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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

-----X
IN RE: ROUNDUP PRODUCTS LIABILITY MDL No. 02741
LITIGATION
-----X

* Confidential - Pursuant to Protective Order *

VIDEOTAPED DEPOSITION OF TODD RANDS
PURSUANT TO FED. R. CIV. P. 30(b)(6)
and IN HIS PERSONAL CAPACITY
Washington, D.C.
Tuesday, February 12, 2019

GOLKOW LITIGATION SERVICES
T 877.370.3377 | F 917.591.5672
deps@golkow.com

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Tuesday, February 12, 2019

9:02 a.m.

The following is the transcript of the videotaped deposition of TODD RANDS held at the offices of Hollingsworth LLP, 1350 I Street, NW, Washington, DC 20005.

Reported by: Linda S. Kinkade, RDR CRR RMR RPR CSR Registered Diplomate Reporter, Nationally Certified Realtime Reporter, Registered Professional Reporter with Merit Distinction, Certified Shorthand Reporter (CA), Notary Public, within and for the District of Columbia, and official duly authorized to administer oaths and/or affirmations.

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

2

3 On Behalf of Plaintiffs:

4 Weitz & Luxenberg, P.C.

5 220 Lake Drive East

6 Suite 210

7 Cherry Hill, New Jersey 08002

8 (856) 755-1115

9 By: Jerry Kristal, Esq.

10 jkristal@weitzlux.com

11

12

13 On Behalf of Defendants:

14 BartlitBeck LLP

15 Courthouse Place

16 54 West Hubbard Street

17 Chicago, Illinois 60654

18 (312) 494-4446

19 By: Brian S. Prestes, Esq.

20 Brian.Prestes@BartlitBeck.com

21

22

23

24

25

1 A P P E A R A N C E S (continued):

2

3 On Behalf of Defendants:

4 Arnold & Porter Kaye Scholer LLP

5 601 Massachusetts Avenue, NW

6 Washington, DC 20001

7 (202) 942-6216

8 By: Daniel S. Pariser, Esq.

9 daniel.pariser@arnoldporter.com

10

11 On Behalf of Defendants:

12 Hollingsworth LLP

13 1350 I Street, NW

14 Washington, DC 20005

15 (202) 898-5877

16 By: Elyse A. Shimada, Esq.

17 eshimada@hollingsworthllp.com

18

19

20 Also present:

21 Daniel Holmstock, Legal Video Specialist

22

23

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

2 VIDEO SPECIALIST: We are now on the
3 record. My name is Daniel Holmstock. I am the
4 videographer for Golkow Litigation Services.
5 Today's date is February 12th, 2019. The time is
6 9:02 a.m.

7 This is the deposition -- I'm sorry -- this
8 deposition is being held at Hollingsworth LLP in
9 the matter of In Re: Roundup Products Liability
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
24 Jerry Kristal. We met a few minutes ago, shook
25 hands and said hello. How are you?

1 A. Good, Jerry. Thank you.

2 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
6 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
10 of their non-Hodgkin's lymphoma, and that, in part,
11 Monsanto failed to adequately warn them about the
12 dangers of using Roundup.

13 Do you understand that generally as to what
14 the lawsuits are about?

15 A. Yes.

16 MR. PRESTES: Hey, Jerry, before we dive
17 in, just two things for the record, and I don't
18 want to interrupt your flow.

19 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
22 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
25 Monsanto. Monsanto won't be disclosing privileged

1 communications or work product, protected
2 information at the deposition.

3 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
12 important ground rule, so to speak, that you
13 understand what's being said.

14 So if you're not understanding any question
15 that I ask, just let me know, and then the burden
16 is on me to change the question or reword it or do
17 something with it so you do understand. Okay?

18 A. Sure.

19 Q. Having said that, is it fair that, if you
20 answer one of my questions, we can assume you
21 understood it?

22 A. Yes, I think that's fair.

23 Q. All right. And as Brian said, I'm not
24 interested in finding out attorney-client
25 privileged or work-product information. So I don't

1 disagree with his statement to you in terms of what
2 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
6 finding out about your career. Who is your current
7 employer?

8 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.

13 Q. That does. And is that a company that
14 you formed a number of years ago?

15 A. No.

16 Q. When did you first start working for
17 Asepticys?

18 A. It's been sort of a part-time thing for
19 about a year and a half.

20 Q. So for the last year and a half you've
21 been working part-time for Asepticys?

22 A. Yeah, just helping them, sort of
23 consulting. I had invested in the company and was
24 helping them get off the ground a bit as a startup.

25 Q. Okay. Do you have any other employment

1 other than the part-time work you've been doing for
2 about a year and a half for Asepticys?

3 A. Yeah, I've got a few consulting projects
4 I've been sort of getting together on a part-time
5 basis.

6 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?

13 A. Just recently, in the last week or so,
14 since I left Monsanto, yeah.

15 Q. Okay.

16 A. Or left Bayer.

17 Q. When did you leave Monsanto?

18 A. I left Bayer on January 26th, I think was
19 officially my last day.

20 Q. Of this year.

21 A. Yes.

22 Q. Okay. What was your position when you
23 left Bayer on January 26th, 2019?

24 A. I had a title that was external affairs
25 lead and strategic transactions counsel, if I've

1 got that right.

2 Q. Did you go directly into that position
3 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
11 of '18, if I have the dates correct. I'd have to
12 look at the announcements.

13 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
19 in January of '19, and then it switched over
20 officially to Bayer. But, yes, Bayer was my
21 employer, I think officially, from June onwards,
22 even though technically the paychecks came from
23 Monsanto.

24 Q. Okay. Did you have any Monsanto stock
25 that got purchased by Bayer as part of the

1 transaction?

2 A. Yes, as part of the transaction, all of
3 our stock options and RSUs converted.

4 Q. Okay. And how many shares did you
5 convert?

6 A. They were automatically converted. I
7 don't recall the numbers.

8 Q. Are you talking about tens, hundreds,
9 thousands of shares?

10 A. Numbers of shares I don't know. Dollar
11 figures, it's a few hundred thousand dollars worth
12 of shares. I don't recall the exact number of
13 shares, but ...

14 Q. Is it more than \$500,000 that you got?

15 A. No, I don't think so.

16 Q. Was it --

17 A. It was close to five hundred probably.

18 Q. All right. Approximately \$500,000?

19 A. Yeah, in that range.

20 Q. So if we wanted to figure out how many
21 shares you had --

22 A. Divide by 128.

23 Q. Exactly. 128 was the purchase price that
24 Bayer paid to buy up the stock of Monsanto as part
25 of the deal.

1 A. That's correct.

2 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?

6 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
11 an incentive or bonus program, so to speak?

12 A. Yes.

13 Q. When did you first start working at
14 Monsanto?

15 A. In September of 2004.

16 Q. And what was your title when you began at
17 Monsanto?

18 A. I was -- the title was corporate counsel,
19 and I think that may have included a subtitle,
20 intellectual property.

21 Q. Are you a patent guy? Is that your
22 specialty, so to speak, patents?

23 A. Yeah, originally I was a patent attorney,
24 that's right.

25 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?

3 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
11 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.

14 Q. Okay. And what law school did you
15 graduate from?

16 A. George Mason University.

17 Q. And where are you barred?

18 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 ...

22 Q. Okay. When you said, to be accurate, you
23 need to pull out your CV, do you have a copy of
24 your CV here?

25 A. No, not with me.

1 Q. You're pulling it out of your head?

2 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?

6 A. I don't know.

7 Q. Now you worked with FTI Consulting when
8 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 --

15 Q. Well, it included that, right?

16 A. It included some elements around the IARC
17 announcements and the science that they had put
18 out, yes.

19 Q. And when you use the term "IARC," you're
20 referring to the International Agency for Research
21 on Cancer?

22 A. Yes, I am.

23 Q. When did you first start working with FTI
24 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
2 dates right, I believe that takes us back to 2014
3 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
13 because they're consultants so they just come in at
14 different times and consult on things. But I would
15 say there's roughly five or six projects that they
16 had worked on.

17 Q. Who comes up with the names of the
18 projects?

19 A. Sometimes they did. Sometimes we did.
20 It was just a common practice at the company to
21 have a name for whatever the project was.

22 Q. Is there any particular rhyme or reason
23 in giving a name to a project?

24 A. No. I actually intentionally try to just
25 pick mundane names that don't have any

1 significance.

2 Q. Okay. You worked on Project Spruce with
3 FTI?

4 A. Yes.

5 Q. What was Project Spruce?

6 A. Project Spruce relates to our work with
7 glyphosate and Roundup.

8 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 Q. And that had to do with lawsuits that
13 were being filed by various cities or townships
14 brought under the general nuisance laws to try to
15 get Monsanto to help pay for the cleanup, generally
16 speaking?

17 A. Yeah. That work focused on the public
18 nuisance lawsuits that were pending and still are
19 pending in California. Washington and Oregon as
20 well.

21 Q. Involving the attempt of various cities
22 and municipalities to recover the costs of cleaning
23 up PCBs from different waterways?

24 A. I think that's a general characterization
25 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.

20 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?

25 A. Yeah. Again, your characterization -- we

1 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.

8 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.

13 Q. Well, Monsanto was trying to get the
14 United States to stop funding IARC, correct? That
15 was part of the project?

16 A. That was not part of our project, no.

17 Q. Whose project was that?

18 A. I don't -- I'm not aware of any project
19 where we were trying to kill the funding for IARC.
20 I know that that activity was going on and we saw
21 some evidence that people were introducing those
22 things into Congress, but that wasn't part of our
23 project.

24 Q. You're saying Monsanto and FTI had
25 nothing to do with that?

1 A. We were monitoring it and obviously
2 watching developments, but I don't recall an
3 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?

8 A. I remember topics that came up around
9 defunding IARC, but it wasn't --

10 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,
13 trying to get them to defund IARC without
14 disclosing that Monsanto had drafted the letter?
15 Do you recall doing that?

16 A. I recall talking to lots of Congressmen
17 and drafting materials for them that related to
18 IARC and the facts around IARC, yes.

19 Q. Well, the facts as Monsanto saw them,
20 correct?

21 A. We believed they were the facts.

22 Q. I understand that.

23 A. Yeah.

24 Q. And other people believed that they were
25 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.

5 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.

13 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.

16 Q. How about a letter to Scott Pruitt, the
17 head of EPA? You don't remember drafting a letter
18 on behalf of another Congressperson for that?

19 A. No. I remember talking with both of
20 those offices about the issues and sending them
21 some written materials, but we never drafted a
22 letter that went out under their name that I'm
23 aware of.

24 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?

3 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
10 and why it was being spent on IARC as a foreign
11 institution. It raised a lot of questions in terms
12 of what they were doing and how they were doing it,
13 and people wanted some answers.

14 Q. But that was done at the behest of
15 Monsanto, right? The Congress people weren't doing
16 that by themselves; it was Monsanto lobbying them
17 to do that.

18 MR. PRESTES: Object. Object to the
19 form.

20 A. We were certainly interested in raising
21 these questions and finding members of Congress
22 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
2 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.

8 Q. Monsanto had nothing to do with it?

9 A. No, we sat down with him and we talked
10 with him about the issues and gave him materials
11 that he could help to understand the issue.

12 Q. As Monsanto saw the issue, correct?

13 A. As we saw the facts, yes, that's right.

14 Q. When you began as corporate counsel for
15 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
20 involved in the science on a lot of things and
21 that's kind of my passion, but the work I did early
22 on related to the processes for how we transformed
23 crops to make genetically modified crops.

24 And as I gained some experience, they gave
25 me the docket that was for Roundup Ready crops and

1 for the use of glyphosate on those crops, part of
2 my patent responsibilities.

3 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?

6 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
12 major pesticide companies began to develop
13 biotechnology traits in the late '80s and into the
14 early '90s.

15 Q. And Roundup Ready seeds that you
16 mentioned are seeds for a variety of crops that had
17 been genetically modified so that they are
18 resistant to Roundup.

19 A. Yes, that's correct.

20 Q. So if you didn't have Roundup on the
21 market, no one would need to buy Roundup Ready
22 seeds, correct?

23 A. I'm sorry. Say that again.

24 Q. Sure.

25 A. Yeah.

1 Q. If Roundup was not on the market anymore,
2 nobody would need Roundup Ready seeds.

3 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.

10 Q. When you say "several other herbicides,"
11 including glyphosate?

12 A. Yes, including glyphosate.

13 Q. So just so the jury understands, for the
14 first how many years were Roundup Ready seeds only
15 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 ...

19 MR. PRESTES: Mr. Rands, if you're going
20 to guess, let us know you're guessing. If you're
21 estimating --

22 Q. And nobody wants a guess. I'm not
23 interested in guesses.

24 (Clarification by reporter.)

25 A. Okay. Yeah, I was going to guess for

1 you, but I don't know the answer to that, that's
2 fair.

3 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.

11 Q. But the Roundup Ready trait, the trait of
12 the seeds that would be resistant to Roundup would
13 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
16 the only trait, then those crops would just be --
17 they would still have yield advantages perhaps from
18 their breeding and the other advanced technologies
19 we apply to them, so they may be superior in that
20 regard, but in terms of weed resistance, without
21 Roundup there would be no reason to buy those, if
22 that's why you were buying them.

23 Q. Right.

24 A. Yeah.

25 Q. Now how long were you in the corporate

1 counsel intellectual property job, from September
2 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
11 building our licensing business in South America.

12 Q. So approximately how many years were you
13 in your first job at Monsanto?

14 A. I think it was about two years, and then
15 I shifted to more of a commercial lawyer role.

16 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.

21 Q. And how long were you in that position
22 before you moved to South America?

23 A. I think that was also about two years.

24 Q. All right. So sometime approximately the
25 end of 2008 or so is when you moved to South

1 America?

2 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.

6 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
11 intellectual property position involve Roundup
12 through the time you left your position in South
13 America?

14 A. I no longer did any patent work for any
15 of the Roundup or Roundup crops or anything like
16 that after I left that first position.

17 Q. So when did you -- strike that.

18 I'm assuming you came back to the
19 United States after being in Buenos Aires for two
20 and a half, three years?

21 A. Yes.

22 Q. When was that?

23 A. Sometime around 2011.

24 Q. Okay. And what was -- you continued
25 working at Monsanto?

1 A. Yes, everything has always been with
2 Monsanto.

3 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
11 the day-to-day function of our legal department.

12 Q. And in that position were you dealing
13 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.

19 Q. Who was that?

20 A. Melissa Duncan, or it may have been Nancy
21 Adioli. I can't remember which. They've both held
22 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
25 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.

13 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
16 again, but there was -- there was an overlapping
17 period while I was still down there where they gave
18 me that role. And then when I came back, I would
19 say maybe about a year, something like that.

20 Q. So did your job title change sometime in
21 2012, 2013?

22 A. Yeah. See, I worked -- I need to -- I'm
23 guessing now, but, yes, I think that's probably
24 about right.

25 Q. And what was your new responsibilities?

1 A. They gave me a role that helped with our
2 venture capital business and our biologics
3 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?

8 A. Only to the extent we were doing
9 licensing deals on crops with other companies, but
10 not directly on Roundup that I recall.

