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# Exhibit 3

Case 3:16-md-027 $41-1/c_1$  and the second s 1 UNITED STATES DISTRICT COURT 2 NORTHERN DISTRICT OF CALIFORNIA 3 4 -----X 5 IN RE: ROUNDUP PRODUCTS MDL No. 2741 6 LIABILITY LITIGATION 7 Case No. 8 16-MD-02741-VC 9 -----X 10 THIS DOCUMENT RELATES TO ALL 11 CASES 12 -----X 13 14 15 VIDEOTAPED DEPOSITION OF 16 WILLIAM H. FLEMING, MD, PHD 17 18 September 19, 2017 19 9:14 a.m. 20 21 1350 I Street NW 22 Washington, DC 20005 23 24 25 Reported by: Denise D. Vickery, CRR, RMR

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The Sherman Dunding	
7 108 Railroad Avenue	7 EXHIBITS
<sup>8</sup> Orange, VA 22960	8
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<sup>10</sup> tlitzenburg@millerfirmllc.com	1020-1Expert Report of7
11	11 William H. Fleming, M.D., Ph.D.
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14 BAUM HEDLUND ARISTEI GOLDMAN PC	14 Invoice for NHL Project from
<sup>15</sup> BY: PEDRAM ESFANDIARY, ESQ.	15 January 18, 2017 through
<sup>16</sup> 12100 Wilshire Boulevard, Suite 950	16 April 7, 2017 for Dr. Fleming
<sup>17</sup> Los Angeles, CA 90025	17
<sup>18</sup> 310.207.3233	18   20-3   Supplemental Materials   129
	19 Considered List
<sup>19</sup> pesfandiary@baumhedlundlaw.com	
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1	MS. KLENICKI: Erica Klenicki for	1	expert report of William Fleming, M.D., Ph.D.
2	Monsanto.	2	Is that the report you're referring
3	THE VIDEOGRAPHER: Those on the	3	to?
4	telephone please identify yourself.	4	A. Yes, it is.
5	MS. LUKIC: Maja Lukic from Weitz	5	Q. Okay. Now, funny you said that
6	& Luxenberg for plaintiffs.	6	because it was almost exactly what I was going to
7	THE VIDEOGRAPHER: My name is	7	ask you.
8	Michael Gay. I'm with Golkow	8	Concisely what would you say is the
9		9	question that you were asked to answer?
10	Technologies. Our court reporter today is	10	1 5
11	Denise Vickery, also with Golkow		A. I was I was asked to do three
	Technologies, and will now swear in our	11	things. I was asked to give what is essentially
12	witness.	12	a lay description of what the immune system was
13		13	and what lymphoma was and spend some time
14	WILLIAM H. FLEMING, MD, PH.D.,	14	discussing what is known in the medical
15	called for examination, and, after having been		literature about the etiology of lymphoma.
16	duly sworn, was examined and testified as	16	And I was then asked to, you know,
17	follows:	17	address the question of whether glyphosate was in
18	THE VIDEOGRAPHER: You may	18	any way implicated based on the literature
19	proceed.	19	available for review.
20	EXAMINATION	20	Q. So were you asked to answer the
21	BY MR. LITZENBURG:	21	question of whether Roundup could cause
22	Q. Good morning, Dr. Fleming. My name	22	non-Hodgkin lymphoma?
23	is Tim Litzenburg. We just met off the record,	23	A. I was asked about glyphosate
24	but do you understand I represent several	24	specifically.
25	thousand non-Hodgkin lymphoma patients?	25	Q. You don't know anything about the
	De es 7		<b>D</b> 0
1	Page 7	1	Page 9
1	A. I was not aware of of those		formulated product Roundup?
2	A. I was not aware of of those details, no.	2	formulated product Roundup? A. The details of its formulation, no.
2 3	<ul><li>A. I was not aware of of those details, no.</li><li>Q. Okay. You understand that I</li></ul>	2 3	<ul><li>formulated product Roundup?</li><li>A. The details of its formulation, no.</li><li>Q. Have you looked at any literature or</li></ul>
2 3 4	<ul> <li>A. I was not aware of of those details, no.</li> <li>Q. Okay. You understand that I represent the plaintiffs, the people that are</li> </ul>	2 3 4	<ul><li>formulated product Roundup?</li><li>A. The details of its formulation, no.</li><li>Q. Have you looked at any literature or studies involving the actual formulated product</li></ul>
2 3 4 5	<ul><li>A. I was not aware of of those details, no.</li><li>Q. Okay. You understand that I represent the plaintiffs, the people that are suing Monsanto for their injuries?</li></ul>	2 3 4 5	<ul><li>formulated product Roundup?</li><li>A. The details of its formulation, no.</li><li>Q. Have you looked at any literature or studies involving the actual formulated product that people use rather than the technical</li></ul>
2 3 4 5 6	<ul> <li>A. I was not aware of of those details, no.</li> <li>Q. Okay. You understand that I represent the plaintiffs, the people that are suing Monsanto for their injuries?</li> <li>A. I, you know, again, I'm not, you</li> </ul>	2 3 4 5 6	<ul><li>formulated product Roundup?</li><li>A. The details of its formulation, no.</li><li>Q. Have you looked at any literature or studies involving the actual formulated product that people use rather than the technical glyphosate?</li></ul>
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	Page 10		Page 12
1	products which contains a surfactant.	1	the development of non-Hodgkin lymphoma?
2	Do you understand what a surfactant	2	A. I'm not aware of any credible
3	is?	3	scientific evidence that glyphosate is linked to
4	A. It	4	the development of NHL.
5	MR. JOHNSTON: Objection.	5	Q. Well, it's a little bit different
6	Compound.	6	question. There's lots of sources, and I'm sure
7	BY MR. LITZENBURG:	7	we'll talk about them throughout the day.
8	Q. Do you know what a surfactant is?	8	Do you hold any opinion to a
9	A. I know what the term "surfactant"	9	reasonable degree of medical certainty about
10	means. I do not have any expertise as it relates	10	whether glyphosate can or cannot contribute to
11	to the use of surfactants in chemical compounds.	11	the development of lymphoma?
12	Q. Okay.	12	MR. JOHNSTON: Objection. Asked
13	A. I am aware of the medical usage of	13	and answered.
14	the term "surfactant."	14	THE WITNESS: Again, I have I
15	Q. Do you know what the surfactant	15	am not aware of any, you know, critical,
16	makeup is in formulated Roundup products?	16	you know, credible science that that
17	A. No, I don't. You would have to ask,	17	suggests that there's a causative
18	you know, a chemical toxicologist that question.	18	relationship between glyphosate and NHL,
19	Q. Do you know you don't even know	19	no.
20	what it's called, the name of the surfactant they	20	BY MR. LITZENBURG:
21	use in any of these products?	21	Q. Okay. Are you aware of any science
22	MR. JOHNSTON: Objection.	22	that says that there's a relationship between
23	Misrepresents the record and compounds	23	glyphosate and non-Hodgkin lymphoma?
24	since there's multiple surfactants in	24	MR. JOHNSTON: Objection. Asked
25	these products.	25	and answered.
	*	1	
	Page 11		Page 13
1	Page 11 THE WITNESS: I have not delved	1	-
1 2	THE WITNESS: I have not delved	1 2	THE WITNESS: I have I have
	THE WITNESS: I have not delved into the chemical composition of of		THE WITNESS: I have I have focused on the human epidemiology of this
2	THE WITNESS: I have not delved	2	THE WITNESS: I have I have focused on the human epidemiology of this question, and I find no evidence to
2 3	THE WITNESS: I have not delved into the chemical composition of of what of glyphosate. No, I have not.	2 3	THE WITNESS: I have I have focused on the human epidemiology of this
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	Page 14		Page 16
1	this.	1	Q. Okay. So have you looked at this
2	BY MR. LITZENBURG:	1	unpublished AHS manuscript with comments off in
3	Q. Okay. What papers reached a	3	the margins that was produced by Dr. Blair?
4	positive result?	4	A. Yes, I did but, again, in answer to
5	A. Again, given the complexity of	5	your earlier question, I did not rely on this to
6	trying to sort out all the different potential	6	form my opinion.
7	causative agents in the agricultural business, it	7	Q. Okay. You relied only on negative
8	was recognized in the late '80s that a large	8	studies, is that fair, to formulate?
9	prospective study was going to be the only way to	9	MR. JOHNSTON: Object.
10	unravel all the details.	10	Objection. Misstates the record and his
11	And, consequently, we have a large	11	testimony.
12	prospective cohort study of more than 57,000	12	THE WITNESS: I this this
13	pesticide applicators, and I weighed this study	13	was the AHS study is not a negative
14	very heavily in reaching my conclusion.	14	study. It is a negative study for
15	MR. LITZENBURG: Would you please	15	glyphosate and NHL.
16	read that question back to the witness?	16	BY MR. LITZENBURG:
17	(The reporter read the record on	17	Q. Do you know what a meta-analysis is?
18	page 14 lines 2-3.)	18	A. Yes.
19	MR. JOHNSTON: Objection. Vague.	19	Q. What is a meta-analysis,
20	THE WITNESS: Again, we would	20	Dr. Fleming?
21	have to look at specific papers, and I	21	A. A meta-analysis is a statistical
22	would have I would have to review the	22	technique that epidemiologists will use to look
23	abstracts of the papers to see where that	23	at data from a great many studies and and
24	conclusion was made.	24	combine them in order to see how the power of the
25	BY MR. LITZENBURG:	25	extra individuals, you know, influences the
	Page 15		Page 17
1	Page 15 O. How many epidemiological papers did	1	Page 17 outcome.
	Q. How many epidemiological papers did	1	outcome.
1 2 3	Q. How many epidemiological papers did you review in looking at this?		outcome. This is something I have no
2	<ul><li>Q. How many epidemiological papers did you review in looking at this?</li><li>A. I would have to, to give you an</li></ul>	2	outcome. This is something I have no expertise in. I'm not an epidemiologist.
2 3 4	<ul><li>Q. How many epidemiological papers did you review in looking at this?</li><li>A. I would have to, to give you an exact number, look at my MCL list here, but I</li></ul>	2 3 4	outcome. This is something I have no expertise in. I'm not an epidemiologist. Q. What are you an expert in,
2 3 4	<ul><li>Q. How many epidemiological papers did you review in looking at this?</li><li>A. I would have to, to give you an exact number, look at my MCL list here, but I suspect it's in the range of five to six</li></ul>	2 3 4	outcome. This is something I have no expertise in. I'm not an epidemiologist. Q. What are you an expert in, Dr. Fleming?
2 3 4 5	<ul><li>Q. How many epidemiological papers did you review in looking at this?</li><li>A. I would have to, to give you an exact number, look at my MCL list here, but I suspect it's in the range of five to six case-control studies and one prospective cohort</li></ul>	2 3 4 5	outcome. This is something I have no expertise in. I'm not an epidemiologist. Q. What are you an expert in, Dr. Fleming? A. I'm an expert in medical oncology,
2 3 4 5 6	<ul><li>Q. How many epidemiological papers did you review in looking at this?</li><li>A. I would have to, to give you an exact number, look at my MCL list here, but I suspect it's in the range of five to six</li></ul>	2 3 4 5 6	outcome. This is something I have no expertise in. I'm not an epidemiologist. Q. What are you an expert in, Dr. Fleming? A. I'm an expert in medical oncology, particularly lymphoma. I've specialized in
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	Page 18		Page 20
1	believe I'm uniquely qualified, no.	1	pediatric patients versus adults?
2	BY MR. LITZENBURG:	2	A. Oh, that's easy. Zero pediatric
3	Q. Okay. You're a pediatrician, aren't	3	
4	you?	4	Q. Okay. You, again, are in the
5	A. No.	5	department of medicine and pediatrics; is that
6	Q. You're not?	6	· ·
7	A. No.	7	A. Correct.
8	Q. Are you boarded in pediatrics?	8	I'd be happy to expand if you like.
9	A. No.	9	Q. But you don't treat any juvenile
10	Q. Okay.	10	
11	A. I am boarded initially in internal	11	A. There are patients on the border in
12		12	their late teens that can go either way. So I
13	subspecialty accreditation in medical oncology	1	have absolutely treated 17-year-olds who wanted
	with the American Board of Internal Medicine, as		
	is indicated on my CV.		yes. So I've, you know, there's there's that
16	Q. Are you a professor of pediatrics?		
17	A. Yes.	17	
18	Q. Okay. But you do not consider	18	Q. When is the last time you treated a
19	yourself a pediatrician?	19	patient that was younger than 17?
20	A. No.	20	MR. JOHNSTON: Objection. Vague.
21	Q. Okay. Have you let Oregon Health	21	THE WITNESS: Younger than 17? A
22	State University I'm probably saying that	22	very long time ago.
23		23	BY MR. LITZENBURG:
24	What do you call it?	24	Q. Okay. How many 17-year-old patients
25	A. OHSU.	25	have you had in the last year?
	Dego 10		Dego 21
1	Page 19	1	Page 21
1	Q. OHSU. Have you let OHSU know that	1	A. None.
2	Q. OHSU. Have you let OHSU know that you're not a pediatrician?	2	A. None. Q. None?
2 3	<ul><li>Q. OHSU. Have you let OHSU know that you're not a pediatrician?</li><li>A. They've appointed me as a professor</li></ul>	2 3	<ul><li>A. None.</li><li>Q. None?</li><li>When is the last time you treated a</li></ul>
2 3 4	<ul><li>Q. OHSU. Have you let OHSU know that you're not a pediatrician?</li><li>A. They've appointed me as a professor in three different departments and are well aware</li></ul>	2 3 4	<ul> <li>A. None.</li> <li>Q. None? When is the last time you treated a 17-year-old?</li> </ul>
2 3 4 5	<ul><li>Q. OHSU. Have you let OHSU know that you're not a pediatrician?</li><li>A. They've appointed me as a professor in three different departments and are well aware of my qualifications.</li></ul>	2 3 4 5	<ul> <li>A. None.</li> <li>Q. None?</li> <li>When is the last time you treated a</li> <li>17-year-old?</li> <li>A. I can't put a time and date on it.</li> </ul>
2 3 4 5 6	<ul><li>Q. OHSU. Have you let OHSU know that you're not a pediatrician?</li><li>A. They've appointed me as a professor in three different departments and are well aware of my qualifications.</li><li>Q. Okay. Do you train pediatricians?</li></ul>	2 3 4 5 6	<ul> <li>A. None.</li> <li>Q. None?</li> <li>When is the last time you treated a</li> <li>17-year-old?</li> <li>A. I can't put a time and date on it.</li> <li>It would have been on the bone marrow transplant</li> </ul>
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	Page 22		Page 24
1	see patients with me in clinic.	1	today for the purposes of this lawsuit in your
2	Q. So you are within the department of	2	expert role?
3	medicine and pediatrics, are you not?	3	MR. JOHNSTON: Objection. Vague.
4	A. Yes.	4	THE WITNESS: I'm sorry. I don't
5	Q. Okay. Is there an oncology	5	follow your question.
6	department at OHSU?	6	BY MR. LITZENBURG:
7	A. It's the Knight Cancer Center runs	7	Q. You just named three types of
8	an oncology program that is technically within	8	malignancies?
9	the department of medicine, but it's also	9	A. Uh-huh.
10	administered by the Knight Cancer Institute.	10	Q. Okay. Okay. Of those three, did
11	Q. There's no department of medical	11	you look at any of those malignancies, study any
12	oncology at OHSU?	12	of them in preparation for your deposition today
13	A. There's about 70 physicians who	13	or to answer the question that you were supposed
14	practice medical oncology in what was originally	14	to answer?
15	called the division of hematology and medical	15	A. No.
16	oncology, which was part of the department of	16	Q. Okay. I'll ask you the same
17	medicine.	17	question two questions ago.
18	The development of the Knight Cancer	18	Are there medical oncologists at
19	Center over the past several years has changed	19	your university who do not teach pediatrics?
20	the administrative structure of this somewhat.	20	MR. JOHNSTON: Objection. Asked
21	So that they are responsible for many of the	21	and answered by counsel's own admission.
22	faculty activities, while the department of	22	THE WITNESS: There would be
23	medicine is responsible for promotion.	23	medical oncologists who do not train or
24	Q. Okay. Are there among those 70	24	interact with pediatric trainees in their
25	physicians, are there some that don't teach	25	adult clinic but, again, many people have
1	Page 23	1	Page 25
	pediatrics?	1	laboratory studies.
2	pediatrics? A. We have joint conferences.	2	laboratory studies. Many people have protocols that
2 3	<ul><li>pediatrics?</li><li>A. We have joint conferences.</li><li>Hematology heme malignancies, which I have</li></ul>	2 3	laboratory studies. Many people have protocols that cross between adults and pediatrics and,
2 3 4	<ul><li>pediatrics?</li><li>A. We have joint conferences.</li><li>Hematology heme malignancies, which I have expertise in, has a lot of similarity to</li></ul>	2 3 4	laboratory studies. Many people have protocols that cross between adults and pediatrics and, in fact, we have a number of trainees who
2 3 4 5	<ul><li>pediatrics?</li><li>A. We have joint conferences.</li><li>Hematology heme malignancies, which I have expertise in, has a lot of similarity to pediatric hematology because of the frequency of</li></ul>	2 3 4 5	laboratory studies. Many people have protocols that cross between adults and pediatrics and, in fact, we have a number of trainees who are jointly trained.
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	Page 26		Page 28
1	in pediatrics, would not be called a professor of	1	probably carcinogenic according to IARC would you
2	pediatrics?	2	encourage your lymphoma patients to continue
3	MR. JOHNSTON: Objection.	3	using in such a way, sir?
4	Misstates his title and is asked and	4	MR. JOHNSTON: Objection.
5	answered.	5	Misstates his testimony. Misstates the
6	THE WITNESS: I I do not	6	record. Beyond the scope of his opinion
7	understand the substance of your question	7	and not relevant to this case.
8	and can't answer it.	8	THE WITNESS: I do not advise my
9	BY MR. LITZENBURG:	9	patients based on IARC's assessment of
10	Q. You do not know if there are	10	carcinogens specifically.
11	oncologists at your university that are not	11	BY MR. LITZENBURG:
12	professors of pediatrics?	12	Q. Okay. Have you of the portion of
13	MR. JOHNSTON: Objection.	13	papers that you've done, how many of them have
14	Misstates the record and his testimony.	14	been on the subject of pediatric treatment or
15	Misstates his his resume, <sup>1</sup> / <sub>2</sub> and vague.	15	etiology, anything having to do with juveniles?
16	THE WITNESS: Again, I am not	16	MR. JOHNSTON: Objection. Vague
17	able to answer your question the way	17	as to "have done."
18	you've posed it.	18	Do you mean that he's written?
19	BY MR. LITZENBURG:	19	Or he's an author on?
20	Q. Okay. Okay. Again, going back	20	BY MR. LITZENBURG:
21	to I think the question of the day is: Do you	21	Q. You have your publication list right
22	hold an opinion about whether or not glyphosate	22	there.
23	can cause non-Hodgkin lymphoma?	23	MR. JOHNSTON: So you're
24	MR. JOHNSTON: Objection. Vague.	24	withdrawing the question?
25	Asked and answered.	25	THE WITNESS: Sure. Could you
	Page 27		Page 29
1	Page 27 THE WITNESS: Based on my review	1	Page 29
1	THE WITNESS: Based on my review	1 2	repeat the question?
	THE WITNESS: Based on my review of the medical literature and I have		repeat the question? BY MR. LITZENBURG:
2	THE WITNESS: Based on my review of the medical literature and I have found no credible evidence that links	2	repeat the question? BY MR. LITZENBURG: Q. Sure. Starting in these
2 3	THE WITNESS: Based on my review of the medical literature and I have found no credible evidence that links glyphosate to the development of NHL in	2	repeat the question? BY MR. LITZENBURG: Q. Sure. Starting in these publications hang on. We'll look at that in
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	WIIIam H. Fiem	· ·	
	Page 30		Page 32
1	They are not necessarily teaching		BY MR. LITZENBURG:
2	them pediatrics. They are teaching them	2	Q. In what context does it come up
3	cancer biology. They are teaching them	3	
4	cancer epidemiology, if that's their area	4	A. Gee, doc, why do I have this
5	of interest, but they are not, you know,	5	1) III pilo IIII I
6	teaching them how to take care of specific	6	Q. Uh-huh. Do you
7	diseases in specific pediatric patients.	7	A. Gee, doc, why are my, you know, what
8	BY MR. LITZENBURG:	8	is the relative risk of my brother and sister
9	Q. Would you be comfortable with the	9	getting this? My aging grandmother getting this?
10	American Board of you understand the American	10	My children getting this?
11	Board of Internal Medicine has guidelines on	11	Q. Do you ever answer those questions?
12	expert testimony?	12	A. I answer them all the time.
13	A. I'm not aware of those guidelines.	13	Q. Okay. When is the last time you
14	Q. So you didn't look into what	14	told a patient what you believe caused his
15	guidelines there might control you professionally	15	non-Hodgkin lymphoma?
16	before doing this?	16	A. I I can't put an exact time and
17	MR. JOHNSTON: Objection.	17	date on it, but it would almost certainly be a
18	Assumes facts not in the record that	18	patient in the context of prior immunosuppression
19	anything controls him professionally.	19	for either a rheumatologic disease or organ
20	THE WITNESS: Right. I believe	20	transplant because those are those are the
21	I'm free to give my expert testimony or	21	most common.
22	opinion as I see fit.	22	Q. And so in that context, you would
23	BY MR. LITZENBURG:	23	tell him that his previous immunosuppression
24	Q. Would you be comfortable with the	24	therapy you believe contributed to the lymphoma?
25	American Board of Internal Medicine reading this	25	A. It would not usually be previous.
		+	
	Page 31		Page 33
1		1	Page 33 It would usually be ongoing.
1	expert report that you've drafted for Monsanto?	1	It would usually be ongoing.
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	Epstein-Barr virus, or, two, HIV which actually		testify on whether a chemical can cause
	acts an immunosuppressant. It doesn't cause the	2	non-Hodgkin lymphoma, and you can't name a single
	lymphoma cells to proliferate and give rise to	3	published meta-analysis on the topic?
4	lymphoma. It suppresses the immune system.	4	MR. JOHNSTON: Objection.
5	Again, if you suppress the immune	5	Argumentative.
6	system with HIV, when you treat that successfully	6	Counsel laughed when he asked the
7	with the, you know, great therapies we have	7	question let the record reflect.
8	today, then these lymphomas tend to regress or	8	THE WITNESS: Meta-analysis,
9	not not occur.	9	while of some use in the epidemiology,
10	Q. Other than diseases, malignancies,	10	field is not something I would rely on
11	and medical treatments, are you aware of anything	11	when I have a prospective cohort study.
12	that can cause non-Hodgkin lymphoma?	12	BY MR. LITZENBURG:
13	MR. JOHNSTON: Objection. Vague.	13	Q. Is that a no?
14	THE WITNESS: There is emerging	14	MR. JOHNSTON: Again, let the
15	evidence from the American Health Study	15	record reflect that counsel laughed.
16	that's recently published that implicates	16	BY MR. LITZENBURG:
17	certain insecticides in this regard.	17	Q. Is that answer a no?
18	BY MR. LITZENBURG:	18	A. I do not rely on meta-analysis of
19	Q. Okay. So are there some	19	retrospective studies when I have a robust
20	insecticides that you would advise a patient to	20	prospective cohort study.
21	stop using if they asked?	21	Q. Okay. What other papers did you
22	MR. JOHNSTON: Objection.	22	ignore?
23	Assumes facts not in the record.	23	MR. JOHNSTON: Objection.
24	THE WITNESS: Right. I	24	Argumentative. Misstates the record.
25	MR. JOHNSTON: And a	25	THE WITNESS: I considered the
	D 07	+	D 27
	Page 35		Page 37
1	hypothetical.	1	papers on my Materials Considered List.
2	hypothetical. THE WITNESS: I agree. I would	2	papers on my Materials Considered List. You would have to provide me with
2 3	hypothetical. THE WITNESS: I agree. I would need a more detailed or a more focused	2 3	papers on my Materials Considered List. You would have to provide me with examples that weren't on there and ask me
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	enrolled in the study. Again, this is why you	1	MR. JOHNSTON: Go with a compound
2	need a prospective cohort study.	2	question.
3	Q. Dr. Fleming, how many studies meet	3	DI MIN ENELINDERIO.
4	the criteria that you just set forth?	4	Q. You said that in order to answer
5	A. The Agricultural Health Study does.	5	this question, is that correct, that you would
6	Q. Okay. And what that's a	6	have to look at a case-control study?
7	case-control study?	7	MR. JOHNSTON: Yeah. I think
8	A. No. No. I don't there isn't a	8	you're asking your what you said.
9	case-control study that I have had the	9	BY MR. LITZENBURG:
10	opportunity to review that I know of that shows a	10	Q. In order to answer the question, are
11	statistically significant increase in odds ratio	11	you telling us you would need a case-control
12	after confounding factors have been taken into	12	study examining glyphosate and NHL that adjusted
13	account.	13	for other pesticides?
14	Q. Are you aware of any case-control	14	MR. JOHNSTON: Objection. Vague.
15	studies examining glyphosate and NHL that adjust	15	What question?
16	for other pesticides?	16	THE WITNESS: Again, I'm not sure
17	MR. JOHNSTON: To the extent you	17	what your question is.
18	recall.	18	BY MR. LITZENBURG:
19	THE WITNESS: Not to the extent I	19	Q. What was what was when you
20	recall. I'd have to review the specific	20	gave me that that description, what were you
21	data you're talking about.	21	talking about, Doc?
22	BY MR. LITZENBURG:	22	MR. JOHNSTON: Objection.
23	Q. Dr. Fleming, what are you here to	23	Improper. Argumentative.
24	tell us today?	24	BY MR. LITZENBURG:
25	MR. JOHNSTON: Objection.	25	Q. A case
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1	-	1	Page 41
1	Argumentative.	1	MR. JOHNSTON: You're asking
2	Argumentative. He's here because you	2	MR. JOHNSTON: You're asking questions. He's giving answers, counsel.
2 3	Argumentative. He's here because you subpoenaed you served a notice of	2 3	MR. JOHNSTON: You're asking questions. He's giving answers, counsel. So ask him a question and then he'll give
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	Page 42		Page 44
1	any weight on was the AHS study.	1	MR. JOHNSTON: Wait a minute.
2	Q. It was not a case-control study?	2	Hold on. Hold on. I need to take a break
3	A. No.	3	before he can answer that question.
4	Q. Okay.	4	MR. ESFANDIARY: Not when a
5	A. It was a cohort study.	5	question is pending.
6	Q. Okay. So what was all that about	6	MR. JOHNSTON: Well, then I
7	how you needed a case-control study to answer the	7	instruct him not to answer the question.
