

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4 -----X
5 IN RE: ROUNDUP PRODUCTS) MDL No. 02741
6 LIABILITY LITIGATION)
7)
8 THIS DOCUMENT RELATES TO)
9 ALL ACTIONS)
10 -----X

11
12 C O N F I D E N T I A L
13 PURSUANT TO PROTECTIVE ORDER
14
15
16 VIDEOTAPED DEPOSITION OF SAMUEL MURPHEY
17 (IN HIS 30(b)(6) CAPACITY FOR MONSANTO COMPANY
18
19 AND IN HIS INDIVIDUAL CAPACITY)
20
21 WASHINGTON, D.C.
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24 TUESDAY, JANUARY 22, 2019
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24 Pages: 1 - 409
25 Reported by: Leslie A. Todd

1 Deposition of SAMUEL MURPHEY, held at the
2 offices of:

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5 HOLLINGSWORTH, LLP

6 1350 I Street, N.W.

7 Washington, DC 20005

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13 Pursuant to notice, before Leslie Anne Todd,
14 Court Reporter and Notary Public in and for the
15 District of Columbia, who officiated in
16 administering the oath to the witness.

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1 A P P E A R A N C E S

2

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21 Washington, DC 20001-3743

22 (202) 942-6216

23

24 ALSO PRESENT:

25 DANIEL HOLMSTOCK (Videographer)

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1 P R O C E E D I N G S

2 -----

3 THE VIDEOGRAPHER: We are now on the
4 record. My name is Daniel Holmstock. I am the
5 videographer for Golkow Litigation Services.
6 Today's date is January 22nd, 2019. The time is
7 8:56 a.m. This video deposition is being held at
8 the law offices of Hollingsworth, LLP, at 1350
9 I Street, Northwest, in Washington, D.C., in the
10 matter of In Re Roundup Products Liability
11 Litigation, MDL Number 02741, pending before the
12 United States District Court for the Northern
13 District.

14 The deponent today is Mr. Sam Murphey,
15 as a 30(b)(6) witness representing Monsanto
16 Corporation.

17 Counsel will be noted on the
18 stenographic record for appearances.

19 The court reporter is Leslie A. Todd,
20 who will now administer the oath.

21 WHEREUPON,

22 SAMUEL MURPHEY,

23 having first been duly sworn, was
24 examined and testified as follows:

25 MR. ESFANDIARY: Pedram Esfandiary for

1 plaintiffs.

2 THE VIDEOGRAPHER: Oh, okay. I had you
3 noted on the stenographic record.

4 MR. ESFANDIARY: Oh, you did. Okay.

5 MR. PARISER: Before we start, Counsel,
6 I'm still not getting the Livenote feed. Will
7 that start up automatically?

8 (Discussion off the record.)

9 THE VIDEOGRAPHER: The time is 8:57 a.m.
10 We're going off the record.

11 (Resolving technical issues.)

12 THE VIDEOGRAPHER: The time is 8:59 a.m.
13 And we're back on the record.

14 EXAMINATION BY COUNSEL FOR PLAINTIFFS

15 BY MR. ESFANDIARY:

16 Q Good morning, Mr. Murphey. How are you
17 doing?

18 A Good morning. I'm doing fine, thank
19 you.

20 Q So my name is Pedram Esfandiary. We met
21 off the record, briefly. I'm representing the
22 plaintiffs in this litigation. Do you know what
23 this litigation is about?

24 A I do.

25 Q Okay, great. Have you given testimony

1 previously in deposition?

2 A I have not.

3 Q This is your first deposition?

4 A It is.

5 Q Okay. So I assume counsel walked you
6 through the various, you know, procedural
7 mechanisms of a deposition. If you want, I could
8 walk you through them again.

9 But just very briefly, this is a
10 question and answer format. So please wait for a
11 question, and wait until I finish my question
12 before you give an answer. Counsel may object
13 throughout the deposition, but I'm entitled to
14 your best answer, unless he instructs you not to
15 answer, and we can have a fight about that.

16 So before we get going here, I would
17 just like to lay out some preliminary --
18 preliminary issues.

19 You understand that you've been
20 proffered here as a witness to testify on behalf
21 of the Monsanto Corporation, correct?

22 A I do.

23 Q Okay. And you are currently an employee
24 of the Monsanto Corporation, right?

25 A Yes, Monsanto, and now Bayer.

1 Q Bayer. So you are technically an
2 employee of Bayer now, right?

3 A I am.

4 Q I'm going to mark what will be
5 Exhibit No. 1 to your deposition. That's yours.

6 MR. ESFANDIARY: And a copy for counsel.

7 (Murphey Exhibit No. 1 was marked
8 for identification.)

9 BY MR. ESFANDIARY:

10 Q And this is Plaintiffs' Amended Notice
11 to take the videotaped oral deposition of Monsanto
12 Company.

13 Have you seen this notice before, sir?

14 A Yes, I have.

15 Q Okay. If you would please turn to page
16 number 3, it's Exhibit A, it identifies various
17 topics for deposition that the Monsanto
18 representative will be testifying about. And if
19 you'd turn to page number 4, sir, and you look at
20 subjects number 18 and 19 there, 18 says,
21 "Monsanto's knowledge, positions, and conduct
22 related to the Let Nothing Go campaign and/or
23 initiatives."

24 Do you see that, sir?

25 A I do.

1 Q The one below it, No. 19, "Monsanto's
2 knowledge, positions, and conduct related to the
3 interactions with the media and press related to
4 IARC's classification of GBFs as a probable human
5 carcinogen."

6 Do you see that?

7 A I do.

8 Q Is it your understanding that you are
9 here, able and competent to testify about these
10 two topics?

11 A Yes, sir.

12 Q On behalf of the Monsanto Corporation,
13 correct?

14 A Yes.

15 Q Great. So the way we're going to do
16 this, I'm going to start the deposition with these
17 two topics. I'm going to start with topic No. 19,
18 proceed to 18, and then I may ask you some
19 questions in your individual capacity related to
20 your work at the Monsanto Corporation. Cool?

21 A I understand.

22 Q All right.

23 MR. PARISER: Counsel, just to clarify,
24 are we going to mark the 30(b)(6) segment of the
25 deposition completed, and then proceed to the

1 separate individual deposition, or how do you want
2 to handle that?

3 MR. ESFANDIARY: I'd rather not do -- we
4 can talk about that maybe during a break, but I'd
5 rather not do that at this moment. We'll see how
6 the deposition unfolds, and we can maybe talk
7 about that.

8 MR. PARISER: Okay. We'll -- we'll talk
9 about that at the next break. I just want it to
10 be as clear as possible when the witness is
11 speaking on behalf of the company, as opposed to
12 his individual capacity.

13 MR. ESFANDIARY: I'll -- I'll ask him --
14 if I'm -- I'll form the question to suggest I'm
15 asking him in his individual capacity.

16 BY MR. ESFANDIARY:

17 Q All right. How long have you been an
18 employee of the Monsanto Corporation, Mr. Murphey?

19 A Since January of 2013.

20 Q Since 2013. Okay. So you've been there
21 for about, what, it's coming up to four years,
22 right?

23 A No, sir. It would be just over six
24 years.

25 Q Six years.

1 THE VIDEOGRAPHER: Counsel, I need to go
2 off the record again. I'm sorry.

3 MR. ESFANDIARY: Yeah.

4 THE VIDEOGRAPHER: The time is 9:03 a.m.
5 We're going off the record.

6 (Pause in proceedings.)

7 THE VIDEOGRAPHER: The time is 9:08
8 a.m., and we're back on the record.

9 BY MR. ESFANDIARY:

10 Q All right, Mr. Murphey, before I got my
11 math all bungled up there, so you've been at the
12 Monsanto Corporation for six years?

13 A Yes.

14 Q Correct? Okay. I would like to mark
15 Exhibit No. 2 to your deposition.

16 (Murphey Exhibit No. 2 was marked
17 for identification.)

18 BY MR. ESFANDIARY:

19 Q And this is what appears to be your
20 LinkedIn page, correct, sir?

21 A Yes, that's right.

22 Q Okay. And if you turn to page 2 of 4,
23 you got your education at Truman State

24 University -- is that upper Missouri?

25 A Yes, sir.

1 Q Okay. And you received a bachelor of
2 arts, BA, in communication journalism, right?

3 A That's correct.

4 Q In 2006?

5 A That's correct.

6 Q And then you proceeded to work as a
7 communications director in the office of Governor
8 Jay Nixon of Missouri, correct?

9 A That's correct.

10 Q And you did that for two years. What
11 did that position entail? What's a communication
12 director?

13 A Sure. So the communications director in
14 the governor's office oversaw a team of
15 professionals who handled media relations, event
16 planning, helped the governor with preparation of
17 speeches and remarks. We were kind of the public
18 and media liaison for the office.

19 Q We have a term for a public relations
20 individual in the U.K., specifically the one that
21 works for government. Have you heard of the term
22 "spin doctor"?

23 MR. PARISER: Objection to form.

24 THE WITNESS: I've -- I've heard that
25 term. I don't think it reflects what I did in the

1 governor's office.

2 BY MR. ESFANDIARY:

3 Q So did part of your job entail, at the
4 governor's office, taking what could be
5 potentially negative PR issues, and turning them
6 into positive ones for the governor?

7 MR. PARISER: Objection to form.

8 THE WITNESS: I -- I think my
9 responsibilities in the governor's office focused
10 on helping develop messaging and communicate his
11 policies and his priorities to the public.

12 BY MR. ESFANDIARY:

13 Q In a positive way, ideally?

14 A Sure. We wanted -- wanted to emphasize
15 the benefits and the good work the governor was
16 doing for the state, while accurately reflecting
17 his positions.

18 Q And if a negative story was to be issued
19 with respect to what the governor is doing in
20 office, part of your job entailed to, essentially,
21 turn it into a potentially positive one for the
22 governor, correct?

23 A No. I think my -- our focus was more on
24 communicating his policy and priorities -- his
25 policies and his priorities in an accurate way,

1 that helped advance his agenda for the state.

2 Q So you --

3 MR. PARISER: And, Counsel, just to
4 interrupt for a second, it should be obvious, but
5 all of these background questions, and questions
6 about his past history are outside the scope of
7 the 30(b)(6) notice. So these are all in his
8 individual capacity.

9 Can I have a running objection in that
10 regard.

11 MR. ESFANDIARY: Sure. That's fine.

12 BY MR. ESFANDIARY:

13 Q If you turn to page 1 of your LinkedIn
14 profile there, and here it identifies your tenure
15 at Monsanto Company, correct?

16 A Yes, it does.

17 Q And it says, global external affairs
18 lead, chemistry.

19 A Yes.

20 Q If I could stop right there. Do you
21 have any background in the sciences?

22 A No, sir. My degree is in communication
23 and journalism.

24 Q You don't have any independent knowledge
25 of chemistry, correct?

1 A No. My knowledge of the science behind
2 our products would come from my conversations with
3 Monsanto scientists.

4 Q So you would defer to your Monsanto
5 colleagues -- by the Monsanto colleagues, when it
6 comes to scientific issues pertaining to the
7 product, correct?

8 A That's correct.

9 Q Would those -- would the individuals
10 that you would defer to include people like
11 Dr. Donna Farmer?

12 A Yes.

13 Q And people like Dr. Bill Heydens?

14 A Yes.

15 Q So if Dr. Farmer was to say, "We cannot
16 say that Roundup is not carcinogenic, because we
17 have not tested the formulated product," would you
18 defer to her on that?

19 MR. PARISER: Objection to form.
20 Misstates the record.

21 THE WITNESS: I -- I would -- I have a
22 lot of confidence, a tremendous amount of
23 confidence in the professionalism and expertise of
24 Dr. Farmer and her colleagues at our company. I
25 understand the specific context around that

1 particular comment that Dr. Farmer was trying to
2 make. She was trying to be very accurate and
3 precise in language.

4 But, yes, I would refer to Dr. Farmer's
5 expertise on a variety of subjects.

6 BY MR. ESFANDIARY:

7 Q That wasn't quite my question there.

8 So my question was, with respect to the
9 statement, "We cannot say that Roundup is not
10 carcinogenic, because we have not tested the
11 formulated product," would you defer to Dr. Farmer
12 on that statement?

13 MR. PARISER: Objection to form.
14 Misstates the record.

15 THE WITNESS: Yes, and I understand what
16 Dr. Farmer meant in that -- in that context.

17 BY MR. ESFANDIARY:

18 Q And if Dr. Bill Heydens said that he
19 believes "a tumor in a mouse study could be
20 related to exposure to the surfactant in the
21 formulated product," would you also defer to his
22 expertise in that regard?

23 MR. PARISER: Objection to form.
24 Misstates the record.

25 THE WITNESS: I would like to see the

1 specific context around -- around that statement.
2 So I can't respond to that particular statement in
3 specificity, but I would defer to Dr. Heydens'
4 expertise.

5 BY MR. ESFANDIARY:

6 Q All right. If you look back at your
7 LinkedIn profile there, your tenure at the
8 Monsanto Company, it says, "Direct global media
9 relations and advocacy efforts in support of major
10 litigation, policy matters, and reputational
11 threats, focusing on the herbicide business and
12 freedom to operate."

13 Do you see that?

14 A I do.

15 Q All right. And we'll get into
16 specifically what "freedom to operate" entails,
17 but part of your efforts at Monsanto were to
18 assist in the ongoing litigation -- responding to
19 ongoing litigation, particularly with respect to
20 Roundup, correct?

21 MR. PARISER: Objection to form.

22 THE WITNESS: Yes, the Roundup
23 litigation was one of the -- one of the pieces of
24 litigation that my team and I supported, as it was
25 attracting a significant number of inquiries from

1 reporters around the world.

2 BY MR. ESFANDIARY:

3 Q And it says, "direct global media
4 relations." Is it fair to say that the judgment
5 that you exercise in your position at the Monsanto
6 Company helped direct corporate policy in the
7 areas identified in your LinkedIn profile?

8 MR. PARISER: Objection to form, and
9 objection to the extent you're asking the witness
10 for -- to make a legal conclusion.

11 THE WITNESS: Could you -- could you
12 clarify by what you mean by "directing corporate
13 policy" in those areas?

14 BY MR. ESFANDIARY:

15 Q Well, for example, when it says, "direct
16 global media relations and advocacy efforts," in
17 your capacity at Monsanto, where you were
18 directing the global media relations, did the
19 decisions that you make help shape Monsanto policy
20 in this regard?

21 MR. PARISER: Same objection. Objection
22 to form, and to the extent you're asking the
23 witness to make a legal conclusion about his
24 ability to bind the company.

25 THE WITNESS: My -- my responsibilities

1 would have included working with our team to
2 determine how best to receive inquiries coming in
3 from reporters, to work with our scientists to
4 develop those responses, our proactive strategies
5 around reaching out to reporters. And, yes, I
6 would have had -- I would have provided direction
7 over those activities.

8 BY MR. ESFANDIARY:

9 Q And that would have eventually shaped
10 Monsanto corporate policy with respect to the
11 media outreach and the global media relations that
12 the Monsanto Company engaged in with respect to
13 the Roundup litigation, correct?

14 MR. PARISER: Same objections.

15 THE WITNESS: I'm -- I'm struggling to
16 understand exactly what you mean, again, by
17 "shaping the corporate policy." But, yes, I
18 did -- I did direct and provide leadership for
19 those activities.

20 BY MR. ESFANDIARY:

21 Q In the second paragraph there, it says,
22 "Place compelling stories that materially
23 contribute to commercial litigation and government
24 relations strategies and initiatives." Do you see
25 that?

■ [REDACTED]

2 Q Let's switch gears here to the
3 International Agency for Research on Cancer, IARC.
4 You're familiar with IARC, correct, sir?

5 A Yes, I am.

6 Q And do you know how long IARC has been
7 around for?

8 A My understanding is 50 or so years.

9 Q I would like to mark as Exhibit No. 5 to
10 your deposition -- oh, it's 4, rather.

11 (Murphey Exhibit No. 4 was marked
12 for identification.)

13 BY MR. ESFANDIARY:

14 Q All righty. This is an excerpt from the
15 IARC website. And the name of the specific page
16 is Agents Classified By the IARC Monographs,
17 Volumes 1 through 123. This page was last updated
18 November 9th, 2018. Have you seen this page
19 before?

20 A I don't know that I've seen this
21 particular page before.

22 Q Have you ever visited the IARC website
23 before?

24 A Yes.

25 Q But you don't recall coming across the

1 page dealing or addressing the specific chemicals
2 that IARC has classified over the years?

3 A I just -- I don't recall whether or not
4 I've seen this specific page.

5 Q And if you look to the right-hand there,
6 it identifies different numbers -- the agents that
7 IARC has classified over the years. Do you know
8 how many total -- how many chemicals IARC has
9 reviewed and classified over the years? I've done
10 the math myself. I can represent it to you, if
11 you want.

12 A Yeah, I mean, it seems to be the sum of
13 that column of numbers.

14 Q It's 1,013 over the years.

15 A Fair enough, yeah.

16 Q So in 50 years at IARC, they've reviewed
17 about over a thousand chemicals. Okay?

18 A That's my understanding, yes.

19 Q And can you see that out of the 1,013
20 chemicals, only 120 agents have been classified as
21 group 1, carcinogenic to humans?

22 A That's what -- that's what's written
23 here on the page.

24 Q Can you see that the majority of the
25 chemicals have been classified in group 3, not

1 classifiable as to its carcinogen in humans?

2 A That -- group 3 does have the largest
3 number next to it, yes.

4 Q Now, IARC classified glyphosate in 2015,
5 correct?

6 A Yes.

7 Q Do you know which category IARC
8 classified glyphosate in?

9 A The IARC opinion on glyphosate was
10 category 2A.

11 Q That would be the second down from the
12 top, probably carcinogenic to humans, correct?

13 A That's correct.

14 Q And within that group, there's 82
15 chemicals out of the 1,013 that IARC has reviewed,
16 correct?

17 MR. PARISER: I'm just going to object
18 generally that your questioning so far about this
19 document is outside the scope of the 30(b)(6), but
20 you can go ahead. He can answer in his personal
21 capacity.

22 THE WITNESS: Yes, it says 82.

23 BY MR. ESFANDIARY:

24 Q So you agree that fewer chemicals have
25 been classified by IARC as probably carcinogenic

1 than not classifiable as to carcinogenicity,
2 correct?

3 MR. PARISER: Same objections as to
4 scope. Go ahead.

5 THE WITNESS: Yes, that's accurate,
6 based on what's written here.

7 BY MR. ESFANDIARY:

8 Q And in the group that IARC classified --
9 classified glyphosate, group 2A, probably
10 carcinogenic to humans, are you aware that the 82
11 other chemicals in the category in which
12 glyphosate falls, that represents 8 percent of the
13 total number of chemicals reviewed by IARC?

14 MR. PARISER: Same objections.

15 THE WITNESS: That's roughly correct,
16 based on the math.

17 BY MR. ESFANDIARY:

18 Q So out of over a thousand chemicals,
19 IARC has classified 8 percent as being probably
20 carcinogenic to humans, correct?

21 MR. PARISER: Same objections.

22 THE WITNESS: Again, yeah, based on --
23 based on the math, that's right.

24 But just to be -- to be clear, though, I
25 don't think it -- IARC doesn't just classify

1 chemicals. It can be other substances. It can be
2 activities as well.

3 BY MR. ESFANDIARY:

4 Q Sure. All right.

5 MR. ESFANDIARY: I'm going to move this
6 document into evidence as well. And we're going
7 to proceed to Exhibit No. 5.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

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5 (Murphey Exhibit No. 6 was marked
6 for identification.)

7 BY MR. ESFANDIARY:

8 Q I'm going to mark as Exhibit No. 6 to
9 your deposition.

10 A Thank you.

11 Q This is -- an article by Mr. Chris
12 Bennett titled Glyphosate War Stirs Chemical
13 Storm. And it was published October 23rd, 2018.
14 Do you recall reading the final article that
15 Mr. Bennett published, sir?

16 A Let me just take a minute to -- (Peruses
17 document.)

18 I think I do recall seeing this article
19 when it came out.

20 Q Okay. If you turn to page 5, and at the
21 top there, it says, "Vice president of Bayer has
22 rendered opinions" -- sorry, let me go back.

23 It says, "Vice president of Bayer: IARC
24 has rendered opinions on 1,200 substances, and in
25 all but one, found cancer risks."

1 Is it your understanding that this is
2 substantively the same quote that Mr. Bennett sent
3 to you and your colleagues at Monsanto to check
4 for accuracy, sir?

5 A Yes, that looks to be substantively
6 similar to what Mr. Bennett sent in his e-mail to
7 Ms. Lord.

8 Q Now, Mr. Partridge's e-mail doesn't say
9 that 499 chemicals have been classified in
10 group 3, not classifiable as to its
11 carcinogenicity to humans, correct?

12 MR. PARISER: Objection to form.

13 THE WITNESS: No. Again, the context of
14 his statement here is that of the 1,200 or so
15 substances that IARC has classified, only one is
16 classified in category 4.

17 BY MR. ESFANDIARY:

18 Q He says, all but one. He doesn't say
19 only one. He says, everything has been classified
20 as carcinogenic but one, correct?

21 MR. PARISER: Objection to form.

22 THE WITNESS: In all but one, they found
23 some -- some level -- some level of risk. Again,
24 there's only -- there's only one category. And
25 that's category 4 that says, probably not

1 carcinogenic to humans.

2 BY MR. ESFANDIARY:

3 Q Is it your testimony to the jury that
4 not classifiable as to carcinogenicity indicates
5 that IARC found some kind of a risk?

6 MR. PARISER: Objection to form and
7 scope.

8 THE WITNESS: I'm not familiar with the
9 exact criteria of category 3. You know, it -- but
10 it seems to suggest that they don't have
11 convincing evidence either way. But the sole
12 category that is probably not carcinogenic to
13 humans is category 4.

14 BY MR. ESFANDIARY:

15 Q Right. But the category, not
16 classifiable, it includes chemicals that have been
17 reviewed and classified by IARC, correct?

18 MR. PARISER: Same objections.

19 THE WITNESS: Yes, in category 3. Not
20 in category 4.

21 BY MR. ESFANDIARY:

22 Q Right. But when Mr. Partridge says that
23 IARC has found cancer risks in all, he is lumping
24 in category 3 in his statement there, isn't he,
25 sir?

1 MR. PARISER: Same objections. Asked
2 and answered.

3 THE WITNESS: Yes, because of the 1,200
4 or so substances and activities, and other things
5 that IARC has classified, there is only one that
6 is in category 4.

7 BY MR. ESFANDIARY:

8 Q But I'm not asking about the one in
9 category 4. I'm asking about, when he says, in
10 all, he is including category 3, not classifiable
11 as to carcinogenicity, in that statement, correct?

12 MR. PARISER: Same objections.

13 THE WITNESS: Yes.

14 BY MR. ESFANDIARY:

15 Q So Monsanto represented to the world
16 that even in instances when IARC has classified a
17 chemical as not classifiable as to
18 carcinogenicity, that indicates a risk, correct?

19 MR. PARISER: Same objections.

20 THE WITNESS: No. Mr. Partridge made
21 the point here that there's only one substance, of
22 all that IARC has looked at, that is in
23 category 4. That is -- that is how I read his --
24 his statement.

