

PCB 406
COPY

IN THE MATTER OF:

Judith Bechtold, et al.
vs.
Monsanto Company, et al.

Cause No. 922-00911

Deposition of William B. Papageorge, P.E.
June 6, 1994

As Monsanto Corporate
Designee

Gore & Perry Reporting Company
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1 IN THE CIRCUIT COURT - CITY OF ST. LOUIS
2 STATE OF MISSOURI
3 JUDITH BECHTOLD, wife of/and
4 STEPHEN E. BECHTOLD, ELIZABETH
5 TAMEWITZ, as Personal
6 Representative of her deceased
7 husband, Kenneth F. Tamewitz,
8 KELLIE LEE TRISLER, as Personal
9 Representative of her deceased
10 mother, NINA TRISLER, PHYLLIS
11 GOODMAN, as Personal Representative
12 of her deceased husband,
13 CHARLES GOODMAN, JR.,
14
15 Plaintiffs,
16
17 vs. NO. 922-00911
18
19 MONSANTO COMPANY and
20 WESTINGHOUSE ELECTRIC
21 CORPORATION,
22
23 Defendants.
24 Deposition of WILLIAM B. PAPAGEORGE, P.E.
25 Taken on June 6, 1994

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1 Deposition of WILLIAM B. PAPAGEORGE,
2 P.E., taken on behalf of the Plaintiffs, at
3 the law offices of Husch & Eppenberger, 100
4 North Broadway, Suite 1300, in the City of
5 St. Louis, State of Missouri, on the 6th day
6 of June, 1994, before Victoria L. Wilson,
7 Registered Professional Reporter and Notary
8 Public.

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1 APPEARANCES OF COUNSEL:

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1	INDEX	
2		PAGE
3	Examination by Mr. Race	6
4	Examination by Ms. Rutter	91
5	Examination by Mr. Race	95
6		
7	EXHIBITS	
8		
9	(None marked)	
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 WILLIAM B. PAPAGEORGE, P.E.,
2 of lawful age, having been first duly sworn to
3 testify the truth, the whole truth, and
4 nothing but the truth in the case aforesaid,
5 deposes and says in reply to oral
6 interrogatories propounded as follows, to-wit:

7 EXAMINATION

8 QUESTIONS BY MR. RACE:

9 Q: Mr. Papageorge, you understand that
10 you are produced here today as a designated
11 representative of Monsanto.

12 A: I understand that, yes.

13 MS. RUTTER: Mr. Papageorge, on the
14 record, Mr. Race has started chewing Life
15 Savers during the course of his questioning.
16 If you find his questions difficult to
17 understand because of the Life Saver, please
18 ask him to restate the question.

19 MR. RACE: Or swallow.

20 THE WITNESS: I will.

21 Q: Have you seen a copy of the notice of
22 deposition?

23 A: I believe I have seen a copy, yes.

24 Q: And there are certain areas which you
25 have been designated to speak to?

1 A: That's my understanding.

2 Q: Are you now familiar with any of
3 those areas?

4 A: Yes, I believe I am.

5 Q: Okay. Have you done anything in
6 preparation for this deposition, reviewed
7 documents, for example, or spoken with anyone?

8 A: I have spoken with attorneys and I
9 have reviewed a few documents.

10 Q: The nature of the documents that you
11 reviewed, could you tell me what those were?

12 MS. RUTTER: That's for this
13 deposition, as opposed to the last one. He
14 already asked you about that.

15 A: That's what -- I am trying to keep a
16 distinction in my own thinking here. If I
17 remember correctly, I saw copies of letters
18 and memoranda and call reports from marketing
19 people in Monsanto which had my name somewhere
20 on these documents and related to PCB's and
21 Westinghouse.

22 Q: Call reports, memorandums and
23 letters?

24 A: And letters, yes.

25 Q: Okay. How many documents were those?

1 A: I didn't count them, of course. I
2 would suggest they might have stacked up about
3 an inch deep.

4 Q: Okay. And did those documents
5 refresh your memory on what occurred at
6 Monsanto when you were employed by Monsanto
7 involved with the PCB production or otherwise
8 involved with PCB's?

9 A: Some of them, yes.

10 MR. RACE: Okay. So based on that, I
11 would call for their production since they
12 refreshed his memory.

13 MS. RUTTER: Well, he said some of
14 them did. I will attempt to locate them and
15 produce them in due course, Counsel.

16 MR. RACE: I think if the witness has
17 refreshed his memory from the documents, I am
18 entitled to see the documents prior to the
19 witness's -- or contemporaneously with the
20 witness's testimony.

21 MS. RUTTER: I don't think that's
22 correct, Counsel.

23 MR. RACE: Under the federal rules, I
24 believe it is and my understanding is Missouri
25 follows the federal rules.

1 MS. RUTTER: Missouri does not
2 completely follow the federal rules.

3 MR. RACE: Okay. So your position is
4 that you will not provide me with the
5 documents now but at a later date?

6 MS. RUTTER: My position is I don't
7 know if I can provide you with the documents
8 now. As an accommodation to Counsel, I will
9 attempt to figure out what they were and
10 provide them to you at a later date.

11 MR. RACE: Okay. Well, then, I will
12 reserve all objections associated with the
13 production of those documents.

14 Q: Could you state your address, please?

15 A: 321 Pebble Valley Drive, St. Louis,
16 Missouri 63141.

17 Q: And your telephone number, please?

18 A: Area code 314-878-3513.

19 Q: You had been employed by Monsanto, as
20 you previously testified, until about late
21 1989, was it?

22 A: No, the end of 1986.

23 Q: '86. Excuse me. And we previously
24 questioned you as to what capacities you had
25 held during that period of time.

1 A: It was a new position created for the
2 assignment given to me at that time.

3 Q: Okay. And what prompted its
4 creation?

5 A: The reported incidence of PCB's in
6 environmental samples.

7 Q: And this was first brought to
8 Monsanto's attention by the work done in
9 Sweden; is that correct?

10 A: Yes.

11 Q: Okay. At that time was Monsanto
12 aware of the consequences of the Yusho
13 incident?

14 MS. RUTTER: At what time, Counsel?

15 MR. RACE: In 1970.

16 MS. RUTTER: In 1970?

17 MR. RACE: Yes, when the position was
18 created.

19 A: In 1970, yes, there were
20 representatives of Monsanto that were aware of
21 the Yusho incident.

22 Q: At what point did Monsanto become
23 aware that the adverse health effects noted at
24 Yusho were associated with PCB and its related
25 compounds?

1 MS. RUTTER: I object to the vague
2 and confusing form of the question.

3 A: I need some help with the question in
4 that you use "related compounds" and I need
5 some definition of that; it would help me
6 respond. And then as I recall your question,
7 you asked when did Monsanto representatives
8 become aware --

9 Q: Of adverse health effects.

10 A: -- of adverse health effects.

11 Q: At Yusho.

12 A: -- at Yusho being associated with
13 PCB's and related compounds.

14 Q: And/or its related compounds.

15 MS. RUTTER: I object to that
16 question. He is not designated on that area.

17 MR. RACE: I want to know what he has
18 related to Monsanto's representation to
19 government's representation, since I believe
20 that the Yusho incident precipitated the
21 creation of his position, I believe that it
22 very well may be.

23 MS. RUTTER: Phrase your question in
24 terms of one of the topics that he is
25 designated on, then, if you are asking it in

1 the context of what, if any, statements did
2 Monsanto make to the United States Government
3 about --

4 MR. RACE: Well, the representation
5 covers not only information disseminated but
6 it is information gathered. You know, you
7 don't tell somebody something unless you have
8 learned about it so I would assume that it
9 is --

10 MS. RUTTER: Joseph, he is not
11 designated on the question that you asked. I
12 agree with you that I think you can phrase it
13 in terms of what was said or what was given to
14 government agencies or it is possible you
15 can. I would ask that you stick with your
16 corporate designations. He is designated on
17 topic number one and you may ask a question
18 relating to topic number one.

19 Q: What representations were made to
20 government concerning the Yusho incident and
21 its relationship to PCB's? 

22 MS. RUTTER: I object to the use of
23 the word "representations" but subject to that
24 objection as to form, you may answer the
25 question.

1 MR. RACE: And for the record, we
2 will note that all further comments regarding
3 "representations" are objected to.

4 A: Monsanto and its representatives made
5 no representation, to use your word, regarding
6 the Yusho incident and the presence of PCB's.

7 Q: Did government agencies question 
8 Monsanto as to any connection between Yusho
9 and PCB's?

10 A: Monsanto representatives were present
11 at a meeting in North Carolina in December of
12 '71 at which the subject of the Yusho Rice
13 Brand oil incident was discussed. The meeting
14 in North Carolina was arranged by
15 representatives of government.

16 Q: Is that the first time that inquiries
17 were made of Monsanto as to the Yusho
18 incident?

19 A: That is my understanding that was the
20 first government contact with Monsanto and it
21 wasn't direct to Monsanto, it was to the
22 audience that was assembled at this session.
23 At that time, as I remember, because I was
24 there personally, there was considerable
25 confusion brought about primarily by language

1 difficulties and lack of specific details.

2 Q: Specific details concerning Yusho and
3 the language difficulties being Japanese/
4 English; am I correct in those assumptions?

5 A: That was -- yes, both of those
6 difficulties were hampering any understanding
7 of what took place and what the results were
8 noted and what caused it.

9 Q: Okay. Subsequent to that meeting,
10 did Monsanto have an official policy with
11 respect to Yusho which was represented to the
12 government?

13 MS. RUTTER: I object to the vague
14 and confusing form of the question.

15 A: No, Monsanto did not take any
16 position regarding the Yusho incident as it
17 relates to communications with the government
18 because it had no data of its own to help it
19 arrive at any conclusions.

20 Q: And is that true from 1971 through
21 your termination at that particular position
22 in 1976?

23 A: Yes.

24 Q: Now, with respect to the
25 representations of the government concerning

1 PCB's, is it fair to categorize those
2 representations into two areas, that being
3 environmental concern and worker concern?

4 MS. RUTTER: I object, once again, to
5 counsel's unfair use of the term
6 "representations." That's a legal term of art
7 which has a particular unpleasant spin on it
8 and the overtone is in Counsel's voice.

9 MR. RACE: Off the record.

10 (Discussion off the record)

11 Q: The communications made by Monsanto
12 to government regarding PCB's could fall
13 within the two categories of environmental and
14 toxicity; is that a fair analytical framework
15 to put this in?

16 A: Well, those two categories were
17 certainly included but I can think of other
18 areas that could be included in the overall
19 discussions such as --

20 Q: Okay. What I am trying to do,
21 Mr. Papageorge, is get some kind of framework
22 in which we can discuss this and being, you
23 know, a pseudo-type-A personality, I would
24 like to get a list and then we can go down the
25 list and check that we have talked about each

1 of the areas, so if you can help me with a
2 framework in which you visualize
3 representations or communications to
4 government, it may facilitate this
5 deposition.

