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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW JERSEY

* * * * *

JOAN MAERTIN, Executrix of the)

Estate of Lothar Maertin, JOAN)

MAERTIN, individually and in her) Civil Action

own right, et al.) L-95-CV-02849

vs.) Simandle, USDJ

ARMSTRONG WORLD INDUSTRIES, INC.,) Rosen, USMJ

vs.)

MONSANTO COMPANY and AMERICAN)

MINERAL SPIRITS COMPANY)

* * * * *

THE DEPOSITION OF:

WILLIS S. CLARK

April 8th, 1998

Taken at: Fort Wayne Chamber of Commerce

826 Ewing Street

Fort Wayne, IN 46802

REPORTED BY: Tracy L. Larimore, C.S.R.

COPY

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PROCEEDINGS

(The deposition began at
1:00 o'clock p.m.)

WHEREUPON,

WILLIS S. CLARK,

Was called as a Witness by the
Defendant, and after having been first duly
sworn, was examined, and did testify as
follows:

DIRECT EXAMINATION

MR. TURAT: All right. Is everybody
ready?

MR. COUGHLIN: Yeah. I'm going to find
a pen.

BY MR. TURAT:

Q Okay. Good morning, Mr. Clark. I met you
just a moment ago. I'm Craig Turat. I here
representing Armstrong World Industries, who I'm
sure, as you know, is a defendant in this case.

Mr. Clark, have you been deposed before today?

A (Shakes head).

Q Okay. One thing, just as a reminder, you
have to say yes or no.

A No. No. No, I have not.

Q Okay. Okay. Well, I'm sure that Mr.

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Coughlin has told you about the ground rules today,
but just to go over a few of them, I'll ask you a
series of questions. You'll be expected to answer as
completely as you can based on your memory. I'm not
asking you to speculate or to guess. If I ask a
question and you don't understand it or if you don't
hear it, by all means let me know and I'll be happy
to repeat it or rephrase it. But if you do answer a
question, that will indicate that you both heard the
question and understood it. Okay?

A Got it.

Q Also if you need a break at any time, just
let us know. We'll certainly accommodate you as long
as there's not a question outstanding on the table,
you'll have to answer it first and then we'll break.
The other thing, you understand the court reporter
across from me is taking down your testimony, in
writing, and that your transcript of this testimony
could be introduced at trial in the event you're not
able to be there?

A I understand.

Q And also, just to confirm, you understand
Mr. Clark, what PCB's are?

A Yes.

Q Just for the record, when I refer to PCB's,

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1 I'm referring to Polychlorinated Biphenyls.
 2 A Yes, I understand that.
 3 Q And also when I refer to Armstrong, I'm
 4 referring to Armstrong Corp. Company or Armstrong
 5 World Industries, Inc., as it's known today. Also
 6 with regard to American Mineral Spirits Company, that
 7 is a third party defendant in this case, will you
 8 understand if I use the acronym Amsco?
 9 A Sure.
 10 Q Mr. Clark, just briefly, can you give me
 11 your educational background?
 12 A I have a degree in chemical engineering
 13 from Cornell University, 1961. I have a MBA from St.
 14 Louis University, which I received in about 1968.
 15 MS. O'CONNOR: Mr. Clark, the test was
 16 great. All of sudden you dropped off again.
 17 THE WITNESS: I'm sorry.
 18 MS. O'CONNOR: That's okay.
 19 THE WITNESS: Cornell University,
 20 Bachelor of Chemical Engineering in 1961
 21 with a MBA from St. Louis University in 1967
 22 or '68. I guess I got the degree in '68.
 23 BY MR. TURAT:
 24 Q And are you employed today?
 25 A No.

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1 Q Are you retired?
 2 A Yes.
 3 Q Okay. Did you work between the time you
 4 got your Bachelors Degree in 1961 and the time you
 5 got your MBA in '67 or '68?
 6 A Yes, I did.
 7 Q Where were you employed then?
 8 A First two years I was employed with the US
 9 Navy. Following that I was employed by Monsanto.
 10 Q So beginning in about sixty --
 11 A '3.
 12 Q '63?
 13 A Yes.
 14 Q And what was the first position you held
 15 with Monsanto?
 16 A I was a plant engineer in the technical
 17 services department at the John F. Queenie plant in
 18 St. Louis.
 19 Q And how long did you remain as a plant
 20 engineer in the tech services department?
 21 A About twelve years.
 22 Q So until roughly 1965?
 23 A Something like that.
 24 Q Okay. And what was the position you next
 25 assumed with Monsanto in 1965?

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1 A I think it would have been production
 2 supervisor for salicylic acid.
 3 Q Did salicylic acid, was it sold under a
 4 trade name?
 5 A No. It's an intermediate for aspirin.
 6 It's one of the raw materials for making aspirin.
 7 MS. O'CONNOR: Excuse me, Craig, he is
 8 fading again.
 9 THE WITNESS: I'm sorry. I'll just
 10 have to speak right directly at the
 11 telephone. Is this better?
 12 MS. O'CONNOR: That's better.
 13 MR. TURAT: One of the problems we're
 14 having is the telephone does not reach the
 15 table, so it's propped on chairs close to
 16 the table. And we're doing the best we can.
 17 Let us know if you have any trouble hearing.
 18 THE WITNESS: I'll move a little
 19 closer.
 20 BY MR. TURAT:
 21 Q Okay. And which plant did you work in
 22 while you were production supervisor on salicylic
 23 acid?
 24 A The John F. Queenie plant through 1970, end
 25 of 1970.

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1 Q Okay. Were you a production supervisor in
 2 1965 to 1970?
 3 A No. Then I was a, I had a supervisory role
 4 in plant renewal.
 5 Q What does that mean?
 6 A It means we had a variety of problems with
 7 the, couple of our departments being obsolete and it
 8 was deemed that it took more than just minor
 9 improvements to get ourselves competitive. So they
 10 had a major renewal program to update several of the
 11 departments in the plant.
 12 Q And were you taking courses towards your
 13 MBA during this period?
 14 A Yes, I was. I got that at night.
 15 Q Okay. When did you become supervisor with
 16 regards to the plant renewal project?
 17 A My guess is it must have been around 1967,
 18 something around that, '68.
 19 Q And did that continue through until 1970?
 20 A I'm trying to think whether there was
 21 anything else that I did before I left the plant. I
 22 think right prior to leaving the plant, I had
 23 responsibility also for some work with the aspirin
 24 department, some quality control things with the
 25 aspirin department. And it was some sort of a

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1 combined supervisory role. But I really don't
 2 remember all of the exact organizational details.
 3 Q And just to clarify, during the time that
 4 you worked at the Queenie plant, 1963 to roughly
 5 1970, were any PCB products manufactured at the
 6 Queenie plant to your knowledge?
 7 A No, I don't think anything was manufactured
 8 -- no. No, not manufactured.
 9 Q And the Queenie plant is distinct from the
 10 Kremrick (sic) plant?
 11 A Yes, the Kremrick plant is on the east side
 12 of the river and the Queenie plant is on the west
 13 side of the river.
 14 Q And what position did you assume in 1970?
 15 A I went into the marketing organization, in
 16 Plasticizers as a product -- you know, I don't really
 17 remember whether I was called a product manager or
 18 product supervisor, but in that kind of a
 19 responsibility, let's say product manager.
 20 Q Okay. And that began in 1970?
 21 A It began in early 1970, something like
 22 April, 1970.
 23 Q And how long did you remain as product
 24 manager or product supervisor?
 25 A My recollection is it was something like,

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1 oh, two and a half years.
 2 Q So that would have been until roughly late
 3 1972?
 4 A Or, yeah, late '72, early '73.
 5 Q Okay.
 6 A My wife would be able to give you more
 7 exact dates because when I left there we moved to
 8 Chicago. I was a regional manager or regional sales
 9 manager in Chicago for a couple of years.
 10 Q That's roughly 1973 to '75?
 11 A Roughly that.
 12 Q And what did you do after your service in
 13 Chicago as a regional sales manager?
 14 A I came back and was a project manager for a
 15 major sorbic acid production operation, responsible
 16 for the design and construction, early marketing of a
 17 new product for Monsanto called sorbic acid.
 18 Q And did that begin in 1975-ish?
 19 A Roughly '75, to roughly 1977, when I became
 20 a director of planning and control for the, I guess
 21 it was the industrial chemicals division.
 22 Q By the way, when you were a product manager
 23 or product supervisor, were you based in St. Louis?
 24 A Yes.
 25 Q Was that at the Queenie plant or was that

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1 somewhere else?
 2 A No. It was in the general offices.
 3 Q How about when you were product manager for
 4 the sorbic acid?
 5 A That was St. Louis.
 6 Q At the headquarters or one of the plants?
 7 A At the headquarters.
 8 Q And how about director of planning and
 9 control?
 10 A That was also at the headquarters office.
 11 Q All right. So that's 1977 until when?
 12 A 1977, I moved to Fort Wayne in February of
 13 1978.
 14 Q Were you still employed by Monsanto at that
 15 time?
 16 A No. I left Monsanto and came here employed
 17 by Central Soya.
 18 Q Soil?
 19 A Soya, S-O-Y-A. It's a soybean processing
 20 company.
 21 Q Was there another employee of Monsanto that
 22 left to join Central Soya?
 23 A Yeah. Right prior to my leaving by about a
 24 year and a half, a guy name Sheribett (sic) moved, and
 25 Joe Gillespie. Those are the only two I know of.

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1 Q And have you worked for Monsanto at any
 2 time since 1978?
 3 A No.
 4 Q Okay. All right.
 5 A No.
 6 Q I'm sorry?
 7 A Repeated no for the telephone. You guys
 8 hearing me okay?
 9 MS. O'CONNOR: I'm okay. Lois, okay?
 10 MS. D'ALFONSO: Okay.
 11 BY MR. TURAT:
 12 Q All right. Going back to the time when you
 13 joined the marketing Plasticizers department, can you
 14 tell me a little bit about what your job
 15 responsibilities were as products manager? Or how
 16 about if I call it product manager, and we understand
 17 that that may or may not be the exact title.
 18 A Yeah, and I really don't remember. I think
 19 it was product manager, actually. My job was to
 20 remove PCB based plasticizers. And for that matter
 21 PCT based Plasticizers from the market.
 22 Q How did you come to move over to the
 23 marketing department?
 24 A Well, I got an MBA in 1968 I didn't want to
 25 be in manufacturing for the rest of my life. I

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1 started making noises like I wanted to be out of
 2 manufacturing into something else, and this
 3 opportunity came up.
 4 Q Did you have to interview for that
 5 position?
 6 A Sure.
 7 Q Who became your boss at that point?
 8 A Guy named Waychoff, I believe.
 9 Q Walter Waychoff?
 10 A Walter Waychoff, yeah.
 11 Q As of the time you came over in -- April of
 12 1970, is that right?
 13 A Well, I think it was about April. It was,
 14 if you went back to 1970 and found out when Earth Day
 15 was, it was that day. It was somewhat ironic that
 16 was the day that I moved to marketing not to sell
 17 stuff, but to take it off the market for
 18 environmental reasons. I mean, it was kind of odd.
 19 Q Did you have to go through any training to
 20 become product manager?
 21 A Modest amounts of training. It was all
 22 done between me and Mr. Waychoff.
 23 Q Did you have any meetings with Mr.
 24 Papageorge as part of your training for the manager
 25 position?

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1 A No, I don't think so. I'm trying to
 2 remember specifically what his responsibilities were.
 3 I remember the name and remember what he looks like,
 4 and I can't remember what he did. It's only
 5 twenty-eight years ago.
 6 Q Now, when we talk about products manager,
 7 are we talking about the product being all those
 8 products that included or consisted of PCB's?
 9 A The products -- I'm sorry.
 10 Q Did you hear the whole question? It's
 11 important for the court reporter pick up the complete
 12 sentence and answer.
 13 MR. COUGHLIN: And I would object to
 14 the form of that question. So you want to
 15 allow him to finish the question also and
 16 allow me the opportunity to object to the
 17 form of the question if there is, if I have
 18 an objection.
 19 BY MR. TURAT:
 20 Q Do you remember what the question was?
 21 A No.
 22 Q Okay.
 23 MR. TURAT: Could you read it back?
 24 (WHEREUPON, the last question was
 25 read back to counsel.)

