


Johnson v. Monsanto

 **Heydens, William F. (Vol. 01) - 01/23/2017**

1 CLIP (RUNNING 01:39:06.270)

 MR. MILLER: Good morning. ...

WH-0123-0000615 **145 SEGMENTS (RUNNING 01:39:06.270)**



1. PAGE 6:15 TO 6:19 (RUNNING 00:00:09.078)

15 MR. MILLER: Good morning.
16 This is Michael Miller on behalf of
17 plaintiffs, together with Tim
18 Litzenburg and Nancy Miller also of
19 The Miller Firm.

2. PAGE 9:03 TO 9:07 (RUNNING 00:00:05.771)


03 Q. Please state your full name.
04 A. My name is William Francis
05 Heydens.
06 Q. Heyden?
07 A. Heydens.

3. PAGE 10:06 TO 11:05 (RUNNING 00:00:40.640)

06 Q. How long have you been an
07 employee of the Monsanto Corporation?
08 A. I've been at Monsanto
09 approximately 33 years.
10 Q. All right. And you're a
11 full-time employee of the Monsanto
12 Corporation?
13 A. That is correct.
14 Q. Yes, sir.
15 And you have been continuously
16 a full-time employee of Monsanto for the last
17 33 years?
18 A. Almost 33, yes. I was actually
19 a part-time employee when I was in graduate
20 school and then came back, and I have been a
21 full-time employee the remainder of the time.
22 Q. Yes, sir.
23 And we are going to refer to
24 you today as Dr. Heydens because you, in
25 fact, are a doctor, right, sir?
00011:01 A. I am a doctor, yes.
02 Q. You're a doctor of would it be
03 fair to say toxicology?
04 A. Yes, I have a Ph.D. in
05 toxicology.

4. PAGE 14:12 TO 14:21 (RUNNING 00:00:27.196)

12 Q. All right, sir. And I want to
13 look at a document that I think summarizes
14 some of the things that you've done in the
15 field with Roundup, or glyphosate, in the
16 last several years, and I want to show you a
17 copy. It's produced from your file, your
18 custodial file, by Monsanto, and it's

 **0357 -**



19 Exhibit 3:1. Here's a copy for you and a
20 copy for -- I'm sorry, excuse me. I'm sorry

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21 to pull it back. I gave you the wrong copy.

5. PAGE 15:02 TO 15:04 (RUNNING 00:00:03.506)

02 Let me know when you've had a
03 chance to look at this. I'd like to ask you
04 a few questions about it.

6. PAGE 15:08 TO 15:08 (RUNNING 00:00:01.705)

08 THE WITNESS: Okay.

7. PAGE 15:10 TO 16:25 (RUNNING 00:01:18.514)

10 Q. Yes, sir.
11 And this is an e-mail sent from
12 you, William Heydens, right, sir?

13 A. That is correct.

14 Q. And it was sent in March -- it
15 looks like St. Patrick's Day 2015; is that
16 correct?

17 A. That is correct.

18 Q. Yes, sir.
19 And you were reminding a fellow
20 employee of Monsanto by the name of Josh
21 about five issues that you faced in the early
22 glyphosate days, mid to late 1980s, right,
23 sir?

24 A. The issues that Monsanto faced,
25 yes.

00016:01 Q. Yes, sir.
02 And you were involved in these
03 issues right, sir?

04 A. Yes, I was.

05 Q. Yes, sir.
06 One of them, the first one, was
07 the low level presence of formaldehyde,
08 carcinogen by inhalation, in Roundup. That
09 was an issue you dealt with, isn't it, sir?

10 A. Yes, that is something that has
11 come up.

12 Q. Another issue that came up:
13 Low level of presence of NNG,
14 N-Nitroso-Glyphosate, in Roundup. Many
15 N-Nitroso compounds are carcinogenic.
16 That was one of the issues that
17 you dealt with, right, sir?

18 A. That is another one, yes.

19 Q. Okay. And by "carcinogenic,"
20 we mean cancer-causing; is that what the word
21 means?

22 A. That is correct.

23 Q. The other issue, or the third
24 issue, here is: Many toxic studies for
25 glyphosate had been done at a lab, IBT,

8. PAGE 17:04 TO 18:05 (RUNNING 00:01:01.517)

04 You dealt with that issue as
05 well, right, sir?

06 A. Monsanto did. I did not
07 personally.

08 Q. All right, sir. The next issue
09 is: EPA seriously questioned if glyphosate
10 produced tumors in chronic mouse study -
11 glyphosate was put in Category D for
12 carcinogenicity for several years - our
13 detractors falsely spread the word that the

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14 EPA considered glyphosate to have
15 carcinogenic potential; was generally an
16 issue that you personally dealt with as well
17 as Monsanto, right?
18 A. I was involved in that issue,
19 yes.
20 Q. All right, sir.
21 And the next issue that you
22 were involved in here was: It was falsely
23 said that glyphosate is organophosphate, OP,
24 molecule, and OPs produce neurotoxicity;
25 thus, glyphosate is a neurotoxin.
00018:01 Generally an issue that you
02 dealt with, right, sir?
03 A. I personally didn't spend a lot

 -KE0357 - Clear Attached Exhibit 0357

04 of time, but that was something that did come
05 up.

9. PAGE 37:01 TO 37:02 (RUNNING 00:00:01.902)

00037:01 Q. Let's take a look at the
02 documents.

10. PAGE 37:08 TO 38:09 (RUNNING 00:01:20.548)

08 Q. We're going to look now at
09 Exhibit 3:5. Now, before we do, just to put
10 a time reference on this, Dr. Heydens, this
11 article came out in January -- I'm sorry, you
12 can tell us perhaps. I thought it came out
13 earlier.
14 A. It came out in September.
15 Q. September 2016, I thought, yes,
16 sir.
17 A. That is correct.
18 Q. All right. And the planning
19 for it began back in 2015, right, sir?
20 A. Let me think about that just a
21 second. So many things happened.
22 Yes, that would have been in
23 2015.
24 Q. It was, fair to say, something
25 you guys wanted to initiate after IARC to
00038:01 sort of explain your position on the science,
02 generally speaking?
03 A. This was something that we
04 wanted to initiate not to explain our view of
05 science. It's something that we wanted to
06 explain the best sound science way to look at
07 the data, which is exactly the way these
08 panels approached it, these scientists
09 approached it.

11. PAGE 38:10 TO 38:15 (RUNNING 00:00:13.646)

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10 Q. All right. Here's Exhibit 3:5,
11 a series of e-mails between you and others in
12 May of 2015 concerning post-IARC activities
13 to support glyphosate.
14 A copy for you and counsel,
15 sir. Thank you.



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12. PAGE 38:20 TO 38:20 (RUNNING 00:00:00.999)

20 THE WITNESS: Okay.

13. PAGE 38:22 TO 40:04 (RUNNING 00:01:26.214)

22 Q. Yes, sir.
23 This is -- one of the e-mails
24 here is from you. That's William Heydens,
25 right, sir?
00039:01 A. That is correct.
02 Q. In May of 2015, right?
03 A. That is correct.
04 Q. Sent it to Donna Farmer and
05 others, right, sir?
06 A. That is correct.
07 Q. And it's concerning a meeting
08 that you folks had had that day, right?
09 A. That is correct.
10 Q. And some things that you were
11 going to do is publish on animal data cited
12 by IARC, right, sir?
13 A. Really what this is, these
14 are -- these were ideas that we had at that
15 point in time. We hadn't established
16 which -- exactly which ones. This was more
17 the things that rose to the top as
18 possibilities as part of our overall
19 brainstorming on the topic.
20 Q. And you wrote, sir, on the
21 publication on animal data cited by IARC,
22 there would be a manuscript to be initiated
23 by Monsanto as ghostwriters, right, sir?
24 A. That is written there, that's
25 true, but that's not -- but again, as I said,
00040:01 this was just thinking early on in the
02 process, and that's not what happened.
03 Ultimately, a totally different paradigm was
04 used.

14. PAGE 40:13 TO 41:17 (RUNNING 00:01:28.106)

13 Q. Let's see what it says here.
14 You say, "It was noted this would be more
15 powerful if authored by non-Monsanto
16 scientists, that is, Kirkland, Kier,
17 Williams, Greim and maybe Keith Solomon."
18 Do you see that?
19 A. Oh, yeah, I see that. So
20 I sort of misunderstood your question.
21 The idea here really is -- I
22 mean, you know, obviously it would be real
23 easy for Monsanto to write a scientific
24 paper, but really it would hold more weight
25 if we selected or, you know, if the panel was
00041:01 put together by independent experts who are
02 experts in the field, people that have done
03 these evaluations for 30 or 40 years and have
04 reputations in the international scientific
05 community.
06 And so that was what the --
07 thought that the best -- the best way for the
08 oncogenic potential to be evaluated is by
09 individuals like that.

 -KE0336 - Clear Attached Exhibit 0336




10 Q. In fact, you wanted to keep the

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11 costs down and use outside authors so you'd
12 have something to support your litigation
13 defense to the people that had non-Hodgkin's
14 lymphoma, right, Doctor?
15 A. As I said, it was just a
16 thought at this point in time, and that's not
17 ultimately how it was done.

15. PAGE 41:18 TO 41:22 (RUNNING 00:00:12.961)

18 Q. On the very same day, sir, you
19 wrote another e-mail with a PowerPoint, and I
20 want to talk to you about that. That is

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21 May 11, 2015. We'll mark that as
22 Exhibit 3:6.

16. PAGE 42:02 TO 42:03 (RUNNING 00:00:02.082)

02 Q. A copy for you and counsel,
03 sir.


17. PAGE 42:04 TO 42:25 (RUNNING 00:01:08.530)

04 Yes, sir. And this is a

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05 PowerPoint that you prepared, right, about
06 that same time, right, sir?

07 A. Yeah, I was -- there was
08 contributions from other individuals, but,
09 yes, I believe I did put this PowerPoint
10 together.

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11 Q. Let's go, sir, to page 4 of the
12 PowerPoint. This is the front page. Page 4
13 of that. Just a few questions on a couple of
14 things you were thinking at the time.

15 On page 4 you discussed
16 possibly doing a new meta-analysis. Explain
17 to the jury what a meta-analysis is.

18 A. A meta-analysis is where you
19 take more than one study, you take preferably
20 several studies that have been reported
21 individually, and you look at them
22 collectively.

23 Q. And you knew -- you already
24 knew what the meta-analysis would show before
25 you ever did it, right?

18. PAGE 43:03 TO 43:11 (RUNNING 00:00:14.450)

03 THE WITNESS: That's not
04 correct.

05 QUESTIONS BY MR. MILLER:

06 Q. It says, "The risk of doing a
07 new meta-analysis is none since we have
08 already done the analysis," right?

09 Is that what it says?

10 A. Where are you now?


11 Q. On page 4, sir.



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19. PAGE 43:22 TO 44:19 (RUNNING 00:01:00.206)

22 THE WITNESS: Yes.
23 QUESTIONS BY MR. MILLER:
24 Q. Okay. See it?
25 A. I don't recall exactly what I
00044:01 meant when I did that, but I think what I
02 referred to was the fact that the individual
03 studies that would be included in such
04 analysis, I was cognizant of what those
05 studies said. And so you would expect a
06 meta-analysis wouldn't show much different
07 than what the individual studies show.


 0391A-005 -

08 Q. Let's look at page 5, Doctor.
09 On page 5, you lay out some
10 points about possibly, quote, "Publication on
11 animal carcinogenicity data," right, sir?
12 A. That is correct.
13 Q. And what you say is, "Cost:
14 Majority of writing can be done by Monsanto,
15 keeping the costs down."
16 That's what happened, right?
17 The majority of the writing was done by
18 Monsanto?
19 A. That is not correct.