11 Q. When did you first get assigned to work
12 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.

17 Q. 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
21 on two things at the same time?

22 A. In 2014? What time period are you
23 talking about?

24 Q. You said that you started on working with
25 FTI regarding the International Agency for Research

1 on Cancer, and that had happened, "we had started
2 our project to prepare for the acquisition of
3 Syngenta."

4 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,
10 that project didn't begin until 2016.

11 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.

15 Q. And was that project, the Syngenta
16 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
20 with FTI relating to IARC's evaluation of
21 glyphosate would have been around 2016?

22 A. Yes, that's right.

23 Q. Prior to that had you had any knowledge
24 of the science of glyphosate vis-a-vis whether or
25 not it causes cancer? Had you ever evaluated that?

1 A. No. I generally wasn't aware of all
2 these things that had been going on.

3 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 Q. And --

13 A. Although let me correct that. I don't
14 know that Monsanto has any employees now that the
15 acquisition of Bayer has occurred, so I don't know
16 the answer to that really.

17 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?

20 A. I think that's correct as of January of
21 this year, 2019, they made that formal switch over.

22 Q. Is the Monsanto Company name being
23 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
2 far as you know, consist of currently?

3 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
10 job descriptions and things.

11 Q. So nobody says I work for Monsanto now.

12 A. No.

13 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
19 do some work in this project, and so he came to me
20 and asked about ways we could approach this.

21 Q. And who's your boss?

22 A. Scott Partridge.

23 Q. When you say he approached you about ways
24 to approach this, what do you mean?

25 A. He said that he was asked to get involved

1 in our efforts involving Roundup and glyphosate.

2 Q. Who asked him?

3 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
13 identification: Plaintiffs' Amended
14 Notice to Take the Videotaped Oral
15 Deposition of Monsanto Company)

16 (Exhibit 2 marked for
17 identification: Plaintiffs' Amended
18 Notice to Take the Videotaped Oral
19 Deposition of Todd Rands)

20 MR. KRISTAL: 1 is the U.S. District
21 Court for the Northern District of California
22 notice.

23 A. Thank you.

24 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?

3 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
11 capacity as Monsanto's corporate representative on
12 certain topics?

13 A. Yes.

14 Q. Okay. I'm going to not mark yet, but
15 intellectually mark number 2 and we'll get a copy
16 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
20 you here as Monsanto's corporate representative.

21 A. Okay.

22 Q. What topics is it your understanding that
23 you've been designated as Monsanto's corporate
24 representative?

25 A. You know, the exact wording was pretty

1 complicated.

2 Q. No, I know.

3 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.

8 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.

13 A. Oh. Good.

14 Q. So if you'd take a look at that and let
15 me know specifically by number which topic you're
16 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.

20 Q. I believe it's towards the end.

21 MR. PRESTES: Mr. Kristal, would it help
22 if I just reminded --

23 MR. KRISTAL: Yes, yes. You're the ones
24 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.

2 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.

13 Q. Do you see that? I'm marking as Exhibit
14 3 a list of things that you -- that we've been told
15 you have reviewed in terms of your preparation for
16 today's deposition. I'm going to hand this to you
17 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)

22 A. I'll represent that, if this is what my
23 attorney sent you, that this is what I reviewed.

24 Q. And did you assemble these documents or
25 were they given to you?

1 MR. PRESTES: Objection. I think what
2 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
10 dep, fine, but we're not going to get into the
11 details of whether counsel selected them, whether
12 Mr. Rands selected them, et cetera.

13 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.

19 A. On many occasions I've had opportunities
20 to review documents relating to the litigation.

21 Q. Okay.

22 A. Yes.

23 Q. I'm not asking you if you've had
24 opportunities to review them. I'm asking if you
25 have personally ever conducted a search of

1 documents.

2 A. Yes.

3 Q. And when was that? When was the first
4 time you did that?

5 MR. PRESTES: Object to the form.

6 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 --

12 Q. No, why were you doing that?

13 MR. PRESTES: And I'm going to caution
14 you, to the extent that you were collecting or
15 assembling or reviewing documents at the direction
16 of counsel, outside of the context of the
17 deposition preparation, that's work product and
18 we're not going to go there. And to the extent you
19 were assembling or collecting or searching for
20 documents either to give legal advice or receive
21 legal advice, I'm going to instruct you not to get
22 into that either.

23 So if you can answer the question without
24 getting into protective work product and without
25 getting into any attorney-client privileged

1 communications that you were a part of, go for it,
2 but to the extent it involves work product or
3 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?

10 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
14 done.

15 Have you ever done a search of documents
16 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,
20 for lack of a better word, assisting in the Roundup
21 litigation? When was that part of your job duties?

22 A. I think right around the time that I came
23 on board with the project in '16 I became more
24 engaged with our lawyers and understanding and
25 discussing litigation issues.

1 Q. So you were aware, then, at the time
2 that -- shortly after the International Agency for
3 Research on Cancer determined that glyphosate was
4 probably carcinogenic, that lawsuits had been filed
5 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
11 began to get involved in assisting in the
12 litigation?

13 A. Yes.

14 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.

20 Q. Been there.

21 A. Yeah.

22 Q. That number of documents, somewhat over
23 500, is about a half of 1 percent of the over a
24 million documents that have been produced?

25 MR. PRESTES: Object to the form, assumes

1 facts.

2 Q. Well, you're aware that over a million
3 documents have been produced in this litigation?

4 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?

8 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.

14 Q. Five hundred is half a percent of a
15 million?

16 MR. PRESTES: Object to the form.

17 A. Yes, if that's the right number, but I
18 don't -- whatever the number is, it is.

19 Q. Whatever the number is, it is.

20 A. Yeah.

21 Q. Okay. The documents that you reviewed
22 for this deposition, in part, were documents that
23 came from what is called your custodial file.

24 A. Okay.

25 Q. Is that right?

1 MR. PRESTES: Object to the form.

2 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
6 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
13 from your files, right?

14 MR. PRESTES: Objection.

15 Q. The vast majority of the documents you
16 reviewed were not from your custodial file?

17 MR. PRESTES: Object to the form.

18 A. I don't know what you mean by "vast
19 majority." I saw a mix of different kinds of
20 documents, yes.

21 Q. Well, your custodial file began with the
22 Bates number, after the words MONGLY, M-O-N-G-L-Y,
23 with 075, right?

24 MR. PRESTES: Object to the form.

25 Q. Do you know that from looking at the

1 documents?

2 A. I don't recall the numbers and where they
3 started.

4 Q. Okay. Do you recall whose documents you
5 did review other than your own?

6 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
11 on the emails, but they weren't emails that I
12 remember receiving and I wasn't listed on them.

13 Q. Other than documents that might have been
14 generated by third parties, meaning a published
15 article that might have been attached to an email,
16 other than that, were the documents that you were
17 reviewing documents that were created by employees
18 of Monsanto and maintained in the regular course of
19 business by Monsanto?

20 MR. PRESTES: Object to the form. If you
21 need to reference the list, you got it there.

22 Q. Yeah, sure.

23 A. Yeah.

24 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.

6 Q. Yes?

7 A. Yes.

8 Q. I just need a yes or no.

9 A. Sorry. My fault.

10 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
13 that have a MONGLY number that might have been
14 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
17 business other than the ones that I just excepted.

18 MR. PRESTES: Object to the form.

19 A. Yeah, I don't recall any documents with
20 your exclusions applying that weren't kept in the
21 normal course of business, the emails, To and From
22 recipients of Monsanto employees seem to be kept --
23 is your phrase the normal course of business?

24 Q. Regular course of business.

25 A. Regular course of business, yes.

1 Q. And there were PowerPoints that were
2 presented at meetings during your regular course of
3 business, some of them?

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 --

15 A. Third parties.

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.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

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14 MR. KRISTAL: All right. At counsel's
15 request, we'll go off the video record and take a
16 few minutes break.

17 VIDEO SPECIALIST: The time is 10:22, and
18 we're going off the record.

19 (Proceedings recessed)

20 VIDEO SPECIALIST: The time is 10:34
21 a.m., and we are back on the record.

22 (Exhibit 7 marked for
23 identification: Email
24 correspondence from (topmost) J
25 Christiansen to M Helms sent

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12 Q. Okay. We'll switch topics now because I
13 think the cash cow is dead and I don't want to beat
14 a dead cow.

15 A. All right.

16 Q. That's the extent of my farm puns today.
17 You're familiar with the term "stewardship"
18 from your work at Monsanto?

19 A. It's a term I've heard before in a lot of
20 different contexts, yes.

21 Q. Well, in the context of selling a
22 pesticide, you're familiar with the term
23 stewardship?

24 A. Yes. It's context-dependent. Even in
25 talking about it around pesticides, there's a lot

1 of different ways it gets used, but I've heard the
2 term many times.

3 Q. Have you ever been on the Monsanto
4 website to look at what they say about stewardship?

5 A. No.

6 Q. There is a Monsanto website, correct?

7 A. Yes.

8 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.

15 Q. You were aware that was happening, right?

16 A. I was aware that there was a team working
17 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
20 website recently?

21 A. No.

22 Q. This is a document from the Monsanto
23 website. I printed it out January 7th, 2019. It's
24 the page on the website entitled "Product
25 Stewardship and The Pledge." And I've attached the

1 International Code of Conduct on Pesticide
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 Q. Now in the Monsanto statement under
8 "Product Stewardship and The Pledge," Monsanto
9 states, in part, that it has high stewardship
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
15 International Code of Conduct on Pesticide
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?

20 MR. PRESTES: Objection, form.

21 Q. It's a crop-protection product.

22 MR. PRESTES: Objection, form,
23 foundation.

24 A. Yes, glyphosate and Roundup are
25 crop-protection products, among others.

1 Q. And if you turn to the next page, the
2 International Code of Conduct on Pesticide
3 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
10 the International Code of Conduct cover page? Do
11 you see that to the left of where it has Arabic,
12 Chinese, English, French?

13 A. So I see what you're referencing there
14 with the little icons, yes.

15 Q. Right. And if you turn two more pages
16 you come to that actual document.

17 MR. PRESTES: You're not asking him
18 whether that's true; you're just telling him that?

19 MR. KRISTAL: I'm representing as an
20 officer of the court -- and we went through this in
21 one of the depositions recently. We can go through
22 the exercise of going through the link, if we want.

23 Q. But this document was attached, linked,
24 to the website, if you followed the path.

25 A. Okay. I'll keep following you, if you're

1 saying you're representing that this is the actual
2 document.

3 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.

12 Q. And this is written by the World Health
13 Organization, the Food and Agricultural
14 Organization of the United Nations. Who was
15 responsible at Monsanto for product stewardship?

16 A. The majority of that, I think, is done by
17 our regulatory team.

18 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.

23 Q. All right. In the second paragraph
24 Ms. Chan writes:

25 "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
4 agriculture while protecting human
5 and animal health and the
6 environment from their harmful
7 effects."

8 Do you see that?

9 MR. PRESTES: Object, form, foundation.
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
2 do that. Not VI, number 6.

3 A. Okay.

4 Q. Upper right-hand corner there's a
5 definition of product stewardship, correct?

6 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?

12 MR. PRESTES: Objection, form,
13 foundation.

14 A. Yeah, I -- I see that that's the
15 definition they have provided here, yes.

16 Q. Is that more in line with your general
17 understanding of what product stewardship means in
18 the crop protection product area?

19 A. Yeah, I was more familiar with product
20 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
24 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
3 subscribes:

4 "We subscribe to international
5 stewardship standards, including
6 the International Code of Conduct
7 on pesticide management issued by
8 the United Nations food and
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
24 product stewardship definition, I'd like to look at
25 the definition of product (or pesticide product).

1 A. Can you remind me the page?

2 Q. Page 6.

3 A. Thank you. Yes, I see the definition.

4 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
10 then I'll ask you about that. Okay?

11 A. Sure.

12 Q. "Product (or pesticide product) means the
13 formulated product (pesticide active ingredients
14 and/or co-formulants) in the form in which it is
15 packaged and sold." Do you see that?

16 MR. PRESTES: Objection, foundation.

17 A. I see the words. Yes, you read that.

18 Q. And that's consistent with your
19 understanding of the difference between an active
20 ingredient and an actual product.

21 MR. PRESTES: Objection, foundation.

22 A. You know, I'm not a specialist in that,
23 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 Q. Okay. And the definition here of
8 pesticide product means the actual -- in the case
9 of Roundup -- it means the Roundup in the container
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
16 entitled "Testing of Pesticides." And 4.1, and I'm
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

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
21 "pesticide product."

22 Q. And "testing"?

23 A. Each pesticide and pesticide product is
24 adequately and effectively tested by recognized
25 procedures... It's what you've read, but, yes, it

1 calls out both of those things in the intro clause
2 of that -- of that section.

3 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
11 that you had never seen before?

12 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
16 that you reviewed in your preparation for the
17 deposition because you had never seen it before?

18 MR. PRESTES: Objection, asked and
19 answered.

20 A. I didn't always understand the context or
21 what was intended by the documents that I reviewed,
22 but I didn't disregard them just because I hadn't
23 seen them before.

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9 MR. KRISTAL: I'm going to mark as
10 Exhibit 10, this is a September 21st, 2009 email
11 from Donna Farmer to John, is it pronounced
12 Combest?

13 (Exhibit 10 marked for
14 identification: Email
15 correspondence from (topmost) D
16 Farmer to J Combest sent 9/21/2009
17 re Roundup article in Fremantle
18 Herald MONGLY01192115)

19 A. I don't know who that is. I'll have to
20 look at it.

21 MR. PRESTES: Hey, Jerry, just a quick
22 housekeeping question. I know you marked the
23 30(b)(6) notice as well as the other notice. I
24 assume, so far we're on the personal capacity piece
25 of this, but let me know how you want to --

1 I don't want -- I don't want to make your
2 life impossible by on every question raising the
3 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
10 or not it comes in as stated binding Monsanto or a
11 personal statement as a fact witness, right?

12 So the questions are what they are. When we
13 designate it, if you want to object one way and the
14 judge will instruct this is not a binding
15 statement, that is a binding statement, that's
16 fine, but I'm not going to be parsing out exactly
17 which questions fall into which category.

18 MR. PRESTES: Okay. Then I --

19 MR. KRISTAL: Because I think there's a
20 tremendous overlap and it would be impossible to do
21 that. But I understand what you're saying. We'll
22 move forward.

23 Q. The Bates number --

24 MR. PARISER: So to be clear, we have a
25 standing objection based on scope?

1 MR. KRISTAL: Yeah. And you would have
2 that objection, I think, anyway when I designate
3 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 --
13 when you get these emails -- you've seen this one
14 before, right?

15 A. This looks familiar to me, although I can
16 never quite tell if it's exactly this email or some
17 forwarded version of it or something else, but...
18 I've seen this sort of Q&A on these questions.

19 Q. Okay.

20 MR. PRESTES: And just for -- you said
21 when he gets these emails, are you suggesting he's
22 on this email?

23 A. Yeah. When I see these emails, yes.
24 I've never received the email that --

25 Q. I understand that.

1 A. -- but I reviewed the email, yes.

2 Q. When you review these emails, you start
3 at the end because that is generally the earlier
4 email, and then you come forward to see what is
5 being said in the conversation, so to speak?

