THE COURT: All right. You may proceed.

(WHEREUPON THE FOLLOWING PORTIONS OF THE VIDEO DEPOSITION WERE SHOWN TO THE JURY.)

Q Would you state your full name, please?

A My name is George J. Levinsksas.

Q After leaving American Sign in 1971, how were you employed?

A I worked with Monsanto Company.

Q Do you remember the month?

A July, 1971.

Q What was your position when you were first hired?

A The formal title was manager of product evaluation.

Q What was your job assignment and what were your duties and responsibilities as manager of product evaluation?

A It was to start a program in the product evaluation --

(WHEREUPON THE VIDEO DEPOSITION WAS INTERRUPTED)

MR. POHL: Your Honor, we have introduced the witness to the jury. Now we will proceed with our summary, if I could call upon Mr. Musslewhite to assist me.

THE COURT: All right.

MR. POHL: Dr. Levinsksas received his Ph.D. from the University of Rochester in pharmacology in 1953. He joined Monsanto in July of '71 as manager of product evaluation. He is currently employed by Monsanto as senior toxicology consultant. Levinsksas is familiar with the IBT Aroclor studies. IBT was an independent laboratory which means it was self-governing or not subject to control by others.

Elmer Wheeler of Monsanto approached Paul Wright and asked him to leave IBT and rejoin Monsanto. After Dr. Hunt died, Paul Wright took over some of Dr. Hunt's functions at Monsanto which included coordination with IBT regarding ongoing Monsanto studies.

Levinsksas proposed a report entitled

Toxicity and Enviromental Effects of Commercial PCBs. It is identified as Exhibit No. 29 to his deposition. Exhibit 29 is a report prepared by Dr. Levinsksas. Questions regarding that record:

(Reading from video deposition)

Q All right. Page 1 of the report and continuing over to Page 2 of the report there is a topic entitled conclusions based on Monsanto studies. Do you see that?

A Yes.

Q The first numbered paragraph as those conclusions reads as follows and I will quote Doctor: "As a class, the Aroclors are relatively harmless materials for routine industrial handling under ambient conditions."

Now, sometime after 1975, at or about the time that this paper was authored marked Levinsksas 29, did you agree or disagree with that statement?

A I think it's a valid statement then and now.

Q So, your position is to today that Aroclors as a class are a relatively harmless material?

A Yes.

Q However --

(End of reading)

MR. POHL: Continuing with the summary. However, in response to further questions by counsel for plaintiffs regarding the adverse human health effects of exposure to PCBs, Levinsksas testified as follows:

(Reading from video deposition)

Q What type of liver injury could human beings sustain under conditions of severe exposure?

A I'm not a good enough clinician to give a very good description.

Q Just in laymans terms so the Court and jury can understand.

A Yes.

Q The first numbered paragraph of those conclusions reads as follows:

(End of reading)

MR. POHL: I'm sorry. They duplicated that. Go to Page 3.

MR. MUSSLEWHITE: All right.

(Reading from video deposition)

Q In your discussions with people such as Dr. Kimbrough and others and in your review of the literature, did you uncover any other hazards to human beings that might result from severe exposure to PCBs?

A The -- basically that, those directed to the liver, the chloracne, the skin, other manifestations of skin eruptions, swelling of the eyelids, distortion of surface of skin, fingernail distortion. But things that are generally related to the surface of the body or the body surfaces. I don't believe there are any other demonstrated consistent effects.

Q These damages to the skin, to the surface of the body that could be caused by the severe exposures to PCB, would that include skin cancer?

A No.

Q What more specifically would it include?

A There is a blacking of fingernails, fingernails turned inward, lost of facial hair, head hair, body hair. Apart from chloracne, a general breakout of a rash, generalized skin rash, swelling of the eyelids, probably some difficulty breathing because of swelling of the

nasal tissues, pigmentation, darkening of the skin, most of them are -- that's related to the skin surface.

