MF 500
Papageorge #72

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

NEVADA POWER COMPANY,	)	
	)	
Plaintiff,	)	
-vs-	)	
	)	# CV-S-89-555-LDG (LRI
	)	
MONSANTO COMPANY, et al.,	)	
	)	
Defendants.	)	

30(b)(6) DISCOVERY
DEPOSITION OF WILLIAM B. PAPAGEORGE

On the part of the Plaintiff

July 21, 1993

Concannon & Jaeger
General Court Reporters
705 Olive Street, Suite 604
St. Louis, Missouri 63101
(314) 421-1000

WATER_PCB-SD0000074165

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

NEVADA POWER COMPANY,)
)
Plaintiff,)
-vs-) # CV-S-89-555-LDG (LRL)
)
)
MONSANTO COMPANY, et al.,)
)
Defendants.)

* * *

I N D E X

WITNESS: Page:

WILLIAM B. PAPAGEORGE

Direct Examination by Mr. Bradley 4

E X H I B I T S

Plaintiff's Deposition Exhibit # 1 4

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

NEVADA POWER COMPANY,)
)
Plaintiff,)
-vs-) # CV-S-89-555-LDG (LRL)
)
MONSANTO COMPANY, et al.,)
)
Defendants.)

30(b)(6) DISCOVERY DEPOSITION OF WITNESS, to be used in an action pending in the District Court of the United States, for the District of Nevada, wherein NEVADA POWER COMPANY is Plaintiff, and MONSANTO COMPANY, et al. are Defendants, pursuant to Notice, under the provisions of Rule 26 of the Rules of Civil Procedure, taken on July 21, 1993, at the law offices of Messrs. Husch, Eppenberger, Donohue, Cornfeld & Jenkins, 100 N. Broadway, Ste. 1300, St. Louis, Missouri 63102, before Mark D. Concannon, a Notary Public within and for the State of Missouri.

A P P E A R A N C E S

The Plaintiff was represented by Attorney Ralph A. Bradley of the law firm of Jones, Jones, Close & Brown, Chartered, 700 Bank of America Plaza, 300 South Fourth Street, Ste. 700, Las Vegas, Nevada 89101.

The Defendant, Monsanto, was represented by Attorney Scott R. Bauer of the law firm of Kirkland & Ellis, 1999 Broadway, Ste. 4000, Denver, Colorado 70202.

The Defendant, Westinghouse, was represented by Robert P. Morgan, In-House Counsel, Westinghouse Electric Corporation, Westinghouse Building, Gateway Center, Pittsburgh, Pennsylvania 15222.

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WILLIAM B. PAPAGEORGE,

of lawful age, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, deposes and says on behalf of the Plaintiff, as follows:

(Prior to the commencement of the deposition, the reporter marked Deposition Exhibit 1, for identification.)

DIRECT EXAMINATION

QUESTIONS BY MR. BRADLEY:

Q. For the record, I had marked as Plaintiff's Exhibit 1, the 30(b)(6) Notice tendered by Nevada Power Company to Defendants regarding the subject matter of this deposition.

Mr. Papageorge, you have been identified by Monsanto as the 30(b)(6) -- as one of two 30(b)(6) designees regarding the subject matter contained on Attachment A of that exhibit, which relates to acquisition of knowledge regarding furans, dioxins, polychlorinated furans and polychlorinated dioxins as a general representation, correct?

A. Yes.

Q. During your personal deposition, which we completed yesterday, I asked you questions about furans, polychlorinated dibenzofurans, and dibenzofurans, and I asked you questions about dioxins, polychlorinated dibenzodioxins, and if I asked you the same questions in this deposition, would you give the same answers?

MR. BAUER: Questions related to those topics.

MR. BRADLEY: Yes.

A. I believe so, certainly. I'd try to.

MR. BRADLEY: By agreement of counsel, it's my understanding that, for purposes of this deposition, the questions and answers that you gave on those topics will be considered the questions and answers for this 30(b)(6) deposition, and the only issue that would exist is whether or not the questions and answers were within the scope of the 30(b)(6) Notice.

Is that your understanding, Mr. Bauer?

MR. BAUER: Yes.

MR. MORGAN: My understanding, as well.

MR. BRADLEY: And General Electric is not here, even though they were noticed for this set of depositions.

Were there any discussions within Monsanto prior to 1975 that were recorded in any form regarding Monsanto's need to contract for or to develop in-house whatever technology was necessary to determine the presence or absence of polychlorinated dibenzofurans in PC blends manufactured by Monsanto?

MR. BAUER: Object. Vague as to what you mean by documenting conversations, whether it needs to be like minutes versus a memo that's not documented on paper. But

you can answer if you understand the question.

Q. (by Mr. Bradley) So that you understand what I am looking for. I am looking for anything written, including a note that may have been jotted down, a letter, a memo, a report, a recommendation - anything that is written.

A. Before 1975?

Q. Yes.

A. Yes, there were pieces of correspondence that covered this subject.

Q. Tell me what you remember about that correspondence. I want to know the author and the subject matter of the correspondence.

