1	UNITED STATES DISTRICT COURT
2	NORTHERN DISTRICT OF CALIFORNIA
3	SAN FRANCISCO DIVISION
4	
5	x
6	IN RE: ROUNDUP PRODUCTS LIABILITY MDL No. 02741
7	LITIGATION
8	x
9	
10	* Confidential - Pursuant to Protective Order *
11	
12	VIDEOTAPED DEPOSITION OF TODD RANDS
13	PURSUANT TO FED. R. CIV. P. 30(b)(6)
14	and IN HIS PERSONAL CAPACITY
15	Washington, D.C.
16	Tuesday, February 12, 2019
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22	GOLKOW LITIGATION SERVICES
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                    Tuesday, February 12, 2019
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                             9:02 a.m.
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                 The following is the transcript of the
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       videotaped deposition of TODD RANDS held at the
14
       offices of Hollingsworth LLP, 1350 I Street, NW,
       Washington, DC 20005.
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       Reported by: Linda S. Kinkade, RDR CRR RMR RPR CSR
20
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21
       Realtime Reporter, Registered Professional Reporter
22
       with Merit Distinction, Certified Shorthand Reporter
23
       (CA), Notary Public, within and for the District of
24
       Columbia, and official duly authorized to administer
25
       oaths and/or affirmations.
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1 PROCEEDINGS 2. VIDEO SPECIALIST: We are now on the 3 My name is Daniel Holmstock. I am the record. 4 videographer for Golkow Litigation Services. 5 Today's date is February 12th, 2019. The time is 9:02 a.m. 6 7 This is the deposition -- I'm sorry -- this deposition is being held at Hollingsworth LLP in 8 the matter of In Re: Roundup Products Liability 9 10 Litigation, MDL No. 02741. The case is pending 11 before the United States District Court for the 12 Northern District of California, San Francisco 13 Division. 14 Our deponent today is Todd Rands. Counsel's 15 appearances will be noted on the stenographic 16 record. Our court reporter is Linda Kinkade, who 17 will now administer the oath. 18 TODD RANDS, 19 having been first duly sworn, was 20 thereafter examined and testified as follows: 21 EXAMINATION 22 BY MR. KRISTAL: 23 Q. Good morning, Mr. Rands. My name is Jerry Kristal. We met a few minutes ago, shook 24 hands and said hello. How are you? 25

- 1 A. Good, Jerry. Thank you.
- Q. I'm an attorney with the law firm of
- 3 Weitz & Luxenberg, and we, along with other
- 4 attorneys here, across the country represent a
- 5 number of men and women who have had the misfortune
- of being diagnosed with a cancer known as
- 7 non-Hodgkin's lymphoma and have brought a lawsuit
- 8 against Monsanto alleging, in part, that their
- 9 exposure to Roundup contributed to the development
- of their non-Hodgkin's lymphoma, and that, in part,
- 11 Monsanto failed to adequately warn them about the
- dangers of using Roundup.
- Do you understand that generally as to what
- the lawsuits are about?
- 15 A. Yes.
- MR. PRESTES: Hey, Jerry, before we dive
- in, just two things for the record, and I don't
- want to interrupt your flow.
- One, I just want to designate the transcript
- 20 as confidential subject to further review under the
- 21 protective order; and, two, just for the witness's
- benefit, I want to remind us that today's
- 23 deposition is of Mr. Rands. He's a lawyer. He
- 24 spent about 15 years as in-house counsel at
- Monsanto. Monsanto won't be disclosing privileged

- 1 communications or work product, protected
- 2 information at the deposition.
- So, Mr. Rands, if an answer to one of
- 4 Mr. Kristal's questions involves privileged or
- 5 protected information or if you think it might, I'd
- 6 ask you to alert us so that I can take appropriate
- 7 steps to protect the privilege.
- 8 Sorry. Go ahead, Jerry.
- 9 Q. You understood all that?
- 10 A. Yes.
- 11 Q. Okay. That, for me, is the most
- important ground rule, so to speak, that you
- understand what's being said.
- So if you're not understanding any question
- that I ask, just let me know, and then the burden
- is on me to change the question or reword it or do
- something with it so you do understand. Okay?
- 18 A. Sure.
- 19 Q. Having said that, is it fair that, if you
- answer one of my questions, we can assume you
- 21 understood it?
- A. Yes, I think that's fair.
- Q. All right. And as Brian said, I'm not
- interested in finding out attorney-client
- privileged or work-product information. So I don't

- disagree with his statement to you in terms of what
- to do if you think an answer might involve that.
- 3 Okay?
- 4 A. Okay.
- 5 Q. I'd like to start out a little bit by
- finding out about your career. Who is your current
- 7 employer?
- A. I work for Asepticys, a small
- 9 pharmaceutical company.
- 10 Q. Can you spell that?
- 11 A. The word is aseptic with a Y-S on it, if
- 12 that helps.
- Q. That does. And is that a company that
- 14 you formed a number of years ago?
- 15 A. No.
- Q. When did you first start working for
- 17 Asepticys?
- A. It's been sort of a part-time thing for
- 19 about a year and a half.
- Q. So for the last year and a half you've
- 21 been working part-time for Asepticys?
- A. Yeah, just helping them, sort of
- 23 consulting. I had invested in the company and was
- helping them get off the ground a bit as a startup.
- Q. Okay. Do you have any other employment

- other than the part-time work you've been doing for
- about a year and a half for Asepticys?
- A. Yeah, I've got a few consulting projects
- 4 I've been sort of getting together on a part-time
- 5 basis.
- Q. Do you consult for Monsanto?
- 7 A. No.
- 8 Q. Who do you consult with?
- 9 A. With FTI Consulting.
- 10 Q. Okay. And we're going to talk a little
- 11 at some point today about FTI Consulting. When did
- 12 you first start consulting with FTI?
- A. Just recently, in the last week or so,
- 14 since I left Monsanto, yeah.
- 15 Q. Okay.
- A. Or left Bayer.
- Q. When did you leave Monsanto?
- 18 A. I left Bayer on January 26th, I think was
- 19 officially my last day.
- Q. Of this year.
- 21 A. Yes.
- Q. Okay. What was your position when you
- left Bayer on January 26th, 2019?
- A. I had a title that was external affairs
- lead and strategic transactions counsel, if I've

- 1 got that right.
- Q. Did you go directly into that position
- from whatever your last position at Monsanto was?
- 4 A. Yes.
- 5 Q. When did you make that transition where
- 6 you were no longer a Monsanto employee but you
- 7 came -- became employed by Bayer?
- 8 A. I don't know technically when that
- 9 transition occurred. So the deal was announced, I
- 10 believe, in '16, and it officially closed in June
- of '18, if I have the dates correct. I'd have to
- 12 look at the announcements.
- Q. Okay. Up until approximately June of
- 14 2018, your paychecks were from Monsanto; is that
- 15 fair to say?
- 16 A. Yeah. I think the Monsanto paychecks
- 17 continued until the very first of January. There
- 18 may have even been a first paycheck from Monsanto
- in January of '19, and then it switched over
- officially to Bayer. But, yes, Bayer was my
- 21 employer, I think officially, from June onwards,
- even though technically the paychecks came from
- Monsanto.
- Q. Okay. Did you have any Monsanto stock
- 25 that got purchased by Bayer as part of the

- 1 transaction?
- A. Yes, as part of the transaction, all of
- our stock options and RSUs converted.
- 4 Q. Okay. And how many shares did you
- 5 convert?
- A. They were automatically converted. I
- 7 don't recall the numbers.
- Q. Are you talking about tens, hundreds,
- 9 thousands of shares?
- 10 A. Numbers of shares I don't know. Dollar
- figures, it's a few hundred thousand dollars worth
- of shares. I don't recall the exact number of
- 13 shares, but ...
- Q. Is it more than \$500,000 that you got?
- A. No, I don't think so.
- 16 O. Was it --
- 17 A. It was close to five hundred probably.
- Q. All right. Approximately \$500,000?
- 19 A. Yeah, in that range.
- Q. So if we wanted to figure out how many
- 21 shares you had --
- 22 A. Divide by 128.
- Q. Exactly. 128 was the purchase price that
- 24 Bayer paid to buy up the stock of Monsanto as part
- of the deal.

- 1 A. That's correct.
- Q. Did you have all of the stocks -- the
- 3 stock that you owned, in other words, was it all
- 4 invested, or was there stock options as part of
- 5 that as well?
- A. They were all options and what we call
- 7 RSUs that had accumulated over several years of
- 8 work as part of my incentive program.
- 9 Q. You're anticipating my next question. I
- 10 assume the stock you got from Monsanto was part of
- an incentive or bonus program, so to speak?
- 12 A. Yes.
- Q. When did you first start working at
- 14 Monsanto?
- 15 A. In September of 2004.
- Q. And what was your title when you began at
- 17 Monsanto?
- 18 A. I was -- the title was corporate counsel,
- and I think that may have included a subtitle,
- 20 intellectual property.
- Q. Are you a patent guy? Is that your
- specialty, so to speak, patents?
- A. Yeah, originally I was a patent attorney,
- 24 that's right.
- Q. And prior to starting at Monsanto in

- 1 September of 2004, you worked in private practice
- 2 as a patent attorney for a while?
- A. Yes, that's correct.
- 4 Q. How many years approximately?
- 5 A. I think officially as a patent attorney
- 6 not too many years, maybe three years, because I
- 7 graduated from law school in 2001, and that's when
- 8 I took the bar and passed the bar. I may have that
- 9 date wrong. I need to pull out my résumé to get it
- 10 exactly right, but I was going to school part-time
- and going to -- going to law school at night
- 12 part-time. And so it went on for some years while
- 13 I was working at a law firm.
- Q. Okay. And what law school did you
- 15 graduate from?
- 16 A. George Mason University.
- Q. And where are you barred?
- A. In Virginia and in Missouri. I'm going
- 19 to correct that. I think I actually graduated in
- 20 2003. I started law school in 1999, went for four
- 21 years. Sorry for the history, but ...
- Q. Okay. When you said, to be accurate, you
- 23 need to pull out your CV, do you have a copy of
- your CV here?
- A. No, not with me.

- Q. You're pulling it out of your head?
- A. Yeah, trying to remember 20 years ago,
- 3 yeah.
- 4 Q. What does FTI stand for? Is there words
- 5 that that corresponds to?
- A. I don't know.
- 7 Q. Now you worked with FTI Consulting when
- you were a Monsanto employee; is that correct?
- 9 A. That's correct, yes.
- 10 Q. And you worked with FTI on the Monsanto
- 11 campaign regarding the International Agency for
- 12 Research on Cancer; is that correct?
- 13 A. It was broader than what you described,
- 14 but they were --
- Q. Well, it included that, right?
- 16 A. It included some elements around the IARC
- announcements and the science that they had put
- out, yes.
- Q. And when you use the term "IARC," you're
- referring to the International Agency for Research
- on Cancer?
- 22 A. Yes, I am.
- Q. When did you first start working with FTI
- on any project when you were at Monsanto?
- 25 A. The first work we did involved our

- 1 attempt to purchase Syngenta, and, if I have the
- dates right, I believe that takes us back to 2014
- or 2015, and they began to work with us on that
- 4 project.
- 5 Q. How many different projects did you work
- 6 with FTI on when you were at Monsanto?
- 7 MR. PRESTES: Mr. Rands, I'm just going
- 8 to caution you, we're not going to get into any
- 9 attorney-client privileged work or any work product
- 10 that FTI did or didn't do in connection with this
- 11 litigation or any other litigation.
- 12 A. Yes. I was just trying to remember
- because they're consultants so they just come in at
- 14 different times and consult on things. But I would
- say there's roughly five or six projects that they
- 16 had worked on.
- Q. Who comes up with the names of the
- 18 projects?
- 19 A. Sometimes they did. Sometimes we did.
- It was just a common practice at the company to
- 21 have a name for whatever the project was.
- Q. Is there any particular rhyme or reason
- in giving a name to a project?
- A. No. I actually intentionally try to just
- 25 pick mundane names that don't have any

- 1 significance.
- Q. Okay. You worked on Project Spruce with
- 3 FTI?
- 4 A. Yes.
- 5 Q. What was Project Spruce?
- A. Project Spruce relates to our work with
- 7 glyphosate and Roundup.
- Q. You worked on Project Chrome with FTI?
- 9 A. Yes.
- 10 Q. What was Project Chrome?
- 11 A. Project Chrome related to PCBs.
- 12 O. And that had to do with lawsuits that
- were being filed by various cities or townships
- brought under the general nuisance laws to try to
- get Monsanto to help pay for the cleanup, generally
- 16 speaking?
- 17 A. Yeah. That work focused on the public
- nuisance lawsuits that were pending and still are
- 19 pending in California. Washington and Oregon as
- 20 well.
- Q. Involving the attempt of various cities
- and municipalities to recover the costs of cleaning
- up PCBs from different waterways?
- A. I think that's a general characterization
- of what the cities are claiming, yes.

- 1 Q. Okay. Project Ivy, what is that?
- 2 A. Project Ivy was more in the M&A sphere.
- 3 That was the one that I mentioned about Syngenta.
- 4 Q. What does MNA mean?
- 5 A. M&A, mergers and acquisitions.
- 6 Q. Oh. You can tell I never practiced
- 7 corporate law. May be obvious, but ... Project
- 8 Redfish involved China?
- 9 A. Yes, that involved Syngenta's acquisition
- 10 by a Chinese state-owned entity.
- 11 Q. Project Varsity was another FTI project,
- 12 was it not?
- 13 A. Yeah. I don't know what that really was.
- 14 I think that was a name somebody used early on for
- 15 Project Spruce, if I -- if I recall correctly.
- 16 That was just an earlier designation for the same
- 17 thing.
- 18 Q. Okay. The main project that you
- 19 worked -- strike that.
- The main project that Monsanto worked with
- 21 FTI on that involved challenging the International
- 22 Agency for Research on Cancers finding that
- 23 glyphosate was probably carcinogenic was Project
- 24 Spruce?
- A. Yeah. Again, your characterization -- we

- weren't really designating that project to
- 2 challenge IARC as much as educate the public about
- 3 IARC. And there's a whole broad swath of
- 4 activities that I'm sure you're going to ask me
- 5 about today, but the project, the main project, and
- 6 I think the only project we worked on with them
- 7 involving Roundup was Project Spruce, yes.
- Q. Well, isn't it true that part of the
- 9 project Monsanto was working on involved basically
- 10 killing IARC?
- 11 A. No, I don't think that's a fair
- 12 characterization.
- Q. Well, Monsanto was trying to get the
- 14 United States to stop funding IARC, correct? That
- was part of the project?
- A. That was not part of our project, no.
- Q. Whose project was that?
- 18 A. I don't -- I'm not aware of any project
- where we were trying to kill the funding for IARC.
- I know that that activity was going on and we saw
- some evidence that people were introducing those
- things into Congress, but that wasn't part of our
- 23 project.
- Q. You're saying Monsanto and FTI had
- 25 nothing to do with that?

- 1 A. We were monitoring it and obviously
- watching developments, but I don't recall an
- instance where we were the ones trying to make that
- 4 happen as part of our project.
- 5 Q. You don't recall drafting letters on
- 6 behalf of Congress people relating to defunding
- 7 IARC?
- A. I remember topics that came up around
- 9 defunding IARC, but it wasn't --
- Q. I'm not asking you about topics. Do you
- 11 recall drafting letters on behalf of Congress
- 12 people to send to different agencies, in essence,
- trying to get them to defund IARC without
- 14 disclosing that Monsanto had drafted the letter?
- 15 Do you recall doing that?
- A. I recall talking to lots of Congressmen
- and drafting materials for them that related to
- 18 IARC and the facts around IARC, yes.
- Q. Well, the facts as Monsanto saw them,
- 20 correct?
- A. We believed they were the facts.
- O. I understand that.
- A. Yeah.
- Q. And other people believed that they were
- not the facts; is that fair to say?

- 1 A. Yeah. We saw plenty of people lobbying
- 2 Congress on the other side of the issue as well, so
- 3 I think everyone was entitled to their perspectives
- 4 on those things.
- Q. But you don't disagree that you were
- 6 involved as part of that project in drafting
- 7 letters on behalf of Congress people.
- 8 A. I don't think I ever drafted letters on
- 9 behalf of Congress people, no.
- 10 Q. Do you know Congressman Aderholt, Robert
- 11 Aderholt?
- 12 A. I know of him, yes.
- Q. You don't recall drafting a letter that
- 14 went out under his name?
- 15 A. No. I don't believe we did that.
- Q. How about a letter to Scott Pruitt, the
- 17 head of EPA? You don't remember drafting a letter
- on behalf of another Congressperson for that?
- 19 A. No. I remember talking with both of
- those offices about the issues and sending them
- 21 some written materials, but we never drafted a
- letter that went out under their name that I'm
- aware of.
- Q. And the goal in terms of that part of the
- 25 project was to get the National Institutes of

- 1 Health of the United States to stop sending money
- 2 to fund IARC, correct?
- MR. PRESTES: Object to the form.
- 4 A. No, I actually had the opposite opinion.
- 5 I didn't think defunding IARC would have been very
- 6 effective because it wasn't a huge amount of money.
- 7 I felt like it was just something that Congression
- 8 -- that Congress was interested in, that they
- 9 wanted to understand how the money was being spent
- and why it was being spent on IARC as a foreign
- institution. It raised a lot of questions in terms
- of what they were doing and how they were doing it,
- and people wanted some answers.
- Q. But that was done at the behest of
- 15 Monsanto, right? The Congress people weren't doing
- that by themselves; it was Monsanto lobbying them
- 17 to do that.
- MR. PRESTES: Object. Object to the
- 19 form.
- A. We were certainly interested in raising
- these questions and finding members of Congress
- that were interested, but what we found was there
- 23 was a number of other folks out there doing the
- 24 same. And the Congressman himself came from a
- 25 district that was largely agricultural, and he was

- 1 concerned in hearing from his constituents that
- that was an issue for him. Congressman Aderholt in
- 3 particular.
- 4 Q. So you're saying that Monsanto had
- 5 nothing to do with prompting Congressman Aderholt
- 6 to try to cut off the funds to IARC?
- 7 A. No.
- Q. Monsanto had nothing to do with it?
- A. No, we sat down with him and we talked
- with him about the issues and gave him materials
- that he could help to understand the issue.
- Q. As Monsanto saw the issue, correct?
- A. As we saw the facts, yes, that's right.
- Q. When you began as corporate counsel for
- Monsanto in September of 2004 for intellectual
- 16 property, did that work in that capacity involve
- 17 glyphosate or Roundup in any way?
- 18 A. Yeah, you know, it was sort of
- 19 interesting. I loved those days because we were
- involved in the science on a lot of things and
- that's kind of my passion, but the work I did early
- on related to the processes for how we transformed
- crops to make genetically modified crops.
- And as I gained some experience, they gave
- me the docket that was for Roundup Ready crops and

- for the use of glyphosate on those crops, part of
- 2 my patent responsibilities.
- Q. So the jury understands, you're aware
- 4 that Roundup was first commercially sold in the mid
- 5 1970s; is that fair to say?
- A. Yes, I've heard that. That's right.
- 7 Q. And then in the early 1990s, late 1980s,
- 8 Monsanto was involved in what's called
- 9 biotechnology in terms of genetically modifying
- 10 crop seeds?
- 11 A. Yeah, I think around that time all of the
- major pesticide companies began to develop
- biotechnology traits in the late '80s and into the
- 14 early '90s.
- Q. And Roundup Ready seeds that you
- mentioned are seeds for a variety of crops that had
- been genetically modified so that they are
- 18 resistant to Roundup.
- A. Yes, that's correct.
- Q. So if you didn't have Roundup on the
- 21 market, no one would need to buy Roundup Ready
- seeds, correct?
- A. I'm sorry. Say that again.
- 24 O. Sure.
- 25 A. Yeah.

- Q. If Roundup was not on the market anymore,
- 2 nobody would need Roundup Ready seeds.
- MR. PRESTES: Object to the form.
- 4 A. Maybe back in those days that was -- that
- 5 might have been the case. I think today all of the
- 6 crops are stacked with multiple traits, so it's not
- 7 just all about Roundup and Roundup resistance
- 8 anymore. There's several other herbicides in most
- 9 of the major crops.
- Q. When you say "several other herbicides,"
- including glyphosate?
- 12 A. Yes, including glyphosate.
- Q. So just so the jury understands, for the
- 14 first how many years were Roundup Ready seeds only
- genetically modified to deal with glyphosate, the
- 16 first 12, 15 years?
- 17 A. I don't know. Let me just see if I can
- 18 estimate. Launched in the late '90s ...
- MR. PRESTES: Mr. Rands, if you're going
- to guess, let us know you're guessing. If you're
- 21 estimating --
- Q. And nobody wants a guess. I'm not
- interested in quesses.
- 24 (Clarification by reporter.)
- A. Okay. Yeah, I was going to guess for

- 1 you, but I don't know the answer to that, that's
- 2 fair.
- Q. Okay. But what you're saying is, more
- 4 recently in time, Monsanto has genetically modified
- 5 seeds so that they are resistant to other things
- 6 such as insects or other herbicides; is that fair
- 7 to say?
- 8 A. Yeah. I think probably sometime in the
- 9 last 10 to 15 years that's when that really began
- 10 to become a focus.
- Q. But the Roundup Ready trait, the trait of
- the seeds that would be resistant to Roundup would
- be a meaningless genetic modification if Roundup is
- 14 not being used; is that fair to say?
- 15 A. Yeah, in that hypothetical, if that was
- the only trait, then those crops would just be --
- they would still have yield advantages perhaps from
- their breeding and the other advanced technologies
- we apply to them, so they may be superior in that
- regard, but in terms of weed resistance, without
- 21 Roundup there would be no reason to buy those, if
- that's why you were buying them.
- Q. Right.
- A. Yeah.
- Q. Now how long were you in the corporate

- 1 counsel intellectual property job, from September
- of 2004 to when? Or were you always in that when
- 3 you were at Monsanto?
- 4 A. No. Well, I was in the legal department,
- 5 but my titles shifted over time. And I'm going to
- 6 have to apologize, I don't remember the exact month
- 7 and year of the shifts, but I went from corporate
- 8 counsel to more of a licensing and commercial
- 9 lawyer role. And then ultimately went to South
- 10 America and changed to a lawyer in charge of
- building our licensing business in South America.
- Q. So approximately how many years were you
- in your first job at Monsanto?
- 14 A. I think it was about two years, and then
- I shifted to more of a commercial lawyer role.
- Q. Okay. So sometime approximately late
- 17 2006, without holding you to an exact month or
- 18 year, you say went into the licensing and
- 19 commercial part of your responsibilities?
- 20 A. Yes.
- Q. And how long were you in that position
- before you moved to South America?
- A. I think that was also about two years.
- Q. All right. So sometime approximately the
- end of 2008 or so is when you moved to South

- 1 America?
- A. Yeah. I'm remembering South America in
- 3 that 2008-2009 time frame, and it was about a two
- 4 and a half year time period that I was in -- I
- 5 lived in Buenos Aires.
- Q. And what were you licensing? Roundup?
- 7 A. In South America it was mostly about
- 8 soybeans. So we were building a licensing business
- 9 for our soybean products.
- 10 Q. Did your work after you left the
- intellectual property position involve Roundup
- through the time you left your position in South
- 13 America?
- 14 A. I no longer did any patent work for any
- of the Roundup or Roundup crops or anything like
- that after I left that first position.
- 17 Q. So when did you -- strike that.
- I'm assuming you came back to the
- 19 United States after being in Buenos Aires for two
- and a half, three years?
- 21 A. Yes.
- O. When was that?
- A. Sometime around 2011.
- Q. Okay. And what was -- you continued
- working at Monsanto?

- 1 A. Yes, everything has always been with
- 2 Monsanto.
- Q. And what position were you in at that
- 4 time?
- 5 A. They put me in a hybrid role of -- I was
- 6 doing strategic licenses and deal support with our
- 7 strategy team as their lawyer, and at the same time
- 8 I was also in charge of our Brazil -- I'm sorry,
- 9 not our Brazilian -- our South American legal
- 10 function. So I had a broader responsibility for
- the day-to-day function of our legal department.
- Q. And in that position were you dealing
- with glyphosate or Roundup?
- 14 A. You know, the glyphosate business was
- 15 certainly -- it was something they sold in South
- 16 America, so, yes, but there was also a separate
- 17 lawyer at the time who had direct responsibility
- 18 for that business on a global level.
- Q. Who was that?
- A. Melissa Duncan, or it may have been Nancy
- 21 Adioli. I can't remember which. They've both held
- that role, and I don't remember at that exact
- 23 moment. So I don't think that I really had
- 24 day-to-day responsibilities for the legal issues
- around Roundup down there.

- 1 Q. So when you got back to the United States
- 2 sometime around 2011, where were you physically
- 3 working?
- 4 A. In St. Louis.
- 5 Q. And did your job title change subsequent
- 6 to that?
- 7 A. It became legal director for South
- 8 America.
- 9 Q. When did that happen?
- 10 A. When I came back. There may have been a
- 11 little -- it may have happened slightly before I
- 12 came back. I don't recall exactly.
- Q. And how long were you legal director for
- 14 South America for Monsanto?
- 15 A. You know, I'd have to look at the résumé
- again, but there was -- there was an overlapping
- 17 period while I was still down there where they gave
- me that role. And then when I came back, I would
- 19 say maybe about a year, something like that.
- Q. So did your job title change sometime in
- 21 2012, 2013?
- A. Yeah. See, I worked -- I need to -- I'm
- guessing now, but, yes, I think that's probably
- 24 about right.
- Q. And what was your new responsibilities?

- 1 A. They gave me a role that helped with our
- venture capital business and our biologics
- business, and, again, strategy, deal support, but
- 4 as a lawyer doing the legal work for those
- 5 different groups or functions.
- 6 Q. Anything to do with Roundup or
- 7 glyphosate?
- A. Only to the extent we were doing
- 9 licensing deals on crops with other companies, but
- not directly on Roundup that I recall.
- Q. When did you first get assigned to work
- with FTI regarding the International Agency for
- 13 Research on Cancer's evaluation of the
- 14 carcinogenicity of glyphosate?
- 15 A. That happened when we had started our
- 16 project to prepare for the acquisition of Syngenta.
- O. When was that?
- 18 A. I want to say 2014.
- 19 Q. How did those two things relate? I don't
- 20 get it. Was it just a time frame, you were working
- on two things at the same time?
- A. In 2014? What time period are you
- talking about?
- Q. You said that you started on working with
- 25 FTI regarding the International Agency for Research

- on Cancer, and that had happened, "we had started
- our project to prepare for the acquisition of
- 3 Syngenta."
- Were those two things related, IARC's
- 5 evaluation of glyphosate and the acquisition of
- 6 Syngenta?
- 7 A. The IARC -- the project we did with FTI,
- 8 the Project Spruce relating to Roundup -- started
- 9 in 2016, and, if I've mischaracterized that timing,
- that project didn't begin until 2016.
- The project with FTI to work on the
- 12 acquisition, potential acquisition, of Syngenta
- 13 started in 2014, and that was our first time we
- 14 worked with them.
- Q. And was that project, the Syngenta
- acquisition project, did that have anything to do
- 17 with glyphosate or Roundup?
- 18 A. None at all.
- 19 Q. Okay. So the first work that you did
- with FTI relating to IARC's evaluation of
- 21 glyphosate would have been around 2016?
- 22 A. Yes, that's right.
- Q. Prior to that had you had any knowledge
- of the science of glyphosate vis-a-vis whether or
- not it causes cancer? Had you ever evaluated that?

- 1 A. No. I generally wasn't aware of all
- these things that had been going on.
- Q. Did you ever work for Monsanto India
- 4 Limited?
- 5 A. No.
- 6 Q. And Monsanto India Limited is a
- 7 subsidiary of Monsanto, is it not?
- 8 A. I don't know what it is.
- 9 Q. Okay. Does Monsanto currently have any
- 10 employees?
- 11 A. Yes.
- 12 O. And --
- A. Although let me correct that. I don't
- 14 know that Monsanto has any employees now that the
- acquisition of Bayer has occurred, so I don't know
- the answer to that really.
- Q. Okay. As far as you know, no one is
- 18 receiving a check from the Monsanto Company for
- 19 work; is that fair to say?
- A. I think that's correct as of January of
- this year, 2019, they made that formal switch over.
- Q. Is the Monsanto Company name being
- retired, as far as you know?
- 24 A. I don't know. I don't know what the
- 25 status of it is.

- 1 Q. Well, what does the Monsanto Company, as
- far as you know, consist of currently?
- MR. PRESTES: Object to the form.
- 4 A. I actually don't know. I don't know if
- 5 they've -- I'm not privy to all of the paperwork of
- 6 the final transaction and what they've done or not
- 7 done in terms of the entity or its name. But we
- 8 don't use the name. Everybody has got titles and
- 9 references Bayer now on the website and in their
- job descriptions and things.
- Q. So nobody says I work for Monsanto now.
- 12 A. No.
- Q. Do you know why you were selected to work
- 14 with FTI on the issues involving the International
- 15 Agency on Research for Cancer's evaluation of
- 16 glyphosate's carcinogenicity, why were you the
- 17 person selected?
- 18 A. I think because my boss had been asked to
- do some work in this project, and so he came to me
- and asked about ways we could approach this.
- Q. And who's your boss?
- 22 A. Scott Partridge.
- Q. When you say he approached you about ways
- to approach this, what do you mean?
- A. He said that he was asked to get involved

- in our efforts involving Roundup and glyphosate.
- Q. Who asked him?
- A. I'm not exactly sure. I would assume one
- 4 of his bosses.
- 5 Q. Okay. How high up was Mr. Partridge at
- 6 the time? What was his job?
- 7 A. He reported to Kerry Preete, the vice
- 8 president of strategy.
- 9 MR. KRISTAL: I'm going to mark as
- 10 Exhibits 1 and 2 the two notices of deposition that
- 11 bring you here today.
- 12 (Exhibit 1 marked for
- identification: Plaintiffs' Amended
- Notice to Take the Videotaped Oral
- Deposition of Monsanto Company)
- 16 (Exhibit 2 marked for
- identification: Plaintiffs' Amended
- Notice to Take the Videotaped Oral
- 19 Deposition of Todd Rands)
- MR. KRISTAL: 1 is the U.S. District
- 21 Court for the Northern District of California
- 22 notice.
- 23 A. Thank you.
- Q. And 2 -- I don't think I brought the
- 25 other one.

- 1 There were two dep notices, correct, as far
- 2 as you recall?
- MR. KRISTAL: Do you have one of them
- 4 with you so we can mark it for the record, or did
- 5 you put these together?
- 6 MR. PRESTES: I do not.
- 7 VIDEO SPECIALIST: Counsel, your mic.
- 8 MR. KRISTAL: Thank you.
- 9 Q. You understand that you're testifying
- 10 here both in your personal capacity and in your
- capacity as Monsanto's corporate representative on
- 12 certain topics?
- 13 A. Yes.
- Q. Okay. I'm going to not mark yet, but
- intellectually mark number 2 and we'll get a copy
- of that for later.
- 17 A. What was number 2? Was that the
- 18 30(b)(6)?
- 19 Q. Yes, the deposition notice that brings
- you here as Monsanto's corporate representative.
- 21 A. Okay.
- Q. What topics is it your understanding that
- you've been designated as Monsanto's corporate
- 24 representative?
- A. You know, the exact wording was pretty

- 1 complicated.
- Q. No, I know.
- A. But the gist of it was there was one
- 4 relating to our outreach with U.S. Congress
- 5 relating to IARC, I believe, and the other was
- 6 something with our digital advertisements, our
- 7 Internet advertisements.
- Q. The paid searches?
- 9 A. I don't recall the words exactly, if that
- 10 was in there, but ...
- 11 Q. Actually I misspoke. Exhibit 1 is the
- 12 30(b)(6) notice.
- A. Oh. Good.
- Q. So if you'd take a look at that and let
- me know specifically by number which topic you're
- here on, and I'll get a copy of the deposition
- 17 notice for you in your personal capacity.
- 18 A. Sure. Counsel, help me out here, if you
- 19 know which number it is.
- Q. I believe it's towards the end.
- MR. PRESTES: Mr. Kristal, would it help
- if I just reminded --
- MR. KRISTAL: Yes, yes. You're the ones
- doing the designating, so I just want a clear
- 25 record. It doesn't matter to me where it comes

- 1 from or who it comes from.
- MR. PRESTES: We've designated Mr. Rands
- 3 to testify on behalf of Monsanto on Topics 11, 12,
- 4 and 26 that appear in the Plaintiffs' Amended
- 5 Notice to Take the Videotaped Oral Deposition of
- 6 Monsanto that you've marked as Exhibit 1.
- 7 MR. KRISTAL: Great. Okay. I also have
- 8 found the personal notice. Marking as Exhibit 2,
- 9 United States District Court for the Northern
- 10 District of California, deposition notice in your
- 11 personal capacity.
- 12 A. Thank you.
- Q. Do you see that? I'm marking as Exhibit
- 3 a list of things that you -- that we've been told
- 15 you have reviewed in terms of your preparation for
- today's deposition. I'm going to hand this to you
- and ask you if that is the list of materials that
- 18 you have reviewed.
- 19 (Exhibit 3 marked for
- 20 identification: List of materials
- 21 reviewed)
- A. I'll represent that, if this is what my
- attorney sent you, that this is what I reviewed.
- Q. And did you assemble these documents or
- were they given to you?

- 1 MR. PRESTES: Objection. I think what
- the MDL order requires us to do is to provide a
- 3 list of materials reviewed, and I think it
- 4 specifically says that counsel is not entitled to
- 5 get into who provided the documents or the
- 6 circumstances under which the witness reviewed
- 7 them.
- 8 So if you want to ask him do these look like
- 9 the documents he reviewed in preparation for his
- dep, fine, but we're not going to get into the
- details of whether counsel selected them, whether
- 12 Mr. Rands selected them, et cetera.
- Q. Have you ever on your own searched for
- 14 any Monsanto documents?
- 15 MR. PRESTES: Object to the form.
- 16 A. In --
- 17 Q. Involving this litigation,
- 18 glyphosate/Roundup.
- A. On many occasions I've had opportunities
- to review documents relating to the litigation.
- 21 Q. Okay.
- 22 A. Yes.
- Q. I'm not asking you if you've had
- opportunities to review them. I'm asking if you
- 25 have personally ever conducted a search of

- 1 documents.
- 2 A. Yes.
- Q. And when was that? When was the first
- 4 time you did that?
- 5 MR. PRESTES: Object to the form.
- A. Yeah, throughout the last year I've been
- 7 involved in documents relating to glyphosate and
- 8 have looked for documents in various -- at various
- 9 times.
- 10 Q. To what end?
- 11 A. Just --
- Q. No, why were you doing that?
- MR. PRESTES: And I'm going to caution
- 14 you, to the extent that you were collecting or
- assembling or reviewing documents at the direction
- of counsel, outside of the context of the
- deposition preparation, that's work product and
- we're not going to go there. And to the extent you
- were assembling or collecting or searching for
- documents either to give legal advice or receive
- legal advice, I'm going to instruct you not to get
- into that either.
- So if you can answer the question without
- 24 getting into protective work product and without
- getting into any attorney-client privileged

- 1 communications that you were a part of, go for it,
- but to the extent it involves work product or
- privileged communications, don't answer.
- 4 A. Yeah. Most of it was Internet searches
- 5 for documents that were in the public domain
- 6 relating to glyphosate.
- 7 Q. Have you ever personally conducted a
- 8 search of documents that had been produced in the
- 9 Roundup litigation?
- MR. PRESTES: Same instruction.
- 11 Q. Yeah, that instruction goes for every
- 12 question I ask. I'm not interested in
- 13 attorney-client. I'm just asking what you have
- done.
- 15 Have you ever done a search of documents
- that were produced in the Roundup litigation?
- 17 A. Not outside of an attorney-client
- 18 privilege setting.
- 19 Q. Okay. When did you become involved with,
- for lack of a better word, assisting in the Roundup
- litigation? When was that part of your job duties?
- 22 A. I think right around the time that I came
- on board with the project in '16 I became more
- engaged with our lawyers and understanding and
- 25 discussing litigation issues.

- Q. So you were aware, then, at the time
- 2 that -- shortly after the International Agency for
- Research on Cancer determined that glyphosate was
- 4 probably carcinogenic, that lawsuits had been filed
- with people who were diagnosed with non-Hodgkin's
- 6 lymphoma?
- 7 A. Sometime in 2016 I became aware of that,
- 8 but I hadn't been following it prior to that point
- 9 too closely.
- 10 Q. And at or around that time is when you
- began to get involved in assisting in the
- 12 litigation?
- 13 A. Yes.
- Q. Okay. Is it fair to say that you
- 15 reviewed, in terms of internal Bates numbers, a
- 16 little over 500 documents? Is that approximately
- 17 correct?
- 18 A. That sounds about right. Some of them
- 19 were pretty long, but yeah.
- Q. Been there.
- 21 A. Yeah.
- Q. That number of documents, somewhat over
- 500, is about a half of 1 percent of the over a
- 24 million documents that have been produced?
- MR. PRESTES: Object to the form, assumes

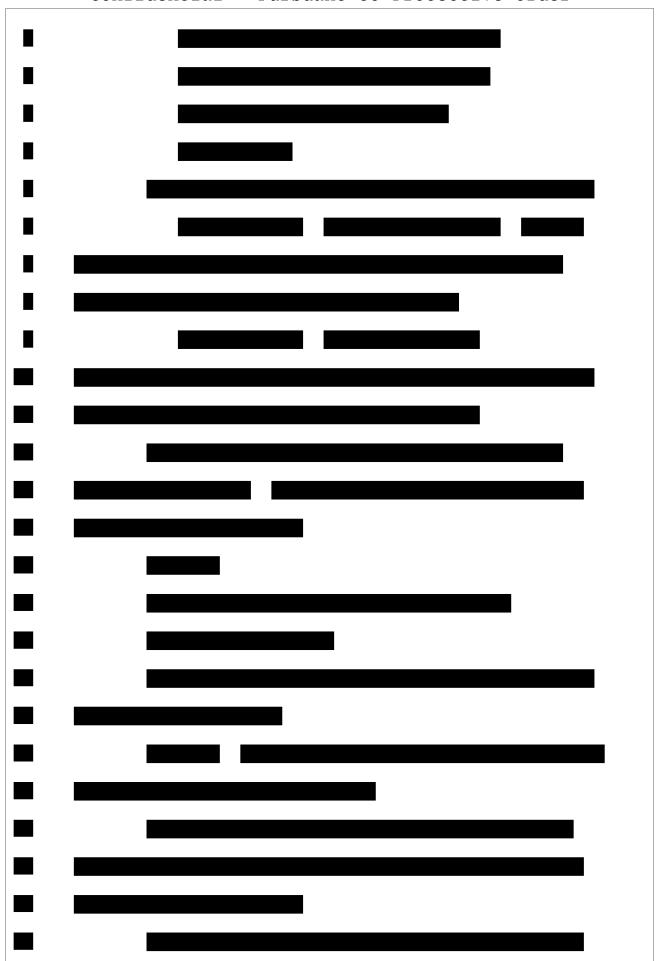
- 1 facts.
- Q. Well, you're aware that over a million
- documents have been produced in this litigation?
- A. I've heard that. I haven't ever seen the
- 5 tally, but ...
- 6 Q. Okay. Something in that order is your
- 7 understanding?
- A. It's more of a guess, but it's what I've
- 9 heard, is over a million is a number I've heard
- 10 people say.
- 11 Q. Okay. So then it's just a matter of
- 12 arithmetic?
- 13 A. Yes.
- Q. Five hundred is half a percent of a
- 15 million?
- MR. PRESTES: Object to the form.
- 17 A. Yes, if that's the right number, but I
- don't -- whatever the number is, it is.
- Q. Whatever the number is, it is.
- A. Yeah.
- Q. Okay. The documents that you reviewed
- for this deposition, in part, were documents that
- came from what is called your custodial file.
- A. Okay.
- Q. Is that right?

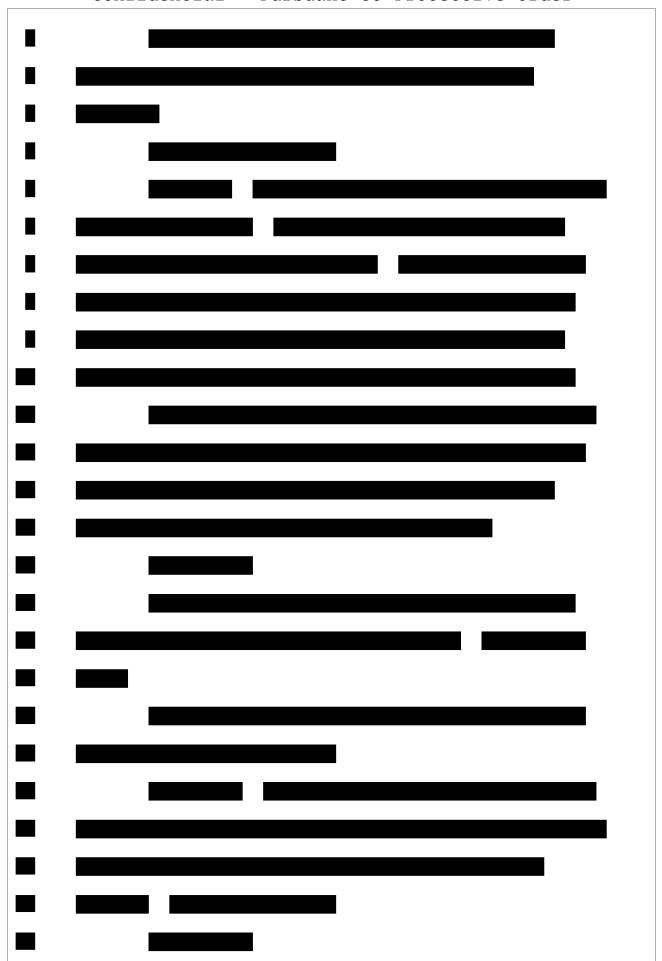
- 1 MR. PRESTES: Object to the form.
- A. I believe that's what people refer to it
- 3 as, yes.
- 4 Q. Okay. And there were lots of documents
- 5 that were from other Monsanto employees' custodial
- files; is that fair to say?
- 7 MR. PRESTES: Object to the form.
- 8 A. There were some documents in there that
- 9 were not necessarily documents I created or
- 10 received, so they must have come from other
- 11 people's files, yes.
- 12 Q. Well, the vast majority of them were not
- from your files, right?
- MR. PRESTES: Objection.
- Q. The vast majority of the documents you
- reviewed were not from your custodial file?
- MR. PRESTES: Object to the form.
- A. I don't know what you mean by "vast
- 19 majority." I saw a mix of different kinds of
- documents, yes.
- Q. Well, your custodial file began with the
- Bates number, after the words MONGLY, M-O-N-G-L-Y,
- 23 with 075, right?
- MR. PRESTES: Object to the form.
- Q. Do you know that from looking at the

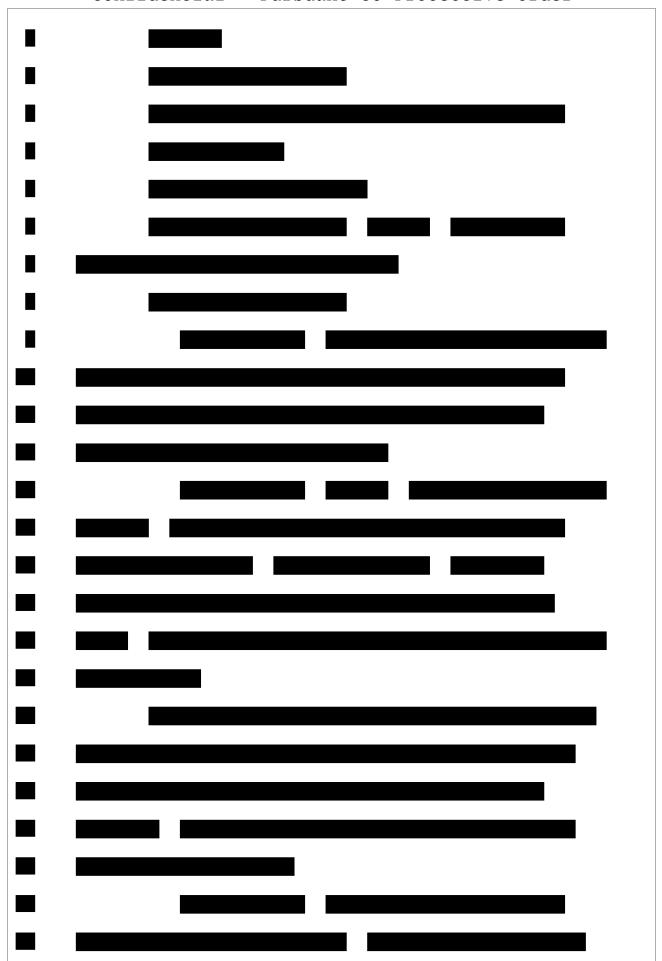
- 1 documents?
- A. I don't recall the numbers and where they
- 3 started.
- Q. Okay. Do you recall whose documents you
- 5 did review other than your own?
- A. I remember in the file that this document
- 7 represents there were some emails from Sam Murphey,
- 8 there were some presentations that I wasn't
- 9 involved in. There were a few other Monsanto
- 10 personnel where they were either the To or the From
- on the emails, but they weren't emails that I
- remember receiving and I wasn't listed on them.
- Q. Other than documents that might have been
- 14 generated by third parties, meaning a published
- article that might have been attached to an email,
- other than that, were the documents that you were
- 17 reviewing documents that were created by employees
- of Monsanto and maintained in the regular course of
- 19 business by Monsanto?
- MR. PRESTES: Object to the form. If you
- need to reference the list, you got it there.
- Q. Yeah, sure.
- A. Yeah.
- MR. PRESTES: Are you asking him whether
- 25 all --

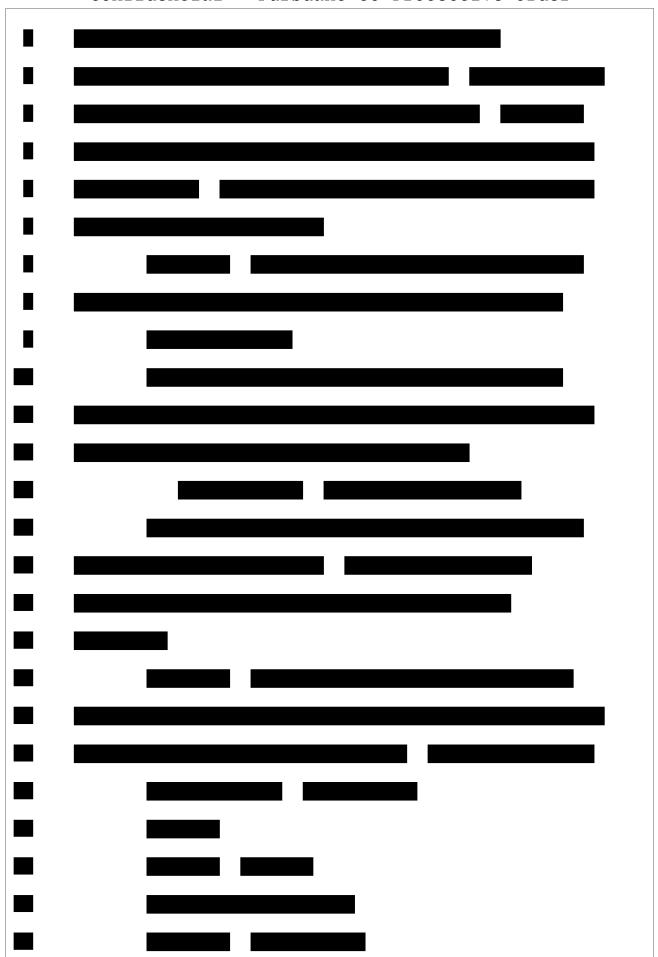
- 1 MR. KRISTAL: No, just -2 Q. On the first page you list deposition
  3 transcripts and you list a number of what I would
  4 call popular press articles, so to speak.
  - 5 A. Mm-hmm.
  - Q. Yes?
  - 7 A. Yes.
  - Q. I just need a yes or no.
  - 9 A. Sorry. My fault.
- Q. No, we all understood what you meant, but
- 11 you're aware of making a record.
- 12 Other than those and other than documents
- that have a MONGLY number that might have been
- created by a third party, all of the MONGLY
- 15 documents that you reviewed were created and
- 16 maintained in the regular course of Monsanto
- business other than the ones that I just excepted.
- MR. PRESTES: Object to the form.
- 19 A. Yeah, I don't recall any documents with
- your exclusions applying that weren't kept in the
- 21 normal course of business, the emails, To and From
- recipients of Monsanto employees seem to be kept --
- is your phrase the normal course of business?
- Q. Regular course of business.
- A. Regular course of business, yes.

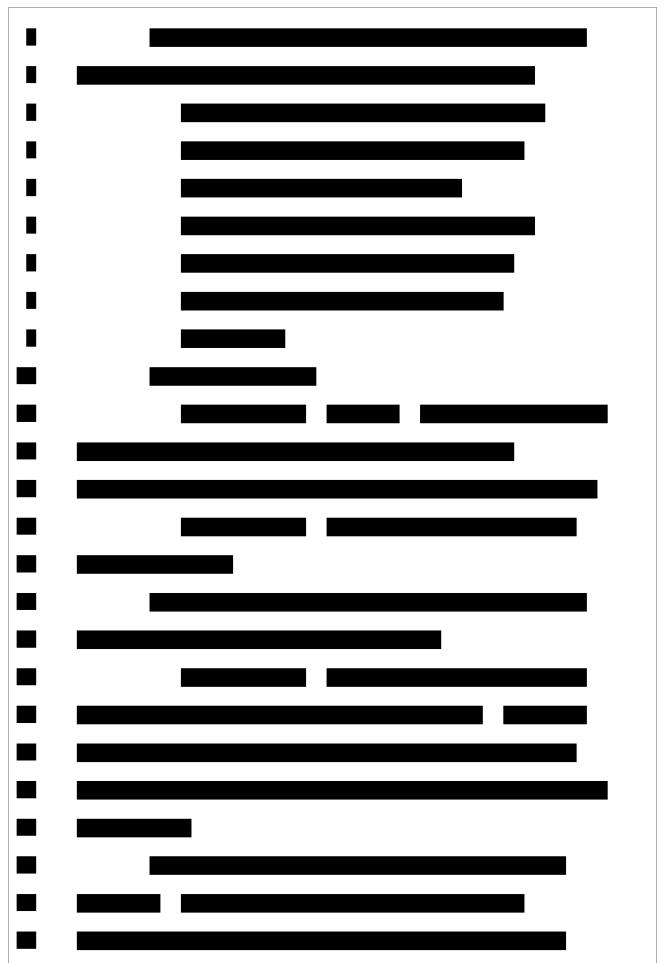
1 Q. And there were PowerPoints that were 2. presented at meetings during your regular course of business, some of them? 3 4 A. I believe so. We can -- if there's any 5 specific documents, we can go back and look at them 6 that might raise a question, but I didn't see 7 anything that didn't look like a document that 8 wasn't a Monsanto business record, yes. 9 And just to be clear, you were excluding the 10 transcripts of depositions from that and ... 11 Q. Exactly. 12 A. Yeah. Good. 13 Q. I was excluding everything that was 14 written by --A. Third parties. 15 16 Q. -- third party, unless it happened to 17 have been received so it might become part of a 18 Monsanto business record, but it wasn't generated 19 by Monsanto. 20 A. I think that's fair.