6 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,
10 which is a newspaper in Australia, involving
11 glyphosate, and there were questions about what
12 could or couldn't be said in response to the
13 article. Is that a fair characterization?

14 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
18 that answer or question in mind, so maybe just let
19 me go through it real quick and see what was
20 the ...

21 Q. If you start on the very last page, which
22 is the first email --

23 A. Yeah, that's what I was doing.

24 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.

8 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
12 be an appropriate response to an article that
13 appeared in a newspaper in Australia, is that fair
14 to say, involving Roundup?

15 MR. PRESTES: Objection, foundation.

16 A. So there's the start of the -- the start
17 of the email chain involves a bunch of people I
18 don't know that I do see some Australian addresses
19 here.

20 Q. Monsanto --

21 A. Monsanto Australia, so I'm going to
22 assume -- I just don't know any of these people,
23 and I haven't ever met them or talked to them.

24 And then it looks like they had an article
25 down there that they felt had some inaccuracies,

1 and like many times it goes back to our science
2 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
11 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.

15 Q. Do you know who Ms. Person is?

16 A. No.

17 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.

21 Q. And then Donna Farmer's first response
22 is, "did you find the link? This is to their Q&A,
23 and I can tell you they have a number of things
24 that are not acceptable." Do you see that?

25 MR. PRESTES: Objection, foundation.

1 A. Yeah, I see the words there, yes.

2 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
12 not on and doesn't know about.

13 Q. Well, when you read this email before, or
14 some similar version of it, you had no problem
15 understanding what was being said, did you?

16 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.

20 Q. Well, that is an Australian site, the
21 link she sent, right?

22 A. Yeah. She says the Australian site, and
23 I don't know if she's talking about the news
24 article or that link, but we can assume that she's
25 gone to an Australian site.

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18 MR. KRISTAL: Marking as Exhibit 12 an
19 email chain with Donna Farmer from November 24th,
20 2003.

21 (Exhibit 12 marked for
22 identification: Email
23 correspondence from (topmost) D
24 Farmer to S Natarajan sent
25 11/24/2003 re Agitation against

1 Roundup MONGLY00922458)

2 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
7 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.

14 Q. And you understood what they were saying
15 in context?

16 A. No, I don't always have the context, but
17 I reviewed them.

18 Q. And you reviewed them to be able to, in
19 part, testify here today in front of this jury?

20 MR. PRESTES: Don't answer. We're not
21 going to get into why he was reviewing some
22 documents and why he was reviewing others. We
23 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.

2 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
6 of documents in preparation for this deposition?

7 A. No.

8 Q. 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?

12 MR. PRESTES: Objection, foundation.

13 A. I see that.

14 Q. Do you know any of the people listed
15 here?

16 MR. PRESTES: You're talking about on the
17 first page, Jerry?

18 MR. KRISTAL: First page, Saturday,
19 November 22nd, 2003 at 4:46 a.m.

20 A. I know Sekhar, the recipient of the email
21 from Donna. I think he was the head of our India
22 business at that time.

23 Q. And his name is Sekhar, S-E-K-H-A-R?

24 A. I think that's how you say it.

25 Q. Natarajan, N-A-T-A-R-A-J-A-N.

1 A. Yeah, I think that's right. And then
2 Alan Smith I've met before too. He's a former
3 employee.

4 Q. And what was his function?

5 A. I think he was actually involved in the
6 crop protection business on the commercial side.

7 Q. Donna Farmer writes:

8 "Your Q&A was forwarded to Kathy
9 Carr and me for review (see
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,
21 let him know if he read it right.

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?

2 MR. PRESTES: Objection, foundation.

3 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?

11 MR. PRESTES: Objection, foundation, and
12 you said it was from 2004 and it's not.

13 MR. KRISTAL: Right, 2003.

14 A. I see. I see the sentence, yes.

15 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.

21 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
24 testing on the formulation to make that statement."
25 Do you see that?

1 MR. PRESTES: Objection, foundation.

2 A. Yeah, I see the words there.

3 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
10 in the course of litigation, and I don't know if
11 it's specifically referencing this email or some
12 other email.

13 Q. Okay. So what you're saying is, if you
14 look at Exhibit 9, if you want to refresh, to your
15 left --

16 A. Sure.

17 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
20 the release of some of the documents that were
21 unsealed by the federal judge, right?

22 A. Yes.

23 Q. So if I understood your last answer,
24 you're saying that story was either referencing
25 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.

13 Q. And we've seen, if not identically those
14 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.

19 A. Yes, I think the only point I'm making is
20 I don't know what emails this reporter specifically
21 was referring to when they wrote that story.

22 Q. Right, that was my point. So it may be
23 the two emails that I just mentioned, 2003 and
24 2009, which contain the statement, we cannot say
25 Roundup does not cause cancer, or some other

1 emails, or some other document.

2 A. Yeah, I guess 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.

13 Q. Okay. And what Donna Farmer said is that
14 Monsanto hadn't done the testing on the formulated
15 product, which is why you cannot say Roundup does
16 not cause cancer.

17 MR. PRESTES: Objection, foundation.

18 Q. Right?

19 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.

22 Q. But that's what she said, if you look at
23 Exhibit 12 --

24 MR. PRESTES: Objection, foundation.

25 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
3 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.

13 Q. Like truthful?

14 MR. PRESTES: Objection, foundation,
15 argumentative.

16 A. No.

17 Q. Why does Donna Farmer say in the 2003
18 email Monsanto cannot say Roundup doesn't cause
19 cancer?

20 MR. PRESTES: Objection, foundation, and
21 the witness is not a document genie.

22 Q. Well, it's the sentence she wrote, right?

23 A. Yeah, I --

24 MR. PRESTES: Objection, same objection.

25 Q. Does Donna Farmer say we have not done

1 the necessary testing on the formulated product in
2 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
10 important here, because in one of the emails she's
11 talking about complying with regulatory
12 requirements.

13 Q. She's not saying --

14 MR. PRESTES: Let him -- are you done?
15 One second. Don't cut him off.

16 A. I wasn't quite done.

17 It's just, they don't want to say something
18 that would run afoul of the French regulatory
19 requirements and she is advising the team based on
20 her experience here.

21 Q. That was the 2007 email, correct?

22 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.

25 Q. Why does Donna Farmer say in the 2003

1 email that Monsanto cannot say Roundup does not
2 cause cancer?

3 MR. PRESTES: Objection, foundation,
4 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 --

13 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
17 one that could give you the answer as to what she
18 really meant or why she said what she said.

19 Q. What did she say in the 2003 email? What
20 follows the sentence, we cannot say that Roundup is
21 not a carcinogen?

22 MR. PRESTES: Objection, foundation. Are
23 you just asking him to read it?

24 MR. KRISTAL: Yeah.

25 Q. Yeah, it's pretty plain English, isn't

1 it?

2 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 --

8 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.

13 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
16 about complying with what the regulatory
17 authorities allow when it comes to making
18 statements about products. I just don't have
19 any way to rule that out.

20 Q. So what you're saying is the regulatory
21 authorities don't want you to make a statement if
22 you haven't tested whether the statement is true or
23 not?

24 A. There are a lot of regulations that
25 govern what you say about your products, and I'm

1 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.

4 Q. Okay. But the words say what they say,
5 fair to say?

6 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?

10 MR. PRESTES: Objection, foundation.

11 A. I think there's a lot of context missing
12 from her email, yes.

13 Q. Does the email itself talk about
14 regulations?

15 MR. PRESTES: Same objection.

16 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
21 or not it can cause cancer?

22 A. I actually don't know what studies we've
23 done specifically.

24 Q. Would you expect Monsanto to have done
25 that?

1 A. I would expect we would have complied
2 with everything that is required to get a product
3 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 --

10 Q. Go back to Exhibit 8.

11 A. Sure.

12 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.

15 Q. It's page 11, Arabic numbers.

16 The International Code by which Monsanto
17 says it subscribes says that you need to test both
18 the active ingredient and the product itself for
19 hazards and risks, correct?

20 MR. PRESTES: Objection, form,
21 foundation, assumes facts.

22 A. We've read this clause before, so, yes,
23 the clause talks about products and -- pesticide
24 products and pesticides as two different things.

25 Q. Okay. So if -- and I'm not saying you

1 know or don't know -- but if Monsanto has never
2 tested the formulated product Roundup to see
3 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.

13 A. I don't know --

14 Q. I'm asking you to assume that Monsanto
15 has never tested Roundup, the formulated product
16 that people buy, to see if it causes cancer.
17 That's the assumption I'm asking you to make. If
18 that assumption is incorrect, then my question is
19 ridiculous.

20 If that assumption is true, then Monsanto
21 has failed to test the pesticide product which
22 would be required under this international code,
23 correct?

24 MR. PRESTES: Same laundry list of
25 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
6 it to Roundup and glyphosate, correct?

7 MR. PRESTES: Objection, foundation.

8 A. Yeah, I would think about Roundup and
9 glyphosate separately in that context, yes.

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
4 to the various anticipated users
5 and conditions in regions or
6 countries of use."

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 Q. 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?

19 MR. PRESTES: Objection, form, foundation
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
24 there's all sorts of other data and a body of work
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
3 didn't get done or should be done.

4 What I know is, when I talk with our
5 scientists, that they say we fully evaluated the
6 products and stand behind the safety of our
7 products.

8 Q. And move to strike that as nonresponsive.

9 Does this require testing on both the active
10 ingredient and the formulated product? Is that
11 your understanding of it?

12 MR. PRESTES: Objection, form,
13 foundation.

14 A. I just read the words.

15 Q. Yes.

16 A. Okay.

17 Q. I'm asking you what the words mean to
18 you.

19 MR. PRESTES: Same objections.

20 A. So the words say that each pesticide and
21 pesticide product in this -- the international
22 standard -- are adequately and effectively tested
23 by recognized procedures and test methods.

24 Q. And one of the things to test for, this
25 says, for the pesticide and pesticide product is

1 hazard and risk, correct?

2 MR. PRESTES: Objection, foundation.

3 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
10 things to fully evaluate is hazard and risk, right?

11 MR. PRESTES: Same objection.

12 A. Yeah, again, I'm just not -- I don't know
13 how to interpret all of this, so ...

14 Q. Did you think sitting here that Monsanto
15 did test Roundup itself for whether or not it
16 causes cancer?

17 A. I actually don't know what tests were
18 done on active ingredient or Roundup.

19 Q. I'm not asking you what tests were done
20 or not done. I'm asking you --

21 MR. PRESTES: Don't cut the witness off.

22 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.

3 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.

8 Q. I'm asking you if you assumed that
9 Monsanto had actually tested Roundup to see whether
10 it causes cancer, the formulated product.

11 A. I just don't know.

12 Q. Do you think it would be nice to do that?

13 MR. PRESTES: Objection, form.

14 A. I think that there's a full body of work
15 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
20 does or doesn't go in. I'm asking you as a
21 Monsanto employee, a former Monsanto employee, you
22 didn't have any understanding one way or the other
23 as to whether Monsanto had actually tested Roundup
24 to see if it causes cancer?

25 MR. PRESTES: Objection, asked and

1 answered --

2 A. Yeah, my --

3 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
6 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
11 asking about your own personal belief coming into
12 this deposition, but we'll move on.

13 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?

16 A. Probably sometime in 2016.

17 Q. You had never heard of IARC before then?

18 A. No. I may have incidentally been exposed
19 to it somewhere, but it never had come up for me in
20 the past.

21 Q. And yet were you -- strike that.

22 Did you consider yourself the point person,
23 with respect to media and legislation and funding
24 for IARC, to be the point person at Monsanto to
25 attack IARC's finding that glyphosate was probably

1 cancer causing?

2 A. I'm not sure we had anyone whose primary
3 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
11 determination that glyphosate could cause cancer?
12 Is that what you're telling us?

13 MR. PRESTES: Objection, form, and
14 mischaracterizes the witness's testimony.

15 A. Yeah, I think you misstated what I said.
16 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.

20 Q. You don't think that was an attack on
21 IARC?

22 A. No. Actually from our perspective I
23 think we were trying to -- the groups I was
24 involved with we weren't trying to attack IARC.

25 Q. Well, do you under -- strike that.

1 Do you believe IARC is an authoritative
2 agency?

3 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 ...

11 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.

14 A. Yeah, I'm not sure that's what IARC does,
15 yeah.

16 Q. Okay. What's your understanding, as you
17 sit here, having been involved in Monsanto's
18 challenge to IARC, as to what IARC does?

19 A. They seem to be reviewing lists of
20 chemicals and looking at other people's work on
21 those things to see what a, you know, what
22 potential hazards might exist in the environment.

23 Q. Okay. That's not a bad thing, is it?

24 A. No. It just wasn't what you described
25 that IARC does when you asked me the question.

1 Your question framed it differently.

2 Q. Well, one of the things that IARC does is
3 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
10 meat can be potentially a hazard.

11 Q. Have you ever read -- strike that.

12 You're aware that when IARC reviews the
13 science on a substance they're looking into, they
14 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
18 their collection of the documents. They say in
19 their charter they look at all of the public
20 literature that's out there, but I'm not sure that
21 it's always comprehensive. I just don't know.

22 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
25 determinations are? You're familiar with that,

1 right?

2 A. Yes, I'm familiar with the monographs.

3 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
11 it. So we have other scientists that I rely on to
12 explain what it means and ...

13 Q. You've looked at the red meat monograph?

14 A. Yeah, I've looked at --

15 Q. What other monographs have you looked at?

16 A. One on wine, one on coffee, the 112
17 Monograph. There's been some other chemicals. I
18 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
21 doing and what the issues were.

22 Q. Okay. And when did you do that?

23 A. Just over the course of, I guess it would
24 have been the second half of 2016 or early 2017, in
25 that time frame.

1 Q. In terms of your job responsibilities or
2 on your own? Why would you be looking at that?

3 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
6 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.

13 Q. And there were very few, a small percent,
14 that they actually said these are carcinogens,
15 correct, as opposed to probably or possibly, right?

16 A. Yeah, I don't know the percentages there.
17 We could go and probably pull that out, if we
18 looked, but ...

19 Q. You don't know sitting here whether red
20 meat was considered a possible carcinogen, right,
21 as opposed to a probable or definite carcinogen?

22 A. I don't recall off the top of my head
23 right now.

24 Q. Same thing with coffee, right?

25 A. Yeah, I think they actually changed their

1 minds on coffee, if I recall, or maybe that was
2 wine, but one of them changed, yeah.

3 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
10 insufficient evidence, and there were many
11 compounds they reviewed that were in that category.

12 Q. Most of the compounds that were reviewed,
13 about half of them anyway, were in the category of
14 there's just not enough scientific information to
15 make a conclusion, correct?

16 A. I don't remember the number, but if you
17 say it's half, I mean, I'm sure you've looked.

18 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
23 identification: "International
24 Agency for Research on Cancer IARC
25 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 Q. 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."

3 That's how it starts off as background,
4 correct?

5 MR. PRESTES: You're just asking him if
6 you read that correctly?

7 MR. KRISTAL: No. I'm asking him if
8 that's his understanding.

9 A. Yeah, the understanding I had from Bill
10 was back in the '60s, I think, people were wanting
11 to understand what hazards were out there in the
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 A. Yeah. I think at that time especially
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
25 cancer?