25 BY MR. ESFANDIARY:

1 Q And just so the record is clear, I
2 understand that he said that he's referring to the
3 category 4, but he's also referring to all the
4 other categories, correct?

5 MR. PARISER: Same objections. Asked
6 and answered.

7 THE WITNESS: Yes, every -- everything
8 that is not in category 4.

9 BY MR. ESFANDIARY:

10 Q Which includes not classifiable.

11 A Correct, because those are not in
12 category 4, probably not carcinogenic to humans.

13 Q So when Mr. Partridge says that IARC has
14 found a cancer risk in all, my question to you,
15 sir, is Monsanto's representing that not
16 classifiable to carcinogenicity implies that there
17 is a risk of cancer, correct?

18 MR. PARISER: Same objections. Asked
19 and answered.

20 THE WITNESS: There -- there could be;
21 there could not be. It's a substance, or an
22 activity, or item that is not in category 4, which
23 is the only category that is definitively probably
24 not carcinogenic to humans.

25 BY MR. ESFANDIARY:

1 Q And Mr. Partridge did not make that
2 distinction in issuing this quote to the world,
3 correct?

4 MR. PARISER: Same objections. Asked
5 and answered several times.

6 THE WITNESS: No. Mr. Partridge made
7 the point that of all of the substances that IARC
8 looked at, there's only one that is in category 4.
9 BY MR. ESFANDIARY:

10 Q And getting really technical, because
11 IARC -- you agree IARC is a research organization,
12 correct?

13 MR. PARISER: Objection to scope.

14 THE WITNESS: My understanding is that
15 IARC conducts a number of activities. They do --
16 you know, they do some research. And then in the
17 case of the monographs program, they review
18 research that others have done.

19 BY MR. ESFANDIARY:

20 Q And they have clearly distinguished
21 criteria by which they classify chemicals, and
22 activities, and foods, and so forth, correct?

23 MR. PARISER: Same objections.

24 THE WITNESS: Yes, that's generally
25 my -- my understanding.

1 BY MR. ESFANDIARY:

2 Q And these clearly defined criteria are
3 clearly defined for a -- for a reason, correct?

4 MR. PARISER: Objection to form.

5 THE WITNESS: I -- I can't speak to how
6 clearly defined or not they are. That's not --
7 I'm not familiar with the specific criteria. But
8 I understand that there are criteria by which they
9 choose to place a substance, or an activity, or a
10 food, as you said, into a different category.

11 BY MR. ESFANDIARY:

12 Q Given the numbers that we looked at,
13 with respect to how many chemicals have been
14 classified in specific groups by IARC, and 499 of
15 them being not classifiable as to carcinogenicity,
16 is it accurate to say, that in every instance but
17 one, IARC has found a cancer risk?

18 MR. PARISER: Objection to scope and
19 form and scope. Asked and answered numerous
20 times.

21 THE WITNESS: Yes, in -- through the
22 IARC classification system, there is only one
23 substance where they have said it is -- it is in
24 category 4, which is their only category that is
25 probably not carcinogenic to humans.

1 BY MR. ESFANDIARY:

2 Q Is it accurate to say that the majority
3 of the chemicals reviewed by IARC have been
4 classified as carcinogens?

5 MR. PARISER: Same objections.

6 THE WITNESS: They have been put -- they
7 have been put into a category that, you know,
8 suggests that there is some reason that they would
9 not be classified in category 4.

10 BY MR. ESFANDIARY:

11 Q So not classifiable, that includes
12 chemicals that have been found to have a cancer
13 risk. Is that your testimony, sir?

14 MR. PARISER: Objection to form.
15 Misstates testimony.

16 THE WITNESS: No. Something that is in
17 category 3 is not in category 4. And category 4
18 is the only category that refers to not
19 carcinogenic.

20 BY MR. ESFANDIARY:

21 Q That wasn't my question, sir.

22 My question was, is it your testimony
23 that something classified in category 3 indicates
24 a cancer risk?

25 MR. PARISER: Objection, argumentative.

1 Asked and answered.

2 THE WITNESS: I don't think -- I don't
3 have the familiarity to understand exactly what
4 the criteria are for category 3. But looking at
5 the classification system here on the page, there
6 is -- there is only one substance that is in
7 group 4, which is the only category that is
8 probably not carcinogenic.

9 BY MR. ESFANDIARY:

10 Q So Monsanto is okay making
11 representations about IARC's classification system
12 without being fully familiar as to what each of
13 those categories entail?

14 MR. PARISER: Same objections.

15 THE WITNESS: No, that's not -- that's
16 not what I was implying. I have -- I have
17 colleagues, scientific colleagues who do have much
18 more familiarity with the classifications and how
19 substances are classified there. I was simply
20 saying that I, in my role, don't have total
21 familiarity with those -- with those criteria.

22 BY MR. ESFANDIARY:

23 Q Well, you testified earlier that you
24 knew Mr. Partridge's statement to be true,
25 correct?

1 A Yes, that I was aware that only one
2 substance had been -- had been classified in
3 group 4.

4 Q And you represented that you thought the
5 statement to be true, whilst at the same time
6 professing that you're not exactly clear on what
7 each of the categories of classification used by
8 IARC actually entails, correct?

9 MR. PARISER: Objection, scope.
10 Argumentative.

11 THE WITNESS: No, I'm saying that my
12 understanding is the statement was true, in that
13 Mr. Partridge was making the statement that of all
14 of the substances and activities that IARC has
15 classified, only one of them is in group 4. That
16 is consistent with my understanding. I am not,
17 however, intimately familiar with the specific
18 criteria behind classification in each of the
19 categories.

20 BY MR. ESFANDIARY:

21 Q So you're not intimately familiar
22 enough, in order to respond accurately to a
23 statement that, in all other instances, IARC has
24 found a cancer risk associated with a chemical,
25 correct?

1 MR. PARISER: Objection to form.

2 THE WITNESS: No. I am comfortable in
3 saying that of all of the substances that IARC has
4 classified, which is about 1,200, there is only
5 one that has been classified in group 4, which is
6 probably not carcinogenic to humans.

7 BY MR. ESFANDIARY:

8 Q Regardless of your understanding of what
9 group 3 actually means, correct?

10 MR. PARISER: Objection to form.
11 Objection to scope.

12 THE WITNESS: Yes, because, again, it's
13 very clear that there is only one substance in
14 group 4.

15 BY MR. ESFANDIARY:

16 Q Now, the e-mail between Mr. Bennett and
17 Monsanto was sent back in September of 2018,
18 correct?

19 A Yes.

20 Q Are you familiar with the case of
21 Johnson versus Monsanto?

22 A Yes, sir.

23 Q Are you aware that the jury in Johnson
24 versus Monsanto awarded the plaintiff 280 million
25 in damages --

1 MR. PARISER: Objection.

2 BY MR. ESFANDIARY:

3 Q -- as a result of exposure -- injuries
4 arising from exposure to Roundup?

5 MR. PARISER: Objection. This is
6 outside the scope.

7 THE WITNESS: I -- it is my
8 understanding that the jury awarded that level of
9 damages, and subsequently, it was reduced by -- by
10 the judge.

11 BY MR. ESFANDIARY:

12 Q Do you know how much it was reduced to?

13 A I believe it was about 90 million.

14 Q It was 78.

15 A Okay.

16 Q And do you know when the jury verdict
17 was handed down?

18 A I believe it was back in August.

19 Q Now, please turn your attention back to
20 Monsanto's statement in Bennett's article. Now,
21 this article was published after the Johnson
22 verdict, correct?

23 A Yes. It appears this article was
24 published on October 23rd.

25 Q In the paragraph where Mr. Partridge --

1 let's see -- I'm sorry, turn your attention to the
2 e-mail that Mr. Bennett sent.

3 A Okay.

4 Q Oh, actually, sorry. No, in the article
5 just above the paragraph, it's on page 4, where
6 Mr. Partridge talks about a number of chemicals
7 classified by IARC. He says, "'Look back at 40
8 years of safe glyphosate use, and there are no
9 lawsuits like this until the IARC report, which
10 was based on no testing, no lab work, just opinion
11 that glyphosate is probably a carcinogen. Thus
12 manipulation and cherry-picking of data,' says
13 Scott Partridge."

14 Do you see that?

15 A I do.

16 Q Sir, has the EPA ever conducted a lab
17 test on glyphosate?

18 MR. PARISER: Objection to scope and
19 foundation.

20 THE WITNESS: No, those -- the
21 laboratory tests are conducted by registrants or
22 by contract labs on behalf of registrants,
23 companies like Monsanto, that produce glyphosate.
24 And then those are submitted to the EPA.

25 BY MR. ESFANDIARY:

1 Q Has the BfR ever done a lab test on
2 glyphosate?

3 MR. PARISER: Same objections.

4 THE WITNESS: No. My understanding
5 there is the same, that, you know, those tests are
6 done and submitted to the agencies for review. I
7 do think in the case of IARC, my understanding is
8 that many of those tests were not considered
9 because they are not published in openly available
10 literature.

11 BY MR. ESFANDIARY:

12 Q Are you aware that the summary of those
13 tests is published in an article titled Grime,
14 et al., 2015?

15 MR. PARISER: Objection.

16 THE WITNESS: Yes, I am.

17 BY MR. ESFANDIARY:

18 Q Are you aware that IARC reviewed that
19 article and the underlying data that was presented
20 in that article?

21 MR. PARISER: Objection to scope and
22 form. And misstates facts.

23 THE WITNESS: My understanding is that
24 that information was made available to the working
25 group quite late, and that much of that data was

1 not thoroughly examined by the IARC working group.

2 BY MR. ESFANDIARY:

3 Q Do you have any basis to know how
4 thoroughly BfR has examined the underlying data?

5 A My -- my understanding is that agencies
6 like the BfR and the EPA review the data quite
7 rigorously.

8 Q And who told you that, sir?

9 A That would be through my conversations
10 with Monsanto scientists, who are familiar with
11 the regulatory process.

12 Q You would defer to those scientists
13 when it comes to the regulatory process, correct?

14 A Yes, in many cases -- if I had -- if I
15 had a technical question about how that process
16 worked, I would go to one of our scientists and
17 ask them to help me understand it.

18 Q But you agree that none of these
19 regulatory agencies actually, themselves, conduct
20 lab tests on glyphosate, correct?

21 MR. PARISER: Objection, scope and
22 foundation.

23 THE WITNESS: No. My understanding is
24 those tests are conducted by registrants or labs
25 working on behalf of the registrants, according to

1 regulatory guidelines that have been submitted.

2 BY MR. ESFANDIARY:

3 Q So when Mr. Partridge says that IARC's
4 decision was based on no testing, no lab work,
5 that equally applies to the regulatory agencies,
6 correct?

7 A No. Because, again, here they -- the
8 IARC was looking at a subset of the data available
9 to the regulatory bodies. And their -- their
10 assessment was not as rigorous or complete as the
11 assessment by EPA, or BfR, or the other agencies.

12 Q That was not my question, sir.

13 My question was, Mr. Partridge's
14 statement that IARC's decision was based on no lab
15 work, that applies equally to the regulatory
16 agencies, correct?

17 A Yes, a regulatory agency would rely on
18 lab work that is done by a registrant, according
19 to regulatory standards and submitted to them.

20 Q So my question to you, is,
21 Mr. Partridge's statement that IARC's opinion that
22 glyphosate is probably a carcinogen, that wasn't
23 based on lab work, that equally applies to
24 regulatory agencies, correct?

25 MR. PARISER: Objection to form.

1 THE WITNESS: Again, I -- my
2 understanding is that, in the case of a regulatory
3 agency, they do rely on lab work that is submitted
4 by a registrant. And they looked at -- and EPA or
5 BfR looks at substantially more data than IARC
6 would have considered.

7 BY MR. ESFANDIARY:

8 Q Again, the BfR or EPA, though, does not
9 conduct a lab test, correct?

10 A That is my understanding.

11 Q So Mr. Partridge's statement, the IARC's
12 classification was based on no testing, no lab
13 work, that applies to the regulatory agencies,
14 such as the EPA, correct?

15 A Yes, the EPA would not conduct its own
16 laboratory testing.

17 Q Thank you.

18 Is it fair to say that you coordinated
19 much of Monsanto's response to the IARC
20 classification of glyphosate?

21 MR. PARISER: Objection to form.

22 THE WITNESS: It would be -- excuse me,
23 it would be fair to say, I coordinated much of our
24 media or public affairs response. There were
25 certainly other people involved in other aspects

1 of that work.

2 BY MR. ESFANDIARY:

3 Q But you were heavily involved in aspects
4 of that work, correct?

5 MR. PARISER: Objection to form, vague.

6 THE WITNESS: Again, as --

7 BY MR. ESFANDIARY:

8 Q Counsel is right. That was a poor
9 question.

10 Your -- a large part of your
11 responsibilities at Monsanto involved media
12 response to the 2015 IARC classification of
13 glyphosate, correct?

14 A Yes.

15 Q Okay. I'd like to -- and you're aware
16 that IARC announced its classification of
17 glyphosate in March of 2015, correct?

18 A Yes.

19 Q And the Lancet article that was
20 published carrying the initial IARC announcement
21 of the classification of glyphosate was about
22 March 20th, 2015?

23 A Yes.

24 Q I'd like to go back to early 2015,
25 before IARC had classified glyphosate.

1 I'm going to -- well, before I get
2 there, did Monsanto have a plan in place for
3 responding to the IARC classification before the
4 agency announced its classification in March?

5 MR. PARISER: Objection to form, vague,
6 outside the scope.

7 THE WITNESS: Yes, I had colleagues
8 within our corporate engagement group, who were
9 developing a communications plan to respond once
10 the IARC opinion became public.

11 BY MR. ESFANDIARY:

12 Q Before Monsanto knows what the
13 classification is, correct?

14 MR. PARISER: Same objection.

15 THE WITNESS: Correct. We were -- we
16 were aware that the working group meeting had been
17 scheduled, and so we're developing plans for
18 several -- several -- several scenarios.

19 MR. ESFANDIARY: I'd like to mark as
20 exhibit number -- No. 7.

21 (Murphey Exhibit No. 7 was marked
22 for identification.)

23 BY MR. ESFANDIARY:

24 Q There you are, sir. That's Exhibit
25 No. 7 to your deposition.

1 MR. ESFANDIARY: And a copy for counsel.
2 There you are.

3 BY MR. ESFANDIARY:

4 Q And this is an e-mail with an
5 accompanying attachment sent by Kimberly Link to
6 JD Dobson, on February 27, 2015.

7 That's about, oh, less than a month or
8 so before the IARC announced its classification,
9 correct?

10 A Yes. If you would give me just a
11 minute -- since I'm not on this e-mail --

12 Q Sure.

13 A -- I'd just like to read it all.

14 (Peruses document.)

15 Q And whilst you're doing that, I'm just
16 going to read in the Bates number of the document
17 is MONGLY04773726.

18 A Okay.

19 Q Do you recall seeing these e-mails and
20 the attachment?

21 A No. Again, I'm not on this e-mail. So
22 I did not receive -- receive this, or review this
23 e-mail. I'm aware that there was a plan developed
24 that contained many of these parts. I don't know
25 that I ever saw this specific version of the plan.

1 Q But you are able to competently testify
2 about Monsanto's media response to the IARC
3 decision, correct?

4 A Yes.

5 MR. PARISER: Objection to -- you need
6 to give me a little bit of time to object.

7 THE WITNESS: I do. Sorry.

8 BY MR. ESFANDIARY:

9 Q Does this document appear to have been
10 created in the ordinary course of Monsanto's
11 business?

12 MR. PARISER: Object to form and
13 foundation. And, Counsel, I don't believe
14 activities prior to the IARC classification are
15 within the scope of the 30(b)(6) notice, but the
16 witness can answer, to the extent he knows, in his
17 personal capacity.

18 MR. ESFANDIARY: He is going to testify
19 about Monsanto's positions on the IARC's response
20 related to the classification of glyphosate,
21 whether that's before or after the classification.

22 MR. PARISER: I'm going to maintain my
23 objection, but he can answer, to the extent he's
24 able to.

25 MR. ESFANDIARY: We'll see what the

1 judge has to say.

2 BY MR. ESFANDIARY:

3 Q All right. Mr. Murphey, does this
4 appear to have been created in the ordinary course
5 of Monsanto's business?

6 MR. PARISER: Same objection.

7 THE WITNESS: Yes.

8 MR. ESFANDIARY: I'm going to move this
9 document into evidence as well.

10 BY MR. ESFANDIARY:

11 Q Now, what does Ms. Kimberly Link do at
12 Monsanto, sir?

13 A Ms. Link is -- is no longer an employee
14 of the company. At the time, she was a member of
15 the team within the corporate engagement group
16 that was preparing for the IARC working group
17 announcement.

18 Q So she was part of your corporate
19 engagement team, correct?

20 A Yes. She didn't report to me. But,
21 yeah, she was a part of the same corporate
22 engagement team.

23 Q And she sends an e-mail to JD Dobson at
24 JDDobson@Fleishman.com. Is that referring to
25 FleishmanHillard, sir?

1 A Yes.

2 Q And we'll get to FleishmanHillard in
3 just a little bit, but could you just give a brief
4 explanation as to what FleishmanHillard does?

5 A FleishmanHillard is a public affairs
6 consultancy. And they work with a number of
7 clients, such as -- such as Monsanto, on
8 activities involving media relations, digital or
9 social media, stakeholder engagement, and things
10 of that sort.

11 Q And on the first page of this document,
12 Ms. Link says, "I just spoke with Kelly. Here is
13 our final draft plan." Do you see that?

14 A I do.

15 Q And attached is the final draft plan.
16 If you turn to the first page of the attachment,
17 it is titled Monsanto Response Plan to IARC
18 Decision, correct?

19 A Yes.

20 Q And if you look down to the subsection
21 titled, Media, in the second paragraph, it says,
22 "Monsanto should be prepared with reactive
23 statements responding to a 3 finding, not
24 classifiable as to carcinogenicity to humans, by
25 far the most common IARC ruling at 506 out of 978

1 agents categorized."

2 Do you see that, sir?

3 A I do see that written there.

4 Q So I'm just going to stop there.

5 Monsanto was internally aware that the majority of
6 IARC's classifications are in group 3 of
7 non-classifiable, correct?

8 MR. PARISER: Objection to form, and
9 foundation, and scope.

10 THE WITNESS: Yes, we were aware that
11 there were a significant number of items that had
12 been included in category 3.

13 BY MR. ESFANDIARY:

14 Q And Mr. Partridge didn't report to the
15 media in his statement that the most common IARC
16 classifications fell in group 3, correct?

17 MR. PARISER: Objection. Counsel, we've
18 been over this line of questioning again and again
19 and again. Asked and answered.

20 THE WITNESS: No. Mr. Partridge made
21 the point that of the 1,200 or so items that IARC
22 has classified, only one is in category 4.

23 BY MR. ESFANDIARY:

24 Q And all the others indicate a cancer
25 risk?

1 MR. PARISER: Same objections.

2 BY MR. ESFANDIARY:

3 Q Correct?

4 A That all the others are in a category
5 other than category 4.

6 Q He didn't say that, though, did he?

7 MR. PARISER: Objection, asked and
8 answered numerous times. Counsel, we've been
9 through this again and again.

10 BY MR. ESFANDIARY:

11 Q Mr. Partridge says that all but one.

12 MR. PARISER: This is getting to be --
13 this is getting to be harassment.

14 BY MR. ESFANDIARY:

15 Q Correct?

16 A He said all but one are not in
17 category 4.

18 Q And if you turn to the next page of the
19 attachment there, under subsection social/digital,
20 three paragraphs down, it says, "Monsanto, as a
21 leading manufacturer of glyphosate, as a company
22 with reputation challenges, will have a very
23 limited credibility when speaking on the topic of
24 glyphosate safety."

25 Do you see that, sir?

1 A I do see that written there.

2 Q Does Monsanto perceive itself to have
3 limited credibility when responding to the IARC
4 classification?

5 MR. PARISER: Objection to form, and
6 scope.

7 THE WITNESS: No. I think -- I think
8 the context here is important. And, you know,
9 what Ms. Link was saying in this document was
10 that, you know, Monsanto was aware that it could
11 be a highly polarizing, you know, company. And
12 that it can evoke strong emotions in public
13 conversations. And we just needed to keep that in
14 mind.

15 I certainly think when it comes to our
16 scientists and their understanding of the safety
17 and the research that supports the safe use of
18 glyphosate, we have -- we have a tremendous amount
19 of credibility. I just think Ms. Link was saying,
20 we need to keep kind of the overarching context of
21 Monsanto's reputation in mind as this plan was
22 developed.

23 BY MR. ESFANDIARY:

24 Q Ms. Link says that Monsanto "will have
25 very limited credibility when speaking on the

1 topic of glyphosate safety," correct?

2 A That is what she or someone appears to
3 have written there.

4 Q What are some of the reputation
5 challenges facing Monsanto?

6 MR. PARISER: Objection to scope and
7 form, vague.

8 THE WITNESS: I think, you know, in the
9 current social climate, people have a fair number
10 of questions about where their food comes, and how
11 it's produced. And in that context, things like
12 genetically modified organisms, or you know,
13 modified genetically seeds, in the case of our
14 company, have evoked a lot of questions and
15 emotional responses from people.

16 And for quite a while, I think Monsanto
17 did not do enough to engage in those conversation,
18 and to help people understand the importance and
19 the benefits and the safety of those -- of those
20 technologies. And I think that, over time,
21 created a reputational challenge that Monsanto was
22 working to address.

23 BY MR. ESFANDIARY:

24 Q Would some of the reputational
25 challenges involve Monsanto's manufacture of PCBs?

1 MR. PARISER: Objection to scope.

2 THE WITNESS: That was a -- PCBs were a
3 product of the former Monsanto Company. But, yes,
4 on occasion, we would continue to receive --
5 receive questions or see coverage in the media
6 about the connection between the former Monsanto
7 Company and PCBs.

8 BY MR. ESFANDIARY:

9 Q Would Monsanto's reputational challenges
10 involve the manufacture of Agent Orange used in
11 the Vietnam War?

12 MR. PARISER: Objection to form.

13 THE WITNESS: Again, that was a product
14 of the former Monsanto Company, but we would
15 occasionally receive questions about the former
16 Monsanto's involvement in the production of Agent
17 Orange, and we would work to provide accurate
18 information about that.

19 BY MR. ESFANDIARY:

20 Q You agree that Monsanto has been
21 Monsanto since the early 20th Century, correct,
22 sir?

23 A The name "Monsanto" has -- has been the
24 same. The -- the structure and the ownership of
25 the company has changed over time, as well as the

1 company's business. You know, the Monsanto for
2 the last 20 years of its existence was an
3 agricultural company that did not produce the same
4 type of chemical products that the former company
5 did.

6 Q Part of that reason being that Roundup
7 was hugely successful financially for Monsanto,
8 correct?

9 MR. PARISER: Objection to scope, and
10 form, foundation.

11 THE WITNESS: I mean, Roundup was
12 transformative for the company and for -- and for
13 agriculture, because of its -- because of its many
14 benefits for our -- for our customers. And so
15 certainly for the -- for the Monsanto agricultural
16 company, Roundup was a very -- a very important
17 product.