20. PAGE 44:20 TO 47:23 (RUNNING 00:03:11.261)

20 Q. You also wanted to do, if we


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21 could turn to page 7, an overall weight of
22 evidence --
23 Is that what WOE stands for,
24 sir?
25 A. That is correct.
00045:01 Q. -- overall weight of evidence
02 plausibility publication possibly via expert
03 panel concept.
04 Right, sir?
05 A. That is one of the
06 possibilities that we were thinking about at
07 that time.
08 Q. And you -- possible authors,
09 panelists, authors, you named a bunch of
10 folks, right, some of whom went on to be
11 authors in the Intertek report, right?
12 A. Yes. These are individuals, as
13 I said before, who are considered experts,
14 top of their field. And it was important
15 that if we were going to go ahead and do
16 something like this, we wanted top-notch
17 people in the field, and these are some
18 examples of individuals that would fall in
19 that category.
20 Q. And you were going to pay
21 around 200, \$250,000 to have these top-notch
22 people involved, right?
23 A. That was a real high-level
24 guesstimate that I put on the slide. I have
25 really no idea what ultimately it cost.
00046:01 Q. But you knew that by Monsanto
02 writing the article, you could keep the cost



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03 down, right?
04 A. Well, yes, I think I stated
05 that, but, again, I stated that ultimately

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06 that was not the model that we went with.
07 Q. And on page 8, you make it
08 clear what Monsanto's purpose is on the
09 genotox -- MOA means mechanism of action,
10 right, Doctor?

11 A. That is correct.
12 Q. Okay. You wanted to counter
13 IARC's claim of strong evidence of DNA
14 damage/oxidative stress, right, sir?

15 A. What we wanted to do is we
16 definitely wanted -- I mean, you know, when
17 you look at IARC, IARC did not do a solid
18 weight of evidence and did not use accepted
19 scientific principles. So we were interested
20 in making sure that that data did get
21 evaluated using accepted scientific
22 principles.

23 Q. You were actually interested in
24 litigation support, right?

25 A. That is not correct.

00047:01 Q. You wrote that.

02 A. I think I stated at least a
03 couple of times so far that my job and my
04 interest is to make sure that when glyphosate
05 is evaluated, that its evaluated using the
06 best scientific principles in a weight of
07 evidence evaluation.

08 Q. Let's go to what you wrote on
09 page 2, sir.

 0391A-002 -



10 A. Page, excuse me?

11 Q. 2.

12 A. 2?

13 Q. Yes, sir.

14 "Why do more?"

15 And your first bullet point:

16 "Severe stigma attached to a Group 2A
17 classification," right, sir?

18 A. That is written there.

19 Q. And what 2A classification
20 means is the World Health Organization, IARC,
21 determining that Roundup, glyphosate, is a
22 probable human carcinogen for non-Hodgkin's
23 lymphoma?

21. PAGE 48:04 TO 49:12 (RUNNING 00:01:15.174)

04 Q. You can answer.

05 A. That was their ultimate
06 classification, and we believe that is an
07 improper classification.

08 Q. And Aaron Blair was the head of
09 that IARC panel, right?

10 A. I don't know -- I don't know
11 that he was head of the panel. I don't know
12 if there was an actual overall chair and, if
13 so, who would have been the lead of that.

14 Q. But you knew Aaron Blair was
15 associated with IARC; that's why you wrote

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16 that sentence, right?
17 A. Certainly Aaron Blair
18 participated. He was one of the IARC panel
19 members, yes.
20 Q. Yes, sir.
21 And after the panel, he
22 continued to defend his work, right?
23 A. I recall seeing one instance
24 where he did that. Kind of vague on that.
25 Q. And what you were concerned
00049:01 about is that this IARC finding might move
02 pesticides to Group 1.
03 What does Group 1 mean, Doctor?
04 A. Group 1 is -- I believe the
05 word they use is a "known human carcinogen."
06 Q. Yes, sir.
07 And I didn't mean to interrupt.
08 Are you finished?
09 A. No, I was done.
10 Q. Okay. And you were concerned
11 about litigation support, right, sir?

 -KE0391A-002 - Clear Attached Exhibit 0391A-002



12 A. Where are you?


22. PAGE 49:15 TO 49:18 (RUNNING 00:00:08.730)

15 THE WITNESS: Again, my job is
16 to -- for the molecule, my job is to
17 make sure that the best science is
18 done.

23. PAGE 81:25 TO 82:04 (RUNNING 00:00:07.148)

25 Q. And you saw it before that
00082:01 journal article ever came out and helped edit
02 it, true, Dr. Heydens?
03 A. I don't recall telling them
04 what to say.

24. PAGE 82:08 TO 82:10 (RUNNING 00:00:04.478)

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08 Q. Let's take a look at
09 Exhibit 3:9, please. There's a copy for you
10 and counsel.

25. PAGE 82:11 TO 82:12 (RUNNING 00:00:05.011)

11 A. I apologize, but I'm still
12 looking for one thing that I have not found.

26. PAGE 82:13 TO 83:18 (RUNNING 00:01:34.698)

13 Okay.
14 Q. Yes, sir.
15 Now, if we could go to Bate


 0394-004 -



16 stamp 59011 of this chain of e-mails, what we
17 see here is that -- we'll start at the
18 bottom. Ashley Roberts from Intertek sends
19 you a copy of the proposed declaration of
20 interest, March of 2016, right, sir?
21 A. Yeah, I had forgotten that he

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22 did send that, but, yes, he did send it. How
23 it existed at that point in time, I think it
24 was -- if I recall correctly, he had
25 indicated to me that he had lots of
00083:01 conversations with the journal editor, but at
02 this point in time it was shared, yes.
03 Q. Yes, sir.

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04 And we go to page 0112. So to
05 be clear, you knew that the declaration was
06 going to say the authors had sole
07 responsibility for the writing and the
08 content of the article, and the
09 interpretations and opinions expressed in the
10 paper were those of the authors.
11 You were aware of that before
12 the article came out, right, sir?
13 A. I was aware of whatever it says
14 in the version that he sent me, yes.
15 If he sent it to me, I probably
16 read it.
17 Q. And to be clear, you had made
18 28 edits to the article in one draft alone?

27. PAGE 83:21 TO 85:06 (RUNNING 00:01:21.508)

21 THE WITNESS: Yeah, I'm not --
22 I think I stated before and -- you
23 brought that up, and I think I stated,
24 and certainly I would say, I don't
25 recall 28 edits, so I'd have to see
00084:01 what you're referring to.
02 QUESTIONS BY MR. MILLER:
03 Q. We'll look at that in a minute,
04 sir, but right now let's finish with this.
05 You said here -- did you review
06 the article before it was sent to the
07 journal?
08 A. What article are you referring
09 to?
10 Q. Any of the Intertek expert
11 panel articles.
12 A. As I said, they were certainly
13 sent to me. I read some parts of some of
14 them. I didn't read other parts. I don't
15 recall exactly which ones I -- you know,
16 which pieces I looked at and which pieces I
17 didn't, but I received copies.
18 Q. Sir --
19 A. I did not send back any --
20 where any evaluations or -- you know, any
21 information where I thought that, you know,
22 evaluations and conclusions should be
23 changed.
24 Q. Sir, you knew before the
25 article was published that the declaration
00085:01 was going to contain this language, quote,
02 "Neither Monsanto nor any attorney reviewed
03 any of the expert panel's manuscripts prior
04 to submission to the journal."
05 You knew that to be inaccurate,
06 didn't you, sir?

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28. PAGE 85:09 TO 85:18 (RUNNING 00:00:31.880)

09 THE WITNESS: Yeah, I don't


 -KE0394-005 - Clear Attached Exhibit 0394-005

10 know what he meant when he said that.
11 When I -- when I look at that
12 sentence, to me that says that, you
13 know, Monsanto, or namely me, that --
14 didn't ask for any substantive
15 changes, any edits, any conclusions,
16 any evaluations. That was -- that
17 work was theirs, and that's how I read
18 that to mean.



29. PAGE 98:03 TO 98:05 (RUNNING 00:00:05.512)

03 Q. A series of e-mails produced by


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04 Monsanto in this litigation. Here you go,
05 sir.



30. PAGE 98:06 TO 98:20 (RUNNING 00:00:56.120)

06 A. Okay.
07 Q. Yes, sir. So the series of
08 e-mails in July and in -- yes, sir, July

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09 of 2016. And start on page 2 with me, if you
10 could.
11 Here is an e-mail from Roger,
12 the editor of Critical Reviews of Toxicology,
13 to Ashley Roberts at Intertek.
14 Do you see that?
15 A. Yes.
16 Q. And what Roger is telling him,
17 among other things, "I am concerned that the
18 authors have chosen not to comply with
19 requests to make it easier for the readers to
20 identify all the relevant literature."



31. PAGE 98:24 TO 98:24 (RUNNING 00:00:00.882)

24 Q. Do you see that sentence?

32. PAGE 99:08 TO 99:18 (RUNNING 00:00:24.714)

08 A. You're just going to have to
09 let me read it here because I'm not getting
10 it.

11 Q. I'm sorry, I can't hear.

12 A. Oh, I'm sorry. I said let me
13 just take a little extra time because I'm
14 looking at this, and I'm confused by it.

15 Q. It's forwarded to you later. I
16 just wanted to ask you about this original
17 e-mail between the editor, Roger McClellan,
18 and Ashley Roberts at Intertek.

33. PAGE 99:22 TO 99:25 (RUNNING 00:00:05.436)

22 MR. MILLER: Of course.

23 THE WITNESS: I really don't
24 understand what that sentence is

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25 saying.

34. PAGE 100:11 TO 101:01 (RUNNING 00:00:33.508)

11 A. I think you would have to check
12 with Ashley on that. He's the person that
13 wrote that sentence.

14 Q. Is it your testimony Monsanto
15 wasn't giving Intertek any pressure to get
16 this published?


17 A. Well, clearly, you know, this
18 is a project that had gone on for a long
19 period of time, so I will say that I
20 personally was anxious to see this get
21 published, yes.

22 Q. You wanted to get this paper to
23 the agency so they could use this paper in
24 part of their obligations concerning public
25 health and their regulatory obligations,
00101:01 right?

35. PAGE 101:04 TO 102:03 (RUNNING 00:01:18.410)

04 THE WITNESS: I wanted to see
05 this paper get published because it is
06 the most comprehensive review by
07 experts that I've ever -- you know,
08 that I've ever seen. And so, I mean,
09 obviously I would want to see this get
10 published. You know, I think that's
11 an obvious thing.

12 QUESTIONS BY MR. MILLER:

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13 Q. And so Robert -- I'm sorry,
14 Roger writes back to Ashley fairly promptly
15 and says, "I'm also eager to get these papers
16 wrapped up."

17 And he goes on to say, "If
18 there" -- excuse me. I want to get this
19 right. "If you can say without consultation
20 with Monsanto, that would be great."

21 Let me back up. I want to make
22 sure I get this right.

23 See where I am at the bottom of
24 the page? I want to make sure I get the
25 whole thing.

00102:01 A. Yes, I see that.