A. I'm having difficulty timing much of this. I recall correspondence that Robert, Dr. Keller, at Monsanto, had with Dr. Voss at the University of Utah relating to methodology for analyzing for chlorinated dibenzofurans. I recall a Monsanto memoranda from either Dr. Keller or his staff, people working for him, in which they communicated -- and I remember these being addressed to me with carbon copies to others -- the fact that analyses had been made, but no detectable amounts of chlorinated dibenzofurans were found in PCB's.

I recall memorandum describing communications with, I believe it was chemists at the Food and Drug

Administration, in which Dr. Mieure was consulted regarding some findings that the Food and Drug Administration chemists had and the interpretation of these findings as being chlorinated dibenzofurans.

I recall, also, a memorandum authored by Dr. Keller in which he was discussing the limits of detection, or his ability to detect chlorinated dibenzofurans at certain levels of concentration. That is all I can recall at the moment.

Q. Was there ever a point in time when anyone determined that PC blends manufactured by Monsanto contained polychlorinated dibenzofurans?

A. Help me with the expression, "PCB blends."

Q. All right. I'm sorry. Let me rephrase the question. Was there ever a time when anyone determined that PCB's manufactured by Monsanto contained polychlorinated dibenzofurans?

A. Yes.

Q. When was that?

MR. BAUER: So the record is clear, I'm going to object. I'm not sure I made this clear earlier, that Mr. Papageorge is being tendered for a specific time period. There is a period beginning in 1976 that he was being less actively involved in this area, and we're not representing he was the person most knowledgeable during

that time period.

Q. (by Mr. Bradley) All right. Based on Mr. Bauer's statement, you may answer.

A. I was made aware of these findings after I had a new job assignment.

Q. Was it after '76 that you became aware of those studies?

A. During 1976, after I was reassigned.

Q. And the laboratory or individuals that found polychlorinated dibenzofurans in PCB's products manufactured by Monsanto were not under contract by Monsanto to determine the absence or presence of those polychlorinated dibenzofurans. That's true, isn't it?

A. This is true. They were employees of Monsanto.

Q. Do you know whether the first persons to determine the presence or absence of polychlorinated dibenzofurans in PCB's manufactured by Monsanto were Monsanto employees?

A. You used the words "presence or absence." The first people --

Q. Let me rephrase my question. Do you know whether the first persons to determine the presence of polychlorinated dibenzofurans in PCB's manufactured by Monsanto were Monsanto employees?

A. Well, the first report came from The Food and Drug Administration.

Q. And what date was that?

A. Early '75. '75 is as close as I can recall.

Q. And did the report from The Food and Drug Administration indicate who had determined the presence of polychlorinated dibenzofurans in PCB's manufactured by Monsanto?

A. I believe it referred to a Dr. Pomeranz, P-o-m-e-r-a-n-z. I am not certain of that spelling.

Q. And Dr. Pomeranz located the Monsanto polychlorinated dibenzofurans in at least three PCB formulations manufactured by Monsanto; is that correct?

MR. BAUER: Objection. Hearsay to the extent that it's offered for the truth of the matter, as opposed to what he reported.

A. It depends on what point in time we're talking about here. The initial contact out of The Food and Drug Administration Laboratory indicated that they thought they saw in their analyses the chlorinated dibenzofurans; they were not certain. And as a result of that initial contact, Monsanto's Dr. Mieure became involved, and there was a dialogue that took place, chemists-talking-to-chemists type of dialogue. It was later in '75 -- As I remember the meeting in Chicago, in November, '75 was the official

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announcement by The Food and Drug Administration that they were certain they found the chlorinated dibenzofurans in their samples.

Q. (by Mr. Bradley) And Monsanto did not either develop itself or pay for the development of the refinement of equipment that allowed the detection of polychlorinated dibenzofurans in PCB products manufactured by Monsanto to the levels at which they were detected and reported by The Food and Drug Administration; is that correct?

MR. BAUER: Object to the form of the question. It assumes a fact that is not in evidence, which is that it was purely equipment changes as opposed to methodology changes, and also does not take into account that his -- what he just testified about, the FDA and Mieure contacts about methodology.

But you can answer.

A. I don't know the details related to the analytical method, nor the instrument used by The Food and Drug Administration, how they compared to Monsanto's instrument, nor do I know any of the details of the procedures used by The Food and Drug Administration Laboratory in preparing the sample to be injected into the instrument to get the results they did.

Q. (by Mr. Bradley) Between 19 -- Let me rephrase. Prior -- I'm going to start all over again. At

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no point in time did Monsanto ever contract with anyone to develop equipment and/or methodology that would have allowed the detection of polychlorinated dibenzofurans in PCB's manufactured by Monsanto. That's true, isn't it?

A. Yes.

Q. And Monsanto was not the first group that was able to determine the presence of polychlorinated dibenzofurans in PCB's manufactured by Monsanto. That's true, isn't it?

A. Yes.

MR. BRADLEY: I have nothing further.

MR. MORGAN: I have no questions.