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1 BY MR. TURAT:
 2 Q Let me rephrase it. Was there a particular
 3 product or group of products for which you were
 4 responsible when you became product manager?
 5 A Yes.
 6 Q Okay. Can you tell me specifically what
 7 the product or products were?
 8 A They were all the PCB products, all the PCT
 9 products, plus Phosgard, which is a chlorinated
 10 phosphorous material.
 11 Q Did part of your responsibilities include
 12 phasing Phosgard out as well?
 13 A No.
 14 Q I think I may have side tracked you from
 15 the description of what your specific job
 16 responsibilities included as product manager. You
 17 told me globally that it was overall responsibility
 18 for implementing the removal of PCB and PCT from the
 19 market. Can you tell me more specifically what your
 20 responsibilities were?
 21 MR. COUGHLIN: I object to the form.
 22 I'm not sure that's what he said.
 23 BY MR. TURAT:
 24 Q Was that an accurate description of what
 25 your overall responsibilities were as product

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1 manager?
 2 A Can I just restate what my responsibilities
 3 were?
 4 Q Absolutely.
 5 A I was responsible for removing PCB and PCT
 6 based Plasticizers or we should say PCB and PCT based
 7 products from the market.
 8 Q Now, when you first became product manager
 9 in early 1970, had the decision been made to remove
 10 PCB based products from the market?
 11 A Yes.
 12 Q Had the decision also been made to remove
 13 PCT products from the market?
 14 A Yes.
 15 Q As of roughly April of 1970?
 16 A (Witness nods).
 17 MR. COUGHLIN: You need to give a
 18 verbal response.
 19 THE WITNESS: Yes, I'm sorry. I
 20 thought I did.
 21 MR. COUGHLIN: No, you just nodded your
 22 head. It's okay.
 23 THE WITNESS: Yes. Yes. Both of those
 24 questions.
 25 BY MR. TURAT:

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1 Q Now, how did you know how to go about
2 implementing these withdrawals from the market when
3 you came into this new position?

4 A By talking to my boss, by talking to other
5 product managers, by gaining, through many
6 conversations and understanding what the products
7 were, and what they did, and what the problems would
8 be in withdrawing them from the market.

9 Q Let's take each of those separately. How
10 did you go about learning what the products were?

11 A Reading the literature, talking to some of
12 the other product managers in the Plasticizers area,
13 talking to my boss, talking to research people.

14 Q Who are the other product managers that you
15 remember speaking with to learn about the PCB
16 products?

17 A Fred Sutton was one of them, and a fellow
18 named, I can't remember. I can't remember his name.
19 Maybe it will come to me while we're talking about,
20 there was one other guy who had been in this area
21 that was helpful indoctrinating me about these
22 things.

23 Q What kinds of literature was this that you
24 read to learn about the products?

25 A We had some standard product line

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1 literature that says, "This is what the products are,
2 this is chemically what they are, this is some of the
3 characteristics of the products, this is where the
4 products go."

5 Q Like technical bulletins for example?

6 A Yeah.

7 Q Okay. You also mention --

8 A Yes.

9 Q You also mentioned that you talked to
10 researchers to learn about the products as well?

11 A Yes.

12 Q Which researchers did you speak with that
13 you remember?

14 A Well, I wouldn't have been able to come up
15 with -- let's see. There were probably two or three,
16 the only name that I can, I can come up with is Al
17 Morgan. But I know there were others. But I just
18 don't remember the people.

19 Q Okay. And did you also learn from these
20 same, you know, pieces of literature and these same
21 people what PCB's were used for?

22 A Yes.

23 Q And what was your understanding of, I think
24 you referred to a moment ago as what the problems
25 would be. Can you explain what you meant by that?

Page 20

1 A Well, PCB's are, were components of end
2 products for very specific reasons. Characteristics
3 of the PCB's made them good Plasticizers or good
4 components. If you take those products, if you take
5 the PCB's away, take them out of the end product, you
6 change the end product. And so you have to figure
7 out what you can do to restore the quality that you
8 need in the end product.

9 Q So you're talking about the customer's
10 products who --

11 A Yes.

12 Q Was there any other sources of information
13 that you can remember, other than speaking to
14 Mr. Waychoff, speaking to other product managers,
15 speaking to other researchers at Monsanto and reading
16 the technical bulletins or other literature that were
17 out there?

18 A No. I'll also tell you that I can't
19 imagine, and I spent many hours and long hours, I
20 can't imagine that I could come up with all the
21 actual places that I came up with information about
22 PCB's because I studied it. But, you know, you've
23 got the essence of where I got my information.

24 Q Did you speak with Dr. Kelly or with Elmer
25 Wheeler at all from the medical department?

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1 A Elmer Wheeler is a familiar name. I'm sure
2 I had conversations with him at some time during my
3 time at Monsanto, but I don't recall any specific
4 conversations with him about PCB's.

5 Q Was there already a plan in place to
6 withdraw the PCB's from the market or was that to be
7 your job to develop that?

8 A It was to be my job to develop the plan and
9 to implement it. My recollection is the only thing
10 that was in place when I arrived was the commitment
11 to take the product off the market.

12 Q And by whom had that commitment been made
13 as you understood it?

14 A Well, you know, I don't really know. But I
15 will tell you that PCB's were a product that had been
16 in the product line for a long time. They were very
17 profitable products and the decision could not have
18 been made without being at the highest levels in
19 Monsanto. Now as a new product manager, I wasn't
20 privy to any of that. But I'm sure that must have
21 been the case. Mr. Waychoff could not make that
22 decision.

23 Q This was a corporate level decision?

24 A Yes. I'm sure it was.

25 Q Did you look to withdrawals of any other

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1 products, the way in which those withdrawals were
2 implemented to develop a plan?

3 A No.

4 Q What did you decide to do first, again in
5 furtherance of the withdrawal off the market?

6 A Well, I think I had a little guidance along
7 that line. I'm sure one of the early things we did
8 and I don't remember the time on it, is some sort of
9 customer notification that says, "We're going to do
10 this."

11 Q You recall -- do you remember a letter or
12 series of letters that actually went out to customers
13 telling them --

14 A I --

15 Q Again let me finish, just so the record is
16 clear. Notifying them that PCB's were to be
17 withdrawn from the market?

18 MR. COUGHLIN: Object to the form in
19 terms of the market.

20 BY MR. TURAT:

21 Q From the market as Plasticizers?

22 A I remember that we sent some things out,
23 but exactly what we sent out I don't remember. I
24 mean --

25 Q Do you remember whether you personally

Page 23

1 drafted the letter, if there was one, that went out
2 to the customers?

3 A No, I don't. I don't.

4 Q Do you remember anything further about the
5 process by which a letter was drafted, for example
6 who had input to communications that went out to
7 customers about the withdrawal of PCB's from the
8 market as Plasticizers?

9 A I can't -- I'm sorry, I can't give you a
10 specific answer on that. I could speculate for you,
11 but I can't give you a specific answer. I'll remind
12 you that I was a chemical engineer coming out of a
13 plant environment, new in marketing with people who
14 had been in marketing and sales for a long time. The
15 chances of them letting me just do what I want
16 without any review is slim. Very profitable
17 products, very important relationships with
18 customers.

19 Q Other than the customer notification letter
20 or letters, what were the other steps that you
21 remember of the withdrawal from the market as
22 plasticizers plan?

23 MR. COUGHLIN: You're referring to PCB
24 Aroclors?

25

Page 24

1 BY MR. TURAT:

2 Q Yes. And actually before you answer that
3 question, let me give one more clarification just
4 from the outset. I'm going to refer to Aroclors
5 throughout this deposition, and when I do that, I'm
6 really intending to refer to those that consist of or
7 include or PCB's. I understand there are Aroclors
8 that do not. Otherwise I'd have to add a whole
9 clause each time before I ask the question.

10 A Okay. My recollection of this process was
11 that it was done on a very tight time table. We did
12 not spend a year developing a plan, developing
13 alternatives, developing other formulations,
14 alternative formulations for customers because we
15 wanted to do this quickly.

16 And so therefore we notified customers
17 and we responded to their needs. And so if you
18 notify a customer that says, "We're taking this out,
19 off the market," their first question is, "What are
20 you going to replace it with?" And then we tried to
21 give them an answer.

22 Q Do you remember any of the specific steps,
23 other than customer notifications, I mean if I'm --

24 A Lot of telephone conversations with a lot
25 of customers. And then a lot of conversations with

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1 our applications research people, people like Al
2 Morgan.

3 Q And those are with regard to finding
4 substitute products?

5 A Yes.

6 Q Mr. Clark, what is your understanding --
7 let me rephrase that. What was your understanding as
8 of the time you came on as product manager about why
9 PCB products were being withdrawn from the market as
10 Plasticizers?

11 A It was my understanding that some, some
12 time just prior to that, you know, which would have
13 to be like, and I don't have an exact date, but I
14 would guess you know some time, we'll say mid 1969,
15 it became clear as a result of some technical
16 breakthroughs in the analytical field that some
17 products with aromatic carbon chlorine bonds were
18 being found to be in the environment, in places where
19 you would not expect them to be found. Specifically,
20 products that resembled DDT and PCB.

21 Q What were the places -- oh, I'm sorry. Had
22 you finished your answer?

23 A Go ahead. That's fine. That was a good
24 question though.

25 Q What are the places you are saying that you

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1 wouldn't expect to find them that they were being
2 found?
3 A In the lipid tissue of fish. In birds of
4 prey, like Peregrine Falcons and Bald Eagles. And at
5 that point, in early 1970, it was, had been concluded
6 that these kinds of products inhibited the calcium
7 metabolism in birds, like the Peregrine Falcon and
8 the Bald Eagle, and were causing the decline in the
9 population of these birds. That was the
10 environmental problem which was identified and which,
11 as I understand it, caused Monsanto to remove these
12 products from the market place.
13 Q Other than the concerns that Monsanto had
14 about the environmental pollution, were there any
15 other factors, that you are aware, that contributed
16 to the decision to withdraw the PCB products from the
17 market as Plasticizers?
18 A Not that I know of.
19 Q Were there any -- withdraw that. Do you
20 remember as you sit here today when the PCB products
21 were actually withdrawn from the market as
22 Plasticizers?
23 A I can't give you a firm date. It was
24 quickly. And I would say probably about six months
25 after I started, we had, we quit selling it.

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1 Q Do you recall whether there were any
2 significant exceptions to the cut off by which PCB's
3 were to be withdrawn from the market as Plasticizers?
4 A No, I don't.
5 Q Do you remember if NCR was able to purchase
6 PCB products after the deadline for use as
7 carbonless, in carbonless copy paper?
8 A I remember that NCR had a particularly
9 difficult problem in that conversion. What I don't
10 know is, you know, really when they quit using it
11 because I don't know what kind of inventories they
12 would have had and -- I do know that NCR was one of
13 our major customers and we worked very hard with them
14 to come up with alternatives. And I know they were
15 under the same pressures and the same deadlines. But
16 what I can't tell you, what I don't recall is, you
17 know, any specifics about exactly when did we cut off
18 the last shipment to NCR.
19 Q Do you recall whether the PCT Plasticizers
20 were withdrawn from the market as Plasticizers at the
21 same time?
22 A It's my recollection they were.
23 Q And was it also your responsibility to
24 develop a plan to withdraw those products from the
25 market?

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1 A Yes, it was.
2 MR. O'CONNOR: Craig, if I can
3 interrupt you --
4 MR. TURAT: Yes.
5 MR. O'CONNOR: This is Brian O'Connor.
6 I'm not having a problem with the witness,
7 but I am having a little bit of a problem
8 with your questions. I'm catching half of
9 it and --
10 MR. TURAT: Okay. I'm sorry. I've not
11 been careful about speaking directly into
12 the phone.
13 MR. O'CONNOR: Okay. Thanks.
14 BY MR. TURAT:
15 Q Okay. Mr. Clark, was there anything
16 additional that you did to learn about the PCT
17 Plasticizer products?
18 A No. I'd say it was the same process.
19 Q Were there technical bulletins that related
20 to those products as well?
21 A My recollection is that we had a technical
22 bulletin that probably covered all of the Aroclors,
23 sort of a general bulletin. We may have also had a
24 couple ones that dealt with specific Aroclor
25 products.

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1 Q Okay. And were the product managers that
2 you spoke to the same people or different people than
3 you had spoke to about the PCB Plasticizers?
4 A They were the same ones.
5 Q And how about the application researchers?
6 A Same ones.
7 Q Let me shift gears for a moment, Mr. Clark.
8 In your various capacities as an employee of
9 Monsanto, did you have occasion to correspond with
10 anybody from Armstrong?
11 A I do not recall any correspondence with
12 Armstrong. That's, I mean, I don't recall a lot
13 of -- I don't recall any correspondence with a lot of
14 companies. But Armstrong was a little bit of a
15 special case in as much as it was a very important
16 account. It was handled by people other than me.
17 And I had no contact with the people at Armstrong. I
18 never called on them. I don't think I ever had a
19 phone conversation with any of them.
20 Q Do you have any recollection of ever
21 travelling to the Armstrong facilities?
22 A I did not travel to any of the Armstrong
23 facilities.
24 Q Do you recall any of the people from
25 Armstrong coming to the Monsanto facilities?