02 Q. And a DOA is a declaration of
03 interest. That's what that means, right?

36. PAGE 102:06 TO 102:23 (RUNNING 00:00:44.348)

06 Q. I'm sorry, DOI, excuse me.

07 A. Yes.

08 Q. "The Declaration of Interest
09 should start something like this: The
10 employment affiliation of the authors is as
11 shown on cover page. However, it should be
12 recognized that each individual participated
13 in the review process and preparation of this
14 report as an independent professional and not
15 as a representative of their employer. The
16 remainder of the Declaration of Interest
17 should make clear how individuals were
18 engaged, that is, by Intertek. If you can
19 say without consultation with Monsanto, that

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20 would be great."
21 Now, would it be fair to say
22 that they were retained without consultation
23 from Monsanto, or would that not be true?

37. PAGE 103:02 TO 103:09 (RUNNING 00:00:13.280)

02 THE WITNESS: Yeah, could you
03 ask that question again, give me a
04 little context?
05 QUESTIONS BY MR. MILLER:
06 Q. Would it be fair to say or
07 would it not be true that Monsanto was
08 involved in selecting the experts for this
09 panel?

38. PAGE 103:12 TO 104:18 (RUNNING 00:01:16.323)

12 THE WITNESS: So we -- I
13 thought that we had covered this
14 previously, so I'll give you my answer
15 again.
16 So at the very beginning of the
17 process -- right now we're at the very
18 end of the process, but at the
19 beginning of the process we did -- I
20 did offer some names of who I believed
21 to be top-notch experts, gave that --
22 those names to Ashley, and then Ashley
23 and his folks selected who they
24 thought should be on the paper.
25 So as part of that process --
00104:01 and there were some cases where --
02 again, going all the way back to the
03 beginning of the process where some
04 contact might have been made with some
05 of them just from the standpoint of
06 asking them if they were interested
07 and if they're available.
08 So just really around that,
09 because obviously it wouldn't make
10 sense to offer up names of individuals
11 who either could not or did not want
12 to get involved.
13 QUESTIONS BY MR. MILLER:
14 Q. Well, the truth is, Doctor,
15 Monsanto selected some of the panel members,
16 but before any panel member was approved,
17 they had to go through Monsanto's legal
18 department?

39. PAGE 105:03 TO 106:01 (RUNNING 00:01:04.290)

03 THE WITNESS: So could you
04 repeat the part of the question that I
05 can answer?
06 MR. MILLER: We'll have her
07 read the question back.
08 (Court Reporter read back
09 question.)
10 THE WITNESS: So again,
11 provided names, and Ashley and
12 whomever he may have worked with was
13 responsible for ultimately deciding
14 who was going to be on the panel.
15 QUESTIONS BY MR. MILLER:
16 Q. Well, we'll look at some more
17 documents in that regard then in a second.

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18 Let's finish Exhibit 3:11. The
19 editor of the Critical Review of Toxicology,
20 Roger McClellan, says on July 5, 2016, "If
21 there was any review of the reports by
22 Monsanto or their legal representatives, that
23 needs to be disclosed."
24 Do you see that?
25 A. I see that.
00106:01 Q. It was not disclosed, was it?

40. PAGE 106:04 TO 106:14 (RUNNING 00:00:30.268)

04 THE WITNESS: Again, I can only
05 tell you this is conversation -- well,
06 not conversation. It's e-mail and

 -KE0359 - Clear Attached Exhibit 0359




07 conversations between the two of them.
08 I can only interpret what I
09 think they may have been talking
10 about, and my -- and I've already told
11 you, the only interpretation I can
12 come up with is it was their paper,
13 and there was no substantive
14 contribution from Monsanto.

41. PAGE 114:24 TO 114:25 (RUNNING 00:00:03.556)

24 Q. You mentioned to us how Larry
25 Kier got involved in this. Let's take a look

42. PAGE 115:11 TO 116:03 (RUNNING 00:00:51.006)

 0361 -



11 He was being retained to be on
12 a glyphosate expert panel, the one we've been
13 talking about, right?
14 A. Yes.
15 Q. Yes, sir.
16 And his job was to support a
17 panel review and analysis of the data on
18 genotoxicity and oxidative stress, right?
19 A. Yes. This is what I explained
20 previously, that we retained Larry originally
21 not as to be an author. And I think that's
22 reflected in the detailed objectives there.
23 Recall how I explained that
24 Larry had the best overall knowledge of the
25 database, and so he was retained for purposes
00116:01 of bringing everything together to support
02 the review. And that's exactly what's
03 reflected here.

43. PAGE 116:09 TO 117:14 (RUNNING 00:01:13.830)

09 Q. All right. He was supposed to
10 support the genotoxicity and oxidative stress
11 portion of the Intertek, and support the
12 generation of a panel draft manuscript on
13 glyphosate genotoxicity and oxidative stress,
14 right?
15 A. That's exactly what I said
16 previously.
17 Q. Right.
18 And he wasn't supposed to be an

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19 author, but later he did, in fact, become an
20 author, right?
21 A. That is correct.
22 Q. And these are the -- was he
23 paid more than this or -- or these amounts?
24 A. I don't know what he was paid.
25 I didn't -- I don't handle that.
00117:01 Q. All right, sir.

 **-KE0361 - Clear Attached Exhibit 0361**




02 A. I certainly don't keep track of
03 it.
04 Q. And to be clear, John
05 Acquavella was paid by Monsanto for his
06 support as well, right, sir?
07 A. The two of them -- as I've
08 said, the two of them were initially
09 consultants to Monsanto and later became
10 panelists and authors.
11 Q. I mean, would it be fair to say
12 there's two reasons why Monsanto would want
13 to ghostwrite these things: It's cheaper and
14 they get what they want, right?

44. PAGE 117:18 TO 117:25 (RUNNING 00:00:19.673)

18 THE WITNESS: As I've said
19 before, this document was not
20 ghostwritten. This document -- the
21 conclusions and documents came from
22 the panel. These are international
23 experts, and it reflects their
24 opinions on the data and their
25 conclusions.

45. PAGE 118:04 TO 118:06 (RUNNING 00:00:15.046)

04 Q. All right. Let's take a look

 **0362 -**



05 at Exhibit 3:14, a series of e-mails between
06 you and others concerning IARC planning.

46. PAGE 119:03 TO 119:05 (RUNNING 00:00:03.963)

03 Q. When you're ready, Doctor.
04 A. I'm almost there.
05 Q. No, I understand.

47. PAGE 119:06 TO 125:01 (RUNNING 00:07:00.430)

06 A. Okay.
07 Q. All right, sir.
08 Now, this is Exhibit 3-14, a
09 series of e-mails produced to us from you and
10 others in February of 2015, which to put this
11 in context, the original IARC report that
12 we've been talking about came out in March,
13 right, of 2015?
14 A. That's correct.
15 Q. So this was an IARC planning
16 discussion here, right, sir?
17 A. That's correct.
18 Q. All right. So let's go to the

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19 second page of it and look at an e-mail from
20 you -- I said second page and I meant -- yes,
21 sir, second page I meant. Sorry for the
22 confusion.
23 And it's an e-mail from you to
24 Donna Farmer and others regarding IARC
25 planning, right?
00120:01 A. That's correct.
02 Q. All right. So -- and I just
03 want to ask you a few questions about it.
04 The two -- "Prior phone call the other day --
05 with John the other day" --
06 Would that be John Acquavella?
07 A. Yes.
08 Q. -- "the next two most important
09 things that we are to do" -- I'm sorry. "The
10 next most important things that we need to do
11 are the meta-analysis publication and the Ag
12 Health Study follow-up publication, assuming
13 we can get our hands on the data in a
14 reasonable time frame."
15 Okay. What was the plan there?
16 A. Well, there wasn't a plan.
17 This is -- as you've noted, this is in our
18 planning stages where we're more in a
19 brainstorming method -- or excuse me, mode.
20 We hadn't seen what IARC had done yet, so
21 these are things that we were considering at
22 that point in time.
23 And so the Ag Health Study, if
24 you're asking me -- are you asking me about
25 the Ag Health Study?
00121:01 Q. I am, sir. Yes, sir.
02 A. Okay. So that -- the Ag Health
03 Study, we haven't talked about that, but that
04 is a very large-scale study that is ongoing
05 here in the United States. It's an
06 epidemiology study. And that study is a very
07 powerful study, in my opinion, much more
08 powerful than the other -- some of the
09 case-control epidemiology studies. But
10 anyway, it's a study that's ongoing.
11 And when you look at that
12 study, they collect data every year. That
13 study started approximately 1994, and then
14 they update that study on a yearly basis
15 after that.
16 If you look at the -- and then
17 they would -- when they update it, if they
18 have findings, then they will publish those
19 findings in a peer-reviewed journal. That's
20 what they do.
21 And when you look at that
22 study, that study -- the last update on that
23 was a publication that came out in 2005,
24 which actually had data collection. I
25 believe data collection ended around 2001.
00122:01 And so one of the thoughts was
02 that -- could take that study and add all the
03 additional information that has been
04 generated because we're sitting -- at this
05 point in time we're sitting at 2015. So it
06 seemed to us that there's a lot of

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07 information that's available, and why would
08 you not want to update that so you have a
09 more thorough set of data. That's what was
10 going on there.

11 Q. All right, sir. So in this
12 e-mail in February 2015 to Donna Farmer and
13 others, you go on to say, "For the overall
14 plausibility paper that we discussed with
15 John, where he gave us a butadiene example,
16 I'm still having a little trouble wrapping my
17 mind around that. If we went full-bore
18 involving experts from all the major areas,
19 epi, tox, genotox, mechanism of action,
20 exposure - not sure who we'd get, we could be
21 pushing 250,000 or maybe even more."

22 That was sort of the genesis
23 for this Intertek panel, right?

24 A. Yes. As I already explained,
25 this was kind of an evolving process, you
00123:01 know, brainstorming process. And originally
02 it was conceived as a plausibility paper,
03 which then did evolve into the more
04 comprehensive expert panel.

05 Q. Yes, sir.
06 And you go on to say, "A less
07 expensive, more palatable approach might be
08 to involve experts only for the areas of
09 contention, epidemiology and possibly
10 mechanism of action, depending on what comes
11 out of the IARC meeting, and we ghostwrite
12 the exposure tox and genotox sections."

13 You wrote that, right, sir?

14 A. Yes, I wrote that. And as I
15 indicated just -- or as I said just a moment
16 ago, again, this was early stage. This was
17 thoughts. It is not how it evolved.

18 As we already talked about, it
19 evolved into this comprehensive expert panel,
20 and it was not ghostwritten. It was written
21 by the experts themselves.

22 Q. Well, let's see what you wrote
23 in 2015. "An option would be to add Greim
24 and Kier or Kirkland to have their names on
25 the publication, but we would keep the cost
00124:01 down by us doing the writing, and they would
02 just edit and sign their names, so to speak."

03 That was the proposal in 2015,
04 right?

05 A. No. As I just said, that
06 was -- this is something that came out in a
07 brainstorming mode of thinking. It was just
08 something that came out at that point in time
09 as a possibility to consider.

10 It didn't get considered very
11 long, and obviously as I've said now, it's
12 not what happened. Same answer as I gave
13 previously.

14 Q. Well, you go on to say here,
15 "Recall, that is how we handled Williams,
16 Kroes and Munro in 2000."

17 Do you see that?

18 A. Yeah, I see that.
19 Apparently I didn't have good
20 recollection, because that's not what
21 happened with Williams, Kroes and Munro in
22 2000.

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23 Q. Dr. Heydens, the truth is, you

 -KE0362-002 - Clear Attached Exhibit 0362-002



24 ghostwrote the Williams article in 2000, and
25 you ghostwrote the Intertek article in 2016,
00125:01 correct?