Q Levinsksas Exhibit No. 6 refers to conversations with Dr. Renate Kimbrough regarding her study of Aroclor 1260.

The Aroclor 1260 used by Dr. Kimbrough was the same as that used by IBT in its tests. In connection with Exhibit 6, Dr. Levinsksas notes chloracne and liver hazards. Dr. Levinsksas passed on to Drs. Kelly and Johnson of Monsanto the questions raised by Dr. Kimbrough regarding prophyria. They had no particular reaction to Dr. Kimbrough's comments and Monsanto did not, "sponsor any studies to further determine whether or not Aroclor products caused prophyria in rather."

Regarding Dr. Kimbrough's 1974 Aroclor study, Dr. Levinsksas assisted efforts to reconcile the findings of IBT and Dr. Kimbrough. Dr. Levinsksas accompanied Dr. Donovan Gordon and Dr. Ward Richter when they met with Drs. Kimbrough and Squire in Washington, D.C. to review Dr. Kimbrough's slides.

Did you a company them on that review?

A Yes.

Q Did you actually look at the slides yourself?

A No.

Q And what was the conclusion of the IBT pathologists, Drs. Gordon and Richter upon their review of Dr. Kimbrough's slides?

A In general, the lesions that they described and Dr. Kimbrough's slides were more advanced and they concurred with those -- that those were carcinomas.

The lesions that they had seen in the Monsanto-sponsored studies were less advanced and they did not regard them as carcinomas.

Q So, ino the rats fed Aroclor 1260 or fed Aroclor by Dr. Kimbrough, the liver damage was more advanced than that in those rats fed the same Aroclor product by IBT?

A Yes.

Q Now, what explanation did you consider to explain that variance?

A They used a difficult strain of rats. So, the source and origin of the animal was different; the housing conditions, while superficially similar were different, one was in

Chicago, one was in Atlanta; despite air-conditioning and such, there are variations.

The sources of feed and the contaminants or other materials, the composition of the feed could vary, the water supply is different, the subtleties of handling the animals day in and day out and so for, could vary. So, there are a variety of potential distinguishing features.

Q I think you indicated a moment ago that subtleties and the handling of the animals, the course of their feed and their housing could make a difference in the result of the test.

A Yes.

Q And so that if two different groups of rats were fed the same Aroclor products but one group was handled differently than the other and one was housed differently than the other and one received watering differently than the other, that could result in a variance?

A Those are potential variances.

Q Now, is one of the goals of a 24-month chronic rat study to try to keep the rats on the study for the full 24 months?

A Yes.

Q And is one of the reasons that you do that

is because that will expose the rodents to the product being tested for the substantial balance of their natural life?

A Yes.

Q PCBs the are the type of product that accumulate in the system. Rats exposed to PCBs for a shorter time would have less product accumulated in their bodies than rats exposed for a longer period of time.

"If animals are started late, their response could be expected to be less severe than those started earlier."

Although Dr. Parvis Poor disagreed with Dr. Kimbrough's finding of carcinogenicity, he did find that PCBs caused toxic effects in rodents. This fact was communicated to Dr. Levinsksas. Dr. Levinsksas sent Dr. Poor's report to Dr. Gordon who responded by reaffirming his finding of carcinogenicity and disagreeing with Dr. Poor's report.

(End of reading)

MR. POHL: With regard to studies whose validity had been jeopardized, Dr. Levinsksas testified on Pages 77 through 79

of his deposition as follows:

(Reading from video deposition)

Q If you are reviewing a toxicological study that was done by somebody on a product that you were involved with and animals had been substituted during the course of the study and that fact had not been recorded in writing, if some animal's data such as body weight data, feeding data or other data had not been accurately recorded, and in instances had been fabricated, and you learned that in connection with your study, would you rely on the validity of that study as a toxicologist?"

A The confidence I have in the data would depend on the quality from which it came, yes.