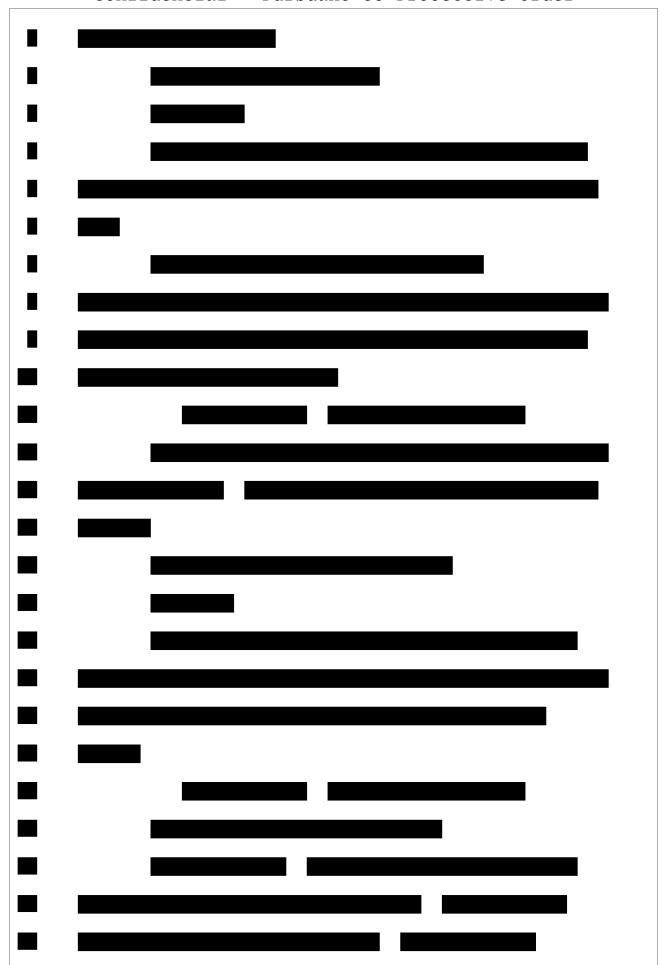


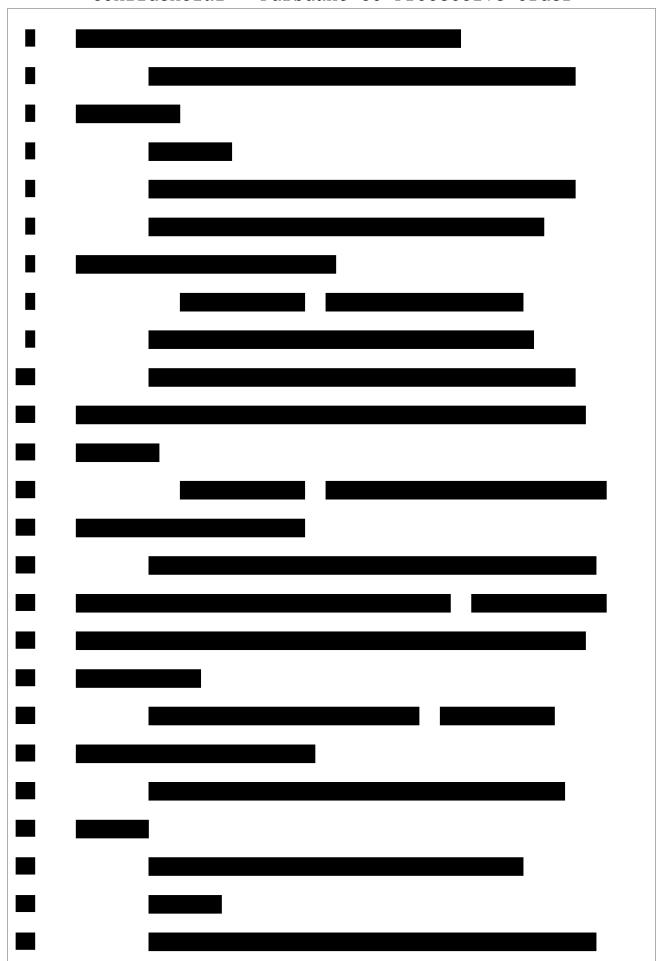


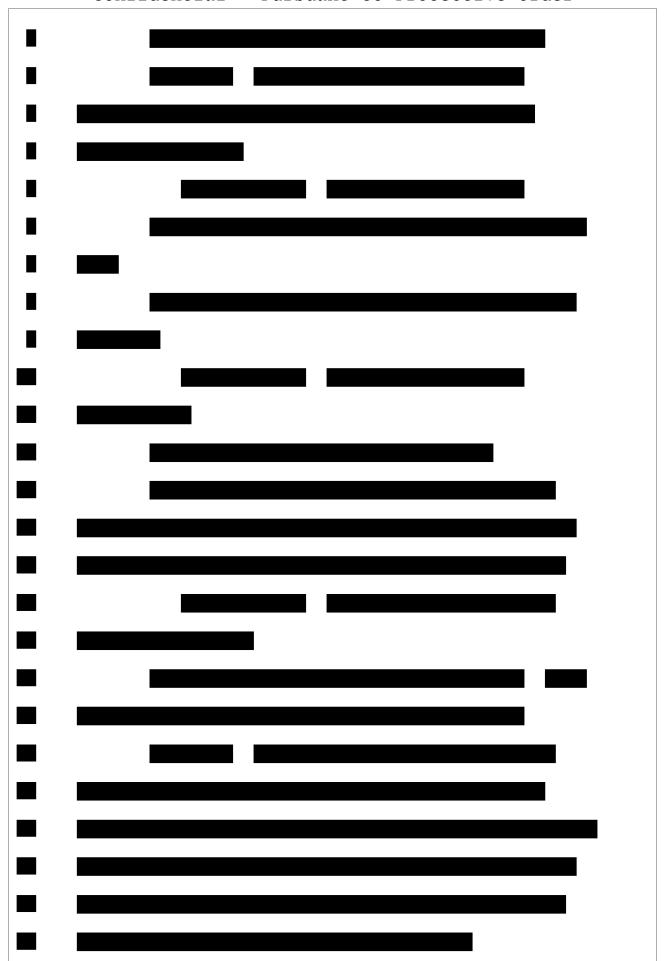


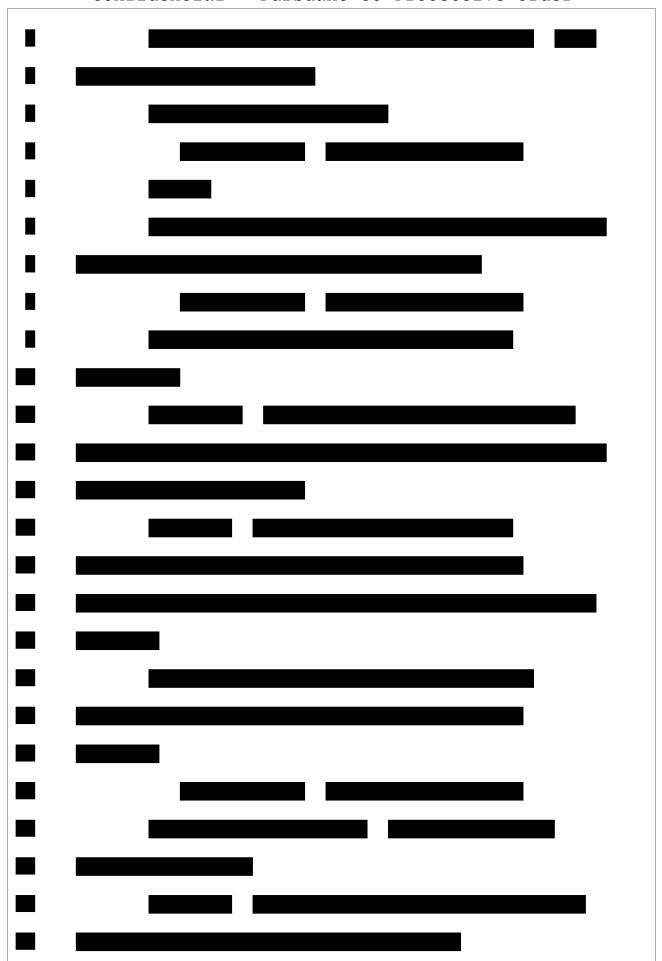


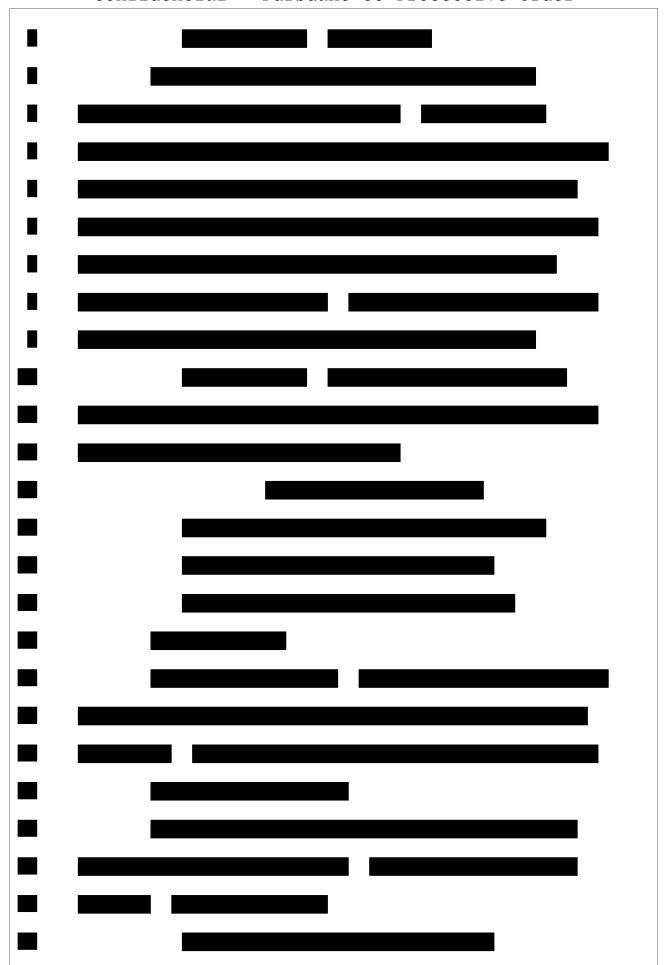


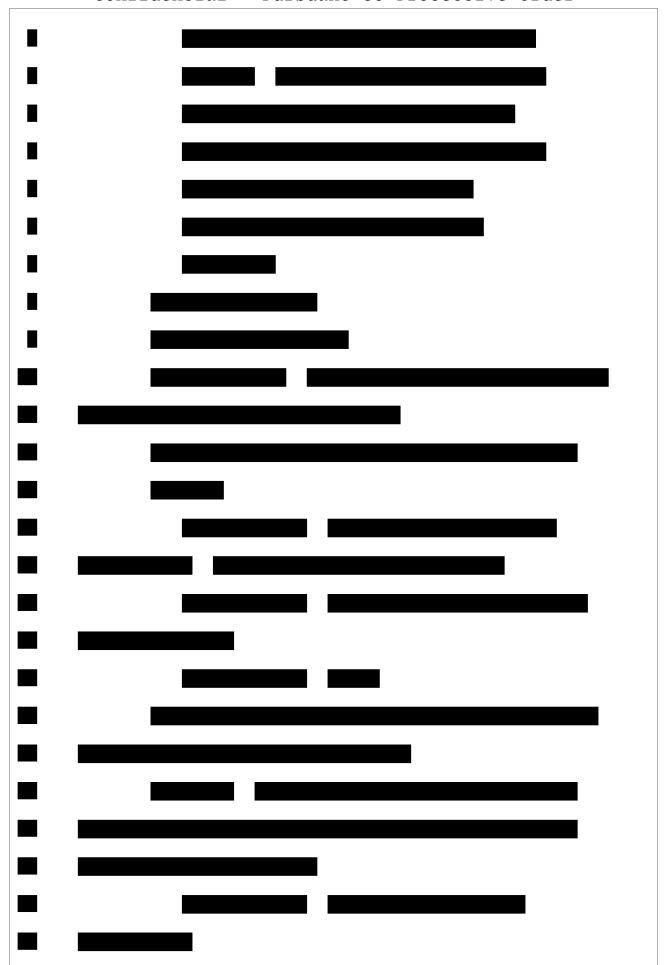


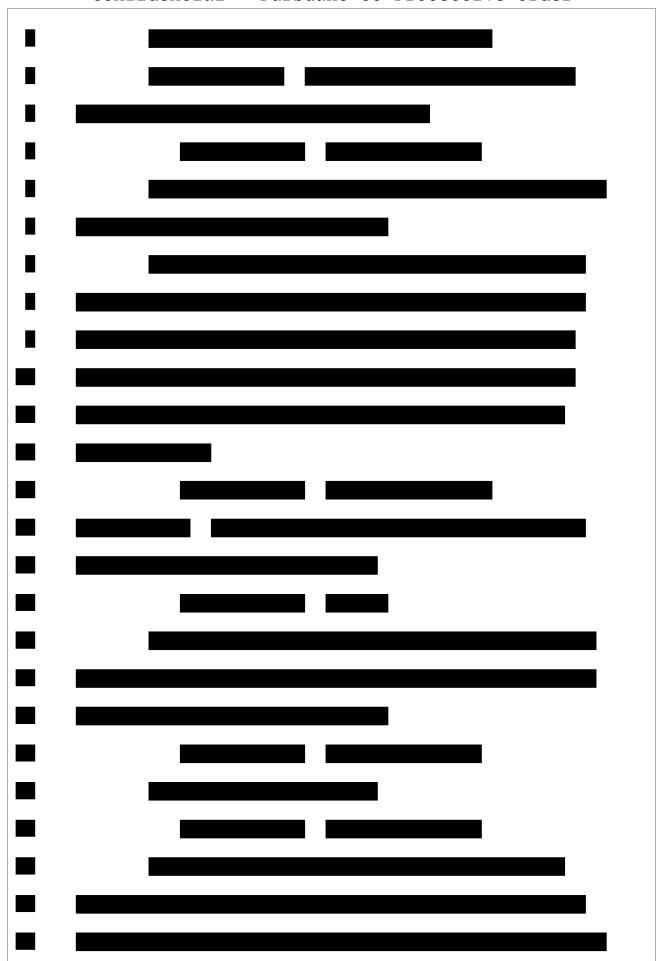


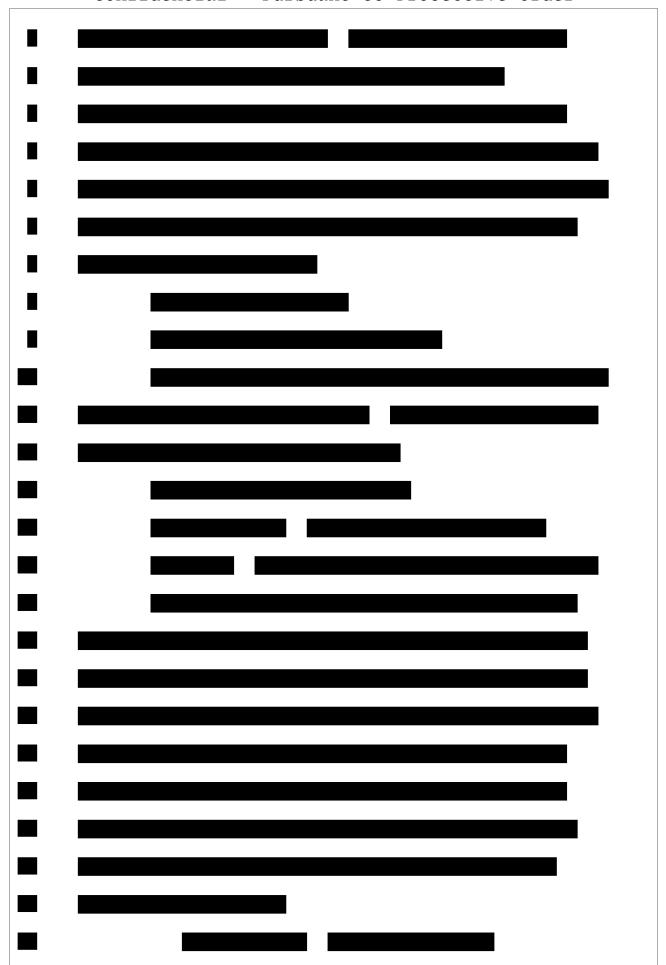


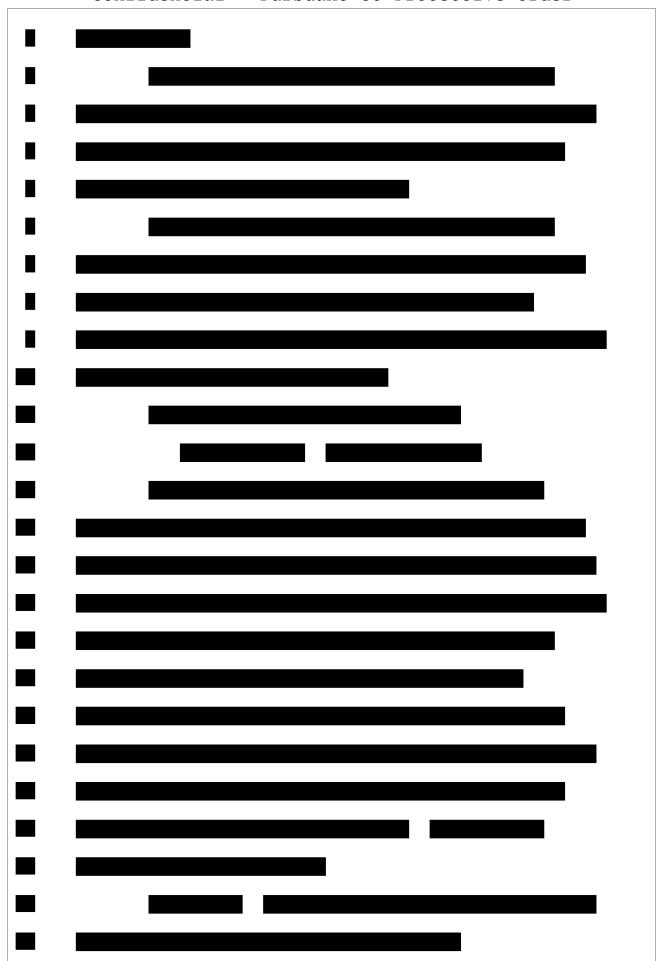


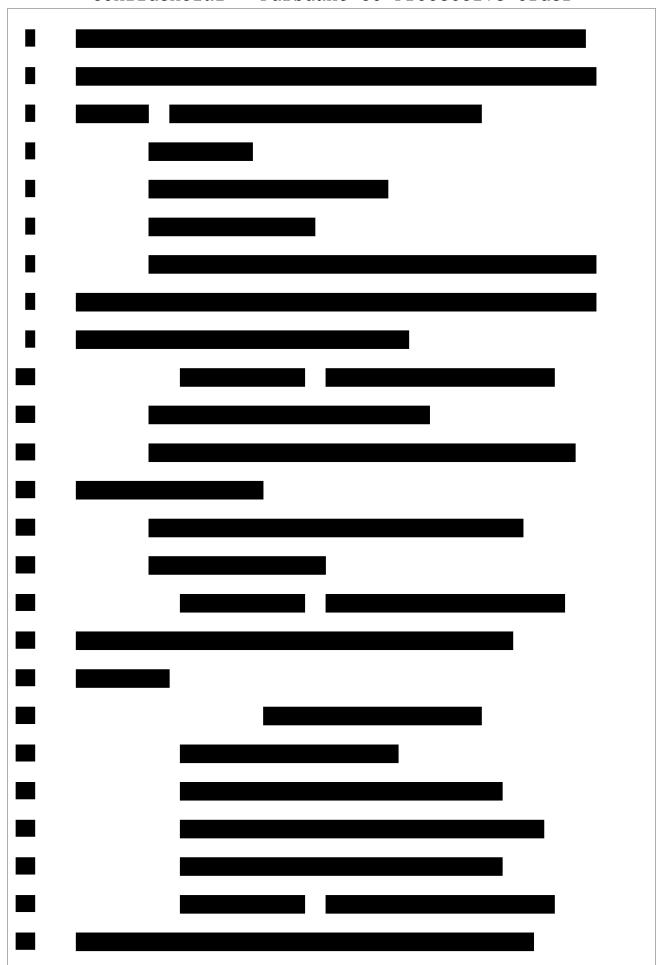


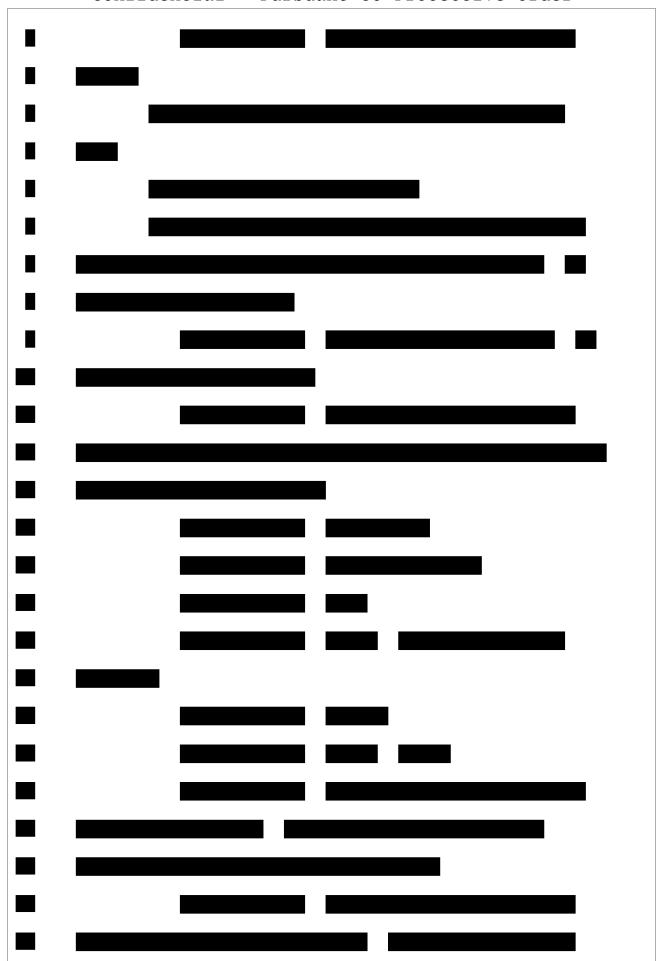


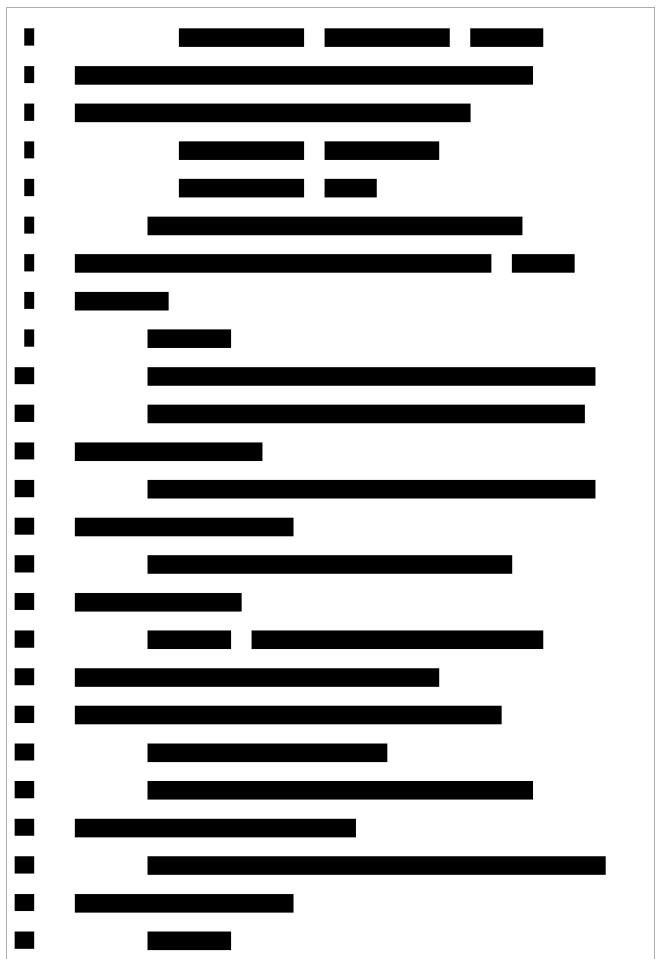


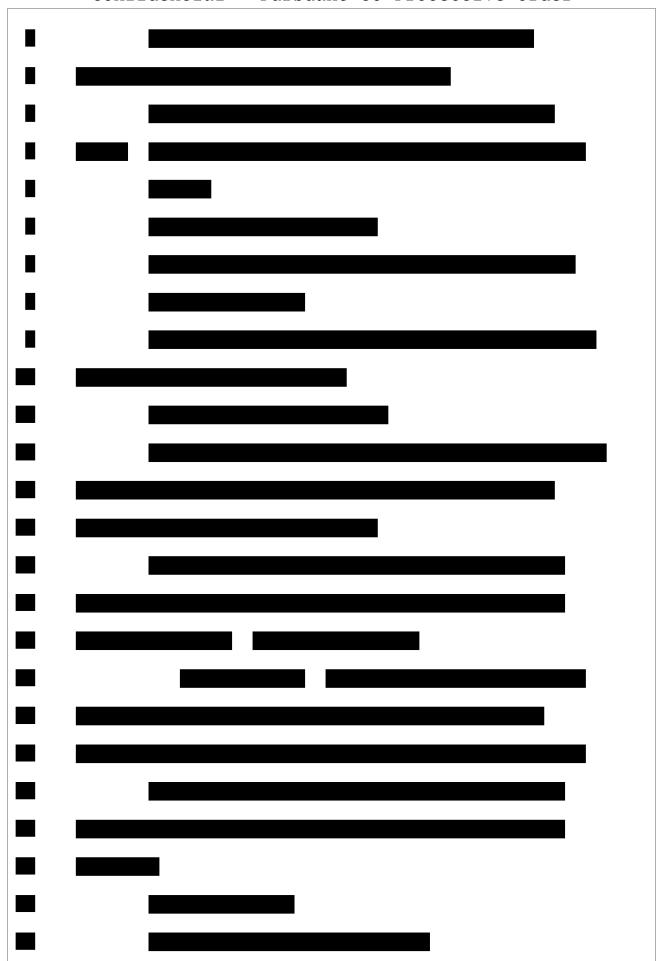


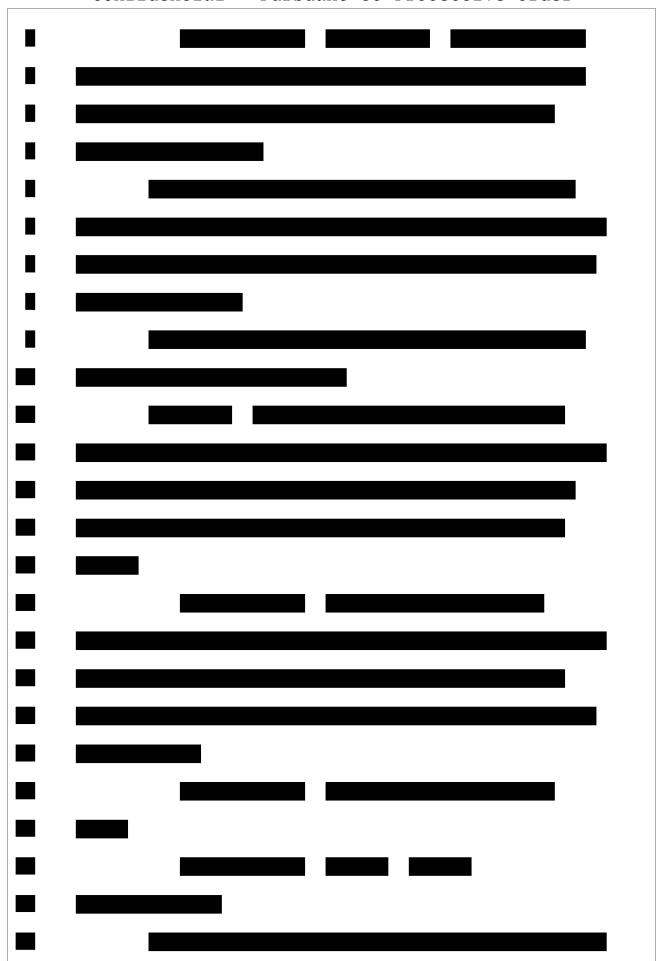


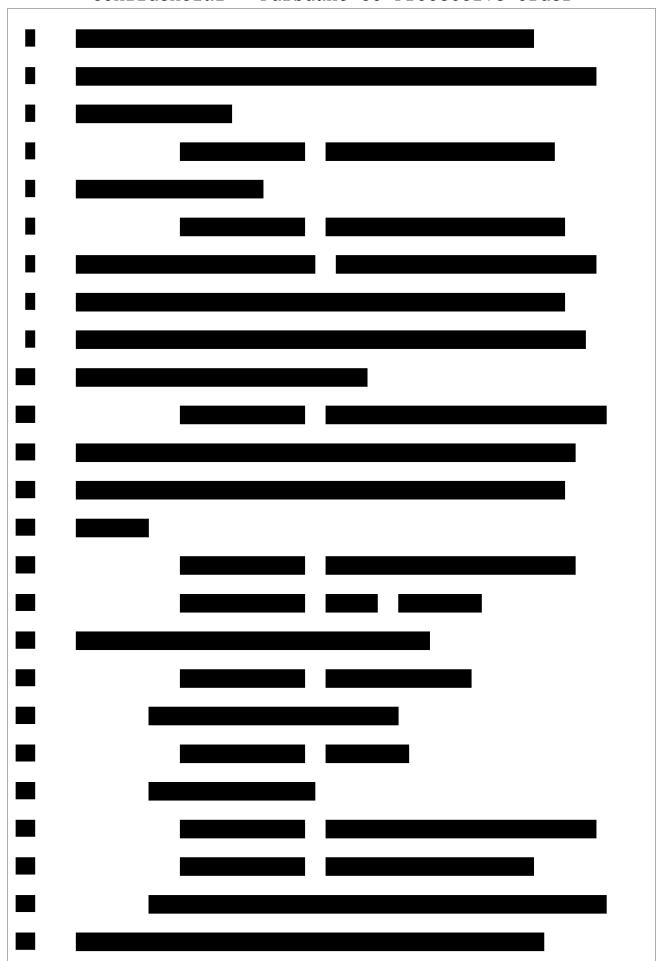


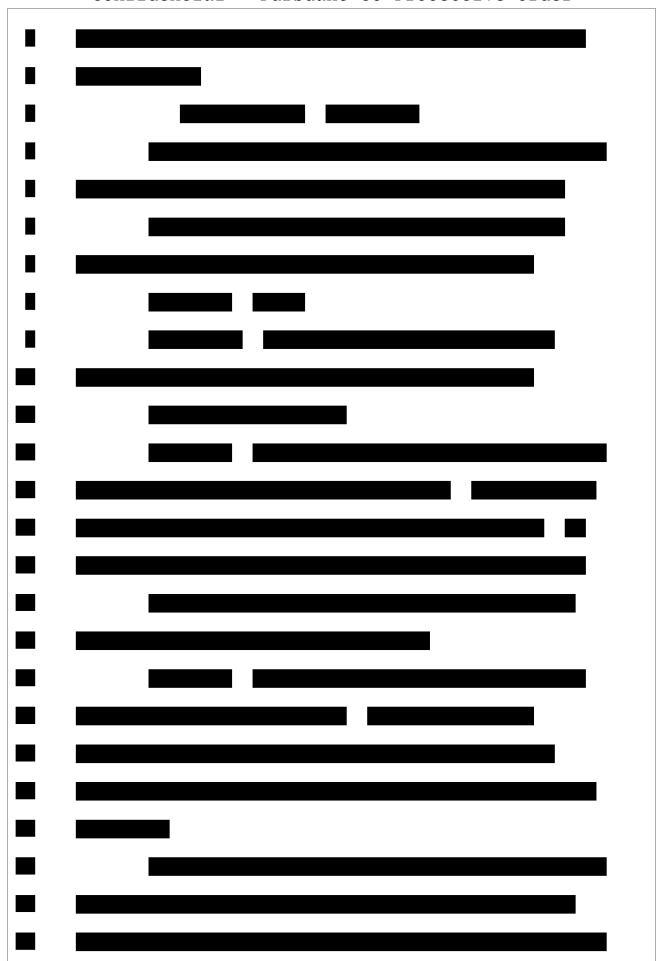


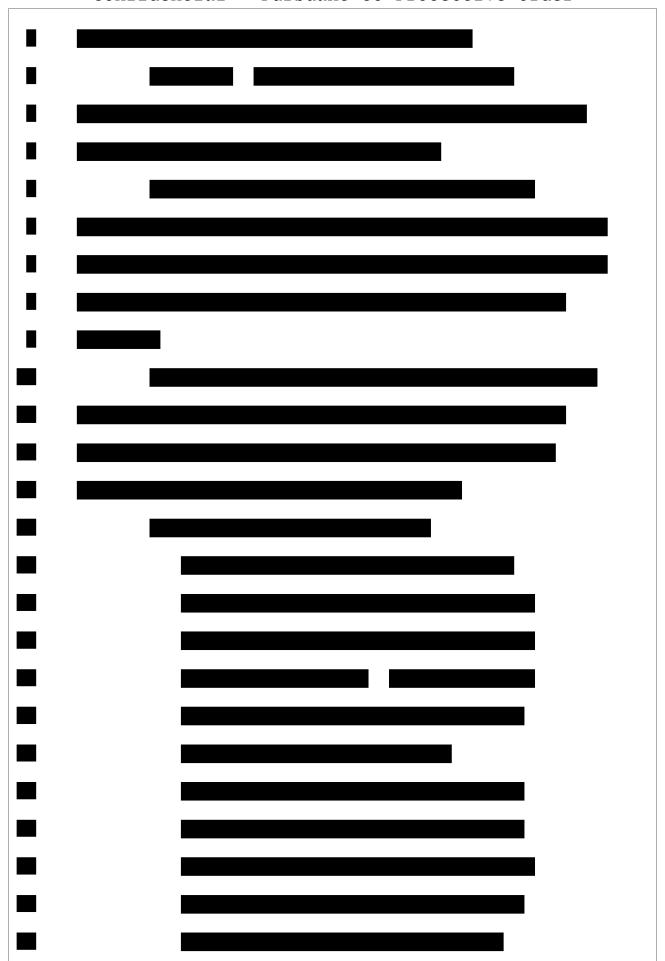


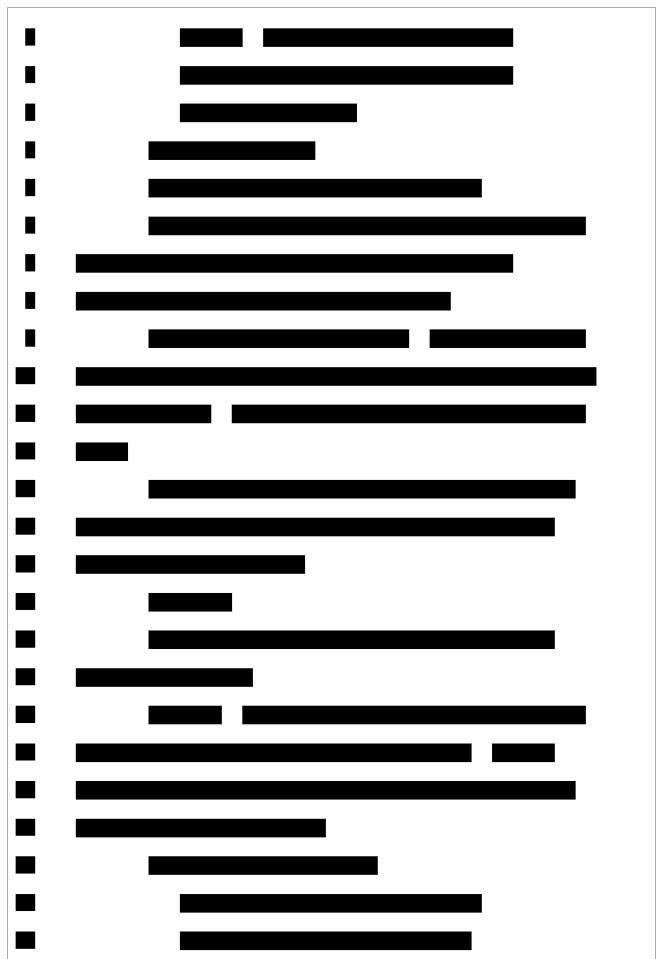


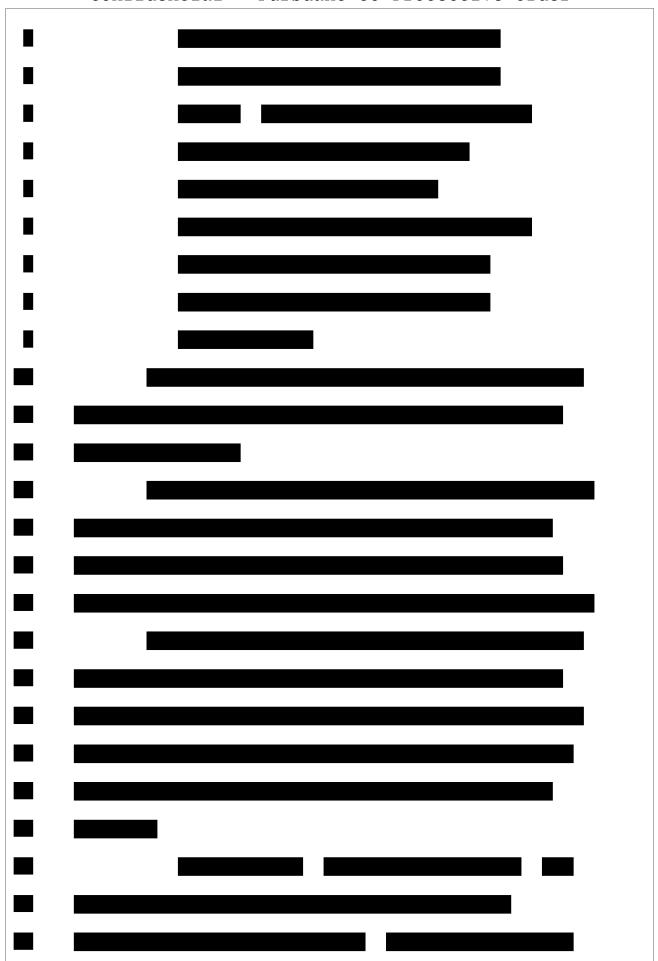


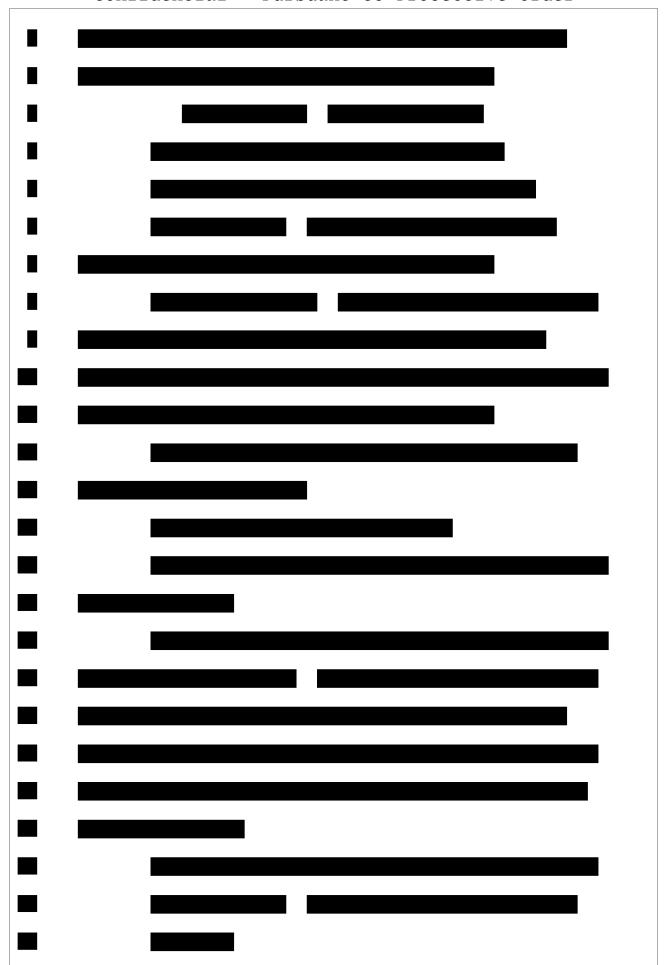


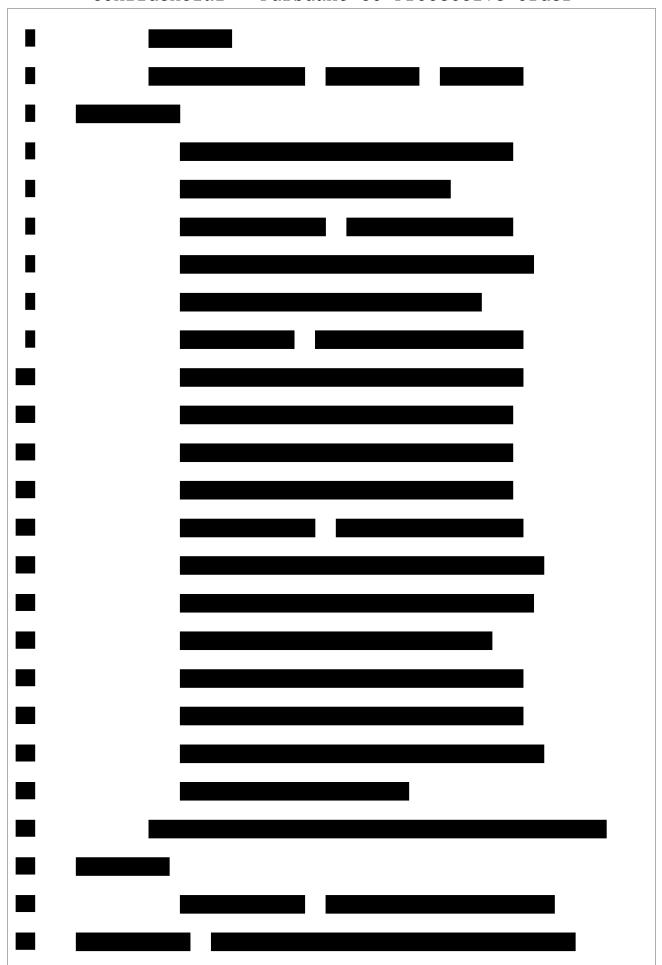


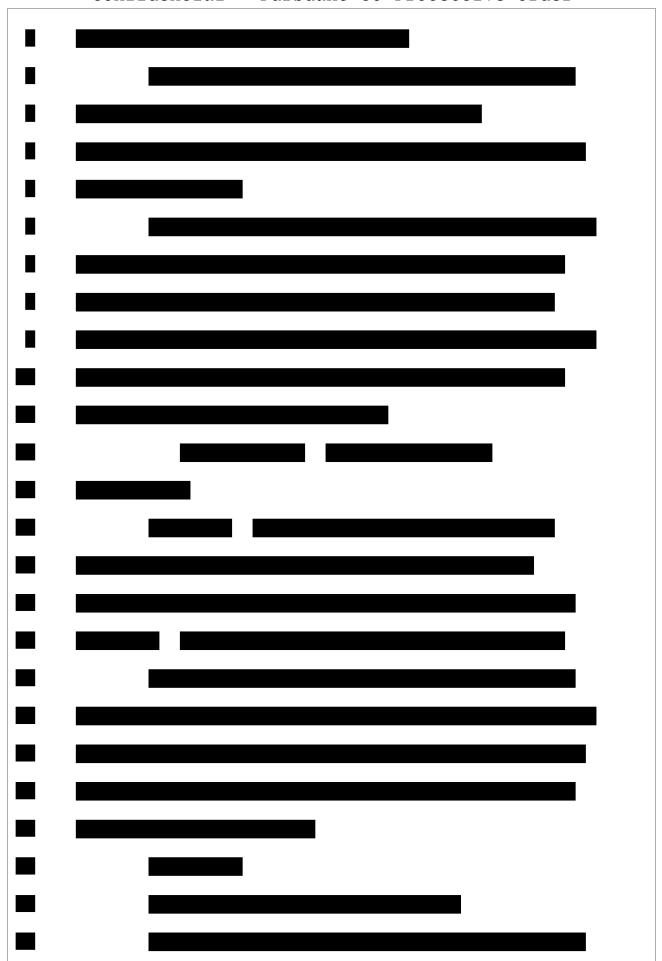


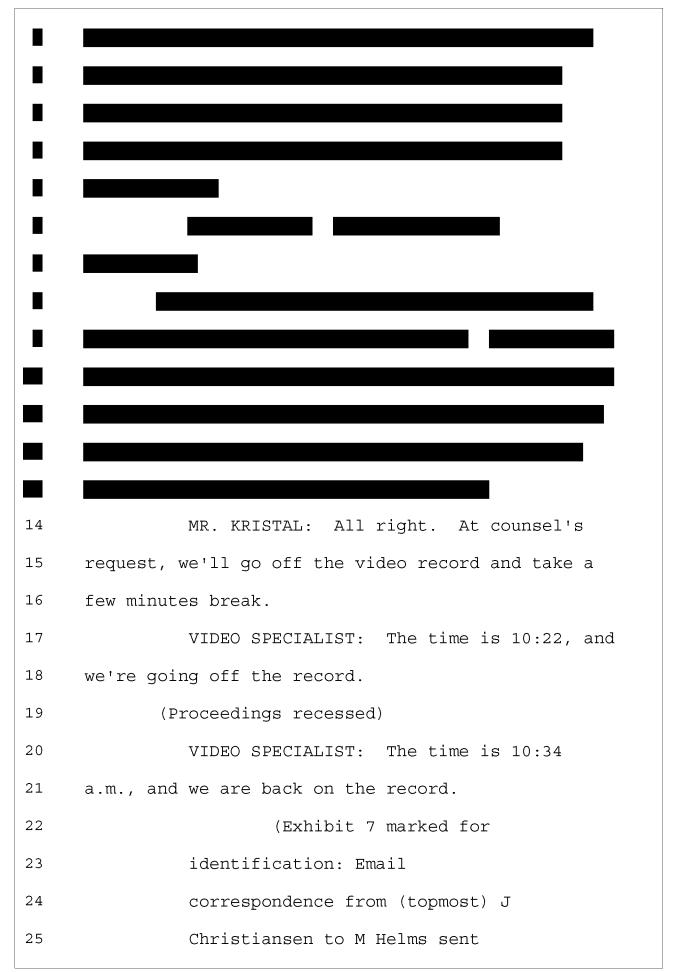


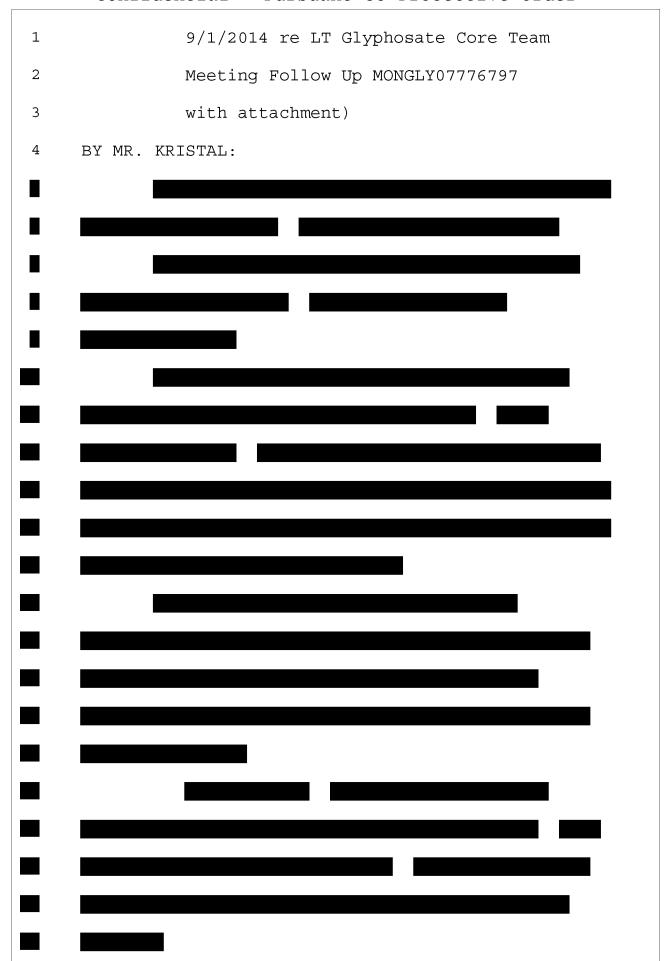


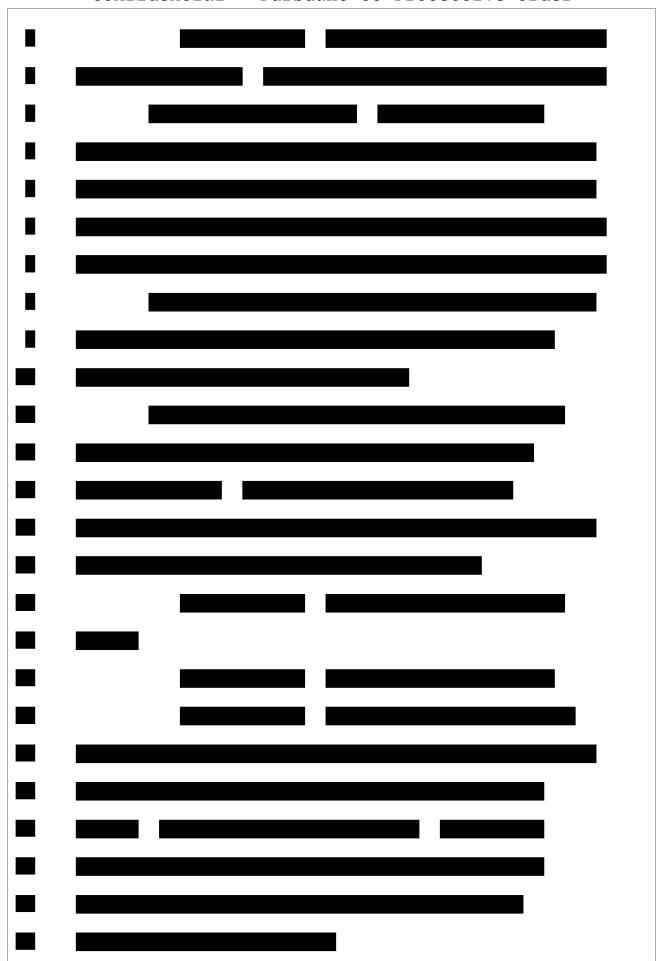


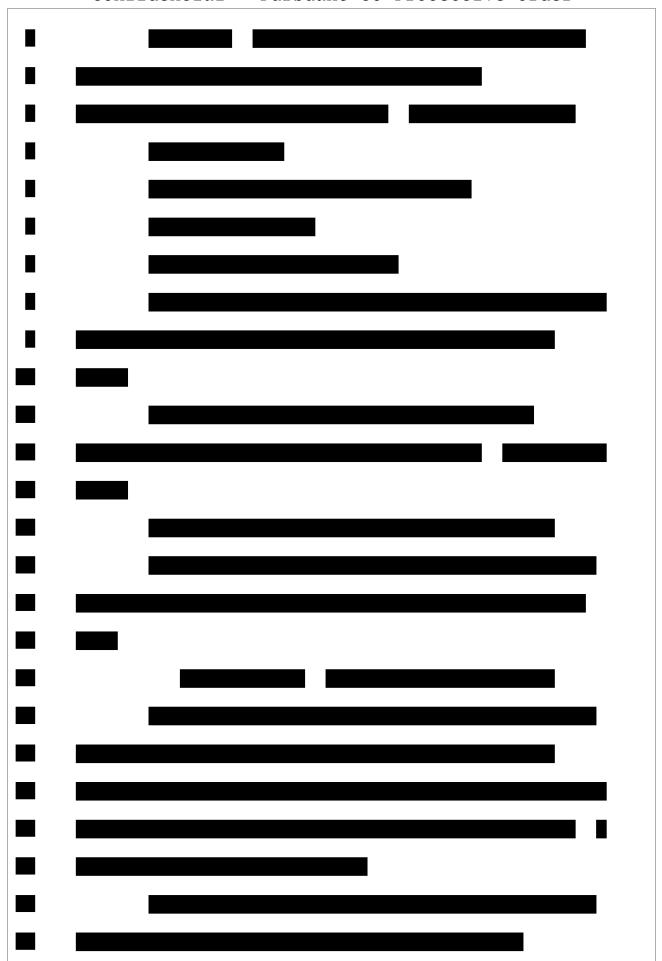


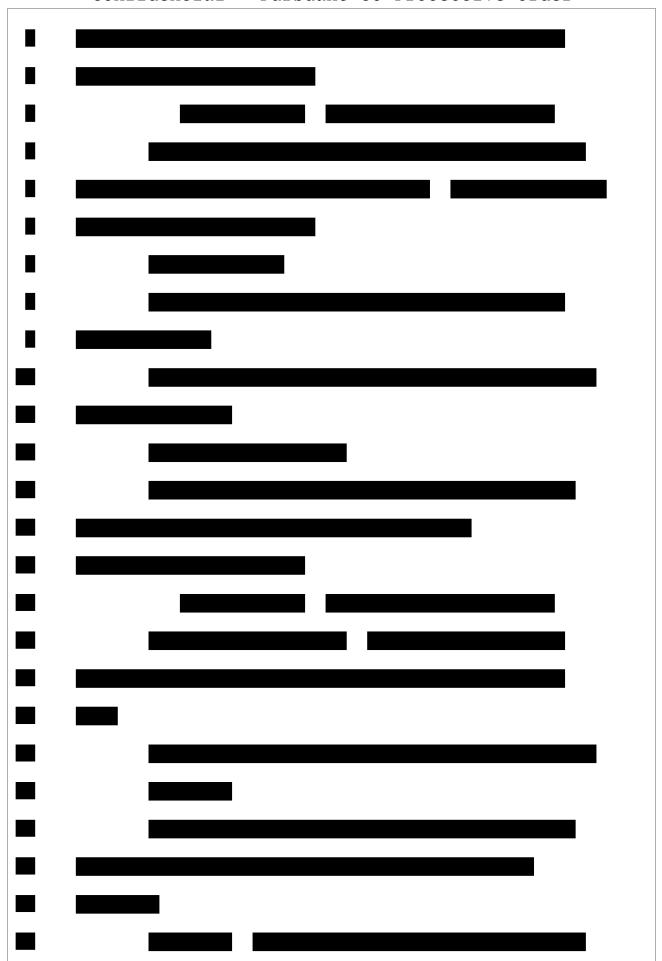


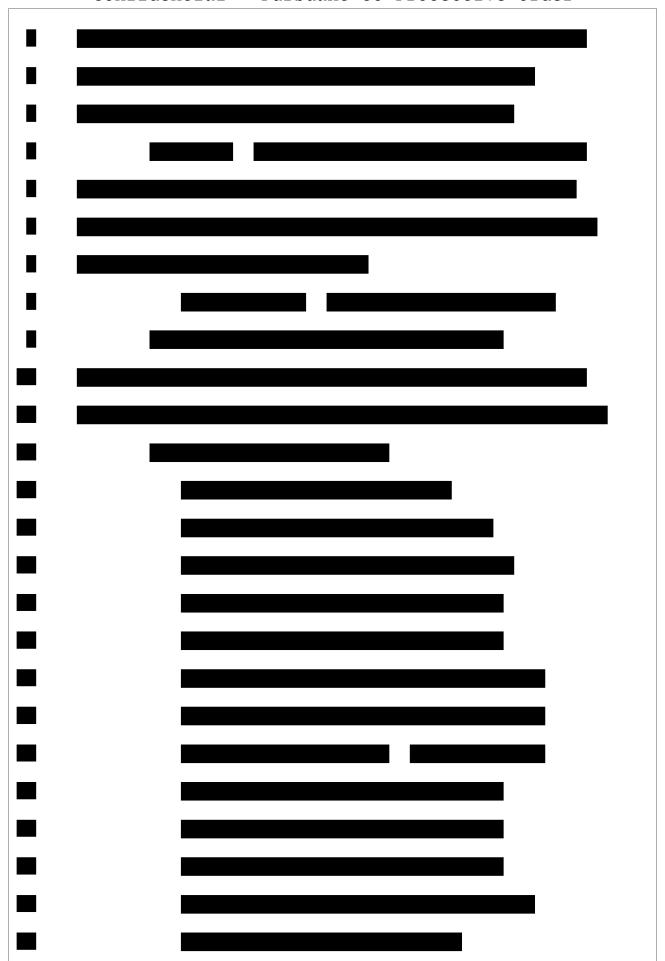


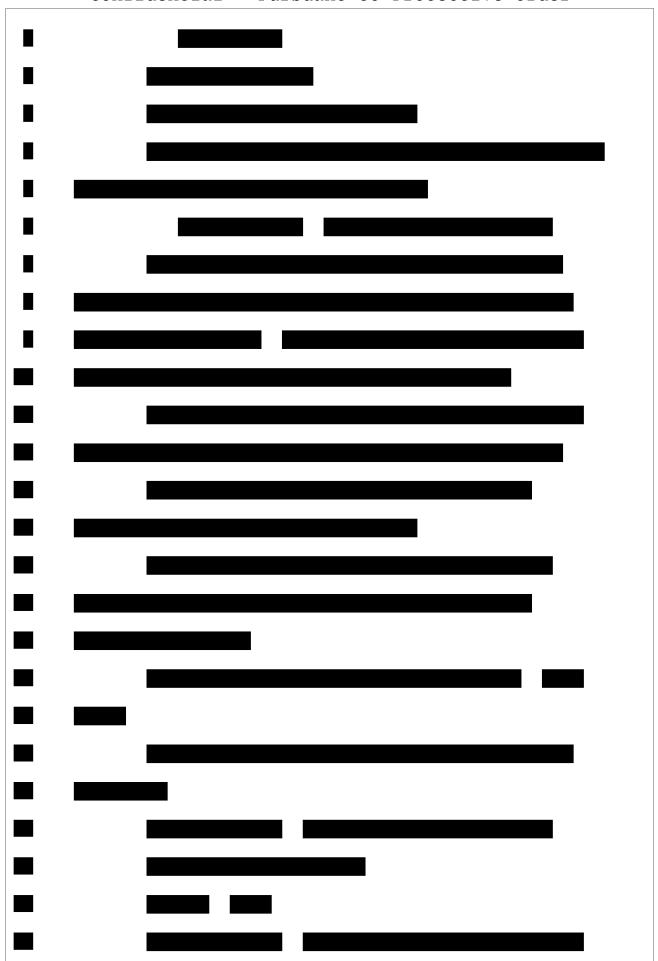


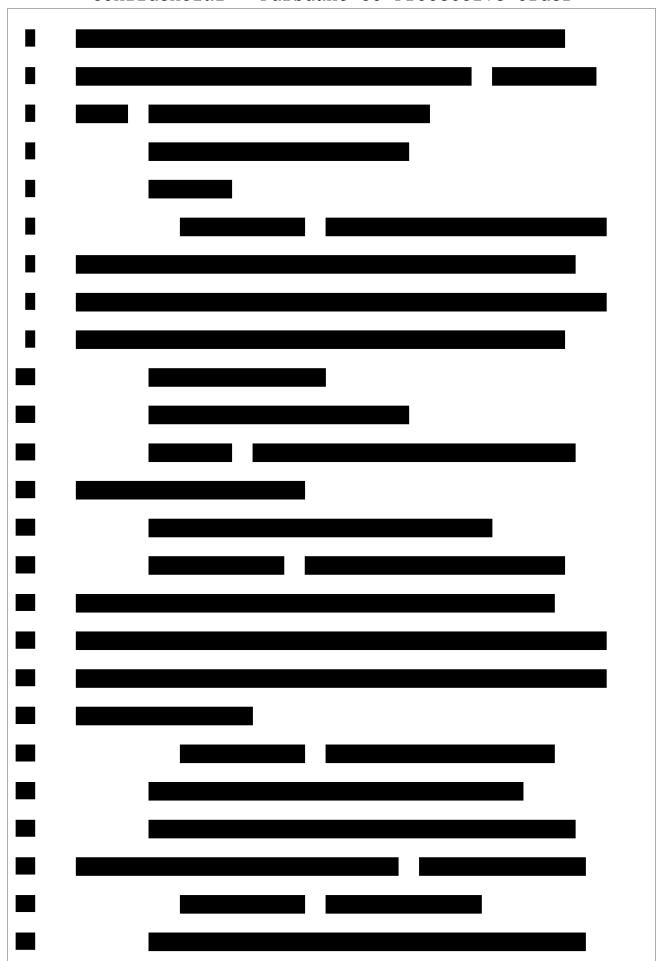


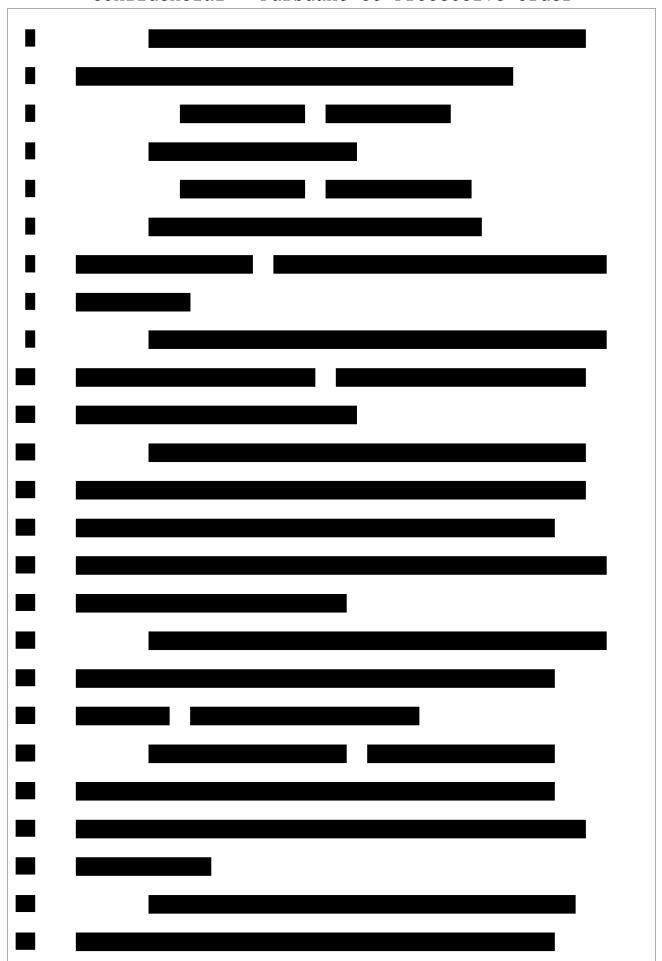


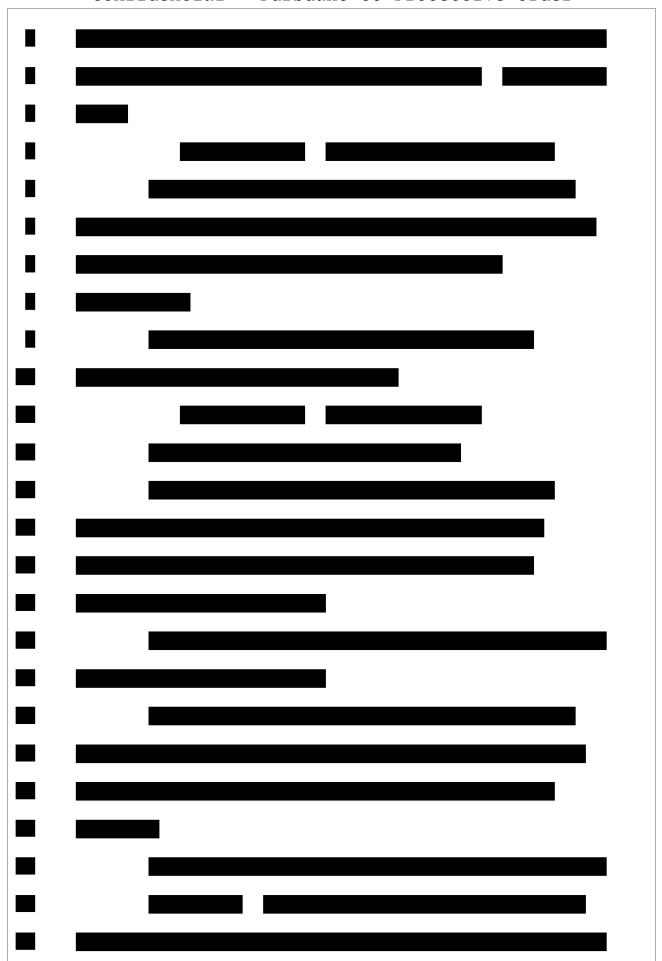


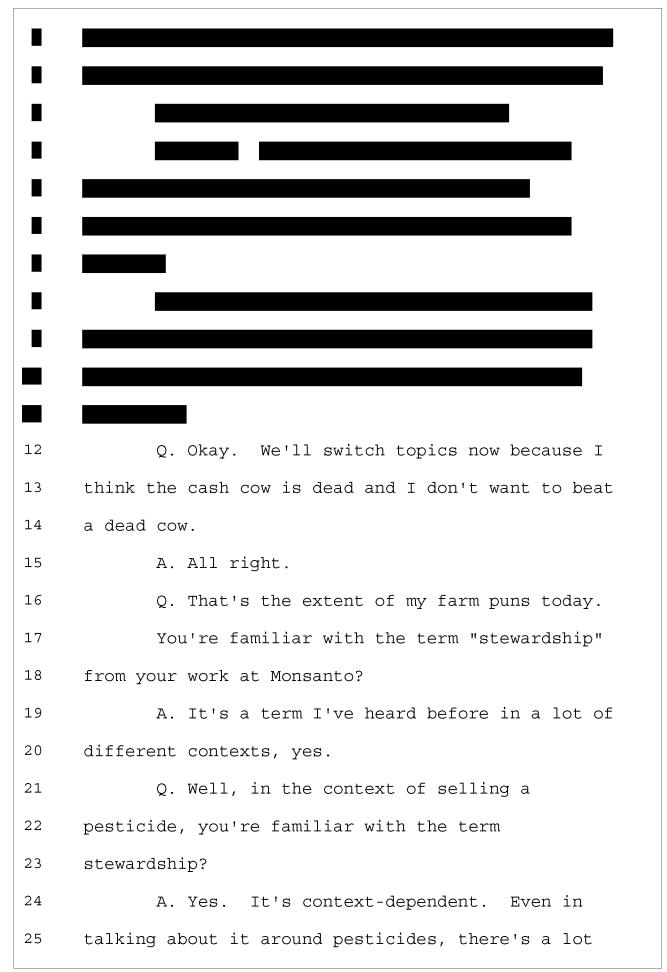












- of different ways it gets used, but I've heard the
- 2 term many times.
- Q. Have you ever been on the Monsanto
- 4 website to look at what they say about stewardship?
- 5 A. No.
- Q. There is a Monsanto website, correct?
- 7 A. Yes.
- Q. And part of the project that you were
- 9 involved in with FTI involved posting a number of
- 10 items on the Monsanto website about the
- 11 International Agency for Research on Cancer's
- 12 finding of probable carcinogenicity for glyphosate,
- 13 right?
- 14 A. No.
- Q. You were aware that was happening, right?
- A. I was aware that there was a team working
- on things like that to put information on the
- 18 website. I wasn't involved in it.
- 19 Q. Okay. Had you been to the Monsanto
- website recently?
- 21 A. No.
- O. This is a document from the Monsanto
- 23 website. I printed it out January 7th, 2019. It's
- the page on the website entitled "Product
- 25 Stewardship and The Pledge." And I've attached the

- International Code of Conduct on Pesticide 1 2. Management, which is linked to this document. 3 (Exhibit 8 marked for 4 identification: Monsanto statement 5 re Product Stewardship and The 6 Pledge) 7 O. Now in the Monsanto statement under 8 "Product Stewardship and The Pledge," Monsanto states, in part, that it has high stewardship 9 10 standards. Do you see that in the first paragraph 11 there? 12 A. I do. 13 Q. And then under the section "Stewardship 14 of Crop Protection Products," there's the words International Code of Conduct on Pesticide 15 16 Management that's underlined. Do you see that? 17 A. I do. 18 Q. And crop protection is the sort of 19 general bailiwick under which Roundup fell?
  - MR. PRESTES: Objection, form.
  - Q. It's a crop-protection product.
  - MR. PRESTES: Objection, form,
  - 23 foundation.
  - A. Yes, glyphosate and Roundup are
  - crop-protection products, among others.

- Q. And if you turn to the next page, the
- 2 International Code of Conduct on Pesticide
- Management, these are the links I was just --
- 4 printed out. In other words, if you clicked on the
- 5 words International Code of Conduct on Pesticide
- 6 Management, it takes you to the page where you can
- 7 have a number of different PDFs in different
- 8 languages.
- 9 Do you see it has a little icon there with
- the International Code of Conduct cover page? Do
- 11 you see that to the left of where it has Arabic,
- 12 Chinese, English, French?
- A. So I see what you're referencing there
- 14 with the little icons, yes.
- Q. Right. And if you turn two more pages
- 16 you come to that actual document.
- MR. PRESTES: You're not asking him
- whether that's true; you're just telling him that?
- MR. KRISTAL: I'm representing as an
- officer of the court -- and we went through this in
- one of the depositions recently. We can go through
- the exercise of going through the link, if we want.
- Q. But this document was attached, linked,
- to the website, if you followed the path.
- A. Okay. I'll keep following you, if you're

- 1 saying you're representing that this is the actual
- 2 document.
- Q. I'm representing it. Yes, I am. If you
- 4 turn to the third page, this is the International
- 5 Code of Conduct on Pesticide Management from 2014.
- 6 Do you see that at the bottom?
- 7 A. Okay.
- 8 Q. Is this the first time you've heard that
- 9 there's an International Code of Conduct on
- 10 Pesticide Management?
- 11 A. Yes.
- Q. And this is written by the World Health
- Organization, the Food and Agricultural
- Organization of the United Nations. Who was
- responsible at Monsanto for product stewardship?
- A. The majority of that, I think, is done by
- our regulatory team.
- Q. And if you would turn to VII in the
- 19 right-hand side, the forward by the World Health
- 20 Organization, director general, Margaret Chan. Do
- 21 you see that?
- 22 A. I do.
- Q. All right. In the second paragraph
- Ms. Chan writes:
- The main objective of the code of

```
1
                conduct is to maximize the benefits
 2.
                of pesticides to effectively
 3
                control pests in public health and
                agriculture while protecting human
 5
                and animal health and the
                environment from their harmful
 6
                effects."
 7
 8
             Do you see that?
                MR. PRESTES: Object, form, foundation.
 9
10
     Again, a document the witness has never seen.
11
             A. Yeah, you've read that correctly.
12
             Q. Okay. Is that generally your
13
     understanding of what crop protection product
14
      stewardship involves?
15
                MR. PRESTES: Same objection.
16
             A. Yeah, I don't know. I've never really
17
     thought about the definition of the term. They may
18
     be more expansive than that. I just have never
19
     been involved in these types of issues --
20
             Q. Okay.
21
             A. -- with the business.
22
             Q. I'm sorry. I didn't mean to interrupt.
23
     Were you done?
24
             A. Yes. Thank you.
25
             Q. On page 6 there's actually a definition
```

- 1 section. Nice of the World Health Organization to
- do that. Not VI, number 6.
- A. Okay.
- 4 Q. Upper right-hand corner there's a
- definition of product stewardship, correct?
- A. Yes.
- 7 Q. "Product stewardship means the
- 8 responsible and ethical management of a pesticide
- 9 product from its discovery through to its ultimate
- 10 use and beyond." That's the definition that the
- 11 World Health Organization is providing?
- MR. PRESTES: Objection, form,
- 13 foundation.
- 14 A. Yeah, I -- I see that that's the
- definition they have provided here, yes.
- Q. Is that more in line with your general
- understanding of what product stewardship means in
- the crop protection product area?
- 19 A. Yeah, I was more familiar with product
- stewardship in the context of our biotech crops,
- 21 but this definition isn't unfamiliar. There's --
- 22 the ethical management of pesticide products is
- 23 something I think we would absolutely agree with
- throughout our development cycle and
- 25 commercialization.

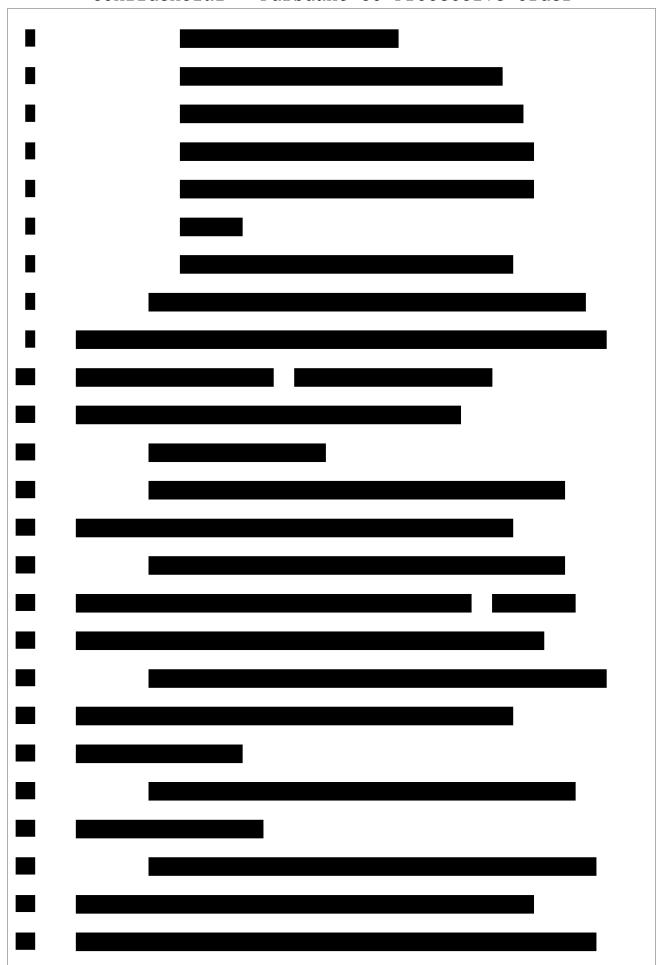
1 Q. And if you turn to the first page, 2. Monsanto under the stewardship says that Monsanto subscribes: 3 "We subscribe to international 4 5 stewardship standards, including the International Code of Conduct 6 7 on pesticide management issued by the United Nations food and 8 9 agricultural organization and fully 10 supported by responsible care 11 global charter." 12 Do you see that? 13 A. Yeah, I see that. 14 Q. Were you aware that Monsanto subscribed 15 to international stewardship standards, and this 16 one in particular? 17 A. It doesn't surprise me. I hadn't spent a 18 lot of time reading the content of our website 19 previously, but we talk about product stewardship a 20 lot and its importance a lot in our internal 21 meetings and our training modules. So it's common 22 practice in Monsanto. 23 Q. On the same page that we looked at the product stewardship definition, I'd like to look at 24 the definition of product (or pesticide product). 25

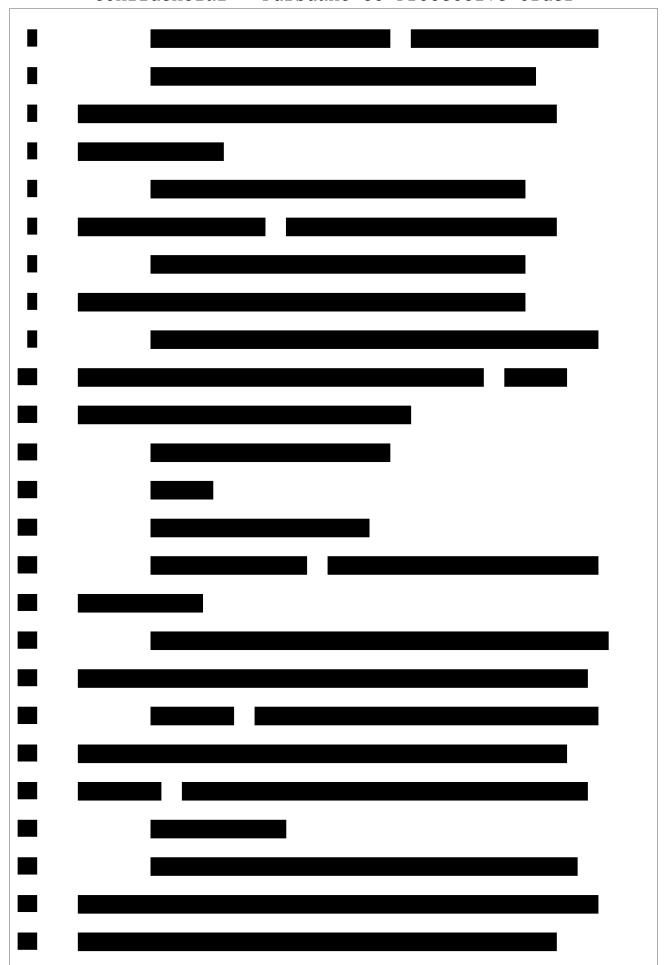
- 1 A. Can you remind me the page?
- 2 Q. Page 6.
- A. Thank you. Yes, I see the definition.
- Q. Okay. I want to read that definition.
- 5 And this draws a distinction, and that's what I'm
- 6 going to be asking you about, between the active
- 7 ingredient, such as glyphosate, and the actual
- 8 pesticide product meaning Roundup. All right?
- 9 So with that in mind, let me read this and
- then I'll ask you about that. Okay?
- 11 A. Sure.
- 12 Q. "Product (or pesticide product) means the
- formulated product (pesticide active ingredients
- and/or co-formulants) in the form in which it is
- packaged and sold." Do you see that?
- MR. PRESTES: Objection, foundation.
- 17 A. I see the words. Yes, you read that.
- 18 O. And that's consistent with your
- understanding of the difference between an active
- ingredient and an actual product.
- MR. PRESTES: Objection, foundation.
- A. You know, I'm not a specialist in that,
- but my personal belief, yeah, I would say that the
- 24 active ingredient and formulated product are two
- 25 different things. Is that that what you're asking?

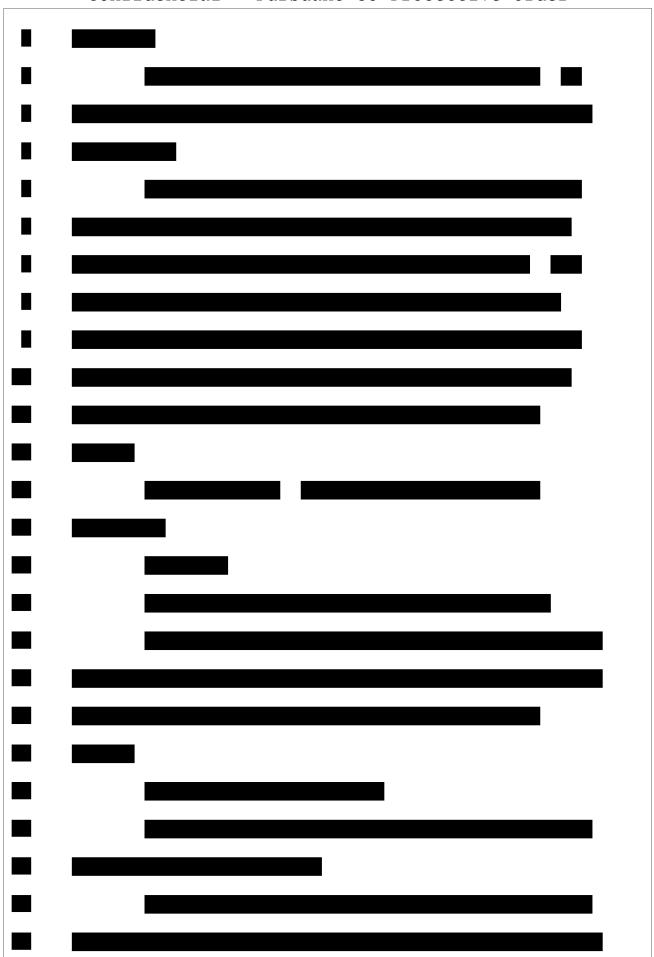
1 Q. Right. The active ingredient is one of 2 the components of the formulated product? 3 A. Yes, in the case of Roundup, I don't know 4 if in every instance that's true. Like maybe 5 sometimes they're the same, but in this case that's 6 right. 7 O. Okay. And the definition here of 8 pesticide product means the actual -- in the case of Roundup -- it means the Roundup in the container 9 10 sold to the person buying it. 11 MR. PRESTES: Objection, foundation. 12 A. Yes, I think that's -- that definition of 13 product would mean the final product being sold on 14 the shelf. 15 Q. Now if you turn to page 11, article 4 is entitled "Testing of Pesticides." And 4.1, and I'm 16 17 going to read the paragraph under that, 4.1.1 18 reads: 19 "Pesticide industry should ensure 20 that each pesticide and pesticide 21 product is adequately and 22 effectively tested by recognized 23 procedures and test methods so as 24 to fully evaluate its inherent 25 physical, chemical or biological