6 A: Well, that's such a broad subject, I
7 may miss some points here but we certainly
8 discussed with the government the chemistry of
9 PCB's, the manufacturing of PCB's --

10 Q: Okay. Chemistry, manufacturing.

11 A: -- the modes of shipping PCB's, the
12 uses to which they were put, how they were
13 labeled, how they were tested for health
14 effects, how they were analyzed in the early
15 days and how the new technology was evolving
16 and the new analytical methods were being
17 developed, their presence in samples that did
18 not seem to be related to industrial sites or
19 applications --

20 Q: Presence in the environment?

21 A: -- presence in the environment, not
22 only near the site of use but distant places,
23 these kind of things. It is a very broad
24 subject so we tried to cover just any question
25 that came to people's minds.

1 Q: Okay. With respect to the chemistry
2 of PCB's, what was related to the government
3 as to the chemical composition of that
4 product?

5 MS. RUTTER: I object to the
6 overbroad form of the question.

7 A: Again, are we limiting this to the
8 '70-'76 period or --

9 Q: Yes.

10 A: In that period? Well, it would
11 include, of course, the broad categorization
12 of these materials as being mixtures of
13 various types of chlorinated biphenyls; it
14 included Monsanto's method of identifying
15 these mixtures by a trade name followed by a
16 number that had some meaning to Monsanto.
17 Later, as the analytical methodology was
18 further developed, we were able to share with
19 the government information regarding how much
20 of each of the types of PCB's was present in
21 the commercial mixtures that were sold.

22 Q: Okay. Now, when you say, "commercial
23 mixtures that were sold," by Monsanto?

24 A: Yes.

25 Q: Okay. For example, with the Aroclor

1 1242, is that a pure or 100 percent PCB?

2 MS. RUTTER: I object to the vague
3 and ambiguous form of the question.

4 A: It was considered to represent 100
5 percent PCB's and it was later broken down
6 into so many percent of the dichlor and so
7 many percent of the trichlor version but no
8 attempt was made to distinguish between the
9 different dichlors and the different trichlors
10 and so on. Being a commercial mixture and not
11 an absolutely refined laboratory type
12 chemical, the description of being 100 percent
13 PCB's is okay for commercial purposes but not
14 for a refined laboratory chemical so there
15 must have been, as in all industrial
16 chemicals, some unknowns present.

17 Q: Am I correct -- would you agree that
18 with the PCB compound such as the Aroclor
19 1242, there are approximately 70 isomers in
20 that compound?

21 A: I don't remember the number. I don't
22 challenge the 70 but --

23 Q: Does that sound approximately right?

24 A: That sounds about right. There are
25 209 available so that's about right but -- I

1 could be wrong, too.

2 Q: Now, am I also correct in stating
3 that not all of the 70 isomers are present in
4 each batch of the 1242?

5 A: That I don't know. I am of the
6 understanding that there may be some variation
7 in the percentages of each of these but,
8 overall, the mixture still represents the same
9 kind of group.

10 Q: In the event that this is read as
11 opposed to your testifying, could you explain
12 to the jury your appreciation of an isomer?

13 A: I can give you mine.

14 Q: You are an analytical chemist, are
15 you not?

16 A: No, sir.

17 Q: You are a chemist?

18 A: Chemical engineer.

19 Q: Chemical engineer. Okay. Could you
20 give me your opinion of an isomer?

21 MS. RUTTER: Counsel, just for the
22 record, Dr. Robert Kaley, who is an analytical
23 chemist, has been designated on this topic.
24 There is some overlap, obviously. The
25 analytical chemist questions hopefully are

1 being directed to Dr. Kaley by Joe Murray at
2 this moment.

3 But now you may answer your non-
4 analytical chemistry understanding of what an
5 isomer is.

6 A: I think I can best address it if I
7 would just select for discussion purposes a
8 dichlorobiphenyl. The two chlorines that are
9 associated with dichlorobiphenyl can be
10 located in any of ten different positions on
11 the biphenyl molecule or structure.

12 Q: Would it help to draw a picture?

13 A: I will try without a picture and if
14 it doesn't, we will go to a picture. If you
15 can imagine the two chlorines being affixed to
16 the biphenyl molecule in a given position,
17 that is one isomer. Change one of the
18 chlorines to a different position, that's a
19 second isomer. Move it on to a third
20 position, you have got a third isomer. Now,
21 eventually, you keep moving it and you will
22 end up repeating the original positions
23 described but each change in the respective
24 positions of those two molecules to each other
25 represents an isomer.

1 Q: Having said that, can you draw me a
2 picture?

3 A: I will try. I will represent the
4 byphenyl molecule by drawing two hexagon
5 configurations that are connected with the one
6 carbon in the center. I call that sort of a
7 nose-to-nose configuration. And we can have
8 chlorines affixed to any one of the remaining
9 corners of these hexagons. For example, you
10 can have chlorine there and a chlorine there.
11 I believe that's the one-two position. I'm
12 not real certain of the numbering system.

13 Q: Yes, the numbering system.

14 A: But it is the second position removed
15 from the common carbon atom or we can have --

16 Q: Okay. Or there can also be varying
17 numbers of chlorines attached to the basic
18 molecule; is that not correct? Sometimes you
19 can have --

20 A: You can have three, you can have four
21 and five. The maximum is five on each, which
22 would make it ten for the total so -- but
23 within any grouping, like the two -- the
24 dichloro -- the members of that dichloro group
25 are called isomers to each other. I don't

1 think it is correct to say that you have a
2 dichloro that's an isomer to a trichloro. The
3 isomers refers to the same family, the two's,
4 the three's, the four's. I don't know what
5 else to show here except that instead of this
6 chlorine being here, it could be over here
7 somewhere on the other biphenyl molecules.

8 Q: These chlorines would be symmetrical?

9 MS. RUTTER: Object to the vague and
10 confusing form of the question.

11 A: They could be and by "symmetrical,"
12 that means that no matter how you look at this
13 molecule, the chlorines are the same with
14 respect --

15 Q: -- to the left-hand side as the --

16 A: And the right-hand side, yes, or the
17 top to the bottom.

18 Q: But they need not be?

19 A: That's correct.

20 Q: Now, in 1242, they have approximately
21 70 isomers with chlorines attached at various
22 portions, various points; is that correct?

23 MS. RUTTER: Objection, the witness
24 has previously testified that that is beyond
25 his area of expertise. I am sure that

1 Dr. Kaley is capable of answering that
2 question.

3 Q: Well, you said you didn't know that
4 there were 70 but there were several, correct?

5 A: There are several chlorinated
6 byphenyl groups ranging -- varying in the
7 number of chlorines associated with each
8 identified type of PCB.

9 Q: Now, if I were to number the isomers
10 from 1 through 70, would you agree that you
11 can have a predominance of numbers 1 through
12 15 in one batch and in a second batch of the
13 1242 you could have a predominance of 16
14 through 32 and, yet, the two batches would
15 still be considered Aroclor 1242?

16 MS. RUTTER: I object to the vague
17 and confusing form of the question.

18 A: If I understand your question, your
19 description in your question, correctly, I
20 don't think you will end up with the
21 equivalent in those two batches. You just
22 won't have enough chlorine to satisfy the 42
23 percent criteria.

24 Q: Okay. I didn't say only 1 through 15
25 but you can have a predominance of 1 through

1 15 in one batch and the second batch you can
2 have a predominance of 16 through 32?

3 MS. RUTTER: I object to the vague
4 and confusing form of the question.

5 Q: Are you with me, Doc?

6 A: I believe I am. When you say 1
7 through 16, that tells me that -- as compared
8 to 16 through 32, that sort of tells me that
9 the first one described has a lot of the lower
10 chlorinated and the second one has the higher
11 chlorinated. If that's true, then the batches
12 are not the same. They will not be of the
13 type that would analyze 42 percent by weight
14 chlorine.

15 Q: Okay. Try it one more time. My
16 appreciation of the chemistry of PCB's is that
17 you have an Aroclor 1242. The 12, according
18 to Monsanto, indicates that it is a
19 polychlorinated byphenyl and the last two
20 numbers indicate the percentage of
21 chlorination in that byphenyl; is that
22 correct?

23 A: More accurately, it is the percent of
24 chlorine in that mixture on a weight basis.

25 Q: Okay. Now, in this compound, you can

1 have -- for purposes of this question, let us
2 say 70 isomers, realizing you are not quite
3 sure how many isomers. In order to maintain
4 the 42 percent chlorine, you have to add up
5 all the chlorine molecules and it has to come
6 to 42 percent of the compound by weight as a
7 whole, correct?

8 A: Correct.

9 Q: Okay. Now, let us assume that 1
10 through 10 are less chlorinated and 60 through
11 70 are more chlorinated within the compound
12 isomers. Okay?

13 A: All right.

14 Q: It is possible in formulating this
15 product that you can have at one point one
16 isomer in the range of 60 to 70 and ten in the
17 range of 1 to 10 in the first batch of 1242.
18 In the second batch you have one or two in the
19 range of 1 to 10 isomers, I'm going to name
20 the isomers numerically, and in the 60 to 70
21 range they increase by two. So it remains the
22 constant is the 42 percent but the exact
23 number from 1 to 70 may vary?

24 MS. RUTTER: I object to the
25 overbroad, vague and confusing form of the

1 question.

2 A: Well, in the real world, when these
3 batches are made, although the chlorine
4 affixes itself to the byphenyl randomly, it
5 has been found from decades of manufacture
6 that the end product is pretty much the same
7 batch after batch so when you talk, as you
8 did, about the 70 and trying to divide it from
9 1 to 10 and 60 to 70, I suppose theoretically
10 that kind of discussion could be held but it
11 doesn't happen that way in the chemical pot in
12 which it is made.

13 Q: Okay. Did Monsanto have a mechanism
14 whereby it analyzed the PCB's after their
15 production to determine the precise percentage
16 of the various isomers within a compound?

17 A: At what time?

18 Q: At any time.

19 MS. RUTTER: Well, you are testifying
20 up through approximately 1976.

21 A: Correct. I understand that.

22 Q: Okay.

23 A: Starting in about 1970, the
24 analytical chemist had the capability or had
25 the methodology to determine the types of

1 PCB's that were present in the mixture. Prior
2 to that, the technology was not developed and
3 that kind of detail information was not
4 available.

5 Q: Okay. So it did become available but
6 not until 1970 or later?

7 A: 70 or later, yes.

8 Q: Okay. And when that detailed
9 analysis was available, did Monsanto then
10 perform analysis on each of the batches of
11 Aroclors that were made to find out the
12 relationship between the various isomers?

13 A: Not for every batch, no.

14 Q: You would do it on a random basis?

15 A: Yes.

16 Q: How many tests per hundred batches?

17 A: Oh, I don't have a number. You will
18 have to ask the analytical chemist that.

19 Q: The toxicity of an Aroclor, such as
20 1264, will, in part, depend upon the various
21 combination of isomers present in that
22 compound; is that correct?

23 MS. RUTTER: I object to the
24 question. This witness is not designated to
25 testify on the toxicity of PCB's. You have

1 got the wrong witness, Counsel.

2 MR. RACE: Your other witness didn't
3 know about the isomers. Now, do you want to
4 bring your other witness with the
5 information -- I'm asking him -- then bring
6 your other witness in to ask about the
7 toxicity? You told me to wait until now.