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,
8 IARC seeks to identify the causes
9 of human cancer. This is the first
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?

3 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.

8 Q. Okay. And when you say you don't know if
9 IARC is doing a good job of it, you're not
10 qualified to weigh in on whether IARC is or isn't
11 doing a good job on it, correct?

12 A. That's what I'm saying, is I'm not really
13 scientifically trained to evaluate that piece of
14 the equation.

15 Q. And IARC is a -- falls under the auspices
16 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
20 also seen that they're not -- I don't know.
21 There's just some confusion in my mind about what
22 they really are in the World Health Organization
23 and how all the pieces fit together.

24 Q. Well --

25 A. Because it used to be a separate

1 organization, and then at some point they
2 associated themselves with the World Health
3 Organization, but ...

4 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?

8 A. Yeah, I may be mistaken, but my
9 understanding is they're somehow associated with
10 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.

14 Q. Well, if you look at the cover of the
15 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 --

19 Q. What are the words?

20 A. World Health Organization, International
21 Agency for Research on Cancer.

22 Q. And is that the symbol for the United
23 Nations with the medical symbol in front of it?

24 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
3 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.

13 "Agents are selected for review on the basis
14 of two main criteria: (a), there is evidence of
15 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?

19 A. I don't know. That's what they're
20 aspiring to, but I don't know that that is in fact
21 how they do it or what they do.

22 Q. Well, you were involved with challenging
23 IARC's determination on behalf of Monsanto when it
24 found that glyphosate was a probable carcinogen,
25 were you not?

1 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.

10 MR. PRESTES: Let him -- let him finish
11 his answers.

12 A. Yeah, I don't -- I can't speak on behalf
13 of Monsanto on that topic, so ...

14 Q. Have you ever read statements by the
15 folks at IARC as to what Monsanto was doing to them
16 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?

20 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 ...

2 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?

10 MR. PRESTES: Object to the form, and it
11 assumes facts.

12 A. It sounds familiar to me. I remember
13 something where there was a publication defending
14 IARC, but I don't recall what they were responding
15 to or what you're calling the attacks. I just
16 don't remember.

17 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
20 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
23 read this whole document here, but I think in their
24 charter they lay out a process that they intend to
25 follow.

1 MR. KRISTAL: Okay. Why don't we take a
2 break.

3 VIDEO SPECIALIST: The time is 12:04 p.m.
4 We're going off the record.

5 (Proceedings recessed)

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1 AFTERNOON SESSION

2 VIDEO SPECIALIST: The time is 12:51
3 p.m., and we are back on the record.

4 BY MR. KRISTAL:

5 Q. Mr. Rands, hope you had a nice lunch.

6 A. Yes. Thank you.

7 Q. I'm going to hand you what I printed out
8 from IARC's website on February 6, 2019 what's
9 called their Mission Statement.

10 (Exhibit 14 marked for
11 identification: IARC's Mission:
12 Cancer research for cancer
13 prevention)

14 Q. I'll hand that to you and counsel.

15 A. Thank you.

16 Q. And the time that you were involved with
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
24 mission: Cancer research for cancer prevention.
25 The International Agency for Research on Cancer

1 (IARC) is the specialized cancer agency of the
2 World Health Organization."

3 Does that answer the question as to whether
4 it's part of the World Health Organization?

5 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
11 original charter.

12 Q. I'm not asking you that question.

13 A. I'm sorry. I didn't understand the
14 question, then.

15 Q. At the time IARC was reviewing the
16 science regarding the carcinogenicity of
17 glyphosate, they were part of the World Health
18 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
22 just was making the point I don't know what their
23 actual structure is with respect to the World
24 Health Organization.

25 Q. So you think they're lying?

1 A. No, I think that's what they say about
2 themselves.

3 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
11 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?

16 A. I've never really looked hard at their
17 broader objectives, because the IARC, I recall, on
18 their website they had a long list of projects and
19 other science they were doing on various topics
20 that didn't relate to the Monograph program. So
21 that is one of their objectives, to have a
22 scientific endeavor.

23 Q. "The agency is interdisciplinary
24 bringing together skills in
25 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."

6 Was that your understanding of what IARC was
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,
23 the IARC Mission Statement under Causes and
24 Prevention of Cancer, in the middle of the
25 paragraph, "the IARC Monograph's program is a core

1 element of the agency's portfolio of activities,
2 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?

6 A. Yes, that's what they say about
7 themselves.

8 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
12 of carcinogenicity of specific exposures, I don't
13 know what they mean by that, if it's -- if they're
14 saying they do hazard assessments and they're just
15 looking for things that potentially could cause
16 cancer, that's my understanding of what IARC does.

17 Q. And they determined that exposure to
18 glyphosate could cause cancer in humans, right?

19 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
23 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.

6 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.

12 Q. Okay. I'm asking you if that's what they
13 found, that glyphosate, after they reviewed the
14 evidence that they reviewed and they wrote a very
15 thick Monograph, number 112, their conclusion was
16 glyphosate probably causes cancer, right?

17 A. They classified it as, was it 2A?

18 Q. Right.

19 A. Yeah.

20 Q. Which is what, probably carcinogenic,
21 correct?

22 A. Yeah, I think that's the conclusion that
23 they reached.

24 Q. And the term "probably carcinogenic"
25 means probably causes cancer, right?

1 MR. PRESTES: Object to the form.

2 A. Yeah, I would just go with what their
3 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
11 those are the same thing or different things, I'm
12 not sure.

13 Q. That's what I'm asking you.

14 A. Oh, yeah, seems like a good --

15 Q. Do you believe or not know -- are you
16 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.

22 Q. What do you mean by "technically"?

23 A. Scientifically, something that's
24 carcinogenic, and then cancer is the clinical
25 manifestation of the disease. I just don't know if

1 there's something that's different between those
2 two things.

3 Q. Okay. What is your understanding, as you
4 sit here today, what is your understanding of the
5 word "carcinogenic"?

6 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
11 causes cancer or it is the cancer or it's something
12 that could lead to cancer.

13 Q. Okay. Did you read whether it was in the
14 Monograph 112 itself put out by IARC or somewhere
15 else a statement that IARC found that glyphosate
16 was probably carcinogenic? Have you read that
17 somewhere?

18 A. Yeah, the 2A classification and how they
19 described it, that sounds --

20 Q. You didn't bother to look it up to see
21 what they were talking about?

22 A. In what context do you mean?

23 Q. Well, you seem to not be able to have an
24 understanding of what carcinogenic means, and you
25 were dealing with the word carcinogenic for a while

1 while you were challenging IARC, right?

2 A. Yeah, I don't believe glyphosate is a
3 carcinogen, that's right.

4 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?

13 A. No, I don't know who he is.

14 Q. You never heard that Thomas Sorahan was
15 the pesticide industry's representative at the
16 working group meetings of IARC when they were
17 considering whether or not glyphosate was
18 carcinogenic?

19 MR. PRESTES: Objection, asked and
20 answered. He said he doesn't know who he is.

21 A. Yeah, I didn't know who he was, yeah.

22 (Exhibit 15 marked for
23 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
6 Farmer, Christian Strupp with two Ps, Jensen Mette,
7 M-E-T-T-E, and William Heydens, and the Bates
8 number is MONGLY00977035.

9 Have you seen this email before?

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
15 he never sent or received. Go ahead.

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.

24 Q. Okay. And here Dr. Sorahan is -- strike
25 that.

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
9 observer (Jess Roland) was in the
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
24 not, because this was before the actual release of
25 the classification by IARC, whether or not the

1 information about IARC's finding was public or not
2 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.

6 A. Yeah, I'll just take a minute and read
7 it. See if I can answer your question.

8 Q. Well, let me move it along. I withdraw
9 the question.

10 A. Okay.

11 Q. Mr. Sorahan writes to Donna Farmer.

12 "I understand your concerns about
13 early release of information. We
14 can discuss the issues you raise in
15 more detail on Monday, but here are
16 some immediate responses.

17 I do know of instances where
18 observers at IARC felt they had
19 been treated rudely or brusquely at
20 monograph meetings. That was not
21 the case for me in volume 112. I
22 found the chair, sub-chairs, and
23 invited experts to be very friendly
24 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
6 sheet."

7 Do you see that?

8 A. Yes.

9 Q. Okay. So is this the first time you're
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
24 meaning by what he was saying, but --

25 Q. He says, I found the chair, sub-chairs

1 and invited experts to be very friendly and
2 prepared to respond to all comments I made, you
3 don't have any idea what that means?

4 MR. PRESTES: Objection, foundation and
5 mischaracterizes the witness's testimony.

6 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,
11 "in my opinion the meeting followed the IARC
12 guidelines." Do you see that?

13 A. Yes, I see.

14 Q. Do you have any evidence that that is not
15 a correct statement?

16 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
22 insists these are followed." Any evidence to say
23 that's not so?

24 MR. PRESTES: Same objection.

25 A. I don't have any context for what went on

1 at the meeting and if they followed the rules.

2 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?

5 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
10 industry, he was representing the industry at that
11 meeting, right?

12 MR. PRESTES: Objection, foundation.

13 A. Yeah, I don't know that actually. I
14 don't know how they select an observer and what he
15 actually represents.

16 Q. Okay. But you have nothing, as you sit
17 here today, to challenge either the fact that IARC
18 followed its guidelines and that all rules were
19 followed.

20 MR. PRESTES: Objection, foundation, and
21 assumes facts not in evidence.

22 A. Yeah, again, I don't have any context for
23 what they did, if they were doing things in public,
24 if they were doing things in private meetings,
25 where did they allow participants, and if -- if

1 there was anyone there that could actually say they
2 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 guidelines
7 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.

13 MR. PRESTES: You're assuming that IARC
14 made a determination that glyphosate was
15 carcinogenic and that's an incorrect statement of
16 IARC's determination.

17 MR. KRISTAL: Okay.

18 Q. Did you challenge IARC's determination
19 that glyphosate was probably carcinogenic --

20 A. Did I challenge that?

21 Q. -- in that somehow they violated during
22 that process of making that determination their own
23 rules or guidelines?

24 A. We disagreed with that conclusion, and
25 some of our scientific teams, who may be some of

1 the people on this email, I just don't recall,
2 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.

11 So I think, to answer your question, there
12 were some instances where Monsanto or people that I
13 knew at Monsanto took issue with the IARC process,
14 yes.

15 Q. Well, you know that the IARC preamble --
16 and we can go back -- says that they review only
17 published studies, correct?

18 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
21 unpublished study, the ag study, if they had done
22 that, that would actually be a violation of their
23 rules, right?

24 A. Yeah, the issue, I think, Monsanto or the
25 people that I talked to in the regulatory team at

1 Monsanto were worried about was that that study was
2 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
10 said and didn't reveal that to his colleagues
11 during the process. That was the -- that was the
12 gist of our concern, I think.

13 Q. The rules that IARC is bound by is you
14 only look at published studies, correct? That's
15 what they say.

16 A. By their preamble, that's what they say,
17 yes.

18 Q. And one of the criticisms that was lodged
19 by Monsanto was they violated their own rules by
20 not considering a unpublished study, right?

21 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
25 available so that it can be considered in that type

1 of process.

2 Q. You understand the -- do you understand
3 how a scientific or medical article goes through
4 the peer-review process to get published?

5 A. Generally, yes.

6 Q. Okay. So the requirement that something
7 be published means they want to look at something
8 that's passed peer review, review by experts in the
9 field, correct?

10 A. Yeah, generally, published literature
11 would go through a peer-review process. That's
12 what IARC is looking at.

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█ [REDACTED]

█ [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

15 Q. Have you ever heard that Exponent is in
16 the business of manufacturing doubt on behalf of
17 product manufacturers with respect to hazards of
18 their products?

19 A. No.

20 Q. Never heard that?

21 A. I don't know who they are at all.

22 Q. You do know that Monsanto at times would
23 hire groups to publish articles so they could use
24 them in defense of lawsuits, correct?

25 MR. PRESTES: Objection, misstates the

1 facts.

2 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.

6 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
10 Monsanto in court need something to say in defense,
11 right? So if there's an article published for the
12 purpose of providing a defense, you're unaware that
13 Monsanto has done that before?

14 MR. PRESTES: Objection, foundation, and
15 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.

20 Q. Do you know who David Saltmiras is, Dr.
21 Saltmiras?

22 A. No.

23 Q. Never heard of the name?

24 A. I may have come across it in some
25 documents we were reviewing, but I've never met him

1 or know what he does.

2 Q. Okay.

3 MR. KRISTAL: Let me go off the record
4 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
11 identification: PowerPoint | JGTF
12 Administrative Committee Toxicology
13 TWG Update | David Saltmiras)

14 BY MR. KRISTAL:

15 Q. I've marked as Exhibit 17 a PowerPoint
16 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,"
19 and the Bates number is not on the document, but
20 the Bates number is MONGLY01536271.

21 Have you seen this PowerPoint before from
22 Dr. Saltmiras?

23 A. I don't recall this PowerPoint, having
24 seen it before.

25 Q. Are you familiar or have you seen the

1 term "joint glyphosate task force," the JGTF?

2 A. If it's the same thing as the glyphosate
3 task force, I've seen that terminology before.

4 Q. Okay. And TWG, do you know that to be
5 the Toxicology Working Group?

6 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.

11 Q. Okay. And this PowerPoint, if you turn
12 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
15 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.

20 Q. It says, "Tox TWG Recommendations EDSP"
21 on top, correct?

22 A. Okay.

23 MR. PRESTES: Before you answer, I object
24 to the exhibit and to the questions on it on the
25 grounds that the questions lack foundation. The

1 witness has testified he hasn't seen the document
2 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.

13 Q. And under that it has three bullet
14 points, correct?

15 A. Two bullets and then a sub-bullet, yes.

16 Q. Okay. The first bullet point is,
17 "Exponent proposal." Do you see that?

18 A. Yes.

19 Q. And we were talking about Exponent before
20 we took the short break, correct?

21 A. And I said I don't know what it is.

22 Q. Okay. But you know it's a consulting
23 company, is it not, that Monsanto has used before,
24 even though you don't know details?

25 A. I think in reading all of the transcripts

1 of other people's depositions I generally
2 understand it was some kind of company we hired to
3 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.

8 Q. And under that it says, "highly valuable
9 for product defense." Do you see that?

10 A. I do.

11 Q. Is that the first time that you're seeing
12 that Monsanto was valuing published literature
13 submitted for publication by consulting groups that
14 it hires as highly valuable for product defense?

15 MR. PRESTES: Objection, form,
16 foundation, misstates facts.

17 A. Yeah, I have no idea if that's what
18 that's talking about. I really don't know.

19 Q. Well, what does product -- what else
20 could it mean?

21 A. Well --

22 MR. PRESTES: Objection, same set of
23 objections, principally foundation.

24 A. You're using product defense in the
25 courtroom setting. I'm not sure that that's what

1 this is talking about at all.

2 Q. Okay. So it's talking about -- it either
3 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
11 defense here meant something with, you know,
12 responding to something with regulatory agencies.

13 Q. So they are having an outside group
14 publish something so they can use it as a highly
15 valuable way of defending the product in the
16 regulatory context.

17 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
22 talking about as a peer-reviewed publication. I'm
23 just not going to be very helpful there in that
24 regard.