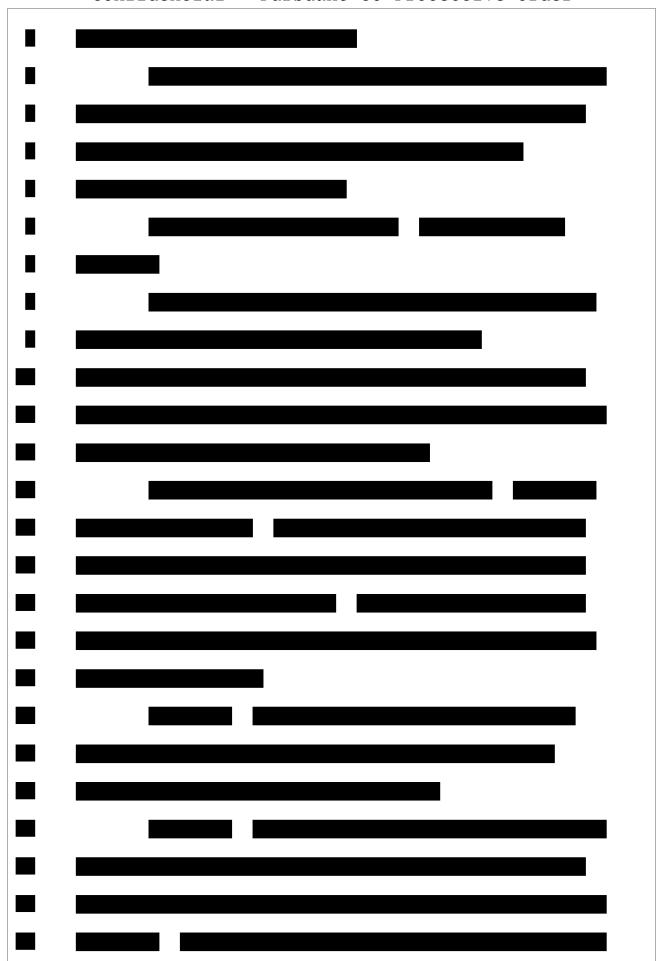
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1
                properties, efficacy, behavior,
 2.
                fate, hazard and risk with regard
 3
                to the various anticipated uses and
 4
                conditions in regions or countries
 5
                of use."
 6
             Do you see all that?
 7
                MR. PRESTES: Objection, foundation.
 8
             A. Yes, I see the words you've read there,
 9
     yes.
10
             Q. All right. So to untangle that a little
11
     bit, the International Code of Conduct to which
12
     Monsanto subscribes says that the pesticide
13
      industry should test for hazard and risk the
14
     pesticide and pesticide product -- that's what it's
15
      saying in the context that I'm now using -- is that
16
      fair?
17
                MR. PRESTES: Objection, foundation.
                                                       Now
18
     you're asking him to interpret a document that he's
19
     never seen before.
20
             A. It does say the words "pesticide" and
      "pesticide product."
21
22
             Q. And "testing"?
23
             A. Each pesticide and pesticide product is
     adequately and effectively tested by recognized
24
25
     procedures... It's what you've read, but, yes, it
```

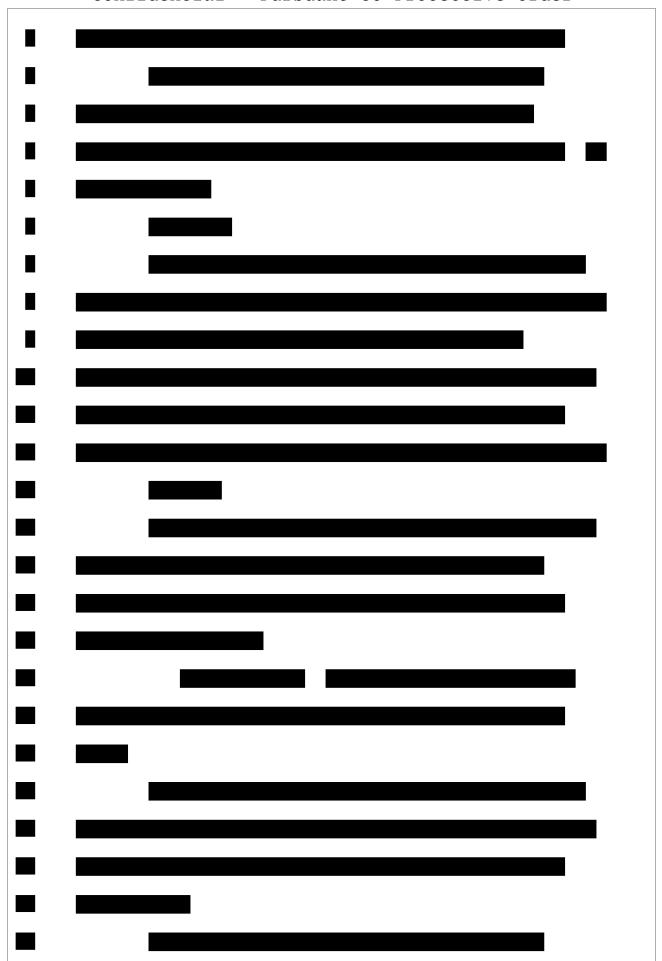
- 1 calls out both of those things in the intro clause
- of that -- of that section.
- Q. And the tests should be for a number of
- 4 different things, but it includes hazards and
- 5 risks, right?
- 6 MR. PRESTES: Objection, foundation.
- 7 A. Yeah, again, it's not my area of
- 8 expertise at all, but it says "hazards and risks"
- 9 there, yes.
- 10 Q. Were there documents that you reviewed
- that you had never seen before?
- MR. PRESTES: Objection, form.
- 13 A. Yeah, there are some documents that I
- 14 reviewed that I hadn't seen before.
- 15 Q. Okay. Did you disregard any document
- that you reviewed in your preparation for the
- deposition because you had never seen it before?
- MR. PRESTES: Objection, asked and
- 19 answered.
- 20 A. I didn't always understand the context or
- what was intended by the documents that I reviewed,
- but I didn't disregard them just because I hadn't
- 23 seen them before.











9	MR. KRISTAL: I'm going to mark as
0	Exhibit 10, this is a September 21st, 2009 email
1	from Donna Farmer to John, is it pronounced
2	Combest?
3	(Exhibit 10 marked for
5	identification: Email
.6	correspondence from (topmost) D  Farmer to J Combest sent 9/21/2009
7	re Roundup article in Fremantle
8	Herald MONGLY01192115)
9	A. I don't know who that is. I'll have to
0	look at it.
1	MR. PRESTES: Hey, Jerry, just a quick
2	housekeeping question. I know you marked the
3	30(b)(6) notice as well as the other notice. I
-	
4	assume, so far we're on the personal capacity piece

- I don't want -- I don't want to make your
- life impossible by on every question raising the
- issue, do you mean on behalf of Monsanto or do you
- 4 mean in the witness's personal capacity. My
- 5 understanding is that so far he's been testifying
- 6 in his personal capacity.
- 7 MR. KRISTAL: Let me -- it doesn't matter
- 8 until such time as somebody seeks to use the
- 9 transcript, because then it matters as to whether
- or not it comes in as stated binding Monsanto or a
- 11 personal statement as a fact witness, right?
- So the questions are what they are. When we
- designate it, if you want to object one way and the
- judge will instruct this is not a binding
- statement, that is a binding statement, that's
- 16 fine, but I'm not going to be parsing out exactly
- which questions fall into which category.
- MR. PRESTES: Okay. Then I --
- MR. KRISTAL: Because I think there's a
- tremendous overlap and it would be impossible to do
- that. But I understand what you're saying. We'll
- 22 move forward.
- Q. The Bates number --
- MR. PARISER: So to be clear, we have a
- standing objection based on scope?

- 1 MR. KRISTAL: Yeah. And you would have
- that objection, I think, anyway when I designate
- something, if you're saying -- to the extent it
- 4 would -- might not be considered a binding
- 5 statement. In other words, everything is a fact
- 6 witness statement. Some of it binds Monsanto if
- 7 it's said in the capacity as a corporate
- 8 representative, right? Anyway...
- 9 Q. The September 21st, 2009 Donna Farmer
- 10 email is MONGLY01192115, and the subject is Roundup
- 11 Article in Fremantle Herald, F-R-E-M-A-N-T-L-E.
- 12 And if we start at the beginning of this chain --
- when you get these emails -- you've seen this one
- 14 before, right?
- 15 A. This looks familiar to me, although I can
- never guite tell if it's exactly this email or some
- forwarded version of it or something else, but...
- 18 I've seen this sort of Q&A on these questions.
- 19 Q. Okay.
- MR. PRESTES: And just for -- you said
- when he gets these emails, are you suggesting he's
- on this email?
- A. Yeah. When I see these emails, yes.
- 24 I've never received the email that --
- O. I understand that.

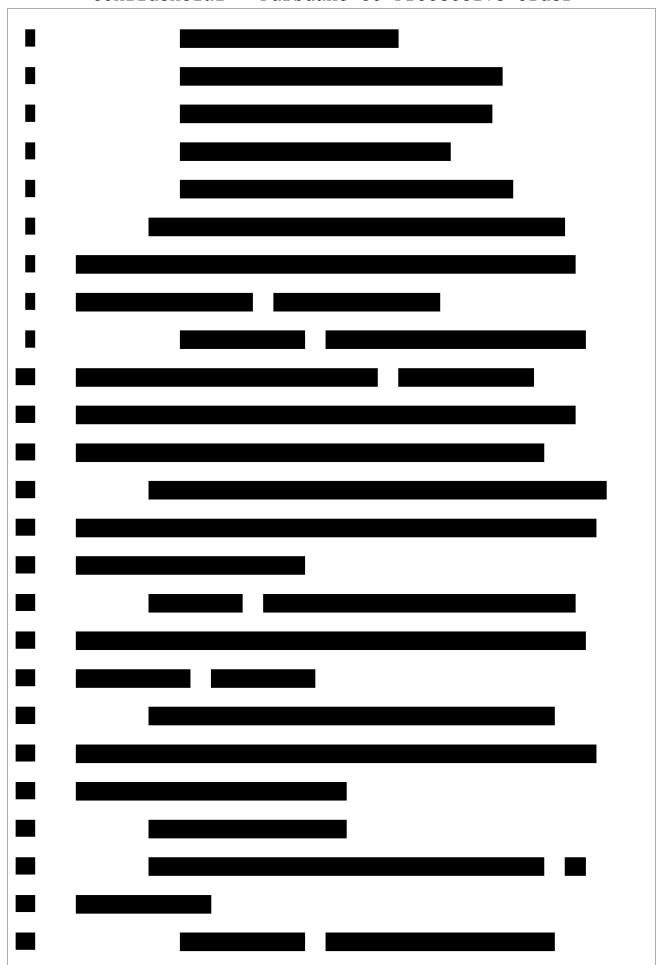
- 1 A. -- but I reviewed the email, yes.
- Q. When you review these emails, you start
- at the end because that is generally the earlier
- 4 email, and then you come forward to see what is
- being said in the conversation, so to speak?
- A. No, not always. Sometimes, but...
- 7 Q. Okay. Your understanding of this email
- 8 is -- and I can read from it -- is that there had
- 9 been an article published in the Fremantle Herald,
- which is a newspaper in Australia, involving
- 11 glyphosate, and there were questions about what
- could or couldn't be said in response to the
- 13 article. Is that a fair characterization?
- MR. PRESTES: Objection, form,
- 15 foundation, to the extent that the witness isn't on
- 16 the email and hasn't -- doesn't -- isn't involved.
- 17 A. Yeah, I -- I hadn't looked at it with
- that answer or question in mind, so maybe just let
- me go through it real quick and see what was
- 20 the ...
- Q. If you start on the very last page, which
- 22 is the first email --
- A. Yeah, that's what I was doing.
- Q. Right. "... the article in question has
- 25 appeared in the Fremantle Herald as expected. We

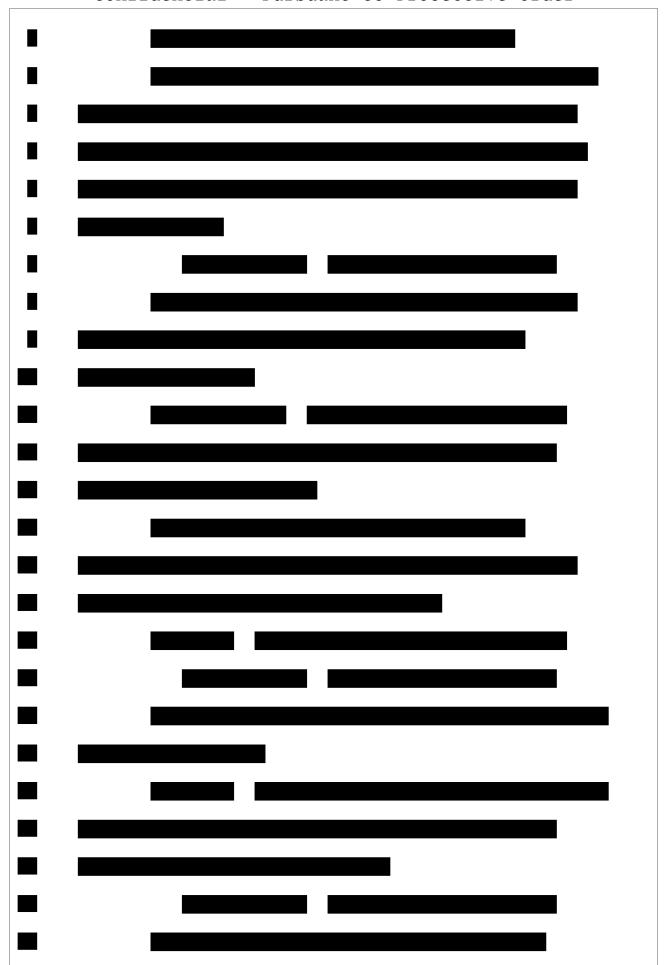
- 1 need to think about our response, possible
- 2 suggestions," and then there's some suggestions,
- 3 right?
- 4 MR. PRESTES: Objection, foundation.
- 5 A. Okay. Go ahead and ask your request
- 6 again. I'm sorry. I hadn't taken all the context
- 7 in there.
- Q. Not a problem. I want to get this in the
- 9 right context.
- 10 Eventually this email chain lands on Donna
- 11 Farmer's computer for her to weigh in on what would
- be an appropriate response to an article that
- appeared in a newspaper in Australia, is that fair
- to say, involving Roundup?
- MR. PRESTES: Objection, foundation.
- 16 A. So there's the start of the -- the start
- of the email chain involves a bunch of people I
- don't know that I do see some Australian addresses
- 19 here.
- Q. Monsanto --
- A. Monsanto Australia, so I'm going to
- 22 assume -- I just don't know any of these people,
- and I haven't ever met them or talked to them.
- 24 And then it looks like they had an article
- down there that they felt had some inaccuracies,

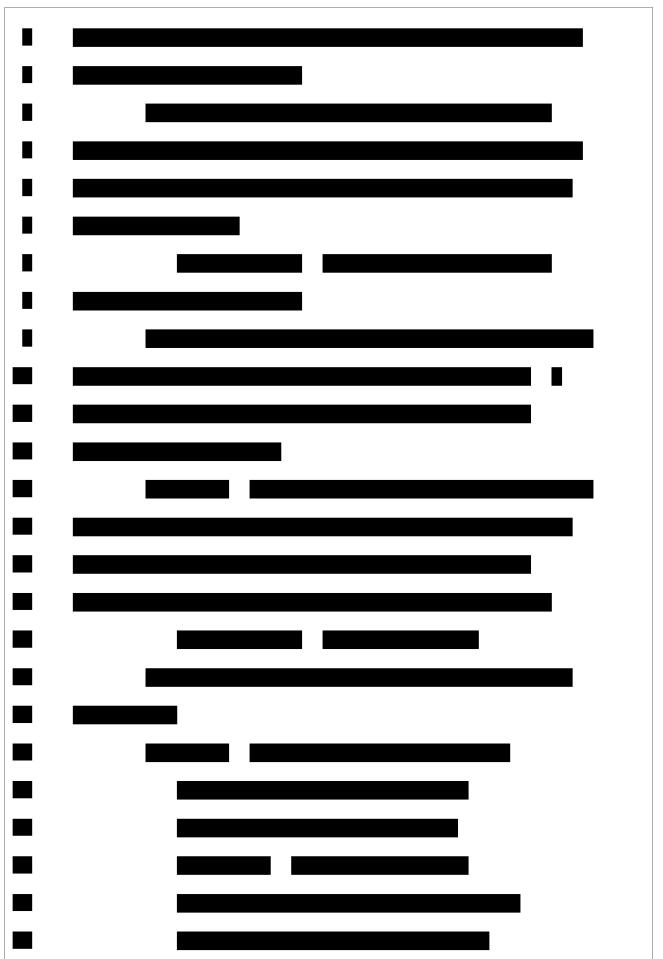
- and like many times it goes back to our science
- team for some help in understanding how to provide
- 3 the proper context or facts so that we can
- 4 communicate that back to the reporter or the
- 5 newspaper that published the -- the erroneous
- 6 story. So that's the context here, I think, that I
- 7 understand.
- 8 Q. Okay. And then on the first page that
- 9 ends 115, the very first page, towards the bottom,
- 10 Mr. Combest, C-O-M-B-E-S-T, forwards the Australian
- email thread to a woman named Janice Person, Donna
- 12 Farmer, and a gentleman Thomas Helscher. Do you
- 13 see that?
- 14 A. I do.
- Q. Do you know who Ms. Person is?
- 16 A. No.
- Q. Do you know who Mr. Helscher is?
- 18 A. I've heard the name, somebody in our
- 19 corporate engagement team, I believe, but I've
- 20 never met him.
- Q. And then Donna Farmer's first response
- is, "did you find the link? This is to their Q&A,
- and I can tell you they have a number of things
- that are not acceptable." Do you see that?
- MR. PRESTES: Objection, foundation.

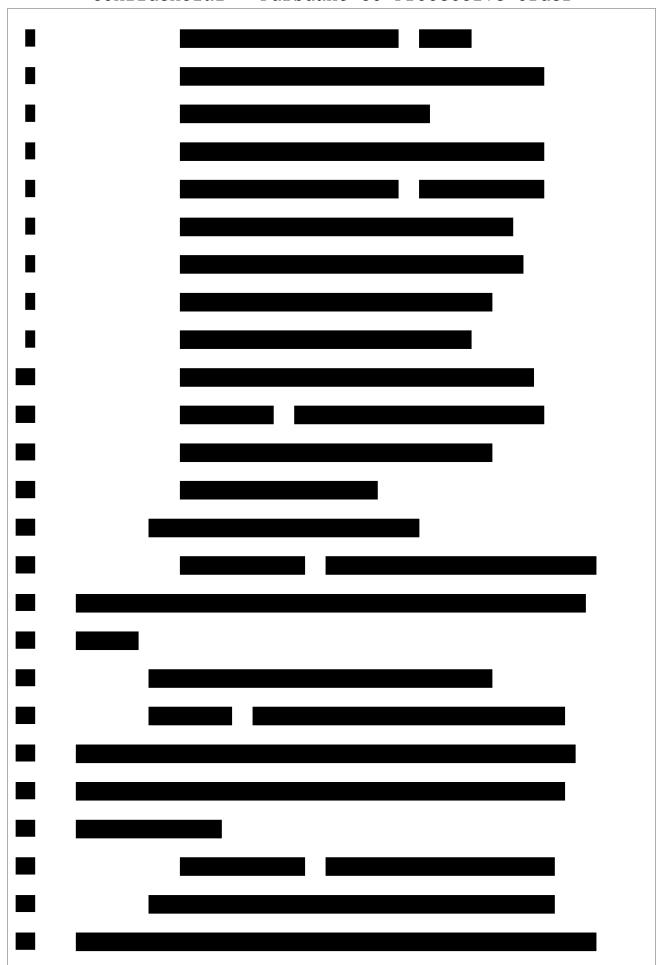
- 1 A. Yeah, I see the words there, yes.
- Q. And then there's a link underneath that.
- 3 She puts in a link, correct?
- 4 A. That's correct. I see a link that ...
- 5 Q. And then the top email, the one from
- 6 12:07 p.m. on 9-21-2009, Donna Farmer comments on
- 7 some of the statements that were made in the link
- 8 that she finds unacceptable, correct?
- 9 MR. PRESTES: Objection, foundation.
- 10 I'll have a continuing objection to the exhibit and
- 11 to questioning the witness on an exhibit that he's
- not on and doesn't know about.
- Q. Well, when you read this email before, or
- some similar version of it, you had no problem
- understanding what was being said, did you?
- A. There's parts of this that I just don't
- 17 have context of, like she references the Australian
- 18 site. I don't know if she's referencing that link
- 19 or not.
- Q. Well, that is an Australian site, the
- link she sent, right?
- A. Yeah. She says the Australian site, and
- I don't know if she's talking about the news
- 24 article or that link, but we can assume that she's
- gone to an Australian site.

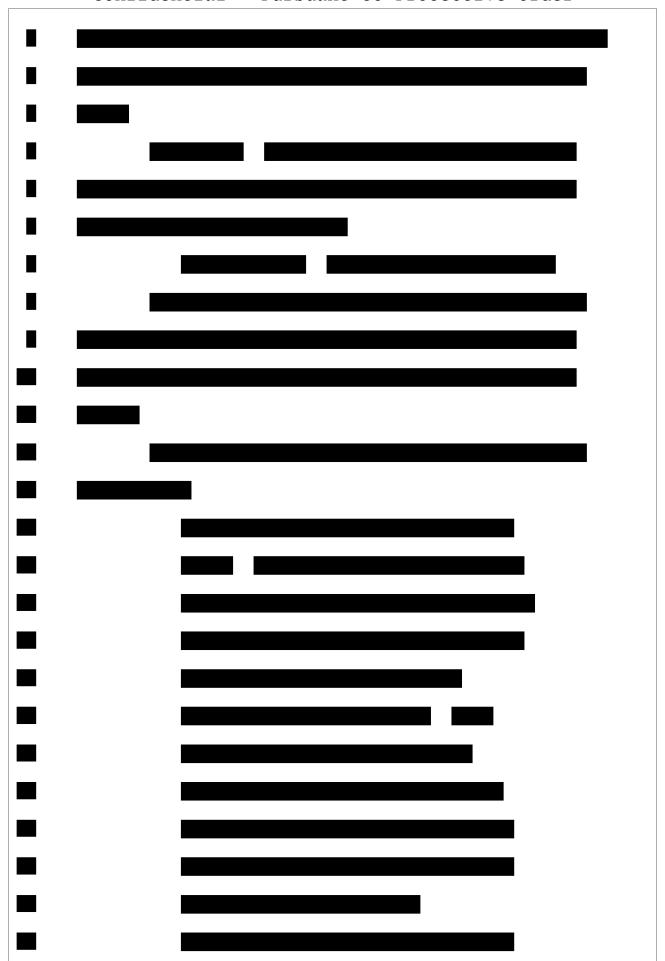
1 Again, this is one, I think, where the 2. people who are on this are better to talk about 3 what they actually did or didn't do, but what's the 4 question you're asking? 5 Q. The question is, Donna Farmer says, "you cannot say that Roundup does not cause cancer. We 6 7 have not done carcinogenicity studies with 8 Roundup." Do you see that? 9 MR. PRESTES: Objection, foundation. 10 A. I see the words there. 11 Q. Okay. And is that your understanding or you have no understanding one way or the other as 12 13 to whether or not Monsanto ever did carcinogenicity 14 studies with the formulated product Roundup? 15 A. Yeah, I actually don't know what studies 16 we did or didn't do in that context. I'm not 17 really the scientist. 18 Q. And would you rely on Dr. Farmer for that 19 kind of information? 20 A. Among others, yes. 21 Q. Okay.

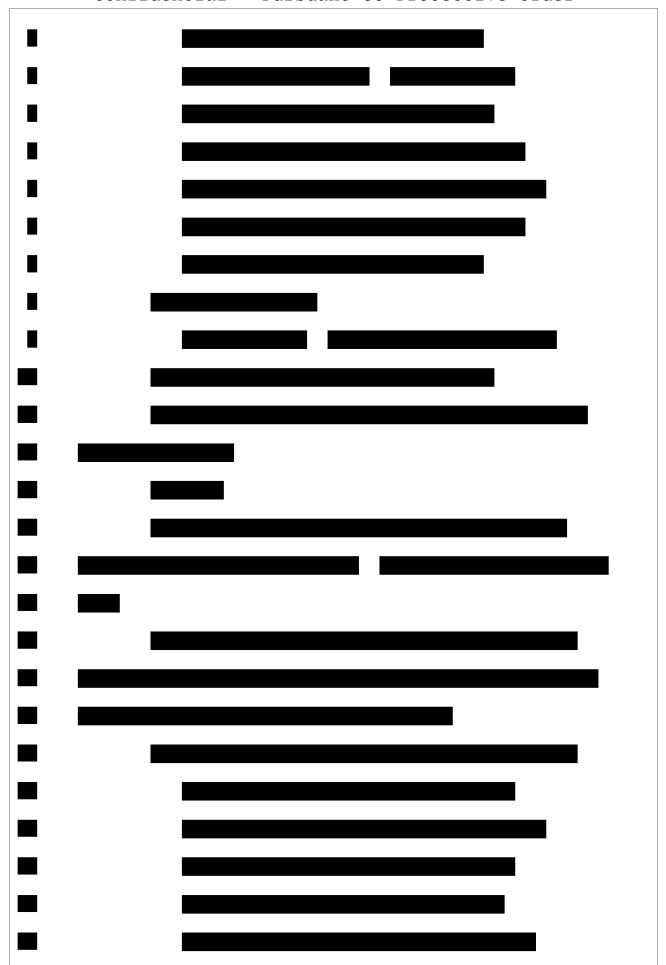


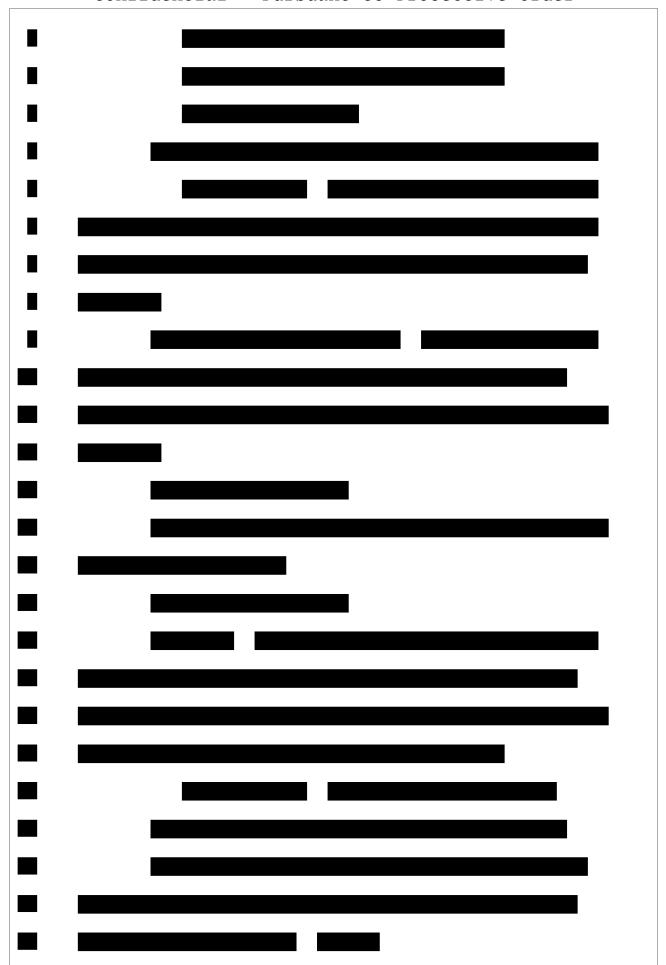


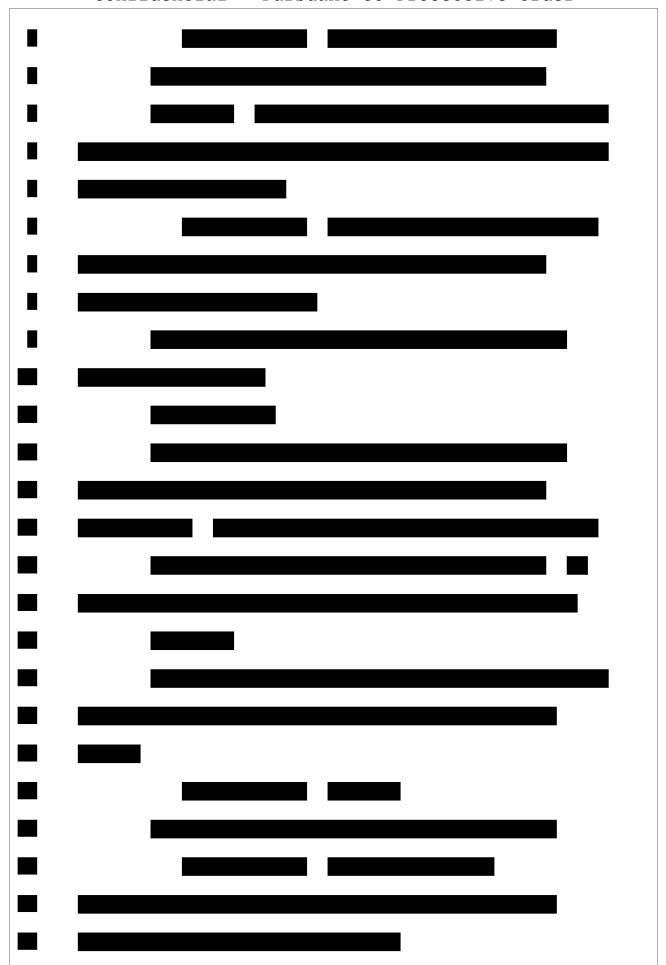


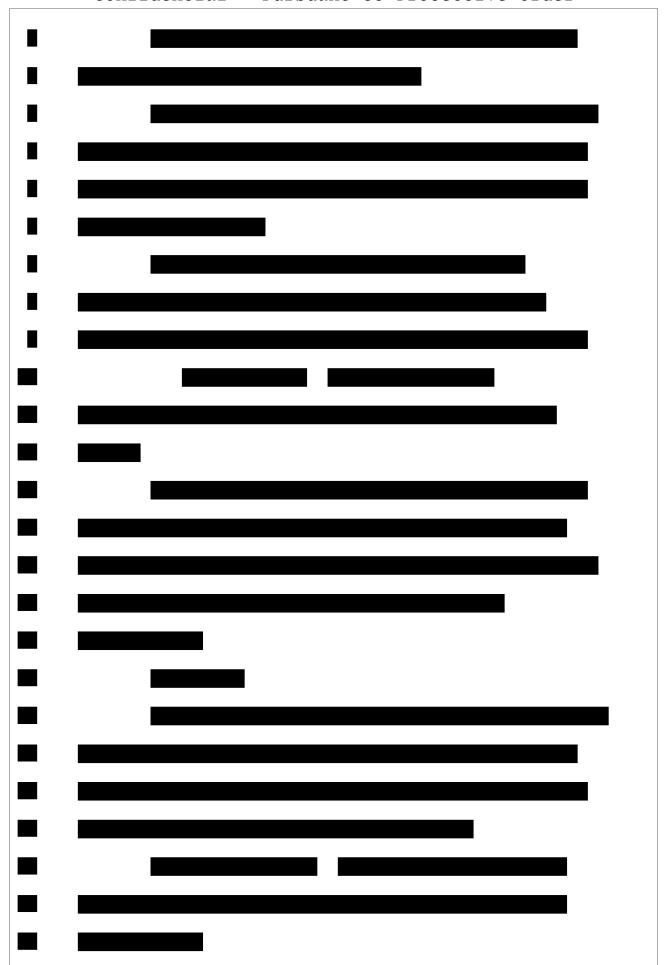


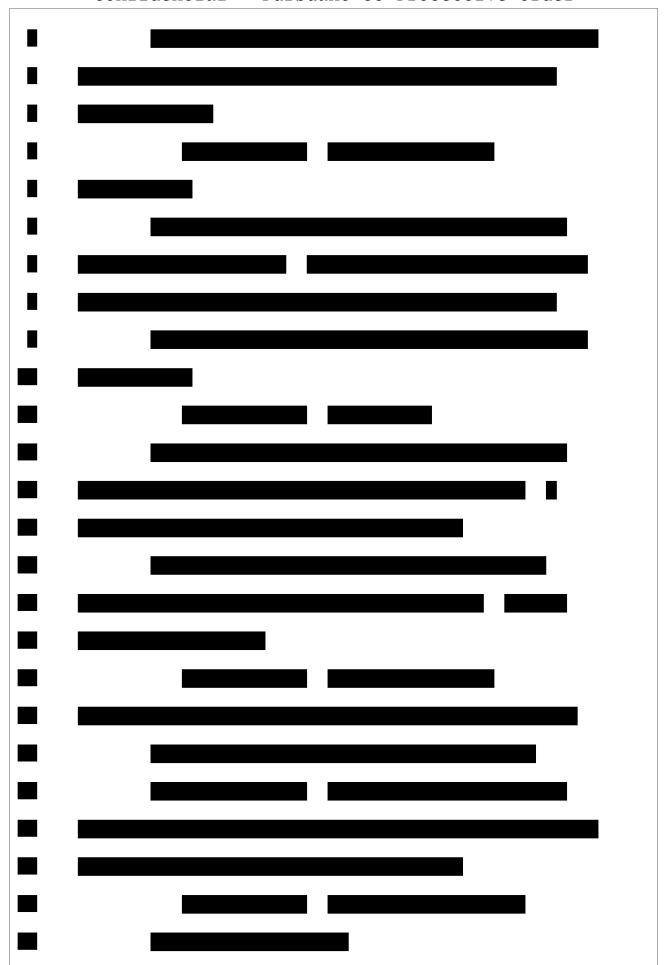


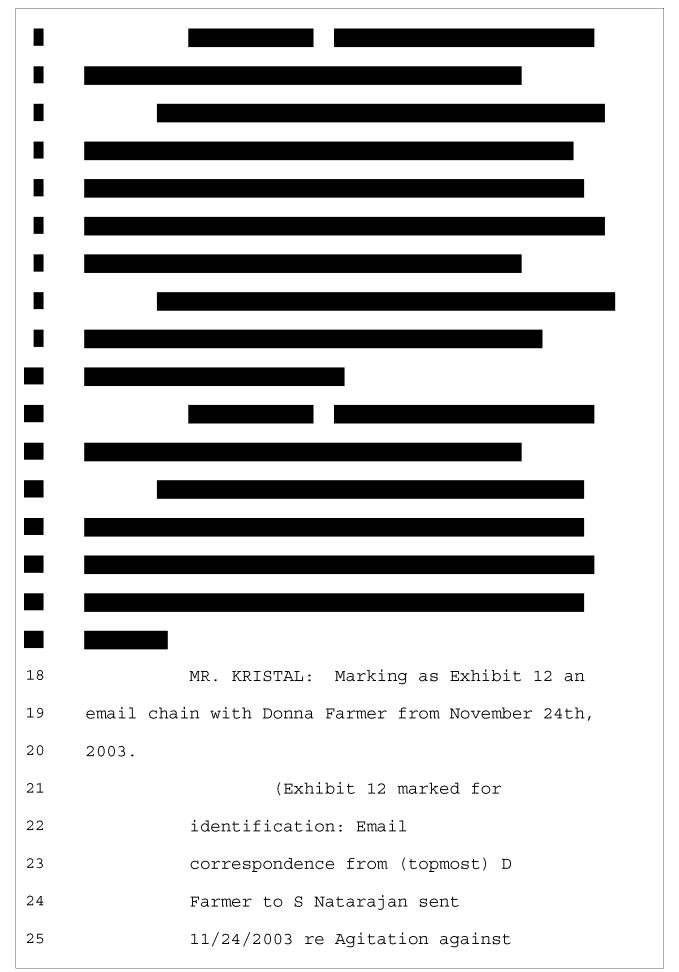












- 1 Roundup MONGLY00922458)
- Q. Bates number is MONGLY002922458, and the
- 3 subject is "agitation against Roundup." Do you see
- 4 that?
- 5 MR. PRESTES: Object to the exhibit and
- 6 to all the questioning on the exhibit. It's
- another document that the witness didn't send,
- 8 didn't receive, and that is dated years before he
- 9 was even employed at Monsanto in this instance.
- 10 Q. Okay. Did you review documents in
- 11 preparation for today that predated your employment
- 12 at Monsanto?
- 13 A. There were some, yes.
- Q. And you understood what they were saying
- in context?
- A. No, I don't always have the context, but
- 17 I reviewed them.
- Q. And you reviewed them to be able to, in
- 19 part, testify here today in front of this jury?
- MR. PRESTES: Don't answer. We're not
- going to get into why he was reviewing some
- documents and why he was reviewing others. We
- provided you a list of the documents he reviewed in
- 24 preparation for his deposition as we were required
- 25 to do.

- 1 MR. KRISTAL: Right, about 36 hours ago.
- MR. PRESTES: Forty-eight, which is what
- 3 we're required to do.
- 4 Q. Did you disregard any document that
- 5 predated your employment at Monsanto in your review
- of documents in preparation for this deposition?
- 7 A. No.
- 8 O. Okay. In this email, if you look at the
- 9 one down at the bottom of the first page, Donna
- 10 Farmer is writing to a number of different people.
- 11 Do you see that?
- MR. PRESTES: Objection, foundation.
- 13 A. I see that.
- Q. Do you know any of the people listed
- 15 here?
- MR. PRESTES: You're talking about on the
- 17 first page, Jerry?
- MR. KRISTAL: First page, Saturday,
- 19 November 22nd, 2003 at 4:46 a.m.
- A. I know Sekhar, the recipient of the email
- 21 from Donna. I think he was the head of our India
- business at that time.
- Q. And his name is Sekhar, S-E-K-H-A-R?
- A. I think that's how you say it.
- Q. Natarajan, N-A-T-A-R-A-J-A-N.

1 A. Yeah, I think that's right. And then Alan Smith I've met before too. He's a former 2. employee. 3 4 O. And what was his function? 5 A. I think he was actually involved in the 6 crop protection business on the commercial side. 7 O. Donna Farmer writes: 8 "Your Q&A was forwarded to Kathy Carr and me for review (see 9 10 attached). I am the toxicologist 11 responsible for glyphosate and 12 glyphosate-based products 13 worldwide, and Kathy provides 14 ecotoxicology support for 15 glyphosate globally as well as 16 manages the information resources 17 for glyphosate." 18 Do you see that? 19 MR. PRESTES: Objection, form, 20 foundation. If the question is just do you see it, let him know if he read it right. 21 22 A. That's how I've been answering the 23 questions there. Yeah, I see what you've read. 24 Q. And Dr. Farmer is now weighing in, when 25 it says Q&A, that your understanding is questions

- 1 and answers?
- MR. PRESTES: Objection, foundation.
- A. Yeah, I wasn't on the email, but I would
- 4 assume Q&A means questions and answers.
- 5 Q. And the last paragraph reads, from
- 6 November 2004, in Donna Farmer's email, "the terms
- 7 glyphosate and Roundup cannot be used
- 8 interchangeably nor can you use Roundup for all
- 9 glyphosate-based herbicides anymore." Do you see
- 10 that?
- MR. PRESTES: Objection, foundation, and
- 12 you said it was from 2004 and it's not.
- MR. KRISTAL: Right, 2003.
- 14 A. I see. I see the sentence, yes.
- Q. Okay. And that was your understanding
- 16 when you were at Monsanto, correct? Glyphosate and
- 17 Roundup were two different things.
- 18 A. My understanding at Monsanto is
- 19 glyphosate is the active ingredient. Roundup is a
- 20 formulated product.
- Q. Okay. And then Donna Farmer goes on to
- 22 say, "for example, you cannot say that Roundup is
- 23 not a carcinogen. We have not done the necessary
- testing on the formulation to make that statement."
- 25 Do you see that?

- 1 MR. PRESTES: Objection, foundation.
- A. Yeah, I see the words there.
- Q. And that was the subject of the newspaper
- 4 article that you had obtained in 2017 from the
- 5 Bloomberg News Network that had been forwarded to
- 6 you, correct?
- 7 MR. PRESTES: Objection, foundation.
- 8 A. That -- I'm trying to remember now. That
- 9 article referenced some emails that were released
- in the course of litigation, and I don't know if
- it's specifically referencing this email or some
- 12 other email.
- Q. Okay. So what you're saying is, if you
- look at Exhibit 9, if you want to refresh, to your
- 15 left --
- 16 A. Sure.
- Q. -- it was a Bloomberg News story that was
- 18 entitled, "Monsanto toxicologist couldn't say
- 19 Roundup doesn't cause cancer, " and it talks about
- the release of some of the documents that were
- unsealed by the federal judge, right?
- 22 A. Yes.
- Q. So if I understood your last answer,
- 24 you're saying that story was either referencing
- these emails or some part of these three emails or

- 1 some other emails where that statement was made.
- 2 A. The article says there's court documents
- 3 citing deposition of Farmer, so something in her
- 4 deposition. I just don't recall which exact
- 5 document that it's referring to or if it was the
- 6 deposition itself, but ...
- 7 Q. It says, "according to court documents,
- 8 unsealed Tuesday by a federal judge, Monsanto's
- 9 lead toxicologist Donna Farmer says the company
- 10 can't claim Roundup weedkiller doesn't cause
- 11 cancer." Do you see that?
- 12 A. Yeah, I see those words.
- Q. And we've seen, if not identically those
- words, two of the emails, the 2003 email and the
- 15 2009 email that we just looked at, where she says
- 16 -- makes that statement, correct?
- 17 MR. PRESTES: Objection, foundation,
- 18 mischaracterizes the evidence.
- A. Yes, I think the only point I'm making is
- I don't know what emails this reporter specifically
- was referring to when they wrote that story.
- Q. Right, that was my point. So it may be
- the two emails that I just mentioned, 2003 and
- 24 2009, which contain the statement, we cannot say
- Roundup does not cause cancer, or some other

- 1 emails, or some other document.
- A. Yeah, I quess what I'm saying is I don't
- 3 know. I don't know because I never talked to that
- 4 reporter or saw what they were reviewing.
- 5 Q. Okay. But, in any event, you have now
- 6 seen documents which say what the newspaper article
- 7 in 2017, what the headline reads, that you were
- 8 sent, right?
- 9 MR. PRESTES: Objection, foundation,
- 10 mischaracterizes the evidence.
- 11 A. Some of the emails we reviewed talk about
- 12 a similar topic to what's in that article, yes.
- Q. Okay. And what Donna Farmer said is that
- Monsanto hadn't done the testing on the formulated
- product, which is why you cannot say Roundup does
- 16 not cause cancer.
- MR. PRESTES: Objection, foundation.
- 18 Q. Right?
- A. Yeah, I actually don't know what is
- 20 necessary to make that claim or what she meant by
- 21 what's been tested or not tested.
- Q. But that's what she said, if you look at
- 23 Exhibit 12 --
- MR. PRESTES: Objection, foundation.
- Q. -- on the bottom, Bates number 458 of

- 1 Exhibit 12, the 2003 email, "for example, you
- 2 cannot say that Roundup is not a carcinogen ... we
- have not done the necessary testing on the
- 4 formulation to make that statement, "right, end
- 5 quote, that's what she said?
- 6 MR. PRESTES: Objection, foundation.
- 7 A. Yeah, again, you know, with the other
- 8 email you had there, it seems that the regulatory
- 9 authorities require -- they have certain
- 10 requirements, and so she's wanting to make sure our
- 11 statements comply with those requirements from what
- 12 I can tell.
- Q. Like truthful?
- MR. PRESTES: Objection, foundation,
- 15 argumentative.
- 16 A. No.
- Q. Why does Donna Farmer say in the 2003
- 18 email Monsanto cannot say Roundup doesn't cause
- 19 cancer?
- MR. PRESTES: Objection, foundation, and
- the witness is not a document genie.
- Q. Well, it's the sentence she wrote, right?
- 23 A. Yeah, I --
- MR. PRESTES: Objection, same objection.
- Q. Does Donna Farmer say we have not done

- the necessary testing on the formulated product in
- terms of why you can't say Roundup does not cause
- 3 cancer?
- 4 MR. PRESTES: Objection.
- 5 Q. Does she say that?
- 6 MR. PRESTES: Objection, foundation.
- 7 A. I see the words here, but I don't have
- 8 the context of what she's talking about, and I
- 9 think you've highlighted how the context can be
- important here, because in one of the emails she's
- talking about complying with regulatory
- 12 requirements.
- Q. She's not saying --
- MR. PRESTES: Let him -- are you done?
- 15 One second. Don't cut him off.
- A. I wasn't quite done.
- 17 It's just, they don't want to say something
- that would run afoul of the French regulatory
- 19 requirements and she is advising the team based on
- 20 her experience here.
- Q. That was the 2007 email, correct?
- A. Yeah, that was in the 2007 email, but
- 23 I -- I just wasn't sure if I can say it any
- 24 differently here, that the context matters.
- Q. Why does Donna Farmer say in the 2003

- 1 email that Monsanto cannot say Roundup does not
- 2 cause cancer?
- MR. PRESTES: Objection, foundation,
- form, to the extent you're asking him why someone
- 5 else said what they said before --
- 6 MR. KRISTAL: Well, we know what she said
- 7 because she wrote it, right?
- 8 MR. PRESTES: Please don't -- the witness
- 9 was still in law school.
- 10 (Clarification by reporter.)
- 11 A. Well, we -- I feel a lot older than that,
- 12 but we know what she said in the email --
- Q. Right.
- 14 A. -- and the words. We just don't have the
- 15 context. I especially don't have the context, and,
- 16 you know, I know she was deposed on it. She's the
- one that could give you the answer as to what she
- really meant or why she said what she said.
- Q. What did she say in the 2003 email? What
- follows the sentence, we cannot say that Roundup is
- 21 not a carcinogen?
- MR. PRESTES: Objection, foundation. Are
- 23 you just asking him to read it?
- MR. KRISTAL: Yeah.
- Q. Yeah, it's pretty plain English, isn't

- 1 it?
- MR. PRESTES: Objection, foundation,
- 3 form.
- 4 A. I'm sorry. I lost our place. For
- 5 example, you cannot say that Roundup is not a
- 6 carcinogen. We have not done the necessary testing
- 7 on the formulation to make that statement --
- Q. Right.
- 9 A. -- is what she said.
- 10 Q. She's not talking about a regulation
- 11 there, is she? She's talking about the fact that
- 12 Roundup has not been tested for carcinogenicity.
- MR. PRESTES: Objection, foundation.
- 14 A. Yeah, again, I just don't have the
- 15 context, and I think she could very well be talking
- about complying with what the regulatory
- authorities allow when it comes to making
- 18 statements about products. I just don't have
- 19 any way to rule that out.
- Q. So what you're saying is the regulatory
- 21 authorities don't want you to make a statement if
- you haven't tested whether the statement is true or
- 23 not?
- A. There are a lot of regulations that
- govern what you say about your products, and I'm

- just not the expert in those areas. I'm just
- 2 speculating that in this context she could have
- 3 been talking about a lot of different things.
- Q. Okay. But the words say what they say,
- fair to say?
- A. Yes, the words printed on the page say
- 7 what they say, yes.
- 8 Q. Do her words in that email talk about the
- 9 regulations at all?
- MR. PRESTES: Objection, foundation.
- 11 A. I think there's a lot of context missing
- 12 from her email, yes.
- Q. Does the email itself talk about
- 14 regulations?
- MR. PRESTES: Same objection.
- A. No, unlike the other one, there's just
- 17 not the context here to understand what she's
- 18 really talking about here.
- 19 Q. Is it your understanding that Monsanto
- 20 has tested Roundup, the actual product, for whether
- or not it can cause cancer?
- A. I actually don't know what studies we've
- 23 done specifically.
- Q. Would you expect Monsanto to have done
- 25 that?

- 1 A. I would expect we would have complied
- with everything that is required to get a product
- approved and marketed under the authorities in each
- 4 country.
- 5 Q. How about complying with the stewardship
- 6 requirements that we looked at? If you want to get
- 7 back to Exhibit 8.
- 8 MR. PRESTES: Objection, foundation.
- 9 A. Yeah, again --
- Q. Go back to Exhibit 8.
- 11 A. Sure.
- Q. Section 4.1.1 on Testing of Pesticides.
- 13 A. Sorry. Getting them all out of order
- 14 here. Is that the big one? There we go.
- Q. It's page 11, Arabic numbers.
- The International Code by which Monsanto
- says it subscribes says that you need to test both
- 18 the active ingredient and the product itself for
- 19 hazards and risks, correct?
- MR. PRESTES: Objection, form,
- 21 foundation, assumes facts.
- A. We've read this clause before, so, yes,
- the clause talks about products and -- pesticide
- 24 products and pesticides as two different things.
- Q. Okay. So if -- and I'm not saying you

- 1 know or don't know -- but if Monsanto has never
- tested the formulated product Roundup to see
- whether or not it causes cancer, that would be in
- 4 violation of this stewardship statement, correct?
- 5 MR. PRESTES: Object to the form, lacks
- 6 foundation, assumes facts, and is an improper
- 7 hypothetical question of a witness who has already
- 8 told you he doesn't know what studies the company
- 9 did or didn't do and isn't the expert in the area.
- 10 A. Yeah. So, yeah, I'm not the scientist.
- 11 I think that's a fair point.
- 12 Q. It's not a scientific question.
- A. I don't know --
- Q. I'm asking you to assume that Monsanto
- has never tested Roundup, the formulated product
- that people buy, to see if it causes cancer.
- 17 That's the assumption I'm asking you to make. If
- that assumption is incorrect, then my question is
- 19 ridiculous.
- If that assumption is true, then Monsanto
- 21 has failed to test the pesticide product which
- would be required under this international code,
- 23 correct?
- MR. PRESTES: Same laundry list of
- objections to the improper questioning.

1 A. Yeah, I don't know that what you're 2. asking would be the determining factor or what 3 studies would need to be done in that context. 4 Q. Roundup is the pesticide product, 5 according to this international code, if we apply it to Roundup and glyphosate, correct? 6 7 MR. PRESTES: Objection, foundation. 8 A. Yeah, I would think about Roundup and glyphosate separately in that context, yes. 9 10 Q. And this international code under Testing 11 of Pesticides, the very first paragraph says, you 12 need to test -- you need to test both the active 13 ingredient and the pesticide product, correct? 14 MR. PRESTES: Objection, form, 15 foundation, characterization of the hundred-page 16 document. 17 A. Yeah, I don't know exactly what it 18 requires. 19 Q. Well, we just read it. Pesticide --20 "Pesticide industry should ensure 21 that each pesticide and pesticide 22 product is adequately and 23 effectively tested by recognized 24 procedures and test methods so as 25 to fully evaluate its inherent

1 physical, chemical or biological 2. properties, efficacy, behavior, 3 fate, hazard and risk with regard to the various anticipated users 5 and conditions in regions or countries of use." 6 7 Did I read that correctly? 8 A. Yes, I believe you read that correctly. 9 Q. And there's an "and," right, the 10 pesticide industry should test the pesticide and 11 the pesticide product, right? 12 MR. PRESTES: Objection, foundation. 13 A. I think in the hypothetical we've been 14 building, that's correct, yes. 15 O. Okay. So if Monsanto never tested the 16 pesticide product Roundup for carcinogenicity, then 17 it didn't do the testing that this section says it 18 should have done, right? MR. PRESTES: Objection, form, foundation 19 20 to the improper hypothetical. 21 A. Yeah, so, again, I just don't know if 22 that's actually required under this clause or not. 23 If we could adequately and effectively test and there's all sorts of other data and a body of work 24 25 that's out there and many studies that relate to

- 1 carcinogenicity, I don't know that there's any one
- 2 study we did or didn't do that needs to be done or
- didn't get done or should be done.
- What I know is, when I talk with our
- scientists, that they say we fully evaluated the
- 6 products and stand behind the safety of our
- 7 products.
- Q. And move to strike that as nonresponsive.
- 9 Does this require testing on both the active
- ingredient and the formulated product? Is that
- 11 your understanding of it?
- MR. PRESTES: Objection, form,
- 13 foundation.
- 14 A. I just read the words.
- 15 O. Yes.
- 16 A. Okay.
- Q. I'm asking you what the words mean to
- 18 you.
- MR. PRESTES: Same objections.
- A. So the words say that each pesticide and
- 21 pesticide product in this -- the international
- 22 standard -- are adequately and effectively tested
- by recognized procedures and test methods.
- Q. And one of the things to test for, this
- 25 says, for the pesticide and pesticide product is

- 1 hazard and risk, correct?
- MR. PRESTES: Objection, foundation.
- A. Those are in a list of things that, I
- 4 guess, could be different parts of the evaluation.
- 5 I don't know if they're all required or if they're
- 6 just, again, they are parts of tests that you do.
- 7 I'm not sure how to interpret that.
- 8 Q. Well, it says fully evaluate it, right?
- 9 The testing is to fully evaluate, and one of the
- things to fully evaluate is hazard and risk, right?
- MR. PRESTES: Same objection.
- 12 A. Yeah, again, I'm just not -- I don't know
- how to interpret all of this, so ...
- Q. Did you think sitting here that Monsanto
- did test Roundup itself for whether or not it
- 16 causes cancer?
- 17 A. I actually don't know what tests were
- done on active ingredient or Roundup.
- 19 Q. I'm not asking you what tests were done
- or not done. I'm asking you --
- MR. PRESTES: Don't cut the witness off.
- Q. -- as you're sitting here, before we
- 23 raised this, did you think that Monsanto had tested
- 24 Roundup to see if it causes cancer?
- 25 A. I just didn't know.

- 1 Q. One way or the other.
- 2 A. Right.
- Q. Did you assume Monsanto had done that?
- 4 A. I assumed that we have done all of the
- 5 evaluations required to support the safe use of our
- 6 products. I mean, that's something that I fully
- 7 believe our company does.
- Q. I'm asking you if you assumed that
- 9 Monsanto had actually tested Roundup to see whether
- it causes cancer, the formulated product.
- 11 A. I just don't know.
- Q. Do you think it would be nice to do that?
- MR. PRESTES: Objection, form.
- A. I think that there's a full body of work
- that's out there, and I assume cancer is -- I don't
- 16 know. I just don't know what testing goes into the
- 17 products. There's other people more qualified to
- 18 really address that than me.
- 19 Q. I'm not asking you about what testing
- does or doesn't go in. I'm asking you as a
- 21 Monsanto employee, a former Monsanto employee, you
- didn't have any understanding one way or the other
- as to whether Monsanto had actually tested Roundup
- 24 to see if it causes cancer?
- MR. PRESTES: Objection, asked and

- 1 answered --
- 2 A. Yeah, my --
- MR. PRESTES: -- three times, I think.
- 4 A. My personal understanding is that we
- 5 stand behind the safety of the products, we've done
- the evaluations that are required, and they're safe
- 7 to use.
- 8 MR. KRISTAL: I move to strike.
- 9 Q. I'm not asking you about standing by a
- 10 product or whether it's safe to use. I'm just
- asking about your own personal belief coming into
- this deposition, but we'll move on.
- When did you first hear of the International
- 14 Agency for Research on Cancer, what's referred to
- 15 as IARC, I-A-R-C?
- A. Probably sometime in 2016.
- Q. You had never heard of IARC before then?
- 18 A. No. I may have incidentally been exposed
- to it somewhere, but it never had come up for me in
- the past.
- Q. And yet were you -- strike that.
- Did you consider yourself the point person,
- 23 with respect to media and legislation and funding
- for IARC, to be the point person at Monsanto to
- 25 attack IARC's finding that glyphosate was probably

- 1 cancer causing?
- A. I'm not sure we had anyone whose primary
- function was to attack IARC. It wasn't me. No, I
- 4 wasn't the point person for government affairs and
- 5 media relations and relating to our response to
- 6 IARC or glyphosate generally.
- 7 Q. You're sitting here in Washington, D.C.
- 8 at this office being videotaped telling the jury
- 9 who is watching this video that Monsanto did not
- 10 attack IARC after it came out with its
- determination that glyphosate could cause cancer?
- 12 Is that what you're telling us?
- MR. PRESTES: Objection, form, and
- 14 mischaracterizes the witness's testimony.
- 15 A. Yeah, I think you misstated what I said.
- I said we didn't have a lead for attacking IARC.
- 17 What we had was a team that did respond to IARC and
- 18 try to set the record straight and provide factual
- 19 information.
- Q. You don't think that was an attack on
- 21 IARC?
- A. No. Actually from our perspective I
- think we were trying to -- the groups I was
- involved with we weren't trying to attack IARC.
- Q. Well, do you under -- strike that.

- 1 Do you believe IARC is an authoritative
- 2 agency?
- A. I don't really understand what you mean
- 4 by "authoritative agency."
- 5 Q. Do you think IARC is a good agency to
- 6 have in terms of evaluating substances as to
- 7 whether they do or don't cause cancer? Is that a
- 8 good thing?
- 9 A. I don't think that's what IARC does,
- 10 but ...
- Q. You don't think that's what IARC does?
- 12 Is that what you just said? I didn't hear you.
- 13 I'm not challenging you.
- A. Yeah, I'm not sure that's what IARC does,
- 15 yeah.
- Q. Okay. What's your understanding, as you
- 17 sit here, having been involved in Monsanto's
- challenge to IARC, as to what IARC does?
- A. They seem to be reviewing lists of
- chemicals and looking at other people's work on
- those things to see what a, you know, what
- 22 potential hazards might exist in the environment.
- Q. Okay. That's not a bad thing, is it?
- A. No. It just wasn't what you described
- that IARC does when you asked me the question.

- 1 Your question framed it differently.
- Q. Well, one of the things that IARC does is
- determine whether substances that people are
- 4 exposed to cause cancer, correct?
- 5 A. They have -- they look at things that may
- 6 have a potential hazard, like they have done with
- 7 lots of different substances. It doesn't actually
- 8 say whether that's a risk to people to get cancer
- 9 or not, so they look at red meat and they find red
- meat can be potentially a hazard.
- Q. Have you ever read -- strike that.
- 12 You're aware that when IARC reviews the
- science on a substance they're looking into, they
- look at all of the published literature that they
- 15 can find on that subject, scientific and medical
- 16 literature?
- 17 A. I'm not really sure how they go about
- their collection of the documents. They say in
- their charter they look at all of the public
- literature that's out there, but I'm not sure that
- it's always comprehensive. I just don't know.
- Q. Have you ever looked at the red meat
- 23 monograph? You know they publish very lengthy
- 24 monographs stating exactly what the basis of their
- determinations are? You're familiar with that,

- 1 right?
- A. Yes, I'm familiar with the monographs.
- Q. Have you ever read any monograph? Well,
- 4 let's start with the red meat one. You mentioned
- 5 that.
- 6 Have you looked at the scientific and
- 7 medical evidence reviewed by IARC with respect to
- 8 red meat and whether or not it causes cancer?
- 9 A. I've looked at it, but I really don't
- 10 have the qualifications to interpret or understand
- it. So we have other scientists that I rely on to
- explain what it means and ...
- Q. You've looked at the red meat monograph?
- A. Yeah, I've looked at --
- Q. What other monographs have you looked at?
- A. One on wine, one on coffee, the 112
- 17 Monograph. There's been some other chemicals. I
- think there's -- was there one on sunscreen? I
- 19 think there was just a lot of odd compounds, and I
- 20 kind of went through those to see what they were
- doing and what the issues were.
- Q. Okay. And when did you do that?
- A. Just over the course of, I quess it would
- have been the second half of 2016 or early 2017, in
- 25 that time frame.

- Q. In terms of your job responsibilities or
- on your own? Why would you be looking at that?
- A. To understand -- because the scientists
- 4 were saying that they had classified all of these
- 5 other things as causing cancer, and I got a call
- from somebody, like the guy that heads up the
- 7 coffee industry called me and wanted to talk about
- 8 what IARC was doing on coffee, and so I was trying
- 9 to understand what issues they were facing.
- 10 Q. And there are a number of different
- 11 classifications that IARC has, correct?
- 12 A. Yes, that's right.
- Q. And there were very few, a small percent,
- that they actually said these are carcinogens,
- 15 correct, as opposed to probably or possibly, right?
- A. Yeah, I don't know the percentages there.
- 17 We could go and probably pull that out, if we
- 18 looked, but ...
- Q. You don't know sitting here whether red
- 20 meat was considered a possible carcinogen, right,
- as opposed to a probable or definite carcinogen?
- A. I don't recall off the top of my head
- 23 right now.
- Q. Same thing with coffee, right?
- A. Yeah, I think they actually changed their

- 1 minds on coffee, if I recall, or maybe that was
- wine, but one of them changed, yeah.
- Q. And you know that the other two
- 4 categories are definitely doesn't cause cancer or
- 5 we just don't know one way or the other based on
- 6 our evaluation.
- 7 A. That's right.
- 8 Q. Is that fair to say?
- 9 A. I think there was a category of
- insufficient evidence, and there were many
- 11 compounds they reviewed that were in that category.
- 12 Q. Most of the compounds that were reviewed,
- about half of them anyway, were in the category of
- there's just not enough scientific information to
- make a conclusion, correct?
- A. I don't remember the number, but if you
- 17 say it's half, I mean, I'm sure you've looked.
- MR. KRISTAL: I'm marking as Exhibit 13
- 19 the "International Agency for Research on Cancer
- 20 IARC Monographs on Evaluation of Carcinogenic Risks
- 21 to Humans."
- 22 (Exhibit 13 marked for
- identification: "International
- 24 Agency for Research on Cancer IARC
- Monographs on Evaluation of

1 Carcinogenic Risks to Humans") 2. Q. This is from 2006. 3 A. Okay. 4 Q. Have you seen this before? 5 A. Let me look at the document and see if 6 it ... people have summarized this document for me 7 before, the preamble of the IARC Monograph program, 8 yes. 9 O. Such as who? 10 A. Bill Reeves in our regulatory affairs 11 team. 12 Q. And when did that happen? 13 A. I don't recall. 14 Q. Was it five years ago? Last week? 15 A. Oh, I would say 2016 or 2017. 16 Q. What was the context in your involvement 17 with FTI and IARC at that time? 18 A. I was working with FTI at that time, yes. 19 Q. And if you look at the beginning of the 20 preamble, General Principles and Procedures under 21 the background section: 22 "Soon after IARC was established in 23 1965 it received frequent requests 24 for advice on the carcinogenic risk 25 of chemicals including requests for

1 list of known and suspected human 2. carcinogens." That's how it starts off as background, 3 4 correct? 5 MR. PRESTES: You're just asking him if 6 you read that correctly? MR. KRISTAL: No. I'm asking him if 7 8 that's his understanding. A. Yeah, the understanding I had from Bill 9 was back in the '60s, I think, people were wanting 10 to understand what hazards were out there in the 11 12 environment. There wasn't a lot of analysis or 13 groups of people looking at those things, and so 14 IARC was initially formed in order to do something 15 along those lines to flag for people where there 16 were potential hazards in the environment. 17 Q. And that's a good thing, is it not? 18 I think at that time especially A. Yeah. 19 there wasn't a lot of knowledge, and so they needed 20 to understand what was out there, and a lot of --21 yeah. 22 Q. Well, that's still good today, is it not, 23 to have an international body of experts reviewing 24 substances to decide whether or not they can cause

cancer?

25

1 A. Yeah, I agree that it's good to have 2 people identifying hazards in the environment as 3 long as it's not confusing people about what those 4 hazards are doing or taking it out of context. 5 Q. And, well, we'll explore that in a 6 minute. The third paragraph down says: 7 "Through the Monographs program, IARC seeks to identify the causes 8 of human cancer. This is the first 9 10 step in cancer prevention, which is 11 needed as much today as when IARC 12 was established." 13 Do you agree that that's a good thing? 14 A. I'm sorry. I lost the train there. 15 Where did you pick up that sentence? Was that the 16 "it was clear" sentence? 17 Q. No. I dropped down to the third 18 paragraph. 19 A. Okay. 20 Q. "Through the Monographs 21 program, IARC seeks to identify the 22 causes of human cancer. This is 23 the first step in cancer 24 prevention, which is needed as much 25 today as when IARC was

- 1 established."
- 2 That's a good thing, is it not?
- MR. PRESTES: Objection, form.
- 4 A. I think it's a good thing to identify
- 5 cancer risks personally. I don't know exactly that
- 6 IARC is doing a good job of it, but, yes, I agree
- 7 that that's a good principle.
- Q. Okay. And when you say you don't know if
- 9 IARC is doing a good job of it, you're not
- qualified to weigh in on whether IARC is or isn't
- doing a good job on it, correct?
- 12 A. That's what I'm saying, is I'm not really
- scientifically trained to evaluate that piece of
- 14 the equation.
- 15 O. And IARC is a -- falls under the auspices
- of the World Health Organization of the United
- 17 Nations, correct?
- 18 A. I've never really fully understood their
- 19 relationship there. They say that, but then I've
- also seen that they're not -- I don't know.
- There's just some confusion in my mind about what
- they really are in the World Health Organization
- and how all the pieces fit together.
- 24 O. Well --
- A. Because it used to be a separate

- organization, and then at some point they
- 2 associated themselves with the World Health
- 3 Organization, but ...
- Q. -- is it your understanding that, when
- 5 IARC reviews the monographs, it's not doing it as
- 6 part of the World Health Organization of the United
- 7 Nations?
- A. Yeah, I may be mistaken, but my
- 9 understanding is they're somehow associated with
- the World Health Organization, but I don't know how
- 11 they're chartered within or not part of the World
- 12 Health Organization. There's some confusion on
- 13 that.
- Q. Well, if you look at the cover of the
- preamble, what's the very -- the words on the very
- 16 first page of the cover?
- 17 A. Yeah, again, I know they use that banner.
- 18 I just don't know --
- Q. What are the words?
- A. World Health Organization, International
- 21 Agency for Research on Cancer.
- Q. And is that the symbol for the United
- 23 Nations with the medical symbol in front of it?
- A. Is it UN or is it World Health
- 25 Organization? I don't know.

- 1 MR. PRESTES: Hey, Jerry, it's about
- 2 noon. I guess it's 12:01. I don't know how long
- you plan to spend on this document. If it's a few
- 4 minutes --
- 5 MR. KRISTAL: It's only a few minutes.
- 6 MR. PRESTES: Okay. Then let's take a
- 7 break after that.
- 8 MR. KRISTAL: Okay.
- 9 Q. On page 3, I want to see if this is your
- 10 understanding of how agents are selected for the
- 11 International Agency for Research on Cancer to
- 12 review.
- "Agents are selected for review on the basis
- of two main criteria: (a), there is evidence of
- human exposure and (b), there's some evidence or
- 16 suspicion of carcinogenicity."
- 17 Is that generally your understanding as to
- 18 how agents get selected for review by IARC?
- A. I don't know. That's what they're
- aspiring to, but I don't know that that is in fact
- 21 how they do it or what they do.
- Q. Well, you were involved with challenging
- 23 IARC's determination on behalf of Monsanto when it
- found that glyphosate was a probable carcinogen,
- were you not?

- A. I don't think that we were challenging
- 2 IARC. IARC said what they said, and we were out
- 3 there trying to communicate how we felt about the
- 4 issues and what we believed.
- 5 Q. You weren't -- you weren't trashing or
- 6 trying to discredit IARC -- Monsanto?
- 7 A. No, I don't think that I was. I don't
- 8 know --
- 9 Q. I don't mean you personally.
- MR. PRESTES: Let him -- let him finish
- 11 his answers.
- 12 A. Yeah, I don't -- I can't speak on behalf
- of Monsanto on that topic, so ...
- Q. Have you ever read statements by the
- folks at IARC as to what Monsanto was doing to them
- in their challenges to the glyphosate
- 17 carcinogenicity finding?
- 18 A. I can't think of what those would be.
- 19 What IARC participants said?
- Q. Have you ever read the IARC statement
- 21 from 2018 as to what they went through from the
- 22 pesticide industry after they came out with their
- 23 determination on glyphosate? Have you ever read
- 24 that document?
- 25 A. I don't know that I have. I don't recall

- 1 it, but ...
- Q. Have you ever read the published article,
- 3 the lead author is Pearce, P-E-A-R-C-E, from 2015
- 4 written by a hundred scientists who talk about the
- 5 IARC program and the fact that the attacks on IARC
- 6 by the pesticide industry particularly relating to
- 7 glyphosate were unproductive and unnecessary?
- 8 MR. PRESTES: Object to the form.
- 9 Q. Have you ever read that article?
- MR. PRESTES: Object to the form, and it
- 11 assumes facts.
- 12 A. It sounds familiar to me. I remember
- something where there was a publication defending
- 14 IARC, but I don't recall what they were responding
- to or what you're calling the attacks. I just
- don't remember.
- Q. We'll take a look at that. But you know
- 18 that IARC has a written process for their review of
- 19 substances when they're reviewing a substance to
- determine whether or not it can cause cancer,
- 21 right? There's an actual process that they have.
- 22 A. Yeah, I think that's -- and I haven't
- read this whole document here, but I think in their
- charter they lay out a process that they intend to
- 25 follow.

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MR. KRISTAL: Okay. Why don't we take a
 1
 2
      break.
 3
                VIDEO SPECIALIST: The time is 12:04 p.m.
      We're going off the record.
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             (Proceedings recessed)
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1 AFTERNOON SESSION 2. VIDEO SPECIALIST: The time is 12:51 p.m., and we are back on the record. 3 BY MR. KRISTAL: 5 Q. Mr. Rands, hope you had a nice lunch. 6 A. Yes. Thank you. Q. I'm going to hand you what I printed out 7 from IARC's website on February 6, 2019 what's 8 called their Mission Statement. 10 (Exhibit 14 marked for identification: IARC's Mission: 11 12 Cancer research for cancer 13 prevention) 14 Q. I'll hand that to you and counsel. 15 A. Thank you. Q. And the time that you were involved with 16 17 the program criticizing IARC, did you ever go to 18 their website? 19 A. Let me read the document here just a 20 second. It looks familiar to me. I don't remember 21 this specific document, but I've been to their 22 website, yes. 23 Q. Okay. And this document reads, "IARC's mission: Cancer research for cancer prevention. 24 25 The International Agency for Research on Cancer

- 1 (IARC) is the specialized cancer agency of the
- World Health Organization."
- 3 Does that answer the question as to whether
- 4 it's part of the World Health Organization?
- A. No. Again, it's a technical -- I just
- 6 don't know their entity structure, and from what I
- 7 had seen there was some confusion about, they call
- 8 it their parent organization, but I just never
- 9 understood how it came to be part of the World
- 10 Health Organization, if it was part of their
- original charter.
- Q. I'm not asking you that question.
- A. I'm sorry. I didn't understand the
- 14 question, then.
- Q. At the time IARC was reviewing the
- science regarding the carcinogenicity of
- 17 glyphosate, they were part of the World Health
- Organization, were they not? They were the
- 19 specialized cancer agency of the World Health
- 20 Organization.
- 21 A. That's what they say about themselves. I
- just was making the point I don't know what their
- 23 actual structure is with respect to the World
- 24 Health Organization.
- Q. So you think they're lying?

- 1 A. No, I think that's what they say about
- themselves.
- Q. I understand that. And you're saying
- 4 it's not true, or you think it may not be true that
- 5 they're not the "specialized agency of the World
- 6 Health Organization"?
- 7 A. No, I'm saying I just don't know.
- 8 There's actually several organizations related to
- 9 cancer under the World Health Organization, and
- 10 I've never really looked hard at how they're all
- organized under each other.
- 12 Q. Okay. "The objective of the IARC is to
- 13 promote international collaboration in cancer
- 14 research." Do you understand that to be IARC's
- 15 objective?
- A. I've never really looked hard at their
- broader objectives, because the IARC, I recall, on
- their website they had a long list of projects and
- other science they were doing on various topics
- that didn't relate to the Monograph program. So
- that is one of their objectives, to have a
- 22 scientific endeavor.
- Q. "The agency is interdisciplinary
- bringing together skills in
- epidemiology, laboratory sciences

1 and biostatistics to identify the 2. causes of cancer so that preventive 3 measures may be adopted and the 4 burden of disease and associated 5 suffering reduced." Was that your understanding of what IARC was 6 7 when you were involved at Monsanto with challenging 8 IARC's decision regarding glyphosate as a probable 9 carcinogen? 10 MR. PRESTES: Object to the form. 11 A. Yeah, I think the work we were doing 12 related to what IARC was doing in their Monograph 13 program, but I know that their broader organization 14 that, as they're saying here, has multiple purposes 15 and different ways they approach cancer research. 16 Q. Well, you know that the Monograph program 17 was a core element of what IARC does, right? 18 A. Actually I didn't know that. The amount 19 of money they put towards it was pretty minimal 20 compared to how much they were putting towards 21 other research efforts. 22 Q. Well, under the section of Exhibit 14, the IARC Mission Statement under Causes and 23 Prevention of Cancer, in the middle of the 24 25 paragraph, "the IARC Monograph's program is a core

- element of the agency's portfolio of activities,
- with international expert working groups evaluating
- 3 the evidence of the carcinogenicity of specific
- 4 exposures." That's what IARC says about
- 5 themselves, correct?
- A. Yes, that's what they say about
- 7 themselves.
- Q. Are you disagreeing with that, that
- 9 that's not a true statement?
- 10 A. I don't know if it's true or not, to be
- 11 honest. When it says they're evaluating evidence
- of carcinogenicity of specific exposures, I don't
- 13 know what they mean by that, if it's -- if they're
- saying they do hazard assessments and they're just
- looking for things that potentially could cause
- 16 cancer, that's my understanding of what IARC does.
- Q. And they determined that exposure to
- 18 glyphosate could cause cancer in humans, right?
- A. I just -- again, I don't know that they
- 20 have actually achieved that at all with respect to
- 21 glyphosate. There's a whole body of evidence they
- 22 haven't considered. And I'm not a scientist to be
- able to say whether they followed their own
- 24 procedures and made a proper determination there or
- 25 not.

- 1 Q. And I move to strike that. I didn't ask
- 2 you whether it was proper or not.
- 3 IARC itself determined that exposure to
- 4 glyphosate probably could cause cancer, right?
- 5 That's what their determination was.
- A. I'm not sure that that was a correct
- 7 determination or not.
- 8 Q. Okay. I'm not asking you if it was a
- 9 correct determination or not. You're not qualified
- 10 to weigh in on that, right?
- 11 A. That's right.
- Q. Okay. I'm asking you if that's what they
- found, that glyphosate, after they reviewed the
- evidence that they reviewed and they wrote a very
- thick Monograph, number 112, their conclusion was
- 16 glyphosate probably causes cancer, right?
- 17 A. They classified it as, was it 2A?
- Q. Right.
- 19 A. Yeah.
- Q. Which is what, probably carcinogenic,
- 21 correct?
- 22 A. Yeah, I think that's the conclusion that
- they reached.
- Q. And the term "probably carcinogenic"
- means probably causes cancer, right?

- 1 MR. PRESTES: Object to the form.
- A. Yeah, I would just go with what their
- words said. They have that in their preamble or
- 4 whatever for what a 2A is.
- 5 Q. You were working to challenge IARC's
- 6 finding. Did you not understand that, when they
- 7 say "probably carcinogenic," they mean probably
- 8 causes cancer?
- 9 MR. PRESTES: Object to the form.
- 10 A. I'm not sure how to answer that. If
- those are the same thing or different things, I'm
- 12 not sure.
- Q. That's what I'm asking you.
- A. Oh, yeah, seems like a good --
- Q. Do you believe or not know -- are you
- saying that, if I said something is probably
- 17 carcinogenic, am I saying the same thing that it
- 18 probably causes cancer, or am I saying something
- 19 different, or you don't know one way or the other?
- 20 A. Yeah, I don't know if those are the same
- 21 thing or not technically.
- Q. What do you mean by "technically"?
- A. Scientifically, something that's
- 24 carcinogenic, and then cancer is the clinical
- 25 manifestation of the disease. I just don't know if

- there's something that's different between those
- 2 two things.
- Q. Okay. What is your understanding, as you
- 4 sit here today, what is your understanding of the
- 5 word "carcinogenic"?
- A. Carcinogenic is something that could
- 7 cause changes in the cells. I don't know. I mean,
- 8 it's -- something that could lead to a cancer, I
- 9 suppose, if that's the -- I just don't know if
- 10 carcinogenic in this context means it actually
- causes cancer or it is the cancer or it's something
- that could lead to cancer.
- Q. Okay. Did you read whether it was in the
- Monograph 112 itself put out by IARC or somewhere
- else a statement that IARC found that glyphosate
- was probably carcinogenic? Have you read that
- 17 somewhere?
- A. Yeah, the 2A classification and how they
- 19 described it, that sounds --
- Q. You didn't bother to look it up to see
- 21 what they were talking about?
- A. In what context do you mean?
- Q. Well, you seem to not be able to have an
- understanding of what carcinogenic means, and you
- were dealing with the word carcinogenic for a while

- while you were challenging IARC, right?
- A. Yeah, I don't believe glyphosate is a
- 3 carcinogen, that's right.
- Q. I'm not asking you that question. I move
- 5 to strike it.
- 6 Did you bother to look up the word
- 7 "carcinogenic" so you'd have an understanding of
- 8 what everybody was talking about?
- 9 A. I didn't look up the word carcinogenic.
- 10 Q. Do you know who Thomas Sorahan is with
- 11 your work with respect to IARC when you were at
- 12 Monsanto?
- A. No, I don't know who he is.
- Q. You never heard that Thomas Sorahan was
- the pesticide industry's representative at the
- working group meetings of IARC when they were
- 17 considering whether or not glyphosate was
- 18 carcinogenic?
- MR. PRESTES: Objection, asked and
- answered. He said he doesn't know who he is.
- A. Yeah, I didn't know who he was, yeah.
- 22 (Exhibit 15 marked for
- identification: Email
- 24 correspondence from (topmost) T
- 25 Sorahan sent 3/14/2015 re EPA

1 openly discussed IARC findings at a 2. CLA meeting on Thursday 3 MONGLY00977035) 4 Q. Okay. I've handed you and marked as 5 Exhibit 15 an email from Thomas Sorahan to Donna Farmer, Christian Strupp with two Ps, Jensen Mette, 6 M-E-T-T-E, and William Heydens, and the Bates 7 number is MONGLY00977035. 8 Have you seen this email before? 9 10 MR. PRESTES: Object to the foundation. 11 Object to the document and object to all the 12 questioning on the document on the grounds that it 13 lacks foundation. This is a document that the 14 witness's name isn't on, that from what I can tell he never sent or received. Go ahead. 15 16 Q. Have you ever seen this document before? 17 A. I've seen something -- it looks familiar 18 to something I've seen maybe in the context of 19 reading one of the other deposition transcripts, 20 maybe it was Bill Heydens or Donna Farmer, but I 21 don't know if it was exactly this one or a 22 forwarded version or something of it. But, yes, it 23 looks familiar to me. Q. Okay. And here Dr. Sorahan is -- strike 24 25 that.

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1
             If you look at the beginning, the email
 2
      starts with a statement by Dr. Farmer:
 3
                "One of our colleagues was on a CLA
 4
                call with other companies, EPA and
 5
                PRMA for the Residue Experts Work
 6
                Group at the Dow office yesterday.
 7
                The EPA person opened the meeting
 8
                by telling the group that an EPA
                observer (Jess Roland) was in the
 9
10
                meeting, reported back to EPA staff
11
                that IARC classified three
12
                pesticides as 2A and he named
13
                diazinon, malathion and
14
                glyphosate."
15
             Do you see that?
16
             A. Yes, I do.
17
             Q. And that's how the email chain starts,
18
      right?
19
                MR. PRESTES: Objection, foundation.
20
             A. That's the first half of the first email,
21
      yes.
22
             Q. Okay. And then there is concern
23
      expressed, and you can read it, about whether or
      not, because this was before the actual release of
24
25
      the classification by IARC, whether or not the
```

- 1 information about IARC's finding was public or not
- or could be released. Do you see that by reading
- 3 the email?
- 4 MR. PRESTES: Objection, foundation, and
- 5 to the characterization of the email.
- A. Yeah, I'll just take a minute and read
- 7 it. See if I can answer your question.
- Q. Well, let me move it along. I withdraw
- 9 the question.
- 10 A. Okay.
- 11 Q. Mr. Sorahan writes to Donna Farmer.
- "I understand your concerns about
- early release of information. We
- can discuss the issues you raise in
- more detail on Monday, but here are
- some immediate responses.
- I do know of instances where
- observers at IARC felt they had
- 19 been treated rudely or brusquely at
- 20 monograph meetings. That was not
- the case for me in volume 112. I
- found the chair, sub-chairs, and
- invited experts to be very friendly
- and prepared to respond to all
- 25 comments I made. Indeed, I think

```
1
                questions the epi sub-panel asked
 2.
                me about my recent multiple myeloma
 3
                paper (Sorahan, 2015) were
 4
                instrumental in not having multiple
 5
                myeloma included on the charge
                sheet."
 6
 7
             Do you see that?
 8
             A. Yes.
             Q. Okay. So is this the first time you're
 9
10
      hearing that Dr. Sorahan was an observer at the
11
      IARC Monograph 112 meeting?
12
             A. I knew there was observers there. I just
13
      didn't know Dr. -- is it Dr. Sorahan?
14
             Q. Yes.
15
             A. Okay.
16
             Q. And he's weighing in now telling the
17
      folks that everybody was fine, right? Friendly,
18
      prepared to respond to all comments is what he
19
      says, right?
20
                MR. PRESTES: Objection, form,
21
      foundation.
22
             A. Yeah, I can read the words here, but I
23
      don't have any context at all for what he was
      meaning by what he was saying, but --
24
25
             Q. He says, I found the chair, sub-chairs
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- and invited experts to be very friendly and
- 2 prepared to respond to all comments I made, you
- don't have any idea what that means?
- 4 MR. PRESTES: Objection, foundation and
- 5 mischaracterizes the witness's testimony.
- A. Yeah, I don't know how the observers
- 7 participated or what sections of the meeting he was
- 8 in or wasn't allowed in. I just -- I don't
- 9 understand the process there.
- 10 Q. The next paragraph, Dr. Sorahan writes,
- "in my opinion the meeting followed the IARC
- 12 quidelines." Do you see that?
- 13 A. Yes, I see.
- Q. Do you have any evidence that that is not
- 15 a correct statement?
- MR. PRESTES: Objection, foundation.
- 17 A. I don't have any evidence one way or the
- 18 other.
- 19 Q. Okay. The email goes on, "Dr. Kurt
- 20 Straif, the director of the Monograph's program,
- 21 has an intimate knowledge of the IARC rules and
- insists these are followed." Any evidence to say
- 23 that's not so?
- MR. PRESTES: Same objection.
- A. I don't have any context for what went on

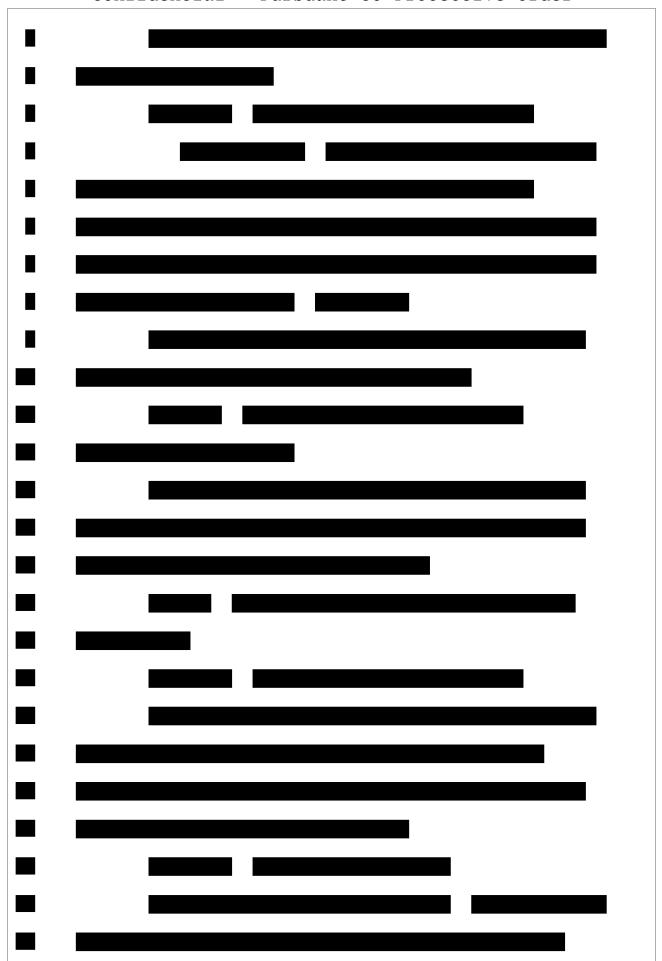
- 1 at the meeting and if they followed the rules.
- Q. Okay. So you have nothing to say that
- 3 the person who was the industry observer was not
- 4 correct in what he said, correct?
- A. I don't know if he was right or wrong, if
- 6 that was his opinion.
- 7 Q. Right.
- 8 A. It's what he wrote.
- 9 Q. And if he was there on behalf of the
- industry, he was representing the industry at that
- 11 meeting, right?
- MR. PRESTES: Objection, foundation.
- A. Yeah, I don't know that actually. I
- don't know how they select an observer and what he
- 15 actually represents.
- Q. Okay. But you have nothing, as you sit
- 17 here today, to challenge either the fact that IARC
- followed its guidelines and that all rules were
- 19 followed.
- MR. PRESTES: Objection, foundation, and
- 21 assumes facts not in evidence.
- A. Yeah, again, I don't have any context for
- what they did, if they were doing things in public,
- if they were doing things in private meetings,
- where did they allow participants, and if -- if

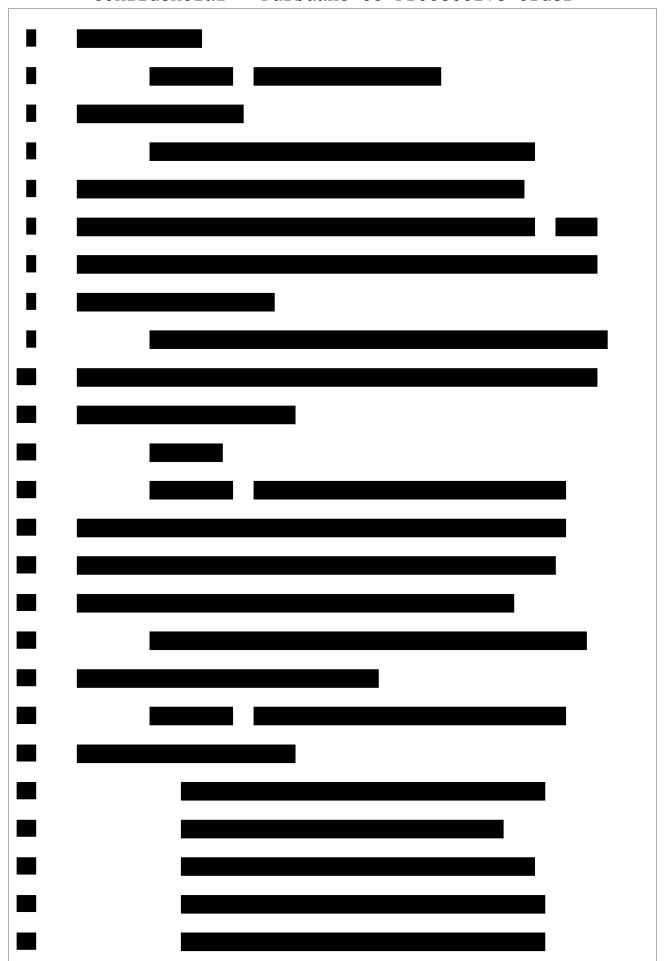
- there was anyone there that could actually say they
- followed all the rules or not. It's just not clear
- 3 from this email.
- 4 Q. Did you challenge IARC's determination
- 5 that glyphosate was carcinogenic in part that
- 6 somehow they violated any of their own quidelines
- or rules? Is that part of the challenge mounted by
- 8 Monsanto?
- 9 MR. PRESTES: Objection, assumes facts
- 10 not in evidence.
- 11 MR. KRISTAL: I'm asking him if he did
- 12 that. I'm not assuming anything.
- MR. PRESTES: You're assuming that IARC
- made a determination that glyphosate was
- 15 carcinogenic and that's an incorrect statement of
- 16 IARC's determination.
- 17 MR. KRISTAL: Okay.
- Q. Did you challenge IARC's determination
- 19 that glyphosate was probably carcinogenic --
- A. Did I challenge that?
- Q. -- in that somehow they violated during
- that process of making that determination their own
- rules or quidelines?
- A. We disagreed with that conclusion, and
- some of our scientific teams, who may be some of

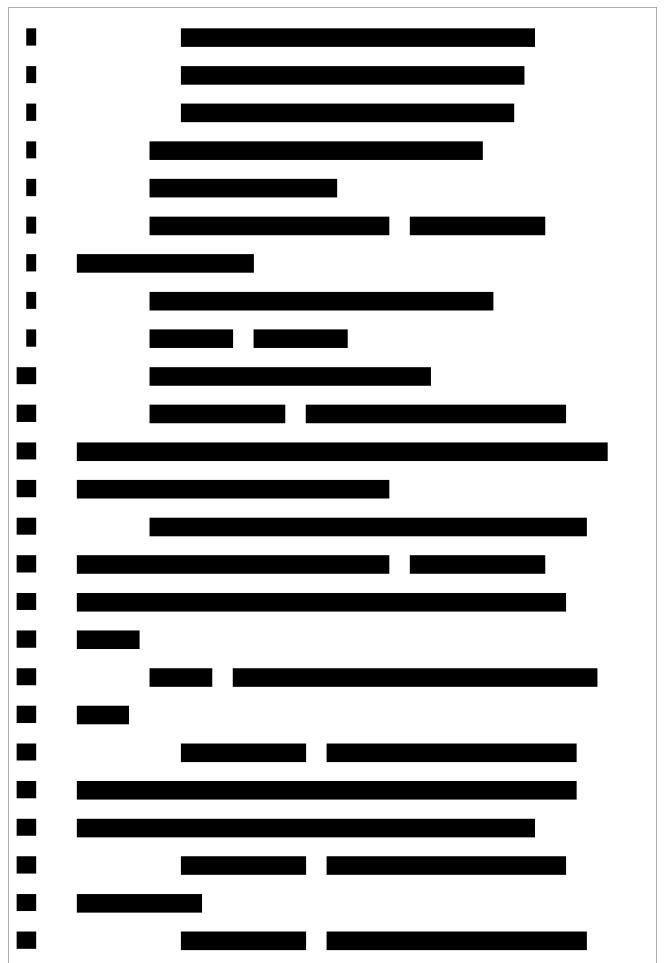
- the people on this email, I just don't recall,
- indicated there were instances where there may have
- 3 been potential conflicts of interest or reviewing
- 4 of their own work, that they didn't consider fully
- 5 some of the evidence they thought should have been
- 6 considered.
- 7 And, of course, although it wasn't published
- 8 at the time, you know, the ag health study was
- 9 known at least to one of the members of the IARC
- 10 committee.
- So I think, to answer your question, there
- were some instances where Monsanto or people that I
- knew at Monsanto took issue with the IARC process,
- 14 yes.
- Q. Well, you know that the IARC preamble --
- and we can go back -- says that they review only
- 17 published studies, correct?
- A. Yes, that's right.
- 19 Q. So if you're saying that one of
- 20 Monsanto's complaints was they didn't consider an
- unpublished study, the ag study, if they had done
- that, that would actually be a violation of their
- 23 rules, right?
- A. Yeah, the issue, I think, Monsanto or the
- people that I talked to in the regulatory team at

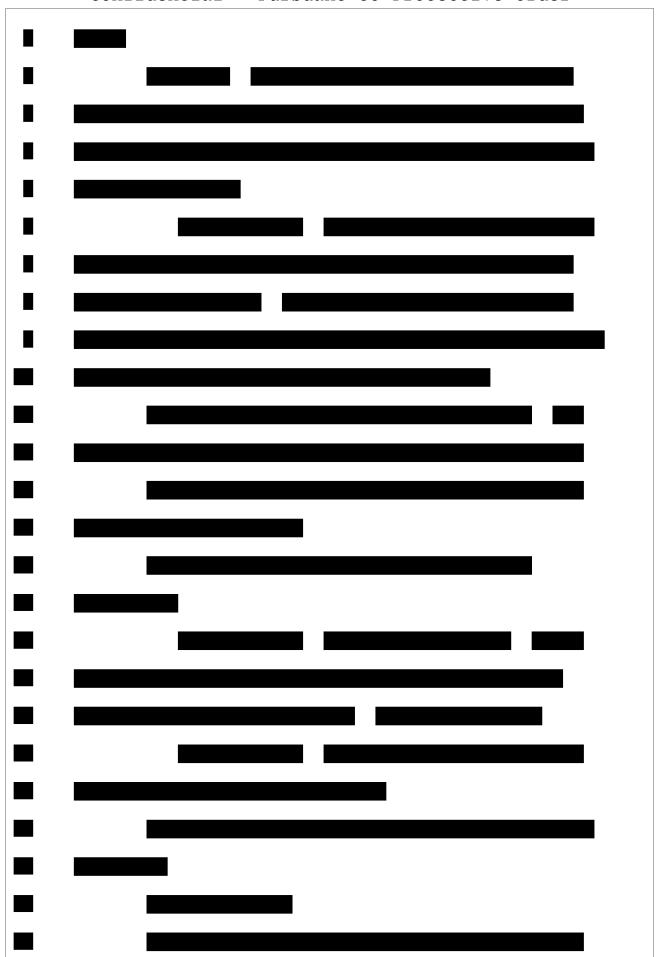
- 1 Monsanto were worried about was that that study was
- available and it was there, but it hadn't been
- 3 published yet. So to your point, IARC couldn't
- 4 consider it because it hadn't been published.
- 5 Q. Right. So that's not a knock on IARC's
- 6 process. It was, in fact, IARC following its
- 7 process to a T, right?
- 8 A. Except that one of the members knew that
- 9 it was available and knew what the results already
- said and didn't reveal that to his colleagues
- during the process. That was the -- that was the
- gist of our concern, I think.
- Q. The rules that IARC is bound by is you
- only look at published studies, correct? That's
- what they say.
- A. By their preamble, that's what they say,
- 17 yes.
- Q. And one of the criticisms that was lodged
- by Monsanto was they violated their own rules by
- 20 not considering a unpublished study, right?
- A. No, I don't think we were criticizing
- 22 IARC for that. I think that we were calling out a
- 23 flaw in the process. We're looking at it in the
- 24 broader context of -- that's data that needs to be
- available so that it can be considered in that type

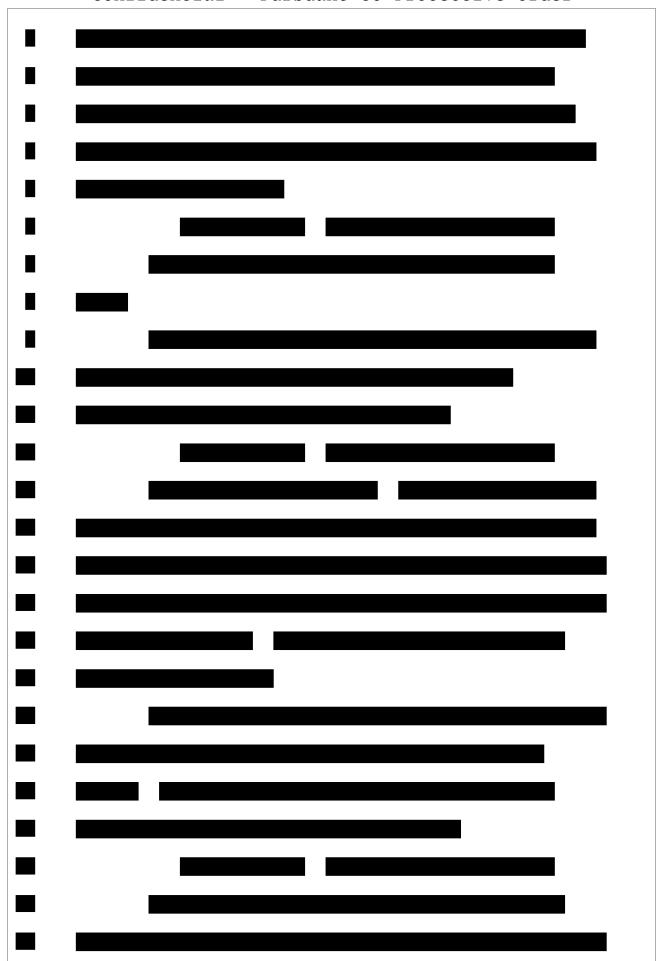
of process. 1 2. Q. You understand the -- do you understand how a scientific or medical article goes through 3 the peer-review process to get published? 4 5 A. Generally, yes. 6 Q. Okay. So the requirement that something be published means they want to look at something 7 8 that's passed peer review, review by experts in the field, correct? 9 A. Yeah, generally, published literature 10 11 would go through a peer-review process. That's 12 what IARC is looking at.

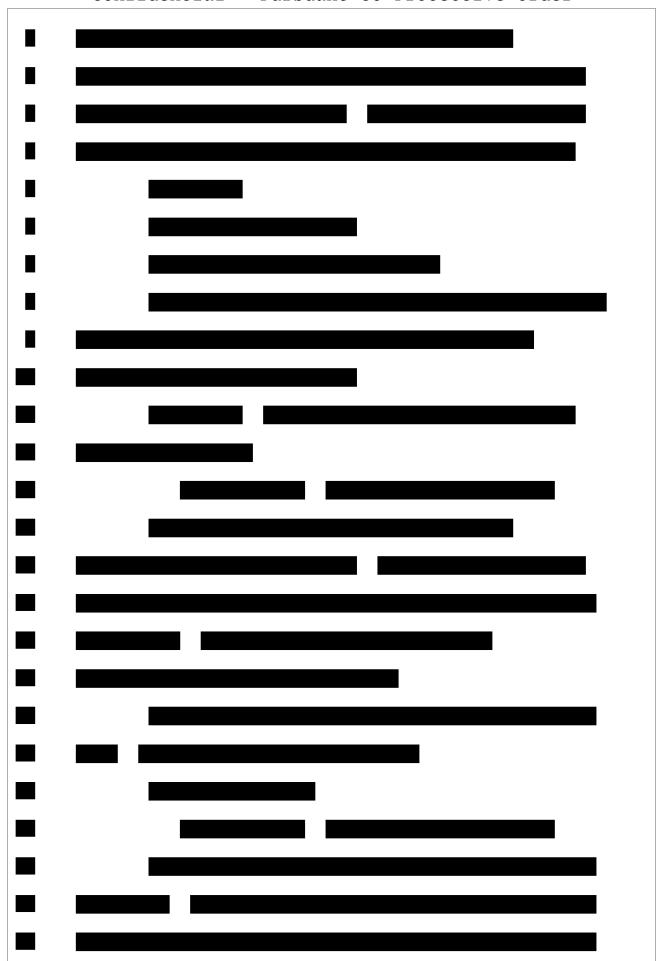


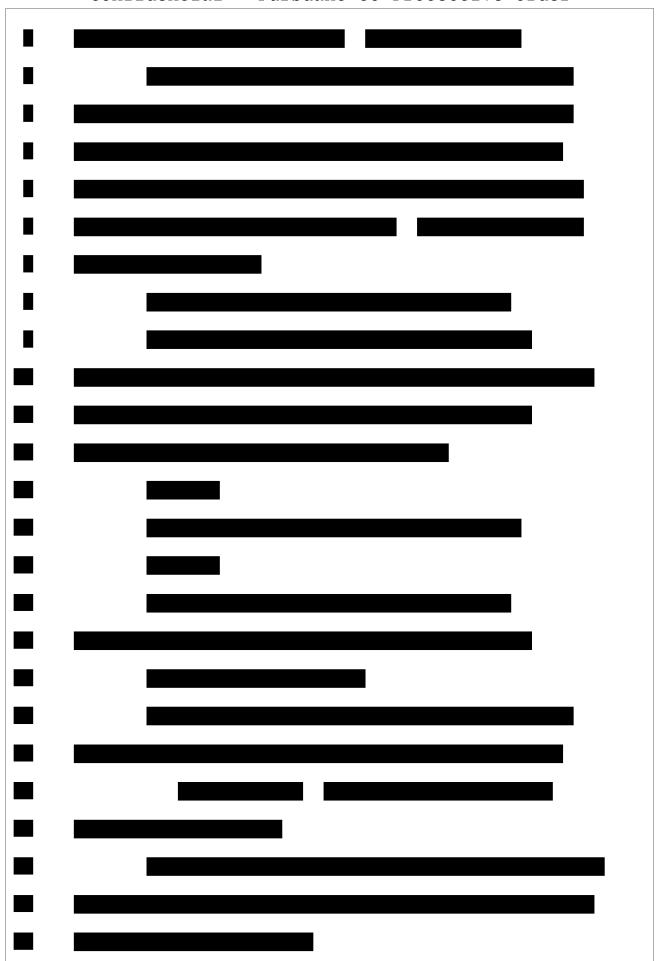


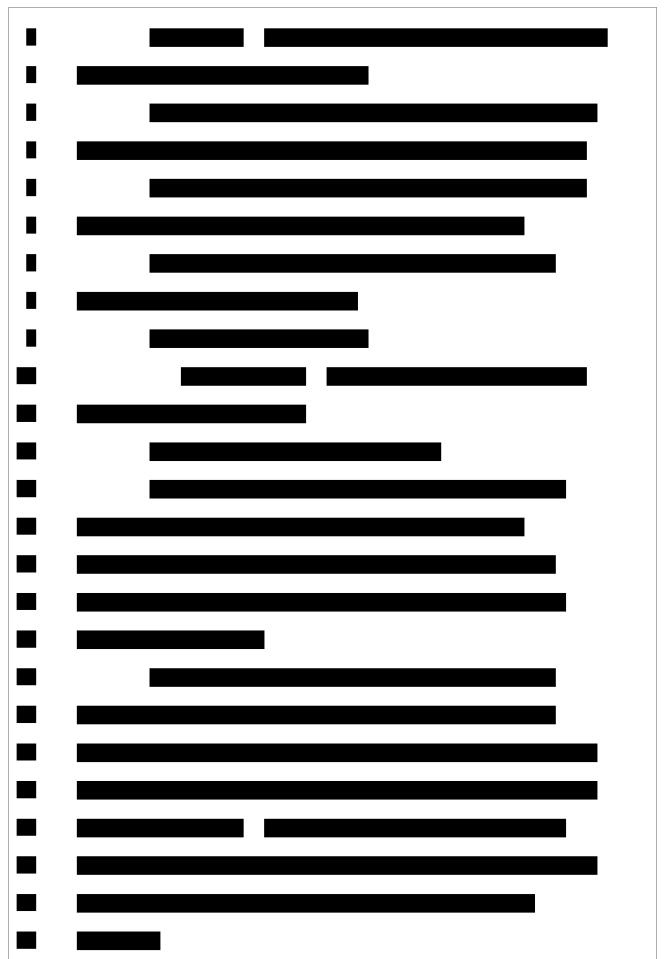


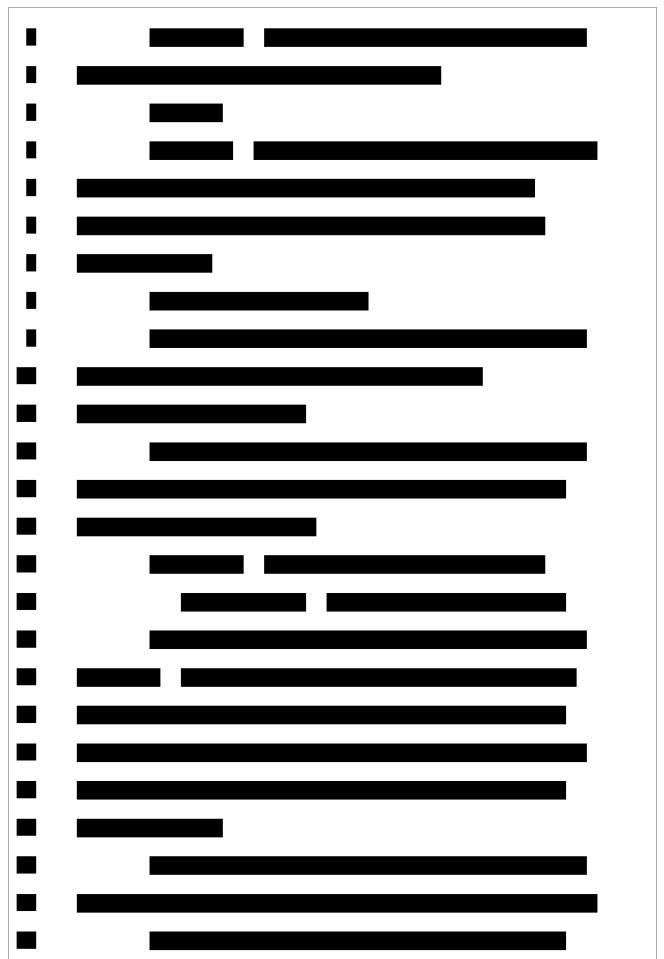


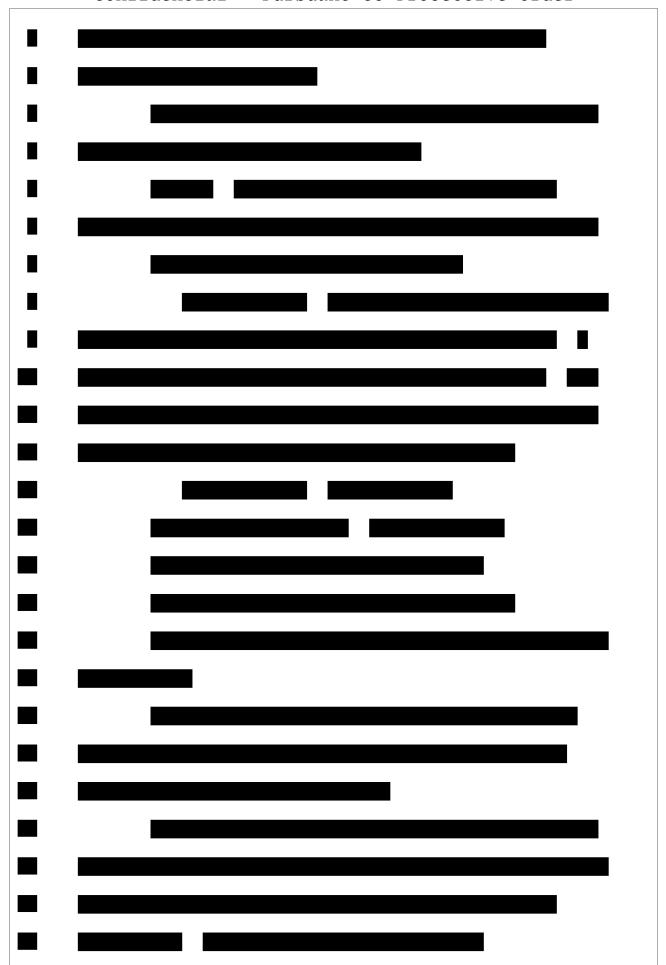


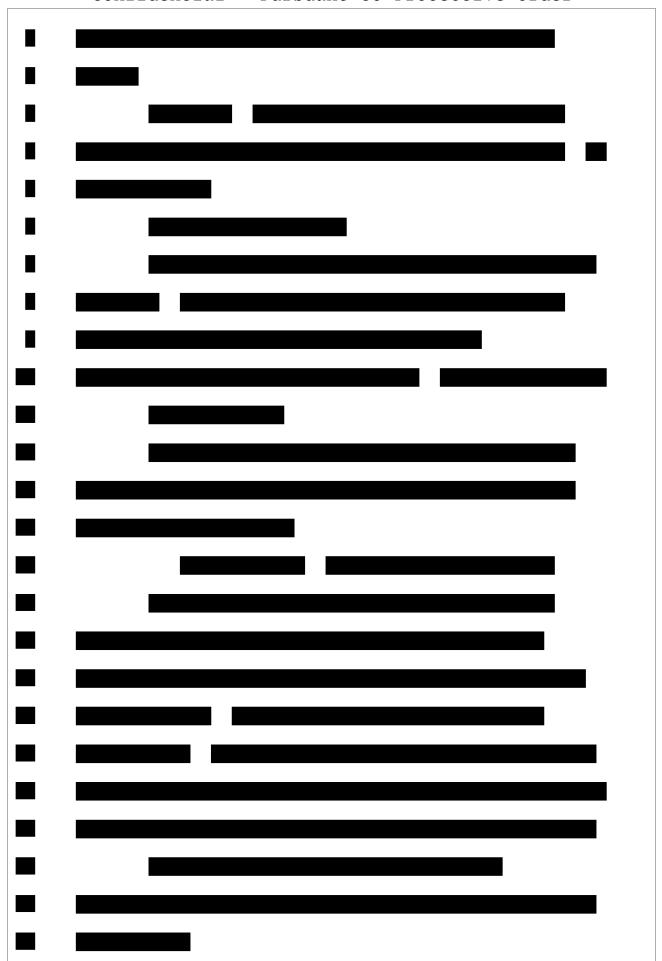


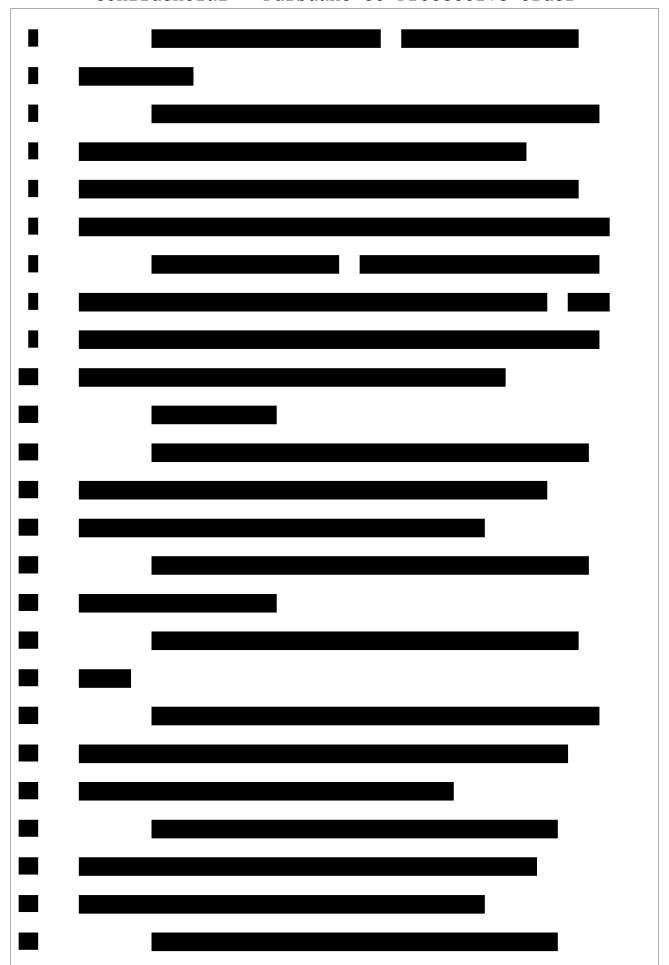


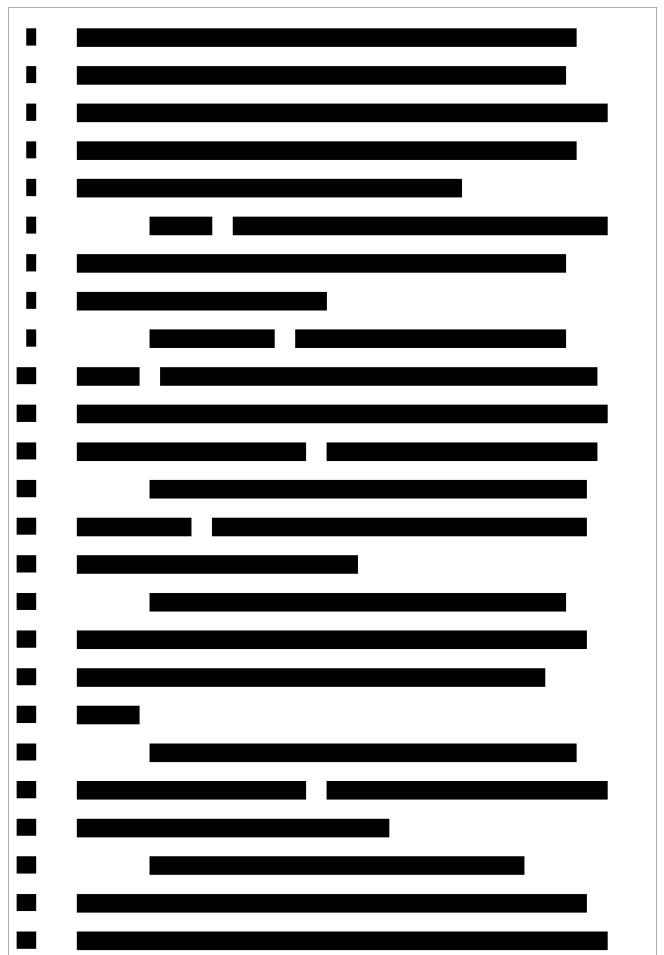


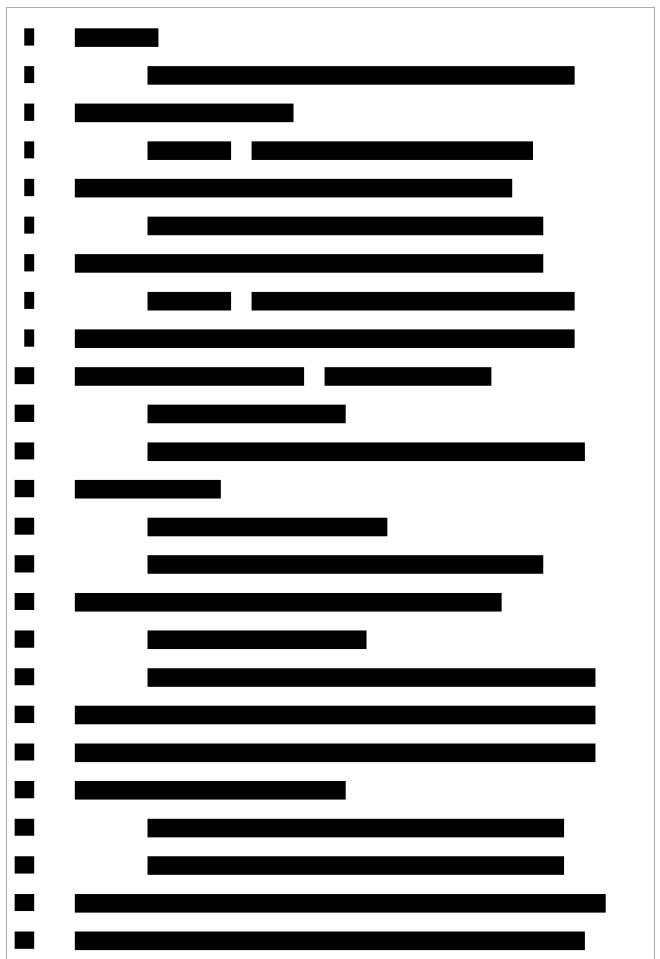


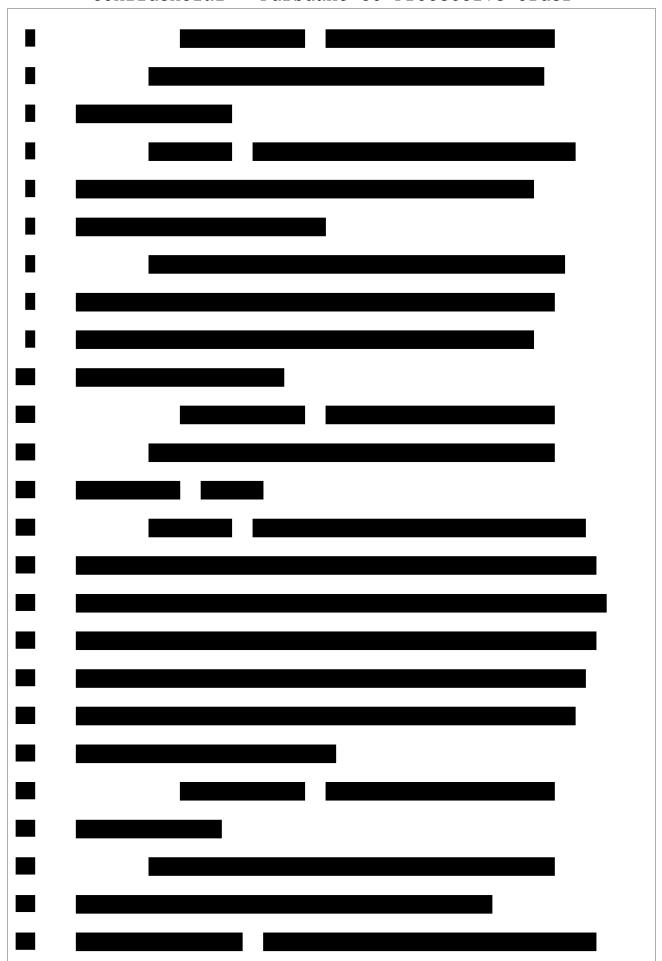


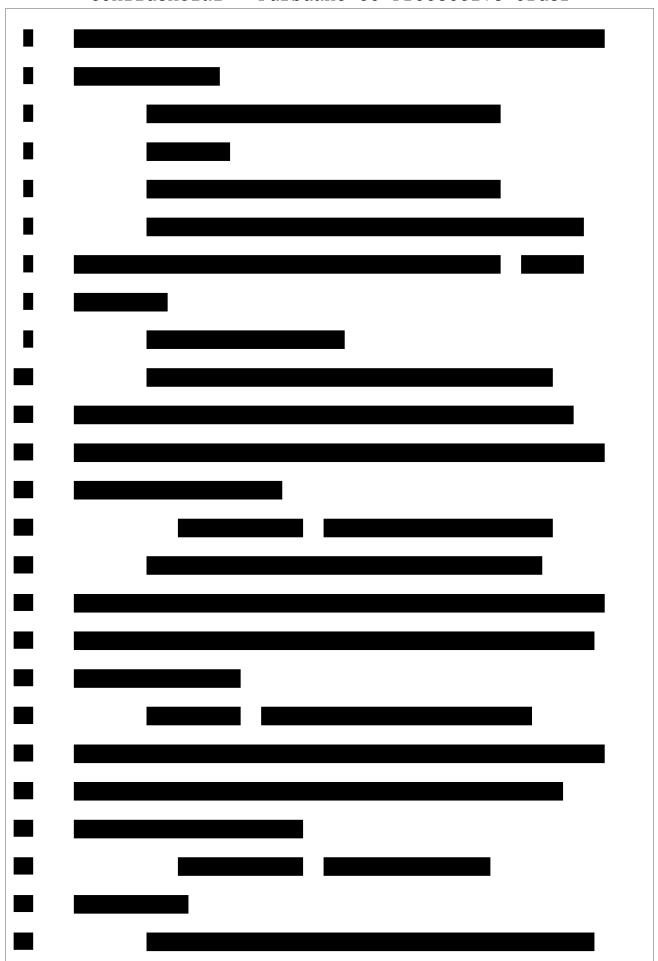


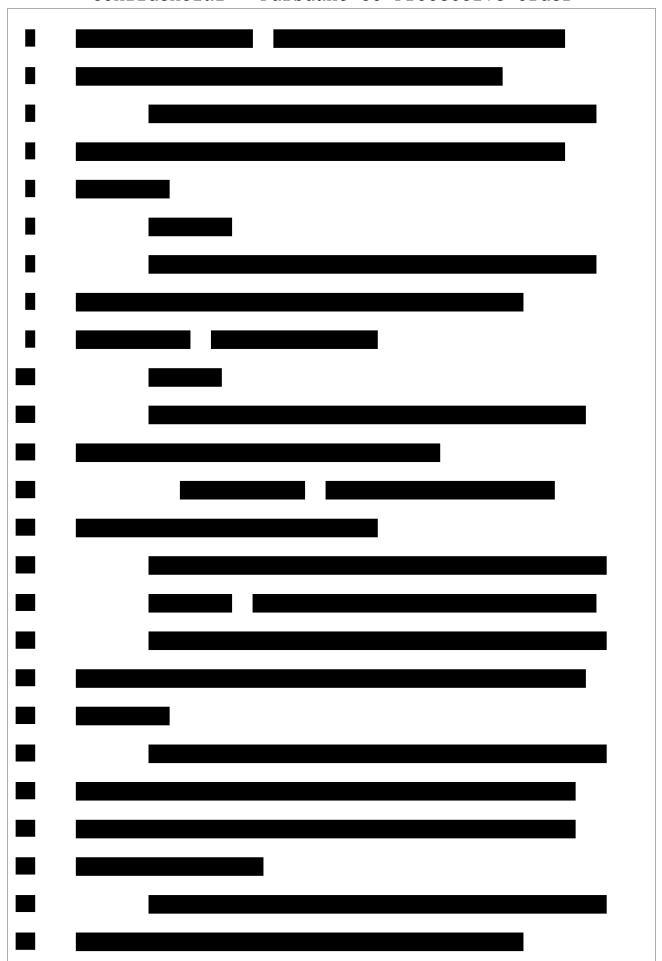


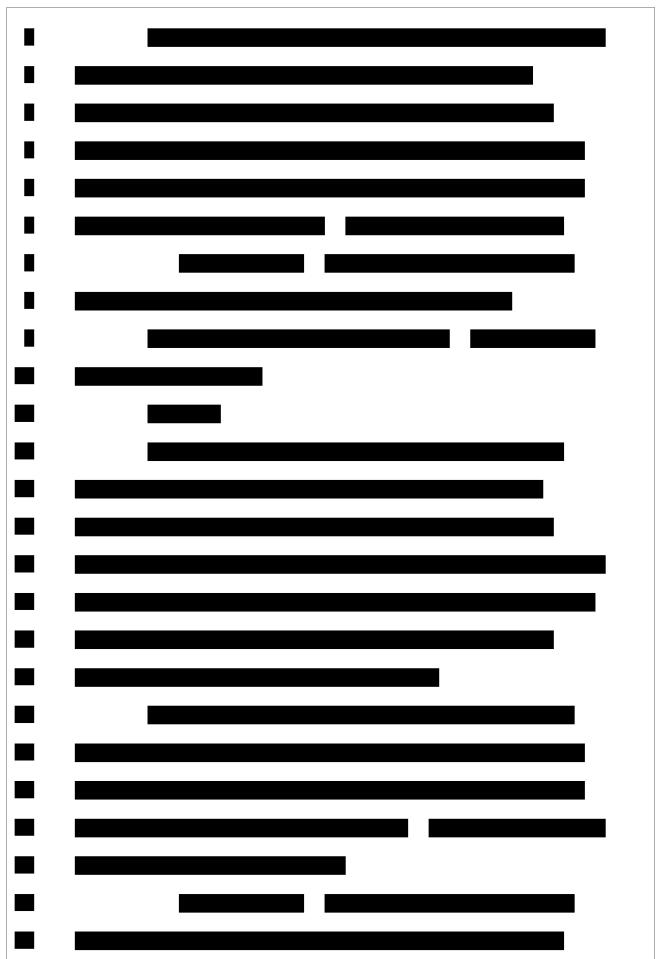


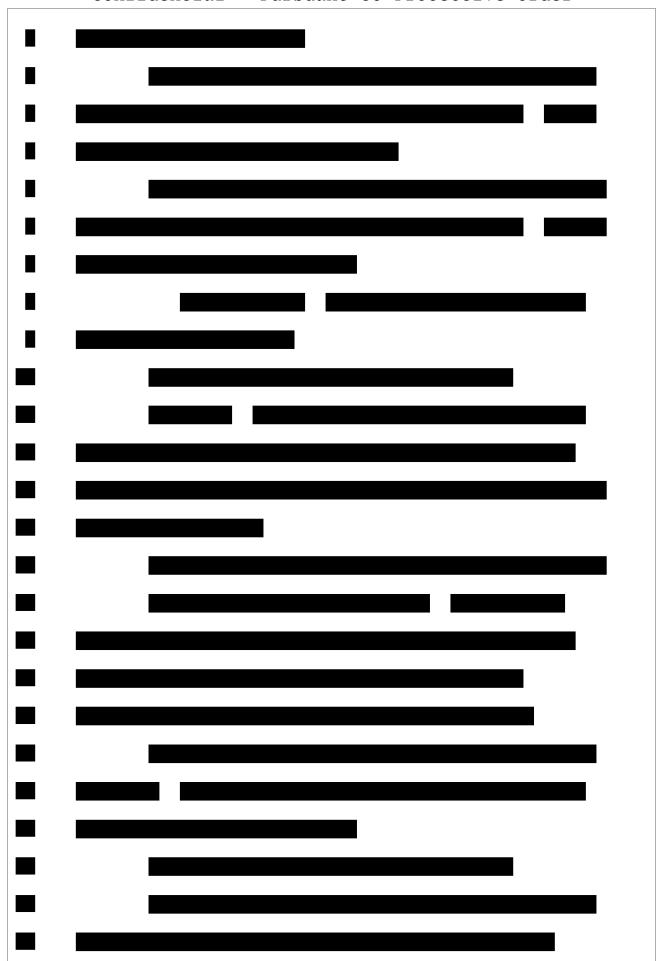


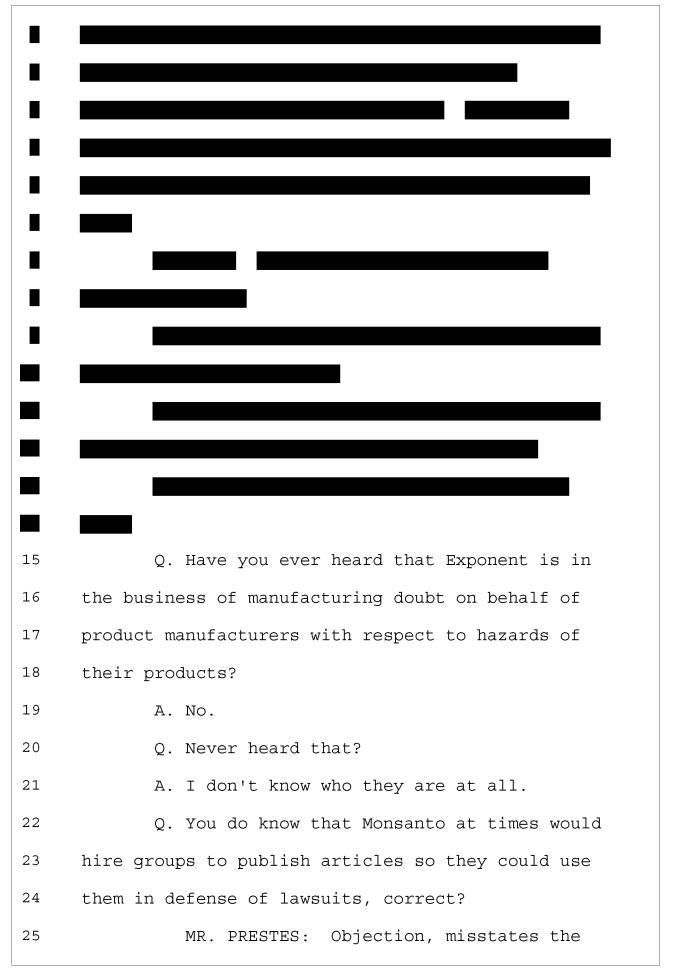












- 1 facts.
- A. Hired groups to do -- I'm sorry. Say
- 3 that one more time, the question.
- 4 Q. To publish articles so that Monsanto
- 5 could use them to defend lawsuits.
- A. I don't know that we've done that. If
- 7 it's specifically related to defending a lawsuit,
- 8 we usually do that in court, if you're --
- 9 Q. Well, the lawyers who were defending
- Monsanto in court need something to say in defense,
- 11 right? So if there's an article published for the
- purpose of providing a defense, you're unaware that
- Monsanto has done that before?
- MR. PRESTES: Objection, foundation, and
- misstates the record.
- 16 A. Yeah, I don't know of examples where
- 17 we've hired people to write articles that we use to
- 18 defend ourselves in court. I think that was your
- 19 question.
- Q. Do you know who David Saltmiras is, Dr.
- 21 Saltmiras?
- 22 A. No.
- Q. Never heard of the name?
- A. I may have come across it in some
- documents we were reviewing, but I've never met him

- 1 or know what he does.
- Q. Okay.
- MR. KRISTAL: Let me go off the record
- for a minute so I can pull a document out.
- 5 VIDEO SPECIALIST: The time is 1:34 p.m.
- 6 We're going off the record.
- 7 (Proceedings recessed)
- 8 VIDEO SPECIALIST: The time is 1:39 p.m.,
- 9 and we're back on the record.
- 10 (Exhibit 17 marked for
- identification: PowerPoint | JGTF
- 12 Administrative Committee Toxicology
- 13 TWG Update | David Saltmiras)
- 14 BY MR. KRISTAL:
- 15 O. I've marked as Exhibit 17 a PowerPoint
- dated October 4th, 2011. It has the name David
- 17 Saltmiras, Ph.D., DABT, and it's entitled "JGTF
- 18 Administrative Committee, Toxicology TWG Update,"
- and the Bates number is not on the document, but
- the Bates number is MONGLY01536271.
- 21 Have you seen this PowerPoint before from
- 22 Dr. Saltmiras?
- A. I don't recall this PowerPoint, having
- seen it before.
- Q. Are you familiar or have you seen the

- 1 term "joint glyphosate task force," the JGTF?
- A. If it's the same thing as the glyphosate
- 3 task force, I've seen that terminology before.
- Q. Okay. And TWG, do you know that to be
- 5 the Toxicology Working Group?
- A. No, I didn't know that.
- 7 Q. WG generally means working group at
- 8 Monsanto abbreviation-land?
- 9 A. It's not a term I use very often or see
- 10 very often.
- Q. Okay. And this PowerPoint, if you turn
- to page 6 -- and before I read this, I will
- 13 represent to you that EDSP stands for Endocrine
- 14 Disrupter Screening Program and WoE means weight of
- evidence. All right? So this page, page 6 -- are
- 16 you there yet?
- 17 A. Yeah, I just scrolled through, quickly
- 18 through the other pages. I just haven't seen this
- 19 before, but go ahead.
- Q. It says, "Tox TWG Recommendations EDSP"
- on top, correct?
- 22 A. Okay.
- MR. PRESTES: Before you answer, I object
- to the exhibit and to the questions on it on the
- 25 grounds that the questions lack foundation. The

- witness has testified he hasn't seen the document
- before. The document is dated from before the
- 3 witness ever -- years before the witness ever
- 4 worked on glyphosate issues. Go ahead.
- 5 MR. KRISTAL: I don't think the last
- 6 statement is correct, but whatever.
- 7 Q. The second bullet point, I'm going to
- 8 paraphrase it first and then read it, weight of
- 9 evidence review of Endocrine Disrupter Screening
- 10 Program Studies, and it reads, "WoE review of EDSP
- 11 studies." Do you see that bullet point?
- 12 A. I see that bullet point.
- O. And under that it has three bullet
- 14 points, correct?
- 15 A. Two bullets and then a sub-bullet, yes.
- Q. Okay. The first bullet point is,
- "Exponent proposal." Do you see that?
- 18 A. Yes.
- 19 Q. And we were talking about Exponent before
- we took the short break, correct?
- A. And I said I don't know what it is.
- Q. Okay. But you know it's a consulting
- company, is it not, that Monsanto has used before,
- even though you don't know details?
- A. I think in reading all of the transcripts

- of other people's depositions I generally
- 2 understand it was some kind of company we hired to
- do work, yes.
- 4 Q. Okay. The next bullet point says,
- 5 "easily converted to a manuscript for peer-reviewed
- 6 publication." Do you see that?
- 7 A. I do.
- Q. And under that it says, "highly valuable
- 9 for product defense." Do you see that?
- 10 A. I do.
- Q. Is that the first time that you're seeing
- that Monsanto was valuing published literature
- submitted for publication by consulting groups that
- it hires as highly valuable for product defense?
- MR. PRESTES: Objection, form,
- 16 foundation, misstates facts.
- 17 A. Yeah, I have no idea if that's what
- that's talking about. I really don't know.
- Q. Well, what does product -- what else
- 20 could it mean?
- 21 A. Well --
- MR. PRESTES: Objection, same set of
- objections, principally foundation.
- A. You're using product defense in the
- courtroom setting. I'm not sure that that's what

- 1 this is talking about at all.
- Q. Okay. So it's talking about -- it either
- means that, or it means highly valuable in
- 4 defending the product from some sort of attack,
- 5 correct?
- 6 MR. PRESTES: Objection, foundation.
- 7 A. No, given the context, just, and, again,
- 8 I've only skimmed this, if they're dealing with
- 9 regulatory submissions, I would probably just,
- 10 again, just spitballing, assume that product
- defense here meant something with, you know,
- responding to something with regulatory agencies.
- Q. So they are having an outside group
- 14 publish something so they can use it as a highly
- valuable way of defending the product in the
- 16 regulatory context.
- MR. PRESTES: Objection, foundation,
- 18 calls for speculation. The witness has even said
- 19 at this point that he's just spitballing with you.
- 20 A. Yeah, I just don't know. I don't know
- 21 what Exponent's role is. I don't know what they're
- talking about as a peer-reviewed publication. I'm
- just not going to be very helpful there in that
- 24 regard.
- Q. Okay. The words say what they say,

- 1 correct?
- 2 A. Yes.
- Q. All right. If you look -- go back to
- 4 Exhibit 16. I told you it would be a brief
- 5 digression. On the page "What Has Been Done So
- 6 Far" of the PowerPoint that we were looking at --
- 7 are you there?
- 8 A. Yes.
- 9 Q. Okay. The next-to-the-last sort of
- 10 category before the bottom, "conducted expert
- 11 review of recent key epidemiology paper claiming
- 12 glyphosate causes cancer," and the sub-bullet is,
- "use that meaning, then publish for future
- 14 defense." Do you see that?
- 15 A. I do.
- Q. Okay. Were you aware that Monsanto had
- 17 hired Exponent to do a review of recently published
- 18 epidemiology studies that had determined that
- 19 glyphosate caused cancer?
- MR. PRESTES: Objection, foundation,
- 21 assumes facts.
- A. Yeah, it's -- no, it's not an area that
- 23 I'm familiar with. I don't know what we were doing
- with Exponent and what their project was there.
- Q. Okay. I want to try to get us on the

- 1 same page with the definition of some common words
- before I go into those words.
- MR. KRISTAL: So I'm marking as Exhibit
- 4 8, this is something I've printed from the English
- 5 Oxford Dictionary online of two words, and I want
- to see if we can agree on what these words mean.
- 7 (Clarification by reporter.)
- 8 MR. KRISTAL: If I said 8, I certainly
- 9 meant 18. Thank you for correcting me.
- 10 (Exhibit 18 marked for
- identification: Oxford Dictionary
- 12 Orchestrate)
- Q. So Exhibit 18 is dated February 6th,
- 14 2019. It's what I printed out from the Oxford
- 15 Dictionary online. The first word is the word
- "orchestrate." Do you see that?
- 17 A. Okay.
- Q. Have you heard of the word orchestrate
- 19 before?
- 20 A. Yes.
- Q. I'm not talking -- it has two definitions
- here, right? It has a 1 and 2.
- A. Yeah, I see it.
- Q. Okay. I'm not talking about 1, which
- says, "arrange or score (music) for orchestral

- 1 performance." I'm not talking about that. I'm
- talking about the second definition.
- 3 Do you agree the word orchestrate in the
- 4 context of the second definition means, "plan or
- 5 coordinate the elements of (a situation) to produce
- a desired effect especially surreptitiously"?
- 7 A. Yeah, I see that that's -- that's the
- 8 definition of the word orchestrate, yes.
- 9 Q. Okay. And that's a definition that
- without word for word your understanding of how the
- 11 word orchestrate is used?
- 12 A. I think actually, if we looked deeper,
- we'll see lots of different meanings for the word
- orchestrate depending on where you go for the
- meaning, but I'll agree with you that that is a
- definition of the word orchestrate.
- Q. Right.
- 18 A. And it will be context dependent, but I
- 19 get -- I see that definition.
- Q. Are there any other definitions of
- 21 orchestrate?
- A. I would have to go pull out another
- dictionary, and I'm sure if we go look we'll find
- other meanings and other variations of meaning, so
- 25 I'm not going to --

- 1 Q. Well, tell me what your understanding of
- the word orchestrate is.
- A. It depends on the context.
- 4 Q. Okay. Not in the context of musical
- 5 arrangement.
- A. Again, it depends on the context, and
- 7 we'll -- let's look at it in context and then we
- 8 can get to it.
- 9 Q. Okay. The next word is "outcry." Do you
- 10 see that?
- 11 A. Yes.
- 12 Q. And outcry has a 1 and a 1.1 definition.
- The first definition, "an exclamation or shout,"
- and the second definition, "a strong expression of
- public disapproval or anger." Do you see that?
- 16 A. I do.
- Q. So if somebody was orchestrating an
- outcry, what does that mean to you?
- 19 A. I guess it can depend on the context of
- what they're doing.
- Q. Okay. And you know that Monsanto was
- 22 planning on orchestrating an outcry after IARC made
- 23 its decision, correct?
- A. I wasn't aware of that, no.
- O. Never saw that before?

- 1 A. Only in preparing for my deposition I saw
- the phrase used.
- Q. Okay. What's your understanding of what
- 4 you were reading, orchestrate outcry, what's your
- 5 understanding of that?
- A. I have no idea what they meant.
- 7 Q. You have no idea what that means.
- 8 A. I know that they wanted to respond to
- 9 IARC and they wanted to find ways of communicating,
- 10 you know, what they thought was the right result,
- but I don't know what they meant by orchestrating
- an outcry in that context.
- Q. Do you believe that Monsanto knows how to
- 14 express itself intelligently?
- 15 MR. PRESTES: Object to the form. You
- mean employees at the company?
- Q. Yeah, employees who were responsible for
- policy, do you think that they were able to express
- themselves in the English language?
- 20 A. Yes.
- Q. Okay. And if they -- folks who were
- involved in how to respond to IARC wanted to simply
- say, we're going to respond to IARC, they know how
- to write those words, respond to IARC, right?
- A. And they have many times in many

- 1 documents, yes.
- Q. They could say criticize the process, or
- anything they want, correct?
- 4 A. That's right.
- 5 Q. But you've seen them use the word
- 6 "orchestrate outcry," correct?
- 7 A. Yes, I saw that in one document.
- Q. Okay. Well, I've got a couple I'll show
- 9 you.
- 10 A. Okay.
- MR. KRISTAL: I'm going to mark as
- 12 Exhibit 19, this is the January 2018 IARC response
- to the criticism of the Monographs and glyphosate
- 14 evaluation.
- 15 (Exhibit 19 marked for
- identification: January 2018 IARC
- 17 response to the criticism of the
- 18 Monographs and glyphosate
- 19 evaluation)
- Q. I think you said earlier you may have
- seen this; you weren't sure.
- A. Yeah, I wasn't sure.
- Q. Okay. Well, take a look at it and then
- tell me if you've seen this before.
- A. I'm just going to take a minute --

- 1 Q. Yeah, take your --
- A. -- I'll try to be quick -- and read it.
- Q. No, I understand.
- 4 A. Okay. I think I've gotten through most
- of it here. Let's go ahead with your questions.
- Q. Was the work you were doing with respect
- 7 to IARC when you were at Monsanto, was that your
- 8 major work, or was that a small part of what you
- 9 were doing? What percent of your time would you
- 10 say was devoted to that?
- A. Maybe at some points in 2016 and 2017
- about half my time. Prior to that very little, and
- after that increasingly less.
- Q. And have you read this before?
- 15 A. I've seen this before online. I had not
- read every single word of it before, but, yeah,
- 17 most of it was familiar to me.
- Q. Okay. And this is entitled, "IARC
- 19 response to criticism of the Monographs and the
- 20 glyphosate evaluation prepared by the IARC director
- January 2018." That's what the title is, correct?
- 22 A. Yes.
- Q. All right. And this is a point by point,
- ten-page document going over various critiques and
- 25 IARC responding to them through their director,

1 correct? 2. A. That's how I would take it, yeah. 3 Q. Okay. And your understanding having read this -- and tell me if you recall -- IARC certainly 4 5 felt that they were being attacked by industry regarding their glyphosate evaluation, correct? 6 7 MR. PRESTES: Objection, form, 8 foundation, to the extent it's asking him what IARC felt. 9 10 A. Yeah, I never talked to IARC. I don't 11 know if they felt attacked or not. 12 Q. Let's read it. Under Background it says: 13 "Since the evaluation of glyphosate 14 by the IARC Monographs Program in 15 March 2015, the Agency has been 16 subject to unprecedented, 17 coordinated efforts to undermine 18 the evaluation, the program and the organization. These efforts have 19 20 deliberately and repeatedly 21 misrepresented the Agency's work. 22 The attacks have largely originated 23 from the agrochemical industry and 24 associated media outlets. They 25 have taken place in the context of