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1 A No, I do not.
 2 Q Now you mentioned it was a very important
 3 account. What is your understanding of what made it
 4 a very important account?
 5 A They bought a lot of Plasticizers from us.
 6 Q And do you know what the Plasticizers were
 7 that Armstrong purchased in large quantities?
 8 A I can't give you specifics on that. I
 9 could tell you that I'm certain that the largest
 10 quantities that were purchased were not PCB based
 11 products.
 12 Q Were they PCT based products?
 13 A No. No.
 14 Q Now, I believe you also mentioned that
 15 there were others at Monsanto who, other than
 16 yourself, who had responsibility for the Armstrong
 17 account. Who are the people that you remember from
 18 Monsanto that had responsibility for the Armstrong
 19 account?
 20 A The primary person was Fred Sutton.
 21 MR. O'CONNOR: I'm sorry. Could you
 22 repeat that, please?
 23 THE WITNESS: The primary person was
 24 Fred Sutton.
 25 MR. O'CONNOR: Thank you.

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1 BY MR. TURAT:
 2 Q Are we talking about the time period when
 3 you were in the marketing department, 1970 -- I don't
 4 have the dates in front of me.
 5 A 1970 to 1972. That's correct. And I do
 6 not know who was in charge of that account before or
 7 after.
 8 Q Mr. Clark, also in your various capacities
 9 with Monsanto, did you have occasion to communicate
 10 with Amsco?
 11 A Yes, a little bit. The primary
 12 responsibility for communicating with Amsco would
 13 have been through the regional sales manager since
 14 they were a distributor.
 15 Q Are there any, in particular, that stand
 16 out in your mind, as having responsibility for the
 17 Amsco account?
 18 A No.
 19 Q Are there any people that stand out in your
 20 mind who, as Monsanto employees, had specific
 21 responsibility for distributors of Monsanto's
 22 products?
 23 A The responsibility for the distributors was
 24 in the sales force some place, dominantly in the
 25 sales force as opposed to with the product managers.

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1 I'm trying to think of the sales manager at that
 2 time. I can't think of his name. Steve somebody,
 3 who was a sales, the director of sales while I was
 4 there. And he would have been the primary person to
 5 have responsibility for the distributors. Of course,
 6 there was, underneath him was a regional manager, who
 7 worked with distributors, and underneath them would
 8 be salesmen who worked with distributors.
 9 Q Are you thinking of Walter Schalk by any
 10 chance?
 11 A Walter Schalk was the director of
 12 marketing, as I recall. He was over everything that
 13 had to do with marketing and sales for the
 14 Plasticizers division.
 15 Q Was he Mr. Waychoff's boss?
 16 A I believe he was, yes.
 17 Q Now Mr. Clark, do you recall ever
 18 participating in training sessions for Amsco
 19 employees with regard to Monsanto products?
 20 A No.
 21 Q Do you remember that there were such
 22 training sessions?
 23 A There must have been, but I did not
 24 participate in them.
 25 Q Did you participate in training sessions

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1 for anybody, any entity with regard to Monsanto
 2 Plasticizer products?
 3 A The sales force.
 4 Q So these were within Monsanto training?
 5 A Yes. Yes.
 6 Q Is that as part of Darby College? Is that
 7 a term you're familiar with?
 8 MR. COUGHLIN: I object to the form.
 9 I'm not sure which question is pending.
 10 BY MR. TURAT:
 11 Q Okay. Let me ask you first, do you know
 12 what Darby College was?
 13 A It seems like that was a program that was
 14 sponsored or put together or designed by Joe Darby
 15 who was in research organization that was designed to
 16 be the primary technical training for sales people.
 17 Q And the other question was, did you ever
 18 participate in Darby College, either as a student or
 19 as a teacher?
 20 A Well, I think that as I came on board as a
 21 new product manager, I must have had some
 22 conversations with Joe Darby and his people about
 23 Plasticizers and what they do and how they worked and
 24 all of that as part of my training. I mentioned I
 25 talked with some of the research people that, and I

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1 had forgotten about Darby College.
 2 Q What training do you remember that you did
 3 participate in to train Monsanto sales people?
 4 A I don't, I'm sorry. I can't come up with
 5 specific events, you know, I sat down and did the
 6 following things with the sales department on such
 7 and such date or did this kind of training. There
 8 were some, there are some very general things that
 9 you would tell a sales force about PCB's, as opposed
 10 to other Plasticizers or as opposed to alternative
 11 PCB's, things that say, "These are product
 12 characteristics." I must have participated in that
 13 kind of training. But I don't have a recollection of
 14 it.
 15 Q Do you remember whether there were prepared
 16 training materials for sales people with regard to
 17 Plasticizer products manufacturing and --
 18 A I think there were. As far as -- I'm
 19 sorry. The question was were there prepared sales
 20 training materials for replacement of PCB's with
 21 other Plasticizers?
 22 Q No. The question was, were there prepared
 23 training materials for Monsanto salesmen as to
 24 Monsanto Plasticizer products?
 25 A Yes.

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1 Q Is that something more than the technical
 2 bulletins to which you referred before?
 3 A No.
 4 Q Do you remember there being any sort of a
 5 salesmen's training manual with regard to sales
 6 practices?
 7 A I don't recall any sales training manual
 8 that had to do with sales practices. You mean like,
 9 are you asking like, "fill in your expense reports on
 10 time," and, "don't drink at lunch," and those kinds
 11 of practices? Is that what you're talking about?
 12 Q Could be that or could be broader than
 13 that. Could include substance as well. I don't want
 14 to lead you to any particular --
 15 A I don't recall a manual like that.
 16 Q Now just to round out what you said before,
 17 you mentioned that you had a little bit of
 18 communication with Amsco over time. What
 19 communications do you remember with Amsco?
 20 A Well Amsco is our east coast distributor as
 21 I recall. And I really don't recall any specific
 22 conversations. I don't recall any specific
 23 conversations with Amsco regional managers. I can't
 24 place any of them in my mind as to who they were.
 25 But I know we sold a certain amount of product

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1 through them. And I must have had some conversation
 2 with them. But, you know, the primary communication
 3 in that should have been between me and the salesman
 4 and then the salesman with Amsco. That's the way the
 5 communication should have gone.
 6 Q Now as the withdrawal of the PCB
 7 Plasticizers was implemented, did you have occasion
 8 to meet with any individual customers to discuss the
 9 withdrawal of those PCB products?
 10 A I did an awful lot of this on the phone.
 11 But, yes, I did do some of it on the phone, some
 12 calls on accounts.
 13 Q Do you remember customers that expressed
 14 difficulty in finding a replacement?
 15 A Oh, sure.
 16 Q A replacement for the PCB products they had
 17 been using before?
 18 A Yep. Yes.
 19 Q Do you remember any specific instances,
 20 without giving me the customer name, instances of
 21 applications that were hard to replace? You
 22 mentioned NCR already.
 23 A One of the most, yes, one of the most
 24 difficult ones, and I don't have a lot of these,
 25 maybe two I can think of, was a call I got one day

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1 from NASA saying they were using 1254, Aroclor 1254
 2 along with graphite as a screw lubricant in oxygen
 3 rich environment on the space shuttle, not shuttle,
 4 space orbiter, whatever it was in 1972. And that
 5 this was the only product which would work in this
 6 oxygen rich environment and that we were not going to
 7 shut down NASA by withdrawing the product. And I
 8 told them we would sell them one drum of Aroclor 1254
 9 and that was it.
 10 Q Were there any instances, other than that
 11 one, that you can remember?
 12 A I can remember a guy that called and told
 13 me that he was using Aroclor 5460, a terphenyl,
 14 T-E-R-P-H-E-N-Y-L, as a competent in the adhesive in
 15 his frozen orange juice container. It held the
 16 aluminum foil to the outer package and he wanted to
 17 know whether I thought he should continue using it.
 18 And I told him I thought he should go out and shut
 19 his line down that afternoon, which I'm sure he did
 20 not do. But he shut it down soon.
 21 Q Do you remember hearing from any customers
 22 that plastisol formulations using Aroclor PCB
 23 products were difficult to reformulate with
 24 replacement products?
 25 A I don't recall hearing that from customers.

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1 And I don't recall hearing it specifically having to
 2 do with plastisol. But I do know that we considered
 3 that a lot of formulations were very difficult to
 4 replace the Aroclors in. Very few of them were easy
 5 substitutions. If you have any background in
 6 chemistry, you understand that Aroclors were a very
 7 unusual product.
 8 Q You still believe that today?
 9 A Oh, yeah.
 10 Q Do you remember hearing from any customers
 11 specifically that had used Aroclor products as an
 12 ingredient in paints that they were having difficulty
 13 in replacing?
 14 A I'm sure there were used in paints.
 15 Q Do you remember hearing from any of the
 16 customers that had used PCB products as an ingredient
 17 in paints that they were having difficulty finding a
 18 replacement?
 19 A Yes.
 20 MR. TURAT: Let me go off the record
 21 for one second.
 22 (WHEREUPON, a brief recess was
 23 taken off the record.)
 24 MR. TURAT: Go back on the record.
 25

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1 BY MR. TURAT:
 2 Q Mr. Clark, we've been talking now about
 3 withdrawals from the market of PCB products as
 4 Plasticizers. Do you remember a separate set of
 5 withdrawals from the market in other applications?
 6 MR. COUGHLIN: You're referring to
 7 PCB's?
 8 BY MR. TURAT:
 9 Q PCB's.
 10 A Well, there was another whole set of
 11 markets that had to do with functional fluids. Is
 12 that what you're talking about?
 13 Q That's one of the things I'm talking about.
 14 Is that one of the areas for which you were
 15 responsible?
 16 A No, it's not.
 17 Q Did you have any responsibility for the
 18 withdrawal of PCB's from the market as transformer
 19 fluids?
 20 A No.
 21 Q How about as hydraulic fluids?
 22 A No.
 23 Q All right. Mr. Clark, I'd like to show you
 24 a document that has just been marked by the court
 25 reporter as Clark 1. It says, "Your Guide to

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1 Monsanto's Top Quality Plasticizers." And it's bates
 2 numbered MAE 059457 through 64, and ask if you've
 3 seen it before?
 4 A It looks kind of familiar. It looks like
 5 the information that the research group would have
 6 published for perhaps, perhaps published by the
 7 marketing department.
 8 Q Now, I note that there's a handwritten
 9 notation on the first page, "11/66," other than that,
 10 is there any way, by looking at this document that
 11 you could tell when it was published?
 12 A You'll have to give me a minute to look at
 13 it.
 14 Q That's fine.
 15 A Well, it was published some time prior to
 16 1972 because it doesn't, I would think, because it
 17 doesn't have some of the most recent or the
 18 Plasticizers on it that were developed later. It
 19 does not have Santicizer 711 on it, which was
 20 marketed sometime around 1971.
 21 Q It also has Aroclor Plasticizers in it?
 22 A Yes, it does.
 23 Q So presumably it came before those products
 24 were withdrawn from the market as Plasticizers. I'm
 25 not trying to trick you. I don't see anyway on it.

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1 And I'm just wondering if there's something that I'm
 2 not seeing.
 3 A Well, that's the only, this is a six page,
 4 seven, eight page document. I'm just sort of
 5 scanning. I don't, the only thing that comes to mind
 6 is there are some products that are not listed here
 7 that I know were introduced to the product line in
 8 1971 or '72, that if this were a current document
 9 they would be in it and they're not. So it must have
 10 been prior to 1971 we'll say.
 11 Q Okay. Now, can you tell me, sir, looking
 12 at the second page, it appears from the notation down
 13 at the bottom, "I" means incompatible and figures
 14 means compatibility. I mean, as you look at this
 15 chart, do you have any understanding of what the
 16 numbers mean? Pick any product. Dibutyl is the
 17 first one, what the numbers under Dibutyl mean?
 18 A Well, let's say another one. Santicizer
 19 160. I don't know what Dibutyl is.
 20 Q Okay.
 21 A Santicizer 160 was known as a very
 22 compatible Plasticizer, worked in all sorts of
 23 different ways. And you can see that the hundred
 24 percent going down there in various places would say
 25 it's very compatible.

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1 Q What does it mean when it says, "25?" What
 2 does it mean to be twenty-five percent compatible?
 3 If that's what it's saying.
 4 MR. COUGHLIN: Object to the form. I
 5 don't know if that's what it's saying.
 6 BY MR. TURAT:
 7 Q What does it mean when there's a number
 8 other than a hundred there, if you know?
 9 A The compatibility number has to do with how
 10 much of the Plasticizer you can mix with the resin
 11 and get it to go into solution so that it does not
 12 come out of the resin. And exactly how that's
 13 measured in the lab, I don't know. But it's -- it
 14 would be something that would be similar to how much
 15 salt can you put in water before you start getting
 16 salt in the bottom of a glass.
 17 Q Okay. Moving to the very last page, you'll
 18 notice that there is an Amsco insignia and it says,
 19 "American Mineral Spirits Company," etcetera, and
 20 lists sales offices. Have you, in your experience as
 21 a Monsanto employee, seen other sales brochures or
 22 technical bulletins that listed the Amsco insignia at
 23 the bottom?
 24 A You mean besides this specific one?
 25 Q Yes.