18 BY MR. ESFANDIARY:

19 Q Take a look at the first page of the
20 attachment there, under the main heading. It
21 says, "On mainstream media, social media, and
22 employee communications, we recommend an approach
23 that seeks to include Monsanto's voice in the
24 conversation about IARC and glyphosate, but as
25 much as possible, defer to other positive voices

1 from industry, academia, and elsewhere."

2 Do you see that, sir?

3 A I do see that.

4 Q Does Monsanto prefer to defer to
5 third-party voices when responding to the IARC
6 classification, because of the company's
7 reputational problems?

8 A No, I think it largely depends on
9 context. Monsanto certainly expressed its views
10 about the IARC opinion in a -- in a number of
11 forums. We felt very strongly that the IARC
12 opinion was incorrect, and was an outlier from the
13 conclusions of the EPA, and EFSA, and regulatory
14 bodies around the world.

15 And so we were very forthright in our
16 statement about -- about our opinions, and about
17 the science. You know, we certainly did reach out
18 to others who care about glyphosate, whether
19 that's in academia, or within agriculture, to
20 inform them about the classification. We were
21 pleased to see that many of them shared our
22 concerns, and raised their voices as well. But
23 we -- we certainly did not defer to them
24 exclusively. We were very forthright with our
25 views.

1 Q Ms. Link says that Monsanto should be
2 deferring to these third parties as much as
3 possible, correct?

4 MR. PARISER: Objection, Foundation,
5 scope.

6 THE WITNESS: That's -- that's what's
7 written in - in this particular document.

8 BY MR. ESFANDIARY:

9 Q So Monsanto's -- part of Monsanto's
10 plan, in responding to IARC, was to get its
11 messages -- get Monsanto's messages regarding the
12 IARC classification out there, but ideally, at an
13 arm's-length from Monsanto, correct?

14 MR. PARISER: Objection to form.

15 THE WITNESS: That's what's written
16 in -- you know, in this document, as much as -- as
17 much as possible. This -- this document is a
18 reflection of the view -- views of one plan at one
19 point in time.

20 As we moved forward, after the IARC
21 classification, again, we were very forthright in
22 engaging with agriculture groups, engaging with
23 reporters, engaging on social media, to share --
24 to share the company's views. We -- you know, we
25 kept our -- we kept agriculture groups and others

1 informed. We were pleased that many of them
2 continued to speak out as well about what they saw
3 as an inaccurate classification. But Monsanto was
4 always very, again, I'll just -- very forthright
5 in sharing our views about the classification.

6 BY MR. ESFANDIARY:

7 Q Let me just break that down a little
8 bit. In the first part of your answer, you
9 mentioned that this is just an initial plan, and
10 this was generated before the IARC classification.

11 I'd just like to turn your attention to
12 Ms. Link's second sentence there. She says, "Best
13 case scenario is that these other voices take on
14 the bulk of the communication about IARC and
15 glyphosate."

16 So Monsanto's ultimate goal was to
17 ensure that the majority of its messaging
18 regarding IARC was issued through the third
19 parties, correct?

20 MR. PARISER: Objection to scope, form,
21 and foundation.

22 THE WITNESS: Again, that's what's
23 written in one plan at one point in time.

24 BY MR. ESFANDIARY:

25 Q Do you have any reason to believe that

1 Monsanto did not try to achieve this goal?

2 A I think, over the -- over the course of
3 time, we took a very proactive stance in our -- in
4 our communications about the -- about the IARC
5 opinion. Again, other organizations certainly
6 weighed in as well. But we -- we were
7 deliberately very proactive in defending the
8 safety and the benefits of our product. We're
9 very proud of Roundup, and its history of safe
10 use. And we were very proactive in communicating
11 and sharing information about that.

12 Q Right. In an effort to live up to
13 Monsanto's pride of Roundup, would it be important
14 for the company to defend the product, ideally,
15 through third parties, so as such not to raise
16 some of these reputational challenges identified
17 by Ms. Link in this plan, correct?

18 MR. PARISER: Objection to form.

19 THE WITNESS: No, I -- I don't agree
20 with that characterization. Third-party
21 engagement was an element in the plan. But
22 Monsanto did take, and continues to take, a very
23 front-footed position in helping engage with
24 reporters, stakeholders, and society at large, to
25 explain our views about the safety of the product.

1 BY MR. ESFANDIARY:

2 Q Now, at the time of generating this
3 response plan, Monsanto had not yet read the IARC
4 monograph on glyphosate, correct?

5 A That's correct. And that's why you'll
6 see multiple scenarios in the -- in the document.

7 Q If you turn to page 5 of the attachment,
8 there is an anticipated timeline subsection there.
9 And below the anticipated -- anticipated timeline,
10 it says, "February 27th," and that's, again,
11 before the IARC monograph, correct?

12 A Correct.

13 Q It says, "Henry Miller Forbes piece is
14 published. Monsanto amplifies via third-party
15 channels." Do you see that, sir?

16 A I do.

17 Q Do you know who Henry Miller is?

18 A I do.

19 Q Have you worked with him?

20 A I've never personally directly met
21 Dr. Miller, no.

22 Q You've e-mailed him, though, correct?

23 A No.

24 Q Have you sent e-mails to your colleagues
25 at Monsanto that you then expected or understood

1 to be forwarded to Mr. Miller?

2 A Yes.

3 Q Did Monsanto coordinate with Mr. Miller
4 in publishing an article on IARC before the
5 decision?

6 MR. PARISER: Objection to scope,
7 foundation.

8 THE WITNESS: That is listed here in the
9 anticipated timeline. I don't recall whether
10 there was a piece specifically prior to the
11 classification announcement or not.

12 BY MR. ESFANDIARY:

13 Q Are you aware that Mr. Miller's
14 articles, though published on Forbes' website,
15 have been retracted by the -- by the journal?

16 MR. PARISER: Objection to form.

17 THE WITNESS: I -- I understand that the
18 pieces have been taken down. I think we need to
19 be clear about what the Forbes website is. I
20 wouldn't say -- it's not an academic journal, or a
21 scholarly journal. It's -- it's a website where
22 Dr. Miller was an opinion contributor.

23 BY MR. ESFANDIARY:

24 Q Do you -- are you aware that Forbes'
25 reason for pulling down Dr. Miller's articles was

1 undisclosed conflict of interest with Monsanto
2 Company?

3 MR. PARISER: Object to the scope of all
4 this questioning, and foundation.

5 THE WITNESS: I can't speak to the
6 specific -- the specific reasons given by Forbes,
7 but again, I'm aware that the opinion pieces were
8 taken down.

9 BY MR. ESFANDIARY:

10 Q All right. If you turn back to -- turn
11 back a page to page 4. I'm sorry, I know the
12 pages aren't numbered. It's a bit tricky.

13 A It's okay.

14 Q In the paragraph -- the second paragraph
15 down from the top, "GMO answers and
16 Discover.Monsanto.com," it says, "Canned text
17 responses should be developed in advance for
18 responding to questions specifically about IARC's
19 ruling." Do you see that, sir?

20 A I do.

21 Q So in advance of IARC's ruling, Monsanto
22 was -- had preprepared -- or it had canned
23 statements ready about the classification,
24 correct?

25 MR. PARISER: Objection to scope.

1 THE WITNESS: Within this context, I
2 think, you know, that the plan is simply saying
3 that a template or draft responses should be --
4 should be prepared in advance. So whether it was
5 on the Discover Monsanto website, or the GMO
6 Answers website, which is an industry website,
7 those statements could be prepared and ready to go
8 as quickly as possible.

9 BY MR. ESFANDIARY:

10 Q A canned response, though, is a type of
11 response that you would give to questions,
12 regardless of what the question is seeking to --
13 seeking an answer to, correct? You're giving the
14 same response?

15 A That's not my understanding of the word
16 in this -- in this context.

17 Again, here, this is a preparedness
18 plan, talking about different -- different
19 channels that would be used at the time the
20 opinion came out. And so I think, in this case,
21 "canned" would mean more like a draft or
22 preprepared.

23 Q It doesn't say "draft," though, does it?
24 It says "canned."

25 A And I'm just -- I'm explaining to you my

1 understanding, based on the context in this
2 document, of what that word would mean.

3 Q You agree that the word "draft" could
4 have been used to explain the concept that you
5 just did in this document, correct?

6 MR. PARISER: Objection, scope,
7 foundation, argumentative.

8 THE WITNESS: Yes, in my understanding
9 of how the word is used here, "draft" would have
10 been an alternative word that could have been
11 used.

12 BY MR. ESFANDIARY:

13 Q Was it Monsanto's intention to
14 orchestrate an outcry with the IARC decision?

15 MR. PARISER: Objection to form and
16 scope.

17 THE WITNESS: No, that's not how I would
18 characterize what our approach was at the time. I
19 would say our approach would have been to inform
20 stakeholders, to share information with them, to
21 invite them, and encourage them even to speak out.

22 I'm aware that that characterization has
23 been used in certain documents, but it's not how I
24 would characterize our approach.

- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED] [REDACTED]
- [REDACTED]
- [REDACTED] [REDACTED]
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■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]

6 BY MR. ESFANDIARY:

7 Q So let's take a look at a document of
8 what Monsanto had to say before the lawsuit was
9 filed.

10 (Murphey Exhibit No. 9 was marked
11 for identification.)

12 BY MR. ESFANDIARY:

13 Q I want to mark as Exhibit No. 9 to your
14 deposition, sir --

15 Now, this is a document produced by
16 Monsanto in this litigation. The Bates number is
17 MONGLY03316369. It's called "IARC Follow Up."
18 And if you turn to the metadata at the end of the
19 document, it identifies its date of creation as
20 July 6th, 2015.

21 Have you seen this document before, sir?

22 A Let me just orient myself real quick.
23 (Peruses document.)

24 Yes, I've -- I've seen this document
25 before.

1 Q Okay. Does it appear to have been
2 created in the ordinary course of Monsanto's
3 business?

4 MR. PARISER: Objection, foundation and
5 form.

6 THE WITNESS: Yes, I believe it was.

7 MR. ESFANDIARY: I'll move this into
8 evidence.

9 BY MR. ESFANDIARY:

10 Q Here it says, "goals." And number (d)
11 says, "Invalidate relevance of IARC." Do you see
12 that, sir?

13 A I -- I do see it written there.

14 MR. PARISER: Objection, foundation.

15 BY MR. ESFANDIARY:

16 Q So in July of 2015, a couple of months
17 after IARC had announced its classification,
18 Monsanto's goal was to invalidate the relevance of
19 IARC, correct?

20 MR. PARISER: Again, objection to scope,
21 objection to form, objection to foundation.

22 I'd also note, the document states that
23 it's attorney work product, attorney-client
24 privilege. I don't know the full context of this
25 document.

1 MR. ESFANDIARY: It was shown in open
2 court.

3 MR. PARISER: Okay. Thank you for that
4 clarification. This was an exhibit in the Johnson
5 case?

6 MR. ESFANDIARY: Yeah.

7 MR. PARISER: Thank you.

8 THE WITNESS: So I see the point written
9 there. I think the context around it is
10 important, where it's talking about the
11 retraction -- you know, the need for retraction,
12 clarification, minimization, you know, preventing
13 future bad decisions on other -- on other
14 products. I think in that overarching context,
15 that helps clarify what -- you know, what the
16 author of the document was suggesting.

17 BY MR. ESFANDIARY:

18 Q But at the time of when this document
19 was created, after Monsanto finds out about the
20 IARC decision, the company's plan was to eliminate
21 or invalidate the relevance of IARC, correct?

22 MR. PARISER: Objection, misstates
23 evidence, form.

24 THE WITNESS: No. I mean, we did -- we
25 did ask, and have asked for the opinion to be --

1 to be clarified. We've asked for it to be, you
2 know, retracted. We have raised questions, you
3 know, about how IARC arrived at a conclusion that
4 is very inconsistent from regulatory bodies
5 around -- around the world. And I think that's
6 what's reflected by the overarching goal number 1
7 here.

8 BY MR. ESFANDIARY:

9 Q I understand that's the answer that
10 you're giving now. But internally, in July of
11 2015, Monsanto identifies as a goal, as the
12 company's goal, to invalidate the relevance of
13 IARC, correct?

14 MR. PARISER: Same objections.

15 THE WITNESS: That is -- that is written
16 here, among several other points.

17 BY MR. ESFANDIARY:

18 Q Including the one to retract the IARC
19 decision, correct?

20 A Yes.

21 Q Number 3 there at the bottom says,
22 "Litigation prevention/defense." Do you see that,
23 sir?

24 A I do.

25 Q Who is McClain?

1 A Mr. McClain was part of the Monsanto law
2 department at this time.

3 Q Now, would -- did Monsanto believe that
4 invalidating the relevance of the IARC decision
5 would help with its litigation defense?

6 MR. PARISER: Objection to scope,
7 objection to form, and -- to the extent he's
8 asking you about opinions with lawyers, or rather,
9 discussions with lawyers --

10 MR. ESFANDIARY: I'm not.

11 MR. PARISER: -- I'd instruct you not to
12 answer. If you can answer the question without
13 doing so, you may.

14 THE WITNESS: I do think that, you know,
15 Monsanto was aware at the time that litigation
16 was -- was likely. And so I think that's why that
17 was listed as a goal -- as a goal there. You
18 know, as to whether, you know, the work around
19 retraction and clarification would be important to
20 the litigation, I don't think I'm competent to
21 answer that.

22 BY MR. ESFANDIARY:

23 Q Number 2 says, "Protect regulatory
24 freedom to operate." Do you see that?

25 A I do.

1 Q And underneath that, it says,
2 "Re-registration. No ban/restrictions. Prop 65."
3 Are you familiar with Prop 65?

4 A I am.

5 Q Do you understand Prop 65 to entail the
6 State of California's initiative to identify
7 glyphosate as a chemical known to the state to
8 cause cancer?

9 MR. PARISER: Objection to form, and
10 this is outside the scope.

11 THE WITNESS: Yes. My -- my
12 understanding is that, on the basis of the IARC
13 opinion of glyphosate, the State of California
14 proceeded to add glyphosate to its Proposition 65
15 list.

16 BY MR. ESFANDIARY:

17 Q So invalidating the relevance of IARC
18 would assist Monsanto's efforts in preventing a
19 Prop 65 listing from occurring, correct?

20 MR. PARISER: Same objections.

21 THE WITNESS: My -- okay. My
22 understanding is the sole -- the sole basis of the
23 Proposition 65 listing is the IARC opinion. And
24 that is even counter to the State of California's
25 own prior assessments that glyphosate is -- is not

1 carcinogenic.

2 BY MR. ESFANDIARY:

3 Q Sir, that wasn't my question. That was
4 not responsive to my question at all.

5 My question to you was, was invalidating
6 the relevance of IARC a part of Monsanto's efforts
7 in ensuring that there would be no Prop 65 listing
8 of glyphosate in California?

9 MR. PARISER: Same objections.

10 THE WITNESS: We certainly disagree with
11 the Proposition 65 listing, yes. We took legal
12 action to try to prevent that listing, because we
13 don't see -- we don't believe the IARC opinion to
14 be correct, and we don't believe that it should be
15 the basis for the listing.

16 BY MR. ESFANDIARY:

17 Q And invalidating the relevance of IARC
18 would assist Monsanto in ensuring that glyphosate
19 would not be listed pursuant to Prop 65, correct?

20 MR. PARISER: Same objections, and
21 foundation, asked and answered.

22 THE WITNESS: I -- I mean, the decision
23 of whether or not, ultimately, to -- to keep
24 glyphosate on the Proposition 65 list is outside
25 of Monsanto's control. That's a decision in the

1 hands of the state and the courts.

2 What we felt was important to -- was to
3 provide context around that listing, and context
4 around the IARC -- the IARC opinion as the basis
5 for that listing, because, again, we -- we
6 disagree with the IARC opinion. We disagree with
7 the listing.

8 BY MR. ESFANDIARY:

9 Q Providing context, would that include
10 invalidating the relevance of IARC?

11 MR. PARISER: Same objections.

12 THE WITNESS: That would include raising
13 questions about the relevance of IARC. It would
14 include raising questions about the IARC process.
15 It would include clarification, you know, and
16 preventing future bad decisions, all of which are
17 listed there.

18 BY MR. ESFANDIARY:

19 Q Do you know if, at this point in time,
20 this document was created in July 2015, whether
21 IARC had published it's monograph yet?

22 A I would have to look at the specific
23 dates. I believe it was sometime that summer when
24 the monograph was published. I don't remember the
25 exact date, though.

1 Q You understand the monograph to be a
2 comprehensive document, spanning about 90 pages or
3 so, correct?

4 MR. PARISER: Objection to form.

5 THE WITNESS: I don't recall the
6 specific length, but if -- it wouldn't surprise me
7 if about 90 pages is correct.

8 BY MR. ESFANDIARY:

9 Q Have you read it?

10 A I have read pieces of it. I have not
11 read the entire thing.

12 Q Okay. And do you agree that, in order
13 to be able to criticize the IARC decision with a
14 grounding in fact, you would, in fact, need to
15 read the IARC monograph?

16 MR. PARISER: Objection to scope.

17 THE WITNESS: No, I disagree with that.
18 I think there are pieces of the monograph that are
19 fairly accessible to a lay reader like -- like me.
20 There are other pieces, where it was far more
21 helpful to sit with our Monsanto scientists, who
22 have, you know, doctoral degrees in various
23 scientific fields, and talk through the opinions
24 in the monograph directly with them.

25 I wanted to make sure I had a good

1 understanding. And so I think having those --
2 having those conversations, and asking questions
3 of our scientists was much more helpful to me than
4 trying to figure it all out on my own.

5 BY MR. ESFANDIARY:

6 Q So if -- did you have a conversation
7 with Bill Heydens about the IARC classification?

8 A Among others, yes.

9 Q And -- scratch that.
10 Did you form an opinion, when you read
11 pieces of the IARC monograph, that IARC was indeed
12 irrelevant?

13 MR. PARISER: Objection to form and
14 scope.

15 THE WITNESS: I formed my opinion --
16 yes, in part, through some of the reading on my
17 own. But I think the conversations with our
18 Monsanto scientists, who are experts in their
19 various fields, I think that was much more helpful
20 to me in understanding the context of the IARC
21 opinion. And that it was a -- was and is a
22 complete outlier from regulatory agencies.

23 BY MR. ESFANDIARY:

24 Q And at the time this document was
25 created, Monsanto perceived IARC to have relevance

1 in the scientific community, such that it needed
2 to invalidate that relevance, correct?

3 MR. PARISER: Objection, form,
4 foundation, asked and answered.

5 THE WITNESS: I don't -- I don't think I
6 can provide further context to what's written here
7 on -- on the paper, that, you know, that there
8 was -- there was a call for retraction. There
9 were calls for clarification. You know, but I
10 wouldn't want to speculate on any additional
11 context.

12 MR. ESFANDIARY: Mark as Exhibit No. 10.
13 (Murphey Exhibit No. 10 was marked
14 for identification.)

15 BY MR. ESFANDIARY:

16 Q Sir, this is an e-mail from Ms. Link
17 dated February 12th, 2015. It's about a month
18 before the IARC classification. The subject is,
19 Revised IARC Reactive Messaging, and the Bates
20 number is MONGLY01021708.

21 Have you seen this document before?

22 A Yes.

23 Q Okay. And Ms. Link says, "Attached
24 please find revised messaging for IARC." Do you
25 see that?

1 A I do.

2 Q And if you turn to the attachment 70 --
3 ending in Bates number 709, draft, February 12th,
4 2015, "Glyphosate key talking points following
5 IARC's decision. This component represents the
6 orchestrated outcry that could occur following the
7 March 3 to 10th IARC monograph expert meeting."
8 Do you see that, sir?

9 MR. PARISER: And please give the
10 witness ample time to review the document before
11 he answers questions about it.

12 THE WITNESS: (Peruses document.)

13 Yes, I -- I see the sentence you're
14 referring to.

15 BY MR. ESFANDIARY:

16 Q So now we have two plans created leading
17 up to the IARC classification, where Monsanto
18 identifies its efforts in responding to the IARC
19 classification as entailing an orchestrated
20 outcry, correct?

21 MR. PARISER: Objection to scope,
22 foundation.

23 THE WITNESS: No, I think this -- this
24 document is really just a set of key talking
25 points that would be shared with various groups as

1 part of preparation for the IARC opinion to be
2 published. Then whether those groups actually
3 used any of these points, or issued any
4 communications, or responded to any inquiries
5 would be their decision to make.

6 BY MR. ESFANDIARY:

7 Q I wasn't asking about those groups. I
8 was asking about Monsanto's plan, where it's
9 identified, this component represents the
10 orchestrated outcry that could follow -- that
11 "could occur following the March 3 to 10th IARC
12 monograph expert meeting."

13 And my question to you, sir, was, we've
14 now looked at two documents, where Monsanto
15 characterizes its efforts in responding to IARC as
16 creating an orchestrated outcry, correct?

17 MR. PARISER: Objection to scope, and
18 objection, asked and answered. He's addressed
19 this language in numerous previous questions.

20 THE WITNESS: Yes, this is the second
21 document that uses those -- uses those particular
22 words. But again, I -- I think this is a set of
23 talking points, or actually, several sets of
24 talking points that would be provided to different
25 groups for their review, and to use, whether they

1 chose to do so or not.

2 BY MR. ESFANDIARY:

3 Q So we have employees in the Monsanto
4 Corporation using the term "orchestrated outcry"
5 to refer to the efforts across two documents, but
6 here today now, you're saying that that's not
7 actually what happened.

8 MR. PARISER: Objection to scope, form,
9 foundation, asked and answered.

10 THE WITNESS: No, what I'm -- what I
11 have explained in several responses now, is that
12 the -- the efforts that Monsanto undertook, after
13 the IARC opinion was published, involved, yes,
14 engagement with third parties to provide
15 information, share talking points, and other
16 resources. But then outreach to the media, to
17 ensure balance and accuracy, and the right context
18 and perspective on the science in -- in their
19 coverage of -- of our product.

20 BY MR. ESFANDIARY:

21 Q Sir, you use words like "balance,"
22 "accuracy," so forth. I have not seen a single
23 one of the words that you identified in any
24 Monsanto plan that we have looked at today.

25 MR. PARISER: Objection to form. Is

1 that a question?

2 BY MR. ESFANDIARY:

3 Q Correct?

4 A In the -- in the ten or so documents
5 today, I don't recall seeing those specific --
6 those specific words, but I can tell you, when I
7 have conversations with my colleagues, we often
8 are discussing our goal to strive -- to strive for
9 balance in -- in reporting about our company and
10 about our products.

11 Q You're telling me that -- to me now, but
12 your colleagues, in plan after plan, are talking
13 about orchestrating an outcry with the IARC
14 decision, correct?

15 MR. PARISER: Objection to form, scope,
16 and foundation.

17 THE WITNESS: Yes, we've looked at two
18 documents where -- where that particular wording
19 has -- has been used.

20 And again, in the context of this
21 particular document, what -- what I'm explaining
22 is that these were talking points that were
23 developed and shared. And then the individual
24 groups were free to adopt them, to discard them,
25 you know, whatever they chose to do.