```
1
                major financial interests relating
 2.
                to; (a), the relicensing of
                glyphosate by the European
 3
 4
                Commission; (b), hundreds of
 5
                litigation cases in the USA brought
                by cancer patients against
 6
 7
                Monsanto, claiming that their
 8
                malignancies were caused by
 9
                glyphosate use; (c), and the
10
                decision by the California
11
                Environmental Protection Agency to
12
                label glyphosate as a carcinogen."
13
             Did I read that correctly?
14
             A. Yes, I believe you read that correctly.
15
             Q. So certainly IARC felt it was under
16
     attack, correct?
17
                MR. PRESTES: Objection, form,
18
     foundation.
19
             A. Yeah, I would just take it from its words
20
      that they felt like they needed to respond to
      criticisms that were appearing in the media.
21
22
             Q. It doesn't say criticisms.
23
             A. I'm sorry. What was the word they used?
24
             Q. Well, it says, number 1, they were
25
      subjected to unprecedented coordinated efforts to
```

- 1 undermine the evaluation, the program and the
- organization. That's how they saw, in part,
- 3 Monsanto's efforts, correct?
- 4 MR. PRESTES: Object to the form and to
- 5 the extent it mischaracterizes the document.
- A. If I read all that together, it sounds
- 7 like they're accusing the agrochemical industry,
- 8 and I would assume Monsanto, of doing these things.
- 9 Q. Okay. They say, these efforts have
- deliberately and repeatedly misrepresented the
- 11 agency's work. That's what IARC says, correct?
- 12 A. That's what IARC says.
- Q. And they also say that the attacks have
- largely originated from the agricultural industry
- and associated media outlets, correct?
- A. I don't know -- yeah, that's what it
- 17 says.
- Q. Right. They actually use the word
- 19 "attack."
- 20 A. Yes.
- Q. Okay. IARC had no financial stake in
- 22 selling Roundup, did it?
- MR. PRESTES: Object to the form.
- A. No, I don't believe so. They were
- scientists doing work on different chemical

- 1 compounds, so they got -- I guess they got grants
- and things for their research, so they have that
- financial interest, but I don't know that they ever
- 4 make any money from actually selling glyphosate. I
- 5 don't think that's true.
- Q. And they had no stake one way or the
- 7 other as to whether or not there was a cancer
- 8 warning that would be required on a Roundup product
- 9 that had glyphosate, correct? Wouldn't affect them
- financially one way or the other.
- 11 A. No, maybe just -- I don't know what their
- 12 financial interests are. So who knows what
- holdings they have, what research they're doing,
- where they're getting grant money, and having an
- 15 IARC determination come out and start a whole new
- path of controversy on something could quite --
- 17 could be quite beneficial, if they're engaged in
- the right research path. I don't know which
- 19 researchers might have been in that situation for
- 20 glyphosate, but --
- Q. Well, you have no evidence of any of the
- 22 experts from IARC who reviewed glyphosate for
- carcinogenicity had any financial interest one way
- or the other, right?
- A. I think what I'm saying is I don't know.

- Q. Okay. And certainly you're not saying
- that a scientist who might have owned shares in a
- 3 glyphosate-producing company would be adversely
- 4 affected by a finding.
- In other words, if there was a financial
- 6 interest in that regard, it would be against their
- 7 interest to find that glyphosate was probably
- 8 carcinogenic, correct?
- 9 A. I just don't know what their financial
- 10 interests are.
- 11 Q. But if --
- 12 A. That's what I'm saying.
- Q. -- if they had stock -- I think you were
- 14 alluding to the fact that they may have had stock
- in companies that sold glyphosate or herbicides.
- A. Or a competing company that would stand
- 17 to benefit from it. Again, I'm saying I don't know
- 18 what their financial interests were.
- Q. Well, we certainly know none of them were
- in the business of selling Roundup, right?
- 21 A. I think that's an okay assumption. I --
- I can't imagine they were.
- Q. If there were folks who were involved in
- 24 selling Roundup on that panel that determined
- 25 glyphosate was probably carcinogenic, don't you

think somebody would have said something while you 1 2. were involved with it? A. Yeah, I don't think IARC would have 3 4 invited them in the first place. 5 Q. Okay. In the second paragraph: 6 "In response to the 7 misrepresentations the agency has 8 sought to provide a clear account 9 of actions including keeping its 10 governing bodies informed of developments. Many of the relevant 11 12 documents have been posted in the 13 public domain on the IARC 14 governance website and on dedicated 15 glyphosate webpages. 16 scientists have responded to 17 industry funded critiques appearing 18 in scientific journals by published 19 letters to journal editors. Given 20 its limited capacity, IARC has not 21 tried to develop an extensive media 22 campaign to present its position or 23 to counter all industry sponsored 24 attacks in the media. However, in 25 selected and important cases, IARC

- 1 has addressed the false claims in
  - 2 the media."
  - 3 That's what they, IARC, says in this
  - 4 response to the criticisms, correct?
  - 5 A. That's what IARC is saying about what was
  - 6 going on at the time.
  - 7 Q. And Monsanto was certainly involved in
  - 8 industry-sponsored attacks in the media involving
  - 9 IARC's findings with respect to glyphosate being
- 10 probably carcinogenic, right?
- 11 A. I don't think I've ever thought of them
- 12 as attacks. I think we were communicating the
- facts about a decision we disagreed with and IARC
- 14 felt attacked. I think they sometimes mistake our
- taking issue with their conclusion with an attack
- on their institution.
- Q. So you don't feel if Monsanto was
- involved in orchestrating an outcry, that that
- 19 would be viewed as an attack?
- A. I don't know what that means in that
- 21 context that we talked that.
- Q. We'll look, and you tell me if you have
- 23 no idea what those two words mean.
- Do you know that that was part of the plan,
- Monsanto's plan, to respond to IARC before it even

- 1 knew what the classification was, that, if it was
- 2 negative, they were going to orchestrate outcry?
- 3 Did you know that?
- 4 MR. PRESTES: Objection, assumes facts.
- 5 A. I saw a presentation that used that term,
- 6 but I wasn't part of any team or any discussion of
- 7 those things and don't know what our plans were.
- 8 Q. Okay. The plan that you saw, though, was
- 9 a plan for Monsanto to orchestrate an outcry
- against the finding before it knew what the finding
- 11 was, right?
- 12 A. I don't remember the timing.
- 13 Q. Okay.
- 14 A. I assume we can look at the document at
- 15 some point.
- Q. We are going to look at a couple
- 17 documents.
- If you turn to page 9, at the bottom,
- 19 there's a section, IARC evaluations make use of the
- latest scientific data and methodologies. "The
- 21 IARC Monographs pioneered and continue to be a
- leader worldwide in objective, systematic cancer
- 23 hazard evaluations."
- A. I'm sorry. I'm not tracking where you
- 25 started there.

- Q. At the very bottom -- that's okay. I'll
- do it again. At the very bottom of the page.
- A. Oh, I see it now. You don't have to
- 4 repeat it. I see what you said.
- 5 Q. Okay. That's what IARC said about its
- 6 own Monograph Program, correct?
- 7 A. Yes, in this document, I agree, that's
- 8 what they said about their program.
- 9 Q. And Monsanto disagrees? Do you know what
- Monsanto's position is one way or the other?
- A. I can't speak for Monsanto on that. We'd
- 12 have to talk to our scientists.
- Q. As you sit here today, you have nothing
- one way or the other to challenge the statement
- that the IARC Monographs pioneered and continue to
- be a leader worldwide in objective, systematic
- 17 cancer hazard evaluations?
- 18 A. I can speak in my personal context here
- of I think they do hazard evaluations, yes, I think
- that's right.
- Q. Okay. You don't think they're a leader
- 22 worldwide?
- 23 A. I don't know who else does hazard
- evaluations and how they fit into other
- organizations that do those things.

Q. Do you feel their evaluations are 1 2 objective and systematic? 3 A. I don't know. I wouldn't be qualified to speak to that. 5 Q. The next bullet point: "Authoritative reviews including by 6 the National Research Council of 7 the U.S. have heralded IARC's 8 9 review and evaluation methodology 10 citing it as exemplary and 11 recommending it as one potential 12 model for adoption by U.S. National 13 Risk Assessment Programs." 14 Did you know that? 15 A. No, I'm confused by that actually. I'm 16 not sure what that means. 17 Q. Well, have you heard of the National 18 Research Council in the U.S.? Do you know what 19 that agency is? 20 A. No. 21 Q. Never heard of them? 22 A. (Shaking head from side to side.) 23 Q. Have you ever read either one of the three references that are provided by the IARC 24 25 director here in terms of the National Research

- 1 Council review of IARC's methodology and
- 2 evaluation?
- A. No, I haven't read those. What I was
- 4 confused by is they're talking about adoption by
- 5 U.S. national risk assessment programs.
- 6 Q. Right.
- 7 A. But then on this page it says they're
- 8 explicit about the difference between hazard and
- 9 risk assessments. So I thought, again, IARC does a
- 10 hazard assessment, and then it even says here
- 11 somewhere when I was skimming this about
- 12 recommending it then for further risk assessments
- in order to set levels of exposure that you're
- 14 willing to accept. And so I'm confused just --
- again, I don't have the context of what they meant,
- 16 but ...
- Q. I want to see if I understand what you're
- 18 saying about hazard versus risk. If something is
- 19 considered a cancer hazard, meaning it probably
- 20 could cause cancer, as a hazard it means it could
- 21 do so under certain circumstances; is that fair to
- 22 say?
- A. I was just using, not my words, but
- 24 IARC's, but it says potential and --
- Q. Right.

- 1 A. -- it has the potential to cause cancer.
- 2 Q. Under certain circumstances.
- A. Under -- yeah, I don't know if they said
- 4 it that way, but, anyway, that's ...
- 5 Q. I'm not asking what they said. I'm
- 6 asking your understanding. You keep talking about
- 7 the difference between hazard and risk, and I want
- 8 to understand your understanding of it.
- 9 A. Yeah, that's what I was saying, I was
- 10 confused, because I was looking at IARC's --
- Q. So what's your --
- 12 THE REPORTER: Wait.
- MR. PRESTES: Let the witness finish.
- 14 A. I was looking at IARC's words where they
- said they were very clear about the difference
- between hazard and risk assessments and that they
- 17 do hazard identification, not risk assessments.
- Q. And hazard identification means you
- identify whether or not a substance can cause
- 20 cancer under certain circumstances; is that fair to
- 21 say?
- A. Whether or not it has the potential to
- cause a cancer, yes.
- Q. Well, that's an important first step and
- 25 then evaluating exactly what the risk is based on

- 1 different exposure levels, correct?
- A. Yeah, again, according to what they're
- 3 saying, once you've identified a hazard, then you
- 4 need to go back and do a risk assessment, yes.
- 5 Q. And a risk assessment, in part, turns on
- 6 the amount of exposure someone has to the
- 7 substance, right?
- A. Yes, I believe that's correct.
- 9 Q. In other words, if I never came in
- 10 contact with Roundup, never got it on my skin,
- 11 never breathed any droplets, never spilled it on
- myself, never had it on my hands and put it in my
- mouth, if I had zero exposure to Roundup, whether
- there's a hazard or not, whether it could cause
- cancer is irrelevant because to me it's not a risk,
- 16 right?
- 17 A. Zero exposure would not be a risk to
- 18 anything.
- 19 Q. Okay.
- A. That's -- that's fair.
- Q. The last bullet point in Exhibit 19 --
- 22 I'm sorry, 18:
- "In consideration of this valuable
- 24 peer review input and also taking
- into account positive peer review

1 by the U.S. NCI, the program 2. remains committed to conducting 3 reviews that are scientifically 4 rigorous, respected, and free of 5 conflict of interest." 6 That's how this response to the criticism by IARC ends, correct? 7 8 A. Yes, that's the end of their statement. Q. And when it says U.S. NCI, they're 9 10 talking about the National Cancer Institute in the United States? 11 12 A. I'm going to assume that's the case. 13 That seems right. 14 Q. I think I misspoke. This was document number 19. 15 16 The other thing I mentioned earlier in terms of any sort of response to the attacks by Monsanto 17 18 was the article written by Pearce and 99 other 19 scientists. Do you remember that briefly? 20 A. Yeah, I remember you mentioned something. 21 MR. KRISTAL: Marking as Exhibit 20, this 22 is a Monsanto document. 23 (Exhibit 20 marked for 24 identification: Email 25 correspondence from (topmost) C

1 Thorp sent 3/17/2015 re IARC Review 2. Pearce, Blair MONGLY03827415) Q. It is an email from Clare Thorp of CLA, 3 4 CropLife America, to Dr. Goldstein and a number of 5 other individuals. Do you see that? 6 A. I see that. 7 O. It's dated March 17th, 2015, and the Bates number is MONGLY03827415. And attached to 8 9 this it says, Pearce 2015 EHP preprint IARC 10 monographs. Do you see that, where it says 11 "attachments" under the email heading? 12 A. Yes, I see that. 13 Q. And this attachment is Bates numbered. 14 It starts on 417. Do you see that? 15 A. Yes. 16 Q. And the EHP that's referenced in the 17 email is the Environmental Health Perspectives, 18 which is the journal that published the article 19 entitled "IARC Monographs 40 years of evaluating 20 carcinogenic hazards to humans." Do you see that? 21 MR. PRESTES: Object to the exhibit and 22 to the questioning on the exhibit on the ground that it lacks foundation. You haven't established 23 the witness has ever seen, sent or received the 24

document.

25

- Q. I think you said you saw the Pearce
- 2 article itself, did you not? This is the preprint,
- 3 the manuscript before it appeared in the journal.
- 4 A. Okay.
- 5 Q. And you've seen the Pearce article
- 6 itself?
- 7 A. I don't remember seeing the preprint.
- Q. I'm not asking you about --
- 9 A. Yeah, I recall the --
- 10 Q. The article?
- 11 A. -- the article with the scientists that
- 12 signed that.
- Q. Okay. And this is in fact a hundred
- scientists. And we don't have to count,
- thankfully, because they put a footnote after each
- one of their names in the preprint, and it goes up
- to 100, correct?
- 18 A. Okay.
- 19 Q. Yes? Do you see that? If you turn the
- 20 page, each name has a footnote, and then on the
- 21 next page --
- A. Yeah, if you've actually figured that
- out, I'm not going to argue with you on that if
- 24 it's 100.
- Q. Well, that's what it says.

- 1 A. But, yes, okay.
- Q. All right. And I'm just going to go
- 3 through some of the institutions that the authors
- 4 are affiliated with, which are listed on pages 2
- 5 through 7, correct?
- 6 MR. PRESTES: Objection, foundation.
- 7 Q. Well, you understand, when authors write
- 8 an article, they list their affiliations,
- 9 correct --
- 10 A. Yes.
- Q. -- which institutions they're affiliated
- 12 with?
- A. Yes. I just wasn't sure. Were you
- 14 asking me a question or -- you just said --
- Q. No, I'm telling you what I'm about to do
- so I'm giving you a heads-up.
- 17 A. Okay. Great.
- Q. On page 2, the Bates number that ends in
- 19 419, I'm just going to run through some of these.
- One of the authors is affiliated with the Division
- of Cancer, Epidemiology and Genetics, National
- 22 Cancer Institute, Bethesda, Maryland USA. That's
- 23 number 2, right?
- A. I see that, yes.
- Q. Number 11, I'm sorry, number 8, one of

- the authors that wrote this article is affiliated
- with the Departments of Environmental Health and
- 3 Epidemiology, Harvard School of Public Health,
- 4 Boston, Massachusetts USA, correct?
- 5 A. Okay.
- Q. Number 11, one of the authors is
- 7 affiliated with the National Cancer Institute,
- 8 National Institutes of Health, Research Triangle
- 9 Park, North Carolina USA. Do you see that?
- 10 A. I do.
- 11 Q. One of the authors is affiliated with the
- 12 Division of Public Health Sciences in Alvin J.
- 13 Siteman Cancer Center, Washington University School
- of Medicine, St. Louis, Missouri USA. Do you see
- 15 that?
- 16 A. I do.
- Q. And you're familiar with the Washington
- 18 University School of Medicine having lived in
- 19 St. Louis, correct?
- A. I've heard of it, yes.
- Q. All of the institutions so far are
- well-recognized institutions on cancer research?
- A. I believe so, yes.
- Q. Okay. Number 13, one of the authors is
- 25 affiliated with the Division of the National

- 1 Toxicology Program, National Institute of
- 2 Environmental Health Sciences, Research Triangle
- 3 Park, North Carolina USA.
- 4 On the next page, number 21, one of the
- 5 authors is affiliated with the Division of
- 6 Occupational and Environmental Medicine, Duke
- 7 University Medical Center in Durham, North Carolina
- 8 USA. Do you see that?
- 9 A. I see that.
- Q. And then 25, another reference, the
- 11 Department of Environmental and Occupational Health
- 12 Sciences, University of Washington, School of
- 13 Public Health, Seattle, Washington USA, correct?
- 14 A. Yes.
- 15 O. The next page, number 41, one of the
- authors is affiliated with the Department of Public
- 17 Health Sciences, University of California, Davis,
- 18 California USA, right?
- 19 A. Yes, I see that.
- Q. The next two, number 42, Department of
- 21 Biological Sciences, North Carolina State
- University, Raleigh, North Carolina USA, and number
- 23 43, National Institute of Environmental Sciences,
- Research Triangle Park, North Carolina USA?
- 25 A. Okay.

- 1 Q. Number 51, the Department of the
- 2 Environmental Health, University of Cincinnati,
- 3 College of Medicine, Cincinnati, Ohio, USA; number
- 4 52, Department of Epidemiology, College of Public
- 5 Health, University of Iowa, Iowa City, Iowa USA.
- 6 Correct, those are some of the other authors'
- 7 affiliations?
- A. Yes, I see that.
- 9 Q. Number 61, I don't know if you know the
- 10 acronym, but CUNY is the City University of
- 11 New York. So number 61 is the City University of
- 12 New York, School of Public Health, New York,
- 13 New York USA.
- Number 63, the Department of Environmental
- 15 Health Sciences and Columbia Center for Children's
- 16 Environmental Health, the Mailman School of Public
- 17 Health, Columbia University, New York, New York
- 18 USA.
- Number 64, the Department of Environmental
- and Occupational Health, George Washington
- University, Milken Institute, School of Public
- Health, Washington, D.C. USA. Do you see that?
- 23 A. I see that.
- Q. And this goes on and on for another two
- and a half pages with affiliations and references.

- I don't need to read all of them, but this is an
- 2 impressive group of scientists that wrote this
- 3 article, is it not?
- 4 A. I don't have any firsthand knowledge of
- 5 these scientists or even the places where
- 6 they're -- the schools. I know of them, the
- 7 schools, but I can't characterize the individual
- 8 qualifications of any of these people.
- 9 Q. Okay. Has anybody at Monsanto said that
- the people who are authors of this Pearce article
- in 2015 are not qualified scientists?
- MR. PRESTES: Object to the form.
- 13 A. Nobody has told me anything about the
- authors on this paper.
- Q. Okay. Has anybody -- would that mean
- that nobody has criticized the authors'
- 17 qualifications, as far as you know?
- A. I don't know of any conversation I've had
- about this paper and the authors on this paper
- 20 here.
- Q. So my point is, nobody has said that
- these are not qualified scientists, correct?
- Nobody at Monsanto.
- 24 A. I don't -- I don't recall a conversation
- someone has had with me at Monsanto in that regard.

1	Q. On page 11, the actual article begins,
2	and under Introduction it reads:
3	"Important advances in human health
4	have come from the recognition of
5	health hazards and the development
6	of policy actions to address them.
7	Government and nongovernmental
8	organizations use expert panels to
9	review the scientific literature
10	and to assess its relevance to
11	public health policies. Scientific
12	experts are charged with reviewing
13	the quality and quantity of the
14	scientific evidence and providing
15	scientific interpretations of the
16	evidence that underpin a range of
17	health policy decisions. The IARC
18	Monographs on the evaluation of
19	carcinogenic risks to humans of the
20	International Agency for Research
21	on Cancer (IARC) are a prominent
22	example of such an expert review
23	process."
24	Did I read that correctly?
25	A. Yes.

- Q. Has anyone at Monsanto to your knowledge
- 2 said that IARC is not a prominent example of such
- 3 an expert review process?
- 4 A. People at Monsanto take an issue with
- 5 what IARC does. I think I've characterized a few
- of the concerns they have about IARC. No one has
- 7 told me that they aren't or they are a prominent
- 8 example of an expert review process.
- 9 Q. We'll cut to the chase by going to the
- end of the article, on page 28.
- 11 A. The last page?
- 12 Q. The next-to-last-page, and then carrying
- over to the very last page, down at the bottom.
- 14 A. Okay.
- Q. The middle of the last paragraph on the
- 16 bottom of the page, do you see the word
- "substances" on the left, on page 28?
- 18 A. Oh, I'm on 36. I'm sorry.
- Q. Oh, you were in the appendix.
- 20 A. Okay.
- Q. "Substances now universally recognized as
- human carcinogens (e.g., tobacco and asbestos) at
- one time went through a quite lengthy period of
- contentious debate (Michaels 2006, 2008)." Do you
- 25 see that?

- 1 A. Yes, I see that.
- Q. And Michaels 2006, 2008 you understand to
- 3 be a reference to an author and two different
- 4 published items, correct?
- 5 A. That's how I would read that
- 6 parenthetical, yes.
- 7 Q. Okay. And if you turn to page 32, down
- 8 at the bottom, it says, Michaels D. 2006, so that's
- one of the references being cited here, is it not?
- 10 A. Mm-hmm, I see that.
- 11 Q. And it's entitled, "Manufactured
- uncertainty, protecting public health in the age of
- contested science and product defense." That's one
- of the articles they cite, correct?
- 15 A. Yes.
- Q. And the second one, Michaels D. 2008,
- that's the second reference on page 28, correct?
- 18 A. Yes.
- 19 O. And the referenced title is a book
- 20 entitled "Doubt is Their Product. How Industry's
- 21 Assaults on Science Threatens Your Health." That's
- the reference there. Do you see that?
- 23 A. Yes.
- Q. Do you know who David Michaels is, the
- author of those two things?

- 1 A. No.
- Q. Did you know that David Michaels was an
- 3 epidemiologist and worked at the George Washington
- 4 University School of Public Health right here in
- 5 Washington, D.C.?
- A. No. I said I don't know who he is.
- 7 O. You never heard of David Michaels when
- 8 you were at Monsanto who was the head of OSHA?
- 9 MR. PRESTES: Objection, asked and
- 10 answered.
- 11 A. Yeah, I don't know who he is.
- Q. Okay. You've never heard of David
- 13 Michaels as the head of the Occupational Safety and
- 14 Health Administration under the Obama
- 15 administration?
- MR. PRESTES: Same objection.
- 17 A. No, I haven't ever been involved in
- 18 something that would interact with OSHA.
- Q. Have you ever seen the book "Doubt is
- Their Product, How Industry's Assault on Science
- Threatens Your Health"? Have you ever seen that?
- A. No, I haven't seen that book.
- Q. Have you ever read either through the
- 24 book itself or elsewhere Dr. Michaels' criticism of
- 25 Exponent as being a manufacturer of doubt science?

- 1 MR. PRESTES: Objection, assumes facts.
- A. No, I haven't.
- Q. I have the book, if you want to take a
- 4 look at it.
- 5 A. Maybe I'll take it home with me tonight.
- 6 Q. All right. I'll get it. Let me hand you
- 7 the book.
- 8 A. Mark it as an exhibit.
- 9 Q. Sure. Only if you promise to read it.
- MR. PRESTES: Don't make any promises
- 11 about doing homework.
- 12 (Exhibit 21 marked for
- identification: "Doubt is Their
- 14 Product: How Industry's Assault on
- Science Threatens Your Health")
- Q. I'm only saying that in jest because you
- offered to read it. All right. Marked as Exhibit
- 18 21.
- 19 A. Thank you.
- Q. Can you verify that that is the citation
- that these hundred scientists are referencing here?
- 22 A. That is -- see if I can remember how to
- do this -- 2008, that is their product -- that
- 24 appears to be the book that you're referencing in
- 25 the appendix, yes.

1 MR. KRISTAL: Let me mark as Exhibit 22 2 some excerpts from the book. 3 (Exhibit 22 marked for 4 identification: Excerpts from 5 "Doubt is Their Product") A. Do you want to look at anything in the 6 7 exhibit or just --8 Q. Yeah, I'm going to point out some ... Were you aware that the members of the Committee on 9 10 Science, Space and Technology, the U.S. and -- U.S. 11 House of Representatives, in February 2018 12 published what they called a Minority Staff Report 13 about glyphosate and the attacks on IARC? Are you 14 aware of that? 15 A. Is that --16 MR. PRESTES: Objection, assumes facts. 17 Go ahead and answer. 18 A. Yeah, is that the report -- there was a 19 hearing and there was a minority report in the 20 hearing? Yes, I was aware of that report. 21 Q. Okay. So let me mark as Exhibit 23 this 22 document. 23 (Exhibit 23 marked for 24 identification: Email 25 correspondence from (topmost) S

- 1 Kuschmider sent 2/6/2018 re Draft
- 2 Revised Final Minority Staff Report
- on Glyphosate MONGLY07894889)
- Q. I'm just doing the marking now. We are
- 5 going to actually look at these.
- A. You seem to be having fun over there. I
- 7 just wondered.
- Q. That's a sad commentary on my life, is it
- 9 not?
- 10 A. I would never judge you, counselor.
- 11 Q. All right. So let's start with Exhibit
- 12 23. Exhibit 23 is a Monsanto email with an
- 13 attachment. The email is dated February 6, 2018.
- 14 The Bates number is MONGLY07894889, and the
- 15 attachment is listed as Revised Final Minority
- 16 Staff Report on Glyphosate 2-6-2018.
- 17 And if you turn two pages in, Bates number
- that ends 891, is the beginning of the Minority
- 19 Staff Report prepared by the Minority Staff on U.S.
- 20 House of Representatives Committee on Science,
- 21 Space and Technology. Do you see that?
- A. I'm sorry. I'm getting mixed up here.
- 23 Give me the exhibit number.
- Q. Looking at the email, Exhibit 23.
- A. Exhibit 23. Okay.

- 1 Q. That's an email that was circulated
- within Monsanto, is it not?
- A. It's an email to Jeremy Stump from Scott
- 4 Kuschmider.
- 5 Q. Okay. Who is Scott Kuschmider?
- A. He's in our government affairs team, but
- 7 I don't know what his exact role is, but he often
- 8 would keep track of events and report -- report on
- 9 happenings in the U.S. Congress or with the
- 10 administration.
- Q. And Jeremy Stump?
- 12 A. He was the head of our government affairs
- 13 team.
- Q. At Monsanto?
- A. At Monsanto at that time, yes.
- 16 Q. Okay. So Mr. Kuschmider is sending to
- 17 Mr. Stump the Minority Staff Report dated February
- 18 2018 from the United States House of
- 19 Representatives, Committee on Science, Space and
- 20 Technology, correct?
- MR. PRESTES: Objection, form,
- foundation, and object to the exhibit, yet another
- document the witness neither sent nor received.
- Q. Did you see this document before, the
- 25 Minority Report?

- 1 A. I was aware of the document. I don't
- 2 remember if I ever received it personally or not,
- 3 but I know that there was one submitted into the
- 4 record in the context of the hearing.
- 5 Q. And you knew that from your work on
- 6 Monsanto?
- 7 A. Yes.
- 8 Q. Okay. I don't want to sound -- you never
- 9 sought to read it?
- 10 A. I don't remember if I read it or not.
- Q. Okay. And the title of the minority or
- the Staff Report is "Spinning Science and Silencing
- 13 Scientists: A Case Study in how the Chemical
- 14 Industry Attempts to Influence Science." Do you
- 15 see that?
- 16 A. I do.
- Q. And on the second page, the Table of
- 18 Contents, it has the seal of the United States
- 19 House of Representatives, above the Table of
- 20 Contents, correct?
- A. I see the seal there, yes.
- Q. You were certainly aware that the
- 23 chairman of this committee, Lamar Smith, convening
- this hearing with respect to glyphosate, correct?
- A. I don't remember if the hearing was about

glyphosate. Chairman Smith was interested in 1 2 science generally, and he had taken issue and his staff had taken issue in the past with IARC. 3 had taken issue with EPA. 5 So he called the hearing, yes, but I think 6 the topic might have been broader than glyphosate, if I remember correctly. Q. Okay. Well, let me read from the first 8 9 page. 10 "Introduction. On February 6, 2018 11 the Committee on Science, Space and 12 Technology is scheduled to hold a 13 hearing entitled 'In Defense of 14 Scientific Integrity, 'examining 15 the IARC Monographs Program and 16 glyphosate review. The chemical 17 glyphosate is a herbicide most 18 commonly found in Monsanto's 19 commercial weedkiller Roundup. 20 Committee chairman Lamar Smith 21 scheduled this hearing after months 22 of letter writing criticizing the 23 IARC review of glyphosate and 24 examining the EPA's actions on 25 glyphosate. Many of the criticisms

1 contained in the committee's 2. letters regarding IARC mimic 3 criticisms that the chemical 4 industry has leveled on the IARC 5 process." 6 Do you see that? 7 A. I see the words there, yes. 8 Q. And when it says that the committee letters mimicked criticisms the chemical industry 9 10 had, you were aware that FTI was involved in 11 getting these hearings set up and in providing 12 Chairman Smith in this case with Monsanto's talking 13 points on glyphosate and criticism of IARC, 14 correct? 15 A. FTI and myself were involved in sharing 16 information about glyphosate and IARC to a lot of 17 different members of Congress, including Chairman 18 Smith and the staff of the science committee, yes. 19 Q. This Minority Committee Report on the 20 second paragraph of the first page under 21 Background, "there is significant evidence that 22 Monsanto launched a disinformation campaign to 23 undermine IARC's classification of glyphosate as a probable carcinogen." Do you see that? 24 25 A. I'm sorry. I didn't pick up where you

- 1 started, but if you can point me to it I can catch
- 2 up.
- Q. Sure. Yes, I'm sorry. My apologies.
- 4 And what I'll do from now on, because I do want you
- 5 to follow obviously, if I give you a location, I'll
- 6 wait for you to find it. I'm moving more guickly
- 7 in that regard --
- 8 A. Thank you.
- 9 Q. -- because I've highlighted it and I know
- where to go.
- So on the first page of the Minority Report,
- under the section Background, there are two
- paragraphs.
- 14 A. Okay.
- Q. The beginning of the second paragraph.
- 16 A. There, I see it.
- 17 Q. Okay. "There is significant evidence
- that Monsanto launched a disinformation campaign to
- 19 undermine IARC's classification of glyphosate as a
- 20 probable carcinogen." I take it you would disagree
- 21 with that.
- 22 A. The first sentence there?
- 23 Q. Yes.
- A. Yes, I absolutely would disagree with it.
- Q. Meaning that there was less than

- 1 significant evidence of that? No, I'm joking.
- A. No. Yeah. I think that -- yeah.
- MR. PRESTES: There's no question.
- 4 Q. There's no question pending. I was
- 5 trying to make a bad joke late in the day.
- If you could turn to page -- and we could go
- 7 through this. Have you thumbed through to see if
- 8 there's anything that triggers a recollection as to
- 9 whether you read it or not?
- 10 A. I would have had this document summarized
- 11 for me --
- 12 Q. Okay.
- A. -- most likely, or just orally described
- 14 to me, but I don't think I read it.
- Q. If you -- before we get to the
- 16 conclusion, I just want to go through some of the
- 17 sections.
- On page 4, there's a list of key players.
- 19 Do you see that?
- 20 A. Okay.
- Q. And it mentions Donna Farmer's name, who
- we've seen on several of the emails, correct?
- 23 Further down, David Saltmiras, whose PowerPoint we
- just looked at a few minutes ago?
- A. Yes, I see.

- Q. And there are other folks. Henry Miller,
- you're familiar with the name Henry Miller with
- 3 regard to glyphosate?
- 4 A. Not until I started preparing for my
- 5 deposition. I had never heard of him before.
- Q. Okay. You knew that he was heavily
- 7 criticized for publishing an article in Forbes
- 8 Magazine shortly after the IARC evaluation of
- 9 glyphosate as probably carcinogenic came out
- 10 because he did not disclose that Monsanto had
- 11 actually written the article?
- MR. PRESTES: Objection, form, misstates
- 13 the facts.
- 14 A. My knowledge of it is what I read. I
- think it was in Eric Sachs' deposition about that
- interaction and what happened.
- 17 Q. Right.
- A. But that's all I know about it.
- 19 Q. And what I said is correct?
- 20 A. I don't know. I don't recall all the
- 21 details there, but --
- Q. Very shortly --
- 23 A. I remember --
- 24 (Clarification by reporter.)
- A. I remember that he published a Forbes

- 1 article and it was withdrawn. I would agree with
- that characterization, if that's the -- if that's
- 3 what you're asking.
- Q. Have you ever read the draft sent to him
- 5 by Monsanto and compared it to the actual article
- 6 he wrote? Have you ever done that?
- 7 A. No.
- Q. Are you aware of anybody at Monsanto
- 9 doing that, doing a side-by-side comparison?
- 10 A. I wasn't aware of any of the interactions
- 11 with Dr. Miller.
- 12 Q. Okay. And this also mentions
- Dr. Heydens, right, William Heydens on page 4.
- A. Yeah, I see his name.
- Q. Okay. And if you turn, for example, to
- page 6, there's a section on ghostwriting. Do you
- 17 see that? We mentioned that briefly.
- 18 A. Did you say -- page 6, I see that, yes.
- Q. On page 11 there's a section entitled
- "Orchestrate Outcry." Do you see that?
- 21 A. I see that section, the Minority Report,
- yes.
- Q. Right. And it also mentions Henry Miller
- and his article in Forbes, right?
- A. I see a mention of Henry Miller there in