Q Well, to put it more simply, Doctor, if you have learned of facts that would indicate to you that the validity of a particular toxicological study was jeopardized, would you rely on that study?

A I would want to confirm the information that I had.

Q Well, just assume with me for purposes of this question that you had confirmed that there

were events which had occurred in connection with one of your studies that jeopardized that study's validity. Should you, as a professional toxicologist rely on that study whose results had been jeopardized?

A Since we are dealing with evaluations and assessment of information, I think one would have to take into account the totality of the information available to properly assess the results of that particular study.

Q I just want to understand. I want the Court and jury to be able to understand.

You don't know, then, today, or can't answer more directly whether you would rely on a study whose validity had been jeopardized?

A You would have to define whose validity had been jeopardized.

Q So, without any further explanation, you are not able to answer the question?

A No.

(End of reading)

MR. POHL: Continuing with the summary.

Levinsksas Exhibit 17 is a letter from

Paul Wright dated September 30, 1971, which refers to "a general indication of the toxicity of the material," referring to Aroclor 1254.

"A toxic effect would be a general adverse effect caused by the chemical, which includes death."

The letter goes on the say that, "There appears to be a reduction in the pup survival in the group fed the highest level, 100 ppm of Aroclor 1254, which means that there was a problem with the survivability of the offspring of the rats fed Aroclor 1254."

Regarding the editing of IBT papers by Monsanto, Dr. Levinsksas testifies as follows:

(Reading from video deposition)

Q Did you review any papers that were prepared by employees of IBT with regard to Aroclor studies that had been conducted by IBT for Monsanto?

A Yes.

Q And would you, from time to time, make

changes in their proposed papers?

A I would make editorial comments, yes.

Q In addition to your reviewing papers to be published by IBT personnel, either in the literature or at seminars, did others in the medical department at Monsanto also review papers to be published by IBT personnel?

A Yes.

Q And was that review done typically before the papers were put out in final form?

A The review would be on the proposed papers.

Q If a paper was to be published under the name of a person conducting independent research on Monsanto's products, whose opinions should have been expressed in the papers: those of the independent researcher or those of Monsanto?

A The ones which were technically correct.

Q Let me show you Exhibit 18 to your deposition and see if you can recognize that document.

"QUESTION: The letter goes on to say, quote, "I hope to get copies of all of the studies in the hands of Bill Papageorge, Scott Tucker and the lawyers next week. I do not anticipate a lot of changes from them and hope

that the attorneys agree that we can go ahead with publication."

Was it the practice of the medical department at Monsanto to additionally have Monsanto's lawyers review publications of studies by independent laboratories on Monsanto's Aroclor products?

A It's a practice in all companies by member -- or all publications by members of the company have to have clearance.

Q By the legal department?

A Individuals that Mr. Wheeler picked for that, I don't -- I have no knowledge of how or why.

Q Well, what knowledge do you have about why the lawyers at Monsanto would review -- would be reviewing a proposed publication by an independent entity, such as IBT?

A I have no knowledge of why that was there.

Q Is that a practice that was companywide or was companywide back in the 1970's or is that a practice that was limited strictly either to IBT or to Aroclor products?

A I said I have no knowledge on it.

Q Either way?

A Either way.

(End of reading)

MR. POHL: Levinsksas identifies Exhibit 18, which a letter dated April 18, 1975, from Dr. Calandra. In that letter, Dr. Calandra of IBT states:

"Please let me know of any action that you contemplate in the way of seeking additional assitance in pathology or in contacting federal agencies. We will be pleased to be of help in any way that you may."

Levinsksas says that IBT helped Monsanto in presenting Monsanto's position to governmental agencies. Regarding changes to the IBT Aroclor study reports, Levinsksas testifies on Page 119 of his deposition.

To save time, we have prepared a short summary, a blowup of that page.

(Reading from video deposition)

Q Did you request IBT to change any of its reports to Monsanto with regard to IBT's examination of Aroclor products?

A No.