8 MS. RUTTER: I did not tell you to
9 wait until now on the toxicity of PCB's.
10 Mr. Papageorge is not a medical doctor.

11 MR. RACE: And your medical doctor
12 didn't know about varying isomers. You said I
13 would have to ask the chemist.

14 MS. RUTTER: What's your question,
15 again?

16 Q: Do you understand that question?

17 MS. RUTTER: No, what is your
18 question, again? I'm asking for me.

19 MR. RACE: Read it back.

20 (The requested portion of the record read
21 by the reporter)

22 MS. RUTTER: Mr. Papageorge, is that
23 a question that you feel comfortable --

24 A: Well, I have an understanding.

25 MS. RUTTER: A lay understanding?

1 A: A lay understanding. Yes, there is
2 evidence that the types of PCB's present in a
3 mixture do influence the health effects of
4 that particular mixture as compared to a
5 mixture of a different type.

6 Q: Okay. So in other words, would you
7 agree that you can have one batch of 1242
8 which is more toxic than the second batch of
9 1242 depending on the configuration of isomers
10 within the two batches?

11 MS. RUTTER: I object to the
12 overbroad, vague and confusing form of the
13 question and it mischaracterizes prior
14 testimony.

15 A: When I talked about -- when I
16 referred to the differeny effects of the
17 different mixtures of PCB's, I do not
18 associate that with the differences from batch
19 to batch of the same type of commercial PCB
20 mixture so a batch of, let's say, 1242
21 followed by another batch of 1242, it is my
22 understanding the toxicity, when determined
23 with the proper testing, would come out
24 essentially the same. It's when batches of
25 1242 are compared to, say, batches of 1260.

1 Q: Yes, well, everybody will agree that
2 the chlorination -- that there is lots of
3 testimony that the chlorination will depend
4 upon -- excuse me -- there is lots of
5 testimony which indicates a relationship
6 between the degree of chlorination and
7 toxicity. What I am specifically asking is as
8 to whether you have any knowledge of varying
9 degrees of toxicity within the same Aroclor
10 premised on the varying percentages of
11 isomers.

12 MS. RUTTER: Objection, repetitious,
13 asked and answered.

14 Q: Subject to the objection, can you
15 answer?

16 MS. RUTTER: And it is also outside
17 of Mr. Papageorge's area of designation?

18 A: No, I do not know.

19 Q: Okay. You don't know. That's fine.

20 MR. RACE: Can I take a five-minute
21 break?

22 MS. RUTTER: Sure.

23 (Recess)

24 Q: What, if any, representations or
25 communications were made to the government

1 with respect to contaminants in the PCB's?

2 MS. RUTTER: I object to the use of
3 the term "representations" and would also ask
4 for counsel to put a time frame on his
5 question.

6 Q: Unless otherwise specified, this is
7 up until the 1976 period of time in which you
8 were employed in the capacity of whatever
9 making representations to the U.S. Government?

10 MS. RUTTER: Objection to the use of
11 the word "representations."

12 A: Up through 1976, Monsanto had no
13 information of its own to share with
14 representatives of the government regarding
15 the presence of other chemicals in its PCB
16 mixture so none was -- no communication was
17 held.

18 Q: Okay. So no communication was given
19 to the government of a possibility of furans
20 or dioxins present in the PCB compounds; is
21 that correct?

22 A: That is correct.

23 Q: Now, you said Monsanto had no
24 information on its own; is that correct?

25 A: That is correct.

1 Q: But is it also not true that Dr. Voss
2 in Holland had discovered the presence of
3 furans as early as 1970 in the PCB's
4 manufactured in Europe? 

5 A: Dr. Voss did have that information
6 and it was already shared with the government
7 by Dr. Voss and others.

8 Q: Okay. In other words, Dr. Voss had
9 direct communications with the U.S.
10 Government?

11 A: Yes.

12 Q: Okay. Did the government ever
13 question as to whether the furan contamination
14 noted by Dr. Voss was present in PCB's being
15 manufactured by Monsanto in the United States?

16 MS. RUTTER: Did you understand
17 that? I find his questions very difficult to
18 understand due to the Life Saver crunching.

19 Q: Do you understand that?

20 A: I think I did. As I understand your 
21 question, you asked if Dr. Voss was ever asked
22 by the United States representatives.

23 Q: Not Dr. Voss, was Monsanto ever
24 questioned as to whether or not furans were in
25 the PCB compounds manufactured in the United

1 States?

2 A: Yes.

3 Q: And what was Monsanto's response to
4 that inquiry?

5 MS. RUTTER: At what time period,
6 Counsel?

7 Q: Prior to 1976.

8 A: The inquiry was asked of me and
9 others in Monsanto and the answer was we are
10 looking and have not found it.

11 Q: Okay.

12 A: And Dr. Voss in Europe also looked at
13 Monsanto's samples and did not find it.

14 Q: Ultimately furans were found in
15 PCB's; is that correct?

16 A: Well, which PCB's? They were found
17 in some European-produced material early on.

18 Q: And they were ultimately found in the
19 PCB's manufactured by Monsanto in the United
20 States?

21 A: Monsanto, yes. Yes.

22 Q: And it was Dr. Kaley who found them;
23 is that correct?

24 A: Well, Dr. Kaley certainly found them,
25 yes.

1 Q: Whether or not they were found by
2 someone other than Dr. Kaley, do you know?

3 A: There were some analytical chemists
4 in the Food and Drug Administration that
5 reported finding them in 1975 as best I recall
6 but they were still a little bit uncertain at
7 that time.

8 Q: Was there any technical development
9 from 1970 when Dr. Voss found furans in the
10 PCB's to 1975 when the Food and Drug
11 Administration found furans in PCB's which
12 made possible the discovering of furans in
13 PCB's manufactured by Monsanto U.S.? M

14 A: I understand there was.

15 Q: Do you know what that development
16 was?

17 A: I would ask Dr. Kaley.

18 Q: Okay. Would that be spectrometry?

19 A: Well, spectrometry is certainly
20 involved but I don't know what fine tune knobs
21 they were turning or what else they did to
22 their methodology.

23 Q: Now, did Monsanto represent to the P M
24 U.S. Government on the issue of contaminants
25 any likelihood of furans or dioxins being

1 found as contaminants in the PCB's
2 manufactured by Monsanto U.S.?

3 MS. RUTTER: Objection to the use of
4 the term "represent." Counsel, I thought you
5 agreed to amend your questions to use the word
6 "communicate" rather than "represent."

7 MR. RACE: Communicate.

8 MS. RUTTER: Could you please restate
9 the question using the word "communicate"?

10 MR. RACE: No, just the same question
11 this time with "communicate," can you get it?

12 It is a long question, Carol, give me
13 a break.

14 MS. RUTTER: I'm sure the court
15 reporter would be happy to read it back.

16 Q: Do you understand the question?

17 MS. RUTTER: Probably not after this
18 five minutes.

19 A: Right now I'm confused.

20 MR. RACE: Why don't you read the
21 question back.

22 (The requested portion of the record read
23 by the reporter)

24 MS. RUTTER: I object to the compound
25 form of the question.

1 A: Monsanto did not communicate to the
2 government the likelihood of furans being
3 present because all of the analytical efforts
4 made by both Monsanto and other laboratories
5 did not establish the presence of furans in
6 Monsanto-produced PCB's so the discussion did
7 not take that turn that you are asking.

8 Q: Okay. So the representation to the
9 United States Government was that it was more
10 likely than not that furans were not present
11 in Monsanto PCB's?

12 MS. RUTTER: Oh, objection,
13 mischaracterizes prior testimony and object to
14 the use of the word "representation.".

15 Q: Subject to the objection, can you
16 answer that one?

17 A: Well, would you read it back to me
18 again? This argument throws me off track.

19 MR. RACE: Me, too. That's what it
20 is intended to do.

21 MS. RUTTER: Speak for yourself,
22 Mr. Race.

23 MR. RACE: I'm not making any
24 objections. I haven't made one objection all
25 day long.

1 MS. RUTTER: Well, then, speak for
2 yourself.

3 (The requested portion of the record read
4 by the reporter)

5 A: Monsanto's communications to
6 representatives of the U.S. Government was to
7 report the fact that efforts were continually
8 under way to determine the presence of furans
9 in Monsanto-produced PCB's. There was no
10 attempt made to establish the likelihood or
11 lack thereof of this furan material being
12 present. It was just reporting the knowledge
13 that existed at each point in time.

14 Q: What communications were made to the
15 government concerning the toxicity of PCB's?

16 A: Is this, again, at the period '70 to
17 early '76?

18 Q: Yes.

19 A: The results of acute toxicity testing
20 studies were shared.

21 Q: And what were those results? 40 TO 45

22 A: I don't recall the exact numbers but
23 they were described to the representatives in
24 the Food and Drug Administration, Department
25 of Agriculture, Department of Interior as

1 having been conducted and the laboratories
2 that conducted them and the results of the
3 studies and the expression LD50 was offered to
4 them. I have forgotten the exact number.
5 This refers to the dose where half of the
6 exposed test animals would die. That's the
7 LD50 dose. And as I remember, they were --
8 because of that LD50 number, they were
9 classified as being toxic or I forget the
10 exact terminology. There were --

11 Q: They were classified as being toxic
12 by whom?

13 A: By the toxicology community. When
14 the LD50 is established by the test, that
15 establishes the description of that material
16 as being non-toxic or mildly toxic or toxic or
17 highly toxic. I believe those are some of the
18 expressions that are derived from the numbers
19 that are generated by the test. There were
20 studies later conducted on PCB's that included
21 the so-called subchronic test, which is, as I
22 remember, a 90-day exposure at certain levels
23 and those were used to tab the concentrations
24 of PCB's that were fed to the animals that
25 were later exposed to a lifetime study and

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1 those studies -- the results of those studies
2 were shared with the government.

3 Q: The results of the lifetime studies?

4 A: Yes.

5 Q: And the lifetime studies were
6 conducted by whom?

7 A: For Monsanto they were conducted by
8 the IBT Laboratories.

9 Q: Okay. And they were commenced in
10 1969?

11 A: The lifetime studies, yes.

12 Q: And approximately the time that the
13 lifetime studies results were made available
14 to Monsanto, the Kimbrough studies also became
15 available; is that correct?

16 A: Dr. Kimbrough's studies, as I
17 remember, about 1974 she contacted Monsanto to
18 report some of her findings.

19 Q: Okay. Did you participate at all
20 with the review of Dr. Kimbrough's findings?

21 A: I was present at several of the
22 discussion sessions that were held.

23 Q: Okay. And were you aware that
24 various pathologists at IBT had reviewed
25 Dr. Kimbrough's slides and concurred with her

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1 findings of carcinomas?

2 MS. RUTTER: Just objection for a
3 moment. What area of the designation does
4 this inquiry relate to?

5 MR. RACE: Representations to the
6 government.

7 MS. RUTTER: That's not the way that
8 question is phrased.

9 MR. RACE: Well, then, I want to know
10 what they found and then what they represented
11 to the government.

12 MS. RUTTER: This is clearly beyond
13 the scope of what this witness is designated
14 for. I am going to permit a few more
15 questions based on your representation that
16 you are going to tie it back in to
17 communications made to the government or
18 attempt to do so.