```
1
     a Forbes.com piece.
 2.
             Q. Okay. If you turn to page 17, the
     Conclusion, the Minority Staff of this committee of
 3
      the House of Representatives wrote:
 5
                "The incidents and tactics outlined
 6
                in this report are, unfortunately,
 7
                not surprising when it comes to the
 8
                chemical industry. These same
                tactics were employed by the
 9
10
                chemical industry with regards to
                lead and a host of other chemicals.
11
12
                They also mimic the tobacco
13
                industry's efforts to muddy the
14
                science surrounding the health
15
                effects of smoking. These efforts
16
                have been thoroughly documented,
17
                perhaps most notably in David
18
                Michaels' book, 'Doubt is Their
19
                Product: How Industry's Assault on
20
                Science Threatens Your Health, ' and
21
                in 'Merchants of Doubt' by Naomi
22
                Oreskes and Erik M. Conway. These
23
                industry efforts often only --
24
                strike that.
25
                These industry efforts oftentimes
```

1 only come to light through 2. disclosure of internal industry 3 documents through the discovery 4 process during litigation." 5 Do you see that? 6 A. I do. 7 Q. Okay. So let's take a look briefly at Dr. Michaels' book. 8 9 MR. PRESTES: Jerry, we've been going for 10 over an hour. Let's just take five minutes and we 11 can get right back to it. 12 MR. KRISTAL: Sure. 13 VIDEO SPECIALIST: The time is 2:38 p.m., 14 and we're going off the record. 15 (Proceedings recessed) 16 VIDEO SPECIALIST: The time is 2:55 p.m., 17 and we are back on the record. 18 BY MR. KRISTAL: 19 Q. Mr. Rands, if you would go to Exhibit 22, 20 which is selected pages from the book "Doubt is 21 Their Product," and for the record we've agreed 22 we've substituted a PDF, a full PDF, of the book 23 itself for the book. 24 A. Okay. 25 Q. All right? So that will be part of the

1 If you want to read it tonight, I can loan record. 2. you the book. Just let me know and we can make 3 those arrangements. But I took the book back 4 because it's too difficult to copy the book. 5 All right. Exhibit 22, the cover is "Doubt 6 is Their Product: How Industry's Assault on 7 Science Threatens Your Health" by David Michaels. 8 And if you turn to the next page, this is from 9 what's called the book jacket, the flap of the 10 book. 11 A. Okay. 12 Q. And on the right it says who David 13 Michaels is. 14 "David Michaels is an 15 epidemiologist and the director of 16 the Project on Scientific Knowledge 17 and Public Policy at the George 18 Washington University School of 19 Public Health and Health Services. 20 During the Clinton administration, 21 he served as Assistant Secretary of 22 Energy for Environment Safety and 23 Health, responsible for protecting

the health and safety of workers,

neighboring communities and the

24

25

1 environment surrounding the 2. nation's nuclear weapons facility." 3 It goes on to talk about some of his other 4 accomplishments, correct? 5 A. I see the words there, yes. Q. And this was 2008, prior to him becoming 6 head of OSHA. 7 8 A. I think that was the date the book was published. 9 10 0.2008. 11 A. Yes. 12 Q. Yes. Okay. Reading from the dust jacket, and then we'll read just a paragraph or two 13 14 from the book. 15 "Doubt is our product, a cigarette 16 executive once observed since it is 17 the best means of competing with 18 the body of fact that exists in the 19 minds of the general public. 20 also means -- it is also the means 21 of establishing a controversy. Ιn 22 this eye-opening exposé David 23 Michaels reveals just how prevalent 24 and how effective such strategies 25 have become. Mercenary scientists,

1	he argues, have increasingly shaped
2	and skewed the technical
3	literature, manufactured and
4	magnified scientific uncertainty,
5	and influenced government policy to
6	the advantage of polluters and the
7	manufacturers of dangerous
8	products.
9	To keep the public confused about
10	the hazards posed by global
11	warming, secondhand smoke,
12	asbestos, lead, plastics and many
13	other toxic materials, industry
14	executives have hired unscrupulous
15	scientists and lobbyists to dispute
16	the scientific evidence that would
17	alert the public to these dangers.
18	Their goal is the manufacture of
19	doubt."
20	Do you see that? Is that the first time
21	you're hearing about what the contents of this book
22	is about?
23	MR. PRESTES: Object to the form, to the
24	compound question.
25	A. It's the first time I've heard of David

- 1 Michaels or his book, yes.
- Q. Okay. You don't remember seeing the
- 3 concluding paragraph in the Minority Report which
- 4 cited to the book --
- 5 A. No.
- 6 Q. -- talked about the book?
- 7 A. I don't recall seeing --
- 8 Q. But it was in there whether you recall
- 9 seeing it or not.
- 10 A. We'd have -- did you point it out to me?
- 11 Q. Sure. Look in the Minority Report.
- 12 A. I don't recall now, but we were looking
- 13 at --
- Q. I think it's the last page of text. Page
- 15 17, under Conclusion. That whole section is about
- what I just read, and it cites directly to David
- 17 Michaels' book, correct?
- MR. PRESTES: Object to the form and
- lacks foundation. We're deep in the realm of
- questioning on documents the witness hasn't seen
- and doesn't know about.
- A. I see the quote of the title referenced
- here, yes.
- Q. You don't see the general thrust being
- the same as what I read from the dust jacket just

now of the book? 1 2. MR. PRESTES: Same objection. I'm sorry. Same objection. 3 A. I see the Minority Report's 5 characterization there and the sentence -- did you 6 read that? Is that what you were reading from? 7 O. Let me read it. 8 A. Okay. Q. "The incidences and tactics 9 10 outlined in this report are, 11 unfortunately, not surprising when 12 it comes to the chemical industry. 13 These tactics were employed by the 14 chemical industry with regards to lead and a host of other chemicals. 15 16 They also mimic the tobacco 17 industry's efforts to muddy the 18 science surrounding the health 19 effects of smoking." 20 Do you see that? 21 A. Yes, I see that that's what they say. 22 O. And that's similar to what the dust 23 jacket of the book was saying, correct? 24 MR. PRESTES: Object to the form, lacks 25 foundation.

- 1 A. Generally the gist is, yeah.
- Q. And what I just read from is Exhibit 23,
- 3 the February 2018 Minority Report. And just right
- 4 after where I stopped the quote is the reference in
- the Minority Report to David Michaels' book,
- 6 correct?
- 7 A. Yes, the Minority Report quotes from
- 8 David Michaels -- references David Michaels' book.
- 9 Q. Okay. If you turn to Exhibit 23 -- I'm
- 10 sorry -- Exhibit 22, there you go, right in front
- of you, on page 46 of the book --
- 12 A. There's some highlighting there? Yes.
- Q. Yeah. Let me tell you what I did. If
- 14 you turn to the fourth -- I'm sorry -- the page
- after the Introduction, I copied from the index
- 16 everywhere where Exponent is cited. Do you see
- 17 that?
- 18 A. Okay. So these are your highlights for
- 19 the Exponent sections?
- Q. Yeah. I was trying to not have to
- verbally describe exactly where we are because it's
- 22 a lot of text.
- 23 A. Okay.
- Q. So I thought it might help. All right.
- On page 46, the second full paragraph. Are

1	you there	?
2	Α.	Yes, I am.
3	Q.	It begins:
4		"As the product defense work has
5		gotten more and more specialized,
6		the makeup of the business has
7		changed. Generic public relations
8		operations like Hill and Knowlton
9		have been eclipsed by product
10		defense firms specialty boutiques
11		run by scientists. Having cut
12		their teeth manufacturing
13		uncertainty for Big Tobacco,
14		scientists at ChemRisk, The
15		Weinberg Group, Exponent, Inc. and
16		other consulting firms now battle
17		the regulatory agencies on behalf
18		of the manufacturers of benzene,
19		beryllium, chromium, MTBE (methyl
20		tertiary-butyl ether) perchlorates,
21		phthalates, and virtually every
22		other toxic chemical in the news
23		today. Their business model is
24		straightforward. They profit by
25		helping corporations minimize

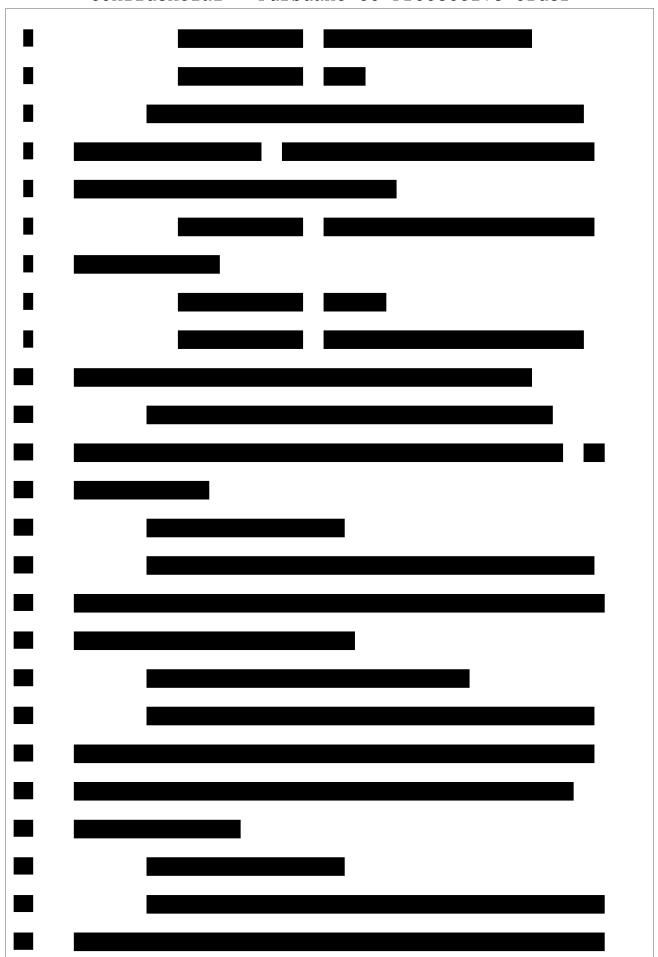
1 public health and environmental 2. protection and fight claims of injury and illness. In field after 3 4 field year after year this same 5 handful of individuals and 6 companies come up again and again." 7 Do you know how many -- for how many years 8 Monsanto has hired Exponent, Inc. to do work for it? 9 10 MR. PRESTES: Object to the form and 11 lacks foundation. You just read a paragraph. 12 Q. Did I read the paragraph correctly? 13 A. You read the paragraph correctly. 14 Q. And does it mention Exponent Inc.? 15 A. Yes, Exponent Inc. is mentioned. 16 Q. Do you know for how many years Monsanto 17 has hired Exponent Inc. to write articles on its 18 behalf regarding its products? 19 A. I don't know what Exponent Inc. does or 20 how long we've hired them or if we've hired them or 21 in what circumstances we have. 22 Q. If Monsanto has hired them, do you think 23 they would want to know this information about 24 Exponent, or do you think they already know about 25 it?

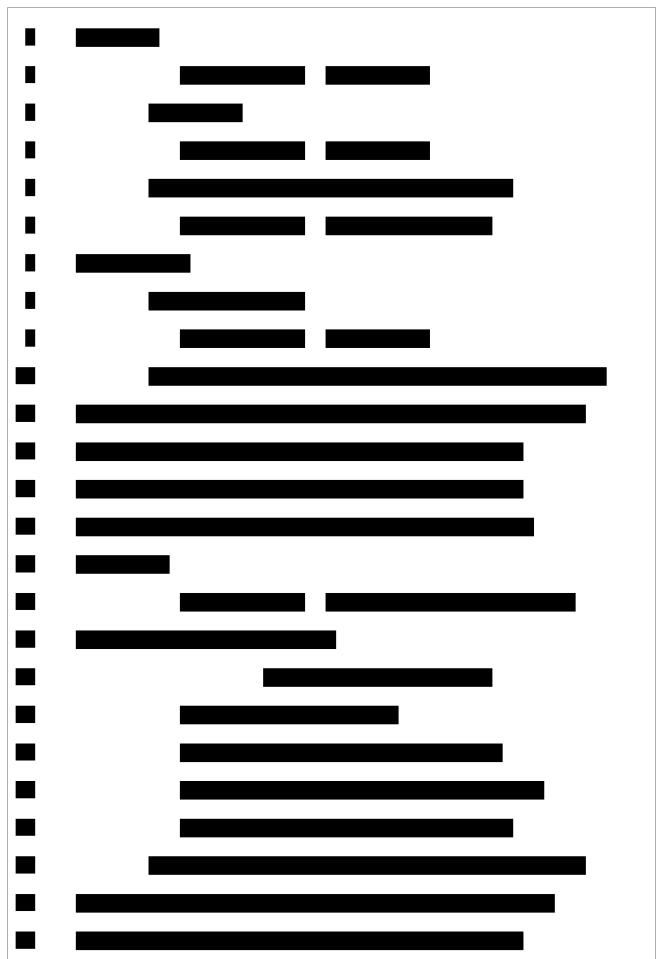
- 1 MR. PRESTES: Objection, form,
- 2 foundation, improper hypothetical. The witness has
- already told you, in essence, he doesn't even know
- 4 who or what Exponent is.
- 5 MR. KRISTAL: All right. Strike that
- 6 question.
- 7 Q. Monsanto, I'm assuming, tell me if I'm
- 8 correct, before it hires a scientific consulting
- 9 firm to do its work would vet that firm, right?
- 10 A. I think that Monsanto would typically
- 11 want to know who they were working with and what
- type of work they had done, yes, that's correct.
- Q. And if there was publicly available
- information about the firm that they were going to
- 15 hire to do work for them, that would be a source of
- information about the company that they're hiring,
- 17 correct?
- MR. PRESTES: Objection, to the extent
- that this is an effort to get into corporate
- representative testimony, it's beyond the scope of
- 21 anything Mr. Rands is designated to speak to.
- But if you have an individual view, go for
- 23 it.
- A. Yeah, it's been my experience, when you
- hire someone, you find out more about them before

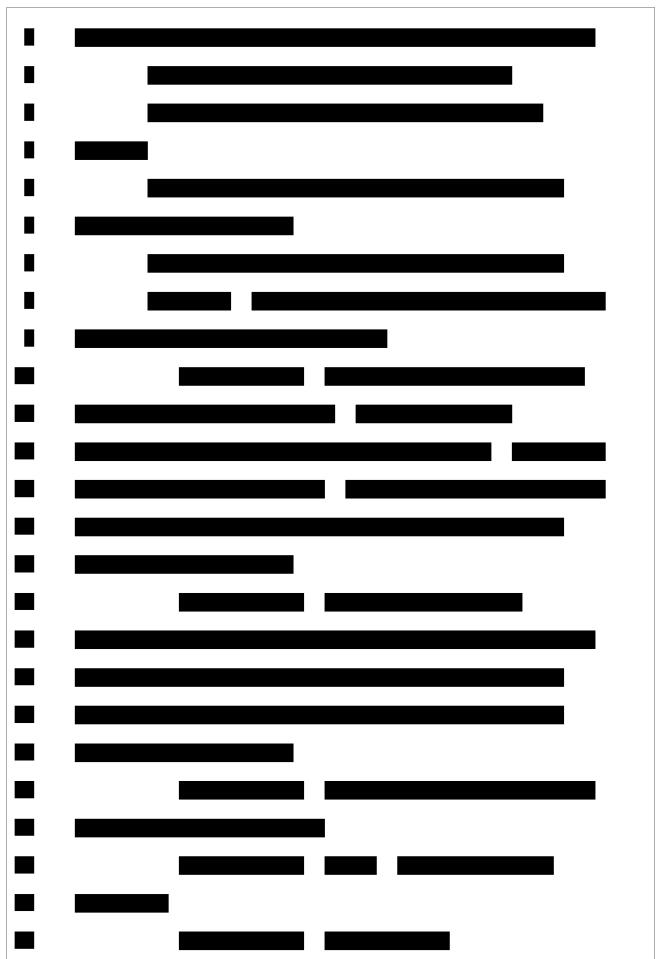
you hire them. 1 2. Q. Right. And that's just standard practice, right? You're not going to just flip the 3 4 Yellow Pages and point your finger and pick that 5 company. You want to know what you're getting, 6 right? 7 A. Yeah. As I said, if you hire someone, 8 you usually find out something about them or their firm, yes. 9 10 Q. And on page 47, and this is the last 11 section I'll read and then we'll go on to another 12 document. In the middle of the page under the 13 three little asterisks there: 14 "Should the public lose all 15 interest in its health, these 16 product defense firms would be out 17 of luck. Exponent Inc., one of the 18 premier firms in the product 19 defense business, acknowledges as 20 much in this filing with the 21 Securities and Exchange 22 Commission:" 23 And now they're quoting from the Securities 24 and Exchange Commission, are they not, that's your understanding of how this is laid out? 25

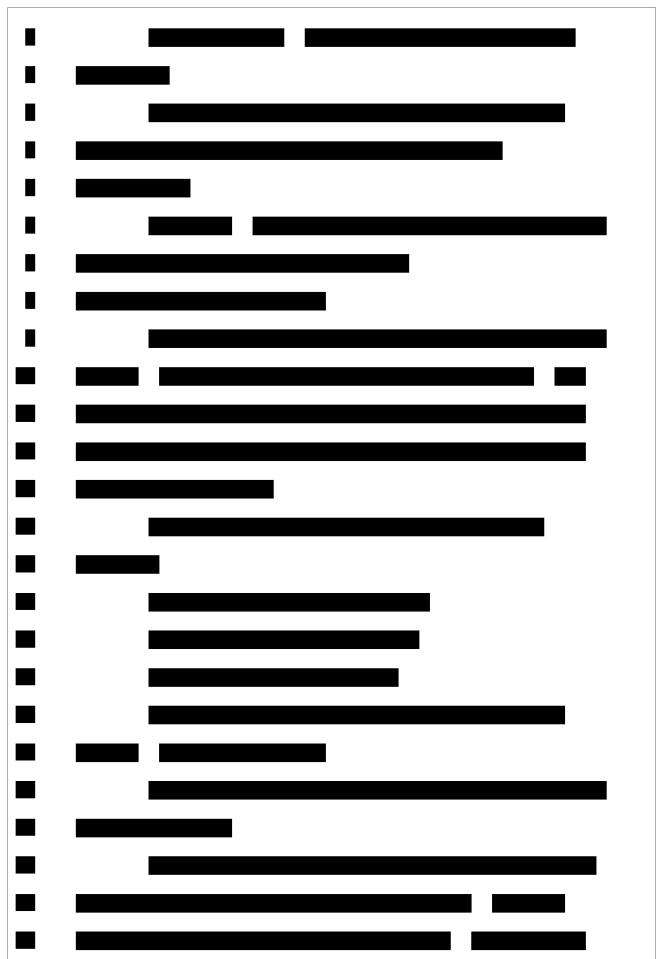
1 A. Yeah, that does seem to be a quote. I 2. think that's correct. 3 Q. Okay. "Public concern over health safety and preservation of the environment." 4 5 A. I'm sorry, counselor, just one second. 6 was going to check the footnote. I was making an 7 assumption, but if you can represent --O. I don't know -- if I reference a 8 9 footnote, but I will represent, because I've read 10 it, that is part of the Security and Exchange 11 Commission publicly available document. I think I 12 have it even in my bag. 13 A. Thank you. 14 Q. All right. And it reads: 15 "Public concern over health, safety 16 and preservation of the environment 17 has resulted in the enactment of a 18 broad range of environmental and/or 19 other laws and regulations by 20 local, state and federal lawmakers 21 and agencies. These laws and the 22 implementing regulations affect 23 nearly every industry as well as 24 the agencies of federal, state and 25 local governments charged with

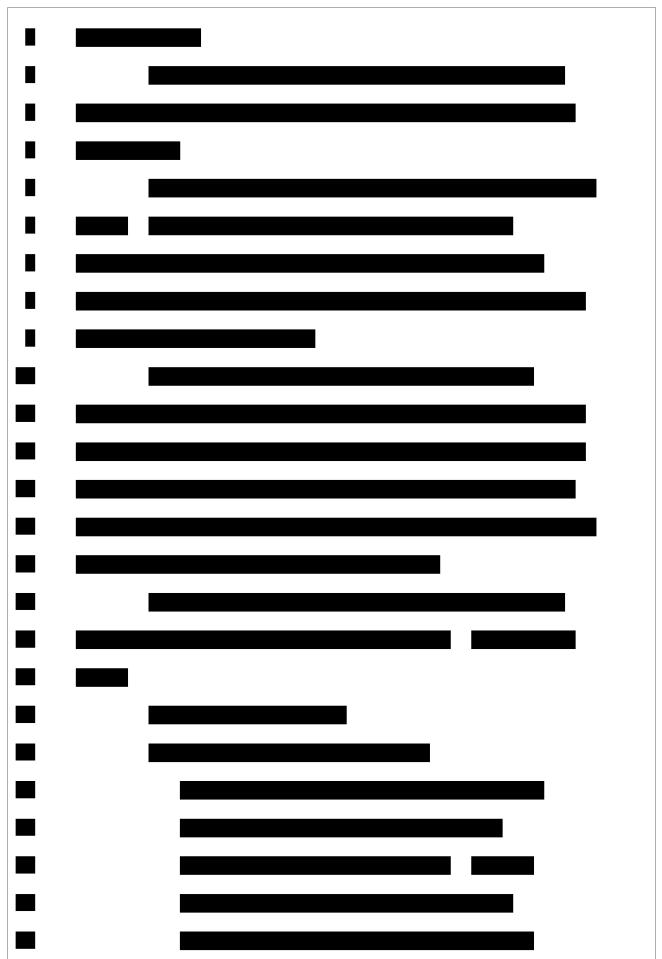
1 their enforcement. To the extent 2. changes in such laws, regulations 3 and enforcement or other factors significantly reduce the exposures 5 of manufacturers, owners, service 6 providers, and others to liability, 7 the demand for our services may be 8 significantly reduced." 9 Do you see that? 10 A. I see that. 11 Q. So assuming what I'm saying is true and 12 what Dr. Michaels is saying that this statement was 13 publicly available in a Securities and Exchange 14 Commission filing by Exponent, certainly that would have been available for Monsanto to read. 15 16 MR. PRESTES: Objection, foundation, 17 assumes facts. 18 A. I would agree that a public document that 19 is available on a public website would be available 20 for Monsanto to read, yes.

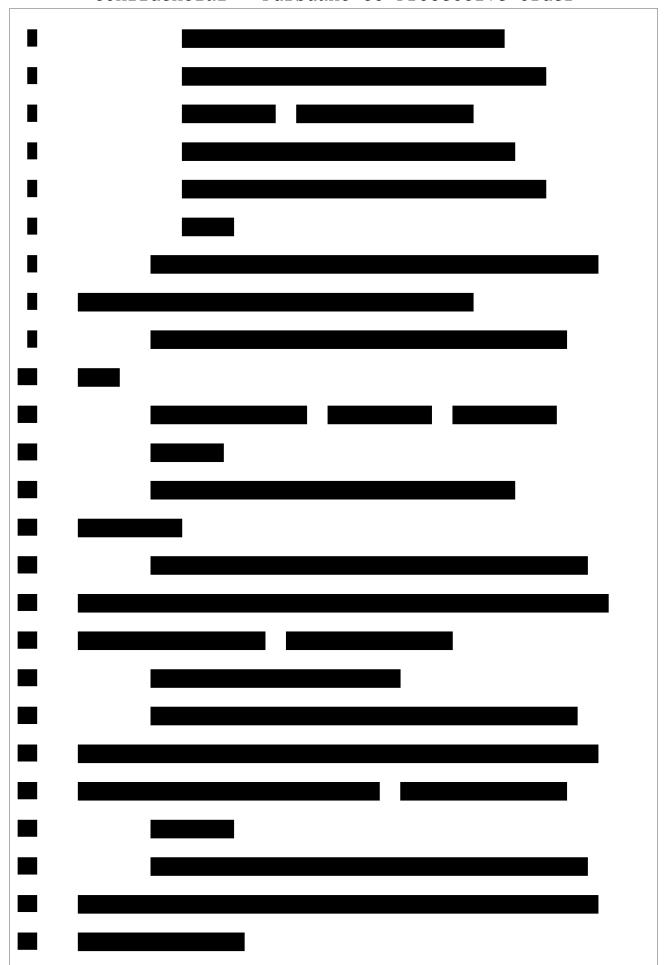


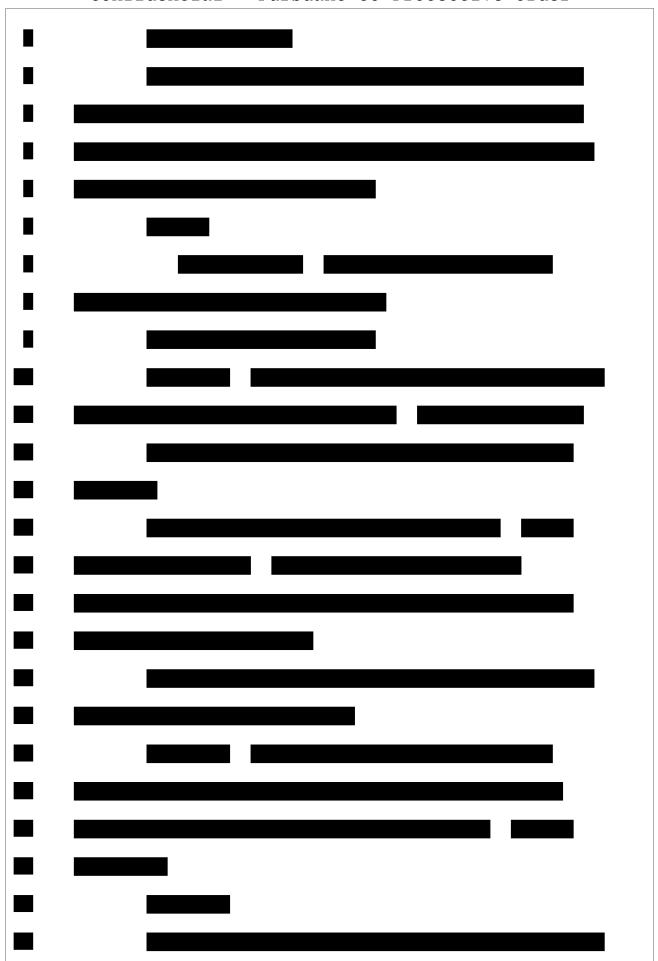


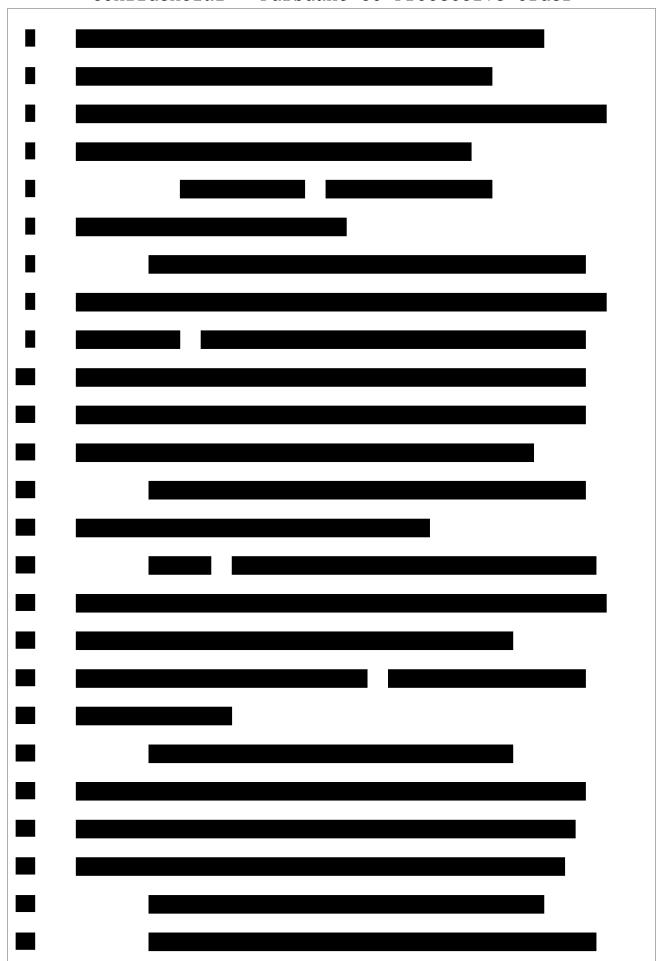


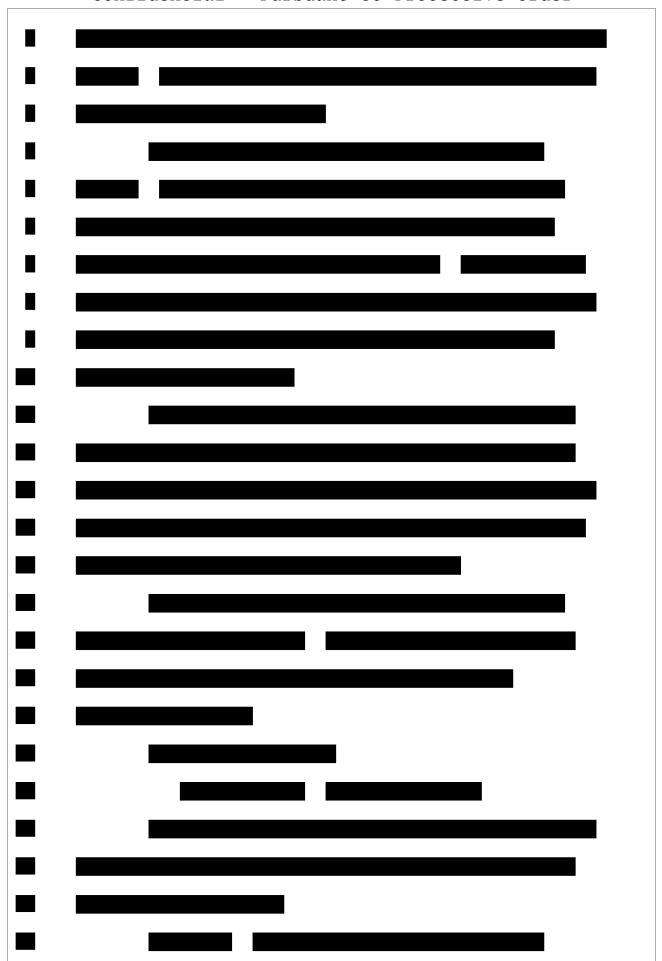


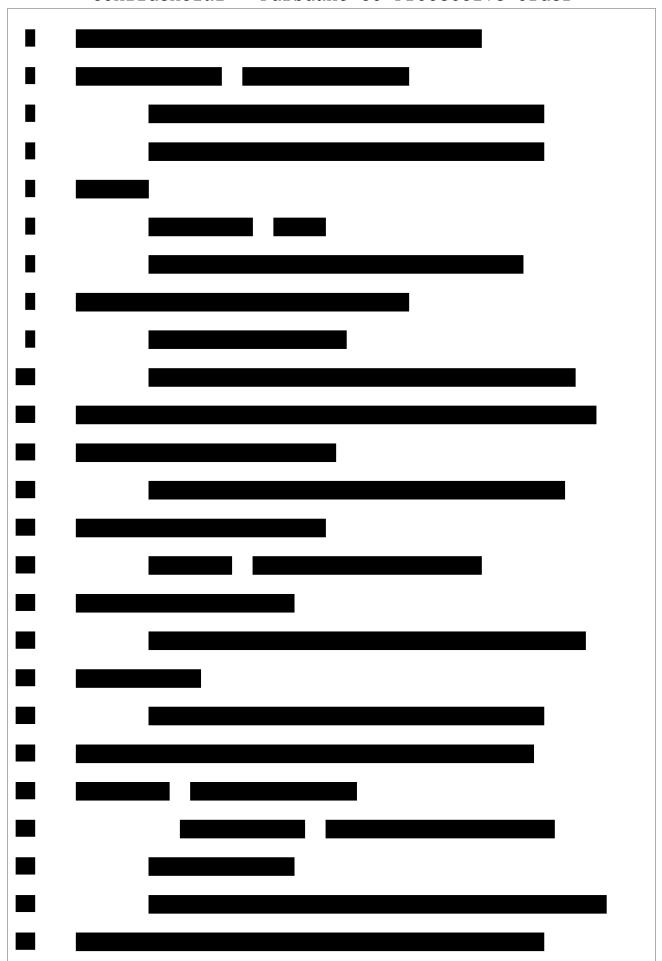


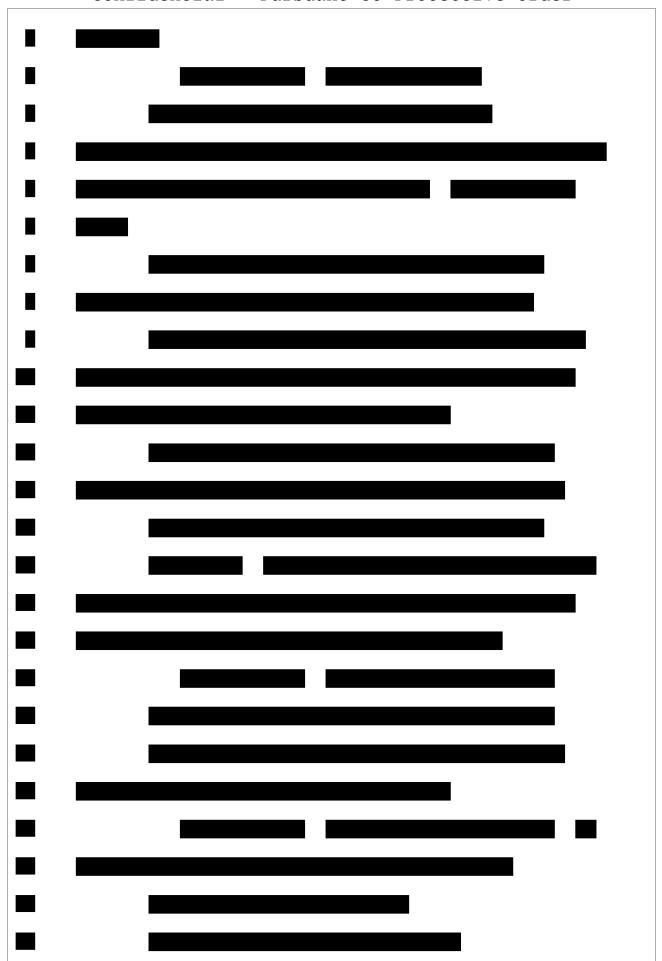


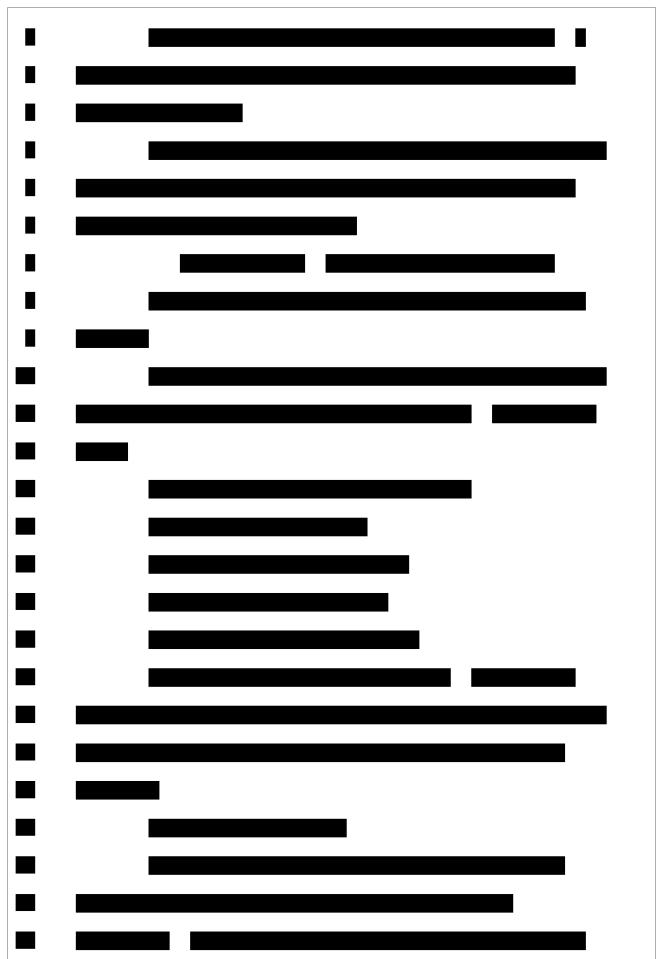


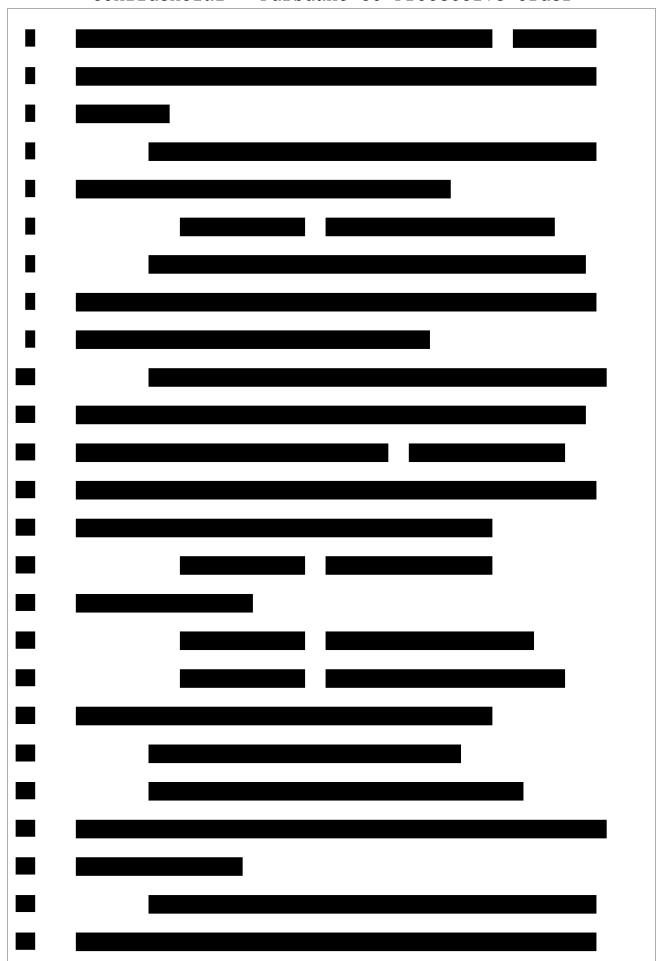


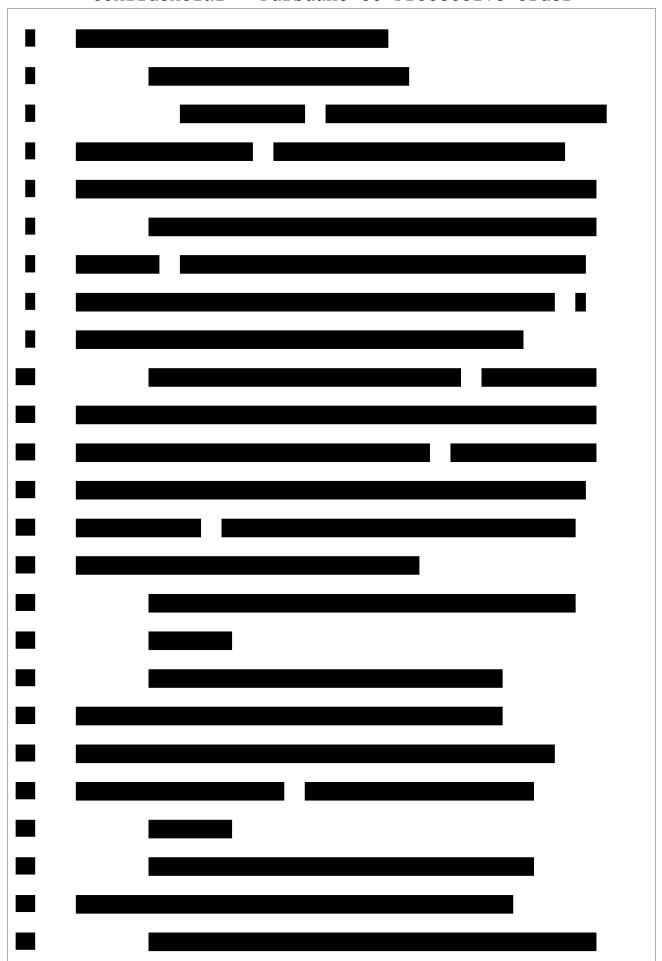


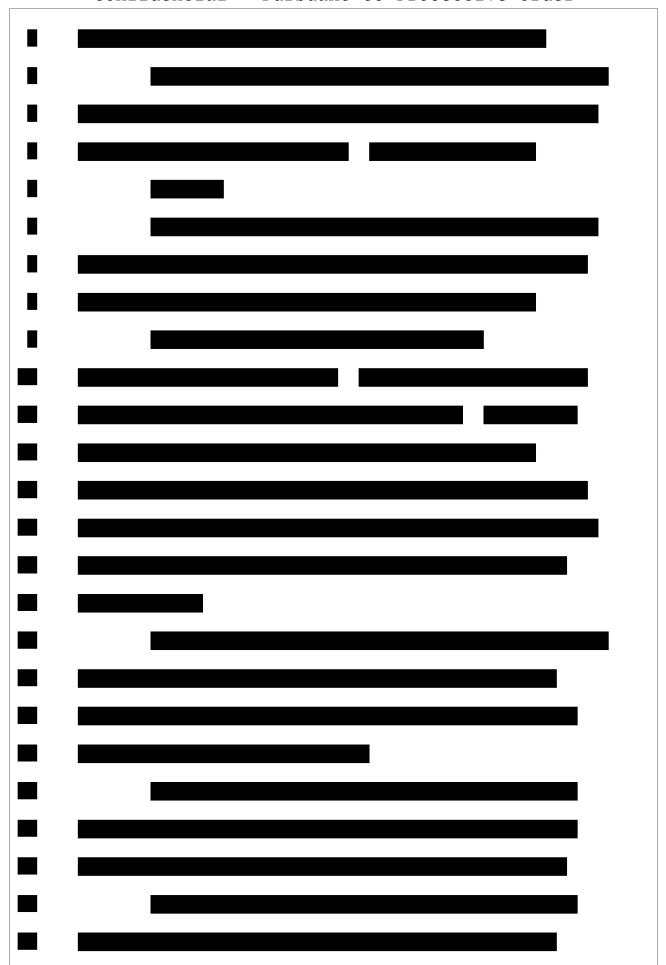


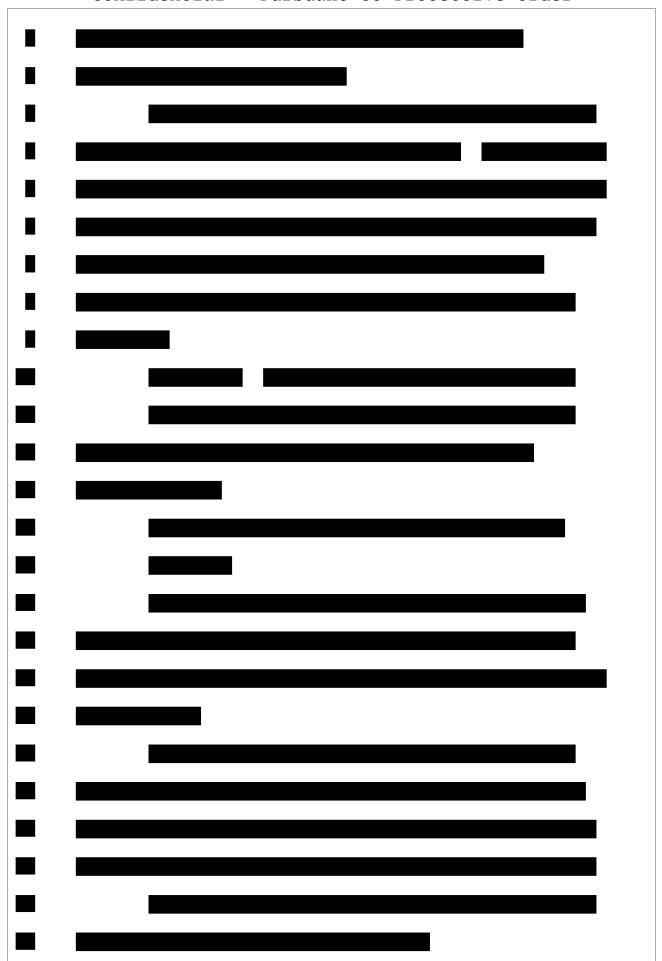


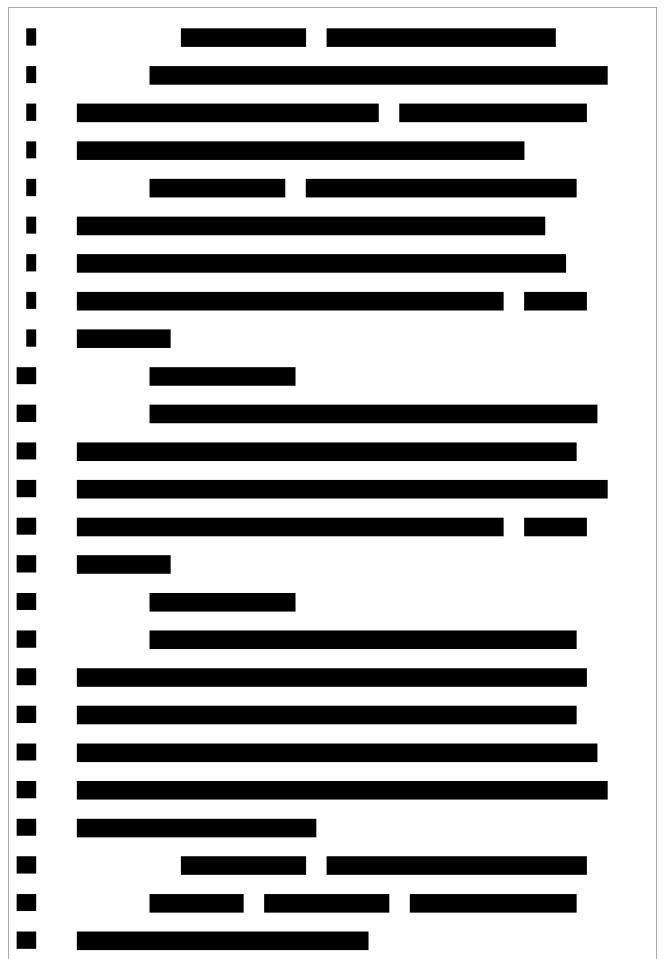


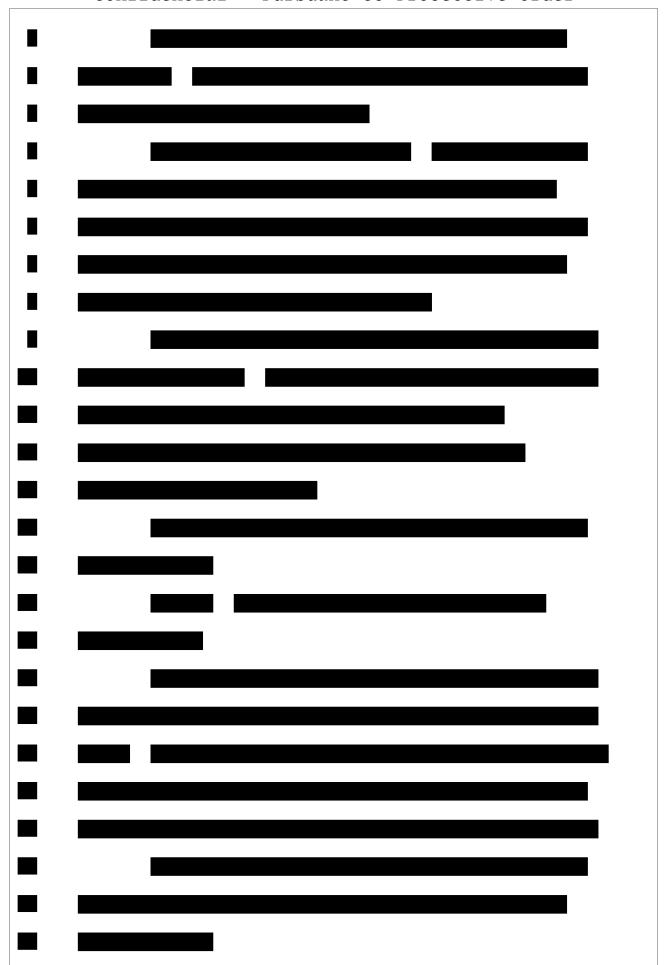


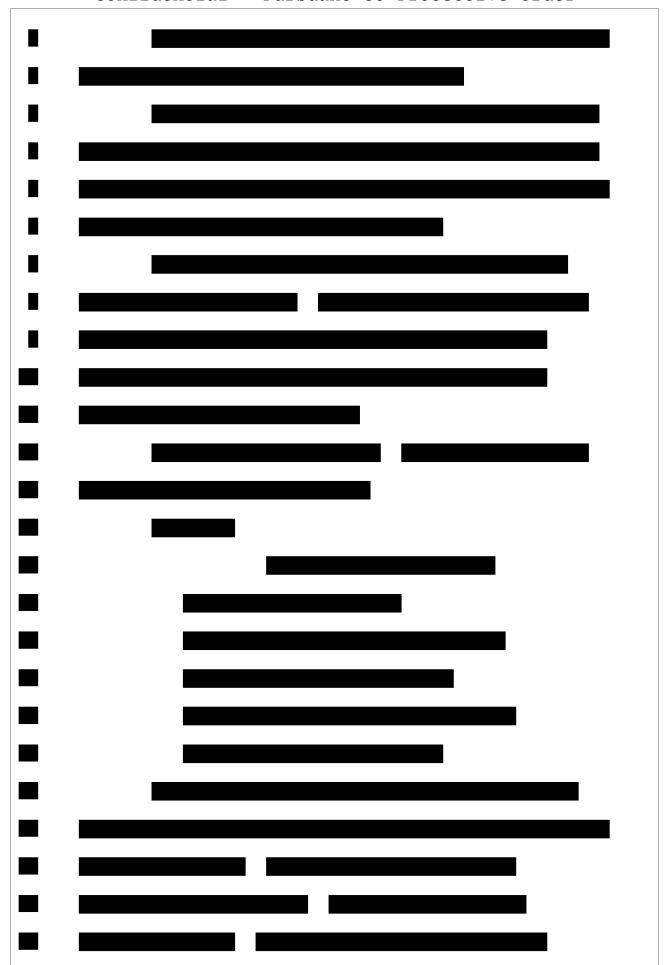


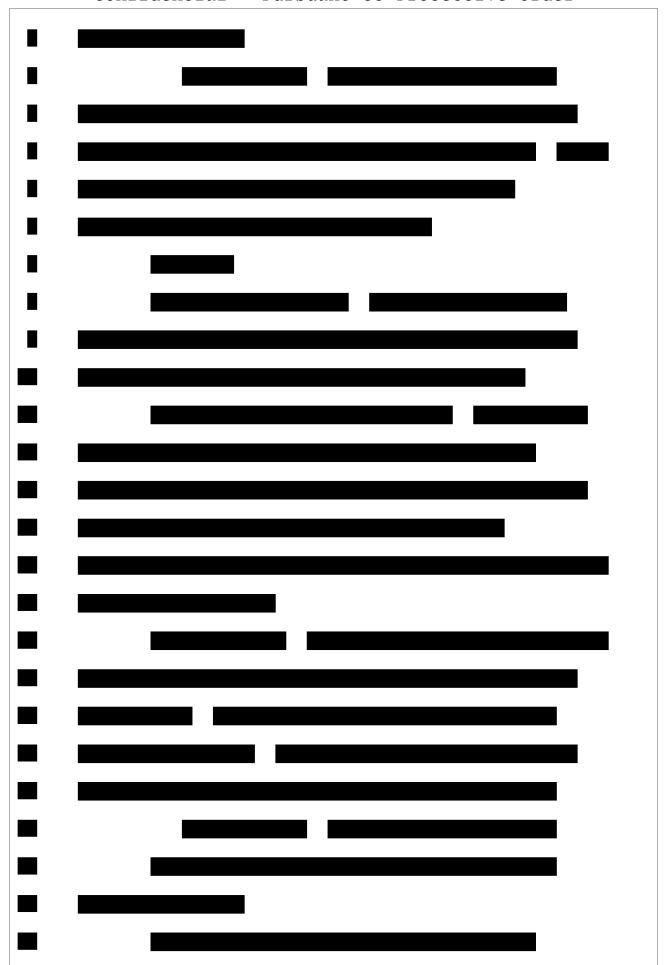


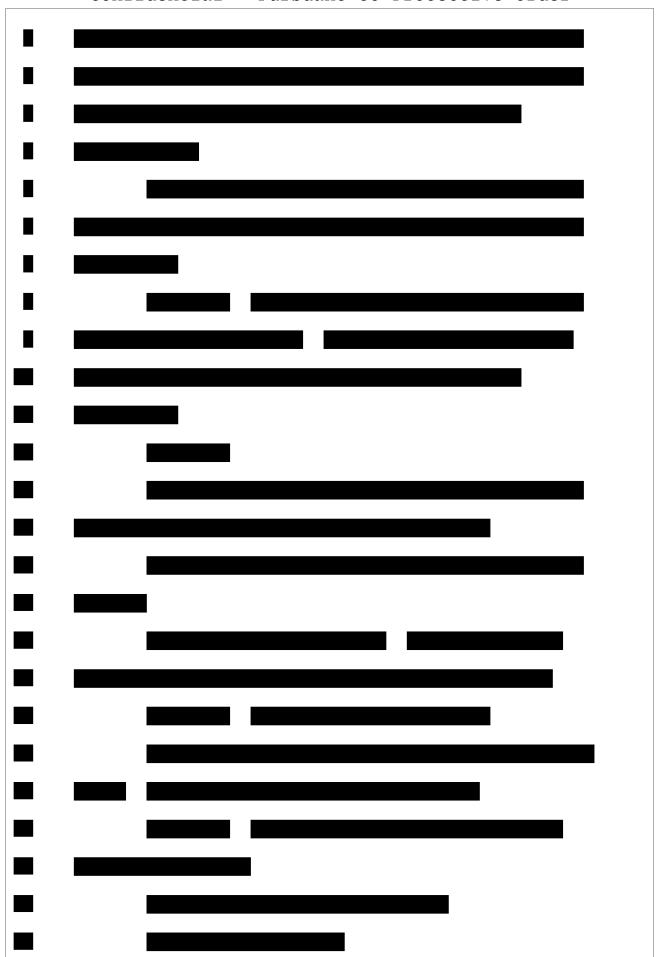


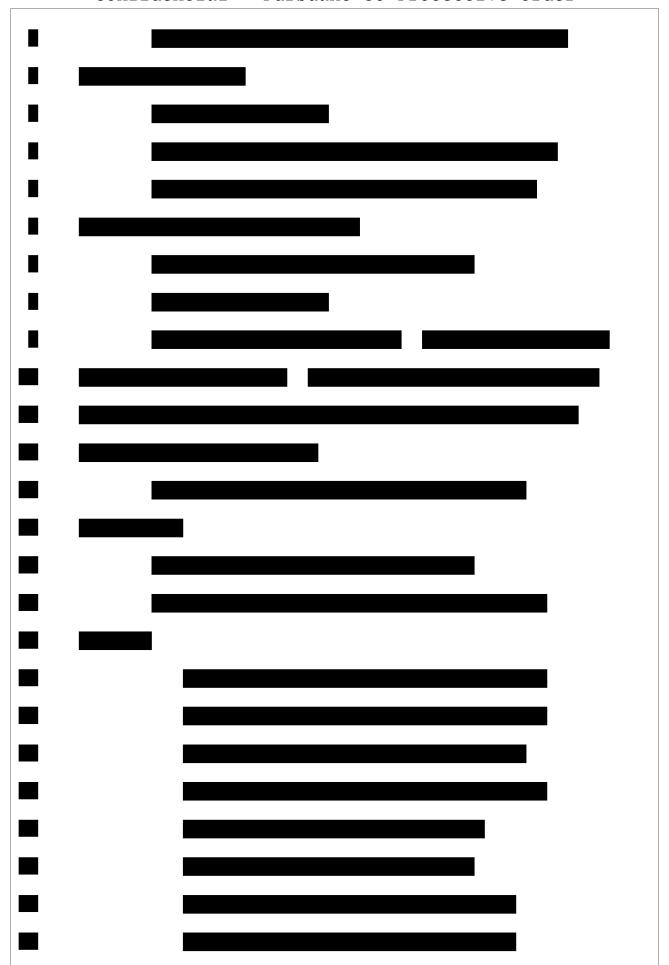


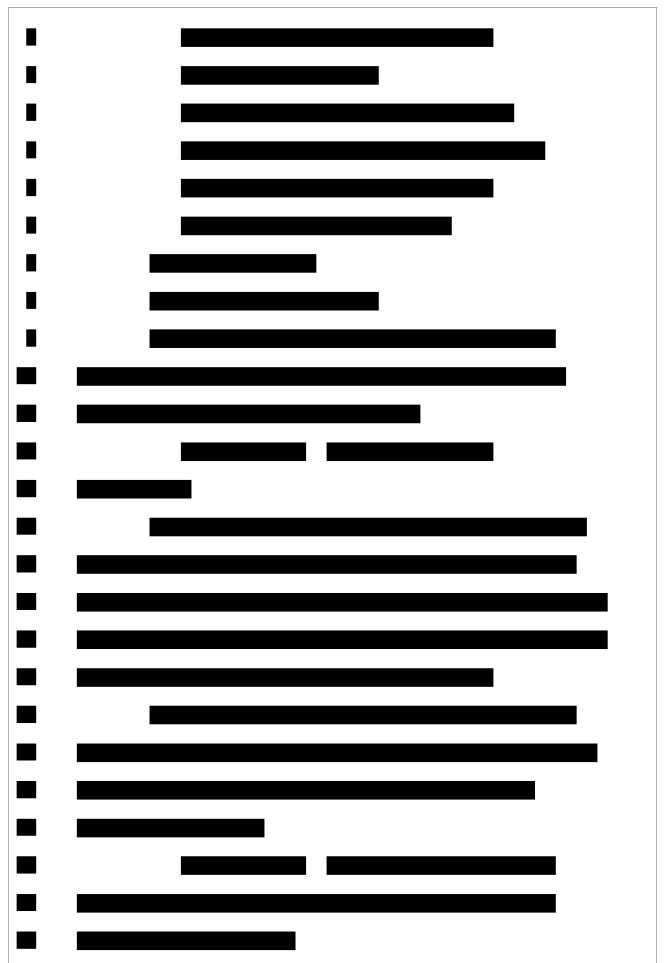


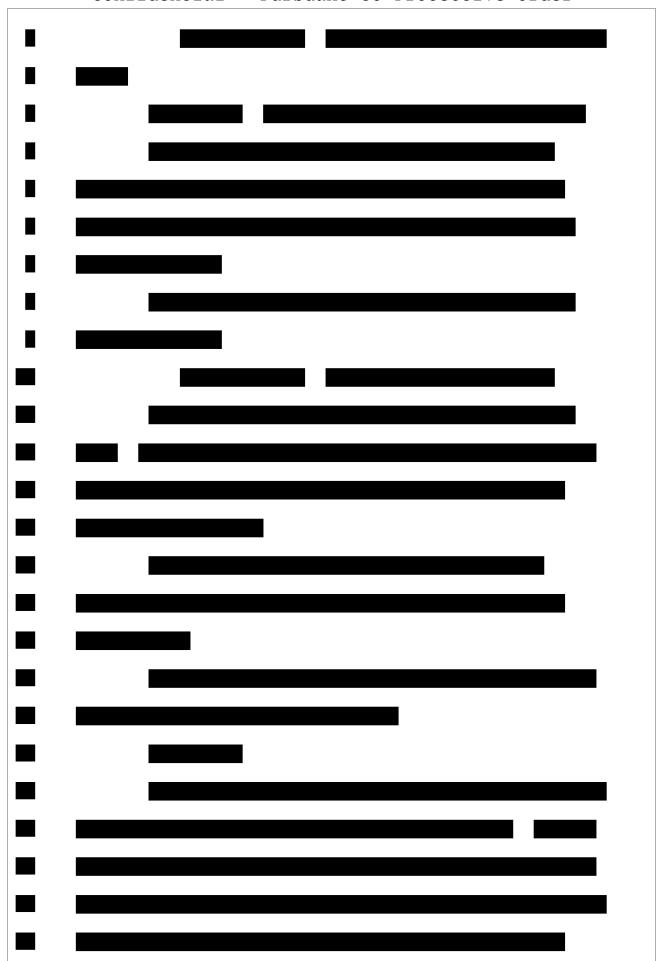


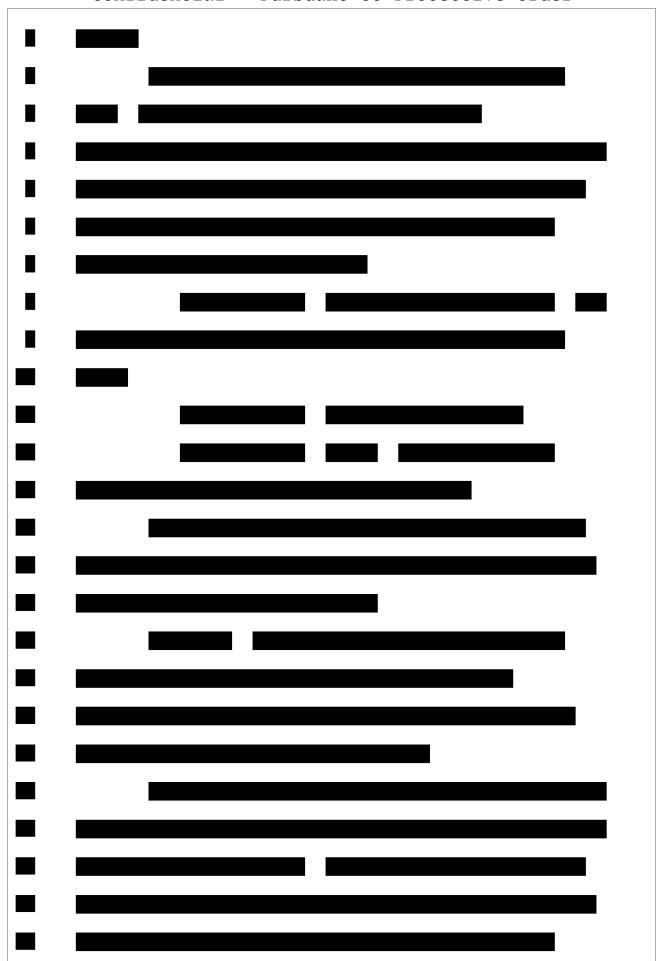


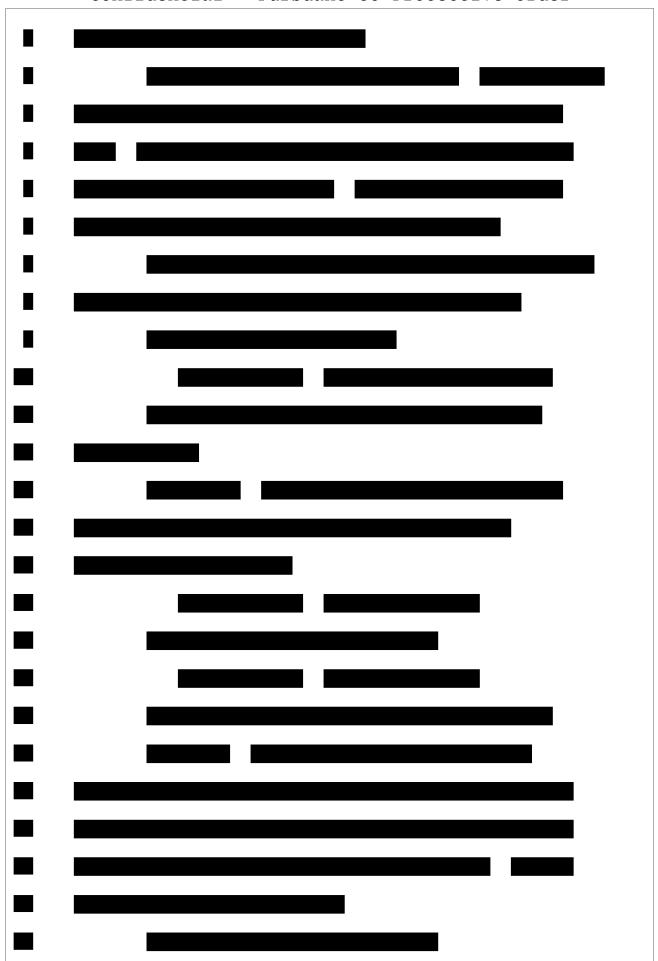


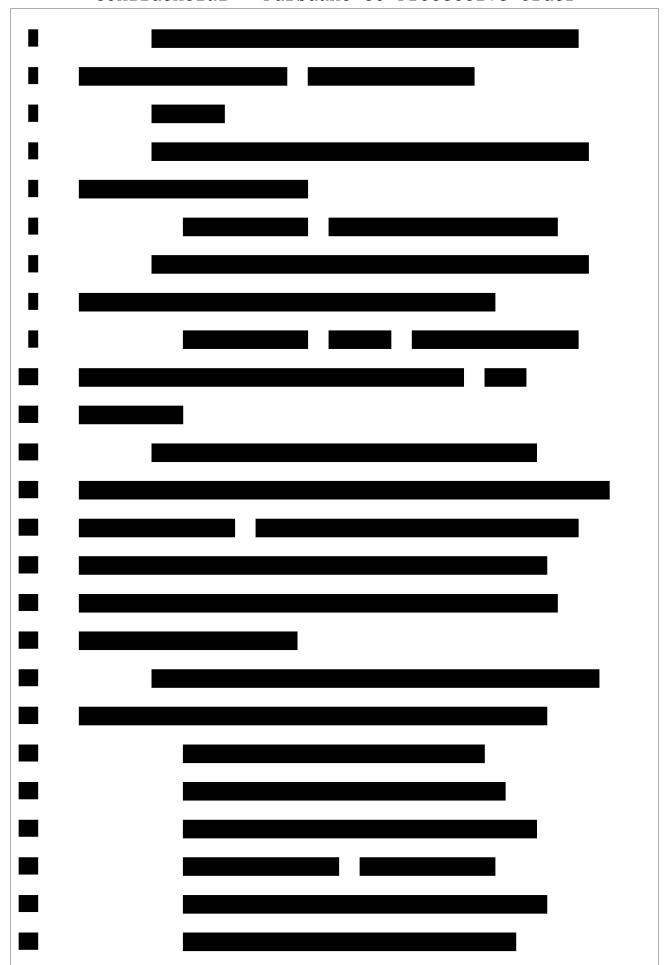


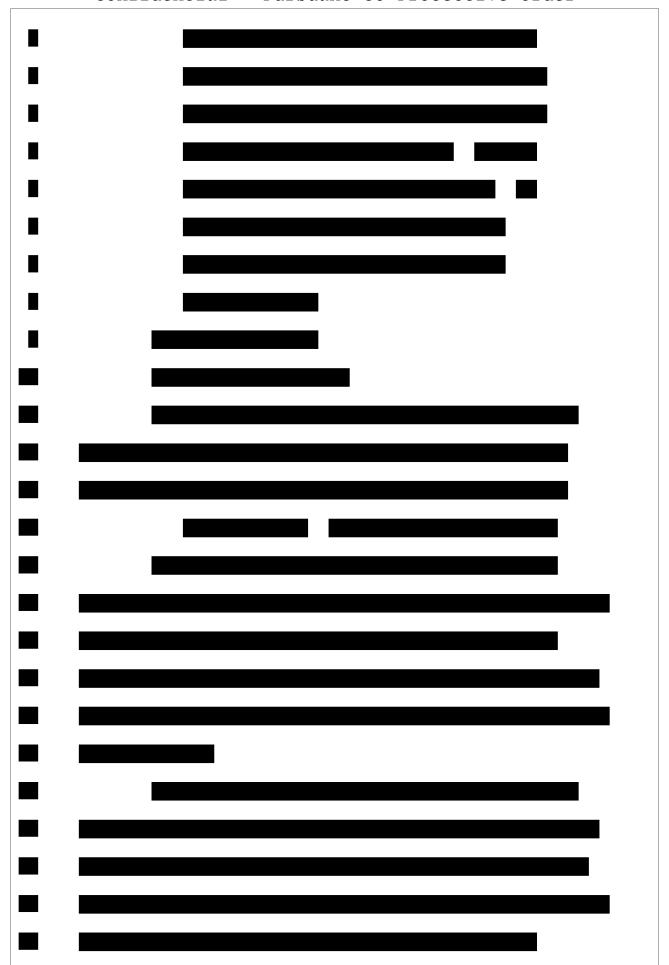


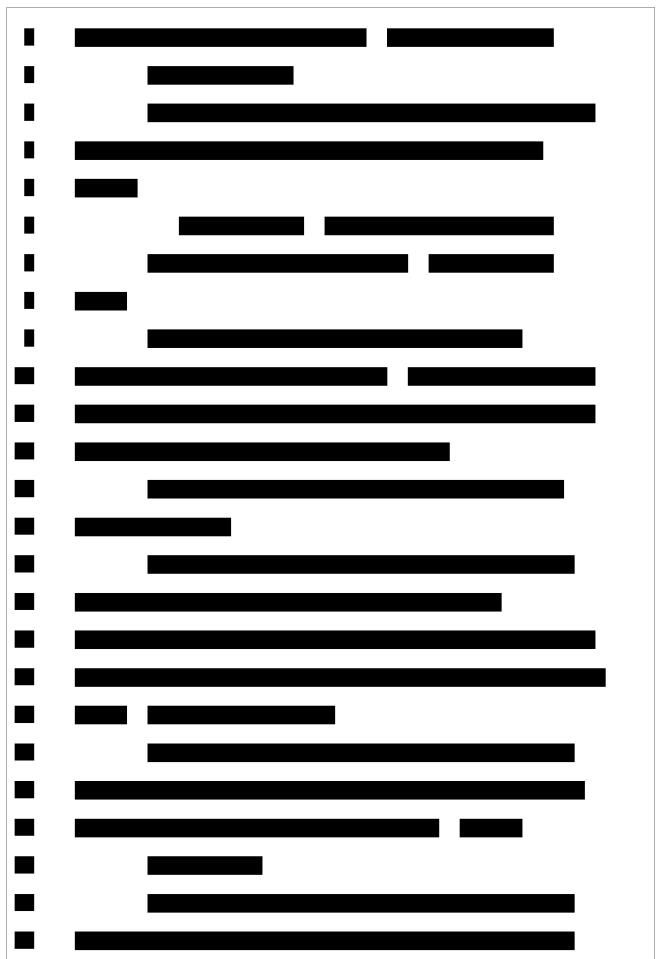


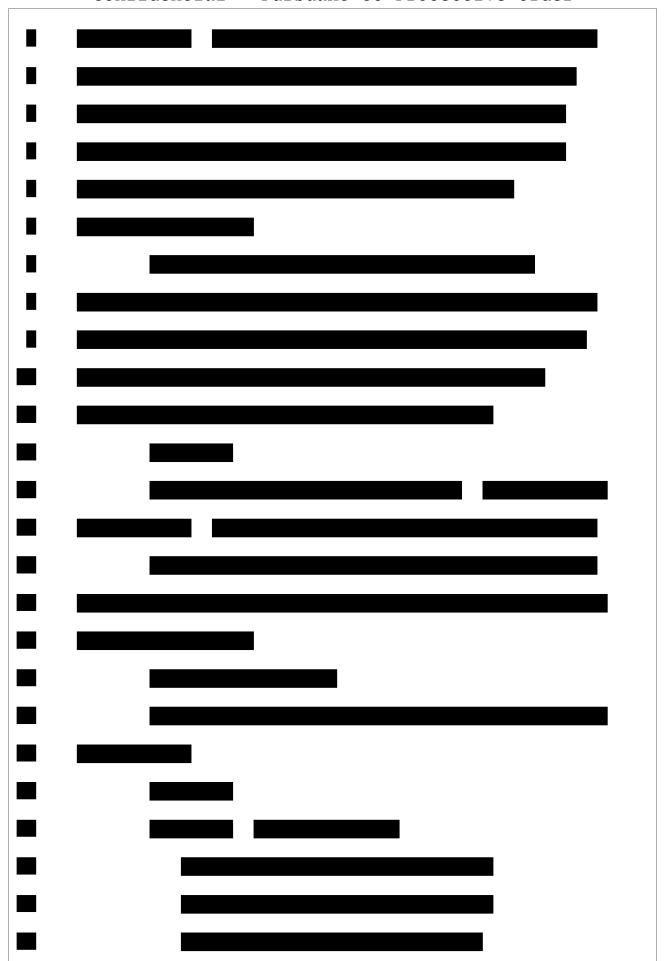


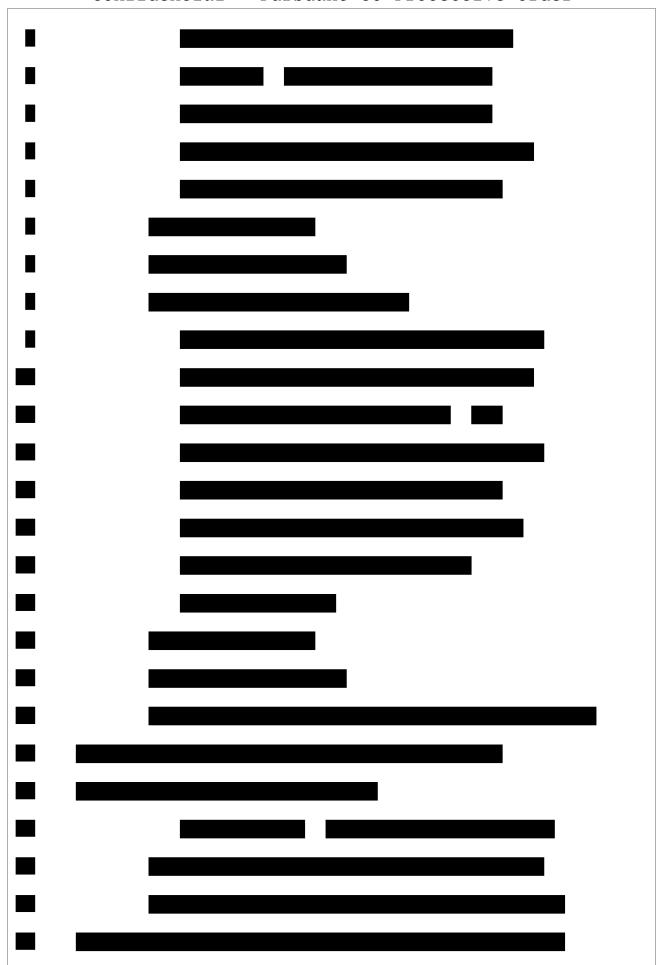


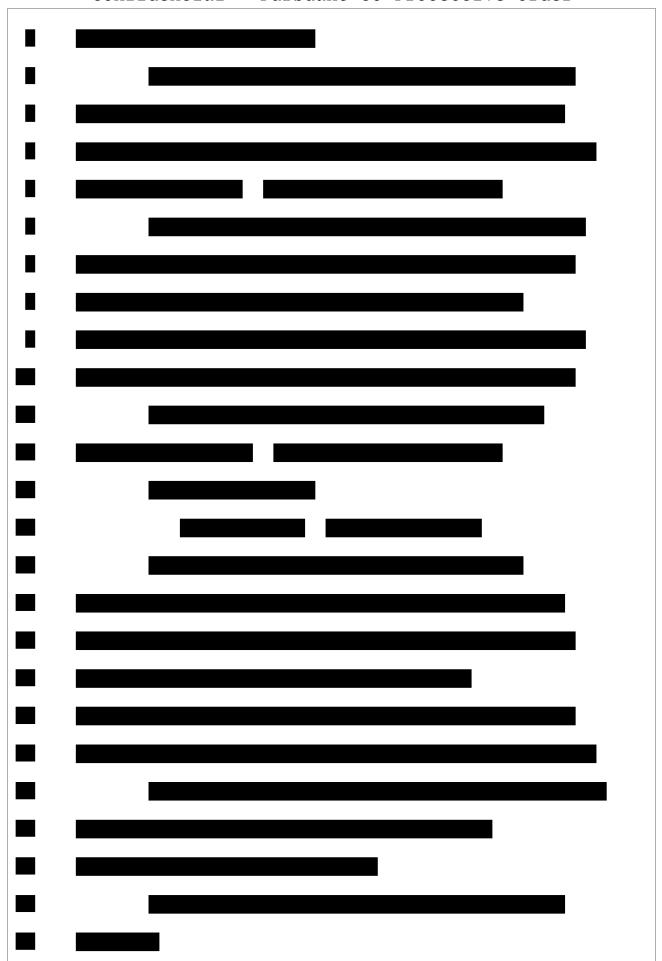


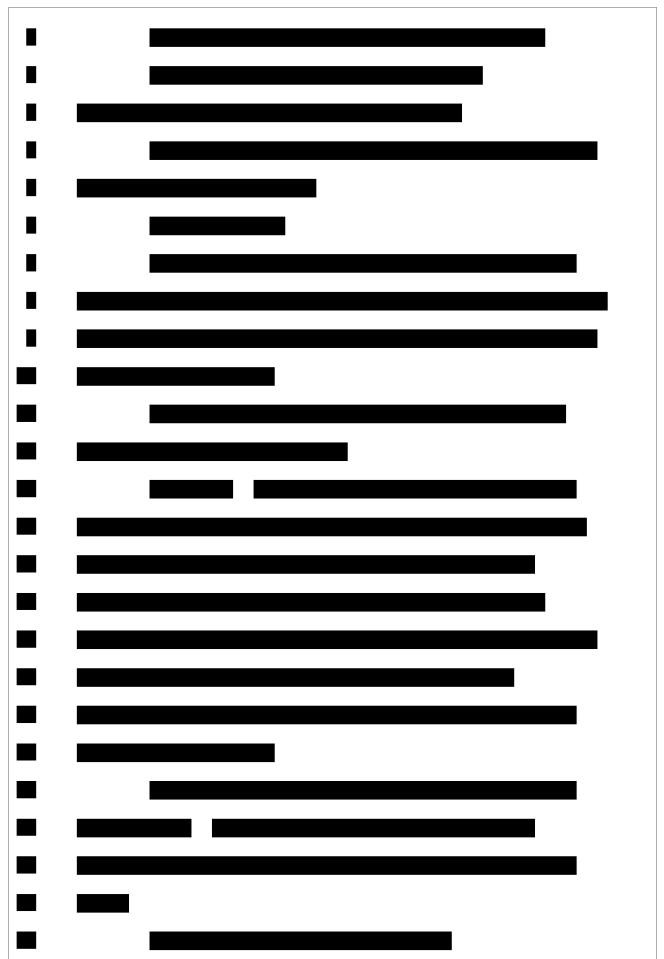


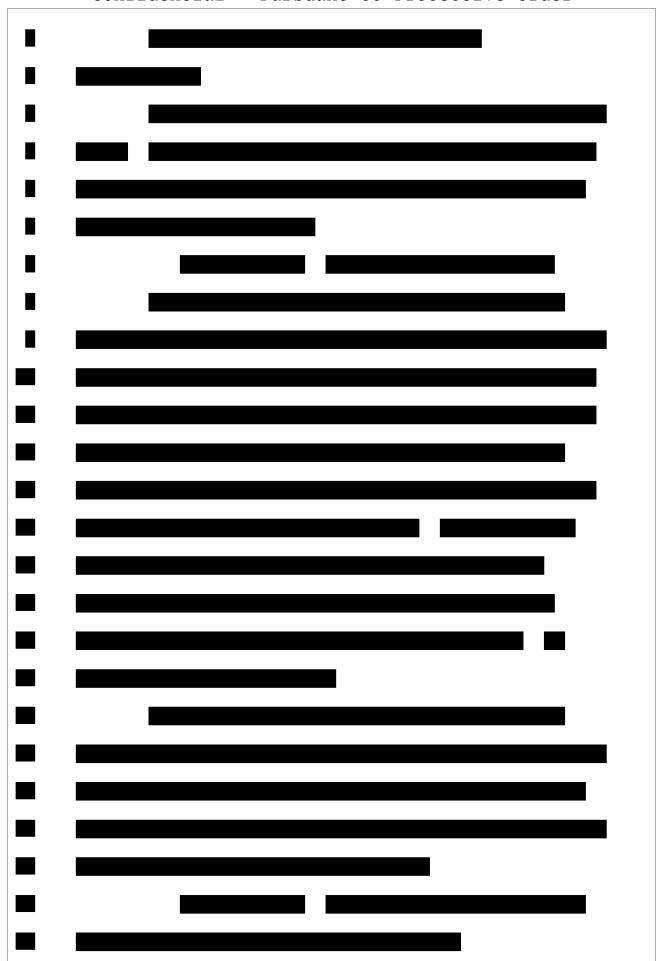


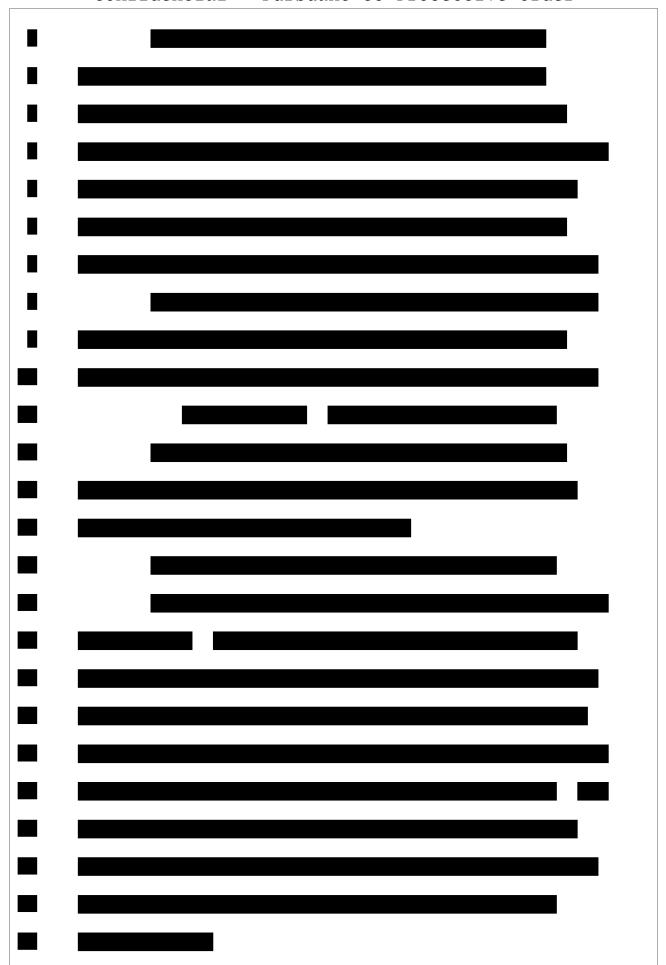


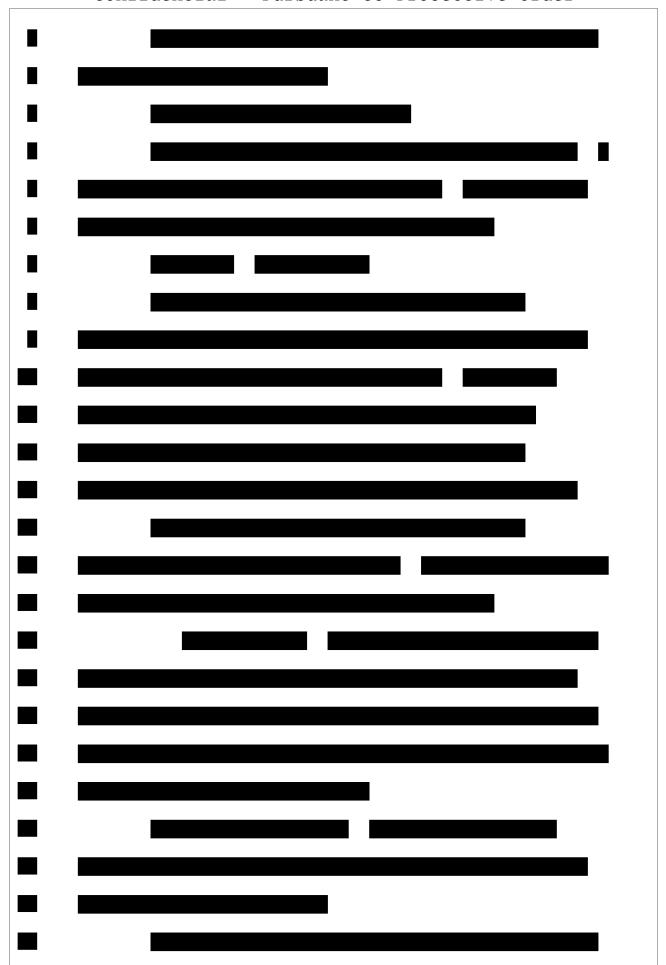


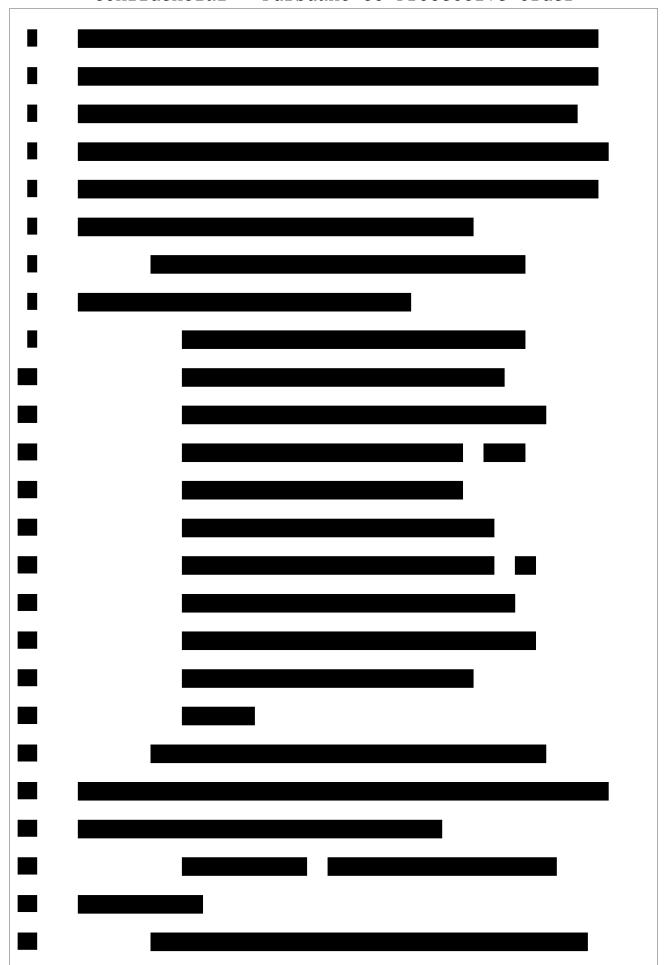


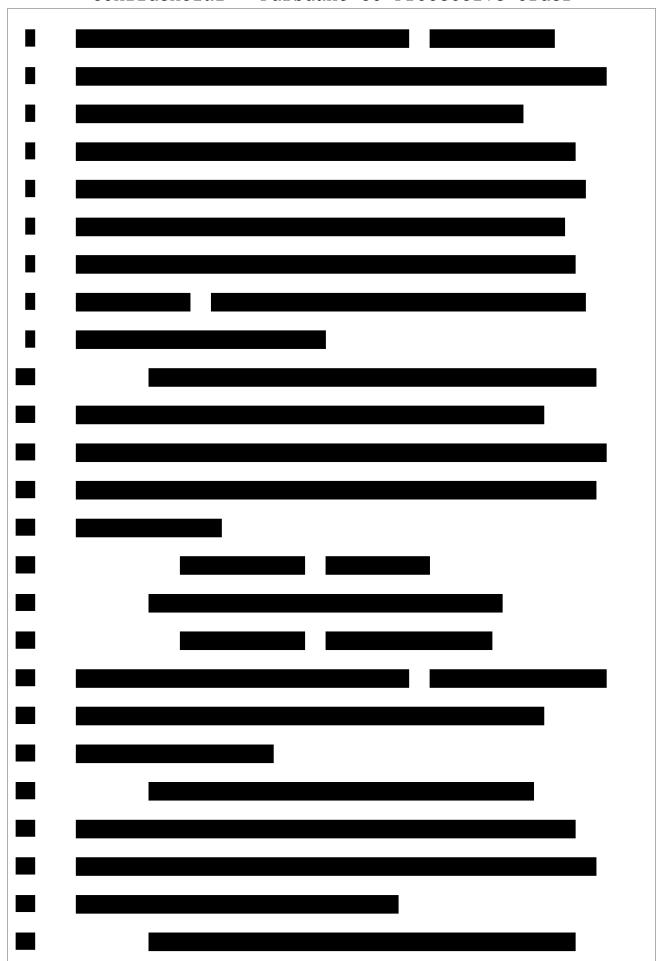


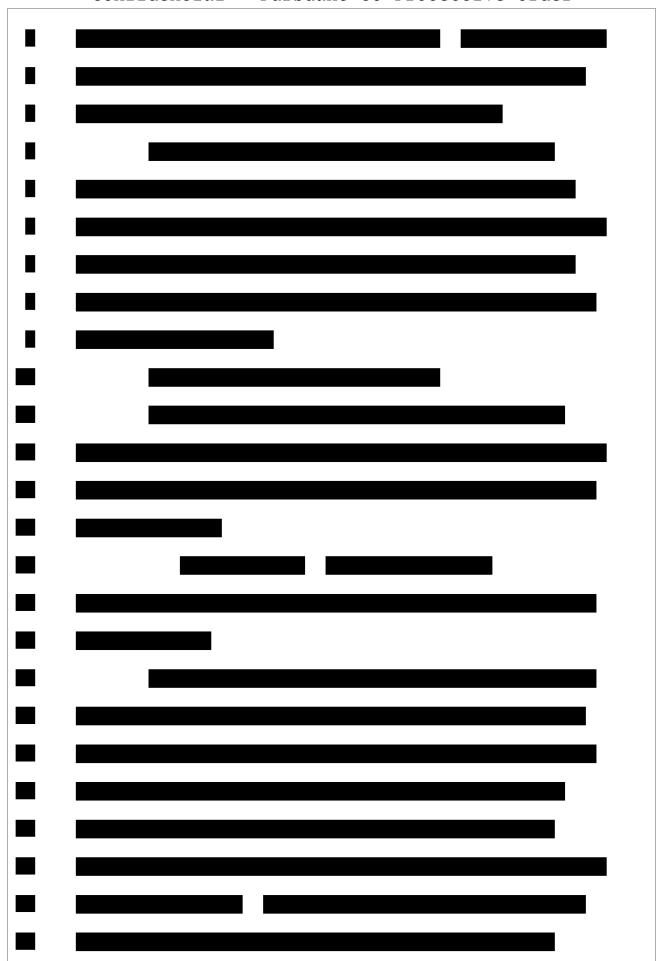


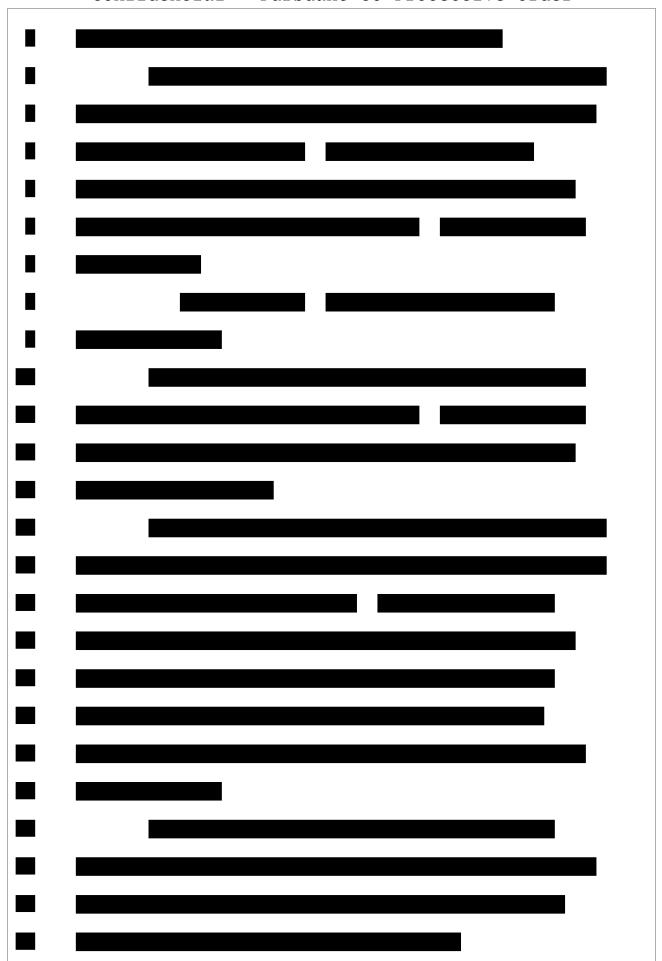


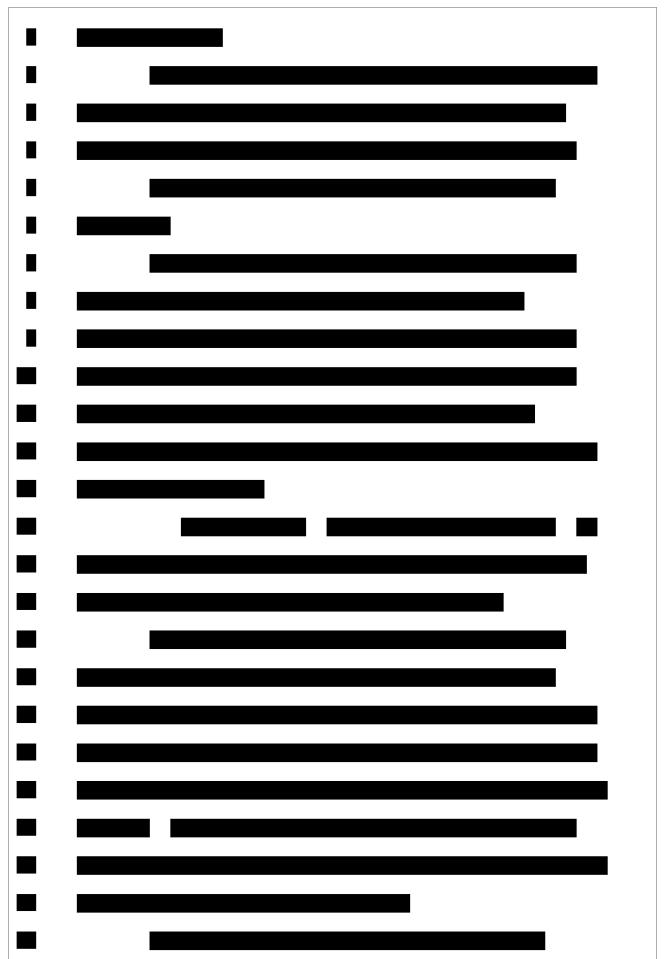


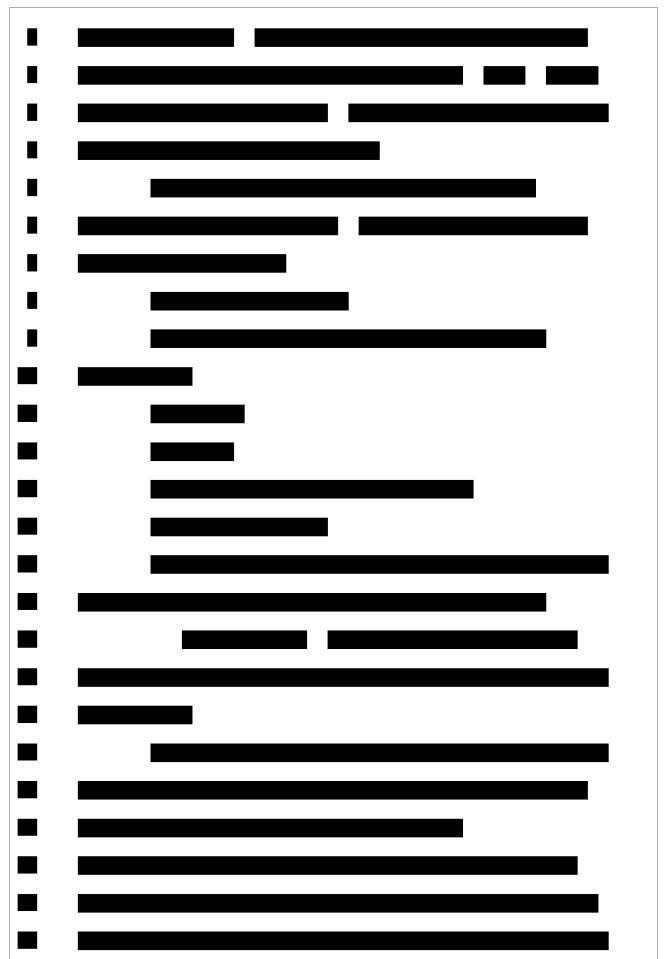


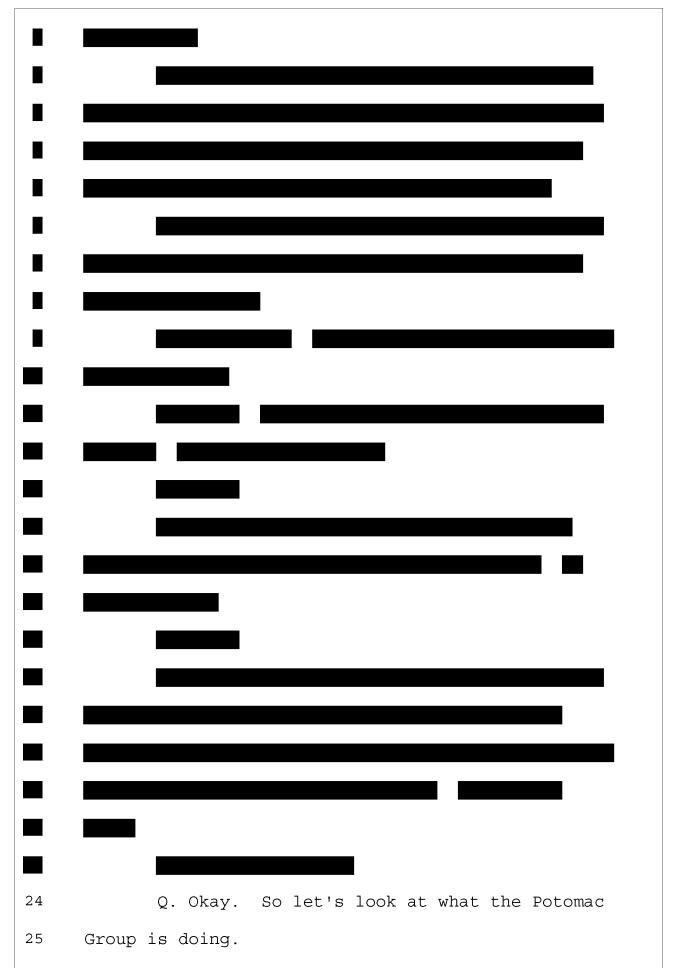












1 MR. PRESTES: Jerry, we've been going for 2 over an hour. Why don't we just take a quick five. 3 MR. KRISTAL: Okay. VIDEO SPECIALIST: The time is 3:57 p.m. 4 5 We're going off the record. (Proceedings recessed) 6 7 VIDEO SPECIALIST: The time is 4:10 p.m., and we're back on the record. 8 9 (Exhibit 26 marked for 10 identification: Email 11 correspondence from (topmost) C 12 Lord sent 2/27/2015 re Draft email 13 for experts to help with IARC 14 MONGLY01021648) 15 BY MR. KRISTAL: 16 Q. I've marked as Exhibit 26, this is an email chain from February 27th, 2015, and 17 18 February -- number of dates in February. 19 MONGLY number is 01021648. And we'll try to only 20 do a few of these. 21 But if you look at the next -- find the 22 page -- it's the Bates number that ends 1656. 23 A. Is it the start of the email chain or ... 24 Q. Well, the start of the email chain, relating, yes, relating to Potomac, and then we'll 25

- 1 move forward. The beginning of the email chain is
- from Kimberly Link to Daniel Goldstein and Charla,
- 3 C-H-A-R-L-A, Lord. Who is Ms. Lord?
- 4 A. Charla Lord is a communications employee.
- 5 Q. Okay. And the email is dated December
- 6 17th, 2014, the first email, and the subject is
- 7 "Identifying third-party voices for glyphosate."
- 8 And Ms. Link wrote:
- 9 "Charla will be the point person
- moving forward to help coordinate
- the list of credible third-party
- voices for glyphosate. In our call
- with Potomac Communications today,
- we decided to target The Washington
- Post and USA Today."
- Do you see that?
- MR. PRESTES: Object to the exhibit and
- 18 to all the questions on it, lacks foundation. This
- is an email that the witness didn't send, didn't
- receive, and wasn't copied on. You haven't
- 21 established whether he has ever seen it in his
- life.
- 23 Q. Okay.
- A. What was the question, please?
- Q. There were many documents you had never

- seen before in your life that you reviewed in
- 2 preparation for this deposition?
- 3 A. Yes.
- Q. Okay. That's what Ms. Link wrote, that
- 5 Charla was going to take the point, and that in the
- 6 call with Potomac Communications a decision had
- 7 been made to target The Washington Post and USA
- 8 Today. That's how it starts.
- 9 MR. PRESTES: Objection, foundation.
- Q. Do you see that?
- 11 A. I see the words there, yes.
- 12 Q. Okay. And on page 1655 Ms. Lord is
- writing to Daniel Goldstein.
- A. I'm sorry. I'm just reading the rest of
- 15 the email real quick.
- 16 Q. Okay. Sure. If I can summarize in a
- sentence, Ms. Link is suggesting a number of third
- parties they may want to contact.
- 19 A. American Academy of Pediatrics --
- Q. Right. There's a number of them.
- A. I just -- because I hadn't been involved
- in this, jumping around is a little difficult to
- keep the flow, but go ahead, where do you want to
- 24 go to next?
- Q. 1655, Ms. Lord's email dated February

20th, 2015, the same subject, "Identifying 1 2 third-party voices for glyphosate" to Dan Goldstein. Do you see that in the middle of the 3 4 page? 5 A. I do. Q. "We're seeing more opportunities 6 7 to move forward with Op-Eds to 8 counter the negative press in national media and need to have our 9 10 agencies start making some calls as 11 soon as possible. Would you please 12 forward the list of toxicologists 13 outside the D.C. area that you 14 suggest we contact. I'll have 15 Potomac start reaching out right 16 away." 17 So Ms. Lord is now communicating directly 18 and solely to Mr. -- Dr. Goldstein, correct? 19 MR. PRESTES: Objection, foundation. 20 A. Yeah, it's an email from Charla Lord to 21 Dan, Dr. Goldstein. 22 Q. Okay. And then he responds to her and 23 included a number of people on February 23rd, and 24 he begins his email by saying: 25 "I will need to get some

1 toxicologists up to speed quickly 2. and perhaps can just pay several to 3 review the existing literature and 4 be ready at least on the general 5 tox issues. There's nobody fully up to speed at this time." 6 7 And then he goes on from there, correct? A. Yeah, that's what's written there. 8 9 Q. Okay. And then there are additional 10 suggestions of people who might act as these third 11 parties. Do you see on page 1652, Sorahan, Tom 12 Sorahan, whose name we saw before, do you see that? 13 MR. PRESTES: Objection, foundation. 14 the question is just do you see Sorahan, go ahead. 15 Q. Right. They're discussing people who 16 might be involved in this project with Potomac. 17 MR. PRESTES: Objection, foundation. 18 A. Yeah, I see the list of names. The 19 project with Potomac, I don't know exactly what the 20 context is here, but they seem to be making lists of professionals that they want to reach out to and 21 22 contact. 23 Q. Okay. And on page 1650 Ms. Lord writes to Dr. Goldstein, Donna Farmer and others, Dear 24 Donna -- strike that. 25