1 BY MR. ESFANDIARY:

2 Q If you look at the key industry points
3 here, and it's talking about a 2B decision. And
4 that it's -- a 2B decision would be a possible
5 carcinogen, correct?

6 A Yes, that's what 2B would have meant.

7 Q 2A is probable human carcinogen, which
8 is what glyphosate was -- glyphosate was
9 categorized in, and 2B is a possible carcinogen,
10 correct?

11 A That's my understanding.

12 Q And it says here that the
13 classification -- the 2B calculation does not
14 establish a link between glyphosate and an
15 increase in cancer. Possible simply means not
16 impossible. Sir, what does "probable" mean?

17 MR. PARISER: Objection to form and to
18 scope.

19 THE WITNESS: I would need to see a
20 document from IARC that explains exactly what that
21 means.

22 BY MR. ESFANDIARY:

23 Q Well, what would Monsanto's
24 interpretation of "probable" be, given that
25 Monsanto is giving its interpretation of

1 "possible" in this document?

2 MR. PARISER: Objection, outside the
3 scope, foundation.

4 THE WITNESS: I -- I don't know exactly
5 what the author of this document based that
6 definition on, and so I really would feel like I
7 would just be speculating if I -- if I gave you
8 something without the -- without looking at an
9 IARC document as a reference point.

10 BY MR. ESFANDIARY:

11 Q You agree that this definition given by
12 Monsanto in this document as to "possible" is not
13 the IARC definition of "possible," correct?

14 MR. PARISER: Same objections.

15 THE WITNESS: I don't know. I don't
16 know that, one way or the other.

17 BY MR. ESFANDIARY:

18 Q On a basic level of denotation, you
19 agree with me that probable means likely?

20 MR. PARISER: Objection to form and
21 scope.

22 THE WITNESS: I -- I think -- yeah --

23 BY MR. ESFANDIARY:

24 Q It's a silly question. Never mind.

25 MR. PARISER: Are you going to withdraw

1 the question?

2 MR. ESFANDIARY: I'm going to withdraw
3 the question.

4 THE WITNESS: Thank you.

5 MR. KRISTAL: I thought that was the
6 best question all day.

7 MR. ESFANDIARY: Thank you for your
8 faith in me, Jerry.

9 MR. PARISER: I'm trying not to comment.
10 (Murphey Exhibit No. 11 was marked
11 for identification.)

12 BY MR. ESFANDIARY:

13 Q All right. Mr. Murphey, let's take a
14 look at this one. It's MONGLY00866643. And it
15 says, "Issues Plan, Farm Aid/Neil Young, Draft -
16 Updated September 16, 2015."

17 Do you see that, sir?

18 A I do see that.

19 Q Have you seen this document before?

20 A I believe I have, but I'd like to take a
21 minute to familiarize myself again with it,
22 please.

23 Q Sure.

24 A (Peruses document.) Okay.

25 Q Does it appear to have been created in

1 the ordinary course of Monsanto business?

2 MR. PARISER: Objection to form.

3 THE WITNESS: Yes.

4 MR. PARISER: Foundation.

5 MR. ESFANDIARY: I'll move this into
6 evidence as well.

7 BY MR. ESFANDIARY:

8 Q If you would please turn to page ending
9 in 648. And it says, in the middle of the page,
10 it says, "IARC," is the heading, messages from
11 July 14th, 2015, Issue Alert. And it says, "Any
12 time someone claims to have found a safety issue
13 with one of our products, we take it very
14 seriously and review their evidence closely. We
15 will do the same with the IARC monograph."

16 Do you see that, sir?

17 A Yes.

18 Q And we saw earlier that even before
19 Monsanto had read the monograph, Monsanto was
20 planning rebuttal messages in response to the
21 classification, correct?

22 MR. PARISER: Objection to form, scope,
23 foundation.

24 THE WITNESS: Yes. Monsanto employees
25 were preparing for multiple scenarios in advance,

1 knowing that there could -- that IARC could
2 classify the product in one of -- any of its
3 different categories. And so different scenarios
4 were planned then.

5 And then several months before this
6 document, in March, when the opinion came out, the
7 Lancet piece, you know, at a high level, began to
8 explain the opinion. And so Monsanto scientists
9 were, you know, throughout that process, gaining a
10 deeper understanding of -- of the IARC -- the IARC
11 conclusion.

12 BY MR. ESFANDIARY:

13 Q My question -- my question is about, in
14 the plans that Monsanto prepared prior to even
15 seeing the monograph, Monsanto is talking about
16 rebutting -- neutralizing the IARC decision.

17 My question to you is, can Monsanto talk
18 about IARC or criticize IARC in an informed way,
19 without having read the monograph yet?

20 MR. PARISER: Objection to form, scope.

21 THE WITNESS: Yes. Monsanto scientists
22 have a deep familiarity with the data behind --
23 behind glyphosate, the extensive data that shows
24 that glyphosate can be used safely, and that it's
25 not a carcinogen.

1 And so at a fundamental level, you know,
2 our scientists already knew that a classification,
3 you know, in anything other than probably not
4 carcinogenic would be inconsistent with that
5 overwhelming scientific evidence, and inconsistent
6 with the conclusions of the EPA and regulators
7 around the world.

8 So I think we were very confident, based
9 on -- based on that knowledge that our scientists
10 have, in developing those scenarios. And then
11 certainly as our scientists reviewed the
12 monograph, we got a deeper understanding of those
13 deficiencies with its opinion.

14 BY MR. ESFANDIARY:

15 Q So I'm just going to break down what you
16 said. You said that Monsanto has already made up
17 its mind about the scientific data before having
18 even seen it.

19 MR. PARISER: Objection,
20 mischaracterizes testimony, and incomplete
21 characterization of testimony.

22 THE WITNESS: Yes, in -- in this
23 context, you know, where you're talking about an
24 agency that was -- in IARC, that was looking at a
25 subset of the data, after glyphosate and

1 glyphosate-based products had been on the market
2 for 40 years, our scientists were very familiar,
3 you know, they're experts in the safety of -- in
4 the safety of this product.

5 And certainly as new -- as new
6 scientific claims come to the front, they do --
7 they look at them, they analyze them. They
8 certainly did that here with, you know, with the
9 IARC monograph. But they -- they were confident
10 in their knowledge that a classification of
11 glyphosate in category 2A or 2B, again, anything
12 but probably not carcinogenic, would not be
13 accurate.

14 Q You would agree with me that science is
15 an ever-evolving process?

16 MR. PARISER: Objection, vague, outside
17 the scope.

18 THE WITNESS: I -- I do. My
19 understanding, again, based on, you know,
20 conversations with scientists is, yes, it is -- it
21 is ever-evolving.

22 BY MR. ESFANDIARY:

23 Q So --

24 A But in the context of the IARC
25 monograph, IARC hadn't looked at anything new.

1 The data -- the data that IARC examined had
2 already been looked at by the EPA and regulatory
3 bodies around the world on multiple occasions.

4 Q So your testimony is that despite
5 science being an ever-evolving process, it's
6 appropriate for Monsanto to make its mind up about
7 a piece of scientific data without having first
8 seen it?

9 MR. PARISER: Objection to scope,
10 misstates testimony.

11 BY MR. ESFANDIARY:

12 Q Correct?

13 A Yes. In the context of this -- the IARC
14 monograph, which didn't look at new data, which
15 only looked at a subset of what EPA and other
16 regulators around the world had already examined
17 in the course of their conclusions that glyphosate
18 is not carcinogenic, I think our scientists
19 were -- were very confident in quickly assessing
20 that the IARC opinion was flawed. And their --
21 that assessment evolved over time, as we got
22 additional information. But we knew -- yes, we
23 knew before the IARC announcement that a
24 classification of glyphosate in any category but
25 probably not carcinogenic would not be accurate.

1 Q Well, you say here that Monsanto takes
2 new scientific claims very seriously and will
3 closely look at the IARC monograph.

4 A Yes.

5 Q Right? And at the same time, you say,
6 Monsanto made up its mind before seeing the
7 monograph as to what IARC's -- IARC's conclusion
8 would entail.

9 MR. PARISER: Objection to --
10 BY MR. ESFANDIARY:

11 Q Correct?

12 MR. PARISER: Objection to scope,
13 argumentative.

14 THE WITNESS: I'd say we had an -- had
15 an initial assessment of the deficiencies with the
16 IARC opinion that was -- that was refined over
17 time. Again, our science -- our scientists who
18 were -- with whom I was having these conversations
19 have studied glyphosate for many, many years. You
20 know, they had a tremendous amount of
21 understanding and context of the product -- the
22 product already.

23 You know, they were already of the
24 conclusion that glyphosate was not carcinogenic.
25 So when the IARC opinion came out, and was such an

1 outlier, you know, so divergent from the
2 conclusions of the USEPA and EFSA, and regulators
3 around the world, our scientists were very quickly
4 able to say, that is not consistent.

5 And then as the monograph later became
6 available, certainly they did a very thorough
7 assessment of it, to try to understand in even
8 more detail how IARC came to this complete outlier
9 conclusion.

10 BY MR. ESFANDIARY:

11 Q All these scientists that you spoke to
12 at Monsanto are employed by Monsanto, correct?

13 A Correct.

14 Q They all have a vested interest in the
15 product, Roundup, correct?

16 MR. PARISER: Objection to form and
17 scope.

18 THE WITNESS: Yes, they are employees of
19 the company. I think they're also incredibly
20 well-educated, incredibly passionate scientists,
21 who care very deeply about what they do. You
22 know, they care very deeply about safety. And I
23 have absolutely no reason to question the
24 information they've shared with me.

25 BY MR. ESFANDIARY:

1 Q You know of absolutely no reason to
2 question the information they shared with you?

3 A Right, I am confident -- I'm confident
4 in their scientific assessment, and very
5 comfortable, you know, that they have been able to
6 thoroughly and clearly explain things to me.

7 Q Are you aware that when the IARC
8 monograph was published, over a hundred scientists
9 published an article setting forth their agreement
10 with the IARC methods and classification?

11 MR. PARISER: Objection to scope.

12 THE WITNESS: I -- I am aware that,
13 yeah, sometime after the -- after the IARC opinion
14 came out, there was such a letter. I forget
15 exactly how many scientists signed on to the --
16 signed on to the document.

17 BY MR. ESFANDIARY:

18 Q You say in here, "glyphosate is not a
19 carcinogen." Do you agree with me there's a
20 difference between glyphosate and Roundup?

21 MR. PARISER: Objection to scope.

22 THE WITNESS: Yes. Yes, glyphosate is
23 the active ingredient. A Roundup-branded product
24 would be an example of a formulated product.

25 BY MR. ESFANDIARY:

1 Q Can Monsanto say that Roundup is not a
2 carcinogen?

3 MR. PARISER: Objection to form.
4 Objection to scope.

5 THE WITNESS: There's a -- there's a
6 tremendous amount of evidence that makes us very
7 confident that Roundup -- Roundup-branded
8 products, or other glyphosate formulations, are
9 not carcinogenic.

10 BY MR. ESFANDIARY:

11 Q So Monsanto is comfortable stating to
12 the world that glyphosate-based formulations are
13 not carcinogenic?

14 MR. PARISER: Same objections.

15 THE WITNESS: Yes. And I think that
16 that assessment would hinge on multiple types of
17 data, including, for instance, the U.S.
18 Agricultural Health Study, the largest study that
19 ever -- has ever looked at any connection between
20 glyphosate, glyphosate-based products, and cancer.

21 BY MR. ESFANDIARY:

22 Q I would just quickly like to go back to
23 the previous exhibit there, sir.

24 A Okay.

25 Q Just one last --

1 A No. 10?

2 Q Yes, please. At the top of the page, on
3 the first page of the attachment there, it says,
4 "The proposed approach suggests industry
5 associations and credible third parties lead, and
6 Monsanto plays a secondary role to defend its
7 Roundup brand." Do you see that, sir?

8 A I do see that written there.

9 Q So Monsanto wanted the primary
10 information -- the primary source of the
11 information regarding Roundup safety to come from
12 third parties, not itself, correct?

13 MR. PARISER: Objection to foundation,
14 and form, and asked and answered -- this whole
15 line of questioning is asked and answered.

16 THE WITNESS: Yes, I -- I see that
17 that's what's written in the plan here. I think
18 this is a plan that reflects thinking at one point
19 in time. Again, this document is from
20 mid-February of 2015.

21 You know, what I can tell you is that at
22 the -- as we got to the time of the announcement,
23 and in the years since, Monsanto has taken a
24 primary role in defending the safety of product --
25 of the product, and, yes, in defending the Roundup

1 brand. We issued press release, we've done
2 multiple press interviews, we've engaged -- we've
3 engaged online, to help share information. We're
4 very pleased that a wide variety of third parties,
5 our customer groups, farmer associations, and
6 others, continue to support the safe use of
7 glyphosate as well.

8 And I think we've been very proactive,
9 very front-footed in our -- in our engagement
10 around the product.

11 BY MR. ESFANDIARY:

12 Q Across two plans now, we've seen
13 Monsanto emphasize the need to defer to third
14 parties in protecting glyphosate's reputation.
15 And your testimony here today is that that's not
16 actually what occurred, correct?

17 MR. PARISER: Objection to foundation,
18 scope, asked and answered.

19 THE WITNESS: What I'm -- what I'm
20 explaining is the plans that we've looked at
21 reflect thinking at one point -- at one point in
22 time. Plans and approaches can and do -- and do
23 evolve. And the approach that we've taken in the
24 last few years certainly has put Monsanto in a
25 primary role of speaking out about the safety and

1 the benefits of our product. But we're very glad
2 that our customer groups and others have -- have
3 defended the product as well.

4 BY MR. ESFANDIARY:

5 Q At Monsanto's request?

6 A In some cases, we've shared with them
7 opportunities where they could engage or speak
8 out. You know, it's -- where there's a shared --
9 there's a shared interest in a product that's as
10 important as glyphosate. Our customers truly rely
11 on it, because of the benefits that it provides to
12 them on a farm. And so, yes, there are -- there
13 are times where we will go to our customers, and
14 you know, share -- share some information with
15 them, and make a -- make a request that they do --
16 they do communicate.

17 Q And that plan identifies, as a primary
18 spokesperson for the safety of glyphosate, these
19 other third parties, not Monsanto, correct?

20 MR. PARISER: Objection to the scope.

21 THE WITNESS: This -- this document does
22 lay out a variety of -- a variety of different
23 groups that could have an interest in
24 communicating about -- about glyphosate. I don't
25 think I would say that they have played the

1 primary role. I think Monsanto, again, has been
2 very -- has been very direct with press releases
3 and interviews and other communications on the
4 topic. But these groups have all -- have all
5 spoken out as well.

6 BY MR. ESFANDIARY:

7 Q You agree with me that if the
8 information is coming from these third parties,
9 the average consumer has no way of knowing that is
10 actually Monsanto that is communicating the
11 specific message, correct?

12 MR. PARISER: Objection to scope, form,
13 and foundation, vague.

14 THE WITNESS: No, I -- I disagree
15 with -- with the premise there. These groups all
16 have points of view and opinions that are theirs,
17 and theirs alone. That Monsanto provides some
18 information to them, or shares some information
19 does not mean that any one of these groups, or
20 individuals affiliated with the groups, is going
21 to actually communicate or not. And I'm quite
22 confident that any of these groups would speak
23 with their own voice, because they believe that
24 the product is -- is important.

25 BY MR. ESFANDIARY:

1 Q And the shared interest Monsanto and all
2 these groups have is a shared financial interest
3 in the success of Roundup, correct?

4 MR. PARISER: Objection to scope, form,
5 and foundation.

6 THE WITNESS: No, I think -- I think
7 that's -- I think that's too narrow. Yes,
8 glyphosate -- glyphosate is an important product
9 for Monsanto. Glyphosate is important for our
10 farmer -- for our farmer customers, and for their
11 livelihoods.

12 But the benefit of glyphosate extends
13 beyond simply the contribution to a farmer's
14 livelihood. It enables farmers to use more
15 sustainable farming practices. It enables them to
16 useless diesel fuel in their operations. It
17 promotes soil health. When I talk about the
18 shared value or the shared benefit, it is -- it is
19 in that broader context.

20 BY MR. ESFANDIARY:

21 Q It's your testimony to the jury that
22 these third parties would as aggressively promote
23 the safety of Roundup, if they did not have a
24 financial interest in it?

25 MR. PARISER: Same objections.

1 THE WITNESS: I -- I -- no, I think
2 these -- I think part of why these groups, and
3 individuals involved in the groups, defend the
4 product certainly is that it does -- it does
5 provide value for them. If it didn't provide
6 value, they wouldn't buy the product. It's as
7 simple as that. If a farmer didn't see value
8 in -- in Roundup, they would buy and use something
9 else.

10 But because they understand both the
11 financial value, as well as the value for the
12 sustainability of their operations, I think
13 farmers choose to use Roundup year after year
14 after year.

15 (Murphey Exhibit No. 12 was marked
16 for identification.)

17 MR. ESFANDIARY: I'm going to mark
18 Exhibit No. 12 to your deposition. I think I only
19 have two copies of that.

20 MR. PARISER: It's fine.

21 MR. ESFANDIARY: All right.

22 BY MR. ESFANDIARY:

23 Q Okay. This is an exhibit,
24 MONGLY01021378. It contains e-mails between
25 Monsanto employees. Have you seen this document

1 before?

2 A Yes, I believe I have.

3 Q And the initial e-mail is from Donna
4 Farmer to Bill Heydens, including David Saltmiras,
5 March 4, 2015. And this is before the IARC
6 decision, correct?

7 A Yes, that would be before the IARC
8 opinion was published.

9 Q And Dr. Farmer says, I was asked to --
10 "I was asked for a list of experts that they could
11 contact to defend glyphosate in the media," and
12 then she identifies a list, correct?

13 A Yes, that's correct.

14 Q So this is an example of Monsanto using
15 third parties to defend glyphosate in the media,
16 correct?

17 MR. PARISER: Objection to scope,
18 foundation.

19 THE WITNESS: No, this -- this appears
20 to be a list of experts, scientific experts from
21 various fields, to whom Monsanto could possibly
22 refer a reporter, or ask one of these experts to
23 answer a question about the safety of glyphosate.

24 BY MR. ESFANDIARY:

25 Q To defend glyphosate in the media,

1 correct?

2 MR. PARISER: Same objections.

3 THE WITNESS: Yes, if there was
4 misinformation, or inaccurate reporting in the
5 media, yes, to defend glyphosate in that context.

6 MR. ESFANDIARY: I move this document.

7 THE WITNESS: While you're doing that,
8 would it be okay if I grab a bottle of water?

9 MR. ESFANDIARY: Sure. We can go off
10 the record, actually.

11 THE VIDEOGRAPHER: The time is 12:12
12 p.m. We're going off the record.

13 (Brief recess.)

14 THE VIDEOGRAPHER: The time is 12:13
15 p.m. We're back on the record.

16 (Murphey Exhibit No. 13 was marked
17 for identification.)

18 BY MR. ESFANDIARY:

19 Q Mr. Murphey, here is Exhibit 13 to your
20 deposition.

21 A Thank you.

22 Q This is an e-mail, MONGLY00948216, from
23 Dan Goldstein dated March 3rd, 2015, regarding
24 draft Op Ed materials. Do you work with Dan
25 Goldstein?

1 A I did work with Dr. Goldstein, yes.

2 Q Have you seen this document before, sir?

3 A Yes, I believe I have.

4 Q And it appears to have been created
5 during the ordinary course of Monsanto business?

6 MR. PARISER: Objection to form and
7 foundation.

8 THE WITNESS: Yes, it is.

9 MR. ESFANDIARY: I move this into
10 evidence as well.

11 BY MR. ESFANDIARY:

12 Q And this was sent about 20 days after
13 Dr. Farmer's e-mail identifying the third parties
14 that can be used to defend glyphosate in the
15 media, correct?

16 MR. PARISER: Objection to scope.

17 THE WITNESS: Yes, it appears -- roughly
18 twenty days.

19 BY MR. ESFANDIARY:

20 Q And Dr. Goldstein says, "I have written
21 five potential draft Op Eds for the medical
22 toxicologists to work from. This also includes a
23 general purpose couple of paragraphs on criticism
24 of IARC generally that can be grafted in to the
25 other versions." Do you see that?

1 A I -- I do see that.

2 Q Okay. And if you look at the
3 attachment, it says, "Glyphosate and Cancer -
4 Idiosyncrasies at IARC."

5 Do you see that, sir?

6 A Yes, I see that.

7 Q So is this an example of the talking
8 points that Monsanto would have provided to third
9 parties to defend glyphosate in the media?

10 A Yes, I mean, this appears to be some
11 information that Dr. Goldstein had assembled with
12 some message points. And that he was sharing it
13 with -- you know, what appears, by their e-mail
14 addresses, to be some other medical doctors and
15 scientists. And he explains in his -- you know,
16 in the e-mail, you know, this will give a good
17 starting point. And we can coordinate Op Ed
18 versions as -- as needed. You know, not -- even
19 below that, "not intended to tell you what to say,
20 just grist for the mill, to help you create what
21 you want to say."

22 Q Would the person reading the Op Ed know
23 that the information initially came from
24 Dr. Goldstein of Monsanto Company?

25 MR. PARISER: Objection to form, and

1 foundation, and scope.

2 THE WITNESS: I -- I think that depends
3 on what the -- what the scientist ultimately
4 published. You know, I think in some of this, you
5 know, document, it looks like, you know,
6 Dr. Goldstein was just pulling together, you know,
7 references -- you know, there are references to
8 regulatory conclusions, or there are other pieces,
9 but I think whatever the scientist ultimately
10 published would be their -- their opinion, and
11 their opinion alone.

12 BY MR. ESFANDIARY:

13 Q Do you think it's important for a
14 consumer to know that a source of information is
15 coming from the company that has a vested interest
16 in the product?

17 MR. PARISER: Same objections.

18 THE WITNESS: I think there's some
19 context there that's -- that's important. You
20 know, no -- no scientist, you know, at this
21 stage -- at the senior level, at the stage in
22 their careers that Dr. Goldstein was communicating
23 with, would publish something that did not
24 accurately and fully reflect their opinion.

25 What Dr. Goldstein was providing here

1 was a starting point. You know, as he puts it,
2 grist for the mill, to help you create what you
3 want to say. You know, if -- if they use some of
4 this as early context or a starting point for
5 their ideas, I think that's perfectly appropriate.

6 BY MR. ESFANDIARY:

7 Q No, I appreciate that, and I wasn't
8 insinuating that Dr. Goldstein ghost-wrote any of
9 these for these scientists.

10 All I'm asking you, though, is, would it
11 be important for a consumer to know that some of
12 -- the source of some of the information it's
13 receiving about the IARC classification came from
14 the company that has a vested interest in the
15 product?

16 MR. PARISER: Same objections, and asked
17 and answered.

18 THE WITNESS: No, I think -- I think in
19 this context, Dr. Goldstein was sharing some
20 information. You know, if one of these scientists
21 chose to weigh in, and draft and submit an Op Ed
22 for publication, that would be their opinion, and
23 should be reflected as such.