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1 A I don't know.
 2 Q Okay.
 3 A We have, Monsanto Plasticizers, I'm sure,
 4 had more sales bulletins than this one. It would not
 5 surprise me at all if other products had the Amsco
 6 information in the back of them. But I can't tell
 7 you whether I've seen them or not.
 8 Q Okay. I have no further questions about
 9 that document. Why don't we push it back towards the
 10 court reporter so we don't lose them. Mr. Clark, I'm
 11 going to show you a document that has now been marked
 12 as Clark 2 which says at the top, "Chronology of
 13 Communications to PCB Customers." It's bates
 14 numbered MAE 059987 through 93. Okay. Have you ever
 15 seen this document before, Mr. Clark?
 16 A Well, I don't recall having seen it.
 17 Q This was, I'll represent to you, this was
 18 produced in discovery in this case by Monsanto.
 19 A Uh-huh.
 20 Q And there, as you can see, on the first
 21 page, there are references under, "Plasticizers," you
 22 know, sub heading A is to customers, and then there's
 23 a listing of several dates, "February, 1970," being
 24 the first. And then there's another one in May of
 25 1970. Now I recognize that February of 1970 is

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1 before you became part of the marketing department?
 2 A Yes, I believe it was, yes. Earth Day was
 3 after February.
 4 Q There's a May, 1970, date listed. And
 5 August, 14th, 1970, date listed. And a September,
 6 30, 1971, date listed. Do you have any specific
 7 recollection about any of those letters as distinct
 8 from one another?
 9 MR. COUGHLIN: I'm going to object to
 10 the form of the question.
 11 BY MR. TURAT:
 12 Q Okay.
 13 A Well, as I read down the specifics of
 14 what's under A here, you know, the content is
 15 familiar. And it's also logical that, you know, we
 16 sent an early letter out, follow up letter out,
 17 another letter in August and then made a final letter
 18 in September. And I can see things in here that are
 19 familiar to me that, you know, that I may have, or
 20 someone else may have written the customers. But,
 21 man, that's twenty-eight years ago. Write letter
 22 after letter after letter, and I don't know.
 23 Q I understand. You'll note on the second
 24 page, the second subheading, letter B is, "To
 25 distributors."

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1 A Right.
 2 Q Do you remember a series of letters that
 3 went to distributors of Monsanto products that was
 4 distinct from the letters that went to customers?
 5 A I think so.
 6 Q Do you remember anything specific about it
 7 or them?
 8 A No.
 9 Q Now, the Roman numeral II, page four of
 10 this document, refers to, "functional fluids." Did
 11 you have any responsibility for writing letters to
 12 customers of functional fluids regarding withdrawals
 13 of PCB products from the market?
 14 A No.
 15 Q That's all I have on that document.
 16 MR. COUGHLIN: You just want to hand
 17 the exhibits to me. I'll get them in proper
 18 order for the court reporter.
 19 BY MR. TURAT:
 20 Q Okay. Mr. Clark, I'm going to show you a
 21 document that's been marked Clark 3. It's bates
 22 number MAE 054366. And it appears to be a May 21st,
 23 1970, communication from William Hunt. Have you had
 24 a chance to look at it?
 25 A Yes.

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1 Q All right. Do you remember having seen
2 this document before today?
3 A Yes, I do.
4 Q Okay. What is your understanding of what
5 the document is?
6 A This came from someone in Monsanto's
7 medical department as distinct from our research
8 organization and they would be the ones who would
9 contract with and, I believe, I believe this is true,
10 where they would contract with an outside lab to do
11 these various analyses like what is the LD50, lethal
12 dose where fifty percent of the rats die for Aroclor
13 1254. So they would do that. They contract. They
14 get this data back and this is what the, this is the
15 analysis of Aroclor 1254 as far as acute toxicity.
16 Q Now why was it going to you? I see your
17 name is listed up at the top, "W.S. Clark."
18 A Right.
19 Q It appears this is addressed to you at
20 least?
21 A Well, it certainly does appear that way.
22 My name is right up there at the top.
23 Q I --
24 A I think that it would be addressed to me as
25 the product manager who was in charge of removing

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1 these products from the market.
2 Q Did you receive acute toxicity screen
3 documents, as this is one is labeled up at the top,
4 with regards to other products as well?
5 A I don't recall, though -- I don't recall
6 whether we did or not. Though in looking at this
7 document here now, it seems like it fits with what I
8 understand the situation to be with these products
9 way back when is that they were not considered to be
10 acutely toxic. They were, you know, as chemicals,
11 short term use, not much of a problem, as far as
12 acute toxicity was concerned.
13 Q What was your understanding of chronic
14 toxicity of Aroclor 1254 at the time?
15 A Didn't know.
16 Q Was it common for you --
17 A Wait a second. At the time, chronic
18 toxicity would include things like the calcium
19 metabolism in the birds. And I knew that. I knew of
20 no other long term affects of PCB on humans. I don't
21 think anyone did at that time.
22 Q Other than documents that actually said,
23 "Acute Toxicity Screen," at the top, did you receive
24 summaries from the medical department about toxicity
25 information with regards to Monsanto products while

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1 you were in the marketing department?
2 A My recollection is we had a file on these
3 products that say, "They have the following general
4 toxicity characteristics." And this is the kind,
5 this is the kind of analysis that you would do on
6 almost any new product that you introduced. So this
7 kind of data would be available almost as a matter of
8 course for new products. Existing products, I don't
9 know exactly why we, why this document exists by
10 itself, except that Aroclor 1254 was one of the
11 larger volume products. Might have -- I don't know.
12 I don't know.
13 Q Okay.
14 (WHEREUPON, Clark Exhibit 4 was
15 marked for identification.)
16 BY MR. TURAT:
17 Q Mr. Clark, I'm going to show you a document
18 that the court reporter has just marked as Clark 4.
19 It is a June 22nd, 1970, letter from Mr. Hunt and
20 it's bates numbered MAE 049360-61.
21 MR. O'CONNOR: I'm sorry. 04936 --
22 MR. TURAT: 360-61.
23 MR. O'CONNOR: Thank you.
24 BY MR. TURAT:
25 Q Okay. Look up when you're finished going

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1 through it and I'll start the questions. I just
2 don't want to interrupt you before you've had a
3 chance to see it.
4 A Okay.
5 Q Okay. I notice that you're a cc on this
6 document down at the bottom, Mr. Clark. Do you
7 remember receiving a copy of this?
8 A No.
9 Q The other cc is JH Gannon - Everett. Do
10 you know who Mr. Gannon is?
11 A He would be a salesman in the New England
12 area.
13 Q What is Everett?
14 A Everett, Massachusetts.
15 Q That was a sales office in Monsanto at the
16 time?
17 A I believe it was a sales office in
18 Monsanto, right.
19 Q Now, the letter is addressed to a
20 Mr. Kirsch of Borden-Arabel Company, and it starts
21 out with, "Mr. W.S. Clark has informed me that you
22 are desirous for obtaining toxicity data for Aroclor
23 1221 and Aroclor 1250." How would you have come to
24 know a company out in Massachusetts wished to receive
25 toxicity information?

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1 A John Gannon would have told me.
 2 Q Was that a normal line of communication for
 3 a sales person to call you as products manager?
 4 A Yes. He could have called his regional
 5 manager and his regional manager could have called
 6 me. But I knew John. He could have just as easily
 7 called me and told his regional manager about it.
 8 And I would imagine what I did then was pick up the
 9 phone and called Dr. Hunt and say, "What do we have
 10 in the way of data?" And he would send them out this
 11 data.
 12 Q Okay.
 13 A This is pretty standard kind of data for
 14 chemicals in general.
 15 Q And that's --
 16 A Back then. I don't know what it is today.
 17 Q And that was also the standard line of
 18 communication from the customer, through the sales,
 19 into product manager, over to medical department to
 20 get toxicity information?
 21 A Yes.
 22 Q I have no further questions on that one.
 23 (WHEREUPON, Clark Exhibit 5 was
 24 marked for identification.)
 25

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1 BY MR. TURAT:
 2 Q Okay. Mr. Clark, I'm showing you a
 3 document that the court reporter has marked as Clark
 4 5, which is a July 20th, 1970, letter, also from Dr.
 5 Hunt, bates numbered MAE 050231 to 232, and ask you
 6 to take a look at that.
 7 A Okay.
 8 Q Is this the same type of letter, Mr. Clark,
 9 having come through Robert Brell from the Wilmington
 10 office to you?
 11 A Yes.
 12 Q And then you forwarded on to Mr. Hunt, Dr.
 13 Hunt in the medical department?
 14 A I would guess that's exactly what happened.
 15 Q Okay. I have no further questions on that
 16 one either.
 17 (WHEREUPON, Clark Exhibits 6A and
 18 6B were marked for
 19 identification.)
 20 BY MR. TURAT:
 21 Q Mr. Clark, I'm showing you now two
 22 different documents that have been marked by the
 23 court reporter as Clark 6A and Clark 6B. 6A is an
 24 August 14th, 1970 letter from Monsanto from Walter
 25 Schalk, S-C-H-A-L-K, and it's bates number MAE

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1 054468-69. Clark 6B is a technical bulletin titled,
 2 "Aroclor Plasticizers." It's a bulletin number
 3 0/PL-306A and it's bates number MAE 054470-86. Just
 4 to confirm, I just suggested to Mr. Clark that he not
 5 read the technical bulletin page by page. I'll
 6 direct him to any specific passages that I have
 7 questions about in advance effort to save a little
 8 time.
 9 A Okay. I'm finished.
 10 Q Directing you to the August 14th, 1970,
 11 letter that's been marked as 6A, have you ever seen
 12 that before, Mr. Clark?
 13 A It's familiar.
 14 Q Now, it's under Mr. Schalk's signature, but
 15 did you write the letter?
 16 A Well, I don't really recall, but I would
 17 imagine that I did, yeah.
 18 Q Other than you and Mr. Schalk, do you
 19 remember anybody else having input into the final
 20 form of this letter?
 21 MR. COUGHLIN: Let me object in that
 22 you asked him if he wrote the letter, his
 23 first response was that he didn't recall and
 24 you stated in the beginning that you didn't
 25 want him to make an assumption or speculate.

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1 So I don't want that to be a premise of the
 2 question if that's given.
 3 MR. TURAT: Actually I think his answer
 4 was that he probably did write it.
 5 BY MR. TURAT:
 6 Q I'm not asking to you speculate. I'm
 7 asking if you actually remember anybody else
 8 participating in way of comments or edits to the
 9 final letter that you're looking at?
 10 A I do not remember specifically who would
 11 have contributed to this letter. But I do know that
 12 was a matter of policy on a major, something like
 13 this, someone in the research department would have
 14 seen this because it talks about modified
 15 formulations and so we understand this was going out.
 16 And I may have shown it to Mr. Waychoff, but my guess
 17 is this is largely my work and I reviewed it with
 18 some other people.
 19 Q Do you recall one way or the other whether
 20 it had to be cleared by the legal department at
 21 Monsanto before going out?
 22 MR. COUGHLIN: I'll object in terms of
 23 privilege. Don't explain to him any
 24 communications you might have had. You
 25 certainly can answer the question in terms

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1 of whether or not the legal department
 2 reviewed it or not. But aside from that,
 3 don't get into any specific conversations
 4 you might have had with the legal
 5 department.
 6 THE WITNESS: I don't know whether the
 7 legal department reviewed that or not.
 8 BY MR. TURAT:
 9 Q Okay. Can we pull out the document that
 10 was the chronology of communications? I don't
 11 remember if it was number one or number two.
 12 MR. COUGHLIN: Two.
 13 BY MR. TURAT:
 14 Q Mr. Clark, why don't you keep the exhibit
 15 that was marked Clark 2 side by side with this.
 16 You'll notice down on the bottom of that first page,
 17 there's reference to the August 14, 1970, customer
 18 communication, and Clark 6A is an August 14th, 1970,
 19 customer letter. First, let me just ask, do you know
 20 one way or the other whether this is the letter
 21 listed on the chronology of communications?
 22 A It appears to be.
 23 Q On the second page on August 14th letter,
 24 down towards the lower middle part, the paragraph
 25 that starts, "During this withdrawal of PCB's from