```
1
                "Dear Dan and Donna. Here are two
 2.
                draft emails to send to the experts
 3
                below in regard to sharing their
 4
                names with Potomac for help with
 5
                IARC.
                       I'm sending two versions,
 6
                the second being vague in case
 7
                there is a concern about FOIA."
 8
             Did I read that correctly?
 9
             A. Yes, I see that you read that correctly.
10
             O. And there's a list of names under that to
11
     whom this should be sent to share their names with
12
     Potomac?
13
                MR. PRESTES: Objection, foundation.
14
             A. Yes, there's a list of names here which I
     quess would be, if she does what she says she's
15
     thinking of doing, some draft emails to those
16
17
     people.
18
             Q. Well, the draft emails would be to
19
      Potomac, right?
20
                MR. PRESTES: Objection, foundation.
21
             Q. You're right. I'm sorry. My fault.
22
      the experts. And there are two draft emails under
      that, right?
23
24
             A. Yes, that's right.
             Q. Okay. And the first draft email says:
25
```

1	"Dear Name, as you may be aware,
2	IARC will be discussing glyphosate
3	during its upcoming meeting in
4	March. I've been asked about
5	experts in the subject of safety
6	and immediately thought of you.
7	May I forward your name to my
8	colleagues at Potomac currently
9	working on communication pieces in
10	regard to this? Please don't
11	hesitate to contact me.
12	Strike that.
13	Please don't hesitate to call me
14	directly if you have questions. As
15	the IARC meetings are happening
16	soon, I'd love to connect with you
17	these associates as soon as
18	possible."
19	Do you see that? That's the first draft to
20	go to these third-party contacts, right?
21	MR. PRESTES: Objection, foundation.
22	A. There's two drafts, and I guess this is
23	something again, I wasn't on this but it
24	looks like Charla wrote; is that right?
25	Q. Yeah, and she's asking for input from the

```
1
     people she sent it to about her drafts. And the
 2
      second draft says:
 3
                "Dear Name, I would like to discuss
 4
                with you the sharing of your
 5
                expertise in regards to
 6
                glyphosate's safety in a
 7
                time-sensitive manner. May I phone
 8
                you this afternoon with more
                information."
 9
10
             Do you see that?
11
                MR. PRESTES: Objection, foundation, and
12
      to the characterization of the document.
13
             A. Yeah, I see what you read there, yes.
14
             Q. And the second draft is indeed more
15
     vague, as Ms. Lord said it would be, right?
16
                MR. PRESTES: Objection, foundation.
17
             A. The second draft is inviting a phone call
18
      seeking a contact to just set up a phone call.
19
      it's a shorter email draft, yes.
20
             Q. Well, and not as specific in terms of
     what exactly is being asked, correct?
21
22
                MR. PRESTES: Same objection.
             Q. It just basically says I'd like to
23
     discuss with you, give me a call, right, or may I
24
25
      call you?
```

- 1 MR. PRESTES: Same objection.
- A. Yes. It says, "I would like to discuss
- with you the sharing of expertise in regards to
- 4 glyphosate's safety in a time-sensitive manner.
- 5 May I phone you this afternoon with more
- 6 information."
- 7 Q. And that is more vague, as Ms. Lord said
- 8 it would be, than the first draft, which gives more
- 9 detail as to exactly what is involved, correct?
- 10 A. Oh, I see --
- MR. PRESTES: Objection, foundation.
- 12 A. I didn't realize that you were
- 13 referencing her characterization of those two.
- Q. Yes. Yes.
- A. So I can agree that she's characterized
- her two emails, the second being vague, but I don't
- 17 have more context than that.
- Q. Okay. You certainly know what FOIA is,
- right, FOIA is the Freedom of Information Act?
- A. Yes, it's a program where you can access
- 21 public documents.
- Q. And she was concerned that someone might
- make a FOIA request, and the concern was she wanted
- to be more vaque so you wouldn't know what the
- request was, so, therefore, she had the second

- draft which was more vague, correct?
- MR. PRESTES: Objection, foundation and
- 3 to the invitation to read minds.
- A. It does -- it does say the second being
- 5 vague in case there's a concern about FOIA. I
- 6 can't comment on what she meant or intended more
- 7 than what she just -- the words there, but ...
- 8 Q. Well, FOIA means somebody might --
- 9 A. She is someone you can talk to, I'm sure,
- and ask her directly on that.
- Q. FOIA, if there was a FOIA request that
- was honored, entities would have to turn over
- 13 certain documents under that request.
- MR. PRESTES: Objection, hypothetical.
- 15 A. I don't know that that's true. I don't
- 16 know what the rules are with respect to all of
- these different entities. FOIA applies to
- 18 government documents. I don't know to what extent
- these people would be subject to FOIA or not.
- Q. But what she did was, there were two
- 21 drafts to be sent to these third parties, one was
- more vague than the other, if there were concerns
- about that contact being disclosed.
- MR. PRESTES: Objection, foundation,
- 25 requires speculation.

- 1 A. Yeah, I can read you the words she wrote,
- 2 but ...
- Q. And that's what she said. If there's a
- 4 concern for the Freedom of Information Act, I've
- 5 made the second draft more vague.
- 6 MR. PRESTES: Same objection.
- 7 A. Yeah, you just keep paraphrasing her
- 8 words --
- 9 Q. Right.
- 10 A. -- in different ways. I'll just go back
- 11 to her words and leave it there.
- Q. But it means the same thing, right?
- MR. PRESTES: Objection.
- 14 A. The second being -- the second being
- vague in case there's a concern about FOIA is what
- 16 she said.
- Q. Okay. And then on the first page of the
- document, 1648, Donna Farmer asks the question that
- 19 you asked a few minutes ago, right? She sends an
- email to Dr. Goldstein, Charla Lord, and others, on
- 21 February 26th, "help me understand why these folks
- were selected and who is Potomac." Right?
- MR. PRESTES: Objection, foundation, and
- objection to the characterization of Dr. Farmer's
- 25 statement.

- 1 Q. Well, that's what she wrote.
- MR. PRESTES: Same objection.
- A. Yeah, she says, help me understand why
- 4 these folks were selected and who is Potomac,
- 5 that's correct. She apparently didn't -- I don't
- 6 know what she meant, but she apparently didn't
- 7 understand what was going on.
- Q. Okay. And under that she writes, "Tom
- 9 Sorahan is going to be our observer at IARC and
- John Acquavella and Elizabeth Delzel are consulting
- with us and working on projects for IARC. I would
- rather do an ask over the phone." Do you see that?
- 13 A. I see that.
- Q. And those three people who I just named
- were listed as some of the third parties to whom
- this contact would be made to see if they would be
- 17 willing to work with the Potomac Group.
- MR. PRESTES: Objection, foundation.
- 19 A. And, I'm sorry, I lost your question
- there. If we could just read it back real quick?
- Q. Well, if you compare the list of people
- to whom the draft contact would be sent, the three
- that Donna Farmer identifies are on this list.
- A. That's correct.
- MR. PRESTES: Same objection.

1 A. Those three names are on the list of 2. names from Charla's email of February 26th. 3 Q. Were you aware that Elizabeth Delzel was 4 an Exponent employee at this time? 5 A. No. MR. PRESTES: Objection, foundation, 6 7 assumes facts. A. I don't know who Elizabeth Delzel is. 8 9 Q. Okay. And Charla Lord now answers 10 Donna's question, and she writes: 11 "Donna, thanks, and I'm sorry, I 12 didn't realize until now that you 13 were not on the original email 14 string (included below). Potomac 15 is a media house that is writing 16 Op-Eds and Letters to Editors in 17 response to negative pressure 18 surrounding glyphosate. These 19 would be 'authored' by those on the 20 list then placed by Potomac in 21 media where needed. Potomac 22 writers would do the heavy lift 23 with the expert authors as final 24 editor. We know these items in the 25 media need to be from those outside

- 1 the industry." 2. Do you see that? A. Yes, I see that, you read that correctly. 3 4 Q. So what Charla Lord is explaining to 5 Donna Farmer is they're going to have some group, the Potomac Group, write opinions to the editor and 6 7 letters and then give them to these third parties 8 to edit, and then have the letters and the Op-Eds go out under the third party's name, correct? 9 10 MR. PRESTES: Objection, foundation, it 11 solicits speculation on a document that speaks for 12 itself. 13 A. Yeah, I think you basically went through 14 and highlighted elements of each of her sentences 15 there. 16 Q. And that's what she's saying. 17 MR. PRESTES: Same objections. 18 A. Yeah, I think the words actually -- I 19 don't disagree with what you characterized there 20 generally. The words make it pretty clear what 21 Potomac was doing and how they were interacting 22 with the experts in that text based on what she
- Q. And nowhere does it say that we'll
- disclose that we're actually writing these letters,

said there.

23

- 1 right?
- 2 A. I don't know what else was discussed in
- 3 this context, but there's nothing in the email that
- 4 references what you said.
- 5 Q. Do you think that's proper to have a
- 6 media outlet write an opinion letter or letter and
- 7 then send it to an expert and have the expert who
- 8 didn't author it edit it and then send it in under
- 9 the expert's name?
- MR. PRESTES: Objection.
- 11 Q. Is that proper?
- MR. PRESTES: Objection, foundation,
- 13 hypothetical question, misrepresents the facts.
- 14 A. I think there's a lot of instances where
- people write material and another person edits and
- has their name on the final product, yes.
- Q. Well, but not in the context of a company
- selling a product that has just been classified as
- 19 a carcinogen and then hiding their involvement,
- 20 correct?
- MR. PRESTES: Same objections.
- A. You're kind of complicating the
- 23 hypothetical here, so let me make sure I understand
- 24 it.
- Q. Sure. In this instance Monsanto, as

- 1 Charla Lord said, "we know these items in the media
- 2 need to be from those outside the industry," is
- having an outside group write letters that someone
- 4 else would adopt as their letter so that, when it
- 5 appears in the public, it appears to be outside of
- 6 the industry.
- 7 A. That doesn't --
- MR. PRESTES: Objection, foundation,
- 9 mischaracterizes the facts, improper hypothetical.
- 10 A. Yeah, so it -- what you described doesn't
- 11 appear to be consistent with what's written here --
- Q. Well, how is that not consistent?
- MR. PRESTES: Let the witness finish his
- 14 answer.
- 15 A. -- where it specifically mentions the
- 16 expert authors will be the editor. So they will be
- the ones ultimately deciding what they agree with
- and what they publish, and I -- I'm not sure
- 19 exactly how this was working, because I wasn't
- involved in this, but, as a general matter, I don't
- think that's an issue.
- Q. When Ms. Lord writes "these," meaning the
- 23 Op-Eds and Letters to the Editors, would be, in
- quotes, authored by those on the list, when she
- 25 puts the word "authored" in quotes you understand

- 1 that to mean not authored, right?
- MR. PRESTES: Objection, foundation,
- 3 solicits speculation about what somebody else
- 4 wrote.
- A. I don't know what she meant by putting
- 6 quotes around the word "authored."
- 7 Q. Well, it's plain English.
- A. But I know you could talk to her about it
- 9 and get a direct answer on that.
- 10 Q. This is plain English, though, right?
- 11 These would be "authored" by those on the list.
- 12 Potomac writers would do the heavy lift.
- MR. PRESTES: Same objection.
- Q. What does that mean to you? Who would be
- writing most of these Op-Eds and Letters to the
- 16 Editor?
- 17 MR. PRESTES: Same objection.
- 18 A. The plain English is the word authored is
- 19 there.
- Q. In quotes.
- A. What you're trying -- what you're trying
- to imply by the quotes, I can't tell you. I don't
- 23 know what she meant by putting quotes around the
- word authored.
- Q. You've never seen that done in English

communication? 1 2. A. I've seen that done in many different contexts. I don't know what she meant by it here. 3 4 MR. KRISTAL: All right. I'm marking as 5 Exhibit 28 -- I'm sorry, 27 -- this is an email 6 with an attachment dated February 27th, 2015 from 7 Kimberly Link. The subject is "IARC materials." (Exhibit 27 marked for 8 identification: Email 9 10 correspondence from (topmost) K 11 Link sent 2/27/2015 re IARC 12 materials MONGLY04773726) 13 A. Thank you. 14Q. You're welcome. Bates number is 15 MONGLY04773726, and Ms. Link is writing to a number 16 of people, including to a J.D. Dobson at 17 Fleishman.com. Do you see that? 18 A. Yes, I see that as the recipient to the email. 19 20 Q. And that's Fleishman and Hillard, the PR 21 company? 22 MR. PRESTES: Objection, foundation. 23 Object to the exhibit and object to the questioning on it on the grounds that it lacks foundation. 24

This is -- we've now -- consistent with how

25

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- 1 we've spent almost the entirety of our day, this is
- another document that the witness never -- didn't
- send, didn't receive, and wasn't copied on.
- 4 A. What was your question?
- 5 Q. The question was --
- 6 A. Something about Fleishman --
- 7 O. Is that Fleishman and Hillard?
- 8 A. I believe --
- 9 MR. PRESTES: Same objection.
- 10 A. I believe Fleishman.com refers to
- 11 FleishmanHillard, yes.
- Q. And the attachment, which is Bates number
- 13 04773727, is the next page. It says, Monsanto
- Response to IARC decision. Do you see that?
- 15 MR. PRESTES: I think you left a word out
- of the quote.
- MR. KRISTAL: Thank you.
- Q. "Monsanto Response Plan to IARC
- 19 decision."
- A. Yes, I see that.
- Q. And the last sentence of the first
- paragraph says, "and even then, wherever possible,
- 23 Monsanto should refer to third-party voices and
- resources rather than expect people to take
- Monsanto's word on the safety of its own product."

- 1 Do you see that?
- 2 A. Yes, I see that.
- Q. And that's a statement of what Monsanto
- 4 understood to be challenges to their reputation,
- 5 particularly with respect to safety, right?
- 6 MR. PRESTES: Objection, requires
- 7 speculation, and to the extent you're asking him to
- 8 testify on behalf of Monsanto or what Monsanto
- 9 understood is beyond the scope of any topic on
- which Mr. Rands has been designated to testify on
- 11 behalf of Monsanto.
- 12 A. I don't know the context here. Again,
- it's an email and an attachment I've never seen and
- 14 wasn't involved in. I think, as I said earlier, I
- did acknowledge Monsanto had a rough reputation.
- 16 It was out there defending and speaking on behalf
- of itself on a regular basis on glyphosate and
- 18 Roundup and the issues with that, and then, to the
- 19 extent possible, we, I think, would -- my
- 20 experience is we would also like to see others
- speak so that, if people had issues with our
- reputation and that became a block to listening to
- a topic or an issue that we were trying to speak
- on, that there were other sources of information
- which they might also be willing to listen to.

1 Q. Because the company knew that Monsanto 2. had very little credibility when it came to the 3 safety of glyphosate, right? 4 A. I don't think it was an issue of 5 credibility at all. My personal experience is it 6 was a stumbling block when you engage and talk with people that have a bad view of Monsanto's 7 8 reputation that you couldn't get passed that sometimes. 9 10 Q. Okay. Well, let's look at the second 11 page of this attachment. Under "social/digital," 12 do you see that category in the middle of the page? 13 A. Yes, I see that. 14 Q. The third paragraph: 15 "Monsanto, as a leading 16 manufacturer of glyphosate and as a 17 company with reputation challenges, 18 will have very limited credibility 19 when speaking on the topic of 20 glyphosate's safety. Wherever 21 possible, blogs, tweets, Facebook 22 posts, and responses to questions 23 on GMO answers and 24 Discover.Monsanto.com should link 25 to third-party resources rather

- than Monsanto-owned resources."
  - 2 Do you see that?
  - A. Yes, I see that.
  - 4 Q. So there was an understanding that, with
  - 5 the public, Monsanto would have very little
  - 6 credibility when speaking on the topic of
- 7 glyphosate's safety.
- 8 MR. PRESTES: Objection, foundation, and
- 9 to the extent you're requesting the witness to
- describe what the understanding was with respect to
- 11 a document he has never seen.
- 12 A. Yeah, that's my -- my concern here is I
- just don't know, you know, what they're really
- 14 proposing or what the context of this is, but I can
- see that whoever wrote this and was talking seems
- to be saying that they were concerned about how
- 17 people would view Monsanto's voice in that
- 18 conversation.
- 19 Q. As having very little credibility on the
- safety of glyphosate.
- MR. PRESTES: Same objection.
- A. Yeah, the words were -- I'm sorry. I
- lost track of where we were here.
- Q. "Monsanto is a leading manufacturer of
- 25 glyphosate and as a company with reputation

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- 1 challenges will have very limited credibility when
- speaking on the topic of glyphosate safety."
- A. Yes, that's what it says.
- Q. Okay. And then if you turn two more
- 5 pages, there's a fourth bullet point on the page,
- 6 "Paid Search."
- 7 A. Yes, I see that.
- 8 Q. Do you know what a paid search is on the
- 9 Internet?
- 10 A. I don't know what it means in this
- 11 context. When I hear that term, I think of
- sponsored content that you see when you do a Google
- 13 Search. It shows up above the line where it says
- "Sponsored Content."
- Q. Or you can, if somebody was on the
- 16 Internet searching for glyphosate, you could have a
- payment plan and that would direct them to certain
- websites. That's the goal, correct, of a paid
- 19 search?
- A. I guess I didn't understand it that way.
- 21 I thought it was just content -- if you search for
- the word Roundup, a listing of results comes up,
- and paid search means that you've placed sponsored
- 24 content at the top of any search using that
- 25 keyword. Is that what you're describing? That's