Q You never did that?

A No.

Q Let me show you Exhibits 21 and 22 to your deposition and see if you can recognize these documents. Dr. Levinsksas, let me see if I can refresh your recollection.

In July of 1975, did you request that an IBT report of a study of Aroclor 1252 be amended to say, "Does not appear to be carcinogenic," in lieu of the phrase, "slightly tumorigenic?"

Answer?

A That's correct.

(End of reading)

MR. POHL: The summary continues. The changes requested by Dr. Levinsksas were made by IBT. The wording "slightly tumorigenic" was deleted and the wording "does not appear to be carcinogenic" was substitute. Therefore, Levinsksas testifies as follows:

(Reading from video deposition)

Q The language that IBT uses in the conclusion

that you just read to the Court and jury is an exact, verbatim quote of the language which you set forth in your letter dated July 18, 1975; is it not?

A Yes.

(End of reading)

MR. POHL: Levinsksas' letter requesting his change is dated July 18, 1975.

On August 8, 1975, IBT responded and forwarded revised conclusion pages to Monsanto. Those conclusion pages were dated March 24, 1975.

Regarding revisions to the Aroclor reports, Levinsksas testifies as follows, on Page 278 of his deposition:

(Reading from video deposition)

Q Yesterday, we talked about these and the documents did not include the full text of the report. Let me hand to you Levinsksas Exhibits 41, 42 and 43 and ask if these are the reports that you were referring to yesterday?

A Based on the amount I read, they appear to be the reports.

Q And they are the ones that Dr. Calandra sent to you after you sent to Dr. Calandra your letter dated July 18, 1975?

A They appear to be the same.

Q After having reviewing all three of the reports on the Aroclor products, is a fact that each of the three contains a verbatim recitation of the language which you suggested in your letter of July 1975?

A Yes.

Q And the fact is, from the correspondence that you authored and from the response that you testified yesterday that you received, you know that the revised report that you got as a consequence of your recommendation was backdated, was it not?

A I know that now.

Q In connection with Dr. Kimbrough's speech to the Society of Toxicologists regarding her findings of carcinogenicity in connection with her PCB study, Monsanto intended to issue a press release noting Dr. Parvis Poor's disagreement with Dr. Kimbrough's finding.

This proposed press release did not mention the fact that Dr. Gordon, Dr. Richter and Dr.

Squire agreed with Dr. Kimbrough's findings.

The Epily (spelled phonetically) Institute, Dr. Poor's employer, requested that this press release not been issued.

(End of reading)

MR. POHL: Referring to Exhibit 29, the report prepared by Dr. Levinsksas, the witness testifies as follows:

(Reading from video deposition)

Q Under the section that you referred to a moment ago entitled "comments," a reference is made, is it not, to a review of the Kimbrough results by Drs. Gordon, Richter and Poor?

A Yes.

Q Let me read this sentence to you and tell me if I read it correctly. Talking about Kimbrough's slides.

"The slides were read independently by Dr. D. Gordon of Industrial Biotest Laboratories, professor W. Richter of the University of Chicago and by professor P. Poor of the Epily Institute for Research in Cancer." Did I read that correctly?

A Yes.

Q "In addition, Dr. Poor evaluated the Kimbrough slides and does not agree with the reported findings." Is that correct?

A That's correct.

Q And so, this paper is telling the reader that Dr. Poor disagreed with Kimbrough's finding of carcinogenicity in the Aroclor products, correct?

A Correct. Yes.

Q Where do you tell the reader that both Dr. Gordon and Dr. Richter agreed with Dr. Kimbrough's findings of carcinogenicity in her study? Show me the language.

A That is not in that summary.

(End of reading)

MR. POHL: Monsanto attempted to validate IBT's Aroclor tests. Levinsksas was in charge of that validation. Levinsksas concluded that IBT's Aroclor tests were, "adequately conducted."

The following testimony appears:

(Reading from video deposition)

Q Who assisted you in that endeavor?