8	question?	8	MR. ESFANDIARY: On what grounds,
9	MR. JOHNSTON: Objection. He	9	counsel?
10	didn't say that. You said that, counsel.	10	MR. JOHNSTON: On the grounds
11	Objection. Misstates the record.	11	that you here are noticed under the
12	THE WITNESS: If you showed me a	12	federal system federal case. He did
13	case-control study that could address this	13	not offer a case-specific case in any
14	issue of confounding variables,	14	federal cases.
15	specifically the use of other pesticides,	15	MR. LITZENBURG: We're not asking
16	it could theoretically, you know, be	16	about what his opinion is.
17	important, but none of these studies	17	MR. JOHNSTON: You can't ask him
18	adjusted for that.	18	whatever you want.
19	BY MR. LITZENBURG:	19	MR. ESFANDIARY: Yeah, we can.
20	Q. And none has been done to date to	20	MR. LITZENBURG: I'm not asking
21	your knowledge; right?	21	him about his opinion in his report.
22	A. Correct.	22	MR. JOHNSTON: This line of
23	MR. JOHNSTON: Objection. Vague.	23	questioning is improper.
24	BY MR. LITZENBURG:	24	MR. LITZENBURG: I can't ask him
25	Q. Okay. So is it more fair to say	25	about other expert reports?
	Decc. 12		Decce 15
1	Page 43	1	Page 45
	that you don't know whether or not non-Hodgkin	1	MR. JOHNSTON: You know what the
2	that you don't know whether or not non-Hodgkin lymphoma can be caused by glyphosate or is it	2	MR. JOHNSTON: You know what the answer is. You know what that he
2 3	that you don't know whether or not non-Hodgkin lymphoma can be caused by glyphosate or is it more or is your opinion actually that it	2 3	MR. JOHNSTON: You know what the answer is. You know what that he provided a declaration in Dee Johnson.
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	WIIIam II. Fich.		
	Page 46		Page 48
1	A. I have been asked to review one very	1	MR. JOHNSTON: Objection. Vague.
2	specific question in one case.	2	Hypothetical.
3	Q. Okay. And did you look at whether	3	BY MR. LITZENBURG:
4	glyphosate could contribute to his non-Hodgkin	4	Q. Okay.
5	lymphoma?	5	A. No.
6	MR. JOHNSTON: I'm going to	6	Q. So in order for you to determine
7	object to this, counsel. The question	7	whether glyphosate contributed to a person's
8	that he provided a declaration on you know	8	non-Hodgkin lymphoma or not, you don't need to
9	has been resolved. You guys have agreed	9	look at any of their medical records; is that
10	on a trial schedule.	10	is that true?
11	You know that that was not a	11	MR. JOHNSTON: Objection,
12	causation issue. It was a question of	12	counsel. You're confusing the issue of
13	life expectancy for someone with NHL.	13	general causation and specific causation.
14	These are improper questions in this	14	He is here on general causation.
15	deposition.	15	That's what his report is about in this
16	MR. LITZENBURG: Bob, I think	16	litigation. I object to these questions
17	you've said more words on the record today	17	as outside the scope of his report.
18	than Dr. Fleming has.	18	BY MR. LITZENBURG:
19	BY MR. LITZENBURG:	19	Q. He didn't tell you not to answer.
20	Q. With that preamble from your	20	He just gave you a long-winded way to answer, but
21	counsel, do you want to answer the question	21	I'll ask the question again.
22	MR. JOHNSTON: And I'm objecting	22	
23	to this question.	23	whether glyphosate contributed to a specific
24	BY MR. LITZENBURG:		person's lymphoma, you wouldn't need to look at
25	Q of whether or not you've looked		their medical records at all, would you?
			-
	D 47		D 40
	Page 47		Page 49
	at a patient's records with an eye towards	1	MR. JOHNSTON: You'd have to have
2	at a patient's records with an eye towards whether glyphosate contributed to his non-Hodgkin	2	MR. JOHNSTON: You'd have to have evidence that it causes it first, counsel.
2 3	at a patient's records with an eye towards whether glyphosate contributed to his non-Hodgkin lymphoma?	2 3	MR. JOHNSTON: You'd have to have evidence that it causes it first, counsel. You haven't that's what he's here to
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	Page 50		Page 52
1	links glyphosate exposure to the	1	THE WITNESS: Please repeat the
2	development of NHL	2	whole question.
3	BY MR. LITZENBURG:	3	BY MR. LITZENBURG:
4	Q. So	4	Q. Are you able to answer the question
5	A in a general sense.	5	of whether or not glyphosate can contribute to
6	Q. So if you're answering that question	6	non-Hodgkin lymphoma?
7	for any specific patient, you don't need to look	7	MR. JOHNSTON: Objection. Asked
8	at anything, their medical record, their medical	8	and answered repeatedly.
9	history, their exposure history?	9	THE WITNESS: I am not aware of
10	MR. JOHNSTON: Objection.	10	any credible scientific evidence that
11	Hypothetical. Vague. Speculation. Go	11	links glyphosate exposure to the
12	ahead.	12	development of NHL.
13	THE WITNESS: I would agree. If	13	BY MR. LITZENBURG:
14	I if I were to offer a specific	14	Q. And until you become aware of such
15	causation opinion, which I have not ever	15	credible evidence, you would continue to advise
16	offered for glyphosate and NHL, I would	16	pediatric patients, for example, with lymphoma to
17	want to look at all the potential records	17	continue to use glyphosate?
18	I could.	18	A. I do not advise pediatric patients
19	BY MR. LITZENBURG:		in any capacity.
20	Q. And so if no, I'm asking.	20	Q. How about adult patients?
21	You understand that the plaintiffs	21	A. I would not advise adult patients
22	in this litigation are not looking at other		one way or another about glyphosate.
23	chemicals, right, or other products?	23	Q. Would you present this expert report
24	MR. JOHNSTON: Objection. Vague.		to your department at the university?
25	THE WITNESS: I I'm not I'm	25	A. Happily.
	THE WITNESS. 1 THI HOT THI		A. Happily.
	Page 51		Page 53
1	Page 51 not aware of the scope of this litigation.	1	Page 53 MR. JOHNSTON: Objection. Asked
1	not aware of the scope of this litigation.	1 2	-
	not aware of the scope of this litigation.	2	MR. JOHNSTON: Objection. Asked
2	not aware of the scope of this litigation. BY MR. LITZENBURG:	2	MR. JOHNSTON: Objection. Asked and answered.
2 3	not aware of the scope of this litigation. BY MR. LITZENBURG: Q. Okay. So backing up.	2 3 4	MR. JOHNSTON: Objection. Asked and answered. BY MR. LITZENBURG:
2 3 4	not aware of the scope of this litigation. BY MR. LITZENBURG: Q. Okay. So backing up. You said that you don't know whether	2 3 4 5	MR. JOHNSTON: Objection. Asked and answered. BY MR. LITZENBURG: Q. Okay. All right. Who told you
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		<u> </u>	
	Page 54		Page 56
1	It just allows you basically to	1	oversimplified in only considering a few
2	to bring up that one graph all the	2	variables?
3	calculations have been done for you and	3	MR. JOHNSTON: Objection.
4	basically compare that to the US Geological	4	0
5	Services' map of glyphosate usage in the United	5	•
6	States.	6	suggesting it doesn't provide
7	And if there were to be some	7	
8	potential linkage, one would expect that high	8	
9	levels of glyphosate would correspond to a high	9	and NHL.
10	incidence of NHL nationwide.	10	
11	Q. How much time did you spend reading	11	Q. And no study has been performed to
12	scientific papers in this case?	12	· · ·
13	A. Which case? The entire? You mean	13	C C
14	you mean on the entire case? It's it's	14	
	hard to quantify that.	15	A. Once
16	Q. You don't know?	16	
17	A. Some papers I looked at, you know,	17	• •
	very quickly. Read the abstract, read the title,	18	
19	decided in my expert opinion it was not worth	19	
20	pursuing further. There were others I read in	20	F, 5,
	more detail, and there were others I read m	21	prospecute study.
	times.	22	
23			Q. How much time did you spend looking at the AHS study?
24	Q. Dr. Fleming	24	•
25	A. It just it all depends.		riguin, raidir riuve a particular
25	Q. Yeah. Other than De Roos 2005, how	25	time run. I've looked at it on several different
	Page 55		Page 57
1	Page 55 many what other papers did you read several	1	Page 57 occasions for different different lengths of
	-	1	_
	many what other papers did you read several	1	occasions for different different lengths of
2	many what other papers did you read several times?	2 3	occasions for different different lengths of time.
2 3	<ul><li>many what other papers did you read several times?</li><li>A. I looked at the case-control</li></ul>	2 3 4	occasions for different different lengths of time. Q. Okay. How much time did you spend
2 3 4	<ul><li>many what other papers did you read several times?</li><li>A. I looked at the case-control studies.</li></ul>	2 3 4	occasions for different different lengths of time. Q. Okay. How much time did you spend looking at the AHS study versus the two published meta-analyses?
2 3 4 5 6	<ul><li>many what other papers did you read several times?</li><li>A. I looked at the case-control studies.</li><li>Q. What were they?</li></ul>	2 3 4 5	occasions for different different lengths of time. Q. Okay. How much time did you spend looking at the AHS study versus the two published meta-analyses?
2 3 4 5 6	<ul> <li>many what other papers did you read several times?</li> <li>A. I looked at the case-control studies.</li> <li>Q. What were they?</li> <li>A. They are listed here. There's about</li> </ul>	2 3 4 5 6	occasions for different different lengths of time. Q. Okay. How much time did you spend looking at the AHS study versus the two published meta-analyses? MR. JOHNSTON: Objection. Calls for speculation.
2 3 4 5 6 7	<ul> <li>many what other papers did you read several times?</li> <li>A. I looked at the case-control studies.</li> <li>Q. What were they?</li> <li>A. They are listed here. There's about five of them.</li> </ul>	2 3 4 5 6 7	occasions for different different lengths of time. Q. Okay. How much time did you spend looking at the AHS study versus the two published meta-analyses? MR. JOHNSTON: Objection. Calls for speculation.
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	Page 58		Page 60
1	topic. So I did not I did not delve into	1	BY MR. LITZENBURG:
2	-	2	Q. Okay. How much time have you spent
3	Q. Would you be comfortable presenting	3	
4		4	A. This week?
5		5	Q. Uh-huh.
6	opinion glyphosate cannot contribute to	6	A. What time is it now?
7		7	MR. JOHNSTON: 10:08.
8	MR. JOHNSTON: Objection.	8	BY MR. LITZENBURG:
9	Misstates his testimony and asked and	9	Q. It's 10 a.m.
10	5	10	A. Reviewing my report, reviewing
11	THE WITNESS: I would be	11	documents, sitting here today, maybe four hours.
12		12	Q. You've been here you got here
13	body that based on the available	13	
14	•	14	A. No.
15		15	
16	credible association between glyphosate and NHL.	16	Q. Okay. How long have you spent
			A. Yes. Well, I didn't I didn't
17 18		17	arrive today.
	Q. Would you use those two maps? Would	18	Q. How long have you spent meeting with
19	you present those to professional organization	19 20	the defense lawyers for Monsanto this week?
20	physicians?		A. This week. Again, I can't give you
21	A. I would yes, I'd be very happy to	21	
22	present them, and the ten you why. Decuase	22	Q. Okay.
23		23	MR. JOHNSTON: Counsel, we've
24	and more and a support an association	24	been going about an noar. The soon as you
25	Let's look beyond the literature.	25	get to a convenient point, can we take a
	Page 59		Page 61
1	Let's look at huge data sets we have and let's	1	break?
	look at very obvious questions we can answer.	2	MR. LITZENBURG: Yeah, sure.
3	So those two maps have to be looked	3	Give me one or two more minutes and that's
4		4	a good idea.
5	of NHL and, put together, they tell you that as	5	MR. JOHNSTON: Sure.
6	glyphosate usage has increased over time, NHL	6	
7	incidence has plateaued and then fallen off.	7	Q. All right. I'm looking at your
8	Interesting but doesn't address	8	
9	local regional differences in the use of	9	that
10	· · · ·	10	A. Sure.
11	address that? Just to get an idea, an	11	Q as Exhibit 2.
12		12	
13			
		13	•
14	As it turns out US EPA have a map of	13 14	identification purposes as Fleming Exhibit
14 15	As it turns out US EPA have a map of glyphosate use. The NCI has a very handy map of	14	identification purposes as Fleming Exhibit 20-2.)
15	As it turns out US EPA have a map of glyphosate use. The NCI has a very handy map of county incidence of NHL.	14 15	identification purposes as Fleming Exhibit 20-2.) THE WITNESS: (Reviewing
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Golkow Litigation Services

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1       Q. What is it?         2       A. It is a collection of billings I         3       have submitted for my time working on this         4       question of NHL.         5       Q. And were you contacted before         6       haves submitted for my time working on this         7       Did you have any contact with the         8       haves submitted for my time working on this         9       A. I believe in - yes. Yes. I         10       believe at some date I can't tell you when         11       in relatively late 2016, I was called up and         12       Q. Kay. When did they contact you?         14       Q. Okay. When did they contact you?         15       A. Again, I         16       MR. JOHNSTON: Objection. Asked         17       and answered.         18       metrat whore it says "draft report say in         21       Q. Okay. And you agreed to to write         23       and when you began drafting this report say in         24       A. I agreed to do several things.         25       Hollingsworth has used me as a resource for         12       general information on the biology of lymphoma.         3       Ther atmetment of lymphoma.         3       The				-
2       Å. It is a collection of billings I       2       from this.         3       have submitted for my time working on this       4         4       question of NHL.       5       Q. And were you contacted before         6       there's a retention letter dated January 07017.       5       how much time did you spend reading the medical         7       Did you have any contact with the       6       iterature?         8       Delieve at some date I can't tell you when       1       nettatively late 2016. I was called up and         10       believe at some date I can't tell you when       1       nettatively late 2016. I was called up and         12       asked what I thought about the about providing       1       notes. I did not break out that those times         13       an expert report on the ciology of lymphoma.       1       A. Uth-h-hh.         13       and answered.       10       O. Mat, ITZENBURG:         14       Q. Okay. And you agreed to to write       12       a report on whether or not Roundup could cause         12       areport on thy this report because they were, you       1       1       1         12       areport on whether or not Roundup could cause       2       1       1         2       reporto in cludase you put 2.25 hours there:		Page 62		Page 64
3         Prior to drafting your report on           4         question of NHL.         3         Prior to drafting your report on           6         there's a retention letter dated January of 2017.         5         how much time did you spend reading the medical           7         Did you have any contact with the         5         how much time did you spend reading the medical           8         lawyers from Hollingsworth prior to 2017?         9         A. Again, I did combinations of           9         at some date - I can't tell you when         10         notes. I did no break out that those times           11         in relatively late 2016, I was called up and         11         specifically.         12           12         asked what I thought about the about providing         12         Q. Well, you wrote "literature review"         13           13         an expert report on the citology of I ymphoma.         14         A. Un-huh.         15           14         Q. Okay. Mup ou agreed to to write         2         Q. Okay. And you agreed to to write         2           14         an Expert the say as a resource for         21         1         and wheny you began drafting this report say in           12         general information on the biology of lymphoma.         1         before.         2	1	Q. What is it?	1	that that is another case that we have separate
4 question of NHL.       4 this, once you relied on the medical literature,         5 Q. And were you contacted before       6 there's a relention letter dated January of 2017.         7 Did you have any contact with the       1 in relative, in - yes. Yes. I         8 lawyers from Hollingsworth prior to 2017?       A. Jelieve in - yes. Yes. I         9 A. I believe at some date - 1 can't tell you when       in relatively late 2016, I was called up and         12 asked what I thought about the - about providing       9 ontes. I did not break out that - those times         14 Q. Okay. When did they contact you?       14 A. Okay. When did they contact you?         15 A. Again, I -       15 Q. Okay. Men did they contact you?         16 MR.JOHNSTON: Objection. Asked       17 Q. And that's you put 2.25 hours there;         18 expect date.       17 Q. Adl tright. Between March of 2017         20 WHM.LITZENBURG:       20 Wall right. Between March of 2017         21 and when you began drafting this reports ay in       22 June 1 of 2017, you'll agree with me that's the         23 cancer?       24 A. I agreed to ob several things.         24 A. I agreed to do several things.       24 A. Well, I see - I see a         25 Hollingsworth has used me as a resource for       20 Were you taking dictation, sir, with         3 dat agreed - a great many of their       9 Q. Were you taking dictation, sir, with         4 that was set hat was work on	2	A. It is a collection of billings I	2	from this.
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6       there's a retention letter dated January of 2017.       6       literature?         7       Did you have any contact with the       6       literature?         8       lawyers from Hollingsworth prior to 2017?       9       A. Again, I did combinations of         9       holiceve at some date - 1 can't tell you when       1       in relatively late 2016, 1 was called up and         12       asked what I thought about the about providing       1       9       report includes reading the literature and taking         13       an expert report on the etiology of lymphoma.       1       1       9       rotes. I did not break out that those times         14       A. Again, I -       1       0       O. Kay.       16       A. Yeah.         15       A. Again, I -       15       O. Okay.       16       A. Yeah.         16       mark JOHNSTON: Objection. Asked       17       Q. And that's you put 2.25 hours there;       18         16       BY MR. LITZENBURG:       2       June 16 2017, you'lagree with me that's the       23         12       a report on whether or not Roundup could cause       2       June 16 2017, you'lagree with me that's the         12       angreed to do several things.       2       1       before.         1       general i	5	Q. And were you contacted before	5	how much time did you spend reading the medical
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9       A. I believe in yes. Yes. I       9       report includes reading the literature and taking         10       believe at some date I can't tell you when       1       1         11       in relatively late 2016, I was called up and       1       1       1         12       asked what I thought about the about providing       1       1       1       1         13       an expert report on the teiology of lymphoma.       1       1       1       1       1         14       O. Okay. Men did they contact you?       1       4       A. Uh-huh.       1         15       A. Again, I       1       0. Okay. Men did they contact you?       1       4       A. Uh-huh.       15       0. Okay.       A. Teght?         14       A. ITZENBURG:       1	8	• •	8	
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14       Q. Okay. When did they contact you?       14       A. Uh-huh.         15       A. Again, I       15       Q. Okay.         16       MR. JOHNSTON: Objection. Asked       16       A. Yeah.         17       and answered.       17       Q. And that's you put 2.25 hours there;         18       THE WITNESS: I can't give you an       19       exact date.       10         19       exact date.       10       A. Right.       20         20       BY MR. LITZENBURG:       21       and when you began drafting this report say in       22         21       Q. Okay. And you agreed to to write       23       and when you began drafting this report say in         23       cancer?       24       A. Uh-huh.       17         24       A. I agreed to do several things.       25       the treatment of lymphoma.       26         3       Tree answered a great many of their       4       Q. Were you taking dictation, sir, with         3       that tree, you know, chinical management of of NHL. So I       5       BY MR. LITZENBURG:         9       reflected here.       7       MR. JOHNSTON: Objection.         10       Q. Okay. And when we look at this       11       MR. JOHNSTON: Wague.         11       A. A spe	13	· · · ·	13	
15       A. Again, I       15       Q. Okay.         16       MR. JOHNSTON: Objection. Asked       16       A. Yeah.         17       and answered.       17       Q. And that's you put 2.25 hours there;         18       THE WITNESS: I can't give you an       19       exact date.       19         20       BY MR. LITZENBURG:       19       A. Right.         21       Q. Okay. And you agreed to to write       23       areport on whether or not Roundup could cause         23       cancer?       24       A. I agreed to do several things.       25         24       A. I agreed to do several things.       24       A. Well, I see -1 see a         25       the treatment of lymphoma.       24       A. Well, I see -1 see a         26       general information on the biology of lymphoma,       1       before.         2       Q. Ware you taking dictation, sir, with         3       Tve answered a great many of their       4       MR. JOHNSTON: Vague.         8       BY MR. LITZENBURG:       6       Q. Did you take any         9       velta great - a great many things that are       9       Precester         9       reflected here.       10       Q. Okay. And when we look at this       11         13<				
16       MR. JOHNSTON: Objection. Asked       16       A. Yeah.         17       and answered.       17       Q. And that's you put 2.25 hours there;         18       THE WITNESS: I can't give you an       18       right?         19       exact date.       19       A. Right.         20       BY MR. LITZENBURG:       21       and when you bega drafting this report say in         21       Q. Okay. And you agreed to to write       22       and when you bega drafting this report say in         22       accore?       21       and when you bega drafting this report say in         22       accore?       22       and when you bega drafting this report say in         23       cancer?       24       A. I agreed to do several things.         24       A. I agreed to do several things.       25       teleconference on May 17th. So that would be         25       general information on the biology of lymphoma.       1       before.         3       Tve answered a great many of their       4       MR. JOHNSTON: Vague.         4       id a great a great many of their       9       Page 63         9       reflected here.       1       MR. JOHNSTON: Vague.         10       Q. Okay. And when we look at this       1         1		· · · ·		
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18       THE WITNESS: I can't give you an       18       right?         19       exact date.       20       BY MR. LITZENBURG:         21       Q. Okay. And you agreed to to write       2a areport on whether or not Roundup could cause         23       a report on whether or not Roundup could cause       2a une I of 2017, you'll agree with me that's the         23       and when you began drafting this report say in       2a une I of 2017, you'll agree with me that's the         24       A. I agreed to do several things.       25         25       Hollingsworth has used me as a resource for       24         26       general information on the biology of lymphoma,       24         3       Tve answered a great many of their       4         4       questions that are, you know, not necessarily       5         5       did a great - a great many things that are       9         9       reflected here.       0         10       Q. Okay. And when we look at this       11         11       packet, things that say Johnson versus Monsanto,       12         12       that was that was work on a specific case;       13         13       right?       14         14       A. A specific case addressing a very       15         15       sp	17	÷		
19       exact date.       19       A. Right.         20       BY MR. LITZENBURG:       20       Q. All right. Between March of 2017         21       Q. Okay. And you agreed to to write       21       and when you began drafting this report say in         22       arcer?       21       and when you began drafting this report say in         23       cancer?       21       and when you began drafting this report say in         24       A. I agreed to do several things.       25       June 1 of 2017, you'll agree with me that's the         25       Hollingsworth has used me as a resource for       24       A. Well, I sec1 see a         26       is general information on the biology of lymphoma.       24       A. Well, I sec1 see a         3       Tve answered a great many of their       4       WR. JOHNSTON: Objection.       5         4       uperiod general expertise on on the,       9       Q. Were you taking dictation, sir, with         3       did a great a great many things that are       9       P       MR. JOHNSTON: Vague.         8       BY MR. LITZENBURG:       9       Q dictation from the Hollingsworth         10       Q. Okay. And when we look at this       11       MR. JOHNSTON: Objection. Well,         13       right?       13 <td< td=""><td></td><td></td><td></td><td>- • •</td></td<>				- • •
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22       a report on whether or not Roundup could cause       22       June 1 of 2017, you'll agree with me that's the         23       cancer?       24       A. I agreed to do several things.       25         25       Hollingsworth has used me as a resource for       26       First time it says that you were drafting?         24       A. Well, I see I see a       25       teleconference on May 17th. So that would be         26       Page 63       Page 63         27       Tve answered a great many of their       4       before.         2       Q. Were you taking dictation, sir, with         3       Tve answered a great many of their       4         4       questions that are, you know, not necessarily       5         5       directly in this report because they were, you       5         6       did a great a great many things that are       9         9       reflected here.       9       Q. Okay. And when we look at this         11       packet, things that say Johnson versus Monsanto,       11       12         12       packet, things that say Johnson versus Monsanto,       12       13         13       right?       13       case that you're not going to ask about         14       A. A specific case addressing a very       14				
<ul> <li><sup>23</sup> cancer?</li> <li><sup>24</sup> A. I agreed to do several things.</li> <li><sup>25</sup> Hollingsworth has used me as a resource for</li> <li><sup>24</sup> A. Well, I see I see a</li> <li><sup>25</sup> teleconference on May 17th. So that would be</li> <li><sup>26</sup> Page 63</li> <li><sup>1</sup> general information on the biology of lymphoma,</li> <li><sup>27</sup> the treatment of lymphoma.</li> <li><sup>3</sup> T've answered a great many of their</li> <li><sup>4</sup> questions that are, you know, not necessarily</li> <li><sup>5</sup> directly in this report because they were, you</li> <li><sup>6</sup> know, I provided general expertise on on the,</li> <li><sup>7</sup> you know, clinical management of of NHL. So I</li> <li><sup>8</sup> did a great a great many things that are</li> <li><sup>9</sup> reflected here.</li> <li><sup>9</sup> Q dictation from the Hollingsworth</li> <li><sup>10</sup> Q. Okay. And when we look at this</li> <li><sup>11</sup> packet, things that say Johnson versus Monsanto,</li> <li><sup>12</sup> that was that was work on a specific case;</li> <li><sup>13</sup> right?</li> <li><sup>14</sup> A. A specific case addressing a very</li> <li><sup>15</sup> specific issue.</li> <li><sup>16</sup> Q. What so, and that's what I'm</li> <li><sup>17</sup> getting at.</li> <li><sup>18</sup> None of that time was spent</li> <li><sup>19</sup> determining whether or not glyphosate is capable</li> <li><sup>10</sup> of causing non-Hodgkin lymphoma.</li> <li><sup>11</sup> That was spent looking at prognoses</li> <li><sup>22</sup> and medical records; is that right?</li> <li><sup>23</sup> A. That is correct.</li> <li><sup>24</sup> A. Well, I see I see a</li> <li><sup>25</sup> teleconference on May 17th. So that would be</li> <li><sup>26</sup> Page 63</li> <li><sup>10</sup> before.</li> <li><sup>21</sup> BY MR. LITZENBURG:</li> <li><sup>22</sup> MR. JOHNSTON: Objection. Well,</li> <li><sup>23</sup> It is a subart to a specific case:</li> <li><sup>24</sup> A. A specific case addressing a very</li> <li><sup>24</sup> Secific case addressing a very</li> <li><sup>25</sup> specific issue.</li> <li><sup>26</sup> O. What so, and that's what I'm</li> <li><sup>26</sup> C. What so, and that is mater</li> <li><sup>27</sup> MR. JOHNSTON: Yeah, he is. He's</li> <li><sup>28</sup> and medical records; is that right?</li> <li><sup>29</sup> A. That is correct.</li> <li></li></ul>				
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	Page 66		Page 68
1	MR. JOHNSTON: He's not going to	1	was on Johnson's. So strike that.
2	answer that question.	2	I basically at the end of the day
3	Just like you guys have objected	3	did not specifically put literature review or
4	to similar questions in prior depositions	4	document review down separately from, you know,
5	so far, particularly the Weisenberger	1	working on the report.
6	deposition.	6	Q. But you did?