25 Q. Okay. The words say what they say,

1 correct?

2 A. Yes.

3 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,
13 "use that meaning, then publish for future
14 defense." Do you see that?

15 A. I do.

16 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?

20 MR. PRESTES: Objection, foundation,
21 assumes facts.

22 A. Yeah, it's -- no, it's not an area that
23 I'm familiar with. I don't know what we were doing
24 with Exponent and what their project was there.

25 Q. Okay. I want to try to get us on the

1 same page with the definition of some common words
2 before I go into those words.

3 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
6 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
11 identification: Oxford Dictionary |
12 Orchestrate)

13 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
16 "orchestrate." Do you see that?

17 A. Okay.

18 Q. Have you heard of the word orchestrate
19 before?

20 A. Yes.

21 Q. I'm not talking -- it has two definitions
22 here, right? It has a 1 and 2.

23 A. Yeah, I see it.

24 Q. Okay. I'm not talking about 1, which
25 says, "arrange or score (music) for orchestral

1 performance." I'm not talking about that. I'm
2 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
6 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
10 without word for word your understanding of how the
11 word orchestrate is used?

12 A. I think actually, if we looked deeper,
13 we'll see lots of different meanings for the word
14 orchestrate depending on where you go for the
15 meaning, but I'll agree with you that that is a
16 definition of the word orchestrate.

17 Q. Right.

18 A. And it will be context dependent, but I
19 get -- I see that definition.

20 Q. Are there any other definitions of
21 orchestrate?

22 A. I would have to go pull out another
23 dictionary, and I'm sure if we go look we'll find
24 other meanings and other variations of meaning, so
25 I'm not going to --

1 Q. Well, tell me what your understanding of
2 the word orchestrate is.

3 A. It depends on the context.

4 Q. Okay. Not in the context of musical
5 arrangement.

6 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.
13 The first definition, "an exclamation or shout,"
14 and the second definition, "a strong expression of
15 public disapproval or anger." Do you see that?

16 A. I do.

17 Q. So if somebody was orchestrating an
18 outcry, what does that mean to you?

19 A. I guess it can depend on the context of
20 what they're doing.

21 Q. Okay. And you know that Monsanto was
22 planning on orchestrating an outcry after IARC made
23 its decision, correct?

24 A. I wasn't aware of that, no.

25 Q. Never saw that before?

1 A. Only in preparing for my deposition I saw
2 the phrase used.

3 Q. Okay. What's your understanding of what
4 you were reading, orchestrate outcry, what's your
5 understanding of that?

6 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,
11 but I don't know what they meant by orchestrating
12 an outcry in that context.

13 Q. Do you believe that Monsanto knows how to
14 express itself intelligently?

15 MR. PRESTES: Object to the form. You
16 mean employees at the company?

17 Q. Yeah, employees who were responsible for
18 policy, do you think that they were able to express
19 themselves in the English language?

20 A. Yes.

21 Q. Okay. And if they -- folks who were
22 involved in how to respond to IARC wanted to simply
23 say, we're going to respond to IARC, they know how
24 to write those words, respond to IARC, right?

25 A. And they have many times in many

1 documents, yes.

2 Q. They could say criticize the process, or
3 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.

8 Q. Okay. Well, I've got a couple I'll show
9 you.

10 A. Okay.

11 MR. KRISTAL: I'm going to mark as
12 Exhibit 19, this is the January 2018 IARC response
13 to the criticism of the Monographs and glyphosate
14 evaluation.

15 (Exhibit 19 marked for
16 identification: January 2018 IARC
17 response to the criticism of the
18 Monographs and glyphosate
19 evaluation)

20 Q. I think you said earlier you may have
21 seen this; you weren't sure.

22 A. Yeah, I wasn't sure.

23 Q. Okay. Well, take a look at it and then
24 tell me if you've seen this before.

25 A. I'm just going to take a minute --

1 Q. Yeah, take your --

2 A. -- I'll try to be quick -- and read it.

3 Q. No, I understand.

4 A. Okay. I think I've gotten through most
5 of it here. Let's go ahead with your questions.

6 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?

11 A. Maybe at some points in 2016 and 2017
12 about half my time. Prior to that very little, and
13 after that increasingly less.

14 Q. And have you read this before?

15 A. I've seen this before online. I had not
16 read every single word of it before, but, yeah,
17 most of it was familiar to me.

18 Q. Okay. And this is entitled, "IARC
19 response to criticism of the Monographs and the
20 glyphosate evaluation prepared by the IARC director
21 January 2018." That's what the title is, correct?

22 A. Yes.

23 Q. All right. And this is a point by point,
24 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
4 this -- and tell me if you recall -- IARC certainly
5 felt that they were being attacked by industry
6 regarding their glyphosate evaluation, correct?

7 MR. PRESTES: Objection, form,
8 foundation, to the extent it's asking him what IARC
9 felt.

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
19 organization. These efforts have
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
3 glyphosate by the European
4 Commission; (b), hundreds of
5 litigation cases in the USA brought
6 by cancer patients against
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
21 criticisms that were appearing in the media.

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
2 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.

6 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
10 deliberately and repeatedly misrepresented the
11 agency's work. That's what IARC says, correct?

12 A. That's what IARC says.

13 Q. And they also say that the attacks have
14 largely originated from the agricultural industry
15 and associated media outlets, correct?

16 A. I don't know -- yeah, that's what it
17 says.

18 Q. Right. They actually use the word
19 "attack."

20 A. Yes.

21 Q. Okay. IARC had no financial stake in
22 selling Roundup, did it?

23 MR. PRESTES: Object to the form.

24 A. No, I don't believe so. They were
25 scientists doing work on different chemical

1 compounds, so they got -- I guess they got grants
2 and things for their research, so they have that
3 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.

6 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
10 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
13 holdings they have, what research they're doing,
14 where they're getting grant money, and having an
15 IARC determination come out and start a whole new
16 path of controversy on something could quite --
17 could be quite beneficial, if they're engaged in
18 the right research path. I don't know which
19 researchers might have been in that situation for
20 glyphosate, but --

21 Q. Well, you have no evidence of any of the
22 experts from IARC who reviewed glyphosate for
23 carcinogenicity had any financial interest one way
24 or the other, right?

25 A. I think what I'm saying is I don't know.

1 Q. Okay. And certainly you're not saying
2 that a scientist who might have owned shares in a
3 glyphosate-producing company would be adversely
4 affected by a finding.

5 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.

13 Q. -- if they had stock -- I think you were
14 alluding to the fact that they may have had stock
15 in companies that sold glyphosate or herbicides.

16 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.

19 Q. Well, we certainly know none of them were
20 in the business of selling Roundup, right?

21 A. I think that's an okay assumption. I --
22 I can't imagine they were.

23 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

1 think somebody would have said something while you
2 were involved with it?

3 A. Yeah, I don't think IARC would have
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
11 developments. Many of the relevant
12 documents have been posted in the
13 public domain on the IARC
14 governance website and on dedicated
15 glyphosate webpages. IARC
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
13 facts about a decision we disagreed with and IARC
14 felt attacked. I think they sometimes mistake our
15 taking issue with their conclusion with an attack
16 on their institution.

17 Q. So you don't feel if Monsanto was
18 involved in orchestrating an outcry, that that
19 would be viewed as an attack?

20 A. I don't know what that means in that
21 context that we talked that.

22 Q. We'll look, and you tell me if you have
23 no idea what those two words mean.

24 Do you know that that was part of the plan,
25 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
10 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.

16 Q. We are going to look at a couple
17 documents.

18 If you turn to page 9, at the bottom,
19 there's a section, IARC evaluations make use of the
20 latest scientific data and methodologies. "The
21 IARC Monographs pioneered and continue to be a
22 leader worldwide in objective, systematic cancer
23 hazard evaluations."

24 A. I'm sorry. I'm not tracking where you
25 started there.

1 Q. At the very bottom -- that's okay. I'll
2 do it again. At the very bottom of the page.

3 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
10 Monsanto's position is one way or the other?

11 A. I can't speak for Monsanto on that. We'd
12 have to talk to our scientists.

13 Q. As you sit here today, you have nothing
14 one way or the other to challenge the statement
15 that the IARC Monographs pioneered and continue to
16 be a leader worldwide in objective, systematic
17 cancer hazard evaluations?

18 A. I can speak in my personal context here
19 of I think they do hazard evaluations, yes, I think
20 that's right.

21 Q. Okay. You don't think they're a leader
22 worldwide?

23 A. I don't know who else does hazard
24 evaluations and how they fit into other
25 organizations that do those things.

1 Q. Do you feel their evaluations are
2 objective and systematic?

3 A. I don't know. I wouldn't be qualified to
4 speak to that.

5 Q. The next bullet point:

6 "Authoritative reviews including by
7 the National Research Council of
8 the U.S. have heralded IARC's
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
24 three references that are provided by the IARC
25 director here in terms of the National Research

1 Council review of IARC's methodology and
2 evaluation?

3 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
13 in order to set levels of exposure that you're
14 willing to accept. And so I'm confused just --
15 again, I don't have the context of what they meant,
16 but ...

17 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?

23 A. I was just using, not my words, but
24 IARC's, but it says potential and --

25 Q. Right.

1 A. -- it has the potential to cause cancer.

2 Q. Under certain circumstances.

3 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 --

11 Q. So what's your --

12 THE REPORTER: Wait.

13 MR. PRESTES: Let the witness finish.

14 A. I was looking at IARC's words where they
15 said they were very clear about the difference
16 between hazard and risk assessments and that they
17 do hazard identification, not risk assessments.

18 Q. And hazard identification means you
19 identify whether or not a substance can cause
20 cancer under certain circumstances; is that fair to
21 say?

22 A. Whether or not it has the potential to
23 cause a cancer, yes.

24 Q. Well, that's an important first step and
25 then evaluating exactly what the risk is based on

1 different exposure levels, correct?

2 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?

8 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
12 myself, never had it on my hands and put it in my
13 mouth, if I had zero exposure to Roundup, whether
14 there's a hazard or not, whether it could cause
15 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.

20 A. That's -- that's fair.

21 Q. The last bullet point in Exhibit 19 --
22 I'm sorry, 18:

23 "In consideration of this valuable
24 peer review input and also taking
25 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
7 IARC ends, correct?

8 A. Yes, that's the end of their statement.

9 Q. And when it says U.S. NCI, they're
10 talking about the National Cancer Institute in the
11 United States?

12 A. I'm going to assume that's the case.
13 That seems right.

14 Q. I think I misspoke. This was document
15 number 19.

16 The other thing I mentioned earlier in terms
17 of any sort of response to the attacks by Monsanto
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)

3 Q. It is an email from Clare Thorp of CLA,
4 CropLife America, to Dr. Goldstein and a number of
5 other individuals. Do you see that?

6 A. I see that.

7 Q. It's dated March 17th, 2015, and the
8 Bates number is MONGLY03827415. And attached to
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
23 that it lacks foundation. You haven't established
24 the witness has ever seen, sent or received the
25 document.

1 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.

8 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.

13 Q. Okay. And this is in fact a hundred
14 scientists. And we don't have to count,
15 thankfully, because they put a footnote after each
16 one of their names in the preprint, and it goes up
17 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 --

22 A. Yeah, if you've actually figured that
23 out, I'm not going to argue with you on that if
24 it's 100.

25 Q. Well, that's what it says.

1 A. But, yes, okay.

2 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.

11 Q. -- which institutions they're affiliated
12 with?

13 A. Yes. I just wasn't sure. Were you
14 asking me a question or -- you just said --

15 Q. No, I'm telling you what I'm about to do
16 so I'm giving you a heads-up.

17 A. Okay. Great.

18 Q. On page 2, the Bates number that ends in
19 419, I'm just going to run through some of these.
20 One of the authors is affiliated with the Division
21 of Cancer, Epidemiology and Genetics, National
22 Cancer Institute, Bethesda, Maryland USA. That's
23 number 2, right?

24 A. I see that, yes.

25 Q. Number 11, I'm sorry, number 8, one of

1 the authors that wrote this article is affiliated
2 with the Departments of Environmental Health and
3 Epidemiology, Harvard School of Public Health,
4 Boston, Massachusetts USA, correct?

5 A. Okay.

6 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
14 of Medicine, St. Louis, Missouri USA. Do you see
15 that?

16 A. I do.

17 Q. And you're familiar with the Washington
18 University School of Medicine having lived in
19 St. Louis, correct?

20 A. I've heard of it, yes.

21 Q. All of the institutions so far are
22 well-recognized institutions on cancer research?

23 A. I believe so, yes.

24 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.

10 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 Q. The next page, number 41, one of the
16 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.

20 Q. The next two, number 42, Department of
21 Biological Sciences, North Carolina State
22 University, Raleigh, North Carolina USA, and number
23 43, National Institute of Environmental Sciences,
24 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?

8 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.

14 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.

19 Number 64, the Department of Environmental
20 and Occupational Health, George Washington
21 University, Milken Institute, School of Public
22 Health, Washington, D.C. USA. Do you see that?

23 A. I see that.

24 Q. And this goes on and on for another two
25 and a half pages with affiliations and references.

1 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
10 the people who are authors of this Pearce article
11 in 2015 are not qualified scientists?

12 MR. PRESTES: Object to the form.

13 A. Nobody has told me anything about the
14 authors on this paper.

15 Q. Okay. Has anybody -- would that mean
16 that nobody has criticized the authors'
17 qualifications, as far as you know?

18 A. I don't know of any conversation I've had
19 about this paper and the authors on this paper
20 here.

21 Q. So my point is, nobody has said that
22 these are not qualified scientists, correct?
23 Nobody at Monsanto.

24 A. I don't -- I don't recall a conversation
25 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.

1 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
6 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
10 end of the article, on page 28.

11 A. The last page?

12 Q. The next-to-last-page, and then carrying
13 over to the very last page, down at the bottom.

14 A. Okay.

15 Q. The middle of the last paragraph on the
16 bottom of the page, do you see the word
17 "substances" on the left, on page 28?

18 A. Oh, I'm on 36. I'm sorry.

19 Q. Oh, you were in the appendix.

20 A. Okay.

21 Q. "Substances now universally recognized as
22 human carcinogens (e.g., tobacco and asbestos) at
23 one time went through a quite lengthy period of
24 contentious debate (Michaels 2006, 2008)." Do you
25 see that?

1 A. Yes, I see that.

2 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
9 one of the references being cited here, is it not?

10 A. Mm-hmm, I see that.

11 Q. And it's entitled, "Manufactured
12 uncertainty, protecting public health in the age of
13 contested science and product defense." That's one
14 of the articles they cite, correct?

15 A. Yes.

16 Q. And the second one, Michaels D. 2008,
17 that's the second reference on page 28, correct?

18 A. Yes.

19 Q. 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
22 the reference there. Do you see that?

23 A. Yes.

24 Q. Do you know who David Michaels is, the
25 author of those two things?

1 A. No.

2 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.?

6 A. No. I said I don't know who he is.

7 Q. 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.

12 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?

16 MR. PRESTES: Same objection.

17 A. No, I haven't ever been involved in
18 something that would interact with OSHA.

19 Q. Have you ever seen the book "Doubt is
20 Their Product, How Industry's Assault on Science
21 Threatens Your Health"? Have you ever seen that?