A I did it myself.

Q Now, in conducting your review and validation of IBT's Aroclor studies, did you go to the facilities of IBT and visit their offices?

A No.

Q When you did your attempted validation of the IBT Aroclor studies in 1981, did you consult with Dr. Wright?

A No.

Q How did you determine that the rats were properly housed during the course of the IBT study?

A I made no attempt to do so.

Q What about the source of feed, how did you determine what the source of feed was for the rats while they were on the IBT Aroclor studies?

A I can't specifically recall whether we had records on the source of feed or not.

Q So, that's not an element that you can recall having validated, correct?

You will have to answer verbally.

A Correct.

Q Now, another element that you said was important was water supply. Do you remember

that?

A Yes.

Q How did you validate the water supply to the rats while they were on IBT Aroclor study?

A I did not validate. And I'm not sure that validation in that since has -- I said that the different water supplies could contribute to different outcomes. I do not know that anybody would make an attempt to validate water supply.

Q You didn't?

A I did not.

Q What subtleties of handling animals? You remember when you told me about that this morning?

A Yes.

Q How did you validate the subtleties of the way that the people at IBT handled --

A I did not.

Q -- the rats that were on the Aroclor studies?

A I did not.

Q Didn't make any effort to?

A No.

Q In terms of validating the actual raw data itself, in terms of confirming that the actual

body weights listed were the true body weights of the animals at the time, that the actual amounts of the Aroclor product was fed to each of the test animals, that the animals were properly watered and housed, you didn't make any validation of those facts, did you, Doctor?

A I did not.

Q Did you ever retest any of the Aroclor products that had been tested by IBT?

A No.

(End of reading)

MR. POHL: Continuing with the summary.

Body weight data would assist one in determining whether or not animals had been substituted during the course of the test. The sequential intervals of weighing an animal attest to the animal's existence on test over a period of time.

Levinsksas prepared employee evaluations with regard to Dr. Paul Wright. Exhibit 38 is a personnel evaluation of Dr. Wright.

(Reading from video deposition)

Q No. You speak in your evaluation of Dr. Wright, in your recommendation of him for merit award that he forestalled EPA's promulgation of unrealistic regulations. Is that what you just read to the Court and jury?

A Yes.

Q What unrealistic regulations of the EPA was Dr. Wright successful in forestalling?

A There was talk of a 0 discharge.

Q What is a 0 discharge?

A None could be permitted.

Q To escape into the environment?

A Yes.

Q Okay. And that was unrealistic in your opinion?

A Yes.

Q And that's how you characterized it in your memorandum marked Levinsksas Exhibit 38?

A Yes.

Q And when you say that Dr. Wright was successful in forestalling the EPA's prohibition about the discharge of any PCBs into the environment, do you mean by that that he was ultimately able to prevent such regulation by the EPA or that he was simply able to delay the

implementation of such a regulation?

A It permitted time for review of the situation so EPA could issue realistic regulations.

Q All right. And who was the one that charged Dr. Wright with the responsibility of forestalling the EPA's promulgation of regulation preventing any discharge of PCBs into the environment?

A He was not charged with forestalling.

Q Was he reported to you at the time that he undertook these activities --

A Yes.

Q -- on behalf of Monsanto?

A Yes.

Q All right. And did he undertake the activities strictly on his own volition or did you give him guidance in what he was to do?

A He presented the information to the agency. With other considerations and that information, the agency took its action. So, the outcome of Dr. Wright's action was a forestalling. It was not his charge to forestall.

Q It was the result that he was able to achieve as noted by you in your recommendation of

him for a merit award, correct?

A That's correct.

Q Why did you note in your written recommendations of Dr. Wright for a merit award that, "EPA's proposed regulations would have precluded the use of these materials by Monsanto's customers," again referring to Aroclors?

A I have indicated earlier a that 0 discharge is impractical for the use of any products.