7	BY MR. LITZENBURG:	7	A. I did, but I did not do it
8		ß	
	Q. Dr. Fleming		consistently because I learned that it wasn't
9	MR. JOHNSTON: You want to ask a	9	particularly important to do so. So I I
10	different question?	10	basically changed, you know, I basically changed
11	BY MR. LITZENBURG:	11	the heading, if you will, and and billed the
12	Q did you type anything out that	12	time.
13	Hollingsworth asked you to verbatim?	13	I'm paid for my time whether it's
14	MR. JOHNSTON: Objection.	14	reviewing the literature, having a
15	That's look, you know the federal rules	15	teleconference, or actually writing a report.
16	prevent you from asking questions about	16	Q. So when did you alter these bills?
17	the creation of his expert reports. That	17	A. I have never altered these bills.
18	is outside the scope of the rules and the	18	Q. You said
19	agreement in this case.	19	A. I just said
20	I'm instructing you not to	20	Q you went back and you changed?
21		21	A. No. I said on March 3rd or pard
22	answer.		-
	MR. LITZENBURG: You're		me March 9, 2017, I had literature review. On
23	instructing him not to answer	23	April 3rd, it says "meeting preparation."
24	MR. JOHNSTON: Yes I am.		Meeting preparation almost certainly involved
25	MR. LITZENBURG: about	25	some aspect of review of the literature I was
	Page 67		Page 69
1	Page 67	1	Page 69
1	anything about the creation of his expert		going to discuss when I met at Hollingsworth.
2	anything about the creation of his expert report?	2	going to discuss when I met at Hollingsworth. I did not break out meeting
2	anything about the creation of his expert report? MR. JOHNSTON: Whether yes,		going to discuss when I met at Hollingsworth. I did not break out meeting preparation into literature review, you know,
2 3 4	anything about the creation of his expert report? MR. JOHNSTON: Whether yes, that's what the federal rules provide.	2 3 4	going to discuss when I met at Hollingsworth. I did not break out meeting preparation into literature review, you know, drafting, you know, report or anything else. I
2 3 4 5	anything about the creation of his expert report? MR. JOHNSTON: Whether yes, that's what the federal rules provide. MR. ESFANDIARY: That's not true.	2 3 4 5	going to discuss when I met at Hollingsworth. I did not break out meeting preparation into literature review, you know, drafting, you know, report or anything else. I just I just gave it that title which
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	WIIIam H. Fiem.	 -	
	Page 70		Page 72
1	that time period that that I've	1	Q. Okay. So unough suite sta, we te
2	recorded there, that 1.25 hours, and that	2	still at 2.25 hours of literature review; right?
3	that is not meant to be a detailed, you	3	11. My ommigs do not decarately
4	know, inclusive statement. It's a general	4	reflect the amount of time I spent reviewing the
5	statement.	5	literature. I was unaware that there would be
6	BY MR. LITZENBURG:	6	any need to do so.
7	Q. Through June 3rd of 2017, you had	7	Q. Your billings do not accurately
8	billed 57 hours in this case and two of them are	8	reflect the time you spent?
9	reviewing literature; is that correct?	9	A. No.
10	A. That's because I did not	10	MR. JOHNSTON: Objection.
11	specifically, except in a couple of cases,	11	Misstates his testimony. Go ahead.
12	actually break out literature review from the	12	BY MR. LITZENBURG:
13	rest of the process.	13	Q. Go ahead.
14	Q. Dr. Fleming, between March and June	14	A. My testimony is that my billings do
15	3rd up through June 3rd, you did not spend	15	not accurately reflect each hour of literature
16	more than 2.25 hours out of 57 hours looking at	16	review as this was often done in the context of
17	the literature; isn't that correct? Isn't that	17	writing the draft report, and there was no reason
18	what you've written down?	18	to separate these out.
19	MR. JOHNSTON: Objection.	19	Q. Okay. By the time that you started
20	Compound. Asked and answered.	20	drafting the report on June 1st of 2017, you had
21	THE WITNESS: I'd like	21	spent some, geez, 60 no, 57 hours or so
22	MR. JOHNSTON: Misrepresents the	22	working on this case, two of which were looking
23	record.	23	at the medical literature; right?
24	THE WITNESS: I'd like to answer	24	A. That is not correct.
25	it one more time and say, I did not record	25	MR. JOHNSTON: Objection.
	Page 71		Page 73
1	-	1	
1 2	reviewing the literature other than when	1 2	Compound. Asked and answered.
	reviewing the literature other than when it is recorded.		Compound. Asked and answered. Misrepresents the record.
2	reviewing the literature other than when it is recorded. However, the activities, such as	2	Compound. Asked and answered. Misrepresents the record. BY MR. LITZENBURG:
2	reviewing the literature other than when it is recorded. However, the activities, such as meeting preparation and draft report,	2 3 4	Compound. Asked and answered. Misrepresents the record. BY MR. LITZENBURG: Q. Okay. Name me again a single
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2 3 4 5 6	reviewing the literature other than when it is recorded. However, the activities, such as meeting preparation and draft report, often included literature reviews as part of that. I was told there is no need to break it down into granular detail. So I	2 3 4 5 6	Compound. Asked and answered. Misrepresents the record. BY MR. LITZENBURG: Q. Okay. Name me again a single meta-analysis looking at this question of the association MR. JOHNSTON: Wait, counsel.
2 3 4 5 6 7	reviewing the literature other than when it is recorded. However, the activities, such as meeting preparation and draft report, often included literature reviews as part of that. I was told there is no need to	2 3 4 5 6 7	Compound. Asked and answered. Misrepresents the record. BY MR. LITZENBURG: Q. Okay. Name me again a single meta-analysis looking at this question of the association MR. JOHNSTON: Wait, counsel. Can we take a break?
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	Page 74		Page 76
1	whether or not glyphosate can cause non-Hodgkin	1	It will cause some patients to be cured, and
2			these are really important end points, which in
3	A. I'm here to tell you that in my		many ways are actually kind of similar to what
4			the epidemiology literature does with exposures
5	scientific evidence linking glyphosate to the	5	to various environmental agents.
6	development of NHL.	6	Q. Why does etiology matter to your
7	Q. All right. Let's take a break.	7	
8	MR. JOHNSTON: Hold on. Before	8	A. Oh. Well, if somebody has had a
9	we do that, I just want to mark for the	9	prior, you know, history of Hodgkin's disease and
10	record the fact or state for the record	10	chemotherapy, I'm going to think of their
11	that my instruction not to answer was	11	lymphoma very differently because it's a
12	based on Pretrial Order 7 in this case,	12	secondary lymphoma, and this will not necessarily
13	Section B1, which provides:	13	
14	No party will seek discovery of	14	give if it was de novo disease.
15	any expert's notes, drafts of expert	15	Q. Okay.
16	reports, or communications with counsel.	16	A. This is true for a number of
17	And also on Federal Rule of Civil	17	secondary malignancies.
18	Procedure 26(b)(4)(B) and (C) which	18	Q. What chemicals cause non-Hodgkin
19	provides that communications with	19	lymphoma?
20	counsel between an expert and counsel	20	A. I am
21	are not discoverable.	21	MR. JOHNSTON: Objection. Beyond
22	THE VIDEOGRAPHER: Time now is	22	the scope of his report.
23	10:22. We are going off the record.	23	THE WITNESS: Yeah. I was I
24	(A brief recess was taken.)	24	was asked to address glyphosate and NHL.
25	THE VIDEOGRAPHER: The time now	25	Hodgkin's disease is, as you know, a
25	THE VIDEOUKAPHER. THE UNITE HOW	25	Hougkin's disease is, as you know, a
	Page 75		Page 77
1	Page 75 is 10:38. We are back on the record.	1	Page 77 completely separate disease entity.
1 2	_	1 2	completely separate disease entity.
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	William H. Fiem	<b></b>	
	Page 78		Page 80
1	list of criteria that are named after their	1	Q. How many other chemicals did you
2	author which basically have been set up to guide		read studies on let's see. How many other
3	-F8		yeah. How many other chemicals did you study the
4	Q. Okay. What are they?	4	causality of these articles that don't even
5	A. Well	5	mention glyphosate?
6	MR. JOHNSTON: Objection. Beyond	6	MR. JOHNSTON: Objection.
7	the scope of his report. Go ahead.	7	Assumes facts not in the record and goes
8	THE WITNESS: I again, I do	8	beyond the scope of his expert report.
9	not use Bradford Hill on a regular basis.	9	THE WITNESS: What I did in terms
10	I use related evidence-based medicine	10	of the scope of my expert report was to
11	algorithms on a regular basis, which are	11	look at NHL outcomes that were from the
12	very similar to Bradford Hill.	12	AHS study.
13	BY MR. LITZENBURG:	13	So there was this pesticide
14	Q. When you perform	14	Alavanja 2014, and there was a second very
15	A. Any of them are.	15	interesting study looking at allergies and
16	Q like regression analyses	16	their effect on the risk of NHL. This
17	yourself; is that what you're saying?	17	would be Hofmann 2015.
18	A. No.	18	BY MR. LITZENBURG:
19	Q. Oh, okay. Well, answer.	19	Q. Those are the two papers not
20	A. When I when I look at, you know,	20	mentioning glyphosate that you relied upon?
21	the temporality of of exposures or	21	A. I relied
22	dose-responses, these sorts of things, they are	22	MR. JOHNSTON: Objection. Vague.
23	listed as Bradford Hill criteria. They're also	23	Go ahead.
24	criteria in evidence-based medicine, you know,	24	THE WITNESS: I relied upon I
25	going back many years.	25	did not rely upon these papers to draw my
	Page 79	-	Page 81
1	Page 79 O So there are no pesticides that in	1	Page 81
1	Q. So there are no pesticides that in	1 2	scientific conclusion.
	Q. So there are no pesticides that in your opinion cause non-Hodgkin lymphoma?		scientific conclusion. I relied upon these papers to
2	<ul><li>Q. So there are no pesticides that in your opinion cause non-Hodgkin lymphoma?</li><li>A. There are pesticides in a recent</li></ul>	2	scientific conclusion. I relied upon these papers to show that there was plenty of evidence in
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	Williamodi. Fiem		
	Page 82		Page 84
1	Q. Okay. And that was late 2016 you	1	So we've got a known exposure
2	Suid .	2	time and dose and you've got you've got
3	A. Approximately, yes.	3	an outcome, and the time between those two
4	Q. Okay. Why did you use, sir,	4	is your latency period.
5	Bradford Hill criteria in your 9 11-page	5	BY MR. LITZENBURG:
6	report?	6	Q. Does that vary that latency
7	MR. JOHNSTON: Objection.	.7	period vary among cancers?
8	Misstates his report.	8	MR. JOHNSTON: Objection. Vague.
9	THE WITNESS: I didn't use the	9	THE WITNESS: I didn't review
10	Bradford Hill criteria.	10	latency amongst cancer in general as part
11	I cross-referenced, as it says	11	of my expert report.
12	here in my report, a couple of the		DT MIX EITZENDERG.
13	Bradford Hill criteria, of which there are	13	Q. Dr. Fleming, do you know whether
14	nine. Specifically the biological	14	latency in solid organ tumors is longer, about
15	gradient question or dose-response and the	15	the same as, or shorter than length for blood
16	temporality question, exposures, you know,	16	cancer?
17	predating the development of it.	17	A. It
18	And I did this in the context of	18	MR. JOHNSTON: Objection. Vague
19	looking after looking at other expert	19	as to the exposure involved.
20	reports that have used Bradford Hill	20	THE WITNESS: It all depends.
21	criteria to make the argument that	21	We'd have to be much more specific.
22	glyphosate exposure increases the risk of	22	BY MR. LITZENBURG:
23	NHL.	23	Q. It all depends on the cancer
24 25	So to make my report cogent with	24	subtype; right?
25	their reports, I restated the Bradford	25	MR. JOHNSTON: Objection. Vague.
	Page 83		Page 85
1	Page 83 Hill criteria, but I could have simply	1	Page 85 Incomplete hypothetical.
1	-	1 2	-
	Hill criteria, but I could have simply		Incomplete hypothetical.
2	Hill criteria, but I could have simply just talked about temporality, biological	2	Incomplete hypothetical. THE WITNESS: The subtype is one
2 3	Hill criteria, but I could have simply just talked about temporality, biological gradients, as I have provided that data	2 3 4	Incomplete hypothetical. THE WITNESS: The subtype is one of many factors that you need to consider when discussing latency. Sure. BY MR. LITZENBURG:
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	Page 86		Page 88
1	_	1	
2	arrived at this 10-year latency.	2	be significant variability in it.
	ri. I difficed at tills fo your fatolloy by		I think an average time based
	reviewing the literature for secondary cancers,	3	upon the data that we do have is a
4	which is well established for the treatment of	4	reasonable time frame in which to to
5	solid tumors, and the development with a	5	begin to evaluate that.
	variety of different chemotherapy agents, and the	6	BY MR. LITZENBURG:
	development of secondary malignancies, which are	7	Q. Okay. Can you give me a citation to
8		8	a textbook or an article stating that a 10-year
9	There is relatively little data on	9	latency is a valid assumption to to make in
10		10	terms of non-Hodgkin lymphoma?
11	patients that have been treated for other tumors.	11	A. There is very little literature on
12		12	latency periods in NHL in the scientific
13	One, as we've discussed, is the	13	literature.
14	development of NHL in patients that have	14	Q. Okay. This is new work that you're
15	previously had Hodgkin's disease, and there are	15	doing here with these two maps?
16	additional reports this time in the pediatric	16	A. I'm sorry. New work?
17	literature just suggesting the development of NHL	17	Q. Yeah. This is like a novel
18	that follows the treatment of a variety of rare	18	approach. You agree with me?
19	pediatric tumors.	19	A. Taking robust data sets and querying
20	And these, you know, fit quite	20	them to see if there's relationships is what
21	nicely with the, you know, the basic latency	21	we've done historically over time. Now, with
22	period, which is, you know, in the six to 10-year	22	high-powered computing and centralization of
23	range. So this is a I thought a very	23	databases, we can just do it much better.
24	reasonable place to start.	24	Q. Okay. Well, let's look at these
25	Q. It fits quite nicely with the	25	maps on page 8 there.
			1 10
	Daga 87		Dega 80
1	Page 87	1	Page 89
	conclusion that well, scratch that.	1	Is part of your opinion for this
2	conclusion that well, scratch that. You hold the opinion that outside of	2	Is part of your opinion for this litigation the fact that the noncorrelation of
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	Page 90		Page 92
1	all.	1	data.
2	Q. What exposure?	2	
3	A. Other exposures to pesticides	3	
4	Q. Okay.	4	A. No.
5	A and others that was not fully	5	Q. Okay. Does it depend on race or
6	addressed.	6	
7	Q. Okay. Well, let's look at these	7	A. Men the incidence is very slightly
8	-	8	higher than women.
9	maps on page 8. A. Uh-huh.	9	c
10		10	
11	Q. How many variables did you control		
12	for in this comparison? A. I didn't control for variables.	11 12	
13		13	
	This is this is this is data		Q. Okay. What is the incidence of
	that's, you know, this is the best available data	14	
	we have on glyphosate usage per the US Geological	15 16	F F
16	Survey mapping, and this is the best NHL		
	incidence.	17	beyond the scope of his report.
18	And I have put them side to side as	18	THE WITNESS: I have not heard
19	an illustrative point that there were many areas	19	that term before.
20	of very high glyphosate usage. I draw your	20	
21	attention to the Central Valley of California,	21	Q. The healthy migrant effect?
	and when you look there it at Fresno and	22	11. 110.
	Sacramento counties, they actually have a	23	Q. These are these are phases of
	relatively low incidence of NHL.	24	epideinioiogy when constanting any unity when an
25	This is not what one would	25	Hispanic population.
	<b>D</b> 01	-	
	Page 91		Page 93
1	anticipate if there was a positive association	1	Page 93 You can't tell me what either of
	-	1	You can't tell me what either of
2	anticipate if there was a positive association		You can't tell me what either of those are or stand for?
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	Page 94		Page 96
1	nine-year latency period you thought was a	1	time and energy as you like doing it, but I think
2		2	it clearly illustrates the point that a positive
3	A. Six to nine, eight to 10. I	3	relationship is not evident in these two data
4	chose	4	sets when you put them together. That's all I'm
5	Q. Which one?	5	saying.
6	MR. JOHNSTON: Objection. Asked	6	Q. You think that clearly illustrates a
7	and answered.	7	point that there's no positive relationship?
8	THE WITNESS: I don't I don't	8	These two maps?
9	think that there's a data-driven	9	MR. JOHNSTON: Objection. Asked
10	distinction between six six to 10,	10	and answered.
11	eight to 12. I think I think they're	11	THE WITNESS: I believe that
12	overlapping and the same.	12	this these maps are illustrative of the
13	I think, you know, two years or	13	robust epidemiologic data we have in the
14	less is different from eight to 10 and six	14	Agricultural Health Study which does not
15	or eight to 12 and six to 10.	15	indicate any clear association between
16	BY MR. LITZENBURG:	16	glyphosate usage and NHL.
17	Q. You think that two years or less is	17	BY MR. LITZENBURG:
18	different from six to 10?	18	Q. What does this have to do with the
19	A. Yeah, very likely. I think	19	Agricultural Health Study? Which of these maps
20	Q. That's your professional medical	20	came from the Agricultural Health Study?
21	opinion?	21	A. Neither. I am saying that
22	A. This this doesn't	22	Q. They illustrate the Agricultural
23	MR. JOHNSTON: Objection.	23	Health Study?
24	Argumentative.	24	A. They
25	THE WITNESS: Yes. This doesn't	25	MR. JOHNSTON: Objection.
			-
	Dec. 05		<b>D</b> <sub>2</sub> = = 07
1	Page 95	1	Page 97
1	fall within the scope of a professional	1	Misstates his testimony.
2	fall within the scope of a professional medical opinion.	2	Misstates his testimony. THE WITNESS: They illustrate the
2 3	fall within the scope of a professional medical opinion. I am just saying that overlapping	2 3	Misstates his testimony. THE WITNESS: They illustrate the principal the principal finding of the
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	Page 98		Page 100
	any link between the two here.		select different variables and different time
2	There is an absence of the expected	2	periods, and it plots the map for you.
3	outcomes here in several geographic areas if the	3	So the folks at SEER have already
4	expectation was there was a positive	4	gone through the data, and they know which
5	relationship. There is no real evidence for it	5	parameters are reasonable to look at and which
6	here.	6	ones are not. And this is a publicly available
7	Q. Have you done a map for cigarette	7	database, and you can go in there and and look
8	sales?	8	at these different parameters over time.
9	MR. JOHNSTON: Objection. Vague.	9	And as you'll see all races are
10	Outside the scope of his report.	10	included, non-Hodgkin's lymphoma for both sexes
11	THE WITNESS: I'm not aware of	11	included, and the year is 2008 to 2012. I could
12	any maps for for cigarettes. I'm	12	have chosen different races. I could have chosen
13	talking about data that's now many, many	13	different diseases. I could have chosen just
14	years old that that correlated the	14	males. I could have chosen just females. But it
15	the commercial production of cigarettes	15	was that relatively narrow menu of choices.
16	and the subsequent rise in lung cancer.	16	I was, you know, couldn't ask it to
17	Where you're looking at, you	17	query NHL in people with blue eyes because that
18	know, two disparate things and you put	18	was not a pull-down option. So they only let you
19	them together and you see a relationship	19	graphically represent what they have gone over
20	that you would anticipate from from	20	and feel is accurate data.
21	your hypothesis which was that the two are	21	Q. Does the incidence of the AIDS virus
22	linked.	22	-
23	BY MR. LITZENBURG:	23	A. No, absolutely not.
24		24	Q. Autoimmune diseases have no
25	Q. You just told me that if you made a		effect
	map of cigarette sales here, it would show		enect
	Page 99		Page 101
1	Page 99 positive results.	1	Page 101 A. That wasn't your statement, sir.
1 2	-	1 2	-
	positive results.		A. That wasn't your statement, sir.
2	positive results. A. I did not	2	<ul><li>A. That wasn't your statement, sir.</li><li>Q on non-Hodgkin lymphoma?</li></ul>
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	WILLANDH. FIEM.		-
	Page 102		Page 104
1	Q. This gives us no data. It doesn't	1	many hours from rural areas to see me. And the
2	anything to do with	2	one thing they had all had in common was that.
3	A. Well, it's like comparing males and	3	And this would also be true of other
4	females. Your lifetime risk of developing NHL if	4	types of transplant programs and, again, the
5	you're male is about 2.1 to 2.2 percent. If	5	distribution of rheumatologic diseases would
6	you're female, it's 1.8 percent. For simplicity,	6	likely follow that.
7	we say it's 2 percent overall.	7	Q. Doc, you're telling me that your
8	Can you, you know, categorize it by	8	reason for that conclusion is anecdotal from your
9	sex? You can. Is it meaningful to do so? For	9	practice?
10	the most part not because these are very small	10	A. Conclusion of what? I'm sorry.
11	differences that would basically come out come	11	Q. How can you account for well,
	out in the wash at the end of the day.	12	
13	Q. You agree with me that this approach	13	therapy is in the Central Valley of California as
14	doesn't take into account the distribution of	14	
15	autoimmune disease?	15	You answered something about all
16	A. I am not aware of any data showing	16	-
17	marked regional differences in autoimmune	17	A. Sure.
18	diseases.	18	Q. What's that have to do with
19		19	-
	Q. You weren't aware of any data stream	20	anything? Is that anecdotal evidence?
20	marked regional differences in pesticide decision	21	MR. JOHNSTON: Objection.
21	until you looked at this data, were you?	21	Argumentative and vague.