22 A. No, I haven't seen that book.

23 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.

2 A. No, I haven't.

3 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.

10 MR. PRESTES: Don't make any promises
11 about doing homework.

12 (Exhibit 21 marked for
13 identification: "Doubt is Their
14 Product: How Industry's Assault on
15 Science Threatens Your Health")

16 Q. I'm only saying that in jest because you
17 offered to read it. All right. Marked as Exhibit
18 21.

19 A. Thank you.

20 Q. Can you verify that that is the citation
21 that these hundred scientists are referencing here?

22 A. That is -- see if I can remember how to
23 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")

6 A. Do you want to look at anything in the
7 exhibit or just --

8 Q. Yeah, I'm going to point out some ...
9 Were you aware that the members of the Committee on
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
3 on Glyphosate MONGLY07894889)

4 Q. I'm just doing the marking now. We are
5 going to actually look at these.

6 A. You seem to be having fun over there. I
7 just wondered.

8 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
18 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?

22 A. I'm sorry. I'm getting mixed up here.
23 Give me the exhibit number.

24 Q. Looking at the email, Exhibit 23.

25 A. Exhibit 23. Okay.

1 Q. That's an email that was circulated
2 within Monsanto, is it not?

3 A. It's an email to Jeremy Stump from Scott
4 Kuschmider.

5 Q. Okay. Who is Scott Kuschmider?

6 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.

11 Q. And Jeremy Stump?

12 A. He was the head of our government affairs
13 team.

14 Q. At Monsanto?

15 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?

21 MR. PRESTES: Objection, form,
22 foundation, and object to the exhibit, yet another
23 document the witness neither sent nor received.

24 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.

11 Q. Okay. And the title of the minority or
12 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.

17 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?

21 A. I see the seal there, yes.

22 Q. You were certainly aware that the
23 chairman of this committee, Lamar Smith, convening
24 this hearing with respect to glyphosate, correct?

25 A. I don't remember if the hearing was about

1 glyphosate. Chairman Smith was interested in
2 science generally, and he had taken issue and his
3 staff had taken issue in the past with IARC. They
4 had taken issue with EPA.

5 So he called the hearing, yes, but I think
6 the topic might have been broader than glyphosate,
7 if I remember correctly.

8 Q. Okay. Well, let me read from the first
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
9 letters mimicked criticisms the chemical industry
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
24 probable carcinogen." Do you see that?

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.

3 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 quickly
7 in that regard --

8 A. Thank you.

9 Q. -- because I've highlighted it and I know
10 where to go.

11 So on the first page of the Minority Report,
12 under the section Background, there are two
13 paragraphs.

14 A. Okay.

15 Q. The beginning of the second paragraph.

16 A. There, I see it.

17 Q. Okay. "There is significant evidence
18 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.

24 A. Yes, I absolutely would disagree with it.

25 Q. Meaning that there was less than

1 significant evidence of that? No, I'm joking.

2 A. No. Yeah. I think that -- yeah.

3 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.

6 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.

13 A. -- most likely, or just orally described
14 to me, but I don't think I read it.

15 Q. If you -- before we get to the
16 conclusion, I just want to go through some of the
17 sections.

18 On page 4, there's a list of key players.
19 Do you see that?

20 A. Okay.

21 Q. And it mentions Donna Farmer's name, who
22 we've seen on several of the emails, correct?
23 Further down, David Saltmiras, whose PowerPoint we
24 just looked at a few minutes ago?

25 A. Yes, I see.

1 Q. And there are other folks. Henry Miller,
2 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.

6 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?

12 MR. PRESTES: Objection, form, misstates
13 the facts.

14 A. My knowledge of it is what I read. I
15 think it was in Eric Sachs' deposition about that
16 interaction and what happened.

17 Q. Right.

18 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 --

22 Q. Very shortly --

23 A. I remember --

24 (Clarification by reporter.)

25 A. I remember that he published a Forbes

1 article and it was withdrawn. I would agree with
2 that characterization, if that's the -- if that's
3 what you're asking.

4 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.

8 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
13 Dr. Heydens, right, William Heydens on page 4.

14 A. Yeah, I see his name.

15 Q. Okay. And if you turn, for example, to
16 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.

19 Q. On page 11 there's a section entitled
20 "Orchestrate Outcry." Do you see that?

21 A. I see that section, the Minority Report,
22 yes.

23 Q. Right. And it also mentions Henry Miller
24 and his article in Forbes, right?

25 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
3 Conclusion, the Minority Staff of this committee of
4 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
9 tactics were employed by the
10 chemical industry with regards to
11 lead and a host of other chemicals.
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
8 Dr. Michaels' book.

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 record. If you want to read it tonight, I can loan
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
24 the health and safety of workers,
25 neighboring communities and the

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.

6 Q. And this was 2008, prior to him becoming
7 head of OSHA.

8 A. I think that was the date the book was
9 published.

10 Q. 2008.

11 A. Yes.

12 Q. Yes. Okay. Reading from the dust
13 jacket, and then we'll read just a paragraph or two
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. It
20 also means -- it is also the means
21 of establishing a controversy. In
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.

2 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 --

14 Q. I think it's the last page of text. Page
15 17, under Conclusion. That whole section is about
16 what I just read, and it cites directly to David
17 Michaels' book, correct?

18 MR. PRESTES: Object to the form and
19 lacks foundation. We're deep in the realm of
20 questioning on documents the witness hasn't seen
21 and doesn't know about.

22 A. I see the quote of the title referenced
23 here, yes.

24 Q. You don't see the general thrust being
25 the same as what I read from the dust jacket just

1 now of the book?

2 MR. PRESTES: Same objection. I'm sorry.
3 Same objection.

4 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 Q. Let me read it.

8 A. Okay.

9 Q. "The incidences and tactics
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
15 lead and a host of other chemicals.
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 Q. 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.

2 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
5 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
11 of you, on page 46 of the book --

12 A. There's some highlighting there? Yes.

13 Q. Yeah. Let me tell you what I did. If
14 you turn to the fourth -- I'm sorry -- the page
15 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?

20 Q. Yeah. I was trying to not have to
21 verbally describe exactly where we are because it's
22 a lot of text.

23 A. Okay.

24 Q. So I thought it might help. All right.

25 On page 46, the second full paragraph. Are

1 you there?

2 A. 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
3 injury and illness. In field after
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
9 it?

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
3 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
12 type of work they had done, yes, that's correct.

13 Q. And if there was publicly available
14 information about the firm that they were going to
15 hire to do work for them, that would be a source of
16 information about the company that they're hiring,
17 correct?

18 MR. PRESTES: Objection, to the extent
19 that this is an effort to get into corporate
20 representative testimony, it's beyond the scope of
21 anything Mr. Rands is designated to speak to.

22 But if you have an individual view, go for
23 it.

24 A. Yeah, it's been my experience, when you
25 hire someone, you find out more about them before

1 you hire them.

2 Q. Right. And that's just standard
3 practice, right? You're not going to just flip the
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
9 firm, yes.

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
25 understanding of how this is laid out?

1 A. Yeah, that does seem to be a quote. I
2 think that's correct.

3 Q. Okay. "Public concern over health safety
4 and preservation of the environment."

5 A. I'm sorry, counselor, just one second. I
6 was going to check the footnote. I was making an
7 assumption, but if you can represent --

8 Q. I don't know -- if I reference a
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
4 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
15 have been available for Monsanto to read.

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.

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24 Q. Okay. So let's look at what the Potomac
25 Group is doing.

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.

4 VIDEO SPECIALIST: The time is 3:57 p.m.
5 We're going off the record.

6 (Proceedings recessed)

7 VIDEO SPECIALIST: The time is 4:10 p.m.,
8 and we're back on the record.

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
17 email chain from February 27th, 2015, and
18 February -- number of dates in February. The
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,
25 relating, yes, relating to Potomac, and then we'll

1 move forward. The beginning of the email chain is
2 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
10 moving forward to help coordinate
11 the list of credible third-party
12 voices for glyphosate. In our call
13 with Potomac Communications today,
14 we decided to target The Washington
15 Post and USA Today."

16 Do you see that?

17 MR. PRESTES: Object to the exhibit and
18 to all the questions on it, lacks foundation. This
19 is an email that the witness didn't send, didn't
20 receive, and wasn't copied on. You haven't
21 established whether he has ever seen it in his
22 life.

23 Q. Okay.

24 A. What was the question, please?

25 Q. There were many documents you had never

1 seen before in your life that you reviewed in
2 preparation for this deposition?

3 A. Yes.

4 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.

10 Q. Do you see that?

11 A. I see the words there, yes.

12 Q. Okay. And on page 1655 Ms. Lord is
13 writing to Daniel Goldstein.

14 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
17 sentence, Ms. Link is suggesting a number of third
18 parties they may want to contact.

19 A. American Academy of Pediatrics --

20 Q. Right. There's a number of them.

21 A. I just -- because I hadn't been involved
22 in this, jumping around is a little difficult to
23 keep the flow, but go ahead, where do you want to
24 go to next?

25 Q. 1655, Ms. Lord's email dated February

1 20th, 2015, the same subject, "Identifying
2 third-party voices for glyphosate" to Dan
3 Goldstein. Do you see that in the middle of the
4 page?

5 A. I do.

6 Q. "We're seeing more opportunities
7 to move forward with Op-Eds to
8 counter the negative press in
9 national media and need to have our
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
6 up to speed at this time."

7 And then he goes on from there, correct?

8 A. Yeah, that's what's written there.

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. If
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
21 of professionals that they want to reach out to and
22 contact.

23 Q. Okay. And on page 1650 Ms. Lord writes
24 to Dr. Goldstein, Donna Farmer and others, Dear
25 Donna -- strike that.

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 Q. 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
15 guess would be, if she does what she says she's
16 thinking of doing, some draft emails to those
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. To
22 the experts. And there are two draft emails under
23 that, right?

24 A. Yes, that's right.

25 Q. Okay. And the first draft email says:

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
9 information."

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. So
19 it's a shorter email draft, yes.

20 Q. Well, and not as specific in terms of
21 what exactly is being asked, correct?

22 MR. PRESTES: Same objection.

23 Q. It just basically says I'd like to
24 discuss with you, give me a call, right, or may I
25 call you?

1 MR. PRESTES: Same objection.

2 A. Yes. It says, "I would like to discuss
3 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 --

11 MR. PRESTES: Objection, foundation.

12 A. I didn't realize that you were
13 referencing her characterization of those two.

14 Q. Yes. Yes.

15 A. So I can agree that she's characterized
16 her two emails, the second being vague, but I don't
17 have more context than that.

18 Q. Okay. You certainly know what FOIA is,
19 right, FOIA is the Freedom of Information Act?

20 A. Yes, it's a program where you can access
21 public documents.

22 Q. And she was concerned that someone might
23 make a FOIA request, and the concern was she wanted
24 to be more vague so you wouldn't know what the
25 request was, so, therefore, she had the second

1 draft which was more vague, correct?

2 MR. PRESTES: Objection, foundation and
3 to the invitation to read minds.

4 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,
10 and ask her directly on that.

11 Q. FOIA, if there was a FOIA request that
12 was honored, entities would have to turn over
13 certain documents under that request.

14 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
17 these different entities. FOIA applies to
18 government documents. I don't know to what extent
19 these people would be subject to FOIA or not.

20 Q. But what she did was, there were two
21 drafts to be sent to these third parties, one was
22 more vague than the other, if there were concerns
23 about that contact being disclosed.

24 MR. PRESTES: Objection, foundation,
25 requires speculation.

1 A. Yeah, I can read you the words she wrote,
2 but ...

3 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.

12 Q. But it means the same thing, right?

13 MR. PRESTES: Objection.

14 A. The second being -- the second being
15 vague in case there's a concern about FOIA is what
16 she said.

17 Q. Okay. And then on the first page of the
18 document, 1648, Donna Farmer asks the question that
19 you asked a few minutes ago, right? She sends an
20 email to Dr. Goldstein, Charla Lord, and others, on
21 February 26th, "help me understand why these folks
22 were selected and who is Potomac." Right?

23 MR. PRESTES: Objection, foundation, and
24 objection to the characterization of Dr. Farmer's
25 statement.

1 Q. Well, that's what she wrote.

2 MR. PRESTES: Same objection.

3 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.

8 Q. Okay. And under that she writes, "Tom
9 Sorahan is going to be our observer at IARC and
10 John Acquavella and Elizabeth Delzel are consulting
11 with us and working on projects for IARC. I would
12 rather do an ask over the phone." Do you see that?

13 A. I see that.

14 Q. And those three people who I just named
15 were listed as some of the third parties to whom
16 this contact would be made to see if they would be
17 willing to work with the Potomac Group.

18 MR. PRESTES: Objection, foundation.

19 A. And, I'm sorry, I lost your question
20 there. If we could just read it back real quick?

21 Q. Well, if you compare the list of people
22 to whom the draft contact would be sent, the three
23 that Donna Farmer identifies are on this list.

24 A. That's correct.

25 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.

6 MR. PRESTES: Objection, foundation,
7 assumes facts.

8 A. I don't know who Elizabeth Delzel is.

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?

3 A. Yes, I see that, you read that correctly.

4 Q. So what Charla Lord is explaining to
5 Donna Farmer is they're going to have some group,
6 the Potomac Group, write opinions to the editor and
7 letters and then give them to these third parties
8 to edit, and then have the letters and the Op-Eds
9 go out under the third party's name, correct?

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
23 said there.

24 Q. And nowhere does it say that we'll
25 disclose that we're actually writing these letters,

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?

10 MR. PRESTES: Objection.

11 Q. Is that proper?

12 MR. PRESTES: Objection, foundation,
13 hypothetical question, misrepresents the facts.

14 A. I think there's a lot of instances where
15 people write material and another person edits and
16 has their name on the final product, yes.

17 Q. Well, but not in the context of a company
18 selling a product that has just been classified as
19 a carcinogen and then hiding their involvement,
20 correct?

21 MR. PRESTES: Same objections.

22 A. You're kind of complicating the
23 hypothetical here, so let me make sure I understand
24 it.

25 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
3 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 --

8 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 --

12 Q. Well, how is that not consistent?

13 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
17 the ones ultimately deciding what they agree with
18 and what they publish, and I -- I'm not sure
19 exactly how this was working, because I wasn't
20 involved in this, but, as a general matter, I don't
21 think that's an issue.

22 Q. When Ms. Lord writes "these," meaning the
23 Op-Eds and Letters to the Editors, would be, in
24 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?

2 MR. PRESTES: Objection, foundation,
3 solicits speculation about what somebody else
4 wrote.

5 A. I don't know what she meant by putting
6 quotes around the word "authored."

7 Q. Well, it's plain English.

8 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.

13 MR. PRESTES: Same objection.

14 Q. What does that mean to you? Who would be
15 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.

20 Q. In quotes.

21 A. What you're trying -- what you're trying
22 to imply by the quotes, I can't tell you. I don't
23 know what she meant by putting quotes around the
24 word authored.

25 Q. You've never seen that done in English

1 communication?

2 A. I've seen that done in many different
3 contexts. I don't know what she meant by it here.

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."