24 BY MR. ESFANDIARY:

25 Q So the answer to my question is, no,

1 Monsanto does not believe that it's important for
2 a consumer to know that some of the source of the
3 information about IARC is coming from the company?

4 MR. PARISER: Same objections, and asked
5 and answered.

6 THE WITNESS: No, in -- in the context
7 of what -- of what I'm describing here,
8 Dr. Goldstein is sharing -- sharing information.
9 He is, you know, in some cases, could have been,
10 you know, flagging for these scientists who are
11 thinking and working on many different matters,
12 that the IARC opinion had just been published, and
13 sharing some context around that. I think,
14 ultimately, if those -- if those scientists spent
15 time thinking about glyphosate and authoring on
16 Op Ed, it's accurate for it to be published in
17 their name.

18 BY MR. ESFANDIARY:

19 Q Mr. Murphey, what was my question?

20 MR. PARISER: Objection, argumentative.

21 THE WITNESS: It was -- your question, I
22 believe, was something to do with the fact of,
23 should Monsanto be noted as providing the
24 information. And, no -- my answer to that is no.

25 BY MR. ESFANDIARY:

1 Q Okay. Okay. Let's take a look at this
2 here. So it's true that Monsanto's allocated
3 millions of dollars in responding to the IARC
4 classification, correct?

5 MR. PARISER: Objection to scope and
6 form, foundation.

7 THE WITNESS: We -- we have -- we had to
8 spend a significant amount of resources, over
9 several years now, correcting misinformation, and
10 addressing questions in the public about -- about
11 glyphosate.

12 BY MR. ESFANDIARY:

13 Q Has Monsanto allocated millions of
14 dollars to responding to the IARC classification?

15 MR. PARISER: Same objections.

16 THE WITNESS: Yes.

17 BY MR. ESFANDIARY:

18 Q Do you know roughly how much Monsanto
19 allocated to it in 2016?

20 MR. PARISER: Same objections.

21 THE WITNESS: I can -- I can only speak
22 within the context of, you know, public affairs
23 activities, you know, things that I would have
24 been directly involved in. But in 2016, you know,
25 I believe for some of the projects I was involved

1 in, it was around 16 or 17 million.

2 BY MR. ESFANDIARY:

3 Q 16 or 17 million --

4 A Mm-hmm.

5 Q -- was allocated to responding to the --
6 to the IARC clarification?

7 MR. PARISER: Same objections.

8 THE WITNESS: No, not specifically and
9 solely focused on IARC. It's -- it would have
10 focused on engagement and media relations and
11 other activities on glyphosate, more generally.

12 BY MR. ESFANDIARY:

13 Q So 16 to 17 million in 2016 on general
14 media relations pertaining to glyphosate, correct?

15 A Media relations in multiple countries,
16 you know, where you have to deal with multiple
17 languages, digital media, and other activities.

18 Q How much does it cost to perform a
19 long-term cancer bioassay on a formulated product?

20 MR. PARISER: Objection, scope,
21 foundation.

22 THE WITNESS: I don't -- I don't have a
23 frame reference for that.

24 BY MR. ESFANDIARY:

25 Q Do you know who Dr. Koch is?

1 Dr. Michael Koch?

2 A Yes, I'm aware that he's in our
3 regulatory group.

4 Q He's a scientist, right?

5 A Yes.

6 Q Would you defer to his scientific
7 expertise when it comes to Roundup, the scientific
8 profile of Roundup?

9 A I'm -- I'm not personally familiar with
10 what Dr. Koch's scientific background is.

11 Q If a Monsanto scientist, such as
12 Dr. Farmer, was to tell you that to conduct a full
13 carcinogenicity bioassay was to cost 1.5 million
14 US dollars, would you -- would you have any reason
15 to doubt her judgment on that?

16 MR. PARISER: Objection to scope and
17 foundation.

18 THE WITNESS: I -- I don't have any
19 frame of reference for what that costs, so, no, I
20 would -- I would defer to Dr. Farmer.

21 Q You would?

22 A Yes.

23 Q And 1.5 million is significantly less
24 than 16 million, correct?

25 MR. PARISER: Objection to scope, form.

1 THE WITNESS: It is. However, I think
2 the type of assay that you're suggesting, based on
3 my understanding from conversations with
4 Dr. Farmer and others, is not -- is not a required
5 regulatory study.

6 BY MR. ESFANDIARY:

7 Q So Monsanto would only do a study to
8 find out the carcinogenicity of its product if
9 it's required?

10 MR. PARISER: Objection, outside of the
11 scope.

12 THE WITNESS: We have no -- again, based
13 on my understanding from conversations with our
14 scientists, we have no evidence suggesting that
15 for -- our formulated products are carcinogenic.
16 And that includes significant epidemiology data
17 that looks at the real world use of those
18 products.

19 BY MR. ESFANDIARY:

20 Q Mr. Murphey, Monsanto has never, itself,
21 conducted a two-year carcinogenicity assay on the
22 formulated Roundup product, correct?

23 MR. PARISER: Objection, asked and
24 answered, outside the scope.

25 THE WITNESS: Yes, that's my

1 understanding.

2 BY MR. ESFANDIARY:

3 Q So Monsanto, itself, does not know what
4 the results of that study would show, correct?

5 MR. PARISER: Objection. Objection to
6 form. Objection, outside the scope.

7 THE WITNESS: Again, my understanding is
8 that that type of study has never been done.

9 BY MR. ESFANDIARY:

10 Q And if it was to be done, it would cost
11 1.5 million, hypothetically?

12 MR. PARISER: Same objections.

13 BY MR. ESFANDIARY:

14 Q And --

15 A I -- I don't have any frame of reference
16 for what that type of study would cost. That's
17 not my area of expertise.

18 Q I want to mark as Exhibit No. 19 -- I
19 apologize, 14. Getting ahead of myself. Is that
20 correct?

21 A My last one was 13.

22 MR. ESFANDIARY: I apologize. Can we go
23 off the record quickly?

24 THE VIDEOGRAPHER: The time is 12:23
25 p.m. We're going off the record.

1 (Lunch recess.)

2 THE VIDEOGRAPHER: The time is
3 1:15 p.m., and we're back on the record.

4 BY MR. ESFANDIARY:

5 Q Good afternoon, Mr. Murphey, how was
6 your lunch?

7 A It was very nice, thank you. Good
8 afternoon.

9 Q Good. All right.
10 So before we went on a break, you
11 testified about the benefits that Roundup has for
12 farmers and agricultural workers. Do you remember
13 that testimony?

14 A I do.

15 Q Great. And you understand -- and I'm
16 asking you this in your individual capacity, you
17 understand that Roundup is also marketed at
18 regular consumers, non-occupational users?

19 A Correct.

20 Q And do you think that Roundup could be
21 continued to be used in agricultural setting, and
22 also by consumers with the same benefits that it's
23 currently having if a cancer warning was given on
24 the label?

25 MR. PARISER: Objection to foundation,

1 form.

2 THE WITNESS: My -- my understanding is
3 that a cancer warning would be -- would be
4 inaccurate, and a federal judge has actually ruled
5 it to be false and misleading. So, no, I don't
6 think a cancer warning would be appropriate, and
7 likely would lead to decreased use.

8 BY MR. ESFANDIARY:

9 Q Let me pose this in a hypothetical.
10 Supposing that cancer -- that Monsanto took the
11 position that Roundup is actually associated with
12 an elevated risk in non-Hodgkin's lymphoma, do you
13 think that Roundup could continue to be used with
14 the same benefits we discussed earlier with a
15 cancer warning label?

16 MR. PARISER: Objection, improper
17 assumption, and lack of foundation.

18 THE WITNESS: I really don't understand
19 the connection that you're trying to draw between
20 the two.

21 The benefits of Roundup are
22 well-established, and -- and known. But it's also
23 known that glyphosate isn't carcinogenic. And so
24 if you are talking about -- it's really like
25 you're talking about a different product almost.

1 BY MR. ESFANDIARY:

2 Q No, I'm asking you -- I'm asking you
3 hypothetically, that if Monsanto was to warn about
4 the cancer risk, could Roundup continue to be used
5 with the same benefits to farmers and consumers
6 that you discussed earlier?

7 MR. PARISER: Same objections.

8 THE WITNESS: So I think the only way I
9 can answer your question is the -- we firmly
10 believe that a cancer warning on a package of
11 Roundup would be inaccurate, and it would be false
12 and misleading. But that false and misleading
13 warning label would not change the beneficial
14 properties of the substance.

15 BY MR. ESFANDIARY:

16 Q So in other words, Roundup could be
17 marketed, hypothetically, with the same benefits
18 that you discussed earlier, but also carrying a
19 cancer label, correct?

20 MR. PARISER: Same objections, and this
21 continues to be outside the scope.

22 THE WITNESS: And again, I just -- I
23 don't think there's anything I can add to my
24 answer, other than, you know, again, to repeat,
25 the warning label would not accurately

1 characterize the product. A federal judge has
2 said that such a partnering label on glyphosate
3 products would be false and misleading to
4 consumers.

5 But, yes, to your point, putting that
6 false and misleading warning on a package of
7 Roundup, which I believe to be inappropriate,
8 would not change the beneficial properties of the
9 product.

10 BY MR. ESFANDIARY:

11 Q Do you think Monsanto would stop selling
12 Roundup if the company believed it was
13 carcinogenic?

14 MR. PARISER: Objection, scope,
15 foundation.

16 THE WITNESS: I -- I can't speak to
17 that, one way -- one way or another. You know, I
18 think that would be a matter for scientific
19 experts within the company and -- and regulatory
20 bodies to decide.

21 BY MR. ESFANDIARY:

22 Q And you've already said you respect and
23 you defer to scientific opinions of your
24 colleagues, such as Dr. Farmer, right?

25 A Yes, Dr. Farmer, among others.

1 Q And again, in your individual capacity,
2 here is another hypothetical. If Dr. Farmer was
3 to say, Sam, you know, we have done some more
4 research, and it turns out that this product may
5 be associated with a risk of non-Hodgkin's
6 lymphoma, do you think that Monsanto should stop
7 selling Roundup in that eventuality?

8 MR. PARISER: Objection to form,
9 improper hypothetical.

10 THE WITNESS: I'll start by saying, we
11 have absolutely no reason to believe that we would
12 come across evidence like that. I've heard
13 nothing in my conversations with Monsanto
14 scientists about any type of evidence of that
15 nature.

16 But if -- if we were to come across
17 evidence that made that suggestion, I think it
18 would be -- that would be a decision left up to
19 our experts in product safety, and regulatory
20 bodies around the world, that would have to weigh
21 and evaluate the overall risk.

22 BY MR. ESFANDIARY:

23 Q But do you think that product should not
24 be on the product if it can cause cancer?

25 MR. PARISER: Objection, asked and

1 answered, improper hypothetical, scope.

2 THE WITNESS: I think that's -- that's a
3 decision that would need to be made by
4 scientific -- by scientific experts, who can
5 evaluate the overall risk, in the context of how
6 the product would be -- would be used. But,
7 again, I've heard absolutely nothing from any of
8 our scientists about any suggestion of a
9 connection between glyphosate and cancer.

10 BY MR. ESFANDIARY:

11 Q No, I understand that. But my question
12 to you is, in exercising your own judgment, do you
13 think that if a product can cause cancer, it
14 should not be on the market?

15 MR. PARISER: Objection, asked and
16 answered, form, scope.

17 THE WITNESS: No, as a -- as a
18 layperson, I'm very comfortable in the work that
19 our regulatory agencies do, and the assessments
20 that they do that would look at an individual
21 piece of data from one study, and assess it in the
22 context of the overall safety profile of the
23 product, and the real -- the real world -- the
24 real world risk.

25 BY MR. ESFANDIARY:

1 Q If the EPA came out tomorrow and said
2 they believe Roundup to be associated with
3 non-Hodgkin's lymphoma, do you think that Roundup
4 should be off the market?

5 MR. PARISER: Same objections.

6 THE WITNESS: I think that would be a
7 decision -- that would be a decision for the EPA
8 to make, based on -- again, based on what they --
9 what they saw in their overall -- their overall
10 risk assessment.

11 BY MR. ESFANDIARY:

12 Q Mr. Murphey, I'm going to ask my
13 question again, and you haven't provided a
14 responsive answer yet.

15 My question to you was, if the EPA was
16 to come out and say that Roundup can cause cancer,
17 do you, sir, think that it should be off the
18 market?

19 MR. PARISER: I'm going to object again
20 to the form of the question, as well as scope.
21 And also, Counsel, don't lecture the witness about
22 whether he's asked or answered the question. In
23 fact, he has answered the question. And I'm going
24 to object on that basis as well. If you have
25 anything else you can add, you may do so.

1 THE WITNESS: My answer would be, no,
2 that would be a decision for experts at EPA to
3 make.

4 BY MR. ESFANDIARY:

5 Q So your answer is, no, you do not think
6 that Roundup should be off the market?

7 MR. PARISER: Objection, asked and
8 answered.

9 BY MR. ESFANDIARY:

10 Q If the EPA makes a determination that it
11 can cause cancer?

12 MR. PARISER: Objection, asked and
13 answered numerous times, and improper
14 hypothetical, scope.

15 THE WITNESS: No, the EPA would look at
16 that data in the context of an overall risk
17 assessment, and make its decision. I'm -- I'm
18 confident in the EPA's ability to assess risk and
19 regulate products.

20 BY MR. ESFANDIARY:

21 Q So if your -- you would exercise that
22 confidence in the event that the EPA determines
23 Roundup to be associated with cancer, correct?

24 MR. PARISER: Same objections.

25 THE WITNESS: Correct. And I just -- I

1 really don't think there is anything else I can
2 add here.

3 BY MR. ESFANDIARY:

4 Q So in that exercising your confidence in
5 the belief, or in the accuracy of the EPA's
6 assessment, if they decided that Roundup is a
7 carcinogen, do you think that it should come off
8 the market?

9 MR. PARISER: Same objections, improper
10 hypothetical, outside the scope, asked and
11 answered numerous times.

12 THE WITNESS: No, I think the -- the EPA
13 would make that decision, because they would look
14 at it in the context of exposure. They would look
15 at it in the context of overall -- of overall
16 risk. And they would -- they would make the
17 determination, based on -- based on the science
18 that they reviewed.

19 BY MR. ESFANDIARY:

20 Q What do you think, though? Do you think
21 it should come off the market, if it's deemed to
22 have a cancer risk, that EPA has deemed it to be a
23 carcinogen?

24 MR. PARISER: Same objections, asked and
25 answered.

1 BY MR. ESFANDIARY:

2 Q If you don't know, you don't know. You
3 can say that.

4 MR. PARISER: And I object to counsel's
5 instructing the witness.

6 THE WITNESS: No. Sir, my answer would
7 be, if the EPA allows a product to stay on the
8 market, the EPA believes that that product -- that
9 product causes no unreasonable risk of harm to
10 human health or to the environment. If the EPA
11 continues to make that determination, the product
12 should be on the market. But again, the EPA is
13 going to look at that in a holistic way.

14 BY MR. ESFANDIARY:

15 Q What -- what if it doesn't make that
16 determination?

17 MR. PARISER: Objection, vague, improper
18 hypothetical, scope.

19 THE WITNESS: Again, this would relate
20 to -- to any product.

21 BY MR. ESFANDIARY:

22 Q So you --

23 A If the EPA -- if the EPA determines that
24 a product poses unreasonable risk, it won't be
25 on -- it won't be on the market. And I think that

19 Q I'm going to mark as Exhibit No. 15, the
20 following e-mail between you and others at
21 Monsanto.

24 MR. ESFANDIARY: Here's copies for
25 counsel there.

1 BY MR. ESFANDIARY:

2 Q And you sent -- you've seen this
3 document before, I assume, because you sent both
4 e-mails, correct, sir?

5 A Yes.

6 Q Okay. And this is MONGLY03315608, and
7 it contains e-mail correspondence between Samuel
8 Murphey and others at Monsanto, including
9 Mr. David -- Dr. David Heering. The first e-mail
10 is dated October 5th, 2015.

11 And does this appear to have been
12 created during the ordinary course of Monsanto
13 business, Mr. Murphey?

14 MR. PARISER: Objection to form.

15 THE WITNESS: Yes.

16 MR. ESFANDIARY: I move this into
17 evidence as well.

18 BY MR. ESFANDIARY:

19 Q And you say at the bottom there, "Team,
20 as discussed on the weekly glyphosate call, the
21 first two post-IARC glyphosate personal injury
22 lawsuits in the U.S. were filed in late
23 September."

24 Do you see that, sir?

25 A Correct.

1 Q "One case was filed in New York, and
2 another in California. We had anticipated such
3 litigation for some time." Do you see that, sir?

4 A Yes.

5 Q So Monsanto had, by October 5th, 2015,
6 anticipated litigation related to the
7 carcinogenicity of glyphosate, correct?

8 MR. PARISER: Objection, outside the
9 scope. And you know, again, I'd instruct you not
10 to reveal the contents of any attorney/client
11 communications. But otherwise, you can -- you can
12 answer, to the extent you know in your personal
13 capacity.

14 THE WITNESS: Sure, in my personal
15 capacity, yes, this is -- so October -- October
16 5th was, you know, more than six months -- or
17 right at six months from when the IARC opinion had
18 been published. And you know, I believe we were
19 aware of some advertising that was -- was starting
20 to be done, regarding potential litigation. So,
21 yes, certainly by October 5th, we had -- we had --
22 in this note, we had indicated we had seen the
23 first two cases filed.

24 BY MR. ESFANDIARY:

25 Q If you turn over the page, to Bates

1 ending 609, and just for the record, this next
2 line of questioning will direct -- will be related
3 directly to your representative role on behalf of
4 Monsanto. You say, "If you receive questions from
5 employees or stakeholders, an appropriate response
6 is, while sympathetic to individuals experiencing
7 health problems, including those alleged by
8 plaintiffs in these cases, we believe that
9 glyphosate is safe for human health when used as
10 labeled, and that these suits are without merit.
11 Decades of experience within agriculture and
12 regulatory reviews, using the most extensive
13 worldwide human health databases ever compiled on
14 an agricultural product contradict the claims in
15 the suits, which we have vigorously defended." Do
16 you see that?

17 A I do.

18 Q And you're aware that plaintiffs in this
19 litigation were exposed to the formulated Roundup
20 product, not just glyphosate, correct, sir?

21 A Correct.

22 Q Do you recall why you made a decision to
23 respond with the boilerplate language pertaining
24 only to glyphosate, and not Roundup?

25 MR. PARISER: Objection to form, scope.

1 THE WITNESS: I -- I don't recall, in
2 the specific context of this statement, no. But
3 we certainly have data, such as the Agricultural
4 Health Study, that clearly shows no link between
5 glyphosate-based formulations and cancer either.
6 BY MR. ESFANDIARY:

7 Q Did you ever discuss -- have any
8 discussions with your Monsanto colleagues, where
9 it was expected that in media statements, Monsanto
10 steer clear from referring to "glyphosate-based
11 formulations," and use "glyphosate" instead?

12 MR. PARISER: Objection to scope.

13 THE WITNESS: No.

14 BY MR. ESFANDIARY:

15 Q When discussing -- let me rephrase.
16 When discussing your response -- when discussing
17 Monsanto's response to the IARC classification,
18 was there a consensus within Monsanto to use
19 glyphosate when speaking of the classification, as
20 opposed to GBFs?

21 MR. PARISER: Objection, vague.

22 THE WITNESS: I -- I think in the
23 context of IARC, our understanding was that the
24 IARC opinion dealt with the active ingredient.
25 And so some of our statements may have -- may have

1 focused on the active ingredient in that context.
2 You know, but we certainly have made many
3 statements that deal with glyphosate-based
4 formulations as well.

5 BY MR. ESFANDIARY:

6 Q You're aware that IARC looked at
7 hundreds of genotoxicity studies that looked at
8 the formulated products, correct?

9 MR. PARISER: Objection to scope and
10 form.

11 THE WITNESS: I'm not exactly clear on
12 what exactly IARC looked at, but my -- my
13 understanding was that their opinion dealt with
14 the -- with the active substance.

15 BY MR. ESFANDIARY:

16 Q You're not exactly clear what IARC
17 looked at, but you are comfortable speaking to the
18 media about the flaws of the classification,
19 correct?

20 MR. PARISER: Objection, argumentative.

21 THE WITNESS: Yes, based -- based on my
22 understanding, and my conversations with our
23 scientists.

24 BY MR. ESFANDIARY:

25 Q Mr. Murphey, Monsanto's ultimate goal is

1 to defend freedom to operate for glyphosate
2 globally, while enabling growth of Monsanto's crop
3 protection business, correct?

4 MR. PARISER: Objection, outside the
5 scope.

6 THE WITNESS: I -- I can't say that that
7 is Monsanto's overarching goal. I -- I do recall
8 that as a goal that I -- I once identified in my
9 plan as a priority that would be for my team.

10 BY MR. ESFANDIARY:

11 Q All right. I would like to switch gears
12 to -- I believe it's category number 18 on the PMK
13 deposition notice. The Let Nothing Go campaign,
14 Monsanto's knowledge, positions, and conduct
15 related to Let Nothing Go.

16 Now, part of your corporate engagement
17 responsibilities at Monsanto involved coordinating
18 the Let Nothing Go campaign, correct, sir?

19 A Yes, I would say I was one of the people
20 on point for that effort.

21 Q Can you please define the Let Nothing Go
22 campaign for the jury?

23 A Sure. The Let Nothing Go effort focused
24 on the European Union. And it was an initiative
25 that involved carefully monitoring media coverage

1 about the company in multiple languages. We had a
2 number of markets we were -- we were prioritizing.
3 So media monitoring in those different languages.
4 Highlighting or flagging stories that contained
5 inaccurate information or misinformation about the
6 company or products, or stories that didn't
7 include the company's perspective or point of
8 view.

9 And then following up with those
10 reporters, proactively calling reporters in those
11 instances, to share a statement, to provide some
12 additional context, and to encourage those
13 reporters to contact us in the future.

14 Q Let's just break down the answer a
15 little bit. So part of the Let Nothing Go
16 initiative, would that involve Monsanto pushing
17 for positive stories about its glyphosate-based
18 formulations in the media?

19 MR. PARISER: Objection to form.

20 THE WITNESS: In -- in some contexts,
21 there -- there might have been proactive --
22 proactive outreach, or asking -- you know, asking
23 a reporter to think about an idea for a story in
24 the future. But I would say, principally, the
25 focus was -- that monitoring and that reaction

1 that I described.

2 BY MR. ESFANDIARY:

3 Q And did the Let Nothing Go campaign
4 invest in communication tactics targeted --
5 targeted to consumers of Roundup?

6 A It more -- so it focused on kind of both
7 mainstream and agricultural trade publications.
8 So, yes, to the extent that a consumer -- again,
9 we're talking about the European Union. To the
10 extent that a consumer might see an article about
11 glyphosate or Roundup in a -- in a mainstream
12 publication, it would involve -- it would involve
13 that type of consumer audience.