19 MR. RACE: Okay. Could you read back
20 the last question, please?

21 (The requested portion of the record read
22 by the reporter)

23 A: I don't remember the findings being
24 described by the word "carcinomas." I do
25 recall the pathologist described their

1 findings as being different from the findings
2 of the IBT studies with the same type of PCB,
3 a different species of rat, and
4 Dr. Kimbrough's work was done only on female
5 rats, whereas the IBT work was both male and
6 female, so I do recall those differences but
7 they concurred with Dr. Kimbrough that the
8 slides indicated an effect on the lives of her
9 test animals as being, I think the word was,
10 precancerous as distinguished from
11 carcinogenic.

12 Q: Okay. Are you aware that
13 communications were made to the government on
14 the Kimbrough slides to the effect that
15 Dr. Poor was retained and would refute the
16 findings of the Kimbrough slides?

17 A: Yes, I am.

18 Q: Okay. Were you also aware that
19 Dr. Richter and Dr. Gordon had reviewed the
20 Kimbrough slides and concurred with
21 Dr. Kimbrough's findings?

22 A: Yes. Yes.

23 Q: Are you aware that Monsanto paid for
24 the presentation of Dr. Poor to the U.S.
25 Government, arranged for and paid for the

1 presentation of Dr. Poor to the U.S.
2 Government?

3 A: I'm confused by the expression
4 "Dr. Poor's presentation to the government."
5 This was a report that he prepared for
6 Monsanto and it was paid for and it was
7 requested and paid for by Monsanto.

8 Q: Okay. And that report was furnished
9 to the U.S. Government?

10 A: It was -- yes, copies were shared
11 with the government representatives.

12 Q: Okay.

13 MS. RUTTER: Just so the record is
14 clear, approximately what year was this?

15 A: This was in November '75, early
16 November.

17 MS. RUTTER: 1975?

18 A: Yes.

19 Q: And are you also aware that Monsanto
20 did not request written reports of Dr. Richter
21 or Dr. Gordon?

22 A: No. The head of their laboratory,
23 Dr. Calandra, made a personal report to the
24 same representatives of government.

25 Q: And Dr. Calandra's report

1 substantiated Dr. Kimbrough's findings?

2 A: Well, and it also substantiated the
3 IBT findings. Both findings were reported and
4 the difference was brought out to the
5 audiences that were assembled.

6 Q: Were any representations made to the
7 government as to the health effects of PCB
8 workers?

9 MS. RUTTER: I object to the use of
10 the word "representations," Counsel. I
11 thought you represented that you were going to
12 stop using the word "represented" and use the
13 word "communications."

14 MR. RACE: Okay. Communications.
15 Communicate.

16 A: Yes, they were.

17 Q: Okay. What were those
18 representations?

19 MS. RUTTER: Objection to the use of
20 the word "representations." Are you going to
21 substitute the word "communications"?

22 MR. RACE: No, I will just let your
23 objection be there. Because I'm going to
24 forget, you are going to object and I think we
25 ought to make it a continuous objection to

1 "representations." Do you want to make it a
2 continuous objection? I will agree that any
3 time I use "representation," you have an
4 objection to that term.

5 MS. RUTTER: No, I think it is an
6 unfair and misleading term. You previously
7 said that you were going to start using a less
8 biased term and use the word "communications"
9 and then you failed to do that.

10 MR. RACE: Off the record.

11 (Discussion off the record)

12 Q: What communications were made to the
13 U.S. Government concerning the health effects
14 of workers related to PCB's? 

15 A: Yes, in the period we are talking
16 about, '70 to '76, there were discussions in
17 which Monsanto shared with representatives of
18 the federal government, and state governments,
19 where appropriate, the experience regarding
20 worker health and involvement with PCB's which
21 was one of no disturbing reports received by
22 Monsanto except for a few instances that the
23 medical director of Monsanto was able to
24 associate with just a total mishandling of the
25 material, but under the usual practices in

1 industry there were no problems. M

2 Q: You got the same representations made
3 between the years 1965 and 1970?

4 A: '65 and '70, it is my understanding,
5 yes.

6 MS. RUTTER: I object to the use of
7 the word.

8 MR. RACE: Communications.
9 Communications.. Okay.

10 Q: And you, in fact, personally made
11 such communications both to government and
12 anyone -- anybody else that inquired as to the
13 health effects of PCB's; is that correct?

14 MS. RUTTER: Between 1970 through
15 1976?

16 MR. RACE: No, '65 through '70.

17 A: No, '65 to '70, I didn't make them.

18 Q: Okay. From '70 -- M

19 A: Monsanto did, yes.

20 Q: Okay. Did you ever make any QP 48
21 communications to the effect that -- "make any
22 communications," now, that sounds terrible.
23 Did you ever make any representations that
24 PCB's have been manufactured for 40 years and
25 there have been no adverse human effect?

1 MS. RUTTER: Objection to the form of
2 the question, contains the objectionable word
3 "representations."

4 MR. RACE: Okay. Subject to the
5 objection, could you go ahead and answer that?

6 A: I don't recall the specific incident
7 but it is possible that I made that
8 represent -- that communication, yes.

9 Q: And if you made such communication,
10 that would be a misrepresentation, would it
11 not?

12 A: It is a matter of degree, yes. There
13 might have been three cases that I found out
14 later from Dr. Kelly that may have occurred
15 compared to the literally millions of man-
16 hours. Again, it is a matter of degree, yes.

17 Q: Did you make any -- and in hindsight
18 you can say that that would have been a small
19 misrepresentation?

20 MS. RUTTER: Well, objection to the
21 form of the question. He said he later found
22 out facts.

23 Q: Aren't you in the process of --
24 strike that.

25 Did Monsanto not have a policy when

1 making communications and/or representations
2 to the government and to the public at large
3 concerning the health effects of PCB to check
4 with the medical department before making such
5 pronouncements?

6 MS. RUTTER: I object to the use of
7 the word "representations."

8 A: Definitely. I made a check with the
9 medical department and it was my understanding
10 of Monsanto's experience. My discussions with
11 the medical department were centered around
12 the typical industrial use of these materials,
13 not the obvious mishandling and abuse of the
14 material.

15 Q: So there were occasions in which
16 adverse effects from the use of PCB were made
17 known to you; is that correct?

18 A: Eventually, yes.

19 Q: Okay. And it is your understanding
20 that those adverse effects were the result of
21 clear abuse?

22 A: Yes, if we both have the same
23 definition of "abuse." I'm not talking now
24 about someone drinking the stuff, anything of
25 that kind, but just what I would refer to

1 calling a mishandling, not following good
2 practices.

3 Q: Okay. What were the circumstances of
4 those two, three or four instances which you
5 ultimately became aware of?

6 A: I just don't remember the details
7 anymore. I would have to consult with
8 Dr. Kelly to refresh my memory. I don't
9 remember.

10 Q: But you remember they constituted a
11 clear abuse.

12 A: That's my understanding, yes, sir.

13 Q: Okay. What in your mind constitutes
14 a clear abuse in the handling of PCB's?

15 A: I could sit here and conjure up a lot
16 of situations that would fall into that
17 category.

18 MS. RUTTER: Counsel, what area does
19 this relate to on your corporate designation?

20 MR. RACE: I'm getting to it.

21 MS. RUTTER: Well, since you are not
22 on any recognizable area of designation right
23 now --

24 MR. RACE: I am.

25 MS. RUTTER: No. Which one is it?

1 MR. RACE: Warnings and advices made
2 to Westinghouse regarding safe handling,
3 adverse effects related and related -- oh,
4 that's Kelly -- inspections, safety
5 procedures, we are talking about what his
6 appreciation of what safety procedures are
7 instituted. I want to find out what he says
8 is good safety. He is the one that started
9 it. He started it.

10 MS. RUTTER: You are the one who
11 chose to go in this particular format. You
12 had an opportunity to depose this witness in
13 his personal capacity. Don't talk over me.
14 Let me finish, then you may take your turn.

15 MR. RACE: I don't want to talk over
16 you.

17 MS. RUTTER: You had your opportunity
18 with this witness in his personal capacity for
19 an entire day.

20 MR. RACE: Good. And that deposition
21 isn't finished.

22 MS. RUTTER: Well, you didn't state
23 that at that time. You, in fact, closed up
24 the books early and said, "Gee, here it is
25 3:00. I don't have anything else to ask this

1 witness. I'm going to switch over and do
2 corporate." Look at your transcript.

3 MR. RACE: I did look at the
4 transcript and it says it is open.

5 MS. RUTTER: That's not what the
6 transcript says.

7 MR. RACE: That's --

8 MS. RUTTER: He is not here right now
9 in a personal deposition.

10 MR. RACE: I'm asking questions
11 concerning the safe handling of PCB's and the
12 witness here specifically testified that PCB's
13 were not -- there are instances in which PCB's
14 were not handled correctly. I'm going into
15 what those instances are and I want --

16 MS. RUTTER: He has already told you
17 that you need to ask Dr. Kelly those
18 instances. Dr. Kelly has been here for two
19 days.

20 MR. RACE: I have spoken to
21 Dr. Kelly. I want his impression, too.

22 MS. RUTTER: He has already told you
23 he knew at one time what Dr. Kelly told him.

24 MR. RACE: I know what you said he
25 said but I want to know what he says.

1 MS. RUTTER: Counsel, let's get back
2 to my initial question. What topic on which
3 Mr. Papageorge is designated does your current
4 line of inquiry relate to?

5 MR. RACE: Right now --

6 MR. WUNDERLICH: Off the record.

7 (Discussion off the record)

8 (Recess)

9 Q: Okay. You conducted an inspection or
10 a visit to the Westinghouse facility? 

11 MS. RUTTER: Objection to the use of
12 the word "inspection."

13 Q: Subject to the objection --

14 A: Which one?

15 Q: Bloomington.

16 A: Bloomington, yes.

17 Q: Okay. Was it Monsanto's policy to
18 inspect the facilities of customers utilizing
19 PCB's?

20 MS. RUTTER: Object to the use of the
21 word "inspect."

22 A: It was not Monsanto policy. 

23 Q: No. Did Monsanto reserve any rights
24 to terminate selling PCB's to any customer who
25 did not properly utilize PCB's?

1 MS. RUTTER: During what time period,
2 Counsel?

3 Q: 1965 to '70? At any time?

4 A: Monsanto always had that right as
5 long as they felt that the guidance that was
6 being offered was totally ignored.

7 Q: Okay. So Monsanto did offer some
8 guidance? M

9 A: Certainly.

10 Q: And in forms of warnings and safe
11 handling procedures?

12 A: Yes.

13 Q: Okay. And those warnings and labels
14 were drafted by Dr. Kelly?

15 A: Or his department.

16 Q: Or his department?

17 A: Yes.

18 Q: Now, did Monsanto have any mechanisms
19 to ensure that those safe practices were
20 abided by by customers?

21 A: We had some mechanisms. We certainly
22 were not in the regulatory business or
23 inspection business but we had contacts
24 between the medical departments of the
25 customer and Monsanto's medical department.