8 (Exhibit 27 marked for
9 identification: Email
10 correspondence from (topmost) K
11 Link sent 2/27/2015 re IARC
12 materials MONGLY04773726)

13 A. Thank you.

14 Q. 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
19 email.

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
24 on it on the grounds that it lacks foundation.

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

1 we've spent almost the entirety of our day, this is
2 another document that the witness never -- didn't
3 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 Q. 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.

12 Q. And the attachment, which is Bates number
13 04773727, is the next page. It says, Monsanto
14 Response to IARC decision. Do you see that?

15 MR. PRESTES: I think you left a word out
16 of the quote.

17 MR. KRISTAL: Thank you.

18 Q. "Monsanto Response Plan to IARC
19 decision."

20 A. Yes, I see that.

21 Q. And the last sentence of the first
22 paragraph says, "and even then, wherever possible,
23 Monsanto should refer to third-party voices and
24 resources rather than expect people to take
25 Monsanto's word on the safety of its own product."

1 Do you see that?

2 A. Yes, I see that.

3 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
10 which Mr. Rands has been designated to testify on
11 behalf of Monsanto.

12 A. I don't know the context here. Again,
13 it's an email and an attachment I've never seen and
14 wasn't involved in. I think, as I said earlier, I
15 did acknowledge Monsanto had a rough reputation.
16 It was out there defending and speaking on behalf
17 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
21 speak so that, if people had issues with our
22 reputation and that became a block to listening to
23 a topic or an issue that we were trying to speak
24 on, that there were other sources of information
25 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
7 people that have a bad view of Monsanto's
8 reputation that you couldn't get passed that
9 sometimes.

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

1 than Monsanto-owned resources."

2 Do you see that?

3 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
10 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
13 just don't know, you know, what they're really
14 proposing or what the context of this is, but I can
15 see that whoever wrote this and was talking seems
16 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
20 safety of glyphosate.

21 MR. PRESTES: Same objection.

22 A. Yeah, the words were -- I'm sorry. I
23 lost track of where we were here.

24 Q. "Monsanto is a leading manufacturer of
25 glyphosate and as a company with reputation

1 challenges will have very limited credibility when
2 speaking on the topic of glyphosate safety."

3 A. Yes, that's what it says.

4 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
12 sponsored content that you see when you do a Google
13 Search. It shows up above the line where it says
14 "Sponsored Content."

15 Q. Or you can, if somebody was on the
16 Internet searching for glyphosate, you could have a
17 payment plan and that would direct them to certain
18 websites. That's the goal, correct, of a paid
19 search?

20 A. I guess I didn't understand it that way.
21 I thought it was just content -- if you search for
22 the word Roundup, a listing of results comes up,
23 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

1 how I understood it.

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
9 users to the aforementioned

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
17 would be directed to pages that appeared to be from
18 third parties.

19 MR. PRESTES: Objection --

20 Q. Right?

21 MR. PRESTES: -- foundation.

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.

25 A. I've never looked at this document. But

1 I actually don't think that's how paid search works
2 at all. I don't think it redirects you to
3 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
12 something, then it obviously takes you somewhere
13 else, but the lawyer ad --

14 Q. You pay money so that certain keywords
15 would have a link that somebody who is looking up
16 that keyword would be directed to.

17 A. No, that's what I'm not saying.

18 Q. That's what this says, though. It says,
19 "ideally this campaign would direct users to the
20 aforementioned third-party validation page but a
21 secondary option would be the Beyond the Rows
22 BlogPost." Do you see that?

23 A. I see that. What I'm saying is I don't
24 think that's how paid search works at all. I think
25 that's actually wrong.

1 Q. This is what the campaign -- you're
2 saying so this is wrong?

3 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.

10 Q. I'm trying --

11 A. Yeah, I think the way you're
12 characterizing it --

13 Q. I'm not characterizing it. I'm reading
14 the quote. I didn't characterize anything. I
15 said, quote, ideally this campaign would direct
16 users, right?

17 A. So, as I said, I don't know anything
18 about what they're doing here. What I was
19 describing is how I understand paid search works,
20 where you put a link with sponsored content in a
21 search result, and that's it. That's the paid
22 search.

23 And sponsored content shows above a line
24 that says "sponsored content," and then if there's
25 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
3 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.

8 Q. It provides -- okay.

9 A. Yes.

10 Q. So it provides -- so Monsanto was saying,
11 if it's not going to be competing and driving the
12 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
15 third-party page that the user who's doing the
16 searching could then connect with.

17 A. No, maybe --

18 MR. PRESTES: Objection, foundation, and
19 to the extent the question calls for what Monsanto
20 is saying.

21 A. My understanding of paid search, and just
22 to use an example like you did, if you search for
23 IARC and Roundup, is I think the ones you used, it
24 will bring up a list of search results, and the
25 first, I don't know, five to ten search results

1 will be lawyer ads with links to lawyer websites,
2 and I think other people can also come in and buy
3 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
10 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
13 intended here other than to provide a link in a
14 paid search program that they were considering.

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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
6 printed this out January 29th, 2019. The title of
7 the article is "March Madness from the United
8 Nations."

9 (Exhibit 32 marked for
10 identification: March Madness from
11 the United Nations)

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
14 draft.

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,
25 "March Madness from the United Nations, Henry I.

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.

6 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?

13 A. I had never heard about this until I
14 started preparing for my deposition.

15 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
20 the lawyers.

21 A. I became familiar with it reading the --
22 I think it was Eric Sachs' transcript.

23 Q. How long ago was that?

24 A. Sometime in the last two weeks.

25 Q. Okay. Did you ever request or go see

1 what the actual article said and compared it to the
2 draft?

3 A. No.

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16 MR. PRESTES: Jerry, it's now ten past
17 five.

18 MR. KRISTAL: I can probably finish in an
19 hour.

20 MR. PRESTES: Let's take a five-minute
21 break so we can discuss.

22 MR. KRISTAL: Okay.

23 VIDEO SPECIALIST: The time is 5:12 p.m.
24 We're going off the record.

25 (Proceedings recessed)

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12 Q. Okay. If you turn to Exhibit 38, and
13 this is an email from you dated May 2nd, 2016 to a
14 number of people. The subject is "the Draft
15 Aderholt LTC Reuters Glyphosate Final." Do you see
16 that?

17 A. Yeah, I do see that.

18 Q. And the Bates number is MONGLY07577414.
19 And you wrote in the email, "Here's my retool of
20 the draft ... " Do you see that?

21 A. Yes, I see that.

22 Q. And what's attached is a letter, a draft
23 of a letter, to the Director of the NIH, correct?

24 A. Yes.

25 Q. And in the first paragraph this letter,

1 as it says in the first paragraph:

2 "And as the chair of the
3 Appropriations Subcommittee on
4 Agriculture, Rural Development,
5 Food and Drug Administration, and
6 related agencies, and a member of
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
21 you added there about defunding IARC. I think
22 there was interest in understanding how the money
23 was being spent and what standards were being put
24 in place that applied to IARC to make sure that it
25 wasn't creating problems in our regulatory system.

1 So it was asking questions.

2 Q. Well, the draft that you helped write
3 goes on for pages talking about how bad IARC is,
4 correct? It's critical of IARC.

5 A. I didn't write the draft. I don't recall
6 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
10 the draft, correct?

11 A. Yeah, just a term I used, yes.

12 Q. Right. And when you use that term, you
13 mean you edited it to some extent, right?

14 A. Yeah. I believe I must have made some
15 technical corrections or maybe a few edits here and
16 there, but I don't recall doing any substantial
17 editing.

18 Q. And who is Monsanto or FTI to be drafting
19 letters to the National Institutes of Health on
20 behalf of a U.S. representative?

21 A. Yeah, we actually visited with
22 Representative Aderholt and his staff, and he was
23 very interested in the issue and asked us to send
24 him a letter to lay out what we were asking for him
25 to do and lays out all the details of, you know,

1 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.

8 A. We were in the meeting -- I was in the
9 meeting.

10 Q. I'm asking you if the draft letter
11 anywhere says that the letter is being drafted or
12 was drafted by Monsanto.

13 A. This letter doesn't say anything about
14 who drafted it.

15 Q. Right. So Dr. Collins, the head of the
16 National Institutes of Health, to which this letter
17 was addressed, would have no idea that Monsanto
18 drafted the letter, right?

19 A. Oh. We never expected Dr. Collins to get
20 this letter.

21 Q. You were just drafting a letter that
22 says, date up top, Dr. Francis S. Collins, Director
23 of the National Institutes of Health, 9000
24 Rockville Pike, Bethesda, Maryland 20892, "Dear
25 Dr. Collins," and it ends "Sincerely" with the

1 name. Other than that, you didn't expect it to be
2 a letter?

3 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
10 would say, well, send me a letter that lays out
11 what you're asking me to do.

12 And in my experience then they would go talk
13 to other constituents on the issues or other groups
14 that have different perspectives, and then write a
15 letter that they thought captured their views or
16 what they thought was right on the issue or they
17 would take no action at all.

18 Q. Well, when you said they would ask you to
19 send them a letter, they would want to know your
20 views in a letter from you to them, not in a draft
21 from them to somebody else that you authored,
22 right?

23 A. Well, that's just the format they asked
24 for.

25 Q. Well, it makes no sense. Why wouldn't

1 you just send the letter, here's Monsanto's
2 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.

13 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
17 and digest it and think about it and talk to others
18 and ultimately decide if they wanted to do anything
19 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
23 about in their office.

24 Q. And you're saying this was Monsanto's
25 position that's contained in this letter, correct?

1 A. Yes, I think that's correct, that we --
2 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?

10 MR. PRESTES: Objection, asked and
11 answered.

12 A. Yeah, I think that it's raising questions
13 about what the money is being spent on, but I can
14 tell you what the objective was is to see some
15 changes.

16 Q. Let's read what it says on the last page
17 of the letter.

18 MR. PRESTES: Let the witness finish his
19 answer.

20 A. That's okay. I was done.

21 Q. The last page of the letter, are you
22 there?

23 A. Yeah.

24 Q. "As an initial step to
25 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

1 document was written by someone at FTI.

2 Q. You certainly didn't say to FTI, no, this
3 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.

6 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
10 about Chris Portier and his role working for a law
11 firm while he was sitting on the panel on a
12 different substance but having -- and then getting
13 hired a few days after he walked out, and there was
14 just some concerns, because he was lobbying pretty
15 hard in the European Union to go at glyphosate.

16 Q. Let's take a step back. Dr. Portier was
17 not on the Glyphosate Working Group that came out
18 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
21 latest crop of monographs. I don't recall the
22 exact details.

23 Q. Here's my question. He was not on the
24 group that decided that glyphosate was probably
25 carcinogenic, correct?

1 MR. PRESTES: Objection, asked and
2 answered.

3 A. Yeah, he was not one of the, what do they
4 call them, the Working Group members.

5 Q. That's right.

6 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,
12 on some other, as I said, some other compound for a
13 previous IARC monograph.

14 Q. What compound?

15 A. I don't recall which one it was.

16 Q. What law firm?

17 A. I don't recall. We could go back.

18 Q. What year was that?

19 A. It was while he was serving as a
20 specialist or whatever he was in the IARC monograph
21 he had been employed -- my understanding is he had
22 been employed as an expert witness.

23 Q. You have no firsthand knowledge of that,
24 do you?

25 A. I gotta go back --

1 MR. PRESTES: Objection.

2 Q. Who told you --

3 THE REPORTER: Wait. Wait.

4 MR. PRESTES: Objection. We spent the
5 better part of the day asking the witness questions
6 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
13 remember where I got it.

14 Q. Okay. But you don't know if it's true or
15 not.

16 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
21 that, have you?

22 A. Not outside of privileged conversation.

23 Q. Did you check to see whatever information
24 you got was accurate?

25 A. I don't recall what the information was

1 or where I got it.

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(Exhibit 42 marked for

identification: Department of the
Interior re S. 3068)

Q. I have the full bill here, if you want to
take a look at the full bill, but I've marked as
Exhibit 2 -- I'm sorry -- Exhibit 42, 114th
Congress, Second Session, Report 114-281,
Department of the Interior, Environment and Related
Agencies Appropriations Bill, and it is dated,
total obligations for the fiscal year 2017, and the
page -- there's a Table of Contents, and the page
that is attached to the email is the third page of
this document, which is page 68 of the larger bill.
If you want to see the larger bill, I'll be happy
to give that to you.

A. No, just confirm for me that page 68 is
in a final bill, or is this just committee
language? I just wasn't sure.

Q. Well, what does this bill say here?
Right? Department of Interior, Environment and
Related Agencies Appropriations Bill. It reads:
"The Committee on Appropriations

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.

10 Q. Right, passing on legislation.

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
24 committee markup of a appropriations bill.

25 Q. And the paragraph is entitled,

1 "Glyphosate Reregistration." "The committee is
2 aware that the agency is currently in the process
3 of reviewing the registration for glyphosate, which
4 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
6 expressing some of their concerns, and they have
7 got long lists of these types of things that the
8 agencies will look at when those bills ultimately
9 go through the Congress, if they ever do.

10 Q. And this is Monsanto's position, right?

11 A. I don't know whose position this is. I
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.

21 I tried to -- I talked to our government
22 affairs people, because I wanted to be ready for
23 the deposition, and I wanted to understand if
24 anyone from Monsanto was involved in this, and I
25 could not identify anyone that was the source of

1 this language.

2 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 Q. 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
10 talked to a fair number of people, and I couldn't
11 locate anyone that had any involvement in this.

12 Q. Have you heard of something called the
13 laugh test?

14 MR. PRESTES: Objection, argumentative.
15 Jerry, we have now been going --

16 MR. KRISTAL: I'm on the last document.

17 MR. PRESTES: -- long over an hour.

18 Okay.

19 A. Is that number -- which number?

20 Q. 41.

21 MR. PRESTES: Is it going to be quick or
22 should we take a break? Because we've been going
23 for like another hour 20.

24 MR. KRISTAL: I think it will be fairly
25 quick.

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19 MR. KRISTAL: Those are all I have,
20 subject to counsel's questions. Thank you,
21 Mr. Rands. I didn't mean to get testy. It's just
22 been a long day for both of us.

23 THE WITNESS: Thank you. No, no offense
24 taken.

25 MR. PRESTES: Let's take five.

1 VIDEO SPECIALIST: The time is 6:54 p.m.
2 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
10 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.

14 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
21 Washington, D.C.

22 Q. Where did you go to school?

23 A. High school, went to high school in
24 northern Virginia called Oakton High School, in the
25 suburbs of Washington, D.C., and for college I went

1 out to Brigham Young University for my undergrad,
2 and then got married, started having some kids
3 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
6 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
11 and become more of a full-time patent agent at that
12 time.

13 Q. And how did you decide to go to law
14 school, or is that what you're describing when you
15 refer to becoming a patent agent?

16 A. Well, the patent agent was the transition
17 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
20 general science, biotechnology, and enjoyed jumping
21 from one project to another with different clients
22 that were in technology areas.

23 And what I decided to do is I was working
24 there at the law firm in that capacity, they
25 offered to send me to law school and become a full

1 patent attorney. So I took the opportunity to do
2 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?

8 A. We actually have eight kids, two
9 stepchildren from my wife's prior marriage, and six
10 of -- six kids from my own.