14 Q Did the Let Nothing Go campaign involve
15 making Monsanto's opponents uncomfortable?

16 MR. PARISER: Objection to form.

17 THE WITNESS: No, I don't think that's
18 an accurate characterization. I think it was
19 the -- the effort was much more about realizing,
20 in the European context, there was a significant
21 amount of coverage on glyphosate, as we discussed
22 earlier. This renewal process was occurring.
23 Glyphosate was receiving a tremendous amount of
24 coverage in -- in the media. And this effort was
25 more focused on reaching out and trying to achieve

■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]

7 Q All right. Let's move on to Exhibit
8 No. 19.

9 (Murphey Exhibit No. 19 was marked
10 for identification.)

11 BY MR. ESFANDIARY:

12 Q All right. This is MONGLY0348790. It
13 contains e-mails and attachment -- e-mails sent by
14 Samuel Murphey. The first one is dated May 21st,
15 2016. And it's -- the subject is Germany
16 outreach.

17 Do you recall sending these e-mails,
18 Mr. Murphey?

19 A I -- I don't necessarily recall sending
20 the individual e-mails, but I recall the
21 conversation and the substance of what's being
22 discussed.

23 Q Okay. And does this appear to have been
24 created during the ordinary course of Monsanto
25 business?

■ ■ ■

2 Q Okay. You can put that aside.

3 All right. Mr. Murphey, just for the
4 record, I am concluding the portion of the
5 corporate representative deposition. I'm going to
6 move into questions about your individual
7 capacity, although I'm reserving the right to
8 resume to asking questions on your representative
9 behalf later on if I feel the need to, okay?

10 MR. PARISER: Do we have a copy of the
11 notice to mark, just to be clear. And also,
12 Counsel, just to make sure we're both on the same
13 page, we'll do one direct at the end of the
14 examination, and I'll just make clear when my
15 questioning pertains to, you know, his 30(b)(6)
16 role, his individual role, or both.

17 MR. ESFANDIARY: Jerry?

18 MR. KRISTAL: That's fine with me, as
19 long as it's clear.

20 MR. PARISER: Thank you.

21 MR. ESFANDIARY: All right.

22 MR. KRISTAL: I mean, it's all going to
23 come in, one way or the other, or not, obviously.
24 And it's only a question of what import can be
25 attributed to an answer, that's all.

1 MR. PARISER: Right. Thank you.

2 So do you want to just mark, for the
3 record, the deposition notice of his individual
4 capacity, so we're clear.

5 MR. ESFANDIARY: Sure. Yeah. This will
6 be Exhibit No. 22.

7 (Murdhey Exhibit No. 22 was marked
8 for identification.)

9 BY MR. ESFANDIARY:

10 Q Just put it over here for now.

11 Okay. Where are we? Okay.

12 Mr. Murdhey, Monsanto is -- has been concerned
13 with the costs associated with marketing a safer
14 Roundup formulation, correct?

15 MR. PARISER: Hold on one second.

16 Can we go off the record for a second?
17 My Livenote has stopped.

18 THE VIDEOGRAPHER: The time is
19 2:50 p.m., and we are going off the record.

20 (Pause.)

21 THE VIDEOGRAPHER: The time is 2:51
22 p.m., and we're back on the record.

23 MR. PARISER: Can we just have the
24 question reread?

25 (Whereupon, the requested record

■ [REDACTED]

■ [REDACTED]

3 Q And you respond, on page 566, Samuel
4 Murphey to David Heering, "My recommendation is to
5 make sure our stakeholders are aware, but as a
6 company, I advise against pushing this directly.
7 I will be interested in Brian's guidance, but with
8 negotiations ongoing at the WHO level, I worry
9 that getting too close to this could undermine
10 those discussions." Do you see that?

11 A Could you point me to the Bates number
12 on that again, please?

13 Q It is on page 566. It's in the top
14 paragraph there, from you, Samuel Murphey,
15 February 9th.

16 A Okay, I've got it. Yes, I see that.

17 Q And then on the front page of this
18 document, you say, "I'm fully supportive of
19 getting out to our stakeholders (Prop 65 and
20 others) and asking them to share and discuss. I
21 just think we want the public push at arm's-length
22 from Monsanto." Do you see that, sir?

23 A I do.

24 Q So do you disagree with our own
25 characterization of Monsanto's activity?

1 MR. PARISER: Objection to form.

2 THE WITNESS: No, I think this -- this
3 was a recommendation that I was making in the
4 context of this one particular story and isn't
5 reflective of the broader approach that we
6 generally take to media.

7 BY MR. ESFANDIARY:

8 Q Mr. Murphey, earlier today, you
9 testified that you disagree with the
10 characterization that Monsanto was trying to
11 influence public opinion at an arm's-length. And
12 here you are, on February 9th, 2016, saying to
13 your Monsanto colleagues that you think that you
14 should be pushing the story -- "want the public
15 push at arm's-length from Monsanto." Do you see
16 that, sir?

17 MR. PARISER: Objection to the form of
18 the question, argumentative, asked and answered.

19 THE WITNESS: No, I do see here that I'm
20 recommending that we -- we share this with various
21 stakeholders, and ask them to discuss it. You
22 know, the proposal on the table was whether to use
23 Monsanto social media channels, for instance, to
24 share the story broadly. And my recommendation
25 was not to do that in this instance, but to share

1 the -- to share the information in the story with
2 a variety of stakeholders.

3 BY MR. ESFANDIARY:

4 Q Mr. Murphey, your recommendation was to
5 get the public push at arm's-length from Monsanto,
6 correct? Isn't that what you say there, sir --

7 A Yes.

8 Q -- on the face of this document? So you
9 do not disagree that part of Monsanto's
10 initiatives in influencing the public opinion on
11 glyphosate safety involved doing so at
12 arm's-length from Monsanto, correct?

13 MR. PARISER: Objection to form.

14 THE WITNESS: No, as I've -- as I've
15 explained, our public affairs strategies had
16 multiple approaches. In the context of sharing
17 this one particular story, my recommendation was
18 to provide it to stakeholders, and not to promote
19 it directly, for instance, from Monsanto's social
20 media channels.

21 BY MR. ESFANDIARY:

22 Q So Monsanto -- part of Monsanto's
23 initiative in protecting the public image of
24 glyphosate did involve doing so at arm's-length
25 from Monsanto, correct?

1 A In the instance of this particular
2 story, my recommendation was to share this with
3 stakeholders, and not to promote it directly from
4 Monsanto's corporate social media channels.

5 (Murphey Exhibit No. 29 was marked
6 for identification.)

7 BY MR. ESFANDIARY:

8 Q Mr. Murphey, this is Exhibit 29 to your
9 deposition. It's a series of e-mails.
10 The initial Bates is MONGLY07673376. And if
11 you -- have you -- it's dated August 19th, 2015,
12 subject: "Heads Up - New England Journal of
13 Medicine Op-Ed."

14 Does this appear to have been created
15 during the ordinary course of Monsanto business,
16 sir?

17 MR. PARISER: Objection to form.

18 THE WITNESS: Yes.

19 MR. ESFANDIARY: I'll move this into
20 evidence.

21 BY MR. ESFANDIARY:

22 Q And if you turn to the last page of the
23 document, there's an e-mail from you, sent
24 Wednesday, August 19th, 2015, to a whole slew of
25 Monsanto employees, with a subject, Heads Up - New

1 England Journal of Medicine Op-Ed.

2 And you say, "Corporate engagement ops:
3 I wanted to make you aware of our strategy for
4 responding to an Op Ed that we'll publish later
5 today in the Perspective section of the New
6 England Journal of Medicine. The Op Ed, by Philip
7 Landrigan and Charles Benbrook, frequent
8 anti-GM/pesticide commentators, is critical of
9 Glyphosate 2,4-D and Dow's endless products."

10 At the bottom, you say, "The Op Ed
11 attached to this e-mail is under embargo until
12 5 p.m. Eastern, 4 p.m. Central today. Please do
13 not share the Op Ed with others at this time." Do
14 you see that, sir?

15 A Yes.

16 Q Mr. Murphey, how on Earth did Monsanto
17 get its hands on an Op Ed that had not been
18 published yet?

19 MR. PARISER: Objection to form.

20 THE WITNESS: The use of embargoes in
21 the journalism and public affairs industry is
22 fairly common. I don't recall in this specific
23 instance of this Op Ed, but there are occasions,
24 for instance, where a journalist who will have
25 been provided a copy of the Op Ed or article by

■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]

5 MR. ESFANDIARY: I'm going to mark as
6 Exhibit No. 31, a series of e-mails.

7 (Murdhey Exhibit No. 31 was marked
8 for identification.)

9 BY MR. ESFANDIARY:

10 Q It's an e-mail from yourself to
11 Mr. Jenkins, and Mr. Jenkins returning back to
12 you. And it's MONGLY03402231, dated April 21st,
13 2016.

14 Mr. Murdhey, does this appear to have
15 been created under the ordinary course of Monsanto
16 business?

17 MR. PARISER: Objection to form.

18 THE WITNESS: Yes.

19 BY MR. ESFANDIARY:

20 Q Now, Mr. Jenkins sends a statement to
21 Anne Overstreet from the EPA, on page ending in
22 Bates 233, correct?

23 A He does.

24 Q Okay. And this statement appears to be
25 coming from the EPA, the way in which it's -- in

1 which it's addressed, correct? It says, "The EPA
2 always strives to base its decisions on the best
3 sound science." And the second paragraph says,
4 "Currently, we are working through some important
5 science issues on glyphosate, including residues
6 of the chemical in human breast milk, an in-depth
7 human incidents and epidemiology evaluation, the
8 International Agency on Research for Cancer,
9 IARC's cancer reevaluation released in August
10 2015, and a preliminary analysis of glyphosate
11 toxicity to milk weed." Do you see that, sir?

12 MR. PARISER: Objection to form.

13 THE WITNESS: Yes. And then it
14 concludes, "The toxicity to milk weed, a critical
15 resource for the Monarch butterfly. We hope to
16 issue the draft cancer risk assessment for public
17 comment later in 2016."

18 BY MR. ESFANDIARY:

19 Q Right. And this e-mail from Dan Jenkins
20 to Ms. Overstreet is forwarded through various
21 Monsanto employees, including yourself. And you
22 say, in an e-mail from April 21st, "Anne
23 Overstreet says in her e-mail that she provided
24 the shorter statement to Bloomberg on March 8th.
25 The longer statement that I shared was provided by

1 EPA's Robert Daguiard to a publication called
2 Farm World on April 19th. Anne's shorter
3 statement refers to a draft risk assessment to be
4 released in late 2016 for public comment.
5 Robert's longer statement refers to a draft cancer
6 risk assessment to be released in late 2016 for
7 public comment. Are they referring to the same
8 risk assessment or something different? Or is
9 Anne talking about the PRA and Robert about the
10 CARC?"

11 Do you see that?

12 A I do.

13 Q And then Mr. Jenkins' response to you,
14 "Anne and I quite -- talked quite a bit today.
15 What she was doing below is showing me what she
16 had written for their press office use." Do you
17 see that, sir?

18 A Yes.

19 Q Now, would the EPA and -- would the EPA
20 regularly share press statements with Monsanto
21 prior to issuing them to the rest of the world?

22 A No, but that doesn't seem to be
23 what's -- what's happening here. In -- in looking
24 through the entire chain, it looks like perhaps
25 the statement that Mr. Jenkins originally sent to

1 Ms. Overstreet was something that I had seen in
2 the Farm World publication.

3 That's -- and it looks like, then,
4 Mr. Jenkins perhaps sent it to Ms. Overstreet to
5 ask her to confirm if it was an accurate -- an
6 accurate EPA statement, because then she comes
7 back in that e-mail you were just reading from,
8 the top, you know, she is demonstrating between
9 the two versions, that the statement had been
10 changed by someone down the line, and that the
11 reference in the original longer statement to a
12 public comment on the draft cancer risk assessment
13 was inaccurate.

14 Q Did you prepare talking points in a
15 meeting -- private meeting between Monsanto and
16 Gina McCarthy, the former administrator of the
17 EPA?

18 MR. PARISER: Objection to form.

19 THE WITNESS: I was -- I was involved in
20 the preparation of talking points for a -- for a
21 meeting with the administrator.

22 BY MR. ESFANDIARY:

23 Q And the meeting with the administrator
24 was not open to public scrutiny, was it, sir?

25 A I --

1 MR. PARISER: Objection to form.

2 THE WITNESS: I don't understand what
3 you mean by "public scrutiny."

4 BY MR. ESFANDIARY:

5 Q Were others from the public invited to
6 observe the meeting between Monsanto and Gina
7 McCarthy, the administrator of the EPA?

8 A No, my -- my understanding was that was
9 not a -- not a public meeting, but the EPA meets
10 with many different stakeholders on many different
11 topics.

12 MR. ESFANDIARY: Exhibit No. 32.

13 (Murphey Exhibit No. 32 was marked
14 for identification.)

15 BY MR. ESFANDIARY:

16 Q And it's an e-mail, MONGLY03550799, from
17 David Heering to Samuel Murphy, 8-9-2016, and it's
18 titled "Talking Points for Conversation with
19 Gina." Gina referring to Ms. McCarthy, the former
20 administrator of the EPA, correct?

21 A Yes, Administrator McCarthy.

22 Q Okay. So one of the talking points in
23 the attachment there is -- well, first of all, was
24 this created during the ordinary course of
25 Monsanto business?

1 MR. PARISER: Objection to form.

2 THE WITNESS: Yes.

3 MR. ESFANDIARY: Okay, move this into
4 evidence.

5 BY MR. ESFANDIARY:

6 Q The -- if you turn the page to the
7 attachment, it says, "Suggested areas of focus for
8 the conversation." And you say, "There is already
9 enough for EPA to act without the Scientific
10 Advisory Panel."

11 Do you see that, sir?

12 A Yes, I see that bullet point.

13 Q And then, at the bottom, it says, "Other
14 countries are watching what both the EU and U.S.
15 EPA are doing. They have relied upon product
16 assessments by these two agencies for years to
17 guide them in their own risk assessments." Do you
18 see that, sir?

19 A I do.

20 Q So Monsanto was of the opinion that with
21 respect -- you know, whatever the decision EPA
22 makes with respect to glyphosate, other countries
23 were bound to rely upon that, correct?

24 A Yes, my understanding from conversations
25 with our scientific and regulatory experts, is

1 that the -- the USEPA and the European authorities
2 are looked to by a number of other countries as --
3 as models.

4 Q So if the EPA's glyphosate issue paper
5 is, for the sake of a hypothetical, tainted by
6 some undisclosed conflict of interest, would other
7 countries then also be relying upon that
8 glyphosate issue paper for their assessments of
9 glyphosate?

10 MR. PARISER: Objection to form,
11 improper hypothetical.

12 THE WITNESS: It's -- I -- I don't
13 understand what you are asking, with regard to the
14 potential tainting.

15 BY MR. ESFANDIARY:

16 Q Well, my question -- let me put it this
17 way.

18 Would an undisclosed conflict of
19 interest in the EPA's 2016 glyphosate issue paper
20 have repercussions around the world, in terms of
21 what other regulatory decisions -- regulatory
22 agencies do with respect to glyphosate?

23 MR. PARISER: Same objections.

24 THE WITNESS: I'm -- I'm not aware of
25 any conflict of interest within the issue paper,

1 so I can only reiterate that I do know that EPA
2 assessments are looked at by many other countries
3 around the world.

4 BY MR. ESFANDIARY:

5 Q Now, you testified earlier that you're
6 aware of who Mr. Jess Roland was, correct?

7 A Yes, I'm aware that Mr. Rowland was an
8 official at the EPA.

9 Q He was in the Office of Pesticide
10 Programs, correct?

11 A That was my understanding.

12 Q And he helped coauthor, or was the lead
13 chair on the CARC report, correct?

14 A Again, I know he was -- he was involved
15 in the -- in the Cancer Assessment Review
16 Committee. I'm -- I'm not familiar with his
17 specific role.

18 Q Did Monsanto have a -- are you aware of
19 whether Monsanto had a strong working relationship
20 with Mr. Rowland during his tenure at the OPP?

21 A I was -- was aware that Monsanto
22 employees occasionally interacted with Mr. Rowland
23 in the course of business.

24 MR. ESFANDIARY: Was that Exhibit 32?

25 THE WITNESS: Yes, 32, sir.

1 MR. ESFANDIARY: So this is --

2 BY MR. ESFANDIARY:

3 Q Are you aware that right after IARC's
4 initial announcement of its classification, the
5 Agency for Toxic Diseases -- what is it, Toxic
6 Substances and Disease Registry was also looking
7 to review glyphosate?

8 A I was -- was aware that there had been
9 conversations about a -- a possible review there.

10 Q And Monsanto was concerned about this
11 review, correct?

12 MR. PARISER: Objection to form and
13 foundation.

14 THE WITNESS: Yes, we were -- we were
15 concerned, in that it would be a duplicative
16 review by another agency, while the EPA was
17 conducting its work. And the EPA is the federal
18 agency charged with evaluating product -- products
19 like glyphosate.

20 BY MR. ESFANDIARY:

21 Q Sir, you'd agree with me that an issue
22 as serious as a product causing cancer warrants
23 the most rigorous analysis and scrutiny as
24 possible, correct?

25 A Yes, I do, by the -- by the agencies

1 charged with making those types of assessments.
2 And with regard to glyphosate and pesticide
3 products in the U.S., that agency is the USEPA.

4 Q Do you have any reason to doubt the
5 ability of the ATSDR to perform a comprehensive
6 analysis of glyphosate safety?

7 MR. PARISER: Objection to form and
8 foundation.

9 THE WITNESS: I am not personally
10 familiar with the ATSDR's capabilities, but I know
11 that the EPA is specifically designed to make
12 those types of assessments, with regard to
13 pesticide products.

14 BY MR. ESFANDIARY:

15 Q So why would it be duplicative of the
16 ATSDR to also assess the carcinogenicity of
17 glyphosate?

18 A It would be duplicative, because the EPA
19 was, at that very point in time, in the midst of
20 its risk assessment work on glyphosate. And that
21 was work that had been underway, again, as we've
22 discussed, since 2009. The EPA had worked its way
23 through all of that literature, so this would be a
24 duplicative process beginning, while EPA's work
25 was still underway.

1 Q But why -- what would Monsanto lose by
2 having the ATSDR also look at the potential
3 carcinogenicity of glyphosate?

4 MR. PARISER: Objection to form.

5 THE WITNESS: It's not what Monsanto
6 would have to lose. It would be an inefficient
7 use of government resources to have two reviews
8 running in parallel, while the EPA was still
9 conducting its work.

10 BY MR. ESFANDIARY:

11 Q So your testimony to this jury is that
12 the reason Monsanto was apprehensive about ATSDR
13 performing a cancer review on glyphosate was
14 because Monsanto was concerned with saving
15 government resources?

16 MR. PARISER: Objection to form,
17 argumentative.

18 THE WITNESS: No, we have -- we have a
19 process in place in the United States, through the
20 EPA, to conduct regulatory oversight of pesticide
21 products. The EPA was doing just that. A second
22 review by the ATSDR in the midst of EPA's work
23 would be duplicative.

24 BY MR. ESFANDIARY:

25 Q What's wrong with that?

1 MR. PARISER: Objection, argumentative.

2 THE WITNESS: In my -- in my view, we
3 want government to operate as efficiently as
4 possible. And when you have an agency that has
5 the competence and the expertise to conduct a
6 review, you should let it do its work.

7 BY MR. ESFANDIARY:

8 Q If you have multiple agencies that have
9 the competence to conduct the review, wouldn't you
10 want them to do it, to ensure the product truly is
11 not carcinogenic?

12 MR. PARISER: Objection, lack of
13 foundation, argumentative.

14 THE WITNESS: No, I -- I think when you
15 have an agency with specialization in regulating a
16 type of product, such as pesticides, that agency
17 should take the lead and do its work within the
18 scope of its remit.

19 BY MR. ESFANDIARY:

20 Q Mr. Murphey, is Monsanto against the
21 notion of too many regulatory agencies reviewing
22 glyphosate potential carcinogenicity?

23 MR. PARISER: Objection to form and
24 foundation.

25 THE WITNESS: No, glyphosate has been

1 reviewed by regulatory agencies in numerous
2 markets around the world.

3 We -- and we believe that the product
4 should be reviewed by the competent regulatory
5 authority for pesticides in those -- in those
6 markets. In the case of the U.S. government, that
7 agency is the EPA.

8 BY MR. ESFANDIARY:

9 Q Right. But you agree with me that the
10 ATSDR is more than competent and able to review
11 glyphosate, correct?

12 MR. PARISER: Objection -- objection,
13 foundation.

14 THE WITNESS: Again, I'm not fully
15 familiar with all of the capabilities within the
16 ATSDR. I -- I don't have that insight. What I
17 understand, based on my discussions and my work in
18 the industry, is that the EPA is uniquely
19 qualified and equipped to regulate pesticides.

20 BY MR. ESFANDIARY:

21 Q And -- okay, well, we'll go to the
22 document. Well, did Monsanto try to stop the
23 ATSDR review?

24 MR. PARISER: Objection, form and
25 foundation.

1 THE WITNESS: My understanding was that
2 once we became aware of the possibility of ATSDR
3 review, we brought that to the attention of the
4 EPA.

5 BY MR. ESFANDIARY:

6 Q My question was, did Monsanto try to
7 stop the ATSDR review?

8 MR. PARISER: Same objections, asked and
9 answered.

10 THE WITNESS: No, I think -- I think my
11 understanding was, we flagged it for the EPA as
12 something that they might want to look into,
13 again, because their review process was underway,
14 and now there was the possibility of a second
15 agency coming in, we thought that might be
16 something the EPA would want to look into.

17 BY MR. ESFANDIARY:

18 Q Did you flag it to the EPA in the hope
19 that the EPA would ask the ATSDR to not go ahead
20 with its review?

21 MR. PARISER: Same objections.

22 THE WITNESS: Again, I think -- my
23 understanding was we wanted the EPA to look into
24 what was happening. And then it would be the
25 EPA's decision to do whatever it saw fit. But we

1 did not see the need for a duplicative review,
2 separate from the work that EPA was doing.

3 BY MR. ESFANDIARY:

4 Q So Monsanto's wish was for the ATSDR
5 review to not proceed, correct?

6 MR. PARISER: Objection to form,
7 foundation, and asked and answered.

8 THE WITNESS: Our wish -- no, our wish
9 was for the EPA to conduct its work, and to
10 publish its preliminary risk assessment. And
11 again, we saw a secondary review by another agency
12 would be duplicative to that process.

13 BY MR. ESFANDIARY:

14 Q So as you just said, if Monsanto thought
15 the process would be duplicative, Monsanto did not
16 want the ATSDR to proceed with its review,
17 correct?

18 A Correct.

19 MR. PARISER: Objection, asked and
20 answered.

21 THE WITNESS: We wanted the EPA to do
22 its work. The EPA is the regulatory authority on
23 pesticides in the U.S.

24 BY MR. ESFANDIARY:

25 Q So just so the record is clear, Monsanto

■

■

■

■

■

3 Q And, Mr. Murphey, are you an attorney?

4 A No.

5 Q Is Mr. Rands an attorney?

6 A Yes.

7 Q And is -- Melissa Duncan, she's not an
8 attorney either, correct?

9 A No, Ms. -- Ms. Duncan is a lawyer.

10 Q Okay. Did you have any knowledge about
11 Ms. Kelland's request?

12 A No.

13 Q Prior to this e-mail, had you been in
14 communication with Ms. Kelland?

15 A Maybe once or twice, just in -- in
16 response to an inquiry, but I -- I don't recall
17 any interaction with her prior to this.