	MR. JOHNSTON: Objection. Vague.		THE WITNESS: I described to you
23	THE WITNESS: I would have	23	a population of patients I have a lot of
24	hypothesized that glyphosate usage would	24	familiarity with on a firsthand basis who
25	be highest in agricultural areas. I then	25	are immunosuppressed and dispersed evenly
		-	
	Page 103		Page 105
1	Page 103 went and got the data which shows that and	1	Page 105 throughout the country, evenly throughout
1 2	-	1	throughout the country, evenly throughout
	went and got the data which shows that and		-
2	went and got the data which shows that and confirmed that hypothesis. BY MR. LITZENBURG:	2	throughout the country, evenly throughout the state of Oregon, Southwest Washington,
2 3 4	went and got the data which shows that and confirmed that hypothesis.	2 3 4	throughout the country, evenly throughout the state of Oregon, Southwest Washington, Idaho, Northern California, in a
2 3 4	<ul><li>went and got the data which shows that and confirmed that hypothesis.</li><li>BY MR. LITZENBURG:</li><li>Q. What about immunosuppressive therapy? Has that come forward on this approach?</li></ul>	2 3 4	throughout the country, evenly throughout the state of Oregon, Southwest Washington, Idaho, Northern California, in a rural/urban distribution. BY MR. LITZENBURG:
2 3 4 5	<ul><li>went and got the data which shows that and confirmed that hypothesis.</li><li>BY MR. LITZENBURG:</li><li>Q. What about immunosuppressive therapy? Has that come forward on this approach?</li><li>A. Immunosuppressive therapy, while a</li></ul>	2 3 4 5 6	<ul> <li>throughout the country, evenly throughout</li> <li>the state of Oregon, Southwest Washington,</li> <li>Idaho, Northern California, in a</li> <li>rural/urban distribution.</li> <li>BY MR. LITZENBURG:</li> <li>Q. Did you do anything to look into the</li> </ul>
2 3 4 5 6	<ul> <li>went and got the data which shows that and confirmed that hypothesis.</li> <li>BY MR. LITZENBURG:</li> <li>Q. What about immunosuppressive</li> <li>therapy? Has that come forward on this approach?</li> <li>A. Immunosuppressive therapy, while a practical day-to-day problem in patients treated</li> </ul>	2 3 4 5 6	<ul> <li>throughout the country, evenly throughout</li> <li>the state of Oregon, Southwest Washington,</li> <li>Idaho, Northern California, in a</li> <li>rural/urban distribution.</li> <li>BY MR. LITZENBURG:</li> <li>Q. Did you do anything to look into the</li> <li>incidence of immunosuppressive therapy in the</li> </ul>
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2 3 4 5 6 7 8 9	<ul> <li>went and got the data which shows that and confirmed that hypothesis.</li> <li>BY MR. LITZENBURG: <ul> <li>Q. What about immunosuppressive</li> </ul> </li> <li>therapy? Has that come forward on this approach? <ul> <li>A. Immunosuppressive therapy, while a practical day-to-day problem in patients treated with significant degrees of immunosuppression for organ transplantation and rheumatologic</li> </ul> </li> </ul>	2 3 4 5 6 7 8	<ul> <li>throughout the country, evenly throughout the state of Oregon, Southwest Washington, Idaho, Northern California, in a rural/urban distribution.</li> <li>BY MR. LITZENBURG:</li> <li>Q. Did you do anything to look into the incidence of immunosuppressive therapy in the Central Valley of California when writing this 11-page report?</li> </ul>
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1       distribution in the United States today.         2       Q. Okay.         3       A. So I don't believe you have pockets         4       of highly immunocompromised in any particular coursy         7       or - or agricultural area.         8       O. But you haven't done anything to         9       look into that?         10       A. I am         12       Misstates his testimony.         13       THE WITNESS: I ant telling you may         14       Misstates his testimony.         15       tertiary care hospital that cares for all         16       people in a certain geographic carchment         17       area regardless of whether they are urban         18       people in dividuals.         19       por urale dividence in Oregon you         12       based on your anecodal experience for autoimmune         13       or ural individuals.         14       Stander on your anecodal evidence in Oregon you         15       bescon your anecodal evidence in Oregon you         16       Stander on your anecodal evidence in Creator         17       rarea regardless of whether they are use this         18       BY MR. LITZENBURG:         19       O. Dr. Fleming, youre telling		Page 106		Page 108
<ul> <li>Q. Okay.</li> <li>A. So I don't believe you have pockets</li> <li>of highly immunocompromised patients in the</li> <li>central Valley or pockets of people who are not</li> <li>d at all immunocompromised patients in the</li> <li>central Valley or pockets of people who are not</li> <li>a ut you haven't done anything to</li> <li>g Dat you haven't done anything to</li> <li>look into that?</li> <li>A. I am -</li> <li>MR. JOHNSTON: Objection.</li> <li>THE WITNESS: I am telling you my</li> <li>tertiary care hospital that cares for all</li> <li>popole in a certain geographic catchment</li> <li>are arragardless of whether they are urban</li> <li>popole in a certain geographic catchment</li> <li>are arragardless of whether they are urban</li> <li>based on your anecdotal evidence in Oregon you -</li> <li>the scope of his report and not an opinion</li> <li>offered in this higation. Go ahead.</li> <li>THE WITNESS: This has been my</li> <li>experience in Portland, Oregon, in</li> <li>figure 5 of my report.</li> <li>A. I adm's mover to that.</li> <li>Q. Okay.</li> <li>Q. Nay.</li> <li>MR. JOHNSTON: Objection.</li> <li>Misstates his the incidence of autoimmune</li> <li>discaste in the central Valley of California?</li> <li>A. I don't know the answer to that.</li> <li>Q. Okay.</li> <li>MR. JOHNSTON: Objection.</li> <li>MR. JOHNSTON: Objection.</li> <li>MR. JOHNSTON: Objection.</li> <li>Misstates his testimony. Asks a</li> <li>Mprothetical. Reyond the scope of his:<td>1</td><td>-</td><th>1</th><td>_</td></li></ul>	1	-	1	_
3       A. So I don't believe you have pockets         4       of highly immunocompromised patients in the         5       Central Valley or pockets of people who are not         6       at all immunocompromised in any particular county         7       or or agricultural area.         9       0. But you haven't done anything to         10       A. I am         11       MR. JOHNSTON: Objection.         12       Misstates his testimony.         13       THE WITNESS: I an nelling you my         14       20 years of ancedotal experience in the         15       tertiary care hospital that cares for all         16       a prage to find out what the incidence of         17       area regardless of whether they are urban         18       BY MR. LITZENBURG:         19       BY MR. LITZENBURG:         20       O. F. Fleming, you're itelling me that         21       based on your ancedotal evidence in Orgon you-         24       of California - Im's ory - the Central Valley         25       of California - Im's ory - ite Central Valley <td< td=""><td></td><td>-</td><th></th><td></td></td<>		-		
4 of highly immunocompromised patients in the 5 central Valley or pockets of people who are not 6 at all immunocompromised in any particular county 7 or - or agricultural area.       9 on lots of experience is, I do not believe 5 specific published data to support that.         7 Or - or agricultural area.       9 Q. Bur you haven't done anything to 9 look into that?       9 USA into that?         10 A. I am -       10 MR, JOHNSTON: Objection.       11 MIR, JOHNSTON: Objection.         12 Misstates his testimony.       12 Q. Ancedote?         13 THE WITNESS: I am telling you my 14 people in a certain geographic catchment 15 tertiary care hospital that cares for all 16 people in a certain geographic catchment 17 area regardless of whether they are urban 18 or rural individuals.       13 MK JOHNSTON: Objection.         19 BY MR, LITZENBURG: 10 D. Dr. Fleming, you're telling me that 11 based on your accolatel evidence in Oregon you 12 that's how you know the incidence of autoimmune 33 offered in this lingiation. Go ahead.       18 BY MR. LITZENBURG: 12 Q. You didn't do if a finger, turn 20 Q. Okay.         10 MR, JOHNSTON: Objection. Beyond 14 the Xop yous.       Page 107 15 that correct or incorrect?         15 experience in Portland, Oregon, in 5 ex		- •		<b>č</b>
5       Central Valley or pockets of people who are not       5       it was a major factor. I cannot provide         6       at all immunocompromised in any particular count?       5       it was a major factor. I cannot provide         7       or - or agricultural area.       7       W. R. JUTZENBURG:       7         10       A. 1 am -       10       A. 1 try based on it's based on 25         11       MR. JOHNSTON: Objection.       12       Q. Anecdote?         12       THE WITNESS: 1 am telling you my       13       Misstates this testimony.         14       20 years of anecdotal experience in the       15       THE WITNESS: It is based on my         15       tertary care hospital that cares for all       14       WIR. JUTZENBURG:         19       BY MR. LITZENBURG:       13       BY MR. LITZENBURG:         19       Or and individuals.       14       20       Q. You didn't do lift a finger, turn         20       or anecdotal evidence in Oregon you -       24       14       BY MR. LITZENBURG:         21       based on your anecdotal evidence in oregon you -       24       14       BY MR. LITZENBURG:         21       based on your anecdotal evidence in dregon in       15       WIR. JOHNSTON: Objection.       14         22       O. Or Chiffornia,				
6       at all immunocompromised in any particular county       6       specific published data to support that.         7       or - or agricultural area.       7       Specific published data to support that.         7       or - or agricultural area.       7       BY MR. LITZENBURG:       9         10       A. I am -       1       A. I am -       1         11       M. JOINSTON: Objection.       4       A. It's based on - it's based on 25         12       Misstates his testimony.       13       A. It's based on - it's based on 25         13       THE WITNESS: 1 am ttelling you my       14       A. It's based on - it's based on 25         14       20 years of accyclutal experience in the       15       THE WITNESS: 1 is based on my         15       rear ergardless of whether they are urban       16       clinical expertise and experience over 25         13       BY MR. LITZENBURG:       19       Q. You didn't do ift a finger, turn         14       based on your anecdotal evidence in Oregon you -       21       immunosuppressive therapy was to Central         12       based on your anecdotal evidence in Oregon you -       22       WR. LITZENBURG:       29         25       of California?       7       WR. JOHNSTON: Objection. Beyond       1       Is that correct or incorrect?				1
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8       Q. But you haven't done anything to 9 look into that?       8       Q. It's based on you an accdote and no 9 data; correct?         11       MR. JOHNSTON: Objection.       11       Years of experience.         12       MR. JOHNSTON: Objection.       12       Q. Anecdore?         13       THE WITNESS: I ant telling you my       14       20 years of anecdotal experience in the       14         14       20 years of anecdotal experience in the       14       MR. JOHNSTON: Objection.         14       area regardless of whether they are urban       15       THE WITNESS: I tais based on my         15       people in a certain geographic catchment       14       Misstates his testimony.         14       based on your anecdotal evidence in Oregon you-       18       BY MR. LITZENBURG:       9         16       or california - I'm sorry - the Central Valley       2       2       Years         16       ord faifornia?       Page 107       R. JOHNSTON: Objection.       2         17       years.       Page 107       Is that correct or incorrect?       2         14       MR. JOHNSTON: Objection.       Page 107       Is that correct or incorrect?       2         16       Stanford, California, and Alanta, Georgia       Go. The WITNESS: This has been my       5       6				
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10       A. I am       10       A. It's based on it's based on 25         11       MR. JOHNSTON: Objection.       10       A. It's based on it's based on 25         11       Misstates his testimony.       12       Q. Ancedote?         13       THE WITNESS: I am telling you my       14       20 years of ancedotal experience in the       14       Misstates the record and his testimony.         14       20 years of ancedotal experience in the       14       Misstates the record and his testimony.         15       tertiary care hospital that cares for all       16       Clinical expertise and experience over 25         17       area regardless of whether they are urban       16       Clinical expertise and experience over 25         10       A. So your ancedotal evidence in Oregon you-       17       years.       18       BY MR. LITZENBURG:         11       manuosuppressive therapy was to Central       12       Valley       23       11       Immunosuppressive therapy was to Central         12       valley       10       11       Instatorrect or incorrect?       2       0 Of California.         14       MR. JOHNSTON: Objection. Beyond       1       Is that correct or incorrect?       2       0 Of California.         15       OLLIONINSTON: Objection. Beyond       1				- · ·
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12       Misstates his testimony.       12       Q. Anecdote?         13       THE WITNESS: I am telling you my       14       Misstates the record and his testimony.         14       20 years of anecdotal experience in the       14       Misstates the record and his testimony.         15       tertiary care hospital that cares for all       16       Misstates the record and his testimony.         16       people in a certain geographic catchment       17       area regardless of whether they are urban         16       or urual individuals.       18       BY MR. LITZENBURG:         20       Q. Dr. Fleming, you're telling me that       20       a page to find out what the incidence of         21       that's how you know the incidence of autoimmune       20       a page to find out what the incidence of         22       that's how you know the incidence of autoimmune       23       MR. JOHNSTON: Objection.         23       or are in port and not an opinion       3       offered in this litigation. Go ahead.         4       THE WITNESS: This has been my       5       experience in Portland, Oregon, in         6       Stanford, California, and Atlanta, Georgia       7       NR. JOHNSTON: Objection.         9       Q. How many of your patients in       2       Q. What did you do to look into that.         15<				
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<ul> <li><sup>19</sup> BY MR. LITZENBURG:</li> <li><sup>19</sup> Q. Dr. Fleming, you're telling me that</li> <li><sup>20</sup> a page to find out what the incidence of</li> <li><sup>21</sup> immunosuppressive therapy in the central coast</li> <li><sup>23</sup> or immunosuppressive therapy in the central coast</li> <li><sup>24</sup> of California I'm sorry the Central Valley</li> <li><sup>25</sup> of California?</li> <li><sup>26</sup> MR. JOHNSTON: Objection. Beyond</li> <li><sup>27</sup> the Scope of his report and not an opinion</li> <li><sup>28</sup> offered in this litigation. Go ahead.</li> <li><sup>40</sup> THE WITNESS: This has been my</li> <li><sup>5</sup> experience in Portland, Oregon, in</li> <li><sup>6</sup> Stanford, California, and Atlanta, Georgia</li> <li><sup>7</sup> over the last 30 years.</li> <li><sup>8</sup> BY MR. LITZENBURG:</li> <li><sup>9</sup> Q. Okay.</li> <li><sup>10</sup> A. So this</li> <li><sup>11</sup> Q. How many of your patients in</li> <li><sup>12</sup> Atlanta, Georgia lived in the Central Valley of</li> <li><sup>13</sup> California?</li> <li><sup>14</sup> A. I don't know the answer to that.</li> <li><sup>15</sup> Q. Do you think that we can use this</li> <li><sup>16</sup> anecdotal evidence to draw determinations about</li> <li><sup>17</sup> causality any conclusions about causality?</li> <li><sup>18</sup> MR. JOHNSTON: Objection.</li> <li><sup>19</sup> Mistates his testimony. Asks a</li> <li><sup>10</sup> Mistates his testimony. Asks a</li> <li><sup>11</sup> MR WITNESS: I was answering an</li> <li><sup>12</sup> areport.</li> <li><sup>14</sup> THE WITNESS: I was answering an</li> <li><sup>15</sup> earle question that you raised about the</li> <li><sup>16</sup> data, the illustrative data I'm showing you,</li> <li><sup>17</sup> Mistates his testimony. Asks a</li> <li><sup>18</sup> MR. THEWITNESS: I was answering an</li> <li><sup>19</sup> earler question that you raised about the</li> <li><sup>10</sup> A. There wouldn't be relative to the</li> <li><sup>11</sup> development of NHL.</li> <li><sup>12</sup> Q. So there are not any pesticides that</li> </ul>	17	area regardless of whether they are urban	17	years.
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20       Q. Dr. Fleming, you're telling me that       20       a page to find out what the incidence of         21       based on your ancedotal evidence in Oregon you       21       immunosuppressive therapy was to Central         23       or immunosuppressive therapy in the central coats       22       Valley         23       or immunosuppressive therapy in the central coats       23       MR. JOHNSTON: Objection.         25       of California?       Page 107       Page 109         1       MR. JOHNSTON: Objection. Beyond       1       Is that correct or incorrect?         2       A. There were       3       MR. JOHNSTON: Objection.         3       orfered in this litigation. Go ahead.       4       The WITNESS: This has been my       5         5       experience in Portland, Oregon, in       6       Stanford, California, and Atlanta, Georgia       7         9       Q. Okay.       9       WAk 1tTZENBURG:       8       Q. What is the incidence of autoimmune         9       Q. Okay.       9       Georgia lived in the Central Valley of       1       rest of the country?         12       Atlanta, Georgia lived in the Central Valley of       2       A. I do not know the answer to that.         15       Q. Do you think that we can use this       10       California?	19	BY MR. LITZENBURG:	19	Q. You didn't do lift a finger, turn
<ul> <li><sup>21</sup> based on your anecdotal evidence in Oregon you <sup>22</sup> that's how you know the incidence of autoimmune <sup>23</sup> or immunosuppressive therapy in the central coast <sup>24</sup> of California I'm sorry the Central Valley <sup>25</sup> of California?</li> <li><sup>26</sup> MR. JOHNSTON: Objection. Beyond <sup>27</sup> the scope of his report and not an opinion <sup>3</sup> offered in this litigation. Go ahead. <sup>4</sup> THE WITNESS: This has been my <sup>5</sup> experience in Portland, Oregon, in <sup>6</sup> Stanford, California, and Atlanta, Georgia <sup>7</sup> over the last 30 years. <sup>8</sup> BY MR. LITZENBURG: <sup>9</sup> Q. Okay. <sup>10</sup> A. So this <sup>11</sup> Q. How many of your patients in <sup>12</sup> Atlanta, Georgia lived in the Central Valley of <sup>13</sup> California?</li> <li><sup>14</sup> A. I don't know the answer to that. <sup>15</sup> Q. Do you think that we can use this <sup>16</sup> anecdotal evidence to draw determinations about <sup>17</sup> causality any conclusions about causality? <sup>18</sup> MR. JOHNSTON: Objection. <sup>19</sup> Misstates his testimony. Asks a <sup>20</sup> hypothetical. Beyond the scope of his <sup>21</sup> report. <sup>22</sup> THE WITNESS: I was answering an <sup>23</sup> earlier question that you raised about the <sup>24</sup> geographic distribution of</li> <li><sup>24</sup> BY MR. LITZENBURG: <sup>25</sup> Q Of California. <sup>26</sup> MR. JOHNSTON: Objection. <sup>27</sup> A. There were <sup>3</sup> MR. JOHNSTON: Objection. <sup>28</sup> A. I don't know the answer to that. <sup>29</sup> distates his testimony. Asks a <sup>20</sup> hypothetical. Beyond the scope of his <sup>21</sup> report. <sup>22</sup> THE WITNESS: I was answering an <sup>23</sup> earlier question that you raised about the <sup>24</sup> geographic distribution of <sup>25</sup> OL Alifornia and pathola and the scope of his <sup>26</sup> chat question, please? <sup>27</sup> BY MR. LITZENBURG: <sup>28</sup> Q. What is the incidence of autoimmune <sup>29</sup> disease in the central Valley of California as opposed to the <sup>21</sup> rest of the country? <sup>22</sup> A. I do not know the answer to that. <sup>23</sup> Q. Okay. What did you do to look into it. <sup>24</sup> Q. So there are not <sup>25</sup> A. I <sup>26</sup> Q. There are not any pesticides that</li> </ul>	20	Q. Dr. Fleming, you're telling me that	20	
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	WIIIIdm II. IICm		—
	Page 110		Page 112
1	non-Hodgkin lymphoma?	1	Q. Okay. Did you look to see if there
2	A. Decreased risk.	2	was any data that spoke to that question?
3	Q. Wait. You hold the opinion that	3	A. No, I did not.
4	certain pesticides are cancer protective?	4	Q. Okay. And what's your estimate
5	A. No, that's a conclusion from your	5	anecdotally of the number of new NHL patients
6	previous question.	6	that you have that have used Roundup in the past?
7	Q. Okay. How did you control for the	7	A. I have no knowledge of my patients'
8	use or the distribution of other pesticides in	8	use of Roundup.
9	making this little map?	9	Q. What other probable human
10	MR. JOHNSTON: Objection. Asked	10	carcinogens designated by IARC do you believe are
11	and answered.	11	incapable of causing cancer?
12		12	
	THE WITNESS: This is glyphosate		MR. JOHNSTON: Objection.
13	data only.	13	Misstates his opinion. Misstates his
	BY MR. LITZENBURG:	14	testimony. Hypothetical.
15	Q. All right. Let's use your anecdotal	15	THE WITNESS: Right. Again, I
16	approach in clinic.	16	was charged with looking at glyphosate and
17	How many of your patients that came	17	NHL and not general cancer causation.
	in with non-Hodgkin lymphoma have used Roundup in	18	BY MR. LITZENBURG:
19	their life?	19	Q. Okay. Dr. Fleming, would you be
20	A. I have no idea.	20	comfortable presenting to your peers in the
21	Q. Okay. Will you begin keeping track	21	oncology department that they should tell
	of that today as you think that this is anecdotal	22	patients to continue using Roundup or glyphosate
23	evidence is an important way of determining	23	products that they are treating for non-Hodgkin
24	causality?	24	lymphoma?
25	MR. JOHNSTON: Are you asking him	25	MR. JOHNSTON: Objection. Beyond
	Page 111		Page 113
1	Page 111 to? Are you asking him if he intends to?	1	Page 113 the scope of his report Argumentative
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2	to? Are you asking him if he intends to? Because you have no right to ask him to do	2	the scope of his report. Argumentative. THE WITNESS: Right. I would
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2 3 4	to? Are you asking him if he intends to? Because you have no right to ask him to do anything, counsel. MR. LITZENBURG: Take it however	2 3 4	the scope of his report. Argumentative. THE WITNESS: Right. I would have no reason to comment to my colleagues on this on this issue or advise them
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1	_	1	
	Q. Okay. This recordkeeping of	2	MR. JOHNSTON: Objection.
2	glyphosate use in the US, where does it come	3	Argumentative.
4	from?	4	THE WITNESS: I have no idea how
5	MR. JOHNSTON: Objection. Vague.	5	the NCI calculated NHL incidence either. BY MR. LITZENBURG:
6	What recordkeeping? BY MR. LITZENBURG:	6	
7		7	Q. So we can set all this aside; right?
	Q. The map. Where do you get the data from?	8	MR. JOHNSTON: Objection. THE WITNESS: No.
9		9	BY MR. LITZENBURG:
10	5	10	
11	here in my report. It's USGS National	11	Q. Okay. Well, how long was let's
12		12	see.
13		13	Do you know when they started
14	A. How is the data calculated?	14	keeping data on glyphosate usage geographically?
15	Q. Yeah. I mean, is it a poll?	15	MR. JOHNSTON: Objection. Vague as to who.
	A. There are agricultural districts	16	
16	that report on their use of chemicals and other	17	THE WITNESS: This is all
17 18	variables, and this group collates this data and	18	available on a this is all present on a
	provides usage maps, including this one for	19	publicly available website.
19 20	glyphosate glyphosate.	20	I recall going back and looking
	Q. Dr. Fleming, isn't it true you have	20	at it certainly back into the '90s and
22	no absolutely no idea where they came up with the	21	through the 2000s. You can click each
23	data that's in this map? MR. JOHNSTON: Objection.	23	year and it repopulates it with the
24	-		updated data. BY MR. LITZENBURG:
25	Argumentative. You just answered your	25	
	question.		Q. Okay.
	D 115		D 117
	Page 115		Page 117
1	THE WITNESS: Yeah. They they	1	A. But I can't I can't tell you for
2	THE WITNESS: Yeah. They they they came up with it using using		A. But I can't I can't tell you for how long, but my purpose here was to look at the
2	THE WITNESS: Yeah. They they they came up with it using using this agricultural district data that is	2 3	A. But I can't I can't tell you for how long, but my purpose here was to look at the year 2000. Because, as I describe in my report,
2 3 4	THE WITNESS: Yeah. They they they came up with it using using this agricultural district data that is widely used in the agricultural industry	2 3 4	A. But I can't I can't tell you for how long, but my purpose here was to look at the year 2000. Because, as I describe in my report, in the year 2000, almost 100 million tons were
2 3 4 5	THE WITNESS: Yeah. They they they came up with it using using this agricultural district data that is widely used in the agricultural industry to to keep track of of compounds and	2 3 4 5	A. But I can't I can't tell you for how long, but my purpose here was to look at the year 2000. Because, as I describe in my report, in the year 2000, almost 100 million tons were used in the United States and 10 years later,
2 3 4 5 6	THE WITNESS: Yeah. They they they came up with it using using this agricultural district data that is widely used in the agricultural industry to to keep track of of compounds and other issues.	2 3 4 5 6	A. But I can't I can't tell you for how long, but my purpose here was to look at the year 2000. Because, as I describe in my report, in the year 2000, almost 100 million tons were used in the United States and 10 years later, eight to 12 years later, I should say, this is
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	Page 118		Page 120
1	A. There is no way	1	administrative differences in how this data is
2	MR. JOHNSTON: Objection. Calls	2	collected.
3	for speculation.	3	Q. You just when you were stammering
4	THE WITNESS: Yeah.	4	about how you don't know how this data is
5	MR. JOHNSTON: Hypothetical.	5	
6	THE WITNESS: There is no way to	6	differently; right?
7	interrogate that data with the data	7	MR. JOHNSTON: Objection
8	available in the	8	THE WITNESS: No.
9	BY MR. LITZENBURG:	9	MR. JOHNSTON: to stammering.
10	Q. There's nothing remarkable about	10	BY MR. LITZENBURG:
11	California's glyphosate usage?	11	Q. Oh, okay.
12	MR. JOHNSTON: Objection. Calls	12	MR. JOHNSTON: Can you please
13	for speculation. Incomplete hypothetical.	13	treat the witness respectfully, counsel?
14	THE WITNESS: I I am not aware	14	Counsel.
15	of anything different. I am aware that	15	MR. LITZENBURG: Okay. Yeah.
16	different states have different reporting	16	MR. JOHNSTON: Please treat the
17	requirements on the use of chemicals.	17	witness respectfully. It is not
18	BY MR. LITZENBURG:	18	appropriate for you to be disrespectful to
19	Q. Okay. What are California's	19	the witness.
20	reporting requirements on the use of chemicals?	20	BY MR. LITZENBURG:
21	A. You would have to ask the	21	Q. What are the differences among
22	regulators.	22	states in collecting or aggregating the data on
23	Q. How does this map control for the	23	glyphosate usage that you described?
24	different, you know, all is it 50 different	24	MR. JOHNSTON: Asked and
25	methods of recordkeeping?	25	answered. Objection.
	Page 119		Page 121
1	Page 119 A I wouldn't know how many	1	Page 121 THE WITNESS: L cannot give you
1	A. I wouldn't know how many.	1	THE WITNESS: I cannot give you
	<ul><li>A. I wouldn't know how many.</li><li>Q. Do you know if they use biomarkers?</li></ul>	1 2 3	THE WITNESS: I cannot give you specific details on a state-by-state basis
2	<ul><li>A. I wouldn't know how many.</li><li>Q. Do you know if they use biomarkers?</li><li>A. I'm sorry?</li></ul>	2	THE WITNESS: I cannot give you specific details on a state-by-state basis as to the differences. That's something
2 3	<ul><li>A. I wouldn't know how many.</li><li>Q. Do you know if they use biomarkers?</li><li>A. I'm sorry?</li><li>Q. Do they use biomarkers in the</li></ul>	2 3	THE WITNESS: I cannot give you specific details on a state-by-state basis as to the differences. That's something you'd have to contact the USGS folks
2 3 4	<ul><li>A. I wouldn't know how many.</li><li>Q. Do you know if they use biomarkers?</li><li>A. I'm sorry?</li><li>Q. Do they use biomarkers in the calculation?</li></ul>	2 3 4	THE WITNESS: I cannot give you specific details on a state-by-state basis as to the differences. That's something you'd have to contact the USGS folks about.
2 3 4 5	<ul> <li>A. I wouldn't know how many.</li> <li>Q. Do you know if they use biomarkers?</li> <li>A. I'm sorry?</li> <li>Q. Do they use biomarkers in the calculation?</li> <li>MR. JOHNSTON: Objection. Vague.</li> </ul>	2 3 4	THE WITNESS: I cannot give you specific details on a state-by-state basis as to the differences. That's something you'd have to contact the USGS folks about. BY MR. LITZENBURG:
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	Dece 122		- · · · · · · · · · · · · · · · · · · ·
	Page 122		Page 124
1	A. They converted. No, the map is	1	And I see now in looking at my
	there. You click an icon that says "map." A map	2	report they have done this since 1992.
3	of the United States drops down. It asks you a	3	Q. So we have no data about the
4	couple of questions and that you can variables	4	regional usage of glyphosate, regional
5	you can put in there.	5	variations, before 1992; is that correct?
6	And then you push a button	6	A. I didn't say that.
7	indicating what years you're interested in	7	Q. Do you have any data used in this
	looking at, and you can look at each year	8	in this map model of any glyphosate usage before
	individually, and I chose the year 2000.		1992?
10	Q. All right.	10	A. The USGS National Water-Quality
11	A. And those are the those are the	11	Assessment Project provides data in map form
12	only choices I used.		going back to 1982. That does not address
13	•		whether data is available somewhere in some
	Q. Can you name one way of gathering		
	this data that one state might have used?		archive in the government. This is the publicly
15	A. I did not investigate the method of	15	available data.
16	data collection from which this data set is	16	Q. Where is the '82 to '92 data? You
17	derived.		just said
18	Q. Did you look behind the data or the	18	A. I'm sorry. 19 I meant if I
19	methodology of any of the science that you looked	19	did, I misspoke. I meant 1992 through 2014.
20	at today, Dr. Fleming?	20	Q. And then you told us you don't know
21	MR. JOHNSTON: Objection. Vague	21	if there's any data before 1992?
22	and	22	A. I am not aware of any publicly
23	THE WITNESS: Absolutely.	23	available data that can be used to generate a
24	BY MR. LITZENBURG:	24	map.
25	Q. How would you explain that failure	25	Q. Did you look for it?
	Page 123		Page 125
	to a first year medical student or a colleague	1	A. Yes.
	-	1 2	-
2	to a first year medical student or a colleague		A. Yes.
2 3	to a first year medical student or a colleague that you have no idea how this data was collected	2	A. Yes. Q. Where?
2 3	to a first year medical student or a colleague that you have no idea how this data was collected and you'd have no idea because you have never	2 3 4	<ul> <li>A. Yes.</li> <li>Q. Where?</li> <li>A. I just I just looked for agricultural pesticide use maps, and this this</li> </ul>
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	Page 126		Page 128
1	A. It's a good way		have it would not have been relevant one way
2	Q. Creating Google for maps?		or another.
3	A. It's a good way of collecting data.	3	My job was to look at the primary
4	Q. Okay.		available data and to draw a conclusion. I was
5	A. It's a modern way of collecting	5	not asked to review the opinions of regulatory
6	data.	6	agencies or think tanks or the federal
7	Q. All right. What did you use to	7	government. I was asked to review the scientific
8	determine whether or not there was data available	8	literature on this question.
9	for this geographical variance before 1992?	9	Q. You didn't look at any EPA reports?
10	A. I did not identify any other	10	A. If they're on my MCL, I looked at
11	publicly available, readily accessible source of	11	them.
12	data and chose to go with the USGS assessment	12	Q. All right. Let's look at this MCL
13	project	13	because there seems to be a lot of confusion,
14	Q. Okay.	14	Doc.
15	A which has been in place now for a	15	MR. JOHNSTON: Objection.
16	quarter century.	16	Argumentative.
17	Q. And you told me	17	BY MR. LITZENBURG:
18	A. This is this is the go-to place	18	Q. Materials Considered List. Now,
19	for glyphosate usage data, much as the National	19	first of all, what is the difference between the
20	Cancer Institute is the go-to place one of the	20	Materials Considered List and the Supplemental
	main go-to places for cancer data in the United	21	Materials Considered List that I was subsequently
	States.		given?