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1 the market, Monsanto has had in effect a modified
 2 return goods policy stating that unopened containers
 3 less than one year old could be returned for full
 4 credit through July 31, 1970." First of all, do you
 5 remember there being a return goods policy as, in any
 6 form, as part of the withdrawal from the market as
 7 Plasticizers?
 8 A I remember we established one. I could not
 9 have told you what it was. But this looks like what
 10 we did.
 11 Q All right. Do you know whether this August
 12 14th letter is the first time Plasticizer customers
 13 were notified of a return goods policy?
 14 A No, I don't.
 15 Q Does it help to refresh your memory at all
 16 to look back at the chronology and see these are
 17 records that discusses the return goods policy under
 18 the August 14th letter and no reference to return
 19 goods policy in the May of 1970, letter?
 20 MR. COUGHLIN: I'm going to object to
 21 the form.
 22 THE WITNESS: It looks like the August
 23 14th letter very specifically documented
 24 what the return goods policy was, for all
 25 recipients of this letter. I would expect

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1 that we would have had conversations prior
 2 to August 14th with individual customers
 3 about it. But I don't, I certainly couldn't
 4 recall a specific conversation.
 5 BY MR. TURAT:
 6 Q Do you recall having seen any writing
 7 before August 14th, 1970, that went to customers --
 8 A No.
 9 Q -- letting them know about a return goods
 10 policy?
 11 A I don't remember.
 12 Q Okay. Moving on to technical bulletin
 13 O/PL-306A -- by the way, Mr. Clark, there's a
 14 reference in this August 14th letter to the, "latest
 15 available bulletin in our line of Aroclors is
 16 enclosed for your use."
 17 A Uh-huh.
 18 Q Do you know one way or the other whether
 19 this technical bulletin 306A was the bulletin
 20 enclosed under the cover of the August 14th letter?
 21 A Well, no. I do not. I do not know.
 22 Q Do you know if 306A superseded technical
 23 bulletin O/PL-306?
 24 A No. I mean, no, I don't know that.
 25 Q Okay. Mr. Clark, I'm going to show you a

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1 document, I'm happy to mark in another document as an
 2 exhibit. It was marked Orem 3 in a prior deposition.
 3 MR. TURAT: Do you have a preference as
 4 to whether it gets marked again? I'm going
 5 to show it to him beside this one.
 6 MR. COUGHLIN: I have no preference.
 7 MR. TURAT: Okay. Let's not mark
 8 another one, if we can avoid it. For the
 9 record, what I'm referring to as Orem 3 is
 10 the technical bulletin O/PL-306. It says,
 11 "Aroclor Plasticizers," and it's bates
 12 number MAE 040881 through 934.
 13 THE WITNESS: Okay.
 14 BY MR. TURAT:
 15 Q Have you seen this document before, Mr.
 16 Clark?
 17 A Well, it looks like it's the complete
 18 technical bulletin on Aroclor Plasticizers.
 19 Q Now, let me refer you, Mr. Clark, to the
 20 very last page. I'm sorry, second to last page as
 21 it's been photocopies. It's page 933, MAE 040933,
 22 down at the bottom, there's a small, in small print,
 23 there's a number, "1-2-68." Does that mean anything
 24 to you in regard to the date of the document?
 25 A Well, I didn't get there until three

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1 something 1970. That looks like a date to me. Does
 2 it look like a date to you?
 3 Q It does look like a date to me. Although I
 4 don't know the manner in which documents put out by
 5 Monsanto were dated.
 6 A Well, I don't either.
 7 Q Fair enough. Do you know one way or the
 8 other whether this is the technical bulletin 306
 9 that's referred to in the August 14th letter?
 10 A Well, it says in the front of it, so it
 11 must be.
 12 MR. COUGHLIN: Excuse me. Which one
 13 are you referring to now?
 14 MR. TURAT: Well one is 306 on the
 15 front and one is 306A.
 16 MR. COUGHLIN: What is your question, I
 17 guess.
 18 BY MR. TURAT:
 19 Q The question is whether the document that
 20 was marked as Orem 3 and that says, "306," on the
 21 front is the same technical bulletin O/PL-306 that's
 22 referred to in the August 14th letter?
 23 MR. COUGHLIN: It's referring to a
 24 latest available bulletin --
 25 MR. TURAT: Okay. And then it says,

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1 "This publication replaces and supersedes
 2 bulletin O/PL-306 Aroclor Plasticizers."
 3 MR. COUGHLIN: So you're referring to
 4 the document that was replaced, not the
 5 document that was enclosed?
 6 MR. TURAT: Correct.
 7 BY MR. TURAT:
 8 Q Mr. Clark, I think you answered the
 9 question already.
 10 A Yes.
 11 Q All right. I'm going to ask you to put 306
 12 next to 306A and then we'll walk through them.
 13 A Okay.
 14 Q When you start into, let me make sure I've
 15 got this right. 306A, which is the document that's
 16 been identified as Clark 6B?
 17 A Yes.
 18 Q You go ahead to the third page --
 19 A Yes.
 20 Q -- and you open the other document up to
 21 page four, you have those two pages side by side. Do
 22 you see the section that says, "Monsanto Aroclor
 23 Plasticizers comprise a series of chlorinated
 24 biphenyls and chlorinated biphenyls --"
 25 A Yes.

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1 Q Would you agree with me that the section
 2 from there, that the two sections are identical in
 3 bulletin 306 and bulletin 306A?
 4 A No.
 5 Q Okay. Would you agree that it's identical
 6 from the point at which it says, "Monsanto Aroclor
 7 Plasticizers," down through the part that says, "but
 8 lower in price?"
 9 A Is identical to what? Oh, wait a second.
 10 I'm sorry. In 306A, where you start, "Monsanto
 11 Aroclor Plasticizers comprise a series of chlorinated
 12 biphenyls," that's in what's referred to as
 13 introduction in that, and it's in the description
 14 part of 306. So let me go a back and see whether
 15 they come down and -- yeah, it looks like they're the
 16 same.
 17 Q And the section that begins after that
 18 with, "Solubility," and it starts out, "The Aroclor
 19 liquids and resins --"
 20 A Yes.
 21 Q If you flip ahead in technical bulletin 306
 22 to page thirty-nine.
 23 A Yes.
 24 Q Would you agree that those passages are the
 25 same?

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1 A Except for the table reference.
 2 Q Correct. The table number reference has
 3 changed. Then when go on to the next page in both
 4 306 and 306A, I trust you'll find that the next one,
 5 two, three, four, five, six, seven, and a half pages
 6 are identical?
 7 A Would you like me to go through and check
 8 the numbers on all these?
 9 Q No. But just look at them in the overall
 10 contours. I'll represent to you that I have been
 11 through the numbers and the numbers did not change.
 12 A Okay.
 13 Q Would you agree with me that essentially
 14 that the passages are the same?
 15 A Look to be.
 16 Q And technical bulletin 306A ends up with a
 17 section on toxicity and safe handling, correct? It's
 18 right after it in 306A.
 19 A Well, there's some other things. Those are
 20 all the --
 21 Q Those are all the seven and a half pages
 22 that are identical.
 23 A Oh.
 24 MR. COUGHLIN: Just, I'd like the
 25 record to reflect that he did not examine

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1 those documents to ensure that they are
 2 identical but he is relying on
 3 representations from --
 4 MR. TURAT: I'm not looking for him to
 5 rely on representations. I'm looking for
 6 him -- I'm not going to ask him whether a
 7 single digit in seven and a half pages of
 8 figures have changed. But I do want him to
 9 be able to say for the record that a passage
 10 from one has been reused as a passage to
 11 another. I will not hold him to the
 12 specific numbers that appear in any specific
 13 chart. I'll represent to him I have not
 14 seen a single number change.
 15 THE WITNESS: Okay.
 16 BY MR. TURAT:
 17 Q Okay. Now, so the major difference, would
 18 you agree, between technical bulletin 306 and
 19 technical bulletin 306A, is that the entire middle
 20 body, the end of description, up through each of the
 21 discussions of uses of Aroclor products, all the way
 22 through to the part that we've just gone through in
 23 detail, has been removed?
 24 A That appears to be the case.
 25 Q And I'd like you to look, before you close

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1 it, at that toxicity and safe handling section, which
 2 appears in both brochures, or I'm sorry, both
 3 technical bulletins.
 4 A Okay.
 5 Q And if you put the two of those side by
 6 side, comparing them paragraph by paragraph, would
 7 you agree with me that they are the same but for the
 8 addition of an additional section 306A, which is
 9 entitled, "Environmental Hazards?"
 10 A That appears to be the case.
 11 Q I have no further questions on that.
 12 A Let me just comment then, you know, to the
 13 extent that what we found before that appeared to be
 14 the date was still a date in 306A. All of this is
 15 all done before I arrived at the scene. So, you
 16 know, the exact reason it was put there and why it
 17 was done that way is, you know, I don't know.
 18 Q Okay. Do you know when 306A was first
 19 published?
 20 A No, I don't except that it's got a 3/70
 21 down here at the back at the same place the other one
 22 had a 1968 date.
 23 Q Other than seeing the 3/70 reference, do
 24 you know when it was first distributed to anybody?
 25 A No, I don't.

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1 Q Okay.
 2 MR. COUGHLIN: This is Orem 3. Do you
 3 want that back?
 4 MR. TURAT: Off the record.
 5 (WHEREUPON, a brief recess was
 6 taken off the record.)
 7 BY MR. TURAT:
 8 Q Mr. Clark, I'm showing you a document
 9 that's dated September 8th, 1970. It's headed, "PCB
 10 Environmental Problem August Status Report," and it's
 11 bates numbered MAE 056298-310. And this is another
 12 one, I'll state for the record, I can direct you to
 13 any section that I have questions about. There are
 14 not many, if you just want to skip it over generally.
 15 A Okay. Just a second. Okay.
 16 Q Do you recall receiving this document, Mr.
 17 Clark?
 18 A No, but that was twenty years ago.
 19 Q Do you know what it is?
 20 A Yes.
 21 Q Okay. What is your understanding of what
 22 the document that's been marked as Clark 7 is?
 23 A It looks like it's a summary from Mr.
 24 Papageorge, status of the marketing withdrawal
 25 programs for all Aroclors from Monsanto.

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1 Q Now, there's a list of people to whom the
 2 document was apparently to be directed?
 3 A Uh-huh.
 4 Q And the first name is, "D. S. Cameron," and
 5 it says, "Brussels." Do you know who Mr. Cameron
 6 was?
 7 A No, I don't.
 8 Q Do you know, as of August of 1970, whether
 9 Monsanto had a presence in Brussels?
 10 A Yes, they did.
 11 Q What is your understanding of Monsanto's
 12 presence in Brussels at the time?
 13 A I don't recall, except I'm quite sure they
 14 had a sales office there. There may have been
 15 manufacturing in Europe some place also, but I don't
 16 recall that.
 17 Q Do you know whether Monsanto, as of August
 18 1970, sold PCB Plasticizer products in Europe?
 19 A I believe we did.
 20 MR. COUGHLIN: Is that prior to August
 21 of 1970 you say?
 22 MR. TURAT: I said in August of 1970.
 23 THE WITNESS: Oh, in August of 1970. I
 24 do not know whether we sold any plasticizer
 25 products in August of 1970.

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1 BY MR. TURAT:
 2 Q Do you know whether before August of 1970?
 3 A I think Monsanto had a presence in the
 4 market with Aroclors in Europe, though there was a
 5 major European crom blanc (sic) as a major European
 6 competitor, as I recall, in Europe. And I don't
 7 recall what sort of market share we might have had.
 8 Q Okay. Now the next name is, "W. W. Clark."
 9 But below that is, "J. R. Durland, Tokyo."
 10 A It's a familiar name. I seen it, our guy
 11 in Tokyo. I don't know.
 12 Q To your knowledge, did Monsanto sell PCB
 13 Plasticizer products in Japan before August of 1970?
 14 A I can't recall any specific information
 15 that would indicate we had sold in the Japanese
 16 market. If we did sell in the Japanese market, it
 17 would have been minor.
 18 Q Are you -- had you finished your answer?
 19 A I finished my answer.
 20 Q Okay. Do you know anything about whether
 21 Monsanto ultimately withdrew PCB Plasticizer products
 22 from the market in Europe?
 23 A We removed them worldwide.
 24 Q Do you know whether Monsanto withdrew PCB
 25 Plasticizer products from the market at the same time

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1 there were withdrew here in the United States?
 2 A My recollection is that we did. We did not
 3 continue to sell in Europe or any place else after we
 4 sold or discontinued the sales in the United States.
 5 Q Did you personally have any involvement in
 6 the implementation of the withdrawal plan with regard
 7 to those products in Europe or Japan?
 8 A It would not have been any specific
 9 activities directed towards those markets, like
 10 visiting Europe or visiting Japan to implement this
 11 product because I did not do that. Any
 12 implementation of that would have been through the
 13 sales force in Europe or Japan.
 14 Q Okay. That's all I have on that document.
 15 (WHEREUPON, Clark Exhibit 8 was
 16 marked for identification.)
 17 BY MR. TURAT:
 18 Q Mr. Clark, I'm going to show you the
 19 document that the court reporter has marked as Clark
 20 8. It's a September 23rd, 1970, letter from Mr.
 21 Waychoff to customer regarding Aroclor Plasticizers
 22 and there are some attachments to it. It's bates
 23 numbered MAE 054497-512.
 24 A Yes.
 25 Q Okay. First let me take each of the pieces

