what do you call it? -- can cause cancer.

16 I can't even say that word now.

17 But it was -- it had been found to cause it

18 in animals anyhow.

19 Q. Cancer and something else?

20 A. No, it's the same thing as -- well, heck.

21 Q. Carcinoma?
22 A. Yeah, I guess that's what it was.
23 Q. And you're thinking that was talk about the

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1 straight biphenyls and not polychlorinated
2 biphenyls?
3 A. Well, that was the first I'd heard about it.
4 I mean, that's the first it was -- I guess
5 any of the operators and all knew anything
6 about it.
7 Q. Okay. Who told you about it then?
8 A. Well, it was just --
9 Q. -- talk around the plant?
10 A. Talk about the plant and be brought out in
11 safety meetings and whatever.
12 Q. Did they tell you that you needed to be
13 careful and not get it on you and not get it
14 in your mouth and stuff like that?
15 A. Yeah. That was after '80 though.
16 Q. As far as you know, was your blood ever
17 tested for PCBs?
18 A. No, it's never been tested.

19 Q. Where do you live now?
20 A. Alexander.
21 Q. Where did you live when you were working at
22 Monsanto?
23 A. Well, I lived at Wellborn just down below the

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1 plant until '87.
2 Q. Is that where you're from?
3 A. No, I'm from Albertville on Sand Mountain.
4 Q. Are there anymore questions you'd like for me
5 to ask you?
6 A. Whatever.
7 Q. I don't think I have anymore questions for
8 you. I appreciate you coming down.
9 I guess let me just ask kind of a
10 cleanup question.
11 Other than the bird eggs and then
12 this later discussion about cancer or
13 carcinoma, do you remember any other
14 discussion about the effects of PCBs or
15 environmental hazards or anything like that?
16 A. No.

17 MR. KELLY: Let me object to the
18 form for the record, because I don't think
19 that his discussion about what he heard in
20 the '80s had to do with PCBs, and I don't
21 believe he testified that it did.
22 Q. (By Mr. Wright) You think biphenyl causes
23 cancer? We need to amend our position to add

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1 that if that's the case.
2 Do you know whether this talk about
3 cancer was limited only to unchlorinated
4 biphenyl, or did it include chlorinated
5 biphenyls?
6 A. Well, when they began talking about it, they
7 was real particular in handling benzene and
8 any of the products that was made on the
9 hill, you know, if you worked on a compressor
10 or whatever, you know. It was -- they got a
11 lot more particular with it.
12 Q. Right.
13 A. But that was in the '80s, I'd say.
14 Q. I know PCBs were used in transformers at

15 Anniston. Can you think of other places
16 where aroclors were used?
17 A. All I know is we shipped it for -- GE bought
18 a lot of it.
19 Q. Right.
20 A. A truck out of Roam, Georgia that got a load
21 every day, and, I guess, different ones
22 bought it. Sent out about a tank car full
23 pretty often.

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1 Q. Did you use it -- or was it used in the
2 Anniston plant, for example, in heat
3 exchangers? Did y'all use aroclors?
4 A. They used what they call a therminol that
5 they -- it was aroclor that they heated, you
6 know, and used to --
7 Q. Right. Where was that used?
8 A. Well, it was used in aroclor and some of the
9 other --
10 Q. In the biphenyl department?
11 A. Well, the santowax, or whatever, I think they
12 had some of that.

13 Q. Did they continue using therminol after the
14 PCB plant shut down for some of those other
15 operations?
16 A. I believe they used some therminol, but now I
17 don't know whether it was aroclor or not or
18 something else, but they did have a therminol
19 -- what we call a therminol system heater.
20 Q. Other than any discussion you had with Mr.
21 Kelly, have you talked with anybody else
22 about any of the lawsuits against Monsanto?
23 A. No.

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1 Q. I don't think I have any other questions.
2 Thank you for your time.
3
4 (Deposition concluded at 1:30 p.m.)
5 FURTHER THE DEPONENT SAITH NOT.
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1 C E R T I F I C A T E

2

3 STATE OF ALABAMA)

4 CALHOUN COUNTY)

5

6 I HEREBY CERTIFY that the above and
7 foregoing transcript was taken down by me in
8 stenotype, and the questions and answers thereto

9 were transcribed by means of computer-aided
10 transcription, and that the foregoing represents
11 a true and correct transcript of the testimony
12 given by said witness.

13 I FURTHER CERTIFY that I am neither
14 of counsel, nor of any relation to the parties to
15 the action, nor am I anyway interested in the
16 result of said cause.

17

18

19

20

21 TAMMY R. JENNINGS GREGORY
22 Notary Public, State of Alabama
23 MY COMMISSION EXPIRES: 9-12-2001

23

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