23	Q. Does National Cancer Institute have	23	A. I don't know.
24	a position on glyphosate?	24	Q. Okay. You want to look at them
25	A. I did not review the positions of	25	together?
		<u> </u>	
	Page 127		Page 129
	any regulatory body or any position taken in a	1	A. Happy to.
2	any regulatory body or any position taken in a review article or a formal position taken. I	1 2	<ul><li>A. Happy to.</li><li>MR. LITZENBURG: Okay. You've</li></ul>
2 3	any regulatory body or any position taken in a review article or a formal position taken. I would not have reviewed a formal position taken		<ul> <li>A. Happy to.</li> <li>MR. LITZENBURG: Okay. You've got one there, which is within that</li> </ul>
2 3 4	any regulatory body or any position taken in a review article or a formal position taken. I would not have reviewed a formal position taken by the NCI.	2 3 4	<ul> <li>A. Happy to. MR. LITZENBURG: Okay. You've got one there, which is within that Exhibit 1. I'm going to give you this.</li> </ul>
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2 3 4 5 6	any regulatory body or any position taken in a review article or a formal position taken. I would not have reviewed a formal position taken by the NCI. I have reviewed the Agricultural Health Study from 2005, and this was funded by	2 3 4	<ul> <li>A. Happy to. MR. LITZENBURG: Okay. You've got one there, which is within that Exhibit 1. I'm going to give you this. We'll call this Exhibit 3. (Document marked for</li> </ul>
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	Page 130		Page 132
1	A. Why don't we?	1	or regulatory decisions into consideration
2	Q. Who made them?	2	when I prepared my scientifically
3	A. I made them.	3	data-based driven report of the scientific
4	MR. JOHNSTON: Objection. That	4	literature evaluating the role of
5	clearly is in violation of rule the	5	glyphosate and NHL, period.
6	Rule 26 on about the drafts, etc., of	6	BY MR. LITZENBURG:
7	expert reports.	7	Q. Okay. So of these 74 things on this
8	BY MR. LITZENBURG:	8	list, tell me, what is the supplemental part of
9	Q. Have you ever seen these before?		it. What heeded to be add what were the three
10	A. Yes.	10	unings that needed to be added.
11	Q. When?	11	A. To be sure, we would need to go over
12	A. When I generated it.	12	
13	Q. Oh, you you wrote these lists?	1	
14	MR. JOHNSTON: Counsel,	14	
15	objection. You're not supposed to ask	15	Q. You don't know if there's any
16	about the drafting of expert reports.	16	differences?
17	MR. LITZENBURG: He offered it.	17	MR. JOHNSTON: Objection. He
18	I didn't ask. He said he seen it when he	18	just testified to that. He suggested that
19	drafted it.	19	the way to do this would be to go through
20	THE WITNESS: I did not.	20	it one at a time. If you would like to do
21	BY MR. LITZENBURG:	21	that, I'm sure he's willing to do that.
22	Q. Is that your under oath testimony?	22	THE WITNESS: Absolutely.
23	A. No, it is not.		(Reviewing document). BY MR. LITZENBURG:
25	Q. Okay. What	25	
25	A. I provided	25	Q. I don't want to use your time like
	Page 131		Page 133
1	Q. Okay. What are	1	Page 133 that.
1 2	<ul><li>Q. Okay. What are</li><li>A. I provided a list of materials I</li></ul>	1 2	that. MR. JOHNSTON: It's your time
2 3	<ul><li>Q. Okay. What are</li><li>A. I provided a list of materials I</li><li>considered to Hollingsworth. They put it in</li></ul>	2 3	that. MR. JOHNSTON: It's your time actually, counsel.
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2 3 4	Q. Okay. What are A. I provided a list of materials I considered to Hollingsworth. They put it in alphabetical order using the reference format that you see in front of you.	2 3 4 5	<ul><li>that.</li><li>MR. JOHNSTON: It's your time actually, counsel.</li><li>BY MR. LITZENBURG:</li><li>Q. All right. So give me give me a</li></ul>
2 3 4 5 6	<ul> <li>Q. Okay. What are</li> <li>A. I provided a list of materials I</li> <li>considered to Hollingsworth. They put it in</li> <li>alphabetical order using the reference format</li> <li>that you see in front of you.</li> <li>Q. Did they provide any of these to</li> </ul>	2 3 4 5 6	<ul> <li>that.</li> <li>MR. JOHNSTON: It's your time actually, counsel.</li> <li>BY MR. LITZENBURG: <ul> <li>Q. All right. So give me give me a more concise statement about what you relied on</li> </ul> </li> </ul>
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	Page 134		Page 136
1	began 25 years ago was right at the top of the	1	database statistics, the incidence has changed
2	search list.	2	over time. So you want to take what's the most
3	Q. When was glyphosate first marketed?	3	current time frame and ask your question so it's
4	A. Give me a moment.	4	as current a database as I could use.
5	Q. Do you know offhand what decade it	5	What database are you talking about
6	is?	6	
7	A. I believe the year 1974.	7	A. I am talking about the SEER incident
8	Q. Okay. And where do we find the data	8	rate database cancer by site, all races, both
9	for the geospatial usage of glyphosate from 1974	9	sexes, and I used the initial studies I could
10	to 1992?	10	going back to 1975 through 2014. This is shown
11	MR. JOHNSTON: Objection. Asked	11	in Figure 3 of my report.
12	and answered.	12	However, that that tells you that
13	THE WITNESS: The GeoViewer data	13	-
14	is a relatively new adaptation to the SEER	14	incidence of NHL in the United States has
15	database and has only been relatively	15	declined, plateaued and begun, you know, and
16	recently available. It is not possible to	16	actually begun to truly decline. Okay?
17	use geo version for historical purposes.	17	
18	BY MR. LITZENBURG:	18	During this same time period, the
			use of glyphosate has gone from about 1.4 million
19	Q. Okay.	19	to a hundred million tons per year. So
20	A. I used the most up-to-date data	20	Q. I think I think we need to slow
21	which goes to 2014 and begins at 2008. There may		down.
22	be a time period or two behind that, but but I	22	A. Okay.
	wanted to use the most up-to-date data and to	23	Q. Yeah. I was asking you about the
	look at how that fit with the glyphosate usage 10		metrics for the estimated agricultural use for
25	years before.	25	glyphosate, and now you're telling me you've got
	Page 135		Page 137
1	Page 135 O You only you only looked at the	1	Page 137 Figure 3 and SEER data: is that right?
1	Q. You only you only looked at the		Figure 3 and SEER data; is that right?
2	Q. You only you only looked at the data from 2008 to 2014 did you just say?	2	Figure 3 and SEER data; is that right? A. The glyphosate data is not SEER. It
2	<ul><li>Q. You only you only looked at the data from 2008 to 2014 did you just say?</li><li>A. Yes. It's the most recent and</li></ul>	2 3	Figure 3 and SEER data; is that right? A. The glyphosate data is not SEER. It is not NCI.
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1		1	-
	uses?		for hypothesis.
	A. I believe that both of them are the		BY MR. LITZENBURG:
3	most relevant to the scientific question at hand.	3	Q the geographical distribution, it
4	Q. These are	4	might be sale or it might be your analysis we
5	A. Both both of those databases.	5	don't know of glyphosate use in the US
6	Q. These are the two most relevant data	6	A. Okay.
7	Pointe to the Automotion of Causandy for your	7	Q and SEER
8	A. I didn't say data points. I said	8	A. I can I can
9	databases. That would include more than one data	9	Q incidence by county are the two
10	point.	10	most important data points?
11	Q. What was the other important data	11	MR. JOHNSTON: Objection. Your
12	points to that question?	12	whole line of questioning is vague because
13	MR. JOHNSTON: Objection. Vague.	13	now you're mixing apples and oranges now.
14	THE WITNESS: You'll have to be	14	THE WITNESS: Right. I yeah,
15	more specific.	15	I need you to restate your question if you
16	BY MR. LITZENBURG:	16	would.
17	Q. What are other variables that are	17	BY MR. LITZENBURG:
18	important to this causality question?	18	Q. Okay. You just said these are the
19	MR. JOHNSTON: Objection. Vague	19	most important databases and the most important
20	and	20	data points.
21	THE WITNESS: Other other	21	To what?
22	variations or I'm I'm	22	MR. JOHNSTON: Objection. Vague.
23	MR. JOHNSTON: Asked and	23	THE WITNESS: With regard to the
24	answered.	24	county level incidence of NHL, these are
25	THE WITNESS: What causality	25	the most recent data points available to
			1
	D 120		D 141
	Page 139		Page 141
1	question are we we have to talk about a	1	analyze.
2	question are we we have to talk about a very defined definite data set and	2	analyze. This makes the conclusions drawn
2 3	question are we we have to talk about a very defined definite data set and BY MR. LITZENBURG:	2 3	analyze. This makes the conclusions drawn from them, you know, recent, not not
2 3 4	question are we we have to talk about a very defined definite data set and BY MR. LITZENBURG: Q. Okay.	2 3 4	analyze. This makes the conclusions drawn from them, you know, recent, not not historical from 20 to 30 years ago, and
2 3 4 5	<ul> <li>question are we we have to talk about a very defined definite data set and</li> <li>BY MR. LITZENBURG:</li> <li>Q. Okay.</li> <li>A and hone in on it.</li> </ul>	2 3 4 5	analyze. This makes the conclusions drawn from them, you know, recent, not not historical from 20 to 30 years ago, and this is important because I was interested
2 3 4	<ul> <li>question are we we have to talk about a very defined definite data set and</li> <li>BY MR. LITZENBURG:</li> <li>Q. Okay.</li> <li>A and hone in on it.</li> <li>Q. Okay. So we're talking about</li> </ul>	2 3 4 5 6	analyze. This makes the conclusions drawn from them, you know, recent, not not historical from 20 to 30 years ago, and this is important because I was interested in focusing on the current incidence of
2 3 4 5 6 7	<ul> <li>question are we we have to talk about a very defined definite data set and</li> <li>BY MR. LITZENBURG:</li> <li>Q. Okay.</li> <li>A and hone in on it.</li> <li>Q. Okay. So we're talking about glyphosate and non-Hodgkin lymphoma.</li> </ul>	2 3 4 5	analyze. This makes the conclusions drawn from them, you know, recent, not not historical from 20 to 30 years ago, and this is important because I was interested in focusing on the current incidence of NHL.
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	Page 142		Page 144
1	A. I said	1	Q. All right. You said this is about
2	Q. How old is data before it becomes	2	the geographic distribution of usage of
3	unimportant to you?	3	glyphosate; right?
4	A. It depends entirely on the context,	4	A. Uh-huh.
	but if I was rendering an opinion on NHL today, I	5	Q. And NCI doesn't doesn't
	would not be particularly interested in	6	A. No.
	county-specific data that preceded 1974 as	7	Q keep such statistics?
8	glyphosate was not in use whatsoever. So that	8	A. No, not at all.
9	historical data would be of no interest to me in	9	Q. So what did you do to look at the
10	this matter.	10	at the geographical distribution of glyphosate
12	Q. Okay. So how	11 12	
	A. It could it could be of interest	13	A. From 1974 to 1992?
13	in answering another scientific question. It	14	Q. Yes.
	could be of interest in many other capacities,		A. I did I did not look at that in
15	but it would not be of interest to me in this	15	detuil.
17	setting.	17	Q. Okay. What at what level did you
18	Q. Okay. Tell me two things tell me one thing that you did to determine the county	18	look at that data?
19	level usage of glyphosate from 1974 to 1992.	19	A. For interest sake, I scanned the
20	0 011		glyphosate data in the database from some point
21	MR. JOHNSTON: Objection. THE WITNESS: This	20 21	
22	MR. JOHNSTON: Misstates the	22	probably the last couple of years, and decided
23	misstates the testimony and not		8 8
24	encompassed within the expert report.	24	incidence, I would need to pick a year. Q. What year did you pick?
25	THE WITNESS: The SEER	25	A. I picked the year 2000 because the
	THE WITNESS. THE SEEK		A. I picked the year 2000 because the
	Page 143		Page 145
1	database	1	year 2000 to me seemed important because we'd had
2	database BY MR. LITZENBURG:	2	year 2000 to me seemed important because we'd had over a 70-fold increase in the amount of
2 3	database BY MR. LITZENBURG: Q. Now we're jumping from	2 3	year 2000 to me seemed important because we'd had over a 70-fold increase in the amount of glyphosate since its registration in 1974. So
2 3 4	database BY MR. LITZENBURG: Q. Now we're jumping from A. The SEER	2 3 4	year 2000 to me seemed important because we'd had over a 70-fold increase in the amount of glyphosate since its registration in 1974. So there was a tremendous amount of glyphosate in
2 3 4 5	database BY MR. LITZENBURG: Q. Now we're jumping from A. The SEER Q from county usage to cancer	2 3 4 5	year 2000 to me seemed important because we'd had over a 70-fold increase in the amount of glyphosate since its registration in 1974. So there was a tremendous amount of glyphosate in the in the community.
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2 3 4 5 6 7	database BY MR. LITZENBURG: Q. Now we're jumping from A. The SEER Q from county usage to cancer incidents; right? Because I want to make clear that	2 3 4 5 6 7	<ul> <li>year 2000 to me seemed important because we'd had over a 70-fold increase in the amount of glyphosate since its registration in 1974. So there was a tremendous amount of glyphosate in the in the community.</li> <li>Q. Yeah.</li> <li>A. And this also, that was the latest</li> </ul>
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	C C		Page 148
	distribution of glyphosate from 1974 to 1992.	1	
2	Could you answer that for me now?		report was to show the incidence of NHL changing
3	MR. JOHNSTON: Objection. Vague.		over time from 1975 to 2014, and I mentioned in
4	Misstates his testimony.		the text of the report the concomitant increase
5	THE WITNESS: I		in the use of glyphosate over that period of
6	MR. JOHNSTON: Misstates the	6	time.
7	question he was answering.	7	Q. Okay. You said
8	THE WITNESS: Yeah. I I did	8	A. And I chose the most recent time
9	not specifically use the years you just	9	frame to evaluate further using this these
10	mentioned as part of my report.	10	these maps because that was most representative
11	BY MR. LITZENBURG:	11	of the current state of the art for current
12	Q. Do you know anything about the	12	incidence of of NHL in the United States at
13	geographical use of glyphosate between '74 and	13	the at the county level.
14	'92?	14	And I backed that off by 10 years to
15	MR. JOHNSTON: Objection. Asked	15	look at the glyphosate pattern. It wouldn't have
16	and answered. He just answered that about	16	mattered if I backed off four years or six years,
17	five minutes ago.	17	the pattern was essentially the same. I chose
18	BY MR. LITZENBURG:	18	2000 because it accounted for a potential 10-year
19	Q. Okay. You told me that there was		latency period.
20	well, do you have an answer to that question?	20	Q. It wouldn't have mattered if you had
21	MR. JOHNSTON: Yeah. Asked and	21	chosen well
22	answered, but you can answer it if you	22	A. The pattern would be the same. The
23	have the if you want to repeat your	23	pattern would be the same.
24	answer.	24	Q. These maps look the same going
25	THE WITNESS: I looked at that,	25	back
	Page 147		Page 149
1	Page 147 some of that data, but not all briefly,	1	A. They look what I was struck by
1 2	-		-
	some of that data, but not all briefly,	2	A. They look what I was struck by
2	some of that data, but not all briefly, and then did not include it in my report because I didn't think it was material.	2 3	A. They look what I was struck by when looking at these maps was how similar they
2	some of that data, but not all briefly, and then did not include it in my report because I didn't think it was material.	2 3 4	A. They look what I was struck by when looking at these maps was how similar they looked over time, and there was a gradient from,
2 3 4 5	some of that data, but not all briefly, and then did not include it in my report because I didn't think it was material. BY MR. LITZENBURG:	2 3 4	A. They look what I was struck by when looking at these maps was how similar they looked over time, and there was a gradient from, you know, very light yellow to very dark brown.
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	forward several years, and I was I was struck	1	Q. And I'm asking you
	by the similarity in pattern and the fact that	2	A. I'm happy to read this for you.
	there was a slight progression in the amount	3	Q. I'm asking you for no, it was a
4	total used, which fits, of course, with the	4	quick read.
5	amount of glyphosate increasing amounts of	5	I'm asking for the 10th or 11th
6	glyphosate used over time.	6	time: How did this agricultural usage across the
7	Q. How many years did you use to	7	country and its distribution, how did that change
	compare it to find this year to be emblematic?	8	from 1990 to 2000?
9	You said you went forward a few years, back a few	9	Do you understand what I'm asking,
10	years and found this fairly representative. Can	10	first of all?
11	you give us a number?	11	MR. JOHNSTON: Objection. He can
12	A. That was not the	12	now answer for the 10th or 11th time to
13	MR. JOHNSTON: Objection.	13	the question that you've asked 10 or 11
14	Misstates his testimony.	14	times.
15	THE WITNESS: Yeah. That that	15	Do you know what he's asking you?
16	was not the description I gave to you	16	You can give the same answer you gave
17	earlier. It is not the description in my	17	before.
18	report.	18	THE WITNESS: By 1990, the
19	BY MR. LITZENBURG:	19	estimate was 15 million pounds. By the
20	Q. Okay.	20	year 2000, the estimate was 98 million
21	A. If you like me to restate what I	21	pounds.
22	did, I would be happy to.	22	BY MR. LITZENBURG:
23	Q. How did glyphosate usage patterns	23	Q. How are those 15 million pounds
24	change from 1990 to 2000?	24	distributed across well, let me take a step
25	A. They would have significantly	25	back.
	Page 151		Page 153
	increased, and if you'll give me a moment here,	1	You think the geographic
	I'll see how close my report brackets the years	2	distribution of the glyphosate is important to
	that you're questioning.	3	this causality question.
4	(Reviewing document).	4	You chose that as one factor in
5	Okay. By 1990, the annual usage of		doing this analysis; right?
6	glyphosate in the United States had increased	6	A. I chose two large available data
7	from 1.4 million pounds in 1974 to 15 million	7	sets to test the hypothesis of whether there was
8	pounds. This increased to 40 million pounds by	8	any association with glyphosate and NHL, and I
9	1995 and to 98 million pounds by the year 2000.	9	have compared them in two figures in my report
10	In 2014, maximum 2014, a range of	10	labeled Figure 5.
11	2008 to 2014, up to 14 years after the annual	11	Q. Was geographical distribution one of
	usage of glyphosate reached 98 million pounds,	12	those?
13	the annual incidence of NHL continued to slowly	13	MR. JOHNSTON: Objection. Vague.
14	decline.	14	THE WITNESS: Geographical
15	Q. Did you just tell me anything about	15	distribution is a key component of both
16	geography?	16	the glyphosate data set and the NHL
17	A. This para this data does not take	17	incidence by county. They are these
18	into account any regional differences in either	18	are this is demographic data I mean,
19	glyphosate usage or incidence. These are	19	regional data.
	important variables that will be considered in	20	BY MR. LITZENBURG:
20		1	
20 21	the next section.	21	Q. Okay.
	-	21 22	Q. Okay. MR. JOHNSTON: It's about
21	the next section.		
21 22	the next section. Q. Okay. I'm going to	22	MR. JOHNSTON: It's about
21 22 23 24	the next section. Q. Okay. I'm going to A. The next section is entitled	22 23	MR. JOHNSTON: It's about lunchtime, so wrap up soon?

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1	-	1	
1	THE VIDEOGRAPHER: 15 minutes		this is I'm not I'm not sure how
2	left on the tape.	2	many other time periods were available to
3	MR. LITZENBURG: Okay. Sounds	3	analyze.
4	perfect.	4	I chose the most recent one and I
5	BY MR. LITZENBURG:	5	worked backwards to say, all right, what
6	Q. Geographical distribution is a key	6	was the glyphosate usage in this country
7	component of both the glyphosate data set and the	7	approximately 10 years before or 10, you
8	NHL incidence by county. This is demographic	8	know, at least 10 years before.
9	data I mean	9	BY MR. LITZENBURG:
10	A. Right.	10	Q. Okay.
11	Q regional data.	11	A. Eight to 12.
12	You stand by that answer at least?	12	Q. I still haven't stopped talking
13	MR. JOHNSTON: Objection. Asked	13	about that first map and you're talking about the
14	and answered.	14	second one; right?
15	THE WITNESS: Could you repeat	15	A. I'm talking about both of them
16	the question?	16	
17	BY MR. LITZENBURG:	17	the question in any way about any potential
18	Q. Yeah. Dr. Fleming, I'll go back to	18	correlation between glyphosate use and and NHL
19	my original question, which is: How did the	19	incidence.
20	distribution patterns	20	Q. You told me
21	A. Uh-huh.	21	A. You can't look at either of them in
22	Q of glyphosate differ between 1990		isolation and draw any conclusions.
23	and 2000?	23	-
24			Q. Did you tell me that the 70-fold
25	MR. JOHNSTON: Objection. Asked		increase in glyphosate usage from 1974 to 2000
	and answered.	25	was important to you in forming your opinion in
	Page 155		Page 157
1	Page 155 THE WITNESS: I did not review	1	_
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	THE WITNESS: I did not review the distribution pattern for the dates you		doing this? MR. JOHNSTON: Objection.
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1       Latency period and so I don't I don't recall         2       relationship themselves.         3       BY MR, LITZENBURG:         4       Q. Okay.         5       A. I was asked to prepare this report         6       for a Dubert hearing, and I was asked to make         8       this information as accessible as I could to a the state of the		Page 158		Page 160
2       relationship themselves.       2       the exact date that this data set goes back for         3       BY MR. LITZENBURG:       3       being able to draw maps.         4       Q. Okay.       Well, hallpark it.         5       A. I was asked to prepare this report       5       MR. JOHNSTON: Objection. He         6       for a Duber thearing, and I was asked to make       5       MR. JOHNSTON: Objection. He         7       people who did not have a strong background in       9       Okay.         10       lymphoma genesis, lymphoma etiology, NHI.       10       A. It was not material -         11       incidence, glyphosate.       10       Q. Okay.         12       No lead whatever tools I had at       13       A. It was not material -         13       hand to to provide that. This is nothing more       14       distribution gorgraphiculy between 1974 and 2000         13       get an answer out of this to this question before       13       Mistates his testimony.         14       y and well see what you say afferwards.       14       Mistates his testimony.         14       a. A proximately, yes.       14       Mistates his testimony.         15       of my report and only that.       14       14         14       and answered. He's already a	1	-	1	-
3       BY MR. LITZENBURG:       4       0. Okay.         4       Q. Well, ballpark it.       5         5       A. I was asked to prepare this report       6         6       for a Daubert hearing, and I was asked to make       6         7       this information as accessible as I could to       9         9       people who did not have a strong background in       9         10       Improhoma genesis, lymphoma etiology, NIL       7         11       incidence, glyphosate.       20       Okay.         12       So I used whatever tools I had at       3       A. It was not material -         13       hand to - to provide that. This is nothing more       14       distribution geographically between 1974 and 2000         15       be, when looking at it, an absence of correlation       14       distribution geographically between 1974 and 2000         14       get an answer out of this to this question before       19       You go have lunch with your counsel and come back         14       may well see what you say afterwards.       14       M. ICMENTON: Objection.         14       and answered. He's already answered that       14       there is an eight to 12-year latency period for         15       reguestion three times.       120. The elevant to the data 1 present in Figure 5		-		
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6       for a Daubert hearing, and I was asked to make       6       doesn't know. Asked and answered.         7       this information as accessible as I could to       9       PWTRLETZENBURG:         9       people who did not have a strong background in       9       Q. Okay.         10       hymphoma genesis, lymphoma toology, NHL       10       A. It was not material         11       incidence, glyphosate.       10       Q. And         12       So I used whatever tools I had at       13       A. It was not material to my report.         13       hand to to provide that. This is nothing more       14       distribution geographically between 1974 and 2000         15       be, when looking at it, an absence of correlation       14       distribution geographically between 1974 and 2000         14       gat an answer out of this to this question before       19       You've told me from 1974 to 2000         12       that usege of glyphosate changed by a 70-fold       10       myreport and only that.         12       that usege of glyphosate not cancer       2       2       0. And Figure 5 is only relevant if         14       distribution of glyphosate not cancer       2       2       0. And Figure 5 is relevant for a it is         15       merase; right?       2       0. Do you agree wit				
7this report to imagine I was a judge and to make7THE WITNESS: I don't know.8bits information as accessible as I coult on9Poole Wold.9people wold of do thave a strong background in9Q. Okay.10lymphoma genesis, lymphoma etiology, NHL1A. It was not material to my report.13hand to to provide that. This is nothing more2A. It was not material to my report.14than a simple demonstration of what turns out to14distribution the changes in15between looking at it, an absence of correlation15are not important to your opinion or your report;16between looking at it, an absence of correlation16distribution or phy are not17Q. Dr. Fleming, I'm going to try and18distrates his testimony.18get an answer out of this to this question before19You've told me from 1974 to 200012that the usage of glyphosate changed by a 70-fold2BY MR. LITZENBURG:14A. Approximately, yes.2Q. And Figure 5 is only relevant if2ad answered. He's already answered that9Puge 1611distribution of glyphosate - not cancer2A. Figure 5 is relevant for a it is2accultary it is not known whether that is the44and answered. He's already answered that5MR. JOHNSTON: Objection. Asked14glyphosate, which is what you're looking at in15throughout time. The color code changed as the16 <td< th=""><th></th><th></th><th></th><th></th></td<>				
<ul> <li><sup>8</sup> this information as accessible as I could to</li> <li><sup>9</sup> people who did not have a strong background in</li> <li><sup>9</sup> lymphoma etiology, NHL</li> <li><sup>11</sup> incidence, glyphosate.</li> <li><sup>12</sup> So I used whatever tools I had at</li> <li><sup>13</sup> hand to - to provide that. This is nothing more</li> <li><sup>14</sup> than a simple demonstration of what turns out to</li> <li><sup>15</sup> between these two variables.</li> <li><sup>16</sup> between these two variables.</li> <li><sup>17</sup> Q. Dr. Fleming, I'm going to try and</li> <li><sup>18</sup> get an answer out of this to this question before</li> <li><sup>19</sup> you go have lunch with your counsel and come back</li> <li><sup>10</sup> that ways of suphosate changed by a 70-fold</li> <li><sup>11</sup> distribution of glyphosate changed by a 70-fold</li> <li><sup>12</sup> increase; right?</li> <li><sup>14</sup> Q. Day Mew did the geospatial</li> <li><sup>15</sup> are not important to glyphosate in Figure 5</li> <li><sup>16</sup> Q. Okay. How wid the geospatial</li> <li><sup>17</sup> The WITNESS: They are not</li> <li><sup>18</sup> distribution of glyphosate - not cancer</li> <li><sup>11</sup> change between 1974 and 2000?</li> <li><sup>13</sup> actually - it is not known whether that is the</li> <li><sup>14</sup> case. I do not know for sure.</li> <li><sup>15</sup> The quest of the record. This</li> <li><sup>16</sup> A. I looked at the available data that</li> <li><sup>17</sup> gu Do you know?</li> <li><sup>18</sup> I that op figure, remain essentially constant</li> <li><sup>19</sup> that op figure, nemain essentially constant</li> <li><sup>11</sup> that top figure, nemain essentially constant</li> <li><sup>16</sup> throughout time. The color code changed as the</li> <li><sup>17</sup> high glyphosate use as early on as I looked. It</li> <li><sup>18</sup> remained that way through 2002, and it remained</li> <li><sup>19</sup> A. I looked a searly as the - as the</li> <li><sup>10</sup> Q. How ardly didy you look?</li> <li><sup>10</sup> A. I don't recall that because, again,</li> <li><sup>14</sup> A. I don't recall that because, again,</li> <li><sup>15</sup> A. I don't recall that</li></ul>	_			
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10       lumphoma genesis, lymphoma etiology, NHL       10       A. It was not material         11       incidence, glyphosate.       10       A. It was not material         12       So I used whatever tools I had at       11       Q. And         13       hand to to provide that. This is nothing more       14       Ham a simple demonstration of what turns out to       14       Haw as mot material to my report.         13       hand to to provide that. This is nothing more       14       distribution geographically between 1974 and 2000         14       than a simple demonstration of what turns out to       14       distribution goarphically between 1974 and 2000         14       get an answer out of this to this question before       19       10       MR. JOHNSTON: Objection.         13       get an answer out of this to this question before       19       10       MR. SITESS: They are not         12       You've told me from 1974 to 2000       22       Hat the usage of glyphosate changed by a 70-fold       23       Q. And Figure 5 is only relevant if         14       distribution of glyphosate not cancer       2       10       Do you agree with me there?         2       change between 1974 and 2000?       2       A. Ti obly chart and was immediately       10         14       distribution of glyphosate not				
11       incidence, glyphosate.       11       Q. And         12       So I used whatever tools I had at       12       A. It was not material to my report.         13       hand to - to provide that. This is nothing more       13       Q. The distribution the changes in         14       than a simple demonstration of what turns out to       15       be, when looking at it, an absence of correlation         15       between these two variables.       16       correct?         17       Q. Dr. Fleming, I'm going to try and       16       distribution geographically between 1974 and 2000         20       and well see what you say afterwards.       17       MR. JOHNSTON: Objection.         21       You've told me from 1974 to 2000       21       of my report and only that.         22       that the usage of glyphosate changed by a 70-fold       23       Q. And Figure 5 is only relevant if         24       A. Approximately, yes.       25       Q. Okay. How did the geospatial       25       non-Hodgkin lymphoma.         25       Q. Okay. How did the geospatial       26       non Know Mether that is the       4         3       and answered. He's already answered that       5       more low transpine diagom of the record. This       3         4       and answered: the patterns of       12.03. We are going				- •
12       So I used whatever tools I had at       12       A. It was not material to my report.         13 hand to - to provide that. This is nothing more       14       14       13         14 than a simple demonstration of what turns out to       15       be, when looking at it, an absence of correlation         16 between these two variables.       14       distribution geographically between 1974 and 2000         17       Q. Dr. Fleming, I'm going to try and       17       MR. JOHNSTON: Objection.         19 you go have hunch with your counsel and come back       19       THE WITNESS: They are not         20 and we'll see what you say afterwards.       10       Misstates his testimony.         21       You've toid me from 1974 to 2000       22       that the usage of glyphosate changed by a 70-fold         23       increase; right?       23       Q. And Figure 5 is only relevant if         24       A. Approximately, yes.       24       there is an eight to 12-year latency period for         25       Q. Okay. How did the geospatial       Page 159       Page 161         1       distribution of glyphosate not cancer       2       A. Hooked at the available data that         5       Q. Do you know?       7       Iterevent up and and was immediately         6       BY MR. LITZENBURG:       7       Iterevent and				
13       hand to to provide that. This is nothing more       14       than a simple demonstration of what turns out to       13       Q. The distribution geographically between 1974 and 2000         15       be, when looking at it, an absence of correlation       14       distribution geographically between 1974 and 2000         16       between these two variables.       17       Q. Dr. Fleming, Tm going to try and       18         18       get an answer out of this to this question before       19       10       Mistates his testimony.         19       you go have lunch with your counsel and come back       16       Mistates his testimony.       19         20       and we'll see what you say afterwards.       10       THE WITNESS: They are not       relevant to the data I present in Figure 5         21       You've told me from 1974 to 2000       22       BY MR, LITZENBURG       23       Q. And Figure 5 is only relevant if         24       A. Approximately, yes.       25       Q. Okay. How did the geospatial       25       ron-Hodgkin lymphoma.         3       MR. JOHNSTON: Objection. Asked       and answered. He's already answered that       3       actually it is not known whether that is the         4       and answered. He's already an simmediately       10       Do you agree with me there?       2         1       20. Jou know?				-