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1 and ask you if you've seen them before. The first is
 2 a cover letter from Waychoff to customer dated
 3 September 23rd, 1970. Do you remember seeing that
 4 one before?
 5 A I guess so.
 6 Q The second page appears to be a letter from
 7 you, dated September 23rd, 1970. That's an, "Aroclor
 8 Price List Quoted in Dollars per Pound." Do you
 9 remember preparing that document?
 10 A Do I remember preparing the document? No.
 11 Looks like it's one I prepared.
 12 Q Is that your signature down at the bottom?
 13 A Yeah, that's my signature at the bottom.
 14 Q And flipping ahead to the next page which
 15 is the beginning of the document that runs through to
 16 the end, there does not appear to be a specific
 17 number on this one, but is this a document that you
 18 remember?
 19 A Yes. This is one that looks like something
 20 that I either prepared or helped prepare.
 21 Q Okay. Now going back to the beginning, the
 22 cover letter from Mr. Waychoff, the subject up at the
 23 top refers to, "A new series of inert
 24 chemically-resistant, fire-retardant plasticizers
 25 compatible with a wide variety of resins," and new is

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1 underlined. Is that the package of materials that
 2 were rolled out as substitutes to the Aroclor PCB
 3 products?
 4 A Yes.
 5 Q And Mr. Waychoff, when he refers to, in his
 6 letter to, "an enclosed new product bulletin and also
 7 a new price list for these products," those are the
 8 letter from you and the brochure that's attached to
 9 it?
 10 A Yes.
 11 Q Okay. Now, Mr. Clark, looking at your
 12 letter for a moment, the second page, there's a
 13 series of products that are here with prices based on
 14 different sizes. Aroclor 1221 was not a new product
 15 in September of 1970 was it?
 16 A No, it was not.
 17 Q It had been around for decades, right?
 18 A Right.
 19 Q And the 5400 series of Aroclors, 5442,
 20 5460, those were not new products either, were they?
 21 A That's correct.
 22 Q They had also been around for decades?
 23 A That's right.
 24 Q And the 6000 series, which is a blend of
 25 Aroclor 1221 and the 5400 series, is that right?

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1 A Yes, and those were the new products.
 2 Q Okay. But they were blends of the 5400
 3 series and Aroclor 1221 that were available for years
 4 and years and years, correct?
 5 A Yes.
 6 Q All right. Now, let's flip ahead to the
 7 product brochure, for lack of a better word, the
 8 Aroclor Plasticizers on page three of it. Now the
 9 5400 series, I think we just mentioned, those are
 10 chlorinated terphenyls?
 11 A Right.
 12 Q And those were being offered as substitute
 13 Plasticizers for the PCB containing Plasticizers?
 14 A Blends of those terphenyls with Aroclor
 15 1221 were being offered at this time.
 16 Q So the 5400 series terphenyls were not
 17 being offered by themselves?
 18 A I guess they were. It looks to me like
 19 they were. I think I said earlier, I thought they
 20 were all taken off the market. And I think they have
 21 all been taken off the market, but it must have been
 22 a multi step process and they may have been taken off
 23 the market after this September date.
 24 Q Do you recall when the terphenyls were
 25 pulled from the market?

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1 A No, I don't.
 2 Q Do you know why the terphenyls were pulled
 3 from the market?
 4 A I don't know that they were pulled from the
 5 market, but I would imagine they were.
 6 Q Why do you imagine they were pulled from
 7 the market?
 8 A I don't know.
 9 MR. COUGHLIN: I'm going to object to
 10 the form of the question. It's certainly
 11 legitimate that he used the word imagine,
 12 but, again, he's asking you about your
 13 knowledge as opposed to speculation or
 14 imagination.
 15 THE WITNESS: You know, I really don't
 16 know what happened to the 5460 series, the
 17 5400 series. All these documents that you
 18 show me bring back data and facts that I
 19 haven't thought about for a long, long time.
 20 So, it appears that this September
 21 document was an attempt to get some new
 22 products, some replacement products for the
 23 Aroclors that we took off the market and get
 24 something that would be comparable into the
 25 market place. One of the things I also

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1 don't know is whether any of those 6000
 2 series were successful.
 3 If they were not successful, then the
 4 volume of business involved would have
 5 dropped to the point where they may well not
 6 have been economically viable, profit wise,
 7 to keep them on the market. But I don't
 8 know.
 9 BY MR. TURAT:
 10 Q Okay. Now, Aroclor 1221 was a mono
 11 chlorinated biphenyl, right?
 12 A Right.
 13 Q And to your knowledge was Aroclor 1221 also
 14 pulled from the market?
 15 A I do not know what the status of that is --
 16 was. It would have been my understanding, based on
 17 what I know of the toxicity and the environmental
 18 problems with Aroclor 1221, that it was not an
 19 environmental problem. And that has to do with the
 20 structure of the material and whether it's
 21 biodegradable or not. So I don't think it was a
 22 problem. We didn't consider it a problem at this
 23 time or we wouldn't have reformulated it into these
 24 other things. But what happened after two or three
 25 years, I don't know.

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1 Q How about with regards to the 6000 series?
 2 A I do not know. Do not know.
 3 Q Do you still have the technical bulletin
 4 306?
 5 MR. COUGHLIN: Orem 3?
 6 MR. TURAT: Yeah, Orem 3.
 7 BY MR. TURAT:
 8 Q Mr. Clark, I'm just going to show you the
 9 technical bulletin 306 that we had open before and
 10 refer you to toxicity in safe handling section again.
 11 What I'm showing you is the section that related to
 12 the Aroclor PCB Plasticizers.
 13 A Okay.
 14 Q And then, I'll ask you to look at the
 15 document that's been marked Clark 8, and specifically
 16 refer you to the bates numbered page 05411.
 17 A Okay.
 18 Q Which is the section on toxicity and safe
 19 handling.
 20 A Okay.
 21 Q If you put these side by side, would you
 22 agree with me that that language is the same, with
 23 the exception that, "Chlorinated -- Aroclor
 24 chlorinated polyphenyls -- " I'm sorry, even that is
 25 the same. With the exception of the paragraph on

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1 inhalation tests and the PCB's are no longer in it
 2 because PCB's are not an issue?
 3 A Right. Looks like the same -- well, let's
 4 see.
 5 Q And also the sentence on Schwart's (sic)
 6 patch tests relating to Aroclor 1254 has been removed
 7 because it doesn't pertain to 1254 any longer?
 8 A Right. Okay. They look like they're the
 9 same.
 10 Q The toxicity and safe handling information
 11 is the same before the PCB products were pulled from
 12 the products as they are when we're talking about
 13 terphenyls, mono chlorinated polyphenyls and blends
 14 of those two?
 15 A (Witness nods).
 16 MR. COUGHLIN: You have to answer
 17 verbally.
 18 THE WITNESS: Yes.
 19 BY MR. TURAT:
 20 Q I have no further questions on that one.
 21 (WHEREUPON, Clark Exhibit 9 was
 22 marked for identification.)
 23 BY MR. TURAT:
 24 Q Mr. Clark, I'm showing you what the court
 25 reporter has marked as Clark 9. It's a document

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1 entitled, "Replacement Suggestions for Aroclor
 2 Plasticizers," and it's bates numbered MAE
 3 059863-874. Okay. Mr. Clark, on the -- first of
 4 all, do you recognize this document?
 5 A Yeah, it looks like something we put
 6 together.
 7 Q What is it?
 8 A What is it?
 9 Q Yes.
 10 A It's replacement suggestions for Aroclor
 11 Plasticizers.
 12 Q And who was the intended recipient or
 13 recipients?
 14 A Customers.
 15 Q Now, on the second page, is that your
 16 signature at the bottom?
 17 A Yes.
 18 Q Did you -- do you remember whether you
 19 actually drafted this document?
 20 A I think I probably did, twenty-eight years
 21 ago.
 22 Q Do you remember when you put it together?
 23 I couldn't find a date on it.
 24 A No, but it's got to be some time in, you
 25 know, six months or so after I got there because it's

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1 got the new products. And you'll note the wording,
 2 "Monsanto has attempted to put together a list of
 3 replacement suggestions. . . . it will be used as a
 4 starting point in reformulation." It's kind of
 5 Monsanto's best effort to help the customer with
 6 reformulation problems.
 7 Q And the top paragraph of the second page,
 8 I'll quote it for the record, "In conjunction with
 9 our removal of Aroclor Plasticizers from the market,
 10 Monsanto has attempted to put together a list of
 11 replacement suggestions for this line of products.
 12 Anyone who has had experience with Aroclors will
 13 recognize this is a difficult task. The combination
 14 of thermal and chemical stability, good
 15 compatibility, low cost and fire retardance make
 16 Aroclors difficult products to replace." Do you
 17 still agree with that today?
 18 A (Witness nods).
 19 Q You have to say it for the record.
 20 A Yes.
 21 Q There's a list of gentleman down at the
 22 bottom who are referred to as people who have had
 23 contact with various applications. Who is Dr.
 24 Coaker? William Coaker?
 25 A I believe all these people were market

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1 managers as they had responsibilities for various
 2 applications, applications areas. Like it says Dr.
 3 Coaker would have worked with acrylics and adhesives
 4 and Polysulfides. And Dr. Farley would have worked
 5 with rubber products and Urethane foam and etcetera.
 6 So rather than dividing the market up by products,
 7 they divided it up by application, these folks with
 8 the applications.
 9 Q Did you ever have occasion to work with Dr.
 10 Coaker specifically in your connection with
 11 withdrawal of PCB's from the market?
 12 A Yes.
 13 Q What was the nature of your interactions or
 14 work with him?
 15 A We talked about what the products were,
 16 what the reformulation problems would be, and how he
 17 went about working on it, or how I went about working
 18 on it. Just in general, that's what we would have
 19 talked about.
 20 Q Did he also share with you any of his
 21 experiences as to what customers had used the PCB
 22 products for?
 23 A I'm sure he did.
 24 Q And is that true of Dr. Farley, or Mr. Orem
 25 or Mr. Press as well?

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1 A Yes.
 2 Q Okay. That's all I have on that one.
 3 (WHEREUPON, Clark Exhibit 10 was
 4 marked for identification.)
 5 BY MR. TURAT:
 6 Q Mr. Clark, let me show you a document
 7 that's been marked as Clark 10 and it's a December
 8 31, 1971, letter, bates numbered MAE 054620 through
 9 633. Look at that, just so you know, I'll repeat to
 10 you that I'm not going to ask you about the
 11 attachments to the letter, which appear to be a
 12 distribution list.
 13 A Uh-huh.
 14 Q Okay. Have you seen the document that's
 15 been shown to you as Clark 10 before?
 16 A That looks familiar, you're helping me
 17 refresh my memory.
 18 Q Does this refresh your memory as to when
 19 the PCT Plasticizers were pulled from the market by
 20 Monsanto?
 21 A This thing says they were pulled from the
 22 market March 31st, 1972.
 23 Q And this announcement to customers about
 24 the withdrawal was in December of 1971?
 25 A That's what it says.

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1 Q Do you have any independent recollection as
 2 to when?
 3 A No.
 4 Q In the second paragraph, there is a
 5 sentence that basically says, "Normal volumes of our
 6 existing Aroclor product line maybe purchased between
 7 now and March 31, 1972," and there's more to that
 8 sentence. But, then it says, "Sales during the last
 9 six months of 1971 will determine normal order
 10 quantities." Why did Monsanto limit it's customers
 11 to normal quantities as defined in a period that had
 12 already passed?
 13 A How else would you do that?
 14 Q Well, when the withdrawal of PCB
 15 Plasticizers was implemented, was there any
 16 limitation placed on how much a customer could
 17 purchase by a cut off date?
 18 A I think we let people buy quantities that
 19 were similar to what they had been purchasing on a
 20 regular basis. The time frame was a little bit
 21 different there, so, we really didn't give people a
 22 chance to stock up I don't think. From the time we
 23 started this whole thing until when it was done for
 24 the PCB's was only about eight months. Something
 25 like that.

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1 MS. O'CONNOR: I'm having a little
 2 trouble hearing the witness.
 3 THE WITNESS: I'm sorry. From the time
 4 we started this whole thing until we were
 5 done, it was only about eight months. The
 6 idea of being able to create a pattern for
 7 allowing how much to order was difficult to
 8 do. I don't think we spent a lot of time
 9 doing that. We basically wanted to quit
 10 shipping the products.
 11 BY MR. TURAT:
 12 Q All right. I have no further questions on
 13 that document.
 14 (WHEREUPON, Clark Exhibit 11 was
 15 marked for identification.)
 16 BY MR. TURAT:
 17 Q Mr. Clark, I'm showing you a document
 18 that's been marked Clark 11, it's an October 6th,
 19 1970, document, "PCB Environmental Problem September
 20 Status Report," and ask you to take a look at it.
 21 I'm going to ask you a couple questions about the
 22 section entitled, "Marketing," on page two.
 23 A Okay.
 24 Q Okay. I'm not intending to ask you
 25 additional questions about the rest of the document.