1 We had contacts with our marketing people that
2 would go to the plants. There were many lines
3 of communication between the customer and
4 Monsanto and if any problems should arise,
5 eventually Monsanto would hear about them and
6 take the appropriate actions to make sure that
7 they understood the proper way to handle the
8 material and so on.

9 Q: Okay. Did you have knowledge to
10 assess as to whether PCB's were properly
11 handled?

12 A: Did I have?

13 MS. RUTTER: Under what
14 circumstances, Counsel? Object to the vague
15 and overbroad form of the question.

16 Q: Subject to the objection --

17 A: Well, I had some knowledge regarding
18 the use of, say, as an example, what were the
19 proper kind of gloves, so on.

20 Q: Okay. From whom did you obtain your
21 guidance on the proper handling of PCB's?

22 A: Monsanto's medical department was the
23 key source.

24 Q: Okay. So if Dr. Kelly had guidance
25 as to avoid prolonged dermal contact, that

1 would be something you would have looked for
2 if you went in visiting a facility?

3 MS. RUTTER: Objection to the vague
4 and confusing form of the question. Are you
5 talking about visiting a Monsanto facility?

6 MR. RACE: Visiting a customer's
7 facility.

8 A: Well, certainly with that knowledge,
9 if I saw something obviously improper about,
10 say, a person's handling, I would --

11 Q: Let's go through what your
12 appreciation is of the safe handling of
13 PCB's.

14 MS. RUTTER: Counsel, I think you cut
15 him off in mid-sentence there.

16 A: I don't know what you mean by my
17 "appreciation." As a supervisor of a PCB
18 facility, I had an appreciation for it.

19 Q: Had you seen the warnings and labels
20 prepared by Dr. Kelly?

21 A: Had I ever seen them?

22 Q: Yes.

23 A: Certainly.

24 Q: Do you recall those warnings?

25 A: I believe I do, yes.

1 Q: Okay. What are the contents of those
2 warnings to the best of your recollection?

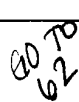
3 A: They refer to the need to keep the
4 material from coming into contact with skin.

5 Q: Okay. So there should be no skin
6 contact?

7 A: No skin contact -- I shouldn't say no
8 skin -- it should be avoided. That doesn't
9 mean if a little gets on the skin you panic,
10 but it is not wise to continually expose the
11 skin to the material and to wear the proper
12 protection. The other had to do with avoiding
13 the inhalation of vapors of PCB's. And the
14 third, of course, was ingestion, don't eat it,
15 wash your hands before you touch food, smoke,
16 so on.

17 Q: Okay. Now, when you toured any
18 facility, customer facility, did you see
19 violations of those guidelines as established
20 by Dr. Kelly?

21 A: I did not see any personally, no. 

22 Q: Okay. If you had seen any, what was 
23 Monsanto's policy with respect to its reaction
24 for violation of guidelines?

25 A: If I had seen it? You are asking me

1 to kind of speculate what I would have done.

2 Q: Did Monsanto have a policy as to what
3 should be done if you became aware that a
4 customer was not abiding by the guidelines as
5 drafted by Dr. Kelly?

6 MS. RUTTER: Counsel, what topic?
7 What topic on your corporate designation?

8 MR. RACE: Warnings and advices
9 transmitted to Westinghouse by Monsanto,
10 what's the reaction to that; Monsanto
11 inspection of Westinghouse's Bloomington
12 facility.

13 MS. RUTTER: Well, Monsanto didn't
14 inspect the Westinghouse Bloomington facility.

15 MR. RACE: And notwithstanding your
16 objection, I noted that, and this witness is
17 designated in that area. I believe these
18 questions fall within one or two of those
19 categories.

20 MS. RUTTER: What someone saw when
21 they visited a facility is totally unrelated
22 to a policy Monsanto might have.

23 MR. RACE: What did he see and what
24 did he do when he saw it.

25 MS. RUTTER: That's not in your

1 designation.

2 MR. RACE: Counsel, in all fairness,
3 we have gone through this before. I have
4 tried to draft this to speak about areas of
5 inspections or tours of customer facilities
6 and what is done with those tours. Now, we
7 have attempted -- we have gone around on
8 this. I have taken Mr. Papageorge's
9 deposition and had stopped the deposition at
10 that time reserving right to continue the
11 deposition of Mr. Papageorge personally in
12 order to draft something that was acceptable
13 to you. Now, I think it was quite clear that
14 my intent was to ask about inspections of
15 facilities. I don't think anyone would
16 anticipate -- any attorney would anticipate
17 that I would ask about facilities and
18 inspection and not ask about what was done
19 with the information that was gathered from
20 the inspection, notwithstanding the fact that
21 you are going to object to the word
22 "inspection." Now, that is my spirit. If you
23 will allow me to go forward with this, I can
24 get this deposition through quickly. If we
25 can't continue, I will have to go back and get

1 as much as I can and then reopen his personal
2 deposition. I would prefer not to do that. I
3 would like to work in the parameters of what's
4 here. I think this witness is capable of
5 talking to that and if he can't address it, he
6 can tell me he doesn't know.

7 MS. RUTTER: I think you are straying
8 away from these corporate designations. I am
9 going to permit him to answer the question on
10 the floor.

11 I'm going to permit you to answer the
12 last question that was asked and after that I
13 am just going to consider it on a question by
14 question basis.

15 Counsel, what your designation says
16 is, "Monsanto's inspection," and we will
17 substitute for that "visit/visits," "to the
18 Westinghouse Bloomington facility."

19 MR. RACE: Okay. Could you read back
20 the last question, please?

21 (The requested portion of the record read
22 by the reporter)

23 MS. RUTTER: Objection, calls for
24 speculation and conjunction and does not fit
25 within the designation. The witness has

1 testified that he didn't view any unsafe
2 handling practices at Westinghouse
3 Bloomington. That question that was just read
4 back does not relate to Westinghouse
5 Bloomington and it is a hypothetical that you
6 are giving to him about a situation that
7 doesn't exist.

8 MR. RACE: It is not a hypothetical.
9 Is it a policy. Stating a policy is not a
10 hypothetical.

11 MS. RUTTER: It is a general question
12 that was not one designated on the corporate
13 designation.

14 MR. RACE: Counsel, fine, then I can
15 say that if you are going to let me ask him.
16 If you are not going to let me ask him the
17 fundamental questions, then it is back to the
18 personal deposition, you know, and I will have
19 to come back in, fly in and we will continue
20 there.

21 MS. RUTTER: Okay.

22 MR. RACE: So are you instructing the
23 witness not to answer that?

24 MS. RUTTER: It is beyond the scope
25 of the designation.

1 MR. RACE: And you are instructing
2 the witness not to answer?

3 MS. RUTTER: I'm trying --

4 MR. RACE: I'm trying to work with
5 you, I really am.

6 MS. RUTTER: I'm trying to work with
7 you.

8 MR. RACE: And I really need to know
9 this. This is the stuff I can get -- I am
10 going to get it through his personal
11 deposition or through his corporate
12 deposition. That's why we drafted it in this
13 manner. We are almost finished.

14 MS. RUTTER: Here's what I am going
15 to do. Why don't you finish up your corporate
16 deposition so we are not jumping in and out of
17 topics and then say, "Okay. I'm through with
18 the corporate topics," and then ask him that
19 question.

20 MR. RACE: Then let me see what
21 questions we can do like that, okay? Then we
22 can launch into a personal deposition. Okay.

23 Q: What was the chemical composition of
24 Inerteen?

25 MS. RUTTER: Objection to the

1 overbroad and vague form of the question.

2 A: I'm recalling several Inerteen
3 dielectric fluid mixtures made for
4 Westinghouse and the compositions of these
5 were different for the different
6 designations. I, at the moment, don't recall
7 the specifics of many of them.

8 Q: How is Inerteen different from PCB's? M

9 MS. RUTTER: Objection to the
10 overbroad and vague form of the question.

11 A: Inerteen is a Westinghouse trademark
12 which Westinghouse used to describe liquid
13 mixtures used in electrical equipment. The
14 composition of these electrical fluids varied
15 for each of the several Inerteens. M

16 Q: Okay. Were the Inerteens
17 manufactured by Monsanto and shipped to
18 Westinghouse or was the basic PCB shipped to
19 Westinghouse and then Westinghouse may put
20 additives in the basic PCB compound?

21 A: Both.

22 Q: Okay. What was it that was shipped
23 to Westinghouse, your appreciation?

24 A: At what point in time?

25 Q: '65 to '70.

1 A: '65 to '70?

2 Q: Yes.

3 A: Can you help me with which location?

4 Q: Bloomington.

5 A: Bloomington. The material used in
6 the manufacture of electrical capacitors at
7 Bloomington was Monsanto's PCB mixture
8 referred to as Aroclor 1242 and it was
9 shipped, as I recall, at that period of time
10 in bulk quantities, tank car quantities. M

11 Q: Okay. Now, when it was shipped in
12 tank car quantities and arrived at
13 Westinghouse's facility, you said there were
14 things that were added to it sometimes?

15 MS. RUTTER: Objection to the form of
16 the question. That mischaracterizes prior
17 testimony.

18 Q: Was there on occasion something added
19 to the 1242?

20 A: I found out many, many years later M
21 that the Bloomington facility in preparing
22 that PCB mixture for use in their equipment
23 added something to it.

24 Q: Do you know what that something is?

25 A: I never found -- to this day I don't

1 know what it is.

2 Q: Do you know whether that something
3 was added to all the PCB coming in or just a
4 portion of it for a selected process?

5 A: I have no idea.

6 Q: You don't know what was added and you
7 don't know how much of it was added?

8 A: And how often.

9 Q: And how often it was added?

10 A: Correct.

11 Q: Okay. Not only was there 1242 but
12 there was also 1268 and 1254 that was shipped
13 to the Westinghouse facility?

14 MS. RUTTER: At what point?

15 MR. RACE: At Bloomington during '65
16 to '70; isn't that correct?

17 A: That is correct.

18 Q: Okay. Now, there was also a
19 transformer Inerteen PPO shipped to the
20 Bloomington facility; is that correct?

21 A: That is correct.

22 Q: Now, the Inerteen PPO was
23 manufactured at Monsanto; is that correct?

24 A: That is correct.

25 Q: And that Inerteen PPO consisted of

1 PCB with a trichlorinated benzene additive; is
2 that correct?

3 A: Yes.

4 Q: Okay. So Monsanto knew that --
5 strike that.

6 Why was the trichlorinated benzene
7 added to the PCB?

8 A: Let me try to correct a misimpression
9 I made. You referred to trichlorobenzene. It
10 could well have been a mixture of tri- and
11 tetrachlorobenzene along with PCB's. Why was
12 it added? Monsanto added it because
13 Westinghouse called for that type of mixture.