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	WIIIIdaa II. IICaa	1	D 141
	Page 162		Page 164
1	AFTERNOON SESSION	1	Q. Okay. Why is that?
2	(12:53 p.m.)	2	A. Because the HIV virus does not get
3	WILLIAM H. FLEMING, MD, PHD	3	into lymphocytes and cause a clonal expansion of
4	called for continued examination and, having been	4	lymphocytes resulting in lymphoma as EBD does.
5	previously duly sworn, was examined and testified	5	It gets into cells and reduces their number and
6	further as follows:	6	their efficacy, and this results in
7	EXAMINATION (CONTINUED)	7	virally-induced immunosuppression. It is in that
8	THE VIDEOGRAPHER: The time now	8	setting of virally-induced immunosuppression
9	is 12:53. We are back on the record.	9	specific to the HIV that lymphoma developed.
10	This is the beginning of Disk No. 3.	10	In the late 1800s or late 1980s
11	BY MR. LITZENBURG:	11	through about 1993, patients who presented with
12	Q. Did you get a chance to get lunch,	12	full-blown AIDS often developed lymphoma. And
13	Dr. Fleming?	13	from 1993 on, when HIV viral load could be easily
14	A. Yes, I did.	14	controlled, it turned out that the incidence of
15	Q. Are you ready to go?	15	lymphoma in those patients dropped off absolutely
16	A. Absolutely.	16	dramatically.
17	Q. Okay. You've never done have you	17	We actually had a program at our
18	ever done expert work before for litigation?	18	cancer center that was developed in the '90s, the
19	A. I have provided expert reports in	19	early '90s to evaluate HIV lymphoma. It was a
20	the past, yes.	20	research group, and we closed that research group
21	Q. Okay. What was the matter?	21	
22	A. It was a it related to	22	basically ceased to exist as a clinical entity.
23	bisphosphonates and multiple myeloma.	23	Q. And, in fact, if you look at Figure
24	Q. Is somebody sued somebody? It was a	24	· · -
25	court case?	25	It's page 4.
	Page 163		Page 165
1	A. No. No. I just provided expert	1	A. Sure. Yes.
2	medical report, reviewing the history of the, you	2	Q. That tracks that dip. That's
3	and w, up to date at the time treatment of	3	exactly what you're saying; right?
	multiple myeloma. I talked about the individual	4	It's rising in the second chart
5	case in some detail and then basically gave my	5	on the right, it's rising up till about
6	opinion on the utility of bisphosphonates and the	1	
	opinion on the utility of disphosphonates and the	6	A. The second
7	treatment.	6 7	<ul><li>A. The second</li><li>Q 1993 and then there's then</li></ul>
7 8			
8	treatment.	7	Q 1993 and then there's then
8 9	treatment. Q. But, I mean, who was it done for?	7 8	Q 1993 and then there's then there's a dip; right?
8 9	treatment. Q. But, I mean, who was it done for? Who asked you to do it? It wasn't a court case	7 8 9	<ul><li>Q 1993 and then there's then</li><li>there's a dip; right?</li><li>A. The chart panel B on Figure 3 shows</li></ul>
8 9 10	treatment. Q. But, I mean, who was it done for? Who asked you to do it? It wasn't a court case is what I'm saying. It wasn't in litigation?	7 8 9 10	<ul> <li>Q 1993 and then there's then</li> <li>there's a dip; right?</li> <li>A. The chart panel B on Figure 3 shows</li> <li>the SEER data for NHL, all races, all sexes, in</li> </ul>
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	Page 166		Page 168
1	charts that you've referred to today.	1	epidemic
2	I mean, what does Figure 4 and 5	2	A. Uh-huh.
3	give us as to the cause of non-Hodgkin lymphoma?	3	Q and the specific years
4	MR. JOHNSTON: Objection.	4	affected
5	Argumentative.	5	A. Yeah.
6	THE WITNESS: Figures 4 and 5 are	6	Q the incidence of lymphoma, didn't
7	illustrative of the conclusion I drew from	7	you?
8	the Agricultural Health Study that there	8	MR. JOHNSTON: No. Objection.
9	was no positive correlation between	9	Misstates his testimony.
10	glyphosate and NHL.	10	MR. LITZENBURG: Bob, you can't
11	BY MR. LITZENBURG:	11	answer yes or no when I ask a question.
12	Q. I thought we were actually finding	12	MR. JOHNSTON: You can't ask
13	some common ground here.	13	
14	Does this chart, Figure 3 on the	14	unfair questions.
15	right, does that not describe precisely the trend	15	MR. LITZENBURG: Bob, you can't answer no when I ask him a question.
16	that you just told us about the AIDS virus and	16	1
17	doesn't it, in fact, look at young people as	17	MR. JOHNSTON: I'm saying no, you
18	opposed to all people?	18	can't answer that question. It's
19	This is the 20 to 49. That's	19	improper. You're argumentative. MR. LITZENBURG: You said you
20	typically the age range in which you get new	20	
21	cases of AIDS, isn't it, Dr. Fleming?	21	think that's how you object to form is to $a_{2}$
22	MR. JOHNSTON: Objection.	22	say no? MR. JOHNSTON: Well, I object to
23	Compound question and narrative, and I'm	23	form.
24	guessing it's going to be difficult to	24	THE WITNESS: The extent to which
25	find common ground given how far out you	25	therapy for HIV plays into this fall in
	Page 167		Page 169
1	are on the playing field.	1	Figure 3B is not a question I have looked
2	But go ahead if you can answer	2	into in any detail to provide you with any
3	his question.	3	meaningful statistical answer.
4	THE WITNESS: There are a great	4	BY MR. LITZENBURG:
5	many factors that are represented here in	5	Q. But it follows the years you gave
6	Panel B and I	6	me; right? The trend in the years '80 to '93 and
	BY MR. LITZENBURG:		then drop off, right, or does it?
8	Q. What?	8	A. This
9	A don't know I'm sorry?	9	Q. Tell us if it does or it doesn't.
10	Q. What factors?	10	MR. JOHNSTON: Objection.
11	MR. JOHNSTON: Can you let him	11	Compound. How many questions do you want
12 13	answer his question? You're talking over	12 13	to ask him at once, counsel? It's a
13	him, counsel.	14	compound question.
	THE WITNESS: Okay. It's not	14	THE WITNESS: Could you repeat
15 16	it's not possible to tell, looking at		the question, please?
17	this, what is responsible for for that	16 17	BY MR. LITZENBURG:
18	drop.	18	Q. Is the shape of this line described
19	What you're saying is that the		by the trend that you just told me about AIDS between 1980 and 1993?
20	successful treatment of the AIDS epidemic	19 20	
20	could follow a similar pattern, but that's	20	A. I gave MB_IOUNSTON: Objection Asked
21	a hypothetical to which I cannot give you	21	MR. JOHNSTON: Objection. Asked
22	an answer.	22	and answered. Go ahead. THE WITNESS: I gave you a
24	BY MR. LITZENBURG: Q. You don't know how that you just	24	generalization. These are hard numbers.
1 -	$\nabla$ . TOURDOUT KNOW NOW MAL YOU JUST		Seneralization, These are hard humbers,
25	-	25	Two different things.

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	Page 170		Page 172
1	I told you that after 1993 with	1	suggest this covers the entire waterfront
2	the advent of triple therapy, the entity	2	in terms of possible latency.
3	of AIDS lymphoma declined in the in the	3	BY MR. LITZENBURG:
4	ensuing years.	4	Q. What is your profession or your
5	• •	5	industry view as a reasonable latency for
6		6	non-Hodgkin lymphoma?
7		7	MR. JOHNSTON: Objection.
8		8	Speculative.
9	-	9	THE WITNESS: As noted in my
10	BY MR. LITZENBURG:	10	report, outside of the context of chemo
11		11	and radiation therapy for Hodgkin's
12		12	disease and outside of the context of
13		13	developing lymphoma in organ
14		14	transplantation, very little direct
15		15	evidence is out there for the latency of
16	•	16	NHL.
17	MIR. JOIN DIGIN. Objection.	17	In the vast majority of cases,
18	-	18	the latency in a given individual is
19		19	simply unknown.
20	-	20	BY MR. LITZENBURG:
21	*	21	
22		22	Q. Well, how did you pick eight to 12 to do this?
23		23	
24		24	MR. JOHNSTON: Objection. Asked
25	Q. I ou ugree with the that those two	25	and answered. We spent a significant
23	maps that we were looking at before only is true	25	amount of time on that this morning,
	Page 171		Page 173
1	Page 171 if the latency for non-Hodgkin lymphoma is	1	
	-	1 2	counsel.
	if the latency for non-Hodgkin lymphoma is between eight and 12 years; right?		counsel.
2	if the latency for non-Hodgkin lymphoma is between eight and 12 years; right? A. Which two maps?	2	counsel. BY MR. LITZENBURG: Q. Because it's not unreasonable? Is
3	<ul><li>if the latency for non-Hodgkin lymphoma is</li><li>between eight and 12 years; right?</li><li>A. Which two maps?</li><li>Q. Page 8.</li></ul>	2 3	counsel. BY MR. LITZENBURG: Q. Because it's not unreasonable? Is
2 3 4	<ul><li>if the latency for non-Hodgkin lymphoma is</li><li>between eight and 12 years; right?</li><li>A. Which two maps?</li><li>Q. Page 8.</li><li>A. No, I do not agree with that</li></ul>	2 3 4	counsel. BY MR. LITZENBURG: Q. Because it's not unreasonable? Is that how you practice medicine or science?
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	Page 174		Page 176
1	BY MR. LITZENBURG:	1	The data the data in Figure 5 is basically
2	Q. But words are important here in		
	-	3	that generalization.
	litigation at least, and you keep telling me that		Q. Would you agree with me that a
4	a latency period of eight to 12 years is not	4	latency of one year is not unreasonable in the
5	unreasonable.	5	context of non-Hodgkin lymphoma?
6	That's different from telling me	6	MR. JOHNSTON: Objection. Vague.
7	that you have an opinion that the latency period	7	THE WITNESS: I do not believe a
8	of non-Hodgkin lymphoma is approximately eight to	8	latency of one year is in any way typical
9	12 years; right?	9	of the average latency for NHL based on
10	MR. JOHNSTON: Objection. Vague.	10	the data we have. It would be it would
11	Compound.	11	be an outlier, and I have no doubt you
12	THE WITNESS: My opinion, based	12	could find patients in whom that was true,
13	on the evidence available to me, is that	13	but that would not be the general trend.
14	this time frame should be sufficient to	14	BY MR. LITZENBURG:
15	detect NHL.	15	Q. No. Is it reasonable or not
16	BY MR. LITZENBURG:	16	reasonable to use that for a data?
17	Q. And what if the latency is three	17	MR. JOHNSTON: Objection. Asked
18	years? The relationship of these two maps to	18	and answered.
19	each other doesn't tell us anything about	19	THE WITNESS: I took the best
20	etiology, would it? You're comparing 2000 to	20	available data from the on NHL
21	2008 to 2012; right?	21	
22		21	incidence by county, the most recent data,
	MR. JOHNSTON: Objection.		and correlated it with an average of
23	Compound. Two questions there, counsel.	23	approximately 10 years exposure to
24	Choose one.	24	glyphosate and have presented that data.
25	THE WITNESS: If it were limited	25	I have not looked at any other
	Page 175		Page 177
1	to three years, that would be true. In	1	time frames, and I'm not prepared to
2	the case of organ transplantation, there	2	discuss that.
3	are circumstances where the lymphoma can	3	
-	are chedinstances where the rymphonia can		
4			MR. LITZENBURG: Okay.
4	develop earlier.	4	(Document marked for
5	develop earlier. There is a subset of patients,	4 5	(Document marked for identification purposes as Fleming Exhibit
5 6	develop earlier. There is a subset of patients, for whom we do not understand the reasons,	4 5 6	(Document marked for identification purposes as Fleming Exhibit 20-4.)
5 6 7	develop earlier. There is a subset of patients, for whom we do not understand the reasons, develop lymphoma within a year of	4 5 6 7	(Document marked for identification purposes as Fleming Exhibit 20-4.) BY MR. LITZENBURG:
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	WIIIIam n. FICM.		<del>-</del> · · · · · · · · · · · · · · · · · · ·
	Page 178		Page 180
1	equivalent to 146 days.	1	A. I have confidence that the National
2	Q. Is that unreasonable or not	2	Institutes of Health and the SEER database that
3	unreasonable?	3	they oversee through the National Cancer
4	A. It's based on low estimate use for		Institute has carefully thought through these
5	lifetime risk of low level ionizing radiation	1	issues and worked to present data that they feel
6	studies, and this represents a change from		is is reliable based upon, you know, based
7	lymphoproliferative cancers from the October 17,	7	upon all of these variables.
8	2012, 9.11 version.	8	Q. Well, nobody is saying that NCI is
9	Q. What was the 2012 version?	9	unreliable.
10	A. Don't know.	10	I'm just asking you if you know
11	Q. Okay. Do you know if it's gone up	11	if you work, say, in the Central Valley of
12	or down?	12	• • •
13	A. Don't know.	13	A. Uh-huh.
14	Q. Okay. Is .4 years as a low end	14	Q. And you get diagnosed in San
15	estimate of latency, is that reasonable, not	15	
16	÷	16	Francisco, where is it going to count that
17	reasonable, or a third?	17	diagnosis for NHL in the SEER data?
	A. This is a conclusion drawn by an		A. I have not reviewed the specifics of
18	administrative group headed apparently by	18 19	that question.
19	Dr. John Howard. It's a white paper. It's an		Q. Wouldn't that be crucially important
20	opinion paper, and for the purposes of 9.11, they	20	to our understanding here?
21	are considering this to be the minimal latency.	21	MR. JOHNSTON: Objection. Calls
22	I am not aware of the primary data	22	for speculation and hypothetical.
23	supporting this this allegation but per	23	THE WITNESS: I see patients from
	this conclusion I should say, but at the same	24	Washington State on a routine basis. They
25	time, I would not have searched out and reviewed	25	receive their diagnosis at my institution
	Page 179		Page 181
1	Page 179 this as this is a you know an opinion of a	1	Page 181 in Oregon They drive five miles across a
	this as this is a, you know, an opinion of a	1	in Oregon. They drive five miles across a
	this as this is a, you know, an opinion of a of a think tank, if you will.	1 2 3	in Oregon. They drive five miles across a bridge to another state.
2 3	<ul><li>this as this is a, you know, an opinion of a of a think tank, if you will.</li><li>Q. Right. In Figure 5 here, NHL</li></ul>	2 3	in Oregon. They drive five miles across a bridge to another state. I would think it very unlikely
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	Page 182		Page 184
1	that is correct.	1	NCI, has been suppressed. And the reason it is
2			
			suppressed is that there are some counties in
3	comparison or draw any conclusions from it if you	1	this country that have a thousand residences or a
	don't know whether this is showing the places	1	thousand residents, and there are counties like
	where people get non-Hodgkin lymphoma, the places	1	LA County that have 10 million residents.
	where they get diagnosed with non-Hodgkin	6	So if you've got a thousand people
	lymphoma, or the place where they were living at		in your county, there's you're not going to be
8	<i>J</i> <b>I</b> <i>I B</i>	8	able to say too much about the annual incident
9	A. The people who constructed the SEER	9	rate of lymphoma because the population base is
10	database would have a clear set of rules because	10	too small.
11	the situation is actually more complex than you	11	So much of the data here is because
12	make it out to be. A person could have moved to	12	I think they have to have at least, I think I
13	a county within six months, get diagnosed in	13	recall, 12 to 16 cases per county. Otherwise the
14	another county, and then returned to that second	14	information is censored or suppressed.
15	county. And where where are you going to	15	Q. Dr. Fleming, do you know how many
16	include that?	16	sites SEER draws this data from?
17	Q. That's what I'm asking.	17	A. The actual number of physical sites?
18	A. They'll they'll they'll have a	18	No, I do not.
19	standardized approach to answer your question,	19	Q. Do you know if it's less than 20?
20	and that will basically be a wash for all the	20	A. I do not know.
21	individuals who are recorded in the database.	21	Q. You don't know if it's more than a
22	Q. No, that's the question that I'm	22	hundred?
23	asking.	23	A. I don't know the reporting system
24	A. They're certainly not going to	24	
	report the incidence of diagnosis at major	25	granular detail.
	report the incidence of diagnosis at major		granulai uctail.
	Page 183		Page 185
1	Page 183 teaching hospitals throughout America because it	1	Page 185 Q. What is your estimate of the number
	-		-
	teaching hospitals throughout America because it		Q. What is your estimate of the number
2 3	teaching hospitals throughout America because it would then appear that essentially all cancer	2	Q. What is your estimate of the number of sites that SEER draws this data from?
2 3	teaching hospitals throughout America because it would then appear that essentially all cancer diagnosis in America were made in a few hundred	2 3 4	<ul><li>Q. What is your estimate of the number of sites that SEER draws this data from?</li><li>A. I have no estimate to give you.</li></ul>
2 3 4	teaching hospitals throughout America because it would then appear that essentially all cancer diagnosis in America were made in a few hundred centers.	2 3 4 5	<ul><li>Q. What is your estimate of the number of sites that SEER draws this data from?</li><li>A. I have no estimate to give you.</li><li>Q. Okay. If you're a migrant worker</li></ul>
2 3 4 5	teaching hospitals throughout America because it would then appear that essentially all cancer diagnosis in America were made in a few hundred centers. As you can see here, there's very small counties throughout this map that are in	2 3 4 5 6	<ul><li>Q. What is your estimate of the number of sites that SEER draws this data from?</li><li>A. I have no estimate to give you.</li><li>Q. Okay. If you're a migrant worker moving up and down the Central Valley harvesting</li></ul>
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	Page 186	1	Page 188
	B-cell lymphomas. EBV-driven lymphomas tend not		both.
	to be follicular low-grade lymphomas.	2	Q. Okay. You don't account for
3	So the answer to your question is,	3	subtypes in this?
	there is some data associating some etiologies	4	A. Subtype? I can only go with the
	with some subtypes of NHL, but our data set and	5	data I have. Subtype analysis was not available
6	knowledge is incomplete.	6	on this.
7	Q. Does do either of your maps	7	Q. Are you certain?
8	account for that?	8	A. It was not easily publicly
9	A. It accounts for the overall	9	available. If I petition the NCI to release
10	instance, which would include the common types of	10	this, I could go through a review process where
11	NHL and the rare types.	11	they would release any data to me because I'm a,
12	Q. Could we adjust to see if it do	12	
13	the same thing for T-cell lymphoma versus B-cell	13	university.
	lymphoma?	14	I could go through a process to
15	A. It cannot be done with the publicly	15	to to get my hands on any data, but it would
16	available NCI database, to the best of my	16	probably be in a format that I would not be able
17	knowledge. Whether someone else at the NCI has	17	to, you know, readily readily work with.
18	that data on a on an NCI server, you'd have to	18	Q. What format?
19	ask them.	19	A. It would the format
20	Q. Did you look into it?	20	MR. JOHNSTON: Objection. Calls
21	MR. JOHNSTON: Objection. Vague.	21	
22		22	for speculation.
23	THE WITNESS: This question		THE WITNESS: Yeah. This this
	looked at the overall NHL diagnosis, as do	23	geo version this GeoViewer type of data
24	the great majority of epidemiologic	24	permits this county-by-county assessment.
25	studies.	25	Again, anybody, regardless of
	Page 187		Page 189
1	-	1	Page 189 their background and statistics or
1 2	Subsequent subset analysis is	1 2	their background and statistics or
	Subsequent subset analysis is appropriate when patient populations are		their background and statistics or epidemiology, can go in there and click
2	Subsequent subset analysis is appropriate when patient populations are large enough. That was not the goal of	2	their background and statistics or epidemiology, can go in there and click and get a statistically valid
2	Subsequent subset analysis is appropriate when patient populations are large enough. That was not the goal of the NCI in generating this	2 3	their background and statistics or epidemiology, can go in there and click and get a statistically valid representation of the incidence by county
2 3 4 5	Subsequent subset analysis is appropriate when patient populations are large enough. That was not the goal of the NCI in generating this county-by-county data set.	2 3 4	their background and statistics or epidemiology, can go in there and click and get a statistically valid representation of the incidence by county in those counties for which data is
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2 3 4 5 6 7	Subsequent subset analysis is appropriate when patient populations are large enough. That was not the goal of the NCI in generating this county-by-county data set. BY MR. LITZENBURG: Q. So you agree with me when you look	2 3 4 5 6 7	their background and statistics or epidemiology, can go in there and click and get a statistically valid representation of the incidence by county in those counties for which data is available. BY MR. LITZENBURG:
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	Page 190		Page 192
1	Absolutely compound and asked and	1	subject that shows a dose-response?
2	answered.	2	A. I am not aware of any dose-response
3	Choose a question. Which one do	3	in the literature that I have seen that I would
4	you want him to answer?	1	consider to be scientifically credible because it
5	BY MR. LITZENBURG:		has not been adjusted for the use of other
6	Q. You have no idea what "NHL Instance	6	pesticides or it simply does not meet statistical
7	by County" means do you?	7	significance after multivaried analysis that only
8	A. It means that residents of the	8	
9	United States have been assigned a county	9	Q. What paper finds a dose-response but
10	following the diagnosis of NHL.	10	then fails one of the criteria that you just
11	Q. How is that defined?	11	mentioned?
12	A. The details of that are determined	12	MR. JOHNSTON: Objection.
13	by the NCI and the SEER database.	13	THE WITNESS: Again, I did not
14	Q. Would that affect your	14	I did not memorize the content of of
15	A. I can only speculate on this.	15	these case studies reports. If there's
16	Q. Would that affect your opinion?	16	one you'd like to discuss, please provide
17	A. No, not at all.	17	it and I'll be happy to point out my
18	Q. It wouldn't affect your opinion if	18	thinking.
19	this county is the place where the person was	19	BY MR. LITZENBURG:
20	exposed, the place where they lived at the time	20	Q. Has any study concluded there's a
21	of diagnosis, or the place where the site of	21	dose-response or not between glyphosate and NHL?