MR. BAUER: I have no questions.

Again, it's Monsanto's view with respect to this witness and the time period for which he has been tendered, that that concludes the 30(b)(6) Notice with respect to furans and dioxins.

_____

WILLIAM B. PAPAGEORGE

Subscribed and sworn to before me this _____ day of _____, A. D., 1993.

MY COMMISSION EXPIRES _____.

_____

Notary Public, within and for the State of Missouri

STATE OF MISSOURI)
) SS
COUNTY OF ST. LOUIS)

I, Mark D. Concannon, a Notary Public within and for the State of Missouri, duly commissioned, qualified and authorized to administer oaths and to take and certify to depositions, do hereby certify that pursuant to Notice in the civil cause now pending and undetermined in the District Court of the United States, within and for the District of Nevada, entitled NEVADA POWER COMPANY, Plaintiff, -vs- MONSANTO COMPANY, et al., Defendants, to be used in the trial of said cause in said Court, I was attended at the law offices of Messrs. Husch, Eppenberger, Donohue, Cornfeld & Jenkins, 100 N. Broadway, Ste. 1300, in the City of St. Louis, State of Missouri, by Ralph A. Bradley, attorney for the Plaintiff; by Scott R. Bauer, attorney for the Defendant Monsanto; by Robert P. Morgan, In-House Counsel for the Defendant Westinghouse; and by WILLIAM B. PAPAGEORGE, the witness, in said office on July 21, 1993.

The said witness, WILLIAM B. PAPAGEORGE, being of sound mind and being by me first carefully examined and duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in the case aforesaid, thereupon testified as is shown in the foregoing transcript, said testimony being by me reported in shorthand

and caused to be transcribed into typewriting, and that the foregoing pages correctly set out the testimony of the aforementioned witness, WILLIAM B. PAPAGEORGE, together with the questions propounded by counsel and the remarks and objections of counsel thereto, and is in all respects a full, true and complete transcript of the questions propounded to and the answers given by said witness; and that said testimony, so transcribed, was subscribed to by the witness on the _____ day of _____, A.D., 1993.

I FURTHER CERTIFY that I am not of counsel nor attorney for any of the parties to said suit, nor related, nor interested in any of the parties or their attorneys.

I FURTHER CERTIFY that Plaintiff's Deposition Exhibits were marked for identification and attached to and made a part of this deposition and are the identical exhibits referred to and identified by the witness in the foregoing deposition.

WITNESS MY HAND and Notarial Seal, given this _____ day of _____, A. D., 1993, at St. Louis, Missouri.

MY COMMISSION EXPIRES MARCH 21, 1994.

_____
MARK D. CONCANNON,
Notary Public, within and
for the State of Missouri

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WILLIAM B. PAPAGEORGE

- DEPOSITION CORRECTION SHEET -

In Re: NEVADA POWER Vs. MONSANTO

Upon reading his deposition transcript and before subscribing thereto, the deponent indicated the following:

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WILLIAM B. PAPAGEORGE

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Concannon and Jaeger
General Court Reporters
705 Olive Street, Ste. 604
St. Louis, Missouri 63101

August 10, 1993

Mr. Scott R. Bauer
Kirkland & Ellis
1999 Broadway
Denver, Colorado 80202

Re: Nevada Power Vs. Monsanto

Dear Mr. Bauer:

This letter, incorporated as the last page of Mr. Papageorge's deposition, taken on July 21, 1993, will serve as notice to you that Mr. Papageorge's testimony is now ready for his reading and signing of same.

Enclosed, please find your copy of the deposition, along with the original signature page, (pg.11), and errata sheets. Please have Mr. Papageorge read his deposition at his earliest possible convenience, making whatever changes he feels necessary on the errata sheets, along with his reason for making same. Have him sign the original signature page and eratta sheets before any notary, and return the original signature page and eratta sheets to me at the above address so that I may file the original transcript in Court and notify opposing counsel of the changes.

Thank you for your cooperation in this regard.

Sincerely,

MARK D. CONCANNON

MDC:mk
encls.

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no point in time did Monsanto ever contract with anyone to develop equipment and/or methodology that would have allowed the detection of polychlorinated dibenzofurans in PCB's manufactured by Monsanto. That's true, isn't it?

A. Yes.

Q. And Monsanto was not the first group that was able to determine the presence of polychlorinated dibenzofurans in PCB's manufactured by Monsanto. That's true, isn't it?

A. Yes.

MR. BRADLEY: I have nothing further.

MR. MORGAN: I have no questions.

MR. BAUER: I have no questions.

Again, it's Monsanto's view with respect to this witness and the time period for which he has been tendered, that that concludes the 30(b)(6) Notice with respect to furans and dioxins.

_____

WILLIAM B. PAPAGEORGE

Subscribed and sworn to before me this _____ day of _____, A. D., 1993.

MY COMMISSION EXPIRES _____.

_____

Notary Public, within and for the State of Missouri

WILLIAM B. PAPAGEORGE

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WILLIAM B. PAPAGEORGE

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