14 Q: Okay.

15 A: You will have to ask the Westinghouse
16 people why the need for it.

17 Q: Okay. Now, that mixture of PPO was
18 first shipped to Westinghouse in 1969; is that
19 correct?

20 A: We are still talking about the
21 Bloomington site.

22 Q: Yes.

23 A: As best I recall, that was shipped
24 and, yes, in small amount, yes.

25 Q: Okay. Was either tri- or

1 tetrachlorinated benzene added to PCB by
2 Monsanto before 1969?

3 A: Yes.

4 Q: Okay. So Monsanto knew that under
5 certain applications, trichlorinated benzene
6 would be added to its PCB's?

7 A: Certainly.

8 Q: Okay. And Monsanto -- you also knew
9 that trichlorinated benzene under the certain
10 conditions will create dioxins?

11 A: At what point in time? When did
12 Monsanto know this?

13 Q: I don't know. Did Monsanto know
14 this?

15 A: Eventually Monsanto was informed of
16 studies that demonstrated that this could
17 happen under certain conditions, yes.

18 Q: And when did Monsanto become so
19 aware?

20 A: Late 70's.

21 Q: Okay. So Monsanto knew as early as
22 the 1950's that the addition of
23 trichlorobenzene to chlorinated naphthalenes
24 caused chloracne and other related problems;
25 isn't that correct?

1 MS. RUTTER: Could you --

2 MR. RACE: I will wait until the
3 personal deposition, if you wish.

4 Q: Did Monsanto ever know about the --
5 strike that.

6 Did tests ever reveal presence of a
7 dioxin contaminant in PCB's?

8 A: Never.

9 Q: Okay. It is true, however, after
10 fires, the one in New York, PCB was found in
11 the rubble of the fire, as well as furans and
12 dioxins; is that not true?

13 A: My understanding is that samples of
14 the soot and so on did contain furans --
15 chlorinated furans and chlorinated dioxins.

16 Q: Do you have any idea how the
17 chlorinated dioxins became present at that
18 site after the fire?

19 MS. RUTTER: Counsel, I think this is
20 beyond 1976. I just want to establish that it
21 is, so that the record is clear.

22 A: Do I have any idea? I can only go by
23 the allegations that we saw in print.

24 Q: Okay. Did Monsanto conduct any
25 investigation to find out how the chlorinated

1 dioxins got there?

2 MS. RUTTER: What year is this in,
3 Mr. Papageorge?

4 A: I'm tempted to say '80, '81.

5 MR. RACE: Personal deposition?

6 MS. RUTTER: I would recommend that,
7 yes.

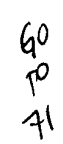
8 Q: Did you conduct any inspections of
9 the IBT facility? 

10 MS. RUTTER: Objection to the use of
11 the word "inspection."

12 A: I visited the laboratory. I don't
13 know that I was in any position to inspect
14 that type of facility. I did make
15 observations. 

16 Q: Okay. And it is your opinion that it
17 was a class A facility?

18 A: Definitely, yes.

19 Q: Okay. Did you at all make any visits
20 to the area called the "swamp"? 

21 A: I never heard of that. I read about
22 it in the local newspaper. I never saw
23 anything like that.

24 Q: Did you visit where the animals were
25 stored?

1 MS. RUTTER: Excuse me, Mr. Race, you
2 just talked over the answer. Did you get the
3 end of his answer? All right.

4 Q: Did you visit where the animals were
5 stored, kept and fed?

6 A: Yes, I went into the chambers where
7 they were in cages and so on, yes.

8 Q: And did you see anything that
9 appeared to have been less than a class A
10 operation?

11 A: I did not.

12 Q: Have you visited any other test
13 facilities --

14 A: Of that type?

15 Q: Yes.

16 A: No.

17 Q: So you were not in a position to
18 inspect an IBT facility because you did not
19 have sufficient knowledge to do so; is that a
20 fair statement?

21 A: Not totally. I think I have seen
22 enough of, as examples, chemistry, analytical
23 laboratories and their analytical section was
24 up to top notch.

25 Q: Okay.

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1 A: Modern equipment and all.

2 Q: When you went to the facility, the
3 IBT facility, did you do so with the thought
4 of inspecting the facility in order to
5 determine whether or not it was conducting
6 proper tests?

7 A: I, personally?

8 Q: Yes.

9 A: No.

10 Q: Did anyone from Monsanto?

11 A: Yes.

12 Q: Who was sent there to, in fact,
13 inspect the facility to ensure that the tests
14 were carried out properly?

15 A: At what point in time, again?

16 Q: At any time.

17 A: Well, several individuals from
18 Monsanto's medical department made visits.

19 Q: The medical department was, in fact,
20 in charge of ensuring that the IBT facility
21 was maintaining proper procedures?

22 MS. RUTTER: Objection to the form of
23 the question in that it mischaracterizes prior
24 testimony and is misleading. You may answer
25 subject to the objection.

1 A: The medical department was
2 responsible for representing Monsanto and the
3 placing of the studies, the conduction of the
4 studies, the receipt of the information from
5 the studies, so they were the group in
6 Monsanto that interfaced with this service.

7 Q: And so it is your appreciation that
8 if the service was operating at less than
9 acceptable levels, it was the responsibility
10 of the medical department to discover and
11 correct any deficiencies?

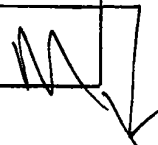
12 A: I relied on them to make certain that
13 the results were good results that we could
14 make some decisions on.

15 Q: And who from the medical department
16 to your knowledge inspected the IBT facility?

17 MS. RUTTER: Objection to the use of
18 the term "inspected."

19 A: I cannot speak for the role that the
20 medical department representative played but I
21 do know that a Dr. Hunt made frequent visits.
22 Later it was a Dr. Levinskas and Mr. Wheeler.
23 Those three individuals were the active ones
24 on the PCB studies.

25 Q: Have you ever seen any report



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1 indicating that the IBT facility was
2 conducting questionable operations?

3 A: I saw newspaper articles about
4 allegations regarding their performance. I
5 did not see anything relating to PCB studies.

6 MS. RUTTER: At what point in time
7 did you see those newspaper articles,
8 Mr. Papageorge?

9 A: Oh, this was in the 1980's, again.

10 Q: So you received no information during
11 1970 through '76 questioning the operations of
12 the IBT facility?

13 A: That is correct.

14 Q: What was your involvement with the
15 development of alternatives to PCB's?

16 A: I was in a position where I attempted
17 to stay abreast of all the research activity
18 and the development of these materials. I
19 was -- I felt my primary role was one of
20 encouraging that the effort be stepped up, if
21 you will, to speed it up, if possible, and
22 that the right resources were available to do
23 this and that's the role that I played.

24 Q: Okay. What were the alternatives
25 that were actually ultimately developed?

1 A: For which? For what?

2 Q: For PCB.

3 MS. RUTTER: For what application?

4 Well --

5 A: Yes, for what uses?

6 Q: For capacitors and transformers.

7 A: Monsanto did not succeed in
8 developing any acceptable alternative.

9 Q: Did anyone else in the industry
10 develop an acceptable alternative?

11 A: Well, obviously, they have an
12 alternative material. I don't know the source
13 of that material.

14 Q: Okay. Is silicone oil considered a
15 viable alternative?

16 A: For capacitors?

17 Q: Yes.

18 A: That's not my understanding for
19 capacitors, no.

20 Q: Is it not true that silicone oil is
21 now used in capacitors?

22 A: I don't know that. I know it is used
23 in transformers. I have not heard it used in
24 capacitors.

25 Q: Does silicone oil have the fire

1 retardant characteristics of PCB's?

2 A: It is my understanding that it is
3 acceptable when that is good and the units
4 that are made are of a bigger size to do the
5 same job. That's my understanding.

6 Q: Is it also your understanding that
7 the dielectric properties of silicone oil were
8 known in the chemical field in as early as
9 1955?

10 A: I do not know that.

11 Q: Do you know of any technological
12 advancement occurring between 1955 and the
13 time at which silicone oil was actually
14 used -- that enabled silicone oil to be used?

15 A: I know nothing about the silicon
16 business so I can't respond.

17 Q: Now, when looking at alternatives,
18 you testified that Monsanto was not able to
19 develop an alternative to PCB's.

20 A: Did not succeed, correct.

21 Q: Okay. Was there any dielectric fluid
22 that Monsanto developed?

23 A: They had several candidates that were
24 being evaluated. Samples were sent to the
25 customers to try out and see if it worked on

1 their equipment. I remember that. But in
2 every case, the customers were not satisfied.

3 Q: Did Dr. Munch not develop and patent
4 an alternative to PCB's?

5 A: Yes, he did.

6 Q: And what was that alternative?

7 A: I don't recall anymore.

8 Q: And in what year was that patent made
9 and applied for?

10 A: I don't recall.

11 Q: Was it not 1972?

12 A: In the early seventies, yes, sir.

13 Q: Okay. After the Yusho incident,
14 Monsanto accelerated the research on
15 developments of alternatives to PCB's?

16 A: It was certainly after the Yusho
17 incident but not related. Timewise it
18 happened after. Yes, it was in the 70's as
19 compared to the Yusho incident of '68.

20 Q: After it became apparent that PCB's
21 were non-biodegradable, as was discovered by
22 the Swedes, Monsanto accelerated development
23 of alternatives?

24 A: That is correct.

25 Q: Okay. And shortly after that

1 acceleration, Dr. Munch, in fact, came up with
2 a patent for an alternative to PCB's?

3 A: For certain applications, yes.

4 Q: One of the characteristics of PCB's
5 is that it is fire retardant; isn't that
6 correct?

7 A: That is correct.

8 Q: But, nevertheless, there are still
9 fires and explosions that occurred with PCB
10 transformers; is that correct?

11 A: Yes.

12 Q: Okay.

13 MS. RUTTER: Was that before 1976?

14 Q: Before and after.

15 A: No. No. I don't recall any fire and
16 explosion in the period '70 to '76, no.

17 MS. RUTTER: And, Counsel, I'm trying
18 to give you some leeway here on time periods;
19 I'm just also trying to make sure the record
20 is clear.

21 MR. RACE: Let me get this down for
22 the personal deposition.

23 Q: Is it not true that the fire
24 retardant characteristic of PCB's was not as
25 important in capacitors as it was in

1 transformers or would this be something you
2 would have to ask Westinghouse?

3 A: I was going to say, to me, fire --
4 well, first, rather than fire retardancy, I
5 would suggest that the characteristic of PCB's
6 is best described by fire resistant. It does
7 not support a fire. There are conditions at
8 which it will burn if you reach these
9 conditions but those conditions are not
10 available in normal electrical use.

11 Q: Well, they do, in fact, occur as
12 evidenced by virtue of the fact that fires
13 have occurred with PCB transformers.

14 A: Yes, but those fires could be and
15 probably are due to other materials present,
16 chlorobenzenes, the additives, the wiring, the
17 insulation on the wiring. There is more to it
18 than just the PCB contents.

19 Q: Right. So, in other words, if the
20 manufacturer of electrical components puts
21 chlorinated benzene in PCB's, then apparently
22 that was not a -- the fire resistant
23 characteristic was willing to be sacrificed;
24 is that not true?