18 Q Did you ever send Ms. Kelland materials
19 to be worked into published articles that were not
20 solicited by her?

21 MR. PARISER: Objection to form.

22 THE WITNESS: Yes, there were occasions
23 where I reached out to Ms. Kelland to discuss --
24 to discuss some information and concepts with her.

25 BY MR. ESFANDIARY:

1 Q Do you -- does Monsanto perceive
2 Ms. Kelland to be a favorable ally in
3 communicating about Roundup safety?

4 MR. PARISER: Objection to form.

5 THE WITNESS: No, I consider Ms. Kelland
6 to be a highly professional journalist, with an
7 extensive background in covering scientific and
8 medical topics.

9 BY MR. ESFANDIARY:

10 Q You previously sent Ms. Kelland
11 information about the Working Group 112,
12 specifically a member of Working Group 112,
13 Dr. Aaron Blair, correct?

14 A Yes.

15 Q And that information was then turned
16 into a Reuters published piece, correct?

17 MR. PARISER: Objection to form.

18 THE WITNESS: Yes, I reached out to
19 Ms. Kelland, and provided some background
20 information and some documents to her, for her to
21 review and analyze. And, ultimately, she and her
22 editors made the decision to run a story.

23 BY MR. ESFANDIARY:

24 Q And why did you specifically reach out
25 to Ms. Kelland?

1 A I -- again, having been aware of, you
2 know, this request, and the fact that, you know,
3 she had written about glyphosate, I thought it
4 might be information that would be of interest to
5 her. And I thought that she might have, you know,
6 more context on IARC as an organization than, you
7 know, a reporter who covered something other than
8 science and medical issues.

9 Q When you sent that information to
10 Ms. Kelland to be turned into a story in Reuters,
11 did the final story disclose the fact that the
12 information had come from Monsanto Company?

13 MR. PARISER: Objection to form.

14 THE WITNESS: I -- no, the story doesn't
15 specifically state that documents were provided by
16 Monsanto, although it certainly did make clear
17 that they were documents relevant to this
18 litigation, and Monsanto was quoted in the story.

19 (Murphey Exhibit No. 36 was marked
20 for identification.)

21 BY MR. ESFANDIARY:

22 Q I'm marking as Exhibit 36, an e-mail
23 from yourself to Ms. Kelland. And it's not just
24 to -- well, the initial e-mail dated April 27,
25 2017 is to Ms. Kelland from yourself, regarding

1 your voicemail. And it's MONGLY07575511. And
2 then you forward that e-mail to Mr. Rands.

3 And in the e-mail to Ms. Kelland, you
4 say, "I am passing along a background summary
5 deck; the deposition testimony of the IARC Chair,
6 Aaron Blair, and a number of additional documents
7 will follow. We are sending these exclusively to
8 you for your review."

9 A Yes.

10 Q You didn't send this information to
11 anyone else?

12 A No. At this point in time, I was
13 sharing it with -- with Ms. Kelland.

14 Q You say, "Please treat the summary deck
15 as background information, but the quotes from our
16 VP of strategy, Scott Partridge, is on the
17 record." Why did you want Ms. Kelland to treat
18 the materials you had sent her about Dr. Blair and
19 IARC as background information?

20 MR. PARISER: Objection to form.

21 THE WITNESS: I was sending Ms. Kelland
22 a number of documents, including the deposition,
23 which was several hundred pages long. And so I
24 had pulled together the background information and
25 the summary deck to help point her to some

1 specific citations within those underlying
2 documents.

3 BY MR. ESFANDIARY:

4 Q Well, what I'm struggling to understand,
5 Mr. Murphey, is, you send these -- you send
6 Dr. Blair's deposition to Ms. Kelland, correct?

7 A Yes.

8 Q Right? And you also say in your e-mail,
9 "The deposition and other documents clearly show
10 that Dr. Blair concealed information from the IARC
11 working group that showed no link between
12 glyphosate and cancer," correct?

13 A That's correct.

14 Q And then I went to Ms. Kelland's
15 article, and I couldn't find a single quote,
16 direct quote from the deposition testimony of
17 Dr. Blair. Do you know why?

18 A I don't recall whether there are
19 specific quotes from the deposition testimony or
20 not.

21 Q But see, why I'm confused is, you're
22 saying that the -- if the deposition clearly shows
23 that Dr. Blair concealed information from the IARC
24 working group, why would Ms. Kelland not quote
25 that in the article?

1 MR. PARISER: Objection, lack of
2 foundation.

3 THE WITNESS: I think Ms. Kelland's
4 article makes clear that at the point in time that
5 Dr. Blair was Chair of the IARC working group, he
6 had in his possession updated Agricultural Health
7 Study data, and that data was not shared with the
8 IARC working group.

9 BY MR. ESFANDIARY:

10 Q Mr. Murphey, nowhere in Ms. Kelland's
11 article does she quote Dr. Blair -- any portion of
12 Dr. Blair's testimony purporting to show that he
13 hid information from IARC. Do you agree with me
14 on that, sir?

15 MR. PARISER: Objection.

16 BY MR. ESFANDIARY:

17 Q I can show you the article, if you'd
18 like -- if you'd like.

19 A I would -- I would need to read the
20 article again to familiarize myself with that.

21 Q Absolutely.

22 A But I will say, the article makes very
23 clear that the draft manuscripts existed, and that
24 they had not been published, nor were they shared
25 with the working group, prior to the meeting.

1 (Murphey Exhibit No. 37 was marked
2 for identification.)

3 BY MR. ESFANDIARY:

4 Q I'm marking as Exhibit No. 37 to your
5 deposition there, sir, there's -- the report, or
6 rather the article by Ms. Kelland published in
7 Reuters on June 17th, 2017, sir. And that is just
8 around three or four months after you sent the
9 background materials to Ms. Kelland, correct?

10 A That would be just over -- just under
11 two months.

12 Q Two months, yes. And this article --
13 you've read it before, correct, sir?

14 A Yes.

15 Q Okay. Can you show the jury exactly
16 where in here, Ms. Kelland quotes Dr. Blair, where
17 he says that he withheld information from the IARC
18 working group?

19 A So I see multiple references here in the
20 article to the fact that the data weren't
21 published, multiple justifications were -- were
22 given, and that the -- there's acknowledgement
23 that the data were not available to the committee
24 itself.

25 Q In Ms. Kelland's words, correct, sir?

1 A Correct.

2 Q So nowhere in that article is there a
3 quote from the deposition of Dr. Blair, indicating
4 that Dr. Blair misled anyone on IARC, correct,
5 sir?

6 MR. PARISER: Objection to form.

7 THE WITNESS: No, the -- the article
8 reflects the fact that the data existed, that
9 the -- that the data had been reviewed. There is
10 discussion from individuals involved in the
11 Agricultural Health Study that it would be
12 irresponsible if they didn't seek publication of
13 the manuscript prior to IARC's decision, but I
14 don't see a direct quote from the deposition.

15 BY MR. ESFANDIARY:

16 Q Right. And when you say the
17 deposition -- when you write to Ms. Kelland
18 saying, "The deposition and other documents
19 clearly show that Dr. Blair concealed
20 information," and -- at the same time, you're
21 asking her to "please treat the summary deck as
22 background information," can you please explain
23 why you decided to ask Ms. Kelland to treat the
24 background deck as -- the summary deck as
25 background information and not quote from it?

1 MR. PARISER: Objection to form.

2 THE WITNESS: Again, the -- the
3 background -- the summary deck itself was designed
4 to help Ms. Kelland work her way through the
5 documents. As a journalist, I knew she was going
6 to take her time and read and review everything on
7 her own, but I wanted to flag for her key -- key
8 facts and key quotes from the documents.

9 To give an example, you know, I cite a
10 quote from page 178 of the deposition, you know,
11 where Dr. Blair was asked, "And did you alert any
12 of your fellow working group members, or any other
13 members of the subgroup on epidemiology at IARC
14 about the fact that this much larger AHS cohort
15 study, with a larger follow -- a larger time of
16 follow-up and higher levels of exposure had been
17 conducted?

18 "Answer: No."

19 So I was pointing her to those types of
20 references throughout the documents, so that she
21 could review them, and decide whether those were
22 individual quotes that she wanted to include.

23 BY MR. ESFANDIARY:

24 Q And you didn't point her to the parts
25 where Dr. Blair explains the reasons for why the

1 AHS results had not been published by the time of
2 the monograph, correct, sir?

3 A Ms. Kelland talks about multiple reasons
4 in the story. That they made the decision to
5 publish some other pieces of data, but felt that
6 the section on glyphosate wouldn't fit. I
7 don't -- I don't understand those decisions, but
8 that type of explanation is included in her story.

9 Q Okay. But ultimately, you don't
10 understand the decisions for why the preliminary
11 results were not published, correct, sir?

12 A No, I -- I think an explanation, such as
13 is given in here, that -- you know, that there
14 were space constraints, or that it was too much
15 data for one publication, I -- that doesn't make
16 sense to me.

17 Q Mr. Murphey, what's the name of the
18 publication, the preliminary AHS publication?

19 A I would have to go back and review
20 the -- the title of the draft.

21 Q Okay. When was the initial draft put
22 together, sir?

23 A My recollection was that the draft that
24 Dr. Blair had in his possession was from 2013.

25 Q Are you aware that it was incomplete?

1 A No. My -- it was -- it was a
2 publication that was well -- well in the process
3 of development. We're now talking about an IARC
4 meeting that occurred two years after that data
5 was collected in manuscript form.

6 Q So you don't know -- and you testified
7 earlier that you don't know anything about the
8 process leading up to the publication, but at the
9 same time, you're comfortable testifying that
10 Dr. Blair misled the IARC working group on the
11 data?

12 MR. PARISER: Objection to form.

13 THE WITNESS: I think there's
14 significant questions that needed to be answered
15 here. You know, why -- why weren't the data
16 published in advance of the working group meeting?
17 If Dr. Blair was aware of the larger data set that
18 existed, why wasn't the IARC meeting delayed to
19 let that important data be considered?

20 There -- there were multiple lines of
21 inquiry that we thought were appropriate to bring
22 to a reporter to analyze for herself.

23 BY MR. ESFANDIARY:

24 Q These are questions that you have, but
25 does it show that Dr. Blair clearly misled the

1 IARC working group?

2 A I think the fact that the data existed,
3 that the data were in Dr. Blair's possession, that
4 the working group was allowed to rely on an older
5 and smaller version of the data, I think that is
6 concealment.

7 Q Even though the data has not been
8 completed yet, correct?

9 MR. PARISER: Objection, asked and
10 answered.

11 THE WITNESS: Well, it has been now. It
12 was -- it was published in the Journal of the
13 National Cancer Institute.

14 BY MR. ESFANDIARY:

15 Q What year?

16 A It was late 2017.

17 Q How many years after the IARC monograph
18 is that?

19 A Well, more than two.

20 Q So the data was finally complete two
21 years after the IARC monograph, correct, sir?

22 MR. PARISER: Objection. Objection to
23 form.

24 THE WITNESS: I -- I can't explain why
25 there was -- why there was such a delay. We

1 thought it was critically important that that
2 draft manuscript come to light, so that it
3 ultimately could be published.

4 BY MR. ESFANDIARY:

5 Q Well, at the time when the IARC
6 monograph was reviewing glyphosate, the
7 preliminary AHS data was incomplete. Do you
8 understand that, sir?

9 MR. PARISER: Objection to form.

10 THE WITNESS: I -- I can't speak to its
11 completeness, one way or another. But what I know
12 is that there was a -- a relative -- a detailed
13 manuscript that had been prepared. There was
14 discussion among members of the AHS about whether
15 it should be published. Again, Ms. Kelland cites
16 e-mail correspondence saying it would be
17 irresponsible not to get this published prior to
18 the IARC meeting. I think there are very
19 legitimate questions about why that didn't occur.

20 BY MR. ESFANDIARY:

21 Q Legitimate questions, though, are not
22 equivalent to clearly misleading the working
23 group, correct, sir?

24 MR. PARISER: Objection, argumentative,
25 asked and answered.

1 THE WITNESS: No. As I have -- as I
2 have said, I believe that not divulging that
3 information to the working group was concealing
4 and was misleading.

5 BY MR. ESFANDIARY:

6 Q You do realize that IARC only considers
7 complete, fully published, transparent,
8 independent data. Are you aware of that, sir?

9 MR. PARISER: Objection to form.

10 THE WITNESS: I'm aware that that is
11 outlined as a -- as a guideline for IARC. And
12 again, I think that's why the question raised by
13 Dr. Alavanja is so relevant. Get the data
14 published before the IARC meeting.

15 BY MR. ESFANDIARY:

16 Q Right. But you -- in terms of IARC's
17 protocol, it cannot consider incomplete data. Are
18 you aware of that?

19 A My understanding is, yes, that -- that
20 IARC relies on -- relies on published, publicly
21 available data. I think there are significant
22 questions about why a taxpayer-funded study that
23 contained the largest data set looking at
24 glyphosate and cancer had not been published, and
25 why an IARC working group meeting went forward,

1 when the chair of that working group knew that
2 there was a data set regarding glyphosate, and
3 could have flagged that and said, Look, maybe we
4 should delay our working group meeting to allow
5 that data to be published.

6 Q Is it your testimony to this jury that
7 Dr. Blair is responsible for when and under what
8 circumstances the AHS would be published?

9 A No, I -- I can't testify to that either
10 way. I know Dr. Blair was involved in the study.
11 I'm not aware of his particular role.

12 Q Mr. Murphey, what is -- and I'm
13 struggling to pronounce this -- Hakluyt? It's
14 H-A-K-L-U-Y-T.

15 A I'm not -- could you allow me to see it
16 in context?

17 Q I believe it's an organization. Are you
18 familiar with an organization that is called
19 Hakluyt?

20 A Offhand, I'm -- I'm not sure what
21 organization that is.

■ ■ [REDACTED]
■ [REDACTED]
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[REDACTED]

[REDACTED]

11 Q Okay. That's fine. You can put that
12 aside.

13 MR. ESFANDIARY: Why don't we take a
14 five-minute break, so I can review my notes.

15 MR. PARISER: Sure.

16 MR. ESFANDIARY: I think I'm almost
17 done.

18 MR. PARISER: Okay.

19 THE VIDEOGRAPHER: The time is 5:03 p.m.
20 We're going off the record.

21 (Recess.)

22 THE VIDEOGRAPHER: The time is 5:12
23 p.m., and we're back on the record.

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[REDACTED]

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14 BY MR. ESFANDIARY:

15 Q Are you aware of the recent corrigenda
16 that had been published in the journal which
17 published the expert reports?

18 A I -- I am aware that the -- the authors
19 worked with the editors at the -- at the journal
20 to update the -- the disclosures.

21 Q And they needed to update the
22 disclosures because the prior disclosures did not
23 adequately disclose Monsanto's involvement in the
24 drafting of the publications, correct?

25 MR. PARISER: Objection to form and

1 foundation.

2 THE WITNESS: No, my -- my understanding
3 is that while Monsanto's sponsorship of the panel
4 was disclosed from the start, and while the views
5 expressed -- the conclusions and the views
6 expressed in the papers are those of the panel
7 members alone, and that has not changed, there was
8 some review of drafts by Monsanto personnel. And
9 that was appropriate to -- it was appropriate to
10 update the disclosures to reflect that.

11 BY MR. ESFANDIARY:

12 Q How many years after the papers were
13 published did that corrigenda occur?

14 MR. PARISER: Objection, lack of
15 foundation.

16 THE WITNESS: I can't recall when --
17 when the papers were first published.

18 BY MR. ESFANDIARY:

19 Q Well, I'll represent to you that the
20 papers were first published in 2016, and the
21 corrigenda came out in 2018.

22 A That sounds right to me.

23 Q Do you know what prompted the
24 corrigenda?

25 A I believe it was some of the documents

1 that were disclosed in this -- this litigation.
2 And after those documents were -- were disclosed,
3 there were conversations between the authors and
4 the editors, and the decision was made to update
5 the disclosures.

6 Q So it had to take the public release of
7 internal Monsanto documents for Monsanto to get
8 together with the authors and put together a
9 corrigenda to acknowledge that Monsanto did have a
10 larger role than initially represented in the
11 disclosure of interest, correct, sir?

12 MR. PARISER: Objection to form and
13 foundation.

14 THE WITNESS: No, I -- my understanding
15 was that the contributions made by Monsanto
16 individuals were non-substantive in their scope.
17 It was appropriate to update the disclosures. And
18 so once those documents were available, again, the
19 authors worked with the editors to update -- to
20 update the disclosures.

21 BY MR. ESFANDIARY:

22 Q Why didn't Monsanto initially ensure
23 that the disclosures were accurate? Why did it
24 wait two years to do so?

25 MR. PARISER: Objection to form, and

1 lack of foundation.

2 THE WITNESS: I -- I can't speak to
3 that. I was not involved in discussions with --
4 with my technical colleagues, or certainly with
5 the authors themselves about the disclosures.

6 BY MR. ESFANDIARY:

7 Q So you agree that the original
8 disclosures were inadequate, in light of the
9 corrigenda, correct, sir?

10 MR. PARISER: Objection to form and
11 foundation.

12 THE WITNESS: Again, I -- I was not
13 party to those discussions. The decision on
14 the -- the updates was made by the editors of the
15 journal and the authors of the manuscripts.

16 BY MR. ESFANDIARY:

17 Q Did you talk to Bill Heydens about the
18 publications when he was editing -- editing them?

19 A I know I had a few conversations with
20 Dr. Heydens throughout the process, but I don't
21 recall at what specific point in the process that
22 was.

23 Q Did you --

24 MR. PARISER: Belated objection to form.

25 BY MR. ESFANDIARY:

1 Q Did you see any drafts of the expert
2 panel manuscript, sir?

3 A I don't believe so.

4 MR. ESFANDIARY: Okay. I don't have any
5 more questions for you.

6 MR. PARISER: Pass the -- pass the
7 witness?

8 MR. ESFANDIARY: Yes, I'm passing the
9 witness.

10 MR. PARISER: Let's go off the record
11 briefly, please.

12 THE VIDEOGRAPHER: The time is 6:10 p.m.
13 We're going off the record.

14 (Recess.)

15 THE VIDEOGRAPHER: The time is 6:11
16 p.m., and we're back on the record.

17 MR. PARISER: So, Counsel, just so it's
18 clear, I'm going to be asking the witness these
19 questions in his personal capacity, all of the
20 questions. To the extent I am also asking him
21 questions in his capacity as a 30(b)(6) witness, I
22 will specifically so indicate.

23 EXAMINATION BY COUNSEL FOR DEFENDANTS

24 BY MR. PARISER:

25 Q Now, Mr. Murphey, can you please tell us

1 where you grew up?

2 A Yes, sir, I grew up in the town of
3 Rolla, Missouri. It's in the south central part
4 of the state.

5 Q Is it a small town?

6 A It is. It's a relatively small town.
7 15- or 20,000 people. There's a university
8 located there.

9 Q And can you tell us a little bit about
10 your educational background, please?

11 A Yes. I attended the public schools in
12 Rolla, Missouri, graduated from high school there.
13 I then attended Truman State University, in
14 Kirksville, Missouri, where I studied
15 communication and journalism. And then I did,
16 briefly, some graduate work at the University of
17 Missouri in Columbia, also in journalism, but I
18 did not finish that degree.

19 Q Okay. And after you left school, what
20 was your work?

21 A After I -- after I left school, I went
22 to work in Democratic politics, in Missouri. I
23 worked for the Missouri Democratic Party. I was
24 involved in some political races there. And I
25 ultimately went to work for then Attorney General

1 Jay Nixon, a Democrat who was running for governor
2 of Missouri at the time. And I ended up working
3 for the attorney general, then governor, for --
4 for a number of years.

5 Q And when did you join Monsanto?

6 A January of 2013.

7 Q And when did you first start working on
8 glyphosate?

9 A It was sometime later. It would have
10 been late spring, early summer of 2015.

11 Q Can you just describe, generally, what
12 your public affairs work on glyphosate was? What
13 did it consist of?

14 A Yes, my team and I largely focused on
15 public communications around -- around glyphosate,
16 and other products in our herbicide portfolio. We
17 were involved in crafting communication pieces,
18 engaging with reporters, engaging with
19 stakeholders, and helping them understand the
20 safety and the benefits of our products.

21 Q And why, Mr. Murphey, did you decide to
22 work at Monsanto?

23 A I came to work at Monsanto because I
24 wanted to stay in the -- in the Midwest at the
25 time. My family continues to be in the -- in

1 Rolla. And I knew -- I knew of Monsanto because
2 of my work in state government. They were a
3 company that worked on topics that I thought were
4 interesting and important. I also knew they were
5 highly regarded as a -- as an active member of the
6 civic community, and I thought it would be a -- a
7 very rewarding place to work.

8 Q Now, am I correct, Mr. Murphey, that
9 you're not a scientist?

10 A That's correct.

11 Q But in connection with your -- your work
12 on glyphosate, have you interacted with
13 scientists?

14 A Yes, I have frequently.

15 Q And do you rely on those scientists to
16 provide information to you about the safety and
17 benefits of the products, so you can communicate
18 about it?

19 A Yes, I do.

20 Q And have you formed your own view of the
21 safety of Roundup, based on those discussions?

22 A I have.

23 Q What is that view?

24 A Based on the conversations that I've had
25 with a number of Monsanto scientists about the

1 data, I am very confident that glyphosate, and
2 glyphosate-based products, are safe for use. I'm
3 also confident that they are not carcinogenic.
4 But I also believe very much that these are
5 products that are extremely valuable for our
6 farmer customers and other users around the
7 world.

8 Q Why do you believe that Roundup is so
9 valuable?

10 A To give you just one example, I'd point
11 back to some of the conversation we were having
12 earlier -- earlier today, around "no till," or
13 conservation tillage farming, a practice when
14 farmers are able to plant a crop, harvest it,
15 apply glyphosate over the field, once they have --
16 once they have harvested, to clean that field.

17 They can do the same in the spring to
18 remove a cover crop. And they are able to do that
19 without turning the soil, without driving a
20 tractor or plow over that field multiple times.
21 That reduces diesel emissions. That helps farmers
22 improve their soil health. It helps them
23 sequester carbon in the soil. And it's just --
24 it's very beneficial for sustainable agriculture.

25 Q And do you think it's important for

1 Monsanto to share with the media and the public
2 its view of the safety and benefits of Roundup?

3 A Yes, I do.

4 Q Why is that?

5 A I think, unfortunately, Monsanto, for
6 some people, was a name that was laden with a lot
7 of emotion. And in media stories about our
8 company and our products, that that emotion often
9 led to inaccurate information being contained in
10 the stories, misinformation that we needed to
11 correct. And so I think one of my team's
12 important responsibilities was to reach out to
13 reporters to try to build relationships, so that
14 we could provide accurate information in those
15 stories going forward.