```
how I understood it.
 1
 2.
             Q. Well, let's read what it says.
 3
                "Paid Search."
 4
                "Assuming Monsanto would not be
 5
                competing with allies and bidding
 6
                up the price of relevant keywords,
 7
                conduct a paid search campaign.
 8
                Ideally this campaign would direct
                users to the aforementioned
 9
10
                'third-party validation' page, but
11
                a secondary option would be the
12
                Beyond the Rows BlogPost."
13
             Do you see that?
14
             A. I do.
15
             Q. So Monsanto was going to pay money to
16
      have somebody conduct its certain searches, they
      would be directed to pages that appeared to be from
17
18
      third parties.
19
                MR. PRESTES: Objection --
20
             Q. Right?
                MR. PRESTES: -- foundation.
21
22
             A. So, again, I don't know exactly what they
23
      mean here, because I don't --
24
             Q. Well, that's what it says.
             A. I've never looked at this document.
25
```

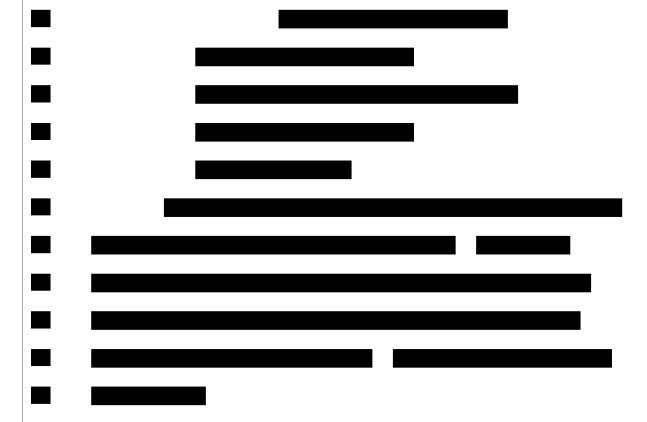
- 1 I actually don't think that's how paid search works
- 2 at all. I don't think it redirects you to
- anything. I think what they're -- just kind of
- 4 generally, it seems that they're saying, we'll --
- 5 potentially we'll be putting a link up in that
- 6 sponsored content section of the search result, and
- 7 then, if somebody clicks on it, it could take them
- 8 to another page.
- 9 Q. Right.
- 10 A. But that's, to me, how -- it doesn't
- 11 redirect you. It's there, and if you click on
- something, then it obviously takes you somewhere
- else, but the lawyer ad --
- Q. You pay money so that certain keywords
- would have a link that somebody who is looking up
- that keyword would be directed to.
- A. No, that's what I'm not saying.
- Q. That's what this says, though. It says,
- "ideally this campaign would direct users to the
- 20 aforementioned third-party validation page but a
- secondary option would be the Beyond the Rows
- 22 BlogPost." Do you see that?
- A. I see that. What I'm saying is I don't
- think that's how paid search works at all. I think
- 25 that's actually wrong.

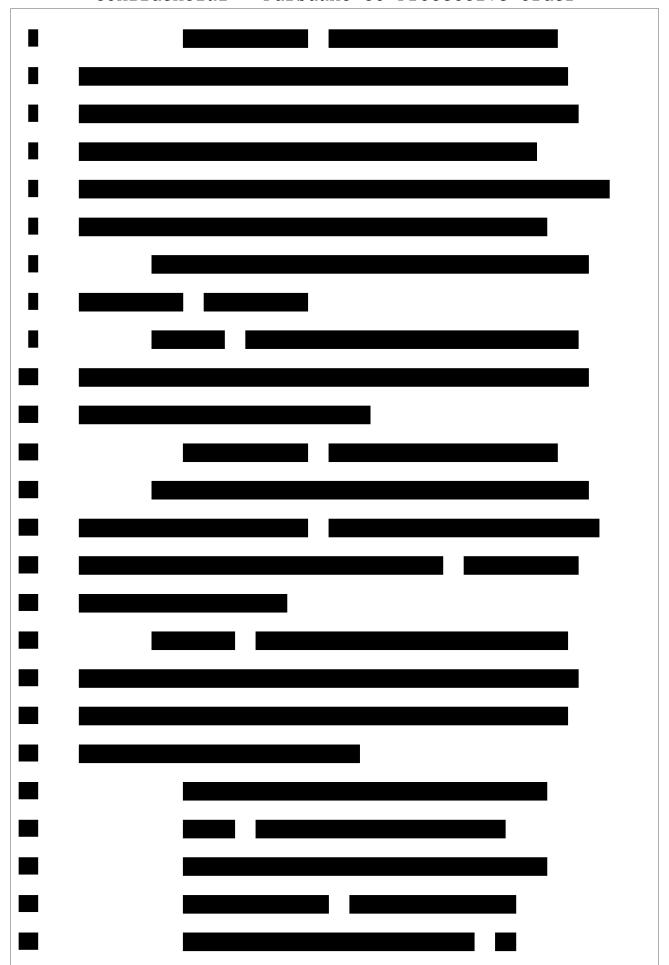
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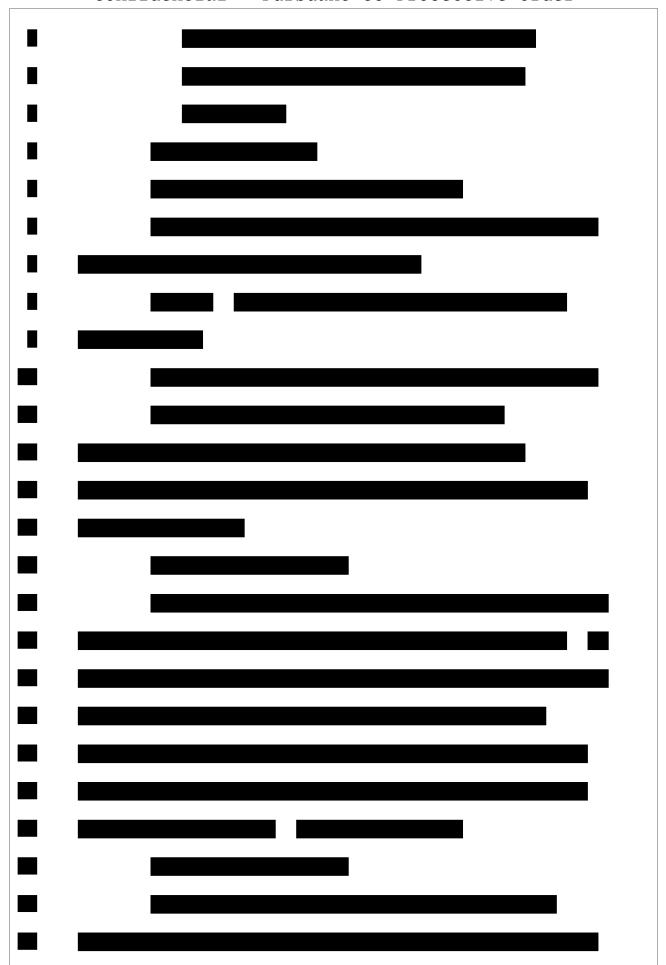
- 1 Q. This is what the campaign -- you're
- 2 saying so this is wrong?
- A. Well, I don't --
- 4 MR. PRESTES: Objection, foundation.
- 5 He's saying he has never seen this document in his
- 6 life.
- 7 MR. KRISTAL: I understand that.
- 8 MR. PRESTES: And it's not consistent
- 9 with his understanding.
- Q. I'm trying --
- 11 A. Yeah, I think the way you're
- 12 characterizing it --
- Q. I'm not characterizing it. I'm reading
- the quote. I didn't characterize anything. I
- said, quote, ideally this campaign would direct
- 16 users, right?
- 17 A. So, as I said, I don't know anything
- about what they're doing here. What I was
- describing is how I understand paid search works,
- where you put a link with sponsored content in a
- search result, and that's it. That's the paid
- 22 search.
- 23 And sponsored content shows above a line
- that says "sponsored content," and then if there's
- a -- there can be a link there, people click on.

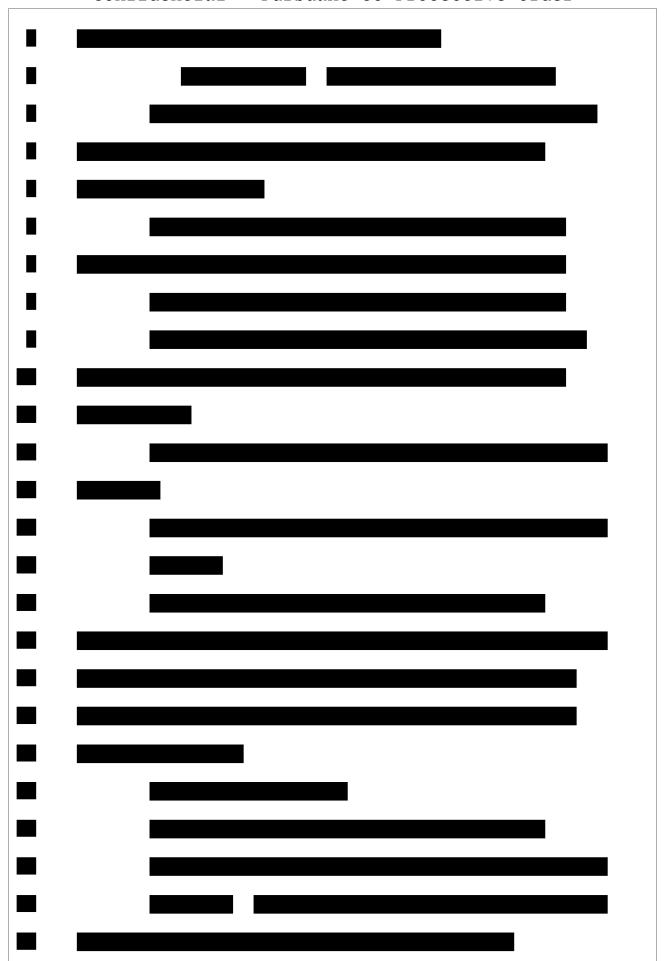
- 1 If they click on it, it takes them somewhere else.
- 2 But I've never heard of paid search where it just
- automatically redirects you when you search for
- 4 something.
- 5 Q. Nor am I saying that. It directs them to
- 6 click on a link to get the information.
- 7 A. It provides a link.
- Q. It provides -- okay.
- 9 A. Yes.
- Q. So it provides -- so Monsanto was saying,
- if it's not going to be competing and driving the
- price up, we're going to have paid searches so when
- 13 people put in a word like IARC and glyphosate, a
- 14 page would come up which would have a link to a
- third-party page that the user who's doing the
- searching could then connect with.
- 17 A. No, maybe --
- MR. PRESTES: Objection, foundation, and
- 19 to the extent the question calls for what Monsanto
- is saying.
- 21 A. My understanding of paid search, and just
- to use an example like you did, if you search for
- 23 IARC and Roundup, is I think the ones you used, it
- will bring up a list of search results, and the
- first, I don't know, five to ten search results

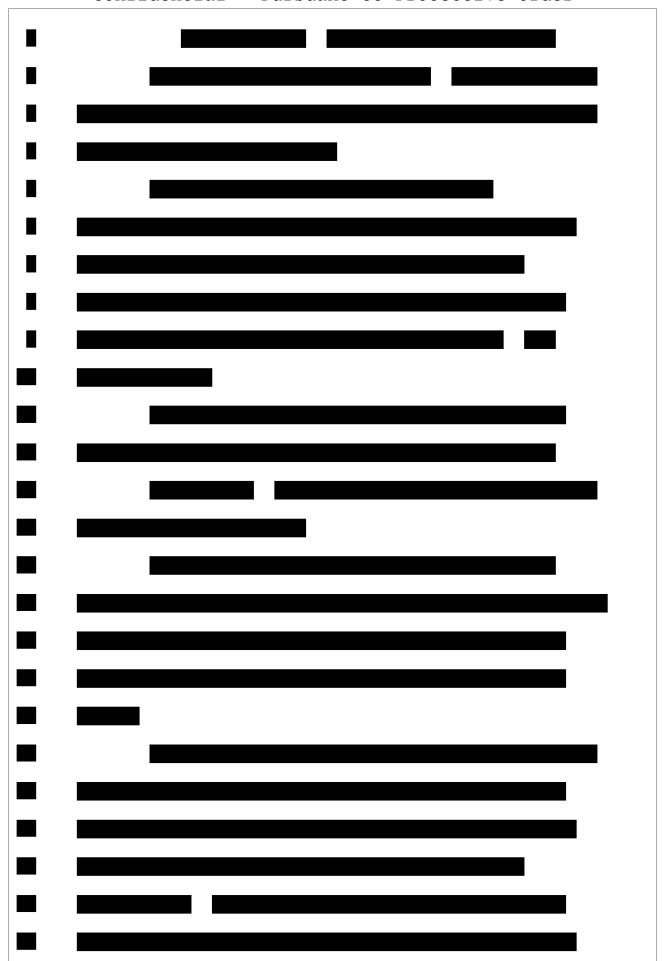
- will be lawyer ads with links to lawyer websites,
- and I think other people can also come in and buy
- and place links to other sites in that same area in
- 4 and around all the lawyer ads. That's how paid
- 5 search works.
- 6 Q. Right. And the hope in that campaign was
- 7 that the user would go to a third-party page, not
- 8 directly to a Monsanto page.
- 9 MR. PRESTES: Objection, foundation, if
- you're asking what the hope of this campaign that's
- 11 unknown to him is.
- 12 A. Yeah, I don't know exactly what they
- intended here other than to provide a link in a
- paid search program that they were considering.

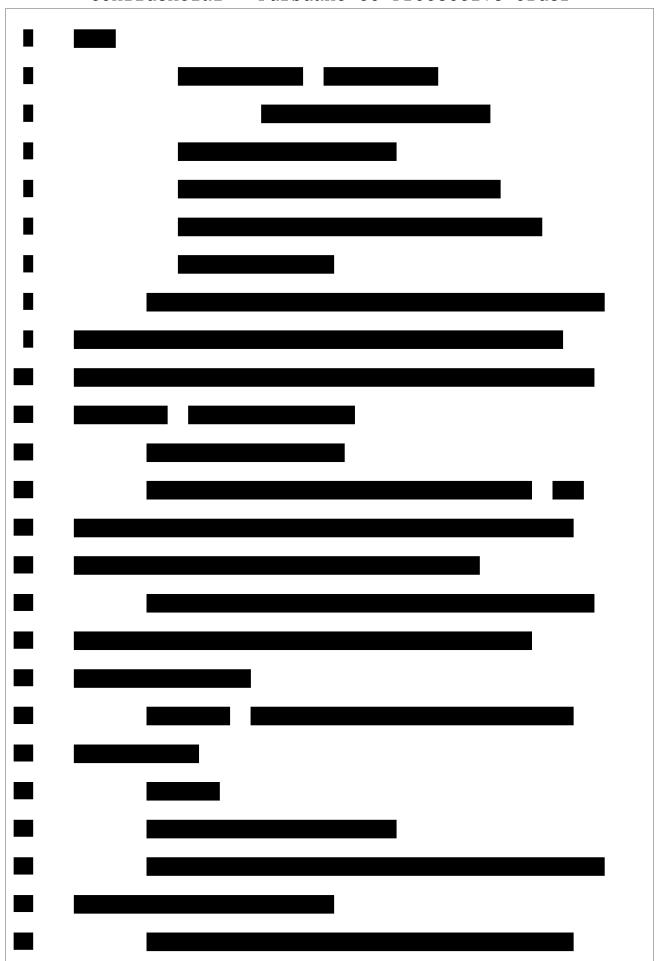


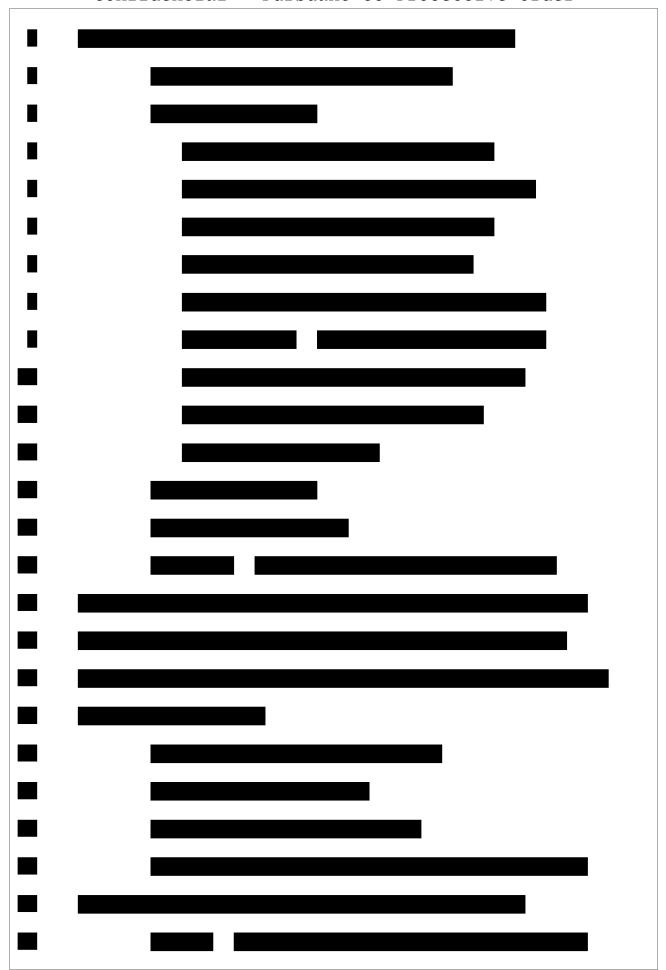


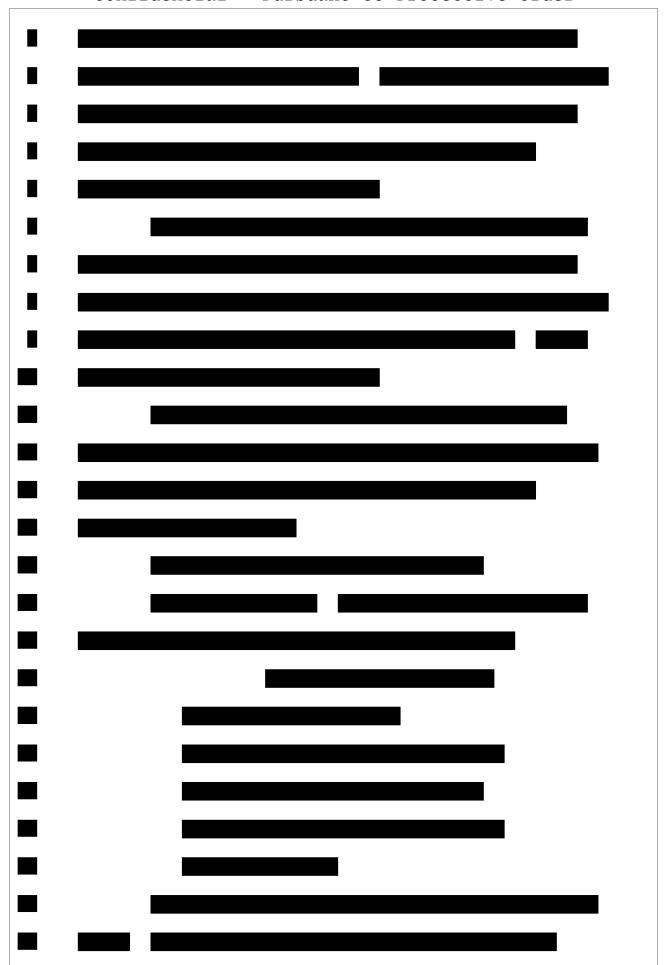


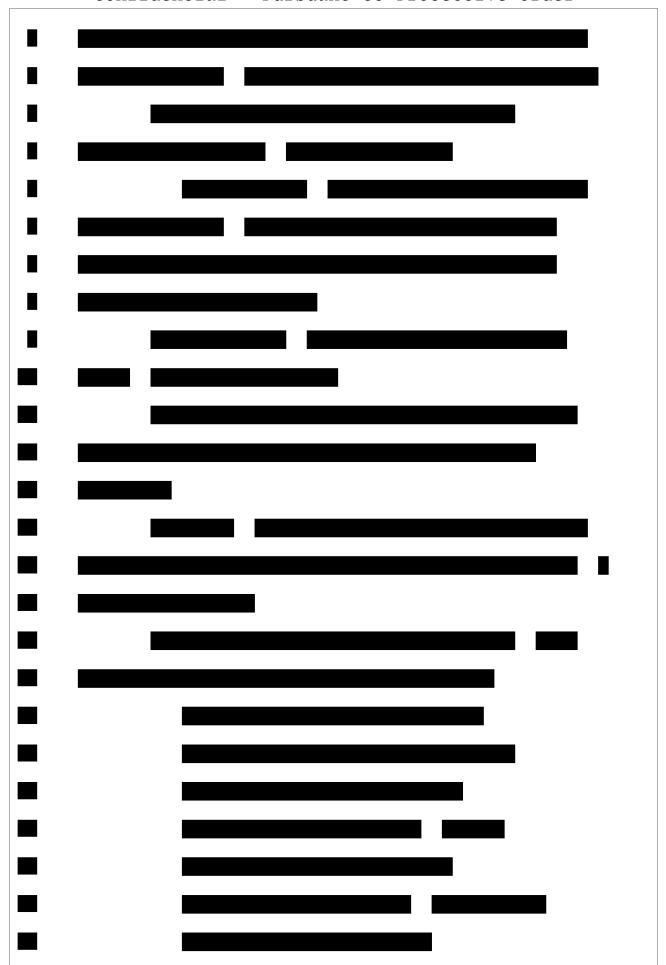


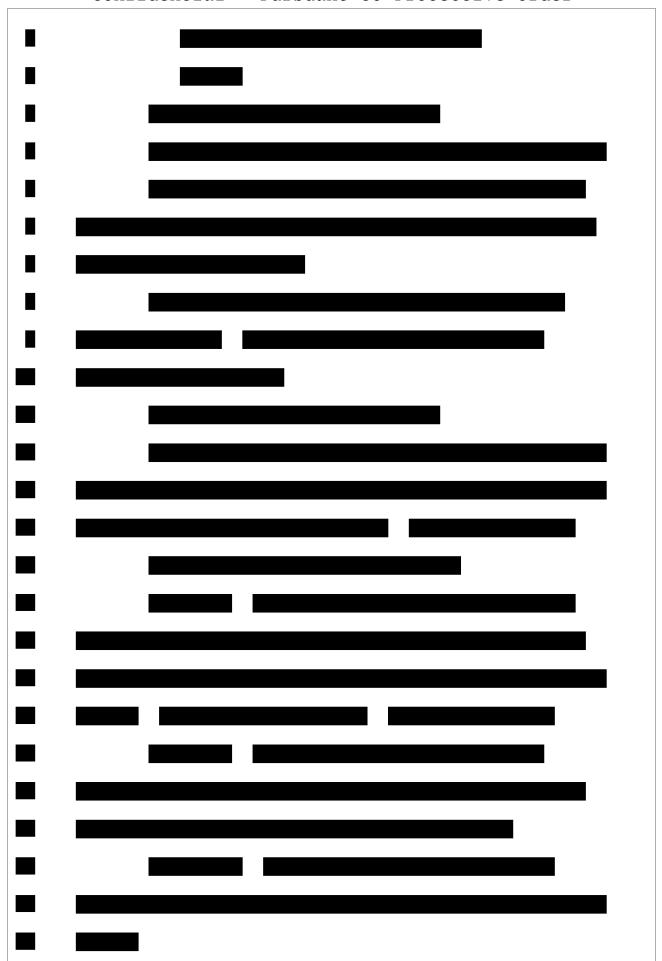


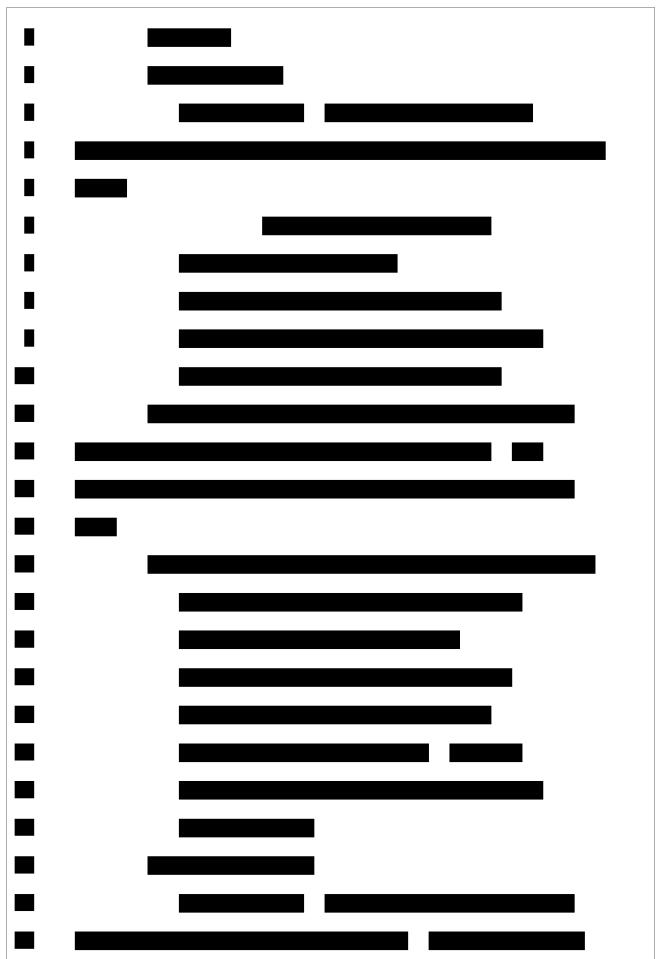


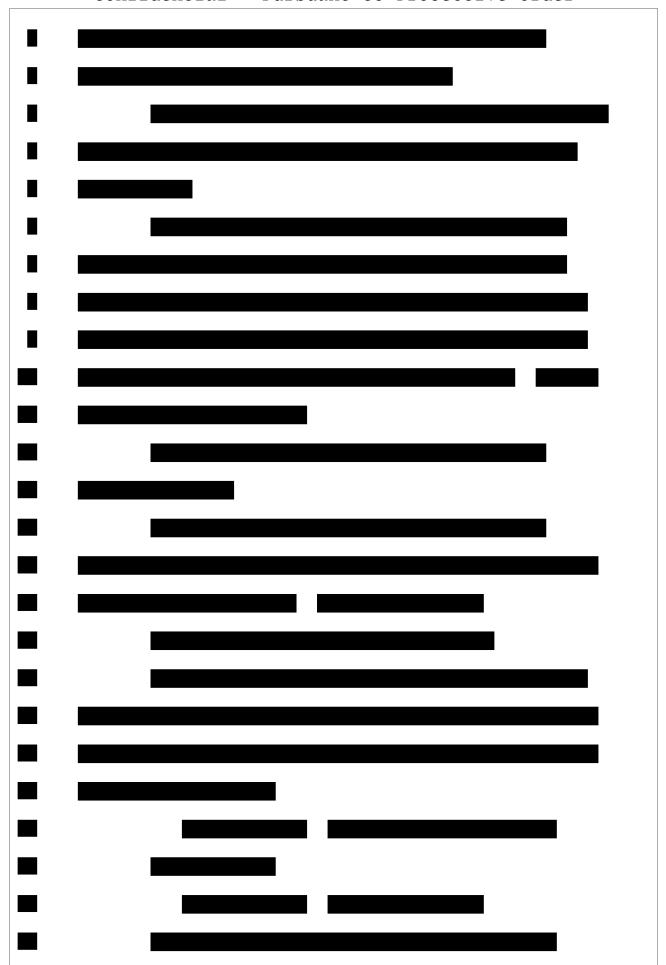


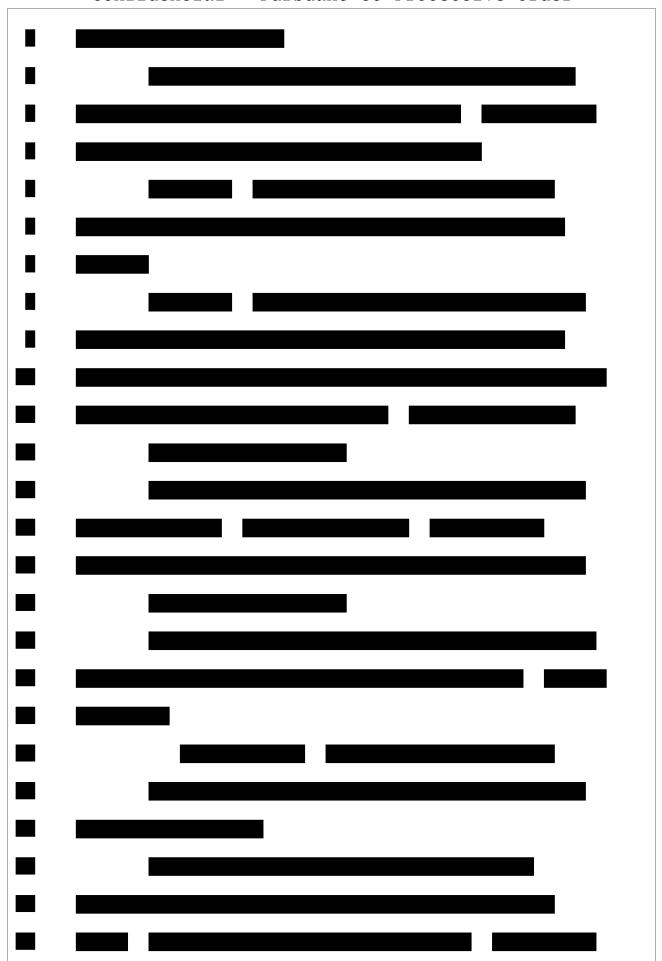










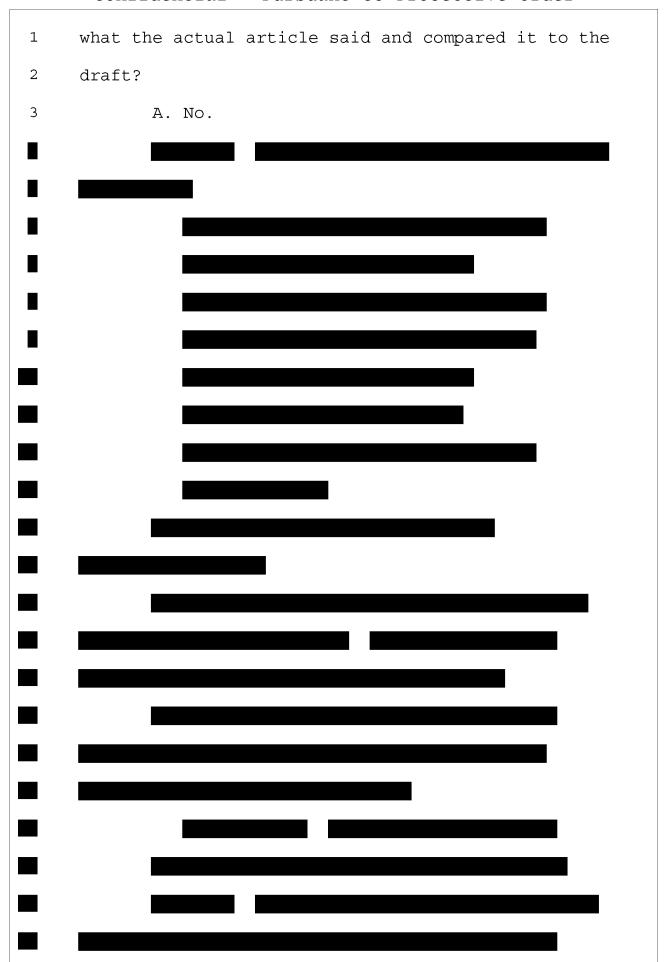


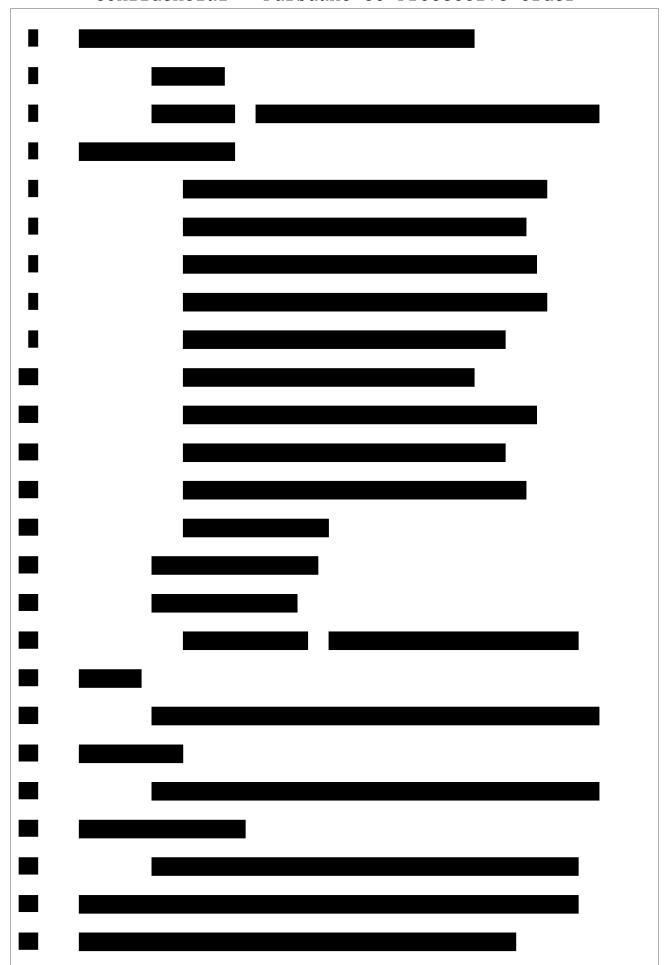
```
3
             Q. Now let me show you the article itself.
 4
                MR. KRISTAL: I'm marking as Exhibit 32,
 5
     this is the article dated March 20th, 2015. I
     printed this out January 29th, 2019. The title of
 6
 7
      the article is "March Madness from the United
     Nations."
 8
9
                        (Exhibit 32 marked for
10
                identification: March Madness from
                the United Nations)
11
12
             Q. What I'd like to do is, if you could go
13
     to Exhibit, I believe it's 30, the one that had the
     draft.
14
15
             A. Okay.
16
             Q. If you turn to the draft itself, which is
17
     on the Bates number that ends 572 -- do you have
18
      it?
19
             A. Yes.
20
             Q. Okay. So the draft says, for the title,
21
      "March Madness from the United Nations," Henry I.
22
     Miller. Do you see that?
23
             A. Yes, I do.
24
             Q. And the title of the actual article was,
```

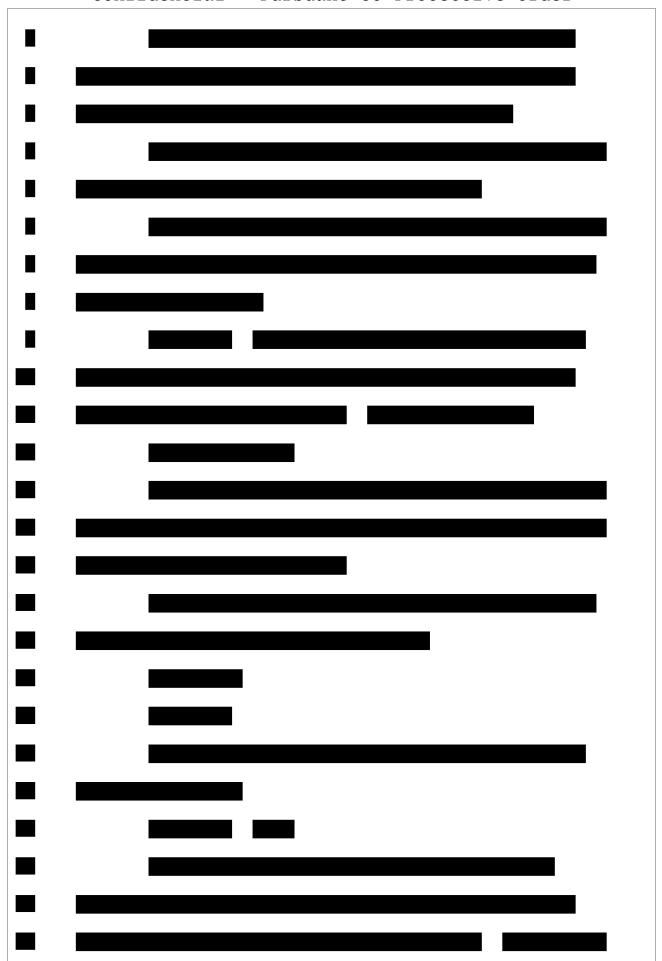
"March Madness from the United Nations, Henry I.

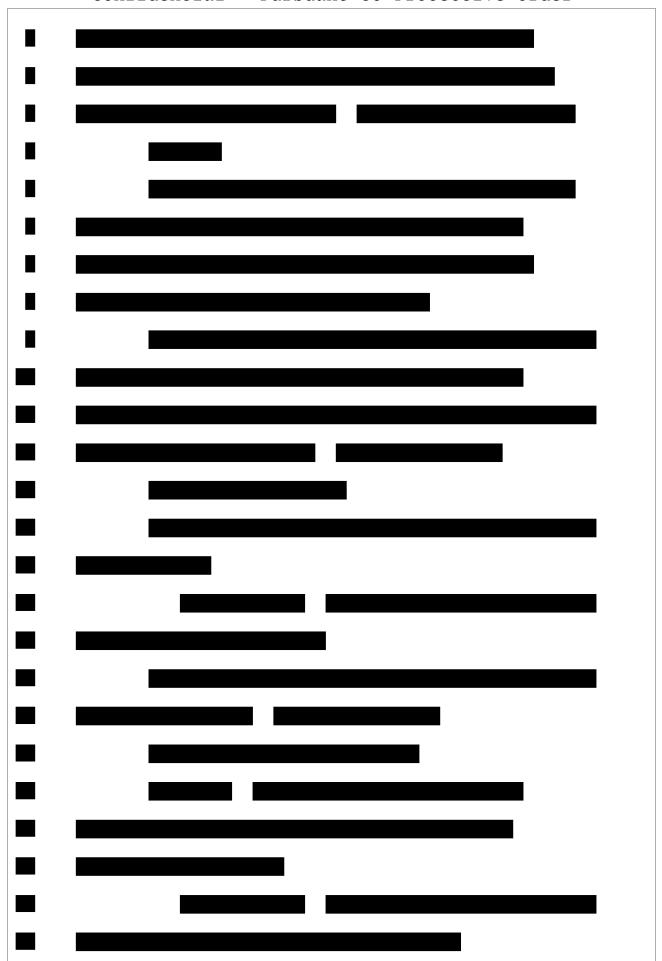
25

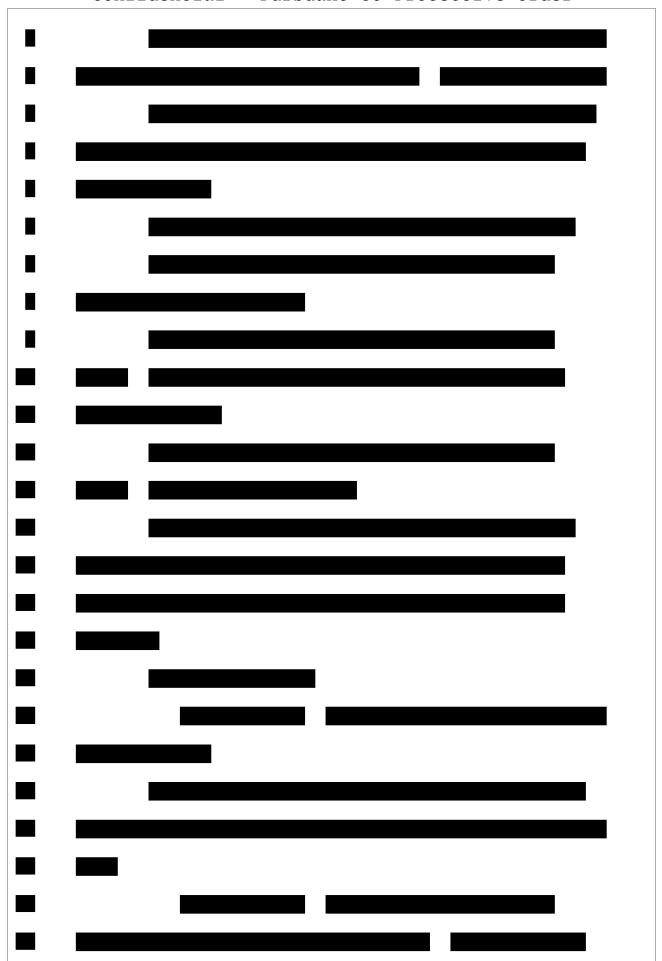
- 1 Miller, " right?
- 2 MR. PRESTES: I'm going to object to
- 3 Exhibit 32, the article, as something that the
- 4 witness had nothing to do with, didn't write,
- 5 didn't send, didn't receive.
- A. And hasn't read. I'm sorry. I haven't
- 7 read or seen the article before, but we're -- we'll
- 8 go through it with you. That's fine.
- 9 Q. But you knew about this issue when
- 10 Monsanto wrote an article and it went out over
- 11 somebody else's name and the article had to be
- 12 retracted, right?
- A. I had never heard about this until I
- started preparing for my deposition.
- Q. Okay. And did you ask to see the draft
- 16 versus the article?
- 17 MR. PRESTES: Objection. Don't answer.
- 18 Privilege. We're not going to talk about what he
- 19 did and didn't ask the lawyer -- communicate with
- the lawyers.
- 21 A. I became familiar with it reading the --
- 22 I think it was Eric Sachs' transcript.
- Q. How long ago was that?
- A. Sometime in the last two weeks.
- Q. Okay. Did you ever request or go see

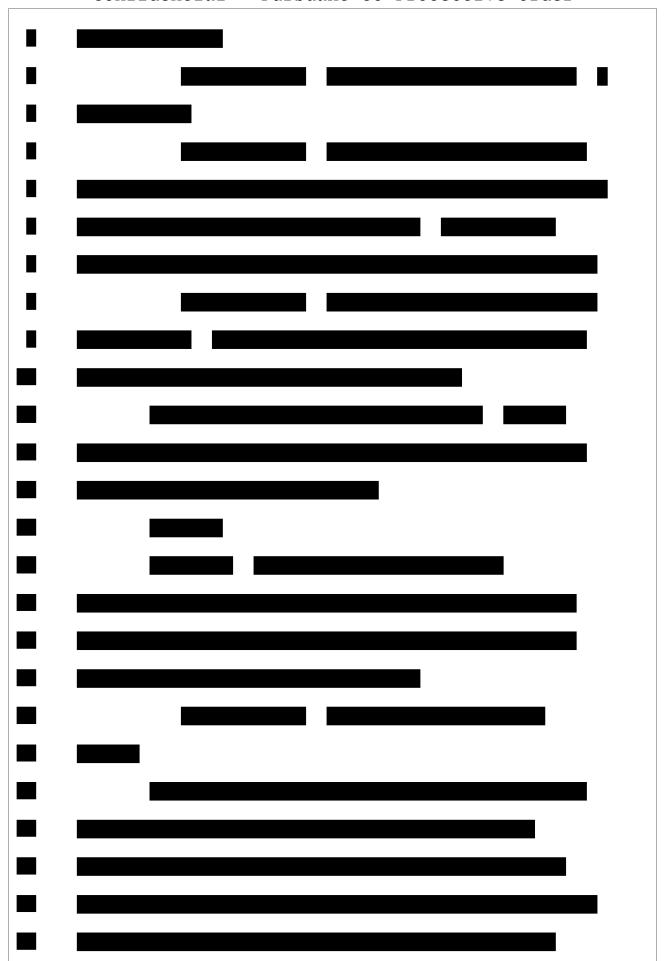


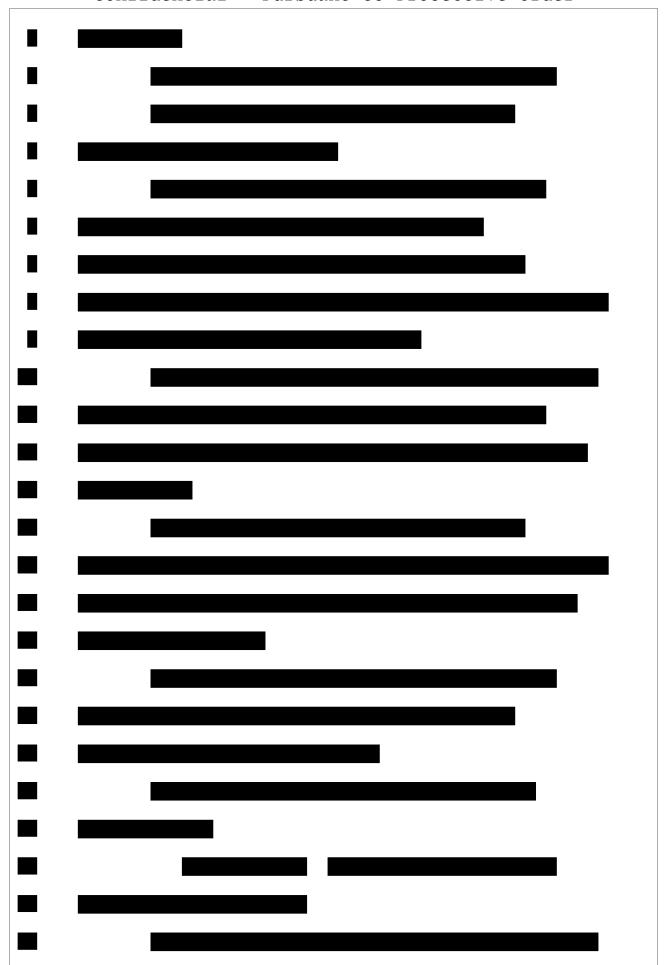


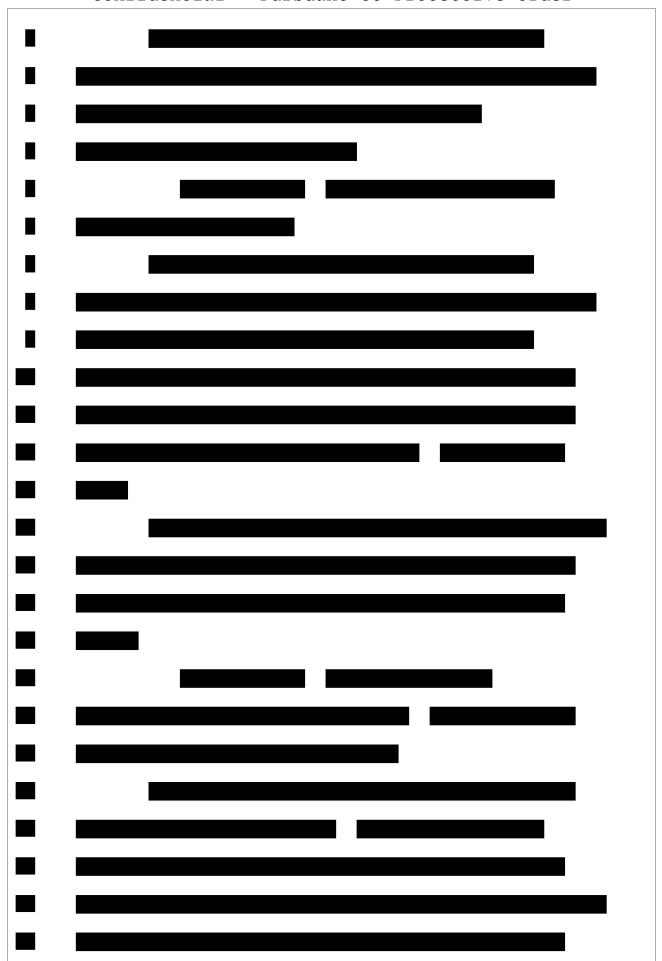


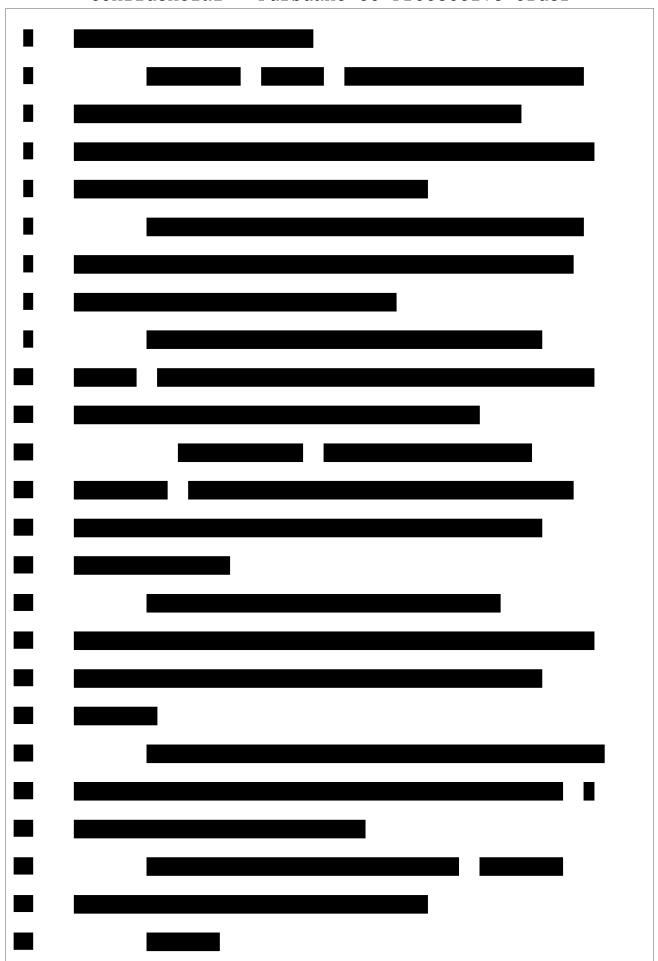


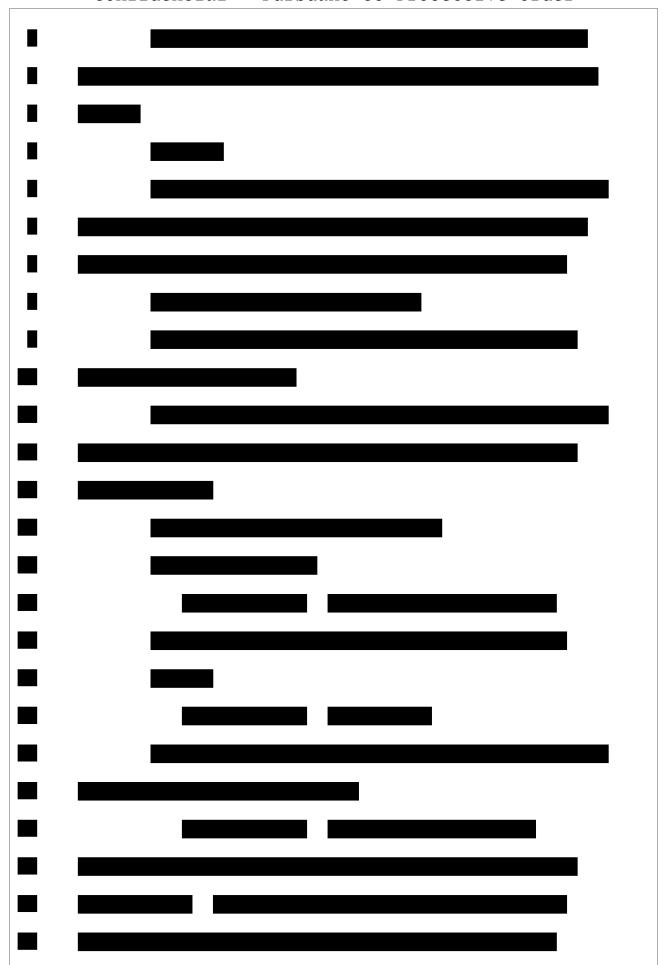


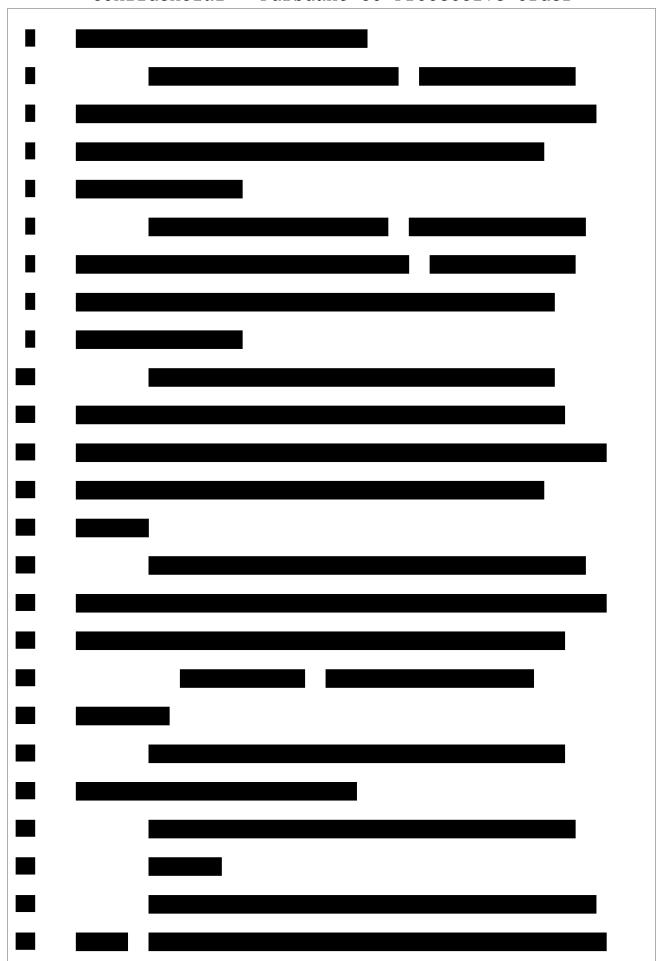


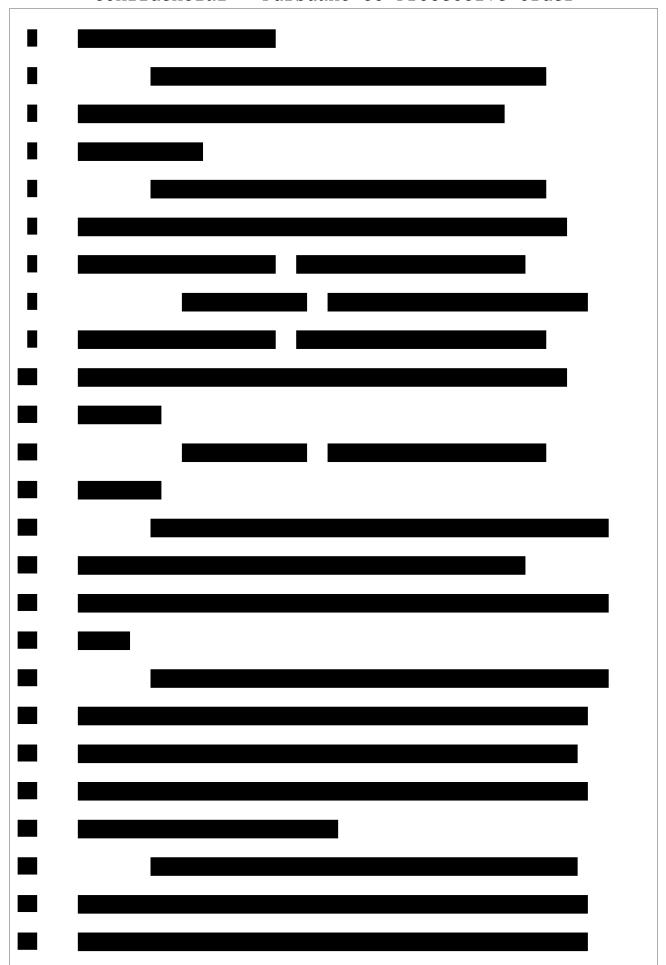


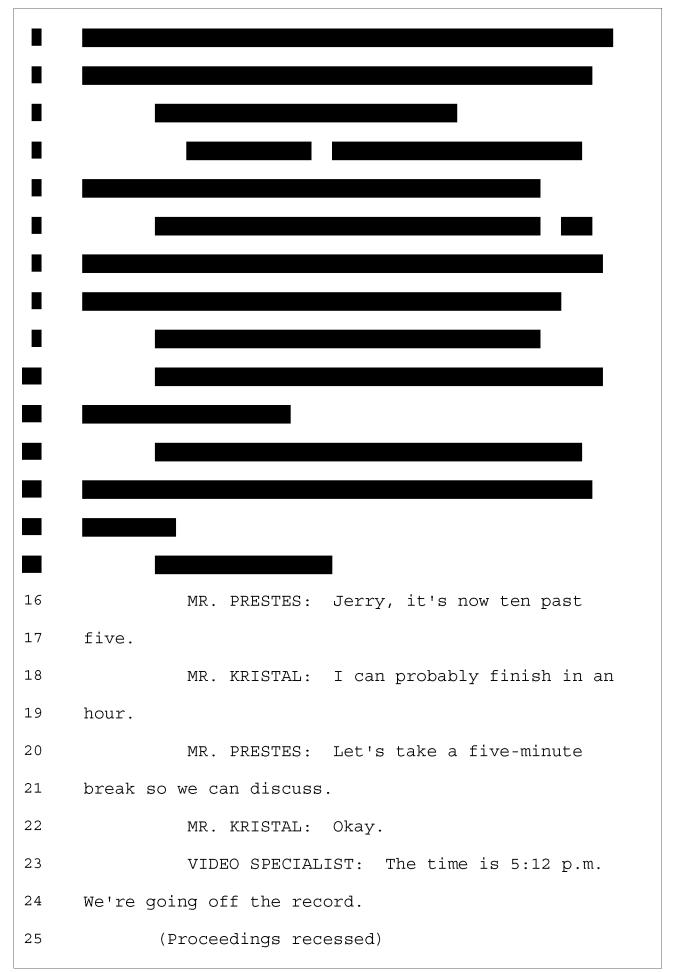


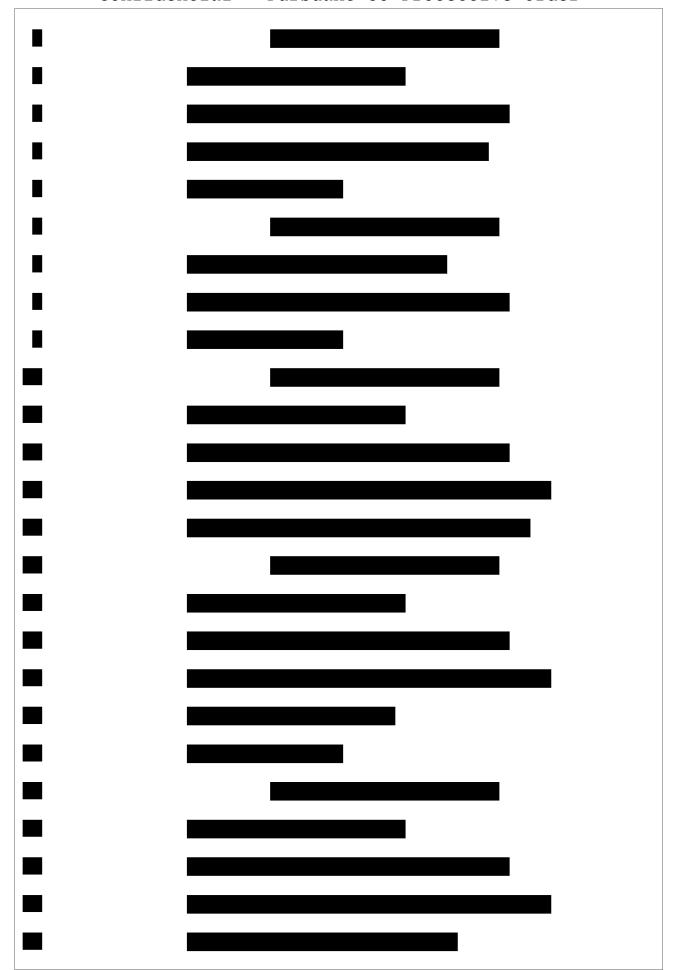


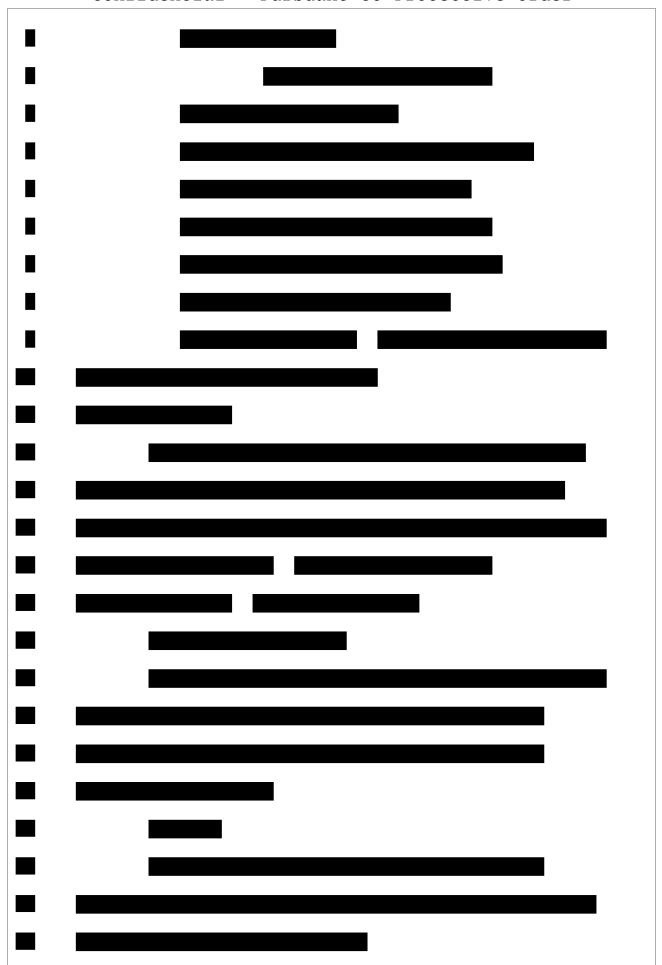


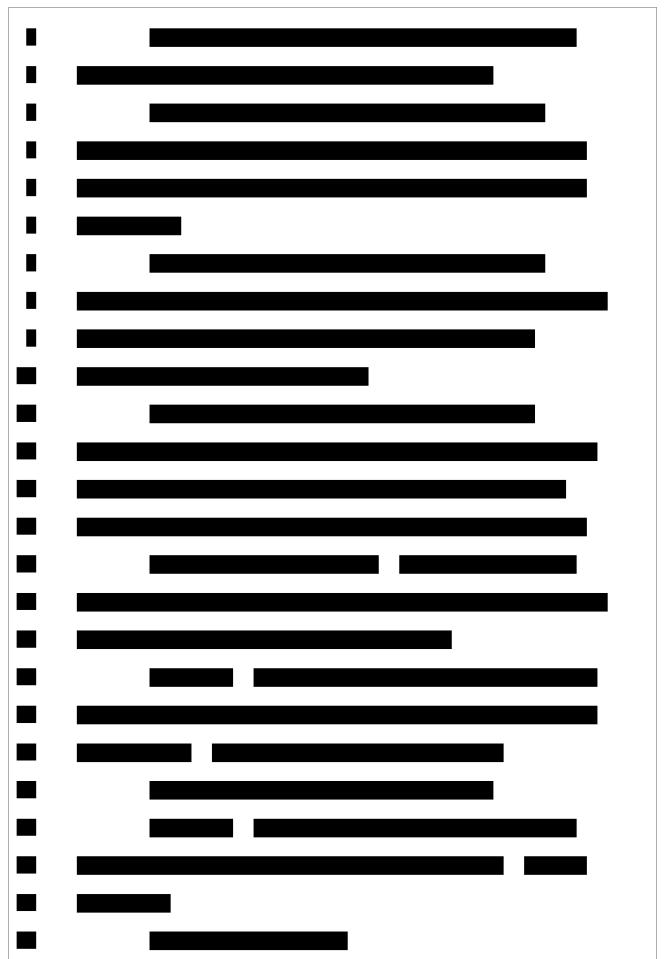


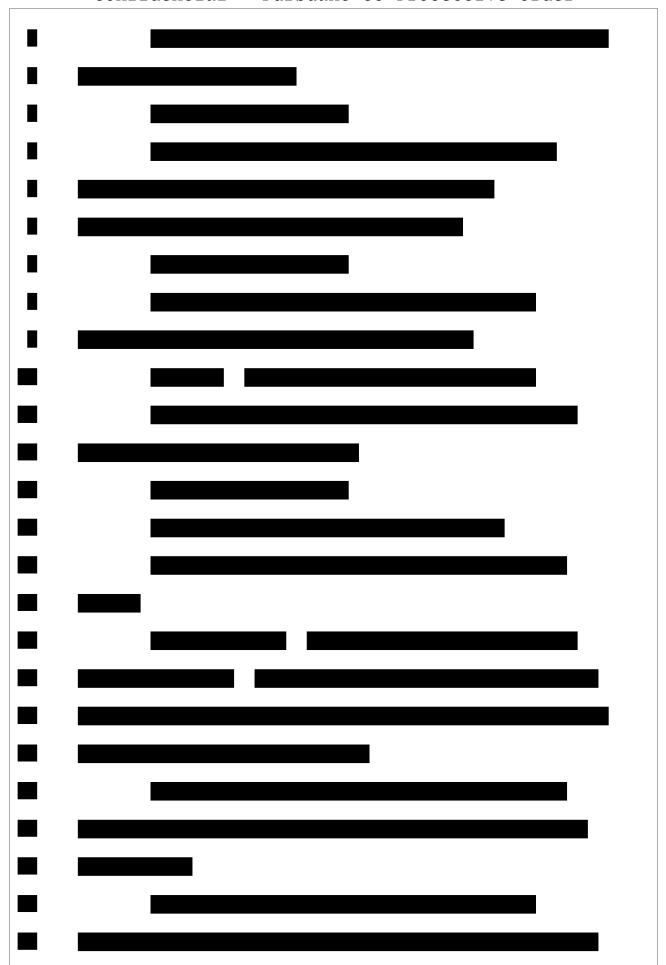


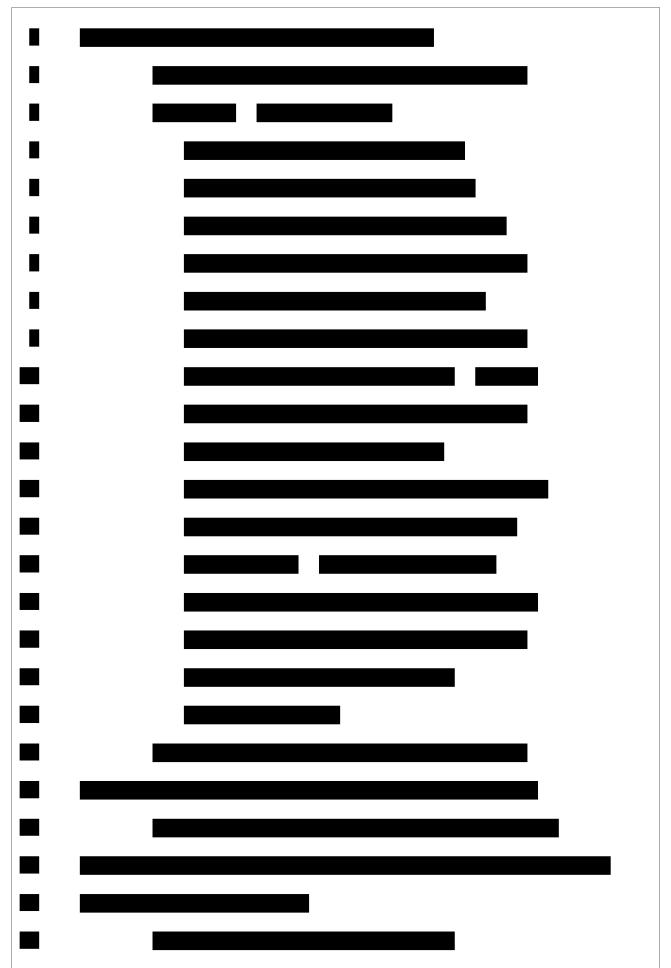


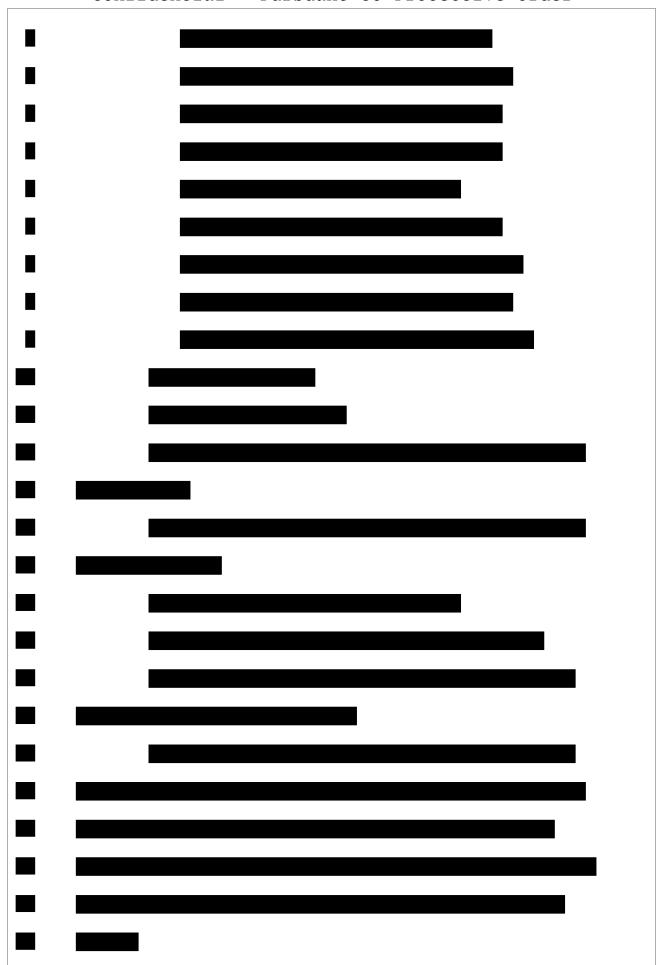


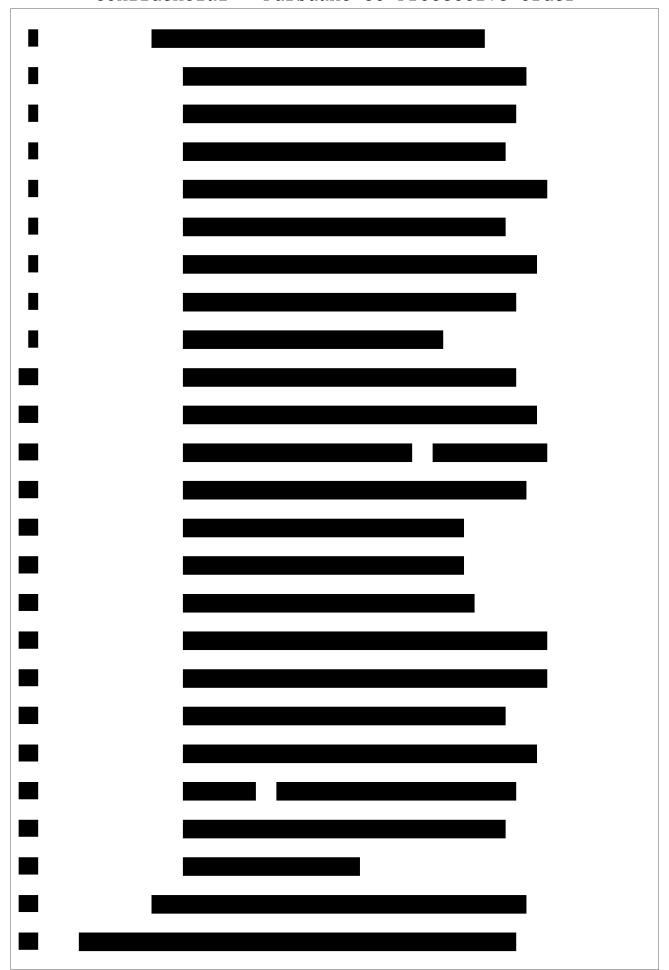


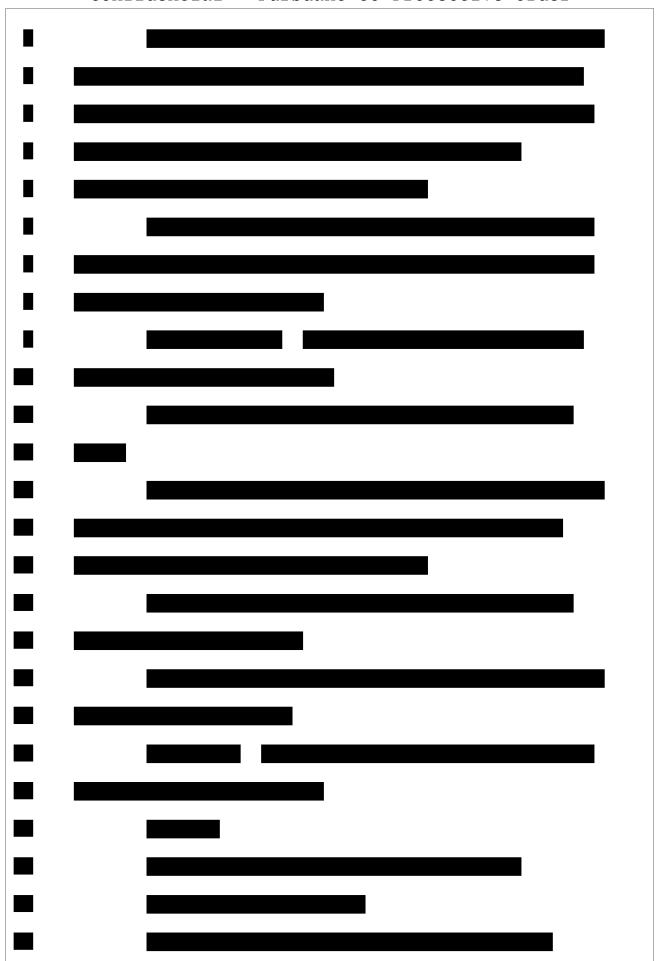


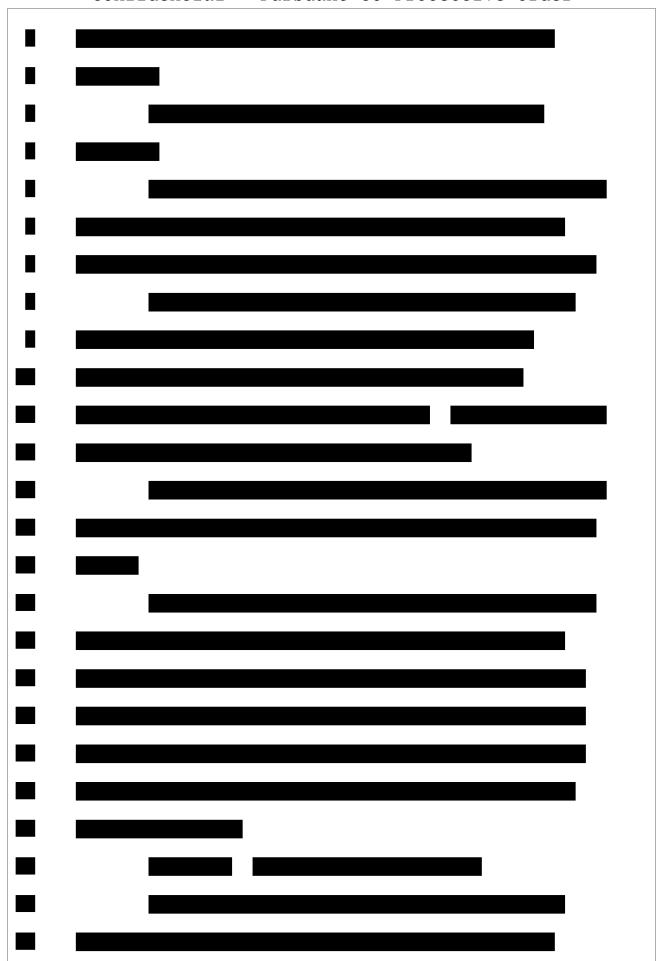


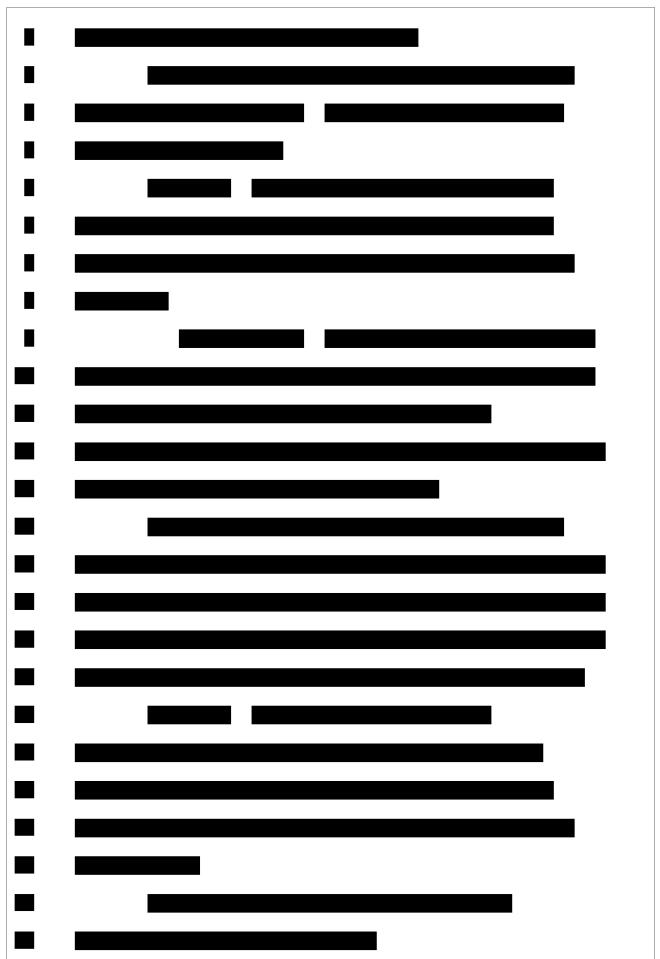


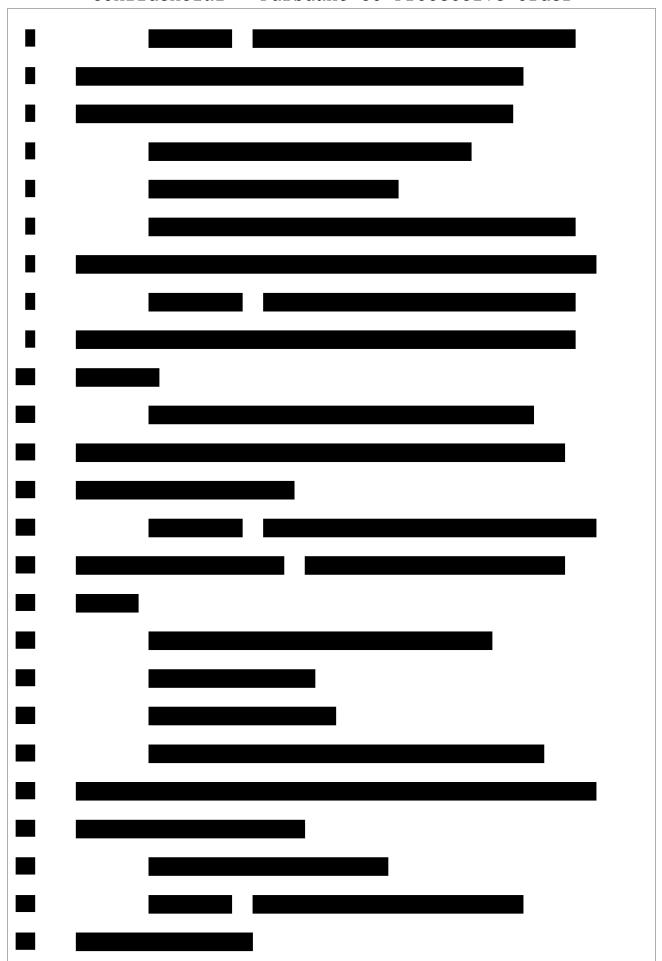


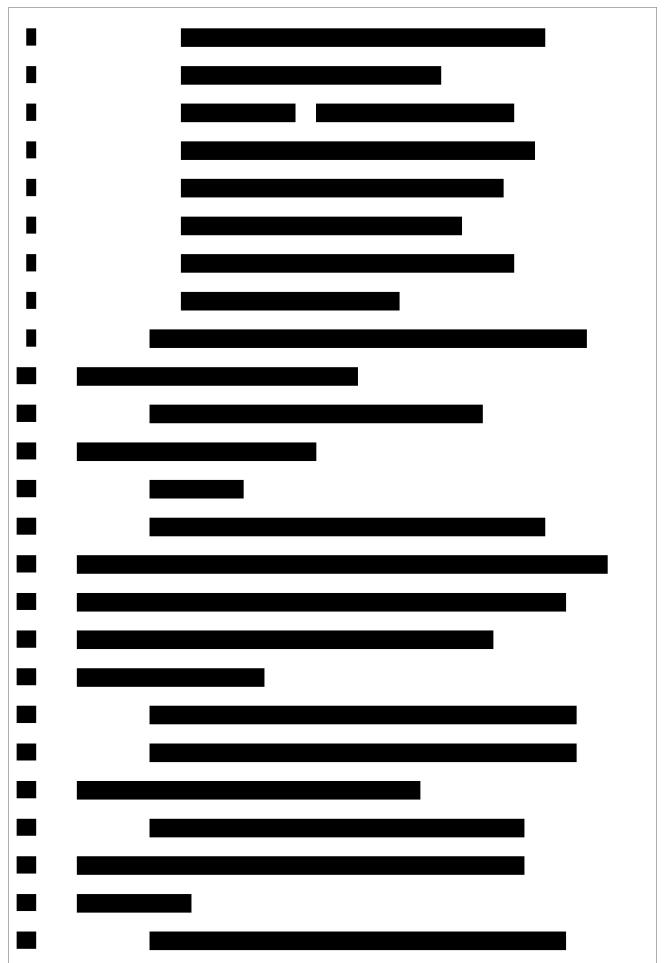


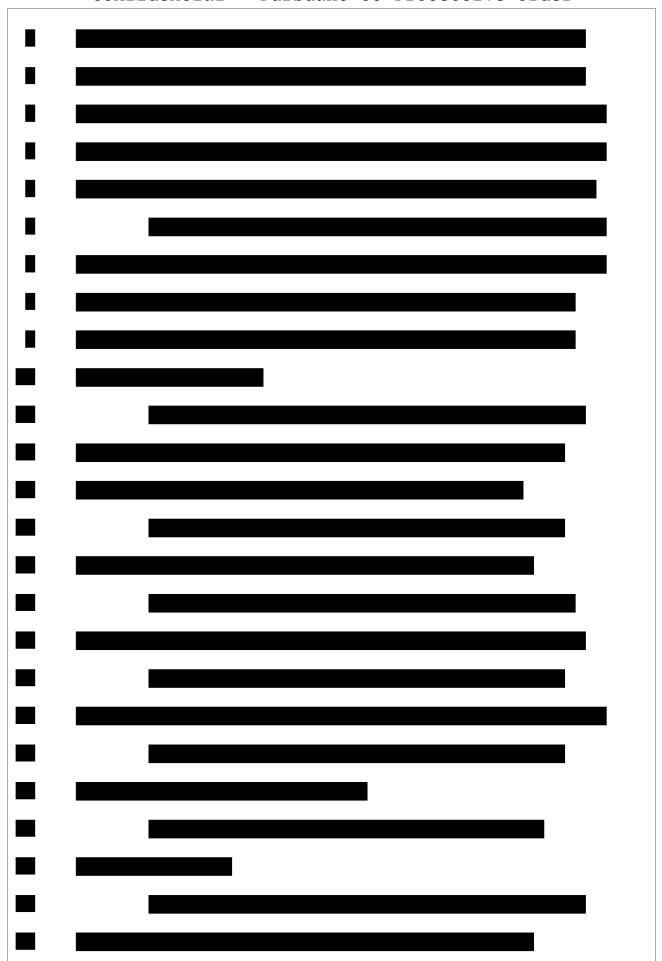


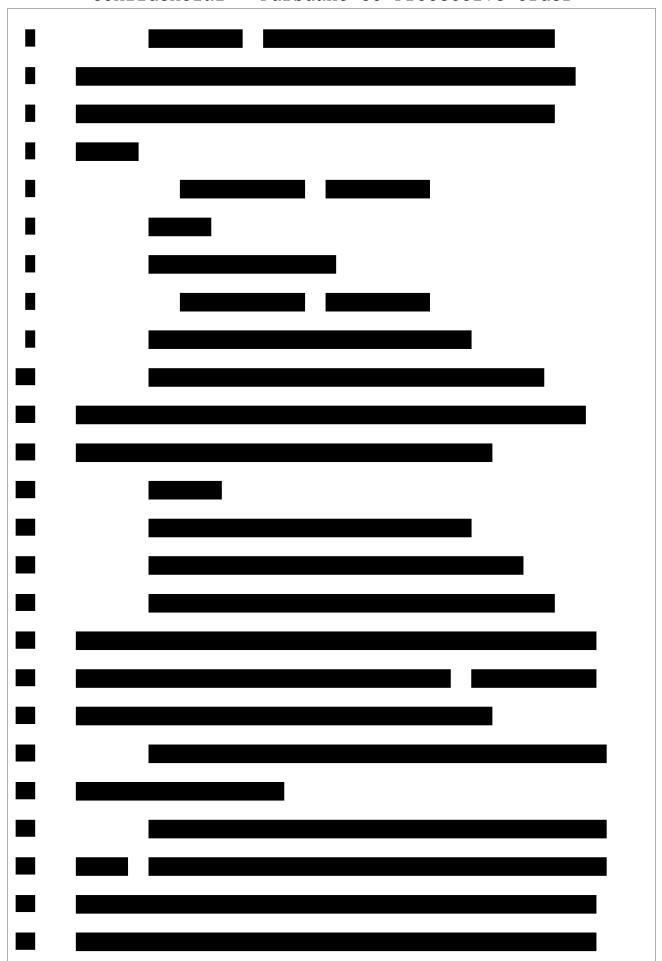


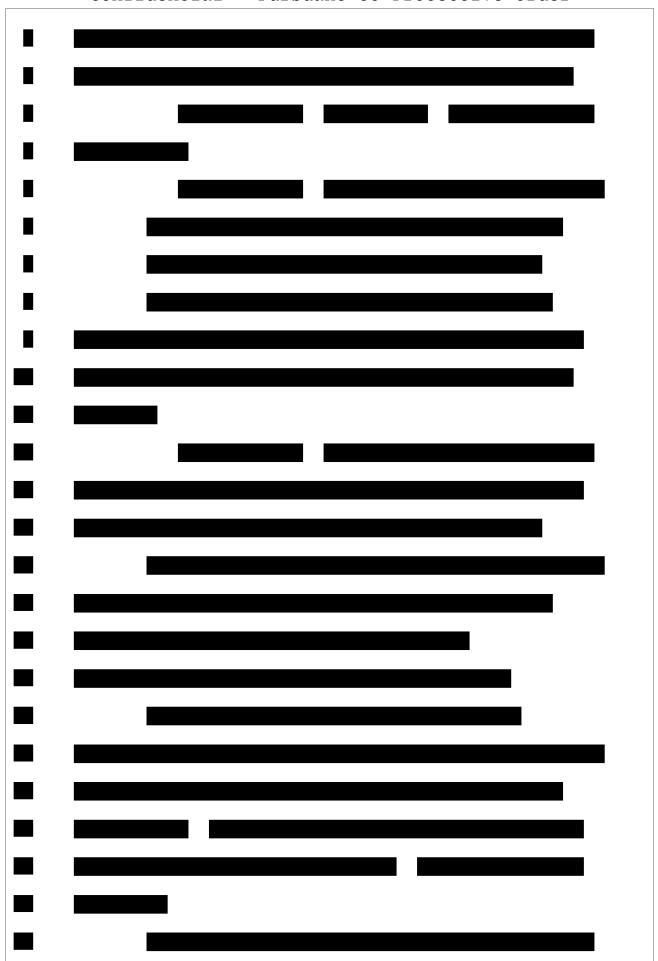


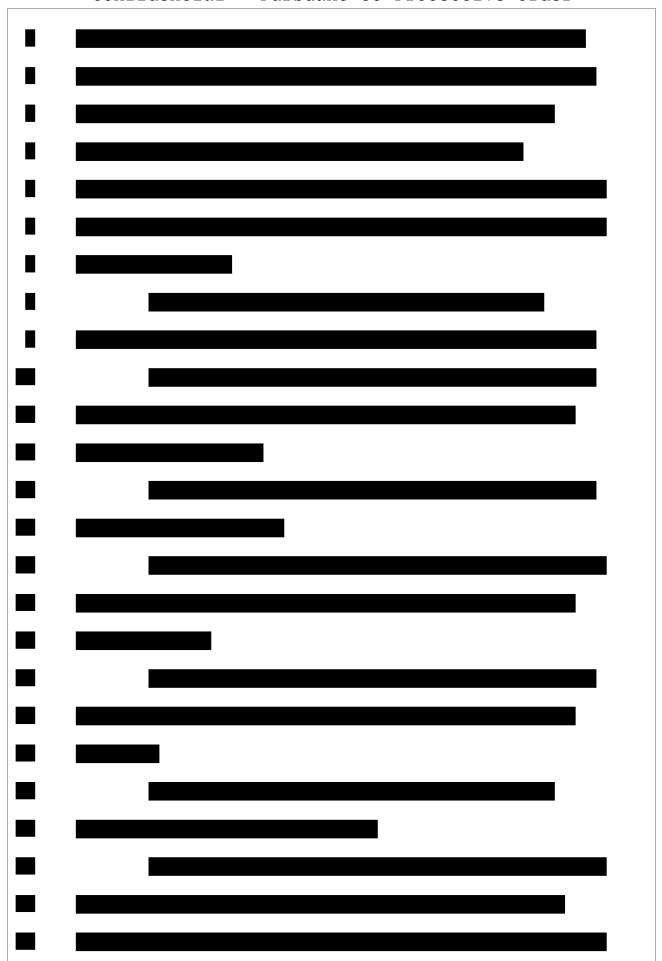


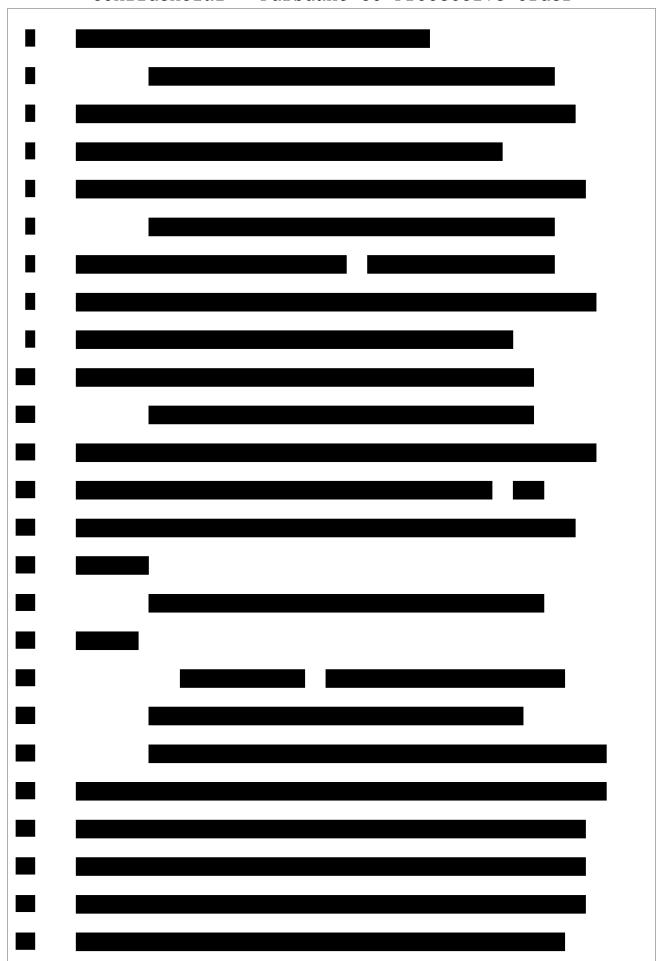


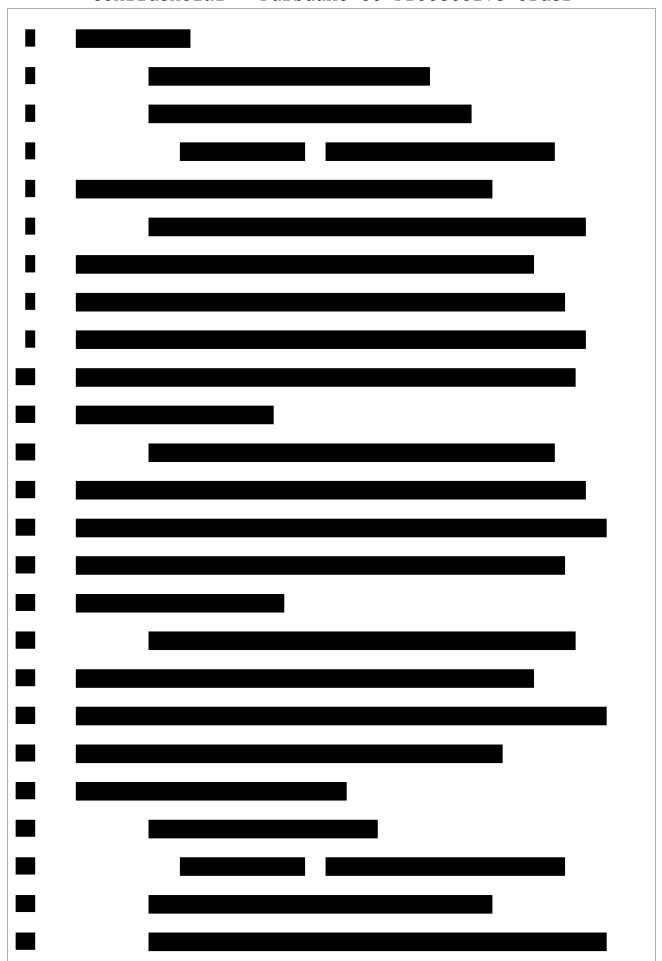


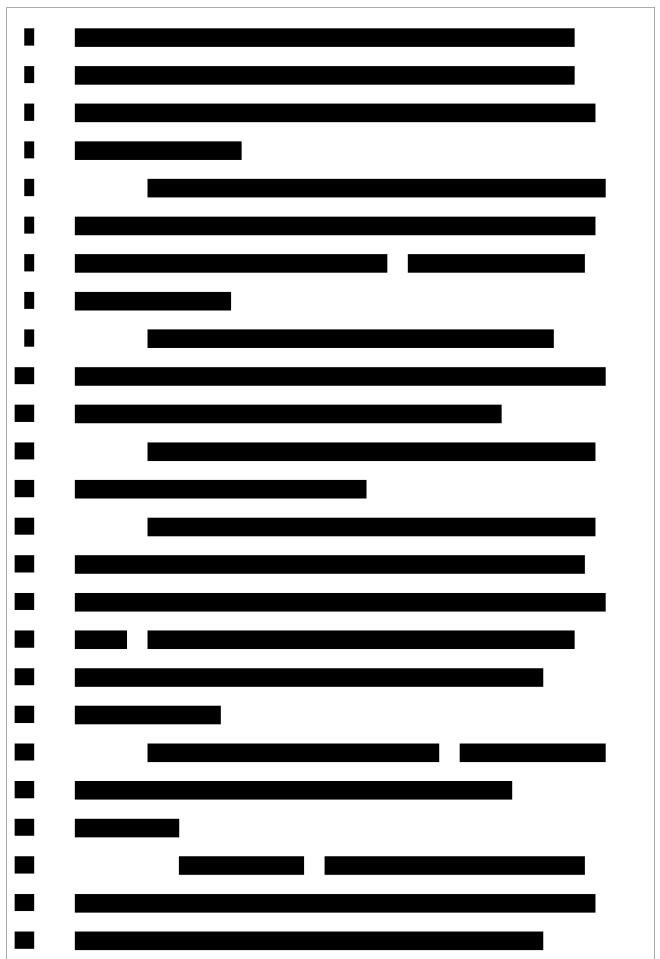


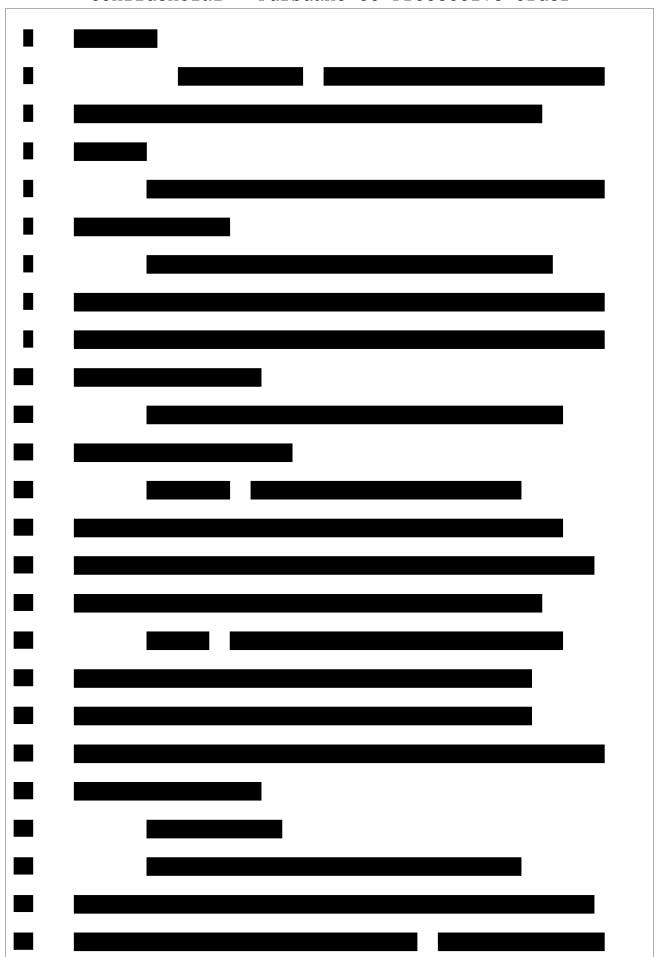


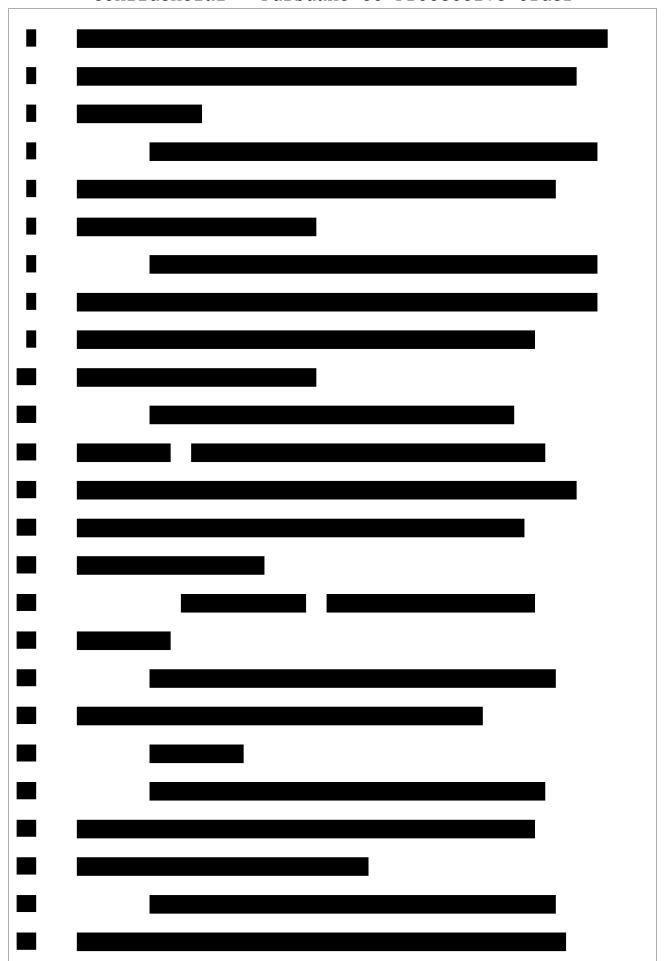


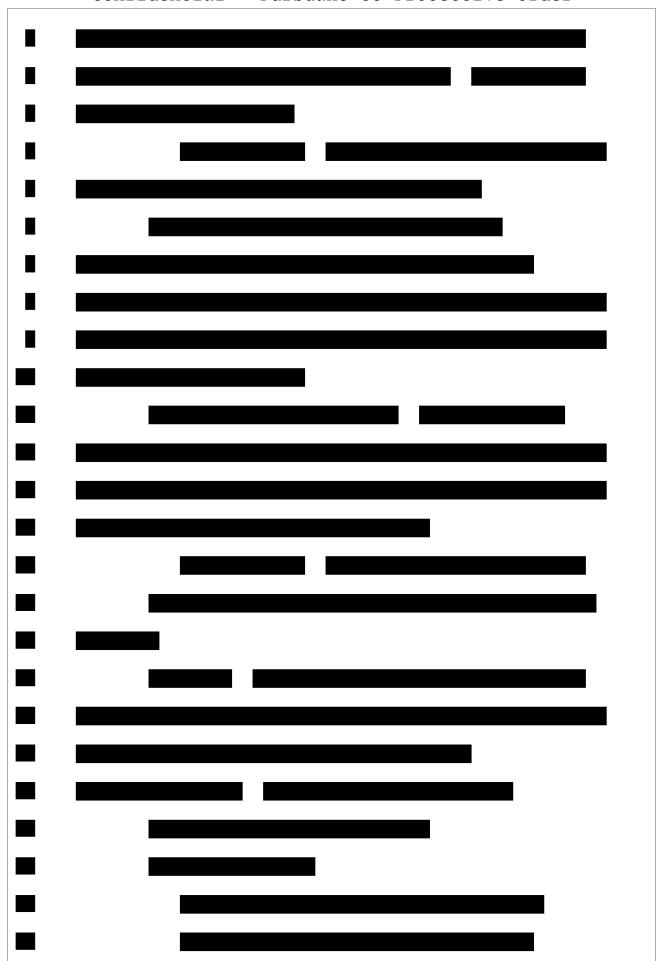


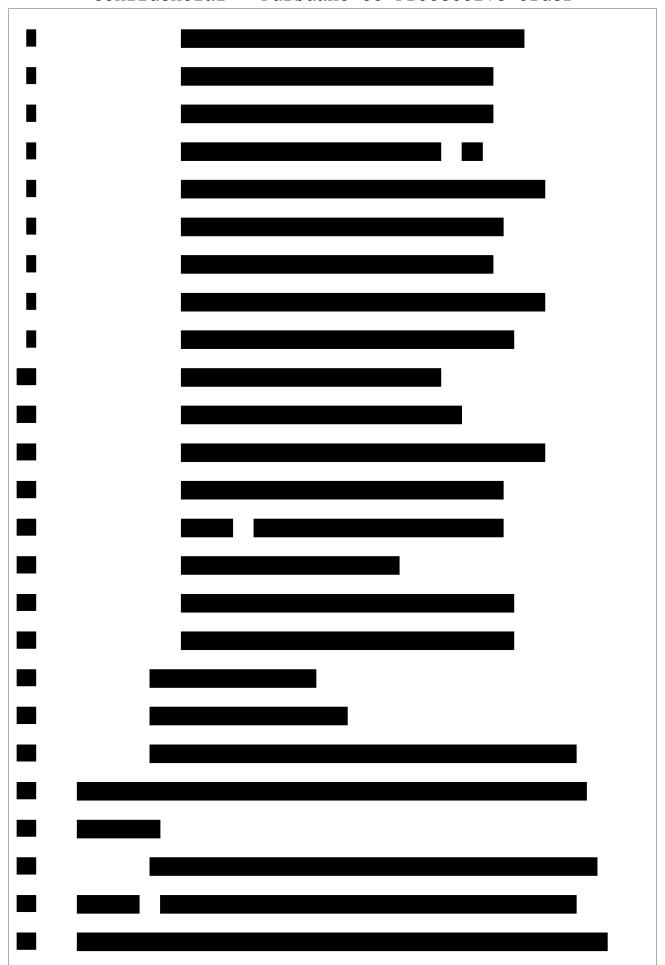


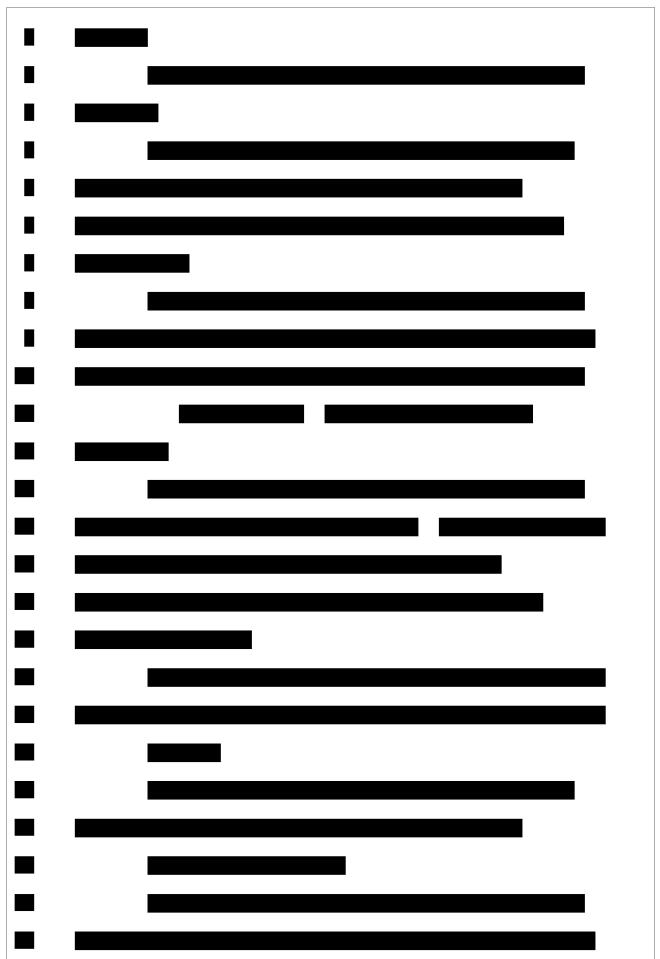


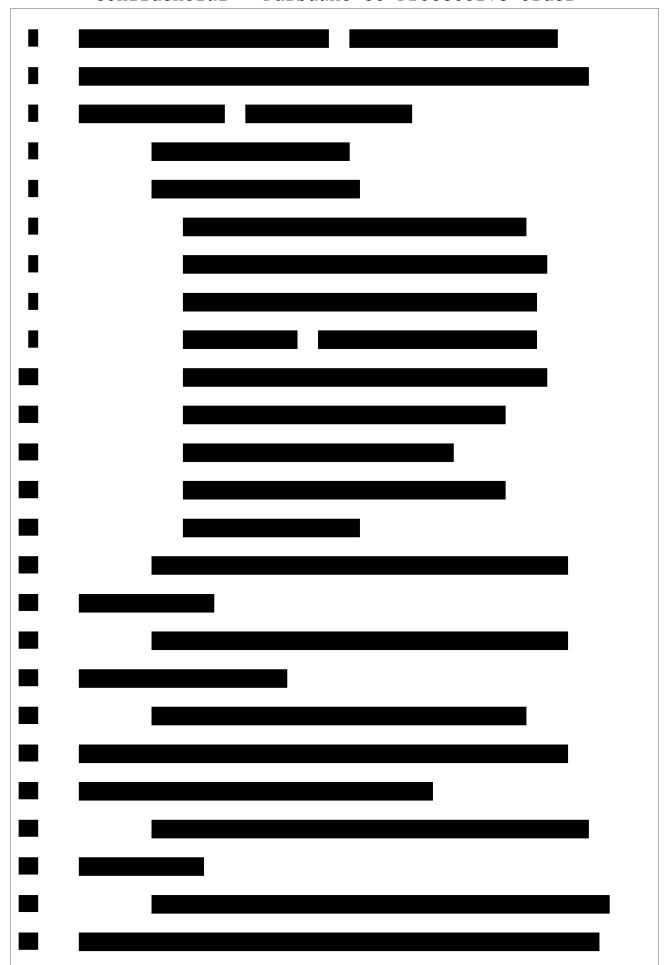


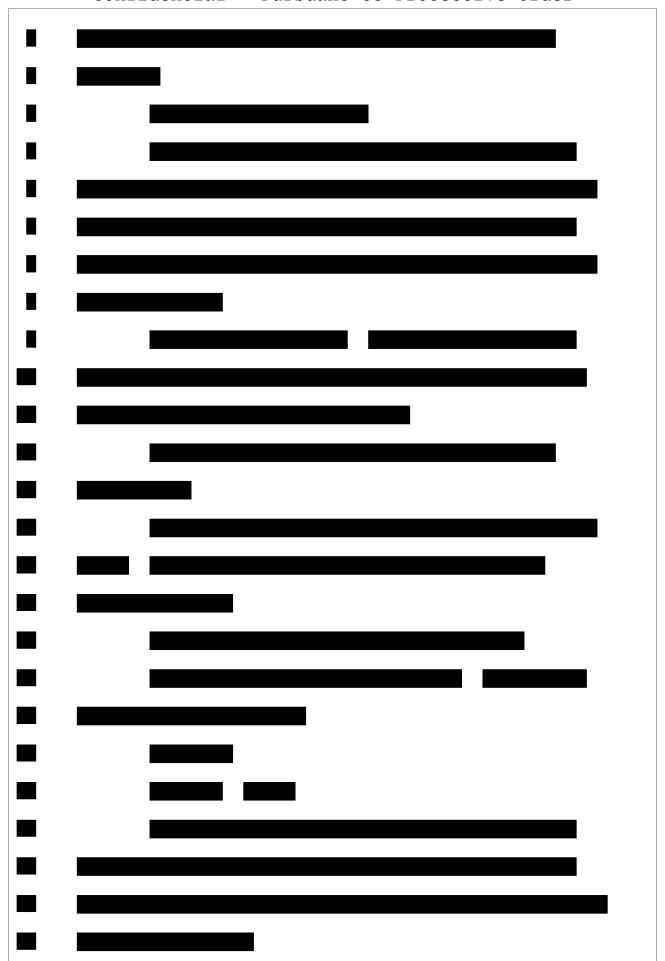


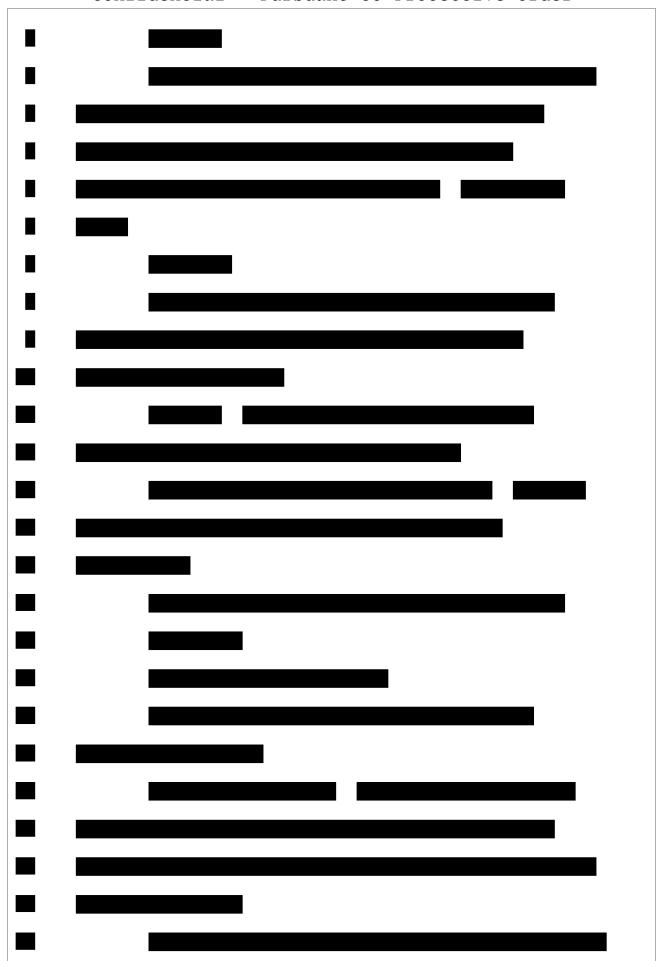


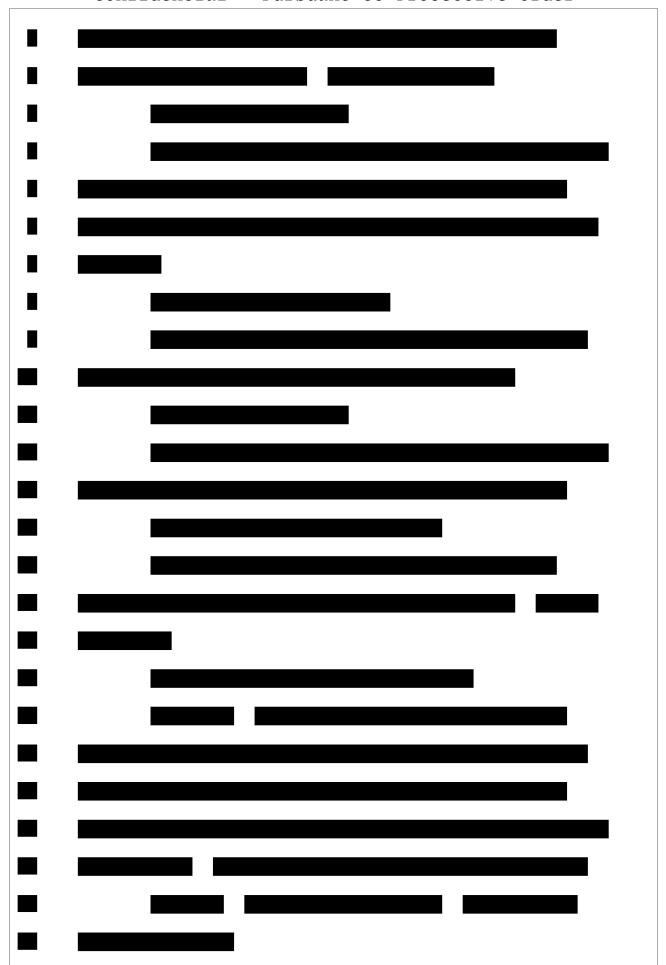


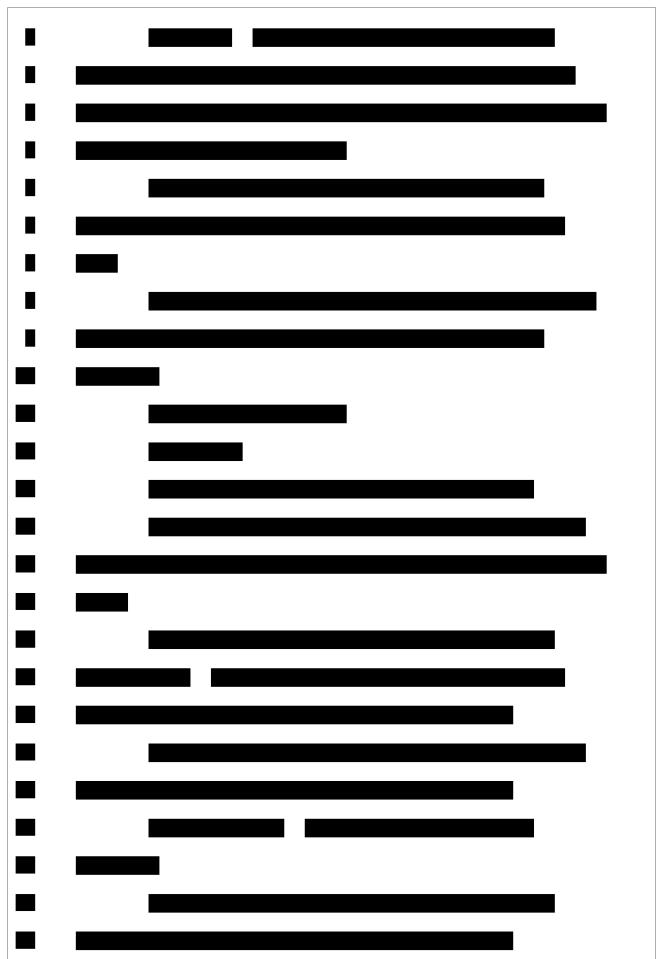


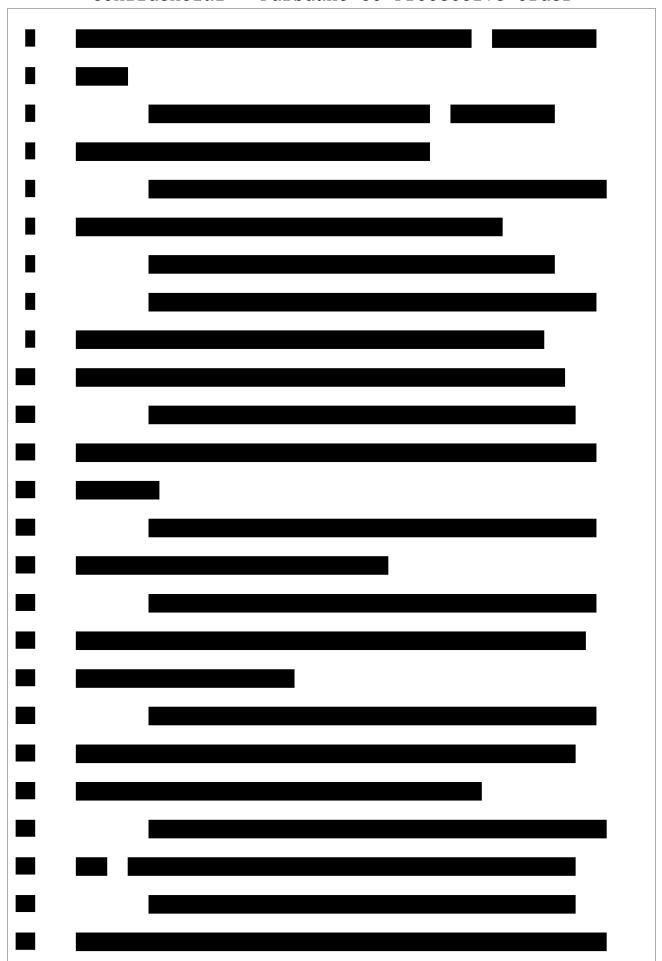


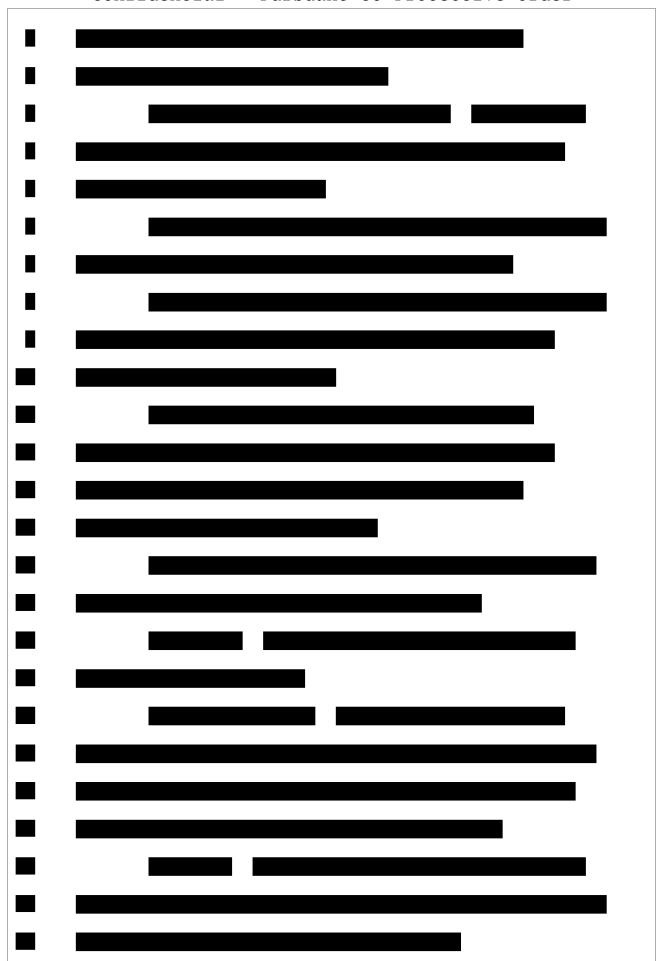


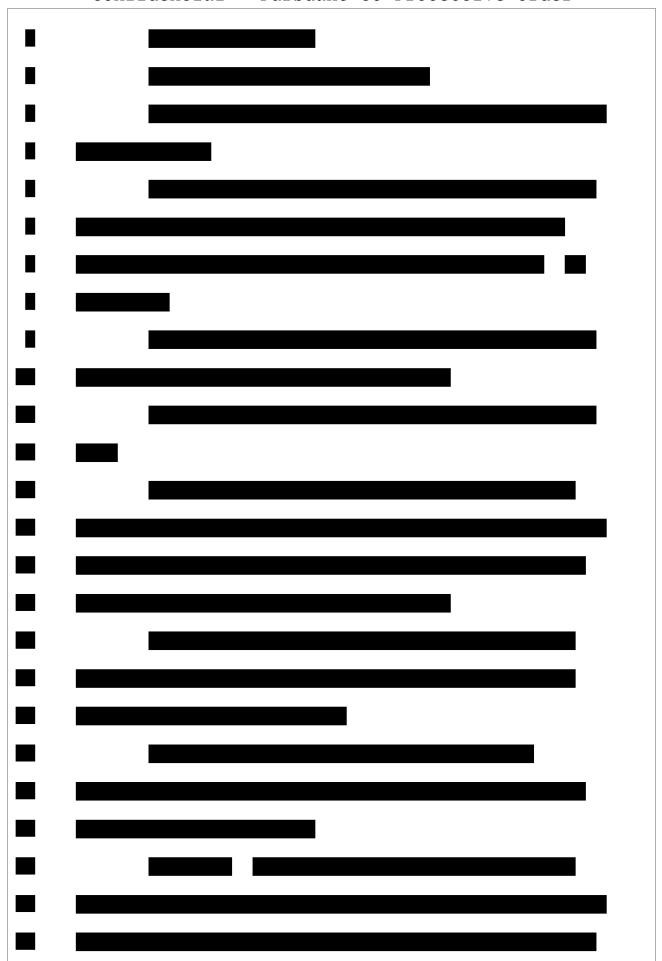


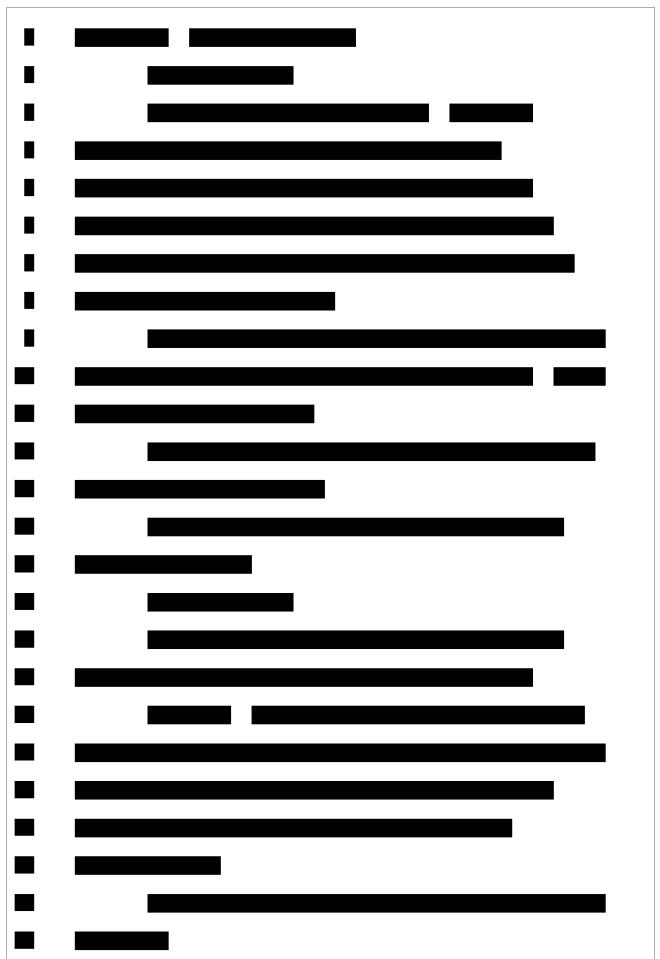


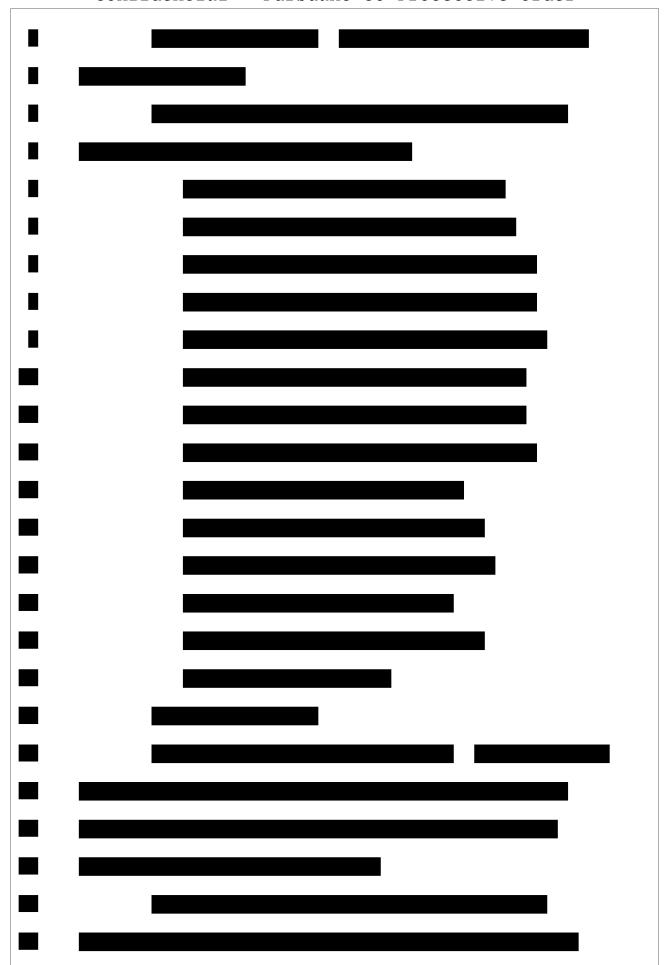


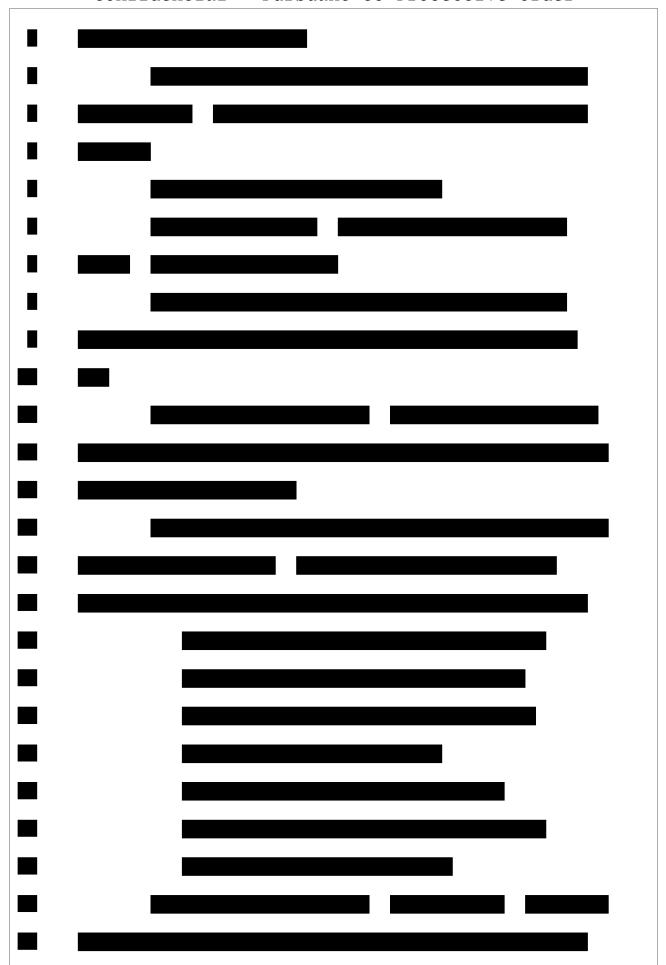


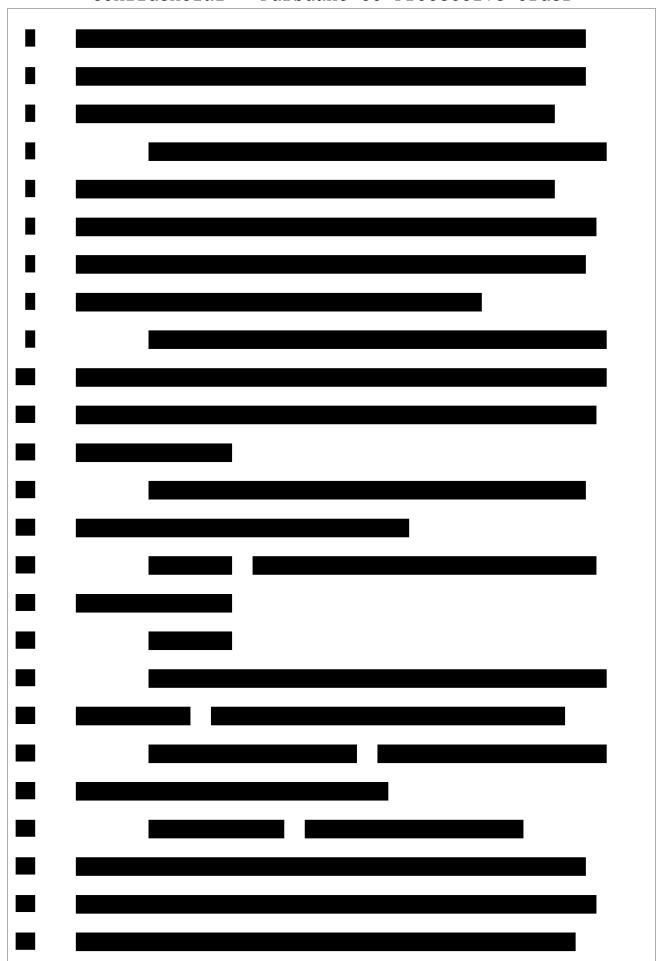


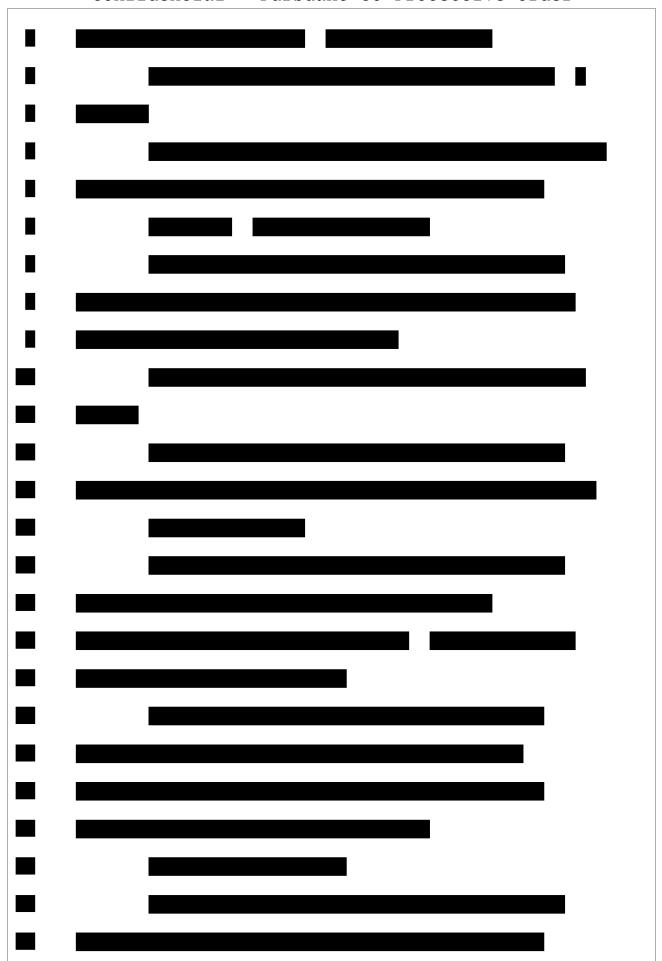


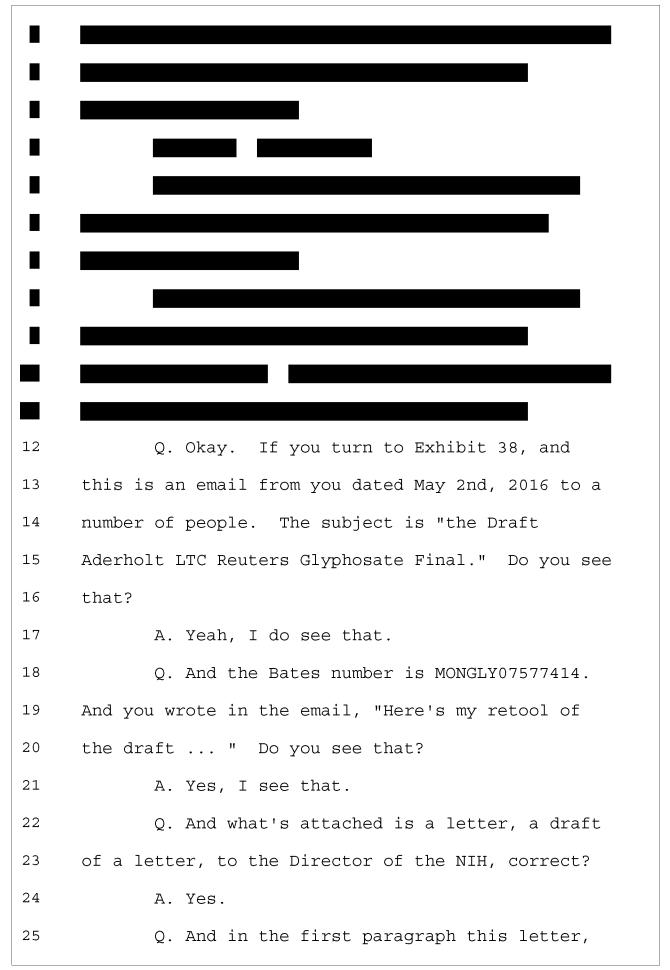












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1
     as it says in the first paragraph:
 2.
                "And as the chair of the
 3
                Appropriations Subcommittee on
                Agriculture, Rural Development,
 5
                Food and Drug Administration, and
                related agencies, and a member of
 6
 7
                the House Appropriations Committee,
 8
                I take great interest in how the
 9
                current administration puts our
10
                U.S. tax dollars to work and
11
                supports meaningful scientific
12
                advancements."
13
             Correct?
14
             A. Yes.
15
             Q. Okay. So this letter that you helped
16
     draft was going to be sent on behalf of
17
     Representative Aderholt to the NIH complaining to
18
      them about IARC and trying to get some
19
     understanding of defunding IARC, correct?
20
             A. No, that's not how I understand the words
     you added there about defunding IARC.
21
                                              I think
22
      there was interest in understanding how the money
23
     was being spent and what standards were being put
      in place that applied to IARC to make sure that it
24
25
     wasn't creating problems in our regulatory system.
```

- 1 So it was asking questions.
- Q. Well, the draft that you helped write
- goes on for pages talking about how bad IARC is,
- 4 correct? It's critical of IARC.
- A. I didn't write the draft. I don't recall
- if I made a few edits here, but there's a lot of
- 7 footnoted material that provides context about
- 8 IARC, and that was the purpose of the document.
- 9 Q. Well, the email said that you retooled
- the draft, correct?
- 11 A. Yeah, just a term I used, yes.
- 12 Q. Right. And when you use that term, you
- mean you edited it to some extent, right?
- 14 A. Yeah. I believe I must have made some
- technical corrections or maybe a few edits here and
- there, but I don't recall doing any substantial
- 17 editing.
- Q. And who is Monsanto or FTI to be drafting
- 19 letters to the National Institutes of Health on
- behalf of a U.S. representative?
- 21 A. Yeah, we actually visited with
- 22 Representative Aderholt and his staff, and he was
- very interested in the issue and asked us to send
- him a letter to lay out what we were asking for him
- to do and lays out all the details of, you know,

- what the issue is. Because it gives them more of a
- 2 concrete understanding of what we're talking to
- 3 them about.
- 4 Q. Okay. Does there anywhere in the letter
- 5 say, oh, by the way, this letter is being drafted
- 6 by Monsanto?
- 7 MR. PRESTES: Objection, argumentative.
- A. We were in the meeting -- I was in the
- 9 meeting.
- 10 Q. I'm asking you if the draft letter
- anywhere says that the letter is being drafted or
- was drafted by Monsanto.
- A. This letter doesn't say anything about
- 14 who drafted it.
- O. Right. So Dr. Collins, the head of the
- National Institutes of Health, to which this letter
- was addressed, would have no idea that Monsanto
- drafted the letter, right?
- 19 A. Oh. We never expected Dr. Collins to get
- 20 this letter.
- Q. You were just drafting a letter that
- 22 says, date up top, Dr. Francis S. Collins, Director
- of the National Institutes of Health, 9000
- 24 Rockville Pike, Bethesda, Maryland 20892, "Dear
- Dr. Collins," and it ends "Sincerely" with the

- 1 name. Other than that, you didn't expect it to be
- 2 a letter?
- MR. PRESTES: Objection, argumentative.
- 4 A. It was in the format of a letter because
- 5 that's what the office requested us to do, but this
- 6 was pretty common practice in Washington where
- 7 people would come in and talk about issues with
- 8 their elected representatives, and if we were
- 9 asking them to take action or do something, they
- would say, well, send me a letter that lays out
- what you're asking me to do.
- And in my experience then they would go talk
- to other constituents on the issues or other groups
- that have different perspectives, and then write a
- 15 letter that they thought captured their views or
- what they thought was right on the issue or they
- 17 would take no action at all.
- Q. Well, when you said they would ask you to
- 19 send them a letter, they would want to know your
- views in a letter from you to them, not in a draft
- 21 from them to somebody else that you authored,
- 22 right?
- A. Well, that's just the format they asked
- 24 for.
- Q. Well, it makes no sense. Why wouldn't

- 1 you just send the letter, here's Monsanto's
- position, or a memo, or some kind of report? You
- 3 wouldn't draft a letter, do you? You're saying
- 4 this happens all the time in Washington?
- 5 MR. PRESTES: Objection, compound
- 6 question, argumentative.
- 7 Explain it to him again, if you want.
- 8 A. Yeah.
- 9 Q. Why wasn't this just put in a memo or a
- 10 report?
- 11 A. Because they asked for it in the form of
- 12 a letter, the office did.
- Q. Okay. And you thought that was okay for
- 14 Monsanto to draft a letter from Congressman
- 15 Aderholt to the head of the NIH.
- 16 A. Yes. I knew they were going to take it
- and digest it and think about it and talk to others
- and ultimately decide if they wanted to do anything
- or write anything else or take any action at all.
- 20 And a lot of times we got turned away and people
- 21 weren't interested, but this was just a starting
- 22 point for them to think about what we were talking
- about in their office.
- Q. And you're saying this was Monsanto's
- position that's contained in this letter, correct?