25 MS. RUTTER: Objection, calls for

1 speculation and conjecture and
2 mischaracterizes prior testimony.

3 Q: Can you testify one way or the other
4 about that?

5 A: You would have to ask the
6 Westinghouses and General Electrics of this
7 world.

8 Q: Doctor, are you available to testify,
9 shall we say, until 5:00?

10 A: Yes.

11 Q: Okay. What were the warnings and
12 advices transmitted to Westinghouse by
13 Monsanto between 1965 and 1970 regarding the
14 safe handling of PCB's? 

15 A: Avoid prolonged skin exposure, avoid
16 excessive breathing of fumes.

17 Q: These are the areas you told us about
18 before, the three?

19 A: I think I touched on some of those,
20 yes.

21 Q: Okay. What was the actual
22 documentation that was forwarded to
23 Westinghouse?

24 A: Well, it took several forms. There
25 were what I am going to describe as product

1 bulletins or product brochures, which contain
2 sections on safe handling or some such title.

3 Q: Were these brochures that were
4 prepared by Dr. Kelly in the medical
5 department?

6 A: The section on safe handling was
7 prepared by Dr. Kelly's department. The rest
8 of the brochure was prepared by many other
9 people.

10 Q: Okay. And the rest of the brochure
11 would be more of a technical, as opposed to a
12 safety -- address safety aspects?

13 A: There would be some research work in
14 there, some application work, where to use it,
15 how it behaves and some on some of its
16 physical and chemical properties, these kind
17 of things, and then there would be a section
18 in there on safe handling or toxicity or maybe
19 both of those words appeared in the title on
20 that section.

21 Q: What was your involvement with the
22 transmitting of warnings and advices to the
23 Westinghouse facility?

24 A: My personal involvement?

25 Q: Yes.

1 A: Of course, there is the
2 person-to-person discussion that I held with
3 several Westinghouse people. When I got
4 involved in 1970, of course, Westinghouse had
5 worked with this material for decades and had
6 received the brochures that had been published
7 up to that time.

8 Q: Are you aware of any brochure
9 publication or other advices advising
10 Westinghouse of actions to be taken in the
11 event that there was prolonged skin contact or
12 if there was excessive inhalation of PCB's?

13 A: Can you help me with the "actions"?
14 Does this pertain to treating the skin, for
15 example, or to reduce the exposure? Is that
16 the action?

17 Q: No, treating it after the event
18 occurs.

19 A: Treating -- that's a medical
20 situation that I -- I'm not familiar with
21 that.

22 Q: Okay. So if Dr. Kelly testified that
23 there were no advices regarding what should
24 Westinghouse do in the event that they did not
25 abide by the Monsanto advices, you would defer

1 to Dr. Kelly in that regard, would you not?

2 MS. RUTTER: Objection,
3 mischaracterizes Dr. Kelly's testimony.

4 Q: Subject to the objection --

5 A: Well, if it involved what ointments
6 to use on that skin to help it heal, that
7 would be a medical question that would go to
8 Dr. Kelly.

9 Q: But the question is a little broader
10 than that. What action is to be taken in the
11 event that a worker was exposed beyond a level
12 contemplated by Monsanto?

13 A: We would certainly review with the
14 supervisors of that operation the need for,
15 let's say, gloves.

16 Q: I'm not talking about prevention, I'm
17 talking about reaction after the contact has
18 been established.

19 A: I'm confused by your question. I
20 don't know how to answer. I don't understand
21 the question.

22 Q: Okay. You would defer to Dr. Kelly
23 with respect to what was transmitted to
24 Westinghouse concerning actions to be taken
25 after a worker was exposed to a level of PCB

1 above that contemplated by Monsanto?

2 A: For the treatment of the symptoms as
3 a result of this activity.

4 Q: You would defer to Dr. Kelly?

5 A: Dr. Kelly, yes.

6 Q: As to what was transmitted to
7 Westinghouse?

8 A: Yes.

9 Q: And to the best of your knowledge,
10 the three areas of advices transmitted to
11 Westinghouse by Monsanto with regard to the
12 safe handling of PCB's was to avoid repeated
13 dermal contact, avoid inhalation of PCB vapors
14 and avoid ingestion; is that correct?

15 MS. RUTTER: Objection, overbroad,
16 vague, mischaracterizes prior testimony.

17 A: Yes, each of those exposures, of
18 course, were described by words that help
19 determine the degree of exposure, like the
20 word prolonged -- I don't have it in front of
21 me now -- prolonged breathing, excessive skin
22 contact, words of that type. Those may not be
23 the exact words but --

24 Q: What does "prolonged dermal contact"
25 mean? And it is the word "prolonged" that I

1 wish for you to define.

2 A: This tries to establish that the
3 instantaneous once-in-a-great-while limited
4 skin contact should pose no problems. On the
5 other hand, there are situations where
6 eventually that skin starts showing a redness
7 as an example of an excess amount and that
8 will vary, too, from person-to-person, from
9 PCB to PCB. And frequency, if it happens once
10 a year, no problem, but if it happens every
11 day, you are going to end up with red skin or
12 chapped hands or what have you.

13 Q: So you couldn't say that "prolonged"
14 simply meant more than once; is that correct?

15 MS. RUTTER: Objection to the vague
16 form of the question.

17 A: "Prolonged" involves a time factor.
18 You could put your hand in a bucket of PCB's
19 for a long time or, say, a day and that would
20 be prolonged but just a dip and out and a
21 washing of the hands would not be in my
22 opinion considered prolonged. I don't know if
23 that's a good example or not.

24 Q: In other words, if in a week period
25 of time you had to dip your hand on three

1 occasions in PCB for an instant, you wouldn't
2 consider that prolonged?

3 A: I don't know if it is three or five
4 or ten or one. That's never been established
5 and it would be difficult to establish.

6 Q: So if someone had to put their hands
7 in the PCB's on three occasions over a period
8 of a month for in and out, you would not
9 consider that a prolonged contact; is that
10 correct?

11 A: Not as far as my personal experience
12 is concerned. I have done it myself.

13 Q: Okay.

14 A: Nothing happened.

15 Q: Do you know what safety procedures
16 were instituted at Westinghouse for the
17 handling of PCB's?

18 A: I know some of them. I don't pretend
19 to know everything they have done. I was
20 aware of safety sheets in which the material
21 is described and how it should be handled; I
22 am aware that they had gloves made available
23 to their employees for use; I'm aware of
24 aprons to protect their clothing from getting
25 contaminated; I'm aware of their interest in

1 the type of shoe that would withstand exposure
2 to the PCB's.

3 Q: Go to shoes. Leather shoes would be
4 eaten by PCB compounds within six months?

5 A: It wasn't the leather so much,
6 although the leather was a material that
7 tended to retain the PCB, it would soak into
8 the leather. The problem was with the soles
9 that would curl and these soles were made of
10 materials that were not resistant to PCB's.

11 Q: Okay. So the shoe would be distorted
12 in a matter of six months in the PCB
13 environment such as a factory?

14 A: It depended how much the employee
15 walked through or exposed those soles to the
16 liquid.

17 Q: Okay. And for that reason, in
18 Monsanto's facilities, special booties were
19 provided?

20 A: We did provide booties, yes.

21 Q: Okay. Were those special booties
22 provided at Westinghouse's facility?

23 A: I don't know.

24 Q: Did you have any mechanism that you
25 know of whereby Monsanto monitored

1 Westinghouse's procedures?

2 MS. RUTTER: Objection to use of the
3 word "monitored" but you may answer.

4 A: I don't know of any procedure. We
5 communicated and we were dealing with a
6 sophisticated corporation that had really more
7 resources than Monsanto did so --

8 Q: Very good. Very good. You got that
9 right. I don't know.

10 MS. RUTTER: Excuse me. Counsel, you
11 cut off his answer. Please continue.

12 A: I don't know what --

13 Q: A-Plus.

14 A: We were dealing with a sophisticated
15 customer. Resources were equal or better than
16 Monsanto in many respects.

17 MR. RACE: Do you have a tele-
18 prompter behind me?

19 A: So when we say, "Don't get it on your
20 skin," we really believed to this day that
21 they are capable of finding gloves that will
22 protect the skin, for example, and so on.

23 Q: Yes. And would you agree that that's
24 a shared responsibility between the
25 manufacturer and the employer?

1 A: Shared?

2 MS. RUTTER: Objection to the vague
3 and confusing and overbroad form of the
4 question.

5 A: No, I don't think that's shared
6 because once the material enters the
7 customer's plant, it is really -- when it
8 leaves Monsanto's plant gate, we have no
9 control over it.

10 Q: You have no control over it and no
11 responsibility for it; is that correct?

12 A: It is not our property anymore.

13 Q: Okay. So then you have no control
14 and no responsibility for it once it leaves
15 your gate; is this what you are telling me?

16 A: It all depends what you mean by
17 "responsibility." We were responsible in
18 communicating in advance how it should be
19 handled. We were responsible in the way it
20 was put into that vehicle and buttoned up. We
21 were responsible in seeing that that tank car
22 was in good shape when it left our plant, that
23 the wheels were on it, for example -- I'm
24 exaggerating a bit but there are some
25 responsibilities but once you fulfill those

1 and transfer that carload of material,
2 Monsanto has -- can't possibly control it.
3 Even if they put a person on to ride with that
4 car, you can't control it.

5 Q: Okay. And once Monsanto became aware
6 of any misuses of its product at its
7 customer's facilities, it had no
8 responsibility; is this what you are telling
9 me?

10 MS. RUTTER: Objection. Are you
11 asking a hypothetical question?

12 Q: Subject to the objection --

13 A: I'm wrestling with the understanding
14 of the word "responsible." We have already
15 shared with the customer everything we know
16 about the material. There isn't any more we
17 can do. This is no different than the auto
18 manufacturer and your car. It is in your
19 hands. The auto manufacturer is not
20 responsible for any misuse you make of that
21 vehicle.

22 Q: Okay. So, once again, let's get back
23 to my question. Once Monsanto learns of the
24 misuse of a product in the possession of a
25 customer, does Monsanto have any

1 responsibility?

2 MS. RUTTER: Counsel, which
3 designated topic is this on? "A," it's been
4 asked and answered, but "B," what topic are
5 you on?

6 MR. RACE: Any infractions by
7 Westinghouse with respect to recommended
8 safety procedures.

9 MS. RUTTER: Counsel, he says he
10 visited Westinghouse plants and he didn't see
11 any unsafe procedures so what you are doing is
12 asking a hypothetical question that's beyond
13 the topic designated.

14 Q: Did you see any, quote, "sloppiness,"
15 end quote, at the Westinghouse facility? M

16 A: Not in my understanding of it.

17 Q: Did you see any conditions which
18 exposed Westinghouse's employees to PCB's in a
19 manner not intended by Monsanto?

20 A: No.

21 Q: Did you hear of any reports of
22 Westinghouse's procedures being sloppy?

23 A: Yes, I recall a comment made by
24 someone in which the word "sloppy" appeared
25 but I don't know what that person meant when

1 he used that word. I don't know if it meant
2 that it resulted in an unkempt factory
3 appearance or whether it meant that employees
4 were unduly exposed. I have no way of knowing
5 what that use of the word "sloppy" meant.