48. PAGE 125:05 TO 125:08 (RUNNING 00:00:08.674)

05 THE WITNESS: That's absolutely
06 false. Did not ghostwrite the 2000
07 paper and did not ghostwrite this 2016
08 paper.

49. PAGE 125:19 TO 126:05 (RUNNING 00:00:22.296)

19 Q. All right, Dr. Heydens, how are
20 you?
21 A. Doing good.
22 Q. All right, sir.
23 Just before our break, your
24 answer was, in part, that it's absolutely
25 false that you ghostwrote any of the Intertek
00126:01 reports, right, sir?
02 A. That's correct.
03 Q. All right, sir. The truth is
04 you wrote a draft introduction chapter for
05 those reports, didn't you?

50. PAGE 126:08 TO 128:02 (RUNNING 00:02:04.805)


08 THE WITNESS: That's consistent
09 with what I said, really. So a couple
10 hours ago, whenever it was, when we
11 talked about it, I said that I
12 contributed some information that was
13 historical.
14 What you're referring to there,
15 again, reflects how the project
16 changed. So very early in the
17 process, kind of the model that we
18 were thinking of was that there was
19 actually going to be an introductory
20 chapter which really talked primarily
21 about the history of everything that
22 had happened leading up to the panel
23 because, again, as I explained
24 earlier, nobody knows better than
25 Monsanto, you know, what that history
00127:01 was and really has the only records of
02 that.
03 So it was conceived that there
04 would be an introductory chapter. We
05 really -- never really talked about
06 what the appropriate authorship for
07 that one was, and it just kind of hung
08 there as a draft while the panel was
09 doing their work.
10 And then when it got later in
11 the process, I don't remember exactly
12 when it was, but later in the process
13 when Ashley was communicating with the
14 journal, it was -- the journal made
15 the decision that there was not
16 enough -- excuse me, there was not
17 enough information to make an
18 introductory chapter interesting

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19 enough to be a standalone.
20 So what the journal decided to
21 do instead was they instructed Ashley
22 to take the -- what would be
23 appropriate history, extract it from
24 that article, which never happened,
25 and put it in the overall review
00128:01 document which turned out being
02 Exhibit 3.4.

51. PAGE 128:06 TO 128:09 (RUNNING 00:00:11.678)

06 Q. Let's take a look at some
07 e-mails from that period of time from you,

 0363 -

08 sir. These have been marked as Exhibit 3:15,
09 produced by Monsanto in this litigation.

52. PAGE 128:10 TO 129:20 (RUNNING 00:01:35.760)

10 A. Okay.
11 Q. Yes, sir. So Exhibit 3:15 is a
12 series of e-mails between you and Ashley
13 Roberts about these expert panel manuscripts
14 written in January of 2016, right?
15 A. Yes, that's correct.
16 Q. All right, sir. Now let's go

 0363-002 -

17 to the second page of -- and then we see an
18 e-mail from you to Ashley Roberts, and it's
19 an update on the animal bioassay and summary
20 chapters.
21 You go, "I'm not surprised at
22 the challenges with the summary chapter,
23 exclamation point," right?
24 A. Yes, that's correct. It's a
25 very complex and complicated document.
00129:01 Q. Yes, sir.
02 That you wrote, right?
03 A. That's not correct.
04 Q. Here's what it says in
05 January 2016. You said then, sir, "I had
06 already written a draft introductory chapter
07 back in October/November."
08 That's what happened, right,
09 sir?
10 A. Yeah, that's exactly what I was
11 just talking to in the previous -- in my
12 previous response.

 0883-015 -

13 Q. Yet when we go to Exhibit 3:4
14 that you just pointed out, page 16, it says,
15 "Neither Monsanto" -- "neither any Monsanto
16 Company employees nor any attorneys reviewed
17 any of the expert panel manuscripts prior to
18 submission to the journal."
19 You didn't just review them;
20 you wrote them.

53. PAGE 129:24 TO 129:25 (RUNNING 00:00:04.247)

24 Q. Wrote parts of the expert panel

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25 report; you wrote them, right, sir?

54. PAGE 130:04 TO 131:09 (RUNNING 00:01:24.182)

04 THE WITNESS: I'll answer
05 again: I wrote a draft introductory
06 chapter for possible use back at the
07 beginning, really, when the panel
08 concept was coming together. That --
09 and that -- the information that was
10 in there, again, was historical. It
11 had nothing to do with the panel
12 deliberations. Didn't even deal with
13 the data at all because, again, it was
14 historical.

15 Subsequently it was -- like I
16 said in the previous -- my previous
17 response, you know, moving forward and
18 getting later in time, the journal
19 editor didn't think it was even
20 appropriate to have the chapter, so he
21 had Ashley extract what would be
22 relevant historical information to
23 include in that publication, and
24 that's what Ashley did.
25

00131:01 QUESTIONS BY MR. MILLER:

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02 Q. So you went back, and let's see
03 what you said in 2016, January.

04 "But I wanted to go back and
05 re-read it to see if it could benefit from
06 any 'refreshing' based on things that have
07 transpired over the last 10 to 12 weeks."

08 How much refreshing did you do,
09 Dr. Heydens?

55. PAGE 131:12 TO 131:18 (RUNNING 00:00:12.185)

12 THE WITNESS: I don't recall
13 doing any refreshing.

14 QUESTIONS BY MR. MILLER:

15 Q. It says, "I will do that in the
16 next few days."

17 Did you do that the next few
18 days?

56. PAGE 131:21 TO 132:19 (RUNNING 00:00:59.315)

21 THE WITNESS: I don't recall
22 what was done. I might have gone back
23 and read it. I don't -- I don't
24 recall having doing that, and I don't
25 recall having modified anything.

00132:01 QUESTIONS BY MR. MILLER:

02 Q. You write in January of 2016,
03 "Then I was thinking I would run it by you
04 for your comments/edits."

05 That's what happened, right?

06 A. No. I said that's -- you're
07 taking that out of -- you know, out of
08 context. I'm suggesting that I was going to
09 take a look and see if it needed any
10 refreshing. And then what that sentence is
11 saying, if there was going to be any
12 refreshing, I would send it back to him.

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13 I don't recall that any
14 refreshing -- as I said previously, I don't
15 recall that that happened.
16 Q. You next write, "And then comes
17 the question of who should be the ultimate
18 author - you or Gary?"
19 Did you write that?

57. PAGE 132:22 TO 133:14 (RUNNING 00:00:39.122)

22 THE WITNESS: Yes, I did, and
23 it's -- that sentence there is
24 referring back to this introduction
25 chapter which ultimately was not
00133:01 included in the paper.
02 QUESTIONS BY MR. MILLER:
03 Q. I was --
04 A. Or excuse me. Was not included
05 in the publication. There were -- as I said,
06 there was actually five papers that were
07 published around this. That introductory was
08 meant to be -- in its initial phases was
09 meant to be -- the sixth one actually would
10 have been the first one, and like I said, it
11 was subsequently dropped. And so five went
12 forward, and this one did not.
13 Q. The introductory chapter was
14 put in the ones that were published?

58. PAGE 133:17 TO 134:10 (RUNNING 00:00:42.511)

17 THE WITNESS: So I think I
18 previously explained, Ashley took the
19 relevant -- information that he
20 thought was relevant from the
21 introductory paper, and it was put
22 into Exhibit 3.4, which is the overall
23 review document. None of it was put
24 in the other documents, the other
25 four -- excuse me, not documents,
00134:01 publications: the exposure, the gene
02 tox, the bioassay and the
03 epidemiology.

 -KE0363-002 - Clear Attached Exhibit 0363-002



04 QUESTIONS BY MR. MILLER:
05 Q. And that Exhibit 3:4 that you
06 just pointed to is where that information was
07 put in.
08 To be clear, you're not an
09 author. You're not a listed author on that
10 document, are you?

59. PAGE 134:13 TO 134:18 (RUNNING 00:00:20.106)

13 THE WITNESS: So which question
14 would you like me to answer?
15 MR. MILLER: The one I just
16 asked. You can read it back, ma'am.
17 (Court Reporter read back
18 question.)

60. PAGE 134:21 TO 134:23 (RUNNING 00:00:04.903)

21 THE WITNESS: So, no, I'm not
22 listed as an author on this paper. I
23 think we've established that.

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61. PAGE 144:21 TO 145:02 (RUNNING 00:00:16.826)


21 Q. And you remember as he's
22 preparing his exposure piece, he was
23 concerned about the formulation, that is to
24 say glyphosate added with its surfactant, as
25 being toxic.
00145:01 Do you remember that
02 conversation?

62. PAGE 145:09 TO 145:12 (RUNNING 00:00:07.632)

09 THE WITNESS: I don't really
10 recall. You'd have to let me see
11 something that gives me a little bit
12 more information.

63. PAGE 145:16 TO 145:24 (RUNNING 00:00:40.061)

16 Q. Let's take a look at the

 0366 -

17 documents. Exhibit 3:18, produced by
18 Monsanto in this litigation, a series of
19 e-mails between you, Donna Farmer and Ashley
20 Roberts at Intertek in August of 2007 -- I'm
21 sorry, '15. '15.
22 Look it over. I only have a
23 few questions.
24 A. Okay.



64. PAGE 145:24 TO 146:16 (RUNNING 00:00:41.242)

24 A. Okay.
25 Q. All right. So there's a few
00146:01 questions based on this series of e-mails.
02 Best if we start at the back where -- on

 0366-003 -

03 page 3935.
04 This is an e-mail from, again,
05 Ashley Roberts to you and Donna Farmer,
06 right?
07 A. That's correct.
08 Q. Okay. And it's the subject
09 "Keith." That's Keith Solomon, right?
10 A. Yes, that would be correct.
11 Q. "Just received a question from
12 Keith in response to my e-mail on the
13 exposure piece this morning."
14 We're talking about the
15 exposure piece for the Intertek report,
16 right?



65. PAGE 146:20 TO 147:01 (RUNNING 00:00:26.259)

20 Q. Is that right, sir?
21 A. It's -- he's talking about
22 exposure.
23 Would you repeat the question?
24 MR. MILLER: Sure.
25 (Court Reporter read back
00147:01 question.)

66. PAGE 147:05 TO 148:01 (RUNNING 00:00:47.778)

05 THE WITNESS: Yes, this

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06 sentence was -- it's not exactly what
07 the sentence says. Close.
08 But I can say that what we
09 are -- what he was talking about there
10 is the exposure component that's part
11 of the expert panel review.
12 QUESTIONS BY MR. MILLER:
13 Q. Right. Okay. So let's go back
14 and look at what was said then.
15 Ashley Roberts is talking to
16 you and Donna Farmer, and he says, "He" --
17 now, you and I can agree "he" means Keith,
18 right?
19 A. Here it means Keith.
20 Q. Yes, sir.
21 "He has asked if we need to
22 give any consideration to exposure of
23 formulants."
24 Now, so we understand,
25 formulants means the glyphosate combined with
00148:01 the surfactant, right?

67. PAGE 148:04 TO 148:18 (RUNNING 00:00:30.518)

04 THE WITNESS: So this is
05 something that he's writing. When I
06 look at the sentence, my
07 interpretation of what he's saying
08 there is -- or he would be -- anything
09 that would be in the jug that you buy
10 would be a formulant.
11 QUESTIONS BY MR. MILLER:
12 Q. Okay.
13 A. That's my interpretation of
14 what he's saying.
15 Q. All right. "He has asked if we
16 need to give any consideration exposures of
17 formulants in the commercial product, at
18 least in applicators."