22	diagnosis is? That wouldn't make any difference	22	MR. JOHNSTON: Objection. Vague.
23	to your opinion?	23	THE WITNESS: There are I
24	MR. JOHNSTON: Objection.	24	
25	Compound and calls for speculation.	25	suggested that that's what they conclude.
	compound and cans for speculation.		suggested that that's what they conclude.
<u> </u>		-	
	Page 191		Page 193
1	THE WITNESS: Figure 5 my	1	I have looked at their primary data, and I
2	THE WITNESS: Figure 5 my opinion in this case is not dependent on	2	I have looked at their primary data, and I do not agree that it provides that it
2 3	THE WITNESS: Figure 5 my opinion in this case is not dependent on Figure 4 and Figure 5 at all.	2 3	I have looked at their primary data, and I do not agree that it provides that it provides convincing evidence of a
2 3 4	THE WITNESS: Figure 5 my opinion in this case is not dependent on Figure 4 and Figure 5 at all. Figure 4 and Figure 5, as I said	2 3 4	I have looked at their primary data, and I do not agree that it provides that it provides convincing evidence of a relationship between glyphosate and NHL in
2 3 4 5	THE WITNESS: Figure 5 my opinion in this case is not dependent on Figure 4 and Figure 5 at all. Figure 4 and Figure 5, as I said earlier, are illustrative of the data that	2 3 4 5	I have looked at their primary data, and I do not agree that it provides that it provides convincing evidence of a
2 3 4 5 6	THE WITNESS: Figure 5 my opinion in this case is not dependent on Figure 4 and Figure 5 at all. Figure 4 and Figure 5, as I said earlier, are illustrative of the data that we have in the epidemiology literature	2 3 4 5 6	I have looked at their primary data, and I do not agree that it provides that it provides convincing evidence of a relationship between glyphosate and NHL in a dose-dependent or non-dose-dependent manner.
2 3 4 5 6 7	THE WITNESS: Figure 5 my opinion in this case is not dependent on Figure 4 and Figure 5 at all. Figure 4 and Figure 5, as I said earlier, are illustrative of the data that we have in the epidemiology literature looking at a large cohort-based study.	2 3 4 5 6 7	I have looked at their primary data, and I do not agree that it provides that it provides convincing evidence of a relationship between glyphosate and NHL in a dose-dependent or non-dose-dependent manner. BY MR. LITZENBURG:
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	Page 194		Page 196
1	underwhelmed by the number of patients in the	1	mentions dose-response in this regard.
2	study, I was underwhelmed by the dose-response	2	BY MR. LITZENBURG:
3	differences and, most importantly, I didn't rely	3	Q. Is dose-response one of the Bradford
4	on them because they didn't adjust for other	4	Hill criteria?
5	pesticides.	5	A. Yes.
6	Q. What papers?	6	Q. Do you believe that latency varies
7	MR. JOHNSTON: Objection. Asked	7	- • •
8	and answered.	8	A. Latency varies by a number of
9	BY MR. LITZENBURG:	9	different factors, and subtype would be one of
10	Q. Were you underwhelmed? I mean, you	10	them.
11	just told me that you were underwhelmed by	11	Q. Okay. Do you disagree with IARC
12	patient numbers of one of papers that showed a	12	that this is a probable human carcinogen?
13	dose-response. Which one?	13	MR. JOHNSTON: Objection. Beyond
14	A. We could	14	the scope of his report.
15	MR. JOHNSTON: Objection.	15	THE WITNESS: I did not consider
16	Misstates his testimony. That's highly	16	IARC's opinion in detail. I considered
17	THE WITNESS: Let's go to my MCL.	17	the IARC monograph exactly as I would any
18	I'll point them out for you. That's fine.	18	other review article as a review of
19	It's not a problem.	19	published data with which I used to
20	BY MR. LITZENBURG:	20	double-check that. There was no studies I
21	Q. Do you remember the question pending	21	had excluded from my analysis.
	is: Which of these shows a dose-response for		BY MR. LITZENBURG:
23	which you don't like the patient population	23	Q. What other disagreements do you have
	numbers?	24	
25	MR. JOHNSTON: I'm going to	25	MR. JOHNSTON: Objection. No
	WIR. JOINING TON. THE going to		MR. JOHNSTON, Objection, No
	Page 195		Page 197
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12	object on the grounds that that's compound and also argumentative and also	1 2	foundation. Misstates the record. THE WITNESS: Yeah. I I am
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	Page 198		Page 200
	carcinogens, yes.	1	ravorable and that he knows what
2	Q. Do you agree with the EPA's	2	Monsanto's case is.
3	classification of glyphosate or Roundup?	3	THE WITNESS: And I do not I
4	A. Again, I did not take the EPA's	4	do not know of any unpublished data from
5	classification into consideration when I wrote	5	this project.
6	this report.	6	DT MICHIEL (DOICO)
7	Q. Why did you put it in your Materials	7	Q. So you were only given one set of
8	Considered List?	8	
9	A. I pardon me.	9	A. I was given the 2013 draft
10	Q. You just said you didn't consider	10	manuscript by Alavanja, et al. updating
11	it, but it's on your Materials Considered List?	11	glyphosate in the AHS data set through 2008.
12	A. I misspoke. I did not rely upon it.	12	Q. Do you think that this methodology
13	Again, because it is IARC is also	13	in Figures 4 and 5 is better than that of
14	on my list. I did not rely on IARC. I did not	14	Eriksson?
15	rely on any review articles. I did not rely on	15	A. Apples and oranges. My I think
16	any opinion pieces. I did not rely on any the	16	Figure 4 and 5 are illustrative of the
17	results for any regulatory agencies.	17	relationship described in the AHS study. They
18	Q. Was it all peer reviewed, everything	18	are completely congruent with it and do not show
19	you relied on?	19	the expected changes one would see if that
20	MR. JOHNSTON: Objection. Vague.	20	hypothesis or if that if that result was
21	THE WITNESS: Yes, at some	21	different in fact.
22	juncture all the all the data that	22	Q. Do you think that working in
23	that all the data I really relied on,	23	agriculture places you at increased risk of
24	truly relied on, yes, was peer reviewed.	24	non-Hodgkin lymphoma?
25	There was other aspects of it that were	25	A. I think there's a very long,
		1	
	Раде 199		Page 201
1	Page 199 sort of updates of peer-reviewed data	1	Page 201 well-established set of data indicating that
1	sort of updates of peer-reviewed data.		well-established set of data indicating that
2	sort of updates of peer-reviewed data. So while the final followup on	2	well-established set of data indicating that farmers have a small but real increase in NHL
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2 3	sort of updates of peer-reviewed data. So while the final followup on certain patients from AHS studies had not yet been published, it was collected in	2 3 4	<ul><li>well-established set of data indicating that</li><li>farmers have a small but real increase in NHL</li><li>compared to the general population, yes.</li><li>Q. Well, did you account for that in</li></ul>
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	WIIIam H. Fiem		- 1
	Page 202		Page 204
1	Q. What have you done to study measures	1	They focused on pesticide
2	of major agricultural areas? I mean, what are		applicators. They went where the assumed problem
3	you comparing this to to say that they match up?		was. There was a lot of preliminary evidence
4	It's circular logic, isn't it?	4	suggesting that might be a fruitful place to look
5	MR. JOHNSTON: Objection.	5	for the increased incidence of NHL in farmers.
6	Compound.	6	And they said, all right, let's get
7	BY MR. LITZENBURG:	7	a cohort, a large cohort. 57,000 pesticide
8	Q. You're telling me that because they	8	users. 75 percent of whom had glyphosate
9	use glyphosate, it's an agricultural area; is	9	exposure. So the tyranny of small numbers that
10	that right?	10	you get in case reports disappears when you have
11	A. Uses of glyphosate certainly in the	11	a robust prospective cohort study.
12	range, the higher range, which I would say is of	12	Q. You put in here that children are at
13	greater than 88 pounds per square mile as	13	50 percent increased risk of non-Hodgkin lymphoma
14	compared to less than 4 pounds so we're seeing	14	if they grew up on a farm; is that right?
15	20-fold differences, round numbers aggregate	15	A. Not as children. That's not what it
16	as expected within the major agricultural areas	16	says.
17	of the United States.	17	Q. People who grew up on a farm through
18	Q. Have	18	18 years of age?
19	A. Full full stop. I don't need	19	A. Which is a very different statement.
20	I don't need any additional data to convince me	20	Q. Okay.
21	that the Central Valley of California has a high	21	A. That means if you grew up on a farm
22	glyphosate usage, and this is also true of, you	22	through 18 years of life, your risk of developing
23		23	NHL subsequently was higher. It does not say you
24	As I pointed out, it's it's very	24	develop NHL as a child.
25	clear. We're not drawing fine lines and borders.	25	Q. What is that excess risk from?
	Dama 202		Dr 205
1	Page 203	1	Page 205
	We're looking at with we're looking at broad	1	A. We do not know.
	areas of known agricultural activity that have	3	Q. Okay. You just know it can't be
4	high uses of glyphosate.	4	glyphosate?
	That's they're essentially you're right. They're essentially defined by	5	MR. JOHNSTON: Objection.
6		6	Misstates his opinion.
7	glyphosate use themselves.	7	THE WITNESS: What I do know is
	Q. So you would define a major	8	that the Agricultural Health Study
8	agricultural area by the amount of glyphosate it	9	enrollees in 1993 were median age of 47,
	uses?		and this means that all of them, I mean,
10	A. I think there would be a very strong	10 11	the median in that group would have been
11	correlation, but I'd be happy to entertain any	12	older than 18 years of age in about 1961,
13	data you have to the in the contrary.	13	a full a full 13 years before
	Q. Do you know how the AHS study	14	glyphosate became available.
	controlled for the elevated risk of agricultural	15	So those individuals who were,
15	workers?	16	you know, in this study who have higher
17	A. Controlled for it?	17	incidences if, in fact, they were raised
18	Q. Yeah.	18	on a farm, it had to be I have no idea
19	A. Yeah. I'm not sure I understand	19	what the exposure was, but I know with
20	your question.	20	confidence that the vast majority of them
20	Q. Did it?	20	absolutely would not have been young
	A. What they did was, they did what was	21	enough to have had any glyphosate exposure
22	not possible in the case-control study where you take a population of patients with a disease or	22	in the first 18 years of their life.
23	take a population of patients with a disease or	23	BY MR. LITZENBURG: Q. Well, which is it? You have no idea
24			
24 25	an outcome and then look down that list to find affected individuals.	25	

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	Page 206		Page 208
1	confidence?	1	substantively between 1975 and about 1990.
2	MR. JOHNSTON: Objection.	2	At that point, the curve began to flatten
3	Argumentative.	3	out until 2004, and from 2004 on it has
4	THE WITNESS: I have absolute	4	actually begun to decrease.
5	confidence that the when you subtract	5	So the pattern is an increase for
6	the median age of enrollees in 1993 and	6	the first 10 or so years, a decrease in
7	then ask when they turned 18 years of age,	7	the rate, followed by a fall.
8	this would be approximately a decade	8	BY MR. LITZENBURG:
9	before glyphosate was ever used in the	9	Q. The truth is from '74 to 2009, the
10	United States. Therefore, the one	10	incidence of NHL has gone up in every single
11	cannot correlate.	11	subgroup that SEER measures; right?
12	One can conclusively, I think,	12	MR. JOHNSTON: Objection. Vague.
13	state that glyphosate in those individuals	13	BY MR. LITZENBURG:
14	who turned 18 before 1974, they simply	14	Q. Every race, every age group?
15	cannot have their disease, their NHL or	15	MR. JOHNSTON: Objection. Vague.
16	anything else, attributed to glyphosate in	16	THE WITNESS: Every single
17	childhood.	17	subgroup? The subgroups that SEER looked
18	BY MR. LITZENBURG:	18	at are actually, this is, you know, this
19	Q. So the fact that NHL existed before	19	is SEER data. It's there in the figure.
20	Roundup pushes you toward the conclusion that	20	And this Panel A is adults age
21	Roundup can't cause NHL?	21	50, all races, both sexes, 1975 to 2014,
22	MR. JOHNSTON: Objection.	22	and you can, you know, look at any any
23	Misstates his testimony.	23	time interval you wish there to to talk
24	THE WITNESS: No. In this very	24	about rate.
25	well-defined group of patients who became	25	And the rate initially increased
	went defined group of patients who became		This the fate initially increased
	Page 207		Page 209
1	adults long before glyphosate was	1	for unknown reasons, began to decrease,
2	adults long before glyphosate was approved, we cannot attribute their NHL to	2	for unknown reasons, began to decrease, plateaued, and fell. In other words, the
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	to follow up?		you know, there there can't be a meaningful
2	A. I can't there's a loss to follow	2	result derived from studying that premise.
	up in every study. And, in fact, a well-designed	3	Q. No. I asked if it was one of the
	study will take into account the expected loss	4	Bradford Hill criteria.
5	over time in order to have sufficient numbers.	5	A. I don't know if it's if it's one
6	Q. How do you do that? How do you make	6	of the nine Bradford. I suspect it's
7	up for the loss over time?		incorporated in it, but I have, you know, not
8	A. You talk to well-qualified	8	memorized all all nine criteria.
9	statisticians and epidemiologists before setting	9	Q. Do you know if Roundup has been
10	up a comprehensive cohort study, as the AHS is,	10	shown in some studies to cause DNA damage?
11	and you say what would we anticipate, you know,	11	A. I'm sorry. I didn't hear your
12	loss to follow up be over time and how should	12	question.
13	we how many people should we enroll in the	13	Q. Do you know if Roundup has been
14	study to compensate for this difference.	14	shown in any studies to cause DNA damage?
15	Q. Uh-huh. And how did they compensate	15	A. Again, of I was I was retained
16	for the loss to follow up? Did they make that?	16	in this matter to look at human etiology and
17	A. You can't compensate for the loss to	17	epidemiology. I was not retained as a DNA damage
18	follow up. Most	18	expert.
19	Q. What did they do to adjust it?	19	Q. What are the mechanisms of action
20	MR. JOHNSTON: Objection. Quit	20	that you considered in looking at this potential
21	interrupting him and let him answer your	21	association?
22	question before you ask another one, which	22	A. In my mind, before you have
23	renders your question a compound question.	23	scientifically before you have a mechanism of
24	THE WITNESS: Could you repeat	24	action, you first have to have a, you know, a
25	your question, please?	25	solid relationship, and I know of no credible
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1		1	-
	BY MR. LITZENBURG:		scientific data that would suggest that there is
2	BY MR. LITZENBURG: Q. Yeah. In the Agricultural Health	2	scientific data that would suggest that there is an association between glyphosate and NHL. So
2 3	BY MR. LITZENBURG: Q. Yeah. In the Agricultural Health Study, what did they do to adjust for the loss to	2 3	scientific data that would suggest that there is an association between glyphosate and NHL. So there would be no mechanism to study.
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	Daga 214		Dage 216
	Page 214	1	Page 216
1	Incomplete hypothetical. Calls for	1	MR. JOHNSTON: Objection. Calls
2	speculation.	2	for speculation.
3	THE WITNESS: Anything we can do	3	You haven't shown him the paper,
4	to meaningfully reduce the cancer burden	4	counsel. You're asking him to speculate
5	in the United States makes sense. Where	5	about what the paper says and take your
6	you put a cutoff, many factors determine	6	word for it, that's not proper. You're
7	this.	7	testifying.
8	BY MR. LITZENBURG:	8	THE WITNESS: To the best of my
9	Q. And as those efforts to reduce the	9	knowledge, I am not a coauthor on any
10	cancer burden on the US, or whatever, you would	10	paper where the latency of of NHL is
11	not tell a current patient to stop using Roundup?	11	is the primary topic at all.
12	A. I would have no reason	12	BY MR. LITZENBURG:
13	MR. JOHNSTON: Objection. Asked	13	Q. Okay. Do you agree it's not proper
14	and answered.	14	for scientists to develop an opinion and then
15	THE WITNESS: I would have no	15	work backwards to get your data methodology to
16	reason to because I have no credible data	16	fit it?
17	leading me to that conclusion.	17	A. I disagree with your
18	BY MR. LITZENBURG:	18	characterization.
19	Q. Do you agree that NHL can be	19	Q. No. I asked you whether it was
20	secondary to prior cancer treatment?	20	appropriate or not.
21	MR. JOHNSTON: Objection. Asked	21	MR. JOHNSTON: Objection. Vague.
22	and answered.	22	THE WITNESS: Yeah. I your
23	THE WITNESS: In a very narrowly	23	example does not fit the real scientific
24	defined group of patients, namely those	24	world in which I live and operate.
25	who have been previously diagnosed with	25	BY MR. LITZENBURG:
	Page 215		Page 217
1	-	1	
	non-Hodgkin's lymphoma, NHL can occur. How much of that is due to the underlying	1	Q. Do you know what our intake of
	HOW/HHICH OF HAT IS ONE TO THE HUDDENVING	1 2	
1 2		2	glyphosate is, our biological load from just
3	NHL genetics and the chemotherapy and	2	eating everyday foods?
4	NHL genetics and the chemotherapy and radiation therapy and those interactions	4	eating everyday foods? MR. JOHNSTON: Objection. Calls
4	NHL genetics and the chemotherapy and radiation therapy and those interactions are not well understood.	4 5	eating everyday foods? MR. JOHNSTON: Objection. Calls for speculation and hypothetical
4 5 6	NHL genetics and the chemotherapy and radiation therapy and those interactions are not well understood. BY MR. LITZENBURG:	4 5 6	eating everyday foods? MR. JOHNSTON: Objection. Calls for speculation and hypothetical incomplete.
4 5 6 7	<ul><li>NHL genetics and the chemotherapy and radiation therapy and those interactions are not well understood.</li><li>BY MR. LITZENBURG:</li><li>Q. What is the latency period for that</li></ul>	4 5 6 7	eating everyday foods? MR. JOHNSTON: Objection. Calls for speculation and hypothetical incomplete. THE WITNESS: Again, I was not
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	WIIIan H. Field.	<u> </u>	- · · · · · · · · · · · · · · · · · · ·
	Page 218		Page 220
1	exposed to glyphosate through the diet?	1	between glyphosate and NHL in the
2	A. It doesn't really matter how they're	2	published epidemiologic literature that
3	exposed to glyphosate when we have clear,	3	accounts and is adjusted for pesticide
4	compelling, reliable cohort data showing no	4	exposure.
5	association between glyphosate exposure and NHL,	5	BY MR. LITZENBURG:
6	and that was the focus of my report.	6	Q. Do you believe bladder cancer is
7	Q. Is dietary glyphosate taken into	7	associated with smoking?
8	account in these Figures 4 and 5?	8	A. I'm sorry. I didn't hear.
9	A. That in Figure 4, that's glyphosate	9	MR. JOHNSTON: Excuse me.
10	usage, I believe, per acre in these agricultural	10	BY MR. LITZENBURG:
	districts. End of story. But what	11	Q. Do you believe bladder cancer to be
12	Q. And, again, you don't know if that's	12	associated with smoking?
13	based on sales figures. You don't know where	13	A. The
	that comes from; right?	14	MR. JOHNSTON: Objection. Beyond
15	A. I know it is what the US government	15	the scope of the opinion.
16	consists considers the most reliable map of	16	THE WITNESS: Again, not the
17	glyphosate usage per acre in the United States.	17	not the subject of my expert report today
	That's all that data says.	18	here.
19	You're inferring that it can be	19	BY MR. LITZENBURG:
	looked at in greater detail, and I am I am not	20	Q. Do you know?
21	aware that it can and I have not done so.	21	A. I am not prepared to provide expert
22	Q. Is most of food grown in the Central	22	testimony as to that question today.
	Valley of California consumed in the Central	23	
	Valley of California?	24	
25	MR. JOHNSTON: Objection. Calls	25	•
	MR. JOHNSTON, Objection, Cans	2.5	A. I am not prepared to provide expert
	Page 219		Page 221
1	Page 219 for speculation and a hypothetical.	1	Page 221 testimony outside of the question I've been asked
1		1 2	-
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	Page 222		Page 224
1	cancer?	1	MR. JOHNSTON: Objection. Calls
2	A. There is a very strong association	2	for speculation. Go ahead.
3	between smoking and lung cancer, yes.	3	THE WITNESS: To conclusively
4	Q. Okay. And so you would you would	4	formulate a scientific opinion, yes, you
5	say it causes it?	5	would. Absolutely.
6	A. In some but not all people. The	6	MR. LITZENBURG: Okay. Time to
	full 10 percent of lung cancer cases occur in	7	break.
8	nonsmokers.	8	THE VIDEOGRAPHER: Time now is
9	Q. And you don't know whether it causes	9	1:59. We are going off the record.
10	bladder cancer or not?	10	(A brief recess was taken.)
11	A. There is a literature that would	11	THE VIDEOGRAPHER: Time now is
12		12	2:13. We are back on the record.
13	support an increased instance of bladder cancer in certain individuals who harbor certain	13	
14		14	BY MR. LITZENBURG:
15	mutations, two minor mutations.	15	Q. Dr. Fleming, do you hold an opinion
16	Q. Just two data points.		that any extrinsic factor is responsible
	The rate of cigarette smoking in	16	partially responsible for the rise in lymphoma
17	Egypt has gone up steadily in the last 30 years	17	over the last 20 years?
18	and the incidence or the percentage of diagnosed	18	MR. JOHNSTON: Objection. Vague.
19	cancers that are bladder cancers has gone down.	19	Calls for speculation.
20	Those are two maps you could put up next to each	20	THE WITNESS: Hepatitis C is an
21	other.	21	extrinsic factor. It affects a fair
22	Would that show us would that	22	number of the world's population and,
23	disprove the theorem that smoking is associated	23	amongst other things, it increases the
	with bladder cancer?	24	risk for NHL.
25	MR. JOHNSTON: Objection.	25	BY MR. LITZENBURG:
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1 2	Incomplete hypothetical. Calls for	1 2	Q. Any chemicals?
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<sup>9</sup> in NHL in farmers and spouses with <sup>9</sup> MR. JOHNSTON: Objection.
1 5
<sup>10</sup> allergic rhinitis. Almost a 40 percent <sup>10</sup> THE WITNESS: It
11reduction.11MR. JOHNSTON: Compound and
The hazard ratio was 0.63 and the $12$ vague. Go ahead.
<sup>13</sup> confidence limits were 0.51 through 0.79, <sup>13</sup> THE WITNESS: The original data
<sup>14</sup> and this is very interesting and shows the <sup>14</sup> was published. It showed no increased
ippeding associate initialinitation and i point and i point and interview of the factorial provision
and to the best of my knowledge.
20 immune function in the setting of allergic $20$ not find increased risk associated with
<sup>21</sup> rhinitis and a decrease risk of lymphoma. <sup>21</sup> glyphosate?
<sup>22</sup> BY MR. LITZENBURG: <sup>22</sup> A. Correct.
Q. I just asked you to identify more Q. Okay. Well, how do you define
<sup>24</sup> extrinsic factors that increased the incidence of <sup>24</sup> "statistical significance"?
$^{25}$ non-Hodgkin lymphoma, and you tell me that $^{25}$ A. In science in general, it is defined

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	Page 230		Page 232
1	typically by the 95 percent confidence limit.	1	
2		2	A. Sorry. Just a second here.
	Q. Okay. So one year ago you were not aware of any chemicals that could cause	3	Yes.
	-		Q. Okay. It says "The observed plateau
	non-Hodgkin lymphoma. Today you're aware of		in NHL instance." That's the sentence I'm
6	four, and they all come from the same article; is	5	concerning myself with.
7	that accurate?		Have you found that?
	A. They	7   8	A. Yes, I have.
8	MR. JOHNSTON: Objection.		Q. Okay. Now, I'm interested in you
9	THE WITNESS: do not come from	9	explaining the subparts to me.
10	the same article. No. I mean, the	10	You proffer possible decrease in the
11	glyphosate conclusions come from one		presence of extrinsic factors that previously
12	article, the allergic rhinitis comes from	12	increased the risk of NHL.
13	a second article, and the pesticides come	13	A. That is one possibility, yes.
14	from yet a third article.	14	Q. Well, then we'll parse it out.
	BY MR. LITZENBURG:	15	What are extrinsic factors that
16	Q. Allergic rhinitis doesn't cause	16	previously increased the risk of NHL that
17	non-Hodgkin lymphoma. I thought you just told me	17	decreased over this period?
18	that.	18	A. This paragraph and this hypothetical
19	A. It modulates the risk for	19	construct in this paragraph are not dependent on
	non-Hodgkin lymphoma.	20	any specifically identified. This is this is
21	Q. I don't know how to use the word	21	a theoretical analysis for the plateau and
	"modulate." You think I said that? You think		decline in 2004, and it may be caused this is
	you're answering my question?		this is just looking at the possibilities in a
24	MR. JOHNSTON: Maybe your		general sense and does not refer to any
25	questions are bad, counsel.	25	particular extrinsic factor.
	Page 231		Page 233
1	Page 231 THE WITNESS: I'd be happy to	1	Page 233 Q. Do you know of any extrinsic factors
1 2	-		_
	THE WITNESS: I'd be happy to		Q. Do you know of any extrinsic factors that previously increased the risk of NHL that
2	THE WITNESS: I'd be happy to have you restate your question.	2	Q. Do you know of any extrinsic factors that previously increased the risk of NHL that
2 3 4	THE WITNESS: I'd be happy to have you restate your question. BY MR. LITZENBURG:	2	<ul><li>Q. Do you know of any extrinsic factors that previously increased the risk of NHL that decreased over this period?</li><li>A. Prior to the publication of the AHS</li></ul>
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	Page 234		Page 236
	BY MR. LITZENBURG:	1	MR. JOHNSTON: Objection. Vague.
2	Q. That that decreased from '74 to	2	THE WITNESS: Yeah. You've
3	2014?	3	actually I have the combination is
4	MR. JOHNSTON: Objection. Vague.	4	the two together.
5	I think you	5	BY MR. LITZENBURG:
6	THE WITNESS: I miss sorry. I	6	Q. Uh-huh. How would this work in
7	misunderstood your question.	7	combination to decrease the incidence of
8	That answer would not be	8	non-Hodgkin lymphoma?
9	applicable to the time frame you	9	A. Chemical Factor A hypothetically
10	mentioned.	10	causes NHL. Chemical Factor B gets introduced
11	BY MR. LITZENBURG:	11	and in some way mitigates the pathways
12	Q. Okay. Can you list any examples?	12	responsible for lymphoma development, and
13	MR. JOHNSTON: Objection. Vague	13	lymphoma development declines. This is a
14	and misstates his testimony. He's already	14	hypothetical.