- A. Yes, I think that's correct, that we --
- we wanted to take all the facts and explain why we
- 3 thought there was an issue, and we put it together
- 4 in this format with all of the footnotes so that
- 5 they could go look up all the source materials and
- 6 other things and understand what we had talked to
- 7 them about in their office for 30 minutes.
- 8 Q. And you don't think this has anything to
- 9 do with cutting off funding to IARC?
- MR. PRESTES: Objection, asked and
- 11 answered.
- 12 A. Yeah, I think that it's raising questions
- about what the money is being spent on, but I can
- tell you what the objective was is to see some
- 15 changes.
- Q. Let's read what it says on the last page
- of the letter.
- MR. PRESTES: Let the witness finish his
- 19 answer.
- 20 A. That's okay. I was done.
- Q. The last page of the letter, are you
- 22 there?
- A. Yeah.
- Q. "As an initial step to
- understand the damage being

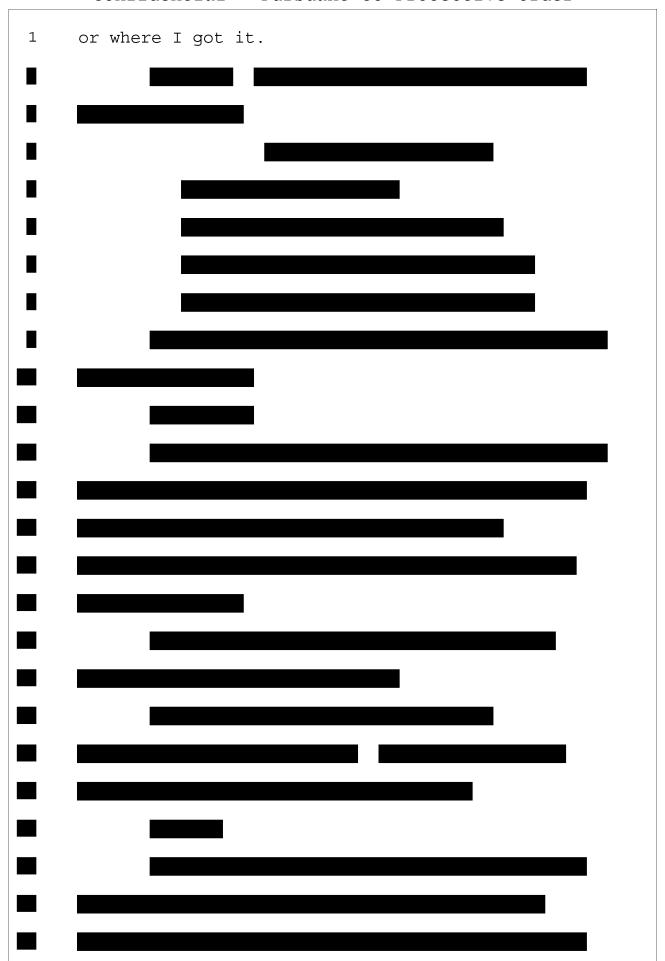
1	potentially done by IARC, I'd ask
2	you to brief the committee so that
3	we can better understand the view
4	of NIH with respect the flaws in
5	the IARC process, and the level of
6	support U.S. taxpayers are
7	providing to IARC (either directly
8	or to affiliated activist
9	scientists). My staff will be in
10	contact to provide a list of the
11	affiliated activists so you can
12	prepare a briefing on any NIH funds
13	that are being directed to such
14	efforts.
15	In advance of this briefing, I
16	would also request that you please
17	provide an itemized list of all
18	funding earmarked for IARC and the
19	IARC monographs and the affiliated
20	activists over the last five years.
21	Your response should include a
22	detailed explanation for how NIH
23	oversees this funding, the purposes
24	for which it is used, and what
25	mechanisms exist for dealing with

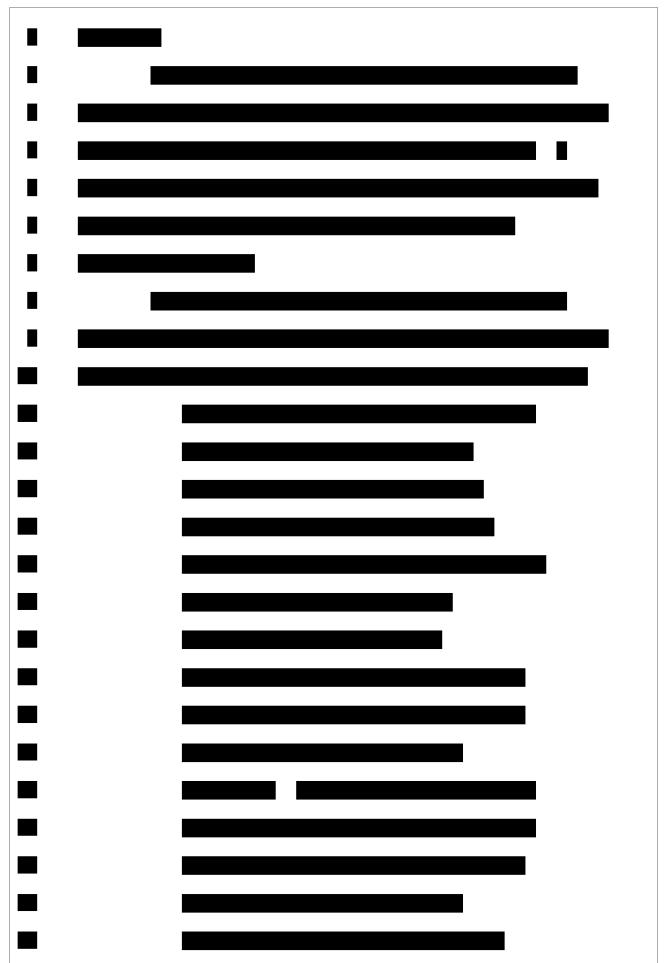
1	irresponsible and unacceptable
2	behavior (like that exhibited by
3	IARC in this instance or production
4	of other scientifically discredited
5	work).
6	I trust that the NIH and you
7	personally are committed to only
8	funding organizations that produce
9	information and conclusions based
10	on sound science, robust processes,
11	and credible methodology, and
12	which, above all else, act with
13	integrity when it comes to
14	protecting human health. I would
15	not want to see the flawed IARC
16	process, which appears to be
17	co-opted by activists, damage the
18	credibility of our proud U.S.
19	institutions and industries."
20	You wrote that, right?
21	A. I did not write that.
22	Q. You were involved in drafting those
23	words, correct?
24	A. I made some edits somewhere to this
25	document that I don't recall, but I believe the

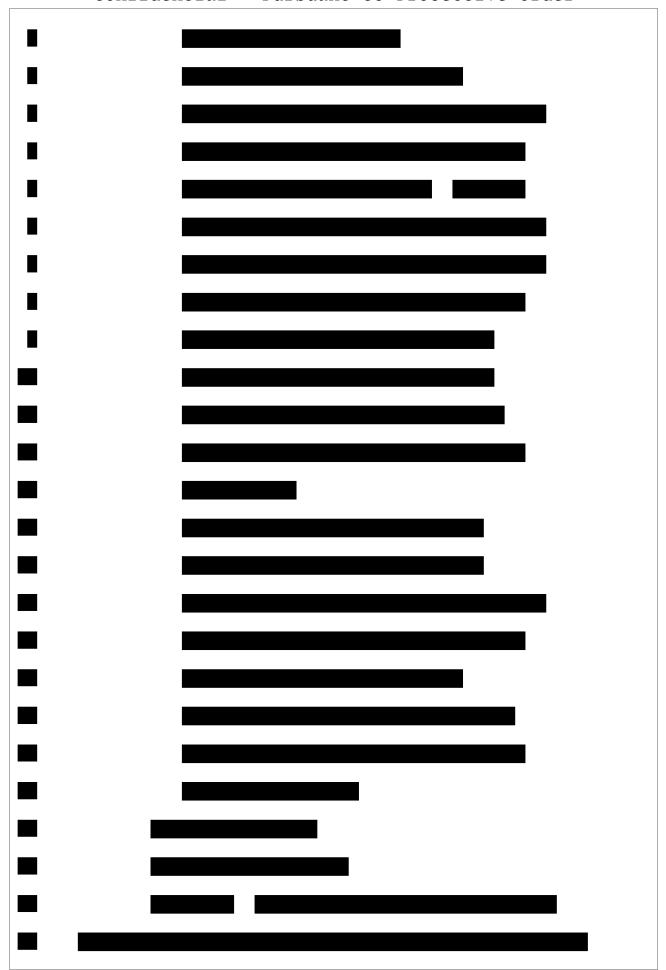
- document was written by someone at FTI.
- Q. You certainly didn't say to FTI, no, this
- is too over the top, don't send this, right?
- 4 A. No. I thought this laid out the general
- 5 concerns we had pretty well.
- Q. And what affiliated activist scientists
- 7 are you talking about in this letter?
- 8 A. I don't recall all of them at this point
- 9 now, but I remember at the time we were thinking
- about Chris Portier and his role working for a law
- 11 firm while he was sitting on the panel on a
- different substance but having -- and then getting
- hired a few days after he walked out, and there was
- just some concerns, because he was lobbying pretty
- 15 hard in the European Union to go at glyphosate.
- Q. Let's take a step back. Dr. Portier was
- 17 not on the Glyphosate Working Group that came out
- with the monograph, correct?
- 19 A. No, if I remember right, he was in a
- 20 group that decided to make glyphosate part of this
- latest crop of monographs. I don't recall the
- 22 exact details.
- Q. Here's my question. He was not on the
- qroup that decided that qlyphosate was probably
- 25 carcinogenic, correct?

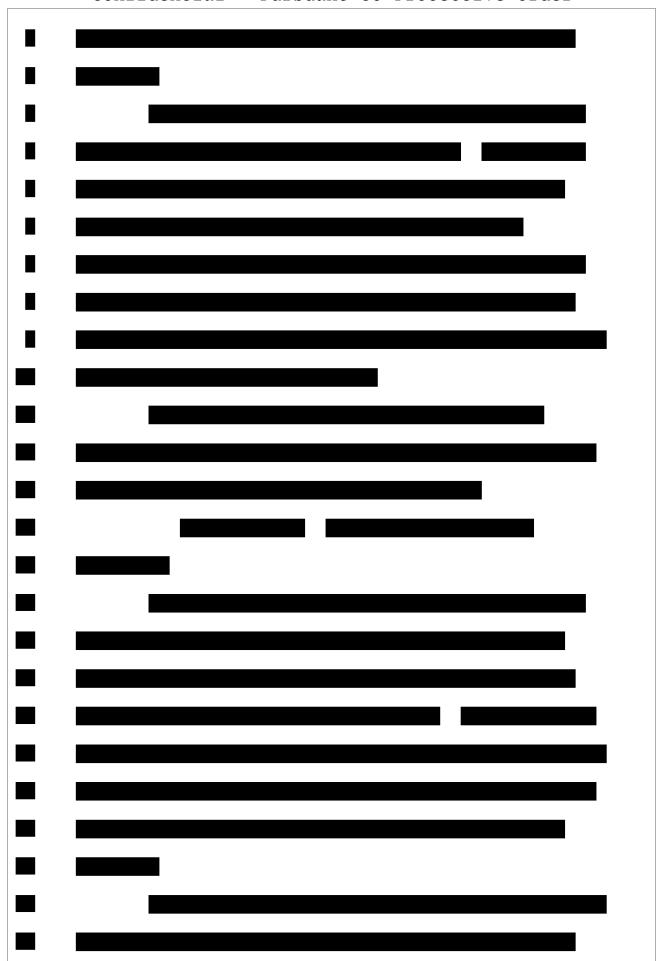
- 1 MR. PRESTES: Objection, asked and
- 2 answered.
- A. Yeah, he was not one of the, what do they
- 4 call them, the Working Group members.
- 5 Q. That's right.
- A. Yes.
- 7 Q. Okay. And he was certainly not hired by
- 8 any law firm before IARC came out with its
- 9 evaluation that glyphosate was probably
- 10 carcinogenic, correct?
- 11 A. He was working for, as an expert witness,
- on some other, as I said, some other compound for a
- 13 previous IARC monograph.
- Q. What compound?
- 15 A. I don't recall which one it was.
- 16 O. What law firm?
- 17 A. I don't recall. We could go back.
- Q. What year was that?
- 19 A. It was while he was serving as a
- specialist or whatever he was in the IARC monograph
- 21 he had been employed -- my understanding is he had
- been employed as an expert witness.
- Q. You have no firsthand knowledge of that,
- do you?
- 25 A. I gotta go back --

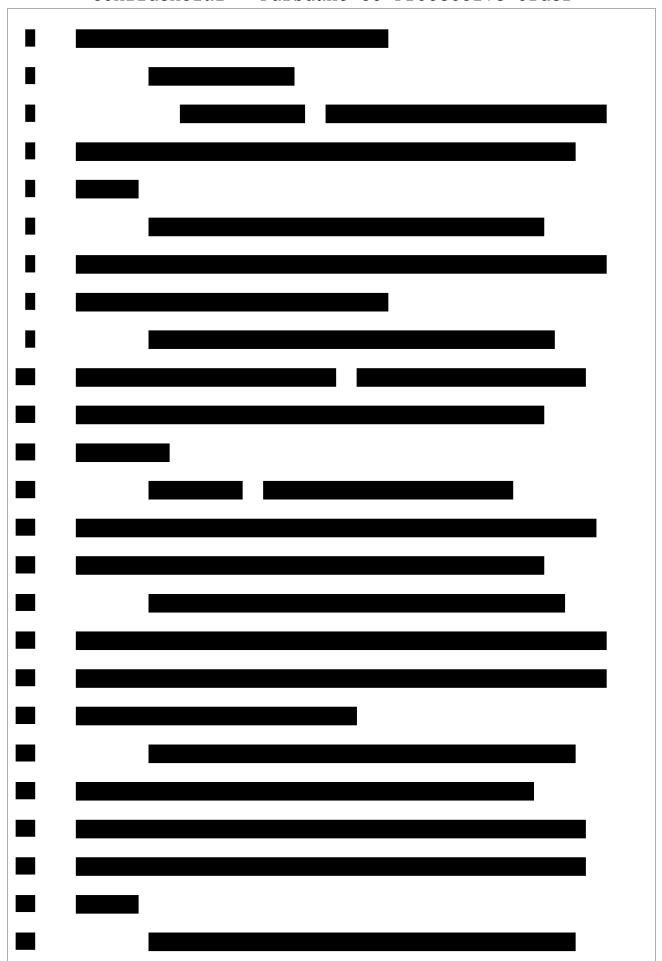
- 1 MR. PRESTES: Objection.
- Q. Who told you --
- THE REPORTER: Wait. Wait.
- 4 MR. PRESTES: Objection. We spent the
- 5 better part of the day asking the witness questions
- for which he has no firsthand knowledge. That's
- 7 what we've done the last ten hours.
- 8 A. Yeah, I can't remember where I got that
- 9 information.
- 10 Q. Okay. You don't know if it's true or
- 11 not.
- 12 A. I believe it's true, but I just don't
- remember where I got it.
- Q. Okay. But you don't know if it's true or
- 15 not.
- A. I don't know where I got the information.
- 17 I can't answer your question. I don't believe it's
- 18 untrue.
- 19 Q. On what basis do you believe it's true or
- 20 untrue? You've never investigated the facts of
- that, have you?
- A. Not outside of privileged conversation.
- Q. Did you check to see whatever information
- you got was accurate?
- 25 A. I don't recall what the information was

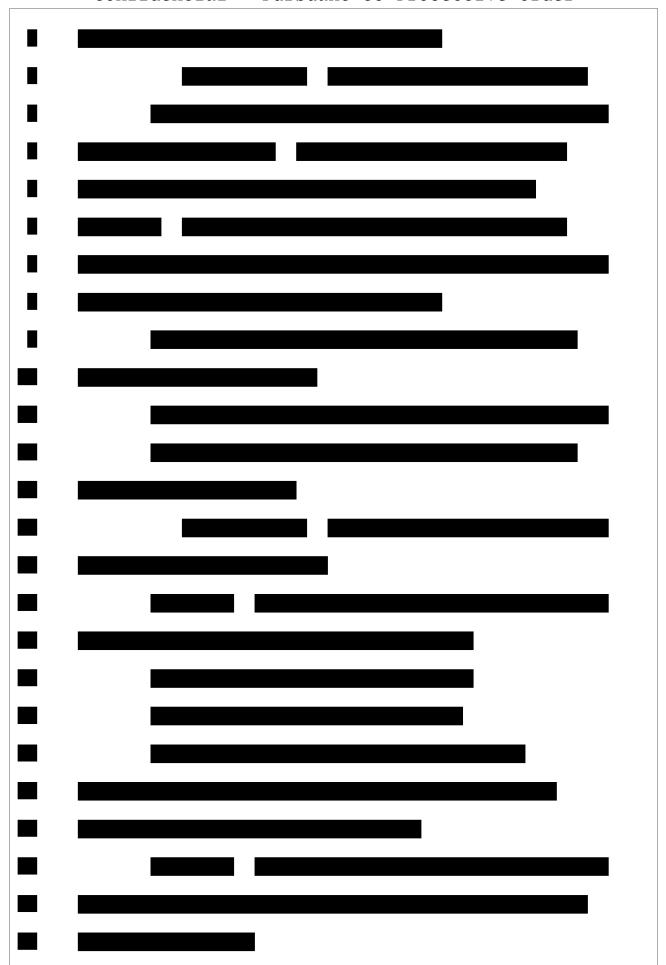


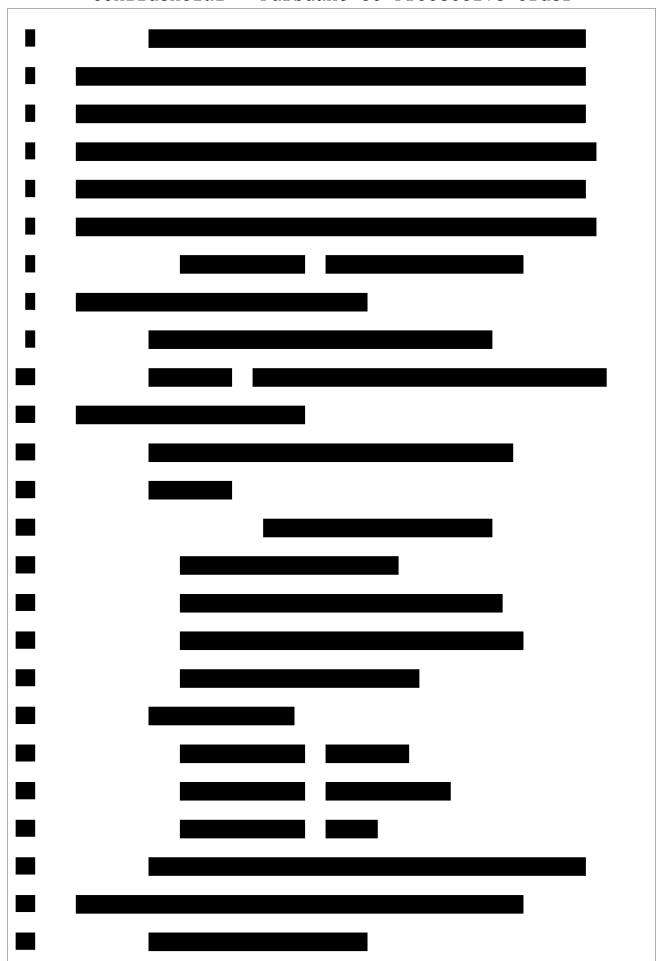


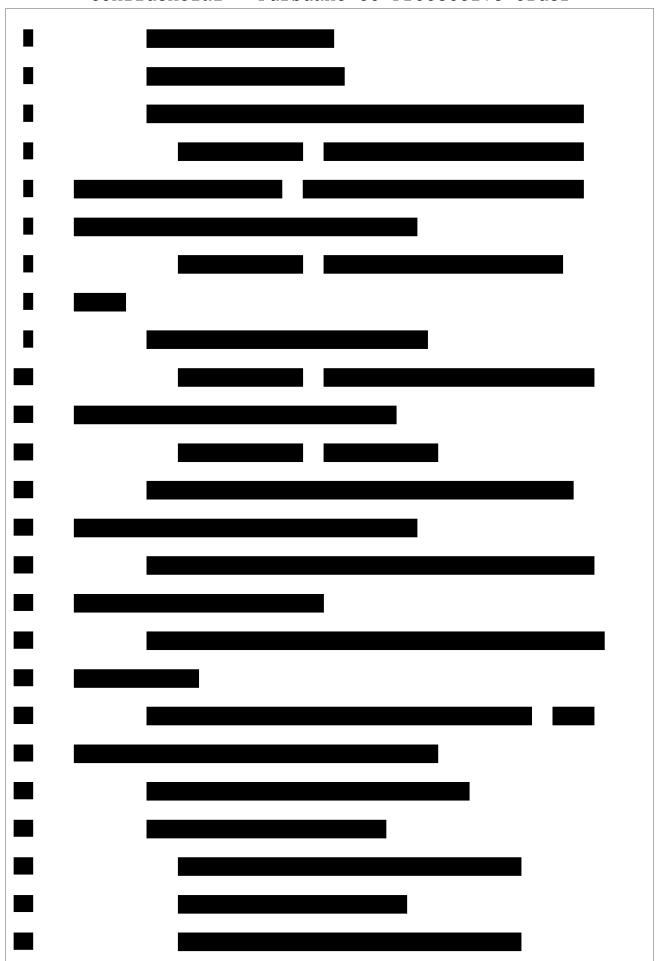


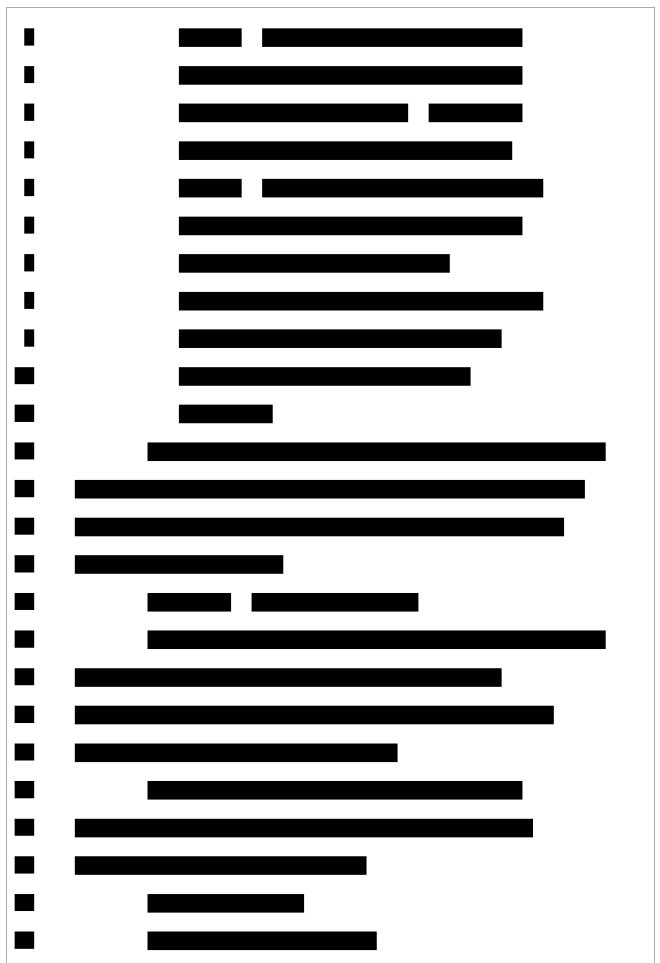


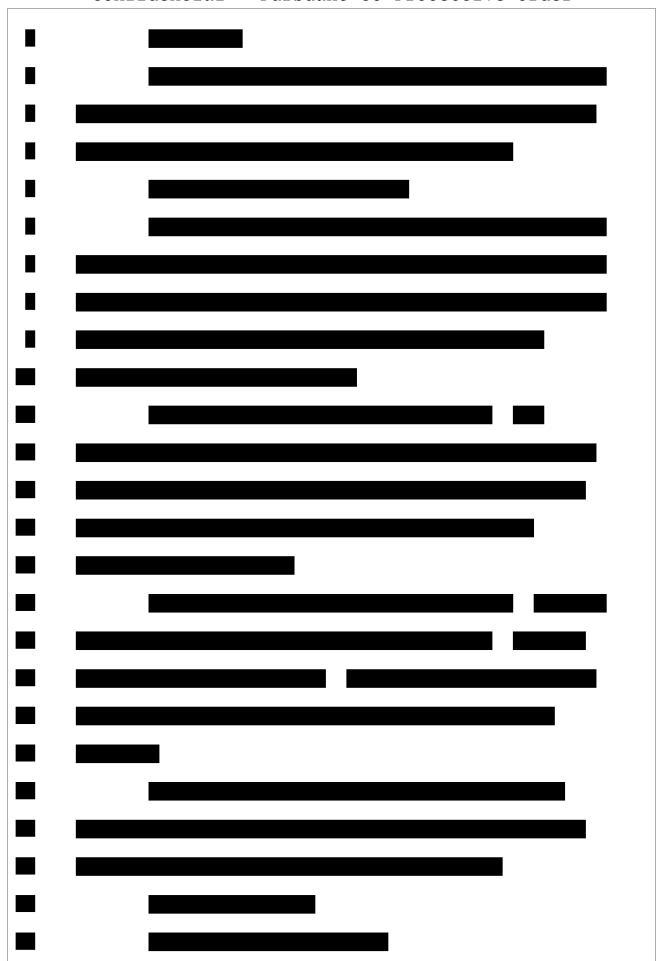


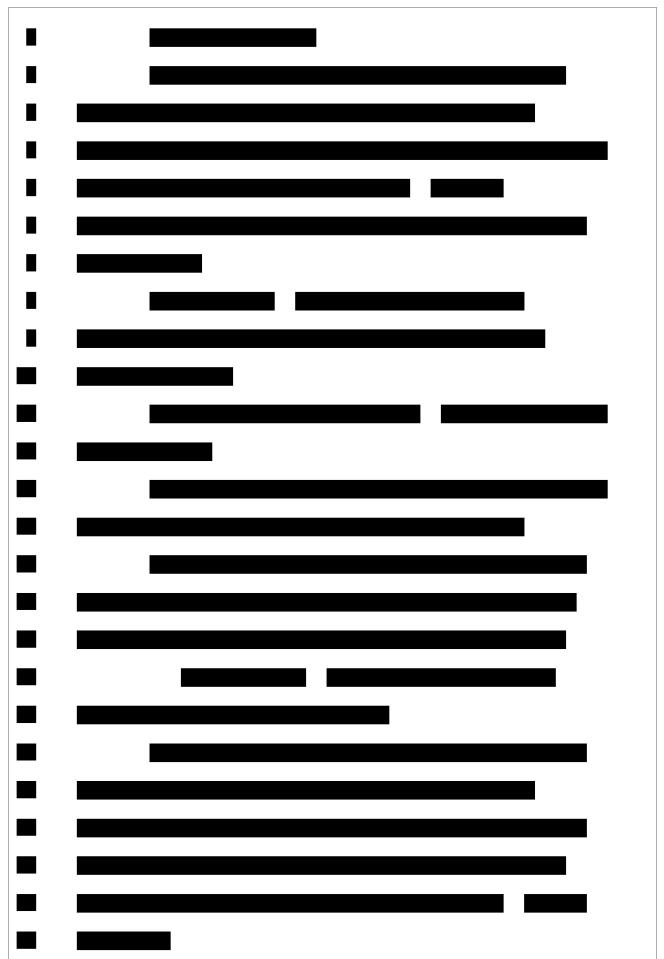


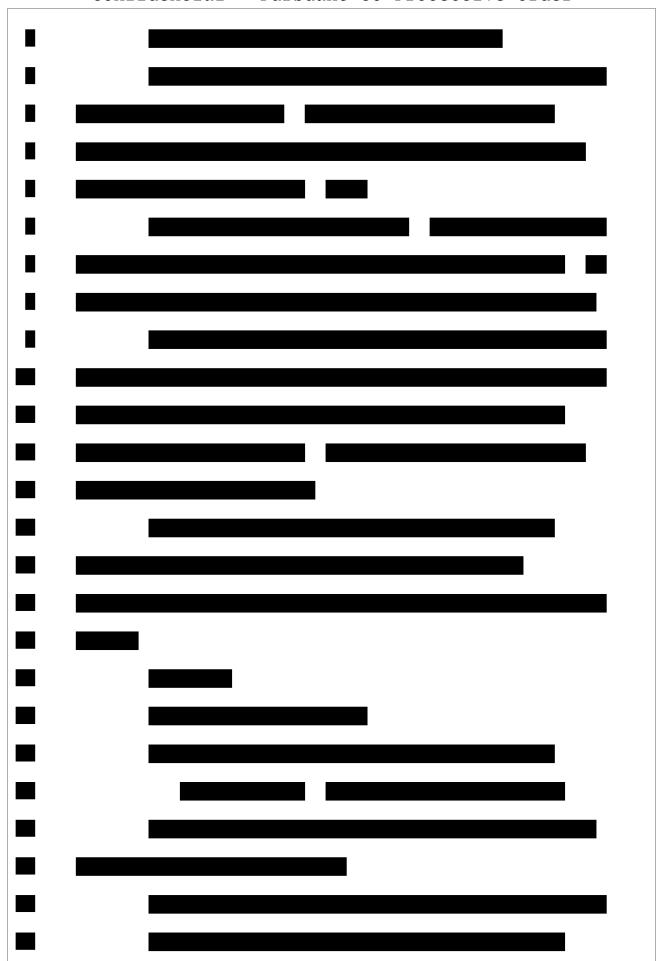


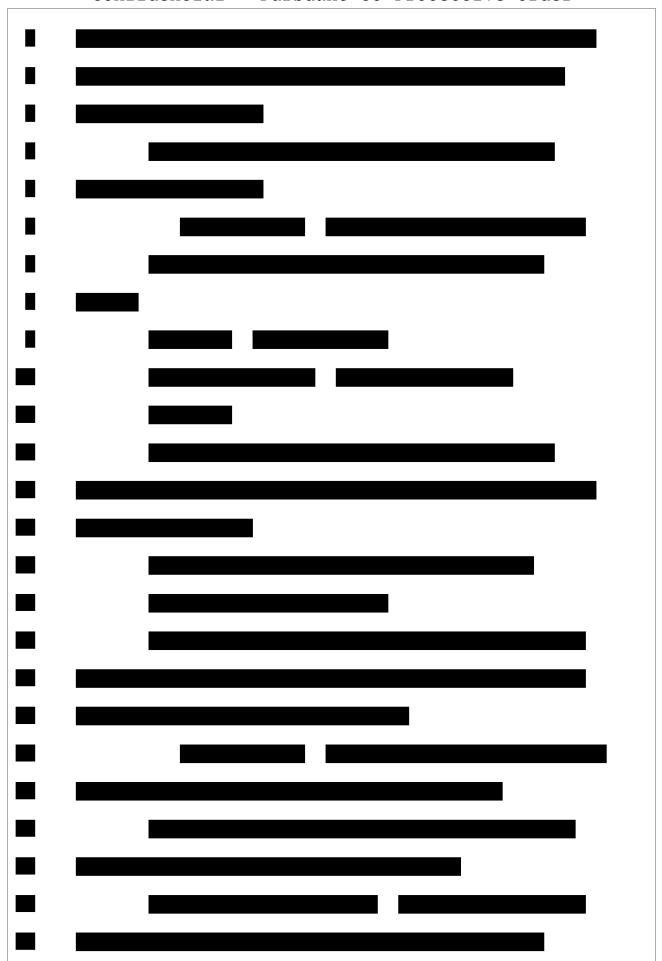


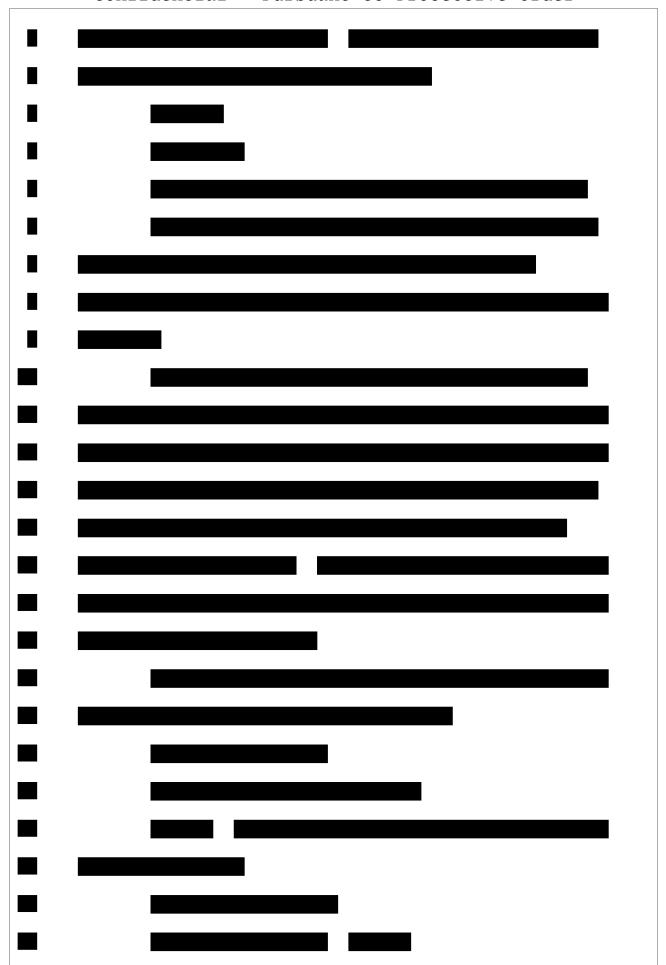


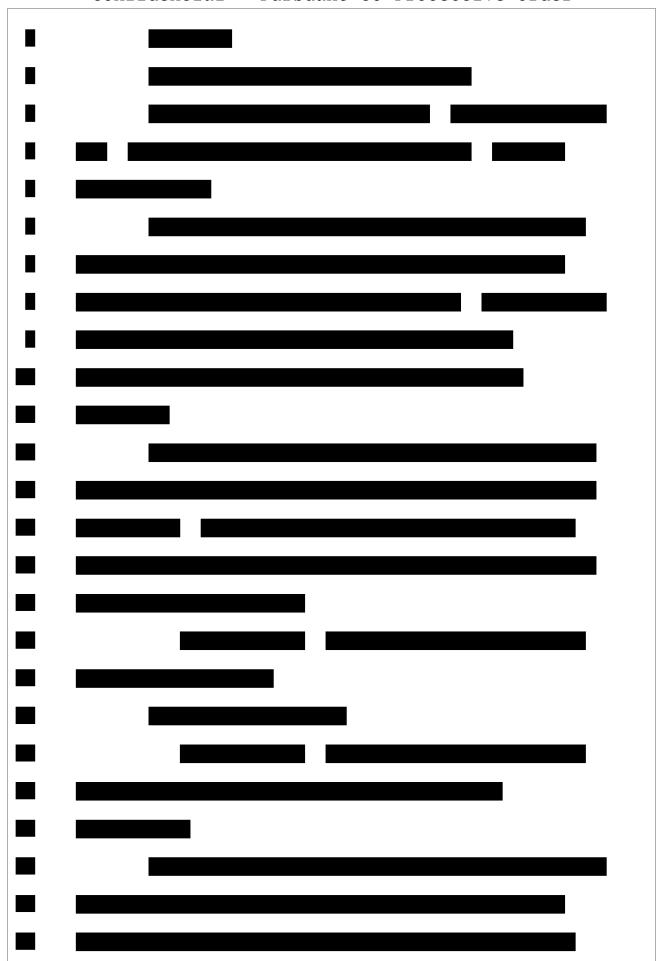


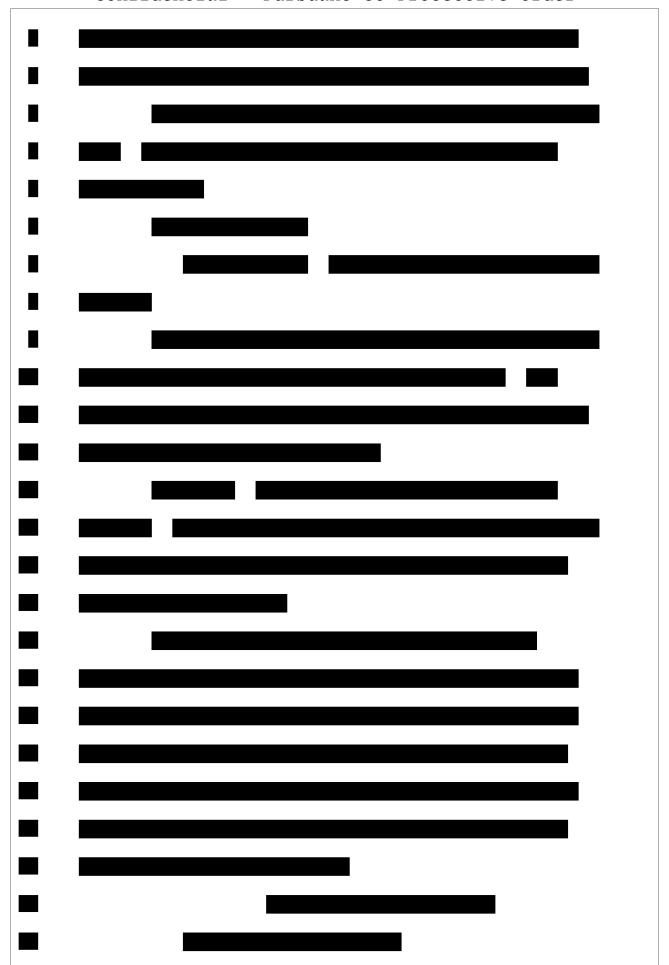












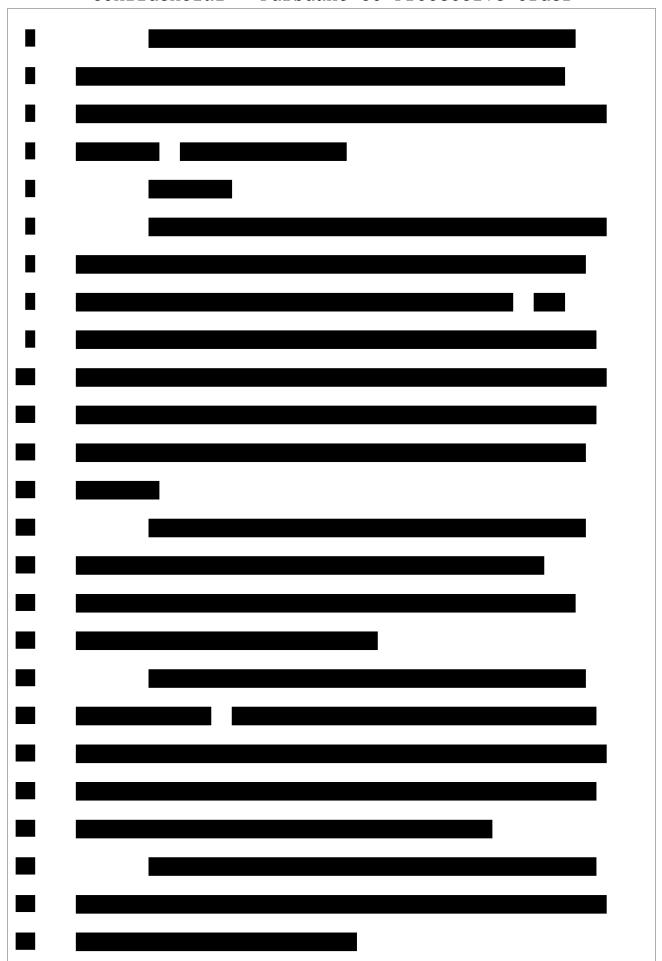
```
(Exhibit 42 marked for
 5
                identification: Department of the
                Interior re S. 3068)
 6
             O. I have the full bill here, if you want to
 7
     take a look at the full bill, but I've marked as
 8
     Exhibit 2 -- I'm sorry -- Exhibit 42, 114th
 9
10
      Congress, Second Session, Report 114-281,
11
     Department of the Interior, Environment and Related
12
     Agencies Appropriations Bill, and it is dated,
13
     total obligations for the fiscal year 2017, and the
14
     page -- there's a Table of Contents, and the page
15
      that is attached to the email is the third page of
16
     this document, which is page 68 of the larger bill.
17
      If you want to see the larger bill, I'll be happy
18
      to give that to you.
19
             A. No, just confirm for me that page 68 is
20
      in a final bill, or is this just committee
21
      language? I just wasn't sure.
22
             Q. Well, what does this bill say here?
23
     Right? Department of Interior, Environment and
24
     Related Agencies Appropriations Bill. It reads:
25
                "The Committee on Appropriations
```

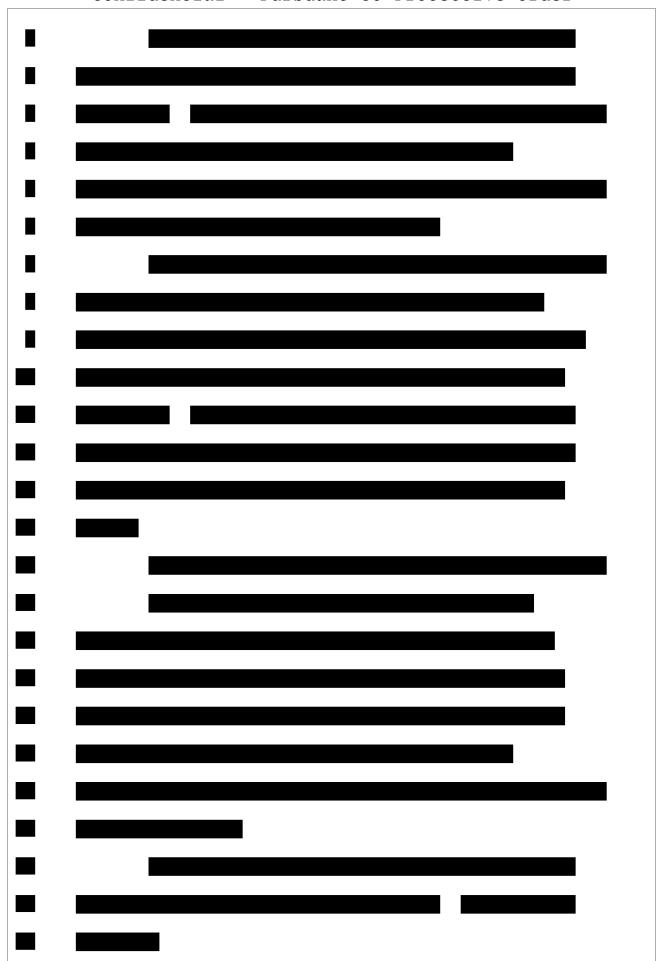
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1
                reports the bill S. 3068 making
 2.
                appropriations for the Department
 3
                of the Interior, Environment and
 4
                Related Agencies for the fiscal
 5
                year ending September 30th, 2017
 6
                and for other purpose reports
 7
                favorably thereon and recommends
 8
                that the bill do pass."
 9
             A. Okay. So this is a committee report.
             Q. Right, passing on legislation.
10
11
             A. Well, they're not -- they're coming out
12
     of a committee. They're not passing legislation
13
     with this, but I just wanted to confirm in your
14
     bigger version this page 68 from the email is page
15
      68 from the bigger version. That's all. I just
16
     wanted to check. Thanks.
17
             Q. I've turned it to page 68, but you can
18
      look --
19
             A. Yeah, that looks like the same. Thanks.
20
             Q. Okay. So what's attached to the email,
21
     Exhibit 40, that you were sent was the page from
22
     Exhibit 42.
23
             A. It appears to be the page from a
      committee markup of a appropriations bill.
24
25
             Q. And the paragraph is entitled,
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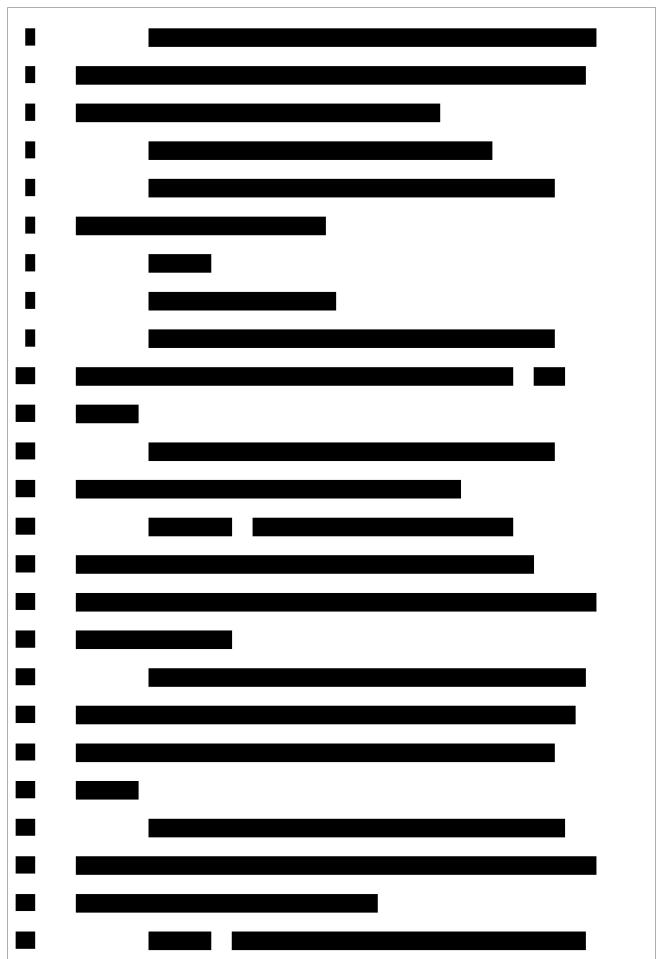
```
"Glyphosate Reregistration." "The committee is
 1
 2
     aware that the agency is currently in the process
     of reviewing the registration for glyphosate, which
 3
      is a very important crop product tool for America's
 5
      farmers."
 6
             A. Protection tool, yes.
 7
             Q. Very important -- thank you -- crop
 8
     protection tool for America's Farmers.
 9
                "Furthermore, glyphosate has been
10
                used for decades, and, when
11
                properly applied, has been found to
12
                present a low risk to humans and
13
                wildlife by regulatory bodies
14
                around the world, including
15
                Australia, Canada, the European
16
                Union, Japan, and by the joint
17
                FAO/WHO meeting on pesticide
18
                residues. The committee urges the
19
                agency to complete its re-
20
                registration of glyphosate
21
                expeditiously."
22
             Do you see that?
23
             A. I do.
24
             Q. And that's totally gratuitous language
25
      that is articulating Monsanto's position, is it
```

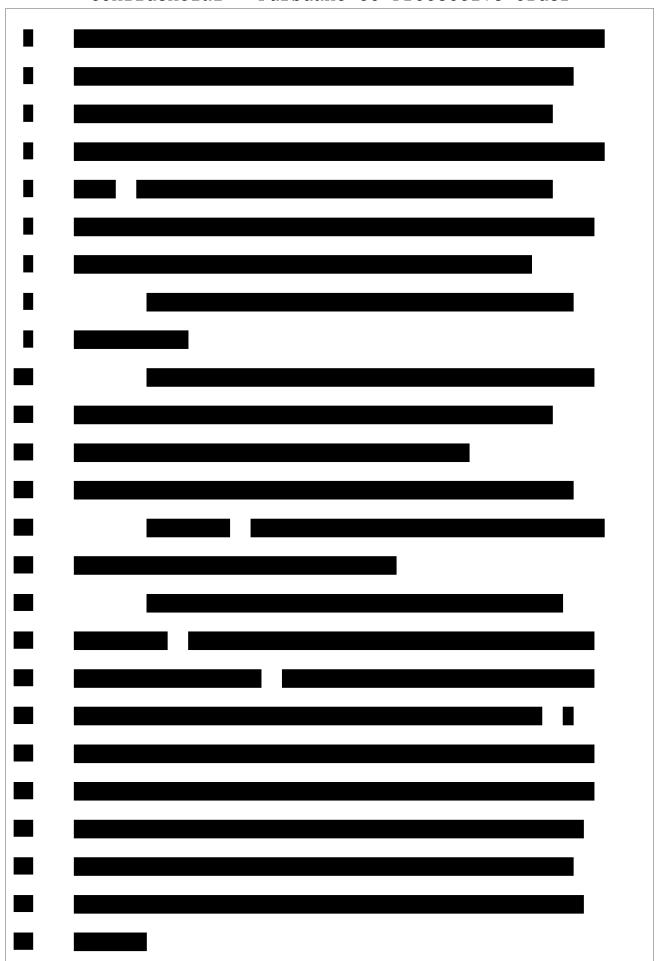
- 1 not? 2. A. My understanding of these types of 3 markups is it's a way that committees communicate 4 with different agencies where they're not giving 5 them direction or legislation, but they're expressing some of their concerns, and they have 6 7 got long lists of these types of things that the 8 agencies will look at when those bills ultimately go through the Congress, if they ever do. 9 10 Q. And this is Monsanto's position, right? 11 A. I don't know whose position this is. 12 mean, it represents --13 Q. Well, according --14 MR. PRESTES: Let the witness finish. 15 A. It certainly represents something 16 Monsanto in my experience would agree with, that 17 glyphosate, for instance, glyphosate is a very 18 important crop protection tool, but I, as I said, I 19 don't know where this language came from or who 20 proposed it. I tried to -- I talked to our government 21
- affairs people, because I wanted to be ready for
  the deposition, and I wanted to understand if
  anyone from Monsanto was involved in this, and I
  could not identify anyone that was the source of

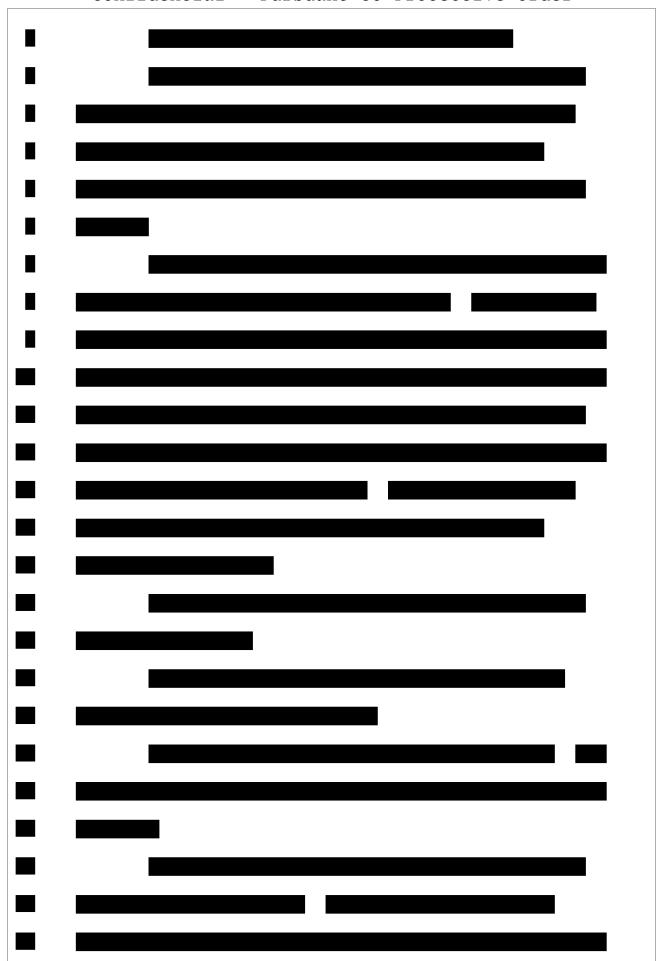
- 1 this language.
- Q. Doesn't mean it wasn't Mike Holland or
- 3 someone else from Monsanto. Kristina Moore, who
- 4 you hired, reported that in realtime, right?
- 5 A. She became aware of it and reported it to
- 6 me, but she's not the source of it either.
- 7 O. Who is the source?
- 8 A. That's what I'm saying. I couldn't
- 9 identify where it came from. I did try and I
- talked to a fair number of people, and I couldn't
- locate anyone that had any involvement in this.
- 12 Q. Have you heard of something called the
- laugh test?
- MR. PRESTES: Objection, argumentative.
- 15 Jerry, we have now been going --
- MR. KRISTAL: I'm on the last document.
- MR. PRESTES: -- long over an hour.
- 18 Okay.
- A. Is that number -- which number?
- 20 0.41.
- MR. PRESTES: Is it going to be quick or
- should we take a break? Because we've been going
- for like another hour 20.
- MR. KRISTAL: I think it will be fairly
- 25 quick.

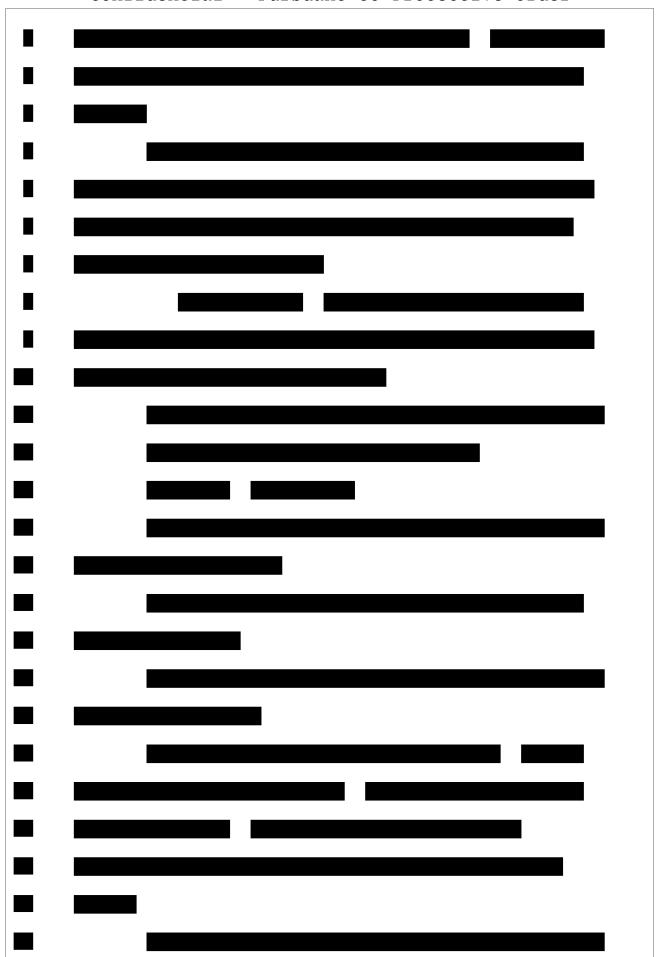


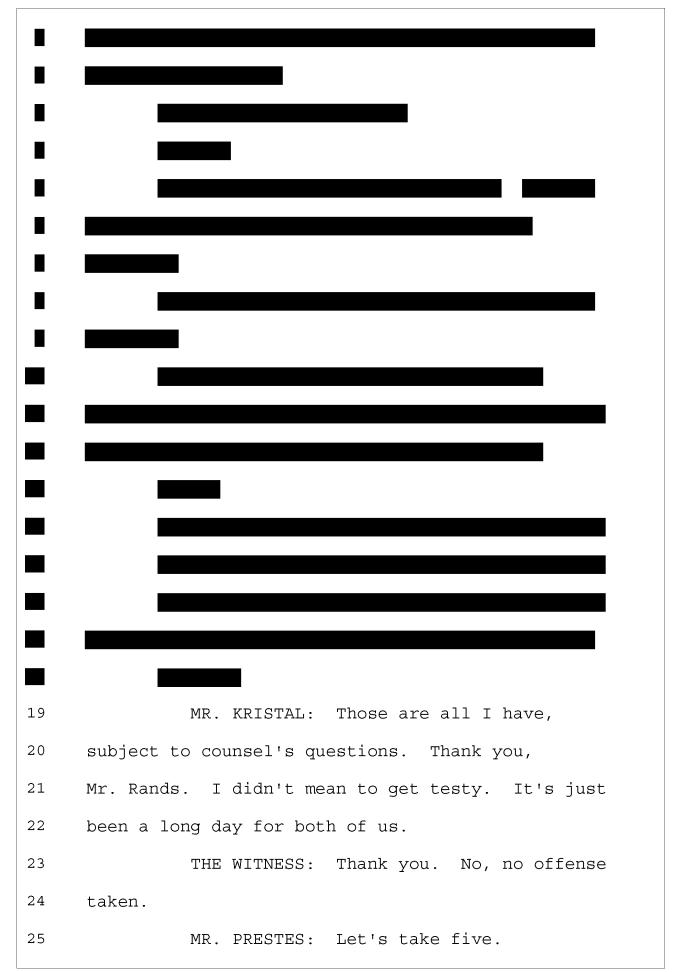












- 1 VIDEO SPECIALIST: The time is 6:54 p.m.
- We're going off the record.
- 3 (Proceedings recessed)
- 4 VIDEO SPECIALIST: The time is 7:05 p.m.,
- 5 and we're back on the record.
- 6 EXAMINATION
- 7 BY MR. PRESTES:
- 8 Q. Good evening, Mr. Rands. My name is
- 9 Brian Prestes. We've met before. After a long day
- of questioning by Mr. Kristal, who represents the
- 11 plaintiffs, I have just a few follow-up questions
- 12 for you. Okay?
- 13 A. Sure.
- Q. I'd like to start with just a few
- 15 questions about your personal background. Okay?
- 16 A. Okay.
- 17 Q. Where are you originally from?
- 18 A. We moved around a lot. I've lived in
- 19 New Jersey and Texas and California, but really
- 20 grew up in the northern Virginia area outside of
- Washington, D.C.
- Q. Where did you go to school?
- A. High school, went to high school in
- 24 northern Virginia called Oakton High School, in the
- suburbs of Washington, D.C., and for college I went

- out to Brigham Young University for my undergrad,
- and then got married, started having some kids
- during my undergrad days. And then we went to grad
- 4 school and went down to University of Texas at
- 5 Houston to the MD Anderson Cancer Center down there
- and worked for several years as a graduate student.
- 7 And then at some point I had an opportunity
- 8 to go in-house at a patent law firm and start using
- 9 the science that I was learning to work on IP and
- 10 patents and decided to leave my graduate program
- and become more of a full-time patent agent at that
- 12 time.
- Q. And how did you decide to go to law
- school, or is that what you're describing when you
- refer to becoming a patent agent?
- A. Well, the patent agent was the transition
- from science to something that supported lawyers.
- 18 That's what patent agents do. They use their
- 19 scientific expertise. And I really enjoyed just
- general science, biotechnology, and enjoyed jumping
- from one project to another with different clients
- that were in technology areas.
- 23 And what I decided to do is I was working
- there at the law firm in that capacity, they
- offered to send me to law school and become a full

- 1 patent attorney. So I took the opportunity to do
- that at night while I worked full-time during the
- 3 day.
- 4 Q. Are you married?
- 5 A. Yes, married.
- 6 Q. You mentioned kids. How many kids do you
- 7 have?
- A. We actually have eight kids, two
- 9 stepchildren from my wife's prior marriage, and six
- of -- six kids from my own.
- Q. Boys, girls, mix?
- 12 A. Yeah, it's a mix. We have, between us,
- four girls total and four boys total.
- MR. KRISTAL: You couldn't go for the
- 15 full baseball team?
- A. It was close, yeah. I have to fill in
- 17 from time to time.
- Q. And remind the jury. When did you join
- 19 Monsanto? When did you first join?
- A. 2004. I believe that was September of
- 21 2004.
- Q. And how did you end up working at
- 23 Monsanto?
- A. Actually I ended up working for Monsanto
- as -- they were a client of the first firm where I

- worked with their biotechnology crops at the time
- that were part of the docket there. And there were
- 3 some lawsuits involving corn crops and things that
- 4 the firm was handling with some of their
- 5 competitors.
- 6 So we got to know Monsanto and I got to know
- 7 some of the IP attorneys back then. And then a
- 8 position came open, and they called me and asked if
- 9 I'd be interested in applying for it.
- 10 Q. And you applied and you got the job.
- 11 A. Yes. Yeah, that's right.
- Q. Now Mr. Kristal for the plaintiffs asked
- you some questions about Monsanto's outreach to
- members of Congress. Do you recall that?
- 15 A. Yes.
- Q. Does Monsanto sometimes reach out to
- 17 elected representatives in government like members
- 18 of Congress?
- 19 A. Yeah, we have staff here in D.C. that
- spend, I think, most days working in the Capitol
- 21 Hill and meeting with members of Congress, talking
- to them about various issues.
- Q. Why would Monsanto reach out to members
- of Congress?
- A. There's a couple of different reasons I

- 1 quess we might do that. We often have issues
- 2 affecting our business. Because we're in a highly
- regulated industry, there's often new policy
- 4 initiatives that we see from different sources that
- 5 will affect our business, and we want to talk to
- 6 our elected officials about those policies and how
- 7 we feel about them.
- 8 Many times they have questions for us and we
- 9 have to go in and address them. When we were
- 10 merging with Bayer or actually when Bayer was
- 11 acquiring Monsanto, we would go in and talk to a
- 12 lot of members of Congress about the status of that
- acquisition, what it means, how it might impact
- 14 certain districts.
- 15 So they -- they wanted information, and they
- 16 expected the company to come in and talk to them
- about that, or they were getting questions from
- their constituents or other groups and they needed
- 19 more information. Those are some of the reasons we
- 20 do that.
- Q. What sorts of information does Monsanto
- provide when it's engaging with Congress?
- MR. KRISTAL: Objection --
- Q. Members of Congress.
- MR. KRISTAL: -- vague.

1 A. The information that we provide usually 2. relates to, you know, a current legislative 3 initiative and how it may impact our company or our 4 industry or others, like farmers, that we feel like 5 our customers are going to be impacted. So we'll come in with statistics or other historical context 6 7 or, you know, just different information to help 8 the policymakers understand the impact of what they're doing on the rest of America, so to speak. 9 10 And then a lot of times they wanted 11 information about what we were doing in their 12 districts. So we would come in with information 13 about our company, its operations, how many 14 employees we had, what our growth plans might be. 15 If we had initiatives to expand R&D, they would be 16 interested in that kind of information as well. 17 Q. In your experience is it unusual for 18 companies to reach out to elected representatives 19 and other public officials in the way you just 20 described? 21 MR. KRISTAL: Objection, foundation. 22 A. In my experience, when we're working in 23 Capitol Hill and reaching out and meeting with 24 members of Congress, we're usually running into 25 other companies, we're running into busloads of

- 1 people coming in from around the country to come
- see different members of Congress, and they
- 3 represent all sides of every political issue that
- 4 you could ever imagine. So it seems that the halls
- 5 are constantly full of people who are coming in to
- 6 meet with members of Congress.
- 7 Q. Now Mr. Kristal for the plaintiffs asked
- 8 you some questions about IARC. Do you remember
- 9 that?
- 10 A. Yeah, I remember he was asking me about
- 11 IARC, yes.
- Q. Has Monsanto made its public -- made
- public its position on IARC's classification of
- 14 qlyphosate?
- 15 A. Yes, I think Monsanto has been pretty
- 16 clear about its position on that.
- Q. And I think by this time in the trial the
- jury will have heard that Monsanto disagrees with
- 19 IARC's classification of glyphosate as a probable
- or possible human carcinogen.
- Let me ask you this. Why did Monsanto make
- its position with respect to IARC public?
- MR. KRISTAL: Objection to the form of
- 24 the question.
- A. Monsanto truly believed the decision was

- wrong and it was impacting how people were viewing
- our company. We were seeing a lot of negative
- 3 stories and misinformation, mischaracterizing our
- 4 company, our products, and we felt like we needed
- 5 to help people understand the facts around what
- 6 IARC did and what we believed about the situation
- 7 so that people would have full context.
- 8 And it wouldn't just be the pronouncements
- 9 of IARC and nothing else that, you know, along with
- 10 the lawyer advertisements and, you know, some of
- the other PR that was going on, on the other side
- of the issue that seemed to be dominating the
- media, we felt very much like we needed to be out
- there as well telling our story.
- Q. In your experience was the information
- that Monsanto communicated to the public about
- 17 IARC's classification of glyphosate accurate?
- MR. KRISTAL: Objection, foundation.
- A. Yes, I believe we were communicating
- 20 accurate information, and the teams worked pretty
- 21 hard to make sure that that was what we were
- working with when we provided information to
- people.
- Q. Mr. Kristal asked you some questions
- 25 about a letter or a draft of a letter to

- 1 Representative Aderholt. Do you recall those
- 2 questions?
- A. Yeah, generally I recall them.
- 4 Q. You edited a draft of a letter formatted
- 5 as a letter to Francis Collins at NIH that
- 6 Mr. Kristal marked as Exhibit 38 to your
- 7 deposition. Do you recall that?
- 8 A. Yes.
- 9 Q. Why are you, Todd Rands, at Monsanto
- 10 providing a draft letter to Representative
- 11 Aderholt?
- 12 A. He asked for it.
- Q. Did you have any reason to think that
- Roundup and the data regarding Roundup and its
- safety would be of legitimate interest to
- 16 Representative Aderholt?
- 17 MR. KRISTAL: Objection, form.
- 18 A. In the meeting we had with Representative
- 19 Aderholt he expressed concerns because he
- 20 represents a largely agricultural district. I
- 21 think it's mostly cotton growers that live in his
- 22 district. And they were very tuned into the impact
- of glyphosate and its status in this process.
- Q. Is it common for a representative's
- 25 office to ask for a draft letter in the format that

- 1 we saw in Exhibit 38?
- 2 MR. KRISTAL: Objection, foundation.
- A. Yeah, I -- as I think I mentioned --
- 4 Q. In your experience.
- 5 A. -- as I mentioned in the course of our
- 6 earlier questions, it was something that was common
- 7 in the work that I had done, and, as I talked to
- 8 others, I learned it was common in other instances
- 9 as well to provide information in the form of a
- 10 letter when you are asking senators to look into an
- issue and they needed information and they wanted
- to understand exactly what you were asking of their
- 13 office.
- Q. And are members of the public free to
- reach out to their representatives and provide them
- 16 draft letters?
- 17 A. Yes, anyone can do that.
- Q. And including the plaintiffs and their
- 19 lawyers?
- A. Yeah. We ran into the plaintiff lawyers.
- 21 As I said, folks on the other side of the political
- spectrum, the environmental lobby groups and others
- that were very much in opposition to glyphosate
- were in many of the same offices. They tended to
- 25 focus more on the Democrat side of the aisle, but

- they were doing many of the same things, yes.
- Q. Did the draft letter to Representative
- 3 Aderholt say anything that you believed to be
- 4 untrue?
- 5 A. No.
- Q. Did representative -- let me ask you
- 7 this, because I'm not sure it ever came out
- 8 clearly. Did Representative Aderholt send to
- 9 Mr. Collins at the NIH the letter that FTI drafted
- and that you reviewed and revised?
- 11 A. No.
- MR. KRISTAL: Objection, foundation.
- A. No, Representative Aderholt wrote his own
- 14 letter.
- Q. And how do you know that?
- A. The final letter that came out was very
- 17 different than anything we had sent him.
- Q. You were shown a number of documents over
- the course of today's long deposition by
- 20 Mr. Kristal, including -- you recall that you've
- seen a number of documents today? I think they
- number roughly 40.
- 23 A. Okay.
- Q. You saw some documents that you didn't
- 25 send and that you didn't receive --

- 1 A. Correct.
- Q. -- correct?
- 3 A. Yes.
- 4 Q. You saw some documents that, on which you
- 5 don't appear anywhere, didn't you.
- 6 MR. KRISTAL: Objection, form.
- 7 A. Yes, that's correct.
- 8 Q. Did you see any documents that you had
- 9 never seen before in your life until today at this
- 10 deposition?
- 11 A. Yes.
- Q. Did you see some documents today at your
- deposition that were dated before you even worked
- 14 at Monsanto?
- 15 A. Yeah, I believe there were a few that
- were that old.
- Q. Mr. Kristal also asked you some questions
- about documents you saw in your preparation for
- this deposition and asked you whether you saw
- 20 depositions in your -- excuse me -- you saw
- 21 documents in your deposition preparation that you
- had never seen before. Do you remember those
- 23 questions?
- 24 A. Yes, I do.
- Q. Mr. Rands, just because you saw a

- document in your deposition prep for the first
- time, does that mean you know the context
- 3 surrounding that document?
- 4 MR. KRISTAL: Objection, form.
- A. No, I think I made it clear that I didn't
- disregard those documents, but I certainly didn't
- 7 know the context for things that I didn't create or
- 8 receive or hadn't been involved in.
- 9 Q. And did you -- do you or did you feel
- 10 competent to testify about a document just because
- 11 you saw it in your deposition preparation?
- 12 A. No, not -- not having any personal
- 13 knowledge of some of those things, it restricts
- what I can really say about it.
- Q. Mr. Kristal also asked you some questions
- about the safety of Roundup and whether it can
- 17 cause cancer. Do you recall that?
- 18 MR. KRISTAL: Objection. I don't think I
- 19 asked those at all.
- A. I don't recall the safety questions,
- 21 but ...
- Q. Let me rephrase it. Mr. Kristal asked
- you some questions about IARC's determination with
- 24 respect to the relationship between Roundup and --
- or, excuse me -- glyphosate and cancer. Do you

- 1 recall that?
- A. Yes, we had some questions about that.
- Q. Now while you were at Monsanto, was it
- 4 your role to conduct scientific research on Roundup
- 5 or glyphosate?
- A. No, I never had any scientific roles at
- 7 Monsanto at all.
- Q. Were you employed as a -- you weren't
- 9 employed as a scientist at Monsanto.
- 10 A. No. No, I wasn't.
- 11 Q. Are there others at Monsanto who are
- scientists who are responsible for examining the
- 13 safety of Roundup and glyphosate?
- 14 A. I believe so, yes.
- Q. How long has Roundup been on the market
- in the United States?
- 17 A. My understanding it's been out for over
- 18 40 years, maybe in the '70s that it launched.
- 19 Q. Have you personally, at your own house,
- like in your lawn or garden, ever used Roundup?
- 21 A. We use it pretty frequently on the
- sidewalks and driveways to control weeds, yes.
- Q. And I know you mentioned you have eight
- 24 kids. Do any of your kids ever use it?
- A. Some of my older boys have used it when

- they're doing yard work, but the girls haven't done
- as much yard work so they don't use it as much.
- Q. Do you or your kids wear what I'm going
- 4 to refer to as personal protective equipment like
- 5 hoods or gloves or masks when you use Roundup
- 6 around the house?
- 7 A. No, we don't do that in our house or
- 8 yard.
- 9 MR. KRISTAL: You're not talking about
- 10 using Roundup in your house, are you? That wasn't
- 11 your question, was it?
- 12 A. Around our house I should have said.
- 13 Apologies.
- MR. KRISTAL: I thought the question was
- in the house too.
- Q. Let me rephrase.
- 17 A. Yeah.
- Q. Do you or your kids use personal
- 19 protective equipment like hoods or gloves or masks
- when you use Roundup around your house?
- A. No, we don't.
- MR. PRESTES: Just a final housekeeping
- 23 matter. As I said at the outset, this is -- we're
- designating the transcript as confidential, pending
- our -- under the protective order, pending our

- 1 further review. And, again, because this is a
- deposition of in-house former -- now former
- in-house lawyer at Monsanto, we're not waiving any
- 4 privilege or work-product protection. We're going
- to review the transcript to make sure there aren't
- 6 any privilege or confidentiality issues. We'll get
- 7 back to you, if there's an issue.
- 8 MR. KRISTAL: I would think nothing less
- 9 than that would happen.
- 10 EXAMINATION (resumed)
- 11 BY MR. KRISTAL:
- Q. I have a couple of questions in
- follow-up.
- When was the last time any of your boys used
- 15 Roundup around the house?
- A. They're all at college now, so it's
- 17 probably been -- see, the last one -- maybe about
- 18 two years ago.
- Q. And how old was he at the time?
- 20 A. 17.
- Q. And when you say around the house, was he
- using it right out of the bottle, the spray bottles
- 23 that you get from lawn and garden? Was he mixing
- concentrate with a backpack sprayer?
- A. We usually buy the gallon jugs that have

- the little twirly cable with the trigger on the end
- of it. Those are the ones we use around the house.
- Q. Pump-N-Go?
- 4 A. It's not a Pump-N-Go. It has a battery
- 5 that -- or maybe it's a trigger that -- no, it's a
- 6 battery with a wand on it, yeah. Sorry.
- 7 Q. And where is the Roundup applied? Where
- 8 did your 17-year-old son apply the Roundup?
- 9 A. On the sidewalks and the driveway. We
- 10 have these cracks where several times during the
- 11 season these weeds come up.
- 12 Q. Okay. So if I'm understanding you, you
- don't have a big yard with a lot of vegetation or
- 14 flower gardens? You're talking about cracks in the
- sidewalk and cracks in the driveway?
- A. Yeah, that's right.
- Q. Okay. And that's what you're talking
- about, the personal use of Roundup?
- 19 A. Yes.
- Q. Did your son wear shorts and a tee shirt
- 21 when he was doing this?
- A. Yeah, in the summer he would typically be
- in shorts and a tee shirt. I don't remember the
- specific instances what he was wearing, though.
- Q. What would you tell him to do if he had

- 1 Roundup spill on his shirt while he was doing this?
- 2 Just keep doing it, not change his shirt
- 3 immediately, not wash?
- 4 A. I would just tell him to change his shirt
- 5 once he was done.
- 6 Q. When it's all done?
- 7 A. Yes.
- Q. And you would take his mixed, soaked
- 9 shirt and just throw it in with the other laundry?
- 10 A. Yes.
- Q. And what other child used -- has that
- 12 ever happened?
- A. Not that I know of.
- Q. Okay. What other child has used the
- Roundup on the cracks in the sidewalk?
- A. My other two sons. They're older, so
- it's been a little longer, but we've used Roundup
- around our house every year.
- 19 Q. Okay. And sounds like it would take
- about five, ten minutes to do all this work?
- 21 A. Yeah, I would say something like that, 10
- to 15 minutes, if they were going all the way
- around.
- Q. Do you know what percent glyphosate was
- in the mix? Is that the 2 percent?

- 1 A. No, I don't know.
- Q. You were certainly not mixing the
- 3 concentrate with water. You bought it ready-mixed?
- A. Yeah. I've never mixed concentrate.
- 5 Q. Okay. And how often would this be
- 6 applied on the cracks in the driveway and the
- 7 sidewalk?
- A. Every couple of weeks.
- 9 Q. And have you ever told your children that
- this international body of experts has determined
- that glyphosate could cause cancer?
- 12 A. I've talked to them generally about some
- of the work I do, and it's come up in that context,
- but it's not something that they're very interested
- in. We haven't talked about it extensively.
- 16 Q. Okay. And you don't think you need to do
- anything whatsoever to make sure they don't get
- 18 soaked in Roundup?
- A. No. I'm not worried about our household
- exposures.
- Q. Why is that?
- A. I don't think it's dangerous.
- Q. And you haven't studied the science,
- 24 right?
- A. I trust that the regulators have looked

- 1 at it extensively and it's safe for our use around
- the house the way we're doing it.
- Q. Does the label say anything about not
- 4 getting it on your skin or your clothes?
- 5 A. I don't know. I haven't --
- 6 Q. You haven't read the label?
- 7 A. I haven't read the label.
- Q. You've never read the Roundup label?
- 9 A. No.
- 10 Q. If the Roundup label said an
- international agency has determined this could
- 12 cause cancer, would you still use it?
- A. If the regulator said it was safe to use.
- Q. Okay. If it said wear gloves, don't get
- it on your skin, wash immediately, would you do
- that if it said that on the label?
- 17 A. With some harsher chemicals I've done
- that, like some cleaning-type chemicals.
- 19 Q. I'm asking if you would do it with
- 20 Roundup if it said that on the label?
- 21 A. Oh, I don't --
- MR. PRESTES: Objection to the
- 23 hypothetical.
- A. Yeah, I don't know what the label says.
- Q. So are you telling us that your children

- are using Roundup without having read the label,
- either you or they?
- A. Yes, that's correct.
- 4 Q. When you said you believed the
- 5 information that Monsanto was providing about the
- 6 safety of glyphosate was accurate, you said that a
- 7 few minutes ago; is that your understanding?
- 8 A. Yes.
- 9 Q. You don't know, but you also admitted you
- don't know the science, you've never studied the
- science, you've never looked into the issue,
- 12 correct?
- A. Right, I trusted others who --
- Q. Right, you're taking it on faith.
- 15 A. I trusted the people that -- who have
- that job at Monsanto.
- Q. Okay. But you're not basing it on your
- own review of the scientific literature.
- 19 A. That's correct.
- Q. Okay. You mentioned that Monsanto was
- interested in interfacing with members of Congress
- on the impact of what they were doing, the members
- of Congress, on the rest of America. Is that what
- 24 you said?
- A. Yeah, I used that term to refer to other

- 1 groups, farmers, people in their home districts.
- Q. But your primary interest was the impact
- of what they were doing on Monsanto, right?
- A. No, actually we were there to answer
- 5 their questions because they were worried. They
- 6 qot questions about the issues from others. I
- 7 think that's what I was talking about when I said
- 8 that.
- 9 Q. Are you saying -- I'm sorry. Are you
- saying that you never spoke with members of
- 11 Congress about issues that were of interest to
- 12 Monsanto?
- A. Oh, I'm sorry. I misunderstood. Yeah,
- 14 I -- I thought you were referring to my quote about
- 15 the rest of America --
- Q. Right.
- 17 A. -- which is different than what we were
- doing when we were in their offices at times.
- 19 So, yes, we would go in and we would be
- talking to them about issues that impacted our
- company that we cared about. That's true.
- Q. Okay. You said you ran into plaintiffs
- lawyers on Capitol Hill?
- A. They have been up there a few times doing
- 25 different activities.

- 1 Q. Lawyers involving Roundup?
- 2 A. Yes.
- Q. When?
- 4 A. I remember they did a tour or some type
- of press briefing, I believe it was with a senator
- from Oregon, and they had a few -- they basically
- 7 called all the media in and treated it sort of like
- 8 a hearing and then presented all the facts. I
- 9 think Kerry Gillam might have been there as well.
- 10 And then there was another instance right
- 11 before the hearing in the science committee that we
- learned that they had been going around to all of
- the Democratic members at that time in the minority
- and briefing members of Congress on the issues.
- Q. When you said you learned that, somebody
- 16 told you that?
- 17 A. Yes, somebody told me that from the --
- Q. Who told you that?
- A. From the committee staff to one of our
- 20 consultants, I believe.
- Q. So have you ever seen somebody that you
- could identify as a plaintiffs' lawyer?
- A. No, I wouldn't be able to pick them out,
- 24 that's true.
- Q. Okay. So you have no personal knowledge

- 1 as to whether or not plaintiffs' lawyers were on
- 2 Capitol Hill or not.
- MR. PRESTES: Objection, mischaracterizes
- 4 the testimony.
- 5 A. No, I think, as I said, it's the things
- 6 that I learned from people who saw them or heard of
- 7 their activities there.
- 8 Q. Okay. You mentioned that Monsanto was
- 9 concerned when the IARC evaluation came out about
- 10 lawyers' ads. Did you say that?
- 11 A. Yeah, I don't remember what context I was
- talking about lawyers' ads, but there were
- certainly a lot of lawyer ads that were impacting
- 14 people's attitudes about our company. We found
- that the just sheer volume of lawyer advertisements
- was causing some harm to our reputation.
- Q. But we saw a number of different plans
- that talked about Monsanto orchestrating outcry
- 19 before IARC's decision was even rendered, correct?
- MR. PRESTES: Object to the foundation.
- Q. Well, we saw that, didn't we?
- 22 A. You showed me some documents that I
- wasn't involved in that used that term, yes.
- Q. Right. And that was before the IARC
- evaluation had been publicly announced, correct?

- 1 MR. PRESTES: Same objection.
- 2 A. The timing of that sounded like it was
- 3 sort of in the weeks leading up to the formal
- 4 announcement.
- 5 Q. Meaning it was before.
- A. They were anticipating that something was
- 7 going to come out, yes.
- 8 Q. Right. There certainly were no lawyers'
- 9 ads that the orchestration of outcry was
- 10 addressing, correct?
- 11 A. Oh, I see your --
- MR. PRESTES: Objection, foundation.
- 13 A. Yeah, I see your point. The lawyers' ads
- 14 came later, that's true.
- Q. The cotton growers in Representative
- Aderholt's district, do you think, if glyphosate
- does cause cancer, they would want to know that?
- MR. PRESTES: Objection, you're asking
- 19 him to speculate, an improper hypothetical.
- A. I think farmers generally are concerned
- about the safety of their products and they want to
- 22 know the information they need to know in order to
- 23 run their farms, yes.
- Q. Okay. And certainly to protect
- 25 themselves and their families or at least make the

- 1 choice about what dangers they may want to
- 2 encounter, correct?
- MR. PRESTES: Same objection.
- A. Again, that's -- yeah, that's the
- 5 function of the regulatory agencies that make sure
- 6 that the information that's necessary is provided
- 7 for the safe use of the products, yes.
- Q. Last question. On the eight-person
- 9 baseball team, which position is left out?
- 10 A. Thank you. No, I don't know. It changes
- every night. You just count them up at the end of
- the night and hope they're all there.
- Q. Make sure you get an even number and it's
- 14 between seven and nine.
- A. We've lost a lot of sleep over the years,
- let's just say that.
- 17 MR. KRISTAL: Thank you for your time. I
- have no further questions subject to any further
- 19 questions.
- MR. PRESTES: Nothing further.
- MR. KRISTAL: Thank you.
- VIDEO SPECIALIST: The time is 7:33 p.m.
- February 12, 2019, going off the record, concluding
- the videotaped deposition.
- 25 //

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                 (The deposition of TODD RANDS adjourned
 4
      at 7:33 p.m.)
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1	ACKNOWLEDGMENT OF DEPONENT
2	
3	I, TODD RANDS, do hereby acknowledge that
4	I have read and examined the foregoing testimony
5	and that the same is a true, correct and complete
6	transcription of the testimony given by me, with
7	the exception of the noted corrections, if any,
8	appearing on the attached errata page(s).
9	
10	DATE TODD RANDS
11	
12	
13	Subscribed and sworn to before me this day of
14	, 20
15	(Notary Public)
16	My Commission expires:
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1	CERTIFICATE		
2			
3	I, LINDA S. KINKADE, Registered Diplomate		
4	Reporter, Certified Realtime Reporter, Registered		
5	Merit Reporter, Certified Shorthand Reporter, and		
6	Notary Public, do hereby certify that prior to the		
7	commencement of examination the deponent herein was		
8	duly sworn by me to testify truthfully under		
9	penalty of perjury.		
10	I FURTHER CERTIFY that the foregoing is a		
11	true and accurate transcript of the proceedings as		
12	reported by me stenographically to the best of my		
13	ability.		
14	I FURTHER CERTIFY that I am neither counsel		
15	for nor related to nor employed by any of the		
16	parties to this case and have no interest,		
17	financial or otherwise, in its outcome.		
18	IN WITNESS WHEREOF, I have hereunto set my		
19	hand and affixed my notarial seal this 17th day of		
20	February 2019.		
21	My commission expires July 31, 2022.		
22			
23			
24	NOTARY PUBLIC IN AND FOR		
25	THE DISTRICT OF COLUMBIA		

1	WITNESS ERRATA SHEET		
2	REF. NO. 207606	Page 1 of	
3	NAME OF CASE: In re: Rou	undup Products Liability	
4	Litigation		
5	DATE OF DEPOSITION: Tuesday, February 12, 2019		
6	PLEASE INSERT REASON FOR	R CHANGE:	
7	1. To clarify	y the record.	
	2. To conform	m to the facts.	
8	3. To correct	t a transcription error.	
9	Page Line	Reason No.	
10	From	to	
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23	SIGNED:	DATE:	
24	(Signature of TODD RANDS	S)	
25			