6 Q: Okay. What period of time did you
7 hear that?

8 A: Late sixties. Middle to late
9 sixties. 

10 Q: Did you take it upon yourself to
11 further investigate what that sloppy condition
12 was?

13 A: No.

14 Q: Did Monsanto have a policy at that
15 period of time, from '65 to '70, to
16 investigate what a sloppy condition or misuse
17 of a product in a customer's facility was?

18 MS. RUTTER: Objection to the use of
19 the term "investigate" and I think we are now
20 back to the topic that you said you were going
21 to do during his personal deposition.

22 Q: Okay. Answer that and then we will
23 get off of it.

24 MS. RUTTER: I'm going to permit you
25 to answer the question. Do you need to have

1 it read back?

2 Q: Can you answer?

3 A: Can I answer?

4 Q: Yes.

5 A: Whether Monsanto had a policy
6 regarding correcting sloppy conditions.

7 Q: In customer facilities?

8 A: In customers' facilities. I'm not
9 aware of any such policy.

10 Q: Okay. Let's move on to your personal
11 deposition.

12 MR. RACE: Do you want to end this?

13 MS. RUTTER: I have a few questions
14 before we end this.

15 EXAMINATION

16 QUESTIONS BY MS. RUTTER:

17 Q: Mr. Papageorge, when you said you
18 heard a report in the late 1960's where the
19 word "sloppy" was used in relation to a
20 Westinghouse facility, I can't remember the
21 precise terminology the plaintiff's counsel
22 used, in asking a few follow-up questions
23 about that, what, if anything, was done in
24 response to that report that used the word
25 "sloppy"?

*Con'd
to
94*

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1 A: This resulted in an invitation to
2 representatives of Westinghouse to come by one
3 of Monsanto's plants at which PCB's were
4 manufactured and get really familiar with the
5 kind of things that Monsanto did regarding
6 workers and PCB exposure and the
7 representatives did come by and we were able
8 to share with them the types of gloves we use,
9 these booties we referred to earlier, the type
10 of respirators for breathing in fummy
11 conditions, the kind of ointments that are
12 used sometimes to protect hands; that type of
13 discussion was held at the plant, Monsanto's
14 plant.

15 Q: And then did you personally visit the
16 Westinghouse Bloomington plant?

17 A: I did, yes.

18 Q: Do you remember approximately when
19 that occurred?

20 A: That was in the summer of 1970, June
21 or July.

22 Q: Did you see any practices that you
23 would describe as "sloppy" in relation to
24 worker practices at that time?

25 A: No. No, my understanding of the word

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1 "sloppy" didn't fit.

2 Q: Mr. Papageorge, when you were
3 communicating -- when Monsanto was
4 communicating with the government during the
5 time period 1970 to 1976 when you were in
6 your -- what was your title during that time
7 period?

8 A: Oh, it had several changes. Manager,
9 environmental either control or protection,
10 that type of title.

11 Q: During the time period 1970 through
12 1976 when you were in the job description that
13 related to environmental control, were you
14 present when statements were made to the
15 government by Monsanto in relation to the past
16 history of usage of PCB's by workers in
17 industry?

18 A: I was present in many meetings, not
19 all of them.

20 Q: Who typically spoke to
21 representatives of the government on that
22 topic?

23 A: Oh, it would be -- Elmer Wheeler from
24 Monsanto's chemical department was the
25 spokesman.

1 Q: Did Mr. Wheeler ever make any
2 statements to the government, any unqualified
3 statement, that there had never been a single
4 human problem in relation with the use of
5 PCB's?

6 A: "Never," no, not "never." There had
7 never been one properly handled is the way it
8 was put.

9 Q: Okay. Counsel asked you --
10 plaintiff's counsel asked you some questions
11 about the communications between Monsanto and
12 Westinghouse and there was a time period when
13 you started enumerating some of the manners in
14 which communications were made and I know you
15 touched on brochures and bulletins and you
16 touched on personal communications and then I
17 think the conversation went so that that topic
18 was cut off. Were there any other methods
19 other than customer bulletins and person-to-
20 person communications?

21 MR. RACE: Object to the form of the
22 question, leading.

23 Q: What, if any, other methods were used
24 to communicate with Westinghouse?

25 A: Of course, the labels, product labels

1 were an important piece of communications. I
2 can't think of any other at the moment. Much
3 of it was person-to-person, really.

4 MR. RACE: Don't worry, she will
5 before trial.

6 THE WITNESS: She will?

7 Q: Have you ever seen correspondence
8 between Westinghouse and Monsanto?

9 A: Yes.

10 MS. RUTTER: Okay. That's all I
11 have.

12 EXAMINATION

13 QUESTIONS BY MR. RACE:

14 Q: When you say, "labels,"
15 Mr. Papageorge, is this the type of thing you
16 are referring to?

17 A: Yes, that's an example.

18 Q: Okay. "This" being what was produced
19 by Monsanto in a folder marked "Bechtold
20 versus Monsanto, Inspection Folder 187,"
21 titled "Labels," refers to labels here
22 appearing as Bates stamp numbers BEC131744
23 going to 131817?

24 MR. WUNDERLICH: 131817?

25 MR. RACE: Yes. Okay. Can we jump

1 into your -- let's cut this.

2 MS. RUTTER: And could you just put
3 this in a separate transcript, please?

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COMES NOW THE WITNESS, WILLIAM B.
PAPAGEORGE, P.E., and having read the
foregoing transcript of the deposition taken
on the 6th day of June, 1994, acknowledges by
signature hereto that it is a true and
accurate transcript of the testimony given on
the date hereinabove mentioned.

William B Papageorge

WILLIAM B. PAPAGEORGE, P.E.

Subscribed and sworn to me before this
1st day of *August*, 1994.

My Commission expires: -

JOSEPHINE B. NIBLOCK
NOTARY PUBLIC STATE OF MISSOURI
ST. LOUIS COUNTY
MY COMMISSION EXP. JAN. 15, 1995

Josephine B. Niblock

Notary Public

vw

Bechtold, et al., v. Monsanto, et al.

CASE NAME: Bechtold v. Monsanto, Case # 922-00911

WITNESS NAME: William B. Papageorge (Designee) DATE: June 6, 1994

DEPOSITION CORRECTION SHEET

Upon reading the deposition and before subscribing thereto, the deponent indicated the following changes should be made:

Page 14, Line 13

Should read: bran oil incident was discussed. The meeting

Reason for change: Spelling

Page 23, Line 7

Should read: somewhere on the other biphenyl molecule.

Reason for change: Incorrect word.

Page 30, Line 16

Should read: referred to the different effects of the

Reason for change: Spelling

Page 39, Line 23

Should read: and those were used to determine the
concentrations

Reason for change: Incorrect word.

Page 93, Line 24

Should read: Monsanto's medical department was the

Reason for change: Incorrect word.

William B Papageorge
Signature of Witness

COMES NOW THE WITNESS, WILLIAM B.
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 foregoing transcript of the deposition taken
 on the 6th day of June, 1994, acknowledges by
 signature hereto that it is a true and
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 the date hereinabove mentioned.

 WILLIAM B. PAPAGEORGE, P.E.

Subscribed and sworn to me before this
 ___ day of ___, 1994.

My Commission expires: _____

 Notary Public

vw

Bechtold, et al., v. Monsanto, et al.

1 State of Missouri

2 SS.

3 City of St. Louis

4 I, Victoria L. Wilson, a Notary Public in
5 and for the State of Missouri, duly
6 commissioned, qualified and authorized to
7 administer oaths and to certify to
8 depositions, do hereby certify that pursuant
9 to Notice in the civil cause now pending and
10 undetermined in the Circuit Court of the City
11 of St. Louis, State of Missouri, to be used in
12 the trial of said cause in said court, I was
13 attended at the offices of Husch &
14 Eppenberger, 100 North Broadway, Suite 1300,
15 in the City of St. Louis, State of Missouri,
16 by the aforesaid witness; and by the aforesaid
17 attorneys; on the 6th day of June, 1994.

18 The said witness, being of sound mind and
19 being by me first carefully examined and duly
20 cautioned and sworn to testify the truth, the
21 whole truth, and nothing but the truth in the
22 case aforesaid, thereupon testified as is
23 shown in the foregoing transcript, said
24 testimony being by me reported in shorthand
25 and caused to be transcribed into typewriting,

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1 and that the foregoing pages correctly set
2 forth the testimony of the aforementioned
3 witness, together with the questions
4 propounded by counsel and remarks and
5 objections of counsel thereto, and is in all
6 respects a full, true, correct and complete
7 transcript of the questions propounded to and
8 the answers given by said witness; that
9 signature of the deponent was not waived by
10 agreement of counsel.

11 I further certify that I am not of
12 counsel or attorney for either of the parties
13 to said suit, not related to nor interested in
14 any of the parties or their attorneys.

15 Witness my hand and notarial seal at
16 St. Louis, Missouri, this _ _ _ _ day of
17 _ _ _ _ _ , 1994.

18 My Commission expires March 14, 1997.

19 Victoria L. Wilson

20 Notary Public in and for the
21 State of Missouri
22
23
24
25

1 COURT MEMO

2 CIRCUIT COURT OF THE CITY OF ST. LOUIS

3 STATE OF MISSOURI

4 JUDITH BECHTOLD, et al.,

5 vs. CAUSE NO. 922-00911

6 MONSANTO COMPANY, et al.

7
8 CERTIFICATE OF OFFICER AND

9 STATEMENT OF DEPOSITION CHARGES

10 (Rule 57.03(g)(2)(a) & Sec. 492.590 RSMO 1985)

11 DEPOSITION OF WILLIAM B. PAPAGEORGE, P.E.

12 TAKEN ON BEHALF OF THE PLAINTIFFS

13 June 6, 1994

14
15 Name and address of person or firm having
16 custody of the original transcript:

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1 IN WITNESS WHEREOF, I have hereunto set my
2 hand and seal on this day of
3 1994.

4 My Commission expires March 14, 1997.

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Notary Public

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Ms. Gutter,

Enclosed please find the original signature page and
errata sheets for the deposition of William B. Papageorge, P.E.
taken 6-6-94, in the case of Judith Bechtold vs.
Monsanto Company.

Please have the witness execute your copy of the transcript,
making any corrections necessary on the errata sheets. The
errata sheets should be signed at the space on the bottom, and
the signature page should be signed before a Notary Public.

For these pages to be inserted in the original and filed
with the court, please return them to: Joseph A. Gail
Murray Low Lian
909 Poydras Street
Suite 2350
New Orleans, LA 70112

Your prompt cooperation will be appreciated.

Sincerely,

GORE REPORTING COMPANY

cc: Gail

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 7 the date hereinabove mentioned.

8
 9
 10
 11 WILLIAM B. PAPAGEORGE, P.E.
 12 Subscribed and sworn to me before this
 13 _ _ _ _ day of _ _ _ _ , 1994.
 14 My Commission expires: _ _ _ _ _

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 17
 18 Notary Public

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 20 vw

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 22 Bechtold, et al., v. Monsanto, et al.

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