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1 Focussing on that, "Marketing," section on page two,
 2 Mr. Clark, there is a reference to the fact that,
 3 "Our distributors are well on their way to zero
 4 inventories of the Aroclors." Do you know one way or
 5 the other, Mr. Clark, based on your work at Monsanto
 6 whether any of the distributors of Monsanto
 7 Plasticizer products were still selling those
 8 products after August 31st of 1970?
 9 A I don't have any specific recollection as
 10 to whether they had materials or not. But I could
 11 tell you that since they're an extra link in the
 12 distribution chain and if we cut off sales to them,
 13 and it ended the end of whenever, end of September,
 14 they would have some material in their inventories
 15 and they would continue to sell that for some period
 16 of time.
 17 Q Is that speculation on your part or is that
 18 something you know?
 19 A That's the way any, any distribution system
 20 would work, I would think. But as far as how much
 21 did they have, I don't know. I would think they
 22 would almost certainly have some. I can hardly
 23 imagine that they didn't end up with some that they
 24 would sell for some number of weeks or months after
 25 September 31st. That's sort of what this thing says.

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1 "Distributors are well on their way to zero
2 inventories."
3 Q They're not there yet?
4 A They're not there yet and that's what is
5 expected.
6 Q Now the next paragraph says that, "Orders
7 for the products which will replace the withdrawn
8 Aroclors in the market are starting to come in. It
9 will be several months before substantial volumes are
10 being sold, however, as most companies have some
11 inventory of the old product in stock." Do you
12 recall from your time working this whole withdrawal
13 project whether there were in fact, whether most
14 companies did in fact have some inventory of the old
15 Aroclor PCB products still in inventory after the cut
16 off date for sales of the PCB products?
17 A I'm sure they did. If you took any date,
18 any arbitrary date and said, you know, does the
19 customer have an inventory of these products, the
20 answer would be, yes. They have it in anticipation
21 of their use. And so they would almost certainly
22 have some inventory as of September 30th.
23 MR. COUGHLIN: September 30th or August
24 30th?
25 THE WITNESS: Is it August 30th?

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1 BY MR. TURAT:
2 Q August 30th of 1970.
3 A August 30th, they would certainly have some
4 after August 30th. How much that would be, I don't
5 know.
6 Q Was it your understanding at the time that
7 as that inventory would be used up, they would
8 purchase the substitute products from Monsanto?
9 A They would either purchase the substitute
10 product from Monsanto or purchase an alternative
11 product from somebody else, yeah.
12 Q Okay. I have no further questions on this
13 one.
14 (WHEREUPON, Clark Exhibit 12 was
15 marked for identification.)
16 BY MR. TURAT:
17 Q Mr. Clark, I'm going to show you a document
18 that's been marked Clark 12, it's a February 8th,
19 1971 document entitled, "PCB Environmental Problem
20 January Status Report." And again, I'll represent to
21 you there are only three or four sentences that I'll
22 ask you specific questions about. I'll ask you just
23 to take a look at it. And then I'll ask whether you
24 recognize it first.
25 A Looks like it's another status report from

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1 Mr. Papageorge.
2 Q Do you remember receiving it?
3 A Do I remember receiving it, no.
4 Q Do you remember receiving -- I've shown you
5 a bunch of status reports now that have your name at
6 the top as a, listed as an addressee --
7 A The fact that I say that I do not remember
8 receiving it, does not mean that I didn't receive it
9 or didn't receive it and read it. But do I remember
10 receiving this particular document that says this
11 information about PCB's in fatty tissue in chickens
12 dated February 8th, no, I don't remember that.
13 Q Do you remember generally receiving status
14 reports from Mr. Papageorge, again about the PCB
15 withdrawal?
16 A Yes. Yes. Because as we said very early
17 on when you asked me who Mr. Papageorge was, I said I
18 remember the name, but I don't remember who he was or
19 what he did. I have a picture of him in my mind but
20 I couldn't remember what he did. Now I remember he
21 was sort of the guy that was overseeing the
22 documentation of all this stuff.
23 Q Okay. Drawing your attention to the second
24 page of this status report, the paragraph under,
25 "Marketing," that says, "U.S. Steel, Christy Park."

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1 A Yes.
2 Q Now there's a sentence, "To our knowledge,
3 this is the first major loss of business for
4 ecological reasons." Did you have an understanding
5 at the time of whether Monsanto had lost any of it's
6 customers of the Plasticizer products because --
7 A This is not a Plasticizer product.
8 Q Okay. What product is involved here?
9 A Well, I don't know. But I'm quite certain
10 it wasn't. I don't recall, U. S. Steel does not
11 sound like it would have been a Plasticizer company.
12 It says, "Through this competitive fluid," functional
13 fluid is lower in price. So I think this is one of
14 the, it's not a Plasticizer product.
15 Q Fair enough. And functional fluids was not
16 within your domain?
17 A No, it was not.
18 Q Now down below under the section that says,
19 "Engineering -- "
20 A Yes.
21 Q "Incineration - WGK," do you recall whether
22 Monsanto was, at one point in time, constructing an
23 incinerator for disposal of PCB's?
24 A It's my recollection they were.
25 Q Do you remember when that whole issue was

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1 taking place?
 2 A I would have said that it probably started
 3 mid 1970, in terms of trying to figure out what they
 4 were going to do and when they could get a plan on
 5 stream, I guess this thing talks about that design,
 6 engineering, completion. When this is exactly, ten
 7 months after I started, so, sounds like they were
 8 working a pace to get a design in place to incinerate
 9 these things. The problem with the incineration is
 10 it had to be a very high temperature and there has to
 11 be a certain resins time and if you can achieve that,
 12 you're okay. But it's way different from a normal
 13 incinerator.

14 Q I also turn your attention to page three,
 15 under, "Europe," it says, "Customer letters sent to
 16 all non-controllable PCB users in the U.K. advising
 17 of decision to cease sales on March 1st, 1971." By
 18 way of clarification, non-controllable PCB uses, is
 19 that, in your understanding, the same as open
 20 applications?

21 A I don't know. I don't know.

22 Q Does this refresh your recollection at all
 23 as to when the PCB Plasticizer products were
 24 withdrawn from the market in Europe?

25 A Well it looks like it must have been after

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1 they were withdrawn from the market in the U.S.
 2 Well, let's see. There's more things down below.
 3 Just a second. Looks to me like Monsanto was, had
 4 wished to withdraw these products in Europe also at a
 5 somewhat delayed time table.

6 Q Okay. I have no further questions on that
 7 one.

8 (WHEREUPON, Clark Exhibit 13 was
 9 marked for identification.)

10 BY MR. TURAT:

11 Q Okay, Mr. Clark, I'm going to show you a
 12 document that's been marked Clark 13. It's a March
 13 15th, 1971 letter, bates numbered MAE 050036-38.

14 A Okay.

15 Q Okay. Down at the bottom of this document
 16 there is a signature line with your name on it,
 17 although there's no signature on it. Do you recall
 18 one way or the other whether you actually wrote this
 19 letter?

20 A No. But I would believe that I did.

21 Q Do you remember whether Santicizer 317 was
 22 a product that actually went to market?

23 A I don't know that. I think from the
 24 appearance of this, it was one that was tested. But
 25 whether it actually, whether they actually ended up

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1 using it, I don't know.

2 Q Did Santicizer 317 contain a PCB or a PCT?

3 A Evidently it contained a PCT.

4 Q Okay. Now, on the second page of that
 5 document, could we pull out good old Orem 3 once
 6 again, again opening up to the toxicity and safe
 7 handling section.

8 A Okay. Got it.

9 Q I'll direct your attention to the middle
 10 paragraph that begins, "As far as," I'm sorry, the
 11 next sentence says, "At ordinary temperatures," do
 12 you see --

13 A Yes.

14 Q -- the analogous sentence in the toxicity
 15 and safe handling section on technical bulletin 306?

16 A Yes.

17 Q Do you see as well the sentence that
 18 follows that, "When Santicizer 317 is used at
 19 elevated temperatures," so on and so forth?

20 A Yes.

21 Q It's also in the same language that's in
 22 technical bulletin in 306?

23 A As far as I know.

24 Q And if you flip ahead to the toxicity and
 25 safe handling section, to the next page, you'll see

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1 the next paragraph in your letter starts out,
 2 "Continuous or repeated skin contact?"

3 A Yep.

4 Q It's the same paragraphs, correct?

5 A Looks that way. Sure enough.

6 Q Okay. When you wrote to customers who had
 7 requested toxicity information, did you customarily
 8 incorporate language from the technical bulletins?

9 A It would be the easiest way to do it to be
 10 consistent.

11 Q Okay. I have not further questions about
 12 that one.

13 MR. COUGHLIN: Let's go off the record
 14 for one second.

15 (WHEREUPON, a brief recess was
 16 taken off the record.)

17 BY MR. TURAT:

18 Q Mr. Clark, I'm showing you a document
 19 that's been marked as Clark 14, which is a June 10th,
 20 1971, "PCB Environmental Problem May Status Report."

21 A Okay.

22 Q Have you seen this one, this document
 23 before, sir?

24 A Probably. Looks like it crossed my desk.

25 Q Okay. On the second page of this status

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1 report, bates MAE 054266-281, "PCB Environmental
2 Problem May Status Report," on the second page, Mr.
3 Clark, under Japan --

4 A Yes.

5 Q It states that, "The response to PCB's has
6 been very abrupt in Japan and all Aroclor 1242-type
7 fluid has been terminated in NCR capsules for copy
8 paper." It also states that, "Imports for Pydraul,"
9 that's P-Y-D-R-A-U-L, "have also been subjected to
10 critical review and Pydraul 312-A is demanded instead
11 of Aroclor products which contain PCB's." Do I
12 remember, was Pydraul in or not within your domain?

13 A No. That is a functional fluid.

14 Q Okay. Do you remember one way or the other
15 whether Monsanto in the United States exported
16 Pydraul PCB containing fluid to Japan?

17 A I do not have any idea.

18 Q Do you know whether Monsanto, a Monsanto
19 entity based in Japan manufactured Pydraul fluid
20 containing PCB's?

21 A I also have no knowledge of that. Those
22 are areas that I was never involved in.

23 Q There's a brief reference on page three to
24 someone's request for production data and use of
25 certain PCB products by various categories. Did you,

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1 in the course of your employment with Monsanto see a
2 detailed breakdown of the different uses of the
3 different PCB Plasticizer products by the customers?

4 MR. COUGHLIN: Can you refer him to
5 which portion of the document you're
6 referencing?

7 BY MR. TURAT:

8 Q Page three, all the way at the bottom, it's
9 a passing reference. But it's prompting my question.

10 A "The Committee is looking at arsenic,
11 cadmium and PCB's as to where the Government should
12 put priorities." Is that what --

13 Q No. "Nelson's informal comments," second
14 line from the bottom.

15 A "His committee would need production data
16 and use by various categories." We had sales
17 records, who bought what, how many pounds were
18 shipped to what customer.

19 Q In connection with the implementation of
20 the withdrawal from the market Plasticizers, did you
21 ever see a compilation that actually listed out the
22 various uses of specific PCB Plasticizer products?

23 A I'm sure we must have put that together.
24 It would make sense that we would have. But I don't
25 --

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1 MR. COUGHLIN: You looked awful
2 troubled when you said that. And again,
3 he's asking you what you remember, not what
4 you would assume may have happened or what
5 --

6 THE WITNESS: I don't remember a
7 specific document that says, "Here's where
8 they were, here's where it went." But by
9 the same token, I'd be surprised if we
10 didn't produce one, from my perspective, at
11 this age looking back on this kind of
12 problem someone would have presented such a
13 summary. But I don't -- I don't remember.

14 BY MR. TURAT:

15 Q I have no further questions about that
16 document. Let me just take a quick look at my notes.
17 Mr. Clark, in all your time as an employee of
18 Monsanto, did you ever come across any reference to a
19 use of an Aroclor PCB Plasticizer product in
20 connection with a ceiling tile?

21 A I think the, what I would respond to that
22 is it seems like Aroclor Plasticizers were used in a
23 variety of products that went into the building
24 construction business that, you know, tiles of some
25 sort. Specifically ceiling tiles, I guess I would

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1 have to say, yes, I think I knew that they went into
2 ceiling tiles.

3 But I didn't know much about that, if
4 they did, primarily because Armstrong would have been
5 the place they would have gone. And because of the
6 way the Armstrong account was managed, I didn't know
7 anything about it. I mean, I just had no contact
8 with Armstrong.