16 Q The next questions that I'm going to ask
17 you are both in your personal capacity and in your
18 capacity as a 30(b)(6) witness, for the record.

19 MR. ESFANDIARY: I'm just going to
20 object. So you're going to indicate which portion
21 of your line of testimony is going to be in his
22 individual capacity, and in his capacity as a
23 representative of Monsanto, because I have no way
24 of knowing.

25 MR. PARISER: That's what I've just

1 said.

2 MR. ESFANDIARY: So you're going to --

3 MR. PARISER: Everything that just
4 preceded this was in his individual capacity. The
5 following questions are going to be in both
6 capacities. And then I will indicate when he's
7 shifting back to his individual capacity.

8 MR. ESFANDIARY: But if the following
9 questions are going to be in both capacities, how
10 am I supposed to know which question is relating
11 to what capacity?

12 MR. PARISER: They're both -- both
13 capacities.

14 MR. ESFANDIARY: Okay. So each question
15 is relating to both his individual knowledge
16 and --

17 MR. PARISER: Correct.

18 MR. ESFANDIARY: Okay, gotcha.

19 BY MR. PARISER:

20 Q Mr. Murphey, in public statements that
21 you were involved in making, was it the company's
22 position that IARC's decision was wrong?

23 A Yes.

24 Q And what reasons, among others, have the
25 company given to support its position about why

1 IARC's decision was wrong?

2 A Again, my understanding, based on
3 conversations with our scientists, is that there
4 were multiple deficiencies in the -- in the IARC
5 opinion, you know, such as the fact that the IARC
6 opinion excluded important data, some of the
7 animal studies and other information. That it,
8 again, looked at incomplete information. And
9 also, as we discussed earlier, the largest and
10 most robust epidemiology data set from the U.S.
11 Agricultural Health Study was not available to the
12 panel members.

13 MR. ESFANDIARY: I'm just going to
14 insert a belated objection, with respect to this
15 questioning being both in his individual and
16 representative capacity. Are you willing to
17 stipulate on the record that whatever answers he
18 is giving here in response to your questions also
19 binds the company?

20 MR. PARISER: This is -- these questions
21 are asking him for opinions that are in his
22 capacity as a 30(b)(6) witness. So if he answers
23 within the scope of the questions, that would be
24 true.

25 MR. ESFANDIARY: So -- but at the same

1 time, you're able to ask him questions that you
2 could argue are not binding on the company,
3 because you have designated this portion as both
4 individual capacity and 30(b)(6) capacity?

5 MR. PARISER: No, all -- all I'm saying
6 is, I don't want you to be able to say, for
7 example, I'm not going to play the 30(b)(6)
8 deposition after all. And then suddenly these
9 questions don't count anymore. That's all I'm
10 getting at.

11 MR. ESFANDIARY: All right. Well, I'm
12 just going to have a running objection to it, but
13 go ahead.

14 MR. PARISER: Okay.

15 BY MR. PARISER:

16 Q Were additional reasons the company has
17 given to support its position to the media about
18 why IARC decision's was mistaken was that it
19 conflicted with the decision of regulatory bodies
20 around the world, including the EPA?

21 A Yes, that's a point we -- we made
22 frequently, was that the IARC -- the IARC opinion
23 is an outlier from the opinions of the USEPA,
24 regulators in Europe and Canada, and elsewhere
25 around the world.

1 Q And were the statements you just
2 discussed that were made to the media about IARC
3 consistent with the views expressed to you by
4 scientists in the company?

5 A Yes.

6 Q And in your view, was there anything
7 wrong or inappropriate in the company publicizing
8 its view about IARC?

9 A No, I think we had important --
10 important questions to ask, and legitimate
11 concerns about the IARC opinion, what an outlier
12 it was from agencies around the world. And I
13 think it was both important and appropriate that
14 we raised those concerns publicly.

15 Q Now, you were asked about something
16 called Let Nothing Go. Do you remember that
17 questioning?

18 A I do.

19 Q Just briefly, what was the Let Nothing
20 Go campaign or initiative?

21 A So the Let Nothing Go program or effort
22 was an initiative in the European Union, in
23 certain markets there, where we had a limited
24 public affairs team in place. And the Let Nothing
25 Go effort was -- was designed to do media

1 monitoring in certain markets in the European
2 Union, to identify stories that were incomplete or
3 contained inaccurate or misleading information
4 about the company, or its products.

5 And then to review those articles, and
6 then to have someone, either from Monsanto or from
7 our public affairs agency, reach out to those
8 reporters, provide a statement or a clarification,
9 or other resources, and to invite those reporters
10 to reach out to the company in the future.

11 Q And was the Let Nothing Go campaign or
12 initiative intended to smear or attack people or
13 groups who had different groups than the company?

14 A No. As I described, the purpose of the
15 Let Nothing Go effort was to engage with
16 reporters, to provide context. And -- and our
17 hope was that, over time, it would move the
18 balance of coverage in Europe in a better
19 direction. It would help -- help that coverage be
20 more accurate.

24 Now, Mr. Murphey, you were asked some
25 questions during the deposition about some media

1 efforts in Europe. Do you remember those
2 questions?

3 A Yes.

4 Q I believe you explained that in Europe,
5 there was a -- sort of a two-step process with
6 regard to renewal of glyphosate. Can you explain
7 that, please?

8 A Yes, the process in the European Union
9 for the renewal of any pesticide product,
10 glyphosate is just one example, has -- has
11 multiple phases. There's -- first, the -- the
12 scientific work that has to be done by a
13 Rapporteur member state. So in the case of
14 glyphosate, that was Germany, and the BfR, the
15 Germany Federal Institute for Risk Assessment.
16 And then that is reviewed by the European Food
17 Safety Authority. So that -- that is the
18 scientific phase of the evaluation of the product.
19 Once that is complete, there's a second
20 phase, where representatives of the member states
21 of the European Union come together in a standing
22 committee, and they vote to actually reauthorize
23 the active ingredient.

24 Q And to your knowledge, what have the
25 regulators, the scientific bodies in Europe, said

1 about the safety of glyphosate?

2 A My understanding is that the -- whether
3 it's the Germany BfR, or the European Food Safety
4 Authority, or subsequently, the European Chemicals
5 Agency, which also conducted a review, have all
6 found that glyphosate is -- is safe for use, and
7 not carcinogenic.

8 Q And is it fair to say that, in your
9 view, that was a decision or decisions that were
10 based on the science, as opposed to public affairs
11 work?

12 A That's correct. My -- my understanding
13 is that those agencies are -- they're scientific
14 bodies with -- with experts who are capable of --
15 and charged with reviewing the robust regulatory
16 studies that are submitted to them.

17 Q All right. And then there was a
18 political process you testified, which followed
19 that scientific review; is that right?

20 A That's correct.

21 Q And is there anything wrong, in your
22 view, with Monsanto participating in that public
23 political process?

24 A No. And, in fact, I think it was
25 important that we -- that we did so. There --

1 there was a significant amount of media attention
2 to the glyphosate renewal -- renewal process.
3 There -- there -- again, there were groups that
4 were, you know, purposefully trying to influence
5 the media, and influence negative stories about
6 the product. And so it was important, we thought,
7 to reach out, to engage with reporters, and to try
8 to ensure that coverage about glyphosate was
9 balanced.

10 Q Now, there was some questioning during
11 the course of the deposition involving documents
12 that used a term "FTO," or freedom to operate.

13 Do you remember that word coming up?

14 A I do.

15 Q Are you aware of Monsanto having a
16 single definition of the term or word "FTO," or
17 freedom to operate?

18 A No, I think freedom to operate is a --
19 is a term that probably has varied meanings from
20 individual to individual, and based on the context
21 of a particular discussion.

22 Q What does FTO, or freedom to operate,
23 mean to you?

24 A In my understanding, freedom to operate
25 for our company, and we are a company in a -- in a

1 regulated industry, freedom to operate, to me,
2 means that we can invent and conduct regulatory
3 studies, seek regulatory approval for our
4 products, ensure that regulators are able to
5 assess the safety of those products, and allow
6 them to be placed onto the market, and then for us
7 to sell those products to our customers, and to
8 ensure that those products are used correctly
9 throughout their life cycle.

10 Q Now, you were asked some questions about
11 why Monsanto did not perform a two-year cancer
12 study in rats of its formulated product.

13 Do you remember those questions?

14 A I do.

15 Q And would you defer to Monsanto's
16 scientists and others to answer that sort of
17 question?

18 A I would have to, yes.

19 Q Are you aware, generally, however, of a
20 study called the AHS, or Agricultural Health
21 Study?

22 A I am.

23 Q What, in general, is that study?

24 A So my understanding of the U.S.
25 Agricultural Health Study is that it is a very

1 large-scale epidemiology study that looked into
2 the real world use of pesticide products by
3 pesticide applicators in the U.S., and looked for
4 connections between pesticide use and specific
5 health conditions.

6 Q And so to your knowledge, was that a
7 study of exposure to the formulated product and
8 people in the real world?

9 A Yes, that would be a study that looked
10 at the real world use of -- of formulated
11 products.

12 Q Now, do you recall some testimony
13 earlier about Monsanto engaging with third parties
14 as part of its media efforts?

15 A Yes.

16 Q Can you -- can you just explain what
17 that means in the public affairs world, engaging
18 with third parties?

19 A So a third party or a stakeholder, in
20 general, is someone who, you know, has a -- is --
21 is relevant to the company. So that could be a
22 customer group, it could be, in our case, a grower
23 group, or a commodity organization. You know,
24 people who have -- have an interest in the company
25 and its products, and the value that those

1 products provide to those -- to those individuals.

2 And so it's fairly common practice for
3 us to engage with those groups, to provide
4 information to them, and in certain circumstances,
5 to partner with them and work together, when there
6 are matters of shared interest.

7 Q And do you feel that there's anything
8 wrong or inappropriate about doing that?

9 A No, I don't.

10 Q Now, you were asked some questions about
11 a Reuters article written by a reporter named Kate
12 Kelland. Do you recall those questions?

13 A I do.

14 Q And the article in question involved the
15 AHS study we were just talking about; is that
16 right?

17 A It did.

18 Q Okay. And can you just, in general,
19 describe what Ms. Kelland's story was about?

20 A Yes. So the story by -- by Ms. Kelland
21 looked into the fact that the Chair of the IARC
22 working group, Dr. Blair, who was also involved
23 with the U.S. Agricultural Health Study, it looked
24 into the fact that he had in his possession,
25 several years prior to the IARC meeting on

1 glyphosate, updated manuscripts of the
2 Agricultural Health Study that looked into
3 glyphosate, and found no connection between
4 glyphosate and cancer.

5 Ms. Kelland had those draft manuscripts
6 reviewed by other scientists to get their
7 assessment of the -- of the conclusions. She
8 reviewed a number of other documents as well. She
9 reached out to Dr. Blair, and others, to get their
10 input.

11 And, ultimately, her story explained
12 that those manuscripts were in Dr. Blair's
13 possession, that they were not shared with the
14 IARC working group. And that based on -- based on
15 the testimony of Dr. Blair, that the -- the
16 outcome or the conclusion of those manuscripts
17 would have affected the outcome of the IARC
18 working group opinion.

19 Q And why did the -- why did Monsanto, to
20 your knowledge, provide information to Ms. Kelland
21 in connection with this story?

22 A We thought this was important --
23 important information that needed to be published.
24 The Agricultural Health Study is a taxpayer --
25 U.S. taxpayer-funded study. It's the largest

1 epidemiology study looking at glyphosate and
2 cancer, and glyphosate-based formulations and
3 cancer.

4 And we -- we had serious concerns about
5 the fact that these manuscripts had been in
6 preparation for years, but had not yet been
7 published. And we were hopeful that by -- that
8 through an article that was vetted and prepared by
9 a reporter such as Ms. Kelland, those types of
10 questions could be asked publicly.

11 Q And is providing information to
12 reporters, like you did with Ms. Kelland, common
13 practice in journalism?

14 A It is. Reporters, you know, are
15 routinely in touch with sources and companies, and
16 universities, and other organizations, both to ask
17 questions, but they are also, you know, interested
18 in -- in potential stories. When there is a
19 matter that is of -- of importance and within
20 their area of interest, it would be very routine
21 for someone who works in public affairs to share
22 some information with a reporter.

23 Of course, it would ultimately be the
24 decision of that reporter, and his or her editors,
25 whether or not to pursue the story.

1 Q And was Ms. Kelland, if she wanted to do
2 so, able to speak to others, besides Monsanto, to
3 get their view of the story?

4 A Of course. And again, as I've
5 mentioned, I know she -- she talked to several
6 other -- other scientists, and reached out to
7 others for the story as well.

8 Q And did the company have any ability to
9 control what Ms. Kelland wrote in her story?

10 A No. Once -- once I provided the initial
11 information to -- to Ms. Kelland, she was free to
12 do with that information what she saw fit. And
13 the decision to investigate a story and ultimately
14 -- ultimately publish it was her decision, and the
15 decision of her editors at Reuters.

16 Q And the AHS study was, in fact, later
17 published; is that correct?

18 A It was. It was later published in the
19 Journal of the National Cancer Institute.

20 Q Did the company have any control over
21 the content of that publication?

22 A No.

23 MR. PARISER: I have no further
24 questions at this time.

25 MR. ESFANDIARY: Very quickly.

1 THE VIDEOGRAPHER: Just stay on the
2 record?

3 MR. ESFANDIARY: Yeah, absolutely.
4 Absolutely.

5 THE VIDEOGRAPHER: You can switch sides,
6 but I'm going to let the cameras roll, is what I'm
7 saying.

8 MR. ESFANDIARY: Oh, okay.

9 THE VIDEOGRAPHER: Since it takes so
10 long to start them and stop them.

11 FURTHER EXAMINATION BY COUNSEL FOR PLAINTIFFS
12 BY MR. ESFANDIARY:

13 Q Mr. Murphey, I appreciate your
14 indulgence at this late hour.

15 Just a couple of follow-up questions on
16 what Monsanto's counsel just asked you.

17 When you were in the office of Governor
18 Nixon, you developed relationships with obviously
19 Governor Nixon himself, correct?

20 A I did.

21 Q Okay. And you developed relationships
22 with other political decision-makers in the State
23 of Missouri, correct?

24 A I did.

25 Q And Monsanto is a resident of the State

1 of Missouri, correct, sir?

2 A Yes, Monsanto's headquarters was in
3 Missouri.

4 Q Have you found yourself drawing upon the
5 political influence that you built during your
6 time with Governor Nixon in your tenure at
7 Monsanto?

8 MR. PARISER: Objection to -- objection
9 to form.

10 THE WITNESS: No. As I've explained,
11 my -- my work at Monsanto has been focused on
12 communications and media relations. Interactions
13 with government officials is not part of my -- not
14 part of my responsibility.

15 BY MR. ESFANDIARY:

16 Q And counsel asked you earlier in your
17 representative capacity about the perception of
18 Monsanto by the public. And you responded that
19 there's a great deal of emotion, historical
20 emotion about Monsanto as an entity. Do you
21 remember that?

22 A Yes.

23 Q What do you -- what is Monsanto's
24 perception of where this supposed emotion of the
25 public comes from?

1 MR. PARISER: Objection to form and
2 scope.

3 THE WITNESS: My -- my understanding,
4 you know, is that that -- that perception comes
5 from a real misunderstanding among many people
6 in -- in the public or in society today about
7 agriculture. And people, you know, are not -- are
8 not familiar with some of the tools that farmers
9 need to use to produce -- to produce food, and to
10 do so in a sustainable way.

11 People have questions about their food.
12 It's an emotional subject for all of us. We want
13 to know that the food that we're consuming or
14 providing to our family and friends is -- is safe.
15 But folks have not had, again, direct access to
16 information about -- about agriculture, and how it
17 works.

18 And so over -- over time, I think
19 Monsanto could have done more and could have done
20 it earlier, to engage in that public conversation,
21 and to allay some of those -- those concerns and
22 that emotion. And I think if they -- if the
23 company had done so, its reputation would probably
24 have been very different.

25 BY MR. ESFANDIARY:

1 Q Now, you testified about your general
2 understanding, in your individual capacity, about
3 the AHS and its conclusions, correct, sir?

4 A Yes.

5 Q Do you know what DeRoos 2003 is?

6 A I believe that was an earlier version of
7 the Ag Health Study.

8 Q Okay. And what did DeRoos 2003
9 conclude?

10 MR. PARISER: Objection, lack of
11 foundation.

12 THE WITNESS: Offhand, I don't recall.
13 BY MR. ESFANDIARY:

14 Q Well, did -- are you familiar with
15 Eriksson 2008?

16 A I believe that is another epidemiology
17 study. I'm not familiar with its conclusions.

18 Q Are you aware of McDuffie 2002?

19 A Again, I believe -- believe it's another
20 epidemiology study.

21 Q Are you aware of Bolognesi 1997?

22 A No.

23 Q Sir, I'll represent to you that all of
24 those studies I read out to you have all found an
25 association between NHL and exposure to Roundup.

1 Is it fair to say that the only studies that seem
2 to have any notion about such a conclusion is the
3 one that Monsanto likes to use for the proposition
4 that glyphosate does not cancer, the AHS?

5 MR. PARISER: Objection to form,
6 misstates evidence.

7 THE WITNESS: No, my -- my understanding
8 is that the Agricultural Health -- the 2017
9 publication of the Agricultural Health Study is
10 the largest and most significant epidemiology
11 study that's been published on the subject of
12 glyphosate. But on the -- the other studies that
13 you've referenced, I just -- I don't have
14 familiarity into their conclusions.

15 BY MR. ESFANDIARY:

16 Q Please explain to the jury your
17 understanding of what the size of an
18 epidemiological study, how that impacts the
19 quality of the epidemiological study?

20 MR. PARISER: Objection to form.

21 THE WITNESS: In a very general sense,
22 my understanding is that an epidemiology study
23 with a larger sample size is more statistically
24 powerful, but I'm certainly -- I'm not an
25 epidemiologist.

1 BY MR. ESFANDIARY:

2 Q You don't know the size of the DeRoos
3 2003, correct, sir?

4 A Offhand, I don't recall.

5 Q Okay. Are you aware that IARC reviewed
6 the AHS results from DeRoos 2005?

7 A Yes, I believe I did know that.

8 Q Are you aware that the results of
9 Alavania 2013, the unpublished draft that later
10 became the 2017 NCI publication, the results are
11 substantively identical to DeRoos 2005 that was
12 reviewed by IARC?

13 MR. PARISER: Objection to form and
14 foundation.

15 THE WITNESS: I -- I can't speak to that
16 either way.

17 BY MR. ESFANDIARY:

18 Q So when you said that IARC was not in
19 possession of the updated AHS results, you don't
20 know, in fact, whether IARC was already privy to
21 identical results from the earlier AHS
22 publication, correct, sir?

23 MR. PARISER: Objection to form.

24 THE WITNESS: No. Well, my
25 understanding, and this is -- this is based off of

1 my reading of Dr. Blair's deposition, was that his
2 testimony was, if the updated data had been
3 available, it would have changed the assessment by
4 the epidemiology working group.

5 BY MR. ESFANDIARY:

6 Q You testified earlier to -- an earlier
7 line of questioning by myself, that IARC should
8 have postponed the review of glyphosate until the
9 NCI 2017 was published. Do you remember that,
10 sir?

11 A I -- that was a question that we raised,
12 is why -- why it wasn't delayed.

13 Q Do you think that the EPA should have
14 also waited until the publication of the NCI
15 before issuing its glyphosate issue paper?

16 MR. PARISER: Object. This is outside
17 the scope of the direct examination.

18 THE WITNESS: I believe that when EPA --
19 I'd have to go back and check the timing of
20 whether the updated EPA issue paper included that
21 or not.

22 BY MR. ESFANDIARY:

23 Q Mr. Murphey, well, you testified
24 about -- you testified about this to some extent
25 today. You and I both can agree that the

1 glyphosate -- let's actually take a step back.

2 The CARC report, the 2015 Cancer
3 Assessment Review Committee, do you think that
4 that should have been postponed until the updated
5 results of the AHS had been published?

6 MR. PARISER: Objection to form.

7 THE WITNESS: At the time that the CARC
8 report met -- or the CARC committee met in 2015,
9 the data about the updated glyphosate manuscripts
10 was not available.

11 BY MR. ESFANDIARY:

12 Q Exactly. And IARC also met around the
13 same time frame as the CARC committee, correct,
14 sir?

15 A Yes, but the key difference being that
16 someone who had personal knowledge of the updated
17 Ag Health Study manuscripts was a participant --
18 was indeed the Chair of the IARC working group.

19 Q Mr. Murphey, you're aware that the
20 government, of which the EPA is a part, has full
21 responsibility for the funding of the 2017 NCI
22 study, right?

23 A I am aware that it is funded by the
24 federal government.

25 MR. ESFANDIARY: Okay. Thank you. No

1 more questions.

2 MR. PARISER: No further questions.

3 We're concluded.

4 THE VIDEOGRAPHER: The time is 6:45
5 p.m., January 22nd, 2019. Going off the record,
6 completing the videotaped deposition.

7 MR. PARISER: And just for the record,
8 the witness will read and sign. Make sure that
9 the transcript, in its entirety, is designated
10 confidential, pursuant to the protective orders in
11 this case.

12 MR. ESFANDIARY: So stipulated.

13 MR. PARISER: Thank you.

14 (Whereupon, the deposition of
15 SAMUEL MURPHEY was concluded at
16 6:46 p.m.)

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1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

2 The undersigned Certified Shorthand Reporter
3 does hereby certify:

4 That the foregoing proceeding was taken before
5 me at the time and place therein set forth, at
6 which time the witness was duly sworn; That the
7 testimony of the witness and all objections made
8 at the time of the examination were recorded
9 stenographically by me and were thereafter
10 transcribed, said transcript being a true and
11 correct copy of my shorthand notes thereof; That
12 the dismantling of the original transcript will
13 void the reporter's certificate.

14 In witness thereof, I have subscribed my name
15 this date: January 28, 2019.

16

17

18 _____
LESLIE A. TODD, CSR, RPR

19 Certificate No. 5129

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21 (The foregoing certification of
22 this transcript does not apply to any
23 reproduction of the same by any means,
24 unless under the direct control and/or
25 supervision of the certifying reporter.)

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2 Please read your deposition over carefully and
3 make any necessary corrections. You should state
4 the reason in the appropriate space on the errata
5 sheet for any corrections that are made.
6 After doing so, please sign the errata sheet
7 and date it.

8 You are signing same subject to the changes
9 you have noted on the errata sheet, which will be
10 attached to your deposition. It is imperative
11 that you return the original errata sheet to the
12 deposing attorney within thirty (30) days of
13 receipt of the deposition transcript by you. If
14 you fail to do so, the deposition transcript may
15 be deemed to be accurate and may be used in court.

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do hereby
certify that I have read the foregoing pages, and
that the same is a correct transcription of the
answers given by me to the questions therein
propounded, except for the corrections or changes
in form or substance, if any, noted in the
attached Errata Sheet.

SAMUEL MURPHEY DATE

Subscribed and sworn to

before me this

_____ day of _____, 20____.

My commission expires: _____

Notary Public