68. PAGE 148:22 TO 149:08 (RUNNING 00:00:36.066)

22 Q. Let's do it again. Quote --
23 from Ashley Roberts to you and Donna Farmer
24 on August 6, 2015. Quote, "He has asked if
25 we need to give any consideration to
00149:01 exposures of formulants in the commercial
02 product, at least in the applicators? I was
03 under the impression that these were inert,
04 but reading a response in this morning in the
05 Ecologist makes it sound like it is the
06 combination that is toxic, exclamation point,
07 exclamation point, exclamation point."
08 Did I read that correctly?

69. PAGE 149:13 TO 149:15 (RUNNING 00:00:04.110)

13 Q. Doctor, you can answer now. We
14 appreciate the answer from counsel, but it's
15 your turn.

70. PAGE 149:22 TO 150:03 (RUNNING 00:00:13.026)

22 Q. I got an idea, Doctor. You
23 read that sentence for me, please.
24 A. Which sentence would you like
25 me to read?
00150:01 Q. Starting at "he has asked" till

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02 the end of where it says "toxic, exclamation
03 point, exclamation point, exclamation point."

71. PAGE 150:07 TO 152:03 (RUNNING 00:02:12.590)

07 THE WITNESS: "He has asked if
08 we need to give any consideration to
09 exposures of formulants in the
10 commercial product, at least in
11 applicators? I was under the
12 impression these were inert, but
13 reading a response this morning in the
14 Ecologist makes it sound like it is
15 the combination that is toxic, three
16 exclamation points."

17 QUESTIONS BY MR. MILLER:

18 Q. So you write back in response
19 to that e-mail, don't you?

20 A. I did respond.

21 Q. Yes, sir. And your response at
22 the top of that page, "Ashley" --

23 Why don't you read your answer
24 for us, Doctor?

25 A. Sure.

00151:01 Do you want me to read the
02 entire?

03 Q. Please.

04 A. "Ashley, I think the short
05 answer is no. The focus of this is what is
06 the carcinogenic potential of glyphosate.
07 That said, the surfactant in formulation will
08 come up in the tumor promotion skin study
09 because we think it played a role there."

10 Q. And one more point before we

 0366-002 -



11 leave this document. If we could, sir, go to
12 Bates stamp 934, an e-mail from Donna Farmer
13 copied to you and Ashley Roberts at Intertek.

14 Do you see where I am, sir?

15 A. Yes.

16 Q. Subject "Keith."

17 A. Yes, I see that.

18 Q. So Donna Farmer is, according
19 to this e-mail, I quote, "I am pulling
20 together the background info for the animal
21 section and will send it to you later today
22 or tomorrow."

23 Do you see that?

24 A. Yes, I see that.

00152:01 Q. So it's fair to say not only
02 you are helping get this Intertek expert
03 panel report prepared, but Donna Farmer is
04 working on it, too?

72. PAGE 152:06 TO 152:18 (RUNNING 00:00:41.462)

06 THE WITNESS: No, this is --
07 this -- what Donna is talking about
08 here, this is the point in time when
09 we're getting ready to do the panel.
10 And so what Donna is talking about

 -KE0366-002 - Clear Attached Exhibit 0366-002



11 is -- if you recall, I said earlier

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12 that Monsanto made any documents
13 available that the experts may want to
14 review, and so that's what Donna is
15 talking about here, is she was pulling
16 together studies and information for
17 the expert panel members to read and
18 evaluate.

73. PAGE 158:01 TO 158:08 (RUNNING 00:00:20.442)


00158:01 The question is, sir: Are you
02 aware of Gary Marsh or Douglas Weed or David
03 Garabrant or Thomas Sorahan ever getting
04 ahold of the Critical Reviews in Toxicology
05 and saying, "Hey, we know Monsanto saw this
06 as a draft report"?
07 Are you aware of that or not?
08 That's all I'm asking.

74. PAGE 158:12 TO 158:13 (RUNNING 00:00:04.183)

12 THE WITNESS: I don't know what
13 conversations they might have had.

75. PAGE 158:17 TO 158:19 (RUNNING 00:00:08.714)

17 Q. Let's take a look at whether
18 you, in fact, did edit this draft report, all

 0368 -



19 right, sir? Let's look at Exhibit 3-20.

76. PAGE 158:20 TO 158:23 (RUNNING 00:00:14.250)

20 3-20, an e-mail from you with a
21 summary article. I have a copy for you and a
22 copy for counsel, produced by Monsanto in
23 this litigation.

77. PAGE 160:05 TO 160:06 (RUNNING 00:00:02.451)

05 Q. Let me know when you're ready,
06 Doctor.

78. PAGE 160:07 TO 160:23 (RUNNING 00:00:37.180)

07 A. Okay.
08 Q. Yes, sir.
09 And starting at the bottom of
10 the page there, it's an e-mail from Ashley
11 Roberts to you regarding the summary
12 articles, right?
13 "Hi, Bill, please take a look
14 at the latest from the epi group, four
15 exclamation points."
16 Do you see that?
17 A. Yes, I see.
18 Q. "Call me once you have digested
19 this."
20 Do you see where he says that?
21 A. Yes, I do.
22 Q. And you tell him in your
23 response that you edited it, right?

79. PAGE 161:03 TO 161:18 (RUNNING 00:00:32.536)

03 Q. Right, Doctor?
04 A. That's what's stated there.
05 Q. Okay. Let's take a look at

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06 exactly --
07 A. And this is -- this is really
08 what we've already covered, but go ahead.
09 Q. Thank you.
10 This is from William Heydens,
11 February, to Ashley Roberts: "Ashley, I have
12 gone through the entire document and
13 indicated what I think should stay, what can
14 go, and in a couple spots did a little
15 editing."
16 So those are three of the
17 things you did to that Intertek epi report,
18 right?

80. PAGE 161:21 TO 166:16 (RUNNING 00:05:34.596)

21 THE WITNESS: So this is --
22 I'll go back, and we'll talk about
23 this again. This is what we had
24 talked about previously.
25 So this is very late stage in
00162:01 the process. Recall that I had
02 mentioned that when we first -- when
03 this project started that there was
04 going to be four reports, and at that
05 point in time it was not envisioned
06 that there would be a summary document
07 and much less what the authorship
08 might be.
09 So as the project progressed,
10 the concept for the summary article
11 progressed as well. And what I mean
12 by that is it was decided that the
13 summary -- the overall summary article
14 would be authored by all -- was it
15 16? -- of them.
16 And so what we're looking at
17 here, this is a point in the process.
18 So initially they were reviewing their
19 own sections, and so they very easily
20 could agree amongst themselves. What
21 I mean by that is the epidemiologists
22 could agree amongst themselves what
23 they thought they should say about the
24 epidemiology, the gene tox folks, so
25 on and so forth.
00163:01 So now we've gone through that
02 whole process and they're at the point
03 where, as I just described, they're
04 all going to be authors on this paper.
05 So then they start reviewing each
06 others' -- another -- you can think of
07 it as another level of peer review, if
08 you will, where they were reviewing
09 what the others had written.
10 So in these e-mail
11 communications, the epidemiologists
12 did a very hard look at the animal --
13 from the animal bioassay group, and
14 they're actually critiquing -- the
15 epidemiologists are actually
16 critiquing some of the things that
17 were said in the other; most notably,
18 one of them that I'm looking at right
19 here talking about Hill's criteria.
20 So the epidemiologists didn't
21 think that the toxicologists should be

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22 talking about Hill's criteria when --
23 and they're just flat out wrong, quite
24 honestly, because if you go read, for
25 instance, EPA's cancer risk assessment
00164:01 guidelines, which they used on
02 glyphosate and use on other things as
03 well, they very clearly say that
04 there's a modified form of Hill's
05 criteria. So anyway, there was
06 questions amongst -- around them about
07 that.
08 Another thing that sticks out
09 in here, as I look at this, where
10 there was some disagreement -- and I
11 think we actually touched on this
12 earlier in the day, where the
13 different panels took somewhat
14 different approaches. So I think I
15 mentioned how the epidemiologists,
16 when they did their review, they
17 didn't really want to do it from the
18 standpoint of here's what IARC got
19 wrong. They did it just, what is all
20 the data, what does the data tell us,
21 here's our conclusions.
22 The animal people -- when I say
23 "the animal," I mean the animal
24 bioassay group, because they worked in
25 their sections in isolation
00165:01 previously. They did do some
02 criticisms, some direct criticisms,
03 of founded -- well-founded criticisms
04 of IARC, and some reference of that
05 made it into their publication. When
06 the -- and some of that drained over
07 into the overall review publication.
08 So when the epidemiologists saw
09 that, they didn't think that it was
10 appropriate. So there was some dialog
11 back and forth about that.
12 So when you look at this
13 document here and you see some
14 editing, what was going on at that
15 point in time. John, being the good
16 soul that he is, he stepped in and was
17 trying to make it easy for Ashley --
18 he was trying to be kind of a
19 go-between, I guess, if you will,
20 between the epidemiologists and Ashley
21 and the animal people to try and bring
22 this to some resolution.
23 And so John, as part of that,
24 he suggested a number of edits which
25 are reflected in this document. You
00166:01 can see some of them; you can't see
02 others. I don't know why that is.
03 There appears to be some problem with
04 picking up the editing function.
05 But anyway, that's what
06 happened. And then -- so Ashley --
07 that's what Ashley sent to me and
08 basically said, "Hey, look what John
09 did."
10 And I went through his
11 comments. And that's what we talked
12 about earlier this morning where I

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13 said I made some comments about John's
14 comments, sent them back to Ashley,
15 and then Ashley dealt with them as
16 he -- as he saw appropriate.

81. PAGE 166:25 TO 167:04 (RUNNING 00:00:15.976)

25 Q. Let's look at Exhibit 3-20.
00167:01 You decided on this draft after report what
02 you thought should stay, what can go, and in
03 a couple of spots did a little editing.
04 That's true, isn't it, sir?

82. PAGE 167:11 TO 167:17 (RUNNING 00:00:11.762)

11 A. Should we go through the
12 document --
13 Q. I would like you to answer my
14 question, Dr. Heydens. I don't think that's
15 unreasonable. Let me ask the question again.
16 You decided, sir, what I think
17 should stay; is that true, sir, or not true?

83. PAGE 167:20 TO 168:10 (RUNNING 00:00:41.689)

20 THE WITNESS: I did not decide.
21 I -- as I just gave in my previous
22 testimony, I made my suggestions about
23 John's suggestions. I didn't decide
24 anything. Ashley decided everything.
25
00168:01 QUESTIONS BY MR. MILLER:
02 Q. You indicated what could go,
03 didn't you, Dr. Heydens?
04 A. Okay. For the third time, I
05 will say that I gave my opinion, my
06 suggestions, about John's suggestions. I
07 gave that information to Ashley, and Ashley
08 resolved it the way he saw fit.
09 Q. And you did a little editing;
10 isn't that true, Dr. Heydens?

84. PAGE 168:13 TO 169:04 (RUNNING 00:00:39.630)

13 THE WITNESS: I previously
14 indicated that there was some minor
15 editing that was offered. It is not
16 substantial -- it's not about -- it's
17 really just minor editing. It has
18 nothing to do with the conclusions or
19 the evaluations that the expert panel

 0883-015 -



20 did.
21 QUESTIONS BY MR. MILLER:
22 Q. And let's go back then to
23 Exhibit 3:4, page 16 -- you have a copy
24 there, sir -- where it says, "Neither any
25 Monsanto Company employees nor any attorneys
00169:01 reviewed any of the expert panel manuscripts
02 prior to submission to the journal."
03 Can't you now at least agree
04 that's a lie?