9 Q Did you ever see any documents referring to
10 the use of those products in ceiling tiles by other
11 customers?

12 A Did I ever see any documents, I don't know.
13 I would guess that the answer to that is yes, but I
14 don't know.

15 MR. COUGHLIN: He doesn't want you to
16 guess.

17 THE WITNESS: Well, I mean I can not
18 say that, yes, I can remember a document
19 that had to do with ceiling tiles and
20 Aroclors. I do not remember that.

21 BY MR. TURAT:

22 Q Based on the different applications that
23 you did see for Aroclor, PCB containing Aroclors, is
24 that an application that surprises you?

25 MR. COUGHLIN: Object to the form.

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1 THE WITNESS: I do not know much about
2 the structure of ceiling tiles. As I look
3 at these particular ceiling tiles, for
4 example, or other ceiling tiles that I think
5 about, as far as in drop ceilings and things
6 like that, which I think is what you're
7 talking about, I don't know --

8 MR. COUGHLIN: When you say -- I'm
9 sorry. I don't mean to interrupt. When you
10 say these ceiling tiles, I think you're
11 referring to the ones in the room we're
12 sitting in, not the ones at issue in the
13 case?

14 THE WITNESS: That is correct. The
15 ceiling tiles in this room or when I think
16 about other ceiling tiles that are in drop
17 ceilings, I don't know exactly where the
18 Aroclor would have gone into that, unless it
19 was some sort of coating on them, which
20 would make it like a paint, and perhaps it
21 would have been there. But, I don't know.

22 BY MR. TURAT:

23 Q Assuming it was in a coating, a Plastisol
24 coating on a ceiling tile, based on the applications
25 for the Aroclors you saw while you were a Monsanto

1 Q Okay.

2 MR. TURAT: I have no further
3 questions. Guys on the phone?

4 MS. O'CONNOR: Yes. You mean you're
5 finished with the document or you're
6 finished finished?

7 MR. TURAT: I'm finished finished.

8 MS. O'CONNOR: Okay.

9 CROSS EXAMINATION

10 BY MS. O'CONNOR:

11 Q Mr. Clark, my name is Carolyn O'Connor and
12 I represent Amsco in this litigation and the same
13 instructions apply. I just have a couple of quick
14 questions for you. Did you have any knowledge
15 regarding who at Monsanto would have been most
16 knowledgeable regarding the distributor relationship
17 with Amsco?

18 A Well, my memory fails me on that except
19 that it would have been the regional manager in the
20 area that Amsco was operating, whoever that regional
21 manager would have been. They would have been the
22 primary contact.

23 Q If I told you that Amsco was operating out
24 of Conshocken, Pennsylvania, would you know the
25 identity of that regional sales manager?

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1 employee, is that an application that strikes you as
2 unusual?

3 MR. COUGHLIN: I object to the form.

4 THE WITNESS: Well, I think that's a
5 question that would be better answered by
6 someone who literally has better technical
7 understanding of this, these products. As
8 you will recall that I came to this task,
9 you know, from an engineering background to
10 sort of manage a process of renewal, of
11 removal and technical expertise in any of
12 these areas was not one of the things they
13 were looking for. So I didn't have it
14 coming in and I left two years later and
15 I've forgotten an awful lot about this. I'd
16 like to be more helpful.

17 BY MR. TURAT:

18 Q You understand I'm not asking you about
19 whether you, as a scientist, would suggest that as an
20 application. My questions are focussed on what you
21 experienced from the universe of customers --

22 A I don't know enough about Plastisols and
23 ceiling tiles to say whether Aroclor as a certain
24 kind of Plasticizer would have been a product of
25 choice or not. I just don't know.

1 A No.

2 Q Okay.

3 MR. TURAT: Carolyn, wait one second.

4 C-O-N-S-H-O-C-K-E-N. Okay. Sorry about
5 that.

6 MS. O'CONNOR: Thank you, Craig,
7 appreciate you spelling it for me.

8 BY MS. O'CONNOR:

9 Q Did you ever have any occasion to see any
10 documentation that was specifically addressed to
11 Amsco?

12 A I might well have been copied in on some.

13 Q Do you have any specific recollection of
14 that documentation as you sit here today?

15 A No.

16 Q Other than the documentation you've already
17 reviewed today, and been marked as exhibits during
18 your deposition, do you have any specific
19 recollection of other letters that may have been
20 written to your distributors to advise them regarding
21 removal of the Aroclor product from the market?

22 A No.

23 Q Did you have any contact with the regional
24 sales manager to discuss the cooperation of the
25 distributors in removal of the Aroclor products from

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1 the market?
 2 A Did I have --
 3 Q -- conversations with the regional sales
 4 manager to discuss the cooperation of distributors in
 5 regard to the removal of Aroclor from the market?
 6 A I am sure I did. But the primary
 7 conversations would have occurred in the sales
 8 department, not from a product manager.
 9 Q Okay. But in your role as being in charge
 10 of the removal of the product from the market, would
 11 you not keep track of cooperation received from the
 12 distributors in that regard? No?
 13 A Maybe on an exceptional basis if it wasn't
 14 happening. But --
 15 Q Okay. Was there any exceptional basis in
 16 connection with Amsco's cooperation with removal of
 17 the product that sticks in your mind?
 18 A I don't recall anything on that subject.
 19 Q Okay.
 20 MS. O'CONNOR: I don't have any other
 21 questions. Thank you.
 22 CROSS EXAMINATION
 23 BY MR. O'CONNOR:
 24 Q Mr. Clark?
 25 A Hi.

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1 Q Hi. This is Brian O'Connor I'm an attorney
 2 and I apologize if you're having problems hearing me.
 3 We're in the midst of a pretty violent thunderstorm
 4 here.
 5 A I can hear you.
 6 Q I just have a couple questions. I
 7 apologize if I repeat anything because I did have
 8 difficulty hearing some of Mr. Turet's questions and
 9 some of your responses. But I don't have much at
 10 all. Am I correct, I believe your testimony was that
 11 you had no contact with Armstrong World Industries
 12 with regard to their use of Plasticizers, is that
 13 correct?
 14 A That is correct.
 15 Q Is it fair to say then that you had no
 16 communication with anyone from Armstrong as to what
 17 uses they employed of Plasticizers purchased from
 18 Monsanto, is that correct?
 19 A That is correct.
 20 Q Now, I believe you have told me, or rather
 21 in response to one of Mr. Turet's questions, you told
 22 us that Fred Sutton was the primary account manager
 23 for Armstrong with regards to the Plasticizers?
 24 A Yes. He was the primary, my recollection
 25 is that his title was product manager for several

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1 general purpose Plasticizers including Santicizer
 2 160, which I believe was one of the products that
 3 Armstrong bought, maybe one of the major ones. So
 4 he's the product manager.
 5 There would have been a regional sales
 6 manager also who would have been a primary contact.
 7 Somewhere between Mr. Sutton and that regional sales
 8 manager is where the business was done with
 9 Armstrong.
 10 Q Okay. Do you recall what years
 11 specifically Mr. Sutton was involved with Armstrong?
 12 A My recollection is that he was there when I
 13 got there and he was there when I left and I don't
 14 know beyond that.
 15 Q Okay. Do you have -- did you have any
 16 dealings with Mr. Papageorge at Monsanto in the late
 17 sixties and early 1970's?
 18 A Early 1970's, he was a man that I knew. He
 19 was sort of the overall overseer of data and
 20 information on this subject.
 21 Q On the subject of Polychlorinated
 22 biphenyls?
 23 A Yes, and the withdraw from the market.
 24 Q Did you have any interaction with him
 25 personally?

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1 A Like did we go out to dinner socially?
 2 Q No. I mean on a business basis.
 3 A I'm sure I sat in on meetings with him.
 4 Q Okay. When you say you sat in on meetings
 5 with him, other than sitting in on meetings with him,
 6 did you work together side by side with regard to
 7 dealing with any specific customers at Monsanto?
 8 A No.
 9 Q I think earlier that you had told us that
 10 when the Aroclors were pulled from the market, you
 11 did not consider them to be acutely toxic?
 12 A That's correct.
 13 Q What was that belief based on?
 14 A Things like those LD 50 data, the toxicity
 15 data that was cited in several of those letters from
 16 Dr. Hunt.
 17 Q Anything else?
 18 A No. I think other people in the department
 19 shared that. But it was undoubtedly based on the
 20 same information, you know, that I had, the toxicity
 21 data.
 22 Q Okay. Did you ever see any written
 23 literature with regard to labels on any of the
 24 Aroclor lines that instructed users not to use the
 25 Aroclor products in connection with processing,

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1 handling or storage of food or food related products?
2 A On the labels?
3 Q Correct.
4 A I don't. I don't recall that. I don't
5 recall specifically what was on those labels and
6 whether there was anything having to do with the use
7 in food products or not.
8 Q Okay. Let me ask you, do you recall, in
9 the late sixties or early seventies, Monsanto being
10 involved in any litigation with regard to drain silos
11 and paint containing drain silos?
12 A I don't recall that Monsanto was involved
13 in any litigation having to do with paint and drain
14 silos, no.
15 Q Do you recall, did Monsanto ever inform any
16 customers of Aroclor, purchases of Aroclors that the
17 Aroclors should not be used in any type of product
18 which would have any connection at all with food or
19 food products?
20 A I think there was some of the things that
21 we, that was in the things that we reviewed today
22 that said it would not be recommended that be done.
23 Q Do you recall when that specifically was
24 included in information provided to customers of
25 Monsanto?

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1 A No, I don't. What I don't recall is what
2 was in the original Aroclor products bulletin. I
3 mean, there was that toxicity data that was in there
4 that said it was modestly toxic, mildly toxic, I
5 guess. Go ahead.
6 Q All right, Mr. Clark.
7 MR. O'CONNOR: I don't think I have
8 anything else.
9 CROSS EXAMINATION
10 BY MR. COUGHLIN:
11 Q I just have one or two follow up questions,
12 Mr. Clark. Today you've testified, I know, to the
13 best of your recollection about events that occurred
14 long ago. You mentioned, during the end of your
15 deposition, that you were aware that PCB's were in
16 ceiling tiles, but you also testified that you didn't
17 have any specific recollection that PCB's were in
18 Armstrong ceiling tiles or any other particular
19 ceiling tiles. Is that right?
20 A That's correct.
21 Q Okay. And were you basing your comments on
22 your assumption that since ceiling tiles were a
23 building material, it's possible that PCB's could
24 have been used in some form or for some application
25 in ceiling tiles?

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1 A Yes.
2 Q Okay. And you don't have any specific
3 knowledge that Armstrong was using PCB's and
4 Plastisol application with regard to it's ceiling
5 tiles?
6 A I have no information on that subject.
7 Q Thank you. I just wanted to clarify that.
8 MR. TURAT: I have no further
9 questions.
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(WHEREUPON, the deposition was
concluded at 4:25 o'clock p.m.
and the Witness was excused.)

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ERRATA SHEET

2 Page : Line : Change : Reason

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24 Signed: _____ Date: _____
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SIGNATURE PAGE

OF

WILLIS S. CLARK

I hereby acknowledge that I have read the foregoing deposition, dated April 8th, 1998, and that the same is a true and correct transcription of the answers given by me to the questions propounded, except for the changes, if any, noted on the attached errata sheet.

SIGNATURE

DATE

STATE OF

County

SUBSCRIBED AND SWORN TO ME

this day of , 1998.

Notary Public

STATE OF

COUNTY OF

MY COMMISSION EXPIRES

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presence.

I do hereby further certify that I am a disinterested person in this cause of action, that I am not a relative or attorney to either party, or otherwise interested in the events of this cause, and that I am not in the employ of counsel for either the Plaintiff or Defendant.

IN WITNESS WHEREOF, I have set my hand and affixed my notarial seal this _____ day of _____, 1998.

Tracy L. Larimore, C.S.R.

My Commission expires

August 23rd, 1998

Tracy L. Larimore, C.S.R.

6310 Valley Drive

Leo, IN 46765

(219) 627-8785

(219) 427-0069 Numeric pager

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STATE OF INDIANA)

) ss.

COUNTY OF ALLEN)

I, Tracy L. Larimore, being a Certified Shorthand Reporter and Notary Public in and for the State of Indiana, County of Allen, do hereby certify:

That Willis S. Clark, the deponent herein, was by me first duly sworn as a Witness in the above-captioned cause now pending in the aforesaid jurisdiction, and was thereafter duly examined as heretofore set forth;

That the deposition was taken by me in machine shorthand to the best of my skill and ability, and was thereafter reduced to typewriting by myself, or under my direction and control, and that the foregoing pages are in all respects a complete, true, and correct transcript of the proceedings had at the aforesaid time and place;

That the deponent did read and subscribe to the testimony herein, as evidenced by his/her signature affixed on the appropriate page hereof, without my

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