15	answered that question.	15	Another hypothetical would be that
16	THE WITNESS: This is a	16	Factor A is an external factor causing NHL and
17	hypothetic this is a hypothetical	17	Factor B comes along and the use of Factor B
18	construct about potential explanations for	18	leads to the diminished use of Factor A and,
19	why this may have occurred.	19	consequently, NHL incidence fall.
20	There is no data to support any	20	The third possibility is that both
21	of those three possibilities, and it was		of those things happen.
22	not meant in reference to any particular	22	The fourth possibility that nothing
23	factor or factors. That's why it was	23	happens would be, you know, not worth postulating
24	posed in the hypothetical.		because something is causing the incidence to go
	BY MR. LITZENBURG:		down.
123	DI WIK. LIIZEINDUKU.	23	dowii.
	Page 235		Page 237
1	Page 235 Q. Can you list any examples?	1	Page 237 Q. And you can't give me one example of
1 2	_	1 2	-
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	Page 238		Page 240
1	have you any first degree relative with any type	1	basis of my opinion. They are not
2	of blood cancer? A different question. This	2	epidemiologic studies, so they cannot be
3	will increase the risk of NHL by twofold.	3	compared to any epidemiologic study.
4	Q. Do you believe that to demonstrate	4	BY MR. LITZENBURG:
5	causality?	5	Q. Do you know if there's a published
6	A. This merely demonstrates an	6	meta risk that reaches statistical significance?
7	association. It doesn't it doesn't	7	A. I
8	necessarily. There could be it could be	8	MR. JOHNSTON: Objection. Vague.
9	genetic susceptibility with multiple causes that	9	THE WITNESS: Again,
10	could be different from individual to individual.	10	meta-analyses by definition involve
11	This does not address any of those questions.	11	analyzing retrospective studies. With the
12	Q. Is there an association between	12	existence of a prospective study,
13	glyphosate use and non-Hodgkin lymphoma?	13	retrospective studies are certainly still
14	A. To my reading of the literature,	14	useful to generate further hypotheses, but
15	there is no credible scientific evidence that	15	they they can't really, you know,
16	establishes a relationship between glyphosate use	16	address the association question.
17	and NHL.	17	BY MR. LITZENBURG:
18	Q. Why do we why are meta-analysis	18	Q. Do you is it your opinion that
19	done?	19	two-thirds of cancers have no external
20	A. I can't give you an expert opinion	20	contributing factor?
21		21	A. There's a very interesting article
22	speak with an epidemiologist.	22	published in Nature by Tomasetti, et al., and he
23	Q. Do you even know what the numerical		
	results of any of the meta-analyses in this case		senior author are experts in colon cancer and
	are?		colon stem cells. They have looked at this stem
			colon stem cens. They have looked at this stem
	Page 239		Page 241
1	Page 239 A. I really did not review and look at		cell question using hundreds of databases
		2	cell question using hundreds of databases throughout the country, trying to make sense of
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2 3 4	A. I really did not review and look at meta-analysis in any detail. I will say that the reason historically in medicine people have done it is	2 3	cell question using hundreds of databases throughout the country, trying to make sense of
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	Page 242	Page 244			
1	initiator? What are what are you trying to	<sup>1</sup> were provided to them by IARC to actually			
2	tell me?	<sup>2</sup> interrogate, you know, stem cell turnover data in			
3	A. I am saying	<sup>3</sup> order to to draw their conclusions.			
4	MR. JOHNSTON: Objection.	<sup>4</sup> Q. And you have no idea how that			
5	Compound. Calls for speculation.	<sup>5</sup> proportion translates to NHL?			
6	THE WITNESS: Right.	<sup>6</sup> A. No, I wouldn't be able to say in the			
7	MR. JOHNSTON: Vague.	<sup>7</sup> case of NHL at all how that. That's that's			
8	THE WITNESS: Could you unpack	<sup>8</sup> sort of that's a global number.			
9	your question?	<sup>9</sup> Q. Okay. Can we agree these five			
10	BY MR. LITZENBURG:	<sup>10</sup> factors on page 5 inherited genetic disorders,			
11	Q. Yeah. In 66 percent of cancer	<sup>11</sup> autoimmune disease, immunosuppressive drugs			
12	cases, you're saying that external factors played	<sup>12</sup> well, that's three factors			
13	no role or are you saying	$^{13}$ A. Uh-huh.			
14	A. No.	<sup>14</sup> Q are not accounted for in your			
15	Q. You're saying	<sup>15</sup> Figure 5 in any way?			
16	A. No, that's not correct.	<sup>16</sup> A. They I disagree with that			
17		<sup>17</sup> statement.			
18	Q that genetic mutation would be initiating?	<sup>18</sup> They are obviously included in this			
19	0	They are obviously included in this			
20	A. No, that's not correct.	<ul> <li><sup>19</sup> global data set because the data set is</li> <li><sup>20</sup> all-comers with NHL, and if there's a transplant</li> </ul>			
21	Q. What are you saying?				
	A. I am referring to a paper by	<sup>21</sup> recipient that's immunosuppressed, there's			
22	Tomasetti, et al., that's in my Materials	<sup>22</sup> somebody with hepatitis C that gets NHL, they			
23	Considered List that indicates of the mutations	<sup>23</sup> would all be part of that general population.			
	that are involved in cancer, about two-thirds of	<sup>24</sup> Q. What's the difference between a			
	them have nothing to do with the initial	<sup>25</sup> cohort study and a case-control?			
	them have nothing to do with the initial Page 243	<sup>25</sup> cohort study and a case-control? Page 245			
25	Page 243	Page 245			
25	Page 243 underlying predisposition. In other words,	Page 245 1 A. Well, in my view, the single most			
25 1 2	Page 243 underlying predisposition. In other words, mutations that you were born with, mutations that	Page 245 <sup>1</sup> A. Well, in my view, the single most <sup>2</sup> important aspect there are several			
25 1 2 3	Page 243 underlying predisposition. In other words, mutations that you were born with, mutations that you carried over from your parents. So that's	Page 245           1         A.         Well, in my view, the single most           2         important aspect there are several           3         differences. The most important aspect is one is			
25 1 2 3	Page 243 underlying predisposition. In other words, mutations that you were born with, mutations that you carried over from your parents. So that's the family genetics history.	Page 245 <ol> <li>A. Well, in my view, the single most</li> <li>important aspect there are several</li> <li>differences. The most important aspect is one is</li> <li>a retrospective study which looks back at</li> </ol>			
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	Case 5.10-Ind-02/WilliamchienFiem		g, m.e., m.e.
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1	or another identifies individuals with a	1	Q. And
2	particular disease, such as NHL, and then says	2	A. But it's the retrospective nature
3	we're going to get age matched, sex matched,	3	that in my mind is the is the critical
4	contemporary controls, and we're going to now	4	component. In clinical medicine, we do
5	question them as to their exposure to a drug,	5	retrospective studies all the time to generate
6	their exposure to a chemical, what have you.	6	hypotheses, and then we test them prospectively.
7	So they're in this situation where	7	The FDA will never give you a drug approval
8	they need to, in the case-control for NHL,	8	without a prospective trial. It simply isn't
9	identify NHL, individuals with NHL and ask them	9	done.
10	to participate in survey. The basis of which is	10	Q. Doctor, would it be ethical to do a
11	we're trying to collect information on what	11	prospective clinical trial on whether Roundup
12	caused your cancer. What can you tell us from	12	gives you cancer?
13	your memory?	13	MR. JOHNSTON: Objection.
14	In contrast, the prospective studies	14	Misstates his testimony.
15		15	THE WITNESS: Yes. There
16	place and say, okay, we need to keep very close	16	there is no need to do a prospective trial
17	track of what's happening in the future. We're	17	where patients are assigned various
18	going to be asking you questions realtime, you	18	groups. You simply design a cohort in
19	know, over over a period of time and ask you	19	which there are different individuals with
20	to, you know, update your answers as life and	20	different exposures and then analyze the
21	circumstances change.	21	data.
22	So those are the fundamental	22	BY MR. LITZENBURG:
23	differences.	23	Q. Would you agree a randomized
24	Q. Okay. What are the biases that each	24	clinical trial is the gold standard and that's
25	are susceptible to?	25	what you're referring to when you say a new drug
	Page 247		Page 249
1	Page 247 MR. JOHNSTON: Objection.	1	Page 249 gets approved?
1	MR. JOHNSTON: Objection.	1	gets approved?
	MR. JOHNSTON: Objection. Compound.		gets approved? A. You cannot do randomized studies in
2	MR. JOHNSTON: Objection. Compound. BY MR. LITZENBURG:	2 3	gets approved? A. You cannot do randomized studies in a in a population of individuals unless
2 3 4	MR. JOHNSTON: Objection. Compound. BY MR. LITZENBURG: Q. What is the biases that case-control	2 3 4	gets approved? A. You cannot do randomized studies in a in a population of individuals unless there's a clear potential benefit to that study,
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2 3 4 5 6 7	MR. JOHNSTON: Objection. Compound. BY MR. LITZENBURG: Q. What is the biases that case-control studies are susceptible to? A. Case-control studies are susceptible primarily to recall bias. Q. Anything else?	2 3 4 5 6 7	gets approved? A. You cannot do randomized studies in a in a population of individuals unless there's a clear potential benefit to that study, and there would be no potential benefit to a study that looked at extrinsic factors that caused cancer. Whereas, with treatment there is.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	MR. JOHNSTON: Objection. Compound. BY MR. LITZENBURG: Q. What is the biases that case-control studies are susceptible to? A. Case-control studies are susceptible primarily to recall bias. Q. Anything else? A. Meaning you're being asked to estimate an exposure to something in the past, and this is a challenging thing to do. Q. Anything else? A. Well, that, you know, that is that is one of the, you know, main important one that's one of the most important biases in it. And you've also you've also selected people who are, you know, now have the disease and are wanting to participate in such a study, and this may be a different cross-section of the population than if you study people prospectively who didn't have the disease. So people's motivation for being in the study, for staying in the study, for	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	gets approved? A. You cannot do randomized studies in a in a population of individuals unless there's a clear potential benefit to that study, and there would be no potential benefit to a study that looked at extrinsic factors that caused cancer. Whereas, with treatment there is. Q. You pretty much just considered temporality when you were deciding whether there's a causality fit between this agent and this disease; is that fair? MR. JOHNSTON: Objection. Vague. BY MR. LITZENBURG: Q. In terms of the Bradford Hill criteria, you find that it found temporality; is that fair? A. In terms of the Bradford Hill criteria, I was able to say pretty definitively that the marked steep increase in the incidence of NHL between 1975 and 1985, the etiologic agent for this has not been identified. But I said assuming approximately a 10-year latency period and an introduction of glyphosate in 1974, it's

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	glyphosate.	1	A. A confounding factor is one that, if
2	Q. It all depends on that presumption		taken into consideration, would no longer
3	of a 10-year latency period; right?	3	would actually be the real explanation for a
4	MR. JOHNSTON: Objection. Vague	4	
5	as to "all."	5	got, you know, if A and B look to be closely
6	THE WITNESS: Yes. It it	6	associated, but C is a confounding factor which
7	doesn't exclude the possibility of a given	7	could give a similar result, the result may be
8	individual having a shorter latency	8	due to C.
9	period, no. But there is a general	9	So as Bradford Hill himself said,
10	feeling, I believe, that 10 years is a	10	the important aspect of this is to make sure that
11	is a reasonable time period.	11	when you're comparing A to B, that some
12	There's exceptions on both ends	12	confounding factor is not responsible for any
13	of that, but if you're looking at the US	13	observed difference. That's basically his
14	population over a 10-year period, the bulk	14	central tenet.
15	of the patients are not going to be	15	Q. How did you do that in Figure 5?
16	exceptions. They're going to cluster at	16	MR. JOHNSTON: Objection.
17	the averages.	17	Misrepresents what Figure 5 is.
18	BY MR. LITZENBURG:	18	THE WITNESS: Yeah. Figure 5 is
19	Q. What are the other Bradford Hill	19	not an epidemiologic study. Figure 5 is
20	criteria that you considered in this report?	20	not a statistical study. Figure 5 is a
21	A. The presence of, you know, a	21	snapshot over time of glyphosate usage and
22	dose-response.	22	NHL incidence.
23	Q. Anything else?	23	This was constructed to address
24	A. Biological gradient. Those were the	24	the question of whether glyphosate usage
25	two I particularly decided to, you know, hone in	25	on a regional basis was in any way
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	on because those were relationships that I felt	1	associated with NHL incidence. Full stop.
2	on because those were relationships that I felt hadn't previously been fully addressed.	2	associated with NHL incidence. Full stop. No other no other conclusions can be,
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>on because those were relationships that I felt hadn't previously been fully addressed.</li> <li>Q. Other than the two you particularly chose to hone in on, did you consider any of the other Bradford Hill criteria?</li> <li>A. I'd like to take a look at the list to refresh my memory in order to discuss that further.</li> <li>Q. Can you name two other Bradford Hill criteria?</li> <li>A. I'm aware of the concepts. I'm not aware of the verbiage.</li> <li>Q. Can you name one that you considered in this case in addition to what you've already told us?</li> <li>A. My goal was not to consider Bradford Hill criteria. My goal was to consider the temporal aspect and the dose-response aspect, as I have in the in the data I showed you in this report, and I linked those two particular ones to Bradford Hill. I did not set out with a goal of trying to meet all nine Bradford Hill criteria Q. What's a</li> </ul>	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	associated with NHL incidence. Full stop. No other no other conclusions can be, you know, addressed from this, and this was basically, you know, demonstrated that the results of the AHS study were, in fact, correct. I had no idea of what Figure 5 was going to look like until I plotted them and looked at them. It could have easily been the other way around. I'm showing it to you, you know, because I chose to analyze that data and, in fact, I chose to analyze this data in this way, and you were not seeing expected patterns you would if there was a clear association of glyphosate and NHL at the county level when correlated with usage BY MR. LITZENBURG: Q. Do A in very basic ways. And the confounding factors that may exist are certainly there, but they would be somewhat mitigated that this is a country-wide

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	Page 254		Page 256
1	in the Southwest in 2 percent of the patients, at	1	So I was, therefore, you know,
2	the end of the day, the patterns wouldn't really	2	pretty confident that if there was going to be an
3	change very much.	3	association, the geographic association would not
4	Q. Confounding factors are all	4	dramatically change because the glyphosate data
5	geographic?	5	didn't.
6	MR. JOHNSTON: Objection.	6	Q. What other years did you look at for
7	Misstates his testimony.	7	this statement?
8	THE WITNESS: I did not make that	8	A. For which one now?
9	statement.	9	Q. What other years did you look at
10	BY MR. LITZENBURG:	10	before you picked 2000?
11	Q. Okay. Did you run this model for	11	MR. JOHNSTON: Objection. Asked
12	any latency assumption other than this 10-year,	12	-
13	eight to 12-year?	13	THE WITNESS: I looked several
14	A. There is relatively little hard data	14	years past 2000 and then I looked several
15	on the latency of NHL, as we discussed at length	15	years below 2000, including the earliest
16	earlier today. I used the best available data to	16	point in which the data was available. I
17	look at what people seem to think is a reasonable	17	can't recall that now.
18	time period. This has been suggested in the	18	If you'd like to bring up the web
19	literature in many studies.	19	page, we can answer your question.
20	Q. That's not what I asked.	20	BY MR. LITZENBURG:
21	You said you didn't know what this	21	Q. Do you know if it was the '40s or
22	would look like before you ran it.	22	· ·
23	Did you also run it for a five-year	23	MR. JOHNSTON: Objection. Asked
	assumption and a 15-year assumption? Anything	24	-
	other than your 10-year assumption?	25	THE WITNESS: I would say it was
	ouler than your 10-year assumption:		THE WITTLESS. I would say it was
	Page 255		Page 257
1	Page 255 A. It's not a 10-year assumption. If	1	-
	-	1	the 1990s.
2	A. It's not a 10-year assumption. If you look at it, you'll see it's an eight to 12-year assumption.		the 1990s.
2	A. It's not a 10-year assumption. If you look at it, you'll see it's an eight to	2 3	the 1990s. BY MR. LITZENBURG:
2 3 4	A. It's not a 10-year assumption. If you look at it, you'll see it's an eight to 12-year assumption.	2 3 4	the 1990s. BY MR. LITZENBURG: Q. Do you know if it went back to the
2 3 4	<ul><li>A. It's not a 10-year assumption. If you look at it, you'll see it's an eight to 12-year assumption.</li><li>Q. Did you run it with any other</li></ul>	2 3 4	the 1990s. BY MR. LITZENBURG: Q. Do you know if it went back to the use did you look at the decade following the
2 3 4 5 6	<ul><li>A. It's not a 10-year assumption. If you look at it, you'll see it's an eight to 12-year assumption.</li><li>Q. Did you run it with any other assumption?</li></ul>	2 3 4 5	<ul><li>the 1990s.</li><li>BY MR. LITZENBURG:</li><li>Q. Do you know if it went back to the use did you look at the decade following the introduction of Roundup to the market?</li><li>A. This mapping data that we're talking</li></ul>
2 3 4 5 6	<ul><li>A. It's not a 10-year assumption. If you look at it, you'll see it's an eight to 12-year assumption.</li><li>Q. Did you run it with any other assumption?</li><li>A. I looked at a couple of different</li></ul>	2 3 4 5 6	<ul><li>the 1990s.</li><li>BY MR. LITZENBURG:</li><li>Q. Do you know if it went back to the use did you look at the decade following the introduction of Roundup to the market?</li><li>A. This mapping data that we're talking</li></ul>
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	WIIIIAM II. IICM		
	Page 258		Page 260
1	incidents, and then I backed off by, you know,	1	(The reporter read the record on
2	till till the year 2000.	2	page 259 lines 10-12.)
3	Q. Is it your opinion that glyphosate	3	MR. JOHNSTON: Same objections.
4	doesn't cause non-Hodgkin lymphoma?	4	THE WITNESS: Which population?
5	A. My	5	That is a very vague statement. I can't
6	MR. JOHNSTON: Objection. Asked	6	address that.
7	and answered.	7	BY MR. LITZENBURG:
8	THE WITNESS: My opinion is there	8	Q. Do you have an opinion that
9	is no credible scientific evidence that	9	glyphosate or Roundup exposure increases the risk
10	shows an association between glyphosate	10	of non-Hodgkin lymphoma in any population?
11	and NHL.	11	A. I am not aware of any credible
12	BY MR. LITZENBURG:	12	scientific evidence linking glyphosate use to the
13	Q. So it's better characterized as you	13	development of NHL.
14	simply don't know?	14	Q. Why did you ask me which population?
15	A. There is	15	A. Your first question sound like
16	MR. JOHNSTON: Objection.	16	sounded like you were specifying something and
17	Misstates his testimony.	17	didn't complete it. Your second one was an
18	THE WITNESS: Yeah. There is no	18	-
19	scientific evidence today that supports an	19	Q. Okay.
20	association between glyphosate and NHL in	20	A. So I did not understand what the
21	what I consider to be a scientifically		term "population" referred to. Was that a
22	credible manner.	22	population in California? A population in Iowa?
23	BY MR. LITZENBURG:	23	The population of the cohort study? I asked you
24			
	Q. Do you have an opinion as to whether	25	to clarify that question. Thank you.
25	it increases or decreases the risk of non-Hodgkin	25	Q. And you agree that you would be
	Page 259		Page 261
1	Page 259 lymphoma?	1	-
1	-		Page 261 comfortable at a meeting with other oncologists discussing your recommendation for parents to go
	lymphoma?		comfortable at a meeting with other oncologists
2	lymphoma? MR. JOHNSTON: Objection. Vague	2 3	comfortable at a meeting with other oncologists discussing your recommendation for parents to go
2 3	lymphoma? MR. JOHNSTON: Objection. Vague as to "it." His opinion is stated in his	2 3	comfortable at a meeting with other oncologists discussing your recommendation for parents to go ahead and continue using glyphosate around
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2 3 4 5	lymphoma? MR. JOHNSTON: Objection. Vague as to "it." His opinion is stated in his report. Asked and answered. You're harassing the witness at this point. Go ahead. You can answer it.	2 3 4 5	comfortable at a meeting with other oncologists discussing your recommendation for parents to go ahead and continue using glyphosate around children with NHL? MR. JOHNSTON: I'm going to object. You've asked that argumentative
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Page 262P1beyond the scope of his opinion in this1exposure and NHL, I do not believe the2case.1exposure and NHL, I do not believe the3THE WITNESS: I am not in a2is any credible scientific evidence4position here to provide expert testimony3linking the two.5on the details of insecticide exposure and4BY MR. LITZENBURG:6when it should and shouldn't be5Q. What else do you do all right.7recommended.7THE VIDEOGRAPHER: Time n8BY MR. LITZENBURG:9(A brief recess was taken.)9Q. There are four things that you would9(A brief recess was taken.)10THE VIDEOGRAPHER: The tim11NHL patients, and they are those four pesticides1111NHL patients, and they are those four pesticides11	
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	le now
<sup>12</sup> in that article; is that true? <sup>12</sup> BY MR. LITZENBURG:	
<sup>13</sup> MR. JOHNSTON: Objection. <sup>13</sup> Q. Dr. Fleming, one more question.	
<sup>14</sup> Misstates his testimony. Speculative. <sup>14</sup> Is there anything that IARC has	
<sup>15</sup> Incomplete hypothetical. <sup>15</sup> classified one way or another that you've to	old
<sup>16</sup> THE WITNESS: I would explain to <sup>16</sup> any of your patients about?	
<sup>17</sup> patients that there was literature <sup>17</sup> A. Absolutely. IARC classifies toba	cco
<sup>18</sup> implicating five pesticides that had been <sup>18</sup> as a Class 1 carcinogen. It also classifies	
<sup>19</sup> recently published as part of a robust <sup>19</sup> alcohol as that, and certainly I counsel my	
<sup>20</sup> prospective cohort study, and if they were <sup>20</sup> patients who both smoke and consume alco	hol to
<ul> <li>interested in more information about</li> <li><sup>21</sup> the added effects of doing that.</li> </ul>	
these, you know, compounds, I would I 22 Q. Okay. So	
<ul> <li>would discuss it further but</li> <li>A. It also if I may continue?</li> </ul>	
<sup>24</sup> BY MR. LITZENBURG: <sup>24</sup> Q. Yeah.	
$^{25}$ Q. Have you had that discussion before? $^{25}$ A. There are a variety of	
	ige 265
<sup>1</sup> A. I have not actually been I have <sup>1</sup> chemotherapeutic agents cytotoxin,	
<sup>2</sup> mentioned to people that there may be <sup>2</sup> Vincristine, etoposide, Busulfan, just to nar	
<sup>3</sup> agricultural-related products. I mean, this has <sup>3</sup> few that are all classified as Level 1 hum	
<sup>4</sup> been known, as we discussed earlier, since at <sup>4</sup> carcinogens by IARC. And I discuss these	
<sup>5</sup> least the 1970s it increased the risk in farmers. <sup>5</sup> these when applicable when treating patien	s with
<sup>6</sup> And so if I'm talking to a farmer <sup>6</sup> great regularity.	
<sup>7</sup> and he says, hey, doc, what do you know now? I <sup>7</sup> Q. Okay. Alcohol, tobacco, chemo.	
<sup>8</sup> will absolutely tell him that. <sup>8</sup> Anything else?	
<sup>9</sup> If I am talking to someone who lives <sup>9</sup> A. Those are the ones that absolutely	
<sup>10</sup> in an urban environment and has no questions <sup>10</sup> would be the great majority of things.	
<sup>11</sup> about exposures, I am not going to list these and <sup>11</sup> Occasionally a patient will, you know, mak	
<sup>12</sup> tell them that they must at all costs rethink	
<sup>13</sup> their exposure to these compounds and their <sup>13</sup> and if I don't readily know the answer, I'll s	•
<sup>14</sup> family must as well. Because I don't believe the <sup>14</sup> I'll need to, you know, get back to you on the	
$1^{15}$ association, while there, is strong enough to $1^{15}$ But, you know, my current answer is, it's not	
	ve a
<sup>16</sup> make that kind of recommendation. <sup>16</sup> ringing a bell, but next time we meet I'll ha	
17Q. You wouldn't tell those same17better answer for you. And I'll go look it up	).
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Golkow Litigation Services

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	Page 266		Page 268
1	about anything you believe is carcinogenic as a	1	
	result of IARC making that classification?		ERRATA
3	A. Not recently that I can recall, no.	2	
4	Q. Okay. And, again, what would you	3	
5	need to know to determine whether glyphosate was	4	PAGE LINE CHANGE
6	a contributing factor to the development of	5	
7	somebody's non-Hodgkin lymphoma? What would you	6	REASON:
8	need to know about that person?	7	
9	A. I wouldn't need to know anything	8	REASON:
10		9	
	case-specific causality question, and the general	10	REASON:
	causation question I should say the evidence is	11	
	very clear that there is no credible evidence	12	REASON:
	implicating glyphosate and NHL.	13	
15	So discussing it in a granular form	14	REASON:
	0 0	15	
	with an individual patient at any length doesn't	16	REASON:
17	1	17	
18	MR. LITZENBURG: All right.	18	REASON:
19	That's all I got.	19	
20	MR. JOHNSTON: All right. Give	20	REASON:
21	us a second. We may be done	21	
22	MR. LITZENBURG: Okay.	22	REASON:
23	MR. JOHNSTON: but I want to	23	
24	make sure.	24	REASON:
25	THE VIDEOGRAPHER: Time now is	25	
	Page 267		Page 269
1	3:09. We are going off the record.	1	
2	(A brief recess was taken.)	2	ACKNOWLEDGMENT OF DEPONENT
		-	ACKNOWLEDOWENT OF DEFONENT
3	THE VIDEOGRAPHER: Time now is	3	ACKNOWLEDOMENT OF DEFONENT
3 4	THE VIDEOGRAPHER: Time now is 3:12. We are back on the record.		I,, do
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	Page 270	
1	CERTIFICATE OF REPORTER	
2	DISTRICT OF COLUMBIA )	
3	I, DENISE D. VICKERY, CRR/RMR and	
4	Notary Public, hereby certify the witness was by	
5	me first duly sworn to testify to the truth; that	
6	the foregoing deposition was taken at the time	
7	and place stated herein; and that the said	
8	deposition was recorded stenographically by me	
9	and thereafter reduced to printing under my	
10	direction; that said deposition is a true record	
11	of the testimony given by said witness.	
12	I certify the inspection, reading and	
13	signing of said deposition were NOT waived by	
14	counsel for the respective parties and by the	
15	witness; and that I am not a relative or employee	
16	of any of the parties, or a relative or employee	
17 18	of either counsel, and I am in no way interested	
18	directly or indirectly in this action.	
20		
21		
22		
23	Denise D. Vickery, CRR/RMR	
24	Dombe Di Vienery, chuyinne	
25	My Commission expires February 14, 2018	