85. PAGE 169:08 TO 170:01 (RUNNING 00:00:51.910)

08 THE WITNESS: So we talked
09 about that earlier this morning, and I

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10 gave you my thoughts on that. And I
11 recall that my thoughts were that,
12 first of all, that is something that
13 was written -- that came from the
14 Intertek panel. Those are not my
15 words.
16 I gave you my interpretation of
17 what I thought it might mean, and my
18 interpretation of what it might mean
19 is they didn't really take anything
20 from anybody that -- it's the expert
21 panel, it's what they wrote, it's
22 their thoughts, their conclusions.
23 Did not -- Monsanto, myself, did not
24 influence any of that. So perhaps

 -KE0883-015 - Clear Attached Exhibit 0883-015



25 that was what they were thinking when
00170:01 they wrote that same statement.

86. PAGE 170:14 TO 170:18 (RUNNING 00:00:09.708)


14 Q. Let's talk now -- it wasn't
15 just the epidemiology section that you
16 reviewed before publication and chose to
17 edit. You looked at the genotox section,
18 too, didn't you?

87. PAGE 170:21 TO 170:24 (RUNNING 00:00:09.149)

21 THE WITNESS: So again, you
22 said I chose to edit. I offered
23 suggestions, and Ashley did what he
24 wanted with them.

88. PAGE 171:03 TO 171:07 (RUNNING 00:00:16.730)

03 Q. Let's look at a document
04 quickly to show your receipt of the genotox

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05 report. Exhibit 3-21, produced by Monsanto
06 in this litigation. I have a copy for you,
07 sir.

89. PAGE 171:08 TO 171:22 (RUNNING 00:00:35.125)

08 A. Yes.
09 Q. Yes, sir.
10 So in this e-mail it shows,
11 fair to say, sir, that in fact you did
12 receive the genotox report prior to
13 publication, right?
14 A. He sent this to me and he said
15 for your review, but I probably -- I did not
16 review it, and I'm not qualified to review
17 it, quite honestly. I mean -- yeah.
18 Q. So --
19 A. I saw it, that's true. I did
20 see it.
21 Q. But you put it in the corner,
22 didn't read it; is that your testimony?

90. PAGE 172:02 TO 172:05 (RUNNING 00:00:08.440)

02 Q. Is that your testimony?

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 -KE0369 - Clear Attached Exhibit 0369



03 A. I might have opened -- I'm sure
04 I opened it up and took a look at it, and I
05 doubt very much that I offered anything.

91. PAGE 172:06 TO 172:08 (RUNNING 00:00:06.653)

06 Q. You also saw the exposure
07 section of the Intertek report before it was
08 published, right, sir?

92. PAGE 172:11 TO 172:20 (RUNNING 00:00:24.896)

11 THE WITNESS: Yeah, can we see
12 it, please?
13 QUESTIONS BY MR. MILLER:
14 Q. Do you remember seeing it
15 without looking at documents?
16 A. I'm sure I had a look at some
17 point, but, again, I'm not an exposure
18 person. I don't recall that I would be even
19 in a position to offer any meaningful review
20 of that document.

93. PAGE 174:09 TO 174:11 (RUNNING 00:00:06.675)

09 Q. Okay. Now, Monsanto sent this
10 Intertek report to the Environmental
11 Protection Agency, right?

94. PAGE 174:14 TO 174:20 (RUNNING 00:00:20.598)

14 THE WITNESS: I would have
15 to -- that would not be mine to do, so
16 I'm not sure. It's possible.
17 QUESTIONS BY MR. MILLER:
18 Q. Well, if Monsanto sent it to
19 the EPA as the work of independent
20 scientists, would that be a true statement?

95. PAGE 174:24 TO 176:06 (RUNNING 00:01:30.080)

24 THE WITNESS: So my answer
25 would be yes. Again, what we have
00175:01 been going through is you are showing
02 records that the expert panel work
03 product came my direction.
04 But I will say it again: Other
05 than the historical information that
06 we've already discussed and the
07 suggested edits on somebody else's
08 edits, which I have no idea what
09 Ashley actually did with them, other
10 than that, this is the expert panel's
11 conclusions.
12 What's really important about
13 these five papers and their work
14 product is that they reviewed the
15 data, they came to their conclusions,
16 and it's their conclusions and it's
17 their document.
18 So the fact that these
19 documents at some point in time may
20 have come to me or did come to me have
21 nothing to do with what they concluded
22 and the validity of their evaluation.
23 QUESTIONS BY MR. MILLER:

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24 Q. Well, what's really important
25 about the IARC review is 17 independent
00176:01 scientists spent eight days reviewing the
02 data, publicly available data, and concluded
03 that Roundup, glyphosate, was a probable
04 human carcinogen for non-Hodgkin's lymphoma.
05 That would be important,
06 wouldn't it?

96. PAGE 176:12 TO 177:07 (RUNNING 00:00:53.838)

12 A. The IARC group did meet. I'm
13 not sure if it was exactly eight days. They
14 did meet, and they evaluated during that
15 period of time -- I think it's important to
16 note that during that period of time they
17 evaluated glyphosate and, I believe it was,
18 four other chemicals. I believe there were
19 five chemicals.
20 So their eight days was diluted
21 down, if you will, over five chemicals, so
22 they didn't spend all that time talking about
23 glyphosate. They spent about one-fifth of
24 their time. That's the first point that I
25 would make.
00177:01 And the second point that I
02 would make is, you know, for reasons which
03 we've not discussed yet, I believe that the
04 IARC evaluation was not a proper evaluation
05 of the glyphosate database.
06 Q. Do you have stock options in
07 Monsanto?

97. PAGE 177:10 TO 177:10 (RUNNING 00:00:01.866)


10 THE WITNESS: I do.

98. PAGE 178:24 TO 179:03 (RUNNING 00:00:08.952)

24 QUESTIONS BY MR. MILLER:
25 Q. Do you know who Jim Parry is?
00179:01 Was?
02 A. Yes. If it's the person I'm
03 thinking of, yes.

99. PAGE 190:21 TO 190:24 (RUNNING 00:00:20.501)

21 Q. All right. Let me show you

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22 what we're marking as Exhibit 3:25, an e-mail
23 from you in the year 2010 with a PowerPoint
24 attached. A copy to you and counsel. Here

100. PAGE 190:25 TO 190:25 (RUNNING 00:00:02.112)


25 you go, sir.

101. PAGE 191:13 TO 192:19 (RUNNING 00:00:57.152)

13 THE WITNESS: Okay.
14 QUESTIONS BY MR. MILLER:
15 Q. Yes, sir.
16 Now, this is an e-mail exchange
17 between you and David Saltmiras?
18 A. Yes.
19 Q. And David --
20 A. David Saltmiras.
21 Q. Excuse me, David Saltmiras.

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22 And David Saltmiras is also an
23 employee at Monsanto?
24 A. That is correct.
25 Q. Also a toxicologist?
00192:01 A. That is correct.
02 Q. And fair to say, correct me if
03 I'm wrong, that this is an e-mail exchange
04 about a slide deck that he was working on and
05 you looked at; is that fair?
06 A. This deck appears to be a deck
07 that he put together for a presentation.
08 Q. Yes, sir.
09 And he sent to you in 2010, and
10 you reviewed it; is that fair?
11 A. It's attached to the e-mail, so
12 I assume it's the one that I reviewed.
13 Q. Yes, sir.
14 And I just have a few
15 questions, and I don't think -- well, that's
16 fine.
17 If you could turn to the

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18 publications page. And it's not marked, so I
19 don't know what page that is.

102. PAGE 192:20 TO 193:09 (RUNNING 00:00:23.098)

20 Do you see that, sir, the
21 publications page?
22 A. I have a slide up, yes, I see
23 that slide.
24 Q. Yes, sir.
25 And so it says "Williams, et
00193:01 al., 2000." That's the paper we've been
02 discussing, right?
03 A. That is correct.
04 Q. And it says, "An invaluable
05 asset," right, sir?
06 A. That's what he has written
07 there, yes.
08 Q. And that's a fair
09 characterization, you would agree?

103. PAGE 193:12 TO 194:03 (RUNNING 00:00:44.825)

12 THE WITNESS: So the Williams
13 paper, the way I would characterize
14 the Williams paper -- I think we
15 talked a little bit about it this
16 morning -- that was the first time
17 that -- all the glyphosate toxicology
18 data that existed for regulatory
19 purposes in the publications, the
20 first time that it was compiled
21 together and reviewed by basically
22 international experts. So that was a
23 very important paper.
24 QUESTIONS BY MR. MILLER:
25 Q. And what David Saltmiras says
00194:01 is that Monsanto responses to agencies? Is
02 that one of the things the Williams paper was
03 used for?

104. PAGE 194:06 TO 194:11 (RUNNING 00:00:07.981)

06 THE WITNESS: I'm not sure I

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07 know what he means by that.
08 QUESTIONS BY MR. MILLER:
09 Q. Do you know if the Williams
10 paper was used for scientific affairs
11 rebuttals?

105. PAGE 194:14 TO 195:02 (RUNNING 00:00:28.212)

14 THE WITNESS: Yeah, again,
15 you'd have to let me see some
16 document. I don't know what, you
17 know, he'd be talking about there.
18 QUESTIONS BY MR. MILLER:
19 Q. I didn't write this.
20 A. I didn't either.
21 Q. Do you understand -- let me ask
22 my question then.
23 Do you understand what David
24 Saltmirus meant when he said in the slide
25 panel that you reviewed in 2010 that it was
00195:01 going to be used for scientific affairs
02 rebuttals?

106. PAGE 195:05 TO 195:11 (RUNNING 00:00:09.248)

05 THE WITNESS: Yeah, I don't
06 know. I mean, I'm looking at it now,
07 and I don't know exactly what David
08 meant by that.
09 QUESTIONS BY MR. MILLER:
10 Q. Do you know what the word
11 "rebuttals" means?

107. PAGE 195:14 TO 196:15 (RUNNING 00:01:05.896)


14 THE WITNESS: I know what the
15 word "rebuttals" means to me in this
16 context.
17 QUESTIONS BY MR. MILLER:
18 Q. Is what?
19 A. Well, to me it's scientific
20 affairs assessments or reviews. We do a
21 number of those where publications come out.
22 I think we probably talked about some of
23 them. Publications come out, and we have
24 those papers -- we will review those papers,
25 either ourselves and/or with other experts,
00196:01 to understand what those papers are saying,
02 to understand if it's really -- if it's an
03 example of good science or if there's perhaps
04 some problems with the paper. And maybe
05 there's not problems with the paper. And
06 then maybe we need to understand more why the
07 results were there, and we may need to do
08 some work to do that.
09 So I look at it as a process of
10 assessing other people's scientific
11 information. That's what I see when I look
12 there.
13 Q. Do you understand also that the
14 publication Williams was going to be used for
15 regulatory reviews?

108. PAGE 196:18 TO 196:23 (RUNNING 00:00:17.358)

18 THE WITNESS: Yeah, I don't
19 know if it was. You'd have to -- we'd
20 have to look at that.

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21 QUESTIONS BY MR. MILLER:
22 Q. Go to the page of the deck that

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23 starts with political science.

109. PAGE 196:24 TO 197:08 (RUNNING 00:00:27.545)

24 Do you have that page, sir?
25 A. Yes, I do.
00197:01 Q. Dr. Saltmiras writes in that
02 section that "Williams has served us well in
03 toxicology over the last decade."
04 Do you see that, sir?
05 A. I do see that.
06 Q. Did you have any questions
07 understanding what that meant when he
08 e-mailed that to you in 2010?