11 Q. Boys, girls, mix?

12 A. Yeah, it's a mix. We have, between us,
13 four girls total and four boys total.

14 MR. KRISTAL: You couldn't go for the
15 full baseball team?

16 A. It was close, yeah. I have to fill in
17 from time to time.

18 Q. And remind the jury. When did you join
19 Monsanto? When did you first join?

20 A. 2004. I believe that was September of
21 2004.

22 Q. And how did you end up working at
23 Monsanto?

24 A. Actually I ended up working for Monsanto
25 as -- they were a client of the first firm where I

1 worked with their biotechnology crops at the time
2 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.

12 Q. Now Mr. Kristal for the plaintiffs asked
13 you some questions about Monsanto's outreach to
14 members of Congress. Do you recall that?

15 A. Yes.

16 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
20 spend, I think, most days working in the Capitol
21 Hill and meeting with members of Congress, talking
22 to them about various issues.

23 Q. Why would Monsanto reach out to members
24 of Congress?

25 A. There's a couple of different reasons I

1 guess we might do that. We often have issues
2 affecting our business. Because we're in a highly
3 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
13 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
17 about that, or they were getting questions from
18 their constituents or other groups and they needed
19 more information. Those are some of the reasons we
20 do that.

21 Q. What sorts of information does Monsanto
22 provide when it's engaging with Congress?

23 MR. KRISTAL: Objection --

24 Q. Members of Congress.

25 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
6 come in with statistics or other historical context
7 or, you know, just different information to help
8 the policymakers understand the impact of what
9 they're doing on the rest of America, so to speak.

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
2 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.

12 Q. Has Monsanto made its public -- made
13 public its position on IARC's classification of
14 glyphosate?

15 A. Yes, I think Monsanto has been pretty
16 clear about its position on that.

17 Q. And I think by this time in the trial the
18 jury will have heard that Monsanto disagrees with
19 IARC's classification of glyphosate as a probable
20 or possible human carcinogen.

21 Let me ask you this. Why did Monsanto make
22 its position with respect to IARC public?

23 MR. KRISTAL: Objection to the form of
24 the question.

25 A. Monsanto truly believed the decision was

1 wrong and it was impacting how people were viewing
2 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
11 the other PR that was going on, on the other side
12 of the issue that seemed to be dominating the
13 media, we felt very much like we needed to be out
14 there as well telling our story.

15 Q. In your experience was the information
16 that Monsanto communicated to the public about
17 IARC's classification of glyphosate accurate?

18 MR. KRISTAL: Objection, foundation.

19 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
22 working with when we provided information to
23 people.

24 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?

3 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.

13 Q. Did you have any reason to think that
14 Roundup and the data regarding Roundup and its
15 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
23 of glyphosate and its status in this process.

24 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.

3 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
11 issue and they needed information and they wanted
12 to understand exactly what you were asking of their
13 office.

14 Q. And are members of the public free to
15 reach out to their representatives and provide them
16 draft letters?

17 A. Yes, anyone can do that.

18 Q. And including the plaintiffs and their
19 lawyers?

20 A. Yeah. We ran into the plaintiff lawyers.
21 As I said, folks on the other side of the political
22 spectrum, the environmental lobby groups and others
23 that were very much in opposition to glyphosate
24 were in many of the same offices. They tended to
25 focus more on the Democrat side of the aisle, but

1 they were doing many of the same things, yes.

2 Q. Did the draft letter to Representative
3 Aderholt say anything that you believed to be
4 untrue?

5 A. No.

6 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
10 and that you reviewed and revised?

11 A. No.

12 MR. KRISTAL: Objection, foundation.

13 A. No, Representative Aderholt wrote his own
14 letter.

15 Q. And how do you know that?

16 A. The final letter that came out was very
17 different than anything we had sent him.

18 Q. You were shown a number of documents over
19 the course of today's long deposition by
20 Mr. Kristal, including -- you recall that you've
21 seen a number of documents today? I think they
22 number roughly 40.

23 A. Okay.

24 Q. You saw some documents that you didn't
25 send and that you didn't receive --

1 A. Correct.

2 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.

12 Q. Did you see some documents today at your
13 deposition that were dated before you even worked
14 at Monsanto?

15 A. Yeah, I believe there were a few that
16 were that old.

17 Q. Mr. Kristal also asked you some questions
18 about documents you saw in your preparation for
19 this deposition and asked you whether you saw
20 depositions in your -- excuse me -- you saw
21 documents in your deposition preparation that you
22 had never seen before. Do you remember those
23 questions?

24 A. Yes, I do.

25 Q. Mr. Rands, just because you saw a

1 document in your deposition prep for the first
2 time, does that mean you know the context
3 surrounding that document?

4 MR. KRISTAL: Objection, form.

5 A. No, I think I made it clear that I didn't
6 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
14 what I can really say about it.

15 Q. Mr. Kristal also asked you some questions
16 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.

20 A. I don't recall the safety questions,
21 but ...

22 Q. Let me rephrase it. Mr. Kristal asked
23 you some questions about IARC's determination with
24 respect to the relationship between Roundup and --
25 or, excuse me -- glyphosate and cancer. Do you

1 recall that?

2 A. Yes, we had some questions about that.

3 Q. Now while you were at Monsanto, was it
4 your role to conduct scientific research on Roundup
5 or glyphosate?

6 A. No, I never had any scientific roles at
7 Monsanto at all.

8 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
12 scientists who are responsible for examining the
13 safety of Roundup and glyphosate?

14 A. I believe so, yes.

15 Q. How long has Roundup been on the market
16 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,
20 like in your lawn or garden, ever used Roundup?

21 A. We use it pretty frequently on the
22 sidewalks and driveways to control weeds, yes.

23 Q. And I know you mentioned you have eight
24 kids. Do any of your kids ever use it?

25 A. Some of my older boys have used it when

1 they're doing yard work, but the girls haven't done
2 as much yard work so they don't use it as much.

3 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.

14 MR. KRISTAL: I thought the question was
15 in the house too.

16 Q. Let me rephrase.

17 A. Yeah.

18 Q. Do you or your kids use personal
19 protective equipment like hoods or gloves or masks
20 when you use Roundup around your house?

21 A. No, we don't.

22 MR. PRESTES: Just a final housekeeping
23 matter. As I said at the outset, this is -- we're
24 designating the transcript as confidential, pending
25 our -- under the protective order, pending our

1 further review. And, again, because this is a
2 deposition of in-house former -- now former
3 in-house lawyer at Monsanto, we're not waiving any
4 privilege or work-product protection. We're going
5 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:

12 Q. I have a couple of questions in
13 follow-up.

14 When was the last time any of your boys used
15 Roundup around the house?

16 A. They're all at college now, so it's
17 probably been -- see, the last one -- maybe about
18 two years ago.

19 Q. And how old was he at the time?

20 A. 17.

21 Q. And when you say around the house, was he
22 using it right out of the bottle, the spray bottles
23 that you get from lawn and garden? Was he mixing
24 concentrate with a backpack sprayer?

25 A. We usually buy the gallon jugs that have

1 the little twirly cable with the trigger on the end
2 of it. Those are the ones we use around the house.

3 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
13 don't have a big yard with a lot of vegetation or
14 flower gardens? You're talking about cracks in the
15 sidewalk and cracks in the driveway?

16 A. Yeah, that's right.

17 Q. Okay. And that's what you're talking
18 about, the personal use of Roundup?

19 A. Yes.

20 Q. Did your son wear shorts and a tee shirt
21 when he was doing this?

22 A. Yeah, in the summer he would typically be
23 in shorts and a tee shirt. I don't remember the
24 specific instances what he was wearing, though.

25 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.

8 Q. And you would take his mixed, soaked
9 shirt and just throw it in with the other laundry?

10 A. Yes.

11 Q. And what other child used -- has that
12 ever happened?

13 A. Not that I know of.

14 Q. Okay. What other child has used the
15 Roundup on the cracks in the sidewalk?

16 A. My other two sons. They're older, so
17 it's been a little longer, but we've used Roundup
18 around our house every year.

19 Q. Okay. And sounds like it would take
20 about five, ten minutes to do all this work?

21 A. Yeah, I would say something like that, 10
22 to 15 minutes, if they were going all the way
23 around.

24 Q. Do you know what percent glyphosate was
25 in the mix? Is that the 2 percent?

1 A. No, I don't know.

2 Q. You were certainly not mixing the
3 concentrate with water. You bought it ready-mixed?

4 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?

8 A. Every couple of weeks.

9 Q. And have you ever told your children that
10 this international body of experts has determined
11 that glyphosate could cause cancer?

12 A. I've talked to them generally about some
13 of the work I do, and it's come up in that context,
14 but it's not something that they're very interested
15 in. We haven't talked about it extensively.

16 Q. Okay. And you don't think you need to do
17 anything whatsoever to make sure they don't get
18 soaked in Roundup?

19 A. No. I'm not worried about our household
20 exposures.

21 Q. Why is that?

22 A. I don't think it's dangerous.

23 Q. And you haven't studied the science,
24 right?

25 A. I trust that the regulators have looked

1 at it extensively and it's safe for our use around
2 the house the way we're doing it.

3 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.

8 Q. You've never read the Roundup label?

9 A. No.

10 Q. If the Roundup label said an
11 international agency has determined this could
12 cause cancer, would you still use it?

13 A. If the regulator said it was safe to use.

14 Q. Okay. If it said wear gloves, don't get
15 it on your skin, wash immediately, would you do
16 that if it said that on the label?

17 A. With some harsher chemicals I've done
18 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 --

22 MR. PRESTES: Objection to the
23 hypothetical.

24 A. Yeah, I don't know what the label says.

25 Q. So are you telling us that your children

1 are using Roundup without having read the label,
2 either you or they?

3 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
10 don't know the science, you've never studied the
11 science, you've never looked into the issue,
12 correct?

13 A. Right, I trusted others who --

14 Q. Right, you're taking it on faith.

15 A. I trusted the people that -- who have
16 that job at Monsanto.

17 Q. Okay. But you're not basing it on your
18 own review of the scientific literature.

19 A. That's correct.

20 Q. Okay. You mentioned that Monsanto was
21 interested in interfacing with members of Congress
22 on the impact of what they were doing, the members
23 of Congress, on the rest of America. Is that what
24 you said?

25 A. Yeah, I used that term to refer to other

1 groups, farmers, people in their home districts.

2 Q. But your primary interest was the impact
3 of what they were doing on Monsanto, right?

4 A. No, actually we were there to answer
5 their questions because they were worried. They
6 got 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
10 saying that you never spoke with members of
11 Congress about issues that were of interest to
12 Monsanto?

13 A. Oh, I'm sorry. I misunderstood. Yeah,
14 I -- I thought you were referring to my quote about
15 the rest of America --

16 Q. Right.

17 A. -- which is different than what we were
18 doing when we were in their offices at times.

19 So, yes, we would go in and we would be
20 talking to them about issues that impacted our
21 company that we cared about. That's true.

22 Q. Okay. You said you ran into plaintiffs
23 lawyers on Capitol Hill?

24 A. They have been up there a few times doing
25 different activities.

1 Q. Lawyers involving Roundup?

2 A. Yes.

3 Q. When?

4 A. I remember they did a tour or some type
5 of press briefing, I believe it was with a senator
6 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
12 learned that they had been going around to all of
13 the Democratic members at that time in the minority
14 and briefing members of Congress on the issues.

15 Q. When you said you learned that, somebody
16 told you that?

17 A. Yes, somebody told me that from the --

18 Q. Who told you that?

19 A. From the committee staff to one of our
20 consultants, I believe.

21 Q. So have you ever seen somebody that you
22 could identify as a plaintiffs' lawyer?

23 A. No, I wouldn't be able to pick them out,
24 that's true.

25 Q. Okay. So you have no personal knowledge

1 as to whether or not plaintiffs' lawyers were on
2 Capitol Hill or not.

3 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
12 talking about lawyers' ads, but there were
13 certainly a lot of lawyer ads that were impacting
14 people's attitudes about our company. We found
15 that the just sheer volume of lawyer advertisements
16 was causing some harm to our reputation.

17 Q. But we saw a number of different plans
18 that talked about Monsanto orchestrating outcry
19 before IARC's decision was even rendered, correct?

20 MR. PRESTES: Object to the foundation.

21 Q. Well, we saw that, didn't we?

22 A. You showed me some documents that I
23 wasn't involved in that used that term, yes.

24 Q. Right. And that was before the IARC
25 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.

6 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 --

12 MR. PRESTES: Objection, foundation.

13 A. Yeah, I see your point. The lawyers' ads
14 came later, that's true.

15 Q. The cotton growers in Representative
16 Aderholt's district, do you think, if glyphosate
17 does cause cancer, they would want to know that?

18 MR. PRESTES: Objection, you're asking
19 him to speculate, an improper hypothetical.

20 A. I think farmers generally are concerned
21 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.

24 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?

3 MR. PRESTES: Same objection.

4 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.

8 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
11 every night. You just count them up at the end of
12 the night and hope they're all there.

13 Q. Make sure you get an even number and it's
14 between seven and nine.

15 A. We've lost a lot of sleep over the years,
16 let's just say that.

17 MR. KRISTAL: Thank you for your time. I
18 have no further questions subject to any further
19 questions.

20 MR. PRESTES: Nothing further.

21 MR. KRISTAL: Thank you.

22 VIDEO SPECIALIST: The time is 7:33 p.m.
23 February 12, 2019, going off the record, concluding
24 the videotaped deposition.

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(The deposition of TODD RANDS adjourned
at 7:33 p.m.)

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ACKNOWLEDGMENT OF DEPONENT

I, TODD RANDS, do hereby acknowledge that I have read and examined the foregoing testimony and that the same is a true, correct and complete transcription of the testimony given by me, with the exception of the noted corrections, if any, appearing on the attached errata page(s).

DATE

TODD RANDS

Subscribed and sworn to before me this _____ day of _____, 20_____ .

_____ (Notary Public)

My Commission expires: _____

[SEAL]

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C E R T I F I C A T E

I, LINDA S. KINKADE, Registered Diplomat
Reporter, Certified Realtime Reporter, Registered
Merit Reporter, Certified Shorthand Reporter, and
Notary Public, do hereby certify that prior to the
commencement of examination the deponent herein was
duly sworn by me to testify truthfully under
penalty of perjury.

I FURTHER CERTIFY that the foregoing is a
true and accurate transcript of the proceedings as
reported by me stenographically to the best of my
ability.

I FURTHER CERTIFY that I am neither counsel
for nor related to nor employed by any of the
parties to this case and have no interest,
financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my
hand and affixed my notarial seal this 17th day of
February 2019.

My commission expires July 31, 2022.

NOTARY PUBLIC IN AND FOR
THE DISTRICT OF COLUMBIA

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WITNESS ERRATA SHEET

REF. NO. 207606 Page 1 of _____

NAME OF CASE: In re: Roundup Products Liability
Litigation

DATE OF DEPOSITION: Tuesday, February 12, 2019

PLEASE INSERT REASON FOR CHANGE:

- 1. To clarify the record.
- 2. To conform to the facts.
- 3. To correct a transcription error.

Page	Line	Reason No.
From _____		to _____

Page	Line	Reason No. _____
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SIGNED: _____ DATE: _____

(Signature of TODD RANDS)