Q Well, I understand. You were making the point that if the EPA had implemented the regulations which Dr. Wright was able to forestall, then the customers of Monsanto wouldn't have been able to continue their use of PCBs or the discharge of any of those PCBs into the environment; is that correct?

A That's correct.

(End of reading)

MR. POHL: Levinsksas toured the facilities of IBT on various occasions. He told IBT of each planned trip before his arrival. Levinsksas thought that the facilities and operations were in accordance

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with acceptable standards. He did not notice anything unusual about the way IBT handled the feeding of its rodents or the administration of dosages.

Levinsksas concluded that, "Their facilities were acceptable and their work was valid."

Regarding Levinsksas Exhibit 25, a letter dated August 14, 1975, from Levinsksas to IBT, reference was made to discrepancies or inconsistencies with regard to rodents used in connection with the IBT Aroclor study.

Question on Page 359:

(Reading from video deposition)

Q Now, you pointed out to Dr. Calandra in your letter that there was some confusion in this numbering, correct?

A Yes.

Q For example, there was some male rats that were shown to be in the control group and yet they were also shown to be in the one parts per million group and also in the 10 parts per million group at the same time; is that correct?

A Yes.

Q And below that, under female rats, you expressed that you were confused because two of the animals appeared -- at least two of the animals appeared in more than one experimental group; is that correct?

A Yes.

Q For example, Rat No. 3 was purported by IBT to be in the one part per million dose group, the 10 part per million dose group, as well as the 100 part per million dose group; is that correct?

A Yes.

Q And you found if confusing that a rat could have been in three separate dose groups at the same time, correct?

A I asked him to check the numbering, the numbers to see whether the basis for the inconsistency, yes.

Q And so the Court and jury will understand it, when a rat is placed in a toxicological study and administered a particular dose, such as 10 parts per million, that rat is supposed to stay confined to that particular group; is that correct?

A Yes.

Q And so that same rat couldn't be at the same time in the one part per million dose group and the 100 part per million dose group, correct?

A It could not.

Q And when the female control rats, which you identified on Page 1 as Nos. 46 through 48 and Nos. 50, 52, 59, 64, and 69 are some of the same numbers that you referred to on the second page, are they not?

A Yes.

Q For example, at top of the second page, you have question concerning animals 46, 47, 48, 50, 52, 59, 64, and 66; is that right?

A Yes.

Q And let me see if I understand the concerns that you're having in your letter to Dr. Calandra.

You note that Animal 52, for example, was listed as a control animal, but at the same time was shown as a 10 parts per million test animal, correct?

A Yes.

Q Page 1, you reflect that IBT showed that Rat No. 52 was a female control, correct?

A Yes.

Q On the second page, you note -- on Page 11 of IBT's report, Rat No. 52 was shown as a 10 parts per million dose group male rat, correct?

A Yes.

Q And then on Page 83 of IBT's report, it was shown as a control group female; is that correct?

A Yes.

Q And Rat No. 64, just to pick one more example -- I won't try to belabor this -- on Page 1 of your letter to Dr. Calandra, you note that Rat No. 64 was designate by IBT as a control female rt; is that correct?

A Yes.

Q On Page 2, you note that that same rat, No. 64, was listed as a 100 parts per million male rat, correct?

A Yes.

Q And then you go on to note on Page 83 of IBT's report, that the same rat, 64, was shown as a control female?

A Yes.

Q Then, there are other similar instances on this second page of your letter, dated August 14, 1975; is that correct?

A Yes.

(End of reading)

MR. POHL: That conclude our offer from the deposition of Dr. Levinsksas.

THE COURT: Ladies and gentlemen of the jury, we are going to stand recess until 1:30. Please return to your places at 1:30.

(WHEREUPON AT 11:52 A.M., COURT WAS IN RECESS UNTIL 1:30 P.M., AT WHICH TIME THE FOLLOWING PROCEEDINGS WERE HAD AND DONE.)