110. PAGE 197:11 TO 197:17 (RUNNING 00:00:12.314)

11 THE WITNESS: I don't recall
12 what I might have thought when I saw
13 this in 2010.
14 QUESTIONS BY MR. MILLER:
15 Q. Would it be fair to say now
16 that Williams has served Monsanto well in
17 toxicology over the last decade?

111. PAGE 197:20 TO 198:12 (RUNNING 00:00:46.597)

20 THE WITNESS: What I would say
21 is really what I said before: This
22 was -- it was a very important paper
23 because it was the first of its kind,
24 it was comprehensive of everything
25 that was out there up to that point in
00198:01 time, and it was a very, like I said,
02 important paper for glyphosate.
03 So if people wanted to
04 understand what the science of
05 glyphosate says, that they had in one
06 place a full review. That paper had
07 not only the toxicology -- I failed to
08 mention previously toxicology of
09 glyphosate -- but it also looked at
10 surfactant. It looked at everything.
11 It looked at some formulations. So it

 -KE0373A-015 - Clear Attached Exhibit 0373A-015



12 was a very important document.

112. PAGE 219:12 TO 219:15 (RUNNING 00:00:12.188)

12 Q. Well, two months before that
13 you wrote an e-mail where you said you would
14 manage your experts as authors.
15 Do you remember that, sir?

113. PAGE 219:18 TO 220:02 (RUNNING 00:00:24.143)

18 THE WITNESS: I don't remember
19 that.
20 (Heydens Exhibit 3-30 marked
21 for identification.)
22 QUESTIONS BY MR. MILLER:
23 Q. Let's take a look at it.

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24 Exhibit 3-30, an e-mail you sent in May
25 of '79. I have a copy for you and counsel.
00220:01 A. '79 or '99?
02 Q. Excuse me, '99. My fault.

114. PAGE 220:03 TO 220:22 (RUNNING 00:00:52.717)

03 A. Okay.
04 Q. Yes, sir.
05 This is an e-mail that you
06 wrote in May of '99, right, sir?
07 A. That appears to be correct,
08 yes.
09 Q. And you wrote it to a William
10 Graham, also a Monsanto employee?
11 A. Yes, that is correct.
12 Q. And I just want to go over a
13 few points in it. Your point number 2:
14 "Outside scientific experts who are
15 influential at driving science, regulators,
16 public opinion, et cetera, we would have
17 them" -- I think you meant "the," but I'll
18 ask you -- "we would have the people directly
19 or indirectly behind the scenes work on our
20 behalf."
21 Was that part of your strategy
22 in May of 1999?

115. PAGE 221:01 TO 221:13 (RUNNING 00:00:33.966)

00221:01 THE WITNESS: Those words are
02 written there. I don't remember this
03 e-mail.
04 QUESTIONS BY MR. MILLER:
05 Q. Was one of your jobs to --
06 quote, "Monsanto people who are responsible
07 for dissemination and coordination of
08 scientific information within and outside of
09 Monsanto. They will play a role in
10 establishing and, quote, managing
11 relationships with outside experts."
12 My question to you, sir, is:
13 Why did you put "managing" in quotes there?

116. PAGE 221:17 TO 222:10 (RUNNING 00:01:00.763)

17 THE WITNESS: So as I said just
18 a moment ago, I don't remember this
19 e-mail. As I look at it now, I would
20 interpret that as just meaning who has
21 the contact relationship.
22 Usually with -- quite often,
23 anyway, with -- different scientists
24 would have perhaps different key
25 contact points. So, for instance, if
00222:01 an external scientist was a genetic
02 toxicologist, then we might have one
03 of our own genetic toxicologists be
04 the contact person for that. So
05 that's what I think I meant by that.
06 QUESTIONS BY MR. MILLER:
07 Q. And number 4 you write, "As far
08 as how we get, quote, people to get up and
09 shout glyphosate is nontoxic," end quote.
10 Was that one of your jobs?

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117. PAGE 222:15 TO 222:15 (RUNNING 00:00:02.046)

15 Q. Was that one of your jobs, sir?

118. PAGE 222:17 TO 222:25 (RUNNING 00:00:20.614)

17 THE WITNESS: No. As I stated
18 this morning, it really -- my job is
19 to make sure that the best science
20 gets conducted on glyphosate and the
21 best science using sound principles is
22 communicated. That's always been my

 -KE0378 - Clear Attached Exhibit 0378

23 role in glyphosate.
24 QUESTIONS BY MR. MILLER:
25 Q. Have you been media trained?

119. PAGE 223:04 TO 223:07 (RUNNING 00:00:08.203)

04 THE WITNESS: Certainly not in
05 the last 20 years that I can remember.
06 I didn't go out on the speaking
07 circuit.

120. PAGE 223:09 TO 223:09 (RUNNING 00:00:02.182)

09 Q. That was Donna Farmer's job?

121. PAGE 223:12 TO 223:14 (RUNNING 00:00:05.905)

12 THE WITNESS: Donna certainly
13 plays a role in communication of
14 science.

122. PAGE 223:16 TO 223:18 (RUNNING 00:00:12.391)

16 Q. By 2014 you knew that
17 glyphosate was vulnerable in the area of
18 epidemiology, didn't you, sir?

123. PAGE 223:21 TO 224:08 (RUNNING 00:00:28.936)

21 THE WITNESS: So in 2014, I was
22 aware that there were -- and I think
23 we discussed some of them this
24 morning. I was aware that there were
25 epidemiology studies out there, most
00224:01 of which believed to have serious and
02 significant flaws.
03 QUESTIONS BY MR. MILLER:
04 Q. Epidemiology wasn't the only
05 area of vulnerability, right?
06 You were concerned about
07 exposure, genotox and mode of action, weren't
08 you?

124. PAGE 224:11 TO 224:20 (RUNNING 00:00:29.595)

11 THE WITNESS: And I think we
12 covered some of these this morning as
13 well, but much like there was -- we
14 knew in 2014 that there were
15 some tox -- excuse me, epidemiology
16 studies that had serious problems with
17 them. We know that there were also
18 some gene tox and, I would say
19 loosely, mode-of-action studies that
20 had serious flaws with them as well.



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125. PAGE 224:24 TO 225:02 (RUNNING 00:00:09.190)

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24 Q. Let's look at Exhibit 3:31, an
25 e-mail produced by Monsanto in discovery
00225:01 here, prepared by you. And I have a copy for
02 you and counsel.

126. PAGE 225:03 TO 226:11 (RUNNING 00:01:33.473)

03 A. Okay.
04 Q. Do you remember this e-mail?
05 A. This one is closer in time, so
06 I do have some familiarity with this.
07 Q. This is an e-mail from you to
08 others within Monsanto, including Donna
09 Farmer, right?
10 A. It was principally aimed at
11 Richard Garnett, who was the single person in
12 the "to" category.
13 Q. Copied to Donna Farmer then,
14 fair enough?
15 A. Others were copied, including
16 Donna.
17 Q. And it was to Richard Garnett.
18 He was an employee located in Europe?
19 A. Yes, he is an employee in
20 Europe.
21 And my reason for sending it to
22 him is going on in the background during this
23 time frame -- actually, gosh, starting
24 approximately 2009, glyphosate was going
25 through re-registration in the European
00226:01 Union, and there's -- I forget the exact
02 number, but there's approximately 25
03 registrants that formed a task force to
04 re-register glyphosate. And at this point in
05 time, Richard was the chair of that task
06 force.
07 Q. Yes, sir.
08 And to put this in context, by
09 October of 2014, you knew that in 2015 IARC
10 was going to do their review of glyphosate,
11 true?

127. PAGE 226:14 TO 228:12 (RUNNING 00:02:16.404)

14 THE WITNESS: It was sometime
15 in the fall of 2014. I would need
16 documentation to know exactly when we
17 became aware of that.
18 QUESTIONS BY MR. MILLER:
19 Q. Yes, sir.
20 So here we are now in October
21 of 2014. You send this e-mail out to Richard
22 Garnett, copied Farmer and others, and the
23 bottom line of the call was that there really
24 was no meaningful publication that we can
25 complete prior to the February submission to
00227:01 positively impact the epidemiological -- I'm
02 sorry, the epidemiology discussion outcome in
03 March.
04 Now, March is -- of 2015 is
05 when IARC met, right?
06 A. IARC did meet in March of 2015.
07 Q. Yes, sir.

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08 You go on to write, quote, "One
09 has to consider that this situational timing
10 did not happen by chance and that more than
11 just pure bad luck is working against
12 glyphosate," end quote.

13 What did you mean by that?

14 A. What I meant by that was the
15 timing when we found out about this. Like as
16 we talked about in the previous question, my
17 recollection is that it was very late in
18 September. For some reason the 29th of
19 September comes to mind.

20 And we've already talked that
21 the IARC review actually took place in March
22 of the following year. That's a real short
23 span of time.

24 If you go and read the --
25 what -- how IARC says they do their
00228:01 procedures, they say that they generally take
02 a year of time. From the time they decide
03 to -- that they're going to actually review a
04 compound to the time they actually review it
05 is a year.

06 The fact that it happened very,
07 very quickly and very, very quietly suggests
08 that there perhaps was some -- there was a
09 reason why that happened. That didn't happen
10 by accident.

11 Q. Well, why do you think it
12 happened?

128. PAGE 228:16 TO 229:16 (RUNNING 00:01:03.751)

16 THE WITNESS: You would have to
17 ask IARC why that happened.

18 QUESTIONS BY MR. MILLER:

19 Q. All right. Well, what we know
20 from looking at your e-mail is that, quote,
21 "And while we have vulnerability in the area
22 of epidemiology, we also have potential
23 vulnerabilities in other areas that IARC will
24 consider, namely, exposure, genotox and mode
25 of action, paren, David has the animal onco
00229:01 studies under control."

02 What did you mean by that?

03 A. Which part of that sentence
04 would you like me to respond to?

05 Q. Well, that's fair. Let's break
06 it down.

07 You agree, sir, that you had
08 vulnerabilities in the areas of epidemiology,
09 right?

10 A. I told you previously that
11 there was some flawed studies out there.

12 Q. Yes, sir.

13 And you agree you have
14 vulnerabilities in other areas that IARC will
15 consider. Exposure means how much the person
16 is exposed to the product, right?

129. PAGE 229:22 TO 230:05 (RUNNING 00:00:20.098)

22 A. So for that one, as I look at
23 the sentence there, I'm naming some of the
24 areas that they look at. Because really for
25 exposure, there's really no vulnerabilities.
00230:01 The exposure is what the exposure is, and

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02 it's just a matter of documenting that.
03 Q. And by genotox, the
04 vulnerability in genotox, explain to us what
05 genotox is.

130. PAGE 230:09 TO 230:16 (RUNNING 00:00:16.674)

09 THE WITNESS: Genotoxicity
10 refers to whether or not -- it's the
11 study of whether or not a chemistry
12 can alter or impact DNA.
13 QUESTIONS BY MR. MILLER:
14 Q. What did you mean by
15 exposure -- I'm sorry, vulnerability in mode
16 of action? What is mode of action?

131. PAGE 230:22 TO 231:22 (RUNNING 00:01:01.759)

22 A. So mode of action refers to --
23 basically it's answering the question if a
24 chemical does produce an adverse effect.
25 Mode of action investigation would ask the
00231:01 question: How does the chemical do that, and
02 is it relevant to humans.
03 Q. Yes, sir.
04 And when you say "David" here,
05 you're referring to David Saltmiras, aren't
06 you?
07 A. I am referring to David
08 Saltmiras.
09 Q. Saltmiras.
10 And you said that "David has
11 the animal onco," meaning oncology?
12 A. Onco meaning oncogenicity.
13 Q. Oncogenicity.
14 Explain to us lay folks what
15 oncogenicity refers to.
16 A. Oncogenicity refers to does
17 the -- studying if the chemical has the
18 potential to produce tumors.
19 Q. And you say in paren, "David
20 has the animal oncogenicity studies under
21 control."
22 What do you mean by that?

132. PAGE 232:01 TO 233:23 (RUNNING 00:02:25.135)

00232:01 THE WITNESS: So what I meant
02 by that is at that point in time we
03 had already made the decision that --
04 so recall that I told you a few
05 minutes ago that as part of this
06 overall review process that we found
07 out -- well, we say found out. It
08 came up that there was other --
09 several other oncogenicity studies
10 that had been conducted by other
11 registrants.
12 And so the task force that's
13 referred to here made the decision
14 that it would be a good idea to
15 publish the results of those
16 oncogenicity studies in the
17 peer-reviewed literature, complete
18 with individual data tables so that
19 other scientists could see the data
20 for themselves.
21 And so David was working with

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22 experts to make sure that that
23 information got published.
24 QUESTIONS BY MR. MILLER:
25 Q. The next sentence you write
00233:01 here, sir, is, quote, "If there is a force
02 working against glyphosate, there is ample
03 fodder to string together to help the cause,
04 even though it is not scientifically
05 justified in its purest form."
06 What did you mean by "ample
07 fodder to string together to help the cause"?
08 What do you mean by that?
09 A. Well, I've talked about --
10 several times today I have talked about that
11 there are -- in the areas that we've talked

 -KE0294 - Clear Attached Exhibit 0294




12 about, so epidemiology -- primarily
13 epidemiology and genotoxicity -- that there
14 were a number of studies out there in the
15 literature that were poorly conducted. And
16 if not put in the proper light, if not
17 understood how they are studies that have the
18 problems, someone could use that information
19 to try and come to a different conclusion.
20 Q. So by February of 2015, about a
21 month before IARC reaches their decision, you
22 were part of a team that was to orchestrate
23 an outcry against IARC, right?

133. PAGE 234:01 TO 234:02 (RUNNING 00:00:03.025)

00234:01 THE WITNESS: Yes, I'm not sure
02 what you're referring to.

134. PAGE 234:06 TO 234:09 (RUNNING 00:00:19.028)

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06 Q. Let's look at the document.
07 Exhibit 3-32, an e-mail and attachment
08 produced by Monsanto in this litigation to
09 you and others. A copy for you and counsel.

135. PAGE 234:10 TO 234:17 (RUNNING 00:00:18.747)

10 A. Okay.
11 Q. Yes, sir.
12 This is an e-mail sent to you,
13 that is Exhibit 3-32, from a Monsanto
14 employee concerning a revised IARC reactive
15 messaging.
16 And this is in February
17 of 2015; is that fair? Is this?

136. PAGE 234:22 TO 236:04 (RUNNING 00:01:17.788)

22 THE WITNESS: -- February. I
23 didn't hear the number you said, but
24 it's dated February 12 of '15, yes.
25
00235:01 QUESTIONS BY MR. MILLER:
02 Q. Yes, sir.
03 And attaches glyphosate key

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04 points on IARC decision 2B.
05 Do you see that?
06 A. That's how she refers to it in
07 her attachment.
08 Q. Yes, sir.
09 And so everyone has the time
10 frame, this is a couple of weeks before IARC
11 actually voted and reached the conclusion
12 they reached, right, sir?
13 A. That's correct.
14 Q. And in fact, IARC did not reach
15 2B as a conclusion, which would be possibly
16 associated, but elected to use 2A, probably
17 associated, right?
18 A. That's correct.
19 Q. Okay. But on this key points
20 on the IARC decision 2B, I just want to go
21 over a few things, and then we'll go on.
22 "This component represents the
23 orchestrated outcry that could occur
24 following the March 3-10 IARC monograph
25 expert meeting."
00236:01 Would it be fair to say you
02 were part of the orchestrated outcry that was
03 supposed to come after IARC reached their
04 decision?

137. PAGE 236:07 TO 237:03 (RUNNING 00:00:56.802)

07 THE WITNESS: No, I would say
08 that's not the case.
09 This is -- this document is
10 prepared -- was prepared by another
11 group within Monsanto about some of
12 the things that they could consider.
13 My job has always been -- as
14 I've said on several occasions today,
15 my job is about the science. My job
16 is to make sure that the science gets
17 done correctly and is communicated
18 correctly.
19 QUESTIONS BY MR. MILLER:
20 Q. This glyphosate key points
21 following IARC decision says in the last
22 sentence of that first paragraph, quote, "The
23 proposed approach suggests industry
24 associations and credible third parties lead,
25 and Monsanto plays a secondary role to defend
00237:01 its Roundup brand."
02 Isn't that what happened,
03 Doctor?

138. PAGE 237:06 TO 237:12 (RUNNING 00:00:16.576)

06 THE WITNESS: And I'm not
07 really sure what you're asking me
08 there. And again, especially relative
09 to my role, because my role is not in
10 any of this. My role is with the
11 science. So I'm not sure what you're
12 asking me.

139. PAGE 237:14 TO 237:25 (RUNNING 00:00:28.514)

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 -KE0379-002 - Clear Attached Exhibit 0379-002



14 Q. We have mentioned off and on
15 today a John Acquavella, right, sir?
16 A. Yes, John's name has come up.
17 Q. And he's an epidemiologist?
18 A. That is correct.
19 Q. Who was a full-time employee at
20 Monsanto and later a consultant to Monsanto?
21 A. That is correct.
22 Q. And you have worked with him
23 both when he was a full-time employee and as
24 a consultant, when he was a consultant?
25 A. That is correct.

140. PAGE 238:01 TO 239:05 (RUNNING 00:01:31.383)

00238:01 Q. All right. Do you know who
02 Dr. Seralini is?
03 A. I know Dr. Seralini, yes.
04 Q. What do you know of
05 Dr. Seralini?
06 A. I know that Dr. Seralini really
07 does not like biotechnology, and I know that
08 Dr. Seralini and people from his lab conduct
09 a lot of research that has problems with it.
10 Q. Have any journals ever asked
11 you or allowed you to be a reviewer on any of
12 Dr. Seralini's papers?
13 A. Yes.
14 Q. And did you recommend that
15 Dr. Seralini's paper be rejected?
16 A. We recommended -- there's a
17 couple of us who looked at it, and we
18 recommended that it be rejected because the
19 science underpinning it had a number of
20 flaws, and it was not a scientifically valid
21 study.
22 Q. Which journal allowed you to be
23 a reviewer of Dr. Seralini's paper?
24 A. I don't remember which one it
25 was.
00239:01 Q. Regulatory Toxicology and
02 Pharmacology?
03 A. That's probably correct, yes.
04 Q. How long were you a reviewer
05 for Regulatory Toxicology and Pharmacology?

141. PAGE 239:08 TO 240:02 (RUNNING 00:00:57.786)

08 THE WITNESS: So I was not on
09 the editorial board. The way
10 journals -- journals will sometimes
11 just reach out to other scientists.
12 It's a tough job for editors. It's a
13 problem they constantly have, is to
14 have an adequate number of people
15 reviewing studies, and so they're
16 always reaching out to people trying
17 to find people who will do reviews.
18 So in this particular case,
19 they reached out to me.
20 QUESTIONS BY MR. MILLER:
21 Q. Were you allowed to see other
22 reviewers' comments concerning the paper?
23 A. That's not -- I don't recall

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24 doing that. That's typically against journal
25 rules. I think most journals keep those.
00240:01 Q. Private?
02 A. Private.


142. PAGE 263:09 TO 263:20 (RUNNING 00:00:43.122)

09 Q. Going back to the -- I believe
10 you said it was the Greim paper that the --
11 A. Greim.
12 Q. Greim, excuse me.
13 -- that the EPA reviewed?
14 A. Yes.
15 Q. That was co-authored by David
16 Saltmiras from Monsanto?
17 A. He was one of the authors, yes.
18 Q. Okay. Has there been a
19 decision to preclude the use of POEA as a
20 surfactant with glyphosate in Europe?

143. PAGE 263:25 TO 264:12 (RUNNING 00:00:55.710)

25 A. So I'm aware of some places in
00264:01 Europe where that proposal -- and, in fact,
02 has taken place. What I will say is that is
03 due to political reasons and is not supported
04 by the scientific data.
05 In fact, the risk assessments
06 that have been done by the German BfR -- it
07 was approximately back in 2010, 2012. That
08 is the same organization -- or the same
09 regulatory agency who was the rapporteur for
10 glyphosate in the reevaluation. That very
11 agency evaluated tallow amine and came to the
12 conclusion that there's no unreasonable risk.

144. PAGE 264:16 TO 264:16 (RUNNING 00:00:04.877)

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16 Q. Let's look at Exhibit 3-36, sir.

145. PAGE 264:22 TO 267:16 (RUNNING 00:03:36.503)

22 THE WITNESS: Okay.
23 QUESTIONS BY MR. MILLER:
24 Q. Is that your handwriting where
25 we see on Exhibit 3-36 "reasons for defending
00265:01 tallow amines"?
02 A. It looks like my handwriting.
03 Q. And this is an e-mail from you
04 in the bottom of the first page of that
05 document, from Bill Heydens, January 2010, to
06 Richard Garnett.
07 I believe he's a Monsanto
08 employee in Europe?
09 A. That is correct.
10 Q. Yes, sir.
11 A couple of comments. This is
12 you, quote, "First, there is still a strong
13 sentiment in STL" --
14 Is that St. Louis?
15 A. That is correct.
16 Q. Which is where the Monsanto
17 headquarters is?
18 A. That is correct.
19 Q. Okay. "There is still a strong


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20 sentiment in St. Louis that we need to
21 continue to defend tallow amines, even though
22 we prepare to switch over because of their
23 impending demise."
24 Did I read that correctly?
25 A. You did.
00266:01 Q. And what did you understand in
02 2010?
03 Why was there an impending
04 demise of tallow amine?
05 A. Well, the conversation that we
06 were already hearing in our conversations
07 that, as you have already said, that there --
08 some of the regulatory agencies and some of
09 the -- some of the politicians were starting
10 to talk about enacting bans on tallow amines.
11 Q. And you were responding to an
12 e-mail that had come from you -- come to you
13 from a Richard Garnett, the Monsanto employee

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14 in Europe, right, sir?
15 A. Yes.
16 Q. And he asked in his e-mail, the
17 top of page 2, "Anyway, there are
18 nonhazardous formulations, so why sell a
19 hazardous one?"
20 Do you remember him asking you
21 that question?
22 A. I think that's more a
23 rhetorical question, if you will.

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24 Q. Back to the first page. What
25 you write, sir, is that you were very
00267:01 worried -- excuse me. Let me get it right.
02 "Reason to do so: Domino
03 effect on ether amines, defend other world
04 areas to the best of our ability. Second, I
05 was in Brazil all last week - they are very
06 worried about this coming across the Atlantic
07 to their part of the American hemisphere."
08 Those were the reasons you were
09 defending tallow amines?
10 A. The reason why defending tallow
11 amines is because I believe -- we believe
12 that the science is behind tallow amines. If
13 the science is behind the product, then I
14 think it's -- certainly you should be making
15 sure that decisions are being made about your

 -KE0383 - Clear Attached Exhibit 0383



16 material based on sound science.

TOTAL: 1 CLIP FROM 1 DEPOSITION (RUNNING 01:39:06.270)